

**INVESTIGATION OF RAILROADS  
HOLDING COMPANIES  
AND AFFILIATED COMPANIES**

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**HEARINGS**  
BEFORE A  
SUBCOMMITTEE OF THE  
COMMITTEE ON INTERSTATE COMMERCE  
UNITED STATES SENATE  
SEVENTY-SEVENTH CONGRESS

SECOND SESSION

PURSUANT TO

**S. Res. 71**

(74th Congress)

AUTHORIZING AN INVESTIGATION OF INTERSTATE  
RAILROADS AND AFFILIATES WITH RESPECT  
TO FINANCING, REORGANIZATIONS,  
MERGERS, AND CERTAIN  
OTHER MATTERS

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**PART 28**

**PROTECTIVE COMMITTEES AND ASSOCIATIONS  
RELATED TO RAILROADS**

MISSOURI PACIFIC—CHICAGO & NORTH WESTERN—SECURITY OWNERS  
ASSOCIATION—CONFERENCE OF SHIPPERS AND INVESTORS, ETC.

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Printed for the use of the Committee on Interstate Commerce



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(74th Cong.)

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INVESTIGATION OF RAILROADS, HOLDING COMPANIES  
AND AFFILIATED COMPANIES

---

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

PROTECTIVE COMMITTEES AND ASSOCIATIONS  
RELATED TO RAILROADS

---

MISSOURI PACIFIC—CHICAGO & NORTH-WESTERN—  
SECURITY OWNERS ASSOCIATION— CONFERENCE  
OF SHIPPERS AND INVESTORS, ETC.

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SUPPLEMENTARY EXHIBITS

I. ORGANIZATION OF MISSOURI PACIFIC  
STOCKHOLDERS' COMMITTEE

A. ACTIVITIES OF MISSOURI PACIFIC DIRECTORS WITH RESPECT  
TO REORGANIZATION

EXHIBIT No. PC-1

[Copy of letter in Van Sweringen General File No. 149-A-9B-5, "Miscellaneous  
Correspondence"]

DECEMBER 8, 1934.

MR. W. T. KEMPER,  
*c/o Commerce Trust Co., Kansas City, Missouri.*

DEAR MR. KEMPER: As I have advised you on the long distance 'phone just now, pursuant to the resolutions of the Boards of Directors of Missouri Pacific, New Orleans Texas & Mexico and International-Great Northern at their meetings held in Cleveland November 29th I have, as Chairman, designated you, Mr. Flippin and Mr. Harding as the Committee to consider and advise with me relative to a plan of reorganization and to report back to the respective Boards its recommendation with respect to such a plan.

We are hoping to mail to you this afternoon, for your confidential use as a member of the Committee, the preliminary printer's proof of the plan of which you already have some knowledge. It follows very closely the outline that was reviewed by you with Mr. Wyer in Kansas City recently, although there are some refinements. You will notice a slight change in the sinking fund arrangement and it may be necessary still to change this somewhat. It is a vital part of the plan, as you will realize.

Very truly yours,

[Stamped] O. P. VAN SWERINGEN.

12475

12476

RAILROADS AND HOLDING COMPANIES

EXHIBIT No. PC-2

[Copy of telegram in Van Sweringen General File No. 149-A-9-B-5, "Miscellaneous Correspondence"]

Western Union (43)

1934 DEC. 11 PM 3 44

JAS1 61 DL-MEMPHIS, TENN. 11 129P

O. P. VAN SWERINGEN,  
*Terminal Tower, Cleve.:*

Your letter eighth enclosing tentative plan reorganization Missouri Pacific I have talked to Kemper over telephone and while we wish to do anything we possibly can to assist you I think it would be well not to make any public announcement of your committee until we have an opportunity of talking with you next Tuesday. With very best wishes to you-

JOHN R. FLIPPIN.

EXHIBIT No. PC-3

[Copy of telegram in Van Sweringen General File No. 149-A-9-B-5, "Miscellaneous Correspondence"]

Western Union

CLEVELAND, OHIO, *December 11, 1934.*

JOHN R. FLIPPIN,  
*Cotton Exchange Building, Memphis, Tenn.:*

Your wire. Quite agree. Haven't had any intention to do otherwise.

O. P. VAN SWERINGEN.

Frank No. 153.

EXHIBIT No. PC-4

[Copy of original letter in Van Sweringen General File No. 149-A-9-B-5, "Miscellaneous Correspondence"]  
W. T. KEMPER, *Chairman*

COMMERCE TRUST COMPANY

Capital and Surplus \$8,000,000.00

KANSAS CITY, MISSOURI, *December 14, 1934.*

MR. O. P. VAN SWERINGEN,  
*Terminal Tower, Cleveland, Ohio.*

DEAR MR. O. P.: Since our conversation of this morning, in which you told me that you were not calling the meetings for Tuesday and Wednesday, I have had the opportunity of completing consideration of the proposed Plan. I must tell you that, on the whole, I think it is, while drastic, a most ingenious, well prepared Plan, that if we could bring about its acceptance by the different interested parties would securely fix the future of the Missouri Pacific Railroad.

There are just a very few things that I think I might comment on, and I know you will understand that I am doing so with the full knowledge that you know more in a minute than I do in a month about such things:

First: While the Plan bears every evidence of much hard work and thought in its preparation some of the conclusions stated may, or may not be, disputed by bondholders or stockholders.

Second: The sinking fund provisions will also, presumably, be a matter of considerable discussion and no doubt some change and without going into detail, I also think they could be clarified.

Third; Of course the big job is going to be securing the cooperation of security holders, whose liens and interests are more or less in conflict.

Fourth: I agree fully with you that after the Board of Directors have gone over the proposed Plan your idea is splendid in having a Committee from the Board cooperate with you, and perhaps to the public be known as the real reorganization committee, and I must confess that you have my hearty approval of selecting these men out of New York and Cleveland, not because they have more [ . . . ]\* or more brains, but because they have not had the spotlight on them as have the men in the cities mentioned, and I [ . . . ]\* Committee would give a favorable flavor to particular people who patronize and live on the Missouri Pacific.

We will have the opportunity to sit down and talk all of this over later and I hope to make myself more familiar with the whole Plan by that time, and please, if there are any further alterations or additions to the proposed plan, send them along. You told me this morning that there were some changes that you had in contemplation.

With kindest regards and best wishes for the Yuletide Season, I am,

Yours very truly,

[Signed] W. T. KEMPER.

WTK:RE

[\*Illegible.]

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EXHIBIT No. PC-5

[Copy of letter in Van Sweringen General File No. 149-A-9-B-5, "Miscellaneous Correspondence"]

DECEMBER 17, 1934.

Mr. W. T. KEMPER,  
*Kansas City, Missouri.*

DEAR MR. KEMPER: Thank you for your letter of the 14th just received. When we have the next revised proof, I will send a copy to you.

Before holding Board meeting to again consider the subject we should have a full day's discussion, and I am looking forward with interest toward it.

Your good wishes and season's greetings are heartily reciprocated.

Sincerely,

[Stamped] O. P. VAN SWERINGEN.

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EXHIBIT No. PC-6

[Copy of memorandum in File No. 166, Part VII, without title of the Vice-President—Law and Corporate Relations, Missouri Pacific R. R. Co.]

JUNE 4, 1935.

In re: Effect of Plan of Reorganization on Missouri Pacific Transportation Company Purchases

Mr. T. H. JONES: At a meeting of the Board of the Railroad held on January 22, 1935, at which were present Van Sweringen, Baldwin, Ayres, Barrett, Dalton, Flippin, Kemper, Reilley, Shepard, Sherwin, Tomlinson, and Weber, and from which were absent Bradley, Goeghegan, and Hilvert, a resolution was unanimously passed (Baldwin, as one of the Trustees, not voting), approving the Plan of Reorganization "substantially in the form presented to this meeting \* \* \* with such changes in form or substance as may subsequently be deemed advisable by the special committee and approved by counsel for this company." The special committee consists of three members, two of whom, Messrs. Kemper and Flippin, are drawn from the Board of the Railroad.

The Plan presented to this meeting contained the following provision:

"The Missouri Improvement Company owns the following securities:

	<i>Original Expenditure</i>
\$899,000 principal amount of Missouri Pacific Railroad Company Convertible 5½% Bonds-----	\$895, 189
1,610,000 par value of Missouri Pacific Railroad Company preferred stock-----	1, 612, 646
760,000 par value of Missouri Pacific Railroad Company common stock-----	312, 034
2,095,000 principal amount of International-Great Northern Railroad Company Adjustment Mortgage 6% Bonds-----	1, 342, 549
<b>Total-----</b>	<b>\$4, 162, 418</b>

With interest to January 1, 1935, this sum amounts to \$5,053,479.

The plan proposes:

- (1) The delivery to Terminal Shares, Inc., of the aforementioned securities owned by Missouri Improvement Company (subject to the plan) for credit for the amount of \$5,053,479 toward the purchase price under the purchase agreements."

This provision is contained in the Plan as it now stands except that the words "representing an original expenditure of \$4,162,418" have been inserted after the statement: "The Missouri Improvement Company owns the following securities." The Plan further provides for the delivery to Terminal Shares of new securities of the par value of \$14,114,094, to bring up the total payment to the level of the total net indebtedness of \$19,170,332.

The Plan as approved by the Board on January 22 adverted to the finding of the Special Master that the contract with Terminal Shares was originally fair, but that in the light of changed conditions the price should be scaled down to \$13,319,847, and consequently proposed to give to the Railroad an option to re-purchase the above securities from Terminal Shares within one year from the approval of the Plan, at that figure, to salvage to the Railroad any equity in the securities beyond that point.

The Plan as at present constituted contains the above provisions, without the foregoing option. As an alternative thereto, however, it also suggests to the court a plan providing "for the delivery to Terminal Shares in final adjustment of the balance on the purchase contracts, of \$13,319,847, payable as follows:

Securities hereinbefore described as belonging to Missouri Improvement Company (subject to the Plan)-----	\$5, 053, 479
First Mortgage 4% Bonds-----	8, 266, 368

**13, 319, 847"**

The change in the alternative disposition does not seem to affect the quality of the Plan as ratifying the original acquisition of the securities, since all alternatives propose the disposition of those securities, or their proceeds, in satisfaction of an obligation of the Railroad.

The only material alteration of the Plan subsequent to its approval by the Board appears to have been the removal therefrom of the following paragraphs, which appeared in it on January 22, 1935:

"Reference is made hereinbefore to the ownership of securities by the Missouri Improvement Company, resulting from an original expenditure of \$4,162,418, which securities are proposed to be used (at their cost including interest) in part payment toward the purchase of the terminal properties at St. Joseph and Kansas City, Missouri. During 1929 a plan was submitted by Missouri Pacific to the Interstate Commerce Commission, the underlying purpose of which was to satisfy in common stock the large accumulation of unpaid dividends of the preferred stock of the Company. To accomplish this, however, as was cited in the Commission examiner's report, there was need for increasing the surplus of the Company in an amount somewhat in excess of \$6,000,000 to form the foundation for the full amount of shares to be issued. When the break in the market came in 1930, Missouri Pacific traffic volume had not seriously declined, and there was no evidence of continued depression. Therefore it was at that time believed that the purchase of stock of the Company in the market by a sub-

sidiary of the Company at the then discount would afford the opportunity for the creation of this surplus with relatively modest capital demand and thus make it practicable to go ahead with the retirement of the preferred stock accumulation so that thereafter future capital necessities might be provided in suitable measure by the sale of preferred stock, either on its own footing or with the possibility of adding conversion rights to increase its attractiveness of sale.

"The ultimate aim in this undertaking was toward a better balancing of the capital structure of Missouri Pacific between debt and capital shares, but the further market reaction in 1931, even more severe than the ones that preceded it in 1929 and 1930, followed by the extreme general shrinkage in traffic with the consequent impairment of earnings, made impracticable that plan of capital readjustment, hence the proposal for sale to Terminal Shares, Inc., of the securities as hereinbefore indicated, including also the International-Great Northern Adjustment and Missouri Pacific Convertible Bonds likewise owned."

Mr. Wyr is out of town until Thursday and I believed that you would wish to discuss with Mr. Fitzpatrick the reasons for the removal of the foregoing provision from the Plan as it now stands. The recital of the transaction seems to be distinctly helpful in making out a ratification. While this recital could possibly be strengthened by certain changes in phraseology, I think that it is so effective as it stands, that it is not worthwhile to suggest the making of such changes, in the light of the fact that the approval of the committee is necessary thereto, and any obvious attempt to strengthen the evidence in favor of Mr. Van Sweringen's position might have the opposite effect. The sole move that I should suggest would therefore be the reinstatement of the quoted paragraphs which the committee and counsel eliminated from the Plan subsequent to its approval by the Board.

H. C. R.

June 4, 1935

B

## B. NEGOTIATIONS BETWEEN VAN SWERINGENS AND PROSPECTIVE MEMBERS OF THE COMMITTEE

### EXHIBIT No. PC-7

[Copy of telegram in File No. 239, without title, of Vice-President—Law & Corporate Relations, Missouri Pacific R. R. Co.]

JB815 50 NL—Kansas City, Mo. 12

1935 Aug. 12 PM 10 19

HERBERT FITZPATRICK,

*Terminal Tower Bldg., Clevele.:*

With further reference to our telephone talk believe Judge Charles Mayer on very friendly terms with individual Stop Judge has been on a short holiday but will be in his offices in Corby Building St. Joseph Missouri on Tuesday this week Stop Unable to develop any worthwhile Washington contact Regards.

JAMES M. KEMPER, *Commerce Trust Co.*

### EXHIBIT No. PC-8

[Copy of letter in File No. 239, without title, of Vice-President—Law and Corporate Relations, Missouri Pacific R. R. Co.]

AUGUST 17, 1935.

Personal.

Mr. JAMES M. KEMPER,

*Commerce Trust Company, Kansas City, Missouri.*

DEAR MR. KEMPER: Many thanks for your telegram, found upon my return to the office this morning.

With kindest regards, I am,

Yours truly,

HF/t

[HERBERT FITZPATRICK]

## EXHIBIT No. PC-9

[Copy of telegram in File No. 239, without title, of Vice-President—Law and Corporate Relations, Missouri Pacific R. R. Co.]

Western Union

CLEVELAND, OHIO, August 22, 1935.

LUTHER M. WALTER,

Care Walter, Burchmore and Belnap

One Five Two Two—First National Bank Building, Chicago, Illinois:

For your information if you wish you can take a train at eleven oclock and be here at seven oclock, or at two oclock and be here at nine oclock and back in Chicago in the morning. Answer.

HERBERT FITZPATRICK.

## EXHIBIT No. PC-10

[Copy of telegram in File No. 239, without title, of Vice-President—Law and Corporate Relations, Missouri Pacific R. R. Co.]

Western Union

1935 Aug. 22 PM 2 06

CE 837 CAK—CHICAGO, ILL. 22 1257P

HERBERT FITZPATRICK,

Chesapeake & Ohio Railway, Terminal Tower, Cleve.:

Will see you nine thirty Friday morning.

LUTHER M. WALTER.

## EXHIBIT No. PC-11

[Copy of telegram in File No. 239, without title, of Vice-President—Law and Corporate Relations, Missouri Pacific R. R. Co.]

Western Union

CLEVELAND, OHIO, August 28, 1935.

LUTHER M. WALTER,

Care Walter, Burchmore and Belnap,

One Five Two Two—First National Bank Building, Chicago, Illinois:

Our conversation Will be in your office tomorrow Thursday morning ten o'clock.

HERBERT FITZPATRICK.

## EXHIBIT No. PC-12

[Copy of letter in File No. 239, without title, of Vice-President—Law and Corporate Relations, Missouri Pacific R. R. Co.]

WALTER, BURCHMORE & BELNAP,  
1522 FIRST NATIONAL BANK BUILDING,  
CHICAGO, August 30, 1935.

Mr. O. P. VAN SWERINGEN,

Chairman, Terminal Tower, Public Square, Cleveland, Ohio.

DEAR MR. VAN SWERINGEN: You may be familiar with the interest the association represented by the writer took in respect to the Railroad Reorganization Measure which was pending before the last session of Congress and in which we filed an appearance before the Committee, being represented by Messrs. Luther M. Walter of Chicago and Clarence C. Dill of Washington, D. C.

We took an interest in this matter because of the exigencies of the legislative situation. Management and senior lien holders were well organized but there was no organization, other than our own, qualified to speak for the stock holders so we were forced into the breach.

Because of the active and somewhat successful interest which we took in this matter some of the larger holders of railroad equities have suggested that our association is the logical one to set up some character of machinery to look after the interests of stock holders when similar situations arise, including formation of stock holders committees under Section 77 of the Bankruptcy Act.

I have given considerable thought to this matter and have discussed it with my associates and we have come to the conclusion that the most feasible procedure will be to form a special division of our association which will generally consider all matters affecting the holders of equities and junior liens, such division to have its own directors and raise and disburse its own funds. It is our idea to secure several men of standing to serve as the directors of this division who will be in complete charge of its activities and the expenditure of its funds.

In addition to its general duties, this division, or its directors, would be in position to form special protective committees under Section 77 and be responsible for getting them under way.

The necessity of the plan seems to speak for itself but, obviously, its success will depend upon the character of men who are selected as directors.

As you are acquainted with the larger holders of railroad securities, I am hopeful that you can suggest to me names of one or more men who might serve in this capacity. I am making similar requests of Messrs. Ralph Budd, Charles Donnelly, William Kenney, Carl Gray, Fred Sargeant, Henry Scandrett and Paul Shoup with whom I am personally acquainted and I hope they will all cooperate in this regard.

I will be in New York the first half\* next week and will appreciate your writing me in care of Challan R. Parker, Guaranty Trust Company.

Very truly yours,

[Signed] ROBT E. SMITH.

RES:S

[\*The words "the first half" inserted in pencil.]

EXHIBIT No. PC-13

[Copy of memorandum in File No. 239, without title, of Vice-President—Law and Corporate Relations, Missouri Pacific R. R. Co.]

8-31-35.

Mr. FITZPATRICK: Mr. O. P. would like to talk with you about the attached.

[Typed] W. H. W.

[W. H. Wyer]

[In pencil] Answered by wire.

[Signed] FITZPATRICK.

EXHIBIT PC-14

[Copy of telegram in File No. 239, without title, of Vice-President—Law and Corporate Relations, Missouri Pacific R. R. Co.]

Western Union

CLEVELAND, OHIO, September 6, 1935.

ROBERT E. SMITH,

Care Walter, Burchmore and Belnap,

Attorneys at Law, First National Bank Building,

Chicago, Illinois:

Answer to your letter August thirtieth with respect to formation of Committee delayed because of absence Stop We will be glad to discuss this entire subject with you Suggest meeting in my office Tuesday morning next September tenth half past nine Please answer.

[Typed] HERBERT FITZPATRICK

EXHIBIT PC-15

[Copy of letter in File No. 239, without title, of Vice-President—Law and Corporate Relations, Missouri Pacific R. R. Co.]

SEPTEMBER 9TH, 1935.

Mr. LUTHER M. WALTER,

1522 First National Bank Building, Chicago, Illinois.

DEAR MR. WALTER: Herewith copy of letter to Mr. Fitzpatrick which will speak for itself. Please note my suggestion that you meet me in Cleveland on next

Friday for the purpose of discussing the Missouri Pacific situation which will, of course, be prior to completing the Executive Committee of our special division for railroad investments.

My reason for believing that a Missouri Pacific Committee should be organized at an early date is based on newspaper reports and conversations with a number of brokers. I appreciate, of course, that neither are reliable sources of information.

However, if the formation of a Missouri Pacific Committee needs early consideration I would like to have you sit in at the conference because I am sure Mr. Dill will continue to look to you to assume a position of major importance in all railroad matters in which our Association may become interested.

Very truly yours,

[Typed] ROBERT E. SMITH.

RES/mb.

Enc.

Copy for Mr. Fitzpatrick, Cleveland.

EXHIBIT No. PC-16

[Copy of telegram in File No. 239, without title, of Vice-President—Law and Corporate Relations, Missouri Pacific R. Co.]

Western Union

1935 SEP. 9 PM 1 29

CDU 186 45 DL-AV NEW YORK, N. Y. 9 106P

HERBERT FITZPATRICK,

*Missouri Pacific RR. Terminal Tower, Cleve.:*

Your wire September sixth just received Stop I have largely completed my work here and in Boston but must remain for conference with Paul Shoup who arrives New York Wednesday Stop Must be Washington Thursday and will arrive Cleveland Friday morning Stop Am writing you today.

[Typed] ROBERT E. SMITH.

EXHIBIT No. PC-17

[Copy of letter in File No. 239, without title, of Vice-President—Law and Corporate Relations, Missouri Pacific R. Co.]

SEPTEMBER 9TH, 1935.

Mr. HERBERT FITZPATRICK,

*Vice-President, Missouri Pacific Railway,  
Terminal Tower, Cleveland, Ohio.*

DEAR MR. FITZPATRICK: Confirming my telegram of today, your telegram of September 6th addressed to me in Chicago did not reach me until today.

Since leaving Chicago I have discussed the matter of creating a special division of railroad investments within our organization with a number of bankers, brokers and individuals, and have been given considerable encouragement and assistance in this regard.

Although my work is about finished here, I must remain until Wednesday for an appointment with Mr. Paul Shoup of the Southern Pacific who reaches New York on that morning. I will spend one day in Washington and expect to reach Cleveland Friday morning and unless I hear from you to the contrary will call at your office at 10:00 A. M.

I have not attempted to secure the acceptance of any eastern men to appointment on the Executive Committee of this special railroad division as I wish to discuss personnel with the presidents of some of the western lines. I expect to secure the western members of this committee while in Chicago and on my way to the Pacific Coast and will then complete the committee membership by securing the eastern members through the contacts made during the past week.

I believe I explained to you that one of the principal functions of the Executive Committee, of this division, would be the formation of appropriate committees for holders of equities and junior liens of those carriers which find it necessary to avail themselves of Section 77 of the Bankruptcy Act. I am somewhat concerned over possible delay in completing this Executive Committee in time for



it to function in respect to some of the lines for which committees should be formed in the very near future. The Missouri Pacific comes within that class and I should like to discuss various phases of that situation with you. If my understanding of the situation is correct it may be necessary for me or the general executive committee of my Association to take the initiative in the formation of a committee or committees for the Missouri Pacific, pending the completion of our special division for railroad investments.

If my memory serves me correctly, Mr. Luther Walter of Chicago with whom I am sure our general counsel, Mr. Clarence C. Dill of Washington, D. C., desires to cooperate, advised me when he was in Chicago that he would be in Washington this coming week. For that reason I am sending Mr. Walter, as well as Mr. Dill a copy of this letter and I am writing him as per attached tissue. In case it is not convenient for you to meet me in Cleveland on next Friday or if for any reason you think it best to postpone a conference with Mr. Walter, please advise him direct and also advise me in care of Mr. Clarence C. Dill, Munsey Building, Washington, D. C.

Very truly yours,

[Signed] ROBT. E. SMITH.

RES/mb

EXHIBIT No. PC-18

[Copy of telegram in File No. 239, without title, of Vice-President—Law and Corporate Relations, Missouri Pacific R. R. Co.]

Western Union

CLEVELAND, OHIO, September 11, 1935.

ROBERT E. SMITH,

Care Peter Cooper Hotel,  
Lexington Avenue and 39th Street, New York, N. Y.:

Suggested conference for Friday very much more convenient to me if changed to Thursday tomorrow. Hope you can so arrange I am endeavoring to call you by telephone. When this reaches you please call me Main seven nine six naught.

HERBERT FITZPATRICK.

EXHIBIT No. PC-19

[Copy of telegram in File No. 239, without title, of Vice-President—Law and Corporate Relations, Missouri Pacific R. R. Co.]

Western Union

1935 SEP. 17 AM 8 07

GC40 16 Collect—STREUBENVILLE, OHIO, 17 756A

HERBERT FITZPATRICK,

Terminal Tower, Cleve.:

Sorry not to complete your call stop will be Mayflower Hotel in Washington tonight regards.

[Typed] LUTHER M. WALTER.

EXHIBIT No. PC-20

[Copy of letter in File No. 239, without title, of Vice-President—Law and Corporate Relations, Missouri Pacific R. R. Co.]

SEPTEMBER 18, 1935.

Mr. H. B. ERMINGER, Jr.,

418 North Michigan Avenue, Chicago, Illinois.

DEAR ERMINGER: This will introduce to you Mr. Robert E. Smith who is interested in forming a committee to protect the interests you and I discussed the other day. I hope you will arrange your plans to give Mr. Smith ample time to present to you his thought. I have suggested to him that he either bring with him Mr. Luther Walter, who is his attorney, or arrange for Mr. Walter to see you later. If he does either, this letter is an introduction to you of Mr.

Walter who I have known for a long time as one of the leading practitioners in Chicago.

I hope to see you soon.

With kindest regards, I am,

Yours truly,

[HERBERT FITZPATRICK.]

HF/m

### C. NEGOTIATIONS LEADING TO FORMATION OF COMMITTEE

#### EXHIBIT No. PC-21

[Copy of letter from files of A. J. Sevin]

PITTSBURGH, PA., September 18, 1935.

Mr. RAYMOND W. HIGGINS,  
Car Consolidated Copper Mines,  
Room 3217, 120 Broadway, New York, N. Y.

MY DEAR MR. HIGGINS: I am pleased to advise you that Mr. A. J. Sevin, of the Pittsburgh Plate Glass Company, has consented to serve on the Missouri Pacific Committee, and we are arranging for a preliminary meeting of the committee at the office of Walter Burchmore and Belnap, 1522 First National Bank Building, at 10:00 A. M. on Saturday. I trust that this time is agreeable to you and that you have not changed your plans to be in Chicago on Saturday.

Mr. Walter is in Washington, D. C., today, having a preliminary discussion with members of the Interstate Commerce Commission in respect to any new rulings which they have promulgated in connection with various amendments of Section 77 of the Bankruptcy Act which were enacted at the last session of Congress.

I am going into Cleveland this afternoon, will be in Chicago Thursday, Kansas City on Friday, and back in Chicago on Saturday morning.

Very truly yours,

[R. E. SMITH.]

Copy to Mr. Raymond W. Higgins, care Waldorf-Astoria Hotel, New York, N. Y. Carbon.

#### EXHIBIT No. PC-22

[Copy of telegram confirmation from the files of Luther Walter, Counsel for Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad]

#### CHEMICAL BANK & TRUST COMPANY

NEW YORK

Received Via Private Wire

No. \_\_\_\_\_

Chemical Bank & Trust Company  
New York, N. Y.

[The following marked with rubber stamp:] Chicago Office, Room 1254 Continental Illinois Bank Bldg. Received Sep. 20, 1935.

#### CONFIRMATION

3ccu

Tell Robert E. Smith, Walter Burchmore and Belnap, First NB Bldg, Chgo—My son James M. Kemper has just told me of your telephone conversation yesterday it would be impossible for me to come to Chicago. We are in sympathy with what you are endeavoring to do.

WILLIAM T. KEMPER, *Commerce Tr., Kascity.*

[Written in pencil:] 38 S. Dearborn.

## EXHIBIT No. PC-23

[Copy of telegram from the files of Luther Walter, Counsel for Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad]

Western Union

Received at 427 So. La Salle St., Chicago, Ill. Wabash 4321  
LD82GM (QB108). 81 NL

FONDDULAC, WIS., SEP. 20, 1935.

ROBERT SMITH,

*Care Burchmore and Belnap First National Building, Chicago, Ill.:*

Higgins wire advising me of your Saturday meeting reached me in Chicago just as I was leaving for home on urgent business. Stop I dropped off in Cleveland Thursday and found Wyer was in New York and thought you were in West. Stop Sorry as I would like to have exchanged views any event we are with you so write me of progress and I will come into Chicago next week for credentials refer you to Frank A. Carlton Central Trust Bldg.

CHARLES H. THORNTON,  
1231A Sep. 21

## EXHIBIT No. PC-24

[Copy of letter from the files of Luther Walter, Counsel for Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad]

SEPTEMBER 21, 1935.

Mr. WALTER: Mr. Belnap, Mr. Sevin, and I discussed the Missouri Pacific situation this morning. Apparently Mr. Higgins preferred to give his associate trustee Mr. Thornton an opportunity to serve on the committee and had wired Mr. Thornton in Chicago to attend the meeting. I attach hereto telegram from Mr. Thornton explaining why he was unable to be here. Mr. Kemper had reached New York before the telegram from his son reached him and consequently he was unable to attend, and I also enclose telegram which I received from him. You will note that he says "we are in sympathy with what you are endeavoring to do" and that Mr. Thornton says "in any event we are with you so write me of progress and I will come into Chicago next week for credentials refer you to Frank A. Carlton Central Trust Building." I also attach hereto copy of memorandum prepared by Mr. Belnap yesterday. This memorandum and procedure was discussed at this morning's meeting.

I am flying west today as it is my understanding you will not be in Chicago until the end of next week and must then leave almost immediately for Washington and consequently there is nothing that we can do until your return on October 3rd. I will reach Chicago on my return trip on that morning.

The procedure as we understand it will be for you to prepare an application to the Commission for authorization to create a stockholders committee and you must determine whether it will be advisable to have this committee act for both the equities and junior liens or for the equities alone, and in case it is for the equities only, you must decide what steps should be taken toward the formation of a committee for the junior liens. As you and I discussed the various phases of this matter before you left, there is no object in my discussing it in this memorandum. Due to the fact that approval of the committee cannot be had until after a hearing after thirty days notice, it apparently will be the middle of November before approval can be secured and a general letter transmitted to the stockholders and possibly to the holders of junior liens.

Based upon the suggestions in Mr. Belnap's memorandum, it will be necessary to secure the cooperation of an additional 22 stockholders immediately after October 3rd. The method which must be employed in contacting these additional 22 stockholders is set forth in Mr. Belnap's memorandum. Such procedure will make it possible to enter an appearance at the hearing on the debtors' plan, which will be held by the Commission, as I understand it, some time in November.

In regard to application to the Commission for authorization to form a committee or committees for the junior liens I, of course, have no suggestions other than to point out that Mr. Sevin and Mr. Higgins or Mr. Thornton are willing to serve and will undoubtedly be willing to sign the application, and I hope the same

is true of Mr. Kemper. You will recall the promise of Mr. Steere that if the Nucleus of this committee was secured in the west, he would definitely agree to secure a satisfactory member of the committee from the New York district. I believe, however, that in your opinion, three signers to the application to the Commission will suffice.

In regard to securing Mr. Sevin's signature, he will reach Mexico City on September 27th, his address being care of Geneva Hotel. He will be there until about October 8th, when he will leave for St. Louis and will wire you from Mexico City giving you his St. Louis address. I have no suggestions to make regarding securing of signatures from Mr. Thornton and Mr. Kemper and possibly the member which Mr. Steere may secure for us.

I am unable to determine from Mr. Thornton's wire whether he expects to be in Chicago next week or whether he will be here only upon your request.

I am enclosing herewith copies of letters I am today writing to Mr. Thornton and Mr. Kemper.

While I am west my address will be 222 Security Building Portland.

ROBERT E. SMITH.

EXHIBIT No. PC-25

[Copy of letter from the files of Protective Committee for Holders of Common Stock of the Mo. Pac. RR., Robert E. Smith, Sec.]

CHICAGO, ILLINOIS, September 21, 1935.

Mr. JAMES M. KEMPER,  
Commerce Trust Company, Kansas City, Missouri.

DEAR MR. KEMPER: Yesterday Mr. Wm. T. Kemper wired from New York as follows:

"My son James M. Kemper has just told me of your telephone conversation yesterday. It would be impossible for me to come to Chicago. We are in sympathy with what you are endeavoring to do."

We were very sorry that Mr. Kemper could not attend the meeting this morning, but we appreciate the assurances of support which both of you have given us.

Unfortunately, Mr. Walter's father passed away night before last and Mr. Walter could not attend the meeting. Mr. Walter will return to Chicago September 26th or 27, but must leave almost immediately for Washington, and will be back in Chicago on the morning of October 3rd. For this reason, I am flying to the Coast today and will reach Chicago on my return on the morning of October 3rd. Mr. Walter will either communicate with you on September 26th or 27th or on October 3rd in regard to the formation of a committee.

We are advised that committee cannot be authorized by the Interstate Commerce Commission until after hearing on thirty days notice. Consequently it will be desirable to present the application as soon as conveniently possible. Three names will be sufficient to present the application and Mr. A. J. Sevin, of the Pittsburgh Plate Glass Company, and either Mr. Charles H. Thornton or Mr. E. W. Higgins, joint trustees of the Conan estate of Duluth, Minn, will serve on the committee and make application. We are very anxious that either you or your father should constitute the third member. It is, of course, highly important that we have the strongest possible committee and my banker friends in New York and Chicago confirm my own belief that either the name of you or your father will be highly valuable in this regard.

I will communicate with you immediately after October 3rd.

Very truly yours,

ROBERT E. SMITH.

## EXHIBIT No. PC-26

[Copy of letter from the files of Luther Walter, Counsel for Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad]

AT CHICAGO, ILL., September 21, 1935.

Mr. CHARLES H. THORNTON,  
c/o Kelley-How-Thomson Co., Duluth, Minnesota.

DEAR MR. THORNTON: Thanks for your telegram of yesterday from Fond du Lac, and we were very sorry that you were unable to attend the meeting this morning. Mr. Walter's father passed away day before yesterday and consequently he was unable to attend the meeting. He will return to Chicago about September 25th or 27th, but must leave almost immediately for a trip to Washington, from which he returns to Chicago on October 3rd.

I am flying to the Coast today but will be back in Chicago on the morning of October 3rd and will communicate with you at that time. Application cannot be granted until after a hearing on thirty days notice and consequently there will be some delay connected with the circularization of stockholders by this committee. However, hearing on the debtors plan will probably be held by the Commission some time in November and consequently considerable work must be done in respect thereto, in preparation therefor. I have advised Mr. Walter that in our conversation in New York, Mr. Higgins assured me that either you or he would accept a position on the committee. The question as to whether you or he will serve must, of course, be decided by you and Mr. Higgins, but either name will be highly satisfactory to Mr. Sevin and other large stockholders with whom I have discussed the matter in Chicago and New York.

A letter for you came to Mr. Walter's office this morning and I am enclosing same herewith.

Very truly yours,

ROBERT E. SMITH.

## EXHIBIT No. PC-27

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

OCTOBER 7, 1935.

I am Co-trustee for an estate holding, among other things—  
3,000 shares Missouri-Pacific Common Stock  
1,200 shares Missouri-Pacific Pfd. stock  
\$150,000 Missouri-Pacific General 4's  
and understand that you are a co-sufferer.

Included in the other things are—

3,000 Southern Pacific  
1,000 Great Northern  
1,000 Northern Pacific  
500 Chicago and Northwestern Common

Naturally, I am keenly interested in the fate of what the future holds for minority equities in all of these particular railroads and what happens to them will be the fate, in a greater or less degree, to all railroad junior equities.

The term "junior" is used with reservations, same being that, to an outstanding extent, the fate of the senior equities cannot be separated from the veins, arteries, and nerves that are a part of the junior equities.

The history of this particular Missouri-Pacific holding that I am trustee for is worthy of here relating and I hope will be interesting.

Back in 1907 or 1908, the maker of this particular trust had some loose money and decided that the railroad then known as MOP with its 20 odd year record of 5% annual dividends was a good buy at 65. He bought 200 shares. A year later the price had sunk to 45, and still paying 5% so he bought another 1,000 shares. Total investment then \$175,000. At about that time several of the Missouri-Pacific branch lines or feeders were selling bonds at an attractive interest rate, comparatively attractive, and he bought \$120,000 of those branch line bonds, bringing the total Missouri-Pacific commitment to \$295,000.

It is unnecessary to here relate progress of the MOP into and out of receivership, but those of you who are old enough to remember it will recall that owners of branch line bonds were given 5% preferred stock in the reorganized company and

owners of Missouri-Pacific common were granted the privilege of buying General 4% bonds in the reorganization; every 20 shares could buy a \$1,000 bond.

This offer was utilized, and the then Missouri-Pacific Commitment jumped \$150,000 to a \$145,000 total.

Present day markets afford me the opportunity of taking for:

3,000 shares Missouri-Pacific Common-----	3,000
1,200 shares Missouri-Pacific pfd-----	2,700
150,000 General 4% bonds at 8-----	12,000
	<hr/>
	17,700

then wiping the account off the books and finding a new home for \$17,700.

Personally, I own \$10,000 Missouri-Pacific First Mortgage 5's bought at around 25 on the theory that the road was certainly worth \$125,000,000, same being approximately 25% of all outstanding senior liens.

But you can take it from me, and I have been in close touch with this Missouri-Pacific picture for over 25 years, that if the Van Sweringen's had set up a reorganization plan that gave stock interests twice what is asked for in the proposed plan, they would barely make a start toward liquidating the debt or debts for which they feel morally obligated.

As I understand matters now, there will be a hearing before the Interstate Commerce Commission in late November at which the Commission will grant audience to all reorganization proposals and then pass onto the Federal Court in St. Louis their comments, opinions or criticisms of the plan submitted.

Some weeks ago I was invited by Robert E. Smith of Portland, Oregon, to serve on a committee that would act in the interest of independent owners of preferred and common stock and that committee is now in process of organization.

Mr. Smith figured that he could keep the expenses of this committee down to 1 cent a share of preferred and common stock that would join with him. I don't think he can, but I do want your initial cooperation. No deposit of stock is asked for, and if, later on, we feel that progress is being made, will ask you for another cent or two.

I am satisfied that Mr. Smith has some practical ideas and am going along with him. Suggest that you also cooperate with him and send on your pennies, dimes or dollars to his address.

Yours very truly,

[C. H. THORNTON.]

EXHIBIT No. PC-28

[Copy of letter obtained from the files of Luther Walter, Counsel for Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad]

OCTOBER 8, 1935.

Mr. CHARLES H. THORNTON,

*Fond du Lac, Wisconsin.*

DEAR MR. THORNTON: At the suggestion of Mr. Robert E. Smith, I hand you a form of letter which he thinks would satisfy Mr. Sullivan's requirements. He is the holder of \$119,000 of the 5.5 per cent Missouri Pacific convertible bonds. Mr. Sullivan is sympathetic but he wanted something in the way of a memorandum as to what is proposed. It is the thought of Mr. Smith and myself that a letter something on the order of the enclosed will meet the requirements.

Mr. Smith was here today but has left for New York, where his address will be in care of the Union League Club. He was at Cleveland yesterday, securing certain information pertaining to the matters in which we are interested. He expects to be in Cleveland again on October 16th; in Chicago on the 17th, in care of this office, and will leave on the night of the 17th for St. Louis, where he will undertake further investigation of the Missouri Pacific situation, following which he will make a trip over the lines of that railroad, both the southern and western divisions and their affiliates. He expects to be back in Chicago about November 6th or 7th. He asked me to give you this information so that you would know where to contact him from time to time.

Yours very truly,

[LUTHER M. WALTER.]

(Encl.)  
LMW: K.

## EXHIBIT No. PC-29

[Copy of letter from the files of Charles H. Thornton—MoPac Common Stockholders Committee—"Miscellaneous Correspondence"]

Mr. C. E. SULLIVAN,  
*Chairman, Central United National Bank, Cleveland, Ohio.*

DEAR MR. SULLIVAN: Mr. Robert E. Smith tells me of the interview which he had with you yesterday on my behalf. I would make it clear that my interest, and others similarly situated, is in seeing to it that the plan (s) [in pencil] of for [in pencil] reorganization for the Missouri-Pacific System (to be) [in pencil] presented to the Interstate Commerce Commission, does not unduly prejudice the rights of the stockholders, both common and preferred, and the owners of junior liens, while at the same time unduly preferring the owners of senior liens. [Paragraph mark.] Unless there is some concerted presentation on our behalf as stockholders and owners of junior liens, it is not at all unlikely that the presentation to the Commission will not be complete as it should be. I think we should be particularly insistent upon retaining in the most favorable form our investment, so that if and when the property begins to earn, we can see to it that the senior liens are paid off and while the retirement fund is being accumulated, that they do not have excessive interest returns. [Paragraph mark.] Moreover, the exchange provisions of the plan whereby the bonds may be exchanged for stock, ought to be safeguarded so that as stockholders we will not find our holdings injured by the issue of an excessive number of shares at an unfair conversion price.

While the plan presented by the debtor to the Commission has many favorable conditions, I fear that the fixed charges are greater under that plan than they ought to be. It is my purpose in contacting you through Mr. Smith, to have you consider this situation with the thought that perhaps our interests are in common, and that we could take concerted action along with others similarly situated, in full accord with the amended law relating to reorganizations as approved August 27, 1935.

It has been my thought that those of us who are able to contact each other on the matter, although few in number, should through counsel intervene in the case before the Interstate Commerce Commission and present our views and that as soon as the provisions of the law can be complied with as to the organization of a proper committee approved by the Commission we would actively solicit the help of others similarly situated to ourselves. It is my thought that there will be no cost entailed by our getting together and filing our intervening petition. Before any financial obligation is incurred by any of us there will be a complete understanding and meeting of minds. You, of course, know that the court is authorized to make an allowance to cover the services and expenses of committees properly authorized.

Will you please let me know whether you, or some representative, would go along with me on this plan as above outlined?

Yours very truly,

## EXHIBIT No. PC-30

[Copy of memorandum from the files of Charles H. Thornton—MoPac Common Stockholders Committee—"Miscellaneous Correspondence"]

DEAR MR. WALTER: I assume that you wanted I should write Mr. Sullivan, and have slightly revamped your letter. If it was intention that I should write him why forward from Chicago. I knew Tomlinson well enough to write him as per copy enclosed. As stated in that letter I am ~~at~~ appalled, staggered, at the task I have undertaken and simply can't do justice to it without a secretary who will be able to keep me informed on all or any angles that may arise.

12490 ; RAILROADS AND HOLDING COMPANIES

EXHIBIT No. PC-31

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

OCTOBER 9, 1935.

Mr. G. A. TOMLINSON,  
2900 Terminal Tower, Cleveland, Ohio.

DEAR TOMMY: Just what your financial commitment may amount to in Mid America I don't want to know. Am assuming that you, along with others of us are planning on devoting our best available efforts in attempting to recover financial and other losses.

In using the term "available," I am thinking of my own situation and its demands on personal time that will not permit of devoting to the affairs of this proposed Missouri-Pacific minority equity committee the required time to intelligently digest the several (modestly stated) angles.

I feel now that I can't do justice to this job without the assistance of a younger intelligence that can be called on to provide me answers to the many questions that occur to me and which I should be in a position to answer when asked by others.

In short, I want to be supplied with a younger intelligence that I can rely on to do the required digging.

With Higgins I was in Cleveland about three weeks ago and Wyer suggested that one of us serve on the committee which Mr. Smith proposed setting up. Higgins passed the buck to me and I was in a receptive mood, but after a two days visit with Mr. Smith in Chicago last week I am appalled at the amount of work required to perform a finished job. I can't do it without help.

Sincerely,

[C. H. THORNTON.]

\* CHT. MC.

EXHIBIT No. PC-32

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders Committee—"Miscellaneous Correspondence"]

C. E. Sullivan, Chairman

CENTRAL UNITED NATIONAL BANK,  
Cleveland, October 21, 1935.

MR. CHARLES H. THORNTON,  
Fond du Lac, Wis.

DEAR MR. THORNTON: We are in receipt of your letter of October 9 and have delayed answering it on account of some investigation which we desired to make.

After giving this matter very considerable thought it occurs to us that under the circumstances we would be glad if you could keep us in touch with anything you are doing on this subject, and perhaps in the future we might be helpful. It does not seem to us to be wise policy just at this time to take any interest along the lines you suggest.

Cordially yours,

[Signed] C. E. SULLIVAN, Chairman.

EXHIBIT No. PC-33

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

AT CHICAGO, ILLINOIS, October 16, 1935.

MR. LUTHER M. WALTER,  
1522 First National Bank Bldg.,  
Chicago, Illinois.

DEAR MR. WALTER: At your convenience please give me your views on desirability of hastening reorganization of rail carriers or deferring same. Without exception the members of the Committees I saw in New York favor delay till normal earnings can be determined and plans made in proper relation thereto.



The counter argument is that (a) interest on liens is accruing which will dissipate equities and (b) that any plan which is adopted must be one which will keep the carrier out of receivership in future periods of depression. So a plan is based on existing conditions, which is desirable. Please advise whether, under the amendments to sec. 77, interest accrues on liens.

As to committees which may cooperate with us, Mr. Pope of the Delafield Committee (Mo. Pac. Genl. 4's) says his committee will work with any one whose interests they believe may be in common with theirs. He does not know which committees may come under that classification but is sure the Stedman Committee does not.

I have not seen Freeman & Company, who sold the Missouri Pacific 5¼'s, but understand that later they may be inclined to cooperate with us.

My suggestion that we form a special committee whose sole function is protection of junior securities and formation of protective committees for that purpose is prompted by the thought that the directors of our railroad division, whose purpose is furtherance of legislative and policy matters which are of general interest to the rail carrier, might not be as vitally interested in the junior securities as a special committee selected for that purpose. The senior lien holders are certainly possessed of a singleness of purpose when it comes to protecting their interests and I feel the committee of our association which undertakes the general protection of junior securities should have no entangling alliance.

The function of our railroad division is to continue and augment the work which we have done in behalf of 4th section relief and the interest of the railroads in truck and bus, water carrier and similar legislation and perhaps extend it along broader lines by securing the interest of the 1266 organizations whose bonds constitute our general advisory committee, in the problem of the rail carriers.

There is a committee composed of Messrs. Colpitts, DeForest, Jeremiah Milbank, Averell Harriman and Freeman Dick. Because of their broad experience and unquestioned standing in the railroad field, a working agreement with them would be valuable to us in several respects and we can further their plans by interesting the 1265 head of organizations represented on our advisory committee. Although the general work in behalf of the rail carriers which we may do with them will give a valuable background to our work in behalf of railroad junior liens. I feel that no one except a committee especially selected for that purpose should have any hand in selecting and cooperating with protective committees of equity and junior lien holders.

Regarding date of intervention in the Missouri Pacific case, it is my understanding there is no reason for undue haste and this can be done after your return to Chicago in November. As I understand it you are now authorized to intervene for Sevin, Thornton and Cutten and I expect to secure consent of Mr. James Kemper when I am in Kansas City on October 18.

As to members of stockholders protective committee, I suggest either Mr. Thornton or Mr. Higgins—Mr. Sevin, Mr. Kemper, together with one holder of the obligations, the preferred shares or the common shares of the Alleghany Corporation and one holder of securities or officer of some corporation which is not a holder of Missouri Pacific securities but who is vitally interested in the protection of rail equities and therefore the precedents which may be established in the Missouri Pacific case. At this time I have no names to suggest as the last two but if the blanks for application for approval of committee are prepared by the I. C. C. before the personnel of our Missouri-Pacific Committee is completed, I assume you can use the three names mentioned above and add to these later.

We have discussed an initial assessment for expenses of 1¢ a share. What would you think of asking for general subscriptions to our general railroad work of 1¢ per share from rail stockholders generally and ask nothing from the shareholders of those carriers for which we form protective committees. The out-of-pocket expenses in connection with each protective committee which we formed would be advanced by our association to such committee with the expectation that the committee would repay the association when it was reimbursed by the debtor under court order.

The advantages of each procedure are these:

(a) It would show the broad interest which our association has in protecting rail equities.

(b) Where one stockholder held a majority interest in a railroad for which we had formed a protective committee, he would not stand out as the principal contributor to that committee.

(c) It would be possible to form protective committees where the stock was so widely held it was difficult to have current committee expenses advanced. It is of course important to form such committees because of the broader standing which it gives us and it seems important to safeguard precedents in all these reorganizations.

(d) Even in the Missouri Pacific Committee it will be possible to secure a much larger number of small stockholders to authorize the committee to speak for them, if no cash payment is required.

It is of course unnecessary for me to suggest that application to the I. C. C. be made immediately on receipt of the blanks.

I assume that the signature of either Mr. Thornton or Mr. Sevin would suffice—that signature of all members is unnecessary.

Would it not be well to ask the I. C. C. when blanks would be available.

Would it not be well for you to ask Mr. Fitzpatrick to advise you as soon as he is notified of the date of the Missouri-Pacific hearing? Please wire me as soon as you are advised. My itinerary to November 6 is attached.

ROBERT E. SMITH.

Copy to:

Mr. Chas. R. Thornton.  
Fond du Lac, Wisconsin.

EXHIBIT No. PC-34

[Copy of letter in files of Protective Committee for Holders of Common Stock of the Mo. Pac. RR., Robert E. Smith, sec.]

NOVEMBER 6, 1935.

Mr. JAMES M. KEMPER,

*Pres., Commerce Trust Company,  
Kansas City, Mo.*

DEAR MR. KEMPER: The Interstate Commerce Commission has issued a circular which contains the information it desires in connection with application for authorization of protective committees.

I am inclosing copy herewith. Mr. Walter is expected to return to his desk tomorrow and believe will wish to file application with the Commission as soon thereafter as possible. Accordingly, I am taking the liberty of asking that you supply such information as is asked for in paragraphs and subdivisions; paragraph 9, subdivisions C, N 1 to 7, O and P.

Please note that under the provisions of paragraph 10 this information is to be supplied in the form of an affidavit.

I note certain questions relate to matters of policy which, in my opinion, require a meeting of the committee members prior to submission of application to the Commission.

Be that as it may, it is desirable that Mr. Walter have the information referred to as soon as possible and, in any case, I am sure he will confer with you prior to submission of the application to the Commission.

Very truly yours,

[ROBERT E. SMITH.]

RES: S

EXHIBIT No. PC-35

[Copy of letter from files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP,  
Chicago, November 6, 1935.

Mr. A. J. SEVIN,  
*Pittsburgh Plate Glass Co., Pittsburgh, Pa.*

DEAR MR. SEVIN: The Interstate Commerce Commission has issued a circular which contains the information it desires in connection with application for authorization of protective committees.

I am enclosing copy herewith. Mr. Walter is expected to return to his desk tomorrow and believe will wish to file application with the Commission as soon thereafter as possible. Accordingly, I am taking the liberty of asking that you

supply such information as is asked for in paragraphs and subdivisions; paragraph 9, subdivisions C, N 1 to 7, O and P.

Please note that under the provisions of paragraph 10 this information is to be supplied in the form of an affidavit.

I note certain questions relate to matters of policy which, in my opinion, may require a meeting of the committee members prior to submission of application to the Commission.

Be that as it may, it is desirable that Mr. Walter have the information referred to as soon as possible and, in any case, I am sure he will confer with you prior to submission of the application to the Commission.

Very truly yours,

[Signed] ROBT. E. SMITH.

RES: S

EXHIBIT No. PC-36

[Copy of letter from the files of James M. Kemper, 1935 MoPac. R. R. Co. Protective Committee for Holders of Common Stock]

NOVEMBER 18, 1835.

MR. LUTHER M. WALTER,

*Walter, Burchmore & Belnap,*

*1522 First National Bank Building, Chicago, Illinois.*

DEAR MR. WALTER: In accordance with our telephone conversation of the other morning, I should be very happy to go along with you and Mr. Smith in connection with the application you are making for authorization of a Protective Committee for the Missouri Pacific shareholders.

I am attempting to supply the proper information in this matter, covering the data asked for in paragraph 9, subdivisions (c), (n) 1 to 7, (o), and (p):

- (c) My principal occupation for the last ten years has been that of President of Commerce Trust Company.
- (n) (1) I have not been connected nor has Commerce Trust Company been connected with the original issuer of the security or its affiliated interests.
  - (2) and (3) Commerce Trust Company did have a \$200,000. participation in the last issue of Missouri Pacific Railroad Company bonds and these were sold to the investment public of Kansas City and in this territory.
  - (4) Do not have any connection with the Trustee of the debtor in the original issue.
  - (5) I have no connection with the Trustee of the instrument.
  - (6) I have no connection with the depository under the proposed agreement, as far as I know.
  - (7) I have no connection with any other person acting for any securities of the original issuer.
- (o) Shares of Missouri Pacific Railroad Company standing, in my name amounting to 1,000 shares pfd. and 1,000 shares common, are the property of The Kemper Investment Company, of which, I am Secretary and a Director.
- (p) Commerce Trust Company owns the following securities of the Missouri Pacific Railroad Company:
  - Missouri Pacific R. R. Co. 1st & Ref. Mtge. Bonds, 5%, Dated April 1, 1930, Due April 1, 1980, Par Value \$5,000.00.
  - Missouri Pacific R. R. Co. 1st & Ref. Mtge. Gold Bonds, 5%, Dated Feb. 1, 1931 Due Feb. 1, 1981 Par Value \$105,000.00
  - St. Louis Iron Mt. & So. Rwy. Co. 1st Mtg. (River & Gulf Div.), 4%, Dated May 1, 1903 Due May 1, 1933 Par Value \$100,000.00.

Mr. W. T. Kemper, my father, owns 100 shares of common stock of the Missouri Pacific Railroad Company.

I have not prepared this in the form of an affidavit because I wanted you and Mr. Smith to look it over and prepare the necessary document for my signature when and as you deemed it necessary and timely.

Very truly yours,

[JAMES M. KEMPER.]

JMK: G

## EXHIBIT No. PC-37

[Copy of memorandum from the files of James M. Kemper, 1935 Mo'fac. R.R. Co. Protective Committee for Holders of Common Stock]

## COMMERCE TRUST COMPANY

## MEMORANDUM

Date: 11/18/35.

	Par Value	Book Value
Missouri Pacific Railroad Company, 5%		
Dated April 1, 1930 Due April 1, 1980	\$5,000.00	\$1,300.00
Dated Feb. 1, 1931 Due Feb. 1, 1981	105,000.00	27,300.00
St. Louis Iron Mountain & Southern Railway Co., 4%		
Dated May 1, 1903 Due May 1, 1933	100,000.00	77,993.06

[Attached to above:]

To: Mr. Kemper.

Remarks: I am enclosing an extra copy for your use. You will note the inclusion of the St. Louis, Iron Mountain & Southern Ry. Co. 4's due '33. Mr. Parker said to include these as Missouri Pacific securities owned by Commerce Trust Co.  
MG 11-18-35.

## EXHIBIT No. PC-38

[Copy of letter in files of Protective Committee for Holders of Common Stock of the Mo. Pac. R. R., Robert E. Smith, sec.]

## RUDOLPH EISNER

Counselor at Law

700 South Broad Street

Mr. ROBERT E. SMITH,  
c/o Luther M. Walter,  
1522 First Nat'l Bank Bldg., Chicago, Ill.

TRENTON, NEW JERSEY, November 6, 1935.

DEAR SIR: I have not heard from you in reply to my letter of October 23rd and I am wondering whether or not you are still interested in the Reorganization. If you are not, will you please advise me accordingly, so that I can arrange for other contacts, or possibly, arrange for the organization of a new protective committee.

I should appreciate a reply at your early convenience.

Yours very truly,

RUDOLPH EISNER

RE/vm

## EXHIBIT No. PC-39

[Copy of letter from the files of James M. Kemper, 1935 Mo'fac. R. R. Co. Protective Committee for Holders of Common Stock]

Law Offices

WALTER, BUCHMORE & BELNAP

1522 First National Bank Building

Mr. JAMES M. KEMPER,  
Commerce Trust Company, Kansas City, Missouri.

CHICAGO, November 20, 1935.

DEAR MR. KEMPER: I hand you herewith a proposed draft of application to the Interstate Commerce Commission for authority to solicit authorizations and to use the same in the Missouri Pacific reorganization case. Will you please examine this carefully, and if there is any error of fact please advise me. I also hand you the original affidavit to be executed as to the correctness of the information contained in the application, with particular reference to the statements in paragraph 9 (n) to (r) inclusive, as to your own holdings, connections, etc. Will you please execute this affidavit and return it to me, retaining the attached copy of the application for your own files. If the application is correct it will be mimeographed and a mimeographed copy sent to you for your files.

A hearing will be had by the Commission before the authority is granted. I will confer with the proper party at the Commission as to the date of the hearing and as to the character of the testimony required to support the application.

Attached hereto is a copy of the petition for intervention which went to the commission yesterday.

Yours very truly,

[Signed] LUTHER M. WALTER.

LMW:K

EXHIBIT No. PC-40

[Copy of telegram from the files of James M. Kemper, 1935 MoPac. R.R. Co. Protective Committee for Holders of Common Stock]

Confirmation of Prepaid Telegram, message sent via Western Union Telegraph Company, from Kansas City, Mo.

ROBERT E. SMITH,  
2732 N. E. Thompson, Portland, Oregon:

NOVEMBER 26, 1935.

My father and I will be pleased to see you on Sunday December first. Regards.

JAMES M. KEMPER.

JMK:G

EXHIBIT No. PC-41

Copy of letter from the files of James M. Kemper, 1935 MoPac. R. R. Co. Protective Committee for Holders of Common Stock]

NOVEMBER 27, 1935.

Mr. LUTHER M. WALTER,  
Walter, Burchmore & Belnap, 1522 First National Bank Building,  
Chicago, Ill.

DEAR MR. WALTER: I have been away from my desk for the past few days, which accounts for my tardiness in answering your letter of November 20. I have examined the proposed draft of your letter to the Interstate Commerce Commission and as far as I can determine, there is no error of fact in it. With this in mind, I have executed the original affidavit and am retaining your letter and the copy of the affidavit in my files.

Very truly yours,

[Signed] JAMES M. KEMPER.

JMK:G  
Enclosure

EXHIBIT No. PC-42\*

[Extract from testimony of L. M. Walter in *Matter of Missouri Pacific R. R. Co.*, 6 S. E. C. 268, File No. 1-2139, March 17, 1938, p. 3]

Mr. WALTER. My name is Luther M. Walter. I desire to ask leave to be permitted to practice, later submitting my application in due form. I am qualified under the rules.

And I also desire to enter the appearance of Charles H. Thornton, James M. Kemper and A. J. Sevin, in their individual rights. They constitute the Protective Committee for the common stockholders of the Missouri-Pacific before the Interstate Commerce Commission in Docket No. 9918, reported in 217 I. C. C., 215. They are holders of preferred and/or common stock. The authorizations which they have received go only to proceedings in the reorganization. They enter an appearance for themselves and others similarly situated, except the Alleghany Corporation—and I should say that the authorization is from 700 individual parties or owners, representing in excess of 50,000 shares of common stock.

We ask to be permitted to intervene as parties to the proceedings, with all the rights that go with intervention.

The EXAMINER. The motion is granted with respect to your application for admission to practice, and your motion to intervene will be brought to the attention of the Commission.

Any other appearance?

\*In connection with Exhibits Nos. PC-42 through PC-45. See Exhibit No. PC-73, p. 12508.

## EXHIBIT No. PC-43

[Extract from testimony of L. M. Walter in *Matter of Missouri Pacific R. R. Co.*, 6 S. E. C. 263, File No. 1-2139, March 18, 1938, p. 201]

Mr. TANCER [of the S. E. C.] What committee do you represent in these proceedings?

Mr. WALTER. I represent and entered in these proceedings appearance on behalf of Charles H. Thornton, James M. Kemper and A. J. Sevin, who constitute a committee approved by the Interstate Commerce Commission in its decision of July 17, 1936, as a protective committee for the holders of certain securities.

Mr. TANCER. You say it was an independent protective committee?

Mr. WALTER. Sure.

Mr. TANCER. And how many shares of stock, preferred stock, does that committee represent?

Mr. WALTER. The last one I saw, filed with the Interstate, as of March 1937, was 55,000 shares of common stock.

Mr. TANCER. You are not appearing at this hearing as a representative of those shareholders, are you?

Mr. WALTER. No, only because of the fact that our authorization only goes to the appearance before the commissions dealing with the reorganization and because of their interest that may be affected.

Mr. TANCER. And who is Mr. Kemper, a member of this so-called protective committee?

Mr. WALTER. James M. Kemper is a Kansas City banker.

Mr. TANCER. Is he a member of the board of directors of the Alleghany Corporation?

Mr. WALTER. I do not know.

Mr. TANCER. Are you sure of that?

Mr. WALTER. I say I do not know.

Mr. TANCER. Is he a member of the board of directors of the Missouri Pacific Railroad Company?

Mr. WALTER. I do not know whether he is or not. I understand he has made an application to become a director in the place of his father recently deceased. I don't know what action has been taken. Inquiry has been made of the Interstate Commerce Commission.

Mr. TANCER. Do you know whether he was elected a director of the Missouri Pacific Railroad Company October 2, 1938?

Mr. WALTER. I could not—I told you that I understood he has made application for approval by the commission.

Mr. TANCER. At page 9094 of the Standard Corporation Records, Daily News section, under date of March 2, 1938, the following item appeared:

"Pyatt and Kemper Electric Directors. February 2, 1938, it was announced that Pyatt and Kemper had been elected directors of this company in place of H. T. Balton, resigned and W. P. Kemper, deceased."

Now, Mr. Walter, Mr. Kemper the father was a former member of the board of directors of the Missouri Pacific Railroad Company, was he not?

Mr. WALTER. So I understand.

Mr. TANCER. And he was a member of the board of directors until his decease a short time ago. Is that correct?

Mr. WALTER. I do not know.

Mr. TANCER. Do you know that Mr. Kemper the father of the present member of the board of directors of the Missouri Pacific Railroad Company, and a member of this so-called independent stockholders committee, was present at the meeting of the board of directors December 18, 1930 which approved the purchase of these securities and properties by Terminal Shares, Incorporated?

Mr. WALTER. I know nothing about it.

Mr. TANCER. Well, the minutes of the meeting of December 18, 1930, which has already been introduced in evidence, refers to the fact that Mr. Kemper was present.

## EXHIBIT No. PC-44

[Extract from testimony of William Wyer in *Matter of Missouri Pacific R. E. Co.*, 6 S. E. C. 268, File No. 1-2139, March 18, 1938, p. 214]

Mr. WYER. I furnished Mr. Smith on his request a list of several hundred stockholders of the Missouri Pacific who were substantial holders. Mr. Thornton's name was on that list. That is the extent of my suggestion on Mr. Thornton.

Mr. TANCER. You did suggest Mr. Thornton?

Mr. WYER. I suggested Mr. Thornton along with several hundred other names of stockholders of the Missouri Pacific.

Mr. TANCER. Were you consulted on the formation of the committee, Mr. Wyer?

Mr. WYER. No.

Mr. TANCER. Only to the extent you have just testified?

Mr. WYER. Only to the extent I have just testified. I was told he desired to form a committee and wanted a list of stockholders. I was secretary of the company and it was my duty, I thought, in response to such a request, to furnish a list of the large stockholders.

Mr. TANCER. Did you suggest Mr. Kemper to serve as a member of the committee?

Mr. WYER. His name was on the list.

Mr. TANCER. You knew at the time that Mr. Kemper was a son of a man who was a director on the Missouri Pacific Railroad Company?

Mr. WYER. Yes, sir.

Mr. TANCER. Was he ever elected a member of the board of directors?

Mr. WYER. Yes.

Mr. TANCER. When?

Mr. WYER. January 31, 1938.

Mr. TANCER. And he still is a member of the board of directors of the Missouri Pacific Railroad Company?

Mr. WYER. Yes.

## EXHIBIT No. PC-45

[Extract from testimony of L. M. Walter in *Matter of Missouri Pacific R. R. Co.*, 6 S. E. C. 288, File No. 1-2139, March 21, 1938, p. 457]

Mr. WALTER. Yes; I would like to make a request. This Commission granted leave to intervene to three individuals named by me. At that time I advised that I had inquired of the Interstate Commerce Commission whether Mr. Kamper, by reason of his becoming a director of Missouri Pacific Railroad Company was eligible to continue as a member of the Protective Committee. I am now in receipt of formal advice from the Bureau of Finance that there is a conflict. Accordingly he is resigning from the Committee. I ask leave to withdraw his appearance in this case, with leave to substitute the name of whatever individual might be finally approved by the Interstate Commerce Commission as a proper successor.

The EXAMINER. Your motion will be brought to the attention of the Commission.

## EXHIBIT No. PC-46

[Copy of letter from the files of James M. Kemper, 1935 MoPac. R. R. Co. Protective Committee for Holders of Common Stock]

Law Offices

WALTER, BURCHMORE & BELNAP

1522 First National Bank Building

CHICAGO, December 5, 1935.

Mr. R. E. SMITH,  
Hotel Peter Cooper, 39th St. and Lexington Ave.,  
New York City, N. Y.

DEAR BOB: I have your note of yesterday. I was much disappointed at not being able to see you, but I was detained in one of the commissioner's offices until just time to make my train.

I had earlier in the day telephoned Senator Dill's office, obtained the room number, and inserted it in the application before it was filed.

Mr. Thornton was in today. I explained the purpose of the Railroad Division of the Western Conference and he said he was sure Higgins would go along. He is going to take it up with him. He also stated if it was necessary he would go to Washington to testify.

I have asked Mr. Belnap to see Mr. Sweet as to whether we might have a hearing on the 17th on our application for authority to the Committee.

I will do the best I can to find two alert and active gentlemen to meet the call from Chicago. Mr. Thornton is also giving consideration to locating a couple of reputable gentlemen.

I will be here until next Tuesday evening, when I go to St. Louis for two or three days, will be here the 14th, New York the 16th, Washington the 17th, thence here.

Yours very truly,

[Signed] LUTHER M. WALTER.

LMW: K.

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EXHIBIT No. PC-47

[Copy of letter from the files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP.

Chicago, December 19, 1935.

Mr. A. J. SEVIN,  
c/o Schroeder Hotel, Milwaukee, Wisconsin.

