

(By order of the committee, the following papers are printed in connection with the statement of Mr. Lesley:)

Argument on behalf of the Association of American Portland Cement Manufacturers, in reference to the purchase of American materials for use in the construction of the Panama Canal.

THE POSITION OF THE PANAMA CANAL COMMISSION.

The position of the Panama Canal Commission in this matter is stated in letter by the secretary, Joseph Bucklin Bishop, under date of April 16, 1906, copy of which is appended herewith. This letter states that the last purchase of Portland cement for the canal was of foreign Portland cement; that the lowest bid received on American cement was 37 cents higher than the lowest bid on foreign cement, and that 20,000 barrels purchased would have cost \$7,400 more, if the use of foreign cement had been prohibited, and that "the policy of the Commission was, if the prices had been anything like equal, home concerns would have been favored."

In his testimony before the Senate Inter-oceanic Canal Committee, as reported in the New York Evening Post, Secretary Taft, being interrogated as to the purchase of American material for use on the canal, stated: "The policy of the Government was to build the canal as cheaply as possible, buying materials in the open market" (regardless of the fact whether they were manufactured in the United States or not).

In reply to a question by Senator Dryden he said further: "The question now is the duty of the Executive to decide where purchases shall be made, and if Congress does not take any action, it will be understood that the decision is to pursue the course I have laid down, namely, open-market purchases.

"Would you prefer action by Congress?" inquired Senator Dryden.

"I would much prefer to have Congress legislate," replied Secretary Taft.

The above two statements summarize, so far as is known, the position of the Panama Canal Commission and the Government in reference to purchase of American material for use in the construction of the Panama Canal work, and it is not in criticism of this action, but in furtherance of the Secretary of War's preference that Congress should legislate, that this committee appears before your honorable body to show why it is the duty of Congress to legislate in favor of American materials, and why such legislation will procure the cheapest materials and enable the Government to build the canal as "cheaply as possible."

WHO ARE INJURED BY THE OPEN-MARKET PURCHASES.

First. The American manufacturer, American labor, and other American interests who depend upon the production of materials in this country.

Second. American coastwise commerce, interchange of American commodities with South American republics.

FACTS THAT MAY BE ADMITTED.

First. That there is no duty on materials entering the Panama Canal Zone and intended for use in the construction of the isthmian canal.

Second. That the only direct steamship line from New York to Colon is the Panama Steamship Line, directly controlled by the Isthmian Canal Commission.

Third. That American Portland cement is in every respect, so far as quality is concerned, the equal of any Portland cement manufactured in the world.

HISTORY OF THE LETTING OF PORTLAND CEMENT CONTRACTS FOR THE PANAMA CANAL.

The first specifications for Portland cement for the Panama Canal, issued October 20, 1904, specified "American Portland cement," and bidders were asked to name the price delivered at Colon—

(a) "Shipped by way of New York by Panama Railroad steamers, with freight from New York to Colon paid by the Commission," or

(b) "Shipped from any convenient port, freight and all other charges paid by the bidder."

At this letting there were nine bidders, all American, and the contract went to an American manufacturer.

Circular No. 268, of August 23, 1905, of the Panama Canal Commission called for a proposal on 20,000 barrels of "Portland cement," and—

(a) Stipulated "Portland cement," leaving the word "American" out;

(b) "Delivery only by steamship."

At this letting ten bids were received, five of which were for foreign cements; and the contract went to a foreign cement manufacturer, at 37 cents per barrel less than any American tender.

(This is the letting referred to in Mr. Bishop's letter.)

Circular No. 301, on which bids were received on March 19, 1906, "Portland cement" is asked for, the word "American" being again omitted, and it is specified that all articles are to be delivered C. I. F. on dock (by steamer) at either Colon or La Boca.

At this letting nine bids were received, all of which were for foreign cement.

It will be noted from the above—

First. That the word "American" has been stricken out in the two latter specifications.

Second. That shipments must be made by steamer.

AMERICAN FREIGHT RATES.

The only direct steamship line from New York to Colon is that controlled by the Isthmian Canal Commission, and in the specifications of that Commission the deliveries of cement are in such small lots that no contractor would charter a steamer for so small a shipment as 600 tons of cement at a time—the amount required—and thus the American manufacturer to make deliveries, is limited—on the Atlantic coast, at least—to a single line of steamers doing a general

business, which line is controlled by the Isthmian Canal Commission. This line names the arbitrary rate of \$5 a ton of 2,000 pounds on cement, to apply on the requisition covering delivery of cement up to December, 1906. This is at the rate of \$1 per barrel.

It will be noted in these latter specifications, deliveries by schooner or other coastwise vessels sailing under the United States flag, and doing business along the coast of the United States, handling materials in small lots, are excluded, and the deliveries must be made by steamers from this country, thus limiting practically the delivery of cement on these latter contracts to shipments on a line of steamers controlled by the Isthmian Canal Commission.

FOREIGN FREIGHT RATES.

There are a number of lines of steamers running from England, Belgium, Germany, etc., touching at Colon, carrying general cargoes to South American ports, and on these steamers rates as low as 60 to 68 cents per barrel on Portland cement can be made, though the distance is about double that from New York to Panama. Further than this, tramp steamers going to South American ports from Europe for return cargoes have named rates for delivery of cement at Colon as low as 45 cents.

THE FREIGHT SITUATION.

Thus, on the question of freights from the United States for American goods, destined for American work and to be paid for by American money, an American line of steamers controlled by the Isthmian Canal Commission, created by an American Congress and operated under this American Commission, names a rate so high as to practically exclude American materials from any competition whatever, and the Commission controlling this steamship line names the specifications, so as to exclude all American coastwise sailing commerce from any competition with its own line, and permits foreign steamers to land at its docks and deliver foreign goods to the exclusion of the American product in American bottoms.

Further than this, it will be noted by the letter of the Panama Steamship Company (filed herewith) that the Isthmian Canal Commission, a branch of the United States Government, or the Panama Steamship Company, which it operates, is actually doing everything which the railroads of the country, operated by individual owners, are alleged to be doing, to the injury of the public.

The last letting of cement for the Panama Canal was March 19, 1906. Under the discriminating clauses limiting the size of cargoes to lots too small for the chartering of a steamer, and under the discriminating clauses excluding any deliveries except in steamships, it will be noted that at that time by the terms of the specifications, the Isthmian Canal Commission drove American manufacturers to make their bid based upon a freight rate of \$5 a ton, which was the rate exacted by the single line running to Colon, which line was controlled by the Isthmian Canal Commission.

It will be noted further, by the same letter, that the rate made to American manufacturers, up to and including March 19, the day on which the bids were closed, was \$5 a ton, and that immediately thereafter (namely, March 21) this line of steamships, controlled by the

Isthmian Canal Commission, made practically a "midnight tariff," reducing the rate to \$4.50 a ton, at a time when it was too late for American manufacturers to avail themselves of it, and when it was thus directly discriminating in favor of foreign manufacturers.

As has been shown above, foreign freight rates from London to Colon, 4,742 miles, and Hamburg to Colon, 5,049 miles, average from 45 to 70 cents a barrel, as against the issued rate of \$1 a barrel by the Panama Steamship Line. The distance from New York to Colon is 1,972 miles, or less than half the distance.

Assuming that the Panama Steamship Line, managed by the Isthmian Canal Commission, a part of the Government, could transport freight half the distance and make a profit at the same rate that foreign vessels could carry double the distance and make a profit, the result would have been that, assuming that the American steamers charged 57 cents a barrel instead of \$1, thus meeting the average of foreign freights, there would have been a profit to the Panama Steamship Line—

By its freight rate of \$1 per ton, of.....	\$8, 600
Against a loss by the purchase of American cement, as per Canal Commission letter of Mr. Bishop, of.....	7, 400
	<hr/>
Thus showing a profit to the Isthmian Canal Commission, through its steamship line, of.....	1, 200

had the purchase of American materials been made and proper rates been made to American shippers, to say nothing of the gain to the country by fostering its industries.

SUMMARY OF THE CASE.

Summing up this matter, it may be divided into two branches:

Quality of American Portland cement.—The Isthmian Canal Commission is under the control of the War Department. The United States Army engineers, who are doing all the important work for the War Department, specify "American Portland cement" for all their work. The Isthmian Canal Commission, composed of distinguished engineers, at their first letting specified "American Portland cement." This seems to settle the question of quality, American Portland cement being equal to any Portland cement in the world.

Exclusion due to high freights.—Assuming the quality to be as stated, the enhanced cost of American Portland cement on the Isthmus of Panama is due to the discrimination by the Isthmian Canal Commission against American articles, by—

- (a) Striking the word "American" out of the specifications; and
- (b) By limiting the deliveries to steamers and naming over its own line an arbitrary freight rate, working directly in the interests of the foreigner.

CONCLUSION.

In conclusion, upon this state of facts, it may be said that not only has the American manufacturer, paying for American labor with American money, the right to be afforded an opportunity to supply material upon a work done by the American Government with American money, for an American canal, through an American Isthmus, but further, the American coastwise commerce is entitled to an oppor-

tunity to competition, for the delivery of the shipments of American cement upon this work, on fair terms with European vessels.

It is respectfully urged that in making appropriations to the Canal Commission for future work, that the same be limited to be expended only for material of American manufacture, and shipped in American vessels (sailing or steam).

PHILADELPHIA, PA., *April 24, 1906.*

WASHINGTON, D. C., *April 16, 1906.*

SIR: In the absence of Mr. Shonts, I have the honor to acknowledge the receipt of your letter of the 16th instant, transmitting a communication from the Hon. William Lorimer, dated the 10th instant, inclosing a letter from the Chicago-Portland Cement Company, bearing date April 2, 1906, with reference to the last purchase of Portland cement by the Isthmian Canal Commission on October 7, last.

When the lot of cement in question was purchased a number of bids were received on American cement and a number also on foreign cement. The lowest bid received on American cement was 37 cents per barrel higher than the lowest bid on foreign cement. After full investigation and test the lowest bid was accepted and the cement furnished on the contract has proven to be very satisfactory. As the quantity of cement purchased at that time was 20,000 barrels, you will note that this lot of cement would have cost \$7,400 more if the use of foreign cement had been prohibited.

The statements made in the communication from the Chicago Portland Cement Company as to the desirability of purchasing materials needed in the construction of the canal as far as possible in the United States are fully appreciated, and where prices have been anything like equal home concerns have been favored.

I think you will agree, however, that in the case of the lot of cement in question the Commission would not have been justified in paying \$7,400 more for American cement than for foreign cement, particularly in view of the fact that there was no doubt as to the quality of the foreign cement being fully equal to that offered by the lowest bidder on American cement.

Very respectfully,

JOSEPH BUCKLIN BISHOP,
Secretary.

HON. A. J. HOPKINS,
United States Senate, Washington, D. C.

PANAMA RAILROAD COMPANY,
New York, March 30, 1906.

UNITED BUILDING MATERIAL COMPANY,
320 Broadway, New York.

DEAR SIR: In reply to your inquiry of even date regarding rate on cement from New York to Colon, we beg to say that the present figure by our line is \$4.50 per ton of 2,000 pounds. This rate became effective on the 21st instant. The rate from December 31, 1905, to March 31 this year was \$5 per short ton.

Yours, truly,

R. L. WALKER,
Traffic Manager.

SOME STATISTICS OF THE CEMENT INDUSTRY IN AMERICA.

