PROCEEDINGS

ARBITRATION

BETWEEN THE

WESTERN RAILROADS

AND THE

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

AND THE

BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN

Submitted to Arbitration, under the Act of July 15, 1913
By Agreement Dated August 3, 1914

CHICAGO, ILLINOIS

Feb. 25-March 9, 1915

Testimony Nos. 56-64 Pages 5649-6536

Vol. 7

LAW REPORTING CO., OFFICIAL REPORTERS
15 Broadway, New York. 1101 Ashland Block, Chicago

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IN THE MATTER OF THE
ARBITRATION
between the
WESTERN RAILWAYS
and
BROTHERHOOD OF LOCOMOTIVE ENGINEERS
and
BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN
under the Act approved July 15, 1913, *by agreement dated August* 3, 1914.

Chicago, Illinois, February 25, 1915.

Met pursuant to adjournment at 10:10 o'clock A. M.
Present: Arbitrators and parties as before.

The Chairman: Are there any proposed corrections in the record?

Mr. Stone: I have a few corrections I would like to make, Mr. Chairman.

On page 5556, I state, or—I probably stated, anyway the stenographer has me as saying: "And they simply borrowed the lead from capital." "They simply borrowed a leaf from the plan of capital," is what I should have said.

On page 5557, I state: "It makes all the difference in the world in the property, when you undertake to pay for the property," it should read "pay from the property."

On page 5636, it reads: "Did you ever hear of an engineer trying to bring in a Consolidator engine that had been standing out on a storage track all night frozen up?" It should read: "Did you ever hear of an engineer trying to get a Consolidation engine ready that had been standing out on a storage track all night frozen up?"

And on that same page it reads: "Did you hear the testimony of Mr. Clewer of the Rock Island, where one of their engines had stayed out all winter?" It should read: "Did you hear the testimony of Mr. Clewer of the Rock Island, where at one of their terminals their engines had stayed out all winter?''

Mr. Nagel: On page 5555, I am evidently given credit for one of Mr. Trenholm's answer. The second question, I am satisfied, I never asked. It was, I think, part of Mr. Trenholm's answer. It reads:

''That from one end, and powerful labor organizations working on the other end, and the same organizations in your legislatures, advocating adverse legislation.''

Mr. Trenholm: That was my answer.

Mr. Nagel: That was your answer, and my question should be omitted.

The Chairman: Are there any other corrections? If not, you may proceed, Mr. Stone.

Mr. Stone: If I might be allowed, Mr. Chairman, in that reply of Mr. Trenholm's there, to Mr. Nagel, where our legislative boards were advocating adverse legislation, he failed to give us any credit for the number of states where at the present time about one-half of our men are thronging the State capitols, trying to get increased freight and passenger rates in a number of these states. That is probably something that developed since we went into conference.

Mr. Trenholm: I know nothing of that, Mr. Stone. I am very glad to give them credit if they are. The railroads need it.

Mr. Stone: If they need it now, what will they need after we get this award?

When we adjourned last night, I believe we were on automatic release and tie-up. I think Mr. Trenholm had just conceded that a great many of our chain gang or pool crews were released when they arrived at a terminal, but not automatically.

Mr. Trenholm: Yes, I stated in my testimony in answer to your question, that a great many crews running in pool gang service, when they arrive at a terminal, having performed a day's work of 100 miles or ten hours, that the ordinary custom is to release them, excepting under schedules where provision is made for a different way of handling it, and the right of the railroad in emergencies to call on a man to do a piece of emergency work without giving him a full day and without doing injustice to the men who are at that terminal waiting for change.

Mr. Stone: Did you specify all that in your reply last night, that he had done a full day's work, and could be called out in an emergency?

Mr. Trenholm: I am specifying it now.

Mr. Stone: You are correcting it.

Mr. Trenholm: No, I am not correcting it. I think if you read my testimony, all my testimony has been that, both direct and cross. The automatic tie-up does not apply in the way you have pointed out yet, as far as I know, on any road today. The effort of the men has been in some cases, and in some cases they have been successful in bringing pressure sufficient on some railroads, to recognize the 100 miles or less, 10 hours or less, connected with the first in first out rule, and secure compensation on the basis of the automatic tie-up. Those roads are few, and I think it is not a popular idea of the roads at all, and I don't think any manager would concede it, except under pressure. It is unfair, not equitable.

Mr. Stone: After listening to your testimony for the past several days, there is a grave doubt in my mind, Mr. Trenholm, whether a general manager would concede any rule that was an improvement except under pressure.

Mr. Trenholm: I do not think I have given any testimony of that kind.

Mr. Stone: You have testified repeatedly that you don't think a certain rule would have been granted except under pressure.

Mr. Trenholm: Such a rule that I have testified to in that way, in my judgment and in the judgment of the Committee of Managers, is inevitable.

Mr. Stone: But it is a fact, is it not, with the exception of a few roads, where they have a short turn-around rule, that men in chain gang or pool service are run first in and first out of terminals?

Mr. Trenholm: Generally speaking, that is true, and it is only the exception of an emergency where it is not true; but the railroads or their officers have, in the past, controlled it, instead of the men. Your automatic tie-up takes it out of the officers' hands. When a man comes into a terminal, according to your rule, or reaches the end of a run, as I interpret it, he is automatically tied up. Nobody has any right to give him any more work, unless they give him a new day for it, regardless of the time on duty, the length of run, or any other consideration.

Mr. Stone: Has there not been great difficulty in determining just what was an emergency case?

Mr. Trenholm: I never heard of any difficulty, and I think it would be very easily determined what emergency cases are on a railroad.

Mr. Stone: Has it not been necessary, on a number of these roads, to define what an emergency should consist of?

Mr. Trenholm: It might have been, for the purpose of avoiding any misunderstanding. It might have been agreed between the management and the men as to what would constitute an emergency, simply to avoid misunderstanding.

Mr. Nagel: Do you think an emergency could be satisfactorily defined in a rule?

Mr. Trenholm: I think so; yes, sir.

Mr. Stone: It became necessary, did it not, on account of the fact that a great many operating officers were unable to distinguish between company's convenience and emergency?

Mr. Trenholm: I don't think there is any situation of that kind.

Mr. Nagel: After all, could you more than call it an emergency?

Mr. Trenholm: Well, I think you can go a little further than that, Mr. Nagel, in the railroad business, and define in broad lines what emergencies consist of.

Mr. Nagel: Is it not a good deal like fraud and monopoly; the less you define, the more sure you are of your definition?

Mr. Trenholm: Well, I think propably that is true; but I do not think there is any abuse in the territory of that kind. Hundreds and hundreds and hundreds of men make their trips. It is known on the railroad what their trip is. They start out to go from A to B, 120 miles, regardless of whether they do it in four hours, or eight hours, or twelve hours. With 99 per cent of them there is no release to it. You don't tell a man that he is released. He knows he is released. He simply completes his run and goes to the shop. Now, the emergency comes and he is notified.

The Chairman: In the operation of a railroad, is it not well known the things that may or may not happen that would cause a delay?

Mr. Trenholm: Cause an emergency, your Honor?

The Chairman: Yes, sir.

Mr. Trenholm: I think it is very well known.

The Chairman: That is to say, your experience is such as to teach you that certain things may or may not happen, in the due course of the operation of a railroad?

Mr. Trenholm: Yes, sir.

The Chairman: And your idea is that in that way it could be described?

Mr. Trenholm: Yes, sir.

Mr. Nagel: But you would not undertake, in a rule, to specify all the conditions that might be covered to constitute an emergency?

Mr. Trenholm: I don't think I would want to enumerate each single thing that might happen, but I think a general rule of what constitutes emergency conditions on a railroad, and would leave little doubt in the minds of either the men or the officers, would not be hard to formulate.

Mr. Stone: On the question of continuous time, Mr. Trenholm, is it not a fact that on a number of roads they provide that except when tied up by the law, that crews will not be released between terminals, for the purpose of completing the payment of overtime?

Mr. Trenholm: I am not sure as to that rule, Mr. Stone. I think I have read it.

Mr. Stone: Take, for example, this rule on the Colorado & Southern, Article 32: "Engineers shall not be tied up between ends of runs to avoid paying overtime." That really means that they cannot be released, except under the law, between terminals, does it not?

Mr. Trenholm: Well, I would want to read the whole schedule, Mr. Stone. Any one rule in a schedule, of course, its application in operation is contingent upon other rules in it. You may make a rule, and another rule modifies and explains it more fully, and in order to pass judgment on a rule in a schedule that I am not familiar with it, I want to study the whole schedule.

Mr. Stone: Well, take, for example, here is another one on the Rock Island: it is a paragraph in Article 3:

"An engineer shall not be relieved between usual terminals of run for the purpose of saving overtime, except by mutual agreement with the superintendent."

There are a number of roads, several at least, in the Western territory that would pay continuous time for all time between terminals, and the man would not be released; and that was the practice even before we had the Sixteen Hour Law and—

Mr. Trenholm: What would be the object, Mr. Stone? I am not just clear.

Mr. Stone: What would be the object?

Mr. Trenholm: What would be the object of a railroad tying a man up and paying continuous time, when they could run him fourteen hours and tie him up under the law and not pay him? I am not just clear.

Mr. Stone: They might get him out two or three or four hours away from a terminal and they would see there are going to be several trains coming, with a delay of an hour or two, and they might release him for that hour or two, and say he was released, so that overtime would not begin quite so soon. It is quite a common practice.

Mr. Trenholm: I think there was some testimony here on the Wabash, on that order; is that what you mean?

Mr. Stone: Not particularly. That was to avoid payment under the Sixteen Hour Law in that particular case.

Mr. Trenholm: The same result would be reached, as I read it. They are trying to avoid paying the man for the time he is on duty. I am not in favor of that. I believe a man should be paid when he is on duty.

Mr. Stone: Do you believe it is possible to have a railroad avoid tying up crews between terminals?

Mr. Trenholm: No, I think there are times which come when you have to tie crews up. You cannot regulate a railroad as you can other business.

Mr. Stone: Why has it become necessary in the last few years to have more tie-ups between terminals than we had before?

Mr. Trenholm: I don't know—

Mr. Stone: On account of the Sixteen Hour Law?

Mr. Trenholm: I don't know that there are more tie-ups, but of course the Sixteen Hour Law would naturally make tie-ups to a greater extent than where there was no limit to how long a man could run. You take, for example, the Canadian roads today; men work, and the exhibit shows that men work long hours. I think there are some exhibits where they work nineteen hours. Now, they have the privilege of tying up whenever they want to, after a certain time. I think it is fifteen hours, I am not sure; the company has no say in it at all on the Canadian Pacific, unless they have changed it recently. Men run as long as they want to. As a matter of fact, they run excessively long hours. And that was true to a greater—I think it was absolutely true in this country, prior to the Sixteen Hour Law.

Mr. Stone: Well, take for example, here is a rule on the Southern Pacific in regard to men tying up. Section 5 of Article 14, "Engineer's time shall be continuous between terminals, unless tied up under the provisions of the law limiting the hours of service."

Mr. Trenholm: I think, generally speaking, that railroads pay continuous time between terminals. I do not understand your rule here applies to road service, does it?

Mr. Stone: Sir?

Mr. Trenholm; Does your rule refer to road service?

Mr. Stone: We say "between terminals," yes. It is an automatic or continuous time between terminals.

Mr. Trenholm: Yes, that is right. That is the automatic tie-up. I have repeated many times on the stand here that I believe in paying a man for every hour he works, when he takes hours as the basis of his compensation, whether he is on the road, or wherever he is, if he is serving the railroad, he should be paid. If he is released, under the agreement of the men and the railroads, and goes and gets his rest, I do not think he should be paid while he is resting, while he is sleeping.

Mr. Stone: You realize that a man who is tied up between terminals, even for rest, is at an additional expense; he probably has a room by the month, as many of them do, in order to have a place to sleep at the terminal.

Mr. Trenholm: The percentage is so small, Mr. Stone, of men who are tied up under the law, of the enormous number of trains run, that I think a man gets tied up, as I recall, not only your own exhibit but ours shows, about once in eighteen months. I think that not only your exhibit but our exhibit, shows practically the same thing, that a man gets tied up in that way once in eighteen months. I can see no justification for making an arbitrary rule that applies every place, just because there is an occasional case of that kind. Nobody does it purposely; nobody wants to do it; it comes from conditions that no officer can foresee or control.

Mr. Stone: The question of tying up is something that the men have no control over, is it not?

Mr. Trenholm: No, they cannot foresee and help it, any more than the officers can.

Mr. Stone: If it only comes once in eighteen months, it will be so infinitesimally small that the railroads would not feel the general application of the rule.

Mr. Trenholm: Well, that works both ways.

Mr. Stone: You think the men ought to donate that much?

Mr. Trenholm: I don't think it is a donation. I do not think there should be a penalty requiring us to pay a man eight or ten hours' time when he is tied up, when it happens to him when he is resting. The rule is unfair and inequitable as applied to the railroad business.

Mr. Stone: I want to say very frankly, Mr. Trenholm, that is not the object of the rule, and if I thought it would still continue to tie men up on the road, if this rule was granted, I would agree with you. The object of the rule is to make it so expensive that you would get the men in.

Mr. Trenholm: I think the tendency of the rule would lessen the man's desire to get in. He would not be so anxious to get over the road, if he knew, when he stopped out on the road and tied up, that he was going to get eight or ten hours at time and a half; and there is nothing in your submission that does not continue his continuous time, and under a strict interpretation, his overtime would start after ten hours, and I presume would continue right along after ten hours.

Mr. Stone: You think the man would have the same incentive that he would for time and a half, any place else; and while you have spoken of that a number of times, you do not say a man would be dishonest, but you are afraid it would have a tendency to make him dishonest; the incentive is there.

Mr. Trenholm: I have tried very hard to express my thought on that subject a number of times; my flow of language, perhaps, is not sufficient to make myself fully understood on it. I do not believe because a man is honest, or a body of men are honest, that there is any necessity of leaving the safe wide open all the time, or offering inducements for him to be anything else but honest.

Mr. Stone: And you do think that a man, perhaps, running away from home, and not getting to his other terminal, and tying up for rest, and perhaps six or eight or ten crews running by him, getting into the terminal ahead of him, and who would come out first—you still think that with all that staring him in the face, there would be an incentive, if he was getting continuous time, to tie up at some lonely sidetrack?

Mr. Trenholm: Continuous time at time and a half, I think the incentive would be there. I do not mean the incentive. I mean it would destroy his interest to try to get in. He performs a part in getting over the road, he has to do his part; the train despatcher and officials of the division must do theirs; but it is a combination—they both must help each other. Any train despatcher can deliberately delay a train and do things to the injury of the men by showing preference to other trains, and the man can also do the same by being indifferent, and not showing a disposition to do his part to help the train despatcher. The train despatcher must rely on the men, when he gives them an order against a passenger train, that they are going to do the best they can to make that meeting point. If the engineer tells him he can do it today, and he does not do it, and tells him he can do it tomorrow, and does not do it, he is going to destroy the confidence of the despatcher in his ability to carry out his promise. And that makes the train despatcher slow to take chances on him.

Mr. Stone: Suppose a man, for the sake of this time and a half for eight hours rest, would tie up for three times hand running, on the road; he would probably have a bad half hour explaining to somebody when he came in on the carpet, would he not?

Mr. Trenholm: That would all depend on the conditions and what the officer could find out as to the reasons for tying up, and whether he could get sufficient information which would warrant him in questioning the honesty of this man, and the proper discipline of the railroad.

Mr. Stone: If this rule was in effect and the incentive to the men was as you infer, it would be, would it not, also an incentive, on the other hand, to the officials to get a more prompt movement of the man than they do now, to get him in?

Mr. Trenholm: I think there is every incentive that can possibly be placed on the officials of the division under the proper operating conditions of the railroad, to get their trains over the road. There is a record laid, I think, on the table of the general superintendent of every one of those railroads, every morning, as to the train movements yesterday. They get a report in detail of every train that is delayed, and why they are delayed. I get a report every morning from the general superintendent as to every train that is moved over the railroad that has not made its schedule, and why. I get a report every week laid on my table of the amount of overtime accruing on the railroad on every division; the amount of constructive mileage that is paid; and it is checked; and everybody is geared up to avoid that additional operating cost.

There is no business in the world that I know of that is checked closer than the operating business of a railroad today.

Mr. Stone: I think that is perfectly true, and it is also true on the road, if the chain gang are getting over 130 miles in a division in 10 hours, the order at once goes out to "hang a little more tonnage on those fellows, and get a little more out of them."

Mr. Trenholm: I beg your pardon. I don't think there is anything of the kind.

Mr. Stone: Well, there is where we differ. I happen to know that they do that.

Mr. Trenholm: Well, my knowledge comes pretty straight. I handle part of it, and I know no such condition exists with me. The tonnage is established for the engine, and it is established on the theory that they can get over the road. Now, we may find that the rating of an engine, as we work with it, in six months or a year, we may find that the tonnage is a little light for those engines, and we do not hesitate at all to increase their rating, if it is proper that the engines should be rated a little higher. That is the railroad business, and that is my business, to get the efficiency of that engine. The efficiency does not mean to overload that engine; it means to give her a proper tonnage rating over the controlling grade on a division, and a rating that she can handle and make reasonable time.

Mr. Stone: There is quite a marked difference between the handling of a train of dead or dragged freight over the road and a train of guaranteed time freight, is there not, in tonnage?

Mr. Trenholm: I know of no guaranteed time freight. There are important trains, called time freight trains in one territory, Red Ball trains in another, and some other name in some other territory, and those trains carry perishable freight and time freight, that is important to reach its terminal, and I want to say in connection with that today that the competition in the transportation business is so strong that speed on freight is one of the biggest elements that your soliciting department has to secure business with. Even coal today is time freight. Lumber, under certain conditions, is time freight. Flour is time freight. And the result is that on railroads you very seldom get a train of what you call dead freight, which there is no hurry about. Everything must be moved.

Now, the trains that move time freight, fruit and meat are invariably light tonnage trains. They usually run quite long miles, usually over 100. Now, they are scheduled, and they are scheduled pretty fast, and they are expected to make their time. If the merchandise out of St. Paul for delivery in Duluth is required to be there, you load it in St. Paul—170 miles, with us, away from Duluth—and you load it and bill it after 5 o'clock; you must put it in a train, and we aim to have that set at the unloading house in Duluth at 7 o'clock next morning, and if you don't get it there at that time, your traffic department is telling you that if we can't make the speed that other roads are making we might as well go out of this business. Now, it is a question of speed, and they are given tonnage light enough so that they can make that speed.

Mr. Stone: About what is your average daily mileage of car movement, each car? What is your average?

Mr. Trenholm: Oh, it varies in your local equipment; foreign equipment varies, because there is preference given to them. I would say, in the neighborhood of 30 miles.

Mr. Stone: That is much higher than some of the other roads, is it not?

Mr. Trenholm: I don't think so. I think it would run around there, Mr. Stone.

Mr. Stone: Don't we have roads down as low as 11 and 12 in the Western territory?

Mr. Trenholm: I don't remember of ever seeing such figures, Mr. Stone, on any road.

Mr. Stone: 20 is quite common, is it not?

Mr. Trenholm: Well, it varies. You will find that when you take statistics of that kind your foreign cars will make perhaps 31 miles, and your local equipment will make 22 and 24. But it runs around in that neighborhood.

Mr. Park: Mr. Trenholm, is not that dependent on the length of time in which the cars are held for loading and unloading?

Mr. Trenholm: Well, it is all an element. Your speed don't have very much to do with that. A man may take two or three days to load a car, and you may move it. You may move that same car, 30 miles, into a terminal, and there it would take six days to unload it. Then, you have got to move it back to some other point, to reload again, and that is regulated a great deal by the promptness with which you can get your cars loaded or unloaded, and the length of haul as against your delivery. The road that has a thousand miles haul, like Trans-Continental Lines, that gets a load and hauls it 1,000 miles, before it has to be placed for unloading, their average speed per day ought to be pretty high. It is entirely different with a road where the average haul of the cars is short.

Mr. Park: Roads have always been active to have demurrage applied, under those conditions, in order to expedite cars?

Mr. Trenholm: Railroads have always done that, and the railroads are doing more in that direction than anybody else. I think, if you will analyze the improvements that railroads have made in the last twenty years, to take care of the traffic of the country, and the money they have spent too, and compare it with what the shipper or consignee has done to take care of his business, you will find the railroads have done a great deal more than anybody else. In the large cities, you will find the same coal shed that the man had twenty years ago. You will find the big wholesale grocery house is still leaving its sugar on the track, because their basement will not hold it, and I think it goes through the whole railroad business.

Mr. Park: They have conditions at tidewater, in which cars are tied up with grain, for weeks and months?

Mr. Trenholm: Yes, sir.

Mr. Park: A condition which cannot be controlled, all of which tends to bring the general average down to 25 miles a day?

Mr. Trenholm: Your elevator gets full; yards literally packed with cars. All of those things affect your average daily movement of your cars.

Mr. Stone: There is, however, quite a difference between the man who deals in sugar and the railroad, is there not? He cannot condemn property around him for his warehouse and get a bigger warehouse, while the railroad can always get more property.

Mr. Trenholm: The railroad can get property; they usually have to pay all it is worth. The man can buy property on the same basis. He don't necessarily have to have his storehouse attached to his main store.

Mr. Burgess: Mr. Trenholm, is all the time taken into consideration that a car stands still, in obtaining the general average speed basis?

Mr. Trenholm: Yes, sir.

Mr. Burgess: There is no limit, is there, that you can exempt?

Mr. Trenholm: No; it is all taken into consideration. If you are in slack business and you have a great many cars standing around, empty, time is all counted in arriving at the average they make, per day.

Mr. Burgess: Cars you do not use?

Mr. Trenholm: Yes; no exemptions for them. All cars you have got, at the average speed they make per day.

Mr. Stone: Any terminal charge, or any demurrage, or anything of that kind, of course, is not shown in the car mileage at all. That is, it is shown in another place, of course, in the earnings of the road, but it does not affect the average mileage of the car in any way.

Mr. Trenholm: Oh, no.

Mr. Stone: It might be possible for a car to be held at a terminal two or three weeks, with a demurrage charge for every day after a certain period, might it not?

Mr. Trenholm: Oh, yes; and that would have nothing to do with the miles the car made, per day.

Mr. Stone: No; but it would have quite a decided effect, perhaps, upon the earnings.

Mr. Trenholm: Well, whatever that amount is, of course, is earnings to the railroad, as a warehouse or storage charge.

Mr. Stone: Speaking of these Trans-Continental Lines, do you recall what the average daily car movement of the Santa Fe is? That is a Coast line—long haul.

Mr. Trenholm: No, I don't, Mr. Stone. I see those figures from time to time, but I haven't seen any of them for a year.

Mr. Stone: I think it is very much lower than the figures you have given.

Mr. Trenholm: In giving my figures, I gave them as my recollection of my own figures. I haven't seen any figures of any railroad for over a year—haven't seen my own, even.

Mr. Stone: In Article 8, Held Away from Home Terminals, do you know any of the schedules or rules that are in effect now, for paying men held away from home terminal, that deduct the rest period?

Mr. Trenholm: In the West, Mr. Stone?

Mr. Stone: Anywhere.

Mr. Trenholm: I understand—my recollection is there is a rule in the East.

Mr. Stone: That the rest period is deducted?

Mr. Trenholm: I don't remember just what the rule is. That was in the Award in the East, was it not—the granting of the away from home?

Mr. Stone: Yes.

Mr. Trenholm: I don't remember just the wording of it, Mr. Stone.

Mr. Stone: We had a number of rules in the East, before we had any wage movement in the East. We had rules down as low as 10 hours and one or two, 12 hours, and others 15 hours, but there was no time deducted for rest during that period. If I caught your evidence right the other day, you think that the rest period should be deducted, before any time is computed?

Mr. Trenholm: Oh, I think so. I think a man who goes out and performs the usual trip—a day's work, and calls for rest, after 10 hours, or takes rest under the law, whatever it may be, I see no reason why that should be considered in away from home terminal time.

Mr. Stone: Well, take under the articles that we submit, they have 15 hours before time begins. That is plenty for rest and six or seven hours leeway besides.

Mr. Trenholm: That, of course, means that every man must start back on his return trip in 15 hours, or be allowed time. I think the rule is not fair to the railroad. The railroad can't control its business—the loading of freight at large terminals. It has to be gathered. It is done during the daytime—has to be gathered in the night; got together into trains; started out in their order, and the business of the railroad requires that crews be there and have their rest, ready to move this commodity. Now, it is practically impossible to run a railroad in such a way, that where you have fifteen or twenty crews, that you expect business for tonight some time, to get them all out in their order and all within a 15 hour period. I think there is no call for such a rule. I think a reasonable rule that would prevent abuse, is all that is proper to even consider.

Mr. Stone: While it is, perhaps, true that the railroad cannot control its business, it is also true that the employe can neither control his appetite nor his expense. He has got to eat and he has to pay for a bed, and if he is held more than 15 hours, the chances are that he would have to pay for two beds in that terminal.

Mr. Trenholm: Men on a great many roads are guaranteed a monthly compensation. On some roads they are guaranteed a daily compensation, every calendar day. There are a great many guaranties through the Western territory, and I think it only fair that there should be a guaranty that men should not be held at away from home terminals for an unreasonable period.

Mr. Stone: Would you have any objection, Mr. Trenholm, to stating what your idea of a reasonable period would be?

Mr. Trenholm: Well, I believe, after his rest period—I think he should be guaranteed a minimum day for every 24 hours he is held there.

Mr. Stone: And his rest period, on top of that, would be 34 hours before he would commence to draw anything?

Mr. Trenholm: For the first day. I am willing to stand by, Mr. Stone, the proposition that the committee made to you gentlemen, that the first 30 hours he be guaranteed a minimum day, and for each 24 hours thereafter he be paid a minimum day.

Mr. Stone: That would mean that if a man was held that long, and there were three or four outlying terminals before he got back home, and if he was run from one to the other, that he would really get to work about every third day and be under expense all the time.

Mr. Trenholm: No; I think I would be willing to provide that he be given a day's work each 24 hours after the first 30.

Mr. Stone: Computing the first 10 hours, or the last 10 hours of each 24 hour period?

Mr. Trenholm: The last 10 hours of each 24 hour period.

Mr. Stone: Then he would be there 44 hours before he would get any pay at all, under that plan?

Mr. Trenholm: No; I don't so consider it. He would be there 30 hours. The first and the last 10 hours of that 30, he would be paid for. Now, that time would start, as I have in mind our proposition to you—he would be there 20 hours when his time would start, and after that, he would be there 14 hours before his time would start.

Mr. Stone: And he could be there 29 hours and 50 minutes, under that plan; then be called and would not get anything for all that delay?

Mr. Trenholm: No; I don't think that was our proposition to you, Mr. Stone.

Mr. Stone: Does not begin until he has been there 30 hours, and he is called before the 30 hours are up.

Mr. Trenholm: I said I think his time began at 20 hours. He is paid the last 10 hours of the first 30, and the last 10 hours of each succeeding 24 hours.

Mr. Stone: But his time did not begin, as I recall your proposition, until he had been there 30 hours?

Mr. Trenholm: Well, I may be wrong about that. Pretty near a year since we made it, but I think the proposition we made you was fair, and I am willing to stand by it today.

Mr. Stone: What do you think of the Award in the Eastern territory, for the firemen, conductors and trainmen, of 18 hours?

Mr. Trenholm: Their time starts after 18 hours, does it?

Mr. Stone: Yes, sir.

Mr. Trenholm: Well, I don't think that it is a fair rule. I don't think it is fair to the railroads. I think the engineers' rule is nearer covering the conditions, protecting the men and protecting the company at the same time, than the other rules.

Mr. Stone: Is it not a fair proposition for the man to believe that he has a right to at least earn a day's wage, in each 24 hours or calendar day—especially, I mean, when he is held away from home?

Mr. Trenholm: Well, I hardly think that that is just a fair proposition. You guarantee these men in the protection of their month's pay. You guarantee them a day, when they run 100 miles or less, 10 hours or less. You give them every opportunity that there is in this business to go way beyond that. Men would not be satisfied in the railroad business to simply get their guaranty. They are given every opportunity to make good mileage.

Mr. Stone: Just what guaranty do you have in mind, Mr. Trenholm? You spoke of that several times. Just what do you have in mind when you say a guaranty?

Mr. Trenholm: I have in mind the provisions of the schedules. Some schedules guarantee 2,600 miles a month, and some schedules, I think, guarantee 3,000 miles a month. Some schedules guarantee a day's work, each day, and there are different guaranties of that kind all through the West.

Mr. Stone: With the exception of a few branch runs, and perhaps a few assigned pusher or helper service, I don't know of a guaranty that is applied as you explain it here. While it is true there are a number of railroads in the West that say when men don't make a certain number of miles the board will be reduced, and so on, yet we all know that that is not literally lived up to and strictly applied.

Mr. Trenholm: I think the guaranty in my schedule is 2,600 miles a month, to assigned men.

Mr. Stone: That is, perhaps, true, but in times of business depression, or slack business, they don't all get it.

Mr. Trenholm: Absolutely guaranteed by the schedule. So far as I know, a man is always paid that amount.

Mr. Burgess: Mr. Trenholm, is that guaranty obtained by the railroad company paying the engineers, when they do not go out on the road, or is it paid by reducing the board?

Mr. Trenholm: Well, of course, the railroad, Mr. Burgess, aims not to pay men when they don't work. Therefore, under a guaranty of 2,600 miles a month, they aim to give the man the opportunity to make his 2,600 miles, by reduction of the board and whatever is necessary, to avoid paying a penalty salary.

Mr. Burgess: But the engineers that are taken off the working list or board, they do not get anything, unless they go out.

Mr. Trenholm: Oh, no. That is only a guaranty to your pool gang or assigned service. The man on the extra list is not guaranteed.

Mr. Burgess: Thank you.

Mr. Park: It would be impossible, would it not, and very impracticable, to give them such a guaranty—that is, all of the men—extra men?

Mr. Trenholm: Well, it would be, I think, to the detriment of the railroad to give such a guaranty for extra men, and very detrimental to the men to ask it, because it would leave no option, as I see it now, when you reduced your force, except to discharge men.

Mr. Park: I understand this guaranty is in operation on the Omaha?

Mr. Trenholm: As I recall it.

Mr. Park: Well, now, does that guarantee, if on account of obstruction of traffic and there is no business for a week, the men will all be paid a monthly rate?

Mr. Trenholm: My recollection is that they would, as long as they are kept in the assigned service.

Mr. Park: Do you have a guaranty to passenger engineers?

Mr. Trenholm: I think it applies to all engineers; I am not sure.

Mr. Sheean: Article 5.

Mr. Trenholm: "Minimum monthly compensation will be based on a mileage of 2,600 miles per month. If the mileage of regularly assigned engineers is less than 2,600 miles in any one month, and he has been ready for service, losing no time on his own account, full time for 2,600 miles will be allowed. This does not apply to men on extra list."

Mr. Park: Now, Mr. Trenholm, is not that peculiar to your road? Is it not ordinary—the guarantee generally specified, that the men shall be permitted to earn 3,000 miles, and then the adjustment of the crews changed in some way.

Mr. Trenholm: Well, I think we have a rule in there, relative to adjusting the pool service. There are different rules on different railroads, and different pools. Our firemen, I think, are a little bit different.

"Minimum monthly compensation will be based on a mileage of 2,600 miles per month. If the mileage of a regularly assigned fireman is less than 2,600 miles in any one month, and he has been ready for service, losing no time on his own account, full time for 2,600 miles will be allowed."

I think there is a qualifying clause in there.

Mr. Park: Do you know, Mr. Trenholm, whether that is a very old, or a recent rule?

Mr. Trenholm: Oh, this is a very old rule with us.

Mr. Park: I don't know any other road that has it. I didn't know the North Western had it. Do you know of any other railroad that has a guarantee per month?

Mr. Trenholm: I think the North Western has a guarantee.

Mr. Park: Well, that is practically the same system.

Mr. Trenholm: No. It is practically the same system, but their schedules are nowhere near the same.

Mr. Park: They seem to be in that particular.

Mr. Stone: I don't know of any road in the Western territory, Mr. Chairman, that has a rule worded exactly like that.

Mr. Park: That was my idea, Mr. Stone.

Mr. Nagel: Mr. Stone, did you have in mind a guarantee for a day's work in every twenty-four hours, or did you have in mind a period during which the men are held at away from home terminals?

Mr. Stone: Held at away from home terminals, Mr. Nagel. The reason they advanced the theory was that he was there on expense, and was not permitted to earn anything.

This only applies, under your rule, Mr. Trenholm, to your regularly assigned men?

Mr. Trenholm: Assigned to any service. Assigned, applied to pool service.

Mr. Nagel: Is a man in pool service considered an assigned man on your road?

Mr. Trenholm: Yes, sir, under this schedule. This only exempts extra men.

Mr. Sheean: Might I just, to clear up, so there won't be any misunderstanding about that—Our Exhibit 1 shows, at page 124, that there are "All regularly assigned engineers guaranteed a minimum of 2,600 miles a month," on the North Western, the Omaha, the Soo Line; that engineers on assigned runs are paid for working days not used, except in cases of unavoidable delay to traffic—are guaranteed on the Northern Pacific. Engineers on assigned—

Mr. Park: What does that mean? That if they lay over Sunday they cannot be used, and their pay will go right along if the crew goes away, as I understand it?

Mr. Sheean: Why, I suppose that particular rule "except in cases of unavoidable delay to traffic" would mean that if the train were abandoned they would not be entitled to their pay for it.

Mr. Park: They could not be used in any other service?

Mr. Stone: Suppose there wasn't any traffic to be moved, would they be paid under that rule?

Mr. Sheean: What is it?

Mr. Stone: Do you understand, under that rule, if there wasn't any traffic to move they would be paid?

Mr. Sheean: No, if the train itself was abandoned. This applies only to assigned engineers, and if the train to which they were assigned was abandoned, I assume that the guarantee would not obtain there.

Then there are, "engineers on assigned runs guaranteed 2,600 miles per month." In addition to the ones already mentioned, the Canadian Northern, Article 33; the Duluth, Winnipeg & Pacific; Article 9, of the Denver & Rio Grande; the Duluth, South Shore & Atlantic.

Mr. Park: Doesn't that mean that if the train is abandoned they will be given some other service, so that they will be able to earn at least 2,600 miles in a month?

Mr. Sheean: Yes, I suppose it does. There is not a guarantee that they may be held idle and paid this money, but they are guaranteed 2,600 miles, either in their regularly assigned run or some other run.

Mr. Burgess: Now, Mr. Sheean, right on that point, this engineer that was under the guarantee, what would he be given if his train was abandoned? You say he would be given some other work. Now, what other work?

Mr. Sheean: Are you talking about this Northern Pacific schedule?

Mr. Burgess: I am talking about any of the schedules that you were talking about in your answer to Mr. Park. I don't know what schedule it was, but I remember that you stated that if the train was abandoned he would not be paid, but he would be given other work. Now, what other work would he be given?

Mr. Sheean: Well, Mr. Burgess, I am not sure that I follow you exactly. Mr. Park asked a question about the schedule which read, "Engineers on assigned runs paid for working days not used, except in cases of unavoidable delay to traffic."

Mr. Burgess: Then, Mr. Park—or rather, you stated that if the train were abandoned he would not be paid. Then Mr. Park asked the question if he would not be given other work, and you answered yes. Now, my question is, what other work would he be given?

Mr. Sheean: I think that, Mr. Burgess, was under this other schedule that I was reading here: "Engineers on assigned runs guaranteed 2,600 miles per month."

Mr. Burgess: Well, if the train were abandoned under that schedule, would he be paid?

Mr. Sheean: Why, I assume—why, he is guaranteed the 2,600 miles per month. He is guaranteed that he shall be permitted to make the 2,600 miles.

Mr. Burgess: Then, if the trains were abandoned, under that schedule he would receive his daily compensation, or his monthly compensation. Is that your construction?

Mr. Sheean: That is my construction of it, yes.

Mr. Burgess: Then turn to that other schedule that you were answering Mr. Park about, wherein he would not be paid unless he was given other work? Now, what other work did you refer to?

Mr. Sheean: Why, other miles, the guaranteed miles. There is no guarantee under the other where it is abandoned. The first one we are talking about specifically says "Except in cases of unavoidable delayed traffic, in which case he is not paid." That is one schedule. The second one is, "Engineers on assigned runs guaranteed 2,600 miles per month."

Mr. Burgess: Well, all I was trying to get, Mr. Sheean, regardless of what schedule it might be, was the full meaning of your answer wherein you stated if a train was abandoned he would be given other work.

Mr. Park: Well, might he not be given an officers' special, or work train service, or something of that kind?

Mr. Sheean: Guaranteed 2,600 miles per month, and the question as I got it was, whether he necessarily had to make that 2,600 miles upon his assigned run, and that was the assignment, that the company would have the right, if they didn't run that particular run, and if they had other runs to which they could assign him under their schedules, that they would have the privilege of getting the 2,600 miles that they guaranteed.

Mr. Burgess: True, but you say now again, if they had. Now, if they didn't have, then what would be the condition?

Mr. Sheean: Pay under the guarantee. They guarantee him 2,600 miles.

Mr. Burgess: And if they couldn't give him any other work, they would pay him?

Mr. Sheean: Why, I so understand the language.

Mr. Burgess: Now do you mean, in obtaining this other work, if there was no officers' special, or no other extra trains to run, do you mean that they would take another engineer off in order to give this guaranteed engineer his mileage?

Mr. Sheean: I don't know, Mr. Burgess, what they could or could not do under that schedule.

Mr. Park: The rule is so exceptional, I guess none of us understand it very well.

Mr. Burgess: Well, Mr. Sheean, this is a very important question. Now, it may not appeal to some members, but it does to me. There are a certain number of engineers on assigned runs, and there are a certain number of engines in the pool.

Now, they abandon the train that is assigned. Does that regular engineer who is assigned—

Mr. Sheean: Abandoned for one day, do you mean?

Mr. Burgess: Yes, abandoned for one day, obtain his mileage by taking away from the engineer in the pool some of the service that really belonged to the pool, in order to make up the mileage?

Mr. Sheean: No. If abandoned for the one day, I have not any doubt he would have much more than the 2,600 miles coming to him. If they only abandoned it for the one day there would not be anything due under the guarantee.

Mr. Burgess: Assume they abandon it for several days.

Mr. Sheean: Again, the question would arise whether they are abandoning an assigned run and taking it out of their schedule. I suppose he would drop back in seniority to whatever position he was entitled to, if the run was taken off permanently.

Mr. Burgess: Yes; but we will say the run was abandoned for several days. What I am trying to get at is, do they make up the guaranty by taking the work away from the men in the pool service?

Mr. Sheean: I do not know of any such situation that that was ever done in; no.

Mr. Burgess: You can readily see that could be accomplished?

Mr. Sheean: No, I do not think so. I do not understand there is any schedule that would enable them to do that. If you have in mind the provisions of any particular schedule where that could be done, I could talk about it, but I do not know of any schedule that would permit any such practice.

Mr. Burgess: No schedule you are familiar with in the West would permit of such practice?

Mr. Sheean: No, I do not know of anything of that sort.

Mr. Stone: The fact remains, Mr. Chairman, that this assigned man, with his guaranty, if he would run up to 2,300, 2,400, 2,500 or 2,600 miles, might abandon his train for three or four days, and they would hold him at away from home terminal, and he would not get anything, because he had already run his guaranty. And the fact is, these rules they are reading are not guaranteed rules, outside of the one of Mr. Trenholm's road; I do not know of another one in the Western country. They are simply regulation rules. For example, they read the Northern Pacific rule. Here is the Northern Pacific rule for engineers: Rule 99: "No more engineers will be retained in the service than are necessary to handle the business with safety and despatch, and so far as practicable chain gang men will be enabled to make 3,000 miles per month."

Mr. Sheean: The Northern Pacific rule I read from was Rule 11.

Mr. Stone: I am reading Rule 99.

Mr. Sheean: The rule I was referring to was Rule 11. Will you turn to Rule 11?

Mr. Stone: Do you take the position that Rule 11 supersedes Rule 99?

Mr. Sheean: No, but you are reading a rule about chain gang service, and the one I called attention to was the one on assigned runs.

Mr. Stone: And Mr. Trenholm has just got through testifying that engineers in pool service are assigned men.

Mr. Trenholm: On the Omaha Railroad.

Mr. Stone: But the men on the assigned runs on the Northern Pacific may be very few and far between, for all I know.

Mr. Sheean: I just wanted to clear up that situation. You said the rule to which he has called attention on the Northern Pacific is as follows: I wanted to call attention to the fact that the rule I called attention to was Rule 11.

Mr. Curry: I will say there are a great many of them.

Mr. Stone: So we all may know, will you please explain whether they all get that mileage guaranty each month, whether they run it or not?

Mr. Curry: Strictly according to the rule.

Mr. Stone: What about these chain gang men, under Rule 99?

Mr. Curry: That is a matter that the men largely take care of.

Mr. Stone: But it is a regulation rule, is it not?

Mr. Curry: Yes.

Mr. Nagel: But, to that extent, a guaranty of minimum mileage per month would protect engineers and firemen held at away from home terminal?

Mr. Trenholm: It would protect them up to the point that they are guaranteed a day for every working day. I do not want to be understood that that covers it all. I want to be absolutely fair. I do not believe it is proper to hold a man at a terminal away from his home terminal an unreasonable length of time, because he is, as Mr. Stone says, at some additional expense. A married man, who has got a home, in this business realizes that it takes him away from his home a certain amount of time, just as I do with my own home, and that should not be longer than is necessary for the reasonable and proper conduct of the railroad business.

Mr. Nagel: And even the protection of that rule is lacking on most of the roads in this country?

Mr. Trenholm: The guaranty?

Mr. Nagel: Yes.

Mr. Trenholm: I would not testify without looking up the schedules to see just how many roads have a different method of guaranteeing these things. A good many of them, I think, guarantee, when the business of the railroad slacks, it is left with the men to determine how many men will be kept in the floating crews; and that in itself regulates the time a man will be held away from his home terminal; because, if they keep the pool or chain gang cut low enough, the railroad business requires that you get that man back, they cannot hold him there, and that in itself regulates it very largely, Mr. Nagel.

Mr. Burgess: Now, I think you stated some time ago, in speaking about constructive miles and overtime, that you had placed daily on your desk a report of the overtime and constructive miles. Am I right in that?

Mr. Trenholm: I said mine was weekly. I have a daily report of delay to trains. The weekly report comes to me on overtime, constructive mileage and the gross tonnage that trains are handling.

Mr. Burgess: Is it fair to assume that the report would come to you in case money was actually paid for this monthly guaranty to the men in the assigned service?

Mr. Trenholm: No, that report might not come to me. I say it might not come, because I do not recall where we paid anything of that kind, but it might have been done and I not know it.

Mr. Burgess: I was going to follow that by another question, for the purpose of obtaining just what the rule meant on the Omaha. This may not be a fair question, but I was going to ask you if you could state approximately how much that rule has cost the Omaha in actual money?

Mr. Trenholm: To my own knowledge, it has cost us but very little, because we protect ourselves by reducing our crews, so that men do make in excess of 2,600 miles a month.

Mr. Nagel: That would be an instance in which the possibility of incurring an expense operates to reduce the occasion for the expense?

Mr. Trenholm: Well, it is not at all hard, on a railroad that has any business, to protect itself against a guaranty of 2,600 miles, because that is low mileage. Men make 4,000 and 5,000 miles on a railroad, and you do not have to watch it very close to get away from a 2,600 mile guaranty.

Mr. Burgess: You do not mean that a man makes 5,000 miles in freight service, do you?

Mr. Trenholm: I have had men make 5,000 miles in through freight service, yes.

Mr. Burgess: Would not 3,500 miles be a pretty good average in freight service?

Mr. Trenholm: Yes, I should think—

Mr. Burgess: Or from 3,000 to 3,500?

Mr. Trenholm: An average is one thing, and what men can make in a certain line of freight service is another. Of course, in your average, you take in your slow way freights, and you take in everything that goes in the freight service, to make an average. Now, the through freight man, I think, would average more than 3,500 miles.

Mr. Burgess: Well, I realize that what you say is absolutely true on the average, Mr. Trenholm.

Mr. Trenholm: Yes, averages, of course, mean that some must go higher and some lower, to make the average.

Mr. Burgess: I did not really intend to cover such a broad scope, but what I had in mind was an engineer running twelve months a year, if he ran in freight service, between 3,000 and 3,500 miles per month; it would be a very fair year's work, would it not?

Mr. Trenholm: Well, it is not unusual, Mr. Burgess, to have a through freight service that runs 150 miles, on your fast freight trains. Now, if he makes that thirty days, you have 4,500 miles.

Mr. Burgess: But on those runs, is it not the usual railway practice that he goes out one day and comes back the next, and lays over the third?

Mr. Trenholm: In some cases, but I do not think that men do that on through freight fast runs, where the run happens to be 125 or 130 miles. I think they make it. I think it is perhaps fair to say that the average time of such trains is—oh, between seven and nine hours, perhaps that would be a fair estimate of fast trains.

Mr. Burgess: Yes.

Mr. Trenholm: And men run that every day, with an occasional lay-off for their own convenience, but not on account of the run being hard. Men do not like to work every day in the year; they naturally like to lay off some days and where they have a run of that kind, they lay off and go to the theatre occasionally, and other things they like to do. Nobody likes to work every day. But I think the average through fast freight would run, well, I will be safe in saying, a strong thirty-five hundred miles. I want to be conservative. I think the payrolls there for October would show, while I have not figured that particular thing, but I think perhaps Exhibit 29, where through freight service shows the miles run and the hours on duty, might give a better idea than my guess at it.

Mr. Burgess: That is true, of course, Mr. Trenholm, but there are times when every railroad is confronted with the situation that every man has to run just as soon as his rest is up.

Mr. Trenholm: Oh, yes.

Mr. Burgess: And that might show in one month a very high mileage?

Mr. Trenholm: Yes.

Mr. Burgess: But at the end of the year the twelve months would reduce it materially?

Mr. Trenholm: That is true, and October is the biggest month we have in the country I am familiar with, and no doubt that would show to a greater extent. When you undertake to figure that, it would be unfair to take October and figure the man's miles that he ran and multiply it by twelve, for the year. It would not be doing justice.

Mr. Burgess: Thank you; that is all.

Mr. Stone: It is a fact, is it not, that if the average is 3,500 to 4,000 miles a month, a 2,600 mile guaranty in that service does not mean very much?

Mr. Trenholm: Well, it means just what it says, that a man is guaranteed a day for every calendar day of the month.

Mr. Stone: And it is also a fact that you keep very close watch of it, and the minute you see the mileage is going to run below that, you at once cut the crews?

Mr. Trenholm: Yes, we usually cut them considerably before it gets dangerous.

Mr. Stone: So as to be on the safe side?

Mr. Trenholm: So as to be on the safe side and to protect the men also. The men do not want—

Mr. Stone: It is also a fact, when you say a man does not want to work every day, and he lays off, the minute he lays off he breaks that guaranty, does he not?

Mr. Trenholm: I think that is true, Mr. Stone, yes. If he was working twenty-six days a month—

Mr. Stone: It would be possible under that guaranty for a man to work twenty-six days and make 2,600 miles and be held away from home the other five days of the month?

Mr. Trenholm: It would be possible, yes.

Mr. Stone: Coming back to this held away from home terminal question, is it not a fact that under our request you pay a man for the actual hours held, one, two, three, four, five or whatever the case may be, after fifteen hours?

Mr. Trenholm: I think that is so.

Mr. Stone: And under your proposal you want the man to work thirty and then you are willing to pay him ten.

Mr. Trenholm: No, I did not say work.

Mr. Stone: Well, wait. I used the wrong word. Wait thirty hours, and then you are willing to pay him ten.

Mr. Trenholm: Well, you are guaranteeing the man the minimum day, then, for every twenty-four hours, which seems to me a fair guaranty. You are not limiting the man to that at all. That is the guaranty, and the burden that the railroad takes of a condition that they cannot avoid. They share the burdens with the men, and I think take the big end of it when they guarantee him a minimum day in each twenty-four hours.

Mr. Stone: But it can be defeated by calling men out just before the period is up, while under our plan there is no way to defeat it; you pay the man the time as soon as the fifteen hours is up, for each hour held.

Mr. Trenholm: Well, you would continue to pay him, under your plan, you would pay him perpetually, you would pay him night and day, while he is sleeping and waking, and everything else, and you would pay him under your rule at the rate per hour he received on the last trip, which might be decided by overtime, or might be decided by very short hours, and big miles, and when you divide it up, it would make a very high rate. And I do not wish, by any answer that I may make here to you, to be construed in any sense as endorsing any rule that you have got in there, in that submission.

Mr. Stone: We understood that long ago. It is not necessary to go over that again.

Mr. Trenholm: I take it from No. 1 to No. 16, and I think it is the worst presentation that was ever put up to a railroad by men who claim to be conservative, sensible men.

Mr. Stone: Conservatism was all right until the railroads in the Western territory undertook to capitalize it, and then we had to do something else. And I will say to you frankly, that in all my years of experience in schedule building, I think it is one of the finest pieces of schedule work I have seen put together.

Mr. Trenholm: Well, looking at it from one point, I agree with you.

Mr. Stone: I believe it will guarantee the man pay for every minute that he works, and that is what we intended it should do when we framed it.

Mr. Trenholm: And a good many minutes that he does not work.

Mr. Stone: No, sir.

Mr. Trenholm: You will have to prove it.

Mr. Stone: It also guarantees to the man that you cannot take any of his time and use it, and that is the only thing he has to sell, without paying him for it, and that is what we had in view when we framed it.

Mr. Trenholm: It surely protects the man.

Mr. Stone: But this idea of paying crews after they are held away from home terminal over fifteen hours, is not a new principle. For example, on the Delaware & Hudson, in the Eastern territory, they have such a rule. "Freight crews held at other than home terminal will be paid at through freight rates, after fifteen hours, and resuming work shall be returned to home terminal."

Mr. Trenholm: Local conditions on that railroad might make that rule a fair rule. I do not know. They may have a very heavy traffic, and they could utilize the crews and adjust it. It may be that their business does not fluctuate as it does with us.

Mr. Stone: You will find it on page 288 of your exhibit. I take it for granted, it is correct. I have not checked it.

Mr. Trenholm: Business may not fluctuate as it does in the West, where the crop season is the busy season.

Mr. Stone: Take, for example, the Boston & Maine. "Freight engineers receiving a day's pay in one direction, if held at other than home terminal, will be paid at through freight rate after ten hours. This not to apply to men whose runs are scheduled for a lay-over of more than twelve hours.

Mr. Trenholm: You do not make any such exception in your rule.

Mr. Stone: No, we did not make any exception, but we are giving you fifteen hours.

Mr. Trenholm: You do not make any exception to scheduled trains. It is every day lay-over. It might exceed it.

Mr. Stone: Here is the Maine Central: "Extra freight crews receiving a day's pay in one direction, if held at other than home terminal, will be paid at through freight rates after fourteen hours."

Mr. Trenholm: Traffic conditions are very materially different in the East than in the West. The density of traffic is much greater, and that all has an influence on it. And I have no means of knowing the manner in which such rule was secured.

Mr. Stone: Here is the Lehigh Valley: "When engineers are held at terminals other than home terminals for engine or train, they will be allowed one-fourth day for each five hours or fraction thereof so held, after the expiration of fifteen hours."

So it is not a new principle entirely. It is in existence.

Now, Article 9, Deadheading. I understand, of course, that you do not agree with the article; but the other day, I think, in discussing it, we got deadheading and court rules mixed up. Is it not a fact that all the schedules in the Western territory have a court rule separate and distinct from deadheading?

Mr. Trenholm: I think so, Mr. Stone—so far as I know, anyway.

Mr. Stone: It is a fact that on a number of roads the engineer is paid the freight rate for deadheading on freight trains, or paid the same rate for deadheading as the man in charge of the train.

Mr. Trenholm: I don't just remember that, Mr. Stone. If you say some schedule has it, I presume it is correct.

Mr. Stone: They do pay through freight rates or the freight rate for deadheading on freight trains on a number of roads, do they not?

Mr. Trenholm: I think they do. I do not recall any that specifies they pay the same rate as the engineer gets. I think it is the through freight rate. There may be, however. I would not want to say there is not anything in schedules, because I am not familiar enough with them to do so, as a witness.

Mr. Stone: The Great Northern Railway rule is as follows: "Rule 18. Engineers deadheading on company's business will be paid full mileage at rate for service from which they are taken. Extra passenger engineers will be paid minimum passenger rate, extra freight engineers will be paid minimum through freight rate."

Mr. Trenholm: But that does not say—

Mr. Stone: "Extra engineers holding regular engineer's run will be considered regular engineers under this rule. Engineers changing at their own request, on account of seniority, will receive no deadhead time."

Mr. Trenholm: That does not say that they get the rate of the engine moving the train.

Mr. Stone: Paid the full mileage rate in the service from which they are taken. It might be possible that a man called from freight service would be paid the freight rate for deadheading on a passenger train, under that rule.

Mr. Trenholm: Yes.

Mr. Stone: Article 8 of the Denver & Salt Lake Railway: "Engine crews deadheading at company's instance shall receive full time of crew pulling the train on which they deadhead, but no overtime."

Mr. Trenholm: Full time. Does it say anything about the rate?

Mr. Stone: "Individual engineers or firemen deadheading at company's instance, will receive one-half pay of the engineer and fireman on train on which they deadhead, but no overtime."

Why is it not a fair theory that when a man is called off the board, who has probably waited two days and got to the top of the extra board, and being first out, is called to deadhead over the road and thereby loses a freight trip, why should he not be paid full time for deadheading? Why is not such a rule equitable?

Mr. Trenholm: I think such a rule should be considered from all standpoints, Mr. Stone. There might be cases where, perhaps, in a case such as you mentioned, it would be fair to pay him a full day at certain minimum rates. But, ordinarily, men are called, in deadheading, to give them work. The man is located at the place where there is no work, and the deadheading proposition is to put him to a point where he secures work in his business, and the movement of the head man from the list where there are so many that he has been three days getting there, that you speak of, moves everybody else up, and they get the rate. He gets the advantage of this run. He goes on a passenger train and makes his run in three or four hours, and usually he is sent there to take a run that is either permanent, relieving somebody, or to get him into service. It is done for his interest, and I think the men on railroads have met with their officers and discussed their conditions, why these things happen, and they came to an agreement on each railroad, that, no doubt, was satisfactory.

Mr. Stone: Is it not a fact that he is not only dead-headed for his own interest, but also to protect the company's interest as well. You may have an engineer injured, or you may have an engineer sick at some outlying point.

Mr. Trenholm: Yes, it is mutual, Mr. Stone. It is necessary for a railroad to get a man to a certain point, whether it is because a man is sick, or injured, or whether he of his own motion applies for leave of absence, and it has been granted, or for short crews at the end of a division, or seniority district, where the business has grown, and you have got to move crews there to handle it. There are a great many things come in; but it is a matter of mutual arrangement, for both the employe and the railroad, and I think the rules in the different schedules have been discussed and agreed to by the committee and the officials of that railroad, and so far as my own case is concerned, I know of no dissatisfaction.

Mr. Stone: Take, for example, the Northern Pacific rule, Rule 12: "Engineers dead-heading on their own division on company's business will be paid the same rate and on the same basis as engineers pulling a train." So the rule is—

Mr. Park: Mr. Stone, what would they be paid if they were dead-heading on another district, not their own?

Mr. Stone: I don't know why that is put in there, Mr. Park. I don't know what the distinction is between the two. Perhaps Mr. Curry can answer.

Mr. Nagel: Well, this is the fact, is it not: When the dead-heading crew starts, they are at the point where they are expected to be subject to railroad orders. Isn't that true?

Mr. Trenholm: Yes, sir.

Mr. Nagel: So they are taken by the railroad to do work at a point different from that at which they would ordinarily begin their work?

Mr. Trenholm: Yes, sir.

Mr. Nagel: And there is that much foundation for compensation, isn't there?

Mr. Trenholm: Yes, sir, and that is recognized in the schedules.

Mr. Park: All roads do, in fact, pay for dead-heading?

Mr. Trenholm: Yes, it is recognized.

Mr. Park: But the conditions and rates are different on different roads?

Mr. Trenholm: Yes, sir.

Mr. Stone: It is a necessary service, is it not, Mr. Trenholm?

Mr. Trenholm: Yes, sir.

Mr. Stone: And every road has more or less of it?

Mr. Trenholm: Yes, sir.

Mr. Stone: It is also true, is it not, that in dead-heading, you do use the man's time?

Mr. Trenholm: Yes, and very generally, I think, use the time on the passenger service that takes him to the point where the work is and where the company desires to get him, and where no doubt he desires to get. It takes him on their fast trains, and they pay him a compensation for it. It is recognized.

Mr. Stone: Answering your question, Mr. Park, Mr. Curry informs me that that clause, "On their own division," as put in there, is because oftentimes they are required to relieve men on another division, to balance their extra board, and in that case it does not apply.

Mr. Curry: Not only that, but we have rules that permit the transferring from one portion of the line to another, when business is slack in one locality and good in another. And there are other rules in there that govern the rate of compensation when they are so transferred.

Mr. Stone: That is where they are transferred long distances?

Mr. Trenholm: Yes, sir.

Mr. Stone: The request is not unusual, though, Mr. Trenholm, because such rules are in effect. For example, the Kansas City Southern, Article 6: "Engineers dead-heading under orders on company business will be allowed full pay at the rate for the class of service that caused such dead-heading. If transferred from one extra board to another, they will not be paid for dead-heading."

Mr. Trenholm: Well, that is a qualification in there that shows the agreement between the officers and the men covering local conditions. Generally, in transferring men from one place where you maintain a pool board, to another, the railroads pay for it.

Mr. Stone: If from an extra board to an extra board, using the time of the men, why should they not be willing to pay for it?

Mr. Trenholm: They say in that case, as I heard you read it, it doesn't apply.

Mr. Stone: No, it doesn't apply in this particular case.

Mr. Trenholm: I say that is the trouble in this business, that local conditions govern. I don't know why it was exempted on that railroad, but we don't exempt it. We treat the extra men the same as any other if we dead-head them.

Mr. Stone: It is also a fact, is it not, on some of these roads, that if no other work is done on that day that a man dead-heading is guaranteed a day's pay?

Mr. Trenholm: I think that applies to a greater or less extent through the territory; yes, sir.

Mr. Stone: On this question of compensation, under Article 10, I understand, of course, there is the same objection to that as to the other. There is also the further objection, as I understand it, made by many of the Western roads, that they don't want a hostler operating an engine in congested terminals on the main track. But with those few exceptions it is a fact that on a great many of these roads the men are relieved, and the engines are hostled by men designated as hostlers, are they not?

Mr. Trenholm: I think Mr. Higgins testified on the stand, as I remember it, that they relieved men very generally by hostlers. I do it in some cases where the distance is considerable. At Sioux City and Omaha, I think we relieve practically all passenger engineers, but not freight engineers, because the yard is close to the roundhouse. I think in Omaha we release the freight engineer, as I recall it now. And I have no doubt that through the territory there are in different sections of a road different points on the road where hostlers are employed and relieve the engineers.

Mr. Stone: Do you accede to the theory that there should be a qualified man in charge of an engine on the main line?

Mr. Trenholm: I concede that a man should be qualified to handle an engine, whether it be on the main line or on the shop track.

Mr. Stone: You make no distinction between the two?

Mr. Trenholm: I make the distinction that a man should be qualified to handle an engine on the main line. He should also be qualified to handle the engine around the shops, or make any movement of an engine. His qualifications may be higher—

Mr. Stone: You heard the expert testify that a man could be taught to merely handle an engine in a few weeks, as a handy-man from the roundhouse. He could handle the engine in and out?

Mr. Trenholm: I did not hear that testimony, Mr. Stone. I guess I was not here.

Mr. Park: Mr. Trenholm, is it not a fact that no employe, whether he be a qualified engineer or otherwise, is permitted to occupy the main track, except under certain conditions, either by the protection of the flag, yard limit boards, or regularly placed train orders?

Mr. Trenholm: I want to answer Mr. Stone first. I did not hear the testimony, Mr. Stone. I think, Mr. Park, the officers in charge would not permit anybody to go on the main line, with an engine or anything else that might result in accident; that the main line should be guarded very sacredly.

Mr. Stone: Someone testified the other day—I can't recall whether it was you or not—that around these yards it was safe for these men to cross over, and so on, because the movement through the yard was always slow. There was such testimony here by someone. Is it not a fact that many of our limited trains, regardless of yard boards and everything else, go through towns just like they were not there, at a high rate of speed?

Mr. Trenholm: A good many trains go through some yards pretty fast.

Mr. Stone: Don't slow down at all?

Mr. Trenholm: I would not say that. They are required to check their speed going through any yard, where the main track is likely to be occupied by yard work.

Mr. Stone: Has anybody any business to occupy the main track, in the face of one of these limited trains?

Mr. Trenholm: No, sir.

Mr. Stone: Take, for example, this fast mail that goes, either on the North Western or on the Burlington, where they make a run—well, the time card is strung up over 52 miles an hour—somewhere around that. I think the one on the North Western is 51 and a fraction, and the one on the Burlington is higher than that—206 miles in 212 minutes. Do you think they slow down very much, in designated yard limits, in making that time?

Mr. Trenholm: I think they check their speed a little, Mr. Stone, but there is no question about the rule not permitting anybody to be out on their time, just the same.

Mr. Stone: Have you ever been in one of these designated yard limits and seen one of those trains go through?

Mr. Trenholm: I have been around a railroad all my life.

Mr. Stone: If he did reduce his speed through there, I am wondering how fast he was running before he checked his speed.

Mr. Trenholm: I can tell you pretty close how fast he was running.

Mr. Stone: Just as fast as he could go, and the only thing he was sorry for was he could not get them to go a little faster.

Mr. Trenholm: No; you are mistaken about that. I have ridden the trains.

Mr. Stone: I never pulled the fast mail, on either one of these roads, but I have been up in the cab of a few of these long-legged engines myself, and I wished I could get a little more out of her than there was in her.

Mr. Trenholm: Well, their speed is not so exceptionally fast, Mr. Stone. I have ridden on trains that were not scheduled nearly as fast, that made just as fast time. I have had the local passenger train, with my car on the rear end of it, with a recorder on it—ordinary local passenger train—run up to 70 miles an hour. Their scheduled speed is only about 32 or 33, but they lose their time doing the work at stations, and they run very fast between stations. You take a train such as your fast mail that you are speaking of, it has a clear road; it has no work to do at stations and goes right along. Has not that high rate of speed, for a short distance, and then loses time.

Mr. Stone: Is it not a fact that he has to go right along, in order to make that speed? Every slow down of a minute takes away from him time that he can hardly get back?

Mr. Trenholm: Of course, he has got to move along.

Mr. Stone: So, from the time he pulls that throttle open, he is hitched to nothing but hurry, and yet you think it is perfectly justifiable, even under our rules of speed, first to have a man who is not qualified on time of train, time card, or anything else, to handle engines around a terminal, with trains like that on a road?

Mr. Trenholm: I would like you to show me where I testified I thought it was proper.

Mr. Stone: You said he had to be qualified to handle an engine.

Mr. Trenholm: I said he had to be qualified to handle an engine on the main line.

Mr Stone: Does this hostler that they make from a handyman, in six weeks, know anything about the time card, time of trains, or anything else?

Mr. Trenholm: I have not testified that we have any such men.

Mr. Stone: Do you believe a hostler should be made from that kind of a man, from your experience as a railroad official?

Mr. Trenholm: That kind of a man may be just as good a man as the fireman is, if you give him the experience and education to handle the engine. There is no reason why he cannot be taught to handle an engine as well as any other man.

Mr. Stone: It is a fact, though, is it not, Mr. Trenholm, that on your own particular road, you give the firemen and engineers preference?

Mr. Trenholm: That is our contract and agreement with the men. The firemen and engineers have the right to bid in the hostler and despatching jobs.

Mr. Stone: Have you an order on your road that no fireman can bid in a job hostling, without one year's experience?

Mr. Trenholm: Not that I know of.

Mr. Stone: There are a number of roads in the West that have such a rule?

Mr. Trenholm: We have no such rule.

Mr. Stone: Mr. Phillips corrects me and says three years on some roads—that a fireman cannot bid in a job hostling, without three years' experience as a fireman. So it must be evident that some of these roads recognize they must have a high quality of man, experienced man; but, is it not a fact that with some inexperienced man, who does not know the time of your trains and has no way of protecting himself in crossing about a yard, he is liable to get into trouble with some of your main line trains?

Mr. Trenholm: I don't think a man should be on the main line with an engine, without experience, Mr. Stone, and knowledge of the conditions—capable of protecting himself and handling with safety the work assigned him.

Mr. Stone: Have you noticed any trouble in keeping your road supplied with hostlers, filling their ranks from your experienced firemen and engineers?

Mr. Trenholm: Why, I would say no, Mr. Stone, to that. I don't think we have had any trouble of that kind. There might be occasions—firemen prefer to be on the road, I think, generally speaking. I know that men—it has come to my notice that men bid in the despatching jobs in slack time, and the minute business picks up, they want to go back on the road firing, and I think, generally speaking, the firemen prefer the road work; possibly, for the reason that they must have road experience to be promoted to engineers, and they, no doubt, feel that if they remain hostling or despatching too long, it might affect their rights to promotion.

Mr. Stone: You also recognize the fact that it is absolutely necessary for a hostler, the same as any other human being, to occasionally eat, do you not?

Mr. Trenholm: I think he ought to eat once in a while, Mr. Stone; yes, I am willing to admit that.

Mr. Stone: Are you willing to admit that it should be a regular meal hour, as near as practicable?

Mr. Trenholm: I am. As near as practicable—as near as the business will permit. I think men on a railroad have got to adjust themselves somewhat to the railroad's requirements, but I think his meal hours should be reasonably regular—as regular as can be made, out of consideration for him.

Mr. Stone: Well, if, in busy yards, they can find time to let a great majority of these switch engineers go to meals at regular hours, as you stated, why is it not possible to make such an arrangement for hostlers to have regular meal hours also?

Mr. Trenholm: I believe they have, Mr. Stone, so far as is possible to do it.

Mr. Stone: Then, you see no serious objection to our request for a meal hour, for hostlers, that is, so far as fixing a regular meal hour is concerned?

Mr. Trenholm: Well, your rule that you have here is rather ambiguous to me. There are two qualifications in it; one, that he must go to his dinner between 11:30 and 1:30, I think, and the other is that he must not be kept after 5 hours. A man going to work at 7 o'clock, one rule has the effect of reducing the other. I am strongly of the opinion that that should be handled locally, because the local conditions in each yard would affect, naturally, the time that men could go to dinner. I maintain that in a certain yard that the hostler may go to dinner, practically, at the same time every day. But it might be 1 o'clock that he can go, instead of 12, because at that point the switch engines are idle and go to the shop and require the hostler at the very time that the engineer is away from them. Now, he might regulate his hour to go at 1 o'clock, or 1:15, every day, when the engineer gets back, and I think it is local conditions of the railroad and the business that should govern, to a very large extent. I do think that he should be given his noon hour, and given it as regularly as the business will permit.

Mr. Stone: Mr. Phillips wants to ask you a question or two on that hostler subject, before we leave.

Mr. Trenholm: All right.

Mr. Phillips: Mr. Trenholm, on that meal hour business, I understood you to testify in your direct examination, in answer to a question by Mr. Sheean, that you knew of no complaint with regard to meal hours for hostlers, and that nothing of that kind had been testified to here. Is that about the substance of your testimony?

Mr. Trenholm: Well, no. I think I may have testified, Mr. Phillips, that I knew of no complaint from anyone, in regard to the noon hour for hostlers, but I did not testify that there was no testimony here, because there was testimony here that I did not hear, and I don't know what it was, and I would not testify as to that.

Mr. Phillips: In order that it may be absolutely accurate, on pages 5373 and 5374, I find the following:

"Mr. Sheean: You have no objection, Mr. Trenholm, if a rule can be formulated that can be made territorially universal, or if there be any proof of abuse with reference to meal hours, of taking up and meeting any such abuses and endeavoring to correct them?

"Mr. Trenholm: None whatever. I believe that men should be, so far as the business in which they are engaged will possibly permit, permitted to go to their meals at regular hours.

"Mr. Sheean: Now, you were in conference for a great many months, Mr. Trenholm, with reference to this schedule. During all that time, was there brought to your attention any claim or recital of conditions at any roundhouse, where hostlers were not being permitted to get their meals at proper hours?

"Mr. Trenholm: I do not recall any, Mr. Sheean.

"Mr. Sheean: You have heard no testimony here pertaining to that, as to any conditions needing correction?

"Mr. Trenholm: No."

And you proceed to explain some further, with regard to the meal hour.

Mr. Trenholm: I think that testimony is absolutely just the way I testified. I did not hear the testimony, in person, in regard to hostlers, as I recall it.

Mr. Phillips: Well, then, Mr. Trenholm, in order that you may be familiar with the testimony, on page 1448 of the proceedings appears the following—this was during the testimony of a hostler, who testified as a witness for the men:

"Mr. Shea: During this twelve hour period which you are required to work, are you allowed any time in which to eat your lunch or your dinner?

"Mr. McClory: No, sir.

"Mr. Shea: Do you take your lunch with you in the morning?

"Mr. McClory: Yes, sir.

"Mr. Shea: How do you eat your lunch, if you do not have any time?

"Mr. McClory: Well, if we have a period—for instance, when we get out the engines for twelve o'clock, the engines go out, why, then, the next is one o'clock, and we will take the best opportunity between twelve and one or two, or between ten and eleven, whatever we find, to eat; but we are supposed to be on the work. If an engine comes in between those times and we are called on, we have got to be on the job."

Now, from that testimony, you would understand that the situation there was very unsatisfactory, and that this man made a complaint, would you not, Mr. Trenholm?

Mr. Trenholm: I would understand that he was finding fault with the conditions there, yes, sir.

Mr. Phillips: Now, as a matter of fact, Mr. Trenholm, is it not common with hostlers, at many points, to handle their work exactly as described by Mr. McClory here?

Mr. Trenholm: I don't think I am familiar enough with this great territory to testify as to that. I cannot conceive, hardly, of a condition on a railroad where proper operation would not enable a man to have a reasonably regular time each day, to eat. It might be, as this man testified, that the most convenient time for him to eat was between 10 and 11, but if that was the most convenient time, I know of no reason why he should not be given that time, every day. If, on the other hand, it is between 1 and 2, I know of no reason why, under conditions practically uniform, he should not be given that time, so it would be reasonably regular.

Mr. Phillips: As I understood his testimony, Mr. Trenholm, he said it varied from day to day, and that he made the best of it, each day, taking such time as he could seize to eat his lunch. You have stated that you are not sufficiently familiar with the conditions of hostlers, but it would not surprise you to learn that, as a general proposition, a hostler does take his lunch, in many places, just as Mr. McClory testified here, and that this lunch bucket, or basket, or whatever it may be, is some place at a convenient point, and that he takes a bite out of that, when he has a chance, between handling engines, and goes through his day that way. It would not surprise you to learn that was true?

Mr. Trenholm: It would surprise me to learn that that was true on the road I am connected with, because I think, if any condition of that kind existed, either one of the organizations, engineers or firemen, would take it up and I know that it would be adjusted satisfactorily, as I don't believe in those things myself, and I am satisfied that the organizations on any railroad, or the men themselves, if it was brought to the attention of the proper officer, would endeavor to adjust it, so that the man would have a reasonable meal hour. I don't think any operating officer has any idea that men should not have reasonable hours, and these things may exist, at times and places, without the knowledge of the officers.

Mr. Phillips: You think, do you not, Mr. Trenholm, that a hostler should have a meal hour, regulated at least as reasonably as the meal hour for switching crews?

Mr. Trenholm: I think so.

Mr. Stone: I think you stated the other day that the railroad labor organizations had gone too far in saying what the railroads could and could not do. At that time, I think, we were discussing the hostler proposition. I have not my proceedings here of that day; I left them over at the room. But is it your idea that all questions of this kind should be left to local officials, instead of being handled in wage movements like the present one?

Mr. Trenholm: Well, I think there are some things being submitted to the joint concerted movement that should not come into a movement of this kind. I think the concerted movement should be limited to wage matters, and not to operating rules and things that pertain—where the men are not responsible for them, and they should be left to the officers who are held responsible by the owners of the railroad, and by the people, and by the federal and state authorities.

Mr. Stone: If those questions could have been adjusted satisfactorily to the men, do you think they would have been here? I mean with the local officials that you speak of.

Mr. Trenholm: Oh, I think, Mr. Stone, that the Concerted Wage Movement has invited the bringing on of a great many things that were not thought of or contemplated when it was first agreed upon to endeavor to adjust wage matters in a concerted movement, taking in a large territory.

Mr. Stone: Well, a concerted wage movement taking in a large territory, but brought about by what? The Western Association of Managers, and the fact that no individual line could or would grant any concessions. Is not that what brought about the wage concerted movement?

Mr. Trenholm: I think it was a mutual arrangement thought desirable by the Western Association of Railroads, and by the organizations. I don't think there was any—I think both thought it a desirable thing, at the time it started, to consider the question of wages in a joint concerted movement.

Mr. Stone: It is true, is it not, that you had both the Western Association of Railways and the Presidents' Association for a number of years?

Mr. Trenholm: What do you mean by the Presidents' Association?

Mr. Stone: Isn't there an association of presidents, presidents of railways, Railway Presidents' Association?

Mr. Trenholm: I never had any—the presidents of railroads in Chicago meet occasionally—I don't know of any Presidents' Association.

Mr. Stone: Well, perhaps I—

Mr. Trenholm: No, I am sincere about it. I don't know of any. There is the Western Association of Railroads here, that is represented—sometimes the president represents them at such meetings, the vice-president, the general manager.

Mr. Stone: There is a rule in your Western Association of Railways, of which Mr. Tinsman is the Chairman, that at the general meetings they are represented by the chief operating officer of the road, are they not, or the manager?

Mr. Trenholm: Well, the road designates who will represent it at that meeting, and it may be the president of a railroad that represents his railroad at some meeting, and it may be the vice-president. It may be the general manager. The railroad designates who will attend such meeting.

Mr. Stone: When you say the railroad designates, if it is a fair question, who on the railroad designates who shall attend the meeting?

Mr. Trenholm: Well, for instance, the Omaha railroad, take my own case, the president has named me the representative of the Omaha Railroad at the Association of Western Railroads. I think Mr. Aishton, vice-president of the North Western, has been designated to represent them. Now, if anybody else on the Omaha Railroad went to that meeting, they would need my proxy to vote. Other roads designate their presidents as the men who will represent them at that meeting. Now, if he sends his general manager to represent him, he must give him his proxy. It is like any other—

Mr. Stone: The same as any other board meeting?

Mr. Trenholm: Yes, on that order.

Mr. Stone: On this question of surprise tests, do you understand that these great labor organizations that have become so strong in the last few years, object to legitimate surprise tests?

Mr. Trenholm: No, sir, I don't.

Mr. Stone: It is a fact that there are a number of other surprise tests made, other than those named here in this article, is it not?

Mr. Trenholm: Yes, there are a great many efficiency tests made, Mr. Stone. I don't call them surprise tests.

Mr. Stone: Well, if the name is objectionable, we will call them efficiency tests, then.

Mr. Trenholm: I believe they are very necessary in railroad business today.

Mr. Stone: About how many different railroad efficiency tests are recognized in the Western Association? You have a regular form, have you not?

Mr. Trenholm: I do not think the Western Association has any form, Mr. Stone. If they have, I don't know it. I think each road has a form and a system—I think you spoke one time before about the Harriman Lines having a standard form. Now, that might apply to a system, but I do not think the Western Association of Railroads have any form providing for these tests. I got one up. I may have sent and got similar forms from some other roads, to see what they were doing, as we do in a great many things, and may have copied some of the things that were in there that I thought were good, and I may have left off some things that I did not think were good. In getting ready to put in our 100 per cent efficiency test I tried to get a good sensible common sense system of testing men as to their obedience to the rules, putting it into effect.

Mr. Stone: How many different kinds of efficiency tests do you make on the Omaha?

Mr. Trenholm: Why, I don't recall just the number of them now, Mr. Stone. We have a blank where the inspector goes out and makes these tests, and the manner in which he will make them is provided; in most cases, at least. In making the signal test they must have a signal man with them, and in making certain other tests they must have an officer, and it is all covered and provided. I shall be very glad, if it is of any interest, to submit one of my forms.

Mr. Stone: I should like very much if you would. I have a number of them over at the room. I thought I had them with me. I should like very much if you would file them with the Board.

Mr. Trenholm: I will be very glad to get a sample of our form and bring it in and file it.

Mr. Stone: And, of course, the Board can get from the

Board what the Illinois Central use, which I understand is practically the same as is on use on the Harriman Lines. In fact, I think that Mr. Park was one of the committee that formulated the list for the Harriman Lines, originally, in the beginning. As I recall it, they run from eighteen different tests on some roads to twenty-six on others, and they are practically all along the same lines.

Mr. Trenholm: Well, they naturally would have a similarity, because the purpose of them all is probably the one object.

Mr. Stone: And, out of that long list of surprise tests, we only object to the ones that we have named here.

Mr. Trenholm: That is my understanding of it, Mr. Stone.

Mr. Stone: Now, take, for example, the placing of red lights or flags. Under your rules of your road you would require a red lantern or red flag beside the track to be accompanied by a torpedo on the rail, would you not?

Mr. Trenholm: Whatever our rule book provides in that case, we would make that test in accordance with the rules.

Mr. Stone: And in making a test for a red light or a red flag, you would put that in position where it could be clearly seen by the engineer, would you?

Mr. Trenholm: Yes, sir. Absolutely no trick about it; simply a question of determining whether the engineer would obey a signal properly displayed.

Mr. Stone: You would not approve, then, of digging the ballast out between the ties to set a red light down flush with the top of the ties, for an efficiency test?

Mr. Trenholm: No, sir; I do not think that is fair to the engineer. I don't think it is a fair test. I never heard of it being done, excepting what I have heard in conference here.

Mr. Stone: You would not approve of giving a man a clear signal with a semaphore, a light up there twenty-five or thirty feet, showing clear, and placing a red light at the foot of the post as an efficiency test, would you?

Mr. Trenholm: Well, I would not want to go on record as criticising any other railroads in what the operating officers on that railroad thought was proper, and I don't think it is proper that I should testify for or against it. I don't know the purpose of that surprise test. I don't know what they were trying to prove or demonstrate. I have no objection to answering my own custom. We don't do that under our tests. That is all I care to say.

Mr. Stone: Do you believe it is necessary, Mr. Trenholm, in order to show that you are making efficiency tests on the man, that you must trap some man, or catch some man, every time with an efficiency test, in order to show that you are making these tests?

Mr. Trenholm: No, sir. I hope to create a condition by a properly conducted test, so as to be thoroughly satisfied that our men can not be hurt; that they obey the rules, and in all cases are 100 per cent efficient.

Mr. Stone: As I understand the original intent of the efficiency test, it was to see that the men were living up to the rules of operation. That is the fundamental basic idea back of all efficiency tests, isn't it?

Mr. Trenholm: That is the fundamental. I think perhaps I have gone a little further in it than that. I want the officer to be tested, and I want him to be on record in all tests. I want his evidence on file that he has made a positive inspection, instead of riding over the road and taking it for granted that he has done it. I want to know that it is done, and I want him on record as having done it, and I want the record that the engineer has performed his duty; that the conductor has performed his duty; that the road master and the bridge inspector, and everybody else has performed his duty properly, and made a record of it; and that I have performed my own and made a record of it.

Mr. Stone: You spoke the other day of a switch light, or a switch being left open by some other train. Under that condition, and the automatic blocking, your signal would at once go to danger, wouldn't it?

Mr. Trenholm: I don't think that our automatic blocking at all covers switches.

Mr. Stone: Well, you block your main line connection?

Mr. Trenholm: I think the interlocking covers it—covers all your switches.

Mr. Stone: And, under those conditions, the engineer would be obliged to flag through that block, wouldn't he?

Mr. Trenholm: If what conditions existed?

Mr. Stone: Under a condition where a signal has gone to danger, your rules require that they flag through the block?

Mr. Trenholm: On single track, I think, yes.

Mr. Stone: Under a double track you would proceed to caution, after coming to a full stop with your train under control, so you could stop within range of your vision?

Mr. Trenholm: Yes, sir. That is my recollection, Mr. Stone.

Mr. Stone: I am just speaking in a general way. I have not the rule before me, but I think that is the general rule.

Mr. Trenholm: I think that is true, yes.

Mr. Stone: I think you stated the other day that you had complaint about your torpedoes, and found some of them defective?

Mr. Trenholm: Yes, sir.

Mr. Stone: Haven't you had the same complaint, especially in stormy weather, with snow drifting? Is it not always impressed upon all road men and track men to be sure and place your torpedoes on a rail where the snow doesn't drift over them, if possible?

Mr. Trenholm: Yes, sir.

Mr. Stone: That has a tendency to muffle the sound?

Mr. Trenholm: Yes, sir. We have been trying to get a better torpedo. I believe there is a necessity for a first-class torpedo, that there is no question about it being heard, and with the noise of the engine there is a possibility of the engineer not hearing it. I think we have had honest, legitimate cases in our testing, where men claimed they did not hear it, and I believe they were honest.

Mr. Stone: Well, is it not possible, Mr. Trenholm, under the conditions of a man in the cab of a locomotive, with everything rattling, and the roar and the noise of the train, that he might not hear the torpedo, and that a man standing between the tracks, or in a field adjacent to the tracks, would hear it?

Mr. Trenholm: Yes, I had one case particularly where the section men, as I recall it, over a mile away, heard the torpedo, and yet the engineer did not, and as I recall it now, the engineer was looking for it, and yet he didn't hear it, and I think he was perfectly honest in his contention. He received a tip that he would strike a torpedo, and was looking for it. So there was no reason why he should have run it.

Mr. Stone: I know that we have had quite a good deal of complaint, and especially from our men running the Mallet locomotive; they say it is almost impossible to hear the ordinary torpedo with a Mallet locomotive.

Mr. Trenholm: Well, I don't know as to that, but I am satisfied that there are conditions under which an engineer might not hear a torpedo. I don't know how noisy a Mallet engine is, I never was on one; but with the size of the locomotives that we are using, and the conditions that exist for us, I am satisfied that men have run torpedoes under the tests that we have put them under, and honestly did not hear the torpedo, and I am working now to try to get a better torpedo.

Mr. Stone: I think you said the other day that this efficiency board that you had (and you explained how it was made up) have full power to discontinue any test that they think is unfair or unjust?

Mr. Trenholm: Yes, sir, they have got all the authority that I have.

Mr. Stone: At the same time, if I get you correctly, you seriously object to this Board passing upon certain efficiency tests that we believe are unfair.

Mr. Trenholm: How is that, Mr. Stone?

Mr. Stone: You object to this Board passing upon these efficiency tests, and think it should not be.

Mr. Trenholm: You mean this Board of Arbitration?

Mr. Stone: This Board of Arbitration.

Mr. Trenholm: I don't think I testified to serious objection to this Board passing upon it. From my recollection of my testimony and my knowledge of how I felt, and how I would testify, I think I am safe in saying that I testified that any recommendation from this Board in regard to this or any other matter, would receive the highest consideration from the operating officers of this Western country. I know personally that if this Board, in its judgment, recommended that any act that I was performing was unwise, they represent the people, the railroads, the men, the government, and their recommendation that I discontinue any practice would almost result in an order to me to discontinue it.

Mr. Stone: Well, doesn't this Board represent identically those very same people, and the public, and the men, and the government?

Mr. Trenholm: I said so.

Mr. Stone: Oh, pardon me. Well, do you understand that this Board will make recommendations or will make an award, which, on those articles?

Mr. Trenholm: I presume the Board will exercise its judgment. They may make an award on any one article, or any part of it, and they may make a recommendation on certain things that they think are proper, or they may decline to make any recommendations or award. Their power, as I understand it, is unlimited, excepting they cannot take away.

Mr. Stone: In case they decline to make any recommendation on any particular article, I would consider we had lost it, then, and I think the railroads would so hold, would they not?

Mr. Trenholm: Yes, I think that if this Board refused to make any rule on any subject, that that would be the same as though it had been denied. That is my thought at this moment.

Mr. Stone: But I think we do agree on this one thing, that both the railroads and the men are anxious to have the highest standard of efficiency possible, do we not?

Mr. Trenholm: I believe that is right, Mr. Stone. I never heard anything to the contrary.

Mr. Stone: And anything that will safeguard the men or anything that will safeguard the operation of a railroad, safeguards the lives and limbs of our men, does it not?

Mr. Trenholm: It surely does, and so far as I am personally concerned, I have received the fullest support from the organizations, not only the enginemen and trainmen, but all the organizations. So far as discipline and safety are concerned, I have always received the unqualified support of your organizations.

Mr. Stone: Then, regardless of the fact that we at times go too far in our requests, you do get some good results from our organizations, do you not?

Mr. Trenholm: I am not opposed to organizations, and never expressed myself so, and frankly say that I am in favor of them; not altogether in favor of some things you are trying to do, but I am in favor of your organizations.

Mr. Stone: Well, the difference between the two is so small that we will not even bother to discuss it. In making efficiency tests, in case a man makes an error or fails, is his personal record taken into consideration at all in the discipline handed out?

Mr. Trenholm: It is with me, Mr. Stone. A man's record is of value to the railroad, and I think any officer who does not take a man's record into consideration cannot have a good organization. Because no officer can want to get rid of men whose records are good. He is a valuable man to a railroad. You make good men by education.

Mr. Stone: Leaving all sentiment out of it, and bringing it down to the business basis of dollars and cents, is it not a valuable asset to any railroad to have experienced men with good records in its employ?

Mr. Trenholm: Yes, sir.

Mr. Stone: And the record a man builds up, through years of experience and through years of work, should be an asset in his favor?

Mr. Trenholm: Yes, sir; and a very strong one, and many men consider it a very high asset. Many men think very seriously of anything being recorded against their good record, and would rather be suspended and not have it appear as a record. I personally am very much opposed to the actual suspension of men. I think actual suspension punishes his family more than it punishes him, as a rule, and always did think so.

Mr. Stone: Well, actual suspension simply means that all a man has to sell is just simply so many days of life, and when he gets an actual suspension of 30, 60 or 90 days, he will simply shorten the amount he has to sell by that much.

Mr. Trenholm: Well, I have never looked at it so much in that light as I have that men sometimes do not object to taking a 10 day suspension, or 20 day suspension—

Mr. Stone: Especially if the trout fishing is good.

Mr. Trenholm: If the trout fishing is good, or if it is bad weather. He would just as lief be off as not. If he is the kind of man who looks at things that way, it does not bother him any, but it does affect his family. And I do not think any officer wants to apply any discipline unless he gets some benefit from the discipline; at least, I do not.

Mr. Stone: Is it not a fact that discipline is not applied so much as a punishment to the man himself as for the results you expect it to have on the personnel of the men as a whole?

Mr. Trenholm: I think that is the only purpose that can excuse discipline; it is educational, and to make known to your organization, your men, on the whole system, that such things cannot be tolerated, and nothing can be gained by punishing the men, except its influence on other men. It should be handled, I think, with the greatest consideration, and should be regulated to meet your conditions. You may have a certain thing that is being done on your railroad, and being done generally, and you want to correct it; and you may try to correct it in a modest way and may issue a notice that this must not be done; it does not have the desired effect, and you must go far enough with your discipline to accomplish the result; and it should all be educational.

Mr. Stone: And, when it goes beyond that, it ceases to be discipline and becomes persecution?

Mr. Trenholm: In the railroad business there should be absolutely no personality. A man, to be fair as an officer, should have no friends or enemies in this business; he should carefully investigate everything that comes to his notice and should give it very careful consideration, and should not make his decision without giving it the proper thought and in the proper line that his discipline requires.

Mr. Stone: On this Article 12, of assistance by firemen—

The Chairman: Are you starting in with something new?

Mr. Stone: Yes.

The Chairman: My associate suggests that we adjourn, and I think it is a good suggestion. We will take a recess until two-thirty.

(Whereupon, at 12:25 o'clock P. M., a recess was taken until 2:30 o'clock P. M.)

After Recess.

A. W. TRENHOLM was recalled for further examination and, having been previously sworn, testified as follows:

Mr. Stone: When we adjourned for lunch, we had just started on Article 12, Mr. Trenholm.

Mr. Trenholm: Yes, Mr. Stone.

Mr. Stone: That request being that on locomotives in freight service, where but one fireman is employed, and on all locomotives in passenger service, coal will be kept where it can be reached by the fireman from the deck of the locomotive. They also request coal of the proper size for firing purposes will be placed on all tenders. I think, in reading over your testimony, that you stated that it was the general purpose of the railroads, or the general practice, to place coal of the proper size for firing on these locomotives.

Mr. Trenholm: I think, generally, that is the condition. We do. I think we have a rule in our schedule to that effect, for fireman.

Mr. Stone: You see no objection to that part of the rule, then?

Mr. Trenholm: No. I think coal should be broken of proper size.

Mr. Stone: Do you think it is possible, on all coal-burning locomotives weighing less than 185,000 pounds on drivers, for the fireman to keep his coal down off the tank and keep it in the fire box at the same time?

Mr. Trenholm: Read the question, please.

(Question read as above recorded.)

Mr. Stone: What I mean by that is, Mr. Trenholm, if the fireman can keep his coal shoveled ahead, after it gets back from the gates, and properly fire the engine at the same time?

Mr. Trenholm: Well, I think the situation as it exists on the railroads today is that it is very seldom that a fireman has to shovel coal down in the tank of his engine. I think, in practical operation, the coal sheds are close enough together so that sufficient coal can be kept on the engine so that he don't have to shovel it down. He may, of course, occasionally have to break it down. From my experience, which has not been very extensive in riding engines, where firemen handle their coal, I think the breaking of it down with a coal pick, in a great many cases, keeps it down where he can reach it without taking the second step. A very large portion of the coal in the tenders of the newer type of engine—a large percentage of the coal—runs down to the gates.

Mr. Stone: I think it was testified that about 70 per cent, or something like that.

Mr. Trenholm: I would not testify as to the amount. I don't know.

Mr. Stone: But it is a fact, is it not, Mr. Trenholm, that a great many of these engines weighing less than 185,000 pounds on drivers are engines used in modern passenger service, with the old-style flat-bottomed tank?

Mr. Trenholm: No doubt there are some of them, Mr. Stone. I would not attempt to say how many. I was speaking more of the modern engine.

Mr. Stone: It is also a fact, is it not, that you want your engines, in passenger service especially, to go over the road without taking coal? Is not that the general plan on most of the roads?

Mr. Trenholm: Well, I think it is, of course, desirable on those trains not to waste any more time in taking coal than possible, but the modern shed today is equipped so it coals an engine very quickly, and the tank is so constructed that, generally speaking, whether it be the old, flat-bottomed tank, or the modern sloping tank—whatever kind of tank it is, that you fill the coal tank full and put in the gates. The gate holds back a lot of coal—how much, I would not undertake to say, but the fireman shovels from under the gate, until the coal gets so that it don't need to be held by the gate. Then he takes the gate out, and I would think that 70 per cent was not an unreasonable estimate as to the amount of coal that would run down in the tank.

Mr. Stone: With the hopper bottom tank?

Mr. Trenholm: Well, in most any tank, I would think, Mr. Stone. It is loaded up on its sides, and it all comes to the center. I would not think, from my experience, that it was very often the fireman had to go back and shovel coal. Of course, I realize that that happens, especially if they run a tank, thinking they have enough coal to go into the terminal, and do not take coal, the fireman no doubt would have to shovel more or less of the coal down in order to be able to reach it without taking a second step.

Mr. Stone: If the fireman had to shovel coal down, and then later on has to shovel it into the fire box, it does mean handling that coal twice, where it has to be done?

Mr. Trenholm: It means handling it in a way, twice, yes. Of course, the shoveling down of coal is not the same as throwing it into the fire box. It is a different method of shoveling, but it is handling it twice, Mr. Stone.

Mr. Stone: It is also a fact that if a man has to take one or two steps each time he goes after a scoopful of coal. that you have doubled the man's burden almost, have you not?

Mr. Trenholm: It adds to his burden. The shoveling of coal in a fire box, of course, when he is doing it, is very rapid, and any movement that he has to make other than to put his scoop under the coal and tip it and swing himself around to put it into the fire box, anything added to that, is additional work.

Mr. Stone: The fireman does not have the say when they shall take coal; that is generally fixed either by a bulletin or instructions of the road foreman or something of that kind, is it not?

Mr. Trenholm: No, I think not; there are no restrictions with us. Men take coal—of course, I think it is usually the same place, it becomes standard, but I do not think there is any limitation on when they should take coal; the engineer takes coal whenever he thinks he should take it. The modern coal shed coals an engine about as quick as you can take water.

Mr. Stone: But it is desirable on important trains that no more stops for coal and water be made than absolutely necessary to get over the division?

Mr. Trenholm: Of course, that is figured by the operating officer, that it is desirable to do as little as possible, but he figures that in making his schedule. He figures usually he has to allow at a certain point, in making a fast schedule, three or four or five minutes, whatever is thought necessary, for the taking of water or fuel, and that is allowed in his speed.

Mr. Stone: Are we to understand that all the coal chutes are so located that you can take water and coal at the same time with the same stop?

Mr. Trenholm: No, I would not say that.

Mr. Stone: Do you think a majority of them are located in that manner?

Mr. Trenholm: No, I think not. I think it requires, generally speaking, two stops to take water and coal.

Mr. Stone: Mr. Phillips wants to ask a question or two on that, before we pass it.

Mr. Phillips: Do you think, Mr. Trenholm, that, in all cases where coal chutes are located between terminals, a fireman is permitted to say when he requires coal and that a stop will be made for that purpose?

Mr. Trenholm: I think it is entirely left, I should say, to the engineer, Mr. Phillips, as being the man in charge of the engine, but I do not think any engineer would run a coal shed over the protest of the fireman, that he wanted coal. I do not think the engineer has any desire to burden the fireman with any additional work; but it only means a minute or two to fill the tank.

Mr. Phillips: The actual filling of the tank with a modern coal chute might only mean a minute or two, but the stop and the delays which may follow from making any stop would make a total delay on the trip of considerably more than a minute or two, would it not?

Mr. Trenholm: Well, I would say yes, the loss of speed in slowing up and getting under way again, and the minute or two that it takes to take the coal; it varies, of course, as to the weight of your train, but I would say that there would be from five to seven minutes of lost motion.

Mr. Phillips: Well, Mr. Trenholm, is it not a fact that engineers are anxious to make a good showing for their run, and that officials, train despatchers, train masters, and all the officials of the railroads, are equally anxious to have a good showing for the runs of all trains, and many times they do pass coaling stations without taking coal when the fireman says he cannot reach coal, and thinks they should fill the tank up?

Mr. Trenholm: Well, I wouldn't think so. I don't know of any cases of that kind, Mr. Phillips. I would rather think it the reverse. Of course, in scheduling a train, provision is made for those things. As a matter of fact, a great many superintendents—I always did when I was a superintendent—when they make a schedule of a passenger train, always make a habit of calling in an engineer, sometimes a conductor, sometimes a couple of them, and going over the stringing of a schedule, and asking them whether they could gain a minute here and take it some place else; whether the schedule of the train was consistent; and provision is always made, I think, where there is a coal shed, or the usual and customary place of taking coal and water—there is an allowance made for that, so that the schedule of the train would be even all over the run.

Mr. Phillips: Well, Mr. Trenholm, while I have heard some statements here, or some testimony, from which we might infer that conductors, or trainmen, or sometimes both together, loafed at times, or might loaf if there was an incentive, my personal experience has been that both conductors and engineers have a mania for making good runs, and it is not infrequent for a conductor to ask an engineer if he cannot run a water tank, much less a coaling station, and a conductor always wants to run a coaling station, if it can be possibly done, doesn't he?

Mr. Trenholm: No, I would not agree to that, Mr. Phillips. True, that in important passenger trains the effort of every employe of a railroad, whether it be the general manager or the foreman, is to have your trains on time. That is a business proposition. The regularity of a train is one of the most important things that a railroad has to talk about. The train despatcher and superintendent of division, are always ambitious to have their passenger trains that are scheduled at each station at a given minute, they are anxious to have them there on that minute. They are anxious that they reach their terminals right on time, not one day but every day; so that they chase that very hard. An engineer who has a given time between two stations shows up three minutes late, he is probably asked—the conductor is asked—why? An explanation of it. Now, of course, he has to make a reply why. That goes on, and men are always losing time between those two given points; maybe ten miles, or fifteen miles, but invariably they lose two or three minutes, and have to increase their speed to recover it; it becomes well known to the operating officials, and in the next making of a time card they take that into consideration, and probably discuss with the engineer and conductor the fact that they always lose here between these two points. "Is the speed too fast? Are conditions there such that the engine cannot make it? And if so, we will allow you a little more time in there, and take it up some place else." So that the time on the whole division may not be changed, but it is graded a little differently, so that the train is always on time.

Mr. Phillips: Don't you think, generally speaking, Mr.

Trenholm, that all trainmen and enginemen, particularly engineers and conductors, instinctively desire to make good time?

Mr. Trenholm: That is part of their education.

Mr. Phillips: That is their training, is it not?

Mr. Trenholm: That is their training, yes, sir.

Mr. Phillips: And anything that causes delay is objectionable to them, is it not?

Mr. Trenholm: Yes, sir.

Mr. Phillips: You have spoken of passenger trains, and your desire to keep them on time. You also have freight trains, time kept on freight trains, as a rule, have you not?

Mr. Trenholm: Yes, sir.

Mr. Phillips: How about extra freight trains? Don't they make as good speed as the carded freight trains, or better, as a rule?

Mr. Trenholm: Well, without having prepared any figures, I would not like to say, but my thought would be, no. I think a scheduled train is not bothered so much with orders, and as a rule they are scheduled on time that they can make easily, and they go right along on their time.

Now, a scheduled train, going along on its schedule, a train despatcher would not run any train against it that would delay it beyond what it could easily recover. So I think they are given a better show, possibly, than the irregular train, that runs altogether on orders.

Mr. Phillips: Don't the stock trains in the lighter train movement, usually run as extras?

Mr. Trenholm: Well, no. There are a good many of the roads in our territory schedule their stock trains.

Mr. Phillips: Have a daily movement?

Mr. Trenholm: Yes, or a three-time-weekly movement.

Mr. Phillips: But you, of course, know by experience, Mr. Trenholm, that with engineers or conductors who are in charge of the train and its movement, of course, anything which causes a delay is objectionable?

Mr. Trenholm: They aim to get over the road, Mr. Phillips.

Mr. Phillips: And if they have an engine that would go over the road, ordinarily burning ten or twelve tons of coal for the trip, and at the time they reached an intermediate coaling point, they had burned five or six tons; and still had eight or nine tons left on their tank, there are engineers and conductors that would not want to take coal. Don't you think so?

Mr. Trenholm: Oh, there might be, Mr. Phillips, but I don't think they would oppose—if the fireman wanted to take coal, so as to have it close to him over the trip, I don't think they would seriously object. I don't think the conductor would interfere with him. The engineer would be the one who would say whether he wanted coal or not, and I think, further, if that was done to any extent that made it burdensome to the fireman, that the firemen's organization is well qualified and well equipped to take that up with the officer and state that they are in the habit of running coaling sheds and making it hard for him, and he would ask for relief.

Mr. Phillips: If he believed the coal could be kept within his reach, he would take it up in the proper way?

Mr. Trenholm: Yes, if it became a burden to him. If it became burdensome that engineers and conductors were running coal sheds and not giving him a fair show in his work, he would not hesitate to take it up.

Mr. Phillips: Not running coal sheds alone, but by reason of burning two-thirds of a tank, we will say, between coaling stations, or more in many cases. Sometimes the coaling stations are not close enough together. That would be only one of many reasons.

Mr. Trenholm: Of course there might be cases where the coaling stations were far enough apart, where he could not get coal, even enough to keep it down. He might pick it, or shovel it sometimes, but my answer to you was on the basis of the conductor and engineer running a coal shed, and I think if that became burdensome to the fireman—my experience is the engineer respects the wish of the fireman. If the fireman said "I want to take coal here," the engineer would not criticise it.

Mr. Phillips: I think, Mr. Trenholm, ordinarily, coal chutes are so located that by the time you reach there on the everyday freight train, there is no question about having to take coal. I was speaking in that case about the train that might possibly get over the road without taking coal, and perhaps my question was based somewhat on personal experience. I have known of lots of altercations between the engineer and the firemen, and between the conductor and the engineer and firemen about stopping and taking coal. Now, if the fireman felt that this—not running coal chutes necessarily, but that, with other things, was burdensome to him, and he was unable to settle it with the division official, or locally, as you state, it would be proper to take it up in the manner it is brought here, would it not, to have a general rule adopted?

Mr. Trenholm: Oh, I find no fault with men bringing matters of that kind here.

Mr. Phillips: Well, now, on this coal coming down, whether it is an old fashioned flat bottom or U-shaped tank, or one of the new hopper bottomed tanks, or a sliding back tank, if it is not equipped with a coal pusher, all the coal that falls against the gate is what falls by gravity, is it not?

Mr. Trenholm: Gravity and the motion of the engine; yes.

Mr. Phillips: Well, if there was no motion of the engine, perhaps less would fall down?

Mr. Trenholm: I think some less.

Mr. Phillips: If the track is very rough or the speed is very great, a little more will fall down.

Mr. Trenholm: Has that tendency.

Mr. Phillips: But the back of the engine and the shoveling plate, or that part of the tender from which the coal is shoveled into the fire box, is usually so arranged that a fireman can stand within shoveling distance of the fire box door when the tank is full. Is that not correct?

Mr. Trenholm: I think on all the older engines, very much so. I think on some of the old style locomotives, where there was a very long tank, the boiler sets well back, and the fireman used perhaps to take a half a step.

Mr. Phillips: He had a longer swing?

Mr. Trenholm: He had a longer swing, and the fireman, in putting coal into a fire box, usually wants to be close enough to the door to strike the door with it, to scatter it.

Mr. Phillips: Now, with most all tanks, when the tank is full and the coal gates are closed—of course, the gates are closed before the coal is put in the tank?

Mr. Trenholm: Yes, sir.

Mr. Phillips: Now, when the tank is full and the coal gates are closed, a certain amount of coal will work out underneath the gates, as long as it is full up against the gates?

Mr. Trenholm: Yes, sir.

Mr. Phillips: Now, that brings it within eighteen inches or two feet nearer to the fireman, than after it is all shoveled away from the gate, does it not?

Mr. Trenholm: Well, the coal keeps coming down to the end of the tank, as long as the slope is such that it will fall, and the jar of the engine will move it. Now, the percentage of the coal that comes to that point in the tank—the coal is up over the sides of the tank, as well. A very large portion of that, falls in, as the support is taken away from it. As I said, I don't feel qualified to testify as to just the percentage of a tank full of coal that will, of itself, reach the point from which he shovels, but I would think that 65 or 70 per cent would not be out of the way. I never made any test and do not know whether that is correct or not.

Mr. Phillips: If a fireman should state to you, your own fireman, or a fireman from any railroad, that from five to eight tons was all that he could reach without shoveling it ahead or cutting it down, as they call it, and that he would run from twenty to twenty-five miles at the most before he had to go back after coal, you would not disagree with him, would you?

Mr. Trenholm: If my fireman, or any one fireman made a statement of that kind to me, on some particular run, I would think he was telling me the truth; yes, and I would not question him. If it was a general statement, I would feel that I would want to satisfy myself. And it is not a hard thing to determine just what percentage of coal on the different tanks will naturally flow to his shovel plate, as you speak of it.

Mr. Phillips: Since you refer to it again, the only reason I referred to it is that a fireman shoveling from this shoveling plate, is not shoveling from the coal gates, as long as the tank is full; while the tank is full he is shoveling from 18 inches to two feet of the coal gate, where the coal works out of there, as long as there is weight back of it, to make it do that. As long as there is coal against the gates, that is the condition, I believe; but whenever the coal is shoveled away so that the gates may be taken away, or the boards, if they use boards, then he would be taking another step to get his coal, would he not?

Mr. Trenholm: Well, I would not think so, Mr. Phillips. When the coal is against the gates, of course, as you say, the pressure is there; there is an opening under the gate and that coal keeps coming out. His step then is very short. I would say that coal flows out pretty close to the edge of the tank, and he is close enough then to his fire box door so that he shortens up his step. When that pressure ceases behind the gates, the coal commences to recede, and there comes a point when he has to take two steps in order to reach the fire box door. Now, when it becomes in that condition, it requires him to pull it down, or take those two steps; and the pulling of it down, I think, is easier to the fireman than to take the two steps, or the additional step, to the fire box door.

Mr. Phillips: Does he not have to pull it down and then also take an additional step, because he cannot pull it down, onto the deck, onto the shoveling plate?

Mr. Trenholm: If he gets it far enough back, he has to.

Mr. Phillips: Do you not think on practically every freight trip firemen have to get down coal on a considerable portion of the trip?

Mr. Trenholm: I would not think so.

Mr. Phillips: Don't you think on most passenger runs the fireman has to cut down coal, as they call it?

Mr. Trenholm: Oh, he may have to do it a little, but I do not think they do to any extent.

Mr. Phillips: Do you not believe the fireman could fire the engine more economically and satisfactorily and keep a look-out after his other duties, such as looking out for signals and watching the water, and so forth, better, if the coal was all where he could reach it, in the manner the tank design intends that he should have it?

Mr. Trenholm: The testimony here by Mr. Tollerton, was of such a nature that I think it is of much more value than my testimony could be. It is based on actual tests. I want to say on my own behalf, that I was surprised. There were tests made in this Western country along last winter, in January and February, without my knowledge as Chairman of this committee, and some of the results of those tests surprised me very much. I am free to admit that in the railroad business I have always felt that the fireman was one of the men that worked pretty hard on a railroad, and as an officer, have always favored the fireman. But when these tests came in, they surprised me, and I went home and I met an old engineer who has run forty years as a prominent engineer in the labor organizations, and I said to him, "You have had lots of experience with firemen. In your judgment, how much of the time does the fireman work on an engine, on a passenger run, shoveling coal; how much of his time is actually occupied in shoveling coal?" He thought a minute, and he said he had never figured on it very much, but he said he thought the fireman was from 50 to 60 per cent of his time shoveling coal. My superintendent of motive power came in the office while he was there, and I put the same question to him. I said: "I have always thought that the fireman was a man who was worked about as hard as anybody on a railroad," and I asked him. He had been a fireman, a traveling fireman, a traveling engineer, and an engineer, and had done all the work that any man does, and a man who rode engines a great deal as a road engineer and who did not hesitate to take the shovel and fire the engine himself, to show the fireman how to properly fire it. I asked him. Well, he said he thought 50 per cent.

A young man who has been a fireman a great many years was in the office the same day with those people; he was debarred from being an engineer on account of his hearing; he injured his ear; but he had fired, though, a great many years, ten or twelve years. I asked him, "You have fired an engine a great deal, freight and passenger. Now, you tell me what your judgment is." And he spoke up without any hesitation, and he says 33 per cent of the time. Now, following that, this committee started out here to make a test—but I am a little bit ahead of my story. I said to my superintendent of motive power, "I want to know for my own satisfaction just what it is. I have seen some figures, and I am doubtful about it, and I want to know." I says, "I want you to go personally and I want you to take a stop watch and make an absolute balance sheet of the time that a fireman is actually shoveling coal, from the time he gets off his seat or starts to take hold of the shovel, until he puts the shovel under the coal and leaves it; what time he consumes in any other work, taking water or anything he does, excepting being idle, or I will not say idle, that he is watching signals or doing other duties." Now, a fireman is never absolutely idle, I think; he is performing the duties of his position. He went and made some tests himself, and his tests are a matter of record here, and they verified the former tests, and I came back here, and to bring that matter out fully and satisfactorily, turned it over to a sub-committee of this managers' committee to investigate exhaustively that condition, and to prepare and submit an exhibit here that was in such shape that it absolutely showed the condition, and was right, for the benefit of this Board.

Now, it has convinced me, Mr. Phillips. I am satisfied that I was wrong in my former ideas of a fireman's work. Now, I don't mean by that that I am belittling the fireman's work, because I still think he works hard.

Mr. Phillips: Do you think, Mr. Trenholm, that the firemen throughout the country who are doing this work would be convinced as you have been?

Mr. Trenholm: Why, I think a great many of the firemen know a great deal more about it than I do.

Mr. Phillips: You think you could convince the firemen on any kind of locomotive that 70 per cent of the coal on a tender was within their reach?

Mr. Trenholm: That part I did not make any personal test of, Mr. Phillips. I was speaking of the testimony of Mr. Tollerton here, and my own feelings about it in the reception of it, and my own conviction as to that.

Now, as to the amount that will slide down so that the fireman can reach it, I made no test. I think there comes a point in the coaling of an engine when the fireman has to either pull it down or take an additional step to handle it. Now, what that point is I am not prepared to testify to exactly.

Mr. Phillips: Don't you think, Mr. Trenholm, without intending to reflect on the railroad, that a different result would be obtained from tests than there would be from observation of the great general operation?

Mr. Trenholm: How do you mean, Mr. Phillips?

Mr. Phillips: Well, are not tests always conducted with a view to obtaining favorable, or the best results?

Mr. Trenholm: Well, I have done everything I could in the test made here, so far as it was in my power—and I think the power of the committee, to have the test made absolutely fair to the firemen. I don't think anybody concerned or connected with this movement here has had the slightest wish or thought of getting any information that is wrong to use in this movement.

Mr. Phillips: Well, I believe in asking my question, Mr. Trenholm, I said it was not my purpose to reflect upon the railroad as to this particular system of test or any test, but ordinarily is not a test conducted to make the most favorable showing?

Mr. Trenholm: Well, it would not be with me. I have seen so much of that in the testing of certain things. Some fellow will come along with some device on an engine, a smoke consumer, or something else, that he desires to make a test with. I find when they make the test they always want to pick the fireman and know that he is a good fireman, and knows how to use combustion.

Mr. Phillips: And make the most favorable showing possible.

Mr. Trenholm: Make the most favorable showing for his machine.

Mr. Phillips: Well, isn't that true of anything you start out to demonstrate?

Mr. Trenholm: That is, to the fellow who demonstrates. I think, yes. You take the thing that made a good showing, possibly the fireman got a five dollar bill in addition.

Mr. Phillips: I never heard of a fireman getting tipped in my life. Perhaps that is why I am opposed to the tipping system.

Mr. Trenholm: But they do try to make the best showing for their machine, and it goes into operation, and every fellow has a crack at it, and it doesn't develop as well. But, so far as the railroad officers making a test to find out, I think he wants the facts. He wants to know definitely what does really happen.

Mr. Phillips: Well, now, just carrying this a bit further, Mr. Trenholm, and covering the next article in the proposition, so that I may end my part of this inquiry, the next article, 13, pertains to engines weighing 185,000 pounds or more on drivers, and requests that two firemen be employed on all such engines, when used in freight service. Now, on page 5,429, you were asked by Mr. Sheean if you had anything more to say with regard to this article, and he concludes in his question by asking "Have you ever had explained to you why, in freight service—where the distinction between freight and passenger service is drawn here?"

I think it is generally regarded that the work is harder on freight than it is on passenger service. That is, the hours are longer, and it makes the work harder. Isn't that a fact, Mr. Trenholm?

Mr. Trenholm: Yes, I think the long trip on a freight train is harder than the short trip on a passenger. I will qualify that to fit my former testimony on it. I think the passenger fireman on a good stiff passenger run performs more work in his four or five hours than the freight fireman performs in a like number of hours.

Mr. Phillips: In the same length of time?

Mr. Trenholm: In the same length of time, yes, sir. I think the run of a freight train where a man is running 120 miles or 130 or 140 miles (which is not uncommon in through freight service) I believe the fireman on that run working eight, twelve hours, or possibly longer in some cases—the fireman on that run works hard. It is a harder day for him than the fireman on a passenger train, who makes it in five or six hours.

Mr. Phillips: Well, he handles more coal, doesn't he?

Mr. Trenholm: Yes.

Mr. Phillips: And he has the additional strain of the longer hours on duty?

Mr. Trenholm: Yes.

Mr. Phillips: And goes longer without meals?

Mr. Trenholm: Yes, sir.

Mr. Phillips: And, just speaking in a broad general sense, freight engines are not usually kept up in as good condition as passenger engines, are they?

Mr. Trenholm: Oh, I think they are, Mr. Phillips.

Mr. Phillips: Do you think they are as convenient for the fireman and everything as well regulated?

Mr. Trenholm: Oh, I think so. I do not think there is very much distinction.

Mr. Phillips: I would agree with that view, Mr. Trenholm, that the passenger fireman fires more coal per hour, but he would not fire more coal per mile, and his hours would not be near as long as the freight fireman's?

Mr. Trenholm: Yes, sir.

Mr. Phillips: And, I also think the conditions surrounding the passenger fireman are usually made as favorable as they can possibly be made. If favor is shown to either branch of the service, it is shown to the passenger service, is it not?

Mr. Trenholm: Well, I wouldn't think so. I don't think there is any favor shown to either one. I think the engines in freight service are kept up just as well. I think the conveniences on them are about the same. Railroads keep their power in pretty good shape these days, and I don't think of anything, Mr. Phillips, that makes the engine any more favorable for a passenger fireman.

Mr. Phillips: Well, I don't want to condemn any railroad. We will say they all keep all of their engines up in good shape.

Now, getting down to this question of two firemen on a locomotive, you say you have never heard any complaint of it until it was brought up in this present movement, or some movement of this character?

Mr. Trenholm: I personally have never heard any complaint from the firemen on that question.

Mr. Phillips: Are you aware, Mr. Trenholm, that quite a number of roads now have two firemen on locomotives?

Mr. Trenholm: I am aware only from such testimony as I have heard here, Mr. Phillips.

Mr. Phillips: You don't know that the Chesapeake & Ohio, the Baltimore & Ohio—

Mr. Trenholm: The Eastern roads, it was brought up in there, and I think the Award was that local conditions should be the governing factor, and it was left, as I recall it, Mr. Phillips, to that, and I have no doubt there are cases in the East, but I have made no study of the East in that regard. I heard some testimony where the New York Central divided a run into two of 75 miles, I think.

Mr. Phillips: That is one method of providing relief, and another is on the New York Central, to put two firemen on Mallet engines. Did you know that?

Mr. Trenholm: No, I did not.

Mr. Phillips: And the Lehigh Valley, and the Delaware, Lackawanna & Western, and the Delaware & Hudson, and other roads that I cannot call to mind right now; the Pennsylvania, I believe, requires the brakeman to assist the fireman over certain parts of the division, on certain parts of their system. While I don't think that is the proper practice, it affords the fireman relief which, unquestionably, it was recognized he should have.

Mr. Trenholm: I suppose the brakeman don't consider that a good practice, either, does he?

Mr. Phillips: Well, I have heard them object, quite strenuously. He is paid for it, however, in addition to his services as a brakeman.

Mr. Trenholm: Under that condition, I think it would be a proper practice.

Mr. Phillips: But even with the pay, he objected, I am told, quite strenuously. But now, leaving out this one hour and 42 minutes, or two hours and 42 minutes, or whatever it is that a fireman actually works, have you ever heard of a fireman becoming exhausted, on a Western locomotive, not being able to complete the trip, on account of the hard work?

Mr. Trenholm: I do not recall any fireman becoming exhausted, under the present conditions of railroading, Mr. Phillips. I have heard of firemen becoming exhausted, by long hours, prior to the Sixteen Hour Law, and by lack of consideration of the roundhouse foreman in calling them in busy time, without giving them proper rest.

Mr. Phillips: No; but just out on the road, and within the last two or three or four years?

Mr. Trenholm: I don't recall hearing.

Mr. Phillips: It has never come to your attention that firemen do play out on the road, as we call it?

Mr. Trenholm: I have no recollection of it, Mr. Phillips.

Mr. Phillips: And that brakemen, or engineers, or some other member of the train crew helped them in getting in?

Mr. Trenholm: Oh, I think I have heard of firemen being taken sick on the road.

Mr. Phillips: Not taken sick. I suppose they do get sick at times, too.

Mr. Trenholm: I have never heard, Mr. Phillips, of a man actually playing out.

Mr. Phillips: If his sickness was due to being overheated, or working too much, whether on account of hard work, I would say that was part of his overwork, but the natural sickness that might attack any man at any time, I suppose a fireman is subject to, as much as any other man. Leaving out sickness, except such sickness as comes from overheating, you have heard of no case of that kind?

Mr. Trenholm: I have no recollection of it.

Mr. Phillips: You don't know that firemen often have to lay off, at the end of their trips, to recuperate from a hard trip, before going out again, even when they do struggle through to a terminal?

Mr. Trenholm: Oh, I may—I wouldn't be likely to hear that, Mr. Phillips, in these days, in my position, unless it was brought to my attention through some committee, or in some way was brought up as something for adjustment, because I wouldn't know. Firemen may lay off after a hard trip; may ask for rest of twelve, fourteen to twenty-four hours, and I would not know anything about it. It would not come to me in the natural course of railroading.

Mr. Phillips: Do not the exhibits introduced by the railroads here, show conclusively that engineers work more days per month than firemen do?

Mr. Trenholm: I have not made any tabulation for the purpose of showing that, particularly. I think the exhibits have a tendency to show that firemen are more irregular in service. They go in and out in service, and seniority works more exacting with them, than it does with the engineers, and it might show that they lose more time.

Mr. Phillips: If it did show that, could we not fairly attribute that to the fact that the firemen work harder, and have to lay off more?

Mr. Trenholm: I think the fireman does work harder than the engineer, without anything to show it, that is my judgment.

Mr. Phillips: It is not a question of him working harder than the engineer, Mr. Trenholm. Some objection seems to be raised, and opposition made to the granting of relief to firemen. Now, if you will pardon the personal allusion, it has been a good many years since I fired a locomotive—that is, fourteen, fifteen or sixteen years, and engines were not as large as they are today. Even that long ago, it was no uncommon thing for firemen to "peter out" on the road, as we call it, and another fireman had to turn around and turn back, to go on and make their trip.

Mr. Trenholm: Did they not make very hard trips in those days, as to length—much longer than they do now?

Mr. Phillips: No.

Mr. Trenholm: My experience in those days was that they were on the road much longer.

Mr. Phillips: My experience was, Mr. Trenholm, that a fireman on a moving freight train, at a moderate speed, could become exhausted and give out entirely, within an hour or an hour and a half. That is all he could stand, if the work was too heavy for him, and many a man I have seen give out in that time. Now, as I say, the engines were not as large then as they are today. I have worked on engines, much larger, and seen the work much harder than it was at the time I was acting as a fireman, and I ride on engines, occasionally, now, in the Eastern country, and also in the Western country, and I am convinced that the work is much harder now than it was in my day. Now, then, if firemen do give out, would that not indicate that the work had gotten beyond the limit of human endurance?

Mr. Trenholm: No; that would not indicate that to me, Mr. Phillips.

Mr. Phillips: Well, I recognize that term, that is used only by officers of these organizations, but if a man "peters out" as the common fireman terms it, has that not gone beyond his endurance?

Mr. Trenholm: Gone beyond that man's endurance, if he has to give up exhausted.

Mr. Phillips: If that was the condition, don't you think it would be an economical proposition to put another man on the locomotive, to assure against delays of that kind?

Mr. Trenholm: Where there is a condition, on any road, that one man is unable to fire the engine and take care of it within that particular locality, or particular runs, if that condition exists, I think it is economical for the railroad to take care of it in some way, either by putting on a stoker, or—I do not think that is an economical condition to have exist, where it exists. If I had such a condition, I would try and cure it.

Mr. Stone: You think, however, Mr. Trenholm, that that could be adjusted locally, with the local officers?

Mr. Trenholm: I believe it could, Mr. Stone; I believe all the men would have to do would be to convince the proper officer on that railroad, of that condition, when a cure would be provided.

Mr. Stone: We might have some trouble in convincing him, however, might we not?

Mr. Trenholm: Well, that, of course, is not in line with my statement. I believe that any railroad officer is open to conviction of an unfair condition, or a condition that does not produce the best economical operating result.

Mr. Stone: Is it not a fact that the local officer on one division of the road—his performance is pitted against the performance of the same class of local officer on another division of the road, and comparisons are made monthly, on many of these roads?

Mr. Trenholm: I don't see how it could be.

Mr. Stone: Is it not a fact that where every man is striving to operate his particular division, as cheaply and economically as possible, that he is not going to put two men on an engine when, on the next division, there is only one?

Mr. Trenholm: The putting of the two men on some particular engine, or some particular run, might help his operations, Mr. Stone.

Mr. Stone: That shows up in another column, somewhere else. That don't show in his expense account.

Mr. Trenholm: All shows up in one column. Divisions are dissimilar. I never saw two divisions, just alike, that you could make a comparison of. You can only compare a man's record with his own record of a previous period. In other words, the custom among railroads is to compare the month of January, 1915, with the month of January, 1914; operating under practically the same conditions. There is no way of making a comparison of one division with another, because the grades are different. Their whole make-up is different.

Mr. Stone: Another very serious obstacle you would run up against, would be the fact that one railroad would seriously object to putting one man on an engine, as establishing a precedent to be used by the other railroads.

Mr. Trenholm: No, I think you have testified here—Mr. Phillips has just stated, that it is done in a particular case. The precedent has already been established. It was assumed as good operation on those railroads. It has been left to them to determine locally, as I understand, and they have determined locally that there is economy on certain runs, in certain territory, doing something of that kind. One railroad may think it is cheaper to equip the engine with some mechanical device for doing it. Others might think it is cheaper to put on two firemen. I do not know—you have to take each case in itself, and the officer who is familiar with it will have to determine.

Mr. Stone: You testified about the high rate of speed or the amount of coal that a man in passenger service had to shovel. but his hours were short. Do you think it would be possible for the man to keep up that speed for 15 or 16 hours, as a man does on freight?

Mr. Trenholm: I think it would be harder for him to do it. There is a great difference in men, Mr. Stone. There are lots of men who can shovel lots of coal in a day. I have had some experience with them.

Mr. Stone: And there are lots of men who have to shovel a lot of coal to keep these engines hot, do they not?

Mr. Trenholm: Lots of men can shovel lots of coal and not be exhausted, too. There is a great difference in that respect. I have testified, I think, that the fireman on a passenger engine, for the amount he works, works more rapidly and more continuously than a fireman on a freight train for the same time. Speed eats up the coal.

Mr. Stone: It is also a fact, when you get the long hours, with a man shoveling coal on a heavy drag train, his fire becomes dirty and his engine begins to leak steam, and he has to work that much harder.

Mr. Trenholm: Long hours are, of course, conducive to hard work, and are tiresome. A man on his twelfth or thirteenth hour on an engine shoveling coal, it is not as easy as it is the first hour.

Mr. Stone: I want to dissent from Mr. Phillips' statement that all these engines, both freight and passenger are kept up in first class shape, because I do not agree with that statement at all.

Mr. Trenholm: I did not understand that he said so.

Mr. Stone: I understood him to say so. You have a lot of scrap piles running that ought to have been in the junk long ago, and the men are still struggling to get them over the road.

Mr. Phillips: I think Mr. Trenholm said himself that the bad ones were kept up as well, he believed, as the freight engines, and I did not want to indict the railroads as a whole. I do not think Mr. Trenholm understood me to say they were all kept in perfect condition.

Mr. Stone: If there is any doubt about the way some of them are kept up, I have some photographs over in my files to show you how some of the freight engines are kept up. You can see a white cloud of steam coming, that is all.

Mr. Phillips: I believe it was decided the other day that Article 14 was no longer necessary because firemen did not clean engines, anyway, and did not even clean the windows.

Mr. Stone: They break them out and report a new one to be put in when they get in, that is the way they clean them.

Mr. Phillips: I believe you stated firemen on most roads were relieved of cleaning engines.

Mr. Trenholm: I think that was conceded in 1910, was it not?

Mr. Phillips: By all the roads in that movement, as I recall it.

Mr. Trenholm: Yes.

Mr. Phillips: And, since that time, nearly all the others who were not in the movement have granted rules to their men, if they had not before that?

Mr. Trenholm: Yes.

Mr. Phillips: If that be true, if there is a road or two here and there, there is no good reason why they should not all be relieved, is there?

Mr. Trenholm: No, I know of none.

Mr. Stone: In regard to setting up these wedges and filling grease cups and cleaning headlights, I think it was testified the other day that at these outlying places it would be necessary to have some competent man maintained to set up the wedges on perhaps only one engine on a branch. You did not mean to leave the inference with the Board that it would be necessary to maintain a man there every day of the year in order to keep the wedges set up on one engine, did you?

Mr. Trenholm: You would either have to do that or send someone there whenever it was necessary to do it.

Mr. Stone: About how often would it be necessary to set up wedges on a light engine of a branch?

Mr. Trenholm: I would not think very often. I am not a mechanical man, but I presume whenever an engine got to riding bad they would have to fix it up.

Mr. Stone: Would it not have to be taken care of when the engine came into the terminal to have general repairs made, or the boiler washed out?

Mr. Trenholm: That might be done. I testified very generally on that, Mr. Stone. I did not want to testify very much on the mechanical part of it. I am not a mechanical man. There is testimony already in here by mechanical men, and if there are any facts you want to bring out about that, I would rather that they be brought out by them.

Mr. Stone: So far as filling grease cups and cleaning headlights is concerned, there would be no reason why that could not be done by an engine watchman?

Mr. Trenholm: No, I think not.

Mr. Stone: The engineer, of course, would be held responsible—

Mr. Trenholm: There is nothing intricate about filling grease cups or cleaning headlights.

Mr. Stone: And when it is done on these different roads around the roundhouse, they generally employ some kind of cheap labor to do that, do they not?

Mr. Trenholm: I do not know that they employ any cheap labor. They provide for someone to take care of that, and I presume they become quite skillful in doing it.

Mr. Stone: I notice, in reading over your testimony, that you said there was a tendency among railroads to again assign regular engines. Is that due to economy of operation; does it make a more economical operation?

Mr. Trenholm: I think the pendulum is swinging a little bit that way. I notice that where a road has plenty of engines and can afford to let the engine lie idle while the man lies idle to get his rest, there is a tendency to do that; and I believe the thought is that an engineer will take a little more interest in his engine if he has the same engine all the time, and perhaps will get better results out of the machine.

Mr. Stone: Is it not a fact that a number of mechanical men have testified on different hearings that they can operate their road 15 to 20 per cent cheaper with regular men on regular engines than they can with men running in a pool?

Mr. Trenholm: Well, mechanical men would have to show me, with all due respect to mechanical men.

Mr. Stone: I notice there are some other people who live down near Missouri, as well as these Grand Officers.

Mr. Trenholm: 20 per cent is a lot of money.

Mr. Stone: And you think this question of setting up wedges and all this work is the work of the engineman and should be taken care of by them?

Mr. Trenholm: I think there should be no question raised, where it is more economical to do it, than to have it done by engineers. I do not advocate that they should do it at all places, but where it is economical to the railroad and no hardship to the man, I think there should be no question raised about it. I think good loyalty to the company that furnishes employment to the man should call for at least a reasonable return in the desire to do things that ought to be done in the most economical way.

Mr. Stone: Just how far do you think that loyalty ought to lead a man? Just about how many hours work a day do you think he ought to give on account of his loyalty?

Mr. Trenholm: I do not think he should give a minute without pay, but I think he should avoid the expense of sending some one else there to do it, when he can, perhaps, do it in an hour, and pay some one a couple of days' pay to go and come to do the work.

Mr. Stone: If you did send a machinist out to do it, you would have to pay him his time from the time he left until he got back, continuous pay?

Mr. Trenholm: We would have to pay him whatever your schedule provides for, and I think it is quite an arbitrary rule in the machinists' schedule, that they provide for time going and coming, and I do not know but what additional time.

Mr. Stone: Time and a half for all night work and Sundays?

Mr. Trenholm: Something of that kind. It is quite an arbitrary rule, secured from railroads under strong pressure.

Mr. Stone: And I think, on a number of the roads, their schedule covers that you shall pay their expenses while they are away from the terminal.

Mr. Trenholm: I would not be surprised.

Mr. Stone: Do you think there is any serious objection to placing supplies on locomotives, on the part of the railroads?

Mr. Trenholm: No, I think it is done quite generally. I heard testimony here where a man had to go and get oil and so forth, which is quite burdensome, of course.

Mr. Stone: Did you ever see an engineer carry a wrecking frog on his back down through the yard for a quarter of a mile to get it on the engine, from the storeroom?

Mr. Trenholm: No, I never have.

Mr. Stone: I have.

Mr. Trenholm: The wrecking frogs they have today are pretty heavy for an engineer to carry that far, but I have never seen him do it.

Mr. Stone: But if it is not on the engine when he finds her out on the designated track, he has to go and get it, hasn't he, unless there is some other man to see that the supplies are put on her?

Mr. Trenholm: I do not think an engineer would go and get a wrecking frog from the storeroom and carry it to his engine. I think he would notify the foreman that his engine did not have a wrecking frog and ask that one be put on.

Mr. Stone: That is all that we are asking for in this article, in having supplies put on.

Mr. Trenholm: Well, a wrecking frog and a pint of oil are two different things altogether.

Mr. Stone: If he did not have his tonnage when he got the wrecking frog on his shoulder, he could bring the pint of oil along, too, couldn't he?

(No reply.)

Mr. Stone: It is a fact, is it not, that the supplies on a modern locomotive have become so great with this carrying of oil cans and tool kits, and so forth, that the engineer and fireman cannot take them all at one load. Is not that a fact?

Mr. Trenholm: No, I do not think that is a fact, Mr. Stone. The supplies that are taken off the engine are the light supplies. They do not take the wrecking frog off; they do not take all of the heavy tools from off the engine; it is only the tools that can be lost and can be taken from one engine to another and used around the roundhouse, and which you can protect from the loss of the tools.

Mr. Stone: Did you ever see a fireman go down through a yard, after he had left his engine on the designated track, with his coal pick, scoop, broom, water bucket, and three or four gallon cans of oil and two or three hand oilers and two or three lamps and a torpedo box and a fusee box?

Mr. Trenholm: No, I would like to have a photograph of him.

Mr. Stone: I have seen lots of it, and there is no question but what we can bring in lots of men to testify about it, if there is any doubt here, about their doing it.

Mr. Trenholm: I have never seen it, and I have seen a good many firemen in my day.

Mr. Stone: It is a fact that on a number of our roads all lubricators, headlights, markers and other lamps are filled by the roundhouse force, are they not?

Mr. Trenholm: I think there are different customs about it. I think a good many roads do that, Mr. Stone.

Mr. Stone: In this Article 15, weights on drivers, I think you stated the other day there was no particular objection to furnishing these weights on drivers.

Mr. Trenholm: The historical weight of the engine, I see no objection, in any form that is reasonable and satisfactory.

Mr. Stone: If there is no secret about the weight of these engines, why is it that the railroads have shut off our source of information, from these locomotive builders?

Mr. Trenholm: I have no knowledge that they ever did shut it off, Mr. Stone. Certain the road I am connected with did not shut it off. You are welcome to it, and as far as this committee is concerned, we asked every road to furnish you with a blue print of every engine.

Mr. Stone: Yes, but we were trying to get the original weight from the locomotive builders, and all the satisfaction we got from them was that they were not allowed to give that information, but we should get it from the individual roads.

Mr. Trenholm: Did not that happen in the East and not on these Western roads?

Mr. Stone: Yes, that happened in the East.

Mr. Trenholm: I know of no case in the West of that kind. I know of no secret as to the weight, as coming from the builders. It certainly is not secret, so far as our road is concerned, and you are welcome to the weights as furnished by the builders, and to the history of what makes the weight today, and all the information which goes to make up the historical weight of the engine. It is absolutely no secret.

Mr. Stone: Regarding this Article 16, I think you have shown where it would cost $900,000 per year for the engineer and fireman not to be required to throw switches, flag through blocks and fill water cars. Do you have every reason to believe that estimate is conservative?

Mr. Trenholm: Yes, I have every reason to believe that is a conservative estimate, based on the interpretation we put on that article applied to these railroads, and we aimed to be very careful and check, so far as we possibly could, here, any figures furnished by any railroad, and devoted a good many months to a careful analysis of those things. I believe it is conservative.

Mr. Stone: Well, is it not dangerous for a fireman, climbing on and off one of these engines, and running ahead, and throwing switches, and climbing on again, running down through these yards, throwing switches at these different points? Isn't that dangerous for him?

Mr. Trenholm: Well, there is always an element of risk in a man getting off and on an engine, or on the ground around the engine. There is an element of risk in the transportation business, and I suppose the fireman takes that share of the risk when he does it, Mr. Stone.

Mr. Stone: Is it not a fact that at the present time there are a number of passenger trains run with only one brakeman, and it is necessary for this brakeman to protect tthe rear and the fear is that it will be necessary to put on another brakeman if this rule becomes effective relieving the fireman?

Mr. Trenholm: I think that passenger trains with one brakeman are very few, and if we analyzed it it would not be hard to answer. I think you will find where there is a case, it is a little short branch line, where they handle a combination baggage, smoker and one coach, and where there are no other trains on the line but that one, so that the occasion for flagging is almost out of the question.

Mr. Stone: You spoke the other day of a man perhaps looking ahead on a straight track, and seeing the second and third signal clear. That would not relieve him from flagging through the block where the signal was at danger.

Mr. Trenholm: No, I would say not, Mr. Stone.

Mr. Stone: He would have to flag through the block anyway, even though he might be able to see half a dozen blocks beyond that that were clear.

Mr. Trenholm: Oh, I don't know. I think that is a field by itself.

Mr. Park: See the signal at "stop" Mr. Stone. I asked that question. I think that is a rule on some of the Western roads. If you can see a signal in advance at "stop" that is your protection.

Mr. Trenholm: Well, I want to say that a signal at danger, of course, is a danger signal, and a man on an engine cannot tell from what that warns him. He might see a signal two miles ahead on straight track that was clear, but that doesn't indicate that there was not danger between the signal that stops him and that clear signal. There may be a broken rail. That in itself might set the signal. There might be other things that might make it necessary for him to proceed with caution, and it is a desirable thing, I think, on any railroad where a signal is at danger, for the engineer to proceed with great care, until he either finds the cause that set that signal, or is beyond its influence.

Mr. Stone: But, under the actual interpretation of the rules on many of our roads, no matter how far he could see, or how many blocks he could see beyond that that were clear, he would be required to flag through that block.

Mr. Trenholm: For the reason I gave. It is a safety proposition. It is one that no man can sit on an engine and guess the cause of a signal being at danger, and he should take all the precaution that is necessary to take to avoid the accident.

Mr. Stone: You may come to a place like that and send your fireman out to flag through that block, and the engineer is required to fire and run the engine both.

Mr. Trenholm: That is only on a light engine where the fireman is required to flag. With a caboose, or any train, he has the train crew to do it, and in those cases the fireman is not asked to flag, except where it becomes a point of his being the last man to use.

Mr. Stone: Now, I have a particular case in mind over here on the Chicago Great Western, an engineer and fireman are called to go light over the division, and when they come around to go they find a caboose coupled on behind the engine. The crew has been called to deadhead in their own caboose to another terminal. The engineer and fireman operate that engine over the road; the fireman looks after the markers on the caboose, and the engineer signs all orders; he is both conductor and engineer. In that case, if they came to a block signal, who would do the flagging?

Mr. Trenholm: Such a condition, Mr. Stone, I have never known in the railroad business.

Mr. Stone: This actually occurred within the last six weeks.

Mr. Sheean: Has there been a grievance because of it?

Mr. Stone: I think there should be, if there isn't.

Mr. Sheean: Well, has there been?

Mr. Stone: I don't know. I have been so busy here I don't know what was done out on the road.

Mr. Sheean: Can we safely say there will be, if there has not been up to this time?

Mr. Stone: That hasn't anything to do with the case at this time. I am trying to bring out what the fireman would have to do with the block signal, under those conditions.

Mr. Trenholm: I could not testify to those conditions, because it is so foreign to the operation of a railroad that I never heard of such a thing being done. I cannot understand the motive of it. I cannot understand what the conditions are that would bring it about.

Mr. Stone: The motive of it was, as I understand, that crew is deadheaded, and is not on duty within the meaning of the law, and are ready for service when they arrive at the other end of the terminal, and they had plenty of train crews, and not enough engine crews.

Mr. Trenholm: Well, it seems to me there are other ways of doing that without violating the precedents of railroads ever since they started. They have got to charge it up to the train, it is not a light engine, it is not locomotive mileage; it must be train mileage. I can't see any object in it that is worthy of consideration.

Mr. Stone: Do you furnish a pilot with all your light engines?

Mr. Trenholm: We have not in the past, with all of them; no. I think within the last few months—

Mr. Stone: A recent order of yours puts pilots on all of them, doesn't it?

Mr. Trenholm: Well, while I have been down here the matter has been under discussion, and I think it has been decided by the vice-president to do so. I say I think it only applies to light engines running over the division, Mr. Stone.

Mr. Stone: I think you testified the other day that the fact of a fireman flagging through the block was training him for greater responsibility.

Mr. Trenholm: With what?

Mr. Stone: Was simply in line with his training for greater responsibility.

Mr. Trenholm: I do not recall any testimony of that kind, Mr. Stone. It must have been in connection with something else.

Mr. Stone: I recall it very distinctly, because it was a new one to me.

Mr. Trenholm: It is a new one to me, too. I must have misunderstood the question, Mr. Stone.

Mr. Stone: I don't just seem to be able to find it. I know I have a note here. I wrote it down at the time, and I couldn't reconcile it with any of my ideas of flagging, how it would improve the training of a fireman, unless he was getting ready for a foot race, to run him through a mile or two.

Mr. Trenholm: I testified all through here to the best of my knowledge and belief, and that is not to the best of my knowledge and belief, therefore I never testified to it, Mr. Stone.

Mr. Stone: In this article we asked for, there is nothing that would prevent anybody flagging in case of an emergency, is there?

Mr. Trenholm: Oh, no. I know of no rule that you could make that would do that. I don't think any man would refuse to obey an order to flag in an emergency. If he would he would not be fit to stay on a railroad.

Mr. Stone: There is nothing in this article that would prevent your carrying out your rules governing it. The conductor would have a right to call on anybody in case of an emergency.

Mr. Trenholm: Well, the wording of the rule is subject to interpretation by the firemen and interpretation by the conductor, as to what might be classed emergency. A fireman is protected by his organization in his rights, and he might want to argue it for some time before he went. I think that is not conducive to good discipline or good operation.

Mr. Stone: I think in your discussion with Mr. Burgess the other day, about this case where the engineer would have to flag one way, and the fireman the other, you said it would only be on rare occasions. Is it not a fact that it is a case that could happen almost daily, where a light engine going over the road would have a time order, as they often give them, against the freight train in one direction, and perhaps a fast passenger train, twenty minutes or thirty minutes behind him, going in the same direction, and if, through breakdown or derailment, or any cause, it would at once be necessary for both to flag, would it not?

Mr. Trenholm: No, I think not. It would have to be a very extreme case. A time order to go to a station, gives him that time, so that he is protected on that end, up to the time he is due at that station. That gives a man plenty of time to go back and protect this rear, by a flag and torpedo, and then he can flag himself into the station.

Mr. Stone: He may be crossways of the track, and can't get anywhere.

Mr. Trenholm: Then he can send his man the other way with flags. He has got time, one way or the other.

Mr. Stone: But he would have to flag both ways, in this case.

Mr. Trenholm: Not immediately.

Mr. Stone: Probably not within the next five or ten minutes.

Mr. Trenholm: Well, that would be a very rare case, when the time is so limited as that.

Mr. Stone: Regarding that question of the Burlington case at Savanna, that has been spoken of repeatedly, where the fireman throws four or five switches getting to and from the roundhouse, what is to prevent that brakeman going with that engine to the cinder track, in a condition of that kind?

Mr. Trenholm: I know of no objection, if the brakemen are in that locality and required to go there and do it, but it would hardly seem necessary to send a brakeman, who might be two or three miles—he goes to the station with his train. That is his place.

Mr. Stone: He gets off there with the passengers?

Mr. Trenholm: He gets off there and unloads his passengers. Lots of roads do provide that a brakeman go to the roundhouse and pilot the engine to their train, where it is convenient to do that.

Mr. Stone: Under normal conditions, is it not the work of a brakeman or trainman to throw switches?

Mr. Trenholm: Under normal conditions, yes, sir.

Mr. Stone: I think you stated that the firemen were only called on occasionally to throw switches?

Mr. Trenholm: I think that is true, Mr. Stone.

Mr. Stone: If it is going to cost $900,000 a year—

Mr. Burgess: Just a moment, Mr. Stone.

Mr. Stone: Did you find it?

Mr. Burgess: Yes. Give the page.

Mr. Trenholm: 5450. "It is very rarely that he is required to flag at all when there is a full train crew. When he is running with a light engine, it occasionally happens that he has to flag, a very small percentage.

"Mr. Park: But if the railroads are required to absolutely eliminate the firemen from any duty of this character, which incidentally puts him in training for greater responsibilities later, they would be required to have a man available to go with that engine, whenever it was running light, or whenever, for other reasons, the brakeman could do this flagging?" "Yes, sir."

Mr. Stone: I was mistaken. It was a question Mr. Park asked you.

Mr. Park: Mr. Stone, do you take the position that a man ought not to learn anything, except the duties for which he is paid, on a railroad?

Mr. Stone: No; I don't think any man can learn too much about his work.

Mr. Park: Is is not a fact that a man who becomes a good engineer, or a good official, learns about the duties of other men, and anything that he may do along that line, puts him in line for promotion, and increases his capacity for increased responsibility?

Mr. Stone: On the general, broad principle, yes. It is a grave question in my mind, though, if a man with twenty below zero, and a foot or two of snow, would get out of an engine cab and trot two miles down the track to the next block, if, by the time he arrived there, his state of mind would have improved very much.

Mr. Park: Well, if the birds were singing and the brooks were babbling, and the sun were shining, it might.

Mr. Stone: Yes, sir; if the millennium was here the next morning, it would be entirely different, but I have been in the weather in the Northwest where there were not any birds singing.

Mr. Trenholm: Never saw it so cold up there that the English sparrow did not chirp around.

Mr. Stone: Getting pretty cold when he does not chirp.

Mr. Phillips: Mr. Trenholm, in speaking of that weather, which I understand is not regular any place, except Duluth—but you stated I believe, here, in answer to some member of the Board—I believe the Chairman—that you did not think it in any way endangered a fireman's health, to be required to get off an engine to throw an occasional switch, or even to do flagging. You, of course, do not wish to be understood as holding that a fireman, dressed as a fireman is usually, to fire a locomotive, would be prepared to get out, in all kinds of weather, and do brakeman's work, do you, Mr. Trenholm?

Mr. Trenholm: Oh, I think the fireman goes prepared for those things, and I see no more danger in the fireman getting off and running ahead to throw a switch—two or three minutes, whatever it may take, than there is in getting off his engine and coming home, after he gets through his trip.

Mr. Phillips: Now, Mr. Trenholm, does a fireman have a Mackinaw coat and Arctic overshoes on, to fire a locomotive?

Mr. Trenholm: No.

Mr. Phillips: Doesn't a brakeman usually have those things in that kind of country?

Mr. Trenholm: Yes.

Mr. Phillips: Now, is the brakeman warmed up to even a normal degree, by strenuous exercise, when he gets out to encounter the elements?

Mr. Trenholm: No, I don't know that he is, to the extent that the fireman is, but these men all do these things lively. They don't—the fireman jumps off the engine. He don't loiter along to the switch. He goes on the run.

Mr. Phillips: Now, Mr. Trenholm, since we have been in session here, I have formed a habit of walking from the Great Northern Hotel, across to this building, without putting on an overcoat, because it is only a few steps; and a very good gentleman, whom I am sure had a friendly interest in me, advised me not to do that. He thought I was taking a great chance on pneumonia, even to walk across Dearborn street here, without an overcoat, in these wintry blasts, and I followed his advice. I thought it was good advice. Now, if a fireman, ordinarily clad in an undersuit and a jumper, and a pair of overalls, which is the way they usually make up, and is perspiring from hard labor, is required to get off an engine, even to run just beyond the pilot and throw a switch, in a blizzard, don't you think he is taking a chance to that extent?

Mr. Trenholm: No, I don't Mr. Phillips.

Mr. Phillips: That is all.

Mr. Stone: That is all, Mr. Sheean.

RE-DIRECT EXAMINATION.

Mr. Sheean: Don't you think, Mr. Trenholm, in that same connection, that they ought to have a third man up there, on that helper that Mr. Finn described here, where they have one man to handle the trolley in and out—don't you think there ought to be another man there, to throw the switch, to let that helper in and out?

Mr. Trenholm: I have testified that the conditions are rare, that it is necessary for that. I cannot see the equity of requiring the railroad to carry a man on the engine, to sit there and suck his thumb, just to be ready to throw a switch once in a great while.

Mr. Sheean: In other words, whether or not a fireman should or should not throw switches you think should be determined by the local conditions and peculiarities of the work of the helper or pusher, or whatever the particular service may be?

Mr. Trenholm: Under some regard for the rights of the railroad to operate economically and not burden the railroad with unnecessary burden and expense?

Mr. Sheean: And the hard and fast rule, as here proposed, would require in this helper and pusher situation where, now, the fireman does throw the switch, to let himself off the main track at the end of his run, to carry a third man on that trip, or a switch tender at that point, at all times.

Mr. Trenholm: Yes, sir.

Mr. Sheean: You were asked a few moments ago about certain tests and the difference between tests and operations. Do I understand, Mr. Trenholm, that these observations, made on the Omaha Road, were on test runs, or were they merely observations taken of regular trains operated in the regular course of business on that road?

Mr. Trenholm: They were tests made, and instructions to make them absolutely fair; not to pick any train, but to take the operation as it ran and make a test. I wanted the tests, first, for my own personal information, for my own officers. Later on, the tests were made by the Omaha Road, in response to Mr. Tollerton, and they were made in accordance with his instructions.

Mr. Sheean: Were those trains made up for the purpose of the tests?

Mr. Trenholm: No, sir.

Mr. Sheean: But simply observations made on trains which were operated, and not made up in any different manner, or altered in any way from the regular trains?

Mr. Trenholm: No change made in them at all. Taken just as the trains run.

Mr. Park: The men knowing that that was a test, and I presume they did, would they throw any less coal on that trip than they would ordinarily?

Mr. Trenholm: No; I think not. They fired the engine and pulled the train and did it in the usual way. I do not imagine that a fireman would want to do anything wrong, that would look wrong, in the presence of his superintendent of motive power, and a man who, if he did it wrong, would do it himself—perfectly capable or doing it and has done it many times. No; I don't think there is any favoritism to the railroad, nor to the men, in any test that Mr. O'Neill made, because I explained it to him fully that I wanted to know myself, and I do not think he would misrepresent anything to me.

Mr. Sheean: Well, some questions were asked here, Mr. Trenholm, about tests being made with reference to the use of appliances, and test trips, and you have spoken of these as test trips. Do you understand that they were trips designed with reference to the proportion of this time that the fireman is engaged in the physical work of shoveling coal, as to whether those were specially arranged runs or trips, or taken in the regular course of business?

Mr. Trenholm: Taken in the regular course of business. I mentioned other tests. Tests on devices that some patentee might have, that he wanted the railroad to buy, that I thought that the tests were made under more favorable conditions than generally obtained in operating practice.

Mr. Sheean: With reference to this held away from home terminal rule, Mr. Trenholm, as shown by the Exhibit here, the engineers in the Southern, generally, and under the Eastern Award in the Engineers' case, were given a rule whereby, at the expiration of twenty-eight hours, they should be paid one day, and one day for each twenty-four hours thereafter. Is there, in your judgment, and from these statistics as to density of traffic in both those territories, good reason why, in the Western territory, there should be a few hours longer than is given in the East and Southeast?

Mr. Trenholm: Well, I should think that there was a difference—quite a material difference in the West from the East, but whether there is any material difference between the West and South, I don't know. I would not think the density of traffic was much different between those two territories, but there is a vast difference between the East and the West.

Mr. Sheean: And the Southeast also, as shown by our exhibits, has greater density of traffic than the West, taken as a whole?

Mr. Trenholm: Yes, I think it does, but not so pronounced, as I remember.

Mr. Sheean: No, the Southeast is not as large as the East, but the engineers in the Southeast, and the engineers, generally, of the Eastern territory, now having the twenty-eight-hour-held-away-from-home-terminal rule, do you think that the extra two hours that you have suggested, of a thirty hour rule in the West, puts the whole territory on a fairly comparable basis?

Mr. Trenholm: Oh, I would think so. I would think that the thirty hour rule is an equitable rule for the Western country, and that is not only my judgment, but it is the judgment of the Committee of which I have the honor to be chairman, and they have given it a good deal of thought; and taking the committee as a whole, they are very familiar with all this Western country, they come from all sections of it. I believe their judgment is good on it.

Mr. Sheean: With reference to the rule as to the fixing of a meal hour in switching service, Mr. Trenholm, I think you said, in substance, that there was no great difficulty, in your judgment, in establishing some fair meal hour rule. I don't mean the one here proposed, which takes away the meal hour from the men, but to establish a meal hour rule that would give the men in switching service one full hour for their meals.

Mr. Trenholm: Or pay them for the hour, if the railroad did not do it.

Mr. Sheean: Yes; but actually giving them the hour in a part, or at least, of the cases, and in such cases as they did not give them that one full hour at a reasonably designated time, paying for it?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Now, is it generally true that in the fixing of the meal hour in switching service, the same hours are fixed and established on each road, with both the other organiations, namely, with the switching crew, so that the switching crew and the engineer and fireman are relieved at the same time?

Mr. Trenholm: I think the effort on all the roads has been to get it uniform. Whether they have succeeded in all cases, I am not sure but, quite generally speaking, I think that is the present condition.

Mr. Sheean: And whether it is uniform, as between the different roads, is it not generally the case that on each individual road, that road will have provision, whereby its switchmen and its engineers will be relieved at the same time?

Mr. Trenholm: I think that is true. I think in the start there was some difference. I know there was on the road that I represented. There was a different meal hour for the engineers than for the switchmen, but at the next adjustment with—which ever side it was, I have forgotten now—I think it was the engineers and firemen—the meal hour was made—an effort, I think, was made and it was made, I think, uniform with the switchmen. The men had no objection. They thought that was right, that the same time be set for each man to go to his dinner?

Mr. Sheean: Yes, but under the proposal here, whereby the engineers would be upon continuous time, would not the practical result of that be, on all roads, where the switchmen now have the meal hour, simply to give the engineers continuous pay, without actually working, in case the switchmen took the meal hour that they are entitled to?

Mr. Trenholm: I have so testified, and that is the fact. The switchmen would go to dinner. You would have no use for the engine. Naturally, the engine crew would go to dinner at the same time.

Mr. Sheean: And on practically all of the roads now, the same provisions to which attention has been directed here, exist, that give the switchmen the right to their meal hour?

Mr. Trenholm: I think all the roads.

Mr. Sheean: Well, then, Mr. Trenholm, even if the Board concludes to adopt and promulgate a uniform meal hour rule in switching service, and by meal hour rule, I mean a rule designed to give the men an opportunity actually to take that hour for a meal, where that is possible, is it not quite essential that in the fixing of such a meal hour rule, consideration should be given to the fact that on roads where the limits established for meals for yard enginemen and switchmen, are identical, that that be changed only by mutual consent of all the parties concerned on that road?

Mr. Trenholm: I think any rule of that kind that would be formulated by the Board, should take into consideration the fact that the men who work with the engineer and fireman have a meal hour that is fixed by rule, and that the engineer and fireman's rule should conform to that rule, if that rule is a reasonable one, and not disturb the conditions.

Mr. Sheean: Except by the mutual agreement of all the organizations who participate in the fixing of that meal hour, within particular limits and particular places, on particular roads.

Mr. Trenholm: Of course, that is true. Could not get the mutual consent of the other men. That would have to be left in a chaotic case, until such time as they come in and try to adjust theirs to meet the engineers'.

Mr. Sheean: Well, it would not be left chaotic, in case the time fixed by any arbitration should make provision that on roads where the limit is established for the meals for both engineers and switchmen, are identical, that the meal hour as established in the schedule shall remain the meal hour, unless both the engineers and firemen accept the meal hour which is proposed in the arbitration.

Mr. Trenholm: If it was submitted in that way, of course, it would be subject to adoption by both, yes.

Mr. Sheean: So as not to permit one organization to accept one meal hour, and another part of the same engine crew, take a different meal hour?

Mr. Trenholm: Yes, sir; it would be very bad.

Mr. Sheean: Mr. Trenholm, I think you said here the other day, in speaking of this differential established—the local freight differential established in 1910, that that was made to cover all roads, except where a larger differential had already been established?

Mr. Trenholm: All roads represented in that movement. I don't know that all the roads were represented then.

Mr. Sheean: Was there not the further exception that it did not apply to roads, where overtime basis was computed, on 12½ miles per hour?

Mr. Trenholm: Yes.

Mr. Sheean: There was that further exception.

Mr. Trenholm: There was that further exception, yes, sir.

Mr. Sheean: And in connection with that same differential that is here proposed, or definition of the local or way freight service, do you think there is any good reason, Mr. Trenholm, why, on a light branch run, where perhaps the only train that they run is a mixed train, that the engineer engaged on that run should receive a higher rate of pay than the man engaged in through freight service, on the main line?

Mr. Trenholm: Well, generally speaking, I would say no, but there are branch runs where a train does all the work of the branch that—I would not want to testify against my own practice. I think I have got places where I do pay it, and I feel it is due.

Mr. Sheean: My question was whether you thought it proper for every branch that, irrespective of the amount of work there might be on that, any hard and fast rule shall be established that will give to that branch line—to the engineers operating upon it, 10 per cent more than what the engineers get in through freight?

Mr. Trenholm: No, I don't believe that is proper.

Mr. Sheean: Is not the matter of branch lines and branch line operation, the kind of trains that can be operated there, almost entirely governed by local conditions?

Mr. Trenholm: Oh, yes; the length of the branch and the work on it. On lots of branch runs, they do all the work on that little branch, but it is so small it don't amount to anything.

Mr. Sheean: Mr. Trenholm, in the matter of what constitutes a local or way freight, do you know of any reason why, in this more sparsely settled country, in the West, the number of stops that convert a through into a local train, should be less frequent in the West than they are in the East, or in the Southeast?

Mr. Trenholm: No, I know of no reason why that should be.

Mr. Sheean: Attention has been called to the fact that certain roads have attempted to define it, and in Exhibit 1 here, the Firemen's schedule on one road, the Norfolk & Western-Southeastern territory, does make the definition; and in four railroads—the Engineers, the Atlantic Coast Line defines or says that:

"Through freight trains that pick up or set off cars at four points or more between terminals will be paid at local freight rates. This does not apply through picking up cars loaded with perishable freight, but does apply to melon trains, when an engineer in through freight service is required to stop at any one station between terminals in excess of one hour for the purpose of switching, he will be paid local freight rates.''

And, in the Eastern territory, in a number of schedules to which attention was directed here some time ago, if they make more than six stops en route. Is there any reason, in your judgment, why, in the Western territory, a greater rigidity should apply to operations than in the East or Southeast?

Mr. Trenholm: No, I know of no reason.

Mr. Sheean: You would not want to operate under the New York, New Haven & Hartford definition of what constitutes a local or way freight?

Mr. Trenholm; No, I would not; it is rather complicated.

Mr. Sheean: Or some of these roads here to which attention was directed about the length of time held at away from home terminal. I think the Maine Central is one of them. The Maine Central says:

''Trains to become local after making 10 or more switches or 5 or more stops to pick up or set off cars, loading or unloading freight at more than 3 of the stops.''

And so the conditions upon each of the roads, even on territory where they have attempted to define them, seem to differ, Mr. Trenholm.

Mr. Trenholm: Yes.

The Chairman: Is that principle recognized by any of the Western roads?

Mr. Trenholm: What principle?

The Chairman: Sought to be taken care of there.

Mr. Trenholm: The principle as embodied in there?

The Chairman: Yes.

Mr. Trenholm: No, I think the principle they embody here is not recognized by any road, your Honor, that I know of, worded just that way. There are roads in the West, I think—the Northern Pacific provides, if they unload freight at two stations or do switching at two stations, with some qualifications to it, that they take the way freight rate.

I may not quote that exactly from memory, but it is very close to that. Mr. Stone can turn to the rules very quickly.

And I think there are other rules in which the roads attempt to define when a way freight will take the differential. After doing a certain amount of this work, they do that. But the rule as I interpreted it in the submission here, there was no limit placed on it. If you do any of it, it makes no difference how little, that makes it a way freight. And as Mr. Sheean is reading from some of the other schedules, there are a variety of rules in it, and I think they are covered either by their local requirements or the amount of pressure brought to bear to make such a ruling has resulted in different plans.

Mr. Stone: Mr. Chairman, I don't see any distinction between Article 3 of our request and the rule in the Northern Pacific schedule, defining what is a local train.

Rule 54 of the Northern Pacific says:

"Local freights are trains whose work is the loading or unloading of freight or doing station switching en route."

Mr. Trenholm: Go ahead and read the rest of it.

Mr. Stone: "Engineers of such trains will be paid ten (10) per cent increase over regular rates. This rule does not apply to engineers of through freight crews setting out or picking up cars at stations, or the loading or unloading of freight at not more than two points en route."

Mr. Sheean: That is part of it. "(b) Engineers of log trains (except straight away log runs handled in through freight service), coal trains to and from mines, and switch runs will be paid at local freight rate."

Mr. Burgess: What schedule is that?

Mr. Sheean: Northern Pacific.

"(c) When one train is operated west bound between Lake Park and East Grand Forks via Crookston, it will be classed and paid as a local."

Mr. Phillips: Mr. Sheean, if you have no objection, I would just like to explain some of these Western rules for the benefit of the Board.

Mr. Sheean: I wish you would explain the New York, New Haven & Hartford.

Mr. Phillips: Mr. Chairman and gentlemen of the Board: Numerous inquiries have been made by the members of the Board as to the operation of most of these rules, and if I can in a few words I would be glad to make a few statements on those points.

The New York, New Haven & Hartford has a rule peculiar to that road, and the Boston & Maine, or the Boston & Albany, I think it was, referred to here a few days ago, or several days ago; those are rules that have been worked out between the committees and the companies, and they are, perhaps, cumbersome, but they show conclusively the necessity for some kind of a definite rule, in order that there may be a differentiation between through freight and local freight. Now, on the Boston & Maine——

Mr. Sheean: Boston & Albany. Local freight is defined as follows:

"A road train that takes or leaves cars, or loads and unloads freight at six or more stations in the day's run."

Mr. Phillips: That is not the one I had in mind from the Boston & Maine. The one I had in mind is the Boston & Maine.

Mr. Sheean: Boston & Maine. "All trains loading or unloading freight or doing switching shall be classed as locals. This will not be applied to trains making less than six stops to take in or set out cars, requiring less than 11 switches at the five or less stops, exclusive of the necessary switching on account of placing air brake cars for use to handle train; or when necessary freight may be unloaded at not more than three of the stops. Trains consuming thirty minutes or more icing beef, shall be classed as locals.

"Note.—That part of the above rule reading, 'When necessary freight may be unloaded at not more than three of the stops.'

"Example.—A train makes five stops to take in or set out cars; the rule allows this train to load or unload at three of these stops and not become a local, but should a train make five stops to take in or set out cars and make one stop to load or unload at a station, other than the five stops to take in or set out, the train will become a local. To be clear on the matter, it will be understood that a train that makes five stops in 'combination' becomes a local."

Mr. Nagel: That is the foundation for a lawsuit at every station, is it not?

Mr. Stone: You are not reading the rate.

Mr. Sheean: "Note.—A switch is defined as follows: The setting out of cars from two places in train or taking in a car or cars not ahead on one track."

Mr. Phillips: Now, gentlemen, I would not recommend that rule and I would not ask this Board to spend a moment in discussing it or considering it.

Mr. Nagel: I do not think it would do much good.

Mr. Phillips: But since it has been referred to, I want to explain the reason for such a cumbersome and ambiguous rule. The rate for local freight on the Boston & Maine is very much higher than it is on a through freight, and a through freight becomes a local under the conditions named. You can see it is, perhaps, not to the interest of the men to have cumbersome and ambiguous conditions, but to the interest of the company; and I fancy there have been very many serious conferences between the representatives of the men and the company before they could agree just how many cars or how many moves or how much time should be consumed before a through freight becomes a local.

There is no question on the Boston & Maine as to ordinary locals, but it is these through freights that become locals and thereby take a much higher rate. For example, the ordinary local freight train service on the Boston & Maine receives a day's pay for 75 miles service. They receive just the same amount of money for 75 miles that a through freight train would receive for 100 miles. Now, in order to get the mileage rate for a local freight, you divide the daily rate by 75, which you can readily see would be much higher than if you divide it by 100, to get the through freight rate. Therefore, every mile a local works over 75 miles it receives a rate very much higher than the rate applying to 100 miles or less.

I am satisfied, when I get through telling you, you will not know any more about it, gentlemen, but those people understand it very well. And I say that with no attempt to be frivolous, I assure you, because I realize that the neutral members of this Board, at least, will find themselves unable to grasp all this intricate detail pertaining to all these rules. But you would find, if each one was traced to its origin, that there is a good reason for its existence. And this rule, perhaps, covers their situation, because they have this peculiar 75 mile local at a very high rate of pay and through freight rates, pertaining to the particular function described in this complicated rule. Instead of becoming a train working on the basis of 100 miles or less, it is transferred into a train working 75 miles for the same rate of pay, and for each additional mile at the daily rate of pay divided by 75. Now, that part of it, I am sure, you can understand, and there is a good reason for that rule.

The Chairman: I understand you base your claims upon the theory that an engineer on a through freight which does local business is thereby performing the duties which are usually performed by one on a train which is strictly a local freight train, and that, therefore, he is entitled to the rate which is paid the local freight man; is that correct?

Mr. Phillips: That is exeactly correct. I did not attempt to be frivolous when I said that after I explained this, I doubted if the members of the Board would understand it and that did not apply to the neutral members only.

Mr. Burgess: Well, here is one that will acknowledge it now.

Mr. Phillips: Because these things are built up to meet a particular condition, and long years of experience have convinced me that there should be a simple rule defining this, and I am sure, Mr. Chairman, you have the idea, when you reach the conclusion that our proposition is that when a through freight engineer is required to do the work that is ordinarily way freight train service, that he should receive the rates provided for such service.

Now then, in the past, we have been able to secure the rates, and the differential is clearly acknowledged and granted in all parts of the country, but we find so many through freight trains doing local freight train work, and they are not paid the rate, because they are not carded or called locals, and past boards of arbitration, one of them including myself, have been severely criticised because, in fixing the rates for such matters as that, they did not make a simple, plain and clear definition to indicate where the rates would apply; and we are very hopeful that this Board will profit by that and give a plain, practical, workable definition. We know it can be done.

Mr. Nagel: When you do the work you want the pay?

Mr. Phillips: That is it, in a word.

Mr. Nagel: You agree with Mr. Trenholm. He says a day's work and a day's pay.

Mr. Phillips: Yes.

Mr. Stone: He further qualifies it by "an honest day's work."

Mr. Phillips: I would even go with Mr. Trenholm on the "honest" part of it.

Mr. Nagel: It is all a question of definition.

Mr. Phillips: Yes, and we are going to be optimistic on that, that you gentlemen will define it and not be criticised, as some Boards have been in the past, for settling things without saying to what they should apply.

Mr. Park: Mr. Trenholm described a local here yesterday as being a train which perhaps made several hundred switches and unloaded ten or fifteen cars of way freight. Do we understand, if they make four or five switches and unload two or three tons of way freight and perform only perhaps a hundredth part of the duties of a local train, that for that reason it would necessarily carry the local rate? It seems to me it is very difficult to define this rule and be fair to the railroads, by specifying some two or three movements that might be made on the part of a through train, and calling that a local day's work, which it would not be, because the local train is engaged in one hundred times as much work.

Mr. Phillips: Were you speaking to me?

Mr. Park: Yes. You say it is easy to write a rule.

Mr. Phillips: Well, I am sure the members of the Board have the idea or the viewpoint of the men. And, to add another word as to the justification for a differential on locals, it is just like a differential in mountain territory. When a man is doing local work, he cannot make miles; and that is all he is paid for, is miles. And, therefore, if he stops to switch any perceptible time or set out cars, even though it may take a comparatively short time, but in the aggregate is quite a considerable time, his opportunity to make miles, the only thing for which he is paid, is lessened to that extent, and a higher rate should be granted.

Mr. Park: But he gets paid for his day's work, and all over that, all over 10 hours.

Mr. Phillips: And, perhaps, in putting in this full day's work or this honest day's work, as it is sometimes called, several crews have run around him en route, and he finds himself, instead of being four times out, when he gets in, seven times out, and instead of getting out at 8 o'clock the next morning, he does not get out until 9 P. M., and at the end of the month, if that happens several times, he finds himself several dollars short in his pay check.

Mr. Park: He may be the fellow who runs around the other fellow.

Mr. Phillips: That gets us back to averages again, and if a man is sixteen hours going over the road and has to tie up, or the "dog catcher" has to come out and get him, as they say when they send a relief crew out, you cannot convince that man that he has had an easy trip, because the next man had a stock train and got over the road in six hours. And there is no justification to say to that man that he should be compensated for his long hard trip because another man had an easy trip.

Mr. Park: No, but if he should stop an hour on a 100 mile division, or two hours, and do switching, and it carried him over to eleven or twelve hours, he would be paid for it, he would get the two hours.

Mr. Trenholm: I think that through trains required to do local work are never required to do it to the extent that other trains run around them.

Mr. Park: That would be a very rare occurrence, in my experience.

Mr. Trenholm: Yes.

Mr. Stone: I do not want to get into this again, but I cannot let that go unquestioned. On many of our divisions, the way freight trains are handled by the engines in the pool, and you get a way freight train out and perhaps four or five or six through trains will go by before you get through.

Mr. Trenholm: The way freight trains are paid the differential. I am speaking of a through freight that is required to do a certain amount of local or way freight work, and I say it is very rare that any train runs around a through freight train doing that work.

Mr. Stone: I think you will also find that quite common, too, that where a man is doing way freight work and will be two or three hours at a way point, two or three other through trains will pass him.

Mr. Trenholm: Then, if the train is two or three hours doing local work, it should receive local freight pay.

I think the hard part of formulating a rule is the question of degree. What quantity, how much of this work must he do, before he comes under the classification of being entitled to a 10 per cent increase. You spoke of mountain rates—

The Chairman: From your viewpoint, do you think a rule of this kind is justifiable at all?

Mr. Trenholm: I think, Mr. Chairman, that a freight train going out and doing the work of a way freight train, unloading merchandise and doing the local switching through the country, yes, that he is entitled to the pay. It is a question of degree; how much does he do of it. If you start a train out, the mere fact that you started out as a through train and then used it from station to station to do this work and make practically a way freight out of it, you should pay the local differential.

Mr. Nagel: Can you fix the degree by naming a specific number of switches?

Mr. Trenholm: Well, it would be pretty hard, and the managers have tried, and conscientiously tried. I know we discussed it in 1910, in the Managers' Committee; it was under discussion for a long while, and we tried honestly to arrive at some way of fairly designating what would be classed as a way freight train for the purpose of this differential, and we could not do it, and we asked the men to withdraw that without prejudice, and I think that was the outcome, they did withdraw it. Did you not, Mr. Stone?

Mr. Stone: After we had talked it to death and could not agree, we finally withdrew it.

Mr. Trenholm: The managers said they could not agree, and we explained it to Mr. Stone and his officers and asked them to withdraw it from consideration without prejudice, and they did so, after a good deal of discussion. It is a very hard thing to do, in such a vast territory and under the varying conditions. I do not think it is at all hard for one road to do it where the officer knows all the conditions, and where he can consult with his local committee. They start a train out to do the work and relieve the way freight, and do quite a lot of work, and the men feel that they are doing sufficient work to be entitled to the differential, and it is not a hard thing to arrive at; but it is a very hard thing to arrive at for all these roads, under all these conditions.

Mr. Sheean: I would just like to call attention to what is shown in this exhibit. In the Southeastern territory there is 75.47 per cent of the mileage in which no definition is attempted of a local freight. Twenty-five per cent of the mileage does define it. That is, the Atlanta, Birmingham & Atlantic; Atlantic Coast Line; Florida East Coast, and the Norfolk & Western. The Norfolk & Western is, more than one hour and one minute in picking up or dropping cars between terminals, they will be paid local rates. This does not apply to freight trains between Vivian and Williamson, or picking up and dropping cars at a certain number of named points. Those which fix the number of switching points are the other three roads, the Florida East Coast, Atlantic Coast, and Atlanta,Birmingham & Atlantic. The Florida East Coast says: "Local freight work shall consist of handling and spotting empties or loads, loading and unloading freight. Through freight trains that pick up or set off at four points or more between terminals will be paid at local freight rates."

Mr. Park: What does the L. & N. do?

Mr. Sheean: The L. & N. has no definition.

"This does not apply to picking up cars loaded with perishable freight."

Mr. Burgess: The L. & N. has a monthly rate.

Mr. Sheean: They do not attempt to define it, do they?

Mr. Burgess: No, I do not think they do. I do not remember it, if they do.

Mr. Sheean: So, apparently, in the East, the great majority do not attempt to define it, and those which do largely make it at six or more stations, some five, but the greater number in the East are six or more stations.

Mr. Burgess: But, to get the true picture of the Florida East Coast, you know, Mr. Sheean, you have to remember, while you are speaking about the local, that they have a six hour and forty minute day in through freight. I have no doubt but what that definition would be satisfactory to the Western engineers, if they could get the same basis for through freight.

Mr. Sheean: What rate do they get?

Mr. Burgess: Do you mean per hundred miles?

Mr. Sheean: Yes, per hundred miles.

Mr. Burgess: $5.15 to $5.40.

Mr. Sheean: In the through freight?

Mr. Burgess: Yes. I would like to ask Mr. Trenholm a question in regard to this, Mr. Sheean: I want to clear this situation up, as far as my mind is concerned, Mr. Trenholm. I am one of those members of the Board that thinks by freight. This principle of paying the local or way freight a higher rate than through freight is established, and there is no opposition on the part of the Managers' Committee to that principle at this present time.

Mr. Trenholm: No, the differential is in existence today, and agreed to in 1910.

Mr. Burgess: Yes.

Mr. Trenholm: And there is no change in the attitude of the committee.

Mr. Burgess: And the request of the engineers, in one paragraph, is that the local or way freight receive a 10 per cent increase over through freight rates.

Mr. Trenholm: Yes.

Mr. Burgess: And that is one of the objections, I understand, by the Managers. Is that right?

Mr. Trenholm: Yes, the basis of the increase in the differential as proposed.

Mr. Burgess: Now, if you will, Mr. Trenholm, let us stick to this particular point in the question. The rate now is 25 cents, is it not?

Mr. Trenholm: That is the rate agreed to in 1910. Now, there are higher rates than that, Mr. Burgess. Wherever it was higher, they retained it, but that is the standard, I might say.

Mr. Burgess: Would it be fair to assume, Mr. Trenholm, that the prevailing rate for through freight in the Western territory is approximately $5.40 per 100 miles?

Mr. Trenholm: I think that perhaps might average up about right, Mr. Burgess. It would be only a guess with me.

Mr. Burgess: I am willing to put it at $5.30 or $5.45.

Mr. Trenholm: I do not know what it is, but the rates run from $5.15, I guess, up to $5.65, on the Mikados, and then the

Mallets and heavier engines get 75 cents to $1 more, but they are small in number, so I would not think they would raise the average. Probably you are right.

Mr. Burgess: Well, now then, Mr. Trenholm, the point that I am trying to bring out is, that if that is true and this were granted, 10 per cent would be about 54 cents, would it not?

Mr. Trenholm: Yes, sir, I should think so.

Mr. Burgess: So all the difference between these two rates at the present time is practically, as far as this particular paragraph is concerned, practically 29 cents per 100 miles?

Mr. Trenholm: On that particular point, yes, on a rate.

Mr. Burgess: On this particular point?

Mr. Trenholm: Yes, twenty-nine cents.

Mr. Burgess: And that is all the difference there is until we come to the next paragraph, which speaks of transforming?

Mr. Trenholm: No, I think there is in the same paragraph a classification.

Mr. Burgess: Well, I was getting to that.

Mr. Trenholm: The classification is in this one paragraph. If you will read that, it makes no exception. As I read it, Mr. Burgess, a train going out and loading one box, or setting one car, becomes a way freight. That is the paragraph I thought you were talking of.

Mr. Burgess: Perhaps I did get ahead. I didn't notice that. Well, if we could establish a fair denomination for a local or way freight, and the principle being established that it should get a high rate, the only money difference as between the two parts is the difference, practically, between 25 cents and 54 cents. Isn't that right?

Mr. Trenholm: Yes, sir, about 29 cents I should say is the average. It is about a 5 per cent increase on the average on that differential.

Mr. Burgess: Then the next paragraph that the ebjection from the managers rests on is the one wherein a through freight train is transformed into a local freight train, thereby taking the higher rate when it does a certain amount of switching. Am I right in that conclusion?

Mr. Trenholm: On that part of the second article, Mr. Burgess, yes. Of course that goes further and not only provides for pay in addition, it does not classify it as a way freight to take that pay; it provides for pay in addition for time and miles allowed on the run at time and a half, and adds many other burdens in there. And it is very indefinite, Mr. Burgess, to my view, very. It may not be to yours, and may not be to those who framed it, but the connecting of the two rules is very indefinite. Whether the through freight that is required to do station switching, and the things enumerated in that rule, whether they first take the way freight rate of 10 per cent increase, and then, in addition to that, are paid additional as a penalty for using your through freight to do the business of the local, that is, I think, indefinite as between those two rules; not connected up in such a way that it is clear to me.

Mr. Burgess: Now, Mr. Trenholm, if you will bear with me a minute, let us see if we cannot clear this up and see where the real objection is? It reads: "Through and irregular freight trains doing work such as loading and unloading freight, stock or company material, switching at stations, spurs, mines, mills, or required to make up or set out cars"—well, we will stop right at "mills." Let us divide it. Now, if we added in there the Southeast proposition, "at four places," would that part be objectionable?

Mr. Trenholm: Well, yes, Mr. Burgess, because I don't know what effect it would produce. If you were going to do that, Mr. Burgess—I am only giving my judgment hastily formed on the witness stand, which is not a good place, but if the Board decides to make a rule, it seems to me that the one rule should cover it. That is, that that paragraph should be attached to the first paragraph. That a train doing a certain amount of this work, or at a given number of points, or consuming so much time in it, should take the way freight rate and be so classified, and enumerate the things that are in the second paragraph in the first, so that it is all clear, and it simply applies to only one. and clearly defines how it applies.

Mr. Burgess: Well, I think you are quite right on that, but in order, Mr. Trenholm, to find out where the real sore place in these propositions was, was the real intent of my question.

Now, asuming from what Mr. Sheean says, that is, pointing to the Southeast situation, I hastily concluded that if the four points were written in here, there would be no objection to classifying the through freight trains as local, providing they were required to load or unload stock or company material at four or more places. Would my conclusion be right on that?

Mr. Trenholm: Well, I would hardly want to admit that, Mr. Burgess, because I still feel, and I am honest about it, I do classify trains as way freights on the road I am connected with when the business as handled by them is sufficient to warrant them being so classified. The trouble with making a rule of that kind, and I think you would be fair enough to admit it, is that in a certain locality a train might go out, a through freight, now in the competitive and traffic conditions existing on that road they might be required to put out a package at four or five stations. On the other hand, a train might start out and spend an hour at four different points, and there they are clearly entitled to it, but the making of an iron clad rule at four points, unless they classify how much to do at some point, some way to bring it into a proper category of way freight, now that is my thought as near as I can express it. Four points, under some circumstances, would be a very proper mark. Four points, under other circumstances, would be very improper. That is the hard part with me.

Mr. Burgess: Now, then, Mr. Trenholm, it reads further as follows: "Or required to pick up or set out cars, unless the cars to be picked up are first out, or the cars to be set out are switched together at terminals, or doing any other similar work, shall be paid the same at overtime rates." Am I right in understanding your testimony the other day, or was it on direct evidence?

Mr. Trenholm: Either way, Mr. Burgess. It is immaterial. I testify the same on both.

Mr. Burgess: You said it was possible, if I remember your testimony, to switch the cars together at terminals, and it was very difficult to always get the cars first out of the station where they were picking them up, and that was your serious objection to that part of the rule. Am I right on that?

Mr. Trenholm: Well, of course it is pretty hard to divide a paragraph and pick the pieces out.

Mr. Burgess: Sure.

Mr. Trenholm: But I think you have been railroad man long enough to know that the business of a railroad is such that they cannot have an engine go along and pick the cars out at a local station, pick a car from this elevator that is ready to go, and the one that from that elevator is ready to go, and one from this potato warehouse that is ready to go, and get that out on the track where the train can come in and pick them all up at once. It is impracticable at all times to put your cars in perfect station order out of your terminal. While I think all roads try to do that as much as they can, to avoid switching on the road, and try to make it as easy as they can for the road crew, but those things all come in, and they classify under that paragraph everything that you can think of, almost, that a train would do, and make you pay additional for it.

The Chairman: Will you please suspend?

(Whereupon at 5 o'clock P. M., February 25, 1915, an adjournment was taken until February 26, 1915, at 10 o'clock A. M.)

IN THE MATTER OF THE
ARBITRATION
between the
WESTERN RAILWAYS
and
BROTHERHOOD OF LOCOMOTIVE ENGINEERS
and
BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN
under the Act approved July 15, 1913, *by agreement dated August* 3, 1914.

Chicago, Illinois, February 26, 1915.

Met pursuant to adjournment at 10:10 A. M.
Present: Arbitrators and parties as before.

The Chairman: Are there any proposed corrections for the record?

Mr. Stone: Mr. Chairman, I would like to make a couple of corrections in yesterday's record. On page 5695, near the bottom of the page, I say: "Well, you block your main line connection?" It should be "Break your main line connection."

On page 5696, I stated: "Under a double track you would proceed to caution." It should be: "Under a double track rule you would proceed under caution."

Mr. Phillips: Also, on page 5705, the first paragraph, third line, reading: "We might infer that conductors, or trainmen." That should read: "We might infer that conductors, or engineers, or sometimes both together."

On page 5741, third paragraph from the bottom, I stated: "Mr. Sheean, if you have no objection, I would just like to explain some of these Western rules." That should be "Eastern rules."

The rules in question referred to Eastern territory.

Mr. Burgess: Mr. Chairman, one little correction on page 5750. Strike out the word "denomination," and insert the word "definition"; and in the same paragraph, the word appears as "parts." It should be "parties."

Mr. Stone: If I may be allowed, Mr. Chairman, before we take up the regular work of the day, I would like to straighten out that Boston & Maine local rate for just half a minute. We seemed to have quite a good deal of amusement out of it yesterday. There isn't any question but what our men on the Boston & Main understand the local rule and get the result. I don't think Mr. Phillips made the rate plain, yesterday. The through freight rate on the Boston & Main is $4.75 per 100 miles or less, 10 hours or less. The local rate is $5 per day of 75 miles or less, 10 hours or less. Overtime at the rate of $66\frac{2}{3}$ cents per hour. So their overtime rate is $33\frac{1}{3}$ per cent higher than the through freight rate.

A. W. TRENHOLM was recalled for further examination and having been previously sworn, testified as follows:

Mr. Sheean: Mr. Trenholm, we had gone through the various efforts to define in different territories what constitutes local freight service. Concretely, just what is the position of the Conference Committee of Managers, with reference to the effort to define in specific language what constitutes a local train?

Mr. Trenholm: In the discussion of the local or way freight definition or rule here, defining what is a local or way freight, it might be construed by the Board that the Managers' Committee felt that there was some occasion for a definition at this time, and I would like to correct any impression that the Board might have on that subject, and read the position of this committee, that was set forth in a communication to the men, and is the preliminary report of the Conference Committee of Managers, that has been filed with the Board on page 119:

"We decline to accept your definition of local trains. Local or way freight trains differ so widely in make-up and character of service that we deem it impracticable to make a definition which would be applicable to all localities and all roads represented.

"There has been no change in conditions which justifies a departure from the established differentials between through and way freight pay, a large percentage of which was established four years ago by concerted agreement."

In order that I may make myself clear and the position of the committee clear, I desire to state that for years there have been differentials established on different roads, of different amounts, as applying on local or way freight trains, as compared with through freight trains.

In 1910, the men had, in their submission, a request for a differential. And the Managers' Committee at that time was in the position that they desired to adjust the difference between the men and the railroads. They were confronted with a strike vote; and they agreed that a differential would be granted of 25 cents, between through trains and local or way freight trains; and it was on the basis of the existing conditions at that time, that local or way freights were well defined. I think every district where there is any local work to do, with the exception of perhaps one or two roads such as the Canadian Pacific, and there the train is designated when it starts to go out, but on all the Western roads each district has a way freight running each way each day, and had at that time, and there has been no change in it, the purpose of which was to unload and handle less than carload freight and distribute the merchandise through that territory, do the switching at intermediate stations, and perform the duties assigned for a local or way freight train. The differential of 25 cents was granted on the basis that these trains were assigned to do this work, and did it all day long. And the theory back of it was that men were not enabled to make miles on such trains, in the majority of cases, and were paid by the hour, and that was recognized as a reason for giving them this 25-cent differential. Having secured that, and having secured recognition from the managers of railroads, of the differential between through freights and local freights, the pressure has now commenced, not only to increase that differential from 25 cents to approximately 50 or 55 cents, depending on the engine, but to commence to press and get a definition down so fine that, on some roads in this territory, every train that runs would become a local freight train and take the higher rate.

I want to say for the Committee that I have the honor to represent, that they oppose the principle absolutely; that a railroad runs its trains, not to make mileage for the engineer, or to make mileage of any kind; they run their trains to suit their business and satisfy the needs of the communities that they serve; and that whether a number of trains have to do certain things or not, the engineer is not employed with the understanding that he will get extras for everything he does outside of making a mile. So that I want, to the best of my ability, to impress upon the Board that the managers are opposed to any interpretation being placed on any rule that defines a way freight other than the schedule of those trains as they are designated on the time cards, and are provided for the purpose of doing that particular class of work on a railroad, according to its needs.

Mr. Sheean: I think that is all I want to ask, Mr. Trenholm.

RE-CROSS EXAMINATION

Mr. Stone: Mr. Chairman, I want to state for the Engineers and Firemen, that the position of the Conference Committee of Managers is nothing new to us. We have understood all along that they opposed any definition of any kind in regard to local or way freight service.

I should like to ask Mr. Trenholm, assuming, for the sake of comparison, that a local train does all that you have just stated they are doing at the present time, if a thorough freight crew would do that same work, would they be entitled to way freight pay?

Mr. Trenholm: It would not be a through freight train, Mr. Stone, if it did that work all day long. It would be designated as a local or way freight train. Through freight trains do not, to any extent whatever, unload merchandise by the ton, as a way freight does. There are certain trains in each district, one each way each day, that go over the district and perform the duties of handling all the merchandise loaded at its terminals, and distributed, and to load up such merchandise going from the country stations to the city. That is their business, and it was on the theory that those men went out assigned to do that work every day, that the differential was allowed.

And it was not with the idea that it would be trimmed down and trimmed down and trimmed down at every meeting that came up, so that eventually every train you ran that did a little bit of this work would be called a way freight.

Mr. Stone: That doesn't answer the question I asked you, so I will ask you once more.

Mr. Trenholm: I intend to answer it, and I will answer any question you put to me.

Mr. Stone: You just got through testifying that a local or way freight train is a train that does the loading or unloading of merchandise in less than carload lots of freight, and does the station switching.

Mr. Trenholm: Yes, sir.

Mr. Stone: My question is, would a through freight train that does that identical work which you have described be identical with a local freight?

Mr. Trenholm: If they handled it and did it all day long, as a local does, yes, sir.

Mr. Stone: Suppose they didn't do it all day long; suppose they did it only half a day?

Mr. Trenholm: Well, a supposititious case, Mr. Stone, is hardly a fair one to put up. Through freight trains do not do it that way. Through freight trains on the different roads may be required to meet conditions demanded by the people and by the shippers, and they may have to do some switching, but that is what they are run for; that is the purpose of the train, to do the business of the railroad. We don't run them for the pleasure of the engineer.

Mr. Stone: I believe you have remarked that before. We understand the railroad is not run for the pleasure of the engineer, and the engineers have been under the impression for several years that the railroads have been run to see how much they could get out of the individual man, so that is the other side of the sheet.

But, coming back to this question of local freight, is it not a fact that oftentimes you have a local train that is going to get tied up under the Hours of Service Law, and you lay the local freight train crew off and have the through freight train pick up the local service cars and finish out that division?

Mr. Trenholm: I don't know of any such case. There may be exceptional cases where that was done, to avoid tying the train crew up on the road. It might be done. I don't know of any case. I don't believe I ever did it, or any officer under me did it. Yet, such a thing might happen.

Mr. Stone: On a number of your roads there are no such things as way freight trains carded or timed?

Mr. Trenholm: The only road I know of that doesn't do it is the Canadian Pacific. That is, where they have any way freight service. A road not having any, running through a desert, where there is no merchandise, there would be no object in scheduling one.

Mr. Stone: Suppose you did not have a way freight carded, it would be a very easy matter to annul that way freight, and have an extra do identically the same work?

Mr. Trenholm: Well, they don't do that, Mr. Stone.

Mr. Stone: Well, I am here to say they do, and do it in a number of cases.

Mr. Trenholm: Well, you are testifying to that, not me; and I think it is proper to say that if there is anything of that kind, you should put the proper testimony on to prove it, and not make the assertion.

Mr. Stone: It is also true we had a case before your Board, on the Oregon Short Line, where the train that did the very identical work that you have designated did all the switching, did all the work there was to do on a branch, and yet we couldn't get the way freight rate for it, because it was a branch.

Mr. Trenholm: I should have said that in the scheduling of way freights they usually are scheduled on main line territory. The branch lines, the only condition which would warrant the scheduling of a way freight train on a branch line would be a district long enough to put a way freight on to do that work exclusively, and where the business was sufficient to warrant it. On many branch lines, where there is one train or a short passenger train that makes a trip over the road, and a freight train to do the work, they do that as a mixed train, and I do not think it was the intention or thought at that time that such trains would be classed as way freights. They never have been before. There was nothing in the settlement of 1910 that said there would be. There was a case came up after the conference of 1910 that I received a letter from the chairman about, asking my views on it, of a road that had but the one train on a branch, and, as I understand it, a very light branch. It performed the mixed service. The men claimed this should be classified as a way freight. The management took the position that it should not be, that the work was very light; it was a short run, and there wasn't work on the train that warranted any such increase, and the purpose of the Award was because of the amount of work done by these men, physical work.