DEAR ANDY: I have your letter of the 18th and wish I might have seen you on your way to Milwaukee. I am leaving tonight for the old home in Kentucky and will be back here Monday afternoon.

I will let you know what takes place at the hearing on the 27th.

Mr. Smith is quite anxious to get his national organization perfected. He wants an advisory committee of seven who would look after all matters affecting railroad stockholders, either in legislation or reorganization proceedings in Federal Courts and elsewhere. This committee would be purely advisory but its members might, at any time, be desirable members of a protective committee and the compensation for this service would, of course, be determined by the court. He is anxious to have you one of the seven advisory committee. Mr. Thornton's partner, Mr. Higgins, will be one of the members and I think Mr. Kemper. I am trying to locate two desirable men in Chicago. Bill DeWitt of the Western Electric has the matter under consideration. I hope you will accept, for I am sure it will in no wise be burdensome to you and will put you in contact with interesting problems as well as interesting personnel. What do you say.

Yours very truly,

[Signed] LUTHER M. WALTER.

LMW: K.

Copy to Pittsburgh.

[Pencil Notation:] Feb. 4--10 AM Bureau of Finance.

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D. AUTHORIZATION OF COMMITTEE BY INTERSTATE  
COMMERCE COMMISSION

EXHIBIT No. PC-48

[Copy of letter from the files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP.

Chicago, December 2, 1935.

Mr. A. J. SEVIN, G. T. M.,  
Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.

DEAR MR. SEVIN: I enclose herewith copy of order entered by the Interstate Commerce Commission on November 21st, and which I have just received.

I am today forwarding the application for authority to solicit authorizations to represent junior securities in the Missouri Pacific Reorganization.

Yours very truly,

[Signed] LUTHER M. WALTER.

(Encl.)

LMW: K.



## EXHIBIT No. PC-49

[Copy of letter from the files of James M. Kemper, 1935 MoPac. R. R. Co. Protective Committee for Holders of Common Stock]

Law Offices

WALTER, BURCHMORE & BELNAP  
1522 First National Bank Building

CHICAGO, December 2, 1935.

Mr. JAMES M. KEMPER,  
*Commerce Trust Company, Kansas City, Missouri.*

DEAR MR. KEMPER: I enclose herewith copy of order entered by the Interstate Commerce Commission on November 21st, and which I have just received.

I am today forwarding the application for authority to solicit authorizations to represent junior securities in the Missouri Pacific reorganization.

Yours very truly,

[Signed] LUTHER M. WALTER.

(Encl.)

LMW: K.

## EXHIBIT No. PC-50

[Copy of letter from the files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP,  
*Chicago, December 4, 1935.*

Mr. CHARLES H. THORNTON,  
*10 1/2 South Main Street, Fond du Lac, Wisconsin.*

Mr. JAMES M. KEMPER,  
*Commerce Trust Company, Kansas City, Missouri.*

Mr. A. J. SEVIN,  
*Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.*

GENTLEMEN: Yesterday I filed with the Interstate Commerce Commission application for authority to solicit authorizations to represent junior securities, and I enclose herewith a mimeographed copy of the petition.

It will be necessary for the Commission to have a hearing and I will write you later as to what will be required. We could probably have this hearing during the week of December 16th. Mr. Sevin is nearest to Washington and probably can testify as to all of the facts which the commission may desire to have in passing upon the application. I will advise later as to this.

Yours very truly,

[Signed] LUTHER M. WALTER.

Encl.

LMW: K.

## EXHIBIT No. PC-51

[Copy of letter from the files of James M. Kemper, 1935 MoPac. R. R. Co. Protective Committee for Holders of Common Stock]

AT PETER COOPER HOTEL,  
*New York, N. Y., December 6, 1935.*

Mr. LUTHER M. WALTER,  
*1522 First National Bank Building, Chicago, Illinois.*

DEAR LUTHER: Thanks for yours of December 5th regarding status of the matter before the Interstate Commerce Commission.

Mr. Paul Shoup arranged an appointment for me with Mr. Findlay J. Shepard. He is quite interested in the railroad division, says that our plans are interesting, worthy and necessary and will give me his answer Monday regarding service as a director of the railroad division. I am trying to get Mr. Philip Saltenthal of Boston on the 'phone, and if he is to be in Boston tomorrow I will run over tonight and discuss with him his serving as the Director from New England.

I note that you are hopeful the Interstate Commerce Commission may set

the hearing for December 17th. I hope that they will agree to this as it is advisable to get under way with this committee work as soon as possible. I also note Mr. Thornton is quite sure Mr. Higgins will serve in this capacity. Do not overlook talking with Mr. Sevin or some other officers of the Pittsburgh Plate Glass Company as soon as possible. It is not at all impossible that I will have the two Eastern directors lined up by next Monday, and accordingly, as soon as you get Higgins, Sevin and two additional Chicago men to consent to serve, we will be ready to canvass holders of railroad junior securities. I do not wish to discuss the matter of circularizing the individual stock owning members of a security owners association with Mr. Phil Benson, its new President, until I can tell him definitely who the directors of our railroad division will be. He naturally will want to have that information before deciding whether he will wish to cooperate in turning over his individual membership to us. Consequently I hope you will give this matter your very vigorous attention.

Kindly request your secretary to continue to forward mail to me in care of Peter Cooper Hotel, New York City, until further notice.

Sincerely yours,

[R. E. SMITH.]

EXHIBIT No. PC-52

[Copy of letter from the files of A. J. Sevin]

DECEMBER 5, 1935.

Mr. LUTHER M. WALTER,  
1522 First National Bank Building, Chicago, Ill.

MY DEAR MR. WALTER: Wish to acknowledge and thank you for yours of Dec. 4th, enclosing copy of petition filed with the ICC, asking authority to solicit authorizations to represent junior securities of Missouri Pacific reorganization.

Noting the last paragraph of your letter, I am leaving Sunday, December 8th, for two weeks, attending regional sales meetings of the Company, and again the entire week of January 6th. Inasmuch as I am responsible for the movement of approximately 700 men to and from these various meetings, it will be impossible for me to be in Washington at any time during the three weeks above mentioned.

Sincerely yours,

[A. J. SEVIN]  
General Traffic Manager.

S-G

EXHIBIT No. PC-53

[Copy of letter from the files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP,  
Chicago, December 7, 1935.

Mr. A. J. SEVIN,  
Pittsburgh Plate Glass Co.,  
Grant Building, Pittsburgh, Pa.

DEAR MR. SEVIN: I have your letter of the 5th inst. This morning Mr. Belnap returned from Washington, where he had talked with Director Sweet as to the date of the hearing. It is not possible to have the hearing before December 27th and Mr. Sweet thinks a single witness will be sufficient. Mr. Thornton was here yesterday and he indicated that with sufficient notice he could make the trip. Accordingly, I am asking him if he can go to Washington with me for the hearing. He could leave Fond du Lac the morning of the 26th and have a few hours in Chicago before leaving on the Capitol at 2:40 for Washington.

As I read your letter you would be available for the 27th. If Mr. Thornton cannot go I hope you will be able to meet me in Washington for the hearing. Perhaps you could join me on the train and we could talk the matter over before we reach Washington.

I will let you know what Mr. Thornton has to say.

Very truly yours,

[Signed] LUTHER M. WALTER.

Copy to  
Mr. Charles H. Thornton.  
Mr. James M. Kemper.

## RAILROADS AND HOLDING COMPANIES

12501

EXHIBIT No. PC-54

[Copy of letter from the files of A. J. Sevin]

WALTER, BURDHMORE & BELNAP,  
Chicago, December 7, 1936.Mr. CHARLES H. THORNTON,  
104 South Main Street, Fond du Lac, Wisconsin.

DEAR MR. THORNTON: Mr. Belnap returned from Washington this morning and tells me that the hearing on our petition for authority to form a committee and seek authorizations to represent holders of junior securities will be set for hearing on December 27th. The commission cannot get out notices and set the matter for earlier hearing.

Attached is a copy of a letter from Mr. Sevin and copy of my reply. I should be glad if you could present the testimony on behalf of our petition at the hearing on the 27th. You could leave home the morning of the 26th. The Capitol leaves for Washington at 2:40 PM which would give you a few hours in Chicago and we could talk over our matter at that time and on the train to Washington, where we would arrive at 8:45 AM the 27th.

Yours very truly,

[LUTHER M. WALTER.]

Copy to  
Mr. A. J. Sevin.  
Mr. James M. Kemper.

EXHIBIT No. PC-55

[Copy of telegram in File No. 239, without title, of Vice-President—Law and Corporate Relations, Missouri Pacific R. R. Co.]

Western Union

1935 DEC. 9 PM 2 16

WA 165 CAK—WASHINGTON, D. C. 9 153P  
HERBERT FITZPATRICK.

3500 Terminal Tower, Cleve.:

Application filed with Commission this morning in reorganization case by Charles F. Thornton, James M. Kemper and A. J. Sevin for permission to solicit deposits five and one quarter percent convertible and serial bonds and preferred and common stock of Missouri Pacific. No extra copies available at Commission.

[Typed] GEO. H. GARDNER.

[In Pencil:] 12/9/35. Read to Mr. Wyer. W. B. T.

EXHIBIT No. PC-56

[Copy of letter from the files of A. J. Sevin]

DECEMBER 18, 1935.

Mr. LUTHER M. WALTER,  
1522 First National Bank Bldg., Chicago, Ill.

MY DEAR M. WALTER: Acknowledging yours of December 7th, with further reference to the hearing in Washington December 27th, am very glad that Mr. Thornton can serve as a witness. I am only here for a couple of days and am starting out again tonight.

Will be in Milwaukee at the Schroeder Hotel Thursday, Friday and Saturday of this week, and will endeavor to get in touch with you by phone.

Sincerely yours,

[A. J. SEVIN].

S-G

## EXHIBIT No. PC-57

[Copy of pencil office memorandum contained in file "Thornton, Kemper & Sevin," in possession of Guy A. Thompson, Trustee, Missouri Pacific R. R. Co., St. Louis, Mo.]

Mr. RAILEY.

TOM: Should the Trustees do anything about this?

G. A. T.  
[G. A. Thompson.]

12/17/35.

## EXHIBIT No. PC-58

[Copy of original office memorandum contained in file "Thornton, Kemper & Sevin," in possession of Guy A. Thompson, Trustee, Missouri Pacific R. R. Co., St. Louis, Mo.]

St. Louis, December 21, 1935.

Mr. GUY A. THOMPSON:

With reference to the attached application of Thornton, Kemper & Sevin to form a Protective Committee, I do not think that any action by the Trustees in connection with this application before the Commission is necessary.

[Signed] THOS. T. RAILEY,  
Assistant to Counsel for Trustees.

## EXHIBIT No. PC-59

[Copy of letter from the files of A. J. Sevin]

DECEMBER 26, 1935.

Personal.

Mr. LUTHER M. WALTER,  
1522 First National Bank Building, Chicago, Ill.

MY DEAR LUTHER: Acknowledging yours of December 19th, the original of which reached me in Milwaukee, will be very glad to do anything I can for the committee in connection with the Missouri Pacific reorganization, and if you feel it would be helpful to have me on the advisory committee, will accept, but I am warning you in advance that my experience with "high finance" is rather limited.

By the way, in addition to being very much "on the go" at present, there is another reason why I prefer not to appear as a witness in these hearings, at least not until after I have had a talk with you, which I will do at the first opportunity.

With kindest personal regards to Mrs. Walter and yourself, and with best wishes for the New Year, in which Mrs. Sevin joins me,  
Sincerely yours,

[A. J. SEVIN.]

S-G.

## EXHIBIT No. PC-60

[From file of Kenneth F. Burgess, Counsel, Insurance Group, Section 77]

LESLIE CRAVEN, Counsel

FEDERAL COORDINATOR OF TRANSPORTATION,  
Washington, December 28th, 1935.

Mr. JOHN DERN,  
Cutting, Moore & Sidley, 11 South LaSalle St., Chicago, Illinois.

MY DEAR DERN: Here is a personal letter which I have written to Warner Fuller and in which I think you will be interested. I would be interested to have a chat with you about these things if you are here.

I send you my kind regards and wish you A Happy New Year.

Yours truly,

[Signed] LESLIE CRAVEN.

F.  
Enc.

## EXHIBIT No. PC-61

[From file of Kenneth F. Burgess, Counsel, Insurance Group, Section 77]

DECEMBER 28TH, 1935.

Mr. WARNER FULLER,

*School of Law, Duke University, Durham, N. C.*

MY DEAR WARNER: Read the article on the first page of the Wall Street Journal of today about the hearings with reference to a protective committee in the Missouri Pacific case, here yesterday. You will remember that Mr. Luther Walter \* \* \* appeared before the House Judiciary Committee to fight our amendments, purporting to represent an organization of security holders from the Pacific Northwest. This same organization appeared yesterday as the group behind a protective committee in the Missouri Pacific case, Mr. Walter appearing as counsel. The Commission attorney being tipped off to the fact that this was probably a Van Sweringen agency, then proceeded to develop that fact in cross examination. The committee was apparently intending to solicit the deposits of securities without letting it be known that it was actually acting for an undisclosed principal—the sort of practice which it was our intention to prevent by subsection (p).

I had begun to get the chills with reference to subsection (p), but the thermometer is now going up rapidly. You will notice that this establishes what I had already gotten from another source—that the Van Sweringens were backing the \* \* \* committee when it opposed us.

Write me what you can do about the law review article.

\* \* \* \* \*

Yours truly,

[Signed] LESLIE CRAVEN.

BC: Mr. John Dern

## EXHIBIT No. PC-62

[Copy of letter from the files of A. J. Sevin]

WALTER, BURCHMORF & BELNAP,  
Chicago, January 2, 1936.

Mr. A. J. SEVIN,

*Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.*

DEAR ANNY: At the hearing in Washington in Finance Docket 9918 relative to the application of yourself, Mr. Thornton and Mr. Kemper for authority to create a protective committee for junior security holders in the Missouri Pacific Railroad Company, Examiner Boyden asked that you furnish information showing the interests of yourself, any member of your family or of the Pittsburgh Plate Glass Company, or its officers, in the Missouri Pacific Railroad Company.

Mr. Kemper has furnished an affidavit giving that information. Will you please execute an affidavit in form similar to the enclosed, giving the data called for in the various paragraphs.

Yours very truly,

[Signed] LUTHER M. WALTER.

LMW:K  
(Encl.)

## EXHIBIT No. PC-63

[Copy of letter from the files of A. J. Sevin]

JANUARY 4, 1936.

Mr. LUTHER M. WALTER,

*1522 First National Bank Building, Chicago, Ill.*

MY DEAR LUTHER: Acknowledging yours of January 2nd with enclosure, I regret very much that it is simply impossible for me to get the information and return this to you until the latter part of next week.

We still have two more of our sales meetings. Am leaving here Sunday night, being away from the Office most of next week, and have been working night and day getting ready for same. \* \* \*

With kindest personal regards,  
Sincerely yours,

[A. J. SEVIN.]

EXHIBIT No. PC-64

[Copy of letter from the files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP,  
Chicago, January 7, 1936.

Mr. A. J. SEVIN, G. T. M.,  
Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.

DEAR ANDY: Promptly on receipt of your letter of the 4th inst., advising that it would be impossible for you to get the information until late this week, I telephoned Examiner Boyden and arranged for delay until the 13th. Will you be sure to get the matter in the mail to me by Saturday of this week?

I am going to Washington tomorrow and will be back here on Friday. \* \* \*

With kindest regards, I am,  
Yours very truly,

[Signed] LUTHER M. WALTER.

LMW:K

EXHIBIT No. PC-65

[Copy of letter from the files of Luther Walter, Counsel for Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad]

JANUARY 14, 1936.

Mr. CHARLES H. THORNTON,  
104 South Main Street, Fond du Lac, Wisconsin.

DEAR MR. THORNTON: I am glad to have your letter of the 13th inst. I do not like one phase of the publicity attendant upon the presentation of our case, and that was the veiled intimation that there may be some connection between the committee and the Van Sweringen interests, but as you well know, we must become accustomed to the fact that newspaper men are always looking for the unusual as being what sells newspapers. We will show by our conduct of the matter that we think for ourselves.

I have sent in the information which the Examiner desired from Mr. Sevin and Mr. Kemper.

My present plans are to be in Washington on Sunday for an argument on a rate case before the Commission on Monday and to be back here Tuesday or Wednesday. I will go to Washington again on Friday. \* \* \*

With kindest regards, I am,  
Yours very truly,

[LUTHER M. WALTER.]

LMW:K

EXHIBIT No. PC-66

[Copy of telegram from the files of protective committee for holders of common stock of the MoPac. R. R., Robert E. Smith, sec.]

Western Union

1936 JAN. 17, AM 10 35

WAC 11 51 DL 3 Extra—Via—Trenton, N. J. via FK Chicago, Ill., Jan. 16  
ROBERT E. SMITH,  
302 H. O. B.:

Appreciate immediate reply my letter re Missouri Pacific am interested organization or affiliation preferable later with junior securities committee opposing debtors reorganization plans Stop Understand ICC hearings commence Washington February fourth Would like personally to present my plan Stop Communicate if you can offer such opportunity for affiliation.

RUDOLPH EISNER.

## EXHIBIT No. PC-67

[Copy of letter from the files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP,  
Chicago, January 30, 1936.Mr. CHARLES H. THORNTON,  
104 South Main Street, Fond du Lac, Wisconsin.

DEAR SIR: I enclose herewith copy of a letter from Director Sweet, which was received on Tuesday while Mr. Walter was in New Orleans, I sent the letter to Mr. Walter at New Orleans and he has returned the letter to me with the request that I send you a copy of it.

Mr. Walter has an argument in the District Court at New Orleans today, but will leave there tonight, arriving in Chicago about 9:30 tomorrow (Friday) night. He intends to call you on the telephone, station to station, after ten o'clock and would like to know where to call you. So will you please wire us where you can be reached tomorrow night?

Mr. Walter also asked me to say that he would like to have you arrange to go to Washington with him Saturday afternoon on the Capitol Limited.

Yours very truly,

\_\_\_\_\_, *Secretary.*

(Encl.)

Copy to

Mr. A. J. Sevin, Pittsburgh.  
Mr. James M. Kemper, Kansas City.

## EXHIBIT No. PC-68

[Copy of letter from the files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP,  
Chicago, January 30, 1936.Mr. A. J. SEVIN,  
Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.

DEAR SIR: I enclose herewith copy of letter to Mr. Thornton, together with copy of letter from Director Sweet. Mr. Walter also wants to call you on the telephone tomorrow night, so will you please wire us where you can be reached?

Mr. Walter also said he would like to have you go to the hearing with him, unless you have some reason for not doing so.

Very truly yours,

W. M. KELLER, *Secretary.*

Copy to

Mr. Charles H. Thornton, Fond du Lac, Wis.  
Mr. James M. Kemper, Kansas City, Mo.

## EXHIBIT No. PC-69

[Copy of letter from the files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—Luther M. Walter Correspondence]

Law Offices

WALTER, BURCHMORE &amp; BELNAP

Chicago, February 15, 1936.

Mr. CHARLES H. THORNTON,  
104 South Main Street, Fond du Lac, Wisconsin.

DEAR MR. THORNTON: I am just back at the office this morning. The Missouri-Pacific hearing on direct testimony closed on Thursday late. The cross-examination of the various witnesses, including Mr. Wyer, has been postponed to March 31st at Washington.

I ordered a copy of the transcript of testimony and as soon as it is received will forward it to you for your examination. Please note the various matters that you would like to have covered by cross-examination by me. I will prepare the notes for cross-examination and for additional data required. I believe it would be well for us to ask Mr. Wyer to prepare from the books of the Company the amount that has been paid into the property from earnings and from the proceeds of junior issues. No doubt he will be glad to prepare an exhibit for us if we give him plenty of time in which to do it.

I have no information whatever as to what the Commission thinks of doing on our application for authority to create a stockholders committee.

A duplicate copy of such exhibits as you have not already received will be forwarded as soon as received from Washington and marked.

Mr. Wyer continued his very favorable personal qualifications as a brilliant witness on the many phases of Missouri Pacific affairs. Quite a contest developed over admitting testimony as to investment in Terminal Shares, but Director Sweet permitted the testimony to be offered insofar as it related to the desirability of including Kansas City and St. Joe terminals in the reorganized company. He would not permit testimony as to the contract between terminal shares and Missouri Pacific. There are some phases of this matter that I want to cross-examination. \* \* \*

When you are next in Chicago see me, please.

Yours very truly,  
LMW: K

LUTHER M. WALTER

EXHIBIT No. PC-70

[Copy of letter from the files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP,  
Chicago, February 21, 1936.

Mr. CHARLES H. THORNTON,  
10 1/2 South Main Street, Fond du Lac, Wisconsin.

Mr. A. J. SEVIN,  
Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.

Mr. JAMES M. KEMPER,  
Commerce Trust Company, Kansas City, Missouri.

GENTLEMEN: While in Washington on the 19th inst., I conferred with Mr. Boyden as to the need for testimony by Mr. Kemper in support of the application for leave to create a protective committee for junior securities of the Missouri Pacific, and as a result of that conference, I have forwarded the attached application to reopen for further hearing, at which Mr. Kemper's testimony will be taken. March 12th has been tentatively arranged as the date for the hearing at Washington before Examiners Boyden and Jewell.

This for your information.

Yours very truly,

LMW: K  
(Encl)

[Signed] LUTHER M. WALTER.

EXHIBIT No. PC-71

[Copy of letter from the files of Luther Walter, Counsel for Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad]

COMMERCE TRUST COMPANY,  
Kansas City, Missouri, March 3, 1936.

Mr. LUTHER M. WALTER,  
c/o Walter, Burchmore, & Belnap, 1522 First National Bank Building,  
Chicago, Illinois.

DEAR MR. WALTER: Please forgive this tardy reply to your letter of February 21, which is occasioned by the fact that I wanted to have time to study over the testimony given by Mr. Thornton and Mr. Sevin, which I have finally had an opportunity to do.

It occurs to me that there may be some desire on the part of the I. C. C. examiners to try and embarrass you and me because of my father's connection with the Missouri Pacific as a Director and because of the fact that this institution is favored with a large commercial account from that railroad. I take it, however, that you have carefully considered this phase of the matter and if it is still your desire that I go to Washington, I shall be most happy to go down there on the 12th and I shall make a reservation on the Capitol Limited leaving Chicago at 2:40 p. m. on the 11th and will see you on the train, at which time we can discuss in some detail what course will be followed in the hearing the following morning. I will advise you later what my reservation will be on the train.

With kindest personal regards and best wishes,

Sincerely yours,

JMK: G

[Signed] JAMES M. KEMPER.



## EXHIBIT No. PC-72

[Copy of letter in files of Protective Committee for Holders of Common Stock of the MoPac. R. R., Robert E. Smith, sec.]

RUDOLPH EISNER

Counselor at Law

700 South Broad Street

TRENTON, NEW JERSEY, April 3, 1936.

Mr. ROBERT E. SMITH,

4725 Brandywine Street NW.,

Washington, D. C.

MY DEAR MR. SMITH: Will you please inform me if you know of any opportunity for affiliation with a committee, institution, or group representing holders of junior securities of the Missouri-Pacific Railroad Company. As I informed you previously, I have made a detailed study of the proposed Reorganization Plan and feel that it is inequitable. I have devised a substitute plan which I believe has merit, it is equitable, legal, and practical.

However, my representation does not now warrant my incurring any expense in connection with this matter. Accordingly, I should like to become affiliated with a protective committee, perhaps as associate counsel if investigation indicates that my proposals are sound.

I should appreciate an early reply to my letter.

Yours very truly,

RUDOLPH EISNER.

RE: L

EXHIBIT No. PC-73<sup>1</sup>

[Extract from testimony of C. H. Thornton before the I. C. C. in *Matter of Missouri Pacific R. R. Co.*, Financial Docket No. 9918, Dec. 27, 1935, p. 12]

Q. [by Examiner BOYDEN of the I. C. C.]. Who has suggested to you, Mr. Thornton, that you act as—A. Mr. Higgins.

Q. As representative of these securities?—A. Mr. Higgins, yes, the other trustee, met with Mr. Smith in New York, and Smith suggested that one of us serve on this committee. \* \* \* And we discussed the matter and we felt that I had more time than he had for any active work, he would pass it over to me. That was the way that came up. I met with Mr. Smith afterwards in Chicago and discussed the matter with him there.

Q. When was the first meeting between Mr. Higgins and Mr. Smith, do you know?—A. Somewhere about the middle of September.

Q. And when did Mr. Higgins broach the subject to you?—A. Let me see; I think I met Mr. Higgins, we went East around the 12th or 13th of September and I met Higgins on his return to Chicago, and he related the conversation that he had with Mr. Smith.

Q. Do you recall about when that was?—A. That was some time in that week, it was the week of September 11th or 12th.

Q. And you say you had a conversation later on with Mr. Smith in Chicago?—A. In Chicago, and I have had two or three since.

Q. Has anybody else been present at those conferences, besides Mr. Smith?—A. Mr. Walter for a matter of 3, 4, or 5 minutes, maybe.

Q. Has Mr. Higgins ever told you or anybody else suggested to you that you act as a committee?—A. I get the impression that—

Q. Well, now, please, answer just what I asked.—A. Yes, I think the suggestion came from Wyer.

<sup>1</sup> See Exhibits Nos. PC-42 through PC-45, pp. 12495-12497.

Q. Then \* \* \* Mr. Wyer suggested to Mr. Higgins that you act on the committee?—A. No, no, that one of us act.

Q. I see.—A. One of us.

Q. Who is this Mr. Wyer who suggested the activity of yourself or Mr. Higgins?—A. Mr. Wyer is with the Missouri Pacific, in Cleveland.

Q. What is his office?—A. I think he is secretary, or something, I have met him. I met Mr. Wyer at two of the annual meetings of the road, in Cleveland.

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EXHIBIT No. PC-74

[Copy of letter in Van Sweringen General File No. 149-A-9-E-5, "Miscellaneous Correspondence"]

CHARLES H. THORNTON

FOND DU LAC, WIS.

APRIL 25, 1936.

Mr. O. P. VAN SWERINGEN,  
*Cleveland, Ohio.*

DEAR MR. VAN SWERINGEN: On Wednesday I concluded that it would be inadvisable for me to make an appearance at this time before the Commission, and Walters agreed with that conclusion, so I left there the following day, taking with me the transcripts of the evidence presented up to the conclusion of Mr. Farrington's testimony, and Walters will send the balance to me just as soon as they are out.

On the way home, I went over this stuff, and have reached the conclusion that the testimony presented by Mr. Walters will have to be considered. Using the word "considered", I am thinking of the question put to him by Mr. Sweet relating to preferred stock, and as possibly furnishing a clew to Sweet's line of thought.

In case you did not hear Walter's testimony, I suggest that you get a copy and read it.

With kindest regards, I am,  
Very truly yours,

[Signed] CHARLES H. THORNTON.

CHT:JC

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EXHIBIT No. PC-75

[Copy of letter from the files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP,  
*Chicago, April 28, 1936.*

Mr. A. J. SEVIN,  
*Pittsburgh Plate Glass Co.,  
Grant Building, Pittsburgh, Pa.*

DEAR MR. SEVIN: Under separate cover (by express) I am handing you a plan of reorganization of the Missouri Pacific System submitted by the Stedman Committee, which represents the first and refunding bond holders, together with exhibits filed with the Commission. You will note the Stedman Committee proposes to consolidate the Missouri & Illinois with the other roads in the Missouri Pacific System. You will note from page 44 to 46, that for each \$1,000 bond of the Missouri & Illinois Railroad the holder will receive 20 per cent in new first mortgage bonds, series A, 50 year 4 per cent; 60 per cent in the general mortgage income 5 per cent bonds; and 20 per cent in preferred stock, plus arrears of interest in preferred stock at the rate of \$100.00 per share. The holders of

Missouri-Illinois Common stock are offered per share one common stock purchase warrant, series A, entitling the holder under conditions to purchase one fourth share of common stock of the new company at the rate of \$62.50 per share.

So in addition to your interest in the reorganization by reason of the ownership of Missouri Pacific stock, you are now up against the proposition to take the Missouri Illinois on most disadvantageous terms. The entire Stedman plan would have the effect of wiping out the stockholders and it will be necessary to prepare carefully on the matter. I suggest you discuss the matter with your people and at some convenient time I will come to Pittsburgh or will meet you here to go over the matter. The next hearing is set for June 23rd at Washington at which time it is expected that the remaining portions of testimony will be presented and the case submitted, with briefs to follow as a matter of course.

I have had no word as to what the Commission is going to do on our application to create a stockholders committee. There seems to be nothing we can do but simply await the Commission's pleasure. When the case was closed on March 26th the Examiner stated that some action would be taken on our application before April 14th. Two weeks have passed and still nothing is out. It is most unsatisfactory in every way to have the matter held without disposition.

With kindest regards, I am,

Very truly yours,

[Signed] LUTHER M. WALTER.

LMW:K

[Pen Notation:] P. S.—Mr. Robt E. Smith, who attended hearing and has just returned from a visit with Mr. Kemper will deliver plan and exhibits in person to you. He arrives Pittsburgh 5:30 PM Wednesday and will phone you from station.

EXHIBIT No. PC-76

[Copy of letter from the files of A. J. Sevin]

Mr. LUTHER M. WALTER,  
1522 First National Bank Building, Chicago, Ill.

APRIL 30, 1936.

MY DEAR MR. WALTER: Wish to acknowledge and thank you for yours of April 28th. The copy of plan of reorganization of the Missouri Pacific submitted by the Stedman Committee was handed me last night by Mr. Smith. He phoned me from the station, and I had him come over to the Duquesne Club where we discussed this and other matters of interest.

I have not had an opportunity to go over this plan, but from what you say the Stedman Committee did not give the junior security holders much consideration; however will discuss it with our people and will write you further:

Sincerely yours,

[A. J. SEVIN,  
General Traffic Manager.

S-G

EXHIBIT No. PC-77

[Copy of letter from the files of Luther Walter, Counsel for Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad]

APRIL 28, 1936.

Mr. JAMES M. KEMPER,  
Commerce Trust Company, Kansas City, Missouri.

DEAR MR. KEMPER: Mr. Robert E. Smith is in the office this morning and tells me that he left with you copy of the Stedman plan and exhibits.

You will note that in addition to the consolidation of the various properties referred to in the debtor's plan, the Stedman Committee proposes to incorporate the Missouri & Illinois and to make certain exchange of bonds with stock warrant rights to the present stockholders of the Missouri & Illinois. The treatment which the Stedman Committee makes of the junior securities is most unsatisfactory.

The next hearing is set for June 23rd, at which time we may cross-examine Mr. Stedman.

We are without information as to what the Commission is going to do on the matter of authorizing the stockholders committee. There seems to be nothing we can do about the matter but simply rest quietly and await action. I will advise you promptly of any information I receive.

Yours very truly,

[LUTHER M. WALTER.]

LMW:K.

EXHIBIT No. PC-78

[Copy of typewritten memorandum from the files of A. J. Sevin]

MAY 4, 1936.

Mr. F. W. CURRIER:

Referring to our conversation Saturday, I am enclosing letter from Mr. Luther Walter, also copy of plan and exhibits presented by the Stedman Committee at recent hearing in connection with the Missouri Pacific Reorganization.

Will you be kind enough to analyze these in order that we may discuss with Mr. Wherrett action which it might be desirable for the company to take in connection therewith.

A. J. SEVIN.

[Pencil Notations:]

P. P. G. Co.				
Mo. Pac—2000	Cum		Pfd—112¼	225,500
Mo. Ill 3150			Pfd	131,530.00-131,530.
500 Com a 62.50	31,250.00			357,030.

EXHIBIT No. PC-79

[Copy of letter from files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP,  
CHICAGO, May 8, 1936.

Mr. A. J. SEVIN,  
Pittsburgh Plate Glass Co.,  
Grant Building, Pittsburgh, Pa.

DEAR MR. SEVIN: I have just received a telegram from my Washington Representative advising that the Examiners who heard the testimony relating to our application for authority to create a stockholders committee have recommended that the application be denied. I know nothing of the reasons upon which this recommendation is based but will obtain a copy of the proposed report on my arrival at Washington Saturday morning. I will advise you later as to the basis for this recommendation.

A proposed report delays action by the Commission. I protested against a proposed report and requested that the matter be decided by the Commission.

It is needless to say I am disappointed at the recommendation, although I am not surprised. Developments during the process of the hearings indicated opposition on the part of the Examiners. I will advise you fully, sending you copy of the proposed report from Washington.

--With kindest regards, I am,

Yours very truly,

[Signed] LUTHER M. WALTER.

LMW:K

RAILROADS AND HOLDING COMPANIES

12511

EXHIBIT No. PC-80

[Copy of letter from the files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP

CHICAGO

NEW YORK, May 10th.

[Pen Letter]

DEAR ADDIE: Here is the proposed report. Let me have your comments at Chicago later in the week for use in filing exceptions. Div. 4 (Meyer, Porter & Mahaffie) will quickly decide the matter.

I will be here thru Tuesday.

Am sorely disappointed.

Sincerely,

[Signed] LUTHER.  
[Luther M. Walter.]

Clipping from yesterdays times.

EXHIBIT No. PC-81

[Copy of a letter from the files of A. J. Sevin]

MAY 12, 1936.

Mr. LUTHER M. WALTER,

*Walter-Burchmore & Belnap, 1522 First National Bank Bldg., Chicago, Ill.*

DEAR LUTHER: Acknowledging your letter of May 8 from Chicago, as well as your memorandum from New York, I already received copy of the proposed report by the examiners. While I am of course disappointed, at the same time judging from my experience in Washington, I am not entirely surprised.

At this time, cannot really think which might be helpful to you in filing exceptions.

I expect to have a conference with our President and Treasurer this week and will then write you as to any further action by our own company in connection with the Stedman report.

Yours very truly,

[A. J. SEVIN.]  
*General Traffic Manager.*

S-M

EXHIBIT No. PC-82

[Copy of telegram in file No. 239, without title, of Vice-President—Law and Corporate Relations, Missouri Pacific R. E. Co.]

Western Union

1936 MAY 8 PM 12 01

WA 159 CAK—TX WASHINGTON, D. C. 8 1141A

HERBERT FITZPATRICK,

*Vice Pres., Chesapeake and Ohio Ry. Co., Terminal Tower, Cleve.:*

Report proposed by Bureau of Finance released this morning in Missouri Pacific reorganization recommending that division four deny application of Messrs. Thornton Kemper and Sevin to act as protective committee.

[Typed] GEO. H. GARDNER.

[In Pencil:] One copy of Report to Mr. O. P.

## EXHIBIT No. PC-83

[Copy of letter from the files of Charles H. Thornton—MoPac. Common Stockholders Protective Committee—Luther M. Walter Correspondence]

MAY 12, 1936.

Mr. LUTHER M. WALTER,

% Walter, Burchmore & Belnap, 1522 First Nat'l Bank Bldg.,  
Chicago, Illinois.

DEAR WALTER: In writing you yesterday, I overlooked a meeting that I have here on Thursday, but I can be with you on Friday, if needed.

I should be in New York on the 20th to attend a Director's meeting of our Indiana-Illinois Coal Corporation; and the thought occurs to me that we might contact the Interstate Commerce Commission during the coming week and avoid having to make another trip East at a later date.

I am enclosing copy of letter to Mr. Trathen, financial secretary of the Wisconsin Annuity Board, and I feel certain that he will write Meyer.

In looking over that recommendation of the Commission, it reads very much like Boyden.

Sincerely yours,

[C. H. THORNTON].

CHT:JC

Enc.

P. S.—I am returning your copy of Finance Docket No. 9918 and have numbered some of the paragraphs, and also enclose some thoughts on these paragraphs that might be of interest to you.

## EXHIBIT No. PC-84

[Copy of letter from the files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—Luther M. Walter Correspondence]

MAY 12, 1936.

Mr. ALBERT TRATHEN,

Annuity Investment Board, Madison, Wisconsin.

DEAR TRATHEN: I need some help on this Missouri-Pacific matter, and you are the one man in Wisconsin that can supply it, provided you have an opinion that I have a comprehensive grasp of all financial matters, and that I would not undertake a job having to do with finances without first acquainting myself with all of the fundamentals of the problem.

There is a man from Wisconsin on the Interstate Commerce Commission named Balthasar Meyer. I would say that he is the Dean of the Commission. \* \* \*

The Interstate Commerce Commission has turned down my request for authority to represent Minority interests in:

\$71,000,000 preferred stock  
82,000,000 Common Stock  
46,000,000 5¼% Convertibles  
12,250,000 5¼ Serials.

Outside of the Van Sweringen or Alleghany holdings in these four issues, the general public holdings total something over \$120,000,000 and enclosed is the language, or part of it, that is used in refusing the application.

I would like to have you, as financial Secretary of the Annuity Board, write Mr. Meyer, outlining the nature of your contacts with me, and go as far as you can in removing from his mind the charges in this I. C. C. report relating to my unfamiliarity with large financial problems.

I am also enclosing copy of letter that I wrote to Mr. Meyer myself on Saturday, that will serve to enlarge your viewpoint.

For your own information, will add that I have been a student of this railroad situation since Dr. Conan made his first Missouri-Pacific commitment in 1903, and more particularly since the roads' reorganization in 1917.

I put in the best part of two weeks listening to presentation of reorganization plans submitted by Van Sweringen interests, called Debtor Plan, and the First & Refunding Committee plan, and feel that it would not be for best interests of the

entire railroad situation to turn over management of our railroads to bond interests.

Sincerely,

[C. H. THORNTON.]

CHT:JC  
ENCS.

EXHIBIT No. PC-85

[Copy of letter from files of Charles H. Thornton-MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

MAY 14, 1936.

Mr. BALTHASAR MEYER,

*Member of the Interstate Commerce Commission,  
Washington, D. C.*

DEAR MR. MEYER: I am informed that Mr. Charles H. Thornton of Fond du Lac, Wisconsin has applied for authority to represent holders of certain securities of the Missouri-Pacific Railroad Company in reorganization proceedings. This board is the owner of the following Missouri-Pacific bonds that belong in the Teachers' Retirement Fund:

\$45,000, 5%, First & Refunding "A" due February 1, 1965.  
\$15,000, 5%, First & Refunding "F" due March 1, 1977.  
\$25,000, 5%, First & Refunding "G", due November 1, 1978.  
\$15,000, 5%, First & Refunding "I" due February 1, 1981.

We do not have any of the Junior securities.

The writer has known Mr. Thornton for several years, and has been associated with him in the reorganization of the Joint Stock Land Bank in Milwaukee, in which this board had a large interest. He has large interests in this State and in securities of Corporations all over the U. S., and I believe he would be a valuable addition to any committee that is authorized by the Interstate Commerce Commission.

Yours truly,

ALBERT TRATHEN,  
*Director of Investments.*

EXHIBIT No. PC-86

[Copy of letter in File No. 239, without title, of Vice-President—Law and Corporate Relations, Missouri Pacific R. R. Co.]

CLEVELAND, OHIO, May 13, 1936.

Mr. VAN SWERINGEN: Following is a summary of the report proposed by the Bureau of Finance in connection with the application of Charles H. Thornton, James M. Kemper and A. J. Sevin for an order authorizing them to serve as a Protective Committee for the holders of certain junior securities of Missouri Pacific Railroad Company:

After going over the circumstances of the situation and the qualifications of the individuals, the Examiner is of the opinion that Mr. Kemper may be well qualified to serve upon the committee by reason of his experience in banking matters, and that his advice may carry weight in shaping the policies of the committee. For these reasons, however, the Commission should have full information regarding the proposed activities of the committee, Kemper's purpose in becoming a member of the committee, and the interests sponsoring his membership on the committee.

The Examiner is further of the opinion that the testimony of Thornton and Sevin does not indicate that their business experience has been of such nature as to qualify them especially to carry on the activities of the committee.

In connection with Mr. Robert E. Smith, Secretary of the Committee; the report states that while Smith appears to have had experience in matters related to reorganization, and to possess qualifications which would aid in the direction

of the activities of a protective committee, it does not appear from the record that as Secretary he would be entitled to a vote in determining its policy.

The Examiner recommends that the Commission should take the view that in the administration of sub-section (p) of section 77 of the Bankruptcy Act, it is its duty not only to prevent and eliminate as far as may be, harmful activities on the part of protective committees, but also useless, unnecessary and unduly expensive efforts, to the end that for the good of the estate the cost of reorganization may be held within reasonable limits. The Examiner sets out that the proper function of a protective committee is not to waste the estate in contentious disagreement, but to strive to reach a fair agreement on the plan of reorganization with the other committee groups and individuals; and the obstacles to such an agreement are increased as the number of active, rival committees is increased; Further, that when application is made for authority to act as a soliciting committee, the applicants should not only show that nothing objectionable is intended, but should also make a convincing affirmative showing of the need of a committee to act in a responsible representative capacity; of the absence of any substantial conflict between the interests of those who will be solicited; and of high qualifications by the applicants for the office sought, commensurate with the magnitude and importance of the duties proposed to be undertaken. The Examiner believes that the applicants in this case have not made such a showing, and that the application accordingly should be denied.

[Typed] Wy.  
WILLIAM WYER.

CC—Mr. Herbert Fitzpatrick.

EXHIBIT No. PC-87

[Copy of letter from files of A. J. Sevin]

MAY 15, 1936.

Mr. LUTHER M. WALTER,  
1522 First National Bank Bldg., Chicago, Illinois.

MY DEAR LUTHER: Referring again to your letter of April 28 in connection with report and exhibits presented by the Stedman Committee on the Missouri Pacific system reorganization. I have discussed this matter again this morning with our President and Treasurer and now that there is not much prospect of our Protective Committee being permitted to function, it is a question with our Company as to just how much good money we may desire to send after bad.

In my opinion, it is quite likely that, regardless of the protective committee, you will probably represent considerable number of security owners vitally interested in this reorganization.

Will you please advise me promptly if this is correct, and also give me some idea of the cost involved, if we desire to have you include us in your representation.

In this connection it is likely you will be at White Sulphur next week which will give us an opportunity to discuss the matter further.

Kindest personal regards.

Sincerely yours,

[A. J. SEVIN.]  
General Traffic Manager.

S-M.

EXHIBIT No. PC-88

[Copy of letter from files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP,  
Chicago, May 13, 1936.

Mr. A. J. SEVIN,  
Pittsburgh Plate Glass Co.,  
Grant Building, Pittsburgh, Pa.

DEAR ADDIE: Thank you for your letter of the 15th inst. I regret very much that I will not be able to see you at White Sulphur. My plans were made to be there, but there is too much work to do. I go into the trial of a case tomorrow which will last until Wednesday or Thursday and then will get immediately to



work preparing exceptions to the proposed report on the Missouri Pacific protective committee case.

I shall be glad to enter my appearance as counsel for the Pittsburgh Plate Glass Company on the Missouri-Illinois phase of the case, and of course the cost to you will be whatever is satisfactory to you. My suggestion is that we let the matter run along. I will enter my appearance for your Company and do what I can to carry out the policies you may determine upon, and will render a bill which will be subject to approval by your people. You know you will have no trouble about that; it will be what your folks are perfectly willing to pay.

Yours very truly,

[Signed] LUTHER M. WALTER.

LMW:K.

EXHIBIT No. PC-89

[Copy of letter from files of A. J. Sevin]

MAY 29, 1936.

Mr. LUTHER M. WALTER,  
1522 First National Bank Building,  
Chicago, Illinois.

MY DEAR LUTHER: Acknowledging yours May 18 in connection with representing our Company in the Missouri Pacific reorganization hearing.

Your terms naturally should be quite satisfactory, but there are some other features I would like to discuss with you personally before deciding definitely what action we will take. I now expect to be in Chicago June 11 and 12 at the Palmer House, and hope that you will be there on one of these days in order that I might have a conference with you.

Kindest personal regards.

Sincerely yours,

[A. J. SEVIN.]  
General Traffic Manager.

S-M.

EXHIBIT No. PC-90

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

MAY 16, 1936.

Mr. OLIVER E. SWEET,  
Washington, D. C.

DEAR SIR: In my letter to you under date of May 15th, mention was made of the:

"utter futility of attempting to secure substantial cooperation from widely scattered owners of bonds or stocks in a proposed reorganization."

This thought was not sufficiently emphasized, and I may be wrong in coming to the conclusion that a large part of the \$78,000,000 of bonds that Mr. Stedman testified was on deposit with his committee, is made up largely of Insurance Company bonds, and it is possible that a large proportion of the bonds belong to Trust Funds at one time or another that looked to Insurance Companies for guidance.

Mr. Walker testified that the Northwestern Mutual Life Insurance Company owned \$8,210,000 par value of First and Refunding bonds, and \$2,450,000 St. Louis, Iron Mountain and Southern; in other words, Mr. Walker's committee represent more than 10% of the bonds that are on deposit with the Stedman Committee.

You have probably noticed newspaper dispatches making mention of shareholders of the Chicago, Milwaukee & St. Paul Railroad meeting in Milwaukee during the past week, and the meeting adjourned because they didn't even have proxies enough to constitute a quorum, and I don't want to face the task of circularizing 1000 of shareholders of Missouri-Pacific and getting few or no responses.

In 1931, I circularized owners of \$11,000,000 bonds of Bankers' Joint Stock Land Bank of Milwaukee with the proposal all to their advantage, and got one single inquiry. That discouraged me, and I went to work and put together a corporation known as the Bankers Farm Mortgage Company, which paid these \$11,000,000 bonds 40% of par.

I want to emphasize again that it is unfair and unjust to leave these \$125,000,000 of Junior Equities without a representation.

Very truly yours,

[C. H. THORNTON.]

CHT:JC.

EXHIBIT No. PC-91

[Copy of letter from the files of Luther Walter Counsel for Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad]

Mr. CHARLES H. THORNTON,  
*104 South Main Street, Fond du Lac, Wisconsin.*

MAY 17, 1936.

DEAR CHARLES: On my return from New York I went immediately to Omaha and am just back this morning. We have until May 29th to file our exceptions. I am going into the trial of a case in the morning which will last two or three days. Immediately thereafter I will prepare the exceptions and will want you and the other members of the committee to give me the benefit of your suggestions. Mr. Smith has given me some of his thoughts on the matter.

There is nothing to do at the Commission or in contact with the Commission until our exceptions are filed.

Senator Duffy spoke a good word to me\* for you.

While of course we are disappointed and perhaps a bit peeved in the way we have been pushed around in the way of delay, etc., nevertheless we should go through with the matter. I believe we will win out.

With kindest regards, I am,

Yours very truly,

[LUTHER M. WALTER.]

LMW:K.

[\*“To me” written in pencil.]

EXHIBIT No. PC-92

[Copy of letter from the files of E. S. Ballard, Special Counsel to the Debtor]

INTERSTATE COMMERCE COMMISSION.

*Washington, May 19, 1936.*

Finance Docket No. 9918

Mr. CHARLES H. THORNTON,  
*Fond du Lac, Wisconsin.*

DEAR SIR: I have received your letters of May 10th and 11th, 1936, with reference to the “Report Proposed by the Bureau of Finance” upon the application of yourself, James M. Kemper and A. J. Sevin, for authorization by the Commission to act as a protective committee for holders of certain junior securities of the Missouri-Pacific Railroad Company.

If you have information and data in addition to that which was presented at the hearing on the protective committee application, your counsel should be advised so that he may arrange to present it formally to the Bureau in appropriate manner. I assure you that Division 4 desires to be advised of all important facts relating to the matter in order that it may give them due consideration.

I wish to add that it is my understanding that you as an owner of securities of the Missouri-Pacific and as a trustee holding any of these securities have the right to appear, submit evidence, and be represented by counsel in the reorganization hearings and proceedings, regardless of the outcome of the application for creation of a protective committee. The same is true of Messrs. Kemper and Sevin.

Very truly yours,

B. H. MEYER, *Commissioner.*

EXHIBIT No. PC-93

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—“Miscellaneous Correspondence”]

MAY 20, 1936.

Mr. THOMAS BARDON,  
*Consolidated Copper Company, New York, N. Y.*

DEAR TOM: On second thought, I decided not to sent this enclosed letter until you did a little detective work for me.

It will be apparent to you after reading it, that I do not want the Stedman Committee to know what I am thinking about, and see if you can make some diplomatic inquiries as to how closely the Stedman Committee is working with this Brooks Organization.

This reorganization program has developed into a very nasty matter. Apparently it is their object to wipe out the Van Sweringen interest, lock, stock and barrel, and we poor outside nuts will have to suffer. See what you can do.

There is another line of thought about which you might secure some information for me. During the past eight or ten weeks, some very interesting articles have appeared in "Barrons" on railroads, written by Mr. Wiley. These articles fit into my ideas in a wonderful way, and if he is available, I would rather work with him.

Sincerely,

[C. H. THORNTON.]

CHT: JC  
ENCS.

EXHIBIT No. PC-94

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Committee—"Luther M. Walter Correspondence"]

MAY 20, 1936.

MR. LUTHER M. WALTERS,  
% Walters, Burchmore & Belnap, Attorneys at Law,  
1522 First National Bank Bldg., Chicago, Illinois.

DEAR WALTERS: I am wholly at a loss to formulate any ideas that would constitute an answer to document #9918, but the concluding paragraph on page 8 seems to me to leave them wide open for you to prepare an answer. For instance, they say:

"Should also make a convincing affirmative showing of the need of a committee to act in a responsible representative capacity."

If the Commission can't see the need of a committee to present the position of these Junior Equities that are wholly without representation, then it is to be doubted if any argument would have effect.

I don't quite get the meaning of this phrase, "of the absence of any substantial conflict between the interests of those who will be solicited."

It should be apparent to the Commission that there can be no conflict of interest between the shareholders of Missouri-Pacific and owners of the \$46,500,000 5½% Convertible notes, nor owners of the 12,000,000 serial notes secured by stock of the New Orleans, Gulf Coast & Mexico R'y railway.

The 5½% Convertibles are a direct obligation of the Missouri Pacific shareholders, and naturally, in liquidation, rank ahead of stock. When these notes were issued in 1929, they were purchased to something over 90% by owners of Missouri-Pacific stock, and there certainly exists a common interest between the two.

The 12¼ million of 5¼% serials are also an obligation of Missouri-Pacific shareholders, although secured by stock of New Orleans, Gulf Coast and Mexico Railroad.

In a forced liquidation the bonds would take the Gulf Coast stock and then be faced with liquidating open account debt of something over 12 million dollars owed by Gulf Coast to the Missouri-Pacific Railroad.

The Community of interest between these obligations and owners of Missouri-Pacific stock is so closely connected that they should not be refused representation in these reorganization hearings.

Another argument (if you can phrase it in diplomatic language) has to do with evidence disclosed at hearings that the Stedman Committees presentation seems to be directed wholly at Van Sweringen, and we owners of Missouri-Pacific stock will have to suffer, be wiped out, because of this ill will.

Sincerely,

[C. H. THORNTON.]

CHT: JC

P. S.—I am enclosing copy of a letter written to Mr. Meyer by my friend, Trathen, who is Director of Investments for the \$28,000,000 Annuity fund for Teachers, etc., for the State of Wisconsin. I think this letter of Trathen's will have as much, or more influence as Duffy's letter.

CHT

## EXHIBIT No. PC-95

[Extract from proposed report of Bureau of Finance of the I. C. C. in F. D. 9915]

The proper function of protective committees is not to waste the estate in contentious disagreement, but to strive to reach a fair agreement on the plan of reorganization with the other committee groups and individuals; and the obstacles to such an agreement are increased as the number of active rival committees is increased.

When application is made for authority to act as a soliciting committee, the applicants should not only show that nothing objectionable is intended, but should also make a convincing affirmative showing of the need of a committee to act in a responsible representative capacity; of the absence of any substantial conflict between the interests of those who will be solicited; and of the high qualifications by the applicants for the office sought, commensurate with the magnitude and importance of the duties proposed to be undertaken. The commission should find that the applicants herein have not made such a showing.

## EXHIBIT No. PC-96

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

Mr. LUTHER M. WALTER,

*% Walter, Burchmore & Belnap, 1522 First Nat'l. Bank,  
Chicago, Illinois.*

MAY 25, 1936.

DEAR WALTER: Repeating what I said in the short note I sent you last night, I would continue the affirmative right through to the finish, and even to the extent of emphasizing the lack of representation of these two bond issues.

There is no possible chance for a conflict of interest between these bond issues and the preferred and common stock.

Sincerely,

[C. H. THORNTON.]

CHT: JC  
ENC.

## EXHIBIT No. PC-97

[Copy of letter from files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP.  
*Chicago, May 22, 1936.*

Mr. A. J. SEVIN,

*Pittsburgh Plate Glass Company,  
Grant Building, Pittsburgh, Pa.*

DEAR MR. SEVIN: Here is a draft of the exceptions which I would like to have you examine and criticize. Let me have your suggestions by the early part of next week, as they must be filed in Washington not later than Friday.

Yours very truly,

[Signed] LUTHER M. WALTER.

(Encl.)  
LMW: K

## EXHIBIT No. PC-98

[Copy of letter from files of A. J. Sevin]

MAY 26, 1936.

Mr. LUTHER M. WALTER,

*1522 First National Bank Bldg., Chicago, Ill.*

MY DEAR MR. WALTER: Acknowledging yours of May 22nd, enclosing draft of exceptions in connection with the Missouri Pacific Protective Committee, you

certainly have covered the situation most thoroughly, and in all fairness to the owners of junior securities, do not see how the Commission can consistently refuse to take favorable action.

Sincerely yours,

[A. J. SEVIN]

General Traffic Manager.

S-G

EXHIBIT PC-99

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

MAY 23, 1936.

Mr. O. E. SWEET,

Interstate Commerce Commission, Washington, D. C.

DEAR MR. SWEET: In Chicago during the week, I discussed with Mr. Walters the framing of exceptions to the findings of the commission on the matter of our application for authority of a committee in the Missouri-Pacific Reorganization, and the same will be sent into Washington during the coming week.

If my letters to you carried the impression that I thought the Commission had any opinions at all on the merits or defects of the plans submitted, you have my apologies. On the contrary, I have formed the impression from the questions asked the several witnesses by Mr. Bardon and yourself that you were seeking all possible information that could be used in forming an intelligent opinion for submission to the Court.

I did not sit through all the hearings, but have read the reporters' minutes from start to finish, and feel that some matters effecting this situation were not brought out by Wyer's plan or the Stedman plan, and I do not feel like incurring our Conan Trust with the expenses attendant on presenting these matters to the Commission.

Very truly yours,

[C. H. THORNTON.]

CHT:JC

EXHIBIT No. PC-100

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

MAY 25, 1936.

Mr. JOHN S. WILEY,

% Barrons Weekly, New York, N. Y.

DEAR MR. WILEY: It has probably come to your attention that I was a petitioner to the Interstate Commerce Commission for authority to represent Junior Minority Equities in the proposed Missouri-Pacific Reorganization, and that this application was rejected by the Interstate Commerce Commission subject to our filing objections before May 29th. A brief has been filed presenting exceptions to the attitude of the Finance Committee of the Interstate Commerce Commission, and I really think the decision will be reversed, and authority for the Committee authorized.

I rather feel that this Missouri-Pacific situation presents to the Interstate Commerce Commission an opportunity of setting up a recapitalization program that will serve as a model for others now pending and probably others that will be brought up, but lack of time and statistical information prevents me from presenting these ideas in a way that will command attention.

Your stories in "Barrons Weekly" have, as you seem to hold in the background my own ideas, which are along the lines that a fair amount of railroad capitalization has vanished into thin air, never to come back.

My purpose in writing you today is to inquire if, and in the event this Committee is authorized, you would be free to give up some of your time in helping me to whip these ideas into shape.

Very truly yours,

[C. H. THORNTON.]

CHT:JC.

## EXHIBIT No. PC-101

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

MAY 23, 1936.

Mr. LUTHER M. WALTER,  
Walter, Burchmore & Belnap,  
1522 First Nat'l Bank Bldg., Chicago, Illinois.

DEAR WALTER: I am enclosing you letter to Mr. Sweet, and you can use it or not, as you see best. I am also enclosing letter from Mr. Higgin's Secretary, and the letter from Bortin is also enclosed.

I came in contact with this name, Bortin, through one Caswell in the statistical department of the Interstate Commerce Commission, but as stated over the 'phone, this man Wiley, who has been writing for "Barrons Weekly" for the past eight or ten weeks, seems to me to have a grasp of the railroad situation that fits into our picture in an ideal way.

I have a letter out to a personal friend in New York requesting that he contact Mr. Wiley and find out if his services are available.

Very truly yours,

[C. H. THORNTON.]

CHT: JC  
ENCS. 3

## EXHIBIT No. PC-102

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

MAY 29, 1936.

Mr. LUTHER M. WALTER,  
%Mayflower Hotel, Washington, D. C.

DEAR MR. WALTER: I have an impression that Mr. Sweet would welcome presentation of line of thought that would permit of the I. C. C. leaning away from the two plans that have been presented, and in the rough I have a plan that should appeal.

In asking you to look up this Bortin I particularly want to get what his line-up is at the present time with the I. C. C.

In a general way, I have an impression that a man like Mr. Sweet would not regard him too highly; at the same time, I can't overlook comments made by Mr. Caswell.

Mr. Bortin advised me that he will be in Milwaukee Thursday and Friday, and I suggest that you wire me what you find out about him.

Sincerely yours,

[C. H. THORNTON.]

CHT: JC

## EXHIBIT No. PC-103

[Copy of letter from the files of E. S. Ballard, Special Counsel to the Debtor]

R. M. BISSEL, President

HARTFORD FIRE INSURANCE COMPANY

Western Department

A. G. DUGAN, General Agent

[STAMPED:] B. L. F. & P. JUN 2 10 59 AM. By ESB.

JUNE 1st, 1936.

DEAR MR. BALLARD: I have some ideas on this M. P. matter and would prefer not to discuss them with Wyer.

If they are practical and I elaborate on them then I am in the position of saying that they are my own ideas alone.

If you are to be in Chicago on Wednesday send me a wire and I will come down.

Very truly yours,

[Signed] CHARLES H. THORNTON.

## EXHIBIT No. PC-104

[Copy of Western Union Day Letter from the files of E. S. Ballard, Special Counsel to the Debtor]

CHICAGO, ILLINOIS, June 2, 1936.

CHARLES H. THORNTON,  
104 South Main Street, Fond Du Lac, Wisconsin:

Reference your letter yesterday glad to see you here tomorrow afternoon unless I am required to go to Cleveland tonight Stop Shall wire further as to my plans by four thirty this afternoon your time.

E. S. BALLARD.

Charge: BUTLER, POPE, BALLARD & ELTING.  
Western Union Day Letter.  
Charge COMM 327  
esb eg

## EXHIBIT No. PC-105

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

JUNE 5, 1936.

Mr. LUTHER M. WALTER,  
% Walter, Burchmore & Belnap,  
1522 First National Bank Bldg., Chicago, Illinois.

DEAR MR. WALTER: I have been trying to get on paper the thoughts as in connection with this Missouri-Pacific matter, and I am enclosing you a rough draft of what looks to me could be whipped into shape, and carry some weight with the Commission.

Don't go to work and check up the arithmetic, as it and the thoughts I am putting on paper are all in the rough.

If the idea appeals to you, I have in mind going into Chicago, say, around the 15th or 16th and have you select for me some man that can help me whip the thing into shape.

In Chicago on Wednesday, I had a visit with Ballard, and told him what I was thinking about. It seemed to meet with his approval. He also told me that he had been looking over this 77D Act, and thought that the Court had authority to award compensation at the expense of the debtor to the individual or Concern, if services performed seemed warranted. However, regardless of that, I feel it would do our Conan Trust to present my views to the Commission.

Sincerely,

[C. H. THORNTON.]

CHT: JC  
ENC. 1

## EXHIBIT No. PC-106

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

JUNE 5, 1936.

Mr. LUTHER M. WALTER,  
% Walter, Burchmore & Belnap, 1522 First National Bank, Chicago, Illinois.

DEAR MR. WALTER: A copy of the enclosed letter is going to Mr. Bortin at Milwaukee, and you will observe that it is somewhat of a form letter.

Bortin's charges will be \$3,000 for the work of his office staff, and he will leave compensation for his own work to final findings of the Court.

I think he might be of some use to us if we had the time, but I am admitting a broader and wider grasp of this situation than anybody connected with it, outside of Wyer, and I am assembling some of my recent thoughts on paper, and will send them down to you Monday or Tuesday.

Sincerely yours,

[C. H. THORNTON.]

CHT: JC.

## EXHIBIT No. PC-107

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

JUNE 5, 1936.

MR. LUTHER M. WALTER,  
% Walter, Burchmore & Belnan,  
1522 First National Bank Bldg., Chicago, Illinois.

DEAR MR. WALTER: I had a visit with Mr. Bortin in Chicago on Wednesday, and I find that he has a very broad grasp of problems involved in the matter on which we are working, but I told him that in view of the uncertainties surrounding authorization for a Committee asked for, it would not be possible for me to make any commitment adding that on your return from Washington, you probably would be in a position to talk about what shape our future program would take.

He is going to Milwaukee, and will be back in Chicago late Saturday night. He is going from there to St. Louis, and may be reached at the Washington Hotel.

I gave him your house number in the event that he calls you on his way through Chicago.

Sincerely yours,

[C. H. THORNTON.]

CHT:JC

## EXHIBIT No. PC-108

[Copy of letter from the files of Luther Walter, Counsel for Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad]

HOTEL WISCONSIN,  
Milwaukee, Wisconsin, June 6, 1936.

MR. CHARLES H. THORNTON,  
104 S. Main Street, Fond du Lac, Wisconsin.

DEAR MR. THORNTON: I received your letter of the 5th inst., with copy of your letter to Mr. Walter, and appreciated your cordial expressions.

It will be about 11:00 o'clock when I reach Chicago this evening, which would be too late an hour for me to 'phone Mr. Walter, who will probably wish to rest after his trip from Washington.

In view of our clarifying conversation of last Wednesday, you can explain to Mr. Walter the nature and benefits of my services in preparing an equitable Re-Organization Plan. If he, or you, then desire that I come up to Chicago from St. Louis, I will be pleased to do so if you or he will write me % Washington Hotel, Kingshighway & Washington Avenue, either next Saturday or Monday, the 15th.

Very truly yours,

[Signed] HARRY BORTIN.

CC: Mr. Luther M. Walter, 1522 First Nat'l. Bank Bldg., Chicago, Illinois.

## EXHIBIT No. PC-109

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

JUNE 8, 1936.

MR. LUTHER M. WALTER,  
Walter, Burchmore & Belnan, Attorneys at Law,  
1522 First Nat'l Bank Bldg., Chicago, Illinois.

MY DEAR MR. WALTER: During the week that has elapsed, and without any word from Washington relative to authorization of the Committee we asked for, I have been going over the matter, and have come to the conclusion that it is far better for you and myself and the interest I represent, to make an appearance as an individual owner and Trustee for the Missouri-Pacific securities.

I think I wrote you that Mr. Ballard thought, from reading of the 77B Act, that the Federal Court had authority to recommend compensation to an appearance such as I propose, and for counsel in such an appearance.

If you are willing to go along and take the chances of securing compensation in that matter, I believe that we can make a much more forceful presentation to the Interstate Commerce Commission for consideration in formulating their find-



ings and incorporating them in a recommendation to the Court, than would be the case if we asked for authority to solicit cooperation from the widely scattered and unrepresented securities.

After writing you last week to secure somebody who could assist me in assembling and checking the data that I worked up, the thought occurred to me that my friend, Mr. Richard Wagner, President of the Chicago Corporation, had everything that I wanted, and wrote him asking if he would make the services of his staff available. I expect a reply in the morning, and if favorable, will plan on spending sufficient time in Chicago to whip this thing into shape.

I am enclosing you letter from Mr. Meyer under date of May 19th, and call your particular attention to paragraph 2, which has influenced me to arrive at the conclusion outlined above. A copy of this letter is also going to Mr. Ballard, and I want to say to you now, that the main purpose I have in mind in continuing work on this Missouri-Pacific matter, is to make a joke of the Stedman Committee, and I am confident of being able to do so.

Sincerely yours,

[C. H. THORNTON.]

CHT: JC  
ENC.1

EXHIBIT No. PC-110

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

JUNE 22, 1936.

MR. LUTHER M. WALTER,

% Walter, Burchmore & Belnap, 1522 First Nat'l. Bank Bldg.,  
Chicago, Illinois.

DEAR MR. WALTER: I was sorry that I couldn't have spent more time with you in New York and report on my visit with Wiley.

I find that his connections in financial New York are desirable, and he indicated his willingness to work with me, but we did not discuss terms, etc. I had a lot of data with me, and he was very keenly interested in it.

Coming through Chicago on Friday, I had a short visit with Ballard, and told him that I was contemplating a preparation of a plan that would be something of a compromise between the two plans now before the Interstate Commerce Commission, but it would be no small job, and I would not want to put the time in on it if I thought I would fail to make an impression on the I. C. C. He left me with the impression that something of that nature would be very desirable.

I have your letters of the 13th and 15th, and note that you discouraged Mr. Bortin. He failed to make any impression on me, also. About the transcripts, I have pages 1-1884, which is the complete record from February 4th to April 17th, inclusive. Unless you are going to use them right away, I would like to send them on to Wiley for a week or ten days.

Yours very truly,

C. H. THORNTON.

CHT: JC

P. S.—At lunch today, I picked up the current number of "Barrons" and find another story by Wiley of a considerable more hopeful nature than his previous stories, and wish you would pick it up at some news shop and read it over.

CHT

EXHIBIT No. PC-111

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

THOMAS BARDON

120 BROADWAY

NEW YORK, June 26, 1936.