[By R. W. Lesley, vice-president American Society for Testing Materials.]

I have been asked to give you in very brief form a few figures on the growth of the American Portland cement industry, with which I have been connected for many years. Of course much of what I have to say is ancient history, because it is only ancient history from which diagrams can be made; and as the principal part of what I have to say to you to-day consists of diagrams, you can understand that ancient history is the essential part of my discourse.

The American Portland cement industry is one of the remarkable developments of the past twenty years; in fact it might almost be said of the past ten years. The words "cement" and "concrete" to-day seem to the engineer almost as familiar as iron and stone, so far as construction is concerned, and the engineering papers are filled with articles of the most interesting character, describing the various forms of concrete and reinforced concrete construction, and yet it is quite within the knowledge of the writer in his early cement days that to find a single paragraph in the scientific papers of this country, or even of England, referring to this subject was the occasion of more or less rejoicing.

When we talk of the consumption of an article, the use of an article, and the growth of an industry, we may generally find that along parallel lines will be the growth of the literature of the subject. This is one of the interesting developments of the growth of the industry to those who have been for years connected with it.

In speaking of this subject I want to call your attention to a diagram showing, by the comparative height of a cement barrel, the growth of the American Portland cement industry. These figures speak for themselves, and if the table were brought up to the present period by adding the year 1903, for which values are soon to be published, the results would be even more remarkable. These barrels pictorially tell the tale of the development of the industry, and emphasize more than words could what American manufacturers have been doing.

It will be remembered that in the seventies practically all the Portland cement consumed in the United States came from abroad, and that foreign cement, especially the German and English brands, had a reputation which it was difficult to overcome and commanded the market for all large work. The difficulties of the establishment of American Portland cement have been told in other papers by the writer, and it is needless to repeat them here; but the diagram which follows shows for the past twenty years the relation of the American production to the imports of foreign cement, and how gradually American production has overtaken importation, until the latter bears but a small percentage to the enormous consumption of Portland cement in this country. This table shows the domestic production and imports of Portland cement from 1882 to 1902.

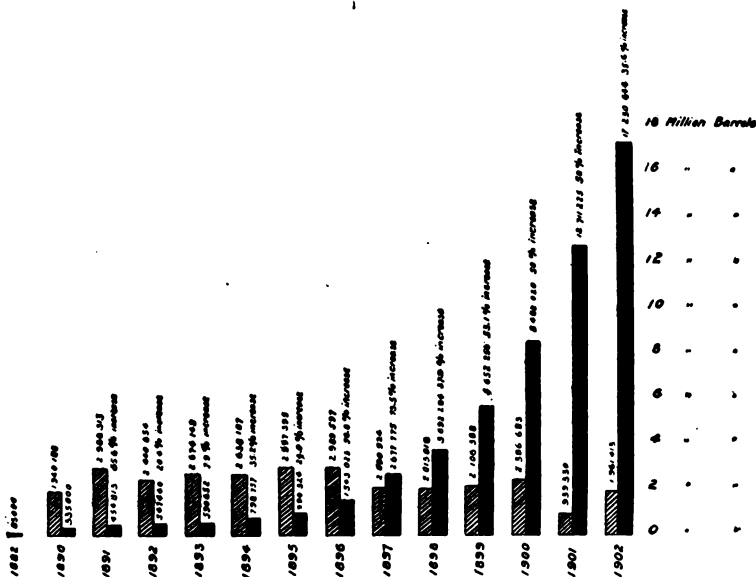
At the beginning of this period we made 17,000 tons of Portland cement and about a million tons of natural cement, and imported about 74,000 tons of Portland cement. Until 1897 the production of American Portland cements was much less than the foreign importations, but in that year it forged ahead rapidly. This growth was due to a number of causes, of which an important one was the sudden realization by engineers that there was nothing to prevent the manufacture

of good Portland cement in this country except their refusal to buy it. About that time specifications were recast so as to accept material made in this country which was of satisfactory character. When users of



THE GROWTH OF THE AMERICAN PORTLAND CEMENT INDUSTRY AS SHOWN BY THE COMPARATIVE HEIGHT OF A CEMENT BARREL.

cement found how easily their requirements were met by American producers, they began to call for finer grinding than before, higher tensile strengths, and other properties. These specifications improved the quality of the American product until to-day it is the equal of that



NOTE.—Hatched lines represent imports; solid lines represent domestic production.

COMPARATIVE DIAGRAM SHOWING DOMESTIC PRODUCTION AND IMPORTS OF PORTLAND CEMENT.

of any country. Under such conditions it is not surprising that the foreign imports have fallen off materially of late.

Portland cement, however, is not the only cement that this country produces, because since the early days of canals the United States has

been one of the great producers of natural cement, and much important work has been done for years with such good cements as those made in the Cumberland, Lehigh, Louisville, and Milwaukee cement districts. These were the first cement works of the country, and an examination of the census report for 1850 shows there were 35 cement works in the United States, all making natural cement, and having a daily capacity of 14,500 barrels.

The following table shows the relation of natural and Portland cement to each other in this country and the remarkable growth in the annual output per individual cement plant as compared with the early figures of 1850:

Production and consumption of natural and Portland cement in the United States and average productive capacity of American cement mills.

Census year.	Popu- lation.	Domestic produc- tion, in barrels.	Total per capita, in pounds.	Number of mines or quar- ries. ^a	Total number of barrels per mill.	Barrels of Portland cement per mill.	Barrels of natural cement per mill.
1850.....	23, 191, 876	b 509, 110	6.5	35	c 14, 546	14, 546
1860.....	31, 443, 321	b 767, 000	7.3	14	c 54, 750	54, 790
1870.....	38, 558, 371	b 2, 033, 893	15.8	45	c 45, 198	45, 198
1880.....	50, 156, 783	b 2, 072, 943	d 13.9	28	c 74, 034	74, 034
1890.....	62, 622, 250	7, 776, 616	e 50.2	e 79	98, 438	20, 970	118, 113
1900.....	76, 303, 337	16, 965, 539	f 80.8	f 114	147, 940	169, 640	130, 990
1901.....	80, 000, 000	19, 796, 948	g 94.8	g 116	170, 720	227, 000	118, 080
1902.....	81, 500, 000	25, 274, 949	d 123.7	h 127	199, 016	265, 000	129, 750

^a Establishments.

^b Estimated from reported valuation at \$1 per barrel.

^c Estimated from reported valuation at \$1 per barrel, and assumed to be all natural rock cement.

^d Includes imports.

^e Portland, 16; natural, 63.

^f Portland, 50; natural, 64.

^g Portland, 56; natural, 60.

^h Portland, 65; natural, 62.

These figures show that in 1850 there were 35 cement mills in the country, all making natural cement and having an average annual capacity of 14,500 barrels a year. In 1890 there were 16 Portland cement mills of an average capacity of 21,000 barrels, and 63 natural cement mills with an average output of 98,400 barrels. In 1902 there were 65 Portland cement mills averaging 265,000 barrels, and 62 natural cement mills averaging 129,750 barrels.

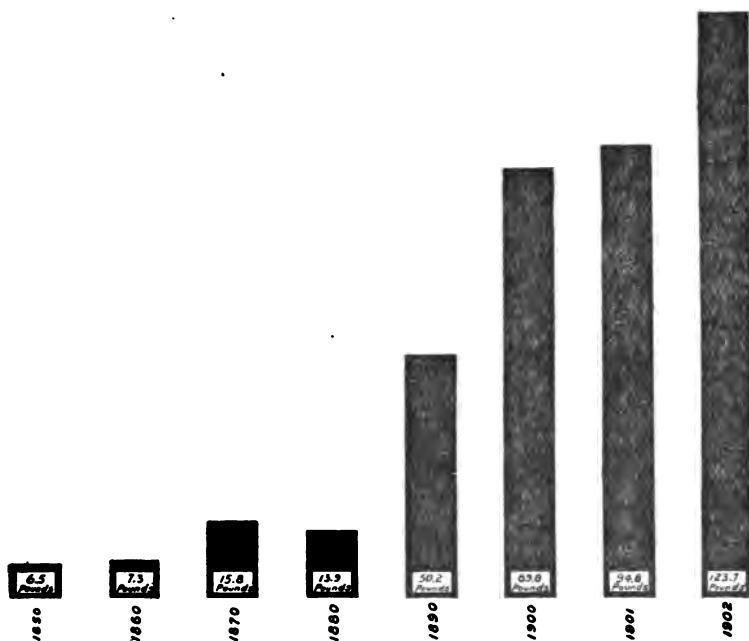
From the above an excellent opportunity is afforded of comparing the relation of the natural cement industry to the Portland cement industry in this country, and, when taken in connection with the foregoing table of imports of foreign cement and manufacture of American Portland cement, give an excellent idea of how Portland cement of American manufacture is gradually taking the place of all other cements in this country.

Still more marvelous is the growth in the consumption of natural and Portland cement per capita in this country. In 1850, when construction based on scientific principles was in its early days, each citizen required an average of 6.5 pounds. Just before the civil war about 7.3 pounds were enough. In 1870, when things were doing well generally, 15.8 pounds were ample. In 1880, after the Northern Pacific episode, when construction was checked, the necessities of the average citizen fell to 13.9 pounds. In 1890, however, people were

realizing that permanent construction was desirable, and 50.2 pounds were required. By 1900, 89.8 pounds were necessary, and in 1902 this figure rose to the surprising total of 123.7 pounds.

In addition to the fact of this great consumption in the United States and of the fact of the decrease in imports, it is an additional source of gratification to American manufacturers to know that the imports of Portland cement to the United States during the present year 1904 are not likely to exceed 500,000 barrels, an amount just about equal to American exports of Portland cement.

The figures above practically show the condition of the trade in this country, but for purposes of comparison for those who are looking into the production of Portland cement as a world industry it may be stated that this country to-day has a producing capacity of nearly



PER CAPITA CONSUMPTION OF NATURAL AND PORTLAND CEMENT FROM 1850 TO 1902.

30,000,000 barrels, and, according to the best figures obtainable for the year 1903, actually produced 21,000,000 barrels, all of which was used here. Germany, which is recognized as the leading world's producer, had in 1903 a capacity of 30,000,000 barrels, sold about 20,000,000—of which 4,500,000 were exported—leaving the consumption of Germany about 15,000,000 barrels, as compared with the consumption of this country of 21,000,000 barrels of American manufacture and 2,500,000 barrels of imported manufacture, and about 500,000 barrels of slag cement, a total of 24,000,000 barrels. It is thus seen how fast our country is coming to the front as a great consumer of Portland cement.

In connection with all the foregoing, it may be stated that most of these important results are due to American engineers and their faith

in the American product, and much more will be due to our own society, by reason of the care and attention it has given to the preparation of standard specifications for Portland cement. These specifications which are before our body to-day have been prepared by a joint committee, composed of representatives of the American Society for Testing Materials, American Society of Civil Engineers, American Railway Engineering and Maintenance of Way Association, and the Association of Portland Cement Manufacturers, under Prof. George F. Swain as chairman.

Needless to say, the task has been long and arduous, but it is hoped not a thankless one. It is the belief of the writer that when specifications for Portland cement have become standardized in this country, as they will certainly become through the work of our society, there will be no limit to the growth of the industry. The standardization of specifications will allow manufacturers to produce a more uniform and regular and, by the very fact of standardization, a cheaper article, and consumers will have an article of the best quality, thoroughly governed in its production, and one which will in the next period of our growth prove the cheapest and safest of building materials.

