

INVESTIGATION OF RAILROADS, HOLDING COMPANIES
AND AFFILIATED COMPANIES

TUESDAY, DECEMBER 7, 1937

UNITED STATES SENATE,
SUBCOMMITTEE OF COMMITTEE ON INTERSTATE COMMERCE,
Washington, D. C.

The subcommittee met at 10 a. m., pursuant to adjournment on yesterday, in room 412, Senate Office Building, Senator Harry S. Truman presiding.

Present: Senator Truman.

Present also: Max Lowenthal, counsel to the committee; George Rosier, Sidney J. Kaplan, and Telford Taylor, assistant counsel to the committee.

Senator TRUMAN (presiding). The subcommittee will come to order. Mr. Hanauer, will you please come forward?

TESTIMONY OF JEROME J. HANAUER, FORMERLY A PARTNER OF KUHN, LOEB & CO., NEW YORK CITY; TESTIMONY OF MARK W. POTTER, FORMER RECEIVER OF CHICAGO, MILWAUKEE & ST. PAUL RAILWAY CO.; TESTIMONY OF BENJAMIN J. BUTTENWIESER, MEMBER OF KUHN, LOEB & CO., INVESTMENT BANKERS, NEW YORK CITY; AND STATEMENT OF ROBERT T. SWAINE, OF CRAVATH, DE GERSDORFF, SWAINE & WOOD, ATTORNEYS AT LAW, NEW YORK CITY—Resumed

CONTROL OF REORGANIZED ST. PAUL—SELECTION OF OFFICERS, DIRECTORS AND VOTING TRUSTEES—EXTENT OF BANKER PARTICIPATION THEREIN

Senator TRUMAN. You may proceed, Mr. Rosier.

Mr. ROSIER. Mr. Hanauer, your firm, Kuhn, Loeb & Co., and the National City Co. prepared the reorganization plan and agreement dated June 1, 1925, for the St. Paul Railroad, did you not?

Mr. HANAUER. Yes.

Mr. ROSIER. And the modification of the plan dated November 19, 1925?

Mr. HANAUER. Well, I was away when the modification was made, being in Europe, but that was prepared, I think I can safely testify, in cooperation with the minority, with whom the agreement had come about.

Mr. ROSIER. I believe there has already been some testimony of yours before the Interstate Commerce Commission, back in 1925 and 1926 to the effect that you were the prime mover in drawing up

this reorganization plan of June 1925. You were principally responsible, were you not?

Mr. HANAUER. I personally?

Mr. ROSIER. Yes.

Mr. HANAUER. Perhaps that is true. Someone had to take the lead.

Mr. ROSIER. I believe also that Mr. Swaine collaborated with you considerably in the preparation of that plan.

Mr. HANAUER. As counsel.

Mr. ROSIER. That plan, as modified by the modifications of November 19, 1925, set up certain machinery for the control of the new company that was to come out of the reorganization, did it not?

Mr. HANAUER. Yes.

Mr. ROSIER. Did the plan, if you can now recall it, make any provision for the selection of officers of the new company, I mean president, vice president, and so forth; do you recall that?

Mr. HANAUER. Well, I cannot recall exactly, but I should say, subject to correction, I believe that the machinery was this: That the board of directors would actually do the electing of the officers. Now, the voting trustees were to approve the selection by reorganization managers for directors, but the directors, of course, would actually elect the officers. But it was the duty of the reorganization managers to make suggestions and to try to set this company up on a safe basis and under good management.

Mr. ROSIER. So far as the officers are concerned, and I mean by that the officers of the new railroad company, there was no specific provision in the plan as I read it—and if I am wrong you will correct me—for—

Mr. HANAUER (interposing). I think you are right about that.

Mr. ROSIER. Yes. Now, Mr. Chairman—

Mr. HANAUER (continuing). Except if you include the general provision of what the reorganization managers were to try to accomplish, which was to set this thing up as a going company.

Mr. ROSIER. But do you recall any specific provision regarding selection of officers?

Mr. HANAUER. I do not.

Mr. ROSIER. Does that conform with your recollection, Mr. Swaine?

Mr. SWAINE. There was no specific provision, but there was general power.

Mr. ROSIER. General power through the power to draw up articles of incorporation?

Mr. SWAINE. Well, to arrange all details of reorganization.

Mr. ROSIER. Mr. Chairman, I would like to offer in evidence an excerpt from the testimony of Mr. Hanauer, before the Interstate Commerce Commission, Docket 17021, in which Mr. Hanauer testified May 6, 1926, in response to a question as to whether he had discussed with anyone the matter of selection of officers of the proposed new company, and at that time he said [reading from "Exhibit No. 1935"]:

With nobody. That is a matter which will be entirely in the hands of the first board of directors of the company to be elected by the voting trustees, which in the modified plan, have been nominated—

And then the names of the voting trustees are listed.

Mr. HANAUER. May I see that paper?

Mr. ROSIER. Certainly.

Senator TRUMAN. It will be received in evidence.

(The paper referred to was marked "Exhibit No. 1935" and is included in the appendix on p. 7033.)

Mr. ROSIER. That was on May 6, 1926, nearly 2 years before the event.

Mr. HANAUER. That was all I wanted done, and up to the time of my testimony that was absolutely true. It had not been discussed at all. I testified further at some time that the question of officers arose by reason of Mr. Byram going in and saying, "I don't want to be president of this new company."

Mr. ROSIER. Mr. Hanauer, I am not trying to draw any inference that you discussed anything at that time, you understand.

Mr. HANAUER. Yes. But may I point out that dates have a great deal to do with testimony?

Mr. ROSIER. Mr. Hanauer, may I just state that I am referring to a portion of your testimony here, in which you stated that the matter of selection of officers would be entirely in the hands of the first board of directors of the company to be elected by the voting trustees. That was a matter for the future.

Mr. HANAUER. That was my opinion at the time.

Mr. ROSIER. Now, that document also relates to the selection of directors of the new company. There was some provision in the plan of reorganization regarding the selection of directors of the new company, was there not?

Mr. HANAUER. I have not looked at the plan for a long time. You have it there before you, I take it. What is it?

Mr. ROSIER. I am reading from page 1—

Mr. HANAUER (continuing). I do not want to go on memory when we have the plan before us.

Mr. ROSIER. I am reading from page 1 of the plan, in which it is stated:

The first board of directors of the new company—

Mr. LOWENTHAL (interposing). You have the plan before you, Mr. Swaine, and Mr. Hanauer could see it if he cares to follow with that copy.

Mr. SWAINE. Oh, we will trust you to read it correctly.

Mr. LOWENTHAL. I am referring now to Mr. Hanauer's remark that we have the plan before us. Mr. Hanauer has access to the document also, which you have there, Mr. Swaine.

Mr. HANAUER. I can get the information just as well by listening to Mr. Rosier's reading of it, and possibly better.

Mr. ROSIER. The plan says:

The first board of directors of the new company will be subject to their approval.

That is a reference to the voting trustees, is it not?

Mr. HANAUER. Yes, sir.

Mr. ROSIER. Is there any statement in the plan that the first board of directors will be selected by the reorganization managers subject to the approval of the voting trustees? Is there any provision about that? I have not been able to find any.

Mr. HANAUER. My recollection is that in the plan—and I would have to study it here—well, I don't see it at once, but I think the

language—well, if you want to take the time for us to try to find it—

Mr. ROSIER (interposing). It is on page 5, the first paragraph, that I think you will find the language, Mr. Swaine, right down in the middle of the paragraph.

Mr. HANAUER. Page 5 of the actual plan, and not the modification?

Mr. ROSIER. It is on page 17 there, the reference to the voting trust.

Mr. HANAUER. Let me see if I can find it.

Mr. ROSIER. May I state that the only provisions I have found covering the subject are to be found on pages 1, 5, and 17.

Mr. HANAUER. Let me see.

Mr. ROSIER. I will be glad to have you correct that if I am wrong, but as I read those provisions the statement is merely made that the first board shall be subject to the approval, without any statement as to who shall select the board. If I am wrong about that, I will be glad to have you correct me, but in the interest of time I think we might move along.

Mr. HANAUER. There might be something in the agreement.

Mr. ROSIER. I will be glad to have you correct me on that if I am wrong.

Mr. HANAUER. I think there is something there. But, of course, we all know that legally speaking a board of directors have to elect, and we are not trying to split hairs on it. If you want me to assume there was a conference as to who the new directors would be, I will grant you that, of course.

Mr. ROSIER. Mr. Chairman, I should like to offer for the record a letter from Mr. Otto H. Kahn to Mr. Iselin, dated November 19, 1925.

Senator TRUMAN. The letter will be received in evidence.

(The letter referred to was marked "Exhibit No. 1936" and is included in the appendix on p. 7033.)

Mr. ROSIER. Mr. Hanaauer, Mr. Kahn was a partner of Kuhn, Loeb & Co. at that time, was he not?

Mr. HANAUER. Yes.

Mr. ROSIER. This letter is dated November 19, 1925. Was that the time when you made the compromise with the Roosevelt-Iselin group?

Mr. HANAUER. That was after the time.

Mr. ROSIER. Shortly after that?

Mr. HANAUER. Yes.

Mr. ROSIER. I will read the letter [reading from "Exhibit No. 1936"]:

I am glad to say, on behalf of the Reorganization Managers, that, while we cannot, and do not intend to, impair the authority and responsibility conferred upon us under the Plan of Reorganization of naming, with the approval of the Voting Trustees, the first Board of Directors of the reorganized Chicago, Milwaukee & St. Paul Railway Company, we shall willingly extend to you an opportunity to express your views before we make definite selections.

I also confirm what I have said to you verbally, that we consider it wise and appropriate that a reasonable proportion of the Board of Directors should be composed of men residing in the West and Northwest, and that we intend to act accordingly in selecting the first Board of Directors.

Mr. Hanaauer, the first board was subject to the approval of the voting trustees; is that correct?

Mr. HANAUER. Yes.

Mr. ROSIER. Can you tell us what provision was made in the plan for the selection of the voting trustees?

Mr. HANAUER. They were named.

Mr. ROSIER. You say they were named?

Mr. HANAUER. Yes, in the modified plan.

Mr. ROSIER. That is correct. May I read, Mr. Chairman, from page 1 of the introductory statement of the modified plan, fifth paragraph: ¹

The reorganization managers take this opportunity to announce that in the exercise of the power vested in them under the plan, they have selected, with the approval of the three committees representing, respectively, bondholders, holders of preferred and common stock, five trustees, in whom the voting power of the common stock is to be vested until January 1, 1930.

That is, Mr. Hanaauer, the power to select the voting trustees was lodged in the reorganization managers subject to the approval of the protective committees; is that correct?

Mr. HANAUER. I believe so.

Mr. ROSIER. Mr. Hanaauer, you are familiar with the fact that there was an investigation—

Mr. HANAUER (interposing). May I say at this time, because Senator Truman has stated that what you are looking for is information, that here, at this time when this is mentioned, the names of those five men be put into the record?

Mr. ROSIER. All right. They were: Elihu Root, Frederick H. Ecker, Henry B. Pritchett, Samuel Rea, and W. D. Van Dyke.

Mr. HANAUER. Might I add also, in order that the information may be in the record, who these gentlemen were?

Mr. ROSIER. All right, please do so.

Mr. HANAUER. The first one named, Hon. Elihu Root, I do not think we need attempt to say who he was. It was Elihu Root, Sr. The second one, Mr. Frederick H. Ecker, was the chairman of the bondholders' committee and president of the Metropolitan Life Insurance Co. The third one, Mr. Pritchett, was the head of the Carnegie Foundation. The next one was Mr. Rea, who was retired president of the Pennsylvania Railroad Co. And Mr. Van Dyke was the president of the Northwestern Mutual Life Insurance Co.

Mr. ROSIER. And he was himself on the bondholders' committee?

Mr. HANAUER. Yes. But he was the president of the Northwestern Mutual Life Insurance Co., and it was very desirable to have a man from the West on the property, and he was a man of the highest type.

Mr. LOWENTHAL. Is it correct to say that both Mr. Ecker and Mr. Rea had participated in Kuhn, Loeb & Co. underwritings from time to time?