MR. CHARLES H. THORNTON,

Fond du Lac, Wisconsin.

DEAR CHARLEY: I have been able to learn from a very reliable and well informed source something about Mr. John S. Wiley. I am informed that Mr. Wiley was

formerly in the security business but like many others of that occupation he has had very little to do in the last few years. He has written a few articles which have been published by Barron's Weekly, and while he has been paid for them the amount has been very small. His purpose in writing these articles is to establish himself as something of an authority on railroads and to get a little advertising. However, he has never been particularly connected with the railroad situation and has no reputation in that respect. Personally he is all right and bears a good reputation, but his knowledge of and standing in the railroad field are very small indeed.

If you wish to have some one assist you in this Missouri-Pacific matter who is thoroughly familiar with it and with the general railroad situation and who has been closely associated with the financial aspect of railroad affairs, I think there are others who are more competent and who have more standing than Mr. Wiley. I have learned nothing against Wiley except that he has no prestige in this respect.

Hoping that the foregoing will be of some value to you, I am,

Yours very sincerely,

THOMAS BARDON.

TB: MW

EXHIBIT No. PC-112

[Copy of letter from files of Charles H. Thornton—Mopac. Common Stockholders Committee—"Luther M. Walter Correspondence"]

JUNE 29, 1936.

Mr. LUTHER M. WALTER,

Walter, Burchmore and Belnap, 1522 First National Bank Bldg.,  
Chicago, Illinois.

DEAR WALTER: I am enclosing you copy of letter received from my friend, Tom Bardon of New York of whom I had made a request to investigate our Mr. Wiley. However, and even prior to receipt of your last letter, I had to come to the conclusion that we were competent to handle this job without any outside help, and I am making plans to go ahead, trusting that our work will make an impression, justifying the I. C. C. and the Court in compensating us for the service rendered.

Under separate cover I am sending you a preliminary draft of a plan that seems to me will afford the opportunity of the I. C. C. making a recommendation to the Court somewhere between the two plans now under consideration.

I have prepared statistical data that will justify them in recommending to the Court some material sacrifices on the part of the prior lien holders.

In looking over the testimony last week I find that Mr. Whyte used some of my figures in his testimony.

The sacrifices I propose on the part of the senior liens is the elimination of delinquent interest totalling about eighty million dollars.

One other thing I have in mind and want your approval before taking steps is to enlist the aid of a local attorney named Hanson, who is a partner of Senator Duffy.

Mr. Hanson has done a lot of work for me, and I have a very high regard for his ability to be of material assistance, which coupled with the fact that he is a partner of Senator Duffy, might carry some weight in Washington. You will remember that I have written you that Duffy was a student at the university under Mr. Meyer before his appointment to the I. C. C.

I am planning on going out to North Dakota about the 4th, and will be gone until the 10th, but could delay starting until the 5th or 6th, and if the views outlined above meet with your approval, suggest that you drive up here, and we will go over the whole situation with Duffy, who will be back from Philadelphia by the 4th.

With best wishes, I am

Sincerely yours,

[C. H. THORNTON.]

CHT: JC

## EXHIBIT No. PC-113

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders Committee—"Luther M. Walter Correspondence"]

WALTER, BURCHMORE AND BELNAP,  
July 1, 1936.

Mr. CHARLES H. THORNTON,  
104 South Main Street, Fond du Lac, Wisconsin.

DEAR CHARLES: Bob Smith came back this morning and tells me of his visit with you. As I understand it from him, the matter of employing additional counsel has been shelved for the time being. Some time before long I should like to sit down and talk things over in some detail with you.

I finally obtained the balance of the transcript from the reporters and sent it to you today by prepaid express.

Yours very truly,

[Signed] LUTHER M. WALTER.

LMW:K

## EXHIBIT No. PC-114

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

Mr. LUTHER M. WALTER,  
% Walter, Burchmore & Belnap,  
1522 First Nat'l. Bank Bldg., Chicago, Illinois.

JULY 6, 1936.

DEAR WALTER: I had a friend in Duluth named Thomson, and occasionally he received letters addressed, Thompson or Thompsen, so he had a card printed, saying:

"We spell it this way  
Thomson  
not  
Thompsen"

and if you object to the affix -s, here is an idea.

That last four volumes of testimony you sent supplies me with plenty of ammunition. Stedman occupies one entire volume, and if I can't make a joke of his whole story, then I haven't learned anything in the past six or nine months.

The Attorney, Kitchel, seems to have a good opinion of himself, but Ballard knows what he is going to think of before he begins to think. The assistant Attorney, Conroy, is a wash-out and ditto for Bourne.

The Attorneys representing Gulf Coast and I. G. N. I have not yet been able to size up, further than it would be interesting to know just what percentage of outstanding bonds they represent. I have an idea that they might be called "Chislers".

Here is my traveling program:

This week-end I am attending a small convention of Agricultural Credit Companies at Detroit Lakes, Minnesota. From there I will go to Duluth and spend a day or two with Higgins. From there I plan on going to Winnipeg and will probably go East to the top of Lake Nepigon (look it up on your map) and see how the progeny of the trout that I named ten years or more are getting along.

This will take the best part of the time up to the 20th, but if you can spare a few hours will run into Chicago between now and Saturday and map out our program.

The basis of my contention on this Missouri-Pacific matter means that bonds will have to forego collection of defaulted interest to July 1st, 1936.

Give this contention some thought along legal lines.

Yours very truly,

[C. H. THORNTON.]

CHT:JC

P. S.—In a general way I am planning on starting real work on this Missouri-Pacific matter in August and should do the job in Chicago where all statistical data will be available. Suggest that you have your staff locate a typist who knows arithmetic and then arrange to loan me a desk and a chair.

CHT

EXHIBIT No. PC-115

[From files of Robert E. Smith]

Reorganization plan for Missouri Pacific Railway System as of July 1, 1938, proposed by Charles H. Thornton, chairman of the committee in the interest of minority owners of preferred & common stock and holders of secured serial 5½% bonds and convertible 5½% bonds

	Security	Existing Securities as of June 30, 1936		Undisturbed Amount	10 Yr. Notes Secured by 50 Yr. 3½%		New Securities to be Exchanged for Existing Securities—General Convertible Income			2nd Preferred 6s Amount	Common Stock No Par
		Principal	Unpaid Interest		1½s	3½s	1st 3½s Amount	Sinking Fund 4s Amount	1st Preferred 6% Amount		
1	Missouri Pacific Railroad:										
2	Equipment Trust Certificates .....	\$10,560,000		\$10,560,000							
3	Divisional Mtgs. & Leased Line Securities:										
4	Pacific R. R. of Mo. All Series .....	10,608,000					\$2,651,500	\$2,651,500	\$5,303,000		
5	Missouri Pacific Ry. Co. Third 4s .....	3,828,000					957,000	957,000	1,914,000		
6	St. Louis, Iron Mountain & Southern (River & Gulf Div.) 4s .....	34,548,000					8,637,000	8,637,000	17,274,000		
7	Plaza Olive Building 6s .....	738,000					\$738,000				
8	Cairo & Thebes First 4s .....	1,699,000	\$90,635				849,500	849,500			
9	Central Branch Union Pacific First 4s .....	1,628,000	168,000				407,000	407,000	814,000		
10	Little Rock & Hot Springs Western First 4s .....	1,140,000	68,000					454,000	686,000		
11	Boonville, St. Louis & Southern First 6s .....	250,000	18,000				25,000	25,000	35,000		
		54,437,000	344,635								
12	Loans:										
13	Reconstruction Finance Corp. 6s .....	23,135,000	4,851,000								
14	Railroad Credit Corp. 1½s .....	3,440,000	165,000			\$3,805,000					
15	J. P. Morgan & Co. 6s .....	5,850,000	1,229,000				6,465,000				
		32,425,000	6,245,000								
16	First and Refunding 5s All Series .....	224,041,000	38,607,000					56,010,250	56,010,250	112,020,500	
17	General 4s .....	49,722,000	6,630,000							\$49,722,000	
18	Secured Serial 5½s .....	12,140,000	2,284,000								121,400
19	Convertible 5½s .....	45,493,000	9,174,000								454,930
20	Total Debt .....	428,818,000	63,284,635	10,560,000	3,805,000	33,168,000					
21	Stock:										

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RAILROADS AND HOLDING COMPANIES

22	Preferred 8% Cumulative.....	71,800,000								718,000	
23	Common.....	82,840,000								414,200	
24	<b>Grand Total Missouri Pacific R. R. Co.</b> .....	<b>883,468,000</b>	<b>63,284,635</b>	<b>10,560,000</b>	<b>3,605,000</b>	<b>33,168,000</b>					
25	<b>New Orleans, Tex. &amp; Mex. R. R. Co.:</b>										
26	Equipment Trust Certificates.....	1,086,000		1,086,000							
27	First Mortgage All Series.....	40,616,000	7,639,000			10,154,000	10,154,000	20,308,000			
28	Income 6s.....	2,354,000				588,500	588,500	1,177,000			
29	Missouri Pacific Debt.....	10,565,000	2,053,905							26,413	
30	Common Stock (10,269 Shares).....	15,000,000								37,500	
31	<b>Total New Orleans, Texas &amp; Mexico Railroad Co.</b> .....	<b>69,621,000</b>	<b>9,692,905</b>	<b>1,086,000</b>							
32	<b>International-Great Northern Railroad Co.:</b>										
33	Equipment Trust Certificates.....	1,342,000		1,342,000							
34	Railroad Credit Corporation Loan.....	473,000	19,000		492,000						
35	First Mortgage All Series.....	28,750,000	4,427,000			7,175,000	7,175,000	14,350,000			
36	Missouri Pacific Debt.....	2,847,000	434,855							7,118	
37	International-Great Northern Stock.....	7,500,000								7,000	
38	Adjustment 6s.....	17,000,000	6,078,000						8,800,000	85,000	
39	<b>Total International-Great Northern Railroad Co.</b> .....	<b>57,912,000</b>	<b>10,978,855</b>	<b>1,342,000</b>	<b>492,000</b>						
40	Missouri-Illinois R. R. Co. First 6s.....	2,622,000	61,000								
41	Missouri-Illinois R. R. Co. Stock.....	1,103,000						1,311,000			
42	<b>Missouri-Illinois System Total—Stock &amp; Bonds</b> .....	<b>3,725,000</b>	<b>61,000</b>								
43	Union Terminal Railway Co. 8% Notes, 1949 (\$28,000 due annually on principal until maturity).....	714,716,000	84,017,395	12,988,000	4,097,000	33,168,000					
44	Balance of Payment due Terminal Shares, Inc. on purchase price of securities of certain Missouri Terminals, including Union Terminal Railway Co.....	475,000		475,000							
45		16,137,296				4,000,000	4,000,000	8,137,296			
46	<b>Total Capitalization.....</b>	<b>731,328,296</b>	<b>84,017,395</b>	<b>13,463,000</b>	<b>4,097,000</b>	<b>33,168,000</b>	<b>91,454,750</b>	<b>93,210,750</b>	<b>182,018,706</b>	<b>58,222,000</b>	<b>1,871,561</b>
46	<b>Total Capitalization—Cumulative.....</b>				<b>17,560,000</b>	<b>60,728,000</b>	<b>142,182,750</b>	<b>235,402,500</b>	<b>417,421,206</b>	<b>476,643,296</b>	

[Stamped:] RECEIVED Aug. 12, 1936. 123 Liberty St., New York City.

## EXHIBIT No. PC-116

[Copy of report and order from the files of Protective Committee for Holders of Common Stock of the Mo. Pac. R. R., Robert E. Smith, sec.]

## INTERSTATE COMMERCE COMMISSION

Finance Docket No. 9918

## MISSOURI PACIFIC RAILROAD COMPANY REORGANIZATION

Submitted June 8, 1936. Decided July 17, 1936

Upon application of Charles H. Thornton, James M. Kemper, and A. J. Sevin as a protective committee, for authority to solicit authorization to represent and to represent the holders of certain junior securities of the Missouri Pacific Railroad Company, in proceedings for reorganization of that company, authority granted upon stated conditions to solicit such authorizations from, and to act pursuant thereto in the interests of, holders of either the common stock or preferred stock of that company, whichever the committee may elect.

*Luther M. Walter* for applicants.

*Eugene J. Conroy* for Protective Committee for Missouri Pacific Railroad Company first and refunding mortgage bonds.

*C. C. McChord* for Reconstruction Finance Corporation.

## REPORT OF THE COMMISSION

## DIVISION 4, COMMISSIONERS MEYER, PORTER, AND MAHAFFIE BY DIVISION 4:

Exceptions to the report proposed by our Bureau of Finance were filed by the applicants. Our conclusions differ from those of the Bureau of Finance.

The Missouri Pacific Railroad Company, New Orleans, Texas & Mexico Railway Company, International-Great Northern Railroad Company, Missouri Pacific Railroad Corporation in Nebraska, The Beaumont, Sour Lake & Western Railway Company, the St. Louis, Brownsville & Mexico Railway Company, San Antonio, Uvalde & Gulf Railroad Company, Houston North Shore Railway Company, Missouri Illinois Railroad Company, and Boonville, St. Louis and Southern Railway Company filed petitions in the District Court of the United States for the Eastern District of Missouri, Eastern Division, seeking to reorganize under the terms and provisions of section 77 of the act of July 1, 1898, entitled "An Act to Establish a Uniform System of Bankruptcy Throughout the United States", as amended. The court, on March 31, May 2, June 30, 1933, and June 5, 1936, approved the petitions as properly filed. Three of the debtors, the Missouri Pacific Railroad Company, the New Orleans, Texas & Mexico Railway Company, and the International-Great Northern Railroad Company, have filed a plan of reorganization for the Missouri Pacific system with the court and with us, pursuant to the provisions of the act. A plan of reorganization also has been filed by the protective committee for holders of Missouri Pacific first and refunding mortgage 5-percent gold bonds. A public hearing upon these plans was held by us in February, and in April, 1936, and will resume on September 22, 1936.

Charles H. Thornton, James M. Kemper, and A. J. Sevin, on December 3, 1935, filed with us an application pursuant to subsection (p) of section 77 of the Bankruptcy Act, for an order authorizing them, as a protective committee for the holders of certain junior securities of the Missouri Pacific Railroad Company, debtor to solicit authorizations to represent holders of such securities in the reorganization proceedings or in any matters relating to such proceedings and to use, employ, or act under or pursuant to any such authorizations. The Missouri Pacific Railroad Company securities, the holders of which the Committee proposes to solicit and represent, are the 20-year 5½-percent convertible gold bonds, series A, of 1949, outstanding in the amount of \$46,392,000; 5¼-percent secured serial gold bonds, of which \$12,140,000 is outstanding; the convertible 5-percent cumulative \$100, par value, preferred stock, of which 718,001 shares are outstanding; and the \$100, par value, common stock, of which 828,395 shares are outstanding. As required by the provisions of the Bankruptcy Act, a hearing on the application was held on December 27, 1935, and adjourned hearings on February 3, and March 26, 1936.

The applicants state that while the committee at present is composed of only three members, authority is desired to increase the membership to five with

full power of substitution or change in personnel of the committee from time to time, subject to our approval. The applicants further state that they intend to seek authorizations from holders of the above junior securities by mail, telephone, or telegraph, but that no advertising is contemplated at present.

Whether there will be personal solicitation will depend upon the results of the other efforts. No estimate of the expenses can be made at the present time. Counsel stated at the hearing that holders of the securities to be represented might be asked later for small voluntary contributions. It is not proposed that there be a deposit of securities with the committee, a form of authorization attached to the application stating that while authority is sought to represent the holders of the above securities at the hearings and proceedings before us and any other tribunal, on the debtors' reorganization plan, the committee will not be empowered to accept or reject any plan of reorganization which may be approved by us or by the court, or, without written consent to vote the shares of stock to be represented. The form of authorization also states that it is expressly understood that the authorization shall not bind the owner of securities to assume any expense now or hereafter incurred in connection with the proceedings.

Kemper, who did not appear or testify at the hearings, has filed an affidavit in which the states that he knows of no interest, direct or indirect, touching upon his qualification as a member of the protective committee, which in any way has any bearing, direct or indirect, upon his qualifications as such member other than as stated in his application. The application shows that he is secretary and director of the Kemper Investment Company, which owns 1,000 shares of the common and 1,000 shares of the preferred stock of the Missouri Pacific Railroad Company. The application shows that Kemper, is president of the Commerce Trust Company of Kansas City, Mo., which owns \$5,000 of Missouri Pacific Railroad Company first and refunding mortgage 5-percent bonds of 1980, \$105,000 of bonds issued under the same mortgage maturing in 1981, and \$100,000 of St. Louis, Iron Mountain & Southern Railway Company—River & Gulf divisions first-mortgage 4-percent bonds of 1933. This protective committee does not propose to represent any of these three bond issues.

Thornton, whose residence is in Fond du Lac, Wis., is not engaged in any particular business, although he has many interests. He is one of three trustees under a trust which includes in its holdings 3,000 shares of Missouri Pacific Railroad Company common stock, 1,206 shares of the preferred stock, and \$150,000 of general mortgage bonds. Thornton individually owns 1,000 shares of the common and 500 shares of the preferred stock and, jointly with a business associate, \$50,000 of the first and refunding 5 percent bonds of 1977.

Sevin is a resident of Pittsburgh, Pa., and is general traffic manager of the Pittsburgh Plate Glass Company, having been connected with that company for the last 37 years. The company's plants at Crystal City, Mo., are located upon the line of the Missouri-Illinois Railroad Company which is one of the ten debtor companies in this reorganization proceeding. The Pittsburgh Plate Glass Company owns 14 percent and the Missouri Pacific Railroad Company 51 percent of the capital stock of the Missouri-Illinois Railroad Company, Sevin being one of the directors of the latter.

The Pittsburgh Plate Glass Company also owns 2,000 shares of the preferred stock of the Missouri Pacific Railroad Company. Sevin states that, except as above set forth and except for the fact that his company sells material and supplies to the railroad company, neither he nor any of his affiliated interests have any interest in the Missouri Pacific Railroad Company or its affiliated interests.

The committee has appointed a secretary, Robert E. Smith of Portland, Oreg., who also testified at the hearings. He is chairman of the Conference of Western Owners of Property and Investments. It appears from the record that the idea of the formation of this protective committee originated with Smith and his associates and that they have been most active in its formation. He and his counsel appear to have selected the three committee members after examination of lists of stockholders and creditors at the office of the Missouri Pacific in Cleveland, and discussion with executives of the company. He spoke to the latter concerning representation by the protective committee of the Allegheny Corporation, owner of 522,900 of the 828,395 outstanding shares of common stock, 194,100 of the 718,001 outstanding shares of the preferred stock, and \$11,152,000 of the 5½ percent convertible gold bonds of 1949, of the Missouri Pacific Railroad Company; and he testified that he does not expect authorization to represent that corporation. Missouri Pacific officers declined to suggest

any one as the Allegheny Corporation's representative on the proposed protective committee.

The organization of which Smith is chairman is the outgrowth of several predecessor and contemporary organizations. The purposes for which it is maintained and its activities have not been stated fully in the record before us. Smith testified that he and his associates have considered that junior security holders and stockholders are not adequately represented in many instances in which their interests are affected by legislation and judicial reorganization of corporations and that his selection of Missouri Pacific security holders needing committee representation and the determination to form a committee to act in the Missouri Pacific reorganization were prompted by the desire to be of service to interests not otherwise represented.

In our opinion representation by the committee of the holders of both stocks and bonds, in accordance with the authority requested in its application, might involve a conflict of interest which would be objectionable to some of the security holders and embarrass the committee in the performance of its functions as such. Counsel for the applicants stated at the hearing that if, in the opinion of the Commission, such a conflict of interest existed, the applicants would willingly accept authorization to represent only the preferred and common stockholders. It is doubtful that such an arrangement would eliminate the possibility of conflict, since the two classes of stockholders have been placed in separate classes by the court.

#### *Rules and Regulations*

Subsection (p) section 77 of the act empowers the Commission to make such rules and regulations respecting such solicitation, use, employment, or action and with respect to the terms and the provisions of such proxies, authorizations, and deposit agreements, as may be subject to its jurisdiction, and with respect to such other matters in connection with the administration of such subsection as it deems necessary or desirable to promote the public interest, and to insure proper practices in the representation of creditors and stockholders through the use of such proxies, authorizations, or deposit agreements and in the solicitation thereof. We shall hereafter promulgate such general or special rules and regulations pursuant to this provision as may to us seem necessary and appropriate.

#### *Conclusions*

We conclude:

That the application of Charles H. Thornton, James M. Kemper, and A. J. Sevin, as a protective committee for holders of Missouri Pacific Railroad Company 20-year 5½ percent convertible gold bonds, series A, of 1949, 5¼-percent secured serial gold bonds, convertible 5-percent cumulative preferred stock and common stock, for authority to solicit authorizations to represent holders of such securities in the reorganization proceedings of that company and to use, employ, or act under or pursuant to any such authorizations, should be approved in respect of authority to solicit authorizations from holders of either the preferred or common stock, and to use, employ, or act under or pursuant to such authorizations; such approval to be subject to the following conditions:

1. That before the committee shall act pursuant to this authorization it shall notify us in writing of its election in respect of the issue of stock, the holders of which it desires to represent;

2. That all changes in membership of the protective committee, including the number of members and the addition or substitution of new members shall be subject to our approval;

3. That all activities of the committee pursuant to authorization granted by us shall conform and be subject to any rules and regulations with respect thereto which we may hereafter promulgate; and

4. That, unless and until we otherwise direct, the committee shall keep minutes of all of its proceedings and records of all actions taken, of moneys received and disbursed, and of all obligations entered into by it, and report in detail thereon to us on the first day of each month.

An appropriate order will be entered.



## ORDER

At a Session of the INTERSTATE COMMERCE COMMISSION, Division 4, held at its office in Washington, D. C., on the 17th day of July A. D. 1936.

Finance Docket No. 9918

## MISSOURI PACIFIC RAILROAD COMPANY REORGANIZATION

Investigation of the matters and things involved in the application in this proceeding having been made, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is ordered, That the application of Charles H. Thornton, James M. Kemper, and A. J. Sevin, as a protective committee for holders of Missouri Pacific Railroad Company 20-year 5½ percent convertible gold bonds, Series A, of 1949, 5¼-percent secured serial gold bonds, convertible 5-percent cumulative preferred stock and common stock, for authority to solicit authorizations to represent holders of said securities in the reorganization proceedings of said company and to use, employ, or act under or pursuant to any such authorizations, be, and it is hereby approved in respect of authority to solicit authorizations from holders of either preferred stock or common stock only and to use, employ, or act under or pursuant to said authorizations, subject, however, to the following conditions:

1. That, before the said protective committee shall act pursuant to this authorization it shall notify this Commission in writing of its election in respect of the issue of stock, the holders of which it desires to represent;

2. That all changes in membership of the protective committee, including the number of members and the addition or substitution of new members shall be subject to the approval of this Commission;

3. That all activities of the said protective committee pursuant to authorization granted by this Commission shall conform and be subject to any rules and regulations hereafter promulgated by the Commission with respect thereto; and

4. That unless and until this Commission otherwise directs, the said protective committee shall keep minutes of all of its proceedings and records of all actions taken, of all moneys received and disbursed, and of all obligations entered into by it, and report in detail thereon to this Commission on the first day of each month.

By the Commission, division 4.

[SEAL]

GEORGE B. MCGINTY, *Secretary.*

## E. ACTIVITIES OF COMMITTEE

## EXHIBIT No. PC-117

[Copy of minutes in files of Protective Committee for Holders of Common Stock of the Mo. Pac. RR., Robert E. Smith, sec.]

[Pencil notation:] Corrected Copy by LMW. & ICC—7-30-36.

MINUTES OF MEETING OF PROTECTIVE COMMITTEE FOR HOLDERS OF COMMON STOCK OF MISSOURI PACIFIC RAILROAD COMPANY HELD AT 1522 FIRST NATIONAL BANK BUILDING, CHICAGO, ILLINOIS, JULY 25, 1936

PRESENT: Charles H. Thornton, James M. Kemper and A. J. Sevin: also Luther M. Walter, as counsel, and Robert E. Smith, as secretary, Charles H. Thornton, Chairman, presiding

Report and order of the Interstate Commerce Commission of July 17, 1936, in Finance Docket No. 9918, was read by the Secretary and upon motion by Mr. Kemper, seconded by Mr. Sevin and unanimously carried, same was ordered to be included in the minutes of this meeting.

After discussion of the report the following motion was made by Mr. Kemper, seconded by Mr. Sevin, and unanimously adopted:

"WHEREAS. In the report and order of the Interstate Commerce Commission of its session of July 17, 1936, in respect to Finance Docket No. 9918, this Committee is authorized to solicit authorizations to represent either the

common or preferred stockholders and is instructed to elect which issue of stock it desires so to solicit and represent, ~~THEREFORE, BE IT~~

**RESOLVED**, That the Committee elects to solicit and represent the holders of the common stock only; and be it further

**RESOLVED**, that the secretary be and is hereby instructed to transmit a certified copy of this resolution to the said Commission."

The following motion was made by Mr. Kemper, seconded by Mr. Sevin, and unanimously adopted:

"**WHEREAS**, The Interstate Commerce Commission has granted authority to this Committee to solicit authorizations to represent either the holders of common or preferred stock of the Missouri Pacific Railroad Company in its reorganization proceedings, and the Committee has elected to represent the common stockholders; and

**WHEREAS**, such authorization is granted by the Commission subject to the following conditions:

"That all changes in membership of the protective committee, including the number of members and the addition or substitution of new members shall be subject to the approval of this Commission:

That all activities of the said protective committee pursuant to authorization granted by this Commission shall conform and be subject to any rules and regulations hereafter promulgated by the Commission with respect thereto; and

That unless and until this Commission otherwise directs, the said protective committee shall keep minutes of all of its proceedings and records of all actions taken, of all moneys received and disbursed, and of all obligations entered into by it, and report in detail thereon to this Commission on the first day of each month."

**THEREFORE, BE IT RESOLVED**, That the Committee accepts such conditions and agrees to abide by and act under the same and its secretary is hereby instructed to keep minutes of all meetings had and a record of all moneys received and disbursed and of all obligations entered into by it and is further instructed to report the same in detail to the Commission on the first day of each month.

**BE IT FURTHER RESOLVED**, That the Secretary transmit a certified copy of this resolution to the Commission."

Report of a meeting of the Committee held at Washington, D. C., on February 2, 1936, was read by the Secretary and the following resolution was made by Mr. Sevin, seconded by Mr. Kemper and unanimously adopted:

"**WHEREAS**, prior to approval of the Commission, viz: on February 2, 1936, in the City of Washington, D. C., this Committee elected Charles H. Thornton its Chairman, Luther M. Walter its solicitor and counsel, and Robert E. Smith its secretary and technical advisor; Now, ~~THEREFORE~~, be it

**RESOLVED**, that such action is ratified and approved as a permanent organization."

Counsel then suggested that a Vice-Chairman and Treasurer be elected and that by-laws be adopted. After discussion, upon motion of Mr. Kemper, seconded by Mr. Thornton, Mr. A. J. Sevin was elected Vice-Chairman.

Upon motion of Mr. Sevin, seconded by Mr. Kemper, Mr. Charles H. Thornton was elected Treasurer.

The following motion was made by Mr. Sevin, seconded by Mr. Kemper and unanimously carried:

"**BE IT RESOLVED**, That the treasurer shall be the custodian of all moneys belonging to or coming into the possession of this committee and same shall be accounted for by him to the Committee; that such sums shall be disbursed by the treasurer upon itemized bills certified and approved by the secretary and a complete detailed statement of such expenditures shall be prepared and rendered by the secretary to the members of the Committee and to the Interstate Commerce Commission on the first day of each month and said expenditures shall be approved or rejected by the Committee at the next meeting subsequent to such expenditures; Provided, however, that no single expenditure be made or obligation incurred exceeding \$100.00 without first receiving approval of a majority of the Committee."

The question of financing the activities of the Committee was discussed. It was impossible satisfactorily to estimate such expenses for these reasons:

The duration of the reorganization proceedings is problematical; the Committee is undecided as to the necessity of preparing and submitting its own plan of reorganization; the response to Committee request for voluntary subscription for the carrying on of its work cannot be estimated; it is impossible to determine what, if any, personal solicitation shall be necessary. Following such discussion the following motion was made by Mr. Sevin, seconded by Mr. Kemper and unanimously adopted:

**"Be It RESOLVED:** That in the letters of transmittal which accompany requests for authorizations there be included a request for voluntary subscriptions of not to exceed ten (10) cents per share, of which two (2) cents per share shall be payable forthwith and the balance subject to call by the Committee, but not more than two (2) cents per share shall be called by the Committee during any six month period."

The following resolution, offered by Mr. Kemper and seconded by Mr. Sevin, was adopted:

**"Be It RESOLVED** that no member of this Committee shall receive any fee or compensation from any moneys received from the voluntary contributions which this Committee may receive, such compensations to be determined by the Court as provided by law."

Discussion was had with Luther M. Walter, counsel for the Committee, and with Robert E. Smith, its secretary, in respect to their compensations, and each agreed that he would ask for no compensation other than that allowed by the Court for their respective services; in the case of Robert E. Smith, the agreement includes his services for collecting data necessary or convenient to the Committee in forming its decisions on matters relating to the reorganization, for his services as financial and technical advisor to the Committee, and for all services connected therewith. The said Mr. Walter and Mr. Smith agreed that they would look to the Committee for no advances or reimbursement other than for actual and necessary out-of-pocket expenses incurred.

Following such discussion counsel was instructed to prepare appropriate contracts covering the above and submit same to the Committee at its next meeting.

The following motion was made by Mr. Sevin, seconded by Mr. Kemper and unanimously adopted:

"The secretary is hereby instructed to secure from the common-stock register of the Missouri Pacific Railroad Company a complete list of the names and addresses of the stockholders as same appear of record and when the draft of authorization, letter of transmittal and blank for voluntary contributions are approved by counsel, to transmit same by mail to each common stockholder of record. Where the secretary shall find that substantial amounts of stock are registered under the name of a broker or trustee, he is authorized to furnish such broker or trustee an adequate supply of the forms mentioned above if in his opinion the said broker or trustee will transmit same to the stockholders for whom they are acting. This provision shall in no way abrogate or limit such rights as the committee may have by statute, to demand from said broker and trustees the names and addresses of the real owners of such stock. The secretary is authorized to incur such expense as may be necessary to carry out the purposes of this motion, including correspondence with the common stockholders and others in relation to Missouri Pacific Railroad Company matters, to advance his own funds therefor and submit receipted bills to the treasurer for reimbursement."

The secretary submitted a form of proposed letter to holders of common stock soliciting authorizations reading as follows:

*"To Holders of Common Stock of Missouri Pacific Railroad Company:*

"The Missouri Pacific Railroad Company has filed petition in the District Court of the United States seeking to reorganize under Section 77 of the Bankruptcy Act. The Court has approved the petition and two plans of reorganization have been filed with the Interstate Commerce Commission.

"Public hearings on these plans were held by the Interstate Commerce Commission in February and April, 1936, and hearings will be resumed on September 22, 1936.

"On July 17, 1936, the Interstate Commerce Commission granted the undersigned Committee permission to solicit the common stockholders of the Missouri Pacific Railroad Company for authority to represent them in these proceedings subject to the following conditions:

"That all changes in membership of the Protective Committee, including the number of members and the addition or substitution of new members shall be subject to the approval of this Commission;

"That all activities of the said Protective Committee pursuant to authorization granted by this Commission shall conform and be subject to any rules and regulations hereafter promulgated by the Commission with respect thereto; and

"That unless and until this Commission otherwise directs, the said protective committee shall keep minutes of all its proceedings and records of all actions taken, of all moneys received and disbursed, and of all obligations entered into by it, and report in detail thereon to this Commission on the first day of each month."

"In pursuance to said Commission authority we are enclosing a form of authorization which, when signed by you, will permit this Committee to represent you. Under the authorization this Committee will take appropriate steps in pending proceedings, so far as is in its power, to protect your investment in the common stock of the Missouri Pacific Railroad Company. It will, in your name and in the name of all those signing similar authorizations, enter its appearance in the pending proceedings and present such facts and argument as may be pertinent to prevent other parties from obtaining an unfair advantage over the common stockholders in any plan of reorganization considered by the Court or the Commission to the end that your investment is not destroyed or unduly impaired. After the plan is adopted the Committee will make a report to you recommending what action you should take on the matter of approval or rejection of the plan.

"Please note particularly these provisions in the form of authorization which have been included for your protection:

"1. No deposit of your stock is required or permitted.

"2. No lien can be imposed upon your stock and consequently the signing of this authorization by you cannot adversely affect the market position of your stock.

"3. No financial obligation whatsoever, either direct or indirect, accrues from your signing this authorization.

"4. The authorization is in no sense a proxy; it does not give the Committee the right to vote your stock for or against any plan. That right is expressly reserved to you. The Committee will, however, advise you of any plan which is recommended by the Commission and give you its views on same.

"In addition to the form of authorization mentioned above there is enclosed a blank providing for a voluntary contribution toward the expenses of the Committee. Such contribution is entirely optional with you. It is not necessary that you make a voluntary contribution if you sign the authorization. In this connection please be advised that under appropriate resolution of the Committee on file with the Interstate Commerce Commission, such voluntary contributions can be used only for postage printing, stationery, clerical hire, advertising, traveling and similar expenses. By agreement, no salary, fees or compensation whatsoever can be paid to any member of the Committee, its secretary or counsel out of these voluntary contributions, such compensation to come exclusively from allowances made by the Court and not payable from said voluntary contributions, but payable out of the general assets of the corporation.

"As to the affiliations of the Committee, Chairman Thornton is a trustee of the Conan Estate of Fond du Lac, Wisconsin, which is the holder of 3,000 common shares and Mr. Thornton is the holder of 1,000 common shares of the Missouri Pacific Railroad Company.

"Mr. A. J. Sevin is General Traffic Manager of the Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania, which is the holder of 3,150 shares of the common stock of Missouri and Illinois Railroad Co., a subsidiary of the Missouri Pacific Railroad Company.

"Mr. James M. Kemper is President of Commerce Trust Company of Kansas City, Missouri, and is secretary and director of Kemper Investment Co., which is the holder of 1,000 shares of the common stock of the Missouri Pacific Railroad Company.

"As stated above, two plans of reorganization of the Missouri Pacific Railroad Company have been submitted to the Commission. The Committee is of the opinion that both are unfair to the common stockholders. Particularly is this true of the plan submitted by the Committee representing the first and refunding mortgage bondholders whose plan will destroy all present or

future value of the common stock. In fact, that Committee has filed a motion with the Interstate Commerce Commission that it declare the common stock to be of no value.

"As a substantial amount of data must be assembled before the resumption of hearings on September 22, the Committee urges that you sign both the authorization and voluntary contribution blanks and mail same at an early date. Those making voluntary contribution will be supplied with progress reports on the reorganization and its hearings.

"Yours truly,

"PROTECTIVE COMMITTEE FOR THE HOLDERS OF COMMON  
STOCK OF THE MISSOURI PACIFIC RAILROAD COMPANY.

"By CHARLES H. THORNTON,  
"Chairman."

The secretary then submitted a form of proposed authorization by holders of common stock to the Committee, reading as follows:

"To Charles H. Thornton,  
James M. Kemper,  
A. J. Sevin,

Protective Committee for Holders of Common Stock of Missouri Pacific  
Railroad Company

GENTLEMEN: You are authorized (acting by a majority with full power of substitution or addition), through such agents, attorneys, or representatives as your Committee may designate, to represent the undersigned as a holder of common stock of the Missouri Pacific Railroad Company in the proceedings for the reorganization of the Missouri Pacific Railroad Company; New Orleans, Texas & Mexico Railway Company; and International Great Northern Railroad Company, now pending in the District Court of the United States for the Eastern Division of the Eastern District of Missouri, and in Finance Dockets 9918, 9918 Sub-No. 1 and Sub-No. 2, now pending before the Interstate Commerce Commission, and any and all other proceedings that may be brought before the Interstate Commerce Commission or any other tribunal having appropriate jurisdiction to consider or determine the plan of reorganization of such debtor companies under the Bankruptcy Act, and in any and all such proceedings and hearings you are hereby authorized to act with the same force and effect as I could do if personally present or if represented by attorney.

It is expressly understood that this authorization does not empower you to accept or reject any plan of reorganization that may be approved by the Court or the Commission, or to vote the shares of stock now owned by me in any other proceeding or matter, at any stockholders' meeting, without my written assent.

It is further expressly understood that this authorization does not bind me to assume any expense now or hereafter incurred in connection with the proceedings referred to.

It is also expressly understood that this authorization may be cancelled by the undersigned at any time upon thirty days notice to the secretary of the committee.

The undersigned will notify the secretary of the Committee of any change in the amount of his holdings of common stock of the Missouri Pacific Railroad Company.

I hold \_\_\_\_\_ shares of common stock of the Missouri Pacific Railroad Company.

Yours very truly,

[SEAL]

Address.

Dated \_\_\_\_\_"

The secretary then submitted a form of proposed contribution blank reading as follows:

"To Charles H. Thornton, Chairman, Protective Committee for Common Stockholders of the Missouri Pacific Railroad Company.

DEAR SIR: The undersigned will contribute his pro rata of the expenses of your Committee under the following restrictions: 1st, 2 cents per share to be payable at this time; 2nd, total contributions shall not exceed 10 cents per

share and not more than 2 cents per share shall be called by your Committee during any six months period.

Signed \_\_\_\_\_  
Address \_\_\_\_\_

Number of shares \_\_\_\_\_  
Check for \$ \_\_\_\_\_ enclosed.

CHECK SHOULD BE MADE PAYABLE TO CHARLES H. THORNTON, CHAIRMAN, AND SENT TO \_\_\_\_\_ NEW YORK CITY, N. Y."

Upon motion of Mr. Sevin, seconded by Mr. Kemper, the proposed forms of letter, authorization and contribution blank were approved with the proviso that same should be submitted to the Interstate Commerce Commission and if any changes in their text, or provisions, or phrasing were suggested by the Commission, or by the Committee counsel, the secretary was authorized to make such changes.

The following by-laws were adopted:

The officers of the Committee shall be Chairman, Vice-chairman, Treasurer and Secretary. Each officer shall be elected to hold office until his successor shall have been elected and shall have qualified, or until his death, or until he shall resign or shall have been removed by a majority vote of all of the members of the Committee, or by the Interstate Commerce Commission. A member of the Committee may hold more than one office.

*Chairman:* The Chairman shall be the principal executive officer of the Committee. He shall preside at all meetings of the Committee and with the Secretary or other proper officer shall sign, or behalf of the Committee, such contracts or other instruments as the Committee has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Committee or by these by-laws to some other officer or agent of the Committee, or shall be required by the Interstate Commerce Commission or by law to be otherwise signed and executed; and in general shall perform all duties incident to the office of Chairman and such other duties as may be prescribed by the Committee from time to time.

*Vice-Chairman:* In the absence of the Chairman, or in the event of his inability or refusal to act, the Vice-Chairman shall perform the duties of Chairman and when so acting shall have all the powers of and be subject to all the restrictions upon the Chairman. He shall also perform such other duties as from time to time may be assigned to him by the Chairman or by the Committee.

*Treasurer:* The Treasurer shall have charge and custody of and be responsible for all funds and securities of the Committee, receive and give receipts for moneys due and payable to the Committee from whatever source whatsoever and deposit such moneys in the name of the Committee in such banks or trust companies as he, with the approval of the Committee shall designate and in general shall perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the Chairman or by the Committee.

*Secretary:* The Secretary shall keep the minutes of the Committee meetings in a book provided for that purpose, see that all notices are duly given in accordance with the instructions of the Committee, be custodian of the Committee's records, keep a register of the names and addresses of all holders of common stock of the Missouri Pacific Railroad Company, so far as he may be able to secure same, as well as a register of all holders of said stock who have authorized the Committee to represent them, showing the number of shares held by each common stockholder; to sign with the Chairman such contracts and other instruments as the Committee has authorized to be executed and in general to perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the Chairman or by the Committee, including the acting as technical advisor to the Committee and its counsel in this reorganization proceeding, the preparation of data relating to the reorganization of the Missouri Pacific Railroad Company and its subsidiaries, and presenting same in this reorganization proceeding.

*Quorum:* A majority of all members of the Committee shall constitute a quorum.

It was moved by Mr. Kemper, seconded by Mr. Sevin and unanimously approved that two additional members be added to the Committee; that the Chairman and Secretary be instructed to canvass the list of common share-holders and recommend to the Committee the names of several employe stockholders who truly represent the worker shareholders, together with their other qualifications, and that

one of the additional members be selected from said list; that the Chairman and Secretary follow a similar procedure with respect to share-holders who reside in the eastern states and, when the final selections have been determined upon by the Committee, to make application to the Interstate Commerce Commission for its approval or rejection.

Upon motion, recess was taken at 12:30 for lunch, to reconvene at 1:30.

Committee reconvened at 1:30 P. M., July 25, 1936.

General discussion of the Debtors' Plan and the Stedman Committee plan was had. Statement of relative maintenance expenditures by Debtor corporation as compared with those of similar railroads in similar territory was presented and discussed. The Secretary was instructed to augment this statement with figures showing relative dividend payments to common stock by all railroads shown in the comparison. Trend of interest rates on fixed obligations, comparative present yield on other railroad obligations, where lien per mile of railroad is comparable to those proposed in the Debtor and Stedman Committee Plans, was discussed and the Secretary was instructed to prepare such comparative statements, together with an analysis, of precedents which had been established in respect to treatment of common stock in industrial reorganizations under Section 77 (b) of the Bankruptcy Act.

The Secretary was instructed to furnish members of the Committee with progress reports of these and similar studies for their assistance in studying the plans of reorganization which have heretofore been filed with the Commission. Discussion was had concerning the drafting of a plan by this Committee, but decision on same was withheld until compilation of data by the Secretary.

Upon motion of Mr. Kemper, seconded by Mr. Sevin, a resolution was adopted authorizing the Secretary to pay \$150.00 to Standard Statistics for its railroad service for one year.

The following resolution, introduced by Mr. Sevin and seconded by Mr. Kemper, was unanimously carried.

"WHEREAS, Charles H. Thornton has been elected Chairman and Treasurer of this Committee, and as such is custodian of its funds,

THEREFORE, BE IT RESOLVED, That said Charles H. Thornton is authorized to deposit such funds in the name of this Committee in such bank or banks as he may select and is hereby authorized to withdraw same, in the name of this Committee, upon his signature as Chairman and/or Treasurer.

BE IT FURTHER RESOLVED, That counter signature by other officer or Committeeman shall not be required."

Meeting adjourned to meet again at call of the Chairman.

The undersigned, ROBERT E. SMITH, certifies that he is the duly elected, qualified and acting Secretary of the Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad Company and that the foregoing is a true and complete report of the proceedings of said Committee held on July 25, 1936.

[Signed] ROBT. E. SMITH

EXHIBIT No. PC-118

[Copy of letter from files of A. J. Sevin]

JULY 29, 1936.

Mr. CHARLES H. THORNTON,  
104 S. Main Street, Fond du Lac, Wisconsin.

Mr. A. J. SEVIN,  
Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.

Mr. JAMES M. KEMPER,  
Commerce Trust Company, Kansas City, Missouri.

GENTLEMEN: I am handing you herewith copy of the minutes of the meeting on Saturday, July 25th. I also hand you copy of my letter to Director Sweet.

Mr. Smith left for Cleveland last night for the purpose of securing a list of the common stockholders from the records of the Missouri-Pacific Railroad Company. He asked me to say that he would keep each of you advised from time to time as to any items of interest.

Yours very truly,

[Signed] LUTHER M. WALTER.

(Encl.)  
LMW:K

## EXHIBIT No. PC-119

[Copy of letter from files of A. J. Sevin]

JULY 30, 1936.

Mr. LUTHER M. WALTER,  
*c/o Walter, Burchmore & Belnap, Attorneys at Law,  
 1522 First National Bank Bldg., Chicago, Illinois.*

DEAR WALTER: You called my attention to the probable Committee expenses, and I would suggest that the proper way to handle this situation would be to arrange a short time line of credit in the name of the Committee, to be guaranteed by the several members of the Committee.

Sincerely yours,

[C. H. THORNTON.]

CHT:JC

## EXHIBIT No. PC-120

[Copy of letter from files of A. J. Sevin]

JULY 30, 1936.

Mr. LUTHER M. WALTER,  
*% Walter, Burchmore & Belnap, Attorneys at Law,  
 1522 First National Bank, Chicago, Illinois.*

DEAR WALTER: The program I have mapped out on this Missouri-Pacific matter is briefly along these lines:

1st: The plan of Reorganization proposed by Wyer for the Debtor Plan, was in all important essentials agreed with by the Stedman Committee, the main difference being how the new or proposed securities should be apportioned.

2nd: My main contention will be that the defaulted interest should be written off because only a small part of it was earned during the depression years, and further, that shareholders in one way or another have contributed considerably over \$125,000,000 toward improving the position of senior liens.

I have prepared a world of data to substantiate these contentions, but due to press of other matters, I can't get the gray matter to concentrate in assembling them in a forceful manner, and for that reason I have to have some competent help, I will go right ahead and hire this help, and after assembling the data, will discuss with you and the Committee the desirability or necessity of rechecking it with the Interstate Commerce Commission Statistical Department in Washington.

The time remaining is not too great, and I am going ahead on these lines in the hope that the Committee will approve the bill after it is incurred.

Sincerely yours,

[C. H. THORNTON.]

CHT:JC

## EXHIBIT No. PC-121

[Copy of letter from files of A. J. Sevin]

CHARLES H. THORNTON

Fond du Lac, Wis.

JULY 30, 1936.

Mr. A. J. SEVIN,  
*Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.*

DEAR MR. SEVIN: I had a letter from Mr. Walter this morning, and among other things, he called my attention to a resolution passed by our Committee at the meeting on Saturday, and I am enclosing you a copy of my reply to him.

A Milwaukee Auditing Firm, who has been doing my business for the past six or seven years, has agreed to loan me one of their boys, as business is not very pressing, and he will be here Monday, August 3rd, to start work.

I am advising you of this beforehand, as it would be impossible for me to concentrate on this job and do justice to it without help, and that help has to be here in my office where all of the essential data is available.

Yours very truly,

[Signed] CHARLES H. THORNTON.

CHT:JC

Encs.



## EXHIBIT No. PC-122

[Copy of letter from files of A. J. Sevin]

AUGUST 8, 1936.

Mr. CHARLES H. THORNTON,  
 104 South Main Street, Fond Du Lac, Wisconsin.

DEAR MR. THORNTON: Acknowledging yours of July 30. There is certainly so much work involved in working up a plan of this kind that you must have some competent assistance and your action in that respect meets with my approval.

Regarding your letter of July 30 to Mr. Walter regarding expenses. As previously explained, our Company does not hold any common stock and so far as the preferred is concerned, do not feel they are justified in spending any additional money in supporting a reorganization plan.

Personally I do not own any of the stock, and, therefore, could hardly be expected to even temporarily join in guarantying the expenses of this Committee.

Regret that I can not go along with you in this matter.

Sincerely yours,

[A. J. SEVIN,  
 General Traffic Manager.]

S-M

CC to Mr. Luther M. Walter, 1522 First National Bank Bldg., Chicago, Ill.  
 CC to Mr. James M. Kemper, Commercial Trust Bldg., Kansas City, Missouri.

## EXHIBIT No. PC-123

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

COMMERCE TRUST COMPANY,  
 Kansas City, Missouri, August 1, 1936.

Mr. CHARLES H. THORNTON,  
 104 South Main Street, Fond du Lac, Wisconsin.

DEAR MR. THORNTON: I am pleased, indeed, to have your letter of July 30 in which you make some comment about your plans for working up certain data in connection with the Missouri-Pacific matter. It certainly seems to me that you must have some assistance to expedite assembly of this data and I think a reasonable expenditure for this purpose should be approved by the Committee. However, I want to serve notice on you that I do not care to become a guarantor on the Committee's obligations and have made it a rule to stay off of all joint obligations of this kind.

Very truly yours,

JAMES M. KEMPER.

JMK:G

CC—Mr. Luther M. Walter, 1522 First National Bank Bldg., Chicago, Illinois.

## EXHIBIT No. PC-124

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

AUGUST 3, 1936.

Mr. JAMES M. KEMPER,  
 Commerce Trust Company, Kansas City, Missouri.

DEAR MR. KEMPER: Your objection to become a signer on a guarantee is valid, but these preliminary expenses like postage, printing, etc. have to be met in some way, and I would suggest that you and Mr. Sevin jointly advance the necessary amount.

I am starting work today on the preparation of the plan, and expect to be pretty well along before the end of the week.

Sincerely yours,

[C. H. THORNTON.]

.CHT:JC

## EXHIBIT No. PC-125

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders Committee—"Miscellaneous Correspondence"]

JAMES M. KEMPER, *President.*

COMMERCE TRUST COMPANY,  
*Kansas City, Missouri, August 5, 1936.*

MR. CHARLES H. THORNTON,  
*104 South Main Street, Fond du Lac, Wisconsin.*

MY DEAR MR. THORNTON: I am glad to have your letter of August 3 and note your suggestion that Mr. Sevin and I jointly advance the necessary expense monies for the committee activities. This would not be satisfactory to me and my suggestion is that you, as Chairman of the Committee, ask Mr. Smith, as Secretary, to get the National Security Holders Association to advance enough money to tide the Committee over until we start to get returns from our letters.

Very truly yours,

[Signed] JAMES M. KEMPER

JMK:G

CC: Mr. Luther M. Walter, 1522 First National Bank Bldg., Chicago, Illinois.

## EXHIBIT No. PC-126

[Copy of handwritten letter in files of Protective Committee for holders of Common Stock of the Mo. Pac. R. R., Robert E. Smith, Secretary]

Cable Mayflower

Telephone District 3000

## THE MAYFLOWER

Connecticut Ave. and De Sales St.

WASHINGTON, D. C., *Aug. 1, 1936.*

DEAR BOB: Suggestions were made by the Bureau of Finance which require some verbal changes and I will write you from Chicago tomorrow. Nothing objectionable, just "abundant caution" on the part of the Bureau.

No need to worry!

Sincerely,

LUTHER

[Luther M. Walter.]

## EXHIBIT No. PC-127

[Copy of letter from files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP,  
*Chicago, August 1, 1936.*

MR. ROBERT E. SMITH,  
*Box 113, Atlantic Highlands, N. J.*

DEAR MR. SMITH: I saw Director Sweet on yesterday and went over the matter of the minutes of the meeting. The only suggestion which he makes is that an original, rather than a carbon copy of the minutes be filed with the Commission. Accordingly, I am handing you herewith an original with the changes which have been suggested in the form of authorization.

You will recall that up to this time the Commission made no suggestion as to any changes in the form. It is, however, desirable to meet their views, even though given at this late time. Accordingly, I have eliminated the sentence in parenthesis at the top of old page 6.

On page 7, in the letter to the stockholders, I have substituted for "first mortgage" the words "first and refunding mortgage bondholders".

On page 8 I have inserted in line 4 of the form of authorization "as a holder of common stock of the Missouri-Pacific Railroad Company". I have added the following two paragraphs:

"It is also expressly understood that this authorization may be canceled by the undersigned at any time upon thirty days notice to the secretary of the Committee.

The undersigned will notify the secretary of the Committee of any change in the amount of his holdings of common stock of the Missouri Pacific Railroad Company."

I am sending a copy of the minutes as corrected to Messrs. Thornton, Sevin and Kemper, am sending you three copies and have retained three copies.

Yours very truly,

[L. M. WALTER.]

(Encl.)  
LMW:K

EXHIBIT No. PC-128

{Copy of letter from files of A. J. Sevin}

AUGUST 6, 1936.

Mr. LUTHER M. WALTER,  
*Walter, Burchmore & Belnap, Chicago, Illinois.*

MY DEAR MR. WALTER: Wish to acknowledge and thank you for copy of your letter of August 1 enclosing copy of the minutes of our meeting in Chicago, July 25 as well as copy of your letter to Commissioner Sweet.

The changes made at the suggestion of the Commission are of course entirely satisfactory to me.

Very truly yours,

[A. J. SEVIN,]  
*General Traffic Manager.*

S-M

EXHIBIT No. PC-129

{Copy of letter in files of protective committee for holders of common stock of the Mo. Pac. R. R., Robert E. Smith, secretary}

CHARLES H. THORNTON

FOND DU LAC, WIS.

AUGUST 5, 1936.

Mr. ROBERT SMITH,  
*% Burchmore & Belnap, First Nat'l Bank Bldg., Chicago, Illinois.*

DEAR MR. SMITH: The Reorganization Plan that I had in mind when we met in Chicago, and of which I promised to send you a copy, has not gone forward because further study of the situation seemed to warrant me in according to the senior liens, a more drastic position than was given them in the plan, and I have made a rough draft incorporating these ideas, of which a copy is enclosed.

However, since putting these ideas on paper, I am planning to go still further and cut the first 25% given to Iron Mountain and Southern, Pacific of Missouri, and other securities that have received interest, to the full amount of the interest payments made to them.

The plan being sent you is based on the theory that all liens ahead of the general 4's occupy, or should occupy, a neutral position regarding seniority, and that no interest payments should have been made to one in preference to the other, and in any event, a part of the interest payments were made from money borrowed either from the Morgan House, the R. F. C., or the Railroad Credit Corporation, and any earnings should have been used to pay up these loans.

I have a lot of data worked up to support these contentions, but before going any further, I would like to get your ideas on the matter.

I think a copy of some of this data showing maintenance charges of Missouri-Pacific compared with three other roads in about a similar position, will be interesting to you.

I am also enclosing some extracts from the Bankruptcy Act that I think bear me out in taking the stand outlined above.

A reply at the earliest possible date will be appreciated.

Sincerely yours,

[Signed] CHARLES H. THORNTON.  
J. C.

CHT:JC  
Encs.

## EXHIBIT No. PC-130

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

AUGUST 5, 1936.

Mr. JAMES M. KEMPER,  
Commerce Trust Company, Kansas City, Mo.

DEAR MR. KEMPER: The Reorganization Plan that I had in mind when we met in Chicago, and of which I promised to send you a copy, has not gone forward because further study of the situation seemed to warrant me in according to the senior liens a more drastic position than was given them in that plan, and I have made a rough draft incorporating these ideas, of which a copy is enclosed.

However, since putting these ideas on paper, I am planning to go still further and cut the first 25% given to Iron Mountain and Southern, Pacific of Missouri, and other securities that have received interest, to the full amount of the interest payments made to them.

The plan being sent you is based on the theory that all liens ahead of the general 4's occupy, or should occupy, a neutral position regarding seniority, and that no interest payments should have been made to one in preference to the other, and in any event, a part of the interest payments were made from money borrowed either from the Morgan House, the R. F. C., or the Railroad Credit Corporation, and any earnings should have been used to pay up these loans.

I have a lot of data worked up to support these contentions, but before going any further, would like to get your ideas on the matter.

I think a copy of some of this data showing maintenance charges of Missouri-Pacific compared with three other roads in about a similar position, will be interesting to you.

I am also enclosing some extracts from the Bankruptcy Act that I think bear me out in taking the stand outlined above. A reply at the earliest possible date will be appreciated.

Yours sincerely,

[C. H. THORNTON.]

CHT: JC  
Encs.

## EXHIBIT No. PC-131

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

COMMERCE TRUST COMPANY,  
Kansas City, Mo., August 11, 1936.

Mr. CHARLES H. THORNTON,  
Fond du Lac, Wisconsin.

DEAR MR. THORNTON: This will acknowledge receipt of your letter of August 5, together with copies of certain tables compiled by you, setting forth your ideas as to the allocation of securities in the new reorganized Missouri Pacific Company among the existing bond and shareholders. I think your tentative allocation is interesting and rather logical.

In final analysis, however, it seems to me that our job is not so much in assisting creditors of the corporation in adjusting their differences as to security, future income and the like, but consists primarily in a showing of equity position and in good faith on the part of common shareholders to the end that they will be given more than ordinary recognition in the 77 Reorganization now in process.

The maintenance showing of Missouri Pacific is of course convincing. I should be glad to have further studies you may make from time to time and although I have put in a great deal of time, studying the various Missouri Pacific plans, am frank to say that I do not feel qualified just yet to make any concrete suggestions other than the necessity for our committee to be most vigorous in a general way in demanding the recognition of equity position's right for further chance to recoup.

Yours sincerely,

JAMES M. KEMPER.

JMK: G

## EXHIBIT No. PC-132

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Robert E. Smith Correspondence"]

AUGUST 13, 1936.

Mr. JAMES M. KEMPER,

*Commerce Trust Company, Kansas City, Missouri.*

DEAR MR. KEMPER: It looks as though I did not go into sufficient detail in sending you outline of the plan I had in mind working out, but I wasn't feeling very well, and it was quite a task to assemble the data.

The plan of procedure outlined in yours of the 11th, is exactly what I have in mind, but to get something to work towards, I drafted the plan and proposed to outline position of common shareholders along these lines:

1st: That the Missouri-Pacific comparatively has been better maintained than other roads with about similar traffic problems to meet.

2nd: That because of earnings under and above fixed charges and operating expenses, they might have been used in the way of dividends on preferred stock, at least have been put into what might be called capital expenditures, which served to fortify the general lien position.

3rd: Through the convertible note issue of 1929 around \$30,000,000 of First Lien Bonds (St. Louis, Iron Mountain & Southern) is paid off, and about \$16,000,000 went into capital improvements.

4th: I am going to show that in the 1917 Reorganization old Missouri-Pacific Bondholders contributed \$41,000,000 to pay off some then existing liens.

5th: I have figures to show that for the 15 years ending in 1935, Missouri-Pacific paid in taxes a sum equal to \$4.85 a share of common stock. I have some other ideas along these same lines but the above will serve to show you in a general way what I am thinking about, and I am keeping open for suggestions.

Sincerely yours,

[C. H. THORNTON.]

CC—Luther Walter, Chicago, Illinois.

A. J. Sevin—Pittsburgh, Pa.

Robert E. Smith, New York.

W. B. Zollmer, Milwaukee, Wisconsin.

## EXHIBIT No. PC-133

[Copy of letter from files of A. J. Sevin]

CHARLES H. THORNTON

FOND DU LAC, WIS.

Mr. A. J. SEVIN,

*Pittsburgh Plate Glass Co.,*

*Grant Building, Pittsburgh, Pa.*

AUGUST 13, 1936.

DEAR MR. SEVIN: Enclosed is copy of letter from Mr. Kemper, and my reply to him.

Sincerely,

[Signed] CHARLES H. THORNTON.

CHT: JC

## EXHIBIT No. PC-134

[Copy of letter from files of A. J. Sevin]

Mr. CHARLES H. THORNTON,

*10 1/2 South Main Street, Fond du Lac, Wisconsin.*

AUGUST 8, 1936.

DEAR MR. THORNTON: Wish to acknowledge and thank you for yours of August 5 with enclosures.

I referred the draft of your idea of a reorganization plan in connection with the Missouri Pacific to our Treasurer and he wishes me to compliment you not only on the thorough manner in which it has been prepared showing a very considerable amount of study, but also that it does take care of the stockholders more fairly than any other plan that has so far been submitted.

Under the circumstances, the plan so far as you have gone with it certainly meets with our approval.

Very truly yours,

[A. J. SEVIN,  
General Traffic Manager.

S-M

CC to Mr. Luther M. Walter, 1522 First National Bank Bldg., Chicago, Illinois.

CC to Mr. James M. Kemper, Commercial Trust Bldg., Kansas City, Missouri.

EXHIBIT No. PC-135

[Copy of letter from files of A. J. Sevin]

AUGUST 13TH, 1936.

Mr. CHARLES H. THORNTON, *Chairman,*  
104 Main Street, Fond du Lac, Wisconsin.

DEAR Mr. THORNTON: Was sorry to learn that you are in the hospital but am glad that it is nothing more serious than poison ivy.

Our letters to stock holders are in the mails and I enclose copy of the form letter and authorization as approved by the commission.

I could not order printing and did not feel like making office and other arrangements till we had ICC approval of our Committee proceedings, the minutes of which Mr. Walter personally took to Washington.

Have rented a small office, furnished for \$30.00 per month. Printing will run about \$100.00, Postage about \$120.00 as there are about 4000 common stockholders J. P. Morgan & Co. are registrars for the Missouri Pacific R. R. and they charged me \$150 for addressing the envelopes and a set of cards showing the number of shares held by each stock holder.

Robert Myers, a field man for National Conference of Investors is looking after the office. There are some 500 stockholders residing in New York City and he will call in as many of these as possible after he has finished interviewing stock brokers in respect to transmitting letters to those holders whose stock is recorded in their name. The association pays Mr. Myers \$300.00 per month and I expect the commission will authorize reimbursement. Perhaps its too early to tell, but I am a bit disappointed with response from stockholders and it looks as though solicitation will be necessary if we are to make any kind of a showing by September 22nd.

We have employed a typist at \$3.00 per day.

I am just beginning to get underway in matter of preparing data for presentation to the commission. Will report to you more in detail in respect thereto in a week or so. Your letter with statistical data—reached me yesterday. I will read it with interest and write you later.

We are receiving a good many phone calls and requests for information of one kind and another, requests for additional copies of the letter and authorization and inquiries concerning other classes of Missouri Pacific Securities for which no committees have been formed, including one from a N. O. T. & M. stockholder as to committee for such stockholders.

I expect we will have many inquiries by mail, fewer authorizations and very few voluntary contributions.

I think the committee resolutions authorize the expenditures incurred thus far but to be sure I am enclosing form of authorization which please sign and return.

Please note it authorizes employment of one Statistician at not to exceed \$35 per week. I will need this shortly.

Under separate cover I am sending you copies of the plans which have been submitted to the commission by the following carriers. Frisco. C. M. & St. Paul—D. & R. G.—Western Pacific. Will send Rock Island, Northwestern and C. & E. I. as soon as they can be secured. Mr. Conroy, Secy. of the Stedman Committee informs me he sent you copy of their plan but I am sending copies thereof to the other members of our committee.

Truly yours,

ROBT. E. SMITH.

P. S.—It will be a week or two before I can get to St. Louis to look for a suitable committee member from the worker employees of the Missouri Pacific as there is too much to do here. Have not as yet found an Eastern stockholder who is nationally known to recommend as a fifth member.

## EXHIBIT No. PC-136

[Copy of letter from files of A. J. Sevin]

PROTECTIVE COMMITTEE FOR HOLDERS OF COMMON STOCK OF THE MISSOURI PACIFIC  
RAILROAD COMPANY

AUGUST 13TH, 1936.

Mr. A. J. SEVIN,  
*Pittsburgh Plate Glass Company,  
Grant Building, Pittsburgh, Pa.*

DEAR MR. SEVIN: Herewith copy of letter to Mr. Thornton which will speak for itself. Under separate cover I am sending you copies of the several plans referred to.

Please sign and return the enclosed authorization for our records.

Truly yours,

[Signed] ROBT. E. SMITH.

## EXHIBIT No. PC-137

[Copy of letter from files of A. J. Sevin]

AUGUST 14, 1936.

Mr. R. E. SMITH,  
*Secretary, 123 Liberty Street, New York, N. Y.*

DEAR SIR: We wish to advise that Mr. Sevin is out of the city and upon his return, which we expect in about three weeks, your letter of August 13 and enclosures will be given to him.

Yours very truly,

*Divisional Traffic Manager.*

O-M

## EXHIBIT No. PC-138

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective  
Committee—"Robert E. Smith Correspondence"]

AUGUST 15, 1936.

Mr. ROBERT E. SMITH,  
*123 Liberty Street, New York, N. Y.*

DEAR MR. SMITH: The slow response that you are getting from stockholders is no news, and I am very doubtful if you will secure enough to warrant spending any money on it.

I note that provision is made for a statistician for \$35.00 a week which sum, in my opinion, is far short of what would be required to secure competent ability to prepare forceful statistical data. In previous letters, I have written you that I had called in an employee of the Auditing Staff that I have been acquainted with for some years, and after having spent four days with me, he appears to have secured a comprehensive picture of the statistical picture that I have had in mind presenting to the Finance Committee of the Interstate Commerce Commission.

It had been my intention to bring him back here during the coming week, and complete the job, but if you think the work can be done in New York to better advantage, let me know.

Regarding office manager and solicitation, my views about soliciting are expressed above, and it strikes me that that sum could be made a part of the compensation to the Secretary of the Committee.

Pending a reply from you on these matters, I will hold up the signing of the Authorizations.

Sincerely yours,

[C. H. THORNTON.]

CHT: JC

P. S.—I have copies of the Northwestern and Rock Island Reorganizations, but will appreciate copy of the C. & E. I. when you get it. Regarding 5th member of the Committee, the Morgan Firm might be able to offer you some suggestions.

CHT

CC. Luther Walter, 1522 First Nat'l. Bank Bldg., Chicago, Illinois.

## EXHIBIT No. PC-139

[Copy of letter in files of Protective Committee for Holders of Common Stock of the Mo. Pac. RR., Robert E. Smith, sec.]

GEORGE F. LEE COAL COMPANY  
MINERS OF ANTHRACITE COAL  
Twelfth Floor—Miners Bank Building

WILKES-BARRE, PA., August 17, 1936.

CHARLES H. THORNTON,  
Chairman, Protective Committee, Missouri Pacific R. R.,  
123 Liberty Street, New York City.

DEAR MR. THORNTON: It is with pleasure I enclose my check for \$32.00, 2¢ per share on my holdings of Missouri-Pacific stock. I also enclose my authorization for you to act for me in accordance with the broad and reasonable statement received by me.