ISTHMIAN CANAL.

COMMITTEE ON INTEROCEANIC CANALS,
UNITED STATES SENATE,
Washington, D. C., Tuesday, May 1, 1906.

The committee met at 10.30 o'clock, a. m.

Present: Senators Millard (Chairman), Kittredge, Dryden, Morgan, and Simmons.

TESTIMONY OF RICHARD L. WALKER, ESQ.

Mr. WALKER was duly sworn, and testified as follows:

The CHAIRMAN. Please give your name and address, Mr. Walker.

Mr. WALKER. Richard L. Walker; 52 Cambridge place, Brooklyn, N. Y.

The CHAIRMAN. And your present occupation?

Mr. WALKER. Traffic manager of the Panama Railroad Company.

The CHAIRMAN. And in what way were you employed before you became traffic manager of that road?

Mr. WALKER. For a year and eight months I was manager of Downing's American Dispatch.

The CHAIRMAN. In New York?

Mr. WALKER. Yes, sir.

Senator SIMMONS. What is that? What is the business of Downing?

Mr. WALKER. R. F. Downing are custom-house brokers and forwarding agents in New York, and the particular business that I had charge of was the making of through rates from points in Europe to points in the interior of the United States, by combining the transportation charges in Europe with the ocean carriage to New York or Boston or Baltimore or other ports, and the railroad rates from the coast to the interior.

The CHAIRMAN. Prior to that time what was your occupation?

Mr. WALKER. Prior to that time for twenty-three years I was with the Ocean Steamship Company, of Savannah, which is a corporation that belongs to the Central Railroad of Georgia.

The CHAIRMAN. Were you stationed then in New York?

Mr. WALKER. Yes, sir. For eight years I was the New York managing agent.

The CHAIRMAN. And now you have charge of the regular transportation of the Panama Railroad?

Mr. WALKER. Yes, sir.

The CHAIRMAN. Of the traffic on that road?

Mr. WALKER. Yes, sir.

Senator MORGAN. Have you charge of the traffic arrangements of any other company?

Mr. WALKER. No, sir.

Senator MORGAN. How long have you been connected with the Panama Railroad?

Mr. WALKER. I am in the ninth year; eight years and a little over.

Senator MORGAN. Who was your predecessor in that office?

Mr. WALKER. John Muir.

Senator MORGAN. Had he served the company for a long time?

Mr. WALKER. I think about four years. No; I think it was two years—from 1895 to 1897.

The CHAIRMAN. Do you regulate the traffic on the ships, as well as the road?

Mr. WALKER. Yes, sir.

The CHAIRMAN. You have charge of both?

Mr. WALKER. Yes, sir; the whole thing.

The CHAIRMAN. Senator Morgan, you might proceed with Mr. Walker, if you are ready.

Senator MORGAN. I had supposed that one of you commercial gentlemen at the head of the table would take up these matters with Mr. Walker.

The CHAIRMAN. I do not know just exactly how to proceed in this particular case.

I had always understood that the ship business was separate from the Panama road.

Mr. WALKER. It is just one corporation—the Panama Railroad Company.

The CHAIRMAN. The ships are included in the property?

Mr. WALKER. The ships are owned by the railroad company.

Senator KITTREDGE. Do you know about the cost of doing business across the Isthmus on the Panama Railway?

Mr. WALKER. Well, of course, you know my information in that is secondary. I get it through the auditors, and they give me the figures. The cost of railroad transportation on the Isthmus is about \$3; \$3.06, I think.

Senator KITTREDGE. That is the statement made by Secretary Taft.

Mr. WALKER. Yes. I got it at that time. He asked me for it, and I hunted it up in the records.

Senator MORGAN. Three dollars a ton?

Senator KITTREDGE. Three dollars and six cents per ton. Is that right?

Mr. WALKER. Yes, sir.

Senator KITTREDGE. How does that compare with the cost of railway transportation in this country?

Mr. WALKER. Well, it is very, very high. Our equipment down there is old fashioned; small cars, small locomotives. They can not carry many tons per train. The cars have only been able to carry about 12 tons each, and then there is that franchise tax, that puts a big cost in there. I figure that out about, on an average, 67 cents a ton on the commercial freight that we handled last year.

Senator KITTREDGE. By "franchise tax" you mean the amount—

Mr. WALKER. The \$250,000 a year that was paid by the contract to Colombia.

Senator MORGAN. Twenty-five thousand dollars to Panama, and \$225,000 to Colombia?

Mr. WALKER. Yes, sir.

Senator KITTREDGE. Can you give us the average cost of transportation in this country?

Mr. WALKER. No, sir.

Senator MORGAN. I would like to know one thing that I do not know anything about. What do you call a ton, say of fine merchandise? Do you call it a ton in weight or a ton by measurement?

Mr. WALKER. We divide the ton weight and the ton measurement, not by the quality of the goods, but by the fact of whether 2,000 pounds measure more than 40 cubic feet or less; and on European business they use the long ton of 2,240 pounds. So that in quoting a rate to all of our territory, except the Pacific coast of the United States, we say ton weight or measurement. Then, if we get the most money by charging for 40 cubic feet, we charge the ton that way. If the most money comes by charging for 2,000 pounds or 2,240 pounds, we charge that way.

Senator MORGAN. I was merely trying to get some information about it. I did not understand.

Mr. WALKER. It is a very difficult thing for anybody to understand that is not in the steamship business. I see every time we have to do with a railroad man he gets all mixed up on it.

Senator SIMMONS. If you had proper modern equipment, would there be any greater cost for transportation over the Isthmus on the line of this road than there is in this country, except this sixty-six one-hundredths cent that you speak of, due to the subsidy?

Mr. WALKER. It seems to me that the cost of railroad transportation in a tropical country is always going to be more than it is in the United States, or in the northern part of the United States any way.

Senator SIMMONS. Why?

Mr. WALKER. Because the labor is not so efficient. You have got to hire a great many more men. The wages of each man may be less. I know, when I was with the Savannah Line, the cost in Savannah was high as compared with the cost in New York, because they had to use so many more men to do the same work that they would do in New York.

The CHAIRMAN. If you were operating a road here for the same distance as that, say, 40 or 42 or 43 miles, would not that add very materially to the cost here?

Mr. WALKER. Yes; because the expenses for the terminals there would be the same, whether your road was a long haul or a short haul.

The CHAIRMAN. I should think the short haul would make the cost a great deal more than where there was a long haul.

Mr. WALKER. Certainly.

Senator MORGAN. To prosecute my inquiry just a little further, as I want to understand it better; 40 cubic feet is regarded as a ton?

Mr. WALKER. Yes, sir.

Senator MORGAN. That is, by measurement?

Mr. WALKER. Yes, sir.

Senator MORGAN. And if the material that occupies 40 cubic feet is more than a short ton, 2,000 pounds, why, you charge for the weight?

Mr. WALKER. Yes, sir.

Senator MORGAN. And if it is less, you charge for the measurement?

Mr. WALKER. Yes, sir.

Senator MORGAN. That simplifies it. And the European people, or the English people, use the long ton. How many feet does that occupy?

Mr. WALKER. They use the same thing, 40 cubic feet for a 2,240-pound ton.

Senator MORGAN. And if the material weighs over 2,240 pounds, they charge as you do on this side?

Mr. WALKER. Yes, sir. In fact, in Germany there is another difference. They use the 1,000 kilos, which is 2,204 pounds.

Senator MORGAN. Yes.

Senator SIMMONS. How many tons did you say the average car carried in Panama?

Mr. WALKER. The little cars that we have been using would hold 12 tons.

Senator SIMMONS. What does the average car hold in this country?

Mr. WALKER. They are building cars very large now. Some of them will carry 50 tons. They have put some heavy flat cars down in the Isthmus recently, that will carry 40 tons.

Senator SIMMONS. Have they made any change at all in the character of the engines that they are using down there?

Mr. WALKER. They are getting new engines down there now.

Senator SIMMONS. New engines and larger cars?

Mr. WALKER. Yes, sir.

Senator SIMMONS. What has caused the delay in superseding this old equipment?

Mr. WALKER. I do not know.

Senator MORGAN. Now, Mr. Walker, through the changes in circumstances and conditions, the United States is to-day, through the medium of the Panama Railroad, carrying on traffic arrangements with a number of lines, as I understand it?

Mr. WALKER. Yes, sir.

Senator MORGAN. And those traffic arrangements were explained by Mr. Drake here, who gave us a sample of bill of lading and also a sample of a traffic contract—the old one.

Mr. WALKER. Oh, the contracts that we had with the Pacific carriers?

Senator MORGAN. And with others, too. Those arrangements are now conducted by current correspondence?

Mr. WALKER. Yes, sir.

Senator MORGAN. Rather than by settled agreements?

Mr. WALKER. Yes, sir; by the exchange of letters.

Senator MORGAN. I would like to have you state consecutively, and in your own way, what arrangements the United States is bound by in consequence of its connection with this traffic of the Panama Railroad.

Mr. WALKER. The corporation of the Panama Railroad is bound to accept all the cargo that is brought to us by the lines with which we have through-billing arrangements on one ocean, to carry it promptly across the Isthmus, and deliver it to the carrier beyond for transportation to destination.

Senator MORGAN. This obligation to accept the cargo obtains and is in force only at the Isthmus? You do not have the same obligation in New York?

Mr. WALKER. I think, as a common carrier, we are bound to take all cargo that is tendered to us in New York by any line bringing it into New York or any individual in New York; that is, the steamship line.

Senator MORGAN. But do the traffic arrangements bind you to take from other lines of steamships or other ships all the cargo they may bring, and that you will carry it across the Isthmus on the basis of the traffic percentage?

Mr. WALKER. With the lines with which we have these through-billing arrangements; yes.

Senator MORGAN. That is the point?

Mr. WALKER. Yes.

Senator MORGAN. That is effected by through-billing arrangements?

Mr. WALKER. Yes; we have to arrange a through-billing arrangement, because the freight is always prepaid outward and collected homeward.

Senator MORGAN. Yes.

Mr. WALKER. I speak of Europe or New York as "homeward."

Senator MORGAN. It is paid and collected at the home port?

Mr. WALKER. Yes; except the San Francisco business or the Pacific coast business; and there the initial carriers will trust the final carriers to make the collections.

Senator MORGAN. The rate of charges that prevails and is universal, I think, in these allied companies, transporting companies, is 25 per cent of the charges for freight upon the cargo that crosses the Isthmus in either direction, if I understand it.

Mr. WALKER. Well, that is not exactly that way. It differs. The initial carriers publish tariffs, and they also have authority to make special rates, down to a certain minimum, and on freight from Europe to Panama, for delivery from Panama to consumers, the division of the through rate is 45 per cent to the railroad and 55 per cent to the steamers.

On freight from Europe to ports of the South Pacific beyond Panama the through rate is divided so as to pay the railroad company 25 per cent. On freight from Europe to Central America the railroad gets 23 $\frac{1}{4}$ per cent. On freight from Europe to Mexico it is 25 per cent. From Europe to San Francisco it is 24 $\frac{3}{8}$ per cent. The rates from New York to the South Pacific divide 38 per cent to the steamers beyond Panama and 62 per cent between New York and Panama. Now, we subdivide that 62 per cent—55 to our steamers and 45 to the railroad company; and we allow the same divisions to apply on business from New York by the Atlas Line—that is, the Hamburg-American Packet Company—and the Royal Mail Steam Packet Company. And from New Orleans the divisions are the same with the United Fruit Company.