Mr. HANAUER. It is quite possible, in small amounts. I think that was testified to at some of the previous proceedings, but it is immaterial. That, again, I will say, if it is intended to reflect on these men, that the character of these men is that of the highest standing, and we cannot go on with anything like that.

Mr. ROSIER. The voting trustees were to be subject to the approval of the protective committees?

¹ See "Exhibit No. 2280", Hearings, Part XVII, p. 7492, subsequently entered.

Mr. HANAUER. I think so.

Mr. ROSIER. Three by the bondholders' committee, one by the preferred stockholders' committee, and one by the common stockholders' committee. Do you recall that, Mr. Swaine?

Mr. SWAINE. That is correct.

Mr. HANAUER. Yes.

SELECTION OF MEMBERS OF PROTECTIVE COMMITTEES IN 1925-28
RECEIVERSHIP—EXTENT OF BANKER INFLUENCE THEREON

Mr. ROSIER. Now, there was considerable testimony I believe given before the Interstate Commerce Commission, way back in 1925 and 1926, bearing on the selection of the protective committees. Do you recall that?

Mr. HANAUER. Oh, yes.

Mr. ROSIER. Mr. Chairman, I should like to offer for the record an extract from the report of the Interstate Commerce Commission, volume 131, pages 667 and 668, on the investigation of the Chicago, Milwaukee & St. Paul Railway Co., Docket No. 17021, submitted January 14, 1927, decided January 4, 1928, in which, in part, the Commission finds [reading from "Exhibit No. 1937"]:

It was an ideal situation for the bankers to control. This they promptly did, arranged all the details, framed up the committees favorably to themselves, put themselves on the bondholders' protective committee and, constituted themselves reorganization managers.

Senator TRUMAN. It will be received in evidence.

(The document referred to was marked "Exhibit No. 1937" and is included in the appendix on p. 7034.)

Mr. ROSIER. I would like also—

Mr. HANAUER (interposing). I think it would be well to add to that, that that report was not in accordance with the facts as testified to, which were that we took those steps at the request of the special committee of the board of directors of the St. Paul Railroad appointed for the purpose.

Senator TRUMAN. But that was the finding of the Interstate Commerce Commission, was it not?

Mr. HANAUER. Yes; but it was not in accordance with the testimony before them.

Senator TRUMAN. Do you think the Commission would make a finding not in accordance with the testimony?

Mr. HANAUER. I would say that the Commission drew a conclusion that was not in accordance with the testimony before them. Unfortunately, everybody is human, and while I have every respect for the Commission, and this was before Mr. Cox, and I have every regard for Mr. Cox, but it was a very long hearing, and you know how impressions are created. But the testimony and the facts were that the bankers were called upon and asked at the very beginning by a special committee of the board, that we did not know even had been formed, to go into this situation.

Mr. ROSIER. That has no bearing on the question of the selection of the committees themselves.

Mr. HANAUER. There was a great deal of testimony as to how the committees were selected, and the testimony was not that we selected the committees, nor was that the fact. The facts should be shown,

and I will be very glad, inasmuch as this committee wishes to have the facts, to make a short statement on it, if you like?

Mr. ROSIER. I do want to introduce in evidence, Mr. Chairman, a few documents which I believe were not introduced at the Commission's hearings, bearing on the question of the selection of committees.

Senator TRUMAN. You may proceed to introduce them.

Mr. ROSIER. I have particularly a letter from Robert H. Bradley to John W. Stedman, or rather a telegram, both of these gentlemen being connected with the Prudential Life Insurance Co., dated March 11, 1925, in which Mr. Bradley states [reading from "Exhibit No. 1938"]:

Saw Hanauer. Committee being formed—in case necessity arises when Coverdale report comes out, possibly next week. Will represent everything but Generals, Terre Hautes, and stock. He wants Duffield or you to serve. Ecker, Chairman, others probably as you predicted, but nothing definite until Ecker returns next week.

And then—

Mr. HANAUER (interposing). That is correct, except as to particular words. I would not have used the expression I wanted them to serve. I hoped they would want to serve. They were very large bondholders.

Senator TRUMAN. The telegram will be received in evidence.

(The telegram referred to was marked "Exhibit No. 1938" and is included in the appendix on p. 7034.)

Mr. ROSIER. In a letter from Mr. Bradley to Mr. Stedman, dated March 11, 1925, Mr. Bradley states [reading from "Exhibit No. 1939"]:

I am writing this at the Seaboard Bank and in longhand as Hanauer asked me to be very careful not to let this matter get out.

They are getting ready to form a committee now so as to be ready in case Coverdale's report is of such a nature that it is clear nothing can be done to avert a receivership. The report may come out next week although of that he professed ignorance.

Ecker has consented to be chairman, but as he is in Augusta—

And that means Augusta, Ga., does it not?

Mr. HANAUER. I think so.

Mr. ROSIER. I continue reading:

Ecker has consented to be chairman, but as he is in Augusta nothing definite will be done about the personnel of the committee until he returns on Monday.

Mr. HANAUER. What is the date of that letter?

Mr. ROSIER. March 11, 1925, a week before the company went into receivership; is that correct?

Mr. HANAUER. I think so.

Mr. LOWENTHAL. Mr. Bittenwieser has a copy of that letter if you care to look at it, Mr. Hanauer.

Mr. HANAUER. No; I can get it better this way. That is correct in accordance with my testimony, that I telephoned Mr. Ecker in Augusta, that according to Mr. Miller's advice this thing was being precipitated, that I disliked to bother him in his holiday, but wanted to tell him about the situation. He offered to come up, and asked me to try to get a meeting of large bondholders the next day. That is all in my testimony. Taking out these isolated letters hardly shows the proper picture.

Mr. ROSIER. May I proceed, Mr. Chairman?

Senator TRUMAN. Yes; you may proceed.

Mr. ROSIER. I continue reading from the letter [reading from "Exhibit No. 1939"]:

Ecker has consented to be chairman, but as he is in Augusta nothing definite will be done about the personnel of the committee until he returns on Monday. Hanauer's idea, however, is approximately as follows—

And then there is a list of prospective members of the committee.

Mr. SWAINE. No.

Mr. ROSIER. Of prospective institutions that would be represented on the committee then?

Mr. SWAINE. Yes.

Mr. ROSIER. And they are, as listed, the Prudential, Mutual, Metropolitan, National City, K. L. & Co., Rockefeller interests, savings bank interests, and Jameson with a question mark opposite the last named. And then the letter says [continuing reading from "Exhibit No. 1939"]:

His stock interest may bar him, Hanauer thinks.

He thought that in view of their "very friendly relations with us" either Mr. Duffield or you would want to go on the committee.

And then the letter proceeds:

As you can see, it is just the type of committee you thought they would form. It includes everything except the general mortgage and the Chicago, Terre Haute & S. E.—both of which he mentioned as not needing any representation on this or any committee in his opinion.

Senator TRUMAN. The letter will be received in evidence.

(The letter referred to was marked "Exhibit No. 1939" and is included in the appendix on p. 7034.)

Mr. HANAUER. Mr. Chairman, that is quite correct, except that I am not responsible for what Mr. Bradley may have assumed. May I again say that my entire testimony, with cross-examination, in the proceedings to which reference has just been made, I think should be put into the minutes of this hearing, and not merely isolated letters. I think if you want facts, and with as little expense as possible, the entire testimony should be put in.

Senator TRUMAN. They will be incorporated by reference but they will not be made a part of this record because the record is too bulky now. Those facts are obtainable, and anybody can get them who wants them. As I say, reference will be made to them as a part of this record, but they will not be incorporated into this record.

Mr. HANAUER. Mr. Chairman, may the fact that I have asked to have it made a part of the record, be shown here?

Senator TRUMAN. That is in this record now.

Mr. HANAUER. Thank you.

Senator TRUMAN. Of course, that matter will be taken up with the committee as a whole when it meets, and if the committee should decide it is not too expensive and not too bulky, they will be incorporated in our record, but they are now incorporated by way of reference.

Mr. HANAUER. Thank you.

Mr. ROSIER. Mr. Hanauer, Mr. Ecker was in Augusta, Ga., at that time, was he not?

Mr. HANAUER. He was.

¹ The testimony referred to is contained in I. C. C. Docket No. 17021, entitled "Investigation of The Chicago, Milwaukee & St. Paul Railway Co."

Mr. ROSIER. Mr. Chairman, I want to offer for the record a telegram from Mr. Ecker to Mr. Hanauer, dated March 11, 1925. That is the same date that the other memoranda we have just introduced bear, and in this telegram Mr. Ecker states [reading from "Exhibit No. 1940"]:

Meeting at my office at ten Monday morning all right. I do not know whom you are asking but would you not send a wire to Mr. VanDyck, President Northwestern Mutual? Fully agree with you regarding depositaries.

Senator TRUMAN. The telegram will be received in evidence.

(The telegram referred to was marked "Exhibit No. 1940" and is included in the appendix on p. 7035.)

Mr. ROSIER. Mr. Chairman, I should also like to offer in evidence a telegram from Mr. Hanauer to Mr. Ecker, of date March 10, 1925, bearing on the selection of counsel to the bondholders' committee.

Senator TRUMAN. The telegram will be received in evidence.

(The telegram referred to was marked "Exhibit No. 1941" and is included in the appendix on p. 7035.)

Mr. ROSIER. I also wish to introduce the reply of the same date, from Mr. Ecker to Mr. Hanauer.

Senator TRUMAN. It will be received in evidence.

(The telegram referred to was marked "Exhibit No. 1942" and is included in the appendix on p. 7035.)

Mr. ROSIER. Mr. Hanauer, do you want to read these telegrams?

Mr. HANAUER. No; I remember them.

Senator TRUMAN. Mr. Hanauer, it now looks even stronger that the Interstate Commerce Commission was right, even though they did not have the correspondence here put in.

Mr. HANAUER. Mr. Chairman, if you would read all the testimony you would find that what was to be done had to be done within a few days, and that I suggested he would have to take the leadership.

Senator TRUMAN. I expect to read all the testimony.

Mr. HANAUER. What I did was to get from the records available lists of very large institutional bondholders. Unfortunately we cannot find in any books of record, holders other than those. And I asked men to that meeting, in Ecker's absence, to represent those large institutions, and large banks, and others who were large owners of these bonds. I brought a list, and asked those men because they represented a large number of bonds. They were the best and biggest institutions in the United States—life insurance companies representing hundreds of thousands of depositors. And I would do the same thing over again. If the bondholders are not to be represented, the largest institutional holders of bonds, representing hundreds of thousands of policyholders, what kind of committee would you suggest?

Mr. LOWENTHAL. Mr. Hanauer, I should like to ask two questions: First, as I understand you, you believe that the Interstate Commerce Commission was wrong in its finding that the bankers had framed up the committee. You do not question that—

Mr. HANAUER (interposing). And that we constituted ourselves managers and everything else. They entirely overlooked, and I am not criticizing anybody, because this was a long hearing, but the fact was that this was something we were requested to take in hand records before, by a committee appointed by the board of directors

of the St. Paul Railroad, as to which we did not then, I mean at that time, according to my best recollection now, have any knowledge, who came to us and talked over the situation. My recollection is that we loaned them a little money at that time, although I may be wrong about that. We then suggested: "If you want to be able to present a proper picture, get someone to make a report"; and Coverdale & Colpitts were suggested, and they stand as high as anybody else, and Mr. Colpitts is an outstanding expert today on physical examination of railroads, and was then. We stated: "That is a concern we think would be a very good selection, but you make your own choice." They looked into the question, and had that examination made by Coverdale & Colpitts. The fact that that examination was being made, or was going to be made, was immediately given to the press, so that everybody would know what was going on. There was no secrecy. When the court came in, and when Mr. Miller said: "We will have to do this thing the right way", then the directors asked us to take this up with the large security holders. That was all in open daylight. There was no secrecy.

Mr. LOWENTHAL. Mr. Hanauer, in addition to your view that the Commission's finding on the evidence before it, that the bankers had framed up the committee, was wrong, is it your opinion that the documents introduced this morning, these documents which were not known to the Interstate Commerce Commission and not in its records, bear out the Commission's report on this point, or is it your opinion that they bear out your contrary view on this point?