Mr. Stone: The purpose of the Award was largely due to the fact that local freight trains are not able to make the miles, and they generally go every day, and there is no chance to make increased miles doing heavy business?

Mr. Trenholm: Yes.

Mr. Stone: It is also true, is it not, Mr. Trenholm, that on a number of these Western roads they have more branch lines than they have so-called main lines?

Mr. Trenholm: I think some roads possibly, for the purpose of making their reports to the Interstate Commerce Commission, define a good many quite long lines as branch lines. They are feeders to the main line. Now, those lines may be quite long, but a branch line over 100 miles, there is no difference between that and the main line. Where you assign crews to a branch line that is long enough, where the men make the mileage, there is no difference in the territory, nor the conditions, nor anything else; it may be through just as thickly settled territory as the main line is, and warranted in taking the same conditions.

Mr. Stone: The fact remains, does it not, that some of our heaviest work is done on so-called branch lines?

Mr. Trenholm: Well, I think it would be very rare, Mr. Stone. Usually, branch lines have light traffic and are built as feeders. While, of course, there may be conditions on a branch line that make some particular branch line very heavy work, I think that is the exception rather than the rule.

Mr. Stone: It is nothing unusual, is it, to have a branch line 200 miles long?

Mr. Trenholm: I don't think it would be unusual to find such a branch line so long. The fact a line is a branch line does not make any difference, provided it has the length. It takes all the main line conditions then.

Mr. Stone: Then, under your idea or under your definition, as soon as the branch line gets over a hundred miles, then it ceases to be a branch line and takes the local rate?

Mr. Trenholm: No; I don't say it ceases to be a branch line, but where the business is there, and you put on a train, and the business requires you to put on a train, each way, each day, to handle the local freight, and where the business creates that condition, if a man has got to go out and do this work all day, the Managers' Committee awarded and feel it is proper that that differential should exist.

The Chairman: Mr. Trenholm, I must confess that I am somewhat at sea in regard to this matter. Now, do all the railroads, parties to this controversy, have some provision which undertakes to take care of instances wherein an unusual amount of shifting or unloading of freight is done on the way?

Mr. Trenholm: I think I am safe in saying, your Honor, that all the roads in busy territory have in their working time cards a train, scheduled over each district, each way, designated as a local or way freight train, which takes this higher rate.

The Chairman: Which, were it not for the fact that they had to stop at these different places, would be designated as a through freight?

Mr. Trenholm: Yes, sir; it is a fact they have to distribute this merchandise from distributing centers, that makes it necessary for slow speed. They take this merchandise, of course, and the brakeman and conductor, not the engineer and fireman, have to unload this and check it out. They have to load it in. The engine crew, ordinarily, with the head brakeman, do what little switching there is to do at each one of these stations. That prevents, of course, this high speed. They are a slow train, and the work makes them get over the road slow. Usually, their mileage is short. I think the statistics show that about 70 per cent of such trains pay on the hour, instead of the mile, and that being considered, was the reason for giving a differential.

The Chairman: Now, I find in this investigation that there are a good many things complained of, that are admitted to be somewhat of a serious irritation—I might say a constant source of irritation. Looking at it from your viewpoint, do you not think it would be a good idea if there could be some rules as respects those matters—a rule that was fair, of course, to the railroads, and at the same time to the men? Do you not think the adoption of that kind of a rule would do much to alleviate this feeling and promote harmony with the railroads and the men?

Mr. Trenholm: I know of no condition, your Honor, where there is any dissatisfaction, at least made known or expressed by the men who operate these trains. The friction that possibly has impressed you, and I must admit that it impresses me when I come here and hear the grand officers of these organizations talk about the limit of human endurance, and enormous work, and all that kind of thing, that it has a tendency to make me feel that the railroads must be very unfair in these things; but as a matter of fact, that thing is regulated today by every district having the way freight to do this work, and they are paid this differential. Men bid it in and take it, sometimes as a choice.

Now, it is covered fully and sufficiently, according to my notion, today. The purpose of this, as I interpret it, is to keep on crowding a little. They have got the differential established. Now, then, they want to classify more trains that take that differential. It is the continual pressure that I am resenting, and I think the committee is resenting.

The Chairman: I do not wish to be understood as having formed the opinion that either the railroads or the men have been unfair. I am in an undecided state of mind, so far, and I am certainly seeking information, but it seems to me about many of these matters, that there is more or less controversy as to what certain rules mean, and as to certain things that should be done.

Mr. Trenholm: I don't think there are very many controversies, your Honor, on what the rule in existence today mean. All of these rules are new rules, for the purpose of securing greater compensation. The rules in effect today are well understood by both the railroads and the men, so far as I know. Generally speaking, there are always some cases, of course.

The Chairman: What per cent of the railroads to this controversy do you think have rules that are entirely satisfactory in regard to this particular subject?

Mr. Trenholm: This way freight?

The Chairman: Yes, sir.

Mr. Trenholm: Well, when I speak of being entirely satisfactory—

The Chairman: Well, I will say satisfactory; modify it to that extent.

Mr. Trenholm: I would say that all of these railroads—I make no exceptions—have rules bearing on this that are satisfactory. They are not satisfactory to the men, as to the rate of pay; of course, any man wants a rule that will give him more and classify more trains, but so far as any friction is concerned, and the knowledge of what way freights are and it being applied I think I can say 100 per cent safely.

The Chairman: You think, then, that the rules as now embodied in the various schedules, treat the men fairly and impartially in regard to this particular point?

Mr. Trenholm: Yes, sir, I do.

Mr. Stone: Well, of course, Mr. Chairman, you understand I would have to file a dissenting opinion from Mr. Trenholm.

The Chairman: I understand, yes. I am simply endeavoring to get his viewpoint, Mr. Stone, and of course I have yours.

Mr. Stone: I also want to say, neither in the way of explanation or excuse, that the grand officers of these organizations, instead of taking the lid off, try to keep the brake on, and we are not imagining these grievances; if they did not come to us we would not be here with them. And the thing we have always tried to do is to be conservative and keep the dissension down, if possible, instead of adding to it, as no doubt you would infer from the testimony of the witness. We do not dream these things, and if we simply take the brake off and let the men go, it would be a whole lot more radical than what it is. If any fault has been found with the executive officers of these organizations, it is because they have been too conservative, and have allowed the railroads to capitalize that conservatism, and have not got the results that the rank and file think they should have gotten.

The Chairman: I may be mistaken about the matter, but I have gotten the impression that you stated in your testimony, Mr. Trenholm, that where an hour or two hours' time was required to do this work, that you thought a through freight should be classified as a local freight.

Mr. Trenholm: That was what I was fearful of, your Honor, that in discussing the rules by piecemeal—

The Chairman: And taking that as a basis, it occurred to me that you were all in accord, and it was only a question of getting some rule that would meet the condition.

Mr. Trenholm: But in talking on these rules so long and repeating so much, I was afraid that I might have given the impression to the Board that there was a need for a rule that would classify a certain number of points at which they did it, or a certain time in which they did it, and that a rule was necessary, but I want to correct that impression.

The Chairman: I did not understand you to say a rule was necessary, but I understood you to say that, under those conditions it would, perhaps, be proper to have such a rule, and that by the exercise of due care, you thought such a rule could be made.

Mr. Trenholm: I did not intend to convey such an impression. Of course, as Mr. Stone says, there is an element in it. I want to be absolutely fair, but I want to protect the railroad interests that I am here to serve, and do it honestly, without any prejudice to the men, whatever. There might come a condition where a train that might be classed as a through train, might, under certain circumstances, be called upon to perform so much of the work en route, that it could be classified as performing the local or way freight work on that trip. Now, if it did it over the whole trip, and ran into hours, caused by that, there might be some justification for allowing way freight pay on that run, because it did the very thing that way freights are provided to do, and on which the differential was allowed, because it did prevent miles.

A train doing that over the entire trip might be properly classed as doing the way freight work to the extent that the way freight scheduled train does, and should be entitled to the differential.

The Chairman: Would it be possible for an instance of that kind to occur under the present schedules of the roads?

Mr. Trenholm: Oh, yes, sir.

The Chairman: Without the men getting the relief they seek?

Mr. Trenholm: Well, that I would not testify. It would not occur with me and the men not get it, because I would recognize the justice of it, and I believe every other officer would, when it was brought to his attention.

The Chairman: When that occurs, I do not know anything about the modus operandi, but do the men usually take it up with the local officials. For instance, when they make a trip of that kind on a through freight train, and then are required to do shifting at different stations, say an hour, or two hours, or two hours and a half, do they usually take that up with the railroad management as to the amount of pay they should be allowed for that particular trip?

Mr. Trenholm: I do not think so. I think, if it was one trip, the men probably would not do it. They might, depending on the conditions.

The Chairman: Suppose two or three trips of that kind should occur.

Mr. Trenholm: Then, I think the Committee would take it up and say: "This train is doing so much of that class of work, that it is entitled to way freight pay," and the management would either discontine it, if it was possible to do so, or allow it, so long as the train did that class of work.

The Chairman: Have you ever known of any instances where an application of that kind has been made and granted?

Mr. Trenholm: Yes, sir. On my own road it has been made and granted.

Mr. Nagel: Every road has the two classes, the through freight, and the local or way freight?

Mr. Trenholm: Yes, sir.

Mr. Nagel: And the differential is allowed for the latter?

Mr. Trenholm: Yes.

Mr. Nagel: Now, a local or way freight, of course, always keeps its character.

Mr. Trenholm: Yes, sir.

Mr. Nagel: That is, it cannot change into a through freight?

Mr. Trenholm: No.

Mr. Nagel: But a through freight may do some work that really is of a local character?

Mr. Trenholm: Yes, sir.

Mr. Nagel: That is a question of relative importance?

Mr. Trenholm: Yes, sir.

Mr. Nagel: You regard the local way freight work of the through freight as a mere incident?

Mr. Trenholm: Yes, sir.

Mr. Nagel: Which ought not to be expected to change the character of the through freight train?

Mr. Trenholm: That is my position.

Mr. Nagel: But you admit that if the local or way freight work assumes importance, that the character of the through freight may be changed and the differential ought to be allowed?

Mr. Trenholm: Yes, sir.

Mr. Nagel: You deny, however, that we should attempt to make any rule upon that subject; in other words, you would not have us fix the degree of local or way freight work done by a through train that would change the character of the through train?

Mr. Trenholm: That is my position, Mr. Nagel.

Mr. Nagel: And you think that may be safely left to the discretion and judgment and agreement of the roads, and the men?

Mr. Trenholm: That is my position.

Mr. Nagel: Now, so much is true, as to the main line?

Mr. Trenholm: Yes, sir.

Mr. Nagel: Let us take the branch line; you say if a branch line is 100 miles long, so as to allow the making of time, that then it really assumes the character of a main line?

Mr. Trenholm: Well, I would like to go a little further with that, Mr. Nagel, in that whenever the conditions on a branch line assume the same proportions which you speak of, on the main line, then I think that should be taken into consideration and the classification of the train that does that work should be made to suit its work.

Mr. Nagel: If the branch line, to all intents and purposes, has the same kind of work that the main line has, there is room for the same classification of which we have just spoken?

Mr. Trenholm: Yes.

Mr. Nagel: And the same differential would be allowed for the local or way freight work?

Mr. Trenholm: Yes, sir.

Mr. Nagel: Now, let us take the last class, that is the branch line, which does not partake of the character of a main line. Is it not true that the work on such a branch line is, to all intents and purposes, all local and way freight?

Mr. Trenholm: Well, to the branch line freight, I would say yes, on a light short branch line.

Mr. Nagel: Yes.

Mr. Trenholm: One freight train each way, it may be thirty miles each way, or may be ten miles, or it may be forty;

but the one freight train each way is all the train that is necessary to do all the business of the railroad in the freight line. Now, that train may make that run in two hours, going one way, and possibly three hours coming the other, and whichever way they designate to do this work, they do not need to do the switching both ways; so that the crew going out to do that is on duty possibly five hours, it may be eight, or it may be three hours, depending on whatever the conditions are; they have lapsed time, and they do all that work. My position is that the service performed there does not warrant a differential.

Mr. Nagel: That is what I want to come to.

Mr. Trenholm: Yes.

Mr. Nagel: The fact is, that the work on that short branch line does not really represent either class of which you speak?

Mr. Trenholm: No.

Mr. Nagel: But it is a class of its own.

Mr. Trenholm: Yes, sir.

Mr. Nagel: And you think that, while the work probably partakes more of the character of local work, the service is not of sufficient importance to justify the differential in that case?

Mr. Trenholm: That is my position, that the company should not pay a higher rate for the work that is done there, in its light and unimportant character, or that they should pay—

Mr. Nagel: In other words, you deny the differential in that case upon other considerations; not the classification, so much as the importance of the work?

Mr. Trenholm: Yes, the differential was granted—I want to be clear on it, Mr. Nagel—the differential was granted, at least, that is my understanding, on account of the physical labor on a way freight, and the fact that the delay in doing this work at each station prevented the men from making miles, which was a consideration, and it was granted on the conditions that existed in 1910, and those conditions are precisely the same today; there is no change, and there has been no question of anything that amounted to anything, as to its application. No charge is made that roads have taken off these way freights, no charge can be sustained that they have taken them off to avoid this differential. There was a question came up, I think, about some branch line out in California or Oregon, as to whether they should pay the way freight rate or not. The men claimed they should, and I think the road claimed they should not. The road took the position, I think, that it was the only train on the branch, there was no through train to compare it with, and this was a differential, and there was no differential to compare it with, that it did all the work there was to do, and it was light work.

Mr. Nagel: Had they an opportunity to make miles on that short branch?

Mr. Trenholm: Ordinarily not, because the miles are not there to make, but they are paid the constructive miles. If they run twenty miles and back, they get the 100 miles. The day is guaranteed.

The Chairman: Are there any instances in railroad service, wherein contingencies of this kind are provided against by a rule similar to the one proposed here; I mean, any other branches wherein there is a rule which provides that if a man is required to do a certain thing that is not included in his regular assignment, that he receives pay for it; in other words, is that principle recognized by railroads in the operation of their property?

Mr. Trenholm: I think probably you might find rules in some of these schedules that provide for certain contingencies, but they are very rare. I am not familiar with every schedule in this Western territory, to answer up absolutely.

The Chairman: I am to infer that, as a principle, it is not recognized by the railroads as a proper rule to be adopted in the management and conduct of their business.

Mr. Trenholm: That is my position.

Mr. Park: After all is said and done, Mr. Trenholm, when these incidents do occur, which you say are quite rare, for a through freight train to do any amount of local work or switching, are not the men fully and amply protected, in that they are paid for a full day every time they are called out, and any time they may be engaged in switching or unloading freight, which exceeds the ten hours is paid for?

Mr. Trenholm: Of course, they are paid for all the time; if they run into hours, they are paid the hours.

The Chairman: Suppose an engineer is in through freight service, and he is detained an hour and 50 minutes on the run in this kind of work, when he gets to his terminal is he entitled to overtime pay, not having been detailed two hours?

Mr. Trenholm: Not if he got in within the time that his miles, divided by ten, would produce.

The Chairman: As I understand, he goes in there, and his overtime does not begin until the two hours expire?

Mr. Trenholm: No, I think, your Honor, that is hardly the correct understanding of it.

The Chairman: I may be under a misapprehension, but I thought overtime—

Mr. Trenholm: I will try to make it clear to you. If a man is running a 100 mile run, the miles divided by ten would produce ten hours, so his hours and his miles would equal. If he is running 120 miles, twelve hours would equal his miles, so that if he was on duty running 120 miles, in thirteen hours, he would get one hour's overtime, because his hours would be greater than his miles. If he made the run of 100 miles in seven hours, he would get 100 miles, or equal to ten hours.

The Chairman: Suppose he is on a 100-mile run and 10 hours, and he is delayed at stations on account of having to load and unload freight, and he does not get in until 11 hours and a half?

Mr. Trenholm: He would get 11 hours and a half pay—an hour and a half overtime, because his hours would be in excess of his miles, your Honor.

Mr. Park: So that in that concrete case, he gets paid for the 100 miles, and if he is detained, doing switching and station work more than 10 hours—11, 12 or 13, whatever it may be—he is always paid for that?

Mr. Trenholm: Yes, sir.

Mr. Stone: Suppose, in that same concrete case, he had not stopped to do this switching, he could have run that same 100 miles in 8 hours. Then he would not get paid any extra, because he switched two hours?

Mr. Trenholm: No, sir; he would get the 100 miles, having traveled the 100 miles in less than 10 hours.

Mr. Stone: And he did 2 hours that was not incidental to his train at all; probably commercial switching at some station?

Mr. Trenholm: He would have done the work the railroad has to do, to serve the public, and my position has always been and is now that where the needs of the company require that he perform service, that he do it without any premium. That if the doing of that work forces the train to be 9 hours on the road where it otherwise would have been 7, and he is paid 10 hours, or 100 miles, which is its equivalent, then he is paid for all he is entitled to be paid for.

Mr. Stone: While it is perhaps true, Mr. Chairman, that we only hear of the human endurance of the men during arbitration cases like this, and that from Grand Officers, we only run against this solicitude for the public in cases like this. Now, it is true that we have had this 25-cent differential, for local service, for a number of years on some roads. It was made general in the 1910 wage agreement. It is also true, that like a number of other things, we have a rate, but have not anything to put it on, because they say they do not have any local work.

Mr. Sheean: What road is that which you are referring to?

Mr. Stone: A number of these roads.

Mr. Sheean: Just give us an idea.

Mr. Stone: I do not know that it is particularly necessary at this time.

Mr. Sheean: Name a place where you have no place in which to apply it. I should think you ought to be willing to tell us such a road.

Mr. Stone: For example, I have on the Oregon Railway & Navigation Company, 40 per cent of the branches where we have no local rate.

Mr. Sheean: Is that where they have only the one train a day?

Mr. Stone: Some of it may be, yes; and some of them they may pull a coach behind, to handle local passengers, which, under your interpretation, would be a mixed train.

Mr. Sheean: And on which a mixed rate was paid by the schedule with the men?

Mr. Stone: No, sir; and I may add for your information that there is no mixed train in the Eastern territory. It is either freight or passenger. Mr. Willard, who represented the railroads, said there was no such thing as mixed service. It was either freight or passenger.

Mr. Sheean: I would like to know the road on which you are unable to find a rate to which this local rate is applicable?

Mr. Stone: If you have local trains all over this Western country and they are so clearly defined, there should be no objection to a rule saying what local trains are. The fact of the matter is, you are perhaps getting 50 or 60 per cent of your work done for less than the local rate.

The Chairman: What is the rate in mixed service, as compared to the local rate?

Mr. Stone: On many of our Western roads, it is the freight rate, and on some of our Western roads, a combination rate about half way between the passenger and freight rate—not so high as a through freight rate. In the East, however, it is the freight rate, and where they do local work they get the local pay. They get a through freight rate, unless they do local work, and if they they do local work, they get the local rate.

Mr. Trenholm, is it not a fact that on many of your roads where the local freight business is heavy, that you will run your regular, carded, designated local, doing the loading and unloading of merchandise, and run an extra train to do all the station switching?

Mr. Trenholm: Yes, sir.

Mr. Stone: That is quite common, is it not?

Mr. Trenholm: I could not say how common it is. It is quite a common thing with me, Mr. Stone.

Mr. Stone: In that particular case, there is no doubt in your mind but that the through freight man, called out and doing all this station switching, should be paid the local rate, is there?

Mr. Trenholm: When we put a man out to do all the station switching, to go out and relieve the way freight, there is no hesitation on my part in paying the local or way freight rate, because he puts in the entire day doing that work, for the reason that the one train is unable to do it. We put on two trains to do it, and where they devote their entire day and do all there is of that to do, the station switching assigned to that work, we pay the local freight rate.

Mr. Stone: I should like to ask you some questions on one or two other points—

Mr. Burgess: Mr. Stone, may I ask Mr. Trenholm a question?

Mr. Stone: Surely.

Mr. Burgess: Mr. Trenholm, was the page you read from this morning a copy of the reply of the General Managers to the organizations?

Mr. Trenholm: Yes, sir.

Mr. Burgess: Page 119.

Mr. Trenholm: 119.

Mr. Burgess: I just wanted to ask a question, for the purpose of getting light, Mr. Trenholm.

Mr. Trenholm: Yes, sir; it was a reply to the organizations.

Mr. Burgess: Now, then, you read the following paragraph—I will just read one line: "There has been no change in conditions which justifies a departure from the established differential between through and way freight pay." Now, what rule or language was used, Mr. Trenholm, to create the differentials referred to as "established differentials?" There must have been some method employed in 1910.

Mr. Trenholm: Well, that is not in the—that is not in there. That is in the 1910 settlement with the engineers.

Mr. Burgess: You don't recall just what it was?

Mr. Stone: I have it here before me, Mr. Burgess. There is no distinction. This is the Award, if I might be allowed to read it: "For engineers in local or way freight service, a differential of 25 cents per day over rate paid on same class of engine in through freight service. This not to apply on roads paying engineers on a basis of 12½ miles per hour. Where a greater differential now prevails, same shall be maintained."

The Chairman: What Award is that?

Mr. Stone: Settlement of 1910.

The Chairman: In Western territory?

Mr. Stone: Yes, sir. There was no definition of what was a local. We discussed it at length, and, finally, the Managers declined to give a definition.

Mr. Burgess: Well, Mr. Trenholm, while that may be true, when the Award was rendered, this language, to my mind, would imply that there was some method employed to establish the differential. Don't you think so?

Mr. Trenholm: Well, of course, speaking from memory, (Mr. Stone will correct me) we spent three months in 1910 discussing these things before we came to a settlement, and then went to mediation. The discussion at that time was on the basis that these trains were entitled to a differential, speaking of the way freight trains that went over the territory and did the work assigned to a local train and put in their entire trip doing that work. The engineers at that time had the same request that is in now, to define a local way freight, what constituted a local way freight, and that was discussed and threshed out, and finally, at the Managers' request, withdrawn. We granted a differential of 25 cents, but the defining of what was a way freight was withdrawn at the Managers' request. So, whatever discussion there was, was just such discussion as we are having now, along the line anyway. But the trains were scheduled at that time just as they are scheduled now. There has been no change that I know anything about.

Mr. Burgess: Well, now, Mr. Trenholm, the settlement did not provide any well defined runs, but did provide that 25 cents should be added to the trains that were known as local and way freight, and that condition prevails up to the present time, as I understand you, Mr. Trenholm.

Mr. Trenholm: The definition is just as it was then. It is defined in the working timetables of the railroad. On each district, they define a train in each direction as a local or way freight.

Mr. Burgess: So that in Chicago, May 8, 1914, the answer of the General Managers to the employes was, in effect, that the established differential was proper at this time. Now, all that I was trying to obtain, Mr. Trenholm, was the method as to how the trains were designated in order that this 25 cents might be applied. I didn't know but what perhaps we might use that method in this.

Mr. Trenholm: There was nothing. It was the schedule of the trains. Some trains are scheduled as local or way freight trains. There was a differential prior to 1910. I don't mean to say that was the starting of it. There were differentials as low as 10 cents, and as high, perhaps, as 50 cents. Now, the desire of the men was that we establish a differential on the way freights as they existed and were scheduled then. That was done. And, in addition to that, they asked that we go further, and define what a way freight was, beyond what the timetable designated, and that we declined to do, and at our request they withdrew it.

Mr. Burgess: It is fair, then, to assume, that this 25 cents differential that was granted in 1910 was only applied to such trains as were designated on the working time card of the railroad, is that right?

Mr. Trenholm: Well, I don't think—that is rather straight-laced. The definition was placed on way freight.

Mr. Burgess: Exactly.

Mr. Trenholm: Now, there might be conditions at that time where there might not have been way freights designated on the time card; I don't know; but it was to apply to way freights that do way freight work, and, generally speaking, it was to apply on the designation as provided for by the working timetable.

Mr. Burgess: And if the railroads at that time had no local way freights designated on the time card, but later did designate a train on the time card, that train and that train alone would obtain this 25 cent rate?

Mr. Trenholm: Yes, sir.

Mr. Burgess: Thank you, Mr. Trenholm.

Mr. Nagel: Mr. Trenholm, your schedules are really your interpretations of these terms?

Mr. Trenholm: Yes, sir.

Mr. Nagel: Through trains and local way freight trains?

Mr. Trenholm: Yes, sir.

Mr. Nagel: And what the men ask for is a broader definition?

Mr. Trenholm: Yes, sir.

Mr. Nagel: By rule?

Mr. Trenholm: Yes, sir.

Mr. Nagel: The real meaning of both terms is perfectly clear, and the difficulty arises with respect to through trains that do some local work?

Mr. Trenholm: Yes, sir.

Mr. Nagel: You say that when the local way freight becomes the predominating factor, that then the train changes its character?

Mr. Trenholm: Yes, sir.

Mr. Nagel: And the differential is to be paid?

Mr. Trenholm: Yes.

Mr. Nagel: The men say that so soon as the through freight does any local work the character ought to be changed?

Mr. Trenholm: Yes, sir.

Mr. Nagel: You say that is not possible?

Mr. Trenholm: I say it is not equity.

Mr. Nagel: It is not equity. Now, the practical question presented to us is whether we shall undertake, by rule here, to decide what proportion of local work a through freight shall do before the men will become entitled to the differential?

Mr. Trenholm: That is a matter very proper for your Board to consider, yes, sir.

Mr. Nagel: And you do not advocate that?

Mr. Trenholm: No, sir.

Mr. Nagel: Well, in your judgment, it is a question of proportion, is it not?

Mr. Trenholm: Yes, sir.

Mr. Nagel: So soon as the local work becomes the more important part of the train, it changes its character?

Mr. Trenholm: It is a local train then, yes, sir.

Mr. Nagel: Until it does, it remains what it was, notwithstanding the incidental work which it does?

Mr. Trenholm: Yes, sir.

Mr. Nagel: Is there any room for a third classification?

Mr. Trenholm: I have never given that any thought, Mr. Nagel. I don't think there is. I think I am safe in saying that there is no occasion for it.

Mr. Nagel: Well, ordinarily, I don't favor too many classifications, because I have in mind that the Latin grammar had more exceptions than rules. Still, that question does suggest itself to an inexperienced member of the Board. The pressure seems to be upon that point, and the question is whether provision can be made for it.

Mr. Trenholm: That would open quite a large field again in your railroad operation, getting so many classifications of your service, the different rates of pay applying to each, that it would make it more complicated than it is now, which is undesirable, at least.

Mr. Stone: Mr. Chairman, I want to assure you that if they would confine their local work to their local trains such as they describe here, this question would not be here, but when they get the majority of their local work done by their through freight trains, the men that are handling these through freight trains think they should have the local rate.

Mr. Park: Would that be a satisfactory settlement where on a road the majority of the local work was done by through freight trains, then the rule would apply?

Mr. Trenholm: I don't think Mr. Stone can substantiate that statement. I certainly don't agree to it. I file a protest against any such statement that is not backed by evidence. The fact is that practically all of the merchandise business—I think I am safe in saying 95 per cent of all the merchandise less than carload business is handled by the regular scheduled way freight trains. They are put on for that purpose.

Mr. Nagel: What proportion?

Mr. Trenholm: I think I am safe in saying 95 per cent of all less than carload business is handled by local way freight trains, scheduled for that purpose.

Mr. Park: Then the railroads would be perfectly safe in adopting Mr. Stone's proposition, that where half of the work is done by through freight trains, or a majority, that the rule would apply?

Mr. Trenholm: I think I have testified, Mr. Park, in answer to Mr. Nagel, that wherever the preponderance of work is local or way freight that it pretty near automatically changes the character of the train, and it is only a question then of changing its classification on your time card.

Mr. Nagel: How would you define the question of preponderance?

Mr. Trenholm: Well, I would like time to prepare my answer on that. There are a great many elements that come into that; whether it would be the time he was doing it, the amount he was doing, or whether that in itself caused delays that prevented him from getting over the road on a mileage basis. So many things come into it. I would be perfectly willing to give it a little thought, to give you the best judgment I have, Mr. Nagel.

Mr. Nagel: Of course, we come back to the same question, whether you think it better to leave it to be adjusted between the men and the officials, as questions arise, or whether you think a rule can be formulated that will give intelligent and satisfactory expression to that test.

Mr. Trenholm: I don't believe a rule can be drawn that would apply over so great a territory, and apply with equal justice to the men and the railroad. I think it should be left to adjustment by the local committee. They are equipped to take up all these things with the management and the operating officers.

Mr. Stone: In reply to Mr. Trenholm, who objects to any statement of mine that is not backed up by data or evidence, I have not filed any protest against any statement he has made on the witness stand, and yet there have been statement after statement—

Mr. Trenholm: I am under oath.

Mr. Stone: —that I don't agree with, and I question very much whether he can substantiate it.

Mr. Trenholm: I am under oath, and testifying to the best of my knowledge.

Mr. Stone: Is that your personal opinion?

Mr. Trenholm: As to my personal opinion and knowledge.

Mr. Stone: And yet when I express an opinion you challenge it unless I back it up with evidence.

Mr. Trenholm: I am not objecting to your opinions, but when you make positive assertions, not under oath, I think they should be substantiated by witnesses, in justice to both sides.

Mr. Stone: All right. It is not my purpose to file a protest at this time against anything, so as to give the other side a right to appeal. I have been on this committee too long for that.

Mr. Trenholm: We won't appeal.

Mr. Stone: Yes, I have had a little experience in that too, when they said they wouldn't appeal.

Mr. Trenholm: We won't.

Mr. Stone: Coming back to this question—

Mr. Nagel: Sufficient unto the day is the evil thereof. Let us proceed with this.

Mr. Stone: I suppose so. We will cross that bridge when we get to it.

Coming back, I think the whole fact remains, they don't want any rule, because as long as they don't have any rule it won't be necessary to pay it.

Mr. Trenholm: Now, there is another assertion.

Mr. Stone: Now, I want to ask you, if the officials of these various roads—you told us in 1910—or your chairmen did, you could go back to the different territories and work this out with the different local officials. It is very evident we didn't do it, because we have it here again. If the local officers are competent to determine what a way freight is, why cannot this Board do so?

Mr. Trenholm: You make an assertion, and then ask a question.

Mr. Stone: Well, that has been the game all the way through here.

Mr. Trenholm: You say it is evident they could not work this out.

Mr. Stone: If it had been settled it would not be back here. That is sure.

Mr. Trenholm: It is back here in an entirely different form. There is no evidence here that the local committees have tried to work it out. I am stating under oath that the committee on the Omaha Road had cases up, and so far as I know they were adjusted, and to the best of my knowledge satisfactorily. I have no knowledge that any committee had it up with any individual road, excepting one or two in California that I have specified here, and those branch lines. I have no other testimony or evidence that any effort has been made to make any different rule than was in effect, and in answer to your assertion that the reason these roads don't want it is because they don't want to pay it, they are paying it. They are paying it on every district, in each direction, each day, to the train that performs that work.

Mr. Stone: Then, if that is absolutely true, a definition will not hurt you any.

Mr. Trenholm: Not if the definition says that a train that goes out to do that work and performs it all day will be classified as a way freight. I am willing to accept that now.

Mr. Stone: Well, it would hinge on that honest day's work again that we have heard so much about.

It became necessary on one or two of our Western roads, I remember very distinctly, to have a rule that provided that when a way freight train was annulled and another train did the work, that they should receive the way freight pay.

Mr. Trenholm: I think that is a very proper rule. If a way freight train was annulled and another did the same class of work, and went out and did it all day.

Mr. Stone: But if they wanted to play the game squarely, why should it be necessary to have a rule?

Mr. Trenholm: I don't know of any necessity of having it. I don't know why they wouldn't do it just as well without the rule as they would with the rule, if they agreed with the men.

Mr. Stone: Now, coming back to this question of test trains. Do I understand that these 2,000 test trains shown here by Mr. Tollerton, are all the test trains that were made in the Western territory when you were getting this evidence?

Mr. Trenholm: I think I would prefer to have Mr. Tollerton's testimony on that. He was the chairman of the committee that handled that, and while in a general way I know what was being done, how it was being done, and the purpose of that, I do not think that I am qualified to testify as to just the number of trains that were tested, or whether that was all. I think not. I think there were some tests made that were not in the exhibit, as I remember it, for one reason and another. I would not undertake to testify just why.

Mr. Stone: Is it not a fact that on a number of divisions tests were made that were not satisfactory and were not used?

Mr. Trenholm: There were tests made that were not used, but whether it was because they were imperfect in some way that Mr. Tollerton did not think it was proper to put them in, either for the one side or the other, that they were left out, I would much prefer that Mr. Tollerton would tell it to you, because he knows more about it than I do.

Mr. Stone: In reading over your testimony yesterday afternoon I find here a question by Mr. Sheean, that, if I understand you correctly, you gave assent to. It reads like this (on page 5737):

"Mr. Sheean: Well, then, Mr. Trenholm, even if the Board concludes to adopt and promulgate a uniform meal hour rule in switching service, and by meal hour rule, I mean a rule designed to give the men an opportunity actually to take that hour for a meal, where that is possible, is it not quite essential that in the fixing of such a meal hour rule, consideration should be given to the fact that on roads where the limits established for meals for yard enginemen and switchmen, are identical, that that be changed only by mutual consent of all the parties concerned on that road."

Do you understand that this Board will hand down an Award, and it will depend upon the consent of some other class of employes as to whether or not that Award can be put in effect?

Mr. Trenholm: What was my answer to it, Mr. Stone?

Mr. Stone: "Mr. Trenholm: I think any rule of that kind that would be formulated by the Board, should take into consideration the fact that the men who work with the engineer and firemen have a meal hour that is fixed by rule, and that the engineer and firemen's rule should conform to that rule, if that rule is a reasonable one, and not disturb the conditions."

Mr. Trenholm: Now, what is your question, Mr. Stone?

Mr. Stone: What I want to know is, in case we should get an Award fixing a meal hour, will it be necessary to take that Award and have some other class of employes put their stamp of approval on it before it be put into effect?

Mr. Trenholm: My notion is that the Board of Arbitration has the power to do that if they desire; that they can make an Award conditional on the full crew in the service adopting it as the meal hour for all the men; or they have the authority to make any other Award that they see fit to make, or decline to make any.

Mr. Stone: I understand the Board can decline to make any; either reject or grant a certain concession; but I do not understand that this Board can hand down an Award and make it conditional on whether some other employe who is not before this Board at all with your question, will either approve or reject it.

Mr. Trenholm: Well, my answer was as I felt, and, of course, the Board is well qualified to know their limitations—how far they can go. I would not want to testify as to that.

Mr. Stone: Well, it impressed me as a new idea when I read it through last night.

Mr. Trenholm: My thought all the way through was an honest thought, that you have got a uniform time in which there are five men or six men in a crew that are supposed to go to dinner. Now, my thought was that it would be undesirable that two men out of this five should have one time to go to dinner, while the other three would have another, and that while one set of three men were eating dinner you could not use the other two, and while the other two were at dinner you could not use these three.

Mr. Stone: Well, you understand, Mr. Trenholm, in our request we are not asking for a meal hour. We are asking for continuous time?

Mr. Trenholm: Yes, sir.

Mr. Stone: In switching service.

Mr. Trenholm: I understand what you are asking for, Mr. Stone.

Mr. Stone: Then, is the question of the meal hour before this Board at all?

Mr. Trenholm: It is before them, certainly, in a way. You have a meal hour today, and you are asking to have it changed to continuous time.

Mr. Stone: We are asking for pay, but we don't discuss the meal hour at all. We simply say he will have thirty minutes to eat, some time, but we don't ask for a meal hour to be fixed.

Mr. Trenholm: Possibly, that is true.

Mr. Stone: We have many meal hours fixed now, on the different switching properties.

Mr. Trenholm: Yes, sir.

Mr. Stone: And sometimes, I believe, they are different from the switchmen.

Mr. Trenholm: I think there may be a small difference, but not serious enough to affect the meal hour.

Mr. Stone: Mr. Phillips wants to ask some questions.

Mr. Phillips: Mr. Trenholm, if I can go back a little, you testified, I think, the other day, something about messenger service coming under the head of unclassified service. I don't recall the exact nature of it, but that was your understanding, was it not?

Mr. Trenholm: I think one of the questions was in defining unclassified service. I think I named a number of things that might come under that. I did not attempt to name them all, Mr. Phillips; I think messenger service was mentioned.

Mr. Phillips: Now, if messenger service was included in the unclassified service, and a man was sent out to act as messenger on a locomotive, properly termed a dead engine, although they are sometimes run under steam—they are under steam, not running. They are being towed in a train. Would you consider that a messenger under such conditions, would be subject to the Hours of Service Law, the same as the man working on the train?

Mr. Trenholm: Well, I would rather doubt that, Mr. Phillips.

Mr. Phillips: Well, if he was being paid as a messenger, and the Hours of Service Law required the remainder of the crew to tie up, and he was then used as a watchman, or in any other capacity, aside from acting as a messenger, would you consider he was entitled to whatever pay the schedule provided for the additional service?

Mr. Trenholm: Yes, sir.

Mr. Phillips: I would just like to ask a question on that \$3.75 rate, on engines having cylinders of certain dimensions, or weighing a certain amount on their drivers. I understood you to say, Mr. Trenholm, that at the time that rate was fixed, you had no engines coming within that class, on the Omaha Railroad?

Mr. Trenholm: That is my recollection?

Mr. Phillips: And, later, when those engines did come, you applied the rate that had been fixed a year or two before, by an Arbitration Award?

Mr. Trenholm: I think that is true, Mr. Phillips. I remember it was applied on the engines.

Mr. Phillips: Were those superheated engines?

Mr. Trenholm: Yes, sir.

Mr. Phillips: You believe, do you not, Mr. Trenholm,—or perhaps I should say is it not your understanding that these arbitration awards, fixed under a Federal law, or granted under the terms of a Federal law, become binding upon both parties for the period of time designated, ordinarily one year?

Mr. Trenholm: Yes, sir.

Mr. Phillips: Now, those awards become a part of the schedules on the different railroads, do they not, just the same as the other schedules, parts of which they supersede? They become the working agreement on the different roads?

Mr. Trenholm: Yes, sir.

Mr. Phillips: Now, both parties are bound for a period of one year, to the effect that no change or deviation from the award can be made. Is that not your understanding?

Mr. Trenholm: I think that is correct.

Mr. Phillips: And after the year has expired, the award, being a part of the working schedule, continues in effect thereafter, until changed by the usual method, does it not?

Mr. Trenholm: Well, I would hardly think so. I think, however, Mr. Phillips, that that is the customary way of doing it. I think it becomes a part of the schedule, and in the absence of any notification to the men, or from the men, of the usual desire to make a change, that the arbitration would continue indefinitely.

Mr. Phillips: I believe that is the view held by the Federal Board of Mediation and Conciliation, and I am quite sure that is the view held by managers in Eastern territory. In other words, that the award is binding for the period of one year, to the extent that neither side can change from it. Thereafter, it continues in effect, subject to change after due notice, and by the usual methods. Is not that the general custom?

Mr. Trenholm: Well, I would say that was the general practice, although I know of no law and no requirement that makes it such. I think the roads have accepted the arbitration, or mediation, as the case may be, generally speaking. While there have been some cases of dispute as to minor questions, in so vast a territory. I think they have been small. I think the roads accept those things as being proper, and applying to the conditions usually, and as being a fair award, and have gone ahead and put it in effect and continued it in effect.

Mr. Phillips: Well, you think that is proper, do you not?

Mr. Trenholm: Yes, I think it is proper, Mr. Phillips.

Mr. Phillips: These matters that are arbitrated, as in this case, and other cases have been similar in some respects, pertain to working conditions or rates of wages which are covered by schedule or agreement on the different roads, do they not?

Mr. Trenholm: Yes.

Mr. Phillips: Now, when the award is rendered in an arbitration of this character, those things are settled by that means and become a part of that working schedule or agreement, do they not?

Mr. Trenholm: For the year following the award.

Mr. Phillips: For the year, to the extent that neither side can change or deviate from them for that period, or whatever the designated period may be?

Mr. Trenholm: Yes, sir.

Mr. Phillips: Now, having become a part of that schedule or agreement, and the agreement carrying a clause, as they ordinarily do, that no change will be made without due notice from either party desiring such change, would there be—

Mr. Trenholm: No. I beg your pardon, I do not follow you there, Mr. Phillips. The schedule is separate and distinct from the award. The award is only made as covering a part of the schedule, and there is no clause in the award that says that no change will be made in this after the expiration of a year without giving due notice. That applies to the agreement between the men and the officers of the railroad, and I do not think the railroads raise that question at all; and where the arbitration or mediation, or whatever settlement is made, provides for either a ten per cent increase in pay, or a certain amount to each class of work, that is put into your schedules, and I do not think any road, if the award was within reason, would, at the end of a year, want to go back and reduce a man's pay, nor do they want to change any rule that might be awarded, if it is within reason. That is one of the things that stirred up a good deal of noise in 1910, in the Firemen's Award. A great many roads felt that the award of $3.75 was unfair and unjust, and was out of proportion, and it created a great deal of resentment. I know that some of the members connected with the committee stated openly, when it was made, that they would bush their cylinders; Grant Hall did it, and I think Mr. Emerson made the statement that they would bush their cylinders, because they did not believe the award was fair or equitable. That very seldom happens in an award or settlement, because while they may think it is pretty hard, or may feel both ways, the men may feel "Well, we think we got the worst of it," or the companies may feel that they got the worst of it, but it is not serious enough to produce or cause any radical action.

Mr. Phillips: Now, Mr. Trenholm, you say that the award, when it is reached, is usually written into the schedule?

Mr. Trenholm: I think usually, in most schedules I have seen, it is printed and—

Mr. Phillips: And incorporated as a part of the schedule?

Mr. Trenholm: Yes, sir, attached to the rear part of the schedule as the award applying for that year.

Mr. Phillips: Without passing upon its reasonable or unreasonable figures, unfortunately those things are viewed from different points.

Mr. Trenholm: Yes.

Mr. Phillips: But the men, if they happen to feel that a thing is unreasonable, could not change until after the year, could they?

Mr. Trenholm: No.

Mr. Phillips: And then they could not change without due and proper notice, could they?

Mr. Trenholm: Well, their change, of course, would naturally be for something additional; they would not want to reduce, and to get anything additional they would have to serve proper notice.

Mr. Phillips: Do you not think, coming back to this question of fairness, that the same should apply to the railroads?

Mr. Trenholm: Yes, sir.

Mr. Phillips: And that they should also serve proper notice?

Mr. Trenholm: Well, I understood you were making it as part of the award.

Mr. Phillips: No, sir.

Mr. Trenholm: As a question of fairness, I think the roads, in making any change in their schedules at any time, and in any award, should give the men the usual and customary notice of their desire to do it.

Mr. Phillips: Don't you think, in the absence of such a notice, that the award should continue in effect?

Mr. Trenholm: I think it naturally would, but I do not think there is any law or absolute requirement to make it continue, but I think in all fairness it should.

Mr. Phillips: A great deal has been said about fairness, and while I do not want to debate that subject—

Mr. Trenholm: I do not, either.

Mr. Phillips: But fairness is more or less a man's personal viewpoint, after all.

Mr. Trenholm: Yes.

Mr. Phillips: There is a well known natural law, I believe, that no two men can have the same zenith.

Mr. Trenholm: Yes.

Mr. Phillips: And it is equally well known that no two men can have the same perspective; so that ideas of fairness are largely questions of perspective or viewpoint; but my whole idea is that the rule that applies to one should apply to the other, Mr. Trenholm. That is my idea of it.

Mr. Trenholm: Well, I—

Mr. Phillips: And you grant, without reservation, that a settlement having been reached through arbitration, and an award granted, is a settlement, just the same as if you reach it through negotiation, mediation, conference, or any other means.

Mr. Trenholm: It is a settlement by arbitration.

Mr. Phillips: It is a settlement by the agreement to arbitrate those questions?

Mr. Trenholm: Yes.

Mr. Phillips: It is a settlement by agreement, covering those particular points.

Mr. Trenholm: I do not know that it is. It is an award on the points at issue, and applies for a year, and you usually attach it to your schedule for convenience, to have it there before you. But the award does not pass on lots of things that are in your schedule. It does not pass upon whether you shall have thirty days' notice after this is over, or anything else.

Mr. Phillips: If that is a part of your schedule before, it is not affected one way or the other by the award.

Mr. Trenholm: No.

Mr. Phillips: Nothing in your schedule that is not covered by the award is disturbed or affected by any award?

Mr. Trenholm: No.

Mr. Phillips: And, therefore, if the matters in controversy are settled, and become part of that working agreement, if your whole schedule terminates with a clause that no change will be made in this schedule without due or proper notice, thirty days usually, that would apply to the parts of the award, would it not?

Mr. Trenholm: I do not think so.

Mr. Phillips: I do not want to speak for anybody else, and I did not suppose there would be any difference of opinion between you and me, on that point, nor is it my purpose by these questions to build up any wall to get behind later—

Mr. Trenholm: What is your purpose then?

Mr. Phillips: The purpose is that it may be clearly understood by both sides. It is clearly understood by the Federal Board of Mediation, and by the Managers' Committee for the Eastern District—

Mr. Trenholm: What has the Federal Board of Mediation to do with the railroad schedules? We make a schedule, and so far as that schedule which we make is concerned, we have a provision which requires thirty days' notice from either side; as a general thing it is thirty days. There are certain points outside of that schedule entirely. You go in and ask for an increase of pay, and you are awarded, for one year, 10 per cent. Now, that goes into effect. Now, at the end of the year there is nothing that makes it automatically continue. They do not say that the condition of your schedule is changed. If you wanted to change your original schedule, you would give a notice.

Mr. Phillips: Does not the Arbitration Law provide that it shall be effective and not subject to change for the period designated?

Mr. Trenholm: One year, yes, sir.

Mr. Phillips: But it does not provide that a change shall be made immediately upon the expiration of that period.

Mr. Trenholm: No, nor does it provide that it shall not be made.

Mr. Sheean: May I interrupt you, Mr. Phillips? In view of the agreement here, you having stated that your purpose was to make it clear, as to the effect; clause 7 of our Arbitration Agreement in this case reading: "That the award made by said Board shall become effective at the expiration of ten days after the making and filing of the same, and shall continue in force for one year from that date, and thereafter subject to the usual thirty days' notice to or by any of said railroads; but such notice may be given before the expiration of said year," in view of that being the agreement under which we are arbitrating here, what is your purpose in asking these questions?

Mr. Phillips: I was not unmindful of that, and I think all my interrogatories have been right in line with it.

Mr. Sheean: Suspecting that you might be trying to commit, or get from the Chairman an answer as to some past practice or past arbitration, I simply wanted to direct your attention to the fact that by the agreement to arbitrate here, this particular point is specifically covered.

Mr. Phillips: Now, gentlemen of the Board, I think it is a most deplorable condition, if parties to the respective sides here can not bring from a witness a clear understanding without having the feeling exist that he is trying to trip somebody.

The Chairman: Mr. Phillips, I was unavoidably detained from the room, and really do not understand the question you are discussing.

Mr. Sheean: I do not, either. The statement was made that it was for the purpose of having a clear understanding as to what would arise under this agreement, and in view of this agreement making a specific provision on the point, I thought perhaps Mr. Phillips' attention was not directed to the fact, that any doubt as to past agreements was specifically cleared up under this particular contract.

The Chairman: Will you kindly tell me the trouble, Mr. Phillips? I did not understand, as I was detained from the room.

Mr. Phillips: In a few words, Mr. Chairman, I asked a few questions, trying to ascertain if the understanding of both sides was alike in this matter, and I felt sure that they must be, having in mind this agreement all the time. And I think that principle laid down in the agreement which Mr. Sheean has just read, is the principle which has been applied in the past, and I am sure it is the feeling held by the Federal Board of Mediation and Conciliation. Mr. Trenholm seemed to fear my line of questions was to get him committed to something which would be unfair to him, or be used against the railroads later. I wish to assure Mr. Trenholm and the Board that such was not my purpose, and I think every question I asked was exactly in line with the understanding as clearly defined in the agreement of arbitration.

The Chairman: Your question related to some article in the agreement, did it?

Mr. Phillips: My question, your Honor, specifically related to the continuity of rules granted by the Arbitration Awards.

The Chairman: Well, you may proceed.

Mr. Stone: I would like to ask you one more question, Mr. Trenholm, if I might. I understood you to say, in answer to a question of Mr. Phillips', that the Conference Committee of Managers felt that the award was so unfair and unjust, that they immediately said they would bush their cylinders, rather than pay it.

Mr. Trenholm: I think,—I was not on the committee at that time, but I was here in Chicago, and that was the general talk, that that particular item in the award, not the award as a general proposition, but that particular item in the award of applying a $3.75 rate to the same weight of an engine that was drawing $2.75, just because the cylinder was a little larger on one than on the other—that they resented that quite strongly and thought it was unfair, and I heard expressions that they would take away the large cylinder; that is all.

Mr. Stone: The fact remains that they did do it?

Mr. Trenholm: I think some of them did, yes, sir.

Mr. Stone: So they did not carry out the award in good faith?

Mr. Trenholm: Oh, yes. I do not think that is a violation of the award, if they take the cylinder off and put on a smaller one. If it was based on the cylinder, they might have destroyed some of the effectiveness of their engine. When the cylinder was not that size and they did not pay it, they violated no award.

Mr. Stone: You would call that good operation, would you?

Mr. Trenholm: No.

Mr. Stone: If the men had done that, what would have been the charge against them?

Mr. Trenholm: They do not control the cylinders.

Mr. Stone: That is the great trouble: That is the reason why we got the weight on drivers.

The Chairman: Has there ever been any disposition on the part of the men, in these various arbitrations, to disregard any agreements or any conclusions that have been reached by the arbitrators?

Mr. Trenholm: I think there have been questions of dispute between the companies and the men, from their standpoint, as well as from the company's standpoint; but, of course, they are not in a position to do things of that kind.

Mr. Phillips: Mr. Chairman, there has been so much said on that subject—I don't want to bring up this long continued discussion of the $3.75 rate on certain classes of engines. The Santa Fe has been mentioned, from time to time, as having some small engines that did not weigh as much on the drivers as some other larger engines, perhaps; did not have as big cylinders: but I think there is no protest against the attitude of the Santa Fe Railroad Company, because I think they have paid the rates. I think they have treated the men with absolute fairness. Now, as I have said, this fairness idea is purely a matter of perspective, and while I referred to no two men having the same zenith, a moment ago, some modern Solomon has figured out that two men can have the same zenith, by one standing upon the other's head, but we will have to admit that each had a different perspective.

I don't want to enter into the fairness idea of this at all. Fairness is not so much what a man thinks of himself, as what other people think of him; so I don't care to discuss the idea of fairness, but this idea that the employe has no chance to change the conditions, as outlined by Mr. Trenholm, is the whole thing. There is nothing within the power of the employe that will enable him to change a condition, and while I don't know that he would if he could, I think he would be as likely to as anybody else, if he would gain thereby. But there being nothing that would enable him to change a condition, to give to himself something that he was not granted through an award, I do not think it is proper that the other side should change conditions, to deprive him of something granted to him through the same award. That is my view of the whole thing.

Now, on these engines, a great deal has been said about these little engines, but the fact remains that there are a lot of big engines covered by the $3.75 rate. Some roads, like the Chicago Great Western, Union Pacific, and Oregon Railway & Navigation Company, have engines bigger than the limits defined in this Arbitration Award, and in all cases, these rates have not been paid.

The Chairman: Perhaps I was not explicit enough in my question to Mr. Trenholm. The point I wanted to bring out was as to whether, in instances where the men felt they had been treated fairly, they do usually render faithful and efficient service?

Mr. Trenholm: Oh, yes, your Honor. I agree with Mr. Phillips that no railroad should do anything to avoid a fair award, given by any Board.

The Chairman: Otherwise it would not amount to much?

Mr. Trenholm: No, I think that would spoil the effectiveness of the award. I am not defending the bushing of the cylinders in that case. I do not know anything about the situation of this road. There has been a great deal of talk about it. I know I put the rate in, long after the award had expired, on some engines, and I know of my own knowledge that some of the roads have asked for a rehearing, and thought the award was a mistake, as a matter of fact, and held back the pay until five or six months; but those roads did pay back pay. They carried out the terms of the award, as far as I know, in practically all the cases. I have investigated a number of them, while I have been on this Board, on the complaint of the men.

Mr. Park: Mr. Trenholm, in case the award should specify weight on drivers, and taking a concrete case of an engine, weighing, say, 150,000 pounds, if the road in redesigning it, changed the boiler or some part of it, or took out the superheater, and reduced the weight of that engine on the drivers, say 5,000 pounds, do you think the rate then should change, if the standard broke at 150,000 pounds? Would the railroad be entitled to take advantage then of the lower rate?

Mr. Trenholm: I see no reason why they should not, as much so as if they had increased the weight.

Mr. Park: Now, if an engine was operating with a 24-inch cylinder, and her cylinder was too large, and she was not giving the proper service under those conditions, and the road would elect to reduce the size of that cylinder, by putting in a bushing, which is frequently done, ordinarily, without regard to rates, and by reason of that change the cylinder was reduced to 23 inches, would not that be a proper way of handling the matter?

Mr. Trenholm: Yes, sir.

Mr. Park: If a mistake was made in bushing the cylinder, and the engine was not effective, and was losing her efficiency, that would amount to a great deal more than the difference in pay for a fireman, would it not?

Mr. Trenholm: Yes, sir; I do not think any road could make any money, by reducing the cylinder.

Mr. Park: Did I understand you rightly in saying that Grant Hall and Mr. Emerson were members of that committee?

Mr. Trenholm: I said they were here in Chicago.

Mr. Park: They were not members of the committee?

Mr. Trenholm: I don't remember who the members of that comimttee were. I don't think so. Mr. Scott was a member of that committee.

Mr. Park: Mr. Scott was one of the arbitrators later. He was not a member of the committee.

Mr. Trenholm: He was a member of the committee I was serving on here, at the second hearing of the Firemen. There was a great deal of talk among the mechanical men, about the $3.75 rate, and I heard a good deal of talk.

Mr. Park: Is it not a fact that about that time the superheater was new; the mechanical men did not understand it as thoroughly as they do now, and there was a tendency to increase the size of the cylinder beyond that of good practice.

Mr. Trenholm: At that time, as I learned it, that was the only way to get the benefit of the superheater, was to enlarge the cylinder, but I understand, lately, that that is not necessary.

Mr. Park: That advantage is only obtained in bad water districts, and where they desire to favor the boiler.

Mr. Trenholm: That is what mechancial people say today.

Mr. Park: That is all.

Mr. Nagel: Mr. Trenholm, in the last analysis, the different men engaged in the railroad business, have acted with respect to awards, very much as other men would act under like circumstances; is that true?

Mr. Trenholm: Oh, yes, sir.

Mr. Nagel: The trend has been to increase rates and improve conditions, has it not?

Mr. Trenholm: Yes, sir.

Mr. Nagel: The railroads have not had any new rights to insist upon, but they have at times sought to avoid the consequences of some phases of an award?

Mr. Trenholm: Yes, sir.

Mr. Nagel: You think sometimes, fairly and at other times perhaps unfairly?

Mr. Trenholm: Yes, I think it becomes the matter of an individual, a great deal, when you spread a thing over so great a country, that there is liable to be some individual who thinks he can do something that is smart, perhaps, and get away from it. I think, generally speaking, the railroads, Mr. Nagel, live up to the awards very closely—aim to and desire to.

Mr. Nagel: And, similarly, you think that sometimes the men have been disposed to insist upon technical rights, as against the reason of the roads?

Mr. Trenholm: I think there are cases of that kind.

Mr. Nagel: And it has been a perfectly human gain?

Mr. Trenholm: Perfectly human gain.

Mr. Stone: That is all.

RE-DIRECT EXAMINATION

Mr. Sheean: Mr. Trenholm, you have stated here in connection with this schedule, at several times, that, in your judgment, the engineers and firemen employed on the roads represented in this conference, were, under their present schedules, being adequately paid. Have you caused to be sent to you statements of the earnings of engineers and firemen on each of these seniority districts and operating districts, on each of the railroads represented?

Mr. Trenholm: I have a certain number of them.

Mr. Sheean: And that was done under uniform form—sent to all the railroads?

Mr. Trenholm: Yes, sir.

Mr. Sheean: And then compiled in the form of exhibits?

Mr. Trenholm: Yes, sir.

Mr. Sheean: First, let us take up the form in which that was sent out, and the summary as to engineers. First, Mr. Trenholm, I wish you would explain briefly the form that was sent out, and the purpose of the form.

Mr. Trenholm: It was the desire of the committee to adopt some method of securing information of the manner in which the divisions were handled, in so large a territory. It was impossible for anybody on the committee to go out and study the situation, or familiarize himself with all the local conditions, and the committee thought, by sending out a form of instructions and having each division superintendent send in a sketch of their division, explain how the men were handled in their seniority rights, as to whether they formed pools of three men, handling two passenger runs, or five men handling four—whatever their situation might be over this territory, that it was the best way to inform themselves as to the conditions over the country.

In addition to that, on all railroads, I think, men are assigned to different service. There might be two passenger runs on a railroad that are scheduled to run every day, and the mileage may be two hundred miles for each train a day. There are a certain number of men assigned to that service. For instance, two hundred miles, run every day, might be too much for two men to take care of, so that three men would be assigned to that. That was what the railroads termed as a pool, that runs those two trains. Each man runs every day, or every other day, as the case may be. So that he really makes that 200 miles, twenty times a month, or twenty-one, depending on the days in the month; so that three men divide the earnings of those two trains between them, and it would be equal between each one of them, providing they each ran their train, which is there for them. If they don't run it, some one else must run it.

The Committee thought, in sending this form out, that they would attempt to get the earnings of one man in each one of those pools, and they would also endeavor to have the railroads specify that while they might be running eight passenger trains, each way, over a district, they might be divided up into small pools of three or five—they would endeavor to get a statement from the railroads for the earnings of the individual man, traced through for a year, whether he was representative of five, or ten, or twenty on that district, so as to show that if this man earned it, the other five, or ten, or twenty could also earn it in the same service.

Now, that was the purpose of this form. We have asked the railroads to furnish us the figures in the passenger service; in the through freight service; in the local freight service; in branch line service; both freight and passenger, but did not ask them to furnish any representative man as to transfer, helper, or switching service, for that reason, that that service is principally on the hour basis, and it was just a question of how many hours a man worked, as to what he drew.

We have aimed to show in this, for a year, each man's earnings by the month. We have aimed to show where he runs through the entire year, on a run his seniority held. If there were any earnings outside of that assignment, to show them separately, the idea being to show what that man earned, each month, if he stayed on his assignment and lost no time, or if he lost time, even, what his actual money was for the tyelve months of the year.

Mr. Sheean: And if there were a separate sheet for each seniority district?

Mr. Trenholm: Yes, sir.

Mr. Sheean: In this entire territory?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Following the same form which is shown here in the first part of this book?

Mr. Trenholm: Yes, sir. This is the form which was sent out by the committee, to the railroads, and the instructions are contained on it. Do you want me to read it into the record?

Mr. Sheean: No; I think it is unnecessary, Mr. Trenholm. We ask leave, your Honor, to file, as Exhibit 41, this book, which is marked as Yearly Earnings of Representative Men in Various Classes of Service—Engineers—and also to file with the Board, not as an exhibit, but to file here in the same way we have before, the supporting data and papers from which this compilation is made.

(The document so offered and identified was received in evidence and thereupon marked "Railroads' Exhibit No. 41, February 26, 1915.")

Mr. Trenholm: So that I may not forget it, while filing the supporting data for this, I wish to state that there is some information furnished by the railroads as to men who are not used in this book.

In getting this information from the railroads, it was necessary that they did not include any two men, in one month, on one run. Otherwise, it would not be a fair showing as to the earnings of any man; so that when we got the returns in from so vast a number of different people, prepared by them, we found that some of the exhibits were in such shape that it would be unfair to the men, or the company, to put them in here, and where we found such a record, we did not use it.

I wish also to say that in preparing this exhibit, it was prepared hurriedly. While we have had lots of time, from the time that the arbitration was agreed upon, to the present time, to prepare almost any kind of an exhibit, when it was agreed to arbitrate, in the early part of August, the information the committee could secure was that arbitration would start about October 1st; so we only figured that we had about two months to get an exhibit. Of course that was extended, but there was no extension long enough, at any time, for us to start anything new. So that we have spent the time in trying to check and recheck and verify this exhibit, to make it just as near correct as the human can make it, from all standpoints.

Now, we also wanted to print, or put this into the hands of a photographer, so as to have it ready early in October, and since doing that—at the time we did that, it was done hurriedly. Some of the roads did not have any of their figures that we wanted. For instance, the Canadian Northern—they sent in some figures that were all mixed up. They used two men in one month, and in trying to get a man in pool or chain gang crew, for the year, they mixed them all up, and Mr. Warren came down here and we told him we could not possibly use those figures, and he said he had not understood what was wanted, and that he would go back and prepare new statements. Those statements, however, did not come in, in time to be printed in here. I have had those photographed separately. There is no need of them going in, but I simply want to explain that there is some data, with what we file supporting this, that is not used here; but none of it has been left out for the purpose of effecting a change here, and I don't think it would effect it. The Canadian Northern is probably as high paying a road as there is in the movement, and if theirs was all put in, if it did anything with so many, it would have a tendency to slightly raise it.

The Chairman: You think what you have offered here affords a fair picture of the situation?

Mr. Trenholm: Yes; we believe it is an absolutely fair, honest picture of this Western territory.

Mr. Sheean: In the supporting data thus filed, there are the sketches which were asked for to show the operating divisions?

Mr. Trenholm: Yes, sir, letter from each superintendent, showing how his division is operated, and all the information, all the letters back and forth, telegrams back and forth, and all the information we had in connection with this, is filed for the information of the men, in checking.

Mr. Sheean: This answers the various queries which were sent out on this blank form, both as to density of traffic and in what direction they have their heaviest traffic and so forth, and so on?

Mr. Trenholm: Yes, sir.

Mr. Sheean: So that that information is accessible in the supporting data, at any time, to find just the manner of any one of these runs, where the runs are shown by train numbers in the train service?

Mr. Trenholm: Yes, sir.

Mr. Sheean: As to how many hours on duty, and so on?

Mr. Trenholm: Yes, sir.

Mr. Stone: Can I ask a question, Mr. Sheean?

Mr. Sheean: Surely.

Mr. Stone: Do these names that appear in Exhibit 41—are they some of the names that appear in Mr. Keefe's exhibit?

Mr. Sheean: They overlap, in some cases, and in others they do not.

Mr. Trenholm: Every man in here, Mr. Stone, must be on October payroll.

Mr. Stone: I understand that, but Mr. Keefe also filed an exhibit, showing the high and low man in each class of service. Do these men show in here again?

Mr. Trenholm: Some do and some do not.

Mr. Stone: They overlap?

Mr. Trenholm: They overlap. Some of the low men and some of the high men here.

Mr. Sheean: Some who are shown as the high men in that month, Mr. Stone, carried out there, would not be the high men for the year; or a typical man here would not lap over as being the man shown as the high man there. In other words, the query was prosecuted independently.

Mr. Trenholm: Independently. This was made up long before Mr. Keefe prepared his exhibit.

Mr. Sheean: You say, Mr. Trenholm, that this information that has come in subsequent to the time that this was first put in type, you thing is unnecessary to file, but you have available a certain part of it, summarized?

Mr. Trenholm: I have the Canadian Northern, because we only got a very few samples in here, of the Canadian Northern, and there were quite a few of them. They were too late to put in here. I had them photographed separately. I don't care to file them. They are in the record. There are some high and some low on them, and I do not think it would affect the average, nor do I think that any man we left out—

Mr. Stone: One more question, please. I note on a great many of these pages there is a good deal filled in with red ink, in figures, and quite a good deal filled in, in pen. We are to give them the same weight as the original figures themselves?

Mr. Trenholm: Yes, sir; I have aimed to correct every correction, after this was photographed, in ink, on every book, so that they should all be alike, and in the pool service. Mr. Stone, I will explain that when I come to it, that being a very hard service to get a man and show a fair, representative condition. I have attempted to write in, in red ink, the earnings outside of pool in each month. The original figures were that he earned so much in pool, and so much outside of the pool. Now, that was simply in bulk. The amount outside of the pool—it was not by months. I have attempted here to distribute that, as to what he earned each month, and that is in red ink, in the pool service only, Mr. Stone.

Mr. Sheean: I think, perhaps, it would be well to explain, Mr. Trenholm, as to just how this assembling was done in the form of this exhibit, after having gotten the information on the form which is shown in the first part of the book. After having done that, what was done in the way of assembling it concretely in the way that it is put in this exhibit?

Mr. Trenholm: Well, we were so crowded for time to get this in shape for the photographer, we learned something. We learned that we could check each one of these exhibits, and when we got ten of them, which each page holds here, ten names, ten exhibits, we could paste that on a sheet underlapping, and photograph it, and that is done in that way. These are all separate pieces pasted underneath each other and photographed. So that that enabled us to go ahead and complete each exhibit, and when we got ten that came in order here we could paste a sheet and photograph it, and that enabled us to go ahead with our work a good deal faster. But in doing that we had to go to work and classify in each service in tenths. So that when we came to get them all checked and tabulated, we were short in some cases and over in others. So that we were obliged to leave out a few men, on account of not coming out even. But we did not leave out anybody because his earnings were either large or small. It was just as it came.

Mr. Sheean: As the information came to you, it came on these forms stacked up over there (indicating)?

Mr. Trenholm: Yes, sir.

Mr. Sheean: And in an effort to get those in a presentable shape and to summarize them concretely, you adopted this plan of copying from those?

Mr. Trenholm: Yes.

Mr. Sheean: And then having those photostated?

Mr. Trenholm: Yes.

Mr. Sheean: In the manner here shown?

Mr. Trenholm: The first page in the book gives the index, so that if you want to find the Atchison, Topeka & Santa Fe, Eastern Lines, in passenger service, it is page 1. If you want to find the through freight on that same road, it is page 66. You read right across. The Local Freight starts at 80; Pool or Chain Gang at 130; Branch Passenger at 170; Branch Freight at 192; Mixed at page 207. So that each road followed right across, will give you the page that each service is on.

I will state for the information of the Board that the number of men's records used in compiling this was: Engineers, 3,230; firemen, 5,800; or a total of 9,030 men that we attempted to trace through for the entire year's period, showing the money that they drew each month.

Mr. Sheean: Now, Mr. Trenholm, it having been stated here that your schedule was the poorest in the Western territory, and assuming that that statement is true, so that all the others could afford higher rates of pay than your schedule, let us turn to your schedule for a moment, or to the showing of your railroad here as to what the men earned on the poorest paid railroad in the country.

Mr. Trenholm: Passenger service is pages 26 and 27.

Mr. Sheean: That is, you begin at the middle of page 26.

Mr. Trenholm: Yes, sir; the sixth man on page 26, the first one in the lower column, is the starting of the Omaha. The division is on the Eastern Division; kind of service is passenger; the name of the engineer is Jacob Halt; terminals of run are Minneapolis and Elroy; distance between terminals is 205 miles; he runs trains numbers 5 and 6; there are three crews assigned to those two trains; and their work is 20 or 21 days a month for the year.

Mr. Sheean: Now, how long on the 20 or 21 days a month that Jacob Halt worked—how do those trains run, 5 and 6? Do you remember the time of those? Let us get a picture of some one or two of those trains.

Mr. Trenholm: 5 and 6 is the limited Chicago train, that leaves Minneapolis in the evening, about 7:30,—I don't just remember the exact time,—and gets to Chicago the next morning at 9 o'clock. This crew runs on the Omaha Road from Minneapolis to Elroy. That is a distance of 205 miles. They make 21 trips during the month of 31 days, and 20 trips in a 30 day month.

Mr. Sheean: Well, let us get one of his trips, Mr. Trenholm. He starts out at 7 o'clock at night, and when does he get to Elroy?

Mr. Trenholm: I would have to get our time card, Mr. Sheean. Bring me an Omaha time card, please.

While we are waiting for the time card, Mr. Sheean, I will go ahead.

This man is representative of three. This particular man's earnings; in July, he made 21 trips; ran 4,305 miles; was 169 hours on duty during the month; and earned $193.95.

In the month of August, he worked 20 days; made 20 trips; ran 4,100 miles; was 166 hours on duty; and earned $187.36.

In the month of September, he made 20 trips; ran 4,100 miles; was 173 hours on duty; and drew $197.47.

In the month of October, he made 21 trips; ran 4,305 miles; was 167 hours on duty; and earned $200.41.

In the month of November, he made 20 trips; mileage 4,100; 159 hours on duty; and earned $190.65.

In the month of December, he made 21 trips; ran 4,305 miles; was 170 hours on duty; and earned $200.41.

In the month of January, he made 20 trips; 4,100 miles; 161 hours on duty; and earned $190.65.

In the month of February, he made 11 trips, 2,255 miles; 93 hours on duty; lost 8 trips; and earned $105.09.

In the month of March, he made 21 trips; ran 4,305 miles; 168 hours on duty; lost no time; and earned $200.41.

In the month of April, he made 20 trips; 4,100 miles; 162 hours; lost no time; and earned $191.11.

In the month of May, he made 20 trips; ran 4,100 miles; 160 hours on duty; lost no time; and made $190.65.

In the month of June, 1914, he made 18 trips; 3,690 miles; 145 hours on duty; lost 2 trips; and made $171.58.

During the year, he made 233 trips, made 47,765 miles, worked 1,893 hours; lost 10 trips, and made $2,219.74.

Mr. Stone: Could I interrupt to ask a question, Mr. Sheean?

Mr. Sheean: Surely.

Mr. Stone: I note, Mr. Trenholm, on your July statement for Mr. Halt, he made 4,305 miles and got $193.95.

Mr. Trenholm: In July?

Mr. Stone: Yes, the first one you show.

Mr. Trenholm: Yes.

Mr. Stone: In December, 1913, he ran exactly the same number of miles, with only one hour's difference, and got $201.41. What made the difference, a different class of engine, or what?

Mr. Trenholm: I think probably it was a different class of engine, Mr. Stone. There are some variations in the earnings all through, with the same mileage, and I think the only explanation is the difference in the engine. And I will say in connection with this that after having checked this just as thoroughly and carefully as I could possibly check it, with a large number of clerks, and giving it a great deal of my personal attention, I required the roads to certify to the committee, by the proper officer, that the figures shown on this exhibit correspond or are not greater than the payroll figures themselves for which the man receipted; and those certificates from the railroads are here to file with the Board.

Mr. Burgess: October is similar to the one Mr. Stone referred to, only he ran the same miles and got two hours less, and still he got about $8 more money.

Mr. Trenholm: Yes, sir.

Mr. Burgess: You have only got two passenger rates on the Omaha, haven't you?

Mr. Trenholm: $4.15 and $4.40, I think,—No, I think there are more rates than that.

Mr. Stone: It is all by the mile, and hours do not cut any figure.

Mr. Trenholm: And there may be some additional mileage allowances in some of those months. We found a great many where the roads tried to explain the difference in the mileage by stating that the man is allowed one or two miles each trip for something he does.

Mr. Burgess: But the miles are exactly the same in July and October, Mr. Sheean.

Mr. Sheean: Yes, July, October, December and March are all the same, 4,305, and he got $200.41 in each case, except in July.

Mr. Burgess: Yes. I was wondering whether they had a small engine pulling the Chicago limited, which was this train, as I understood.

Mr. Trenholm: There may have been a different engine on there. That is the Chicago Limited, Nos. 5 and 6. Ordinarily it would be the same engine, but there might be some conditions that would change the engine. That is the only explanation I could make.

Mr. Burgess: It would be a large engine pulling that train, would it not?

Mr. Trenholm: Yes, quite a large engine.

Mr. Sheean: Can you tell us the length of that run—I guess we have it; it is shown here, his total hours on duty were 1,893 on 233 trips, something less than—

Mr. Trenholm: Yes, the hours per trip can be arrived at very easily by dividing the number of trips by his hours on duty, Mr. Sheean.

Mr. Sheean: That is shown in each case here, so that a man working 20 days a month, less than 8 hours on the days that he does work, under that schedule of the Omaha, it furnishes a man $200 a month, practically, for that work.

Mr. Trenholm: 21 days, and 169 hours, would be just 8 hours, making the 205 miles. He worked 8 hours a day 20 or 21 days a month and earned $2,219.74 during the year, laying off ten days of his own accord.

Mr. Sheean: That is the way in which you man that particular run; you assign three crews to the two trains?

Mr. Trenholm: Yes.

Mr. Sheean: One in each direction.

Mr. Trenholm: Yes.

Mr. Sheean: And in that way each of the crews gets 20 days a month out of that assignment?

Mr. Trenholm: Yes. The earnings of that run are there for three men. This man lost ten days. If he had worked those ten days, it would have been increased just that much; and each one of the three men assigned there can earn that same money; there is no fluctuation, if they do the work there is to do.

Mr. Sheean: And under that assignment, in addition to the ten days actually laid off, each of the crews worked 20 days out of the 30 days in the month?

Mr. Trenholm: Yes, sir.

Mr. Shea: I notice in comparing Jacob Halt and M. J. Keating, on the same division, the distance between the terminals between Minneapolis and Elroy is 205 miles for Mr. Halt and for Mr. Keating it shows 207 miles.

Mr. Trenholm: Yes.

Mr. Shea: Why is that?

Mr. Trenholm: One train goes by a cut-off at Black River Falls, and the other goes by the long route. Black River Falls was a charter point on the Omaha Road, and we had a very sweeping curve to get into it, and we made a short cut-off; but under the charter provisions we have to run so many trains that way, so that 16 and 7, that Mr. Keating was on, go the long way and it makes two miles difference. Mr. Keating, the man next, ran the entire year on 16 and 7; he represents three crews, and there are six crews that run trains similar to the one Mr. Keating is running that earn the same money. He worked every day in the year and earned $2,326.29.

Mr. Sheean: By working every day in the year, you mean—

Mr. Trenholm: I mean by that, that he made every trip that he was supposed to make. He only worked 20 or 21 days a month, the same as the other men, but I mean he lost no time on his own account.

Mr. Sheean: For ten days each month, he did not have to make a run, but he did not lay off in addition to that?

Mr. Trenholm: No.

Mr. Burgess: But he did give you heavy mileage, over 200 miles a day?

Mr. Trenholm: 207 miles on each trip.

Mr. Park: What did he make that in, eight or nine hours?

Mr. Trenholm: The average for the year is—

Mr. Sheean: It is shown at the bottom in each case, Mr. Park.

Mr. Trenholm: No, it is not shown, but you can divide—

Mr. Sheean: You divide the number of trips into the total hours on duty. In each case, it is not carried out, but it would be a matter of mathematics in each case. You do show, as to each of these men, the total hours on duty and the total trips made.

Mr. Trenholm: And the total miles run.

Mr. Stone: When you say the actual time of trip, do you mean the actual time card of the train between terminals?

Mr. Trenholm: I mean the actual time he made between terminals. Some roads reported it that way and others reported it in other ways. I have a list here showing that. I asked that question of all the roads, to know how they reported their time. For instance, there are a number of the roads and I have a list here—

Mr. Sheean: Have you tabulated that?

Mr. Trenholm: No, I have not, excepting just a memorandum here. I can have it tabulated, if you desire to have it. But there are five different ways of reporting. The roads under the No. 1 class, that I have listed as No. 1, report from time called for until released from duty at end of run, including initial and final terminal delay, but not preparatory time. 58.75 per cent of the mileage used that method.

No. 2, from time called for until arrival at destination as shown by train sheet. Under that there is 4.36 per cent of the mileage.

No. 3, from time called until relieved from duty, including preparatory time, initial and final terminal delay. 26.40 per cent used that method.

No. 4, time between terminals plus any terminal allowances for which the men received compensation. 5.82 per cent report that way.

No. 5, on runs of less than 100 miles, from time called until released. On runs of over 100 miles, from time called until arrival at terminal. 4.67 per cent used that method.

Mr. Sheean: I will have that prepared, Mr. Stone, so it will show just which ones of the roads did it in that way. I think we can have that right after lunch, for you.

Mr. Trenholm: Yes, that will show it.

Mr. Sheean: That being necessitated by the different accounting methods which are in vogue on the roads under their schedules.

Mr. Trenholm: That was brought to my attention in the cross examination of Mr. Keefe, the question of compensated time shown on the payroll, and in thinking of it, I thought it was wise to have the roads state definitely how they had computed those hours on duty, what method they had used, so as to make it clear.

The Chairman: We will take a recess now until 2:30.

(Whereupon, at 12:30 o'clock P. M., a recess was taken until 2:30 o'clock P. M.)

After Recess.

A. W. TRENHOLM was called for further examination, and having been previously sworn, testified as follows:

Mr. Stone: Mr. Chairman, before we take up the rest of this examination, I should like to ask a question from counsel for the railroads. I should like to know if these engineers that they have presented here—and I understand are to be followed by the firemen—are typical men from each one of these divisions that have been selected?

Mr. Sheean: Well, they are men furnished in accordance with this blank, which is filed as part of the exhibit, showing just what it purports to show—"Representative," I think, is the word used there.

Mr. Stone: The blank shows the different men whose services are reported on this form, should be men whose service is typical of the condition.

Mr. Sheean: The statement is designed to show the earnings of representative engineers in various branches of service, and shows in each case the name of the man, the assignment, and the number of men in the assignment, or number of men in the pool.

Mr. Stone: And it also shows, according to instructions, "Which will enable the reader to form a correct and reliable mental picture of the particular features connected with services of engineers and firemen."

Mr. Trenholm: No, I think not.

Mr. Stone: What does that mental picture mean?

Mr. Trenholm: It calls for a map of his division and a description of how the traffic runs; all things that would enable the committee to form a reasonable mental picture of the condition in that particular locality.

Mr. Stone: "Time lost should be the actual days off duty of his own accord." That has not anything to do with the map, has it?

Mr. Trenholm: No, that part of it has not.

Mr. Stone: That must be part of the mental picture.

Mr. Trenholm: That is part of the actual record of what the man earned and his run.

Mr. Stone: Before the holidays, Mr. Chairman, I served notice on them that whenever they presented what they called their so-called typical man, that I should demand the payrolls for all the men on that division. If you will go back to December 19th, on page 1699: "Now, Mr. Chairman, I desire with your permission, to serve notice on our friends, the enemy, now, that if they are going to present the payrolls of certain men for a fiscal year, I shall certainly insist that the payroll for every man for the same year be presented to this Board." Again, in discussing that, on December 22nd, page 1882:

"The other day, the Managers' Committee, through their counsel, informed us that they expected to select typical men from each division in each class of service, and present their earnings here. I want to repeat what I said the other day, so as to give them ample time to get ready. Whenever they present what they call a typical case, on any divison, I shall insist that they produce the payroll, not only for that man for that current year, but the payroll of all other men on the same division, for the same year.''

Now, Mr. Chairman, if this is their typical man, that they have held back until the last minute to present, I make that demand at this time that they shall furnish the payroll for every division, for all the men on that division, and not this one typical man selected.

Mr. Sheean: We are entirely in the hands of the Board. The Board has the power and authority to order the production of such papers as the Board deems essential to a fair determination of the issues, and I had assumed that the bargain and contract was made here with Mr. Carter, some days ago, as to just what was wanted—withdrawing a certain part of our exhibit, pertaining to the cost of living. In connection with the payrolls that I understand some of them sent for, in pursuance of an agreement some time ago, they have never even been looked at, up to the present time, for a single month; have been here for some weeks, accessible—available at any time and as yet untouched.

Mr. Sheean: Now, I don't know that I can repeat anything more than what was said once before, except it seems to me, in connection with the remarks made, the Board perhaps had acted upon the assumption that anything suggested by either party. the Board was in duty bound to order; whereas, under the wording of the Act, it is left entirely to the Board to determine what is essential to a fair determination of the issues, and, of course, anything, no matter what it be, in the possession of these railroad companies, that the Board deems essential to a fair determination of the issues involved here, we will get and present.

Mr. Carter: Mr. Chairman, so far as the pay rolls for October, 1913, are concerned, we have been so considerate as to accept the compilations made from those payrolls in Exhibits 26, 27 and 28, as being accurate. Therefore, we would have no need of going over the payrolls for October.

I think it was understood that the original idea of presenting this ''reliable mental picture'' of the principal features connected with the service of engineers and firemen, and presenting an exhibit that will show men whose service is typical of a division, has been withdrawn. At least, our objection as expressed by Mr. Stone in the beginning, has been such that no longer will a typical man be used.

If, Mr. Chairman and gentlemen, the railroads say that this is simply a compilation of what one man, or two men, could possible earn on a certain run, that would be a different matter, but they are careful to say this in the instructions: "Information is desired which will enable the reader to form a correct and reliable mental picture of the principal features connected with the service of engineers and firemen on each division."

We make the assertion that this exhibit does anything but that. It is not "a reliable mental picture," and we can prove our statement if we have access to the payrolls on that division.

Now, the paragraph here says, "The different men whose services are reported on this form, should be men whose service is typical of the division."

Mr. Chairman, and gentlemen, we submit that there is not a name on here, in this book or any book of like nature, that is typical of the service on the entire division. To me, it appears that there has been an attempt to show how much a man could earn, even if he was able to follow one run one year, and where he was not able, they have taken two men to do it. You will find that they start out with one man in some instances, and I guess that fellow falls by the wayside, and they pick up another man and make him finish the job.

Now, if the purpose of this exhibit is to show the possibilities of earnings of one, two or more men following one job, that is one thing; but if the purpose is to show "a reliable mental picture" of the practice on any division, or all divisions, or what is typical of the service of all divisions, we protest that it is absolutely untrue.

Now, the only way we can prove its untruthfulness, is to have these payrolls, when we shall have no difficulty (except for work and time) to prove there is nothing in here that is typical or a "reliable mental picture."

Now, if they will say that this is not a reliable mental picture and it is not typical, that it is only showing what a man might do, or has done under certain circumstances, why the situation is entirely different.

Mr. Sheean: It shows just what it purports to show, the actual man's service in each of the classes of service on each of the operating divisions of each and every one of the railroads. It shows what that man earned in money and was paid in money throughout an entire year. It shows in each case, with reference to that man, if it be on assigned runs, the number of trains that are operated and the number of men in that assignment, and in that manner does illustrate in the assigned runs and in all assigned service, just how many men had the same opportunities to earn as did the man who earned this money in that year.

Now, as shown in the form, it was stated "If possible, men who have been on the same runs or in the same service for the entire year should be chosen. If you are unable to show a man on the same run or in the same service for the full year, please show one man for the number of months he has worked and use another man for the balance of the year, giving his name." The effort was, as stated in the form, to enable the Board to get a correct mental picture of the entire situation, and to the extent that this does show, so far as any compilation can show, both the possibilities of the assignment and earnings of the individual men, of how many men that particular run or that assignment is typical, each and every one of the assignments in the service is shown.

Now, so far as pool service is concerned, it does show particular men in the particular pools. As to that, I assume the question as to whether or not any man in the pool is absolutely typical throughout an entire year of any other individual man. this Board could just as well understand with this exhibit as it could by showing the earnings of men who, part of the time, are in that and part of the time are in some other service. And I do not care, and I do not think the committee is particularly concerned over the use of the word typical or representative. We are showing actual individuals in actual service in each case where there are assignments, showing the train numbers and the number of men who, during that time, have covered the same assignment.

Mr. Carter: Maybe I can ask a question of counsel which will clear the entire matter. Do I understand that counsel for the railroads insists that the information in this book will enable the reader to form a correct and reliable mental picture of the principal features connected with the service of engineers and firemen on each division?

Mr. Sheean: So far as it is possible to do by a merely statistical compilation, yes.

Mr. Carter: Then, Mr. Chairman, we want to know what the other men earned on that division that did not belong in the picture.

Mr. Sheean: If you will give us the names of the men in any of the pools that you want, Mr. Carter, we will try and do it.

Mr. Carter: We want all the men who were not in the picture.

Now, next—

The Chairman: Were these names selected so as to give the Board a fair idea as to the average wage earned by the men on a particular division?

Mr. Sheean: The average wage?

The Chairman: Yes.

Mr. Sheean: These men were not selected, in the first place, your Honor. This form went out to the different railroads, and the purpose of the form is shown here. There was no selection here in Chicago—

The Chairman: I do not mean that. I will use the word obtained.

Mr. Sheean: As to all assigned service, unquestionably, yes. If the one man, working in that assignment, just as this first one we came to, unquestionably, John Jones, or Mr. Trenholm's mans' name, I have forgotten it.

The Chairman: How many men have you used as being typical men for each division?

Mr. Sheean: Taking the actual trains, your Honor; actual train numbers are given; the trains are manned by so many men, and run upon a particular schedule. We have taken one here of a pool of three, in the first instance. Here are three engineers running on these two trains. We give the one man through that year, and there are two other engineers who divide the work during that year. As to whether or not they lay off the exact number of days or earned the exact amount of money, we did not make any effort to show as to that. We show the amount one man actually did work. As to the number of assignments, therefore, I do not think there can be any question but what it is fairly typical.

The Chairman: What I mean to say is, suppose there are 100 men in this service. Could it be said to be fairly typical, the way these are selected, to take ten of them out of the hundred and see what they earned?

Mr. Trenholm: No, your Honor, it would not. That would not be typical.

The Chairman: Is or is not that the way in which this table was prepared?

Mr. Trenholm: No, your Honor. This table is prepared, taking one man out of three or five who run on a given train every day. They form a little pool of five, five men taking care of four trains. Those men should earn approximately the same money exactly. It might fluctuate a little, a few dollars a month, perhaps, but the opportunity is there; those four trains run every day; those five men are assigned to them, and they take care of them, and one man's pay for a year should be almost a duplication of every other man, providing all of them worked the same time; and it is optional with them whether they work or not, because the run is there and they can work it or let someone else work it. Someone must run it, and, of course, if a man lays off and an extra man comes in, the regular assigned man does not draw the money for the run, but those five men should all draw the same money if they work the same time, and the work is there for them. We have taken one of those five.

The Chairman: How many are reported for a single railroad?

Mr. Trenholm: It varies, of course. We have taken each seniority district and attempted to get a man in the passenger service, and a statement from the railroad as to how many men in that particular kind of service he is reasonably representative of. Then we have taken the through freight assignments, and we have taken the local passenger assignments, and taken the way freight assignments, and taken the men assigned to branch service. We have aimed to get a representative man in each pool, that shows what these men can earn if they are reasonably steady at their work.

Mr. Nagel: This exhibit is not offered to show the average earnings actually made by the men, but it is to show what men may earn if they work constantly?

Mr. Trenholm: No, Mr. Nagel. This exhibit shows what the man actually did earn each month during the year. It also shows, in assigned service, the time he lost; but it is simply offered as an indication that there was that much more on the run if he wanted to work it; but this shows actually what he did earn and the time he worked to do it.

Mr. Nagel: I was coming to that. Your exhibit really shows what certain men actually earned?

Mr. Trenholm: Yes.

Mr. Nagel: And if you propose to use it by way of argument, it is to show what other men might have earned if they did the same work?

Mr. Trenholm: How much they would have earned?

Mr. Nagel: How much they would have earned.

Mr. Trenholm: Yes; and also if you wanted to carry it to that extreme, you can figure what the run would amount to if the man made it every trip.

Mr. Nagel: Then, why cannot the two parties agree? Why is not the exhibit simply offered to show what certain men have actually earned and leave the rest to argument?

Mr. Trenholm: That is all the exhibit is for, your Honor.

Mr. Nagel: Then there is no use insisting on the typical features.

Mr. Trenholm: Not at all.

Mr. Nagel: Or any other deductions?

Mr. Trenholm: Not at all.

Mr. Nagel: Do I understand that to satisfy you, Mr. Carter?

Mr. Carter: Sir?

Mr. Nagel: Does not that satisfy you, if it is simply offered to show what these particular men have actually earned on these runs?

Mr. Carter: They have selected eight engineers, working on the Chicago, Rock Island & Pacific. If their purpose was only to show what those eight engineers earned, with the help of another engineer, who helped them, making nine engineers, we haven't any objection.

Mr. Nagel: All that appears in the Exhibit, does it not?

Mr. Carter: It appears in the Exhibit, but in their introductory and instructions, it appears this is to be a mental picture.

Mr. Nagel: As I understand it, the mental picture has not been insisted upon.

Mr. Carter: It being typical, is withdrawn and we have no objection. There are eight engineers selected, of the entire Chicago, Rock Island & Pacific—

Mr. Sheean: Passenger service?

Mr. Carter: Passenger service—I mean to say in through freight service, I beg your pardon. Now, we are willing to agree that these men made this, because we don't believe they deliberately would misrepresent it, but it is the idea that is misrepresented. For instance, the four men on the Rock Island—he starts out with the name of Schick, but in order to keep up the earnings Mr. Roggensack comes in, in the month of November, and helps them out. If they want to show what Schick and Roggensack both earn in that twelve months, we have no objection to that.

Mr. Stone: You say that is what a man could have earned on one of these runs. Are we to understand that every man in that class of service, on that division, could have earned a like amount if he had stayed at work?

Mr. Trenholm: This does not purport to show what a man could have earned, unless you want to figure it that way. This shows what the man actually did earn. Now, I think it is perfectly logical and perfectly proper, that if a train is scheduled, every day, one train each way, and those trains require to handle them, three men, that the showing of one of those men—his earnings, is a fair representation of what the other two will earn, because the run is there every day and the opportunity to run is there, for the three men, identically. Now they might not run it. One man might lay off more, of his own accord, not of the company's. That is, unless you assume that the run is so hard that he has to lay off, for rest; that one man might be able to stand more running and another not so much, but in the passenger service, where the work is such as it is, that is hardly a presumption that anybody would assume. That might be true in way freight, but the idea of this is to show, so far as we could, so far as it was possible, the opportunity of the assigned service—what one man did actually earn, and the time he lost, and the miles he run, and the hours it took him to do it, with a desire to show the actual conditions on all these roads, and in all these districts.

The question that Mr. Carter raises—if you will permit the assumption, because one man was used the first six months and then you had to take another man, in order to keep the earnings up, that has nothing to do with the earnings. The assigned service is there. Now, in order to get a year, one month is just as good, if you want to assume it. The argument has been made here, because we used October as a big month, that that was not a fair representation of the year; so that for that very reason, we took the man and we showed him by months. We showed the man, by months, every month he was on that assigned service. If, after having used that man for six months, and showed him for six months, he, through his seniority rights, has gone some place else, you cannot show him on that assignment. So you have to take the man who took his place, to show what he earned the balance of the year.

There are no two men included in any one month, in this, because that was one of the things we ran up against in first starting to prepare this, that the roads, instead of trying to show us what the man earned, per month, tried to show what the assignment was worth. That, we did not want. We wanted what the man actually earned on that assignment, and the time he lost, and if he earned anything during the month, in any other service, we wanted it shown separately.

We simply wanted to show the man by months, that he ran in assigned service, and hoping that we would get a man who went through the entire year, without any change, and in a great many cases, we have, but in the case of pool service, and way freight service, and certain lines of service, the seniority split it up so you had to take a number of men in order to show the earnings of a man in that particular line of service.

Mr. Nagel: Mr. Sheean, cannot you formulate your tender so as to satisfy Mr. Carter?

Mr. Sheean: Why, I think it is cleared up now, Mr. Nagel, that this statement is offered to show the actual earnings of certain engineers, whose names are given, on certain designated runs, and in connection therewith to furnish to the Board information as to how many other men in that particular service the earnings of that particular man fairly represent, and that is the purpose of compiling the information in each seniority district in the entire territory.

Mr. Burgess: But is there, Mr. Sheean, anything in this exhibit that indicates what all the engineers earned on any particular property?

Mr. Sheean: What all engineers earned?

Mr. Burgess: Yes.

Mr. Sheean: For the entire year, only as given in Mr. Keefe's exhibit of the total payroll for engineers and firemen during the entire year.

Mr. Burgess: I was speaking of this exhibit.

Mr. Sheean: No, not on this exhibit.

Mr. Burgess: Now, then, of course, if there is a run regularly between Chicago and Rock Island, we will say, for example, and it requires three engineers to man those trains, and they run every day, there is so much money divided among those three engineers, and that can be easily proven. But there might be three engineers assigned to that particular assignment, as you term it, and there might be 97 other engineers on the division that did not earn nearly as much money as those three particular men. Is not that a fact?

Mr. Trenholm: Yes, sir, and we do not pretend, Mr. Burgess, to cover anything except in that assignment.

Mr. Sheean: We show in each case what the assignment is, the number of miles of the assignment. Of course, on the very first page of the exhibit, as illustrating that—I assume it would be illustrated on the first page of the exhibit—yes, the first two columns; the first one was on the Santa Fe, showing that that assignment is 236 miles; passenger service. The second column shows the assignment is 155 miles; so, of the crew's possibilities, both on the 155 miles and the 236 miles, there would be shown, and on all of the assigned service in each particular case is shown just the number of miles of the assignment.

Mr. Burgess: Yes, Mr. Sheean, but the point is—if you will bear with me; presume we had five assignments, with five men in each particular assignment, running between Chicago and Rock Island, on the Chicago, Rock Island & Pacific Railway; that would be fifteen engineers, and we might have employed on that division 150 engineers, and this exhibit would not indicate the payment that any of the engineers received beyond those in the particular assignment as set forth.

Mr. Sheean: Yes, you are quite right. And so in each case there is shown on each one of these the number of crews in the assignment, so as to show that it does only illustrate how many men it is typical of on that particular run.

Mr. Burgess: Now, that is clear so far, I think. But when we turn to the instructions here, we find it set forth here that the intent of the exhibit is to draw a full and complete mental picture. It doesn't say "full and complete," but it says "engineers and firemen," using the plural in both instances, and that is calculated to leave the impression on the minds of those whose duty is to solve this question, that all the engineers earned this money.

Mr. Sheean: Oh, well, Mr. Burgess, there could be no purpose or intent—at least, let us disclaim it affirmatively, that there was no effort to get each run on each of the districts, and that is the purpose of your inquiry here, I think, that this only illustrates the particular runs shown by train numbers here, so that you could trace the actual time card of the run, in case that was desired, but in each case showing just what the particular run was on which the man earned that money.

Mr. Burgess: That statement I will fully agree with you, Mr. Sheean, by consulting these tabulations. But in the general statement, which you should read before reading the tabulations, you find it explicitly set forth that the purpose of this exhibit is to draw a true mental picture of engineers and firemen. Now, "engineers and firemen" means all engineers and firemen, from my point of view.

Mr. Sheean: Well, I don't get that. The reading, as I have it, of the instruction is "Information is desired which will enable the reader to form a correct and reliable mental picture of the principal features connected with the service of engineers and firemen on each division."

Mr. Burgess: On each division, yes.

Mr. Sheean: And asking in each case that a sketch of the division be sent, which is in the accompanying data, and a bird's eye view, Mr. Burgess, was all that we thought any Board of Arbitration or this Committee could possibly get. And, read in connection with the preceding part of the form, which shows the same thing, you will observe that this photostat is merely a reproduction of the form itself, and the form shows what we desire, the names of the engineers, the terminals of the run, the distance between terminals, the train numbers, the number of crews in the assignment, and the number of crews of which this is representative in each case.

Mr. Burgess: Yes, but Mr. Sheean, let us stick to our text here, under the heading of instructions. It reads, "Service of engineers and firemen on each division." Now, if it shows a mental picture of engineers and firemen in each division, does not that finally drift into the fact that it shows the mental picture of engineers and firemen on all divisions?

Mr. Sheean: Why, the principal features, yes. The principal features connected with the service of engineers and firemen on each division.

Mr. Burgess: Now, the principal features are the money that the engineers and firemen draw.

Mr. Sheean: That may be from the engineer's standpoint, the principal thing, but it shows here that the principal features connected with the work, per illustration, should indicate terminals, distance, whether single or double track, grades of 1.8 per cent or over, and also show limits of each seniority district of his division. Those we looked upon as being the principal features connected with the service of engineers and firemen.

Mr. Burgess: Well, in using the words "mental picture," then, was it not your intention to draw the picture as you had described it here now as to the profile of the road, rather than as to the actual money the engineers and firemen earned?

Mr. Sheean: No. We wanted to get, just as fairly as we could, a general viewpoint of the whole situation, so that you could get, if you thought it necessary, on any one of the divisions, information furnished by the superintendent of that road, not wholly on those things, but on a number of other items that are enumerated here, as to conditions when the traffic is heavy, whether moving in one or the other direction; whether operated in a pool; how they govern the assignments; and various other things here; then, also, that shows in that district, Mr. Burgess, the engineers in through passenger service; one in local passenger, if they have local passenger; one in through freight service; one in local or way freight service; one in pool service. Then, if they had branch service also, to show the passenger and the freight and the mixed service, one man from each of those, illustrative. Let us see if we cannot—will that word be offensive? I think there is no real difference as to what it is for; as to what deductions might be drawn from it is entirely a matter of argument. Fairly illustrative of men in each class of service on each of the divisions, but with information as to how many men in each of those classes of service that one man does represent.

Mr. Burgess: Well, does this exhibit, Mr. Sheean, bring any information to the Board as to what the engineers earn on any division of any railroad, other than the individuals that are set forth in these tabulations?

Mr. Sheean: No.

Mr. Burgess: Then there is no information as to the earnings—

Mr. Sheean: Of any other man except the men here set forth.

Mr. Burgess: So that if we had eight men set forth on the Chicago, Rock Island & Pacific Railroad, we would have no information as to what any of the engineers or all the engineers earned on that property?

Mr. Sheean: Save and except as there would be shown how many men those eight were fairly representative of. Those would show eight pools. Assume that was in through freight service, I think it would be fairly representative, Mr. Burgess, of the number of men in those eight pools, whatever those men might be, and beyond that there is no claim it would be representative of other men in other pools.

Mr. Burgess: So that if we had five men in each pool, and eight pools, and it could be developed that there were 2,000 engineers on the Rock Island, the only information that we would have would be the fact of what those forty men earned in those respective pools, and no information in regard to the other 1,960 engineers. Is that right?

Mr. Sheean: Assuming that those figures were right, yes.

Mr. Burgess: That is an assumption?

Mr. Sheean: Yes.

The Chairman: If I understand, there is nothing in this table to indicate what other men engaged in similar service earn. All you have in this table is what these particular men earned. But there is no positive direct evidence as to what other men in the pool earned.

Mr. Sheean: Except the statement of how many men there were in that particular pool.

Mr. Stone: Do you mean to say your men in that particular pool all earned the same as that man?

Mr. Sheean: Not precisely, no.

Mr. Trenholm: We mean to say that the opportunity was there for them to earn it in assigned service.

Mr. Stone: That is, providing he was a machine instead of being human, and could work all the time.

Mr. Trenholm: All those things go.

Mr. Stone: But this is the highest man who worked the longest in the service.

Mr. Trenholm: No.

Mr. Stone: A man who worked longer made more?

Mr. Trenholm: There was no effort made to get the highest men; the effort was to get the men who worked steadily.

Mr. Stone: If a man worked steadily on his run during a year or a month, he was the highest man.

Mr. Trenholm: There are very few men here who worked steadily through the year.

Mr. Carter: But for one statement that is reiterated by counsel for the railroads, I think the matter could be cleared up. He still says this is typical of what the other men earned in the same assignment. Now, if that is to stand, then we want the earnings of every other man on the assignment. For instance, we will take some name on page—I don't know how I came to open it here—page 22. It says, "Number of crews in assignment, 6," but George Sheldon made 44,650 miles. Now, if counsel for the railroads insists that because George Sheldon made 44,650 miles, the other men did, we want the information on the other five men. Or, if he will content himself by saying this is what Sheldon did, without regard to what anybody else did, that is all right.

Mr. Sheean: I will content myself with saying this, Mr. Carter, that there were six crews in that assignment, and George Sheldon was one of the six; and that if any other of the six made

235 trips in the year on that run that all that he would make would be $2,188.83, as George Sheldon did. So that the run was there. It was available to six men, and any one of the six by making 235 trips could have earned this sum of money. If he had made less than that number of trips he would get accordingly less, or that many more would be that much more.

Mr. Carter: Then we understand, Mr. Chairman and gentlemen, that if everybody had worked as hard as these highest paid men, everybody would have earned as much money.

Mr. Sheean: There is no statement about highest earned or lowest earned, but in each case it shows the number of trips that were made to make the money, and the number of runs that were made.

Mr. Stone: If the man had wanted to work more than that, could he have made more money than that?

Mr. Trenholm: He lost eight trips.

Mr. Sheean: Yes, he lost eight trips in the year.

Mr. Carter: Out of 365?

Mr. Sheean: Out of 235.

Mr. Trenholm: He could have made 243, and he worked less than six hours a day, or just about six hours a day.

Mr. Stone: He did make 246 days in a year, did he not, 100 miles or less a day?

Mr. Sheean: He made 235 days, of six hours a day.

Mr. Stone: No, 235 trips, not days.

Mr. Trenholm: He made 235 trips, and did it in 1,452 hours, about six hours a day.

Mr. Stone: And add about five hours more before and after, and you have about it.

Mr. Trenholm: That is your testimony.

Mr. Stone: I don't expect you to testify to it.

Mr. Carter: I do not want to prolong this, but if this simply represents what these men earned, we have no objection to it, but if the word "typical" is used, we want information concerning everybody who is not mentioned here.

The Chairman: The Chairman understands that this shows what these men earned under certain conditions, and so far as we are concerned, there is no evidence to show what the men, whose names are not reported earned.

Mr. Trenholm: Before going any further, I would like, as chairman of the committee, as there seems to be some question raised in this about the purpose of the committee in issuing the instructions, and as I am responsible very largely for this wording, in getting out these instructions, to say, in justice to myself, that there was no thought of presenting here anything but the facts. And the instructions as contained in here, I think, convey very clearly my thoughts and my desires as I tried to express them. And I say, in addition to what you heard, first, "information is desired which will enable the reader to form a correct and reliable mental picture of the principal features connected with the service of engineers and firemen on each division."—

Mr. Carter: Mr. Chairman, we object. I want the payrolls. They have got to take that word typical back, or we must have the payrolls.

Mr. Trenholm: I do not care, Mr. Carter, whether you get the payrolls or not. You are welcome to them, so far as I am concerned, if the Board order it.

Mr. Carter: The only thing I object to is, that when it is agreed by counsel that it means something, the witness then says it means something else—

Mr. Trenholm: I was reading the instructions on this form, and I think I have a right to do it.

The Chairman: I understood the witness to say that he wanted to give us a statement as to the information which he called for on this form.

Mr. Carter: We object to those instructions being considered in connection with this Exhibit, that is, if it is to have any bearing or to influence the Board in any respect.

The Chairman: I think the Board has fairly indicated its views in this regard.

Mr. Trenholm: Have I the permission of Mr. Carter now to read this?

The Chairman: Proceed with the testimony.

Mr. Trenholm: (Reading) "Time lost should be the actual days off duty of his own accord.

"A separate sheet should be filled out for each seniority district of the reporting division. White sheets should be used for engineers and yellow sheets for the service of firemen.

"Superintendent will please make a pen sketch of his division as per illustration, which should indicate terminals, distances, whether single or double track, grades of 1.8 per cent or over, and also show limits of each Seniority District of his division.

"The different men whose services are reported on this form should be men whose service is typical of the Division. If possible, men who have been on the same runs, or in the same service for the entire year should be chosen. If you are unable to show a man on the same run or in the same service for the full year, please show one man for the number of months he has worked and use another man for the balance of the year, giving his name.

"The territory represented by this Committee is so extensive, and there are so many different conditions with which the Committee is not familiar, we would ask that each Division Superintendent accompany these forms with a letter describing as fully as possible the manner in which the business of his division is handled, to enable the Committee to obtain a reasonably correct mental picture of the manner in which the Engineers and Firemen perform their duties. For instance, some of the things we would like to have the man on the ground cover in his own way, are the following:

"1st:—A brief explanation of the sketch of his division.

"2nd:—What is the system of handling men? Are passenger men all assigned? Have you certain trains that are in a pool, such as six men handling four trains, and how much of this pool service is there? Are freight engineers assigned to through or time freight trains, or are such trains all protected by pool or chain gang crews? Is an extra board maintained, and if so, at what points? Does the chain gang and the extra gang fluctuate with the business, and any other information on this subject that might be of benefit to the Committee.

"3rd:—In what direction and between what points is your heavy traffic, and about what number of trains do you move between these points daily? In which direction is it heaviest, and about what percentage? About what percentage of your main line passenger trains are local, and how are engineers or firemen assigned to this service? Do you have assigned crews on your local or way freight trains, and between what points do they operate? Are there any peculiar conditions in your branch line service or the manner of assigning the men, that you think would be of interest to the committee? If so, please state. Please advise the period of the year which represents the maximum and the minimum of your freight business, and if possible, advise the fluctuation in your pool or chain gang crews and extra board.

"The Committee would be pleased to have the Superintendent of each division appreciate the needs of the Committee and in writing this letter endeavor to give information covering any peculiarities that may exist in his particular territory, in order that we may present the whole case to the Arbitrators with reasonable intelligence. The Committee takes the liberty of suggesting that this form, when completed, with the letter from the Superintendent, be reviewed and approved by a General Operating Officer, with a view to seeing that the information furnished is sufficient to accomplish the purpose set forth in these instructions."

Mr. Carter: Mr. Chairman, after having those instructions read in, being made a part of the record, we object to the whole exhibit. If he had restrained himself and not insisted that this is typical and read it into the record, we would not have objected, but now that the instructions are made a part of the record, that this is a typical exhibit, we must object to its introduction. If he will withdraw those instructions and say it means just what counsel for the railroads agreed it meant, it will be all right; but those instructions, having been read into the record, become a part of the record, and they refuse to withdraw them. Therefore, we hold to our original request.

Mr. Sheean: Mr. Trenholm, does my feeble effort to interpret the instructions and the colloquy that took place here, still stand, in connection with the reading of these instructions, together with all of the language in which we have indulged, as a part of your purpose and object in the presentation of this exhibit?

Mr. Trenholm: Oh, yes, I presume I would have to say that, in order to be able to present an exhibit.

Mr. Sheean: Now, are the instructions, Mr. Trenholm, that you have read here, and the information that you have assembled from the roads and here presented, simply for the purpose of showing the particular man, the particular amount of money, the particular run on which the money was made, together with a statement of the number of crews assigned to that particular run, if it be an assigned run, or to the particular pool, in case it be a pool.

Mr. Trenholm. Just one point further: to show that those men, assigned to those particular two runs, are fairly representative of a certain number of men assigned to passenger service between the same terminals, and under similar conditions, reasonably comparable. We will take the first man, if you please, to perhaps exemplify this more clearly. Take the first man we come to, Oscar A. Fisher, on the Atchison, Topeka & Santa Fe Railway Company, Illinois Division, in passenger service. He runs out of Chicago to Shopton. He is right here out of the city of Chicago. He runs 236 miles, on trains 3 and 4. There are three men assigned to those two trains. We take Mr. Fisher as the man to show what those three men, assigned to that service, might reasonably be expected to earn, showing that he earned on that run—that he worked all the runs that he could work, except two. He made 241, while he lost two. He might have made 243. Now, he is fairly representative of the three men on that run. Now, then, further than that, there are eight or ten trains running between Chicago and Shopton, of which other pools are formed. He is fairly representative of what the other men might earn, but not actually representative, because the other runs might be so situated that they are not scheduled Sundays. It would affect the mileage. They might be less or greater, but in order to show that, we will take Mr. Fisher, and turn to the October payroll that is here in Exhibit 26. We will take Mr. Fisher, Oscar A. Fisher, earned in the month of October, $218.42. Now, we say that Mr. Fisher was on 3 and 4, between Chicago and Shopton, and that there were three crews assigned to that run, and that he is representative of eighteen men—

Mr. Sheean: Crews?

Mr. Trenholm: Crews, in similar service. Now, on the October payroll it shows Engineer Avery, Chicago and Shopton; A. C. Andrews, Chicago and Shopton; A. Carothers, Chicago and Shopton; A. B. Coster, Chicago and Shopton; G. F. Cooley, Chicago and Shopton; J. T. Duggan, Chicago and Shopton; G. H. Dawson, Chicago and Shopton; J. F. Fink, Chicago and Shopton; C. W. Frisbie, Chicago and Shopton; Oscar A.

Fisher, Chicago and Shopton. That is the man we got. J. H. Freligh, Chicago and Shopton; J. Griffith, Chicago and Shopton; W. D. Gates, Chicago and Shopton; T. E. Kelley, Chicago and Shopton. And numerous others—plenty to make up the eighteen.

Now, those men did not all earn in the month of October, the same pay, by any means, nor is this man the highest, if I might say. I find that Mr. Griffith earned $222.40, as against this man's $218.00, in that month. I find Mr. Carothers earned $219.39. I find Mr. Cooley, in that same service, Chicago and Shopton, earned $220.00. I find Mr. Newkirk earned $229.00; and several men in that same service, in that month, earned more than Mr. Fisher did.

Now, that was the purpose of this form, and it dovetails with the actual payroll of October, so far as showing that where there were three men on this assignment, that there were three men on October payroll that drew, some more, some less, than the man in this form during that month.

Mr. Nagel: But you are only stating what you have in mind. You offered the Exhibit for what it is worth?

Mr. Trenholm: Yes, sir.

Mr. Nagel: And you state what you have in mind?

Mr. Trenholm: Yes, sir.

Mr. Nagel: Whether we accept your conclusions is to be determined by the other evidence?

Mr. Trenholm: Absolutely so.

Mr. Carter: Mr. Chairman, I turn to page 70. We find the first name on the lower part of the page is Engineer George Taylor. He is employed on the Southern Minnesota Division. If the purpose is to show only that George Taylor made 38,299 miles in through freight service, we have no objection, but George Taylor is the only engineer reported here on the entire Southern Minnesota Division of the Chicago, Milwaukee & St. Paul Railroad.

Mr. Trenholm: In through freight service?

Mr. Carter: In through freight service. Now, if the suggestion is made here—if it is to have any influence on the minds of the Board at all that that is typical of the other engineers, then we object.

Mr. Trenholm: There are two crews, assigned to two trains running 111 miles, and Mr. Taylor is in one of these two crews. We show he is fairly representative of the other ones.

Mr. Carter: How many engineers are on the Southern Division of the Chicago, Milwaukee & St. Paul Railway?

Mr. Sheean: Between North LaCrosse and Austin?

Mr. Carter: Is there anybody from the Milwaukee here? The Rock Island? How many are there? I will leave the managers say.

Mr. Sheean: The terminals run between North LaCrosse and Austin.

Mr. Carter: I beg your pardon, Mr. Chairman, here is what is supposed to be a typical and reliable picture of what the engineers earn. There is only one engineer reported from that division.

Mr. Sheean: Mr. Carter, if you will read it through there, Mr. Burgess developed this fact a moment ago. The Chicago, Milwaukee & St. Paul Railway, Southern Minnesota Division, kind of service, through freight; name of engineer, George Taylor; terminal of run, North LaCrosse-Austin; distance between terminals, 111 miles; train numbers, 62-69; number of crews in assignment, two; number of crews of which this is representative, two.

Mr. Trenholm: That is all it represents. It does not pretend to represent all engineers on that division at all.

Mr. Carter: Mr. Chairman, and gentlemen: I have spent ten days, trying to get something out of the exhibits presented by the railroads. We will show what we have received, and if I seem insistent here, it is because I have reached the conclusion that our case is lost, if we treat the exhibits of the railroads too seriously. They don't mean what they would like to have them mean, and when we pin them down, they agree they don't.

Mr. Trenholm: I want to record a vigorous protest against that. I want to say emphatically to this Board, as Chairman of this Committee, that not an exhibit has been put in before this Board that was not absolutely honest, and meant to be honest, and the reason they say that is because the very figures that they are talking about here, are a surprise to them. I don't believe that they realize what these men have earned themselves. Now, there is such a thing, you know, as insinuating that men are liars here. That I don't propose to stand for.

The Chairman: Gentlemen you will all have to quiet down a little. This is supposed to be an orderly proceeding, and it will be conducted along that line.

Mr. Carter: Mr. Chairman, I don't want to even insinuate that anybody is a liar, but when they set forth this claim that the information in this exhibit is to form a correct and reliable mental picture of the particular features connected with the service of engineers and firemen on each division, we will say they have made a mistake. If they pretend that this exhibit shows this—that this shows the men whose service is typical of the division, with due respect to the witness, we protest it does not. If, as explained by the chairman for the railroads—I mean to say counsel for the railroads, it simply sets forth what it shows and no more, we have no objections nor criticisms to make.

Mr. Trenholm: As Chairman of this Committee, I don't propose to withdraw any part of this exhibit, nor the purpose for which it is intended, unless the Board of Arbitration says that I must. The exhibit is prepared and speaks on its face exactly what it means. That it shows an engineer on a run between two terminals of stated mileage, and that he is one of two men, or three men in that assignment, and that he earned this month, each month in the year ending—the last fiscal year, and it purports to mean no more nor no less.

Mr. Carter: Then, Mr. Chairman, we shall ask for the earnings and information for every other man that this book is supposed to be typical of. I thought it was settled when counsel for the railroads explained it. It is not satisfactory now.

Mr. Sheean: I don't understand now, with the statement just made, Mr. Carter, where the disagreement arises. Mr. Trenholm has just said it shows and purports to show the earnings, only, of particular men, upon particular runs, between designated terminals of given and stated mileage, and the particular men in the assignment who had equal opportunities to earn.

Mr. Stone: Mr. Chairman, if, by that, we are to understand that these other men in this assignment—that this is their earnings as well, and speaks for them, then I second the request of Mr. Carter. If it simply shows what one man earned, and that is the man's name given here, I have no objection to it, but if you are going to put it in as the representative man, or the typical man, and everybody else can do the same thing, if they want to work, then we want what the other men really did earn in here.

Mr. Trenholm: There is nothing in this exhibit that shows anything about the other man. It simply gives the name of the man that it shows the earnings for. It shows the miles that he runs and it gives his earnings, by month, and shows there are two men, or three men, assigned to that service, that runs every day, and the opportunity is there. Whether they run it or not, this exhibit does not pretend to show.

Mr. Carter: We accept that, Mr. Chairman. With that being the final statement, we will accept it and ignore what has been said before.

The Chairman: Now, let us get to something else, while we are all in a good humor. Proceed with your examination.

Mr. Sheean: Mr. Trenholm, just before adjournment, we were looking at the earnings on the Omaha, in passenger service, page 26. Now, you have given us the earnings of one man between Minneapolis and Elroy, the first two columns show that same run and same distance.

Mr. Trenholm: Shows a different run, different train numbers, and a little different mileage, on account of going via a cut-off. The miles are two miles further via the cut-off. That is Mr. Keating.

Mr. Sheean: Now, the third column on that shows another run between Duluth and Altoona, is that?

Mr. Trenholm: Duluth and Altoona. That is another division. That is on the Northern Division.

Mr. Sheean: Distance 163 miles. Just what is meant there, Mr. Trenholm, number of crews in assignment, two and one-half; number of crews of which this is representative, five:

Mr. Trenholm: Well, there is a swing man. The run is not long enough to provide work for three assignments—three men to the assignment, so it is divided up, so that a swing man comes in and relieves on that run, a certain number of days each month, and relieves on some other run, a certain other number of days, so that in two assignments, he follows up the two—what they call in railway parlance, a "swing man."

Mr. Sheean: I wish you would just explain what is meant by "swing man."

Mr. Trenholm: I think, perhaps, if you will take the two together—if you will take trains 93 and 94, 61 and 62, both on the Northern Division, Mr. Stafford and Mr. Walton—they are the two men that are used in that case. Now, there are five men on those four runs, so that the fifth man equals up and relieves sufficiently so that they all get about the same amount of earnings per month.

Mr. Sheean: Well, the swing man would be the one who relieved, during part of the month, on one of these assignments, and the other part of the month on the other assignment?

Mr. Trenholm: Yes, sir.

Mr. Sheean: And that column 3 and column 4, then, would show the two passenger runs there, one between Duluth and Altoona, and the other between Minneapolis and Duluth?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Now, the last column on that page shows the run between Minneapolis and St. James?

Mr. Trenholm: Yes, sir, that is the Minnesota and Iowa Division.

Mr. Sheean: You show there trains Nos. 1 and 2, on which Mr. Melvin ran during the year.

Mr. Trenholm: Yes, sir.

Mr. Sheean: And the number of crews of which it is representative, six, what does that mean?

Mr. Trenholm: That means there are six crews in passenger service that run the same as 1 and 2, or approximately the same. They run between the same terminals, and this simply shows that assignment in that territory, this man is representative of two men on 1 and 2.

Mr. Sheean: That is a run made every day?

Mr. Trenholm: Yes, sir.

Mr. Sheean: And between those same terminals there are three passenger trains?

Mr. Trenholm: I think there are more than that, three or four; four, I think, each way.

Mr. Sheean: On the next page you show other runs, Mr. Trenholm, between other terminals?

Mr. Trenholm: Yes, sir.

Mr. Sheean. In the same manner that this is shown on page 26?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Now, on the last one on page 27, that is shown in the passenger service of the Omaha Road, a run between Sioux City and Omaha, Mr. C. B. Flint is shown as earning $287.35 outside of his assignment. In what way is that information obtained, Mr. Trenholm?

Mr. Trenholm: That was reported by the railroad, that he earned on this assignment, showing the trips he made, the hours on duty and the days that he lost, and it shows that he made $287.35 on other runs than this assignment. It includes Sunday trips. Trains 3 and 6 run on Sunday as a separate assignment, and he made certain trips on Sundays on 3 and 6 and earned that additional money. It is on a different assignment.

Mr. Sheean: These trains shown in that column are trains that do not run on Sunday?

Mr. Trenholm: Yes, sir; and the trains running on Sunday have another number, and he ran the Sunday train, but it could not be considered properly in this assignment of trains 1 and 2, so it is shown as outside earnings.

Mr. Sheean: So that in addition to showing the last time as to these assigned men, where earnings were made outside of the assignment itself, that is shown in a separate item?

Mr. Trenholm: Yes. We did not attempt to trace it by months. It is in a great many different lines of service, and in the effort to get this completed, we found it impracticable to distribute those outside earnings for each month and we took it for the year in a lump, except in the case of pool men. After this had been photostated, knowing the difficulty in trying to show a fairly representative condition in pool service, and that it was impossible to determine from any information we could get from the railroads whether the men laid off of their own account or because business was slack, we gave up the attempt of trying to show whether his lost time was on his own account or on account of short business. But we did try to show in pool service but one man throughout the year, realizing that the charge might properly be made against the committee, that if we took one man three months in pool service and then took any other man for the balance of the year, that it could properly be charged that we had picked the men who had made the biggest earnings in pool service each month, which would be a proper criticism. To avoid that, we tried to get a man who worked through the year in pool service, and requested the roads to do that, and if they could not, to show but one man, even if he only worked in pool service two or three months, and to show no other pool man to fill up the year, but to show him and show his other earnings; if he was in pool service four months and then caught some run for two or three months, to show his earnings outside of the pool; and if he came back in the pool again, to show him for the months he was in the pool, but to show only one man in pool service.

Mr. Sheean: Mr. Trenholm, I think I will run through the Omaha Road in the various classes of service. That will fairly illustrate how it is carried out as to each one?

Mr. Trenholm: I think so.

Mr. Sheean: The index shows that through freight on the Omaha is summarized at page 71. Now, the first one of the Omaha Road on page 71 shows three men between Minneapolis and Altoona.

Mr. Trenholm: It shows two men, does it not, Mr. Sheean?

Mr. Sheean: G. A. Budge, F. I. Hunt and A. J. Cassidy.

Mr. Trenholm: Oh, yes, three names.

Mr. Sheean: In that, you have shown at the bottom of the column the earnings of each of these three men in service outside of the pool, have you?

Mr. Trenholm: In the months in which they are used here, only. For instance, G. A. Budge, the first man, earned in this assignment—he only made eight trips and made $42.64, in July. Now, whatever earnings he made in that month in other service is shown for him.

Mr. Sheean: What is the situation, Mr. Trenholm, with reference to the through freight service; are the men in that service steadily in it throughout the year, or do they get runs in other service?

Mr. Trenholm: Well, I think it varies. This particular run, apparently, from the information furnished the Committee, they changed considerably. You will notice Mr. Budge worked part of July and then again he worked in September part of the month, twelve trips. He did not work any more on that run until the month of January, and he again took that run, and then only for a month, evidently relieving someone, or he caught the run from his seniority.

Mr. Sheean: Now, the next one shown, Mr. Trenholm, is a run from Minneapolis to Itasca, a distance of 175 miles.

Mr. Trenholm: Yes.

Mr. Sheean: The first one was only 99 miles, between terminals.

Mr. Trenholm: Yes.

Mr. Sheean: Are those the long and short runs in your through freight service?

Mr. Trenholm: Well, not necessarily. The run, Minneapolis to Altoona, is a 99-mile run. Altoona is a division point about half way over the division; while Minneapolis to Duluth is a through fast freight, 73 and 74, time freights, and the distance is 175 miles. You will notice that that man did not change in the year at all, Mr. Howe; he was on that run the entire year. There were three men assigned to the run, which produces a 20 or 21-day month with a lay-off, each man out of the three making the same time approximately.

Mr. Sheean: Then each of the other runs in through freight here show varying distances between your terminals?

Mr. Trenholm: Well, they cover different divisions. We attempted to show a man on each seniority district on each division, simply to show the earnings of that man through that year, and the number of men in the assignment.

Mr. Sheean: Do you have a longer freight division than 175 miles?

Mr. Trenholm: I think that is the longest freight division we have, and that division is only for through fast freight.

Mr. Sheean: That is what I meant, Mr. Trenholm, by asking about 99 miles, being this shorter division and the 175 miles, the long division.

Mr. Trenholm: I think 99 miles probably is about as short as we have.

Mr. Sheean: The other three then varying from 117 to 123 and 146 miles, on the different divisions?

Mr. Trenholm: Yes.

Mr. Sheean: Those cover all the seniority districts on the Omaha Road, do they?

Mr. Trenholm: Yes.

Mr. Sheean: Pages 97 to 100 show your local freight.

Mr. Trenholm: I think our local freight starts on 100, Mr. Sheean.

Mr. Shea: Before you leave that on page 71, Mr. Trenholm, will you turn back to that. In through freight service, Mr. Sihler, distance between terminals, 146 miles, number of trips run in July, 16. Is that round trips or is that one way over the division?

Mr. Trenholm: That is one way. There are six men assigned to those four runs, Mr. Shea, and he made 16 and lost 4.

Mr. Shea: They make a round trip and then lay off?

Mr. Trenholm: Well, I do not just recall how they run that, but you see he made 16 and lost 4, and each one of them would make 20 or 21 trips a month. There are six crews assigned to four trains. You see, the next month he made 20 and lost 1. There should be 21 trips there. Then it is 18 and lost 2, and so on, about 20 or 21 trips, and that distance of 146 miles would be his month's assignment.

Mr. Sheean: Your local freight is page 103, I think, Mr. Trenholm.

Mr. Trenholm: I think it starts there.

Mr. Sheean: You show there the first one, between Altoona and Elroy, a distance of 106 miles, and as to that, the earnings of the men who were on that local train are only shown in the months during which a part of their service was on this local run?

Mr. Trenholm: Yes, sir. If the first man there, Mr. Richardson, had performed even one day's service in any month, he would have been continued through the month. You will notice that in the month of October he only made five trips, yet he is used because he was on the run, the idea being that where it was possible to carry one man through the year, even though he made only one trip in some month, to carry him through and show his outside earnings as other earnings, so as to show his total year's earnings, but to show his earnings by months on that run.

Mr. Sheean: Spooner and Hudson, local, covers a distance of only 80 miles, apparently. You have one man on that run throughout the year.

Mr. Trenholm: Yes, sir.

Mr. Sheean: That is, in every month he worked a part of the time on that local?

Mr. Trenholm: He was running pretty steady. He only lost 16 trips during the year and earned $71.83 outside of that assignment. The run was annulled four days, too, Mr. Sheean.

Mr. Sheean: Then your local service is shown on the succeeding page in the same manner, is it?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Wherever a man earned some money in other service during the month in which he worked in local service, that is carried down below the column so as to keep his assignment separate from other earnings?

Mr. Trenholm: Yes, sir. What he earned on his assignment is separate, and the other is put in at the bottom simply so as to show his total earnings for the year.

Mr. Sheean: The pool on your road is shown at page 146 and page 147. On page 146, Mr. Trenholm, how do you arrive at the amount from other earnings?

Mr. Trenholm: In pool or chain gang service, that has been written in in red ink each month. You will notice we show no lost time. He made 14 trips in July between those points, but whether there was any lost time on his own account, or whether it was because there was no business, we were unable to determine reliably enough to undertake to show it.

The Chairman: What do the figures in red ink indicate?

Mr. Trenholm: What he earned in that month in other service than in this assignment. He earned $84.24 on these particular trains in pool service, and he earned $49.95 in other service. The red ink figures, footed up, will make the $144.92, as shown as his total earnings outside of the pool during the year.

Mr. Sheean: So that as to Mr. Borne, the greater part of his earnings, that is, $1,502.74 of his earnings that year, were made in this pool service between Minneapolis, Altoona and Elroy?

Mr. Trenholm: Yes, sir.

Mr. Sheean: In the pool?

Mr. Trenholm: Yes, sir.

Mr. Sheean: But during that year, when he earned that amount in the pool he also earned $144.92?

Mr. Trenholm: Yes, sir.

Mr. Sheean: In other service?

Mr. Trenholm: Yes, sir.

Mr. Sheean: That aggregate of $144.92 being shown in red figures, month by month?

Mr. Trenholm: Yes, sir. We first put it in, in photostating this, as a total, and after that was done we had time enough so that I had it divided in the pool service as to months, so that it would show just what actually did happen in the pool service per month.

Mr. Sheean: Throughout the pool service as to all the railroads, Mr. Trenholm, the column of lost time is left blank everywhere?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Just why is that?

Mr. Trenholm: Well, as I say it was impossible—we found that the roads, going back a year, it was impossible from any record that any of these roads had, to tell whether the engineer and fireman laid off of their own accord, or whether it was because there was insufficient business to do more running, and being unable to establish that with any reliability, I felt it was fairer to leave it all together and simply assume that the running he got in pool and chain gang service was all the running there was for him.

Mr. Sheean: Just on that same page, while we are there, page 146, in the column next to the one in which the Omaha begins, I notice the Colorado & Southern Railway, the first one in pool or chain gang service, in July, shows only two trips.

Mr. Trenholm: Yes.

Mr. Sheean: And earnings of $12.10.

Mr. Trenholm: Yes.

Mr. Sheean: Not having any exact information as to whether this man laid off or why he laid off or anything about it, you simply carry out only the $12.10 as being all of his earnings?

Mr. Trenholm: Well, I think you will find a notation in connection with that, in the book, that he laid off 20 days in June on account of sickness, and off from July to August on vacation. Now, there are some of the cases where men laid off practically the whole month, that the railroads had a record.

and while we have shown no lost time, wherever they had any record of a man being off sick, which could be established by his leave of absence, or if he was away for a month from any cause and they knew it, they have furnished us what information they could on it, and we have covered that by putting a statement at the bottom, or on the book, that the roads had stated that.

Mr. Sheean: That same man, Mr. Andrew Nelson, between Como and Leadville, in January, 1914, seems to have made only four trips in pool?

Mr. Trenholm: Yes, sir.

Mr. Shean: $19.75.

Mr. Trenholm: Yes.

Mr. Sheean: Then the red ink earnings of $147.35 were made during that same month in some other service?

Mr. Trenholm: Yes, sir. He evidently caught an assignment for someone else for practically the whole month.

Mr. Sheean: Yes, he made four trips in the pool.

Mr. Trenholm: Yes.

Mr. Sheean: Do you find that pretty general, Mr. Trenholm, in the territory, that the man in the pool is in and out during the year, that is, not remaining an entire 12 months in the pool?

Mr. Trenholm: Well, the pool protects other service than that, and that varies on the different railroads. I think on the Union Pacific, for instance, the pool protects everything, it protects the through freight and assigned service. Wherever a man lays off, a man out of the pool drops into it; and I think it protects the way freight. The custom varies on different railroads, so that a man in the pool service, while he may run steady for a month in pool service, and the next month only puts in a few days in pool service, but when you come to trace him down he has caught some run, that some man has left that is higher than him, and sometimes he holds it for a short time, and seniority throws him back into the pool again.

Mr. Trenholm: And the custom is so different on the different railroads that it is pretty hard to say whether a man may remain in the pool service the entire year, or whether he doesn't. He is in and out, and his luck or opportunity catches it.

Mr. Sheean: Well, you have endeavored then, in each one of these cases, to show the earnings of the pool or chain gang service, separate from other earnings during the year?

Mr. Trenholm: Yes, sir. I have endeavored to show earnings of but one man through the year. If he did not work a month, it is shown here he did not work. Now, I have not attempted to show it was on his own account, except to the extent if he earned anything else during that month, I show it. If the record doesn't show he earned anything else during the month, then the month is a blank.

Mr. Shea: Is this all compensation as an engineer, Mr. Trenholm? Take it on page 140, these direct figures. That would not represent any compensation for services as a fireman, would it?

Mr. Trenholm: Which one?

Mr. Shea: 146.

Mr. Trenholm: Oh, 146. I thought you said 140.

Mr. Shea: Now, take Mr. Bedford on the C. & S. Several months there in red.

Mr. Trenholm: L. M. Bedford?

Mr. Shea: Yes.

Mr. Trenholm: That might be any service, Mr. Shea, but I think in the case—

Mr. Shea: Would it be compensation as a fireman?

Mr. Trenholm: Yes, if he—

Mr. Shea: In case he was demoted?

Mr. Trenholm: Yes, it would show any earnings that he made outside of the pool, and without distinguishing whether it was as an engineer or whether he earned it as a fireman, and it is only put in there to show his total earnings for the year.

Mr. Sheean: Now, your branch passenger, it shows at page 180, Mr. Trenholm: You show in the branch passenger four runs on the Omaha, varying from 43.3 miles up to 77 miles.

Mr. Trenholm: Yes.

Mr. Sheean: Now, take the last one there, Sioux City & Norfolk, 77 miles.

Mr. Trenholm: Yes.

Mr. Sheean: Is that run as a turn-around?

Mr. Trenholm: I think it is, Mr. Sheean.

Mr. Sheean: And there are two crews in that assignment?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Apparently you count as lost time there the—

Mr. Trenholm: Yes.

Mr. Sheean: It is evident. August there are 62 trips. That would be twice thirty-one, up and back each day?

Mr. Trenholm: Yes, sir.

Mr. Sheean: And apparently a run scheduled every day, branch passenger service?

Mr. Trenholm: Yes, sir.

Mr. Sheean: On that particular run, Mr. Cary stayed on that run the entire year. No earnings outside of what was earned on the run?

Mr. Trenholm: No, sir.

Mr. Sheean: You show in the branch, the same as shown elsewhere, where the earnings are outside of the assignment?

Mr. Trenholm: Yes, sir.

Mr. Sheean: From month to month. Now, the same plan is followed by all the roads here, Mr. Trenholm, that we have traced through as to the Omaha Road. The index showing just the class of service, in case the particular road has it, between passenger or freight, local freight, pool, branch passenger, branch freight, mixed and suburban, where roads have suburban service?

Mr. Trenholm: Yes.

Mr. Sheean: Let us glance, for just a minute to your branch freight, 199. Now, are these branch freights assigned?

Mr. Trenholm: Oh, yes.

Mr. Sheean: It is shown apparently on your road here just how? That there is one crew on this branch freight in nearly all this branch service?

Mr. Trenholm: Yes, sir.

Mr. Sheean: And the crew that is shown here of branch freight, is the crew that does work on that branch freight work?

Mr. Trenholm: Yes.

Mr. Sheean: And, apparently, in each of these cases, they run up and back on that branch each day?

Mr. Trenholm: Some of them, yes, sir. Most of them, as a matter of fact.

Mr. Sheean: Do you have a mixed service also?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Now, I wish you would tell us just what is meant by a mixed service, Mr. Trenholm?

Mr. Trenholm: Well, my understanding of mixed service, and always has been my understanding, is a train that handles freight cars and passenger coaches; that does both freight and passenger business.

Mr. Sheean: And mixed service seems to be quite general in the Western territory, from this index, that practically all roads seem to have mixed freight service.

Mr. Trenholm: On branch lines?

Mr. Sheean: Yes.

Mr. Trenholm: There is very little indication that I have perceived that there is very much of it on main lines.

Mr. Sheean: But, apparently pretty general on branch lines, as shown by the index. Running down the index, seemingly nearly all the railroads have mixed service.

Mr. Trenholm: I think practically all the lines reported some mixed service, under the heading of "branch lines, mixed."

Mr. Sheean: Now, your mixed service is shown at 218 and 219, I think, as shown by the index.

Mr. Trenholm: 218 I think is the end of it. Perhaps there is some on 217.

Mr. Sheean: Oh, yes, beginning on page 217. Now, in this mixed service, I take it you are reasonably familiar with some of these runs?

Mr. Trenholm: Oh, yes.

Mr. Sheean: The first one there on the Omaha Road is one crew. I was thinking of automatic release here, Mr. Trenholm. Number of crews in assignment, one. Number of crews of which this is representative, one. Train numbers 30, 31, 32, 33, 34, 35. In July this one crew made 108 trips. That would be 108 times 100 miles, under this automatic release, I suppose, wouldn't it?

Mr. Trenholm: I didn't prepare an example on that run.

Mr. Sheean: No, I know that. If arriving at terminal, or end of run, automatically released each one of the members of the train crew, that would mean 108 times 100 miles, wouldn't it, if there is an automatic release at the end of each of these trips?

Mr. Trenholm: Something like that.

Mr. Sheean: Weston and Emerald. How is that ordinarily run, Mr. Trenholm? Two round trips a day? Three round trips a day? Yes.

Mr. Trenholm: No, I think not. That run comes up from Weston on one side of the main line, connecting with a through passenger train at Woodville. Then it makes a trip over to Emerald, in the other direction, a very short trip, and back. Now, it is run daily except Sunday. It makes round trip Emerald to Weston, 72 miles; one round trip, Woodville to Weston, 52 miles; one round trip, Woodville to Spring Valley, twenty miles. Spring Valley is an intermediate point between Weston and Woodville. That train does all the work in that territory. The traffic is very light.

Mr. Sheean: Well, that one train and that one crew does all the business there is on that branch, doesn't it?

Mr. Trenholm: Yes.

Mr. Sheean: Freight, passenger, through freight, and mixed, and everything else?

Mr. Trenholm: Everything, except once in a while when the lumber movement is fairly good and they have to bring an extra train down to bring up one train and clean up the line. But that is rare. The train does the work of the branch as a rule.

Mr. Sheean: Then, in the next column there, you show Mr. J. J. Clune, engineer on the branch running between Merrilan and Marshfield, a distance of 37.8 miles. Number of crews in assignment, one; number of crews of which representative, one. Train numbers, 162, 163, 164, 165. More train numbers than there are crews.

Mr. Trenholm: They double the road twice.

Mr. Sheean: And engineer Clune does all of the engineering work on that branch?

Mr. Trenholm: Yes.

Mr. Sheean: And last year was paid $2,275.06?

Mr. Trenholm: That is listed here—I don't know that there is a correction in your book, but there is in mine. There is a branch mixed. It should be branch passenger. It is a branch passenger.

Mr. Sheean: Oh, branch passenger.

Mr. Trenholm: It should be branch passenger.

Mr. Sheean: Then he runs a passenger on that?

Mr. Trenholm: Yes, that should be under the other heading. In checking this, I find the clerks had made an error in grading it, and it should be branch passenger.

Mr. Sheean: The next one is an Omaha run. That is a mixed train.

Mr. Trenholm: Sioux City to Washington, yes, sir.

Mr. Sheean: Distance between terminals 62 and 72 miles?

Mr. Trenholm: Yes, sir. That run goes from Sioux Falls down to Mitchell.

Mr. Sheean: How about that 62 and 72 miles?

Mr. Trenholm: Well, the distance is 62. You notice that is a train between Sioux Falls, Mitchell and Worthington. Sioux Falls is in the middle. The distance from Sioux Falls to Worthington is 62 miles, and from Sioux Falls to Mitchell is 72 miles.

Mr. Sheean: And there are just the two crews in that assignment?

Mr. Trenholm: Yes.

Mr. Sheean: Now, Mr. Trenholm, in the same way that we have gone through the Omaha Railroad here, is there carried out as to each of the roads, on each of the seniority districts, information as to the particular runs and particular engineers in each clas of service?

Mr. Trenholm: Yes, sir, and I would just like to make a word of explanation, that there are three or four sheets in the back of each book out of order, and for different railroads, and the reason for that is that in checking and trying to get our exhibits in sets of ten, so as to fill up each sheet, that we were short some and over some, and I was over a few, and they had them all tabulated, and assorted, so I simply put them in the back of the book. They mean nothing at all. They simply are out of order, that is all.

Mr. Burgess: Pardon me, Mr. Sheean. Mr. Trenholm, won't you please look at 70?

Mr. Trenholm: Page 70?

Mr. Burgess: Yes, sir.

Mr. Trenholm: We call them exhibits. There are ten. This is one and seven, ten.

Mr. Burgess: I want to call your attention, Mr. Trenholm, to the Chicago, Rock Island & Pacific there, where it says "number of crews assigned."

Mr. Trenholm: Which one is that? What is the name? That is the seventh man? Yes, sir.

Mr. Burgess: Number of crews assigned, two, in both those examples?

Mr. Trenholm: This first one.

Mr. Burgess: Now, the number of crews assigned here, that is the only place I could find that they represent more crews than the number that is assigned?

Mr. Trenholm: No, you will find that quite frequently, Mr. Burgess through there. The idea that we tried to get these roads to show, was, there were two crews assigned to those three runs. That is the actual assignment. Now, there are three other trains in there that maybe other crews were assigned to, that are practically the same, and this run is fairly representative of four men instead of two. "Number of crews of which this is representative" varies in a number of cases from the actual number of crews assigned to these particular runs.

Mr. Burgess: This is the only one I have noticed.

Mr. Sheean: The first man, Mr. Burgess, that he called attention to, if you will pardon me—

Mr. Burgess: I am through.

Mr. Sheean: The very first man that Mr. Trenholm explained, on the Santa Fe, you will notice there that Mr. Fisher ran on trains 3 and 4. Now, there are only three crews assigned to take care of trains 3 and 4, but on the list of the number of crews of which this is representative, 18, because between Chicago and Shopton as the terminals that they run, there are 18 crews in passenger service; but in that little sub-pool, taking care of 3 and 4, there are only three crews assigned to those two trains, but between those two terminals there are 18 crews in passenger service. Of course, to the extent that 3 and 4 are faster scheduled trains, the three crews who are assigned to 3 and 4, would make that money in a less number of hours on the run.

Mr. Burgess: Yes.

Mr. Sheean: But it to some extent represents. There are 18 crews running in passenger service between those two terminals?

Mr. Trenholm: I want to say that in trying to check and get accurate that number of crews of which this is representative, I found a great deal of trouble, and I would ask that that only be taken for what it is worth. I first asked the roads, as in my original circular, to give that. That was my first thought; that you could take a man in an assigned service—I had in mind my own road, and of course that guided me very much. I had in mind where we run six passenger trains, each way, between two terminals, knowing that those six passenger trains, each way, were not covered by one pool. That 1, 2, 3 and 4 were covered by a pool of five men. The other three trains would be covered by a pool of four men, and my thought was to get the man in each one of those pools, to show what that particular pool represented and earned, and then have the railroads say whether that pool was fairly representative of the other pools between those terminals. Now, I found that the roads misunderstood me a great deal in that, and in checking, in trying to get it as near correct as I could, I sent and got a statement on another basis entirely. I asked them for a statement of pool service; between what terminals they ran and how many men assigned to the pool, and so on, and undertook to check their original letter from the superintendent, with this information got from another standpoint, to try and verify it, and I found a good many differences, and I have made a good many corrections through here—through the books, to get it conservative, and that—both the letters that the superintendents originally wrote me, from which I tried to get that information, and the form that I sent out to get information from another angle, to check them with, are in the original file here for the benefit of the men. So that while I believe that the figures shown here are just as near as you could get them, in checking the way I had to, still, I would not want to say in all cases it is absolutely correct. I think it is under now, rather than over, because I wanted to be very conservative about it, and it don't mean very much, only just so far as it is an indication of the number of men in passenger service between two terminals; and I wouldn't want it understood by the Board that the man shown as Mr. Fisher, drawing his money, was representative of 18 men that drew that same money, because the other passenger trains between these two terminals of Chicago and Shopton, may be local passenger trains. The conditions might be different, but he is clearly representative of the three men, in the two trains that he runs on.

Mr. Sheean: Mr. Trenholm, on your passenger service here—

Mr. Carter: Mr. Chairman, the witness insists on asserting that the names that appear in here, are representative of all others. We insist that we have the payroll, and if they will not present the payrolls, we hope that the entire exhibit will be excluded.

Mr. Sheean: I was not listening very attentively to this colloquy.

Mr. Carter: I would like to have a ruling on that. Mr. Chairman. We know this exhibit here is not typical of all the men in the service, and notwithstanding the passage at arms on several occasions, we always get back to that. I would like to have the record read of just what was said.

Mr. Sheean: Just read the talk between Mr. Burgess and Mr. Trenholm about that. I did not think there was anything to get us into any further trouble.

Mr. Burgess: I was asking Mr. Trenholm about this C., R. I. & P. example, on page 70.

Mr. Carter: Pardon me. I would like to have the statement read. I object to the statement of the witness that it represents all others.

Mr. Sheean: Just read it, will you please?

(Record read as above recorded.)

Mr. Carter: Mr. Chairman, we were satisfied on several occasions with statements made, particularly the statement made by counsel for the railroads, once, and the last statement that was made by the witness. Now, we keep getting back to it again, about representing others. Now, if that represents others, we want the facts concerning the others. If it represents the names here, we have no objection.

Mr. Sheean: I thought I had made it perfectly clear, and was trying to clear it up for Mr. Burgess, that on this particular run, Mr. Carter, I just thought the Chairman wanted, as an extra precaution, that you should not get the impression that the other 18 passenger crews necessarily earned the same money. This only shows that there are 18 passenger crews between those points, and that 3 and 4, their fast trains, were manned by three crews.

Mr. Carter: Mr. Chairman, we agree at one moment, and then, as the examination goes on, why, we find out we are not agreeing. If these are to show the earnings of these men, we don't question them, but if it is to show the earnings of other men, we want the earnings of the other men introduced.

The Chairman: Well, in the first place, aside from the fact that these men earned these particular amounts, there is no positive evidence to show what the other men earned. Now, unless these gentlemen want to connect that with the other men, and show that they earned an equal amount, it does not seem to me that there is much to cavil about, one way or the other. However, if this exhibit tends to show that this fairly represents what all the men in this particular service earned, why, then, of course, you would be entitled to introduce any evidence that you might have or might obtain, which the Board will give you the right to obtain, if you desire, bearing upon the question as to what all the men earned.

Mr. Carter: I am afraid, Mr. Chairman, we could not get that evidence ourselves, at this time, but you know, I called your attention to the fact that the original objection was based upon the language in the instructions here.

Mr. Burgess: Mr. Chairman, pardon me, I thought that that question was passed, or else I would not have said anything at all.

Mr. Trenholm: And I would not have answered you.

Mr. Burgess: I feel somewhat responsible.

Mr. Sheean: Let me see if I can straighten it out. Mr. Carter, you don't question, I take it, just referring to this page 1 again at all, that Mr. Fisher was an engineer, who ran on trains 3 and 4, and that trains 3 and 4—those two trains were manned by three engineers, and that there were 18 engineers assigned to passenger service between Chicago and Shopton. Now, that is all that this purports to show, that trains 3 and 4 were manned by three men, assigned to them. That one of the three, Mr. Fisher, earned this money, and that there were 18 crews in passenger service between these points.

Mr. Stone: Then, can I ask you a question? Why does your witness still insist that this is representative of the men in that pool?

Mr. Carter: That is what we object to.

Mr. Sheean: Let me say, I think all that means is that if the other two men were of equal health, diligence, desire to work, and so on, and had worked the same number of days as Mr. Fisher, they would have earned—whether they did or not, we do not pretend to show.

Mr. Stone: That is merely an assumption. That is not evidence. If all these things come to pass, and they are alive and are on earth.

Mr. Sheean: Mr. Stone, there were three men assigned to it, and if any one of them ran the same number of days that Mr. Fisher did, he would get the same money for it. Whether he did or did not, we do not pretend to show.

Mr. Stone: But you do still insist that the work Mr. Fisher performed is representative of the men in that pool.

Mr. Sheean: I don't want to get back to that word "representative."

Mr. Stone: Well, then, you ought to coach your witness so he would keep away from it.

Mr. Carter: Mr. Chairman and Gentlemen: I thought that was settled, and I thought that the witness had made a statement that was agreeable to all concerned; that it represents what is shown here and no more. Now, continually in the examination we get back to the theoretical part of it, and we have to object again, unless they show us the earnings of the other men.

The Chairman: Now, counsel for the railroads, having made a statement as to the purpose for which this evidence is introduced, and the extent to which it is entitled to go, the Board will be governed by that statement, but the Board cannot undertake to regulate the witness in testifying as to what he shall or shall not say. That is a matter that we cannot control. All we can say to you is that we will consider this evidence for the purpose for which it is offered, and only to the extent to which it goes.

Mr. Carter: Then, Mr. Chairman, I understand the witness offers it as evidence of what all others earned, and I understand that counsel does not. We are placed in a peculiar position, Mr. Chairman and gentlemen—a very peculiar position. This matter came up very early in the proceedings, away back long before the Christmas holidays. At that time, we sent notice that we wanted all of this evidence, and we thought it was practically waived, and now, just at the close of the hearing, so far as the direct testimony of the railroads is concerned, they bring it in, too late for us to secure rebuttal testimony, and it places us in a very peculiar position. I thought that the matter was disposed of a while ago, and that it only meant what it showed. Now, if it is going to mean that this means the general practice of the men who are not represented here, we want information concerning the men that are not represented.

Mr. Burgess: Mr. Chairman, will you pardon me if I make just a brief statement, as I feel somewhat responsible for this position.

The Chairman: Certainly.

Mr. Burgess: Well, unfortunately, I found here in two examples, two crews in the line indicating number of crews assigned, and below that, number of crews which this represented, four. Now, that was the only example that I found that particular condition in, and trying to get light, I did ask Mr. Trenholm what it meant, and Mr. Trenholm endeavored to explain what it meant, and as he did, he incidentally referred to this Mr. Fisher in the Santa Fe—I believe the first page.

Mr. Sheean: I thought that would show the extreme limit of it.

Mr. Burgess: Yes, sir; and he showed there that there were 18 crews asigned to that service, but stated that in that particular assignment, that that would only represent three. At the same time, it had been decided that the Board, if I understood the position of the Board correctly—that this exhibit would, under no circumstances, indicate what any engineer earned, unless his name was shown on the exhibit. That is the way I understood it. I was asking for light, and did not intend to bring the subject up again.

The Chairman: Well, he incidentally mentioned the "blue bank."

Mr. Carter: Mr. Chairman, I don't want to delay these proceedings. If this is intended to represent just what it does show, why, we are not going to question it. We do not believe they deliberately falsified the record, but we do not believe that these cases should be used as indicative of all the rest in the same service.

Mr. Trenholm: I don't know that there is any difference, gentlemen, between the contention of Mr. Carter and the contention of the railroads. If so, it is so finely drawn that I don't know that it would amount to anything, one way or the other. Mr. Carter is a railroad man—has been. Mr. Burgess, Mr. Stone, and I believe that Mr. Stone and Mr. Carter will agree with me that if a passenger train is scheduled from Chicago to Shopton and runs from Shopton to Chicago every day, a distance of 200 miles, and to which three engineers are assigned, that the earnings of those three engineers, assuming, of course, that the run is such a one that it does not overburden the man beyond his capacity to work his assignment, and it is, I think, generally assumed that in passenger service particularly that the assignment is made, possibly, not by agreement, but by tentative understanding anyway, that the assignment is satisfactory. They assign three engineers to two runs. If it is a 125 mile run, you assign two men to the two runs, and that is recognized, generally speaking, as a reasonable basis of work, either by mileage or by hours. Now, I think it is only fair to assume, that being true, that the three men on that assignment would, under ordinary conditions, barring out sickness—the run is every other day, and it is conceded that the assignment is reasonable—that each one of those men would make practically the same money each month. Now, it was impossible to take all of the men and get this information, in time, or I would have done it. My only thought was that under that condition, one of those men is just as good as the other. The assignment is there. The run is there, and barring sickness—barring matters over which the railroad has no control, each one of those three men would naturally make about the same money. Now, that is all this purports to show, and if I have misstated that, Mr. Stone will correct me.

I believe that is a fair statement of the railroads' condition and that is all this purports to show. It shows one man out of three on an assignment, where three men were assigned, and the assignment stands, year in and year out. The run is on all the time. When it is taken off, they all come off. There is no choice; and that is all this purports to show.

Mr. Stone: Mr. Chairman, I admire the witness' persistency in sticking to his text.

Mr. Trenholm: I would ask Mr. Stone, if I may ask a question—I have not asked very many—

Mr. Stone: Surely.

Mr. Trenholm: May I ask you if that statement of the assignment is not a fair presentation of the assignment on railroads?

Mr. Stone: That is a fair presentation of the assignment on railroads, but, unfortunately, when the Supreme Power created man, He made him a human being, not a machine, guaranteed to turn out so much a year. Always have the human element to deal with, and it is not fair to assume that every man will turn out the same amount of work, every day, throughout the year.

Mr. Trenholm: I am not assuming that. I am saying as a fact that this man did. Any assumption that may go beyond that is purely in the hands of the Board.

The Chairman: At most, we are asked to infer, if such is the case, it is a question for the Board as to whether or not there is sufficient evidence from which we might expect that these other people got that amount, or could have gotten it.

Mr. Nagel: We cannot infer it from the exhibit, but must infer it from the other testimony we have heard in the case.

Mr. Carter: Mr. Chairman, this matter was presented very early in the proceedings, and I think the record shows that Mr. Stone served notice that he wanted information concerning all the men. I think one of the last things, previous to the adjournment for the Christmas holidays, was another request by Mr. Stone. Subsequently, we understood that this exhibit would not be presented, and we gave it no further thought, until now. It is presented too late for us to rebut it. I imagine this has been ready since early in the proceedings, and here, at the eve they are putting this in. We have not got time to show what the other men earned, and if they say this is true, so far as these men are concerned, we will accept that, but saying that this is typical of all the men, we cannot accept it.

Mr. Sheean: Mr. Trenholm, have you a memorandum as to how many of the men shown in this Exhibit 1, in assigned passenger service, during the year in question, earned and were paid more than $2,400 a year, more than $200 a month?

Mr. Trenholm: Yes, sir.

Mr. Sheean: And how many are shown there in this exhibit who were paid throughout the year more than $200 a month?

Mr. Trenholm: In passenger service, exclusive, there were sixty-four.

Mr. Sheean: And their names and the runs are shown in detail here?

Mr. Trenholm: Yes, sir.

Mr. Carter: Mr. Chairman, we do not want to delay the proceedings, but it seems to us we have not been treated right in this matter. I think Mr. Stone, as spokesman for us, early in the proceedings, served notice that if these typical runs were to be introduced, we wanted all the information upon the subject. I think just previous to the adjournment for the Holidays, Mr. Stone, speaking for both sides, again served notice. Then, subsequent to the Holidays, I understood that an entirely different matter was to be introduced, more specific. And I will speak for myself, and I think for Mr. Stone, we did not think this was ever to be presented, because it was agreed we could not get the information concerning all the men. Now, almost at the close of the hearings, two months after the matter first came up, we find this injected, and we find here, presumably to influence the minds of the Board, certain statements to which we seriously object. We do not believe that these men are typical of all of them. We will not say that this is a deliberate misrepresentation; we do not mean to say that; but it is just for the men presented, and nobody else.

Mr. Trenholm: I want to say, in response to that—

The Chairman: Now, Mr. Carter, I want to ask a question of Mr. Sheean. How many of these roads have the payrolls here now?

Mr. Sheean: They have five for one month's roll, the month of October, and they have not got around to more than touch the high spots for that month of October, on the five we agreed to. One of them, the Southern Pacific, has been here for ten days or two weeks, and has not been touched.

The Chairman: It will mean an unfortunate delay, but under the law, if you insist upon it, you are entitled to have these payrolls.

Mr. Carter: What was the supplemental exhibit showing the earnings for all the months, Mr. Sheean?

Mr. Stone: It was Mr. Keefe's exhibit.

Mr. Keefe: Exhibit 30-A, for certain of the roads.

Mr. Carter: If you present that as typical of all the men, we will accept that, because we have done some very earnest work on that exhibit and expect to present it in rebuttal. But here, this would indicate that the men earn this all the time. I say to you, it is unfair to do so. I thought when Mr. Stone served notice twice before the Holidays, once when the matter first came up, and once in closing, before we adjourned for the Holidays, that if they introduced this, they would give us all the information on it; and subsequently there was an agreement which I understood was a withdrawal of this, and other matters were presented, and it was agreed to. Now, just at the close, they present this, and I do not think this is typical. In the first place, the instructions here, "Information is desired which will enable the reader to form a correct and reliable mental picture of the principal features connected with the service of engineers and firemen on each division."

The Chairman: The Chairman of the Board has indicated to you the extent to which it would go in considering this exhibit as a mental picture. I have tried to indicate to you that only such things as are proven will be considered by the Board.

Mr. Carter: Well, the witness is now, in his last testimony, showing that it includes a great many people not shown here.

Mr. Nagel: There have been several attempts to have a witness indicate what is in the minds of the Board, but I do not think that has been successful.

Mr. Carter: I will accept that explanation.

Mr. Stone: Mr. Sheean has referred two or three times to the fact that certain papers were here, but they had not been touched as yet. You understand, of course, that it took some time to build up a clerical force to handle the matter; and another thing, it is true that the Burlington and the Great Northern, and I believe the Colorado & Southern were all in the Burlington offices. They seriously objected to us doing anything to one road until we had completed all we wanted to do with another, so there would be no chance of getting the papers mixed, and I think that was proper. And we have been taking up a road at a time, and if we have been delayed, it is perhaps unfortunate, and I guess perhaps the task is bigger than we thought it would be. In addition to that, I supposed of course they would work constantly on it, Saturdays a full day, Sundays and everything else, because I realized the time was short. The first thing I knew the entire force knocked off at one o'clock Saturday, and I asked in regard to it and they said, "You could not have the papers after one o'clock." And in talking with Mr. Byram, the early part of the following week, he said, "You can have them Saturdays, Sundays, or at night." That was a misunderstanding of some one who wanted to take a vacation, I guess, whoever was in charge there, and I do not blame them. But there is no desire to ask for them just for the fun of having them. We are as anxious to go through them as we were at the first, and in fact more so.

The Chairman: My reason for asking how many payrolls were here, is that I thought I would see how much of an undertaking it would be to have the other payrolls brought in. That was the only purpose.

Mr. Carter: Mr. Chairman, I understand they have not any payrolls for our information, except for the month of October. We don't want that. We have not said they falsified the payrolls of October. We have said that October is not typical of the year.

Mr. Sheean: Why, Mr. Carter, the letter that went out was approved before it went out, by Mr. Stone and Mr. Phillips, that the payrolls for the month of October on these five specified roads, was what you wanted and what has been sent in.

Mr. Stone: Well, we had to have the payrolls for October, Mr. Chairman, in order to check the time cards and everything else we were working on. I did not know at that time this was to be presented, and my understanding is, that this was not prepared. I think there is no doubt that this exhibit was prepared long before the exhibit presented by Mr. Keefe. I haven't heard anybody deny, at least I think this was ready a long time before the other one, why it was held up to the last part, I don't know, unless it was a shrewd move on the part of counsel, and if that is correct, I am perfectly willing to concede it is a shrewd move, and if I were on the other side, I would probably do the same thing.

Mr. Trenholm: I started to ask the question and when his Honor started to make his ruling, I stopped. This exhibit was being prepared. Mr. Keefe was working on the October payroll, and I took charge of this particular exhibit and was working on it for the same time, and have been working on it up until the last four days. It was photostated early in October, and if there was any such question raised as to whether this would be put in, I know of nobody ever saying that it would not be put in. I never had a thought of withdrawing it, nor did the committee. It was talked about, if you are going to present the typical man, we are going to demand the payrolls for all these years, and that was the talk, and that was all. I made no statement, or anybody else with authority, that any exhibit would be withdrawn in this matter, and had no thought of withdrawing it, and so far as its order of presentation, it is simply natural that it went in that way. There was no desire or intent to put it in at last or at first, either one. We might be charged just the same—if we had put the payroll of October in last, we might have been charged with the same thing. It came in the proper order of presenting the case on the part of the railroads.

Mr. Carter: I think statements were made that were perfectly satisfactory. We thought the matter was closed up? Counsel seemed to be willing, and the witness. We thought it was closed. But now, we are coming back to something else all the time. I think the record will show the statement of counsel and the witness was satisfactory to us.

Mr. Trenholm: I am perfectly satisfied with the ruling of the Chairman of the Arbitration Board, that this will simply show what it shows to the Board, no more and no less.

Mr. Carter: Mr. Chairman, if it only applies to the names shown here, we don't object.

The Chairman: We have only got five minutes more, and I think under the circumstances we had better take an adjournment. You can all go to church Sunday and come back in a better frame of mind.

(Whereupon, at 5 o'clock P. M., February 26, 1915, an adjournment was taken until March 1, 1915, at 10 o'clock A. M.)

IN THE MATTER OF THE
ARBITRATION
between the
WESTERN RAILWAYS
and
BROTHERHOOD OF LOCOMOTIVE ENGINEERS
and
BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN
under the Act approved July 15, 1913, *by agreement dated August* 3, 1914.

Chicago, Illinois, March 1, 1915.

Met pursuant to adjournment at 10:15 A. M.
Present: Arbitrators and parties as before.

The Chairman: You may proceed, gentlemen.

Mr. Carter: Mr. Chairman and gentlemen: Since adjournment Friday we have read the proceedings, and I think the statements by the Chairman of the Board, for the Board, are perfectly satisfactory to us, and we are willing to let the entire matter pass.

The Chairman: Well, let us get to something else now. Are there any proposed corrections to the record this morning?

Mr. Stone: There is one correction I should like to make, Mr. Chairman. On page 5821, I say: "Mr. Stone: He did make 246 days in the year, did he not?" It should be 446 days in the year, because he made 44,650 miles.

The Chairman: You may proceed with the witness, Mr. Sheean.

A. W. TRENHOLM was recalled for further examination, and having been previously sworn, testified as follows:

Mr. Sheean: Mr. Trenholm, I had asked you as to the number of passenger engineers who, on this Exhibit, were shown as earning more than $200 a month during the fiscal year. What was that number?

Mr. Trenholm: Sixty-four.

Mr. Sheean: Out of how many passenger engineers shown in the exhibit?

Mr. Trenholm: There are 540 passenger engineers shown in this exhibit who worked the full year, or whose earnings are shown for a full year, that there was no break in the assignment during their year's period, and this is sixty-four out of that 540 that earned over $200 a month.

Mr. Sheean: Now, in through freight, what are the facts as shown by this exhibit?

Mr. Trenholm: Out of ninety-three who worked the full year, there are fifteen that earned over $2,200 a year.

Mr. Stone: What was the total number?

Mr. Trenholm: Ninety-three who worked through the full year, Mr. Stone.

Mr. Sheean: And in local freight?

Mr. Trenholm: In local freight, out of 267 that worked the full year, there are nineteen that earned over $2,200.

Mr. Sheean: In the pool, Mr. Trenholm, how many?

Mr. Trenholm: In the pool, there were 311 engineers who worked the full year in pool service; out of that number there are thirty-six that made over $2,200.

Mr. Sheean: That is summarized from the names following page 130?

Mr. Trenholm: Yes, sir, to page 169, inclusive.

Mr. Sheean: Now, Mr. Trenholm, just in that connection what are the high earnings there in this pool, I mean as shown on this exhibit?

Mr. Trenholm: The highest I see listed here is $2,830.02. There is twenty-seven hundred—

Mr. Sheean: Who is that twenty-eight hundred dollars?

Mr. Trenholm: C. E. McComie, $2,830.02.

Mr. Sheean: What page?

Mr. Trenholm: Page 163. I am in error about the number of 36. It should be 55 that earned over $2,200, out of 311.

Mr. Burgess: Does that summary appear in our book, Mr. Trenholm?

Mr. Trenholm: No, it does not.

Mr. Sheean: It is shown on page 163; Mr. McComie is shown as paying on the run between Dunsmuir and Red Bluff.

Mr. Trenholm: Yes, sir, Dunsmuir and Red Bluff.

Mr. Sheean: On a 99 mile district?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Apparently, through the year, the month of October was not the highest month for Mr. McComie in earnings?

Mr. Trenholm: No, one of the lowest.

Mr. Stone: That is the division, is it not, where they have the 39 consecutive miles?

Mr. Trenholm: It is a 99 mile division.

Mr. Stone: And they pay for 138 on that division, as I recall it, and overtime after eight hours?

Mr. Trenholm: I don't know.

Mr. Sheean: Dunsmuir and Red Bluff.

Mr. Stone: Dunsmuir to Red Bluff.

Mr. Campbell: 39 constructive miles.

Mr. Sheean: What did you say the other was, next to that?

Mr. Trenholm: I see one here 2,777.86, on page 164, Charles O. Wine.

The Chairman: Is that on your road?

Mr. Trenholm: No, sir, this is on the Southern Pacific. Los Angeles division.

The Chairman: What service is he in?

Mr. Trenholm: In pool or chain gang service.

The Chairman: I mean, is he in passenger or freight service?

Mr. Trenholm: He is in freight service.

The Chairman: How many miles did he make? What is his average?

Mr. Trenholm: The average miles he makes for the year?

The Chairman: I mean the days. Or does it show the daily miles?

Mr. Trenholm: Distance between terminals is 131 and 122, apparently different runs. He makes—

Mr. Park: I would like to ask Mr. Campbell if that is two divisons, Los Angeles to Yuma?

Mr. Campbell: I couldn't say, Mr. Park. I have never been down there.

Mr. Phillips: They run Los Angeles to Yuma.

Mr. Sheean: They are shown here—

Mr. Park: It is over two freight districts, is it?

Mr. Phillips: No, sir.

Mr. Park: It is given here as 131 and 122.

Mr. Stone: Pardon me, Mr. Park, is not that due to a difference in the constructive mileage between freight and passenger?

Mr. Park: Well, it ought not to be in this.

Mr. Trenholm: This is pool or chain gang.

Mr. Park: This purports to be pool or chain gang?

Mr. Trenholm: I think he runs out of a terminal that works both ways, probably. While I don't know that to be so, a good many do that are shown.

Mr. Park: Well, it is more than 131 miles from Los Angeles to Yuma, is it not?

Mr. Trenholm: Answering your question, your Honor, his average miles per trip is 123, according to this, and he was 13 hours making the trip. His average is 123 miles per trip, 13 hours.

Mr. Park: Thank you.

Mr. Burgess: And, Mr. Trenholm, is he paid overtime after the expiration of eight hours, on that system?

Mr. Threnholm: Well, I don't know, Mr. Burgess. It is an eight-hour road, and I don't know just how it works out; 310 trips and 3,192 miles.

Mr. Sheean: Did you say 13 hours?

Mr. Trenholm: No, it is 10½ hours per trip, your Honor. I did not divide it right.

Mr. Sheean: Well, now, Mr. Trenholm, the detail on page 164 apparently shows that of this 2,776 only 2,572.53 was earned in the pool?

Mr. Trenholm: Yes.

Mr. Sheean: The months in which there were other earnings are shown in red ink on that page?

Mr. Trenholm: Yes.

Mr. Sheean: That indicates that those earnings were not in this pool?

Mr. Trenholm: Yes, they were outside earnings.

Mr. Park: When you come back to this later, I want to see what bearing this paid for away from home would have on that?

I think that is two divisions. I think they run from Indio to Yuma and from Yuma to Indio.

Mr. Sheean: Probably the detail of that is shown—

Mr. Keefe: I have sent for it.

Mr. Sheean: —on the report of the superintendent of that division, Mr. Park. Now, Mr. Trenholm, there seems to be some $2,600 man there; F. P. Connolly. Do you have some other one in mind?

Mr. Trenholm: No; looking at that one, $2,638.90; P. F. Connolly, page 148.

Mr. Sheean: That is on the El Paso & Southwestern, district 118 miles long, apparently.

Mr. Trenholm: Yes, sir.

Mr. Sheean: Now, of that $2,638.90, apparently $145.65 was earned outside of the assignment.

Mr. Trenholm: $146.65.

Mr. Sheean: $146.65, yes.

Mr. Trenholm: Was earned outside of the assignment. During the month of December, he apparently did not work in the pool at all. He earned $96.45 outside of the pool.

Mr. Sheean: Well, in eleven months then, in which he worked in the pool, ignoring entirely any earnings outside of the pool and being away from the pool entirely during one month, his earnings were $2,492.25 in eleven months?

Mr. Trenholm: Yes, sir; $50.20 of it was outside of the pool, however.

The Chairman: Mr. Trenholm, what do the letters "P" and "Y" and "lost time" indicate in these columns?

Mr. Trenholm: Put in there to show passenger service; "Y" for yard and "P" for passenger.

Mr. Park: In the case of Engineer Daley, on that same page, Denver & Rio Grande, that shows a hyphenated mileage of 115 and 119. Is that two divisions, or is it longer one way than it is the other, by reason of a change of line? Mr. Martin, is that one division?

Mr. Martin: One division.

Mr. Park: 115 one way and 119 the other?

Mr. Martin: Before November, 1913, the distance was 115 miles. When they constructed the new line, it lengthened it four miles.

Mr. Sheean: That is, during part of this time, Mr. Martin, his earnings throughout the year were on the division 115 miles in length, and during another part of the year it was on the 119 mile division?

Mr. Martin: From July to the middle of November, it was 115 miles long. From the middle of November to the end of June, 1914, it was 119 miles. The construction of the new line increased the mileage by four.

Mr. Burgess: Mr. Sheean, can I ask Mr. Martin a question?

Mr. Sheean: Surely.

Mr. Burgess: Mr. Martin, kindly refer to October, 1913. Now, there is in red figures \$51.52; black figures \$209.97. Are we to understand that that \$51.52 is included in the \$209.97?

Mr. Martin: No, sir.

Mr. Burgess: That is separate from the \$209.97, is it?

Mr. Martin: That is my understanding. Mr. Trenholm put those figures in. That is my understanding.

Mr. Trenholm: Yes, sir, the red figures up there in this case makes the \$146.28, outside earnings. The red figures included in that bottom figure, were put in in detail, afterwards.

Mr. Park: On page 166, I see another case of what I am trying to get at, the distance between terminals. The first one. 120 miles, 138 miles, and 169 miles.

Mr. Trenholm: That is Houston to Hearne and Hempstead to Hockley.

Mr. Park: Do they represent three separate districts, as you understand it?

Mr. Trenholm: I understand it that those pools cover those three districts in there, and the mileage in each is different.

Mr. Park: I asked Mr. Phillips the other day if they did not run in that way on the Southern Pacific over one or two divisions. Page 166, Mr. Phillips, the first division there, distance between terminals is given as 120, 138 and 169 miles.

Mr. Phillips: What is the point?

Mr. Park: The first engineer on that page, Charles Huser.

The information I wanted is whether these engineers run over the three districts, to get its bearing on this being paid for time away from home.

Mr. Phillips: That is on the Houston & Texas Central?

Mr. Park: Yes.

Mr. Phillips: I am not familiar with that, but I would take it from the figures that the three districts are involved.

Mr. Park: What would be the home terminal of an engineer and fireman under those circumstances?

Mr. Phillips: I do not know that I am qualified or have the knowledge that would enable me to answer that question, Mr. Park.

Mr. Park: But the Board must have it.

Mr. Phillips: I would say that I think Houston would be their home terminal; but, generally speaking, I will venture a definition of a home terminal. It is the point where most of the crews reside, or where the shops are located, or at the point from which the crews are assigned. That is the general definition, the division terminal is the home terminal.

Mr. Park: Well, in this service then, would it be asked that these men be paid at any one of these terminals if they should be there more than the time specified in your submission?

Mr. Phillips: If, at any one of them, they are held longer than the time designated, yes, sir; that is my understanding. But I think I may add, and Mr. Stone or Mr. Carter will correct me if I am in error in this, that if they have an arrangement whereby a man is run over two districts, that is, run from A to B, an intermediate cut out point, and then from B to C, taking rest at the intermediate point, you understand, and then running from B to C and taking his requisite rest at C, and then returning and again cut out at B on the return trip, and then returning to A, his home terminal, that he would not be entitled to held away from home terminal time unless held more than the designated time at either B or C.

Mr. Park: But they would be away from home perhaps three or four days or a week?

Mr. Phillips: Yes, but they would have an earning opportunity each day, or at the end of a proper rest period in each case. I say that, and I have never discussed the matter with Mr. Stone or Mr. Carter, and do not know what has been the contention here, but I say that is the general application of the held away from home terminal rule.

Mr. Park: But if they have an earning opportunity in each 24 hours, you think that is all they can ask for?

Mr. Phillips: I think that is the way the rule now applies, where it is in effect, Mr. Park.

Mr. Sheean: The detail of what you asked for here on the Los Angeles-Yuma run, shows that through freight service, train numbers covered by assignment, gives the train numbers, the terminals between which trains run, Los Angeles and Yuma. The distance is 251 miles. The distance between Los Angeles and Indio is 129 miles; Los Angeles and Santa Barbara, 101 miles; Los Angeles and Mojave, 101 miles. Remarks: Crews cut out at Indio both east and west bound, taking their turn out in direction bound.

Mr. Park: That is the same condition as to this Houston & Texas Central.

Mr. Sheean: Pool in crew handling the main line freight. Extra men able to cut in only when pool men are unable to handle business. Pool handles extra passenger business. When men in regular and extra passenger service are not available, vacancies in pool service are filled from extra list.

Mr. Phillips: I think, in clearing it up, it seems to me that is in line with the information I volunteered, that it was all one freight district. Indio is an intermediate cut out point, and they do cut out east and west and take their rest there, but it is all one freight district. They are assigned in one pool. And following right along the line of the inquiry made by Mr. Park, I would not think, under a held away from home terminal rule, if granted at 15 hours, as requested here, that a man would be entitled to anything, if he got out of Indio in 15 hours, nor would he be entitled to anything if he got out of Yuma on the return trip, within 5 hours, each terminal being considered separately.

Mr. Park: It would increase the possibility to the railroad, though, of having to pay that time, by reason of those combination runs, which, I imagine, are so arranged for the benefit of the men, in order to put them out on the desert and back again into a good town like Los Angeles, once a week. You would know that territory, would you not? Is that the reason?

Mr. Phillips: What is that?

Mr. Park: Why do they run over three divisions?

Mr. Phillips: If you will pardon a mild California booster, everybody likes to live in Los Angeles, and it would be practically impossible for a man to live and call it living at Yuma or Indio, much less Indio, and therefore it is impossible to run freight crews that 200 miles, between 250 and 300 miles from Los Angeles to Indio, and they make an intermediate cut-out point, so that all of the crews run to Indio, then to Yuma, and then back to Indio and then into Los Angeles. In enables all the crews to get into Los Angeles, which is their home terminal occasionally. None of them are sentenced to spend their lives out on the desert. It is a fact, however, that they are away from home much more than crews are that are just run to a turn-around point and back again.

Mr. Park: That is voluntary on their part.

Mr. Phillips: I do not know whether it is voluntary on their part. Perhaps it is necessary. I do not know whether a man could live out on those sand dunes and be of any particular service to the railroad.

Mr. Park: I think they have some orange groves at Yuma.

Mr. Phillips: Painted on the map, I take it, perhaps they have.

Mr. Sheean: Mr. Trenholm, as to these individuals that I have asked about in the different services, you have made a list of the names?

Mr. Trenholm: Yes, sir.

Mr. Sheean: In each of the cases?

Mr. Trenholm: Yes, sir.

Mr. Sheean: I will ask leave to file that or attach it to each of the exhibits here. Mr. Phillips just asked whether that was in the others, and I think it would be desirable that that be done in each of these exhibits, a sheet giving the names and the page and the amounts under each of these heads; and with the permission of the Board, I will have those copied and a sufficient number attached with each one, so that they will show the names and the amounts.

Mr. Trenholm, in running down this list, I notice $2,500 to Mr. C. Markham, at page 132. Let us see what road that is on. and what the run is?

Mr. Trenholm: He is the second man on the list, on page 132.

Mr. Sheean: And that is a run between Needles and Barstow, on the Sante Fe, a distance of 169 miles?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Now, through the year there, in the case of Mr. Markham, the trips in particular months, vary from 15 trips to as high as 25 trips in a month?

Mr. Trenholm: Yes, sir.

Mr. Sheean: And is it true that throughout all of the pool service here you have made no effort to include or count whether available all of the time or not, but simply show the number of trips, except in cases of protracted layoff, where they might have some information.

Mr. Trenholm: Yes. The railroads were unable to give me any reliable information as to whether men laid off or whether they did not; that is, whether they were available the whole month or not; hence, there is no lost time here, excepting occasionally, where the road had the record of the man, taking a leave of absence. But we show no lost time here, and whatever the record, it must be assumed, in the absence of any knowledge to the contrary, that the man was available for all the year. In this particular case, the road said the engine was in the shop six days in January and that he waited for his engine, but that is the only record they had of any lost time.

Mr. Sheean: Speaking generally, Mr. Trenholm, with reference to the earnings in pool service, for similar service on the different roads, does there seem to be a reasonable degree of uniformity in what the men earn under like conditions?

Mr. Trenholm: Well, reasonably so. There is more or less variation. It is very hard to get a man in pool service, or any number of them, to work through the year.

Mr. Sheean: I meant more particularly on different lines of railroad. Take different railroads in the same territory, substantially the same territory, similar operating conditions, does there seem to be reasonable approximation as between the earnings on the different roads operating in the same territory?

Mr. Trenholm: Well, I think reasonably so. There is considerable variation.

Mr. Sheean: A considerable variation, is there, in the length of the runs?

Mr. Trenholm: Oh, yes. That has a great deal to do with it, of course.

Mr. Sheean: Now, in the branch passenger service, Mr. Trenholm, how many engineers in the branch passenger service do you show altogether in this Exhibit 27?

Mr. Trenholm: There are 151 engineers who worked through the full year in branch passenger service on their assignment, of which forty-seven earned over $2,200 in the year.

Mr. Sheean: Now, running down this list, there seems to be Mr. Meyers, $2,944.40, shown on page 190. Just where is his run? What does he do?

Mr. Trenholm: He runs between Rincon and Silver City, 101 miles each day, trains 117 and 118.

Mr. Sheean: What road is that?

Mr. Trenholm: That is the Atchison, Topeka & Santa Fe. He is the next to the last on the page, ninth man.

Mr. Sheean: $2,944.40, Rincon to Silver City, 101 miles each way.

Mr. Trenholm: He is the only man on there, and he apparently doubles the road. The run is apparently—he doesn't run Sunday, as he makes—well, I guess he does, too. Yes, he runs every day. He apparently doubles the road most of the time.

Mr. Sheean: Well, during the year in which he earned this $2,944.40, he laid off fifty-nine days?

Mr. Trenholm: Fifty-nine trips.

Mr. Sheean: Fifty-nine trips?

Mr. Trenholm: If the run is a daily run, it would be 365 trips a year, if he makes the turn of 200 miles, which this would indicate that he did. There isn't but one man on the assignment, so it would be 365 trips a year. He made 304, and lost 59.

Mr. Burgess: The total is blurred on my copy, Mr. Trenholm. What is the total?

Mr. Trenholm: Of money, Mr. Burgess?

Mr. Burgess: What?

Mr. Trenholm: Of money?

Mr. Burgess: Yes.

Mr. Trenholm: It is $2,934 and $10.40 outside his assignment, making a total of $2,944.40, earnings for the year.

Mr. Burgess: Well, Mr. Trenholm, won't you kindly refer to August, 1913, wherein his wages are shown to be $297.37. Am I correct on that?

Mr. Trenholm: Yes, sir; he evidently worked every day, thirty-one days, and doubled the road every day.

Mr. Burgess: Time worked every day, taking your calculation as to what constitutes a day, in the number of hours—if he had run every day, he would have made 300 hours, would he not? And the hours shown here are 403; so he must have worked over forty days in that month.

Mr. Trenholm: He worked 403 hours, Mr. Burgess. What I meant by working every day, that he doubled the road every day, apparently. He made 202 miles. His mileage that month was 6,262. Perhaps that, multiplied by the thirty-one—yes; he doubled the road every day, thirty-one days.

Mr. Burgess: Yes, and in all the tabulations shown here, where his earnings have gone beyond the point of $200, we find a very high number of hours, do we not?

Mr. Trenholm: I take it that that includes the elapsed time at the end of the turn, Mr. Burgess. I don't know that, but I assume it does.

Mr. Burgess: Well, do they pay for the elapsed time?

Mr. Trenholm: His mileage being greater here—6,262 miles—of course he would be paid by the mile.

Mr. Burgess: But the heading of the column, Mr. Trenholm, says "Hours on duty."

Mr. Trenholm: Yes, sir.

Mr. Burgess: Therefore, we have the right to assume that there was no relief during those hours?

Mr. Trenholm: I think that is a proper presumption, Mr. Burgess.

Mr. Burgess: Thank you.

Mr. Sheean: Now, that run is on trains 817 and 818?

Mr. Burgess: Yes, sir.

Mr. Sheean: We will get just what that run is from the time cards. By the way, in those hours on duty, Mr. Trenholm, in each case do you carry out the compensated hours, or the hours which he would be entitled to collect pay for, if he were on an hourly basis?

Mr. Trenholm: That is covered in this tabulation, I think, the manner in which the hours are shown. This is the Atchison, Topeka & Santa Fe. They have reported their time under No. 1. No. 1 says, "From time called for, until released from duty at end of run, including initial and final terminal delay, but not preparatory time." So that the hours there, as reported, would be from the time he started to make his trip, until he got back to his home terminal, including the elapsed time.

Mr. Burgess: Minus the time he was getting his engine ready?

Mr. Trenholm: Minus preparatory time, yes, sir. They did not report any preparatory time.

Mr. Burgess: So that in reality, if he was thirty minutes on each day, there would be some additional hours to add to these?

Mr. Trenholm: Yes, sir.

Mr. Burgess: As set forth in the table?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Trains 817 and 818, as shown by the time card of the Official Guide of the Railways, leaves Rincon at 7:20 in the morning and reaches Silver City at 12:35 noon, each day. Leaves Silver City on the return trip at 4:20 in the afternoon and arrives at Rincon at 9:15 P. M.

Mr. Trenholm: Three hours and 45 minutes.

Mr. Shea: That would have been deducted. That dead time must have been deducted.

Mr. Trenholm: No, I think not.

Mr. Sheean: No, this time, Mr. Shea, would be the compensated time, if he were on the hourly basis. Of course, they keep a record of the time under each of the schedules. His time slips would show this much compensated time. As to what the schedule provision of the Santa Fe may be, I am not prepared to say, offhand.

Mr. Shea: What time does he leave?

Mr. Sheean: He leaves at 7:20 in the morning and gets to Silver City at 12:35 noon. On his return trip, he leaves at 4:20 in the afternoon and reaches Rincon at 9:15 P. M.

Mr. Burgess: Now, Mr. Sheean, is that a branch run?

Mr. Trenholm: It is 101 miles.

Mr. Sheean: Branch passenger, yes, sir.

Mr. Burgess: Very well. He is at the depot at 12:35, as I understand?

Mr. Sheean: Yes.

Mr. Burgess: Now then, does he not have to turn his train and prepare his engine, to go back and take care of the engine at that point?

Mr. Sheean: Oh, I assume so, yes, sir.

Mr. Burgess: Then, he would not be relieved?

Mr. Sheean: I have no personal knowledge about that, as to whether that is done by a hostler.

Mr. Burgess: That is the ordinary and usual procedure.

Mr. Sheean: Oh, yes.

Mr. Burgess: They have what, Mr. Sheean—what is sometimes spoken of here as a "handy man."

Mr. Sheean: Yes, sir.

Mr. Burgess: Then that handy man would not turn the engine, or switch the train to return?

Mr. Sheean: No, I assume that that work on a run of that sort—I assume probably that he would do that work at the turning point.

Mr. Stone: What page?

Mr. Sheean: 170.

Mr. Trenholm: I think that is his whole time on duty, Mr. Burgess. If you will figure the thirty-one trips, he is thirteen hours and 55 minutes, from the time he starts until he gets back. That, multiplied by the thirty-one, would make approximately 403 hours.

Mr. Burgess: Well, Mr. Trenholm, in practical railway operation, stopping at the depot at 12:35, by the time he got that train returned and put away, and the engine taken care of, it would be pretty near time to report again for duty.

Mr. Trenholm: After he had got his dinner.

Mr. Burgess: Sure; that is included. I suppose he eats on that run, the same as we do here.

Mr. Park: Suppose he ran in a train on the "Y" and backed into the depot, and let the engine stand there?

Mr. Trenholm: I don't know what operating conditions are there, but he has approximately three hours and 45 minutes at the turning point. Of course, if he has very much work to do, returning his train, unless there is some other provision made for taking care of the engine, why, he is apparently not released there, because that reports his full hours from the time he leaves, until he gets back—elapsed time.

Mr. Sheean: But the branch passenger run itself is shown as from 7:20 in the morning until 12:35, and then, on the return trip, from 4:20 until 9:15.

Mr. Trenholm: Yes, sir.

Mr. Sheean: Now, on that same page, there seems to be another $2,900 man—the second column, on the Santa Fe. By the way, the Santa Fe was shown to be one of the roads that had an extremely low schedule here, by one of their witnesses—the second column.

Mr. Park: What page?

Mr. Sheean: On page 170; a run between Topeka and—

Mr. Trenholm: There are three names used in that.

Mr. Sheean: Oh, yes.

Mr. Trenholm: Mr. Jones ran it on 23 trips in July, and Mr. Slater had it in August, and Evan Thomas took it in September, and ran it the balance of the year.

Mr. Sheean: Yes. Well, taking it in September and running it through the rest of the year, during the ten months of that year in which Mr. Thomas alone had the run, he was off sixteen days, or sixteen trips, and made something over $2,500 in ten months.

Mr. Trenholm: Where he ran a thirty day month, without loss of time, he earned $264. The first three months he did that. Then, in December, he ran twenty-eight trips and lost three, and got $246.40. The thirty-one day month which he had in January; he earned $272.80; so that, apparently, where they worked the full month, it was for a thirty day month, $264, and a thirty-one day month was $272.80.

Mr. Sheean: In this branch passenger service, Mr. Trenholm, does it appear that the branches are of various lengths and distances?

Mr. Trenholm: Oh, yes.

Mr. Sheean: Compensation varies in accordance with the peculiarities of branch line operations?

Mr. Trenholm: Yes, sir; quite a variation.

The length of the branch, or length of the run, seems to materially affect the compensation of the run.

Mr. Sheean: This run of Mr. Evan Thomas, trains Nos. 107 and 108.

Mr. Trenholm: Topeka and St. Joe.

Mr. Sheean: Yes. Well, train 108 is shown by the time card as leaving Topeka at 7:15 in the morning and arriving at St. Joe at 9:45 in the morning. On the return trip leaving at 7:20 in the evening and reaching Topeka at 10:15. What is the actual running time there?

Mr. Trenholm: 2 hours and 40 minutes one way and 2 hours 55 minutes the other way, as I figure it.

Mr. Stone: Is he paid 100 miles each way?

Mr. Trenholm: The distance is 144 miles, round trip, I think. I am not sure about that, whether he is paid 100 miles each way or not.

Mr. Sheean: 100 miles each way.

Mr. Trenholm: I would think he was, from the compensation here. Let us see. We can tell by the miles, I think.

Mr. Park: While he has a spread of some 13 hours, he is only on duty about 6 hours each day.

Mr. Trenholm: The mileage they show here, Mr. Stone, is 144 miles.

Mr. Stone: Yes, I know. I am familiar with the run because I am familiar with that territory.

Mr. Sheean: Yes, the time card here shows it is 71 miles from Topeka to St. Joe.

Mr. Trenholm: Well, they only show—in their report to me they only show the actual miles, 144. Of course, they may allow —100 miles for that each way.

Mr. Sheean: But the earnings show at the $4.40 rate that they are probably allowed 100 miles each way.

Mr. Trenholm: Yes, sir.

Mr. Stone: Well, you can take the mileage at the $4.40 rate.

Mr. Sheean: That is exactly what I said to Mr. Trenholm. At the $4.40 rate the returns here indicate that he is paid 100 miles each way.

Mr. Trenholm: The returns here indicate it.

Mr. Stone: Goes to bed twice every day in order to get enough sleep!

Mr. Sheean: Well, the time card shows he makes the run from 7:15 to 9:55 in the morning; then his return trip at 7:15 in in the evening to 10:10. A little less than three hours each leg of the run.

Mr. Trenholm, there is one shown here I notice who is getting over $3,000, $3,238. That is the I. & G. N. on page 183.

Mr. Trenholm: What page is that?

Mr. Sheean: Page 183. Branch line service on the I. & G. N., Mr. Charles Reitch, during the year ran between Mineola and Troup, and drew $3,238.70.

Mr. Trenholm: Yes, sir.

Mr. Sheean: Trains Nos. 201-2-5-6.

Mr. Trenholm: It is 88 miles, and they pay 100 miles for each leg of the trip.

Mr. Sheean: There is one crew apparently on that.

Mr. Trenholm: One crew on that run, yes, sir, doubles the road.

Mr. Sheean: Apparently doubles the road twice each day, does he not, 201, 2, 5, 6?

Mr. Trenholm: I think it runs daily except Sunday, and he doubles the road, the run that this man is on.

Mr. Stone: At the present time there are two crews on that run?

Mr. Sheean: Well, during that year apparently there were 106 trips that were not made by Mr. Reitch?

Mr. Trenholm: Yes, sir.

Mr. Sheean: His high month apparently was March, 1914, $314.95 in that month?

Mr. Trenholm: Yes, sir.

Mr. Sheean: The miles run, in column 2, are the actual miles as they show here on these returns, Mr. Trenholm?

Mr. Trenholm: I believe they are. I will tell you in just a minute. Yes, sir, the actual miles run, shown in column 2. But there is 100 miles paid for each leg.

Mr. Sheean: Apparently, Mr. Trenholm, as shown by the time card of the International & Great Northern Railroad, the train left Mineola at 6:30 in the morning, and arrived at Troup at 8:40 in the morning, and then leaving for the return trip at 9:55, getting back to Mineola at 12:05, one round trip. In the afternoon leaving at 2:55, getting to Troup at 5:05; leaving

Troup on the return trip at 5:30, back to Mineola at 8 o'clock in the evening.