Senator MORGAN. The different percentages that you have just named are obligatory upon the United States?

Mr. WALKER. For ninety days.

Senator MORGAN. They can be changed at the end of ninety days by either party?

Mr. WALKER. Yes, sir; by mutual agreement.

Senator MORGAN. And they can be abandoned by either party without a mutual agreement?

Mr. WALKER. Yes; that is, you would have to give ninety days' notice.

Senator MORGAN. You would have to give ninety days' notice of the abandonment of the agreement?

Mr. WALKER. Yes.

Senator MORGAN. And what takes place after that is by mutual agreement?

Mr. WALKER. Yes; or by arbitrary action on the part of the railroad.

Senator MORGAN. When you come to state the different lines with which these through-billing arrangements exist, you will state in each case an obligation of the United States entered into by you as traffic manager of the railroad and which is binding upon the Government?

Mr. WALKER. Well, of course, we never express it that way. We use the corporate name, and mention that we make such and such an arrangement with you, and it is written on the letter heads of the Panama Railroad Company; and I suppose most of the people that see that—

Senator MORGAN. The point that I make is this: That the United States, as the owner of everything that belongs to the Panama Railroad Company, is bound by these obligations through your transactions as traffic manager.

Mr. WALKER. The United States owns all the stock of the road, but the United States does not own the bonds. The bondholders have some interest there, I suppose.

Senator MORGAN. That is a very remote interest. They have no control.

Mr. WALKER. They have no control, except if the company did not pay its interest on the bonds the bondholders could come in and proceed against the road.

Senator MORGAN. The United States owes every dollar of the debt that is represented by those bonds?

Mr. WALKER. The railroad company does.

Senator MORGAN. Well, the United States, if it has been subrogated or substituted into all the obligations of the railroad and the ownership of all of its property; there can not be any doubt about the United States being the debtor to the bondholders.

Mr. WALKER. I think that the United States, in the case as it stands at present, is like any other stockholder. It is not liable for anything beyond its own stock. If the United States chose to repudiate the bonded indebtedness, the bond owners could come in and close out the road under a receivership, and sell it, and the United States stock would be wiped out.

Senator MORGAN. When you say it is not liable beyond its own stock, you mean the amount of its own stock in addition to the money that they have paid for the stock? They stand liable to-day to the bondholders for the whole amount of their stock?

Mr. WALKER. If the property was not worth the bonds the United States would not be responsible for those bonds any more than any other stockholder in any railroad is responsible to the bondholders. In other words, if the property is not worth its bonded indebtedness, the holders of bonds can not proceed against the stockholders to make them pay any money.

Senator MORGAN. The bondholders then have no security except the value of the property?

Mr. WALKER. That is all.

Senator MORGAN. And the stockholders are under no liability to pay any money beyond what they have already put into the company?

Mr. WALKER. Not a cent. If I were a bondholder that is what I would think.

Senator MORGAN. You would not like to be a bondholder under those conditions?

Mr. WALKER. With the United States interested in maintaining the property, I do not see any better bonds anywhere than the bonds of the Panama Railroad.

Senator MORGAN. My idea has been all the time, from reading the charter, that after all the property of the railroad company was exhausted in the payment of bonds, still the stockholders would be liable to put up an equivalent amount of their stock in money to meet any deficit.

Mr. WALKER. It is not like national banks. They are the only ones that are responsible, that I know of, for an equivalent to the amount of their stock. A railroad stockholder is responsible for nothing. If the stock is wiped out, he is ended, that is all.

Senator MORGAN. He has got a better show than the stockholder in the national bank?

Mr. WALKER. Yes, sir. The poor national bank fellows have to put up money equivalent to the amount of their stock.

Senator MORGAN. But you do not think the United States could afford to stand by and see the bondholder paid one-half of his debt only, do you?

Mr. WALKER. No, sir.

Senator MORGAN. And not pay the balance?

Mr. WALKER. No, sir.

Senator MORGAN. So that, in point of fact, it is equivalent to the proposition that the United States would pay in full every bond?

Mr. WALKER. Yes, sir.

Senator MORGAN. With all the interest coupons attached to them, in the event that the sale of the property of the railroad company was not sufficient for the purpose?

Mr. WALKER. I think that the United States would take the moral standard that they should pay the whole thing.

Senator MORGAN. That is one we will never depart from.

Mr. WALKER. Yes, sir.

Senator KITTREDGE. You were speaking a moment ago about the division of freight earnings between different lines?

Mr. WALKER. Yes, sir.

Senator KITTREDGE. Do you make a division of freight earnings as between the steamship and the railway company?

Mr. WALKER. Yes, sir.

Senator KITTREDGE. On what basis?

Mr. WALKER. I mentioned that.

Senator KITTREDGE. I did not hear it.

Mr. WALKER. The revenue between New York and Panama is subdivided between the railroad and the steamship company, 45 per cent

to the railroad and 55 per cent to the steamships: not the steamship company. but the steamships.

Senator KITTREDGE. That is what I mean. Mr. Drake, in testifying the other day, as I understood his statement, told us that the division was 25 per cent and 75 per cent. He is in error about that?

Mr. WALKER. We get 25 per cent, practically, out of all the through business; that is, the business that goes beyond the Isthmus. It is handled by two steamship lines, one on each side, and that through freight is divided, 25 per cent to the railroad: not on New York, but where there are other steamship companies, because we take the whole revenue from New York to Panama, whether it goes beyond Panama or not, and subdivide that, 45 per cent to the railroad and 55 per cent to the steamship company or the steamships. Taking, for instance, New York to San Francisco, the through rate divides 50 per cent from New York to Panama and 50 per cent from Panama to San Francisco. In adjusting the accounts between the railroad and the steamers for the carrying of that, 55 per cent of the 50 per cent goes to the steamship and 45 per cent of the 50 per cent goes to the railroad. In other words, on the business the railroad gets practically 22½ per cent of the through rates from New York to San Francisco.

Senator MORGAN. And the steamship?

Mr. WALKER. And the steamship gets 27½, the two making 50 per cent.

Senator MORGAN. You are speaking, now, of the steamers that belong to the railroad?

Mr. WALKER. The steamers that belong to the railroad.

Senator MORGAN. That is what you are referring to?

Mr. WALKER. They are the only steamers that carry freight between New York and San Francisco. The other steamers that run from New York to the Isthmus are foreign vessels and can not engage in the coastwise traffic.

Senator KITTREDGE. Where does the 25 per cent that Mr. Drake mentioned come in?

Mr. WALKER. The 25 per cent that he has in his mind is the general endeavor that we have made to get 25 per cent for the railroad haul from all the steamship lines except our own.

Senator KITTREDGE. Regardless of destination?

Mr. WALKER. Regardless of destination. Our earning, of course, goes up and down according to what the through rate is.

Senator KITTREDGE. Why do you make the division in earnings between the steamship company and the railroad?

Mr. WALKER. Well, of course, I found that in existence when I joined the company. It is customary where a railroad has a steamship line to divide the earnings in order to have each part stand on its own bottom. The Panama Railroad purchased the steamships to run between New York and the Isthmus because they were not satisfied with the service that the Pacific Mail was giving them between New York and the Isthmus. Of course, prior to owning their own steamers they had to allow the Pacific Mail Steamship Company a percentage between New York and Panama, and the fact that they put in their line made them allow their own line about what they used to give the Pacific Mail. Of course that was done before my time, and I am not absolutely certain as to the figures, but that was the principle.

Senator MORGAN. That is a bookkeeping arrangement, in order to make each line of transportation stand on its own bottom?

Mr. WALKER. That is the size of it.

Senator MORGAN. Yes.

Mr. WALKER. Of course the business of the railroad is the transportation of traffic between Colon and Panama and in both directions; and the only reason for their going into the steamship business is to be able to control the through rates in some way. When we had no steamship interest in New York, why we were left at the mercy of all the steamship lines, to take what they chose to give us, pretty nearly. In other words, if we put our rates too high they would not take business. Now we can keep rates between New York and Panama as low as we think fit, and they, to protect their business in Panama, will put their rates down as low or lower.

Senator KITTREDGE. Does the fact that you make this division have any influence upon the rates charged by other steamships plying between New York and Colon?

Mr. WALKER. If we made the division between the railroad and the steamship in such a way as to pay the railroad a very large proportion, no steamship line would compete with us between New York and Panama—that is, in the division of a rate between New York and Panama we must allow the steamships enough to attract other steamships into the business.

Senator KITTREDGE. Does that fact influence the division of rate that you make via the steamship and railroad from New York to Panama?

Mr. WALKER. I do not exactly catch the drift of your question, Senator. I understand what you say, but I can explain it better by a reference.

Senator KITTREDGE. Explain it in your own way.

Mr. WALKER. If we wanted to crush out any opposition line between New York and Panama we would allow the railroad, say, 90 per cent of the through rate and our own New York steamers 10 per cent of the through rate, and tell any other steamships that wanted to go in that all we would give them of the through rate is 10 per cent; and they could not afford to run. Does that answer the question that you wanted to get at?

Senator MORGAN. It does, to my mind, if you will allow me to state what I think the answer amounts to. This arrangement means that you have it in your power as traffic manager—and of course this is not intended as any personal matter—

Mr. WALKER. I understand that, Senator.

Senator MORGAN (continuing): To exclude any steamships from the trade and transportation between New York and Panama by raising the rates on that steamship for goods passing across, if they want to make communication to the other side?

Mr. WALKER. No; I hardly think that is in my power, because the principle is settled by my superior officers.

Senator MORGAN. Well, whoever has it in his power personally, that is what the working of the principle would be?

Mr. WALKER. Whoever has it in his power to fix arbitrary railroad rates across the Isthmus would have it in his power to shut out or to encourage business.

Senator MORGAN. And that power does reside in the board of directors of the railroad?

Mr. WALKER. Yes, sir.

Senator MORGAN. I would like to get a statement from you which I think perhaps will present this thing in a clearer light to laymen. We do not understand these commercial matters. I find it is a very intricate and a very important matter.

Mr. WALKER. I have been thirty-three years in it, Senator, and I find new things pretty nearly every day.

Senator MORGAN. Yes. The distance between London and Colon is about what?

Mr. WALKER. Something like 4,000 miles, I think.

Senator MORGAN. What would be a fair average rate per ton for goods carried from London to Colon on a steamer?

Mr. WALKER. I do not think that I am in a position to answer that. The steamers from London are large carriers, and they make their freight rates, in general, according to the needs of their business.

Senator MORGAN. And at the moment of time when they are transacting it?

Mr. WALKER. At the moment of time, yes, sir; the same as the steamers from New York will change their rates. If cargo is offering freely, the rates stiffen. If they can not get enough for ballast, I have known steamers to go into the market and buy cargo to put in their ships for ballast and send it over to the other side and sell it; and the same thing from Liverpool to the Isthmus. I have known cases where these large Liverpool steamers going to the Isthmus have carried freight out to New Orleans, just so as to have some ballast between Colon and New Orleans, and carried it at a nominal rate. So, the shipowner feels that a fair rate is the rate that will pay him an interest on his investment, and he figures to get that.