It seems to me that your Committee could perfect a readjustment of the finances of this road without any serious trouble. To me it seems a very simple matter, and I am presuming to acquaint you with my ideas, with the hope of being helpful to you and perhaps pave the way for me to meet you and your Committee.

I am of the opinion that if procrastination regarding reorganization of the 77 B railroads is adopted, normal car loadings will have returned and reorganization will be unnecessary. These roads were all right when we had plenty of business and, I believe, will be all right again.

In order to please the I. C. C. and at the same time bring a profitable arrangement to the stockholders, who prosper only after the bondholders have been satisfied, it would seem that the rate of interest on the various bonds should be changed, and I suggest the following:

First:\* The interest on the first mortgage bonds be fixed at 3½%, and all subsequent bonds at 4%;

Second:\* Supposing, with this adjustment, the "subsequent" bonds would sell at 75; if so, would it not be well to wipe out 25% of it, after which the bonds should sell at par. I, as a holder of 35,000 of these bonds, would consider favorably such a suggestion.

Third:\* The preferred and common stock are no fixed charges on the company; we merely get what is left over, but, as a holder of 1600 shares, I would say that if the bondholders would accept a 25% reduction, we, the stockholders, would do the same.

I feel the railroads of our country are a necessity and will prosper if not hamstrung by the subsidies offered the waterways and our public streets. I also feel that we, the stockholders, should take a more active interest in the road and, particularly at this time, have things done without the long, drawn-out, exorbitant legal expense. I believe the judgment of your Committee is worth that of a dozen lawyers. My recommendation to you is not to bring in the lawyers until you have decided upon a plan.

As you know, I am very much interested in this, and I should like not only to be kept informed, but should like to know if it would be agreeable to you to meet with you and your Committee at any of your conferences—or your appearance before the I. C. C.

Yours truly,

[Signed] GEORGE F. LEE.

GFL: CM  
Encls.

## EXHIBIT No. PC-140

[Copy of letter from files of A. J. Sevin]

Mr. CHARLES H. THORNTON, AUGUST 17TH, 1936.  
Chairman, 104 Main Street, Fond du Lac, Wisconsin.

DEAR MR. THORNTON: As bearing upon discussion had at July 25th meeting of the Committee in respect to phases of the Missouri-Pacific reorganization plans

[\*Underlined in red.]



which should be presented to the commission, I enclose statement of those to which I am giving consideration. They are not listed in order of importance.

As it is impossible to have committee discussion of these matters as the work progresses, I think it best that my testimony before the commission, both questions and answers, be prepared in advance and submitted to the committee members for criticism. To what degree this can be sent to you in installment, is hard to say as much of it requires considerable research and Sept. 22nd is not far away.

On those matters which require only an expression of opinion based upon the experience of one who is familiar with the subject under discussion, the preparation of the testimony is easy but I find nearly every point requires more or less research to substantiate my statements.

Although there is abundance of statistical talent in New York, we can offer only temporary employment and thus far, I have found no competent help which, at the moment is unemployed.

We will do the best we can but obviously we cannot make a showing comparable with the other committees, some of whom have had large statistical and engineering staffs engaged in such studies over the past year or more.

The matter of item #1 on the enclosed memorandum, the amount of new common stock which can be properly exchanged for outstanding common, in the light of prospective earnings—this will not only require, exhaustive research but expert testimony by one whose experience in and general knowledge of, the whole railroad situation, entitles him to recognition by the commission and the court.

I think I have found such a man in Geo. B. Parker of Washington, D. C. He was comptroller for the Reading R. R. was Mr. Hines Ass't. during Federal operation of the railroads, was employed by the Canadian Government as an expert in connection with their rail problems, has been employed by the commission and a frequent witness in its hearings.

Because of the limited time at our disposal, I took the liberty of going to Washington last week and discussing the matter with him. I explained the financial condition of the committee and that he would have to "gamble" for his compensation by accepting what the commission would allow for his services and wait for it till the allowance was made, but suggested that we make him a cash advance of \$200 per month for office and incidental expenses and additional allowance for travelling, if it becomes necessary for him to do portion of his work in New York City. Under such proposed arrangements a cash outlay of \$400 would carry the arrangement through the hearings if there is no travel expenses.

I enclose form of authorization and if you approve will appreciate its return by air mail so I can go to Washington and get him started.

Truly yours,

[Signed] ROBT E. SMITH.

Copies to:

Mr. A. J. Sevin.

Mr. James M. Kemper

Mr. Luther M. Walter.

[Pen Notation :] There were too many interruptions today to get out the memo on points to be covered in our presentation but it will go forward to you tomorrow.

S.

EXHIBIT No. PC-141

[Copy of letter from files of A. J. Sevin]

AUGUST 17TH, 1936.

Mr. ROBERT E. SMITH,

*Secretary, Protective Committee for Holders  
of Common Stock of the Missouri Pacific Railroad Co.*

DEAR SIR: Approval is hereby given to the employment of Geo. B. Parker to prepare data relating to past, present and future earnings of the Missouri Railroad Company in connection with determining the amount of common stock which should properly be allocated to present holders of common stock in said railroad and testifying in respect thereto at the hearings on reorganization of said railroad, employment to be under the following conditions:

1st. That compensation be limited to the allowance granted for his services by the Interstate Commerce Commission and Court in the present reorganization proceedings, and same to be immediately paid to him when such allowance is paid to the committee.

2nd. That the committee shall make him a cash advance of \$200. per month which is to cover all expenses.

3rd. The difference between the amount of his out of pocket expenses and the said \$200. per month, cash advance, shall accrue to the committee as a credit and shall be deducted from the allowance received by the committee in respect to his services.

4th. The term of such employment shall continue until the completion of the hearings on the Missouri Pacific reorganization which commence on Sept. 22nd, 1936—but such further employment, beyond that time, and the conditions thereof, shall be the matter of subsequent arrangement between Mr. Parker and the committee.

Dated \_\_\_\_\_ 1936.

EXHIBIT No. PC-142

[Copy of letter from files of A. J. Sevin]

AUGUST —, 1936.

ROBT. E. SMITH,

*Secretary, Protective Committee for Holders  
of Common Stock of the Missouri Pacific Railroad Co.*

DEAR SIR: Acknowledgment is made of your letter of August 13, and approval is hereby granted to the following expenditures.

- List of stockholders and shares, \$130.00.
- Office rent, \$30 per month.
- Stenographer, \$3.00 per day.
- Office Manager and Solicitor \$300 per month.
- Statistician not to exceed \$35.00 per week.

Such printing stationery, office supplies, postage and miscellaneous expenses as are necessary for transmittal of letters to stockholders and correspondence in respect to same and in respect to reorganization of Missouri Pacific Railroad Company, including necessary office expenditures, and necessary expenditures connected with compiling data relating to reorganization plans.

EXHIBIT No. PC-143

[Copy of letter from files of A. J. Sevin]

AUGUST 18, 1936.

Mr. ROBERT E. SMITH,

*123 Liberty Street, New York, N. Y.*

DEAR MR. SMITH: Being still in the hospital, I have had time to give considerable thought to the important matter that is confronting us.

In your letter of the 17th you said: "It is impossible to have Committee discussion of these matters as the work progresses", I am wondering why you couldn't establish an office in Chicago. We could have had the benefit of consultation with Mr. Walter, as these various different problems arose. The available statistical information that we would need to use is fully as adequate there as you would find in New York. We could then have discussed the questions and answers that you might be called on before the ICC.

Regarding statistical information, I would appreciate the services of a man like Mr. Hines that you mention, but so far as statistical data in this particular matter is concerned, we have through the Wyer testimony and the Committee testimony, more than could be digested in the next twelve months.

It is unfortunate that I fail to impress you or the other members of the Committee that I have a complete grasp of the plan that this Committee should present, based entirely on the figures that have already been submitted, and all that I want is somebody competent to check my arithmetic.

Your letter mentions, "The amount of new common stock which can be properly exchanged for outstanding common, in the light of prospective earnings—this will not only require exhaustive research but expert testimony by one whose experience in the general knowledge of, the whole railroad situation, entitles him to recognition by the commission and the court." If and when the Reorganized Railroad has taken care of income for prior lien obligations, it won't make

a particle of difference whether the then prospective dividends for common is divided between 820,000 shares or 82,000 shares.

You mention expenses in case we engage Mr. Hines, and up to date, I have failed to find any encouragement on the part of members of the Committee toward assuming even contingent obligations.

As things now look, I will be out of the hospital by the latter part of the week, and as you say, September 22nd is not very far away. I think we should get together in Chicago and thrash these matters out.

Very truly yours,

[C. H. THORNTON.]

CHT: JC

P. S.—I had a bad case of what the doctors called poison ivy, but I think it was some other weed poisoning.

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EXHIBIT No. PC-144

[Copy of letter from files of A. J. Sevin]

CHARLES H. THORNTON

Fond du Lac, Wisconsin

AUGUST 18, 1936.

Mr. A. J. SEVIN,

*Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.*

DEAR MR. SEVIN: Enclosed is copy of letter written to Smith in reply to his of the 17th, of which you have a copy, and you will gather from this reply that I am far from satisfied with the trend the matter is taking.

Yours sincerely,

[Signed] CHARLES H. THORNTON.

CHT: JC

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EXHIBIT No. PC-145

[Copy of letter from files of A. J. Sevin]

AUGUST 20TH, 1936.

Mr. CHARLES H. THORNTON,

*Chairman, 10 1/2 Main Street, Fond du Lac, Wisconsin.*

DEAR MR. THORNTON: We have received 156 authorizations with a total 10,029 shares and \$90.94 in voluntary contributions. Exclusive of Alleghany holdings, there are approximately 4000 stock holders holding some 300,000 shares—accordingly the committee is now authorized to speak for slightly less than 4% of the stock holders and slightly more than 3% of the outstanding stock.

As to the importance of securing authorizations, and this goes to the question of soliciting, it has been suggested that the most important work which our committee can do is the regimentation of common stock holders, particularly the small stockholders for two reasons—1st. in order to impress the commission and the court with the interest of small stockholders in their investment and second, to more effectively oppose any plan which may be submitted by the commission and approved by the court, which the committee may consider unfair to the stockholders. It is further pointed out that there is some prejudice against the Alleghany Company which militates against fair treatment being accorded the independent stock holder as well as the Alleghany Company.

Further, That in case assent is not given to the plan by the requisite number of stockholders, the court is empowered to over ride the objections and order that it become effective. That the probability of such arbitrary action by the court will be vitally affected by the action taken by the independent stock holders on any plan which may be submitted and consequently it is to the interest of all common stock holders, that so many of them as possible be persuaded to authorize the committee to act for them and that the committee report to them frequently, to the end that they will have confidence in the committee and be guided by its recommendations on any plan which may be approved and submitted to the court.

It has been suggested that with the knowledge which Mr. Wyer has of the issues involved there is little which we can add to the factual data which he will present

or the argument which will be made by Mr. Ballard and our principal assistance will come in the way of securing moral support from independent stock holders.

Practically every broker in New York City and many in Chicago, Philadelphia, Boston and other cities have stock registered in their names which in reality is owned by their clients—any where from two or three to fifty or more individuals. They will, of course, not disclose the names of these clients and it is necessary to get to one of the partners and convince him of the bonafides of the committee and in some cases to make a second call after the matter has been discussed at a partners meeting. All this takes time and the New York brokers will not be completed until the end of this week.

Nothing has been done with brokers in other cities and of course there is no way the stock holders can be informed and his cooperation enlisted except through his broker.

It has been further suggested that at least four follow up letters be sent by mail to stock holders before December 31—and the necessity of personal solicitation be had among the larger holders, regardless of residence.

There is no question that all follow up letters and solicitation must be conducted at a loss. You will note that we have not even gotten back cost of postage from the first letter, which undoubtedly has met with better response than can be expected from subsequent or follow up letters.

There is likewise no question of our complete lack of funds for letters, solicitation, office, statistical, travelling and similar expenses. While the writer, or his association is willing to gamble a reasonable amount in the way of advances for these purposes the amount does not extend beyond reasonable office and similar expense, travel costs and such statistical assistance as is needed in preparing testimony to be presented at the September 22nd hearing.

These matters are not brought to the attention of the Committee with the idea that they should share in the necessary advances but for the purpose of bringing the situation to your attention, so that the record may be complete in case the committee should be criticized for failing to equal other Missouri Pacific protective committees in the scope and extent of its activities.

For example, I received today copies of the material distributed by the protective committee for the St. Louis Iron Mountain and Southern Railway Co. 4% bonds and find they have sent out thirteen follow up letters (fourteen letters in all) together with a 34 page prospectus.

So that my position may be clear, may I say that I will make the necessary advances to cover expenses of office—office help—printing, postage, statistical assistance and my own travel costs up to and through the hearings which begin on September 22nd—and perhaps some solicitation in and around New York.

The amount of advances which I can make subsequent to the hearings will depend upon decision of the directors of the National Conference of Investors and the funds which they may have available for such purpose.

Truly yours,

ROBT. E. SMITH.

RES/D

EXHIBIT No. PC-146

[Copy of letter from files of A. J. Sevin]

AUGUST 20TH, 1936.

MR. CHARLES H. THORNTON,  
Chairman, 104 Main Street, Fond du Lac, Wisconsin.

DEAR MR. THORNTON: You will recall resolution instructing me to place in nomination for additional committee members, an employee stock holder of the Missouri Pacific Railroad and some eastern stock holder with a good name.

As to the former we have compiled a list of 200 small stockholders residing at division points of the Missouri Pacific who may well be employees and this I will send to Mr. Vollmer, Executive Assistant to Mr. Baldwin, in advance of my trip to St. Louis with a request that he indicate those who are employees.

As to an eastern stock holder, I enclose copy of letter from Mr. George F. Lee, President of George F. Lee Coal Co. of Wilkes-Barre, Pa.- He is the owner of 1,600 shares of Missouri Pacific common and seems to be quite interested in our work.

Believing he would be a satisfactory committeeman I have checked him with the assistance of two banks and Standard Statistics and am advised as follows:

He is about 67 years of age—owns  $\frac{1}{2}$  of stock of George F. Lee Coal Co. and all the stock of a Brooklyn distributing coal yard, said to be the best equipped yard on New York harbor. Has three children, two of whom are married—a credit rating of \$300,000 to \$500,000. Home cost from \$40,000 to \$60,000, an experienced and competent coal operator and business man. Is quite a substantial owner of railroad securities particularly equities and is familiar with their factors of value and capital structures.

Mr. Sternberg who is in charge of the railroad service for Standard Statistics knows him—speaks well of him and thinks he would be a good committeeman.

Kindly advise on the enclosed memorandum whether you approve of his election, by return mail so I can either write him, if the other committeemen approve or go to Wilkes-Barre for a chat with him, if I can find time.

I will go to St. Louis as soon as possible but there are so many things to get started here, it is difficult to say when I can get away.

Truly yours,

[Signed] ROBT. E. SMITH.

[Pen Notation:] Mr. Sevin—if you approve pls sign and return the enclosed memo.

S.

EXHIBIT No. PC-147

[Copy of letter from files of A. J. Sevin]

AUGUST 20TH, 1936.

Mr. ROBERT E. SMITH,

*Secretary, Protective Committee for Holders of Common  
Stock of the Missouri Pacific Railroad Co.*

DEAR SIR: Acknowledgment is made of your letter of August 20th—reporting on Mr. George F. Lee. In conformity with resolution adopted at the committee meeting of July 25th, 1936—I hereby consent to your interviewing the said Mr. George F. Lee in respect to becoming a member of protective Committee for Holders of Common Stock of the Missouri Pacific Railroad Co. and authorize you to request him to serve in such capacity subject to approval of the Interstate Commerce Commission.

If he shall agree so to serve, you are instructed to advise our counsel and request him to make application for approval of the Interstate Commerce Commission.

If and when such I. C. C. approval is granted you are hereby instructed to record me as voting for the election of said Mr. George F. Lee as a member of Protective Committee for Holders of the Missouri Pacific Railroad Co.

(Signed) \_\_\_\_\_

Dated at \_\_\_\_\_  
August \_\_\_\_\_ 1936.

EXHIBIT No. PC-148

[Copy of letter in files of Protective Committee for Holders of Common Stock of the MoPac. R. E., Robert E. Smith, secretary]

CHARLES H. THORNTON

FOND DU LAC, WIS.

AUGUST 22, 1936.

Mr. ROBERT E. SMITH,

*123 Liberty Street, New York City, N. Y.*

DEAR MR. SMITH: I am enclosing you suggestion for a form letter to be sent out to the customers who have Missouri-Pacific common stock to vouch for their collateral.

I have an impression that Broker Houses as a rule have refused to collaborate in any way in Reorganization proceedings, but this particular case is different

from most anything that has heretofore been presented, and I believe proper presentation to headquarters of stock houses would get you some where.

I am enclosing you signed approval to interview one Mr. George F. Lee in respect of becoming a member of the Protective Committee for Holders of Common Stock of the Missouri-Pacific Railroad Company. Your letter reads as though he would be a valuable man.

Regarding Broker Houses, I believe it would be possible for you to put some pressure on Paine-Webber and E. A. Pierce & Company, and possibly, Shields & Company and Abbot & Proctor.

Sincerely yours,

[Signed] CHARLES H. THORNTON,  
J. C.

CHT: JC  
Encs.

EXHIBIT No. PC-149

[Copy of letter in files of protective committee for holders of common stock of the MoPac. R. R., Robert E. Smith, sec.]

JAMES M. KEMPER, *President.*

COMMERCE TRUST COMPANY  
Capital and Surplus \$8,000,000.00  
KANSAS CITY, MISSOURI

AUGUST 21, 1936.

Mr. ROBERT E. SMITH,  
*123 Liberty Street, New York, N. Y.*

DEAR MR. SMITH: I am pleased to receive the various copies of letters you have written to the Chairman of our Committee, Mr. Charles H. Thornton, and I also have with one of these copies a form of approval concerning the addition of Mr. George F. Lee of Wilkes-Barre to the Committee.

After reading your letter and reading a copy of Mr. Lee's letter to Mr. Thornton; I am of the opinion that we could get an individual representing Eastern holders who would be better informed and more helpful to the Committee and henceforth I am withholding my approval.

I also notice copy of your letter to Mr. Thornton under date of August 20, in which you comment on the number of authorizations received and the necessity for securing a larger percentage, both in number of holders and in shares represented. I agree with you and believe that we should use our best efforts to get these in and I, for one, as a member of the Committee will be most happy to canvass either large or small stockholders in this territory.

In view of the paragraph on Page 2 of your letter to Mr. Thornton, reading as follows:

"It has been suggested that with the knowledge which Mr. Wyer has of the issues involved, there is little which can add to the factual data which he will present or the argument which will be made by Mr. Ballard and our principal assistance will come in the way of securing moral support from independent stockholders."

It seems to me rather unnecessary for you to hire statisticians, take statistical services, and the like.

Please let me continue to hear from you from time to time and if there are any suggestions you care to make to me as a member of the Committee, I shall be most happy to have them.

With kind regards,

Very truly yours,

[Signed] JAMES M. KEMPER.

JMK: G

CC—Mr. Luther Walter.  
Mr. Charles H. Thornton.  
Mr. A. J. Sevin.

## EXHIBIT No. PC-150

[Copy of memorandum, written in ink, in files of protective committee for holders of common stock of the MoPac. R. R., Robert E. Smith, sec.]

Geo. F. Lee.

Many years an operator.

A good mine at Avondale active till 6 months ago—now shut down on account of labor troubles—Business inactive.

SM 11-24

70 years old. Prin. stkhld. of Coal Company—comfortably fixed.

High type\*

Subsid. John M. Lee Inc. Co. Brooklyn, NY.\*

Member of Independent Miners Assn. Banks at Wilkes-Barre. Credit \$300 to 500 thousand not a director \* in any W. B. Banks.

SM

## EXHIBIT No. PC-151

[Copy of letter in files of protective committee for holders of common stock of the MoPac. R. R., Robert E. Smith, sec.]

123 LIBERTY ST., NEW YORK CITY,  
September 28, 1936.

Mr. GEORGE F. LEE,  
Wilkes-Barre, Pa.

DEAR MR. LEE: About August 20th, I received from Mr. Smith your letter with reference to the Committee representing Common Shareholders of the Missouri-Pacific Railroad, with the suggestion that I invite you to act with us on this Committee, but about that time, I contacted some poison ivy and have been in and out of the hospital ever since, which is the reason for my not writing you.

As a substantial owner of Missouri-Pacific common stock (1600 shares), I think you could well afford to devote a little thought to the position of common shareholders in this Road and in fact, in all other Roads, to the extent at least, of giving us the benefit of your Counsel and advice.

The response to our first letter to shareholders, although small in number, was gratifying, and we are following it up now with another letter, of which I will send you proof tomorrow or Wednesday.

The Committees representing the several different Bond Issues have been very active in solicitation of cooperation of holders of bonds they represent. For instance, the St. Louis, Iron Mountain & Southern Committee, up to September 1st, had sent out 14 letters or more.

I trust you can see your way clear to act with us.

Very truly yours,

CHARLES H. THORNTON, *Chairman.*

JHT:JC

CCs. Luther Walter, 1522 First Nat'l Bank Bldg., Chicago, Illinois; Robert E. Smith, 123 Liberty Street, New York, N. Y.; A. J. Sevin, Pittsburgh Plate Glass Co., Pittsburgh, Pa.; James M. Kemper, Commerce Trust Company, Kansas City, Mo.

## EXHIBIT No. PC-152

[Copy of memorandum in files of Protective Committee for holders of Common Stock of the MoPac. R. R., Robert E. Smith, Secretary]

C&O  
Nickel Plate  
Erie  
Pere Marquette  
All Class 1 Roads

POSITION AT TIME OF VAN S. ACQUISITION OF STOCK INTEREST AND COMPARATIVE ANNUAL DATE TO 1935

1. Capitalization (Investment in Road & Equipment and Debt Structure).
2. Market position of Security.

[\*Undercored in pencil.]

3. Financial Position (Current Assets, Cash, Current Liabilities).
4. Earning Power & Traffic Volume.
5. Operating efficiency (Ratios).
6. Condition of properties (Equipment in need of repair, etc.).

## EXHIBIT No. PC-153

[Copy of letter in files of protective committee for holders of common stock of the MoPac.  
R. R., Robert E. Smith, secretary]

CHARLES H. THORNTON

FOND DU LAC, WIS.

AUGUST 22, 1936.

Mr. ROBERT E. SMITH,  
123 Liberty Street, New York City, N. Y.

DEAR MR. SMITH: Your memorandum of phases of the Missouri-Pacific matter is very interesting and supplies a lot of food for thought. They are too lengthy to comment on at this time, but during the next day or two I will put my views on paper, and as written you the other day, I think we should have a meeting in Chicago during the coming week.

I think I told you that when and if the I. C. C. would not grant authority for our Committee, I would make a personal appearance representing the Conan Trust, and was going to engage the services of that fellow, Wiley, who wrote those stories for "Barrons Weekly." I went into New York and had a visit with him and outlined in a general way what I had in mind, and in this morning's mail I received from him a bunch of statistical data that is most complete. I think before you make any commitment, for your Washington man, you had better have a talk with Wiley, whose address is: John S. Wiley, 211-05 34th Street, Bayside, Long Island, New York.

Sincerely,

[Signed] CHARLES H. THORNTON.  
J. C.

CHT:JC

## EXHIBIT No. PC-154

[Copy of letter in files of Protective Committee for Holders of Common Stock of the  
MoPac. R. R., Robert E. Smith, secretary]

AUGUST 22, 1936.

Mr. CHARLES H. THORNTON,  
Chairman, 104 Main Street, Fond du Lac, Wisconsin.

DEAR MR. THORNTON: I am planning on leaving for St. Louis on about Saturday August 29, and, if you are out of the hospital by then, we could meet in Chicago during the week of August 31, for a conference—in fact a meeting of the committee at that time would be very helpful as we could then determine just what points we should cover in presenting testimony at the September 22, hearing. As you are working on certain phases of the matter and I am working on others, it is important that we have a clear understanding so there may be no duplication of effort.

As I get it, you are working on those matters referred to in your letter of August 5th, which accompanied your plan of reorganization and statistics relating to Missouri Pacific expenditures for maintenance at the expense of dividend disbursement, compared with the Rock Island, Great Northern and Northern Pacific Railroads. In the data which I am preparing, no reference is made to either of those matters.

A couple of days ago I sent you a memorandum of those matters to which I am giving my attention. It may be that you are working on some of the items listed in that memorandum, in addition to relative maintenance expenditures as mentioned therein.

If such is the case please advise immediately. Although I am giving some attention to all items listed in that memorandum, at the moment I am particularly concentrating on statistical data which will show the results of Van Sweringen management of the C & O—Erie—Nickel Plate and Pere Marquette. I enclose memorandum showing the data which is being prepared. The comparisons will be made to show condition at the time Van Sweringen interests secured control and assumed management with subsequent periods—also comparisons of some



data with the composite averages for all class one railroads during the period under review. This of course to give the committee something tangible on which to base its statement that it prefers a continuation of Van Sweringen management rather than a switch to Stedman management.

If you have done any work on any of the other items, or if there are any which you are willing to take off my hands, please advise as there are more items on the memorandum than I can handle with comfort.

The first item on the memorandum, and the one in respect to which I wrote you early in the week—namely the stock equity which can be allocated to present common share holders, in the light of possible future earnings, I apparently did not make myself clear. This item refers to the question of washing out the common and preferred stock, in the reorganization proceedings. In other words, it relates to the submission of testimony to show that, in the light of possible future earnings, an equity still remains in the present common stock. That is something I wished to turn over to an expert whose standing will carry weight with the commission and the court. It is a special phase of the situation and if it is to fall under my supervision I wish to employ some one whom the committee feels is competent.

It is however an item I would like you to handle, either directly or through an expert whom you might employ, if you are willing to assume the responsibility. However it is something which must be decided promptly as it will take an expert considerable time to work up his case, and if it comes under the class of items for which I am responsible, I wish to put Mr. Parker or some other recognized expert to work on it immediately.

As to expenses, I think each of us will have to advance what ever is necessary in preparing the testimony for which each of us is responsible. The funds which are coming in will not even cover cost of postage for the first letter, and a substantial amount of the funds received are in postage stamps, which however can be used in sending out the next follow up letter—a procedure which I am quite sure you will think necessary after we have talked out the situation. I think all receipts should be reserved for postage.

This situation therefore results in my advancing the necessary funds for office expenses—salaries, solicitation and my travel, as well as the cost of preparing statistical data for the items or phases of the situation which are allocated to me and for the further reason that I must go to St. Louis and much of my time is taken up with interviewing stock holders or brokers who call at the office, I am anxious that you assume responsibility for as many of the items as possible. I assume that each of us will present the testimony at the hearing which relates to those items for which we are respectively responsible.

Another reason for complete segregation of items, is that all funds paid out for expenses or obligations contracted must be reported to the commission on the first day of each month.

As I interpret this, it means that regardless of the fact that we are each advancing the funds out of our own pockets, we must get committee approval, for each expenditure and report it monthly, which will require each of us to prepare a monthly statement of expenses or obligations incurred. I assume that this procedure is necessary to secure commission approval for reimbursement from the debtors estate.

I think the foregoing will give you my views on the suggestion in yours of August 15—that the cost of solicitation be included in my compensation as secretary. Although I must advance the funds, I wish to have monthly approval of all out of pocket expenditures so as to be assured of reimbursement. Compensation is something we must speculate on but reimbursement for expenses which are approved monthly and reported monthly to the commission, should be certain of repayment.

I was unable to find competent statistical help and have employed two staff statisticians of Standard Statistics on a part time basis.

When they have completed compilation of statistical data in respect to results of Van Sweringen management, I will dictate my testimony in respect thereto and send you a copy. I expect to follow this procedure in regard to all points on which I will testify and read my testimony as did Mr. Stedman.

Truly yours,

[Signed] ROBT. E. SMITH.

RES/D

P. S.—If you concur in the view that a committee meeting is desirable, during the week of August 31, please take the necessary steps to call same. I can so

arrange my affairs as to be in Chicago any day you set, Wednesday would be the best day for me, as it will permit me to be in St. Louis on Monday—thus travelling on Sunday, and by completing my St. Louis investigation of a suitable employee stockholder for committee membership, he can be elected at the meeting.

It may be that the meeting will develop need for information which can be secured only in Cleveland, so I wish to have time to include that city on my return itinerary and on my way back I wish to stop also, a day in Washington. Accordingly Wednesday or at the latest Thursday would suit my convenience better than Monday or Tuesday.

## EXHIBIT No. PC-155

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders Committee—"Miscellaneous Correspondence"]

AUGUST 23, 1936.

Mr. R. W. HIGGINS,  
2401 East First Street, Duluth, Minnesota.

DEAR RAY: Expenses: There is no doubt that the Court will approve of any reasonable expense account for our Committee to be paid for by the Debtor Company eventually. On these preliminary expenses, I suggested that the Committee members arrange a bank loan to be liquidated when the expense account was approved by the Court. This suggestion got nowhere. I followed up that suggestion by suggesting that each Committee member contribute his share of the expense account; that got no where. In a letter received from Smith Thursday or Friday, he said that he had arranged with his original Organization to advance his office and other expenses up to September 22nd, and in reply, I said I would take care of my personal expenses up to that time, as I have to the present time.

We are not in agreement in choosing a statistician, and I will not consent to the employment of anybody other than this man Wiley whom I mentioned to you before.

You were right in guessing this deal was going to require a lot of time, but I am getting considerable pleasure out of it.

Your suggestion about Van S. is not practical, as we have to impress the I. C. C. and the Stedman Committee that there is no connection whatever about our work between ours and the Van Sweringens. When I write Wyer now, the letters are addressed to his home and his reply is in pencil on my letter. He tells me that there have been spies in the office and doesn't know whether he has them out yet or not.

Sincerely,

[C. H. THORNTON.]

CHT:JC

## EXHIBIT No. PC-156

[Copy of letter in files of Protective Committee for Holders of Common Stock of the MoPac. R. R., Robert E. Smith, Secretary]

CHARLES H. THORNTON

FOND DU LAC, WIS.

AUGUST 24, 1936.

Mr. ROBERT E. SMITH,  
123 Liberty Street, New York, N. Y.

DEAR MR. SMITH: I like the tone of Mr. Lee's letter very much and can't fall in with the Kemper idea but I presume that we can let this rest until next week's meeting.

I have your letter of the 22nd and think your idea of presenting statistical data showing results of the Van Sweringen management of the C&O, Erie, Nickleplate and Pere Marquette is sound and advisable and by all means think you should not delay in having this prepared. I have something of the same sort in mind in presenting history of Missouri Pacific management from the 1917 reorganization, showing results when Mr. Williams took active management and put Baldwin in as president, and stressing the fact when Van Sweringen obtained stock control and they continued the policy and management that they found; in fact, I think it would be possible to show that his interest in Missouri Pacific might partly be ascribed to the Baldwin management.

I had a telephone call from Mr. Walters this morning setting a conference for the coming Monday and will keep myself open for that date or any change.

I got out of the hospital yesterday and during the next day or two will go over all of this correspondence and decide on which statistical data I should concentrate.

Very truly yours,

[Signed] C. H. THORNTON.  
G. K.

CHT:GK

EXHIBIT No. PC-157

[Copy of letter in files of Protective Committee for Holders of Common Stock of the MoPac. R. R., Robert E. Smith, Secretary]

CHARLES H. THORNTON

FOND DU LAC, WIS.

AUGUST 24, 1936.

Mr. ROBERT E. SMITH,  
123 Liberty Street, New York, N. Y.

DEAR Mr. SMITH: I wish you would secure for me a copy of the Chicago and Eastern Illinois reorganization program.

You probably notice that the Stedman committee propose taking an active interest in the D&RG reorganization and I am wondering if we should convert some attention to the Missouri Pacific investment in that road.

Very truly yours,

[Signed] C. H. THORNTON.  
G. K.

CHT:GK

EXHIBIT No. PC-158

[Copy of letter from files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP,  
Chicago, August 24, 1936.

Mr. CHARLES H. THORNTON,  
104 South Main Street, Fond du Lac, Wisconsin.

Mr. A. J. SEVIN,  
Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.

Mr. JAMES M. KEMPER,  
Commerce Trust Company, Kansas City, Mo.

Mr. ROBERT E. SMITH,  
123 Liberty Street, New York, N. Y.

GENTLEMEN: I am back in my office and find numerous copies of letters which have been exchanged between members of the committee and its secretary. It seems to me quite desirable that we have a meeting at an early date and get things ironed out in a little better shape. I fear we do not all see alike and that is absolutely essential if we are to be effective.

While I am leaving Chicago today I will return here next Monday, August 31st, and Tuesday, September 1st, and hope that we may have a conference at that time. I think the greatest value which we can render the common stock holders is to get them organized and solidly behind the views which we express to the Commission. I hope you may all arrange to be here for a definite and detailed conference on all matters which have been considered and properly should be considered in connection with the task we have before us. Please arrange to meet here either the 31st or 1st and I will give you all my time during either or both of those days.

Yours very truly,

[Signed] LUTHER M. WALTER.

P.S.—Since dictating the foregoing I have talked with Mr. Thornton by telephone and he states that he will be in my office on the morning of the 31st. I hope you can all do likewise.

L. M. W.

12558

RAILROADS AND HOLDING COMPANIES

EXHIBIT No. PC-159

[Copy of letter from files of A. J. Sevin]

AUGUST 25, 1936.

Mr. LUTHER M. WALTER,  
1522 First National Bank Bldg., Chicago, Ill.

DEAR MR. WALTER: Acknowledgment is made of your letter of the 24th instant, and, unless I am advised to the contrary, will report at your office at 9 A. M. Chicago time on next Monday, August 31st.

I will leave New York on the Pennsylvania Train, the Golden Arrow, which arrives in Chicago at 7:45 A. M. Standard Time.

Truly yours

[Signed] ROBT E. SMITH.

RES/AF

Copies to

Mr. Thornton.  
Mr. Sevin.  
Mr. Kemper.

EXHIBIT No. PC-160

[Copy of letter in files of Protective Committee for Holders of Common Stock of the MoPac. R. R., Robert E. Smith, Sec.]

AUGUST 26, 1936.

Mr. GEORGE B. PARKER,  
9th Floor Woodward Bldg., 15th and H Sts. N. W.,  
Washington, D. C.

DEAR MR. PARKER: Please do not get the impression that we are not interested in the matter I discussed with you on August 9th.

Mr. Thornton, the Chairman of our Committee, is in the hospital, but we expect to have a committee meeting in Chicago in a week or ten days.

Truly yours,

ROBT. E. SMITH.

RES/AF

EXHIBIT No. PC-161

[Copy of letter in files of Protective Committee for Holders of Common Stock of the MoPac. R. R., Robert E. Smith, Secretary]

AUGUST 27, 1936.

Mr. LUTHER M. WALTER, Counsel,  
1522 First National Bank Building,  
Chicago, Ill.

DEAR MR. WALTER: After repeated trips and much argument, I have been able to secure one copy of the Rock Island Plan, and this I will bring with me to Chicago, and give to Mr. Thornton.

Mr. Steere's Assistant has been unable to secure copies of the Chicago and Eastern Illinois Plan, but advises that they may be secured from Mr. Ballard.

Will you be kind enough to see if you can secure such supply as may be necessary for our needs, prior to the committee meeting on Monday.

Very truly yours,

ROBERT E. SMITH.

RES/AF

## EXHIBIT No. PC-162

[Copy of letter from files of Charles H. Thornton—Mopac. Common Stockholders' Committee, "Robert E. Smith Correspondence"]

Directors: R. E. Smith, Chairman; Harvey C. Couch, Raymond W. Higgins, E. O. Howard, Fred A. Irish, James M. Kemper, Paul Rosenthal, Addison J. Sevin

Counsel: Luther M. Walter

## NATIONAL CONFERENCE OF INVESTORS

128 LIBERTY STREET

AUGUST 28, 1936.

Mr. LUTHER M. WALTER,  
Walter, Burchmore and Belnap,  
1522 First National Bank Bldg., Chicago, Ill.

DEAR MR. WALTER: I think I advised you that the Security Owners Association, under its new policy, and new president, Mr. Philip A. Benson, President of the Dime Savings Bank of Brooklyn, and Chairman of the American Association of Mutual Savings Banks is confining its membership to the Mutual Savings Banks and Mutual Life Insurance Companies, and consequently, Mr. Benson has turned over to our organization the former members of their cooperating council, 4,406 in number, and consisting of the strongest men in their respective states, to be included in the cooperating council of our association.

The two organizations of course, will cooperate closely on all matters generally affecting the rail carriers which are of equal interest to the holders of the senior and junior securities, and as the fire insurance companies largely hold junior obligations and preferred stocks it has been arranged that the life insurance companies shall be the exclusive field for Mr. Benson's organization, but the fire and casualty companies, many of whom have been members of his organization for years, shall be assigned to our organization.

I attach herewith first draft of letter and circular which I will send to the press of all fire and casualty companies.

The phrasing of these parts of the circular relating to the Security Owners Association, was worked out with Mr. Benson, and I am sending him copy of the enclosed draft today, as the continued cordial cooperation of him and his associate officers of the Security Owners Association is of great value to us. In its eighteen years of operation, that organization has spent hundreds of thousands of dollars, and has secured a nation wide organization which we could not duplicate for less money, nor in less time, and all they ask us, in exchange of views and friendly cooperation in broad matters of legislative policy which affect all classes of securities.

I am anxious that the leaflet be explicit, and if you have any suggestions, please wire me, as I will send it to the printer in a couple of days.

I think we are doing a good job, anyway, Judge Fletcher, the General Counsel of the American Association of Railroads, and a good many Railroad Presidents think we are, and are giving us good cooperation.

Sincerely yours,

[Signed] ROBERT E. SMITH.

RES/AF

## EXHIBIT No. PC-163

[Copy of letter in files of Protective Committee for Holders of Common Stock of the MoPac. R. R., Robert E. Smith, Sec.]

AUGUST 29, 1936.

Mr. CARLOS C. CLOSE,  
% First National Bank, Portland, Oregon.

DEAR CARLOS: After receiving your letter regarding your expansive and probably expensive (this is a paronym not a pun) vacations, I realize that you would not be able to concentrate on the Missouri Pacific situation.

I have come to the conclusion my approach to the situation will not be that of a railroad expert, but simply as one who is more or less familiar with financial matters, and a broad—not to say academic—treatment of the fundamentals in the situation.

As to the important question of washing out the equities as demanded by the first mortgage bondholders, we will employ an expert who has standing with the commission to present our case. My principal testimony will be in respect to sinking funds, conversion privileges, and trend of interest rates. I am going to trespass upon your friendship and good nature to ask that you read such testimony as I may prepare in advance, and give me your suggestions and criticisms.

I enclose herewith copy of a memorandum relating to sinking funds, and in a few days I will send you a copy of some proposed testimony which I will dictate in respect thereto.

I hope that you and your good wife will have a splendid time on your vacations, and that you will return renewed in health and spirits and with lofty purpose and high resolve.

Sincerely yours,

ROBERT E. SMITH.

RES/AF

EXHIBIT No. PC-164

[Copy of letter in files of Protective Committee for Holders of Common Stock of the MoPac. R. R., Robert E. Smith, sec.]

PORTLAND, OREGON, August 31, 1936.

MR. ROBERT E. SMITH,  
123 Liberty Street,  
New York City, New York.

DEAR BOB: As I promised you, I took some of the MOP dope into the Wilson River with me and one afternoon when the dogs wouldn't work any more but I thought the head might, I went over it. I regret to report that I cannot add anything to the points you and I set down when you were last in Portland. Either we made a supreme effort then or our supply was pretty limited because I am certainly devoid of any further thoughts on the matter. \* \* \*

Very truly yours,

CARLOS C. CLOSE.

CCC EC

EXHIBIT No. PC-165

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee.—"Robert E. Smith Correspondence"]

SEPTEMBER 1, 1936.

MR. ROBERT E. SMITH,  
% W. G. Vollmer, Missouri-Pacific Railroad Company,  
St. Louis, Missouri.

DEAR MR. SMITH: I am enclosing copy of a letter to Kemper which has also gone to Sevin and Walter and if you get this back to me by Saturday, I will have it ready to mail early in the week.

Very truly yours,

[C. H. THORNTON.]

CHT: JC  
Enc.

EXHIBIT No. PC-166

[Copy of letter from files of Robert H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

SEPTEMBER 1, 1936.

JAMES M. KEMPER,  
Commerce Trust Company, Kansas City, Missouri.

DEAR MR. KEMPER: At a conference in Chicago yesterday with Mr. Walter and Mr. Smith it was suggested that we send a follow-up letter to common stock share-

holders under my own letterhead and signature, and I am enclosing you a draft of what I thought would fit the case.

There are about four thousand names and I am undertaking the cost of postage, etc. Mr. Smith is undertaking to secure addressed envelopes in New York.

I would appreciate your suggestions or criticisms at an early date.

Very truly yours,

[C. H. THORNTON.]

CHT: GK  
Enc.

EXHIBIT No. PC-167

[Copy of letter from files of A. J. Sevin]

CHARLES H. THORNTON  
FOND DU LAC, WIS.

SEPTEMBER 1, 1936.

Mr. A. J. SEVIN,  
*Pittsburgh Plate Glass Co., Pittsburgh, Pa.*

DEAR MR. SEVIN: At a conference in Chicago yesterday with Mr. Walter and Mr. Smith it was suggested that we send a follow-up letter to common stock shareholders under my own letter head and signature, and I am inclosing you a draft of what I thought would fit the case.

There are about four thousand names and I am undertaking the cost of postage, etc. Mr. Smith is undertaking to secure addressed envelopes in New York.

I would appreciate your suggestions or criticisms at an early date.

Very truly yours,

[Signed] CHARLES H. THORNTON.

CHT: GK  
Enc.

EXHIBIT No. PC-168

[From files of A. J. Sevin]

The response to our invitation that owners of the Missouri Pacific Railroad common stock cooperate with our Committee representing common shareholders in presenting to the Interstate Commerce Commission our ideas of what we consider to be right and just to them in the pending reorganization was gratifying, but I note that your name was missing.

This Missouri Pacific reorganization plan will probably be the first one to come before the Courts under Section 77 of the Bankruptcy Act and the decision of the Courts affecting the rights of common shareholders in the pending reorganization will have some effect in other railroad reorganizations.

As advised you in our previous letter, two plans of reorganization of the Missouri Pacific Railroad Company have been submitted to the Commission and we are of the opinion that both are unfair to the common stockholders, particularly is it true of the plan submitted by the Committee representing the First and Refunding Bondholders whose plan proposes to destroy all present or future value of the common stock. This Bondholders Committee has filed a motion with the Interstate Commerce Commission *that they declare the common stock of no value.*

My own particular interest in this case is as Trustee for an Estate that has owned 3,000 shares of Missouri Pacific common stock since 1908 and in order to preserve its equity, when the 1917 reorganization was made, was obliged to buy \$150,000.00 4% General Bonds. In addition to that this Estate had at that time \$120,500.00 of the old 5% Refunding Bonds for which it received 1205 shares of preferred stock, so that to date this Estate has contributed \$270,500.00 in order to maintain the Missouri Pacific as a railroad, and I don't propose to see this equity wiped out without putting up a fight.

Your cooperation, whether you contribute to the expense or not, is required, and as stated above, this particular case is going to be of vital interest to all owners of Railroad Common Stock.

12562

RAILROADS AND HOLDING COMPANIES

EXHIBIT No. PC-169

[Copy of letter from files of A. J. Sevin]

SEPTEMBER 16, 1936.

MR. CHARLES H. THORNTON,  
104 South Main Street, Fond du Lac, Wis.

MY DEAR MR. THORNTON: Acknowledging yours of Sept. 1, with enclosure, as explained in my letter to Mr. Walter, have not had time to carefully go through this entire file since my return, but it certainly looks to me as though you all were doing a very good job with a most difficult situation, and am entirely in accord with matters as they have so far been handled.

Sincerely yours,

S-G

[A. J. SEVIN.]  
General Traffic Manager.

EXHIBIT No. PC-170

[Copy of letter from files of A. J. Sevin]

123 LIBERTY ST.  
NEW YORK CITY,  
September 1, 1936.

MR. CHAS. H. THORNTON;  
Fond du Lac, Wis.

MR. A. J. SEVIN;  
Pittsburgh, Pa.

MR. JAMES M. KEMPER,  
Kansas City, Mo.

MR. LUTHER M. WALTER,  
Chicago, Ill.

GENTLEMEN: Herewith is the statement of disbursements and commitments of the Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad Co. to and including August 31, 1936.

Authorizations and cash receipts to that date are as follows:

Number of Authorizations	302
Total shares	17067
Contributions:	
Checks	\$206.55
Coins & Stamps	23.18
Total contributions	229.73

Yours truly,

[Signed] ROBT. E. SMITH,  
Secretary.

Copy to Financial Section, Interstate Commerce Commission.



## RAILROADS AND HOLDING COMPANIES

12563

## EXHIBIT No. PC-171

[Copy of statement from files of A. J. Sevin]

123 LIBERTY ST.,  
NEW YORK CITY, NEW YORK,  
September 1, 1936.

*Statement of cash disbursements for office expenses by Robert E. Smith, Secretary, in behalf of the Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad Co. during August 1936, not including travelling expenses*

July 27 Telegram, Western Union.....	. 72
August 1 Economy Typewriter Service Co. (Office Rent).....	30. 00
4 Cartage, stockholders envelopes from J. P. Morgan Company to office.....	1. 00
6 United States Postage.....	40. 00
Stevenson & Marsters (Office Supplies).....	7. 72
7 Stevenson & Marsters (Office supplies).....	51
J. P. Morgan & Co. (for addressing stockholders envelopes and listing shares).....	130. 00
8 Typist (3¾ days).....	11. 50
10 United States Postage.....	100. 00
11 Cartage, (stockholders cards from J. P. Morgan Co.).....	. 50
15 Robert Myers, Office Manager (Salary ½ month).....	150. 00
Typist (six days).....	18. 00
18 Baker Voorhis & Co. (law publications).....	3. 52
22 Typist (six days).....	18. 15
25 Baker Voorhis & Co. (law publications).....	1. 52
26 Boel & Freeman, printers (printed forms).....	122. 25
29 Stenographer (six days).....	24. 00
31 Telephone calls.....	. 54
Economy Typewriter Service Co. (Typewriter rental).....	2. 50
Robert Myers, Office Manager (½ Month salary).....	150. 00
Robert Myers, expenses (4 day trip to Philadelphia, Baltimore and Washington, D. C. in connection with soliciting broker cooperation in mailing stockholders letters to clients whose Missouri Pacific common stock is listed in broker's name.).....	46. 50
Total Expenditures.....	861. 36
Commitments:	
Standard Statistics (for railroad statistics).....	\$150. 00
Statistical assistance (estimated account not rendered).....	150. 00

## EXHIBIT No. PC-172

[Copy of letter from files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP,  
Chicago, September 1, 1936.

F. D. 9918, MISSOURI PACIFIC RAILROAD COMPANY REORGANIZATION

Mr. OLIVER E. SWEET,

Interstate Commerce Commission, Washington, D. C.

DEAR MR. SWEET: On page 2 of the report of July 17, 1936, by Division 4, it is stated:

"Whether there will be personal solicitation will depend upon the results of the other efforts."

The results of solicitation by letter have not produced satisfactory results and I am giving you this letter as information that personal solicitation of hold-

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RAILROADS AND HOLDING COMPANIES

ers of common stock of the Missouri Pacific for authorization to act in the interests of holders of such stock will be promptly undertaken.

Yours very truly,

[Signed] LUTHER M. WALTER.

LMW: K  
E/C to Messrs. Charles H. Thornton.  
A. J. Sevin.  
James M. Kemper.  
Robert E. Smith.

EXHIBIT No. PC-173

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

COMMERCE TRUST COMPANY,  
Kansas City, Missouri, September 5, 1936.

Mr. CHARLES H. THORNTON,  
Fond du Lac, Wisconsin.

DEAR MR. THORNTON: I am pleased to have your letter of September 1 and to know that you intend to send another follow-up letter in the Missouri Pacific matter. I think the draft of the letter you have sent is excellent and should be sent out by all means.

I am enclosing Cashiers check in the amount of \$60.00 to cover half of the cost of the postage on this letter.

Very truly yours,

JAMES M. KEMPER.

JMK: G  
Encls.

EXHIBIT No. PC-174

[Copy of letter from files of Protective Committee for Holders of Common Stock of the MoPac. R. R., Robert E. Smith, sec.]

GEORGE H. PARKER  
ATTORNEY AND COUNSELLOR—CONSULTING ACCOUNTANT  
810 Munsey Building

WASHINGTON, D. C., Sept. 5th, 1936.

Mr. ROBERT E. SMITH,  
Secretary, Protective Committee for Holders of  
the Common Stock of the Missouri Pacific Railroad Co.,  
123 Liberty St., New York City.

DEAR MR. SMITH: I have not been unmindful of the interest which your letter of August 26th expressed, but I was out in West Virginia on a case for several days, and on my return was busy, as you may see from the enclosed in changing my offices. Meantime my steps have not had occasion to trek New Yorkwards, so that I have not thus far had the pleasure of looking in on you.

If it is not unmeet that a stranger to him should express an interest I may say that I am sorry to hear that your Chairman has been in the hospital, and I trust that he may have early and complete recovery.

Shall be happy to hear from you when your matters shape up and if I should find the chance will run over to New York and powwow with you as you suggested.

Very truly yours,

[Signed] GEORGE B. PARKER.

## EXHIBIT No. PC-175

[Copy of petition from files of protective committee for holders of common stock of the MoPac. R. R., Robert E. Smith, sec.]

Before the

## INTERSTATE COMMERCE COMMISSION

In the matter of Missouri Pacific Railroad Company. No. 9918

In the matter of New Orleans, Texas & Mexico Railway Company. No. 9918,  
Sub-No. 1

In the matter of International-Great Northern Railroad Company. No. 9918,  
Sub-No. 2

## PETITION FOR LEAVE TO INTERVENE

Now come Charles H. Thornton, R. W. Higgins, James M. Kemper and A. J. Sevin, and respectfully represent that they have an interest in the matters in controversy in the above-entitled proceedings and desire to intervene in and become parties to said proceedings, and for grounds of the proposed intervention say:

I. That petitioner, Charles H. Thornton resides at Fond du Lac, Wisconsin; petitioner R. W. Higgins resides at Duluth, Minnesota; said petitioners, with D. R. Long, of Superior, Wisconsin, and Joseph D. Conan, of Duluth, Minnesota, are trustees of the Conan Trust of Duluth, Minnesota, and the William J. Conan estate. The Conan Trust is the holder of General Mortgage four percent bonds of the Missouri Pacific Railroad Company of an aggregate par value of \$200,000.00, and 1,206 shares of preferred stock and 3,000 shares of common stock of the Missouri Pacific Railroad Company. Said petitioners jointly hold First and Refunding Bonds of the Missouri Pacific Railroad Company of the aggregate par value of \$50,000.00. Petitioner Charles H. Thornton is the holder of 500 shares of preferred stock, and 1,000 shares of common stock of the Missouri Pacific Railroad Company; petitioner R. W. Higgins is the owner of 500 shares of the preferred stock and 500 shares of the common stock of the Missouri Pacific Railroad Company.

That petitioner, James M. Kemper, resides at Kansas City, Missouri, is President of the Commerce Trust Company, and is the holder of 1,000 shares of preferred stock and 1,000 shares of common stock of the Missouri Pacific Railroad Company.

That petitioner, A. J. Sevin, resides at Pittsburgh, Pa., and is traffic manager of the Pittsburgh Plate Glass Company, a corporation with offices in the Grant Building, Pittsburgh, Pa.; said corporation is the holder of 2,000 shares of preferred stock of the Missouri Pacific Railroad Company.

II. In these proceedings, the debtors have submitted a plan of reorganization of their capital structure and properties which vitally affects the value of the securities of the Missouri Pacific Railroad Company and therefore your petitioners are interested in the final result of these proceedings.

WHEREFORE, said petitioners pray leave to intervene and be treated as parties to the above proceedings, with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses, and be heard in person or by counsel upon brief and at oral argument, if oral argument is granted.

DATED at Chicago, Ill., this 18th day of November, A. D. 1935.

CHARLES H. THORNTON,  
R. W. HIGGINS,  
JAMES M. KEMPER,  
A. J. SEVIN,  
By JOHN S. BURCHMORE,  
NUEL D. BELNAP,  
LUTHER M. WALTER,

*Attorneys.*

WALTER, BURCHMORE & BELNAP,  
Of Counsel,

1522 First National Bank Building, Chicago, Illinois.

STATE OF ILLINOIS,  
County of Cook, ss.

A. J. Sevin, being duly sworn, deposes and says that he is one of the petitioners in the above entitled proceeding; that he has read the foregoing petition, and knows the contents thereof; that the facts stated in the petition are true and correct insofar as the same relate to himself, and that he believes the allegations in the petition as to Charles H. Thornton, R. W. Higgins and James M. Kemper are true.

Subscribed in my presence, and sworn to before me, by the affiant above-named, this 18th day of November, 1935.

My Commission expires \_\_\_\_\_

\_\_\_\_\_, Notary Public.

EXHIBIT No. PC-176

[Copy of letter from files of A. J. Sevin]

WALTER, BUCHMORE & BELNAP,  
CHICAGO, September 9, 1936.

Mr. CHARLES H. THORNTON,  
104 South Main Street, Fond du Lac, Wisconsin.

Mr. A. J. SEVIN,  
Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.

Mr. JAMES M. KEMPER,  
Commerce Trust Company, Kansas City, Mo.

Mr. ROBERT E. SMITH,  
123 Liberty Street, New York, N. Y.

GENTLEMEN: I enclose herewith copy of letter from Director Sweet in reply to my letter of the 1st. This for your information.

Yours very truly,

[Signed] LUTHER M. WALTER.

(Encl.)

LMW:K

EXHIBIT No. PC-177

[Copy of letter from files of A. J. Sevin]

WALTER, BUCHMORE & BELNAP,  
Chicago, September 9, 1936.

Mr. CHARLES H. THORNTON,  
104 South Main Street, Fond du Lac, Wisconsin.

Mr. A. J. SEVIN,  
Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.

Mr. JAMES M. KEMPER,  
Commerce Trust Company, Kansas City, Missouri.

GENTLEMEN: What do you think of Mr. Smith testifying in the Missouri Pacific case somewhat along the lines covered in the attached memorandum? Whether we shall offer any testimony in the case presents an important question of policy. Unless we can add materially to the testimony in support of our case for the stockholders, it would seem to me that we should limit our activities to cross-examination, an outline of which I will send you the latter part of the week. We could ask Mr. Wyer to prepare and file for the record a statement of the moneys which have been plowed into the property since reorganization in 1917 and have a statement comparing that result with the result of the Rock Island and perhaps others roads in the same territory.

Yours very truly,

[Signed] LUTHER M. WALTER.

Copy to Mr. Robert E. Smith, 123 Liberty Street, New York, N. Y.

## EXHIBIT No. PC-178

[Copy of letter in files of Protective Committee for Holders of Common Stock of the Mo. Pac.  
R. R., Robert E. Smith, Secretary]

A. J. SEVIN,  
General Traffic Manager.

## PITTSBURGH PLATE GLASS COMPANY

General Offices—Grant Building

PITTSBURGH, PA.

Personal.

SEPTEMBER 16, 1936.

Mr. LUTHER M. WALTER,  
1522 First National Bank Building, Chicago, Ill.

MY DEAR LUTHER: Referring to your letter of Sept. 9 and previous correspondence in connection with the Missouri Pacific case, wish to apologize for not answering these various communications, but naturally there was an accumulation of personal matters on my return to the office, and while I have not as yet had time to go over the entire file, am entirely satisfied with everything that has so far been done.

Regarding testifying at the hearing or handling the case, am certainly willing to be guided by your judgment, and if in your opinion Mr. Smith is the one who should testify, it is, of course, satisfactory to me.

Sincerely yours,

[Signed] A. J. SEVIN,  
General Traffic Manager.

S-G.

Copy to Mr. Charles H. Thornton, 104 South Main Street, Fond du Lac, Wis.; Mr. James M. Kemper, Commerce Trust Company, Kansas City, Mo.; Mr. Robert E. Smith, 123 Liberty Street, New York, N. Y.

## EXHIBIT No. PC-179

[Copy of letter in files of Protective Committee for holders of Common Stock of the Mo. Pac.  
R. R., Robert E. Smith, Secretary]

CHARLES H. THORNTON

FOND DU LAC, WIS.

SEPTEMBER 12, 1936.

Mr. ROBERT E. SMITH,  
Secretary, Protective Committee for Common  
Shareholders, Missouri Pacific Ry.,  
123 Liberty Street, New York, N. Y.

DEAR MR. SMITH: I noticed in this morning's paper that Mr. Walter is going East on the Chicago, Great Western Reorganization, and assume that he will be away most of the week.

In yesterday's mail, I received from him an outline of the questions he was going to put to you, and your answers, and in reading them over last night, I am greatly impressed with every word of the answers regarding the Stedman Plan. Some of the answers to the Debtor Plan, particularly with reference to the retirement fund, might conflict with the plan I am working on.

I am taking the position that both plans are unfair to common stockholders, and the Debtor Plan particularly so in its conversion privilege of 25 shares of common for one \$1000 bond. My plan contemplates a 1½ to 1 basis. The Debtor Plan also contemplates capitalizing defaulted interest. I think we should put up a fight against that right from the start.

I will go over this again tomorrow and Monday, and will write you again, as Mr. Walter will probably be too busy during the coming week to give it much attention.

What would you think of presenting to the Interstate Commerce Commission your views on the Stedman Plan before going into the Debtor Plan? In other words, reverse the order of the presentation of your testimony.

Sincerely yours,

[Signed] CHARLES H. THORNTON.

CHT:JC

## EXHIBIT No. PC-180

[Copy of letter from files of A. J. Sevin]

CHICAGO, September 12, 1936.

In re F. D. 9918, Missouri Pacific Railroad Company reorganization.

W. LLOYD KITCHEL, Esq.,

14 Wall Street, New York City,

Attorney for Protective Committee for holders of Missouri Pacific  
First and Refunding Mortgage.

JAMES H. MCINTOSH, Esq.,

120 Broadway, New York City,

Attorney for Protective Committee for holders of St. Louis, Iron  
Mountain & Southern Ry. Co., River & Gulf Divisions, Mortgage.

SANFORD H. E. FREUND, Esq.,

55 Wall Street, New York City,

Attorney for Protective Committee for holders of Missouri-Pacific  
General Mortgage.

CARL A. DE GERSDORFF, Esq.,

15 Broad Street, New York City,

Attorney for Protective Committee for holders of New Orleans,  
Texas & Mexico 1st mortgage.

LUTHER M. WALTER, Esq.,

1522 First National Bank Bldg., Chicago, Ill.,

Attorney for Protective Committee for holders of common stock of  
Missouri Pacific Railroad Company.

DEAR SIR: I am writing to request on behalf of the Debtors that you furnish for incorporation in the record copies of the following documents:

- (1) All advertisements published by your committee.
- (2) All general letters addressed by your committee to holders of the securities which it represents.
- (3) Minutes of all meetings of your committee or of its executive committee, if any.

In addition, I wish to inquire whether you will permit me or my representative to examine your correspondence with holders of the securities which your committee represents for the purpose of determining whether there are any communications among such correspondence which should be made part of the record.

If the answers to the foregoing questions are in the affirmative, will you kindly further advise me whether the material referred to can be made available a reasonable time in advance of the next hearing so that I may have an opportunity to use it in connection with my preparation for that hearing.

I am sending a copy of this letter to Director Sweet.

Very truly yours,

[Signed] E. S. BALLARD.

CC: Hon. Oliver E. Sweet, Director, Bureau of Finance, Interstate Commerce Commission, Washington, D. C.

## EXHIBIT No. PC-181

[Copy of letter from files of A. J. Sevin]

WALTER, BURCHMORE &amp; BELNAP,

Chicago, September 16, 1936.

F. D. 9918, MISSOURI PACIFIC RAILROAD COMPANY REORGANIZATION

Mr. E. S. BALLARD,

120 South LaSalle Street, Chicago, Illinois.

DEAR MR. BALLARD: I have your letter of September 12th requesting that I furnish, for incorporation in the record, certain documents with reference to the activities of the Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad. We will comply with your request as to furnishing the documents. We will also permit you, or your representative, to examine all cor-

response with holders of the securities which our Committee represents, for any purpose you see fit. The material is available at your convenience.

Yours very truly,

[Signed] LUTHER M. WALTER

Copy to Mr. W. Lloyd Kitchel, 14 Wall Street, New York, N. Y.; Mr. James H. McIntosh, 120 Broadway, New York, N. Y.; Mr. Sanford H. E. Freund, 55 Wall Street, New York, N. Y.; Mr. Carl A. deGersdorff, 15 Broad Street, New York, N. Y.; Mr. Oliver E. Sweet, Director, Bureau of Finance, Interstate Commerce Commission, Washington, D. C.

B/C to Mr. Charles H. Thornton, Fond du Lac, Wis.

Mr. A. J. Sevin, Pittsburgh, Pa.

Mr. James M. Kemper, Kansas City, Mo.

Mr. Robert E. Smith, New York, N. Y.

EXHIBIT No. PC-182

(Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee Miscellaneous Correspondence)

JOHN S. WILEY

34th Road, Bayside, Long Island

SEPTEMBER 14, 1936.

DEAR MR. THORNTON: I hereby submit my statement for services rendered, including costs, of \$3500.

This amount is, I believe, substantially in line with expectations. You will recall that, at our conversation of June 17th last, at the Yale Club, you tentatively suggested a fee of \$3500 and an additional \$3500 for costs as payment for assembling the data and preparing a plan favoring the Junior Securities of the Missouri Pacific Railroad Company, which you might present before the Interstate Commerce Commission as a basis for authority to represent all the road's Junior Securities. The data you have already received. The plan for Junior Securities, while completed, was not sent to you, as a result of your letter of July 18th, in which you stated that you had decided to reconsider the matter of attempting to secure better treatment for Junior Securities. Accordingly, I submitted an opinion advising the purchase of the road's Senior Issues, which advice indicated a plan by which you might partially regain your losses on securities of lower grade.

Aside from the above tentative understanding, the fee is based upon the estimated value of the work which I was unable to undertake for others, due to my commitment to your matter. From June 17th to July 24th I devoted an average of seventeen hours daily to the preparation of your data, Saturdays, Sundays and holidays included, the equivalent of over ten normal week ends.

As I perform all my own work and have complete facilities in New York and extensive contacts for all work which I undertake, my expenses are reduced to a minimum and, in this case, are so small as to be negligible. For that reason no separate statement has been made for expenses.

I have not heard from you since your letter of August 22nd, in which you stated that you would discuss the situation with Mr. Smith and endeavor to secure authority to engage me as consultant to your committee, which has been authorized to represent all Junior Securities.

As you and I have already gone fairly far in this matter I believe it is ethically incumbent upon me to hold myself at your disposal until I learn definitely from you the outcome of your talk with Mr. Smith. For that reason I have postponed consideration of an offer from a large bank in New York City to head its investment department, with the position of executive vice-president, until I have heard definitely from you. I would, therefore, appreciate a word from you in the matter.

I thoroughly sympathize with your attitude on Government recklessness in spending and the wasting of public funds on such ventures as Tugwell projects. I have carefully studied the subject of Government paternalism and wrote against it late in 1934. You may be sure that John Hamilton is fully alive to the situation and shares your view-point.

Sincerely yours,

JOHN S. WILEY.

JSW: P  
Enc.

## EXHIBIT No. PC-183

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

BAYSIDE, LONG ISLAND, NEW YORK, *March 3, 1937.*

CHARLES H. THORNTON, Esq.,

104 South Main Street, Fond du Lac, Wisconsin.

DEAR MR. THORNTON: This letter includes my statement for services rendered—\$3500.

Since I first sent this statement several months ago, I have received only one communication from you. In that letter, you stated that you would bring this indebtedness to the attention of your reorganization committee.

I hope, in your interest, that the reorganization committee assumes this obligation. However, in all candor, I must write that my position has been that I was engaged to do personal work for you.

There are several reasons for this attitude.

In the first place, I undertook the work at your earnest request, even after I had advised you that I could not improve your treatment under the Stedman plan.

In the second place, you told me in New York City that you wished a clearer picture of the situation for the protection of your own interests, regardless of whether you were later authorized by the I. C. C. to use that information for the benefit of all junior security holders.

Thirdly, just as the work was practically completed, you sent word for me to discontinue further study on the matter and have, at no time, requested the results of such study. The only reason that you received them was because I took it upon myself to send my opinion to you.

In view of these facts, I do not understand why, as you intimate in your last letter, my compensation is subject to the discretion of your committee or of the I. C. C. Actually, if I had not sent the results of my work to you on my own initiative, neither body would have had a single item of evidence on which to base the soundness of my claims. Rather, the opinion here is that I was engaged by you to do a certain work and that you changed your mind, just prior to the completion of that work, as to its necessity and ordered its discontinuance.

My claim, therefore, represents a bill for time spent on the work, discontinued by you, not for the results achieved by such work. The situation is similar to that of a carpenter, for instance, who, against his best judgment, has undertaken a task for an employer who changed his mind as to the necessity of the work, practically on its completion. In this case, the time averaged around seventeen hours a day, every day, (the most sustained effort that I had ever made before and greater than I shall ever make in the future) over a period of five weeks.

If you will tell me your attitude in this matter, it would be very helpful to me.