Mr. Trenholm: There are apparently two crews on the four trains. They only show to me here one, and representing one. There are apparently two crews on there, making two round trips a day, and they show four trains, but only one crew. That evidently should be two crews, I take it.

Mr. Sheean: Well, for each 88 miles or one round trip, 100 miles would be paid?

Mr. Trenholm: Yes, sir.

Mr. Sheean: And Mr. Reitch is shown apparently as drawing 200 miles for the greater part of these months.

Mr. Trenholm: Yes, it shows he draws 100 miles each leg, each round trip. This report shows 88 miles.

Mr. Sheean: For the 88 miles, the round trip.

Mr. Stone: That don't show. It just shows 88 miles.

Mr. Sheean: The time card shows the distance from Mineola to Troup is 44 miles.

Mr. Trenholm: He makes two round trips, then.

Mr. Sheean: And if the two round trips a day are made under the present schedule of the I. & G. N., if the two round trips a day are made in a 31 day month, it apparently produces over $300—$315 a month. What do you find, generally speaking, Mr. Trenholm, with reference to this branch line assignment? Are the earnings pretty well up on passenger branch operation?

Mr. Trenholm: Some of them are quite high. There is a great variation in the earnings of branch passenger men, and I think it is largely governed by the miles of the branch. The rates, I think, are practically the same through the territory. There is not very much difference anyway, but the mileage seems to make a great difference.

Mr. Sheean: With reference to the branch freight, are there any engineers in a branch freight service here who earn more than $2,200 a year?

Mr. Trenholm: There are fifteen engineers in branch freight who earn out of—I have not got a memorandum of branch freight as to the total here that worked through the year, but there are fifteen engineers who earned over $2,200 a year.

Mr. Sheean: I see one here, $3,342.30, M. H. Basher. What road is that?

Mr. Trenholm: That is the Northern Pacific Railroad, Rocky Mountain Division; branch freight, M. H. Basher.

Mr. Sheean: And the terminals of the run are?

Mr. Trenholm: Wallace to St. Regis, 57 miles. Trains 843 and 844. There seem to be two crews in the assignment. They apparently double occasionally. The road says that the mileage varies account of doubling. They apparently sometimes double the run, and sometimes do not.

Mr. Stone: Do you understand he is doubling the run or doubling the hill?

Mr. Trenholm: Doubling the run. It is only 57 miles. The road says "Mileage varies, account of doubling the road occasionally." It may be, Mr. Stone, doubling the hill. I am not sure about it.

Mr. Park: Did he run continuously throughout the year without losing a trip?

Mr. Trenholm: Apparently this man lost no time.

Mr. Park: Summer and winter?

Mr. Trenholm: Apparently. There is no lost time shown. It is shown he worked every day of the year, 365 days.

Mr. Sheean: And that is a run of 57 miles.

Mr. Trenholm: Yes, sir.

Mr. Stone: Do you show anywhere in this exhibit, Mr. Sheean, any local freight in branch service?

Mr. Trenholm: Not in branch service, no, sir.

Mr. Stone: Don't you have any, or do you not show it?

Mr. Trenholm: There may possibly be some. I would not be sure about it.

Mr. Sheean: I think there is no distinction made here between through and local in branch service. They show branch freight. As to whether it is considered a through freight on that branch, or a local on that branch, I do not think it is shown.

Mr. Stone: It would make quite a difference in the rate.

Mr. Trenholm: Yes, but if it was branch way freight, Mr. Stone, it would be under way freight, and the terminals would show whether it was branch, or main line, or not.

Mr. Stone: I am under the impression you have a whole lot of it under mixed service.

Mr. Trenholm: Well, it was not asked for that way.

Mr. Sheean: On page 196, there seems to be a $2,600 run.

Mr. Trenholm: $2,921 on page 193, I notice, Mr. Sheean.

Mr. Sheean: That is the Canadian Pacific?

Mr. Trenholm: Yes, sir.

Mr. Sheean: On an ore run.

Mr. Stone: That Wallace-St. Regis run, I am sure, is a Mallet engine.

Mr. Park: That is over that very heavy grade.

Mr. Stone: It is a Mallet engine, and I think they take the local rate in addition to that. I know it is a Mallet engine, or was, a short time ago.

Mr. Trenholm: Which one?

Mr. Stone: That Wallace-St. Regis run, on the Northern Pacific.

Mr. Trenholm: Probably the data here would show, Mr. Stone, just what that is. The superintendent's letter probably would show just what that is, but they show it under branch freight assigned.

Mr. Stone: There must be something very heavy, by the number of hours shown.

Mr. Trenholm: It shows there are a good many hours; I do not know whether that is lapsed hours or actual time in service.

Mr. Park: That is a 2½ per cent grade there, is it not?

Mr. Trenholm: I do not know, Mr. Park, what the grade is.

Mr. Sheean: That is an ore run. I suppose that is what we have been talking about as mine runs.

Mr. Trenholm: That is the Canadian Pacific, you are speaking of?

Mr. Sheean: Yes, on page 193.

Mr. Trenholm: Mr. Stone wanted to get from Mr. Curry, whether this run from Wallace to St. Regis is with a Mallet engine. It is train numbers 843 and 844, a 57-mile run. It is a mountain run, but I do not know how they handle it.

Mr. Curry: There is a small Mallet engine on that run between Wallace and St. Regis.

Mr. Trenholm: A Mallet engine?

Mr. Curry: Yes.

Mr. Park: Mr. Curry, do you remember the grade there?

Mr. Curry: I think there is a 4 per cent grade, as I recall, for a very short distance, quite a heavy grade out of Wallace.

Mr. Sheean: This Canadian Pacific run that you referred to, at page 193, seems to be what has been spoken of as a mine run. They call it an ore run here.

Mr. Trenholm: Between Smelter, Rossland, Castlegar, etc., and return, average 65 miles, varies each trip, an ore run, and there is one crew on it. Apparently—

Mr. Sheean: Without any automatic release applied to the mine runs, that mine run on the Canadian Pacific paid for that year $2,921.48?

Mr. Trenholm: Yes, sir, with twenty-eight days lost time.

Mr. Sheean: And that is in branch freight service?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Mr. Trenholm, I notice on page 196, that some of the way freights there shown in branch line service, are shown as way freights, branch freight and branch way freight.

Mr. Trenholm: Yes, sir.

Mr. Sheean: And on that same page, the lower left-hand column, on the Burlington, there is a run that in that year paid Mr. Bennett $2,640.24, with a lay-off or an absence of twenty days in the month of August, nine in March and two in the month of May.

Mr. Trenholm: This record of Mr. Bennett includes way freight, through freight, yard and work service, between Edgemont, Deadwood and Englewood.

Mr. Sheean: He is one of the engineers on that branch, the Alliance division?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Apparently some of these are shown as being branch way freights?

Mr. Trenholm: Yes, sir; on the C. B. & Q. there are two or three in there that show branch way freights, four or five, I guess.

Mr. Sheean: I notice, too, at page 199, the D. & R. G. shows branch local freight, Mr. O. P. Cady, from Delta to Somerset and return, a branch local freight, the last one on the page.

Mr. Trenholm: Yes, branch local freight, O. P. Cady.

Mr. Sheean: So that in the branch freight service, some are locals and others are shown as freight?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Now, in the mixed service on the branch, how many engineers are shown in mixed service, on form 27?

Mr. Trenholm: Mixed service shows 157 engineers at work through the full year, of which 42 drew over $2,200 for the year.

Mr. Sheean: Let us take one or two of those in that branch service, as to what their earnings have been, the high men there.

Mr. Trenholm: Page 224, J. C. Boiselee earned $2,841.50. He is the highest man I see there.

Mr. Sheean: What railroad is he on?

Mr. Trenholm: Page 224, he is the seventh man on that page, and on the Missouri Pacific Railway, and runs between Great Bend and Hoisington, ten miles, trains 604 and 605, and 642 and 643. There is one crew that handles them all.

Mr. Sheean: That is apparently a branch ten miles long?

Mr. Trenholm: Yes, apparently so.

Mr. Sheean: And making two round trips a day on that branch of the Missouri Pacific, with a lay-off of twenty days in the month of May, eleven days in the month of June and nine days in the month of July, Mr. Boiselee was able to earn during the year $2,841.50?

Mr. Trenholm: Yes, sir.

Mr. Sheean: That is in mixed service?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Of course—well, you do not know, without referring to schedules, just what rate is paid on mixed service, on branch?

Mr. Trenholm: No; I don't know any particular road.

Mr. Stone: Are we to understand from this Exhibit, Mr. Sheean, that in all this mixed service as shown in these different roads that they all carry a different rate?

Mr. Sheean: No; that is just what I said. Without reference to the schedule, you would not know whether it did or did not, or just what rate it took.

Mr. Stone: But the fact remains that lots of this mixed service takes the local rate, and a number of these schedules don't recognize any mixed service at.

Mr. Sheean: I think there is a great variety, Mr. Stone. As to just what rate is paid in mixed service, in branches, there is a great variety.

The Chairman: How many trips a day did you say they make?

Mr. Trenholm: According to the mileage here, I would judge he made about six trips each way of this ten miles.

The Chairman: What were his average hours on duty during the day?

Mr. Trenholm: Well, his average hours on duty—he was —1,291 trips and 1,877 hours. Well, his actual time in working, according to the hours on duty as shown here, would be a little over 6 hours a day.

Mr. Park: Mr. Trenholm, could you estimate approximately what he would receive if this automatic release obtained?

Mr. Trenholm: Well, of course, according to our interpretation of the automatic release he would be tied up at both ends; so that each ten miles he run would be 100 miles, according to our interpretation of it, unless they classified this—well, they couldn't very well classify this as suburban service. Branch line service. He would get 100 miles for each 10 miles he run.

Mr. Park: What would that amount to, approximately, just in round figures?

Mr. Trenholm: Well, if he made this trip four time, it would be 400 miles at probably \$4.15 or \$4.40 rate. I don't know which it would be. It would be—Oh, somewhere between \$16 and \$20 a day for four trips.

Mr. Sheean: That is outside of preparatory time and initial and final terminal delay?

Mr. Trenholm: Yes, all of those things,—the arbitraries, of course, would apply.

Mr. Park: How could you separate this kind of a run, or any other run of this character, from the terms of the submission? It could not be done locally, after the Award is made.

Mr. Trenholm: No, you couldn't do anything, if the Award was made that way. You would either have to pay it or take off the run, I guess. You couldn't afford to pay it, probably.

Mr. Park: You could not take off the run. The State Commission—

Mr. Trenholm: No, they wouldn't let you.

The Chairman: Is this really a branch line or suburban service?

Mr. Trenholm: It is branch line, your Honor.

Mr. Park: They probably do the passenger business, and the local freight business and all the business of that line.

Mr. Trenholm: This is a mixed train. I presume it does all the work there is to do on that 10 mile branch.

Mr. Burgess: Missouri Pacific?

Mr. Trenholm: Yes.

Mr. Sheean: Great Bend and Hoisington. Whether Great Bend is the suburban end or Hoisington, I do not know. Hoisington is the main line station; Great Bend the end of the branch.

Mr. Stone: If we should get that Award, do you think the operating official would allow the engineer to make any such wages as that, or would he throw in other crews?

Mr. Trenholm: I do not see that it would make any difference to the railroad, whether he divided it up with four men or gave it to one man.

Mr. Stone: Make a whole lot of difference to the man on the run.

Mr. Trenholm: Wouldn't be any use putting four men in, to make each of them 10 miles. The cost to the railroad would be just the same, whether they had four men or one man on a job of that kind.

Mr. Sheean: On that same page, Mr. Trenholm, there seems to be another—St. Louis & Iron Mountain branch—the last one on the page, Mr. Sam Perry.

Mr. Trenholm: Yes, sir.

Mr. Sheean: Apparently drew $2,415.40 during the year and had 36 days off during the year.

Mr. Trenholm: Yes, sir. That record from the railroad shows it is a very similar run. It is a 20 mile run instead of a 10 mile run, and the superintendent's letter shows that this record includes a certain amount paid each week, for work on the engine. He apparently takes care of his own engine on that branch. They allow him something for it. This record includes whatever he is allowed.

Mr. Sheean: Well, the run just above that on the Missouri Pacific, also, $1,649.20.

Mr. Trenholm: Yes, sir.

Mr. Sheean: By Mr. Dawling. That is on the run from Leavenworth to Menager; a 15 mile run.

Mr. Trenholm: That run apparently don't run Sundays, and he laid off one month altogether. He did not work at all in one month, and lost in the year, altogether, 69 days.

Mr. Sheean: And those days thus lost were the 69 working days. There were, on that branch run of Mr. Dawling's 52 Sundays that were not working days, throughout the year. In addition to that, 69 other days taken off.

Mr. Trenholm: Yes, sir.

Mr. Sheean: Does the same situation in mixed service on branches seem to obtain in a great variety of conditions in the territory?

Mr. Trenholm: Yes, sir; there is quite a variation in the earnings of the men.

Mr. Sheean: Page 230, Mr. Trenholm. There seems to be earnings of $2,500.

Mr. Trenholm: Yes, sir; Henry Ward on the Southern Pacific, between Mina and Keeler, 160 miles.

Mr. Sheean: Is not that a narrow gauge?

Mr. Trenholm: I don't know.

Mr. Campbell: Yes, sir.

Mr. Trenholm: Mr. Campbell says it is, yes.

Mr. Sheean: Well, in that narrow gauge service between Mina and Keeler, under the present wages paid, or present wages paid for narrow gauge service, with this 64 days off through the year Mr. Ward earned $2,541.13.

Mr. Trenholm: Yes, sir.

Mr. Sheean: In this mixed service, narrow gauge?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Of the time taken off in this manner, 23 days were in the month of May.

Mr. Trenholm: Yes, sir.

Mr. Sheean: Is there any month worked full?

Mr. Trenholm: Yes, sir; there is a 31 and a 30-day month, worked full. One is $250, working 31 days, and working 30 days it is $238.06.

Mr. Park: I see on that page, under Robert E. Spahr, runs of six different trains, 15 miles. Six numerical designations of trains.

Mr. Trenholm: Yes.

Mr. Park: Under the submission, that would constitute 100 miles for each one of those trains?

Mr. Trenholm: I would say not. You asked me if they allowed 100 miles for each?

Mr. Park: No; under the submission.

Mr. Trenholm: Oh, under the automatic release, I suppose it would. It is the only interpretation I can place on that.

Mr. Park: The short runs and different numbers of trains seem to be much in evidence in these branch line trains, both in passenger and freight service.

Mr. Sheean: On the M. L. & T. Railroad and Steamship Company, between Houma and Schriever, a distance of 15 miles, the earnings of Mr. Spahr, during the year, were $2,025.22, with 11 days off.

Mr. Burgess: Mr. Sheean, may I ask you a question? In order to get the true picture here, should we not have some idea as to the spread of the time the man was on duty? Now, Mr. Spahr shows very long hours here.

Mr. Sheean: Those are his compensated hours, as explained, what he would be entitled to, if he took it in hours, as perhaps he did, on some of the trips. I don't know.

Mr. Burgess: Assuming that 10 hours was a day's work, we find in July, 364 hours, and his wages were $167.51, and so on all the way through the tabulation. While the miles do not appear very heavy, the hours do.

Mr. Park: But he seems to have been able to run throughout the entire year and only lost 11 days.

Mr. Burgess: Oh, yes, sure. Well, he had to do that. Probably he was out on a branch, Mr. Park, and it would increase the outlay to the company to deadhead a man down there.

Mr. Sheean: I think the detail in all of these, Mr. Burgess, as to just how they ran on those trips, is shown by the superintendents' letters in each case. We could perhaps take up this particular one, but all of that is on file here. I can get it now.

Mr. Burgess: Not necessary.

Mr. Sheean: Wherever any particular run is under question, in connection with the blueprints that are filed and the superintendents' letter, I think we can see just how that run was made and be able to get the details.

The Chairman: How many hours was this man on duty, days?

Mr. Sheean: Mr. Keefe, will you get the detail as to that?

Mr. Keefe: Yes.

Mr. Park: As a matter of fact, the submission asks the Board to make an Award there of six days, instead of one.

Mr. Stone: While he is looking that up, can I ask a question, Mr. Sheean?

Mr. Sheean: Better ask Mr. Trenholm.

Mr. Stone: Mr. Chairman, while they are looking that up, I should like to ask Mr. Trenholm a question, if I might. In the Southern Pacific rates, do you understand there is any difference between the narrow-gauge rate and the standard-gauge rate?

Mr. Trenholm: I don't know, Mr. Stone.

Mr. Stone: My understanding is that it is the same rate all the way through, based on weight on drivers—no difference.

Mr. Trenholm: You mean the present rate?

Mr. Stone: The present rate.

Mr. Trenholm: That is my understanding, that there is no difference in the rate.

Mr. Stone: I note that some of it was shown as narrow gauge service and I thought if there was any distinction between the two—

Mr. Sheean: Except all narrow gauge, even where it takes the same rate as the standard, you ask under your request that all the narrow gauge be increased five per cent?

Mr. Stone: Yes; instead of asking for an increase by weight on drivers.

Mr. Sheean: You waive all weight on drivers, in narrow gauge?

Mr. Stone: No, I did not say that. This is the same identical rate down there. There is no distinction between the two, on the Southern Pacific.

Mr. Sheean: No; and there is no distinction in your request, asking a five per cent increase, even where they are already paying the rate of the standard gauge railroad. Mr. Keefe, will you give the detail the Judge asked for, of Mr. Spahr?

Mr. Keefe: The first train leaves Houma at 8:15 A. M., and they make three round trips. The last train arrives at Houma at 6:15 P. M.; leaving in the morning at 8:15 A. M. and arriving at Houma at—

Mr. Park: 10 hours?

Mr. Keefe: Yes, sir.

Mr. Sheean: 8:15 in the morning until 6:15 P. M., making these round trips, between those hours in the day?

Mr. Keefe: Three round trips.

Mr. Burgess: Mr. Sheean, the tabulation shows 364 hours in the month of July, 1913. Now, if you divide that number of hours—

Mr. Park: That is compensated hours.

Mr. Burgess (continuing)—by thirty, what time do you find the engineer on duty?

Mr. Sheean: You find what hours he was paid for.

Mr. Burgess: Well, we are assuming now in this calculation that they are not paying him for any other hours than it was necessary; but does not that method show that he was twelve hours and a fraction on duty?

Mr. Sheean: If you assume he was on duty for all the time he was paid for, yes, but this column shows the compensated time.

Mr. Burgess: Yes.

Mr. Sheean: He may have been, because of the spread there, compensated for time that he was not actually on duty.

Mr. Burgess: That is only an assumption.

Mr. Sheean: Absolutely.

Mr. Burgess: It may or may not have been so?

Mr. Sheean: It may or may not have been so.

Mr. Burgess: But, in that month, he ran 2,700 miles and was on duty 364 hours, and only received, in actual money. $167.51, according to this tabulation?

Mr. Sheean: Yes.

Mr. Park: I do not understand, Mr. Sheean, that it shows he was on duty that number of hours, compensated hours. The schedule of the train is ten hours.

Mr. Sheean: I accepted the hypothetical statement of Mr. Burgess, assuming the compensated hours were equivalent to the number of hours on duty.

Mr. Burgess: You accepted it because you did not have any positive information—

Mr. Sheean: One way or the other.

Mr. Byram: But have you not the exact information as to how this money was earned by this man, the details?

Mr. Sheean: Yes, but—

Mr. Byram: Does not the superintendent's letter tell you?

Mr. Sheean: Yes; but, Mr. Byram, as to whether or not the number of hours for which compensated are the identical number of hours on duty in each case, we do not know.

Mr. Byram: Does not the detail of your tabulation show that?

Mr. Sheean: He may have drawn money there and been entitled to compensation for hours that he was not, in fact, on duty, because of some of the rules.

Mr. Byram: I understand, but would not your detail show that, if it were so?

Mr. Sheean: All the details connected with the entire schedule, yes; but you would have to take the individual schedule of each road in order to ascertain whether the compensated time is, in every instance, identical with the exact number of hours on duty.

Mr. Byram: I understand that exactly; but what I want to know is, whether the information from which this statement was made contains that information as to the actual time he worked, compared with the compensated time he worked? If it does not give it, then we cannot find out about it here, but if it does give it, we can find out about it, and I would like to know.

Mr. Park: It is quite important, I think, because the road has to pay six times as much as it is paying now, on that particular road.

Mr. Sheean: I would not be prepared to say that throughout an entire year, where his time slips on the particular trips would run into overtime, the particular trips in the month, that you could get all the details as to the exact variation that there might be between compensated time and hours on duty. In other words, a man would draw his ten hours, although he was on duty only three or four hours in some cases. The detail of the slips, from day to day, throughout the entire year is not shown by the superintendent's letter, and I would doubt whether you could follow it to the detail you suggest.

Mr. Byram: Well, that is what I mean. That is the point, Mr. Burgess. The man's scheduled time on duty is ten hours. Now, he is paid for an average of twelve hours every day. That was by reason of delayed connections, or in other ways he was actually on duty twelve hours a day, although his schedule requires him to be on duty only ten hours, or where by provisions of the schedule, or other reasons, he was paid for twelve hours, although he may not have been on duty that many hours each day.

Mr. Park: He might have got two hours for turning on a "Y" in one of these intermediate trips.

Mr. Sheean: Yes; and I would not want to say the superintendent's letter in each case would be so specific as to cover each case.

Mr. Byram: I was not speaking about every case. I was speaking about this one.

Mr. Park: And if not, why not follow this up and find out exactly how it stands?

Mr. Trenholm: No trouble to do that. If the Board wants any information of that kind, we will be very glad to wire and find out all the particulars.

Mr. Burgess: We will see what the letter says.

Mr. Sheean: "The branch mixed service applies in addition to the Houma and Schriever runs, to runs on Lockport branch, Napoleonville branch, Cypremort, Salt Mine branch, Port Barre branch, Midland-New Iberia branch and Midland-Eunice branch. We operate three freight trains, namely, Houma to Napoleonville and return, LaFayette to Baton Rouge and return, Baton Rouge branch, and LaFayette to Cheneyville and return, Alexandria branch."

Mr. Burgess: Well, Mr. Sheean, regardless of what the superintendent's letter states, either you or Mr. Keefe did state that he left on the initial trip at 8:15 A. M., and did arrive at 6:15 P. M. on the final run.

Mr. Sheean: Yes.

Mr. Burgess: Yes.

Mr. Sheean: And in that spread of hours he had ninety miles to make, six times fifteen.

Mr. Burgess: So that we have ten hours as set forth in your time card. Now, in railway practice, we know that that does not represent the time that the man was actually on duty, because he must get his engine ready in the morning, and he must put the engine away at night, either in a roundhouse or on a designated track, and from the evidence that has been presented on branch line service here, we have a right to assume that probably he does switch his train in the morning or the evening.

Mr. Sheean: And gets an allowance for it.

Mr. Burgess. Exactly so. That is included in the twelve hour period. So that it does not seem at all strange that twelve hours would be consumed to make the final movement, or the complete movement, rather, when ten hours and 15 minutes is consumed from trip to trip, between the initial and the terminal.

Mr. Sheean: And it is not unusual, of course, to allow arbitrary time for the turning of engines. That may be in that time. We can get the detail of that.

Mr. Burgess: Evidently there was not much arbitrary time allowed in this example, when the company obtained 2,700 miles in 364 hours in one month, for an outlay of $167.51.

Mr. Sheean: Well, as I say, the run started at 8:15. He is through at 6:15, and during that entire spread all the running he did was 90 miles. So that there probably was a good part of the time of the spread when he was not very actively engaged in any physical work. Presumably, from the time shown here, they did, in addition to the mileage, make him a certain allowance each day.

Mr. Burgess: Well, Mr. Sheean, it is not your position, is it, to recognize only one factor, that is, while the man is absolutely working. Are you not willing to give some credit for the time consumed?

Mr. Sheean: Yes. That is why we are trying to give all the facts as nearly as we can. As to the exact detail of that, I don't know, Mr. Burgess, but we will be very glad to get that, as to whether they make any allowance in addition to the mileage in getting at these hours.

Mr. Byram: Well, Mr. Sheean, I think it would be unnecessary trouble. This is a fairly good example of many runs as set forth in this tabulation, is it not?

Mr. Sheean: I would think so, yes, sir. That a man earns about $165 a month, generally speaking, for work of that sort.

Mr. Park: On page 231, there is a J. Fake, who runs eight trains numerically. Now, under the submission, do you pay eight days? Literal interpretation of the submission?

Mr. Trenholm: What is that, Mr. Park?

Mr. Park: A literal interpretation of the submission would mean that the railroad would be required to pay eight days.

Mr. Trenholm: Yes, sir.

Mr. Park: And on page 234 you see two other runs there that are broken up the same way?

Mr. Sheean: 234 is suburban.

Mr. Trenholm: 234 is suburban. You get into automatic.

Mr. Park: No, it is on page 233, on the Wabash. Chris Smith. You would pay twelve days for that, would you?

Mr. Trenholm: Yes, sir.

Mr. Sheean: That is the run from Excelsior Springs Junction to Excelsior Springs, nine miles? He goes up and back a number of times each day.

Mr. Burgess: Well, Mr. Sheean, what would you pay to Mr. ———, I cannot pronounce his name because it is blotted, but it follows Mr. Smith on the Wabash?

Mr. Sheean: Raikes.

Mr. Burgess: Probably so. You see several months there his wages were very low.

Mr. Sheean: Yes. His run paid him $122 a month, whenever he was on the job.

Mr. Burgess: When he worked the full month?

Mr. Sheean: Yes. That is on the run from Salisburg to Glasgow, fifteen miles. Just the one crew on that, and when that crew assigned to it makes the run, he is paid $122.84.

Mr. Burgess: And, during the month, he runs 2,790 miles, and gives 320 hours of his time, for which—

Mr. Trenholm: What page is that?

Mr. Burgess: 233, in the last column.

Mr. Trenholm: The figures you named were not right.

Mr. Burgess: Oh, weren't they?

Mr. Trenholm: He made 278 trips, 2,520 miles.

Mr. Burgess: No, sir; the last column, Mr. Trenholm, says thirty-one trips, miles run 2,790.

Mr. Trenholm: Oh, that is for the month of May.

Mr. Burgess: Yes.

Mr. Trenholm: Yes, sir.

Mr. Burgess: Hours on duty, 320. For which he received $122 and some odd cents. That is one of the full months, Mr. Trenholm. That is what he would receive if he worked 31 days?

Mr. Trenholm: Yes.

Mr. Sheean: This Houma branch is shown on our Exhibit 1, apparently, Mr. Burgess.

"Houma branch, mixed; identified in time table as trains 301, 302, 303, 304, 305 and 306; engine 17x24 inch cylinders, weight on drivers 48,000 lbs., total weight of engine 78,000 lbs., tractive power 12,630 lbs. Train 102 leaves Houma 7:30 A. M., arrives Schriever 8:25 A. M.; train 305 leaves Schriever 9:25 A. M., arrives Houma 10:35 A. M.; 306 leaves Houma 1:05 P. M., arrives Schriever 2:15 P. M.; 303 leaves Schriever 2:50 P. M., arrives Houma 3:45 P. M.; 304 leaves Houma 4:35 P. M., arrives Schriever 5:35 P. M.; 301 leaves Schriever 6:10 P. M., arrives Houma 7:05 P. M. Total time on duty during spread of day, not including dead and preparatory time, 6 hours 5 minutes. Consists of train, combination baggage and coach and one coach. The only freight equipment operated is merchandise car to Houma daily on train 305. Daily mileage 90."

Mr. Burgess: What is dead time, Mr. Sheean?

Mr. Sheean: Time when he has nothing whatever to do except to wait for his next trip.

Mr. Burgess: But the hours you gave, or trips, had not the value, and the territory of those trains was so limited that there would be no dead time there, would there, the hours between arrival and departure?

Mr. Sheean: Well, I don't know. I would not want to say, Mr. Burgess, as to just what a man could or could not do in that length of time. The total spread we have here from the time table; the total running time is also shown, and if you exclude the time after arrival and the time of departing, and exclude also preparatory time, the total of it is 7 hours and 50 minutes, in a spread as you showed here of ten hours.

Mr. Burgess: But, Mr. Sheean, we must always recognize the fact that the railway companies, and very properly so, require the engineer to be on duty, in the usual operation, at least 30 minutes before the train is due to depart, and there is some time after he stops at the depot before he can put his engine and train away, and if the spread between the arrival and departing time is one hour, it is reasonable to assume that there is no dead time, as far as he is concerned, in ordinary and usual railway operation.

Mr. Sheean: Well, there is some, an hour and an hour and a half. Of course, the whole thing shows here.

Mr. Park: I would like to ask the witness, from his general knowledge of those conditions, on such runs where you run into a small terminal on branch lines, if, as a matter of fact, the engineer is not off duty as much as the balance of the crew; the engine is usually put on a side track, and they are relieved from duty. This 30 minutes or 40 minutes preparing the engine on each leg of a terminal of this kind is rather mythical, in my experience.

Mr. Trenholm: I think it would be governed very largely by the conditions. If the engineer has to take his engine to a roundhouse or any designated place, he is probably on duty a little bit longer than the train crew. It depends entirely on what the conditions are.

Mr. Park: But, as a general proposition, where they make a number of runs during the day, they do not take the engine to the turntable and turn her around and put her in the roundhouse and blow her out, and she is generally left in the yard or in the depot, is she not?

Mr. Trenholm: An engine has to be turned, I think, on all these branch runs, on a turntable, or sometimes they run around a Y, if they have one, with the train; and in that case the trainmen go with it. I think usually trainmen go with the engineer, the brakemen, or at least a couple of the brakemen go to help him turn it, if they turn it on a Y. I would think the engineer was probably a little bit longer on duty than the trainmen, but not a great deal.

Mr. Burgess: Well, Mr. Trenholm, it is not necessary or usual to blow an engine out every time she goes to the roundhouse, is it?

Mr. Trenholm: No.

Mr. Byram: Do you think it is fair to assume that, on a branch run like this, making five or six or eight trips with a 17x24-inch engine, the smallest size engine in use at the present time, handling a coach and one freight car on one of the trips, and just a coach on the others, that there is 30 minutes of service required of the engineer to get his engine ready to go back?

Mr. Trenholm: I would think on a run of that kind, probably not. I was answering Mr. Park. He asked, generally speaking, about branch line service. The probabilities are, while I do not know a thing about it, he may have a pilot on both ends and does not turn the engine on short runs.

Mr. Byram: Have you any of these branch lines anything similar to this?

Mr. Trenholm: Yes.

Mr. Byram: Where one crew makes several short trips during a day?

Mr. Trenholm: Yes, sir.

Mr. Byram: Do you find on your road that it requires 30 minutes of the engineer's time every time he gets to the end of one of these trips, to get his engine ready to go back to the other end?

Mr. Trenholm: No.

Mr. Byram: So that if he had an hour's dead time between trips, it would not require 30 minutes to get ready to go back again, would it?

Mr. Trenholm: I do not think so. Very short runs, the Menominee run, for instance, a three-mile run, but they do other work.

Mr. Burgess: But if you had that train on your railroad and you found you could not release him more than 15 or 20 minutes between each one of these particular runs, you would not release him at all during the day, would you?

Mr. Trenholm: The probabilities are, I expect, for his meal hour, he would go and get his dinner, whatever it was. He would not be released for 15 or 20 minutes; he would wait around there, probably.

Mr. Sheean: The fact that this compensated time, as shown here on this particular railroad, as attention was called to the fact that the compensated time is practically 12 hours each day, while his total time, excluding the dead time and preparatory time is only 6 hours, 50 minutes, shows that that road does just what you say you would not do, about not releasing him, does it not?

Mr. Trenholm: This road reports—

Mr. Burgess: Of course, that is railway operation.

Mr. Trenholm: This railroad reports their time under clause 1, I take it, which reads "From time called for until released from duty at end of run, including initial and final terminal delay, but not preparatory time." So that on a run of that kind, I presume the man does all work there is to do at the beginning and ending, so that the probabilities are that his compensated time here shows his actual time from the time he starts until he gets back, barring preparatory time.

Mr. Burgess: Yes, and it is the usual and ordinary operation.

Mr. Trenholm: Yes, sir.

Mr. Sheean: Mr. Trenholm, in this branch service I think you said you found that a good deal apparently was dependent upon the particular length of the branch and the manner in which it was susceptible of operation.

Mr. Trenholm: Yes, sir.

Mr. Sheean: As to the compensation of the men.

Mr. Trenholm: Yes, sir.

Mr. Sheean: Now, in suburban service, Mr. Trenholm, what opportunities for earnings are shown as to engineers in that service, under the present situation?

Mr. Trenholm: There are only 14 engineers reported in suburban service, and there are only two of them that earned over $2,000. One earned $2,020.66, and the other, $2,234.80, for the year.

Mr. Sheean: Let us see who he is, and on what road.

Mr. Trenholm: Page 235, Engineer G. T. Rodgers. He is the third man on page 235.

Mr. Sheean: That is on the Missouri Pacific, running between Kirkwood and St. Louis.

Mr. Trenholm: Yes.

Mr. Sheean: What is that, 13.5 miles?

Mr. Trenholm: I think that is 13.5. It is blurred some. Yes, 13.5.

Mr. Sheean: Apparently he has six trips a day that he makes on that run.

Mr. Trenholm: Yes.

Mr. Sheean: And next to him there seems to be a Mr. Lister, who runs from St. Louis to Carondelet and Kirkwood, eight trains a day on his run.

Mr. Trenholm: Yes, sir.

Mr. Sheean: Earning $1,725 a year.

Mr. Trenholm: Yes.

Mr. Sheean: There are not very many roads in the Western territory, apparently, that have an established suburban service?

Mr. Trenholm: No, there are very few.

Mr. Sheean: Do you show that in your index, as to just how many there are?

Mr. Trenholm: Yes.

Mr. Sheean: Only five of the roads represented, of the ninety odd roads, apparently, have suburban service at the present time.

Mr. Trenholm: And most of those are out of Chicago.

Mr. Sheean: Chicago and St. Louis seem to be the only cities where there is a recognized suburban service in this Western territory.

Mr. Trenholm: Well, the Denison & Pacific Railway make a report of one man.

Mr. Sheean: Well, on the Southern Pacific, we heard about suburban service, too, but that is electric.

Mr. Trenholm: Yes.

Mr. Sheean: Where is that Denison & Pacific run, between what points?

Mr. Trenholm: That is between Denison and Sherman Junction.

Mr. Sheean: 7.3 miles.

Mr. Trenholm: 7.3 miles, yes.

Mr. Sheean: Now, is there anything you wish to say about this exhibit before we turn to the firemen's compilations on the same road?

Mr. Trenholm: No, I think not.

Mr. Sheean: Mr. Stone, would you prefer that I run through the other two before you examine?

Mr. Stone: Go right ahead.

Mr. Shea: Turn to page 234, Mr. Trenholm, please. The Chicago & North Western, Engineer Hayward; for July and August I see you show 48 hours in July and 91 in August. Is not that an error?

Mr. Trenholm: No, I think not.

Mr. Shea: He was only on duty 48 hours in the month?

Mr. Trenholm: That is all.

Mr. Shea: And made $147.15?

Mr. Trenholm: That is all. I questioned that with the railroad, Mr. Shea.

Mr. Shea: What kind of a run is that, from Chicago to Winnetka?

Mr. Trenholm: Some suburban run out of here, where some days I think he only makes about an hour.

Mr. Shea: In July, he made 108 trips, and in September he made 107 trips, and it shows 106 hours.

Mr. Trenholm: There is a full letter of explanation in regard to that in the file which is filed here. That looked rather odd to me, and I made inquiry of the road, and while I do not remember just the details of the answer, it was brought out, as I remember it, that these hours were correct.

Mr. Shea: It is so unusually low as to the number, is why I questioned it.

Mr. Trenholm: Yes, it excited my suspicion also when I saw it.

Mr. Stone: There is probably a wide spread between the different runs?

Mr. Trenholm: No, I think he only makes one trip a day, as I recall it. I will get that for you. It was very surprising to me when I saw it.

Mr. Sheean: Mr. Burch, have you that detail?

Mr. Stone: The reason I thought it was more than one trip, I see he made 108 trips in the month, so he must have made more than one round trip, and I imagine there is a wide spread in hours. The highest scheduled speed for a suburban train is only 30 miles an hour.

Mr. Trenholm: I have got the details in regard to that, because it excited my curiosity.

Mr. Sheean: That is Mr. Hayward you are talking about?

Mr. Shea: Yes.

Mr. Sheean: I have sent for the detail of that, Mr. Shea.

(Papers were here handed to the witness.)

Mr. Trenholm: Shall I read this into the record? "Schedule of suburban runs on which Engineer Edward P. Hayward was engaged during the period from July 1, 1913, to June 30, 1914:

Run No. 13 (daily except Saturday and Sunday).

Trains: 350, Weber-Evanston-Chicago.
353, Chicago-Evanston.
436, Evanston-Chicago.
437, Chicago-Winnetka.
452, Winnetka, Central Street.

Daily trips, 5; actual running time 2 hours 15 minutes; actual miles run, 60.2; miles paid crew, 130.

Run No. 13.

(Saturday only), July 1, 1913, to January 4, 1914.

Train 350: Weber-Evanston-Chicago.
813. Chicago-Evanston-Weber.

Daily trips, 2; actual running time, 47 minutes; actual miles run, 29.2; miles paid crew, 120.

Run No. 13.

(Saturday only), January 4, 1914, to June 30, 1914.

Train 350. Weber-Evanston-Chicago.
821. Chicago-Winnetka.
814. Winnetka-Central Street.

Daily trips, 3; actual running time, 1 hour, 4 minutes; actual miles run, 36.2; miles paid crew, 120.

Mr. Stone: Would you understand from that, that there is a spread of 12 hours in that run, to be paid 120 miles?

Mr. Trenholm: I would think so, Mr. Stone.

Mr. Stone: That is my understanding of it. Then, on the other run, where he is allowed 130 miles, there must be a spread of 13 hours?

Mr. Trenholm: Yes, I would infer so. This is quite lengthy, and I suppose that is enough to read in. That is the way it is made up.

Mr. Sheean: From the information received from the railroads, did you cause to be compiled in a similar manner the information as to the firemen?

Mr. Trenholm: Yes, sir.

Mr. Sheean: That was received under the same form of instruction to the various roads?

Mr. Trenholm: Yes, sir. The only difference was in the color of the form, so as not to get them mixed, a different color of paper, that is all; the instructions were exactly the same.

Mr. Sheean: We offer that as Exhibit 42.

(The document, so offered and identified, was received in evidence and thereupon marked "Railroads' Exhibit No. 42, March 1, 1915.")

Mr. Sheean: In this Exhibit 42, Mr. Trenholm, are there any omissions or matter that has come in later than the time that 42 was bound up, that you have since added?

Mr. Trenholm: Yes, my explanation as to Exhibit 41 is just the same as for the firemen. There wrere quite a number of names given that we could not use, on account of two names being used in the one month, which of course destroyed the exhibit. And the Canadian Northern was also late in getting in, and we were unable to include them in it. I think there are 96 firemen whose records are in the figures we have filed that are not included in this, for one cause or another.

Mr. Sheean: But the detail of that is shown in the supporting papers that are filed here?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Gentlemen, as to the forms, without formally filing them here, it is understood that they will be accessible. The engineers' were filed with the clerk, or left with the clerk, but he passed them back to us, and we will have the firemen's data in the same way without formally bringing them into the room now.

Mr. Carter: So far as I am concerned, that is satisfactory.

Mr. Sheean: Is that satisfactory?

Mr. Stone: That is satisfactory.

Mr. Trenholm: I have a memorandum here. I don't know that I have got it of all the firemen that we have not used here, but if thought desirable, I could show some of the reasons why we did not include some of these men.

Mr. Sheean: Well, tell us some of those reasons, Mr. Trenholm.

Mr. Trenholm: Well, there is C. McGee, Canadian Pacific Road, on the Alberta Division, several assignments included in the record, so we could not get one man's record. The Rock Island, Mr. H. A. McFarlane, only reported for ten months, earned $1,749.06. J. H. Sterba, C. R. I. & P., Oklahoma, omitted from index in error, earned $1,795.95. Butterfield, on Great Northern, Sioux City Division, record of three men combined.

Mr. Sheean: You have given some of the general reasons as to why certain men were not carried out, why you thought it would be improper, because of the lapping of two men in one month?

Mr. Trenholm: Yes, sir; would not show the proper earnings for one month, on the assignment, and a few men were omitted in error, and some information received too late, such as the Canadian Northern, but they are all in the record there. and they were not left out with any desire to—

Mr. Stone: Are any of these men, Mr. Trenholm, covered in Mr. Keefe's exhibit? Are they the same?

Mr. Trenholm: Mr. Keefe's exhibit, I think, takes some of the men in this book. He prepared his separately. He asked the railroads for the high man. I should think about one-half the men that Mr. Keefe showed, are shown here, and also he did not show, I think, the earnings on some of these low men.

Mr. Keefe: 10 per cent.

Mr. Trenholm: Both are overlapped, to some extent, both his low men and his high men. Some of them are found in here, Mr. Stone.

Mr. Sheean: Now, the same general form here is followed as to the firemen, that was as to the engineers, in the classification?

Mr. Trenholm: Yes, sir; the same form exactly.

Mr. Sheean: Well, then, let us take, first, the firemen in passenger service and get some general idea of what is shown as to the earnings of the firemen in passenger service. First, how many men are shown, Mr. Trenholm—firemen in passenger service?

Mr. Trenholm: Well, I don't think I have got the number of men, Mr. Sheean. I just had the young man bring me the figures as to the men who worked the full year, without a break. The firemen, through their seniority, of course, it is harder to find the man that worked in any service through the year. I think these show in this record some 6,000 firemen. We have attempted to trace through, but it is harder to get a fireman who has worked through the full year, in any assignment. There are 214 firemen in passenger service, in this record, that worked through the year.

Mr. Sheean: On their assignments?

Mr. Trenholm: On their assignments, yes, sir.

Mr. Sheean: Now, of that 214, working on their assignment through the year, how many men earned as much or more than $1,600 a year?

Mr. Trenholm: Of the 214 working through the year, there were twenty that earned over $1,600.

Mr. Sheean: Now, let us take some one or two that are over $2,000. The first one you show there, page 27, Mr. Lowery.

Mr. Trenholm: R. S. Lowery. Mr. Lowery is on the D. & R. G., apparently, between—between Grand Junction and Montrose, and return. Grand Junction to Montrose and return. That is, as I understand it, seventy-three miles each way.

Mr. Sheean: Now, he apparently worked every day that year, did he not, 365 days on this passenger run?

Mr. Trenholm: Yes, sir.

Mr. Sheean: And as fireman on that run, earned $2,061.63?

Mr. Trenholm: Yes, sir.

Mr. Sheean: That is a local passenger train, apparently?

Mr. Trenholm: That is what the road reports it, as a local passenger train.

The Chairman: What was the rate of wages paid?

Mr. Trenholm: Well, his daily earnings, your Honor, were $5.65. I do not know his rate. He worked 365 days and earned $2,061.63. That would be $5.65 per day.

The Chairman: Did the engine that he fired on, take a high rate?

Mr. Trenholm: I have not got that record here.

Mr. Sheean: What was the rate, Mr. Martin?

Mr. Stone: According to the number of miles he ran, he crowded two years' work into one, almost, did he not?

Mr. Trenholm: He made 146 miles each day, or a total of 53,290 during the year.

Mr. Carter: Made a round trip, 365 days in the year?

Mr. Trenholm: Yes.

Mr. Carter: If it had been leap year it would have been 366.

Mr. Sheean: Let us take the time card and see how hard that man did work on 319 and 320. Have you the time card there, Mr. Keefe?

Mr. Trenholm: I don't know how much elapsed time there was at the turn, but this record shows ten hours a day approximately.

Mr. Sheean: Grand Junction to Montrose and return. Is that narrow gauge?

Mr. Martin: Standard gauge.

Mr. Sheean: Mr. Martin says the firing rate is $3.10 per 100 miles.

The Chairman: That is what we wanted to know.

Mr. Stone: Is that a standard gauge or narrow gauge, Mr. Martin?

Mr. Martin: Standard gauge. Leaves Grand Junction at 8:30 in the morning, gets to Montrose at 12:20; leaves Montrose at 2:45 P. M.; arrives at Grand Junction at 6:08 P. M.

Mr. Sheean: He starts on his run at 8:30 in the morning and is firing until 12:20; and then starts at 2:45 and gets into his other terminal at 6:08.

Mr. Martin: Paid for the miles laying at the turning point?

Mr. Sheean: Well, on this being two days' work in one, practically, on the theory suggested by one of the questions, it would be from 8:30 in the morning until 12:20, as his work on the outgoing trip, and then, beginning at 2:45 and continuing until 6:08 in the evening, the fireman on that run, working every day, as this man did, was paid $2,061.63.

Mr. Trenholm: Yes, sir.

Mr. Sheean: Now, another $2,000 man shown there seems to be Mr. Golightly, page 35. What road is he on?

Mr. Trenholm: International & Great Northern.

Mr. Sheean: Between what points is his run?

Mr. Trenholm: Herne and Taylor, 55 miles; trains 7 and 8. There is one crew.

Mr. Sheean: Well, $1,976.55 was paid on his assignment. He apparently earned $31.30 in other work. Where was that?

Mr. Trenholm: I don't know where it was.

Mr. Sheean: But during the time that he was off his assignment, or some other way in railroad service, he was permitted to earn $31.30?

Mr. Trenholm: Yes, sir; he earned $4.25 as a yard engineer, one month.

Mr. Sheean: That is apparently a round trip made each day, Mr. Trenholm?

Mr. Trenholm: Yes, sir; they pay 100 miles, each way.

Mr. Sheean: Have you seven and eight there? Well, I won't take the time for that. Now, there are several $1,700 men here. Let us see. $1,752.20, Mr. H. Dammon. Where is that earned?

Mr. Trenholm: Page 42.

Mr. Trenholm: That is on the Missouri Pacific Railway.

Mr. Sheean: Between what points?

Mr. Trenholm: Between Wichita, Yates and Yates Center, 198 miles round trip. Trains 405 and 406. One crew on the run. Runs every day except Sunday. It runs every day in the month.

Mr. Sheean: And there is one month, the month of March, in which Mr. Dammon did work the full month?

Mr. Trenholm: Yes.

Mr. Sheean: Being paid as fireman on that run $180.55, when he worked every day?

Mr. Trenholm: Yes, sir.

Mr. Sheean: These earnings of $1,752.20 were with a total lay-off of 64 days through the year?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Now, on that same page, let me see, there is another—there is $1,719 on the St. Louis & Iron Mountain?

Mr. Trenholm: Yes, sir, between Little Rock and Knobel. Distance between terminals 238 and 147. Trains 28, 29, 23 and 24. Three crews in the assignment.

Mr. Sheean: Now, Mr. Trenholm, having given the high earnings that I have spoken of here, about $2,000, and the $1,700 and $1,800, in passenger service, do you find in the passenger service, that for similar lengths of time on duty, and so far as there is similarity in the assigned runs, that the earnings of the men on different railroads under their various schedules reasonably approximate each other?

Mr. Trenholm: Well, there is quite a variation, depending of course on the length of the run. The mileage in these assigned trips seems to have a great bearing on the earnings of the men. They fluctuate as between railroads, and on the same railroads considerably.

Mr. Sheean: Well, of course, on the same road, if there is a uniform schedule on the entire road, the fluctuations are due to changed conditions on the road.

Mr. Trenholm: I think that is, of course, true on the road, and it means the same conditions makes them fluctuate as between different roads.

Mr. Sheean: What I was seeking to ascertain, was whether it was because of fluctuations in the schedule provisions, or whether or not there was reasonable uniformity throughout the territory, in case you found similar conditions on different railroads.

Mr. Trenholm: Well, of course, I didn't go into the details as to why the fluctuations varied on different sections of one road, or as to different sections of the country. The fluctuations exist all over as to the yearly compensation or monthly compensation of these men. It is very noticeable, in studying this exhibit, that the mileage of these different assignments has a very marked effect on the compensation to the men. Much more so than the rate or the rules on any railroad, I should say.

Mr. Sheean: Well, on the same railroad on these assignments, there is shown to be quite a marked variation in the amount of money that will be produced on a particular assignment in passenger service, compared with some other assignment?

Mr. Trenholm: Yes, sir.

Mr. Sheean: And, in that connection, the opportunity through the exercise of seniority appears upon different roads to select different runs, does it?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Before passing that, Mr. Trenholm—

The Chairman: Will you kindly suspend, Mr. Sheean?

(Whereupon, at 12:30 o'clock P. M. a recess was taken until 2:30 o'clock P. M.)

After Recess

A. W. TRENHOLM was recalled for further examination and, having been previously sworn, testified as follows:

Mr. Nagel: I would like to make a slight correction of a few misprints. On page 5794 the last two questions I ask. The first ought to be "the reason of the rule" instead of "the reason of the roads." And in the last question, "human gain" should be "human game."

Mr. Sheean: We had gone hurriedly through the firemen in freight service. Now, I want to make clear this through freight, beginning at page 63, assigned to through freight. Does that mean that both in this form and the one preceding it, that the through freight covered in that part of these exhibits, is only the through freight covered by regularly assigned men?

Mr. Trenholm: Yes, sir.

Mr. Sheean: And in the pool or chain gang shown at a later time, you differentiate between the through freight service that is covered by the pool, and through freight service covered by assignments?

Mr. Trenholm: Yes, sir. Some of the roads protect their through freight service by their pool or chain gang; and some do not. These through freight assignments are the roads that have men assigned to that service.

Mr. Sheean: In this assigned through freight service, you show earnings of various men in just the same way as shown in the preceding exhibit as to engineers in assigned through freight service?

Mr. Trenholm: As to firemen, yes, sir.

Mr. Sheean: In the assigned through freight, apparently the high earnings of the firemen is on the Illinois Central, page 70, Mr. J. H. Morrison, \$1,482.02, with a forty-day layoff?

Mr. Trenholm: Yes, sir.

Mr. Sheean: That is between Louisville and Central City?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Have you a memorandum as to how many firemen in assigned through freight are shown in this exhibit?

Mr. Trenholm: There are 32 firemen shown, ten of which received over \$1,300 a year.

Mr. Sheean: In the local freight the same information as to firemen is here shown as was shown as to engineers in the corresponding exhibit?

Mr. Trenholm: Yes, sir, page 75.

Mr. Sheean: Apparently one of those firemen made \$1,698?

Mr. Trenholm: Yes, sir.

Mr. Sheean: What was that run, or where was that road?

Mr. Trenholm: Mr. T. Bray, page 111, made \$1,698.70.

Mr. Sheean: While on that same page 111, there seems to be shown on that page—oh, I see, that is a number of men.

Mr. Trenholm: That is a division of men; there were different men in different months, so that is not a fair indication for a full year for any one man.

Mr. Sheean: But the assignment paid to the men who fired on it, $1,790?

Mr. Trenholm: That is the assignment, yes, sir.

Mr. Burgess: Is Thomas Bray the fireman you are referring to?

Mr. Trenholm: Yes, sir; he is the first man on the page.

Mr. Burgess: He worked 26 days.

Mr. Sheean: In July?

Mr. Burgess: In July, 1913, yes.

Mr. Trenholm: Yes.

Mr. Burgess: And 376 hours in the twenty-six days?

Mr. Trenholm: Yes, sir.

Mr. Burgess: And 1,804 miles?

Mr. Trenholm: Yes, sir. It is a short run of 69.4 miles. It is a turn, I judge. There are only two trains and one crew. I judge he makes the turn. Apparently he does not run Sundays. That is the lapsed time, I think.

Mr. Burgess: There must have been a great number of hours on the road to make 376 hours in twenty-six days.

Mr. Burgess: Well, it is a local or way freight. I judge that. I do not know how heavy it is.

Mr. Burgess: That would indicate it was not light, would it not, Mr. Trenholm?

Mr. Trenholm: I have a notation here which shows it is tri-weekly, in mountain territory. He apparently goes down one day and back the next, so that I judge his hours are probably quite long.

Mr. Byram: You say that is in mountain territory?

Mr. Trenholm: Yes, sir.

Mr. Byram: Might be some constructive mileage?

Mr. Trenholm: Probably is. It is 69.4 miles and it is a tri-weekly run.

Mr. Sheean: Between Butte and Logan?

Mr. Byram: Yes, between Butte and Logan, mountain territory.

Mr. Burgess: He did not make very many miles—1,800, but his hours—

Mr. Stone: 14½ hours a trip.

Mr. Burgess: I was speaking about the hours. 376 hours in 26 days. He would not be paid more hours, would he, than he made?

Mr. Byram: Might be. Maybe computed his mileage into hours.

Mr. Burgess: Well, but the number of hours there indicate that he was making more than 100 miles for 30 days, 10 miles to the hour. It would only be 300 hours if he would work every day of the 30. He only worked 26, according to the exhibit, but did make 376 hours in the 26 days.

Mr. Carter: Equivalent to 47 days of 8 hours each.

Mr. Trenholm: The payroll for October shows Mr. Bray as working 28 days, 28 trips, 1,936 miles, 369.4 compensated hours. Average hours, 13.2 per trip and earning $173.98 for the month of October.

Mr. Byram: 13 hours.

Mr. Trenholm: 13.2.

Mr. Burgess: What were the number of hours for July?

Mr. Trenholm: The July shows here. That is the only comparison you can make, is for October.

Mr. Sheean: He drew $173 in October.

Mr. Byram: That shows he was paid for many more miles than he made.

Mr. Trenholm: Yes; mileage was light. 1,936 miles in 369 hours in October. Shows that that is way freight run, in a mountain territory, and I judge runs to hours.

Mr. Burgess: Therefore, in that instance, Mr. Trenholm, the hourly basis applied, rather than the mileage basis?

Mr. Trenholm: Yes, sir.

Mr. Sheean: And on that first month of July, the showing of 376 hours, wages $166.07, that is about 44 cents an hour, for all the hours on duty?

Mr. Trenholm: Yes, about that. I haven't multiplied it.

Mr. Sheean: Now, in the pool or chain gang service, that is shown, beginning at page 121?

Mr. Trenholm: 121, yes, sir.

Mr. Sheean: Have you a memorandum as to how many firemen are shown in this exhibit, as being in the pool throughout the year?

Mr. Trenholm: There are 172 firemen in the pool, throughout the year.

Mr. Sheean: And how many of those earned $1,350 or more?

Mr. Trenholm: 52 out of the 172.

Mr. Sheean: Of that 52, some of them earned $1,600?

Mr. Trenholm: A couple of them $1,700. George Hogan, on page 145, shows $1,742.05.

Mr. Sheean: Mr. Hogan was only in the pool the last six months, apparently, and outside of the pool made $958?

Mr. Trenholm: Yes, sir.

Mr. Sheean: There is Jesse Jones, page 152.

Mr. Trenholm: Jesse Jones, 152, well, he made $1,626.89 in the pool, and made $101.10 outside of the pool.

Mr. Sheean: That is on the Union Pacific?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Rawlins and Green River, 134 miles.

Mr. Trenholm: And in addition to the pool earnings of $1,626, he made other money.

Mr. Sheean: In addition to the pool earnings of $1,626, scattered through the year there was a total of $101.10 made in other service?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Now, in this pool service, through freight, do the reports of the different railroads show that the firemen in that service, generally, earn in some other line as well as the pool service, or some other class of service? Is it not frequent that the men remain the entire year firing in the pool?

Mr. Trenholm: Well, there are not a great many of them that go through the year, without getting into some of the other assigned service, because they protect other service to a greater or less extent.

Mr. Sheean: Just what do you mean by protecting other service?

Mr. Trenholm: Well, if there is a vacancy in other lines of work, such as through freight, or in some cases passenger or way freight, the man that is in pool takes the vacancy, maybe for two or three days; it may be for some time.

For instance, as an example, take page 121, the first page, there is an example of it. Take Fred Schmanke. The first three months of the year he is in pool service pretty steady. Then, for two months, he doesn't get anything in pool service at all. He is a local. In the month of October, he earned $127.41. In the month of November he is in the local; he is in passenger; and he is in switching. He doesn't get anything in the pool in either one of those months. Then he apparently gets back into pool in December. He gets $64.24 in passenger service, and he gets $55.48 in pool service. That is quite general through the pool with firemen.

Mr. Sheean: On practically all of the roads?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Now, in your branch and passenger service, Mr. Trenholm, how many firemen are shown there as being in that service throughout the entire year?

Mr. Trenholm: Sixty-seven firemen shown that worked on the assignment the full year. Of which, eight of them drew over $1,500, one as high as $1,635.

Page 172.

Mr. Sheean: Well, as shown on this slip I have here, one $1,922.

Mr. Trenholm: That is right, $1,922.

Mr. Sheean: What run is that on?

Mr. Trenholm: That is Walter Hicks, page 167.

Mr. Sheean: That is on the M. K. & T. apparently, the first one.

Mr. Trenholm: Yes. He is in branch passenger between Mineola and Greenville, 50½ miles, and there are four trains run, and one crew.

Mr. Sheean: That is, there are two trains each way, apparently?

Mr. Trenholm: Two trains each way apparently yes, sir.

Mr. Sheean: And in that branch passenger service, going over the road twice each day on that branch, Mr. Hicks in that year drew $1,922.10, and was off forty-seven trips.

Mr. Trenholm: Forty-seven days.

Mr. Sheean: That is the compensated time? I don't know. We can get those runs, I guess, M. K. & T.

Mr. Carter: In March he made 413 hours.

Mr. Trenholm: That takes in the lapsed time, of course. I do not know how much that is.

Mr. Byram: What does October show?

Mr. Trenholm: October shows 393 hours, 6,000 miles.

Mr. Byram: What does your October payroll in the other exhibit show, as to the time?

Mr. Trenholm: Walter Hicks, Greenville to Mineola, thirty days, 120 trips, 6,000 miles, 393 hours, 13.1 compensated hours. Average trip 3.3 hours. $181. On through freight, Greenville to Shreveport, $36.75. $217.75. Now, that is an adjustment, that $36.75, adjustment for September payroll. His earnings for that month were $181 on that run.

Mr. Byram: How many hours did he run—what were his actual hours on duty?

Mr. Trenholm: His actual hours on duty were 393, 13.1 hours per day, 3.3 hours per trip.

Mr. Carter: How many trips?

Mr. Byram: That includes the lapsed time then, apparently.

Mr. Trenholm: His trains are 11, 12, 13 and 14, so there would be four trips a day.

Mr. Byram: Two round trips?

Mr. Trenholm: Yes, sir, two round trips.

Mr. Byram: It does not give the interval between trips, does it?

Mr. Trenholm: No, the payroll does not give that.

Mr. Sheean: Here it is, the Mineola Division (referring to Official Guide). Those are trains 11, 12, 13 and 14, are they?

Mr. Trenholm: 11, 12, 13 and 14, yes, sir.

Mr. Sheean: The time table shows: Leaves Mineola at 7:15 A. M.; reaches Greenville at 9:50 A. M.; leaves Greenville at 10:35 A. M., back to Mineola at 1:05 P. M.; leaves Mineola at 1:35 P. M., reaching Greenville at 4.05 P. M.; leaves Greenville at 4:45 P. M., and back at Mineola at 7:15 P. M.

Mr. Trenholm: Just twelve hours from the time he starts.

Mr. Sheean: From 7:15 in the morning—

Mr. Trenholm: Until 7:15 in the evening.

Mr. Carter: And he makes over 200 miles a day?

Mr. Trenholm: Yes, sir.

Mr. Sheean: The branch freight, Mr. Trenholm, is shown beginning at page 174?

Mr. Trenholm: Yes, sir.

Mr. Sheean: And how many firemen are shown as being in that service throughout the entire year?

Mr. Trenholm: There are only 19 shown as working on the assignment the full year, of which three of them receive over $1,300. There is one who received $1,507.

Mr. Sheean: On turning to page 183, where he is shown as getting $1,507, there seems to be a man right next to him there, on the Northern Pacific, who drew over $2,000—oh, that you exclude because there were two different men?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Mr. Christy ran that for a part of the time, and Mr. Black the remainder of the year.

Mr. Trenholm: Yes, but the monthly earnings of the men on that run are quite heavy, of course. That is, Rocky Mountain Branch freight. But we could not show that as the one man earning that, because there were three men on that run during the year, and while the monthly earnings were quite large, the yearly earnings are divided up between different men.

Mr. Stone: That is that Mallet engine again.

Mr. Trenholm: I think so.

Mr. Sheean: Wallace and St. Regis.

Mr. Stone: Yes.

Mr. Sheean: Well, the one next to that, Mr. Mernis Hasty.

Mr. Trenholm: Moscow and Arrow.

Mr. Sheean: Yes, $1,507.02.

Mr. Trenholm: Yes.

Mr. Sheean: That is on a branch which is 37.6, 41.6, and 51.7, distance between terminals.

Mr. Trenholm: Yes.

Mr. Sheean: That is also on the Northern Pacific?

Mr. Trenholm: Yes.

Mr. Sheean: Now, in the branch mixed service, Mr. Trenholm, how many men are shown remaining in that service throughout the entire year?

Mr. Trenholm: We show 78 as remaining on their assignment for a full year, of which 23 received over $1,400.

There are several $1,890, I notice. Several $1,600 in that 23.

Mr. Sheean: Now, that $1,890, that is on what road?

Mr. Trenholm: Page 204.

Mr. Sheean: Oh, that is the same run that the engineer was shown on the Missouri Pacific to draw so much money. That is from Great Bend to Hoisington, that 10 mile branch on which they make two round trips a day.

Mr. Trenholm: Yes.

Mr. Sheean: And with 17 days lay off, and 13 days in August, Mr. Derheim, firing on that line, drew $1,890.35.

Mr. Trenholm: Yes, sir.

Mr. Sheean: How many did you say you had shown in this exhibit who were exclusively on that work through the year?

Mr. Trenholm: 78 in branch mixed that worked on the assignment through the year, of which 23 drew over $1,400.

Mr. Sheean: Now, in suburban service, how many men are shown in that service throughout the entire year?

Mr. Trenholm: There are only three shown throughout the entire year.

Mr. Sheean: And of those three—

Mr. Trenholm: Two of them drew over $1,300.

Mr. Sheean: But you show as to others who, during part of the year were in that service, what their earnings were in other lines of work through the year?

Mr. Trenholm: Yes, we follow the service through for the year. We take a man that was on there any month that he was on the crews, but months that he didn't work there we put in the man who did work there.

Mr. Sheean: And you found two that worked exclusively on that during the year, three that worked entirely in firing suburban service.

Mr. Trenholm: Yes, sir.

Mr. Sheean: And two were over $1,300 in wages?

Mr. Trenholm: Yes, sir.

Mr. Sheean: Now, Mr. Trenholm, have you caused any summary to be made of these Exhibits 40 and 41?

Mr. Trenholm: Yes, sir.

Mr. Sheean: And have prepared that as a separate exhibit?

Mr. Trenholm: Yes, sir.

Mr. Sheean: We offer that as Exhibit 43.

(The document so offered and identified, was received in evidence and thereupon marked "Railroads' Exhibit No. 43, March 1, 1915.")

Mr. Sheean: Now, Mr. Trenholm, will you explain, please, in just what manner this summary has been compiled?

Mr. Trenholm: Well, it is a recapitulation of Exhibits 41 and 42. On the first sheet—perhaps I had better show in what manner it was prepared.

Starting on page 1, the engineers assigned to passenger service. First, we show the road, Atchison, Topeka & Santa Fe Railway. The road number, which is 1; the division, Illinois; name of engineer, C. A. Fisher; he is the first engineer in Exhibit 41. Number of months in assignment, 12. He was on during the entire year, so he is on 12 months; number of trips runs, 241; —miles run, 56,876. Hours on duty, 1,863. Hours per trip, 7.7. Lost time, 2 days. Total wages, in assignment, $2,513.61. Wages per hour, $1.35. As he has no outside earnings, in the case of this man, none is shown. If he had any it would be shown in the next column, "Wages outside of assignment. Total wages received."

Now, each name in both of these books is recapped here according to the months they worked. If there were two men in the assignment during the year—two engineers, each engineer would be taken for the number of trips he made during the time he was on it. For instance, if you follow it down, the first there, you will find that in the Atchison, Topeka & Santa Fe, you will find that I. Small in the middle division worked eight months on the assignment, and J. McNeil worked four, so each of them are carried out in accordance with the months or trips they were on, and the hours they worked. That is the same with the firemen. The man is recapped just according to the number of months he worked and the number of trips he made in each month, and the hours he was on duty doing it.

And that again is recapped into classes. In the first sheet of the exhibit, for instance, class of service passenger, pages 1 to 16 for the engineers. Total months on assignment 7,660.

Total number of trips run, 222,937.

Total miles run, 29,783,194.

Total hours on duty, 1,224,015.

Average miles per trip, 133.

Average hours per trip, 5.5.

Total lost time, 17,117 days.

Total wages on assignment, $1,384,133.89.

Average wages per hour for passenger engineers, $1.13.

Total wages outside of assignment, $10,239.16.

Total wages paid, $1,394,373.05.

And so, with each class of service. Through freight follows.

Mr. Sheean: Well, now, Mr. Trenholm, you have taken as to each of the individuals shown in your preceding exhibits 41 and 42?

Mr. Trenholm: Yes, sir.

Mr. Sheean: And have here summarized in the manner indicated on page 1, as to each of them, the information as to the total number of miles, etc., as you have enumerated?

Mr. Trenholm: Yes, sir.

Mr. Sheean: And then, from the totals thus obtained, you have recapitulated that summary on the first sheet or index preceding page 1, in this sheet?

Mr. Thenholm: Yes, sir; in this exhibit.

Mr. Sheean: Now, without taking up the time as to each of the details here, will you please state what the result is as to the average miles per trip; the average hours on duty and the average wages per hour in each of these various classes of service?

Mr. Trenholm: Well, I have just read the passenger. Through freight. The average miles per trip is 117.

Average hours per trip, 9½.

The average wages per hour is 70 cents.

Local or way freight, the average miles per trip is 93.

The average hours per trip is 11.6.

The average wages per hour is 59 cents.

Pool or chain gang, the average miles per trip is 110.

The average time is 9½ hours.

The average wages per hour is 70 cents.

Branch passenger:

The average mileage per trip is 85.

The average hours per trip is 4.7.

The average wage per hour is 86 cents.

Branch freight:

The average mile per trip is 74.

The average miles per trip is 9½.

The average wages per hour is 61 cents.

On mixed trains:

The average mileage per trip is 47.

The average hours per trip is 5½.

The average wages per hour is 61 cents.

Suburban:

The average mileage per trip is 28.

The average hours per trip is 2.4.

The average wages per hour is 72 cents.

The total of all of them:

The average miles per trip is 96.

The average hours per trip is 7.2.

The average wages per hour is 76. cents.

That is engineers.

Mr. Shean: And that is on a total payroll of $4,500,000, on which that average was reached.

Mr. Trenholm: In that are the records of 3,230 engineers and a payroll for the year of 4,586,000 odd dollars, yes, sir.

Mr. Burgess: And in some instances, the firemen draw more money per hour than the engineers; is not that right?

Mr. Trenholm: No—well, it might be in some cases. I do not know. No, I do not think so. Of course, I was reading the Engineers here, altogether.

Mr. Burgess: I notice in engineers assigned to freight service, branch line, under the heading of average per hour, there are many tabulations at 54 cents, 55 cents, and 53 cents, and in the Firemen's exhibit, under the same heading, there are many averages shown at 59 cents per hour; so that would make, in the same class of service, the fireman drawing more money than the engineer.

Mr. Trenholm: I would have to trace that through, Mr. Burgess. I do not think so. I would have to check that to see. I do not know of any cases of that kind, in the same service.

Mr. Burgess: I do not know that they are in the same service, but the exhibit shows that.

Mr. Trenholm: I think a passenger fireman's rate per hour would be higher than a freight engineer in his rate per hour.

Mr. Burgess: Representative engineers assigned to freight service, branch line.

Mr. Trenholm: What page?

Mr. Burgess: Page 53. The first tabulation is 54 cents per hour.

Mr. Trenholm: Yes, sir. He worked five months on that run, Ed Kennedy.

Mr. Burgess: Representative firemen assigned to freight service, branch line, page 135; wages per hour, on the Atchison, Topeka & Santa Fe, we have a figure of 59 cents.

Mr. Trenholm: Where is that 59 cents?

Mr. Burgess: Down there about half way on the Atchison, Topeka & Santa Fe. So, in the same class of service—

Mr. Trenholm: Fifty-nine cents?

Mr. Burgess: Yes, that is what my table shows.

Mr. Sheean: Robinson, do you mean?

Mr. Burgess: Yes, and Keller, right under Robinson, 52 cents, and skip two or three tabulations, and you will find 54 cents.

Mr. Trenholm: Brewer up here is 54 cents.

Mr. Burgess: And one near the bottom is 55 cents.

Mr. Trenholm: Yes, in branch line service.

Mr. Burgess: Freight, just the same as the engineer. So in many instances we have the fireman drawing more money than the engineer in the same class of service, if this exhibit is correct.

Mr. Trenholm: You will notice the first man you spoke of, Ed. Kennedy; hours per trip was 13.1. His rate was 54 cents per hour, because he was on the road a long while. In the fireman's case, I notice that the hours per trip are 7, J. I. Brewer, 54 cents. I do not strike the 59.

Mr. Sheean: Above that, on the Rio Grande Division?

Mr. Trenholm: You see, he was only 2.2 hours per trip, so his rate per hour goes up very high.

Mr. Burgess: Yes, but regardless of how we manipulate the figures, we do come to the final result that an exhibit is before the Board wherein the fireman is getting more money than the engineer in the same class of service.

Mr. Trenholm: Entirely depending on the mileage, and the time on duty, yes, sir. Of course, if the engineer works thirteen hours per day, as he does in this first case, and his hours every trip are 13.1 hours, of course his rate per hour gets right down to the rate where a man is actually working that time. In the other case, the man is paid per mile, and where his hours on duty are small, his rate per hour goes up.

Mr. Burgess: Regardless of how we state it, we come to the fact in the final analysis that the fireman does receive more money than the engineer, in the same class of service according to this exhibit.

Mr. Trenholm: Well, you can only state it as to the facts as they exist, Mr. Burgess.

Mr. Burgess: Yes, that is what I was trying to do.

Mr. Trenholm: I say, I can only state it as to the facts existing. You take the 59 and the 52; there were two men on that run during the year. One man worked five months, 362 trips, 6,504 miles; hours on duty 785; hours per trip 2.2. Now, he drew $465.28 for those five months, and earned 59 cents per hour. He earned $115.10 outside the assignment, which, of course, has nothing to do with that. The next man on the same run made 565 trips, 10,000 miles and over; 1,305 hours; 2.3 hours per trip; $676.20, and his rate was was 52 cents per hour.

In making the exhibit, as to the rate per hour, the only thing you can do is to use the hours he was on duty, and show his rate per hour, in this tabulation. There is no other way I know of in which you could show it.

Mr. Burgess: Then we are to understand that while this exhibit shows that and accords with it, the fact remains that fireman does get more money than the engineer in the same line of service.

Mr. Trenholm: A man goes out and runs fifty miles and does it in two and a half hours, and is allowed on that particular run 100 miles. For that fifty miles, his rate per hour is whatever the time on the run was. The engineer on some other branch line in some other place, working a full 100 miles, and doing it in long hours, his rate per hour necessarily is less than it would be if the constructive allowance was made.

Mr. Burgess: Well, we find a great many of them through here, in these different tabulations, Mr. Trenholm.

Mr. Trenholm: I think there will be a case of that kind, but you will notice in the recapitulation, that the fireman, taking it as a whole, Mr. Burgess, I think, stands about the ratio to the engineer that we have generally understood that he did.

Mr. Sheean: Supposing we see if we cannot trace on the Santa Fe, instead of comparing a Rock Island engineer in Louisiana with a Santa Fe fireman on the Rio Grande division, let us see if we cannot find an engineer on that same division of the Atchison, Topeka & Santa Fe. At page 135, Mr. Burgess called attention to two firemen on the Rio Grande Division, who drew 59 cents and 52 cents an hour. Let us see if there are any engineers on the Santa Fe, Rio Grande Division.

Mr. Burgess: Pardon me, Mr. Sheean. I just mentioned those two because they were handy.

Mr. Sheean: I understand that. I don't know whether we can find engineers on that division or not.

Mr. Burgess: There are a great many through the various exhibits, Mr. Sheean. My idea was to show that in this general territory there was a great discrepancy between the firemen's and engineers' wages, if these exhibits are correct.

Mr. Byram: Could that be so, Mr. Trenholm? There is an engineer on every engine with a fireman, isn't there?

Mr. Trenholm: Yes, sir.

Mr. Byram: And the rate of pay for an engineer is higher —the rate per mile or per hour is higher for engineers than firemen?

Mr. Trenholm: Yes, sir.

Mr. Byram: It would not be possible for a fireman to earn more money, on the same engine, in the same service, than an engineer?

Mr. Trenholm: That would be impossible.

Mr. Stone: Does the engineer on the Rio Grande Division of the Santa Fe get more per mile than the man on the Louisiana Division of the Rock Island, for the same class of service?

Mr. Trenholm: I think so, Mr. Stone. I think that is caused, you know, by the short hours and possibly the constructive mileage making the man's rate per hour higher than an engineer in some other territory that works long hours.

Mr. Sheean: This page 135, to which attention was called, is firemen assigned to freight service on branch lines, and on the Rio Grande Division, there are Robinson and Keller, drawing 59 and 52 cents an hour. Now, on page 51 of this recapitulation, you seem to have engineers assigned to freight service, and on the Rio Grande Division there is shown Mr. E. Loutherback, who, as engineer, received 83 cents per hour.

Mr. Trenholm: What page did you say that was?

Mr. Sheean: Page 51.

Mr. Trenholm: Yes, sir.

Mr. Sheean: He has the hours per trip of 2.2 hours, while these two men to whom Mr. Burgess called attention, A. J. Robinson and B. G. Keller, also had 2.2 hours per trip; so, apparently, you have the engineer and fireman, on just the same runs there, one drawing 59 cents and the other 83 cents.

Mr. Trenholm: Engineer Loutherback worked through the entire twelve months on that run. His average was 2.2 hours per trip. His rate per hour was 83 cents. The run was divided up between the firemen. One got 59 cents, the other 52 cents.

Mr. Carter: Don't they make three trips on that run? I see Loutherback made 1,153 trips, on page 51.

Mr. Sheean: Yes, I have it.

Mr. Carter: 1,153 trips in that year.

Mr. Sheean: Yes.

Mr. Carter: It would be three trips a day.

Mr. Trenholm: I judge so, yes, sir. He lost 16 days in the year.

Mr. Carter: Do I understand—

Mr. Trenholm: You can look up this man in the detail, Mr. Carter. That is on branch line service, freight. Atchison, Topeka & Santa Fe.

Mr. Carter: Do you understand from that exhibit that they only worked 2.2 hours per day?

Mr. Sheean: No, Mr. Carter. The total number of trips are shown in the second column.

Mr. Trenholm: Engineer Loutherback is on that run the entire year; runs 20,746 miles. The run is turn-around, Hurley-Santa Rita. It is 8.9 miles each way. It is only 9 miles, so he makes three turns, I think.

Mr. Carter: Three round trips?

Mr. Trenholm: Yes, sir, he makes 1,153 trips, and loses 16 days.

Mr. Sheean: Turn-around. Each leg of the trip 9 miles long.

Mr. Carter: 6 times 9, about 54 miles a day.

Mr. Sheean: That is manifestly—the engineer on the same run on which there were the two firemen, to which Mr. Burgess called attention at page 135.

Mr. Trenholm: That is branch freight, page 174. Yes, we have Mr. Keller and Mr. Robinson; it is on the same run here, Hurley-Santa Rita, 8.9 miles each way. The two men there make 927 trips, and lose 46. So it is the same run.

Mr. Stone: It is a mixed run, on a 4 per cent grade, up to some copper mines.

Mr. Sheean: They put it branch freight rate?

Mr. Stone: Well, they pay a freight rate.

Mr. Burgess: Mr. Trenholm, I understood you to state the other day that mixed service on your line paid the same as through freight; is that right?

Mr. Trenholm: I think it does, Mr. Burgess. I would not be positive. I don't know that we have any mixed, except branch line mixed.

Mr. Burgess: I notice on your branch line mixed—I think your road is the Chicago, St. Paul, Minneapolis & Omaha, is it not?

Mr. Trenholm: Yes, sir.

Mr. Burgess: Well, you have three runs there, on page 145, where the fireman's average is 55 cents, 59 cents, and 51 cents.

Mr. Trenholm: 145.

Mr. Burgess: Yes. That is a very much higher rate than what the engineers get on your road, according to this exhibit.

Mr. Trenholm: I don't think that has any bearing at all, because it is the compensated time, and the peculiarities of the run, 55, 59.

Mr. Burgess: And 51.

Mr. Trenholm: Yes.

Mr. Burgess: And you notice for branch line service they have 5, 6 and 7 hour days, if I am right.

Mr. Trenholm: You notice that all those rates are of but one run. One man put on a run six months; one, one; one, one; one, one; one, two; making twelve months that—it takes five men to make up the twelve months there, and, of course, the rates are caused by the difference in the hours. You will notice the man that was six months made 104 times 11,066 miles, 560 hours on duty, average hours per diem 5.3; 55 cents. The next man was 63 average hours, and his rate is 59 cents. So that the difference in the time on duty affects the rate per hour.

Mr. Burgess: So, Mr. Trenholm, that is the solution of the question, then. This rate remained fixed from the beginning of one year to the other, did it not, on your own road?

Mr. Trenholm: So far as I know, that rate has been the same since 1910.

Mr. Burgess: And there were three different firemen employed on that run?

Mr. Trenholm: Five.

Mr. Burgess: There were five different firemen employed on that run?

Mr. Trenholm: Yes, sir.

Mr. Burgess: And according to this exhibit, one of those firemen got 55 cents per hour; the other got 59 cents; and the other 51 cents; and the other 33 cents; and the other 45 cents.

Mr. Trenholm: Yes, sir.

Mr. Burgess: And still the rate remains the same from one end of the year to the other as far as the outlay of the company was concerned.

Mr. Trenholm: The rate was the same on the run, yes, Mr. Burgess.

Mr. Burgess: I think that is the solution of the question. Thank you.

Mr. Shea: Right on that same question, Mr. Trenholm, the first man, Varnes, worked six months, 5.3 hours on duty. That does not indicate his total opportunity for the day, does it?

Mr. Trenholm: That indicates his hours per trip.

Mr. Shea: Well, now, does he make more than one trip?

Mr. Trenholm: We will look up the details for you. This, of course, is a recapitulation of this. This is what? Firemen?

Mr. Shea: Yes.

Mr. Sheean: Firemen in mixed service, branch lines.

Mr. Trenholm: On page 198, Mr. Varnes. On Mitchell, Worthington and Sioux Falls run. He was on the run three or four different times during the year. He worked in July and August, August but 16 days. He then worked in November 6 days. He then worked in January 14 days. And in March, 8 days, and April 13 days.

Mr. Shea: What I wanted to find out, Mr. Trenholm, was whether that was the total hours on duty per day, or did he make more than one trip?

Mr. Trenholm: Oh, that was, I think, the total hours on duty, Mr. Shea.

Mr. Shea: The average?

Mr. Trenholm: Yes, sir. He made 26 days in July, and was on duty 160 hours, a little over 6 hours on duty each day in July.

Mr. Shea: I see he made 134 miles.

Mr. Trenholm: In July, he made, 3,480 miles.

Mr. Shea: No, up above there. Distance between terminals, 134 miles.

Mr. Trenholm: Yes, sir.

Mr. Shea: Now, as to firemen, what is the final recapitulation on the average miles of that trip, the average hours per trip and the average wages per hour in the various classes of service?

Mr. Trenholm: Firemen in passenger service:

Average miles per trip was 132.

Average hours per trip, 5.4.

Average wages per hour, 72 cents.

Through freight:

Average miles per trip, 116.

Average hours per trip, 9.4.

Average wages per hour, 46 cents.

Local or way freight:

Average miles per trip, 91.

Average hours per trip, 11.4.

Average wages per hour, 38 cents.

Pool or chain gang:

Average miles per trip, 110.

Average hours per trip, 9.6.

Average wages per hour, 46 cents.

Branch passenger:

Average mileage per trip, 82.

Average hours per trip, 4.6.

Average wages per hour, 52 cents.

Branch freight:

Average miles per trip, 69.

Average hours per trip, 9.2.

Average wages per hour, 39 cents.

Mixed Trains:

Average miles per trip, 45.

Average hours per trip, 5.3.

Average wages per hour, 38 cents.

Suburban:

Average miles per trip, 31.

Average hours per trip, 2.3.

Average wages per hour, 46 cents.

Total: All service:

Average miles per trip, 93.

Average hours per trip, 7.

Average wages per hour, 48 cents.

Mr. Sheean: And that is from consideration of how many men?

Mr. Trenholm: The firemen, the number of men used is 5,800, and the payroll for the year, 2,522,000. That is hardly a correct statement. I would like to correct that. The average number of firemen is 5,800, but those are not all for the year. It is the number of names that were used in this exhibit, but they don't all work for the full year. The number of assignments shown in these exhibits are Engineers, 2,307 assignments, and Firemen, 2,087.

Mr. Byram: What are the number of engineers, corresponding with the 5,800 firemen?

Mr. Trenholm: The number of engineers used was 3,230 names, and assignments, 2,307.

Mr. Stone: Are we to infer from that, that it takes that many firemen to keep that many assignments running?

Mr. Trenholm: No; the seniority list changes the men on these runs, so that one man don't stay on the run, a year. One cause and another—I don't know, Mr. Stone, just why.

Mr. Stone: If I got your figures correctly—I am just asking for information—there are 2,307 assignments a year which are manned by 3,230 engineers during the year.

Mr. Trenholm: Yes, sir.

Mr. Stone: But for 2,087 assignments for firemen, it took 5,800 firemen to man them?

Mr. Trenholm: There were that many names had to be used in order to trace the assignments through the year, yes, sir.

Mr. Carter: Have you the number of engineers and firemen in each class of service shown in the summary? I notice the numbers are omitted in the summary.

Mr. Trenholm: Yes; there are no numbers of men in this recapitulation.

Mr. Carter: Could you give us the number?

Mr. Trenholm: Only by counting them up. They are shown in the totals; but this shows the total months on assignment.

Mr. Sheean: Now, is there anything further, Mr. Trenholm, in order to make more easily understood just the method and manner in which this recapitulation is made?

Mr. Trenholm: No; I don't think so. This is simply a recapitulation of the figures in these. By taking each man's name. for the number of months that he worked on the assignment, and tabulating them and recapitulating them. I don't think of anything else.

Mr. Sheean: I think that is all, then.

Mr. Stone: I don't think we care to cross-examine the witness.

Mr. Sheean: That is all then, Mr. Trenholm.

Mr. Trenholm: Thank you, gentlemen, for your patience.

(Witness excused.)

Mr. Sheean: Mr. Stone referred the other day to the change in weights on drivers of certain Mikado engines purchased by the Southern Pacific. I have the following wire from Mr. Scott, General Manager of the Southern Pacific:

"Our specifications to Lima Loco Works estimated weight on drivers of 20 Mikado passenger engines as 217,800 pounds. Obviously in furnishing locomotive builders with specifications, particularly as to weight on drivers, calculations must be subject to considerable variation. We specify material to be used and dimensions of various parts and materials and dimensions must be complied with by builders. If in so doing weight on drivers is more or less than shown in specifications locomotives are accepted. 4 of the locomotives were weighed by locomotive works and average weight on drivers of these 4 locomotives was 209,412 pounds, and therefore locomotives carry stenciled weight of 210,000 pounds. It is customary for locomotive works to weigh only a few engines of lots of this kind, as weight of the various engines can not fluctuate very much as they are built all according to same specifications."

I think that is all the evidence the railroads have to offer.

The Chairman: Are you ready to proceed with your rebuttal, Mr. Stone?

Mr. Stone: Yes. Mr. Lauck.

W. JETT LAUCK was recalled as a witness in rebuttal, and having been previously sworn, testified as follows:

RE-DIRECT EXAMINATION.

Mr. Stone: Mr. Chairman, we desire to introduce as the first exhibit in rebuttal, Exhibit No. 57, "Productive Efficiency in the Western as Compared with the Eastern District."

(The document so offered and identified was received in evidence and thereupon marked "Employes' Exhibit No. 57, March 1, 1915.")

Mr. Stone: Now, Mr. Lauck, will you take this up and explain what we expect to prove by this?

Mr. Lauck: This is offered in connection with the exhibits presented by the Conference Committee of Managers, numbers 18 and 19, dealing with the train load in the East as compared with the West, and the proportion of traffic handled on branch lines in the West, as compared with the East.

This is an attempt to show, in that connection, that although the trainload is lower in the West than in the East, and the passenger load also, that from the standpoint of yield, in dollars and cents, owing to the higher freight rate and passenger rate, per ton mile and per passenger mile, and the longer haul, that the return is greater per revenue train mile in the West than in the East.

Referring to the table on page 2, I have made a comparison there, based upon the statistical abstract of the Interstate Commerce Commission, for the fiscal year 1913, showing total capitalization per mile of line in the East as compared with the West, being $183,630 in the East as compared with only $77,324 in the West; thereby indicating that the return to capital per mile of line would be less in the West than in the East. In other words, it would not be incumbent upon the Western railroads to earn as much as the lines in the East, the heavier capital investment being, of course, no doubt, due to the terminals and double tracking in the East as compared with the West.

The same comparison is made for cost of road and equipment per mile of line, showing $59,455 for the West as compared with $131,348 in the East.

The comparison of passenger density and freight density, indicates a much lower density in the West than in the East, and the average freight train load, as has been pointed out by the exhibits of the Managers' Committee, is only 379 tons in the West as compared with 531 tons in the East, and there is an average passenger train load or number of passengers per train mile, of 51 in the West as compared with 64 in the East.

On comparing the rates received, however, it is found that the average rate per passenger per mile in the East is only 1.79 cents as compared with 2.20 cents in the West.

The average rate per ton mile is only .63 cents in the East as compared with .9 in the West.

That gives us, therefore, even on the basis of the lower tonnage per train mile, and passenger load per train mile, in the West as compared with the East, almost the same operating revenues per train mile, or $2.53 in the East per revenue train mile and $2.52 in the West.

The operating expenses, however, in the West, are less than in the East, per revenue train mile, being $1.67 in the West as compared with $1.80 in the East.

The net operating revenue per train mile is also greater in the West than in the East, being 73 cents in the East as compared with 85 cents in the West, or 12 cents more for each train mile operated in the West than in the East.

It is also noted, and I call your attention to the fact, at the bottom of the table, that the typical haul of the average railway in the East is only 124.11 miles as compared with 179.16 miles in the West, and the average journey per passenger in the East is 25.94 miles as compared with 50.17 miles in the West.

The average amount received from each passenger is only 46 cents in the East as compared with $1.11 cents in the West.

The average amount received on each ton of freight is 79 cents in the East, as compared with $1.61 in the West.

The long haul, of course, being the most profitable part of railroading, would indicate a greater profit on the freight and passengers hauled in the West than in the East.

The striking thing from the comparison also is that although the rates of pay to engineers and firemen are higher in the West than in the East, the cost of engineers and firemen per revenue train mile is less in the West than in the East.

Mr. Byram: How do you account for that, Mr. Lauck?

Mr. Lauck: Well, it would be theoretical on my part. I could see how it could be accounted for very well, by the larger number—

Mr. Byram: I would like to know what your theory is, that if the rates of pay for engineers and firemen are higher in the West per train mile——

Mr. Lauck: No, per locomotive mile.

Mr. Byram: Per locomotive mile?

Mr. Lauck: Yes.

Mr. Byram: That the cost to a railroad for operating a revenue train per mile, for engineers and firemen, is less in the West, where the rates are higher.

Mr. Lauck: I mean by theoretical, I am not acquainted with operating conditions. It may be due to the fact that there is more double-heading in the East than in the West, or more constructive mileage in the East than in the West, which would give you a larger cost in the East; or it may be that engineers in the West make more miles, that is, they do not make as many constructive miles, or there are not as many engines on the trains in the West as in the East.

Mr. Byram: Yes, but this is not a locomotive mile you speak of; this is the cost per revenue train mile.

Mr. Lauck: Yes. If you put two locomotives on a train, you double your cost for engineers and firemen, and if there is more of that in the East than in the West, of course, it would increase the cost in the East as compared with the West; or if there was more constructive mileage paid for in the East than in the West, it would increase your cost, comparatively speaking.

Mr. Byram: It would have to be a great deal more, to make up for the difference in rate and still leave a lower cost for revenue train miles.

Mr. Lauck: I don't know what the revenue proportions would be.

Mr. Stone: You are simply dealing with the figures as you found them in the Interstate Commerce Commission's report, are you not?

Mr. Lauck: Yes, I have made division just as I found it there, and my inability to answer the question is due to my lack of knowledge of operating conditions.

Mr. Byram: But your reply is based on a theoretical principle?

Mr. Lauck: Yes; that is based on absence of any information. Well, the cost of engineers per revenue train mile in the East, is 9.60 cents, as compared with 8.07 cents in the West; and a fireman, 5.79 cents in the East, as compared with 5.06 cents in the West.

I have made a comparison of a number of representative roads in the East, also at the bottom of the page, on this point. That is the Baltimore & Ohio and the Big Four and the Erie; the Lake Shore and the Lehigh Valley; Delaware, Lackawanna & Western: Michigan Central, and New Haven; Pennsylvania and Pittsburgh & Lake Erie, all of which with the exception of the Erie and the New Haven in the case of firemen, show a higher operating cost per revenue train mile, in terms of engineers and firemen, than obtain in the West.

The point that I would like to attempt to draw from this is that the cost per unit of operation, on a train mile basis, is less than in the West, even at the higher rates, and that the profits are greater than in the East. The second part of the exhibit, freight rates on branch, as compared with main lines.

Mr. Stone: Why did you prepare this part of the exhibit, Mr. Lauck?

Mr. Lauck: Which part, the second part?

Mr. Stone: The second part, freight rates on branch lines, as compared with main lines.

Mr. Lauck: Why, Exhibit 18 of the Railroads shows that the proportion of traffic handled by branch lines, as compared with main lines, and evidently to prove that they had a large amount of unprofitable traffic, or comparatively unprofitable traffic, which would be characterized—

Mr. Stone: Due to the lighter tonnage of the branch?

Mr. Lauck: Yes; would be characterized by lower train loads, and other factors of that kind.

Mr. Stone: We don't agree with that theory, of course, but in order to meet that argument, we have prepared this exhibit.

Mr. Lauck: Yes, sir. The compensating feature is a higher rate per ton mile on the branch lines. Referring to pages 4 and 5, I got from the traffic division of the Interstate Commerce Commission, a number of rates on a number of roads. The Atchison, the Burlington, the North Western and the St. Paul, in the West, have main line traffic and branch line, for different articles, such as wheat, and cattle, and hogs, and sheep, and brick, and lumber, and coal, and beer; fresh meat, furniture and household goods. The table on page 5 is a reprint of the information secured from the Interstate Commerce Commission. That shows, for instance, take on the main line of the Atchison, from Garden City, Kansas, to Chicago, distance 847 miles, the rate in cents per hundred pounds, on wheat is $26\frac{1}{2}$. On a branch line, from Superior, Nebraska, to Neva, Kansas, 154 miles, rate on wheat is 12 cents per hundred pounds.

Then, in the table on page 4, I have reduced that to a rate per 100 pounds per mile, and shown the increase in per cent or in money, and per cent of the branch line over the main line. For instance, with this Pacific branch line on the Atchison, the increase in rate on wheat on the branch line, as compared with the main line, is 148 per cent. On cattle, on the Atchison, in the next comparison, between Emporia, Kansas, and Chicago, and Englewood, Kansas, and Wichita, Kansas, the advantage in favor of the local rate is 42 per cent.

Mr. Stone: Do you mean by favor, that the local rate is higher?

Mr. Lauck: 42 per cent higher, yes, sir.

The third comparison is between Englewood, Kansas, and Wichita, and Emporia and Chicago. It is 66.36 per cent on the branch line. Between Englewood and Wichita and Chicago and Kansas City, it is 74 per cent more on the branch line; and so on, the per cents of increase in rates on the branch line over the main line ranging from 25 per cent to 148 per cent, the percentage just noted; and with one exception, on coal, on the main line on the Burlington and the branch line, say from Albia, Iowa, to Bush, Colorado, compared with Herrin, Illinois, to Galesburg, Illinois, 32 per cent lower, local rate.

Mr. Byram: In order to have this of value it would be necessary that there should be freight handled on these rates, would it not?

Mr. Lauck: Oh, yes.

Mr. Byram: Now then, you might not know, but as a matter of fact there isn't any coal moving from Albia to Bush, Colorado. As a practical fact there is no coal shipped on that rate, and the same with lumber from Chicago to Denver. Lumber does not travel from Chicago to Denver.

Mr. Lauck: No, lumber would come east. Well, in making the comparison, I did not pick out articles of traffic that were actually moving, but simply asked for rates on branch and main line.

Mr. Byram: Now, you have one item here where there is a good movement on coal, and that is from Herrin to Galesburg. Coal does move on that rate and between those points, quite a good deal, but from Albia to Brush, Colorado, not Bush—I think you have that wrong—there is no coal handled on that rate, because they have Colorado coal fields there.

Mr. Lauck: Yes, the Colorado coal fields would come in.

Mr. Byram: And the same would be true on lumber between Chicago and Denver. There isn't any movement of lumber from Chicago to Denver.

Mr. Lauck: The fact would remain, however, would it not, if traffic was moving, that the local rate, as a rule, would be higher than the through rate?

Mr. Byram: If the traffic moved, that would be true, but it isn't true because the traffic does not move that way.

Mr. Stone: But the fact does remain, does it not, that those rates are filed with the Interstate Commerce Commission, as being in existence?

Mr. Lauck: They are filed there and are part of the official schedule of these railroads.

Mr. Stone: You are not supposed to know whether they ever move any freight? You simply took the figures as you found them in their tariffs?

Mr. Lauck: Yes. I did not base it on that fact at all. That is, I did not think of that fact.

Mr. Burgess: Well, inasmuch as you have made these compilations, Mr. Lauck, and based them on "if" the traffic moved, it would bear the same resemblance as the numerous statements that we have heard, relative to the other exhibits, "if" the engineer had worked, wouldn't it—be similar to that?

Mr. Lauck: Both would be a hypothetical question, yes, sir.

Mr. Burgess: Thank you. That is all I have to say.

Mr. Park: Does not the same thing largely depend, Mr. Lauck, on the amount of business handled? One road might make more money, handling coal at a low rate, than another coal handling silk, or vice versa? The density of traffic you show here in the East is much higher than the West, and the railroads in the West have not got as much business as they have in the East?

Mr. Lauck: Per mile of line, no, sir. I noticed in the exhibit, though, that was presented, that the density is increasing more rapidly in the West than in the East. Of course, you would have the offsetting factor that your outlay is less in the West per mile of line.

Mr. Park: Yes; but we have got to build the depots in the West and get the facilities that they have already got in the East. That is all before us in the West—a great many of which do not add to the earning power of the road at all.

Mr. Stone: Got plenty of sand and cement is cheap for building these fireproof depots now.

Mr. Lauck: Well, of course, in the West, too, you would have more possibilities in the way of traffic development. That is, the East has reached more of a static condition, while the West is rapidly developing, and more possibilities of developing business and profits.

Mr. Stone: But this is simply shown as an exhibit to show the difference between main line and branch rates?

Mr. Lauck: That is all, yes, sir.

Mr. Stone: Has no other purpose?

Mr. Lauck: No, sir.

Mr. Stone: And to meet the argument by the other side that the branches were operated at a loss, or operated at a very reduced rate, because of their light tonnage?

Mr. Lauck: Yes. I don't know whether they specifically stated that, but the implication was there that the branch business was comparatively unprofitable.

Mr. Stone: That is all, Mr. Sheean. Do you want to examine on this?

Mr. Sheean: Yes, if you please.

CROSS-EXAMINATION.

Mr. Sheean: Mr. Lauck, on page 2 of the Exhibit, you compared the net operating revenue per train mile, in the East and West. There was also accesible, in the same statistical report, the operating revenue per mile of line, was there not?

Mr. Lauck: Oh, yes, yes.

Mr. Sheean: Well, now, how much more per mile of line is the net operating revenue in the East than it is in the West?

Mr. Lauck: I don't know. I don't think, per mile of line, the takings have any significance in this connection.

Mr. Sheean: That may be, but we will debate that later. In the same place from which you got this information, the Interstate Commerce Commission does carry it in the same place as the net operating revenue per mile of line is, don't they?

Mr. Lauck: They should. I never have looked it up. It is there. It ought to be in the 1913 statistical abstract, yes, sir.

Mr. Sheean: The operating revenue per mile of line, in your judgment, has no significance?

Mr. Lauck: Not in this connection, no.

Mr. Sheean: That is, if you have got one million dollars a year operating over 100 miles, or one million dollars a year operating over 1,000 miles, it would have no significance to you as to what you were making on the line?

Mr. Lauck. It would depend altogether on your capital outlay per mile of line.

Mr. Sheean: Yes, and assuming that the capital outlay—you have already shown us the capital outlay per mile of line for purposes of comparison here, haven't you, in the first part of this same page?

Mr. Lauck: Yes, sir.

Mr. Sheean: Now, Mr. Lauck, in getting at the revenue, is it not somewhat material to ascertain whether you got the million dollars through operating over 100 miles of road, or got that million dollars in operating over 1,000 miles of road?

Mr. Lauck: I think it is, if you want to compute your return on your outlay, and work out an idea of cost or profit on that basis.

Mr. Sheean: Well, this exhibit was for the purpose of trying to ascertain the relative showing as to cost and profit between the East and West, was it not?

Mr. Lauck: Yes, on a revenue train mile basis, which it seems to me is the unit of cost that we ought to consider.

Mr. Sheean: And that is the only unit of cost that you have considered in arriving at this deduction?

Mr. Lauck: That is right, yes, sir.

Mr. Sheean: So that in arriving at this more favorable and more profitable showing in the West, it is based solely upon train miles, and ignores whether the train mile is made by operating one hundred trains over one mile of railroad. You have compared that with operating one train over one hundred miles of railroad as being of equal significance?

Mr. Lauck: I think so, from the standpoint that we are considering, as to the work and output—

Mr. Sheean: That is, to put it on the basis that a layman could understand here, you treat as being of equal value a taxicab hauling four passengers one mile, or the same taxicab hauling one passenger four miles?

Mr. Lauck: I didn't just get that. I beg your pardon, Mr. Sheean.

Mr. Sheean: That is, in finding out whether a taxicab (I could follow that much closer than the other) or a hackman driving a hack—

The Chairman: Now, you are getting down to the level of the Board.

Mr. Sheean: Yes, to where we can follow it and understand it. You are comparing, Mr. Lauck, for the purpose of cost and ascertaining whether it is profitable or not, you have treated as being exactly equivalent in operation, a hackman driving four miles with one passenger, or the same hackman driving one mile with four passengers?

Mr. Lauck: Assuming that the rate was identical, yes.

Mr. Sheean: Yes. Assuming that the rate was identical, yes. And you think that if I take the one hack here, and the rate per mile per passenger was just the same, you think that if I had the hack here, in which I got the traffic of carrying one passenger four miles each day, that it would be fair to compare that with your hack which on each day carried four passengers one mile?

Mr. Lauck: Yes, I think if we are considering the question as paying the hackman, which we are in the case of the engineer and fireman.

Mr. Sheean: Yes, but we are considering, Mr. Lauck, whether you and I are doing a profitable business.

Mr. Lauck: I was considering it from the standpoint of cost in the engineers and firemen, and yield in return for that cost.

Mr. Sheean: Let us follow here. We will take you from the East, with your taxicab, or your hack, and me in the West here, and the rate is the same per mile per passenger. Now, I am getting my return by hauling one passenger four miles, while you are getting the same revenue that I am getting for hauling the one passenger four miles, you are getting the same amount of money for hauling four passengers one mile in your hack. Now, do you think that a comparison between those two kinds of operation is just exactly fair to the work that I am doing for getting the revenue?

Mr. Lauck: You are the railroad, or the hackman, are you?

Mr. Sheean: I am the hackman, who hauls one passenger four miles; and you are the hackman who hauls four passengers one mile.

Mr. Stone: Mr. Chairman, I don't think the comparisons are fair.

Mr. Lauck: I don't agree with your comparison, but I think it would be legitimate, for this reason: I am taking the hack, and the man gets so much for hauling that hack a mile, not for the passengers. In the East, or in the West, and the revenue from that is so much in the East and so much in the West. If, representing the East, I get more passengers in my cab at a less rate per passenger, and a less number of passengers in the West, at a greater rate per passenger, it costs me more in the East—slightly more, than it does in the West, and it seems to me it would be decidedly advantageous for you, representing the West. That is, you would make more profit and wouldn't do any more work.

Mr. Sheean: You think you could convince any one of these hackmen that it was just the same thing to them, whether they carried four passengers one mile, as it was to carry one passenger four miles; that the amount of money should be just the same in those two cases? It is all the same to them whether they carry one passenger four miles or four passengers one mile?

Mr. Lauck: I think you could, if you could show them by carrying a fewer number of passengers each mile they could make more profit than they did by carrying more, which is the case in the West. You carry fewer miles.

Mr. Sheean: You think by showing them on the one territory here, that they would get nine cents, where in the other territory they would get six cents for the same distance, if those were the figures, that it might be a profitable operation for them to run the four miles with the one passenger, as against the one mile with four passengers.

Mr. Lauck: Well, we would have to take into consideration the capital outlay.

Mr. Sheean: Precisely.

Mr. Lauck: If we considered the ability to do that.

Mr. Sheean: That is why I was wondering, Mr. Lauck, when you showed the net operating revenue per train mile, having had, as you had above, the per mile of line showing, why didn't you show there what the net operating revenue per mile of line was.

Mr. Lauck: Well, the reason I showed it above, I was so audacious as to show cost of road and equipment per revenue train mile, you know, which excited some ridicule in the previous testimony, and I refrained from it at this time for that reason. That was the only reason I did it. I never thought of it in that connection. I think you would have to consider that in connection with the ability to pay, which I was not doing.

Mr. Sheean: Yes. Well, Mr. Lauck, in ascertaining what the returns are as between capital and labor, it does make quite a difference, doesn't it, as to whether you are able to secure your revenue train miles by running back and forth a number of trains over 100 miles of track, or whether you get your revenue by running one train over a long track.

Mr. Lauck: In this connection, I am not considering ability to pay. Of course, taking your point here, that supposing the Western roads only run one train a day over this line, and they did that at lower cost than in the East, still it might be very unprofitable, if you would reduce it to the basis of whether they were able to make increased payments and vice versa in the East, if I get your point correctly.

Mr. Sheean: Yes.

Mr. Lauck: That is all very true, but I was not considering that.

Mr. Sheean: Just what was it you were considering on this, then, Mr. Lauck, where you reduced it to this basis?

Mr. Lauck: That is, considering the train mile as the unit of operation, which, it seems to me, is the best unit of operation, the cost in terms of firemen and engineers is less in the West than in the East, and the lower trainload is compensated for by higher freight rates or higher passenger rates, which makes a larger profit per train mile operated.

Mr. Sheean: Is it your judgment, Mr. Lauck, that the cost of engineers or the cost of firemen, either per revenue train mile or per locomotive mile, is a fair comparison in a wage movement as between different districts for the purpose of arriving at a fair wage scale?

Mr. Lauck: Do you mean which one or the other?

Mr. Sheean: Yes, which one or the other is the better scale for the firemen?

Mr. Lauck: All schedules are based on the locomotive miles, as I understand it, 100 miles or less—

Mr. Sheean: Then is it your opinion, from the deduction here, that the firemen of the Western territory would be better off if this Board should award to them the Eastern scale of wages?

Mr. Lauck: The firemen of the Eastern territory?

Mr. Sheean: The firemen in this Western territory, if this Board should make as its Award the Award in the Eastern territory here applicable?

Mr. Lauck: Not at all, no, sir.

Mr. Sheean: Not at all?

Mr. Lauck: Not at all. That is, the point there is that you may have a higher wage rate, comparatively speaking, but a low cost of production, that is due to other factors, that would reduce cost. That is, you might have a very high rate and more efficient equipment, or a man might make more miles and there would be less doubleheading, or something of that kind, that would reduce the cost comparatively.

Mr. Sheean: I note in a brief which Mr. Carter filed in another arbitration proceeding, Mr. Lauck, that when it was suggested that a reduction to the cost per locomotive mile had any relevancy in a wage movement, that he suggested that the cost of engineers and firemen per revenue mile or per locomotive mile was affected by, first, the speed at which a locomotive travels. Is that true?

Mr. Lauck: I should think so, yes; I think that is one element in reducing this cost, in the West, yet I think——

Mr. Sheean: That is, we get them over the road faster and better in the West in order to make thing showing, in faster time?

Mr. Lauck: That would be one explanation of it. I do not know.

Mr. Sheean: Well, that would be one thing which might bring about the result here.

Mr. Lauck: That might be.

Mr. Sheean: By greater saving on the cost theory, the faster we get them over the road, the better the showing is in the reduction of cost? It was also suggested, as another thing that might affect it, the size of the locomotive, where the size of the locomotive carries different rates of pay to the engineers and firemen; that would also enter into a comparison between the West and the East.

Mr. Lauck: Yes, if it carried higher rates of pay. I think we all acknowledge the rates of pay are higher in the West than in the East, are they not?

Mr. Sheean: Yes, the rates in the West are higher than in the East, but may the cost per locomotive mile or per revenue train mile be less, the cost as shown here, even though a higher rate is generally paid.

Mr. Lauck: Yes, I think so. That is what I am attempting to bring out, that although you may have a higher rate, you have a less cost of production.

Mr. Sheean: And if there is a graduation in the rates of pay based upon the size in the one territory that does not obtain in the other, would that also enter into the showing here?

Mr. Lauck: I am not suffciently acquainted with the technical side of the thing to speak with any authority, not in any desire to evade the question, but simply I do not know whether I would be right or wrong, in some of the answers I would give.

Mr. Sheean: Then, one of the reasons that you know would bring about a showing of reduced cost in the West, even though there was a higher rate of pay, would be the better speed at which the West got its trains over the road?

Mr. Lauck: It might be better speed or less constructive mileage, or making more actual miles, which would be the same thing.

Mr. Sheean: And less overtime?

Mr. Lauck: And less doubleheading on trains, that is by more than one engine on the train. Of course, if you put more than one engine on and increase your trainload—it may be in the West that you take your smaller load and use one engine, and of course—

Mr. Sheean: But this, Mr. Lauck, I think, is per revenue train mile; it is not per locomotive mile.

Mr. Lauck: Revenue train mile.

Mr. Sheean: Yes.

Mr. Lauck: A great many trains in the East, and I suppose in the West, have two locomotives.

Mr. Sheean: And the cost there might run up because of the two locomotives?

Mr. Lauck: Yes.

Mr. Sheean: Now, Mr. Lauck, you show again, after you have omitted the operating revenue per mile of line, right below that, the number of engineers per 100 miles of line are 52 in the East as against 18 in the West, per 100 miles of line.

Mr. Lauck: Yes. I put that in, thinking it might be explanatory of reduced cost.

Mr. Sheean: Of reduced cost, East, per revenue mile?

Mr. Lauck: Well, if it took comparatively a less number of engineers with the volume of traffic handled, that was the idea I had. I am not at all averse to taking up the revenue per mile of line, but that I would rather consider in connection with ability to pay. That is, I do not have any idea in omitting it here.

Mr. Sheean: No, but I was wondering, where you have this showing per mile of line or per 100 miles of line and the number of engineers per mile of line, whether, in that same connection, there should not be shown what the revenue is per 100 miles of line. But you say you have not carried that out?

Mr. Lauck: I have not carried that out. I think that has no more significance than, say, if you would compare population per 100 miles of line. It might be due to the fact that railroads in the West were being extended very rapidly, or new mileage, or something of that kind outrunning the roads, in the number of engineers, or it might be due that, owing to the extension of the line, you had not developed the traffic and did not need the engineers.

Mr. Sheean: Yes, or taking the case of 52 as compared with 18 engineers per 100 miles of line, it might be that they run practically four times as many trains over the same 100 miles of road in the East as they would in the West.

Mr. Lauck: Yes, I think that would be a factor to enter in, too, that the greater density in the East would require more engineers.

Mr. Sheean: On the lower part of this page 2, where you show the cost of engineers per revenue train mile, varying from .115 on the B. & O. down to .086 on the New York, New Haven & Hartford, are not the rates of pay on all of those roads covered by the Eastern Award, every one that you show here, so that they are uniform rates of pay, and yet they show, as among themselves, a wider variation in the cost than there is between the East and West?

Mr. Lauck: Yes, I think that is very true. Of course, the difference in cost is conditioned upon the methods of operation. That is, take the Pittsburgh & Lake Erie, which has a tremendous trainload on the ore coming down from the lakes, that high cost there is due probably to slow movement and more than one engine, probably there are two engines on the train. And the New Haven load cost is due to the light character of the package freight traffic, probably, or the small traffic that it has.

Mr. Sheean: And in reference to the ability to pay, this Pittsburgh & Lake Erie, which you say is shown as the highest cost per revenue train mile, that is probably the most prosperous railroad in the entire Eastern territory, is it not?

Mr. Lauck: That would indicate to my mind very efficient operation and relatively high gains, yes.

Mr. Sheean: The cost per revenue train mile, as your cost goes up per mile, then that would indicate the prosperity of the road?

Mr. Lauck: Yes, if the freight rate remained constant, because you would be getting more ton miles on your train or you would be getting more passengers in your coaches. That is, it would increase the trainload, and thereby possibly increase your cost, but your increase in trainload would offset the added cost and leave a large net return, very possibly.

Mr. Sheean: But how does the cost of engineers per revenue train mile, Mr. Lauck, go up as your tonnage goes up, except as you may retard the speed of that train?

Mr. Lauck: By putting two engines on the train.

Mr. Sheean: Yes, and what other way than those two ways?

Mr. Lauck: Well, of course, anything affecting rates of pay would proportionately affect it, I am assuming the rate remained constant.

Mr. Sheean: I was wondering how showing a high cost per train mile would be indicative of the prosperity or non-prosperity of a railroad.

Mr. Lauck: If you have a road which is, say, a low grade freight road, like the Pittsburgh & Lake Erie, which has developed a very high train load, if I recall correctly, in a straight shoot down from the lakes to Pittsburgh, they have developed an unusual trainload and they may find it more economical to handle that with two engines, which would increase the cost, but for that added cost they may get a much larger return, because of the increased revenue tonnage they put on the train, which would offset the cost and give them a larger profit.

Mr. Sheean: I understand that, but on the lower part of the page, the Pittsburgh & Lake Erie, which shows the highest cost of engineers, is probably the most prosperous of the railroads.

Mr. Lauck: That may possibly be.

Mr. Sheean: But that does not necessarily follow, does it?

Mr. Lauck: No, not necessarily.

Mr. Sheean: There is not necessarily any relationship between the cost and—

Mr. Lauck: No, you might have a case where you would have the rates pushed up and the profits decreased.

Mr. Sheean: If that was the case, that high cost showed prosperity, I assume the first part of your exhibit, which showed the higher cost in the East than in the West, would generally show there that the Eastern roads were more prosperous than the Western roads?

Mr. Lauck: You would have to take into consideration all the factors, to work that out. I think, other things remaining equal, there may be real economies obtained by adding to your labor cost per ton mile or per train mile, but I would not be able to say whether the relative comparison would obtain between the East and the West.

Mr. Sheean: We have already added, as you said, Mr. Lauck; there is the added or higher rate in the West than in the East and still a lower cost than there is in the East. Now, on the lower part of this page, where the rates are uniform on all the roads, because of a uniform Award, you show a greater spread and greater variety in that territory as between the costs of the different roads there than is shown between the East and the West, on the top part of your exhibit.

Mr. Lauck: Yes, there is greater variation.

Mr. Sheean: So that a change in the rates here by a uniform award will not necessarily bring about any reduction to the same basis in cost per revenue mile?

Mr. Lauck: No, it would depend altogether upon the operating efficiency of the road or the operating conditions of the road.

Mr. Sheean: The operating conditions of the particular road.

Mr. Lauck: Of the particular road, yes.

Mr. Sheean: So that, in fact, whether the cost per revenue train mile is because of a higher or lower rate, or change in operating conditions, there is no way you can arrive at that from the purely statistical information?

Mr. Lauck: No, only as indicative of the unit of cost and output. Of course, in any comparison between the East and the West, that I have made, you might find very many variable factors. The general conclusion or general indication would be that there is either more efficient method of operation in the

West or less costly condition, which would offset the increased rates of pay as compared with the East.

Mr. Sheean: Yes, and, of course, too, in that connection, if you had to pay in some manner some sort of a return to the capital which built the miles of railroad, and if you had four or five times as many miles on which traffic originated in the one territory as compared with the other, that also would enter into the question of what was the prosperity or non-prosperity in the two districts, would it not?

Mr. Lauck: On the ability to pay, yes, sir.

Mr. Sheean: On this branch line—

Mr. Byram: Before you leave that, Mr. Lauck, I believe you have stated, at this time, or at previous times, that increase in trainload was indicative of efficient economical operation?

Mr. Lauck: Yes, sir.

Mr. Byram: But this statement you have here shows that in the East, where the trainload is 531 tons as compared with the West, 379 tons, that the cost for operating per train mile is greater where the greatest trainload prevails, in the East?

Mr. Lauck: Yes.

Mr. Byram: How do you account for that? I am not speaking now about the increased cost for engineers and firemen, but the increased operating expenses, which you show to have been $2.53 on the Eastern lines, and $2.52 on the Western lines.

Mr. Lauck: $1.80 and $1.67. That is the revenue. Just the line below.

Mr. Byram: Yes, I beg pardon. You are correct. $1.80, operating expenses per train mile on the Eastern lines, and $1.67 on the Western lines. That shows that where the average trainload is the greatest, the operating expenses per train mile are the greatest, does it not?

Mr. Lauck: I would think that that tendency would go hand in hand, yes, sir; because to increase your trainload, you must introduce more capital investment or more expensive locomotives or put two lighter locomotives on the same train, consequently your expenses of operating would either go up or your fixed charges would go up.

Mr. Byram: But, in that case, you would reduce the cost for engineers, if you discontinued running two engines and dis placed them by only running one engine, that would decrease your cost of engineers, would it not?

Mr. Lauck: Yes, if you could do it, of course, it would cut it in half, if the rate remained the same, or if you could double your trainload.

Mr. Byram: Then that would not be an explanation of the increased cost per train, would it, if you decreased the cost of engineers?

Mr. Lauck: If you could do that, but is not the general tendency rather to add to the labor cost and offset that by increase in the trainload?

Mr. Byram: I understood the complaint has been here, and I think you testified to it, too, that the railroads have increased their train loading at the expense of the enginemen; that they have less enginemen by reason of the increase trainload to move the same amount of business. Now, if they had less enginemen, would not that tend to decrease the cost per engineman?

Mr. Lauck: It would not—of course, the offsetting factor there would be, it would depend to what extent you had decreased the actual number, and then the time you kept the men on the road in moving that train, and any increased rates they got for the higher engine.

Mr. Byram: You have testified in answer to Mr. Sheean's question that one factor that might account for this difference in the comparative cost for engineers per train mile might be the increased speed of the train on the Western lines as compared with the Eastern lines.

Mr. Lauck: Yes.

Mr. Byram: Of course, if that is so, your last statement, having the contrary effect, would not be quite true. It could not have both effects.

Mr. Lauck: No.

Mr. Byram: You could not have increase and decrease.

Mr. Lauck: No. It would depend to what extent you could displace it, and whether you could make the same speed with the new engine as with the old.

Mr. Byram: Now, you think this is the correct theory on which to base the wages of engineers and firemen—the theory in this table, the cost per revenue train mile?

Mr. Lauck: Why, I think this is a justification for increases in gross amounts paid to engineers and firemen.

Mr. Byram: The train mile is the proper unit, you think?

Mr. Lauck: I think that is the unit of operation in cost generally used, yes, sir. I was just going to add that I did not think that that would be the unit of payment for the most equitable system of payments of wages. I think the locomotive mile would be fair, from a practical standpoint, because you would have all kinds of difficulties.

Mr. Byram: Do you think it ought to be based on the locomotive mileage—the payment of engineers?

Mr. Lauck: Yes, sir.

Mr. Byram: Then what becomes of your theory of productive efficiency, if you base the payment on the locomotive miles?

Mr. Lauck: Well, I should think that the productive efficiency on a locomotive mile basis will work out just the same as on the train mile basis. That is, the locomotive load has increased proportionately with the trainload, insofar as you have not put two locomotives on a train.

Mr. Byram: But if the increased trainload, as shown by this exhibit—the larger train load on the eastern lines, has had the effect of increasing the cost to the Eastern lines, both for enginemen and the total cost of operating per train mile, how can it be argued that the increased trainload is beneficial to the railroad?

Mr. Lauck: Because you get more ton miles, and you offset your cost by the added revenue and then get a surplus over these.

Mr. Byram: There are no ton miles figured in here?

Mr. Lauck: No.

Mr. Byram: How do you think this table would look, if you figured it on a ton mile basis?

Mr. Lauck: It would show very favorably to the West. That is, because you have a smaller trainload. The point I was endeavoring to bring out is, you get a higher rate, and in terms of dollars and cents, you get more profit, although you have a lower rate.

Mr. Byram: How do you reconcile the fact that on the ton mile basis, this statement would make a better showing for the Western Railroads, than it does on a train mile basis?

Mr. Lauck: I thought you were referring there to the mode of presenting, which I adopted in the productive efficiency argument in the direct testimony, that increase in traffic units or ton miles, where so many engineers, or per thousand dollars paid engineers and firemen, you would have a smaller trainload in the West, in terms of actual units or ton miles; and, therefore, from the standpoint of actual units of traffic handled, the comparison would be favorable to the West.

Mr. Sheean: That is, you mean the cost would be greater in the West, per ton mile, would it not?

Mr. Lauck: No.

Mr. Sheean: The cost of engineers and firemen, expressed in tons?

Mr. Lauck: Well, it might be higher, per ton mile. Your revenue would be higher and offset it, the same as on the train mile. That is the basis. This is not to show increased work in traffic units, but to show an increased return, owing to the compensating advantage in higher freight rates and higher passenger rates.

Mr. Byram: You said a while ago that you thought the locomotive mile would be a more correct basis on which to figure this sort of calculation. Did I understand you right?

Mr. Lauck: To pay wages.

Mr. Byram: Why would not the locomotive mile be the better basis and the fairer basis to the railroads, if that is the unit of cost of engineers and firemen, that the railroad company has to pay? Why would not that be the better way to make a comparison between the Eastern and Western cost of engineers and firemen? Instead of the train mile basis, use the locomotive mile basis?

Mr. Lauck: It would be perfectly fair, I think, to do that. I took the train mile, because it is generally used and is the unit from which you build up to get traffic over the road.

Mr. Byram: That is all.

Mr. Sheean: Mr. Lauck, on that proposition of the higher revenue offsetting the difference in tons, can that be true where your rate per ton mile in the West is .9 as against .63 in the East, but the density, as shown up above, is 2,000,000 in favor of the East against 736,000 in the West? Is there as much a difference in the rates as there is in the total tonnage?

Mr. Lauck: Well, this is restricted to the train mile. That would bring up the question again of ability to pay.

Mr. Sheean: No; reducing it to the ton mile basis, of what the cost per ton mile is in engineers—the cost of engineers and firemen per ton mile. Is it not very much higher in the West?

Mr. Lauck: Oh, I think, undoubtedly yes.

Mr. Sheean: So that if you reduce it to the terms of productive efficiency, the East, in terms of ton miles, is getting very much more per thousand dollars to the engineers and firemen, than the West is getting?

Mr. Lauck: Yes, it is getting more in ton miles, but when you convert this into money, it is getting less.

Mr. Sheean: Is that true, or have you followed that out, where, in the West, there is only 736,000 ton miles?

Mr. Lauck: I don't mean—I beg your pardon. I did not mean to interrupt you. I did not mean in aggregate revenue, but in the train miles revenue, or per ton mile. That is, it is undoubtedly true it is costing you more to move a ton a mile, in terms of engineers and firemen, but you are getting more.

Mr. Sheean: Are we getting as much more, per ton mile, as the engineer in the West is getting per ton mile, proportionately, than he is in the East.

Mr. Lauck: I don't know. Do you mean whether the rate of pay has increased faster?

Mr. Sheean: Yes. I thought one of your answers to Mr. Byram would indicate that you had reached the conclusion that this slight difference there is here, in the receipts or the revenue per ton mile in the West—train mile in the West—as against the revenue in the East, would more than offset the very much larger number of ton miles that are delivered in the East, than in the West, but you have made no such computation?

Mr. Lauck: I have made no computation on an aggregate basis—that is, of total revenues, or total cost.

Mr. Sheean: On this branch line operation, Mr. Lauck, I understood you to say that these were simply the rates that the traffic would receive, if there was any traffic moving under them.

Mr. Lauck: Yes.

Mr. Sheean: And I assume that in no case have you made any investigation as to what, if any traffic moved, between any of these points, under these rates.

Mr. Lauck: None at all, no, sir. I just sent to Washington to get some rates on branch and main lines, without regard to that.

Mr. Sheean: Well, for instance, we had here this morning, a little discussion about one branch, in which it appeared that there were six trains went out, three up and three back on this branch, every day, and on one of those trains they found it necessary to put on one freight car a day, on one of the six trips, to take care of all of the freight business on that branch. Now, even though there was a very high rate shown for the movement of freight upon that branch, there would not be any indication as to what the revenue was, or their ability to pay wages.

Mr. Lauck: Not as to ability to pay. Of course, you had an engineer and fireman hauling that car, did you not?

Mr. Sheean: Yes.

Mr. Lauck: No, it would be no relation there to ability to pay.

Mr. Sheean: And so, with all these comparisons here, as to whether or not our branches are profitable or unprofitable, the fact that there might be rates, but no business to move under those rates, does not indicate as to whether the branch is profitable or unprofitable.

Mr. Lauck: This assumes you have the business. I have no way of telling whether you have the business or not, on branch lines.

Mr. Burgess: Mr. Lauck, as I understand, the purpose of this table is simply to set forth the facts as tabulated here, and in this particular connection shows that the branch rates are higher than the main line rates, and that is all it purports to show?

Mr. Lauck: That is all, yes, sir.

Mr. Sheean: That is all, Mr. Lauck.

RE-DIRECT EXAMINATION.

Mr. Stone: Mr. Lauck, after we get all that fog carefully cleared away, there is one fact remains, that the operating revenue per train mile is only one cent less in Eastern territory than it is in the West. Is that not a fact?

Mr. Lauck: One cent more?

Mr. Stone: One cent more in the East than it is in the West?

Mr. Lauck: Yes, sir.

Mr. Stone: Two dollars and fifty-three cents in the East, as against $2.52 in the West?

Mr. Lauck: Exactly.

Mr. Stone: It is also true that it costs $1.80 per ton mile in the East, for operating expense, as against $1.67 in the West?

Mr. Lauck: Yes.

Mr. Stone: And it is also true that it costs 9.60 cents per revenue train mile in the East, for engineers, as against 8.07 in the West.

Mr. Lauck: Yes, sir.

Mr. Stone: And practically the same ratio for firemen?

Mr. Lauck: Yes, sir.

Mr. Stone: Do the miles of track have anything to do with the operating revenue per train mile? Is it not the amount of trains run that has to do with the revenue train mile?

Mr. Lauck: Yes, and the amount of tons on the train.

Mr. Stone: That is the earning factor?

Mr. Lauck: Yes, sir.

Mr. Stone: And it would not be expected that eighteen engineers per 100 miles of line, in the West, would handle as much freight density as 52 engineers per 100 miles in the East, would it?

Mr. Lauck: No; the less the density, the less the number would be required. I never had thought of it.

Mr. Stone: The less the number required, the less their expenses for engineers and firemen?

Mr. Lauck: Of course, there cannot be any expense, unless you run the train, according to this computation.

Mr. Stone: And that taxicab that they have been running up and down the street here, comparing it with the engineer, the engineer is paid for hauling the train, whether he hauls one passenger or five hundred, so much per mile?

Mr. Lauck: Yes, sir.

Mr. Stone: And his wage is not based on the number of passengers he handles?

Mr. Lauck: Not at all; but we are claiming that as a justification for increase in payments, however. Increase in the number of passengers or ton miles per train, is an economic justification for increased rates.

Mr. Stone: Regarding this discussion about the slow movement and the cost per revenue train mile on the Pittsburgh and Lake Erie, have you not read plenty of testimony and heard different witnesses testify that they are now getting over the road, with these larger engines, and these heavier tonnage trains, in better time than they ever did before?

Mr. Lauck: Why, I remember an exhibit that was presented for all trains, showing less time on the road now than in October, 1909. I don't know—I think that was for all trains, though.

Mr. Stone: Regarding these different costs, and the different variations spoken of here in this second table on page 2, are there as many spreads or variations as Mr. Trenholm showed in his different rates per hour in his recapitulation of his Exhibits 41 and 42 for Western territory?

Mr. Lauck: I didn't see that, Mr. Stone: I was not here then. The rate per hour, though, would decide. I know in the payroll it depends entirely on how long a man is on the road, of course.

Mr. Stone: Regarding that particular branch line, where they haul that one car of merchandise per day on one train, do you understand that the engineer and fireman are run especially to handle this one car, or is it just simply thrown in as something extra, along with the train?

Mr. Lauck: Well, of course—

Mr. Stone: The train was running any way, and they just added one more car, did they not?

Mr. Lauck: It might be a mixed train. I don't know what the conditions were, of course. I don't suppose there was one car and one engine, that is, unless some legislation required them to run the train.

Mr. Stone: After all is said and done, if there is anything wrong with these figures, they are the figures of the railroads themselves, filed, with the Interstate Commerce Commission?

Mr. Lauck: Yes.

Mr. Stone: They are not your figures at all?

Mr. Lauck: Not at all.

Mr. Stone: You simply drew a comparison between their reports?

Mr. Lauck: Just a recapitulation, which I have based upon the aggregate which the Interstate Commerce Commission has made from their reports.

Mr. Stone: That is all.

RE-CROSS EXAMINATION.

Mr. Sheean: Mr. Lauck, just to make perfectly clear, as I think I understand you; on page 1 of this, you say, "Total operating expenses per revenue train mile are less in the West, and the net profit per revenue per train mile is 12 cents more in the West than in the East." By net profit you mean?

Mr. Lauck: Revenue.

Mr. Sheean: Without giving any consideration whatever to any return to capital?

Mr. Lauck: Oh, yes, undoubtedly.

Mr. Sheean: So that they get 12 cents more in the West, and as Mr. Stone just called attention to the fact that the operating revenues per train mile in the Western District are $2.52 as against $2.53 in the West, and that is distributed in the West over 140,000 miles of railroad, as against about 46,000 miles in the East, where they get the other return.

Mr. Lauck: Yes, but of course, the outlay per mile in the East—I would have to qualify that by saying the outlay in the East is greater than in the West for capital.

Mr. Sheean: You mean by outlay of capital, capitalization?

Mr. Lauck: Well, if you take your miles of line and divide total capitalization by it, you would undoubtedly find a higher outlay per mile in the East.

Mr. Sheean: That is what I said, taking total capitalization.

Mr. Lauck: Yes.

Mr. Sheean: I understood you to say the other day, or when you were on the stand before, that, prior to 1907, you could not treat the capital as being indicative of anything particularly, prior to 1907.

Mr. Lauck: The cost of road and equipment, I said.

Mr. Sheean: Yes. Well, then, all that you mean by profit is that in the West they receive substantially this same amount per revenue train mile, and receiving this same amount, they have here for distribution to whatever capital has gone into 140,000 miles of railroad, substantially the same amount that in the East they have to make some sort of accounting of to capital which has built 46,000 miles of railroad?

Mr. Lauck: Yes. the net profit there means simply the net revenue for each train operated one mile, without regard to whether that yields a sufficient amount to pay a return on capital invested or not.

Mr. Sheean: Or even to pay anything, Mr. Lauck?

Mr. Lauck: Yes, without regard to it at all.

Mr. Sheean: That is all.

RE-DIRECT EXAMINATION.

Mr. Stone: You deal with that in another exhibit, do you not?

Mr. Lauck: I take up the question of ability to pay.

Mr. Stone: Coming back to page 2 again, Mr. Lauck, I want to be sure I understand it. Would it be a fair computation to take 371 tons, the average freight train load in tons in the Western territory, and multiply it by 1.61, the amount received on each ton of freight for train hauls, to show what the earning per ton is?

Mr. Lauck: No, you would have to multiply that by the 93. That is, the number of tons per train mile is the average freight train load. To get the yield from that you would have to multiply by the average rate per ton mile, which is .93 of a cent.

Mr. Stone: Now, what does your bottom line of figures mean?

Mr. Lauck: That is the average amount received on each ton of freight.

Mr. Stone: Regardless of the number of miles hauled?

Mr. Lauck: Yes; of course, if you carry a ton a longer distance, you get more for that ton than you would if you carry it a short distance, and the long haul, as I understand, is usually considered to be the most profitable kind of business. If you keep the ton going a long distance, or the passenger, and this is the average amount you receive for each ton or each passenger.

Mr. Stone: You are not taking into account your gasoline you burnt in that taxicab for the extra three or four miles?

Mr. Lauck: No.

Mr. Sheean: He is carrying four passengers one mile in this, and not one passenger four miles.

Mr. Stone: He is running the train, anyway, and it does not matter whether there are four or forty passengers running. The cost of the engineer is the same.

Mr. Lauck: I thought we were out of the gasoline, and were in hacks.

Mr. Stone: I think that is all on this exhibit.

Mr. Shea: Mr. Lauck, have you made any investigation as to whether passenger or freight rates are higher over grades, as compared with valley rates on the same road?

Mr. Lauck: I have heard—no, I have not made any investigation. I have heard that statement made in the conduct of the case.

Mr. Stone: That concludes that exhibit, Mr. Chairman. As the next one is quite lengthy, I wonder if we might take it up in the morning. It is so near to closing time.

The Chairman: We are within about two or three minutes of the time, so we will adjourn until 10 o'clock tomorrow morning.

(Whereupon, at 4:57 o'clock P. M., March 1, 1915, an adjournment was taken until March 2, 1915, at 10 o'clock A. M.)

IN THE MATTER OF THE
ARBITRATION
between the
WESTERN RAILWAYS
and
BROTHERHOOD OF LOCOMOTIVE ENGINEERS
and
BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN
under the Act approved July 15, 1913, *by agreement dated August* 3, 1914.

Chicago, Illinois, March 2, 1915.

Met pursuant to adjournment at 10:05 A. M.
Present: Arbitrators and parties as before.

Mr. Burgess: Mr. Chairman, with your permission, I have one or two corrections I would like to make this morning.

Mr. Phillips: Mr. Chairman, on page 5862, about two-thirds of the way down the page, near the middle of the paragraph, it reads:

"I would not think, under a held away from home terminal rule, if granted at 15 hours, as requested here, that a man would be entitled to anything, if he got out of Indio in 15 hours, nor would he be entitled to anything if he got out of Yuma on the return trip, within 5 hours."

It should be "within 15 hours," the second time, as well as the first time.

Mr. Burgess: Page 5887, paragraph 6, first line, strike out "or" and insert "between," strike out "not the" and insert the word "some"; second line, strike out two words, "territory of," and insert the words "time between." Third line, strike out the word "there." The question would then read:

"But the time you gave between trips had some value, and the time between those trains was so limited, that there would be no dead time, would there, the hours between arrival and departure?"

Page 5912, second line, fifth paragraph, strike out the words "and accords with it"; second and third line, strike out "fireman does," insert "firemen do"; last line, insert "in some instances." The question would then read:

"Then we are to understand that while this exhibit shows that, the fact remains that firemen do get more money, in some instances, than the engineer in the same line of service."

That is all, Mr. Chairman.

The Chairman: Are there any other corrections? Proceed with your evidence, Mr. Stone.

W. JETT LAUCK was recalled for further examination and, having been previously sworn, testified as follows:

Mr. Stone: Mr. Chairman, taking up the question of our rebuttal. The contention has constantly been made against our productive argument, upon which we base our claim as to the economic justice for increased wages, that since 1910, revenue gains arising from increased productive efficiency have been absorbed, (1) by increased operating cost, and (2) by the payment of interest charges on additional capital investments which have been incurred in the attempt to develop greater efficiency in operation, and because of public demands as to safety and quality of service. Added to this main contention of our opponents, have been the corollaries that (1) railroad employes by legislative activities have urged legislation which will curtail output or reduce productive efficiency, and (2) by their insistence upon certain rules, or interpretation of certain rules, as claimed by Mr. Higgins, have tended to constantly acquire a larger share in revenue, or in the results of productive efficiency. These contentions are set forth directly in Railroads' Exhibits Nos. 5, 6, 7 and 8, and indirectly in Exhibits Nos. 26, 27, 28, 29, 30, 30-A, and in Mr. Higgins' testimony.

We have already shown by Mr. Lauck's previous testimony the remarkable revenue gains made in the operation of the railroads and the amount available for the increased compensation of labor. It is now our purpose to show that any apparent decline in operating or net income has not been due to the causes set forth by the railroads. We will show that any tendency in this direction has been and is due to the financial management of Western railroads. We will show that the constant tendency has been for those in financial control of the railroads to absorb revenue gains arising from increased productive efficiency by the issue of fictitious securities; that the productive efficiency of the men working today, the operating officials as well as the employes, had already been hypothecated and capitalized before we were born; that measures have already been taken by the issue of fictitious capitalization to absorb the increased work and productive efficiency of our children and our children's children; and that there is no hope for the engineer and fireman, and other classes of railroad employes to secure an equitable participation in the fruits of their work so long as the present financial control and administration of the railroads is unregulated; in other words, that any advances which the employes have been able to secure in wages or earnings, have been of no financial significance as compared with the indefensible absorption of operating gains by the financial management of Western railroads, and that if the gains from past productive efficiency had been properly conserved and administered, enormous advances could be granted to all classes of railroad employes without prejudice to the interests of the owners of the property, and the financial status of Western railroads today would be all that could be desired.

The points we shall submit in this connection are:

1. That the proceeds from the munificent grants of land made by the Federal and State governments to assist in the building of Western railroads were not properly used, but their value, as well as the increased business arising from the development of Western territory was capitalized by the flotation of fictitious securities.

2. We shall also show that the revenue gains arising from lowered cost of operation arising from improvements in operating conditions and from the increased work and productive efficiency of engineers and firemen has been capitalized and absorbed and that fictitious securities have already been issued for the purpose of absorbing future gains in operating efficiency.

3. That the direct financial control of Western railroads, and the potential control of the economic welfare of their employes, now rests with a small group of financial institutions which make and unmake railroad presidents, and which, by their methods of administration of the railroads, have absorbed

present and future revenue gains of employes, and of operating managerial ability, by the issue of securities; in other words, employes and operating officials are the victims of the financial administration.

4. We will show from the publicly expressed opinions of eminent financiers and financial experts, that this present inequality in the distribution of the output of the industry is wrong.

5. We shall conclude this phase of our argument by showing that despite the financial excesses of railroads in the past, that they are still financially able to pay reasonable and fair wage increases.

The first exhibit we desire to introduce is Exhibit No. 58, entitled "Land Grants to Western Railroads."

(The document so offered and identified was received in evidence and thereupon marked "Railroads' Exhibit No. 58, March 2, 1915.")

Mr. Stone: Mr. Chairman, if I might be allowed to digress for just a moment, in regard to these land grants. I realize that statistics, as a rule, are dry reading; and yet, in studying this question of land grants, the one thing that has impressed me is the square miles of territory involved. In checking over the square miles of territory of the other great nations of the world, I found the following:

England is shown as having 46,000,000 people, with 121,316 square miles of territory.

France, 39,600,000 people, with 207,129 square miles of territory.

Germany, 66,000,000 people, with 208,794 square miles of territory.

Austria-Hungary, 51,505,000 people, with 261,000 square miles of territory.

Belgium, 7,579,000 people, with 11,573 square miles of territory.

The Federal land grants and the State land grants given to the Western railroads comprise 305,114 square miles of territory—larger than any one of the great countries that I have just named. In rough figures, that would mean about 195,272,960 acres. I could divide that into farms of 40 acres each and I could supply 4,481,824 families with farms. And that has been given in fee simple to these railroads in the Western territory.

Mr. Lauck, taking up this question in Exhibit 58, first I wish you would give the total area of Federal land grants to railroads.

Mr. Lauck: The total area is found on page 4. Up to 1913, according to an estimate of the Federal Land Office, 190,000,000 acres, an area almost as large as that of the thirteen original states, had been granted to the railroads of the United States as a whole. Of this 190,000,000 acres, 35,000,000 acres were subsequently forfeited because of failure to construct the road, or for some other reason, leaving 155,000,000 acres as the estimated area of the Federal land grants.

Up to June 30, 1910, the immense area of 116,000,000 acres, in round numbers, had been actually patented to railroads under these grants. That is practically the equivalent of the entire area of Pennsylvania, Ohio, Indiana and Illinois. In addition to this, many more acres were still available, estimated by the Federal Bureau of Corporations to be about 40,000,000 acres, still available in addition to the 116,000,000 acres, and may be taken up by the railroads.

By referring to page 4, you will see these figures cover only the Federal land grants; they do not include grants made by the States, the most noteworthy of which is the immense grant made by the State of Texas to various railroads, which amounted, in actually patented acres, to 32,400,000; and a number of other States have also made grants, such as the State of Minnesota, granted from her Federal grant to the railroads 2,800,000 acres; Florida, out of a swamp grant of 20,000,000 acres, granted 12,000,000 acres to railroads and canal companies; and Michigan also made large grants to railroads.

If you will refer to an insert following page 19, there is a map showing by shading on the map of the United States, the shaded portion represents the equivalent of Federal and Texas land grants to Western railroads, or a total, as Mr. Stone mentioned, of 305,000 square miles.

The map on the opposite page is a reproduction of a map which was originally gotten out by the Bureau of Corporations of the Federal Government in its study of the lumber industry, which shows the original grants to the railroads and wagon roads of the country by the Federal Government. It does not include State grants.

Referring to that map, you will find that the Federal railroad grants, as estimated there, constitute a total of 190,000,000 acres. The forfeited grants, owing to failure to build the roads, were 35,000,000 acres, leaving an estimated area of unforfeited grants of 155,000,000 acres, and the area patented to June 30, 1910, at the date of this report by the Bureau of Corporations, was 113,600 acres, leaving a remainder, pending adjustment or patenting, of 41,340,000 acres.

Mr. Stone: Were the Federal land grants honestly and economically administered in conformity with the purpose for which they were made?

Mr. Lauck: No, sir. The Federal land grants were, of course, primarily made for the purpose of aiding in the construction of Western railroads; that is, to build the railroads traversing a new country which was uninhabited, and the traffic possibilities of which had not been developed; and it was expected that the grants would be of assistance to the railroads in deriving revenue for the construction of the roads by selling the lands at a nominal price to settlers, and this, in turn, would develop traffic for the roads by developing the agricultural and mineral and other resources of the country traversed by the railroads. As a matter of fact, instead of being used for this purpose, they were, in the early railroad grants, especially in connection with the Pacific roads, used to enrich a few persons who, through collusive construction contracts, diverted to themselves the proceeds from this munificent grant on the part of the government.

They were also withheld from sale by other railroads at a later date, and have been made the basis of the concentration of timber ownership in the United States at the present time.

And also, one of the—referring to page 16, you will find that point discussed, Mr. Stone—one of the original intents of the Act was destroyed by making these enormous grants the basis of stock and bond issues on the part of the railroads, and capitalizing what was intended to be of assistance, and afterwards, in a great many cases, dissipating the basis of the capitalization, and the capitalization still remains as a liability of the railroads, while the resources back of it have been dissipated.

Mr. Stone: Well, I wish you would describe the fraud and mismanagement in the utilization of the grants of the Union, Kansas and Central Pacific Railroads.

Mr. Lauck: There is another point I would like to mention there.

Mr. Stone: All right.

Mr. Lauck: On page 16, it will be noted that the object of the subsidy was to secure railroads early enough to aid the pioneer development of the country, instead of having them follow after such development had occurred. In the grants through the agency of the states it was provided that if the entire road was not finished in a given time (usually ten years) all the unsold railroad lands should revert to the United States, and practically all, or a great majority of the grants, were conditioned upon that basis, that the time element was a vital condition. And yet we find that forty out of the eighty or more subsidized roads were not completed within the time set by law, nor within the extensions granted. There was some delay due to the panic of 1857 and the panic of 1873, but primarily, it was due to the dissipation of these resources, and the attempt to exploit the possibilities by a few financial adventurers who had gotten control of the construction of the railroads.

Mr. Park: Mr. Lauck, have you any figures showing the miles of railroad built during that period in the United States?

Mr. Lauck: I have not with me. I could get those.

Mr. Park: I would like to see those figures. I have understood that the building of the American railroads during that period was the greatest industrial achievement in the world's history, and if that be true, they should, perhaps, be given some credit, even if they did not at all times fulfill the letter of the law, and obtained extensions.

Mr. Lauck: I think we should distinguish between the building of it and the financial administration of it. That is, it was no doubt a remarkable achievement; just like railroads now. I would distinguish between the operation of them and the financial administration.

The operating of railroads, I think, is superb. I think the financial administration is everything that it should not be.

Mr. Park: Well, the construction was dependent upon the finances of the roads. Take the case of the Union Pacific. For many years they tried in every way to get a trans-continental line, and finally, it was worked out through Congress that these land grants would be given, to assist the railroad in building that line, and Abraham Lincoln personally took a great interest and approved all that was done, and the road was built in a very remarkably short time, much to the advantage of the Nation as a whole, in connection with its political affairs, and then, finally, the government was paid back every dollar that they put in it, and the land that the government had on the market at $1.25 an acre and could not sell, immediately after the building of the railroad was sold at $2.50 an acre, which fully compensated them for all the land that they owned, and they were able to sell it at the same price that they had it on the market for, and were unable to sell it, before the building of the railroad.

Mr. Stone: Well, Mr. Lauck, is that just correct? Has the Union Pacific sold all the land they got from the government, even to this day? Does it not hold a large tract, even now?

Mr. Lauck: It has a considerable tract at the present time.

Mr. Stone: Is it also correct that the Union Pacific paid back to the government every dollar they received?

Mr. Lauck: I think that is correct. They did that under great duress, however.

Mr. Stone: They did not pay any interest for about thirty years, did they?

Mr. Lauck: Of course that was the condition of the grant, but they did have the use for thirty years of the money, which was equivalent to about $199,000,000.

Mr. Park: I do not think there was any duress at all. They made a bargain with the government for a certain price, and later, that was raised $13,000,000, and they voluntarily agreed to stand the raise and paid the entire amount.

Mr. Lauck: The first thing the Union Pacific did—or the condition of the grant to the Union Pacific was that they should have so many first mortgage bonds—issue so many first mortgage bonds, and that the government should arrange for their credit, in the way of bonds, which should be a first mortgage on the road. The first thing the Union Pacific did was to get the government to make those bonds a second mortgage, and then they used the bonds by the government and their own first mortgage bonds, to build the roads, through the Credit Mobilier, which was one of the financial scandals of that period.

Mr. Park: Yes; but the government got every dollar they put in it.

Mr. Lauck: Reverting to that point, what I meant by duress was this, that the Union Pacific passed through successive receiverships, and there was constant effort on the part of the persons in the financial management of the Union Pacific to get the government to settle at less than what was owing them, and to get the government to take different securities, having a lower precedence, in place of the securities which they had, and finally, it was only through the insistence of the Attorney General of the United States and through his firm attitude that the road was forced to pay back what it had originally gotten from the government. There was all kind of effort made to get some kind of an adjustment. Due to its financial difficulties, which had been constantly developing through the management, it had to get the government to settle at a point that would be advantageous to the railroad, but through the insistence of the Attorney General—I have forgotten his name—why, the road was finally forced to pay in full.

Mr. Park: I do not think they were forced. I think, as I recall it, they made a bargain with the government, which was agreed to, and then a change in administration—an incoming President insisted on the payment in full, which I think amounted to $13,000,000 more, and that was entirely voluntary on the part of the Union Pacific management, and they discharged the debt, every dollar of it.

Mr. Lauck: All the debt was paid.

Mr. Stone: About $139,000,000 interest that never was paid, wasn't there, on the second mortgage? What was it? I know there was a lot that was not paid.

Mr. Lauck: The use of the money which the government had let them have, through the second mortgage bonds, amounted to, in addition to the land grant—amounted to about $199,000,000, which the railroads, of course, never had repaid. It wasn't expected to repay it, but they had that benefit from the use of the money.

Mr. Park: But the government, in turn, got great benefits from lands brought under cultivation, and the settlement and development of the West, and the taxation incident thereto. Also, in carrying the mails and carrying the military. It was practically a government road, used by the government to great advantage, and that by reason of the interest and partnership they took in its construction.

Mr. Stone: This loan was separate and distinct from the land grant that we are discussing, was it not?

Mr. Lauck: That was lending the credit of the government, in the form of second mortgage bonds, originally first mortgage bonds, and the company got the government to waive its first mortgage and make them second mortgage, so they could issue first mortgage bonds. Then they took their own first mortgage bonds, and the government's second mortgage bonds, and out of the proceeds of that built the road. In other words, the people that built the road incurred no risk whatever. All the much repeated assertion we hear about the risk incurred in building these roads—there was absolutely no risk, because through the collusive contracts and Credit Mobilier, and different schemes that were adopted to build this road, they only built twenty miles at a time, received payment for twenty miles, and, consequently, never did have any money from the private individuals involved, at any risk whatsoever; and then they took the proceeds of the land grants and other perquisites, like the different amounts that have been awarded by communities through which it would pass—I think amounting to $126,000,000, and divided it up among themselves. That is, it was about $126,000,000 profit in the way of stocks and land income bonds to the builders of this road, and $50,000,000 of the common stock persists to the present day, which represents nothing except the graft to the people who built the road. The 33⅓ per cent dividend which was paid by the Union Pacific this year was paid—

Mr. Park: Was not that an investment that was made in the Great Northern Railroad and other lines, some time back, and comparatively recent, and a profit accrued from that investment, and it was finally decided by the courts that it should be disbursed, and was so done?

Mr. Lauck: Oh, yes; the court sanctioned it. The original investment was that the Union Pacific issued $100,000,000 of convertible bonds to purchase stock of the Southern Pacific and the Northern Pacific, in order to try to acquire control of the Northern Pacific and the Burlington, and these bonds were convertible into stock, and were converted into stock, which now pays a dividend of 8 per cent. Then, the proceeds of these bond sales—we have a situation today, carried out a step further, where the proceeds of these bond sales, amounting to $74,000,000, has been distributed to the common stockholders, and the securities which were issued to get those proceeds are still an outstanding obligation of the Union Pacific Railroad. It would seem to me it would have been much more proper to retire the obligations. As we now have it, the $100,000,000 worth of bonds have been converted into stock, which is paying 8 per cent dividends, and the operating management of that road must produce from some source, $8,000,000 a year to pay dividends on that stock, which represents no investment whatsoever in the road at the present time. In other words, the improvement in operating efficiency and productive efficiency of the men, and the work of the men and the work of the operating officials must be used to pay dividends on something that represents nothing.

Mr. Park: Would it not be necessary to take into consideration the conditions as they existed, when you had to take a gun in one hand and a shovel in the other, to build the railroad, and there seemed at that time to be very few who were willing to invest or rush into the undertaking? A good many years prior to its final consummation, it was impossible to raise the funds or put the railroad through, and it was accomplished under the supervision, practically, of the government and government commissioners. Such men as Lincoln and Joe Johnson, and Wade Hampton, all intimately connected with it as commissioners. It seems to me that there is no road that was under the eye of the government, first to last, as much as the Union Pacific.

Mr. Lauck: I think it was a remarkable industrial achievement, as you say, and something that the government did attempt to aid, but the government was victimized by the people who controlled the road and built it.

Mr. Park: How could they, if the government got all its money back, and then sold its lands for twice as much as they had them offered for years and years prior? And, in connection with that, a great settlement and great influx of people, who put them under cultivation, and began to pay taxes and contribute to the government revenues.

Mr. Lauck: Possibly I was using "the government" in a somewhat different sense than you, Mr. Park. I was thinking of the public more than the actual government. I think the government was paid back every cent by the termination of the second mortgage bonds. But the subsidy of the government was not used for the purpose for which it was intended. It was used to enrich a few financial adventurers who unfortunately got control of the building of the road; and second, the fictitious securities which they issued are now outstanding liabilities of the different systems which enter into that road, and the resources back of those having been dissipated, the roads have to develop through their operating efficiency funds to pay dividends or interest charges upon those securities. And, moreover, I think you will find that a considerable portion of the original grants made to these Pacific roads are still retained. For instance, the Southern Pacific is the largest landholder in the United States and the concentration of timber ownership in the United States is in the hands of the Southern Pacific and the Northern Pacific, primarily, and the Weyerhaeuser Lumber Company, which got its land from the Northern Pacific. Take the Southern Pacific, and the Atchison, and the Northern Pacific, why, the three together hold from these original land grants of the government timber equivalent in area to the entire area of England, and some of the richest timber in the world. The Southern Pacific timber resources are estimated to be worth from $106,000,000 to $250,000,000, conservatively, on the basis of these original grants growing out of the Oregon and California and Central Pacific.

Mr. Park: Well, we have had Alaska some twenty-five years and they are pursuing a different method there of developing it, and it has hardly been touched yet.

Mr. Stone: There is quite a difference in the climate of Alaska, and the Western territory, isn't there, Mr. Lauck?

Mr. Lauck: I should think so. I am not qualified to speak geographically.

Mr. Stone: Coming back to these questions of these three Pacific companies, the Union, Kansas and Central, to what extent were these companies over-capitalized?

Mr. Lauck: On page 15, you will find that. They were overcapitalized, according to the report of the United States Pacific Railway Commission, $126,000,000. On page 15, Mr. Stone, you will find a table which shows, according to the Chairman of the Pacific Railway Commission, what was contemplated in the construction of the Pacific roads.

Mr. Stone: This Commission was appointed by the United States Government?

Mr. Lauck: To make an investigation of the Pacific roads, yes, sir.

Mr. Stone: And this is a copy of their report?

Mr. Lauck: This is a transcription or abridgment of a table which appears in their report.

Mr. Stone: Just give us some idea of what they found.

Mr. Lauck: On page 15, noticing the two tables, the table at the beginning is the method contemplated by Congress for the construction of the Pacific railways, and the table at the bottom of the page is the method actually pursued.

Now, Congress estimated, in the construction of the Union and Kansas Pacific, and Central Pacific and Sioux City and Pacific and the Central Branch, that the total cost of construction would be, in round numbers, referring to the last column at the top of the table, $126,000,000, of which advances by the government would be $64,000,000; aid from other sources, $3,000,000; and allowing for the discount on government bonds, therefore, the amount required of stockholders would be $65,000,000, after deducting the government aid.

During this period up to 1888, when this report was made, the actual net earnings were $278,000,000. Add to that the land sales as forecasted, which would be $39,000,000, of which $70,000,000 would be necessary to pay dividends at 6 per cent for 18 years on the stock issued, and the amount of principal and interest to December 31, 1886, which could have been paid to the government, $138,000,000, would leave, as they estimated, the extent of reduction charges which could have been made to shippers, $108,000,000, and the value of the aided portion on December 31, 1886, would be $124,000,000, and the value of unsold land $26,000,000. That is the estimate as to what would take place.

Mr. Burgess: So that we may follow you, is the Union and Kansas Pacific what is now known as the Union Pacific?

Mr. Lauck: Yes, as I understand it, the Union and Kansas

Pacific were put together by Mr. Jay Gould. That is, the Kansas Pacific was a road which was not paying, and had large deficits for a number of years, and Mr. Gould, having extensive holdings in the Union Pacific, which was a very prosperous road, unloaded his Union Pacific holdings, bought Kansas Pacific and then brought about an exchange on a par for par basis, thereby unloading on the Union Pacific, a profitable road, a very unprofitable road, thereby throwing the Union Pacific in the hands of a receiver. That was about 1880, and I think the Denver Pacific—

Mr. Stone: That is the result which would have happened if these roads had been built and handled as the government intended they should be?

Mr. Lauck: That is what was contemplated by the government.

Mr. Stone: What actually occurred?

Mr. Lauck: Mr. Pattison, speaking as of 1887, eighteen years after the starting of the road, gives the lower table as to what method actually was pursued.

Mr. Park: Who is this Mr. Pattison?

Mr. Lauck: Chairman of the United States Pacific Railway Commission, appointed by the government to investigate the construction of the Pacific railways. Before this time, there had been another investigation of the Credit Mobilier by the Federal government, which had led to the disclosure of the scandals in connection with these roads.

The original cost of construction as actually carried out was \$126,000,000. The consideration in bonds, stock and cash received, \$249,000,000. The fictitious capital put on the market, \$123,000,000. The actual net earnings were \$278,000,000. The land sales were \$39,000,000. The amount credited by government to November 1, 1887, the amount which had actually been paid up to that date to the government, was only \$30,000,000, which left, deducting from the actual earnings and the proceeds of the land sales, net earnings and land sales in excess of the amounts credited by the government of \$286,000,000. Allowing for dividends of 6 per cent as above, you would deduct \$70,000,000 for that, and he estimated that the amount dissipated in the construction of the roads, in addition to the issue of fictitious securities, was \$215,000,000. In other words, \$215,000,000 had been actually dissipated up to that time, and an excess capitalization of $123,000,000 fastened upon the roads which from that time forward has been a claim upon the productive energies of the roads, the operating management and the working efficiency of the men and operating officials.

Mr. Stone: Before you leave that page, so much has been said of the taxes these railroads pay on land, and so on, I wish you would explain how they evaded patenting their land and evaded local tax payments. You will find that on the opposite page, 14.

Mr. Lauck: Just before I take that up, may I read a section there?

Mr. Stone: Surely.

Mr. Lauck: At the bottom of page 15, the conclusion Mr. Pattison drew was, as to what might have been, that if the road had been built in accordance with the ideas of the government and of the promoters, for one dollar the stockholders would have realized in eighteen years $1.07 in dividends and 60 cents in land sales. The property would have been free from debt, and for every dollar they had invested the stockholders would have had in property $1.90, so that in eighteen years each dollar would have yielded $3.57 and the property would have been free from debt.

I think the only point that interests us here primarily, in our so-called productive efficiency argument, is the fact as to whether or not there has been an equitable participation in revenues on the part of capital or labor. That is, if this company, at this early date, had $123,000,000 of fictitious securities issued, which is a permanent claim upon the revenues of the company, and the amounts back of that had not been conserved, and those securities still persist in the capitalization of the company, they are a claim either as bonds or stock paying 8 per cent from henceforth onward, upon the revenues of the company, and however great an operating efficiency may be developed, instead of being distributed partly to the employes of all classes or being participated in properly by the officials of the road, it has been diverted to the payment of interest charges upon indefensible security issues; and as long as that system persists, it is perfectly easy for a railroad, from the standpoint of the corporation side, the financial management side, to continue to absorb operating revenues, and the railroad will never be able to pay increased wages to employes or will never be able to enjoy the fruits of its own operating efficiency which have been obtained by the operating management.

Mr. Byram: Is it your thought that investments in railroads should bring no greater return than a fair return on the actual money invested, that there should not be any credit given to the original investment, for the accumulated value of the property as a going concern?

Mr. Lauck: No, sir; my views would be that they should have a value for that, and that—

Mr. Byram: How would you determine what that value ought to be?

Mr. Lauck: Well, it would be impossible to determine in terms of dollars and cents, and then I would not attempt to determine—

Mr. Byram: There is no way to do it except in terms of money, is there?

Mr. Lauck: But it should be sufficient to lead capital to be willing to invest in the railroads and to assume any risks that might be attendant upon that investment, I should think.

Mr. Byram: Then, how would you accomplish that, how would you recognize that right of the original investment to participate in the increasing value of the property from time to time? How would you recognize it, by the issue of stock or by the issue of cash dividends, or what?

Mr. Lauck: If I get your question correctly, it is, say a railroad is constructed, and as the resources develop, and as the country develops, there is an unearned increment accruing to those who took the risk of putting in the money originally.

Mr. Byram: How would you recognize that unearned increment, as you call it? By distributing its value to the original investors?

Mr. Lauck: If the original investor had actually put money into the road, say stockholders, I think they should have it in the way of increased dividends.

Mr. Byram: Increased dividends?

Mr. Lauck: But if they had not, as is usually the case—you will find in most of these Western roads, just like the building of the Western Pacific now, or the Puget Lines extension of the St. Paul, the stockholders put in nothing. They get the—

Mr. Byram: Well, that is not what we are talking about. We are assuming now that the stockholders do actually put in the money that is necessary to build the railroad.

Mr. Lauck: Well, if they do they should have a liberal return. I couldn't say just how much it should be.

Mr. Byram: Well, it ought to be more than the usual interest.

Mr. Lauck: It ought to be more than the prevailing rate of interest. It would be in proportion to the element of risk and chance which they had taken, I think, originally.

Mr. Byram: Would not the public feel that the owners of such a property were getting more than their proper return, if they got say 20 per cent on their original investment? Would not they feel that they were getting too much, the way things go at the present time?

Mr. Lauck: Oh, I think so, undoubtedly.

Mr. Byram: Then, how could you insure to the original investor a fair return on the increasing value of the property that he originally invested in? Now, this is a practical question. How could you do it?

Mr. Lauck: Suppose an investor in the building of one of these Pacific roads had actually bought stock in the road (which no one did), but suppose he had, then I should think that he ought to have shared in the development of the road. But that period is past. That is, of assuming these large risks in the construction of roads. The conditions are well known beforehand, the possibilities and the capabilities of the stock issued. It is a matter of analysis by expert financial advisors and writers, and so on, and I think now the opportunity for those large returns has largely gone. It is getting into more of a static —condition at the present time, as compared with this period of our history, and the prevailing rate of interest would be largely the rate of interest that would accrue.

Mr. Byram: Well, as I understand it, you are complaining about a situation in the past that was wrong?

Mr. Lauck: Yes.

Mr. Byram: Where people who invested money in railroads received an unfair return on them, too large, you think.

and I was trying to learn from you how you could avoid such a situation in the future.

Mr. Lauck: It seems to me—I think most railroad officials will agree with this—that the best thing that could be done to solve the whole thing would be to have Federal regulation of securities, or Federal publicity relative to security issues. Then we would know whether the money went into the road or not, and we would know about the unearned increments, and the public and the employes could feel that the earnings of the road were available to them, and were not being absorbed in what they would consider an improper manner. Even at the present time, take the Union Pacific dividends, undoubtedly that was done through deference to public opinion. That is, it did not look well to pay 10 per cent, in these days of agitation about the regulation of the railroads and rates, and so on; it was considered better to distribute some of the income that had accrued, and reduce the whole stock to an 8 per cent basis. If we had regulation of security issues, or some means of knowing what was back of security issues, then we would know what the financial condition of the railroad really was, and I think the public would agree to give a like return.

Mr. Byram: You think that owners of capital would be willing to invest their money in a large project, such as building a railroad of any considerable magnitude, and depend upon the generosity of a Federal commission, or the liberality rather, of a Federal commission, to tell them how much they are going to be allowed on them? You think that is a practical possibility?

Mr. Lauck: You are speaking now of a new road?

Mr. Byram: I am speaking now of a new railroad into an undeveloped country.

Mr. Lauck: Well, of course, there is not much possibility of a road like that being built now, except in Alaska or the Yukon.

Mr. Park: Texas wants railroads.

Mr. Lauck: Or Mexico, or South America.

Mr. Byram: No, there are vast areas of undeveloped country yet in this country, that are not occupied by railroads, that will have to have railroads some time.

Mr. Lauck: I think they would want even more than that. They would want some assurance that they would get a return, just like people who actually put their money into the Pacific roads. They would want a government guarantee, or subsidy. But what I am complaining about—

Mr. Byram: Just a moment, please, before we get off this line. You do not believe that private capital would be attracted to a project of that kind without a guaranty by the government that at least they would be given a fair return on their property, in lieu of the possibilities that have existed in the past of making a much larger return if the enterprise was successful?

Mr. Lauck: Yes; I am speaking now of the newly developed, unknown country.

Mr. Byram: Yes; that is what I am speaking about.

Mr. Lauck: As distinguished from the country as a whole, now. And, to the student of an investment, it would include consideration of that kind.

Mr. Byram: I think you will agree with me that there are sections in this country where there must be railroads eventually, to take care of the development; in the Southwest, particularly.

Mr. Lauck: They would be largely, would they not, branch lines or extensions of existing systems?

Mr. Byram: Not necessarily. They ought to be independent, according to your theory, as I understand. They ought to be independent. At least, they ought to be able to stand independently on their own merit.

Mr. Lauck: Oh, yes, after they have had time to develop that independence, of course.

Mr. Byram: But there must be a time, before the development occurs, that the railroad has to wait for its return. Is it your theory that we should not have a condition here that would permit an independent railroad to be built by private capital, and bring a fair return to its owners, but it must be part of a big system, in order to exist?

Mr. Lauck: Not at all. And I don't hold that in this country, as a rule, a railroad could not be built by private capital and be immediately productive. Take the Virginian railroad, the Carolina, Clinchfield & Ohio, which was a recent construction. On the other hand, you would have the Western Pacific or Puget Sound lines, which may not be immediately productive. But in none of those cases were they financed through stock issues.

Mr. Byram: I am not speaking of what has been done. I want to see how we are going to get on a correct basis in the future, according to your theory.

Mr. Lauck: According to my theory, I thoroughly believe in the development of the present large systems. I believe in concentration.

Mr. Byram: You don't think there ought to be any independent development of these territories that are not now occupied by railroads?

Mr. Lauck: If it can be done, all right. But I believe the most economic way to develop is through the tendencies that we have had in the way of development of a few large systems of railroad, because it is more economical, if built under proper regulation.

Mr. Byram: Isn't that because the independent railroad would not be able to stand the losses that would occur before a railroad into a new territory would become productive? That it is only an established system with large resources that could stand the losses?

Mr. Lauck: Well, that may be true. Or, would it not be true also that the old established system could put traffic on the new road? We have had a great many failures of new roads, due to the fact that they were built without considering whether or not they could get a division of the traffic with the old systems, and a road which was an extension of an older system would have the parent company's traffic to draw on, or its co-operation in developing traffic, or diverting traffic over its lines?

Mr. Byram: Well, the new railroad would control its business locally produced, anyway.

Mr. Lauck: Oh, yes; clearly.

Mr. Byram: So your thought is, then, that, in order to succeed, a new railroad must have through traffic diverted to it by some other means that its own production?

Mr. Lauck: Not to succeed, but that it would be better than operating independently. It seems to me, after a proposition has been considered as to building a new railroad, and thoroughly analyzed and sifted, and the prospectus is put forth, then, according to the degree of risk that would be undertaken by those who put the money in it, they should participate in the results of that.

Mr. Byram: And participate how? How could they be given participation?

Mr. Lauck: Well, if the—

Mr. Byram: What practical way could you suggest?

Mr. Lauck: Well, this probably would cover the point I had. I think they should be given participation, if they invested their money in bonds, which would be putting it on the basis of greater safety than stock, they should be entitled to the prevailing rate of interest on the bonds, or to the interest allowed, in accordance with the risk incurred. Probably bonds of that kind would be five or six per cent bonds, like Pacific bonds, or 7 per cent, like some of the older railroad bonds, or may have been bought at a large discount. But the point that I would object to would be that they should be given stock, which would be simply anticipating the future development of the country, and of the road, and of its efficiency as an operating system.

Mr. Byram: If the bonds only called for 5 per cent, how could the holder get any more?

Mr. Lauck: They could not get any more.

Mr. Byram: What would become of the surplus? How would it be diverted back to the original investor?

Mr. Lauck: The rate of interest should reflect the risk which they incurred, or the discount which they secured on the bonds. For instance, take some recent financing of railroads, like the Frisco, where the risk was great, they sold their consolidated bonds at 63 cents on the dollar. There a man took a big risk, and he was compensated for it by the 37 per cent discount which he secured on the bonds.

Mr. Byram: What is the difference between giving the original investors the difference between 63 cents on the dollar and 100 per cent on the dollar, or giving it to him in stock? The difference between $63 invested and the $100 is always a burden to the company just the same, is it not?

Mr. Lauck: Well, if you had an element of risk there and you paid par for the bonds, I wouldn't object to giving him 33 per cent of the bonds.

Mr. Byram: They pay interest on $33 they don't invest, on every hundred, don't they, always? Is not that a fixed charge on the railroad, just the same as it would be if they got $33 worth of stock and paid $100 for the bonds?

Mr. Lauck: Oh, yes.

Mr. Byram: What is the difference between the two?

Mr. Lauck: No difference. It is a remuneration for risk.

Mr. Byram: You just said they shouldn't have any stock on which there should be a continuing charge.

Mr. Lauck: I don't think they should now. I don't think the present method of issuing stock bonuses, by granting the right to participate at par, is right, on old established railroads.

Mr. Byram: You are willing it should have the same effect by taking the bonds at a discount?

Mr. Lauck: If it was a railroad into an undeveloped country, and the element of risk was great, I should think they ought to have some remuneration for that risk, but the Pacific roads—many people that built the roads did not incur any risk.

Mr. Byram: I am talking about the present. We are trying to get on a better basis now. As I understand it, you are willing that the investors in these bonds should have an unearned increment of $33 a share, that continues as long as the life of the bonds, but you are not willing that they should have it in the shape of stock?

Mr. Lauck: I would give it to them, one way or the other, if they deserved it—if the risk was great.

Mr. Byram: Who is going to determine the risk?

Mr. Lauck: It is going to be determined by the people who put their money into bonds or stocks of that kind. They are going to determine that—that is, the underwriting syndicate or the banker will offer it, and they will take it or leave it.

Mr. Byram: It finally comes down to the fact of whether the investment is attractive enough to attract the capital?

Mr. Lauck: Certainly.

Mr. Byram: And whether the terms, either in the shape of stock or bonus or discount on the bonds is going to attract the investment?

Mr. Lauck: It must be that, and we must, in case of the railroad that there must be sufficient attraction to lead a man to put his money into the railroad—the small investor, and so on.

Mr. Byram: Then it is a matter of opinion as to how much it ought to be?

Mr. Lauck: Yes, sir, it is a matter of opinion from the individual investor. The point that I am contending for, as regards the past, is that there were excesses perpetrated, and I think, under the present system, there still are, and if we could have some sure ground for the investor to know of, when he puts his money into the road, why, we would have a much better financial condition for the railroads, and for the employes, and for the public.

Mr. Park: If the original investors in Union Pacific had bought four blocks around this hotel, they might have had a great deal more money than they did in that enterprise; and in the rental of these rooms in the hotels and offices around here, don't the people contribute to that investment?

Mr. Lauck: Oh, yes; in 1860, if they had bought a lot here—

Mr. Park: These four blocks, surrounding this post office.

Mr. Lauck: You would have had a remarkable unearned increment accruing to it all the time, which would still go on, if you erected a hotel—a burden on the traveling public.

Mr. Park: It is necessary now to take into consideration the present conditions, you say, to judge as to how new railroads should be built. Of course, they are not building any now, because we don't seem to have arrived at any ground upon which capital is willing to take the risks.

Mr. Lauck: Is not that due, don't you think, Mr. Park—I beg your pardon.

Mr. Park: Just a minute. Wouldn't it be necessary to get the viewpoint of 1860, and ten years previous to that, to determine whether the railroads were properly promoted and whether the investments were legitimate and the profits fair? Would it not be necessary to take conditions as they existed at that time, rather than to look back and attempt to judge them from the light of our actual experience?

Mr. Lauck: That was a theory that I had always held and been reared on, that the building of these railroads—that they were sort of pioneers, blazing the way of empire, and that there was a tremendous service they had rendered, and the risk was great, but I find, on looking into these things further, that the so called blazers of the wilderness and the big pioneer empire builders, really did not incur any risk whatsoever, but they exploited the generosity of those who made possible the development of these territories.

Mr. Park: It required credit, I think. Men like Mr. Hill went in and said they could do certain things, and put their roads through. There was only a few that had confidence in them, but after they were immense successes, of course, it was apparent that it was easy for anybody to do it. But if they had not been built, there would not have been nearly so many engineers and firemen employed, and there would not have been so many people in the West, farming and engaged in profitable vocations. It has done us all good, I think.

Mr. Lauck: Well, the point that I am trying to bring out —my point of view is that in this development, the employes, although it is claimed they have received—some of them have received large earnings, that they have not had a participation in this development of the unearned increment, or have not had a participation in productive efficiency, equivalent to capital. That they have not had an equitable share.

Mr. Park: Have you not got to take things as they exist? Take the Illinois Central. They had a land grant. I don't know much about its history, but they have today 12,000 stockholders, 10,000 of whom own 100 shares or less. Probably a large percentage owns less than 10 shares; and the Pennsylvania Railroad, for instance, has 92,000 stockholders, 48 per cent of whom are women. Now, it may be that the stockholders now are new people; people that paid no attention to the early construction of these railroads. They wanted—if a widow has got 100 shares of Illinois Central stock, paying her $500 a year, she wants that $500 a year, probably, to feed her children. She don't like to see it dissipated in abnormal wages, no matter what the previous history may have been.

Mr. Lauck: No, sir; I don't think we should ever interfere with any prevailing—I don't think that labor should, or engineers and firemen in their wage requests, should interfere with any right of that kind—any vested right, but the point I am developing is that the contention has been made that productive efficiency has not yielded profits. I am attempting to show that, as a result of the financial excesses of the past, not only the productive efficiency of employes and the officials in charge of operation, but the results of the growth of the business of the country have been dissipated, or have been absorbed by these capital issues, and if we permit the same condition to continue, from now forward, we will have the same. It would not be fair to the investor or to the employe either, because if you continue to absorb the revenue gains of the road, by financial control, which does not put the proceeds of the investment into the road, or if the finances of the road are manipulated for the purpose of absorbing the productive gains of the employes, we cannot hope for increases in wages, because they will always be met by the contention that if they ask for an increase in wages, "We are unable to pay, because the widow and orphans and fatherless children have got their stock and we cannot pay dividends."

Mr. Park: Then, if a bricklayer got 50 cents an hour, for working on this building across the street, ten years ago, and it developed since that the offices rent at high rates, because of the locality, and they are going to build an addition, on that, you think the bricklayer ought to have a dollar an hour now?

Mr. Lauck: I beg your pardon, Mr. Park.

Mr. Park: On account of the productive efficiency of the investment in the property,—take this building across the street; it was built fifteen years ago and bricklayers got 50 cents an hour. It has developed, by reason of business surrounding this particular property, that its rentals are very high and the investment is exceptionally good. Now, it is necessary to cover the other half of the block, in the same way. Do you think the bricklayers should have \$1 an hour or \$2 an hour, based on the investment?

Mr. Lauck: If the actual investment had been made, no. If, in the case of the railroads it had not been made, I think he has much greater claims to it than the original holders of these stocks and bonds, but I should think the employe ought to be contented to have just the result of the revenues arising from his increased work, if there is any increase in work or increased efficiency in operation. The point that I make is that if you had a revenue gain, from increased efficiency and operations resulting either from the managerial ability of the operating officials, or from the increased work and efficiency of the men, and the financial control of the railroad immediately hypothecates that or absorbs that, by the issue of stock, either through a bonus or some more raw and crude method, why, the public, or the employes, either, can never hope to participate in any of the fruits of the railroads' development of the country.

Mr. Burgess: But, Mr. Lauck, would there not be a very significant difference between laying a brick fifteen years ago, and operating a locomotive fifteen years ago? That is to say, the man that laid the brick fifteen years ago lays it in a similar manner today; but there is a great difference between the work of the engineers and firemen fifteen years ago and today.

Mr. Lauck: Yes.

Mr. Burgess: Now, should not that make a difference in your answer?

Mr. Lauck: If there is a difference, and more work, he would have a much greater claim on the proceeds. Now—

Mr. Burgess: Is it not a fact that there are many owners of capital who not only do not object to proper supervision of railroad securities, but really welcome such action?

Mr. Lauck: I think a great many representative railroad presidents are favorable to it. I think I recall reading that Mr. Willard of the B. & O. and Mr. Rea of the Pennsylvania are both favorable to such action by the Federal Government, and there is a bill pending now in Congress, I think.

Mr. Burgess: Is not the president of the New York, New Haven & Hartford, Mr. Elliott—

Mr. Lauck: I do not recall, but I know a great many representative men are.

Mr. Burgess: —in favor of proper supervision of railway securities?

Mr. Lauck: Mr. Ripley of the Santa Fe has gone so far as to advocate supervision even more extreme, on the basis of the Federal Reserve Board, and a federation of railroad systems under the direct supervision of the government.

Mr. Burgess: And all those gentleman you have mentioned are well known railway presidents?

Mr. Lauck: Yes, sir.

Mr. Burgess: That is all.

Mr. Park: They are violently opposed, however, to unreasonable regulation—full crew bills, and half-mile trains, and all those things.

Mr. Lauck: Yes. Carrying the point one step further, in order that I may get my idea out, if you will permit me, Mr. Park, just to make myself clear on the point Mr. Burgess brought up, for instance, take an example in the case of the formation of the United States Steel Corporation. In the steel industry, we have a different situation than what we have in the railroad industry. We have, through the introduction of improved labor saving machinery, the elimination of skilled employes and a reduction in the work required of men in certain occupations. Now, when the United States Steel Corporation was formed, it was generally acknowledged, and it is not a matter of any criticism to say it, that there was $600,000,000 of common stock issued which represented no investment. In other words, fictitious. Now, the steel industry has gone forward, introducing improved machinery, improving the output per man per day, and made remarkable developments in its operating efficiency, and has made remarkable profits, as a rule. Now, those profits they have used, partly, after paying dividends, to put behind this common stock enough to create a tangible value behind the fictitious $600,000,000 of common stock. It seems to me the employes there had a greater right to participate in that $600,000,000 than the holders of this common stock, or should have had some measure of participation in it. That is, if we consider industrial development from the standpoint of some one who can get the proceeds, and if we introduce machinery which may reduce the work required of employes, while increasing their output, it seems to me that the old theory of basing wages upon the absolute principle of supply and demand has passed, and we must recognize these new factors if we expect any economic development of the employes, or expect to develop a better body of citizens in a self-governing republic like we have; otherwise no economic advancement goes to the employes whatsoever.

Mr. Burgess: If I grasp your answer, Mr. Lauck, I will have to once more refer to the bricklayer. Assuming that this bricklayer, fifteen years ago, laid a given number of brick, and at the present day he lays 50 per cent more brick, that would give him an undoubted right to think that he should participate in what might be called productive efficiency, would it not?

Mr. Lauck: Yes, sir.

Mr. Stone: On that independent road that is going to be built down through a territory that is held in common between two powerful companies, what do you think would happen to that independent company if they undertook to finance a road of that kind?

Mr. Lauck: It would be an egregious failure, of course, because they would be starved of any traffic, and—

Mr. Stone: Would they ever be able, with the way big business controls finances, to do anything in the financing of the road at all?

Mr. Lauck: I think not. I think we have a case of that nature in the Denver & Salt Lake Road.

Mr. Stone: And the Kansas City, Mexico & Orient, I think, is a good one.

Mr. Lauck: Yes. I am not thoroughly familiar with the history of that road.

Mr. Stone: No question but what he was going to tap a wonderful territory, but he could not finance his road at all; they simply froze him out.

Mr. Lauck: The way capital is controlled in this country now, it is absolutely impossible, as I am going to attempt to show later, unless you have the support of certain financial institutions, to build any road, unless it is a very small road, or for any railroad to exist.

Mr. Stone: Even if you did succeed in building a little road that depended upon its connections with some big system, they would simply freeze you out, would they not?

Mr. Lauck: Yes. I think we have a case in the Colorado Midland, which is going on now. The Colorado Midland is owned, if I remember correctly, by the Colorado & Southern, and the Denver & Rio Grande, jointly. The government has instituted suit to dissolve the relationship, because of the fact that it is one competing road owning another competing road. Since that suit has been instituted, and since it has been generally believed that the road will be separated, the Colorado Midland has been starved to death, and is operating at a deficit, due to the fact that these roads no longer hope to retain control of that road.

Mr. Stone: Do you know of any other capital that is guaranteed on its investment, in any other class of business than a railroad? Why should railroad investments be guaranteed by the government, any more than any other investment that capital makes?

Mr. Lauck: I do not think it should. I think that the reason why the railroad credit has suffered any has been from the financial excesses in the management of the railroads, and also due to the fact that the railroads themselves are the worst destroyers of their own credit. I think if any other industry did what the railroads did, talked poverty and talked the way they do about their finances and hard times, and so on, it could not even exist the way the railroads have. I think it has been remarkable that they have survived their own attacks.

Mr. Stone: Regarding these innocent women and children, these widows who have invested their all in these railroads, in these fictitious stocks that represent no real value, it is a fact, that big business got their share out of it before they got in the hands of the innocent purchasers, did they not?

Mr. Lauck: As a rule, the prevailing method is for certain groups of financial institutions in New York, say, the groups that control the Western railroads, are distinctly three groups—Rockefeller, Morgan and Gould—and they underwrite these security issues, and through their affiliations in banking institutions, dispose of them to the innocent investor.

Mr. Stone: And through their voting trust they control the railroad in the meanwhile?

Mr. Lauck: Yes, sir.

Mr. Stone: So that the woman who owns ten shares of stock has about as much to say as to what shall be done with that railroad as I have, who own none?

Mr. Lauck: Absolutely nothing, as a practical proposition.

Mr. Stone: So the fact of these five or seven thousand stockholders has absolutely no bearing on the way the road is operated, does it?

Mr. Lauck: No, the control of the road is managed usually through an affiliation of large holding interests in the road, through the fact that bankers act as fiscal agents and determine the financial policy of the road, which, in the case of a great many roads in the West, especially like the Great Western or other roads which have been recently reorganized, the favorite device of the banking interests is to create a voting trust, which they dominate, and they dominate the road through that voting trust.

Mr. Stone: Even though it may be a very small percentage of the total capitalization of the road?

Mr. Lauck: They may own none of the capitalization; as a rule they do not hold any, because it is simply unnecessarily tying up their funds in the investment.

Mr. Stone: And yet they dictate the policy of the road through their voting trust?

Mr. Lauck: Yes; that has been the history of all recent reorganizations of railroads.

Mr. Stone: This guarantee of investment, has the employe, like the engineer or fireman, or trainman, who invests all of his savings in a little home at some terminal, been given any guarantee in the past that the terminal would not be moved away and his property destroyed?

Mr. Lauck: No, sir, none whatever; so far as I know. Of course, the employe has not any guarantee as to regularity of employment. The surplus funds of the railroads are used to maintain uniformity of dividends, but in times of financial stress like we have been recently passing through, the real residual sufferer of the railroad is the employe.

Mr. Stone: Mr. Park drew quite a picture of the pioneer, who built the Western railroads with a shovel in one hand and a gun in the other, to fight Indians with. That was the employe who went out with the contractor, who did that; it was not the investor who sat back East somewhere and perhaps never saw the West. He was the man who went through the hardships, was he not?

Mr. Lauck: Yes. I think it was a great engineering and physical feat for the men who actually built the roads. Of course, the rapidity in building these roads was due to another selfish motive, and that was, that the more road they built, the more land grants they got.

Mr. Stone: And they also imported, I believe, a whole lot of Chinese who worked on the road, as I recall, in reading the history of it. They started to build it before I was born, but as I recall the history, they brought in a lot of Chinese.

Mr. Lauck: I do not recall that. The Chinese exclusion laws were not passed then, and I suppose they were used.

Mr. Stone: It is also a fact that they built it in sections of ten or twenty miles?

Mr. Lauck: Twenty miles.

Mr. Stone: And were at once given the money for that, and then they built another section.

Mr. Lauck: Yes, they built it in sections. It is almost impossible to describe the financial manipulation by which the Pacific railroads were built. The people who controlled, say the Union and Kansas Pacific Companies, created another company to build the road, called the Credit Mobilier, in which the stockholders of the road were stockholders also, and then they contracted with themselves to build the road. There was no incentive to build the road economically, for the reason that they had more to gain by building it in as expensive a manner as practicable, because they profited as stockholders of the construction company. Moreover, the condition that the government had laid down, was that the stock should be paid for, which was issued. Well, of course, they did not want to pay for any stock, so the way they did, the railroad stockholders sold the stock to themselves, the construction company, and they issued a check to the railroad company, and the railroad company gave that check back to the construction company for building the road, so that was the risk that the stockholders incurred in building the road, simply passing a check and endorsing it back, to fulfill the legal technicalities of the government, that the stock should be paid for. I think the greatest amount of capital that the Credit Mobilier ever had invested was $3,000,000, and as they got something like $58,000 per mile for building the road, and were paid for each twenty miles, you can readily see no risk was incurred in building the road, from that standpoint.

Mr. Stone: Now, coming back to the question of land grants again; they were given land at the time—

Mr. Nagel: I would like to ask one question in this connection. Mr. Lauck, do you think business is in a sound condition now?

Mr. Lauck: By that do you mean normal?

Mr. Nagel: Yes.

Mr. Lauck: No, sir.

Mr. Nagel: Well, do you think the roads have any justification for saying business is bad?

Mr. Lauck: Yes, sir; I think so.

Mr. Nagel. So it is not an unmixed false statement, when they say that business is bad?

Mr. Lauck: No; I would qualify that. Of course, since June 30th conditions have been very bad. That is, a great many of the Southern roads have been operating at 50 per cent off normal, and a great many Western roads at 65 per cent; but now they are getting more and more back to normal, and conditions are getting better all the time. I hope to take that up and show later that conditions are improving, and some roads, like the Atchison, are above normal; but they are isolated instances. They are generally running about 90 per cent now, compared with last year.

Mr. Nagel: You think, in view of the latest orders on the other side, that Southern business will improve from now on?

Mr. Lauck: I think not; no, sir. I had hoped to see Southern business greatly improved when the cotton began to move, but if the present embargo is continued there will probably be another setback to the Southern roads.

Mr. Nagel: Admitting, of course, that there has been a great deal of mismanagement in the past, and that a degree of control is exercised that frequently in dangerous and mischievous, on the other hand, do you believe that if the small stockholder was in control of the management that the results would be much better?

Mr. Lauck: Probably not, unless we had governmental regulation.

Mr. Nagel: In other words, inexperience would not be very much better than too much experience?

Mr. Lauck: No. You could hardly conceive of his being in control unless a certain group was in control.

Mr. Nagel: Suppose their views were accepted in the management, do you think it would be more successful?

Mr. Lauck: From a development of the operating conditions?

Mr. Nagel: Yes.

Mr. Lauck: I think that the operating conditions have been all that could be desired; they have been phenomenal, I think. I think the real trouble is, that the operating official, when we pass from him to the financial management, then is when the trouble begins, and that the employes and the public and operating officials have been the victims; not that I criticise the system that has been in vogue, or personally criticise anything that has been done here. I am simply pointing this out; it is not a very agreeable task, to go into things of this kind, but it is simply to develop my argument and to show or try to prove that the employes have not had an equitable participation.

Mr. Nagel: Have all the roads, parties to this submission, enjoyed grants such as you have instanced here?

Mr. Lauck: I should say to a greater or less extent. A great many of the present roads have become the beneficiaries of other roads which they have acquired. There are some that stand up pre-eminently, that have had these grants, like the Pacific roads, and they have been acquired by the present Union Pacific and Southern Pacific, and the Great Northern and Northern Pacific, especially the Northern Pacific has had the largest land grant of any road, I think about one-fourth of the total land grants of the Federal Government, the Northern Pacific has received.

Mr. Nagel: But as between them, the conditions are entirely unlike, are they not?

Mr. Lauck: The grants?

Mr. Nagel: Yes. Some have received large grants and used them in one way, and others small grants and they have used them in another way, and others have received no grants at all.

Mr. Lauck: Yes, and some have used them in accord with the government provisions; that is, they have sold them to settlers, and have attempted—some have been more valuable than others, and some have been more or less worthless lands.

Mr. Nagel: Does not the inequality of conditions in these roads rather discourage standardization, if it is to be considered at all?

Mr. Lauck: Of wages?

Mr. Nagel: Yes.

Mr. Lauck: From the standpoint of payment now?

Mr. Nagel: Yes.

Mr. Lauck: Well, when we finally analyze the situation, we find about fourteen roads owning all the other roads, or controlling them, and it would reduce itself to that simplicity, at any rate, from the standpoint of ability to pay. For instance, a great many of the roads that show deficits are the subsidiaries of parent roads which are in a good condition, and that would be an offsetting circumstance, and you could not consider them unless you consider them an integral part of the system, it seems to me; otherwise a road could take any part of its system and make it show a deficit.

Mr. Nagel: Do you think that would afford an excuse or reason for equalizing wages on the several roads of the same system, one being in itself prosperous and the other a failing road?

Mr. Lauck: I do not think that ability to pay should be considered at all. I mean, it would be the condition as to whether or not they really deserved an increase in wages. But the point has been raised; it has been stated here that the roads are financially unable to pay. If we have to meet that contention, then you would have to consider those facts.

Mr. Nagel: I remember asking that question on the first day of the hearing, and I was told that the inability of the roads would not be insisted upon.

Mr. Sheean: Absolutely.

Mr. Nagel: And it has been my view right through that the pay and the compensation of the men would stand upon its own bottom, regardless of the conditions of the roads. I mean, that was my impression.

Mr. Lauck: That has been my impression.

Mr. Nagel: I asked the question advisedly, and received that answer. It seems we are now getting into ancient history.

Mr. Sheean: And the answer at that time was, your Honor, that, of course, if it was based upon the claim of participation in so-called profits, of course, that matter would have to be met—as we think we have met it. But, insofar as paying a fair and equitable wage, it was stated at the outset that the ability or inability of a road to pay a fair wage was not involved in the question.

The Chairman: But have not exhibits been introduced here by the roads tending to show their inability to pay?

Mr. Sheean: The exhibits have been introduced to meet the claim of increased productive efficiency, which I understand to be the claim that there have been increased profits. We have met simply the case that has been made here.

The Chairman: So, notwithstanding the statements that have been made, we have that issue raised, have we not?

Mr. Sheean: Why, if—

The Chairman: By the evidence. I am saying, by the evidence.

Mr. Sheean: If there is a claim made here of participation in profits, yes, sir. If, however, their claim is based upon their being entitled to a fair wage, irrespective of the question of profits or lack of profits, then it is not in the case. But if, as a part of their claim here, they say that beyond the question of what their work is worth, they are entitled to a share in the profits, then the question is involved.