Senator MORGAN. In case a shipper or a steamship company should buy cargo for ballast, as you say, between London and Colon, would you charge 25 per cent for transporting that cargo across the Isthmus at full rates?

Mr. WALKER. Oh, yes; at the tariff rate.

Senator MORGAN. At the tariff rate?

Mr. WALKER. Yes. In that case it would work out this way: The line from London to Colon, in connection with our railroad, being allowed to make a rate as low as, I think it is, 30 shillings, although it may be 35—I can not remember exactly—we would demand 45 per cent of that rate.

Senator MORGAN. Whether they—

Mr. WALKER. Whether they got anything or not.

Senator MORGAN. Whether they were shipping goods that they had bought or whether they were shipping for a customer?

Mr. WALKER. Yes, sir.

Senator MORGAN. The distance between the Isthmus and Hongkong is about what?

Mr. WALKER. I have never looked that up. It would be a guess on my part.

Senator MORGAN. If a ship sailed from London to make connection with a ship at the Bay of Panama, destined for Hongkong, would you charge only for the material that you actually hauled across the Isthmus, or would you charge 25 per cent of the rates on both tours?

Mr. WALKER. Well, if there was any arrangement about through rates to Hongkong, the probability is that the Pacific carrier would have to have a larger proportion, and that the railroad would have to take a lesser proportion than 25 per cent. But there is no traffic of that character.

Senator MORGAN. There is no such traffic?

Mr. WALKER. No, sir.

Senator MORGAN. What physical fact or situation is it that enables the railroad company and its steamers to demand this 25 per cent of all carriers that cross the Isthmus under these traffic arrangements?

Mr. WALKER. It was not reached by a demand. The steamship companies on the Atlantic were very anxious for outward cargoes, and they were continually subjected to pressure by shippers to reduce rates, and they could not reduce rates and pay us an arbitrary on the Isthmus; and they asked us if we would not come into some kind of an arrangement whereby we would prorate any rates they could get. And after a great deal of correspondence, and a railroad rate war on the Pacific in 1901—

Senator MORGAN. That is, with the transcontinental roads?

Mr. WALKER. This was particularly with the Pacific Mail Steamship Company.

Senator MORGAN. Yes.

Mr. WALKER. We all got together and said: "We will take a certain percentage from Panama to destination." And we agreed with the Pacific Mail as to how that should be subdivided. That accounts for these odd fractions that I gave you. But we were figuring to get, as nearly as we could, 25 per cent on the through business.

Senator KITTREDGE. Why do you say 25 per cent? Does that have any special relation to the actual cost of doing the business?

Mr. WALKER. No. That was a little higher than I had been getting before, and I was trying to get all the revenue I could, as a traffic manager always does.

Senator MORGAN. You could not have that sort of power over the regulation of traffic, say, between San Francisco and London, otherwise than from the fact that you furnish the shortest and most direct route of communication?

Mr. WALKER. Yes. That does not always take the traffic, either, because there is a good deal of traffic moved from San Francisco to London by vessels around the Horn, because they save storage.

Senator MORGAN. And your railroad line at Panama is about 46 miles long?

Mr. WALKER. The extreme length is 50 miles.

Senator MORGAN. Put it at 50 miles.

Mr. WALKER. Yes.

Senator MORGAN. Then for 50 miles of transportation you would get 25 per cent of the entire freight from London to San Francisco?

Mr. WALKER. About that.

Senator MORGAN. That is an immense leverage.

Mr. WALKER. Of course the question of cost comes in again. It is not the length of the road; it is the question of the cost of maintaining that road.

Senator MORGAN. I understand that; but it is an immense leverage as compared with the distance between London and San Francisco.

You take 50 miles of it, and you charge 25 per cent of the entire freight between London and San Francisco for crossing the Isthmus?

Mr. WALKER. Yes, sir.

Senator MORGAN. Now, you would not do that for any steamer or any steamship company that was not in the regular traffic and had not made a traffic arrangement with you for through billing?

Mr. WALKER. Anyone taking freight for the Isthmus must arrange with us to handle the freight at the Isthmus; to see that there is a means off getting it off the Isthmus on the other side. So, the very nature of the case forces some arrangement. Our position nowadays is that we will make that arrangement with anyone. The only thing necessary is to take it up in the first place. Of course, if an irresponsible person came to us and said: "I am going to carry such and such freight to the Isthmus," and we did not know how we could get it beyond, if they got it there, we would be likely to refuse it. But no such thing as that has ever arisen.

Senator MORGAN. The reason why it has not arisen is not because the traffic is not attractive, but it is because you have the power to shut that out, is it not?

Mr. WALKER. No, sir; I do not think so. Of course, it is hard to know just what decides anyone in his arrangements for a steamship traffic. This last fall I was very apprehensive that the Pacific Mail Steamship Company would not put on ships enough to handle the coffee traffic from Central America to the Isthmus, destined to Europe. And I advertised in the papers of Central America just what our rates were from the Isthmus to Europe, making them the proportion we were accepting on business that the Pacific Mail Steamship Company handled. In other words, they could have gone in and made the same rates as the Pacific Mail Steamship Company through to Europe and had just as much money as the Pacific Mail Steamship Company had, if they wanted to engage in the traffic; and we could not get anybody to go into it.

I noticed that a new steamship company was being formed in Germany, a Roland Line, and I wrote to Mr. Horn to know if he would call his steamers at the Isthmus. I never got a reply.

Two years ago I took up with the Cosmos Line the possibility of their making a connection with us at the Isthmus, and their managing director told me that they were not prepared to do so yet, that they had not the steamers to make a regular service, and that they would continue their business via the Straits of Magellan. He said he thought they might do business via the Isthmus sometime; but it might be in two years and it might be in ten years.

Senator MORGAN. I will get you, if you please, Mr. Walker, to give the names of the different steamship lines with whom you have this through billing arrangement to-day.

Mr. WALKER. The Royal Mail Steam Packet Company, from London, Southampton, and New York to Colon; The Leyland Line and the Harrison Line, from Liverpool to Colon; the Hamburg-America Line, from Hamburg and Antwerp to Colon; the Compagnie Générale Transatlantique, from various ports of France to Colon; La Valoce, from Italian and Mediterranean ports to Colon; the Compañía Transatlántica, from Barcelona and Spanish ports to Colon; the Hamburg-America Line, from New York to Colon; the United Fruit Company, from New Orleans to Colon; the Compañía Sud Americana de Vapores,

from the west coast of South America to Panama; the Pacific Steam Navigation Company, from the west coast of South America to Panama; the Pacific Mail Steamship Company, from San Francisco and the way ports of Mexico and South America to Panama. I think that is all.

Senator MORGAN. All these steamship lines make practically regular communication with Colon and Panama?

Mr. WALKER. Yes, sir; they have regular published sailing dates.

Senator MORGAN. Yes; some of them touch at New York coming from Europe?

Mr. WALKER. No, sir.

Senator MORGAN. None of them touch at New York?

Mr. WALKER. No, sir. The Royal Mail Steam Packet Company and the Hamburg-Amerika Line are in very active competition. The Hamburg-American Line is branching out in all directions, and some time ago they absorbed a steamship line from Europe to the east coast of South America. The Royal Mail were running a line from England to the east coast of South America, and the Hamburg-American Line bought the English Atlas Line service between New York and the West Indies; and the Royal Mail felt that they must get into some of the territory that the Germans were serving, and they extended their service from Colon to New York via West Indian ports, and they are fighting each other as best they can on all the local business. They do not do much on the Panama business, because they do not find revenue enough in it, I believe. They make rates a little lower than ours, but they sail once a fortnight and we sail every five days.

Senator KITTREDGE. How much business do they do between New York and Colon?

Mr. WALKER. I do not know just how much they do between New York and Colon local; that is, for Colon proper business. I have no means of finding that out.

Senator KITTREDGE. Do you not transport it across the Isthmus?

Mr. WALKER. No; local to Colon.

Senator KITTREDGE. Oh; local to Colon?

Mr. WALKER. Yes. As to the business across the Isthmus, the Hamburg-Amerika Line gave us to carry across the Isthmus last year 9,266 tons. The Royal Mail started late in September and gave us 1,349 tons.

The Royal Mail is more of a passenger line than a freight line. I believe their first object in going into the New York trade was tourist business for the West Indies. They advertise it extensively. They take their passengers to Jamaica and distribute them around through the islands there for winter tours, and the Hamburg-Amerika Line are doing the same kind of business.

The CHAIRMAN. Those ships sail from New York to Colon, do they not, and land at these different points, Jamaica and other points?

Mr. WALKER. They call at various ports.

The CHAIRMAN. And they leave from New York for Colon?

Mr. WALKER. No; they leave from New York for some of the way ports and then call at Colon afterwards.

The CHAIRMAN. They call at Colon afterwards?

Mr. WALKER. Yes, sir.

The CHAIRMAN. When they leave Colon, do they come back to New York or do they go to England?

Mr. WALKER. No; the Royal Mail goes back to Southampton.

The CHAIRMAN. They do not return to New York?

Mr. WALKER. They do not return to New York. Their itinerary is from New York via the West Indies to Southampton, and from Southampton via the West Indies to New York.

The CHAIRMAN. And with the German ships it is the same way, I suppose?

Mr. WALKER. No; the German Atlas Line service is entirely separate from their Hamburg service. The Atlas Line service is the West Indian service.

The CHAIRMAN. Is that a German line?

Mr. WALKER. Yes, sir. And they make incidental calls at Colon once a fortnight, and from Colon I think they go over to Port Limon and load bananas for New York particularly.

Senator MORGAN. All these great steamship lines have a practical competition with steamers that are called tramp steamers?

Mr. WALKER. Oh, all the time.

Senator MORGAN. Have you ever estimated what is the proportion in the commerce of the world of the tonnage of traffic of the tramp steamers as compared with those in regular lines?

Mr. WALKER. No, sir; I have never made any comparison of that.

Senator MORGAN. Are they approximately equal, do you think?

Mr. WALKER. Well, I think that, taking the world's commerce, the tramps probably do the most of it.

Senator MORGAN. They probably do the most of it?

Mr. WALKER. Yes; but, as between regular ports like New York and Liverpool, the regular lines would be ahead.

Senator MORGAN. At Colon and La Boca you do not get any of their trade in the tramps?

Mr. WALKER. There is no tramp trade on the Pacific that I know of. When the connecting lines would not get sugar from Peru for New York I induced William R. Grace to send a steamer up as a tramp, and in that way broke the rates, so that the lines on the Pacific went in and took some of that sugar business; and from here out there are tramps loading now in New York with cargo for the Isthmian Canal Commission particularly.

I heard the day before I left that a vessel had about completed loading 35 locomotives. Of course it takes a special type of ship to carry such cargo as that—such a quantity of cargo. And there is another vessel loading flat cars for the Isthmus. Both of those vessels will carry such freight as they can find in the market that wants to move to Colon, generally for the Commission. Because of the condition of the terminals down there, the docks, they land that cargo all up in the mouth of the canal there, and they never have approached us as to anything about freight rates for stuff beyond. In fact, they would not get enough of it to bother with it.