Very truly yours,

JOHN S. WILEY.

JSW: SF.

## EXHIBIT No. PC-184

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

MARCH 5, 1937.

MR. JOHN S. WILEY,

211 34th Road, Bayside, Long Island, New York.

DEAR MR. WILEY: In the main, the contentions outlined in yours of March 3rd are correct, but you failed to mention that I said, in connection with my desire to obtain a clearer picture of the Missouri-Pacific situation for the interests I represent, that I would buy 5 Missouri Pacific First & Refunding Bonds (5%) as we both thought they were underpriced, and the profit, if any, would be for your account. I have carried out that part of the conversation.

My recollection of further conversational details was that if the Committee, of which I was a member, used your data I would see that a bill for adequate compensation to you would be presented to the Court for approval or disapproval.

The data you supplied was comprehensive, although I could have secured similar data from Standard Statistics or Moodys. Your conclusions, as based on that data, do not jibe with my own ideas of what should be given to common stock shareholders of the Missouri-Pacific.



Should the Stedman Plan, or anything approaching it, be approved of by the Interstate Commerce Commission and the Court, it means wiping out 25% of balance sheet assets when based on I. C. C. values, and you leaned toward the Stedman idea of wiping out both preferred and common stock.

Aside from the Missouri-Pacific shareholding interests, this certainly would be reflected in the general public's attitude toward railroad equities. I still have the five bonds mentioned and will await your further communications. The purchase price was around 38.

Yours very truly,

[C. H. THORNTON.]

CHT:JC.

EXHIBIT No. PC-185

[Copy of letter from files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP,  
Chicago, September 18, 1936.

Mr. CHARLES H. THORNTON,  
104 South Main St.,  
Fond du Lac, Wis.

Mr. A. J. SEVIN,  
Pittsburgh Plate Glass Co.,  
Grant Building, Pittsburgh, Pa.

Mr. JAMES M. KEMPER,  
Commerce Trust Company,  
Kansas City, Missouri.

Mr. ROBERT E. SMITH,  
123 Liberty Street,  
New York, N. Y.

GENTLEMEN: Today I received a wire from Secretary McGinty of the Interstate Commerce Commission advising that the hearing of the Missouri Pacific Reorganization case set for September 22nd had been postponed to October 6th next. This for your information.

Yours very truly,

[Signed] LUTHER M. WALTER.

LMW:K

EXHIBIT No. PC-186

[Copy of memorandum in files of Protective Committee for holders of common stock of the MoPac. R. R., Robert E. Smith, sec.]

MEMORANDUM RE PHASES OF REORGANIZATION PLANS TO BE PRESENTED TO I. C. C.  
AT HEARINGS COMMENCING SEPTEMBER 22ND, 1936

1. Determine amount of new common stock which can be allocated to present holders of common—in light of estimated earnings.

2. As a major difference between the debtor and the Stedman plans is the substantial sinking fund provided in the former, the whole question of sinking funds must be gone into thoroughly. This not only includes general theory of sinking funds, the more or less universality of their use in modern, industrial, public service and municipal bond financing, their advantages to holders of obligations, in the way of gradually increasing the fund available for servicing of bonds which remain outstanding and at the same time creating a market for bonds which are sold, and similar phases of sinking funds but considerable statistical data must be prepared to substantiate the statements which are made.

3. Discussion of conversion privileges will be important. Objectors to the debtors plan say, in effect, that it pays off the bonds with bond holders own money (by diverting interest payments to sinking funds) all for the benefit of the preferred and common stocks and the value of conversion features, as well as what are adequate conversion provisions, must be presented.

4. An important effect of sinking fund provisions is the lowering of debt ratios which is important from the general standpoint (a) of sound capital structures which can withstand periods of depression (b) a constantly improving financial condition which will make it possible for the company properly to maintain and improve the property (c) an improving credit position so that junior financing for

possible improvements to equipment and way in order to meet unanticipated competitive (sic) conditions, is more easily and less expensively obtainable and the public interest in the foregoing must be presented.

5. The debtors plan provides for a larger reserve for additions and betterments, than does the Stedman plan and importance of adequacy of such reserve should be presented. For example, the costs of air conditioning and other improvements in equipment and way which were recently necessitated by competitive (sic) conditions. When in Washington I found that the commission had not worked up any data on this and if time permits it might be well to get some figures on it ourselves.

6. Trend in interest rates must be presented to show that yields on obligations and dividends on preferred stocks suggested in both plans under review are excessive and that by the time any reorganization securities are issued under a finally approved plan interest rates may well be lower, than those prevailing at this time. Although a great mass of statistical data and charts have been compiled, these must be put in shape for intelligent presentation. Closely related to this is the current rate on rail obligations, where the lien per mile is comparable with that provided in the two plans. Data on this must be compiled.

7. Under sinking fund (Item 2) reference is made to effect of sinking fund on the ratio of debt to equities. This should be made the subject of a separate item as proper and sound ratios must be established at the time of adopting the reorganization plan—although so far as possible, improved as time goes on through the operation of adequate sinking fund provisions. I will not attempt to summarize this item or epitomize the several points which must be covered under it as the subject is too big and recent experience in industrial and mortgage financing is too ramified in respect thereto. Needless to say it is highly important and will require careful presentation supported by statistical data.

8. Precedents which have been established in industrial reorganizations under Section 77 B—to determine what treatment has been accorded the equities and what changes have been made in management are of course, important, there being no precedent in railroad reorganization under the amended bankruptcy act.

9. Matter of past expenditures for maintenance and improvement from earnings at the expense of dividend disbursements by the Missouri Pacific as compared by other lines in the same or similar territory was discussed at the committee meeting and Mr. Thornton is working up important data on this.

10. Argument must be presented to show the public interest in fair treatment of the equities in reorganization plans. Mr. Stedman has stressed the importance of fair treatment to the senior lien holders in order to maintain investor confidence in that class of rail securities and by implication as well as by the terms of his plan—he argues that such investor confidence in senior obligations must be secured at the expense of washing the equities overboard. This argument must be effectively answered. The necessity of investor confidence in rail equities as a means of financing at least a portion of improvements, betterments and extensions—the necessity of a cushion of equity money to secure senior and junior obligations financing—necessity of ample equities to maintain strong credit position—and similar argument must be presented to show that to the degree that there are any prospective earnings to justify the issuance of common stock to present holders—such stock must be recognized.

11. The question of allowing accrued interest on existing obligations is a big one. To the degree it is not allowed, of course it improves the position of the common stock. In the amendments to Section 77, a provision which might have been construed to mean that interest should accrue during trusteeship was stricken from the bill. I will prepare a historical statement with copies of the bills to show that congress by eliminating such provision—specifically intended that interest should not so accrue.

12. Under the Stedman plan control of the reorganized property is lodged in a voting trust of three trustees, two of which, as well as two of the three reorganization managers, are to be named by the Stedman Committee. As the Stedman committee represents less than a majority of the securities now outstanding only some 15% as a matter of fact it seems unfair for it to control the reorganized company and we should also point out the general objections to voting trust control, such a management continuing even though ownership of securities may be disposed of—loss of any factor of value in new common from considerations, of management or control, etc.

13. The foregoing subject is closely related to attacks which the Stedman committee has made upon Van Sweringen management of the Missouri Pacific. Assuming, for sake of argument that such criticism is justified, and please under-

stand that the writer has just the opposite view, the committee must decide whether Van Sweringen management should be replaced by Stedman management. Regardless of what our present opinions may be, the recommendations of the committee should be based upon some study of Van Sweringen management of other carriers, such as C & O and Erie, as the Alleghany Control of the Missouri Pacific was not had till after the depression was well under way. This should include such studies as operating ratios, physical conditions of properties, earnings, market position of securities, etc., comparisons being made with conditions which obtained before and after acquisition of control by the Van Sweringen interests as well as with averages for all class 1 railroads or with those in the same region.

14. Public interest in the securities of the Alleghany Company ranking senior to Alleghany common.

In discussion of treatment of Missouri Pacific common stock in reorganization plans, it is frequently inferred that the interests which will be affected are principally those of the Van Sweringen group. This is not a fact. Not only are  $\frac{1}{2}$  of the common held by interests other than the Alleghany Corporation but the Van Sweringen interest in the Alleghany Corporation is junior to three issues of Alleghany Bonds and an issue of Alleghany preferred.

It may be well said that our committee should not stress the Alleghany holdings of Missouri Pacific common, particularly as we have not been authorized to speak for these holdings. However, the subject has been injected into the proceedings and apparently with some prejudice. The writer will not suggest what policy should be followed in respect to this matter, but if only for the information of Committee Counsel to be used as occasion and his judgment shall dictate, it seems in order that data be compiled which will show the amount of Alleghany securities, senior to the common, which are outstanding in the hands of the public.

EXHIBIT No. PC-187

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Robert E. Smith Correspondence"]

SEPTEMBER 23, 1936.

Mr. LUTHER M. WALTER.

Walter, Burchmore & Belnap, 1522 First National Bank Bldg.,

Chicago, Illinois.

DEAR MR. WALTER: Replying to yours of the 19th instant with enclosed copy of revised testimony; the additional matter which I have under investigation is on three subjects.

1. *Van Sweringen Management.*—Yesterday I air-mailed you my proposed testimony. The elaborate supporting data (tables) will be required for cross examination only, consequently I had no copy made for you.

2. *Trend of Interest Rates.*—This is brief, but I can not take time to draft the testimony covering this data compiled for me by the Chicago Federal Reserve Bank, because I must devote all my time to item three.

3. *Historical Reorganizations.*—In collaboration with Mr. A. S. Pierce, Financial Vice President of the C. & N. W., I am working up statistical data on a dozen or more early reorganizations, including the Santa Fe and Union Pacific. It looks as though we can show that these and other early reorganizations adopted an almost uniform rule of further inflating capital structures, which were already badly inflated at the time of receivership. So the popular theory that the reorganization of these roads was a "wash out" is wholly erroneous.

I will not be surprised to find that the Stedman plan if adopted would constitute the most flagrant example of harsh and heartless treatment of equities in all American railroad history.

Our studies will not be completed until near the end of the next week, so your consideration of my proposed testimony must be postponed till we meet in Washington October 6th.

I presume the Wyer and Stedman cross examination will proceed presentation of our testimony.

Very truly yours,

ROBERT E. SMITH.

B/c

Charles H. Thornton.

A. J. Sevin.

James M. Kemper.

res/m

## EXHIBIT No. PC-188

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Robert E. Smith Correspondence"]

SEPTEMBER 23, 1936.

Mr. CHARLES H. THORNTON, *Chairman.*  
 Mr. ADDISON J. SEVIN.  
 Mr. JAMES M. KEMPER.  
 Mr. LUTHER WALTER.

GENTLEMEN: A list of stockholders residing in the Missouri-Pacific territory has been checked and we find the following three stockholders are members of the Railroad Brotherhoods.

Robert T. Milliken, Brakeman, Charleston, Miss.

Thomas W. Sullivan, Brakeman, 1353 Kansas Ave., Atchison, Kansas.

J. F. Pryor, Retired Conductor, 2307 Louisiana St. P. O. Box 412, Little Rock, Ark.

Milliken is a man about 38 years old, just an average fellow; has a large family of children; and his wife is sick considerable of the time.

Tom W. Sullivan is about 42 years old and I am informed he is somewhat above the average in intelligence and loyalty, and can be counted on to keep both feet on the ground and be dependable.

Pryor was retired as Conductor about 4½ years ago, when he reached the age limit of 70. His superior officer reports that he has always been a normal person and dependable, and could be counted upon. He is about 75 years old now and his age may perhaps make him unusable.

On the list are some employes such as painter, a car distributor in the Superintendent's office, several Station Agents, one Division Superintendent, one clerk to a trainmaster, one file clerk in Purchasing dept., several clerks in the traffic dept. main office, a cellar packer, a clerk in the office of the Superintendent of Telegraph.

It seems to me that Mr. Sullivan would be the best committeeman. If you agree, kindly advise, and when approval is received by two committeemen, I will write Mr. Sullivan. When he accepts I will advise Mr. Walter so that application for approval can be made to the Interstate Commerce Commission.

I do not think Mr. Thornton has received a reply from Mr. George F. Lee of Wilkes-Barre, Pa.

Very truly yours,

ROBERT E. SMITH, *Secretary.*

## EXHIBIT No. PC-189

[Copy of letter from files of A. J. Sevin]

SEPTEMBER 24, 1936.

Mr. ROBERT W. SMITH,  
*Secretary Protective Committee,*  
*Missouri-Pacific Reorganization, New York, N. Y.*

DEAR MR. SMITH: Acknowledging your joint letter of September 23 regarding a Missouri-Pacific employee for our committee. From the information given, Mr. Thomas W. Sullivan seems to me to be the logical person and this can be considered as my approval of his selection.

Very truly yours,

[A. J. SEVIN.]  
*General Traffic Manager.*

S-M

CC to Mr. Luther M. Walter.  
 Mr. Charles H. Thornton.  
 Mr. James M. Kemper.

## EXHIBIT No. PC-190

(Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Robert E. Smith Correspondence")

SEPTEMBER 28, 1936.

Mr. ROBERT E. SMITH,  
*Secretary, Protective Committee for Holders of Common Stock of  
Missouri-Pacific Railroad Company, 123 Liberty Street, New York, N. Y.*

DEAR MR. SMITH: Yours of the 23rd summarizing history of Missouri-Pacific employees that might be of use to us on this Committee, is before me and I am inclined to agree with your recommendation that Mr. T. W. Sullivan be invited to act with us.

Yours very truly,

CHARLES H. THORNTON, *Chairman.*

CHT: JO

Cs.: Luther Walter, 1522 First Nat'l. Bank, Chicago, Illinois; A. J. Sevin, Pittsburgh Plate Glass Co., Pittsburgh, Pa.; James M. Kemper, Commerce Trust Company, Kansas City, Mo.

## EXHIBIT No. PC-191

(Copy of letter in files of Protective Committee for holders of common stock of the MoPac. R. R., Robert E. Smith, Secretary)

OCTOBER 2, 1936.

M. L. M. BALDWIN,  
*Chief Operating Officer, Missouri Pacific Railroad Co., St. Louis, Missouri.*

DEAR SIR: Herewith copy of a letter to Mr. Thomas Sullivan, who I understand, is a Missouri Pacific trainman. I think the letter will speak for itself.

If the suggestion which I have made in the letter regarding allowance of compensation for time while Mr. Sullivan may be away from his run meets with your approval, I will appreciate your advising him and it may have a bearing on his willingness to attend the hearing. I assume he is entitled to railroad and Pullman transportation.

I am sure you appreciate the desirability of Mr. Sullivan's familiarizing himself with the various phases of and questions involved in this reorganization, and this it would seem could best be accomplished by his attendance at the hearings. Also that funds at the disposal of the committee are less than the expense of printing and postage and therefore any advance to Mr. Sullivan for compensation must come from other members of the committee or its Secretary.

As I am writing Mr. Sullivan in this mail, I will appreciate your advising him as soon as may be possible regarding your decision in this matter as it may have a bearing on his willingness to attend the November 10th hearing.

Yours very truly,

ROBERT E. SMITH, *Secretary.*

Copies to—

Mr. Sullivan,

Mr. Luther M. Walter, Finance Division, Interstate Commerce Commission.

## EXHIBIT No. PC-192

(Copy of letter in files of Protective Committee for holders of common stock of the MoPac. R. R., Robert E. Smith, Secretary)

OCTOBER 2, 1936.

Mr. THOMAS W. SULLIVAN  
*1553 Kansas Ave., Atchison, Kansas.*

DEAR MR. SULLIVAN: As you know, the Missouri Pacific Railroad Company is undergoing reorganization under the provisions of Section 77 of the Bankruptcy Act. The undersigned stockholders protective committee was authorized by the Interstate Commerce Commission on July 27th of this year, since which time it has communicated with all stockholders and has secured authorizations from holders of 27,463 shares to represent them in the proceedings.

As we note that a substantial number of stockholders reside at division points of the Missouri Pacific, the committee concludes that many of them are employees and feels they should be represented in the committee and have a voice in matters relating to the future management control and similar questions, as well the treatment which may be accorded to the several classes of security holders.

Under the statute and regulations, all members of protective committees must be approved by the Interstate Commerce Commission.

The Committee will appreciate it if you will grant us permission to propose your name to the Commission as a member of this committee.

We do not think you will find your duties as a committeeman burdensome, and any expenses which you may incur will be repaid to you.

Although the matter has never been discussed, it would seem to the writer that the company should allow you compensation for time you are off your run because of necessary attendance at committee meetings or I. C. C. hearings as it is a matter relating to highly important company business.

However, that is a matter for decision by the Company, and the Interstate Commerce Commission, to both of whom copies of this letter are being transmitted.

Hearings on plans of reorganization will be resumed before the Interstate Commerce Commission on November 10th, and your attendance may be helpful. In any case it would be desirable for you to attend and listen to the testimony.

If the Commission approves your election, your expenses and such compensation as may be allowed by the Commission would be repayable to you at the conclusion of the reorganization.

Accordingly, will you kindly give this matter your early consideration and advise whether it would be convenient to attend the hearings which begin November 10th in Washington, D. C.

Very truly yours,

ROBERT E. SMITH, *Secretary.*

Copies to—

Luther M. Walter.

L. W. Baldwin, Finance Division, Interstate Commerce Commission.

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EXHIBIT No. PC-193

[Copy of letter in file "Sullivan, T—Protective Committee" in possession of Guy A. Thompson, Trustee, Missouri Pacific Railroad Co., St. Louis, Mo.]

SAINT LOUIS, October 4th, 1936.

MR. THOMPSON: Please see the attachments.

The point here, as I see it, is whether or not the Trustee is agreeable to a train man in the service receiving pay for time lost from his run if he should respond to the request made upon him by the Protective Committee for the holders of common stock by joining the Committee and attending the hearings in Washington.

I would appreciate having a ruling on this, please.

[Signed] W. C. VOLLMER.

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EXHIBIT No. PC-194

[Copy of letter in file "Sullivan, T—Protective Committee" in possession of Guy A. Thompson, Trustee, Missouri Pacific Railroad Co., St. Louis, Mo.]

ATCHISON, KANSAS, October 7, 1936.

MR. T. T. RILEY: Mr. Robert E. Smith, Secretary, Protective Committee for Holders of Common Stock of this Company, has written Mr. Thomas W. Sullivan, of this City, under date of October 2nd, a carbon copy to Mr. L. W. Baldwin, asking him to serve on this Protective Committee, attending meetings before the Interstate Commerce Commission etc.

Sullivan is absolutely O. K. in every respect, but he does not want to act without information and knowledge on the subject. Do you want him to act on this Committee and can he be of any benefit?

Yours very truly,

[Signed] W. P. WAGGENER,  
*General Attorney.*

## EXHIBIT No. PC-195

[Copy of letter in file "Sullivan, T.—Protective Committee" in possession of Guy A. Thompson, Trustee, Missouri Pacific Railroad Co., St. Louis, Mo.]

St. Louis, October 8th, 1936.

Request of Mr. Thomas W. Sullivan, Atchison, Kansas, to Serve upon "Missouri Pacific Stockholders' Committee."

Mr. W. P. WAGGENER,  
General Attorney, Atchison, Kansas.

DEAR SIR: I have before me your letter of October 7th, advising that Mr. Thomas W. Sullivan of Atchison, Kansas, has been requested to serve upon Missouri Pacific Stockholders' Committee.

I assume that you have reference to the Protective Committee for holders of Missouri Pacific common stock, of which Mr. Charles H. Thornton of Fond du Lac, Wisconsin, is the Chairman, and Mr. Luther M. Walter of Chicago, Ill., the Counsel.

I do not know much about this committee and, in behalf of the Missouri Pacific Trustee, would hesitate to make any suggestion regarding the personnel of any committee.

The obvious purpose of the committee is to appear before the Commission and the Court for the purpose of protecting the interest of common stockholders in any proposed Plan of Reorganization.

It would seem that the interest of this committee would be substantially the same as that of the Van Sweringen interests, and I am, therefore, sending copy of this letter to Mr. Herbert Fitzpatrick, Terminal Tower, Cleveland, Ohio, who is Counsel for the Debtor Company, with the suggestion that he may communicate with you direct in behalf of the Debtor Company if he so desires.

Yours very truly,

[Signed] THOS. T. RAILEY,  
Asst. to Counsel for Trustee.

TTR: S

Copy to

Mr. L. W. Baldwin.  
Mr. Herbert Fitzpatrick.

## EXHIBIT No. PC-196

[Copy of handwritten letter in files of Protective Committee for holders of Common Stock of the MoPac. R. R., Robert E. Smith, Secretary]

ATCHISON, KANS., October 8, 1936.

Mr. ROBERT E. SMITH,  
Secy. Comm Stockholder Protective Committee.

DEAR SIR: Your letter dated Oct-2 relative to me serving on Common Stockholders Protective Committee of Mo. Pac. R. R. Co.

You may present my name to I. C. C. for approval as member of said Committee providing Committee works in the interest of present management.

From the experience of 28 years service under several different managements will say I am against any change in policy, that will cause a change in management or work a hardship on present management. Nothing but fairness have we employees received, and nothing but kindness have our retired veteran employees received from the present management headed by Mr. Baldwin, and in return, in my small way I am willing to do what I can to assist in carrying out the Reorganization Plans of the present management.

If I am approved by I. C. C. you will please furnish me with necessary information and instructions relative to reorganization plans.

I will respect any instruction or information as strictly confidential.

Yours truly

[Signed] T. W. SULLIVAN,  
Mo. Pac. Conductor, 1553 Kans. Ave., Atchison, Kansas.

## EXHIBIT No. PC-197

{Copy of office memorandum in file "Sullivan T—Protective Committee" in possession of Guy A. Thompson, Trustee, Missouri Pacific Railroad Co., St. Louis, Mo.}

SAINT LOUIS, October 9th, 1936.

Mr. THOMPSON: I wrote you a little memorandum on October 4th in regard to Trainman Thomas Sullivan having been requested by the Secretary of the Protective Committee for Holders of Missouri Pacific Common Stock to join their Committee and come to Washington and attend the hearing.

The point that I was concerned with was whether we could pay this man time lost from his run if he should respond to the request made upon him.

I now see where Mr. Railey is having some correspondence with General Attorney Waggener at Atchison, copies attached, in which you may be interested.

[Signed] W. G. VOLLMER.

## EXHIBIT No. PC-198

{Copy of office memorandum in file "Sullivan, T—Protective Committee" in possession of Guy A. Thompson, Trustee, Missouri Pacific Railroad Co., St. Louis, Mo.}

MR. VOLLMER: Referring to correspondence dealing with the subject of Mr. Thomas Sullivan serving as a member of the Protective Committee for Holders of Common Stock of Missouri Pacific Railroad Company, permit me to say, in the first place, that it is not at all clear to me why Mr. Railey assumed that this was a matter that he, Mr. Railey, should take up with Mr. Herbert Fitzpatrick. As I understand the situation, Mr. Sullivan is a trainman in the employ of the Trustee of the Missouri Pacific and has no connection of any kind whatsoever with Mr. Fitzpatrick, nor has Mr. Fitzpatrick any connection with him.

In the second place, I do not think it advisable that anyone connected with the Trustee's organization, in any capacity should serve as a member of any Protective Committee.

[Stamped] GUY A. THOMPSON,  
10-9-36.

## EXHIBIT No. PC-199

{Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Robert E. Smith Correspondence"}

SEPTEMBER 26, 1936.

MR. ROBERT E. SMITH,  
*Secretary, Protective Committee for Holders of Common Stock of the  
Missouri-Pacific Railroad Company,  
123 Liberty Street, New York, N. Y.*

DEAR SMITH: This weed poison of mine has been very slow in clearing up, and I put in ten days in a hospital in Chicago, and hope that we may have it on the way out now. It has seriously interfered with my assembling thoughts on the Missouri-Pacific matter, but I will try and get the letters out early next week.

Mr. Walter visited with me nearly every day while I was in Chicago, but we did not get anything definitely settled excepting the presentation of your testimony at the October 6th hearing.

I suggested to him that he allow me to contact Mr. Walker, of the Northwestern Life, through a friend with the view of trying to reach an understanding with the Stedman Committee, but nothing definite was decided on that, and I think it can be allowed to rest until after the October 6th meeting, as that probably will not be the last, and something might develop in the forthcoming hearing that would make it unnecessary. However, keep it in mind.

With best wishes, I am,

Sincerely yours,

[C. H. THORNTON.]

CHT: JC

Encl.

CC. Luther Walter, 1522 First National Bank Bldg., Chicago, Illinois; A. J. Sevin, Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.; James M. Kemper, Commerce Trust Company, Kansas City, Mo.



## EXHIBIT No. PC-200

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

FREDERICK W. WALKER.

THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY,  
Milwaukee, Wisconsin, September 29, 1936.

Mr. CHARLES H. THORNTON,  
Fond du Lac, Wisconsin.

DEAR MR. THORNTON: Your letter of September 28th, to Mr. Howard Greene has been referred by him to me.

I note the holding of Missouri Pacific securities by the Conan Trust and that Mr. Higgins and you have interested yourselves in trying to organize a committee that would represent minority common stock and have finally received authority from the Interstate Commerce Commission to go ahead.

If, as you suggest, a better understanding than now exists between the various interests could be brought about without unduly impairing the rights of secured creditors, it seems reasonable to suppose that the reorganization of the road would be hastened.

In view of the fact that you have undertaken the job of Chairman of the Committee representing minority common stock, it would seem to me that a discussion of this matter might very properly be taken up with Mr. John W. Stedman, Chairman, and Mr. Wm. Lloyd Kitchel, Counsel for the First and Refunding Mortgage Bondholders' Protective Committee, of which I am a member. However, if this method of procedure does not appeal to you, I shall be glad to discuss the matter with you in my capacity as Vice President of The Northwestern Mutual Life Insurance Company, holding \$8,210,000 Missouri Pacific First and Refunding Mortgage Bonds and \$2,450,000 St. Louis, Iron Mountain and Southern Railway, River and Gulf Division First Mortgage Bonds.

As I am away from the Home Office a large part of the time on Company business, I would suggest in the event of a conference at my office in Milwaukee that a definite time be arranged in advance.

Very truly yours,

FWW:JP

F. W. WALKER, *Vice President.*

## EXHIBIT No. PC-201

[Copy of letter from files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP,  
Chicago, October 2, 1936.

Mr. CHARLES H. THORNTON,  
104 South Main Street,  
Fond du Lac, Wisconsin.

Mr. A. J. SEVIN,  
Pittsburgh Plate Glass Co.,  
Grant Building, Pittsburgh, Pa.

Mr. JAMES M. KEMPER,  
Commerce Trust Company,  
Kansas City, Missouri.

Mr. ROBERT E. SMITH,  
123 Liberty Street,  
New York, N. Y.

GENTLEMEN: Confirming my telegram to you today, the Missouri-Pacific hearing, Finance Docket 9913, has been postponed to November 10th. This action was taken, as I understand it, at the request of the counsel for the Stedman Committee.

This, of course, makes it unnecessary for us to meet in Washington on Monday.

Yours very truly,

[Signed] LUTHER M. WALTER.

LMW:K

## EXHIBIT No. PC-202

[Copy of letter in files of Protective Committee for holders of common stock of the MoPac.  
R. R., Robert E. Smith, Sec.]

Mr. E. N. BROWN,  
120 Broadway,  
New York City.

OCTOBER 7, 1936.

DEAR MR. BROWN: The suggestions you made yesterday, to the Interstate Commerce Commission, in respect to fair treatment of the equities in Railroad reorganizations is of particular interest to the writer as at the moment we are preparing that phase of the case of the common stockholders of the Missouri Pacific Railroad, for presentation to the Commission on November 10.

As no precedents have been established under Section 77, I think the stockholders of all carriers in reorganization have a mutual interest in the most effective presentation of this subject, regardless of which case may be under consideration.

I am sure your views will be helpful in the preparation of our testimony and I will appreciate a conference. I will be out of the city next week, but if you can spare a little time to-day or to-morrow, it will be appreciated. I will telephone you before noon.

Truly yours,

ROBERT E. SMITH.

RES/C

## EXHIBIT No. PC-203

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

OCTOBER 23, 1936.

Mr. JOHN W. STEDMAN,  
% Prudential Life Insurance Company, Newark, New Jersey.

DEAR MR. STEDMAN: The idea has been growing on me for some months past that this Missouri-Pacific Reorganization matter had reached a stalemate stage that promised large and useless waste of monies, and through a mutual friend, a Director of the Northwestern Mutual Life Insurance Company, I arranged for a conference with Mr. Frederick W. Walker, with the purpose in mind of discovering if there were not some way of reconciling the existing conflicting opinions as to rights of the various interests.

I met with Mr. Walker in Milwaukee yesterday, and feel encouraged in following the matter still further, but Mr. Walker pointed out to me that you had carried the main burden of the work of this Committee, and that any suggestions I had in mind should be presented to you and Mr. Kitchel.

I have no definite ideas of where or how we can go from here, but I do know that to combat a bureaucracy with a divided front is to invite delay and possible disaster, and am inquiring if there would be anything to talk about if arrangements were made for a conference with yourself and Mr. Van Sweringen.

I am writing Mr. Van Sweringen today with a similar suggestion, and if he and you think there is anything to talk about, I will come into Newark any day next week. I say next week, as the time is short to November 5th.

Yours very truly,

CHT:JC.

[C. H. THORNTON.]

## EXHIBIT No. FC-204

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

PROTECTIVE COMMITTEE FOR HOLDERS OF MISSOURI PACIFIC RAILROAD COMPANY FIRST  
& REFUNDING MORTGAGE 5% GOLD BONDS

OCTOBER 29, 1936.

CHARLES H. THORNTON, Esq.,  
104 South Main Street, Fond du Lac, Wisconsin.

DEAR SIR: I quite agree with the view expressed in your letter of October 23rd that it would be better to reach an agreement with all parties in interest of the

matter of the Missouri Pacific Reorganization than to incur the interminable delay and expense incident to hearings before the Interstate Commerce Commission under Section 77 of the Bankruptcy Act. Accordingly, for some time past I have been using by best efforts to effect a settlement, with what final result I cannot now predict.

Yours very truly,

JOHN W. STEDMAN, *Chairman.*

EXHIBIT No. PC-205

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

OCTOBER 29, 1936.

Air Mail

Mr. JOHN W. STEDMAN,

*% Prudential Insurance Company, Newark, New Jersey.*

DEAR MR. STEDMAN: Under date of October 27th, and in reply to my letter of October 23rd, of which you received a copy, Mr. Van Sweringen writes me as follows:

"I am very much interested in your letter of October 23rd.

"The Debtor Company has at all times been willing to discuss these matters with representatives of its creditors and stockholders, and we have recently been holding some conversations with representatives of certain of these classes.

"We have not recently, however, had any conferences direct with Mr. Stedman but will be glad to be advised of his response to your suggestion."

In writing you I suggested desirability of an early date, having in mind the thought that if a conference held promise of getting results we could ask the I. C. C. for a postponement of the November 10th hearing.

Should the idea appeal to you, I could arrange to be in Newark on Wednesday, the 9th.

A telegraphic reply would be appreciated.

Yours sincerely,

[C. H. THORNTON.]

CHT:JC.

EXHIBIT No. PC-206

[Copy of letter from files of A. J. Sevin]

WALTER, BURCHMORE & BELNAP,  
*Chicago, November 3, 1936.*

F. D. 9918, MISSOURI PACIFIC RAILROAD REORGANIZATION

Mr. CHARLES H. THORNTON,

*104 South Main Street, Fond du Lac, Wisconsin.*

Mr. A. J. SEVIN,

*Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.*

Mr. JAMES M. KEMPER,

*Commerce Trust Company, Kansas City, Missouri.*

Mr. ROBERT E. SMITH,

*123 Liberty Street, New York, N. Y.*

DEAR SIRS: The hearing of the above entitled proceeding before the Interstate Commerce Commission, now assigned for November 10th at Washington, will be postponed for a period of approximately sixty days. As soon as I have learned the definite date for the reassignment I will advise you.

Yours very truly,

[Signed] LUTHER M. WALTER.

LMW:K

## EXHIBIT No. PC-207

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

NOVEMBER 5, 1936.

Mr. LUTHER M. WALTER,  
% Walter, Burchmore & Belnap,  
1522 First Nat'l. Bank Bldg., Chicago, Illinois.

DEAR WALTER: I will probably see you in Chicago Monday and discuss with you the advisability of continuing the program I started on about two weeks ago, same being the desirability of a conference attended by Mr. Stedman, O. P. and myself. Both of these gentlemen have indicated a willingness to meet with the view of trying to iron out some of the several differences of opinion now existing.

Yours sincerely,

[C. H. THORNTON.]

CHT: JC

## EXHIBIT No. PC-208

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

NOVEMBER 5, 1936.

Mr. JOHN W. STEDMAN,  
*Prudential Insurance Company, Newark, New Jersey.*

DEAR MR. STEDMAN: Upon receipt of your wire of November 2nd suggesting a possible postponement of the November 10th hearing, I deferred further work on the Missouri-Pacific matter, as I have a local Machine Tool Company Reorganization that will take me East and figured that the two could be handled at the same time. I received a wire this morning that the meeting had been postponed for about sixty days, so I will go ahead with my Machine Tool business.

Your letter of the 29th stating that you had been using "best efforts to affect settlement" leads me to think that we will have something to talk about, not only on the common stock matter, but on some ideas I have on your Committee plan that might result in improving the position of First & Refunding Bonds.

This Machine Tool business will take me into Chicago on Monday, the 9th; Cleveland the 10th; Cincinnati, the 11th and 12th, and New York the latter part of the week, and while in Cleveland I will take the opportunity of visiting with Mr. Van Sweringen.

If a conference seems desirable to you, I will while in Cleveland, try and arrange for a date that will fit in with other engagements.

Yours very truly,

[C. H. THORNTON.]

CHT: JC

P. S.—Lasalle Hotel, Chicago, Monday; Cleveland Hotel, Tuesday.

## EXHIBIT No. PC-209

[Handwritten memorandum from files of A. J. Sevin]

The Wheeler Committee, I am advised, is quite interested in R. R. protective Committees and I presume, under the broad powers of Senate resolution, they have authority to examine all files and communications in respect thereto, in the possession of any Committeeman or Employee.

They have asked for copies our form letters.

## EXHIBIT No. PC-210

[Copy of telegram from files of A. J. Sevin]

Western Union

CHICAGO, ILL., Nov. 24th.

A. J. SEVIN,

*Pittsburgh Plate Glass Co., Grant Bldg., Pittsburgh, Pa.:*

Think it entirely proper to show Senate Committee representative everything in your file relating to Committee activities Stop do not think it proper to furnish copies of papers such as queries from secretary or member of Committee as to matter to be embodied in testimony or suggested matters for embodiment in plan of reorganization Stop When matters finally determined on by Committee think should gladly furnish same to Senate Committee. Stop. Smiths suggestions for consideration as basis of testimony and exhibits and Thornton suggestions for plan are not proper matters for Committee at this stage of investigation. Stop. While desirous cooperating with Senate Committee in every way think their representative should not insist upon copies such papers Stop. Will be glad confer with Senate Committee representatives at mutually convenient time if that is desired.

[Signed] LUTHER M. WALTER.

## EXHIBIT No. PC-211

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

PROTECTIVE COMMITTEE FOR HOLDERS OF COMMON STOCK OF THE MISSOURI-PACIFIC RAILROAD CO.

NOVEMBER 25, 1936.

Mr. CHARLES H. THORNTON,

*Fond du Lac, Wisconsin.*

DEAR MR. THORNTON: Enclosed find contribution checks and a list of the same for your files and another list of the same for you to receipt and return to me.

Enclosed also is a check from J. P. Morgan & Company for \$9.22. This was the unused balance of the \$130.00 I advanced for the cost of J. P. Morgan & Co. making us a set of stockholders cards and addressing two sets of envelopes for the letters to stockholders.

In order to keep the accounts straight, I am remitting the refund to you to be placed in the account of the committee.

Truly yours,

[Signed] ROBERT E. SMITH.

b c

Finance Division, Interstate Commerce Commission.

## EXHIBIT No. PC-212

[Copy of listing from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

123 LIBERTY STREET.  
- NEW YORK CITY, NEW YORK,  
November 25, 1936.

List of checks received at 123 Liberty St., New York, N. Y. as contributions to defray the expenses of the Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad Co. between the dates of Sept. 19, 1936 and November 25, 1936

E. L. Sutton.....	.60	H. E. Weitknecht.....	.50
Harold V. Pate.....	.60	Gender, Paeschke & Prey Co.....	.20
D. N. Moore.....	.40	P. O. M. O. #14967.....	1.50
Fred Dixon.....	.30	Arthur O. Behrens.....	.75
P. O. M. O. #76408.....	.50	Alice C. Plantation.....	2.68
H. W. Stanley.....	1.20	R. J. Arnett.....	2.00

List of checks received at 123 Liberty St., New York, N. Y. as contributions to defray the expenses of the Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad Co. between the dates of Sept. 13, 1936 and November 25, 1936—Continued

Wm. H. Wilkinson.....	1.00	Guaranty Trust & Co.....	3.00
Merton L. Miller.....	2.00	E. W. Cox.....	4.00
H. W. Reinhart.....	1.00	P. O. M. O. #396438.....	3.00
R. E. Onstot.....	2.00	Albert B. Faust.....	1.00
Stephen Abbot.....	1.00	H. Hunt.....	2.00
Jennie V. Kohman.....	2.00	Joseph F. Tuttle.....	1.00
Estate Henry Heiman.....	1.00	Wilmington Savings & Trust.....	2.00
Samuel S. Blitz.....	4.00	Canadian Money Order #8360.....	.20
George Kirkness.....	2.00	Mayme Chamberlain.....	.50
Alice C. Plantation.....	20.68	1st Wisconsin Nat. Bnk.....	.60
Max Goldberger.....	3.00	P. J. Dauble.....	1.00
P. O. M. O. #23349.....	5.00	Flora E. Olunt.....	5.20
T. DeCoppet.....	2.00	P. O. M. O. #494078.....	2.00
Mrs. Winifred D. Steely.....	2.00	Mildred McCready.....	1.00
Henrietta Cooper Jennings.....	2.00	Bank of America.....	.60
Fred Meyers.....	1.00	Dr. Ernest Wright.....	1.00
Elizabeth H. Stronge.....	5.00	J. P. Drury.....	2.00
H. L. Henry.....	1.00	P. O. M. O. #85431.....	1.00
Max Wolf.....	1.00	O. H. Kaupp.....	2.00
James S. Clay.....	2.00	O. D. Pennell.....	1.00
Farmers Nat. Bank of Danville.....	2.00	English Asso. of American.....	1.30
R. H. Lee Reich.....	1.00	Bond & Shareholders.....	.68
P. S. Wiman, personal.....	2.00	Thos. H. Miller.....	10.00
Matthew Snedden.....	2.00	Bernard M. Cone.....	
John Anderson.....	2.00	Wm. M. Whitten.....	1.00
Ramiro Trapote.....	2.00		
Henry W. Baird.....	2.04	Total.....	135.81
Clarence D. Smalling.....	2.00		

Number of checks 64.

Received the above listed checks.

C. H. THORNTON,  
Chairman & Treas., Protective Committee for Holders  
of Common stock of the Missouri Pacific Railroad Co.

EXHIBIT No. PC-213

[Copy of letter from the files of Luther Walter, Counsel for Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad]

CHARLES H. THORNTON

FOND DU LAC, WIS.

NOVEMBER 27, 1936.

MR. LUTHER WALTER,

% Walter, Burchmore & Belnap, Attorneys at Law,

1522 First National Bank, Chicago, Illinois.

DEAR WALTER: Some startling news that you may have come in contact with. Tomlinson and Ball, for their capital investment in Mid-America, took preferred stock and 45% in common stock. The other 55% common\* was options for ten years to the Van Sweringen Brothers, but options terminated with death, thus leaving Mid-America in sole control of the whole Van Sweringen picture, including Alleghany with its MOP holdings.

Tomlinson and I have been intimate friends for thirty-four years now, and I feel certain that he will listen to anything constructive that I present to him.

Yours very truly,

[Signed] THORNTON.

CHT:JC

[\*The word common in ink.]

## EXHIBIT No. PC-214

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

DECEMBER 4, 1936.

Mr. E. S. BROOKS,  
P. O. Box 81, Wall Street Station,  
Brooks Railroad Mortgage Table, New York, N. Y.

DEAR MR. BROOKS: At the moment, there isn't very much to say about the Missouri-Pacific Reorganization, largely because it is not easy to form an opinion as to just what attitude the representatives of Senior securities will take with the passing of Mr. Van Sweringen.

There is one feature of the situation that I am not clear on, and possibly, you may have some information that can be passed on.

Same has to do with the Mid-America Corporation who are reported to have taken preferred stock for their capital investment and 45% of the Equity Stock, the other 55% going to the Van Sweringen brothers, and in the event of death, to revert to Tomlinson and Ball.

I never had any tangible grounds for holding the opinion that the Equity stock of the Mid-America Company would eventually land with the Morgan Firm and people to whom they sold the Van Sweringen obligations, but I did feel that Mr. O. P. Van Sweringen felt a moral obligation that he would go the limit in fulfilling.

If anything in the way of news develops, I shall certainly get in touch with you.  
Yours very truly,

[C. H. THORNTON.]

CHT:JC

## EXHIBIT No. PC-215

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders Committee—"Luther M. Walter Correspondence"]

DECEMBER 19, 1936.

Mr. LUTHER M. WALTER,  
% Walter, Burchmore and Belnap, Attorneys at Law,  
Field Building, Chicago, Illinois.

DEAR LUTHER: Modesty is one of the human traits that I have tried and failed to overcome, but I did make a mental reservation when you stated that to Mr. Smith was due credit for authorization of our Committee.

A quick survey of the enclosed correspondence, together with your more complete knowledge of Washington official topography, might serve to disabuse my mind of the idea that any credit is due me for this Committee.

Sincerely,

[C. H. THORNTON.]

CHT:JC

P. S.—Kindly return the correspondence for my files.

## EXHIBIT No. PC-216

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders Committee—"Luther M. Walter Correspondence"]

## WALTER, BURCHMORE AND BELNAP

Mr. CHARLES H. THORNTON,  
104 South Main Street, Fond du Lac, Wisconsin.

DEAR CHARLES: I have your letter of the 19th inst., and its attached correspondence, which I am returning herewith. I fear you did not fully understand my reference to what Boyden or Sweet said. What was in my mind evidently was the thought that but for the initiative taken by Mr. Smith to organize a protective committee for the common stockholders, there would not have been a committee formed. There was no intention to deny the value of the work which you had

done in perfecting the committee. It was the mere thought of origination, not development.

Yours very truly,

[Signed] LUTHER M. WALTER

(Encl.)  
LMW:K

EXHIBIT No. PC-217

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

Law Offices

WALTER, BURCHMORE & BELNAP

CHICAGO

DECEMBER 22, 1936.

Mr. CHAS. H. THORNTON,

104 South Main Street, Fond du Lac, Wisconsin.

Mr. A. J. SEVIN,

Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.

Mr. JAMES M. KEMPER,

Commerce Trust Company, Kansas City, Missouri.

Mr. ROBERT E. SMITH,

123 Liberty Street, New York, N. Y.

GENTLEMEN: The enclosed letter to Mr. Thompson is self explanatory. It seemed to me desirable to give notice to Mr. Thompson as trustee that the common stockholders would object to the payment of interest charges while the reorganization plan is under consideration.

Yours very truly,

[LUTHER M. WALTER.]

LMW:K  
Enc.

EXHIBIT No. PC-218

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

Law Offices

WALTER, BURCHMORE & BELNAP

CHICAGO

DECEMBER 22, 1936.

Mr. GUY A. THOMPSON,

Trustee, Missouri-Pacific Lines, St. Louis, Missouri.

DEAR Mr. THOMPSON: As you know, the Interstate Commerce Commission authorized the formation of a committee for the protection of the common stock holders of the Missouri Pacific Railroad Company composed of Charles H. Thornton, A. J. Sevin and James M. Kemper, in reorganization proceedings before the Commission, Finance Docket 9918. I am Attorney for that Committee.

In the issue of December 12, 1936, of Moody's supplement dealing with railroads, Section 1, page 813, I find the following:

"Press reports stated on Dec. 10 that trustees for company in Corporate Bankruptcy Act proceedings are considering petition the court for authority to make a payment of one-half coupon, or a quarter years interest, on company's five issues of 1st and refunding bonds.

The payment would involve a cash outlay of around \$3,250,000. There are outstanding \$224,000,000 of the five series of the bonds, exclusive of the \$40,000,000 pledged with the RFC and J. P. Morgan & Company. Under the proposal, the payment would be made on both the outstanding and the pledged bonds, in accordance with the court decision in the New Orleans, Texas & Mexico interest payment case (see page 871). The court ruled in that case



that the road, in making a payment on its outstanding bonds, had to make a similar payment to the RFC on bonds held by the RFC under pledge."

Our Committee has not formally intervened in court proceedings out of a desire not to encumber the records of the court or to make difficult the serving of notices in which our committee may have no interest. We are, however, very much interested in the matter of any payment of interest coupons or in any other action by the trustee which changes the status of the various parties interested in reorganization. I find no authority in law for the payment of this interest charge at the present stage of reorganization proceedings. My committee is opposed to the payment of the interest charges. Won't you therefore be good enough before any final action is taken looking to the payment of this, or any similar payment, give me an opportunity to take such action as may be necessary to protect the interests of common stockholders?

Yours very truly,

[LUTHER M. WALTER.]

Copy to Mr. Oliver E. Sweet, Interstate Commerce Commission, Washington, D. C.

EXHIBIT No. PC-219

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

ST. LOUIS, MISSOURI, December 24, 1936.

Mr. LUTHER M. WALTER,  
2106 Field Building, Chicago, Ill.

DEAR MR. WALTER: This is to acknowledge receipt of yours of the 22nd inst. It is true that I am considering petitioning the Court for direction with respect to the payment of interest on the First and R-funding bonds but I have not yet reached a conclusion. Should I file a petition on the subject, I will be glad to see to it that you receive a copy with notification of the date of hearing. Meanwhile, I would like to receive from you a little fuller explanation of the reasons why you believe that the Court may not under Section 77 direct a Trustee to pay interest if the interest has been earned.

Have you, as Trustee of the Chicago and Great Western Railroad, paid any interest?

Sincerely,

[Signed] GUY A. THOMPSON, Trustee.

EXHIBIT No. PC-220

[Copy of letter from the files of Luther Walter, Counsel for Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad]

DECEMBER 28, 1936.

Mr. ROBERT E. SMITH,  
% Mr. J. E. Fitzwilson, V. P., Southern Railway, New Orleans, La.

DEAR MR. SMITH: I have given further consideration to the matter of soliciting the Allegheny Corporation or Mid-America Corporation for authority to represent the holders of the Missouri Pacific stock which is controlled by the former VanSweringen interests. Much as we might find that representation helpful in a financial way and in securing further authorizations, I have reached the conclusion that it would be unwise for us to approach either Mr. Fitzpatrick or others on the matter. The Commission in all probability would have been much more reluctant to authorize the committee to function on behalf of the common stockholders if it had appeared that there was a likelihood the so-called VanSweringen interests would give authorization to the Committee. The latest statement to the Commission in the transcript of testimony was to the effect that the authorization of the Van Sweringen interests would not be given to the Committee. If we should now ask for that authorization and secure it, the Commission might, and with some basis, regard the action as indicating double dealing with the Commission and as amounting almost to a deceit.

Therefore I would recommend that the Committee take no action looking to the securing of that authorization.

Yours very truly,

[LUTHER M. WALTER.]

Copy to

Mr. Charles H. Thornton.  
Mr. A. J. Sevin.  
Mr. James M. Kemper.

EXHIBIT No. PC-221

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

Law Offices

WALTER, BURCHMORE & BELNAP

CHICAGO

JANUARY 2, 1937.

Mr. CHARLES H. THORNTON,

104 South Main Street, Fond du Lac, Wisconsin.

DEAR MR. THORNTON: As I stated to you last night, I am handing you herewith some suggested changes in the text of questions and answers. I think I would leave out the question and answer at the top of page 2. It does not help the case any and I would just omit it. The question may be asked you on cross examination and then you can go into it as much as you wish.

I would leave out the paragraph on the top of page 4 because it is merely an expression of opinion. I think I would omit the paragraph beginning at the bottom of page 4 and ending on the top of page 5, and if you refer at all to the Missouri-Illinois I would give consideration to whether it would not be better to treat the plan as the debtor has, so far as that property is concerned. While 51 percent of the stock of the Missouri Illinois is owned by the Missouri-Pacific the remainder is owned by shippers along the line, and it is a desirable thing, from the Missouri Pacific standpoint, to have that shipper interest continue. Quite a bit of the traffic originating at or destined to the plants of these shipper stockholders is competitive and undoubtedly their interest in seeing the Missouri-Illinois develop operates to keep the business of the Missouri-Illinois at a higher level than it would be without that interest.

I will keep you advised as to any developments affecting the date of hearing and will wire you from Washington on Tuesday.

Yours very truly,

LUTHER M. WALTER.

P. S.—I have just talked with Ernest Ballard and he tells me that the debtor is going to be ready for the hearing and he expects that the case will be tried on the 12th. I hope you and I may get together here for a review of what we shall cover in the testimony and I will ask Smith if he cannot be with us at that time.

LMW.

Enc. LMW: K

EXHIBIT No. PC-222

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

JANUARY 9, 1937.

Mr. WM. WYER,

Missouri-Pacific Railroad, 3800 Terminal Tower,  
Cleveland, Ohio.

DEAR MR. WYER: I am enclosing copy of a letter to Bureau of Statistics, together with copy of data referred to, and am inquiring if this phase of matter was referred to in your testimony and if so what number.

If not, you might direct me how to secure some light on the questions.

Very truly yours,

[C. H. THORNTON.]

CHT: GK.

Enc.

## EXHIBIT No. PC-223

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

JANUARY 14, 1937.

Mr. WM. WYER,  
3137 South Moreland Blvd., Cleveland, Ohio.

DEAR MR. WYER: I am in receipt of a letter from Mr. E. J. Lewis, Director of Valuation of Interstate Commerce Commission, saying that the Bureau recently completed a report covering Valuation elements of the Missouri-Pacific as of December 31st, 1935, but the supply is exhausted.

I am writing to inquire if an extra copy could be located in your Cleveland office or in the St. Louis office of the Missouri-Pacific. If so, the copy would be appreciated.

Sincerely,

[C. H. THORNTON.]

CHT: JC.

## EXHIBIT No. PC-224

[Copy of letter in file "1937 new equipment" in possession of Guy A. Thompson, Trustee, Missouri Pacific Railroad Co., St. Louis, Mo.]

Law Offices

WALTER, BURCHMORE & BELNAP

2106 Field Building

CHICAGO

JANUARY 25, 1937.

Mr. GUY A. THOMPSON,  
Missouri Pacific Railroad Company, St. Louis, Missouri.

DEAR MR. THOMPSON: With reference to your proposed new equipment for the Missouri Pacific, I have no objection to register but I do have some suggestions.

I note that your gondola coal cars are only 50 ton capacity. The Great Western cars that we are buying are 70 tons capacity and cost about the same as the estimated cost of your 45-foot, 50 ton cars. It may be that these gondolas you contemplate purchasing are designed for a particular service, as I note they are solid bottom, but our experience is that the 70 ton cars cost but little more than the 50 ton cars and have advantages in use.

Your flat cars are 45 feet long. Our experience is that the 52 foot cars are more serviceable and correspond more generally to what carriers are buying at the present time.

In connection with your streamlined passenger trains, have you given consideration to the use of the steam locomotive which could be bought for something like \$140,000 and would give you as good service as the Diesel \$360,000 locomotive? The Milwaukee has been using a streamlined steam engine on its Hiawatha streamlined train.

I write this letter with a good deal of diffidence, because undoubtedly you have very capable advisers. These are some suggestions that were made by a gentleman in whom I have a good deal of confidence and I pass them to you for whatever they may be worth and with apologies for having done so.

Yours very truly,

[Signed] LUTHER M. WALTER.

LMW: K.

## EXHIBIT No. PC-225

[Copy of letter in file "1937 new equipment" in possession of Guy A. Thompson, Trustee, Missouri Pacific Railroad Co., St. Louis, Mo.]

[Pencil notation:] Mr. Baldwin. Please note. 3/2/37. G. A. T.

FEBRUARY 1, 1937.

Mr. LUTHER M. WALTER,  
2106 Field Building, Chicago, Illinois.

DEAR MR. WALTER: This will acknowledge receipt of your letter of January 25th, addressed to Mr. Thompson, relating to proposed new equipment.

Mr. Thompson is away from the City and will not return for several weeks. When he returns, your letter will be called to his attention.

Very truly yours,

[Signed—Pencil] R. L. D.,  
Counsel for Trustee.

## EXHIBIT No. PC-226

[Copy of office memorandum in file "1937 new equipment" in possession of Guy A. Thompson, Trustee, Missouri Pacific Railroad Co., St. Louis, Mo.]

SAINT LOUIS, March 2, 1937.

MR. THOMPSON: Returning the attachment, relating to proposed new equipment. I have noted what Mr. Walter has to say, but I have no particular comments to make in connection therewith.

[Signed—Pencil] L. W. BALDWIN.

## EXHIBIT No. PC-227

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

JANUARY 30, 1937.

Mr. WM. WYER,  
3137 S. Moreland Blvd.,  
Cleveland, Ohio.

DEAR MR. WYER: In checking over some Missouri-Pacific data, and comparing it with roads in similar position, the thought occurred to me that I would like to have comparative operating percentages, and I worked out the data on the enclosed sheet. You will notice it is worked out in two tabulations; one without tax accruals and one with tax accruals, and while I might have these figures checked by Moody or Standard, I am assuming that as far as the Missouri-Pacific is concerned, you have the data in your office; possibly, and probably in more accurate form than I have it. I wish you would advise me if the Missouri-Pacific figures are approximately correct. If they are, then I can assume that those of the Great Northern and Chicago, Rock Island are approximately correct.

Yours sincerely,

CHT:JC  
Encs.

[C. H. THORNTON.]

## EXHIBIT No. PC-228

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Miscellaneous Correspondence"]

FEBRUARY 1, 1937.

Mr. WM. WYER,  
3800 Terminal Tower,  
Cleveland, Ohio.

DEAR MR. WYER: The office copy of the I. C. C. report covering valuation of Missouri-Pacific as of December 31st, 1935, is returned. I found that I have a copy, but never having taken a course in that language, had abandoned hope of interpreting it.

In your exhibit No. 22a there are some figures of system "Adjusted to I. C. C. Valuations" totaling \$708,783,000.

Does this total bear any relationship to the I. C. C. report.

Yours very truly,

[C. H. THORNTON.]

CHT:JC

EXHIBIT No. PC-229

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

FEBRUARY 5, 1937.

Mr. LUTHER WALTER,

*% Walter, Burchmore & Belnap,  
2106 Field Bldg., Chicago, Illinois.*

DEAR WALTER: You asked me yesterday who had helped me prepare my plan, and I replied nobody had, as that is the fact; however, I overlooked mentioning this fellow Wiley, that I talked to in New York, thinking he was an expert on these matters and could assist me in compiling statistical data. He went ahead and prepared a lot of material and sent it on to me, but none of his statistical stuff was used in the plan I prepared.

All of the data I used was taken from Interstate Commerce Commission Statistics or the data supplied by Wyer, and credit is given to the source. As a matter of fact, a great deal of the Wyer data was used by the Stedman Committee in their plan.

Mr. Wiley has sent me a statement for \$3,000.00 a modest sum—but that is one of the least of my worries.

Sincerely,

[C. H. THORNTON.]

CHT:JC

EXHIBIT No. PC-230

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

FEBRUARY 10, 1937.

Mr. LUTHER WALTER,

*Walter, Burchmore & Belnap, 2106 Field Bldg., Chicago, Illinois.*

DEAR LUTHER: Do I understand that as Chairman of the Shareholders' Protective Committee, I am barred from putting investment funds into Missouri-Pacific securities?

Sincerely,

[C. H. THORNTON.]

CHT:JO

EXHIBIT No. PC-231

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

Law Offices

WALTER, BURCHMORE & BELNAP

CHICAGO

FEBRUARY 11, 1937.

Mr. CHARLES H. THORNTON,

*104 South Main Street, Fond du Lac, Wisconsin.*

DEAR MR. THORNTON: I have your three letters of yesterday.

The matter of maintenance expenditures on the Missouri Pacific as compared with the other lines is an important one and I hope you find full information.

I am not at all of final mind on the matter of the new plan to be presented by the Common Stockholders Protective Committee. Tentatively I think it will be sufficient if we deal with certain matters in the reorganization, such as rate

of return, sinking fund, equities of the stockholders, and do not undertake to outline a complete plan. The Interstate Commerce Commission is not opposed to receiving additional plans. They want all suggestions which contain merit.

You are not barred from investment simply because you are chairman of the Stockholders Committee. You should not, however, put yourself in position where you have investments which conflict with the shareholders' contention. You might be charged with having established your course as chairman of the Committee not with an idea of protecting the stockholders but of furthering your investments, to the disadvantage of the common stockholders.

Yours very truly,

LUTHER M. WALTER.

LMW:K

EXHIBIT No. PC-232

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

FEBRUARY 13, 1937.

Mr. LUTHER M. WALTER,  
% Walter, Burchmore & Belnap,  
2106 Field Bldg., Chicago, Illinois.

DEAR WALTER: My ideas or thoughts about presenting a third plan are along these lines:

- 1st. The original debtor plan is now a matter of history.
- 2nd. The treatment that the Committee Plan proposes shall be awarded preferred and common stockholders is so unfair that we shall have to present something more than arguments in order to make an impression on Mr. Sweet.
- 3rd. When Sweet & Boyden go into conference with other members of the Interstate Commerce Commission to frame a recommendation to the Court, they should have before them something tangible in the way of a program.
- 4th. My plan follows both plans in most particulars and by increasing the senior liens to a 30-30-40 basis, instead of a 25-25-50 basis, we should be creating a less antagonistic attitude on the part of Stedman & Kitchel. Further, and by putting Gulf Coast bonds in same class as First & Refunding, I am reasonably certain that it will line up both Stedman and the I. C. C. on our side in that matter, and I have data to support my contention in that matter.

With the help of two very competent office help, I have spent the week checking and rechecking all statistical data, and feel confident of having assembled a continuous constructive picture that will afford the Interstate Commerce Commission a way to go.

Sincerely,

[C. H. THORNTON.]

CHT:JC.

EXHIBIT No. PC-233

[Copy of letter from files of Charles H. Thornton—MoPac. Common Stockholders' Protective Committee—"Luther M. Walter Correspondence"]

Law Offices

WALTER, BURCHMORE & BELNAP

CHICAGO

FEBRUARY 16, 1937.  
File 984.

Mr. CHARLES H. THORNTON,  
104 South Main Street, Fond du Lac, Wisconsin.

DEAR Mr. THORNTON: There is a probability that the hearing in the Missouri-Pacific case, now set for March 9th, will go over to a later date because, as I understand, negotiations with the bondholders and the debtor are progressing in a somewhat satisfactory manner. In the meantime, may I urge, with all earnestness, that you do not write any letters or communicate with any persons other than the members of your committee and your counsel, with reference to the

reorganization? Some developments make this suggestion to you absolutely necessary.

I am going to San Francisco today to try a case and will not be back until March 1st.

Yours very truly,

LUTHER M. WALTER.

LMW:K.

EXHIBIT No. PC-234

[Copy of form letter from files of Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad Company, R. E. Smith, Sec.]

Charles H. Thornton, Chairman, 104 Main Street, Fond du Lac, Wis.; A. J. Sevin, Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.; James M. Kemper, Commerce Trust Co., Kansas City, Mo.; Luther M. Walter, Counsel, 1522 First National Bank Building, Chicago, Ill.

PROTECTIVE COMMITTEE FOR HOLDERS OF COMMON STOCK OF THE MISSOURI PACIFIC RAILROAD COMPANY

Office of Robert E. Smith, Secretary, 123 Liberty St., New York, N. Y.

Telephone: Cortland 7-6078

*To holders of common stock of Missouri Pacific Railroad Company:*

The Missouri Pacific Railroad Company has filed petition in the District Court of the United States seeking to reorganize under Section 77 of the Bankruptcy Act. The Court has approved the petition and two plans of reorganization have been filed with the Interstate Commerce Commission.

Public hearings on these plans were held by the Interstate Commerce Commission in February and April, 1936, and hearings will be resumed on September 22, 1936.

On July 17, 1936, the Interstate Commerce Commission granted the undersigned Committee permission to solicit the common stockholders of the Missouri Pacific Railroad Company for authority to represent them in these proceedings subject to the following conditions:

"That all changes in membership of the Protective Committee, including the number of members and the addition or substitution of new members shall be subject to the approval of this Commission;

That all activities of the said Protective Committee pursuant to authorization granted by this Commission shall conform and be subject to any rules and regulations hereafter promulgated by the Commission with respect thereto; and

That unless and until this Commission otherwise directs, the said protective committee shall keep minutes of all its proceedings and records of all actions taken, of all moneys received and disbursed, and of all obligations entered into by it, and report in detail thereon to this Commission on the first day of each month."

In pursuance to said Commission authority we are enclosing a form of authorization which, when signed by you, will permit this Committee to represent you. Under the authorization this Committee will take appropriate steps in pending proceedings, so far as is in its power, to protect your investment in the common stock of the Missouri Pacific Railroad Company. It will, in your name and in the name of all those signing similar authorizations, enter its appearance in the pending proceedings and present such facts and argument as may be pertinent to prevent other parties from obtaining an unfair advantage over the common stockholders in any plan of reorganization considered by the Court or the Commission to the end that your investment is not destroyed or unduly impaired. After the plan is adopted the Committee will make a report to you recommending what action you should take on the matter of approval or rejection of the plan.

Please note particularly these provisions in the form of authorization which have been included for your protection:

1. No deposit of your stock is required or permitted.
2. No lien can be imposed upon your stock and consequently the signing of this authorization by you cannot adversely affect the market position of your stock.

3. No financial obligation whatsoever, either direct or indirect, accrues from your signing this authorization.

4. The authorization is in no sense a proxy; it does not give the Committee the right to vote your stock for or against any plan. That right is expressly reserved to you. The Committee will, however, advise you of any plan which is recommended by the Commission and give you its views on same.

In addition to the form of authorization mentioned above there is enclosed a blank providing for a voluntary contribution toward the expenses of the Committee. Such contribution is entirely optional with you. It is not necessary that you make a voluntary contribution if you sign the authorization. In this connection please be advised that, under appropriate resolution of the Committee on file with the Interstate Commerce Commission, such voluntary contributions can be used only for postage, printing, stationery, clerical hire, advertising, traveling and similar expenses. By agreement, no salary, fees or compensation whatsoever can be paid to any member of the Committee, its secretary or counsel out of these voluntary contributions, such compensation to come exclusively from allowances made by the Court and not payable from said voluntary contributions, but payable out of the general assets of the corporation.

As to the affiliations of the Committee, Chairman Thornton is a trustee of the Conan Estate of Fond du Lac, Wisconsin, which is the holder of 3,000 common shares and Mr. Thornton is the holder of 1,000 common shares of the Missouri Pacific Railroad Company.

Mr. A. J. Sevin is General Traffic Manager of the Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania, which is the holder of 3,150 shares of the common stock of Missouri and Illinois Railroad Co., a subsidiary of the Missouri Pacific Railroad Company.

Mr. James M. Kemper is President of Commerce Trust Company of Kansas City, Missouri, and is secretary and director of Kemper Investment Co., which is the holder of 1,000 shares of the common stock of the Missouri Pacific Railroad Company.

As stated above, two plans of reorganization of the Missouri Pacific Railroad Company have been submitted to the Commission. The Committee is of the opinion that both are unfair to the common stockholders. Particularly is this true of the plan submitted by the Committee representing the first and refunding mortgage bondholders whose plan will destroy all present or future value of the common stock. In fact, that Committee has filed a motion with the Interstate Commerce Commission that it declare the common stock to be of no value.

As a substantial amount of data must be assembled before the resumption of hearings on September 22, the Committee urges that you sign both the authorization and voluntary contribution blanks and mail same at an early date. Those making voluntary contribution will be supplied with progress reports on the reorganization and its hearings.

Yours truly,

PROTECTIVE COMMITTEE FOR THE HOLDERS OF COMMON STOCK OF THE  
MISSOURI PACIFIC RAILROAD COMPANY,

By CHARLES H. THORNTON, *Chairman.*

EXHIBIT No. PC-235

[Copy of form letter from files of Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad Company, R. E. Smith, Sec.]

To CHARLES H. THORNTON,  
JAMES M. KEMPER,  
A. J. SEVIN,

*Protective Committee for Holders of Common Stock of  
Missouri Pacific Railroad Company.*

GENTLEMEN: You are authorized (acting by a majority with full power of substitution or addition), through such agents, attorneys, or representatives as your Committee may designate, to represent the undersigned as a holder of common stock of the Missouri Pacific Railroad Company in the proceedings for the reorganization of the Missouri Pacific Railroad Company; New Orleans, Texas & Mexico Railway Company; and International Great Northern Railroad Company,



now pending in the District Court of the United States for the Eastern Division of the Eastern District of Missouri, and in Finance Dockets 9918, 9918 Sub.-No. 1 and Sub.-No. 2, now pending before the Interstate Commerce Commission, and any and all other proceedings that may be brought before the Interstate Commerce Commission or any other tribunal having appropriate jurisdiction to consider or determine the plan of reorganization of such debtor companies under the Bankruptcy Act, and in any and all such proceedings and hearings you are hereby authorized to act with the same force and effect as I could do if personally present or if represented by attorney.