Mr. Stone: I thought we would get to that pretty soon, Mr. Chairman.

The Chairman: I simply want to keep my bearings, if possible, because I have had these exhibits called to my attention. They must have been introduced for some purpose, and I naturally supposed that it was intended that we should consider them as tending to show the inability of the roads to pay higher wages.

Mr. Sheean: Yes. Well, I think, your Honor, there is no question about it. If their claim is based merely upon their right to receive a fair and adequate wage, irrespective of the question of bankruptcy, or financial condition, or anything else, it is not in the case. If, however, as a part of their claim they say because of profits and productivity we are asking a share in the profits, of necessity that is injected into the case by them. I do not know which they are standing on. As to whether or not their claim is that, irrespective of any question of ability to pay, bankruptcy, or prosperity, they are entitled to this wage, or they are standing upon the claim that they are entitled to profits.

Mr. Burgess: Well, now, Mr. Sheean, clear me up a little bit on that particular point, relative to standardization. You don't understand that this Board can render anything but one award, do you?

Mr. Sheean: One award?

Mr. Burgess: One award.

Mr. Nagel: On one point?

Mr. Burgess: I mean, that will be the award on all the points submitted, but ultimately there will be one award that will apply to all the railroads in this movement, will it not?

Mr. Sheean: Why, I don't know whether or not it has impressed the Board that they can make an award for all of these that would be of uniform application or not. Of course, if they do make only one, if that be adopted, then, of course, all they could do would be to fix a minimum wage for the worst situated road.

Mr. Stone: Is that all they could do?

Mr. Sheean: To standardize? I suppose only to the extent that companies are standard, yes.

Mr. Stone: You have got another think coming to you.

Mr. Burgess: Perhaps, Mr. Sheean, my question was not put intelligently. That is due to my denseness. But you don't understand that the Board can render an award that would be applicable differently to the different lines, do you?

Mr. Sheean: Why, as to their power, I have no doubt they have power to do that, Mr. Burgess, absolutely no doubt on that. If they find one road, a peculiar switching road, that has certain peculiarities, that don't characterize any other road in the movement, they might in their award specify as to what would be the rules and conditions as to the one thus peculiarly situated.

Mr. Burgess: Well, have you ever known a Board of Arbitration, under the Newlands Act, to render more than one award, and that applied to all the railroads that were in the movement?

Mr. Sheean: No, I have never known them to do it, but as to their power to do it, if they want to take the time, I have no question of their power to do it.

Mr. Burgess: Well, you did not anticipate that this Board would award a given rate, we will say, for example, for pulling a passenger train on one road, and a different rate on another railroad, providing the engines were of the same class, did you?

Mr. Sheean: I have not indulged in any anticipation as to what the Board might or might not do.

Mr. Burgess: Well, all I was trying to do, Mr. Sheean, presuming you were the mouthpiece of the railroads, was to obtain some honest information from you in regard to the point I raised.

Mr. Sheean: Well, I will try to give it to you, Mr. Burgess, just so far as I can.

Mr. Burgess: Because it particularly bears, Mr. Sheean, upon the point of standardization. I presume that when this Board renders an award, that that award will apply to all of the roads in this movement.

Mr. Sheean: Of course, the only possible standardization, as I see it, would be that, because of the limitations imposed upon the Board, they can by no possibility do anything other than to fix a minimum wage, in view of the form of submission, holding anything that is above the minimum, and that therefore they must, of necessity, if they attempt standardization, go to the only base that is standard, and to the one and only thing that pertains to all of the roads.

Mr. Burgess: And if they don't attempt standardization they would have to render no award, or else make a different award to different railroads, would they?

Mr. Sheean: They would have to make an award that would be a fair award to the poorest railroad in the territory, letting those that were better able to pay whatever their present schedule gives them above that award, yes.

Mr. Burgess: That would really not, Mr. Sheean, answer the question, as it has been presented to the Board. That is, when all the railroads in this movement agree to place their destinies, so to speak, before this Board of Arbitration, and the employes as well, they could not reasonably anticipate more than one award from this Board. I mean, of course, affecting all the questions that were submitted.

Mr. Sheean: I agree with you, Mr. Burgess, that it would be beyond the limit of human endurance for this Board to attempt to make individual schedules for individual roads.

Mr. Burgess: Thank you, Mr. Sheean. That is all I wanted to know.

Mr. Nagel: If we accept the theory that the men must be paid adequately for their work, then, of course, we can standardize the wages for all the roads in the territory. The practical question seems to me to be whether we can discriminate in the wages for different roads, upon the ground that one road is successful and another is a failure, or that one road received valuable grants from the government and others did not.

Mr. Stone: Mr. Chairman, I thought sooner or later we would run into this discussion. It came a little sooner than I thought it would. I did not think it would come during the land grants. I thought it would come during the financial history, a little later.

However, I want to call the attention of the Board to page 3632 of the record, when Mr. Keefe, their financial expert, was on the stand, with railroads Exhibit No. 4, and this is a quotation from Mr. Keefe:

"It would appear from the data shown on the sheet (discussing Exhibit No. 4) that those roads are in such shape as to be unable financially to pay any increase of any character."

He was clearly talking about the financial ability. Again, when Mr. Higgins was on the stand, on cross examination, on page 4813:

"Mr. Stone: In your opinion, are the roads financially able to pay our requests at this time?

"Mr. Higgins: I do not think so. The Missouri Pacific-Iron Mountain has not paid a dividend since 1907, and since that time they have increased their payroll over three million dollars a year. I think the thing has got to stop, and stop soon."

Mr. Trenholm also expressed the opinion—I thought I had it here, but I haven't it. It is over at the room. He also expressed the opinion that the roads were financially unable to pay. Now, if we are allowed to develop our line of rebuttal, we are going to show that the railroads are financially able to pay, and we are going to further show that if there are any roads that are not, it is due, not to the productive efficiency of the employes, but to the looting of some financial pirate, that they cannot pay.

Mr. Burgess: Mr. Stone, then are we to understand that this rebuttal testimony is introduced to controvert the statements of the general managers on the stand?

Mr. Stone: It is to controvert that productive efficiency has not improved anything since 1910, as I stated in my opening statement. It has all been absorbed and taken up in different ways, and it is also to prove that they are financially able to pay. The biggest job that some of these railroads have is to hide their earnings, and we will bring it out before we get through, if we are allowed to.

Mr. Park: I understood Mr. Higgins to emphatically deny having any financial knowledge of the railroads, and also Mr. Keefe. Mr. Keefe was testifying as an operating expert, and had no personal knowledge of the financial affairs, and they gave it as their opinion, simply a personal opinion, that they did not think the railroads were able to pay—or some of them.

Mr. Sheean: Well, I think our committee, Mr. Park, beyond all that, takes the position that it does not make a bit of difference whether they are able or unable to pay a fair wage. If they cannot pay a fair wage, they have got to quit operating. That is the position on which we have stood, from the outset—whether they are in the hands of a receiver or elsewhere, a fair and proper wage must be paid by every railroad company.

Mr. Stone: And that, Mr. Chairman, is what this Board is going to decide, what is a fair and equitable wage, and not the Railroad Conference Committee of Managers. We broke off with them away along last July. The Board is going to decide that question.

The Chairman: Well, let us proceed with the testimony.

Mr. Stone: Now, Mr. Lauck, suppose we come back to this land grant again. It is said that a number of these roads, as soon as they got this land, commenced to pay taxes. I wish you would show how they evaded the payment of local taxes, in these different states. I think you will find it on page 14.

Mr. Lauck: The chief way, as brought out by the Pacific Railway Commission—the chief way of avoiding tax payments was not to take up the land, but to leave it unpatented, so it would not be subject to assessment.

Mr. Stone: In other words, they did not file the patent; they did not select the land, after it had been surveyed?

Mr. Lauck: They did not select it or did not patent it, or have the entry made, because it would not be in their possession formally, and, consequently, would not be subject to taxation.

Mr. Stone: They still have the right to select the land?

Mr. Lauck: Yes, sir.

Mr. Stone: They have got land coming to them?

Mr. Lauck: Yes, sir.

Mr. Stone: And can take it, whenever they please?

Mr. Lauck: Under the conditions of the grant.

Mr. Stone: As soon as they do take it and it has been patented, then it is subject to local taxes?

Mr. Lauck: Yes, sir.

Mr. Stone: I wish you would explain here and go through this detail, to show what they did?

Mr. Lauck: Well, in 1884 they had reached a stage in California where the Governor called a special session of the Legislature to take up that matter and see if they could not force taxation, and the question from the Pacific Railway Commission, also found on page 14, shows that the Union Pacific allowed quite a number of years to elapse—eleven years—before it had certain lands entered to its ownership, due to the same reason, primarily.

Mr. Stone: And also, in the paragraph above that, you show how the Union Pacific procured title to large tracts of coal land, do you not?

Mr. Lauck: The claim was made by the Pacific Commission that the Union Pacific used the names of its employes to secure land selections.

Mr. Stone: Well, take the case of the Union Pacific. About how much land in Nebraska and Colorado have they failed to select, or how much land have they selected?

Mr. Lauck: Why, up to the date of this report, in 1886, the Union Pacific had allowed eleven years to elapse, without selecting 1,800,000 acres of its land grants in Nebraska, that had been surveyed in 1876, about twelve years before that, and had only selected 640 acres out of 150,000 acres in Colorado, that were surveyed eighteen years prior to that time; and the same way in Wyoming; it had only selected 80,000 acres out of 3,300,000 acres; and in Utah, it had selected only 42,000 acres out of 400,000 acres that had been surveyed twelve years previously. Of 4,000,000 acres in Kansas, which had been surveyed before 1874, it had taken up at this time only 2,200,000 acres, after a lapse of fourteen years. The same way is true of the Kansas Pacific in Colorado, where they had only taken up one-twentieth of the grant, seventeen years after the grant had been made.

Mr. Stone: That grant was some 12,000 acres?

Mr. Lauck: Yes, sir.

Mr. Stone: And they had only taken up one-twentieth of it, or entered one-twentieth of it?

Mr. Lauck: After seventeen years.

Mr. Stone: What effect does that have upon local taxation?

Mr. Lauck: The effect would be, that by not entering the lands and thus making them subject to taxation, that the burden of taxation would fall upon a smaller group of people than it would if the lands had been patented.

Mr. Stone: Well, taking up the next page, what has the Central Pacific done?

Mr. Lauck: On the next page, page 15?

Mr. Stone: Yes.

Mr. Lauck: This report, continuing, says: "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 had been surveyed since the completion of the road."

In Nevada: "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 same road 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.

Mr. Stone: Do these Federal land grants usually contain stipulations, requiring the completion of the railroad within a certain time?

Mr. Lauck: The majority of them require that the road should be completed in a certain time, it being the intent of the grant, as I have pointed out before, to develop the road and secure the benefits of systems of communication to the country, as Mr. Park spoke of.

Mr. Stone: Why was this stipulation a vital condition of the grant?

Mr. Lauck: It was obviously a vital condition, because, going along with the stipulation that the land should be sold to actual settlers at $2.50 an acre, if the road were not completed and the lands were simply held for a period of years, why, the holders of the lands would secure all the benefits arising from the development of the country, for which the lands were granted, as a means of bringing about its development. In other words, if lands were not sold and were held, they would develop an unearned increment, owing to the exploitation, or to the development of the country in which the lands laid.

Mr. Stone: To what extent was this stipulation complied with?

Mr. Lauck: According to the report of the Bureau of Corporations, which says in brief, on page 16:

"While time was a vital condition of the grants, yet 40 out of the 80 or more subsidized roads were not completed within the time set by law nor within the extensions granted. Of the 2,138 miles of subsidized road built by the Northern Pacific, for example, no less than 1,607 miles were built after the time limit had expired, and there was a non-compliance with the time limit in the case of the Southern Pacific (main line) grant. This fact, therefore, constituted an important failure of the consideration demanded in return for the lands. Since the lands in alternate sections along the route of the roads were withdrawn from settlement and remained so until the railroads earned them by construction, it followed that where the roads were not built until long after the time limits had expired, millions of acres of unearned railroad lands were for years tied up from use and settlement. Meantime, the value of the railroad lands and of railroad traffic was being enhanced by the fact that settlers were coming in on the alternate sections, thus tending to give the railroads a large business from the start." Or adding to the value of their land holdings.

Mr. Stone: So, it is a fact, then, that in both the Northern Pacific and the Southern Pacific, the stipulation regarding the time condition of the land grants was not complied with?

Mr. Lauck: Yes, 40 out of the 80 subsidized roads.

Mr. Stone: How did the failure to build the roads within the time prescribed operate to the advantage of the road? To the enhancing of the value of the lands?

Mr. Lauck: To the enhancing of the value of the lands, through the settlers coming in, in view of the fact that lands were granted, so many miles on each side of the road. The settlers could come in, on alternate sections and the railroads maybe hold onto other alternate sections. Consequently, their lands were accruing in value through development, population, trade, industry and traffic in this territory.

Mr. Stone: To what was the failure of the railroads to build in the time prescribed, largely due?

Mr. Lauck: Primarily due to the financial excesses of the companies who had charge of the construction of the roads. It was secondarily due to certain financial conditions which prevailed, and certain conditions like the Civil War and the panic of 1873, following the war. They retarded the development of the railroads, but it was primarily due to the failure to comply with the government grants and to the financial mismanagement of the roads.

Mr. Stone: Were provisions incorporated in all of these Federal grants, intended to compel the sale of the granted lands to bona fide settlers?

Mr. Lauck: In most cases, yes, sir.

Mr. Stone: And at a moderate price, as well, was it not?

Mr. Lauck: Usually $2.50 an acre.

Mr. Stone: Well, I wish you would describe the performance of the Oregon & California Railroad in this respect. Did they sell it to the settlers?

Mr. Lauck: The Oregon & California Railroad, which was later acquired by the Southern Pacific, had very valuable grants of timber land in the States of Oregon and Washington. That company went through a number of financial vicissitudes, until about 1887, if I recall correctly, it was acquired by the Hill interests. Originally, it was constructed, however, by the proceeds of the government land grants, and no money at all was put in the road. That is, the stockholders simply took the land grants and what they realized from those and from the government's subsidy, and built the road. Later on, it was acquired by the Southern Pacific, which acquired all the outstanding bonds and stocks of this road, and also its land grants. The specific provision of this land grant, if I remember correctly, was that the land should be sold to actual settlers, at $2.50 an acre, but the limitations of the granting act were entirely ignored and the land disposed of, solely with reference to profit that might accrue to the railroad. Approximately half a million acres were sold, in quantities exceeding quarter sections, at prices ranging as high as $50 per acre; although one of the conditions attached to the grant was, that, as you pointed out, it must be sold at $2.50 per acre. About January 1st, 1903, all the unsold lands that remained, amounting to approximately, 3,350,000 acres, were withdrawn from sale, and the railroad company has since refused to sell any of these lands, due to the valuable timber which they contain.

Mr. Stone: And which is rapidly increasing in value, owing to the scarcity of timber?

Mr. Lauck: Yes, sir, and that is what it is being held for.

Mr. Stone: But it is a fact, is it not, that this road was organized, without a dollar of private capital?

Mr. Lauck: Yes, sir.

Mr. Stone: And later acquired by the Southern Pacific?

Mr. Lauck: Yes, sir.

Mr. Stone: I wish you would describe the operation of the Northern Pacific and the Atchison, Topeka & Santa Fe, in connection with the Forest Lieu Legislation?

Mr. Lauck: About 1897, an act was passed by Congress, at the time the conservation movement started, creating forest reserves, whereby any land held by settlers or owners within a forest reserve that had been set aside by the government, in order to conserve the natural resources—any of this land might be exchanged for an equal quantity of other unpatented government land, anywhere available. It is noted that it was the actual same equivalent quantity or amount of land could be secured.

Mr. Stone: Same number of acres?

Mr. Lauck: Same number of acres, without any regard whatever to the value of the land. Now, this law was so framed that it also included railroads owning land within these forest reserves. They came under the designation of owners. The result was that immense holdings of worthless land, denuded of forests, and oftentimes the companies would cut the timber from the forests, was exchanged, in anticipation—was exchanged for some of the best timber lands in the Northwest and in California and other sections of the United States, and while an equivalent amount of land was secured, an immense increase in valuation of its resources was thus obtained by the railroads.

Mr. Stone: And the result of that appears on pages 38 and 39 of the exhibit, where you show what the Atchison, Topeka & Santa Fe has acquired?

Mr. Lauck: Yes, sir.

Mr. Stone: On account of government reservations, they have been allowed to select these acres of land in the other states?

Mr. Lauck: Yes. It will be noted there that under the provisions of the Forest Lieu Legislation, the Atchison Company, up to June 30, 1910, had exchanged 824,000 acres of these lands, lying in forest reserves, for an equal acreage in various states, the unrestricted amount being 421,000 acres. It will be noted that as a result of exchange, based on the San Francisco Forest Reserve, that lands were obtained in Louisiana, Michigan, Minnesota, Mississippi, and Montana, none of which territory, I believe, is traversed by the Atchison. Also, as a result of the Grand Canyon Forest Reserve, lands were obtained in Alabama and Arkansas, and as a result of the San Francisco Mountain Forest Reserve, in Arkansas, Florida, Minnesota, Michigan, Mississippi, and North Dakota, and as a further result of the extension of that reserve, additional land was acquired in Louisiana and Mississippi; it being possible, under the conditions of these laws, for the railroad to go anywhere in the United States and select the best lands available, in exchange for these worthless lands.

Mr. Stone: How does the value of the lands relinquished by the railroads compare with the value of the lands exchanged?

Mr. Lauck: Absolutely no comparison. The lands which were relinquished were usually worthless desert lands. In the case of the Atchison they were desert lands which they had had added to the Indian Reservation in the Southwest, which the Indians did not want and nobody wanted. In exchange for those lands they got some of the most valuable timber land in the United States. The same way in the case of the Northern Pacific. A special act was passed, enabling the Northern Pacific to exchange a vast amount of its worthless lands and mountain lands, after the timber had been taken from them, for some of the best timber in the Northwest.

I would like to read in that connection, Mr. Stone—I have an appendix here—some remarks by Senator Chamberlain of Oregon.

Mr. Stone: All right.

Mr. Burgess: What page?

Mr. Lauck: Page 47. This was a speech by Senator Chamberlain, in connection with a Forest Lieu Legislation.

Mr. Stone: This speech was made in 1910?

Mr. Lauck: Yes, sir.

Mr. Stone: Congressional Record of March 29.

Mr. Lauck: 1910, yes, and was made in connection with an act to authorize the Secretary of the Interior to further create these forest reserves, and to permit the exchange of lands in them for lands on the outside. At the bottom of page 47, the next to the last paragraph, Senator Chamberlain in the course of his remarks says:

"I fully realize that these grants have hastened the development of the country, but they have been made with a reckless disregard of the rights of the people, and in many cases without proper safeguards to secure performance of the conditions of the grant. Take it in the State which I have the honor in part to represent, where 3,821,901.80 acres were ganted to aid in the construction of one railroad 360 miles in length nearly half a century ago, with the condition imposed that the lands should be sold in quantities of not to exceed 160 acres to actual settlers and at a price to exceed $2.50 per acre. Every stipulation of the grant has been violated, and the company now holds from sale for its own use in violation of the grant over 2,000,000 acres, greatly to the injury of the State and its development. Other cases equally as flagrant might be cited to show that Congress has been careless in the language it has written into the grant as well as improvident in the disposition of the public domain. I venture to say that if an appraisement of the roadbeds of the country could be had, it would be found that the lands granted were sufficient in value to have more than paid for every mile of construction."

Then, on page 48, third paragraph, in explanation of the Forest Lieu Legislation, he says, after the creation of these forest reserves, "immediately there went up the demand—whether from the settlers or not, it is unnecessary at this time to suggest—that those who were actual settlers within the limits of the reserves so created, ought to be permitted to relinquish their holdings within these reserves to the United States and select equal areas in lieu thereof without the reserves. This was based upon the assumption that their holdings had been rendered less valuable, and it was but just that they might be permitted to select other portions of the public domain where settlement would eventually take place and their holdings be rendered more valuable. There could not have been any serious objection to the granting of such demand, because the actual settlers who had acquired rights under the homestead and other laws of the United States were few in number; but in the enactment of a law to carry out this purpose relief was granted not only to the actual settler, *but to the railroad companies as well,* and this right was included in the sundry civil appropriation bill of June 4, 1897."

Then, on the next page, speaking of the supplemental grant to the Northern Pacific—last paragraph—well, I won't read that. I have just read that.

Top of page 50, continuing his remarks, he says:

"It must be remembered, too, that the grant companies have not been compelled to surrender all of their lands within these reserves, but the matter has been optional with them, and the result has been that, as a rule, *they have relinquished worthless lands and retained those which were valuable for timber and other purposes, and these they decline to relinquish to the government.*"

Mr. Stone: To what extent has concentration of timber ownership resulted from legislation making land grants to Western railroads?

Mr. Lauck: It has resulted in the fact that the timber holdings of the country are now practically held by three Western railroads.

Mr. Stone: What are those three roads?

Mr. Lauck: I believe I mentioned a while ago that the Southern Pacific Railroad Company was the largest timber owner in the United States. The Weyerhaeuser Lumber Company, which bought its timber from the Northern Pacific, is second. And it is claimed that the Weyerhaeuser and the Northern Pacific are related in their management and operation, although no one knows about that. And third, the Northern Pacific, is the third largest holder of standing timber in the country. And the Atchison has much valuable timber.

The Bureau of Corporations, in 1910, pointed out that the Atchison, the Northern Pacific and the Southern Pacific had an area equal to England. I believe I mentioned that, though.

Mr. Stone: And if your exhibit is correct, on page 38, on June 30, 1910, the Atchison, Topeka & Santa Fe Company owned 9,653,000 acres of land?

Mr. Lauck: Yes, that is correct, I think. That is taken from their annual report. That shows that the land has not been distributed to aid in the development of the country.

Mr. Stone: How many billion feet of standing timber is it estimated that the Southern Pacific Company controls?

Mr. Lauck: 106,000,000,000 feet, I think. Their holdings which they secured from the Oregon & California alone, the Bureau of Corporations speaks of as follows: It says:

"It is difficult to give an idea of the immensity of this holding. It stretches practically all the way from Portland, Oregon, to Sacramento, California, a distance of 682 miles. The running time of the fastest train between these two points is thirty-one hours; yet during all that time the traveler is passing through lands, a large proportion of which for 30 miles on each side of him belong to the corporation over whose tracks he is riding and in almost the entire trip 60 miles wide and 682 miles long, this corporation is the dominating owner of both timber and land."

Mr. Stone: What has been the increase in the price of standing timber during the last twenty or thirty years, and what is the present approximate value per thousand feet in the Pacific Northwest?

Mr. Lauck: According to the computation of the Bureau of Corporations in its investigation of the concentration of timber holdings, the price of standing timber has more than quadrupled, up to 1910. It says that: "Some of the increases in the Pacific Northwest during this period were from 15 cents to \$2.50 per thousand feet, and from 75 cents to \$2.50 per thousand; on the lake states from \$4.00 to \$10.00 per thousand, and from \$2.00 to \$6.00 per thousand. In the Gulf states from 10 cents to \$3.00 per thousand, and from 12½ cents to \$4.00 per thousand."

Mr. Stone: What is the estimated value of land owned by the Southern Pacific Company? I mean for oil and timber alone?

Mr. Lauck: The estimated value, on a conservative basis, of say \$2.00 a thousand feet for the timber holdings of the Southern Pacific, would make the timber holdings worth about \$250,000,000, or \$225,000,000. The oil holdings of the Southern

Pacific, which were secured from the grant of the Central Pacific. are estimated all the way from $100,000,000 to $700,000,000.

The Wall Street Journal, in connection with the recent suit by which the government attempted to force the relinquishment of these lands, estimated the value to be $700,000,000.

Mr. Stone: So, according to the Wall Street Journal, the oil land is worth $700,000,000 and the timber land is worth $225,-000,000 at the present time?

Mr. Lauck: The Bureau of Corporations estimated it at $2.50 per thousand feet, which would make it about $250,000,000, something of that kind. That is all carried on the books of the company.

Mr. Stone: That is not carried at that value at all?

Mr. Lauck: It is carried on the books of the company at only $34,000,000 in par value, the result being there is an immense hidden asset there, which is equivalent to hundreds of millions of dollars. No one knows, or could know, unless they had access to the records of the Southern Pacific.

The same is true of the Northern Pacific. The Northern Pacific, in the case of its land grants, whenever it sold land, charged off the cost of land to the Northern Pacific estate. They have already charged off much more than the land ever cost them, and their present holdings are worth about $50,000,000 on a conservative basis. So there is a hidden asset there of $50,000,000.

Mr. Stone: And the Southern Pacific holdings, in both oil and timber, is shown at a book value of $34,000,000?

Mr. Lauck: $34,000,000.

Mr. Stone: Which at a conservative estimate is worth between $700,000,000 and $900,000,000?

Mr. Lauck: Yes.

Mr. Stone: Well, was it the intention of Congress that land should pass to the railroad, if later it was found to contain minerals other than coal or iron?

Mr. Lauck: It was thought that, according to the grant, the land would revert to the government; the mineral rights would revert to the government. That case was made against the Southern Pacific to attempt to secure the oil lands and mineral lands, and it was decided by the Supreme Court against the government.

Mr. Stone: Well, in the meantime, before it went to court, what steps did the Southern Pacific Company take? They sold it to the Southern Pacific Land Company, did they not?

Mr. Lauck: Yes. They have a subordinate company called the Southern Pacific Land Company.

Mr. Stone: So the land was in the hands of innocent purchasers, anyway?

Mr. Lauck: Well, they own all the stock of it.

Mr. Stone: Well, they sold from themselves to themselves?

Mr. Lauck: Yes; made a subordinate corporation to hold it.

Mr. Stone: And what did they get for that oil land?

Mr. Lauck: They capitalized the company at $5,000,000. They hold it all under—

Mr. Stone: And turned over some 5,000,000 acres?

Mr. Lauck: Something like that; 4,000,000 acres was sold to the Southern Pacific Land Company.

Mr. Stone: That is $1.25 an acre?

Mr. Lauck: Yes.

Mr. Stone: For the oil land?

Mr. Lauck: Yes. In connection with page 27, the annual report of the stockholders of the Southern Pacific, for 1914, we find, at the middle of the page, there comes in this decision of the Supreme Court, which gives an indication as to how valuable they consider this land, saying, after the result of this decision, that they were now secure in the possession of this land, unless it could be shown to be a fraudulent enterprise, which, it was said, could not be done. It says:

"It is a subject of much satisfaction that our title to the valuable lands in question may now be regarded as unassailable."

Mr. Stone: Also that last paragraph at the foot of the same page shows the land remaining unsold on March 5, 1912, in California?

Mr. Lauck: Yes, sir; the land amounted to 4,000,000 acres, the same 4,000,000 we were just speaking of.

Mr. Stone: That is the same 4,000,000 of oil lands we were just discussing?

Mr. Lauck: Yes.

Mr. Stone: $4,060,000, instead of $5,000,000?

Mr. Lauck: Yes, sir; and issued capital stock of $5,000,000 against it, to carry it. Of course, it doesn't make much difference. It is just a holding device.

Mr. Stone: And on page 28 you find the number of acres of land remaining unsold in the hands of the Southern Pacific Land Company, on June 30, 1914?

Mr. Lauck: Yes.

Mr. Stone: 3,845,992 acres.

Mr. Lauck: That is just the land company.

Mr. Stone: That is the land company.

Mr. Lauck: And they hold lands of the Central Pacific, and also hold—the Southern Pacific Company itself holds land. That does not represent all the land. That is the oil land we have been speaking about.

Mr. Stone: That is that $5,000,000 company?

Mr. Lauck: Yes.

Mr. Stone: There was one point on page 15 that I think you overlooked. That last paragraph; in regard to what the stockholders have received in dividends, two paragraphs, really.

Mr. Lauck: That is, "Had the railroad been built and managed on a proper basis"?

Mr. Stone: "Had the Pacific railroad been built and managed upon honest methods."

Mr. Lauck: "These companies as a whole could have declared dividends at the rate of 6 per cent per annum for eighteen years from the date of actual completion upon all the moneys that they would have been required to pay in to complete and equip the roads."

The second paragraph I read in the previous description.

The Chairman: Will you suspend?

(Whereupon, at 12:30 o'clock P. M., a recess was taken until 2:30 o'clock P. M.)

After Recess.

W. JETT LAUCK was recalled for further examination, and having been previously sworn, testified as follows:

Mr. Stone: Have you anything further you want to say on that particular question we were on when we adjourned at noon, Mr. Lauck?

Mr. Lauck: No, sir, I believe not.

Mr. Stone: What do you want to take up next? Is there anything further you want to say on any part of the exhibit? It is a fact that a great many of the railroads are still holding this land, allowing it to increase in value, and it is not for sale to prospective purchasers; in fact it is not on the market at all, is it?

Mr. Lauck: In the case of the Southern Pacific, that is true.

Mr. Stone: It is not true?

Mr. Lauck: I say it is true in the case of the Southern Pacific. Other cases I do not know of. The Southern Pacific owns the Oregon & California.

Mr. Stone: And they own the large tract of timber which came with it?

Mr. Lauck: They own 106,000,000,000 feet, which they are evidently reserving to accrue value on, which may be the basis of future capitalization or future distribution of profits to the stockholders.

Mr. Stone: I think this morning, in reply to a question from Mr. Park, in regard to paying a high percentage on bonds, you answered that you did not think the public would stand for a 15 or 20 per cent payment. Would it not be possible for the owners to pay off their bonds and own the property and then get whatever it would earn?

Mr. Lauck: Yes, I think so. Of course, it has been characteristic of railroad finance that they rarely if ever pay their debts, in that sense; they refund their fixed indebtedness and continue it in another form. The case of the Union Pacific was a direct obligation to the United States Government, but the usual procedure is to continue the funded debt and accumulate funded debt as the years go by.

Mr. Stone: So as to increase their capitalization?

Mr. Lauck: It maintains and perpetuates all three existing capitalizations; that is, it would seem to me—I believe what you have reference to, we were talking of the Union Pacific special dividend, and I made the statement that it would seem to me better to pay the proceeds by retiring some of the funded obligations of the company rather than to distribute it to the stockholders.

Mr. Stone: I do not think you just get my idea. What I was trying to bring out is this, if I go into a building and loan association, I go into it with the hope that some day I will pay it off and own my property.

Mr. Lauck: Yes.

Mr. Stone: Why could not a railroad apply the same method and pay off their bonds and pay off their outstanding stock and really own it, free of indebtedness?

Mr. Lauck: They could. I think sound principles of finance would indicate that they should do that; that is, they should create a sinking fund in connection with the bonds and retire them at maturity.

Mr. Stone: But instead of that, they get out a new issue, with a little more?

Mr. Lauck: They generally get out a new issue and continue the old issue in another form.

Mr. Stone: With the result of that and the fictitious capitalization that was given to them at the time the bonds were issued, in the shape of either preferred or common stock, that there is a constant drain on the earnings of the road?

Mr. Lauck: Yes, it is a perpetual and continuous drain.

Mr. Stone: And there is no end in sight for them?

Mr. Lauck: No.

Mr. Stone: So that is going on right at the present time?

Mr. Lauck: These refunding operations are continually going on, yes, sir; none immediately, but there was a great deal of it done in the early part of 1914.

Mr. Stone: They also increase their capitalization every time they refund, do they not—in nearly every case, at least?

Mr. Lauck: In a great many cases they do. I could not answer that categorically, yes or no.

Mr. Stone: Then, summing up this exhibit, Mr. Lauck, what do you get from it?

Mr. Lauck: The point I have in mind in this exhibit, is not to expose the corrupt practices, or to go into any muckraking relative to railroad finance, but simply to develop the point that a result of the beginnings of financial operations of the railroads was that the original intent of the land grants was perverted; that the results of them were dissipated; that the capitalization issued upon the basis of these land grants represented no real values, and that has been continued and is a drain upon the productive efficiency of the railroads at the present time; and, therefore, revenues must be provided from operating efficiency, or from the work and efficiency of the men, to meet the interest charges upon this capitalization; and, in the second place, that the intent of the grants has been violated, by retaining the land and holding it for increased values, which, in the case of the three leading railroads, at least, is represented by concealed assets, and would indicate a much greater ability to pay, or much greater financial strength than was indicated by their reports, to the Interstate Commerce Commission.

Those are the two points that I had in mind. Really, the main point that I have in mind is the drain upon the present productive efficiency, caused by financial mismanagement and the issue of fictitious capitalization in the past; that it is not fair to claim that there are not revenues available to remunerate employes for increased work and increased output, when the revenues which are developed are used for the purpose of paying dividends upon stock and bonds, which have been issued without consideration.

Mr. Stone: I think there was a question whether or not the Illinois Central had ever been granted any land. Do you recall how much land the Illinois Central was granted by the State of Illinois?

Mr. Lauck: I don't recall the exact figures. They are given on page— —

Mr. Stone: You have it in the summary, have you not?

Mr. Lauck: Illinois Central, 2,595,133 acres.

Mr. Stone: Page 5.

Mr. Lauck: Of which they have remaining at the present time a small amount. Their report, neither to the stockholders nor to the Interstate Commerce Commission, shows any land at the present time owned by them. It has all been disposed of.

Mr. Stone: It is a fact, is it not, that the Atchison, Topeka and Santa Fe Company purchased from—well, they received under the old Atlantic & Pacific Land Grant 735,000 acres of land, which they exchanged under the Land Lieu Law for land that was valuable in the Northwest?

Mr. Lauck: For very valuable timber land, the best timber land, if I recall correctly, in the states of Oregon and Washington.

Mr. Stone: And this 135,000 acres that they exchanged, consisted of lava beds, and denuded forests, mountain peaks and so forth, that was practically of no value whatever?

Mr. Lauck: A considerable portion of it was desert land, which was not suitable for agriculture, not suitable for any purpose, even for the residence of Indians.

Mr. Stone: Is that the one that the Senator, in describing it, said a coyote would have to carry a knapsack in order to travel over it?

Mr. Lauck: I think Senator Ashurst, of Idaho, made a speech in the Senate, claiming that the Santa Fe had deliberately extended the limits of these Indian reservations, for the purpose of getting rid of some of their worthless land and getting good land.

Mr. Stone: Anything further you desire to say on this exhibit?

Mr. Lauck: Nothing further that I recall.

Mr. Stone: That is all, Mr. Sheean. Cross examine.

Mr. Sheean: No cross examination.

Mr. Stone: We will take up our next exhibit, then. Do you want to present 59 and 60 together?

Mr. Lauck: Yes, and the little pamphlet that goes with 60.

Mr. Stone: We desire to present, Mr. Chairman, as our next exhibits, Nos. 59 and 60. They really go together. They are practically on the same subject, "Intercorporate Relations Through Stock Ownership, Interlocking Directorates, and Concentration of Financial Control of Western Railroads."

I also have prepared—it is not entered as an exhibit, but simply for convenience—two of the maps that appear in the back part of the book, in a folder by themselves. I have simply had them prepared for the convenience of anyone who wanted them. We have a lot of extra copies of these.

(The documents, so offered and identified, were received in evidence and thereupon marked "Employes' Exhibits Nos. 59 and 60, March 2, 1915.")

Mr. Stone: Will you explain the objects of Exhibits 59 and 60? They are to be considered together, are they not?

Mr. Lauck: Yes, sir. The object in presenting this exhibit is to show that there is a concentration of control, of credit, by the interlocking financial institutions, primarily in New York, with affiliations elsewhere.

Without attaching any blame to the railroads, there has also arisen, through the natural evolution of credit and capital and business conditions, an interlocking and a concentration of control of railroads by the financial institutions. The result of that has been the dominance of the financial management of Western railroads by these financial institutions, which has led to financial practices which we claim are undesirable and indefensible, and which have resulted in issuing capitalization and absorbing the productive efficiency of the men, and of the railroads as a whole.

The first point I will take up is Exhibit No. 59, entitled "Intercorporate Relations Through Stock Ownership, Interlocking Directorates and Concentration of Financial Control of Western Railroads."

Exhibit No. 60 is an elaboration prepared by Mr. Stone, of this Exhibit, showing the intercorporate relationship through stock ownership and the financial affiliations of Western Railroads. The little booklet which is submitted informally with this exhibit contains the two diagrams which appear in the book of Mr. Stone's exhibit.

The first point to which I would direct attention is found on pages 1, 2 and 3 of Exhibit 59. It has to do with the fact that there has developed a concentration of control of credit by interlocking financial institutions. The three groups represented, so far as railroads are concerned, are the three groups that are dominant in all activities, being the so-called Morgan group, the so-called Rockefeller group, and the so-called Gould group.

On pages 1 and 2, are given the names of the institutions which primarily belong to these groups. That is, the Morgan group is made up primarily of the firm of J. P. Morgan & Company, the Guaranty, Metropolitan, and Union Trust Companies, the First National Bank of New York, and the First National Bank of Chicago.

The so-called Rockefeller group has its center in the National City Bank in New York, and affiliated with it are the United States Trust Company, the Central Trust Company, the

Illinois Trust & Savings Bank of Chicago, and Kuhn-Loeb & Company, private bankers.

The Gould group, which is used here, because there are so many Gould roads in the West, is a subordinate group really to the Rockefeller group, and centers about the Equitable Trust Company in New York, and affiliated with it are Kuhn-Loeb & Company, the Guaranty Trust Company, and the First National Bank of Chicago.

It is not intended to claim that these groups stand out distinctly and independently, but they are interlocked among themselves and work in harmony among themselves.

On page 3 is a diagram showing the interlocking of the various directors of these banks and trust companies.

In the case of George F. Baker, who is identified with the First National Bank, we have him as a director of the First National Bank of New York and the Guaranty Trust Company, which are both Morgan institutions, or members of the Morgan group.

T. DeWitt Cuyler, is a director of the Metropolitan Trust Company, the Union Trust Company, the Guaranty Trust Company and the Equitable Trust Company, being affiliated with both the Morgan and Gould groups.

Henry P. Davison, a member of J. P. Morgan & Company, is also a director of the First National Bank, J. P. Morgan & Company and the Guaranty Trust Company.

August D. Juilliard is connected with both the Morgan and the Rockefeller groups.

Thomas W. Lamont is connected with the Morgan group.

Edgar L. Marston, with the Guaranty Trust Company and Central Trust Company.

William H. Porter, with the Morgan group entirely.

James J. Hill, with the Morgan group, a director of the First National Bank of New York and also of the First National Bank of Chicago.

Arthur C. James is a director of the First National Bank, a Morgan bank, and the United States Trust Company, a Rockefeller institution.

John J. Mitchell, of the First National Bank of New York, a Morgan institution, and the Illinois Trust & Savings Bank of Chicago, an alleged or so-called Rockefeller institution.

Edward T. Jeffery, of the Gould roads, is a director of the Equitable Trust Company and First National Bank of Chicago.

Otto H. Kahn, of the firm of Kuhn-Loeb & Company, is also a director in the Equitable Trust Company.

And so on, through the list of directors given there. The conclusion is that we have twenty-four directors controlling these thirteen fundamental, you might say, banking institutions, which, with their affiliates, are alleged to control the credit and money of the country.

The attempt has been made in the diagram on page 3, to show the financial resources of these thirteen banks. In addition to that, the Pujo Committee found that these inner related groups really control about $2,104,000,000 of credit.

Passing from this point, then, as to the inner relation of credit and financial institutions, the next point I want to take up is in Section 3, page 4, as to how the banks control the railroads. I think that the railroads have not sought these affiliations, but that they have come about through the banking interests seeking this control themselves. On page 5, you will find a table showing the interlocking of banks and of the leading railroad companies of the West. On page 4, a list of these railroads is given. That is, Union Pacific; the Atchison; Southern Pacific; St. Paul; Northern Pacific; Great Northern; the Rock Island; North Western; Canadian Pacific; Illinois Central; Missouri, Kansas & Texas; Missouri Pacific; Texas & Pacific; St. Louis Southwestern; International & Great Northern; St. Louis & San Francisco; and Canadian Northern are taken as being the independent roads of the West. Then, the Canadian Pacific is eliminated, as being affiliated with the Bank of Montreal, and the Frisco, as having no outside banking affiliations, and the Canadian Northern, which also has no banking affiliations, leaving fourteen roads which, practically, are the independent roads in the Western territory.

On referring to page 5, we then find through the interlocking of the banking institutions which we have just been considering, and of these roads, that the twenty-four directors of these affiliated banks are represented on the boards of these roads, and practically control, or have a deciding voice in directing the financial operations connected with all the railroad mileage in the West.

Passing then to page 10, there is a series of diagrams showing the intercorporate relations through stock ownership of Western roads.

Taking these fourteen independent roads, and starting with the Rock Island, we have the Rock Island Company, owning the Rock Island Railroad, which in turn owns the railway, and which in turn owns the Chicago, Rock Island & Gulf, and owns a half interest in the Trinity & Brazos Valley, in connection with the Colorado Southern.

The Missouri Pacific, on the succeeding page, controls the Iron Mountain; Colorado Midland, with the Denver & Rio Grande—the Denver & Rio Grande, through a family understanding of the Rockefellers. According to the financial press, the Goulds, in connection with the Rockefellers, control the Denver & Rio Grande, although the Gould interests have not a majority of the stock in the Denver & Rio Grande. But according to latest developments, I think this has passed under the control of Kuhn-Loeb & Company, and is now being gotten ready for reorganization, and for refunding of its obligations in connection with the Western Pacific.

On Page 14 is shown the International & Great Northern.

Page 17, the roads controlled by the Great Northern Railway.

Page 18, the roads controlled by the Illinois Central.

Page 19, the roads controlled by the St. Louis Southwestern.

Page 20, the Texas & Pacific.

Page 21, the Canadian Pacific.

Page 22, the Chicago, Milwaukee & St. Paul.

Page 25, the Union Pacific.

Page 27, the Northern Pacific.

Page 29, the Missouri, Kansas & Texas.

Page 30, the Chicago & North Western.

Page 33, the St. Louis & San Francisco.

Page 35, the Atchison, Topeka & Santa Fe.

Page 37, the Southern Pacific. Which brings us to page 38, which, together with the diagram opposite, is an attempt to show how the control has financially concentrated in the banking institutions.

The top part of the diagram opposite page 38 is a reproduction or replica of the preceding diagrams we have just been speaking of, showing the intercorporate relationship, through stock ownership. The perpendicular lines coming from independent companies to the horizontal lines representing directors on the independent roads who are directors in the financial institutions, the thirteen financial institutions of which I have been speaking, and the horizontal lines lead from the directors to the financial institutions.

So the conclusion at which I arrived was that in the last analysis the thirteen financial institutions already referred to control the fourteen independent Western railroads, which in turn control all the rest of the Western roads, parties to these proceedings; and going back to the ultimate analysis of the control and the financial institutions, we find, according to the Pujo report on the concentration of money and credit, that these thirteen financial institutions are controlled by the Morgans, Rockefellers and the Goulds, really two groups of interests, the Morgan and the Rockefeller interests, because the Goulds and the Rockefellers are so bound together that they really are one.

Mr. Stone: There is no question in your mind, Mr. Lauck, about this diagram being correct, is there?

Mr. Lauck: No, sir, not at all.

Mr. Burgess: Then we pass to the fact, if I understand you correctly, that the Morgan and Rockefeller interests practically control all the railroads west of Chicago?

Mr. Lauck: Yes. The institutions of which they are dominant control the roads west of Chicago, and ultimately determine any policy that these roads may adopt.

The point which I wish to build on that is that owing to the financial management of these railroads, the productive efficiency of the employes has been absorbed by capitalization used under this financial control.

Pages 41 to 56 are simply the printed basis of the diagram, and also show for the ten representative roads which I considered in the statistical argument—how representative they are. If I might, I would like to refer to page 51, for a moment.

Mr. Burgess: Mr. Lauck, before passing this exhibit, I am not sure that I understand it. These square blocks give the railroads; following the perpendicular line, until it connects with the horizontal line, you follow that line into the banking house, and from the banking house to the interest that controls banking.

Mr. Lauck: Exactly. These are the so-called independent Western Railroads on the base. These (indicating) are the railroads they control, through stock ownership. These (indicating) are the directors, and where you see three lines there, it means, say, the Southern Pacific has three directors who are directors of the First National—no, the Equitable Trust Company.

Mr. Burgess: But by following those perpendicular lines—

Mr. Lauck: You come into the bank, and following these lines, you come back to the financial group of which those banks are a part.

Mr. Burgess: I just wanted to get that clear.

Mr. Lauck: You will notice that the banks themselves are intertwined, that is, there is an inner relation between the three groups, and the point that the Pujo Committee made, in its study of credit and control of credit, was that, and is really the point that we base our argument upon here—was that first, competitive railroads had been brought under the control of these financial institutions; competition has been eliminated, which may be a good thing or may be a bad thing—

Mr. Burgess: Now, Mr. Lauck, I don't understand the Pujo Committee.

Mr. Lauck: Oh, I beg your pardon. The Pujo Committee was the so-called committee on the money trust, which made its report a little over a year ago, and which made an investigation under a committee of Congress, appointed by Congress, to investigate the concentration of control of credit and money, and it made a study of the relations of the flow of money to New York, under our old banking system, which aggravated that, and of the control of the banking resources, and of the gradual building up of great financial institutions in New York, which controlled these banking resources; of their relations with each other, and of their dominance by certain groups of financiers, such as Mr. Morgan and Mr. Rockefeller. The central figure in the so-called group is J. P. Morgan & Company; of the Rockefeller group, is the National City Bank of New York, and then, running out from these groups are different financial institutions in New York and throughout the country, which are affiliated with them, and also affiliated with them are certain private bankers, like Kuhn-Loeb & Company and Speyer & Company, which makes a specialty of underwriting railroad securities, industrial corporation securities, and of distributing them to the public. In other words, they act as fiscal agents of railroads, as I will bring out in a moment.

Mr. Burgess: And this Pujo Committee was appointed by Congress?

Mr. Lauck: Yes, sir, an official investigation.

Mr. Burgess: And they did make a report to Congress?

Mr. Lauck: Yes, sir, they held extensive hearings and had leading financiers before them. J. P. Morgan himself appeared before them.

Mr. Burgess: And this report is based on their report?

Mr. Lauck: It is fundamentally based on their report. I have duplicates of the Pujo Committee reports here which might be given to the Board, Mr. Stone.

Mr. Burgess: So, Mr. Lauck, if this information, as set forth in this exhibit, is questioned, the Board must understand that this is based on fundamental information given to Congress by a committee appointed by Congress for the purpose of making this investigation?

Mr. Lauck: Yes; and before which committee appeared the leading bankers and financiers of the country, the late Mr. Morgan, Mr. Baker, Mr. Reynolds, of the First National Bank of Chicago, and the leading financiers of the country who had handled these financial matters, and who testified as to the concentration of control of credit and money. Some of the extracts of their testimony I hope to be able to read directly, to show the significance of it.

If there are no questions along that line, I would like to refer to page 56. There it is shown from the testimony before the Pujo Committee how the banking houses act as fiscal agents of the railroads and what that term means. That is, the National City Bank and the First National Bank, not being permitted, of course, by law, to act as fiscal agents, have subsidiaries in the form of trust companies which do this work for them. Of course, a firm like J. P. Morgan & Company and Kuhn, Loeb & Company, exist primarily for that purpose.

On page 56, is given an excerpt from Mr. Morgan's testimony relative to acting as fiscal agents for the New York Central Railroad, in which Mr. Morgan says he has been a member of the Board of Directors of the New York Central Railroad for 35 years, and a member of the Executive Committee; and further down on the page is given the form of resolution passed by the Board of Directors of the Lake Shore, Michigan Central and New York Central, appointing Mr. Morgan's firm as fiscal agent for those lines. This was in the form of a letter addressed by Mr. Morgan's firm to W. C. Brown, then president of the New York Central Railroad, and reads as follows:

"Dear Sir:

The vote of the board of directors of your company on the 16th day of December, 1908, whereby we were appointed sole agents of your company to act for it whenever it requires the services of bankers to dispose of its securities, provides that our commission on the sale thereof shall be such as may be agreed upon by us and your finance committee. We are inclined to think that it would be more satisfactory, both to your company and ourselves, that a general rule be established to cover this question. We therefore propose that it be agreed that our commission on such sales shall be 1½ per cent on the par value of all such securities; provided, that in case of a security having less than six years to run, then the commission shall be at the rate of ¼ of 1 per cent for each year of the life of the security."

Mr. Stone: Do you understand from that that they simply acted as agents and sold them on the open market, or did they buy and sell again?

Mr. Lauck: They bought and sold again. This term fiscal agent means that they would act as the agent of this company in handling all security issues of that company, for which they should receive a commission of 1½ per cent on the par value thereof, in addition to any difference in the price at which they might place the security on the market and which they got it from the company. It would mean that, and it has developed in practice and banking ethics in New York and elsewhere, there is no competition for the sale of securities. That is, if Morgan & Company were fiscal agents for the New York Central, no other banking firm would compete with them to get the security issues of the New York Central. And the method of putting the securities on the market consists of J. P. Morgan & Company asking other banking institutions, or really telling them what proportion had been allotted to them, which they would in turn allot to their associates, and in that way they would be distributed to the public. There is absolutely no competition, according to the testimony of witnesses before the Pujo Committee and elsewhere, in the issue of these securities and in the handling of them. Does that answer your question, Mr. Stone?

Mr. Stone: It was quite common and has developed in some of the investigations, that securities which were worth on the open market perhaps 102 were sold to them for one or two cents less than the market price?

Mr. Lauck: That is quite usual, yes, sir. Take, for instance, the recent Pennsylvania loan, \$49,000,000; I think that Kuhn, Loeb & Company bought that for a certain price less 2½ per cent. They had to agree that they would not sell them at less than par or lower than a certain amount, and the difference between that price and the price they got was profit to them, and also they got 2½ per cent commission for handling securities. It seems to me that that security issue clearly demonstrates the evils of this method of financial dominance and control. There was a bond issue of \$49,000,000 in the last month that was over-subscribed many times by the public, and sold at above par, and yet Kuhn, Loeb & Company, the bankers, got a commission of 2½ per cent for issuing that security, and also a profit on the difference between what the Pennsylvania Railroad sold it to them for and what they got from the public. The same thing was practically true of the New York Central in its recent \$100,000,000 issue, sometime in the last month. There was \$2,500,000 paid to the bankers, Morgan & Company and affiliates, for issuing those securities, which could have been sold on the open market, and were sold, and many times over-subscribed, and that money could have been available for other purposes.

Mr. Burgess: Did I understand you to say that \$49,000,000 was over-subscribed by the public?

Mr. Lauck: I have forgotten, I think it was 19 or 20 times, the Pennsylvania bond issue of last month.

Mr. Burgess: That would not indicate that there was any fear on the part of the owners of capital to invest in railroad securities, would it?

Mr. Lauck: It was heralded as a new era in railroad credit, as compared with pre-existing conditions; that is, it indicated that the people were perfectly willing to subscribe to a good security and did over-subscribe it many times, and paid more than par for the security.

Mr. Burgess: It would clearly indicate, if $49,000,000 was over-subscribed 19 times by those who had capital, that they were eager to purchase railroad securities?

Mr. Lauck: Yes, good railroad securities.

Mr. Burgess: Yes, good railroad securities.

Mr. Lauck: The same thing was true of the New York Central's recent $100,000,000 loan, that was over-subscribed.

Mr. Park: They were afraid to put it in the building of new lines; they wanted to put it in a mortgage.

Mr. Lauck: Well, they might still have the mortgage on the new line. Of course, that would be a more risky proposition, as you say, Mr. Park.

Mr. Stone: They are putting a tremendous load on the old line, are they not, on the productive efficiency of the old line?

Mr. Lauck: Well, it was putting $49,000,000 more on the old line, unless they bought new equipment or extended the old line; of course, they must have purchased something with it, otherwise the bonds would not have had anything back of them. Must have been new buildings, new equipment or new improvements.

Mr. Stone: It was also brought out in this same investigation that you have excerpts from here, Mr. Morgan took the position that they must have control.

Mr. Lauck: Yes, sir.

Mr. Stone: In order to finance the road?

Mr. Lauck: Yes, sir; that is shown on page 61. Mr. Untermyer asked Mr. Morgan: "You are opposed to competition, are you not?

"Mr. Morgan: No; I do not mind competition.

"Mr. Untermyer: You would rather have combination, would you not?

"Mr. Morgan: I would rather have combination.

"Mr. Untermyer: You would rather have combination than competition?

"Mr. Morgan: Yes.

"Mr. Untermyer: You are an advocate of combination and co-operation, as against competition, are you not?

"Mr. Morgan: Yes; co-operation I should favor.

"Mr. Untermyer: Combination as against competition?

"Mr. Morgan: I do not object to competition, either. I like a little competition.

"Mr. Untermyer: You like a little if it does not hurt you? Competition that hurts you, you do not believe in?

"Mr. Morgan: I do not mind it. What I mean to say is this—now, another point—may I go on for a moment?

"Mr. Untermyer: Certainly.

"Mr. Morgan: This may be a sensitive subject. I do not want to talk of it. This is probably the only chance I will have to speak of it.

"Mr. Untermyer: You mean the subject of combination and concentration?

"Mr. Morgan: Yes; the question of control. Without you have control, you can not do anything.

"Mr. Untermyer: Unless you have got control, you can not do what?

"Mr. Morgan: Unless you have got actual control, you can not control anything."

Does that answer your question?

Mr. Stone: That answers the question.

Mr. Lauck: Referring to this question of fiscal agencies again, J. P. Morgan & Company have these agencies with the New York Central, the New Haven, and the Great Northern Railroad, and so far as public records are concerned, however many other agencies exist, we don't know anything about.

As an example of profits resulting from fiscal agencies, I refer to the bottom of page 58. The Pujo Committee found that $1,950,000,000 of securities of interstate corporations were issued during the period of 1902-1912.

Mr. Stone: What page did you say?

Mr. Lauck: Bottom of page 58, the next to the last paragraph. Those were issued by J. P. Morgan & Company during the period of 1902-12, $1,950,000,000 in securities of interstate corporations, which earned $29,250,000.

Mr. Stone: That was the profits for the underwriting commission?

Mr. Lauck: Yes, just securities issued by J. P. Morgan & Company during this period of twelve years. With no reference to what profit they may have made on the price for which they bought the securities; the difference between that and the price for which they sold them. Of course, we have numerous cases like in the case of the Alton securities, which were bought by Kuhn-Loeb & Company for 60 and sold for 90 and 96, and still they got the commission of 2½ per cent, and $26.00 on every par share.

On page 59 Mr. Morgan testifies that there is no competition in the issue of securities, and also gives as his opinion that these securities could not be marketed in the way that other securities are, by appealing to the public for a market, which the Pujo Committee did not agree with him on.

The next point I will take up is how these financial interests dictate who shall be presidents of the railroads, and practically make and unmake railroad presidents. That is found on page 90.

There we have on page 90 the testimony of Mr. Morgan that he named the directors of the Steel Corporation. On page 91, we have the testimony of Mr. Morgan, which was also brought out in the Northern Securities case, that he named the directors of the Northern Pacific at the time it was reorganized, and then Mr. Baker's testimony there—I should have said Mr. Baker testified that Mr. Morgan named the directors. Mr. Morgan did testify that in the Northern Securities case also.

Mr. Baker also testified as follows:

"Mr. Untermyer: As a matter of fact, most of these railroad presidents nowadays are practical railroad men, are they not?

"Mr. Baker: Yes, sir."

Mr. Baker is president of the First National Bank of New York.

"Mr. Untermyer: Are they selected generally by the financial interests that are responsible for the road, for its successful operation?

"Mr. Baker: That is so in this case.

"Mr. Untermyer: Is not that the rule?

"Mr. Baker: Yes, I think so."

Then on page 93 we have some testimony from the recent New Haven case, in which Mr. Mellen testified as to the dominance of Mr. Morgan on the Board of the New Haven, and then the following testimony was brought out:

"Mr. Folk: Did Mr. Morgan first suggest to you the idea of becoming president of the New Haven Railroad?

"Mr Mellen: I forget whether it was Mr. Morgan or the late William D. Bishop. They were both interested in having me leave the Northern Pacific and come to the New Haven, but my personal relationship was more with Mr. Morgan than with Mr. Bishop.

"Mr. Folk: Were any plans outlined to you at the time you were asked to be president of the New Haven Railroad?

"Mr Mellen: No.

"Mr. Folk: Where did you meet Mr. Morgan in connection with your presidency of the New Haven Railroad?

"Mr. Mellen: Almost entirely in his office in New York."

And then Mr. Mellen stated that he went there frequently, in connection with the Northern Pacific, about ten times a year, and then Mr. Polk said:

"State what was said to you by him in connection with your becoming the president of the New Haven Railroad?

"Mr. Mellen: I did not have anything to say to him. He did it himself.

"Mr. Folk: In what way did he do it?

"Mr. Mellen: Secured my election by the Board of Directors. I had no negotiation. I did not know what my salary was to be. The whole matter was that Mr. Morgan told me he was going to make me president of the New Haven Railroad. Naturally, I was gratified and thanked him. I thought it was a reward of good service."

Then, in connection with how he became president of the Northern Pacific, before he came to the New Haven, Mr. Mellen testified as follows:

"Mr. Folk: Mr. Mellen, you were president of the Northern Pacific for how long?

"Mr. Mellen: Six years.

"Mr. Folk: How did you become president of the Northern Pacific?

"Mr. Mellen: I was asked if I would take the position by Mr. Morgan.

"Mr. Folk: State when and where Mr. Morgan asked you to become president of the Northern Pacific?

"Mr. Mellen: I think the matter was handled entirely by telephone between Mr. Morgan's office and mine in New Haven.

"Mr. Folk: Just give what took place, the conversation between you and Mr. Morgan.

"Mr. Mellen: I was told by my clerk that Mr. Morgan wished to speak with me on the telephone. As near as I can recall the conversation, it ran about like this: 'That you, Mr. Mellen?' 'Yes.' 'Anybody hear what we say?' 'No.' 'Will you take the Northern Pacific?' 'Yes.' 'Good bye.' That is all there was. Mr. Morgan was not very diffuse in conversation."

Mr. Stone: Wasn't anything more to be said, was there?

Mr. Lauck: I should judge not, no, sir. Mr. Yoakum, in connection with the Frisco Investigation, made an interesting comment in this connection, upon the relation of the railroads to the bankers which handle their securities. At page 95, the Examiner, Brown, who was conducting the investigation in St. Louis, asked Mr. Yoakum why they issued so many bonds and why they issued good bonds at such low figures, and Mr. Yoakum replied—He asked him whether he couldn't get better prices from other bankers than those he had been dealing with. Mr. Yoakum replied: "I don't know—" then a break in the colloquy—"we were not in a position to go to outside bankers. Under this system, or rather the method, banking interests look largely after specific railroad interests and property invested to the same extent, and when a corporation, a railroad corporation is identified with banking interests it is generally conceded as being the best policy to stay as near such interests as they can. In other words, the bankers prefer it, and I think what they prefer, as a rule, you must admit is the best thing for the party wanting money."

Shows the close connection between certain banking interests and certain railroads, which is a perfectly natural relation.

Mr. Stone: If they wanted to get the money, it was to their interest to assist—

Mr. Lauck: Yes; not any reflection on the railroad, but it is a condition laid down by the bankers. Of course, the bankers defend this. They say: "In view of the fact we have gotten money for this railroad, we are responsible for its proper operation, to see that the money is properly used; and, therefore, we must control this railroad;" as Mr. Morgan gave in his testimony.

Mr. Burgess: What page are you on?

Mr. Lauck: 95. Pages 95 to 106 contain some extracts from the final report of the Pujo Committee on the concentration of control of money and credit in 1913. The first section shows the processes of concentration of control, through getting these banking interests together, through becoming stockholders, and primarily, through the influence which the banking interests are able to exert through the control of credit and money; and also, fifth, they found by the control of the accounts of the railroad companies, or partnership, I should have said, between each other—the Pujo report found that the principal agents of concentration, as shown on page 196—what they call the so-called inner group are J. P. Morgan & Company; the First National Bank of New York; the National City Bank of New York; Lee, Higginson & Company of Boston and New York; Kidder, Peabody & Company of Boston and New York; Kuhn, Loeb & Company. Then, they describe the ramifications of J. P. Morgan & Company; the affiliations of the institutions which Mr. Morgan had consolidated and built into this great credit and money structure in New York, and concluded that Morgan & Company, on page 98, next to the last paragraph:

"Morgan & Company and their nominees thus control or have a powerful voice in banks and trust companies in the city of New York with resources of $723,000,000. Its own resources are unknown, but adding only its deposits, $162,000,000, the amount becomes $885,000,000; adding the resources of the Equitable Life, it becomes $1,389,000,000, known resources which they find. Then, the succeeding page, 99, they showed the railroads which their testimony had developed that Morgan & Company had controlled or issued securities for. They are given on page 99. Same is shown for the First National Bank on pages 99-100, and on 100 also, the National City Bank, and 100-101, Kuhn, Loeb

& Company. Then Section 11 of the Pujo report showed the inner relation of members of this so-called inner group.

Mr. Stone: Before you leave that, Mr. Lauck, beginning near the bottom of page 98 and taking in page 99, it shows some of the recent stock issues and the recent business transacted with the Morgan Syndicate, or the Morgan firm, during the last several years, does it not?

Mr. Lauck: Yes.

Mr. Stone: Some of the few roads that they have handled, and some of the bond issues that they have controlled?

Mr. Lauck: Yes, sir. Shall I read this?

Mr. Stone: No; I do not know that it is necessary.

Mr. Lauck: They show security issues, and in the case of some roads they show they have reorganized them, like the Chicago Great Western; and the amount of securities that have been issued. But, really, in considering the financial group, no distinction should be made between Morgan, Rockefeller and Kuhn, Loeb & Company, because they are all identical in their activities. I would like to read a paragraph from page 102, the first paragraph in the solid matter under the conclusions and recommendations of the Pujo Committee:

"Through their power and domination over so many of the largest financial institutions, which, as buyers, underwriters, distributors, or investors, constitute the principal first outlets for security issues, the inner group and its allies have drawn to themselves the bulk of the business of marketing the issues of the greater railroad, producing and trading, and public-utility corporations, which, in consequence, have no open market to which to appeal; and from this position of vantage, fortified by the control exerted by them through voting trusts, representation in directorates, stockholdings, fiscal agencies, and other relations, they have been able in turn to direct the deposits and other patronage of such corporations to these same financial institutions, thereby strengthening the instruments through which they work.

"No railroad system or industrial corporation for which either of the houses named has acted as banker should shift its business from one to another. Where one has made an issue of securities for a corporation the others will not bid for subsequent issues of the same corporation. Their frequent and extensive relations in the joint issue of securities has made such a modus vivendi inevitable.''

Mr. Stone: Read the next paragraph also.

Mr. Lauck: ''This inner group and allies thus have no effective competition, either from others or amongst themselves for these large security issues, and are accordingly free to exact their own terms in most cases. Your committee has no evidence that this power is being used oppressively and no means of ascertaining the facts, so long as their profits are undisclosed.

''Your Committee finds that vast systems of railroads in various parts of the country are in effect subject to the control of this inner group, a situation not conducive to genuine competition.''

On page 104, are given the domination of certain railroads, by banks, through reorganization, that the Pujo Committee found that these banking interests had recently reorganized.

Mr. Burgess: What page?

Mr. Lauck: Page 104. There you find the Baltimore & Ohio; Chesepeake & Ohio; Cincinnati, Hamilton & Dayton; Chicago Great Western; Erie; Northern Pacific; Pere Marquette; The Southern; The Reading and the Union Pacific were organized by Morgan & Company, or Kuhn, Loeb & Company.

Mr. Stone: That is, they were reorganized?

Mr. Lauck: They were reorganized, yes, sir. These, attendant with a voting trust, which conducted the roads for a certain period of years, are the domination of these banking interests.

Mr. Nagel: Do you know which group controls the Wabash?

Mr. Lauck: It would be affiliated with the Gould and Equitable Trust, and the so-called Rockefeller group. Not given on the chart, I think, because it was in the hands of the receiver.

Mr. Stone: Yes; it is on the chart.

Mr. Lauck: Is it on the chart?

Mr. Stone: Yes.

The Equitable Trust Company—I have forgotten the exact number of directors, but it is the center of the so-called Gould Group, and I think the Equitable Trust and the National City Bank have about twenty-one directors on the Gould roads.

Mr. Nagel: Have you any explanation of why the road has not been reorganized?

Mr. Lauck: No, I have not.

Mr. Nagel: There is all the competition they want in that case?

Mr. Lauck: The financial press has said that they are getting ready to reorganize the Wabash. It has become inevitable that it must be reorganized, because all the money they have put into it to increase its efficiency has gone, and there must be some scaling down of securities, or some reorganization.

Mr. Nagel: What I mean is, there is an abundance of opportunity there to reorganize?

Mr. Lauck: Oh, yes, sir.

Mr. Nagel: Without commenting further upon the matter, do you think there is some reason in having a fiscal agent?

Mr. Lauck: Undoubtedly, yes, sir.

Mr. Nagel: In other words, do you think that these securities would have been subscribed to the extent that was the case if some responsible house had not been back of them, in other words, stood as the guaranty for the investigation and inquiry and moral indorsement which is necessary, to place securities?

Mr. Lauck: I think not. I think a very essential function was performed, but it should be brought under proper regulation.

Mr. Nagel: You don't object to the system, but you object to the abuse to which the matter has been subjected?

Mr. Lauck: Yes. I do not think it is any reflection at all on the railroads; it is simply a power that has been used disadvantageously, and which should be regulated so it would be conducive to the good of the railroads and to the people who purchase the securities of the railroads.

Mr. Nagel: And you admit that even Mr. Morgan might have selected a good president?

Mr. Nagel: Yes, I think Mr. Morgan's activities were of the highest order, according to the business ethics under which he worked.

Mr. Nagel: But you think he made a mistake in the case of Mr. Mellen?

Mr. Lauck: Well, I don't know. I think Mr. Mellen is a pretty big man in many ways. He did not get by with what he was attempting to do.

Mr. Stone: They did succeed in making him a goat for the whole operation of the New Haven Road, didn't they?

Mr. Lauck: I think—I was about to make a facetious remark, but I would not do it, that it is a sort of tie as to who is the goat now. But if Mr. Mellen had succeeded, he certainly would have been a great man, it seems to me, in the estimate of railroad people.

Mr. Burgess: Well, Mr. Lauck, it is not your purpose to reflect on any president that was selected, is it?

Mr. Lauck: No, sir, not at all, nor to reflect on the railroads, but simply to set forth the facts as to the system, and follow it with a statement as to what has been the effect of this system of control; that is, the system has resulted in the dominance of the railroads by a group of bankers which frequently have used this power for the purpose of exploiting the interests of the public and of the employes, and to bring out that fact and show that the result of their activities has placed financial burdens on the railroads which are used as an argument against the right of the employe to participate in earnings which he has produced by his work and productive efficiency.

Mr. Stone: There is no reflection on any railroad president here. You simply show the system whereby they are made and unmade, do you not?

Mr. Lauck: That is all, yes, sir.

Mr. Stone: And you simply show that certain banks are the financial agents and control certain railroads?

Mr. Lauck: The idea was to just set forth the facts as they are, so far as I have any data to base any facts upon.

Mr. Stone: Go ahead.

Mr. Lauck: On page 106, you will find the Pujo Committee give a list of the depositors of J. P. Morgan & Company, and among them I would call attention to the fact, were the Atchison; Chicago Great Western; Gulf, Colorado & Santa Fe; Northern Pacific, and Santa Fe, showing the close financial relations between these railroads and Morgan & Company, which has already been indicated.

An interesting article appeared in the Wall Street Journal which is reproduced on page 107, and which appeared September 23, 1914, giving the stockholders in the National City Bank and the First National, being the leading banks, the National City Bank being the leading bank in the Rockefeller group and the First National in the Morgan group. There you find there stated briefly that the National City Bank with a capital of $25,000,000 has 117,445 shares of stock in the hands of 13 stockholders, an average of 9,034 shares each, while the remaining $13,255,500 is held by 1,000 stockholders, averaging only 132 shares each.

Mr. Stone: So that large number of small stockholders would not have much to say about the policy of that bank, would they?

Mr. Lauck: Nothing at all, no, sir. In the same way, the First National, with a capitalization of $10,000,000, shows even a greater concentration of control. 72,910 shares out of 100,000 shares are in the hands of 10 stockholders, with an average holding of 7,291 shares, while the remaining 27,090 shares are in the hands of 616 stockholders with an average holding of 44 shares each.

These are the two dominating banks in the Morgan-Rockefeller group, and in the statement there appears the relative holdings of the leading stockholders, Mr. Morgan and Morgan & Company and the Rockefellers, and so forth.

Pages 109 to 124 is simply a statement of the interlocking directorates of the railroads; that is, giving the directors in one Western railroad and their affiliations with other Western railroads.

Mr. Nagel: Were the recommendations of that committee carried out in any sense?

Mr. Lauck: I do not recall of any, no, sir.

Mr. Nagel: Or was it the usual investigation, with a report?

Mr. Lauck: It was simply followed by a report, yes, sir.

Mr. Sheean: What was the Clayton Bill, which went into law?

Mr. Lauck: Well, I beg pardon; I had forgotten that.

Mr. Sheean: I was wondering whether you disagreed and were recommending a different course of conduct than Congress took after this report.

Mr. Lauck: The Clayton Bill, as I recall it, prohibited interlocking directorates.

Mr. Sheean: And purported or attempted to cover the situation developed by this report, in so far as Congress thought it could be met by legislation?

Mr. Lauck: Personally, I do not think the Clayton Bill is a good bill in the way of interlocking directorates. I believe in interlocking directorates, under proper regulation.

Mr. Sheean: That is what I was wondering, whether you were recommending a different course than Congress saw fit to take as the result of this investigation.

Mr. Lauck: No.

Mr. Nagel: As I recall it, the Clayton Bill prohibits interlocking directorates between banks and trust companies, but if the bank owns all the stock of the trust company, or the trust company owns all the stock of the bank, they justify it; in other words, a small wrong is very bad, but a great one is all right.

Mr. Burgess: Are you making any recommendation, or simply stating the facts brought out by that report?

Mr. Lauck: I am not making any, no.

Mr. Stone: Do you really suppose it would make much difference with Congress whether we disagreed with them or not, any way?

Mr. Lauck: I think not, no, sir.

Pages 131—

Mr. Stone: What about this chart on page 127. Don't forget that.

Mr. Lauck: The chart opposite page 127 is a reproduction of a chart which appeared in the Pujo Report, showing the principle affiliations of the agents of concentration, as the Pujo Committee found them; Morgan & Company, Kidder, Peabody & Company, Lee, Higginson & Company, and the First National Bank, and so on. The chart was a more extended chart than is shown here. Off the circumference of the circle in the corner was also shown the affiliations or the dominance of these financial institutions in certain industrial corporations. I have simply eliminated them and confined it to the railroads.

You find there also a certain case whereby you can find whether the affiliations of Morgan & Company or the other houses—whether there is one director or more in the indicated corporation; whether the financial institution controls it by a voting trust, or whether there is a large stock interest.

The railroads shown there are the Atchison, Topeka & Santa Fe; Chicago, Milwaukee & St. Paul; Northern Pacific; Chicago, Burlington & Quincy; the Great Northern Railway; the Reading Company; the Lehigh Valley; the Erie Railroad; Chicago & North Western; Atlantic Coast Line Company; Illinois Central Company; Pennsylvania Railroad; New York Central; the New Haven; the Southern Railway.

Mr. Stone: Inlcuding some smaller lines besides?

Mr. Lauck: Yes, sir; all their affiliates would go with them.

The document opposite page 128 is a more extended diagram, including the larger banks, based upon the same method of graphical presentation.

Pages 131 to 178 contain the detail as to the individual directors, by railroads and by banking institutions. If any verification is needed of any of the statements that have been made. And also the fiscal agents and the banking relations.

Appendix J following page 179 contains some testimony, a few excerpts from which I would like to read.

The first is from Mr. Louis D. Brandeis' testimony, January 23, 1915, in New York City, before the United States Commission on Industrial Relations. Page 181 Mr. Brandeis testified as follows:

"There has been undoubtedly great financial concentration —direct to a certain extent and indirect to a greater extent— and that influence which came from the concentration in comparatively few hands of a deciding vote in important financial and industrial questions almost necessarily affects the labor problems as it does other problems, although it may not have been the design primarily to deal with the labor problem."

On pages 182 and 183, Mr. Brandeis places his public sanction upon the fact that there is this concentration of financial control, which is a very serious matter so far as the contention of workingmen are concerned.

Pages 183 to 185 contain the testimony of Mr. Untermyer, who was the counsel and the practical director of the Pujo Committee. In that testimony he reiterates practically the findings of the Pujo Committee.

I would like to read at page 186 the testimony of Mr. George

M. Reynolds, before the Pujo Committee, who is president of the Continental and Commercial National Bank of Chicago, about the middle of the page, beginning with page 186:

"Q. But you have information and knowledge of the conditions in New York, for instance, as between the great banking houses? That is a matter of personal knowledge?

"A. Yes, I have a fairly general knowledge of that, I should say.

"Q. What would you say as to that concentration of the control of money and credit being a menace to the country?

"A. That involves a very deep question. Personally, I am inclined to believe that an excessive power of any kind in the hands of a few men might properly be called a menace. I do not mean to say by that that the people who had that control and power have used it improperly. I do not mean to say that at all.

"Q. Regardless of the way they have used it for the time being, the question is, is it not, as to the way they can use it?

"A. I think a more wide distribution of the power of credit, if that is what you mean, would really be better in the long run.

"Q. Taking the present situation as you find it, Mr. Reynolds, what is your judgment as to whether the situation is a menace?

"A. I am inclined to think that the concentration, having gone to the extent it has does constitute a menace. I wish again, however, to qualify that by saying that I do not mean to sit in judgment upon anybody who controls that, because I do not pretend to know whether they have used it fairly or honestly or otherwise."

Then, in the cross-examination of Mr. Jacob H. Schiff, of Kuhn, Loeb & Company, he was asked:

"Q. Have you been an interested observer of the concentration and control of money and credit in New York in the last few years?

"A. I have.

"Q. You have seen it grow very rapidly, have you not?

"A. Yes.

"Q. And you have seen it drift into fewer and fewer hands, have you not?

"A. It has drifted into fewer and fewer corporations."

Then Mr. Schiff testified that it was of no concern to him, because it didn't hurt him, and therefore he didn't bother about it.

Mr. Baker, who did rank next to Mr. Morgan as a financier, who is one of the leading financiers of New York, testified as follows:

"Q. I suppose you would see no harm, would you, in having the control of credit, as represented by the control of banks and trust companies, stull further concentrated? Do you think that would be dangerous?

"A. I think it has gone about far enough.

"Q. You think it would be dangerous to go further?

"A. It might not be dangerous, but still it has gone about far enough. In good hands, I do not see that it would do any harm. If it got into bad hands, it would be very bad.

"Q. If it got into bad hands it would wreck the country?

"A. Yes; but I do not believe it could get into bad hands.

"Q. You admit that if this concentration, to the point to which it has gone, were by any action to get into bad hands, it would wreck the country?

"A. I cannot imagine such a condition.

"Q. I thought you said so.

"A. I said it could be bad, but I do not think bad hands could manage it. They could not retain the deposits nor the securities.

"Q. I am not speaking of incompetent hands. We are speaking of this concentration which has come about and the power which it brings with it, getting into the hands of very ambitious men, perhaps not overscrupulous. You see a peril in that, do you not?

"A. Yes.

"Q. So, that the safety, if you think there is safety in the situation, really lies in the personnel of the men?

"A. Very much.

"Q. Do you think that is a comfortable situation for a great country to be in?

"A. Not entirely."

Then before the Industrial Commission, as shown by the statement on pages 188 and 189, is a statement by Mr. Schiff corroborating largely Mr. Untermeyer's testimony, and relative to railroads being dominated by a voting trust.

The only direct reference I have found to the relation between this financial control and the welfare of the working men directly affected, is from the testimony of Mr. John Mitchell, formerly President of the United Mine Workers of America, before the Industrial Commission in New York City on February 1st, 1915:

"Chairman Walsh: Have you any knowledge as to the extent to which control is exercised by the large financial interests in connection with these corporations in labor matters?

"Mr. Mitchell: Perhaps the most striking instance I can refer to is that of the settlement of the anthracite coal strike. * * * The anthracite coal strike was inaugurated in the late spring of 1902, and was inaugurated after the representatives of the Miners' Union had exhausted every means in their power to adjust their differences with the mine owners, by negotiation and conciliation, and the strike continued until the late fall.

"In October, I think it was the second day of October, 1902, the President of the United States invited the presidents of the coal-carrying railroads and one independent coal operator—and by that I mean an operator whose mines were not owned by a railroad company—and he invited also a representative of the United Mine Workers to confer with him at Washington, for the purpose of trying to bring about a basis upon which the strike could be adjusted, and his efforts in that respect failed. Failed because the representatives of the coal-carrying roads would not agree to arbitration or to mediation or to any basis of adjustment.

"Some four or five days later—I think some two weeks later—the representatives of certain large banking firms in New York City journeyed to Washington and proposed a basis of settlement, which, after being modified to meet in part the objections raised by me, did result in a settlement. Now in that instance, it seemed to me that the representatives of the financial houses, financial firms were able to control a situation despite the fact that those in active charge of the railroads had refused to make an adjustment."

Page 190, the testimony of Mr. J. P. Morgan, before the Commission on Industrial Relations, also on February 1, 1915—

Mr. Stone: That is the present J. Pierpont Morgan?

Mr. Lauck: Yes.

Mr. Stone: Used to be J. Pierpont Morgan, Jr.?

Mr. Lauck: Yes, the son of the late Mr. Morgan.

Mr. Stone: Now in charge of Morgan & Company?

Mr. Lauck: Yes, sir. In that testimony, Mr. Morgan stated that Mr. Untermeyer was entirely incorrect in his statement that the banking houses dominated the railroad interests of the country. Then Mr. Morgan, it seems to me, proceeds in his testimony to corroborate everything Mr. Untermeyer says. He says:

"Well, we very often have been able to serve them by selling securities for them and very often in many companies we have been directors, and in many cases we have reorganized them." And then in reply to a question by Mr. Commissioner Weinstock, he reiterates that "when you reorganize a railroad company it is necessary that the policy of that company for the first few years, at the beginning of it, should be controlled." And that the company should be placed in the hands of a voting trust, under the domination of the banking interests.

Mr. Nagel: That presents the real question, doesn't it?

Mr. Lauck: Yes, I think so.

Mr. Nagel: A good house does feel responsible for securities that have been issued on its recommendation?

Mr. Lauck: Yes.

Mr. Nagel: Frequently feels compelled to take up securities, if anything unexpected occurs?

Mr. Lauck: Yes, sir.

Mr. Nagel: And, therefore, is interested in knowing just what kind of control will be exercised over those securities?

Mr. Lauck: Yes. If it is a good house, it ought to be a good control. If it is bad, vice versa.

Mr. Nagel: It brings us back to the same old question.

Mr. Lauck: Yes.

Mr. Nagel: If you give the taxing power you of course give the power to destroy?

Mr. Lauck: Yes.

Mr. Nagel: And so it is with all power.

Mr. Lauck: And their business or patronage is dependent upon—that is, an old banking house would pride itself on the way it had recommended its security issues, although it might be possible for the banking house to look out for the interest of its patrons, and not be looking out for the interests of the public or the employes of a railroad.

Mr. Nagel: That is only another manifestation of an improper motive.

Mr. Lauck: Yes.

Mr. Stone: But where the banking house does have control, the stockholders have nothing to say?

Mr. Lauck: Nothing where they have a voting trust at all. As a practical proposition, stockholders have nothing to say, anyhow. They have something to say theoretically, but practically they don't in ordinary issues, I don't think.

Mr. Stone: That is, they think they do, but they don't.

Mr. Lauck: I think they don't want anything to say.

Mr. Stone: So long as the revenue comes.

Mr. Lauck: Yes. They pay no attention at all until something happens, and then they all get excited. Like in the case of the New Haven.

I have a selection here I would like to read from the testimony of Mr. Roger W. Babson.

Mr. Stone: Before you read that I would like to ask you one more question, Mr. Lauck: How long, as a rule, do these voting trusts run? What is the period?

Mr. Lauck: That is determined at the time of the reorganization. Four to six years usually.

Mr. Stone: Five to ten years is common?

Mr. Lauck: Yes. They are often renewed. The Northern Pacific Board of Directors was named by Mr. Morgan. Then they became a self-perpetuating body, practically so. It was a permanent voting trust, you might say, on that road.

Mr. Stone: Practically a permanent trust?

Mr. Lauck: Yes.

Mr. Stone: But it does have this effect, it takes it out of the hands of the operating officials, and they have no way of preventing a dissipation of resources, or anything else?

Mr. Lauck: No.

Mr. Stone: In fact, they have nothing to say about the road?

Mr. Lauck: That is the only point I have in bringing up this exhibit. The railway operating officials, as well as the employes, are at the mercy of the banking domination. If it is good, they would, of course, be supported. If it is bad like in the case of the Frisco, they had a case there on the Frisco in which it was shown by the Interstate Commerce Commission investigation the effort was constantly made to have the operating officials dig more money out of the road, in order to pay returns on securities issued.

Mr. Burgess: What banking house was the Frisco controlled by, Mr. Lauck?

Mr. Lauck: They had no settled connection. One of their strongest connections was a certain trust company in St. Louis, and Speyer & Company in New York. They seemed to get money anywhere they could get it in their extensions, and usually paid extortionate amounts for it. I think 12 per cent of their funded debt represents discounts on securities issued; about $32,000,000 they paid in discounts for the purpose of getting loans since 1896. Or, of their whole funded debt, 12 per cent of it was discounts paid to bankers for letting them have money.

Mr. Stone: You were about to read something there from Mr. Babson. Who is Mr. Babson?

Mr. Lauck: Mr. Babson is the publisher of reports on business and trade conditions, and the head of the organization known as Babson's Statistical Organization, I think, of Wellesley Hills, near Boston, Massachusetts. He publishes a weekly letter, that I guess most everyone has seen, giving a forecast of business conditions.

In testifying before the Commission on Industrial Relations, on January 18, 1915, Mr. Babson stated that his experience with Wall Street led him to this conclusion, "that it was interested in only one thing—dividends as quickly as possible, that is, if certain dividends are being produced, they are satisfied. As a rule it makes little difference whether they are being produced by fair means or foul, by antiquated machinery or by modern machinery, or by good or poor management. They never think of taking our old machines and putting in new for the sake of paying labor more money, they never think of changing the management and taking out a young college man and putting in a man who knows the business, to increase the business, but they do that to increase dividends."

That is all I had on that.

Mr. Stone: Exhibit 60 goes along with 59, along that same line.

Mr. Lauck: It is more extensive and exhaustive than the treatment I have given in 59, showing the intercorporate relations, very exhaustively of all Western railroads, however large or small they may be.

Mr. Stone: How the control, whether sole or joint, how it is established, and what percent of the stock?

Mr. Lauck: Yes, and how it is exercised, whether through directors or by a voting trust, and so on.

Mr. Stone: It also gives the mileage in the different classes of service for the Western Roads, as compared from Poor's Manual, does it not?

Mr. Lauck: Yes.

Mr. Stone: That is for 1913-1914. I understand it was for the fiscal year ending June 30th.

Mr. Lauck: June 30th, yes, sir. As I understand the Exhibit, all the preceding data relative to ownership is brought together in a graphic way and forceful way in the diagram which appears at the latter end of the exhibit, except the mileage of different classes of service.

Mr. Stone: I see in looking through the mileage at pages 24 and 25, that they ran the dollar mark clear across. That is a typographical error, is it not? Those are miles instead of dollars?

Mr. Lauck: Yes, sir, passenger train mileage.

Mr. Stone: That is on the proofreader, or somebody else, who overlooked it?

Mr. Lauck: Yes, sir.

Mr. Stone: And the net earnings that are shown here are taken from Poor's Manual of Railway Earnings, and also from the Commercial and Financial Chronicle? Those are the two authorities?

Mr. Lauck: Yes, sir; which, in turn, get them from reports of the railroads to the Interstate Commerce Commission.

Mr. Stone: They also include in the back part of the book, an exhibit showing the hours of continuous service, copied from Interstate Commerce Commission reports. I would like to explain to the Board that that was brought about by the fact that I was working in Cleveland and Mr. Lauck was working in Washington, and we did not know each one was working, practically, on the same thing. The only difference in the two reports is, he only shows engineers and firemen, while this shows all railroad employes, as I understand it.

Mr. Lauck: That is already before the Board.

Mr. Stone: That is already before the Board, in another exhibit, and this map, the first one is the last one, if you will excuse such a phrase, and is based on the information contained in the first part of the book, showing the intercorporate relationship, as determined by stock ownership. You believe this map to be correct, do you not, Mr. Lauck?

Mr. Lauck: Yes, sir.

Mr. Stone: Now, take, for example, a group like the Great Northern there on this map. The map shows how the Great Northern controls about seventeen different roads, and in that group of roads, among others, is the Chicago, Burlington & Quincy?

Mr. Lauck: Yes.

Mr. Stone: Which, in turn, controls or has the stock ownership in seven other roads?

Mr. Lauck: Yes, sir.

Mr. Stone: And in that group of roads that the Burlington controls, through 75 per cent of stock ownership, is the Colorado & Southern, which in turn—

Mr. Lauck: Controls the Ft. Worth & Denver City?

Mr. Stone: Controls ten roads; so that if you got in trouble with any one of those ten roads out there, with a wage question, in the end you would wind up against the Executive Board of the Great Northern, would you not?

Mr. Lauck: Yes, sir.

Mr. Stone: Or, in other words, the executive committee of the Great Northern dominates the policy of all that group of roads?

Mr. Lauck: Yes, sir; that is dominated by J. P. Morgan & Company.

Mr. Stone: And that is further shown by the next map, where we show the intercorporate relationship, or the interlocking directors. I might explain to the Board that this map was first drawn, showing interlocking directors of two or more roads, but the lines got so thick, it was simply a blur and it became necessary to scale it down and use four directors. There are no names shown here, unless a director in four or more roads. This shows the further complication of getting in trouble with any one of these roads, without having the rest of them having something to say about it, does it not?

Mr. Lauck: Yes, sir.

Mr. Stone: You believe both of these maps to be correct, from the information you have at hand?

Mr. Lauck: Yes, so far as I have examined them, I think they are correct.

Mr. Nagel: Of course, that influence works both ways, does it not? Sometimes the conditions of men on a smaller road may be advantageously affected by the more advanced views of a controlling system?

Mr. Lauck: Yes, sir; and also the financial possibility of the smaller, of course, would be greater through its affiliation with the large system?

Mr. Park: Do any of them own the Mississippi Central?

Mr. Stone: I could not tell you, without looking it up. The Illinois Central may have traded some of their land for it.

Any further statement you wish to make on this, Mr. Lauck?

Mr. Lauck: No, sir.

Mr. Sheean: I have no questions.

Mr. Stone: Take up the next exhibit.

The Chairman: Mr. Lauck, I would like to ask you one question.

Mr. Lauck: Yes, sir.

The Chairman: I understood Mr. Stone to say that certain roads were owned and controlled by the Great Northern. Now, in what way are they owned and controlled by the Great Northern? Are they strictly subsidiary lines?

Mr. Lauck: Yes, sir; through stock ownership. For instance, the Great Northern and the Northern Pacific jointly, bought the Burlington, I think, for $116,000,000, and issued collateral trust bonds, under which they deposited the stock for the purchase. Other of the stock is owned outright and carried in the treasury of the company.

The Chairman: Are these subsidiary lines operated under the direction of the parent company?

Mr. Lauck: Separate operating managements, I think, and make separate reports to the Interstate Commerce Commission.

For instance, the Burlington has an entirely different set of officials, and different set of operating and administrative officials and makes a separate report to the Interstate Commerce Commission.

The Burlington owns and controls the Colorado & Southern which, in turn, owns the Ft. Worth & Denver City, and each of those roads made separate reports and have separate operating officials.

The Chairman: Are they financed by the same people?

Mr. Lauck: Yes, sir, I think so; the financial affiliations are the same.

The Chairman: Well, the actual operation may not be under the direct control, but the financial control is, as I understand.

Mr. Lauck: For instance, the president of the Northern Pacific exercises an influence on the Ft. Worth & Denver City, say?

The Chairman: Yes.

Mr. Lauck: No, not apparently; it is only through the stock affiliation and the voting of the stock that they do that.

The Chairman: By voting the stock, do they in that way control these companies?

Mr. Lauck: Yes, sir; that is the control.

The Chairman: Suppose any controversy should arise between someone and one of these subsidiary companies; where would that controversy ultimately be determined, or by whom would it ultimately be determined? Would it be carried from that company on to the Great Northern for determination?

Mr. Lauck: It would be possible to do that. The potential control is in the Great Northern. How far that is exercised, I cannot say, but the potential control is there.

The Chairman: You do not know whether they have any agreement by which they retain the right to control?

Mr. Lauck: No, sir; but the potential control is retained by the parent company. That is, if an adjustment or disagreement of any kind, either affecting working conditions or financial matters, arises, it should ultimately be passed upon by the parent company.

The Chairman: That is what I mean.

Mr. Lauck: But how far that is done, I do not know. There is no evidence—

The Chairman: You say it could be done?

Mr. Lauck: Yes, sir, the potential control is there.

The Chairman: How do you know that; in what way?

Mr. Lauck: I know that through the fact that, for instance, the Northern Pacific and the Great Northern own all the stock of the Burlington, and they could do anything they wished with the Burlington; and that the Burlington owns the controlling stock of the Colorado & Southern, and could do anything they wished with the Colorado & Southern; they could sell it if they wished to do so; and in the same way the Colorado & Southern could with the Ft. Worth & Denver City; and by the same method of reasoning, the Great Northern and Northern Pacific, jointly, could do anything they wished with the Ft. Worth & Denver City, through this series of control.

The Chairman: Now, is that true as to the other companies that you say are subsidiaries of certain main lines?

Mr. Lauck: Yes, sir, and the banking influence, where it exists, is in the control of the parent companies, usually. For instance, the great fight over the Northern Securities case grew out of the fact that Mr. Harriman and his associates, the so-called Harriman Syndicate, wanted to get control of the Burlington, and they bought Northern Pacific stock in order to do that, and it finally led to an adjustment through the Northern Securities Company.

The Chairman: That is all.

Mr. Stone: Mr. Chairman, I think perhaps as strong an example of the influence of the parent company, as could be given, was the organization of the Burlington road. After the 1888 strike, there was no organization of either the Brotherhood of Locomotive Engineers, or the Brotherhood of Locomotive Firemen and Enginemen, until 1903 and early in 1904. The management of that property had always declined to allow the reorganization of the labor unions on that road. But it was through the influence of Mr. Hill, at that time president of the Great Northern Company, that we were allowed to organize on the Burlington Road.

Mr. Park: Was that in the Morgan group?

Mr. Stone: I think so, yes.

Mr. Park: Is that the reason the firemen are not in on the Louisville & Nashville Railroad?

Mr. Stone: No. That is because they happen to have a peculiar character down on the Louisville & Nashville Railroad, in the shape of President Smith, and any of those who know President Smith know he is one of the few men that takes orders from nobody, not even the Government, if he can help it. But it is a fact that the influence of the parent company does reach out and have an influence on these railroads, and I do not think it will even be questioned by the other side, that that is correct.

The Chairman: Well, the thing that was in my mind was as to whether we should treat these companies as practically one system of roads.

Mr. Stone: I think the answer to it is that in the end, whatever all these roads earn pours into the same hopper. Regardless of the different channels by which it gets there, it gets into the same hopper in the end.

We desire to introduce Exhibit 61. "Financial Management and History of Western Railroads."

(The document so offered and identified was received in evidence and thereupon marked "Railroads' Exhibit No. 61, March 2, 1915.")

Mr. Stone: I say that this is introduced, not in any spirit of muck-racking, at all, but simply that you may have the true facts of what is the matter with some of these Western Railroads, and to show you that it was not the engineers and firemen that got the money, but somebody else got it, and the condition they find themselves in today is not due to the excessive wages paid to employes; it is due to a few financial pirates who wrecked the roads. And we believe that these men are entitled to all that we are asking for, and we introduce this exhibit to show the real inside workings of these different roads.

Mr. Lauck, I want you to take this up in detail, because I consider it the most important exhibit we have.

Mr. Lauck: I would like to say by way of explanation, the previous exhibit was an attempt to establish the degree of financial control of railroads by certain banking groups. This exhibit is an attempt to give an exemplification of how that control works out, and to show how the gains from the work and productive efficiency of the men, and how the revenue gains arriving from the development of the company and business have not been properly used, and that employes have not got a fair participation in the output of the industry. It is not introduced to show financial ability to pay.

The first topic I would like to take up is stock bonuses and underwriting commissions of representative Western railroads, in direct connection with the question of financial control. That covers pages 1 to 63.

Referring to pages 58, 59 and 60, will be found a supplementary note relative to the foregoing tabulations. This note was a note that was gotten out by the former Railroad Securities Commission, appointed by President Taft, and which made a study of stock bonuses and underwriting commissions, according to this method, and their method has been followed in making these tabulations. There is no use going through that in detail. It shows the basis upon which the information was secured. What I would specifically call attention to is on page 62, the fourth paragraph from the bottom of the page, which states, "The market price per cent of par. The figures shown in this column state the ratio of the market price of the securities issued during the year to the par value issued. When the issue was a new one, which had not theretofore been on the market, the figure shown in this column is the average of quotations of high and low sales for the first four months during which such sales took place. If the security had theretofore been on the market the figures stated in the column 'Market Price Per Cent of Par,' is the average of the quotations of high and low sales by months during the twelve months during which such securities were issued. In the case of stocks issued to stockholders at par when selling above par in the open market, the figure shown in this column is the average of the first four quotations after the announcement of such issue, making deduction for the value of rights."

That is the basis upon which the estimates as to bonuses have been made.

Mr. Stone: You have applied the same principle all the way through on these different roads?

Mr. Lauck: Yes, sir.

Mr. Stone: So that the result is uniform?

Mr. Lauck: Yes, sir.

Mr. Stone: Take up page 1.

Mr. Lauck: Referring to page 1, confining the discussion to the ten representative railroads, considered as one system, these ten representative roads being the Atchison; Burlington; St. Paul; Chicago & North Western; Great Northern; Illinois Central; Northern Pacific and Southern Pacific, the ten roads which have been used as ten representative roads throughout the discussion, we find that the aggregate bonuses issued to stockholders by these roads during the period 1900 to 1910, was $250,584,962; that is in addition to regular cash dividends, special bonuses aggregating more than $250,000,000 were issued by the Burlington; St. Paul; North Western; Great Northern; Illinois Central; Northern Pacific and the Southern Pacific companies.

The Burlington issued $4,869,110 in bonuses; the St. Paul issued $74,750,122; the Chicago & North Western, $63,801,856; the Great Northern $64,300,666; the Illinois Central $21,201,-691; the Northern Pacific $13,252,500, and the Southern Pacific $8,409,017, or an aggregate of $250,584,962.

Mr. Stone: Explain just how that was brought about, and the effect of it.

Mr. Lauck: These bonuses have been computed in the following manner. If new securities were issued by the company and the stockholders were given the right to subscribe at less than the market value, the differences between the actual cash proceeds received by the company and the market value of the security has been taken as the bonus to the stockholder, the quotation as to market value being as I just stated, the market price following the announcement of the issue of new stock, ex-rights, to the individual stockholder.

Mr. Burgess: Then if the market value was $100, and it was given to the stockholder for $70, there would be $30 there that would be considered a bonus, is that right?

Mr. Lauck: Yes, sir; or, if the market value was 149 and the par value 100, and after that announcement of a new stock issue of so many million dollars for which the stockholders could subscribe at par, the market price was then 38, after the new stock issue has been discounted as the result of increasing the capitalization of the company, the bonus to stockholders would be considered as $38 per share.

Mr. Burgess: Yes, sir.

Mr. Byram: You don't think the stockholders should have been given any advantage in that way?

Mr. Lauck: No, sir, I think they ought to have sold these securities by some better method where they would realize more of the market value of the securities.

Mr. Byram: The stockholders were not entitled to any part of the increase in the value of the stock, beyond the par value?

Mr. Lauck: That would be reflected in the market price for which they could sell their stock at any time.

Mr. Byram: I am speaking about the new issue of stock. You think the stockholders are not entitled to any advantage, on account of the fact that the credit of the company was so good that the stock was worth more than its par value?

Mr. Lauck: No, sir, I do not.

Mr. Sheean: Might I ask, right on that, Mr. Lauck, in the case that you spoke of this morning of concealed assets or hidden assets, a corporation capitalized for $60,000,000 and actually worth $200,000,000, would want to issue or raise $10,-000,000—issue new stock, that would only put the whole outstanding stock up to $70,000,00, but with assets worth $200,-000,000, do you think it is improper that the owners of that property, worth $200,000,000, to have the right to take this additional stock?

Mr. Lauck: They own the assets represented back of the stock, but I don't think it should be given to them indirectly in that way. If it is intended to give it to them, give them the $70,000,000 assets which have been undistributed or uncapitalized, that ought to be given by the regular process of dividend disbursements.

Mr. Sheean: But they don't want to capitalize it. They have property here that is worth $200,000,000, but only carried on their books at $65,000,000, but they do need $10,000,000 more. Is there any impropriety in the stockholders—those who actually own this corporation, own all of the assets that are worth much more than the book value, getting the additional certificates of stock?

Mr. Lauck: I think they would own it and have the right to do that, if they wished to do so. That would not be a comparable case with what we are speaking of here. We were speaking of a company wanting new capital.

Mr. Sheean: I thought you spoke of the Southern Pacific as having a lot of hidden assets.

Mr. Lauck: I did.

Mr. Sheean: Then, having spoken of it in the other exhibit as a corporation that had the hidden assets, because it is worth more than its capital stock or bond issue against it, in this exhibit, do you treat as improper in any way the distribution, whether in dividends or bonuses to the people who actually own those hidden assets—

Mr. Lauck: Don't consider them at all.

Mr. Sheean: Don't consider them?

Mr. Lauck: No, sir.

Mr. Sheean: Well, then, you are getting them coming and going, both, are you?

Mr. Stone: No; we will get to that a little later.

Mr. Lauck: The hidden assets would be an indication of a concealed ability to pay. For my part, it would be questionable whether the stockholders were entitled to that, in view of the fact that it had not been gotten in the proper way. I don't speak of that as a specific asset. Legally, they would be entitled to it. As a matter of moral right, I think not. I think it belongs to the public, because it has arisen out of the failure to comply with certain grants, made by the government to the Southern Pacific, but of course that is all aside. The point is here I have not considered capitalizing that at all.

Mr. Sheean: I just wanted to get clear in my own mind on that, Mr. Lauck.

Mr. Lauck: The other exhibit is for the purpose of showing that they did have assets that they did not capitalize; that they do not show among their assets.

Mr. Sheean: Do not show among their assets?

Mr. Lauck: Yes.

Mr. Sheean: And by assets, you mean everything outstanding against it, either bonds or stocks?

Mr. Lauck: Yes, or the profit and loss surplus. That is, it is not shown in their balance sheet as an asset of the company, although it exists and they own it.

Mr. Sheean: That might be true of any railroad which would be appraised, under this government appraisal, showing a greater value to the property than the paper value on its books. That you would class as being hidden assets?

Mr. Lauck: Not at all. That is the only way we have of knowing what the assets of the Southern Pacific are, is by the report of the Southern Pacific to the Interstate Commerce Commission, or by the report of the Northern Pacific. Now, they have certain assets which do not appear on their balance sheets, as assets. The term "hidden assets" I was using to designate as something that was not reported among its assets. They have certain lands which they carry among their assets, at $34,000,000. They are estimated to be in value all the way from $100,000,000 to $700,000,000.

Mr. Sheean: But they do carry the lands, Mr. Lauck. They show the lands as among the assets, but you say they are worth $170,000,000, instead of the $34,000,000 that they carry them at.

Mr. Lauck: Yes, sir.

Mr. Sheean: Well, then, they do show those lands among the assets, but do not show them at the value that you say they are really worth?

Mr. Lauck: That would be correct.

Mr. Sheean: Well, now, if, when the government gets through the appraisement of any of these railroads companies, they fix a physical valuation in excess of what the paper valuation, or the amount that they are carried at now, should thus be brought about, do you think there would be any impropriety in distributing to the owners of that property—stock owners, the additional value that is thus brought about by an appraisement over the actual paper value now?

Mr. Lauck: The railroad being a public institution, I would say yes.

Mr. Stone: Do you understand, Mr. Lauck, that this government appraisal is going to appraise their timber land or the railroads, which?

Mr. Lauck: I don't know what the act requiring a physical valuation of railroads—whether it includes all their assets, or simply their roadbeds, structures and equipment; but surely, in the case of the assets which have arisen from such causes as the land grants have, I would say they had no right to capitalize them at all.

Mr. Sheean: Mr. Lauck, pardon me on that, and see if I follow you. Your theory, on the physical valuation of properties was that they should not include lands that were the result of land grants. That is, your position was the position which was taken by certain State commissions, with reference to fixing rates, that where the property had ben acquired under a grant or gift, that they were not entitled to any return on that—to include that in their physical valuation.

Mr. Lauck: Not strictly, I wouldn't, because if it had been included and used properly, I think it should.

Mr. Sheean: But no increased valuation. Put it that way. If the government gave certain lands, which were worth $1.25 an acre, for the right of way, when they were given, and all the return to which the owners of the property were entitled to was on that $1.25 an acre, although all the adjoining farm lands got up to $100 an acre, that was your theory.

Mr. Lauck: Yes, sir.

Mr. Sheean: And that was the same theory that was advanced by the State of Minnesota and the State of Missouri, and various others, in rate cases, with which the Supreme Court disagreed, just as it did with your position on the Southern Pacific ownership of mineral lands.

Mr. Lauck: That is disagreement with the contention of the government, yes.

Mr. Sheean: They decided the other way on both propositions?

Mr. Lauck: It does not seem fair to me with an institution —it seems very questionable to me, although I don't believe in the unearned increment or the single tax theory that whether a public corporation, after it has been constructed and aided by the government, should—the stockholders should be permitted to capitalize all the earnings arising from the business development of the country it traverses. That is practically what that point of view would lead to, because stock is really an exemplification of earning power, not of real value.

Mr. Sheean: I did not intend to get into that. I just wanted to make sure as to whether your theory was the same as the theory that was advanced in the various Western rate cases, that the railroad was not entitled to have its right of way appraised with reference to the adjoining property and to the present value of other property which adjoin and were similarly situated.

Mr. Lauck: In other words, whether or not it should have the benefit of the land accrual in value?

Mr. Sheean: Yes, sir; and whether you are simply pursuing the same theory that some of the State Commissions advanced, that the only return properly to be made was on the amount that it originally cost, and not its cost of reproduction at the present time.

Mr. Lauck: My idea would be on the original cost.

Mr. Stone: What about the valuation of this land that they don't pay any taxes on, because they don't patent it? What would be the position of the local authorities in those different states, if they did patent that land and file on it? They would have to pay taxes, then, wouldn't they, on the value of the land?

Mr. Lauck: Yes, sir.

Mr. Stone: And to avoid that, they don't patent the land at all?

Mr. Lauck: That was the practice in past years. How far that prevails now, I don't know. That was brought out by the Pacific Commission in '86.

Mr. Burgess: Now, Mr. Lauck, let me understand whether I followed you this morning. After Mr. Sheean's questions, I am somewhat confused. If I followed you correctly this morning, relative to the gift of the land by the government to the railroads, your theory rested on the fact that the government gave this land, with the expectation that the railroads would dispose of the land to settlers, thereby populating the country, and at the same time creating business for the railroads.

Mr. Lauck: Yes, sir.

Mr. Burgess: And their failure to do so, in your opinion, was in opposition to the intent of the government when the land was granted?

Mr. Lauck: Plainly expressed and stipulated conditions upon which the land was granted. The reason they did that too, was because it was more profitable to do that, than to sell it to the settlers.

Mr. Burgess: So we find where the land adjoining the railroad companies' land has increased to $100 or $150 per acre, your theory, if I understand you correctly, rests on the fact that they did not dispose of this land in accordance with the terms, and, therefore, they are not warranted in any return on this increased valuation of the land.

Mr. Lauck: Yes. I had not thought of that this morning, until Mr. Sheean's questions. I was not putting forth that idea especially. My idea about Mr. Sheean's question as to the accrued value of the land is, that the railroad, being a public service corporation, although financed by private capital—private capital certainly ought to be fairly and liberally remunerated, but it is questionable in my mind whether all the benefits arising from the development of the country, and of business—the population of the country or subsequent development of this territory, for instance, should accrue to the stockholders.

Mr. Burgess: But if the railways had disposed of the land in accordance with the terms by which the government gave it to them, they would not at this time have that land?

Mr. Lauck: No.

Mr. Sheean: Take the case, Mr. Lauck, where they actually have their rails on the land that was granted to them—their right of way actually occupied today, as the same roadway that the government gave them. If I followed your theory this morning, the only return to which they are entitled is not on the basis of $100 an acre, if adjoining land now is worth $100 an acre, but on what that cost them at the time they put their rails down?

Mr. Lauck: Actual outlay. I think all the stockholders of the railroads are entitled to is a fair and reasonable return on funds actually invested in the railroad, whether in lands or buildings, or equipment, or structures.

Mr. Sheean: You know the question of the Chief Justice, when that proposition was advanced was, whether it was in reality a grant or not—whether they gave it to the railroad company or did not give it? How would you answer that question, whether it was, in fact, a grant to the railroad company, or was not?

Mr. Stone: Mr. Chairman, do I understand our witness is expected to put up his opinion against the Chief Justice of the United States on a question of the right of way?

Mr. Nagel: We have indulged in a good many opinions here.

Mr. Stone: No objection to his answering the question at all, but it seems to me we are getting a long ways from this stock bonus.

Mr. Lauck: I think that is a question for the lawyers.

Mr. Stone: Coming back to this stock bonus, Mr. Lauck, if they would declare a stock bonus and divide it up, every one who owned one share of stock would get their pro rata?

Mr. Lauck: Yes, according to the amount of stock in new stock issue.

Mr. Stone: But instead of that, they sell it to the other stockholders at perhaps 60 cents or 70 cents on the dollar, or, in one case, 10 cents on the dollar, and the result is that a few of the wealthy stockholders control the whole outfit, and the little fellow don't get any at all?

Mr. Lauck: He gets his rights, proportionate to his holdings.

Mr. Stone: How can the widow get in there and buy them? She can't buy them. It is only those who really hold stock.

Mr. Lauck: The widow can buy them. If she has two shares she can buy proportionately.

Mr. Stone: Suppose one of these public spirited philanthropists gets a block of 1,000 shares of that stock, at 70 cents on the dollar, and it is worth $1.02. Then he decides to sell it, or his heirs do. Just where does the poor widow come in, in that deal, when she bought it on the market as an investment for $1.02?

Mr. Lauck: I don't exactly get that question.

Mr. Stone: This man, being one of the stockholders, by an action of the Board of Directors, was allowed to subscribe for as many shares of the stock as he wanted, at 70 cents, although worth $1.02 on the market. A few days later, he decides to sell it. He wants to get another steam yacht; or he dies, and his heirs decide to dispose of it. It is on the open market at $1.02. The widow buys it as an investment. Where does she profit by that 70 cent sale?

Mr. Lauck: If she was not a stockholder at the time the bonus was declared, or the right to subscribe at par was declared, she would not profit at all, but if she were a stockholder, she would have such rights as her stock bore to the total amount of stock.

Mr. Stone: Is it not a fact that a few of the large stockholders always take up the full issue, and by hypothecating their stock, raise the money and really turn it over? Didn't you have several striking cases of that in the East?

Mr. Lauck: Not in the case of bonuses. Might be in the case of the flotation of a new company.

Mr. Stone: Not by a new issue?

Mr. Lauck: Not by a new issue, because it would be illegal or impossible for certain stockholders to segregate the benefits to themselves and deprive the other stockholders, but it would have to take place at the time of the promotion of the new company.

Mr. Stone: They generally issue notice that they have so many days to subscribe, and money has to come with it?

Mr. Lauck: Yes; unless they have funds to subscribe to the new stock, at par, they would lose their rights then. They could not participate.

The Chairman: Will you please suspend?

(Whereupon, at 5 o'clock P. M. on the 2nd day of March, 1915, an adjournment was taken to March 3, 1915, at 10 o'clock A. M.)

IN THE MATTER OF THE

ARBITRATION

between the

WESTERN RAILWAYS

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

and

BROTHERHOOD OF LOCOMOTIVE FIRE-MEN AND ENGINEMEN

under the Act approved July 15, 1913, *by agreement dated August* 3, 1914.

Chicago, Illinois, March 3, 1915.

Met pursuant to adjournment at 10:00 A. M.
Present: Arbitrators and parties as before.

The Chairman: Are there any proposed corrections of the record?

Mr. Stone: I have none. Our witness will be here in just a minute, Mr. Chairman.

W. JETT LAUCK was recalled for further examination, and having been previously sworn, testified as follows:

Mr. Stone: Mr. Lauck, when we closed last night, we were discussing that question of stock dividends and stock bonus. I am not at all satisfied that I made myself clear in regard to the matter. If they would declare a dividend, every holder of stock would participate in the dividend, would they not?

Mr. Lauck: Yes, sir.

Mr. Stone: But if they, by resolution of their board, gave them the right to subscribe for a new issue, at a lower rate than the market rate, unless the poor stockholder had some additional money that he has ready to invest, he could not take advantage of that, could he?

Mr. Lauck: He would have the right, but his taking advantage of it would depend on whether he was able to buy the stock or not.

Mr. Stone: And if he didn't, it would simply go to those who did have the money and who were able to buy the stock. There is that difference between the two—between declaring a dividend and between giving them a bonus on the stock, is there not?

Mr. Lauck: Yes; that difference, with this modification: that he would sacrifice his rights. He could sell his rights to someone else. He would have the right to sell his right. That is, it would not accrue to the other stockholders, but the right could be sold.

Mr. Stone: Suppose that these stockholders did not take up all of this subscription to the stock, then what would happen? It would go on the open market, would it not, the rest of it? Suppose they didn't subscribe for an entire stock issue—the present stockholders.

Mr. Lauck: Well, if it was not subscribed, it would have to be disposed of on the open market.

Mr. Stone: Through one of these clearing houses?

Mr. Lauck: Yes, sir; through some fiscal arrangement, either open sale or through some banking arrangement.

Mr. Stone: When stock is subscribed for, several times over, like the late issue of Pennsylvania, bonds, I should say, is there any plan whereby they can pro rate, or does the first man who comes get what he wants, and the rest take what is left?

Mr. Lauck: That all depends on the underwriting syndicate.

Mr. Stone: They can give it to him?

Mr. Lauck: Yes, sir, unless they specifically state that they will allot it proportionately.

Mr. Stone: That is all I want.

Take up this Exhibit 61 again, and go into it. Referring there to page 1, Mr. Lauck, I want to take that matter up further.

Mr. Lauck: Shall I go ahead with that?

Mr. Stone: Yes, sir.

Mr. Lauck: Page 1, for the entire section 1, has to do with stock bonuses and underwriting commissions, during the period 1900 to 1910, primarily, although there are some roads that are shown for a longer period than that time. The totals, however, are for the period 1900-1910, and are based upon the ten representative roads which I have been discussing in the course of my testimony. The way the bonus is arrived at is—if you will refer to page 5, table on page 5, it will be seen that combined statement for all roads is shown there, showing the—say in the case of stock, the total par value of stock issued; then, the amount of that stock which has been issued for cash. In other words, during this period, these ten railroads issued $912,000,000 par value of stock, both common and preferred, $761,000,000 of which was common and $150,000,000 of which was preferred. The par value of that, offered for cash, or issued for cash consideration, was $563,803,128.

The net proceeds to the company for the disposition of that stock—net proceeds which they reported upon their books, was five hundred and sixty-five millions, in round numbers, which was 100.29 of par. The prevailing market prices on contemporaneous quotations is set forth according to the method I spoke of yesterday, given on page 63, I think, as to how the market value was arrived at. I will give you the exact page. Page 62 is the explanation of the table form. Market price per cent of par; based on contemporaneous prices, the price was 144.73 of 1 per cent of par, and the market value therefore was eight hundred and sixteen millions, or the excess of market value over net proceeds to the companies issuing these securities was $250,584,000.

The same way in the case of the funded debt, in this combined statement. The total of all classes of funded debt—the next column to the last, on the bottom of page 5—the excess market value over net proceeds to the company was $9,120,124, or the total excess of market value over net proceeds to the company was $259,705,085, which represents the loss to the companies through issuing the securities at lower rates than they could be sold for in the market at prevailing prices.

Mr. Stone: That is what you treat in the second line on page 1, is it? That is what you mean when you say two hundred and fifty million dollars there?

Mr. Lauck: $250,584,961 less than its market value, or practically gave away this in the form of bonuses—all these roads, through successive stock issues to their stockholders; considering the stockholders as a body, as a whole, and not looking at it from the standpoint of the individual stockholder.

The next point that I make in this connection is that if these securities, or if this money had been obtained—referring again to page 5, the amount of money which they actually received, $565,000,000—had been obtained by selling stock on the open market at the highest prices which could have been secured, they could have gotten that money for much less security issue, of a smaller amount, and, therefore, excess securities were issued, in view of the fact that the money was secured by issuing securities at par.

Referring to page 2—

Mr. Stone: You mean by that, Mr. Lauck, that the obligation on the road would be much less?

Mr. Lauck: Yes; if their stock was worth $150 per share on the market, and they needed money to extend the road or to improve the facilities of the road and they would have sold their stock on the open market, for each share issued they could have gotten $150 or some approximate amount, but if they issued it at par to get this money, say they needed $10,000,000, they would have to issue many more shares at $100 than they would at $150, 50 per cent more shares.

Mr. Stone: The fact remains they could have secured the same amount of cash for building the new track, or improvements, or anything else, if it had not been for these special bonuses, by the issue of $373,000,000 less of capital stock?

Mr. Lauck: Yes, sir, exactly. And, of course, by issuing the securities at par and issuing more shares, the company paying a dividend would thereby incur an added dividend, which would be a drain upon the operating revenues of the company, for which no consideration had been secured, and therefore would be a drain upon the productive efficiency of the railroad.

Mr. Stone: And that $173,000,000 that has been added unnecessarily is a drain every year on the resources of the railroad?

Mr. Lauck: On the productive output; whether due to the men or to the operating efficiency developed by the management.

Mr. Stone: What do the dividends amount to each year, paid on this fictitious stock or fictitious value?

Mr. Lauck: Rather unnecessary stock, I think, would be the better term.

Mr. Stone: All right, we will change it to unnecessary stock.

Mr. Lauck: On page 3 is a diagram showing that on these ten railroads in the fiscal year 1913, that paid in dividends $140,-000,000; this excess stock or unnecessary issue of stock, assuming that they could have gotten the market value for it—probably if they had disposed of it on the market it would have been somewhat lower—but assuming that they had approximately gotten that, if they had issued it and sold it on the market, the proportion of dividends in 1913 which was paid on this excess issue, was $11,276,495 on these ten railroads. In 1913 the total cost of engineers and firemen was $37,000,000, therefore, if the securities had been marketed on the basis of prevailing prices, and this bonus had not been given to stockholders in addition to their regular dividends, the saving in revenue would have been equivalent to approximately 25 per cent of the outlay for engineers and firemen on these roads. The point I have in mind is not condemnatory of the practice, that does not interest me primarily, but the fact that the method of marketing the securities constitutes a drain upon operating revenue which was unnecessary, and if the securities had been properly marketed, this revenue would have been conserved, either for the purpose of increased wage payments, for improving the road, or for any other purpose which might have been deemed wise.

Mr. Stone: If I get your figures correctly, Mr. Lauck, taking 25 per cent increase in wages, of the cost of engineers and firemen for the year 1913, it would amount to $9,450,000?

Mr. Lauck: Based upon their outlay, as reported to the Interstate Commerce Commission.

Mr. Stone: And that is less by almost two million dollars than what was paid out on this unnecessary stock issue?

Mr. Lauck: Yes, sir.

Mr. Stone: And that is shown on page 1, as to the way it is divided up between these several roads, or is that the bonus which you show?

Mr. Lauck: That is the bonus.

Mr. Stone: That is in addition to the other?

Mr. Lauck: That is the amount of bonuses which the stockholders as a whole received, and the excess capitalization is $173,000,000; that is, they could have secured the money which they did secure by the issue of $173,000,000 less securities, if they had sold the securities on the open market, instead of giving the difference between the par value and the market value as a bonus to the stockholders. Therefore, if they had done this, and issued a less amount of stock, there would have been less dividend liability on the part of the company, not only for 1913 but for all years to come. You see, this constitutes permanent and never-ceasing drain upon the productive efficiency of the railroad. It is not for one year, but this goes on forever, until some change in the financial organization of the road takes place. That is, it is a permanent drain on the efficiency of the road.

Mr. Stone: And up to date there has not been any permanent change of any kind; that system still goes on and carries this load?

Mr. Lauck: Yes.

Mr. Stone: Does this amount include the underwriting commissions?

Mr. Lauck: No, sir; the underwriting commissions are given on page 3, as shown —

Mr. Stone: That is over and above this?

Mr. Lauck: Yes, sir, this is just the stock.

Mr. Stone: This is the stock bonus?

Mr. Lauck: Yes, sir.

Mr. Stone: Then the underwriting commissions amount to over $9,000,000 in addition to that?

Mr. Lauck: $9,000,000, yes sir. That is not only the underwriting commission, but what they failed to get between the market and the value of the securities, and what they actually did receive.

Mr. Stone: So they got a net cash proceeds of $841,000,000 for the total par value of $885,000,000. Is that correct?

Mr. Lauck: $850,000,000.

Mr. Stone: $850,000,000?

Mr. Lauck: Yes, sir; $850,000,000, same line.

Mr. Sheean: Mr. Lauck, is that assuming that the entire stock issue was actually marketed at the same figure that the first four quotations of the stock are shown at?

Mr. Lauck: That is assuming it could have been marketed at the first four quotations following the announcement.

Mr. Sheean: Shown on page 62. You arrive at this result by assuming that the entire stock issue could have been marketed and sold at the first four quotations which were shown, after they appeared on the markets?

Mr. Lauck: First four quotations following the announcement of the distribution of the bonus, the idea being that after the bonus was announced—those ex-rights—after the bonus was announced, the effect of the new issue would have been discounted. Of course if you increase the capitalization of the company, you thereby increase its liabilities and proportionately decrease the prospect of dividends, which the stockholder would always take into account. In other words, if you had $100,000,000 capitalization, and were paying 6 per cent and issued $25,000,000, the prospect is the stock would drop 25 points, on account of the possibility of the dividend being reduced.

Mr. Nagel: Does not that in itself prove that the new stock could not have been sold for the price that ruled before the new stock was announced?

Mr. Lauck: Yes, sir; I took that into consideration. That is, I took the price ex-rights. Therefore, it would be discounting the new issue—the effect of it on the previous market through the old issue.

Mr. Stone: The fact remains that if this stock had not been issued in that manner, that these railroads could have paid 20 per cent increase to their engineers and firemen and still been in as good or better financial condition today?

Mr. Lauck: Exactly, yes, sir.

Mr. Stone: More than 25. I said 20, I believe.

Mr. Lauck: More than 25 per cent. Paid 25 and have about $1,850,000 left. Of course if this stock had been—well, you could not have conceived it being issued and not paying dividends on a bonus of this kind. The main point is that by this method of marketing securities, you have a constant liability upon your operating revenues created, which was unnecessary and for which no consideration was received. Therefore, if the men became more efficient, or had to work harder to produce more revenue, the claim that we are putting forth is that those revenues are liable to be used for this purpose, instead of being used to remunerate the increased work.

Mr. Byram: What was the difference between the price of this stock ex-right and with the rights? Have you those figures? What was the value of the rights of subscription?

Mr. Lauck: I haven't those figures, Mr. Byram. It would vary with each issue.

Mr. Byram: Yes, I understand; but you had quotations there, ex-rights and with rights.

Mr. Lauck: I have had those, but I haven't them with me now.

Mr. Stone: You can furnish them, though?

Mr. Lauck: Yes, sir; I can furnish those, if you would like to have them.

Mr. Stone: But this does have a tendency to show, does it not, Mr. Lauck, that if the railroads are in financial straits and hard up, that this is one of the causes that is responsible?

Mr. Lauck: Yes, sir; although that is not the point we are primarily considering in this connection.

Mr. Stone: I understand. This $11,000,000 that is paid each year, the public pays that just the same as they pay everything else, don't they, in the end?

Mr. Lauck: That is paid from the proceeds of the revenues of the road, yes, sir.

Mr. Stone: And the public pays that in the end, do they not?

Mr. Lauck: That comes from the revenue derived from freight or passenger traffic.

Mr. Stone: So this cry that if we increase the wages of the engineers and firemen, the public will have to pay it, the public is already paying something else for which they get no benefit, are they not?

Mr. Lauck: Oh, yes, sir; paying a great deal in that connection.

Mr. Stone: That is all you want to bring out on page 1?

Mr. Lauck: That is all, yes, sir.

Mr. Stone: Now, on page 2, you show the unnecessary stock and bond issues of these different roads?

Mr. Lauck: Yes, sir. The $196,000,000 there—the reason that does not agree with the $173,000,000 on the preceding page is, that that represents a statement of the roads, which follows in detail, and is not confined to the period of 1900 to 1910. That represents a longer period of time. There should have been a sentence explaining that, but somehow it was overlooked in putting in the statement.

Mr. Stone: But that is the reason why the two tables do not agree?

Mr. Lauck: Yes, sir; the one for the ten roads, 1900 to 1910, is $173,000,000 while this is for the period, I think,—1890, in the case of some roads, to 1910, and, therefore, shows a larger amount of excess issues.

Mr. Stone: And at the bottom of the page you show the dividend disbursements during the fiscal year 1913?

Mr. Lauck: Yes, sir, for the ten roads, on the unnecessary capital stock issued during the period 1900 to 1910, or $11,000,000. Total for the Burlington, St. Paul, North Western, Great Northern and Northern Pacific, $11,276,000, which appears in the chart on page 3 as a basis for the comparison which we were just discussing.

Mr. Stone: That is only six roads, and you show on the other side a total for ten representative roads. You only show six here.

Mr. Lauck: That is due to the fact that some of the roads secured more than the market value for stock issues, and that was deducted. These are the roads that show the bonus.

Mr. Stone: Do you show anywhere the underwriting commissions for these railroads, considered individually?

Mr. Lauck: That follows immediately, yes, sir. This is total for the ten roads, and then the detail for eighteen roads, beginning with the Atchison, follows after page 7. In addition to the ten roads, I show the Chicago & Alton; the Chicago Great Western; Chicago, Rock Island & Pacific; St. Paul; the Omaha; the Missouri Pacific and the Wabash.

Mr. Stone: I wish you would go into that, in detail, Mr. Lauck.

Mr. Lauck: The tables on 6 and 7 are duplicates of the tables we have been discussing.

Mr. Stone: Simply a repetition?

Mr. Lauck: Yes, sir; pages 8 and 9—

Mr. Sheean: Pardon me, just before you pass that, please.

Mr. Lauck: Certainly.

Mr. Sheean: I am not quite clear on that. Some of them, under this method of financing, got more than the market value of some of the roads?

Mr. Lauck: Yes, sir.

Mr. Sheean: If you carried out in detail on the system, as a whole, or treating them all as one system, offsetting the gains by this way of announcing, whereby they got more than the market value, as to what effect—have you that in some other place?

Mr. Lauck: Yes; that is shown in this table. Any credits are deducted from the excess. I took into consideration all stock issues, whether bonuses or not. Usually got more than bond issues.

Mr. Sheean: On page 5, that is shown on bonds there?

Mr. Lauck: That is taking it into account there.

Mr. Sheean: On the table on page 5?

Mr. Lauck: Yes.

Mr. Sheean: By this method, there is something over $6,000,000 more received by the railroad companies than the market value of the bonds. I just wanted to clear that up as we went along, to see whether I followed you on that.

Mr. Lauck: Referring to page 5, note 1, you notice $735,-933 in the next to the last column, in the case of the issue of some Collateral Trust 4 per cent bonds. That was in excess of market value; they received more than the prevailing market price.

The same way with the $6,000,000 you mentioned for the plain bonds, debentures and notes, 4 per cent, $6,880,635, or the total of $6,736,885. They were in excess, and were subtracted from the deficit of $9,000,000 as the net loss. Does that make it clear, Mr. Sheean?

Mr. Sheean: I was not quite sure as to carrying down the totals.

Mr. Lauck: I took all stock issues and all bond issues, and wherever the company did realize more than the market value, that was issued as an off-set to the amount when they received less than the market value, and the whole table considers the stock issue from the standpoint of the stockholders, the company as a whole, and not from the individual stockholder. Therefore, the two amounts are the net amounts, although in the case of individual roads you find that set forth in the tables which follow, where there were amounts received in excess as shown for the specific bond or stock issued in the detailed tables which appear from now on to page 62.

Mr. Sheean: So that there were in some issues losses to the people who took them; that is, the company received more money in this way of financing than the market value of the bonds that were put out.

Mr. Lauck: Oh, yes, it might not have been a loss, but it was this situation, that the company offered so many bonds and they got more than the prevailing market price for them, because their credit was good, or because the people thought it was an exceedingly good investment to take it. I don't know the circumstances. Something like—I don't know what the Pennsylvania quotations were, but they sold their bonds recently at more than par, probably at more than the prevailing market price. I don't know the detailed facts there. But that was the general situation in making up the tables.

Referring then to the tables on pages 8 and 9—

Mr. Stone: That is the Atchison, Topeka & Santa Fe Company?

Mr. Lauck: That is the Atchison, Topeka, & Santa Fe Company from the period of 1900 to 1910, inclusive.

The Atchison, during this period, did not issue any stock for cash, but made numerous bond issues for cash, and the total amount of underwriting commissions is the difference between the market value for the securities sold, and the amount the company received, 10,450,816.32, on total bond issues of $186,000,000.

Mr. Stone: This unnecessary capitalization of the Santa Fe, and so on, is not shown in this table; that is shown over in the history of the road, is it not?

Mr. Lauck: Yes, this just covers the period from 1900 to 1910.

Mr. Stone: The actual issues during that period.

Mr. Lauck: The Santa Fe issued no stock during this period. All the stock issues had been practically in 1896, at the time of the reorganization, although there were some securities issued by the Santa Fe which were used to convert stock into bonds, I think, during this period.

Mr. Stone: They show a stock issue during that period of $63,000,000, but it was issued evidently for some other purpose, no cash.

Mr. Lauck: Yes, it was changed for convertible bonds, and was not used to get cash. It was used to convert their stock into bonds; that is, the stock was issued for the purpose of taking up certain convertible bonds which had been issued beforehand.

Mr. Stone: Does it represent any real value anywhere, or just an exchange?

Mr. Lauck: It represented whatever value was back of the bonds.

Mr. Stone: Does that show anywhere in the history of the Santa Fe what that was issued for?

Mr. Lauck: Do you mean in this connection?

Mr. Stone: In this exhibit.

Mr. Lauck: Not in this immediate connection. It shows later in the exhibit on the Santa Fe.

Mr. Stone: All right.

Mr. Lauck: The next road is the Chicago, Burlington & Quincy, the table for which is on page 11. Referring to that table it is seen that the road issued capital stock for cash to the par value of $9,834,000, the proceeds from which issues were $9,834,000, or par. The prevailing market price for this issue in 1901 was 149.51, and the market value $14,703,000, or an excess of market value over net proceeds to the company of $4,869,000. The excess of market value over the net proceeds received was 49.51 per cent of the proceeds actually received by the company.

Mr. Stone: That went where, to former stockholders, in the shape of a stock bonus?

Mr. Lauck: That went to the stockholders as a whole in the form of a bonus.

Mr. Stone: Who owns this stock at the present time; is there anything to show?

Mr. Lauck: I presume that is owned by the Great Northern and Northern Pacific. I do not know, I have forgotten.

Mr. Stone: I do not think so. I do not think the control of the Burlington was taken over at that time. I think it was later.

Mr. Lauck: If it was taken over later, they own it, then; if it was taken over before then, they do not own it.

Mr. Stone: I see. Of course, when they took it over they took over the stock and everything else.

Mr. Lauck: Yes. The Burlington was taken over in April, 1901.

Mr. Stone: But the fact remains that somebody made $4,-869,000 on the deal.

Mr. Lauck: Some one received that difference between market and par value, or the proceeds to the company.

During this same period—

The Chairman: Is it your purpose to show by this table that the stockholders got this amount, under the arrangement which you have mentioned as to the other tables?

Mr. Lauck: Yes, sir, presumably. The primary purpose is to show that as the result of these issues of stock at lower prices than could have been secured by marketing the stock on the market, that unnecessary capitalization was created and a drain imposed upon operating revenues, which is an obstacle to the granting of increased wages to employes.

The Chairman: As the basis for making this calculation, have you ascertained what the stock would have brought at that time, had it been put upon the market?

Mr. Lauck: Yes, sir. That is, I have taken the market quotation for four days following the announcement of the distribution of the stock bonus ex-rights to the individual stockholder, which would allow for the discounting of the effect of the new increase in capitalization. That appears on page 62, the explanation of the method. Of course I cannot say that they could have gotten the prevailing market price, or even have gotten this price, but it is an approximate estimate of what could have been obtained.

The Chairman: Yes, I just wanted to know the basis on which it was made.

Mr. Lauck: Yes.

Mr. Stone: What were all these other issues during that time, that you show in this table, Mr. Lauck?

Mr. Lauck: The other issues were bond issues, either for the purpose of considerations other than cash for the exchange of other securities, or for cash. The total amount of those was $123,000,000, and the amount issued for cash was $111,000,000, and the proceeds received from that were $108,000,000, or 97.97 per cent of par. The prevailing market prices were 101.12 per cent of par, or an excess of market value over net proceeds to the company, representing bankers' commissions and the difference between the prevailing market price and the amount actually received by the company of $3,510,000.

On page 13, is shown a table in which the same computation is made as in the case of the totals, as to the amount of dividends or proportion of dividends which is applicable to this excessive stock issue. In 1913, or for the year 1913, it was $260,693 out of total dividends of $8,867,000.

Mr. Stone: So the excess of market value during this period, as shown on page 11, is $8,379,000, is that correct?

Mr. Lauck: The total, yes, sir; the total stock and funded debt. The stock issues in the last column, or bond issues, are for considerations other than cash. They are carried to show the comparison between the amount issued for cash and the total issues.

Mr. Stone: At the bottom of this page 13, below your table there, you show what an increased wage allowance would mean. How do you arrive at that calculation?

Mr. Lauck: I arrive at that by taking the total outlay for engineers and firemen in 1913, by the Burlington Railroad, and computing what 10 per cent, or 15 per cent, or 20 per cent, or whatever the per cent might be, would be of the gross outlay or cost to the Burlington, for engineers and firemen during that period.

Mr. Stone: You show there that a 15 per cent advance in the wages of engineers, firemen and hostlers would amount to $627,000?

Mr. Lauck: Yes, sir.

Mr. Stone: That is for the entire Burlington System?

Mr. Lauck: That is the Burlington Road proper, yes, sir; not the Colorado & Southern.

Mr. Stone: And you show in the table $260,693 was paid out for that excess stock?

Mr. Lauck: Yes, sir; that is the dividend which would have been saved if the securities had been marketed at the prevailing market price, and would have been available from revenues for increased wage payments or for other purposes.

Mr. Stone: Then in your next paragraph you combine that $260,000 with the interest on this excess capitalization, for that time, do you not?

Mr. Lauck: Yes. The next paragraph I compute—say if interest were allowed at 4 per cent on excess bond issue, it would amount to $138,000 annually, which is a similar drain upon the revenues of the company. The total amount being $399,180 annually.

Mr. Stone: Equal almost to a 10 per cent increase in the wage payments to the engineers, firemen and hostlers?

Mr. Lauck: Less. Lacking $19,000.

Mr. Stone: The next road is the Chicago, Milwaukee & St. Paul.

Mr. Lauck: Yes; that appears on pages 14 and 15. There we have numerous stock issues made during the period of 1900-1910. A total of $68,000,000 in common stock, and of $75,000,000 in preferred stock, or a grand total of $144,000,000 of both classes of stock having been issued, of which $134,000,000 was issued for cash. The cash proceeds realized were 101.17 of par, or $136,000,000, in round numbers.

The market price, based on contemporaneous quotations, was 156.63, or the market value $211,000,000, in round numbers, and therefore the excess of market value over net proceeds to the company was $74,000,000 in round numbers, or the excess of market value over net proceeds is almost 55 per cent of what the company actually did receive. That is, there was—

Mr. Stone: You would consider that quite a good investment, wouldn't you?

Mr. Lauck: Oh, undoubtedly; that is a 74 per cent distribution practically, if issued share for share; but what the company did receive was in excess of market value as compared with that, of 54 per cent, which it might have received if the securities had been issued at previous quotations.

In the case of the bonds there was a total of $57,165,000 in bonds issued for cash. The per cent of par realized was 96.42. The prevailing market quotations were 98.07 of par, or there was a loss between prevailing market prices and the amount actually received of $941,000, which was only 1.7 per cent of the net proceeds received, which was a very fair amount to receive, and seems to indicate that the company did actually realize what it could be expected to realize on its bond issues.

Mr. Stone: What was the total amount of stocks and bonds issued during that time?

Mr. Lauck: The grand total of stock and funded debt or bonds issued during this period, 1900 to 1910, both for cash and for considerations other than cash, was $220,000,000.

By referring to the notes it will be shown there that—refer to the last column—that a considerable portion of these securities were issued in return for the securities of other properties which were acquired during this period. That phase of the matter I have not gone into, any more than to indicate that that was the fact.

You will note in the fourth common stock issue by this company in 1908 of $194,000,000—

Mr. Stone: $194,000.

Mr. Lauck: $194,000, that they realized more on the sale of that stock than the prevailing market price. That is, they realized 142 on the stock, and the prevailing market price was only 118, or they realized $46,490 more than the prevailing market price.

The Chairman: Was that block of stock put on the market outright?

Mr. Lauck: I could not say; I don't know.

Mr. Stone: You can find that out, can't you?

Mr. Lauck: I can look that up; I don't recall.

Mr. Nagel: Do you think that a quotation in the open market for stock can be safely accepted as the price that might have been realized for the entire issue?

Mr. Lauck: I think that a series of quotations following the announcement that they are going to issue new stock, sufficient time being given to discount the effect of that—you have to consider the earnings of the company, which the stock market would do, and so on, and what would be the effect of the issuing of this new stock—that the prevailing market price then would be approximately what the securities would bring if disposed of on the market.

Mr. Nagel: Are not there frequently special reasons present for wanting to buy a certain quantity of new stock, which would not embrace the entire issue?

Mr. Lauck: To secure control, or something of that kind?

Mr. Nagel: Any reason of that kind.

Mr. Lauck: Oh, yes, sir.

Mr. Nagel: And do you think that an agreement to take the entire issue would be a valid consideration for a somewhat lower price than the quotations?

Mr. Lauck: I think so. That is, if a banking group would agree to guarantee the company a certain price for its stock issued, I think it would be a consideration to the company to have it handled in that way, because they could be assured of the resourecs they would receive and free from any anxiety as to whether or not they could sell it advantageously.

Mr. Nagel: Is it not true that generally a new issue would not be made, unless the railroad was assured of its ability to place the entire issue?

Mr. Lauck: I think that is right.

Mr. Nagel: In other words, the transaction involves a certain plan which depends on the ability to place the whole issue?

Mr. Lauck: Of course, that would be finally dependent upon the financial status of the company at that time.

Mr. Nagel: Whatever the status might be, the assurance is necessary—that is, the ability to sell it is a necessary condition to the issue?

Mr. Lauck: Yes, of course, it seems to me that, in part, that condition should be a realization on the part of the company that it could sell; that investors will willingly take a stock that is very profitable. That is, take, for instance, stock like the Burlington, paying 8 per cent. If that could be secured at an advantageous price, paying dividends uniformly for a long period, the company could feel assured that they could dispose of that stock on the open market.

Mr. Nagel: Of course, if the company has the assurance, it need not pay for it; but without speaking of these particular profits, or the amounts, or the fairness or unfairness of them, I want to know whether, in your opinion, a company might be justified to take a somewhat lower price than the ruling quotation, in consideration of a guarantee that the entire issue would be placed within a given time?

Mr. Lauck: Oh, undoubtedly, yes, sir; because it would enable them to—at least, I should think that would be my attitude, if I were a financial official of the company—because it would enable me to carry out whatever plans I had for the use of that money and feel assured that they would not be interfered with.

Mr. Stone: And you sum up the table on the top of page 16, do you not?

Mr. Lauck: Yes, sir; and there is a diagram on page 18, showing the relation between the dividends paid upon this excess stock, and the certain designated increases to engineers and firemen. That is, the portion of the dividend of the St. Paul, in 1913, applicable to this stock issue, as shown on page 18, would be $2,853,000. The total cost of engineers and firemen for this year was $5,421,000, and a 25 per cent increase would have been less, considerably—over a million dollars less than the dividend allotment to this unnecessary stock issue. The next table—

Mr. Stone: Before going into that, I want to refer back to page 17. Is that the same thing?

Mr. Lauck: That is the table which is the basis of the diagram.

Mr. Stone: All right.

Mr. Lauck: The next road considered is the North Western table, on page 19. The diagram on page 21. The North Western made five issues of stock, for cash, during this period, and the excess of market value over the net proceeds to the company, from these stock issues, was $63,000,000. The excess of market price of funded debt over the amount actually realized by the company was $547,000, representing 2.7 per cent of the proceeds to the company. The excess of market value in the case of the stock issues was 70 per cent of the net proceeds actually received; or, in other words, 70 per cent more of the proceeds could have been realized, had the stock been marketed at the contemporaneous market prices.

Mr. Stone: Is that what you call "cutting a melon?"

Mr. Lauck: That is the usual Stock Exchange phrase for operations of this kind, yes, sir.

Mr. Stone: That was "quite some melon."

Mr. Lauck: That was 70 per cent of the actual proceeds, or 70 per cent to the stockholders, as a whole.

Mr. Sheean: This was $6,600 worth of stock, was it not?

Mr. Lauck: $91,000,000.

Mr. Sheean: The 74 per cent you are talking about.

Mr. Lauck: 70 per cent; page 19, on the stock bonuses. The market price per cent of par.

Mr. Stone: In other words, they got $91,000,000, while the market value of it was $154,000,000?

Mr. Lauck: Yes, sir.

Mr. Stone: So they got the benefit of the difference?

Mr. Lauck: They got the benefit of the difference, which was 70 per cent of what the company actually received.

Mr. Stone: And the fact remains that it now stands as a burden on the company of the stock issues?

Mr. Lauck: They actually issued $91,000,000 of stock. The excess was $37,500,000. Or, in other words, referring to this small table, indented on page 20, under Capital Stock, they could have gotten the same amount of money for a stock issue of $37,000,000 less, and, therefore, an unnecessary issue to that extent was created.

Mr. Stone: The fact remains that they will have to pay that extra $37,000,000 as an added burden on the resources of the company?

Mr. Lauck: Yes, sir; it becomes a constant claim on the operating revenue, so long as the credit of this stock is maintained. So long as dividends are maintained, disbursements must be made on that large amount, annually, according to the present rate of dividends, of $2,627,000.

Mr. Stone: Almost, in fact, just about one-half the amount they pay each year for engineers and firemen.

Mr. Lauck: Just about one-half, yes, sir; 50 per cent of that amount.

Mr. Stone: And almost double what a 25 per cent increase, in wages to engineers and firemen, would amount to on that road?

Mr. Lauck: Exactly, yes, sir.

Mr. Sheean: Mr. Lauck, did you make any investigation with reference to the Milwaukee and North Western here, as to whether or not these issues of stocks and bonds, in later years, on which you make these comments, were made under the supervision of Utilities Commissions of the States through which they run, and whether or not they were required to issue them in the particular form that they were issued?

Mr. Lauck: I made no such investigation. I do not know, but I suppose some states in the West require the sanction of a Public Utilities Commission.

Mr. Sheean: These last two roads, running through Wisconsin?

Mr. Lauck: Yes, they would in Wisconsin, undoubtedly.

Mr. Sheean: And the particular form of the issue and the manner of its being put out, is under the supervision of that commission, is it not?

Mr. Lauck: I think they have a railroad commission in Wisconsin, which passes upon stock issues. That is, it must give its official sanction, before stock may be issued to the public.

Mr. Sheean: Well, or issued at all?

Mr. Lauck: Issued at all, yes.

Mr. Stone: At the rate they have been issuing, in the last few years, it would not appear that they had much difficulty in getting that sanction?

Mr. Lauck: I know nothing about the facts of that. It would seem that way. I happen to know that Wisconsin has a Railroad Commission, but beyond that, I am not acquainted with the situation in the West. I would imagine Wisconsin would have one, though, if any state would have.

Mr. Stone: But the one fact does remain that they keep right on issuing stock, from some cause or other, and they have issued lots of it in the last ten years.

Mr. Lauck: Up to this period, yes, sir. There is not much stock issuing being done now.

Mr. Sheean: But whether or not stock of an amount that could avail itself of the market opportunities that are suggested here, would be dependent on whether the commission of that state would approve the issue in that particular form, would it not?

Mr. Lauck: If they had such a law and such a commission, yes.

Mr. Stone: Is it not a fact, Mr. Lauck, that railroads generally take advantage, whenever there is an unusually good year, and money is plentiful, to get out these stock issues? They take advantage of good times and capitalize prosperity at every opportunity?

Mr. Lauck: They take advantage of the most advantageous time to issue their securities, yes. Of course, any corporation would do that.

The next railroad considered is the Great Northern, pages 22 and 23, and the diagram on page 25.

Mr. Stone: It is very evident, from the looks of this table, that they got somebody's consent.

Mr. Lauck: Yes, they made quite a number of stock issues from 1900 to 1910. You will note also that this table covers the period, 1890 to 1913.

Mr. Stone: Yes, I understand.

Mr. Lauck: Having some issues as late as last year or year before last. That shows stock issues from 1890 to 1913, of $222,000,000, of which amount there was issued for cash $177,-000,000, the prevailing per cent realized being 100 per cent of par, the prevailing market price being 144.47 per cent of par, and the excess of market value over net proceeds to the company being $79,136,000, or in other words, the company realized $177,-000,000 of actual cash out of a total market value of $257,000,000.

Mr. Stone: And the stockholders got the benefit of the difference?

Mr. Lauck: Yes, sir. This table is a very conservative statement of the bonuses issued by the Great Northern. As a matter of fact, they have been much greater than that. The new Great Northern has even issued first mortgage bonds at 10 per cent of par to its stockholders, in order to distribute its increased earnings, so the $79,000,000 there is exceedingly conservative.

Mr. Stone: And those bonds, at the time they were distributed, at 10 per cent of par, were worth more than par on the open market, were they not?

Mr. Lauck: I have forgotten the exact quotation. They were worth par, anyhow. They were bonds of the first order, and there was a 40 per cent dividend given to the stockholders in that form immediately prior to 1890, I think during the latter '80's, by permitting them to subscribe to the highest class bonds at 10 per cent of their value, which, distributed over the entire stock, made a 40 per cent dividend.

On page 25, is the diagram bringing out the relation between the dividends paid upon the excess capitalization and the cost of engineers and firemen. The dividends or the proportion of the dividends applicable to the excess stock was $3,833,000; the total cost of engineers and firemen was $3,249,000, which was—well, the dividend was more than 100 per cent of the cost of engineers and firemen.

Mr. Stone: So here we have a road carrying a load that amounts to more each year than the entire cost of its engineers and firemen?

Mr. Lauck: Yes, sir.

Mr. Stone: And it all has to be paid for out of productive efficiency?

Mr. Lauck: It has to be paid out of the actual earned operating revenues of the road, which may arise from the work of the men, operating efficiency of the men, or other cause.

While we are on the Great Northern, I would refer to pages 70 and 71. On those two pages will be found a detailed statement of the different bonuses in greater detail, made by the Great Northern during the period, 1890 to 1910.

In 1890, this company had a stock capitalization of about $20,000,000. From that time forward it was constantly increased: In 1892, there was a bonus on a bond issue of $4,125,000. In 1893, a special stock bonus, which is considered in the preceding table. In 1898, they declared a stock dividend of 50 per cent, and the same year they—

Mr. Stone: The same year they doubled the capitalization of the company also, did they not?

Mr. Lauck: Yes, sir; and in the same year they also distributed indirectly a dividend on the Manitoba stock, or a bonus of about $23,000,000. And in 1899, 1900, they gave bonuses on stock issues. These bonuses are considered in the preceding table.

In 1901, they also gave another large bonus, and in 1905-6 the same. Then, in 1906, occurred the so-called distribution of ore certificates, which were estimated at the time of this distribution to the stockholders $127,000,000, or a conservative estimate of all these bonuses issued by the Great Northern to its stockholders during this period would amount to about $300,000,000, which represents the distribution of that much of the resources of the company, which if they had been conserved, would have been yielding revenues which would have been available, either for better wage payments to employes, or for the improvement of the property or for the reduction in charges to the public. Conservatively speaking, though, about $300,000,000 was given away by this road during this period. The interest on that would amount to about a 40 to 50 per cent increase in wages to all the employes of the Great Northern Railroad.

Mr. Stone: To say nothing about touching the principal?

Mr. Lauck: No, for the engineers, firemen or any other class of employes.

Mr. Stone: All employes?

Mr. Lauck: Yes, sir.

Mr. Stone: Referring back to page 25—

Mr. Lauck: I think we had finished with the Great Northern.

Mr. Stone: Yes, the Illinois Central comes next.

Mr. Lauck: The table for the Illinois Central is shown on page 26 and the diagram on page 28. In the case of the Illinois Central, during the period 1901 to 1909, inclusive, they issued stock for cash to the par value of $49,296,000, for which they received par in cash. The prevailing market prices were 143 per cent of par, and the excess of market value over net proceeds to the company was $21,000,000. In other words, they received par, $49,296,000, when, if the stock had been marketed approximately at the quotations prevailing, they would have received $70,497,000.

Mr. Stone: So that the stockholders got the difference between $49,000,000 and $70,000,000, or $21,000,000?

Mr. Lauck: Exactly, which was 43 per cent of what the road actually did receive.

Mr. Stone: It really amounts to a stock bonus of that much, does it not?

Mr. Lauck: Yes, 43 per cent, if they had got par. If these securities had been issued at approximately market quotations they would have been relieved from the necessity of having issued $14,825,000 of capital stock, on which dividends are now being paid, or the operating revenues of the company, referring to page 28, would have been freed from the annual burden of $889,000, which is slightly more than 20 per cent of the total amount paid to engineers and firemen annually by the Illinois Central Railroad.

Mr. Stone: In other words, what they pay out on this unnecessary issue would more than pay a 20 per cent increase in wages to engineers and firemen?

Mr. Lauck: Yes, sir.

Mr. Stone: And that burden, of course, is carried by the road and has to come out of the earnings of the road?

Mr. Lauck: Is carried indefinitely so long as the credit of the company is maintained.

The next road is the Northern Pacific Railway, which appears on pages 30 and 31.

During this period, from 1897 onward to 1907, the Northern Pacific issued a total par value of stock of $323,000,000, of which $93,000,000 was issued for par, on which they realized par, and of which the prevailing market price was 114 per cent of par, or an excess of market value over net proceeds to the company of $13,252,000.

That is also a very conservative estimate, for the reason that the market prices taken there, as in the case of the Great Northern and some of the other roads, in some instances, it was impossible to follow the method pursued by the Railroad Securities Commission, and in order to be absolutely conservative, the lowest market price which prevailed during the year was taken, instead of the four quotations following immediately upon the announcement of the distribution.

Mr. Stone: There were a few times that the prices soared clear out of sight, were there not, during the fight for supremacy?

Mr. Lauck: I think this stock sold at about $1,000 a share, practically that, when Mr. Morgan and Mr. Harriman tried to get control of the stock, about 1900 and 1901. But that would not enter into this at all, or did not. Of course it would not be considered, and the lowest market price that could be found for the year was taken, where we could not follow the method of the Railroad Securities Commission.

Mr. Stone: And even with that it shows a difference between $93,000,000, the amount they received, and $106,000,000, what the market value of the stock was?

Mr. Lauck: Yes.

Mr. Stone: Or a difference of $13,000,000?

Mr. Lauck: $13,252,000.

Mr. Stone: And the stockholders got the benefit of the difference?

Mr. Lauck: Yes, sir. That is shown in bracket form on page 33, the total dividend payments being $17,000,000; the proportion applicable to this excess stock, according to this method of computation, being $812,000, which was slightly more than

20 per cent of the total outlay for engineers and firemen during the year 1913.

On pages 66 and 67 will be found more detailed data relative to the Northern Pacific and to the special disbursements to stockholders during this period.

Mr. Stone: Have you summed them up?

Mr. Lauck: This is just for the two years 1907 and 1908, I should have said.

During 1907 they made a special disbursement to stockholders, according to the then prevailing market price, or bonus, of $80,000,000, which does not appear in this table, and which is impossible to get the exact quotations for. But, taking it on the basis of quotations issued at that time, it was about $80,000,000.

The same year, the North Western Improvement Company, which it will be recalled was the subsidiary of the Northern Pacific, to which it transferred a large proportion of its land grants, declared a dividend of 629 per cent on its stock, from the proceeds of land sales, and other activities in which it was engaged on behalf of the Great Northern, from the sale of timber lands, primarily, I think, to the Amalgamated Copper Company and the Weyerhaeuser Lumber Company—they declared a dividend of 629 per cent, which resulted in a special dividend of $11.26 per share to the Northern Pacific stockholders. This dividend was declared out of the accumulated surplus of the company at that time, the surplus being especially created for that purpose by the company, which had not carried a surplus up to that period.

Mr. Stone: They also accompanied that with an announcement, did they not, that no part of that had been derived from the transportation business?

Mr. Lauck: Yes.

Mr. Stone: They wanted that distinctly understood, that it had come from somewhere else?

Mr. Lauck: Yes, this North Western Improvement Company, which still exists, and which is the subsidiary which handles the lumber operations primarily of the Northern Pacific. This dividend was a great surprise to the stockholders of the Northern Pacific, because they had not known anything about the North Western Improvement Company, practically, and they were very pleasantly surprised by the special disbursement, not realizing that any such assets were being held by the Northern Pacific Company.

It was noticed also that this special dividend was paid, of $17,000,000, if I remember correctly the total amount of the dividend—

Mr. Stone: Paid in cash?

Mr. Lauck: Was paid in cash, at the same time that new stock was being issued at par to stockholders, which was selling at $180, for the purpose of securing additional funds for the road. It would seem that if additional funds had been needed, it would have been better financing if the proceeds of the profits made from its operations had been used for the purposes for which funds were needed, rather than to issue new stock at par to stockholders, which was selling at $180 a share on the open market, or to give them a special bonus at this time. In other words, the two things were inconsistent.

Mr. Burgess: Well, Mr. Lauck, explain this last paragraph. Why is it necessary to issue new stock and at the same time distribute accumulated surplus? I don't understand that. There is a whole lot about this book that I don't understand. I want to convey that very clearly. But I would like a little explanation on that, if you can give it to us.

Mr. Lauck: From the standpoint of the company, it seems to me it was indefensible. That is, the idea was, from the standpoint of the stockholders, that they were accumulating earnings so rapidly that they were making these different distributions. But, the inconsistent thing was to issue stock to get money or capital for additional extensions or improvements of the road, and simultaneously to declare a special dividend of $17,000,000. And it would seem that the interests of the road as a whole, or, from our standpoint, the output of the road, would have been better conserved by putting the money back into the road, or by issuing the stock at the prevailing market rate.

But it would be inconsistent if you needed money, to issue stock at a very great discount to the stockholders, and at the same time disburse $17,000,000 to stockholders which was held in the treasury of the company.

Mr. Nagel: Would it have been improper to retain the surplus and issue stock for it?

Mr. Lauck: It would have been perfectly proper, yes, sir. That is, they would have the right to do that.

Mr. Nagel: In other words, you think it is proper for a railroad to issue stock for increased value of its property?

Mr. Lauck: I think that Mr. Sheean and I were discussing that yesterday, and my personal opinion was that it was not—that is, I would have to hold that that would not be proper: otherwise, the accumulated results of the operation of the road could be capitalized at any time, and absorbed in that way, the same way they could any stock against earning power.

Mr. Nagel: Then, in your opinion, the stockholders would always be restricted to a dividend upon the original issue?

Mr. Lauck: Upon the amount which they actually invested in the road, yes, sir.

Mr. Nagel: Should the dividend be restricted?

Mr. Lauck: If it was, it ought to be guaranteed, I think, but it should not be restricted.

Mr. Nagel: Then, what is the difference between a large dividend on a small issue of stock, and a small dividend on a large issue of stock?

Mr. Lauck: Well, in practice, no difference.

Mr. Nagel: What is the essential objection to issuing new stock to cover an increased value of property?

Mr. Lauck: Well, this value of property—I am looking at this from the standpoint of a railroad being a quasi-public institution. This new property has developed. We don't know how it has developed. If it has developed from the managerial ability, or from the stockholders taking the risk, then surely they should have the right to acquire that property, through a stock issue, or through its being distributed directly to them, but if it is the result of the accumulated development of the country, or if it is a result of the efficiency of employes, which has not been distributed to them, but which has been accumulated, then it would seem to me that no one, either the employes or the public, could ever expect any benefit from the operation of the railroad.

Mr. Nagel: Of course, I appreciate these several considerations, but assuming that the men have been adequately taken care of, and that beyond all of the considerations that you have mentioned, there is an increased earning power, that increases the value of the property, does it not?

Mr. Lauck: Yes, sir.

Mr. Nagel: And that value may be expressed, either in higher dividends upon the existing stock, or an increase of the stock issue and correspondingly lower dividends?

Mr. Lauck: Yes, sir.

Mr. Nagel: It comes to the same thing, does it not?

Mr. Lauck: Yes, sir. I would say that if the men had been properly compensated—if it should be estimated that they have and that the public had received fair treatment in the way of charges, which would be the contention of the public, why, then the stockholders would be entitled to it in any way they want to take it. I was going to add that my contention here is that it has been claimed by our opponents that there has not been sufficient gain from productive efficiency, to meet the new capital commitments which have been made by the railroads, and I am endeavoring to show that if the roads had conserved their resources and had not indulged in improper financial practices, that the resources would have been conserved, and they would have been yielding revenue, which would have been sufficient for capital requirements, and leave something, if it should be deemed the engineers and firemen should have something more.

Mr. Nagel: If such an increased issue of stock had, without first taking care of proper charges, including the men and considering the public, that would, of course, simply be a squeezing of the lemon.

Mr. Lauck: Yes, sir.

Mr. Nagel: Such an issue could be justified only after full consideration has been given to all of these obligations?

Mr. Lauck: Yes, sir. Then I should thoroughly agree with the statement that the stockholders were entitled to all the property accruals and earning power. I am making this argument, because of the statement on the other side that there is not available, or productive efficiency has not been attended with, any profits.

Mr. Nagel: Then, that is one manner in which the stock issue may take place in an organized concern?

Mr. Lauck: Yes, sir.

Mr. Nagel: Another is when the company undertakes to raise new cash for a stock issue, and that new issue may be sold to existing stockholders, pro rata?

Mr. Lauck: Yes, sir.

Mr. Nagel: Do you think it would be justifiable to sell such new issue to existing stockholders at par, when the ruling price is 170?

Mr. Lauck. No, sir, I think not. Despite all considerations, I think that they ought to get the prevailing price for the stock. I think it would be much more justifiable to capitalize the accumulated assets.

Mr. Nagel: In other words, in your opinion, such a transaction would protect the stockholders and be fair to them, but would, incidentally, put a burden upon the public?

Mr. Lauck: Yes, sir; it would be a standing argument against reduction in freight charges, or increases in wages to employes.

Mr. Nagel: And the transaction would be justified only if a reasonable price is obtained, and it might be recommended if it rendered possible a ready and prompt sale.

Mr. Lauck: Yes, sir, if the credit or conditions were bad, like they were last summer, or some such condition as that prevailed, that would be a justification for it. If the company had to have money and could not get banking support, yes. Otherwise, I see no ground for it.

Mr. Nagel: Then, the new issue might be placed with one concern, as you have instanced here several times?

Mr. Lauck: Yes, sir.

Mr. Nagel: And again, a lower price than the ruling quotation might be justified as a consideration for a prompt sale of the entire issue?

Mr. Lauck: In times of emergency, or normal times, even, if the commission is moderate.

Mr. Nagel: And again it becomes a question of proportion of price and amount of commission?

Mr. Lauck: Yes, sir.

Mr. Nagel: Whether they are in themselves reasonable or not.

Mr. Lauck: Yes, sir, the fundamental consideration there, it seems to me, is as to how far the institutions which control credit use or abuse that power, and to what extent they should be regulated.

Mr. Nagel: And finally you may offer the entire issue to the public?

Mr. Lauck: Yes, sir.

Mr. Nagel: That is fair in theory and may prove disastrous in practice?

Mr. Lauck: It may be, yes, sir; although, if it is a good issue, we must naturally expect, or would expect the public to be very glad to subscribe to it.

Mr. Nagel: And that "if" is a very significant condition?

Mr. Lauck: Well, of course, in the case of bond issues, there would not be much liability there that the public would not subscribe. As to the stock, they would probably want the sanction of some banking house back of it, unless it was an old established stock, like the New Haven used to be, when it was a favorite investment among savings banks and people in New England, or individuals in New England.

Mr. Nagel: And these several roads have, from time to time, employed these several methods?

Mr. Lauck: Yes, sir.

Mr. Nagel: With every grade of margin in the transaction?

Mr. Lauck: Yes, sir. Another significant thing has been that of the stock distribution. The significant outcome of it is, it seems to me, and where it is deplorable, if you issue the new stock at par, when it is selling high on the market, of course that indicates that the earning power of the company is high, because they expect to use the earnings to keep the market value sustained. If there is a reverse in business conditions, or a reverse like the case of the flood in the South, which caused the Illinois Central to lessen its dividends, you are running the risk of destroying the credit of the company and also increasing the risk to the investors. For that reason, I should say, issuing stock at par to the stockholders, and not realizing the full value which can be realized, is a bad practice from the standpoint of the railroad and the investor also.

Mr. Stone: Is there not this difference between a high dividend on a stock, perhaps during a high earning period, and the issuing of a whole lot of stock which becomes a permanent burden on the property?

Mr. Lauck: Yes, sir; that is, if you would—

Mr. Stone: You might pay 15 or 20 per cent on that stock during these years of your high earnings, while, instead of paying that, if you issued some more stock, it would become a permanent burden forever, would it not?

Mr. Lauck: Yes, it becomes a permanent claim upon the operating revenues of the company. That would be the same point I was just mentioning. The stock bonus is capitalizing earning power as distinguished from what Mr. Nagel stated was a capitalization of assets. If you capitalize earning power you create a much larger volume of liability against earning power than you would if you capitalized assets.

Mr. Stone: And that is what has brought the railroads into the present condition that they find themselves in today, is it not?

Mr. Lauck: That is one of the primary causes, I think, yes, sir.

Mr. Nagel: Your answer was based on the ability to ascertain a reasonable valuation for this further capitalization.

Mr. Lauck: Yes, sir—I beg your pardon, I did not get that question.

Mr. Nagel: Your answer was based upon the ability to establish a reasonable valuation for the further capitalization. Mr. Stone is making a distinction between a present high dividend and—

Mr. Lauck: I meant simply to carry out a little further the point that we were discussing. I believe I said you stated that. I stated that, I beg pardon. I did not mean to attribute it to you. It was that with the capitalization of assets there would probably result a much smaller volume of security issues than the capitalization of earning power.

Mr. Stone: But in this case here, on the Northern Pacific, we have an example of where a company is dividing a profit of $17,000,000 in a special dividend, or a cash bonus, while at the same time they are trying, with a new stock issue, to raise funds.

Mr. Lauck: Yes, sir.

Mr. Stone: And instead of putting that new stock issue on the market at $186, at which it was quoted, they sold it to their stockholders for par?

Mr. Lauck: Yes, sir.

Mr. Stone: So, in addition to the cash bonus of some eleven or twelve dollars per share, they also got the benefit of the difference between par and the 186 on the new stock issue?

Mr. Lauck: The stockholders did, yes.

Mr. Stone: Yes?

Mr. Lauck: Yes, they got a special dividend.

Mr. Stone: And it does not look consistent, distributing money which they have stored up, and being out on the market trying to get money with a new stock issue at the same time.

Mr. Lauck: It is inconsistent from the standpoint of getting new capital and was inconsistent from the standpoint of needing capital. If they needed capital—

Mr. Stone: They might have used some of this $17,000,000?

Mr. Lauck: They might have used some of this $17,000,000 and reduced the new issue of $93,000,000, I believe, to about $66,000,000.

Mr. Stone: But instead of that, they distributed $17,000,000 and put out $93,000,000 of stock, which became a permanent burden on the earnings of the road?

Mr. Lauck: On the earning power of the road.

Mr. Stone: And, incidentally, the stockholders got the benefit of the difference between par and 186, and incidentally they got the benefit of $17,000,000 that was distributed in cash?

Mr. Lauck: Yes, that is, the stockholders got this benefit, which left a liability, in addition to the par value of the stock issued, which is a permanent liability and will be a permanent claim, which, according to present methods of distribution of the output of the railroad, or of operating revenue, is a claim which is urged as taking precedence over wage demands, or reduction in freight rates, or any other matters of that kind. That is, the capital charge must be met first.

Mr. Stone: The next is the Southern Pacific?

Mr. Lauck: That is on page 33, and the table is on pages 34 and 35. There we have, in the case of the Southern Pacific, a par value of stock issued during the period 1900 to 1907, for cash, of $74,000,000 in round numbers, the market value of which was $83,000,000 in round numbers, and the company realized 100 per cent of par value, or $8,409,000 less than the prevailing market prices.

This is another case where we had to use the low market quotation for the year, the lowest market quotation we could get, instead of the quotations following the announcement of the stock issue, which gives every benefit to the consideration of the other side of the question.

Mr. Stone: There was quite a difference between the high and low market quotations for the stock for the year, was there not?

Mr. Lauck: Yes, sir, the computation is based on the lowest that was quoted for the year, however, in order not to seem to claim any more than the minimum that could have been secured.

Mr. Stone: They also issued a great many bonds for other than cash?

Mr. Lauck: Oh, yes, they were used primarily for the Southern Pacific Railway Company and the Central Pacific Railway Company.

Mr. Sheean: Does that mean, on getting that $8,000,000, that if they had sold during that particular time, they would have made that, but they paid 100 cents on the dollar for all of that stock issued as shown there, and any one who paid that 100 cents on the dollar and held it today, on the market quotations, would get 82 for it.

Mr. Lauck: I do not know what the quotation is. If that is the quotation—

Mr. Sheean: That is yesterday's paper, Southern Pacific high 82¾ and low 82. Now, this table shows that every one paid 100 cents on the dollar for that stock.

Mr. Lauck: Exactly.

Mr. Sheean: And anyone paying his 100 cents on the dollar and holding that share of stock until today, if he sold it today, would have to sell it at 82, or 82¾?

Mr. Lauck: Well, of course, at the present time, market prices are abnormal, Mr. Sheean.

Mr. Sheean: And if within four months of the time he had actually sold it, at the figure of 109, there would have been this difference?

Mr. Stone: And if he had taken advantage of the high spot, and held it at 139⅛, he would have had more yet.

Mr. Lauck: This is the lowest quotation for the year. I was just explaining that in some cases we could not get the quotation for the four days immediately succeeding the announcement, as per the method of the Railroad Securities Commission, and this is based upon the lowest quotation for the year, the bonus there, and if he had sold it at that, he would have made this amount of $8,409,000, or would have made $9.00 per share. Of course if he would sell that stock now, and he paid $100 for it, he would lose $18.00 a share, but it seems to me that the prevailing market prices are not normal at the present time.

Mr. Sheean: I just wanted to make sure that I understood the table. This assumes that if they had sold the entire issue at this price, there would have been this profit?

Mr. Lauck: Yes.

Mr. Sheean: But if any of these people who paid 100 cents on the dollar, have been so unfortunate as to hold it until today, all that they could get for what they paid 100 cents on the dollar for is 82 cents?

Mr. Lauck: That is correct. Of course, they have gotten all kinds of benefits, probably. Not all kinds of benefits, but they have also received other benefits from the stock during this period.

Mr. Stone: It is also true, is it not, Mr. Lauck, that there were times during that period when they could have sold their stock on the market for $139\frac{1}{8}$?

Mr. Lauck: Oh, the very time the stock was issued the highest for the year was 139.

Mr. Sheean: How many shares sold at that price?

Mr. Lauck: I do not know; we took the highest, in order to be ultra-conservative, so that no claim could be made that we were trying to claim more than the minimum.

Mr. Stone: If we had gone to the other extreme, as they did in the application of some of our articles, we would have taken the 139?

Mr. Lauck: Well, it would have been the maximum which he could have gotten, yes, sir.

If no further questions, I will pass to the Chicago & Alton.

Mr. Stone: Just before you leave this. You say these bonds were all issued for other than cash value, to take up securities of the Southern Pacific and Central Pacific roads?

Mr. Lauck: They were probably issued for that purpose, yes, sir.

Mr. Stone: What was the amount of bonds issued during that time?

Mr. Lauck: The total amount of bonds issued during that time was $30,815,000. That is, during the period of 1900 to 1912. And subsequent to that time there were other bond issues and equipment trust issues, for some of which quotations could be secured, and for some of which no quotations were available whatever.

Mr. Stone: You have no chart for those?

Mr. Lauck: No, we have no chart. We were not able to get quotations to enable us to make a very comprehensive showing for the Southern Pacific. Market quotations were lacking.

Mr. Sheean: Just a moment, Mr. Lauck, please. Apparently, on the first line there, you show a low market quotation of 30 and a high market quotation of 44, both issued at par. Do you give credit for all the difference there in carrying that out?

Mr. Lauck: Just for the low market quotations.

Mr. Sheean: Well, in the credit for the possible profit, do you give a credit for the stockholders there taking that?

Mr. Lauck: Not at the high, no. The low. That is, the point is, if the company had sold this at the lowest quotation prevailing during the year in which it was issued, it could approximately have gotten $8,000,000 more for these two stock issues. Looking at it from the standpoint of the company or the stockholders as a whole, they did receive par, but if they had taken it, not at the quotation immediately following upon the announcement of the distribution, but upon the lowest price, they could have gotten $8,000,000 more than par.

Mr. Sheean: Well, is that not only on those two issues of 1905 and 1907?

Mr. Lauck: That is only on those two issues, yes, sir. The others were issued for considerations other than cash, and I do not take those into consideration at all. The 1900, 1901, 1902, 1909, 1910 and 1911 issues, of course, were principally issued exchange for the securities of the Central and Southern Pacific, not issued for cash, and therefore I do not consider them. This table is somewhat different in form. That is probably what has confused you.

Mr. Sheean: Yes. I did not see how they were given any credit in the cases—

Mr. Lauck: No, they were issued for considerations other than cash, and the form is somewhat different, because in the case of the Southern Pacific securities during this period, for some reason we could not get any satisfactory quotations, as in the case of other roads. That was the case also in the case of the Omaha Road, and another road which I mentioned, I think it was the Northern Pacific, the Great Northern.

Mr. Nagel: Mr. Lauck, you distinguished between assets and earning power?

Mr. Lauck: Yes, sir.

Mr. Nagel: Stating justification for the issuing of increased stock?

Mr. Lauck: Yes, sir.

Mr. Nagel: Is there any rule by which you can determine that distinction, in the last analysis?

Mr. Lauck: In the last analysis, it would have to depend—well, it would be exceedingly hard, because a lot of their assets would be carried according to their earning power, the book value of their assets.

Mr. Nagel: In the last analysis, is not the value of the assets tested by earning power?

Mr. Lauck: I think so. Unless it was—well, yes, undoubtedly it would be. It would be tested by earning power. That is what I meant by assets was the accumulated resources which they carried in their property investment, or in their other investments, like the Northern Pacific would carry this Northwestern Improvement Company; or they might carry investments in any proper kind of investments. That investment would be probably carried though at a capitalization of its earning power.

Mr. Nagel: That is tangible assets?

Mr. Lauck: Yes, sir. I don't know whether that answers the question or not.

Mr. Nagel: I wanted to get what your view was.

Mr. Lauck: My idea was tangible assets was not the real physical thing that you could hold or see, but the accumulated assets that Mr. Sheean and I were speaking of yesterday, that had through process of time been accumulated and were carried on the balance sheet of the company as part of their real assets, at a certain book value.

Mr. Nagel: Your conversation did not get into the record, did it?

Mr. Lauck: I don't know whether it did or not. I remember we were discussing it yesterday. I don't believe we went over it to explain what assets, either hidden or real, were, but we were just talking about the point.

Mr. Stone: Well, is it not a fact, Mr. Lauck, if the assets or surplus were invested in the property that the assets would be increased in that amount?

Mr. Lauck: If you would invest the surplus in the property you would theoretically increase earning power, which would give an added market value to the property.

Mr. Sheean: If I may go back just a minute, Mr. Lauck.

Mr. Lauck: Yes, sir.

Mr. Sheean: A few moments ago, you drew a distinction between accumulating and surplus, through managerial efficiency. In that case you said it would go to the stockholders, but if this surplus was accumulated through their employes, it should go to the employes.

Mr. Lauck: Yes, sir.

Mr. Sheean: Representing a Managers' Committee here, I wondered why you drew that distinction, that anything that is brought about by and through managerial efficiency should go to the stockholders. Just why do you place the manager on a different plane or basis in the matter of employment, than any other employe?

Mr. Lauck: Well, I think the manager is the personal representative of the stockholders, charged with the custody and operation of the property, in view of the fact that there are so many stockholders that they can not, of course, give their personal attention to it, and the administrative officials must do that. Now, the point that I made, or was attempting—or was discussing, rather, not that I made, was that if the employes have gotten what they deserve, and if the public has got what it deserves, then all the rest should go to the stockholders. But I am claiming as against the argument that productive efficiency has not been attended with profits, that there has not been the due conservation of resources, which would, if they had been conserved, yield returns which would meet the demands of the increased work and productive efficiency of the men.

Mr. Sheean: Now, at just what step in Mr. Curry's career between the time he was locomotive engineer and the time he was superintendent of motive power, or member of the Managers' Committee—at what point would his activities cease to accrue to the benefit of the engineers, and begin to accrue to the benefit of the stockholders? Just where do you draw the line? You spoke of its being brought about by managerial efficiency in one case, and that going to the stockholders is brought about by efficiency of the employes.

Mr. Lauck: I think that the manager is an employe of the stockholders, just like the engineer and fireman are. That is, that any manager, if he is an exceptional man, or according to his skill in managing, or according to his work he should be remunerated accordingly. Take Mr. Loree, who got $450,000 for leaving the Baltimore & Ohio and coming to the Rock Island, and got $75,000 a year on the Rock Island. Probably he received more than the usual manager, and that was a recognition of his skill in attending to the business of the stockholders.

Mr. Sheean: Well, in that case, would you draw the line on any fixed amount of salary that would distinguish whether or not he was accumulating a surplus for the benefit of himself and other employes, beyond which, whatever he accumulated should go to the stockholders, or just where do you distinguish, or how do you distinguish between managerial efficiency and any other kind of efficiency?

Mr. Lauck: I do not know whether I get that point exactly.

Mr. Burgess: Mr. Sheean, pardon me just a moment, but I was trying to follow Mr. Lauck very closely, and I did not understand it just as you have put it.

Mr. Sheean: I thought you said that if the surplus had been the result of managerial efficiency, then it should go to the stockholders.

Mr. Burgess: My understanding, Mr. Sheean, was, that if the assets or the product of managerial efficiency and productive efficiency of the employes, and all of these factors had been properly compensated, then what was left should go to the stockholders.

Mr. Lauck: That was what I was going to mention. I think the railroad president and the manager is as much of an employe as any other class, and he should receive his due share in this accumulated surplus. But after they have all been remunerated, of course—after all employes have secured a proper participation, according to what they contribute to the output of the road, why, then, the balance should go to the stockholders. Of course, the practical method is that all classes of employes get what they can, and the stockholders keep as much as they can, and it is really a question of bargaining power and of collective action, or individual action in participating in that.

Mr. Nagel: Where does the public come in?

Mr. Stone: They pay the freight rate.

Mr. Lauck: The railroads seem to think the public are very effective in their demands now.

Mr. Stone: Mr. Lauck, coming back to the question of Mr. Curry of the Northern Pacific, who is mechanical superintendent, just about how much say did he have about the Northern Pacific distributing these special bonuses and declaring these special dividends?

Mr. Lauck: That would be entirely a matter for the financial officers to act upon, after ratification by the Board of Directors, and ultimately, the stockholders.

Mr. Stone: And the operating officials, the manager and mechanical superintendent, and all the other operating officials, perhaps, were not consulted and did not know anything about it, any more than the employes did?

Mr. Lauck: No, sir; there would not be any occasion for that.

Mr. Stone: They are supposed to earn these dividends. They are there to get results, that is all. They are not consulted by the financial administration of the road at all, are they?

Mr. Lauck: Not at all, no, sir. I don't think so.

Mr. Stone: Well, suppose we see what is the matter with the Alton now?

Mr. Lauck: The table for that road appears on page 38. During the period 1900 to 1910, the Alton did not issue any stock, for cash, but issued $39,000,000 worth of stock for considerations other than cash. That stock was issued, as will be shown later, as a result of the consolidation of the old Chicago & Alton Railroad and Rand Railway Company. During this same period, however, funded debt was issued, for cash, to the par value of $20,650,000, on which 87.40 per cent of par was realized. The market value which was realized was 90.09 per cent of par; or the excess market value over net proceeds to the company was $550,000. The stock issues of the Alton were entirely limited to stock exchanges, under the control of Mr. Harriman and the consolidation of the old and new Alton Companies, and there were no stock issues for cash.

Mr. Stone: Have you a special page for that, or does that show in the history of the Alton?

Mr. Lauck: That is taken up in the history of the Alton. Does not come under this topic, directly, that we are speaking.

The next road is the Chicago, Rock Island & Pacific, the tables for which—

Mr. Stone: Chicago Great Western, is it not?

Mr. Lauck: Chicago Great Western. The table for that appears on page 40. That road also issued no stock, for cash, but the stock issues were for purposes of reorganization in 1909 and 1910, and which will be taken up in connection with the topic of reorganizations. They made a bond issue in 1910, for cash, of $2,000,000, upon which they realized $1,724,000, or $34,600 less than the market price.

Mr. Stone: They realized $1,690,000, did they not?

Mr. Lauck: Yes, sir; while the market value was $1,724,600, the difference being $34,600.

Mr. Sheean: Could you tell how many sales of those bonds were ever made at 86.23?

Mr. Lauck: How many sales?

Mr. Sheean: Yes, sir.

Mr. Lauck: No, sir.

Mr. Sheean: They succeeded in disposing of them at 84.50, apparently?

Mr. Lauck: Yes, sir.

Mr. Sheean: The Great Western sold at 84.50?

Mr. Lauck: Yes.

Mr. Sheean: Now, do you know how many sales were ever made as high as 86? Did your investigation show that? You have got the average price of 86.

Mr. Lauck: I have not the figures for it.

Mr. Sheean: They seem to be selling now at 69. I was wondering how many sales were ever actually made as high as 86?

Mr. Stone: It is a wonder they are selling at that, for the amount of capitalization the road has got.

Mr. Lauck: I think those bonds were taken by J. P. Morgan & Company.

Mr. Stone: Is it not a fact that J. P. Morgan & Company took the entire output of this issue, in their reorganization?

Mr. Lauck: He took an issue of about this amount. I am not absolutely certain whether this is the issue or not—about $18,500,000 to provide cash for the road, out of which was paid an underwriting profit of $6,000,000, and $600,000 as personal fee for reorganizing the road.

Mr. Stone: What was there left after they got through with that?

Mr. Lauck: About $11,000,000 he gave to the road, for the $18,000,000 which they issued to him.

Mr. Sheean: I am wondering where you got the information on which you put the market price of 86.23. How many sales were there at a price of 86?

Mr. Lauck: I took no record as to that Mr. Sheean.

Mr. Stone: You simply take it from the market quotations, from the open market, on the Stock Exchange Board. That is where you get the price?

Mr. Lauck: As a matter of fact, this quotation was taken from the record of the former Railroad Securities Commisssion.

Mr. Stone: You did not take it at all, then?

Mr. Lauck: No; I simply took their word for it.

Mr. Stone: The next is the Rock Island. Mr. Lauck, were you through with the Great Western?

Mr. Lauck: I was just looking up that bond issue on the Great Western. I can take it up later, though.

Mr. Stone: Get to that later; get it in the history, anyway.

Mr. Lauck: The next railroad considered in this connection is the Chicago, Rock Island & Pacific Railway Company. This is the operating company.

Mr. Stone: Explain just what that is, the railway company?

Mr. Lauck: The railway company is the real railroad in the system of Rock Island finance. That is, it is the one operating road in the three other roads which have been built upon this as a superstructure. That is, the railway company is the operating road, which is owned by the railroad company. The holding company, developed in 1901, by Mr Reid. and the railroad company is owned by the Rock Island Company, a holding company in New Jersey, which was created at the same time.

Mr. Stone: Neither one of them are real railroads?

Mr. Lauck: Neither of them. Both of them are simply corporate entities, without any real assets, except the assets which they finally got by holding this railway company, which is the real railroad. There is about $275,000,000 capitalization built upon this railroad, as an operating unit.

Mr. Stone: But the holding companies who managed it got all of the milk out of the cocoanut, did they not?

Mr. Lauck: That was the object, yes, sir. They were not very successful in prosecuting that object.

Mr. Burgess: Let us get clear. The Chicago & Rock Island Company owns the Chicago & Rock Island Railroad Company, and that company in turn owns the Chicago & Rock Island Railroad—

Mr. Lauck: Railway. There was originally, back, I think. in about 1880, a Chicago, Rock Island & Pacific Railroad, and they reorganized and doubled the capital stock and then they called it a railway. Then when the so-called Moore-Reid syndicate came along, in 1902, it was known as a railway then, as the result of changing the name and increasing the capital stock through reorganization. They operated it for a while and then they created a Railroad Company under the laws of Iowa, capitalized at $150,000,000, I believe, or $125,000,000, for the purpose of holding the stock of the Railway Company, which is the operating company. Then they, in turn, created another company called the Rock Island Company, under the laws of New Jersey, the stock of which they exchanged for the Railroad Company of Iowa, and therefore the Rock Island Company of New

Jersey hold the Railroad Company, which, in turn, owns the Railway Company, the operating company, or the ultimate control is in the Rock Island Company of New Jersey.

Mr. Stone: Is that the reason why finance is so hard to understand, because they make it so plain like that?

Mr. Lauck: I noticed in Mr. Reid's testimony before the Interstate Commerce Commission several days ago, he became confused himself in the names of these companies.

Mr. Burgess: That is perfectly clear now, Mr. Lauck.

Mr. Lauck: Well, this is the operating company at any rate.

Mr. Stone: This is the real railroad.

Mr. Lauck: Yes.

Mr. Stone: That actually handles the business and transports freight and passengers.

Mr. Lauck: It is the operating unit which develops the revenues upon which this superstructure of corporation securities was built.

Mr. Stone: They all rest on the operation of this railroad here.

Mr. Lauck: Yes, sir. This railroad, during the period under consideration, 1902 to 1910, issued securities for cash to the par value of $18,222,000, upon which they realized par. These securities had an average market price, however, of 162.43, and the excess of market value over the amount actually realized by the company was $11,376,000, or 62.43 per cent of the proceeds of the stock. In other words, the aggregate loss or aggregate distribution in the form of a bonus was $11,376,000, upon an outstanding issue of $18,222,000.

The bonds issued during this period, or the total funded debt issued for cash, amounted to $158,000,000, upon which $146,000,000 or 92.54 per cent of par was realized. Based on contemporaneous quotations, $152,000,000 could have been secured if the market prices had been obtained, or there was an excess of market value over net proceeds to the company of $5,698,000. Or, for both bonds and funded debt, the excess of market value over net proceeds was $17,074,000.

So far as the stock is concerned, by referring to page 44, the table—

Mr. Stone: Before you leave this table, I see for the first time in any of these issues you show collateral notes of an individual. I see down there you show collateral notes of John Scullins and David R. Francis.

Mr. Lauck: You mean in Note 7?

Mr. Stone: On page 42.

Mr. Lauck: Yes, that was not issued for cash. That was issued for the purpose of buying a railroad. The St. Louis, Kansas City & Colorado, I think, was bought from these two gentlemen, Mr. John Scullins, and Mr. David R. Francis, for a certain amount of Rock Island stock, $5,000,000 worth of Rock Island stock, and also notes of the Rock Island were given to them in part payment.

Mr. Stone: That is the first time anything of that kind has appeared in any of these tables.

Mr. Lauck: That is put in here because the table is supposed to cover all stock issues, whether for cash or for considerations other than cash, and these were considerations other than cash. That was a road worth about $2,000,000, according to the estimates, for which the Rock Island paid seven or eight million dollars in its stock.

On page 44, the middle of the page, it will be noticed that the excess capitalization computed upon the basis of the foregoing computations, or the smaller amount of capital stock that could have been issued to secure this amount of funds, was $7,000,000. Page 45 shows the amount of dividends declared and the proportion applicable to excess stock, or $350,000 which could have been saved each year from operating revenues if the securities had been marketed at their full value.

Mr. Stone: The history of the reorganization of the Rock Island is covered in another place?

Mr. Lauck: Yes, sir.

The next road considered is on page 46, and is the Chicago, St. Paul, Minneapolis & Omaha. It was difficult to get quotations for that road, owing to the fact that it is a road that is owned by another company, the securities of which are not active, and very little was shown in the way of excess value received for securities. In a number of instances the Omaha was found—as in the case of one stock issue, and two bond issues—to have received for its security issues more than the market value of the securities. I thought it best, however, to use the table, to indicate that the good was shown along with what we were considering improper.

The next railroad is the Soo Line, shown on page 49. There it is shown that this railway issued during the period of 1908 to 1912 capital stock to the par value of $5,603,000, the market value of which was $7,636,000, but only the par value being realized, there was an excess of market value over net proceeds to the company of $2,033,000, which represented an excess capitalization of $2,635,000, and the portion of dividends applicable to this, as shown on page 52, was $184,475 annually, or that much of an annual drain created upon the operating revenues of the road.

Mr. Stone: And a 10 per cent increase to the engineers and firemen would only amount to $158,200 per year?

Mr. Lauck: Yes, sir, which would be less than the amount which is annually lost if—has been annually lost, assuming that this stock could have been issued at market quotations.

The next road considered is the Missouri Pacific Railway. That is the consolidated railway company of 1909. It has not issued any capital stock for cash, as would be expected, but during this period of 1910 it did issue $83,000,000 for reorganization purposes, which will be taken up later.

There was a bond issue in 1910, upon which the net proceeds were 5.38 less than the prevailing market quotations, or on a bond issue of the market value of $28,110,000, only $26,-674,000 was realized, or there was an excess of market value or commission paid for the issue of these bonds of $1,434,000.

The next railroad to which I will call your attention is the Wabash Railroad Company, which appears on pages 56 and 57.

As would also be expected, the Wabash has not issued any stock for cash. There have been a number of issues for considerations other than cash; $25,000,000 of common and $15,000,000 of preferred, the $10,000,000 of common having been exchanged for the capital stock of the Wabash-Pittsburgh Terminal Railroad, which was a disastrous investment on the part of the Wabash Railroad proper.

During this period, however, there was issued a grand total of $55,635,000 in funded debt, upon which the Wabash Company realized, in round numbers, $50,088,000. The contemporaneous market prices, as a rule, were 92.61 per cent of par, or $51,524,000; or the market quotations were $1,436,000 more than the amount actually received by the Wabash Railway Company; or the commissions paid by the Wabash for issuing these bonds were 2.86 per cent of the net proceeds of the bond sales of the Wabash Railroad Company.

Mr. Stone: This doesn't deal with the reorganization of the Wabash, or the present financial trouble at all?

Mr. Lauck: No.

Mr. Stone: And there is nothing in these figures on this particular table to show why they are in the hands of the receiver at the present time?

Mr. Lauck: Nothing at all, no, sir. This is just a consideration of their security issues during this period, the value of the securities on the market; the value actually received; the amount received by the stockholders; or the difference between the market and par value, or the net proceeds to the company; what the company lost and how they might have saved themselves increased capitalization and liabilities on earnings if they had marketed the securities at the prevailing market prices.

Mr. Stone: I note you state at the bottom of page 58, Mr. Lauck, Appendix A, that the foregoing tabulations have been prepared from unpublished data. Do I understand that nearly all of these tabulations, or all the data for these tabulations is now on file with the Interstate Commerce Commission?

Mr. Lauck: Yes, sir, for about twelve out of the eighteen roads.

Mr. Stone: And then you follow that up with this form that the Interstate Commerce Commission uses in compiling this?

Mr. Lauck: The Railway Securities Commission.

Mr. Stone: The Railway Securities Commission?

Mr. Lauck: Yes, sir.

Mr. Stone: Why was that never published?

Mr. Lauck: I don't know.

Mr. Stone: Lack of funds, or what?

Mr. Lauck: I don't know. No, sir, it was not lack of funds. I think that the reason it was never published was that not a sufficient number of examples were collected. The Commission probably wanted the same data for all railroads, and thought it probably would not be well to publish any unless they published all.

Mr. Stone: But the information they do have for the twelve roads is secured in identically the same way?

Mr. Lauck: Yes, sir.

Mr. Stone: That same form was used all the way through?

Mr. Lauck: Except in the cases where I indicated it was impossible for us to follow the method.

The Chairman: Will you suspend? Mr. Nagel desires to make a correction in the record.

Mr. Nagel: At page 6021. Mr. Lauck's answer is credited to me. I have received so much credit from Mr. Lauck, I want to correct it. The answer: "Yes, I think Mr. Morgan's activities were of the highest order, according to the business ethics under which he worked," was not my statement, but Mr. Lauck's answer.

Mr. Lauck: Yes, sir.

(Whereupon, at 12:30 o'clock P. M., a recess was taken until 2:30 o'clock P. M.)

After Recess.

W. JETT LAUCK was recalled for further examination and having been previously sworn, testified as follows:

Mr. Stone: I think, Mr. Lauck, when we adjourned for lunch, you had just finished up one part of your exhibit?

Mr. Lauck: Yes, sir; on stock bonuses and underwriting commissions.

Mr. Stone: Up to page 63, the Northern Pacific, part 2, which you had already handled, had you not?

