RATE CASE BECOMES BATTLE OF FIGURES

Continued from Page 1.

for the Missouri Pacific, made the announcement that he would like Attorney C. C. Dey for the traffic bureau to file a list of the members of the association which he represents.

The hearing of testimony was then resumed and S. V. Derrah of this city, assistant general freight agent of the Denver & Rio Grande railroad, took the stand at the request of Attorney Dey. He told of the experience which he had had in the railroad business and said the freight traffic over the Rio Grande Western has increased in recent years. He was asked concerning the operating expenses of the road, but Commissioner Prouty suggested that figures, showing the matters desired, could be filed later.

Mr. Derrah was asked by Attorney Dey concerning the time which was made by freight trains over the line from the Missouri river and from Omaha to Salt Lake, under normal conditions, Mr. Derrah having explained that, by reason of recent damage from washouts, the conditions lately had not been normal. He gave the schedule time from the Missouri river and from Omaha to this city as about four and one-half days, under normal conditions. He was unable to say whether the time made was slower or faster than formerly, saying that it fluctuated.

He was asked what proportion of the traffic from the Missouri river and east of that point was carried to Utah common points over the Denver & Rio Grande, and said the westbound traffic to these points in 1908 was about 48 per cent of the total.

About an Agreement.

Mr. Derrah was asked whether he knew of any agreement with the Union Pacific and other lines in regard to the maintenance of rates, and said he was not aware of such an arrangement, and that he was not concerned with the making of rates.

Commissioner Prouty suggested that the rates must be about the same or the line making the lower rate would get all the business.

Asked whether trains on the road which he represents reach this city on about schedule time, Mr. Derrah said he believes they do, under normal conditions. Commissioner Prouty asked whether complaints had been received from shippers about trains not reaching Salt Lake on time, and the witness replied that complaints had been received of this kind. In answer to another question, Mr. Derrah said complaints of this kind probably are more numerous now than eight years ago, when he entered upon his present position. He said shippers eight years ago did not appear to notice it as much as now.

"Why was this the case before?" asked Commissioner Prouty. "Was it because the roads made it up to the shippers?"

The question called forth a smile from the witness.

Mr. Derrah was asked whether he could supply figures on the tonnage handled in recent years, and he submitted certain reports from the Colorado-Utah freight bureau and the Utah freight bureau, showing the tonnage on west and eastbound traffic between Colorado and Utah for the years 1906, 1907 and 1908, as well as the traffic from the Missouri river to Utah common points, and from Utah points east. A statement also was furnished of the tonnage from seaboard territory to Utah points. The statements submitted covered the revenue and tonnage both ways.

Burley on Stand.

D. E. Burley of Salt Lake, general passenger agent for the Oregon Short Line, was the next witness. He said he represented the Oregon Short Line, the Union Pacific and the Southern Pacific as far as Sparks. He was asked whether the Union Pacific and the Southern Pacific formerly had separate agents and said that the Southern Pacific formerly had an agent here. He was asked what brought about the discontinuance of the separate agents and said he was not aware of this reason.

"How does that affect the question of rates?" asked Judge Dillard.

Commissioner Prouty was of the opinion that it was not necessary to question further along this line, and Attorney Dey did not go further into the matter.

Mr. Burley was then asked about competition between the various roads and was called upon to testify concerning the passenger rates applying to the Pacific coast and the northwest. With reference to the competition of the Southern Pacific and the Salt Lake Route, he was asked whether the rates in force over the shorter route would not be remunerative over the "long haul." He did not think so.

"Are you aware that the rate from here to the Nebraska state line, added to the legal rate from there to Omaha, is less than the through rate from Omaha?" asked Attorney Dey.

The witness replied that he was aware of the difference.

"Why do you not adjust the rate to conform?" was the next question.

Mr. Burley said he did not recognize the lower rate prevailing in Nebraska as the legal rate.

Is Rate High?

"Is not the passenger rate to San Francisco excessively high?" he was asked.