Mr. HANAUER. I would not say that the letters brought out here this morning have any bearing on it one way or another. But I should like to add that the testimony further shows that so far as the stockholders' committee was concerned, that we had nothing to do with it to speak of at all; that Mr. Harkness, who was not only a director but the largest individual stockholder, said he would like to have Mr. Buckner the chairman of the preferred stockholders' committee, and Mr. Buckner selected his own members. It was impossible, on account of the stock not having paid dividends for many years, to get a list of the real stockholders. They were all in the names of brokers, and Mr. Geddes, who had been one of the special committee, did not want to take the chairmanship. I said to him that it was up to the board of directors, and I think up to him, to take the chairmanship, but I was not forming any stockholders' committee. The only thing I was doing was passing the message along, of Mr. George Davison, a man who had had large experience in reorganizations, and was then the president of the Central Trust Co., and he had called me up and asked if he could be of any help. I said I did not know, but that I would pass his message along. I called up—well, was he on the common-stock holders' committee?

Mr. ROSIER. Yes.

Mr. HANAUER. I called up Mr. Geddes and told him of Mr. Davison's message, and I said, "You know him as well as I do, and you know how able he is and if you want him there is the chance to get a good man." It is difficult to find able men, to get them to go on committees.

Mr. LOWENTHAL. Mr. Hanauer, perhaps I got a wrong impression from what you have been saying. I got the impression you were saying nothing in this matter was secret. I was wondering whether

you think Mr. Bradley's letter, just introduced in evidence, which says [reading from "Exhibit No. 1939"]:

I am writing this at the Seaboard Bank and in longhand as Hanauer has asked me to be very careful not to let this matter get out—

would give any such indication.

Mr. HANAUER. Well, that was referred to yesterday, the danger of interests outside of the property we were trying to protect, to have information as to a probable receivership. I am not talking now about the reorganization.

Mr. LOWENTHAL. The question I put to you was, whether that statement in view of this letter was correct or incorrect.

Mr. HANAUER. The answer to that is, that if you are referring to the fact that we did not give to the world the suggestion that next Tuesday, or next week, there is going to be an application for a receivership, then you are perfectly correct. I am talking about this thing in a large and general way, and not of what Mr. Bradley, when he came to me and asked me these questions, might have written to Mr. Stedman.

Mr. LOWENTHAL. And I am asking you whether the first sentence in Mr. Bradley's letter to Mr. Stedman is correct or incorrect.

Mr. HANAUER. I have given you my answer.

Mr. LOWENTHAL. Is it correct?

Mr. HANAUER. I have given you my answer.

Mr. LOWENTHAL. Did you ask Mr. Bradley to be very careful not to let this matter get out?

Mr. HANAUER. I have no recollection of it at all.

Mr. LOWENTHAL. Do you deny that you did that? Just let us have an answer to that question for the record.

Mr. HANAUER. I have given you for the record the facts.

Senator TRUMAN. You may proceed, Mr. Rosier.

Mr. HANAUER. I do not know what you mean by it.

Mr. ROSIER. Mr. Chairman, may I call Mr. Scandrett?

Senator TRUMAN. Will Mr. Scandrett please come forward?

Mr. SCANDRETT. Certainly.

Senator TRUMAN. Have you been sworn?

Mr. SCANDRETT. I have not.

Senator TRUMAN. Please hold up your right hand and be sworn.

Do you solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, regarding the matters now under investigation by this committee, so help you God?

Mr. SCANDRETT. I do.

Senator TRUMAN. Just take a seat at the committee table and give your full name and connection for the benefit of the committee.

TESTIMONY OF H. A. SCANDRETT, TRUSTEE OF THE CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO., AND PRESIDENT OF THE CORPORATION, CHICAGO, ILL.

SELECTION OF SCANDRETT AS PRESIDENT OF REORGANIZED ST. PAUL—EXTENT OF INFLUENCE THEREON OF BANKERS AND THEIR ATTORNEYS

Mr. ROSIER. Mr. Scandrett, are you also a director of the Milwaukee Railroad?

Mr. SCANDRETT. Yes.

Mr. ROSIER. Do you know when you were elected a director of the Milwaukee Railroad?

Mr. SCANDRETT. I know when I took office, which was January 14, 1928. And I think I was elected a day or two before that.

Mr. ROSIER. Our records, taken from the minutes of the stockholders' meeting and the minutes of the directors' meeting, show that you were elected at a meeting on January 11, 1928. Does that refresh your recollection in any way?

Mr. SCANDRETT. It does not, but I have no doubt that is correct.

Mr. ROSIER. Mr. Chairman, I should like to offer for the record a telegram from Mr. Donald C. Swatland to Mr. Scandrett, dated January 11, 1928.

Mr. Swaine, Mr. Swatland is a partner of yours, is he not?

Mr. SWAINE. Yes.

Mr. ROSIER. In which Mr. Swatland states this [reading from "Exhibit No. 1943"]:

At directors' meeting this morning you were elected president new St. Paul Company. Qualifying shares issued in your name. Please wire authority to sign consent and proxy for stockholders' meeting today authorizing new mortgages, increase in number of directors, election of directors, and other business that may come before meeting.

Senator TRUMAN. The telegram will be received in evidence.

(The telegram referred to was marked "Exhibit No. 1943" and is included in the appendix on p. 7036.)

Mr. ROSIER. Then I wish to introduce the answering telegram from Mr. Scandrett of the same date, giving the authority as requested.

Senator TRUMAN. The telegram will be received in evidence.

(The telegram referred to was marked "Exhibit No. 1944" and is included in the appendix on p. 7036.)

Mr. ROSIER. Do these telegrams refresh your recollection, Mr. Scandrett, that you were elected a director and president on January 11, 1928?

Mr. SCANDRETT. Well, I haven't any independent recollection of it, but, as I have said, I have no doubt that is the correct date.

Mr. ROSIER. Mr. Swaine, do you know whether that is the correct date?

Mr. SWAINE. I do not.

Mr. ROSIER. Mr. Scandrett, these telegrams were obtained from your files. Do you know that?

Mr. SCANDRETT. No; I do not know that, but I do know that a good many letters were obtained from my files.

Mr. ROSIER. I will say, Mr. Chairman, that these documents were taken from the files of Mr. Scandrett.

Mr. SCANDRETT. It seems to me it might be understood that that date is correct subject to correction, but I have no independent recollection of it.

Mr. ROSIER. Who were the directors of the Milwaukee Railroad at the time when it filed a petition under section 77, at the end of June 1935?

Mr. SCANDRETT. I think I can give you all of them: Mr. Ecker, Mr. Buckner, Mr. Sparrow, our vice president in charge of finance and accounting, Mr. Howland Davis, Mr. Fairman Dick, Mr. Byram, Mr. Swaine.

Mr. ROSIER. And Mr. Greene?

Mr. SCANDRETT. Mr. Josh Greene, of Seattle.

Mr. ROSIER. And yourself?

Mr. SCANDRETT. And myself.

Mr. ROSIER. I think that completes the list. Were any of these gentlemen directors of the St. Paul Railroad at the time when you became director and president?

Mr. SCANDRETT. Yes. I think all of them were on the first board of directors except Mr. Dick and Mr. Davis. If you have that list there you can check it up.

Mr. ROSIER. I believe Mr. Dick and Mr. Davis were elected to the board in 1929.

Mr. SCANDRETT. Well, I thought that Mr. Davis was elected a little bit later, but it was about that time.

Mr. ROSIER. We will go into that matter later. I think it was sometime the latter part of 1929.¹ Mr. Scandrett, the documents which were just introduced into evidence refer to an authorization and a proxy which it was requested that you sign, authorizing the election of directors, and then there was an answering letter in which you authorized it.

Mr. SCANDRETT. It was a telegram.

Mr. ROSIER. Yes. Do you have any independent knowledge now that that authorization was used to elect the various members of the board whom we just mentioned, except Mr. Dick and Mr. Davis?

Mr. SCANDRETT. Well, I assumed that it was a formal matter of organization, to get the new company started.

Mr. ROSIER. Do you or do you not know that your authorization and proxy, which was given for the selection of directors, was actually used to elect Messrs. Swaine, Sparrow, Byram, Buckner, Ecker, Colpitts, and Greene? And I believe we left Mr. Colpitts out before.

Mr. SCANDRETT. Yes; we did leave him out. No; I did not know what was done on that. I presumed they held a meeting of the board and did make these elections.

Mr. SWAINE. It was also used to elect three other people at least.

Mr. ROSIER. And those were—

Mr. SWAINE. Mr. Potter, Mr. Geddes, and Mr. Fisher.

Mr. ROSIER. Those gentlemen were not on the board of directors at the time the company went into section 77 in June of 1935?

Mr. SWAINE. But your question was directed to the election in 1928.

Mr. ROSIER. That is correct, and I am trying to clear up the record. Those gentlemen were elected sometime in 1928, and had resigned prior to the time when—

Mr. SWAINE (interposing). They were elected at the time of the others. They were on the original board.

Mr. SCANDRETT. They were not on the board at the time we went into bankruptcy.

Mr. ROSIER. Mr. Chairman, I would like to read from a report² made by an examiner of this committee's staff, which contains extracts from minutes of the directors' meetings of the Milwaukee Rail-

¹ See Hearings, Part XVII, p. 7290.

² Entered subsequently as "Exhibit No. 2005", p. 7060.

road. Concerning the minutes of the meeting of January 11, 1928, the report states [reading from "Exhibit No. 2005"]:

At this meeting the following officers resigned or were elected:

Officers resigning: Frederick N. Edwards, Treasurer, and Alfred McCormack, President and Director.

And certain other officers were elected at that meeting, and Mr. Scandrett was one of these. The minutes of that meeting, Mr. Scandrett, show that the directors of the corporation on January 11, 1928, were Mr. Alfred McCormack—do you know who he is?

Mr. SCANDRETT. No; I do not.

Mr. ROSIER. Do you, Mr. Swaine?

Mr. SWAINE. To cut that inquiry short, the corporation was organized by a number of young men, several of whom have since achieved distinction, and one of them is now the chairman of the Securities and Exchange Commission, but they were the incorporators.

Mr. LOWENTHAL. Hadn't he left your law firm prior to the time when the meeting elected directors?

Mr. SWAINE. He was one of the first members of the board of directors of the St. Paul Railroad.

Mr. LOWENTHAL. But he got out of your firm and never returned until you completed the reorganization of the St. Paul?

Mr. SWAINE. I do not know whether he was there on January 11, 1928, but he was one of the original members of the board. I am simply answering that those were young men who were the incorporators.

Mr. LOWENTHAL. But I am stressing the point that you have dragged in here, and that is, that he was not connected with your firm as a law clerk or in any other capacity at the time when you were putting this through, and did not vote for Mr. Scandrett or the other directors.

Mr. SWAINE. I do not know as to that date, but Mr. Douglas did work on the St. Paul transaction throughout all the early stages of the receivership.

Mr. LOWENTHAL. I will say that we have found no evidence that your law clerks, including himself, had anything to do with the policy followed by your firm, or by Mr. Hanauer's firm in this reorganization. We have not found any evidence of that kind anywhere.

Mr. ROSIER. Mr. Swaine, may I list the names of those law clerks of your firm who were present at that meeting and voted: Mr. McCormack, Mr. Ream, Mr. Edwards, Mr. Youngman, and Mr. Jack.

Mr. SWAINE. They were all young lawyers in my office.

Mr. LOWENTHAL. Do you find the other name?

Mr. SWAINE. Not on that particular minute, but I still say he was one of the original directors.

Mr. LOWENTHAL. What was the date of that minute?

Mr. SWAINE. I do not know.

Mr. LOWENTHAL. Mr. Rosier, what is the date of that minute?

Mr. ROSIER. January 11, 1928.

Mr. LOWENTHAL. You may be interested to know that our researches have shown that the man you just mentioned had no connection with your firm at that time.

Mr. SWAINE. I do not dispute the fact that he had left.

Mr. LOWENTHAL. I think you might well have considered that when you dragged in the name of your law clerk. You may proceed, Mr. Rosier.

Mr. ROSIER. This report¹ also shows that on January 12, 1928, there was a special stockholders' meeting, at which there were present certain stockholders of the company, who were Mr. Scandrett and four of the young gentlemen I mentioned before, Mr. McCormack being omitted—I believe he had resigned, and Mr. Scandrett had taken his place. At that meeting the members of the first real board of the St. Paul or Milwaukee Railroad were elected to take office February 13, 1928, over a month later. Do you have any recollection of that?