Mr. Lauck: I had covered Northern Pacific and Great Northern, incidentally, in connection—

Mr. Stone: With that exhibit?

Mr. Lauck: Yes, sir.

Mr. Stone: So that brings us up to Part 4, the Atchison, Topeka & Santa Fe Company?

Mr. Lauck: Yes, sir.

Mr. Stone: All right. I wish you would take that up, explain their plan of reorganization, how they did it and what happened.

Mr. Lauck: The next general topic I wish to take up in presenting the matter, is the topic of reorganizations and to what extent they have connection with the banking interests which have handled them, and, especially the excess capitalization which has resulted therefrom.

The first reorganization that I wish to consider is that of the Atchison, Topeka & Santa Fe Railroad, in 1896. Referring to page 77—

Mr. Stone: 74 or 77?

Mr. Lauck: 77. We have there a table which shows the total amount of securities issued by the Atchison, Topeka & Santa Fe Railroad, since the close of its receivership and the reorganization in 1896, or a total to date of stocks and bonds of different kinds of $654,734,000. The proceeds which the company received from these securities, were either cash or considerations other than cash. The cash considerations are shown in the table on pages 86 and 87, and have already been considered in connection with stock bonuses. That is, they received a total consideration for different bond issues, which were sold for cash, of $208,000,000, and the market value of which was— They received $200,000,000, the market value of which was $211,000,000, or the difference of $11,000,000, which was considered in the table this morning in speaking of underwriting charges. The securities issued for considerations other than cash, are shown on page 78. Par value issued during this period, amounted to $446,631,000, for which the company reported that they had received value in proceeds equivalent to $445,133,000.

Referring to the table at the top of page 79, of this $446,000,000 which the company issued, for considerations other than cash, it will be seen that common stock to the extent of $101,000,000, preferred stock to the extent of $104,000,00, general mortgage bonds to the extent of $96,000,000, and adjustment bonds to the extent of $51,000,000 or a total par value of securities issued of $354,000,000, were issued for reorganization purposes in 1896. Those are the securities to which I wish to ask special attention. The company claimed that it received full value for these securities, but this contention does not seem to be correct.

In the table, in the middle of the page, is shown the market value of the securities which were retired, and for which the new securities at the time of reorganization were issued. The total market securities retired were $127,000,000, and in addition to that the reorganization managers paid in, or the holders of old securities paid into the new company $13,767,000 in cash, or the new company received a total market value for the old securities —or received a consideration in market value, of the old securities and cash paid in, $140,000,000 only, for the issue of $354,000,000 par value of new securities, or the amount of consideration received, in terms of market value and in cash for the new securities, aggregating $354,000,000, was only 39.74 per cent of the par value of the new securities issued. That is further corroborated by the table on page 80, where it is shown that the market value of the new securities issued, which reflected the consideration which had been received, was only $140,000,000, or 39.55 per cent of the total par value of securities issued. It therefore appears that for the consideration of $354,000,000 par value of liabilities incurred by the new company, only about $140,000,000 of consideration was received.

Mr. Stone: Do I understand that this $354,000,000 is still a part of the load which the Santa Fe carries at the present time?

Mr. Lauck: That is part of the present capitalization of the Santa Fe, which was created by the reorganization in 1896, and on which dividends or interest payments are now made by the Santa Fe Company from its operating and other revenues.

The conclusion would be, from that comparison, that about $228,000,000 of the securities issued were excessive or fictitious and represented no real values; or, in other words, a liability was created against the assets of the company, or against the earning power of the company, of $228,000,000 for which the company received no consideration.

At the time of or shortly after the reorganization, the Atchison also bought the Western Division of the Atlantic & Pacific Railroad, for which it issued its securities. The par value of securities which it issued in consideration for this railroad which was bought in the name of the Santa Fe Railway Company, I think, was $17,553,600. The market value of that property, at a liberal estimate, was $4,594,600, or only about 26 per cent of the par value of the securities issued for it at the time.

The tables on the succeeding pages—

Mr. Stone: Before you leave that particular part, at the time they bought the Atlantic & Pacific Company, they had outstanding some guaranteed 4 per cent bonds, had they not?

Mr. Lauck: The Atlantic & Pacific?

Mr. Stone: Yes.

Mr. Lauck: Yes.

Mr. Stone: What did the bondholders get out of it?

Mr. Lauck: Well, I do not know just the per cent of par, but they got for $1,500,000 of these bonds, the market value was $975,000 and they had also some 6 per cent income bonds which were only worth .83 of 1 per cent of par at that time, that is, the Western Division of the Atlantic & Pacific.

Mr. Stone: Those are the particular income bonds that I referred to.

Mr. Lauck: They were practically worthless. They had been issued against this property, and allowance was made for them on that basis, in making the comparison.

I was about to state that pages 82 and 83 show the issue of convertible gold bonds which were made by the Atchison in order to take up certain portions of its common stock.

The conclusions which I have drawn from this reorganization are found on pages 74, 75 and 76.

Mr. Stone: Just what do they consist of—your conclusions?

Mr. Lauck: The conclusions are there was $228,000,000 of excess capitalization issued as the result of this reorganization, which has become a standing liability against the operating revenues of the Atchison system.

This is represented, as regards stock, by the fact that 86.42 per cent of the $101,000,000 of common stock would be excessive, and the dividends on that stock are made stock issue that represents no consideration—for which no consideration was secured. The dividend record on that stock from 1901 to 1910-12, is given at the bottom of page 75. 1901, 3½ per cent was paid; 1902 to '05, 4 per cent; 1906, 4½ per cent; 1907, 6 per cent; 1908 and '09, 5 and 5½ per cent; 1910-12, 6 per cent. Up to June 30, 1913, thirty-two cash dividends had been paid on this common stock, aggregating a total disbursement of more than $55,000,000. In other words, this amount would have been available from operating revenues during this period for increased wages to locomotive engineers and firemen and other labor, or for any other purposes, had not this excessive stock been issued at the time of the reorganization, for which the Atchison Company received no consideration.

The same way when the Atchison was reorganized, there was \$104,000,000 of preferred stock issued, upon which dividends were paid of 2½ per cent in 1899, 4 per cent in 1900; from 1901 to 1913, 5 per cent.

The total dividends upon this excessive stock issue up to June 30, 1913, were approximately the total of \$57,100,000. The annual dividend requirements at 5 per cent is \$3,990,000; or taking both classes of stock together, there was an inflation there, without any consideration being received, of \$166,000,000, and the annual dividend requirement upon that stock is \$9,167,000, or in other words, each year, out of the earnings of the Atchison, more than \$9,000,000 was paid upon stock which represented no consideration at the time the road was reorganized in 1896.

Mr. Stone: And that is more than double the annual wages paid to engineers, firemen and hostlers on that road?

Mr. Lauck: Yes, sir; according to the 1913 returns to the Interstate Commerce Commission.

By the same method of reasoning, the 100 year, 4 per cent General Mortgage Bonds, issued at the time of the reorganization, had a market value of only 77.96 per cent of par. I therefore drew the conclusion that \$21,000,000 of these bonds represented no real investment value, and that the interest charge upon this is \$846,000 annually, in addition to the distributions on the stock or during the life of these bonds, will approximate about \$84,000,000, which must be made out of the operating revenues of the Atchison.

Mr. Stone: That is during the time for which these bonds were issued?

Mr. Lauck: Yes, sir, 100 years.

Mr. Stone: And that interest is not compounded, is it?

Mr. Lauck: That is simple interest.

Mr. Stone: Simple interest?

Mr. Lauck: Yes, sir. I took no account of the interest upon the use of this money for this Board.

In the same way, \$51,000,000 of 100-year 4 per cent adjustment bonds had a market value of only \$24,000,000, at the time of the reorganization, and therefore, about 52 per cent of these had no real investment value. And the annual interest payment upon this is now more than \$1,000,000 annually, or during the life of the bonds will constitute a lien upon the productive efficiency of the road, or upon the earnings of the road, of $108,000,-000.

In other words, the general conclusion is that as a result of this reorganization, the contents of securities which represent no real investment value, and which were issued without any value back of them, but were issued primarily on the basis of the future earning power of the Wabash Railroad, that the stock requires dividends of more than $9,000,000 annually, and the funded debt interest payments are considerably more than $1,000,000 annually, or during 100 years life of the bonds, a permanent obligation is created against the operating revenues of the railroad, and an indefinite (as to time) obligation is created against operating revenues on the stock issue.

Mr. Lauck: I think what has taken place here is practically the same as we were discussing in the case of the Steel Corporation's common stock. This stock was worth about $15 a share in 1896. It is now worth—I haven't looked at the quotation—approximately worth par, and it was issued to absorb the future earning power of the Atchison system, which it has done.

Mr. Stone: So it is very evident that for the next 100 years, during the life of these bonds, the Atchison will have this load to carry?

Mr. Lauck: It will have these interest payments to meet, from operating revenues, and indefinitely, as regards the stock.

Mr. Stone: Up to June 30, 1910, what was the total fictitious capitalization of the Atchison, Topeka & Santa Fe?

Mr. Lauck: I estimate it to be $228,000,000 of stocks and bonds both. That is, stocks and bonds issued without the company having received any consideration.

Mr. Stone: What percentage of its outstanding capitalization represents water and nothing else? That is, represents no real value? We commonly say "water."

Mr. Lauck: This would constitute about 40 per cent representing no investment value having been put in the property.

Mr. Stone: And what did you say the total amount of annual interest and dividend payments was on this fictitious capitalization?

Mr. Lauck: The total amount of distribution necessary on the present rate of returns on the preferred and common stock is $9,167,000 annually. On the 100-year 4 per cent bonds the annual interest charge on the part representing no investment value is $846,000, and upon the 100-year 4 per cent adjustment bonds is $1,080,000, or approximately $1,900,000, or a total, together with the stock, of approximately $11,000,000 annually, which is considerably more than double the disbursements for engineers and firemen upon this road.

Mr. Stone: Disbursements for engineers and firemen, as I recall it, are about four and a half million dollars a year—somewhere near that.

Mr. Lauck: Yes, sir, about four million.

Mr. Stone: And that all is expected to come, before labor gets any increase, from the viewpoint of the railroad?

Mr. Lauck: Yes, sir. These stocks and bonds, of course, have been passed from hand to hand—passed from the hands of the original holders, and are really a claim against vested right, and a claim against the earnings of the Atchison system.

Mr. Stone: They are in the hands of innocent purchasers, are they?

Mr. Lauck: I presume so, yes, sir.

Mr. Stone: But before they got there, somebody got the money out of them, did they not?

Mr. Lauck: Some one that had held these bonds in 1896, until the earning power of the Atchison developed, after the reorganization, would have received the accrual in value—would have been reflected in the stock market and could have sold them at a large profit. Of course this reorganization in 1896 represented—the reason these stocks and bonds were issued, it was continuing the financial excesses which had been perpetrated in the past, by the Atchison management. That is the reason the stocks and bonds had such a small market value at that time. There had been an over-capitalization in stock dividends, and paying excessive amounts for property, before 1896, which had finally forced the Atchison into the hands of receivers, and then, when it was reorganized, the persons who had held these stocks and bonds in the past, were given this opportunity of participation. It was really a continuance of the previous financial practices which had wrecked the road and forced it in the hands of a receiver.

Now, since 1896, since the Atchison has been so efficiently managed and developed, the earning power has been developed and has been used to pay dividends and to give a tangible value back of these fictitious securities.

Mr. Stone: So, it was really capitalizing the hope of the future, was it not?

Mr. Lauck: Yes, sir, that is what it fundamentally was.

Mr. Sheean: In that connection, Mr. Lauck, do you know whether or not, as a matter of fact, there was more or less money originally put in than was represented by these securities which, in 1896, were substituted for other securities issued long prior to that, but which had a market value away down to the vanishing point?

Mr. Lauck: I think so, undoubtedly. Previously, the Atchison had made a great many stock distributions—or, not a great many; it made four or five, and carried stock dividends of 50 per cent and 20 per cent, without any consideration whatsoever.

Mr. Sheean: But in reaching this conclusion here, you have taken the actual market value of what you call a wrecked property at that time?

Mr. Lauck: Exactly.

Mr. Sheean: And in substituting or changing new securities, representing liens that people had on that same property, you count as profit the difference between the then junk value of the property and the face value of the securities?

Mr. Lauck: I assume that the value of the property was reflected in the stock market at that time, and that, as a legitimate basis of reorganization, securities should have been issued approximately in accordance with that value.

Mr. Sheean: That is, that the person who held a bond which was worth .8 of one per cent per $100, should only receive the .8 of one cent in the form of a new bond, although he might have paid $100 for it.

Mr. Lauck: Yes.

Mr. Sheean: That is you give no consideration to the right to reorganize or to endeavor to bear some relationship to past losses and past investment in that property, through reorganization?

Mr. Lauck: No, my point of view is that these securities which had represented the financial mismanagement of the past, and which were discounted in the stock market, when they reorganized, should have been scaled down proportionately to what the real value of the property was. For instance, if you continue to reorganize a property which has been marked by financial excesses; say, for instance, the Wabash at the present time; if you would reorganize it and convert some of its securities into stocks, or reduce the rate of interest upon them, and continue them, you thereby give a prospect or a chance to people who have the securities, but at the same time you create a liability against the earning power which should not exist, it seems to me.

Mr. Sheean: Do I follow you, that in reorganizing, then, the securities which you issue must be in proportion to the then market value of the old property?

Mr. Lauck: Should be, approximately, yes, sir.

Mr. Sheean: Just how are you going to reorganize, or what is the reorganization, if what you get is to be just the same value as the present market value?

Mr. Lauck: The present market value reflects what the business world has set as the value of that property.

Mr. Sheean: What is the reorganization that you have in mind, that could be conducted on such a basis as that, that you get today the same thing in market value that you had yesterday?

Mr. Lauck: Undoubtedly not, if it was a going concern, and its earning power was increasing, and so on, and I would not take it on any one day, but say for a period of six months, or four months, like this is, preceding the reorganization and four months subsequent to the reorganization, these values are computed.

Mr. Sheean: But I mean in a constructive way of reorganization, in 1896, I would like to get your thought on that as to what these men should have done. What is the criticism you make? What would you have done had you had this opportunity to rebuild a constructed property?

Mr. Lauck: Do not misunderstand me. I am not criticising them, but am simply stating what was done on the basis of these values. What was done here was to reorganize the property and continue all the old obligations against the property in some form, which might yield to the holders some revenue in the future. Thereby you continue, if you have had financial mismangement or indefensible financial practices in the past, you simply carry them forward in a new form for the future and continue the load of liabilities on the road, and make it a liability against future earning power of the road.

Mr. Sheean: Well, Mr. Lauck, when you say that you do not criticise, or that there is no criticism of it, do you mean then simply that the Atchison might have gone out of business at that time, or that, so far as you know, this was the best and only feasible plan of reorganization that was possible in the then conditions?

Mr. Lauck: I do not know about that, whether it was the best or only means of reorganization; but personally I do not approve of this method of reorganization. I like the English system somewhat better. But I am developing the point that there was a certain value there that was capitalized to this extent. That is, par value or liability was developed against a certain market value, and thereby a liability was created against future earning powers of the road.

Mr. Sheean: If I followed your table, Mr. Lauck, there is about $320,000,000 par value of the old companies, but that par value had shrunk away down to the vanishing point practically, as to some of them.

Mr. Lauck: Yes.

Mr. Sheean: Now, they reorganize, as I follow your figures, by putting in some $13,000,000.

Mr. Lauck: About $20,000,000.

Mr. Sheean: About $20,000,000 in money?

Mr. Lauck: Thirteen million dollars in money and $20,000,000 more in par value.

Mr. Sheean: Well, they took a property which had outstanding par value of $320,000,000—

Mr. Stone: You say par value, or capitalization of that much?

Mr. Lauck: Well, the par value, the face value of the securities.

Mr. Stone: Was that much?

Mr. Lauck: Yes.

Mr. Sheean: Yes, $320,000,000, and by putting $13,000,000 in money into it, they brought about a corporation with a total par value of $354,000,000?

Mr. Lauck: Yes.

Mr. Sheean: That is substantially correct, is it?

Mr. Lauck: That is right, yes.

Mr. Sheean: And in doing so, they produce efficiency in such a way, that they have been able to earn, beginning at 2 per cent, and running up to 5 or 6 per cent upon this amount since then. What I am trying to get at, when you say there were so many millions of water there, is what, if any, constructive suggestion you have to make, as to what should have been done that was better than this.

Mr. Lauck: I would personally think that the security issues at the time of reorganization should have been scaled down approximately to the real value of the property. It is perfectly evident that the Atchison was not worth $354,000,000, or was not worth half of that.

Mr. Sheean: How do you reach that conclusion?

Mr. Lauck: From the value which the business world had placed on the property.

Mr. Sheean: So in the end, you get down to the estimate that the Stock Exchange placed upon it at that time?

Mr. Lauck: Exactly, which is—

Mr. Sheean: And that is arrived at by the market value of those stocks?

Mr. Lauck: The market value four months—

Mr. Sheean: And you ignore entirely whether there may have been $500,000,000 actually put into that property by the people who held these stocks?

Mr. Lauck: I do not consider that at all.

Mr. Sheean: You do not consider that at all?

Mr. Lauck: No. Of course—

Mr. Sheean: Then, Mr. Lauck, you take out of the property here, by placing a Stock Exchange estimate upon it, whatever money may have gone into it, and reduce it to the Stock Exchange estimate, in arriving at its real value?

Mr. Lauck: You say I take something out of the property? As a matter of fact—

Mr. Sheean: Take out of the par value, I say, take away from their capitalization whatever deduction there may be by the Stock Exchange estimate of value?

Mr. Lauck: Exactly, yes.

Mr. Sheean: You ignore entirely what the investment may have been?

Mr. Lauck: Yes, sir.

Mr. Sheean: What may have gone in.

Mr. Lauck: Of course, we know, in the case of the Atchison, that the investment was not this amount; that is, the Atchison was built practically out of its land grants, a large portion of it.

Mr. Sheean: Yes, but can you ignore the question whether those grants had any value or not?

Mr. Lauck: I ignore that, yes.

Mr. Sheean: Or whether the land grants were, in fact, worth $320,000,000, or any other sum?

Mr. Lauck: Yes, sir.

Mr. Sheean: And in arriving at the conclusion that there was water in it, you take the Stock Exchange value, or the market value of the stocks on a particular day?

Mr. Lauck: That is the best indication, it seems to me, you could possibly take, in that it is what the business world or the stock dealing world places as a valuation on any property.

Mr. Sheean: Well, then, do you give the like consideration to that estimate in your suggestion as to the sales of the securities on the other tables which you have presented here?

Mr. Lauck: I do not just get that. On the stock bonuses?

Mr. Sheean: Yes.

Mr. Lauck: The same consideration, the same basis is used, that is, the company receives so much in the way of actual investment value, and the market said that this security which it gave for this consideration was worth so much more. There you have exactly the reverse case as compared with this. Here the market says this property is worth so much, or this security which has been issued against this property, represents, say so much value, $15 for each $100.

Mr. Sheean: Yes, and I was wondering if you used them as being a safe basis in both cases, or as the foundation for the building of your conclusions.

Mr. Lauck: Yes, in both cases.

Mr. Sheean: In both cases?

Mr. Lauck: Yes, sir.

Mr. Sheean: The net result of all on the Atchison, as I follow it on page 80, is that with a corporation in which there were stocks, bonds and mortgages, which aggregated $320,000,000, under a plan of reorganization by which they put in $13,700,000 in money, there evolved out of that a corporation with a capitalization of $354,000,000?

Mr. Lauck: Considering it from a par value standpoint, yes. At that time, however, according to the stock quotations preceding the reorganization and following it, the real value of the $354,000,000 of original issues, was only about 40 per cent of the par value.

Mr. Sheean: Well, the value was the same behind both of the issues, was it not?

Mr. Lauck: The physical value was the same.

Mr. Sheean: Now, whatever that value was, carrying us back to '96, when the reorganization committee took hold of it, they found outstanding, in the way of mortgages and debentures and bonds and stocks, $320,000,000 against this property?

Mr. Lauck: Exactly.

Mr. Sheean: And they put in $13,700,000 in money, and with that additional money and that situation as to stocks and bonds, and various claims of indebtedness, evolved a $354,000.000 corporation?

Mr. Lauck: Yes.

Mr. Sheean: That is the last analysis of this whole transaction?

Mr. Lauck: That is the par value analysis. My contention is there, though, that by doing that, they hypothecated revenues of the road improperly.

Mr. Sheean: Well, weren't these same revenues hypothecated by the $320,000,000 issue?

Mr. Lauck: Undoubtedly, and which the stock market had declared to be an improper hypothecation, from the standpoint of actual values invested.

Mr. Sheean: That is, they had declined to deal in it to any greater extent?

Mr. Lauck: They declined to say this was worth 100 cents on the dollar.

Mr. Sheean: They also declined with the $354,000,000?

Mr. Lauck: Undoubtedly. The new securities were identical in market value, almost, with the old securities.

Mr. Sheean: By putting in $13,000,000 in money into that concern, as it stood at that time, they evolved another railroad company with $20,000,000 greater capital. That is the sum and substance of it, is it not?

Mr. Lauck: According to the par value. But that is simply perpetuating what had been improperly done in the past.

Mr. Sheean: Well, then, you would have to go further back than 1896 to get at that, wouldn't you?

Mr. Lauck: We would have to find out where the improper capitalization had originally been used. We would have to go back.

Mr. Sheean: And this only takes us back to 1896.

Mr. Lauck: Yes, this starts out with 1896.

Mr. Stone: The chances are they worked their printing presses long before that, issuing stock?

Mr. Lauck: Prior to 1896, the Atchison in the first place built its road out of its land grants principally. Then, in building its subsidiary lines, it gave different bonuses to the people who paid the money to build those lines, or for each thousand dollar bond a stockholder of the Atchison would subscribe to they would give him $1,000 or more in stock of the Atchison Company. Then, in 1880, it declared a stock dividend of 50 per cent, and in 1882 a stock dividend of 20 per cent, and in that way the stock had been increased, the capitalization had been increased, and the Atchison did exactly the same thing prior to 1896 as the Frisco did subsequent to 1896, by these extensions, and by buying properties at ruinous prices, and issuing their stock far beyond the value of the property, increased the capitalization to this extent, upon which this stamp was placed in 1896 by the business world, or in 1893.

Mr. Stone: Mr. Lauck, how long would a mercantile business live under like conditions? They would go into the hands of a receiver and go bankrupt and insolvent. Would they capitalize his debts and start him over again, or would they try and pay off part of his debts?

Mr. Lauck: You mean an individual, or a corporation?

Mr. Stone: Either one. Take the individual who fails in business. What do they do with him?

Mr. Lauck: Well, it depends on the action of the creditors.

Mr. Stone: He makes an assignment and goes into the hands of a receiver?

Mr. Lauck: This situation, to put it in usual terms, is this, which is evident, I think; that when they reorganized they had to reduce the fixed charges, and, of course, they made the fixed charges as low as possible, in order to keep as small a drain upon revenues at that time as possible. Then as the securities were of different variety of precedence, they gave them the same precedence in the new company. Then, to the man who had the stock issues, which were of no value before 1896, or reduced to $15 a share on the original stock, they gave him that as a consolation prize. That is, there was something you could keep, and if things went well you would get something on it in the future; if things did not go well you would not get anything. And it happened through the efficient management of this road that it has developed this earning power, and made these stocks worth practically par, and made them worth a dividend return of 5 and 6 per cent. The same here. The Frisco was reorganized, and the same process was gone through, and the Frisco holder of the security is just as bad off today as he was before, on account of the management of the Frisco since that time.

Mr. Stone: In this particular case it was the stockholders who profited by the efficient management of the railroad, and the employes did not?

Mr. Lauck: That is the point I want to bring out. That is the only point I had in mind in presenting this.

Mr. Burgess: How much of this $320,000,000 represents actual money?

Mr. Lauck: According to the stock market, the Atchison at that time, about 40 per cent represented actual investment value.

Mr. Stone: How much did it represent in the actual beginning, Mr. Lauck? Is there anything to show?

Mr. Lauck: Nothing to show except the previous history of the road, being largely constructed from land grants, and with practically no money being put in back of the capital stock, being the usual method of construction of roads at this time, of putting money in for the bonds, and getting the stock as bonuses.

Mr. Nagel: Mr. Lauck, is it safe to accept stock quotations as a test of asset value?

Mr. Lauck: Not to get a high degree of accuracy, I wouldn't think so.

Mr. Nagel: What would you do in the case where the market fluctuates 50 to 100 points? Would the assets correspond with these fluctuations?

Mr. Lauck: No, of course, market quotations might fluctuate through conditions that were not connected with the railroad. It might be the money market.

Mr. Nagel: Hope, fear and ignorance, and all these elements would enter into this.

Mr. Lauck: Or the dumping of securities on the American market.

Mr. Nagel: Well, in some measure these factors are present always?

Mr. Lauck: Some measure, yes, sir. These are four months' quotations, averaged.

Mr. Nagel: Even so.

Mr. Lauck: Even so, there is that element of variation, yes, sir.

Mr. Nagel: For instance, if the information about a surplus of $17,000,000 is withheld and not known to stockholders, that element of value would not be expressed in the quotation?

Mr. Lauck: No, sir.

Mr. Nagel: And if the market quotations are a safe index of value, why is Mr. Prouty taking the trouble to value the railroad properties? We have all of the issues of stock and bonds.

Mr. Lauck: It would not seem that he would take the trouble at all.

Mr. Burgess: Mr. Lauck, I was trying to follow Mr. Sheean's question here, which impressed me somewhat. If I understood you right, Mr. Sheean, you were trying to develop the point in Mr. Lauck's theory wherein he stated he thought it should be scaled down to the market price, and even though, as you expressed it, there had originally been $500,000,000 put into the property—

Mr. Sheean: That is the way I understood. He did not give any consideration as to whether money had or had not gone in.

Mr. Burgess: It seems then, Mr. Sheean, to my mind at least, to be proper to inquire whether this $320,000,000 was actual money, or whether it was fictitious capital, before the $13,000,000 was put into the property at the time of the reorganization, so that we might understand whether this $320,000,000 was actual money or not. That is what my question was.

Mr. Lauck: Well, that point is partially covered in the supplement to this exhibit, which probably we will get to later, if we have the time. It is a brief history of the Atchison, given in that exhibit, but the point in which I am interested is not as to whether the practice was proper, or whether the market value was exact at this time, or whether it was only approximate, or might have been a considerable variation, but here we had a case of security issues being put out by the Atchison, which would absorb future earning power, as compared with the amount of money which might be available for employes, or for other purposes. That is the only point that I had in mind. I do not want to prove that the Atchison was worth so much money.

Mr. Burgess: Mr. Lauck, if I caught the meaning of Mr. Sheean's question, it implied to my mind, at least, that money might be put into a property and it might depreciate in value, as far as the market was concerned, and then it might recover its full value, and even go above par.

Mr. Lauck: That might be possible.

Mr. Burgess: And I thought his question implied that, to some extent, it was fair to give consideration to the original money put into the property, because there was a possibility of any business recovering full value.

Mr. Sheean: I had that in mind, yes, Mr. Burgess. Mr. Lauck said he did not give any consideration to whether it had or had not.

Mr. Lauck: I could not.

Mr. Sheean: This did not purport to show whether it had or had not.

Mr. Lauck: No, that is impossible, because I tried that in the case of particular railroads and you cannot tell. That is, that would be the real thing to have, if you could get it, as to what the real investment value was by the original investors, and it might possibly be in some enterprise that that was greater. It might be, through different conditions in the country, that would depreciate in value, and then take an upward turn, but it is impossible to get that.

Mr. Burgess: That is what I was trying to ascertain. There is no real way of finding out whether this $320,000,000 represents actual dollars put into the property or not, is there?

Mr. Lauck: No, sir; there is no exact way. The only light we can get on that is from the history of the road and how it was financed, prior to 1896, which would throw some light on it in the way of the fact that the Atchison got the Kansas land grants and largely built the road from those, and from its policy of building branch lines, by giving stock bonuses to the purchasers of the bonds. To that extent, we know that a considerable portion of the stock represented no real money paid into the property. Just with any degree of accuracy, to say this much represented investment value, I think it would be impossible to get that.

Mr. Stone: Is there anything to show, Mr. Lauck, whether or not the original owners of this stock, before the reorganization, and who, by their policy junked the road, were the same ones who reorganized it under the new capitalization?

Mr. Lauck: I did not, in the case of this reorganization, make any investigation as to who the reorganization committee were. Of course, all the holders of previous stocks and bonds participated in the new issues. That is, they turned in their old issues, and according to the plan established by the reorganization committee received securities in the new company.

Mr. Stone: But after you get all through, the one fact does remain that after the reorganization, they had a total capitalization of about $354,000,000?

Mr. Lauck: $354,000,000, par value.

Mr. Stone: And now, at the present time, they have a capitalization of $654,000,000?

Mr. Lauck: Yes; that increase in capitalization, since that time, has been due presumably to legitimate capital issues, however. That is, from stock and bond issues, used to obtain capital, which may have been issued, as we saw this morning, part of which represented stock bonuses. No; there are no stock bonuses issued by the Atchison, since 1900. There is $11,000,000 of the bond issues, but presumably represented underwriting commissions. Presumably, the entire issue of stocks and bonds since that time have been legitimate. That is, the $300,000,000 increase. The point as to the excess capitalization upon which I am making the contention, is in the reorganization itself. That is, I am claiming that the market value was $140,000,000, I believe, against the issue of securities of $354,000,000.

Mr. Nagel: You claim that the market value of the stock should have controlled, at that time?

Mr. Lauck: Yes, sir.

Mr. Nagel: You don't contend that the valuation of the property itself was necessarily unreasonable?

Mr. Lauck: No, sir. I think probably if you would value the Atchison at its present going price, it would be worth more than $654,000,000.

Mr. Nagel: Is not the very circumstance that dividends are paid on this new stock, since then, some indication that there was foundation for their valuation?

Mr. Lauck: Yes, sir; and also, of course, we have to consider there the development in operating conditions and the efficiency, and the development in population of the country, which led to increased business.

Mr. Stone: And it might also be possible, might it not, that the bonds represented the actual cost of the road, and the stock represented no value whatever, so far as money was concerned, even before the reorganization?

Mr. Lauck: That is true. The stock before the reorganization might not represent any investment value, but as a result of the development of the country and the unearned values which have accrued, the physical valuation of the property now might be worth the capitalization, but did not represent investment value of that amount.

Mr. Stone: They simply capitalized the hope of the future.

Mr. Lauck: That is what my contention is here, thereby creating a demand upon operating revenues in the future, which, carrying the contention further, would be that when you once started to paying dividends upon securities, issued upon a prospective value of this kind, you are thereby preventing—you are permanently hypothecating revenue, because that will be a permanent obstacle to any wage increase that might otherwise come in the future. If you took part of this money to pay a wage increase now, you would be interfering with the vested right, it seems to me, according to—

Mr. Stone: According to the theory of the railroads?

Mr. Lauck: Yes, sir; according to general theory, also.

Mr. Stone: Property comes first and labor comes last.

Mr. Lauck: Well, that is the system that applies under the plan under which we are living at the present time.

Mr. Byram: That is not the way the revenues of a railroad are distributed, is it, property first and labor last? Is that the way revenues of a railroad are distributed?

Mr. Lauck: No. Of course, the payments to labor come first. Your operating expenses are paid before capital participates, but the point I had in mind, Mr. Byram, was that if this stock had not been issued, you would have had more revenues.

Mr. Byram: I understand what you meant, but your answer to Mr. Stone's question did not give that impression.

Mr. Lauck: The impression that was intended was that capital is the controlling factor in the distribution of the output, so far as it can be. Of course, you have to pay your operating expenses.

Mr. Byram: You are speaking now of profits?

Mr. Lauck: Yes, sir; my answer to Mr. Stone's question would apply more to any profits that are remaining.

Mr. Byram: Profits instead of revenue?

Mr. Lauck: Yes, sir, that would be the point.

Mr. Stone: It is a fact, though, they try to have the capitalization heavy enough, so that there will not be much left to quarrel about, after they pay their necessary dividends?

Mr. Lauck: I think the tendency has been to develop capitalization and keep pace with earning power.

Mr. Stone: That is the reason why we will still be paying this load and this debt, a hundred years from now, or our childrens' children will be paying it?

Mr. Lauck: Yes, sir, it is a permanent obligation, especially the bonds against the earning power of the company.

Mr. Stone: Is there anything further on the Santa Fe that you want to say, Mr. Lauck?

Mr. Lauck: No, sir, I believe not.

Mr. Stone: Take up the Texas roads.

Mr. Lauck: I want to take up the Chicago Great Western. There is another reorganization. It is on page 188.

Mr. Stone: You are not going to forget the Frisco, are you?

Mr. Lauck: No, sir; I am taking them up according to general topics. Having taken up bonuses, I am now taking up several examples of reorganizations.

Mr. Stone: All right.

Mr. Lauck: Pages 188 to 195, give an account of the reorganization of the Chicago Great Western, which is based upon the same method of computation as in the case of the Atchison, Topeka & Santa Fe.

Referring to the table on 191—the text table at the bottom of the other table, we have, prior to the reorganization of the Chicago Great Western in 1909, a total par value outstanding capitalization of $106,991,351. The market value of these securities, based on quotations for the last six months during which they were dealt in on the New York Stock Exchange, was only $23,214,443. The new company received cash from the reorganization committee, amounting to $10,000,000, and, therefore, received a total value, in terms of market quotations, of $33,214,443, for par value issue of securities of $104,768,000. Or, the consideration received was only 31.7 per cent of the par value of securities issued against it. In other words, $33,000,000 in cash and property, as reflected in market value, was secured and $104,000,000 in par value securities were issued against it.

On page 188, a summary is given of the whole reorganization. On page 189, the statement is given, at the top of the page, which shows that on the basis of these relative values, par value with market value, about 70 per cent of the total outstanding capital stock, was excessive of the new company; 50 per cent of the preferred was excessive, and 86 per cent of the common, and invested capital of the company, therefore, in terms of capital stock, amounted to $20,600,000 preferred, and $6,240,000 commoñ. Of course, if the reorganization had taken place, approximately upon a basis of this kind, the Chicago Great Western would be a road paying a very high rate of return at the present time, instead of having difficulty in meeting its preferred dividends alone.

Mr. Sheean: Well, difficulty in meeting—have there been dividends paid by the Great Western?

Mr. Lauck: My impression—I may be wrong about that. I thought they paid 4 per cent. Perhaps I am wrong. They become cumulative on June 30 of this year, I recall, but it might have been they were not cumulative in the past.

Mr. Sheean: I was wondering whether any of this ten or fifteen million dollars had, in fact, received any returns since it went in there, in 1909?

Mr. Lauck: I do not know whether there are any dividends being paid or not: I was under the impression that the 4 per cent dividend was being paid. I think what I had in my mind though was the fact that 4 per cent was to become due cumulative on June 30th of this year, and will cumulate as a liability against any earnings that will develop.

Mr. Stone: I don't think they have paid anything as yet. I don't think they have got over the cost of the reorganization, up to date.

Mr. Lauck: Anyhow, if they have not paid on preferred, on June 30th of this year the preferred becomes cumulative, and hereafter will cumulate a liability against the revenues of 4 per cent, each year, until dividends are paid.

Mr. Sheean: Does this show anywhere what the par value of the securities of the old underlying companies, the Minnesota & North Western and the Chicago, St. Paul & Kansas City were?

Mr. Lauck: No.

Mr. Sheean: How much money had actually been poured in there, through previous years?

Mr. Lauck: No.

Mr. Sheean: You just take up the last reorganization, in 1909?

Mr. Lauck: Yes, sir.

Mr. Sheean: And the then market value of the outstanding securities?

Mr. Lauck: As compared with the par value. It was evidently over-capitalized, prior to 1909. I think the capitalization, per mile of line, was about $146,000,000.

Mr. Stone: How much?

Mr. Lauck: One hundred and forty-six million dollars.

Mr. Stone: Per mile of line?

Mr. Lauck: Per mile of line, yes, sir; if I remember correctly.

Mr. Stone: Surely not. You don't mean that.

Mr. Sheean: Thousand, Mr. Lauck?

Mr. Lauck: Did I say millions? Oh, $146,000. I beg your pardon. I am getting so used to millions.

Mr. Sheean: Well, was not the effect of this reorganization to reduce the capitalization per mile of line in 1909, even—

Mr. Lauck: Slightly. I think there was about $2,000,000 total capitalization less after reorganization, par value, than before. It was very slight, however.

Mr. Sheean: Well, there were some millions of money which went into it, ten or eleven million dollars of money went in in 1909?

Mr. Lauck: Yes, sir.

Mr. Sheean: And the capitalization per mile of line was reduced, notwithstanding this ten or twelve million dollars that went in?

Mr. Lauck: Well, the capitalization per mile of line was of no consequence. There was a slight reduction. It was reorganized by J. P. Morgan & Company, for which they received a fee of $600,000, and this $10,000,000 was derived by the company turning over—the company never had any funded debt before this, I think, but they had had some income bonds probably, or some participating preferred stock, but they turned over to Mr. Morgan this $18,500,000 of bonds to which you referred this morning, and he gave back in return for that, $10,000,000, and the difference between the market value of those bonds and what the company got was the fee made by the underwriting syndicate, which was about $6,000,000. I think these bonds sold at about 82, market value. In other words, the underwriting syndicate, composed here of the bankers who reorganized this road, got a profit of $6,000,000 for selling practically—for incurring no risk whatsoever, and for the reorganization plan, as put forward by Mr. Morgan, he received a fee of $600,000, for evolving that plan, which did not reduce the capitalization to any appreciable extent.

Mr. Stone: I think that the fee was $500,000, Mr. Lauck, instead of $600,000.

Mr. Lauck: $500,000. I got that confused with the $6,000,000.

Mr. Sheean: Well, Mr. Lauck, is it not in the last analysis the case, as shown on page 194, that $20,000,000 of money was furnished in 1909, and with that $20,000,000 thus furnished, and which thus went into the property, the outstanding obligations against that property, per mile of line, were reduced?

Mr. Lauck: Slightly, yes.

Mr. Sheean: Slightly reduced?

Mr. Lauck: Yes.

Mr. Sheean: And whether those obligations were large or small, that notwithstanding the $20,000,000 that went into the property as it stood in 1909, that neither on that $20,000,000 nor any other money that had previously gone into the property, has any dividend been paid to capital?

Mr. Lauck: No dividend has been paid. But the point that I would like to make there would be that we now have outstanding the common and preferred stock, which will become a liability against the revenues of the company, the preferred especially, which becomes accumulative on June 30th of this year, and the stock issues will in course of time, just like the Atchison—here you have a case like the Atchison, which probably has not had time to develop yet. It has only been three years since the reorganization, and when they develop the earning power—there have been remarkable gains in earning power on the Great Western, when they commence to make earnings they will begin to pay dividends on stock.

Mr. Sheean: But not so great a lien on the earnings as existed per mile of line previous to reorganization?

Mr. Lauck: Slightly lower, yes.

Mr. Sheean: Well, how much do you mean by slightly?

Mr. Lauck: I am going entirely on my recollection. I thought that the—the total par value of the securities prior to organization was $106,000,000, subsequently it was $104,000,000, so there is $2,000,000 difference.

Mr. Stone: And to get that $2,000,000 it cost them about $6,000,000 in underwriting and fees to get a reduction of $2,000,000 in the capitalization?

Mr. Lauck: It cost them that to bring about this reorganization.

Mr. Sheean: Well, with the later reorganization, $102,-000,000 then is $20,000,000 more in the capitalization, and $2,000,-000 less obligation.

Mr. Lauck: There is part of that money—yes, that would be—there is $20,000,000 more money was put in.

Mr. Sheean: And after the $20,000,000—

Mr. Lauck: Ten of it came out in the case of Morgan, or $6,000,000 went of it to the underwriting syndicate.

Mr. Stone: They really got $10,000,000 in cash to put in in the end, didn't they, after they got all through?

Mr. Lauck: Yes, from the assessments on the stock and from the bond sale.

Mr. Sheean: Well, no matter where it came from, Mr. Lauck, as shown on page 194, there was cash furnished of $20,653,000 by the syndicate, wasn't there?

Mr. Lauck: Yes.

Mr. Sheean: And after furnishing the cash, the outstanding obligation against the Great Western property is $2,000,000 less than it was before any of that $20,000,000 was furnished?

Mr. Lauck: That is correct, yes.

Mr. Park: How much a mile is that. Mr. Lauck?

Mr. Lauck: I think I have the mileage here. The last paragraph on page 195, the bonded indebtedness per mile is $27,000, but I thought I had a compilation on a total basis.

Mr. Byram: Is $27,000 an unusual amount per mile?

Mr. Stone: That is just the bonds.

Mr. Lauck: That is just the bonds. Why, the gross capitalization of the Chicago—

Mr. Stone: What is the mileage of the road?

Mr. Lauck: The gross capitalization of the Chicago & North Western is $34,000.

Mr. Stone: The Chicago Great Western.

Mr. Lauck: I was going to make a comparison; $34,718; Chicago, Milwaukee & St. Paul, $33,359; the Chicago, Burlington & Quincy, $29,831. I thought I had the Great Western. I don't seem to have.

Mr. Burgess: Here it is. The miles of road.

Mr. Lauck: No, per mile of line.

Mr. Sheean: You have the total miles given here, 1,496. Then your total capitalization is given above.

Mr. Lauck: I think it is about $33,000 a mile. That is my understanding. That is my recollection.

Mr. Burgess: Is this what you were looking for?

Mr. Burgess: Is this what you are referring to? (Handing paper.)

Mr. Lauck: One hundred and forty-two thousand dollars a mile. That is prior to the reorganization. I will look that up. I do not recall what it is.

Mr. Sheean: I notice in the text here on page 195, Mr. Lauck, you state: "The total present capitalization of the Chicago Great Western Railroad proper is $108,768,315, or about $8,000,000 less than the total capitalization before the reorganization." So we were in error in talking about $2,000,000, were we not?

Mr. Lauck: Where is that, Mr. Sheean?

Mr. Sheean: It is right near the middle of the page, "or about $8,000,000 less than the total capitalization before the reorganization."

Mr. Lauck: Yes. I cannot remember all these things.

Mr. Sheean: No, and I had not seen this in the text when I asked you before.

Mr. Stone: My figures are correct, Mr. Lauck. You have a bond issue of $27,561 per mile, and a stock issue of a little over $57,000 a mile.

Mr. Lauck: What is the total, Mr. Stone?

Mr. Stone: Eighty-six million, two hundred and sixty-eight thousand, one hundred and fifteen dollars is the total amount of stock issued, and there are approximately 1,500 miles of road, 1,496 miles. You say right in the second paragraph on page 195, "If the whole common stock were wiped out, and the preferred reduced to something less than two-thirds the present amount, the capitalization of the road would be then somewhere near the proper figure, having in mind the extent of assets behind the stocks."

Mr. Lauck: Yes, as represented by the market value at that time, and the actual reduction in par value of capitalization is about $8,000,000 since the reorganization.

Mr. Stone: If your figures are correct, at the top of page 195, there is over $59,000,000 of stock that is water.

Mr. Lauck: The $59,000,000 of excess in stock, based upon market values of that kind, upon which, as I stated before, I am not claiming these figures are exactly what represent the investment value of this property, but they are a comparison between par value and market value, and indicate the point which we have in mind, that there has been a capital liability issued which is a drain upon earning capacity, and which will, in the future, absorb the productive efficiency of the road.

Mr. Sheean: Mr. Lauck, just to get clear on that, in the use of the term "water" it would not make any difference whether it was money that went in, in years past, before it got down to a time where they could not earn a return on that money, if the stock so depreciated in value that it was no longer making a return, then to the extent that that was below par, you would treat it as water, within this question?

Mr. Lauck: Yes. My contention is the difference between investment value as represented by stock market appraisement, and par value.

Mr. Sheean: A dollar, say, has shrunk to 30 cents; is 70 per cent water now?

Mr. Lauck: 70 per cent water, yes.

Mr. Stone: Suppose there never was a dollar to start with and it was never anything but water, then what?

Mr. Lauck: It would be purely a fictitious investment. The main point I wish to contend for, however, is not to what extent there was water, or whether this was wrong or right, or whether it was a proper practice, or improper, but it is the tendency toward the increase of capitalization or creation of capital against future earning power or productive efficiency of the road.

Mr. Stone: It is not any theory of any kind at all, but it is a condition which confronts us?

Mr. Lauck: Yes.

Mr. Stone: Here is this load on these railroads, and they expect them to pay.

Mr. Lauck: Yes.

Mr. Stone: And they are going to try to take enough productive efficiency out of the men to make it pay, are they not?

Mr. Lauck: Yes, it is a condition whereby a railroad has its capital obligations to meet and its obligations to its employes. And in reply to the contention that there is not sufficient revenue to meet the capital obligations, we are setting this forth to show that there has been more than an equitable participation of capital in a great many of these cases, and that securities have been issued which continue to absorb the increased productive efficiency of the employes.

Mr. Nagel: How are we to get rid of the securities?

Mr. Lauck: You cannot do it.

Mr. Nagel: In other words, we are dealing with a condition and not a theory?

Mr. Lauck: You are dealing with conditions actually and not a theory. If it is found, it seems to me, that there were funds available—the point is that it was shown here, or it was claimed the men were making higher earnings also, and the inference was that they had received more than a fair participation in the earnings, and we are also setting this forth to show, or attempt to show that capital has had more than its participation, in a great many instances, and therefore the decision, it seems to me, would be between who should get anything, if there was anything to get.

Mr. Stone: If labor has to wait, Mr. Lauck, until all these additional burdens that are constantly being placed upon railroads are taken care of, when will labor get its fair share of what it produces?

Mr. Lauck: Of course, if it had to wait, it could never get its additional share, if capitalization kept pace with earning power, as the tendency seems to be.

That is all I have to say about the Chicago Great Western.

Mr. Stone: Take up the next road. Before you leave it, Mr. Lauck, in summing the whole matter up as to the Chicago Great Western, what is the cause of the financial difficulties of this company, in a general way?

Mr. Lauck: There are certain operating difficulties which the company has to contend with, which, of course, are not of interest here, as I understand it, but the point—

Mr. Stone: Is it not always staggered under a heavy load?

Mr. Lauck: It has always had a large amount of excessive capitalization, even before the reorganization. But the point which I wish to present at this time is that the securities which are not now receiving payments, constitute a capitalization of the future earning power of the road, and may be used as a means of diverting revenues or absorbing revenues, and constitute a claim against the employes getting increased compensation in the future.

Mr. Byram: Well, Mr. Lauck, do you understand that any award that this Board may make, will apply to the Chicago Great Western?

Mr. Lauck: I thought it was a party to this proceeding, yes, sir.

Mr. Byram: Yes, and it is: And in that event the award of this Board would apply?

Mr. Lauck: Yes, sir.

Mr. Byram: Do you understand that there is any way for the Great Western to escape the consequences of an award, if it does involve an increased payment to the employes?

Mr. Lauck: None whatsoever, no sir. That brings up the point that Mr. Nagel and I were discussing, that it is a condition and not a theory that confronts us.

Mr. Byram: And whether the Great Western is able to pay or not, is not the question in this case, is it?

Mr. Lauck: No, sir, and I am not presenting this or anything in that connection, in this Exhibit, as indicating ability to pay, but in reply to the claim that productive efficiency has not been profitable and in reply to the claim that more than an equitable participation has been secured by engineers and firemen, that capital has also secured and will secure, through capitalization of future earning power, participation in the revenue, and attempting to show that productive efficiency has already been capitalized to a large extent. Of course, in the case of this road, there has been no payment upon this capitaliation except the bond issues of $18,500,000.

Mr. Byram: But it has paid its employes?

Mr. Lauck: Oh, yes.

Mr. Byram: And it has paid them in recent years, more than in the past, has it not?

Mr. Lauck: I presume so, yes.

Mr. Byram: They have really been paid increased wages, although capital has received no return upon this particular railroad. The men have received an increased compensation, say in the last ten years, although capital has not. Is not that the way the Great Western stands?

Mr. Lauck: None of the capital, at the time of the reorganization, in the form of stocks, has received any return up to the present time.

Mr. Byram: When was the reorganization?

Mr. Lauck: In 1909.

Mr. Byram: Then the employes have received an increase in pay since then, have they not?

Mr. Lauck: I understood in 1910. I am not certain.

Mr. Byram: Yes; so that as to the engineers and firemen on the Great Western, they actually have participated in increased compensation, although capital has not.

Mr. Lauck: No, except that—

Mr. Byram: And they will have to participate, if there is any advantage to them accruing out of this award, the employes will still get the benefit of it?

Mr. Lauck: Yes.

Mr. Byram: Even though capital may not.

Mr. Lauck: Yes. But if the operating development of this Great Western goes forward as the country develops, then capital will participate to the extent of these large amounts which have been issued, without market value.

Mr. Byram: The employes will have to have whatever increase they are entitled to, first, will they not?

Mr. Lauck: According to the method of wage adjustments, yes, sir.

Mr. Byram: That, of course, is what we are operating under.

Mr. Lauck: I understand that does not enter into the consideration.

Mr. Stone: That would be, Mr. Lauck, unless the Board should adopt the clever theory advanced by Mr. Sheean, with which we do not agree, that they should take the poorest road to fix their award by; and, of course, that would be some road like the Chicago Great Western, that they would scale their award by.

Mr. Lauck: I do not think that the Chicago Great Western could be selected as the poorest road. It is a remarkably good road in operating efficiency and from the standpoint of legitimate capitalization.

Mr. Stone: But is it correct to say that capital has not received anything since the reorganization in 1909? Have they not received a great deal of money on their bonds?

Mr. Lauck: I stated that the interest on the funded debt had been paid, part of which was issued—the only funded debt they had grew out of the reorganization, $18,500,000.

Mr. Byram: Well, would that be considered as a profit, interest on the bonds, or would that be considered a necessary part of the expenses of the operation of a railroad?

Mr. Lauck: That would be more a payment for borrowed capital.

Mr. Byram: It would not be profit, would it, any more than any other operating expenses?

Mr. Lauck: That would not be profit in the strict sense of the word.

Mr. Stone: It would be interest on investment, wouldn't it? If I had invested my money in the bonds of that road, and they paid the interest charge on these bonds, I would get it, wouldn't I?

Mr. Lauck: Oh, undoubtedly, from the standpoint of the individual holding the bond it is an investment. From the standpoint of the road it is a payment for borrowed capital, which theoretically they may have put in the road but which in this case was not put in the road, except possibly $10,000,000 of the $20,000,000 was put in the road.

Mr. Stone: That is all. Take up your next. Any other reorganizations that you want to take up?

Mr. Lauck: The supplement has not been submitted yet.

Mr. Stone: No. We can submit it at any time. We have it.

Mr. Lauck: I think it would be well to submit it now. I would just like to refer to one or two.

While we are waiting for the supplement, I will refer to page 182, organization and capitalization of the Missouri Pacific Railway Company. That consists of a consolidation which is in direct line with the topic we are discussing; the Missouri Pacific Railway Company, which is the result of a consolidation which took place between the old Missouri Pacific Railroad and the constituent companies, the stock of which they had largely owned prior to 1909. The table on page 186 shows the capital stock which was issued by the Missouri Pacific Railroad Company in accordance with the consolidation agreement of May 29, 1909. There we had a consolidation between six companies, the large proportion of the stock of which the old Missouri Pacific owned, and the new Missouri Pacific Railway Company. These companies are given in the small text table at the bottom of the large table on page 186.

To make the market value comparison with par value, it was impossible to get any quotations for these smaller companies, due to the fact that most of the stock of these companies was owned by the Missouri Pacific Railroad and was not traded in, and also due to the fact that all of them are practically worthless, because all of them as operating units had large deficits. I think the total deficits were about $30,000,000.

The average price of the Missouri Pacific Railway Company, however, for the four months ending May 31st, 1899, was 71.81 per cent, and it would therefore appear that the stock for which the new Missouri Pacific Railway Company exchanged $79,000,000 worth of its stock was worth something less than $57,500,000.

A more detailed compilation as to the exchange of stocks is also shown on page 183. This excessive capitalization arose largely from the consolidation which took place in 1880 of the old Missouri Pacific Railway, and also from a previous consolidation of the company with some of its properties.

The point that I wish to bring out is that as a result of this consolidation of the parent company and some of its properties, par value securities were issued $22,000,000 in excess of a liberal estimate of the market value of the constituent companies, and that will constitute a burden upon the future earnings of this system, and may be used to absorb future productive efficiency.

Mr. Sheean: Mr. Lauck, I notice you say, page 182, that many authorities expect a resumption of dividends within a few years. How do you account for the fact, if that is so, that the stock is selling at 12?

Mr. Lauck: That statement is based upon the operating efficiency developed by the Missouri Pacific, the putting of earnings back into the property, and the managerial ability which has been displayed in attempting to rebuild and put on a good basis this system. Of course, if the stock is selling at 12 it would not seem to be the market's idea that there will be any immediate resumption of dividends.

Mr. Sheean: I was wondering how long ago this text was prepared that "many authorities expect a resumption of dividends, within a few years," in view of the fact that the Missouri Pacific, for some months at least, has been around 10½, or whether market quotations can be relied upon as a fair index of the value?

Mr. Lauck: Of course, we are in an abnormal period now, but my impression of the Missouri Pacific in the year 1913 is it was earning about 18 per cent on its funded debt, or something like that amount, which would leave something over for the stock, if it were not put back into the property, which has been done for a number of years up to the present time.

Mr. Stone: Is it not possible to bring out here and tell what is the matter with the Missouri Pacific? Does not that show it? Does not it show it here in the capitalization and the financial management of it, the history of it?

Mr. Lauck: It shows here that the Missouri Pacific has undergone manipulation of its securities in 1880, resulting in an increase in its capital stock without any consideration.

Mr. Stone: They put in $10,000,000 of water in 1880, did they not?

Mr. Lauck: Yes. That was at the time that Mr. Jay Gould and his associates made a previous consolidation, which was reflected in the consolidation of 1909 again, and which is represented in my mind by the $22,000,000 at that time, which is bringing up to date the previous financial practices.

Mr. Stone: The fact remains that on this increased capitalization, from 1880 up to the present time, there has been over $10,000,000 paid in dividends, has there not?

Mr. Lauck: Yes. The dividends, together with the use of the money which had been paid in dividends.

Mr. Stone: So that one item alone means a loss to the company of over $20,000,000?

Mr. Lauck: Yes, sir; it is evidenced by the capitalization of the Missouri Pacific prior to 1880 that there had been stock inflation before that time. That is, it carried, if I remember correctly, a high capitalization per mile of line prior to 1880.

Mr. Stone: In 1876, when it was bought in, it had from five to seven million dollars of water even then, did it not?

Mr. Lauck: As I recall. Yes, sir, that is what I had in mind.

Mr. Stone: A little road of only some 295 miles at that time. I see on your page 182, Mr. Lauck, you have the history of it. 1876, the Missouri Pacific was bought in at foreclosure.

Mr. Lauck: Yes; this is a brief history of the Missouri Pacific. Briefly stated, there was some over-capitalization according to mileage capitalization prior to 1880. In 1880, Mr. Jay Gould inflated the stock. Dividends were paid upon that. The whole thing was reflected in this new consolidation by issuing securities at par against securities less than par, or $22,000,000 represented the accumulated financial practices of former years.

Mr. Stone: And when they were consolidated in 1909, it was really worth about $72 per share of stock, and they paid $100 for it, paid par?

Mr. Lauck: Yes, sir, on securities of the new company.

Mr. Stone: So that made a loss of about $28 per share?

Mr. Lauck: Yes.

Mr. Stone: For what the stock was worth on the open market?

Mr. Lauck: It aggregated a total difference between par value and market value, of $22,000,000.

Mr. Stone: The result of that was that there is about $22,000,000 of capitalization in the present company that was made permanent by that deal at that time, was it not?

Mr. Lauck: Exactly. That is the point I was mentioning. It was taking the financial practices of the past and continuing them up to 1909.

Mr. Stone: What was that $1.522,000 of 5 per cent bonds issued for in 1910, for which they secured no consideration?

Mr. Lauck: That is shown in the table on page 186. That is the case we were speaking of this morning, of the underwriting commission of 5.38 per cent, or excess of market value over net proceeds to the company in that bond issue of $1,435,000.

The point I have here is the same as in connection with the Chicago Great Western. It shows that securities are outstanding on this road which may be used to absorb productive efficiency in the future, and for which no consideration was received by the road, or no addition made to the earning power of the road.

Mr. Stone: The result is this increased load is on the present Missouri Pacific Company to carry?

Mr. Lauck: Yes, sir.

Mr. Stone: And pay dividends on, if they can ever get to that basis?

Mr. Lauck: If they can develop either the operating results to that basis, or if they develop the country, and traffic leads to that basis.

Mr. Stone: I have the supplements here now, if you want to refer to any more of them.

Mr. Byram: Do you understand that the Missouri Pacific is paying the going rate of wages to its engineers and firemen now, for the territory in which it is located?

Mr. Lauck: Yes, sir, I think so.

Mr. Byram: Then how have the men been injured by this performance you have been describing and criticising?

Mr. Lauck: What?

Mr. Byram: How have the engineers and firemen been injured, if any, by the transactions that you have been describing?

Mr. Lauck: So far as I know, they have not been, comparatively speaking, as compared with other roads.

Mr. Byram: Well, you would not expect the Missouri Pacific to pay their men more than other railroads?

Mr. Lauck: Not at all.

Mr. Byram: How can they be injured if they have been receiving the same rate of pay as the men on the other roads?

Mr. Lauck: They have not been injured.

Mr. Byram: How?

Mr. Lauck: I am not criticising what has been done, but simply offering as a counterstatement to the fact that it is claimed the men should not participate further until capital which was invested without consideration to earning power has been receiving returns, and there is capital outstanding which may become a burden upon the earning power in the future.

Mr. Byram: That would be a question to demonstrate.

Mr. Lauck: Yes.

Mr. Byram: You are capitalizing a fear, aren't you?

Mr. Lauck: Well, it is a capital obligation outstanding, which will surely receive returns as soon as it is possible to give it a return, and as soon as it does receive a return, of course, then, if you have wages which interfere with that you injure the credit of the railroad.

Mr. Byram: You would not expect a railroad in this territory that had not been handled in the objectionable way you speak of (if you could find one) you wouldn't expect that road to pay any different rate of pay to its enginemen for similar service from its neighbors, on account of the fact there was a difference in its financial history?

Mr. Lauck: No, sir. This is contained in the form of an anticipatory refutation of what has been claimed by the other side relative to productive efficiency.

I am attempting to show that if it is claimed that engineers and firemen have participated too greatly, that, in many cases, capital has improperly participated, and in many other instances there have been huge distributions to stockholders like we are speaking of.

Mr. Byram: Has it been claimed anywhere that the men have participated to that great an extent by any of the railroad companies?

Mr. Lauck: I inferred that from the tables presented as to the earnings of the men.

Mr. Byram: That they had been paid too much?

Mr. Lauck: I inferred that was the claim.

Mr. Byram: You didn't hear any witness say so, did you?

Mr. Lauck: No, I didn't hear any witness say so. A good deal of matter you have to take by way of inference or anticipation. Some of the exhibits I could not tell what was going to be argued on the basis of them. Moreover, I think in some of the testimony the claim was made that through the evolution of special rules and through the element of special schedules, that there had been an unfair participation.

Mr. Byram: Wasn't that more in the nature of an unfair distribution as between the enginemen themselves?

Mr. Lauck: I did not know. I am largely having to base the argument on what I fear may be argued from the evidence.

Mr. Burgess: But, Mr. Lauck, there was evidence by managers, given to this Board, that they were not in condition to make any further increases in compensation to the engineers and firemen, was there not?

Mr. Lauck: There were statements made to that effect.

Mr. Burgess: While on the witness stand?

Mr. Lauck: Yes, sir.

Mr. Burgess: And there have been statements made, made publicly in different periodicals, that one of the reasons why the railroads were in this financial condition, was because of the continuity or cycle of the increases in wages. Is that not a fact?

Mr. Lauck: A great deal of discussion of that kind was made in the press. I suppose it would not be a matter of cognizance here, however.

Mr. Burgess: No, but it is a fact that the press attributed those statements to very prominent railway managers and presidents?

Mr. Lauck: I remember specifically, Mr. Higgins said that the Missouri Pacific had not paid dividends for three or four years, and could not stand a further wage increase, because the payroll had increased to some amount, and it seemed to me, from the history of the Missouri Pacific, that it was probably just as good a claim for labor to receive an increase, as it would be for some of the capital stock to receive a dividend.

Mr. Sheean: They are not getting it, are they?

Mr. Lauck: No; as between the two, both of them are future prospects.

Mr. Byram: How would your theory apply to a railroad that did not earn enough to pay its operating expenses, without regard to profits or interest on bonded indebtedness? Did not earn enough to pay its operating expenses?

Mr. Lauck: Of course, if a railroad was in that condition, it would have to be in the hands of receivers, and operated as a matter of public policy, rather than as a business concern. Then the wages would be paid according to whether or not it was a matter of public policy to operate the railroad.

Mr. Burgess: Well, Mr. Lauck, do you or do you not know that the courts have held, in many instances, that roads that are in the condition referred to by Mr. Byram, shall pay the going rate of wages?

Mr. Lauck: I understand that is the attitude of the courts, yes, sir.

Mr. Stone: It is a fact also, is it not, Mr. Lauck, that in a number of cases, as soon as a receiver was appointed, they put the road on its feet financially—got it up to the point where it was a paying property, or where they found somebody, at least, who was ready to reorganize it and take it off their hands?

Mr. Lauck: Yes, that is the usual case, to use a receiver to keep the property going, until a method of adjusting its difficulties may be worked out.

Mr. Stone: You also heard, did you not, that a number of these engineers are so highly paid that they are drawing more than the governors of different states? Did you infer from that that the governors were not paid enough, or that the engineers were paid too much?

Mr. Lauck: I didn't infer one way or the other about it.

Mr. Stone: Coming back to this railroad like the Missouri Pacific, is it not a fact that when a railroad is heavily loaded, that everything is strained, up to the breaking point, almost, to make it pay, and everything in the shape of equipment, and roadbed, and everything else, is run down to the lowest possible point, consistent with safety, in order to make it pay?

Mr. Lauck: Returns on the capital?

Mr. Stone: Yes.

Mr. Lauck: We have numerous cases of that. I think that is clearly shown by the history of the Frisco; on the Chicago & Eastern Illinois and Rock Island, where everything was sacrificed to keep the road from becoming insolvent.

Mr. Sheean: But they weren't able to, in any of those cases?

Mr. Lauck: No; quite naturally, too.

Mr. Stone: The Rock Island is not in the hands of a receiver yet.

Mr. Chairman, we desire to introduce Exhibit 62. It is really a supplement to 61, and after 61 was in print, we found we had a little more time and we added some more to it, in the form of a supplement. Mr. Lauck wants to use it just now, because he wants to refer to a reorganization of a road that is covered in the supplement.

(The document so offered and identified was received in evidence and thereupon marked "Employes' Exhibit No. 62, March 3, 1915.")

Mr. Lauck: I thought, while we were on the reorganization, I would just make brief reference to two, that occur in this exhibit, one on page 43 and one on page 49, the reorganization of the Northern Pacific, and the reorganization of the Kansas City Southern Railway. Both of these are worked out in the same way that the two reorganizations were which I have discussed.

Mr. Stone: Have you got an extra copy of that?

Mr. Lauck: No, sir.

Mr. Stone: Never mind.

Mr. Lauck: And by comparison of par value with par value, of market value at the time of the reorganization, with par value, and of par value of new securities with market value of old—the Northern Pacific occurs on page 45, and on page 47, there is a table, showing the new securities and the exchange for old securities, on the basis par for par; par for previous market value: and the Kansas City Southern, the same way, on page 51. I don't think it will be worth while taking the time of the Board to go into these, in detail, but simply submit them as further examples of reorganizations, of this kind.

The main point that I am interested in, is the theory underlying it, not so much to go into the detailed facts in each instance.

Mr. Stone: It is a fact, though, is it not, Mr. Lauck, with the single exception of the Chicago Great Western, that every time they were reorganized they increased the capitalization of the road.

Mr. Lauck: That is the procedure, or at least, to maintain the old capitalization. I think that is distinctly the financial practice in America, which has been developed by the syndicates which have reorganized the different roads.

Mr. Stone: There are a few questions on that Northern Pacific that I should like to ask you. I think you covered part of it this morning in your bonuses. I was particularly interested in that cash bonus from that land company that you spoke about this morning.

Mr. Lauck: The North Western Improvement Company?

Mr. Stone: Yes. As I recall it, that was a special dividend of $11.26 per share, in that case.

Mr. Lauck: Yes.

Mr. Stone: Or a total of some $17,000,000?

Mr. Lauck: It was a dividend of 629 per cent upon the stock of the North Western Improvement Company, which, when transferred to the Northern Pacific Stock, amounted to $11.26 per share.

Mr. Stone: And as I recall your statement this morning, this special dividend was paid while at the same time new capital was being secured by the sale of stock?

Mr. Lauck: Yes, sir.

Mr. Stone: And I think you further made the statement that the stockholders knew nothing about this asset until the dividend was announced.

Mr. Lauck: No, it was not generally known. In the early history of the Northern Pacific, there was not the publicity of railroad accounts that we have at the present day; there were no strict, rigid requirements as to reporting to the Interstate Commerce Commission; and the Northern Pacific's policy was especially secretive; that is, it did not disclose as much relative to its affairs as other railroads. And when this dividend was announced, it was a matter of considerable surprise, even to the stockholders in the Northern Pacific.

Mr. Stone: It was concealed, was it not, by the book value of the stock; that was the way it was concealed?

Mr. Lauck: Yes, as I recall it, the North Western Improvement Company's stock was carried at a valuation of only two million or three million dollars upon the books of the Northern Pacific.

Mr. Stone: Yet it declared a cash dividend of $17,000,000, when they got ready to divide it up?

Mr. Lauck: Yes.

Mr. Stone: On a book value of some $2,000,000?

Mr. Lauck: Two million dollars, I think, or $3,000,000. That was due to its dealings in land. Considerable of the tracts of land which the Northern Pacific had secured from the Government were transferred to the North Western Improvement Company.

Mr. Stone: Have any other railroad companies any concealed reserves or assets like this?

Mr. Lauck: Well, we have no means of knowing, except so far as we have discussed them here in the case of the Southern Pacific. And the Northern Pacific timber holdings, of course, are an asset which it does not carry among its assets. As I understand it, the Northern Pacific timber holdings are worth about $50,000,000, and it has been the practice of the Northern Pacific to charge off against the cost of its property the proceeds from previous land sales, and these proceeds now have more than offset the cost of this land to the Northern Pacific; so, to use a popular phrase, their timber holdings which they have now are all "velvet."

Mr. Stone: Just how could the Northern Pacific Company manipulate its accounts to pay this dividend?

Mr. Lauck: I do not remember the exact details of that. I think that before this time the Northern Pacific had not shown any surplus to profit and loss, and—

Mr. Stone: It created a profit and loss surplus by charging improvements prior to 1906, to property investment, did it not?

Mr. Lauck: That is my recollection, yes, sir. That is, they charged uncapitalized improvements, and thereby got a surplus; they put them into assets, and got a surplus, and out of this surplus got the dividend of $17,000,000.

Mr. Stone: This arbitrarily increased the capital investment to that amount, did it not?

Mr. Lauck: Yes, sir.

Mr. Stone: Can this property investment be manipulated the same way by other railroads?

Mr. Lauck: It could be done, yes, sir. We have even worse examples than that, if you are interested in that feature. We have a case in 1909, I think it was, that Mr. Harriman sold a bond issue, and out of the proceeds of the bond issue declared a dividend of 30 per cent on the Chicago & Alton Railway, and then there were no assets among the Chicago & Alton assets which could be used to pay a dividend then, so he went back prior to 1865, about fifty years previously, and found that some improvements were made to the property at that time which had never before been capitalized, so he credited the company with those as uncapitalized investments in the past, in order to conceal the dividend from the accounts of the company, and declared this 30 per cent out of the bond issue which he had sold in that year.

Mr. Stone: Back of all that, Mr. Lauck, what is the significance of this practice? What does it lead up to, what does it mean, when you get up to a labor arbitration like this?

Mr. Lauck: The only significance I see to it is the fact that an increased property investment may be used against it, if the ground of inability to pay is contended, or it may be the fear that accounts are not properly kept and that the financial status or other status of the railroads is not shown correctly. I do not share in that fear, personally; I think that most of the accounts are properly kept.

Mr. Stone: That is all on that. Take up your next.

Mr. Lauck: I will next take up the Chicago & Alton Railway.

Mr. Stone: The reorganization?

Mr. Lauck: That is a consolidation and stock manipulation. That appears on page 198.

This affords an illustration of a consolidation; Mr. Harriman and his associates, the so-called Harriman Syndicate, having brought about a consolidation of the old Chicago & Alton Railroad with the new Chicago & Alton Railway, which consisted of about fifty-eight miles of railroad that they had recently acquired; also as to the extent to which, in some instances, the stocks of a company may be manipulated and excessive capitalization issued, which becomes a burden upon future earning power and productive efficiency.

Mr. Stone: The Chicago & Alton has quite a history, has it not?

Mr. Lauck: Yes, it has quite a history.

Mr. Stone: And in order to get it right, you have to start back early.

Mr. Lauck: Yes, sir. It was a very prosperous road and had been developed to a very high state of efficiency and financial success, by the former president, Mr. Blackstone, I believe, when the so-called Harriman syndicate, composed of Mr. E. H. Harriman and his associates, Mr. Mortimer L. Schiff, of Kuhn, Loeb & Company, Mr. James Stillman, of the National City Bank of New York, and Mr. George J. Gould, and it is also stated in some quarters, that Mr. John D. Rockefeller was also a member of this syndicate, but they are the publicly recognized members of the syndicate, acquired control of the Chicago & Alton. As a beginning to that, or as a preliminary step, they offered more than the market price of the shares for the stock, and they were opposed by the former president, Mr. Blackstone, but finally the stockholders sold a controlling interest to the syndicate, and they became, in 1899, I think it was, the controlling parties in the management of the Alton Railroad.

Mr. Stone: At that time what was its capitalization?

Mr. Lauck: At that time the gross capitalization was $33,000,000; and during the next seven years, I think $19,000,000 more was put into the property in improvements, making a total capitalization in 1906 of $52,000,000, representing, presumably, a real investment value. At that time the so-called Harriman Syndicate consolidated that with the Chicago & Alton Railway, which was a corporation they had created on the basis of 58 miles of railroad, which they had bought, which was the Northern Division of, I have forgotten the name of the road, but the Illinois Central bought the Southern Division and they bought the Northern Division of this road, a small road 58 miles in length. As the result of that consolidation in general, Mr. Harriman testified that $62,000,000 in fictitious capitalization, or that did not represent any commitment in the property, was issued.

Mr. Stone: Then they had a capitalization of $114,000,000?

Mr. Lauck: Yes, as the result of consolidating this 58 miles of road with the old Chicago & Alton Railroad proper.

Before that time, however, there had been considerable manipulation of the stock, and a considerable number of financial transactions, which increased the value of the old company's stock by the so-called Harriman Syndicate before the consolidation took place. They are given briefly on page 199; that is, I have divided the period of control into that prior to 1906, when the consolidation took place, and from 1906 to 1910.

Mr. Burgess: Mr. Lauck, could all these manipulations of finance, in part or in whole, come under the term used as "pyramiding" here during these hearings?

Mr. Lauck: Yes; it was meant by that, an increasing capitalization on the basis of the same old assets. That is, put two things together and add their real investment value, why, you would have the aggregate real investment, but if you increased proportionately the capitalization, you keep on building upon the same thing. The Rock Island Railroad Company affords the best example of that, with about $275,000,000 pyramided upon $71,000,000 real value.

Mr. Burgess: We had heard a great deal about pyramiding in this hearing, and I was wondering what relation the pyramiding of the financial end of the history of the railroad would have, to the pyramiding of the wage scale, or whether it came under that particular meaning or not?

Mr. Lauck: I don't know what pyramiding of the wage scale is.

Mr. Nagel: It is all constructive, more or less.

Mr. Lauck: I think we have examples of it, in capitalization. I don't know about the wage scale, Mr. Burgess.

Mr. Stone: In this period, from 1906 to 1910, what took place towards improving the financial condition of the Alton, from the Harriman standpoint?

Mr. Lauck: From 1906 to 1910?

Mr. Stone: The first period, before they merged it.

Mr. Lauck: Before the consolidation of 1906?

Mr. Stone: Before 1906, I should say.

Mr. Lauck: The funds, improperly diverted from the treasury of the Chicago & Alton, principally through the manipulation and deals of the underwriting syndicate or the so-called Harriman syndicate, which was the same as the owners of the property, amounted to about $24,000,000. That is, you had a case here of this banking control we spoke of yesterday—or an example of how improperly that banking control might be carried out. You have the syndicate, centering about Kuhn, Loeb & Company, who acted as fiscal agents of the road, the stockholders—the people who owned the road and the syndicate, being identical, and the stockholders selling to themselves, as a syndicate, or bankers, securities of the road and disposing of them to the public at an immense profit. For instance, the profits received in 1899 by the stockholders who sold to the syndicate, or to themselves, $32,000,000 of 3 per cent bonds, at 65 cents on the dollar, and then, as a syndicate, they disposed of them at 93 cents, making a profit of about $8,000,000. All of this difference between the actual amount received and what the stockholders sold the bonds to the syndicate, as themselves, should have gone into the treasury of the Chicago & Alton Railroad.

Mr. Stone: They cleaned up $8,000,000 on that one sale, alone?

Mr. Lauck: Yes, sir; the condition was, as I have pointed out, that the syndicate and the stockholders were the same.

Mr. Sheean: Mr. Lauck, was it not the result of this report of the Interstate Commerce Commission made in 1906, by virtue —which was based upon what the law was, changed in 1907, so as to require accounting in railroad financing?

Mr. Lauck: I don't know. That may be true.

Mr. Sheean: But the law was amended, shortly after the report of the Commission?

Mr. Lauck: It was amended in 1907.

Mr. Sheean: And the uniform system of accounting adopted since that time?

Mr. Lauck: It was adopted at that time. I don't know whether this was the occasion for it or not. It surely was a justifiable action.

Mr. Sheean: I did not know, Mr. Lauck, but that you would remember. I am not saying that this is the case, but in reading a part of this investigation, my recollection of it was that following the part that you set out here, the Commission made a recommendation as to giving them power as to uniform accounting. Have you had this before you, recently—this Volume 12?

Mr. Lauck: I don't remember that part.

Mr. Sheean: I may be in error.

Mr. Lauck: I know they recommended probably, which they have constantly, the regulation of security issues, but I don't know whether accounting was in there or not. I have it over at the hotel. I will look it up.

Mr. Sheean: I thought you would remember it.

Mr. Lauck: I haven't read it for quite a while.

Mr. Stone: You show on page 199, in paragraph 2, that this syndicate had declared a dividend of 30 per cent, paid to the stockholders, when there was no surplus from which such dividend could be legitimately paid?

Mr. Lauck: Yes, sir; that is all based, I might say, upon the report referred to by Mr. Sheean, which was an investigation made by the Interstate Commerce Commission. The Interstate Commerce Commission having heard of the so-called Harriman Syndicate activities, instituted an investigation on its own order, as I recall, and these facts were disclosed at this investigation, in which Mr. Harriman appeared, as a witness, and Mr. Schiff, of Kuhn, Loeb & Company.

Mr. Stone: If dividends of 30 per cent can be paid out of the funds of the road when there is no surplus, is there any reason why standard wages cannot be paid out of the funds of a road, when there is no surplus there?

Mr. Lauck: You can make an issue of bonds and replenish the surplus. It could be done in the same way which was done here. That is, bonds were issued and the proceeds of the bonds used to pay a dividend, which was contrary to all sound practices, of course.

Mr. Stone: And then they went ahead and made two, or three, or four more moves, during that same time manage to clean up a few dollars?

Mr. Lauck: Yes, sir. One of the most significant things in this connection was the improper banking practices that were used. That is, you have a case here of where the banking control, or the credit control was used improperly, and on a good many roads, we noticed this morning that the underwriting commissions, it seemed to me, were not excessive—what you might expect a road to pay, but here you have a direct and deliberate exploitation, by a certain banking group, or certain syndicate controlling credit. That is, the syndicate owned the railroad. They sold the securities of the railroad to themselves. Then, they sold them at a higher price to the public. For instance, they bought bonds at 65, from themselves as stockholders, sold them to the public at 93, and the proceeds, representing a difference which should have gone to the railroad, they took themselves as underwriting commissions. The same system was practiced by this syndicate, in the case of the Union Pacific, when it bought the Northern and Southern Pacific stock, when it attempted to get control of the Northern Pacific and the Burlington, which it failed to do, however.

Mr. Stone: But the fact remains that on a stock issue of $32,000,000, that the bankers did clean up $8,000,000. Is that right?

Mr. Lauck: Yes, sir.

Mr. Stone: Or the underwriters?

Mr. Lauck: Bond issues.

Mr. Stone: Then, after they got all the money out of it in that way that they could, then, in 1906, they sold and reorganized the road?

Mr. Lauck: Yes, sir; and added to the capitalization.

Mr. Stone: That is the time they put in how much—$62,000,000?

Mr. Lauck: Altogether there was $62,000,000 added, without any addition to the earning capacity of the company, and there was also some more added, but that has never been correctly ascertained up to the present time.

Mr. Stone: And that is a burden on the road to this day?

Mr. Lauck: Yes, sir.

Mr. Stone: And that is one of the reasons that the Alton at this time finds itself in the condition that it is?

Mr. Lauck: Yes; and when the total issue of fictitious bonds, as disclosed by these investigations, was about $34,000,000, the interest charges upon which were considerably more than $1,000,000, the result is that the operating revenues were permanently handicapped, or the productive efficiency of the road permanently saddled with more than $1,000,000 annual payment during the life of these bonds, which should be available for increased rates, or for improving the property, or for increased wage payments. I should have said decreased freight charge, instead of increased. This is probably the most indefensible financing in connection with Western railroads. It is briefly summed up on page 211, in the report of the Interstate Commerce Commission, which has this to say about it. This paragraph is entitled: "Indefensible Financing." The report states:

"From this brief synopsis of the exploitation of the Chicago & Alton, it is evident that its history is rich in illustrations of various methods of indefensible financing. First came the profit to the stockholders arising out of the sale to themselves of $32,000,000 of bonds at 65 which sold for several succeeding years for 82⅛ to 94. Second, came the 30 per cent dividend based on amounts expended from income for improvements, much of it nearly thirty years before and recently capitalized. Third, came the pseudo transfer to Stanton and his contract under which the new company paid $10,000,000 in cash for preferred stock which had cost less than $7,000,000. Fourth, came the conversion of 183,224 shares of common stock in the *Railroad* Company into 195,428 shares of common stock, plus 194,890 shares of the preferred stock in the *Railway* Company, part of which was sold to the Union Pacific at 86½ a share. Fifth, came the sale of the St. Louis, Peoria & Northern, for $3,000,000 cash. Sixth, came whatever interest the syndicate may have had in the sale to Kuhn, Loeb & Company of $22,000,000 of bonds at 60 cents on the dollar. Seventh, came the fee of $100,000 to Mr. Harriman for financing the enterprise. This analysis is no doubt incomplete, but it is suggestive. By way of justification or excuse we are told that the methods of the financing of railroads which prevailed in the year 1900 are now obsolete owing to a higher degrees of conscientiousness among financiers; and, moreover, that the Chicago & Alton should not be regarded as an isolated instance, inasmuch as it was dealt with much as many other roads were at that period."

Mr. Stone: Read the next paragraph.

Mr. Lauck: "The first of these statements is, we trust, true; the latter statement is not calculated to uphold the value of American railroad securities. It is true, however, as contended, that a close examination of the method of capitalization adopted in the case of the Chicago & Alton shows that while the total of bonds and stocks was doubled, there was no such proportionate increase in the fixed charges of the railroad. Under the Blackstone management when 8 per cent was paid on the stock and but a small bonded debt rested on the property, the yearly charges for dividends and interest amounted to $2,792,986, whereas, with the greatly increased present capitalization the yearly fixed charges amount to but $3,471,590."

And the paragraph goes on to state that the plan was to substitute long term bonds, with a low rate of interest, for stock paying a high rate of dividends, and then concludes:

"However, these bonds must some time be paid; they live for fifty years as a debt of the railroad, and the stock will control a property which it did little, if anything, to create."

Mr. Stone: Is this not the road, Mr. Lauck, that surveyed a line down in the southern part of Illinois and bonded it and the bonds are now shown as one of the assets of the road, and the line never was built?

Mr. Lauck: Yes; they sold the bonds. I have forgotten the exact—they made a bond issue to construct the road, sold the bonds, and did not construct the road—or sold most of the bonds.

Mr. Stone: Something like $3,000,000, as I recall it now?

Mr. Lauck: Something like that figure.

Mr. Stone: All there was there to show for it was a line of surveyor's stakes across the country.

Mr. Lauck: Yes. All of these bonds, which were really a liability of the company, were carried as an asset under Mr. Harriman's control. That is also true of the Missouri, Kansas & Texas Railroad. They have issued, in some cases, bonds, for one reason or another, and the road was not built, and the bonds have no basis, so far as tangible property is concerned.

Mr. Stone: Is that all you want to say about the Alton?

Mr. Lauck: That is all I think it is worth while. I do not think it is necessary to go into detail about these things. The fact I am attempting to put forward is that capitalization has been issued to absorb productive efficiency, and, possibly, to prevent increases in wage payments, and that to get an inequitable participation in revenues.

The Chairman: Will you suspend:

(Whereupon, at 5 o'clock P. M., on March 3, 1915, an adjournment was taken to March 4, 1915, at 10 o'clock A. M.)

IN THE MATTER OF THE
ARBITRATION
between the
WESTERN RAILWAYS
and
BROTHERHOOD OF LOCOMOTIVE ENGINEERS
and
BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN
under the Act approved July 15, 1913, *by agreement dated August* 3, 1914.

Chicago, Illinois, March 4, 1915.

Met pursuant to adjournment at 10:05 A. M.
Present: Arbitrators and parties as before.

Mr. Stone: Mr. Chairman, I desire to make a correction, before taking up the hearing. On page 6052, last line of the fourth paragraph, I say: "$373,000,000." It should be $173,000,000.

The Chairman: Are there any other corrections to make?

Mr. Lauck: Mr. Chairman, I made a mistake the other day that I would like to correct, if I may. I said the Pennsylvania bond issue was over-subscribed 19 times. I should have said 5 times.

W. JETT LAUCK was recalled for further examination, and having been previously sworn, testified as follows:

Mr. Stone: I think you had finished up what you were discussing last night. If you will turn to the St. Louis & San Francisco on page 91, I would like you to relate the early financial history of this railroad company.

Mr. Lauck: Immediately after 1870, when this road was constructed, it was bought by the Texas & Pacific, which shortly went into the hands of the receivers, and the St. Louis & San Francisco then became an independent line. The present road, after the receivership was established or started in 1876, from that time forward developed a very profitable traffic, and was paying dividends until 1890, when it was acquired by the Atchison system, and in 1893 it went into the hands of the receivers.

Mr. Stone: Mr. Lauck, would you prefer to take it up in detail along as it comes, and then make the summary at the end?

Mr. Lauck: Just as you like.

Mr. Stone: I think it would be better, perhaps.

The Chairman: What road are you discussing now?

Mr. Stone: The St. Louis & San Francisco, on page 92.

Mr. Lauck: The St. Louis & San Francisco. The first few pages, from pages 91 to 95 are concerned with the early history of the Frisco, in the way that I have indicated.

Mr. Stone: Well, I think it would be better to give the summary on the start-off, and then take the details of the special ones.

Mr. Lauck: All right, sir.

After 1876, it became very profitable, paid dividends of 7 per cent, and the stock advanced from I think about 10 per cent of par to practically par. In 1890, it was acquired by the Atchison, and in 1893, along with the Atchison, went into the hands of receivers. In 1896, at the same time the Atchison was reorganized, the St. Louis & San Francisco was divorced from the Atchison and reorganized as an independent system. It at that time had a market value, according to contemporaneous quotations, of about $10,000,000, against which securities of a par value of $56,000,000 were issued, leaving, according to this method of comparison, $46,000,000 of securities against the road, which represented no real investment value.

After 1896, it followed a different policy from what the Atchison followed. The Atchison, profiting by the previous experience which it had in the way of unwarranted expansion and acquisition of new lines, entered upon a policy which made it a very profitable and one of the leading railroads of the West.

The St. Louis & San Francisco adopted an entirely different policy, one of too rapid expansion, the absorption of branch lines at ruinous prices, and far beyond their real value, and in this attempt to build up an immense system, it was greatly overcapitalized, and a great deal of its funds and resources were wasted, until it finally went into the hands of receivers, in last year.

Its whole management, during this period, was characterized by reckless issue of securities, by a very great overcapitalization, by the buying up of branch lines by officials of the company, and selling them to the parent company, at exorbitant prices, and thus adding to the capitalization and to the burdens upon the revenues of the railroad proper.

The Chairman: Do you mean that they bought up branch lines and sold them to the parent company, for an amount in excess of the amount that the officials had paid for them?

Mr. Lauck: Yes, sir; they bought up branch lines, or built branch lines, in some instances, through forming a syndicate, in which the directors and the president of the Frisco took part, and then they sold them at a greater cost than they had incurred and the syndicate profits were participated in by them. This, of course, led to an increased capitalization, and according to our contention, a dissipation of resources, and a burden upon the operating revenues of the railroad proper.

Mr. Stone: Going back to the beginning of the Frisco, Mr. Lauck, what was the original cost of the Frisco road?

Mr. Lauck: At the time of the reorganization, the market value in 1896 was, according to contemporaneous quotations and the estimates at that time—was about $10,000,000. Against that, $56,000,000 securities were issued, leaving $46,000,000 of fictitious securities which have persisted up to the present time and which are now a part of the capitalization of the Frisco.

Mr. Stone: That is a part of the load the Frisco is staggering under at the present time.

Mr. Lauck: And dividends all through the checkered history of the Frisco,—dividends were paid upon the stock. It seemed to be the idea of the directors or the managers of the system, if they would continue to pay dividends that the credit of the company would be assisted, and they would have greater ease in disposing of the new security issues.

Mr. Stone: That is, they could build more lines and buy more lines, with new issues of stock?

Mr. Lauck: Yes, sir; but this was a continual drain upon the real operating revenues of the Frisco. It is conclusively shown by previous history of the road, prior to its acquisition by the Atchison, from the period 1876 to 1890, that it was a very prosperous road. It had remarkable earning power and possibilities, and if the road had been managed like the Atchison was, after 1896, it would have shown immense earning powers, and immense net revenues.

The Chairman: Is that road a party to this controversy?

Mr. Lauck: Yes.

The Chairman: You say it is in the hands of a receiver now?

Mr. Lauck: Yes, sir.

The Chairman: How long has it been in the hands of a receiver?

Mr. Lauck: Since May, 1913, I think.

Mr. Nagel: That is about right.

Mr. Lauck: It is in the hands of a receiver, and also some of its subsidiaries, the Chicago & Eastern Illinois and the Kansas City, Ft. Scott & Memphis, which the Frisco acquired.

Mr. Stone: Well, the Chicago & Eastern Illinois has been divorced from the Frisco, at the present time, has it not, and is in the hands of a different receiver entirely?

Mr. Lauck: They have different receivers; and also the St. Louis, Brownsville & Mexico.

Mr. Burgess: Is the Evansville & Terre Haute part of the C. & E. I.?

Mr. Lauck: I don't know.

Mr. Stone: Yes, sir.

Mr. Burgess: Is it in the hands of a receiver, too, Mr. Stone?

Mr. Stone: I understand it is, as a part of the C. & E. I. system. I am just speaking from memory now. I have not a check.

Mr. Lauck: If it is a part of the C. & E. I., it is in the hands of a receiver.

Mr. Stone: I wish you would give us the detail of it, Mr. Lauck, from the time it went in the hands of a receiver until it went through the reorganization, and what has happened to it again, if you can?

Mr. Lauck: After it became an independent system and entered upon an independent career after 1896, with this inflation of $46,000,000—

Mr. Stone: How did it get away from the Atchison, Topeka & Santa Fe at that time? During the reorganization plan?

Mr. Lauck: Both of them in 1893, at the time of the panic of that year, went into the hands of receivers. They remained in the hands of receivers until 1896, and in the reorganization the St. Louis & San Francisco was divorced from the Atchison and both became independent roads and were reorganized in 1895 and 1896.

Mr. Stone: To show the splendid condition of the property prior to that, I think it would be well to read the President's statement at the bottom of page 94.

Mr. Lauck: It was one of the best properties in the Southwest at that time, in 1888, prior to its acquisition by the Atchison. President Winslow, as quoted from the Commercial and Financial Chronicle, makes the following statement relative to the status of the company:

"The company has no floating indebtedness and no bills payable outstanding; it owes no person, firm or corporation any unpaid account, and the only indebtedness of this description applies to operating expenses for October, which are now being paid in the usual course of business out of net earnings. The company also has a fund of over $1,500,000 in money for use at any time. It is not engaged in building extensions in any direction, and owes nothing for new equipment added in the last year." That was in 1888.

Mr. Sheean: On that same page, right at that same time, I think you will find they are speaking there merely of the floating indebtedness, are they not? On page 94, the same page you are reading from, the statement is made that the capitalization per mile at that time had decreased from $72,631 to $19,798 of stock, and from $43,894 of bonds to $26,997. Now, they are speaking of the floating indebtedness, are they not?

Mr. Lauck: That is floating indebtedness indicating that there are no pending claims against the company. The company also had a funded debt of about $7,000,000 at that time.

Mr. Sheean: In addition to the funded debt, the capital outstanding was $20,000 a mile?

Mr. Lauck: Yes.

Mr. Stone: Is it not a fact that that decrease was brought about by the fact that many of the lines projected had been constructed?

Mr. Lauck: Yes; that was an indication of financial strength on the part of the company that, through its extensions, its capitalization per mile had been decreased.

Mr. Stone: I think it might be well to read that part of the extract on page 94 dealing with that.

Mr. Lauck: In the statement of the Commercial and Financial Chronicle?

Mr. Stone: Yes.

Mr. Lauck: In January, 1888, at page 101, it states that "the St. Louis & San Francisco was one of the most successful reorganized roads in the southwest, having shown good progress in traffic and income without much increase in fixed charges. That the road had almost phenomenal earning power and a potentially great career may be surmised from the following facts relative to the prices at which its stocks were quoted during its early years and the amount of dividends paid thereon. As stated, the St. Louis & San Francisco acquired its original property and lands toward the close of 1876. In 1878 the highest quotation for the first preferred stock was 11¾, and the lowest 5½. The high and low prices for the second preferred were 5¼ and 1½, respectively, and for the common 4⅛ and 1½, respectively. The low for the three classes of stock in the order just named for 1879 was 9¾, 4⅛, and 3⅛, respectively. It is not improbable that these prices represented a reasonably fair estimate of the values behind the stocks. At least, this seems to have been the opinion of those who sold them. There was a mortgage debt of $7,194,500 outstanding against the property, which the St. Louis & San Francisco had assumed at the foreclosure sale, and the total mileage appears to have been only 432 miles. So, considering the character of the country and the cost of construction in those days, this bonded debt of $16,600 per mile probably represented more than the actual cost of the property, leaving no tangible value behind the stock. Yet, within three years after this first preferred stock sold for $5.50 per share, it was receiving an annual dividend of $7.00 per share, and was sold in the market as high as 115½ the first year the dividend of 7 per cent was established. So, the other classes of stock had tremendous increases in market price."

Mr. Stone: So, it is a fact that, in 1880, the road had arrived at the point where it was paying 7 per cent dividend on all stock?

Mr. Lauck: Yes, sir, and according to the Commercial and Financial Chronicle, this stock represented no real investment in the road.

Mr. Stone: I should not say all stock. I should say both classes of preferred stock. Although they represented no real value, yet they were paying $7.00 each year on each share?

Mr. Lauck: They had advanced in value from the time of the reorganization in 1876 from practically nothing, to $115.00 per share, which indicated the development of the earning power of the property and what might have been expected had the property been properly financed in the succeeding years.

Mr. Stone: All right. Well, after this phenomenal earning power, then what happened to it?

Mr. Lauck: Well, it was then acquired by the Atchison, and its capitalization was greatly increased, owing to the policy of the Atchison at that time (which was also adopted in the case of the Frisco) of rapid expansion and acquisition of new property, and six years after this statement was made by the Commercial and Financial Chronicle which I have just read, the road was bankrupt and in the hands of the receivers.

Mr. Stone: Well, at the time the Atchison took it over, what was its capitalization? Is that correct on the bottom of page 95, $30,000,000?

Mr. Lauck: Yes, sir, that is in 1899,—this is the last annual statement of the Frisco railroad prior to its acquisition by the Atchison—its total capitalization in common and preferred stock was $30,000,00, and under the Atchison control—this control was obtained, I might say, by the inter-exchange of stock with the Atchison—

Mr. Stone: What was its capitalization the next year, when the Atchison reported on it?

Mr. Lauck: The common stock had been raised to $35,-500,000 from $15,500,000, and the funded debt had been greatly increased.

Mr. Stone: Well, is it not a fact that, in 1890, the Atchison increased it to $101,000,000? Right at the bottom of the page you will find it.

Mr. Lauck: I have not the exact figures. I cannot recall. No, that is the Atchison stock increased from $75,000,000 to $101,000,000. The Frisco common stock increased about 150 per cent under the Atchison domination, and the funded debt was greatly increased, but the exact figures I cannot recall.

Mr. Burgess: Well, Mr. Lauck, if I followed you correctly, the statement that you read, purporting to come from President Winslow—

Mr. Lauck: Yes, sir.

Mr. Burgess: —published in the Commercial and Financial Chronicle, was in the year 1888?

Mr. Lauck: Yes, sir: That was the comment of the Chronicle editor upon his statement, which was from a very conservative source.

Mr. Burgess: And that statement purported to show that there was no floating indebtedness and no bills payable at that time.

Mr. Lauck: Except just current operating expenses, yes, sir.

Mr. Burgess: And in less than six years this railroad was in the hands of the receivers, which was in 1894?

Mr. Lauck: Yes, sir.

Mr. Burgess: Well, there being no concerted action by the engineers and firemen, or the engineers alone, until 1906, that is very substantial evidence that the wage movements did not put this railroad in the hands of a receiver, is it not?

Mr. Lauck: Yes, sir; had nothing to do with it whatsoever. It was wrecked by the financial mismanagement, the mistakes made by the financial mismanagement, of the Atchison.

Mr. Stone: Is that what you would call it—mistakes?

Mr. Lauck: Well, that is a euphonistic means of designating it. The reason why the Frisco—the cause for its ruin at this time was that it collapsed, through the same policy that was being pursued by the Atchison. That is, the Atchison was acquiring subsidiaries which did not prove profitable. The Frisco also entered upon a similar policy, under the Atchison control, and both of them were thrown into the hands of receivers, by the fact that the subsidiaries which they acquired, did not meet their current expenses, and which had to be paid from the funds of the parent company; and finally, they could not carry the load any further and both roads went into the hands of receivers. Of course, these subsidiaries had been overcapitalized, or excessively capitalized.

Mr. Stone: And the result was that in 1896, it was sold under foreclosure?

Mr. Lauck: Yes, sir.

Mr. Stone: Who bought it?

Mr. Lauck: It was bought, I think, by a committee of the bondholders. The reorganization managers were the purchasers who represented the bondholders, of course, and the system was reorganized as the St. Louis & San Francisco Railroad Company, which is the present title of the company.

Mr. Stone: At the time of the reorganization, what was the capital stock of the Frisco?

Mr. Lauck: At the time of the reorganization, that is six years after the Atchison control, the stock capitalization was $50,000,000, an increase from $30,000,000, prior to the acquisition by the Atchison. The bonded debt had increased from $7,000,000 in 1888, to $45,000,000 in 1896. The value of the property, as given, was $67,000,000, which, of course, was merely adjusting the property account in accordance with the capitalization, largely. That is, when the road was reorganized, they went in, I think, with $67,000,000 cost of road and equipment. The capitalization was increased by $20,000,000, and they came out with the same cost of road and equipment as the capitalization; or that automatically increased their cost of road and equipment $20,000,000, in order to make it accord with capitalization.

Mr. Stone: That was simply a mere matter of bookkeeping.

Mr. Lauck: Increasing the property investment account to accord with the increased security issue.

Mr. Stone: So as to make the balance sheet look right?

Mr. Lauck: Yes, sir. There were no regulations then from the Interstate Commerce Commission, as to cost of road and equipment and keeping uniform accounts, or method of keeping this account, but it indicates that prior to the regulation of the Commission that these accounts were very loosely kept.

Mr. Stone: Well, as soon as they were reorganized, then what did they start in to do?

Mr. Lauck: The plan of reorganization, in detail, is given on pages 97 and 98.

Mr. Stone: They levied some assessments on mortgage bonds, did they?

Mr. Lauck: Yes, sir; they got about $6,320,000 from assessments and reorganized the company, with a total capital, if I recall correctly, of $56,000,000.

Mr. Stone: What would happen to some small holder of the paper of the Frisco, if he could not pay his assessment? He would simply get forced out, would he not?

Mr. Lauck: Yes, if he held the securities which called for an assessment, if he were unable financially to come into the reorganization and pay his assessment, he would lose his right to participate. They bought the Frisco and reorganized for $1,250,000, and there was an adjustment of the different obligations between the Frisco and the Atchison, and some of the bonds held by the Atchison were forfeited by that company. There was quite a good deal of contention at that time, by the stockholders of the Frisco, who thought the Atchison had exploited the Frisco and had been the cause of their misfortunes, and in the reorganization, some of these securities were eliminated and practically repudiated.

Mr. Stone: How much did you say they gave for the Frisco, when they bought it under foreclosure?

Mr. Lauck: The upset price, I think, was $1,250,000, by the reorganization managers, which, of course, was no indication of the value of the system. The real value behind the securities was about $11,000,000, and the fictitious or the excess capital was about $46,000,000, upon which these dividends had been paid. There seemed to be about $1,000,000 water in the first preferred, out of $5,000,000 first preferred, while the $16,000,000 second preferred and $29,000,000 common, practically represented nothing, except the giving to the original stockholders some opportunity to participate in future earnings, if such earnings should develop.

Mr. Stone: Then, after they had this $46,000,000 of unnecessary capitalization, or fictitious capitalization, or water, whatever you choose to call it, they started out on a new era of progress?

Mr. Lauck: Yes, sir.

Mr. Stone: Then what happened?

Mr. Lauck: Well, it would seem that the lessons that—or the misfortunes that had been incurred, would have led them to have adopted a different policy, such as the Atchison did with such eminent success, but the Frisco did not profit by its previous experience, and entered, almost immediately, into a policy of reckless expansion, and the acquisition of new properties, which added to its capitalization in an unwarranted way, and resulted in the dissipation of its resources, and finally brought it into insolvency again in 1913.

Mr. Stone: What was the first important line they absorbed, when they started out in their campaign of acquiring mileage?

Mr. Lauck: At this time, the mileage was about 5,241 miles, as shown on page 99, of which 4,397 were owned by the Frisco. The first important acquisition was of the stock of the Ft. Worth & Rio Grande Railroad Company, which was purchased in 1901, five years after the reorganization.

Mr. Stone: Well, at the time of its incorporation, Mr. Lauck, in 1896, it had about 1,100 miles of track, did it not?

Mr. Lauck: The Frisco?

Mr. Stone: Yes; page 99.

Mr. Lauck: Yes, sir. 1,100 miles. The system now has 5,241 miles. I should have said an increase of about 4,000 miles. I think the system really has now, considering leased lines and lines over which it operates, about double that mileage, if I remember correctly.

Mr. Stone: But it absolutely owns at the present time, 4,397 miles of track, does it not?

Mr. Lauck: 4,397, or almost four times as much as it had in 1896.

Mr. Stone: Explain the Ft. Worth & Rio Grande deal, in 1901?

Mr. Lauck: Well, the Frisco purchased control of this line, through parties who were interested, according to the Commercial and Financial Chronicle, in the Frisco System. The Chronicle of March 23, 1901, states:

"Ft. Worth & Rio Grande purchase. The purchase of this road, we learn, was made by parties interested in the St. Louis & San Francisco Railroad."

Then, on page 100, is given the facts as appearing in the annual report of the Frisco, as to the cost of this property, and of the relative values. The cost at which this stock was acquired by the Frisco was about $30 per share, by the parties who, according to the Chronicle, were persons interested in the Frisco. When it reached the Frisco, they paid 50 per cent more for it, or $45.00 per share; so that there was a loss to the Frisco anywhere from half a million to a million dollars in the acquisition of this small property. If it was bought at the prevailing market price, the loss would be about a million dollars. If it was bought, according to the most liberal estimate, in favor of the Frisco, it would be about $300,000 loss. In other words, through this interested purchase, there was a loss in resources, or excessive price paid by the Frisco, anywhere from $300,000 to $1,000,000.

Mr. Stone: But the fact remains that they bought it at what is believed to be $30 a share, and they sold it to themselves at $45 a share?

Mr. Lauck: Yes, sir.

Mr. Stone: Somebody got $15 a share in the deal?

Mr. Lauck: Yes, sir; according to the Chronicle, it must have been parties interested in the Frisco.

Mr. Stone: The widows and orphans who held that stock, did not get the benefit of that $45, did they, that they sold it to the Frisco for?

Mr. Lauck: No, sir. At the bottom of page 100, if we assume that they lost only $250,000, this amount would have remained in the treasury of the Frisco, if the deal had not been made, for about eleven years, and the simple interest on it would have amounted to about $137,500,000; so it was a necessary deduction that—

Mr. Stone: $137,000,000? $137,000?

Mr. Lauck: $137,500, yes, sir. So it is a necessary deduction that the loss would be the difference between what the parties who paid for the stock got from the Frisco and the interest upon this amount for this period of time, which would vary according to the estimate. It was fully a million dollars' loss, considering the whole period, and the interest accruals, and, of course, that much money could have been invested in the property, and would have yielded a return, and would have been available for wage payments, or for other purposes.

Mr. Stone: Well, this road—this Ft. Worth & Rio Grande, had it ever paid anything on the investment up to the time the Frisco acquired it?

Mr. Lauck: No, sir, I think not. It had been an unprofitable property.

Mr. Sheean: It was not a bad thing for the engineers and firemen on that road, then, that it became a part of the Frisco?

Mr. Lauck: From the financial standpoint, it strengthened the Ft. Worth & Rio Grande.

Mr. Stone: It didn't make any difference in their rate, probably, though, did it?

Mr. Lauck: It had no relation to that.

Mr. Stone: The engineers and firemen didn't get any of that difference between the $30 and $45 a share when it changed hands, did they?

Mr. Lauck: Oh, no, sir; not at all.

Mr. Sheean: Do you know whether they were paid a standard rate or not?

Mr. Lauck: I don't know, sir.

Mr. Stone: The fact remains, though, while they paid 30, it was quoted on the open market at 22, was it not?

Mr. Lauck: That was the previous quotation. And in the computation we have assumed they paid 30, in order not to show any excessive loss, to give every consideration in favor of the Frisco.

The point is that the Frisco's resources, somewhere from $400,000 to $1,000,000, were dissipated by the acquisition of this property, paying more for it than it was really worth.

Mr. Stone: The one basic fact does stand out all the time that in the exchange the price was artificially raised 50 per cent above normal?

Mr. Lauck: Yes, there was evidently boosting of the stock before the Frisco purchased it.

Mr. Stone: Well, what happened when they bought this Kansas City, Memphis & Birmingham Railroad?

Mr. Lauck: The next acquisition was on a much larger scale, which occurred in the same year, and was the result of the acquisition of the Kansas City, Ft. Scott & Memphis, and the Kansas City, Memphis & Birmingham Railroads. The method in which this acquisition was made was that, first, there was a syndicate formed—it developed later in taking up that phase of the question—to purchase these stocks. They then organized another company, the Kansas City, Ft. Scott & Memphis Railroad Company, and having bought the securities of these two roads, I think at about $6,000,000, they capitalized them at $16,000,000, and the Frisco paid $39,000,000 for them. In other words, the Frisco paid about $30,000,000 more than they were really worth.

The two companies, the Kansas City, Ft. Scott & Memphis, and Kansas City, Memphis & Birmingham, had a market value at that time of about $6,000,000, and the net result was that the Frisco acquired them at about $17,000,000, I should have said, above their market value, and capitalized them at $39,000,000, thereby inflating the real value about $32,000,000.

Mr. Stone: Do I understand you to say that the Frisco paid $17,000,000 above their market value?

Mr. Lauck: No, in the aggregate.

Mr. Stone: All told? And the market value was $6,000,000?

Mr. Lauck: The market value was $6,000,000. The difference between that and what the Frisco paid was represented by the commissions of the underwriting syndicate which had handled this deal, part of whom are interested in the Frisco, and the increase in capitalization of this new holding company, which had been created to take over these two companies. Then the Frisco issued capitalization aggregating $39,000,000 against this acquisition, for which they had paid $17,000,000, and the net loss up to the time of the receivership to the Frisco was about $28,000,000 to $30,000,000 on these two roads.

Mr. Stone: I think it might be well, in connection with that, to read the notice that was sent out at the time the Kansas City, Fort Scott & Memphis Railroad was sold, indicating the plan under which it was turned over.

Mr. Lauck: As found on page 101?

Mr. Stone: Yes.

Mr. Lauck: This notice is taken from the Commercial and Financial Chronicle of March 2, 1901, and it is headed: "Kansas City, Fort Scott & Memphis Railway—SALE OF CONTROL—Nathaniel Thayer, Chairman of the Board of Directors of this Company and of the Kansas City, Memphis and Birmingham Railroad Company, makes the following announcement:

" 'A majority interest has signed an agreement to sell these roads on the following terms to people who are interested in the St. Louis and San Francisco. That company has no direct part in the transaction and does not furnish any of its securities to pay for the properties.' "

It did that indirectly. The holders of preferred stock of the Fort Scott will receive $150 in cash; that is, per share.

The Fort Scott common $75 in cash and 25 per cent in securities; the Birmingham stock will receive $50 in cash; the Birmingham income bonds second mortgage 5 per cent redelivered at 95, new income bonds.

"The exchange of the income bonds, however, is not obligatory. It is expected that the Memlhpis and Frisco roads will be worked in the closest harmony and assist one another in every way.

" 'The form of securities to be issued has not yet been determined, but the Fort Scott stockholders will get, for their 25 per cent received in partial exchange for their common stock, securities on the same terms as the people who furnish the money. It is believed that the arrangement will be mutually beneficial.' "

Then the Chronicle of March 16, 1901, the statement is made relative to the holding company which was created to hold the stocks of these two companies which had been acquired:

"Kansas City, Fort Scott & Memphis Railroad—NEW NAME—DEPOSITS, ETC. In the consolidation of the Kansas City, Fort Scott and Memphis and Kansas City, Memphis & Birmingham roads the name of the former company, it is announced, will be retained, with the word RAILROAD changed to RAILWAY. All contracts for the sale of the roads to the syndicates have been signed, and a large majority of all classes of stock in both companies have already been deposited with the Old Colony Trust Company."

Further details of the new company were published in the Commercial and Financial Chronicle of June 22, 1901:

"Kansas City, Fort Scott & Memphis Ry.—SUCCESSOR COMPANY.—This company was incorporated in Kansas City on June 14 with $20,000,000 of authorized capital stock, of which $15,000,000 is 4 per cent non-cumulative preferred; par value of shares $100.00. The entire capital stock will be owned by the St. Louis & San Francisco Railroad."

This was the means by which the St. Louis acquired control of these two properties. In other words, the holding company was created to take over these properties at greatly inflated valuations, and then the capitalization of the holding company was further inflated and then the Frisco took over the capitalization of the holding company in exchange for its securities.

Mr. Stone: How did the St. Louis & San Francisco raise the money for the new financial obligations it was about to assume?

Mr. Lauck: They raised that by offering to its subscribers the option to subscribe to additional stock and also to the stock of the new company. That is shown on page 102 in a further notice from the Chronicle under the title "Option to Subscribe."

Mr. Stone: Up above that was the first issue authorized?

Mr. Lauck: Above that was the authorization, after which the option followed. That is from the Chronicle of June 22, 1901, which makes the following announcement:

"St. Louis & San Francisco Railroad—AUTHORIZED—The shareholders on June 15, confirming the action of holders of voting trust certificates on May 31, authorized the increase of the limit of issue of capital stock from $50,000,000 to $100,000,000 and the refunding mortgage for $85,000,000. They authorized also the purchase of the railroad, property and franchises of the following auxiliary lines whose stock was already owned."

Then in the following:

"Option to Subscribe"—these are the terms under which the new companies were taken over, that is, the Memphis and Birmingham companies.

"All voting trust certificate holders of record June 30 will be entitled to subscribe to the amount of 42½ per cent of their holdings to a cash fund, receiving for each $42.50 paid in cash (the rights on one share of stock) $25 in a 4 per cent gold refunding mortgage bond due 1936 of the Kansas City, Fort Scott & Memphis Ry. Co.," which was a new holding company, "and $29 in 4 per cent preferred stock certificates of the same company. The bonds will be guaranteed, principal and interest, and the preferred stock trust certificates will be guaranteed 4 per cent dividends (payable quarterly in gold) by the St. Louis and San

Francisco. The bonds will bear interest from Oct. 1; the first dividend on the preferred stock trust certificates will be payable January 1, 1902.''

In other words, the St. Louis & San Francisco guaranteed the bond issues of the new company and also guaranteed dividends on the new inflated 5 per cent preferred stock, thereby greatly increasing its own fixed charges and its own demands upon its revenue, by obligating itself to meet the interest returns upon this inflated capitalization, which had been twice inflated through the formation of these companies.

The conclusion as to this transaction is found on page 105, and also in the statement at the top of the page. The $15,000,000 of the stock of this new company which had been guaranteed by the Frisco had no value behind it whatever, and the common stock was pure water, and the annual interest charge assumed by the Frisco as a result of this transaction, guaranteeing the interest returns upon this excess capitalization, was about $1,000,000, and resulted, up to the time of the receivership, in absorbing about $28,000,000 from the productive efficiency of the road. In other words, the conclusion as stated on page 105, is briefly as follows:

''If the Frisco had gone into the open market and bought up the stock of these companies, the amount necessary for this purchase, based on the prices of 1900, would not have exceeded $6,093,690. As it was, these properties cost the syndicate $17,-377,666 and were capitalized for $39,750,000 with interest and dividends on $24,160,000 of this capitalization guaranteed by the St. Louis and San Francisco Railroad.''

In other words, the St. Louis & San Francisco Railroad guaranteed dividends and interest on capitalization four times the amount of the market value of these properties at the time of the acquisition.

''The annual capital charge thus assumed by the St. Louis and San Francisco was nearly $1,000,000. More than $700,000 of this amount must be paid annually on the $18,067,000 of guaranteed capitalization for which no actual value was received by the Frisco or by the Memphis Railway Co. The aggregate amount of the funds of the St. Louis & San Francisco which have been consumed in the annual payments made on this 'water' up to the time these securities were refunded in 1904 is about $2,160,000."

The total loss through the promise to retire excessive capitalization issued in this connection, guarantee preferred stock and bonds, and the amount of interest and dividends properly paid and the interest lost upon the use of that money at simple interest, has been about $28,000,000 up to the time of the receivership. As is perfectly obvious, if this amount had not been dissipated the Frisco would have had a corresponding amount of money among its assets, and its revenues would have been approximately $1,000,000 each year, if it had not gone into this transaction. Or, expressing it the other way, this transaction resulted in a diversion from proper sources revenues aggregating $1,000,000 annually.

Mr. Stone: No railroad in the world could stand a strain like that, could it?

Mr. Lauck: No, sir; it is absolutely impossible. Of course a large part of it was after it got to the Frisco through these different stages through which the syndicate passed it.

Mr. Stone: Then they were not satisfied with that and they bought the Chicago & Eastern Illinois at a fancy price?

Mr. Lauck: Yes, sir. It might be well, if you care to now, to take up the profits made by the syndicate on this, or I can take that up as a separate matter.

Mr. Stone: You might as well take it up right now. The company lost about $28,000,000. How much profit did the syndicate make in these deals?

Mr. Lauck: I do not find that readily now. I will take that up when I come to it, if that is agreeable.

Mr. Stone: Then pass on to the Chicago & Eastern Illinois.

Mr. Lauck: The Frisco had no connection into Chicago, and as a consequence the next acquisition had this object in mind: that is, that they decided to acquire or purchase the Chicago & Eastern Illinois Railroad and secure terminal connections in this city. The method by which that was acquired was, as is shown by the quotations on pages 106 and 107, which appeared in leading financial journals at that time. They offered to the holders of the Chicago & Eastern Illinois preferred stock to take it over on a 6 per cent basis and the common stock on a

5 per cent basis, and in return for that stock trust certificates were issued by the Frisco, the interest upon which was guaranteed by the Frisco and the security for which was the stock of the Chicago & Eastern Illinois Railroad.

Mr. Stone: Are you not mistaken about common stock being taken over at 5 per cent? Was not the common stock taken over at 10?

Mr. Lauck: I should say 10 per cent. The terms are given at the bottom of page 106:

"In exchange for preferred stock, preferred stock trust certificates at the rate of \$150 thereof for each \$100 share of preferred stock. These trust certificates will entitle the registered holder to quarterly dividends thereon of \$1.50 (1½ p. c.) in respect of each share of preferred stock," or 6 per cent annually.

The common stock was taken over at the rate of 10 per cent, or \$250 stock trust certificates for each \$100 par value of Chicago & Eastern Illinois stocks. The preferred, therefore, was taken on a 6 per cent basis and the common on a 10 per cent basis. I think that company was then only paying about 5 or 5½ per cent.

Mr. Stone: Let me see if I have got this right. At the time the C. & E. I. was bought by the Frisco, they were given one share of preferred stock and two and a half shares of common stock, or just simply the two and a half shares of common stock for each share of common stock held?

Mr. Lauck: The Frisco agreed to buy the Chicago & Eastern Illinois at the rate of \$250 for each \$100 share of common stock and \$150 for each \$100 share of preferred stock. If the Chicago & Eastern Illinois stockholders agreed to this, the Frisco took the stock and issued against that stock as collateral stock trust certificates on this basis of capitalizing the earning power; that is, for each \$100 of common stock they issued a stock trust certificate of \$250, and for each share of preferred stock one of \$150, upon which they guaranteed dividend returns, thus making the purchase for the common stock equivalent to a guaranty by the Frisco that they would pay 6 per cent on the preferred and 10 per cent on the common stock.

Mr. Stone: Then if I had one share of common stock in the C. & E. I. and I was only getting 5½, and it was only worth

97 in the open market, I could get $2\frac{1}{2}$ shares of Frisco stock that was guaranteed to pay 10 per cent?

Mr. Lauck: You would get a guaranty from the Frisco that you would get 10 per cent on your stock.

Mr. Stone: On the new issue?

Mr. Lauck: Yes, sir.

Mr. Stone: I would get $250 worth of stock for that $97 share of stock, and I would get $25 a year?

Mr. Lauck: You would get a guaranty that you would get 10 per cent for common and 6 per cent for preferred, and whenever the Frisco failed to pay that you would be at liberty to take that stock.

Mr. Stone: That would be a good investment from a trading point of view if they had made good.

Mr. Lauck: It was a very attractive and profitable investment from the standpoint of the holders of the Chicago & Eastern Illinois stock, but a very unprofitable investment for the Frisco and one that resulted in dissipating a lot of the Frisco revenue, because the Chicago & Eastern Illinois as an operating railroad was not paying these rates of return. The market price of the common stock at this time was $120 a share and the preferred stock $136 per share.

Mr. Stone: During that year, common stock had sold as low as 91?

Mr. Lauck: Yes, sir.

Mr. Stone: And had sold as high as 149?

Mr. Lauck: Yes, sir. The dividend rate on the common at that time was about $5\frac{1}{2}$ and upon the preferred the market value reflected a dividend rate of about 6 per cent. The total market value of both classes of stock of the Chicago & Eastern Illinois at this time was about $17,963,000. The price paid by the Frisco was about $28,230,000. In other words, it was $10,267,000 in excess of the then market price of the Chicago & Eastern Illinois. The total loss on this, in addition to this initial amount, and the interest on the same and the loss of the use of this money was about $15,000,000 more. During the past 11 years, the difference between the dividends paid on the Chicago & Eastern Illinois stock and what the Frisco had to pay on the stock trust certificates which it issued in lieu thereof was about $4,000,000. The aggregate loss between the revenues produced by this company and paid to the Frisco and what the Frisco paid on account of it was almost $5,000,000 up to the time of the receivership of 1913.

Of course, that meant that the productive efficiency of the Frisco—this $4,100,000 had to come from somewhere. That is, had to be produced through the operation of the Frisco, and that the revenues which should have been available for increasing the compensation of employes, or for improving the property and adding to its earning power, were diverted through this financial deal, to the extent of $5,000,000, which, otherwise, would have been available.

Mr. Stone: In addition to adding to the load that the Frisco was already carrying?

Mr. Lauck: Yes, sir; that is in addition to the Memphis acquisition, which was a burden upon it and other lines.

Mr. Stone: About the same time as the Frisco bought the Chicago & Eastern Illinois, they also bought the Arkansas & Choctaw, did they not?

Mr. Lauck: Yes, sir.

Mr. Stone: That was just a little side issue, but it was a very striking one.

Mr. Lauck: Yes, sir. The Arkansas & Choctaw represented a loss of $3,000,000. They started the company with a very small capital stock.

Mr. Stone: Its capitalization was only $260,000, was it not?

Mr. Lauck: Yes, sir, originally, and that finally was increased to about $17,115,000, and, of course, there was an increase in mileage went hand in hand with that. The net loss to the Frisco, through the acquisition, was about $3,000,000, and the interest on this sum, up to the time of the receivership, or the interest on this last amount, amounted to about another million dollars, and of the excessive price paid for this property, it was developed at the Interstate Commerce Commission investigation, that the president of the Frisco and others, obtained a profit of $837,000, through selling it to the Frisco proper. In other words, the greater part of the loss to the Frisco was due to the fact that the officials of the Frisco bought the property, and sold it at an advanced price to the Frisco itself.

Mr. Stone: That was brought out in the Interstate Commerce Commission hearing?

Mr. Lauck: Yes, sir.

Mr. Stone: And is a matter of record?

Mr. Lauck: Yes, sir. $11,500,000 of this stock represented nothing. It was just a gift to the Frisco and represented a claim upon future earning power of the system, if any ever developed.

Mr. Stone: And the result has been, with that staggering load, that it has been operated at a deficit?

Mr. Lauck: Yes, sir. Some of this stock, however, which was nothing but water, was used as pledges for Frisco, subsequent bond issues of the Frisco. There is no doubt about it that a large part of these losses which, after the revenues had been taxed to the utmost, in order to keep up with these interest charges which had been forced upon the Frisco proper, by this indefensible financing—that bond issues were issued in order to pay the fixed charges of the Frisco, in order to keep going, as a going concern, and a lot of this stock, which had been acquired in this way, was used as the basis for issues of collateral trust bonds.

Mr. Burgess: Mr. Lauck, it is extremely difficult for some gentlemen to follow you, on account of the lack of knowledge of these financial transactions, but during all of these manipulations, as you have related here, about the Frisco Railroad, in a financial way, can you trace any symptoms of the wage movements as being the cause of contributing to bringing on the financial difficulties of the Frisco?

Mr. Lauck: It had no influence whatsoever.

The point that I am going to develop by this is, that if the revenues of the Frisco had been conserved by a proper policy, the Frisco would be one of the most wealthy roads in the country, and would have a greater earning power, probably, than any other road in the West, or as great as any road in the West.

Mr. Burgess: I appreciate your attempt to prove that, Mr. Lauck, and I did not intend any reflection on the manner in which you are presenting it. In fact, I am willing to confess my inability to follow you, due to my lack of knowledge of financial matters. The concrete question is, as I have put it, did the cycle of wage movements, or the concerted action of wage movements, in any manner contribute to the financial difficulties of the Frisco Railway?

Mr. Lauck: Not at all, no, sir. Whatever increases in wages may have been secured during this period, were of no consequence so far as diverting revenues. They are of practically no significance whatsoever, as compared with the revenues which were dissipated, and the resources which were lost through these improper financial transactions. That is, if it had been simply a matter of wage increases, the employes of the Frisco would hardly have felt it, it seems to me. Does that answer you?

Mr. Burgess: Yes. Thank you, Mr. Lauck.

Mr. Lauck: I was going to say, Mr. Stone, that, of course, this does not cover all the acquisitions of the Frisco, simply a few representative types which I presented here between pages 90 and 110, and have left the others to the Interstate Commerce Commission report which follows.

Mr. Stone: But it is true, is it not, Mr. Lauck, that the officials and directors of the Frisco participated in its underwriting syndicate?

Mr. Lauck: Oh, yes, sir, that is a matter of public record.

Mr. Stone: It is also true, is it not, that the Interstate Commerce Commission, if it does not practically say so in so many words, at least intimates that $30,000,000 discounts paid by the Frisco in twelve years, was due to the fact that its stock issues were controlled by bankers and others on the inside?

Mr. Lauck: Yes, sir. I can read the section of that where they report it.

Mr. Stone: I wish you would.

Mr. Lauck: On page 122, which is a reprint of the report of the Interstate Commerce Commission, which gives an analysis of the cause of the insolvency of the Frisco, it says:

"Fifth. The sale of its securities at prices so low as to indicate a deplorably weakened credit or an extravagant arrangement with bankers to whom large profits accrued in the purchase of the bonds and the subsequent sale of same to the public."

And then following that, it says, in commenting upon the disproportionate amount of funded debt issued by the Frisco in the case of these acquisitions and new properties, it says:

"The excessive issue by the Frisco of interest-bearing securities instead of capital stock may be due in part to the requirement of the State of Missouri that capital stock of railroads may not be sold at less than par, while no such restriction is placed upon the sale of bonds. It is also customary in issuing additional capital stock, to deal with the stockholders for a portion, at least, of the new issue, *while the disposition of bonds is usually a transaction with banks or bankers to whom profits accrue.*"

The implication being clear that it was through the banking interests which handle the financial transactions for the Frisco that the excessive amount of bonds were issued, due to the fact that the bankers wanted the bonds, and did not want the stock.

Mr. Stone: It is also a fact, is it not, Mr. Lauck, that the maintenance of the property at a proper degree of efficiency was sacrificed to the payment of dividends?

Mr. Lauck: Oh, yes, sir.

Mr. Stone: It is also true, is it not—

Mr. Lauck: There is just the point there, Mr. Stone.

Mr. Stone: Pardon me.

Mr. Lauck: That is shown on page 136. It says:

"Equipment maintenance increased proportionately, but no proper provision was made for equipment depreciation, as the rate used was one-fourth of 1 per cent. This basis of depreciation charges assumes that the equipment will not become obsolete for 400 years."

The idea was to charge as low a rate of depreciation as possible, in order not to increase operating expenses, thereby showing large net revenues, and enabling them to dispose of the securities.

An interesting point in that connection is a letter from the Vice-President and General Manager of the Frisco, quoted in the report of the Interstate Commerce Commission, to Mr. S. T. Park, Superintendent of Motive Power, Danville, Illinois.

Mr. Stone: At that time, Mr. Park was Superintendent of the Motive Power of the Chicago & Eastern Illinois, was he?

Mr. Lauck: Yes, sir.

"Dear Sir: Since talking with you today I have had a conversation with Mr. Yoakum, and he has intimated very strongly that he expects us to earn our dividends."

That was on the C. & E. I., on which the Frisco had guaranteed 10 per cent on the common, and 6 per cent on the preferred.

Mr. Stone: And issued two and a half shares of common for each one of the old?

Mr. Lauck: Yes, sir, and of course it was necessary—

Mr. Stone: While it formerly earned 5½ on one share of common, it now was called upon to earn 25 cents on two and a half shares of common?

Mr. Lauck: Yes, sir. While it was earning 5 per cent. In other words, the Frisco had obligated itself to pay 10, and therefore it wanted to make the property produce as much revenue as possible, so it would not be a net loss to the Frisco.

Mr. Stone: Did not the Frisco obligate itself to pay more than 10? By giving two and a half shares for each, it obliged itself to pay—

Mr. Lauck: No, 10 per cent.

Mr. Stone: On each share?

Mr. Lauck: Yes, sir.

Mr. Stone: And two and a half shares for the old single share?

Mr. Lauck: I don't think there was an actual exchange of Frisco shares for this stock, but they issued a voting trust certificate, whereby the Frisco, for each share, issued a voting trust certificate equivalent to two and a half shares, which was a guaranty of 10 per cent upon the stock which was earning about 5 per cent.

Mr. Stone: Finish your letter.

Mr. Lauck: (Continuing), the vice-president and general manager says:

"To do this it is necessary for us to make material reductions in our expenses in your department, and even then I am doubtful if we can meet his wishes.

Yours very truly,

Vice-President and General Manager."

That indicates clearly that being hard pressed through the obligations which had been incurred, the Frisco had to subordinate its operating efficiency and the maintenance of its property in the effort to keep its securities on the market and maintain its credit.

Mr. Burgess: Well, now, Mr. Lauck, do you or do you not know if this letter was written after the policy had been installed, that assumed that the equipment would not become obsolete for

400 years? The object of the question was to determine whether there was still a further desire to reduce the amount of money that would be used in the upkeep of the equipment?

Mr. Lauck: There is no statement in the Interstate Commerce Commission report, as to whether this was before or afterwards. The statement is plainly made that the depreciation charge was entirely inadequate, of one-quarter of one per cent, or 400 years use of equipment, and that the maintenance of the property, according to the Interstate Commerce Commission report, was subordinate to the payment of dividends upon this stock.

Mr. Stone: What is the usual depreciation charge, percentage, Mr. Lauck?

Mr. Lauck: Why, it has not been worked out yet. It varies from road to road. Anywhere from 2 to 5 per cent, I should think, or 2½ per cent, it seems to me, would be about an average. I don't think anyone has worked out a uniform rate, though.

Mr. Stone: Even at that, we would think that these modern locomotives were going to last twenty, thirty or forty years —2½ per cent.

Mr. Lauck: 2½ per cent would be a forty-year life, but I am not qualified to speak on that. I only know that the rate varies; different charges by different railroads. The Interstate Commerce Commission just introduced that in 1907, and has not required a rate as yet of the railroads, and the railroads, of course, that are well managed, charge off a high rate, and the others have different reasons for charging varying rates.

Mr. Stone: Simply a matter of bookkeeping?

Mr. Lauck: It is a matter of policy of the railroad, according to the goodness or badness of the management, it seems to me, or according to how they are able to do it. It varies from railroad to railroad.

Mr. Byram: Well, Mr. Lauck, the actual depreciation on equipment has got to be taken care of some way, at some time, has it not?

Mr. Lauck: Yes, sir.

Mr. Byram: So that it is not altogether a matter of bookkeeping?

Mr. Lauck: No, it is a matter of operating policy, I should say.

Mr. Byram: As to how the inevitable depreciation in the value of equipment is going to be taken care of?

Mr. Lauck: As I understand it, the Interstate Commerce Commission has not prescribed a rate, and it is left to the individual railroad to work out its own experience and its own policy.

Mr. Byram: Have they given any expression as to the reason why they have not prescribed a rate? Is it because they have not been able to arrive at a satisfactory one? Is that the inference?

Mr. Lauck: That is my understanding, that they don't know what it is themselves, and they want the railroads to work out their experience and then they will establish a rate, after they have acquired some experience.

Mr. Byram: At the present time, it is not a very fixed condition for either the railroads or anybody else, to determine just what it ought to be?

Mr. Lauck: No; it varies. I think we were discussing that once before, in some connection. We found it was from two to five per cent, according to the individual railroad. Of course this rate here is entirely inadequate and absurd, you might say.

Mr. Stone: And the fact would remain, would it not, Mr. Lauck, that if the charge of one-quarter of one per cent did not take care of the upkeep of the equipment, it would have to be taken from some other fund, would it not?

Mr. Lauck: It would have to be ultimately provided for in some way.

Mr. Stone: If that was the only charge they were carrying and that did not take care of it, then it would have to come from some other source?

Mr. Lauck: Yes, sir; either that or allowed to deteriorate. I think on this same road, according to the requirement of the Interstate Commerce Commission, when you scrap your equipment, you charge the difference between your depreciation and renewal, to operating expenses. It was either this road or the Alton which would retire locomotives, but not scrap them or take them into the operating expense, but let them stand on a side track, because they did not want to increase their operating expense, but wanted to show as large net earnings as possible.

The same principle, due to financial mismanagement and the inability to get revenues to pay dividends or fixed charges.

Mr. Burgess: Mr. Lauck, we had a great deal of testimony introduced, purporting to show all the mechanical devices that are placed on locomotives, for the sole purpose of relieving the engineer and fireman from labor, and I was just wondering how Mr. Park, the superintendent of motive power on this railroad, would install these devices, in face of the instructions received from the general manager. Can you give us any information on that matter?

Mr. Lauck: Of course, if he did that, he would practically have to do it out of his own pocket, I should think. He wouldn't have any resources to do that.

Mr. Burgess: So that we could infer, at least, on this railroad, that there would be no devices entirely for the sole purpose of relieving engineers and firemen. That assumption would be fair, would it not?

Mr. Lauck: Yes, sir.

Mr. Byram: How do you make that out, Mr. Lauck—a fair assumption? You mean—they may have been put on before or after?

Mr. Lauck: I thought he was just speaking of one year.

Mr. Burgess: I am speaking of the period.

Mr. Park: Would not that be charged to capital account? That would not come out of the earnings, if you changed a valve here, and put on a superheater?

Mr. Lauck: New equipment of that kind would be charged to capital account, and of course the maintenance only to operating expenses. I think it is a plain point here that the operating official was not to be censured at all. The financial management forced him to dig up dividends, no matter what else happened, and subordinate efficiency and speed, and everything, due to the fact that the Frisco controlled this road and could make it do what it wanted to, getting this money across to the Frisco to pay the dividends on the Chicago & Eastern Illinois trust certificates.

Mr. Park: That proposition would be affected by one borrowing some money to superheat the engine, and charging three or four thousand dollars for engines. That would not come out of the earnings. If they had a hundred engines, and wanted to spend five thousand dollars on them, for additions and betterments, in the way of superheat, that would be a capital charge.

Mr. Lauck: That would be a capital commitment, against which you would have to issue bonds, unless you had the cash to do it with, and in a situation of this kind, probably the Superintendent of Motive Power would have great difficulty in getting consent to do that, in view of the fact that the Vice-President and General Manager was so hard pressed, through Mr. Yoakum, to develop all the funds he could to pay the dividends on Chicago & Eastern Illinois stock.

Mr. Sheean: I thought you said if he did have the capital, on one of your previous exhibits here, he could not properly charge it to operating expenses anyhow?

Mr. Lauck: I said if he had the cash.

Mr. Sheean: If he had the cash, out of earnings, and these instructions were simply to keep down operating expenses?

Mr. Lauck: Yes, sir.

Mr. Sheean: So the question of new equipment would not be affected in any way by these instructions, would it?

Mr. Lauck: Provided you had the cash to make the initial investment, but if you did not, you would have to issue bonds or notes, or something of that kind, to get the money. Then, operating expenses would play a very important part, because out of operating revenues you would have to get the money to pay the interest on your obligation—not pay out anything but to get dividends.

Mr. Burgess: I was referring, Mr. Lauck, to engines that had been in the service of the company, not to new equipment; but as engines went to the shop, could the Superintendent of Motive Power, with those instructions, introduce all of these devices that are put on, for the sole purpose of relieving the engineer and fireman of the labor? Would that be charged to capital account?

Mr. Lauck: Anything that would add to the equipment should go to capital account, and, of course, it is six of one and half a dozen of the other. That is, if you get new equipment, you increase your capital obligation, and you must have operating revenue to pay the fixed charges on the capital obligation. So it really seems to me that it is not a matter of great difference as to whether it is a capital charge, or a charge to operating expenses, because the operating revenues must meet the interest on the capital outlay. Here you have a situation where everything was subordinated to making as large net revenues as possible—efficiency and speed and equipment, in order to pay the dividends which the Chicago & Eastern Illinois owed to the Frisco.

Mr. Park: But if they were able to borrow some money and put on superheaters, and put in brick arches, that would save 25 or 30 per cent, they would be in a great deal better shape to pay their dividends, would they not?

Mr. Lauck: If they could do that, yes, sir.

Mr. Park: Mr. Tollerton testified very clearly that that would be the result; would burn less coal; be easier for the engineer to do his work.

Mr. Burgess: I was referring, Mr. Lauck, to what the records show. Mr. Tollerton was asked the question, "Name certain devices that were installed for the sole purpose of relieving the engineer and fireman," and I was assuming that in case of a communication from the General Manager, that the Superintendent of Motive Power would hesitate before he would put those devices on, if it cost money, when it was to be used for any other purpose than the sole purpose of relieving the engineer and fireman. That was the purpose of my question.

Mr. Lauck: Just for that purpose, I think he would have to be governed by a policy of saving as much as he possibly could. As the General Manager says here, he does not think, even under the most rigid economy, he can produce the dividens that Mr. Yoakum wants.

Mr. Nagel: Mr. Lauck, did you not say that the operating management of the Frisco was generally good?

Mr. Lauck: Yes, sir; I think that I said that, and that the financial difficulties were not due to the operating management.

Mr. Nagel: Do you attribute the failure of the Frisco system, exclusively, to the financial manipulations of which you have spoken?

Mr. Lauck: Yes, sir.

Mr. Nagel: Don't you believe that some of the acquisitions of the Frisco system, were unwise, upon any basis?

Mr. Lauck: Yes, sir.

Mr. Nagel: For illustration?

Mr. Lauck: Some of the South Texas Lines, or some of the South West Lines, especially.

Mr. Nagel: Well, do you think the Chicago & Eastern Illinois could have been made advantageous, upon any basis?

Mr. Lauck: I don't think so, no, sir, unless it was an immense outlay of capital.

Mr. Nagel: That was an established road, was it not?

Mr. Lauck: Yes, sir.

Mr. Nagel: And disappointment should not be attributed to the fact that they had made a mistake in anticipating development?

Mr. Lauck: No, sir.

Mr. Nagel: But when you come to the New Orleans, Texas & Mexico, and the Brownsville System, is not the disappointment there to be attributed, in part, to the fact that the Frisco System was not strong enough to wait for the development?

Mr. Lauck: I think so, yes, sir; that they overreached themselves in extensions, and could not wait until the traffic developed.

Mr. Nagel: But would you condemn all of the acquisitions made by the Frisco System.

Mr. Lauck: No, I would not condemn them. I would rather say that it was an unwise policy, in view of the fact that they did not have the financial strength to hold them until they could develop the traffic, or develop the system.

Mr. Nagel: Is not the intrinsic strength of the system of which you speak, to be attributed, in part, to the fact that they successfully acquired branch lines?

Mr. Lauck: Well, the impression I have gotten is that the original Frisco, traversing a very productive country in the way of traffic, has always been, when it did not enter into the policies of expansion—has been profitable, but it seems that each time that it has started upon an expansive policy, that it has met with disaster. Whether that is due to the methods employed, or to the lack of financial foresight, or whether it is due to the main line revenues being diverted, by the branches, I don't know, but that fact stands out.

Mr. Nagel: Do you think that a plan for reorganization could safely eliminate the St. Louis Southeastern?

Mr. Lauck: Well, I hardly think so, no, sir.

Mr. Nagel: Well, how about the Arkansas & Choctaw?

Mr. Lauck: Well, I would not care to say. I would not know enough to know whether it could or not. It is one of the natural lines of the system, it seems to me.

Mr. Nagel: Goes through a good territory, does it not?

Mr. Lauck: Yes, sir.

Mr. Nagel: What do you think of the Kansas City, Ft. Scott & Memphis?

Mr. Lauck: I think that that line has great possibilities. Direct line from the Southwest through to the Southeast.

Mr. Nagel: Well, then, when you speak of the Frisco System as a good one, you want to discriminate between the feeders and the suckers—is that so?

Mr. Lauck: Yes, sir; it would be very hard to do, unless you had an intimate knowledge of all the roads.

Mr. Nagel: But you are perfectly clear that some of the purchases were not only profitable, but are essential to the system now?

Mr. Lauck: Oh, yes, sir. Probably, if the acquisitions had been made upon a conservative basis, without the misuse of funds, and the financial resources of the company had been sufficient to keep going, why, it would have been a very wise thing to have done. I think the plan that Mr. Yoakum had was to go through to South America, or to Central America, with his railroad.

Mr. Nagel: Are you prepared to say that, assuming your criticism upon the financial management to be correct, and assuming some of these acquisitions to have been unwise, on any basis—are you prepared to say that the public, in the meantime, did not get the advantage of this combination? The service on the Chicago & Eastern Illinois was good, while it lasted, was it not?

Mr. Lauck: Well, it presumably was better, before the Frisco got it.

Mr. Nagel: Was it?

Mr. Lauck: I don't really know, sir. I was just inferring from this letter to the superintendent of motive power. I think the public profited, because new areas were brought into touch with trade and business, and developed, especially in the South and the Southwest.

Mr. Nagel: That is really the point to which I wanted to come, the acquisition of the New Orleans, Texas & Mexico, and Brownsville and similar systems. Whatever may have been the cost to the stockholders of the Frisco, and to investors in collateral stocks, the acquisition did develop that territory?

Mr. Lauck: Oh, yes, sir, undoubtedly, and brought before untouched regions into business relations and development with outsiders.

Mr. Nagel: And future development will be promoted by similar combinations?

Mr. Lauck: Yes, sir.

Mr. Nagel: To that extent, the public does get the benefit?

Mr. Lauck: Yes, sir. Probably the result of this will be, after reorganization, the system may become profitable, and it will be of value, not only to the investors, but of immense value to the public. But, of course, the only point that I am interested in, in connection with the case, is that the operating revenues have been diverted for financial obligations, and that the development of efficiency of operations, and of the country, has not—engineers and firemen have not received an undue participation, and possibly those new stock issues would, if it had not been for the receivership—possibly they will be scaled away, but possibly would have constituted a lien upon these revenues in future, and might have precluded future advancement on the part of the employes.

Mr. Nagel: But it is never safe to judge entirely by a paper case. There are always collateral facts and coloring, which should be considered in judging a situation like this?

Mr. Lauck: Yes, sir.

Mr. Nagel: When you say that the wage earnings in no way contributed to this disaster, of course, you are entirely safe?

Mr. Lauck: I meant relatively speaking there.

Mr. Nagel: It was inconsiderable?

Mr. Lauck: Yes, sir.

Mr. Nagel: But neither did they share the loss?

Mr. Lauck: Well, no; they haven't shared directly in the loss, except through any loss of employment.

Mr. Nagel: Is it not possible that the taking over of these several roads and operating them in connection with a large system, so as to bring them in touch with the larger centers, had some tendency to give employment to more men than would have otherwise been the case?

Mr. Lauck: I think so, undoubtedly. It seems to me that the tendency from the standpoint of the worker is to hope that these roads do get into the big systems, because then we can have more economy of operation, and more financial strength and stability, and that the tendency toward concentration should be encouraged in every way, under proper regulation. It would be better for the public, too.

Mr. Stone: But the Frisco would have fared better and would have stood a better chance of being alive today, if they had taken over these several acquisitions at their real value, instead of an inflated value?

Mr. Lauck: Yes, sir.

Mr. Stone: There would have been hope for the Frisco being on its feet today?

Mr. Lauck: If it had been possible to take them over, without these losses and without the expansion of the funded debt, why, the Frisco would probably have been going on in a solvent condition.

Mr. Park: Mr. Lauck, if some road that they desired to acquire, occupies a particular territory, and has been built with an idea of occupying that territory, can it always be purchased at the actual cost? If it is necessary to bring it into this system, would it not be necessary, frequently, to pay some premium on the actual cost of the road?

Mr. Lauck: I think it would, in many cases, yes, sir.

Mr. Park: Those are matters of negotiation, and in nearly all cases where these large systems are erected, they probably are compelled to pay a little more—considerably more than the actual cost of building the road.

Mr. Stone: Would not be worth four times what it is selling for on the open market, would it, Mr. Lauck?

Mr. Lauck: No, sir; I think the market value would be a reflection of the real value.

Mr. Stone: If he wanted to buy it, go on the open market and buy the stock, it would not be necessary to make a private agreement whereby he would pay four times the market price?

Mr. Lauck: Not at all.

Mr. Park: You might buy a hundred shares on the open market today; the next 100 shares would cost more, and the next 100, still more?

Mr. Lauck: It might be possible, if it became known that you were trying to get hold of it, like in the case of the attempt of Mr. Hill, Mr. Harriman and Mr. Morgan to get the Great Northern, that there would be a holding of the stock to get increased values.

Mr. Park: Some Northern Pacific stock sold as high as $1,000 a share.

Mr. Lauck: Yes.

Mr. Stone: And you would, of course, have that inside knowledge, if you were buying from yourself and selling to yourself?

Mr. Lauck: Undoubtedly.

Mr. Sheean: Mr. Lauck, I did not understand that in any of this treating of market values here, that you meant to suggest—in fact, that you had no data as to whether or not, the amount that the Frisco issued was more or less than the actual cost of those properties—the actual money that had gone into them, but you were treating them simply as to what the stock market showed on a certain date, and have assumed that they could have bought all the stock of that company, at the market quotations, in all of your deductions, have you not?

Mr. Lauck: Yes, sir; considering the stock for more than one day—for a period of six months.

Mr. Sheean: But taking a period of six months, you have assumed in all the deductions and conclusions you have reached, pertaining to whether or not unnecessary stock for all the capital stock could have been bought at the amount which certain shares of stock were sold for, during this six months period.

Mr. Lauck: Yes, sir; in certain of these transactions, the stock market record shows they actually were bought.

Mr. Sheean: Yes; but I did not understand that you had attempted to carry through in this, any suggestion that in fact more or less money had gone into the property?

Mr. Lauck: Not at all, no, sir.

Mr. Sheean: In fact, you started out here at the beginning of the Frisco, as I got it, at page 93, showing that there was a grant of 1,624,000 acres of public land and $4,500,000 worth of bonds, and yet, if they had hard luck, and that was wiped out, you say the loss should be treated simply at what the market was on the day of the reorganization?

Mr. Lauck: At the particular time.

Mr. Sheean: At the particular period you took?

Mr. Lauck: Yes, sir.

Mr. Stone: What is the real value of anything? What it will bring on the open market, is it not?

Mr. Lauck: I think that is the best indication, at any period of time.

Mr. Stone: I may have something that I think is worth a million dollars. If it will only sell for five hundred dollars, that is what the public says it is worth.

Mr. Lauck: Exactly. The stock market, I take it, is an indication of those who may buy or sell this particular kind of property, as an appraisement which they have put on the property at any specific period, which is the only appraisement you can get, of course.

Mr. Nagel: But, Mr. Lauck, do not entirely different elements enter into valuation of stocks at times? Values that are not regarded in the quotations at all? Suppose a new branch has been developed, and several heads of large concerns see the possibilities of a combination with that branch, the development of an entire territory may depend upon the road that gets control of that branch, may it not?

Mr. Lauck: Yes, sir.

Mr. Nagel: And is it not entirely possible that a manager of one system, anticipating these possibilities, will make a combination for immediate acquisition upon terms which upon the face of quotations in the market would seem entirely unreasonable, and which would still be regarded as a long-headed piece of business?

Mr. Lauck: Oh, undoubtedly, yes, sir.

Mr. Nagel: If it ever gets into the public, of course, the plan probably cannot be carried out. The man in charge of the transaction must make up his mind whether he has a price which under all the circumstances is justified?

Mr. Lauck: Yes, sir.

Mr. Nagel: Of course, if he makes a transaction such as you have instanced, in which the payment of large stock profits for the manipulators seem to suggest the deal, that is one thing;

but if he has his road in mind it may even be unwise, for the time being, and yet the final stockholders in the reorganized concern may thank him for having had foresight enough to do it.

Mr. Lauck: Undoubtedly, yes, sir.

I was going to say, Mr. Nagel, if he did do that he should do it for the sake of his company, though, and not his own personal profit.

Mr. Nagel: I make that distinction.

Mr. Lauck: I assume you do, yes, sir.

Mr. Burgess: Mr. Nagel made two concrete cases there, Mr. Lauck. Now, have you any idea about how many of the last cases he referred to are set forth in this exhibit?

Mr. Lauck: It would be impossible to tell. Time alone could tell. That is, of course, in a great many of these cases it was not done with the disinterested motives that Mr. Nagel spoke of, but I think it is true probably that if the Frisco could have lived in a solvent condition that it would have justified a lot of the acquisitions.

Mr. Nagel: Some of them are justified now, aren't they?

Mr. Lauck: Yes.

Mr. Nagel: And others might have been?

Mr. Lauck: Yes.

Mr. Nagel: And others never could be?

Mr. Lauck: Yes, sir.

Mr. Stone: There is quite a difference, is there not, Mr. Lauck, between acquiring a branch or a line to prevent invasion of territory by a competing line, or to hold it for strategic value, between that and buying it for yourself and selling it to yourself, and increasing the capitalization, in the meantime, or value?

Mr. Lauck: Oh, yes.

Mr. Stone: There is quite a difference between the two?

Mr. Lauck: Yes. We will assume in our discussion that the manager doing this was doing it from disinterested motives and for the good of his road.

Mr. Stone: Well, the history of the Frisco did not develop, in the hearings before the Interstate Commerce Commission, that he was disinterested, did it?

Mr. Lauck: In most instances it developed the circumstances that probably the general directing head of the scheme, Mr. Yoakum, was looking forward to the development of a great territory, but the methods employed were the things that were condemned by the Interstate Commerce Commission.

Mr. Stone: It is true, is it not, that discounts paid by the Frisco in twelve years amount to more than twelve per cent of its total outstanding funded indebtedness?

Mr. Lauck: Yes, sir. It is shown by the report of the Interstate Commerce Commission that the Frisco during this period from the reorganization forward paid more than $32,000,-000 in discounts. That is shown on page 128.

The discount on bonds and notes other than short-term notes issued by the Frisco and lines which it controls, including the Frisco issue of bonds on the New Orleans, Texas & Mexico Railroad, and the premiums paid on retirement of underlying issues, aggregated $32,152,602.07. Premiums amounting to $1,486,852.25 were received, leaving the net amount of discounts on bonds and notes $30,665,749.82.

Mr. Stone: Can you give a list of the commissions paid bankers, and discounts given by the Frisco?

Mr. Lauck: Yes, sir. That is given on pages 153, 154 and 155. Pages 154 and 155 show it in tabular form.

It is shown there that the total discounts paid (on page 154) on the various issues of bonds and funded notes and so on, were $32,152,602.07.

Of this, J. & W. Seligman & Co. Syndicate acquired $6,293,-330.41; Speyer & Co., $13,553,902.66.

By the way, this banking house of Speyer & Company, the Interstate Commerce Commission found, sold the bonds of the Frisco after it knew that the company was in an insolvent condition or should have known it was in an insolvent condition.

Mr. Stone: What was the difference between J. & W. Seligman & Co. Syndicate and J. & W. Seligman & Co.?

Mr. Lauck: J. & W. Seligman & Co. Syndicate, I think, was the syndicate that handled the Kansas City, Ft. Scott & Memphis transaction. The other is the banking house alone.

The other bankers given are Blair & Co., $2,295,124.70; Salomon & Co. and Walker & Co., $3,130,650; William Salomon & Co., $817,325; J. P. Morgan & Co., $1,151,312.50, and a German banking house, $780,250.

Mr. Stone: It would seem that Speyer & Co. got the lion's share of the whole thing?

Mr. Lauck: Yes, they acquired a good many bonds at a very high rate of discount, ranging almost up to 35 per cent, especially during the later years of the Frisco, when it was on the verge of insolvency.

The detail as to these discounts is shown on page 153.

Before taking that up, the commissions paid to bankers, as distinguished from the discounts suffered on bonds, is shown on page 156. There you have the actual commissions charged by the bankers in addition to the discounts which they profited by from the sale of the bonds.

The bankers are Speyer & Co., Seligman & Co. Syndicate, Salomon & Co. and Walker & Co., Salomon & Co., F. S. Mosely & Co., Prince & Erb, J. P. Morgan & Co., Moffat & White, Blair & Co., the Trust Company of America, Mercantile Trust Company and two German banking concerns; and the total commissions paid were $3,106,118.05.

Mr. Stone: That was simply commissions for extending time maturity on these short term notes?

Mr. Lauck: Or disposing of bonds. Just to give a commission of 2½ or 3 per cent, and then the banker would make, in addition to that, the discount. He would make the difference between what he took the bonds from the Frisco for—say he took them for 65, and sold them for 85, he would make $20 on each $100 par bond, plus his discount of 2½, or $22.50 per $100 par value of bonds.

On page 153 is the comment of the Interstate Commerce Commission relative to the discounts, and it shows another interesting point, as to what the Frisco did with these discounts, what disposition it made of them in its accounts.

The total amount of discounts paid to bankers, or discounts paid, rather, on inflating its securities, was $32,152,602.07. The disposition of this made by the Frisco—the disposition between the amount of cash realized by it and the par value of the securities (of course, the capitalization was increased by the par value of the securities issued) they charged to the cost of property investment, $8,557,739.76; and what should have been charged to income was turned into an asset and charged to property investment. And they charged another $1,112,396.37 of discounts to the cost of leasehold property. They charged to income another $1,021,106.47, and to profit and loss $7,238,647.14, and they are still carrying $12,970,291.81 which they have not charged off at all.

The significant fact about these discounts is that the total amount of discounts is 12.05 of the total amount of funded debt of the Frisco. That is, of the total amount of the funded debt outstanding, 12 per cent of it was represented by the discounts suffered by the Frisco in issuing its securities or its bonds and funded notes.

At the bottom of page 153 is an interesting comment on the relation of financial houses to the railroads as regards fiscal agencies. It seems at one time, when J. P. Morgan & Co. had agreed to handle some bonds for the Frisco, the Frisco let another banking firm, Salomon & Co., also handle some of the bonds. The result was that Salomon & Co. were selling the bonds at the same time that J. P. Morgan & Co. were. Of course Morgan had paid a certain price, and Salomon had. The firm of J. P. Morgan & Co. protested that this was not in accordance with right practice for the Frisco to unload other bonds while they were trying to sell some bonds for the Frisco, and the Frisco, in order to guarantee them against any loss, actually paid them in cash one per cent on the bonds which they had contracted to sell for the Frisco, and to protect them from the further marketing of these bonds by this other banking house. It was the Seligman Syndicate, not Salomon & Co., showing the measures railroads have to take in their relations with banking houses of this kind.

Mr. Stone: So, summing it all up, the records do show that the Frisco was one of the richest properties and one of the best paying properties in the Southwest?

Mr. Lauck: Yes.

Mr. Stone: Prior to its acquisition by the Atchison, Topeka & Santa Fe in 1893?

Mr. Lauck: 1890.

Mr. Stone: And after its reorganization in 1896 it started out to be an empire builder, and acquired property of five or six thousand miles of track.

Mr. Lauck: Yes.

Mr. Stone: And also acquired a load so heavy that no railroad in the world could live under it, and the result is it is in the hands of the receivers again today?

Mr. Lauck: Yes, sir.

Mr. Stone: There is a general belief that had the financial part of the Frisco been handled properly it would be one of the best paying properties in the Southwest today, is there not?

Mr. Lauck: Yes, sir, I think undoubtedly it has a great earning capacity. It has demonstrated that in its past history and its present history, and carrying the load which it has incurred, up to the present time. Of course, the trouble was too rapid expansion, too great an amount of funded debt issue as compared with capital stock.

Mr. Stone: Well, the rapid expansion was not so much in the miles of track as it was in the liabilities?

Mr. Lauck: The liabilities were out of all proportion to the miles of track and to the immediate possibilities of that track.

Mr. Stone: Anything further you wish to say on the Frisco?

Mr. Lauck: Yes, sir, page 130.

On page 130, appears a table, in the middle of the page, which seems to me significant from the standpoint of our argument. The Interstate Commerce Commission there shows what the annual loss is on the funded debt payments unnecessarily made by the Frisco at the rate of 4 and 5 per cent, for which it did not receive valid consideration, such as the profits on sale of new lines to the Frisco of $8,000,000; discounts, premiums and commissions, net, $30,000,000; investments in Kirby Lumber Company stock, $1,226,000; and the traffic balances due from its Southwest lines; and the interest on $28,500,000 bonds, New Orleans, Texas & Mexico Railroad; interest on $14,000,000 bonds New Orleans Terminal Company, Frisco proportion, net; and average annual loss on investment in Chicago & Eastern Illinois Railroad; the rentals paid Crawford Mining Company. Making the interest charge on this loss annually, the Interstate Commerce Commission computes—not the actual funded debt they have to pay, but the actual interest they have to pay on the money, or are paying, amounts to $3,321,840 at 4 per cent, and $3,745,550 at 5 per cent.

It seems to me that that is about as good an indication from the standpoint of our argument of productive efficiency as could be gotten as to the amount of annual losses which have been incurred by the Frisco through unwise investments such as we have been speaking of, or through the acquisition of property at excessive prices.

That is, according to this statement of the Interstate Commerce Commission the revenues of the Frisco, if these transactions had been conducted on a conservative basis or proper basis, would be between three and a third and four million dollars greater each year, or that amount would be available for wage payments, or improvement to the property, or for any other purpose which might be deemed legitimate. Or, looking at it from the other side, it would be the reverse of the argument, that revenues arising from operating efficiency are being used improperly in this way.

Mr. Stone: On a conservative basis, figuring on an operating ratio of 70 per cent, it would require a gross revenue of about $12,000 a year to pay this interest?

Mr. Lauck: Yes. That is, it would require the production of about ten to twelve million dollars annually, in order to yield the net sufficient to meet these indefensible interest charges.

Mr. Stone: And that would mean it would require about 25 per cent of the gross revenue of the Frisco to provide this fund?

Mr. Lauck: I do not recall the gross revenue.

Mr. Stone: The gross revenue was $43,000,000 for 1913?

Mr. Lauck: Yes, sir. The Interstate Commerce Commission in commenting on it, says, in the second paragraph:

"These figures of themselves are not strikingly significant, but when it is seen that they represent 31.09 per cent and 35.06 per cent respectively, of the total funded debt interest charge of the Frisco each year and that the Frisco receives no apparent benefit therefrom their significance is apparent."

Mr. Sheean: How much of that are they actually paying and meeting?

Mr. Lauck: Now?

Mr. Sheean: Yes.

Mr. Lauck: I don't know how much now; none. I guess. I don't know whether they are paying their funded debt or not. I guess they are not.

Mr. Stone: Anything further on the Frisco?

Mr. Lauck: There is a lot more which might be said.

Mr. Stone: All right; proceed. There is one question I want to ask you. Just how did that Kirby Lumber Company get mixed up with the Frisco Railroad? In what way?

Mr. Lauck: That is given in the report of the Interstate Commerce Commission as found at page 129. That is a lumber company in which it is inferred that certain officials of the Frisco were interested. They issued a promissory note which they gave to the Frisco. And the Frisco finally purchased that note, amounting altogether to 8,150 shares.

They subsequently purchased 8,500 shares making the total 1,248,000 shares. The total stock of the lumber company totaled $10,000,000.

Mr. Stone: You mean the shares amounted to $1,248,000, instead of it being 1,248,000 shares?

Mr. Lauck: Yes, the total capitalization being only $10,-000,000. The Frisco lost about $50,000 per annum as a result of this investment, or a total of about $500,000, and the only compensating feature was that they secured some traffic from the lumber company. As reported by the Interstate Commerce Commission, I think the point they wish to draw out is that the officials, Mr. Yoakum, Mr. Campbell, and some of the others, advanced money to this lumber company and then sold the notes to the Frisco, and that the Frisco had never acquired anything as a result, but had lost $50,000 per year on the investment.

Mr. Stone: Was it not something out of the ordinary for them to invest in a terminal company in New Orleans, when they had no line into New Orleans at all?

Mr. Lauck: Yes, that was an unusual thing, and of course was a net loss to the Frisco, part of which is charged to one of its subsidiaries. I suppose the idea which was had there was, that some time they would go into New Orleans, and wanted to preempt a terminal for that purpose. They had no road into New Orleans at all.

Mr. Park: Didn't they have a contract with the Missouri Pacific, or Texas Pacific, that if the road was built on the west side of the river, they could get in that way?

Mr. Lauck: I don't recall. I do not know, sir. That may appear here. No doubt that was the case. Up to this time, however, they had not made any entrance into New Orleans.

Mr. Nagel: They wanted to have something to steer to.

Mr. Lauck: A sort of compass point.

Mr. Stone: That was probably one of their dreams of empire building that didn't come true.

Mr. Lauck: Yes, sir, that was an advance movement that had not been connected up with the main system.

Mr. Park: They did finally get into New Orleans, did they not, and use the terminal?

Mr. Lauck: I don't think so; no, sir. That is not my understanding.

Mr. Stone: I think they do go in over the New Orleans & Northeastern, do they not?

Mr. Park: The Brownsville Line goes in over the Y. & M. V. now. They went in over the L. R. & N.

Mr. Lauck: The Interstate Commerce Commission report says that the Frisco has no line into New Orleans and therefore does not use the terminal.

Mr. Park: They have a 99-year contract for the use of the line.

Mr. Lauck: I think the distinction there is between running its trains in and owning the property.

Mr. Park: If they had a contract that let them in there, they would need to have terminals.

Mr. Lauck: Ultimately I think they intend to go in and use this terminal. That would be my impression—that it was a purchase which they thought a good thing, and something they might need in the future in the line of contemplated development.

Mr. Stone: If they leased trackage rights in to a terminal the road that leased them the trackage rights would probably lease them a terminal, would it not, under every day working conditions?

Mr. Lauck: That is usually the practice. I am not at all familiar with those things. I am not qualified to speak about the use of terminals.

Mr. Stone: Anything else you want to say on that?

Mr. Lauck: At pages 158 and 159, the Interstate Commerce Commission makes a rather elaborate comment on the maintenance of the property. It says:

"It is doubtful if the amounts charged by the Frisco to operating expenses, during the last three years, have been sufficient to so maintain the property as to prevent deterioration."

Then it says that the maintenance of equipment has been slighted and the average expenditures for this purpose have not been sufficient.

Mr. Stone: Yet, the Frisco is one of the strongest advocates of "Safety first," and has it all over every railroad crossing and everything they own, and maintain two or three special representatives who go up and down the line, and who do not talk anything else, does it not? Yet, if we are to take the report of the Interstate Commerce Commission, they are not keeping the property up?

Mr. Lauck: That is it. At page 160 occurs the episode I mentioned relative to locomotives. It is next to the last paragraph on the page. The Interstate Commerce Commission says:

"Reports from the master mechanic, dated July, 1913, show nine locomotives set aside to be scrapped, some of which have been retired from service since July, 1908. The scrapping of these locomotives has been deferred apparently to avoid making that charge to operating expenses.

"They have not been scrapped, because of the effect that action would have upon operating expenses. The total amount involved in these locomotives is $174,465.78, which sum, less salvage, would be charged to operating expenses if the Commission's classification were adhered to at the time of scrapping."

Mr. Stone: They also went into the contract with the Creosoting Company, too, didn't they?

Mr. Lauck: Yes, sir. That was through the Rock Island influence, however, that they went into that.

Mr. Stone: We will deal with that in connection with the Rock Island.

Mr. Lauck: After Mr. Reid had acquired the Rock Island, he bought the Frisco, and as a result of the purchase lost about $35,000,000. He started a creosoting plant then, and entered into a contract with the Frisco and the Rock Island and the Chicago & Eastern Illinois, to creosote ties at much higher prices than, I think, the Interstate Commerce Commission found prevailed on other railroads. That is simply a side episode.

Mr. Stone: The rate at that time was about 28½ cents, and they charged 40 cents, as I recall it.

Mr. Lauck: Yes, sir. He could make these contracts presumably because he controlled all three railroads.

Mr. Stone: Owing to the fact that he controlled these railroads, he required them to have their ties creosoted in this plant?

Mr. Lauck: Yes, sir.

Mr. Nagel: All of which illustrates that a good many difficulties would be avoided if men would learn a simple lesson, not to agree with themselves?

Mr. Lauck: Exactly; that is the underlying trouble there, of course.

Mr. Stone: Is this table at the end of page 161 an Interstate Commerce Commission table?

Mr. Lauck: Yes, sir, that is an Interstate Commerce Commission table. That, in connection with the creosoting, shows the cost and the amount of business done by the American Creosoting Company, which was Mr. Reid's company. Then, I think, a comparison is made with the Atchison and some of the other roads, which did this creosoting more economically, or did it normally, the purpose being to show that the cost of creosoting to the Chicago & Eastern Illinois and the Frisco, and the Rock Island, was excessive; the implication being that it was due to the fact that the interests controlling these roads had made contracts with themselves, and were making unusual profits out of contracting with themselves.

Mr. Stone: The fact does remain that the average cost to these three companies, while he was in control, was 31.35 cents per tie, while all his competitors were having their ties creosoted under the same treatment for from 14 cents to 17½ cents per tie.

Mr. Lauck: Yes, sir.

Mr. Sheean: Where is that 14 cents to 17½ cents?

Mr. Stone: At the bottom of page 161.

Mr. Sheean: It says, "If the Santa Fe used the same quantity of preservative per tie as is provided for in the Frisco contract its price would vary approximately from 21½ cents to 25 cents per tie." So it is 25 against 28½, is it not, or somewhere in there?

Mr. Stone: It says: "If it used the same quantity." It used a gallon and a half per tie, while, I think, the Rock Island required them to use two and a half gallons at a cost of 6 cents a gallon more. It is something like that, as I recall it.

Mr. Lauck: It was, on the Atchison, 14 cents to 17½ cents per tie, and on the "Katy," 18.75 cents per tie, for treating, as compared with about 31 cents on the Frisco.

Mr. Sheean: But the Commission says: "If this company used two and a half gallons per tie, as is provided for in the Frisco contract, the cost per tie would be approximately 25 cents." Is not that what they say?

Mr. Park: It says that the Santa Fe system and method is entirely different. It is a different system of creosoting or treating ties.

Mr. Sheean: The Commission makes a comparison anyhow.

Mr. Lauck: Yes. I don't get the exact point. Anyhow, after the receivers were appointed, the operations of this plant were suspended, which indicated it was charging too much for its services.

Mr. Park: They might have felt they could go along without treating their ties for a while.

Mr. Lauck: Yes, they might have desired to save something.

Mr. Park: Even though it was 25 to 28 cents per tie for creosoting, in the long run, they may have decided they were extending the life of the tie and were justified in doing that. The treating of ties ranges from 12 cents to 30 cents, according to the different processes and different methods which are used. Some use chlorides and some use crude oil, and others use clear creosote.

Mr. Stone: Mr. Chairman, if I might ask for information: I would like to ask Mr. Park what is the difference between the so-called "rupeing" process of the Santa Fe and the creosoting process of the other roads?

Mr. Park: It is rather technical. It would require a long detailed explanation.

Mr. Stone: I did not mean that. One uses crude oil and the other uses a chemical?

Mr. Park: They use less of it, and they have different systems of injecting it into the wood. Some engineers think they can get along with much less oil than others, or subjecting it to a different process of treatment.

Mr. Stone: Is it not also a fact that some of the roadway experts object to too much oil for fear of fire?

Mr. Park: The creosote is very inflammable.

Mr. Stone: Is there anything else, Mr. Lauck?

Mr. Lauck: If you are interested in the syndicate operations, they appear on pages 163 to 167. That is brought out by the Interstate Commerce Commission showing the different subscribers, the amount each subscribed, and what his profits were. Beyond that, I do not think of anything else.

Mr. Stone: There is nothing you want to say about the St. Louis, Brownsville & Mexico? That was one of the last acquisitions, was it not?

Mr. Lauck: I have not worked anything up on that beyond what the Interstate Commerce Commission shows as regards that.

Mr. Stone: You simply give their statement?

Mr. Lauck: Yes, sir.

Mr. Stone: It is in the hands of the receiver, along with the rest of the Frisco properties?

Mr. Lauck: Yes, sir.

Mr. Stone: It is not the same receiver, though. They are the receivers appointed under the laws of the State of Texas?

Mr. Lauck: Yes. I think they require different corporate relations in Texas, even for the solvent roads.

On page 122 are given the reasons which the Interstate Commerce Commission presented for the insolvency of the Frisco. They are: disproportionate capitalization; the acquisition of new lines; the financing by the Frisco of the New Orleans, Texas and Mexico Railroad and other South Texas Lines; the desire for an entrance into Chicago, Illinois, resulting in the assumption of heavy fixed charges in the acquisition of the stock of the Chicago & Eastern Illinois Railroad, and the one I read at an earlier time, the sale of its securities at low prices.

Mr. Stone: Then take up the next one, the Rock Island.

The Chairman: We will take a recess until 2:30.

(Whereupon, at 12:30 o'clock P. M., a recess was taken until 2:30 o'clock P. M.)

AFTER RECESS.

W. JETT LAUCK was recalled for further examination and having been previously sworn, testified as follows:

The Chairman: Proceed, Mr. Stone.

Mr. Stone: We hadn't quite finished up with the Frisco when we adjourned at noon.

Mr. Lauck: No, sir. On page 121, I would like to make a reference. On that page, in the second paragraph from the botton, the Interstate Commerce Commission, after passing these strictures upon the failure to maintain the property in its proper form, said:

"The difficulties of the Firsco were of a financial and not of an operating character."

Thereby attributing the financial difficulties into which it had gotten itself to the financial management and not to the operating management. Then, in further explanation of that, it says that the absorption of the increased net operating income is accounted for by charges of $3,140,000, covering the cost of the lease of the Kansas City, Fort Scott & Memphis Railway, the Kansas City, Memphis & Birmingham Railroad, and the Kansas City, Memphis Railway & Bridge Company; and by the increase in interest on funded debt from $1,994,488 in 1897, to $10,684,000 as of June 30, 1913, an increase of $8,690,000; or, in other words, that the difficulties arose from the absorption of operating revenue, through the expension of the system, amounting to about $8,000,000 annually.

Mr. Stone: I wish you would bring out the net increase in operating income, from 1897 to 1913, in that third paragraph from the bottom.

Mr. Lauck: After stating that the difficulties were of a financial, not of an operating character, the Commission continued:

Despite the increase in the net operating income from $2,-332,158 for the year ended June 30, 1897, to $11,667,000 (in round numbers), for 11 months of the fiscal year 1913, the surplus of income available for dividends in 1897 was $331,000, while on May 27, 1913, there was a deficit of $1,069,000. Had it not been for book charges covering the loss on the operation of South Texas lines for eleven months of the fiscal year 1913, amounting to $1,219,293.21, and amortized discount of $943,-222.38, there would have been a surplus of $1,092,599.99, or an increase in surplus for the 1913 period over the 1897 of $761,-534.05. The operating income for the eleven months of 1913 was $9,345,278 greater than that for the full year of 1897. Showing remarkable gains in operating income, which were absorbed by interest charges and by advances to lines which the Frisco had acquired, but which had not yet become self-supporting.

Mr. Stone: But it did show a remarkable gain in income?

Mr. Lauck: Yes, sir; the income for the eleven months of 1913, was $9,000,000 greater than for the whole year of 1897, following the reorganization and the starting of the new property.

The point that we would wish to make about this, would be that the gains in the operating revenue or operating efficiency have been absorbed by the financial management of the road, and there has been a proportionately greater share gone to that factor, in the operation of the road, than to the employes.

Mr. Sheean: Just where do you get the conclusion about what proportion went to the employes?

Mr. Lauck: The proportion that went to the employes was any increase which they might have gotten in wages, which I have not worked out.

Mr. Sheean: I was wondering where there was any data on which you base any assumption whatever as to what went to the employes.

Mr. Lauck: The employes, during this period, got their usual increases in wages, but of course, they did not approximate anything near the $8,000,000 absorption of operating revenue. I do not recall the outlay for engineers and firemen on the Frisco at the present time, but I don't think on its whole system it was one-half of that amount.

Mr. Sheean: By "employes" you mean engineers and firemen?

Mr. Lauck: And other employes, yes, sir. I would include all employes in this. But specifically, for the sake of argument. in this case, of course, we are only considering the engineers and firemen. I would put forward the argument that in the productive gains from the development of the road, the employes have not participated proportionately as compared with capital. That is the fundamental underlying principle I am working on in presenting this matter, or attempting to develop in presenting this matter, and is my main object in presenting it, to show that the productive gains have been sometimes dissipated, sometimes diverted, and sometimes capitalized—usually capitalized.

Mr. Stone: You are sure of one thing, however, are you not, and that is, that the wages of the employes did not take all the difference between the income of 1897 and the income of 1913.

Mr. Lauck: Relatively.

Mr. Stone: That is a safe assumption, is it not?

Mr. Lauck: Relatively small consequence, I should think. I have not the actual data. Comparatively, relatively small.

Page 123, last paragraph, at the bottom of the page. In that paragraph, from the report of the Interstate Commerce Commission, it states that "It appears of record through statements secured from the St. Louis Union Trust Company, syndicate manager for syndicates that financed the construction of a number of properties which were subsequently sold to the Frisco, and which statements were in part supported by the testimony of witnesses, that a number of lines acquired by the Frisco were purchased by that company by prices which afforded large profits to the syndicate subscribers and trust companies. Among the subscribers to these syndicates were various officials of the Frisco."

Then it specifically names the president of the Frisco, Mr. B. F. Yoakum, and on succeeding pages details the officials who participated.

Mr. Stone: At that time, Mr. Lauck, Mr. Yoakum was chairman of the Board of Directors, not president, wasn't he?

Mr. Lauck: Chairman of the Board of Directors, I believe, or the Executive Committee; some higher position than president.

Mr. Stone: That is really the power behind the throne, isn't it, the Executive Committee of the Board of Directors?

Mr. Lauck: Yes, sir. That is the highest position, usually, in the management of the railroad.

On page 127, there is a summary statement given by the

Commission as to the profits made by these syndicates in these various operations.

For the Oklahoma City & Western there was a profit of $369,000 made by the members of the syndicate as a whole; and on the St. Louis, San Francisco & New Orleans, $837,000; the St. Louis & Gulf $1,385,000; St. Louis & Oklahoma City, $556,000; St. Louis, Oklahoma & Southern, $719,000; Arkansas Valley & Western, $589,000; New Iberia & Northern, $500,000; St. Louis, Brownsville & Mexico, $3,000,000; and the Colorado Southern, New Orleans & Pacific, $375,000.

Mr. Sheean: Were those profits, Mr. Lauck, represented by stock of the Frisco that they received?

Mr. Lauck: Well, sometimes it was stock. Sometimes they put up a certain amount of money, and after the sale of property to the Frisco through the syndicate managers, were given money in return. For instance, in building a number of these new lines, when they would be projected different towns in the territory would donate money and would donate land.

Mr. Sheean: These profits that you have here are what they received in stock?

Mr. Lauck: I think not. I think they may be stock or cash. It was the difference between what they put in and what they got out.

Mr. Sheean: Those amounts you carry out are the par value of the papers they received?

Mr. Lauck: I think not. I think part of this was cash.

Mr. Sheean: How much cash?

Mr. Lauck: You can tell that by taking the individual items.

Mr. Stone: Look on page 126 and you will find where a number of them were cash.

Mr. Lauck: Quite usually they sold the property and disposed of the stocks and bonds and it was a cash settlement. These syndicates not only made large cash profits but they also made profits out of what the people gave to the railroad, to build it through their territory. In numerous cases private individuals gave land and the cattle raisers gave tracts of land, and they were turned over to the syndicate and they sold them and divided up the profits.

Mr. Burgess: Is there any indication here in your exhibit where the syndicate lost any money?

Mr. Lauck: None that I have noticed, no, sir.

Mr. Sheean: Mr. Lauck, if the syndicate did receive any of these in stocks of the Frisco in consideration of the cash that is shown here and you take the present market value of the Frisco stocks quoted at 1½, 2, 3 or 4, there would be a loss in a great many of those cases, would there not?

Mr. Lauck: Yes.

Mr. Sheean: And all of the people who now hold the stock of the Frisco if reduced to the present market value would actually sustain a loss?

Mr. Lauck: If they had paid for it, yes, but I think that these syndicates usually—to use a popular phrase—got from under the stock in this case. That is often the case in a great many flotations.

Mr. Sheean: Just where is that information shown here as to who "got from under" and when?

Mr. Lauck: These syndicate operations are the final settlement operations as I understand them, usually by the St. Louis Union Trust Company. By taking each one separately you will find just what the conditions of settlement were and what each individual got. For instance, take the New Iberia & Northern Railroad; on page 126, there is a statement as to Mr. Yoakum of a cash payment of $12,694 specifically mentioned and a six months promissory note for $200,000. I think these were not the usual syndicates that banking houses such, for instance, as Morgan & Company, would conduct.

Mr. Sheean: Take the lower paragraph on the page from which you just read, Mr. Lauck, "a liquidation of the syndicate has not yet been effected, and the profits referred to are based upon the realization of the par value of the Frisco notes."

Mr. Lauck: Yes, in that case.

Mr. Sheean: How much are those Frisco notes worth?

Mr. Lauck: They are worth a great deal more than the stock. They would take precedence over the bonds, would they not? They are direct obligations—a promissory note,—are they not?

Mr. Sheean: A promissory note of the Frisco would be ahead of the bonds of the Frisco?

Mr. Lauck: Probably they would not be ahead of the bonds. I don't know. But they would be ahead of the stock.

Mr. Sheean: Have you any idea as to what, in fact, those notes of the Frisco are worth?

Mr. Lauck: None whatever; not now.

Mr. Sheean: Or as to whether or not the paper profit based upon the assumption that the Frisco notes have their par value would be an actual profit or an actual loss to the people who got those notes.

Mr. Lauck: I think it would be a profit. If it was stock it might not be, but in the reorganization probably, especially if it be a friendly reorganization, those notes would be taken care of.

Mr. Stone: Meanwhile, there has not any of those syndicates gone bankrupt or any of the members of the syndicate given at the top of the page?

Mr. Lauck: No. I think that most of those received cash consideration of some kind; that is my impression from reading it. A great many poor obligations were worked off on the Frisco as a result of this, of course.

Mr. Stone: Is it not a fair assumption that this syndicate, the members of which are on the inside and have the closest knowledge possible of what is going on inside of the Frisco, would get out from under?

Mr. Lauck: Undoubtedly; yes, sir; they were insiders.

Mr. Stone: They were the ones who were doing the work?

Mr. Lauck: That is why the syndicates were made possible, of course, in this form.

Mr. Nagel: Does that necessarily follow? Would it be difficult to find instances in which capitalists received cash in a transaction of this kind and had confidence enough in the whole transaction to buy stocks and to lose every cent of their profits?

Mr. Lauck: I think that that method is usually the method. I know in a flotation of securities by banking houses they usually take their profits in stock. Of course, their action is based upon the fact that they have confidence in that stock or they believe the value will be maintained or some value will accrue to it.

Mr. Nagel: Even where they get cash they sometimes have confidence in the transaction and buy stock?

Mr. Lauck: Yes.

Mr. Nagel: Take the Rock Island deal of which you spoke. The general impression is that a large part of these profits were then invested in Rock Island securities at one time or another, and at the present time, I take it, that most of those investments are practically worthless.

Mr. Lauck: Yes, I think the crowd that bought the Rock Island actually put their money into it and then when they formed the holding companies they were not able to dispose of a large portion of the stock.

Mr. Nagel: Take the transaction relative to the St. Louis & Colorado, was it not?

Mr. Lauck: Yes, sir.

Mr. Nagel: To which you referred?

Mr. Lauck: Yes.

Mr. Nagel: The general impression is that a good part of the profit was invested in Rock Island stocks afterward?

Mr. Lauck: They were paid partly in Rock Island stock.

Mr. Nagel: And partly in cash?

Mr. Lauck: Yes.

Mr. Nagel: Or notes?

Mr. Lauck: Two and a half million in notes.

Mr. Nagel: I merely say it is not safe to assume that the men who are on the inside and who are supposed to know the facts about the whole transaction always get from under. They sometimes are from under and get back.

Mr. Lauck: Yes, sir; that is undoubtedly true, but there was a great deal—in these specific syndicates, there was usually a distribution of a proportion of the profits, at any rate. These syndicates do not include the syndicate operations on the Kansas City, Ft. Scott & Memphis, which was one of the most flagrant that was undertaken in the expansion of the Frisco, but the total amount paid in by the syndicate members was, in the cases cited by the Interstate Commerce Commission in this connection, $26,-548,000, on which a profit of $8,444,000, or about 33 1-3 per cent was realized.

Mr. Stone: Take, for example, your last paragraph on page 126, where there were $3,000,000 profits accrued to the syndicate subscribers. Do you understand that they did not take their profits, but let them go back into the property again?

Mr. Lauck: That was taken up, partly in cash and possibly partly in stock.

Mr. Stone: Well, the $375,000 the Gulf Construction got for financing part of the construction of the Colorado Southern.

Mr. Lauck: Yes, sir; I think most of these syndicates were realized upon, before the difficulties of the Frisco occurred. In most of the cases given, the syndicates were dissolved long ago, when the syndicates were wound up, except in some recent extensions of the Frisco.

Mr. Stone: But they have managed, in some way, to get a load on the property so that it takes all the earnings of the road, and then does not make both ends meet. There is a deficit.

Mr. Lauck: Yes, sir; absorb the increase of $8,000,000 in operating revenue—capitalized it beyond its limits.

On page 121 is given the foundation for the statement that was made, that Speyer & Company sold Frisco bonds to the public, when they should have known that the road was insolvent. The second paragraph from the top. That was as late as April, 1913.

On page 118 is given some testimony from Mr. Yoakum, relative to these syndicates and syndicate operations, in which he details how much each individual put in, or corroborates, and how much each received.

Mr. Stone: Before you go to that, Mr. Lauck, on that page 121, it shows there where Mr. Yoakum, at least, took one deal in cash. There was not any stock about it—in the fourth paragraph from the bottom, on that New Iberia & Northern.

Mr. Lauck: Page 121?

Mr. Stone: Yes, sir.

Mr. Sheean: 126.

Mr. Lauck: 121; that is right. It says of Mr. Yoakum: "The Frisco had acquired in May, 1912, the syndicate interest of B. F. Yoakum in these properties by purchasing his subscription to the syndicate plus 7 per cent interest thereon, amounting to $212,698.24. Mr. Yoakum was paid $12,698.24 in cash and was given a note for $200,000, dated May 6, 1912."

In that case, he realized fully in cash, with 7 per cent interest on the New Iberia & Northern Railroad.

An added demonstration, it seems to me, of the increase in the productive efficiency of this road, or output, is found at the top of page 122, in the quotation from the Interstate Commerce Commission's report, in which it is stated:

"Freight earnings per mile of road increased from $3,-857.77 for the year ended June 30, 1897, to $5,465.31, for the year ended June 30, 1912." Notwithstanding the fact that the revenues per ton mile decreased from $0.0111 to $0.00992. "An increase in traffic and operating revenues," the Interstate Commerce Commission states, "had been secured, but the benefits thereof had been absorbed by increased interest charges."

Mr. Stone: Now, taking up on page 118, it is a very easy matter to see whether anybody got any cash or not.

Mr. Lauck: Yes. That was in the preliminary investigation, or was in the investigation of the St. Louis, Brownsville & Mexico, in which Examiner Brown of the Interstate Commerce Commission examined Mr. Yoakum. At that time a list of the syndicate subscribers was furnished by the St. Louis Union Trust Company, all of which Mr. Yoakum corroborated; showing that the Directors of the Frisco, the Treasurer of the Frisco, the President of the Frisco, and the General Claim Agent of the Frisco, and others, participated and received a distribution of the assets of these syndicate operations.

Mr. Stone: I think it might be well to read Mr. Yoakum's testimony, commencing on page 117, to show how he arrived at some of these things; how they just came along and jumped over a few hundred miles, and took some new country and built a road.

Mr. Lauck: I will commence at the St. Louis, Brownsville & Mexico. At the top of page 117, where they asked Mr. Yoakum how the company was organized, the St. Louis, Brownsville & Mexico, and his reply; just to show you the method they pursued in building these roads.

"Examiner Brown: Now, tell us, Mr. Yoakum, how this company was organized, the St. Louis, Brownsville & Mexico Railway.

"Mr. Yoakum: That company was organized along the line which they, as well as others—and as I know that you want the best information that you can get, why there are others here that can give you so much better than I can that I would not like to undertake to trust my memory for that many years on the organization of any of these companies. As I say I come along with a company and I jump over a few hundred miles and take some new country and see if I can go into it and develop it. The first organization of that company, however, was a near way, some point near Corpus Christi to Brownsville. I think about 160 miles, which gradually coming east, it added to it, but the information relating to it being so many ways at your disposal, which would be entirely right, while mine would be from a memory that is not good in relation to these things that was new six or seven or eight years ago that I would prefer for you to get it more correctly than I could state it.

"Examiner Brown: Well, the records show it was organized in 1903 by a number of persons. Now, did this company at the period of its organization have any official relation with the Frisco officials?

"Mr. Yoakum: No, sir. What is that, Mr. Brown?

"Examiner Brown: Did it, at the period of its organization, have any relation with the Frisco officials?

"Mr. Yoakum: No, sir, no more than—no, it had no relations to the Frisco, is that what you asked?

"Examiner Brown: Yes.

"Mr. Yoakum. No, it had not.

"Examiner Brown: Did the Frisco intend to take that property over upon its completion when this company was organized?

"Mr. Yoakum: No, it was not in any way even intimated or committed to do anything of that kind. Of course, I had some day hoped to make an entrance into the lower Rio Grande country and thence into Mexico through this big plan of carrying out the Frisco down the Mississippi River Valley, the Gulf Coast country which leads into that country. But no commitment of any character whatever from a Frisco standpoint at that time.

"Examiner Brown: You were elected president of this railway company on February 15, 1904, weren't you?

"Mr. Yoakum: I don't remember as to dates.

"Examiner Brown: Well, you were president about that time, weren't you?

"Mr. Yoakum: Yes, if your records show it, I will say I was. I don't know.

"Examiner Brown: At that time was it contemplated upon the completion of the line the Frisco would take it?

"Mr. Yoakum: No, I don't think—I am sure it was never discussed, and I did not myself know whether we could get our way into that rich country or not, but events as they transpired, as they came along, led up to it.

"Examiner Brown: Now, the information furnished by the St. Louis Union Trust Company of the stock operations with respect to this railroad was that there were 99 subscribers who subscribed $3,981,000 with which, as I understand, you would agree?

"Mr. Yoakum: Yes, just as I have stated, those records of the St. Louis Union Trust Company in connection with these matters are the only records that I have, and I am sure they are correct.

"Examiner Brown: Now in the distribution of the profits of the operation of this syndicate I find Mr. C. H. Beggs, who contributed $38,000 and got $66,700 as his portion; who is he?

"Mr. Yoakum: Mr. Beggs, at that time was connected with the Frisco Railroad, I think. He was connected with it, but whether just at that time or not, I am not prepared to say.

"Examiner Brown: W. K. Bixby contributed $108,000 and got $189,700; who is he?

"Mr. Yoakum: Mr. Bixby is a well known St. Louisian.

"Examiner Brown: Is he an officer of the Frisco or a director?

"Mr. Yoakum: He is a director of the Frisco.

"Examiner Brown: Mr. James Campbell contributed $334,000 and received $586,000. Is this the same Mr. James Campbell who petitioned for the receivership?

"Mr. Yoakum: It is.

"Examiner Brown: Mr. F. H. Hamilton contributed $16,666 and received $29,275. Is that gentleman treasurer of the Frisco?

"Mr. Yoakum: Yes, sir.

"Examiner Brown: Mr. E. Hawley contributed $83,000 and received $146,375. Is that Mr. Hawley deceased?

"Mr. Yoakum: Yes, sir.

"Examiner Brown: Mr. J. F. Hinckley contributed $25,800 and received $45,376. Who is Mr. Hinckley?

"Mr. Yoakum: Well, I don't know whether he was connected with the Frisco at that time or not, but he was in the engineering.

"Examiner Brown: Was he not the chief engineer of the Frisco at that time?

"Mr. Yoakum: I don't know whether he was at that time. He was at one time. He was part of the time, but I do not know whether he was at this time or not.

"Examiner Brown: Mr. L. F. Parker contributed $37,400 and received $65,000. Who was Mr. Parker?

"Mr. Yoakum: He was General Consul at that time.

"Examiner Brown: Mr. W. B. Spaulding contributed $18,-333 and received $32,200. Who was Mr. Spaulding?

"Mr. Yoakum: In the claim department of the Frisco; I think his title is General Claim Agent.

"Examiner Brown: Mr. B. F. Yoakum contributed $300,-800 and received $528,413. Is that you, Mr. Yoakum?

"Mr. Yoakum: That is myself, yes, sir.

"Examiner Brown: Is that list of officials which I have just read all of the officials of the Frisco, of the Chicago & Eastern Illinois, and of the Rock Island, that you have any knowledge of, that participated in the Syndicate operations with respect to the St. Louis, Brownsville & Mexico?"

Mr. Stone: You would naturally understand from the reading of that, would you not, that they at least got part of their money?

Mr. Lauck: Yes, sir. I think they all realized on that operation. It also indicates the close working relationship between the Brownsville in the course of construction, and the Frisco management.

Mr. Sheean: But all of the detail of that is shown later, is it not, at page 167, as to just how they realized, that they took a mortgage upon this property after the Texas company had valued it, and authorized a bond issue to be placed upon it. That is several pages preceding 167 show just what the syndicate did.

Mr. Lauck: Yes, they took those. But I think they realized on these when they made the final settlement with the Frisco. That is, they took these bonds which are now held by the Frisco Company.

Mr. Sheean: Well, does not the Interstate Commerce Commission in its report say that these securities were taken by the syndicate as the purchase price of the property, and $200,000 in cash?

Mr. Lauck: Yes, then on below you will find that an agreement was executed on December 1, 1909, by which they were transferred to the Frisco at an agreed price of $11,827,000. (Bottom of page 167.) And then the conditions under which they were transferred is shown on page 168.

Mr. Sheean: Yes.

Mr. Lauck: The Frisco now holds those securities?

Mr. Sheean: Yes. And what did the syndicate get for them?

Mr. Lauck: In settlement, the Frisco paid $5,400,000 in cash; executed a note in favor of the St. Louis Union Trust Company for $2,000,000, due December 1, 1910, and secured the balance of $4,722,000 by depositing with the Trust Company Frisco-New Orleans, Texas & Mexico division bonds at 90.

Mr. Sheean: That is, even on the Commission's valuation here, for the $10,756,000, or the $9,000,000 that they put in in cash, these men got $5,400,000 in cash, and got securities for the balance, and those securities, on their present market value, are very much less than the cash they put in, aren't they?