"We have not received many complaints," was the reply.

"Was it not the practice a few years ago to pay large commissions on the sale of tickets?" the witness was asked.

The reply was in the affirmative.

When Attorney Dillard took hold of the witness for cross-examination he asked whether it was not true that the rates prevailing in the state of Nebraska are the subject of attack. The reply was in the affirmative. Judge Dillard brought out that the railroads do not recognize the lower Nebraska rate as the legal one, in making rates from other states.

S. H. Babcock, commissioner of the Salt Lake traffic bureau, was next called to the stand by Attorney Dey and said he had occupied the position of commissioner for the traffic bureau since Jan. 15 last. He recounted his railroad experience since 1885, starting with the Michigan Central and continuing down to 1903, during which time he was with the Northern Pacific, the Denver & Rio Grande, the Rio Grande Western and the Santa Fe, becoming general traffic agent for the Rio Grande in 1892 and traffic manager in 1895, his office being abolished in 1903. He left Utah in 1904, returning here from Denver at the start of the present year.

He said he had given much time to the investigation of traffic systems and after coming back here learned from the Salt Lake and Ogden people interested in the traffic bureau that there had been but a limited amount of solicitation for traffic on the part of the railroads recently and that complaints were numerous about traffic being longer en route than formerly.

Produces Statistics.

The witness was asked by Attorney Dey whether he had prepared statistics bearing on the railroad situation in general, and replied in the affirmative. He was called upon to produce these and presented over thirty typewritten or printed statements. These were offered as exhibits after Judge Dillard had announced that he wished to give notice of objection to some of these, if it should be found upon investigation of the statements that they did not bear on the question. The tables presented covered the following points:

Statistics for Utah, on population, agricultural and other products; mines and mining statement; wool product of the United States, according to the 1907 year book of the department of agriculture, and wool product of Utah for that year; division of freight rates on transcontinental traffic in effect on the Denver & Rio Grande in 1903; table of passenger divisions; take of freight divisions; correspondence with commissioner of Trunk Line association on freight rates; statistics of railroads, including present class rates between certain points; present class rates and those desired, with the revenue by the ton for a mile; through rates for 100 pounds from Chicago to Ogden and Chicago to San Francisco and rates prayed for on the same commodities; same rates, eastbound; mileage and through rates on commodities from Pittsburg, Buffalo and New York, routed by New Orleans; rates on citrus fruits, apples, and other products, from producing points; rates and routes from Utah and Montana to eastern points; combinations of class rates between New York and Chicago and through rates; rates from Chicago to Mississippi and Missouri river points; date of establishment by Union Pacific of $1.65 rate from Missouri river points to Salt Lake; correspondence with interstate commerce commission, showing when the $3 scale of class rates from Chicago to San Francisco was first placed in operation; class rates, Salt Lake to Los Angeles and San Francisco, over Salt Lake Route and Southern Pacific, if made uniform on class rate scale; commodity rates, Chicago to California points; copy of certain proceedings of Trans-Missouri Freight bureau; statement of passenger earnings on certain roads by the mile, and annual earnings for the mile by the ton.

Objection Is Made.

Attorney Dillard objected to the filing of the proceedings of the Trans-Missouri Freight bureau, as irrelevant, saying that even if it should show a conspiracy it could have no effect on determining the reasonableness or unreasonableness of rates.

Commissioner Prouty asked whether a copy of the proceedings had been filed with the interstate commerce commission. No one was able to say, and the commissioner thought the report should be filed. With regard to the figures on annual earnings, the commissioner said the commission already has the figures.

Attorney Dillard, when the exhibits had been presented, requested that, should inaccuracies be found, or it should be found necessary to supplement the statements, the railroads' representatives might have the right reserved to make corrections. This was agreed to.