Mr. SCANDRETT. I was not at that meeting.

Mr. ROSIER. You were there by proxy.

Mr. SCANDRETT. I was in Omaha at that time.

Mr. ROSIER. But you were there by proxy.

Mr. SCANDRETT. Well, if I had authorized that proxy I assume I was.

Mr. ROSIER. These facts are subject to correction, and I want to get our record clear on that. Mr. Scandrett, up to this time you had not met any members of the first real board of the Milwaukee, had you?

Mr. SCANDRETT. Yes.

Mr. ROSIER. Can you tell us about it?

Mr. SCANDRETT. I had known for years Mr. Potter and Mr. Colpitts—and if you will just look at that list and tell me?

Mr. ROSIER. Had you met Mr. Swaine?

Mr. SCANDRETT. I think I had never met Mr. Swaine at that time.

Mr. ROSIER. Suppose I run down the list. How about Mr. Sparrow?

Mr. SCANDRETT. Yes; I had known him.

Mr. ROSIER. And Mr. Byram?

Mr. SCANDRETT. Yes.

Mr. ROSIER. And Mr. Buckner?

Mr. SCANDRETT. No.

Mr. ROSIER. And Mr. Ecker?

Mr. SCANDRETT. No.

Mr. ROSIER. Mr. Colpitts; you said you had met him?

Mr. SCANDRETT. Yes. I had known him for a considerable number of years.

Mr. ROSIER. And Mr. Greene?

Mr. SCANDRETT. I had met him.

Mr. ROSIER. Mr. Potter; you said you had met him?

Mr. SCANDRETT. Yes.

Mr. ROSIER. Have I left anybody out, Mr. Swaine?

Mr. SWAINE. Mr. Scandrett is on the list.

Mr. ROSIER. How about Mr. Geddes?

Mr. SCANDRETT. No.

Mr. ROSIER. How about Walter P. Chrysler?

Mr. SCANDRETT. I had never met him.

Mr. ROSIER. How about Mr. Fisher?

Mr. SCANDRETT. No.

Mr. ROSIER. Mr. Chairman, I should like to introduce into the record a telegram from Mr. Hanauer to Mr. Scandrett, dated January 10, 1928.

¹Subsequently introduced as "Exhibit No. 2005," p. 7000.

Senator TRUMAN. It will be received in evidence.

(The telegram referred to was marked "Exhibit No. 1945" and is included in the appendix on p. 7036.)

Mr. ROSIER. That was 5 days after you were elected president and a member of the board. Mr. Hanauer says [reading]:

Hope you are comfortably settled in your new quarters. I am wondering if you are coming to New York before the end of the month when I am leaving for Europe as there are a number of things I would like to discuss with you and I would like also to be able to introduce you to the New York gentlemen who have been elected directors of the new company.

Mr. Scandrett, could you tell us when you were first approached by anybody concerning your selection as president of the Chicago, Milwaukee, St. Paul & Pacific Railroad?

Mr. SCANDRETT. The first direct approach, and I cannot fix the date, but it was to the best of my recollection in the forepart of December of 1927. Now, I should say this: As I have already stated, I had known Mr. Potter for a considerable period of years, throughout the time of his service on the Interstate Commerce Commission, and I recall casual meetings with Mr. Potter, but I could not fix the date of this meeting, but I would say it was within a year of the time when he was appointed receiver of the old company.

Mr. ROSIER. That would be about when, approximately?

Mr. SCANDRETT. Well, I would say sometime in 1926; and we had luncheon together as I recall it at the Blackstone Hotel, and he was talking to me generally about what he was doing on the Milwaukee Railroad, and I was with the Union Pacific at the time, and somewhat casually in the course of the conversation he brought up the question of a president of the reorganized company, when it was reorganized, and said that he would like very much to recommend me if that would be agreeable to me, or something of that kind. It was quite a casual conversation, and there was at that time no immediate prospect of any reorganization. That as far as I recall was the only conversation I had with Mr. Potter about it. I did learn afterward that Mr. Potter at some time during the receivership had recommended me for the position.

Then I have another very old-time friend, Mr. Wood, who is a member of the firm of Cravath, de Gersdorff, Swaine & Wood, and he told me that he was going to say to the members of his firm, who were active in this matter, that he thought I would be a good man for the presidency of the company. But as to that, in both cases it was entirely a personal matter, and I think based very largely on long friendship. Of course, I assumed neither of those men would have made the recommendation unless they thought I was a fit man for the position.

Mr. ROSIER. Mr. Scandrett, did Mr. Wood speak with you about the question of your selection as president of the new company?

Mr. SCANDRETT. Yes.

Mr. ROSIER. Could you fix the approximate date of that?

Mr. SCANDRETT. No; I could not. I would say it was well after the time when Mr. Potter spoke to me.

Mr. ROSIER. Mr. Chairman, I would like to offer into evidence at this time a copy of a letter from Mr. Frederick H. Wood to Mr. Swaine, dated August 7, 1927.

That was approximately 6 months, was it not, before you were elected president, Mr. Scandrett?

Mr. SCANDRETT. Yes.

Mr. ROSIER (reading from "Exhibit No. 1946"):

It has occurred to me that as final submission of the St. Paul case approaches more definite consideration might be given to the Presidency in which case I wanted to remind you again of my friend Scandrett. Mr. Cravath I know has him in mind but I don't know in how close touch with the situation he is likely to be. Colpitts by the way is strongly for him. Of course it would be unwise to press Hanauer but I don't want to go to sleep on the job.

Senator TRUMAN. The letter will be received.

(The letter referred to was marked "Exhibit No. 1946" and is included in the appendix on p. 7036.)

Mr. SCANDRETT. My friendship with Mr. Wood goes back to the days when we were both cub lawyers, I in Kansas and he in Kansas City, Mo. It was 25 years ago.

Mr. ROSIER. Mr. Scandrett, when had Mr. Wood spoken to you about the selection? Does this letter refresh your recollection as to the probable date when Mr. Wood may have spoken to you about your selection as president of the St. Paul?

Mr. SCANDRETT. No; it does not. I would say it was in advance of this date, but how long in advance I do not recall.

Mr. ROSIER. Mr. Chairman, I would like to offer for the record a telegram from Mr. Swaine to Mr. Wood, dated August 12, 1927, in reply to the previous letter, in which Mr. Swaine states, in part [reading from "Exhibit No. 1947"]:

Matter referred your letter being given consideration downstairs your candidate apparently favored.

Mr. Swaine, what was the reference to "downstairs?" Can you tell us?

Mr. SWAINE. The office of Kuhn, Loeb & Co.

Mr. ROSIER. Your offices were in the same building at that time?

Mr. SWAINE. At that time, yes.

Senator TRUMAN. The telegram will be received.

(The telegram referred to was marked "Exhibit No. 1947" and is included in the appendix on p. 7037.)

Mr. ROSIER. I would also like to offer into evidence—

Mr. SCANDRETT (interposing). I am not definite on this, but I think Mr. Colpitts had talked to me about it, too.

Mr. ROSIER. Back in August, perhaps, of 1927?

Mr. SCANDRETT. Well, some time before there was any offer made to me.

Mr. ROSIER. By the way, Mr. Scandrett, you had previously been connected with the Union Pacific, had you not, as vice president?

Mr. SCANDRETT. I had been with the Union Pacific in many capacities. My last position with them was that of vice president.

Senator TRUMAN. You are a railroad operator, are you not?

Mr. SCANDRETT. I started in the claim department, Senator, of the Union Pacific, in 1901. Then I went into the law department and continued there until January 1, 1918, when I was also made assistant director of traffic of the Union Pacific. For about 2 years I was also with the Southern Pacific, the Union Pacific and the Southern Pacific being under the same management. My service with the Union Pacific was continuous except that during the period of Federal control I was with the United States Railroad Administration in charge of traffic in what was the central western region, under the regional directorship

of Mr. Hale Holden. Shortly before the end of Federal control I returned to the Union Pacific and remained with that company, becoming vice president in 1925, until my resignation to accept the presidency of the Milwaukee. I began work for the Union Pacific on the 1st day of January 1901.

Senator TRUMAN. Proceed. I just wanted to get that into the record.

Mr. ROSIER. Mr. Scandrett, Kuhn, Loeb & Co. have been bankers for the Union Pacific for some time, have they not?

Mr. SCANDRETT. I think they have been.

Mr. HANAUER. Could I answer that better, perhaps?

Mr. ROSIER. If you wish.

Mr. SCANDRETT. Since the Union Pacific came out of reorganization in 1898.

Mr. HANAUER. That is correct; but it is also correct that I never met Mr. Scandrett before Mr. Potter suggested his name. In fact, I am sorry to say I had never heard of him, because he was not in any department of the Union Pacific with which we came in contact.

Mr. ROSIER. May I ask you whether you recall that the Union Pacific, during the period of the receivership of the St. Paul, back in 1925, through 1928, owned a substantial block of securities of the St. Paul Co.?

Mr. HANAUER. They owned some St. Paul bonds. I would not call it substantial in consideration of the assets of the Union Pacific.

Mr. LOWENTHAL. You mean, not a substantial portion of their assets?

Mr. HANAUER. Yes.

Mr. LOWENTHAL. But you do not mean that they did not own a substantial amount of St. Paul bonds?

Mr. ROSIER. I would like to offer in evidence a letter from Mr. Charske to Mr. Hanauer, dated March 2, 1925. That was before the receivership of the company in 1925. It is marked "Personal" and reads as follows [reading from "Exhibit No. 1948"]:

At Mr. Seger's request, I send you herewith list of securities of the Chicago, Milwaukee & St. Paul Railway Company owned by Union Pacific System Companies.

The enclosed list shows that the total amount of securities owned as of that time was \$6,820,000.

Mr. HANAUER. May I, so as to have a continuity of the situation at this time, state that after Mr. Scandrett's name was suggested to the reorganization managers by Mr. Potter, one of the first things I did was to go over to see Judge Lovett, who was chairman of the Union Pacific, and Judge Lovett spoke in the highest terms of Mr. Scandrett. He was evidently not very happy about losing Mr. Scandrett's services, and possibly jokingly, he said, "You don't want a lawyer, do you?" Judge Lovett himself having been a lawyer.

Senator TRUMAN. The letter with the attached list will be received. (The letter referred to, with attached list, was marked "Exhibit No. 1948" and is included in the appendix on p. 7037.)

Mr. ROSIER. I would also like to introduce into the record, Mr. Chairman, an undated list obtained from the files of Kuhn, Loeb & Co., of junior securities held by members of the bondholders' committee. The list shows the securities held by various members and there is a note at the bottom of the list as follows [reading]:

K. L. & Co., Union Pacific—

And it lists the bonds, showing a total of \$3,118,000. Then—
K. L. & Co. holdings on the books, French 4%, 11,831,515.

Senator TRUMAN. The list will be received in evidence.

(The list referred to was marked "Exhibit No. 1949" and is included in the appendix on p. 7038.)

Mr. ROSIER. Did you consider, Mr. Hanauer, that you represented in part the Union Pacific when you went on the bondholders' committee?

Mr. HANAUER. I think it is very likely that Mr. Charske—of course it was 11 years ago, and the newspapers were full of the situation with reference to the St. Paul—was a railroad man and knew what the situation was, had possibly spoken to us of their holdings and kept us posted. That is quite possible.

Mr. ROSIER. Mr. Scandrett, is it your recollection that Mr. Wood, of the firm of Cravath, de Gersdorff, Swaine & Wood, was quite active in behalf of your selection as president of the new company?

Mr. SCANDRETT. I do not know a thing about it except that he told me he had spoken to Mr. Cravath.

Mr. ROSIER. He told you he had spoken to Mr. Cravath?

Mr. SCANDRETT. Yes.

Mr. ROSIER. Did you state that Mr. Potter was active in your behalf?

Mr. SCANDRETT. I have told you about what Mr. Potter has said to me.

Mr. ROSIER. Did you understand that Mr. Potter had been active in your behalf?

Mr. SCANDRETT. I do not think I understood anything about it. I had had that conversation with him, and I think I was told—I do not believe, by Mr. Potter; I think this was after I was elected president of the Milwaukee road—that Mr. Potter had urged me quite strongly for that position.