It is expressly understood that this authorization does not empower you to accept or reject any plan of reorganization that may be approved by the Court or the Commission, or to vote the shares of stock now owned by me in any other proceeding or matter, at any stockholders' meeting, without my written assent.

It is further expressly understood that this authorization does not bind me to assume any expense now or hereafter incurred in connection with the proceedings referred to.

It is also expressly understood that this authorization may be canceled by the undersigned at any time upon thirty days notice to the secretary of the Committee.

The undersigned will notify the secretary of the Committee of any change in the amount of his holdings of common stock of the Missouri Pacific Railroad Company.

I hold \_\_\_\_\_ shares of common stock of the Missouri Pacific Railroad Company.

Yours very truly,

Dated \_\_\_\_\_

\_\_\_\_\_ [SEAL]

\_\_\_\_\_ Address.

TO CHARLES H. THORNTON,

*Chairman, Protective Committee for Common Stockholders of the  
Missouri Pacific Railroad Company.*

DEAR SIR: The undersigned will contribute his pro rata of the expenses of your Committee under the following restrictions: 1st, 2 cents per share to be payable at this time; 2nd, total contributions shall not exceed 10 cents per share and not more than 2 cents per share shall be called by your Committee during any six months period.

Signed \_\_\_\_\_

Number of shares \_\_\_\_\_

Address \_\_\_\_\_

Check for \$ \_\_\_\_\_ enclosed.

CHECK SHOULD BE MADE PAYABLE TO CHARLES H. THORNTON, CHAIRMAN, AND SENT TO THE SECRETARY, 123 LIBERTY STREET, NEW YORK CITY, N. Y.

EXHIBIT No. PC-236

[Copy of form letter from files of Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad Company, R. E. Smith, Sec.]

Charles H. Thornton, Chairman, 104 Main Street, Fond du Lac, Wis.; A. J. Sevin, Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.; James M. Kemper, Commerce Trust Co., Kansas City, Mo.; Luther M. Walter, Counsel, 1522 First National Bank Building, Chicago, Ill.

PROTECTIVE COMMITTEE FOR HOLDERS OF COMMON STOCK OF THE MISSOURI PACIFIC RAILROAD COMPANY

Office of Robert E. Smith, Secretary, 123 Liberty Street, New York, N. Y.

Telephone: Portland 7-6078

To owners of Missouri-Pacific Common Stock:

I note that your name was not among the respondents to our invitation that owners of the Missouri-Pacific Railroad Common Stock cooperate with our Committee representing common shareholders. This Committee is presenting to the Interstate Commerce Commission our ideas of what we consider to be right and just to shareholders in the pending Reorganization.

This Missouri-Pacific Reorganization plan will probably be the first one to come before the Courts under Section 77 of the Bankruptcy Act, and the decision of the Court affecting the rights of common shareholders in the pending Reorganization will have some effect in other Railroad Reorganizations.

As advised you in our previous letter, two plans of Reorganization of the Missouri-Pacific Railroad Company have been submitted to the Commission, and we are of the opinion that both are grossly unfair to the common shareholders; particularly is it true of the plan submitted by the Committee representing the First and Refunding bondholders whose plan proposes to destroy all present or future value of the common stock. This Committee representing First & Refunding 5's, has filed a motion with the Interstate Commerce Commission *that the common stock be given no value.*

My own particular interest in this case is as Trustee for an Estate that has owned 3,000 shares of Missouri-Pacific common stock since 1908 and in order to preserve its equity when the 1917 Reorganization was made, was obliged to buy \$150,000 4% General Bonds. In addition to that, this Estate had at that time \$120,500 of the old 5% Refunding Bonds for which it received 1205 shares of preferred stock, so that to date this Estate has contributed \$270,500 in order to maintain the Missouri-Pacific as a Railroad, and I don't propose to see this equity wiped out without putting up a fight.

Your cooperation, whether you contribute to the expense or not, is required, and as stated above, this particular case is going to be of vital interest to all owners of Missouri-Pacific common stock and in fact all railroad stocks.

Sincerely yours,

CHARLES H. THORNTON,  
Chairman.

EXHIBIT No. PC-237

[Copy of form letter from files of Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad Company, R. E. Smith, Sec.]

Charles H. Thornton, Chairman, 104 Main Street, Fond du Lac, Wis.; A. J. Sevin, Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.; James M. Kemper, Commerce Trust Co., Kansas City, Mo.; Luther M. Walter, Counsel, 2108 Field Bldg., Chicago, Ill.

PROTECTIVE COMMITTEE FOR HOLDERS OF COMMON STOCK OF THE MISSOURI PACIFIC RAILROAD COMPANY

Office of Robert E. Smith, Secretary, 123 Liberty Street, New York, N. Y.

Telephone: Cortland 7-6078

OCTOBER, 1937.

*To the Non-Authorizing Stockholders of the Missouri Pacific Railroad Co.:*

Enclosed herewith is a report of this Committee concerning matters connected with the reorganization proceedings up to and including the final hearing before the Bureau of Finance (September 30, 1937).

Please note that if the so-called compromise plan is not defeated, your interests as a common stockholder will either practically be destroyed or you will be subject to a heavy cash payment in order to preserve your equity interests in this road.

Now that the issues are clearly drawn and the necessity of vigorous and united action by the common stockholders is so apparent, the Committee has decided to make an urgent appeal to all stockholders to join in this undertaking for our mutual protection.

The effectiveness of the Committee's efforts will be influenced by the percentage of common stockholders for which it is authorized to speak, as well as by the funds which they make available to it for expenses, and accordingly your authorization and cash advance will inure to your individual benefit as well as to all common stockholders as a class.

Please note that we refer to this payment as a "cash advance", whereas in our previous communications we have referred to it as a "contribution". The term "advance" is the correct one. Under the provisions of the statute under which these reorganizations are being conducted, the expenses of your Committee are repayable out of the general assets of the railroad corporation, to the extent they are approved by the Interstate Commerce Commission and the Court. Accordingly, to the degree that your Committee is reimbursed for these expenses, YOU WILL BE CORRESPONDINGLY REIMBURSED FOR THE ADVANCES WHICH YOU HAVE MADE, AT THE TERMINATION OF THE REORGANIZATION PROCEEDINGS.

The fees of Counsel, Technical Adviser, and Secretary are not paid out of these advances. Such fees will be set by the Court within the limits prescribed by the

Interstate Commerce Commission and paid to them out of the general assets of the railroad. However, your Committee is required to make out-of-pocket expenses for office rent, printing, postage, reports to authorizing stockholders, clerical work, travelling and similar expenses, and therefore in order to function effectively, adequate cash advances are vital to its success.

The Committee submits a monthly statement to the Interstate Commerce Commission of its expenses and commitments, and every effort is being made to hold these expenses to a minimum so that they may be approved to the fullest extent and the stockholders reimbursed accordingly, for their advances.

The members of your Committee are serving without pay and cannot be expected to advance more than their pro rata of the expenses. Therefore, the united support of all stockholders is essential.

Because of the cost of transmitting reports of the progress of the reorganization proceedings, they can only be sent to those stockholders who make their pro rata cash advance toward expenses.

An authorization blank is enclosed.

In reading the enclosed report, please keep in mind that **THE SO-CALLED COMPROMISE PLAN HAS IN NO WISE BEEN APPROVED BY THE INTERSTATE COMMERCE COMMISSION**, and that the procedure gives ample opportunity for the Committee to resist this proposed drastic action. The Committee believes that the value of the common stock and the probabilities of preserving these rights fully justify the efforts which it has and will continue to make in this regard.

Very truly yours,

CHARLES H. THORNTON, *Chairman.*

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EXHIBIT No. PC-238

[Copy of form letter from files of Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad Company, R. E. Smith, Sec.]

To CHARLES H. THORNTON,  
JAMES M. KEMPER,  
A. J. SEVIN,

*Protective Committee for Holders of Common Stock of  
Missouri Pacific Railroad Company.*

GENTLEMEN: You are authorized (acting by a majority with full power of substitution or addition), through such agents, attorneys, or representatives as your Committee may designate, to represent the undersigned as a holder of common stock of the Missouri Pacific Railroad Company in the proceedings for the reorganization of the Missouri Pacific Railroad Company; New Orleans, Texas & Mexico Railway Company; and International Great Northern Railroad Company, now pending in the District Court of the United States for the Eastern Division of the Eastern District of Missouri, and in Finance Docket 9918, 9918 Sub-No. 1 and Sub-No. 2, now pending before the Interstate Commerce Commission, and any and all other proceedings that may be brought before the Interstate Commerce Commission or any other tribunal having appropriate jurisdiction to consider or determine the plan of reorganization of such debtor companies under the Bankruptcy Act, and in any and all such proceedings and hearings you are hereby authorized to act with the same force and effect as I could do if personally present or if represented by attorney.

It is expressly understood that this authorization does not empower you to accept or reject any plan of reorganization that may be approved by the Court or the Commission, or to vote the shares of stock now owned by me in any other proceeding or matter, at any stockholders' meeting, without my written assent.

It is further expressly understood that this authorization does not bind me to assume any expense now or hereafter incurred in connection with the proceedings referred to.

It is also expressly understood that this authorization may be canceled by the undersigned at any time upon thirty days notice to the secretary of the Committee.

The undersigned will notify the secretary of the Committee of any change in the amount of his holdings of common stock of the Missouri Pacific Railroad Company.

The undersigned will contribute his pro rata of the expenses of your Committee under the following restrictions: Total contributions shall not exceed 10 cents

per share and not more than 2 cents per share shall be called by your Committee during any six months period. Instalments 1, 2, and 3, amounting to 6 cents, are here enclosed.

Number of shares \_\_\_\_\_ Signed \_\_\_\_\_  
 Address \_\_\_\_\_  
 Check for \$ \_\_\_\_\_ enclosed  
 Please Print your name here

CHECK SHOULD BE MADE PAYABLE TO CHARLES H. THORNTON, CHAIRMAN, AND SENT TO THE SECRETARY, 123 LIBERTY STREET, NEW YORK CITY, N. Y.

Ch. Mo. St. Ca.

EXHIBIT No. PC-239

[Copy of form letter from files of Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad Company, R. E. Smith, sec.]

Charles H. Thornton, Chairman, 104 Main Street, Fond du Lac, Wis.; A. J. Sevin, Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.; James M. Kemper, Commerce Trust Co., Kansas City, Mo.; Luther M. Walter, Counsel, 2106 Field Bldg., Chicago, Ill.

PROTECTIVE COMMITTEE FOR HOLDERS OF COMMON STOCK OF THE MISSOURI PACIFIC RAILROAD COMPANY

Office of Robert E. Smith, Secretary, 123 Liberty Street, New York, N. Y.

Telephone: Cortland 7-6078

To Authorizing Stockholders of The Missouri Pacific Railroad Co.:

Hearings on the Missouri Pacific plan of reorganization, before Commissioner Meyer, Director Sweet and Examiner Jewell of the Bureau of Finance of the Interstate Commerce Commission, have been closed. In order that the matters reported to you herein may be in the form of a connected report, it seems proper that we should first briefly review the proceedings as to some of which information has been previously given to you.

On March 31, 1933, the Missouri Pacific Railroad Co. filed a petition in the District Court of the United States (Eastern Division, Eastern Judicial District of Missouri), stating that it was unable to pay its debts as they matured, and that it desired to effect a plan of reorganization pursuant to Section 77 of the Bankruptcy Act as amended. On the same date, the New Orleans, Texas & Mexico Ry. Co. and the International-Great Northern Railroad Co. filed similar petitions, and at a later date other subsidiaries of the Missouri Pacific Railroad Co. took similar action.

The Directors of the Missouri Pacific Railroad Co. subsequently filed a plan of reorganization, and later the Protective Committee for the holders of First and Refunding bonds (known as the Stedman Committee), filed their separate plan of reorganization. The Trustees for the various bond issues of the Missouri Pacific Railroad and its subsidiaries have intervened in the proceedings, as well as a number of Protective Committees for various classes of obligations. The only stockholders' Protective Committee which has been formed is the one headed by Charles H. Thornton, and is consequently known as the "Thornton Committee", this being the Committee which you have authorized to represent and speak for you at these proceedings.

Numerous hearings have been held upon the two plans of reorganization which have been filed, and over eight hundred exhibits have been introduced in evidence. Since the time of the authorization of your Committee by the Interstate Commerce Commission of July 17th, 1936, its Chairman, Vice Chairman, Counsel and Secretary-Technical Adviser have attended the hearings and have made a study of the affairs of the Debtor Corporation and all matters relating to this reorganization.

Based upon these studies, representatives of your Committee prepared their own plan of reorganization. This plan, however, was never officially filed with the Interstate Commerce Commission because it came to our attention that negotiations were under way for a compromise plan among the several creditor groups. Consequently, Committee counsel believed it desirable to withhold our plan as well as our testimony in respect to the other plans, until we could know the provisions of this proposed compromise plan.

On September 11th, amendments to both the plans which had theretofore been filed were submitted to the Commission and to the various intervenors, including your Committee. These amended plans were quite similar except that in the Debtor's amended plan the holders of common stock were given option warrants to purchase the new common stock of the reorganized railroad at a price of \$25 per share for the first seven years, and at \$30 per share for the next eight years; whereas, in the amended plan of the Stedman Committee the present common stockholders were washed out,—that is to say, their stock interest was destroyed and they were not permitted to participate in any way in the securities of the new corporation. However, accompanying their amended plan was a copy of a letter to the Interstate Commerce Commission, stating that if the other parties to those proceedings consent to the Debtor's amended plan that Committee would also agree to it.

A hearing on these amended plans was held before the Bureau of Finance of the Interstate Commerce Commission in Washington on September 20th. This hearing lasted for 3½ days. Your Committee offered testimony in opposition to the adoption of either of these plans, and submitted an alternate plan of its own. Our testimony in opposition to the Debtor's and Stedman Committee plans covered the following points:

#### SUMMARY OF OUR OBJECTIONS TO THE COMPROMISE PLAN

1. Neither of the plans conforms with the basic principles embodied in Section 77 of the Bankruptcy Act as amended.

2. Both contemplate the issuance, at the time of reorganization, of income or contingent interest bonds in an amount which we believe to be excessive, and produce a top heavy debt structure under which the reorganized railroad cannot efficiently function.

3. In neither of the amended plans is there provided Sinking Fund adequate for the retirement of income bonds and the future improvement of the debt ratio.

4. The Series A income bonds, which are suggested in both plans, are cumulative, and at maturity the full amount of accumulated but unpaid interest falls due. This increases the probability of default at that time.

5. In both plans interest is accrued during trusteeship. In the Debtor's plan interest is accrued to the extent earned, and in the Stedman Committee plan full interest is accrued. It was not the intention of Congress that, under the provisions of Section 77, interest should accrue during trusteeship.

6. The coupon rate on the fixed interest bonds is higher than is justified, in comparison to present yields on similar railroad obligations.

7. If the Interstate Commerce Commission should approve such drastic treatment of the common and preferred stock in any major reorganization as is suggested in these plans, it would so shock the investment market that thereafter the public would refrain from purchasing railroad stocks and it would be impossible to secure any portion of future railroad financing from the sale of either preferred or common stock. This result, we believe, is contrary to public interest.

8. Although not admitting that an assessment or compulsory contribution by stockholders is contemplated under Section 77, if such a provision should be incorporated in any plan of reorganization, then the security which is given in exchange for such cash payment should be a senior security and not a common stock, as is proposed in both plans.

9. If an option warrant can legally be a part of a reorganization plan, under Section 77, which we seriously doubt, then the price named in the option warrant should be low enough to give the warrant some value. Specifically, the right to purchase something for \$25, which anyone else can secure for only \$4, does not, in our opinion, constitute value.

10. In the Debtor's amended plan, which under certain conditions has been assented to by most of the creditor groups, the interests and value of the common stock have been bartered for a device by which those who are now in control of the debtor railroad can perpetuate such control over the reorganized corporation through the new common stock which, under the compromise plan, they will receive in exchange for their present holdings of 5½% Convertible bonds of 1949, together with additional bonds of that issue which they can purchase in the market at a price which permits them to secure the new common stock at \$4. a share. Specifically, the interests which now control the Missouri Pacific Railroad can, for an additional expenditure of only \$2,000,000—which is only 1% of 1%

of the asset value of the new Corporation—perpetuate their control of the reorganized Missouri Pacific system with 10,000 miles of railroad and capital assets of nearly \$700,000,000.

Testimony was also submitted to show that in the past funds which might otherwise have been used to pay dividends to the stockholders in earlier years have been plowed back into the road for maintenance and improvements in substantially greater amounts per mile than is the case of other roads serving the same territory, and that the present bondholders had received the benefit of these expenditures. Consequently these former sacrifices by the stockholders should be given consideration in any plan of reorganization.

Additionally, statistics of operation were submitted which showed that the future prospects and earning capacity of the railroad were fully as good as those of other railroads, serving the same territory, whose common stocks have a higher market price on the Stock Exchange.

Due to the fact that nearly all of the parties to the proceedings had agreed to the Debtor's amended plan, we decided that our suggested plan should come within the general framework of this compromise plan, as far as might be possible, and at the same time conform to the fundamental principles of our original plan, which preserved for the present common stockholders their rights and interest in the property.

Accordingly, we proposed a plan which will allot to the present creditors of the Missouri Pacific Railroad the same relative percentage of securities with the same relative priority of claim on future earnings, which were allocated to them in the compromise plan,—but instead of washing out the present common stockholders, or simply giving them the right to purchase new common stock at an excessively high price, our plan provides that they shall receive new no par common stock equal to the number of shares which they now hold. Under this plan the earnings of the new corporation would be distributed to the present holders of bonds and other obligations in the order of their priority, but any residue or surplus earnings accruing thereafter would go to the present preferred and common stockholders. In order that the fixed and contingent interest charges of the reorganized railroad may be safely within its estimated future operating income, our plan provides that a substantial portion of the securities which are allocated to present holders of bonds and other obligations shall be in the form of preferred stock; and in order to compensate present bond holders for the relinquishment of their present lien position (that is to say, their present mortgage on the physical assets of the corporation), our plan provides that when the new common stock has received a dividend of \$4, per share per annum, then the preferred stock shall participate with the common stock in any distributed earnings over and above that figure. We also gave this preferred stock the same voting rights, share for share, as those held by the new common stock.

In other words, under our plan all classes of preferred stock are fully participating and have equal voting rights, share for share, with the common stock. This places the control of the reorganized railroad where we believe it properly belongs, namely, in the hands of all the holders of its preferred and common stocks, thus safeguarding, to them, that element of stock value which accrues from its right to participate in the election of directors and control of management policies.

As only two weeks intervened between the time that we received copies of the amended plans and the date of the hearing, intensive work was required by your Committee and its technical assistants in its effort to reconstruct our former plan so that it might come within the framework of the compromise plan. Therefore, your Committee did not have opportunity to submit its revised plan to you prior to its submission to the Interstate Commerce Commission at the September 26th hearing.

Briefs in support of our plan will be presented to and oral argument will be made by counsel before the Commission. Under the procedure of the Commission, the Bureau of Finance will subsequently submit its proposed report. It may approve one of the plans which have been submitted in its present or amended form, or it may recommend an entirely new different plan.

Exceptions and argument on the proposed plan of the Bureau of Finance before the Interstate Commerce Commission will no doubt follow, and thereafter the Commission will submit a plan to the Federal Court (District Court of the United States, Eastern Division, Eastern Judicial District of Missouri) under whose supervision these proceedings are being conducted.

Hearing on the plan submitted by the Interstate Commerce Commission will be held by the Court, which will also receive briefs and hear oral argument, and the Court may then submit the plan of the Commission to the present security holders of the Missouri Pacific Railroad, who will vote thereon by classes. If the holders of  $\frac{2}{3}$  of each class of security approve the plan, it will become effective. However, under the provisions of the Act, the Court is authorized to declare the plan effective in the absence of the required percentage of assets of one or more class of security. If the Court shall not be satisfied with the plan submitted by the Interstate Commerce Commission, it may:

- (a) Refer the plan back to the Commission for modification and amendment;  
or  
(b) Dismiss the proceedings.

Your Committee will continue to function in these proceedings, will keep you advised as to the progress thereof, and when the plan is submitted to you for your approval or rejection, will present to you its recommendations as to whether you should cast your vote for or against the plan which is submitted, with reasons for such recommendations.

**PROTECTIVE COMMITTEE FOR THE HOLDERS OF COMMON STOCK  
OF THE MISSOURI PACIFIC RAILROAD COMPANY,  
By CHARLES H. THORNTON, *Chairman*.**

OCTOBER 30, 1937.  
(Report No. 2.)

**EXHIBIT No. PC-240**

[Copy of form letter from files of Protective Committee for Holders of Common Stock of the Missouri Pacific Railroad Company, R. E. Smith, Sec.]

Charles H. Thornton, Chairman, 104 Main Street, Fond du Lac, Wis.; A. J. Sevin, Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.; James M. Kemper, Commerce Trust Co., Kansas City, Mo.; Luther M. Walter, Counsel, 2106 Field Bldg., Chicago, Ill.

**PROTECTIVE COMMITTEE FOR HOLDERS OF COMMON STOCK OF THE MISSOURI PACIFIC  
RAILROAD COMPANY**

Office of Robert E. Smith, Secretary, 123 Liberty Street, New York, N. Y.  
Telephone: Cortland 7-6078

OCTOBER, 1937.

***To the Authorizing Stockholders of the Missouri Pacific Railroad Co.:***

Enclosed herewith is report concerning matters connected with the reorganization proceedings up to and including the final hearing before the Bureau of Finance (September 20th, 1937).

Please note that if the so-called compromise plan is not defeated, your interests as a common stockholder will either be practically destroyed or you will be subject to a heavy cash payment in order to preserve your equity interests in this road.

Under your authorization you have agreed to advance funds to the Committee in a total amount not exceeding 10c per share, 2c to be payable semi-annually.

In order to save the mailing expense connected with calling the second 2-cent advance, the necessary funds were temporarily advanced by the officers and members of your Committee.

As a year has elapsed, the second and third instalments are due and called, and an appropriate blank for that purpose is here enclosed. Your early response will be appreciated.

Please note that we refer to this payment as a "cash advance" whereas in our previous communications we have referred to it as a "contribution." The term "advance" is the correct one. Under the provisions of the statute under which these reorganizations are being conducted, the expenses of your Committee are repayable out of the general assets of the railroad corporation, to the extent they are approved by the Interstate Commerce Commission and the Court. Accordingly, to the degree that your Committee is reimbursed for these expenses, you will be correspondingly reimbursed for the advances which you have made, including your initial advance.

The Committee submits a monthly statement to the Interstate Commerce Commission of its expenses and commitments, and every effort is being made to hold these expenses to the minimum so that they may be approved to the fullest extent, and the stockholders reimbursed accordingly.

In reading the enclosed report, please keep in mind that THE SO-CALLED COMPROMISE PLAN HAS IN NO WISE BEEN APPROVED BY THE INTERSTATE COMMERCE COMMISSION, and that the procedure gives ample opportunity for the Committee to resist this proposed drastic action. The Committee believes that the value of the common stock and the probabilities of preserving these rights fully justify the efforts which it has and will continue to make in this regard.

Very truly yours,

CHARLES H. THORNTON, *Chairman.*

TO CHARLES H. THORNTON,  
*Chairman, Protective Committee for Holders of Common  
Stock of the Missouri Pacific Railroad Co.*

DEAR SIR: Enclosed herewith is check for \$----- as payment for the second and third instalments of 2c per share each (4c per share total), in accordance with the terms of my agreement with your Committee.

No. of shares held ----- Signed-----  
Address-----  
-----  
Please Print Name Here

Check should be made payable to CHARLES H. THORNTON, Chairman, and sent to 123 Liberty Street, New York, N. Y.  
Ch. Mo. St. Ca.

EXHIBIT No. PC-241

[Copy of form letter from files of Protective Committee of Holders of Common Stock of the Missouri Pacific Railroad Company, R. E. Smith, Sec.]

Charles H. Thornton, Chairman, 104 Main Street, Fond du Lac, Wis.; A. J. Sevin, Pittsburgh Plate Glass Co., Grant Building, Pittsburgh, Pa.; James M. Kemper, Commerce Trust Co., Kansas City, Mo.; Luther M. Walter, Counsel, 2106 Field Bldg., Chicago, Ill.

PROTECTIVE COMMITTEE FOR HOLDERS OF COMMON STOCK OF THE MISSOURI PACIFIC RAILROAD COMPANY

Office of Robert E. Smith, Secretary, 123 Liberty Street, New York, N. Y.  
Telephone: Cortland 7-6078

OCTOBER, 1937.

*To the Authorizing Stockholders of the  
Missouri Pacific Railroad Co.*

*Who Have Not Made Cash Advances Toward Expenses:*

Enclosed herewith is a report of your Committee concerning matters connected with the reorganization proceedings up to and including the final hearing before the Bureau of Finance (September 30th, 1937).

Please note that if the so-called compromise plan is not defeated, your interests as a common stockholder will either practically be destroyed or you will be subject to a heavy cash payment in order to preserve your equity interests in this road.

Under the terms of your authorization, cash advance toward the expenses of the Committee was optional. About one-half of the authorizing stockholders made such advances.

Now that the issues are clearly drawn and the necessity of vigorous and united action by all stockholders is so apparent, the Committee has decided to make an urgent appeal to all stockholders to join in advancing funds for these expenses.

Please note that we refer to this payment as a "cash advance", whereas in our previous communications we have referred to it as a "contribution". The term "advance" is the correct one. Under the provisions of the statute under which these reorganizations are being conducted, the expenses of your Committee are repayable out of the general assets of the railroad corporation, to the extent they are approved by the Interstate Commerce Commission and the Court. Accordingly, to the degree that your Committee is reimbursed for these expenses, YOU WILL BE CORRESPONDINGLY REIMBURSED FOR THE ADVANCES WHICH YOU HAVE MADE.

The fees of Counsel, Technical Adviser, and Secretary are NOT paid out of these advances. Such fees will be set by the Court within the limits prescribed by the Interstate Commerce Commission and paid to them out of the general assets of the railroad. However, your Committee is required to make out-of-pocket expenses



for office rent, printing, postage, reports to authorizing stockholders, clerical work, travelling and similar expenses, and therefore in order to function effectively, adequate cash advances are vital to its success.

The Committee submits a monthly statement to the Interstate Commerce Commission of its expenses and commitments, and every effort is being made to hold these expenses to the minimum so that they may be approved to the fullest extent and the stockholders reimbursed accordingly.

Substantial savings are being effected through joint operation of this Committee with the Protective Committee for the Holders of Common Stock of the Chicago & North Western Railway; and further economies may be effected if Stockholders' Committees for two other roads, whose applications to the Interstate Commerce Commission are now pending, are authorized and their work is performed jointly in the same office and with the same staff as the Missouri Pacific and Chicago & North Western Stockholders Protective Committees.

The members of your Committee are serving without pay and cannot be expected to advance more than their pro rata of the expenses. Therefore, the united support of all stockholders is essential.

Because of the cost of transmitting reports of the progress of the reorganization proceedings, they can only be sent to those stockholders who make their pro rata cash advance toward expenses.

We enclose appropriate blank, and will again urge that you assist in making the work of your Committee more effective through your pro rata advance.

In reading the enclosed report, please keep in mind that THE SO-CALLED COMPROMISE PLAN HAS IN NO WISE BEEN APPROVED BY THE INTERSTATE COMMERCE COMMISSION, and that the procedure gives ample opportunity for the Committee to resist this proposed drastic action. The Committee believes that the value of the common stock and the probabilities of preserving these rights fully justify the efforts which it has and will continue to make in this regard.

Very truly yours,

CHARLES H. THORNTON,  
*Chairman.*

To CHARLES H. THORNTON,  
*Chairman, Protective Committee for Common Stockholders of the Missouri Pacific Railroad Company:*

DEAR SIR: The undersigned will contribute his pro rata of the expenses of your Committee under the following restrictions: Total contributions shall not exceed 10 cents per share and not more than 2 cents per share shall be called by your Committee during any six months period. Instalments 1, 2 and 3, amounting to 6 cents, are here enclosed.

Number of Shares \_\_\_\_\_  
Check for \$ \_\_\_\_\_

Signed \_\_\_\_\_  
Address \_\_\_\_\_

(Please print your name here)

Check should be made payable to Charles H. Thornton, Chairman, and sent to the Secretary, 123 Liberty Street, New York City, N. Y.

Ch. Mo. St. Ca.

## II. SECURITY OWNERS ASSOCIATION—GENERAL ACTIVITIES

EXHIBIT No. PC-242

[Copy of memorandum from the files of the National Association of Owners of Railroad and Public Utility Securities, Inc.]

### RECORD OF ACTIVITIES OF MR. R. E. SMITH, DIRECTOR, NORTH PACIFIC REGION, SECURITY OWNERS ASSOCIATION

Mr. Robert E. Smith, formerly President of the Lumberman's National Bank of Portland, Oregon, and widely known throughout the northwest, assumed office in February, 1931, as Director of the North Pacific Region of the Security Owners Association.

Mr. Smith's appointment came as a result of the conviction of the Association that its national organization must be supplemented by intensive efforts in those states where radical influence was strongest; and full investigation indicated that Mr. Smith, with his wide acquaintance and knowledge of local conditions, was the best man available for the work.

Mr. Smith was instructed to organize fully the states of Washington, Oregon, Idaho and Utah, with particular emphasis upon Washington and Oregon. His progress has been eminently satisfactory, and within the six months of his tenure he has been able to show unmistakable results.

#### WASHINGTON

Mr. Smith first directed his attention to Washington. His problem was twofold; first to mitigate the pronounced trend towards public ownership in the western end of the state, second to prevent this trend from becoming general throughout the state. In view of the difference in conditions prevailing in eastern and western Washington, it was decided at a conference between Mr. Smith and Mr. W. D. Vincent, President of the Old National Bank, Spokane and Vice-President of the Association for Washington, that the Association should secure as an additional member of its Executive Committee the services of an active and influential man in western Washington, to supplement the work of Mr. Vincent. Seattle was already represented upon the Committee by Mr. M. F. Backus, President, National Bank of Commerce, but Mr. Backus had expressed himself as unwilling to take any active part in the work of the Association.

Accordingly Mr. Smith turned his initial efforts towards western Washington. A preliminary survey of the situation indicated that the city of Seattle, seat of the public ownership movement, was so politically dominated by the employes and advocates of municipal enterprises as to effectively prevent any banker or semi-public official from taking a step which might be construed as unfriendly to public ownership. There was even an opinion in certain banking elements that it was their duty to support municipal ownership in view of the tremendous sums already expended by the city of Seattle for plant and equipment.

Under such circumstances the securing of a suitable member of the Executive Committee, presented a difficult problem. Mr. Vincent had suggested the name of Mr. Lawrence Arnold, Vice-President of the First Seattle Dexter Horton National Bank. Mr. Smith contacted with Mr. Arnold but was informed that it was impossible for him to accept. Mr. James Spangler, Chairman of the Executive Committee of the same bank was then invited to serve, but after some correspondence and conference he also declined. The greatest friendliness for and sympathy with the work of the Association was expressed, but it

was evident that the officials of the bank were fearful of entering into the situation.

At the suggestion of Mr. Lawrence Arnold, who had formerly been offered the Executive Committee position, Mr. Smith tendered that position to Mr. A. S. Elford, General Agent of the New York Life Insurance Company. After some discussion, Mr. Elford declined, admitting that his decision was influenced by a fear of offending advocates of municipal ownership.

Mr. Smith's next effort was directed towards Mr. J. J. Cadigan, President of the New World Life Insurance Company. Mr. Cadigan declined because of pressure of business, but suggested his son, Mr. J. W. Cadigan, Vice-President and Superintendent of Agencies, who accepted. After less than two months' service, however, Mr. Cadigan asked to be relieved, a circumstance which Mr. Smith traced back to fear of opposing public ownership interests. Mr. Smith has now secured the services of Mr. Ossian Anderson as member of the Executive Committee. Mr. Anderson is a prominent lumberman, influential and well-regarded, and in view of the impossibility of securing a man of public or semi-public character he is probably the best available.

Mr. Smith has held numerous conferences with bankers and utility executives with a view to determining the basic causes for the trend towards public ownership. Upon the basis of his observations he is formulating a definite plan of action. He is spending considerable time in Seattle, and has indicated that his plan will be in form to submit to the New York Office within a short time.

Mr. Smith's work in eastern Washington has been much less difficult owing to the greater stability of the political situation and the splendid co-operation accorded by Mr. W. D. Vincent, the Association's Washington Vice-President. In discussing the appointment of Congressional District Chairman, it was decided that the fourth and fifth districts, embracing eastern Washington, should each be divided in two in the interests of more complete coordination. As chairman Mr. Vincent selected the following:

(a) Western portion of fourth district—Mr. A. O. Fechter, President, Yakima Valley Bank & Trust Company, Yakima.

(b) Eastern portion of fourth district—Mr. W. W. Baker, President, Baker-Boyer Bank & Trust Company, Walla Walla.

(c) Western portion of fifth district—Mr. F. W. Shultz, President, Commercial Bank & Trust Company, Wenatchee.

(d) Eastern portion of Fifth district—Mr. Frank Paine, President Paine & Rice, investment bankers, Spokane.

Of this group Messrs. Baker and Shultz declined, while Mr. Fechter and Mr. Paine accepted. Mr. Smith contacted with Mr. J. K. McCornack, prominent financier of Spokane, with reference to an appointment for the western portion of the fifth district. Mr. McCornack indicated that he might secure the acceptance of an officer of his bank, the First National of Wenatchee. For the eastern section of the fourth district, Mr. T. C. Elliott of Walla Walla has been tentatively selected. Substitute appointments in eastern Washington have not been made, however, due to illness of Mr. Vincent, who will probably not return to his desk before Fall. In his absence, Mr. Oren K. Moody, Vice-President of Mr. Vincent's bank, is serving as Vice-President of the Association.

The state of Washington is now well organized in accordance with the character of work required. Committees of the Co-operating Council are functioning in every Congressional district. For the present, the Association anticipates little difficulty in eastern Washington, though there is some evidence that sentiment for public ownership is gaining a foothold. The Association has full knowledge of this situation and shall use its organization to prevent the spread of unsound doctrine.

In western Washington the groundwork has been laid for definitive efforts to control the existing public ownership sentiment. When Mr. Smith has completed his survey and formulated his plan of action, the full resources of the Association will be given to a solution of the existing difficulties.

#### OREGON

A preliminary survey of the Oregon situation, conducted by Mr. Smith, indicated that conditions in that state are even more serious than in Washington. Public ownership sentiment is not, as in Washington, localized. It is state-wide and resulted, in November of 1930, in the election of a governor on a public ownership platform and in the passage of the Grange legislation, providing for the

setting up throughout the state of power districts, in which the residents of each district may establish a publicly owned plant, or may recapture any private plant. Conferences with utility executives and representative business men indicated to Mr. Smith that the antipathy of the public towards privately owned utilities had its source in a series of causes: rising taxes, general hard times and lack of understanding of the basic functions of a holding company which has made "power trust" propaganda easy to disseminate.

It was the conviction of the Association that no substantial headway could be made by taking at the start an antagonistic attitude which might serve to arouse the opposition and nullify our efforts before organization was consummated. Accordingly, Mr. Smith has moved with extreme caution, in a manner calculated to meet a friendly, rather than a hostile reception from the public. In his efforts Mr. Smith has been greatly aided by the fine co-operation of Mr. Ainsworth, President of the United States National Bank of Portland, and Vice-President of the Association for Oregon.

When, at the request of an eastern investment house, the Association undertook to make a comprehensive survey of the extent and depth of public ownership sentiment in the state, Mr. Smith took the opportunity to inject the thought that eastern capital might consider the Grange legislation as an indication that investments were no longer safe in Oregon.

Accordingly, a letter was forwarded with copy of a carefully prepared questionnaire to commercial bodies, financial institutions, newspaper editors and prominent citizens throughout the state. The suggestion that eastern capital might be driven from Oregon, with subsequent higher interest rates and loss of new industries, has struck a vital note. Newspapers have given much editorial attention to the problem, Chambers of Commerce are studying it closely.

To follow up the advantage derived from the questionnaire, Mr. Smith felt that a more comprehensive plan of organization was necessary than was being employed in states less seriously involved with public ownership. He therefore undertook to develop an agency under the auspices of the Security Owners Association which could exercise honest, unselfish, outstanding and commanding leadership and whose announcements would effectively influence the people of the state.

In addition to the state vice-president and the three Congressional district chairmen, the revised plan called for the appointing of a chairman for each of the thirty-six counties. The county chairman, district chairman and vice-president constitute the State Advisory Committee. There is also to be a chairman of the Cooperating Council, appointed by the county chairman, for each town.

All appointments have been made from community leaders, citizens known for their integrity and consideration for the public interest, and not in any way affiliated with railroads or utilities. It is planned that the Advisory Committee shall guide the work of the Association within the state. It shall concern itself with the protection of sound investment values and the maintenance of fair dealings between the railroads and utilities and the public. It may take a definite stand on proposed legislation, but shall take no action for or against the election of any public official. Standing Committees consist of an Executive Committee, Committee on Utilities and Utility Practices, Committee on Railroads and Railroad Practices and Committee on Legislation.

Appointment of county chairmen has been effected under the direction of Messrs. Smith and Ainsworth. The Advisory Committee has been fully organized and a meeting called for September 4th in Portland.

This meeting was made necessary by circumstances which promise to create a political turmoil in the early fall. The situation created by the Association's questionnaire on the safety of investments has been considerably heightened by developments of a serious character. Some months in the past the city of Portland employed a firm of engineers to make a survey of the power sites tributary to the city in order that a concrete proposal for a municipally owned and operated plant might be submitted to the voters.

It has been publicly announced that this report will be filed in early fall, perhaps prior to September 15th. The report will cover not only possible power sites, but a study of the various classes of electrical energy now being sold by the two privately owned utilities operating in Portland, as well as a study of their distributing systems for the purpose of evaluating same should condemnation seem advisable.

The Northwestern Electric Company, one of the two privately owned utilities owns its distributing plants in Portland. Power, however, is generated in the state of Washington, and the company has just completed on the Lewis River, a

hydroelectric plant of sufficient capacity for several years to come. Under the franchise granted to the Northwestern Electric Company, the city of Portland is given an option to purchase the distributing plant upon the termination of the franchise, only two or three years hence.

There is a difference of opinion as to whether the option would require the city to purchase the generating plant in Washington also, if the distributing plant were acquired. In any case, the proposal of municipal ownership is a distinct menace to the holders of securities of both privately owned plants in Portland.

The Grange Bill carried Portland by a three to one vote, and indications are that a bill for municipal ownership, if submitted at the present time, would be successful. Mr. Smith therefore considers it of the utmost importance that the situation be brought to the attention of the Advisory Committee before the engineer's report is presented to the City Council.

An added danger to privately owned utilities has made its appearance. The State Grange will submit an initiative measure providing for State construction of major hydro-electric generating plants, power of which will be sold to municipalities, and there is reason to believe that if the measure should be adopted, a major hydro-electric development will be made by the State in the vicinity of Portland and the power wholesaled to a municipal distributing system.

Whether power were produced by the state or the Municipality, the result would be the same. The city has the right to acquire the distributing system of the Northwestern Electric Company, the business of the two privately owned plants would be destroyed and the new Lewis River plant of the Northwestern Electric Company rendered useless.

It is imperative that instant action be taken to protect the interests of security owners. Crystallizing power and influence which it has developed throughout the state through the medium of its Advisory Committee, the Association will take the initial step on September 4th, on which date a meeting of the Advisory Committee has been called at the Multnomah Hotel, Portland.

At this meeting, held under the Chairmanship of Mr. J. C. Ainsworth, Vice-President of the Association for Oregon, the threat to investors both from past and proposed legislation, will be fully discussed. Committee members will be informed of the dangers inherent in a program either of municipal or state ownership of utilities, and a course of action throughout the state will be decided upon designed to nullify an unfavorable Portland City Council report, and to defeat the proposed new Grange Bill when introduced. In view of the importance of the meeting the Association has undertaken to pay the expenses of the Advisory members, and a practically full attendance is assured.

Though Mr. Smith's work has been principally concerned with utilities, he has been watching the railroad situation carefully. In response to instructions from the New York Office that he interest himself in the Interstate Commerce Commission hearings at Portland on the proposed restoration of railroad revenues, Mr. Smith communicated with Mr. Ainsworth and with railroad executives with reference to taking action which would be helpful.

#### IDAHO AND UTAH

Developments in Washington and Utah have prevented intensive effort in Idaho and Utah. Efforts have been made to secure a suitable vice-president for Idaho, and a preliminary survey of the state and its political leaders has been effected.

Mr. Smith has been instructed to attend the Interstate Commerce Commission hearings in Salt Lake City, and has advised that he will do so and communicate with Mr. E. O. Howard, President, Walker Bank & Trust Company and Vice-President of the Association for Utah.

#### EXHIBIT No. PC-243

[Copy of memorandum from the files of the Security Owners Association—General Correspondence]

#### LIST OF MEMBERS OREGON ADVISORY COMMITTEE NATIONAL SECURITY OWNERS ASSOCIATION

J. C. Ainsworth, National Vice President for Oregon; President of U. S. National Bank of Portland; a native of Portland; leader in its economic and civic life.

Charles H. Wieder, Albany, Oregon, Chairman National Security Owners Association for First Congressional District of Oregon and elected Permanent Chairman of Oregon Advisory Committee of said Association. Mr. Wieder is President of the Albany-Magnolia Laundry Company; Chairman of Red Cross for Linn County; President Boy Scout Association for Linn County; Chairman Airport Committee of Albany, and member Albany City Council.

E. B. Hall, Klamath Falls, Oregon, Chairman Second Congressional District for Oregon, National Security Owners Association and elected Permanent Vice Chairman of Advisory Committee. Mr. Hall is proprietor of the Hall Hotel at Klamath Falls, Oregon. He is past president of Klamath Falls Commercial Club; past president Klamath Falls Rotary Club; Director in Oregon State Chamber of Commerce and in Oregon Sportsmans League.

Claude E. Banning, Roseburg, Oregon, Chairman for Douglas County, National Security Owners Association and elected Permanent Vice Chairman of Advisory Committee. Mr. Banning is a farmer and is Manager of the Farm Bureau Cooperative Exchange of Douglas County, the largest farmers' cooperative mercantile association on the Coast; member of Oregon Grange and active in a number of farmers' movements.

J. O. Wilson, Portland, Oregon, Chairman for Third Congressional District National Security Owners Association and elected permanent Secretary-Treasurer Oregon Advisory Committee. Mr. Wilson is the dominating force in the Woodmen of the World in Oregon. He is also Secretary of Woodmen Camp #77 which has approximately ten thousand members largely composed of wage workers and that class of our body politic which is usually attracted to fraternal insurance. Mr. Wilson is Vice-Chairman of Multnomah County Civil Service Commission, but has never been in politics.

W. A. Huntley, Oregon City, Oregon, Chairman for Clackamas County National Security Owners Association. Mr. Huntley for many years has been a leading merchant of Oregon City; is a veteran of the Spanish War and is a brother of the U. S. Collector of Customs.

Oscar Hayter, Dallas, Oregon, Chairman for Polk County, National Security Owners Association; prominent attorney of Dallas, Oregon; former prosecuting attorney for Polk County; prominent in Oregon Bar Association and one of the best known county lawyers in the state.

E. C. Apperson, McMinnville, Oregon, Chairman for Yamhill County National Security Owners Association; President, McMinnville National Bank; past president, State Bankers Association; Chairman Red Cross for Yamhill County; Chairman for Yamhill County Liberty Loan Committee.

John A. Thornburgh, Forest Grove, Oregon, Chairman for Washington County National Security Owners Association; President, Forest Grove National Bank; member of Oregon State Legislature; Chairman Washington County Liberty Loan Committee.

C. O. Gingrich, Astoria, Oregon, Chairman for Clatsop County, National Security Owners Association; President, Bank of Astoria, also President of First National Bank, Chehalis, Washington and First National Bank, Centralia, Washington. Mr. Gingrich for years has been one of the most prominent men in Western Washington and recently organized and is the principal stockholder of the Astoria Bank. Because of alleged concentration of banking interest in Astoria, which had caused considerable public opposition and criticism, a large number of the more progressive and independent thinking citizens of that city importuned Mr. Gingrich to open a bank in and become a resident of Astoria. There was strong opposition to the granting of a charter for an additional bank in that city by banking interests including the State Superintendent of Banks, but charter was finally granted because of the insistence of citizens of Astoria and pressure brought to bear upon the Governor and other state officials by civic and farmer organizations in Clatsop County. Mr. Gingrich took no part in the controversy and is now considered to be the most influential man in Clatsop County.

Hamlin F. McCormick, St. Helens, Oregon, Chairman for Columbia County, National Security Owners Association; Vice President, Charles R McCormick Lumber Company; President Fir-Tex Company and officer of St. Helens Pulp and Paper Company, St. Helens Wood Products Company and St. Helens Creosoting Company.

Victor Olliver, Albany, Oregon, Chairman for Linn County, National Security Owners Association; city attorney of Albany and prominent in the civic and commercial affairs of Linn County.

C. E. Ingalls, Corvallis, Oregon, Chairman for Benton County, National Security Owners Association; Publisher of Corvallis-Gazette Times; Corvallis Postmaster;

also Secretary Oregon State Central Republican Committee and Past President, State Editorial Association.

J. B. McCluskey, Toledo, Oregon, Chairman for Lincoln County, National Security Owners Association; Director of the First National Bank of Toledo; leading Attorney in Lincoln County.

Hon. E. O. Potter, Eugene, Oregon, Chairman for Lane County, National Security Owners Association; former County Judge for Lane County.

S. H. Baker, Grants Pass, Oregon, Chairman for Josephine County, National Security Owners Association; Vice President and Cashier of the Josephine County Bank, Past President of State Bankers Association.

W. J. Conrad, Marshfield, Oregon, Chairman for Coos Bay County, National Security Owners Association; lumberman and owner of a shipping pier at Marshfield; President of Coos Bay Terminal Dock, Inc., Dealers in Hay, Grain and Farmers' supplies.

Robert L. Winthrow, Gold Beach, Oregon, Chairman for Curry County, National Security Owners Association; publisher of Curry County Reporter.

Hon. F. A. Beltz, Tillamook, Oregon, Chairman for Tillamook County, National Security Owners Association; Merchant of Tillamook County and at present County Judge of that County.

Olin Arnsperger, Talent, Oregon, Chairman for Jackson County, National Security Owners Association; Secretary, Manager and Chief Engineer of Talent Irrigation District; prominent in affairs of alumni Association, University of Oregon.

Jos. H. Albert, Salem, Oregon, Chairman for Marion County, National Security Owners Association; native of Salem; President, Capital National Bank until its consolidation with Ladd & Bush Bank and at present Manager of the Trust and Investment Departments, Ladd & Bush Bank; Liberty Loan Chairman for Marion County; known throughout the entire state for his active and vociferous opposition to excessive taxation.

E. A. Frantz, Hood River, Chairman for Hood River County, National Security Owners Association; leading hardware merchant of Hood River; President of Hood River Rotary Club, and said to be the most influential citizen in Hood River County.

George D. Brodie, Dufur, Oregon, Chairman for Wasco County, National Security Owners Association; Cashier of Johnston Bros. Bank of Dufur; member State Grange, and for the past 20 years one of the most active men in civic affairs in Wasco County.

William H. Ragsdale, Moro, Oregon, Chairman for Sherman County, National Security Owners Association; one of the largest wheat growers in Eastern Oregon; member of State Grange; member Farmers Union and former State Senator.

Harold Baldwin, Prineville, Oregon; Chairman for Cook County, National Security Owners Association; President First National Bank of Prineville; Chairman, Liberty Loan Committee for Cook County and a native of that county.

Howard W. Turner, Madras, Oregon, Chairman for Jefferson County, National Security Owners Association; Vice President and Cashier of First National Bank of Madras; Chairman, Jefferson County Red Cross; Chairman Jefferson County, Liberty Loan Committee.

F. T. Fairchild, Bend, Oregon, Chairman for Deschutes County, National Security Owners Association; Sales Manager, Brooks Scanlon Lumber Company.

Hon. Charles H. Marsh, Pendleton, Oregon, Chairman for Umatilla County, National Security Owners Association; former County Judge for Umatilla County; Secretary, Hartman Abstract Company, and officer of Oregon Democratic State Central Committee.

A. T. Hill, La Grande, Oregon, Chairman for Union County, National Security Owners Association; proprietor leading department store in La Grande; Chairman of Union County Liberty Loan Committee and otherwise prominent in civic affairs of that County.

George P. Cheney, Enterprise, Oregon, Chairman for Wallowa County, National Security Owners Association publisher of the Record Chieftain, of Enterprise, Oregon; Past President State Editorial Association; and considered by many publishers to be one of the leading thinkers in the State; extremely impartial and independent in his views and said to be the most influential editorial writer among Oregon County Publishers.

George Aiken, Ontario, Oregon, Chairman for Maheur County, National Security Owners Association; Publishers of the Ontario Argus; Past President State Editorial Association; Mayor of Ontario.

**Kenneth Robb, Baker, Oregon, Chairman for Baker County, National Security Owners Association; Drygoods merchant; Secretary of all Scottish Rite Masonic bodies in Eastern Oregon.**

**Frank E. Andrews, Portland, Oregon, Member of the Third Congressional Committee, National Security Owners Association; Former President Portland Chamber of Commerce, and member of Oregon Legislature.**

**Guy L. Flint, Portland, Oregon, Member of the Third Congressional Committee, National Security Owners Association; Road foreman of Motive Power, Southern Pacific Railroad and member of Railroad Brotherhood.**

**L. E. Crouch, Portland, Oregon, Member of the Third Congressional Committee, National Security Owners Association; attorney; Grand Chancellor of Knights of Pythias for Oregon, and at present National Head of that Organization.**

**P. J. Gallagher, Portland, Oregon, Member of the Third Congressional Committee, National Security Owners Association; Attorney; former member of Oregon Legislature; lecturer for Knights of Columbus.**

**Harry E. Cowgill, Portland, Oregon, Member of the Third Congressional Committee, National Security Owners Association; Owner of trucking company but not engaged in long distance hauling; Thirty-third degree Mason and said to be the best known Mason in Oregon.**

**Charles C. Close, Portland, Oregon, Member of the Third Congressional Committee, National Security Owners Association; Manager Investment Department of the First National Bank of Portland.**

**Charles C. Hall, Portland, Oregon; Member of the Third Congressional Committee, National Security Owners Association; Attorney, and former President of East Side Commercial Club.**

**Charles F. Berg, Portland, Oregon, Member of the Third Congressional Committee, National Security Owners Association; Portland Merchant; prominent in Oregon Jewish Circles; also active in all Portland service clubs.**

**Scott Milne, Portland, Oregon, Member of the Third Congressional Committee, National Security Owners Association; Vice President, Electrical Workers Union; opposed to municipal ownership.**

#### SECURITY OWNERS ASSOCIATION

##### *Organization for Oregon*

One Vice President, who is also a member of the National Executive Committee (Mr. Ainsworth occupies this position).

A District Chairman for each of the Three Congressional Districts, appointed by the State Vice President.

A County Chairman for each of the 36 counties, likewise appointed by the State Vice President.

A Chairman of the "Cooperating Council" for each city, town or community selected by the County Chairman, appointed by the several County Chairmen.

The 36 County Chairmen, 3 District Chairmen and the State Vice President shall constitute a "State Advisory Committee".

Its duties shall be: (1) to advise the National Association (through its State Vice President) on matters in which the Association may be interested; (2) to investigate matters of legislation and managerial policies and practices affecting railroads and public utilities, and to make public its findings and recommendations.

The Advisory Committee shall have local autonomy in the matter of its investigations and pronouncements. It is privileged to express itself in general terms as to the policy of governmental interference with business, but its specific recommendations shall be limited to matters directly related to railroads and utilities.

It shall not interest itself in rates or rate structures, nor express itself concerning any order affecting rates or service which may be issued by any agency of the Federal or State Government.

It may, however, directly or through committees, investigate alleged unfair practices of railroads or utilities and take such steps as may be necessary to correct same when found to exist.

Neither the Advisory Committee, nor any other committee, officer or member of the Association, acting in the name of the Association, shall take action for or against the election of any candidate for public office, or otherwise engage in political activity. This inhibition, however, shall not prevent the Advisory Committee from making recommendations and otherwise interesting itself in proposed



legislation which in its opinion affects the value of outstanding railroad or utility securities in the hands of the public. Its representatives may appear before legislative hearings, but shall not engage in lobbying.

Its standing committees shall consist of an Executive Committee, a Committee on Resolutions, a Committee on Utilities and Utility Practices, a Committee on Railroads and Railroad Practices, and a Committee on Legislation.

Officers of the Advisory Committee shall be chosen from the members thereof and shall consist of a Chairman, 3 Vice Chairmen (one from each Congressional District) and a Secretary-Treasurer, all of whom shall be ex officio members of the Executive Committee.

Meetings of the Advisory Council shall be held on call of the Chairman, or by the State Vice President, or by a majority of the members of the Executive Committee. 15 members shall constitute a quorum for transaction of business.

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EXHIBIT No. PC-244

[Copy of memorandum from the files of the Security Owners Association—General Correspondence]

On the following pages will be found copies of the resolutions adopted by the Oregon Advisory Committee on September 4, 1931, and excerpts from the discussion.

The Security Owners Association is a voluntary organization of nation-wide scope, maintained for the purpose of promoting stability for the investments of the nation's life insurance and savings bank funds in the securities of the railroads and public utilities of the country. The security of these investments is fundamental to the well being and support of millions of policy holders and depositors and their dependents. The work of the Association is therefore of vital importance to every man, woman and child in America.

This Association is endeavoring to secure accurate understanding and intelligent action on all questions affecting the public treatment of these great basic enterprises, to the end that legislation and regulatory action for the protection of the public interest in these enterprises may be determined on sound economic principles, rather than by considerations of temporary political expediency or emotional appeals to bias or prejudice.

The Oregon Advisory Committee of this Association recognizes the fundamental importance of such a program to the people of our state. Oregon, with unmatched natural resources, industrial, agricultural and commercial advantages and favorable climatic and living conditions, with an area of more than 96,000 square miles, being ninth in area of all the states of the Union, has a population of only approximately 960,000 people, ranking thirty-fourth in the population among the states.

Vast amounts of capital have been invested in providing railroad and public utility facilities for the people of this state, and large increasing amounts will be required year by year in the future, if industry, agriculture and commerce are to be stimulated, the deadening effects of unemployment are to be removed, and adequate working and living opportunities are to be created for the increased population essential for Oregon's progress.

It is therefore peculiarly necessary that Oregon should encourage the investment of capital in this state by fair treatment of capital already invested here, and that the people of Oregon abstain from measures or policies whether state or local in their application, which would be likely to discourage further private investment in these basic enterprises. From the standpoint of our own self-interest, whether as investors, policy holders, savings depositors or as citizens anxious for the future of Oregon any other policy would be shortsighted and destructive, and would tend to impair if not destroy the state's prospects for a well-balanced and successful development.

In view of the foregoing and in furtherance of the common interest of our own people in the stability and development of these enterprises and their usefulness to the people of the state, the Oregon Advisory Committee proposes to adhere to the following principles and policies, and earnestly invites all progressive and forward-looking citizens of Oregon to do likewise for their own self-interest.

I

Oregon needs and welcomes the continuing investment of private capital in large amounts in the development of its railroads, utilities and other basic

industries, and investors may safely rely upon the people of Oregon to extend fair treatment to all Capital invested in these industries. As a necessary element of this fair treatment, the rights and interests of the public in the service provided by these enterprises must at all times be safeguarded by fair and intelligent regulation.

## II

Proper regulation of business affecting the public interest will aim to assure to the people the maximum benefits of individual initiative and managerial ability, and the most efficient operation, expansion and development of these enterprises. It must also assure to investors an opportunity to earn a fair return upon their *actual* and *legitimate* investment in the public service, and must *protect* the public *against* the *exaction* of anything more than a fair return, computed on *only* the *actual* and *legitimate* investments.

## III

Fair and effective regulation to protect the public interest, including the interests of investors, requires the maintenance of a strong and well-equipped regulatory authority of state-wide jurisdiction. It also demand that the State's power of regulation shall not be dissipated among diverse local governmental bodies, whose viewpoints and policies are likely to be unduly influenced by local boundaries and by local prejudices.

## IV

Oregon's natural resources must be protected against improper exploitation and speculation, and against being bottled up by any agency to the prejudice of the general interest in the orderly, well-regulated development of these resources. No agency should be permitted to appropriate any natural resources, except in anticipation of prompt development and except in accordance with a plan approved by the state as consistent with its highest interests in such resources.

## V

Public funds and public credit should be reserved exclusively for necessary governmental purposes, and should not be diverted into commercial ventures in competition with regulated private capital, or into activities capable of being satisfactorily performed by private capital under appropriate regulation.

## VI

The people, the press and all public officials in Oregon should unite upon a constructive program to invite capital to invest in Oregon, with definite and bona fide assurances of fair treatment and fair regulation for all industries affecting the public interest.

United and aggressive support of this program will stimulate industry and industrial development, promote increased employment and opportunities for all of our people, and place Oregon in the forefront of energetic and progressive communities.

WHEREAS; the welfare of the public is vitally affected by the stability of its railway transportation system which must be efficiently maintained if business is to be continued on the level attained in this country; therefore we respectfully call to the attention of the people the following conditions which we deem a serious menace to the prosperity of every citizen:

FIRST, that, by reason of the practically unrestricted competition of motor trucks and busses through their use of publicly financed and publicly maintained highways, the American railways are being subjected to unfair, unreasonable and un-American competition which is seriously impairing their ability to serve the public, destroying the value of their securities, endangering the welfare of many of the life insurance, fire insurance companies, savings banks, and other organizations on whose stability the future of millions of citizens is dependent.

SECOND, that the impairment of the financial success of the railroad companies is of vital importance to every municipal subdivision of this state, a vast portion of whose funds for the support of all public institutions is secured from the taxes paid by them.

THIRD, that the increase in use of the highways for commercial transportation is resulting in vastly increasing the cost of maintenance thereof, the greater portion of which is paid by the general public through automobile licenses and gasoline taxes which must be maintained at the present level for the safeguarding of the public investment in these roads, while the commercial vehicle owners reap the profits; and at times practically monopolize highways menacing the life and the property of the people.

FOURTH, that by reason of the restricted earnings of the railroads, transportation companies have been compelled to abandon their usual program of expansion thus increasing unemployment in their own field as well as other industries, adding to the burden of the general public in caring for the unemployed.

NOW, THEREFORE, BE IT RESOLVED, that the public interest will be served by the enactment of such methods of taxation and regulation of motor vehicle carriers as will establish a fair basis of competition between them and the carriers by rail, to the end that there may be preserved to the Nation all methods of transportation of public benefit, and that no method of transportation may be permitted to weaken or destroy another through being relieved of that fair share of the public burden to which it should be subjected.

RESOLVED, FURTHER, that in the study of this problem attention be given to the regulation of the operation of motor vehicle carriers so that the health and safety of their employees and the lives and safety of the travelling public may be protected from the dangers now existing because of improper and unregulated hours of employment and methods of operation, of the existence of which there have been conspicuous and disturbing examples in this state in recent months.

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EXHIBIT No. PC-245

[Copy of memorandum from the files of the Security Owners Association—General Correspondence]

The following pages contain a copy of the questionnaire, letters, etc., sent to 120 Oregon Chambers of Commerce, 165 newspapers, and a large number of business firms, members of the Legislature, and representative citizens, together with a digest of the replies received.

I. Is there complaint in your community concerning the regulated public utilities, either as to

- (a) Character of Services?
- (b) Rates or Charges?
- (c) Company managerial policies?

Please specify on each of these points.

II. If complaint is general on any of these point, or if an unsatisfactory relationship exists between the public and the utility management, *to what do you attribute* this complaint or unsatisfactory condition? Your comments with specific references will be greatly appreciated.

III. In your opinion, what were the causes that led to the adoption by the people last November of the so-called "Grange Power District Constitutional Amendment"?

IV. To what extent, if any in your opinion, does the adoption of this Amendment, by the people, and the enactment by the 1931 legislature of laws restricting power development by the established utilities indicate a general desire to put the state or its governmental subdivisions into the electric business with public money and credit, to compete with or eliminate the existing utility companies?

V. What has been the reaction of Oregon investors to these apparently anti-utility measures as reflected by the local standing of Oregon Utility Securities (bonds and preferred stocks).

VI. In your judgment, is any considerable portion of the people of Oregon hostile to the further investment of so-called "Eastern" capital in Oregon's industrial and commercial development?

If so, how general is this sentiment, what is the explanation for same, and under what circumstances or conditions is the sentiment likely to become more radical or less so?

**STATEMENT OF CHARACTER OF REPLIES RECEIVED FROM OREGON CHAMBERS OF COMMERCE, NEWSPAPERS, BANKERS, MERCHANTS, ETC., TO QUESTIONNAIRE OF SECURITY OWNERS ASSOCIATION**

Attached hereto is a letter from Mr. William H. Onken, Jr., Vice President of the Security Owners Association, to Mr. Robert E. Smith under date of April 23, 1931, together with the following enclosures: copy of a letter addressed to the Security Owners Association; copy of suggested questionnaire; and copy of an editorial in a Birmingham paper.

The above-mentioned questionnaire, together with the enclosures, was in accordance with Mr. Onken's letter, transmitted to all commercial bodies and newspapers in Oregon as well as to a number of financial and mercantile establishments, farmers, lawyers and others.

A study of the replies seems to indicate clearly that sentiment throughout the state is entirely favorable to Eastern investment; that very few, if any, districts will be organized under so-called "Grange Water-Power Amendment"; that the favorable vote on this amendment should not be construed as indicative of a wide-spread sentiment for public ownership in the state; and that the general attitude of the people of the state is in the direction of encouraging outside investments made within the state.

Taking the various questions, in the order in which they appear in the questionnaire, we find:

Question I. Is there complaint in your community concerning the regulated public utilities, either as to

- (a) Character of service?
- (b) Rates or charges?
- (c) Company managerial policies?

Please specify on each of these points.

87% of the replies reported that generally speaking the character of service is satisfactory; 78% reported that rates for service are satisfactory in their respective communities; and 11% reported that there is complaint as to rates but that such complaint is confined to a comparatively small percentage of the patrons of the utilities serving that community. The replies were almost unanimous in stating that managerial policies are on the whole satisfactory.

Question II. If complaint is general on any of these points, or if an unsatisfactory relationship exists between the public and the utility management, to what do you attribute this complaint or unsatisfactory condition? Your comments with specific references will be greatly appreciated.

As indicated above, no general complaint was reported from any district. In almost every case of dissatisfaction with the utilities, the major part of the criticism was directed toward utilities not involved in the Grange Power Amendment as referred to in the letter from Mr. Onken.

Question III. In your opinion, what were the causes that led to the adoption by the people last November of the so-called "Grange Power District Constitutional amendment?"

In giving reasons for adoption of the Grange Amendment, all replies contained several reasons, 59% of replies mentioned hard times; 19% misunderstanding on the part of the electorate as to the purpose and scope of the amendment; 22% the vigorous campaign which was made in behalf of the measure, and the disorganized or weak character of the opposition campaign. 27% stated that the vote was due to a belief by those who favored the amendment that the undeveloped hydro-electric resources of the state are being appropriated by non-residents for speculative purposes and not for development, and their support of the amendment was prompted by their desire to restrict water power filings to those which would result in immediate development and use of the potential hydro-electric power involved therein. 9% expressed the view that a number of persons who had petty grievances of one character or another against utilities voted for the amendment as a gesture of protest.

Question IV. To what extent, if any in your opinion, does the adoption of this Amendment by the people, and the enactment by the 1931 Legislature of laws restricting power development by the established utilities indicate a general desire to put the state or its governmental subdivisions into the electric business with public money and credit, to compete with or eliminate the existing utility companies?

Replies were almost unanimous in saying that the voters in general have no desire to put the state or its subdivisions into the business of owning and operating electric utilities, and that the holders of securities of the existing utilities have little to fear in this regard. Nearly every reply specifically stated that few, if any, districts will be formed under the provisions of the Grange Amendment and that while the voters might favor provisions in the constitution which would make public ownership and operation of utilities possible, they desire to use such provisions only as a club for their protection against possible unsatisfactory rates, service, speculative appropriations of hydro-electric resources, etc., and the replies were likewise almost unanimous in stating that when it comes to a vote for mortgaging their property for publicly owned plants, the voters of the state will be against same by a very substantial majority.

Question V. What has been the reaction of Oregon investors to these apparently anti-utility measures as reflected by the local standing of Oregon utility securities (bonds and preferred stocks)?

Many of the letters pointed out that preferred stock of utilities has been sold in very substantial amounts since the adoption of the Grange measure and practically all replies stated that the people of their respective communities are not at all concerned over the safety of Oregon utility securities.

Question VI. In your judgment, is any considerable portion of the people of Oregon hostile to the further investment of so-called "Eastern" capital in Oregon's industrial and commercial development?

If so, how general is this sentiment, what is the explanation for same, and under what circumstances or conditions is the sentiment likely to become more radical or less so?

Replies to Question VI were almost unanimous in stating that the citizens of Oregon are not hostile to Eastern investment; only one or two replies were apprehensive.