Commissioner Prouty at this point announced that the members of the commission expected to return to Salt Lake from the Pacific coast about Oct. 29, and asked the attorneys whether they felt that they would be able to argue the case about that time. The counsel signified that they would be ready to argue, and the commissioner asked whether Judge Dillard would be able to file his brief before that time. He said he would not, and it was decided that the argument would have to take place before the filing of the briefs.

Long Haul Best.

The taking of testimony from Mr. Babcock was then resumed and he was asked whether he regarded the "short haul" or "long haul" traffic most valuable. He replied that the long haul was, in his opinion, most remunerative. He said the cars are kept moving for a long haul and there is less detention at local stations and consequently less expense. He said his opinion was formed from actual experience.

Commissioner Clark asked whether it was the purpose of the roads to get the longest possible haul, and the witness replied in the affirmative.

Mr. Babcock was asked about the difference in the tracks possessed by the Union Pacific and the Denver & Rio Grande between the Missouri river and Ogden and explained that the Union Pacific has a straight route from Ogden to Omaha. The connections of the Denver & Rio Grande from Denver to Omaha were also referred to.

Mr. Babcock was asked about the reduction in rates which had been made by the Union Pacific from the Missouri river to Utah points, and told of the breaking down of the rates from a $2.50 scale to $1.65. He said the Union Pacific announced at the time that the reduction was made for the benefit of the people of Utah. Some time later the rates were withdrawn. Prior to this time, there had been a conference of the various roads. He said he was with the Rio Grande Western when he received word of the reduction and he went east to make arrangements with the eastern connections of his road to meet the rate.

Commodity Rates.

Mr. Babcock was asked what proportion of the entire transcontinental freight business is handled by commodity rates. He could not give the exact proportion, but thought the bulk of it is handled in this way.

Mr. Babcock said he considered the present rate between Chicago and San Francisco remunerative, just and reasonable, so far as the return received by the railroads was concerned. He was asked whether the rates are not higher today than when he was connected with the Rio Grande, and said he thought the commodity rates are higher. He said that during his connection with the road he had considered transcontinental traffic remunerative.

He was asked what proportion of the earnings of the Rio Grande Western were from transcontinental traffic, and replied that during the last year of the Rio Grande Western as an independent road, ending June 30, 1901, 21.9 per cent of the traffic between the territory east of the Rocky mountains and California was transcontinental business, as well as 43.5 per cent of the passenger revenue.

He was asked whether the transcontinental plan of a blanket rate was of benefit to California, and replied in the affirmative, saying that it gives the state a market at practically the same rates throughout the country.

Mr. Babcock said the higher intermountain rates are unreasonable and that the earnings of the roads on through business is sufficient to carry the traffic of the people on a fair basis, without regard to location. He said that, so far as he knew, there is no other part of the country where such a basis is used.

Utah Rates Not Reasonable.

He was asked if he regarded the Utah rates reasonable, and replied that he did not, saying that they should be reasonably proportioned to the rates to California or from the coast, the extent of the service being less.

"Would you be satisfied," asked Commissioner Prouty of Mr. Babcock, "if the 'long' and 'short' haul clauses were enforced as to Ogden?"

Mr. Babcock said he thought the class rates should be proportioned. The rate provided for in the schedule suggested in the present complaint is on the proportion of about 66 per cent of the Missouri river-San Francisco rate to be applied to Ogden.

In constructing his schedule of rates, it was brought out, Mr. Babcock had used a construction mileage of a mile and a half to the mile, instead of straight mileage. He had constructed a rate to Denver as to mileage. He said the plan followed out was essentially that in force between the Atlantic seaboard and the Mississippi river.

The witness was asked what he knew about the improved condition of the Union Pacific and its ability to give better service than formerly. He said the line has been shortened and the roadway improved and curves removed, all these improvements lessening the cost of transporting freight.

"Was the former tariff rate based on the understanding that rebates were to be made?" the witness was asked.

About Rebating.

"I think this was the case," was the reply; "the rates were kept high that there might be rebating and still have a reasonable revenue remaining. Nine out of ten men who came into my office for a rate did not inquire what the rate was, but what rate we would make for them."