The business of the Isthmus amounts to a good deal in a year by the accumulation of a little at a time in these ships running regularly, and it is seldom enough accumulates to induce a tramp to go there; it is so extended. For instance, the business on the other side reaches from Valparaiso to Puget Sound, and that must be 8,000 miles, and they would have to have arrangements with lines on the other side or with the steamers on the other side to move it and arrangements at the ports for handling it. A tramp seldom goes into a business where he

has got to distribute a cargo. He wants a cargo from one place to another port or two, or something of that kind.

Senator MORGAN. Not for transit across any continent into another country?

Mr. WALKER. Very seldom. I never knew any tramps to do that kind of business.

Senator MORGAN. Theirs is rather a local business, then?

Mr. WALKER. Yes.

Senator MORGAN. The Government, therefore, is employing tramps to carry its heavy material of a peculiar sort to the Isthmus?

Mr. WALKER. Yes. Well, the Government is not employing them.

Senator MORGAN. The Isthmian Canal Commission?

Mr. WALKER. No. These engines are bought, the trade term is, "Cost, insurance, and freight" to Colon, and the shipper gets the best arrangements he can for the transportation, so that the Government has nothing to do with it until the goods arrive at Colon.

Senator MORGAN. The shipper in that case is permitted to compete with the steamship line between New York and Colon for freights?

Mr. WALKER. Oh, yes; there is no question of permission. We do not control that at all. It is not a case of permitting. The ocean is free to everybody; but he has got enough freight to go and get a ship and send her out there.

Senator MORGAN. In the case of purchases of coal by the year, it is a case of permitting, is it not? Do you not ship all the coal on the railroad account?

Mr. WALKER. I do not have anything to do with the movement of the coal. I only know of it by hearsay.

Senator MORGAN. Well?

Mr. WALKER. I know that they called for bids for coal, and I understood that they asked for prices delivered at Colon and also for prices delivered at tidewater here, and none of the companies would quote delivery in Colon. They quoted everything delivered here, at the coast port in the United States. So that, at the same time, the railroad company had to call for tenders for transportation of coal between the United States port and Colon, the cost of the coal at tidewater plus the freight, making the cost delivered in Colon, after insurance was added.

Senator MORGAN. So that, in regard to the transportation of coal bought by the railroad company for delivery on the Isthmus, the steamers that sail from New York would not touch at Norfolk to take that coal?

Mr. WALKER. Freight and passenger steamers carrying a miscellaneous cargo never carry coal. Coal always goes in full cargoes. Of course, we have utilized the colliers ourselves at times, when we wanted to send dynamite or some dangerous cargo of that kind, which we are not permitted by the laws of the United States to carry on passenger steamers.

Senator MORGAN. The same is true in regard to cement. You would have to get cargo ships to transport it, would you not?

Mr. WALKER. Well, we would take cement, and we do take large quantities of cement from anybody that wants to ship it at our regular rate.

Senator MORGAN. On your steamers?

Mr. WALKER. Yes. That is very good cargo.

Senator MORGAN. It is good ballast?

Mr. WALKER. Yes; and it stows well and ballows up when I get a lot of chains and stuff that would blow the ship up.

Senator KITTRIDGE. May I ask a question there, Senator?

Senator MORGAN. Certainly.

Senator KITTRIDGE. What do you mean by a short ton?

Mr. WALKER. A short ton is 2,000 pounds, as distinguished from the English long ton of 2,240 pounds. There are certain kinds of business in this country that go by the 2,240 pounds. I think rails are called 2,240 pounds to the ton.

Senator KITTRIDGE. Mr. Lessey, the president of a cement company, was before us the other day and left with us a copy of this letter. (Reading):

PANAMA RAILROAD COMPANY,

New York, March 31, 1906.

UNITED BUILDING MATERIAL COMPANY,

320 Broadway, New York.

DEAR SIR: In reply to your inquiry of ever date regarding rate on cement from New York to Colon, we beg to say that the present figure by our line is \$4.50 per ton of 2,000 pounds. This rate became effective on the 21st instant. The rate from December 31, 1905, to March 31 this year, was \$5 per short ton.

Yours, truly,

R. L. WALKER,

Freight Manager.

Mr. WALKER. That was written by my freight man, I suppose, from my office.

Senator KITTRIDGE. Why was that rate changed?

Mr. WALKER. I made the change in the rate from noticing a criticism before this committee. I think one of the New York papers had just made a summary of the proceedings, and they said that our rates were lighter than the rates from Europe. That is the first that had been called to my attention, and I looked up the tariff of the Hamburg-American Line, and found that they were charging a rate per 2,240 pounds that was equivalent to our charging \$4.50 for 2,000 pounds. So that I took the 50 cents off, and reduced it from \$5 to \$4.50.

It has been my aim for years to get the New York markets on the basis of the European markets. You see, they found it necessary in Europe to make the rates from Hamburg as low as the rates from England, and the rates from the Mediterranean as low as the rates from the northern part of Europe; so that the different places, which are almost as widely separated, you may say, as New York and England, were able to sell in the same markets, as far as freight rates were concerned. I am trying to get New York on the same basis, and I tried to get our steamship lines to do the same way. I always considered that it was a good business policy, but I am sorry to say that I can not always make steamship connections think the same thing. The English steamship lines, particularly, get the best rates they can out of every bit of business that comes up.

Senator MORGAN. The great bulk of the commercial business across the Panama Railroad is the result of these through billing contracts?

Mr. WALKER. That has built the business up.

Senator MORGAN. And you have made a great deal of money out of it?

Mr. WALKER. Well, that is a comparative term.

Senator MORGAN. Taking \$8,000,000, which is the capital stock of the Panama Railroad Company, as a basis of calculation, you have made a very fine income upon that \$8,000,000, have you not?

Mr. WALKER. Taking it from the start of the road, yes; they have made a great deal. But of late years they have made not more than a fair interest, apparently what a man would consider a fair interest on a railroad investment.

Senator MORGAN. That is in consequence of competition, or of disturbances on the Isthmus?

Mr. WALKER. It is competition that has made the rates go down.

Senator MORGAN. How about disturbances on the Isthmus? Have they had anything to do with it?

Mr. WALKER. No, sir.

Senator MORGAN. They have not affected it at all?

Mr. WALKER. No, sir. I say no; a strike that occurs does affect the business.

Senator MORGAN. I mean disturbances of a revolutionary character.

Mr. WALKER. Nothing like that; no, sir.

Senator MORGAN. You have had a good many strikes, or several strikes, have you not?

Mr. WALKER. Two or three since I have been with them.

Senator MORGAN. And pretty stiff ones, too?

Mr. WALKER. One was a pretty stiff one, that just fairly congested the Isthmus. They got everything tied up—cars full, warehouses full—and they could not turn a wheel until we sent a tramp there empty that we chartered for that purpose, so that they could fill something in it and commence to move the business again.

Senator MORGAN. You got rid of it by advancing the rates of pay for labor?

Mr. WALKER. I think at that time the question of exchange came in. I am getting a little out of my bailiwick now, Senator. They told me that they had to go to this increased expense, and I said: "Well, I do not see that you have increased your expense much, because the rate of exchange has gone up proportionately, and the only difference is that where you were paying a man the equivalent of so much gold you are paying it to him now, only you are giving him more silver for it."

Senator MORGAN. The price of money had gone down; the value of the money had gone down?

Mr. WALKER. That is it.

Senator MORGAN. And the increase in the wages only balanced that up?

Mr. WALKER. Yes, sir. Then, I think, when they got the arrangement about two for one in there, they tried to reduce the men on the same basis, and the men did not take to that as kindly as they would to the going up part.

Senator MORGAN. You have had a long and protracted and very interesting interchange of diplomatic correspondence with Mr. Huntington?

Mr. WALKER. Of course Mr. Huntington I never was thrown with. I think I never met him but once.

Senator MORGAN. That was before your day?

Mr. WALKER. No; he was at the head of the Pacific Mail, but my relations were with Mr. Schwerin. Mr. Schwerin takes care of his own traffic and I have the traffic of the Panama Railroad.

Senator MORGAN. Mr. Schwerin was not in combination with Mr. Huntington?

Mr. WALKER. Oh, he was the vice-president of the company and took his orders from Mr. Huntington.

Senator MORGAN. I supposed so; and that is the reason I spoke of Mr. Huntington as being the man with whom you were conducting this very extensive and frequent and lengthy correspondence in regard to traffic rates across the Isthmus, particularly in regard to coffee and other heavy freights.

Mr. WALKER. With Mr. Schwerin, yes, sir.

Senator MORGAN. He representing the interests that Mr. Huntington stood at the head of?

Mr. WALKER. That is it. You are speaking, now, of a good many years ago, of course.

Senator MORGAN. Yes. I am trying to get a general view of the situation of the traffic and relations of the railroad to other railroads during the time that you have been personally acquainted with the conditions there.

Mr. WALKER. Yes, sir.

Senator MORGAN. During all the time that you have been there, with the exception of probably 700 shares out of 70,000, the Panama Canal Company has been the owner of the stock of this railroad?

Mr. WALKER. They were the majority stockholders.

Senator MORGAN. To about the extent I mentioned?

Mr. WALKER. Something like that. The minority was very small.

Senator MORGAN. And a negligible quantity? The minority was a negligible quantity in all arrangements that the majority saw proper to make?

Mr. WALKER. I should suppose so.

Senator MORGAN. On any subject relating to the interests of the railroad?

Mr. WALKER. I should suppose so. Of course, the minority have their rights.

Senator MORGAN. I understand they have, whenever they can enforce them.

Mr. WALKER. Well, they get into courts to enforce their rights.

Senator MORGAN. The minority have their rights in the Senate, but they do not make anything of them. [Laughter.]

Senator KITTREDGE. I would like to know how your rates on the steamships compare with the tramp ship rates.

Mr. WALKER. I suppose that our general rates would rule higher. They ought to.

Senator KITTREDGE. Why?

Mr. WALKER. Because the tramp goes in for a particular business that he can handle, a straight run at a lower cost than that for which we can handle a miscellaneous cargo. A tramp steamer makes the time between the Isthmus ten or eleven days at a very low cost of steaming. Our steamers make the time in from five and a half days to seven days, and they are very much more expensive boats to run. In fact, it is always more expensive to operate American steamers than

Senator MORGAN. You could not get in without buying stock, could you?

Mr. CROMWELL. I am criticising your remark that they invited me to buy stock.

Senator MORGAN. Do not be too punctilious. I am trying to get at the truth. It may be that I stumble along a little bit, and I may not use exactly the form of English that suits you.

Mr. CROMWELL. You are sometimes inaccurate; that is all.

Senator MORGAN. Yes. Did Mr. Boyard ask you to buy that stock?

Mr. CROMWELL. No, sir.

Senator MORGAN. Did he inform you before you had bought it that he wanted you for a director?

Mr. CROMWELL. He had.

Senator MORGAN. What relation had he, then, to the Panama Canal Company?

Mr. CROMWELL. He was, as I just have said, commercial agent of the canal company in the United States, buying and selling its merchandise and shipping the same to the Isthmus.

Senator MORGAN. Was he a director in the canal company?

Mr. CROMWELL. No, sir.

Senator MORGAN. He was the agent, though?

Mr. CROMWELL. He was the commercial agent.

Senator MORGAN. Transacting all business of the canal company in the United States?

Mr. CROMWELL. I do not know what business he transacted.

Senator MORGAN. Is there anybody else that did transact any of it, within your knowledge?

Mr. CROMWELL. I do not know what business they had occasion to transact, except to buy and sell merchandise and ship it to the Isthmus for the construction of the canal, and that work he attended to for them.