Mr. POTTER. I think I can help you on that. I was very positive in my conviction that Mr. Scandrett was the best man for the job. I was asked to give my opinion and I unhesitatingly mentioned him.

Mr. ROSIER. Who asked you to give your opinion?

Mr. POTTER. Mr. Hanauer. I recommended him very earnestly, and I went to Fred Wood and spoke to him. I did not mention Scandrett, but asked him what he would do if he were called upon to recommend a man for the situation—and I described the situation—and he told me, "Why Henry Scandrett, of course, is the only man for that job"; and he became as interested as I was.

Mr. LOWENTHAL. Was it your thought, Mr. Potter, that as a result of Mr. Hanauer's asking you for your opinion, and your going to Mr. Wood, that was the way Mr. Wood became interested in the question?

Mr. POTTER. Yes.

Mr. LOWENTHAL. That was your understanding?

Mr. POTTER. I know he first became interested, because I brought the matter up to him. He had not thought of it before.

Mr. LOWENTHAL. He told you that?

Mr. POTTER. It was obvious from the conversation.

Mr. LOWENTHAL. Do you remember when that conversation was held, Mr. Potter?

Mr. POTTER. No; I don't remember.

Mr. ROSIER. With reference to the time that Mr. Scandrett was actually selected as president?

Mr. POTTER. Oh, it was long before that.

Mr. ROSIER. Can you tell us how long? Have you any impression as to that?

Mr. POTTER. I would guess it was perhaps a year.

Mr. ROSIER. You think it might be a year?

Mr. POTTER. Yes.

Mr. ROSIER. In any event, Mr. Scandrett, you had known Mr. Wood for a considerable time prior to that?

Mr. SCANDRETT. Yes.

Mr. SWAINE. I think it should be remembered that he had known Mr. Wood in connection with railroad business. Mr. Wood had grown up in the West and been a railroad lawyer until he came to us.

Mr. SCANDRETT. He occupied for quite a number of years the same position on the Southern Pacific that I had on the Union Pacific. In fact, he went with the Southern Pacific shortly after I was required to relinquish my connection with the Southern Pacific. In other words, I was required to elect as between the Union Pacific and the Southern Pacific, and I stayed with the Union Pacific with which I had been connected all those years.

Mr. LOWENTHAL. I wondered if you could indicate in what connection it was that Mr. Hanauer came to you and asked for your opinion about Mr. Scandrett. Did he tell you, Mr. Potter?

Mr. POTTER. He did not ask me about Mr. Scandrett. My recollection is very definite and there is no question about it. Long before the termination of the receivership, in conversation that I had with Mr. Hanauer, one of many, we spoke about the future of the property.

Mr. LOWENTHAL. Of the St. Paul property?

Mr. POTTER. Yes; as reorganized. The thing that was uppermost in Mr. Hanauer's mind was to put in the best and most efficient organization.

Mr. LOWENTHAL. Are you now referring to a conversation with Mr. Hanauer or with Mr. Scandrett?

Mr. POTTER. Mr. Hanauer—I beg your pardon. It was with reference to the future organization, and he asked me to keep the thought in mind as to the personnel; and at that time, or shortly after, I told Mr. Hanauer that I thought the best man I could think of for the job was Henry Scandrett. The matter dropped, then, for 6 months, perhaps, and perhaps longer, when one day, shortly before the termination of the receivership, Mr. Hanauer called me on the telephone.

Mr. LOWENTHAL. Who called you?

Mr. POTTER. Mr. Hanauer. He recalled the conversation in which I recommended Mr. Scandrett. He said, "We are approaching the time when the organization must be set up." He said, "I have talked to various people interested, the committees, and so forth, about the new organization, and I find that there is very little known about Mr. Scandrett. I wish you would write me a letter telling me why you think he is a good man for the job, in order that I may show it to the other persons interested." I then wrote a long letter in support of Mr. Scandrett, a copy of which you have.

Mr. ROSIER. It will be put into evidence a little later, Mr. Potter.

Mr. POTTER. And then I dropped out of the picture, except this, that shortly after I first recommended Mr. Scandrett—I was very

intimate with Fred Wood, and I went to his house one evening and sounded him out on the presidency for a prominent railroad. I wanted to get his judgment, to see if he would recommend Scandrett to me as I had recommended him; and he immediately jumped at the same conclusion that I had, that Scandrett was the only man for the job. Thereupon I think he became actively interested.

Mr. LOWENTHAL. You think that Mr. Hanauer phoned you some time in the summer of 1927?

Mr. POTTER. I do not recall dates, but I should say it was not very long before the new company was set up.

Mr. LOWENTHAL. Within, say, 2 or 3 months of the time the new company was set up?

Mr. POTTER. I would think so; yes.

Mr. LOWENTHAL. That was the time he phoned you and asked you to give him some data about Mr. Scandrett?

Mr. POTTER. Yes.

Mr. LOWENTHAL. Was there any discussion at all about Mr. Byram continuing as head of the company?

Mr. POTTER. None whatever.

Mr. LOWENTHAL. Was it a foregone conclusion that he would not be the leader of the company when it was reorganized?

Mr. POTTER. Well, I was very firmly of the opinion that he was not the man for the leadership.

Mr. LOWENTHAL. Was that the opinion of Kuhn, Loeb & Co. in their discussions?

Mr. POTTER. I do not know. I never knew about that. I had heard that Mr. Byram did not want it.

Mr. LOWENTHAL. Did Mr. Hanauer or anybody else from Kuhn, Loeb give any thought to the possibility of retaining Mr. Byram or having him retained, or suggesting that he be retained as head of the company?

Mr. POTTER. I do not think it was ever mentioned.

Mr. LOWENTHAL. Thank you, Mr. Potter.

Mr. SCANDRETT. I think Mr. Potter misspoke himself when he spoke about numerous conversations with me.

Mr. POTTER. I meant, with Mr. Hanauer.

Mr. LOWENTHAL. I think that was corrected on the record.

Mr. POTTER. I think I do recall my first conversation with Mr. Scandrett.

Mr. LOWENTHAL. Do you recall your first conversation with Mr. Hanauer in which Mr. Scandrett's name was mentioned?

Mr. POTTER. I do not recall just where it took place or when it was. I do not know but it was on a trip over the road. I am not sure. But we were discussing the future. We were all trying to get the property out of receivership and get it reorganized, and we were discussing the future set-up to make the St. Paul strong.

Senator TRUMAN. Proceed.

Mr. ROSIER. Mr. Chairman, I would like to introduce into the record at this time a list showing the larger holdings of St. Paul bonds dated January 23, 1925, from the files of Kuhn, Loeb & Co.

Senator TRUMAN. It will be received.

(The list referred to was marked "Exhibit No. 1950" and is included in the appendix on p. 7039.)

Mr. ROSIER. I would like also to introduce into the record at this time a letter from Mr. Potter to Mr. Scandrett, dated December 22,

1927, enclosing a copy of a letter of the same date which you sent to Mr. Hanauer, Mr. Potter.

Mr. POTTER. Yes.

Mr. ROSIER. Does that refresh your recollection as to the date—December 22, 1927?

Mr. POTTER. It would not refresh my recollection, but having read that date, that was certainly the date of it. I recall sending him a copy of my letter.

Senator TRUMAN. The letters will be received.

(The letters referred to were marked "Exhibits Nos. 1951 and 1952" and are included in the appendix on p. 7040.)

Mr. ROSIER. I should like to read a part of the letter from Mr. Potter to Mr. Scandrett [reading from "Exhibit No. 1951"]:

Confidentially, a couple of years ago I suggested a man whom I thought was the most desirable one I knew for an important railroad job. I was satisfied some weeks ago that the place was going to be offered to him and that it was settled so far as the particular representative of the owners with whom I had spoken was concerned—which really means so far as everyone is concerned.

This representative said to me yesterday that he wished I would tell him just what I thought he could and should say to associates in justification of the selection.

The representative of the owners who is referred to here is Mr. Hanauer, Mr. Potter?

Mr. POTTER. Yes.

Mr. ROSIER. When you said, Mr. Potter:

Which really means so far as everyone is concerned—

with regard to the selection of Mr. Scandrett, you had in mind, did you not, that Mr. Hanauer was the one on whom the responsibility was principally placed to select the president?

Mr. POTTER. Yes. Mr. Hanauer was the front of all the activity. He was in touch with the various committees. He was the man who gave final expression of the desires on all of those questions.

Mr. LOWENTHAL. It was your thought that Mr. Hanauer virtually had the selection of the presidency in his hands, and that he did exercise that?

Mr. POTTER. No; I would not say that. It was my thought that Mr. Hanauer was in close touch with all the committees and everybody interested in the reorganization, and that he was endeavoring to do all he could to select the best man for the job, who would first be the best man for the job and satisfactory to everybody, and he was the representative, as it were, of all the interests.

Mr. ROSIER. Mr. Chairman, I would like to offer for the record a letter dated December 27, 1927, from Mr. Wood to Mr. Scandrett, marked "Personal and confidential."

Mr. SWAINE. I thought you were going to put the enclosure that was with this letter, into the record also.

Mr. ROSIER. I have offered it in evidence without reading it.

Mr. SCANDRETT. Are you going to put in my reply? My own thought was that Mr. Potter was describing a paragon in that letter—

Mr. POTTER. I thought I was, and I thought Mr. Scandrett fitted it.

Mr. LOWENTHAL. The letter in which you gave Mr. Hanauer full details about Mr. Scandrett was some time in December 1927?

Mr. POTTER. I do not remember.

Mr. ROSIER. December 22 is the date of both the letters.

Mr. LOWENTHAL. Was it about that time that you went to Mr. Wood and spoke to him on the subject?

Mr. POTTER. No; I talked with him probably 6 months before that.

Mr. ROSIER. For the sake of the record I will offer Mr. Scandrett's reply to Mr. Potter, dated January 5, 1928; and to complete the record at this time I would like to offer Mr. Hanauer's reply to Mr. Potter of December 23, 1927.

Mr. HANAUER. Would you read it?

Mr. ROSIER. Yes. [Reading from "Exhibit No. 1955":]

Very many thanks for your two letters of December 22, which I have read with the greatest of interest. They will be very helpful.

Senator TRUMAN. The letters referred to will be received.

(The letters referred to were marked "Exhibits Nos. 1953 to 1955" and are included in the appendix on pp. 7042-7043.)

Mr. ROSIER. There is another letter referred to in Mr. Hanauer's letter of December 23, 1927, to Mr. Potter which has no bearing on this subject so I will not offer it for the record.

Mr. HANAUER. I am not asking you to put anything in. That simply shows that I was giving it every consideration it deserved.

Mr. ROSIER. I referred, before, Mr. Scandrett, to a letter from Mr. Wood to you marked "Personal and Confidential." It reads as follows [reading from "Exhibit No. 1953"]:

Mr. Hanauer asked me last week for a brief statement of your history and I furnished him with the enclosure. Won't you please make such corrections, eliminations or additions as should be made and send back to me?

I have not taken up the matter which we discussed, first, because I am satisfied it is all right; second, if it is not, feel sure it can be made so; and third, because I thought that to agitate it would do more harm than good. Decision is expected now some time next month.

The decision referred to is the decision of the Interstate Commerce Commission on the application for the issuance of new securities for the company?

Mr. SCANDRETT. I think so.

Mr. LOWENTHAL. The issuance of new securities under the reorganization plan?

Mr. SCANDRETT. Yes.

Mr. ROSIER. Could you explain for us the first sentence of the second paragraph: "I have not taken up the matter which we discussed, first, because I am satisfied it is all right; second, if it is not, feel sure it can be made so."

Mr. SCANDRETT. I cannot be sure about it, but my recollection is it was the question of the salary I was to receive.

Mr. LOWENTHAL. Do you remember with whom that was taken up?

Mr. SCANDRETT. Where Mr. Wood says: "I have not taken up the matter which we discussed?"

Mr. LOWENTHAL. Yes.

Mr. SCANDRETT. I suppose he meant with Mr. Hanauer.

Mr. LOWENTHAL. Was that taken up before you were elected president?

Mr. SCANDRETT. That was discussed at the first meeting I had with Mr. Hanauer.

Mr. LOWENTHAL. Was it discussed with Mr. Hanauer by anybody else before that?