Mr. Babcock was asked to describe the physical differences between the Union Pacific and the Denver & Rio Grande and the comparative cost of construction. He said the Union Pacific was the first road built from the Missouri river to Utah, and always has been the shortest and best line. The construction of the narrow gauge of the Denver & Rio Grande in the early '80s was described, and the witness said the line was longer than the Union Pacific, the grades were worse, and the transfer of transcontinental business was necessary at two points. The cost of operating, he said, was greater than on the Union Pacific.

"What is a reasonable freight rate?" asked Judge Dillard in opening the cross-examination of Mr. Babcock.

"One that you have to make to get the traffic," was the reply.

"Cannot you say what is the proper basis to make a reasonable rate?"

"It is governed by conditions. Competition figures to a considerable extent in the matter."

"Then the whole basis of your complaint is false," continued Mr. Dillard.

"I do not regard it so," was the reply.

"But you have built your complaint on a mileage basis, have you not?"

"Yes."

"Then a rate based on a mileage basis is not proper?"

Conditions Govern.

Mr. Babcock replied that conditions had to govern in some cases and conferences were necessary at times to fix rates.

"Then you have no objection to the conferences of carriers?"

"Not if the public is taken into their confidence and permitted to express a view."

"If the conditions surrounding traffic determine the rates and if the rates should be built after conferences, how does your complaint have any standing, with your definition of what is necessary in making a rate?"

Mr. Babcock replied that he thought the mileage basis reasonable to all concerned. He said the time was past when a man could go into the market and bargain for a rate.

"Then," continued Mr. Dillard, "your general idea is that a mileage basis should underlie all these propositions?"

"As a general proposition, yes."

Mr. Babcock said a greater distance would modify the rate by the mile.

"Is not a reasonable rate," continued Judge Dillard, "one on which the traffic freely moves, allows a fair profit to the producer, and to the distributor and puts the product in the hands of the consumer at a price not unduly high?"

Mr. Babcock said this seemed a fair definition. He said, however, that there might be an unreasonable rate because of discrimination. He thought the rate should be fair to all sections and should be on a basis that will move the traffic and give a fair remuneration to all concerned. He thought that there might be a tendency to make rates high into a new country.

Traffic Moves.

"Traffic moves on the present rates to Salt Lake freely, does it not?" he was asked.

"All the traffic there is here moves," was the reply.

The witness was asked whether he was not complaining of the unreasonableness of the rates, rather than the rates themselves. He said that the roads with their earnings should give reasonable rates and said the Union Pacific has big earnings for the mile and is a good road.

"Yes, I am glad to be able to say it is," was Mr. Dillard's reply, and he continued:

"Do you not object, first, because there is discrimination against Salt Lake in favor of other communities, and also contend that the Union Pacific is making such a large revenue that it can, without injury to itself, reduce rates?"

Mr. Babcock said he was of the opinion that the road could reduce rates.

"What would be a fair return to a railroad on a fair capitalization?" asked Mr. Dillard.

"I don't know of a road that is fairly capitalized."

Commissioner Prouty suggested that Mr. Dillard tell the witness what a just valuation of the road would be and he then would know what he had to consider.

"I mean a fair cost and market value," said Mr. Dillard.

"Well, that is all right," said the commissioner.

After explaining that he had no desire to "trap" Mr. Babcock, Judge Dillard asked him what he considered a fair return in percentage on the fair and just cost of a railway. The witness said he believed the road was entitled to a reasonable percentage. He said government bonds are secure, but earn but a small amount, and if it were known that a business would remain steady and could be operated at a low rate, little return would be required. It was suggested that between 8 and 10 per cent might be a fair return, but Mr. Babcock considered this too high.

Increase in Labor.

"Are you aware how large has been the increase in the cost of labor and material since 1897?" Mr. Babcock was asked.