Letters from Chambers of Commerce were particularly emphatic in stating that the people of their respective districts are anxious to encourage, by all reasonable means, further investment of outside capital for development purposes, and that the present depression and consequent unemployment have made them particularly keen to secure such capital for development.

The following excerpts from replies have been selected as these which are most typical of the majority of replies which have been received:

KLAMATH FALLS, "Agitators have told the people that they can have something for nothing and some have believed this and want it. Thinking people in this district know better. I think our community is sane on this subject. We have our agitators, but they do not get very far with the community as a whole."

KLAMATH FALLS, "There does not seem to be any great desire in this district to go into the power business."

ROSEBURG, "No intelligent person in Oregon wants to see the utilities injured in any way."

ROSEBURG, "Eastern capital is unduly alarmed if it believes the people of Oregon would sanction anything that failed to aid in the development of the state, and the agricultural class is especially interested in seeing development take place along lines of manufacturing, for the farmers realize what a handicap distant markets are, and want to see home markets developed for their products, doing away with the long haul now necessary."

COTTAGE GROVE, "I have noted that Oregon seldom does anything radical enough to greatly injure the state, and that the foolishness of such campaign issues as 'free power' soon becomes apparent to the great majority."

BEND, "I believe that there is only a very limited desire to put the state into the electrical business with public money and credit."

SCOTTS MILLS, "I do not believe that the citizens of this state are hostile to funds invested in Oregon from Eastern sources. In fact, I believe that more and more it is becoming firmly fixed in the minds of Oregon citizens that without this source of financing, no great amount of development is possible."

SCOTTS MILLS, "If I were buying public utility investments, I would feel, all present situations in Oregon to the contrary notwithstanding, investment in Oregon utilities to be among the safest and among those having the greatest future."

ST. HELENS, "I believe there is less radical sentiment in Oregon than any other Pacific Coast state."

ST. HELENS, "There is no reason for the belief that capital stands in any jeopardy so far as this community is concerned, nor has it anything to apprehend from the present or past temper of the public."

COTTAGE GROVE, "Don't believe the people would vote for any great bonding program."

EUGENE, "I cannot conceive that any considerable number of the people of Oregon would be hostile to the further investment of so-called 'Eastern capital in Oregon industrial and commercial development.'"

MARSHFIELD, "I do not believe the public utilities are in any more danger of hostile legislature, unfriendly public sentiment or public competition in Oregon than elsewhere."

SALEM, "Eastern capital is needed, wanted and would be welcome."

EUGENE, "There is nothing apparent in this location to indicate any hostility to Eastern capital being invested here."

MEDFORD, "We do not believe the public as a whole is at all hostile to outside capital being invested in this line of endeavor. On the contrary, we are of the opinion that the public welcomes this form of investment by outside parties."

HOOD RIVER, "In our judgment, there is no considerable portion of the people of Oregon in any way hostile to the further investment of Eastern capital in Oregon industrial and commercial developments."

CORVALLIS, "I do not believe that very many people in Oregon are hostile to Eastern capital invested in Oregon industrial and commercial development."

EUGENE, "I do not know of any one who has any desire to keep out capital from any source. In fact the Chamber of Commerce is working hard to bring in people with money to invest."

PENDLETON, "I do not think that any considerable portion of the people of my locality are hostile to Eastern development, but on the contrary recommend it."

MEDFORD, "I do not believe that any considerable portion of the people are hostile to the further investment of so-called 'Eastern' capital in regard to industrial and commercial development. In fact, I believe it is recognized by almost everyone that Oregon must have outside capital for development."

ALBANY, "There seems to be no general demand in this section of the state at the present time for municipal development of utilities."

ALBANY, "People would certainly welcome the investment of Eastern or other capital in industrial or commercial development."

GRANTS PASS, "It is my opinion that the people of Oregon are favorable to the investment of capital by any outside interest whenever it means the development of the state of Oregon. I also believe that outside capital is absolutely safe to make investments in Oregon so far as any past or future legislation is concerned. Common sense and judgment will prevail regardless of any minor radical element that may arise up from time to time."

HOOD RIVER, "I think I can safely say there is no fight on between the power company and the people, and no desire on the part of the people to go into public ownership."

HOOD RIVER, "I am sure the people of Oregon welcome 'Eastern' capital for our industrial and commercial development."

OAKLAND, "Oregon welcomes Eastern or any other capital."

BAKER, "There is less hostility now to the investment of Eastern capital than there has been in the past. There is rapidly coming to the people of Oregon the realization that to develop the resources of the state it is necessary to have capital and that the only source of capital is in the East."

TOLEDO, "If any portion of the people of Oregon is hostile to any further investment of Eastern capital, it would be very small."

DAYTON, "We think there is nothing but friendly feeling toward Eastern capital invested in Oregon industries for commercial development."

PENDLETON, "We have not experienced any sentiment that would indicate hostility toward further investment of Eastern capital for legitimate industrial and commercial enterprises within the state."

BEND, "I do not believe any considerable portion of the people of Oregon is hostile to further investment of Eastern capital in Oregon industrial and commercial development. In fact such investment would be welcome to the great majority of the people."

ONTARIO, "We do not regard investment of outside or local capital in Oregon bonds or stocks as at all hazardous."

BAKER, "It is our belief that the people of Oregon are convinced and know that this state needs Eastern capital in order to develop their industrial and commercial enterprises and we feel that the Eastern investor should have no fear whatsoever from the people of the State of Oregon."

SILVERTON, "Locally there is no hostility toward Eastern capital entering Oregon to assist in developing our state."

ROSEBURG, "Without it we feel that no large development could be made."

BEND, "I do not think the people of Oregon as a whole consider they should go into municipal ownership."

ST. HELENS, "Do not believe there is anything to be alarmed about from the financial standpoint."

OAKLAND, "The people of Oregon can be relied on most of the time to do what is right and proper and their past record will bear out that statement."

VERNONIA, "When their demands were reasonably well met, they have repeatedly demonstrated their willingness to protect capital invested within the state."

SCOTTS MILLS, "The business of this state is too fundamentally sound to be disturbed by the political fancies which may come up from time to time, and I feel sure that if your investing friends make the proper analysis of the situation, their confidence as based on fundamentals will not be disturbed."

OREGON CITY, "Tell your Eastern people to come on to Oregon with their money and continue to make their investments. In comparison with other states, I think their money is just as safe, if not safer, in Oregon investments."

PRINEVILLE, "I do not believe there is any thought or intention on the part of the people of Oregon to do any injustice to public utilities."

ROSEBURG, "I think your Eastern friends may put their minds at rest regarding any danger of a rush to establish power plants under this bill."

HOOD RIVER, OREGON: "I don't think anything has happened to keep us from making Oregon investments attractive."

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EXHIBIT No. PC-246

[Clipping from the Birmingham Post, 1/26/31, from the file of the Security Owners Association—General Correspondence]

KILLING THE GOOSE

The private power companies, scheming for a dummy power commission and ineffectual state rate regulation are killing the goose that for years laid the golden eggs for them, regulation. When that fails they will have to meet a popular weapon infinitely more effective. That is public ownership. Witness what is occurring out on the Pacific Coast.

Oppressive power rates drove Tacoma to municipal ownership nearly 40 years ago. When Tacoma's Nisqually plant began piling up profits of \$1,000,000 a year at rates among the cheapest in America, Seattle followed suit with her great Skagit project, Los Angeles with its Owens aqueduct came next, then San Francisco with Hetch Hetchy. Now Portland has decided to do likewise and her city dads have just voted to condemn the local power company's plant. The back-country, eager to participate in cheaper power, bestirred itself and at last election both Oregon and Washington passed measures permitting irrigation districts and smaller cities to combine for public power projects. J. D. Ross, Seattle's power superintendent, says it will be only a matter of time until the coast cities are hooked up in a great publicly-owned super-power system.

"People in the east," said Kenneth Harlan, Portland utility engineer, "do not realize how in earnest the people of the Pacific coast are. They've been 'skinned' too long. They are finding the only way out."

Let the private power companies take heed. All the George Otis Smiths and Frank Bonners in the country cannot save them. If they destroy effective rates regulation they will have to meet the new rate regulator now growing so popular in the far west, public ownership.

It's one or the other.

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EXHIBIT No. PC-247

[Copy of letter from the files of the National Association of Owners of Railroads and Public Utility Securities, Inc.]

MARCH 25TH, 1931.

MR. J. C. AINSWORTH,  
*President, United States National Bank,  
 Portland, Oregon.*

DEAR MR. AINSWORTH: I am glad to advise you that Mr. Robert E. Smith, of Portland, has been appointed to represent the Security Owners Association as

Director for the North Pacific states. Mr. Smith will call on you on his return to Portland and will outline to you our program of activities for the States of Oregon, Washington, Idaho and Utah. He will open an office and maintain headquarters at Portland, and will work close to you and our other Vice Presidents located in that section.

Because of conditions which exist in Oregon, and Mr. Smith's familiarity with them, he will seek your counsel and advice perhaps to a larger degree than other State Vice Presidents. I know you will cooperate with him as fully as your time permits.

I have every confidence in Mr. Smith's ability to put over our program in the North Pacific states, and anticipate good results from his efforts.

With kind personal regards, I am  
Cordially yours,

— — —, *President.*

EXHIBIT No. PC-248

[Copy of letter from the files of the National Association of Owners of Railroad and Public Utility Securities, Inc.]

ABLINGTON CLUB,  
*Portland, Oregon, March 31, 1931.*

PRESIDENT, SECURITY OWNERS LEAGUE,  
*Twenty-one East Fortieth Street, New York City.*

— — —: As they have discontinued the observation car on Northern Pacific train number three, I did not write you en route.

I had interesting talks with Mr. Scandrett and Mr. Donnelly. Mr. Budd was in the West so I did not see him. I spent last evening with Mr. Vincent in Spokane.

All were very much interested in the League, and the fact that you were taking steps to increase its membership throughout the country. I advised them that in addition to establishing regional offices and organizations in New England, the Northwest, the Pacific Southwest and Pacific Northwest sections, you had definite plans for the entire country, and had done preliminary work in the Chicago, Kansas and Atlanta sections.

All were agreed that there would be plenty of work for the organization. Mr. Donnelly particularly expressed the view that he could see no end to the present wave of radical agitation and legislation.

I am quite sure we can count on the active cooperation of the railroads in this district, as well as the utilities. I will see Mr. Coman and Mr. Gilman, Western Vice Presidents of the Northern Pacific and Great Northern, respectively, when I am in Seattle this week.

Mr. Vincent introduced me to Mr. Sawyer, formerly of Spokane, who is in charge of the C. M. and St. P. interests on the Olympic Peninsula and who, he believes, will be very helpful to us in that section.

I enjoyed my visit with Mr. Vincent very much, and your suggestion that I advise with him on my way West was a good one. He is well sold on the organization, although somewhat impatient with the apathy evinced by many city bankers, as well as country bankers.

He suggested that as the most populous districts of his state are in the Western portion, it might be advisable to have a Seattle banker take his place as Vice president. I replied that neither you nor myself would consider such an arrangement, as he was familiar with the purposes, scope and operation of the organization, was really interested in it, and we were relying on him to shape its policies in Washington and to lend his influence in building up the membership. He assured me we might count on a full measure of cooperation from him.

He is somewhat perplexed over the Western Washington situation and we discussed it at considerable length. He suggested I first advise with Mr. Backus. He believes he, himself will suggest a more active man as member of the Executive Committee. He believes Lawrence Arnold, son of Mr. M. A. Arnold, President of the First National Bank of Seattle, will be the best selection for Member of the Executive Committee if he will accept the appointment.

He thinks the selection of district men in Western Washington should be left to the Seattle bankers.

I think his suggestions are sound, and being well acquainted with Mr. Backus and M. A. and Lawrence Arnold, I am hopeful of working out the situation along the lines suggested.



Mr. Ainsworth was out of the bank this morning and did not come to the Club for lunch, but I hope to see him this afternoon.

I have secured an office in the Pittock Block—room 577—for \$35 per month for three months, and \$50 per month thereafter, until times pick up, when the rate of \$75 will apply. It is a small suite, but ample for our purposes. The cost of equipping it will also be below budget estimate. I had some stuff of my own, have borrowed a little more, and will purchase second-hand what may be required.

I should have things squared around here in two or three days and will then go to Seattle for a couple of days. I will see Mr. Ainsworth this afternoon.

Sincerely yours,

[Signed] ROBERT E. SMITH.

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EXHIBIT No. PC-249

[Copy of letter from the files of the National Association of Owners of Railroad and Public Utility Securities, Inc.]

577 PITTOCK BLOCK,  
Portland, Oregon, April 6, 1931.

PRESIDENT, SECURITY OWNERS ASSOCIATION,  
Twenty-one East Fortieth Street, New York City.

— — —: The Western Washington situation is more complicated than I anticipated. This is due to several factors, the principal of which are:

- (a) Failure to appreciate the need of the Association and the results which it has accomplished.
- (b) Prejudice on the theory that organizations of this character are inspired by those who desire to exploit the subscribers for their own aggrandizement or financial gain.
- (c) Factional jealousies between commercial or banking groups.
- (d) A fear that open affiliation with the Association will incur the displeasure of, and boycott by municipal ownership advocates, who are in the majority.
- (e) Mr. Backus is in California and it is difficult to arrange for a more active man to fill his place in the absence of his resignation and without his cooperation.

However, I have made some headway and have, in effect, secured the assurance of Mr. M. A. Arnold, President of the First Seattle Dexter-Horton National Bank, that he will assist me in securing a suitable man, either in or out of his bank. His son, Lawrence Arnold, cannot accept the position as he is overburdened with work.

The matter is now being considered by Mr. James Spangler, former President of the Seattle National Bank and now a Vice President of the consolidated bank. Mr. Spangler is interested in accepting the appointment but he and his associates wish to give the matter further consideration and discussion. I have overcome all their objections except perhaps the fear of injecting the bank into the present controversy between the privately owned Stone and Webster utility and the municipal plant.

It seems advisable to discuss the situation with Mr. Vincent and as soon as I finish a trip through Oregon, I will run up to Spokane for a conference with him. I expect to be there the first part of next week.

I do not think there is any necessity at this time to discuss at length the complications in Seattle, but will go over these thoroughly with Mr. Vincent. At the best, this can be only a preliminary and sketchy report.

I might say, however, that Mr. Andrew Price, who, you will recall, agreed at your luncheon to interest himself in the situation, not only has failed to cooperate, but seems to be in a somewhat antagonistic mood. I saw him first, as he is President of the holding company which controls the bank of which Mr. Backus is President. He stated that he was quite familiar with the Security Owners Association and was convinced that it was "a lot of ballyhoo with no results". Mr. Boyden advised me of Mr. Dietrich Schmidt's attitude and remarks and these, I am satisfied, are simply a reflection of those of Mr. Price.

Mr. Lawrence Arnold also seemed to be laboring under the impression, probably influenced by Mr. Price, that the Association is operated more for the

benefit of a small group in New York than for the country as a whole. I have the Arnolds straightened out and believe I have made some impression on Andrew Price, but there is yet a lot of work to be done for both Mr. Vincent and myself.

The antagonism toward Stone and Webster which apparently is widespread in Seattle also militates against us.

This is a long and rather sad story, and I will report more completely after my next visit to Seattle, which will immediately follow my trip to Spokane.

I am taking the liberty of sending a copy of this letter to Mr. Vincent.

Very sincerely yours,

[Signed] ROBERT E. SMITH.

res-s

EXHIBIT No. PC-250

[Copy of letter from the files of the National Association of Owners of Railroad and Public Utility Securities, Inc.]

APRIL 16, 1931.

Mr. ROBERT E. SMITH, Esq.,

577 Pittock Block, Portland, Oregon.

DEAR MR. SMITH: Your report of April 6th has been received and noted. You are up against a difficult problem. It is what we anticipated and marks the necessity for the work which you are doing.

You are called upon to perform a public relations work of a complicated character. Your task is not only to develop and maintain friendly interest in the work of the Association, but to create it out of an atmosphere that is somewhat hostile owing to the antecedents and past history of some of the utility corporations. Obviously this can be accomplished only by the exercise of great finesse.

In this connection you can lay stress upon the fact that the Association has always favored fair and adequate public regulation of utilities, believing that such regulation is in the interests of security owners. Likewise, it is the purpose of the Association to promote sound utility practice. You might also stress the fact that the Association is financed entirely by membership dues and contributions and has no affiliation with the utilities as corporations. This should dissociate our work from Stone and Webster in the minds of your prospects.

As further evidence of the public service nature of the Association you might refer to its labor policy, pointing to the speech of Mr. D. B. Robertson, Chairman of the Railway Labor Executives Association upon the occasion of the last Problem Discussion dinner in New York. You should also bring out the fact that the Association represents fifteen billion dollars invested in railroads and utilities and that its efforts to preserve their prosperity affect the livelihood of millions of employes and security owners, as well as the financial position of other millions of bank depositors and life insurance policyholders.

I believe you can destroy the argument of centralization of the Association in New York by citing your own work in North Pacific territory, the plan to establish regional offices in all parts of the country and the fact that it is our purpose to look to and work with local men toward the solution of national problems.

Mr. Price's attitude is apparently a result of his contact with Backus. If you can overcome his objections, I believe you will go far toward conciliating Mr. Backus. I hold little hope that Backus will ever be of service to us, but open hostility from him must be avoided. You have done a good work with Mr. Arnold. Someone associated with him should be a valuable contact.

I believe by stressing and illustrating the points outlined above you can gain the friendly interest of Washington business men and that, the fear of criticism dispelled, they will be willing to advise and cooperate with you with respect to the State situation. It is a delicate work and requires patience, but it is a work that is very badly needed.

I do not know whether it would be possible to have a story published in a Seattle newspaper stressing public service, and the points outlined above. If it could be done, it would undoubtedly help to create the sentiment we desire. It should be clearly indicated that our work in Washington is not an attempt by outsiders to force views upon the State, but an effort, in the interest of investors and the public, to cooperate in the solution of problems of State and national character.

Perhaps Mr. Vincent would sign a letter, prepared by us, to the men whom you are contacting, and which would help to dispel the objections which you have met. I should like your opinion on these views.

With best wishes for your success, and personal regards, I am  
Very truly yours,

— — —, *President.*

Enc.

P. S.—I enclose excerpts of statement by Melvin A. Traylor, member of the Executive Committee of the Associations, which will interest you.

EXHIBIT No. PC-251

[Copy of telegram from the files of the National Association of Owners of Railroad and Public Utility Securities, Inc.]

Western Union

RECEIVED AT ARCADE, 475 Fifth Avenue, N. Y.

1931 APR 17 PM 4 05

NBL238 195 DL—PORTLAND, OREG. 17 1152A

PRES., SECURITY OWNERS ASSN.,  
21 East 40 St.:

Officers first Seattle Dexter Horton National Bank still debating whether James Spangler of that bank should accept membership our executive committee—Stop Account keen banking competition strong municipal ownership sentiment they afraid of anything which might seem taking sides in Seattle utility situation also misunderstanding and unfavorable conception of association by Price and associates who are keen competitors probably enters into situation Stop Spangler has asked for printed literature regarding purposes scope and directors association Stop This I dont seem to have in succinct form but am mailing him list executive committee please wire him niteletter tonight that you concur in recommendation Vincent and myself that he accept membership executive committee for western Washington and give him information respecting high and conservative character of interests financing backing controlling and managing association Stop He director United States Chamber of Commerce and I wish him understand our association equally important conservative and efficiently operated. Stop I advised him frankly work too important to have any half hearted officers and if he not hundred percent sold we wish select someone else Stop However account he past president State bankers association and prestige himself and bank he our logical man regards.

ROBT. E. SMITH.

EXHIBIT No. PC-252

[Copy of letter from the files of the National Association of Owners of Railroad and Public Utility Securities, Inc.]

President, Milton W. Harrison; Vice-President, Wm. H. Onken, Jr.; Secretary, Elmer E. Boyner; Robert E. Smith, Director, North Pacific Section, 577 Pittock Block, Portland, Oregon

SECURITY OWNERS ASSOCIATION

(National Association of Owners of Railroad and Public Utility Securities, Inc.)

Organized in 1917 to Protect the Interests of Investors

21 East 40th Street

PORTLAND, OREGON, April 17, 1931.

PRES., SECURITY OWNERS ASSN.,  
21 East 40th Street, New York, N. Y.

— — —: My wire of even date, confirmation of which is enclosed probably needs little comment. Mr. M. A. Arnold, President of First Seattle Dexter Horton National Bank appreciates the value of the work in which the association is engaged and we have his support. He is attending a meeting of the Federal Reserve Bank board of directors in San Francisco.

Mr. Spangler has discussed the matter with his associates during Mr. Arnold's absence and there seems to be some question in their minds as to whether an officer of the bank should be permanently identified with an association which is openly opposing municipal ownership.

The copy of the Seattle Post-Intelligencer which I mailed you from Seattle may give you some conception of the utility situation which exists in that city.

I am also satisfied the attitude of the bank is influenced by the misunderstanding of the association which has been had by Mr. Andrew Price, head of the principal competing bank, and that will take time to correct.

Mr. Spangler naturally does not wish to accept the position so long as doubt exists in the minds of any of his associates.

I felt that neither you, Mr. Vincent, nor myself should be placed in the position of asking favors or of apologizing for the association and told him frankly we would not permit his acceptance unless and until he and his associates were one hundred percent sold.

We may be confronted with similar situations in appointments of district chairmen and consequently it will be helpful if you will give me your views as how best to meet same.

Sincerely yours,

[Signed] ROBERT E. SMITH.

EXHIBIT No. PC-253

[Copy of telegram from the files of the National Association of Owners of Railroad and Public Utility Securities, Inc.]

Charge to the account of Natamsa \$ \_\_\_\_\_  
Night Letter X

Western Union

APRIL 17, 1931.

JAMES W. SPANGLER,

*Chairman, Executive Committee,*

*First Seattle Dexter Horton National Bank,*

*Seattle Washington:*

Robert E. Smith, regional director, Security Owners Association and W. D. Vincent, vice president, Washington have requested your membership on executive committee for western Washington. I earnestly urge you accept appointment in the interest of Public Welfare and Protection of Investors in your State. This organization composed and financed entirely by individual and institutional investors. National scope conservative in character does not engage in lobbying or propaganda. Sole purpose protection of sound security values. Association believes this can be done only under fair regulation and attention to public interest. Your presence on committee will contribute much toward success of program. Letter follows.

*President, Security Owners Association, 21 East 40th Street.*

EXHIBIT No. PC-254

[Copy of letter from the files of the National Association of Owners of Railroad and Public Utility Securities, Inc.]

President, Milton W. Harrison; Vice-President, Wm. H. Onken, Jr.; Secretary, Elmer E. Boyner; General Counsel, Fred N. Oliver; Robert E. Smith, Director, North Pacific Section, Portland, Oregon

SECURITY OWNERS ASSOCIATION

(National Association of Owners of Railroad and Public Utility Securities, Inc.)

Organized in 1917 to Protect the Interests of Investors

21 EAST 40TH STREET, NEW YORK, N. Y.

[In ink]: Noted 5/26/31.

PORTLAND, OREGON, April 18, 1931.

Re: Utility Situation in Washington.

PRESIDENT, SECURITY OWNERS ASSOCIATION,

*Twenty-one East Fortieth Street, New York, New York.*

— : I mailed you from Seattle the front and back sheets of one of the daily newspapers. This will give you an idea as to the hysteria which obtains in that state. I have tried to determine the causes of this con-

dition, and to that end have discussed the matter in considerable detail, during the last two weeks, with bankers, railroad and utility executives, and others. There is such a difference of opinion, I would not undertake at this time to report definitely upon the underlying causes.

The Puget Sound Power and Light Company has a network covering practically the entire state of Washington west of the Cascade Mountains. Its system meets that of a subsidiary of the Electric Bond and Share at several points. It is interesting to note, and probably significant, that strong municipal ownership sentiment prevails universally throughout the district served by the Puget Sound Power and Light Company (Stone and Webster) and very little of such sentiment prevails in the district covered by subsidiaries of the Electric Bond and Share. Likewise it is interesting to note that the Bilsby subsidiary serves Sand Point, Idaho, which joins the Washington Water Power Company (an Electric Bond and Share subsidiary) on the West, and there is not only a strong municipal ownership sentiment there, but bonds have been voted for a municipally owned plant.

Obviously there must be fundamental reasons for the differences in sentiment mentioned above, but in justice to Stone and Webster, I believe sentiment generally in the Western portion of the state is fundamentally more radical than that which obtains in the Eastern portion.

In a discussion which I had with Mr. William Wood, of the Boston office of Stone and Webster, who has been spending considerable time with Mr. McLaughlin, the newly elected President of the Puget Sound Power and Light Company, both Mr. Wood and Mr. McLaughlin stated that their brief analysis of the situation indicated that the people of Western Washington believe that Stone and Webster have been unduly in politics in a bad way. That statement has been confirmed by the majority of the authorities with whom I discussed the situation. The following statement made to me by a junior officer of one of the Seattle banks is typical: He stated that he was convinced that the municipal plant in Seattle is more or less a failure and that its published statements are inaccurate; that a large number of those employed in it, including those in the municipality owned traction system, together with the policemen, firemen and other municipal employees, constitute a vicious political ring; that the municipal plant claims to be making satisfactory earnings but that the alleged earnings are simply a matter of fictitious book-keeping; that the plant charges of the City four cents per kilowatt for street lighting and other municipal purposes, against a three-quarters of a cent rate for domestic purposes. (He was wrong in his figures, the wholesale rate for municipal purposes being four cents and the domestic rate two cents) He stated that the people of Seattle have no one on whom they can rely; that Stone and Webster bribed the City Council in connection with the sale of the traction system by Stone and Webster to the municipality for an alleged exorbitant amount; that Stone and Webster have for years controlled the political situation in Western Washington; that they have elected the City Council and the Mayor, and always have had a number of their men elected to the Legislature; that through their control of the political situation they have ham-strung the municipal plant and have prevented its success.

On the other hand, Mr. Arthur Murphy, who has been in charge of the Union Pacific interests in the Northwest, and who is a very close friend of long standing, advises me that in his opinion Stone and Webster have done only those things which they were forced to do because of radical conditions in the territory which they served; that Mayor Edwards, who is now being subjected to recall and also to impeachment proceedings, is a straight, upstanding man; that the unfavorable sentiment which exists toward him is due entirely to the fact that he will not be dominated by a political ring nor influenced by the Socialistic sentiment which exists in Seattle.

The weight of general opinion among conservative men seems to be somewhere between those two extremes. There is a definite feeling that Stone and Webster have been in politics "in a bad way", but authorities differ as to just how "bad". Perhaps a majority of those with whom I discussed the situation are of the opinion that Mr. Leonard, who for some eighteen years has been President of the Puget Sound Power and Light Company, has been cunning rather than sinister.

Mr. Wood and Mr. McLaughlin asked me to canvass the situation as fully as my time would permit, and to advise them frankly of my findings. This has been done. I, of course, appreciate that the function of our Association is not to interest itself in local situations, but it seemed to me that as members of our

Association are the owners of many millions of dollars of Washington utility securities, if I could be helpful to the management of this particular utility, through securing a cross-section of sentiment, it would be of benefit to our members who are the owners of these securities.

Although the situation is very good in the district covered by the Washington Water Power Company, Mr. Post, the President of that corporation, feels that the whole utility situation in Washington is threatened by the deplorable conditions which exist in the Western portion of the state.

The work of our Association is made difficult in Western Washington because of the strong municipal ownership sentiment which exists there. For example, Mr. M. A. Arnold, President of the First Seattle Dexter Horton National Bank, though anxious to help in every possible way, states that neither his bank nor any other Seattle bank could be prominently identified with any movement which is unfriendly to municipal ownership. Confidentially, he also stated to me that a number of Seattle Bankers are not at all sure that it is not their civic duty to get squarely behind this municipal ownership movement because such vast sums of public funds have been expended for the Seattle, Tacoma and other municipal plants in Western Washington. In other words, they question whether their duty does not lie more in the direction of protecting the public investments of the citizens of Western Washington than of protecting the private investments of non-residents. Mr. Arnold is a close personal friend of long standing, and although in this statement he was reporting general sentiment rather than his own, under no condition should his confidential remarks be repeated.

The foregoing is a very meagre report of the general situation which exists in Washington, and I might go on at great length and report remarks and suggestions made by a large number of conservative men, but I think the foregoing will give you a general picture which will suffice for this time.

Very truly yours,

[Signed] ROBERT E. SMITH.

res-s

EXHIBIT No. PC-255

[Copy of letter from the files of the National Association of Owners of Railroad and Public Utility Securities, Inc.]

President, Milton W. Harrison; Vice-President, Wm. H. Onken, Jr.; Secretary, Elmer E. Boyner; General Counsel, Fred N. Oliver; Robert E. Smith, Director, North Pacific Section, 577 Pittock Block, Portland, Oregon

SECURITY OWNERS ASSOCIATION

(National Association of Owners of Railroad and Public Utility Securities, Inc.)

Organized in 1917 to Protect the Interests of Investors

21 EAST 40TH STREET, NEW YORK, N. Y.

[In Ink] Noted 5/26/31.  
PORTLAND, OREGON, April 20, 1931.

Re Municipal Ownership Sentiment in Oregon.

PRESIDENT, SECURITY OWNERS ASSOCIATION.

*Twenty-one East fortieth Street, New York.*

— —: A somewhat extensive survey of the situation in Oregon as it applies to municipal ownership, indicates that in Portland sentiment in its favor is very strong at this time. The feeling throughout the state varies somewhat in different localities, and although there is considerable antagonism to privately owned utilities and holding companies, such sentiment is not as rampant as in Portland.

The vote on the Grange water power bill and the vote for Governor Meier, who ran on municipal ownership platform, do not truly reflect existing sentiment outside of Portland. The up-state vote was influenced by a number of more or less unrelated causes, such as the disbarment of Senator George Joseph, high taxes, and hard times. Admittedly, a hysterical condition exists.

This condition manifested itself in the last election and will continue for some time to influence the electorate in questions relating to utility legislation or ownership. However, such a misanthropic view would not have been manifested in utility legislation unless there were certain fundamental causes. These causes briefly are as follows:

First, a belief that one of the Portland utilities has for the last decade or more been allowed rates based upon fictitious valuations, and that to secure such rates, sinister influences were brought to bear upon the Public Utility Commission.

Second, a belief that the California-Oregon Power Company, particularly, has filed upon a number of power sites which they have no expectation of developing for a long period of time.

Third, a belief that the ownership of Oregon public utilities, by Eastern holding companies results in these utilities' being exploited for the benefit of Wall Street financiers rather than for the development of Oregon and the benefit of its industries and citizens.

Fourth, a sustained public ownership campaign conducted by the three Portland evening newspapers.

Due to the charges of Carey and Harlan, a firm of alleged utility engineers employed at public expense, the valuations of one of the Portland public utilities have recently been revised downward. This has tended to confirm the opinion of many people that these valuations were fictitious and had made the rates unduly high.

This same public utility has been attacked by one of the evening newspapers in connection with some of its activities at Oregon City. Instead of selling electric energy, the utility sells a portion of the water to the paper companies, who divert it to their own mechanical and electrical generating machines. One of the papers, entirely disregarding the cost of dam and stream improvements, takes the position that while it may be legitimate for the utility to make a profit on the conversion of water power to electric energy, it is unconscionable for it to make a profit on the sale of water or potential power itself.

There is a general feeling, even among very conservative people, that the California-Oregon Power Company, popularly known as the "Copco", has evolved a plan of controlling the best power sites in the state; that they are bottling these up with the view to controlling the future situation and making posterity pay a toll to it; also that this condition will stifle competition, result in unwarranted rates, and inhibit the industrial development of the state.

I have been advised that the advance water filings made by the Copco, and the publicity (garbled and mis-stated by some of the Portland newspapers) connected with certain water rights on the Rogue River which the Copco wanted immediately to develop, was one of the basic causes for favorable vote on the Grange water power bill, and that in the absence of that condition, the measure should not have carried in the up-state counties.

Incidentally, the Copco was just one hundred percent right in this matter, acted in good faith in all respects, was willing and anxious immediately to proceed with a much-needed development which would have added millions of dollars worth of taxable property to the state, and would have expended huge sums for labor at a time when they were badly needed. It has been granted this right by the Federal Government and by the proper state officials, but the state withheld its final approval, due to the hysteria of the last campaign, and this project, and the Copco, were made a political foot-ball by the Governor, a majority of the Legislature, and a number of the daily newspapers.

Nevertheless, it is undoubtedly a fact that anti-Copco agitation was a factor in the last election.

On the other hand, Mr. Brewer, Vice-President and General Manager of the Copco has pointed out to me that if it were not for the Portland situation, he would have no trouble in his district. He very properly points out that with the exception of one county (Coos County) each and every county which his system serves voted against the Grange water power bill. From my own investigation, I am convinced that the favorable vote in that one county had nothing to do with the Copco, as the Copco power filings are not in that county. I believe the vote was due almost entirely to a false understanding of holding companies and the general anti-utility propaganda which was spread throughout the states.

Regarding the antagonism toward holding companies, a large number of people seem to have a conception of great financial interests who exert baneful influences on national and state legislature—that it is a sort of intangible octopus

which has its tentacles reaching out into every section of the country and if it is not curbed it will undermine the political institutions of the country. They think there is a power trust, and that this trust operates through these holding companies. They don't know just exactly what it is, but they have been told that it is bad and they believe it. It is like the bogey-man in the dark—they can't see it but they believe it is there and they are afraid of it.

The "Oregon Journal" was originally financed by conservative Portland capital which felt that the "Oregonian" and the Southern Pacific Railway controlled the political situation in the state. Its somewhat phenomenal success was due to its iconoclastic policies. It possibly has a greater political influence than the three other Portland newspapers combined. The policy of the paper has in some respects become more conservative in the past few years, but on the question of public ownership as against private ownership, it adheres to its original policy. For years it has carried the fight against the private utilities. It has found it profitable to pursue this policy and believes it to be the backbone of its success. For example, in the last campaign it increased its circulation by 6000, while the "Oregonian", which was friendly to the utilities, lost 8000 in circulation.

For a number of years the "Journal" has run anti-utility articles containing glaring mis-statements, and the author of these articles, Mr. Marshall Dana, is reported to have admitted that they may not be in all respects accurate, but that they are in line with the broad, underlying principles of his paper.

The "Evening News", a Scripps-Howard publication which is circulated largely among working people, is frankly committed to a municipal ownership policy.

The "Telegram" was non-committal on the question of public ownership for some time. It is owned by Mr. Herbert Fleishacker, of San Francisco, who was the owner and promoter of the Northwestern Electric Company, of Portland, later sold to an Electric Bond and Share subsidiary, and is otherwise interested in privately owned utilities. Mr. Carl Brockhagen, the Editor, is personally opposed to public ownership. However, the results produced by the "Journal" campaign, the unfortunate character of the investigation and findings of the Federal Trade Commission, and other local conditions, coupled with what I believe to be an over-rating of the municipal ownership sentiment in Oregon, induced the "Telegram" to conduct a vigorous campaign in behalf of policies which the owner, publisher and manager knew to be fallacious—namely, municipal ownership.

The situation was further aggravated through the influence of Governor Meier, who for purposes of political expediency supported the municipal ownership program. It should be born in mind that support of such a policy by a man of Mr. Meier's wealth and standing is extremely convincing to persons who are ordinarily not Socialistic in their beliefs but who are looking for the truth concerning a subject which is a matter of national discussion. Portland is a city of home-owners and its citizens ordinarily are not swayed by the agitators, but when a man of Mr. Meier's wealth informs them that they are being exploited and betrayed, they naturally give considerable heed to his statements.

The "Oregonian" is an outstanding paper in character, and to a slight degree its circulation exceeds that of the "Journal". However, it is the outstanding Republican organ and because of a series of very unfortunate circumstances, the Republican party, particularly its leadership—popularly known as "The Old Guard", was in disfavor at the last election. It made a valiant but a losing fight in behalf of the Republican nominee for Governor, and because of that, its opposition to municipal ownership made rather than lost votes for the Grange power bill. If the question of municipal ownership should be submitted in Portland today, the opposition of the "Oregonian" would do as much to carry the election as would the support of the three evening papers.

Undoubtedly municipal ownership would carry in Portland if the question should be submitted in the near future. I do not think it would carry by as heavy a majority as is indicated by the vote on the Grange power bill because the people of Portland are inclined to be a little conservative when it comes to voting bonds or taxes; but admittedly such a measure would pass by a substantial majority if it should be submitted at this time.

That this question will be submitted, and perhaps reasonably soon, is a foregone conclusion. The City Council has appropriated funds for the investigation of potential Municipal power sites, and for other reasons it seems certain that this question must be submitted. Naturally the advocates of municipal ownership are anxious to submit it as soon as possible. In my opinion, however, it will be somewhat delayed, as Messrs. Carey and Harlan, who are investigating



the situation for the City, will be off the pay-roll when the report is submitted, and of course these reports must be submitted prior to submission of the question to the voters. It seems to me reasonable to believe that Carey and Harlan will delay submission of this report so that they can remain on the public pay-roll as long as possible.

Very truly yours,

[Signed] ROBERT E. SMITH.

res-s

EXHIBIT No. PC-256

[Copy of letter from the files of the National Association of Owners of Railroad and Public Utility Securities, Inc.]

President, Milton W. Harrison; Vice President, Wm. H. Onken, Jr.; Secretary, Elmer E. Boyner; General Counsel, Fred N. Oliver; [printed in red:] Robert E. Smith, Director, 577 Pittock Block, Portland, Oregon

SECURITY OWNERS ASSOCIATION

(National Association of Owners of Railroad and public Utility Securities, Inc.)

Organized in 1917 to Protect the Interests of Investors

21 EAST 40TH STREET, NEW YORK, N. Y.

PORTLAND, OREGON, April 21, 1931.

Mr. ELMER E. BOYNER,

*Secretary, Security Owners Association,  
Twenty-one East Fortieth Street, New York, New York.*

DEAR MR. BOYNER: Thanks for yours of April ninth from Washington, enclosing a list of the securities owned by the National Red Cross. This will be extremely helpful.

The excerpts from the Congressional Record are extremely interesting. I was particularly interested in the address of John H. Gray which was inserted in the Record at the request of Senator Dill. In fact, I was not only interested, but was amazed that the head of the Department of Economics of a graduate school would enunciate such fallacious and impractical doctrines. His attempt to disprove the theory of competition as laid out by Ricardo is asinine. He entirely overlooks the effect of distressed stocks, which, of course, are the basis of the statement that it is generally possible for a shrewd buyer to purchase commodities below cost.

As labor becomes more skilled or specialized, naturally it is less mobile, and although I cannot agree with him that capital in the abstract becomes specialized, naturally after its investment in producing facilities, it is not available for other investment. However, that does not prove that the annual increase in wealth is not entirely fluid, and that in itself is a sufficient amount of mobile capital to meet changing conditions.

He makes the amazing statement that competition actually fails to work in the case of most manufactured goods that enter into wide markets. Just how anyone claiming to be an economist could make such a statement in the face of existing conditions is beyond me.

He impresses me as being a seeker of notoriety through iconoclastic attacks on established economic theory. However, he uses poor judgment in selecting the Ricardian theory of competition as his foil. Had he selected the John Mill theory of automatic adjustment between production and consumption, he might have gotten a little further, and at least would not have made such a spectacle of himself before those who are at all versed in economics.

His attack on the judicial theory of fair rates based upon a reasonable valuation is absolutely puerile.

I hope that as other interesting material of this character comes to your attention, you will pass it on to me.

Yours very truly,

[Signed] ROBERT E. SMITH.

res-s

## EXHIBIT No. PC-257

[Copy of letter from the files of the National Association of Owners of Railroad and Public Utility Securities, Inc.]

APRIL 22, 1931.

SECURITY OWNERS ASSOCIATION,  
21 East 40th Street, New York, New York.

GENTLEMEN: During the past several weeks the daily press and national periodicals as well have carried news items and articles on the public utility situation in Oregon.

I attach hereto a copy of an editorial that appeared in various Scripps-Howard newspapers and in which the statement is made that the city authorities of Portland have voted to condemn the local power company's property.

We understand that you have a representative of your association in this section of the northwest and would it be possible for you to request such representative, who no doubt is familiar with local conditions, to advise us regarding same.

Are the utilities being made the football of politicians in Oregon, or is there a general feeling on the part of the public to establish competing municipal ownership plants, thereby confiscating the moneys invested in the existing properties?

We are distributors of many classes of securities and are fearful that the movement to take over existing utilities or establish competing ones is but a forerunner by those who are really behind the movement (perhaps well concealed from the general public at this time) to slowly but surely inject the municipalities of the States into ownership and operation of banks, insurance companies, oil, lumber, and in fact, all other lines of business.

The individual investor, and the buyer of securities for life insurance companies, fire insurance companies and other large purchasers of securities are quick to sense any disposition on the part of the public in any particular territory not to protect the capital invested in enterprises within that territory.

We have received in our office inquiries regarding the Oregon situation. These and the press comments above referred to, prompt us to safeguard our position and our statements by seeking the facts.

I attach hereto some suggested questions which, if consistent, I would appreciate your forwarding to your representative in that territory.

Any information you can give us on these and other pertinent points will be very much appreciated.

Very truly yours,

## EXHIBIT No. PC-258

[Copy of letter from the files of National Association of Owners of Railroad and Public Utility Securities, Inc.]

SECURITY OWNERS ASSOCIATION,  
21 EAST 40TH STREET,  
New York, N. Y., April 23, 1931.

Mr. R. E. SMITH,  
Portland, Ore.

DEAR MR. SMITH: I enclose an inquiry received from a large investment house regarding the utility situation in Oregon, and will appreciate your making an investigation and reply to the questions which have been asked.

The investment banking house, which is one of the largest in the country, requests that no publicity be given to its name; on the other hand, there is no objection to your using the text of the letter itself in making your investigation.

I suggest you make an earnest effort to get in touch with people in all walks of life so as to obtain an accurate cross-section of public opinion on this matter. In your quest for information I take it you will not overlook such institutions as banks, insurance companies, and outstanding business enterprises.

Obviously the sooner this general inquiry can be gotten under way the better.

Very truly yours,

WM. H. ONKEN, Jr., Vice President.

WHO/A

## EXHIBIT No. PC-259

[Copy of letter from the files of the National Association of Owners of Railroad and Public Utility Securities, Inc.]

President, Milton W. Harrison; Vice-President, Wm. H. Onken, Jr.; Secretary Elmer E. Royner; General Counsel, Fred N. Oliver; Robert E. Smith, Director, North Pacific Section, 577 Pittock Block, Portland, Oregon

## SECURITY OWNERS ASSOCIATION

(National Association of Owners of Railroad and Public Utility Securities, Inc.)

Organized in 1917 to Protect the Interests of Investors

21 EAST 40TH STREET, NEW YORK, N. Y.

PORTLAND, OREGON, May 9, 1931.

PRESIDENT, SECURITY OWNERS ASSOCIATION,  
21 E. 40th St., New York, New York.

— — —: Herewith copy of letter from Mr. Frank Paine of Spokane which will speak for itself. You will note that he feels that this publicity matter can be taken care of by correspondence, and as I am extremely busy in connection with the questionnaire, I have decided to handle the matter in that way.

I am enclosing herewith copy of letter which I am today writing to Mr. Paine, which will speak for itself. I hope that my postscript regarding insurance companies meets with your approval. Under date of April 30th, you advised me that Mr. Orrin K. Moody, vice-president of the Old National Bank of Spokane advised you that Mr. Vincent would be away from his desk for sometime, but there was nothing particularly serious about his condition and referred to his taking a little vacation. Please note that Mr. Paine states that Mr. Vincent has been very ill for the past two weeks, and that none of his close personal friends are permitted to see him. I am afraid that his illness is more acute than it was believed to be by Mr. Moody, when he wrote you almost a month ago. Mr. Vincent advised me the last time I was in Spokane, that Mrs. Vincent had been quite ill for sometime, but was gradually improving.

Mr. Fechter, president of the Yakima Valley Bank is the only acceptance, which we have in Eastern Oregon, besides that of Mr. Paine. We probably can do nothing about filling the two vacancies until Mr. Vincent recovers from his present illness, but if his return to his desk is unduly delayed, I will go to Spokane for a conference with Mr. Paine and Mr. Vincent's associates in the bank, and see if we can not get these districts organized.

In another letter of even date, I have advised you that the importance of the Oregon work, and necessity of my following the questionnaire with personal visits, will make it impossible for me to get into Idaho and Washington for some little time. I am hopeful however, that I can keep the Washington work coming along while I am busy with the Oregon situation, and therefore, it is necessary to secure a member of the executive committee for Western Washington, and district chairmen for all of the Washington districts as soon as possible.

Regarding a member of executive committee for Western Washington, when I was in Seattle last week, I found Mr. Spangler out of the bank, as he was preparing for a protracted trip to California. I discussed the situation with Mr. L. M. Arnold, who stated that he believed Mr. Spangler would accept the position on his return from California, if we insisted, but that he seemed to be rather lukewarm. I advised Mr. Arnold the work was too important to be entrusted to a representative who had only a passing interest. I explained that we wanted an enthusiastic man, and someone who was identified with the First Seattle Dexter Horton National Bank, and asked whether he could not suggest a general insurance agent, who possessed those qualifications.

Mr. Arnold suggested Mr. A. B. Elford, general agent of the New York Life, who is a director of Mr. Arnold's bank.

In speaking with Mr. Elford on the phone, he informed Mr. Arnold that he was leaving in half an hour for a protracted trip, but would be glad to discuss the matter with Mr. Arnold on his return. He stated however, that his volume of new business had fallen off so tremendously, he believed the officers of the New York Life Insurance Company would feel he should not take on any work which would divide his attention.

Mr. Arnold stated that Mr. Elford would be the ideal man because of his broad acquaintance and unusual organizing ability, and believed he could persuade him to accept the position. I do not believe it would be advisable at this time to ask the executive officers of the New York Life to assist us in securing Mr. Elford's acceptance. However, if it is decided that he is the best man, I will probably call upon you for this assistance.

I talked the whole situation out with Mr. Arthur Murphy, who looks after the interests of the Union Pacific Railroad in Washington, and who has been president of the Seattle Chamber of Commerce. He thought Mr. Elford would be a splendid man, but stated that if he did not accept, he would assist us in securing someone else. It seems to me it is best to hold the matter in abeyance until Mr. Elford's return.

We are having so much bad luck in Washington, it must be that we will have full measure of good luck soon. I know these delays are just as vexatious to you as to me, but I am sure you agree that we had better act slowly, and get a good man, than to act expeditiously and get a mediocre one. There is such strong sentiment for public ownership in Western Washington, we are going to have many problems, and the work will be sufficiently difficult even with the best of officers. It is the long pull that will count.

Yours very truly,

[Signed] ROBERT E. SMITH.

RES:BN

EXHIBIT No. PC-260

[Copy of letter from the files of the Security Owners Association—General Correspondence]

MAY 26, 1931.

DEAR SIR: I am sending you herewith copy of a letter from Mr. William H. Onken, Jr., Vice President of the National Security Owners League, of which I am a Director.

I presume you are familiar with this Association. It is an organization of corporations and individuals who are large holders of securities, such as the big life and fire insurance companies, mutual and privately owned savings banks and trust companies, endowed colleges, and other large investors.

Apparently some of the Eastern investment houses are becoming concerned over the noise which has been made by our local public ownership friends.

The letter from the Eastern investment house expresses a sentiment which I have frequently encountered, and presume you have also. Many of our Eastern friends seem to feel that because Oregon has the wide open Initiative, invested capital is under constant menace, and that the action of the voters last November is merely another horrible example of radical action.

I can understand how our Eastern friends form such opinions, but, personally, I believe a wrong impression has got abroad, and that our Eastern friends are unduly alarmed as to the prevalence of a confiscatory tendency or hostile attitude on the part of our people toward utility or other invested capital. Be that as it may, my guess is merely my own, and what I am anxious to obtain and to report to the Association, is a composite of the frank and practical judgments of the men throughout the state whose opinions I respect, and who should really know the answers to the questions which are causing our friends such serious concern.

I have discussed the matter with Mr. W. G. Ide, of the Oregon State Chamber of Commerce, who informs me that similar inquiries have been referred to him from time to time, and we feel that some definite and decided steps should be taken to correct what we both believe to be an erroneous opinion of Oregon and its attitude toward Eastern capital.

Instead of just giving Mr. Ide's and my own answers to the questionnaire, I prefer to send the detailed opinions of those who we believe can speak with authority, and I am particularly anxious to get an accurate cross-section of the sentiment and opinions of the business men of the state.

If consistent with the policies of your Chamber of Commerce, I wish you would bring the matter up at the next meeting of your organization and request your secretary to advise me in some detail as to the views expressed, and the conclusions of your members.

The only purpose of the Association is the protection of the securities of its members. It guards against being used for propaḡanda purposes, and

is extremely careful that the information it gives to its members is reliable and uncolored.

For these reasons, I do not wish anyone to be influenced by my own views, and am anxious to give an accurate and unbiased report of sentiment as it exists throughout the state. Accordingly, I will appreciate as full and detailed report of the sentiment of the members of your association as you can give me.

Assuring you of my appreciation of your co-operation in this matter, I am,  
Very truly yours,

[Signed] ROBERT E. SMITH,  
*Regional Director.*

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EXHIBIT No. PC-261

[Article from Public Utilities Fortnightly of June 25, 1931; from the files of Robert E. Smith]

AN EXTRAORDINARY LEGISLATIVE DEADLOCK ON WATER POWER—THE SITUATION IN OREGON TODAY

(By OSWALD WEST, Ex-Governor and Former Chairman of the Railroad Commission of Oregon)

Although Oregon was one of the first of the states to adopt forward-looking laws so far as the control and disposition of her hydropower resources is concerned, she has been recently hit by such an epidemic of hydroelectric hysteria as would be laughable were it not about to prove so costly to the state.

It has been estimated that the state has within her boundaries potential hydropower amounting to around 6,000,000 horsepower—95 percent of which stands undeveloped.

All but a small amount of this development has been the work of private enterprise. Around 3½ per cent of our hydropower resources have been actually developed and the projects thus command vested water rights. An additional 1½ per cent is in the process of development and with water rights fully protected.

This means that only 5 per cent of such resources has passed into the hands of the private power interests. This 5 per cent control has required over fifty years of progressive endeavor on the part of these private interests. Their control and progress have been at the rate of one per cent a decade. Should the gates be thrown open to them, and their future progress be in line with their past, it will take them ninety-five decades, or nine hundred and fifty years, to secure control, and put to a beneficial use the remaining 95 percent, or undeveloped portion, of our state's hydropower resources.

It would seem, therefore, offhand at least, that the state is in no great danger of having this splendid resource suddenly gobbled up by the "power Trust."

It was in 1909 that the state adopted a water code which provided for the proper control and disposition of her water resources and the recording of all water titles in the office of the state engineer. This code, which has been strengthened from time to time, has thrown every protection around the waters of the state, yet permitted by the law of the land. Furthermore, this code encouraged a beneficial brand of hydrodevelopment. In the granting of permits the greatest use for the greatest number was always favorably considered. The state engineer and the state reclamation commission had full power to exercise their judgment in all matters where the public interest was concerned.

That the state's water code offered the public every protection, and was fairly administered, no one familiar with its history will deny. Yet politicians and newspapers set about to spread the false alarm that the state's hydropower resources had practically all passed to the control of the "power trust" and that nothing but immediate and drastic action could save the little remaining.

The people apparently were convinced. They elected, in 1930, a governor and a legislature chosen and impressed with the idea that they should obey the "mandate." This combination proceeded to legislate.

The state grange also was exceedingly active during the 1930 campaign. It proposed, through the initiative, an amendment to the state Constitution, permitting the organization of public utility districts with power to issue bonds and other evidences of indebtedness, and to levy taxes for the purpose of constructing and operating hydroelectric power projects. This amendment was approved by the people and opened the way for the legislation which its sponsors hoped to, and did, secure.

The battle cry during the campaign was "cheap power" and "more industries." What the "hydrophobiacs" were really after was public ownership of all hydroelectric utilities.

It was useless to point out to the people that the residents of Portland were enjoying, at the hands of the private power interests, more favorable rates than any city in the United States except Buffalo and Tacoma. The rates of the latter city, served by a municipal plant, were held out as an example of what public ownership could do. It also proved useless to point out that Salem, the state's capital, which had the same rates as Portland, enjoyed the third lowest rate of any of the forty-nine capital cities, including the National Capital. The people were not looking for facts. They merely wanted to strip the power magnates of their power and of profits. Whether they have actually really succeeded in destroying this industry remains to be seen.

Those who have watched the show from the side lines are inclined to believe that the brethren have succeeded only in sticking themselves.

When the grange members met to draft their hydroelectric district bill, they put up the bars against lawyers. They did not propose to take any chances on legal advice. The task of drafting the bill was assigned, therefore, to a preacher-farmer, a school teacher-farmer, and a chiropractor-farmer. All claimed to know, how to use the English language and, being well supplied with pencils and paper, they set about their work. The result was a masterpiece which had to be redrafted before even a friendly legislature would consider it.

As a law, it offers little or no hope to the "hydrophobiacs" and has engendered no fear in the minds of the private power interests. Why?

For the simple reason that the legal effect of it is to checkmate all future development until it is blasted from the statute books by a court decision on its unconstitutionality. It leaves Oregon's power situation as effectively status quo as if it had been dictated by the "Power Trust" itself.

This measure was accepted and considered as part of the governor's water power program which included the creation of a hydroelectric commission to perform certain duties that had been previously exercised by the state engineer and the state reclamation commission.

In the preparation of the governor's hydroelectric commission bill, his draftsman followed the language and the procedure of the Federal Power Commission Act. As a result, there is a direct conflict between the two laws which makes operation under them all but impossible. This is true because around 90 per cent of those proposing to develop a power project in this state must secure a Federal permit and license. Such permits and licenses are issued always subject to the provisions of the Federal Act which imposes certain conditions as to the amortization and recapture of the properties by the government. Oregon's new law imposes almost identical conditions, with the result that the state's permittee must approach the Federal Power Commission with a water permit under which he has agreed to amortize his plant and turn it over to the state at the end of fifty years. As the project will be constructed, in part at least, on government land he apparently must agree to include the Federal government's property when he makes the final turnover to the state. Under such conditions the state's permittee is hardly in a position to meet the requirements of the Federal act with reference to recapture by the government.

It was suggested by those who were fathering the governor's hydroelectric commission bill that only one thing more was needed to make it 100 per cent perfect, and that was to add another section which would specifically repeal the Federal Power Commission Act.

When such open conflict with the Federal law was brought to the attention of the sponsors of the bill, and it was shown that it would surely operate to block practically all power development for years to come, an attempt was made to meet the situation, and save their faces, by adding an amendment authorizing the commission to waive such provisions as were found to be in conflict with the Federal Act, or otherwise unworkable. The gentlemen overlooked, however, a provision in our state Constitution which provides:

"Powers of Government—The powers of the government shall be divided into three separate departments—the legislative, the executive, including the administrative, and the judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another, except as in this Constitution expressly provided."

It is plain, therefore, that any attempt on the part of the commission to make the state law workable, by waiving certain of its provisions, will be held by the courts to be an invasion of the legislative field and, therefore, unconstitutional.

So far as hydroelectric development in this state is concerned, it is in a mess—and heaven only knows just how and when the people of Oregon are going to get out of it.

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EXHIBIT No. PC-262

[Copy of newspaper clipping from the files of the Security Owners Association—General Correspondence]

["Oregon Journal," September 8, 1931]

If thou be bound for a stranger, thou art a fool; if for a merchant, thou putteth thy estate to learn to swim; if for a lawyer, he will find an evasion, by a syllable or a word; if for a poor man, thou must pay it thyself.—Sir Walter Raleigh.

A COMING POWER?

Oregon will treat capital fairly, but in return asks capital to treat Oregon fairly. This, in effect is the the avowed attitude of the newly organized Oregon division of the National Security Owners association whose declaration of principles reads in part:

Proper regulation of business affecting the public interest will aim to assure to the people the maximum benefits of individual initiative and managerial ability, and the most efficient operation, expansion and development of these enterprises. It must also assure to investors an opportunity to earn a fair return upon their actual and legitimate investment in the public service, and must protect the public against the exaction of anything more than a fair return, computed on only the actual and legitimate investment.

Oregon's natural resources must be protected against improper exploitation and speculation and against being bottled up by any agency to the prejudice of the general interest in the orderly, well regulated development of these resources except in anticipation of prompt development and except in accordance with a plan approved by the state as consistent with its highest interests in such resources.

The 40-odd delegates of the association who met in Portland Friday were a truly representative group of citizens—prominent bankers, farmers, merchants, judges, civic and fraternal leaders from every part of the state. Their declaration of principles is worthy of such a group and of Oregon.

If with unremitting fidelity the association adheres to these principles it will be a power in the state and in its development and economic thought.

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EXHIBIT No. PC-263

[Copy of letter from the files of the National Association of Owners of Railroad and Public Utility Securities, Inc.]

SEPTEMBER 16, 1931.

Personal and Confidential.

J. C. AINSWORTH, Esq.,

*President, United States National Bank,  
Portland, Oregon.*

DEAR MR. AINSWORTH: I am writing you under personal and confidential cover to obtain your frank opinion respecting the value of our efforts in Oregon. Mr. Robert E. Smith has represented us there for somewhat over five months, at considerable expense to us, and I am wondering if you are able to note any worthwhile results.

I have no fault to find with Mr. Smith; he appears to have worked conscientiously, but I would like to have you tell me whether you think he really is accomplishing anything of value. Whatever you say will be held in the strictest confidence, I assure you.

Cordially,

— — —, *President.*

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RAILROADS AND HOLDING COMPANIES

EXHIBIT No. PC-264

[Copy of letter from the files of the National Association of Owners of Railroad and Public Utility Securities, Inc.]

**J. C. AINSWORTH,**  
*Chairman of The Board.*

UNITED STATES DEPOSITORY, THE UNITED STATES NATIONAL BANK, CAPITAL  
\$4,000,000.00, SURPLUS AND PROFITS \$4,000,000.00

Cable Address: "Unitbank"

PORTLAND, OREGON, Oct. 6, 1931.

PRESIDENT, SECURITY OWNERS ASSOCIATION,  
41 East 40th Street, New York, N. Y.

— — —: Please pardon delay in acknowledging your letter of the 16th ultimo, due to my absence in San Francisco.

Confidently, I think Mr. Robert E. Smith can handle the problems for us in Oregon better than any man that might be named. He has had large experience in this line and knows personally the representative men in every corner of the state.

I think it quite important that his work should be continued for the balance of this year, and I believe he will closely advise you as to the details of the work.

Our last conference here in Portland of representatives from all over the state was considered constructive and successful, and I trust will be found of material value when the real test comes at the time of our state elections.

If there is any specific information desired, please do not hesitate to write me again on the subject.

Sincerely,

[Signed] J. C. AINSWORTH, *Chairman.*

JCA EB

EXHIBIT No. PC-265

[Copy of letter from the files of the Security Owners Association—General Correspondence]

SECURITY OWNERS ASSOCIATION  
21 EAST 40TH STREET  
NEW YORK, N. Y.

ROBERT E. SMITH,  
*Regional Director.*

PORTLAND, OREGON, October 3, 1931.

To the members of the Oregon Advisory Committee of the National Security Owners Association.

GENTLEMEN: In response to a number of requests from members of the Advisory Committee, I hand you herewith a somewhat comprehensive report of the meeting which was held in Portland on September fourth. You will find typical newspaper clippings, an outline of the form of organization and by-laws, a list of the officers and members of the state-wide committee, copies of the resolutions which were adopted at the meeting, and excerpts from the discussion.

As you will recall that frequent reference was made to the questionnaire which was transmitted to all Oregon Legislators, a copy of same is enclosed herewith, together with a digest of the approximately five hundred replies which were received.

Your Membership Committee followed the recommendations of the conference, and has outlined a system of organizing county units in each county in the state, which will be known as "County Co-operating Councils". The first of these will be formed at Albany on October fifteenth, and will consist of thirty representative citizens from all parts of Linn County.

These county organizations will, of course, be affiliated with the State Advisory Committee, and the Membership Committee recommended that the Chairman of each county organization be that member of the State Advisory Committee who represents said county in the state organization.



The Executive Committee will draft by-laws for the county units, so that these may be uniform and insure complete co-ordination and unified action with the national and state organizations.

Through the clipping bureau, we have received news stories and editorial comment from every part of the state. The clippings from the "Oregon Journal" which are here included are typical. You will note the manner in which the "Oregon Journal", in its editorial of September nineteenth, summarizes the purpose of the Association: "The Association has set out to attract capital to the state with a solemn promise to protect and treat it fairly. It has also very wisely declared its intention to demand fair treatment from capital." The same statement has been made in one form or another by practically every leading newspaper in the state, and it seems to me it very well states our position.

In order that this report might not be too voluminous, the excerpts from discussion have been limited to those which have a direct bearing upon the Grange Bill or the truck situation.

Very truly yours,

ROBERT E. SMITH,  
*Regional Director.*

EXHIBIT No. PC-266

[Copy of letter from the files of the Security Owners Association—General Correspondence]

OCTOBER 14, 1931.

Confidential.

J. C. AINSWORTH, Esq.,

*Chairman of the Board, The United States National Bank,  
Portland, Oregon.*

DEAR MR. AINSWORTH: I very much appreciate your letter of October 6th, with confidential comments respecting Robert E. Smith.

Our analysis of Mr. Smith's progress has been most favorable, but I was anxious to obtain your reaction as one who is on the ground and qualified to observe and who has, in a measure, supervised the work.

With kindest personal regards, I am

Cordially yours,

\_\_\_\_\_, *President.*

EXHIBIT No. PC-267

[Copy of letter from the files of Robert E. Smith]

WILLIAM H. ONKEN, Jr.,  
*Vice-President.*

SECURITY OWNERS ASSOCIATION

(National Association of Owners of Railroad and Public Utility Securities, Inc.)

Organized in 1917 to Protect the Interests of Investors

21 EAST 40TH STREET

NEW YORK, N. Y., June 3, 1932.

[Stamped:] Received June 7, 1932, 577 Pittock Block, Portland, Oregon.

Mr. ROBERT E. SMITH,  
*577 Pittock Block, Portland, Ore.*

DEAR MR. SMITH: Enclosed find check for \$833.33 for May salary. I sincerely trust you are doing all you can toward defeating the municipal ownership and state ownership movements in Oregon, and that you are also keeping an eagle eye on developments in Washington. Economic conditions ought to weigh heavily in our favor, and we ought not to leave any stone unturned in taking maximum advantage of them.

I had expected to see Guy at Atlantic City next week, but I understand he is not coming East. However, some utility people from your neck of the woods will

doubtless be in attendance, so that I can learn in more detail just what the situation is.

Cordially yours,

WHO/A  
Enc.

[Signed] WILLIAM H. ONKEN, Jr.

EXHIBIT No. PC-268

[Extract from testimony of R. E. Smith before Special Committee of U. S. Senate Investigating Lobbying Activities, pursuant to S. Res. 165 & S. Res. 184, March 16, 1936, Part 6, pp. 1600-1630, *passim*]

Senator SCHWELLENBACH. What is your business, Mr. Smith?

Mr. SMITH. I am the chairman of the National Conference of Investors.

Senator SCHWELLENBACH. Chairman of the National Conference of Investors?

Mr. SMITH. Yes.

Senator SCHWELLENBACH. And is that an organization that has a membership throughout the country or throughout just one portion of it?

Mr. SMITH. It is an organization of, well, you might say it is an organization of organizations. It is composed, or at least its advisory committee is composed, of the presidents, the past presidents of 1,625 service, commercial, taxpayers' organizations, in the West, largely.

Senator SCHWELLENBACH. What is your work at the present time?

Mr. SMITH. My work at the present time is building up an organization.

Senator SCHWELLENBACH. What is the nature of that work? How do you build it up?

Mr. SMITH. Well, I am getting a new advisory committee.

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Senator SCHWELLENBACH. Well, during the year 1935 where did you get your money to maintain yourself and your organization?

Mr. SMITH. Well, I think in order to cover that we have got to get back to the National Security Owners' Association, because the National Conference of Investors was not in existence at that time.

Senator SCHWELLENBACH. When was the National Conference formed?

Mr. SMITH. It was formed along last summer some time as the Conference of Western Owners of Property and Investments, and this name was changed to the National Conference of Investors, early this year.

Senator SCHWELLENBACH. Prior to that it had been the National Security Owners' Association?

Mr. SMITH. No; it had not. That was an entirely different organization.

Senator SCHWELLENBACH. What was the name of it prior to that?

Mr. SMITH. It was the National Security Owners' Association—well, it had no name. When it was brought into existence it had no name.

Senator SCHWELLENBACH. For what organization were you working during the period from December 1, 1934, until the summer or fall of 1935?

Mr. SMITH. National Security Owners' Association.

Senator SCHWELLENBACH. National Security Owners' Association. That organization is on the Pacific coast?

Mr. SMITH. Yes.

Senator SCHWELLENBACH. As far as you were concerned?

Mr. SMITH. Yes. Well not altogether.

Senator SCHWELLENBACH. What?

Mr. SMITH. Not altogether. Its active work, that is, it is a merger of State units on the Pacific coast, but I was interested in national legislation during that time.

Senator SCHWELLENBACH. You were interested in national legislation?

Mr. SMITH. Yes.

Senator SCHWELLENBACH. You interested yourself in a piece of legislation in the House which involved the repeal of the fourth section of the Interstate Commerce Act, did you not, known as the Pettengill bill?