Mr. SCANDRETT. Well, I do not know about that. There was discussion between him and me about it. My recollection is that the salary was fixed by the board at its first meeting.

Mr. LOWENTHAL. Had you discussed the salary with Mr. Hanauer?

Mr. SCANDRETT. Yes.

Mr. LOWENTHAL. And the amount voted by the board was the amount which you and Mr. Hanauer had agreed on?

Mr. SCANDRETT. We had not made any agreement.

Mr. LOWENTHAL. I mean, what you had informally discussed?

Mr. SCANDRETT. My recollection is a little vague, Mr. Lowenthal; but I think it was exactly or substantially what Mr. Hanauer said he had in mind.

Mr. LOWENTHAL. It was Mr. Hanauer's suggestion that you were agreeable to in your preliminary conference with him?

Mr. SCANDRETT. I do not think I expressed agreement at the conference, or disagreement.

Mr. LOWENTHAL. He was the man who made the suggestion as to the amount?

Mr. SCANDRETT. That is my recollection.

Mr. HANAUER. Is it permitted for me to ask a question?

Senator TRUMAN. Yes. Proceed.

Mr. HANAUER. I would like to ask Mr. Scandrett if he does not remember that when we discussed salary, and I asked him what he thought would be proper, I made some statement as to the company coming out of the receivership and perhaps it could not pay all that he might be entitled to. Do you remember that conversation?

Mr. LOWENTHAL. If that is your recollection, why do you not say so on the record?

Mr. HANAUER. That is my recollection; yes.

Mr. SCANDRETT. I have no recollection of it. I remember that I referred to the salary that Mr. Byram had received as president, and also as receiver, which was in excess of the figure at which my salary was fixed.

Mr. ROSIER. Mr. Chairman, I would like to offer into evidence a letter from Mr. Scandrett to Mr. Hanauer, dated January 2, 1928, reading as follows [reading from "Exhibit No. 1956"]:

It is appropriate that at this juncture I express my appreciation of the confidence you have reposed in me in making so imminent my election as President of the new Milwaukee road, but I find myself utterly unable to do so. I can and do say that I am going to give to the new job all I have, and while I realize I have much to learn, and that the problems and difficulties will be many, I shall not take counsel of my fears but approach and carry on the work in the conviction that with the help I know I will have from you, and from others, the problems can be solved and the difficulties surmounted. In the meantime all I can say is that I am very grateful to you for the confidence reposed in me.

Senator TRUMAN. The letter will be received.

(The letter referred to was marked "Exhibit No. 1956" and is included in the appendix on p. 7043.)

(Senator Shipstead entered the hearing room at this point and took a seat at the committee table.)

Mr. ROSIER. Mr. Scandrett, you were well aware, were you not, that the ultimate responsibility for your selection as president rested with Mr. Hanauer?

Mr. SCANDRETT. Of course, I had not been in any of the—

Mr. ROSIER. So far as you knew or believed?

Mr. SCANDRETT. So far as I knew, Mr. Hanauer was most influential in that situation. I felt very highly complimented that he regarded me, from what he had been able to find out about me, as a worthy man for the position.

Mr. ROSIER. Mr. Scandrett, at the same time that you wrote this letter to Mr. Hanauer you also sent out some other letters thanking people for "going to bat" for you and getting you this new position, did you not?

Mr. SCANDRETT. I do not recall that.

Mr. ROSIER. Do you recall that you sent a letter to Mr. de Gersdorff, partner in the firm of Cravath, de Gersdorff, Swaine & Wood?

Mr. SCANDRETT. Yes. That reminds me. I cannot say what the date was, but I remember one time when I was in New York, Mr. Wood said he would like to have me meet Mr. de Gersdorff, and he took us to lunch; three of us went to lunch together. I do not think there was any discussion at all at that time about the Milwaukee position. I think that Mr. Wood's desire was to have Mr. de Gersdorff meet me so he could have some impression of me.

Mr. ROSIER. Mr. Scandrett, may I refresh your recollection? On January 2, you sent a letter to Mr. de Gersdorff, which I will offer in evidence, Mr. Chairman, in which you said [reading from "Exhibit No. 1957"]:

It looks very much as if the presidency of the new Milwaukee road was headed in my direction. I know from Fred—

* That is, Fred Wood?

Mr. SCANDRETT. Yes.

Mr. ROSIER (continuing reading):

I know from Fred that you have been active in my behalf and I want you to know that I appreciate more than I can express this evidence of your confidence in me and in my ability to swing this job. I realize that your activities have resulted largely from representations made to you by Fred and so it is up to me to deliver the goods for all our sakes. At this juncture all I can say is that I shall not fail because of any lack of effort and that if I did not believe the opportunity was great I would not accept the offer.

Senator TRUMAN. The letter will be received.

(The letter referred to was marked "Exhibit No. 1957" and is included in the appendix on p. 7043.)

Mr. ROSIER. On the same date you sent a letter to Mr. Cravath, too?

Mr. SCANDRETT. I think very likely I did.

Mr. ROSIER. Mr. Cravath was senior partner of the same firm?

Mr. SCANDRETT. That is correct.

Mr. ROSIER. I would like to offer into evidence a letter dated January 2, 1928, from Mr. Scandrett to Mr. Cravath, reading in part as follows [reading from "Exhibit No. 1958"]:

Advices from Mr. Hanauer indicate that shortly I will be elected president of the new Milwaukee Road. I have been told that you were one of those who have gone to the front for me, and I have a lively appreciation of the weight that was given to your counsel.

And then there is more which I shall not read, Mr. Chairman.

Mr. SCANDRETT. Would you mind reading the whole letter, as long as you have read extracts from it? It is not long.

Mr. ROSIER. All right, sir [continuing reading from "Exhibit No. 1958"]:

I am going to tackle the job with the conviction that it can be put over, and while doubtless I will stub my toe frequently, I feel that with the aid and backing of my friends, the Milwaukee will take again its rightful place in the field of transportation. In the meantime I feel very grateful to you for your efforts in my behalf.

Senator TRUMAN. The letter will be received.

(The letter referred to was marked "Exhibit No. 1958" and is included in the appendix on p. 7044.)

Mr. ROSIER. Another letter, Mr. Chairman, which I would like to offer into evidence, is a letter from Mr. Scandrett to Mr. and Mrs. Fred H. Wood, dated January 4, 1928. It begins "Dear Fred and Margery"—

Mr. SCANDRETT. They are highly personal letters; but I have no objection.

Mr. ROSIER. Do you not believe that these letters, all addressed to partners in the firm of Cravath, Henderson & de Gersdorff, indicate very clearly whom you felt were in large part responsible for your selection as president of the St. Paul?

Mr. SCANDRETT. I never had any question at all in my mind that the recommendations of Mr. Potter and Mr. Wood had much to do with it.

Senator TRUMAN. The final decision, however, was made by Mr. Hanauer, with all the recommendations.

Mr. SCANDRETT. What I started to say was that somebody has to bring a man's name to the attention of the people whose responsibility it is to fill the position. I have learned since from other people that they were consulted and that they recommended me for the position. Just what weight Mr. Hanauer and the others whose responsibility it was gave to what Mr. Potter said or to what Mr. Wood said or to what Judge Lovett said, or these others, I, of course, do not know.

Mr. LOWENTHAL. Mr. Scandrett, something was read this morning to the effect that Mr. Wood had said that he had been asked for some material about you.¹

Mr. SCANDRETT. That was a brief biography, I think.

Mr. ROSIER. That was a letter, Mr. Scandrett, if I recall correctly, which made reference to the salary situation by indirection. It did not mention it specifically.

Mr. SCANDRETT. Yes; and attached to that, as I recall it, was a statement of my business career, and he asked me to make any corrections it needed.

Mr. LOWENTHAL. You knew that Mr. Wood was, during this period, urging the desirability of having you as the new head of the reorganized company?

Mr. SCANDRETT. He told me that he had recommended me very strongly.

Mr. LOWENTHAL. You knew that for some period of time he had been engaged in urging your selection?

Mr. SCANDRETT. I do not know how persistent he was about it, because Mr. Wood was not active in the Milwaukee situation at that time.

¹ See "Exhibit No. 1953", p. 7042.

Mr. LOWENTHAL. You knew that some months at least before you were selected as president he had been urging that you would be the right man for that leadership?

Mr. SCANDRETT. As I say, I know he recommended me very strongly.

Mr. LOWENTHAL. So, if he had any weight and his opinions were regarded as of any value, his work was not at all a nullity in bringing about this result?

Mr. SCANDRETT. Oh, no; I did not intend to give any such impression, if I did.

Mr. LOWENTHAL. Is it not your opinion that his work was very helpful in bringing about that result?

Mr. SCANDRETT. As I say, I do not know how much what one man said or what another man said influenced the final result, but I would think that the statement by a partner in a firm that he was convinced that a certain man had the qualifications for the position would be most persuasive with his partners if they had any reliance at all on his judgment.

Mr. LOWENTHAL. And might be persuasive with the clients who were active in the situation?

Mr. SCANDRETT. I think so; yes.

Mr. LOWENTHAL. Thank you.

Mr. ROSIER. I would like to offer into evidence a letter from Mr. Scandrett to Mr. and Mrs. Fred H. Wood, dated January 4, 1928, which, if Mr. Scandrett wishes me to read, I will read. I think, in the interests of time, I should move along. It is a letter somewhat similar to the letters to Mr. Cravath and Mr. de Gersdorff. Am I correct in that?

Mr. SCANDRETT. That is all right.

Senator TRUMAN. The letter will be received.

(The letter referred to was marked "Exhibit No. 1959" and is included in the appendix on p. 7044.)

Mr. ROSIER. I have a number of letters which bear on the selection of Mr. Scandrett as president of the reorganized company, some of which are already in the record. I would like to offer the remainder for the record in bulk, with an attached list showing by whom and to whom the letters were written and the dates of the letters. They are all to or from Mr. Scandrett and all except four were written prior to the date of his selection as president of the new company. The last four are on the date of his selection and deal with his actual selection as a director and president.

Mr. HANAUER. Would you mind reading the list of the letters? There may be one or two that we would like to hear.

Mr. LOWENTHAL. Here is a copy of that list, if that will help you [handing list to Mr. Hanauer].

Mr. ROSIER. If you want us to read any of the letters, we will do so.

Mr. HANAUER. No.

Mr. SCANDRETT. You say these were all addressed to me or from me?

Mr. LOWENTHAL. You have a copy of the list before you, Mr. Scandrett, and Mr. Hanauer and his counsel have a copy. Perhaps we could save time by just offering the letters for the record and then if you want specifically that one be read, we can do that.

Mr. ROSIER. I offer these letters for the record, with the list referred to.

Senator TRUMAN. They will be received.

(The documents referred to were marked "Exhibits Nos. 1960 to 1989," inclusive, and are included in the appendix on pp. 7044-7053.)

Mr. ROSIER. There are, I think, 39 letters and telegrams listed here, all of which were sent to you or by you, Mr. Scandrett. Out of that number eight letters or telegrams were not found in your files. Thirty-one were found in your files, Mr. Scandrett. If you want to check my statement on this, you are at liberty to do so. There were 31 of those letters or telegrams found in your files, and they all bear in some way on your selection as president and director of the St. Paul. That is subject to check by you, Mr. Scandrett.

SCANDRETT APPOINTED TRUSTEE UNDER SECTION 77—EXTENT OF DISCLOSURE TO COURT AND I. C. C. OF INFORMATION REGARDING EARLIER SELECTION AS PRESIDENT

Mr. ROSIER. You recall, Mr. Scandrett, do you not, that there have been hearings before Judge Wilkerson, who is the judge before whom the St. Paul bankruptcy proceedings are now pending?

Mr. SCANDRETT. Yes.

Mr. ROSIER. Concerning the appointment of you and several other gentlemen as trustees under section 77. Do you recall that?

Mr. SCANDRETT. Yes.

Mr. ROSIER. And you testified at those hearings, did you not?

Mr. SCANDRETT. Yes.

Mr. ROSIER. Do you recall that you were there asked whether you had any correspondence concerning your selection as president of the Milwaukee?

Mr. SCANDRETT. I do not recall. I recall there was some examination along that line. I have not the details of it in my mind.