Mr. Babcock replied that he knew there had been an advance. Mr. Dillard brought out the fact that a railroad gets its sole revenue from its freight and passenger traffic, and asked whether an increase in the cost of labor and materials would not increase the operating expenses. The reply was in the affirmative.

"Then, unless the earnings are increased or there is some way to lower the percentage of operating costs, the freight rates will go up?"

Mr. Babcock replied that the amount of business is not supposed to remain stationary, and that increased business brings more money to meet expenses.

Mr. Babcock was asked whether, if it should be decided to reduce the rates, the Rio Grande should be taken into account in making the rates? He replied that the Union Pacific was the first road here, and that the rate should be made fair to that road, no matter what effect it might have on the other roads.

Mr. Dillard suggested that this might discourage railroad building and competition, and the witness replied that the people who build a road know what they have to expect.

"Then you serve notice on the investing public that any new road which comes here must take its chances?"

Equity Should Govern.

Mr. Babcock said everything should be governed by equity. He said he had in mind a new road which, should it come here, would be the short line.

Continuing his testimony at the afternoon session, Mr. Babcock said that a road which did not have the advantages in many ways over the dominant road could protect itself by fixing local rates which the other roads would have to meet. He thought the proposed rates would be fair to the Denver & Rio Grande.

Mr. Babcock was asked whether he would be satisfied with an application to Salt Lake of the commodity rates which apply to the coast. He said the people he represented would not be satisfied with this.

He was asked whether, if a general readjustment of rates in the intermountain district were brought about, there would be any change in Salt Lake as a jobbing center. He said Salt Lake is ready to take its chances on all the surrounding territory having the same rates.

"If the general basis applied, would not it take away a part of the trade of the Salt Lake jobbers?" he was asked. He replied that the city was willing to take the risk.

Mr. Babcock was asked whether, at the time the Union Pacific made its $1.65 rate, he had not protested against it as a representative of the Rio Grande, and whether he had not sought a return to higher rates. He replied that he had gone east and taken up the matter with eastern connections, with a view to meeting the rate, and that his only objection was to the method of making the rate.

Sought Reduction.

He said that for more than a year before that time he had tried to have a reduction, to get the so-called Montana rates for Utah, but Mr. Munroe had beguiled the support of many of the connecting lines.

Attorney Dillard asked whether he had not addressed a letter to the presidents of various roads in the matter of rate reduction, before starting this case. Mr. Babcock said he had done this as a mere preliminary move.

"You received a reply, did you not?" asked Mr. Dillard, "from the Union Pacific officials, saying that they would be glad to take up the subject, and yet nothing further was done until you proceeded to file a complaint with the president of the United States?"

Mr. Babcock said he had waited and no move was made by the other side. He was asked whether he should not have taken the matter up with the local representatives of the road, and replied that he did not think so.

"Did you not write a letter to the President, asking him to put us all in jail, or words to that effect?" asked Mr. Dillard.

"I might have felt that you ought to be, but I did not tell him so," was the reply.

E. B. Peirce, commerce attorney of the Rock Island road, asked Mr. Babcock whether the petition had been filed with a philanthropic purpose. Mr. Babcock replied that it had been brought on behalf of the people of the state, and not with any philanthropic purpose.

"Suppose the results you desire are achieved, and the business men of Salt Lake, Provo and Ogden are restricted, what will be the result?"

"I don't care to deal with any theoretical question," was the reply.

"Then the purpose is to wipe out the business of Salt Lake and these other places, for the general benefit of the people of the state?"

Mr. Babcock said he did not look at it in that way.

Mr. Peirce asked Mr. Babcock whether, in his proposed rate schedule, he intended to reduce the local rate between Chicago and the Missouri river to 33 cents. This is the schedule which the railroad men are trying to uphold, the 80-cent scale from Chicago to the Missouri river.

"Is there anything else you wish to tell the commission?" asked Attorney Dey of Mr. Babcock, after the cross-examination was finished.

"No," was the reply, "I think I have had the opportunity of doing all the talking I wanted to."