Senator MORGAN. How long did Mr. Boyard continue in his connection with the Panama Canal Company after that?

Mr. CROMWELL. He continued as commercial agent, in the same relation, down to the time of his death.

Senator MORGAN. When was that?

Mr. CROMWELL. April 2, 1904.

Senator MORGAN. When did he become a director in the railroad?

Mr. CROMWELL. I do not know. Some years before I did.

Senator MORGAN. He was already a director in the railroad when you went in?

Mr. CROMWELL. He was.

Senator MORGAN. The understanding, then, must have been, I suppose, that if you would qualify yourself to become a director, the Panama Canal Company would put you in office as a director of the railroad?

Mr. CROMWELL. That was not the understanding, and you have no right to make the supposition.

Senator MORGAN. What was it?

Mr. CROMWELL. I was invited to become a director in the Panama Railroad Company.

Senator MORGAN. By Mr. Boyard?

Mr. CROMWELL. By Mr. Boyard, Mr. Drake, Mr. Simmons, and two or three other directors, and I insisted upon qualifying myself by

ownership of stock, so as to become a director bona fide and in law. I looked around to find stock to buy and came across these fourteen shares. There were very few lots for sale, and it was very seldom transactions in the stock occurred. I bought these few shares, and held them, to qualify myself.

Senator MORGAN. Immediately after you came into the railroad company in this way you became its general counsel?

Mr. CROMWELL. Not long after. I think it was in 1893 that I became counsel.

Senator MORGAN. So that part of the arrangement between you was that you would be general counsel?

Mr. CROMWELL. No, sir.

Senator MORGAN. It was not?

Mr. CROMWELL. It was not discussed or thought of.

Senator MORGAN. Did you have it in your mind at that time?

Mr. CROMWELL. No, sir.

Senator MORGAN. You at once became, also, after your qualification and election as a director, a member of the executive committee?

Mr. CROMWELL. Yes, sir; under similar invitation.

Senator MORGAN. Of whom did that committee consist at the time?

Mr. CROMWELL. I do not recall. The minute books will show. They are before you.

Senator MORGAN. These minutes are correct on that subject, are they?

Mr. CROMWELL. I have no doubt of their correctness.

Senator MORGAN. Do you recollect whether at your first appearance in the executive committee bonds were ordered to be issued and sold?

Mr. CROMWELL. I have no recollection of the transaction one way or the other.

Senator MORGAN. Was there any bonded debt of that company at the time you entered as director?

Mr. CROMWELL. Yes, sir.

Senator MORGAN. How much?

Mr. CROMWELL. I do not know the amount. The reports will show.

Senator MORGAN. There was an outstanding bonded debt at that time?

Mr. CROMWELL. There was.

Senator MORGAN. What kind?

Mr. CROMWELL. The sterling mortgage bonds.

Senator MORGAN. What percentage did they draw?

Mr. CROMWELL. Seven per cent.

Senator MORGAN. What amount?

Mr. CROMWELL. The total authorized issue was \$5,000,000, I remember.

Senator MORGAN. How much was issued?

Mr. CROMWELL. I do not know from memory. The annual reports are here, and I can get the figures in a minute.

Senator MORGAN. Had all those bonds been sold before you came in as a director?

Mr. CROMWELL. I have no recollection, Senator, about transactions of that kind.

Senator MORGAN. The books show it correctly?

Mr. CROMWELL. Whatever the books show they show it correctly, of course.

Senator MORGAN. Well, then, if bonds were issued on the day or very soon after you became a member of the executive committee, new bonds, additional bonds, what purpose were they issued for?

Mr. CROMWELL. I do not know. The minutes will state. The records of the company will show.

Senator MORGAN. Do you remember the issue of such bonds?

Mr. CROMWELL. No, sir; I have not the faintest remembrance of any such transaction.

Senator MORGAN. You do not remember having recommended it?

Mr. CROMWELL. I have no recollection about it, Senator. I would not be likely to have.

Senator MORGAN. After you got into that company, how many issues of bonds were made?

Mr. CROMWELL. I can not answer any question like that because I have no data with which to refresh my recollection.

Senator MORGAN. There were issues of bonds made after you came into the company?

Mr. CROMWELL. Probably, for the purposes for which they were authorized and the wants of the company. That was the business of the Panama Railroad Company and its stockholders.

Senator MORGAN. How many issues of bonds have been made by that company in all?

Mr. CROMWELL. Do you refer to the period of my acquaintance with it, or away back to 1850?

Senator MORGAN. I want to know how many issues of bonds have been made by that company in all! What are the different issues of bonds made by that company?

Mr. CROMWELL. There were some issued in 1850 or 1854. I have no present recollection of the amount or disposition. I know they were retired and became extinguished by the issue of what is called the 7 per cent sterling mortgage bonds, which was an issue of bonds existing when I became a director, in 1893. That issue of bonds was retired and canceled in 1897.

Senator MORGAN. The sterling bonds?

Mr. CROMWELL. The sterling bonds, yes, sir; and was supplanted by a reduced issue of bonds known as the present first mortgage bond issue. Those are the several mortgage bond issues of the Panama Railroad.

Senator MORGAN. Are they all?

Mr. CROMWELL. All; yes, sir.

Senator MORGAN. There were no bonds issued that were not mortgage bonds?

Mr. CROMWELL. There were the subsidy bonds, 6 per cent subsidy bonds issued in respect of the Colombian subsidy, of which a description has already been made here.

Senator MORGAN. You mean the subsidy to be paid to Colombia?

Mr. CROMWELL. Yes, sir.

Senator MORGAN. Was that a mortgage bond?

Mr. CROMWELL. No, sir.

Senator MORGAN. There was no security given for it?

Mr. CROMWELL. Pardon me. I will give you the particulars of that in a moment. Any of these annual reports will explain it, I think. [After consulting report:] On November 1, 1880, there were issued \$3,000,000 so-called 6 per cent subsidy bonds by the company, the

history of which has been explained a number of times, I think, in the course of these proceedings, but I shall be very happy to repeat it, if you would like me to do so. Upon these bonds no moneys were received by the company. They were issued to and for account of the Colombian Government as an amortization of the subsidy, which was to run in anticipation up to a period expiring in 1908. Under that concession the Panama Railroad Company is obligated to pay what we would call, in short terms, an annual rental of \$250,000. By the terms of the concession, \$25,000 of it was made payable direct to the department of Panama for its support; the \$225,000 remaining was payable direct to the government at Bogota.

Under the terms of the same concession it was provided that whenever Colombia desired the railroad company was obligated to cooperate in the anticipation of these payments. Accordingly, in 1880, the Colombian Government requested the railroad company to give out evidences of obligation in respect of this \$225,000 running up to the year 1908. The railroad company complied, and issued a series of bonds known as the 6 per cent subsidy bonds, so calculated, both as to the payment of the interest upon the issue, and an annual drawing of about 140 bonds, as to make the exact equivalent of \$225,000 per annum that they were bound to pay. This was nothing more than a change in the form of payment. It was a convenient way by which Colombia could realize upon in advance and anticipate the payments coming to it. But the railroad company incurred no larger obligation, paid out no more money, than it was bound to pay by the terms of its concession annually.

The same documents provide that there shall be annual drawings by lot out of the mass of these bonds, and interest paid upon all the outstanding issue. As I have just said, the amount of these annual drawings and the amount of the interest together comes to \$225,000. The railroad company is not obligated to make these payments, these drawings, nor pay this interest save only to an aggregate amount precisely the same as if it had drawn its check for \$225,000 and paid it direct to the government at Bogota. The operation cost the Panama Railroad nothing. It was for the convenience of the Colombian Government and in pursuance of the obligations of the concession, which required the railroad company to facilitate this anticipation of payment to the Colombian Government. These annual drawings and payments have proceeded from 1880 regularly and without default, and by such operation these bonds, the original issue having been \$3,000,000, have been now reduced to the sum of \$533,000, of which the company holds \$100,000 in its treasury.

Senator MORGAN. Mr. Cromwell, in virtue of the ownership of the great body of the stock of the railroad company by the Panama Canal Company, did not that Panama Canal Company have the absolute control of the railroad company, so as to require it to do anything within the limits of its charter that it desired to do?

Mr. CROMWELL. It had the rights of a stockholder, whatever those rights are, sir; no more, no less.

Senator MORGAN. As a matter of fact, did not that railroad company receive the instructions of the Panama Canal Company as being authoritative in the management of its affairs?

Mr. CROMWELL. No, sir; quite the contrary.

Senator MORGAN. Why so?

Mr. CROMWELL. Because of the independence of the board of directors and the very superior character of those gentlemen.

Senator MORGAN. Were the board of directors entirely independent of the canal company?

Mr. CROMWELL. They were all independent. The majority had no relation whatever with the canal company—not the remotest. The board of directors was composed of bank presidents or railroad men of high rank and great personal independence, as you can see from the list of directors.

Senator MORGAN. Did not the canal company have the power at any time to remove the directors?

Mr. CROMWELL. No, sir. They had power once a year to elect a new board of directors.

Senator MORGAN. But they had no power in the interim?

Mr. CROMWELL. They had no power in the interim, and never exercised it, in my observation.

Senator MORGAN. No; but they had it.

Mr. CROMWELL. They did not have it.

Senator MORGAN. They did not have it?

Mr. CROMWELL. They could not have it, under the law, and did not have it. There is no law of New York or any other State allowing stockholders to remove a board of directors during the year.

Senator MORGAN. The board of directors had frequent correspondence with the Panama Canal Company?

Mr. CROMWELL. I know nothing about that subject, sir. I do not think they did. I have no intimacy in the affairs of the company of that character.

Senator MORGAN. Through Mr. Boyard, as a director of the railroad and the general agent of the Panama Canal Company, did they not receive instructions as to the policy to be observed?

Mr. CROMWELL. I know nothing whatever about the subject, sir.

Senator MORGAN. Nothing whatever?

Mr. CROMWELL. Nothing; I had no occasion to.

Senator MORGAN. You mean that you do not recollect, or that you never did know?

Mr. CROMWELL. I have no recollection, and it would be none of my business to know.

Senator MORGAN. Well, then, if these books show that you did you would have to qualify that statement?

Mr. CROMWELL. Whatever the books show is correct, sir; and if you refresh my recollection I shall be happy to assist you.

Senator MORGAN. The Panama Railroad Company had various commercial relations through its traffic manager, and through the action of the board of directors, and also of the executive committee with transportation companies in various parts of the world?

Mr. CROMWELL. Yes, sir.

Senator MORGAN. You knew what those relations were?

Mr. CROMWELL. In a general way, as any director would; yes.

Senator MORGAN. As a member of the executive committee, you know them particularly?

Mr. CROMWELL. As a director and as a member of the executive committee would.

Senator MORGAN. These records show a great deal of negotiation and correspondence between the railroad company and various other

transportation companies, contracts of various descriptions, particularly with the Pacific trade. Were not those contracts, as a rule, submitted to the approval of the Panama Canal Company?

Mr. CROMWELL. I think, never; never, with my knowledge, except as to the Pacific Mail contracts. I think that I have a general memory that those were Pacific Mail contracts, involving long terms of years and very important relations.

Senator MORGAN. That they were consulted about those?

Mr. CROMWELL. I think they were. I have heard from the officers that they were.