Mr. ROSIER. I would like to read from the record, Mr. Chairman, before Judge Wilkerson with reference to the appointment of Mr. Scandrett and two other gentlemen as trustees of the Milwaukee.

Mr. LOWENTHAL. At that time, Mr. Scandrett, the appointment had not been made and the question was whether you were to be appointed?

Mr. SCANDRETT. I do not know. I do not know what the date was.

Mr. ROSIER. These hearings, Mr. Scandrett, were held on September 24, October 8, and October 17, 1935. Do you recall that you were appointed trustee by order of the court on October 17, 1935?

Mr. SCANDRETT. I do not remember the date.

Mr. ROSIER. Do you remember the date, Mr. Swaine?

Mr. SWAINE. No.

Mr. SCANDRETT. If it is subject to check, I would say yes.

Mr. ROSIER. Of course. I would like to quote to you a portion of your examination by Mr. Weiss. Mr. Weiss represented some independent bondholders, did he not?

Mr. SCANDRETT. Yes; he so stated.

Mr. ROSIER. This is at page 267 of that record [reading]:

Q. Mr. Scandrett, have you brought with you the correspondence and records that led up to your appointment as president?

A. No.

Q. There was some correspondence, was there not?

A. I do not recall that there was, Mr. Weiss.

Q. Have you searched your files?

A. No. I have no recollection of any correspondence about it.

Q. In other words, all the proceedings prior to your appointment were oral? Is that what you want to state at this time under oath?

A. Well, that is my recollection.

Do you recall that testimony, Mr. Scandrett?

Mr. SCANDRETT. No; I do not. Of course what I had in mind was the offer to me of the position and my acceptance, and that was the subject of my interview with Mr. Hanauer. My files indicated there was no correspondence in regard to that. I do not know now as to how I happened to meet Mr. Hanauer at the time I did, whether he telephoned me or whether he asked me when I was in New York to drop in to see him. I have not a very good memory for details; I have a pretty good one for essentials, and that is what I thought was the subject matter of Mr. Weiss' questions.

Mr. ROSIER. Mr. Scandrett, you were selected as president and elected at a meeting on January 11, 1928. I want to read again from part of that testimony [reading]:

Q. Mr. Scandrett, have you brought with you the correspondence and the records that led up to your appointment as president?

You did not consider that the talk you had with Mr. Hanauer, back in December, had resulted in your appointment at that time as president of the new company, did you?

Mr. SCANDRETT. That was what I had in mind; yes.

Senator TRUMAN. Then you either overlooked the files or considered them of no importance; is not that the idea?

Mr. SCANDRETT. I did not think that those particular letters had to do with that particular question, because the only one with any authority who talked to me was Mr. Hanauer, and I had no correspondence with him on that subject. I think subsequently to that date, when the investigator for the committee was in my office, I said: "I have this file of personal letters on this subject, which I do not think are what you want; but if they are, you can have them."

Mr. ROSIER. We will come to those letters a little later.¹

Mr. SCANDRETT, do you not think that Mr. Weiss and the judge would have been interested very much in having these letters, this correspondence that you had with Mr. Hanauer, Mr. Wood, Mr. Cravath, and Mr. de Gersdorff concerning your selection as president and who, you thought at that time, were in part responsible for your selection as president?

Mr. SCANDRETT. I do not know. Mr. Weiss might have been interested. I do not think the judge was.

Mr. SWAINE. As a matter of fact, I think I made the statement that Mr. Scandrett had been suggested by Mr. Potter. I made an oral statement to that effect.

Mr. ROSIER. We will come to that in a moment, Mr. Swaine.

Mr. Scandrett, Mr. Weiss was questioning you at that time, was he not, about the factors that contributed to your becoming president of the new company? Was not that the general trend of the testimony that he was trying to get out of you?

Mr. SCANDRETT. No. I do not so understand it.

MR. ROSIER. Can you tell us what he was trying to find out?

MR. SCANDRETT. What I thought he was trying to find out was the circumstances under which the presidency of the Milwaukee Road was offered to me, and what I had in mind was the time the offer was made, which was in the conference that I had with Mr. Hanauer some time in December.

MR. ROSIER. Mr. Scandrett, I want to read to you from a statement made by the court to counsel for the independent bondholders after counsel had asked you for the production of this correspondence. The court said [reading]:

You have asked him about the correspondence—

Referring to you—

and he says, as I understand it, that there is not any. Is that your answer, Mr. Scandrett, as to letters relating to your selection as president of the new company?

THE WITNESS. Yes. I do not think there is a thing in my files in the way of correspondence leading up to my election as president of the railroad.

Do you not think that that question of the court and your answer, Mr. Scandrett, adequately covered the correspondence which we have put into the record this morning?

MR. SCANDRETT. No; I do not.

MR. ROSIER. I will read the question and the answer again. It is by the court. [Reading:]

You [referring to Mr. Weiss] have asked him [referring to Mr. Scandrett] about the correspondence, and he says, as I understand it; that there is not any. Is that your answer, Mr. Scandrett, as to the letters relating to your election as president of the new company?

THE WITNESS. Yes. I do not think there is a thing in my files in the way of correspondence leading up to my election as president of the railroad.

Do you not think these letters had a bearing on your election as president of this railroad?

MR. SCANDRETT. I can only repeat, that I did not take it that they were inquiring for letters that had come to me from personal friends of long standing in regard to what they had said or done in my behalf. I was in no sense a candidate for this position with the Milwaukee Road. I was very happy with the Union Pacific; I had been there for many years and I had intended to spend my life on the Union Pacific. What I thought they were inquiring about was an offer of the presidency of the railroad by those who had the power to offer it to me; not this correspondence with my personal friends. As I say, when it later developed that they wanted information of this character I turned over to Mr. Canton, who was your investigator; all of these personal letters.

MR. LOWENTHAL. We will come to that, because we had an 8-month delay in getting that file from you, Mr. Scandrett. I asked you a little while ago whether you did not feel that the attorneys for the bankers, or any of the attorneys for the bankers urging upon their clients the desirability of your selection as president, would have some weight, and you thought probably it would have weight?

MR. SCANDRETT. I would think so.

MR. LOWENTHAL. I wonder whether letters that the people who were then active in persuading the bankers—

MR. SCANDRETT (interposing). You have apparently one understanding of it and I have another, and I accept in good faith your understanding, and I hope you will accept mine.

MR. LOWENTHAL. It seems to me that thirty-odd pieces of correspondence and telegraphic communications prior to your election as president, between you and Mr. Hanauer, you and various partners of Kuhn, Loeb & Co., and others—

MR. SCANDRETT. I think there is no correspondence with Mr. Hanauer.

MR. ROSIER. There is a letter of January 2.

MR. SCANDRETT. That was after the offer had been made to me.

MR. LOWENTHAL. But prior to your election as president of the new company.

MR. SCANDRETT. Oh, yes.

MR. ROSIER. These hearings took place before the court in September and October of 1935. Do you recall that there were subsequently hearings before the Commission on the ratification of your appointment as trustee of the Milwaukee?

MR. SCANDRETT. Yes.

MR. ROSIER. And at that time you were again asked whether or not you had any correspondence concerning your election as president of the Milwaukee. Do you recall that?

MR. SCANDRETT. I think Mr. Weiss went into the same questions—that is my recollection—at the hearing before the Commission that he did at the hearing before the court.

MR. ROSIER. Do you recall when the hearings before the Commission took place, Mr. Scandrett?

MR. SCANDRETT. No; I do not.

MR. ROSIER. Do you recall, Mr. Swaine?

MR. SWAINE. No; I do not.

MR. ROSIER. Would you say that it was a month or two months or three months after the hearings?

MR. SWAINE. I would not say. You have the record.

MR. SCANDRETT. The confirmation by the Commission was effective as of January 1, 1936. So it would be some time between September and that time.

MR. ROSIER. Do you have any recollection whether it was in December of 1935 that your appointment was confirmed?

MR. SCANDRETT. No. I could find out very easily.

MR. ROSIER. Do you recall that Mr. Canton, a member of this committee's staff, approached you in December of 1935 to find out whether you had any correspondence regarding your selection as president of the Milwaukee? Do you recall that?

MR. SCANDRETT. I do not recall the date.

MR. ROSIER. May I read from a letter from Mr. Canton to you of April 20, 1936, in which Mr. Canton states [reading from "Exhibit No. 1990"]:

In accordance with our conversation had at your office on April 18th, I am writing you concerning your election as president of the above—

That is, the Milwaukee—

in the year 1928.

If you will recall, we had a prior conversation on or about December 3, 1935, regarding the same subject matter. At that time your file No. 112-1928 had not revealed any data other than the selection of directors. Then, I spoke of correspondence, wires, and/or memoranda between yourself and those responsible for your appointment as president. You had no recollection of such documents, stating that the same was brought about by talks had either in person or over the telephone.

On April 18, this was again the subject of our conference, and again you stated that you had no recollection of such documents preceding your appointment and that you so testified before the Interstate Commerce Commission in connection with your present appointment as trustee of the C. M. St. P. & P. R. R. Co.

Before we concluded our talk, I suggested that you furnish a letter which, in substance, would confirm the understanding that you had no correspondence, wires, and/or memoranda pertaining to your appointment as president. Whereupon you requested I put the same in writing and that you would be pleased to respond thereto.

Advantage is taken of this opportunity to express appreciation for the splendid cooperation and assistance that has been rendered the agents of the committee by you and your staff.

At that time Mr. Canton was not aware of these letters which were subsequently obtained from your files, was he?

Mr. SCANDRETT. I do not recall. Have you a record of the date that I gave them to him?

Mr. ROSIER. Certainly.

Mr. SCANDRETT. I have had many interviews with Mr. Canton from time to time.

Mr. LOWENTHAL. He was trying to get any such correspondence from your files on a number of occasions?

Mr. SCANDRETT. I don't know; I don't recall about that, Mr. Lowenthal; but he was in our office getting different files from time to time. I did not have much conversation with him about that. I think my recollection is refreshed. I think that he finally came in to me with some copies of letters that he had taken from Kuhn, Loeb & Co.'s files. I think it was those files; and I said, "Well, if you want these letters which transpired between friends of mine, which I did not think were what you were after, those are in my personal files and I will be glad to turn the file over to you." I said, "A good many of the letters are purely personal, and I would not think they would have any possible place in this investigation."

Thereafter I turned them over to him and he seemed to agree with me that a number of them really did not have any place in the investigation, but he said his instructions were to get everything, and so, as I recall it, he took copies of everything in the personal file.

Mr. LOWENTHAL. There were introduced into the record this morning a number of letters to and from you, and telegrams to and from you, to and from friends of yours, as you testified. Did you get the impression that there was any one of them that did not relate to the subject of your hoped-for or prospective election as president of the St. Paul?

Mr. SCANDRETT. They dealt with what some of my friends had done in what they regarded as my interest. But I repeat, Mr. Lowenthal, that those were all preliminary, and the only significant interview of which I know is the one I had with Mr. Hanauer in which he definitely offered me the position.

Mr. LOWENTHAL. Do you feel that communications between yourself and friends of yours, which show that they were trying to get you elected as president of the road, are papers with which the Senate subcommittee conducting this inquiry could not properly concern itself and desire to include in this record?

Mr. SCANDRETT. They did not seem to me to be very pertinent; but of course I am not the judge of what the committee regards as pertinent. As soon as I realized that it was that kind of correspondence that was wanted, I turned it over without any reservation whatever.

Mr. LOWENTHAL. You see, it was quite a bit of expense and labor to the subcommittee's staff, and it was an expense to the subcommittee, to have to spend 8 months trying to get documents, or 6 months, trying to get documents from your files.

Mr. SCANDRETT. You would not say that that was all that Mr. Canton was doing during 6 months—trying to get these personal files?

Mr. LOWENTHAL. But where he has got to report back to the head field office, and they have got to keep on suggesting that he inquire further, and so on, and then, where the staff, acting under instructions of the chairman of the subcommittee, is only able to get them because copies of correspondence between you and Kuhn, Loeb, two or three or a few documents, were seen in the files of Kuhn, Loeb, and then called to your attention, then, for the first time, we saw your files—that sort of an incident, Mr. Scandrett, has not been merely one incident in the work of the staff, but we have had a great many such incidents, and they have added great expense to the Senate subcommittee.

I am not saying that by way of criticism; I just want you to realize the problem.