Mr. Lauck: They didn't put in securities equivalent to—they capitalized the property to the limit permitted by the Texas Commission.

Mr. Sheean: Yes; but that is why I said, Mr. Lauck, that the $10,000,000 was what the Texas Commission authorized, but the preceding part of the Interstate Commerce Commission's report was that the total amount spent by the syndicate was $9,708,758.26, or in accordance with the Union Trust Company's books, $8,932,000.

Mr. Lauck: Yes, the Union Trust Company.

Mr. Sheean: Whether it was eight or nine million, one or the other, the syndicate got $5,400,000 in cash and the balance of their so-called profits in securities, which now would not make them whole, by any means?

Mr. Lauck: I am not certain that they still hold their securities. I think it has been liquidated.

Mr. Sheean: You don't know and there is nothing in this report that says anything about that, as to whether they liquidated or didn't liquidate, but the report of the Interstate Commerce Commission shows that of an eight or nine million dollar investment, they got back $5,400,000 in money, and some securities, which securities, at the present market value, would show a very substantial loss.

Mr. Lauck: If they still held them, yes, but I don't think —there is no data here to show whether the individuals in the final settlement took securities or cash, but I think the implication is clear that they did not take the securities.

Mr. Sheean: They did take them at the time of the Commission's report, and you have given us no information, here or elsewhere, as to anything beyond the fact that the syndicate got those securities?

Mr. Lauck: When they settled up with the Frisco, they took the cash you mention and the securities. My inference from the Interstate Commerce Commission's report—this being four years ago when this syndicate operation was completed—the St. Louis Union Trust Company disposed of the resources of that syndicate, and distributed in the form of cash, the participation of each individual in it. There is no proof submitted by the Interstate Commerce Commission as to that fact, however.

Mr. Stone: But the fact does remain, regardless of what they got out of it, that they kept on with their present policy of over-capitalization and expansion, until they finally wrecked the property. They killed the goose that was laying the golden egg, finally.

Mr. Lauck: Yes, that is as clear as a pike staff, I think. Of course, all of these securities, whether they were realized on or not, are a liability of the Frisco Company. To what extent that liability will be met, we don't know, until the reorganization takes place. Judging from previous reorganizations, they will all be continued in some form or other.

Mr. Stone: With, perhaps, a little more added to it, for good measure.

Mr. Lauck: That is quite frequently the case, yes, sir.

Mr. Stone: Anything else on this? I think it might be well to go back to the St. Louis, Brownsville & Mexico Railway, and see what are the facts. The St. Louis, Brownsville & Mexico Railway, as I recall it, was built largely from the land grants?

Mr. Lauck: I don't think that we have facts available as to that.

Mr. Stone: You have some of the facts on pages 164 and 165.

Mr. Lauck: In the Interstate Commerce Commission's report.

Mr. Stone: I see where they were given one grant of 90,000 acres of land.

Mr. Lauck: Yes, sir; on pages 164 and 165. They are some of the operations I mentioned a moment ago, in connection with the facts that the syndicate would take the land donated by counties and cities, and realize on that as part of its profits, either in the form of cash, or by the capitalization of them.

Mr. Stone: This syndicate spoken of, next to the last paragraph on page 165, is that the same syndicate that was organized to build the road?

Mr. Lauck: Yes, sir.

Mr. Stone: It is true that all they ever contributed was $3,980,000, for which they got back, in cash, $5,400,000, in addition to the securities?

Mr. Lauck: Yes. Their profit was $3,011,000.

Mr. Sheean: Well, Mr. Lauck, pardon me.

Mr. Lauck: I was just referring to the last paragraph on that page.

Mr. Sheean: Yes, but Mr. Stone's question was that all they ever contributed was $3,980,000.

Mr. Lauck: That is their profit.

Mr. Sheean: No, not that, either.

Mr. Stone: The syndicate was composed of 99 members, who contributed $3,980,999.20 toward the construction of the railroad.

Mr. Sheean: Additional funds were secured from the sale of temporary bonds and notes issued by the Brownsville, and so on. Turning over to the next page and following out the same thing, the total amount spent by the syndicate in constructing and equipping the Brownsville, based on a statement secured from the St. Louis Union Trust Company, was $9,708,758.26.

Mr. Lauck: That included, however, the proceeds of the sale of the Brownsville securities, but individually, the syndicate members—the 99 members put in about $3,000,000, as I recall—almost $4,000,000, according to the report of the Interstate Commerce Commission, upon which they realized this $3,000,000 profit. The last paragraph at the bottom of that page 165 says that the effect of the entire transaction was that the syndicate secured a profit of $3,011,000, which included the profits on land, the cash donations and the syndicate's operations. The profit represented 75.66 per cent of the subscription of each syndicate member and was divided among the subscribers. Then it gives the list.

Mr. Sheean: And that $3,000,000 profit, Mr. Lauck, as shown on page 168, is represented by $4,722,000 of New Orleans, Texas & Mexico bonds, is it not—and what are those bonds worth at the present time?

Mr. Lauck: What page is that?

Mr. Sheean: 168.

Mr. Lauck: My impression was that the matter was wound up, that is, the transaction between the Frisco and the St. Louis Union Trust Company, and there is nothing to show whether the St. Louis Union Trust Company ever sold those bonds or not, or what they did get for them, except the implication that final distribution was made to the syndicate and that the proceeds were in cash.

The Frisco gave those bonds to the St. Louis Union Trust Company which was acting as syndicate manager on December 1, 1909, and then the St. Louis Union Trust Company, acting for the syndicate, disposed, presumably, of the assets of the syndicate, and made these cash distributions as shown on page 166. That is not stated specifically.

Mr. Sheean: As cash?

Mr. Lauck: No. It is never stated, but the implication would seem to be clear that that would be the case. The syndicate is not still in operation. Some of the members of the syndicate are no longer living.

Mr. Stone: You don't think they are in operation then? They may be somewhere else by this time. You don't know?

Mr. Lauck: Well,— On page 165, there it is clearly shown —as would naturally be the case—that the localities wanting this railroad contributed to its construction and to its coming to the country, and that the syndicate profited from that and not the railroad.

Mr. Sheean: Just to get it clear. At page 165, where your profit of $3,000,000 is deduced, that arose from the payment on May 26, 1910, of $12,122,897.72, did it not?

Mr. Lauck: That is right; yes, sir.

Mr. Sheean: Turning to page 168, you find that that $12,122,897.72 was actually paid, as stated there, in this manner: in settlement the Frisco paid $5,400,000 in cash, executed a note in favor of the St. Louis Union Trust Company for $2,000,000 due December 1, 1910, and secured the balance of $4,722,897.72 by depositing with the Trust Company, Frisco-New Orleans, Texas & Mexico division bonds, at 90.

Mr. Lauck: Yes.

Mr. Stone: It is safe to suppose, is it not, that they have paid off that note to the St. Louis Union Trust Company long ago?

Mr. Lauck: Yes; that was due December 1, 1910; unless it was renewed.

Mr. Sheean: If that was paid in cash, what was the value of the $4,700,000 of bonds?

Mr. Lauck: They were worth about 80 then.

Mr. Sheean: What are they worth now?

Mr. Lauck: I do not know what they are worth now, but at that time, to secure this $5,400,000 in cash, the Frisco sold some of those bonds at 90.

Mr. Stone: That was not all they got.

Mr. Lauck: Presumably, the St. Louis Union Trust Company could sell them at 90 and realize cash in the same way.

Mr. Stone: Turning back to page 165, the middle paragraph. That was only one of the many things they got, was it not? "After obtaining the land the committee organized a syndicate." After this land had been donated, what was done with it?

Mr. Lauck: "After obtaining the land the committee organized a syndicate, appointed the St. Louis Union Trust Company of St. Louis, Mo., syndicate manager, and turned over to the syndicate all the lands received by them, entering into an agreement with the syndicate to construct the railroad, develop the land, and carry on whatever operations seemed to be for the benefit of the syndicate. Some of the land donated was transferred to land or townsite companies, a part of the stock in which was held for the benefit of the syndicate and a part by the donors of the land. The land not so placed was transferred to a corporation called the West Texas Abstract & Guarantee Company and held by it for the benefit of the syndicate. In addition to the land donations cash bonuses amounting to $40,000 were received from donors at Bay City and Brownsville, and $150,000 was donated by the Calhoun County Cattle Company in connection with the Port O'Connor branch."

Mr. Stone: There is not anything to show that that was paid but we can take it for granted that they got the cash.

Mr. Lauck. Yes. The donated lands were eventually disposed of for account of the syndicate. The land deals, the cash bonuses, and the syndicate exploitations resulted in a profit to the syndicate of $892,000.

Mr. Stone: They got that along with the rest?

Mr. Lauck: Yes.

Mr. Stone: That was another item?

Mr. Lauck: I do not think there is any doubt but what they got this other because, if I recall correctly, the same time they got this $5,400,000, the Frisco itself sold a portion of these bonds at 90, or about that price.

Mr. Stone: On November 17, 1913, the bonds of the Brownsville were sold to J. D. O'Keefe, receiver of the New Orleans, Texas & Mexico, at a price of 98.26, and the proceeds were placed on deposit in the bank to the credit of the receiver of the Brownsville, so they were worth something not a great while ago?

Mr. Lauck: They were worth about 90 not very long ago. The $5,400,000 was gotten by the sale of similar bonds which they gave the St. Louis Union Trust Company.

I believe that is all I have to mention except the general conclusion derived from this report, which is that a large proportion of the stock of the Frisco represents no investment value and is all absorbed in the large amount of dividends and will be a constant drain on the productive efficiency of the road; that so far as investments went, they showed that the Frisco had lost about $66,000,000 in interest bearing obligations, the proceeds of which had been dissipated and will also be a constant drain, and that, according to the report of the Interstate Commerce Commission, about $4,000,000 annual loss has been sustained through the expansion of this system. In other words, $4,000,-

000 which is the cost upon operating revenues of the development of the road, or the difference between what was purchased and what it costs to maintain.

Mr. Stone: What does it cost for the engineers, firemen and hostlers on the Frisco each year, if you know?

Mr. Lauck: I do not recall that. I have not those figures with me now.

The next road which I would like to take up will be the Chicago, Rock Island and Pacific. That appears on page 218.

Mr. Stone: Mr. Chairman, I would like to make a little statement. A question has been asked me two or three times by different ones on the outside, during the recess hour, why we selected these two roads? It is not because we have any particular grudge against either the Frisco or the Rock Island. It is because all this data is on file, they having been investigated by the different commissions, and there is more complete information in regard to these two particular roads on file, than perhaps any of the others.

Mr. Lauck: The next exhibit has to do with the Rock Island. In it, is reviewed the dissipation of the resources of the Rock Island Railway Company.

Briefly stated, the history of this company is found on pages 220-221. It was organized in 1847, and built to Rock Island, as I recall, and then consolidated with a road west of the Mississippi which had a land grant, and became the Chicago, Rock Island and Pacific Railway. It was a very profitable road.

These two roads were consolidated in 1866 under the present name of the Chicago, Rock Isand & Pacific. It was a very profitable road. The capitalization was constantly increased, and in 1880 it was paying 10 per cent in dividends. At that time there was some protest against freight rates, and Mr. Jay Gould and a committee was appointed to see what they could do about the matter, so they consolidated the Rock Island Railroad with a number of subsidiaries which it already owned, and took occasion at that time to increase the capital stock, or declare a 50 per cent stock dividend, in order to show decreased earnings. In other words, the stock was issued to holders of the old company on the basis of two shares in the new company for one share in the old company, and the authorized share capital stock of the new company was $50,000,000, and the amount of stock actually issued was $41,000,000, and a stock dividend of $21,000,000 was declared. These roads had been previously owned by the Rock Island, and had been largely acquired through its surplus earnings, so it was really no new addition to the property but a stock dividend of $20,000,000.

The road then continued in a prosperous condition until 1901, when the new management took charge. That is, the so-called Moore-Reid group of financiers, who had been very successful in floating the American Tinplate Company, decided to go into railroading, and acquired control of the Rock Island.

The first thing they did was to relieve the former president of his duties, after, however, giving him two years' assurance of salary payment, and to enter upon a period of management which was different from that preceding the year 1901.

This was practically a control of the railroads by the First National Bank group of financiers in New York.

About the beginning of 1902 the old directors were relieved, and a new directorate, composed of the Reid-Moore group, and also including several officials of the First National Bank of New York, was elected.

With this change in ownership, coming under the domination of the Reid-Moore group, there was immediate change in policy; one of expansion and acquisition of other properties was at once entered upon,and the first property acquired wa the Choctaw, Oklahoma & Gulf.

This road has a market value of about $10,000,000, against which there was about $13,000,000 at prevailing values at the time of its acquisition in 1902, and the Frisco-Rock Island paid for it about $24,000,000 in bonds, or an excess value of about $10,000,000 was added to the liabilities of the Rock Island through this purchase.

The next purchase was the Burlington, Cedar Rapids & Northern, which was acquired through the interchange of stock, share for share. There was quite a difference in the relative market value of the shares of these two roads, however, and it would seem that there was a loss to the Rock Island there of about $1,000,000 in this interchange of stock.

The next acquisition was that of the St. Louis, Kansas City & Colorado, in 1902, which represented a loss to the Rock Island of about $3,000,000. That was the road referred to in the table when we were discussing stock bonuses, which was owned by Mr. Francis and Mr. Scullin. There was paid for that—bottom of page 224,—the facts relative to that transaction were brought out in connection with the case of Mrs. Carrie Wann of Chicago vs. Mercantile Trust Company of St. Louis. At that time, Mr. John Scullin, president of the Wiggins Ferry Company in St. Louis testified that both he and Mr. Francis received $1,250,000 in 5,000 shares of Rock Island stock, which at that time was selling at about $175 per share, while the real value of the property at that time—I cannot recall the real value of the St. Louis, Kansas City & Colorado, but the consideration received was about $3,000,000 in excess of that value.

After the acquisition of these properties which represented these losses and added liabilities to the Rock Island, the really remarkable thing in connection with the history of this railroad took place. That occurred on July 31, 1902. Reference is made to it on page 225 of the exhibit. At that time there were organized two corporations simultaneously. One was in Iowa, under the name of the Chicago, Rock Island & Pacific Railroad Company, with a capital stock of $125,000,000, the avowed purpose being to purchase the stock of the Chicago, Rock Island & Pacific Railway, the operating company. The other company was organized in New Jersey, under the name of the Rock Island Company, with a capital stock of $150,000,000. The purpose of this company, as stated in its charter, was to acquire securities, evidences of debt, etc., and it was used to acquire the securities of the Chicago, Rock Island & Pacific Railroad Company of Iowa. The capitalization of both these companies was $275,-000,000. Neither one had a dollar paid in and no assets of any kind at all; the Rock Island Company having no assets whatsoever, and the railroad company of Iowa being in similar condition.

What took place was that the Chicago, Rock Island & Pacific Railroad of Iowa issued its capital stock to the Rock Island Company of New Jersey, and received in return a like amount of the Rock Island Company—that is in New Jersey Company's stock, in proportion, 100 shares of common to 70 of preferred, and the stock so received was used in part payment of $69,000,000 in shares of stock of the Chicago, Rock

Island & Pacific Company, which was the operating company and which was secured on the terms mentioned on pages 226 and 227.

The plan there, as published in the Commercial and Financial Chronicle, as to how these different companies were interrelated, and the exchange of stock in the different companies, is given. Briefly stated, it has been summarized on page 227, the plan as outlined in the Chronicle. That is, one share of Chicago, Rock Island & Pacific Railway stock, with a par value of $100, and an intrinsic value based on 5 per cent per annum, annual dividend, received Chicago, Rock Island & Pacific Railroad 4 per cent bonds of $100. That is the Iowa Company. Rock Island Company preferred stock of $70, and Rock Island Company common stock of $100. In other words, one share of stock of the Chicago, Rock Island & Pacific Railway, secured a 4 per cent bond of the railroad, $70 in preferred stock of the Rock Island Company of New Jersey and $100 in common stock, or a total of $270, which brought on the New York Stock Exchange the first month they were traded in, which was November, 1902—the bonds were low 82½ and high 86½. Rock Island preferred was low 71 and high 85½. Rock Island common, low 41, high 48¾, and at these prices netted the owner $183.03, which was about the market price of the original company at that time. Those securities even went higher, at other periods, and, of course, resolving the operation in its simplest form, it was evidently the intent to increase the capitalization to the net amount of $150,000,000; although there was a gross amount of $275,000,000, but some of it was interchanged and the net would be about $150,000,000.

It was expected that the operating company, the Railway Company, would develop sufficient earnings to pay dividends, which would pay the interest on the bonds held by the Iowa Company, which, in turn, would pay dividends to stock held by the Rock Island Company. That was only realized, however, for a brief period.

In 1903, 3 per cent was paid on the Rock Island Company preferred stock; in 1904, 3 per cent, and in 1905, 4 per cent. After that time, the Rock Island Company went out of business as a dividend payer, and, of course, no dividends have since been paid.

Mr. Stone: It might be well to bring out, in connection with that, how much the entire capital stock of the Rock Island Company was purchased for—the next paragraph.

Mr. Lauck: It will be seen from the foregoing that almost the entire capital stock of the Rock Island Company ($75,000,000), which had a stock market value at that time of $118,000,000, was purchased at the nominal cost of the printing of a few thousand stock certificates and of bonds. Governor Cummins, who was Chief Executive of Iowa at that time, saw the danger of such proceedings as the Rock Island organization was engaged in, and instructed the Attorney General to look into their legality and submit an opinion. This opinion was filed in September, 1902, and it was to the effect that the acts of this new Iowa corporation were not outside of the powers conferred by statute or contrary to public policy in the legal sense of the term.

The net result was, as I have said, it added to the capital liabilities of the Rock Island, $150,000,000, which was expected to, and which did for a time absorb earnings or the revenues of the road; dividends being paid on the Rock Island Company's stock until 1905. The Rock Island Company then went forward in other lines. About 1904 it purchased the Chicago & Alton Railway, or control in it, with the Union Pacific, which resulted in a final loss to the Rock Island Company of about $6,000,000. This is, if we assume the bonds of the Clover Leaf are worthless at the present time. Of course, they may have some value, after the reorganization, but what happened was that they purchased the Chicago & Alton Railway and then sold it afterwards to the Toledo, St. Louis & Western, the Toledo, St. Louis & Western giving for it their income bonds, known as series A and B. It was expected by the Toledo, St. Louis & Western that the road would yield enough revenue on its stock to pay the dividend charges on these bonds which it had issued. The Alton failed to do that, and the result was that the Toledo, St. Louis & Western was thrown into the hands of receivers, where it is at the present time.

Now, the Rock Island took as part of its consideration for the Alton, some of these bonds, which are carried now as an asset of the Rock Island, and which are not receiving any interest at present, but which may receive interest in the future.

As the matter now stands, it represents a loss of $6,000,000 to the Rock Island. They also purchased the Frisco Railroad, and the net result of that was a loss of about $35,000,000 to the Chicago, Rock Island & Pacific Company. They purchased the Frisco, and then sold it at this loss of about $35,000,000, as testified to several days ago before the Interstate Commerce Commission. Instead of writing off that loss, they still carry it as an asset. That is, they carry $35,000,000 among the securities owned, as this loss, which, really should be written off and represents that much depreciation of the assets of the Rock Island Railroad; these two losses aggregating about $41,000,000, under present conditions.

That, in general, is the history of the road, the general conclusion being that here was a road that was characterized by remarkable operating results, which, through its financial management, had these results dissipated, and which was loaded with debt, and had its resources dissipated, and if the present capitalization should be continued, would require the development of operating revenue to meet the liabilities incurred, to the detriment of other factors, such as labor, or the public.

Mr. Nagel: Well, has the Rock Island Railway Company any obligations for the stock of the Rock Island Railroad Company and the Rock Island Company?

Mr. Lauck: The operating company?

Mr. Nagel: Yes.

Mr. Lauck: Not unless it earns its dividends, no, sir.

Mr. Nagel: If it earns dividends, it pays it on its own stock?

Mr. Lauck: Pays it on its own stock, which stock is held by the Iowa company.

Mr. Nagel: I understand that, but that does not enlarge the obligation for dividends.

Mr. Lauck: Does not enlarge it, no, sir. The intent was, however, if possible, to make these other stocks receive dividends, and to the extent that there is no obligation whatsoever, except what might come from the management of the company. After you go through these two companies, you get to the Rock Island Company.

Mr. Nagel: No legal obligation at all, on that account?

Mr. Lauck: No, sir.

Mr. Nagel: Simply the effect you have in mind?

Mr. Lauck: Yes, sir; no obligation.

Mr. Nagel: How did the Rock Island Railroad Company secure its obligations—bonds?

Mr. Lauck: Oh, it secured its bonds—I have forgotten the exact amount—by taking the stock of the operating company and depositing it as collateral for its bonds. They were collateral trust bonds.

Mr. Nagel: What has become of that mortgage?

Mr. Lauck: I think that the bondholders have taken the stock and the mortgage has been removed, as I—

Mr. Nagel: The mortgage has been foreclosed?

Mr. Lauck: Foreclosed, yes, sir.

Mr. Nagel: And the stocks have been sold?

Mr. Lauck: Yes, sir.

Mr. Nagel: So that at present, the Railway Company is relieved of the moral obligation which you had in mind?

Mr. Lauck: Yes, sir, entirely. That is, the bondholders either took the stock, or distributed the stocks in some way among themselves, and to all intents and purposes, the control has been removed likewise, has it not; and the Rock Island is, therefore, left practically with no assets, beyond its office furniture, I think.

Mr. Stone: Is not that true of two of the companies, the one organized in Iowa and the one organized in New Jersey?

Mr. Lauck: That is true of both of them, yes, sir.

Mr. Stone: The little office furniture is all the assets they have for their outstanding liabilities of $275,000,000.

Mr. Lauck: That is all.

Mr. Nagel: The operating company is now where it was before these other two corporations were organized?

Mr. Lauck: Yes, sir; there has been a restoration practically of the operating company to its status prior to 1902, when this was formed.

Mr. Stone: But in the meantime, is a lot of this stock of those two other companies outstanding in the hands of innocent purchasers?

Mr. Lauck: Presumably. To what extent that is true, I don't know.

Mr. Nagel: There is an impression abroad that some of it is owned by the gentlemen who made the large profits in some of those deals.

Mr. Lauck: I think that they own a considerable amount of it yet. In the formation of the Rock Island Company of New Jersey, I think that stock was underwritten by J. P. Morgan & Company, and a good deal of it distributed. I know J. P. Morgan & Company got about—a condition in terms of the stock, however—one million and some dollars for disposing of this stock, presumably, to banking interests or to the public—that is, of the Rock Island Company.

Mr. Sheean: That stock now is quoted at 1⅛, or thereabouts.

Mr. Lauck: It is practically worthless, and if any one purchased it, either a bank or an individual, why, they lost everything they put into it.

Mr. Stone: That is, if they held it to the present time?

Mr. Lauck: Yes.

Mr. Stone: But there was a time, for quite a while, that it had a splendid market value?

Mr. Lauck: For quite a while it had more market value—the aggregate securities—than the old securities of the operating company.

If the intent—of course, you cannot do anything except presume what the intent was—had been to dispose of this stock and get from under, there would have been handsome profits realized, of course. In the sale of the Frisco, the Iowa Company, at that time, after they had the Frisco for a time and found it unprofitable, decided to sell the Frisco to Mr. Yoakum and a number of his associates. At that time, the Frisco stock was held as the basis for a collateral trust bond issue, the same as the stock of the operating company had been for the Iowa Company's collateral trust issue. In order to make the sale, it was necessary to get hold of the stock, of course, and transfer the stock to get it out from under these bonds. To do that it was necessary to raise $7,000,000.

I think the First National Bank of New York, which was the directing banking institution in connection with these companies, or which was the fiscal agent, loaned the operating company $7,000,000, and the operating company used the $7,000,000 to acquire $7,000,000 in the bonds of the Iowa Company, and the

Iowa Company, which held the Frisco, then took the $7,000,000 to retire these bonds and deliver the Frisco stock. The result was that the railroad company now has among its assets $7,000,-000 in bonds of the Iowa company which are worthless according to the testimony recently developed.

Mr. Nagel: The Railroad or the Railway company.

Mr. Lauck: Has the Railroad company bonds; the Railway company has the Railroad company's bonds. They are carried among their assets and, of course, after recent developments are without any value.

Mr. Nagel: Well, which company incurred the loss of the $35,000,000 on the Frisco deal?

Mr. Lauck: That was the Iowa company.

Mr. Nagel: That was not the Railway company?

Mr. Lauck: Only incidentally, as it was affected.

Mr. Nagel: You said it was the Railway company before, and I was a little surprised at the statement.

Mr. Lauck: I did not mean to say that.

Mr. Nagel: In other words, the operating company now, according to your statement, is free as it originally was before these other companies were organized, and has to deal with two losses, as I understand you, the Chicago & Alton deal and this last transaction in Frisco securities?

Mr. Lauck: Yes. If I said that the operating company had lost that, I meant to say that the Iowa company had. They were the ones that acquired it and issued the bonds against the stock. The operating company suffered only to the extent of $7,000,000 worth of bonds, which it now has, which it bought from the Iowa company. The Iowa company had no money, and no way to get money, and being practically under the same control they used the Railway Company to get money to buy bonds which were worthless, to get relieved of the stock, in order to deliver it to Mr. Yoakum.

Mr. Burgess: Mr. Lauck, what became of the Rock Island Company of New Jersey?

Mr. Lauck: That is practically—that still exists as a corporate entity, I presume. It has some slight assets in the way of its office equipment, but beyond that it has no value whatsoever. The same way with the Iowa company. If the operating company could have been made to produce revenues through any means, either operating efficiency, or through development of earning power from increased business, of course, these securities would have had a market value according to the amount of return which could have been made upon them from the earnings of the original company, and for that reason would have been regularly dealt in upon the Stock Exchange, as any other securities, the market value being determined by the income-bearing properties of the securities. Where the mistake was made was in attempting to carry all this basis of capitalization on the earnings of this one railroad.

Mr. Sheean: All of that might have been, but was not.

Mr. Lauck: It did not turn out the way intended.

Mr. Sheean: So that since 1905, as you say here, the last payment of any dividend was in 1905, since that time, any of this pyramiding of securities has not had any relationship bearing upon what you call productive efficiency.

Mr. Lauck: It has not absorbed any productive efficiency.

Mr. Sheean: Since 1905?

Mr. Lauck: Since 1905. But, of course, the intent was there, and the object was there to do that, but it was a failure in the scheme, rather than a failure in the purpose.

Mr. Burgess: Was that pyramiding, Mr. Sheean?

Mr. Sheean: Surely, yes.

Mr. Burgess: Thank you. I wanted to know.

Mr. Sheean: Collecting for both terminal delay and preparatory time, under different names.

Mr. Burgess: Then there is pyramiding on both sides of this question.

Mr. Sheean: Unquestionably. It is to try and avoid anything of that sort in the matter of wage scales that we have been bringing out the proposition of pyramiding.

Mr. Nagel: We have had pyramiding even in extending the time for this hearing.

Mr. Burgess: In a different sense, though, Mr. Chairman.

Mr. Stone: Are we to understand, Mr. Lauck, that the operating company now is free from the load of these other two companies?

Mr. Lauck: Practically, yes.

Mr. Stone: Is there any reason why they cannot get on their feet again, then, and become a revenue producer, as they were before?

Mr. Lauck: No reason, aside from the increased liabilities they may have incurred through the policy of acquiring subsidiaries, or through an undue extension of other capital liabilities.

Mr. Stone: It used to be one of the best paying properties in the West?

Mr. Lauck: Up to the time of the acquisition by the Moore-Reid group it was considered one of the best railroads in the West, if I remember correctly. It was paying 10 per cent, and of course it was this that was attractive to the idea of increasing the stock and floating it according to earning power. You will note when the two companies were formed, it was practically capitalizing the earning power of the railroad company that existed at that time. Where the mistake was made from the standpoint of capitalization was evidently the fact that they thought this earning power would continue, or would increase in the future, whereas there was a tendency in the other direction, due to different factors which President Mudge very effectively points out in his last report, which is mentioned here in the case of the freight rate.

After this Moore-Reid group had gotten control, there was an interesting incident from the standpoint of productive efficiency. They secured Mr. Loree, who was at that time connected with the Baltimore & Ohio Railroad Company, presumably to develop the earning capacity of that road to its highest possible point, and who was well known as an operating officer. They offered him $450,000 to give up his position with the Baltimore & Ohio Railroad Company, and a salary of $75,000 a year to become—I have forgotten the exact official position—head operating official of the Rock Island Company.

Mr. Stone: He became the president of the road, didn't he?

Mr. Lauck: I was going to say, Chairman of the Board, or President, probably. Mr. Reid was Chairman of the Board, and Mr. Loree accepted this offer, which was to last for four or five years, and came to the Rock Island, remained with the Rock Island a number of months—about eleven months, when Mr. Reid told him that either he would have to be dropped or the other operating officials would have to be relieved, and so Mr.

Loree resigned, under those conditions, and in order, as he stated several days ago, to maintain his self-respect. He was given the $450,000, and also his salary to date. But there was an effort there made to develop the operating revenues or efficiency, presumably, of course, and naturally, to develop the revenues to pay interest charges and dividend charges.

I think he was paid the $450,000 in bonds of the Railway Company, so that is still an obligation against the operating company. That is Mr. Loree's services.

Mr. Stone: That is shown in his testimony only last week, is it not?

Mr. Lauck: Yes, sir. I have his testimony here. There is no statement as to why he left the Rock Island except Mr. Reid told him he would have to go or the other operating officials, so he decided to go.

Mr. Stone: That is his own statement?

Mr. Lauck: Yes, sir.

Mr. Burgess: When he departed he got the $450,000; is that right?

Mr. Lauck: It was quite unusual testimony. Yes, he got the $450,000, but there is no statement anywhere, and it was impossible to get Mr. Loree to state, why he left, except from his conversation with Mr. Reid as given.

Mr. Sheean: I wish you would make sure while you are talking about that as to the bonds of the Railway Company.

Mr. Lauck: Railway Company, yes. It is given here. This is a transcript of the record of the Rock Island investigation:

"Mr. Folk: So you were with the Rock Island Railway and received $37,500 from the Rock Island, and $37,500 from the Frisco, and, under your contract, were to receive $500,000 at the end of five years, in addition?

"Mr. Loree: Well, there were two quite separate contracts. One was a contract covering my leaving the service of the Baltimore & Ohio Railroad and entering that of the Rock Island Company, and the other was a contract for services with the Rock Island Company and the Rock Island Railway and Frisco."

The Frisco was then owned by the Rock Island.

"Mr. Folk: Did either of those contracts provide for the payment of $500,000 at the end of five years?

"Mr. Loree: The contract providing for my leaving the service of the Baltimore & Ohio Railroad did; yes, sir.

"Mr. Folk: How long did you continue with the Railway?

"Mr. Loree: About ten months.

"Mr. Folk: Did you receive your salary at the rate of $37,500 per year from the Rock Island Railway during that period?

"Mr. Loree: The monthly proportions; yes, sir.

"Mr. Folk: And you received a like salary for that period from the Frisco?

"Mr. Loree: I did.

"Mr. Folk: What amount did you receive, if any, when you left the service of the Railway and the Frisco?

"Mr. Loree: I received an adjustment of the first contract, the one for leaving the service of the Baltimore & Ohio Railroad, of $450,000, par value, of the bonds of the Railway Company."

Mr. Sheean: What bonds are there of the Railway Company?

Mr. Lauck: That is the operating company.

Mr. Sheean: Yes, but what bonds are there? Is not that manifestly a slip?

Mr. Lauck: Beg pardon.

Mr. Sheean: Is not that manifestly a slip in language or is it? Were there bonds of the Railway Company? Was not it all the Railroad Company?

Mr. Lauck: He is speaking of the Railway Company which was the operating company?

Mr. Sheean: Were they in fact bonds of that company?

Mr. Lauck: Oh, whether that is true or not? There were bonds; yes. There were about $186,000,000 of those bonds of the Railway Company, the operating company, as I understand it.

Mr. Sheean: In whose possession? Did the Reid people have any bonds of the Railway?

Mr. Lauck: Mr. Loree was working for the Railway Company as president, although his contract was made with the Rock Island Company, and presumably Mr. Reid, controlling the Railway Company as well as the Railroad Company, and as well as the Rock Island Company, had some bonds of the Railway Company which he gave to Mr. Loree in liquidation of this obligation. You see he would ultimately control all of them; that is, the Rock Island Company would.

Mr. Sheean: Did the Rock Island Company own anything other than the stock of the Railway Company?

Mr. Lauck: Not itself; no. It owned the stock of the Railroad Company.

Mr. Sheean: Yes; and the Railroad Company owned only the stocks of the Railway Company.

Mr. Lauck: The Railway Company.

Mr. Sheean: The Rock Island Company did not, in fact, own any of the bonds of the operating or Railway Company?

Mr. Lauck: No, they did not actually have them, but presumably, in view of the fact that they controlled—the group controlled all three,—Mr. Reid evidently liquidated this amount some way in Railway Company bonds. That is the testimony.

Mr. Stone: All you know about it is what he says?

Mr. Lauck: Yes, sir, that is repeated and repeated here. Through some means it was done.

"Mr. Folk: Par value in bonds of the Railway Company?

"Mr. Loree: Yes, sir.

"Mr. Folk: Those bonds were worth in the market how much?

"Mr. Loree: Well, they were not on the market. The testimony here is to the effect that they were worth about 91. I do not know.

"Mr. Folk: 91. Why did you leave the service of the Rock Island Railway and the Frisco, Mr. Loree?

"Mr. Loree: Well, the immediate circumstance of my leaving the service was a talk I had with Mr. Reid regarding conditions of the property which he felt would eventually lead to the necessity on the part of the Executive Committee to decide whether they would sustain me in the discharge of my functions or part with the service of some of the officers in the company who had given long services, and they had reached the conclusion that they would prefer to sever their arrangements with me."

Then, beyond that, there is no explanation as to whether there was a difference of opinion as between the officers and Mr. Loree.

Mr. Stone: They do make it very plain that they had decided to get along without his services?

Mr. Lauck: Exactly.

Mr. Stone: They did not discharge him. He resigned.

Mr. Lauck: He immediately resigned, and Mr. Loree further testified that there was not any question in his mind from his standpoint of his own self-respect but that he should resign, and he never asked Mr. Reid for any reasons, but immediately began to take up the conditions under which he should resign and the conditions finally worked out and adjusted were that he should receive $450,000 in these bonds worth 91 in adjustment of his contract for leaving the B. & O. Railroad.

Mr. Nagel: Does it appear whether these bonds were taken from the treasury of the company or were taken and paid for by some one who had owned them at the time?

Mr. Lauck: I do not recall that there is anything mentioned as to that.

Mr. Sheean: The contract, though, as to which that settlement was made, was a contract with the Rock Island Company of New Jersey?

Mr. Lauck: It was, yes, sir.

Mr. Sheean: And the Rock Island Company of New Jersey made the settlement with him?

Mr. Lauck: Mr. Reid made the settlement.

Mr. Sheean: On behalf of or in settlement of a contract between Mr. Loree and the Rock Island Company of New Jersey?

Mr. Lauck: Yes, sir. As to how these bonds were gotten, I do not know.

Mr. Nagel: In other words, it does not appear that the Rock Island Railway Company, the operating company, lost anything by that part of the transaction?

Mr. Lauck: That is not stated, no, sir. It may be that Mr. Reid personally gave him the bonds. They were the Railway Company bonds. That is all that is stated.

Mr. Stone: The three companies were so closely allied that it is pretty hard to tell where the earnings of one stopped and of the other began.

Mr. Lauck: They practically did what they wanted with any company, just as in the case of the Frisco. They would use the Railway to borrow money for the Railroad. They could do anything they wanted to do.

Mr. Stone: They were practically all the same people, were they not?

Mr. Lauck: Yes, sir.

Mr. Stone: I mean that little group of financiers that composed the three companies?

Mr. Lauck: Yes, sir.

Mr. Stone: What are Mr. Loree's initials?

Mr. Lauck: L. F.

It is shown in the record from the testimony of Mr. Sharood, who was the expert employed by the Interstate Commerce Commission to look into the affairs of the Rock Island, that J. P. Morgan & Company floated the Rock Island Company of New Jersey, receiving therefor one per cent par value, I think, on the securities, in terms of securities, however. Whether or not they were disposed of we have no means of knowing. Anyhow, they received a fee of more than $1,000,000 for handling this stock in stock itself.

Mr. Stone: Judging by past practice, they probably did dispose of it, did they not, and realized on their money?

Mr. Lauck: The practice would be for a banking firm of that kind not to hold the stock. They do not hold any railroad stock.

Mr. Stone: Do you remember any further testimony from Mr. Loree regarding the affairs of the Rock Island?

Mr. Lauck: No, sir. That was all that Mr. Loree testified to. He was very reticent about his connection with the Rock Island.

Mr. Stone: You also have some testimony from some of the others regarding Mr. Loree's salary, have you not?

Mr. Lauck: As regards Mr. Loree's salary, there is nothing more of any significance except the testimony of the expert employed by the Interstate Commerce Commission, who, after examining the books, testified that his salary was $75,000 per year, and the special contract of $450,000.

The testimony was to the effect that the former president, Mr. Purdy, after the Moore-Reid control had been established, was treated very handsomely and continued at his salary for two years after being relieved because I suppose he was not in sympathy with the new management.

Mr. Byram: Who was that?

Mr. Lauck: The former president of the Rock Island. I think his name was Mr. Purdy. As a recognition of his services he was treated very handsomely in this way. Perhaps I should not say "treated very handsomely," but recognition was given to him for his services in this way.

Morgan & Company also handled the Frisco purchase receiving a 1 per cent commission on the par value of securities interchanged.

Mr. Stone: Was that the time the Rock Island bought the Frisco?

Mr. Lauck: Yes, sir. The sale of it was largely conducted through the First National Bank which is affiliated with the Morgan group. Mr. Reid is one of the members of the Board of Directors of the First National Bank and Mr. Hine, one of the directors of the Rock Island, is president of the First National Bank of New York.

This money which the Railway Company got to buy the worthless bonds of the Railroad Company was loaned to it by the First National Bank of New York, for which they paid a commission of $135,000 for the loan. That is brought out in the testimony of Mr. Hine, who was president of the First National Bank and a director of the Rock Island, and in fact all three Rock Island companies, I think. Mr. Hine was a director of the Chicago, Rock Island & Pacific Railway Company and a director of the Railroad Company and a director of the Rock Island Company of New Jersey. Mr. Hine stated:

"I accepted the directorship in the Railway Company at the invitation of my old friend, Mr. W. H. Moore."

Mr. Moore gave him some stock and made him a director. He was not an investor.

In connection with this loan Mr. Folk asked Mr. Hine:

"Mr. Folk: Did you pass on that application for a loan of $7,500,000 as president of the First National Bank?

"Mr. Hine: I passed on it as one of the officers of the First National Bank.

"Mr. Folk: Why did not the Railroad Company, the company that needed the $7,500,000, borrow the money itself from your bank?

"Mr. Hine: I was not on the Board of the Railroad Company at that time; consequently I cannot answer."

Mr. Stone: They had to borrow it through the other company?

Mr. Lauck: They had no credit, of course, having no assets.

Mr. Stone: They were there to receive revenues, and they were not there to pay out anything? Is that the idea?

Mr. Lauck: They would not make a loan without something to secure it; no, sir.

Mr. Sharood, the expert of the Interstate Commerce Commission, testified as follows with reference to the Alton deal:

"According to computations which I have made, I compute this loss at $6,370,841.70 on an investment of slightly more than $9,000,000.

"Mr. Folk: Has the Railway Company lost the amount you mention from the Chicago & Alton deal?

"Mr. Sharood: Yes, sir; the Railway Company. That is my estimate of the loss."

Then that was denied by the counsel for the Railway, and Mr. Reid took the stand later and he denied the loss, saying that they had Clover Leaf bonds and it was not fair to say that this loss was an entire loss until they could ascertain what the value of those bonds would be, which it seemed to me was a fair statement to make.

Mr. Nagel: What was the amount of the bonds held by the Railway Company of the Clover Leaf?

Mr. Lauck: I have forgotten; I will look that up.

Mr. Nagel: Do you remember the class of bonds it was?

Mr. Lauck: Yes, sir. I do not know whether they were first or second mortgage. I think they were income. They were some kind of a mortgage bond and they were divided into class A and class B. They were two peculiar kinds of bonds, and class A received so much interest after a certain year and class B after a certain year and it was all contingent.

Mr. Nagel: Does the expert in giving his testimony consider these bonds entirely worthless and establish a loss in that way?

Mr. Lauck: I think probably he does. I think he failed to take into consideration those bonds; so far as I recall from his testimony this is what he says; he practically neglects them.

"Mr. Walker: Might I be pardoned for asking a question right there? In computing that loss, did you allow anything for the value of the present securities?

"Mr. Sharood: Yes, sir. I will read how I arrived at that. The stocks and bonds I have mentioned are not active and not quoted as bought and sold by the Wall Street Journal, in the issue of July 21, 1914. They quote Chicago & Alton preferred; bid, 13; asked, 25. Common; no bid; asked 9½. Applying the asked prices quoted to the securities owned by the Rock Island Railway Company as of June 30, 1914, it results in $6,000,000 book value of securities mentioned, as $1,582,400. I figure that the depreciation on the transaction was $4,610,000."

"The bonds, series A, are predicated on the Alton stock, and I computed the bonds on the basis of the shares of Alton stock represented by the bonds.

"Mr. Walker: Calling the Clover Leaf's promise to pay worth nothing?

"Mr. Sharood: They had defaulted in the interest on those bonds."

In other words, he computed the bonds to be worth what the stock was worth, which were supposed collateral trust bonds, and did not take into account the promise to pay of the Clover Leaf as being worth anything, as estimating the loss in this way. When Mr. Reid comes on the stand he states that he thinks these bonds may be worth something in time: at any rate, that nothing can be told until the Clover Leaf's finances are adjusted. Therefore, he claimed in discussing the matter with Mr. Folk that $6,000,000 was an excessive amount and that they might be able to realize partly or wholly upon these bonds at some later date.

Mr. Sheean: If those were taken in at their market value, back in the days when they were purchased, that particular part of the transaction is in accordance with your theory of the proper way of capitalizing income, by taking the market value at the time when the securities are issued.

Mr. Lauck: I do not favor that method of capitalizing, but that is the one I have been using as the basis of ascertaining the values.

Mr. Sheean: Let me see. You use it, Mr. Lauck, in cases where the property has subsequently gone to a higher value, for the purpose of showing that they did not receive the full market value, where the market value has gone to be higher than what the company paid at the time. But where the market value has subsequently gone to be lower than what they took it over for, then you don't use it.

Mr. Lauck: No. I don't use it for those purposes. I use it to indicate the relation between market value and par value at certain periods, but in all of these studies or inquiries I have been using whatever I could get. You see it is almost impossible to arrive at anything, and even then, of course whatever you do use is objectionable, from one standpoint or another. That is, if I could find reports of the Interstate Commerce Commission on any subject, I would use those. But in conducting the independent inquiries, I have mostly used the market value at some time, reflected in the stock market, as the real value of a property, and compared that with par values issued against that, as showing an excess capitalization. If that is what you mean, that is correct.

Mr. Sheean: As I followed you yesterday, on some of your exhibits, where they put out their stocks at 97, and if in the next four months they went up to 103 or 104, you showed that the company had sustained a loss, because it had not realized the market on that particular issue.

Mr. Lauck: Those particular computations were the quotations for four days.

Mr. Sheean: And where not four days then for a period of four months.

Mr. Lauck: Well, four months' averages were where I had endeavored to get some estimate of the value of the property on market quotations, as a basis for estimating fictitious securities used, or reorganization.

Mr. Sheean: And wherever the company had issued its securities and did not get as much for them as there were market quotations, during a period of four months following, you classified the securities thus used as being water, or fictitious?

Mr. Lauck: Yes.

Mr. Sheean: But where, between the time of the purchase at market value, as in the case of the Rock Island purchase of the Clover Leaf, and the Alton bonds, there was a drop in the market value, you don't consider the market value at the subsequent date as a proper measure in connection with possible justification of the transaction?

Mr. Lauck: No.

Mr. Sheean: If it turned out bad, it was a bad transaction from your viewpoint, as to railroad financing, and if these stocks went up still further, it was still bad from a railroad standpoint, because they should have marketed it and gotten the higher price?

Mr. Lauck: Not necessarily, no, sir. For instance, take these Rock Island companies. Suppose they had been issued against one company, or we had a case of that in the Frisco securities. which is one corporation; if the securities issued in 1896 by the Frisco were worth now only one-tenth of what they were worth then, I would still consider that bad financing, because they were still a liability against the earnings or productive efficiency of the company.

Mr. Sheean: That is what I meant, Mr. Lauck. If the stock goes down, you consider it a fictitious security, because of your loss?

Mr. Lauck: Not fictitious, not necessary.

Mr. Sheean: Well, water, or overcapitalized—something.

Mr. Lauck: Well, if you want to consider from the standpoint of fictitious capitalization, yes; but the main point is the creation of liability against the revenue.

Mr. Sheean: If it goes down, you consider it fictitious. If it goes up, you consider the difference between what they put it out for, and the amount it went up on the market, as being also fictitious, so that on your way of figuring, there is bound to be water in the railroad securities, unless the amount for which they market remains permanently that amount.

Mr. Lauck: I have never made any comparison over a period that way, Mr. Sheean. I took a concern, at one time as a going concern, and took the market value, to reach an idea of an appraisement as to what the stock market considered that was worth; and in doing that, I took the verdict of the Railroad Securities Commission. That was not my personal way of doing it. but was based on their official usage. Then, I compared that with a number of their securities issued at that time, and said that there was so much difference between par and market, or so much excess, which was without justification.

Mr. Sheean: All that I was getting at, Mr. Lauck, is that on your method of figuring, there is bound to be what you call water, or overcapitalization, in all railroad securities, unless there be a case, in which, for a period of four months, following the issue of the security, the market was precisely the same as the amount for which it went out.

Mr. Lauck: I cannot see that. I think there would be a great variation in railroad securities.

Mr. Sheean: Yes; as long as you treat them, Mr. Lauck, as being fictitious capital, the difference between the amount for which it is put out, and the average market sales for a period of four months, and as long as you treat also as fictitious, any drop there might be in values, is it not necessarily true that the only way to eliminate all question of water, would be where the amount of the capital stock would remain precisely the same, for a period of four months?

Mr. Lauck: It is all in reference to earning capacity.

Mr. Stone: I do not suppose we are ever going to arrive at a time when Mr. Sheean and Mr. Lauck will agree on this water in stock. About every day or so we strike a cycle when they argue this thing. That is about four times a day, and I am sure they never will agree; and if I may be allowed to inject into the discussion, I would like to read to you the statement of President McCrea of the Pennsylvania, under oath, on the witness stand, in the Arbitration Proceedings between the Brotherhood of Locomotive Engineers and the Eastern Railroads, in 1912. There was a very strong discussion between Dr. Van Hise, of the University of Wisconsin and President McCrea. They both had strong views on the subject; quoting:

"Mr. James McCrea: Of course, there is always room for differences of opinion. I can only say this about it; I have spent a great many years of my life trying to sell securities, and selling securities to the public, to enable us to build up the road that we have. The road has paid, variously. In, say, the last twelve years, it has paid five per cent, then it went to six per cent, and then it went to seven per cent, and with the last increase in wages, at the time of the action of the Interstate Commerce Commission, we were forced to drop it one per cent, and we are now paying, and have been paying, six per cent.

Today, our stock is selling 124. It has been up to 150. There has been a shrinkage. There are so many questions, however, that enter into those things, that I can only say that these questions are not those of theory, or what ought to happen —the fellow that has the money, and whose money you want to get, to enable you to help these propositions, he does not look at it from any other standpoint than what he thinks his net return is going to be; he don't have to buy, and he is just willing to pay so much.

"Mr. VanHise: In what respect, if the ten millions of dollars from increased income went to improving the value of the property, to additions and betterments, leaving an ample amount for depreciation of securities—in what respect is that situation different from the situation, so far as the property is concerned, if ten millions of dollars in bonds were sold, and the betterment of the property was made out of the sale of those bonds, and the bonds capitalized?

"Mr. James McCrea: Why, you would have an increased fixed charge on your property for all time to come, which, in the present instance, would wipe out the margin you have, as the saying is, for a rainy day. Merely the natural care and provision that a conservative man, in a conservative management, handling other people's money, is bound to take.

"Mr. VanHise: But, in the two cases, when the ten million dollars comes from the dividends, and when the ten million dollars comes from the stock and bonds, because such methods are pursued, the additional value of the property is the same?

"Mr. James McCrea: You mean if you were to appraise the value?

"Mr. VanHise: I mean the additional value of the property, as a property.

"Mr. James McCrea: No, your property (and this is the part I desire to emphasize particularly) is only worth what will come from an earning standpoint. If you have a piece of property that costs you ten millions of dollars, and if it cannot make an earning on more than five millions of dollars, and that is all you can get out of it."

Mr. Nagel: That is an old rule, is it not?

Mr. Stone: And it is the only safe rule to follow.

Mr. Nagel: That is a pretty severe rule, I think, for this case.

Mr. Stone: So, in the end, it comes back to what is the property really worth as an investment. What the public thinks it is worth, not what I would like to have for it.

Mr. Sheean: What will the public let us get out of it?

Mr. Stone: No, that day is gone. Not what the public will let you get out of it by a fictitious valuation, but what it is really worth.

Mr. Sheean: Oh, in the way of earnings and the way of rates.

Mr. Park: That wipes out all the past, don't it?

Mr. Lauck: The point with me, is not so much in differences in capitalization, at one time or another, but in the creation of capitalization, without consideration against earning power.

Mr. Nagel: Do you approve the doctrine laid down by Mr. McCrea?

Mr. Lauck: That the value of a concern is its capitalization —its earning power?

Mr. Nagel: Yes.

Mr. Lauck: I would not like to take that as a working procedure in the case. I mean, if you are going on the basis of ability to pay.

Mr. Nagel: If that is a true rule, does it not confirm the doctrine that you ought to pay the wages at which you can get men?

Mr. Lauck: Well, that would be the reverse side of it, applying the law of supply and demand to the labor market, yes, sir; but I think, so far as corporation securities are concerned, Mr. McCrea is correct; that all roads, on corporation finance, hold those same views, that any values are determined by earning capacity.

Mr. Stone: Mr. Lauck, does any railroad pay any more for its labor than what it can get that class of labor for? Is it not a question of supply and demand?

Mr. Lauck: That has been the contention hitherto, but I am trying to bring forth the contention that there ought to be a new era.

Mr. Nagel: Precisely the question I wanted to ask. Do you endorse that principle, or do you stand for another principle?

Mr. Lauck: I think there should be a change. I think that there ought to be a participation in revenue, without regard to considerations of supply and demand. That is, I think the workmen should have a participation in the productive efficiency arising from their own work, and I think—I have even gone so far as to say that I think they ought to have a participation in other gains, arising from improved machinery and betterment of the traffic conditions from other sources.

Mr. Park: That applies to all business, outside of public utilities. You would apply that to business in general—manufacturing?

Mr. Lauck: Yes; I think it is even more necessary in other lines of business, probably. For instance, in certain cases where you have skilled labor eliminated by the use of machinery.

Mr. Park: Now, if the productive efficiency decreased, do you think the wages would decrease under those circumstances?

Mr. Lauck: I think they do. That is not per unit, but for the class. That is, in times of depression on the railroad, you have an actual decrease suffered by the engineer and fireman, through the fact that his earning power is limited by the possibilities of the business.

Mr. Park: That is, as to some individuals, but on seniority, the individuals have it in their power to keep their wages at the maximum.

Mr. Lauck: Well, the rate of wages remains constant, but the field for employment is limited, and, therefore, a man cannot earn what he could before, and his income is reduced.

Mr. Park: Then, he should probably go into some other vocation.

Mr. Stone: That is easier talked about than done, isn't it, Mr. Lauck? Going into some other vocation, when he is pinned down to some outlying isolated point.

Mr. Lauck: Yes; I think the significant fact is shown in the industrial depression which we are just passing through, that security holders have not suffered, but employes have.

Mr. Sheean: Just a minute. I would like to know something about that. You mean the suspension of dividends?

Mr. Lauck: Let me qualify that statement by saying in the receipt of income from securities. They have suffered in the depreciation of the security values that they wanted to sell, but the income has remained.

Mr. Sheean: No suspension of dividends, do you mean?

Mr. Lauck: Practically of small consequence in the Western railroads, as compared to loss of earnings to employes. The Missouri, Kansas & Texas, I think, has passed one dividend, and the Colorado & Southern has probably passed a dividend. Beyond that, I don't know of any Western roads, except those that have been wrecked financially, like the Rock Island, and the St. Louis & San Francisco.

Mr. Sheean: You are limiting that just to railroads?

Mr. Lauck: Yes, sir, just to railroads.

Mr. Sheean: Is that made, after having considered the difference in dividends, as shown by our exhibits here, that were paid in the last year, as compared with the year preceding?

Mr. Lauck: Yes, sir.

Mr. Sheean: How much? Well, what have you in mind, as to how much loss in dividends was made, and how much loss in wages was made by engineers and firemen?

Mr. Lauck: Why, you consider the aggregate of dividends, there were more dividends paid in 1914 than there were in 1913. If you consider the surplus dividends—disbursements like the Union Pacific, there was about $96,000,000 more.

Mr. Sheean: Out of operations?

Mr. Lauck: No, you didn't consider in your statement dividends from surplus. You considered operations pure and simple?

Mr. Sheean: Yes.

Mr. Lauck: But if you take all the dividends, the surplus being used for the purpose of maintaining uniform dividends over periods of this kind (which is a settled principle of corporation finance, that surpluses are accumulated for that purpose, and were used in that connection for this purpose in the past year) you have more dividends paid in 1914 than were paid in any previous year.

Mr. Sheean: If you adopt that principle, Mr. Lauck, then do you also consider its effect upon your surplus from year to year, and compare the surplus of one year with that of the succeeding year, in getting at results?

Mr. Lauck: Yes.

Mr. Sheean: Then how much would the surplus be reduced?

Mr. Lauck: I don't recall the exact figures. It is somewhat less than 1914. I think the surplus in 1913 for all these roads is about $578,000,000, and for 1914, about $400,000,000.

Mr. Sheean: And how much less was the payroll of the engineers and firemen?

Mr. Lauck: Where?

Mr. Sheean: On the same roads. You say they have suffered. How much less was their payroll?

Mr. Lauck: I have no means of knowing, month by month.

Mr. Sheean: But you have it for the year, the same year as the dividends.

Mr. Lauck: Why, the payroll for 1914—which does not represent the industrial depression—

Mr. Sheean: But it is the same period as the other?

Mr. Lauck: It is the same period. That would fall off ten or fifteen per cent in aggregate payments.

Mr. Sheean: How much in money?

Mr. Lauck: I don't know.

Mr. Sheean: And how much was the dropping off in dividends and in surplus, and other reductions?

Mr. Lauck: There were more dividends paid, but of course the surplus was reduced. The fact remains that the investor, as compared with the wage earner, fared better than the wage earner.

Mr. Sheean: I have heard you say that before, Mr. Lauck, but I would like to have the facts on which you base that.

Mr. Lauck: I am going to submit an exhibit on that in detail.

Mr. Sheean: Oh, you are going to come to that later?

Mr. Stone: We will get to that later.

Mr. Sheean: I didn't know that.

Mr. Stone: When we get through with this cross-examination we will get to it.

Well, Mr. Lauck, in the end, in a general way, it is true that supply and demand does regulate a whole lot of this wage business. For example, if railroad managers were as plentiful as section foremen, would they get more than section foremen's wages?

Mr. Lauck: Well, I think the wages are adjusted by supply and demand, and by organization on both sides.

Mr. Stone: And they don't pay any more for any particular class of service than they are obliged to pay, do they? They wouldn't pay an engineer $5.40 a day if they could get him for $3.00?

Mr. Lauck: No. No business would. It is all adjusted through that means at the present time. Supply and demand, and relative degrees of organization.

Mr. Nagel: But that is not the extent of the theory you are advancing here?

Mr. Lauck: No; my theory is that we should go beyond that, and give participation.

Mr. Nagel: That is the reason I asked you, whether you agreed to the rule laid down by Mr. McCrea.

Mr. Lauck: The regulation of supply and demand, of course, is affected by the organization on each side, and where the organization can take care, one side of the other, you have corresponding advantages. But, as I was going to say, in the steel industry, where you substitute machinery for skilled men, and create a great mass of unskilled labor, who are unorganized, who have no capability of organizing, if you do not adopt some principle other than the supply and demand principle, your advancement in industry results in the degradation of your labor, of your workmen, and the point I am attempting to make is that engineers and firemen should have a further participation, because of the fact that their earning power has been absorbed by increased capitalization, or the results of their earning power have, to some measure been dissipated.

Mr. Burgess: And also, Mr. Lauck, because their responsibility and work has increased?

Mr. Lauck: Yes.

Mr. Burgess: By the protection of heavier power?

Mr. Lauck: These facts have been brought out, or have been presented by other testimony. I have not any statistical means of proving these facts. That is another part of the case. But that is the contention that is being made.

Mr. Burgess: Well, you don't dispute that fact?

Mr. Lauck: Oh, no, not at all.

Mr. Byram: You don't dispute the fact that the heavier power carries with it a higher rate of pay?

Mr. Lauck: That is my understanding, although I know very little about it.

Mr. Stone: Nor do you dispute the fact that the heavier power also increases the earning capacity of the road?

Mr. Lauck: That is my contention.

Mr. Stone: Per unit?

Mr. Lauck: Yes, sir.

Mr. Stone: Or output.

Mr. Lauck: That is the previous contention we made in the direct testimony.

Mr. Stone: It is also a fact that the employe has not shared in the profits of the business. He neither had a share or we never have thought it was a share, of what he produced.

Mr. Lauck: Yes. This contention is not a contention for profits. It is a contention for participation in the output of his own work, in productive efficiency.

Mr. Burgess: But, to be perfectly frank, Mr. Lauck, I think we all realize that the heavier power carries a higher rate than the light power, but neither class of power carries enough, or else we would not be here. Is not that the real fact?

Mr. Lauck: I think that would be a very fair assumption.

Mr. Stone: I think that is a fair statement. I will subscribe to that.

Mr. Lauck: My fundamental contention is then, that the rate is not in accordance with the productive efficiency of the engine.

Mr. Stone: You are not through with the Rock Island, are you, yet?

Mr. Lauck: No, sir. Have you got any questions you want to ask me?

Mr. Stone: Yes, I have got a number of them here. When the Rock Island acquired the Frisco, in May, 1903, the record shows, doesn't it, that J. P. Morgan & Company received $1,-997,625 par value in stock of the Rock Island for their services?

Mr. Lauck: Yes, sir. Morgan & Company acted as the banker or the manager of this financial transaction, and received one per cent commission, or more than one million dollars in par value of the Rock Island script.

Mr. Stone: Then, after they had it a few years, the Frisco stock was sold by the Rock Island to Mr. B. F. Yoakum, wasn't it?

Mr. Lauck: Yes, sir.

Mr. Stone: According to the records of the Interstate Commerce Commission, the Rock Island lost on this sale to the Frisco over $35,000,000?

Mr. Lauck: More than $35,000,000; that was the testimony of Mr. Sharood, the expert of the Interstate Commerce Commission, which was undisputed, I think.

Mr. Byram: Is that the Rock Island Railway, or the Rock Island Company?

Mr. Stone: It is the same little group of pirates. It doesn't matter which one.

Mr. Byram: I am asking the witness.

Mr. Nagel: Oh, yes, it matters very much, Mr. Stone, whether it is the operating company or the Railroad company.

Mr. Lauck: It is the Iowa Company, the Railroad company.

Mr. Byram: Not the Railway company?

Mr. Lauck: Not the Railway company.

Mr. Stone: But if the Railroad company never had any assets, how could they lose $35,000,000?

Mr. Lauck: Well, they lost $35,000,000 in comparing the transactions, one with the other. I suppose you would have to describe it in that way. The loss was by the Iowa Company, however, with the exception of the ten million dollars, when it was finally sold, resulting from the borrowing of money from the Railway company, to relieve the collateral trust bonds of the Iowa corporation.

Mr. Stone: It is also shown, is it not, that the Rock Island owned some 48,000 of preferred, and 142,000 shares of common stock, of the Chicago & Alton.

Mr. Lauck: Yes, sir.

Mr. Stone: You recall what they cost? Something over $9,000,000, was it not?

Mr. Lauck: The cost was about that. I do not recall.

Mr. Stone: $9,760,000; if my figures are correct. And this was subsequently sold at a loss to the Rock Island, of $6,370,000, according to the testimony.

Mr. Lauck: According to the testimony of Mr. Sharood, which is disputed by Mr. Reid, in connection with the two extracts of testimony which I read, being dependent upon the bonds of the Clover Leaf, which were taken in payment.

Mr. Stone: As to whether they were worthless or—

Mr. Lauck: Yes, the expert of the Interstate Commerce Commission says they are worthless, or estimated their value on the basis of the Alton stock, which is very low. Mr. Reid says they may result in some value in the future.

The Chairman: We will suspend.

(Whereupon, at 5 o'clock P. M., March 4, 1915, an adjournment was taken to March 5, 1915, at 10 o'clock A. M.)

IN THE MATTER OF THE
ARBITRATION
between the
WESTERN RAILWAYS
and
BROTHERHOOD OF LOCOMOTIVE ENGINEERS
and
BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN
under the Act approved July 15, 1913, *by agreement dated August* 3, 1914.

Chicago, Illinois, March 5, 1915.

Met pursuant to adjournment at 10:15 o'clock A. M.
Present: Arbitrators and parties as before.

The Chairman: Are there any corrections?

Mr. Stone: I think not.

Mr. Burgess: I have some corrections, Mr. Chairman, if you please. Page 6174, fourth paragraph, fourth line, add the word "such," following the words "case of."

Seventh line, strike out "it was" and insert the words "they were."

Following word "for," insert the word "no."

Eighth line, strike out the word "any."

The question would then read: "I was referring, Mr. Lauck, to what the records show. Mr. Tollerton was asked the question, 'Name certain devices that were installed for the sole purpose of relieving the engineer and firemen,' and I was assuming that in case of such a communication from the General Manager, that the Superintendent of Motive Power would hesitate before he would put those devices on, if it cost money, when they were to be used for no other purpose than the sole purpose of relieving engineers and firemen. That was the purpose of my question."

On page 6238, sixth paragraph, strike out the word "protection," and insert the word "introduction." The question would then read: "By the introduction of heavier power." That is all, Mr. Chairman.

The Chairman: Are there any other corrections? Proceed, Mr. Stone.

W. JETT LAUCK was recalled for further examination, and having been previously sworn, testified as follows:

Mr. Stone: Mr. Lauck, before again taking up the Rock Island, I asked you a question the other day in regard to those Chicago & Alton bonds that were issued on the prospective road, that had been surveyed but not built. Did you look it up?

Mr. Lauck: Yes, sir; I looked up the record of the Interstate Commerce Commission.

Mr. Stone: Will you read it, please, so as to clear the record.

Mr. Lauck: Speaking of the mortgage at the time of the consolidation of the Chicago & Alton Railway and the Chicago & Alton Railroad, the Interstate Commerce Commission states as follows, in its report upon this property:

"This mortgage made by the Chicago & Alton Railway Company, covering the stock of the Railroad Company, also covered about thirty-four miles of prospective railroad which the company contemplated constructing, and which it was authorized to construct under its charter and organization, but all of the bonds were sold and no bonds were left to raise money with which to construct the line thus contemplated, so that when the new management took hold of the Alton on the 1st of October, 1906, it found that this line in the process of construction, had already been mortgaged, the bonds sold and no funds reserved with which to complete the construction."

That is from volume 12 of the Reports of the Interstate Commerce Commission.

Mr. Stone: Coming back to the Rock Island again, which we were discussing when we left off last night, I wish you would describe the manner in which its operating expense account was carried on by the Rock Island, for the purpose of facilitating the sale of its bonds. I mean the way it was manipulated.

Mr. Lauck: Yes, sir; according to the testimony of Mr. Reid, I believe, whenever they had bonds to put on the market, or at certain times when they did put bonds on the market, they took certain items from operating expenses and carried them in a suspense account, thereby indicating lower expenses and a larger revenue, in order to facilitate the public taking the bonds. Later, the items were restored to operating expenses and the net revenue correspondingly reduced.

Mr. Stone: I wish you would describe the inflation of the profit and loss surplus of the Rock Island.

Mr. Lauck: That inflation was based upon the testimony of Mr. Sharood, the government expert, who testified that the Alton securities, and some of the securities representing other transactions were carried in the assets of the railroad company, and the profit and loss statement, instead of showing a surplus, should show a large deficit. A part of that surplus was the Alton bonds and part of it the bonds which the Railroad Company sold to the Railway Company, when it sold the Frisco—$7,000,000. His conclusion was that instead of showing a surplus the Rock Island should show a heavy deficit.

Mr. Stone: If all the securities owned by the company had been carried on its books at their market value the balance sheet of the Rock Island instead of showing a surplus of $6,000,000 on June 30, 1914, would have shown a deficit of some million or million and a half, would it not?

Mr. Lauck: Yes, sir. An interesting point in that connection grew out of Mr. Reid's testimony. There was a discussion between Mr. Folk and Mr. Reid as to the value of these assets, Mr. Reid agreeing that the bonds of the Railroad Company were worthless, but the Alton bonds might have some value in the future. Later on Mr. Reid testified as to certain assets of the company which were carried below par on the books. He testified that the Chicago properties of the Rock Island were worth $100,000,000 more than they appeared on the books of the Rock Island Company. If that were true it would represent an immense concealed asset—not concealed in the sense of anything reprehensible if carried according to the requirements of the Interstate Commerce Commission—but would indicate that through the carrying of the Chicago properties at a low value the Rock Island Railway had immense values on its books which were not shown by its books. He estimated it at $100,000,000.

Mr. Stone: It was also disclosed at this hearing, was it not, that the Rock Island sustained a loss on the purchase and sale of stocks and bonds of the Deering Coal Company?

Mr. Lauck: Yes, sir.

Mr. Stone: During the period 1906 to 1912?

Mr. Lauck: Yes, sir.

Mr. Stone: About how much, do you recall?

Mr. Lauck: I do not recall. I think it was about a million dollars.

Mr. Stone: Seven hundred and fifty and some thousand, as I recall it. You have part of the record of the Rock Island investigation by the Interstate Commerce Commission of recent date, have you not?

Mr. Lauck: Yes, sir.

Mr. Stone: I believe if you will read certain extracts from it we will get a better light on some of the points which have been discussed. I wish you would read from Mr. Reid's testimony first as to the amount of stock held by him and his associates.

The Chairman: Will you please tell me who Mr. Reid is? I was not here when you were discussing that.

Mr. Stone: Mr. Lauck, will you explain, please?

Mr. Lauck: Mr. Reid was formerly connected with the American Tin Plate Company, and after disposing of his holdings there, he and several old business associates and friends bought the Rock Island Railway, Mr. Leeds, Mr. Reid and Judge Moore, and they have controlled and operated and been responsible for the financial management of the company.

Mr. Stone: Mr. Reid, at the time of his testimony, was Chairman of the Board, wasn't he?

Mr. Lauck: He was Chairman of the Board of the Rock Island Railway, I suppose, at the present time. He is connected with all three companies.

The Chairman: Was the Rock Island Railway a holding company or was it an operating company?

Mr. Lauck: No, it was the operating company. It had originally been a railway and then it was consolidated and became the railroad, and then when it was finally consolidated by the new group of control, it took the name of railway. And then there is a railroad company, which owns the railway company, and then there is the Rock Island Company, which owns the railroad company. Mr. Reid with his associates is the dominant factor in all three companies.

Mr. Stone: I think it might be well to explain also, while you are at it, Mr. Lauck, that two of these companies are holding companies, with no visible assets except a little office furniture, and they have issued bonds to the amount of how much?

Mr. Lauck: $275,000,000.

Mr. Stone: That are now in the hands of innocent purchasers?

Mr. Lauck: Partly, yes, sir. These two holding companies were created simultaneously, one in New Jersey and one in Iowa, and without assets, to hold the stock of the Rock Island Railway, the operating company; the idea being that the railroad as an operating unit would develop earning power to pay returns upon part of this inflated capital.

Mr. Stone: They put nothing in, but if the railroad earned enough they would drain its resources dry?

Mr. Lauck: Yes, sir. Mr. Reid, in his testimony, justifies his action on the ground that the Rock Island Railroad Company, then the operating unit, or the source or basis of all this financing, was earning about 10½ per cent, and by issuing these hundred million dollars' 4 per cent bonds, and the stock of the New Jersey Company, he had simply, according to his justification, capitalized the earning power of the property, and, of course, if that earning power had been maintained, dividends and interest requirements would have been paid upon the new stock and bond issues.

The Chairman: Were those the bonds of the operating company?

Mr. Lauck: No, sir. They were the bonds of the two holding companies. The way it was done was that the operating company's stock was deposited as collateral for a bond issue of $100,000,000, and collateral trust bonds issued by the Iowa Company, and the holders of the stock got these bonds. Then the stock of the Iowa Company was exchanged for the stock of the Rock Island Company in New Jersey, and in that way there was a net increase of capitalization of about $150,000,000. The gross was about $275,000,000, but the net was $150,000,000, and about $100,000,000 was deposited as collateral to these bonds.

Mr. Stone: Mr. Lauck, it has been repeatedly stated, through the press and through the different magazines, that the Moore Brothers made about $100,000,000 on their deal with the Rock Island. Do you know if this is the fact or not?

Mr. Lauck: No, sir, I do not. I have not gone into that phase of the matter. I have not made any investigation along that line.

Mr. Stone: Nor do I suppose you know whether this press report which was circulated broadcast last summer, that the walls of their racing stable in England were hung with silk, was true or not?

Mr. Lauck: No.

Mr. Stone: The fact remains, they wrecked the Rock Island?

Mr. Lauck: Yes.

Mr. Stone: All right. Take up Mr. Reid.

Mr. Lauck: On page 674 of the record of the hearing last week, I believe it was, before the Interstate Commerce Commission, Mr. Moore, after testifying as to how he happened to become connected—

Mr. Stone: Mr. Moore or Mr. Reid?

Mr. Lauck: Mr. Reid, testifying as to how he happened to become connected with the Rock Island, said it was due to his business and personal relations with the group associated with him; stated how much stock he really owned in the Rock Island, or how much he and his associates owned.

Mr. Folk, the general counsel for the Interstate Commerce Commission, asked the following question:

"Mr. Folk: Having found the tin plate venture so successful, you gentlemen thought you would look around and see what else you could do, and you concluded to take up the Rock Island?

"Mr. Reid: It looked good to us at that time.

"Mr. Folk: Can you say how much Railway stock you and Judge Moore, J. H. Moore, and W. B. Leeds, purchased?

"Mr. Reid: In round figures, Governor, I should say less than one-third.

"Mr. Folk: One-third of $75,000,000?

"Mr. Reid: Yes, sir.

"Mr. Folk: Approximately $20,000,000?

"Mr. Reid: I don't know the exact figure, but probably one-third or thereabouts."

So, as testified to at this point, and as repeated elsewhere by Mr. Reid, the group which controlled the Rock Island and which made the purchase, and which inflated the capital and dissipated its resources, owned only one-third of the stock, or about $20,000,000 of the $71,000,000 of the outstanding stock of the operating company. I think Mr. Reid's interest was only about $6,500,000 out of $20,000,000.

Mr. Stone: I wish you would read, in connection with that, as to what he says as to the number of stockholders in the company besides his group.

Mr. Lauck: I have lost the exact reference, but Mr. Reid testified there were about 4,000 stockholders besides himself, Mr. Moore and Mr. Leeds. In other words, the other two-thirds of the property was held by 4,000 stockholders, holding from one share upward. I think he said from five, ten to twenty shares. He, on page 753 of the record, speaks about the exchange of stock between the new companies. Mr. Folk asked this question:

"Do you know how many shares of stock of the Railway Company were exchanged through the Trust Company for the New Jersey stock and the Iowa Company bonds, under the trust agreement?

"Mr. Reid: I think I can tell you that, Governor. At the end of 1902 there were over 2,500 stockholders who deposited stock, who owned 680,000 shares."

In other words, according to his testimony, there were about 4,000 stockholders, besides his group, which represented control through one-third of the stock, and that 2,500 of these came in on the consolidated agreement in building the two new holding companies.

Mr. Stone: So it is a fact, then, at no time did they own a majority of the stock?

Mr. Lauck: They never held more than one-third of the stock.

Mr. Stone: Here we have a striking case of a railroad that was exploited and finally wrecked by a little handful of financiers, that only had one-third of the stock of the company?

Mr. Lauck: Yes, sir.

Mr. Stone: So it does not require a majority of the stock, to control a railroad, evidently?

Mr. Lauck: No; I think that that is a well accepted principle that it does not require a majority to control a corporation.

Mr. Stone: And it is also very evident from the testimony and from the history of the road, that these 4,000 small stockholders had but little to say as to the financial policy of the road?

Mr. Lauck: Mr. Reid testified that they were informed as to what was to be done and acquiesced in that, but, of course, took no part in deciding what was to be done. That is, he says here that 2,500 of them came in under this agreement, to create the two holding companies.

Mr. Stone: That is, they gave their consent by proxies?

Mr. Lauck: Yes, sir; 1,500, practically, did not.

Mr. Stone: I wish you would read there, if you will, what he says about the amount of stock actually issued?

Mr. Lauck: Page 752:

"Mr. Folk: Then, for that, there were issued \$71,000,000 in bonds of the Iowa Company and \$71,000,000 in common stock of the New Jersey Company, and about \$49,000,000 of preferred stock in the New Jersey Company, making the total about \$191,-000,000?

"Mr. Reid: Yes, sir. You asked about the stock a few moments ago. I said there were \$51,000,000 of preferred stock issued. That was my recollection. There may have been bonds, of course, in addition.

"Mr. Folk: So, in exchange for the \$71,000,000 of the stock of the Railway Company, there were received \$191,000,000 in bonds of the Iowa Company and stock in the New Jersey Company?

"Mr. Reid: Quite right."

So the net result was about \$191,000,000 issued.

Mr. Stone: Now, I wish you would read his statement of the Railway Company, as bearing the Frisco loss.

Mr. Nagel: Before you go to that, Mr. Lauck, there is nothing surprising in the influence of a minority, well organized, is there?

Mr. Lauck: No, sir.

Mr. Nagel: That would be true of a board of directors, a well organized minority would be apt to carry the board?

Mr. Lauck: Yes, sir; in a great many cases, the control is exercised, practically, without any stock holding whatsoever, through the securing of proxies. That is, in the case of a great many banking groups.

Mr. Nagel: By getting the proxies, they do get the majority?

Mr. Lauck: They get the control, yes, sir.

Mr. Nagel: It is the force of the well organized minority?

Mr. Lauck: Yes, sir.

Mr. Nagel: Have you ever been at a political meeting?

Mr. Lauck: Yes, sir.

Mr. Nagel: Very apt to be true there?

Mr. Lauck: Yes, sir.

Mr. Nagel: It might even be true in other meetings?

Mr. Lauck: Yes, sir.

Mr. Nagel: Did you say that the stock of the Railway Company was increased and inflated?

Mr. Lauck: No, sir.

Mr. Nagel: Then when you speak of inflation, you have reference to the two paper companies?

Mr. Lauck: Yes, sir; the building of the structure upon the stock of the Railway Company.

Mr. Nagel: And the basis of all those issues of stock was the operating company?

Mr. Lauck: Yes, sir.

Mr. Nagel: And the stock of the operating company was given as security for the bond issue of the paper company?

Mr. Lauck: Yes, sir.

Mr. Nagel: Now, insofar as this hearing is concerned, we are not interested, are we, in the paper companies, except insofar as the controlling interest of those companies may have induced the operating company to strain a point to make dividends?

Mr. Lauck: That is all, sir, and any losses they inflicted.

Mr. Nagel: That is the full extent of our interest in the paper company?

Mr. Lauck: Yes, sir.

Mr. Nagel: Beyond that, we simply have an illustration of a case in which the gentlemen had so many paper securities to play with?

Mr. Lauck: Yes, sir. I think the real significance of this is, there is only one point, and that is it exemplifies the capitalization of the earning power and the increased inflation of revenues. What I was going to say, Mr. Nagel, was, it seems to me, the significant thing, from our standpoint is that here was a kind of financing which is similar to many other episodes we have been going into, which simply illustrates the tendency to absorb revenues, if such revenues are developed from the physical operation of a property.

Mr. Nagel: I have your point in mind. I simply wanted to limit the influence within its proper sphere.

Mr. Lauck: Yes, sir.

Mr. Stone: I wish you would read what Mr. Reid says about the sale of Rock Island Company stock to investors.

Mr. Lauck: Page 875:

"Commissioner Clements: Mr. Reid, can you tell us how much of the stock of the New Jersey Company, common and preferred, was sold to the public or to investors?

"Mr. Reid: Mr. Commissioner, I could not answer that question. Out of, say, practically 711,000 shares of stock put in, assuming that the outside public would have forty-five or fifty million in that—I do not know what they did with their stock—that was made up of 2,500 or approximately 3,000 stockholders."

In other words, Mr. Reid testified that so far as the banking groups were concerned, Mr. Morgan and other reputable banking houses, they did not offer any of this stock on the market, but a considerable portion, insofar as it got on the market, was through the 3,000 investors who had come in on the transaction, and who, later, disposed of their shares, probably on the open market through brokerage houses. For that reason he says he is unable to say, but it would be approximately the amount of holdings of the 2,500 investors, or about two-thirds of the stock.

Mr. Stone: Now, I wish you would read the exchange at arms between Mr. Reid and Mr. Mudge, the expert statistician, as regards salaries and wages.

Mr. Lauck: Page 809:

"Mr. Reid (Interposing): Under the present conditions, I would not accept as a present the control of a Western or Southwestern railroad if I had to operate it for ten years.

"Mr. Folk: The conditions have gotten worse?

"Mr. Reid: Yes, most decidedly.

"Mr. Folk: What has made them worse, Mr. Reid? Was it not the taking in of fictitious securities and reporting to the stockholders as assets securities which were not securities at all —would not that tend to make conditions worse?

"Mr. Reid: My dear Governor, that is a small thing.

"Mr. Folk: What is a small thing?

"Mr. Reid: When you cut down all the earning power by reducing rates, both passenger and freight, and raising taxes and the fixed charges and maintenance, your earnings disappear very fast.

"Mr. Folk: Do you think wages have gone up in the last ten years?

"Mr. Reid: They have, in the last fourteen years, continuously.

"Mr. Folk: The wages of locomotive engineers?

"Mr. Reid: Everybody and everything.

"Mr. Folk: The wages of trainmen?

"Mr. Reid: Everything.

"Mr. Folk: How about clerks?

"Mr. Reid: All except clerks in stores.

"Mr. Folk: Clerks in your offices have not gone up?

"Mr. Reid: Clerks in stores and offices is about the only class that has not gone up.

"Mr. Folk: And your agents?

"Mr. Reid: I do not know the pay of a station master, but I know the payroll of the railroads has gone up enormously, and I know the taxes have gone up from $1,000,000 to $3,500,000."

Then skipping a page, which was a continuation of this colloquy, we find the following:

"Mr. Folk: Right there, let us take up some wages at the other end of the line.

"Mr. Reid: Very good, sir.

"Mr. Folk: You paid Mr. Loree $75,000 a year, didn't you?

"Mr. Reid: Yes, sir. That is to say, it was distributed between the Frisco and Rock Island, half and half.

"Mr. Folk: He stayed with you ten months, and then you paid him $450,000?

"Mr. Reid: Yes, sir; sharing it half and half with the Frisco.

"Mr. Folk: Mr. Mudge, the president, is paid a salary of $60,000 a year?

"Mr. Reid: Yes, sir.

"Mr. Folk: R. R. Cable, President of the Board of Directors, receives a salary of $32,000?

"Mr. Reid: Yes, sir.

"Mr. Folk: Mr. Leeds $32,000 a year, and Mr. Winchell $40,000?

"Mr. Reid: Yes, sir.

"Mr. Folk: R. A. Jackson was paid $25,000 a year, and you gave him $100,000 in cash in addition, when he left?

"Mr. Reid: Yes, sir.

"Mr. Folk: You yourself receive $32,000 a year, and C. H. Warren, Vice-President, received $35,000 a year, and Mr. Purdy received $22,500 a year, and when he left he was paid for two years without doing anything at all. Now, you complain of the wages being increased at one end of the line. What have you to say about these high salaries at the other end?

"Mr. Reid: In the first place, those salaries were not all being paid at the same time.

"Mr. Folk: Indicate what salaries were paid at the same time."

Then, Mr. Reid states that Mr. Purdy was not being paid at the same time as the others, and that his salary was paid on account of the illness and long service which had brought about the illness, in the Rock Island.

"Mr. Folk: Mr. Reid, you think these men earned these high salaries?

"Mr. Reid: I do not think there is a man there who did not earn more than he was getting.

"Mr. Folk: In other words, you defend paying these high salaries?

"Mr. Reid: I defend nothing. Here is 8,000 miles of railroad. The man who can run 8,000 miles of railroad is worth all he can get."

Then, later in the testimony, Mr. Reid's attorney brought out the fact that although these high salaries were paid, that they constituted a small proportion of operating cost. I mention that fact so as not to have you think I am putting in only evidence on one side.

Mr. Stone: He defends the theory that a man who has ability to sell is worth all he can get?

Mr. Lauck: Yes, sir. Mr. Reid's idea was that a man was worth all he could get. He did not complain about the wages. His attitude was, that the plight of the operating company was due to contignencies in the way of higher wages and lower rates, and increased taxes, and that he would not have a railroad if someone would give him a present of one, and he would gladly relinquish the Rock Island if he could get any one to take it. Of course, Mr. Folk took exception to that interpretation of the difficulties of the Rock Island, as being due, rather, to the financial management or mismanagement, and not to the conditions which prevailed, such as Mr. Reid spoke of.

Mr. Burgess: Is that the inference you place on Mr. Reid's statements in regard to not being willing to accept the presidency of any Western or Southwestern line?

Mr. Lauck: You mean my inference?

Mr. Burgess: Yes.

Mr. Lauck: I was simply trying to give an unbiased statement of Mr. Reid's position. That was his statement of the reason why he would not. Of course, I would agree with Mr. Folk that the difficulties of the Rock Island were largely due to financial mismanagement, and probably the troubles Mr. Reid did not anticipate were these contingencies which have developed since these holding companies were formed. Mr. Reid and his associates practically assumed that the same business conditions would prevail and that the earnings of the Rock Island would remain as they were at any rate. Then we had certain conditions which affected earnings and consequently they could not maintain the dividends upon this structure of capitalization, or could not pay them, and the whole scheme collapsed. To that extent, of course, earning power was affected.

Mr. Burgess: Mr. Reid did express in no uncertain terms his reluctance to accept the presidency of a Western or Southwestern line, did he not?

Mr. Lauck: He said he would not have one as a gift; yes, sir.

Mr. Burgess: Do you assume that it was because of the increase in compensation, and the increase in taxes, thereby making it a difficult matter to manage the railroads?

Mr. Lauck: No, sir. I think his statements there were largely as a counter defense to what had occurred to the Rock Island. Of course, if the Rock Island had been properly managed it would not be in financial difficulties at the present time.

Mr. Burgess: You don't know, Mr. Lauck, any real reason for Mr. Reid giving expression to the fact that he would not accept the presidency, then?

Mr. Lauck: Well, of course, I would not presume to say that he did not mean that, because I would not take issue with his sworn statements, but an interpretation of the conditions were these, that the road had been wrecked or practically exploited by financial mismanagement, in my mind, and the operating difficulties were emphasized by these facts, and the present financial condition of the Rock Island is almost entirely due to these facts.

Before the Reid-Moore group got control, it was, as you recall, an excedingly prosperous road, paying large dividends, had a surplus, and now the resources have been dissipated, the road is not in as good physical condition as it might have been, and the earning power has been constantly absorbed in the effort to pay returns upon securities issued which were unjustifiable, and that earning power might have been put back into the road, or moderate dividends might have been paid and the road be in first class financial shape at the present time.

Mr. Burgess: Mr. Lauck, perhaps I didn't follow you closely, but I was trying to learn whether the exhibit gave any real reason as expressed by Mr. Reid as to why he would object to be in control of one of these railroads?

Mr. Lauck: No, sir, he did not submit any facts or exhibits, except he submitted the annual report, I think, of President Mudge, which we were discussing at one time previously in the proceedings, as to the increased operating efficiency during this period of Moore-Reid control. He submitted that as an exhibit supporting his contention.

Mr. Burgess: Well, do you think, Mr. Lauck, from a perusal of the evidence, that while these gentlemen were playing with the paper securities, as Mr. Nagel has stated, that that had any bearing on Mr. Reid's attitude to the presidency?

Mr. Lauck: Why, I think that the difficulties of the Rock Island are due to his control and financial management of the property, and not merely to these conditions which he mentions, that is, increased wages or reduced freight rates. Does that answer the question?

Mr. Burgess: Yes, thank you.

Mr. Nagel: Mr. Reid did not have the Rock Island Railway Company to give away, did he?

Mr. Lauck: No, sir, he only had one-third of it?

Mr. Nagel: He did not have that of the Railway Company. That stock was deposited as security for the bond issue of the Railway Company, was it not?

Mr. Lauck: Yes. He owned one-third of the interest in the Railroad Company. I will have to think a little.

Mr. Nagel: So, in that respect, his offer to give away the railroad was gratuitous, was it not?

Mr. Lauck: Yes. I think it was rather an extreme statement that he made. He had been worked up by Mr. Folk in the testimony.

Mr. Nagel: I think we can all estimate the value of the testimony as well as the witness on the stand can. The fact is when he made that offer he must have had in mind the Railroad Company or the Rock Island Company of New Jersey, in which he was really interested?

Mr. Lauck: That is, do you mean that he did not own the operating company?

Mr. Nagel: He had none to give away.

Mr. Lauck: Oh, he had none to give away. He said he would not have one if they would bring him one.

Mr. Nagel: Was he a practical railroad man?

Mr. Lauck: No.

Mr. Nagel: Then his judgment in that respect is not worth a great deal.

Mr. Lauck: No.

Mr. Nagel: It would not be fair to judge real railroad men by that standard?

Mr. Lauck: No.

Mr. Nagel: Neither would his present estimate of the value of the Railway Company be of great value?

Mr. Lauck: No. Judging from the history of the Rock

Island it would be a very great reflection to judge railroad men by Mr. Reid's experience, I should think.

Mr. Park: Mr. Lauck, did you examine Mr. Reid's testimony carefully?

Mr. Lauck: No, sir, his testimony was so extensive. It covered about 1,500 pages. It was considered financially impossible to get that.

Mr. Park: Mr. Mudge is a practical railroad man?

Mr. Lauck: Yes. I have read an account of his testimony. He defended the operating efficiency of the Rock Island, as he had done in his annual report in this eleven years' review, and I think submitted very elaborate statistics and so on, to indicate that the operating efficiency had been maintained under his direction.

Mr. Park: Did he not also attribute some of the troubles encountered in operation to the pernicious rules and regulations and rules on the standardization of equipment that was unnecessary?

Mr. Lauck: Yes, sir, that was his explanation for a large part of the difficulties of the road, such as the same analysis he made—as was made in his annual report, I think, last year.

Mr. Park: He also attributed it to the abnormally high wages and increases that had been made in recent years?

Mr. Lauck: I think he did.

Mr. Stone: He certainly does speak of them in his annual reports, does he not?

Mr. Lauck: Yes, sir; Mr. Mudge, in his annual report last year, made a very elaborate analysis of the operating development of the Rock Island, since the Moore-Reid control—since 1902, to 1912, I think, and worked out the causes in his mind of increased operating cost, and attributed it to excessive legislation, to the activity of labor in getting increased wages, and to various legislative requirements. We discussed that, I believe, when we were discussing productive efficiency, and, of course, we, on our side, did not agree with Mr. Mudge's report entirely, and the Railway Age Gazette did not agree with it. I remember the Railway Age Gazette examined it critically, and their point was that if the surplus earnings of the Rock Island had been put back into property, say—like a well managed road, like the Burlington, or other roads, that the Rock Island would have been in good shape at the present time.

The Chairman: As I understand it, you are not offering this evidence for the purpose of discrediting the present management of the road?

Mr. Lauck: No, sir.

The Chairman: But you are offering it for the purpose of showing certain things that occurred, in connection with the control of the roads heretofore, that were to the prejudice, not only of the roads, but of the employes as well, and for which the employes were in no wise responsible. Is that your theory?

Mr. Lauck: Yes, sir. It is extremely distasteful or disagreeable to have to go into any method of this kind, and I would like to avoid details of this kind as much as possible.

The Chairman: I have inferred from your testimony that that is the purpose you had in offering this evidence?

Mr. Lauck: Yes, sir.

Mr. Stone: Anything further you want to say on the Rock Island, Mr. Lauck?

Mr. Lauck: Nothing that occurs to me.

Mr. Park: Mr. Lauck, just one more question. The Rock Island has always paid the standard wage?

Mr. Lauck: As far as I know, yes, sir.

Mr. Park: In fact, they have been in some classes, perhaps, a little higher—the shop?

Mr. Lauck: I have no doubt of that. I don't know about that, Mr. Park.

Mr. Burgess: Well, Mr. Lauck, regardless of what value Mr. Reid's testimony may be to this Board, individually or collectively, the fact remains that he was before the Interstate Commerce Commission?

Mr. Lauck: Yes, sir.

Mr. Burgess: If I understand it, trying to explain the financial difficulties of the Rock Island Railroad?

Mr. Lauck: Yes, sir.

Mr. Burgess: And he was practically in control of the Rock Island Railroad at the time some of these difficulties occurred, was he not?

Mr. Lauck: He and his group were in control of the Rock

Island structure, throughout the entire period, 1901 up to the present time, and are at the present time.

Mr. Burgess: So that regardless of the fact whether he was a railroad man or not a railroad man, he was familiar with part of these financial transactions?

Mr. Lauck: He was familiar with them, yes, sir.

Mr. Burgess: And he was endeavoring to tell the Interstate Commerce Commission, to the best of his ability, how these transactions occurred?

Mr. Lauck: Yes, sir; and defending his course in the transaction. Of course, he would tend to lay stress upon cause of present financial difficulties, that were outside of any causes that were not connected with his own financial management.

Mr. Burgess: And being what might be called the prime factor in bringing around these conditions, he would be familiar with the facts, regardless of whether he was a railroad man or not a railroad man?

Mr. Lauck: He was familiar with the financial management, yes, sir.

Mr. Burgess: And do you know of any place in the exhibit that he states that the difficulty of the Rock Island was due to abnormally high wages?

Mr. Lauck: No;! he distinctly said that he had no quarrel with wages.

Mr. Burgess: That is all.

Mr. Park: Mr. Lauck, I did not quite understand why this was a supplement to Exhibit 61.

Mr. Lauck: After one was printed, Mr. Park, we had some data that was not included in it, and we got it out in that supplement form. They are practically all one exhibit.

Mr. Stone: We had a little more time than we thought we would have, after we got the other off the press, so we improved the opportunity by adding a little more to it.

Mr. Park: Do the sources of your information appear in 61?

Mr. Lauck: Yes, sir; in both cases.

Mr. Park: 61 and 62?

Mr. Lauck: Yes, sir; in footnotes or in references—page references.

Mr. Park: How long have you been preparing this 61?

Mr. Lauck: 61?

Mr. Park: Yes, the original.

Mr. Lauck: It has been about two years since I started on that.

Mr. Park: So that it embraces information covering a period of two years?

Mr. Lauck: It is the result of the work of two years.

Mr. Park: Is prior to that, of course, in a good many instances?

Mr. Lauck: Yes, sir.

Mr. Sheean: Did you start in on it, two years ago, as part of your employment in this wage movement?

Mr. Lauck: Yes, sir. The idea in this exhibit was to develop the fact that I am attempting to develop here, that the productive efficiency of the railroads in the West, in many cases, had been diverted, and that the financial difficulties were not due to increased wage payments, primarily, and we thought that we would not put it in, unless necessary. After the evidence had been presented directly by the other side, we deemed it necessary to put it in.

Mr. Byram: What evidence was presented directly by the other side, that caused you to put it in?

Mr. Lauck: The fact that productive efficiency had not been profitable.

Mr. Byram: What witness testified to that? Do you remember what witness testified?

Mr. Lauck: I can't remember the exact witnesses, no, sir. It was brought out in the exhibits on income and property investments. We are unable to tell exactly whether the income and property investments exhibits are to demonstrate financial inability, or to demonstrate a decline in productive efficiency.

Mr. Sheean: Did any of this, Mr. Lauck—of our figures, or any of the cross-examination, on your theory of productive efficiency, go back of 1910?

Mr. Lauck: Not at all.

Mr. Sheean: So that our whole case, on cross-examination of your exhibits, as well as those affirmatively introduced, covered the period from 1910 to date?

Mr. Lauck: You were very careful to restrict yourself to that period.

Mr. Sheean: Whether careful or not, the fact is that is all we covered, either by cross-examination or affirmatively?

Mr. Lauck: Yes, sir; and our contention as against that would be—I beg your pardon. I did not mean to interrupt you.

Mr. Sheean: No; go ahead.

Mr. Lauck: —would be that if the results of productive efficiency, prior to 1910, had been conserved, which the men did not participate equitably in, why, there would not be any lack of revenue subsequent to 1910.

Mr. Burgess: Were you present, Mr. Lauck, when Mr. Higgins went back to the time that the first schedule was prepared?

Mr. Lauck: I was not present. I read part of his testimony, and my impression from Mr. Higgins' testimony was that inequalities in participation had been secured through the evolution of schedules and the exaction of fixed rules.

Mr. Byram: Mr. Lauck, is your testimony that you have been giving in the last three days, designed to prove the ability of these railroads to pay increased wages, or is it designed, as you have just said, to show if certain things had not been done, there would have been more resources available for that purpose?

Mr. Lauck: The latter.

Mr. Byram: The latter?

Mr. Lauck: Yes, sir.

Mr. Byram: Then, Mr. Stone's extracts from the testimony of certain witnesses, on cross-examination, to the effect that the railroads were unable to pay, has no bearing on your testimony?

Mr. Lauck: Of course this testimony could be used to prove inability to pay.

Mr. Byram: I understand, but—

Mr. Lauck: No, sir, it is not my intention to introduce that, unless the opposite side—I don't know whether I have authority to speak for Mr. Stone or not. (Addressing Mr. Stone.) Perhaps you had better answer that.

Mr. Stone: The other side have said they were not able to pay. We expect to introduce testimony in rebuttal, that they are abundantly able to pay our requests.

Mr. Byram: That was my purpose in asking this. I want to know now what your purpose—

Mr. Lauck: My purpose is the latter purpose you mentioned.

Mr. Byram: Not to prove the ability of the railroads to pay?

Mr. Lauck: Not in this connection.

Mr. Stone: This exhibit is not intended for that purpose.

Mr. Lauck: Not at all.

Mr. Byram: Do any of the exhibits you have presented, since you have assumed the stand on rebuttal, have such an object?

Mr. Lauck: No, sir.

Mr. Stone: But we will have one, later, that will have that purpose, will we not?

Mr. Lauck: There has been one prepared, which shows the existing status of railroad finances, and if it is Mr. Stone's intention to present that exhibit, it will show the present financial status of the railroads.

Mr. Nagel: This exhibit, so far, really tends to establish the inability of the roads to pay, does it not? Shows that these moneys were wasted, and it does not show any way in which we could return the money?

Mr. Lauck: No, sir.

Mr. Nagel: In other words, we have to deal with the present condition, and you are discussing the mismanagement of the past, from which the present conditions have resulted?

Mr. Lauck: Yes, sir; to that extent it shows inability, and the only way this could be used to show ability, would be to say that if these things had not occurred, why, they would be able to pay. For instance, if we could reach an agreement, which, of course, would be impossible, that the Atchison property investment was unduly inflated in the reorganization, why, the Atchison should be paying now, say, about 20 per cent, but as a matter of fact, it is paying about 6 or 8, or maybe 9 per cent.

Mr. Byram: Even on any basis, as I understand it, there would be a difference in the ability of these railroads to pay increased wages. Taking the situation as it stands now, the difference in the financial and operating history of these railroads, would create a difference in the ability of certain railroads to pay, as compared with others?

Mr. Lauck: Yes, sir; it would create a difference.

Mr. Byram: Should that difference in the ability to pay, brought about by whatever reason may have caused it, have any influence on the amount that any railroad should pay to its employes?

Mr. Lauck: I should think not, no, sir. My idea about the whole thing is just a personal idea, though, that this question of ability to pay does not enter into the question.

Mr. Byram: But you are proving by your exhibits, or attempting to, that if certain things had not occurred, these railroads would be able to pay more wages. I have heard you say that, many times.

Mr. Lauck: The idea is that if it is claimed that revenues have not been developed sufficiently to meet increased wage payments, my purpose here is to prove, or attempt to prove, that if revenues had been properly conserved, and if there had not been an unequal distribution in the past, that revenues would be available, and the men have not participated equitably in the productive efficiency of the development of the railroads.

Mr. Byram: Well, I do not see how you can separate the question of ability to pay, from your testimony here, if that is the view you take of it.

Mr. Stone: Mr. Chairman, in order to set the matter right, I will say once for all what our position will be. Our position will be that because these financiers, by their financial juggling, have put a load on the railroads that is going to absorb all the earnings for the next hundred years, is no reason why the engineers and firemen should not be entitled to a fair wage adjustment. That will be the position of these organizations, regardless of what their financial ability is at the present time.

Mr. Nagel: That is the position Mr. Sheean took at the very opening of the case.

Mr. Stone: Yes, I know, but, unfortunately, Mr. Sheean was counsel, and several of the men who spoke for these Western roads differed with Mr. Sheean.

Mr. Nagel: In response to your questions, I think.

Mr. Stone: I supposed they were testifying under oath.

Mr. Nagel: They had to testify, if you asked the question.

Mr. Stone: Yes, they testified of their personal opinion, but Mr. Trenholm, when he speaks, speaks as Chairman for 98 railroads.

Mr. Nagel: Very true; but the question still remains whether Mr. Sheean's statement that they do not rely on inability to pay, is not conclusive, and whether the mere fact that you have asked certain witnesses questions to which they were bound to respond, changes the situation.

Mr. Stone: That, of course, is something for the Board to pass on. If the Board wants to say "We will rule out all this testimony and it has no bearing on this case at all, and Mr. Sheean's statement is conclusive," of course, that settles it.

Mr. Nagel: We have gone too far to take that position, but in my judgment, inasmuch as this matter has been presented like the trial of a case, that would have been a perfectly safe position to take.

Mr. Stone: Then, with all due respect to the Board, the time to have taken that position was as soon as we started in on this line.

Mr. Nagel: It was suggested by me at that time, Mr. Stone, very promptly.

Mr. Stone: And we might have shortened this case.

Mr. Nagel: We might have.

Mr. Stone: And we might not have gotten the results we wanted to when we got through. I don't know.

Mr. Nagel: I don't know, either.

Mr. Burgess: Well, Mr. Stone—

Mr. Stone: Pardon me a minute. About every cycle—about every five hours it is due, where we get to this same point, what we are trying to prove, and they don't deny this and don't deny that. I can realize that these railroads don't want this hidden history brought out.

Mr. Sheean: We have not made any objection, Mr. Stone, at any time.

Mr. Stone: No; I realize you have not made any objection, but you have done quite a good deal of cross-examination; but now they say they never have claimed anything about productive efficiency. Now, this is what Mr. Trenholm said about productive efficiency. This is on pages 5523 and 5524 of Book No. 54:

"Mr. Stone: And I take it for granted you do not subscribe to the theory of productive efficiency at all?

"Mr. Trenholm: No, I don't. Productive efficiency is a theory I have subscribed to, because it does not always work. Productive efficiency only works where the railroad can produce the tonnage to enable the engineer to produce anything. Coming back empty, the railroad has a poor show for its share of productive efficiency."

I think the word "not" is probably omitted there. I don't know; it don't read just right.

"I think, myself, it is very far fetched. It is a nice thing to talk about."

And again, in a question of mine:

"Mr. Stone: So there is a saving all along the line, but no increase in productive efficiency?"

He was discussing increased trainload and earnings.

"Mr. Trenholm: I don't see any productive efficiency, as you call it."

It is very clear that they do not concede the fact that there is any productive efficiency, or any increase in it, at least.

Mr. Burgess: Well, Mr. Stone, when you ask the witness a question, either on direct or cross, you, of course, do expect a reply?

Mr. Stone: I believe, under the rules of the game, when I ask a question on cross-examination, the witness is expected to reply yes or no, and then explain afterward.

Mr. Burgess: And to some extent he is obligated to reply, but in no instance do you control in any sense the nature of his reply?

Mr. Stone: I should hope not, at least. I take it for granted he is a free agent.

Mr. Burgess: So that while you might have asked these questions on cross-examination, you in no manner controlled the reply, and from the reply given you, you had reason to believe that the railway companies did desire the Board to feel that they were unable to meet these advances? Is that a fact?

Mr. Stone: I perhaps inferred that from the testimony of witnesses. I know I inferred that from the statements of the Board in the different conferences we held.

Mr. Burgess: And for that reason you considered it proper to introduce these exhibits in rebuttal?

Mr. Stone: I most certainly did. You must understand this, of course. Mr. Sheean asked Mr. Lauck how long he had been working on these exhibits. In going up against one of these cases you get ready for any line of development that may come. I have no way of knowing down what lane they were going to go, but for the first time in my history I was ready for them on any lane they might want to go down, and they may take any cross-cut or go down any lane they wanted, and I am ready and have an exhibit to meet it.

Mr. Burgess: But, Mr. Stone, you had not fully decided whether you would introduce these exhibits until the defendants had presented their direct case, had you?

Mr. Stone: No, sir. If I had, I would have put it in in direct evidence instead of rebuttal.

Mr. Burgess: Well, that is the point I was trying to bring out. And in that connection you have many other exhibits as to which you have not yet fully decided whether you will introduce them in rebuttal or not?

Mr. Stone: There are a number of exhibits that have been prepared that will not be introduced. There are a number of other exhibits that have been prepared that will be introduced, unless, of course, the Board by a ruling cuts out this part of the rebuttal.

Mr. Burgess: And your future line of action must be governed to some extent by circumstances, and you are not as yet ready to reveal just what that action will be. Is that right?

Mr. Stone: Our future line of action is carefully mapped out, and will be pursued along a well defined plan, unless—of course, the Board has it within its power to shut it out at any time on any particular exhibit.

Mr. Sheean: Let me join Mr. Stone in the request that the Board do not shut out any evidence of any nature that Mr. Stone thinks of the slightest materiality. Whether we think it material or not material, or whether any member of the Board thinks it material or not material, I here and now, representing the railroad companies, ask that the Board do not shut out anything that he thinks is of the slightest materiality upon any question involved in the case.

The Chairman: I do not know what gave rise to this.

Mr. Nagel: The entire discussion is, of course, entirely unnecessary. There has been no disposition to shut out anything. Mr. Stone announced a proposition which was almost in the words in which Mr. Sheean had stated the same proposition, and if these two statements had been accepted in the beginning, I still believe that most of this testimony would have been unnecessary, but it is clear we have gone too far to consider that. At the same time, I feel at liberty to express an appreciative sense of any agreement between counsel in this matter and any disposition to shorten this hearing, because it certainly has been prolonged very much. As to the rules of cross-examination, we have all heard about the rules that questions must be answered "Yes" or "No." If counsel will examine their questions, they will find that most of the witnesses were not in a position to answer in that manner, because the questions were not so framed. That is a matter that is perfectly obvious from an examination of the record.

I still believe that, strictly speaking, the position of the railroads could not be changed, after Mr. Sheean's announcement, by the mere fact that a witness for the railroad on cross-examination expressed an opinion. He was bound to make that answer and that could not change the issue, if we had proceeded by strict rules regarding evidence, but that is neither here nor there. We are past that place, and we are bound to go through with it.

The Chairman: I was not present a while ago. I do not know what happened.

Mr. Stone: We swung around to one of those cycles again that come up now and then, as to whether or not anything had been said about productive efficiency or inability to pay, or why the exhibit was introduced.

Mr. Chairman, I realize, perhaps, we have violated all the rules of the game, and I realize that it will be more than likely, when Mr. Sheean goes back to legitimate law practice again, he will be ruined in the first court in which he appears, if he undertakes to examine a witness as he has done here, because he makes a statement and the witness says yes and no, which I believe is utterly contrary to the rules of court procedure. I am not a lawyer, so I will not have to go back to court to practice.

I will go out and try to make another wage scale somewhere, probably. I realize this: I realize that this is perhaps the greatest arbitration the world ever knew in the history of labor. I realize that both sides are leaving nothing undone to win the case; at least we are not, and I take it for granted the other side are not. Perhaps we are overburdening the record. There is another side to all this. It is not as though I, as a representative of these organizations, was working for myself. There are 65,000 men out here on these engines, scattered all over this Western territory, who have to be satisfied and who are vitally interested. Perhaps this record is dry reading to some, but I will assure you it will not be dry reading to the rank and file of the men who read it. They, at least, will be satisfied that an honest effort was put forth to try to bring their side before this Board in every detail.

The Chairman: I announced in the beginning that the very broadest possible scope would be given to this inquiry, regardless of the ordinary technical rules that control the admission of evidence.

Mr. Stone: Perhaps we have taken full advantage of that and, may be, we have imposed on your good nature besides.

The Chairman: I feel we ought to hear everything that has the slightest bearing upon these issues. Of course, strictly speaking, if we had reached an agreement in the beginning, which would have limited the issues to be presented to us, we could have proceeded on that theory. We have not done so, and I think about the best way to make progress is to go along and receive all the evidence you may have to offer.

Mr. Byram: At the early part of this discussion you spoke of productive efficiency. How do you connect the productive efficiency of engineers and firemen with these exhibits that Mr. Lauck has been testifying to in the last few days?

Mr. Stone: In reply to that, I suppose the connection from your point of view is far fetched. Productive efficiency does not affect the looting of a road in the least. The men who looted the road were not showing any productive efficiency. The productive efficiency of the great rank and file of the men may have been just as good on that road as on any other road. What we are fighting for here and what we want for our men, is an increase in wages, and better working conditions. We do not believe they should be deprived of that, because some particular railroad is on the rocks because of financial mismanagement. What we are showing here is what put them on the rocks. It was not the wages. It was not the productive efficiency of the men. It was due to a few financial pirates who wanted to get rich quick.

Mr. Byram: I still do not understand the connection between the two, after your explanation.

Mr. Stone: I did not expect I would be able to make it clear when I started.

Mr. Byram: I am much obliged for the effort you made.

Mr. Stone: Thank you.

Mr. Byram: When this controversy started, the witness was about to answer a question of mine. Do you remember it?

Mr. Lauck: I remember you asked a two-fold question; whether this was being introduced to show financial inability to pay, or whether it was introduced to show what had become of the productive gains of the railroads.

Mr. Byram: Yes.

Mr. Lauck: Does that state it correctly?

Mr. Byram: Yes, I think it does.

Mr. Lauck: My answer to that would be that this was being introduced to show the diversion of productive gains inequitably to capital as compared with labor, and had no bearing upon the financial ability to pay, unless that question was brought up later.

Mr. Byram: You feel that your testimony in rebuttal is consistent with the theories that you have held to during your testimony on direct examination.

Mr. Lauck: Yes, sir. According to my idea of it, on direct examination, I attempted to develop the fact that through development of the operating efficiency of the railroad increased efficiency had been attended by increased efficiency by the men. Then, I gathered, from the rebuttal, that the claim was made that this increased efficiency of the men had not been attended with profits, owing to the necessity of making large capital commitments; that after these capital commitments were satisfied there would not be anything that would show as the result of the productive efficiency of the men, confining it to the period 1910 to 1913 and '14.

The object in presenting these exhibits is, in my mind, to conclude my argument begun on direct examination, to the effect that the men have not had in the past, or prior to 1910, an equitable participation in productive efficiency; that if it had been properly conserved, the results of productive efficiency there would have been revenues available to meet all additional capital requirements, and still to give a fair measure, according to my point of view, of participation to the locomotive engineers and firemen in the way of increased wages.

Mr. Byram: Would you consider money actually expended, from whatever sources derived,—actually expended on these railroads—for improvements and betterments, which contributed to the so-called productive efficiency of the road, an offset against any of the unsatisfactory conditions which you have been describing here, or as against increased productivity of the men?

Mr. Lauck: Yes, sir; if I get your question correctly. I consider that all capital requirements should be met, that is, if part of the funds have been invested properly, and maybe unproductively, that that capital requirement should be met.

Mr. Byram: You have criticized financial transactions of most of the large roads involved in this arbitration. Now, if, during the time that these irregular practices, so-called, prevailed, there were expended on these properties large sums of money, actually expended for improvements, would you consider that as any mitigation or offsetting influence against the conditions of which you complain?

Mr. Lauck: Oh, undoubtedly, yes, sir. I realize, also, that sometimes even stock bonuses may be necessary. I think the fundamental difficulty has been the reckless issue of securities which have absorbed the revenue. If you do not mind, I will read from the Interstate Commerce Commission report what is found in volume 12, which Mr. Sheean and I discussed the other day. These recommendations grew out of the Alton and Union Pacific cases. It says:

"Railroad securities should be safe and conservative investments for the people. To this end, the risks of the railroad should be reduced to a minimum. Every one knows that railway securities fluctuate more or less, according to the prosperity of the times, and also by reason of the wide speculation in such securities.''

Then it goes on to say:

''It is a serious menace to the financial condition of the country, to have large railway systems fail to meet their obligations, or go into the hands of receivers, and the object of legislation and administration should be to lessen the risks of railway investments.''

''The time has come when some reasonable regulation should be imposed upon the issuance of securities by railways engaged in interstate commerce.''

''Men will not invest their money and take the risk for small rates of interest.

''But this principle does not apply to old established railway systems having good credit. Such railways should be prevented from inflating their securities for merely speculative purposes. Railroads should be encouraged to extend their systems and develop the country. It is of the utmost importance, also, that railway securities should be safe and conservative investments for the public, and should yield good and ample return for the money invested.''

Mr. Lauck: Mr. Sheean, that was not in there about the Hepburn Bill. It must have been another one.

That finishes what I had to say about the Rock Island.

Mr. Stone: Take up the next road, then.

Mr. Lauck: I will take up the financial history of the Union Pacific Railroad Company, on page 258.

Immediately preceding this financial history is a short consideration of the Union Pacific Railroad Company's special dividend in 1914, or the dividend of $74,000,000 declared out of the proceeds of stock.

The Chairman: What page are you reading from?

Mr. Lauck: Page 253. I was just mentioning that there is a section there dealing with the special Union Pacific dividend in 1914, of $74,000,000, declared from the proceeds of previous investments in the Union Pacific under Mr. Harriman's control.

The financial history of the Union Pacific appears on pages 258-271. We have already partly discussed this road in connection with land grants.

Construction was begun in 1862, and was completed about

1864. It was attended by many corrupt practices in the way of dissipation of the government's bounty, through the stockholders of the railroad being the same as the stockholders of the construction companies. The stockholders of the railroad made about 48 per cent profit on the construction of the road, principally in the form of government land grant bonds and their stock issues. The road cost about $50,000,000 to construct, and was paid for from second mortgage bonds donated by the government of the United States, or loaned by the government of the United States, and by the first mortgage bonds of the railroad.

The land grant bonds and the capital stock was practically all a bonus to the persons interested in the construction, who were the stockholders of the road, and amounted to about $43,000,000.

After the completion of the construction of the road under these conditions, in 1864, or somewhat later, the road when it began business was very profitable from the start and soon paid dividends upon its stock, which was all fictitious. They began paying dividends in 1876, and about 1880 Mr. Jay Gould, who was actively interested in railway finances about that time (the effect of whose activities can be seen in the history of almost every railroad in the West), acquired control of the Union Pacific, and consolidated it with the Kansas Pacific, another road which had been built under government grants.

The Kansas Pacific was a road that was insolvent, working at a deficit, and the Union Pacific was prosperous, paying dividends. So Mr. Gould sold his holdings in the Union Pacific at a profitable figure, acquired holdings in the Kansas Pacific, which were selling at comparatively very low rates, and then through influence in both companies brought about a consolidation of the two properties on a par value for par value basis, resulting in saddling the Union Pacific, a prosperous road, with—increasing its capitalization, and imposing upon it two roads that were financially insolvent, the Kansas Pacific and Denver Pacific, and, of course, resulting in large profits to himself personally and his associates.

As a result of the imposition of these two unprofitable properties upon the Union Pacific, and due to other extensions, the road dragged along in less and less prosperous condition, meeting the deficits of the subsidiaries which had been attached to it, until in the panic of 1893, it succumbed, and went into the hands of receivers.

After the period of financial breakdown and depression had passed—in 1896, I think it was, about that time—along when all the other roads were reorganized, the Union Pacific was reorganized and reacquired a great many of its subsidiaries, and in 1898 the so-called Harriman syndicate acquired control of its road, and it entered upon its era characterized by using the resources of the road, or capitalizing the earning power and using the capital thus secured to speculate in the securities of other roads, it being Mr. Harriman's policy to build up a great Trans-Continental system, and practically to control other railroads. He used the earning power of the Union Pacific, which was developing very rapidly, as a basis for issuing securities, the proceeds of which he used in acquiring the stock of the Southern Pacific Railroad, a competing line, and securing a controlling interest in it. He also acquired a controlling interest in the Northern Pacific, his object being to secure control of the Northern Pacific and the Burlington, and he bought extensively stock of other railroads, like the Illinois Central, and the Atchison, Topeka & Santa Fe, and would have in time probably acquired control in the leading railroads in the West.

These operations on the part of Mr. Harriman were characterized by very reprehensible financial practices. There was a so-called Harriman Syndicate, composed of Mr. Harriman and members of the banking firm of Kuhn, Loeb & Company, and Mr. Gould, and this syndicate was practically the same as the Executive Committee of the Union Pacific Railroad. So this syndicate operated by selling the securities of the Union Pacific Railroad to themselves, and selling the securities which they purchased to the Union Pacific Railroad, thereby making immense commissions and profit. For instance, selling the same syndicate which had secured control of the Alton Railroad and had consolidated the two properties, and as the result of that consolidation they had issued to themselves, without consideration, an immense amount of Alton preferred stock, which had cost them nothing. They, as a syndicate, sold to themselves, as Executive Committee of the Union Pacific, this Alton stock at $86.50 per share, which is now worth practically nothing, and in the same way they had acquired stock, say, in the Northern Pacific, and then, having acquired that stock, would sell it to themselves as the Union Pacific at an advance over what they had paid for it. In the same way that they would acquire Southern Pacific stock, and so on. So the result was that there was an immense increase in the capitalization of the Union Pacific, which became a drain upon the earnings. In order to meet the interest requirements, the proceeds of that increased capitalization were diverted by this syndicate to their own personal profit, to a large measure, and finally it has come around to this point, that the capitalization which was issued to secure the securities is still outstanding against the road, while the proceeds of it have been distributed during the past year, largely to the common stockholders in the shape of a special dividend or bonus of $33\frac{1}{3}$ per cent, or $74,000,000. That is, in making these acquisitions, $100,000,000 of convertible bonds were issued, and they were then exchanged for stock paying 10 per cent—common stock.

During the past year, it was decided by the management of the Union Pacific—probably on the ground that it was unwise to pay 10 per cent in the present state of unrest about railroads—to distribute the principal of 2 per cent of this dividend in Baltimore & Ohio stock, which had been acquired after they had sold the Northern Pacific and Southern Pacific stocks. So the principal of a 2 per cent perpetual dividend was distributed to the stockholders, amounting to about $75,000,000, and the dividend reduced to 8 per cent.

So you still have a situation on the Union Pacific where the capital has been increased, and the resources back of that capital, instead of being used to reduce the indebtedness, have been distributed to the common stockholders. That is, in a brief way, the final outcome of this series of financing.

Our claim would be there that if the revenues had been conserved and not used as a basis for speculative operation by Mr. Harriman and his associates, and if the resources had not been dissipated through indefensible underwriting commissions, or through payments to syndicate operations, that it would have been possible for the employes to secure more equitable participation in the results of the operation of this railroad.

That states the situation in a nutshell, from the standpoint of the Union Pacific.

Mr. Stone: Do you want to take up in detail the different phases of it?

Mr. Lauck: Just as you like.

Mr. Stone: I think you had better.

Mr. Lauck: On page 260, there is a paragraph describing the construction of the Union Pacific—pages 260-263. That is largely a repetition of what was presented in the history of land grants to Western railroads, and is an abridgement of the report of the Pacific Railway Commission, and of the report of the special committee on the Credit Mobilier. There is shown the facts which I mentioned in giving a summary of the history of the road, that the cost was $50,000,000, and the profit was about $23,000,000, or 48 per cent; that the capital stock issue was practically all without any consideration.

It was the condition of the government in making the grant to the railroad that the stock should be fully paid in. That was evaded by simply having the construction company give its check to the railroad and the railroad in turn endorsed the check and handed it back to the construction company for stock. Or, in other words, the construction company bought stock and gave a check to the railway company. The stockholders in both the construction company and the railroad company were practically the same, and the railway company delivered the stock and gave the check back to the construction company for building the road. But the stock was all fictitious, and was a bonus to the promoters of the road.

On pages 262-3 appears the consolidation of the Kansas and Denver Pacific with the Union Pacific, with the result which I have indicated. This was brought about by Mr. Jay Gould and Russell Sage, and resulted in unloading on the Union Pacific a large amount of worthless securities, which still exist in the capitalization of the Union Pacific and which the productive efficiency of the road has to make payments upon.

Section 4 deals with the insolvency of the Union Pacific; Section 5 with the reorganization. In this reorganization there was no scaling down of securities, and the financial excesses of the past were capitalized and continued, and still continued up to the present time.

Mr. Stone: Before leaving page 262, Mr. Lauck, is that the total cost of the road, in the first paragraph below your table, actual cost of construction?

Mr. Lauck: The construction of the Kansas Pacific?

Mr. Stone: Yes.

Mr. Lauck: Yes, sir. The actual cost of the construction of the added portion alone, as calculated by the Chairman of the United States Pacific Railway Commission, was \$11,800,000, leaving an excess of capitalization over cost of construction for the Denver Pacific of \$13,228,000, and of the Union Pacific of \$23,000,000.

In all, up to the time of this reorganization, there was an excess capital, not represented by considerations received, of about \$50,000,000, composed of the original inflation of the Union Pacific, the addition of the capitalization of the Denver and Kansas Pacific Railways. So, in the time of the reorganization, this was all continued in a new form, and the fictitious capitalization still continues up to the present time, and this capitalization has received about 137 per cent in dividends, or about \$40,000,000 of the productive efficiency of the road has been paid out upon capitalization that did not represent any actual investment in the property.

Sections 6, 7, 8 and 9 have to do with the administration of Mr. Harriman in the Union Pacific.

The syndicate which I mentioned was composed of Mr. E. H. Harriman, George J. Gould, Jacob H. Schiff, of Kuhn, Loeb & Company, James Stillman, of the First National Bank of New York, and Otto H. Kahn, of Kuhn, Loeb & Company.

The first thing that was done after the acquisition of control by this syndicate was to purchase the control in the Southern Pacific, out of which it is estimated by the Interstate Commerce Commission that they made about \$11,000,000, or about 40 per cent on an investment of \$30,000,000, which of course was borne by the Union Pacific.

The next transaction consisted of a purchase of the majority holding in the Northern Pacific, out of which it was estimated that the syndicate made \$20,000,000, or that the Union Pacific paid an excess price of \$20,000,000 for the securities which had been acquired by the syndicate.

The syndicate next sold the Union Pacific the Chicago &

Alton preferred stock, which it had secured for nothing through consolidating the old Chicago & Alton Railroad with the Chicago & Alton Railway, and made a profit, according to market values prevailing at that time, of about $8,000,000. Of course, this stock is hardly worth anything at the present time.

The object in acquiring the Northern Pacific stock was to get control of the so-called Hill group of roads. That was thwarted by Mr. Morgan and Mr. Hill. I think that the Harriman syndicate overlooked one point when they were making these purchases, and that was that the preferred stock of the Northern Pacific could be converted into bonds, and after the fight upon the Stock Exchange in which Northern Pacific went to $1,000, an adjustment was brought about through the realization of this fact by Mr. Harriman, and this led to the formation of the New York Securities Company. This company was declared illegal, and the assets redistributed to the original holders of Northern Pacific and Great Northern stock.

The assets were not distributed, however, in the form in which they were given to the holding company, so the Union Pacific, instead of getting back preferred stock, got other securities, and lost the control of the Northern Pacific.

But the result of all of these activities in a speculative way was great profits to the Union Pacific treasury, and the moneys thus realized after the dissolution of the Northern Securities Company by the United States Supreme Court, were used in acquiring the stock of other railroads, which the Union Pacific held in its treasury. During the year 1906, I believe it was, this road acquired about $120,000,000 worth of stock in other companies, which consisted principally of Baltimore & Ohio Railroad stock, Atchison, Topeka & Santa Fe stock, and Illinois Central stock. Those were the principal companies:

The conclusion which I would wish to make here is the same as I have had in mind on all other roads, and that is that, had the management of this road been limited to its actual operation, and had not the financial management used its operation as a basis for stock speculation, there would have been immense revenues which would have been available for participation in by the employes.

Mr. Stone: Well, these actions of the directors in making these tremendous profits out of these deals simply added to the cost of transportation, and added to the load the road was carrying, and it carries it to this day, doesn't it?

Mr. Lauck: Yes, sir. These activities of Mr. Harriman came to the attention of the Interstate Commerce Commission, as is well known, and they had a special investigation of the activities of the so-called Harriman syndicate, and they came to the conclusion, and stated in their report, that the action of the directors in making these tremendous profits and deals with the corporations whose interest it was their duty to subserve, and in covering the same by increased capitalization, was not only morally wrong, but also added to the cost of transportation, and that the Commission was entitled to the particulars of these transactions, which, however, it never received.

Mr. Harriman was asked to testify as to these transactions. He refused to do so, and the Supreme Court upheld him in that decision. So the actual profits in these transactions were never known.

It particularly exemplifies to what extent a railroad may become a rich field for banking commissions, and for the exploitations of syndicates; how railroad operating revenues may be used as a basis for capitalization which was used for speculative purposes.

Mr. Stone: About what were the bankers' commissions?

Mr. Lauck: The Interstate Commerce Commission could not get Mr. Harriman or Mr. Kahn, of Kuhn, Loeb & Co., to state, and the Supreme Court upheld them in that, but it was estimated that Kuhn, Loeb & Co. made about \$3,000,000 out of these deals, and that the syndicate made about \$22,000,000 in the dealings in stock.

Mr. Stone: It is also a fact, is it not, that the operating success of the Union Pacific has been very remarkable?

Mr. Lauck: Yes, sir. Outside of financial transactions which have loaded it with a lot of undesirable and indefensible securities, the operating management has a great field in the way of Trans-Continental traffic, and the operating revenues have been remarkable, and still continue to be very large.

Mr. Stone: The road, perhaps, put more money in investment of new equipment than any other line in the history of the country, did it not, in the same period of time?

Mr. Lauck: Yes. While it was carrying on this financial policy—while this was being done by Mr. Harriman and his associates, I think they spent between $50,000,000 and $75,000,000 on this road for improvements. About $15,000,000 of that came out of current income of the road.

Mr. Stone: In spite of the tremendous load it was carrying of maintenance charges and the maintenance charge loan, it was able to take this much from income in that time?

Mr. Lauck: Yes, sir. Remarkable operating revenues have been developed.

Mr. Stone: It also kept up its dividends on stock?

Mr. Lauck: Its dividends have—

Mr. Stone: Since 1900, I mean?

Mr. Lauck: Yes, sir. They have been uniformly maintained, and up to the past year were 10 per cent.

Mr. Stone: The common stock?

Mr. Lauck: The common stock, yes, sir. The dividend on the preferred has been maintained uniformly throughout.

Mr. Byram: Mr. Lauck, in what way have the engineers and firemen on the Union Pacific been injured by the transactions which you have instanced?

Mr. Lauck: In no way directly.

Mr. Byram: How have they been injured indirectly?

Mr. Lauck: They have been injured indirectly by the fact that capitalization has been issued which will absorb revenues. The capitalization has been without adding one dollar to the earning power of the road.

Mr. Byram: But there are ample resources to pay the men?

Mr. Lauck: There are ample resources, yes, sir.

Mr. Byram: And is the margin so small that it is likely to be eliminated?

Mr. Lauck: No, sir, I don't think—just as I have been pointing out.

Mr. Byram: Then how can there be any present or future injury to the employes?

Mr. Lauck: Well, there may not be any future, but if it should be considered that employes should participate in revenues on a different basis from what they are now participating—they are now participating on the basis of supply and demand and the power of organization—if there should be a larger measure of participation, why, of course, we would find that the revenues of the Union Pacific has been absorbed by a payment of dividends upon capitalization, which represented no investment in the road, and part of its resources had been dissipated by the giving of commissions and underwriting fees to persons who had sold securities to the road.

Mr. Byram: Is it your theory that the employes should have higher wages on a road that operates under greater productive efficiency than on a road adjoining which may not be so productively efficient?

Mr. Lauck: Considering them road by road, I should think so; but if we are considering it from the standpoint of the joint movement or concerted movement of this kind, I should say no.

Mr. Byram: If I understand you right, the only way that the employes of the Union Pacific could be injured would be in case the new theory which you advocate should be adopted, of participation in productive efficiency, and that then there should not be sufficient profit to give them as large a share as they ought to have in such productive efficiency.

Mr. Lauck: Yes, sir. I am not, of course, advocating a theory that there should be a new method of wage payments adopted, in settling the distribution of the output of an industry, but urging this as an offset to the claim, if it is made—which I inferred was made—that the employes have participated more than equitably now in the revenues, as compared with capital, and in the concluding statement in my productive efficiency argument, that in the distribution of the output, the employes have not participated equitably, as compared with capital.

Mr. Byram: I understood you to say yesterday that you thought there should be a new era.

Mr. Lauck: I think so. That was a personal opinion.

Mr. Byram: Is not that introduction of the new era you think ought to prevail—is not that the only condition under which the employes of the Union Pacific could be injured?

Mr. Lauck: Under present conditions, yes, sir; I think so. There is plenty of revenue there available to pay them now.

Mr. Byram: And they cannot be injured by anything that has happened in the past—the employes, as long as the present basis of determining wages continues?

Mr. Lauck: No, sir; I should think the ones that have been injured would be the public there.

Mr. Burgess: But, Mr. Lauck, if this Board should hold that they could not consistently grant an increase to the engineers and firemen, due to the inability of the Union Pacific or any other railroad to meet that advance, then they would be directly affected, would they not?

Mr. Lauck: Yes, sir.

Mr. Stone: Mr. Lauck, we hear quite a good deal about the theory of productive efficiency. Is productive efficiency any longer a theory? Is it not a well established fact and accepted?

Mr. Lauck: I think so, yes, sir. I hope I have not created the impression that I was attempting to develop some new fangled theory here, as to method of wage payments. The idea was, using the term "productive efficiency"—probably ought to use the word "productivity," or "output;" that the men have produced certain revenue in which they should have a participation. That is the idea in a nutshell.

Mr. Park: Mr. Lauck, where is this theory in practical working on the railroads in any other country, except the United States, where I understand it is not?

Mr. Lauck: Well, there is no theory working anywhere by the name of productive efficiency. I don't think it is called by that. I think the fact that you are basing rates of pay upon cylinders—I believe is the basis now, is it not—is recognition of the theory, or that you are giving higher rates to larger engines than smaller engines, is a recognition.

Mr. Park: Is that not on account of the increased responsibility, as claimed by the engineers?

Mr. Lauck: I don't know the basis of it, but it seems to me that is a recognition of the fact that one man is doing more work than another, and producing more than another, and, of course, you have the same idea applied in all systems of so-called scientific management, where bonuses are paid, where the time element and the stop watch is used. You have a specific application of it there, but it seems to me, on the railroad, there is either an unconscious or conscious recognition of the idea.

Mr. Park: Did not the Santa Fe offer to pay the engineers a bonus at one time, and it was refused?

Mr. Lauck: I believe Mr. Keefe told me that, but I don't know. He said they tried some such system. I don't know anything about it.

Mr. Park: It is only in manufacturing and in so-called profit-sharing institutions. It is somewhat experimental, is it not?

Mr. Lauck: No, sir; I don't think that this theory is experimental. I think it is the facts of existence in all industries. That is, it is really what is the basis of wage payments. The basis of wage payments is conditioned upon what the man is worth to the employer, and the rate is fixed according to the relative bargaining power of the two parties. That is, if I wish to employ any one in my service, I would estimate in my mind what the value of his services were to me, on terms of what he could produce, or what services he could render. Then, I would offer him probably a minimum amount, and he would request the maximum amount, and we would adjust a rate somewhere in between those two points.

Mr. Park: So that that would be practically a piece-work basis. You would pay him for what he turned out each day in a factory?

Mr. Lauck: In a factory, yes, sir. If it was like a cotton mill, you would pay him so much per cut for weaving cloth, or so much per hank for spinning yarn; or a steel mill, so much each time the puddlers worked the furnace, and so on; but I was attempting to put it on the basis—the general basis of wage payments. That is, the work of a man is what he can produce and his wage payment is an approximation of what that is, it seems to me.

Mr. Park: Why, then, in your opinion, do the engineers in other railroad organizations, so strenuously oppose piecework or bonus systems, which are based upon increased productivity of the individual?

Mr. Lauck: I did not know that the engineers and firemen did that. I had heard that it was opposed by the machinists. I believe it did come to my attention that the machinists—

Mr. Park: It is quite generally known, I believe, that they oppose piecework very strenuously, and even in the United States Government Navy Yard, where they have work of this character, that efficiency methods and piecework methods are opposed, even to the extent of introducing legislation in Congress to prohibit it.

Mr. Lauck: Yes; that is what had come to my attention—the Watertown Arsenal, and so forth.

Mr. Park: Why do you think labor opposes the reward for the increased productivity in this way?

Mr. Lauck: I think that they have a notion—machinists have—I have heard a number of them testify as to why they opposed that. They have the notion, whether it is justifiable or not, that the stop watch and the time-setting systems are used to create a basis, which the rank and file cannot keep up with. Those are the reasons that they publicly stated.

Mr. Stone: They get one expert, an unusually skilled workman in one particular line, and they use him as a pacemaker for all the rest, do they not?

Mr. Lauck: That is what they say; that is their statement.

Mr. Stone: It is just on the same principle that you speed a machine beyond a certain speed, and you have got to the danger line, and you have got the human machine speeded beyond the limit. Is not that the objection?

Mr. Lauck: Yes, sir.

Mr. Stone: As soon as a man, through extra skill, produces more than they think he ought to, they at once proceed to cut his wages, so that he cannot make any more than he did before. That has been the practice referred to that has been put in, has it not?

Mr. Lauck: That is what they claim. I have not investigated that. Can I ask you a question, Mr. Stone?

Mr. Stone: Yes.

Mr. Lauck: Are the rates of pay to engineers and firemen piece rates or not?

Mr. Stone: We think the man in road service is a piece worker, with a guaranteed minimum day. He works by the mile, so many pieces, and when he turns out a hundred of them, he has turned out a day's work. He is guaranteed, if he is called on and starts the machine, that he will be paid a day's work; but regardless of whether this productive efficiency is recognized or not, the rating of the wages of engineers and firemen, by either weight on drivers or size of cylinders, has exactly the same effect. He produces more, and our contention is then all the way that the wage of the man has not increased with what he is producing.

Mr. Lauck: Yes, sir; it was my impression that the prevailing methods of wage payments were, in reality, a recognition of the idea, and that our contention was that the productivity had not kept pace—payments had not kept pace with the productivity.

Mr. Stone: Anything further on this?

Mr. Lauck: Nothing further, no, sir.

Mr. Stone: How much fictitious capitalization was issued in connection with the original Union Pacific Railroad?

Mr. Lauck: About $30,000,000 expressed—about $43,000,000 expressed; in terms of market values, about $23,000,000. The par value is about $43,000,000.

Mr. Stone: What do the dividends amount to that have been paid on that watered stock?

Mr. Lauck: It is estimated that the dividends aggregate —including this last special dividend,—for the whole period of past years, about 136 per cent or about $41,000,000, or $42,000,000.

Mr. Stone: How did the reorganization of the company in 1885 affect its capital stock?

Mr. Lauck: When the reorganization took place, there was no scaling down of the securities that had been issued before that time, but the worthless securities which had been imposed upon the consolidation of the Kansas Pacific and Denver Pacific were continued, and securities also that had been issued at the time of construction, which represented no investment value, were continued. There was some slight addition to the par value of the total capitalization also.

Mr. Stone: Is this statement correct, on the bottom of page 259, that "The amount received annually by the Union Pacific in interest and dividends on securities of other roads in which it has invested its surplus and from other loans and deposits is $4,800,000 more than the amount annually disbursed on its funded debt."

Mr. Lauck: That was true before they disposed of their B. & O. stock.

Mr. Stone: That special melon was cut last year?

Mr. Lauck: Yes, sir. That would be reduced now by the amount of the dividend which they received on the B. & O. stock. If they had, instead of buying these securities after the Northern Securities Company failed, used the proceeds, then they would have had a sufficient amount of money to have paid all their funded debt at that time, and have no outstanding funded obligations whatsoever.

Mr. Stone: That is, instead of distributing this to the stockholders?

Mr. Lauck: Yes, sir.

Mr. Stone: It is a fact that they are disposing annually in dividends on common stock that was issued without consideration?—

Mr. Lauck: Yes, sir.

Mr. Stone: (Continuing) Of a sum of money that is more than twice as great as the total compensation of their engineers and firemen?

Mr. Lauck: Yes, sir.

Mr. Stone: That should answer the question whether or not they are able to stand an increase in wages?

Mr. Lauck: Yes, sir. Of course they are perfectly able to stand it. The road is very prosperous.

Mr. Stone: Do you want to say anything further in regard to the Union Pacific land, or did you cover that the other day?

Mr. Lauck: I covered that fairly well when I went over all the land grants for all the Pacific roads, the Union, the Kansas, the Sioux City and the Denver Pacific.

Mr. Stone: Do you understand the Union Pacific still holds their Illinois Central stock?

Mr. Lauck: I think so, yes, sir.

Mr. Stone: Have they disposed of their Chicago & Alton stock?

Mr. Lauck: No, sir, they have not, as far as I know. I presume they regret that they have not. The stock they paid about $8,000,000 for is practically worthless now, or worth very little.

Mr. Stone: It has a market value of $2,000,000, and pays no dividends?

Mr. Lauck: That was a case where the Alton syndicate unloaded on the Union Pacific the stock which they had acquired through the inflation of the capital of this road.

Mr. Stone: It is a fact that the Union Pacific has greatly increased its financial debt by many millions of dollars in order to make purchases of Northern Pacific and Southern Pacific and other stocks?

Mr. Lauck: Yes, sir. I think the principal addition in debt was the authorized issue here of $100,000,000 convertible bonds, which were later changed into common stock. The bonds originally paid 5 per cent interest and the common stock pays 8 per cent, and it has paid 10.

Mr. Stone: In this history of the Union Pacific do you show anywhere the St. Joe and Grand Island?

Mr. Lauck: No, sir.

Mr. Stone: That is handled separately and distinctly?

Mr. Lauck: Yes, sir.

Mr. Stone: It is now owned as a part of the Union Pacific, although operated separately?

Mr. Lauck: Yes, sir: As to the St. Joseph & Grand Island, the Union Pacific has concurrently owned it and lost it. They would have a receivership or a change in management and they would lose the St. Joe & Grand Island and take it back again afterward, and now they have it in their possession.

Mr. Stone: Do you cover that anywhere in this exhibit?

Mr. Lauck: Yes, sir.

Mr. Stone: I think it might be well to take it up in connection with the Union Pacific.

Mr. Lauck: It has quite a remarkable history for a little piece of road. That is found on page 340.

Mr. Stone: Tell us just what happened to it.

Mr. Lauck: That road has had a history similar to most of the other roads in the West. It started out with a land grant of 437,000 acres, and had a capitalization of $10,000,000. It was constructed with an excess estimated capitalization of about $2,000,000 out of the $10,000,000. It went into the hands of a receiver and was reorganized in 1885. At that time there was an increase in capitalization, without investment in values being increased. It was reorganized again in 1897, which led to a further increase in its capitalization of an excess of about $9,000,000, and after this reorganization it was acquired by the Union Pacific, which had also owned it prior to the 1885 reorganization, and had lost it in 1893, when the Union Pacific went into the hands of a receiver.

The general conclusion that was arrived at from the study of this road, is found in the middle of page 340, to the effect that 50 per cent of the capital was excess or fictitious, and that the traffic is called upon to pay dividends upon this excess capitalization.

Since the last acquisition of the road by the Union Pacific, there has been a protest on the part of the St. Joseph & Grand Island minority stockholders to the effect that the Union Pacific is using this road for the benefit of the Union Pacific, and to the detriment of the minority stockholders. That is, it is claimed that the Union Pacific is using the earnings of the road to improve only that part of the system used by the Union Pacific, from Lincoln to Hastings, Nebraska, I think the points are, and the effort has been made to enjoin the Union Pacific and to compel them to improve other sections of the road, and to use the earnings of the road for the payment of dividends to the stockholders of the St. Joseph & Grand Island.

That is considered on page 349 under the caption "The Policy of the Union Pacific." The quotation there from the Commercial and Financial Chronicle gives the views of the minority stockholders, and on the succeeding page, Judge Lovett, Chairman of the Union Pacific, issues a denial of the statement. The only salient thing about this road, from our standpoint here, as is characteristic of most of the roads we have considered, is the claim that through excess capitalization, revenues have been hypothecated, or will be hypothecated, and that an equitable participation in productive efficiency or in revenues thereby might be denied to the employes.

I believe that is all I have to say about that road.

Mr. Stone: All right.

Mr. Lauck: The next road I think it would be well to take up, is the Missouri, Kansas & Texas. That is found on pages 244 to 250.

Mr. Stone: How was the Missouri, Kansas & Texas Railway constructed and financed in its early history?

Mr. Lauck: It was constructed on the basis of land grants. The direction which the line would take was largely dependent upon the amount of land which could be secured; that is, a great many sections which subsequently were found to be unprofitable from the standpoint of the railroad, were first acquired on account of land which could be secured in going in that direction when they were constructing the railroad.

Mr. Stone: You would understand from that, they had not any well defined plan, but simply went where they could get the most land?

Mr. Lauck: Of course, they had a plan of construction.

Mr. Stone: In a general direction?

Mr. Lauck: Yes, sir. But they diverged from that plan, it is claimed, in order to acquire lands which were more valuable. It was constructed by the usual methods in those days, of collusive arrangements between the stockholders and construction companies, and a great deal of added capitalization and cost was imposed upon the road through this kind of construction company methods.

It is also pointed out by the committee which investigated the road later, in 1888, that bonds were issued for a road which was never built, and those bonds have been continued in the capitalization of the company up to the present time, and represent a loss up to the present time of about $4,000,000. The road became insolvent in 1876 and was reorganized, and the previous excesses were capitalized and continued.

In 1881 the Gould group, or Gould-Sage group of financiers, acquired control of the road and systematically depleted it until 1888. They purchased control of the Missouri, Kansas & Texas. They then had the Missouri, Kansas & Texas purchase the International & Great Northern Railroad, and they leased the Missouri, Kansas & Texas to the Missouri Pacific. Then the Missouri, Kansas & Texas was made to bear the brunt of the losses of the operation of the International & Great Northern, while the Missouri Pacific got the traffic from the International & Great Northern, and both roads were looted by the Missouri Pacific through this arrangement.

The Chairman: We will now take a recess.

(Whereupon, at 12:30 o'clock P. M., a recess was taken until 2:30 o'clock P. M.)

AFTER RECESS.

W. JETT LAUCK was recalled for further examination, and having been previously sworn, testified as follows:

Mr. Stone: When we adjourned for lunch we were on the M. K. & T., I believe.

Mr. Lauck: Yes, sir. When we adjourned for lunch I had about concluded a brief summary of the finances of the M. K. & T. The part which I had not mentioned was that after the Gould-Sage group got control of the road, they required the M. K. & T. to buy the International & Great Northern. They then leased the M. K. & T. to the Missouri Pacific, and diverted traffic from the International & Great Northern to the Missouri Pacific, and practically rendered both roads insolvent by this method and by failing to maintain proper maintenance charges, and the M. K. & T. was thrown into the hands of the receivers.

The International & Great Northern was sold to the Missouri Pacific, and the net result of the acquisition of this line and the Gould dominion was that about nineteen and a half million dollars of capital stock, which the M. K. & T. had issued in return for the International & Great Northern, remained in its capitalization, without any corresponding assets beyond about one million dollars, which was paid as an assessment on the stock at the time of the reorganization of the International & Great Northern.

The conclusion at which I arrived as a result of the financial history of this road, was that the original bounty of the Government was used largely in its construction; that excess capitalization to the extent of about $30,000,000 was added to it, through its history, and through the Gould control, and dividends and interest charges aggregating about $30,000,000 had been paid upon this up to June 30, 1913; and that bonds had been issued to the extent of slightly more than $1,000,000, to construct a branch of this road, which branch was never constructed, and the bonds still exist in the capitalization at the present time.

Mr. Stone: How much of the company's capitalization represents no value—represents water?

Mr. Lauck: The estimate at which I arrive was about $30,000,000.

Mr. Stone: What is the annual interest charge on this capitalization?

Mr. Lauck: I think it is about $1,000,000 annually. I don't recall exactly.

Mr. Stone: Anything further you want to say on the M. K. & T.?

Mr. Lauck: Nothing, no, sir. Nothing further.

Mr. Stone: Take up the next road then.

Mr. Lauck: I take up next the Duluth, South Shore & Atlantic. It is on page 276.

The only point of interest in connection with the Duluth, South Shore & Atlantic in this connection, is that the initial capitalization of the company was water, to the extent of about $18,000,000, at the time that the syndicate which established the line disposed of it to the railroad company proper. This constitutes a claim on future productive efficiency, if any is ever derived from this road—no dividends have ever been paid upon its stock, and the interest requirements upon the bond issues have not been met for a number of years; the road is owned by the Canadian Pacific, and is chiefly of value as a feeder or as a part of the Canadian Pacific System, which is a very prosperous road, and the Canadian Pacific, rather than bring about a foreclosure of the Duluth, South Shore & Atlantic, has allowed the interest payments to accumulate, and has not required payment.

Mr. Stone: How much interest has accumulated under this plan?

Mr. Lauck: The Canadian Pacific holds about $18,000,000 of funded debt of this road, and up to June 30, 1913, the end of the fiscal year, it exceeds $7,000,000, I think. I say:

"Funded obligations of the railroad to the amount of $18,-107,000 are held by the Canadian Pacific, which has allowed the unpaid interest to accumulate in preference to a reorganization until it exceeds seven million dollars."

It was evidently a mistake to build this road as an independent road along the Great Lakes, where it had competition with water service, and a territory which was already covered by practically other roads. As an independent road it would not have been successful. As a branch of the Canadian Pacific Railroad—its value arises chiefly from that fact.

Mr. Stone: In considering the increased wages to engineers and firemen by this road, should the Duluth, South Shore & Atlantic be considered by itself, or in connection with the Canadian Pacific?

Mr. Lauck: It should be considered as an integral part of the Canadian Pacific, it seems to me.

Mr. Stone: Anything further on that?

Mr. Lauck: No.

Mr. Stone: Take up the next.

Mr. Lauck: I will take up next, the Denver & Rio Grande. That appears on page 286. The most significant facts in connection with this road, in relation to the argument which we are endeavoring to put forward is that from 1873 to 1886, it was characterized by management which has been considered improper, and by too rapid extension and very sharp competition with other roads. From 1886 to 1908, there was a gradual improvement in the financial operation of the road and in the operating efficiency of the road. About that time, the Denver & Rio Grande, owing to the fact that the Rockefeller-Harriman group had gotten control of the Union Pacific and Southern Pacific, was shut off from connection with the Pacific Coast, and it was deemed wise to go to the Pacific Coast, over its own rails, in order to prevent itself from being shut off from Trans-Continental traffic, and the Western Pacific extension of the road was projected and constructed. That has been a considerable drain upon the financial resources of the Denver & Rio Grande, owing to the fact that the Denver & Rio Grande agreed to meet the unpaid interest charges upon the bonds of this road, and owing to the fact that the road was financed entirely through bond issues. The stock was issued as an indication of ownership entirely and taken into the treasury of the Denver & Rio Grande without any consideration. The result has been that the Western Pacific since its completion—before its completion, it was a drain upon the parent company, for the reason that interest charges had to be paid during the progress of construction, on bonds that were issued for construction. I think about $12,500,000 was paid by the Denver & Rio Grande in that way, and since its construction and operation it has not met its fixed charges. It has been carried by the Denver & Rio Grande from year to year, until finally, the other day, it was placed in the hands of receivers—that is the Western Pacific, and I suppose for the purpose of relieving the Denver & Rio Grande from these charges.

Mr. Sheean: Is that the operation that you say was necessary and economically justifiable?

Mr. Lauck: Yes; I think so; ultimately will be profitable. It will depend altogether on the development of traffic in Utah and Colorado, and possibly the Western Pacific would have fared much better, had it not been for special conditions which have obtained in those states, as I understand it, during the recent years. For instance, the coal strike in Colorado and the decreased traffic, for that reason.

When this study was made, I did the thing which no one should ever do, and that is sort of prophesy, and I prophesied that the Western Pacific would be a paying property, which recent events have not justified. That is, the Western Pacific this week, I think, went into the hands of receivers. Ultimately, it seems to me, it should be, though.

Mr. Sheean: If financiers have backed that opinion given by you and exerted at the time this book was gotten up, there would be of necessity no reorganization without what you call watered stock.

Mr. Lauck: I cannot get that question.

Mr. Sheean: I say, if financiers, acting on your opinion as an expert, at the time you gave this opinion—had this opinion been given to a group of financiers, who had put their money into the property, based on your opinion, then on a reorganization plan there would have to be some shrinkage in the value of those securities—based on your opinion?

Mr. Lauck: Yes, it would have been a wrong opinion. It would not have been justified by economic developments, although I think the significance of the Western Pacific receivership is not due to the fact that the road may not become profitable, but to relieve the Denver & Rio Grande. Also it is due to the fact that if, instead of issuing $50,000,000 of first mortgage bonds they had issued $25,000,000 of bonds and $25,000,000 in stock, the stockholders could have waited for the profits which the bondholders can not do, or could do, but legally are not required to do. The situation has been developed by the conditions of financing the road. The bonds are largely held by the Denver & Rio Grande, or a considerable portion of them. If the people who put in their money had taken the irsk and taken stock instead of bonds, and waited for the gains which would have come, the road would not have gone into the hands of a receiver. It would have been a case of the stockholders waiting until the road became productive, instead of putting it in the hands of receivers, on account of the bondholders.

Mr. Stone: The idea of the Western Pacific in building was to give the Gould properties an outlet to the Pacific Coast, was it not?

Mr. Lauck: Yes, sir.

Mr. Stone: And eventually it will probably give them a heavy through business? They have the same right to expect a heavy through business over the Missouri Pacific and Denver & Rio Grande that other trans-continental lines have?

Mr. Lauck: Yes, sir; I think so. The opinion I ventured when this was prepared was not based on any personal opinion. Of course, I would not presume to venture an opinion of that kind, not being qualified to do that. It was based upon the current comments in Poor's and Moody's manuals.

Mr. Stone: At that time, you did not know there was going to be a coal strike in Colorado and several other things have developed since, have they not? You did not know that the so-called panic was coming on then?

Mr. Lauck: Nor the European War; no, sir, nor the Panama Canal, not at that time.

Mr. Stone: It is out of commission again for a while.

Mr. Lauck: This road was intended originally to go from Denver to El Paso, I think, but owing to the fact that the Atchison built the Colorado Midland, it went westward, instead.

Mr. Stone: You are speaking now of the D. & R. G. or Western Pacific?

Mr. Lauck: The Denver & Rio Grande.

Mr. Stone: Was it intended originally to go to El Paso?

Mr. Lauck: It was designed to extend from Denver to El Paso, Texas. A treaty of peace with the Atchison turned it westward rather than southward.

Of course, as I stated, this $50,000,000 of stock of the Western Pacific represents no investment, nothing having been added to the earning power of the road, and no money having been put into the road through the issue of that stock. Of course, if the road ever becomes profitable it would have a claim upon the productive efficiency of the road; just like the Puget Sound lines would have in the case of the St. Paul. I believe the St. Paul and Puget Sound lines have now consolidated, and the $100,000,000 worth of stock that was issued without consideration there, would not have the effect that this will have.

Mr. Stone: So we have another example of the Denver & Rio Grande controlled by the interests of the Missouri Pacific, although they do not have a controlling interest in the stock?

Mr. Lauck: Yes, sir. The Denver & Rio Grande, up to recently, has been controlled by the formation of a working group between the Goulds and Rockefellers, if I remember correctly. That is, neither one has a majority of the stock, but both working together can control the road. Recently it has been rumored in the financial papers like the Wall Street Journal or the Journal of Commerce, that the Gould interest has been sold, and Kuhn, Loeb & Company have control of the road and are going to reorganize the entire system. There has also been occasion for the Denver & Rio Grande to issue its own securities in order to make payments to meet its obligations on the Western Pacific. I think they issued about $5,000,000 of preferred stock, which, of course, is a claim upon the productive efficiency of the Denver & Rio Grande property.

Mr. Stone: What are the future prospects of the Denver & Rio Grande from the viewpoint of the financial condition?

Mr. Lauck: It seems to me that the prospects are exceedingly good from the standpoint of operating developments and profits. It should become a profitable road and should resume dividend payments.

Mr. Stone: Is there anything else you want to say on that?

Mr. Lauck: That is all, sir.

Mr. Stone: Take up the next one, please.

Mr. Lauck: I will take up the Wabash Railroad next, in view of the fact that it is also a Gould road. That is found on page 368. The financial difficulties of this road date back to its formation in 1889, when there was a large amount of excess capital stock issued through the consolidation of the small properties which entered into the formation of the Wabash Railroad. It carried an initial capital of about $85,000 a mile, as compared with a prevailing capital in this territory of other roads, of about twenty to thirty thousand dollars a mile.

The occasion of the present insolvency was due to the Gould management, which secured control of the Wabash, and was primarily occasioned by the expansion of the securities of the Wabash, to finance other Gould projects, like the Wabash-Pittsburgh Terminal, and by the traffic arrangements with the Wheeling & Lake Erie, and by guaranteeing notes of the Wheeling & Lake Erie; the guaranteeing of notes taking $400,000 annually from the revenues of the Wabash and the traffic arrangement depleting its revenues, on the other hand, and by the general increase of securities of the Wabash Company proper.

So you have a case in the Wabash of the road being excessively capitalized at the start, and further capital having been added without justification, by the schemes of the Gould group to secure a transcontinental railroad from coast to coast.

This has been acknowledged by Mr. Gould himself. When about to sail for Europe, on June 9th, Mr. Gould was quoted by the Commercial and Financial Chronicle as saying:

"The Wabash-Pittsburgh Terminal Railway was unfortunately overcapitalized. We probably could have carried it through, but I did not want the Wabash to become overloaded with things which might pull it down."

Mr. Stone: Well, something happened to pull it down. The load must have proven too heavy, as it was.

Mr. Lauck: Yes, sir, the load was too heavy, and it became too much of a burden upon its revenues, which finally resulted in insolvency.

Since insolvency, there has been an effort to rebuild it, and by making extensive improvements and improving the equipment, and trying to develop better operating conditions, but I do not think those efforts have met with success, and since the report of last year it has generally become recognized that the Wabash would have to become reorganized, and the capital obligations scaled down considerably. That seems to be the only way out of the dilemma.

I believe that is all I have to say about the Wabash, Mr. Stone.

Mr. Stone: Go on to your next.

Mr. Lauck: Take up another Gould road, the St. Louis & Southwestern. That appears on page 302.

This road was originally built to compete with a Gould road, the St. Louis, Iron Mountain & Southern, but it was acquired by Mr. Gould, and exploited in the interests of the St. Louis, Iron Mountain & Southern, to which a large portion of its financial condition is due.

It started out as a narrow gauge road for years, and was finally rebuilt practically, or a third rail added. The capitalization increased greatly from year to year, until in recent years the capitalization has been excessive.

In the reorganization of 1890, it is estimated that about \$33,000,000 in fictitious securities was added to its capitalization, which was equivalent to about all the common stock, and 75 per cent of the preferred stock.

In 1888, the occasion for Mr. Gould getting control of the system, was the purchase by him for \$2,000,000 cash, of \$6,-000,000 worth of second mortgage bonds of the company. In making this purchase at a discount of 66⅔ per cent, they agreed to allow Mr. Gould to name the board of directors or the majority of the board of directors, which he did, and obtained control of the road. And this transaction, next to the overcapitalization, was the most unfortunate thing that happened during the financial history of the road.

The road had been built by local capital, to compete with Mr. Gould's road, and instead of that, it became subject to the St. Louis, Iron Mountain & Southern. The interesting episode in connection with these bonds was, that after buying these bonds and securing control of the road, under the claim that additional capital was needed, the form of capitalization was changed and the price of these bonds was boosted, and the bonds were sold at about 90 on the market, by Mr. Gould. So, he obtained control of the road, made about 60 points on the bonds, and still had the road. I believe that is all of any importance in connection with the road.

Mr. Stone: The operation of the road, after they had acquired control, was sacrificed in the Gould interests.

Mr. Gould: Yes, sir; was sacrificed to the St. Louis, Iron Mountain & Southern, against which it had been built to compete. This preferred stock, 75 per cent of which was without investment value, I think, paid dividends in 1910, 1911 and 1912, but I am not certain whether it still pays dividends or not.

Mr. Stone: About how much dividends have been paid on this $17,000,000?

Mr. Lauck: In 1910, 5 per cent; 1911, 4 per cent; 1912, 4½ per cent. Since then I have no record. It was a case—I think the annual dividend charge—I have a note in that connection. The divdends which were last paid in 1913, if I am correct, were $860,000 upon this preferred stock, 75 per cent of which is without investment value, and the total cost of engineers and firemen upon this road is only about $333,000 per annum.

Mr. Stone: The company was handicapped with a capitalization—started off with a handicap in capitalization of over $37,000.

Mr. Lauck: $37,000,000?

Mr. Stone: $37,000 per mile.

Mr. Lauck: Oh, yes, sir.

Mr. Stone: And the statement also says that the property, even now, is not worth more than $15,000 per mile, valued from any basis.

Mr. Lauck: Yes, sir; the point of that, from the standpoint of our argument is, that this capitalization constitutes a claim which is partly met upon the productive efficiency of the road—constitutes an unjustifiable claim, I should have said.

Taking up the next road, the Colorado & Southern. That appears on page 352. This road, in its construction, had the same history as a great many Western roads. It was constructed by companies which really represented the stockholders, and excess stock was issued on that account, and then later, in 1890, the road was acquired by the Union Pacific, Denver a Gulf Railway, which resulted in the increase of its capital stock by about $100,000,000, without any compensation in the way of investment values. The road then passed into the hands of receivers and in the reorganization, the funded debt was reduced, but the total capitalization was continued in the form of stock liabilities, part of which was preferred, which committed it to dividends, when dividends were earned, and since the acquisition of the property by the Chicago, Burlington & Quincy, dividends have been paid upon the first and second preferred stock of 4 per cent, and I think one to two per cent has been paid, at times, on the common stock. Practically all of the stock of this road, based upon the fact of its early construction and of its acquisition by the Union Pacific, Denver & Gulf, was fictitious; represented no investment value, and from that standpoint, does not deserve dividend payments, and the dividends on all classes of stock constitute a drain on the productive efficiency of the road.

Mr. Stone: This road is now controlled by what?

Mr. Lauck: The road is now owned by the Chicago, Burlington & Quincy Railroad, which acquired it in 1908.

Mr. Stone: Do they own it or control it, which?

Mr. Lauck: They control the road. They paid for this control $16,416,337, so the Chicago, Burlington & Quincy, really, in purchasing the road, put investment values into the—from the standpoint of the Chicago, Burlington & Quincy, it represents an investment value. From the standpoint of the original stock issues, it represents no investment value. In other words, the Chicago, Burlington & Quincy put real money into the property, to control it—$16.000,000, but the securities were issued without justification, originally.

Mr. Stone: It was acquired when the Hill lines were seeking an outlet to the Gulf?

Mr. Lauck: Yes, sir. It was a low grade line, I understand, to the South, and should be a profitable outlet in that way.

Mr. Stone: It also touches the large mining fields of Colorado?

Mr. Lauck: Yes, sir, I think so. The point in connection with it is the same point we have been repeating, to the effect that it is a case of securities having been issued, without justification, which may absorb and do absorb earning power arising from productive efficiency, or operating efficiency of the road, or the men working on the road.

Mr. Byram: What is the status, from your theory, of the money that the Chicago, Burlington & Quincy paid—this $16,-000,000? What is the status of that investment, from your theory?

Mr. Lauck: I meant to convey the idea in making the statement, that that was a legitimate investment; that the Burlington had really purchased the stock, and put the investment value, from their standpoint, into the property.

Mr. Byram: Then, by paying for it, it has been changed from fictitious to real value; is that right?

Mr. Lauck: Well, I think perhaps I could make myself clear in general, by saying that I don't think we can do anything about these stock issues—that is, whether they were fictitious originally, or not, or whether they were real or not. They have been issued and passed into the hands of innocent purchasers; so, like the Burlington, in the case of this road, which has put its money into the road, and, therefore, has a legitimate claim upon the revenues of the road. If we take any road, practically, all stock has changed hands. If we still had the original holders of the stock, who got it for nothing, I should say we should not consider them in any question as to ability to pay, but the point I wish to bring out is simply that productive efficiency has been absorbed, by capitalization, without any investment values—without reference to whether rightfully or wrongfully, the holders of the present securities should have a participation.

Mr. Byram: Well, what I meant was, presumably the Chicago, Burlington & Quincy acquired some of that fictitious stock?

Mr. Lauck: They did, yes, sir.

Mr. Byram: Well, then, I wanted to ask if that fact, that the Chicago, Burlington Quincy paid cash for that stock, transformed it from fictitious to real value?

Mr. Lauck: No, sir, I don't think so.

Mr. Byram: What did become of the value that the Burlington put into the stock?

Mr. Lauck: Well, probably we are using "fictitious" in different senses. The Burlington purchase represents, to my mind, a real investment. They bought the stock and paid for it, and should have a return on the investment.

Mr. Byram: Yes, but the money was invested for what you call fictitious stock. Now, if the stock was fictitious before the Burlington bought it, and it is not now, then how could it have been fictitious before?

Mr. Lauck: It was originally and is and always will be fictitious, according to my contention, in view of the fact that it was issued without consideration.

Mr. Byram: Then, the question as to whether it represents value now has no place in your theory; because it did not originally represent any value, according to your theory it never can. Is that it?

Mr. Lauck: Oh, no, sir. My theory is, or my point is, that the security is issued without any addition to the earning capacity of the property.

Mr. Byram: You said, I think, in the first place, about the issue of the stock, it did not represent any investment.

Mr. Lauck: No investment.

Mr. Byram: No investment value?

Mr. Lauck: Then say that the railroad goes forward and develops earning power, and becomes very profitable, dividends are paid upon the stock; then it has a distinct value in the market; may be more than par; may be $200 a share; and it is valuable. But, according to my point of view it still remains fictitious, because it was issued without any investment value, or anything being put in the road.

Mr. Byram: There could not be any proper valuation of the increased earning capacity of the railroad, according to your theory?

Mr. Lauck: There could not be any proper valuation?

Mr. Byram: Yes, that is what I mean.

Mr. Lauck: Oh, yes, sir, I would not dispute that, either. That is, that the earning—

Mr. Byram: Why does not this fictitious stock that you speak of then, at this time, represent what the Burlington Railroad people believed was a real value in the stock?

Mr. Lauck: It probably did represent a real value.

Mr. Byram: Does not that change it into a real value from one that was not originally a real value?

Mr. Lauck: From the standpoint of the investor, yes, sir; not from my standpoint. I do not mean to say by that it is not valuable, but my argument is, or my point is, that securities were issued which have the effect of absorbing the revenues of the road thereby become valuable, and that is a diversion of revenues to capital which might be used for labor or might be used for improving the road or might be used for the benefit of the public, or any other purpose.

Mr. Byram: Your naming of it as fictitious is hardly correct.

Mr. Lauck: My naming of it as fictitious is on this assumption, that it was issued without any addition to the earning capacity of the road originally. It might be that a railroad would issue stock which had no investment value and then in subsequent years use part of its earnings to make improvements which would put tangible values behind that stock and thereby it would not only incur a market value but tangible value. Still, I would claim from the standpoint of this argument that it originally was fictitious and that the revenues might have been used to give it a tangible value which might have been used in the adjustment of wages or in improvements, in other ways, of the property.

Mr. Byram: Would there be any difference between the value put into stock of this kind that was produced by favorable circumstances or fortunate arrangements for traffic with other roads or any other means of increasing its earning capacity and the value that would be put into it by other investments which would increase the possible operation of the road, the efficiency of the road? Would there be any difference in the value that accrued to the stock for either of the two reasons?

Mr. Lauck: Not from the standpoint of the stock market; no, sir. From my standpoint, I drew the distinction the other day when Mr. Nagel and I were discussing it that it seemed to me better to capitalize assets than to capitalize prospective earning power, for the reason that, in capitalizing earning power, you greatly increase the volume of capitalization and you were putting up a lien on productive efficiency of the road or the operating efficiency or whatever you may wish to call it. In one case you would have a great volume of securities.

Mr. Byram: It might not necessarily be a great volume. Suppose it was a small volume?

Mr. Lauck: A small volume, yes. There would not be any difference from the standpoint of the stock market value.

Mr. Byram: Is not that the final determination of the value of a property, what the stock market values it at, according to your argument?

Mr. Lauck: That is what I have argued.

Mr. Byram: That is where you finally land, is it not?

Mr. Lauck: Yes, sir, that is the real valuation. According to my definition of fictitious securities, we start without any value and then, as the revenues of the road are developed through the growth of the country, through managerial ability, and through the work of the men, you have some excess revenue and you begin to pay dividends upon this stock which you originally issued without consideration, which thereby absorbs the revenue and becomes a vested claim legally against revenues and results in a participation in revenue which should or should not possibly have gone into other sources; wages, for instance.

Mr. Stone: I thought the valuation of the stock market was seriously objected to all the way through.

Mr. Lauck: It is, I understand.

Mr. Sheean: Except by Mr. Lauck.

Mr. Lauck: No, I am agreeing with the valuation of the stock market.

Mr. Sheean: That is what I said; it was objected to by everyone except Mr. Lauck.

Mr. Lauck: Yes. I do not know whether Mr. Byram agrees with me or not. I do not presume that he does.

Mr. Byram: I was trying to bring out where your theory would land us.

Mr. Stone: I suppose we would have to class the Burlington as being an innocent purchaser of this stock and that it did not know it was issued for no value.

Mr. Lauck: It had value when the Burlington purchased it. It was quoted on the stock market.

Mr. Stone: The property had developed until it had a value?

Mr. Lauck: The property had developed until it had a value, yes, sir.

Mr. Stone: And, by purchasing the stock which was formerly of no value, they obtained control of the road?

Mr. Lauck: Yes, sir; under the administration of the Burlington it has become more and more valuable. That is, the revenues have increased, and dividends for the first time have been paid under that control.

Mr. Burgess: Would that be true if the Burlington purchased the Wabash or the Frisco?

Mr. Lauck: I think the Wabash would even be beyond the possibilities of the Burlington in the way of developing revenue.

Mr. Byram: Your record does not show whether the Colorado & Southern is now paying dividends?

Mr. Lauck: I understand they were paying four per cent on the first, four per cent on the second preferred and a little bit on the common, about one or two per cent.

Mr. Byram: The dividends on that stock were passed the last time?

Mr. Lauck: That is so. I recall they were passed this year.

Mr. Stone: That is due to the local condition of the coal strike, no business, or what?

Mr. Lauck: I do not know what that was due to unless it was the general falling off in traffic. What specific causes there were, I don't know.

Mr. Sheean: Lack of productive efficiency?

Mr. Stone: Was there any change in the valuation of the road whatsoever which was acquired by the Burlington, in the financial valuation of the road? Was it increased in any way?

Mr. Lauck: I think it has gradually accrued value under the management of the Burlington. I do not recall any specific detail about that.

Mr. Stone: I see at the bottom of page 357 that the Burlington paid sixteen million and something for it. That was cash, I suppose. They own $23,000,000 of the stock.

Mr. Lauck: Yes, sir.

Mr. Stone: Bought below par. Is that the reason?

Mr. Lauck: It was bought below par.

Mr. Stone: Did they buy it at 21 on the low or 59 on the high?

Mr. Lauck: I do not think it is known. It is not a matter of record what the Burlington paid, except the Burlington carries in its balance sheet the fact that it did pay for this control $16,000,000, which is $23,000,000 of par value.

Mr. Stone: They have since issued some refunding bonds, or one thing and another.

Mr. Lauck: Yes, sir, $3,000,000.

Mr. Stone: What are the conclusions you come to as to the Colorado & Southern on page 358?

Mr. Lauck: The conclusion arrived at was that it had been over-capitalized both in construction and in its history of consolidation and acquisition by the Union Pacific, Denver and Belt Railway, and that this stock through accruing value has absorbed operating revenues which from the standpoint of the real investment or original investment are unjustifiable.

Mr. Byram: Do you understand that the Colorado & Southern pays less wages to its engineers and firemen than its neighbors?

Mr. Lauck: Not at all, no, sir.

Mr. Byram: The only way they could be injured, then, would be by failing to secure an increase in pay by reason of this stock transaction you speak of?

Mr. Lauck: Yes, sir. The general point I am attempting to make is if it is claimed the general productive efficiency has not been profitable it can be shown that the results of productive efficiency have been absorbed and there has been an inequitable participation of securities or capital.

Mr. Byram: In order to make that argument effective, would you not have to prove that the failure of the engineers and firemen to obtain what they think is their share in the productive efficiency has been due to the fact that this financial condition has prevailed? You would have to identify the lack of proper compensation with this financial management as the cause?

Mr. Lauck: The relative shares, you mean?

Mr. Byram: Yes. Would there not have to be a connection between irregular stock transactions, as you call them, and the fact that engineers and firemen have not, or do not receive proper compensation?

Mr. Lauck: Yes, sir. I think that that would have to be shown. But not by me. But from the standpoint of the men who actually are doing that work, and who claim they are doing more work, and not receiving sufficient pay.

Mr. Byram: That is what I mean. There would have to be a connection. There must be a connection between the stock transactions—improper, as you call them—as the cause of the failure of the engineers and firemen of the Colorado & Southern, or any other railroad here described, to obtain proper compensation?

Mr. Lauck: Well, I don't know—I didn't get the question exactly right. There is not so much a direct connection between stock transactions, but if the engineers and firemen had, as they have contended in this case, put forward a claim for increased wages, which would seem worthy of consideration and justifiable, and then if they should claim, for instance—as we have—that they have done more work and they have been productively more efficient, and that the revenue gains per train mile and locomotive mile have been increased; and then it should be claimed that these revenue gains have not been attended by profits, due to the fact that it has been necessary, in order to bring about this operating efficiency, to make immense capital outlays, or necessary, because of legislative requirements, or some other cause, and therefore there are no profits from which to pay, then, this argument comes in in point, it seems to me, to show that capital has participated more than it should in the past; that as long as the capitalization of earning power goes forward, or the anticipation of earning power goes forward, that it will never be worth while for the engineers and firemen to put up any such argument, for the reason that it can always be met by the statement that securities are outstanding ready to absorb the revenue gains.

Mr. Byram: Would not it be more directly effective if it prevented the men from getting added compensation? Is it not necessary that any objectionable practices should have resulted in preventing these men from securing adequate compensation?

Mr. Lauck: Well, yes, sir.

Mr. Byram: That is what I mean.

Mr. Stone: Well, hasn't it prevented them, Mr. Lauck?

Mr. Lauck: The point we are anticipating is that it may have that effect.

Mr. Stone: Hasn't it prevented the men in the past from getting it, up to date? Is not that what brings us here today?

Mr. Lauck: Well, of course, I would not be competent to say about that. I have had no experience with negotiations in the past. But it is in anticipation of that fact, that it might prevent them, that I am putting in the argument.

Mr. Byram: That is just what I mean. In order for this to have any effect at all, these objectionable practices, it should be that they have acted to prevent engineers and firemen from securing adequate compensation?

Mr. Lauck: Yes, sir.

Mr. Byram: Either now or in the future?

Mr. Lauck: Yes, sir.

Mr. Byram: Otherwise, it would not be pertinent at all?

Mr. Lauck: No.

Mr. Byram: Is that your point?

Mr. Lauck: That is my point, that I anticipated, or we anticipated, that the argument will be made that—and consequently we are attempting to anticipate the argument. It does come around, I suppose, in its last analysis, if you would reduce it to other forms, to the point of ability to pay.

Mr. Byram: Then, should it have the same influence when it is related to a road where the present conditions as to payment of its obligations are less favorable than one that is absolutely financially sound? Would it have the same weight?

Mr. Lauck: It would depend altogether on the financial history of the relative roads. You might have a road like the Wabash, where the financial history—probably this is the question Mr. Stone had in mind, it financial history would prevent the consideration of wage increases.

Mr. Byram: I am speaking now of the relation between a road that has what you consider an unsavory reputation in the past, and one that has a good one, and by reason of the difference in the administration of the financial affairs of these two roads, one road is prosperous and the other is not. Now, would the difference between those two roads, in the situation as it stands today, have any effect on your theory as to whether the enginemen have, or should, or might receive a proper compensation?

Mr. Lauck: In the case of the good road, if the argument were made that the engineers should have increased compensation because of increased work or increased responsibility, they would have to demonstrate that, and after they had demonstrated that, if it was considered proper to grant the increase, there would be no further question, I would take it. In the case of the road that had issued capital which had absorbed revenue, which had an unsavory history, after they had demonstrated that possibly—and it had been conceded that they should have an increase, the question would be raised that there is nothing available to pay an increase.

Mr. Byram: In one case, the case of the one you speak of as the good road, there would not be any question about it?

Mr. Lauck: No question at all, no, sir. I say, there would not be any further—

Mr. Byram: Even though it might have had some transactions which in your opinion were questionable in the past. As I read your exhibit, there are very few of the roads that are able to escape criticism, from your standpoint.

Mr. Lauck: I don't know whether it is so much criticism, because the practices that were followed were the common practices of the period, and so on. I do not mean it in the spirit of criticism, but what has been done and what the effect has been.

Mr. Byram: Well, if what has been done has produced a bad effect at the present time, I would naturally infer from your testimony that the practice which produced that situation was objectionable.

Mr. Lauck: Yes; from the standpoint of a division of the revenues of the industry; from the theory of productive efficiency and the participation in the productive efficiency.

Mr. Byram: That is all.

Mr. Stone: Mr. Lauck, is it not a fact that some of the best managed, highest earning roads in the West pay practically the lowest wages, and have some of the worst working conditions?

Mr. Lauck: That may be; I don't know, sir.

Mr. Stone: We don't ask all that the men earn on these high earning roads, do we? We simply ask for a standardization or a general average on all these Western roads, do we not?

Mr. Lauck: That is my understanding, that standardization is requested for all roads, regardless of their financial condition.

Mr. Stone: Because, in the end, regardless of whether you treat the roads as 98 separate units, or whether you treat it as 13 banks, or 3 controls of all the banks, it all comes in the end out of the same hopper, anyway, don't it?

Mr. Lauck: There is a distinct concentration in control of most of the roads that are in financial difficulties. They are owned by prosperous roads.

Mr. Burgess: Mr. Lauck, have you at any time endeavored to impress the Board that your testimony was to be considered as a criticism? My interpretation of your opening statement was that you were simply setting forth the facts as you found them, after a studious research. Is that right?

Mr. Lauck: Yes, sir, that in general is right. Of course, the conclusions which I am forced to state, are criticisms of the roads' financial management, which might not be criticisms from the standpoint of the stock market or the standpoint of corporation finances. My general statement is that the whole practice of corporation finance, especially in the last twenty years, as applied to railroads, has been such that the employe cannot hope to participate with a full measure of his economic right, in the output , because earning power has constantly been capitalized, and it has been capitalized in anticipation of its development, and for that reason it cannot be distributed to securities which have been used to absorb it, in advance, and at the same time be distributed to labor, and that the securities have been issued, without justification and without investment value, and have absorbed the revenues; consequently, the employes cannot participate. So, it is a criticism of those practices, to that extent, but it is not put forward in the spirit of criticising—in the sense of criticising the financial management of the railroads, any more than a mere statement of facts is a criticism.

Mr. Burgess: Now, have you not on more than one occasion stated that you believed the engineers and firemen, and, as far as that is concerned, all labor, should receive a proper wage, regardless of the road's ability to pay or not?

Mr. Lauck: Yes, sir.

Mr. Burgess: And you still believe that that is a sound principle?

Mr. Lauck: Yes, sir.

Mr. Burgess: If any other principle were adopted, it might be held that a very rich railroad might reduce its freight rates or its passenger rates, on the same rule of reasoning, might it not?

Mr. Lauck: Yes, sir; it might be held that in times of prosperity, the rates should be lower than in times of depression and adversity.

Mr. Burgess: Or, it might be held that one road that was earning very high dividends should reduce its freight rates, as compared with the railroad that could not earn its fixed charges?

Mr. Lauck: Yes, sir.

Mr. Burgess: Now, you do not advocate a principle of that kind, do you, Mr. Lauck?

Mr. Lauck: No, sir, not at all.

Mr. Burgess: And you believe that such a principle would be absolutely unsound and unfair, do you not?

Mr. Lauck: I think that would be just as unsound to advocate that, as it seems to me it is unsound to advocate the change in the wage rate. Both would be practically the same argument.

Mr. Burgess: Therefore, regardless of the method of financing the railroad or regardless of its income, it should receive the same rates, both for passenger and freight, in your judgment?

Mr. Lauck: That is the practice, yes, sir.

Mr. Burgess: And that, in the period of prosperity, as well as that of depression?

Mr. Lauck: Yes, sir; that is, in the period of prosperity, the rate is used, of course, to provide for periods of depression and the excess earnings of prosperity are used to tide over the lean years. Of course, it may be argued that the employes should use the excess earnings in prosperous times to tide over the period of adversity. They really have to do that. Of course, they are on a basis of practical subsistence, while capital is not, but the effect would be the same in both cases. When the road is very prosperous, the men make higher earnings, like in October, 1913, and in times of depression, they do not have the employment. The same way when a road is prosperous, the earnings are high and they are accumulated to tide over periods of depression.

Mr. Burgess: In other words, you advocate that the income to the railroad and the income to the employe, should be measured by the character and the amount of service performed?

Mr. Lauck: Yes, sir. If you did not have that in the case of the freight rate, it seems to me you would kind of put a premium on inefficiency in operation. For instance, without any critical comparison, take the Pennsylvania Railroad from here to New York, or the Erie Railroad, presumably, the Pennsylvania should have a lower freight rate. Thereby, you would be creating an argument if you discriminated in rates, that the more efficient and highly developed a road was the lower cost it could do business for, and, therefore, the less freight rate it should get and the smaller profit it should get.

Mr. Burgess: That would be penalizing efficiency.

Mr. Lauck: The progress and development of efficiency, yes, sir.

Mr. Burgess: Thank you.

Mr. Byram: Mr. Lauck, you have stated in answer to Mr. Burgess, that you thought the railroad and the employes, both, should be paid on the basis of the amount and character of the service performed?

Mr. Lauck: Yes, sir.

Mr. Byram: Then, what becomes of your theory that you have spoken of several times, that the services of other employes, as well as the individual classes you are speaking of, should also be participated in by the other classes who do not actually perform the service? In other words, if the amount and character of the service of an employe is to determine his compensation, how can you connect that service with the service of other employes, in which he has no direct or indirect relation?

Mr. Lauck: It would be exceedingly difficult to do that. That is, to compare, for instance, locomotive firemen with a "grease monk" in a shop.

Mr. Byram: I did not mean as to comparison.

Mr. Lauck: I mean as to duties. Say you have a certain output. Now, the output is getting so many ton miles over the road. To compare the relative services, say, of the station agent and the conductor in doing that, would be almost impossible.

Mr. Byram: That was not what I meant.

Mr. Lauck: I beg your pardon.

Mr. Byram: You were attempting a comparison of the relative value of the services of different classes of employes. I am asking you if the wages or compensation of an employe depends on the amount and character of service he renders?

Mr. Lauck: Yes, sir.

Mr. Byram: How could you add to that compensation properly, the productive efficiency or the results accomplished by the services of others?

Mr. Lauck: In the same class?

Mr. Byram: No, I mean in other classes of service, not connected with the service at all.

Mr. Lauck: I could not answer that question. I attempted to answer that once, and I got into very great difficulties and great humiliation, and I am afraid I cannot answer it.

Mr. Byram: I will excuse you.

Mr. Lauck: I tried that once in the Eastern Arbitration and never have heard the last of it.

Mr. Byram: I thought perhaps you had found a better reason this time.

Mr. Burgess: You will recall that my question said employes, and did not specify engineers and firemen; it included all employes?

Mr. Lauck: Yes, sir.

Mr. Burgess: We have frequently been advised here during the hearing, that the general manager was an employe, just the same as the engineer and fireman.

Mr. Lauck: Yes, sir; of course, I think that is correct. Even the president is an employe.

Mr. Burgess: I think so, only he is in a very much higher position.

Mr. Lauck: They are connected with the managerial and administrative side.

Mr. Stone: We have also heard, I believe, that there are a number of employes who produce more and are much more responsible than the engineer and fireman. That went along with the rest.

Mr. Lauck: I think so. I don't recall specific instances now.

Mr. Stone: Is there anything further you want to say on this?

Mr. Lauck: No, sir; I think that is all.

Mr. Byram: Just one more question, before we leave it.

Mr. Lauck: Yes, sir.

Mr. Byram: This purchase by the Burlington of some of the stock of the Colorado & Southern, which you say gives the Burlington a legitimate claim on the earnings of that company, what relation does that claim of the Burlington bear to the claim of the employes for increased compensation? Does it come before or after the claims of the employes?

Mr. Lauck: I think that comes before. That is, my idea is not, in presenting this argument, to present any idea that we should interfere with property rights of any kind, and I think we cannot do anything with what has been done. That is, if the holding of securities and the claims of the men should conflict, why, we must protect the property right, but while nothing can be done as to the past, why, it seems to me that the recommendation for the future of the Interstate Commerce Commission, is the thing to do, and that is to regulate security issues in the future.

Mr. Byram: This was not a security issue. This was a purchase.

Mr. Lauck: This was a purchase. Of course, you have got the fictitious stock which you paid for. I think you ought to be protected in that.

Mr. Stone: But, Mr. Lauck, have not the courts repeatedly ruled that these roads should pay the going wage, even though capital says it comes first?

Mr. Lauck: Yes, sir.

Mr. Stone: Why should not labor come first, when it produces?

Mr. Lauck: Well, theoretically, I think that labor has a prior claim, but practically that claim cannot be permitted to interfere with property rights, under our present organization of things. That was my answer to Mr. Byram's question.

Mr. Stone: Well, what makes property but labor?

Mr. Lauck: Well, of course, capital is accumulated labor, to be used for future purposes.

Mr. Stone: All right. Then, why should not labor come first?

Mr. Lauck: Theoretically, it should, but practically, it cannot. That is the only answer I could give to that question.

Mr. Stone: Anything further you want to say on this?

Mr. Lauck: Not on this road, no, sir. I don't believe we have any other roads in this exhibit, that are parties to the movement. Oh, we have the B. & O. Chicago Terminal, yes, sir.

Mr. Shea: The Belt, page 296.

Mr. Lauck: The Belt Railway, yes, sir. There is nothing in connection with the Belt Railway Company of Chicago—nothing of significance in connection with the Belt Railway.

except the statement which it carries in its report, if I remember correctly, that its stock represents ownership and not any real investment, and some early losses which it incurred. In connection with the Chicago & Western Indiana, which is shown on page 362—

Mr. Stone: The special part of that is its splendid definition of what is a belt line.

Mr. Lauck: Where is that, Mr. Stone? The Chicago & Western Indiana owns the Chicago Belt. It is owned, in turn by about six railroad companies.

Mr. Stone: In its history, in the first two lines, on page 362, it explains very clearly what a belt line is.

Mr. Lauck: This company was chartered in 1879 to build a road into Chicago and to build a belt line to connect the various railroads entering the city. In 1882, it was connected to join with the South Chicago & Western Indiana, which had been chartered to construct a line connecting with the iron and lumber interests of South Chicago; and this road, in turn, controls the Belt and also the Chicago Union Transfer Company. It is controlled by the following companies: The Chicago & Eastern Illinois; the Wabash; the Grand Trunk Western; Chicago & Erie, and the Chicago, Indianapolis & Louisville Railroad; and then it is used by a number of other roads, in addition to the proprietary roads.

Mr. Stone: And is leased for 999 years to the Belt Railway Company of Chicago?

Mr. Lauck: Yes, sir.

Mr. Stone: Nothing special in this that you want to bring out?

Mr. Lauck: There is only one point in connection with that, and that is that the original funded debt of this company, which, before the new administration of its finances occurred several years ago — in the original funded debt, the rentals were adjusted so as to pay the interest requirements and to create a sinking fund.

As that funded debt has been retired, bonds have been given to the proprietary companies for their investment in the road, which practically means that the funded debt of the Chicago & Western Indiana is continued, and that the ownership of the road will practically be held by these five companies eventually, without their having placed any funds in the property at all. That is, the bonds which they have placed, will have been returned to them.

Mr. Stone: It is also a fact, is it not, that in the capitalization, the capital stock of the company represents no payment of either cash or property?

Mr. Lauck: The capital stock is just an evidence of ownership of different companies.

Mr. Stone: But they have capital stock to the amount of $5,000,000?

Mr. Lauck: Yes, sir, that has been distributed, so that the five companies may own it. Up to the present time, the Chicago & Western Indiana has given its 4 per cent bonds to the proprietary companies, to the extent of about $7,500,000, I think; repaying them for their original investment, while still continuing the funded debt obligation itself. Those were the only points, I think, of any significance in connection with those railroads.

The Baltimore & Ohio Chicago Terminal.

Mr. Stone: Before we take that up, is it a fact that the Chicago & Western Indiana, on page 365, has a new $200,000,000 mortgage?

Mr. Lauck: That has been authorized; yes, sir. I do not think it has been issued. That has been authorized for the purpose of terminal improvements in Chicago, as I understand it.

Mr. Stone: Take up the B. & O. Chicago Terminal and see what is the matter with it.

Mr. Lauck: That appears on page 384. Briefly stated, the records here show that on January 6, 1910, the old Chicago Terminal Transfer Railroad was sold, and that General Solicitor Preston, of the Baltimore & Ohio bought it for $16,000,000. Certain outlying properties, valued at about $1,500,000 were excluded from the property of the Terminal Company. It was then capitalized as the B. & O. Chicago Terminal, and $28,000,000 first mortgage 4 per cent bonds issued against it. That would make it appear that bonds to the extent of $13,500,000 in excess of the price paid for the property had been issued. The financial condition of the Terminal Company was due to the fact, that interest charges must be met upon this excess issue of bonds.

Mr. Stone: That is, the interest on this immense sum is credited each year in their annual deficit, is it?

Mr. Lauck: The revenues are not sufficient to pay on $28,000,000, but are sufficient to pay on $13,500,000 the original cost.

Mr. Stone: Is there any record anywhere of any stock that went along with these bonds?

Mr. Lauck: If there is any record, I do not know about it. Of course, we have to get our information from commercial journals and financial journals. That may have been true, but if it is I don't know anything about it.

The Chicago Terminal Transfer Railroad was put up to be sold and sold for $16,000,000, according to the Commercial and Financial Chronicle, and one million and a half of that property was segregated by the B. & O. Railroad, and the B. & O. Chicago Terminal Railroad then formed as a corporate entity and $28,000,000 of bonds given to the B. & O. in return for this property.

Mr. Stone: An issue of $50,000,000 of bonds has been authorized, and $28,000,000 has been issued?

Mr. Lauck: Yes, sir. This entire amount was turned over to the Baltimore & Ohio Railroad to represent the cost of the property. That information is taken from Poor's Manual of Railroads.

Mr. Stone: This $8,000,000 of stock that has been authorized and issued, is owned by the Baltimore & Ohio Company?

Mr. Lauck: I presume so, yes, sir. That is $8,000,000 of the Baltimore & Ohio Chicago Terminal Company, not of the Chicago Terminal Transfer Company.

Mr. Stone: Anything further on this?

Mr. Lauck: Nothing further on that, no, sir.

Mr. Stone: There is one question I should like to ask you. Should this road be considered separately, or as a part of the Baltimore & Ohio System?

Mr. Lauck: I think it should be considered as part of the Baltimore & Ohio System. I do not think that any railroad company has any more right to separate its terminal and make it show a deficit than it would to take one division and make it show a deficit. It is an economical way of handling the traffic which comes and goes from Chicago, and should be considered in relation to the whole system.

Mr. Stone: And in treating it as an individual unit, it makes it possible to get a terminal charge as well, does it?

Mr. Sheean: Do you think the engineers' and firemen's wage scale on the Baltimore & Ohio should be applicable on the Baltimore & Ohio Chicago Terminal?

Mr. Lauck: I understood they were the same. I don't know anything about it.

Mr. Sheean: Well, your argument as to what you say here would lead to that deduction there; if it is one system, then the wage scale of the B. & O., the parent system, should be extended over this system.

Mr. Lauck: I should say that for similar conditions they would get the same pay. I don't know about that, Mr. Sheean.

Mr. Stone: It is a fact, though, Mr. Lauck, that these roads from the East pay the Chicago Terminal rate, and that is fixed by the Western roads.

Mr. Lauck: I didn't know that.

Mr. Stone: Anything else you want to take up on this?

Mr. Lauck: I think these other companies are companies that are not parties to the movement.

Mr. Sheean, when you asked me the question, I did not realize its significance. I did not realize the B. & O. was East at the time. I see the difference now.

Mr. Stone: That is one he put over on you, while you were asleep at the switch.

Mr. Lauck: We will take up 62, next.

Mr. Stone: That really goes with 61 as a supplement?