Senator MORGAN. If the board of directors was entirely independent of the canal company, why was this consultation made?

Mr. CROMWELL. Very properly so.

Senator MORGAN. State a reason.

Mr. CROMWELL. It was very proper for the board of directors to consult the stockholders. That was a very different thing from taking directions from them.

Senator MORGAN. Did you consult with any stockholders besides the Panama Canal Company?

Mr. CROMWELL. I did not consult with any of them. It was not my business. It was not a part of my duty, Senator.

Senator MORGAN. You had no consultations with them at all?

Mr. CROMWELL. With whom?

Senator MORGAN. With the Panama Canal Company on the subject of these transportation contracts?

Mr. CROMWELL. I have had no conference with them upon any of the traffic contracts except, possibly, on the Pacific Mail. I think on some of my visits to Paris I have probably spoken about the Pacific Mail contracts, with no particular data before me, but as a matter of importance and interest.

Senator MORGAN. You do not remember writing any letters on that subject?

Mr. CROMWELL. No, sir; it was not in my department at all.

Senator MORGAN. Give your best recollection of that arrangement with the Pacific Mail, beginning with the first one that was in existence, if there was one, at the time that you became a director, and then coming on down with it. What were the changes that you remember to have taken place?

Mr. CROMWELL. I would not attempt to state from memory. Give me the contracts and I shall be very happy to give you my best impression from them.

Senator MORGAN. You have no recollection of the changes that were made?

Mr. CROMWELL. I have a recollection of some of the main features, of course.

Senator MORGAN. Well, let us have those.

Mr. CROMWELL. The first contracts with the Pacific Mail, I think, provided for a fixed subsidy.

Senator MORGAN. Was that in existence at the time you became a director?

Mr. CROMWELL. I do not recall, sir; but you can tell from the date of it.

Senator MORGAN. You have the date there, have you not?

Mr. CROMWELL. No, sir; I have not. Can you furnish it to me?

Senator MORGAN. I think it is in the book somewhere. You can take these minute books and look through them and see. You are familiar with them. Here are three volumes of them, and there are others. I would like to have you find out about that.

Mr. CROMWELL. I will do it with pleasure. I may be able to find it easier in some of the papers that I have here than by going through those volumes, Senator.

Senator MORGAN. Very well.

Mr. CROMWELL. I shall have to get the older reports. If it is material I will hunt it up. I can only tell by going through all these books, which will take some little time. I can find out for you during the recess.

Senator MORGAN. It will not be time wasted if we find out the business. Here are the books.

Mr. CROMWELL. There is a printed set of these books, in which it could be much more easily found.

The CHAIRMAN. What are you looking for?

Mr. CROMWELL. The Senator has asked when a certain contract was made, and I am trying to find its date.

The CHAIRMAN. It is in one of those books, probably.

Mr. CROMWELL. Yes; but the printed volumes are so much easier to look through.

The CHAIRMAN. I do not recall any other books that we have had from the Panama Canal Company.

Mr. CROMWELL. It is all in these books. I was merely trying to find a more convenient way of getting it. (After consulting minute books:) Referring to the minute book, Senator, my present impression is that that contract was in force when I became a director, for I note there was a controversy on with the Pacific Mail Company relating to the contract, and that the subject came before the board.

Senator MORGAN. Have you got a copy of the contract there?

Mr. CROMWELL. No, sir. We can get it for you. It is in the minute book.

Senator MORGAN. It is in one of these volumes?

Mr. CROMWELL. It must be in one of the volumes. I have not seen it there, but it has been printed in the Congressional Record a dozen times.

Senator MORGAN. For purposes of identification, state your recollection of the substance of that contract.

Mr. CROMWELL. I would not be willing to state from memory the substance of a contract so long ago as that.

Senator MORGAN. It was a very important contract, was it not?

Mr. CROMWELL. It was an important contract; certainly.

Senator MORGAN. It included the whole question of the transportation across the Isthmus between the Pacific and the Atlantic?

Mr. CROMWELL. Yes, sir.

Senator MORGAN. And the railroad company made terms with the Pacific Company—what was the name of that company?

Mr. CROMWELL. The Pacific Mail Steamship Company.

Senator MORGAN. Who was the president of that company?

Mr. CROMWELL. Mr. Huntington.

Senator MORGAN. That is the one I referred to.

Mr. CROMWELL. The contract was made before I became a director. I had nothing to do with the making of the contract.

Senator MORGAN. Yes. That contract provided, if I remember it correctly, that a certain amount of space in the steamers between New York and Colon should be paid for or estimated, whether freight went in or not?

Mr. CROMWELL. In substance I think the contract provided that the Pacific Mail engaged to take a given amount of space and pay therefor a given sum of money.

Senator MORGAN. Whether any goods were sent or not?

Mr. CROMWELL. Whether they occupied it or not. That contract has been before Congress on two or three occasions. It is a part of the published records.

Senator MORGAN. You remember it as being set forth in the Fellows report, do you not?

Mr. CROMWELL. Yes, sir; and you have had it printed two or three times, I remember, Senator.

Senator MORGAN. The object of that agreement was to put it in the power of the Pacific Mail to control the commerce that passed across between San Francisco and the coast of the United States on the Atlantic side?

Mr. CROMWELL. I can not characterize the contract. It speaks for itself, Senator. I had nothing to do with the making of the contract. It was made before I became a director. I am one of the men that terminated the contract.

Senator MORGAN. You had a great deal to do afterwards with the extension and modification of it?

Mr. CROMWELL. I had a great deal to do with fighting against it.

Senator MORGAN. You did fight against it?

Mr. CROMWELL. I did.

Senator MORGAN. All the way through?

Mr. CROMWELL. I finally helped to terminate it.

Senator MORGAN. That contract was to the great advantage of the Pacific railways, was it not?

Mr. CROMWELL. Well, I do not know, sir. I can not characterize it. It was advantageous to the Panama Railway Company, and that is all I was thinking about.

Senator MORGAN. Was there any contract between the Pacific railroads for pooling the rates or their freights in connection with this contract?

Mr. CROMWELL. I have no knowledge of the subject.

Senator MORGAN. None whatever?

Mr. CROMWELL. None.

Senator MORGAN. Did you not know it at the time you were fighting it?

Mr. CROMWELL. I was informed that such agreements existed, and they have been published as a part of the records of Congress.

Senator MORGAN. They overruled you in your fight, did they not?

Mr. CROMWELL. Who?

Senator MORGAN. The parties concerned; the railroad directors and canal company, and so on.

Mr. CROMWELL. No, sir; we terminated the contract as soon as we could.

Senator MORGAN. And then renewed it again?

Mr. CROMWELL. No, sir; we terminated it as soon as we could advantageously terminate it, or safely terminate it.

Senator MORGAN. Well, it was terminated for a while and then renewed?

Mr. CROMWELL. I do not recollect the date, Senator. The record speaks for itself.

Senator MORGAN. Mr. Boyard being the representative of the Panama Canal Company, and being a director in the railroad company—were not consultations held frequently between the canal company and the railroad company on that subject?

Mr. CROMWELL. I do not know of any, sir.

Senator MORGAN. If those books show them, then they are all right?

Mr. CROMWELL. Whatever the books show is doubtless true.

Senator MORGAN. The railroad company continued to be an American company, notwithstanding its ownership by the canal company of France?

Mr. CROMWELL. It did. It was not owned by the canal company of France, Senator, as you know. The French company merely owned certain shares of the stock, and it did not change the legal character of the American company.

Senator MORGAN. I understand that; that if I own all of an apple except the stem, I own the stem, too.

Mr. CROMWELL. Your illustration is not happy, nor accurate.

Senator MORGAN. Well, make a more accurate one, defining exactly the situation.

Mr. CROMWELL. Because 99 per cent ownership of the stock is not 100 per cent ownership of the stock.

Senator MORGAN. It is within 1 per cent of it.

Mr. CROMWELL. It is within that 1 per cent that makes the difference, and makes your illustration a poor one.

Senator MORGAN. That was the difference in the effect, too, was it not?

Mr. CROMWELL. That is the difference in fact.

Senator MORGAN. And in the effect—in the control that the company had over the railroad?

Mr. CROMWELL. It had no control, other than I have described as a stockholder, electing a board of directors.

Senator MORGAN. In the power of control?

Mr. CROMWELL. It had the power of control in the election only of a board of directors. Subsequently it had no power over the board.

Senator MORGAN. You are now a director in the railroad company?

Mr. CROMWELL. Yes, sir.

Senator MORGAN. Under the same New York charter?

Mr. CROMWELL. Yes, sir.

Senator MORGAN. And with the same powers?

Mr. CROMWELL. The same powers.

Senator MORGAN. And you are in office?

Mr. CROMWELL. I am.

Senator MORGAN. And the President and the Isthmian Canal Commission could not turn you out?

Mr. CROMWELL. No, sir.

Senator MORGAN. So that, until your term of office expires, you are there for good and all?

Mr. CROMWELL. I am there until I wish to resign—until the next election, unless I wish to resign in the interval.

Senator MORGAN. When were you last elected?

Mr. CROMWELL. April of this year.

Senator MORGAN. Do you consider that as a director you have the right to disobey the orders of the Government of the United States in the conduct of the business of that railroad?

Mr. CROMWELL. Well, Senator, let us not get into academic questions.

Senator MORGAN. It is hardly an academic question when you say that you had that right in regard to the Panama Canal when it was the owner.

Mr. CROMWELL. I unquestionably should vote according to my own judgment upon any matters that came before the Panama Railroad board. No man would be fit to be a director who would not do so.

Senator MORGAN. And in defiance of the request or order of the President or Secretary of War?

Mr. CROMWELL. No; I should resign if I had such a request, and it was not in accordance with my own judgment.

Senator MORGAN. The only remedy the United States would have would be your resignation?

Mr. CROMWELL. It would have that mighty quick, and it would have a majority of the board, quite independent of me, Senator; so that my dissent would be impotent, even if I found reason to disagree.

Senator MORGAN. Are not the relations between the Government of the United States even firmer than were those of the Panama Canal Company and the railroad company?

Mr. CROMWELL. They are now, sir; because the Government now owns all the stock.

Senator MORGAN. It owns the whole business?

Mr. CROMWELL. All except the qualification shares of the directors.

Senator MORGAN. Still the President would not have the power to order you to leave that board?

Mr. CROMWELL. He would not.

Senator MORGAN. Do you think Congress would?

Mr. CROMWELL. I do not.

Senator MORGAN. You do not?

Mr. CROMWELL. No, sir; speaking, of course, purely as a matter of law.

Senator MORGAN. That is what I am asking about—as a matter of law.

Mr. CROMWELL. Any director would be happy to retire upon the intimation of the Government at any instant. The office is purely honorary, without compensation.

Senator MORGAN. Neither Congress nor the President, then, would have the right to remove a recalcitrant director?

Mr. CROMWELL. No power of removal; no, sir.

Senator MORGAN. None whatever?

Mr. CROMWELL. No, sir.

Senator MORGAN. You are holding a pretty independent position, are you not?

Mr. CROMWELL. I am holding a very profitless one.

Senator MORGAN. But a very independent one.

Senator TALIAFERRO. Would that theory apply also to the officers of the railroad company?

Mr. CROMWELL. No, sir. The officers are subject to removal by the board of directors.

Senator TALIAFERRO. That is merely under the by-laws?