Mr. Jeffery asked if his attitude was that it would have been better if the Rio Grande had never been built.

"No," was the reply, "two roads are better than one."

Love on Stand.

S. H. Love, traffic manager of the Zion Co-operative Mercantile Institution, was next called, and gave the commission illustrations of freight rates charged on goods. He said the freight rates amounted to about 30 per cent of the value of the goods. On goods shipped from the Atlantic seaboard the total freight charges were much in excess of the total rate that a Pacific coast merchant would have had to pay.

Mr. Love was asked about the service given by the railroads. He referred to the statement of Mr. Derrah, that the schedule time of freights on the Denver & Rio Grande was about four and one-half days from the Missouri river and Omaha, and said he thought Mr. Derrah intended to say four and a half weeks.

Mr. Dillard asked the witness whether he would be satisfied with a blanket rate to San Francisco and Salt Lake, and the witness said he, personally, would be satisfied with such a rate.

"Would that be a just rate?" was asked.

"I can't say that it would."

Mr. Dillard tried to bring out the amount of dividends paid by local banks, but could not get the information, and then brought up the subject of the dividends paid by local business firms, trying to show that the railroads are entitled to as good a return.

Mr. Love was asked whether his firm has jobbing interests on the outside to any distance. He said the freight rates prevent the merchants from going far.

Mr. Dillard was going further into the jobbers' interests when Commissioner Prouty interrupted to say that "this was not a jobbers' case."

Prices Advance.

Mr. Dillard asked whether the price of goods has not advanced to the consumer in the last ten years. The reply of the witness was that there had been an advance to some extent, but that there is a smaller percentage of profit than ten years ago.

Mr. Peirce of the Rock Island asked Mr. Love whether he endorsed the theory of the complaint that it is to adjust rates, and the reply was in the affirmative. Before Mr. Love left the stand Mr. Babcock asked him whether he understood that the witness would be satisfied with a blanket rate. He repeated his statement to this effect.

"Then the commissioner was mistaken when he said this was not a jobbers' case, was he not?" asked Mr. Dillard.

"He is not asking for this rate in the complaint," said Commissioner Prouty, "and the complaint does not say so."

Mr. Dey rested at this point. Commissioner Prouty inquired whether it was desired to put in testimony in regard to various commodity rates, saying that these had not been touched upon. Mr. Babcock said he thought a general plan should be applied to all.

Mr. Kruttschnitt then took the stand, at the request of Mr. Dillard, and the counsel said that the attorneys had prepared a statement showing the value of the Union Pacific and other roads with which it was connected at the time of the reorganization in 1897 and down to the present time. Mr. Kruttschnitt was called upon to explain the figures in the statement submitted, which showed the value of the Union Pacific, the Oregon Short Line and the Oregon Railroad & Navigation company to have been $327,336,923.82 in 1897, while this was increased through improvements to $348,852,319.76 in 1899. The figures showed that, at present, with some improvements which have been started and largely completed, the valuation is $441,531,509.09, showing about $114,000,000 put in improvements since the reorganization.

Construction Figures.

The figures on construction, explained by Mr. Kruttschnitt, showed that on about 945 miles of construction the average cost was about $118,000 a mile. He mentioned two or three pieces of "abnormal cost," which he said he had not figured separately, the cost of which for the mile ranged between $192,000 and $1,100,000.

Mr. Dillard said the statement was intended to show what the roads cost and what is a fair valuation today by the mile for the Union Pacific.

Mr. Kruttschnitt was asked by Commissioner Prouty whether it would be possible for the examiner of the commission to get the exact figures, if desired, from the company's vouchers, and was told that this would be perfectly possible.

The hearing was adjourned here until 10 o'clock this morning, with Mr. Kruttschnitt on the stand.

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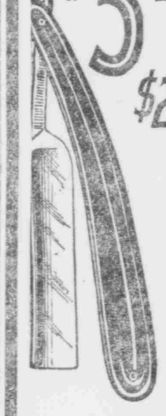

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