Mr. Lauck: Yes. I believe I have already referred to the reorganization of the International & Great Northern, and the Northern Pacific and the Southern Railway of Kansas; the reorganization of the Northern Pacific and the Kansas City Southern Railway Company.

Mr. Stone: There is a special dividend of the Oregon Short Line over here on 15, that you have not referred to here.

Mr. Lauck: Page 15, Section 2, has to do with special dividend by the Oregon Short Line and the Central Pacific. The Oregon Short Line Railroad was acquired by the Union Pacific in 1899, through the exchange of share per share, with the addition of three dollars payment to the Union Pacific.

During the year 1910, the Oregon Short Line paid the Union

Pacific a 50 per cent dividend, and during the same year, also, I think, or during the period of 1910-11, the Oregon Short Line declared another dividend of 68.68 per cent. This was brought about by the Oregon Short Line increasing its capitalization, which it sold to the Union Pacific, and then declaring a dividend to the Union Pacific.

Mr. Stone: I think you expressed that wrong. Did you say 68.00 per cent?

Mr. Lauck: 68.68.

Mr. Stone: That was declared after they had increased the capital stock to $100,000,000?

Mr. Lauck: Yes, sir. That was really the means of increasing the capital stock. They increased the capital stock. After the first dividend of 50 per cent, they increased the capital stock to $100,000,000, which the Union Pacific bought. They then distributed the proceeds to the Union Pacific, which paid them for buying the stock, and was an indirect way of declaring another dividend?

Mr. Stone: According to that, they only lacked about $4,000,000 of reimbursing the Union Pacific for its outlay for the stock?

Mr. Lauck: Yes, sir. I think the Oregon Short Line now pays 10 per cent on this inflated capital, which is equal to about 38 per cent on the original capitalization.

Mr. Stone: Just how was that 50 per cent dividend made known to the public?

Mr. Lauck: That was made known through the filing of the report with the Oregon State Commission of the Oregon Short Line; top of page 18, the Commercial & Financial Chronicle quotes a dispatch from the Portland "Oregonian" from Salem, Oregon, on December 13, 1910, stating that a report just filed with the Oregon State Railroad Commission showed that the road, for the year ended June 30, 1910, declared dividends of 50 per cent, amounting to $13,675,530. This entire sum went to the Union Pacific Railway Company, as owner of the entire stock.

The method of the 68 per cent distribution is also shown on page 18. The Union Pacific paid $72,000,000 for new stock, and received a dividend of $68,000,000, making the actual cash involved about $4,000,000, which could be returned, of course, at some future time in the form of another dividend. The present dividend on the increased capitalization of 10 per cent amounts to about 38 per cent upon the original capitalization, or, in other words, if you express it in terms of dollars and cents, if the original capitalization had been retained, and the dividend paid, there would be about seven and a half million dollars more revenue available each year, either for capital or labor, or for the improvement of the road.

Mr. Stone: Then, if I get this correctly, the company paid $72,000,000 for the new stock, and at once received a dividend of $68,680,000 that had been declared on that stock that they just purchased?

Mr. Lauck: Yes, sir.

Mr. Stone: The actual cash involved was $3,320,000?

Mr. Lauck: Yes, sir.

Mr. Stone: And that stands as a permanent load on the company, the capitalization, for all time, does it?

Mr. Lauck: Yes. I think the real object was to increase the capitalization, so as to reduce the evident earning power of the properties, so far as the public is concerned.

The other special dividend is the Central Pacific dividend and the Southern Pacific of this year, or of last year, rather.

This was a special dividend of 20 per cent on each class of stock, and amounted to $7,449,000, declared from surplus of the Central Pacific to the Southern Pacific. It was thought by the Southern Pacific, which holds the stock of the Central Pacific, and which has a claim on all its assets, that there might be a dissolution of this property, owing to the Government suit to separate the two properties, and this was the method used to take part of the surplus or the greater part of the surplus during the present year.

Mr. Stone: This is about the best example we have, and shows the workings of a holding company very conclusively, does it not?

Mr. Lauck: Yes, sir.

Mr. Stone: It shows that the treasuries of the subsidiaries can be drawn on at will for money to pay dividends on securities of doubtful value and they can be charged off in the form of an extra dividend of the parent company.

Mr. Lauck: Yes, sir, exactly. That is exactly what happened. That was the justification of the Southern Pacific for taking the dividend. They claimed that it was nothing unusual, that there was nothing wrong about it; that it belonged to them, and they had a right to take it whenever they wanted it.

Mr. Stone: They were entitled to their reward for bringing the property up to its splendid financial condition.

Mr. Lauck: Yes, sir, but this was undisturbed income which they had allowed to accumulate, which they could take or leave, as they might see fit.

Mr. Stone: They did not leave it. They took it, didn't they?

Mr. Lauck: Yes, sir.

Mr. Stone: How much did it amount to?

Mr. Lauck: It amounted to about $17,000,000. It was 20 per cent on each class of stock of the Central Pacific. There have been other special dividends from time to time. In fact, they have been quite numerous. I have reference to the Union Pacific's special dividend of last year, whereby they distributed the B. & O. stock of $74,000,000.

Mr. Byram: Do other business institutions distribute special dividends from time to time?

Mr. Lauck: Yes, sir.

Mr. Byram: Is there anything objectionable on the part of a business institution making a distribution of its profits in that way; anything that is open to criticism?

Mr. Lauck: No, sir. I do not think it is a matter of criticism, except if the resources are distributed in that way, and then the workmen are not properly compensated.

Mr. Byram: In that respect, the railroad company is no different from any other business institution with regard to the propriety of distributing its profits in that way?

Mr. Lauck: No, sir.

Mr. Stone: It differs in this way; it is supposed to be a semi-public corporation.

Mr. Lauck: It has that difference; yes, sir. That is the railroads, the interstate railroads, are supposed to be quasi-public institutions, and would differ from a private institution.

Mr. Byram: Would that make any difference in the business ethics of conducting their business?

Mr. Lauck: No, sir, I think not. It would make a difference from the standpoint of the public, but not from the standpoint of business ethics.

Mr. Byram: You say from the standpoint of the employe, different business standards are required by a private institution than a public one?

Mr. Lauck: It should not; no, sir. I am not condemning it as a matter of business ethics, or condemning it in any way, but citing this instance as exemplifying the diversion of revenue in this way.

Mr. Byram: You neither approve of it or disapprove of it?

Mr. Lauck: No, sir.

Mr. Byram: Neither one?

Mr. Lauck: No, sir. I was assuming the public had been properly cared for and the employes had been properly cared for. It is perfectly legitimate in any way. I am citing it in anticipation of the fact that it may be contended against the employes that they have had a proper participation. I want to bring this fact into the evidence in the light of that contingency.

Mr. Park: What do you call a proper remuneration? How do you make that comparison? With other employes? Taking the engineers and firemen as an illustration, how do you arrive at a proper compensation? Is it by a comparison of the earnings of the road, or revenues, or is it by comparing them with other employes in the service of the company?

Mr. Lauck: Really, Mr. Park, I have never attempted that.

Mr. Park: That is a very difficult thing to do.

Mr. Lauck: Yes, sir. Of course, that is something that is exceedingly difficult to do. You would have to take the compensation as it was, and see whether there was any justification for an increase.

Mr. Park: How could you tell whether there was a justification for an increase, and, if so, would it not be necessary to take into consideration all other employes, to be fair and just and equitable in disbursing all that might be available for such purposes, from the viewpoint of analogy? If you were a manager of a railroad, how would you apply any increases that might be available for labor? Would you apply them to employes who might contribute more to the earning of the railroad, or would you apply that to some favored class, or would you distribute it pro rata among the employes?

Mr. Lauck: Assuming that all employes were properly compensated up to date, then you could have a distribution to all employes. Under existing conditions, it seems to me the manager makes increases only to the one that has the largest bargaining power; that he gets the increase.

Mr. Park: Then, if it would appear that those who have the ability, through organizations, have previously inflated their wages above other classes of employes, would it not be proper, in equity, to call a halt, and distribute to others, should the funds be available?

Mr. Lauck: It might be that the ones who had the organization had just gotten what they deserve, and the others had not, because they did not have the power of organization. Take the clerks and employes of that class. Evidently the reason why they are not better paid is because they have no organization.

Mr. Park: The manager has not been permitted to distribute that which is available in the manner in which he thought was equitable as between all his employes, but should a tribunal come along which could do that, do you think then it would be proper for them to take into consideration other employes?

Mr. Lauck: If they had the authority, yes, sir, I think they should consider that. It might be that the organized employes had just gotten what they deserved, and the others had failed to do so.

Mr. Park: That would be a case of judgment in analyzing the positions, and taking the ability of the employes to do certain work and their capacity, and all those things.

Mr. Lauck: Yes, sir. That is the way things go now, the bargaining power, and it has to be worked out on the relative strength of the bargaining power.

The Chairman: Am I to understand from your statement the railroads have not heretofore recognized the principle in the fixing of wage rates that other employes are entitled to a proportionate share of wages paid firemen and engineers?

Mr. Lauck: I could not say they have recognized it, but it seems to me in working out the problem, it has been the bargaining power of the employes that has secured the wage rate, and that the manager does not extend the wage increase except as he is compelled to.

The Chairman: Had they the power if they had chosen to do so, to have given a like increase to other employes, as well as engineers and firemen?

Mr. Lauck: Yes, sir.

The Chairman: Upon the theory that they were entitled to it?

Mr. Lauck: Yes, sir, I think so, and they have had the ability to do that if the roads had been managed properly in a financial way; the revenues have been available for that. That is the very point I am offering; that is, if the revenues had been conserved, the other employes ought to be on an equal basis of compensation with engineers and firemen.

The Chairman: This question has arisen on two or three occasions, and it has occurred to me that it was a question as to whether the Board would consider the fact that the managers of the roads in the administration of this particular branch of the service had failed to equalize the wages of other employes with that of engineers and firemen.

Mr. Park: The manager has been, of course, limited in the amount of money he could apply to the increase, and as Mr. Lauck says, by reason of the great influence among the organizations, it has taken the greater portion if not all of that, to satisfy them, leaving very little for other classes.

The Chairman: Has it been the practice of the managers heretofore to remind the stockholders and the others who have charge of the direction of the roads' affairs, that this inequality exists and that it should be corrected?

Mr. Park: I think so. I think that although these requests come with such continuity, and continue almost uninterruptedly from the organizations, that the managers have not had time to equalize them, even if they had the power, which they have not. I do not think the funds have been available.

The Chairman: I believe that is all.

Mr. Lauck: It seems to me that there was a real difficulty in the whole situation from the standpoint of the financial control we are speaking about; that the manager would probably be glad to give all the employes an increase in accordance with the amount which those who organize can demand and secure, but through the financial control of the railroad, to which he is subject, the revenues are absorbed by unjustifiable capital issues. That is the point I was trying to make.

The Chairman: I would like to ask Mr. Park another question. Do you have a finance committee, or someone who apportions these funds and allots to a manager, for instance, a certain amount to be paid to the employes; are you restricted in that way in making an increase of wages?

Mr. Park: The manager must necessarily take into consideration the conditions as he sees them, and control his operating expenditures to a certain extent. That is true of all his expenditures, maintenance of way, and everything that is within his control. If there is any surplus available for an increase of wages, he would very naturally want to distribute it to the most worthy and most capable. That would be his desire.

The Chairman: Have you recognized the contention of the men to the effect that those who work on the railroad, that is, those who are employed as firemen and engineers, are engaged in a more hazardous undertaking, and therefore entitled to a higher wage rate?

Mr. Park: I think that is the reason such high rates prevail now. I think the qualifications of that service are greatly exaggerated; that the hazard is more the reason for these high prevailing rates as compared with other employes.

The Chairman: It has been the recognition of that theory which has caused this inequality of wage to exist.

Mr. Park: Yes, I think it is more on the hazard of the position than any other one thing.

The Chairman: Am I to understand that if these employes and others had been organized, and made as strenuous effort as the firemen and engineers have made, they would be receiving better wages today?

Mr. Park: That is, of course, a problem. The railroads might not be able to pay it, and the inevitable would follow, that they would go into the hands of receivers. I know a good many railroads recently, while this conference is on, have actually reduced the pay of men getting $1.50 a day, because they did not feel that the business they were doing and the conditions as they exist, warrant them in keeping up that wage, although it was rather an unjust thing to do. The man working for $1.50 a day is about at the limit of his ability to live, decently.

The Chairman: It has always been a problem to me, as to how one could live at such a wage under present conditions.

Mr. Park: The railroads are a good deal in the position of a man starting out with five dollars in his pocket, with the intention of giving it to five worthy individuals, and having the first man hold him up for all of it.

Mr. Stone: Mr. Lauck, who is it that holds that fellow up as he starts down the street with his money, the stockholders or these frenzied financiers?

Mr. Lauck: It seems to me it is the financial management of the road, that has been the cause of the difficulty. There has been plenty of revenue that has been available to pay all classes of employes, the same as the organized classes, but it is this very fact that the manager is subject to this financial management which issues the fictitious securities, and absorbs the revenue, thereby creating a vested right that prevents the clerks and maintenance of way employes and all unskilled workmen, who cannot organize, from getting what they should get.

Mr. Sheean: Might I ask you there—I am not sure that I followed your theory entirely—is it your position that the railroad's obligation to pay a fair wage is limited by its revenues. That is to say, if the railroad company on any branch or division turned over all of its revenues to the employes on that branch, it would be relieved of any further obligation with reference to wages?

M.r Lauck: I think the employes would have also the right to leave the branch and go elsewhere under those conditions. I would not object to that, although that is not my theory.

Mr. Sheean: That is, the railroad company is under the obligation to pay a fair wage, whether it has revenues or not, is it not?

Mr. Lauck: Yes, sir, I think so. That is, if it has not the revenues the employe has the right not to work?

Mr. Sheean: Oh, well, he has that, irrespective of the question of revenues. The presence or absence of revenues does not affect that right, does it?

Mr. Lauck: Oh, no.

Mr. Stone: The presence or absence of his stomach might have something to do with it?

Mr. Sheean: I am talking only of revenue and Mr. Lauck was.

Mr. Lauck: That is a matter of personal privilege.

Mr. Sheean: Then a railroad company cannot escape the payment of a fair wage.

Mr. Lauck: No.

Mr. Sheean: To any employe, even though it turn over the gross revenues of that railroad to those employes, or offered to do so.

Mr. Lauck: I would say cannot escape the payment of a wage to an employe. Whether or not that is fair, I would not agree to that, because whether or not that was fair would depend upon whatever adjustment took place.

Mr. Sheean: That is all I am assuming, Mr. Lauck, that the entire revenues were less than sufficient to pay a fair wage.

Mr. Lauck: Yes.

Mr. Sheean: In such event, the employer, whether it be a railroad or any other employer, still remains under the personal obligation to pay a fair wage?

Mr. Lauck: Yes.

Mr. Sheean: Whether the gross revenues are sufficient to do so or not?

Mr. Lauck: Yes, the recourse of the railroad would be to the Interstate Commerce Commission, of course, for increased rates to meet that revenue. The point that seemed to me as significant here, on the whole, however, from the standpoint of revenue, was what you can't help, so far as what has been done has been done. You cannot interfere with the vested rights in the security issues; but that if security issues were based upon real investment values in the future, there would never be any reason why all classes of railroad employes should not equal, in payments, the organized branches.

Mr. Sheean: But even in the case of having resorted to the Interstate Commerce Commission, and having obtained from the Interstate Commerce Commission a ruling as to the maximum that a railway company may charge on all the commodities that it hauls can the railroad company in your view, relieve itself from any obligation with reference to paying a fair wage, even though it offers to turn over the gross receipts of that particular branch to its trainmen?

Mr. Lauck: No, sir.

Mr. Burgess: Mr. Lauck, will you bear with me a moment. If I followed your reply to Mr. Park's interrogation, you stated it would be quite difficult to arrive at what would be a proper wage, after you had been temporarily made general manager of a railroad, by Mr. Park's question, did you not?

Mr. Lauck: Yes, sir.

Mr. Burgess: Well, just assume you are in the same position as general manager, and you believe, as you have stated here, relative to compensating employes, and you were manager of a railroad approximately 1,000 miles in length, running through a territory where all the other competing lines compensated their engineers and firemen on the 12½ mile per hour basis, or an 8 hour day, would you believe you were justified in insisting on your engineers and firemen working on the 10 mile per hour basis, or a 10 hour day—practically 20 per cent less than your neighbors?

Mr. Lauck: No, sir.

Mr. Burgess: Well, would you have any difficulty in deciding, in your own mind, what was a proper wage, under those circumstances?

Mr. Lauck: For that class of employes it would be the prevailing wage, of course.

Mr. Burgess: And you would not hesitate to immediately adjust your wage scale, in accordance with that of your neighbors, would you?

Mr. Lauck: No, sir.

Mr. Stone: Mr. Lauck, is it not a fact that if all these great numbers of millions of dollars had been conserved and properly administered that there would be plenty of funds to increase the wages of all employes at least 50 per cent, and still keep these railroads on a good paying basis?

Mr. Lauck: Oh, yes, sir, I think so. I think the real question—

Mr. Stone: We could probably raise it more than that. We could probably go up 100 per cent?

Mr. Lauck: I don't know anything about the per cent, but of course, there have been hundreds of millions of dollars absorbed in that way. I think the real question of the wages is not from the railroad manager's standpoint. Probably he would be glad to give all these employes additional wages. It is the relation of the financial manager of the road to the wage problem. The fact that financial management has by its practices dissipated or absorbed the revenues has prevented the general manager from giving any new increases to the employes, because the financial management tells the operating manager that they must use the money to pay dividends.

Mr. Stone: You have been almost everything else. Just imagine yourself being one of these great wizards of finance for a few minutes. How would you do? Pay your employes a going wage, or buy another steam yacht and worthless title for your daughter? Which would you do?

Mr. Lauck: Well, I don't think it would be so much my personal expenditures as it would the systetm of attempting to create values behind securities for which I stood sponsor.

Mr. Stone: Has not the great question throughout all the ages been the question of what is a reasonable wage, what is a living wage? Has it ever been decided, so as to stay decided, I mean?

Mr. Lauck: No. Of course, the standard of living of workmen advances, even in the same occupation.

Mr. Stone: And there never has been any line of demarcation drawn yet between living and existence, has there? It is hard to tell where one stops and the other begins?

Mr. Lauck: Well, yes. I don't know whether I get that fine point or not.

Mr. Stone: Well, there is such a thing as existing, and then there is such a thing as living.

Mr. Lauck: Yes.

Mr. Stone: Now, we hold that the American workingman, and especially the locomotive fireman and engineer, is entitled to a living.

Mr. Lauck: Yes, sir.

Mr. Stone: Under the standard of American—

Mr. Lauck: You mean a real standard of living?

Mr. Stone: Yes.

Mr. Lauck: Of course, these men that are getting $1.50 and $1.65 and $2 a day are really not getting a living wage. I think that most of the manufacturing industries now, where the labor is rapidly becoming—a large proportion—more and more unskillful, through the introduction of machinery, the wage is becoming a family wage, instead of an individual wage, where they are exploited in that way.

Mr. Stone: And the result is we are sending our women and children into the shops along with the men, so that the family can live?

Mr. Lauck: Exactly.

Mr. Stone: That is the economic condition that confronts us.

Mr. Lauck: That is characteristic of manufacturing and mining in the country now, I think.

Mr. Stone: I suppose if this thing goes on far enough and this economic principle is applied far enough, we will find it in our railroad employment as well, later on.

Mr. Lauck: If you did not have the power of organization, the tendency would be in that direction. That would be the natural economic tendency, to give the employe as little as possible.

Mr. Stone: Anything else you want to take up in this? I would like to get this other exhibit introduced, if I could.

Mr. Lauck: No, I can pass over the rest of it.

Mr. Stone: Well, is there anything else important you want to take up on it?

Mr. Lauck: No, there is nothing more important.

Mr. Stone: You don't want to touch on these Northern Securities?

Mr. Lauck: No, the only thing in connection with that is how few, only about sixteen persons, control the Great Northern and the Northern Pacific Railway.

Mr. Stone: Do you want to cross-examine, Mr. Sheean.

Mr. Sheean: No.

Mr. Stone: We should like to introduce then, Mr. Chairman, as our next Exhibit, Exhibit 63, "Productive Efficiency of Industry, Working Relations and Corporation Finance."

(The document, so offered and identified, was received in evidence and thereupon marked "Employes' Exhibit No. 63, March 5, 1915.")

Mr. Stone: Just what is the object of this exhibit, Mr. Lauck? Just why was it prepared?

Mr. Lauck: It is prepared by way of further explanation of the attitude or point that I have been attempting to develop, and a sanction to the theoretic attitude that I have been putting forward.

I would like to read, if I might, part of the first article of Mr. John Moody, editor of "Moody's Magazine," and editor of "Moody's Analysis of Railroad Investments," because it puts so much better than I can the idea we have been discussing.

Mr. Stone: What is Mr. Moody's general reputation? As a conservative?

Mr. Lauck: Mr. Moody is a conservative financial expert, who issues a manual each year on the railroad stocks and bonds, and an analysis of railroad investments from the standpoint of the stock market and the investor. He is editor of "Moody's Magazine," an independent financial publication, and I think is considered a conservative and independent financial student. He occupies a unique position in that regard.

This article by Mr. Moody is entitled "The New Capitalism," and was published in the publication called "The Public," in St. Louis, I think.

After stating that a capitalist sixty years ago was a man who, like George Washington, was worth so much cash, or real estate, or land, he then states that there has been a new designation of capital, growing out of the development of industry on a large unit basis, and the extension of markets to cover the whole world. It says:

"Within the past half century capital has taken on a different meaning. For no sooner did the modern corporation arrive in response to the demand for carrying on production and distribution on a large scale than the seeds began to be sown from which has grown the world-wide custom of capitalizing earning power;—that is, massing in concrete forms, in the tangible shape of stocks and bonds, the value of possibilities for profit under the newly invented methods.

In the earlier days, by the crude processes then prevailing, a given manufacturing plant might produce enough goods and sufficient profit to make net earnings of from 10 to 15 per cent on its total cost; but with the introduction of the improved methods and the further development of efficiency among the workers, this net profit was in many cases increased to from

30 to 100 per cent or more on the invested capital. It was then realized that through the instrumentality of the corporation, a concrete valuation could be put upon this increased profit-producing power, and the "value" of a given property, instead of being based on its original or replacement cost, could be measured by its capacity to show increased profits.

Thus, "capitalization," which was formerly regarded as only genuine when it stood as the representative of an equal amount of property, became a new thing. Corporate capital, as represented by the creation of stocks and bonds, now began to be appraised mainly on the basis of earning power. On this even basis, "capital" was created by leaps and bounds. As the labor of the community became efficient, and the unit of effort brought greater results, corporate securities were issued in an ever-increasing ratio.

Then skipping the next paragraph.

Naturally, this new method of pre-empting or capitalizing the wealth production of workers yet unborn or still in infancy, was at times overdone. Such a process essentially invites speculation, and during "boom" periods the possibilities of future growth, or the rapidity of such growth, were often overestimated and overvalued.

And he goes on to state that resulted in panics and depressions.

Mr. Stone: Just how do you apply that to this present situation here?

Mr. Lauck: The idea is the one that we have been working on, to the effect that the increasing efficiency of labor, the increasing efficiency of capital investments, such as machinery, better locomotives, better equipment, resulting in heavier train loads, the revenue resulting therefrom has been rapidly capitalized, and therefore the employe has not had an opportunity to participate in that the way he should, speaking of employes as a whole.

This overdoing of the capitalization results in practice, he continues by saying—I have omitted some references there, where the stars are, for the reason they were political references, and it seemed to me well not to bring up in the present discussion—on page 3, he says:

This situation naturally led to a wide-spread demand among capitalists — large and small — for legislation which would insure the integrity of the values which had already been capitalized, as well as those which would continue to be capitalized for generations into the future. * * * Legislation in state and nation was promoted for preserving the status quo of this new disposition. Thus the railroads, which in the decade after the Civil War, were the most conspicuous beneficiaries of the new system, were given enormous grants of lands, the steadily increasing values of which have been progressively capitalized to this day; railroad rights of way were guaranteed and protected in many ways.; terminal sites were furnished under the most favorable conditions; natural resources such as coal and iron deposits, mineral lands and water power rights, were in every conceivable way surrendered by the people and given to the railroads for their own use and profit.

The railroads, of course, profited enormously by the granting of these special privileges, and steadily capitalized these growing values, just as they had begun to capitalize the growing values in their ordinary rights of way, which were being each year added to through the industrial efforts of the people to whom they catered and the steady population growth along their lines.

Then he goes on to say that the tendency was not limited to the railroad field, but extended to all other lines of industry. And on page 4:

"Thus has been built up this great structure of modern capitalization."

The New Capitalism is simply the current appraisal or capitalization of monopoly. It is not the mere capitalization of machinery, nor of the results of the working of machinery, but it is a capitalization of the appropriate earnings of the human beings who now use or will use the machinery and produce the profits. For monopoly is of no value in industrial life, except to divert wealth into the hands of the possesser of the monopoly. * * * The development of efficiency in modern productive methods, the invention of new and improved processes, reducing costs, gives them a steadily enlarging margin of profit for each unit of productive effort; while the control of the source of supply in coal, enables them to exact 'all the traffic will bear' in the sale of the product. Just as fast as new inventions are developed and machine processes perfected, naturally decreasing the cost per unit, the value of the monopoly increases, and profits swell, so to speak, at both ends of the process.''

He concludes by two significant paragraphs, it seems to me. Capitalization he is speaking of. ''It is this power or privilege for monopolizing earning capacity that has made possible the modern phenomenon known as Big Business; this power, existing through the more or less exclusive possession of original sources of supply, that is steadily being reflected through the increasing capitalization, in corporate forms, of the general producing activities of men and women in this generation, as well as of the labor of those in the generation to come.

''Were the process limited to the earning power of the present generation only, the situation would not be so serious. But Big Business has already pre-empted and capitalized the coming labor of our children; it has 'cashed in' on the future wealth production of babes yet unborn; the market values of many stocks and bonds daily sold in the financial centers of America today represent little more than the advance absorption of future labor power, even under the third and fourth generations.

''And this further fact should not be forgotten. For over forty years there has ben a double process at work. First, steady growth of a new system of capitalizing working forces, practically unheard of before the Civil War; and, second, a steady trend toward the concentration in control of this capitalization in the hands of a limited group of men, by means of legislative enactment, community of interest, control of avenues of credit, and in numerous minor ways.''

That is all I wish to read of that. Mr. George W. Perkins, who was formerly a member of J. P. Morgan & Company, and who has been connected with the United States Steel Corporation and the International Harvester Company, and conservative financially, on January 21st and 22nd, 1915, testified before the Industrial Commission, as follows—

Mr. Stone: That is this year's vintage.

Mr. Lauck: Yes, sir.

''I think, first, the money for the capital should be paid in dollar for dollar in cash. And then, I think a plan should be worked out by which it should be said we pay the interest on our bonds, we pay our dividends on our stock; the stock has not been paid in as completely as the bonds; and then, whatever money we are able to make over and above that, shall be divided between the stockholders and the laboring men; that the laboring man is supposed to earn his wages, if having earned the interest on the money that was put in; if he earns a surplus above that it should be shared with him and the stockholders."

On the next page, he states more significantly, the following:

"How vastly different and better industrial conditions and relations would have been during the past twenty years if at the time of enacting the Sherman law two other laws had been passed. One that would have prevented stock watering and over-capitalization in railroad and industrial organizations; and one that would have required full publicity for railroad and industrial organizations that became interstate and international."

I will read on page 11 from the testimony—

Mr. Stone Have you skipped Mr. Untermyer?

Mr. Lauck: Mr. Untermyer, on page 9. Mr. Untermyer, whom I have quoted before, was the general counsel of the Pujo Committee, which investigated the concentration of wealth and credit. His statements are not so significant in the connection which we have here. He makes a general statement that he thinks industrial unrest is due to an inequality in the distribution of the output of industry.

Mr. Stone: The first paragraph above that, Mr. Lauck, showing how the great corporations control, by a very small proportion, the stockholders.

Mr. Lauck: Large industries getting into a few hands?

Mr. Stone: No; above that.

Mr. Lauck: Speaking of the concentration of industries into large corporations, the witness said he considered it harmful when you get a great aggregation of capital in any industry with all of the power behind it on one side, the labor organization is helpless. He said:

"As I look upon the government of corporations the manner in which they are controlled has a very vital effect upon labor conditions, especially with respect to the great corporations of the country. I look upon the concentration of control of these corporations in a centre like New York as a thing to be avoided if possible, and a thing to be done away with for the good of every industry concerned. . . . The fact is that the great corporations with widely scattered holdings are controlled by a very small proportion of the stockholders.

"Large industries getting into few hands was considered inimical to labor as putting labor at a great disadvantage.

"Not only labor organizing, but when organized, in getting its rights; because labor has nowhere else to go. If the labor in an industry has only that industry that it can deal with, and has to deal with the whole industry and their terms are unsatisfactory, then it has nowhere else to go."

Mr. Stone: That means, when you talk about a man, that he don't like his job—if he don't like it, he can quit, that there isn't any place for him to go. He cannot quit. His training is for that particular vocation.

Mr. Lauck: Yes, sir; if those are controlled by one corporation, of course, he has nowhere to go.

Mr. Stone: Well, with the present follow-up and reference plan they have now, it comes pretty near being nowhere else to go.

Mr. Lauck: I say he has nowhere else to go. I would like to read just one more selection. That is from the testimony of Mr. Louis D. Brandeis, on page 11, testifying before the Commission on Industrial Relations, on January 23rd, 1915. Mr. Brandeis, among other things, said:

"There ought not to be, to my mind, the slightest difference between the employer and the employee as to determining that they are going to earn the greatest amount they can * * * consistently with the complete help of the individual. There ought to be unity of purpose until you come to a division of the increased profits, and then the two sides ought to bargain with one another, and * * * I think the time is coming for the unions to get the larger share."

He explained that by the fact that labor was debarred from its proper share, at the time of the introduction of machinery.

Mr. John D. Rockefeller testified that he would like to divide the surplus output of industries controlled by him, with labor, but he did not know how to go about it.

The Chairman: We will adjourn until 10 o'clock Monday morning.

(Whereupon, at 5 o'clock P. M., on March 5, 1915, an adjournment was taken until March 8, 1915, at 10 o'clock A. M.)

IN THE MATTER OF THE
ARBITRATION
between the
WESTERN RAILWAYS
and
BROTHERHOOD OF LOCOMOTIVE
ENGINEERS
and
BROTHERHOOD OF LOCOMOTIVE FIRE-
MEN AND ENGINEMEN
under the Act approved July 15, 1913, *by agree-
ment dated August* 3, 1914.

Chicago, Illinois, March 8, 1915.

Met pursuant to adjournment at 10:15 o'clock A. M.
Present: Arbitrators and parties as before.

Mr. Stone: Mr. Chairman, we desire to introduce this morning Exhibit 64. "Financial Ability of Western Railroads to Pay Increased Compensation to Locomotive Engineers and Firemen."

Exhibit 65. "Condensed Income and Profit and Loss Statements of Western Railroads for the Year Ending June 30, 1914."

Exhibit 66. "Cash, Working Assets and Profit and Loss Balance of Western Railroads, on June 30, 1914."

(The documents so offered and identified were received in evidence and thereupon marked "Employes' Exhibits 64, 65 and 66, respectively, March 8, 1915.")

The Chairman: Are there any proposed corrections of the record?

Mr. Stone: We have none.

W. JETT LAUCK was recalled for further examination, and having been previously sworn, testified as follows:

Mr. Stone: Now, Mr. Lauck, take up Exhibit 64, and explain the object of the exhibit, what we hope to show by it.

Mr. Lauck: Exhibits 64, 65 and 66 are designed to show the present financial status of the Western Railroads, as contrasted with the temporary conditions from year to year.

This shows in a condensed form the results of the operation of the railroads during the last five years, and the accumulated financial results of previous years.

Referring to page 1 of Exhibit 64, it will be noted that the first section of this exhibit shows the totals for fifty-three representative Western railroads. This exhibit was prepared before it was known exactly what railroads would be parties to the present proceedings.

The Chairman: What page?

Mr. Lauck: Page 1. Pages one and two give the names of the railroads which are considered as a whole, or one system. On page 3, is given the aggregate of the condensed income statement of these fifty-three roads during the years 1909 to 1913 inclusive. This graphical presentation is drawn according to scale, and the year 1909 may be compared with the year 1913 on this basis, showing the relative amount of operating expenses, net revenues, and the disposition of such net revenues.

For instance, in 1909, it will be seen by referring to this document on page 3, that the operating expenses were $659,000,000; in 1913, they were $906,000,000. The total operating revenue in 1909 was $1,000,000,000; in 1913 it was $1,351,000,000.

The net revenue in 1909 was $371,000,000; in 1913 $444,000,000.

Then the next section, with the cross lines, shows how much was paid for taxes in 1909, or $32,000,000, as contrasted with $46,000,000 in 1913.

The next section shows what had been income from sources other than railway operations or other income. That is, interest and dividends on securities, and all other income not strictly rail income.

The large income shows the gross corporate income, or $439,000,000 in 1909, as compared with $533,000,000 in 1913.

Then the divisions under that section show the disposition that was made of gross corporate income, a certain amount being paid for rents and other purposes; a certain amount paid on funded debt; $133,000,000 in 1909, as compared with $168,000,000 in 1913, leaving a net corporate income for the year of $230,000,000 in 1909, as compared with $270,000,000 in 1913.

Then the diagram on page 5 continues that analysis through the accounts by taking up the condensed income and profit and loss statement.

We have in that diagram a consideration of the surplus for the previous year, to which is added the net income, from which dividends and other charges are deducted, leaving the so-called free surplus available at the close of business on June 30, 1913.

The surplus on June 30, 1908, for these 53 carriers was $431,000,000.

Referring to the diagram on page 3, it will be seen that the net income for the current year was $230,000,000; which added to the surplus gives the amount available to stockholders in that year as $658,000,000.

From this was deducted $161,000,000 in dividends and $4,800,000 in appropriations for property, $20,000,000 in appropriations for reserves, leaving a so-called free surplus on June 30, 1909, of $471,000,000, as contrasted with a so-called free surplus June 30, 1913, of $684,000,000.

Then on page 7 there is a diagram showing the relative tendencies in the principal items of profit and loss; three lines, one showing the amount available to stockholders, which I have mentioned in the preceding diagram, another showing the tendency exhibited by the unappropriated or so-called free surplus, and the third showing dividends to stockholders, and the bottom line showing appropriations for property.

It will be noticed that there has been an upward tendency in the amount available for stockholders and in the accumulation of a surplus, and that dividends to stockholders are slightly more in 1913 than they were in 1909, with quite a falling off, however, in 1913 as compared with 1911.

On page 8 the net income for the year is shown in the table at the middle of the page, as contrasted with the total amount of capital stock outstanding, and the earnings are shown for 1909 to 1913; that is, the per cent of net income to total amount of capital stock outstanding, being 7.61 per cent in 1909; 8.55 per cent in 1910; 9.63 per cent in 1911; 6.76 per cent in 1912, and 7.78 per cent in 1913.

On page 9 there is a diagram showing the relative proportion of income expenses and surplus, and the relation to surplus, and to these different items, of certain increases in wage payments to engineers and firemen.

This diagram is drawn to scale, and the figures are omitted, but they have already been given in the preceding diagrams, and are also given in the basic table.

For the year 1913 the diagram shows the first bar, operating expenses and the net operating revenue, and the next section shows the relative proportion of net operating revenue paid in taxes. Then the next section shows the income derived from other sources. The next section shows the gross corporate income and its disposition, into rents paid, interest on funded debt and net amount available to stockholders.

The next section shows the amount available to stockholders; that is, the surplus from the previous year and the net income for the current year, or a total of 28 per cent as compared with capital stock outstanding.

Out of this was paid 6 per cent in dividends and in appropriations to property leaving the last bar, the surplus, which was 22 per cent of the total amount of capital stock outstanding.

Then, at the bottom of the diagram, is shown the relative proportions, or the amount of this surplus which would be absorbed if ten, fifteen or twenty per cent wage increases were granted to locomotive engineers and firemen, and it can be seen by the diagram that the amount which would be absorbed from surplus or from net income would be comparatively insignificant.

On page 10 are given the figures showing what the amount of certain designated increases would be, and on page 11 is given the basic table, upon which all of these diagrams were built. That is a condensed income and profit and loss statement of these fifty-three representative railroads, showing the operating revenues, expenses, the taxes and the other income; the gross corporate income, the deductions from gross corporate income, and the surplus balance and the net income available for stockholders, and the disposition of that amount in the form of dividends, appropriations for property and for reserves, and the accumulated surplus at the end of each fiscal year, from 1909 and 1913, inclusive.

Mr. Stone: Mr. Lauck, may I interrupt to ask where you got these figures?

Mr. Lauck: These figures were taken from the reports to the Interstate Commerce Commission, and are an aggregate of those figures.

Mr. Stone: This is the aggregate sum that you got?

Mr. Lauck: Yes, sir; these are an aggregate of 53 Western railroads.

Mr. Stone: So, if these figures are correct, from 1909 to 1913, the amount carried in surplus account has increased from $471,000,000 to $684,000,000.

Mr. Lauck: Yes, sir; and the net income from $230,000,000 to $270,000,000, after all payments had been met. The dividend disbursements from $161,000,000 to $182,000,000, and the appropriations that have been made, each year for property, $4,800,000 in 1909; $18,000,000 in 1910; $16,000,000 in 1911; $12,000,000 in 1912; $41,000,000 in 1913. Also, some appropriations being made for reserves, and the additional amount available for stockholders—

Mr. Stone: The additional amount available for stockholders shows a remarkable increase also, does it not?

Mr. Lauck: Yes, sir, that increased from $658,000,000 to $976,000,000. That includes the surplus accumulation and is available for what uses they may wish to place it.

Mr. Stone: Now, Exhibit 65 carries this same analysis, through the year 1914, for the same railroads.

Mr. Lauck: Yes, sir.

Mr. Stone: Explain why this exhibit was gotten out later —because you found you had some more time?

Mr. Lauck: Had more time.

Mr. Stone: And the reports of the railroads came in?

Mr. Lauck: The reports of the railroads came in, and they were all filed with the Interstate Commerce Commission, about last December or January. This supplementary exhibit was filed, showing the condition of these roads in 1914, and the total for all roads is found on page 7. The total is not exactly identical. There are three roads, I think, that we could not get. They are comparatively small roads.

Mr. Stone: The reports were not in, you mean?

Mr. Lauck: They were not available at the time that this was prepared; making a difference of about $3,000,000, I think it would be in the surplus account. The analysis is exactly similar to the 1909-13 exhibit, or exhibit No. 64, and comparisons may be made between Exhibit No. 64 and Exhibit No. 65. Of course, time was not available to work out the diagrams or the graphic presentation of it.

Mr. Sheean: Are those the same fifty-three roads?

Mr. Lauck: Yes, sir; with the exception of three unimportant ones. I do not happen to have their names. I will give you those; and it makes about $3,000,000 difference in the surplus.

Mr. Stone: And the only reason they are not shown is because they were not available?

Mr. Lauck: Yes, sir.

Mr. Stone: This is simply introduced to show the tendency of the times?

Mr. Lauck: Yes, sir, to complete it through the last available year.

Exhibit No. 66 makes an analysis of the surplus, to the extent that it shows, as will be seen, of this service, how much was cash—ready cash, available for use. It will be seen that of the total surplus of more than $600,000,000, $208,000,000 was in cash on hand—Exhibit 66, page 2.

The Chairman: Page 2 of the exhibit?

Mr. Lauck: Yes, sir; page 2 of Exhibit No. 66. That, as I have stated, analyzes surplus into cash working assets, and shows of the accumulated surplus, how much was in quickly available form for immediate use; or, $208,000,000 in cash. What proportion of these working assets were available, I have not attempted to work out. Of course, you would have to deduct from them the current liabilities, and know what the character of the securities held as working assets were, or any other asset held as working asset.

Mr. Burgess: Do you mean, Mr. Lauck, this $208,000,000 was in cash, June 30, 1914?

Mr. Lauck: June 30, 1914, yes, sir. In this exhibit, as will be noticed, I have at page 13 and subsequent pages—

Mr. Burgess: Which exhibit?

Mr. Lauck: Exhibit 64. I beg your pardon: I have also made an analysis of surplus. The analysis on page 13 is for only 23 railroads, out of the total of 53, but in the succeeding pages, the analysis of the surplus of each road, is made, showing the accumulation of cash and the change in different items in this surplus, during the period 1909 to 1913.

For instance, taking the totals for the ten representative roads, which will appear on page 43, it will be found that there is a brief analysis of the increase in surplus. Page 43 is the Atchison. A brief analysis in the increase in surplus of the Atchison during the period 1909-1913.

It will be noticed there that during this period the Atchison accumulated in its surplus $19,000,000 more in cash than it had in 1909; in other words, in 1908 it would be $8,818,000 in surplus, and in 1913 $27,820,000.

That comparison is made for each road. In addition to the profit and loss statement there is a statement, in connection with each road, of the aggregate of the analysis of increase in surplus.

I would like to refer to page 41. On that page is also shown the income factors and the capitalization factors. The margin of safety as set forth in Mr. Moody's analysis of railroad investments. In other words, from 1902 to 1913, on page 41 it will be seen that the margin of safety, after the payment of fixed charges, ranged from 53 to 59 per cent; and on page 42 that the margin of safety, after paying the dividends, ranged from 37 to 60 per cent.

Mr. Burgess: Now, Mr. Lauck, won't you please explain the last paragraph on page 43, under the heading of "returns to stockholders"?

Mr. Lauck: Yes, sir; I have just come to that.

Mr. Burgess: Taking the Atchison as an example. That will probably give us an idea of what your table consists of briefly.

Mr. Lauck: That is an additional section, showing to what extent the stockholders have fared during the period of 1900 to 1913.

If you will turn, please, to page 44, you will find that explained in a summary form. This shows the average price of one share of Atchison stock in 1900, which was $33. The average price of one share of stock in 1913 was $98.

During this period, the holder of one share of stock received in dividends for the period $62. That is, in cash dividends. He also received in stock rights, either in cash or stock for the period $2.19. And the total received in 14 years was $64.19.

The market profit or loss on the investment, assuming that he had bought the stock in 1900, and still held it in 1913, was $65. The difference is $33.98 between what he paid and what he could have sold it for.

The per cent per annum on investments, inclusive of this market profit during this period, was 28 per cent.

The per cent per annum on investment, exclusive of this market profit was 13.9, or practically 14 per cent.

The Chairman: You are referring to the common stock, are you?

Mr. Lauck: Yes, sir.

Mr. Burgess: Mr. Lauck, see if I follow you correctly. If an investor bought one share of Atchison in 1900, and paid $33, and held it until 1913, his property would have increased in value $65, plus any interest that he might have received during that period of time.

Mr. Lauck: Yes, sir, which amounted to $62. That is, he received in cash dividends $62. Then in addition to that—

Mr. Stone: That was quite a good profit on his investment, was it not?

Mr. Lauck: Yes. The aggregate was about 225 per cent for the fourteen years, just considering it as one period of time.

Mr. Burgess: That is, on the $33 invested in 1900 he would receive in 1913 an aggregate of how much per cent?

Mr. Lauck: It would be 13 times 13.9, or 13 times 28, which ever way you looked at it. It would be in the most conservative way, eliminating the market profit, if he left his stock and did not sell it, it would be about 225 per cent. Thirteen times thirteen would be 179 per cent.

Mr. Burgess: Well, that is the real purpose of this exhibit, is it, to bring out the returns to the stockholders?

Mr. Lauck: Yes, to show what the existing status of the railroads is financially, as contrasted with any current operations for one year; how they stand now in a financial way, how the stockholders would have fared, how they have participated, on the basis of the figures reported by the railroads to the Interstate Commerce Commission, and what would be the effect of certain designated wage increases upon the so-called surplus of the railroads, operating revenues and operating expenses, and upon whether the railroad would be able to pay from the current result of their operations certain designated increases in wage payments to engineers and firemen.

Mr. Burgess: Do you find, Mr. Lauck, in making a study of this exhibit, which probably you have done, that the ten representative railroads you refer to have returned approximately about the same amount to the stockholders?

Mr. Lauck: In dividends?

Mr. Burgess: Yes.

Mr. Lauck: For the ten representative railroads, that is shown on page 23 as to the net income, as compared with capital stock outstanding. It ranged from 9.28 per cent in 1909 to 9.66 in 1913. In 1910, the return was 10.13 per cent; and in 1911 it was 12.20 per cent; in 1912, 8.01. That is what was earned. What was actually disbursed is shown on page 26.

The dividends paid in 1909 were $122,000,000; in 1913 were $140,000,000. The average rate of dividend on all classes of stock, without differentiating between the stock, was 6.54 in 1909, and 6.80 in 1913.

Mr. Park: Mr. Lauck, have you made an analysis of the distribution of the stock of the Santa Fe to determine to what extent it is held by individuals?

Mr. Lauck: No, sir. There is no information available by which I could make that. I attempted to get the same data along that line, but beyond Poor's Manual of Holdings of Railroad Securities, which shows the amount of stock held by savings banks and life insurance companies and trust companies, there is not any information available, except occasional statements published by the railroad as to the number of stockholders.

Mr. Park: I have seen a statement that the average holding was 89 shares. If that be true, it would indicate a very wide distribution of stock among individuals.

Mr. Lauck: Yes, sir.

Mr. Sheean: Mr. Lauck, have you anywhere, prepared, on the line that you show on page 44, where you take the Santa Fe back to 1900, what the result to a person buying the stock in 1900 at 33, and holding it all the time, would have been? Have you on that same line attempted to show, as to these railroads or any of them, what the result to any individual would have been had he bought the shares of stock immediately following the last concerted rate movement in 1910, and cashed in on the basis that you show, at 44, when this movement came up?

Mr. Lauck: No, I have made no study of that. These figures are largely taken from Moody's Magazine, and really do not represent an independent investigation on my part. He showed there, I think, returns in connection with the Eastern Rate Case in an analysis they made of the financial status of the railroads, or series of articles entitled, "The Case Against the Railroads" made this compilation which I have used.

Mr. Sheean: Well, then, is this comparison here which you have used the one as to which the Interstate Commerce Commission says that comparison could not be made where you take two fat years for comparison with two lean years?

Mr. Lauck: I don't think the Interstate Commerce Commission ever said anything about this comparison.

Mr. Sheean: About this particular comparison.

Mr. Lauck: No, it never appeared.

Mr. Sheean: Well, is it not true, Mr. Lauck, that if you show at page 44, whereby you treat as profits the difference in market value of the stock in 1900 as compared with the market value in 1913, that if you took the same basis of comparison as between 1910, when the last concerted wage movement was settled, and 1913, and charged off against the difference the falling in the market price of stock, that it would bring you to the conclusion that there had been a loss from this investment rather than a profit.

Mr. Lauck: A market loss?

Mr. Sheean: Yes.

Mr. Lauck: I don't know what the quotations are. I know 1910 was a very good year, and of course the price of stock would have gone up or gone down, according to revenues good or bad.

Mr. Sheean: And you show here at the bottom "Per cent per annum on investment, inclusive of market profit," a certain conclusion. Now is it not a fact, if you adopt that method, comparing 1900 with 1913—is it not just as fair to adopt the same comparison between 1910, just following the last concerted wage movement, and 1913, when this one began.

Mr. Lauck: I think it would be perfectly fair, yes.

Mr. Sheean: And from your general knowledge of the fact that in 1910 the stocks were very high, can you not state in a general way that if you adopt this general method, and deduct the difference in market quotations between 1910 and the market quotations in 1913, your last line here for the period between those two concerted wage movements would show no return on investments.

Mr. Lauck: I do not know what the relative quotations were for those years. I can say this, that 1910 being a good year, the market quotation would follow the revenue showing of the road, and possibly the market value of the stock in 1913 not being as good, may have shown a relatively smaller quotation. I think 1914 would probably show still smaller. I think Atchison is quoted now at about 97, or something like that, even at the present time, when conditions are supposed to be bad.

Mr. Sheean: Yes, but do you consider as perfectly proper in the consideration of the returns on investment, the deduction or addition of the market values of the stock between the two dates on which the per cent is made.

Mr. Lauck: I think so, yes; that is, assuming that a man makes an investment and wants to realize upon it.

Mr. Sheean: Then would it be your conclusion that taking these same railroads on the date on which the award went into effect in 1910, or the concerted wage movement was settled, and considering as the investment the market value of the stocks on that date, and taking the same carriers at the period when these wage demands were presented in October, 1913, that on this formula which you here apply, there was a showing of no profit on the investment, that in any award or any consideration the Board might give here, it would be proper for them to reach the conclusion that during the three year period there had been no return on the property investment?

Mr. Lauck: No return on the property investment?

Mr. Sheean: Yes, or on any investment.

Mr. Lauck: You mean, looking at it from the standpoint of an individual?

Mr. Sheean: Whatever standpoint you looked at, in making your table.

Mr. Lauck: That is, looking at it from the standpoint of an individual who purchased the stock; from the standpoint of that individual, saying that he bought in 1910 and sold in 1914, there might not be any market profit.

Mr. Sheean: That was what I was wondering, Mr. Lauck, as to whether or not in this controversy it was your position that what the profit or what the loss of an individual as between 1900 and 1913, or as between 1910 and 1913, had been, had any relevancy or materiality in this proceeding. Is not this purely what would have been the result to an individual?

Mr. Lauck: To an individual. I don't think it has much bearing on the case.

Mr. Stone: But the fact does remain, does it not, if I had been in the open market, I could have bought stock in 1900 at $33?

Mr. Lauck: That is right.

Mr. Stone: And if I could have held it until 1913, I could have sold it at an advance of $65 a share, could I not?

Mr. Lauck: Yes, sir.

Mr. Stone: And, also, during the time that I held it, to the present, on the investment, in addition to the increase in the market, profit of 13.9 per cent per annum, is that correct?

Mr. Lauck: That is right.

Mr. Stone: Well, then, it is very evident that the stockholder got his fair share of the productive efficiency of the road, did he not?

Mr. Lauck: Yes, sir, during this period. This is introduced to throw some light upon that. I do not think, however, that the contention is based upon return to any individual. It is more what the railroad has done, prior to 1909, than since, and our argument altogether has been that productive efficiency has not been sufficiently remunerative, prior to 1909, and we are basing it upon the aggregate results, prior to that time, more than subsequent. This is of a value as indicating what an individual might have done, who had the stock and who sold it during that period.

Mr. Stone: In other words, we never have conceded and do not concede now that the settlement of 1909 was fair, full and adequate, as the other side claim.

Mr. Lauck: No, sir, that is my understanding of the contention.

Mr. Park: That would obtain, Mr. Stone, in all settlements, would it not—the same result?

Mr. Stone: Well, I am still optimistic. I am in hopes that this award will be fair, full and adequate, when we are through.

Mr. Park: I could not imagine any such contingency.

Mr. Lauck: There is another point that I might mention in connection with this exhibit—referring to the Atchison as a good road to exemplify this by. Of course, it has no practical significance, because it is a case of whatever way we may look at it, of the water already having gone over the dam, but of course, nothing can be done to change what has been done, but in the section from pages 39 to 41 is an analysis of what the Atchison has been paying, with a statement of what it might have paid, had it been reorganized in the sense that I have said, or claimed, rather, was a proper reorganization, in 1896. The Atchison now is making return of about 7.25 per cent of its earnings on its capital stock outstanding; whereas, if its capitalization were in accordance with its market value of its property in 1896, when it was reorganized, it would be paying between 19 and 20 per cent upon such valuation. That shows what the earnings might have been, had the financial management adjusted the security issues to the market value of the property of that time; but of course, these securities having been issued, and having become a claim against the railroads, any failure to make returns on them could not be considered, because it would be interfering with the rights of innocent purchasers.

Mr. Stone: And the difference between what you show there and what they are paying at the present time shows the additional burden that was placed on the Santa Fe.

Mr. Lauck: Shows a difference of about 12 per cent from the earnings, which we have claimed represents the fact that the employes have not had an equitable participation in the productive efficiency of the road.

Mr. Park: Mr. Lauck, is not that all involved in the past constructive history of the road? It started, as you say, some time ago, on a small road that had a very moderate earning capacity, and by building up the Southwest and that territory it has finally become a great transportation machine, but would it not be necessary to take into consideration all the encouragement that was required, to give the investors and all the conditions that obtained, to form a fair idea?

Mr. Lauck: Of course, there ought to have been inducements to the investor, if he incurred unusual risks. This does represent, not solely the productive efficiency of the employes, but the growth of business resulting from the development of the country, and our claim was that when we had this up, that these securities being issued and absorbing these revenues, that the employes, if this were continued, could not hope for an equitable participation at any time, because, as you will readily see, if securities were waiting to absorb revenue, why, at any time it will be able to be shown that the road was financially unable to pay.

Mr. Park: Well, there always was great risk in the transcontinental lines. The Union Pacific was in the hands of a receiver, and the Santa Fe has been in the hands of a receiver. The Northern Pacific went through receiverships, and looking back, we can very clearly see that there was a great deal of risk, and it must have required a great deal of encouragement to get people to put their money in it and push those enterprises through. It would seem to me that all of that has a considerable bearing on the subject, if we attempt to analyze that part of the history of these railroads, in connection with present conditions.

Mr. Lauck: So far as that was present, I should think it should. I had always thought that there had been great risk incurred, but after studying the history of some of these roads, why, I came to the conclusion that there was no risk in the case of some of them, but enormous profits were made, without any risk being incurred whatsoever.

Mr. Park: Well, it might have been true that some people profited by it. Thomas C. Durant put up his fortune and Oakes Ames came to the rescue of properties. That is true of the Northern Pacific and all of the lines. Great fortunes were lost, as well as made, as I gather the history.

Mr. Burgess: Mr. Lauck, in preparing all of your exhibits, you have never denied at any time that capital should not be properly rewarded for its participation in the industry, have you?

Mr. Lauck: No, sir, or that there should be any interference with securities already issued, and which have been absorbed by innocent purchasers.

Mr. Burgess: If I understand the purport of your exhibit and the essence of your testimony, it has simply been that labor has not had its equitable share of results produced?

Mr. Lauck: Yes, sir.

Mr. Burgess: In this case, particularly the engineers and firemen?

Mr. Lauck: Yes, sir; and that if this same system of creating securities against the earnings of the future was permitted to go forward, why, all the increased productivity of the men and the development of the country would be absorbed.

For instance, in the last part of the section of Exhibit 62, which I presented, and which I failed to comment on, the conclusion which I wished to arrive at was, that at the present time there are dividends of about $45,000,000 annually, paid by Western Railroads on capitalization, which I had claimed to be excessive. And in addition to that there was $259,000,000 of stock, like the Great Western and other roads of that kind, which had been issued without consideration and which was awaiting a time to absorb any increased earnings that might develop in the future.

The Chairman: How many of these railroads failed to pay dividends during the period contemplated by this exhibit?

Mr. Lauck: Do you mean how many in number?

The Chairman: What proportion?

Mr. Lauck: All of the proprietary roads I should say, with the exception of several like the Missouri Pacific, which had been financially manipulated, the St. Louis and San Francisco—practically all of the proprietary roads.

The Chairman: I believe you show by this exhibit that each of these roads has a substantial surplus, do you not?

Mr. Lauck: Yes.

The Chairman: Was there sufficient surplus to have appropriated an amount from which dividends could have been paid, and still have left a balance?

Mr. Lauck: Oh, yes, a tremendous balance. For instance, referring to page 11, for the 53 railroads, the total amount available to stockholders was $976,000,000. They appropriated $182,000,000 of that in dividends, and $41,000,000 for property improvements, and put $68,000,000 into reserve funds, and had $684,000,000 left in their surplus on June 30, 1913, of which $208,000,000 was cash on hand.

The Chairman: What additional amount would have been required to have paid say a four or five per cent dividend?

Mr. Lauck: To pay an additional dividend of 5 per cent, making the total dividend disbursement ten per cent, would have required about $180,000,000.

The Chairman: What would have been left as a surplus if that course had been pursued?

Mr. Lauck: If they had done that and had practically doubled the dividends, there would have been a credit surplus of $500,000,000.

Mr. Sheean: How much cash would they have had?

Mr. Lauck: About $50,000,000 or $60,000,000 in cash.

The Chairman: Have you any information from which you are able to state to the Board why it was that funds were not appropriated for the payment of such dividends?

Mr. Lauck: I think they were not appropriated because some of this $976,000,000 could not be converted into dividends. That is, some of it represented fixed investments of the railroads. Some of it, as shown here on these accounts, did not represent anything. That is, some of it was Rock Island surplus, which was a book surplus. You remember the bonds of the Iowa company, the operating company, that were worthless, but they were carried as a surplus. So it could not be expected, and I am not claiming at all, and do not want to create the impression that this $684,000,000 represented quick assets, or represented assets that could be converted during a long period of time into cash, and to that extent they could not appropriate this money for dividends. Probably some of it could never be realized on for any purpose; but there was a certain proportion of it, I should say about half, of cash plus other quickly convertible assets which would be available for dividends; and the reason that it was not appropriated was probably that it would not be good financial policy to appropriate all the available resources or quick resources for dividends, but it was better to carry a surplus which would enable dividends to be paid uniformly through a series of years, say that in a bad year like this, so that the surplus could be resorted to for the payment of dividends that were not made out of earnings; or in a case of disastrous floods, like they had on the Illinois Central and the Southern roads, in 1912 and 1913, the surplus could be used in rebuilding the road and putting it back into shape again.

The Chairman: Suppose, instead of paying a dividend one of these companies passes the amount to the surplus that should have been or could have been paid out for dividend, what effect does that have on the value of the stock?

Mr. Lauck: That should have a very pronounced effect in lowering the market value of the stock, because the market value is the reflection of the earning capacity—unless it was thought that that would be good financial policy on the part of the management, and they might get the dividends in the future. As a general rule, it would cause a reduction in the market value of the stock. In other words, it seems to me, it would injure the credit of the railroad.

You remember that all through the financial troubles of the St. Louis and San Francisco it maintained its dividends on its stock, when it really had to sell bonds in order to get funds to pay the dividends on the stock, on the idea, which it seems to me was a largely misguided notion, that they were maintaining their credit by paying dividends on their stock.

Mr. Stone: In this $684,000,000 that you show here on page 11, does that include the oil lands and the timber lands of these different railroads?

Mr. Lauck: Presumably, yes.

Mr. Stone: At their book value or at their real value?

Mr. Lauck: Yes. I should have said in that connection—

Mr. Stone: At their book value—at what they are carried at on the books?

Mr. Lauck: At the nominal value.

Mr. Stone: For example, the timber lands of the Southern Pacific are carried on their books at $34,000,000 I believe.

Mr. Lauck: Yes.

Mr. Stone: Their real worth, at the lowest conservative estimate, is $200,000,000 and the Wall Street Journal says $700,000,000.

Mr. Lauck: Yes.

Mr. Stone: They are shown here at $34,000,000.

Mr. Lauck: Yes. That is, the Southern Pacific surplus would show only $34,000,000 of assets in book value of securities, whereas the market value of those securities would be represented by assets, according to these estimates, of $700,000,000. Moreover, Mr. Reid, as you will recall, in his testimony in the Rock Island case, said that the Chicago terminal properties were carried on their books at $100,000,000 less than their real market values.

Mr. Stone: While you are on the subject of Mr. Reid, there is one thing you overlooked the other day. Is there anything in that statement of Mr. Reid's about the $25,000 fund set aside for a political campaign?

The Chairman: What road was that?

Mr. Stone: The Rock Island?

Mr. Lauck: I do not recall anything he said. I recall that it was, I think, Mr. Sharood, the expert of the Interstate Commerce Commission, who said he had found an item of $25,000 for campaign contributions; but I am not certain about that.

Mr. Stone: I think it was Mr. Stevenson, the auditor, if I recall it right, instead of Mr. Reid. I was thinking it was Mr. Reid. I know there is not anything in these records to show to whom that went, is there?

Mr. Lauck: No, sir, no record of that at all.

The Chairman: You do not know whether there was an equal division between the two parties?

Mr. Lauck: No, sir.

Mr. Byram: In the case of a surplus carried by a railroad, does that surplus usually consist of cash?

Mr. Lauck: No, sir. A certain proportion of it consists of cash.

Mr. Byram: What may the rest of it be?

Mr. Lauck: It may be almost anything. That is—

Mr. Byram: But it requires cash to pay dividends?

Mr. Lauck: Yes.

Mr. Byram: So that the surplus would have to be converted into cash in order to pay dividends?

Mr. Lauck: Yes.

Mr. Byram: May not the amount carried in the surplus be an amount that has been expended on the property for additions and improvements from the current earnings, but which are not capitalized?

Mr. Lauck: Yes. It may be in increased market value or decreased market value of securities. For instance, this past year there has been a great deal of writing down of surplus on account of deterioration in the market values of securities, some of which seems to be justified and some of which would not seem to be.

Mr. Byram: Does not the surplus of a railroad property generally consist in money that has been invested in the property itself, for which no securities have been issued?

Mr. Lauck: I should say a considerable proportion anyhow.

Mr. Byram: So that it would be impossible to take that part of the surplus and devote it to paying dividends, would it not?

Mr. Lauck: Yes.

Mr. Byram: That has already been invested, and cannot be recovered. It is in the property, and there is no way to get it out unless you sell the property itself?

Mr. Lauck: No.

Mr. Byram: So that so far as these surplus funds consist of money invested in the property itself in the way of additions and improvements for which no securities have been issued, it is not available for paying dividends?

Mr. Lauck: It could not be realized upon, no, sir.

Mr. Byram: Then, in order to know how much of this sum that you speak of as surplus could be available for the payment of dividends or wages, it would be necessary to know in what form the surplus is fixed, would it not?

Mr. Lauck: You must have an analysis of the surplus. That is, it might be, in the case of the Rock Island, that the whole surplus would not be worth anything. On the other hand, it would depend on the policy of the road, too. That is what I have endeavored to do in the case of each railroad. For instance, take the Burlington Railroad. On page 56, June, 1913, the Burlington showed part of its surplus, $416,000,000 in physical property. This is an analysis of the increase in surplus. During this period, as you mention, Mr. Byram, the Burlington according to these figures, added $56,000,000 to the value of its property, which would be a part of its surplus.

Mr. Byram: But it would not be available for the payment of wages or dividends?

Mr. Lauck: No, sir. Then it increased its holdings of securities $29,000,000. If these securities had market value, that would be available.

Mr. Byram: It would probably include the fictitious property of the Colorado & Southern that we were talking about.

Mr. Lauck: In view of the fact that you were making it pay dividends, it would have a market value.

Mr. Byram: Do you claim that these matters you are speaking of have prevented the engineers or firemen on these railroads from securing proper compensation?

Mr. Lauck: Do you mean the fictitious values?

Mr. Byram: All of these things you are talking about here.

Mr. Lauck: Not at all, no, sir. I introduced all that previous material to offset the argument which it seemed was the argument from the standpoit of the other side, that productive efficiency had not been attended with profits.

Mr. Byram: Then, in order to make this testimony effective in this hearing, it would be necessary to show that the operations which you have described here have had the effect of preventing the engineers and firemen from securing adequate compensation, would it not?

Mr. Lauck: Perhaps I do not grasp the significance of that, but I do not see why it should.

Mr. Byram: This hearing, as I understand it, is on a request from the engineers and firemen for increased compensation.

Mr. Lauck: Yes.

Mr. Byram: That is what they are here for?

Mr. Lauck: Yes.

Mr. Byram: Now in order to make effective the arguments which you are producing here, or in order to make them of value for the benefit of this Board, it would be necessary that these things should have prevented or may prevent the engineers and firemen from securing their requests.

Mr. Lauck: Well, that was my reason for presenting them, that they may prevent it—that these things may prevent it.

Mr. Byram: But you have just said that they have not prevented it in the past.

Mr. Lauck: So far as I have any evidence.

Mr. Byram: But you fear they may in the future?

Mr. Lauck: Yes. I understood the contention of the other side was that this question was limited strictly to 1910-13 or 1910-14, and that during that period the productive efficiency had not been attended with profits, because of the increase in operating costs, and because of the great additions to the capital outlay which had been made necessary by different factors, that the net gains in revenue were not sufficient to meet the increased capital requirement. Then it seemed that if it were looked upon in that light, or confined to that statement of the case, it was incumbent upon us to show that the engineers and firemen had not participated in previous productive efficiency in an equitable way.

Mr. Sheean: Then you do admit that on your theory of productive efficiency, these tables show that as between 1910 and 1914 there was no revenue gain through productive efficiency, and in order to take up the slack that there is in that period you go back to 1900, and show that they might have had something to take up the lack of productive efficiency in the last three years.

Mr. Lauck: Let me state it in my own way. Perhaps it will not be so extreme.

Mr. Sheean: All right.

Mr. Lauck: I said that there has been a decline in revenue between 1909 and 1913 and that there has been large capital commitment, part of which may have been made necessary by legislative activity and so on, and I might say that revenues have been affected. This has been an unusual period of time. The time, 1910-14, has probably 60 per cent of it been bad operating years, which has affected revenues, and therefore I would concede that productive efficiency has not had a chance to develop, and that a lot of these capital commitments which have been made consist of terminal properties, like in Kansas City, and here and other places, and building second and third tracks, which could not be expected to be productive within this short period of time, and that productive efficiency has not had a chance to work out.

The Chairman: I understood you to say a few minutes ago in response to a question I propounded, that this exhibit was introduced as tending to show that the railroads at this time are able to pay a reasonable increase of wages?

Mr. Lauck: Yes.

The Chairman: Was that your chief object in introducing it?

Mr. Lauck: This exhibit, yes. Then taking the period, 1910-1913 as compared with previous periods, I fully concede that it does not show the revenue gains that previous periods show. Does that answer the question?

Mr. Sheean: Yes.

Mr. Burgess: As to the value of this or any other exhibit, you are not in a position to state definitely what any or all of the Arbitrators may put on this exhibit, or any other exhibit, either?

Mr. Lauck: No, I cannot state anything in that connection?

Mr. Burgess: It is entirely within the province of the Arbitrators to decide, individually or collectively, as to whether this is or is not of any value?

Mr. Lauck: Yes, they may decide that it shows exactly. the opposite of what I think it may show.

Mr. Stone: But, is it not a fact that this does show that during all these years that took this additional burden that they have placed by this fictitious capitalization, it has added to the drain on the railroads and helped along the condition in which they find themselves?

Mr. Lauck: Yes, that has intensified the existing conditions. The dividends or interest charges which they must now pay bring about an absorption of revenue since 1909, which otherwise would have been available for wage payments.

Mr. Byram: What is the average of dividends paid during that time?

Mr. Lauck: 5.23 per cent, I think.

Mr. Byram: That is on the capital on which dividends were paid, not on the total capital of the railroads?

Mr. Lauck: That is correct.

Mr. Byram: On the roads on which dividends were paid at all, it is 5.23 per cent?

Mr. Lauck: Yes.

Mr. Byram: That does not include the capitalization of the roads that did not pay any dividends?

Mr. Lauck: No, sir. That is only on the roads that did pay.

Mr. Byram: The roads which were productive?

Mr. Lauck: Yes.

Mr. Stone: But on June 30, 1914, they had $208,000,000 set aside in actual cash?

Mr. Lauck: Yes.

Mr. Stone: And it is also a fact that take, for example, the Southern Pacific, with its 5,000,000 acres of oil land that it sold to the Pacific Land Company for $4,060,000, it would not have any trouble in realizing on that oil land at any time, would it?

Mr. Lauck: I should think not, or on the timber land, either. The Northern Pacific also has $50,000,000 among its assets, which is not represented by this statement. The timber land is all carried free. There is no charge on the books at all.

Mr. Stone: In this statement of the assets shown, is there anything hidden away that they do not show here?

Mr. Lauck: These undervaluations of assets that we have just been speaking of here are not shown at their market value.

Mr. Stone: Do not some of these railroads have a fund that they do not report? Are there not a few funds hidden away around the Western country that they do not report at all to the Interstate Commerce Commission?

Mr. Lauck: I could not say as to that.

Mr. Stone: A short time ago, before we got into this discussion, I was talking about that $25,000,000 campaign fund contribution. I want to ask you about that.

Mr. Park: Do you mean $25,000,000 or $25,000?

Mr. Stone: I meant $25,000, but it may have been $25,000,-000 for aught I know.

Mr. Lauck: That would have been some campaign contribution.

Mr. Stone: I expect they have spent more than that in campaigns in the last twenty-five years, if all of the reports are true. But coming back to that campaign contribution of $25,000, if I recall it correctly, Mr. Stevenson, the former comptroller of the Rock Island, was examined in regard to it and he could throw no light on it at all, as I recall it, and could not explain it?

Mr. Lauck: I do not recall his testimony. It was only Mr. Sharood's testimony that I recall.

Mr. Stone: What was shown by Mr. Sharood's testimony, as you recall?

Mr. Lauck: He said he had discovered an item of that amount which he thought was a campaign contribution, but which he was unable to explain.

Mr. Stone: Was there anything in the testimony of any of these witnesses, to show what had been commonly asserted for years, that the Rock Island and the Lake Shore had an interest in this campaign fund, or had contributed to a campaign fund to defeat the Walsh railroads from getting into Chicago? Is that shown anywhere?

Mr. Lauck: Not that I know of; no, sir.

Mr. Stone: And it is not shown whether this $25,000 was paid to certain politicians in Illinois or not?

Mr. Lauck: I did not hear anything of that kind.

Mr. Stone: But something happened to the Walsh railroads, and he got wrecked before he got into Chicago, and he lost his coal lands?

Mr. Lauck: Yes, I read of that in the papers.

Mr. Stone: Now, come back to your exhibit again, Mr. Lauck.

Mr. Lauck: That is about all I wish to say about this exhibit.

Mr. Nagel: Did you say a moment ago that if a railroad has made a profit, and instead of declaring a dividend it passes that profit to its surplus account, that reduces the value of its stock?

Mr. Lauck: If it had been paying dividends before, I should think it would, yes.

Mr. Nagel: Would it reduce the value of the assets?

Mr. Lauck: No, sir. It might really be the wisest thing to do.

Mr. Nagel: In that case, the quotations for stock would not record the value of the property?

Mr. Lauck: No, sir. It seems to me that the stocks of railroads are not like bank stocks. In a bank stock, you have a market value equivalent to the amount of money paid in, plus the surplus. It seems to me that railroad stocks do not represent or reflect so much the value in per cent of physical assets or real assets, as the earning capacity of the property.

Mr. Nagel: In other words, there is a dfference between the speculative value and the investment value?

Mr. Lauck: Yes, sir; that is just what I meant to say.

Mr. Nagel: Now, one word as to your theory of this case. As I understand you, you do not stand upon the supply and demand proposition.

Mr. Lauck: No, sir.

Mr. Nagel: Neither do you advocate the profit sharing proposition?

Mr. Lauck: No, sir.

Mr. Nagel: But you advocate something between the two?

Mr. Lauck: Yes, sir.

Mr. Nagel: Based upon the idea that a result accomplished and contributed to by the engineers and the firemen, should be reflected in the compensation of these men?

Mr. Lauck: Yes, sir.

Mr. Nagel: And that, regardless of the manner in which the management of the railroad employs the result accomplished?

Mr. Lauck: Yes, sir.

Mr. Nagel: That is your theory?

Mr. Lauck: Yes, sir, that is it.

Mr. Nagel: Do you think that theory should be applied to a private business, or is it peculiarly appropriate for a quasi public company, like the public carriers?

Mr. Lauck: It is more peculiarly appropriate to public companies, but I think it should be applied to all private capital. That is the reason why I say that, but it seems to me that to work out the labor problem and the conditions of industrial unrest, that the whole widespread unrest is based upon the fact that the wage earner thinks he has not had a fair proportion, and that the wage earner ought to be required to be efficient and produce all he can. Then, there ought to be a stimulus to that efficiency, given in the way of the hope of participation in the output.

Mr. Nagel: It is true, however, that in private business, the success or lack of success in the business, is very much more promptly reflected in the compensation of the men?

Mr. Lauck: Yes, sir; much more so.

Mr. Nagel: In case of failure, the men would be apt to be reduced promptly?

Mr. Lauck: Yes, sir.

Mr. Nagel: And the efficiency of individual men would be very much more closely recognized in detail, would it not?

Mr. Lauck: Yes, sir.

Mr. Nagel: So that you would have some difficulty in applying the principle in its entirety, in case of a carrier, as fully as you would in the case of a private business?

Mr. Lauck: Yes, sir; because there would be certain requirements of a carrier.

Mr. Nagel: Now, in case of a public carrier, the men have one security which employes in private business do not enjoy. That is, they are protected by the rule which guarantees their payment, regardless of what happens to the concern?

Mr. Lauck: Yes, sir.

Mr. Nagel: That is an element of strength, is it not?

Mr. Lauck: Yes. If that guaranty is made.

Mr. Nagel: That is practically made by law, is it not?

Mr. Lauck: Yes.

Mr. Nagel: Even material has to be paid for, if it is essential?

Mr. Lauck: Yes.

Mr. Nagel: And labor has to be paid for, because the concern must run, in the interest of the public.

Mr. Lauck: Yes.

Mr. Nagel: That security in itself is worth something, is it not?

Mr. Lauck: Yes.

Mr. Nagel: And must be considered in fixing the wages paid?

Mr. Lauck: Yes.

Mr. Nagel: Now, furthermore, there is difficulty in applying the contribution to the general result, to individual men, in case of a public carrier, because you want to deal with them in classes, do you not?

Mr. Lauck: Yes. There must be a certain standard of efficiency in all men.

Mr. Nagel: But the rule of seniority, in itself, would make it impossible to apply it to individual men, because you fix rates for certain occupations, and those positions can be taken by men, upon their election, without consulting the management, is not that so?

Mr. Lauck: Yes.

Mr. Nagel: Approximately so, is it not?

Mr. Lauck: Yes. The assumption is, is it not, that these men have developed efficiency through long years of service, and are the men for the place?

Mr. Nagel: But you deal with them in classes and not by judging individual cases?

Mr. Lauck: Yes.

Mr. Nagel: One more question. Do you think that the Eastern Award ought to be considered by this Arbitration Board in passing upon the questions now pending before us?

Mr. Lauck: No, sir, I don't think so.

Mr. Nagel: Do you think that the two awards might be so dissimilar and so in conflict with each other, as to place the shippers of one territory at a disadvantage with respect to the other?

Mr. Lauck: Well, theoretically, that might be possible. Actually, I don't see how it could be.

Mr. Nagel: Do you mean to say that you have no fear that this Board will do anything of that kind?

Mr. Lauck: I really never thought very much of the shippers in this connection.

Mr. Nagel: Well, but the public and the shippers are interested in the rates, aren't they?

Mr. Lauck: Oh, yes, undoubtedly, vitally interested.

Mr. Nagel: And the rates of the men have something to do with the rates of the shippers?

Mr. Lauck: Yes. I think that any award that might be given, unless it would be an extremely liberal award, would not increase the cost per ton mile to such an extent that it would interfere.

Mr. Nagel: You do not think it would be a material influence?

Mr. Lauck: No, sir.

Mr. Nagel: In determining the conditions of shippers?

Mr. Lauck: No, sir, I would not think so.

Mr. Sheean: Mr. Lauck, you observe the gathering from all parts of the country on a proposed ten million dollars increase to all the shippers of this whole Western territory, as to how important the shippers think it is?

Mr. Lauck: Oh, I don't dispute that at all.

Mr. Sheean: And the engineers and firemen alone, in the same territory, are asking what we analyze here as a $41,000,000 increase per year, they being one class of employes, asking for four times as much as the total rate increase which is now under consideration in this same city. You have observed the protests here, as to what a ten million dollar proposed increase in rates means?

Mr. Lauck: I thought the increase requested was much more than $10,000,000. I understood the railroads claimed it was $10,000,000, but the other side claimed it was much greater than had been asked in the East.

Mr. Sheean: Well, if their estimate was but one-quarter correct, you show here what a very small increase in wages would do, in the matter of millions to engineers and firemen alone, do you not?

Mr. Lauck: Yes.

Mr. Sheean: So that the viewpoint as to what is material in the matter of increase in rates, your viewpoint and the viewpoint of those who represent the shippers, is not identical, is it?

Mr. Lauck: No. The shipper would probably look with favor upon an increase to the engineers and firemen.

Mr. Sheean: That is, if they didn't have to pay it?

Mr. Lauck: Yes.

Mr. Sheean: Do you think there could be an agreement with the Interstate Commerce Commission, whatever increase was awarded here, that, concurrently with it, there might be filed tariffs that would incur a like increase in rates?

Mr. Lauck: I think that that could be done if the award—which, of course, we would have to assume would be based upon the real needs of the men, that is, suppose that this Board should find that the men actually deserved an increase in wages, I think then that the public would support the Interstate Commerce Commission in granting an increase in rates to compensate that.

Take, for instance, tariff legislation. All tariff legislation since 1890 has been justified by the claim that it was necessary to tax the whole people in order to give a proper standard to the American wage earner. By the same species of arguments the public might support it.

Mr. Sheean: You think we might expect the same degree of unanimity on this tariff as we have with reference to the Protective Tariff?

Mr. Lauck: The people who held that view were in the majority up to recent years, and probably were then, but the political mix-up changed the result.

Mr. Nagel: Do you think that the interests of the shippers, intelligently considered, would call for fair rates to the railroads, and fair compensation to the engineers and firemen?

Mr. Lauck: Yes, sir.

Mr. Nagel: In other words, anything that makes for good service is in the interests of the shipper?

Mr. Lauck: Yes, sir. I believe the people are willing to tax themselves to give proper kinds of rates to the railroads, to enable them to operate profitably and pay reasonable wages, if the railroads can show that. I think it is up to the railroads to show that.

Mr. Nagel: But you don't believe that any award made in the Western territory could be of sufficient importance to disarrange the position of the shippers relatively in the two territories.

Mr. Lauck: I don't see how it could, no, sir; although I do not know whether my opinion is worth anything on that or not. I have not looked into that.

Mr. Stone: Mr. Lauck, how do you reconcile that theory with the recent action in the Eastern country, where the railroads got a 5 per cent increase on many commodities, and at once notified us that they would make a 25 per cent reduction in wages, on a few of the lines? Was that done to influence public opinion, or was it done for the express purpose of what effect it might have upon this Western wage movement?

Mr. Lauck: I do not know for what purpose that was done.

Mr. Stone: It really happened, though?

Mr. Lauck: There was an announcement in the press.

Mr. Sheean: On what road was that?

Mr. Lauck: I thought Mr. Stone had it in mind.

Mr. Stone: The general press notice.

Mr. Lauck: The general press notice.

Mr. Sheean: On what road? You gave assent to Mr. Stone's statement.

Mr. Lauck: All roads.

Mr. Sheean: All roads in the east notified their employes?

Mr. Lauck: Not notified them.

Mr. Sheean: The question was that certain roads in the East had notified their employes of a proposed cut in wages. Now, tell us what roads.

Mr. Stone: Mr. Chairman, you would think he was in court, where counsel was bullying a witness, like they sometimes do.

Mr. Sheean: He gave assent to your statement, Mr. Stone, and I would like to know.

Mr. Stone: Just give him a chance, and I think, perhaps, he will, if you will keep quiet a minute.

Mr. Lauck: I did not understand Mr. Stone to say "notified." If he said "notified," of course, I could not give assent to any question like that. I thought he said the matter appearing in the papers.

Mr. Stone: Associated Press report, broadcast over the country.

Mr. Lauck: Yes, sir; was sent out about two weeks ago Sunday.

Mr. Stone: Supposed to be sent out by the Wall Street powers that be.

Mr. Lauck: Two or three weeks ago.

Mr. Sheean: Well, you had no personal knowledge whatever on the matter?

Mr. Lauck: Not at all.

Mr. Sheean: Of any railroad notifying any employe or any set of employes?

Mr. Lauck: Nothing except the case you mentioned. I have read in the papers of the Grand Trunk's proposed reduction.

Mr. Stone: To set Mr. Sheean's mind at rest, I might add that the Grand Trunk served official notice on all classes of labor, that in the near future they will make a very heavy reduction, presumably about 25 per cent.

Mr. Burgess: Mr. Lauck, you would not receive that official notice if they decided to send it out, would you?

Mr. Lauck: No, sir; I would not have anything to do with it.

Mr. Stone: Well, we have been quite a long ways afield, Mr. Lauck. Let me ask you one more question on economics. When it comes down to the true facts of the case, does the shipper ever pay any rate? Who pays the freight rate in the end?

Mr. Lauck: Of course, as far as possible, the shipper passes that on to the public, in the cost of goods, but it affects his business in that a shipper in different sections may have different competitive conditions.

Mr. Stone: May affect his business and his condition, but is it not a fact that the consumer, in the end, pays all the charges on every commodity?

Mr. Lauck: Well, he would pay the large proportion, as far as the shipper could transfer the incidents to the tax to him, of course.

Mr. Stone: The shipper is simply a middle man, who buys from the producer, and sells to the consumer, does he not, or sells in the open market?

Mr. Lauck: He might not be able to pass it all on.

Mr. Stone: You mean he might not get enough out of what he bought, to get the freight rates?

Mr. Lauck: It might be that the shipper was making a certain profit now. If the rate was increased, the consumer would not buy the goods in the quantity that he had before. To that extent, the shipper would have to pay out of his own profits, the freight rate.

Mr. Byram: Mr. Lauck, does not the shipper or organizations of shippers—are they not the ones who usually protest and make opposition to rate increase?

Mr. Lauck: The shippers and sellers, yes, sir.

Mr. Byram: Even if they do not pay it, as you said, the shipper and the shippers' organizations are the ones who always make the opposition to the rate increases?

Mr. Lauck: Yes, sir; I think their evident idea is that it would interfere with the volume of business and margin of profit, like the packers now fighting the present rate increase.

Mr. Byram: Their interest then is not so much in behalf of the consumer, as it is in their own profits?

Mr. Lauck: I think it is primarily in their own profits; and then, the State Commissions represent the consumer.

Mr. Stone: Coming back to page 42, it is a fact, is it not, Mr. Lauck, that an increase of 20 per cent in the rates of pay to engineers and firemen on the Santa Fe Railroad, would amount to \$894,000, and it is a fact, is it not, that they had in actual cash, on June 30, 1913, as shown here, the sum of \$27,000,000?

Mr. Lauck: Yes, sir.

Mr. Byram: Was that above their current liabilities?

Mr. Lauck: Page 43.

Mr. Stone: I don't know whether they are paying their debts, or whether they are still capitalizing them, as they have for the past twenty or thirty years.

Mr. Byram: I was asking Mr. Lauck: Does that include the unpaid bills?

Mr. Lauck: No, sir; that is clear cash.

Mr. Byram: That is above their current liabilities?

Mr. Lauck: Yes, sir; their current liabilities are shown on down. The other current assets and preferred liabilities have increased about \$3,000,000.

Mr. Byram: They are deducted from the cash on hand?

Mr. Lauck: Well, they had already been deducted, up to June 30th. There is possibly \$3,000,000 that may have to be paid out of cash or out of current assets.

Mr. Byram: Don't that simply represent the cash on hand, without regard to the current liabilities.

Mr. Lauck: That is actual cash on hand.

Mr. Byram: In order to find out how much net cash there was, or how much cash there is above their liabilities, you would have to deduct the current liabilities, would you not?

Mr. Lauck: Yes, sir; you would have to strike a balance between current assets, bills receivable, bills payable, and cash on hand.

Mr. Byram: That merely represents the amount the railroads had in the bank, without regard to what they owed against it.

Mr. Lauck: That was their actual cash on hand, on one day.

Mr. Sheean: This is taken from the preliminary report of the carriers to the Commission, June 30, 1913, is it not?

Mr. Lauck: It is reflected in that report. This was taken from the actual reports of the railroads.

Mr. Sheean: Does not the same report from which you take this statement, of $27,000,000 in cash, show that their working liabilities of $13,000,000 and other liabilities of $9,000,000, are right opposite that very item?

Mr. Lauck: Yes sir; that is shown on the page.

Mr. Sheean: Current liabilities.

Mr. Lauck: Other current liabilities is shown under Liabilities, and the third section of the table shows the comparison of the net increase or decrease in the different items. Other current liabilities were $13,000,000, an increase of $3,000,000, and current assets decreased $2,700,000.

It is just a condensation, Mr. Sheean of the surplus account. As Mr. Byram states, to strike a real balance of what your actual condition was, you would have to liquidate, so to speak, your current bills receivable and bills payable, and, of course, you could not liquidate your other assets except over a long period of time.

Mr. Sheean: Oh, I did not see that.

Mr. Lauck: It is all down on the page.

Mr. Stone: Suppose we take up the C. B. & Q. next, and see how near they are on the rocks—page 45?

Mr. Lauck: Page 45 shows the condensed income statements of the C. B. & Q. Page 47, profit and loss statements. Page 49 shows the relative trend in the amount available for stockholders, the development of a surplus, the dividends and the appropriations for property. On page 49, it will be noted that the amount available for stockholders has rapidly increased on this road. The surplus has increased. The dividends have remained uniform and constant, at 8 per cent, and the appropriations for property have increased during the past five years.

On page 50 is shown the earnings, or the net income, as compared with the total amount of capital stock outstanding, ranging from 11.77 per cent in 1909, to 18.15 per cent in 1915. A steady increase in earnings, as compared with capitalization.

Page 51 shows the very small relations between certain wage payments, of ten, fifteen or twenty per cent, as compared with reserves and other elements—operating revenues and expenses.

The basis for all of these graphical showings is found in the table on page 53. There it is shown that the net revenue of the Burlington has increased from $23,000,000 to $31,000,000, 1909 to 1913. Gross corporate income from $22,000,000 to $24,-000,000, I think. It is kind of blurred. Or, the total amount available to stockholders, from $66,000,000 to $108,000,000. Dividends have been paid, each year, $8,867,000, since 1909 to 1913. Liberal appropriations have been made to property and to the creation of reserves and sinking funds, and there is a surplus remaining in 1913 of $91,039,000, of which only $4,815,000 was cash, being a decrease in cash in 1913, as compared with 1908, of $458,000.

Mr. Stone: The 1913 report shows no sinking fund. What became of it?

Mr. Lauck: I don't know what became of it.

Mr. Stone: It is carried up to 1912 and then disappears.

Mr. Lauck: Yes, sir; it may have been that there was a sinking fund created, the proceeds of which were used in retiring some indebtedness or security, or something of that kind.

Mr. Stone: It does show, however, that in 1909 they had $54,000,000 in a surplus account, and in 1913 they had $91,-000,000.

Mr. Lauck: Yes, sir.

Mr. Stone: And it shows on page 52 that an advance of 20 per cent to engineers and firemen will take $836,000?

Mr. Lauck: Yes, sir.

Mr. Stone: Is there anything further on this that you want to say?

Mr. Lauck: Nothing more. I think that I might save time by just saying that this method of presentation is the same for all roads, and is carried through the exhibits, and can be readily referred to, if anyone should want to use the information.

Mr. Stone: Mr. Chairman, if I might be allowed for the benefit of Mr. Sheean and others, I would like to call attention to this article that appeared in all the papers. This is an extract from the Washington Post of February 21, 1915, sent out from New York under date of February 20th:

"The railroads of the Eastern territory have entered a campaign for a reduction this Spring in the pay of employes, from engineers down to track men.

"This will affect the earnings of about 750,000 men, and a payroll approximating $600,000,000 per annum.

"Fifty-two roads are identified with the movement, and the territory covered by these lines lies east of Chicago and roughly is that for which an increase in freight rates has recently been granted.

"The basis of the campaign is the professed inability of the carriers to pay existing dividends, even with the higher freight rates, so long as the demands of labor are excessive: the necessity for carrying employes on the payroll who produce nothing, and the high cost of extra service from employes continues.

"Underlying this, however, is the purpose of the railroads to meet the threat of the Brotherhood of Locomotive Engineers that the organization will start a fight for higher wages in the East when the award in the case of the Western enginemen is settled next Spring. The Arbitration Board, now sitting in Chicago, expects to make its report about the end of April.

"The campaign of the railroads has the support and co-operation of their boards of directors, who have come to the conclusion that they owe it to the stockholders to resist what they call the never-ending series of demands of railroad labor, which are made in seasons of small profits, as well as in years of plenty."

And then it has quite a long showing of rates and so on, and then this is Senator Kenyon's speech—an extract from his speech of February 22nd:

"Washington, D. C., February 22.—(Special).—If the railroads in eastern classification territory attempt to carry out their reported intention to reduce wages all along the line, Senator Kenyon of Iowa will attempt to have a congressional investigation of the reduction.

"The Iowa Senator said today he does not believe there is any reason for the roads to attempt such a wage reduction. Furthermore, he said, a reduction would be sure to bring about such a strike as has never before occurred in this country, a strike which would be sure to tie up, not only all of the railroads, but practically all of the industrial concerns which do any interstate or intrastate business.

"The roads are said to be planning wage cuts in order to maintain existing dividend rates."

That is simply read in support of the general statement we made.

Mr. Park: Well, the Senator evidently has headed it off.

Mr. Stone: No, it probably is not headed off yet. If it is headed off, it was simply done for whatever effect it might have upon the present question before this Board here.

Mr. Byram: That statement is not signed by anyone?

Mr. Stone: No, it is simply sent out by press report.

Mr. Byram: It has the same value that other news reports have?

Mr. Burgess: But, Mr. Stone, an official notification was given by the Grand Trunk Railway, was it not?

Mr. Stone: Yes, sir. Our contract with the Grand Trunk does not expire until the 1st day of June, but we have been notified that when the contract expires, they will expect to make a heavy reduction. Just what amount it will be, they do not know, but they think it will be at least 25 per cent.

Mr. Burgess: And that is not from the newspapers?

Mr. Stone: That is an official notice from the office of the company. I think it will take more than just the notice to cut the wages, before they get through, but that is what they propose to do, at least.

Mr. Burgess: Well, my purpose in asking the question was in order to satisfy the counsel for the railroads. He asked Mr. Lauck to name one railroad.

Mr. Sheean: Well, Mr. Stone, is that anything other than the thirty day notice under your contract, that at the end of it they desire to negotiate a new schedule?

Mr. Stone: It is not time yet.

Mr. Sheean: They must give you at least thirty days' notice. Is there anything in the notice, other than a desire to open it for discussion at the end of that time?

Mr. Stone: They notified us that at the expiration of our agreement they will make a reduction in wages.

Mr. Carter: It is not our contention that they are going to reduce wages. They are simply trying to make this Arbitration Board believe that they are going to reduce wages, to prevent you increasing our wages. We know that they are not going to reduce wages, and this statement has been denied by high officials. It was done for its moral effect on this Arbitration Board, just like this petition to the President, signed by subordinate officials and local clerks, protesting against this Arbitration Board giving any increase.

The Chairman: What petition is that?

Mr. Carter: Why here is a petition to the President, signed by subordinate employes at Wichita, Kansas. We have a photostat copy of it. It is simply done to prevent this board giving any increase of wages.

Mr. Nagel: Well, as long as we are innocent, why do you bring it to our attention. We don't know anything about it.

Mr. Burgess: Do you mean the President of the United States?

Mr. Carter: President Wilson of the United States. I want to say to you I know it won't influence this Board, but it shows the methods that are adopted here. We have reports of these proceedings from day to day sent to us, that would prejudice anybody against us. Fortunately, people don't read them. They are sent to us by friendly newspapers.

Now here is a petition to the President of the United States protesting against an increase of wages through this arbitration. It is signed by 74 employees, chief train dispatchers, clerks, and it is done chiefly to influence this Board.

Mr. Sheean: You are more fortunate, Mr. Carter, than anybody on this side of the chamber, in having possession of such a petition, or knowing anything about it.

Mr. Carter: Perhaps I am.

Mr. Stone: I supposed you fellows had the original. You are the guilty parties.

Mr. Sheean: Well, I here and now resent any such suggestion, or any such statement, and say here and now that nothing of this sort has come from this committee, and it is unwarranted to say that we have inspired it and that we were the fellows who caused it to be done. No one on this side of the table ever heard of such a thing until this statement is made now, and, as I say, more fortunate than us, you have possession of the petition.

The Chairman: Well, gentlemen, at any rate this statement can have no possible effect. It cannot affect the Board one way or the other.

Mr. Carter: Thank you.

The Chairman: If a statement of that kind was presented to President Wilson, he has pigeonholed it, and that is the end of it.

Mr. Stone: All right.

The Chairman: Let brethren dwell together in unity.

Mr. Sheean: Well, your Honor, I have submitted to a good deal in the way of innuendo here, but I do not propose to tolerate a false statement that charges misconduct on the part of either the attorney or anyone connected with this Board, and the statement made here was nothing less than a charge of misconduct, and that I do not propose to tolerate longer in this proceeding. I have passed them by in silence, and I think, in justice not only to myself and those I represent, but the interests I represent, that no such statement as that made should go without the criticism of the Board before whom the statement is made; that they should not be permitted to make such statement without offering some proof in support of them, not mere insinuations, but charges of actual dishonesty.

Now the statement has been made, and I think, if your Honor please, that the man who made it should be called upon to offer proof in support of such statement.

Mr. Carter: Mr. Chairman, I can well understand why counsel for the railroad should take offense. I do not think counsel for the railroads had anything to do with this matter whatever.

Mr. Sheean: But the statement was made that we did have.

Mr. Carter: I want to say to you that the railroads are doing this, and I am going to say the railroads are doing it, perhaps without the consent of counsel for the railroads. We know positively, Mr. Chairman, and can prove it, that on the day Mr. Stone and I were in Washington to bring about this arbitration, influence was brought to bear on clerks employed by these railroads—they were coerced, practically, into signing a petition to the President, protesting against any arbitration or anybody else giving any wage increase.

Now we have a photostat copy of the original petition filed with the President. Now I say to you, Mr. Chairman, that so far as Mr. Sheean is concerned I don't think he knows anything about it, but you bet your boots the officers of the Santa Fe know all about it, because their names are signed to it by the clerks. Now it is done to discredit our movement. It is done to discredit. and I would not have said another word after what you said—

Mr. Sheean: Now, if the Board please, I want, not merely for myself, but for the Santa Fe Railroad, which is one of the parties to this proceeding, to have the gentleman produce the proof of the statement of misconduct. He has charged that the Santa Fe railroad knows of certain things.

Mr. Sheean: I shall ask this to be made a part of the record.

The Chairman: Well, gentlemen, we are raising a collateral issue here.

Mr. Carter: We shall be glad to have this filed as part of the record. I shall be glad to show it to counsel.

Mr. Sheean: I don't want to look at it, sir. I want some proof of the statement that these gentlemen are making in this proceeding and in this court.

Mr. Carter: It was addressed to the President of the United States, at the time we were agreeing to an arbitration. and it was given to the press, and published in every newspaper in the country that I saw.

The Chairman: Well, of course it would be improper to make a charge in the nature of a reflection on the counsel or the managers here, insofar as the conduct of this case is concerned, without offering proof to sustain the same. Now, as I understand, you disclaim any intention on your part to cast reflection on Mr. Sheean?

Mr. Carter: Not the least in the world.

The Chairman: Or the managers here? And you further say this was a matter presented to President Wilson pending the negotiations that led up to this arbitration?

Mr. Carter: Yes, sir.

The Chairman: Well, in view of that I think that it is immaterial to the issue here, and I will, therefore, not permit it to be made a part of the record.

Now let us get down to business.

Mr. Stone: We desire to offer Exhibit 67, "Reserves and Reserve Funds."

(The document so offered and identified was received in evidence, and thereupon marked "Employes Exhibit 67, March 8, 1915.")

The Chairman: Is this a supplement to the one we have now?

Mr. Lauck: No. It goes along with it, but it is not supplemental.

The Chairman: Have you concluded your evidence as to that?

Mr. Lauck: Yes, sir. I went over one or two roads, Judge Pritchard, and the others are uniform in method and treatment, and I did not think it would be worth while to take time in continuing.

Mr. Park: Well, I am a little bit mixed, Mr. Lauck, on this exhibit 64. I understood you to state, in answer to questions, that you based the contention for an increase on the increased productivity prior to the settlements of 1909-10, which I understood were very satisfactory to the engineers and firemen, and everything was settled at that time. Now, is this exhibit you have just introduced intended to separate this period from that, and show that at the present time the railroads have the money in their surplus fund to pay an increase, regardless of the period prior to 1909-10?

Mr. Lauck: Yes, sir. This exhibit is aimed to show the financial condition of the railroads on June 30, 1913, or June 30, 1914.

Mr. Park: And without any relation whatever to the periods prior to 1909-1910?

Mr. Lauck: The statement I made in that connection was that what had been done could not be rectified now, from a financial standpoint.

Mr. Park: And as I recollect those conferences that settled the matters that were at issue, the men were very happy and very well satisfied. Of course, they claimed they were not, and the railroads probably claimed they got too much, but as a matter of fact everything was settled in 1909 and 1910 very satisfactorily, I think, to the men.

Mr. Lauck: I don't know anything about that. The reason I put in the previous exhibit was to meet the claim that productive efficiency has not been profitable since 1910, the last adjustment.

The next exhibit, 67, I can explain in a few words. It is entitled, "Reserves and Reserve Fund." On page 3, there is a statement showing, for the 53 western railroads which I have been considering, the amount of reserves and reserve funds on June 30, 1913. That statement shows that there were liability accounts for reserves, aggregating $291,990,000; consisting of "Insurance reserve $19,000,000; sinking fund reserve $28,000,000; securities depreciation reserve $56,000,000; additions and betterment reserve $27,000,000; and reserve for accrued depreciation of $144,000,000; and miscellaneous reserve $15,000,000; an aggregate of $291,000,000.

Against these reserve accounts, or reserve liabilities, however, had only been established reserve funds of $45,000,000, of which only $3,728,000 was in cash.

The point I want to bring out is that the creation of these reserve funds of $291,000,000 practically consisted of issuing liabilities against the general assets of the company and of writing down the profit and loss statement to that extent. In other words, it was the same procedure as you would have in a bank issuing notes against its general assets. Reserve liabilities were created, but no reserve funds established to offset these reserve liabilities. The result was that a net amount of $246,000,000 was created in reserve liabilities, for which no funds were established, and practically is equivalent to writing down to profit and loss surplus $246,000,000, or the profit and loss surplus ought to be $931,000,000 instead of $684,000,000, as reported to the Interstate Commerce Commission. Of course there were general assets against all these reserves, but there was no specific segregation of assets, and, as stated on page 1, the conclusion must be reached that a comparison of the surplus of 1913 with the corresponding balance of previous years, say ten years ago, the increase was really $246,000,000, which is shown by comparison of profit and loss figures, and that the companies are in a much better financial condition than the profit and loss figures would indicate.

Instead of $684,676,441, the approximate surplus for the companies under consideration, it should be about $931,405,000, or almost a billion dollars.

On page 4, the same comparison is made for the ten representative western railroads, where it is shown that liabilities in the form of reserve accounts have been created aggregating $216,000,000, which are offset by only $37,000,000 in reserve funds, of which only $1.244,000 is in cash, or an excess, roughly speaking of $214,000,000.

Mr. Stone: Anything more you want to bring out in that?

Mr. Lauck: No, sir. 68 is the next.

Mr. Stone: Mr. Chairman, I desire to introduce exhibit 68, "Industrial Depression. Dividend and Interest Losses as Compared With Reduction in Wage Payments."

(The document so offered and identified was received in evidence, and thereupon marked "Employes' Exhibit 68, March 8, 1915.")

Mr. Lauck: Section 1 of this exhibit appears on pages 1, 2, 3 and 4, and is designed to show the dividend and interest losses as compared with reductions in wage payments, on the part of investors in Eastern and Western railroads, as reported by the Wall Street Journal and the New York Journal of Commerce.

For the Eastern railroads, on page 2, an annual loss in dividend payments is shown of $23,265,000. For the Western railroads there is an annual loss in dividend payments of $15,466,000. That is dividend payments and fixed charges on Western railroads. This amounts to about $1,250,000 a month, or $1,300,000 a month, and you will note most of the roads that found it necessary to suspend dividends were roads that had been characterized by either financial mismanagement, like the St. Louis & San Francisco, or had been through certain misfortunes, like the Illinois Central a year or two previously, or had been excessively capitalized, like the Colorado & Southern or the Missouri, Kansas and Texas.

Now Section 2 shows the loss of income by railroad employes. That is based upon a statement in the Wall Street Journal, page 3.

There is a small table in the beginning of section 2 that shows that, as a result of investigations by the Wall Street Journal, the railroads of the country, as a whole, laid off one man per mile of line in 1914, as compared with 1913. This estimate includes not only the men who were laid off, but men who were working on reduced time.

Mr. Park: What do you mean by that, Mr. Lauck, working on reduced time? That is shops cut to eight hours a day?

Mr. Lauck: Cut to eight hours a day, or three days a week. The Wall Street Journal sent out a schedule, making inquiries. The Railway Age Gazette did also. I intend to bring that up a little later. And some of the railroads reported directly how many less men they were working now than in a certain period of last year. Some reported or converted their decreased operating forces into terms of what they would be if a certain number of men were laid off. In that way the estimate was arrived at.

This Wall Street Journal then concluded that 250,000 employees were out of work, and estimating that at $50 a month for, on an average, all classes of employees, you would get a monthly loss of about $12,500,000, as compared with the monthly loss of $1,250,000 for investors.

Mr. Nagel: This covers all employes?

Mr. Lauck: All employes.

Mr. Byram: What page is that on, Mr. Lauck?

Mr. Lauck: The small text table is on page 3. The two articles upon which this is based are found on pages 11, 12 and 13. That covered all classes of railroad employes, shop men, maintenance of way employes, construction forces and so forth. That is why I have made the average $50 a month, which would be a very conservative estimate.

The conclusion that I was mentioning was that according to this estimate the employes lost about $12,500,000 per month, as compared with $1,250,000 by investors.

Mr. Park: Of course, there is nothing to indicate there that the employes did not secure other vocations?

Mr. Lauck: No, sir, they may have gone to work elsewhere.

Mr. Nagel: They were pretty difficult to get, weren't they?

Mr. Lauck: Well, work in their particular line of trade, yes.

Mr. Nagel: Don't you think that the same influence operated in all directions?

Mr. Lauck: Yes, I think it was pretty general.

Mr. Sheean: Mr. Lauck, what was your objection to getting the number of employes from the Interstate Commerce Commission reports on this, instead of from the Wall Street Journal?

Mr. Lauck: I copied from the Wall Street Journal.

Mr. Sheean: I say, why did you take it from the Wall Street Journal, instead of from the records of the Interstate Commerce Commission? The railroads in the western territory, as well as all the Interstate Commerce Commission carriers report the number of employes in the various departments from year to year.

Mr. Lauck: This was gotten before the reports were ready. I have taken the payments in the next section from the Interstate Commerce Commission, and shown what they lost. This was along about June.

Mr. Sheean: This is commercial agents and all employes, whether they are connected with the cost of conducting transportation or not?

Mr. Lauck: Yes, even includes construction forces.

Mr. Sheean: Well, construction forces.

Mr. Lauck: New lines and extensions. Stopped all new construction work.

On pages 5, 6, 7, 8, 9 and 10 is shown the aggregate outlay by the different railroads in the west, for engineers and firemen, in 1913, and, for 1914, a decline in amount paid engineers and firemen, as compared with 1913.

Mr. Stone: Where did you get these figures, Mr. Lauck?

Mr. Lauck: Those were the Interstate Commerce Commission totals.

The Chairman: What page are they on?

Mr. Lauck: Pages 5 to 10. It should be noted that the real industrial depression did not strike the west until after June 30, 1914. Although there was a downward tendency, the real effect of it seemed to come later than it did in the East. So these figures would not correctly reflect the full measure of unemployment felt by the engineers and firemen.

It will be noticed that most of the railroads made less outlay for engineers and firemen in 1914 as compared with 1913, there being a few exceptions; for instance, the Burlington made an outlay for engineers somewhat greater in 1914 than in 1913;

also the St. Paul; the El Paso and Southwestern; The Houston, East & West Texas; Houston & Shreveport Railroad; Houston & Texas Central; Louisiana Western; Missouri and Northern Arkansas; Missouri, Oklahoma & Gulf; together with five or six other roads, having paid somewhat larger amounts for engineers and firemen in 1913 than in 1914.

Mr. Stone: Well, the Missouri, Oklahoma & Gulf was opening up new territory, was it not?

Mr. Lauck: I think so. I don't know.

Mr. Nagel: That might well be explained by expansions here and there.

Mr. Lauck: Yes.

Mr. Nagel: That relatively shows no different result?

Mr. Lauck: Yes.

Mr. Sheean: Mr. Lauck, is it not true that on all these roads you took these figures from June 30, 1913 and 1914?

Mr. Lauck: Yes, sir.

Mr. Sheean: As to payrolls of engineers and firemen?

Mr. Lauck: Yes, sir.

Mr. Sheean: Showing, on some roads, 6 per cent decrease in total compensation, and on others 4 per cent decrease. Now, was there not on each and all of those roads a very much larger falling off in the total business done by the railroads than this 6 and 7 per cent?

Mr. Lauck: I hardly think so. I don't know how that would work out. There was a great falling off in business, no doubt about that, but whether it would be less than that, I don't know. I think, in our productive efficiency, we found they were handling more traffic with fewer men.

Mr. Sheean: You did not compare 1914 and 1913, did you?

Mr. Lauck: In a few instances. The same locomotive miles, but whether the compensation fell off as much as the business, I don't know. I know we found, in comparing 1914 with 1913, that they were handling business more economically per locomotive mile in 1914 than in 1913. But the relative falling off I don't know.

I have another table showing the relative falling off in labor cost and operating expenses, but I have not the percentage.

Mr. Sheean: Well, you pay no attention to numbers here. This total reduction of 6 or 7 per cent in total amount may have cut the wages of the individuals who remained, or they may have been just as high, or higher.

Mr. Lauck: Oh, they were just as high as they ever had been. There was no reduction in wages, but a reduction in the field for employment.

Mr. Sheean: I mean beyond that, Mr. Lauck, without any reduction in the wage scale; that the individuals who remained there, that with a decrease—take the first one; the first item is a decrease of 6.52 in total payments, on the Santa Fe. There might have been a reduction in force of more than 6.52 per cent of engineers?

Mr. Lauck: Yes, sir.

Mr. Sheean: So that the remaining engineers got as much or more than the engineers who were on the Santa Fe in 1913?

Mr. Lauck: Yes. I think that is very probably the case, because the man who would still remain, if I understand the rules correctly, would be the man who had the seniority rights, and if he ran full time he might make more earnings than he had made in any year.

Mr. Stone: But if he did not run full time he would not make it, would he?

Mr. Lauck: No, sir.

Mr. Stone: In other words, you mean that the wage rate was the same when he did run—

Mr. Lauck: The rate remained the same.

Mr. Stone: But the wage rate is quite different from the earnings the man might make?

Mr. Lauck: Yes, there should have been business enough to enable him to make the earnings. He could not make them if he did not run.

Mr. Sheean: This is based on the total earnings paid to the engineers in actual money. That is the first item, 6½ per cent less in total disbursements to engineers in 1914 than in 1913?

Mr. Lauck: Yes. That would mean only that so far as engineers are concerned, there was this percentage of decline in the amount of money which they might earn as a class.

Mr. Sheean: In the total payments to engineers. That was in part, at least, due to the fact that, in 1914, those engineers did less business for that railroad than they did in 1913?

Mr. Lauck: As a class, yes.

Mr. Sheean: Well, this is as a class.

Mr. Lauck: Yes.

Mr. Sheean: As a class, they earn 6 per cent less in money?

Mr. Lauck: Yes.

Mr. Sheean: And, as a class, they did considerably less business for that company than they did in 1913?

Mr. Lauck: Yes. They did less business. How much less we do not know.

Mr. Stone: That is, you mean they ran less miles, but pulled more tonnage, or what?

Mr. Lauck: That there was a decrease in business on the Santa Fe; so that, the engineers being just as efficient as they had been in the previous year, which I think the other figures we presented show, it took a smaller amount of work on the part of the engineers to handle the business, consequently there was a less amount paid to engineers, although the individual engineer on a steady run might have earned as much as before.

Mr. Stone: Did it call for less work or for less revenue miles to haul a certain amount of tonnage?

Mr. Lauck: It called for less train miles to handle the decreased volume of ton miles.

Mr. Stone: There was less labor cost per ton mile, was there not?

Mr. Lauck: Not necessarily, no. The ton mile cost we have assumed remained constant, unless we knew they had made a reduction in cost through increased efficiency.

Mr. Stone: Or unless we knew the individual unit was producing more ton miles than before?

Mr. Lauck: Yes, but we have no means of knowing that, beyond such insight as we had when we were taking the productive efficiency argument. I do not think we could say that. We have assumed that the cost was practically about the same. There was no loss to the railroads from the standpoint of the engineer, although there might have been loss in other fixed charges which they had to maintain against this decreased business.

Referring to page 10, the aggregate is there shown, which is the point of main interest. That is, that the decline in the total amount paid to engineers and firemen in 1914, as compared with their earnings in 1913, was $2,589,821, a decline of 3.79 per cent. In other words, there was a decline in business which reacted upon the engineers and firemen to the extent that their earning power was decreased $2,589,821.

And in that connection I would repeat what I said just a moment ago, that this does not correctly reflect the effect of the industrial depression, because it was not until July and August, and September, that the real unemployment set in. That is, in June the conditions were somewhat nearer normal on the Western Railroads.

On pages 11 and 12 are shown the two articles which are the basis of the first table I mentioned, taken from the Wall Street Journal, showing that 230,000 men were out of employment on June 30, 1914, more than on June 30, 1913.

A more recent indication of the extent of unemployment is found in an article in the Railway Age Gazette, contained on pages 13, 14 and 15, which shows the number of men working on June 30, 1914, on Western Railroads, or on twenty selected railroads entering Chicago, and the number on August 1. This would give a better indication of the industrial depression, and the effects of unemployment, than the figures for the year ending June 30, 1913.

According to this article, the Railway Age Gazette estimates that on June 30, 1914, on twenty railroads entering Chicago, there was a reduction in the working force of 69,563 men, or a reduction of 7.9 per cent, and on August 14, 1914, as compared with August 1, 1913, there was a reduction in the working force of 90,934 men, or expressed in terms of percentage, a reduction of 10.8 per cent.

On page 14 it carries the per cent further to supply companies, which do not especially interest us.

The Chairman: On page 12 you have a heading, "Railroads have laid off a man per mile of road."

Mr. Lauck: That is a heading which I have added. The article beneath that is from the Wall Street Journal, showing that, according to their estimates, there was one man less per mile of road for the country as a whole employed June 30, 1914, than on June 30, 1913.

The Chairman: What is meant by the reference under the heading, "Bad Order Cars?" What does that mean? Does that show the increase over 1913, or what do you mean by that?

Mr. Lauck: I think by that is meant cars on the line that have to be repaired, and are not in going condition, that the equipment is not maintained up to the point where it is in an efficient state. It was a part of this article, and I included it in order to make the article complete. I think that is the meaning of the term. It has no bearing.

The Chairman: It refers to cars that are not properly repaired?

Mr. Lauck: Cars that are not in a condition of repair which will enable them to be used. All of them may have been injured in some way, or may have been in need of repairs. That would indicate that the railroads were finding themselves unable to keep their equipment up to a proper state of repair.

Mr. Park: It does not show any rougher handling on the part of the enginemen?

Mr. Lauck: No, I do not think so.

Mr. Byram: Probably the total of the cars needing repairs.

Mr. Lauck: Yes. It has no significance except as showing that they had a big surplus of idle cars and a lot of cars which were in need of repairs which they were not repairing, showing the financial exigencies of the situation.

Mr. Stone: But it does show that while the railroads have their burden to carry in a time of depression, they pass it on to the men, and that the men carry the burden as well as the railroads?

Mr. Lauck: Yes, that is the purpose of this whole exhibit.

The Chairman: We will now take a recess.

(Whereupon at 12:30 a'clock P. M. a recess was taken until 2:30 o'clock P. M.)

AFTER RECESS.

W. JETT LAUCK was recalled for further examination and having been previously sworn, testified as follows:

Mr. Lauck: At the conclusion of the morning session, we were on Exhibit No. 68. We had gotten to page 10 of that exhibit and as to the decline in amount paid engineers and firemen, it was $2,589,000, or a decline in outlay of 3.79 per cent.

On page 11 and 12, and the top of page 13, are the two articles from the Wall Street Journal which were used as the basis of the statement made in the front of the book. They are just the basic material.

Mr. Byram: Mr. Lauck, you say the decline in the compensation or outlay for engineers and firemen for 1914, compared with 1913, is 3.79 per cent. How does that compare with the decline in the gross earnings of the railroads, do you remember?

Mr. Lauck: I do not know. I think their decline in gross earnings was probably as much, if not more. There are certain items of operating expenses that can not be reduced. That is, there are certain fixed items. The road must be maintained in a safe condition, and while the labor cost can be reduced according to the decrease in traffic, these other expenses can not be; and, therefore, I should think the decline in earnings would be more, or commensurate at least with the decline in pay to engineers and firemen.

Mr. Byram: You think they would naturally bear the same relation to each other?

Mr. Lauck: Well, if other costs would go down like the labor cost, they would, but the other costs cannot be reduced as fast as the labor cost.

Mr. Byram: Yes; but this is a question of earnings—gross earnings.

Mr. Lauck: The gross earnings would probably go hand in hand with the earnings of the engineers and firemen.

Mr. Byram: That is what I mean.

Mr. Lauck: Yes, sir.

Mr. Byram: They would naturally be adjusted, so that they would bear the same relation to each other?

Mr. Lauck: Yes, there would be a certain amount of traffic to handle; then there should be a relation between earnings of firemen and engineers, because the payments to the men are for handling traffic, but when you come to net earnings—

Mr. Byram: I am speaking of gross earnings. What I am getting at is this: that during this period, if the decline in gross revenue to these railroads was in the same relation as in the decline the outlay for engineers and firemen, that that would represent a normal condition?

Mr. Lauck: Yes, sir, it would. I think that that involves the whole contention of our side, to the effect that wage payments are based upon the tractive power, and of course are never paid until the tractive power is exerted; and, therefore, there should be that relation between outlay and income.

Mr. Stone: Well, is it the gross earnings of the railroad or the net earnings that tell the story?

Mr. Lauck: Well, from the standpoint of operating capacity, the gross earnings is the best index.

Mr. Stone: But there are many other features in regard to operation, besides that you are discussing now, are there not?

Mr. Lauck: Yes, sir, there are all the other expenses of operation, which may or may not be reduced as a result of depression. As a matter of fact, I think it is the experience of railroads, that when a depression comes on, they can reduce their charges to a certain extent, but cannot go beyond that, on account of safety, or on account of having to handle unprofitable traffic, and the other cost could not be reduced commensurate with the labor cost. That is, you might have a tremendous lot of overhead charges, or other charges, which would keep your operating expenses up.

Mr. Stone: But it is possible, though, that if other operating expenses were reduced to the extent that net revenue was, perhaps net revenue might remain the same, might it not?

Mr. Lauck: If they could reduce other operating costs as much as labor, it would.

Mr. Sheean: Well, Mr. Lauck—

Mr. Lauck: I was just going to add, I don't think that was the case.

Mr. Sheean: You have checked our exhibit No. 4, haven't you?

Mr. Lauck: That is, the operating revenue?

Mr. Sheean: Yes.

Mr. Lauck: Yes.

Mr. Sheean: And as between this year of 1913 and 1914, there was a decrease of 11.5 per cent in the operating income, wasn't there?

Mr. Lauck: I think that is correct.

Mr. Sheean: On all of these carriers?

Mr. Lauck: Operating income?

Mr. Sheean: Yes.

Mr. Lauck: Well, that will exemplify what I was stating, that other expenses were not reduced proportionately with labor, and the railroad could not meet the decreased revenue with decreased operating cost.

Mr. Sheean: Well, take the net operating revenue. The net operating revenue, outside of the increase in taxes, the net operating revenue decreased 8.1 per cent, whereas the total payroll of engineers and firemen only decreased 3.7 per cent.

Mr. Lauck: Yes. I think that is true.

Mr. Sheean: So that the total reduction in the payroll of the engineers and firemen was less than one-half of the loss in total wage payment that the railroads sustained in loss of revenue?

Mr. Lauck: I think that is true.

Of course, the significant thing from the standpoint of the men is that they lost their subsistence, while from the standpoint of the stockholder they did not suffer at all. Of course, the railroad as an operating concern had this reduction in revenue, which it had to meet in some way. It was met, so far as the stockholders were concerned, by payment of dividends from surplus. So far as the men were concerned, they lost the means of subsistence, and of course that is the significant thing from their standpoint. It is of much more vital consideration than it would be from the standpoint of the investor.

Mr. Sheean: Well, had the men only suffered the same proportion of loss of revenue that the railroads suffered in its loss of revenue, the loss of the engineers and firemen—had it been proportionate with everybody else connected with railroading, would have been twice what your figures show it is.

Mr. Lauck: Yes, if you put it on that basis.

Mr. Park: Is it not true that the engineers and firemen have opportunities to earn money in times of depression, and that the surplus men are generally those who are just entering the service, the apprentices, as it might be? That is, the engineer drops back, in a good many cases, as a fireman; the fireman may even go back into the roundhouse. It is the youngest man in the service who passes out.

Mr. Lauck: I should think that would be the case, that they would come from the highest class of men down.

Mr. Park: So that the engineers, firemen and trainmen are favored classes in that respect? They do not go out of service entirely, but retrograde in the order of their seniority?

Mr. Lauck: Yes.

Mr. Stone: But it is also true, is it not, that they did suffer a reduction of $2,589,000, actual cash reduction in wages received, and in addition to that, 10 per cent of them dropped out and did not earn any wages at all?

Mr. Lauck: About 10 per cent, yes.

Mr. Stone: So they got it both ways?

Mr. Lauck: According to the Railway Age Gazette. That subject has not been taken up yet.

Mr. Stone: Those that did remain got $2,589,000 less?

Mr. Lauck: The figures you are referring to here are for a later period, but these payments would only cover those who work. To what extent they worked reduced time, or were laid off, this does not state.

Mr. Park: You have no figures to show whether the individual earnings of engineers were higher or lower?

Mr. Lauck: No, sir. I have only your figures, which I believe are for October, 1913. We have no figures as to that. It seems to me that the significant fact here is that the ultimate sufferer in the case of an industrial depression is the employe. That is, there is a decrease in traffic, and consequently the roads cannot offer employment to as many men as before; and although the roads may suffer proportionately more of a revenue reduction, yet the men have the field of employment curtailed, while the holders of the railroad securities are receiving dividends, due to the fact that the railroads have accumulated a surplus. They have, in past years, of course, made a sacrifice, have not taken as much as they might have taken, and have pursued that course in order to have uniformity of dividends through the lean years.

Mr. Byram: That is not peculiar to the railroads?

Mr. Lauck: No, sir, that is peculiar to all industrial activities. Of course, there might possibly be some way of having regularity of employment to the men, but no one has been able to work that out yet.

Mr. Park: That would be employment insurance, would it not?

Mr. Lauck: Something of that kind, or an accumulation of some fund, like a surplus fund, that would be available for working men. If the working men would forego a part of their earnings during prosperous years, so that they might use that fund in abnormal years, it would accomplish that purpose.

Mr. Stone: Where would you invest that fund—with the railroad company?

Mr. Lauck: I am not putting forth any constructive ideas in that connection. I just say that that could be a way of bringing that amount; but as the situation exists now, either in transportation or industrials, manufacturing or mining, the working man always is the one who suffers from an industrial depression.

Mr. Stone: But the fact remains that on August 1, 1914, twenty railroads entering Chicago were employing 10.8 per cent less men than they did the year before.

Mr. Lauck: Yes. That is in connection with the next topic that I was going to take up. All the previous discussion has concerned the fiscal year 1913 and the fiscal year 1914.

The Railway Age Gazette made an investigation as to the conditions between June 30, 1913, and August 1, 1914. The result of that investigation was that they found for twenty railroads entering Chicago, that there was a reduction in the operating force of 90,934 men, or a per cent reduction of 10.8 per cent. That is shown on page 13 of Exhibit 68.

Mr. Byram: In that case, since the outlay to engineers and firemen decreased only 3.79 per cent, it would look as if the enginemen did not suffer as much as other classes of labor, would it not, if those figures are correct?

Mr. Lauck: Those figures are not comparable with the preceding ones. They were only for June 30, 1914.

Mr. Byram: And this is for what?

Mr. Lauck: August 1, 1914.

Mr. Byram: And that was two months later?

Mr. Lauck: That was two months later. It seems that the burden of the depression came after June 3, both on the railroads and on the men.

Mr. Park: Do these figures include the employes engaged in construction, track elevation, and work of that character?

Mr. Lauck: Yes, I think they do.

Mr. Stone: I wish you would read that second paragraph on page 13 of Exhibit 68.

Mr. Lauck: Quoting from this Railway Age Gazette article, it says:

"As the total operating revenues of the railroads of the United States for the fiscal year ending June 30, 1914, showed a reduction of only 3.4 per cent per mile as compared with the previous year, indicating that general business was not far below normal, while their operating income was reduced to 15.7 per cent, the reductions in forces made by the railroads and the railway supply companies manifestly have resulted from conditions affecting the railroad business that did not exist in the general business situation. This is further supported by the fact that of 32 supply companies that advised us, they had made no reductions in force, 22 are only partially dependent on the railroads for business."

Mr. Stone: Regarding the earnings of the engineers for 1914, if only 90 per cent of the number were employed, if they were employed longer hours or longer on the road, they might show a higher earning capacity, might they not?

Mr. Lauck: That might be possible.

Mr. Byram: Where do you get the 90 per cent?

Mr. Lauck: On page 13, there is a statement of a 10 per cent reduction.

Mr. Byram: You just said that was on August 1.

Mr. Lauck: I thought Mr. Stone referred to this table. August 1 would be correct.

Mr. Byram: You have just said this table did not have any reference to the period ending June 30.

Mr. Lauck: It had no reference to that.

Mr. Sheean: It has no reference to engineers, has it? It has reference to all employes.

Mr. Stone: Engineers are still considered employes.

Mr. Lauck: They are a part of the total.

Mr. Sheean: I thought you said the total reduction of the payroll of engineers and firemen was not commensurate with the reduction made to other classes of employes; that is, that the engineers and firemen in railroad service were not reduced in the same way—were not susceptible of reduction, perhaps, is the way you put it—as other classes of labor.

Mr. Lauck: Yes, the first class to go would be maintenance employes. Of course, as business declined, there would be a reduction in the employment of engineers and firemen, because only when there was any business to do would they receive employment, while these other outlays for maintenance, track elevation or extension of new lines, could be dropped until a better time.

Mr. Byram: You heard the testimony here that 65 per cent of the surplus fixed does not change—does not fluctuate?

Mr. Lauck: I did not hear that, but I think that is about true.

Mr. Byram: That would not be effected by declining business?

Mr. Lauck: No, that explains the decrease in operating income, I think, and the decrease in net revenue.

Mr. Byram: And also illustrates the difference between the fixed employment of engineers, as compared with other classes of service on the railroad.

Mr. Lauck: I don't know whether that would be true or not, because I think the engineers are entirely dependent on traffic, and I thought these other expenses were more of the maintenance expenses, to make the track secure—station agents and telegraphers.

Mr. Byram: But there is a large amount of service on railroads that is fixed, regardless of the volume.

Mr. Lauck: Yes, sir.

Mr. Byram: That is what I had in mind, and to that extent the men who operate the regularly operated trains are not affected by fluctuations in business?

Mr. Lauck: You mean the regular runs?

Mr. Byram: Regular runs, yes, which constitute 65 per cent of the total service.

Mr. Lauck: Oh, yes; so far as it was necessary to run trains, they would have to work. To what extent that prevails, I don't know. I thought you were speaking of the general fixed—

Mr. Byram: No, I am speaking now about the regular trains.

Mr. Lauck: Yes, sir.

Mr. Stone: But those regular trains in assigned freight service don't run, unless they have tonnage for them.

Mr. Lauck: I would not think so—in freight service.

Mr. Stone: It is also true, in times of depression, if they have not enough fast freight for them, they rob the slow freight pool, in order to fill them up with tonnage.

Mr. Lauck: I don't know about the operating conditions in that way. I know we have found in times of depression that they develop a heavier trainload and heavier car loads through holding traffic, on some roads in the west; runs that are made are more efficient.

Mr. Byram: It would not affect a branch line train, would it?

Mr. Lauck: The passenger traffic or freight—I really don't know enough about it to testify. I think there would be certain trains that have to run.

Mr. Byram: You said a while ago that in times of business depression, it is possible to develop a greater train load. Are you sure of that?

Mr. Lauck: I am sure of that, on certain roads.

Mr. Byram: Where the total tons that are hauled are less—that the train load is higher?

Mr. Lauck: Yes: certain railroads in the stockholders' report showed that they had a higher—I remember the Atchison particularly had about 6 per cent more on its trains in 1914 than in 1913, and I presented an exhibit—I think I did—I have presented so many that I have forgotten whether it was an exhibit or whether I read the quotations.

Mr. Stone: An exhibit.

Mr. Lauck: An exhibit, showing the train loading in 1914, as compared with 1913.

Mr. Byram: With a decrease in total ton mileage?

Mr. Lauck: Yes, sir; and there were some roads that were characterized by lower locomotive mile cost and lower train cost, due to improved loading of cars or increase in the train load.

Mr. Park: Well, if you decreased the density of traffic on the railroad, would it not give you a little more leeway to increase the size of your train? Would not that naturally follow?

Mr. Lauck: That was my idea of how it came about, that traffic not being so dense and having to be put forward, why, they could hold the traffic and develop economy and efficiency in handling it.

Mr. Park: And fewer trains to meet.

Mr. Stone: It is also true, with larger locomotives, buying larger locomotives each year, that decreases the number of engineers too, does it not?

Mr. Lauck: To the extent that they displace smaller locomotives.

Mr. Stone: And it takes a less number of them, or a less number of trains to handle the same kind of traffic.

Mr. Lauck: Yes, sir.

Mr. Sheean: I was just wondering in that connection, Mr. Lauck, whether the business depression of 1914—as I followed you, the business depression of 1914 brought about the greater train loading. I got the impression from some of your exhibits, when presented, that they were there attributed to some other cause—to better train loading, or the larger train loading of later years. Is it because of the depression in business in 1914?

Mr. Lauck: Oh, fundamentally, of course, it is the heavier locomotive or the greater tractive power of the locomotive. the larger cars and the capital investments which have eliminated grades and reduced curves, but it seemed to be characteristic of the year 1914, assuming all of these fundamental factors, that the year was attended with a greater train loading than 1913. Of course, that would result in lower cost of getting the train over the road, but still might not be attended with any profit, looking at it in the aggregate to the railroad, because the other fixed charges would still be there, though there would be a lower cost per ton mile than in 1913.

Mr. Burgess: But in the final analysis, Mr. Lauck, we come to the undisputed fact that neither an engineer or a fireman draws any money, unless he is directed or ordered to go to work?

Mr. Lauck: No, sir. He has no guaranty of regularity of employment or of income.

Mr. Stone: Nor has he any guaranty of his job after he goes to work, does he, with surprise tests and a few other things he has to contend with.

Mr. Lauck: That is something I don't know anything about.

Mr. Stone: Well, is it not a fact that there is more hazard in railroad employment than in any other class of service? That is, as to losing their positions, I mean.

Mr. Lauck: I don't know, sir.

This Railway Age Gazette, then, on page 13, shows a decrease of ten per cent between the period June 30 to August 1, of men employed on twenty roads entering Chicago.

On page 15 the different roads are detailed, the Atchison, the B. & O., the Chicago & Alton, the Chicago & Rock Island, the North Western, the Great Western, the St. Paul, the Rock Island, and five roads that asked that their names be withheld. How far they are western or eastern, I don't know.

The net result of the Railway Age Gazette's investigation was that on June 30, 1913, as compared with June 30, 1914, there was a reduction of 69,563 in working forces of these twenty railroads, which was equivalent to a reduction in the operating force of 7 per cent.

From June 30 to August 1, there was a further reduction in operating forces of 90,934, or approximately 10 per cent being reported as unemployed, which exemplifies the fact that the industrial depression, or the decrease in business, became greater after June 30th, than before June 30, 1914. I think it is conclusively shown by the operating revenues of the Western Railways, that the depression came during July, August and September, and the reduction in operating forces, more so than during the year 1914.

The concluding table in this exhibit is found on pages 16 and 17. That shows the total labor cost of operation; the decrease in 1914 as compared with 1913, and the total decrease in operating expenses of 1914 over 1913.

The totals are shown on page 17, which indicates that there was a decrease in the labor cost of operation of the Western railroads during the year 1914, which would affect all classes of employes, of $4,696,079, as compared with the decrease in total operating expenses of $2,214,446.

This would indicate two things: first, that the other operating expenses could not be reduced proportionately with labor tolls, and that, second, as a result of that, the depreciation fell most heavily upon the railroad employes.

Mr. Byram: It would have been necessary that there should have been an increase in your operating expenses, to make these figures? I understand that the labor cost is included in the total operating expenses, is it not?

Mr. Lauck: Yes, sir.

Mr. Byram: And this figure would indicate that your operating expenses must have increased, in order to make the total operating expenses decrease less than labor.

Mr. Lauck: The labor cost would be included in the total operating expenses. I never thought of that. And therefore, what reductions were made would be an offset to the decrease in labor cost. To what extent operating expenses decreased expenses of labor, I don't know.

Mr. Byram: It must have decreased, according to your table.

Mr. Lauck: Well, they must have increased, if there were not reductions in other lines that would neutralize the labor cost. This would not indicate—

Mr. Byram: You show that there is a greater decrease in the labor cost than in the total operating expenses in which the labor cost is included?

Mr. Lauck: Yes, about 65 per cent or 70 per cent. I think that the difference is accounted for by the fact that operating expenses other than labor were reduced, but they were not reduced sufficiently to offset the labor cost. Would not that be the conclusion?

Mr. Byram: They would have to be increased.

Mr. Stone: Cannot you check that up, Mr. Lauck, and find out?

Mr. Lauck: It would be a simple matter to deduct the total labor cost from the total operating expense and see how much operating expenses, and then how much labor cost increased. My experience with operating expenses has been that there is a line of reduction which can be made in your labor cost which sometimes is more and sometimes is less than the operating cost.

Mr. Stone: Well, you can compare a statement on that, can't you?

Mr. Lauck: Yes, I can get that out. It never occurred to me about one including the other, at this point.

Mr. Stone: Anything else on this?

Mr. Lauck: Nothing else, I believe. The point I wanted to develop by this was the extent to which each had suffered, so far as we have any figures, as compared with other factors in railroad operation.

I think if we had the returns, they would show a decreasing outlay for labor, going hand in hand with a decreasing traffic, up through August, September and October. It has only been in November and December that the railroads are beginning to get back to normal again. Some of the roads, like the Atchison, have been above normal for the last two months. I believe the Burlington has more revenue the last two months than the same months of last year. Some of the Southern roads, though, have been down as low as 50 per cent, and they all are showing a tendency to return to normal conditions. There is an upward movement the last three months.

Mr. Stone: Mr. Chairman, I would like to introduce No. 69, "Railroad Credit."

(The exhibit so offered and identified was received in evidence and thereupon marked "Employes' Exhibit No. 69, March 8, 1915.")

Mr. Lauck: This exhibit was prepared in connection with the discussion as to financial ability to pay. The summary is contained on pages 1 and 2, and can be very briefly stated. It was in 1911 to 1913, inclusive, that the railroads, in common with industrial corporations, on account of business and commercial conditions, had to issue short term notes, to get funds, instead of bonds. And in 1913 there was a period of refunding operations, growing out of better business conditions, which at the end of the year resulted in showing that the rate of fixed charges paid by the railroads in 1913 was less than in 1900, due to the fact that bonds which had been issued, bearing five to seven per cent interest in previous years, were refunded into bonds of lower rates of interest, thus decreasing the per cent of capital charge.

And, third, in the early part of 1913, there was a favorable money or investment market, which led to a very gratifying refunding operation. This was suddenly terminated by the outbreak of the European War, and the breakdown of all commercial and financial relations, and the period of financial breakdown which followed, for two or three months. The recent tendency seems to indicate that the crisis has now been passed, as exemplified by the successful bond flotations of the Pennsylvania Railroad and other railroads, and that there is no doubt, of course, in the next place, that the cost of capital is going to be greater after the war than it was before, because of the immense destruction of capital during the war, and the immense amounts that have been tied up in unproductive enterprises, or long time enterprises, such as the Panama Canal, in recent years.

But it also seems to be true in the next place that for the immediate future no large sums will be required by the railroads. Large commitments have recently been made, and refunding operations that are absolutely necessary have been successfully conducted; and although it might be profitable to get more capital, in order to increase the efficiency of equipment or to develop new lines and extensions, those new lines can be postponed until the investment market is more favorable.

That constitutes the contents of the argument presented in this exhibit, in a summary form.

In section 2, which follows upon the summary I have outlined, is an explanation of the factors contributing to the depressed money market during 1913. This consists largely of quotations from a brief, or part of a brief submitted by Mr. Clifford Thorne in the 1914 rate case.

Mr. Sheean: Mr. Lauck, you here make use of a brief, which you use in support of the claim for a $41,000,000 increase in wages, which brief Mr. Thorne made use of in resisting any increase in rates. This brief is used for the purpose of resisting an increase in rates, is it not?

Mr. Lauck: This brief, or exhibit—it is really an exhibit—was submitted by Mr. Clifford Thorne in the 1914 rate case in the East, opposing an increase in rates to the Eastern railroads. I am using it here. He used it there to show that the railroad credit was no worse than the credit of industrial corporations.

Mr. Sheean: So that the brief is alike persuasive against any increase in rates and in favor of an increase in wages?

Mr. Lauck: Yes, I think so. There is nothing inconsistent in that. That is, it is an exhibit—I think I said brief, but I should have said exhibit--showing the condition of credit.

Mr. Nagel: You claim the condition is so good that better rates are not needed and that better wages should be paid?

Mr. Lauck: Yes. Of course our argument here is that the railroads are able to pay these increased wages. Of course, if they are able to pay increased wages, they do not need increased rates, if that argument was valid.

Mr. Byram: But the Interstate Commerce Commission afterward thought the eastern railroads were entitled to some increase in rates.

Mr. Lauck: Yes.

Mr. Byram: So that the argument of Mr. Thorne was not valid as preventing the increase in rates?

Mr. Lauck: Not in preventing it, no, sir. Whatever its value was in that way I do not think was affected. It might have been affected to the extent that the Commission gave its decision largely based upon the emergency conditions that had developed, although one of the chief grounds for an increase in rates was the fact that the wage increases had been given by the Eastern railroads subsequent to 1910, which was undoubtedly recognized by the Commission as a ground for granting increased rates to the railroads.

Mr. Sheean: But they turned it down on that claim, did they not?

Mr. Lauck: I do not know whether we could tell whether they turned it down or not. They first turned it down, and then they granted it, and that was the basis of the first case. Whether in the second case they just gave it as an emergency proposition, I rather think in the first case that was the ground.

Mr. Park: Are the organizations that you represent here opposed to the granting of increased rates to the railroads?

Mr. Lauck: No, sir, I do not think so. Personally, I think the railroads ought to have an increase in rates, but I think it should be accompanied by legislation so that the operating managers could use the revenue, and it would not be diverted by the financial management, if such dangers are present, as we would claim.

Mr. Burgess: You do not introduce this exhibit on the increased rate question at all, do you?

Mr. Lauck: No, sir. Mr. Sheean was questioning the consistency of using an argument against increased rates as an argument for increased wage demands, and according to our view it is not inconsistent, it seems to me, because we are claiming that the railroads are able to pay increases in wages, and if they are able to pay increased wages, they should not necessarily have an increase in rates.

Mr. Burgess: The purpose of the exhibit, if I understand it correctly, is to show that the credit of the railroads is not in the condition that it has been stated to be in different periodicals and different public statements, by those who claim to be representing the railroads, whether they do represent them or not. Is that it?

Mr. Lauck: Yes, that is one purpose. The railroads claim that owing to the decline in net revenues, and the great burdens which have been placed upon them by legislative requirements, and owing to the increased advance in wages, they cannot show the surplus of net revenue as in former years, and therefore they cannot dispose of their securities upon the open market or through bankers. The object of this exhibit is to show that railroad credit is no worse than the credit of manufacturing and mining corporations, or is really attended with the same conditions that prevail in other business activities.

Mr. Burgess: And that purpose was not in any manner controlled by the rate question at all, as far as you are concerned?

Mr. Lauck: No, sir; that just grew up here collaterally, or incidentally.

Mr. Park: Is it not a fact, Mr. Lauck, that the viewpoint of the railroad men was largely in that they were restricted in their ability to afford necessary facilities for new industries, and to increase their facilities for the transaction of business throughout the country.

Mr. Lauck: Yes, sir; that they could not get the net revenue, in order to attract the capital.

Mr. Park: They were importuned on all sides to build industry tracks and railroads into new tracts of country, to develop the resources, but they were unable to get the money to do that, and it caused a cessation in railroad business, and railroad building, as well as other business affected by that.

Mr. Lauck: Of course, that would come back to the fact that they could not develop the net revenue, in order that their securities would be attractive to investors. The investors would feel apprehensive.

Mr. Park: Ordinarily, in building these new short lines, with branches, they are losing propositions for a number of years: it is hard to carry them until the country develops?

Mr. Lauck: Yes, sir.

Mr. Park: That all has a bearing on putting money into new ventures.

Mr. Burgess: Mr. Park, may I ask you a question, as I am personally interested in one particular point.

Mr. Park: Yes, sir.

Mr. Burgess: In regard to the industrial tracks, do the railroads pay for the building of them?

Mr. Park: Quite frequently, yes.

Mr. Burgess: Quite frequently they do not, do they?

Mr. Park: It is a subject of negotiations and depends upon the circumstances. If it is a track to open up a new agricultural country, or to go to coal mines, or something of that kind, the railroads pay for it. It frequently occurs if a man wants a track to a flour mill, or something of that kind, he pays part of it and the railroad pays part of it. The railroad generally owns that part on its own right of way.

Mr. Burgess: Does he not frequently pay for building the track to his industrial plant?

Mr. Park: Quite often.

Mr. Burgess: Does he not do so in nearly 90 per cent of the cases?

Mr. Park: No; I think, ordinarily, 90 per cent of the money expended in new tracks and new business facilities, is furnished by the railroads.

Mr. Burgess: Of course, new tracks and new business facilities, if you are going to build a branch line out in the country. I am not speaking about that. I am speaking of an industrial track, located along the main line of the railway, and you want a spur or siding run into your industrial plant, do you not have to pay for it?

Mr. Park: The railroad pays for that part on its right of way, and the owner of the industry pays for the part on his right of way. That is only a part of that which the railroad is called upon to develop the country and keep up with increasing industrial activity.

Mr. Burgess: But when you want one built in there, the manager of that railroad don't think it is a small part, does he, Mr. Park.

Mr. Park: No. All of those items, of course, in the aggregate, amount to a great deal.

Mr. Burgess: Pardon me for asking you. I was personally interested in one of those side tracks there.

Mr. Stone: Mr. Lauck, is there anything inconsistent in quoting Mr. Clifford Thorne, who is a man who has made a special study along this line, more than there is in quoting any other man who has made a special study on some subject?

Mr. Lauck: No, sir, I think not.

Mr. Stone: The mere fact that he happens to be fighting a railroad on a rate case, has no bearing?

Mr. Lauck: No, sir, that connection never occurred to me.

Mr. Stone: Simply showing the condition of the securities market at that time.

Mr. Lauck: He did submit an exhibit on credit, which was made up from quotations from Bradstreet's, from the Railway Age Gazette, and from the Commercial and Financial Chronicle, which seemed to summarize the credit conditions by these financial journals, and it seemed a brief and effective way to get the matter together. There are no opinions expressed in this connection, I think, by Mr. Thorne.

Mr. Stone: This is simply shown to show that we are over the depression, whether it was fancied or real, or manufactured, and that conditions are better?

Mr. Lauck: Yes, sir.

Mr. Stone: There is an upward trend?

Mr. Lauck: That is shown here, right at this point—it shows what were the conditions of credit in 1913. Later, we hope to show that conditions are improving and that the investment market is opening up, by quotations from the Wall Street Journal, and other financial publications.

Mr. Sheean: Mr. Lauck, that statement of Mr. Stone's, or your statement here that the credit of those roads was better in 1913 than in 1900—

Mr. Lauck: No, not the credit was better, but the capital cost was less.

Mr. Stone: Mr. Lauck, in the first place, Mr. Stone did not say anything of that kind.

Mr. Lauck: Probably I made that statement, that the outlay per cent was less in 1913 than in 1900, due to refunding operations and the conversion of bonds, paying high rates of interest, into bonds of lower rates of interest.

Mr. Sheean: That is, paying or floated? Take the Frisco, for instance. At page 8, you say there is a big improvement in the Frisco, between 1900 and 1913, from 5.20 per cent down to 4.54 per cent. Does that improved condition, as thus shown between 1900 and 1913, where the Frisco's rate is reduced from 5.20 to 4.54, show that the Frisco was in better condition, either operating financially, or in a credit line, or any other way, in 1913, than it was in 1900?

Mr. Lauck: It shows that it was not required to pay as much for its capital, in 1913 as in 1900.

Mr. Sheean: Not to pay, or to agree to pay at a lesser rate than it agreed to pay in the earlier time? That is, I was wondering whether the mathematics really reflected anything as to what the actual situation was.

Mr. Lauck: It does not reflect the actual credit conditions, in this way: that the interest rate is probably higher now than in 1900. That is, the interest rate has gone up, because of the conditions which have prevailed, especially the great demand for capital, in the light of the supply, the destruction of capital and the attempt of capital, which would be the main factor. The interest rate is higher now than it was in 1900, but at some time prior to 1900, the Frisco had some bonds, possibly, that were paying, say, 6 and 7.

Mr. Sheean: No, I was taking it where it is lower. It shows here in 1900, the average interest rate was 5.20, while in 1913 it was only 4.54.

Mr. Lauck: Yes; when these bonds became due, say, in 1913, while the interest rate on borrowed capital was higher in 1913 than in 1900, yet, that higher interest rate was less than the interest rate which the Frisco had been paying previously on these bonds, and as a result of funding operations, they paid a less interest rate, although the interest rate had gone up. That seems as if it was an involved explanation, but I think that is the true explanation. That is, it has been characteristic of the money market, or the investment market, that it costs more to borrow capital now than in past years. Therefore, the capital cost is higher, as compared on a purely rate basis; but way back beyond 1900, when bonds were floated, when the element of risk was greater, they paid even greater rate of returns, say, than 4 per cent, which was probably the rate in 1900—about 5 and 6. Then, when those bonds became due, subsequent to 1900, although the interest rate had gone up to 5 per cent, yet, this 5 per cent rate was less than the rate that had been paid; and, therefore, in the refunding operations, you had a result where the capital cost was less than it had been previously. Probably I can read you that quotation.

Mr. Sheean: On that same page, page 8, you show the Rock Island in 1900 was getting money at 4.2 per cent, while in 1913, it was borrowing money at 4.27 per cent.

Mr. Lauck: What is that—Rock Island?

Mr. Sheean: Rock Island, yes.

Mr. Lauck: That would be due to the same—

Mr. Sheean: And the Missouri Pacific, that in 1913 they were getting money much cheaper, that is, their credit was better in 1913 than it was in 1900.

Mr. Lauck: Not necessarily that the credit was better, or that the interest rate had not gone up, but that their capital cost was less. For instance, I will read you a quotation that will explain that further.

Mr. Sheean: The Wabash was better off in 1913 than in 1900.

Mr. Lauck: It cost them less for the capital.

Mr. Stone: They might have had more money borrowed, but the interest rate was lower.

Mr. Lauck: Yes, sir; the average rate of cost was lower, due to refunding operations, whereby high interest rate bonds had been converted into low interest rate bonds. Page 5, at the middle of the page, you will find a quotation that will illustrate this.

"In May, 1914, an issue of $8,054,000 Chicago & Northwestern General Mortgage 4 per cent gold bonds were placed privately by Kuhn, Loeb & Company at 96½ and interest. Of these bonds the proceeds from $2,000,000 were expended in permanent improvements, and $6,054,000 were used to retire an equal amount of underlying bonds bearing interest at rates of from 5 to 7 per cent."

Say, in May, 1914, as late as that, the North Western substituted 4 per cent bonds for 5 and 7 per cent bonds, therefore, its rate of return on its capital decreased.

Mr. Stone: And in January, 1914, the Chicago, Milwaukee & St. Paul retired 5 and 6 per cent bonds, with a reissue of 4½ per cent?

Mr. Lauck: Yes, sir; and in the same way with the Southern Railway. If you will notice on the next page, the last sentence of the paragraph says:

"As these old bonds bore various rates of interest, many exceeding 5 per cent, there has resulted an annual saving of 1.31 per cent in interest charges on the capital represented by the bonds so retired."

It would not indicate the credit of the road was any better, or that interest rates had not gone up, but through refunding operations, it had been possible to substitute bonds at a smaller rate of interest, for those that had previously been held or been issued.

Mr. Stone: There might, however, be more bonds, might there not—might have increased the capitalization?

Mr. Lauck: Yes, sir.

Mr. Stone: The rate of interest was lower?

Mr. Lauck: The rate of interest was lower.

Mr. Byram: Was that not controlled by the value of money, more than anything else?

Mr. Lauck: I say it was not the credit.

Mr. Byram: That did not reflect a changed condition of the credit of that railroad at all?

Mr. Lauck: Not at all, no, sir.

Mr. Byram: It indicated that money was cheaper.

Mr. Lauck: Than it had been, yes, when the original debt was incurred, or that the element of risk had become less. For instance, most of these bonds that were retired, were early issued, on which they had to pay a high rate of interest in order to attract the inventor, because of the risk involved in building some road, or something of that kind. Then, when they were retired, although the interest rate had gone up, say, since 1900, yet, that higher interest rate was less than the interest rate they had been paying on the original issue.

Mr. Byram: I thought you said this morning that there was no risk to the investors in these railroads? That you thought there was at one time, but after you had got looking into it, you found they did not take any risk?

Mr. Lauck: I was speaking of that in the original building of the Pacifics, and so on.

Mr. Byram: Just those railroads, not the railroads as a whole?

Mr. Lauck: I would not make such a broad statement, that there is not any risk, because there is a risk, but there was not a risk in—

Mr. Byram: I understood you to say that there was no risk?

Mr. Lauck: I think in those roads there was no risk, because of the peculiar method of construction, that is the collusive construction contracts.

Mr. Sheean: I cannot get it. Here is the Northern Pacific, 1900, 3.76 and in 1913, 3.89. The Northern Pacific has to pay more money in 1913 than it did in 1900, while the Wabash pays less interest in 1913 than in 1900. Now, I cannot follow that.

Mr. Lauck: Well, say, the Wabash, prior to 1900 had issued some securities that bore, say, 6 per cent interest. Say, in 1900, the interest rate was four per cent. In 1913, it was 5 per cent. If the Wabash, in 1913, or some time in between 1900 and 1913, when these securities became due, refunded them—say, they were good securities, but they could not pay them, or followed the course that is usually followed, of refunding them—refunded them at 5 per cent, which would be less than what they have been paying upon them, but would not reflect anything as to the condition of the credit of the Wabash, beyond the fact that they could sell high grade securities at the prevailing rate of interest.

Mr. Sheean: Just as to what they promised to pay. In other words, if the Wabash had not a five per cent bond outstanding, and was not paying anything on it, and in the hope that it might pay 3 per cent, the holders of the bond took one class for three per cent, instead of five, that would show as a reduction in the interest, although it did not pay interest on either issue of bond.

Mr. Lauck: That would show, but I don't think it occurs. If such has occurred, that would show here, but I don't think we have any cases of that kind.

Mr. Sheean: Well, if this, as you said to Mr. Byram, only reflects the condition of the money market in the two times, and does not reflect the credit, how is it that the Northern Pacific here is shown in 1913 paying a higher rate of interest than in 1900, while the Rock Island is paying less? Must not it show, or purport to show at least in part the relative credit of these companies at the two periods?

Mr. Lauck: I think it shows that from the Northern Pacific, which had a small funded obligation prior to 1913, and in the refunding operation, which involved bonding the previous year at higher rates of interest than then prevailed. Take the Great Northern, which practically had no funded debt prior to 1913, it is paying 4.28. It is probably paying more than the Wabash. No, not quite so much as the Wabash.

Mr. Sheean: About the same as the Rock Island?

Mr. Lauck: Yes. That was due to the fact that their bond issues came along later when their interest rates were around 4 and a half to five per cent. This is not designed to show credit conditions, but decline in the cost of capital.

Mr. Burgess: Well, Mr. Lauck, on page 19, the statement attributed to James B. Forgan—he is a prominent man in Chicago—would not that answer the question?

Mr. Lauck: No, sir. That has more to do with the existing situation.

Mr. Burgess: Here?

Mr. Lauck: The revival of business in the country since 1914. There is no doubt about it.

Mr. Burgess: But Mr. Forgan states that money is cheap, and there is a general demand for investment securities, which seems to be growing.

Mr. Lauck: Yes, he states that as his opinion of the situation now. That is, a characteristic of the condition during the last year and a half seems to have been that money was cheap but capital was timid. There was all kinds of money accumulated, but capital was afraid to go into any investments, owing to different uncertainties, and you have to distinguish between the money market and the investment market.

Mr. Sheean: You have to distinguish between investment securities as Mr. Forgan spoke of, and railroad stocks and bonds too, haven't you?

Mr. Lauck: Well, railroad stocks; not so much bonds, I would not think, because the high grade bonds have recently been greatly over-subscribed, and have indicated to the people who were the bond sellers, who thought that they could not be sold, that such securities can be sold.

Mr. Sheean: That is, the Pennsylvania bonds are still salable?

Mr. Lauck: Yes, and are very attractive to investors. But this other point is put forward to show that not the conditions of credit of the railroad, or the fact that interest rates have not gone up, but the fact that comparing their fixed charges with their funded debt, they are paying less for their funded debt now than they did in 1900.

Mr. Stone: But the fact does remain that after it is all said and done that the securities they are issuing in 1913 they are issuing them for a lower rate of interest and are getting them at a lower rate than they did those prior to 1900? Is that right? They paid a higher rate prior to 1900.

Mr. Lauck: They paid a higher rate prior to 1900. They are paying a higher rate in 1913 than they paid in 1900, but the higher rate in 1913 is less than the rate prior to 1900. There is no doubt about it, that the interest rates have gone up, that capital is more costly now than in 1913. But this exemplifies simply that the funding operations on the basis of the higher per cent rate, the fixed charges were less than they were on the rates that prevailed prior to 1900.

Mr. Nagel: Were all these bonds placed at par?

Mr. Lauck: No, sir, I don't think so.

Mr. Nagel: Were they placed at different discounts?

Mr. Lauck: Yes, sir.

Mr. Nagel: Doesn't that account for some of the difference between the Rock Island and the Northern Pacific?

Mr. Lauck: Yes, I think so. That is, this is computed on par. If you were computing on what they actually got, it would be more.

Mr. Sheean: Then, any benefit in favor of the Wabash and Rock Island would be that they sold them nearer par, in order to bring this rate down?

Mr. Lauck: The relative returns which they would get on the capital they actually secured, you would have to take into consideration the discount. For instance, the Alton sold some of its securities at 65. It is paying 3 per cent on par. It is paying 5 per cent on 55.

Mr. Byram: In your statement, the 3 per cent on par would show?

Mr. Lauck: Yes.

Mr. Byram: It would not be shown on what they actually got?

Mr. Lauck: No, I could not go into all of that.

Mr. Byram: So the percentage they are being paid does not represent what they pay for actual money received?

Mr. Lauck: No. I have assumed they got more in every case. In some cases it would be more than par. In many cases it would be less.

Mr. Byram: Whatever less than par it was would increase the rate on the money they actually received on their bond?

Mr. Lauck: Yes, sir. There is another table of that kind which is quoted from Moody's Magazine, which appears on page 6, which shows he has taken 17, I think it is, leading railroads, 16 leading railroads, and he shows the average interest rate 4.05 in 1912, as compared with 4.51 in 1900, or a decrease of 46 hundredths of one per cent, or one-half of one per cent. Then, in another table, which is quoted from the same series, it is shown that, on a comparison of the annual interest payments, the gross earnings, in 1900, the annual interest charges were 16.01 per cent (Page 7) of gross earnings, as compared with only 1 per cent in 1900.

Mr. Nagel: Do you think the outlook is good for the roads whose obligations are maturing this year?

Mr. Lauck: If they are first class obligations.

Mr. Nagel: Do you think that there may be an abundance of capital, but that capital would be timid?

Mr. Lauck: Timid and dear. It will cost them more.

Mr. Nagel: One follows the other.

Mr. Lauck: Yes, but in addition to being timid, there is going to be a limited supply, as compared with the demand.

Mr. Nagel: When capital is not employed, it is liable to suspect that others may be in the same condition?

Mr. Lauck: Yes.

Mr. Nagel: And that does not make for good business?

Mr. Lauck: No, sir.

Mr. Nagel: But does not the situation on the other side very materially affect the required capital on this?

Mr. Lauck: Yes.

Mr. Nagel: In other words, there will be no securities taken there for some time?

Mr. Lauck: No, sir.

Mr. Nagel: On the contrary, there will be a condition which will require additional loans from us, if we are willing to make them?

Mr. Lauck: Yes; that it seems to me will lead to an intense demand for capital, and competition for it which will be shown in the interest rate. It seems to me it is going to cost more to get capital for the next four or five years. There has been some talk that the high cost of living has led people to economize more, and to accumulate capital more quickly than has been characteristic of past years; but it is very doubtful whether any such tendency would offset the enormous losses that are now being made.

Mr. Nagel: That would be the silver lining to the cloud?

Mr. Lauck: Yes.

Mr. Park: Is it not a fact that there is already a prohibition on foreign capital coming to this country?

Mr. Lauck: Yes. I think in the latter part of 1913 foreign investors refused to take any more American securities, or practically so, on account of the fear of war, growing out of the Balkan situation. And now, of course, they have been sending their securities back and liquidating, and we have had to bear the brunt of all of that.

Mr. Park: And the governments, in some instances, have prohibited the sending of capital for investment purposes out of the respective countries?

Mr. Lauck: Yes. As Mr. Nagel says, I do not think we can expect that any capital will come from them to us, but, rather, as he says, that they will come to us for capital when the war is over. I do not expect any of our capital issues to be underwritten there.

Mr. Stone: You think the money market will be higher?

Mr. Lauck: Yes. I do not think there is any doubt that the cost of capital will be greater.

Mr. Stone: And if, in the future, they wipe out one of these terminals and destroy the homes of railroad employes, those employes will have to pay a higher rate of interest for the money to rebuild them, will they?

Mr. Lauck: Yes.

Mr. Stone: And that will have to be taken into consideration in fixing their wage schedule?

Mr. Lauck: The next section, which we have already discussed, but with relation to the other points, is the new financing in 1914, and how a great many refunding operations had been successfully conducted, but were suddenly nipped by the outbreak of the war, which broke down all financial relations.

The encouraging feature since the war has been the flotation of the Pennsylvania bond issue, and some other smaller bond and note issues, indicating that the investor who had been hoarding his money is willing to take a first class security if offered, leading to optimistic predictions on the part of the bond market as to new financing in the coming months. On page 18 is a quotation from the Wall Street Journal of January 22, 1915, at the bottom of the page, headed:

"American Railroad Bonds More Attractive Than Foreign Government Securities at Higher Rates of Interest."

This article says:

"It has been generally assumed that the war will cause a further depreciation in the price of our highest grade long term bonds. Yet there are those who believe that investors whose first requirement is security will find such bonds more attractive than foreign government securities at higher rates of interest.

"In the last six weeks there has been a noticeable demand for the highest grade American railroad bonds at advancing prices."

That is in connection with the flotation of the Pennsylvania bond issue at 104⅝, shown on page 17. That indicates, too, in that connection that the underwriting commission which was made by some banking houses would seem to be unnecessary in a case like this. The Pennsylvania Railroad got 100 for those bonds. Kuhn, Loeb & Co. handled them and were able to dispose of them at $104\frac{5}{8}$, or a profit of about $2,000,000. The bonds were over-subscribed five times, and it would seem that a bond issue like that could be offered to the general public without the necessity of paying a banking house $2,000,000 to put an absolutely certain and safe security on the market.

Mr. Stone: Are you not mistaken in regard to that price? Did not the bonds sell at $104\frac{7}{8}$, and on the curb at 105?

Mr. Lauck: I thought it was $104\frac{5}{8}$.

Mr. Stone: You will find it at the top of page 23.

Mr. Lauck: It says there, "Sales were made at $104\frac{7}{8}$. On the curb the quotation touched 105." I suppose that was a later quotation.

Mr. Sheean: Mr. Lauck, you were just referring to page 18, and this is a prediction of some newspaper, the Wall Street Journal of November 28, 1914.

Mr. Lauck: Page 18?

Mr. Sheean: Yes, and on page 19 is a list of bonds of which they showed the current prices, comparing them with the low of 1913 and the low of 1914.

Mr. Lauck: Yes, that is the Wall Street Journal of January.

Mr. Sheean: Have you checked up to see how near their prediction of November 28 came to present prices? This was on the upturn that was coming, and I think you introduced it for that purpose, or a prediction as to the present situation.

Mr. Lauck: Yes.

Mr. Sheean: I was just checking here with this morning's paper. The first one you show on this list here is Atchison general 4's. The low of 1913 was $91\frac{7}{8}$, and the quotation of last week closed on Saturday at $91\frac{3}{4}$ instead of the $95\frac{1}{8}$ which you show as the current price.

Louisville & Nashville unified 4's, at $93\frac{1}{2}$, seem to be selling now in New York at $91\frac{3}{4}$. Have you followed any of them through to see how far the prediction of November 28 has thus far been realized?

Mr. Lauck: No, sir, I have not followed those out in detail.

Of course those first two columns are average quotations for the year.

Mr. Sheean: I thought they were headed "Low 1913" and "Low 1914."

Mr. Lauck: I meant low, yes. That is so.

Mr. Sheean: And the low price of 1913 was higher or as high as the present price.

Mr. Lauck: Yes.

Mr. Sheean: Practically all of these are in just the same situation, are they not, and were down to prices, in February, 1915, as low as the low prices of 1913 and 1914?

Mr. Lauck: This was in November. The price now is greater than it was in June, July or August of last year, is it not? I have not examined the quotations, but the price should be higher, because of the improvement in conditions of credit.

Mr. Sheean: In March, 1915, they have gotten up about to the low price of 1913, have they not?

Mr. Lauck: I should think that would be about right.

Mr. Sheean: And they are off several points from the predictions made in November last. They are not now as high as they were on the 28th of November, on which basis this prediction was made.

Mr. Lauck: I should think you would expect that they would still be low, but ought to be advancing.

Mr. Sheean: I was wondering how you account for the fact that on November 28, times having gotten better, with every prospect of further improvement, the price of Atchison general 4's having gotten up to 95⅛ at that time, they are down to 90 or 91 now. Is there anything in your study of the figures that shows why there should now be this change?

Mr. Lauck: I should think they ought to be higher, because the Atchison operating results have been exceedingly good. They are running 10 per cent higher now than they did at the same time last year. That ought to be reflected in the securities, unless they were a security that was coming due shortly.

Mr. Nagel: Do you not think there is a human phase, even in finance?

Mr. Lauck: Oh, undoubtedly, yes.

Mr. Sheean: I was just taking this morning's paper, Monday, March 8, 1915, in which is contained the week's range of bonds in New York, following the figures that you have quoted here; and I see that Atchison general 4's were sold last week at a high price of 92, a low price of 90⅞, and in the close of last week's transactions at 91¾. That is 4 points lower than you show as the current price on November 28, 1914. Is there anything in your study of the railroad situation which would justify this dropping off in price.

Mr. Lauck: The only way I could justify that would be because of timidity toward that kind of an investment, a four per cent investment, and the possibility of getting higher returns.

Mr. Sheean: I mean between now and November 28 last.

Mr. Lauck: No, sir, I should think it ought to be better.

Mr. Sheean: Then the next one you show there, Louisville & Nashville unified 4s, are shown as making last week a high of 91¾, low 91 and closing at 91¾ as against 93½ which you show on November 28 as being the current price on which this prediction is based.

Mr. Lauck: They would all be up above the quotations following the breakdown, however, which is the point I am contending for.

Mr. Sheean: They are practically to the low price of 1913.

Mr. Lauck: Yes.

Mr. Sheean: And they are not up as high as they were on the 28th of November last. Now the Northern Pacific is the next one that you show there, as selling at 92⅞ on the 28th of November last. Last week in New York the high price seems to have been 90¾, the lowest 89¼ and closing at 90¾. That also seems to be considerably lower than on the 28th of November, 1914, when this prediction was made?

Mr. Lauck: Yes.

Mr. Stone: But it did close higher than the low spot in 1913, did it not?

Mr. Lauck: Yes.

Mr. Sheean: And, last week, sales were made at lower than the low spot of 1913, according to the papers. Is not that true, the low price last week being 89¼ as against the low spot of 90 in 1913?

Mr. Lauck: Yes, that would be correct. I do not understand why they are lower now than they were on November 28, unless there were some special conditions at that time that would account for it.

Mr. Stone: As I understand it, you are not advancing any theory about this money market, are you? You are simply giving the statements of these different men as you find them?

Mr. Lauck: Yes, I am advancing the claim that credit is better now that it has been in the past.

Mr. Stone: And you simply quote the opinions of these great financial men who ought to know?

Mr. Lauck: Yes.

Mr. Stone: Or who make a guess at it at least.

Mr. Lauck: Yes. Why conditions in November, 1914, should be better than now, I am unable to understand. This is quoted by the Wall Street Journal as indicating the favor with which investors look upon American railway bonds as compared with foreign loans.

Mr. Byram: Did you say the Pennsylvania Railroad Company received only par for these bonds which were sold on the market at 104⅞?

Mr. Lauck: Yes, they received par and then a certain proportion of the underwriting commission, which I think amounted to one-half of one per cent. They got a premium of one-half of one per cent.

Mr. Byram: They got 100 and one-half.

Mr. Lauck: That is my understanding, yes.

Mr. Stone: They cleared up about $15,000,000 on that sale. Is that right?

Mr. Lauck: The underwriting syndicate? No, they cleared about $2,000,000 on a $49,000,000 bond issue.

Mr. Byram: What evidence have you that they received a premium of one-half of one per cent?

Mr. Lauck: On page 17 of Exhibit 69 I quote the Wall Street Journal, which commenting on this says:

"The new bonds closed at 104⅝ on the curb Saturday after the announcement of the offering price. At the price set, the, road will share in the profits of the underwriting certificate to the extent of about one-half a point, making the price it receives for the bonds about 100½."

Mr. Sheean: Those were Pennsylvania 4½'s of 1921?

Mr. Lauck: No, that was the last bond issue of the Pennsylvania.

Mr. Sheean: Last week's transactions reported in today's paper show the high 100½, the low 100½, and closed at 100½, so that the bonds are now selling in New York at precisely the same figure as you say the Pennsylvania Railroad Company got for them.

Mr. Lauck: If that is correct.

Mr. Stone: How many sales were made at that price?

Mr. Sheean: I do not know.

Mr. Lauck: Have you any statement of the range of prices?

Mr. Sheean: Those are the week's range.

Mr. Lauck: I thought there had been a slump.

Mr. Sheean: No, these show increases.

Mr. Lauck: I thought in the last two or three days there had been a slump.

Mr. Sheean: I have not followed it, but the ones I have looked at show plus, plus, plus.

Mr. Lauck: That would not invalidate the fact, however, that the underwriting syndicate disposed of them at 104⅞; but I was under the impression that there had been a slump in the stock market during the past week, due to certain conditions, which might account for this low range of quotations. This paper speaks of forced foreign selling, which would depress the price in this country.

Mr. Stone: Do you think the fact that the rate hearings in the Western Rate Case would have a depressing effect on the stock market?

Mr. Lauck: I do not think it would have the effect of those differences; but I should like the opportunity to look that up and see just what has been.

Mr. Sheean: All right.

Mr. Lauck: I have not kept in touch with the stock market, but I recall that there has been a depression in the last week, or the last three or four days.

I believe that concludes all I have to bring out from this exhibit, except an article from the Railway Age Gazette, which is probably the most significant article in the entire exhibit. That appears on page 21. It is by Mr. George A. Clark, in the Railway Age Gazette of February 5, 1915. It is entitled "The War and

Pending Railway Finance." If I may, I will read the first paragraph of that. It has to do with the new capital requirements of the railroads. This article says:

"The railroads of the United States, Canada and Mexico, have approximately three-quarters of a billion dollars of bonds and notes now outstanding, which mature during the next five years, 1915 to 1919, inclusive. Approximately $450,000,000 will fall due during 1915. In these totals no account is taken of equipment trust obligations, of the new capital which must be raised to perfect pending reorganizations of a large amount of mileage now in receivers' hands, nor of the new capital expenditures which are absolutely necessary during this period. A most conservative estimate would place the requirements for these purposes at not less than $250,000,000."

Then he goes on to state that it will not be possible to finance the new capital requirements in the way of improvements to the roads, in the way of developing operating efficiency probably, and in the last paragraph on page 21 he says:

"Although the aggregate amount of capital which must be raised for refunding purposes bulks large in a situation like the present, there is cause for congratulation that such a large amount of permanent financing was successfully completed during the first half of 1914. During this period a number of the leading companies have been successful in substituting on a favorable basis long-term obligations for short-term notes."

Then he goes ahead and specifies the railroads which have been so successful. Then, turning to the next page, page 22, at the top of the page, he continues:

"*Generally speaking, the situation is as sound, if not better, than at any time since* 1907. Many extensive programs of improvements have been largely completed. A part of the expenditure represented by these improvements has already been permanently financed. This is particularly true of the Chicago, Milwaukee & St. Paul and the New York Central & Hudson River."

Then the last paragraph in the article says:

"*If the assumption is correct that following the war capital will be difficult to secure, this condition has come about at a most favorable time in the history of the railroad industry in this country. The process of construction, of system building and intensive development has been about completed. True, large* *amounts of capital will be required in the future for the further enlargement and improvement of existing facilities. For the time many of these betterments can be postponed without irreparable injury.* An expenditure which will pay its pay in increasing operating efficiency is always to be desired, but when the capital for such an improvement must be secured upon terms which involve a serious risk as to the ability of the company to refund the obligation at maturity, it should be deferred to a more favorable time. Rigid economy, a high degree of personal efficiency and a conservative refunding policy as to additional financing would appear to be the most logical program for the present.''

He does not blink the fact that there will be great strain upon the railroads in securing capital and in financing their enterprises, but says that in the face of such conditions the railroad situation is in a peculiarly favorable condition, owing to past refunding and past construction and extensions.

Mr. Nagel: Yes, but he does say that even if normal development is checked, the railroads are confronted with a serious situation.

Mr. Lauck: Yes.

Mr. Nagel: The refunding of maturing obligations?

Mr. Lauck: Yes. He says that with this $750,000,000 to refund, it will require all their efforts in that direction, and that so far as other capital is concerned, it will be extremely doubtful whether any of it can be secured.

The main point about his article, it seems to me, is that it might be worse.

Mr. Nagel: If we have time enough to talk about it, it may get worse.

Mr. Lauck: I am not claiming that the credit of the railroads is all that could be desired, or that conditions are all that could be desired.

Mr. Park: The idea is that the railroads should ''cheer up, for the worst is yet to come?''

Mr. Lauck: He says they should be hopeful as to the future, that the difficulties are in a good condition to meet.

Mr. Stone: In the meantime, if big business does not put in any more capital, it can at least sit down and know that it has got load enough on these railroads to absorb their productive efficiency for the next hundred years to come.

Mr. Lauck: I believe that is all I wish to bring out in this exhibit.

Mr. Stone: I now desire to introduce Exhibit No. 70.

Mr. Lauck: The next exhibit is entitled "Total Dividends Paid by Western Railroads, 1910, 1913 and 1914, and Dividends Paid from Surplus, 1914."

(The document so offered and identified was received in evidence and thereupon marked "Employes' Exhibit No. 70, March 8, 1915.")

Mr. Lauck: This is offered in connection with the exhibit of the Conference Committee of Managers—No. 5, I believe it is. In that exhibit, it was shown that less dividends were paid in 1914 than in 1913, if I remember correctly, their dividends being confined to dividends paid almost entirely from current income. In this exhibit, all dividends are taken into consideration.

By referring to page 3, it will be seen that in 1910, the dividends were $186,000,000, in round numbers. In 1913, there were $179,000,000. In 1914, $262,000,000, in round numbers.

The increase in 1914, when all dividends were taken into consideration, was obviously due to certain dividends charged to surplus account, notably the special dividend on the Union Pacific, of $74,020,000. In other words, there were paid from surplus in 1914, by the railroads, dividends aggregating $99,000,000, including the Southern Pacific special dividend, in addition to the dividends paid from income, which makes the total $262,816,000.

This indicates that the stockholders did not fare badly, as a result of the industrial depression of 1914, and that they received more dividends, in the aggregate, than they had received in 1913 or in 1910. There is also one railroad included in this exhibit, which is not included in the exhibit of the Managers' Committee, that is the Canadian Pacific. That was omitted, if I recall correctly, which would account for an increase of $11,000,000. That was omitted, I believe, because it was stated that it was not included in the tabulations of the Interstate Commerce Commission.

As a matter of fact, this road does report to the Interstate Commerce Commission, and it has been included, as given here.

Mr. Sheean: Well, the part of the line, Mr. Lauck, that is involved here in these negotiations—the Canadian Pacific Lines west of Ft. William. Does the Canadian Pacific separate its income, the part west of Ft. William from that that is east?

Mr. Lauck: No, sir; the whole road is given here. There can't be any segregation.

Mr. Sheean: Cannot be any segregation?

Mr. Lauck: No.

Mr. Sheean: And this is the total earnings of the Canadian Pacific in both years, is it—the total declaration of dividends?

Mr. Lauck: Total for the whole system of the Canadian Lines, yes, sir.

Mr. Sheean: Do you know whether or not that has any separation—I don't know anything about it, but do you know whether or not, in 1914, there is any separation of their Trans-Oceanic enterprise from their rail enterprise?

Mr. Lauck: I don't know. I know they readjusted all their accounts in 1914. They had not been carrying on their balance sheet a large part of their reserves, like their timber. They increased their surplus balance in profit and loss about $279,000,000 in 1914, due just to changes in accounting methods.

Mr. Sheean: Well, have you checked, in this connection, Exhibit No. 5, to ascertain its correctness as to the total dividends declared out of income?

Mr. Lauck: I think that is correct, yes, sir. I have not checked it. I assumed it was correct.

Mr. Sheean: But this Union Pacific $74,000,000 was the distribution of the Baltimore & Ohio stock?

Mr. Lauck: Yes, sir. That was the special dividend growing out of accumulated earnings of the past, which was distributed in this year, 1914.

Mr. Sheean: That is, they held the Baltimore & Ohio stock in their treasury?

Mr. Lauck: Yes, sir.

Mr. Sheean: And that was distributed to the stockholders of the company, was it, as a dividend?

Mr. Lauck: To the common stockholders, yes, sir.

Mr. Sheean: Distributed in kind?

Mr. Lauck: It was distributed in kind, except $3,000,000, I think, in cash. The idea was to distribute enough to yield 2 per cent, and reduce the dividend from 10 to 8, and this Baltimore & Ohio stock, plus $3,000,000, that was estimated would yield 2 per cent in the aggregate.

Mr. Sheean: Well, I just wanted to make sure as to whether you had followed the Exhibit No. 5 as to the correctness of the showing there, as to the falling off in dividends which were derived from railroad operation.

Mr. Lauck: I think there is no doubt of that, Mr. Sheean. At least, I did not examine that, that there had been a falling off in dividends from rail income.

Mr. Stone: But the stockholders got it, just the same?

Mr. Lauck: Yes. I don't contend at all that the revenues were not sufficient to bear the same amount of dividends in 1914 as in 1913, but that the stockholders did not suffer as the result of the industrial depression, such as it was, for the reason that an accumulated surplus of past years enabled dividends to be declared, and in addition to that there were special dividends declared from surplus, like the Union Pacific and the Central Pacific to the Southern Pacific, which is not covered here, but that would be another dividend of that character. It would be rather an intercorporate proceeding, however.

Mr. Stone: Well, take for example, the Atchison there, Mr. Lauck: Was there any special distribution of any stock dividend, or anything?

Mr. Lauck: No, sir, not in this year.

Mr. Stone: But it does show an increase of approximately $2,000,000 over 1910, doesn't it?

Mr. Lauck: Yes, sir.

Mr. Sheean: Well, Mr. Lauck, just in that connection, of the Union Pacific declaration of $74,000,000 dividends in the way of giving up the Baltimore & Ohio Railroad Company's stock. I noticed in one of your previous exhibits here, 61; in commenting upon the financial history of the Union Pacific Railway Company, you said: "Had the operations of the railroad been confined to its legitimate functions as a common carrier, the entire funded debt of the company during that period, etc."

Mr. Lauck: Yes, sir.

Mr. Sheean: Applying, or using your knowledge here to this situation as to dividends, "Had the operations of the railroad been confined to its legitimate functions as a common carrier, there would have been about $73,000,000 less to distribute in dividends at that time out of operations."

Mr. Lauck: In 1914, I think so, yes, sir.

Mr. Sheean: So that out of the legitimate functions of these various railroads as common carriers, there was a falling off in funds available for dividends, as between 1910 and 1914, of from $168,000,000 down to $146,000,000.

Mr. Lauck: Something like that. Of course, 1910 was a very good year, to be comparing with 1914.

Mr. Sheean: Well, 1913 and 1914 then. Again, following your language, "Had the operations of the railroads been confined to their legitimate functions as common carriers, there was available out of their legitimate earnings as common carriers, for dividends, the difference between $154,000,000 in 1913 and $146,000,000 in 1914."

Mr. Lauck: Yes. There was—I don't deny that there was a falling off in the revenue in 1914. The point that I wish to bring out is that the stockholders have not suffered as the result of this depression, except so far as their surplus has been reduced.

Mr. Sheean: Well, just what good do you think, Mr. Lauck, the fact that the Union Pacific had $74,000,000 worth of Baltimore & Ohio stock, which it distributed to its own stockholders, would do the stockholders in the Denver & Rio Grande, for instance, who, on this showing of yours, received dividends in 1910 of $2,488,000, and have received no dividends since that time?

Mr. Lauck: Well, of course, that will do the Denver & Rio Grande stockholders no good whatever. What the Denver & Rio Grande did was to absorb its earnings by the building of the Western Pacific, which made it impossible to pay dividends.

Mr. Stone: But, Mr. Lauck, it will do the stockholders on the Denver & Rio Grande just as much good as it will do the engineers on the low paid roads, if you strike an average of what an engineer on all the roads earns, will it not?

Mr. Lauck: The same average would have the same inequalities, as far as the average of that kind is concerned, as it would in the case of dividends. Of course, any average would have that. It is just like taking the high and the low rate of earnings.

Mr. Stone: But the man who didn't get anything, in each case, you will have a hard time making him believe he got it.

Mr. Lauck: Yes. High earnings and low earnings averaged show good earnings, but it is not much consolation to the low.

Mr. Stone: I think they show the average of all passenger engineers' earnings at $7.78 a day. You would have a hard time making the men on some of these low paid passenger engines believe they got that much, wouldn't you?

Mr. Lauck: You could not make them believe it any more than you could make the Denver & Rio Grande stockholder believe he got something.

Mr. Stone: Anything further on this?

Mr. Lauck: Nothing further. The point I wished to develop was to compare the stockholders and the men in the aggregate, and show that the men were the real sufferers from industrial depression.

Mr. Stone: And you also further show it is perfectly legitimate to pay dividends out of the surplus, but it would be a crime against humanity to pay increased wages out of the surplus.

Mr. Lauck: That never has been the practice, no, sir.

Mr. Stone: That is not good financing.

Mr. Lauck: Well, theoretically, capital has made a sacrifice. The stockholder has to accumulate this surplus, which the wage earner has not. He has taken all of his from month to month, and the stockholder has said, "I will take so much and leave so much for contingencies," which is a legitimate thing.

Mr. Stone: If it had not been for the productive efficiency of the wage earner, this surplus would not exist, would it?

Mr. Lauck: Of course, that is one factor that is held.

Mr. Stone: Mr. Chairman, we desire to introduce as Exhibit 71, "The Month of October, 1913," of which we have heard so much.

(The document so offered and identified was received in evidence and thereupon marked "Employes' Exhibit No. 71, March 8, 1915.")

Mr. Lauck: It will be recalled that the month of October was selected, as stated by the Railway Managers, because the requests were made in that month, as a basis for showing earnings, estimating wage increases, and for other similar purposes.

Whatever was the basis of selection, it happens that October, 1913, showed the highest operating revenues of any month, from January, 1909, to December, 1913. That is shown on the chart on page 2 of this exhibit, and this chart is based on the operating revenues of the ten representative Western Railroads, which I have used in the course of my testimony, and the line traces the gross operating revenue, by months, during the years 1909 to 1913.

On referring to this diagram, it will be seen that the high water mark was reached in October, 1913. It will, therefore, follow that this month, having been selected as a basis, reflects greater traffic than any other month during this period. Therefore, greater operating outlays to meet that traffic and greater labor costs to handle that traffic, and that any estimates of wage increases, based upon the labor costs of that month, would be the maximum for this period of years, as to what a wage increase would be.

Mr. Sheean: You do not show what the ten representative roads are?

Mr. Lauck: I should have put those in. The Atchison; the Burlington; the Great Northern; Northern Pacific; Illinois Central; Oregon Short Line; Southern Pacific; the Burlington—I guess I mentioned that. It may be further over. That is, the point that I wish to call attention to in this connection, and that these wage increases as estimated in October, 1913, are estimated correctly and should be \$41,000,000—assuming that they should be that, \$7,000,000 a month, if I remember correctly. I thought it was \$7,000,000 per month—\$4,000,000 probably—\$4,000,000 for the month of October, that being estimated upon this basis would reflect a maximum for this month, and would change, according to the traffic conditions, or the labor outlay for other months.

Mr. Byram: Then, taking that October as one of the months, and figuring the increases that would apply to the operations of that month, and then establishing the payroll for October on its proper relation for the other months of the year, wouldn't we arrive at the correct estimate of the cost for the year? Suppose, we will say, that October represents one-tenth of the total payroll for the year, instead of one-twelfth, would we not arrive at the correct estimate of the cost for the year, by putting October in as one-tenth instead of one-twelfth?

Mr. Lauck: I think so. I think that was what was done in your exhibit.

Mr. Byram: You don't find any fault with that?

Mr. Lauck: Not with that estimate, no, sir.

Mr. Stone: What would have been the result, Mr. Lauck, if, instead of taking October, they had taken February of the year before, and based it on that?

Mr. Lauck: Why, it would have been considerably lower in the preceding February.

Mr. Byram: Well, suppose, Mr. Lauck, we then had taken February and had established its relation with other months in the year, in the same way that we have just described the process of October with other months, the result would have been the same for the year, would it not?

Mr. Lauck: For the year, yes, sir. Of course, I could not agree as to the estimates. That is something I know nothing about.

Mr. Byram: Assuming they are accurate?

Mr. Lauck: Yes, sir. I think the significant thing about the whole thing here, to bear in mind, is, whatever the cost of these wage increases are going to be, they are going to follow the course of traffic, and although they may be high in one month, they will be low in the next month. If they are adopted in a period of depression, they will be proportionately reduced, and if adopted in a period of prosperity, they will be proportionately high, according as traffic was high.

Mr. Stone: It is also true in the estimate of that $41,000,000 that we hear about, that that is all based on something that took place. There is no assurance that if this award was handed down tomorrow, that it would be applied to conditions the same?

Mr. Lauck: As I understand it, that was based upon traffic conditions, or, probably, operating conditions would be the better term, in October, 1913, and that is based upon the interpretation of the Conference Committee of Managers, of the application of these schedules to operating conditions in 1913, and, of course, there is a question as between the men and the managers as to the interpretation of the schedule, or the application of the schedule. Whatever that might be, eliminating application of the schedule to operating conditions, the cost of it would adjust itself to traffic month by month, and for the year it would be a reflection of the total labor cost.

Mr. Sheean: Well, Mr. Lauck, see if I follow you. I am not sure. We took the month of October, in which the payroll was $7,000,000. If we took a month in which the payroll had gotten down to $4,000,000, and applied it to that rule—

Mr. Lauck: It would be four-sevenths. I have worked that out over here. Turn to page 4.

Mr. Sheean: Page 4. Let me see. Ratio of total cost of engineers and firemen, by months, to total payroll.

Mr. Lauck: Well, it would not be for the succeeding months.

Mr. Sheean: Well, let us take your very last month there, June, 1914. Now, the total payroll in June, 1914, is $5,761,000. Now, having made the application to the month of June to a $5,000,000 payroll, would it be proper then to take the payroll for that fiscal year, and see what relationship the $5,000,000 have to the payroll of engineers and firemen for the entire year?

Mr. Lauck: I think that would be proper.

Mr. Sheean: Well, then, having, as we did on Exhibit No. 3, on sheet No. 1, made the application to a month in which the payroll was $7,214,000, the fact that that would then extend that, giving it the same relationship that $7,000,000 bears to $75,-000,000, would not affect the result in the year's operations, any differently than if we carried it out to the $5,761,000.

Mr. Lauck: It would be practically the same.

Mr. Sheean: Practically the same as to any of the months to which the application was made.

Mr. Lauck: I want to show here—simply carrying that a step further, that whatever the wage increase may be—understand I am not talking about the amount. I don't know anything about that.

Mr. Sheean: No.

Mr. Lauck: But whatever it might be, that if it is based upon tractive power, it will adjust itself to traffic conditions.

Mr. Sheean: Yes.

Mr. Lauck: In other words, it will always be a revenue available, if operations are profitable, to offset that and to yield a net return.

Mr. Sheean: Well, in the matter of the estimate for the year, Mr. Lauck, it would make no difference which of these months was taken, providing we gave to that month only the importance which that month's payroll bore to the entire year's payroll?

Mr. Lauck: I think so. That would be all right.

Mr. Sheean: And that was what was done by the companies here in their exhibit No. 3, was it not?

Mr. Lauck: I think so, yes, sir.

Mr. Sheean: So that, if, in fact, the year which ended June 30, 1914, was a lean year, as I think you said it was, a little while ago—

Mr. Lauck: It was getting leaner and leaner, all the time.

Mr. Sheean: Leaner and leaner, and if our application, being made to that lean year, shows an increase of $40,000,000, the amount which in fact would have to be met in this payroll, would be larger than that, if we were conducting it under the good times operation of 1913?

Mr. Lauck: Do you mean you would have to pay more money?

Mr. Sheean: Pay more money, yes.

Mr. Lauck: It seems to me that the payroll would adjust itself to the traffic or the operations.

Mr. Sheean: Well, I mean a larger sum of money—larger aggregate, because the business was larger.

Mr. Lauck: Oh, if you paid an increased rate in June, 1914, over June, 1913, although traffic was lower proportionately, I should think you would pay more.

Mr. Sheean: I did not make myself quite clear, Mr. Lauck, I am sure. You make no criticism of the method of arriving at an estimate for the year, by which, having applied it to an individual month's operation,—

Mr. Lauck: Not especially. I think you, having the figures, it would have been better if you had taken each payroll for each month, but that is just a detail. You have the cost of engineers and firemen, month by month, or rather, the railroads have, somewhere. They don't report it to the Interstate Commerce Commission. It would have been more exact to have done it in that way, but I am not quarreling with the method at all. It seems to me the estimate is all right.

Mr. Sheean: That is what I meant, that having taken it in detail for the entire month, and then having determined the relative importance of that one month, in terms of payroll, to the payroll for the entire fiscal year, you would approximately get a correct result, whether you took a low month in payroll or high month in payroll, so long as you extended it to your year's operation?

Mr. Lauck: Yes, you would get an adjustment to an approximately 100 per cent basis.

Mr. Sheean: Well, about that part there is no particular question, but I understand that your investigation of the reports generally has shown that the fiscal year ended June 30, 1913, was a lean year.

Mr. Lauck: Comparatively, yes. About 6 per cent off, I think.

Mr. Sheean: Now then, this extension of October, 1913, which is the high peak in a single month, was compared with the payroll for the fiscal year ended June 30, 1914, and extended to that fiscal year in making this estimate?

Mr. Lauck: Yes.

Mr. Sheean: So that, if, in fact, as is generally admitted, the fiscal year ended June 30, 1914, was a lean year, then the estimate for that year is a lower sum in the aggregate than would be applied to a prosperous year, if the result for the month of October was actually applied?

Mr. Lauck: Yes, that is true. That is the same point that I am holding, that it would adjust itself to operating conditions.

Mr. Stone: And if the month of October was exaggerated in its application, it would be carried out on the same plan throughout the year?

Mr. Lauck: Throughout the year. That is something I know nothing about, however, but the point that struck me here with the greatest force—the estimates being based upon October, we could not compare them with any other month, because, as the railroads stated, that would be unfair, because it would create too large an amount. That is, October would be a larger proportion than other months, and that was cared for by the adjustment; and, therefore, October could not be taken as a typical month or anything of that kind, but whatever the wage adjustment may be, or whatever the estimate may be by months, or whatever the wage estimate might be as to the increase, if applied on the tractive power basis, it would automatically adjust itself to traffic conditions.

Mr. Byram: Doesn't it do it on the cylinder basis just the same?

Mr. Lauck: I think just the same, yes, sir; and, therefore, if you had light traffic, it would not be an enormous cost, but would be proportionately reduced. In other words, an increase in rates in the time of depression, would adjust itself automatically to the depressed traffic conditions, and when times became more prosperous, they would yield more in the way of employment to the wage earner.

Mr. Byram: I notice on page 3, that the net earnings during this period—the net earnings line does not seem to have increased in proportion to the gross revenue.

Mr. Lauck: Well, that has been characteristic since 1909, I think, that the gross has increased faster than the net.

Mr. Byram: That indicated decreasing ability to pay?

Mr. Lauck: I think so, yes, sir. If I might say, that does not indicate to my mind, Mr. Byram, though, decreasing profit arising from productive efficiency.

Mr. Byram: That wasn't the question.

Mr. Lauck: No, sir, that wasn't the question.

Mr. Sheean: If the formula, Mr. Lauck, or if the conclusion arrived at by the application of these requests, whether it was in the month of June or in the month of October, was correct, then having arrived at it for the month, and applying it to the year, on the basis of the relative importance of the payrolls of those months to the entire year, it would not change the result materially?

Mr. Lauck: No, sir.

Mr. Sheean: And whether or not the payments to engineers and firemen did increase or diminish responsively with the increase and diminution of traffic, would be in a large degree dependent upon how many arbitrary payments or fixed payments there were in the wage scales, would it not?