Mr. SCANDRETT. Of course, I could have turned over to Mr. Canton originals and copies of what had been obtained from Kuhn, Loeb & Co., but I turned over to him a great deal more than that. I think you will find that Mr. Canton also stated—he so expressed himself to me and I think he did in that letter—that he found the fullest measure of cooperation throughout the Milwaukee Railroad.

Mr. LOWENTHAL. He said so to you in April of 1936.

When did Mr. Canton get those papers?

Mr. ROSIER. The letter from Mr. Scandrett to Mr. Canton is dated July 2, 1936.

Mr. LOWENTHAL. Two or 3 months later he finally learns that at the time he thought he was getting complete cooperation he was not receiving it.

Mr. SCANDRETT. He said it to me since then.

Mr. ROSIER. I would like to offer for the record correspondence between Mr. Scandrett and Mr. Canton of our staff, dealing with the production of these files. They can be separately identified later.

Senator TRUMAN. They will be received.

(The letters referred to were marked "Exhibits Nos. 1990 to 2003", inclusive, and are included in the appendix on pp. 7053-7059.)

Mr. ROSIER. Mr. Scandrett, may I suggest that you examine these a little later. I just want to put them in the record now.

You recall that at the hearings before Judge Wilkerson regarding your appointment as trustee Mr. Swaine made a statement purporting to indicate how you had come to be selected as president of the Milwaukee?

Mr. SCANDRETT. I think I recall something of that kind.

Mr. ROSIER. I would like to read from that statement, Mr. Chairman.

Senator TRUMAN. Proceed.

Mr. ROSIER (reading):

Mr. SWAINE. Well, if you will put me on the stand and examine me I can tell how Mr. Scandrett was chosen to be president of this company.

The COURT. Inasmuch as this question is raised here, and this hearing was set for the 24th of September and is not finished yet, I will ask you to state it.

MR. SWAINE. At the conclusion of the last reorganization Mr. Byram stated to Kuhn, Loeb and the National City Company, who were reorganization managers, and, through them, to the various committees represented, that he did not want to be president of the reorganized company. Accordingly several of the committees set about inquiring as to available men. Numerous persons were suggested. My best recollection is that Mr. Scandrett's name was first suggested by one of your receivers in the previous receivership, Mr. Mark Potter, who had known of him while Mr. Potter was on the Interstate Commerce Commission. Mr. Scandrett had been before the Commission many times while he was connected with the Union Pacific. Mr. Potter apparently knew him well. At that time I knew it to be the fact that neither Kuhn, Loeb nor the National City Company knew Mr. Scandrett at all. Mr. Scandrett told me today that he had never met them until he came down to meet these representatives of the security holders. Mr. Scandrett's name was one of several railroad men considered by the several committees, and as they investigated him they gradually came to the conclusion that Mr. Scandrett was the best of the several people under consideration, and they unanimously agreed that an invitation to become president be extended to him. I can state that under oath because I participated in the discussions.

MR. SWAINE. That is still a correct statement of the situation.

MR. LOWENTHAL. Mr. Scandrett, why was it that no mention was made of the fact to Judge Willkerson, when he was being told the story, that partners of Mr. Swaine, including Mr. Swaine himself, had busied themselves in urging the desirability of the selection of yourself as president and urging it upon the very same man, Mr. Hanauer, upon whom Mr. Potter urged it?

MR. SCANDRETT. Why was not the court told about that? If you are intimating, Mr. Lowenthal, that there was any concealment from the court, I would have to resent that.

MR. LOWENTHAL. What I am intimating is that the court was not told at this hearing of the activities of Mr. Swaine's partners and of Mr. Swaine himself, although Mr. Swaine was telling the court something about Mr. Potter.

MR. SCANDRETT. So far as I know, Mr. Swaine had no activities in connection with it.

MR. LOWENTHAL. There was introduced into the record this morning the reply from Mr. Swaine to Mr. Wood in August 1927,¹ telling Mr. Wood, who was then in Wyoming and who had asked about this matter, that progress was being made, that it had been discussed "downstairs," namely, at Kuhn, Loeb & Co.

MR. SCANDRETT. There was not anything in that, as I recall, that Mr. Swaine was advocating my selection. He was replying to Mr. Wood, who was doing that.

MR. LOWENTHAL. You would gather from that letter that he had done something to carry out what Mr. Wood was suggesting?

MR. SCANDRETT. I thought he was just making a report to Mr. Wood as to how he thought the situation stood.

MR. LOWENTHAL. Would you gather from that that Mr. Swaine did or did not know that his partner, Mr. Wood, was urging your selection as president as early as August 1927?

MR. SCANDRETT. I think there is no question but what Mr. Wood—I do not know it absolutely, but I should think there was no question but what Mr. Wood had spoken to Mr. Swaine about it and urged it. What I am saying is that I do not know to what extent, if any—I do not know now, and I did not know then—Mr. Swaine advocated my selection.

¹See "Exhibit No. 1947", p. 7037.

MR. LOWENTHAL. Mr. Scandrett, when there is before the court the question of the selection of a man as trustee, namely, to be a court official in a matter of administering a railroad, and the question is raised as to whether that man had been selected as president by reason of any close relationships of any kind theretofore, and the attorneys for the bankers tell the court about recommendations of Mr. Potter and do not tell the court about the recommendations of the attorneys for the bankers themselves, would you not say that the court had not been told the whole story?

MR. SCANDRETT. I would not say, by any possible stretch of the imagination, that anything was withheld from the court. I think what the court was interested in was whether my record of 8 years as president of this property was such that, following the custom ordinarily followed, I should be named as a trustee of the property while it was being administered by the court. I think that was all that the court was interested in.

MR. LOWENTHAL. Had the court so told you?

MR. SCANDRETT. Pardon me. I am an officer of the court, but throughout my connection with this matter, and under the court's direction, I have tried to give the court everything that it seemed to me the court should have.

MR. LOWENTHAL. Have you told the court about this correspondence with partners of Kuhn, Loeb & Co.?

MR. SCANDRETT. No; and I do not think he would be interested in it. I regard it as entirely immaterial.

MR. LOWENTHAL. Is it not the function of the court and the Commission to determine whether facts are material—

MR. SCANDRETT (interposing). I think everything that a party regards as material should be disclosed to the court. I do not regard this as material at all to the question that was before the court. You apparently have a different idea. Can we not let it go that gentlemen may differ honestly on a question of that kind?

MR. LOWENTHAL. Let me ask you what the gentlemen on the board of the reorganized St. Paul did as soon as they were formed? Did they select Mr. Swaine as one of the lawyers of the St. Paul road?

MR. SCANDRETT. Mr. Swaine, Mr. Wood, and Mr. Swatland were selected as counsel for the board.

MR. LOWENTHAL. That is, Mr. Wood, who urged on the bankers, his clients, that you be selected as president, was promptly selected as one of the attorneys for the reorganized St. Paul?

MR. SCANDRETT. Yes.

MR. LOWENTHAL. And Mr. Swaine, his partner, and Mr. Swatland, another partner?

MR. SCANDRETT. Yes.

MR. LOWENTHAL. Three partners in the firm?

MR. SCANDRETT. Yes.

MR. LOWENTHAL. Do you know whether or not any of them had been attorneys for the St. Paul before it went into the receivership of 1925-1928?

MR. SCANDRETT. I do not know. I had nothing, of course, to do with the road at that time. But I understand they had not.

MR. LOWENTHAL. And two of the results that followed the reorganization were that Mr. Wood's candidate for president was selected

as president, and several of the attorneys for the bankers who had such a large part in that matter also became, for the first time, attorneys for the St. Paul?

Mr. SCANDRETT. Of course, they had been attorneys for the reorganization managers during the—

Mr. LOWENTHAL (interposing). You mean, for Kuhn, Loeb & Co. and National City Co.?

Mr. SCANDRETT. Yes.

Mr. LOWENTHAL. During the receivership period?

Mr. SCANDRETT. Yes.

Mr. LOWENTHAL. And being attorneys for the bankers who conducted that reorganization and who assumed, to use a word that was used here, the leadership for the reorganization, they just naturally flowed over into the position of attorneys for the company?

Mr. SCANDRETT. Well, they are lawyers of very genuine ability, and of course the knowledge that they acquired of the property of the company and of its securities was of great value to the company, and it seems to me that since it was desirable for the board to have counsel in New York, they were the natural and logical ones to be selected.

Mr. ROSIER. I would like to offer one more document for the record, a letter from Mr. Scandrett to Mr. Pierpont V. Davis, vice president, National City Co., dated October 4, 1929.

Senator TRUMAN. It will be received.

(The letter referred to was marked "Exhibit No. 2004" and is included in the appendix on p. 7060.)

Mr. ROSIER. Mr. Hanauer, Mr. Davis was a representative of the National City Co. and acted on their behalf in the reorganization of the old company?

Mr. HANAUER. Yes. To a very considerable extent in the early part, Mr. Mitchell was very much interested in that situation.

Mr. ROSIER. Mr. Charles Mitchell?

Mr. HANAUER. Yes; in the early part.

Mr. ROSIER. This letter reads, in part, as follows [reading from "Exhibit No. 2004"]:

I have your letter of the 2nd and am sorry there is any doubt about your making the Directors' trip. I have just returned from a small luncheon given in honor of Mr. Winston Churchill, and I understand from his nephew that they were sailing from New York on October 8th or October 12th.

And then, farther down [reading further]:

If I were to answer for myself, I would say unhesitatingly that we would be delighted to have Mr. Robinson make the trip with us if you cannot do so, but there might be a doubt as to whether each of the directors would feel the same way, and this trip I regard as theirs. I look upon you and Mr. Hanauer as ex officio members of the board.

Mr. Scandrett, did Mr. Hanauer and Mr. Davis frequently go on inspection trips of the railroad with the other directors, or did they ever take such trips?

Mr. SCANDRETT. When I came to the property I thought it would be highly desirable if we could have an annual directors' trip. There were not very many of them. A good many of my old railroad friends discouraged me from undertaking to do it, saying that I would find when the time came that all of the directors would beg off because of being too busy to make the trip. But we were very successful in 1928 and 1929. I think we had about three-fourths of the directors on

the annual directors' inspection trip. I invited Mr. Hanauer and Mr. Davis to make both of those trips with us. Apparently Mr. Davis did not make this one in 1929. I am quite sure he made the one in 1928. Mr. Hanauer made the one in 1928, and I am not so sure—

Mr. HANAUER. I have only made one in my life.

Mr. SCANDRETT. I thought it was very desirable to have the bankers of the company get that bird's-eye view of the operations of the company and learn what we were trying to do in improving the operations of the company; and so I invited them. I said "ex officio members of the board." Of course that was a pleasantry.

Mr. ROSIER. You say that was a pleasantry—"ex officio members of the board"?

Mr. SCANDRETT. Yes. I had a high regard for both of them and for their ability. As I say, I thought it was quite desirable that they make those trips with us.

Mr. ROSIER. Mr. Chairman, I would like to introduce in evidence at this time a copy of the report by a member of the committee's staff, containing extracts of minutes of directors' and stockholders' meetings, which was referred to earlier this morning.¹

Senator TRUMAN. The report will be received.

(The report referred to was marked "Exhibit No. 2005" and is included in the appendix on p. 7060.)

Senator TRUMAN. Whether it was accidentally or intentionally, it seems to me that certain very material facts were kept from both the court and the Commission, as the record has shown this morning, that I think both the attorneys for the bankers and you, Mr. Scandrett, should have referred to the court and to the Commission. I think our record has also shown conclusively this morning that Kuhn, Loeb & Co. were in absolute control of the reorganization from start to finish; that they named the board of directors, the president, and had complete control of the St. Paul Railroad after it started to run. They were ex officio members of the board.

Mr. SCANDRETT. I regret very much, Mr. Chairman, that you think I was derelict in any respect.

The CHAIRMAN. I am not accusing you of any wrong doing, but I think certain facts were concealed from the court and the Commission.

Mr. SCANDRETT. There was no intention of concealment; I can assure you of that.

Senator TRUMAN. The Committee will take a recess until 1:30 o'clock this afternoon.

(Whereupon, at 12:30 p. m., a recess was taken until 1:30 p. m. of the same day.)

¹ *Supra*, p. 6823, et seq.