Mr. Lauck: Well, those arbitrary payments, as I understand them, such as initial delay and terminal delay—is that what you call an arbitrary payment?

Mr. Sheean: Well, yes; that is the proposed so-called delay which computes separately a part of the trip from one place to another, whether there be delay or not. I call that an arbitrary, yes.

Mr. Lauck: I was going to say those facilities would adjust themselves to the traffic, it seems to me, because you would have to call the man to handle the train, before the payment could be made. I cannot think of other—I am not familiar with arbitraries enough to know what some of the other arbitraries are. I was thinking just of initial and terminal delay. If there are any others that you can mention—

Mr. Sheean: Well, supposing we take those then—preparatory time that is paid separately from the other part of the trip? Then as a separate item, the time from the roundhouse to the passenger station. Then, beginning there, computation of road time, so that there would be computed separately as items of compensation, what is now treated as a day's work?

Mr. Lauck: Yes.

Mr. Sheean: Would those adjust themselves automatically with the increase or diminution of business?

Mr. Lauck: They would adjust themselves to this extent, that there would not arise any occasion for payment, unless the traffic was handled, or the engineer called, because there would not be any initial or terminal delay, unless the man was called out to take the train, you see.

Mr. Sheean: Yes; that is, having once a schedule in which that form of making payments appeared, then the future increase beyond that would depend upon the business that would be done?

Mr. Lauck: Yes.

Mr. Sheean: But by comparison with a schedule which does not divide up the day's work into different periods, by which payment is to be made, you could make no comparison between a schedule in which this obtained, with operations previous to the time when that splitting up was done.

Mr. Lauck: No, they are a new element injected into the schedule.

Mr. Sheean: So that how much of this $40,000,000 is injected in a way that will not take care of itself, you do not know?

Mr. Lauck: I don't know anything about that. I only know what is the opinion of our side of the case and that is not based on examination.

Mr. Stone: Mr. Lauck, in times past, in these different wage movements we have gotten from 7 to 10 or 11 per cent, and we returned home and thought we had something, and we found out by rearrangement of the service, they had taken up all and considerably more with it. Now, if they did that same thing with this wage arbitration, after it was handed down, would it then cost them $41,000,000?

Mr. Lauck: If they could do that, why it certainly would not, no, sir.

Mr. Stone: Well, we can only judge the future by the past, can we. That is the only well known method we have of judging, is to guess at it.

Mr. Lauck: Of course, the natural tendency would be, as far as possible, to limit any increased cost growing out of the application of the schedule.

Mr. Stone: Do you recall Mr. Trenholm's testimony on the witness stand, in reply to a certain question, that if they could rearrange their service so as to prevent the payment of that particular point in question, they would do it, and he thought it would be good railroading to do it?

Mr. Lauck: I did not hear that, no, sir.

Mr. Sheean: What is your view on that proposition, as an economist?

Mr. Lauck: As to the application of the schedule?

Mr. Sheean: As to the necessity of reducing any unnecessary cost that will serve the public property, to eliminate anything in the way of cost that you found unnecessary in the proper operation of the road.

Mr. Lauck: I think that is a correct thing to do.

Mr. Sheean: And if the schedule, when agreed upon, can be applied to a going railroad in such a way that that railroad satisfies the demands of the public, do you think it the duty of the managing operator to thus apply it, and save such cost as he can?

Mr. Lauck: Undoubtedly, yes, sir. I think that that would be the contention of the engineers and firemen, that instead of say an initial and terminal delay, instead of having these delays they would eliminate them.

Mr. Sheean: How are you going to eliminate any terminal delay when you pay as a separate item the time consumed between the roundhouse and the station? This is not delay, mind you, but the time consumed. How are you going to eliminate that?

Mr. Lauck: Between the roundhouse and the station?

Mr. Sheean: Yes.

Mr. Lauck: The way it seems to me you might eliminate it would be having a man who received less than an engineer or fireman deliver the engine at the station.

Mr. Sheean: You have not taken up with the Brotherhood whether or not that is involved here?

Mr. Lauck: No, sir.

Mr. Sheean: It is going on the main line, or having some one deliver at the station.

Mr. Lauck: I must confess I know very little about it. I have noticed on the Great Northern payroll, which we have been looking over, that they have this initial delay which amounts to a very little cost to them.

Mr. Sheean: That is an actual delay, is it not?

Mr. Lauck: I thought it was a half hour allowance that they gave before. That is my impression. And it makes less than an hour a trip for a man. That is about as far as they have had any actual contact.

Mr. Byram: An hour a trip?

Mr. Lauck: Less than an hour per day.

Mr. Byram: That would be about one-tenth?

Mr. Lauck: Theoretically about. It is about fourteen hours a day up there on some of those divisions.

Mr. Stone: Well, Mr. Lauck, this plan of efficiency whereby you can save so many unnecessary movements and enable the unit to produce more, if by rearrangement of their service they can get twice as much out of a man as they did before, of course, that is a good thing from an efficiency standpoint, is it not?

Mr. Lauck: Yes.

Mr. Stone: It is hard on the individual man, is it not, when you do it?

Mr. Lauck: Well, of course, the man should not be overtaxed anything that goes beyond limits.

Mr. Stone: You no doubt recall the experiments made at a certain steel works, where by timing a man with a stop watch, and having him breathe so often per minute, and having him take so many steps per second, they increased his capacity in carrying pig iron from 14 tons to 39 tons per day, and just as they got him taught, he struck for higher wages.

Mr. Lauck: I thought Mr. Sheean's question was not relating all to the engineers and firemen, but it was relating to the rearrangement of operating forces, so that the schedule could be handled with as little expense as possible. And I thought that was the claim of our side, that these requests were not for the purpose of getting money, but to penalize certain practices.

The Chairman: Well, would it be possible, under some arrangement of that kind, to practically nullify any benefits that might accrue to the men as a result of this Arbitration?

Mr. Lauck: I don't know about that. I have just heard what has been said here about cylinders.

The Chairman: But I understood you to say that would be justified.

Mr. Lauck: No, not to nullify. This is what I have in mind. The men are asking for certain payments for overtime, and initial and terminal delays, and my understanding of those requirements has been that they did not want the money, but that they wanted the practices eliminated, so that supposing they were awarded these conditions, if the railroads could so arrange their operating forces as to have a man handle the engines to avoid initial delay or terminal delay, or overtime, that it would be an economical way of doing it, and it would not represent the cost of charging the prevailing rate for engineers and firemen to that practice.

The Chairman: Instead of a nullification of the act of the Board, that would be a compliance with the award of the Board, and thus accomplish that which is sought by the men.

Mr. Lauck: Yes. I did not mean to say it would be nullified, but it would be the most economical way of carrying them out.

The Chairman: But you think as to such differences as may be settled here, the same should be carried out by the roads?

Mr. Lauck: Yes.

The Chairman: Otherwise this would be a vain and foolish thing to do, to have an arbitration?

Mr. Lauck: Yes. I think that is the temper of both sides, so far as I have been able to see it.

The Chairman: I understood Mr. Trenholm to say that whatever the Board did here would be carried out in good faith by the railroads.

Mr. Lauck: Yes, sir.

Mr. Byram: You think productive efficiency should be encouraged?

Mr. Lauck: Yes, sir.

Mr. Byram: Now what is productive efficiency, according to your theory?

Mr. Lauck: Stated in tabloid form, it is getting the largest return for the smallest cost.

Mr. Stone: Well, then, the railroads have had productive efficiency for a number of years from the engineers' and firemen's standpoint?

Mr. Lauck: That is what we have been claiming.

Mr. Stone: Anything further on that?

Mr. Lauck: That was the only point I wished to develop.

Mr. Stone: On pages 6 and 7 you give the list of roads these figures are made up from, don't you?

Mr. Lauck: Yes.

Mr. Stone: So that answers that question.

Mr. Lauck: They are given the same as in all other exhibits, too.

Mr. Stone: Mr. Chairman, we desire to introduce exhibit 72. We have heard so much about these numerous railroads who have shown a deficit for the year 1914, and we have tried to compile in an exhibit and show the proportion of total mileage of the western roads showing a deficit or surplus for the year 1914.

(The document so offered and identified was received in evidence and thereupon marked "Employes' Exhibit 72, March 8, 1915.")

Mr. Lauck: This exhibit, briefly explaining it, is based on Exhibit No. 5 of the Conference Committee of Managers, in which exhibit they show the number of deficits and number of surpluses for the year 1914. We have taken the same list of roads, showing the deficits or surpluses after payment of fixed charges, which is shown at the column at the left of the page, and at the right of the page is the mileage, showing surplus or deficit in 1914, after payment of all fixed charges and dividends and actual deductions. Then, in the center of the page, we have shown the intercorporate relations and the intercorporate affiliations of the roads that are showing deficits.

For instance, take the Panhandle and the Santa Fe, which showed a deficit and had (shown on page 1) a mileage of 179.16 miles, which was 14 hundredths of one per cent of the total mileage shown, that is owned by the Atchison, Topeka & Santa Fe Railroad, which has an accumulated surplus of $20,000,000 and cash on hand of $18,000,000. In other words, the deficit of the subsidiary would be of no significance. That same method of treatment is carried out through the exhibit, and the totals are shown for operating companies on page 5. It is there shown that the proportion of roads showing a deficit after the payment of fixed charges constitutes 19.90 per cent only of the total mileage in the column to the left of the page, and the roads showing a deficit after the payment of dividends and fixed charges and all other requirements, were 22 per cent of the total mileage of these western roads. But in analyzing those in their intercorporate relations, we find that there were only two roads practically, the Kansas City, Clinton & Springfield and the Missouri & Northern Arkansas, constituting 29/100 of one per cent of the total mileage of western railroads, which showed a deficit and which were not related to a prosperous parent company. That is, eliminating four independent companies which have been, through financial mismanagement, brought to their present condition, that is, the International & Great Northern, the Chicago & Alton, the Wabash and the St. Louis & San Francisco, with the elimination of those companies, there is practically an insignificant portion of the mileage of the western railroads showing a deficit which is not related to a prosperous company and which prosperous company is not responsible for the financial liabilities of the company with a deficit.

Mr. Sheean: How many companies? I have not been able to pick that out. Where is that? Page 6, Mr. Lauck?

Mr. Lauck: I was just kind of summarizing it in my mind.

Mr. Sheean: I didn't follow those you eliminated.

Mr. Lauck: I eliminate Wabash, the Chicago & Alton, the International & Great Northern, the Missouri Pacific and the St. Louis & San Francisco.

Mr. Sheean: What are you going to do with them in this movement? Eliminate them if they are not earning operating expenses now?

Mr. Lauck: Not at all, no, sir, but I was explaining their financial situation is due to their own financial management, and although they show 6.56 per cent of the mileage, yet their financial condition is not a result of operating conditions, but I think it is generally conceded that the financial management has interfered with operating results.

Mr. Sheean: Is that shown in one of these foot notes, as to which roads were eliminated?

Mr. Lauck: No, I can read them off. I did not eliminate them. I was eliminating them in my own mind, as I was summarizing the thing. I have a note here in my exhibit. They are not here. They are in the exhibits. But I was saying, exclusively of the roads which are financially in difficulties and were financially mismanaged, according to our claims that was an insignificant portion of the mileage which showed a deficit. These roads which I claim were financially mismanaged were the St. Louis & San Francisco, which shows 3.61 per cent mileage; the Wabash, 1.91 per cent; the Chicago & Alton .79; the International & Great Northern .88; and the Missouri Pacific 2.98, making a total of about 10 per cent. In other words, my statement would be that 10 per cent of the mileage showing a deficit was due to financial mismanagement, while less than one per cent showed a deficit under proper operating conditions.

The Chairman: We will suspend.

(Whereupon, at 5 P. M., March 8, 1915, an adjournment was taken until March 9, 1915, at 10 o'clock A. M.)

IN THE MATTER OF THE
ARBITRATION
between the
WESTERN RAILWAYS
and
BROTHERHOOD OF LOCOMOTIVE ENGINEERS
and
BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN
under the Act approved July 15, 1913, *by agreement dated August* 3, 1914.

Chicago, Illinois, March 9, 1915.

Met pursuant to adjournment at 10:15 o'clock A. M.
Present: Arbitrators and parties as before.

The Chairman: Are there any proposed corrections of the record?

Mr. Lauck: Yes. On page 6377, at the bottom of the page, there are four questions and answers which appear in the record as between Mr. Nagel and myself. I think they were between Mr. Nagel and Mr. Park. Mr. Nagel said:

"They were pretty difficult to get, weren't they?"

And then, as I recall, Mr. Park said:

"Well, work in their particular line of trade, yes"

Then Mr. Nagel said:

"Don't you think that the same influence operated in all directions?"

If I remember correctly Mr. Park said:

"Yes, I think it was pretty general."

The remarks which, as I recall it, were made by Mr. Park, are attributed to me in the record. I think they should be credited to Mr. Park.

Mr. Park: I think that is correct.

Mr. Lauck: Then, on page 6422, this statement appears:

"And that these increases as estimated in October, 1913, are estimated correctly, and should be $41,000,000."

I meant to say:

"And if these wage increases as estimated in October, 1913, are estimated correctly."

The way it stands, it would be conceding the whole contention.

The Chairman: During the unpleasantness that occurred yesterday I made a statement which appears on page 6372. The statement was perhaps not as explicit as it should have been. The statement in question is in the following language:

"If a statement of that kind was presented to President Wilson, he has pigeonholed it, and that is the end of it."

I prefer to amend it and have it read as follows:

"If a statement of that kind was presented to President Wilson he no doubt pigeonholed it, or, more properly speaking, filed it among the papers presented at that time."

W. JETT LAUCK was recalled for further examination, and having been previously sworn, testified as follows :

Mr. Stone: When we adjourned last night, Mr. Lauck, you had not finished Exhibit 72. I wish you would continue on that.

Mr. Lauck: Yes. I believe I had about finished the explanation of this exhibit, which shows the small percentage of mileage having an operating deficit, among independent roads. The conclusion I reached was that eliminating certain roads whose operating conditions were primarily due to their financial management, like the St. Louis & San Francisco, there were practically only two roads independent in their operations, or operating independently from prosperous parent companies, which showed a deficit. They were the Missouri & North Arkansas and the Trinity & Brazos Valley. I had said yesterday that the Kansas City, Clinton & Springfield was another road, but it is incorrectly stated as independent. It should be a part of the Frisco. The Frisco acquired this road when it acquired the Kansas City, Memphis & Birmingham, and guarantees its interest charges.

So that eliminating certain roads that have had financial difficulties, there is practically only seventy-three one-hundredths of one per cent of the mileage in the west showing a deficit, when we consider the roads in their intercorporate relations.

The Chairman: I did not catch that statement.

Mr. Lauck: Making allowance for intercorporate relations, or for small roads which are owned by prosperous roads, and eliminating certain roads like the St. Louis & San Francisco, the Rock Island and the Alton, which have had financial difficulties, there are only two roads in the west that show a deficit after the payment of fixed charges, based upon operating revenues in 1914. They are the Trinity & Brazos Valley and the Missouri & North Arkansas, which constitute together only seventy-three one-hundredths of one per cent of the total mileage in the west.

The Chairman: I presume you exclude railroads that are now in the hands of receivers?

Mr. Lauck: Yes, I exclude those, and those that we claim have been financially mismanaged, and whose operating results are a reflection of the financial mismanagement.

Mr. Stone: So this percentage of mileage to the total mileage is very small?

Mr. Lauck: Seventy-six one-hundredths of one per cent.

Mr. Stone: Is there anything further you want to say on that?

Mr. Lauck: No, sir.

Mr. Stone: Any questions you would like to ask, Mr. Sheean?

Mr. Sheean: No.

Mr. Lauck: Before taking up the next exhibit, or while it is being presented, Mr. Sheean raised the point about the Atchison General 4 bonds, yesterday, which I looked into last evening. I find on referring to the financial journals that there was a decline in these bonds for the estimate of the quotations for January 22nd. That is, 94 for Atchison General 4's and corresponding for the other bond issues—that those quotations prevailed up through January. From January 1st practically through to February 19th. At that time, the threatened embargo of Germany and the apprehension of international complications led to a fall in the bond market, which resulted, according to the Commercial and Financial Chronicle, in causing a cessation of trading, and an apprehension which resulted in lower prices, which were reflected in the quotations of February 26th and also in those of March 1st. Since that time, there has been some gradual improvement, but they have not gone back to —what they were, as quoted in the exhibit, but the threatened international complication is what caused the decline.

The Chairman: Mr. Sheean, do you desire to ask the witness some questions on cross-examination?

Mr. Sheean: No, sir.

Mr. Stone: We desire to present our next exhibit, Exhibit No. 73, "Monthly Earnings of Locomotive Engineers Employed on Western Railroads." I desire to say in connection with this, that it was prepared under my supervision, although it is presented by Mr. Lauck, and we shall be very glad to file it with the Board, so that the railroads may check it, if they desire—any names in here. We found in trying to prepare a statement of this kind, that on a great many of the roads they have not the stub of the mileage ticket, and a great many of our engineers, unfortunately, have not kept the stubs of their mileage tickets, so it is limited in the number of men shown, and yet I believe it is fairly representative. I think that is also borne out by the fact that it almost agrees with the figures presented by the railroads, as to the average of the wage.

(The document so offered and identified was received in evidence and thereupon marked "Employes' Exhibit No. 73, March 9, 1915.")

Mr. Lauck: Referring to page 1 of this exhibit, it is summarized there for the total number of engineers reporting, or for whom information was received; a total of 837 men who reported earnings for a total of 3,418 months, the aggregate earnings being $489,357.53, or an average per month of $143.17. In the small text table at the bottom of the page, the different men reporting have been classified according to the branch of service in which they worked.

The Chairman: Is this table fairly representative of the various roads that are parties to this issue?

Mr. Lauck: Yes, sir; I think so. The detail is given in the succeeding pages. It represents the Atchison, the Canadian Pacific, the St. Paul; Gulf, Colorado & Santa Fe; St. Louis & San Francisco; Kansas City Terminals; St. Louis, Iron Mountain & Southern; Gulf, Colorado & Santa Fe—I believe I mentioned that—Northern Pacific; Southern Pacific; Oregon-Washington Railroad & Navigation Company; Chicago Great Western; Colorado & Southern; Trinity & Brazos Valley; Missouri Pacific. Seem to have a certain number of men from each road.

The Chairman: Mr. Lauck, are these men all in pool service, or are they taken from the various kinds of service on the road?

Mr. Stone: They are taken from the different classes of service, Mr. Chairman, and wherever possible, in the fourth column, we give the class of service.

Unfortunately, some of the men in sending in their stub tickets, there is not anything marked on them. There is nothing to know. That was especially true of some of the men on the Santa Fe Coast lines, on pages 2 and 3. They gave the division in some cases, and in some they did not, but they did not give the class of service. And the Canadian Pacific. But outside of that, I think you will find the class of service, and almost in every case, the particular division of the road.

There was no attempt, Mr. Chairman, to pick out either low men or high men. We simply took all the information we got, and compiled it in the best way possible.

Mr. Burgess: Mr. Stone, does C. P. stand for Canadian Pacific?

Mr. Stone: Yes, sir, and S. P. for Southern Pacific.

If there is nothing further on that, Mr. Lauck—

Mr. Park: Mr. Lauck stated in answer to Judge Pritchard's question, as to whether this was typical of all of the other men, and on other railroads—what comparison have you made of the wages of other men to indicate that, Mr. Lauck, if any?

Mr. Lauck: The answer was that it was representative of different roads in the West. The other studies that I have made have been based upon Railroad Exhibits, 25, 26, 27, 28 and 29.

This average here is just slightly lower. I think the average shown by the railroads is about \$149, if I remember correctly, for engineers. This is \$143.

Mr. Park: Were these a selected list, taken miscellaneously from all the engineers in certain localities? Or was the request directed to all of them, and an answer received from only those who saw fit to make a reply?

Mr. Stone: In answer to that, Mr. Chairman, I would say a circular letter was sent out to all divisions, asking them to send in a list of the engineers and the stubs of their mileage tickets, and these are a number of replies that we received. Unfortunately, a great many of them did not keep their mileage tickets, and I also found, on a few of the roads, there is no stub for the mileage ticket; the men have no record after they have made out the ticket.

Mr. Park: So this is all classes, passenger, freight and mixed?

Mr. Stone: Yes, sir.

Mr. Park: And extras as well as regular engineers?

Mr. Stone: Yes, sir, and we have the original statements sent in by them, which we will be glad to file, so the railroads can check them, if they desire.

Mr. Byram: No attempt was made, I suppose, Mr. Stone, to find out what proportion of the time these men worked?

Mr. Stone: Absolutely none.

Mr. Byram: This is just the money they received?

Mr. Stone: This is the time they sent in. And you will notice where some man gets perhaps five or six months, that it appears from month to month?

Mr. Byram: Yes, I see. They don't any of them seem to have a full year.

Mr. Lauck: It covered a period of four months. Some of them reported one series of four months, and others another series. It covers the whole period from January to December, 1913.

Mr. Sheean: Mr. Stone, does this show the pick-up earnings as firemen also, in case they did work in both capacities during the month?

Mr. Stone: I don't understand so. If they made any extras besides this, as firemen, it is not shown.

Mr. Sheean: This would be simply their earnings as engineers?

Mr. Stone: That is all we asked for, and we so state, "as locomotive engineers."

Mr. Lauck: I don't think that would include any firing, because the slips they sent in, that they kept their earnings on, some of them had been carried around in their pockets, so that we could not tabulate them at all.

Shall I read the class of service, Mr. Stone?

Mr. Stone: Yes, if you will.

Mr. Lauck: The average per month for passenger was \$166.85; for through freight, \$153.71; for local freight, \$149.39; for pushers or helper service, \$143.30; for work train service.

$145.60; for mine run service, $139.06; for transfer service, $137.55; for switching service, $114.80; for miscellaneous services, $134.85; and for unclassified services, for which no data was received as to the class, $134.78, or an average for the total of 837 engineers, working 3,418 months of $143.17. The detail is shown on the succeeding pages.

Mr. Sheean: Mr. Lauck, how did you handle the matter of an engineer working in the one month part of the time in passenger and part of the time in freight?

Mr. Lauck: We handled that according to the way, I think, you did. That is, wherever his preponderance of service was, we put him in the passenger—I mean, the greater part of his earnings were; but some classifications have to be purely arbitrary. That is, some were passenger and freight, or mixed service. A man worked partly freight, and we arbitrarily classified those into miscellaneous services, where we could not distinguish as to whether it was passenger or freight.

Mr. Sheean: And in getting your total months, 3,418, you counted as a month any part of that month in which the men worked?

Mr. Lauck: Yes, sir.

Mr. Sheean: No subdivision of the month. If a man in a month received any amount of money, that was counted as one man, one month?

Mr. Lauck: Yes, that is shown in the succeeding pages here. After the division and class of service, the number of months he worked. Some of them reported four months, three months—

Mr. Sheean: Taking that very first page. That is what I was wondering. Page 4; month of July, Elmer Utt, $6.13; the first name on page 4, $6.13.

Mr. Lauck: Yes.

Mr. Sheean: Now, in arriving at your average you used that $6.13, as one man working one full month?

Mr. Lauck: Yes, counted that as one month's work for Elmer Utt, which of course reduced his average.

Mr. Sheean: Well, it would reduce the entire average?

Mr. Lauck: It would have that effect, yes. We averaged them just as they reported.

Mr. Stone: Just as you average, if one man worked one trip, he was shown in service. It would put your whole average up for the month, of all other men who worked. If he did not earn any other money as a fireman, or anything of that kind.

Mr. Lauck: As I understand it, in Exhibit 25—I believe that is the summary, is it not, of the earnings, where you showed all your men, Exhibit 25 is the summary for the 64,000, is it not?

Mr. Keefe: Exhibit 29?

Mr. Lauck: 29, sheet 1, that is it. You do the same thing. You take all your men, regardless of what they earned, and averaged them, and got an average of $149, I believe.

Mr. Keefe: That is taking every man, whether he worked one day or one trip, or half a day a month. He was counted as one man one month?

Mr. Lauck: Just the same as we did here.

Mr. Keefe: That, I maintain, was the wrong way to do it.

Mr. Stone: I agree with you.

Mr. Keefe: Sheet No. 3 is the proper way.

Mr. Stone: Exhibit No. 74 is practically along the same lines, and comprises many of the same engineers, Mr. Chairman. It is the "Monthly Earnings of Locomotive Engineers on Western Railroads, Compared with Earnings of Brick Masons, Plasterers, Steam Fitters and Plumbers' Employes for an Equivalent Number of Hours."

(The document so offered and identified was received in evidence and thereupon marked "Employes' Exhibit No. 74, March 9, 1915.")

Mr. Lauck: There is no summary for this exhibit, it being impossible to summarize a comparison of this kind.

By reference to page 2, it will be seen that the name of the engineer is given, and the class of service; the name of the railroad upon which he worked, and the name of the division; the period of time for which his earnings were reported; the month of the year, and in some cases, the total miles run; and in most cases, the number of hours worked, hours and minutes, and total earnings. Then it is computed in the last four columns what his earnings would have been had he been employed an equivalent number of hours as a brick layer, or plasterer, or steam fitter, or a plumber.

The rates on which that comparison is made, are the rates made in the exhibit previously presented by Mr. Carter, as to comparison between rates in skilled trades and locomotive engineers and firemen, and the time computation is based upon the time worked by the engineers, by applying those rates to his time, without any allowance for overtime, the usual rate being given instead of any extra rate for overtime.

Mr. Stone: For example, if one of these brick masons, or plasterers or plumbers worked overtime, worked nights or worked Sundays, he would be paid time and a half, wouldn't he?

Mr. Lauck: Yes.

Mr. Stone: While this is straight time?

Mr. Lauck: This is straight time.

Mr. Park: Did you make any comparison of the continuity of service, or the possibilities of employment in each class?

Mr. Lauck: No, sir.

Mr. Park: Just took the standard rates, without regard to the average earned by brick masons during the year?

Mr. Lauck: Yes, sir.

Mr. Stone: Nor did you take into consideration any danger of loss of employment by the hazard of the particular profession, either, did you?

Mr. Lauck: No, sir, in neither case.

Mr. Stone: Nor, is there any reflection of the age limit shown in these columns anywhere?

Mr. Lauck: No, sir.

Mr. Burgess: Well, Mr. Lauck, I am not sure that I followed you. Won't you kindly turn to page 2?

Mr. Lauck: Yes, sir.

Mr. Burgess: And advise whether I correctly understand this exhibit or not. The first name is O. W. Johnson?

Mr. Lauck: Yes, sir.

Mr. Burgess: Employed in construction, by the K. C. Terminal?

Mr. Lauck: Yes, sir.

Mr. Burgess: In October, 1913, he worked 288 hours; his earnings were $122.45. If he had been a brick mason, and worked the same number of hours, he would have earned $213.29?

Mr. Lauck: Yes, sir.

Mr. Burgess: If he had been a plasterer, he would have earned $213.29?

Mr. Lauck: Yes, sir.

Mr. Burgess: If he had been employed as a steam fitter, he would have earned $196.13?

Mr. Lauck: Yes, sir.

Mr. Burgess: And a plumber, $193.88?

Mr. Lauck: Yes, sir.

Mr. Burgess: Now, Mr. Lauck, is that the intent of the table, all the way through?

Mr. Lauck: That is the intent all the way through, to take the number of hours worked by the engineer, and by applying the rates in these other occupations, to see what a brick mason, plasterer, steam fitter or plumber would have earned, had they worked these hours that the engineers did work.

Mr. Burgess: And the rates per hour, applied to the hours worked by the engineer, are the standard rates are they not?

Mr. Lauck: Yes, sir.

Mr. Stone: Shown in the exhibit presented by Mr. Carter?

Mr. Burgess: Yes, sir. Now, are we to understand that a brick mason would have earned about $93 more than the locomotive engineer employed the same number of hours—approximately $93, is it not?

Mr. Lauck: Yes, sir.

Mr. Burgess: That is all.

Mr. Sheean: Are there any passenger engineers here? Glancing it through hastily I do not see a passenger engineer named in this exhibit.

Mr. Lauck: I do not recall.

Mr. Park: Mr. Lauck, just after you answer that question.

Mr. Lauck: None shown here.

Mr. Sheean: None shown?

Mr. Lauck: No, sir.

Mr. Sheean: Now, where did you get the rate that a plumber would get at Medicine Hat? I see right on the first page, for instance, you show what a man drew in money at Medicine Hat. W. J. Devlin drew $185.28 as an engineer. Where did you find out what he would have gotton, had he worked as a plumber at Medicine Hat?

Mr. Lauck: I understand the rates are the average rates used by Mr. Carter in his exhibit. There are no local rates used.

Mr. Sheean: Well, what average rates? Did you take the union rates of Chicago? What rates do you apply to what a plumber would have earned at Medicine Hat?

Mr. Lauck: As I understand it, it would be the average rate for the Western territory, taking a certain number of localities. I have not looked into that exhibit carefully.

Mr. Sheean: Well, did those certain localities include any places, other than a few cities in which there was a well established union rate?

Mr. Lauck: I think they are all union rates, yes, sir.

Mr. Sheean In large cities?

Mr. Lauck: That is my impression, yes, sir.

Mr. Sheean: I notice one here at Beardstown on the Burlington. Had a man run there in transportation service, what rate did you apply as to what his earnings would have been as a brick mason or steam fitter, at Beardstown?

Mr. Lauck: That would be the average of the union rates. As I understand Mr. Carter's exhibit—I am somewhat hazy on that—that these computations were made on that basis and included average rates obtaining in certain representative cities and towns in the west. If I am incorrect on that—

Mr. Stone: Mr. Lauck, I imagine had we taken the local rate for Medicine Hat—the prevailing price for all other classes of labor, it would have been much above this. If there is any question about it, we will be glad to wire Medicine Hat and get the rate.

Mr. Sheean: I was questioning about this exhibit, Mr. Stone, as to how you got at it. D. Guthrie on the same page there, Canadian Pacific, in freight service, drew $226.79.

Mr. Stone: Worked 326 hours, practically; 325 hours and 55 minutes.

Mr. Sheean: There is carried out opposite him, had he been a steam fitter he would have gotten $221.95.

Mr. Lauck: There are quite a number of them shown.

Mr. Sheean: Had he been a plumber $219.41. Now, do you know what rate you applied for the plumber rate at Saskatchewan, or how you got at it?

Mr. Stone: I take it it is either the rate shown on Mr. Carter's exhibit, where there was a local rate shown, or else it is the average rate shown by the exhibit. I think it is perfectly fair, because the rate in that northwestern territory will be much higher than the rate shown on the average.

Mr. Sheean: Now, you show in the first part of it, Mr. Lauck, on your first page, the monthly earnings of brick masons, plasterers, steam fitters and plumbers would have been greater. Is there any list of lumbers, plasterers or steam fitters in this exhibit, as to what they did earn during the four months in any of these cities?

Mr. Lauck: No, I say that would have been greater for an equivalent number of hours.

Mr. Stone: Another thing could be taken into consideration, Mr. Chairman, if I might be allowed to inject it into this. Another thing should be taken into consideration, and that is the fact that no brick mason, or plumber, or steam fitter could have been worked that many hours in any month, without going on overtime and getting time and a half.

Mr. Sheean: Mr. Lauck, did you have anything to do with selecting the names for making a comparison?

Mr. Lauck: No, sir; my relation to this exhibit consists in summarizing it. The computations were made under Mr. Stone's supervision.

Mr. Sheean: Then you do not know why passenger engineers or their hourly rate were omitted from this?

Mr. Lauck: Yes, I think I know that.

Mr. Sheean: Why?

Mr. Lauck: When Mr. Stone gave me the data, or told his secretary to give me the data to summarize, the secretary made a mistake and gave me only one book instead of giving me two books, and I imagine or think that the passenger engineers must be in the other book.

Mr. Stone: No, I want to be perfectly frank about it. It was not the intention to put passenger engineers on an hourly basis, because no passenger engineers work by the hour.

Mr. Lauck: I did not know. I thought it was in the other book.

Mr. Stone: Perhaps there were a few names in the other book, but it was not the intention to make a comparison with the passenger engineers on an hourly basis, because they do not work by the hour. They work by the mile, all of them.

Mr. Byram: Mr. Lauck, is it your theory that an hourly basis is the correct basis for payment of men in these classes of service represented in the exhibit?

Mr. Lauck: As a method of payment?

Mr. Byram: Yes.

Mr. Lauck: No, sir.

Mr. Byram: Of what value then is an exhibit which shows the payment of men on an hourly basis, when you do not advocate paying them in that way?

Mr. Lauck: I think the value here—the point that is attempted to be brought out here is that as compared with the building trades the engineers work an unusual number of hours to make the earnings that they do make; and if the other trades had to work as long hours, their earnings would be greater. The comparison is of the relatively greater effort on the part of engineers to make their earnings as compared with the building trades.

Mr. Byram: There is no question then here as to what is accomplished by either class of service during the period of labor?

Mr. Lauck: No, sir.

Mr. Stone: We do not show whether the productive efficiency of the engineer is more or less than that of the brick layer, or anything of that kind, but we do show, do we not, that the engineer actually works a certain number of hours during a certain month, for which he receives a certain amount, and that if he had worked that same number of hours in this other profession or vocation, he would have received a certain amount?

Mr. Lauck: Yes.

Mr. Byram: Then, taking the exhibit of the railroads, where the entire service of an entire railroad or an entire group of railroads for a definite period is given, and on which their compensation is computed, what they receive divided by the number of hours they work would give a correct view of the amount of the hourly payment for that service, would it not?

Mr. Lauck: Yes.

Mr. Byram: Just the same as you have given it in individual cases; if it was enlarged to cover all the employes of all the railroads for a certain period, the amount received by the men, divided by the number of hours work would give the correct amount that they were paid per hour?

Mr. Lauck: Yes.

Mr. Burgess: Mr. Lauck, any references to the hourly basis that are contained in exhibit 74 would possess just as much value as any references that were made to the hourly basis, in the exhibits furnished by the railroads, would they not?

Mr. Lauck: Yes, making allowance for the difference of scope of the two exhibits.

Mr. Nagel: Mr. Lauck, assuming that the engineer's work is more responsible, do you think that, tested by physical labor alone, the work of an engineer and the work of a brick mason or a plumber are similar or can be fairly compared?

Mr. Lauck: No, sir.

Mr. Nagel: Then do you think that the question of hours is, fairly speaking, a controlling factor in making the comparison between these occupations?

Mr. Lauck: No, sir. I think the element of responsibility is the greatest factor. Of course there is nothing in the occupation of a brick mason or plumber or steam fitter which approaches the responsibility of an engineer. As I understand the reason why this is presented is because statements have been made that the engineer earns more than these highly skilled and highly organized building trades. That was the immediate occasion of presenting it, but not with the idea of saying that there should be a comparison between these trades.

Mr. Nagel: Merely to meet that statement.

Mr. Lauck: To meet that statement, yes.

Mr. Stone: We are trying to show, are we not, that this highly specialized class of engineers, who draw more money than the governors of States for the number of hours they put in, if they had been engaged in one of those other trades, would have received more money, or at least as much money, and there would not have been the element of risk, nor the element of responsibility, nor the hazard connected with it.

Mr. Lauck: Yes.

Mr. Byram: Mr. Lauck, do you contend that the rates given here as the rates of pay received by these various classes of industrial workers would represent the average rate received by those workers in all the territory in which these engine men work?

Mr. Lauck: No, sir.

Mr. Byram: It would be very much less, would it not, if you counted every man who worked in the smaller cities, where there was no union organization to fix the rate of pay at this high basis?

Mr. Lauck: I would presume that if the rate is based upon the larger cities, where there is a high degree of organization, it would be higher than in the smaller localities.

Mr. Byram: Yet there are workers in all these occupations in all these towns?

Mr. Lauck: I think so.

The Chairman: Do you think there are places where the plumber gets a low rate of wages?

Mr. Lauck: I have not discovered any yet. I live in the country myself, but they seem to get high wages there just the same.

The Chairman: I have lived in a number of different towns, and I have never been able yet to find a place where they did not get a high rate.

Mr. Nagel: Is there not a popular impression that the plumber knows how to make hours?

Mr. Stone: If you live in the country, the plumber would probably charge you for his time in going out to your house to put in an estimate, and then going back for the material, and then for the time in returning, as well as for the time in doing the work.

Mr. Lauck: I heard of a case more extreme than that, where it was said a plumber looked at a job, and decided that it would take new material, and it would take several days to get it, and the plumber decided to wait on the job while the material was coming, and charged for the time.

Mr. Sheean: Mr. Lauck, I should like to ask whether you have anywhere an exhibit which shows the monthly earnings of brick layers, of plasterers or steam fitters in any of the terminal points on any of these railroads—I mean the actual earnings of brick masons, plasterers, steam fitters or plumbers?

Mr. Lauck: Not that I know of, unless Mr. Carter presented that. Did he?

Mr. Sheean: No. We have the names and the earnings of a great many railroad men on both sides here. I was wondering whether you had any exhibit which showed the actual earnings of actual brick masons or plasterers or steam fitters or plumbers at any of these points?

Mr. Lauck: No, sir.

Mr. Stone: Is it not a fact that unless it is a case of life and death they will not allow a plasterer or brick mason to work over eight hours? He is fined if he works overtime, is he not, while an engineer can work 16 hours.

Mr. Lauck: I understand there are very rigid rules. I am not acquainted with the rules.

Mr. Stone: Is it not a fact that the figures for the trades given here are under-estimated instead of over-estimated, because there is no element of overtime in the figures here given?

Mr. Lauck: I understand they get a higher rate for overtime.

Mr. Stone: They get time and a half for overtime, do they not?

Mr. Lauck: I understand so.

Mr. Stone: There would not be a chance for a man to work that many eight hour days in a single month?

Mr. Lauck: Yes, in the case of some it would be. The aggregate number of hours would be more than that.

Mr. Stone: Take it on page 9, Mr. Alexander, on local freight, worked 413 hours. They would not allow a man in one of these trades to work that many hours.

Mr. Lauck: The maximum under an eight-hour day would be about 240 hours.

Mr. Stone: But this does compare very favorably with the exhibit presented by Mr. Trenholm, where, if the man had stayed at work, he could have earned so much money. If this brick mason had stayed at work that many hours, he would have earned that much money.

Mr. Lauck: Yes. He would have earned more if he got overtime.

Mr. Park: I think it has been stated repeatedly and admitted that all an engineer or fireman has to sell is his labor and his time. That is also true of the brick layer. Now if the brick layer, notwithstanding the fact that he gets this high rate, only averages a thousand dollars a year in his vocation, would not that be a more proper comparison, that is the comparison with the ability of the engineer and of the brick layer to earn a certain amount of money in a year? You have not the figures of the average earnings of brick layers for a year?

Mr. Lauck: No, sir.

Mr. Park: Would not that be the fair basis of comparison the average earning power during the year, or the actual money earned?

Mr. Lauck: That is allowing for seasonal change in employment?

Mr. Park: Yes, and all the changes of weather, and the possibilities of overtime, just as they do occur in actual performance.

Mr. Lauck: I think if you had those data it would be a fair comparison, if you made allowance for their relative hours of work.

Mr. Park: A piano tuner might get $5 an hour, but you could not compare him with a locomotive engineer, because he does not tune pianos continuously, although he might have a higher rate.

Mr. Stone: Mr. Lauck, if an engineer drew the high rate that some of these other men do, as shown here, would it be necessary for him to work days and nights, and holidays and Sundays, and go through storm and sleet and fog and snow and everything else to make a living? He could lay off as much as they do, could he not?

Mr. Lauck: If he had the same rate, he could earn what he now does earn at a smaller outlay of time.

Mr. Stone: And the result would be that he would have more leisure?

Mr. Lauck: Yes.

Mr. Burgess: Mr. Lauck, you are not advancing the theory that an employe should reduce the value of his services simply because his employer promises to give him continuity of employment, are you?

Mr. Lauck: Oh, no.

Mr. Park: But that is a factor in arriving at a proper compensation, is it not?

Mr. Lauck: The degree of regularity in the employment, yes.

Mr. Park: A very important factor.

Mr. Lauck: Very important, yes.

Mr. Stone: Do you wish to say anything further on this?

Mr. Lauck: No, sir.

Mr. Burgess: Mr. Lauck, before you pass from that exhibit, if it is a fact that continuity of employment is an important factor, then it would appear that the Board should give liberal consideration to the men who are on the extra list, would it not?

Mr. Lauck: I think—I do not know whether I ought to say what I was going to say or not. I think the men in that class should be given special consideration, compared with the other classes.

Mr. Burgess: That is all.

Mr. Park: That is, you think an apprentice ought to get more per hour than a journeyman?

Mr. Lauck: I was not referring so much to the extra list as to the man who is not on the regular runs, or not retained at the highest element of earning power through seniority. He is the man I had in mind.

Mr. Park: He is passing through the stages of apprenticeship which lead him to continuity of service. Those are the vicissitudes of any trade or profession, that a man must take the hard end of it a little on the start, in order to get the benefits when he has graduated into the preferred position. That is true of all trades and professions, is it not?

Mr. Lauck: Yes, that they make a sacrifice to get the training which will enable them to make the higher earnings. I was thinking more of the men who had the training, who had not been put in the position where they could earn as much as the men who had the assigned runs.

Mr. Burgess: Could you consistently call a man an apprentice who had spent from five to twelve years at the business?

Mr. Lauck: No, sir. I do not think so, as far as I know anything about it.

Mr. Park: Are not the engineers particularly favored in that they can drop back to other positions in the order of their seniority, even to the extent of firing a locomotive, if business falls off, and that the final result of the depression, or effect of the depression falls on those just entering the service, and they have the privilege of seeking some other occupation, if there is not enough employment for them?

Neither the railroads nor the public are in a position to guarantee continuous employment for a certain number of railroad men. That is all dependent on the amount of business, is it not?

Mr. Lauck: Yes. That is the point that we were discussing yesterday in connection with the industrial depression, that the opportunity for employment is limited by the traffic conditions, and therefore the workingman is the greatest sufferer by the industrial depression.

Mr. Sheean: Mr. Lauck, your sympathy being particularly for the man on the extra list—

Mr. Lauck: Mr. Sheean, I meant the man who was in the lower grades of earning.

Mr. Sheean: In the lower grades of employment, so long as a uniform rate is insisted upon both for those who are in that part of the service, in the lower grades of employment, and those who are older in the service, is there any feasible way of handling that except through proper handling of the seniority rights of the individuals?

Mr. Lauck: I do not see any way, no, sir. That is, that assumes that the individual efficiency would be recognized.

Mr. Sheean: And so long as those who are organized as a class insist upon the rate being uniform throughout all the classes of service, the only feasible way is through the proper handling of seniority, is it?

Mr. Lauck: That is my idea about it, yes.

Mr. Stone: When a man is promoted after firing from five to ten years, on this big heavy modern power, and goes out as an engineer, and probably takes out one of the biggest locomotives on his first trip, he is expected to handle the same amount of tonnage and to have the same weight of responsibility, is he not, the same as the man who has been there a number of years?

Mr. Lauck: Well, we were talking of a man who had been through his apprenticeship, and who was fully graduated as an engineer or fireman.

Mr. Stone: When does he fully graduate? Is it after he has bucked the extra board about eight or ten years, and becomes a regularly assigned man, or when he goes out on his first trip and has the charge of an engine put upon him?

Mr. Lauck: I should think when he goes out on his first trip, when he is given charge of an engine and has the responsibility placed upon him.

Mr. Park: Have you heard, Mr. Lauck, that the railroads estimate that it costs them about $3,000 in accidents and irregularities, to educate an engineer?

Mr. Lauck: No, sir; I have not heard that.

Mr. Park: That represents the difference between experience and the acquiring of knowledge in the apprenticeship stage.

The Chairman: By what method, Mr. Park, would they determine as to when an engineer is capable of taking charge of a passenger or freight train?

Mr. Park: The seniority list, Judge, fixes that, and all things being equal, each man advances to the runs that are available in the order of his seniority.

The Chairman: Well, say, one has served the regular time as a fireman, and thus qualified himself to act as an engineer, is he first put into passenger service?

Mr. Park: He fires passenger. He is first a freight fireman and then a passenger fireman, and very frequently graduates from the position as a passenger fireman, to an engineer. It would be much preferable if he could go back on freight and fire three or four months, before taking his engine.

The Chairman: Is one ever put in the passenger service, without having had experience as an engineer, either in the yards or on freight trains?

Mr. Park: Very rarely, as an engineer.

The Chairman: So that is the method by which you test the efficiency of a man, is it?

Mr. Park: He passes through the different classes of service.

The Chairman: And you say, even with all that precaution, it costs the railroads on an average, $3,000 per man?

Mr. Park: Starting in as a freight engineer, it is quite generally conceded that he will be less proficient in handling his air, and there might be experience that he almost necessarily passes through before he becomes a first class engineer.

Mr. Stone: Mr. Lauck, with that statement of Mr. Park's, that it costs $3,000 to educate an engineer, do you understand why a number of these roads absolutely refuse to hire an engineer at all, and promote all of their men?

Mr. Lauck: No, sir.

Mr. Stone: Leaving all sentiment out of it.

Mr. Lauck: You mean why they don't employ engineers from other roads?

Mr. Stone: Why they don't employ at least a certain percent of engineers, if it costs that much to educate a man?

Mr. Lauck: I don't know.

Mr. Park: Is it not a fact that firemen insist on the promotions being made from their organization, in order of seniority?

Mr. Lauck: I don't know. I think that is what it should be; develop a personnel on the road that would have the proper morale.

Mr. Park: Well, it is the bone of contention between the engineers and firemen, as to how many men shall be employed, and how many shall be promoted on these respective roads.

Mr. Lauck: I don't know about that, sir.

Mr. Stone: Mr. Chairman, Mr. Carter, unfortunately, is not here this morning, but I am going to assume responsibility, and I will take the matter up with him at noon, and will say that the Brotherhood of Locomotive Firemen and Enginemen do not demand that all men be promoted. They are practically willing for a certain percentage of men to be hired on each road.

Mr. Burgess: Mr. Stone, how many engineers have been employed by the Pennsylvania Lines, East, in the last twenty years, that you know of?

Mr. Stone: I don't know of a single man, and we have a number of roads in the West that don't employ one man a year; while the percentage of employed men on other roads is quite high, running as high as 50 per cent.

Mr. Burgess: Do you know the number of engineers on the Pennsylvania Lines, East, on the lines lying east of Pittsburgh?

Mr. Stone: The last statement I had was 5,472, Lines East of Pittsburgh and Erie.

Mr. Burgess: So then, that if it cost that railroad $3,000 for all of those engineers, it would amount to a very large sum of money in the aggregate, would it not?

Mr. Stone: Yes; but I was not looking at that part of it, Mr. Burgess, so much as the other side of the line. If it costs that much to educate a man, I can't understand why they turn him loose too readily, on so many of these roads.

Mr. Burgess: I was coming to that, Mr. Stone. The point was that the railroad could hire some engineers and save a portion of this large sum of money that would amount to, by paying $3,000 for every one of those 5,225 engineers, could they not?

Mr. Stone: I would think so.

The Chairman: Mr. Park, is there any exception to the statement that it costs the road $3,000 for each engineer, when he first begins work?

Mr. Park: I do not know that there is. I think that would be true of all professions and trades. I have heard oculists say that a man who learns the profession fills a hat full of good eyes; and I think that anybody who acquires the maximum efficiency in any profession or trade, is very much less efficient in the earlier stages. I think that goes without saying, and it is borne out by the experience of railroad officials, in the work of the engineer. The promotion of firemen and the employment of engineers does not rest so much with the railroads as it does with the organizations. The engineers, of course, prefer to have the men employed. The firemen prefer to have them promoted, and the general disposition on the part of the railroads is to promote the men, because it goes all the way down the line. They promote somebody else, and it creates generally a better feeling.

The Chairman: By what method do you determine the question as to whether a man who has been firing, is competent to take charge of a passenger train?

Mr. Park: He has his examinations at stated periods, and generally, his term of service has been quite sufficient before he is given a passenger engine, to insure the railroad that he is qualified.

The Chairman: Well, are those examinations under the supervision of the railroads, or under the supervision of the men?

Mr. Park: Absolutely under the supervision of the railroads. He has a mechanical examination, under the mechanical officials, and an examination on rules of the transportation department, by the transportation officials.

The Chairman: Aside from the theoretical test, do you give an engineer any practical test, in order to be able to determine as to whether or not he can render efficient service?

Mr. Park: That comes from the observation of the road foreman of engineers and the traveling engineer. He states to the master mechanic that he thinks this man is qualified to handle an engine properly, from observations that he makes in his duties, going over the road with them, day after day.

The Chairman: Well, even if you employed engineers outright in every instance—that is, men who had been already in the service, you take the risk of finding some men who are more or less careless and indifferent, don't you, in the performance of their duties?

Mr. Park: Yes, but their qualifications are inquired into.

Mr. Stone: The examination, Mr. Chairman, that the man is put through, and the follow-up rule from the other road, will probably definitely decide whether or not he is a fit subject for employment.

Mr. Byram: Mr. Lauck, I understood you to say that, from your standpoint, you thought it would be desirable for the general interest of the railroad company, if they could promote their engineers, in preference to hiring men from the outside: promote men who are in their employ as firemen, to become engineers, as long as they had qualified men, or men who could be qualified, before they began to employ outsiders?

Mr. Lauck: Yes, sir, that was my personal opinion. It seemed to me that it would make for greater efficiency on the road, and hold forth a pleasing hope to the firemen.

Mr. Byram: Well, you couldn't find any objection to the practice on a railroad, where such a practice existed?

Mr. Lauck: No, sir.

Mr. Byram: For instance, the point which has been discussed here, of promoting all their men. From your standpoint, that would not be an objectionable practice?

Mr. Lauck: No, sir. Now, in the South, I understand they import most of their engineers, having negro firemen, which some people consider is an objectionable practice, because you get men who may or may not be familiar with the road, as a fireman would who would be promoted.

The Chairman: In the greater portion of the South they do not have negro firemen, do they?

Mr. Lauck: I don't know to what extent, but they have a considerable number in the South.

Mr. Stone: I don't know what would become of the men who have been turned loose for these slight infractions of the rules—where they would go.

Mr. Byram: To that extent, the employment of negro firemen is an advantage to the engineers, although it may be a disadvantage to the firemen?

Mr. Lauck: Yes; and a disadvantage to the service.

Mr. Stone: But, Mr. Lauck, if all of these railroads promoted all of their men, and hired none, what would become of the engineers who have spent the best part of their lives, fitting themselves for the vocation of a locomotive engineer, and through some slight infraction of the rules are discharged?

Mr. Lauck: Of course, the railroad ought to be permitted to hire any engineer it wished, otherwise you would have a close control of the supply of engineers by the firemen.

Mr. Stone: And a man might spend the best years of his life firing a heavy locomotive, for six, or seven, or ten years, as they do, and through some slight mistake be discharged, and he would find himself at middle age, or forty years of age, with a profession, and no place to put it.

Mr. Lauck: If he were a qualified man, he ought to have an opportunity of employment open to him.

Mr. Stone: But if they promoted all their men there would not be that opportunity. Then what?

Mr. Lauck: I don't think it would necessarily follow that if they promoted the men there would not be this opportunity open, because the development of traffic and the demand for engineers, it seems to me, would outrun the development of opportunity from the firemen. I think the opportunity ought always to be there, to any good man who qualifies, so that he could get a position.

Mr. Byram: The railroad, then, desiring to promote engineers, needing more engineers, should first look about to see if it has any qualified firemen who are capable of taking the position? That would be the proper way to do?

Mr. Lauck: I think so. It would be like in any business or undertaking, if you would go outside, like you would in the management of a corporation, if you would go and get a favored son and put him in charge, it would cause discontent and dissatisfaction in the whole force.

Mr. Stone: Mr. Lauck, do you think that same theory ought to be followed all the way through up to the officials?

Mr. Lauck: Yes.

Mr. Stone: You don't think they ought to import anybody from the outside?

Mr. Lauck: No.

Mr. Stone: Then what would happen to one of these general managers when he was cut loose from a railroad and started looking for a position? Where would he go?

Mr. Lauck: I am assuming the opportunity would always be open to the railroad or corporation, to employ men. I think if a man is a qualified man he would not have any difficulty if he was an engineer or manager, either one.

Mr. Stone: But if they were promoting all their men, they would not hire him, no matter how desirable he might be, or how competent he might be.

Mr. Lauck: Not necessarily. If they were promoting them.

Mr. Stone: And ran out of material to make general managers on that particular road, then you think it would be all right to import?

Mr. Lauck: Yes. Just the same with engineers. I think opportunity ought to be open both ways to a railroad, to employ whom they wished, but to give preference to their own men.

Mr. Stone: If that rule had been employed all the way through, it would have been hard on some people I know. They certainly would not have had any job, if they had promoted all their men, because I know of several instances where they have imported men from the outside as officers of a plant.

Mr. Lauck: Oh, yes. A man may be barred on account of his record somewhere else, or something of that kind.

Mr. Burgess: Mr. Lauck, you won't deny that the entire public is interested in the personnel of the locomotive engineer, will you?

Mr. Lauck: No, sir; very gravely interested.

Mr. Burgess: Neither will you deny that he is only human, and may make a mistake.

Mr. Lauck: Yes.

Mr. Burgess: Well, then, with the most considerate general manager of that property, or any property, he might find it necessary, to maintain discipline, to dismiss this engineer for a mistake that he had made.

Mr. Lauck: Yes, sir.

Mr. Burgess: Even though he regretted very much to do that.

Mr. Lauck: Yes, sir.

Mr. Burgess: Now then, don't you believe that that engineer, being dismissed, should have an opportunity to find employment at an age of life, where he was too old to learn any other business, and too young to die?

Mr. Lauck: Undoubtedly. That is what I have been stating.

Mr. Burgess: Very well. Then, if that be true, and every railroad adopted a policy of promoting any and all the men, you would find a class of men who had lost their employment practically without any means of earning a livelihood, would you not? Now, you don't advance that theory, do you?

Mr. Lauck: Not at all, no. If a man is a competent man, and can bring a clear record, I think he should be given employment by a railroad.

But the point that I was discussing was that, other things being equal, the incentive of advancement should be held out to the firemen to go into the engineer class, in order to develop the general spirit of the operative force on any one road, and holding out the pleasing idea of advancement; that efficiency and ability would be recognized, and a man could go forward in the profession that he had selected.

Mr. Burgess: But in connection with that statement, you do believe that that rule or theory that you were advocating should be flexible enough to take care of those bona fide engineers who had lost their positions?

Mr. Lauck: They should be given an opportunity to secure employment, if employment is available.

Mr. Burgess: Now, Mr. Lauck, don't you think that if it were thoroughly understood that all managers of all railroads would positively refuse to employ an engineer who had made a mistake, that the general tendency would be to drive a desirable class of men away from the locomotive service, rather than invite them to enter that service?

Mr. Lauck: That is, if all doors of employment were closed against them in the event that they lost their existing position?

Mr. Burgess: Happened to make a mistake?

Mr. Lauck: Yes. I think that would be just as bad as not promoting the firemen. It would be the creation, practically, of a boycott of an engineer who lost his job.

Mr. Burgess: And, therefore, we should come to the vital question where we are going to get the future locomotive engineer, should we not?

Mr. Lauck: The only place you could get them then would be from the firemen, and the man who would lose his position would have no avenue of opportunity, except in some other trade or occupation.

Mr. Burgess: And do you think that a man twenty years, or twenty-one years of age, who would be a desirable locomotive engineer, would venture to take that chance, knowing that if he happened to make one mistake, that his vocation would be entirely gone?

Mr. Lauck: No, sir. That is, he would be very careful about taking any chances of losing his position, because he would be forever excluded from the calling of engineer, under those conditions.

Mr. Burgess: Therefore, looking at the question in a broad sense, without any reflection on any manager at all, assuming that the manager was absolutely justified, it would not be a good policy to adopt, in your judgment, to close the gates of employment against any engineer because he was dispossessed of his position?

Mr. Lauck: No, sir, it would be incumbent upon him to show that he was a good man, with a clear record, and then I think the manager, in employing him, should weigh the relative merits of this man against some men he had available, and give the preference to whoever was the best man.

Mr. Nagel: Apart from that, Mr. Lauck, don't you believe that the influence upon the general service is good, if it is understood that an outside man may be employed at any time?

Mr. Lauck: Yes, sir, that would have a good effect, too, I should think, by putting the men in the service more on their mettle in making good.

Mr. Nagel: You believe in the Civil Service?

Mr. Lauck: Yes.

Mr. Nagel: Don't you think it sometimes wakes them up if a good outsider is appointed.

Mr. Lauck: It certainly does, yes.

Mr. Stone: Well, when the outsider comes in, he generally wakes them up, doesn't he? If they have gone to sleep down the line?

Mr. Lauck: That is what they usually come in for, I think.

Mr. Stone: Then, if we have settled how these future promotions shall be filled, Mr. Lauck, suppose we take up the next exhibit.

The Chairman: What is the next exhibit?

Mr. Stone: The next exhibit is No. 75, "Monthly Earnings of Locomotive Engineers and Firemen, based on Exhibit No. 29, Western Conference Committee of Managers."

(The document so offered and identified was received in evidence and thereupon marked "Employes' Exhibit No. 75, March 9, 1915.")

Mr. Stone: Now, I am sure we have reached something here we shall all understand, because this is based on the figures presented in Exhibit 29.

Mr. Lauck: This exhibit is an analysis of the detail supporting Exhibit 29, submitted by the Conference Committee of Managers.

In that exhibit, a classification is made of the number of employes earning certain specified amounts; number of engineers, number of firemen, motormen, motormen helpers, and so on.

The first diagram which appears in this exhibit is a classification of these men earning certain specified amounts, according to groups of earnings? The percentage is worked on the basis of the relation of the number of men in each group to the total number of men in the service, in that occupation.

The tables supporting these diagrams are found in the back of the book—two tables.

Mr. Stone: The tables are a copy of the tables in 29?

Mr. Lauck: Yes, sir, they are the percentage expansion of the tables in 29.

Upon analyzing the figures, the showing as to men making high earnings loses its significance. That is, it is found that they constitute a very small proportion of the number of engineers or firemen employed, and do not represent the prevailing range of earnings, or the great mass of men in the industry.

According to the percentages worked out here, it is shown, taking the diagram on page 2, that 13.4 per cent of the engineers employed in October, 1913, earned less than $100 during the month of October; and that from $100 to $116, there was about 14 per cent of the total engineers employed. From $125 to—

Mr. Stone: Mr. Lauck, are you not wrong in that?

Mr. Lauck: No, sir; I don't think so.

Mr. Stone: From $100 to $116?

Mr. Lauck: 14 and some fraction.

Mr. Stone: Only 17. From $100 to $108.33, is 3.94; but from $108.33 to $116.66, is 4.87 per cent.

Mr. Lauck: Oh, $125, I should have said.

Mr. Stone: Oh, that is different.

Mr. Lauck: Yes, sir. Or in other words about 27 per cent earned less than $125 per month. Between $125 and $133.33, there is a group representing 6.88 of those employed. And between $133.33 and $150 there is a group of about 15 per cent. Of the number earning $150, or less, there is just about 51 per cent, I think. So they would represent there—

Mr. Sheean: Less than what?

Mr. Lauck: Just about 51 per cent.

Mr. Sheean: Less than what was that?

Mr. Lauck: $150.

The Chairman: It includes all below that?

Mr. Lauck: Yes. I think just about 50 per cent earned $150 or less. Then about 50 per cent would earn not more than $150. The amount above $150, it will be noted that the groups gradually decline as you go upward in the scale of earnings. The number earning $150 to $158.33, is 6.77 per cent. From $158.33 to $166.66, it is 6.55 per cent. From $166.66 to $175, 6.17 per cent; or between $150 and $175 there is a group constituting about 19 per cent of the total number of engineers employed.

Therefore, only 25 per cent of the engineers earn more than $175 per month. Say 50 per cent earn less than $150; 25 per cent earn between $150 and $175; 25 per cent earn more than $175.

The different groups are shown there in declining order, until we get to those constituting 25 per cent above $175—until we get to the high men of the exceptionally high earnings, of whom so much has been said, and we find that they constitute a comparatively insignificant part of the operating force. That is, the men earning from $250 up, but less than $258 are only .47 of one per cent. $258 to $266, only .32 of one per cent. From $266 to $275, .23 of one per cent, and in the higher ranges of earnings, from $275 to $325, we find that there is only about one-half of one per cent of the total number of men employed. The men earning $325 or more are only .04 of one per cent of the total number of engineers in service.

Mr. Stone: It became so infinitesimally small that you could not make a diagram of it?

Mr. Lauck: I could not make a line on a comparative basis, because you would have to have a microscope to see it with.

A similar diagram for the firemen appears on page 6. On page 6, the same classification is shown for firemen and the same result is indicated.

Mr. Stone: Before you get to that diagram, I wish you would take up pages 4 and 5, and so that there can be no question about how you arrived at your percentages—

Mr. Lauck: Yes, sir. Taking up pages 4 and 5—on page 4—

Mr. Stone: Do I understand, Mr. Lauck, that you used all the names that they showed in their October pay roll?

Mr. Lauck: Yes, sir; I took their sheet No. 4, in their exhibit 29.

Mr. Sheean: 4?

Mr. Lauck: Sheet No. 4, I think it is; the classification of earnings, the number earning each specified amount—sheet 4.

Mr. Sheean: Sheet No. 4 excludes men who are not available for duty. You took sheet No. 1 and counted all the men as emergency, who fired one hour?

Mr. Lauck: No; I took sheet No. 4 and compared them with the total shown on sheet 1 of the total number of men in service. I took the groups on sheet 4, which is where you excluded about 13,000 men. That is, engineers earning less than $100, and firemen and hostlers earning less than $75, I think.

Mr. Sheean: And who were not available for duty?

Mr. Lauck: And who were not, according to your arbitrary statement—not available for duty.

Mr. Sheean: Who were reported by the roads as not being available for duty.

Mr. Lauck: Well, they were reported not available for duty, according to your instruction to the roads; but the men were working, were they not?

Mr. Sheean: No; I don't want to debate that with you. If you will come to that a little bit later. You have the form of the instructions that any man who was available the entire month should not be excluded, but no man who laid off of his own accord should be included.

Mr. Stone: He might become exhausted and lay off for rest, for one trip, and he was not available and would not be counted.

Mr. Lauck: The instructions should exclude such men as you were speaking of a while ago, like the man Mr. Alt, who made \$6.13 in July?

Mr. Sheean: Yes.

Mr. Lauck: He was working as part of the operating force, but his earnings were less than \$100.

Mr. Sheean: Was he working more than one day, or did he lay off 29 days, as a matter of fact, to go fishing?

Mr. Lauck: Whether he did or not, he was part of the operating force.

Mr. Sheean: All I wanted to get at, Mr. Lauck, is, that you, in making your compilation here, have counted the man who was taken out of the roundhouse as a fireman and run as an emergency man, one trip and got, we will say, \$3.10 for it. You count him as one fireman, working one month?

Mr. Lauck: Not exactly that, no sir. You report 63,000 and some firemen and engineers on sheet No. 1, as being the total number of men who reported earnings for the month of October, 1913. Now, you classify the earnings on sheet No. 4, of engineers above \$100 and firemen above \$65. I took the total number of men in each group, on sheet 4, and compared that group with the number of men in service, as shown on sheet 1. In other words, each one of these groups in this table is the relation of the number on sheet 4 to 63,000 or 64,000, whatever it may be. I can tell you exactly by looking at the supporting table.

These are the two supporting tables for the diagrams. The number of engineers in service for the month of October was 28,446; the number of firemen was 22,331.

Mr. Sheean: That is, you counted—as shown by our reports, there were 24,639 engineers who were available the entire month for service. You say there were 28,000.

Mr. Lauck: I took it both ways, as a matter of fact, but in this case I say there were 28,000.

Mr. Sheean: That is, a fireman who made a single trip as an engineer during that month, would be counted as an engineer working the entire month?

Mr. Lauck: Not necessarily working the month. He was part of the operating force for that month.

Mr. Sheean: He was a man for that month?

Mr. Lauck: Yes.

Mr. Sheean: And in the average for the month, if he earned \$5.10, you carried him as one man, one month, earning \$5.10, on an equal basis with the one man earning \$3.33?

Mr. Lauck: Exactly.

Mr. Sheean: As of equal value?

Mr. Lauck: Yes, sir. As a matter of fact, I worked it both ways, Mr. Sheean. The next table is comparing with only your 24,000 engineers and 22,000 firemen, where you excluded 10,000 firemen and 4,000 engineers, and the percentage groups run along very similar.

Mr. Sheean: You did not make any chart of the second table?

Mr. Lauck: No; the percentages are here, though. I think that the first table is perfectly proper. That is, here we have a certain number of engineers and firemen who were working, or on the payrolls of western railroads. We have certain earnings reported for those men, according to numbers in each group. If we want to know the relative proportion of men earning certain amounts, we would not compare them just with the restricted men in the groups themselves, but with the whole operating force, to get a picture of the general conditions that prevail.

Mr. Sheean: Well, you did find, did you not, if you examined the supporting data, that in a great many cases there was some one called from the roundhouse force, in an emergency, to make one trip as a fireman, and that his earnings as firemen were $3 or $4—whatever it might be for the one trip?

Mr. Lauck: I have no doubt that is true.

Mr. Sheean: Did you examine the supporting data at all?

Mr. Lauck: Not in that connection.

Mr. Sheean: But you counted that man, taken from the roundhouse force and working in the roundhouse force the rest of the month, and drawing money for it, as having earned just the $3 which were shown, because of his one trip as a fireman, in making this average?

Mr. Lauck: I made no average. I counted him as part of the operating force.

Mr. Sheean: And you have counted him as a man who earned less than $100 a month?

Mr. Lauck: Exactly. That is just what you did and that is what I did. I have taken your figures.

Mr. Sheean: If it was shown he was a roundhouseman, called for emergency and was only on firing duty one day, we did not show him as being a fireman throughout the month.

Mr. Lauck: You reported him on sheet No. 1, as I understand it. Therefore, I have taken your figures which you give on sheet No. 1, as the number of engineers and firemen employed during the month of October, as the operating force for October.

Mr. Stone: Well, Mr. Lauck, before they commence to call firemen out of the roundhouse, or engineers off the clinker pit, or somewhere, they had used up all the available source of supply. If they did that, why, everybody that was on the payroll that was available must have been working?

Mr. Lauck: Yes, presumably.

Mr. Stone: Is it not also a fact—you are probably not familiar with railroad practice, but any man who is off on a leave of absence, resting up or anything of that kind, is subject to call in case of an emergency, at any time, unless he has a doctor's certificate and cannot come in? He is subject to call, is he not?

Mr. Lauck: I don't know about that, sir.

Mr. Stone: Well, it is really true that in times of stress that everybody works, and if he don't work—if you say you are sick, you will have to furnish a doctor's certificate that you are sick, to explain why you don't go out. The fact remains that you have taken some 28,000 engineers here to get this graphic chart, have you not?

Mr. Lauck: I have taken the operating force, as reported by the Conference Committee of Managers for October, 1913, which is 28,000 and some engineers.

Mr. Stone: 446.

Mr. Lauck: 28,446 engineers and 32,000 firemen. I have then taken the number which they say were earning specified amounts, and worked the percentages or the proportionate relation to the total operating force, and have found that these proportions earned these specified amounts.

Mr. Stone: And you believe that is an absolutely fair basis to arrive at this percentage?

Mr. Lauck: Absolutely, yes, sir.

Mr. Sheean: Now, Mr. Lauck, may I ask you just about that? A man is hired on the second day of the month and works ten days. Do you think it is fair to take the ten days that he worked and say that his earnings, per month, was less than $100?

Mr. Lauck: Well, not if you are getting the typical monthly earnings of engineers, but that condition prevails at all times, does it not? Men come and men go. If you wanted to get a sort of a bird's eye view of operating conditions, the relative proportion of men earning a certain amount, yes.

Mr. Sheean: Well, then, men come and men go. One man comes on the tenth and works until the twentieth. He goes on the 20th. Another man takes his place on the 20th and works until the 30th. Together they have worked two-thirds of a month, or twenty days out of the 30. Do you think it is fair to show that two men each earned less than $100 a month, each of them working ten days in a month?

Mr. Lauck: I think so, if we wanted to get an idea of operating conditions. For instance, take a railroad contractor or cotton mill in the South, where you may employ labor that is uncertain as to regularity. They will have 25 per cent more people on the payroll than there would be working, and the earnings fluctuate on account of those conditions, per man or per employe. If that is a condition of railway operation, why, I think that it ought to be considered in this connection, although, as I say, if you restrict it absolutely to the number of men—if you eliminate all men earning less than $100 per month—all engineers, and all firemen earning less than $65, the proportions earning above that will not be much affected. I am simply taking the figures as you gave them, that actually there were a certain number of men that did actually receive these amounts. Now, whether they were working full time or not, I have not taken into consideration.

Mr. Sheean: I just wanted to get clear your idea as to what extent it would be fair to count every man who worked any part of a month, in finding the monthly earnings of the men. Take the instance which appears, not infrequently through these detailed data, if you examine them, of men who quit work on the second day of October. Other men, presumably, took their places and worked the rest of the month. Do you think it proper to show that there were two men working through the month of October, the one man having worked one day and the other having worked the 30 or 29?

Mr. Lauck: I think so. That is what has been done, has it not? Suppose there would be a certain percentage of illness, or certain percentage of accidents among railroad employees, which you must provide for; you would have to have men to take the places of men who became sick, or who met with an accident in the operation of trains. Well, that would be a natural condition of the operating force, whereby there would be a certain proportion earning less than $100 a month. If the figures as given in Exhibit 29, correctly represent the operating conditions of railroads, well, then, I think, we are justified in saying these men earned less than $100 a month, but I have not made any inquiry as to why they earned less than $100 a month—whether it was through their own laying off or whatever cause it was—simply taken the figures as given in exhibit 29.

Mr. Sheean: Well, you made no examination then as to whether or not the reasons reported by the railroad companies, where inquiry was made, where the earnings fell below $65 and below $100—whether or not those did show that it was not incident to the business, but was due to the personal equation of the men? You made no investigation to ascertain that?

Mr. Lauck: Not beyond what you made, and as I understand, your investigation was purely an arbitrary investigation.

You said if a man does not earn $100 a month, we don't want him, didn't you?

Mr. Sheean: No. I thought you misunderstood it. No, Mr. Lauck.

Mr. Lauck: That is what Mr. Keefe's testimony was, I thought.

Mr. Sheean: If you will read the form. Did you read the form that accompanied this? I thought you had that misunderstanding.

Mr. Lauck: I don't think it was misunderstanding, Mr. Sheean. At the bottom of the table it appears there.

Mr. Sheean: Well, the form that accompanied it. No inquiry whatever was made, Mr. Lauck, as to any engineer who earned more than $100. Even if he only worked ten days out of the twenty, we treated him as being available the full month. No inquiry was made about a fireman who earned more than $70 a month.

Mr. Lauck: Yes; that is my understanding.

Mr. Sheean: But we treated him as having been available, although he might have worked only twenty days.

Mr. Lauck: Understand, I am not disputing the point of being available, but that the fact was the man was working. Why he did not work the full month, I don't know.

Mr. Sheean: But if the payroll showed, Mr. Lauck, that the engineer drew less than $100 a month, then inquiry was made as to whether that was all that he had the opportunity of earning, or whether he declined to avail himself of the opportunity to earn more than that.

Mr. Lauck: You mean you made inquiry of these 14,000 men?

Mr. Sheean: Yes. Where is the form, Mr. Keefe?

Mr. Stone: Mr. Lauck, in the final analysis, it is not whether he was available or whether he was too lazy to work. The final analysis in the whole thing is how many dollars did he get out of the pay car, is it not?

Mr. Lauck: Yes; the final analysis to me is that he was part of the operating force. He was part of the total number of men employed, although I am not perfectly willing to exclude the 14,000. Let it go on the 49,000.

Mr. Stone: Yes; if you get any more satisfaction out of that, let us do it that way.

Mr. Sheean: Mr. Lauck, what is your criticism, if it be a criticism, of the form followed of inquiry?

Mr. Lauck: I am not criticizing it, Mr. Sheean. I thought you were criticizing me.

Mr. Sheean: Well, I was trying to find out in just what manner you reached the conclusion that an engineer who worked the first day of October and took a vacation all the rest of the month, should be shown, and who drew for that one day $7.40—should be shown as being a man who earned less than $100?

Mr. Lauck: I don't criticize that at all.

Mr. Sheean: No, but you show that man as a man who earned less than $100.

Mr. Lauck: Yes.

Mr. Sheean: Now he laid off an assigned run. Another man was put in his place, and he drew the $7.40 each time that he made the trip, the rest of the month. Perhaps the second man may have run for ten or fifteen days. Well, say, ten days, so that would still be under the $100.

Mr. Lauck: He would be an extra man then. He only had ten days' opportunity.

Mr. Stone: Would not all three of those men in the example you gave be in the employ of the company?

Mr. Sheean: And they would all three be shown as three men who had the opportunity of earning less than $100 a month.

Mr. Stone: That is probably all they did earn, though, during the month.

Mr. Sheean: Well, it certainly is true, Mr. Stone, that if a man worked the first day of October and went fishing or on a trip the rest of the month, then that is all he earned.

Mr. Stone: That may be true, Mr. Sheean, but if you wanted him real bad, you would tell him to put away his fish pole and line and go to work.

Mr. Sheean: Yes; and that was the purpose of the inquiry as to whether he was on duty the whole of the month or not.

Mr. Lauck: I don't think it makes any great difference whether you consider it one way or the other, if you consider the total operating force, which seems to me to be perfectly proper. That is, you have a certain number of men you have to use to operate the road, and through certain conditions a certain proportion earns less than $100. It is not claimed here that these men could not have earned more than they did, if they had wanted to, but it is claimed here, as a matter of actual operation, it happened, either through the fact that they wanted to lay off, or wanted to go somewhere, or were ill, or whatever condition it might be, that they did earn less than $100. It is not claimed that they might not be able to earn more.

Mr. Stone: Neither is it claimed they were worth more or worth less. You simply took your figures and made a graphic chart of it.

Mr. Lauck: It is simply a condition of the operation we found included in their figures.

Mr. Nagel: Your table is intended to show a condition under which the road is operated.

Mr. Lauck: Yes, sir.

Mr. Nagel: Now, do you think that condition should be considered in fixing a general wage?

Mr. Lauck: Yes, sir; so far as the railroads or the Committee of Managers are putting this exhibit in, to illustrate the method of wage payments or the amount of earnings of the men, why then the fact as to the relative proportion earning certain amounts, it seems to me, should undoubtedly be taken into consideration, rather than isolated men, individual earnings of whom are shown. That is, if you would eliminate all of these men that have been eliminated from consideration, you would have the men who were making the maximum possible under the conditions. You would have earnings for the men who made the maximum amounts, under the operating conditions.

Mr. Nagel: Well, if it is true that there are always men who are not regularly employed, do you think that fact furnishes a reason for an increase in wages?

Mr. Lauck: No, sir.

Mr. Nagel: Now, the condition which you have demonstrated here may be attributed to a man's unwillingness to work, or to illness, or to the road's inability to furnish work?

Mr. Lauck: It may be a decline in traffic, yes, sir.

Mr. Nagel: And you think that, regardless of the reason which brings about this condition, the condition itself should not be considered in fixing wages?

Mr. Lauck: Not in fixing the rate, no, sir.

Mr. Nagel: Not in fixing the rate?

Mr. Lauck: No, sir.

Mr. Nagel: Now, suppose a man is on the list of engineers or firemen and has to hold himself in readiness for service, whenever called, and the road is able to give him only irregular employment. Do you think that fact should be considered in fixing his compensation when he does work?

Mr. Lauck: No, sir: As I look at it, he is passing through a period of apprenticeship, getting ready for more regular work. The object in presenting this is not to make an argument upon that basis, but we have felt that the stress that has been put upon earnings, and especially upon high earnings, as given out, is a representative picture of the operating conditions, and that these men of whom we have heard so much, as earning so much, are comparatively few in number and relatively unimportant, looking on the operating conditions as a whole.

Mr. Sheean: Mr. Lauck, if those high men who earned these large sums received those amounts under schedules in which these low earnings in that month, on the same road, also accrued, then the remedy for present conditions, if those conditions are to be remedied, is not in any change in the rate or scale of wages, is it?

Mr. Lauck: Yes; of course you have a certain number of men who did not work, or probably would not work regularly, not matter what the rate was. Then, you have a certain number of men, say, firemen, earning less than $75, who probably work regularly, but at the prevailing rate could not make more than $75. Then, you have certain conditions whereby, no matter what the rate was, the railroad could not offer sufficient employment for the man to make $75.

Mr. Sheean: But if you found upon that same railroad and working under the standard schedule on that road, the high earnings which you say are a negligible part in the percentage of the entire service—

Mr. Lauck: In the payroll.

Mr. Sheean: In the payroll; but if, under that schedule and the rates therein provided, these large earnings are available, the cure for the conditions about which you complain, if they are to be cured, is not through a change in the rates provided in that uniform schedule. That is, the fact that there are these high earnings, whether they be one per cent or less than one per cent under that schedule, it shows that the schedule and the rates provide liberal compensation when the work is performed, does it not?

Mr. Lauck: For that specific class of service, yes, sir.

Mr. Sheean: For that specific class of service. Then, if it is shown that in each of the classes—passenger, local, through freight—on particular roads there be these high earnings, even though in a small percentage, why, that shows that the condition to which you call attention as to these other men, is not because of any lack of adequacy in the schedule, does it not?

Mr. Lauck: Well, that may be due to lack of adequacy in the operating conditions. It might be that, but—

Mr. Sheean: That is, you mean as to the ability to get traffic and furnish enough to give employment?

Mr. Lauck: Well, the adjustment of employment in runs and so forth.

Mr. Stone: Might it not be due to the fact that they run from 6,000 to 7,000 miles in a month, that they get the high rate?

Mr. Lauck: It might be due to that.

Mr. Stone: But the fact does remain that one man out of every 2,000 gets over $325, according to your table?

Mr. Lauck: Yes. The one point, it seems to me, in getting the correct picture, is to take the normal idea. That is the idea I have in presenting this, to show that the normal man is the man between $125 and $150—the normal engineer and they run about—I think about 29 per cent between $125 and $158, and about 55 to 60 per cent below $158.

Mr. Stone: According to your figures, Mr. Lauck; on page 4 in the table, 10,400 engineers out of the 28,000, are between the $100 and $150 rate?

Mr. Lauck: Yes. It showed on a per 1,000 engineers employed, on page 3. There we have out of each 1,000 employed, 134 engineers receiving less than $100; from $100 to $150, we have 369 engineers out of each 1,000, or below $150 a total of about 503 engineers, I think, out of each 1,000 employed.

Mr. Byram: If these engineers and firemen were all paid on an hourly basis, there would not be any problem such as we are discussing here, would there?

Mr. Lauck: I do not see that.

Mr. Byram: If they were all paid on an hourly basis, there would not be any question about how much they earned in a month, providing they worked.

Mr. Lauck: Do you mean the monthly rate?

Mr. Byram: The equivalent of the monthly rate, so many hours per day, at a certain amount per hour. There would not be any question about fluctuations in their earnings per month?

Mr. Lauck: No, if they were put on a monthly salary?

Mr. Byram: Or an hourly rate, instead of mileage and these other rates.

Mr. Lauck: That would probably be true.

Mr. Stone: About how far do you think they would get a man on the Burlington fast mail, working by the hour, if they worked him sixteen hours, leaving here in the morning at 2:15 A. M.?

Mr. Lauck: That would depend altogether on how fast the train ran.

Mr. Stone: He would be over in Nebraska, would he not?

Mr. Byram: It would depend on how long the road was, would it not?

Mr. Lauck: Yes.

Mr. Burgess: Just to see how it follows, if I understand the purpose of this table, it was to set forth before the Board in a graphic way, approximately speaking, about what the engineers drew in the month of October, 1913, was it not? Is that right?

Mr. Lauck: Yes, as reported by the railroads in their Exhibits 25, 26, 27, 28 and 29.

Mr. Burgess: And it was not the purpose of the exhibit to influence or attempt to bring any information to the Board, relative to whether the rates now in effect were adequate or inadequate, was it?

Mr. Lauck: No, sir. It was the intent to show, though, that this exhibit, so far as stress is being laid upon the men of high earnings, that they are not representative of actual operating conditions, that they are a negligible quantity in considering the adjustment of the wage scale.

Mr. Burgess: Yes, but it was not intended, as I stated before, to guide the Board, or influence them, or to bring to them information relative to the question as to whether the rates were adequate or inadequate?

Mr. Lauck: No, sir, it is just putting in graphical form, in another way, what is presented by the railroads.

Page 3, at the bottom of the page, shows the number of engineers earning each specified amount for each 1,000 employed, and it is shown there that the number earning \$250 to \$275 per month were only ten out of 1,000; earning \$275 to \$299, only three out of 1,000; earning \$300 to \$325, only one out of 1,000, and earning \$325 or more, only one out of about each 2,000 employed. So these high paid men are comparatively inconsequential in considering the range of earnings of locomotive engineers. The detail of that chart is given on page 5.

Mr. Stone: Before you pass to that sheet, that paragraph at the top of page 4 shows that over 50 per cent of the total payroll for October, went to engineers earning less than \$150 a month, does it not?

Mr. Lauck: Yes, that is just stating the groupings in another way.

Mr. Stone: Less than 6 per cent of the total payroll in the month of October, was paid out to engineers whose earnings ranged at \$225 or higher.

Mr. Lauck: Yes. Then I have a table on page 4 showing the number of engineers earning less than \$200, for each engineer earning \$200 or more. That is, the total number of engineers was 28,446. The number earning less than \$200 was 24,427. The number earning \$200 or more was 4,019; or in other words, for each engineer earning more than \$200, there were six engineers earning less than \$200. The ratio on that line of division would be one to six, or six earning less than \$200 to one earning above \$200.

Mr. Sheean: One-sixth of all the engineers in this Western territory were getting over \$200 a month?

Mr. Lauck: For each one earning \$200 or over, there would be six earning less than that, or answering your question, about one-seventh were earning \$200 or over.

Mr. Sheean: Out of a total of 24,000 engineers, over 4,000 were getting over \$200 a month?

Mr. Lauck: I think that is about correct, about one-seventh getting over $200 a month.

Mr. Sheean: You give the figures there, I think, do you not?

Mr. Lauck: On page 5.

Mr. Sheean: On page 4.

Mr. Stone: On page 4, you give the number in the table?

Mr. Sheean: There are over 4,000 of them earning over $200 a month.

Mr. Lauck: Yes.

Mr. Stone: Earning $200 a month in the month of October.

Mr. Lauck: And 24,000 of them earning less than $200.

Mr. Sheean: Yes, and their distribution is shown previously.

Mr. Lauck: Yes. Then, eliminating the men below $100 a month, there would still be 20,000 men earning less. Are there any further questions? If not, I will take up next the firemen.

I will take up the next, the firemen, then.

Mr. Stone: Have you computed page 5, that table, in a different way?

Mr. Lauck: It is the basis of the diagram, yes, sir. It shows the percentages upon which the diagram is based.

Mr. Stone: All right. Take up the firemen.

Mr. Lauck: The chart on page 6 makes a similar graphic presentation for the firemen. We have there, according to this method of distribution, 35.54 per cent of the firemen earning less than $75 per month, or more than one-third that you might say drew less than $75 from the payrolls of October, 1913, for whatever cause may have been effective.

About 55 per cent earned less than $91 per month.

45 per cent earned less than $83 per month.

55 per cent averaged less than $91 per month.

And only one-tenth, or one in ten of the firemen working in October, 1913, earned between $91 and $100. And slightly less than one-tenth, or about one in twelve, earned between $100 and $108.

7.74 per cent earned between $108 and $116. That would be about one in sixteen earned between $108 and $116. And about the same proportion earned between $116 and $125.

Practically all of the firemen in which any groups of any consequence are shown, are below $125.

As you ascend upwards in the scale of the service, they become smaller and smaller, until we find that there are less than 3 per cent, or less than one out of each thirty-three, who earn more than $150 per month; the number of firemen earning between $158 and $166, being only 69/100 of one per cent of the total number of firemen employed; the number between $166 and $175 only being 38/100 of one per cent of the total number employed; and between $175 and $200 only 40/100, or 4/10 of one per cent; and the number of firemen above $200 was only 8/100 of one per cent. They could not be shown graphically.

That is expressed in the form covering each specified amount per month, for each 1,000 employed, on page 7.

Mr. Stone: How many firemen do you show here?

Mr. Lauck: 32,321. Or, we have 355 out of 1,000 drawing less than $75 during the month of October; 198 drawing between $75 and $91; 92 only out of 1,000 drawing between $91 and $100. Only 86 out of 1,000 drawing between $100 and $108. Only 75 out of a thousand drawing between $108 and $116.

There was a group of 111—slightly more than one-tenth—drawing $116 to $133. And then they decrease in groupings, until we find that the number drawing between $150 and $175 were only 23 out of each 1,000 employed. From 200 to 225, only one out of each 1,000 employed and $225 or more, less than one out of each 1,000 employed.

The percentages are worked out on the two tables which are attached to the back of the exhibit.

Mr. Sheean: Mr. Lauck, then I take it you did check sheet No. 24 of this Exhibit 29.

Mr. Lauck: I computed percentages on the basis of that sheet.

Mr. Sheean: On the basis of that? Now, if the theory of the Conference Committee of Managers be correct, that it is proper to exclude a wiper in a roundhouse who is called to make one emergency run, in ascertaining what the earnings of firemen may be, then your chart here, as to firemen who earned less than $75 a month, would be changed from 35.54 to less than 9 per cent, would it not, as shown by our chart 4. That is, without debating now the proprieties of the theory.

Mr. Lauck: Oh, yes, you have eliminated over one-fifth of the total number of employes on your sheet 4. You have eliminated 10,000 firemen on sheet 4.

Mr. Sheean: But we have shown in that column 1,967 of them earning less than— Yes, over 2,000 earning less than $75 a month, where we had no record as to whether they were or were not available.

Mr. Lauck: Well, I would be perfectly willing to say that 2,000 earned less than 75 a month, and the other 8,000 we didn't know anything about.

Mr. Sheean: What is it?

Mr. Lauck: I would be perfectly willing to say that 2,000 of the firemen on sheet 4 earned less than $75 a month, if that is the correct figures there; and there were 8,000 others that earned less than $75 a month. But it may have been due to traffic conditions. It may have been due to their own desire not to work. Or, it may have been due to some other cause.

Mr. Sheean: And Mr. Lauck, the inquiry was prosecuted as to whether or not it was due to traffic conditions, or due to the voluntary act of the firemen in each case, and we counted all persons here, except where it was affirmatively shown that it was because of their own act, and not because of the conditions, that they didn't earn more money. Don't you think that is a proper way of doing it?

Mr. Lauck: I think it is all right. But in your sheet 1, you used everybody in making your average.

Mr. Sheean: Yes, counted roundhouse foremen—

Mr. Lauck: If you considered the "grease monk" which you spoke about, in taking the engine from the roundhouse,—that is what they used to call a man who wiped an engine off in the roundhouse. I don't know whether that is the technical term now or not. If you had a man of that kind, who worked one day, and you did consider him in sheet No. 1, you see yourself—

Mr. Stone: They also show him in their October list of payrolls, that they furnished us with, do they not?

Mr. Lauck: Yes.

Mr. Sheean: Yes, Mr. Lauck. That sheet No. 1 was a mere transcript of the payrolls, was it not?

Mr. Lauck: That is as I understood it, yes, sir.

Mr. Sheean: And if a man drew money for doing any firing work, he would appear there as an engineer?

Mr. Lauck: Yes, sir.

Mr. Sheean: Now, all I want to get at, Mt. Lauck, is whether or not it is not the fact that sheet 24 of this exhibit 29 would change this graphic sketch from 35 per cent down to about 9 per cent of those who were below $75 a month?

Mr. Lauck: Of sheet 4?

Mr. Sheean: Yes.

Mr. Lauck: Yes, that would reduce it to—wait, I will tell you the exact per cent. Are you speaking about the firemen now, Mr. Sheean?

Mr. Sheean: Yes.

Mr. Lauck: Sheet No. 4 would show only about 9 or 10 per cent of firemen earning less than $75 per month.

Mr. Sheean: Oh, I did not see this last sheet, Mr. Lauck. You have on the second sheet here carried out the tabulation on the basis of sheet 4.

Mr. Lauck: Of sheet 4?

Mr. Sheean: Yes.

Mr. Lauck: But, of course, I don't agree with sheet 4. I mean I have done that to be consistent, but I think you ought to account for those other 13,000 men.

Mr. Sheean: Well, just how would you account for them, Mr. Lauck, other than to write to the superintendent or the person in charge, and say, "Now, Mr. Superintendent, unless you can affirmatively show us that this man was off duty of his own accord, we will have to consider him as being available the entire month. Therefore, we will exclude only those where you can affirmatively state that he laid off a certain designated part of the month." Just what other course would you adopt, if you wanted to get at the facts?

Mr. Lauck: Well, that would be all right if you wanted to get at the facts. If they did do that. If you wanted to get at the facts as to the men's earnings who were running regularly during the month, that would be all right. But why these men did not run regularly during the month we don't know. That is, there may have been a fireman—we find in your annual earnings that a fireman ran two months, maybe an engineer, and then he would lay off the next month, and there seemed to be recurring periods when the men lay off, which the men claim are due to the exactions of the work, in the case of the firemen especially. And then I did not understand that you went so far as to get specific returns on each one of these thirteen men.

Mr. Sheean: You did not examine the supporting data, did you?

Mr. Lauck: I examined the supporting data, and also you note at the bottom of the table, from Mr. Keefe's testimony?

Mr. Sheean: Yes. Well, now, for instance, a report of leave of absence from 10 15 to 10 18, taking a leave of absence, do you think that—

Mr. Stone: May I ask you a question? Isn't he still an employe of the company while he is on leave of absence?

Mr. Sheean: Unquestionably, Mr. Stone. But I did not understand that he was under pay on the schedules at that time, or that if a man laid off for thirty days, that, in an arbitration proceeding, you would claim it was proper to show he had no earnings, because he was still an employe of the company, but did not earn anything during the month.

Mr. Lauck: Probably I could make it clear as to my position by the further statement, that is, if this man was laying off as a result of operating conditions, he ought to be considered, it seems to me. If he was laying off just for some other reason, to enjoy himself, or if he was given 90 days for some breach of discipline, or something like that, he should not be considered.

Mr. Stone: Suppose he got thirty days' discipline, should he be counted then, Mr. Lauck?

Mr. Lauck: I don't think so.

Mr. Stone: Suppose he became entirely worn out, and laid off fifteen days to rest, should he be counted then?

Mr. Lauck: I think so, yes. But in any case, it makes no great difference, except in the men earning below these specified amounts.

Mr. Sheean: It makes this difference, which may seem immaterial to you, that as to the showing of firemen, only 9 per cent of them are less than $75 a month, whereas, you show, on a graphic chart, 35 per cent of them.

Mr. Lauck: Your 9 per cent were the men who were working full time?

Mr. Sheean: No, not full time.

Mr. Lauck: Not necessarily full time, but working regularly. On your basis they were available during the month for duty. Your basis of regularity is $75 a month, I believe, or $65.

Mr. Sheean: No, Mr. Lauck. No inquiry at all has been made as to those below that, and then, extending into those who, for some reason—it was not shown why—didn't earn more. Mr. Lauck, is there any dispute about this proposition, for instance, in this exhibit, that has been introduced here, this photostat of the payroll? Mr. E. G. Rife, Chicago, Milwaukee & St. Paul, making one trip, and getting $3.98 for it. Opposite that "Brakeman used in emergency." Now do you think there is any question but that Mr. Rife, a brakeman used in an emergency and earning $3.98 as a fireman, is not a proper person to include as a fireman who earned less than $100 a month?

Mr. Lauck: Well, an exceptional instance of that kind—there are not 13,000 instances of that kind, are there?

Mr. Sheean: Let us take one of them. I do not know what you call it. Even if you thought we had too many of them, would it not have been better to get at the cases in which you thought we had not, upon the return, authority for excluding them? Right below that, take the case of a roundhouse man, emergency, making one trip, $3.72.

Mr. Lauck: You included him in your sheet 1, did you not?

Mr. Sheean: He drew $3.72 as a fireman, and we showed the detail, and then we showed why we excluded him in getting at the earnings of firemen in the second one. Do you think it is proper to take Mr. W. M. Lovell, making one trip as a fireman, who was a roundhouse man, used in an emergency to fire one trip, as being a fireman earning less than $75 a month?

Mr. Lauck: If you want to get a report showing as to the firemen, as to what the firemen as a rule made per month, I say no, it should not be done.

Mr. Sheean: What were we trying to get here?

Mr. Lauck: You were trying to give here a representation of the operating conditions, and the different relative proportions of men earning each specified amount per month, not of men who are available for duty all the month, or the men who are working full time. You do not mean to say that 90 per cent of the firemen make more than $75 per month on these railroads?

Mr. Sheean: Who are available for duty, yes.

Mr. Lauck: You mean working full time?

Mr. Sheean: No, available for duty during the month, working ten days or twenty days, who are available for duty during the entire month, but who may have worked only twenty days.

Mr. Lauck: I do not get your idea. I did not understand that you made that claim, that there were 90 per cent who were regularly employed, who earned more than $75 a month.

Mr. Sheean: And who were available for duty?

Mr. Stone: Including extra men and everybody else who were available for duty?

Mr. Sheean: I do not understand that extra men are available.

Mr. Stone: Why not? You have a list of fifteen or twenty men on the board, who are subject to call whenever they need men.

Mr. Sheean: They may be or may not be. It does not include the extra men. An extra man is a man looking for employment, getting it if it is there.

Mr. Stone: No, he has got employment, but the probability is he has not got as much employment as he would like to have. He cannot sell his time to anybody else. He has sold it to this particular company.

Mr. Sheean: I do not understand that he has sold his time to the company. Wherever he has, and has gotten to the place where they take his time, and he is beyond the stage of an extra man, and he becomes a regular man, it is the claim of this exhibit that 90 per cent of the regular firemen did draw over $75 a month, and it is there for them to draw if they are available.

Mr. Stone: If a man has worked four or five or six years, and got up to a regular assigned run.

Mr. Sheean: Not a regular assigned run, no.

Mr. Lauck: Then you eliminate one-fifth of the persons who classify as firemen. In order to make that deduction, you eliminate 10,000 men, in order to make that statement.

Mr. Sheean: No. Let me ask you this: Do you think it is proper to take the case, we will say, of a brakeman used in an emergency? Or, here is an engine watchman used in an emergency. Do you think it is proper that such men should be eliminated? We show here the particular men who were eliminated. Let us take any one of the roads, as to these firemen. I am reading from page 1848—

Mr. Lauck: My criticism there, would be this, in general, that if your statement as set forth in the exhibit relative to the firemen or engineers either, is true, it requires the elimination of one-third of the entire operating force to make that statement possible. That is, they may be brakemen, firemen or watchmen, or whatever they may be. You take 10,000 men who are employed as firemen, and eliminate them in order to enable 20,000 men to make $75 a month.

Mr. Stone: Mr. Lauck, a man on the extra board is employed and is subject to call, and if they do not find him when they call him, he is disciplined.

Mr. Lauck: Yes. He is one of the 10,000.

The Chairman: Right at that point, Mr. Stone, I should like to ask you a question.

Mr. Stone: Certainly.

The Chairman: Suppose the kind of a man you describe is employed by the railroad. Does he have to remain so that he may be ready to answer in the event that he is called?

Mr. Stone: Yes, and if they do not find him, he is disciplined.

The Chairman: Is he required at all times to advise the railroad, by telephone, or otherwise, as to where they can find him?

Mr. Stone: If he goes away, where they cannot find him at his regular boarding house, he will have to notify them where he is going, and he cannot leave town without permission of the foreman, or his immediate supervising officer. A man on the extra board is liable to be called at any time, and he must be where he can be found.

The Chairman: Suppose he secured employment at $1.00 a day, or at $5.00 a day, at some other vocation?

Mr. Stone: He would not be allowed to do it.

Mr. Sheean: What schedule prohibits that?

Mr. Stone: What schedule?

Mr. Sheean: Yes, or what practice prohibits that?

Mr. Stone: It is an ironclad rule of the company that you cannot sell your time to anybody else.

Mr. Sheean: In these two tables, Mr. Lauck, there are certain men on the tabulation who have been omitted in one and included in the other.

Mr. Lauck: Yes, 13,000.

Mr. Sheean: Now, instead of criticising the ones we have omitted, in detail, you have gone and included them all, completely. You will observe from the exhibit that we furnished the names of all the men that were included, in each case?

Mr. Lauck: I have not gone through this in detail, but my idea was just simply taking the statement that they were earning less than $75 or $100, which is undoubtedly the fact, whoever they may be, extra men, special men, or whatever kind of men they are.

Mr. Sheean: Let us just take one case. Here is the Burlington, showing a list of the ones omitted. Mr. E. Feyereison, earning $9.63, employed on the 27th, and left on the 31st. Do you think that notation is sufficient excuse for not showing Mr. Feyereison as a man working the entire month, and who was not able to earn more than $75? He was employed on the 27th, and left on the 31st. Should he be counted or not counted?

Mr. Lauck: If you are counting the men who earned less than $75 a month, he should be counted, of course.

The Chairman: I want to ask one more question on that point. I want to get it straight in my own mind. Mr. Stone, I think I will ask you. Suppose a fireman is employed, receiving, say $3.75 a day. He is on this extra board, or whatever you call it, subject to the call of the railroad. Now, suppose during his vacation, or the time he is not at regular work, he has secured some employment at $5.00 a day, and he is ready to go to work in the morning at this work which pays him $5.00 a day during the interim. In the meantime, he is called by the railroad. Now, if he goes to the superintendent and reports the fact that he has this job, and would like to work at it on that day at $5.00 a day, would he be excused, and permitted to do that work?

Mr. Stone: I will simply state what, in my opinion, would happen. They would simply say, "Well, you are either going to work for the railroad or you are going to work for this other man. You cannot work for both. You will have to make your choice, which you will take?"

Mr. Byram: Would not that depend on whether there were more extra men available?

Mr. Stone: I do not know of a single case—and I am fairly familiar with conditions—where men on the extra board are allowed to take up employment with another employer except the company they work for, while they are on the extra board.

The Chairman: My purpose in asking the question was to see the extent to which such a man was obligated to the railroad in respect to the service required.

Mr. Stone: The railroads will require his services whenever they call on him, and he must be ready to respond, or he is at once taken off the board and discharged, unless he has some mighty good excuse, and in times of stress, that excuse is a doctor's certificate.

The Chairman: Suppose there were other men who could take his place and go to work?

Mr. Stone: If he is first out, he is called, and he must respond, unless he has sickness in his family, or is sick himself, he has got to go.

Mr. Byram: Are they not allowed to lay off unless they are sick?

Mr. Stone: If they have plenty of men, sometimes, yes.

Mr. Byram: That is the condition that the Chairman describes.

Mr. Stone: But a man must be ready to go out on the road whenever he is needed, and every man who has worked during time of stress knows that that is true, that at such times every man works up to his limit.

Another thing, Mr. Chairman, there is no guaranty of a man on the extra board being paid a daily wage. He is not paid anything for the time he is waiting. He is paid only when he actually goes out and performs service. He may be first out, and yet have to wait two or three days before he is called, and during that time he receives no pay.

The Chairman: I understand that. I beg Mr. Sheean's pardon for interrupting his examination. I wanted to understand about this. We will now take a recess, until 2:30 o'clock.

(Whereupon, at 12:30 o'clock P. M., a recess was taken until 2:30 o'clock P. M.)

AFTER RECESS.

W. JETT LAUCK was recalled as a witness, and having been previously sworn, testified as follows:

Mr. Sheean: Mr. Lauck, the only draft that you have made here is as to sheet No. 1 of Exhibit 29, in which all men who at any time during the month fired an engine or acted as engineer on an engine, are included.

Mr. Lauck: Yes, sir.

Mr. Sheean: Now, I note that on our Exhibit 29, on sheet No. 2—sheet No. 1 included men such as the men we referred to this morning, a brakeman used in an emergency for a single trip, or a roundhouse man used for a single trip, while sheet No. 2, of that Exhibit 29 excluded men of that class, but included all extra men, regardless of their earnings. Did you make any graphic chart showing what the result was if you used all the extra men and excluded only those who were excluded on sheet No. 2?

Mr. Lauck: I did not make that, because sheet No. 4 is the only one in which you show the number in each group. That is the part you show on that.

Mr. Sheean: No, sheet No. 1 shows all men.

Mr. Lauck: All the men, yes.

Mr. Sheean: Sheet No. 2 takes out men such as the brakeman used in emergency, the man employed on the 27th, and who left on the 31st.

Mr. Lauck: But it does not show it, according to my recollection, by groups. It shows an average.

Mr. Sheean: No, it is in precisely the same form as No. 1.

Mr. Lauck: As No. 1, but not as No. 4. You see, I base these percentages on sheet 4, because you have classified by groups there.

Mr. Sheean: Yes, but you could have applied sheet No. 4 to sheet No. 2, in the same way that you applied sheet No. 4 to sheet No. 1, could you not?

Mr. Lauck: Oh, I could have done that, yes, sir.

Mr. Sheean: And sheet No. 2 is made up to show all of the extra men, irrespective of how long they worked?

Mr. Lauck: How many men are there on that sheet?

Mr. Sheean: 51,596, including hostlers. Total firemen, 24,279; total engineers, 25,043.

Mr. Lauck: That would be 3,000 less firemen and 7,000 less engineers than are shown on sheet 1.

Mr. Sheean: Yes, on sheet No. 1 you count as a fireman on that sheet, Mr. E. G. Rife—turning to this Exhibit No. 28, in which we give you the detail of men who are excluded—you count as a fireman Mr. E. G. Rife, a brakeman, who, on one trip was paid $3.98 as a fireman, for one trip, although he was a brakeman. You count him as a fireman in your compilation?

Mr. Lauck: I count him as part of the operating force, as set there in the exhibit.

Mr. Sheean: And you count his entire earnings through the month as being $3.98?

Mr. Lauck: Yes.

Mr. Sheean: And so the same men that were referred to on this single page—take Mr. Grimes, who appeared on the same page, employed October 23, and earning $19.32. You count him as a fireman working in the month of October?

Mr. Lauck: Yes, that is true. I took the operating force as 64,000, or as 28,000 engineers and 32,000 firemen.

Mr. Sheean: On this same page, taking the Chicago, Milwaukee & St. Paul, you show three men, one after the other, Mr. Lovell, Mr. Bridewell and Mr. Theriault, roundhouse men, making one trip each as an emergency fireman. In these locomotive engineers and firemen you count this roundhouseman as a fireman?

Mr. Lauck: I count him as one of the operating force whom you designate as firemen in your sheet No. 1. That is, I have taken the figures just as they appear on sheet No. 1, where you say the operating force is 28,446 engineers and 32,000 firemen. Now if I understand the interpretation of the exhibit, would there be 10,000 or 12,000 men of that kind? Do you count that in the busiest month of the year there would be 12,000 special men out of an operating force of 64,000?

Mr. Sheean: I have not followed the totals, Mr. Lauck.

Mr. Lauck: Taking the total for sheet No. 2, if I understand, the interpretation is that sheet No. 2 shows 51,000 men and sheet No. 4 shows 64,000 men. You say, in sheet No. 2, that you have excluded from sheet No. 1 special cases where they were of this kind, and I was wondering whether the operating forces of the railroad are made up of one-fifth, one man out of five, being special cases, of roundhousemen and brakemen that were temporarily firing or running an engine. It seems to me—

Mr. Sheean: No, because there was included also in that the first one on this page, a man earning $9.63 who was employed on the 27th and left on the 31st.

Mr. Lauck: It would include employees.

Mr. Sheean: He is also excluded.

Mr. Lauck: Yes.

Mr. Sheean: And it would include all of the employes who were available for duty the entire month, who earned less than $100 as engineers and less than $75 as firemen.

Mr. Lauck: That was my understanding, that it would include men who could have worked if the opportunity had been present to work; that is, extra men, and some men of course did not want to work, some men were disabled, or something of that kind.

Mr. Sheean: Sheet No. 2 included all of that, Mr. Lauck, because you will note on sheet No. 2 also, all extra men, regardless of their earnings, are treated in this exhibit as available for duty the entire month, but you made no application of sheet 4 to sheet No. 2?

Mr. Lauck: No, sir.

Mr. Burgess: Is that exhibit 29?

Mr. Sheean: Exhibit 29, sheet No. 2.

Mr. Lauck: You then assumed that you had 7,000 extra engineers and 3,000 extra firemen.

Mr. Sheean: No, I think not, Mr. Lauck. You say on sheet No. 3 where you exclude the extra men, and also exclude those not available for duty, the total number of engineers was 24,639. On sheet No. 2, where you include extra men, there were 25,043, which shows that there were something over 400—

Mr. Stone: 28,446 engineers, you show, Mr. Lauck.

Mr. Lauck: That was the point that I could not understand. Then there must have been 4,000 men who were a part of the operating force, who were special men pressed into service and who were not working, or for some other cause did not earn $100 as engineers, or $75 as firemen, during the month of October, because there is a hiatus, a gap there of 4,000 men between sheet 2 and sheet 1.

Mr. Sheean: Yes. That is, about 4,000 men of the engineers who, during the month of October, were not available for duty, during the entire month.

Mr. Lauck: In other words, they did not work regularly during the month?

Mr. Sheean: Yes.

Mr. Lauck: Well, that is all that I understood about it, that they did not work regularly, but, of course, that is a condition of operation. There is always a certain proportion of the men who do not work regularly.

Mr. Stone: Do you understand, Mr. Sheean, that that is an abnormal number, or is that about the general number each month that do not work?

Mr. Sheean: I would not be able to say as to that, Mr. Stone. All that I was trying to get at was whether or not you count as the two men, Mr. Feyereison, employed on the 27th, and left on the 31st, and the man whose place he took, count them as two men?

Mr. Lauck: Yes, I would count them as two men if they appeared on the payroll during the month of October, if you counted them on sheet 1. That is, my idea about the thing was that 28,000 engineers and 32,000 firemen were the normal number of operating enginemen on the roads in question during the month of October, which was a very busy month. Now, of those numbers, a certain number earn more than $100 a month, of the engineers, and a certain number earn more than $75 per month, of the firemen. It was about 35 per cent of the firemen and 13 per cent, if I recall correctly, of the engineers, that earned less than these amounts. Now, they were normally a part of the operating force, and are shown by you to have earned less than $100 a month; that is what the proportion shows. Whether they had an opportunity to earn that amount, or whether they were laying off on account of sickness, or whether they were special men working two or three days, I have not considered at all. I have simply taken the numbers.

Mr. Sheean: And in counting the number you have counted every roundhouse man who fired an engine at any time? For instance, I notice one man here, on the Burlington, Mr. H. C. Carson, drew 99 cents in that month, for firing.

Mr. Stone: How could he when there is a minimum day?

Mr. Sheean: Well, this is an emergency man, I assume, Mr. Stone. We could run down the detail of that. That was some yardman or roundhouse man fired for four hours in the yard.

Mr. Stone: He is entitled to a minimum day if he went out and fired four minutes.

Mr. Sheean: Well, apparently then, this has not been called to your attention. They only paid him 99 cents as fireman, and paid him the rest of his monthly wage at whatever else he was doing at that time.

Mr. Stone: They probably deducted the rest of it for the Burlington Relief; that is the reason he got 99 cents.

Mr. Shea: Was that man included in the first column of Sheet No. 1, Exhibit 29?

Mr. Sheean: Yes.

Mr. Shea: All of those men?

Mr. Sheean: All of those men.

Mr. Shea: And he took your figures to compile his table?

Mr. Sheean: Yes, he took sheet No. 1, showing all of these men, as explained by Mr. Keefe. It gave every man on the payroll who drew any money in any amount as an engineer or fireman. Then, sheet No. 2 of this was shown to exclude the men of this sort, but to include all the extra men, regardless of their earnings during the month.

Then sheet No. 3 was shown to include also the extra men who made less than this amount.

Mr. Burgess: So that I may follow you. On sheet No. 1, there is a total shown of 28,446 engineers and 32,321 firemen, and in the last three columns of sheet No. 1 you show "Average earnings per day," and "Average earnings per man."

Mr. Sheean: Yes.

Mr. Burgess: Now to obtain those figures under those three headings did you use this total number 24,446?

Mr. Sheean: Yes.

Mr. Burgess: And the same is true of firemen 32,000?

Mr. Sheean: Yes. So that they counted this 99-cent man is getting that which Mr. Keefe explained on the stand as not being a correct basis, in his judgment, but even though you counted the man who only earned 99 cents as working an entire month, it would nevertheless bring the average up to this amount here, counting one man through the entire month. Then explaining why he thought sheet 2 or 3 would more nearly show their true earnings, sheet No. 2 excluded the men below $100 and above $75 who upon inquiry were found to have been not available for duty, and which were—

Mr. Lauck: Mr. Sheean, may I ask just what that means, "not available for duty?" There is 10,000 men not available for duty.

Mr. Sheean: Yes. "Men not available for duty" is shown in full, Mr. Lauck, on exhibit 28. Do you want the engineers or firemen? This shows exactly who were excluded.

Mr. Lauck: It seems such a remarkable thing to me, that one man out of every five should not be available for duty in the most active month in the year, and of the last four or five years.

Mr. Sheean: Page 1,848 of this exhibit, in which we show in detail the names of the men, and just why they were excluded. There were excluded in that, Mr. E. Feyereison, Chicago, Burlington & Quincy, two days, paid $9.63; reason excluded, employed on 27th and left on 31st.

The second man is H. W. Haar. He earned $37.80; excluded because leave of absence 10 to 31 inclusive.

The third man is F. J. Lestina, who drew $31.81, excluded because he was employed on the 22nd; and so on. In this exhibit 28, the name of each man excluded and why excluded is shown.

Mr. Stone: Mr. Sheean, do you think there are 12,000 names there like that?

Mr. Sheean: Why I assume we would have heard of it if it did not check out, Mr. Stone. We furnished you with this exhibit, the names on the payroll, and the name of every man excluded, and why excluded.

Mr. Lauck: I thought you only got explanations from the men earning less than $50 a month.

Mr. Sheean: No, the explanation, Mr. Lauck, of every engineer who earned less than $100; of every fireman who earned less than $70 in road service; and the hostlers, less than $65. We asked for no explanation if the amounts were above that, but gave them credit, or assumed—

Mr. Lauck: I thought you considered a man available for duty if he made $100 a month. Then if he made less than $50 you asked the reason why he earned less than $50.

Mr. Sheean: Just to refresh your recollection, Mr. Lauck.

On sheet No. 2, "Inquiry as to whether men were or were not available for duty during the entire month was made only when Engineers and Motormen received wages less than $100.00; Firemen in Road Service and Motormen-Helpers, less than $70.00: Firemen in Yard Service and Hostlers, less than $65.00. Therefore, all Engineers and Motormen whose earnings were $100.00 or more; all Firemen in Road Service and Motormen-Helpers whose earnings were $70.00 or more; and all Firemen in Yard Service and Hostlers whose earnings were $65.00 or more, and also all extra men, regardless of their earnings, are treated in this Exhibit as 'Available for duty the entire month.' "

That is on sheet 2. You did not, I think you said, apply sheet 4 to sheet 2 in reaching averages.

Mr. Lauck: No, sir, if you do that it would make a difference. You have 12,000 men there, which seems to me a remarkable thing, I cannot understand, but suppose you would do that, you would add 20 per cent to all of these groupings and then have the correct grouping.

Mr. Sheean: That is, your last tabulated sheet here, the last part of your exhibit, would then show that except nine per cent, all of the firemen drew over $75 a month.

Mr. Lauck: No, I could not accept that, because the statement shows that 35 per cent of the firemen actually drew less than that much per month, less than $75. But if you want to confine it to men, who, it is claimed on sheet No. 2, were available for duty, excluding those certain classes, you would then increase the groupings here above $75, 20 per cent. In other words, take the last sheet for firemen, say any group, $66 to $75 would be 8.55 per cent.

Mr. Sheean: Then the part below that, all told, would not bring that—well, it would bring it up to a little more than 9 per cent, all told.

Mr. Lauck: If you are going to eliminate 12,000 men from your operating forces.

Mr. Sheean: No, not eliminate them from the operating forces, Mr. Lauck.

Mr. Lauck: They were working during the month.

Mr. Sheean: Well, was the man working during the month who was employed on the 27th and left on the 31st?

Mr. Lauck: Most assuredly, I should say. That is, you would assume, it seems to me, that you could operate a railroad with one-fifth less men than you reported during the month of October. That is, there were 12,000 men there who did something during the month, received some money.

Mr. Sheean: Well, then, Mr. Lauck, if a new man took a job in any mercantile establishment here, a clerk in a cigar store, changed every day, you would figure there were 30 men running that cigar stand during the month.

Mr. Lauck: If one were discharged every day and one employed, of course that would not be normal.

Mr. Sheean: And in the monthly earnings of the man at that cigar stand—his monthly earnings, you would figure would be what he drew one day. That is, the salary or wages paid the man running the cigar store would be what each one of those men drew for being there one day?

Mr. Lauck: No, I would say, suppose there were two men who worked regularly, and there was one other place; the conditions of employment were such that thirty men filled that place in the month. You would then have thirty-one men running that cigar store in a month. The normal earnings would be that of one man. Now, if it is a condition of railroading that one man out of every five only works a little bit during the month, or, assuming that, aggregating all the days these twelve men work, dividing by the number of men to find what was the average per man, you could see to what extent you could reduce your operating force by having a man work regularly. But there were 12,000 men who worked some and were part of the operating force.

Mr. Sheean: Then, to conform to that view, why is it on sheet No. 2, in which all extra men, regardless of their earnings, are treated in this exhibit as available for duty during the entire month, why is not that situation met by sheet No. 2? First we have Mr. Lauck on sheet No. 1, in order to make it clear, we have all of these men; on sheet No. 2 we include all of the extra men; excluding only the men whose names are shown here.

Mr. Lauck: And there are 12,000 men on the railroads who come and go work a day or two during the month.

Mr. Sheean: No, not come and go a day or two at a time, but a roundhouseman who makes a single trip.

Mr. Lauck: Well, there are 12,000 temporary workmen, 12,000 temporary engineers and firemen, necessary to make up the operating force during the month. One out of every five engineers and firemen. That is what I cannot understand about the situation.

Mr. Stone: Mr. Sheean; may I ask you a question, please? Do I understand you take the position that we cannot take sheet No. 1 and check it against sheet No. 4, without also using sheet No. 2?

Mr. Sheean: Not at all.

Mr. Stone: Each sheet is separate and distinct by itself, is it not?

Mr. Sheean: Sheet No. 1, Mr. Keefe, explained at the time, was what Mr. Carter claimed was the only way of getting at the average, and was prepared on Mr. Carter's theory, which he said he thought unsound. I was wondering why, we having adopted that method of putting them all on every possible basis, they did not chart Nos. 2 and 3.

Mr. Stone: Now that we have put in in rebuttal our exhibits against sheets 4 and 1, there would not be any objection whatever to your putting in in sur-rebuttal sheets 2 and 3, on the exhibit, would there?

Mr. Sheean: It does not seem to me, Mr. Stone, that that would be sur-rebuttal.

Mr. Nagel: Mr. Lauck, is it not all a question of what you want to prove, and what the sheet is competent to prove?

Mr. Lauck: Yes, I think so.

Mr. Nagel: You started out to show a condition, did you not?

Mr. Lauck: Yes.

Mr. Nagel: So that it would be perfectly fair to include all the firemen who worked regularly, and all the firemen who worked irregularly; but if a man did firing, and did other work at the same time, or in the same month, it would be proper to show what he did in both capacities to give the true picture.

Mr. Lauck: Yes, but these men— Excuse me, sir.

Mr. Nagel: Now, follow that up.

Mr. Lauck: I was going to say that these men have been definitely fixed, either in the firemen or in the engineer class. The point of disagreement between Mr. Sheean and myself is that I take the total operating force, and compare groups of men with it, as you can readily see, and the larger the operating force is, the smaller the percentage shows for certain groups, the men earning certain amounts. That is the whole operating force, everybody who worked as an engineer, we will say, is 24,639 men. Now, I compare with that what Mr. Keefe shows on sheet 4, as the number of men earning between $60 and $70, say, in the month of October. That would show that this class was relatively so important, as compared with the total number of engineers at work. Mr. Sheean claims that I should not have taken the total number, but that I should have taken the number that were available for duty or working, that were not temporarily working, or were not working below normal.

Mr. Nagel: We appreciate that. And, to get the compensation of the firemen, it is perfectly fair to take all the firemen, no matter how much or how little they may have done during the month of October?

Mr. Lauck: Yes.

Mr. Nagel: But if you took men from another service who did a little firing, it would not be fair to include only the compensation received for that firing, but it would be proper also to show what they received in another capacity, would it not?

Mr. Lauck: It would, yes, if we have the data to do that.

Mr. Nagel: But if you can not do that, because you have not the data of the compensation in another capacity, would it be safe to rely upon the compensation received for firing alone, when we know that they did other work?

Mr. Lauck: I think not. So far as that condition prevailed, we should not do that.

Mr. Nagel: Then, tested either by the picture of the condition or by the statement of the wages received, it is unsafe to include those men who did incidental firing when they were, in the same month, engaged in another service and received compensation for it?

Mr. Lauck: Yes.

Mr. Nagel: Now, is it not true that precisely in the very busy period, such as the month of October, 1913, would be the time when men not ordinarily available are called upon to help out?

Mr. Lauck: That would be normally the time, yes, but I cannot conceive that twelve thousand out of sixty thousand were called upon in that way.

Mr. Nagel: I know nothing about the figures.

Mr. Lauck: That would be one out of five.

Mr. Burgess: Mr. Lauck, it is very difficult to obtain the information as to whether these men that were working in other service and were temporarily used for a day or two firing, were all classed under a heading "Not available for duty?"

Mr. Lauck: Well, we didn't have the information.

Mr. Burgess: And neither do the sheets of Exhibit 29, either 1, 2 or 3, indicate that fact?

Mr. Lauck: No, sir. Nor the detailed data does not indicate it.

Mr. Burgess: And would you not have to stretch your imagination very largely to find a condition where 10,000 or 12,000 firemen and engineers were not available at a busy period?

Mr. Lauck: It seems inconceivable to me.

Mr. Burgess: And for that reason they get men in other classes of service?

Mr. Lauck: Yes, sir.

Mr. Sheean: Is it not the usual and ordinary practice in operating a railroad, to use all your extra men, firemen and engineers, before calling on anybody in the shops, or brakemen?

Mr. Lauck: I should think so, yes. That is why I thought that you had adopted an arbitrary designation for men available for duty because of the wide difference in the figures, of 12,000 men.

Mr. Sheean: Well, Mr. Lauck, the name of every man that was used, and the name of every man that was excluded, was shown here in Exhibit 28, wasn't it?

Mr. Lauck: I think so, yes, sir. I have not looked at it.

Mr. Sheean: Well, now, have you thought that the 12,000 men who were excluded, if it be 12,000 men, were improperly excluded?

Mr. Lauck: I don't think they were improperly excluded. I thought this, that they were earning less than $100, or less than $75 a month, and, therefore, in setting forth the relative proportions of the total operating force that were earning certain designated amounts, I classed them below the amounts at which they were excluded in your exhibit. That is, I did not enter into the question as to whether they were properly or improperly excluded.

Mr. Sheean: Well, I thought you said it seemed inconceivable to you?

Mr. Lauck: It does. I do not understand it.

Mr. Sheean: Well, whether that impression of yours was correct or incorrect, Mr. Lauck, there was furnished here and filed, the names of all the men who were thus excluded in Exhibit 28?

Mr. Lauck: I have no doubt but what that is all right. I have not had the time to look into that very deeply.

Mr. Sheean: Now, Mr. Lauck, you say the information was not available as to what they earned in other capacities. Do you think, in determining the wages of the engineers and firemen, taking, for instance, this same C. B. & Q. Railway, Mr. L. L. Larson, who earned $7.51 as a fireman, working two days only as fireman, the balance of the month as a machinist's helper, at which he earned $75.26, do you think it really would throw any light on the wage as a fireman, to show in connection with this, what his earnings as a machinist were during that month?

Mr. Lauck: Not his earnings as a fireman, but I think if he had other earnings it would be more fair to you if, in a statement of this kind, it would be included. That would be my answer to that question.

Mr. Sheean: And wouldn't it give a better light upon the real earnings of the fireman and engineer to exclude the man whose earnings as a fireman was merely incidental, while his regular employment was something else?

Mr. Lauck: I think so, if we can do that.

Mr. Sheean: Well, isn't that in substance what we did here?

The Chairman: As I understand, Mr. Sheean, you insist that all of those 12,000 men who were excluded and not taken into consideration in this calculation, were men who had earned some wages at firing, but the principal wages they earned were earned in other capacities, is that it?

Mr. Sheean: That would not cover it all, your Honor, because, as I say, this first one on the page was employed on the

27th, and left on the 31st, earning $9.63. Now, in arriving at the monthly wage of people in that class we did not count this man who was employed on the 27th and left on the 31st. But, as to the particular reason for excluding them, the names and just the ones who were excluded in each one of these sheets is shown in Exhibit 28.

Mr. Stone: But, it is a fact, is it not, Mr. Sheean, that it was necessary to employ that man and have him work four days in order to keep the transportation of the country moving at that time. You do not make that claim, do you, that it was not necessary to employ these men?

Mr. Sheean: Not at all, Mr. Stone. But if he was employed on that day, because the man who held the job went fishing, I do not think that that divides the monthly wages in two, in the middle, and shows that the man who was earning $100 a month was reduced to a $50 a month man, because he went fishing one day, and the man out of a job took his place.

Mr. Stone: Isn't it also a fact that the man had to do something else besides what is shown there, in order to live? He could not have gone fishing or gone out and taken a piece of lead pipe and held somebody up in order to get a living; if he made six or seven dollars a month, that month he did not make enough to live.

Mr. Sheean: Well, as it is shown here, Mr. Stone, only 95 per cent of your men earn $100 a month or more. Now, I am not prepared to answer your question in the form that it is put, but 95 per cent of them are shown to get $100 a month or more.

Mr. Lauck: 95 per cent of the engineers and firemen?

Mr. Sheean: The engineers.

Mr. Lauck: Well, then, 80 per cent of the operating forces of the railroads, engineers and firemen, are only normal; that is, if one-fifth are made up of men who work in other occupations, one-fifth is made up of special men that come and go, then only four out of five would be normal engineers and firemen.

Mr. Stone: Where do you get the 95 per cent over $100, Mr. Sheean?

Mr. Sheean: On this last page; $100 to $108, 4.54 per cent.

Mr. Stone: But you lose sight of the fact that there were 13.4 per cent that earn less than $100.

Mr. Sheean: Where, on this last sheet?

Mr. Stone: On the diagram.

Mr. Sheean: Yes, where you count the man who worked one day, and was retired on the first day.

Mr. Stone: Oh, I understand the average isn't high enough?

Mr. Lauck: Well, then, only one engineer out of five, is that the normal condition? For each four engineers there is one engineer taken off a trip?

Mr. Byram: That would be quite correct, Mr. Lauck, because the fireman carries the load of fluctuation. The engineer does not, as a rule. The engineer when he is not at work as engineer, drops back as a fireman. The fireman carries the burden of fluctuation in business or employment, if you please, for both classes of service, generally speaking, because the fireman is promoted to be an engineer.

Mr. Lauck: Then the shop man carries the burden for the fireman?

Mr. Byram: To the extent that he works, but he does not have the same seniority that a fireman has.

Mr. Lauck: This would indicate that there is only 80 per cent normality in the operating force, in the month of October. That is, of all the people who were called engineers and firemen, only 80 per cent of them are really engineers and firemen, because there is one out of every five who has gone fishing, or is a shop man, who is firing up the engine, or something of that kind.

Mr. Sheean: Then you count only as engineer or fireman a man who is available for duty thirty days a month?

Mr. Lauck: I call an engineer or fireman one whom you call an engineer and fireman.

Mr. Sheean: Well, speaking of the 20 per cent, where this excluded men who were not available during the month, you say they lose standing as engineers during that time?

Mr. Lauck: No, I say that there is a great range of fluctuation there which would seem to be indicated by the difference between sheet 2 and sheet 1.

Mr. Sheean: Now, for instance, page 1,720 of this Exhibit 28, one of the men excluded here on the Milwaukee Road was Mr. J. T. Butler, who only earned $17.68 during that month. We excluded him. The reason as shown here, is that he earned $232.96 in the construction department. Now, it would hardly be fair to put that in the transportation department; we are showing here what their normal earnings are. In the transportation service he only earned $17.68. But the detail of this exhibit shows that he earned $232.96 in the construction department.

Mr. Lauck: Do you mean as an engineer in the construction department?

Mr. Sheean: I presume so.

Mr. Lauck: I should think that should be shown in this department.

Mr. Byram: Wouldn't that account, Mr. Sheean, for some of the discrepancy, the fact that Mr. Lauck is figuring on names on the payroll, and the men might appear several times on the payroll and be counted several times; that is, be counted as a fireman and be counted as an engineer?

Mr. Sheean: Why I don't think that so much, Mr. Byram, as it is the fact that he would count in his monthly average that he arrives at—

Mr. Lauck: I did not arrive at any monthly average, Mr. Sheean.

Mr. Sheean: All right, then. In your showing of men who earned less than $100 a month, as a part of your 34 per cent here, you show Mr. Butler. He would be one of those included here, because he earned $17.68, when, as a matter of fact, in that month, he drew in his pay check $250.64.

Mr. Lauck: I did not know that you excluded these men.

Mr. Sheean: But we did file with you here, did we not, the very names, as to every man who was excluded, taking it as the basis of the pay?

Mr. Lauck: You filed also the number of operating engineers and firemen, which I assumed was correct, the number on sheet No. 1, which is the normal operating force, and really is the operating force for October, 1913, is it not?

Mr. Sheean: All of Exhibit No. 29 was a summary made from this pay roll, was it not?

Mr. Lauck: Exactly, yes.

Mr. Sheean: And sheet No. 1—it was explained just how that was made up. Then, as to sheet No. 2, it was explained by Mr. Keefe as to who had been excluded?

Mr. Lauck: Yes.

Mr. Sheean: And why excluded?

Mr. Lauck: Yes.

Mr. Sheean: The names of the men.

Mr. Lauck: You excluded them for a purpose, however. You excluded them from sheets 3 and 4 for a purpose. Now the contention is that the normal operating force of the railroad is not 64,000 men but 49,000 men. If that is the intention, to get a certain result, why all right, I have no objection, to that; but when we consider the relative earnings of all the men, we have got to consider what the operating force is. You exclude 14,000 men in order to get men available for duty according to your designation, and these men available for duty as engineers who earned over $100 a month, and all firemen over $60 a month.

Mr. Sheean: As to the numbers available, the engineers are shown. Just what difference is there on the engineers? Do you recall that?

Mr. Lauck: The average of engineers—total number 28,446. According to sheet 4, it is 24,639, a difference of almost 4,000, and a difference of almost 10,000 in the number of firemen, the difference between sheet 4 and sheet 1.

Mr. Sheean: That is, there were about 4,000 out of 28,000 engineers who did not work and were not available for duty during the entire month, and who were not available to such an extent that their wages dropped below $100?

Mr. Lauck: Yes. According to your classification, there was one man out of every 6, or 4,000 out of 28,000 who did not earn $100 a month. Now, the point in my mind is not why they did not earn $100 a month. I am not attempting to show that it is a normal condition that 13.48 per cent of the engineers striving to get work and being in service, could not earn $100 a month; but as a matter of fact, based on the operations of October, that proportion is for some reason set forth in your exhibit as being laid off, or who for some other reason did not earn $100 a month, which they might have done had they worked regularly, or had they had an opportunity to work regularly.

Mr. Burgess: Mr. Sheean; just let me ask you one question. Do we understand that you hold that an engineer and fireman called to pull a construction train and who do pull it, are not an engineer and fireman?

Mr. Sheean: Not at all, Mr. Burgess; but in construction work the accounts are of course kept separately. That is not transportation service reported to the Interstate Commerce Commission, and I considered that in this particular work it would hardly be considered a fair index as to what one's opportunities might be. The Milwaukee here in this service, construction department, doing this work, I assume was not in transportation service at that time.

Mr. Burgess: But, in ordinary railway practice, a man who was due to go out on that engine was called in the same way as if he was called to go on any other train, and the engineer is an engineer and the fireman is a fireman.

Mr. Sheean: I have not the slightest objection to putting them in here. In our average shown at page 1720, we excluded these four men. Mr. Butler drew $250.64. Mr. Carson drew $214.14. Mr. Empting drew $205 in that month. Each of these men made a couple of trips in road service, too, and in trying to get their road work we thought it fairer, or the Milwaukee thought it fairer, in a statement of what their earnings in road service were, to eliminate those men as not being fairly representative of what the opportunities for them in road work are.

Mr. Burgess: Do not misunderstand me. There was no thought or desire to have you change it. But, many times an engineer is called to run an engine in construction service, and he pulls material for maintenance of way that produces revenue, and I was wondering just where you would find the line to designate who was an engineer and who was not.

Mr. Sheean: The notation here was "In construction department," so that I presume this was work being constructed—new work.

Mr. Park: For one or two days' work under those circumstances, probably the transportation department would make a bill against the construction department. I should judge the men were assigned to construction work, under the division engineer or whoever was building the new line or the cut-off, and in that way this man would be entirely separated from the regular transportation service.

Mr. Burgess: But, Mr. Park, as far as the engineer and fireman were concerned, they would not know anything about that. They were an engineer and fireman in the service of the company, were they not?

Mr. Park: They might be building another railroad for another company.

Mr. Burgess: True.

Mr. Park: These men would not be employed in the ordinary transportation service.

Mr. Sheean: This is the Puget Sound line, the particular one here, and in the construction department; so that I have no doubt this particular instance was the building of a new line of railroads. They evidently thought it would hardly be fair to claim that the Puget Sound engineers in road service had the opportunity of earning this amount. They show, however, just what the man got, but he is among the men that we excluded, because in the transportation service these two men got only $5.50 and $14.80. The rest of that month they drew their pay from the construction department. You see, Mr. Burgess, here is the situation. Let me explain it a little more in detail. We got the October payroll. Now, we find on the October payroll that Mr. J. C. Butler drew $17.68. In accordance with form 2, a letter goes out inquiring why is it that Mr. Butler only drew $17.68 in the month of October? The answer comes back, because he earned $232.96 in the construction department. He is carried on the payroll of the Puget Sound Railroad for only $17.68. As this form shows whenever an engineer is shown on the payroll for less than $100, we send out an inquiry, was he available for duty, and why did he get less than $100; and in this particular case the answer comes back, "Because he was on the payroll of the construction department in that month and earned $232.96."

Mr. Burgess: That may be. Without criticising that at all, the fact remains that he was an engineer or was a fireman, whatever the case may be, in the employ of the company. He knows nothing about how they charge these accounts, and with all due respect, he cares less. He is called to go out, and he has got to respond, if he is properly called. For instance, Mr. Park might contract to build a certain line running anywhere, for the Illinois Central, and use his engineers and firemen. The engineers and firemen would know nothing in regard to the contract, and it would really not concern them at all, but still they would be engineers and firemen in the employ of the Illinois Central Railroad.

Mr. Sheean: Yes, the way in which this arises, of course, is under this construction. The payroll of the operating company carries the men on the payroll, and that is the explanation given there. Now, take the case just below on the same page, on the Chicago, Rock Island & Pacific: Engineers working entirely in through or irregular freight service: Mr. J. Maher, one day, $2.60. He is carried out entirely on this sheet 1 in the average of men who earned less than $100 a month. The notation opposite him is "A foreign line engineer used in an emergency." So what he earned on some other line during that month does not appear.

Mr. Burgess: Was that a detour?

Mr. Sheean: I do not know. That is the only notation. We thought that where he was a foreign line engineer, and just made a single run on the Rock Island and was paid $2.60 for it, it probably would not throw any light on the proposition of the Rock Island opportunities for earnings. But, Mr. Lauck, I do not want to take any more time. You did not take Exhibit 28 and attempt to analyze or to criticize in any way the exclusion of the men who are there shown to have been excluded.

Mr. Lauck: No, sir. The main idea that I had in addition to—of course I was interested in seeing what proportion of the the operating force got less than $100 as engineers and less than $75 as firemen, but I was not interested in showing under what conditions they got it. The main thing I was interested in was to show the small proportions of these men who were earning so much, and who have created such comment.

Mr. Sheean: And, in the end, who got less as engineer or as fireman.

Mr. Lauck: I did not get that.

Mr. Sheean: And who got less than $100 as engineers or who got less than $65 as firemen.

Mr. Lauck: I did not go into the details—

Mr. Sheean: You made no attempt to go into the details of their earnings?

Mr. Lauck: No, sir.

Mr. Stone: But you do know that it took that many engineers and firemen to keep the transportation moving that month?

Mr. Lauck: Yes, according to the statement of Exhibit 29 that was the total number classed as engineers or firemen.

Mr. Stone: In the reports of these railroads to the Interstate Commerce Commission, do they show the cost of the engineers and firemen in the construction or maintenance of way department separate and distinct?

Mr. Lauck: They show the cost in construction separate and distinct, and the maintenance of way department is carried as a part of the outlay for engineers and firemen, charged against revenue freight.

Mr. Sheean: Suppose you have 20 engineers each drawing $200 a month in the construction service. Would the cost of those twenty engineers in the construction service be deducted from the total cost for engineers for the year, in their report, or would they be shown in the total cost of engineers?

Mr. Lauck: They would be deducted.

Mr. Sheean: They would be deducted?

Mr. Lauck: In construction, yes, but not in maintenance of way. If it was a question of maintenance work, hauling material, ties or something of that kind, that would be included in the total cost of engineers, but if it was the building of a new line, it would be excluded.

Mr. Sheean: But very little of this construction work is building new line.

Mr. Lauck: The building of extensions, that would have to be charged to capital account.

Mr. Shea: I think, Mr. Stone, you ought to differentiate between construction work, that is, building new line, and what we term as work train service on the different roads.

Mr. Lauck: Yes.

Mr. Shea: Mr. Lauck, in reporting to the Interstate Commerce Commission the compensation of engineers in the regular train service, that would not be deducted, would it?

Mr. Lauck: No, sir.

Mr. Shea: But simply the compensation of engineers that may be running engines in new work?

Mr. Lauck: Addition to the line, extensions or branch lines —new lines. Of course their cost would be a part of the cost of constructing that line, and according to the rules of the

Interstate Commerce Commission should be charged to the cost of that road.

Mr. Stone: Is there anything further you want to say on this?

Mr. Lauck: No, sir, I believe that is all. If I may at this point, you recall, Mr. Byram, that yesterday you asked if operating expenses other than labor would not increase. I have worked that out from the exhibit on industrial depression, and I find that they do increase; that is, that the operating expenses other than labor do increase. The labor decrease was $4,478,000, and the operating expenses exclusive of labor increased $3,937,-000, for these western roads, indicating that the labor costs could be reduced more in accordance with traffic conditions than other operating expenses could be reduced.

Mr. Stone: Mr. Chairman, I would like to introduce Exhibit 76 "Hours of Service of Locomotive Engineers and Firemen Based on Exhibits Numbers 26 and 27, Western Conference Committee of Managers."

(The document so offered and identified was received in evidence and thereupon marked "Employes' Exhibit 76, March 9, 1915.")

Mr. Lauck: This exhibit, which is a classification of hours of service per day, is based upon the two large exhibits submitted by the managers' committee through Mr. Keefe, and consists of a classification of hours per day, which is shown in the latter part of the book. On pages 13 to 27 the detail is shown. It is summarized according to different classes of service, local or way freight, through or irregular freight service, entirely in yard or switching service. The total is on the first few pages of the exhibit. Only engineers and firemen were taken who were entirely in these classes of service. There were between 19,000 and 20,000 tabulated, and the relative proportion working each number of hours per day worked out.

Referring to page 2, it is shown that for local or way freight service, engineers and firemen working entirely in that service, for each 1,000 employed there were 121 worked less than ten hours per day and 879 therefore worked ten hours or more per day, and 536 out of the 1,000 showed an average of 12 hours or more.

Mr. Byram: If I may interrupt you, how do you get that many into a thousand? You say 121 worked less than ten hours. 879 worked ten hours or more, and 536 worked twelve hours or more.

Mr. Lauck: The dividing line is less than ten hours, and ten hours or more; so that 121 plus 879 would be 1,000. Then the 879 are further subdivided.

Mr. Byram: Oh, I see.

Mr. Lauck: So of the 879 who worked ten hours or more, 536 worked an average of 12 hours per day or more; 344 out of each 1,000 worked 13 hours or more; 171 out of each 1,000 worked 14 hours or more and 58 out of each 1,000 worked 15 hours or more.

Then, in the through or irregular freight service, as shown on page 3, 291 out of each 1,000 worked less than ten hours, while 709 worked 10 hours or more. Of these 709, 347 out of each 1,000 worked twelve hours or more; 208 out of each thousand worked 13 hours or more; 108 out of each 1,000 worked 14 hours or more, and 57 out of each 1,000 worked 15 hours or more.

Mr. Stone: Just a minute, before you leave that. I understand those are the compensated hours, are they?

Mr. Lauck: Yes, those are the average hours per day, which, as you understand, are the compensated hours shown in the exhibit.

Mr. Stone: Then, even this is not a true picture of the number of hours the man gives, because on a number of roads nothing is paid for preparatory time or for initial or final delay?

Mr. Lauck: No, sir, any service for which they were not compensated—

Mr. Stone: Would not be shown here at all.

Mr. Lauck: No, sir.

Mr. Byram: These are not the actual hours' work, but they are the hours paid for?

Mr. Lauck: These are the hours paid for.

Mr. Byram: They do not represent the actual time put in?

Mr. Lauck: No, they do not represent the actual time put in, in the sense of time that was uncompensated, or time less than this. The trip may be less than this.

Mr. Byram: But the heading on the diagram says "Number of engineers and firemen in each thousand employed working specified number of hours." It says these men worked ten hours or more. That means that they were paid for ten hours or more.

Mr. Lauck: Yes. I do not think there is very much variation between the compensated hours and the trip hours, if that is what you have reference to.

Mr. Byram: Yes, that is what I mean.

Mr. Lauck: The trip hours. I thought I was getting at that, but after I got through with the tabulation I found I had the days instead of the trips.

Mr. Byram: If a man ran 100 miles in five hours, on this tabulation, he would be shown as having worked ten hours, although he actually only worked five hours?

Mr. Lauck: Yes, sir, that would be true.

Mr. Byram: So it is the number of hours he is paid for, not the number of hours he worked?

Mr. Lauck: Yes. There is no passenger service shown here, however.

Mr. Byram: I understand. This is freight service.

Mr. Lauck: I looked them over afterwards, and they correspond pretty closely.

Mr. Sheean: Well, if 75 per cent of the freight service is made at a speed of more than ten miles per hour, then, in 75 per cent of the cases here, where you have reduced it to the hourly basis, your figures here of showing hours as the equivalent of compensated time would be wrong?

Mr. Lauck: If that is true, yes, sir. These are the averages—

Mr. Sheean: This is taken upon the assumption that the speed has been ten miles per hour?

Mr. Lauck: This is taken from the reports in detail submitted by you, showing average hours per day, which I understood Mr. Keefe to say were the compensated hours.

Mr. Sheean: The compensated hours.

Mr. Lauck: Yes.

Mr. Sheean: Well, for instance, take the Canadian Northern Railroad, where an arbitrary of thirty minutes' preparatory time is given, and ten hours or less shall constitute a day, it would be impossible to have less than ten hours and thirty minutes compensated time, even though they went out for a two-hour run.

Mr. Lauck: I think that is true in all the schedules. If a man is called and works only one hour, he gets a guaranty of one day.

Mr. Sheean: So it would be impossible, in the Canadian Pacific schedule, no matter how short a time a man may be on duty, to have a less showing here than 10½ hours, working in the way that you prepared this? He would work 10½ hours in this way of preparing it. Of course, his compensated time would have to be 10½ hours.

Mr. Lauck: I don't know anything about their schedule.

Mr. Sheean: Take any schedule that has preparatory time of thirty minutes, in addition to the time and miles of the trip, and also has a provision of 100 miles or less, 10 hours or less to constitute a day; under that schedule, the minimum time to be paid for is 10 hours and 30 minutes, is it not?

Mr. Lauck: Yes, sir. It may be true, though, that he works 10 hours and 20 minutes, and I have found from the payrolls that most of them work more than that, it seems to me.

Mr. Sheean: But in this particular exhibit you have simply shown the compensated time?

Mr. Lauck: The compensated hours, yes, sir.

Mr. Sheean: And if a man—

Mr. Stone: Just how many of those payrolls have that arbitrary thirty minutes preparatory time?

Mr. Sheean: One, I think, the Canadian Northern.

Mr. Lauck: The Great Northern has thirty minutes preparatory time, hasn't it, initial delay? That is the same. Well, this is compensated time.

Mr. Stone: And the hours are taken from Exhibits 26 and 27, are they not?

Mr. Lauck: Yes, the average hours per day, which is the compensated time, and may vary from the trip time.

Mr. Byram: Your exhibit does not show that, though?

Mr. Lauck: No, sir. I think, to make this complete, it would be well to put in an exhibit later showing that. I thought I had that at first, but I left it with someone to tabulate, and found they took the average hours per day, instead of per trip. But there does not seem to be much variation, except in passenger service.

The Chairman: Where you say thirteen hours or more, does that indicate that the schedule of that road fixes thirteen hours or more as a day's work?

Mr. Lauck: No, sir. That means that he was compensated for thirteen hours' work. The hours per day, as I understand it, may be ten hours, or 100 miles, usually, with the exception of a few roads, and he worked 3 hours overtime, he made more miles than 100 miles.

The Chairman: In other words, he is working on a 10-hour basis?

Mr. Lauck: Yes.

The Chairman: And this indicates he worked 3 hours overtime?

Mr. Lauck: Three hours overtime, or made as much more than 100 miles, as would be the equivalent of 3 hours.

Mr. Byram: His run might have been 130 miles?

Mr. Lauck: Yes.

Mr. Byram: Then, at 10 miles per hour, he would not have worked any overtime, but still he worked 13 hours?

Mr. Lauck: That might be.

Mr. Sheean: He might even get to those 3 hours overtime within the rate specified of less than 10 hours, mightn't he? He might have done switching en route, and so forth. He might have a total compensated time including those three hours, although on duty less than ten hours.

Mr. Lauck: I don't know about that. I did not think they were paid for switching en route. I thought that was a request.

I believe I went over page 3, "Through or Irregular Freight," and on page 4 is shown "Entirely in yard or switching service."

Mr. Stone: There was not any switching en route in that, was there?

Mr. Lauck: No, sir.

Mr. Stone: There 16 worked less than 10 hours, 984 worked more than 10 hours, or were compensated, to be entirely exact, more than 10 hours, and it would seem that this is exactly in accord with conditions, although I don't know definitely about that.

Mr. Burgess: Well, Mr. Lauck, before passing that point, referring to the exhibits of the Railroads, I think they showed a very large per cent of the local freight service compensated on the hourly basis, did they not?

Mr. Lauck: I do not recall. That may be correct.

Mr. Sheean: That is correct. I don't remember the percentage. I can get it, though. About 65 per cent was in hours, I think, Mr. Burgess, in the local freight.

Mr. Burgess: In the local freight service. So that to extend this table, as far as the local or way freight is concerned, it would be essentially accurate as to the number of hours an engineer and fireman worked?

Mr. Lauck: Yes, sir. That is what I had in mind when I said that was probably a reflection of actual conditions.

Mr. Burgess: But in through or irregular freight service he might have made his trip in a great many less hours than this exhibit shows.

Mr. Lauck: He may have, although, from going over the exhibit, there does not seem to be much variation between compensated hours and actual hours worked, so far as freight service is concerned with that branch of the freight service. Discriminations in the case of passenger service.

Mr. Burgess: Now do you show anything in the yard service that is entirely on the hour basis?

Mr. Lauck: This is yard or switching basis. This represents about 10,000 employes, engineers and firemen, in yard and switching service combined.

Mr. Burgess: Pardon me, Mr. Sheean, was that 65 per cent?

Mr. Sheean: It is larger. There is only 31.42 on miles; nearly 69 per cent on hours.

Mr. Stone: But it is a fact, Mr. Lauck, according to your graphic chart on page 4, that out of every 1,000 switch engineers, only 16 of them worked less than 16 hours.

Mr. Lauck: Less than 10 hours?

Mr. Stone: Less than 10 hours, I should have said.

Mr. Lauck: Yes.

Mr. Stone: And it is also a fact that out of every 1,000 234 worked 12 hours or more?

Mr. Lauck: Yes.

Mr. Sheean: Mr. Lauck, I am interested in just how you get any of them in switching service, where you compensate them for less than 10 hours? Are those some rare or exceptional cases? This is compensated time. That must be on a few roads that permit half a day.

Mr. Lauck: I don't know.

Mr. Sheean: Take a man out and have a minimum half day.

Mr. Lauck: I don't know. They were found in the exhibits.

Mr. Stone: And 17 men out of every 1,000 worked 14 hours or more?

Mr. Lauck: Yes, sir. Eight worked 15 hours or more. The total for all classes of service is shown on page 5.

Mr. Sheean: May I have just a minute on that page 4, please?

Mr. Stone: Surely.

Mr. Sheean: If I follow that correctly, Mr. Lauck, of the 984 who worked more than ten hours, only 284 were as much as 12 hours or over.

Mr. Lauck: 284, yes.

Mr. Sheean: That is, that would be 700 out of every 1,000 in switching service, would be between 10 and 12 hours, in compensated time?

Mr. Lauck: Yes.

Mr. Sheean: Just an even 700 out of every 1,000. Now, under the meal hour rule, if your attention has been called to that, they are pretty universally paid one hour in case they lap over a certain specified meal hour, which would bring the 11 hours paid to all switchmen, wherever they exceeded a designated meal hour. That would account for—or that would cover all the cases, wouldn't it, between the 10 and 11 hours, or between the 10 and 12 hours, compensating for 11 hours?

Mr. Lauck: I don't know whether that would cover it or not, but I know the average runs are about 11 hours per day.

Mr. Sheean: About 11 hours per day?

Mr. Lauck: About 11 hours per day.

Mr. Sheean: And 700 out of every 1,000 are in this compensated time of between 10 and 12 hours; they are compensated for more than 10 and for less than 12 hours?

Mr. Lauck: Yes. 700 will be shown as between 10 and 12 hours.

Mr. Stone: Is there anything in the figures to show that they did not work the noon hour?

Mr. Lauck: Nothing here to indicate that. That is something I know nothing about. But it indicates that 700 men worked between 10 and 12 hours. The table does.

Mr. Sheean: Paid for between 10 and 12 hours?

Mr. Lauck: Paid for between 10 and 12 hours.

Mr. Stone: Well, I think the testimony was that they were working most of the time. If they did not, they pulled off crews enough so there was work enough for the rest. So there are only 16 lucky men out of every 1,000 in switching service.

Mr. Lauck: Only 16 working less than 10 hours. The average runs about 11:50.

Mr. Byram: You mean 16 were paid for less than 10 hours?

Mr. Lauck: Were compensated, yes, sir, to be strictly accurate.

The diagram on page 5 constitutes a showing for the three branches of the service.

Less than ten hours, 123, considering all branches of service. That is local or way, through or irregular, and yard or switching; ten hours or more, 877; 12 hours or more, 347; 13 hours or more, 161; 14 hours or more, 72; and 15 hours or more, 30.

Mr. Stone: How many men did you take, Mr. Lauck, in these different classes of service? Did you take enough so you had a representative class?

Mr. Lauck: Yes, sir. On page 6 is shown the supporting data for the local, or way freight service. That includes 3,328 men. The through or irregular freight service is based on 6,376 men, and the yard or switching service on 10,073 men; or a total of 19,777 men.

Mr. Byram: Is that the number of men shown in exhibits 26 and 27, the total number of men?

Mr. Lauck: That is the total number in certain classes of service, those two sections; the sections which show entirely in one branch, or entirely in another branch. And the detail is given from page 13 onward.

Mr. Stone: That shows for each road?

Mr. Lauck: That shows for each road, and the subdivisions of the road, so far as they are given for the exhibit, like "Atchison, Topeka & Santa Fe (Eastern Lines)" or "(Western lines)" or "(Coast Lines)." The exhibit followed this method of presentation entirely.

Mr. Stone: So, summing it all up, you would have a pretty hard time making some of these men believe that their hours were getting shorter, or they were working on short time?

Mr. Lauck: Yes. Although you cannot come to a final conclusion on this, as it is compensated time, and not actual time, which was due to this oversight on my part.

Mr. Stone: Anything further on this you want to say?

Mr. Lauck: I had the other part of the Great Northern payroll, but I think I had better reserve that until later.

Mr. Stone: Any further questions, Mr. Sheean?

Mr. Sheean: I just want to be sure to have this, Mr. Stone. That is all. These are the men who worked entirely in the particular classes of service. Now, then, let me see, in local or way freight service. I don't quite follow that, Mr. Lauck: On page 6 you have "Engineers, total for all roads, local or way freight service, 1,829." Now our sheet No. 1, apparently shows 1,844 engineers.

Mr. Lauck: I think that there may be some slight discrepancies in that way. If both roads were not covered, we did not take the road. That is, for firemen or engineers. There may be some slight variation in that, but it is based on that.

But it is based on the big figure, you know, on the big book, on the large book, which that is made up from.

Mr. Sheean: Yes, this is only a summary of it.

Mr. Lauck: There may have been some that were omitted, a few that we could not use for some reason, but as far as we could we took all of them.

Mr. Sheean: Well, you took the men entirely in that service, the 1,800 men in local service shown here. They are the ones who average $161.00 as engineers.

Mr. Lauck: I do not recall the average, but I think that is correct. It is based on your large books, taking the different sections, you know. You have one section entirely in certain services.

Mr. Sheean: Yes, and then that was summarized here on this Exhibit 29 by those different classes of service?

Mr. Lauck: Yes.

Mr. Sheean: I think that is all, Mr. Stone.

Mr. Stone: Mr. Chairman, we desire to introduce Exhibit 77: "Speed of Passenger Trains by Divisions and Systems Made Up From Time Cards Now in Effect, December, 1914."

(The document so offered and identified was received in evidence and thereupon marked "Employes' Exhibit No. 77, March 9, 1915.")

I would say that this is not complete. It is only a few of the many roads in the West, but it is enough to give a general average of what the speed basis of passenger trains would mean.

Mr. Lauck: This exhibit is arranged by railroads, divisions under the railroads, and then an average is shown for the total railroads. It is based upon taking the time of trains between divisions and finding the average speed of the trains noted. The significant point, as I understand it, in connection with the speed is that practically all the passenger trains, with some few exceptions, show a speed in excess of 20 miles an hour.

Mr. Byram: Well, Mr. Lauck, would the average speed of passenger trains on a railroad be helpful in case there were some of the runs that had a speed of less than 20 miles an hour? That would not be of any value in deciding the question, or fixing the overtime speed at 20 miles an hour, would it? The average speed of all the trains on the railroad, in other words, would not be of any value in determining the effect of a speed basis of 20 miles an hour for computing overtime, as to trains which did not have a speed of 20 miles an hour?

Mr. Lauck: Of course, if the train did not have 20 miles an hour, it might be lost in the average of trains having a larger speed.

Mr. Byram: That is the point.

Mr. Burgess: Well, wouldn't that same rule or reason apply to the average wage, Mr. Lauck? You would have a hard time convincing the average engineer or fireman that he was getting $150.00 a month, when he only drew $100.00, wouldn't you?

Mr. Lauck: You could not convince him, I do not believe.

Mr. Byram: Well, Mr. Lauck, that would be on the assumption that you were not paying the other men anything. All men, of course, are paid. In this case, for the purpose of overtime, or the effect of an overtime rule, it would not have the same relation to a train that ran fifty miles an hour, as to one that ran twenty and one-half, would it? But when they are averaged together, the effect of it would not be of any value on the overtime question, would it?

Mr. Lauck: Well, it would have the effect of all averages, that the lower would be swallowed up and the higher would be reduced.

Mr. Stone: It is introduced for what it is worth, is it not, to show what the average speed of the passenger trains on the divisions of these roads is at the present time, Mr. Lauck?

Mr. Lauck: Yes.

Mr. Byram: Does this show, Mr. Lauck, the average of all trains running on these lines, or of each individual train?

Mr. Lauck: As I understand, it shows on page 2, the Atchison, Topeka & Santa Fe Railway, Arkansas River Division, the average speed of trains in that district, an aggregate of the distances and the time being had, and then the division of the distance by the time.

Mr. Byram: It cannot be shown that some trains are running on schedules of less than 20 miles an hour and others being scheduled at 30 or 35 miles, on the same distance?

Mr. Lauck: I don't think that detail is shown in the exhibit. It is all averaged.

Mr. Byram: Yes, sure.

Mr. Stone: It is true, though, Mr. Chairman, that a number of these local trains where the card perhaps is slow, scales down the average for the whole division. For example, you take the Chicago & North Western, on this first division out of Chicago, they have some trains scheduled as high as 51 miles an hour, but the general average, as I recall it, is somewhere around 30 miles an hour for the entire division. But, with very few exceptions, runs of any length are scheduled at less than 20 miles an hour. Take out these suburban services and the percentage would be so small that it would be almost nothing.

Anything further on this, Mr. Lauck?

Mr. Lauck: No, sir, I don't think there is anything that I can add to it.

Mr. Sheean: Mr. Lauck, this is made up from the carded leaving time at the depot, until the carded arrival at the other depot?

Mr. Lauck: I think so, yes, sir.

Mr. Stone: Yes, sir.

Mr. Sheean: It does not take into consideration at all the different schedules of the road as to when men report for duty and when they are released, as to what the average number of miles made between the time they report and until the time they are released is?

Mr. Lauck: This is the running time between terminals, I think.

Mr. Sheean: That is, the running time from the depot, of a certain passenger train?

Mr. Lauck: From the starting point.

Mr. Stone: It is made up along the line of your exhibit, Mr. Sheean, if I may explain; the time betwen terminals.

Mr. Byram: Mr. Stone, may I ask the witness a question about Exhibit 77?

Mr. Stone: Surely.

Mr. Byram: On page No. 9, Mr. Lauck, of Exhibit 77, with regard to the Colorado & Southern Railroad, I see that it says that in narrow gauge mountain territory the average speed is 15.09 miles per hour. That would mean on a 20-mile an hour basis that overtime would have to be paid on those all the time?

Mr. Lauck: Yes, sir. That is one of the exceptions I referred to.

Mr. Byram: I didn't hear you.

Mr. Lauck: I said: "I think there are some other exceptions."

Mr. Stone: Unless they would get out a new time card and change the schedule, it would.

Mr. Lauck: Yes, unless the speed would be increased.

Mr. Byram: Well, I suppose that is a practical question, and you need not have to answer that, as to speeding up a train on a narrow gauge mountain road running at a four per cent grade.

Mr. Lauck: If they would, I would not care to ride on it.

Mr. Stone: No trouble coming down.

Mr. Byram: I understand this average is both up and down, isn' it?

Mr. Stone: That is the way it is made out.

Anything further on this?

Mr. Byram: That is all.

Mr. Stone: I desire to introduce Exhibit 78, Mr. Chairman. This is a partial list made up since the holidays, of a few of the many crews that are held at other than home terminals, or held away from home. It has been prepared hurriedly, but we can show the engineers' names and the number of hours, or minutes held. It is not claimed that it is complete, or that it shows all of the crews held away from home, but insofar as it is shown, we believe it to be absolutely correct, and we have the data to go with it if there is any question about it, and would be glad to file it, if there is any question.

(The document so offered and identified was received in evidence and thereupon marked "Employes' Exhibit No. 78, March 9, 1915.")

Mr. Lauck: Referring to page 2, the showing there for the Atchison, Topeka & Santa Fe (proper) on the branch lines of the Panhandle Division, shows a certain number of days certain men have been held away from the home terminal. The case of T. H. Barker, from April 8 to April 18, ten days. Again in July, 28 days. And the case of Charles Jackson, 6 days in June and July, 1914. R. D. Wilcox, nine days. W. D. Morris, eleven days, and so on.

Mr. Sheean: Is that the one, Mr. Lauck, that you refer to on page 1, as the exception? You say: "The following pages show the time engine crews are held at other than their home terminals, the only exception being the first 14 lines under heading 'Atchison, Topeka & Santa Fe Railway (proper)' where it shows the days absent from home terminal on branch lines of the Panhandle division." Is this the one where they are absent on branch lines, that you are referring to now?

Mr. Lauck: Yes.

Mr. Stone: That is where there are several terminals outlying; where they run on several branches, and do not come home to their own terminal again. You recall the testimony of the Santa Fe witness on that proposition.

Mr. Sheean: This one that he is reading on top of page 2, covers the time until he gets back to the home terminal?

Mr. Stone: That is the number of days he is away from home. He is not held at any one terminal at that time. These others are where a man is held at a lay-over, and we distinctly say a "lay-over."

The Chairman: How was this man Barker paid? At what rate of wages was he paid? That is the man that was held away ten days on branch lines, as I understand.

Mr. Stone: He was probably running from one terminal to another, on outlying points, and could run back to his home terminal there again. There are several different terminals probably on one seniority district, where a man can be held, and he goes from one terminal to the other, and perhaps does not run back to his home terminal. On several other schedules, we provide that a man should not make more than one turn-around without going to his home terminal, but evidently he was on some branch, at some outlying point.

Mr. Sheean: Do you know what service he was in, Mr. Stone?

Mr. Stone: I do not, but I can easily look it up. We have all the data.

Mr. Burgess: Well, Mr. Stone, do you know anything in connection with T. H. Barker, being held 28 days, or is that a total of all the days?

Mr. Stone: This is a total number of days he was away from home before he arrived back at his home terminal. He was working during that time, you understand.

Mr. Burgess: But he was held away from his home twenty-eight days?

Mr. Stone: Yes, sir.

Mr. Park: Well, could he have been assigned to service in any other territory, if he elected to file on that service?

Mr. Stone: As I understand, and I am only speaking from memory, but I have all the data here, he would be glad to file it. I think there are 700 miles of track in that seniority district, and they get out on some of these outlying branches and are gone quite a long time. I think the witness testified here that it was nothing unusual to be gone a week or ten days.

Mr. Park: Well, that presents a very difficult problem for the railroads, where that seniority obtains over a number of different districts, and the men would insist on that being obtained, and then the railroads would be asked to compensate if they are away from the central station more than a certain prescribed time.

Mr. Stone: The company would probably insist just as strenuously that they are going to chop it up into a smaller seniority district.

Mr. Park: Well, I find that a very difficult thing to deal with. This question came up the other day on the Southern Pacific, on the Los Angeles, Pasadena & Yuma run. Knowing the conditions there, the men all wanting to live in Los Angeles, they were willing to make that kind of a run, going two or three days, or a week, perhaps, before they return to their home territory.

Mr. Stone: Mr. Keady, the chairman, says that there is a regular network down there of different short branch lines, and so on, and it is much better than it used to be, because they have established a number of outlying terminals, and assigned crews to those points.

Mr. Sheean: Well, Mr. Stone, let me see if I have this clearly in mind. This first one, of the Atchison, Topeka & Santa Fe, that operation that was desribed here, these men were probably under pay during this time.

Mr. Stone: Oh, yes, we do not claim that they were not under pay. They were working.

Mr. Sheean: And the very remedy that is proposed here, with reference to holding away from home terminals, would hardly meet this situation, would it?

Mr. Stone: No, it would not hardly meet this situation. This is introduced here to show the hardships that the men work under, as much as anything else. I do not know of anything that would make an anarchist out of a man much quicker than to run him away from home and hold him twenty-eight days from home before he gets back again, unless he carried his trunk with him. These others are simply "lay-overs" at a terminal.

Mr. Lauck: Shall I read some of those?

Mr. Stone: Yes.

Mr. Lauck: "Lay-over at Waynoka, Oklahoma," ranges from 21 hours and 30 minutes, 20 hours and 15 minutes, 31 hours and 10 minutes, 30 hours and 25 minutes, down to 8 hours and 40 minutes. In other words, the lay-over ranges from 8 hours and 40 minutes to 31 hours and 10 minutes.

Mr. Stone: Take, for example, the first man on the Chicago Great Western.

Mr. Lauck: D. E. Holmes, on November 10th—November 13, 1913, a lay-over of 61 hours and 30 minutes.

Mr. Stone: Note the footnote.

Mr. Lauck: The footnote stating that he was held at Oelwein. Lay there 46 hours without a train crew.

W. Hoyt, shows a lay-over of 54 hours.

Mr. Stone: He had four long lay-overs in that one month, didn't he?

Mr. Lauck: Yes, sir. And there were two more, of 40 and 44 hours, for W. H. Costello. And one of 47 hours for an engineer named Rothi.

Mr. Sheean: Well, Mr. Lauck, that Great Western, as I recall the testimony of Engineer Smith, here, the complaint there was that the Great Western had designated Stockton as his home terminal, and he did not like the facilities at Stockton, and he had to double around to get the long lay-over at Oelwein. Now, this presents the other angle of it, doesn't it? That they are holding him at Oelwein a long time, whereas, Engineer Smith was complaining that Oelwein was not made the home terminal, instead of Stockton.

Mr. Lauck: I believe I did read his testimony. He was the man who went through the tunnels, wasn't he?

Mr. Sheean: Yes. And the terminal is at the east end of that run, and he did not like the school houses and surroundings at East Stockton.

Mr. Lauck: He had to live at the other end, did he not? Of course, he could not take his family with him.

Mr. Sheean: Well, now, this case presents the other side of it. This man complains because he was held sixty hours at Oelwein, and Mr. Smith is complaining because he had to put in his time at the other end of the run.

Mr. Stone: Oelwein is evidently not the home terminal.

Mr. Sheean: No, and that was what Mr. Smith was complaining about.

Mr. Stone: Well, maybe he was one of the few that were not moved.

All right, take up the Chicago & North Western Railway.

Mr. Lauck: Chicago & North Western, on page 5, shows pool crews' lay-overs at Casper, Wyoming, in the Black Hills Division. One lay over of 58 hours and 30 minutes, one of 48 hours and 45 minutes, 34 hours, 57 hours, 34 hours, another of 80 hours and 15 minutes, another of 82 hours and 30 minutes.

32 hours and 45 minutes, one of 40 hours, and the remaining of about 38 hours each, all by engineers during 1912, 1913 and 1914.

Long Pine, Nebraska, in the Black Hills Division, pool crews' lay-overs, shown on pages 6 and 7, there are lay-overs ranging from 25 hours to 45 hours during the years 1912 and 1913, and also shorter lay-overs.

Mr. Stone: Some of the other divisions show very short lay-overs on the North Western.

Mr. Lauck: Yes, they are shorter in the other divisions.

Mr. Stone: The most complete report that we got from the men of any of the roads, and it was published just as it was received.

Mr Lauck: They range from 8 to 12, 13 and 20 hours.

Mr. Stone: Take up the Denver & Rio Grande, on page 19.

Mr. Lauck: On page 19, the Denver & Rio Grande Railroad, there are lay-overs ranging from 8 to 24 hours, the greater number being 18 to 20, 21 and 22 hours, a considerable number 15 and 16 hours, but the greater number 18 hours and over. The note says that "These delays were caused by crews protecting stock from the Fourth Division, and in some cases one and two cars of stock. Crews were held at LaVeta from 10 to 20 hours to protect stock loaded at Alamosa."

Mr. Byram: Was that a necessary detention?

Mr. Lauck: I should assume so.

Mr. Byram: That is one that the railroad could not avoid, then, without risking injury to the stock?

Mr. Lauck: That is what I understand from the note, yes, sir.

Mr. Byram: So that if this Board should award an allowance for a limitation to men held away from home terminals, in such case as this, the railroad would not succeed in escaping paying it if it exceeded the limit?

Mr. Lauck: No, sir.

Mr. Stone: But in these particular cases, with but a few exceptions, they were not held over the limit, but a few hours.

Mr. Byram: I was speaking of exceptions.

Mr. Stone: Isn't that so, Mr. Lauck?

Mr. Lauck: I can't tell at a glance what proportion were under 15 and what proportion were over 15. There was a considerable number under 15, and a considerable number over 15.

Mr. Byram: A number of them were 22, and 27, 20, 24, 23 hours.

Mr. Lauck: Yes, sir. Some of them were below and some above.

Mr. Byram: No way of identifying any of these with the foot note, which were held for stock?

Mr. Lauck: I understood from the foot note that they were all held for stock.

Mr. Byram: They were all held for stock?

Mr. Lauck: Yes, sir.

Mr. Byram: Then there are quite a number of them that under this limitation would make it necessary for the railroad company to pay; which they could not escape?

Mr. Lauck: There would be a considerable number over 15 hours.

Mr. Stone: Take the Great Northern.

Mr. Lauck: The Great Northern Railway, on page 24. The lay-over at Willmar, on the Fergus Falls Division, shows quite a number of lay-overs, ranging above 20 and 30 hours; one of 63 hours being the highest, and there being several of 47 and 48 hours. There were also a number that would fall below the 15-hour limitation. The greater number, however, would be above the 15-hour.

Mr. Stone: And the Illinois Central, on page 28.

Mr. Lauck: The Illinois Central on page 28 shows almost entirely lay-overs beyond 20 hours. There are a few 14 and 16 and 11 hours, but the greater majority are over 20 hours and some as high as 40 hours. Several at 36. One at 35. And a number at 40.

Mr. Stone: On the Soo you will find some good ones.

Mr. Lauck: Yes, sir, on the Soo Line, on page 29, the pool crews' lay-overs at Park Falls, Wisconsin. It shows quite a number ranging from 22 to 38 hours; one at 58 hours, one at 69 hours, and one at 107 hours.

Mr. Park: Do I understand that these are fixed lay-overs, regular assignments or schedules of trains, or only individual cases?

Mr. Lauck: My understanding is that they are individual cases.

Mr. Stone. They are individual cases. I understand that they are not assigned cases, but pool service, chain gang service.

Mr. Sheean: Is that true about the next one, Mr. Stone, the Oregon-Washington Railroad & Navigation Company?

Mr. Stone: I think this is a pool service.

Mr. Shea: It says on page 29, "Pool Crews' Lay-Overs at Park Falls, Wisconsin."

Mr. Sheean: That is for the Soo Line. But I was referring to the O. W. R. & N. Co. There is no heading there to indicate whether that was assigned service or not.

Mr. Stone: On the Oregon-Washington Railroad & Navigation Company, they are pool men.

Mr. Lauck: They range from 15 to 20 hours, as a rule.

Mr. Sheean: Do you know what that first one is, Mr. Stone? That does not seem to show where it is? That is pages 29 and 30. On page 31 you say, "Lay-overs at Huntington, Oregon," the first half of the page.

Mr. Stone: Yes, lay-overs at Huntington, Oregon.

Mr. Sheean: Yes. And on page 29 the heading there is "Oregon-Washington Railroad & Navigation Company," but no showing where the lay-over is on pages 29 and 30. Then it picks up on 31 and shows where it is.

Mr. Stone: It is a mistake in the headline. It ought to be Huntington; lay-over at Huntington, Oregon, down to where it is shown "Lay-over at Umatilla, Oregon."

Mr. Lauck: The next is the San Pedro, Los Angeles and Salt Lake Railroad: Lay-overs at Caliente, Nevada. 13 hours, some at 15 hours, a considerable number at 21 and 22 hours, some going as high as 43 hours, and quite a number at 21 to 25 hours.

The Southern Pacific Company. Lay-overs, at Tracy Terminal range at about 20 hours, with some few at 30. The great number of them are about 20 hour lay-overs.

On the San Francisco Terminal there seem to be quite a number of long lay-overs, ranging from 20 to 30 and 40, and one going as high as 63 hours.

Mr. Sheean: Mr. Lauck, referring to that San Francisco terminal lay-over, are those men who live at Sacramento, and do you count them as being held away from terminal?

Mr. Lauck: I will have to ask Mr. Stone.

Mr. Campbell: They are Western Division men from Oakland.

Mr. Sheean: From where?

Mr. Campbell: From Oakland. The men at Oakland stay at home, with their engines in San Francisco. They live at home across the bay. The men themselves are not away from home.

Mr. Sheean: But their engine is held across the bay for them?

Mr. Campbell: The engines are held in San Francisco, and the men have the privilege of living at home in Oakland.

Mr. Stone: This part here. Mr. Chairman, with reference to laying over at San Francisco terminal, the clerks in compiling it did not understand that they deadheaded across the bay. That should not be in there. That should be out of this entirely. You understand they run into Frisco, but they are allowed to deadhead across the bay to Oakland, their home. Their run is from Tracy to San Francisco. And the clerk in compiling it did not understand it; of course he knew that their home was in Oakland. It should not appear. It should be cut out.

Mr. Sheean: At page 34, Mr. Stone, on that O. W. R. & N. Co. lay-over at Starbuck, Washington, October 2, 1913, and October 2, 1913, Stewart and Stroble. In our exhibit here, we show Stewart and Stroble in that month as being exclusively in passenger service, earning all their money in passenger service in that month. Stewart and Stroble, on our payroll, drew $197 each, exclusively in passenger service.

Mr. Stone: Stewart and Stroble are in passenger service, running in the pool, so Mr. Barnard says, and the clerk, of course, took that pool service to be the freight pool. I did not know the difference myself until he explained it to me. That is passenger pool for those two men.

Mr. Sheean: Apparently most of these men on this layover at Starbuck seemed to be in the passenger pool, a good many of them.

Mr. Stone: No.

Mr. Sheean: The next man, Campbell, October 2, 1913, is shown as laying over at Starbuck 31 hours. On our exhibit he is shown on the payroll as exclusively in the passenger service.

Mr. Martin: Yes.

Mr. Sheean: Earning how much?

Mr. Keefe: One hundred and ninety-one dollars and seventy-eight cents.

Mr. Stone: You have got the wrong Campbell.

Mr. Sheean: J. T.

Mr. Stone: J. T. This Campbell is in freight.

Mr. Keefe: W. J. Cohoes, Spokane to Portland, $189, entirely in passenger service. You show him on October 4, 1913, as laying over 20 hours and 20 minutes in Starbuck. Mr. McDonald is another.

Mr. Stone: Well, if they have got some passenger men in here, that is a mistake. We have only compiled what they have given us. They said pool men, and there was no intention of putting passenger men in the list.

Mr. Sheean: The passenger men run there in a pool, Mr. Stone, and probably in compiling it, they have compiled passenger pools as well as freight.

Mr. Stone: Probably.

Mr. Sheean: Apparently. Mr. Cohoes occurs in there again, and the same name appears on different dates. He seems to get this lay-over of 20 hours and 30 minutes every time he makes the run.

Mr. Stone: He must be a passenger man then.

Mr. Sheean: Yes.

Mr. Stone: But with these men on the O. W. R. & N. Co., and these men in San Francisco, I think you will find that this is fairly representative of the lay-overs of the men.

Anything further on this, Mr. Lauck?

Mr. Lauck: No, sir. There is nothing more that I can contribute.

Mr. Stone: Any further questions on this, Mr. Sheean?

Mr. Sheean: No.

Mr. Stone: We desire to introduce Exhibit No. 79, entitled "State Legislation Affecting Railway Operations."

(The document so offered and identified was received in evidence and thereupon marked "Employes' Exhibit No. 79, March 9, 1915.")

Mr. Stone: This is in rebuttal of the Conference Committee of Managers' Exhibit No. 9.

Mr. Lauck: The Conference Committee of Managers submitted an exhibit showing for the period of 1911 to 1914, a number of laws that had been enacted which interfered with efficiency of operation, or added financial burdens to the railroads. This aggregate was based on the bulletins issued by the Special Committee on Relation of Railway Operations to Legislation. Taking the separate bulletins, however, and compiling them year by year, we find that in 1912 there were nineteen legislatures in session; in 1913, 42; and in 1914, only 14. Of course, the bills introduced in 1913 were much greater in number than in the other two years, being 1,395 in 1913 as compared with only 292 in 1912, and 236 in 1914. The laws enacted were 48 in 1912, 230 in 1913 and 27 in 1914. On comparing the per cent of laws enacted to bills introduced, we find that the percentage was $16\frac{1}{2}$ in 1912, $16\frac{1}{2}$ in 1913, and 11.4 in 1914. We therefore came to the conclusion that there was less legislation being enacted restrictive of railway operations in 1914 than in 1913 or 1912. But the tendency was to have less legislation, and let the railroads alone more in 1914 than in the two previous years.

Mr. Byram: Mr. Lauck, I understand your exhibit shows that there were 230 laws enacted in 1913 altogether?

Mr. Lauck: Yes, sir.

Mr. Byram: Well, those laws are still in effect, I presume?

Mr. Lauck: Presumably, yes.

Mr. Byram: So that the fact that a smaller number of laws were enacted in 1914 would not have any effect on the 230 that were enacted in 1913?

Mr. Lauck: No, sir.

Mr. Stone: Probably, of the 230 enacted in 1913, some have already been repealed.

Mr. Lauck: Some have been repealed, like the Missouri "Full Crew" law.

Mr. Stone: Perhaps the 230 that were passed in 1913 covered all that it was thought necessary, so that they did not need so many laws in the next year.

Mr. Lauck: Well, however that may be, it would seem to have been ample—considerable amount of legislation, at any rate. But my object is to show that the legislative restrictive measures, or the tax on the railroads are diminishing, of which they complained in the previous exhibit.

Mr. Byram: Might they not be displaced by commission orders and other orders? Commissions being clothed with authority to regulate railroads, might the same effect not be present always from the orders of railroad commissions who are clothed with the power to regulate railroads?

Mr. Lauck: That might be possible. There is an increasing number of State commissions with authority to administer orders.

Mr. Byram: And an increasing activity on their part.

Mr. Lauck: Well, it would seem that they are more favorable to the railroads recently than they have been in the past, from the study that I have been able to make.

Mr. Park: How do you account for that tendency, Mr. Lauck, that more favorable attitude?

Mr. Lauck: I think it is the reaction from the previous hostile attitude toward the railroads. We are entering upon a period in which the people are more appreciative of the railroad's problems and conditions.

Mr. Park: Is it not quite likely that they have come to a realization that if this adverse legislation and—in a great many cases—unwise regulation, is continued, it will practically throttle the railroads—if they kept up the pace you spoke of there of a few years ago?

Mr. Lauck: Yes, I think that is being realized. The tendency was to go too far, in case of some laws that really did harm rather than good, and now the swing of the pendulum is in the other direction.

Mr. Stone: Just what effect on public opinion do you think a subsidized press has, for example?

Mr. Lauck: Well, what do you mean by the term "subsidized press?"

Mr. Stone: In shaping public opinion.

Mr. Lauck: I think there has been a great educational campaign carried on by the railroads, to use a more euphemistic expression.

Mr. Stone: Well, you can call it that if you would rather, "educational campaign."

Mr. Lauck: Or publicity campaign. And then has come a realization that there must be a more rational regulation of the railroads.

Mr. Stone: But it is the history of all our legislation that we have these periods of hostile legislation, and then the pendulum swings the other way again, and then we have perhaps another cycle and another period of hostile legislation.

Mr. Lauck: Yes, there seem to be recurring periods that way, as in the way of finance, but I believe in the railroad situation now, we have reached a period that has no analogy in the past, because the railroad officials seem to have reached a point where they are going before the public in a spirit of frankness and candor, and I think that that has largely accounted for the change in public opinion. I have noticed that in the remarks relative to President Rea of the Pennsylvania and President Willard of the Baltimore & Ohio.

Mr. Stone: You think it is the dawn of a new era?

Mr. Lauck: But it is also a fact, as proven by the number of bills introduced, that we still have a few people who think there is need for more legislation?

Mr. Lauck: Oh, yes, sir.

Mr. Stone: I see there were 236 bills introduced in 1913.

Mr. Lauck: 236; eleven per cent of which were passed. Then, if you notice the table at the top of page 2, there were quite a number of bills introduced on matters affecting the railroads, some of which were enacted, and some of which were not.

Bills relative to make-up of passenger trains, or make-up of freight trains, and all bills relating to freight trains, did not seem to be popular. None of those were passed in 1914.

Mr. Stone: And there was only one bill passed in regard to the size of the crew.

Mr. Lauck: One bill, yes, as compared with 14 in 1913. Of course, more legislatures were in session in 1913, and that might explain to a certain extent the greater number of full crew bills.

Mr. Stone: Neither were there any bills proposed or passed providing for clearance.

Mr. Lauck: Beg pardon?

Mr. Stone: Providing for clearance, size and top of trains.

Mr. Lauck: No, sir.

Mr. Stone: And yet it is a fact that we are killing employes every day, on account of not having clearance enough—or every week at least.

Mr. Lauck: Aside from the analysis of the separate reports, I have mentioned a number of specific actions which seem to indicate a change in public opinion toward the railroads, such as the repeal of the Missouri Full Crew Law by popular vote; increase in class and commodity rates permitted by the Michigan Railroad Commission; refusal of the North Dakota Board of Equalization to adopt the State Tax Commission's recommendation to greatly increase the assessed valuation of railroads; the recommendation of the California Railroad Commission to the United States Senate to grant increased mail pay to the railroads.

Mr. Sheean: The Senate did not act on that recommendation though, did it?

Mr. Lauck: I don't know whether the Senate did. Chairman Peters of the House Committee is favorable to an increase, I think.

Mr. Sheean: Yes, but Congress has just adjourned without passing anything, hasn't it?

Mr. Lauck: They did not act specifically in the way of legislation, no.

Mr. Stone: The sentiment, in the meanwhile, is growing.

Mr. Lauck: The attitude of the House Committee, I have heard, is favorable. I don't know about the Senate Committee. The governor of Texas recommended an increase in freight rates, and an increase of freight rates was approved by the Alabama State Railroad Commission.

The same was true of passenger rates in New Hampshire, Maine, Vermont and New York.

And there are quite a number of other items here, which I don't know whether it is worth while reading.

Mr. Stone: Oh, yes.

Mr. Lauck: The decision of the Minnesota Supreme Court sustaining railroad interpretation of the Passenger Fare Law.

The action of the Connecticut Legislature in ordering an investigation of train crews, instead of passing a full crew law, and the subsequent conclusion of the State Public Utilities Commission, after an investigation, that no initial trainmen were necessary.

The action of the Georgia Railroad Commission in refusing to impose new expenditures by railroads until the financial situation in the south had improved.

The action of the Public Service Commission of Massachusetts in approving an increase of mileage rates from two to two and one-half cents.

The discontinuance of passenger trains in North and South Carolina, permitted by the Corporation Commissions of those States on the ground that the business situation in the South did not justify the continuance of as many trains as were then being operated by the railroads.

Bills have been introduced in the legislatures of Michigan, Nebraska, New Hampshire and several other States, favoring increases in passenger and freight rates.

The Senate Committee in the Texas Legislature reported adversely on a full crew bill.

Bills have been introduced in New York, Pennsylvania and several other States to repeal full crew laws.

These are taken as indications of the change in the attitude of the public toward the railroads, and, of course, along with that would go the recent decision of the Interstate Commerce Commission granting an increase in freight rates to the Eastern railroads.

Mr. Stone: And overshadowing that is the decision of the Supreme Court yesterday—

Mr. Lauck: Yes.

Mr. Stone: On the right of States to limit—

Mr. Lauck: To limit passenger or freight rates within the State, which might interfere with shippers without the State; and the recent decision, termed, I think, the Inter Mountain decision, whereby low rates could be established to the Pacific coast to compete with the Panama Canal.

Mr. Park: Have you noticed any tendency on the part of employees to let up on adverse legislation, or are they still advocating some of these laws?

Mr. Lauck: I do not know about that.

Mr. Park: You may add the fact that the Indiana legislature adjourned yesterday without passing the half train bill.

Mr. Nagel: You do not ascribe the decision of the Supreme Court to a change of public sentiment, do you?

Mr. Lauck: No, sir. It is a favorable decision, though, relative to railroads and railroad finance.

Mr. Stone: It is one of the most sweeping decisions that has ever been handed down, limiting the power of the States. Mr. Lauck, have you noticed any tendency on the part of the railroads to let up on getting any more out of the individual unit?

Mr. Lauck: The train unit?

Mr. Stone: No, not the train unit, the man unit.

Mr. Lauck: No, sir, not at all.

Mr. Byram: You do not advocate letting up on productive efficiency, do you?

Mr. Lauck: No, sir. I believe that ought to be developed to the fullest extent in harmony with the physical well-being of the employe. If I may, I would like to read the concluding sentence in this exhibit. These are quotations from remarks of President Rea of the Pennsylvania and President Willard of the B. & O. in the New York Times.

"As President Rea, of the Pennsylvania, has remarked, 'We have at last started on a policy of railroad conservation,' or to characterize the change in the words of President Willard, of the Baltimore & Ohio, it is 'the beginning of a new era for the railroads.' "

Mr. Nagel: Then we will not have so much time to wait the swinging of the pendulum?

Mr. Lauck: I hope not.

Mr. Stone: Any further questions on that?

Mr. Lauck: No.

Mr. Stone: We desire to introduce Exhibit No. 80, "Capital Expenditures of Western Railroads, 1910, 1914."

(The document so offered and identified was received in evidence and thereupon marked "Employes' Exhibit 80, March 9, 1915.")

Mr. Lauck: I can state the point of this exhibit in a few words. Insofar as the data is available, it is to meet the contention made that revenues have not been sufficient to meet the requirements of new capital investments.

The object of this exhibit is to show that a large part of the new capital investment of the railroads in the West, so far as any data can be obtained, have been in the way of building new lines, or new second track, or new terminals, and in that class of investments of capital which should not be expected to yield immediate returns.

Mr. Byram: How do you figure that an investment in a terminal, or in a second track where the single track is too busy, should not be expected to bring immediate returns?

Mr. Lauck: A terminal is usually built to provide for future traffic; that is, not only to take care of the present generation, but to take care of the growth of the city or the growth of the traffic, and will not probably become remunerative until there is a greater use of the terminal than that of the generation in which it is built.

Mr. Byram: Why might not that investment on a terminal be merely in the way of additions to a general plan that had been arranged for years ago, and simply be in the way of additions as the business develops?

Mr. Lauck: If that were true—

Mr. Byram: That ought to bring an immediate return, ought it not?

Mr. Lauck: If that were true, it would bring an immediate return, because it would be adapting the outlay to the growing requirements from year to year.

Mr. Byram: On a busy railroad that had outgrown its single track—which would be the only reason for building a double track—why should not that bring an immediate return in decreased operating cost and increased efficiency?

Mr. Lauck: If it were built in accordance with the traffic development, it would.

Mr. Byram: What other reason would there be for building a second track, where one is now answering the purpose?

Mr. Lauck: It would sem to me that the capital investment in the second track would not yield a commensurate return, or there would not be the traffic to yield a return commensurate to what had been received from the use of the single track.

Mr. Byram: But it would be handled much more expeditiously, and consequently with much less expense on the second track than on the single track, would it not?

Mr. Lauck: If there was sufficient traffic to justify it, yes. In that case the argument would not be valid.

Mr. Byram: Is not a second track built only when the traffic is too heavy to be accommodated or handled economically and efficiently on the single track?

Mr. Lauck: Yes, that was my idea, that it would be built when the single track could not handle the burden of it; but the full capacity of both would not be developed by the division of the traffic on two tracks. That would come at a later period.

Mr. Byram: It might be a profitable investment though, merely to take care of the traffic carried on the single track.

Mr. Lauck: That might be so, yes.

Mr. Stone: Is it not a fact that in many of these great terminals they build even far better than is absolutely necessary, because civic betterment or civic pride or something of that kind requires a certain plan of architecture, or something of that sort?

Mr. Lauck: That is the contention of the committee of general managers, I think, that those requirements are imposed upon them.

Mr. Sheean: I was just going to ask what is your view on that, as to the attitude that railroad managers should take with reference to the construction of a union depot, for instance, to meet the demands or wishes or desires of the city beautiful.

Mr. Lauck: I think they should meet those demands. I think if a mistake has been made by the railroad managers—I remember reading the words of a prominent railroad man, speaking of the Kansas City terminal. He said that the public were demanding these improvements, and the railroads felt that they had to make them; but that at the same time the railroads were endeavoring to pay dividends, and that they should concentrate upon securing rate increases to compensate them for these improvements, and that one of the best ways to do that would be to bring it home to the public possibly by reducing dividends, if the public were too extreme in their exactions in this direction.

Mr. Sheean: You do recognize, as a demand which the railroad companies must meet, the claims that are made by municipalities that their depots and structures shall meet the reasonable wishes of the people of the community, both as to location, design and accommodations afforded?

Mr. Lauck: Yes. I do not think the railroad can expect an immediate return on those investments, though.

Mr. Sheean: And yet it is an expense that you know no way of avoiding, and the credit of the railroads must be maintained in such a manner as to enable them to borrow the money?

Mr. Lauck: Yes, and yet the railroads may expect to receive in the future a large return from the use of such facilities.

Mr. Sheean: Is it feasible, or in just what manner is it feasible to borrow the money to make these improvements, unless there be some return by which they can at least pay the interest upon the money that is borrowed?

Mr. Lauck: The usual idea is that the surplus earnings of the railroads should be used as a basis for securing credit, or for actual construction of these unproductive investments, and that is one of the purposes to which the surplus earnings may be devoted, or to which the surplus may be devoted. For instance, the Pennsylvania Railroad constructed its New York terminal practically out of surplus—it and the Pennsylvania Company. I think they appropriated about $60,000,000 from surplus to construct the New York terminal. Of course, if a road did not have the surplus, or did not have the revenue, if it made such improvements it would need to have recourse to increased rates. Otherwise, it would become insolvent. I am not condemning the practice. I am simply showing here that while these investments may have been unavoidable—may have been necessary—yet the returns should be expected in the future, and not in the immediate present.

Mr. Sheean: Aside from any return to any one who does make an investment in a speculative way, how is it possible to comply with these public demands and public requirements without in some manner providing for a return at least in the way of interest on the borrowed money?

Mr. Lauck: You must provide for that, or otherwise, of course, the railroad becomes insolvent. Usually there should be surplus revenue to provide for that. That is, there should be revenue to meet the requirement that there should be a policy like that of the Pennsylvania, of $1 for dividends to $3 for improvements, or some such policy as that, out of earnings. If you have not got the earnings, you cannot expect the engineers and firemen to sustain the loss, and you would have to get increased rates. That would be my attitude. I do not know whether that answers your question or not, Mr. Sheean.

The Chairman: We will take an adjournment at this point.

(Whereupon, at 5 P. M., March 9, 1915, an adjournment was taken until March 10, 1915, at 10 o'clock A. M.)