Mr. SMITH. To some degree. Not very active.

Senator SCHWELLENBACH. To some degree?

Mr. SMITH. Yes; not until rather very late last summer.

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Senator SCHWELLENBACH. You did not think it a matter of concern when you would invite groups of a half dozen or a dozen Congressmen at your house to let them know you were here and being paid by the power companies of the Pacific coast?

Mr. SMITH. I was not paid by the power companies for any work that I was doing in Washington.

Senator SCHWELLENBACH. You were not paid by any power companies?

Mr. SMITH. No; I was not paid by any power companies.

Senator SCHWELLENBACH. Who was paying you for the work you were doing in Washington?

Mr. SMITH. I received some money from railroads for what we had done in Washington. There is a rather complicated situation there, Senator. The various organizations were contributing to the National Security Owners' Association for the work that it was doing in the West. Those were State units, and no portion of that money was ever considered to be paid for anything in Washington.

Senator SCHWELLENBACH. You were getting paid here?

Mr. SMITH. I was being paid by the association.

Senator SCHWELLENBACH. Yes. You were being paid by the association. You received varying amounts. \$328 in January last year; \$1,546 in February, \$2,093 in March; \$864 in April; \$1,662 in May; \$780 in June; \$1,319 in July; \$2,686 in August; \$1,220 in September; did you not, from this association?

Mr. SMITH. Yes.

Senator SCHWELLENBACH. And this association was receiving money—the chief source of its income was the power companies of the Pacific coast?

Mr. SMITH. Might I ask the Senator to read also the advances which I had to make to the association in order to carry on that work?

Senator SCHWELLENBACH. We will go into that too. You did receive, for example, on the 8th day of March last year—you received \$2,000 from the Washington Water Power Co. at Spokane, did you not?

Mr. SMITH. I did not. The association did.

Senator SCHWELLENBACH. The association received it?

Mr. SMITH. Yes.

Senator SCHWELLENBACH. You were back here being paid by the association?

Mr. SMITH. If I might suggest to the Senator, I have a very painful recollection, when I came to make out my income tax, that I had advanced more into the general treasury of the association than I had received.

Senator SCHWELLENBACH. We are going into that. I am asking you if you did not receive \$2,000 from the Washington Water Power Co. on the 8th of March last year?

Mr. SMITH. The association did; I did not.

Senator SCHWELLENBACH. The association received it? These sums that I have mentioned that you received, you received from the same association that received the \$2,000 from the Washington Water Power Co.; is that right?

Mr. SMITH. I beg your pardon. I did not understand your question.

Senator SCHWELLENBACH. I say, these monthly sums which you received, you received from the same association that received the \$2,000 from the Washington Water Power Co.?

Mr. SMITH. To a degree that is correct.

Senator SCHWELLENBACH. Well, the Washington Water Power Co. is a subsidiary of the Electric Bond & Share Corporation, is it not?

Mr. SMITH. That is correct.

Senator SCHWELLENBACH. Operating in eastern Washington and northern Idaho, that is correct, is it not?

Mr. SMITH. That is correct.

Senator SCHWELLENBACH. You are acquainted with Mr. F. P. Post, the president of that organization?

Mr. SMITH. Yes.

Senator SCHWELLENBACH. And you swear that you received, or that the association received on March 8, last year, a sum of \$2,000 from the Washington Water Power Co.?

Mr. SMITH. I do.

Senator SCHWELLENBACH. Now, during the year 1934 your organization received \$8,000 from the Puget Sound Power & Light Co. of Washington?

Mr. SMITH. That is correct.

Senator SCHWELLENBACH. A subsidiary of Stone & Webster?

Mr. SMITH. That is correct.

Senator SCHWELLENBACH. \$4,000 from the Washington Water Power Co. That is a subsidiary of the Electric Bond & Share?

Mr. SMITH. That is correct.

Senator SCHWELLENBACH. \$2,000 from the Pacific Power & Light Co.?

Mr. SMITH. That I think is correct. I would want to go back to this report.

Senator SCHWELLENBACH. It is on page 4 of your report. Have you got a copy of it?

Mr. SMITH. Yes.

Senator SCHWELLENBACH. Page 4 I am reading from, the next to the last paragraph.

Mr. SMITH. Yes.

Senator SCHWELLENBACH. \$2,000 from the Pacific Power & Light Co., which is a subsidiary of what company, Mr. Smith?

Mr. SMITH. Well, I am not familiar with that general make-up. It is, directly or indirectly, a subsidiary of the Electric Bond & Share.

Senator SCHWELLENBACH. \$500 from the Grays Harbor Railway & Light Co.; that is correct, is it not?

Mr. SMITH. That is correct.

Mr. SCHWELLENBACH. You also received—going back to the bottom of page 3 now—during the year 1934, \$5,000 from the Portland Electric Power Co.?

Mr. SMITH. That is correct.

Senator SCHWELLENBACH. What is that a subsidiary of?

Mr. SMITH. It is not a subsidiary of any holding company. It is locally owned.

Senator SCHWELLENBACH. That was a subsidiary of the Central Public Service Co.?

Mr. SMITH. That is correct.

\* \* \* \* \*

Senator SCHWELLENBACH. The Pacific Power & Light Co., at Portland, \$5,000. What is the Pacific Power & Light Co. at Portland; what is that a subsidiary of?

Mr. SMITH. That is also a subsidiary of the Electric Bond & Share. They divide it up in that way because some of the work was for the Washington organization and some for the Oregon organization.

Senator SCHWELLENBACH. The California-Oregon Power Co., Medford, Oreg., \$1,250.

Mr. SMITH. That is correct.

Senator SCHWELLENBACH. What is that a subsidiary of?

Mr. SMITH. Of the Standard Gas & Electric.

\* \* \* \* \*

Senator SCHWELLENBACH. Mountain States Power Co., of Albany, Oreg., \$1,250, that is correct, is it not, in 1935?

Mr. SMITH. That is correct. It is also a subsidiary of the Standard Gas & Electric.

Senator SCHWELLENBACH. During the year 1934 also the Pacific Gas & Electric Co., of San Francisco; the Southern California Edison Co., of Los Angeles; the Southern California Gas Co., of Los Angeles; the Southern Counties Gas Co., of Los Angeles; the Los Angeles Gas & Electric Co., of Los Angeles; the San Diego Consolidated Gas & Electric Co., of San Diego; the Southern Sierra Power Co., of Riverside, Calif., gave to your organization \$15,000, did they not?

Mr. SMITH. That is correct, and all for the work in California, for the purpose of building up an organization in that State.

\* \* \* \* \*

Senator SCHWELLENBACH. Who is Luther M. Walter?

Mr. SMITH. He is my attorney in Chicago, or, I mean, he is the attorney employed by Senator Dill in connection with the amendment to section 77.

Senator SCHWELLENBACH. Will you look at this telegram?

Mr. SMITH. That is Tunstall. That had to do with the amendments to section 77.

Senator SCHWELLENBACH. The amendments to the Bankruptcy Act?

Mr. SMITH. Yes.

Senator SCHWELLENBACH. You were working on that also very vigorously?

Mr. SMITH. Yes, sir.

Senator SCHWELLENBACH. Now, looking at your questionnaire, Mr. Smith, what was your position on this amendment, or these amendments to the Bankruptcy Act?

Mr. SMITH. We were in favor of some of the positions, but we were particularly opposed to the provision that in evaluating a carrier for the purpose of reorganization, that the value should be fixed by earnings for the preceding 5 years, and we were opposed to that because there were no earnings, and we thought the equities should be recognized.

Senator SCHWELLENBACH. Whom did you represent in connection with that matter?

Mr. SMITH. The organization called the National Securities Owners Association.

Senator SCHWELLENBACH. That is the same organization to which I have referred, to which you have answered that these power companies had made the contributions. Is that correct?

Mr. SMITH. Will you read the question?

(The last preceding question was read by the reporter.)

Mr. SMITH. That is correct.

\* \* \* \* \*  
Senator SCHWELLENBACH. Yes; I say you went out and got some of the most respectable people in the State to do this, but you did not tell the Legislature or Congress that it was the power companies and the railroads that were really running this thing. That is where the deception comes.

Mr. SMITH. I will have to object to the word "deception."

Senator SCHWELLENBACH. Did you ever tell any legislative or congressional committee that the power companies and the railroads were putting up in this particular instance \$27,000 as compared with \$6,000 from the security holders?

Mr. SMITH. Will you just explain your question?

Senator SCHWELLENBACH. Did you ever tell anybody any legislative body, or any congressional body that it was the power companies that were putting up this money?

Mr. SMITH. That is not a question which can be answered by a categorical "yes" or "no." In the first place, the Senator will recall that, with the exception of reclamation, I have appeared before no congressional committees.

Senator SCHWELLENBACH. On the Pettingill bill, in talking to at least 50 Congressmen, did you tell them you were representing an organization the money for which came from the power companies and the railroad companies? You can answer that one "yes" or "no", and I will give you plenty of time to stop and think, but you can answer that question "yes" or "no." You said you talked to about 50 Congressmen in favor of the Pettingill bill for the purpose of repealing the fourth section of the Interstate Commerce Act. Did you ever tell any one of those people where the money came from to support the organization that you are back here representing?

Mr. SMITH. No; because up to that time no money had come in for that purpose. Now, I want to correct that statement. We got \$8,000 by subscription for general work from the railroads, but it was a matter that could not be brought up until there was a meeting of the western conference of railway executives.

Senator SCHWELLENBACH. What did you tell these people you were representing back here—I mean the Congressmen and Senators?

Mr. SMITH. I have always told them I represented the investors.

Senator SCHWELLENBACH. You were representing the common, ordinary widows and orphans we heard so much about last summer?

Mr. SMITH. No; when I talk about investments I do not talk about widows and orphans.

Senator SCHWELLENBACH. Did you tell that you represented the railroads and power companies; did you tell any Congressman you represented the railroads and power companies?

Mr. SMITH. Undoubtedly so.

Senator SCHWELLENBACH. Who?

Mr. SMITH. I don't recall.

Senator SCHWELLENBACH. Tell us just one.

Mr. SMITH. I do not now remember anybody who asked me as to the source of our revenue; but again I want to repeat this, that the money for work in Washington was not paid by the power companies but was paid by the railroads later.

Senator SCHWELLENBACH. It all went into one pot, did it not?

Mr. SMITH. No; it did not.

Senator SCHWELLENBACH. You had one common fund?

Mr. SMITH. I had one bank account, if that is what you mean, but the money was disbursed for this work in Washington, and I am very sorry my replies to this question are so involved I have not been able to get over that thought.

Senator SCHWELLENBACH. It is not involved; we understand it perfectly, and that is just the trouble. You stated in your answer on one page that \$23,177 was received from certain sources over a period of 10 months, did you not?

Mr. SMITH. Yes, sir.

Senator SCHWELLENBACH. That ran from January 1 to September 30, and then you set forth there from January 1 to September 30 the disbursements of your moneys?

Mr. SMITH. That is true.

Senator SCHWELLENBACH. Did you now, answering my question, ever tell any Member of Congress that you were representing an organization which was being financed by the power companies or the railroads, or the power companies and the railroads?

Mr. SMITH. Do you mean that the work in Washington was being financed by them?

Senator SCHWELLENBACH. The reporter will read the question.

(The last pending question was read by the reporter.)

Senator SCHWELLENBACH. I put it both ways there, "and" or "or", and you can take your choice.

Mr. SMITH. I do not recall specifically that I ever have.

Senator SCHWELLENBACH. Would you say you did or did not?

Mr. SMITH. Well, it would be the matter of a guess, and I do not like to make a guess on that.

Senator SCHWELLENBACH. You have no recollection of ever telling any of them that fact?

Mr. SMITH. No; I do not have any recollection of that ever coming up.

Senator SCHWELLENBACH. How much of these advances you set forth in your statement on page 6 have been repaid to you by this time?

Mr. SMITH. Of the advances?

Senator SCHWELLENBACH. Yes.

Mr. SMITH. There was \$4,000 by the Puget Sound Power & Light that was paid in 1936; there was \$2,000 from the Pacific Power & Light; and there have been some of the Oregon contribution paid since that time.

Senator SCHWELLENBACH. I thought you said the railroad companies had paid?

Mr. SMITH. The railroad companies authorized a subscription of \$8,000 in November at their annual meeting, approximately half of which has now been paid.

Senator SCHWELLENBACH. \$4,000?

Mr. SMITH. Yes; just slightly over \$4,000.

Senator SCHWELLENBACH. You say that you advanced about \$9,000 in 1935?

Mr. SMITH. That is true.

Senator SCHWELLENBACH. How much of that has been repaid to you?

Mr. SMITH. I should say about \$7,000, but I would have to stop and figure that out, and with the railroads about \$11,000. I am still hopeful of getting \$2,000 from Mr. Post. I think he owes it to me, and he does not.

Senator SCHWELLENBACH. I asked you about advances.

Mr. SMITH. These are all in the nature of advances.

Senator SCHWELLENBACH. You said you had advanced about \$9,000.

Mr. SMITH. Oh, no; it comes to more than that. Let me look at this.

Senator SCHWELLENBACH. I have that myself, but you said it was \$9,000.

Mr. SMITH. Let me see how many subscriptions have been paid in, the Portland Electric Power Co. have paid about \$1,250 since then.

Senator SCHWELLENBACH. Since what?

Mr. SMITH. Since the date of this report, and the Northwestern Electric Co. \$1,250, the Puget Sound Power & Light Co. \$4,000, then the Pacific Power & Light Co. \$2,000, with respect to this work in Washington, and the Mountain States Power Co. \$1,250, and the California-Oregon Power Co. \$1,250, and the railroads \$4,000, or some \$4,200. I do not know what that totals.

Senator SCHWELLENBACH. That totals \$11,000 from the power companies and \$4,200 from the railroad companies. That is since September 30, 1935?

Mr. SMITH. That is correct, Senator.

Senator SCHWELLENBACH. Did these Congressmen know that you were being maintained back here by an association which received about 80 percent of its funds from the power companies?

Mr. SMITH. Let us get the question straight. Do you mean by that to imply my expenses back here in Washington were paid 80 percent by the power companies?

Senator SCHWELLENBACH. Yes; the logical assumption anybody would make, from what you have stated.

Mr. SMITH. I am sorry; I am under oath, and I want to tell the truth, and that is not a fact.

Senator SCHWELLENBACH. Who paid them?

Mr. SMITH. I paid them.

Senator SCHWELLENBACH. You paid your own expenses?

Mr. SMITH. Yes. You can figure that up in the amount advanced, \$10,000, and \$9,000 back and from that you can understand that anybody is paying his own expenses.

Senator SCHWELLENBACH. You made advances during the year 1935?

Mr. SMITH. Yes.

Senator SCHWELLENBACH. Of the total income of your association, which amounted to \$23,000, \$9,000 was advanced by you, and the other \$14,000 was paid in by power companies, was it not?

Mr. SMITH. Yes; and most of that was expended in the West.

Senator SCHWELLENBACH. Just answer my question; we are trying to get the facts.

Mr. SMITH. If that is the purpose of the Senator, I am wholly in accord with him.

Senator SCHWELLENBACH. That is what we are after, and that is what a lot of people are objecting to. We do not doubt most of the public will agree when anybody comes back here and mixes around with a bunch of Congressmen and talks with them about legislation, it is his very definite duty to let those Congressmen know who is paying his expenses back here.

During the year 1935 your association received \$23,000, approximately, in revenue, did it not?

Mr. SMITH. Yes, sir.

Senator SCHWELLENBACH. Out of that \$9,000 was advanced to you?

Mr. SMITH. That is correct—wait a minute; I say that is correct, but I want to follow your figures.

Senator SCHWELLENBACH. I just called your figure of \$9,000.

Mr. SMITH. I know you are just as desirous as I am in trying to get up these figures, but I would not want to say yes unless I was looking at the figures. Now what was it you say?

Senator SCHWELLENBACH. It shows here, looking at page 6, and we will take the big items first in advances.

Mr. SMITH. They are summarized, if I might suggest, on that statement of receipts.

Senator SCHWELLENBACH. Where?

Mr. SMITH. At the very bottom in a recapitulation of credits and advances.

Senator SCHWELLENBACH. Of which \$9,800 was contributed by you?

Mr. SMITH. That is correct.

Senator SCHWELLENBACH. And \$23,000 altogether?

Mr. SMITH. That is correct.

Senator SCHWELLENBACH. The balance besides what you advanced would be \$13,800 advanced by the power companies, or subscribed by the power companies?

Mr. SMITH. I judge that is about right.

Senator SCHWELLENBACH. \$13,800 contributed by power companies and \$9,800 advanced by you?

Mr. SMITH. That is correct.

Senator SCHWELLENBACH. Now you have those advances repaid to you, however?

Mr. SMITH. That is correct.

Senator SCHWELLENBACH. The total amount of the \$9,800 has been repaid to you?

Mr. SMITH. Yes, sir.

Senator SCHWELLENBACH. And the funds from which that money was advanced, that \$9,800, came from \$11,000 received from the power companies and \$4,000 received from the railroad companies?

Mr. SMITH. That is correct.

Senator SCHWELLENBACH. You have received all of it back?

Mr. SMITH. That is correct.

Senator SCHWELLENBACH. So that at least \$5,800 of the advances which were repaid to you came out of money which came from the power companies, did it not, because the railroad companies only paid \$4,000?

Mr. SMITH. That is correct.

Senator SCHWELLENBACH. Now, did you tell any of these Congressmen \* \* \* that you were receiving money from power companies and railroad companies?

Mr. SMITH. Before we get into that, might I suggest, while we have the figures and see that they are all in, that there was my time supervising this work in the West, in respect to which these moneys were paid; and if we subtract that, I was not getting anything for being in Washington.

Senator SCHWELLENBACH. You were not being paid for being in Washington?

Mr. SMITH. No.

Senator SCHWELLENBACH. You just did this free?

Mr. SMITH. I was building up an organization, which, if I might refresh the Senator's mind, is in this long recital.

Senator SCHWELLENBACH. Now, answer my question. Did you tell any one of these Congressmen \* \* \* that you were being maintained back here by an organization which was receiving 80 percent of its income from power companies?

Mr. SMITH. I am sorry, Senator; I did not tell them because it was not the fact.

Senator SCHWELLENBACH. You say that these figures are wrong, then?

Mr. SMITH. No; but the construction, which I am sure the Senator's misunderstanding the situation makes, is not a correct one.

Senator SCHWELLENBACH. Let us sum this up: \$15,000, \$23,000, that is \$38,000, of which \$4,000 came from the railroad companies, or \$34,000 came from the power companies. That is correct, is it not?

Mr. SMITH. That is correct; yes.

Senator SCHWELLENBACH. Now I see I was mistaken in my figure when I said 80 percent; it is 90 percent that came from the power companies. That will change my question. Did you tell any of these six Congressmen you were being maintained here by an organization 90 percent of whose money was paid by power companies?

Mr. SMITH. No; I am sure I did not, because it is not the fact.



### III. CONFERENCE OF SHIPPERS AND INVESTORS— ACTIVITIES WITH RESPECT TO RAILWAY LABOR LEGISLATION

EXHIBIT No. PC-269

[Copy of letter from files of Robert E. Smith—Western Railways' Committee on Public Relations]

DECEMBER 18, 1936.

Mr. WILLIAM H. DAY,  
Boston Chamber of Commerce, 80 Federal Street, Boston, Mass.

DEAR MR. DAY: In compliance with the request of Mr. Robert E. Smith of the National Conference of Investors, I am presenting below certain information regarding the proposed application to the railroads of a six-hour day at eight hours' pay, which I trust will be of some value in the preparation of your January address upon this subject.

Public Resolution No. 13, Seventy-Second Congress, approved March 15, 1932, reads as follows:

*"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Interstate Commerce Commission be, and is hereby directed, to investigate what would be the effect upon operation, service, and expense of applying the principle of a six-hour day in the employment of all classes and each particular class of railway employees because of such application. The commission is further directed to report its findings to the Congress on or before December 15, 1932."*

In compliance with this public resolution, the Interstate Commerce Commission by an order entered March 28, 1932 instituted and conducted an extensive investigation of this subject, reporting its findings on December 6th of that year. The following quotations from the report of the Commission will give some background for the figures later presented herein.

At the beginning of the hearings the following statement was made by the presiding commissioner:

"It will be noted that the commission is not directed, by this resolution, to express an opinion upon the wisdom or expediency of the 6-hour day but to ascertain and report certain facts, namely, 'the effect upon operation, service and expenses of applying the principle of a 6-hour day'. In other words, the Commission is here acting as a fact-finding body. The commission does not, therefore, regard the proceeding as a controversy between parties with respect to the wisdom or expediency of the matter under consideration, but as a mutual search on the part of all parties for the facts which are to be ascertained."

The scope of the Commission's investigation and of the suggested legislation is indicated in part by the following statement, which shows by groups of officers and employees of Class I railways the average number of employees in 1930, deemed by the railroads to be a reasonably normal year, and the amount of their annual compensation in that year.

Class	Aver. number	Compensation
Executives, officials & staff assts.....	16, 313	\$94, 065, 722
Professional, clerical & general.....	249, 969	441, 905, 646
Maintenance of way & structures.....	345, 306	388, 067, 452
Maintenance of equipment & stores.....	400, 939	637, 645, 547
Transportation (other than train, engine & yard).....	178, 597	270, 764, 890
Yardmasters, switch tenders & hostlers.....	19, 474	45, 956, 768
Train & engine service.....	277, 241	671, 482, 494
Total.....	1, 487, 839	2, 550, 788, 519

Including, in addition to the Class I steam railways, the other carriers covered by the Commission's investigation, the average numbers of employees were as follows:

Class I railways (listed above in detail).....	1,487,839
Class II railways.....	22,615
Class III railways.....	6,589
Class I switching & terminal companies.....	22,303
Other switching & terminal companies.....	32,213
Electric railways.....	38,769
Express companies.....	51,162
Sleeping-car companies.....	28,019
<b>Total.....</b>	<b>1,689,506</b>

The trend of railway employment was sharply downward from 1930 through 1933. There was an increase in 1934, a slight decline in 1935, and a substantial gain in 1936 in the number of rail workers. This matter will be discussed at further length later herein.

While the Commission, after its investigation reported both on the effects of a 6-hour day at six-hours' pay and of a 6-hour day at eight hours' pay, the report stated:

"Past negotiations with the employees have convinced the carriers that a 6-hour day at the present basic-day pay is contemplated by the resolution. The employees agree, stating that the purpose of a 6-hour day is to create employment for more men and not to reduce the compensation or lower the standard of living of those now employed." It is needless to say that the present proposal likewise contemplates attainment of this same objective—a 6-hour day at eight hours' pay.

In their exhibits presented to the Interstate Commerce Commission the carriers stated the estimated added cost of a 6-hour day at eight hours' pay as follows, based on the traffic, employment and wage scales of 1930: these figures include only wages chargeable to operating expenses.

Class I railways & Class I switch. & term. cos.....	620,438,577
Other steam railways & other switch. & term. cos.....	21,342,145
Electric railways.....	23,190,157
Railway Express Agency.....	24,067,681
Southeastern Express Co.....	618,373
Pullman Co.....	12,752,022
<b>Total.....</b>	<b>702,408,955</b>

In their supporting data, the Class I railways and Class I switching and terminal companies showed the following estimated increases in employment, on the basis of 1930, which would be necessitated by the application of the 6-hour day principle:

Class	Increase in employment	
	Number	%
Executives, officials & staff assistants.....	101	0.61
Professional, clerical & general.....	54,050	21.27
Maintenance of way & structures.....	104,633	29.96
Maintenance of equipment & stores.....	85,528	21.07
Transportation (other than train, engine & yard).....	39,689	21.94
Yardmasters, switch tenders & hostlers.....	6,006	29.58
Yard transportation—train & engine service.....	29,082	27.18
<b>Total—excluding road train &amp; engine service.....</b>	<b>319,089</b>	<b>23.92</b>
Road transportation—train & engine service.....	(*)	(*)
<b>Grand total.....</b>	<b>319,089</b>	<b>21.12</b>

\* No increase in the number of road trainmen or enginemen was shown. The exhibits filed by the carriers summarizing compensation of road trainmen and enginemen did not contemplate a rearrangement of assignments but showed an increasing number of trips on which overtime would accrue.

Likewise, in their supporting data the Class I railways and Class I switching and terminal companies showed, on the basis of 1930, the following estimated

increases in wages which would result from the application of a 6-hour day at eight hours' pay. The total increase shown below (\$669,152,909) exceeds by \$48,714,332 the estimated increase in operating wages (\$620,438,577) previously shown. The figure of \$48,714,332 represents an increase in the wages chargeable to capital account.

Class	Increases in wages	
	Amount	%
Executives, officials & staff assistants.....	\$290,556	0.30
Professional, clerical & general.....	104,695,318	23.33
Maintenance of way & structures.....	115,933,776	29.43
Maintenance of equipment & stores.....	175,980,535	27.23
Transportation (other than train, engine & yard).....	86,337,114	31.50
Yardmasters, switch tenders & hostlers.....	15,159,909	31.67
Train & engine service.....	170,755,701	24.96
Total.....	669,152,909	25.83

As to increased employment, on the basis of 1930, resulting from the application to the railroads of the 6-hour day principle, the Commission stated in its report: "The application of the principle of a 6-hour day would render necessary between 300,000 and 350,000 additional carrier employees in a year such as 1930."

Regarding the effect of a 6-hour day upon operation and service the Commission stated:

"The principle of a 6-hour day can be applied, so far as physical conditions are concerned, without material effect on the operation and service of the several carriers. The effect on expenses might affect operation and service, dependent on revenues. If there were no increase in revenues corresponding to the increase in expenses, the result might be to force abandonment of operation in certain instances, either of entire properties or of parts of properties, through inability to earn operating expenses. Abandonment of entire properties would not be likely to occur, except in the case of certain short-line steam railways and electric railways. In other instances, the effect of insufficient revenues might impair future credit in such a way as to affect operation and service adversely. The latter effect might be overcome in time by improving revenues or by financial reorganizations. We deem it impracticable to forecast the future course of carrier revenues. Obviously, this is dependent upon a great variety of possible factors, by far the most important of which is the economic condition of the country."

Finally, as to the increased *operating* wage costs resulting from the introduction of a 6-hour day at eight hours' pay, the Commission reduced somewhat the estimates of the carriers, previously shown, stating:

"Our reductions are a matter of judgment and are due to the impression which we have gained from the evidence that the carriers have probably underestimated somewhat the rearrangements of work and other expedients which could immediately be employed to limit the effect upon expenses. The reductions are, therefore, more or less arbitrary and cannot be supported by any definite mathematical computation."

With this explanation the Commission presented its own estimate, based on 1930, of the increase in *operating* wages which would have resulted from the establishment on the railways of a 6-hour day at eight hours' pay:

Class I railways & Class I switch. & term. cos.....	\$556,000,000
Other steam railways & other switch. & term. cos.....	19,000,000
Electric railways.....	21,500,000
Railway Express Agency.....	22,000,000
Southeastern Express Co.....	500,000
Pullman Co.....	11,000,000
Total.....	630,000,000

With this lengthy statistical history out of the way, I hope I can proceed somewhat more briefly to the current situation and the situation between 1930 and the present time.

As shown above, the Commission's estimate of the added *operating* costs resulting from the application of a 6-hour day at eight hours' pay amounted

to \$556,000,000 for Class I railways and Class I switching and terminal companies, on the basis of 1930. Appearing before the Senate Committee on Interstate Commerce on March 6, 1934 in connection with the hearings on the so-called "Six-Hour Day Bill," Dr. J. H. Parmelee, Director of the Bureau of Railway Economics, narrowed the foregoing figure somewhat by the exclusion of the Class I switching and terminal companies, in order to obtain an estimate which could be compared with other railroad information currently compiled for Class I road-haul companies alone. He stated the added cost of the 6-hour day at eight hours' pay for Class I railways alone in 1930 at \$547,000,000, or at 23.1 per cent of the operating payroll of those lines. Applying this same percentage to total wages charged to operating expenses, he estimated the added cost of a 6-hour day, for Class I railways alone, would have amounted to \$454,000,000 in 1931; \$332,000,000 in 1932; and \$308,000,000 in 1933.

This same method of estimating is used in the following table which starts, for convenient reference, with the year 1930:

*Class I Railways, United States*

Year	Total payroll charged to oper. expenses	Added cost of 6-hour day*
1930.....	\$2,396,594,956	\$547,000,000
1931.....	1,965,425,779	454,000,000
1932.....	1,436,842,343	332,000,000
1933.....	1,336,213,984	308,000,000
1934.....	1,441,921,973	333,000,000
1935.....	1,554,245,709	359,000,000
1936.....	= 1,739,000,000	402,000,000

- \* Calculated by applying figure of 23.1 percent to total payroll charged to operating expenses.
- Estimated.

You will notice that the added cost figure of \$402,000,000 shown above for 1936 corresponds very closely with the cost figure of \$400,000,000 which Mr. Smith states has been furnished you by the Association of American Railroads.

The foregoing added cost estimates permit some interesting comparisons with net railway operating income and with net income actually earned by the railways during the period 1930-1936, and also similar comparisons as to the theoretical freight rate increases which would have been required to offset these added wage costs had they been effective throughout this period. These comparisons are presented below, covering Class I railways only.

Year	Net railway oper. income actually earned	Added cost of 6 hour day	Theoretical net railway oper. income*
1930.....	\$99,000,000	\$547,000,000	\$322,000,000
1931.....	526,000,000	454,000,000	72,000,000
1932.....	326,000,000	332,000,000	def. 6,000,000
1933.....	474,000,000	308,000,000	166,000,000
1934.....	463,000,000	333,000,000	130,000,000
1935.....	500,000,000	359,000,000	141,000,000
1936.....	645,000,000	402,000,000	243,000,000
Average.....	543,000,000	391,000,000	152,000,000

- \* Net railway operating income actually earned minus estimated added cost of 6-hour day.

The foregoing figures show that the average annual net railway operating income earned by the Class I railways in the seven years 1930-1936 amounted to \$543,000,000; that the average annual estimated added cost of a 6-hour day during this period was \$391,000,000; and that the theoretical net railway operating income under these increased costs would have averaged \$152,000,000 annually.

	Property investment	Theoretical net railway oper. income*	Rate of return	
			Theoretical	Actual
1930.....	\$26,355,000,000	322,000,000	1.22%	3.36%
1931.....	26,243,000,000	72,000,000	0.27%	2.00%
1932.....	26,152,000,000	def. 6,000,000	def.	1.25%
1933.....	25,943,000,000	166,000,000	0.64%	1.83%
1934.....	25,775,000,000	130,000,000	0.50%	1.79%
1935.....	25,714,000,000	141,000,000	0.55%	1.94%
1936.....	(*)	243,000,000	* 0.95%	2.51%
Average.....			0.59%	2.09%

- \* Calculated as shown above.
- † Not available.
- ‡ Calculated on basis of 1935 investment.

The foregoing figures show that in the seven years 1930-1936 the weighted average annual rate of return of the Class I railways actually was 2.09%. Had these increased costs been effective throughout that period, the theoretical average annual rate of return earned would have been 0.59%.

Year	Actual net income	Added cost of 6-hour day	Theoretical net income*
1930.....	\$524,000,000	\$547,000,000	def. \$23,000,000
1931.....	135,000,000	454,000,000	def. 319,000,000
1932.....	def. 139,000,000	332,000,000	def. 471,000,000
1933.....	def. 6,000,000	308,000,000	def. 314,000,000
1934.....	def. 17,000,000	333,000,000	def. 350,000,000
1935.....	8,000,000	359,000,000	def. 351,000,000
1936.....	150,000,000	402,000,000	def. 252,000,000
Average.....	94,000,000	391,000,000	def. 297,000,000

- \* Not income actually earned minus estimated added cost of 6-hour day.

The foregoing figures show that the average annual net income actually earned in the seven years 1930-1936 by the Class I railways amounted to \$94,000,000. Had these added costs been in effect, there would have been a theoretical average annual deficit in net income of \$297,000,000.

	Actual freight revenues	Added cost of 6-hour day	Fr. rev. needed to offset added cost*
1930.....	\$4,083,000,000	\$547,000,000	\$4,630,000,000
1931.....	3,255,000,000	454,000,000	3,709,000,000
1932.....	2,451,000,000	332,000,000	2,783,000,000
1933.....	2,493,000,000	308,000,000	2,801,000,000
1934.....	2,633,000,000	333,000,000	2,966,000,000
1935.....	2,791,000,000	359,000,000	3,150,000,000
1936.....	* 3,267,000,000	402,000,000	3,669,000,000
Average.....	2,996,000,000	391,000,000	3,387,000,000

- \* Actual freight revenues plus estimated added cost of 6-hour day.
- † Estimated.

The three previous tables have shown the theoretical effects upon the Class I railways if these estimated increased costs had to be absorbed by the carriers. The foregoing table shows the effect if these theoretical increased costs had been passed on to the shippers of freight. In the seven-year period 1930-1936 actual freight revenues of the Class I railways averaged \$2,996,000,000 annually. Had these theoretical increased costs been passed along to the shippers, these freight revenues would have averaged \$3,387,000,000 annually.

	Theoretical freight revenues <sup>a</sup>	Revenue ton-miles (millions)	Revenue per ton-mile		
			Actual	Theo. <sup>c</sup>	% Inc.
1930	\$4,630,000,000	383,450	1.053¢	1.207¢	13.5%
1931	3,709,000,000	309,225	1.051¢	1.199¢	14.1%
1932	2,783,000,000	233,977	1.046¢	1.186¢	13.7%
1933	2,801,000,000	249,223	0.999¢	1.124¢	12.5%
1934	2,966,000,000	308,711	0.978¢	1.104¢	12.9%
1935	3,150,000,000	282,037	0.988¢	1.117¢	13.1%
1936	3,669,000,000	<sup>b</sup> 332,000	<sup>e</sup> 0.954¢	1.165¢	12.2%
Average	3,387,000,000	294,080	1.019¢	1.152¢	13.1%

<sup>a</sup> Calculated as previously shown.

<sup>b</sup> Calculated by dividing theoretical freight revenues by actual revenue ton-miles.

<sup>c</sup> Estimated.

<sup>e</sup> First eight months.

The foregoing figures show that the actual revenue per ton-mile received by the Class I railways in the seven years 1930-1936 averaged 1.019 cents. Had freight revenues been increased to meet these theoretical added costs, revenue per ton-mile in those seven years would have averaged 1.152 cents, an increase of 13.1 per cent over the actual figure.

This brings us up to the present—and the future. The foregoing figures are of interest to me as indicating, at least in a general way, just what would have been the effect upon the railways or the shippers during the depression of the application of a six-hour day at eight hours' pay. These figures, of course, are all theoretical and we must face the 6-hour day proposal upon the basis of present and immediately prospective conditions.

In the first place, I do not feel that the figure of \$400,000,000 or \$402,000,000, representing the estimated added cost of the 6-hour day in 1936, is at all adequate for 1937 in view of the traffic and employment conditions which now may be reasonably expected in that year. The rate of freight traffic increase had been accelerating in the closing months of this year, and weekly carloadings have several times crossed the 1930 level.

After a relatively slow start, carloadings in 1936 will total approximately 35,900,000 cars, an increase of 14 per cent above 1935. Carloadings in 1931 totaled 37,150,000 and the cost of the 6-hour day on the basis of 1931 traffic is estimated at \$454,000,000. The 1931 total carloadings were less than four per cent greater than those for 1936, and, if the current rate of traffic increase continues, it seems probable that the 1931 level will be exceeded in 1937 by a substantial margin, with a consequent increase in the 1931 6-hour day cost of \$454,000,000. In fact, as you will see from the enclosed press release based on a speech which I recently made at Lincoln, Neb., I have used the fact that recent carloadings have several times crossed the 1930 level to refer directly to the Commission's cost estimate based upon 1930.

It is undoubtedly true that since 1930 the railways generally have introduced various operating practices which will have the effect of reducing the original estimates as to the added cost of the 6-hour day. These improved efficiency and economy operating practices will undoubtedly be continued as far as it is possible to do so.

But, on the other hand, the railways are confronted with a seven-year accumulation of under-maintenance. The percentage of bad order freight locomotives averaged 16.4 in 1929 and 34.4 in 1935, while in the same period the percentage of unserviceable freight cars rose from 6.0 to 14.0. The tonnage of rails laid in replacement dropped from 3,610,455 in 1929 to 1,159,039 in 1935, while the number of replacement cross-ties in the same period, declined from 74,679,375 to 44,326,151.

Total maintenance charges in 1936 will show an increase of some \$166,000,000 over 1935 and it seems obvious that even a moderate traffic gain in 1937 will require further additional maintenance expenditures. In other words, necessity for regaining much of the maintenance ground lost during the depression may substantially offset, or even more than offset, for at least several years, the operating economies which I have previously mentioned.

There is one further point which I may develop briefly. From the last of the several tables shown above it appeared that an average increase of 13.1 per cent

in revenue per ton-mile would have been required during the 1930-1936 period to have offset, through increased freight revenues, the theoretical added cost of a 6-hour day. The present or immediately prospective situation is somewhat different, assuming a return to traffic levels of 1930, because of the almost constant downward tendency of average revenue per ton-mile since that year. Actual freight revenues in 1930 amounted to \$4,083,000,000, while the added cost of a 6-hour day for that year is estimated at \$547,000,000, resulting in theoretical freight revenues required to offset this added cost amounting to \$4,630,000,000. Actual revenue ton-miles handled in that year totaled 383,450,000,000, producing a theoretical average revenue per ton-mile of 1.207¢. In the first 8 months of 1930, however, actual average revenue per ton-mile amounted to 0.984¢. The theoretical figure of average revenue per ton-mile, on the basis of 1930 traffic and expenses, required to offset the increased costs of a 6-hour day and yield the same net earnings as in 1930 is thus 22.7% greater than the average revenue per ton-mile actually earned by the carriers in the first 8 months of this year. In other words, an increase of approximately 23% in the present level of freight rates would be necessary to offset the estimated cost of a 6-hour day under the traffic, employment, expense and net earning levels of 1930.

I trust that the foregoing information will be of interest and service to you.

Yours very truly,

SAMUEL O. DUNN.

SOD:

PGO:T

[S. O. DUNN and P. G. OTTERBACK.]

EXHIBIT No. PC-270

[Copy of letter from files of Robert E. Smith—Western Railways' Committee]

DECEMBER 30, 1936.

Mr. WILLIAM H. DAY,

*Boston Chamber of Commerce, 80 Federal Street, Boston, Mass.*

DEAR MR. DAY: Upon re-reading my letter to you of December 21st, I am afraid that the language appearing on the last page does not express very coherently the thought which I actually had in mind. As you know, copies of this letter have been furnished to Mr. Robert E. Smith and, for the purpose of clarifying the language, the last page of my original letter in the copies to Mr. Smith has been rewritten as follows:

"average revenue for ton-mile amounted to 0.984¢. The theoretical figure of average revenue per ton-mile, on the basis of 1930 traffic and expenses, required to offset the increased costs of a 6-hour day and yield the same net earnings as in 1930 is thus 22.7% greater than the average revenue per ton-mile actually earned by the carriers in the first 8 months of this year. In other words, an increase of approximately 23% in the present level of freight rates would be necessary to offset the estimated cost of a 6-hour day under the traffic, employment, expense and net earning levels of 1930."

As of possible interest to you, I am enclosing a memorandum discussing in general terms some of the principal objections to the establishment upon the railways of the 6-hour day at 8-hours' pay.

Yours very truly,

[S. O. DUNN and P. G. OTTERBACK.]

SOD

PGO-T

EXHIBIT No. PC-271

[Copy of letter from the files of Robert E. Smith]

St. LOUIS, December 24, 1936.

Mr. PHILIP G. OTTERBACK,

*% Railway Age, 105 West Adams Street, Chicago, Illinois.*

DEAR MR. OTTERBACK: AM SORRY that we missed each other yesterday, but wish to thank you for your kindness in sending over the mimeographed copies of your letter to Mr. Day and summary of Mr. Dunn's Lincoln speech.

Confirming message which I left with your secretary, I will appreciate it if you will send the remaining 275 copies of each together with the 300 copies of your summary of arguments against the Six-Hour Bill to Mr. J. E. Fitzwilson, Vice-President, Southern Railway, New Orleans, and advise him that I will pick them up at his office on Saturday morning, January 2nd.

In connection with your summary of arguments, what would you think of including statement or figures relating to the effect of the adoption of the Six-Hour Law on life insurance policies. Roughly, from ten to fifteen percent of the assets behind every life insurance policy are railroad securities. Your figures on the disastrous effect of funds available for servicing railroad obligations, if this law is adopted, indicate the almost complete wiping out of these railroad assets in the portfolios of life insurance companies.

Again thanking you for your splendid cooperation in this matter and with all good wishes for the new year, I am

Sincerely yours,

ROBERT SMITH.

EXHIBIT No. PC-272

[Copy of letter from the files of the National Association Owners of Railroad and Public Utility Securities, Inc.]

JANUARY 6, 1932.

ROBERT E. SMITH, Esq.,

577 Pittock Block, Portland, Oregon.

DEAR MR. SMITH: I enclose copy of letter which I have just addressed to Mr. Henry Hayes, bearing upon your letter of December 15th. I hope Mr. Hayes will see fit to follow our suggestions.

With reference to your further reports. Mr. Layton of the National Fire Insurance Company is fully advised of our work in your territory, and I am certain we can count upon his full cooperation. I shall drop him a line, however, suggesting that he recommend the cooperation of his Agent, Mr. Edgar W. Lowe.

With reference to the Metropolitan, I am not so sure they would be willing to comply. Life insurance companies, as a rule, are very loath to bring pressure of any character upon their agents to perform service, particularly in present times when they expect their agents to use every effort to create more business. If the opportunity presents itself I shall pass the word along.

Very truly yours,

—, President.

P. S.—Referring to your request for an estimate on the losses suffered by mutual life insurance companies through depreciation of railroad and public utility securities, I may state that I do not believe it will be possible to secure accurate figures on depreciation of railroad securities as the situation is quite serious and it would be detrimental to the interests of the companies should it be made known. As a very general estimate I might say that in my opinion depreciation of railroad securities since October, 1929, has affected assets of life insurance companies to the extent of around half a billion dollars. I have no way at all of determining how the losses on public utilities has affected these assets but it is, of course, a very small proportion of losses suffered on the railroads.

EXHIBIT No. PC-273

[Copy of letter from the files of Robert E. Smith]

St. LOUIS, December 24, 1936.

MR. PHILIP G. OTTERRACK,

Railway Age, 105 West Adams Street,  
Chicago, Illinois.

DEAR MR. OTTERRACK: Herewith copy of letter which Mr. Snow, President of the Associated Traffic Clubs is writing to Presidents of the ninety-odd member leagues which are members of his association.



Please note his statement that he is asking Mr. Day to send them copies of material which you are having mimeographed. We thought it best to have the material nominally come from a traffic man. However, I am advising Mr. Day that Mr. Snow will send the list direct to you and that you will send the stuff directly to the names on the list.

It is Mr. Snow's desire that, if possible, you give each President sufficient copies for his officers and directors and that in the case of large associations like New York, New Orleans, Pittsburgh, San Francisco, etc., that, if you can spare them, you send some additional copies for use by some of the more active members who may be called upon to discuss the Six-Hour Day Bill at public meetings. Am sure you appreciate the importance of this character of distribution of the splendid figures which you have worked out and that your cooperation in this regard is keenly appreciated.

Sincerely yours,

ROBERT SMITH.

EXHIBIT No. PC-274

[Copy of letter from the files of Robert E. Smith]

DALLAS, TEXAS, December 26, 1936.

Mr. PHILIP G. OTTERBACK,  
Assistant to Chairman,

Western Railways' Committee on Public Relations,  
105 West Adams Street, Chicago, Illinois.

DEAR MR. OTTERBACK: Mr. T. D. Gresham, General Counsel of The Texas and Pacific Railway Company, Dallas, Texas, has been quite interested in a copy of the letter which you wrote Mr. Day under date of December 18th. In addition, will you kindly send him copy of the summary of the arguments against this Bill as soon as it is prepared. Mr. Gresham wishes to inform himself quite thoroughly on this subject and I think these should be ample, but if you have any additional data I am sure he will be pleased to have it.

Truly yours,

ROBERT E. SMITH.

EXHIBIT No. PC-275

[Copy of letter from the files of R. E. Smith—Western Railways' Committee]

DECEMBER 30, 1936.

Mr. ROBERT E. SMITH.

c/o Mr. J. H. Fitzwilson, Vice-Pres., Southern Railway, New Orleans, La.

DEAR MR. SMITH: In compliance with your letter of December 24th and our understanding before you left Chicago, I am sending you today, via express, in care of Mr. Fitzwilson, 275 copies each of Mr. Dunn's Lincoln-press release and his letter to Mr. Day, and 300 copies of a memorandum presenting general reasons for opposing the six-hour day. Also in compliance with your letter of December 26th, I have sent a copy of this memorandum to Mr. T. D. Gresham, general counsel of the Texas and Pacific, at Dallas.

In your second letter of December 24th you refer to an attached copy of a letter which Mr. Snow, president of the Associated Traffic Clubs, has written to the members of his association. No copy of this letter was attached and it may be advisable for us to have such copy in order that we may completely understand just what we are supposed to do in this connection. I will appreciate it, therefore, if you will send me at your convenience a copy of this letter. I have not yet received from Mr. Snow any mailing list to be used in the distribution of our material.

I hope that the packages sent you today arrive in due time to meet your schedule. Should you desire additional copies of any, or all, of these documents, they are available upon your request.

Sincerely yours,

[P. G. OTTERBACK.]  
Assistant to Chairman.

PGO-T

## EXHIBIT No. PC-276

[Copy of letter from the files of R. E. Smith—Western Railways' Committee]

HOUSTON, TEXAS, December 30th, 1936.

MR. PHILIP G. OTTERBACK,  
c/o Railway Age, 105 West Adams, Chicago, Illinois.

DEAR MR. OTTERBACK: Herewith copy of letter to Mr. Day which will speak for itself. Although I will be in Chicago a week or ten days prior to the Chicago meeting for the purpose of collaborating with you in the preparation of suitable material, may I suggest that you begin thinking about the preparation of such a pamphlet as I have suggested to Mr. Day.

Among the traffic and Chambers of Commerce men there is a great deal of interest in this subject and a consequent call for literature. I am leaving a supply of the mimeographed copies of your letter to Mr. Day and am looking forward to picking up your summary of opposition arguments when I reach Mr. Fitzwilson's office in New Orleans on Saturday.

With best wishes, I am  
Sincerely yours,

[Signed] ROBERT E. SMITH.

Cc to Mr. William H. Day, Boston Chamber of Commerce, Boston, Mass.

## EXHIBIT No. PC-277

[Copy of letter from files of R. E. Smith—Western Railways' Committee]

HOUSTON, TEXAS, December 30th, 1936.

MR. WILLIAM H. DAY,  
Boston Chamber of Commerce, Boston, Mass.

DEAR MR. DAY: On a three day automobile trip through the Winter Garden country, covering the territory from San Antonio to Brownsville and North to Houston, I discussed crop conditions, prices and relative transportation costs with the Managers of six of the larger citrus and vegetable shipping concerns, three roadside citrus fruit stands and Secretaries of three Chambers of Commerce. This gave me a good opening to casually mention the increased freight rates which would result from the proposed six hour bill.

None of these twelve men had ever heard of this measure, yet it was evident that they immediately appreciated the inevitable effect of the enactment of this measure on freight rates and the consequent handicap of those agricultural districts whose produce competes with similar products grown in districts closer to centers of population.

As to the interest in this measure by industrial concerns, every one of the industrial traffic managers with whom I have discussed it know of the bill although this does not imply that they are all aroused or even particularly apprehensive over its possible passage.

I naturally do not wish to draw any conclusions from this very inadequate and localized canvas but the thought comes to me that, if this bill is passed it will not be because of a broad public sentiment in its favor but because its supporters are organized and vocal while its potential opponents are uninformed, uninterested and inarticulate. For this reason I would suggest that while the detailed factual data together with some suggested carefully prepared "canned" speeches are of course essential because publicity resulting from educational talks on this subject will be a potent factor in arousing public interest, we must, in addition, prepare a small leaflet of 200 or 300 words which will tell the story and then at the Chicago meeting plans must be devised for its broad distribution.

With that thought in mind I am writing Mr. Phillip Otterback as per enclosed copy. My contacts in Houston have been very satisfactory and I think we can count on pretty fair representation from Southern Texas at the Chicago meeting. I think Mr. Hancock of the Kirby Lumber Company will be among the Houston men who will be present but incidentally I find that Mr. Lefingwell is the key man in the Southwest. He advised me that he had some court cases on February 8th and consequently could not attend the Chicago meeting if the day was set on or near that date.

Truly yours,

Cy: Mr. Philip G. Otterback, c/o Railway Age, 105 West Adams, Chicago.

## EXHIBIT No. PC-278

[Copy of letter from files of E. E. Smith—Western Railways' Committee]

JANUARY 12, 1937.

Mr. PHILIP A. BENSON,  
*President, Dime Savings Bank, Brooklyn, New York.*

DEAR MR. BENSON: I have just had lunch with Mr. Ray Bohman, President of the New England Traffic League, and Mr. L. M. Ross, who is Secretary of the New England Shippers Advisory Board, and we have been discussing the problems of the railroads and particularly those problems which are of equal interest to the shipper and the investor.

I have told Mr. Ross and Mr. Bohman of your request that I suggest to you some of the points which you might cover in a talk before the Atlantic States Advisory Board and they have very kindly consented to collaborate with me in those suggestions. Consequently, I will first give you some thoughts which have come to me and then Mr. Bohman and Mr. Ross, who are listening to this dictation, will give you their suggestions, which I am sure will be much better than mine.

I assume that it is your desire to mention those problems which are of interest to the railroad shipper and investor. Broadly, it would seem that the community of interest lies in a sound transportation system which will adequately serve the commerce of the nation and assure the integrity of those investments which have made such a transportation system possible.

More specifically, it seems to me, this means effective and economical management and operation, rate structures which in normal times will make it possible properly to maintain the rail carriers in a high state of efficiency and will assure a reasonable return upon funds soundly and legitimately invested therein; regulation which will afford protection to the public without unduly restricting or interfering with the functions of management; discontinuance of subsidies to competing forms of transportation; cessation of the misuse of powers of federal regulation for legislative and economic experimentation; and freedom from dominance of labor control. Admittedly, the full realization of these objectives is a Utopian dream but nevertheless they do embrace at least some of the common points of shipper and investor interest.

With these generalities out of the way, we might consider some of the practical aspects of those points which I have mentioned.

As to effective and economical management I think there is little cause for complaint. While nearly everyone feels he can run a railroad better than its executive officers, the same holds true with respect to banks and on the whole I think that railroad and bank presidents have done a pretty fair job. In the many exposes of exploitation, real, alleged and imagined, by so-called business during the hectic days of the nation-wide speculation I think the railroads show up about as well as most folks. Railroad executives and directors did not participate in the extravagant salaries, bonuses and perquisites so prevalent in the boom days which ended in '29, yet their salaries were drastically cut and every possible economy was effected when the depression set in.

Certainly the carriers have been well maintained and great improvements have been effected during a time when the net operating revenues of all Class I railroads fell from 869 million in 1930 to 326 million in 1932 and recovered only to the point of 474 million by 1934—only a little over half of the pre-depression figures. I know of no other industries which have made such marked advancement in methods and service during a time when their operating revenues have been cut in half.

As to Item 2, a fair rate, perhaps there may be room for argument between shipper and investor as to what constitutes a fair rate, but I think we all can agree that the element of fairness between the purchaser and seller of transportation should be an element of every rate structure.

As to "regulation which will afford protection to the public without unduly restricting or interfering with functions of management" I believe the Interstate Commerce Commission resents the imputation that they ever interfere with the functions of management and it is their contention that when those charges are made it is simply a question of management passing the buck. However, there are others who take just the opposite view and I enclose clipping from this morning's New York Times which seems to substantiate the latter. Mr. Harry G. Taylor, Chairman of the Western Association of Railroad Executives, showed me some astounding figures on the additional costs which have resulted from various

regulatory laws enacted by Congress and I will ask him to give you these figures if they are available.

As to discontinuance of subsidies to competing forms of transportation, I of course refer to the Panama Canal, improvements to the waterways and various operating subsidies to the water carriers, free use of the highways (with inadequate taxation) to the motor carriers and the many aids which have been given to aviation. I do not have the figures on these subsidies but I believe I can get them and will send them to you.

As to cessation of misuse of powers of federal regulation for legislation and economic experimentation, I refer to that great indoor sport of national and state legislatures of using the rail carriers as a guinea pig upon which to try out the latest political and economic theories. The fact that the rail carriers are under federal regulation apparently makes it possible to impose special legislation of one kind and another which would be unconstitutional in the case of other industries even though engaged in interstate commerce. It seems to me that the best thing our law-making bodies can do for the railroads is to give them a breathing spell.

As to freedom from dominance by labor, I of course have in mind such measures as the proposed 6-hour Day Bill for railroad labor, the Full Crew Bill, the Train Limit Bill and also the many agreements which have been entered into with railroad labor, most of all, which make for more expensive operation and in that way increase the cost of transportation.

Apart from the suggestions made above but also dealing with generalities, let me ask you as an investor if the following statement does not contain at least some elements of truth:—"When political problems are presented, the holder of railroad securities, both senior and junior, looks to railroad management to cope with the situation. Railroad management in turn looks to the national and regional railroad associations, one of whose important functions admittedly is to cope with such situations. In other words, the investor passes the buck to the railroad president, and the railroad president passes it on to John Pelley."

I think we all learned on the 3rd of last November that there are new concepts of political and economic relationships and new political alignments, and that the integrity of rail investments can only be preserved through broad public interest and a realization by every life insurance holder and beneficiary that from \$100 to \$150 of each \$1,000 of assets behind this policy consists of railroad securities.

When legislation unfavorable to the railroads, their security holders or patrons is proposed, would it not seem more logical if we just reversed the conventional processes of buck passing. Would it not seem more logical and might it not be more efficacious if John Pelley, whose duty it is to keep informed of all railroad matters, should say to the managers of the various railroads:—"Here is a bill which will affect you thus and so, and this will be its effect on your security holders, and that will be its effect on those who patronize your lines. I would suggest that you make its provisions and effects known to those who are interested." And then, if the several railroad presidents should write to their stock and bond holders and to Phil Benson and heads of other investor and traffic organizations, not the least of which are the thirteen regional shippers advisory boards, and say: "Here is a matter in which you and other railroad investors and shippers (direct and indirect) are vitally concerned. It is our job to carry passengers and freight safely and economically. We were not employed as publicists or politicians, but you and your members, and the millions whose savings you have invested in railroad securities, and the millions who rely upon the rail carriers for transportation should take such steps as are necessary and appropriate to safeguard your interests." If these "legislative problem babies" are to be put on someone's doorstep, why not select those doorsteps where there is some opportunity of their being taken inside and cured of their childish ailments and their deformities corrected, so they may grow up to be useful citizens. Shippers' organizations cannot evade their responsibilities in this regard, as they have even greater facilities for and better understanding of the care and nursing of fractious legislative children and/or the "mercy killing" of those which give evidence of maturing into "unsocial" citizens.

When it comes to honest confession I do not mind saying that when it was my duty to represent fiduciary institutions which were substantial holders of rail securities, my thoughts were directed toward the question of the ability of the subject carrier to service its obligations rather than a broad interest in the welfare of that carrier and its ability to serve the public. I am wondering if shippers are not more inclined to think only of rates and service and to forget the

broad problem of the maintenance and integrity of a great national transportation system, without which the shipper could not function. The point I am making, of course, is that it might be well for both the railroad investor and the railroad shipper to realize that good service and a sound financial structure are essential and that both might take a broader view of railroad problems than perhaps they have in the past.

Obviously a shipper is a producer or he could not ship. Many of these producers rely upon the railroads for the purchase of a substantial percentage of their output and this in turn gives them an added interest in the ability of the railroads to purchase a normal amount of supplies and equipment. The figures of railroad purchases as compared with railroad net income follow lines which are exactly parallel. I have these figures in my New York office and will see that you have them.

As stated above, Mr. Ross and Mr. Bohman have been patient enough to listen to this dictation and Mr. Ross will now take the floor.

Mr. Smith had the advantage of speaking first and has covered most of the points which I naturally would have discussed. However, I might say:—In further reference to the paragraph on regulation, there is, of course, a fine line of demarcation between regulation and management which is well recognized by railroad management but in their opinion sometimes escapes the notice of the Commission.

Any talk on subsidies before the Atlantic States Advisory Board would, in my opinion, be remiss did it not include some figures as to the cost of the New York State Canal and possibly the proposed St. Lawrence Seaway. I understand that Mr. Smith can furnish you with these figures from his New York office, but to make doubly sure I will see that these are supplied to you.

Further, where Mr. Smith mentions agreements entered into between management and railroad labor, in many cases it will be appreciated that these agreements were forced on to management either by unified action of labor or through action of the Congress.

Mr. Bohman also is listening to this dictation and it is now his turn to take the floor.

One of the important questions before the country today is the 6-Hour Day Bill which railway labor leaders have announced would be pushed in preference to other so-called "make work" bills. The 6-Hour Day Bill would mean a reduction in the hours of work in the railroad industry and in dollars and cents would cost the railroads approximately 600 million dollars annually based on 1930 traffic. The Interstate Commerce Commission was instructed by Congress to make an investigation to determine just what the 6-Hour Day Bill would cost and as I remember it they said that it would cost approximately 597 million dollars based on 1930 volume of traffic.

Now, the question naturally arises, where will the railroads get the money to pay such enormous increase in operating expenses? The only source of revenue is the money received for transporting freight. Obviously, if this bill is enacted into law it would mean that the railroads would have to increase freight rates. If this is done the effect would be far-reaching for in my opinion it would mean the localization of industry. If industry is localized it will mean that motor truck competition would become more severe and in the end railroad labor would be worse off because the railroads would have less business to transport and fewer men would be employed by them.

This country grew up under a scheme of rate making that enabled traffic to move freely in all directions. People everywhere were encouraged and enabled to trade with people everywhere else throughout the national domain. High freight rates, however, would have the opposite effect. It seems to me, therefore, that this is one of the most important points that could be emphasized in an address before shippers' representatives because it affects their pocket-books and, as stated, would have a detrimental effect upon railroad labor. In an editorial in the Railway Age last July, Samuel Dunn summarized this in a most interesting way. A copy of this editorial is enclosed. In addition, I should be glad to send you several other circulars or articles which I believe will be helpful to you in preparing your address.

I have listened to what Mr. Smith has had to say about shipper and investor cooperation in solving the legislative and political problems of the railroads. I am, however, constrained to say that there has been a great deal of criticism on the part of individual shippers and members of shippers' organizations, because of a seeming lack of similar cooperation by rail management. The shippers feel that while they undoubtedly have an interest in these problems

their interest certainly is not paramount to that of railroad management and the railroad investor. Be that as it may, the shipper cannot be expected to carry this whole load and active cooperation by rail management and railroad investors would not only supplement the efforts which shippers and shippers' organizations are making but in addition would make it possible for shippers' organizations to secure greater support from shippers due to the encouragement which they would receive if railroad management and railroad investors carried their portion of the load. In other words, wholehearted cooperation would stimulate further interest and activity on the part of the shipper in these matters in which we are all interested.

If there is anything in the foregoing suggestions which will be of value, Mr. Ross, Mr. Bohman and the writer will be glad of the opportunity which has been afforded us to get some of these things presented to you and the Atlantic States Shippers Advisory Board.

However, I cannot close without one more gratuitous observation. This is in respect to criticism of the railroads and railroad management. I do not know of any way to measure the amount of unfavorable criticism which, in the last quarter of a century, has been meted out to these suffering victims, but if all these critics could be laid end to end—well, why suggest such drastic treatment in a strife-torn world, just at New Years—let's put it this way:—If the same energy, resourcefulness and imagination which is used in criticising the railroads by shippers and investors were devoted to cooperative action among them for the protection of our rail carriers, our national commerce, shippers, and railroad investors would surely be better off.

Sincerely,

[ROBERT E. SMITH.]

Enclosures  
RES/CJB

EXHIBIT No. PC-279

[Copy of letter from files of R. E. Smith—Western Railways' Committee]

NATIONAL CONFERENCE OF INVESTORS,  
January 18th, 1937.

Mr. SAMUEL O. DUNN,  
Publisher, "Railway Age," 105 W. Adams Street,  
Chicago, Illinois.

DEAR MR. DUNN: Mr. Philip Benson, President of Dime Savings Bank, and President of the Railroad Security Owners Association, is to speak before the Atlantic States Shippers Advisory Board, and has asked me for some suggestions.

When in Boston the other day, Ray Bohman and L. M. Ross collaborated with me in a letter on this subject, copy of which is enclosed. Please note in checked paragraph on page 4, reference to effect of railway net income on purchases.

If you or Mr. Otterback will be good enough to write Mr. Benson direct on this subject, both Mr. Benson and I will appreciate it. Bill Day has the figures I secured from you, and he is ill at home.

Regarding the conference of shippers and investors, it has been set for Monday, February 1, at the Chicago Union League Club, 9:30 A. M. This, of course, to accommodate the representatives of the thirteen regional shippers boards, who will meet there on January 29th and 30th.

I had a most successful trip (Phil Otterback will probably be glad I am no longer in the field thinking of ways to tax his industry and good nature) and over 400 shippers and investors have indicated their willingness to serve on a coordinating committee, and while they will not all be at the conference, it looks like a good turnout.

You will recall that you were good enough to say you would participate. We are printing a dodger which will be used as a follow-up letter by the several presidents who have issued invitations, typewritten copy of which is enclosed. Please note that I have taken the liberty of saying you would lead in some of the discussion. I did not have time to get your specific consent, as we are

working under pressure, but you are so uniformly cooperative, I was sure you would not object.

I will be in Chicago a few days before the conference.

Sincerely

RES: HB

[Signed] ROBERT E. SMITH.

EXHIBIT No. PC-280

[Copy of letter from files of R. E. Smith—Western Railways' Committee]

WESTERN RAILWAYS' COMMITTEE ON PUBLIC RELATIONS,  
January 27, 1937.

MR. PHILIP A. BENSON,  
President, Dime Savings Bank, Brooklyn, N. Y.

DEAR MR. BENSON: In compliance with the request of Mr. Robert E. Smith, I am enclosing certain information with reference to the close relationship which exists between the volume of railway purchases and the net railway operating income earned by the steam lines.

The attached table presents by years from 1929 through 1936 figures of net railway operating income of total purchases including equipment, material and supplies and fuel and of purchases from manufacturers. This last item excluding fuel purchases. These figures cover all Class I railroads in the United States.

From the attached statement you will observe at once the close parallel existing between net operating income and total purchases. This parallel is even more vividly illustrated, however, by the percentage relationships to 1929 of net railway operating income and total purchases in subsequent years.

In 1930 net railway operating income stood at 69 per cent of the 1929 level, while total purchases stood at 67 per cent of the 1929 level. In 1931 the respective percentage of 42 for net railway operating income and 41 for total purchases, while in 1932 the percentages of 1929 were 26 for net railway operating income and 25 for total purchases.

1933 is the only year in which marked variations occurred, the percentages of 1929 in that year amounted to 38 for net railway operating income and to 26 for total purchases. The next parallel was assumed again in 1934 with net operating income standing at 37 per cent of the 1929 level, while total purchases amounted to 38 per cent of those made in 1929.

In 1935 net railway operating income was 20 per cent of that earned in 1929, while purchases amounted to 36 per cent of the 1929 total. In 1936 the corresponding percentages of 1929 amounted to 52 for net railway operating income and 56 for total purchases. The annual average for these last two years (1935 and 1936) was identical for both net operating income and for total purchases standing at 46 per cent of the respective 1929 levels.

I trust the foregoing and attached information will be of interest and service to you.

Very truly yours,

SOD:  
PGO:O

[S. O. DUNN & P. G. OTTERBACK.]

*Class I Railways, United States—Net railway operating income, total purchases and purchases from manufacturers, 1929-1936*

Year	Net railway operating income	Total purchases	Purchases from manufacturers
1929.....	\$1,251,698,000	\$1,764,416,000	\$1,427,611,000
1930.....	868,879,000	1,184,029,000	875,752,000
1931.....	525,628,000	731,230,000	487,881,000
1932.....	326,298,000	448,076,000	271,076,000
1933.....	474,296,000	454,246,000	273,342,000
1934.....	462,652,000	673,642,000	464,154,000
1935.....	499,819,000	631,498,000	402,778,000
1936.....	645,000,000	982,204,000	726,765,000

## EXHIBIT No. PC-281

[Copy of mimeographed document from files of R. E. Smith—Western Railways' Committee]

CONFERENCE OF SHIPPERS AND INVESTORS TO BE HELD AT UNION LEAGUE CLUB,  
CHICAGO, ILL., MONDAY, FEBRUARY 1, 1937—9:30 A. M.

## TEMPORARY OFFICERS, SHIPPERS AND INVESTORS COMMITTEE AND CONFERENCE

Chairman: William H. Day, Boston, Mass.—Chairman Executive Committee National Industrial Traffic League.

Vice Chairman: Homer S. Snow, St. Louis, Mo.—President Associated Traffic Clubs.

Vice Chairman: F. A. Leffingwell, Dallas, Texas—Secretary Treasurer Southwestern Industrial Traffic League and Texas Traffic League.

Vice Chairman: W. L. Thornton, Jr., Winston Salem, N. C.—President Southern Traffic League.

Vice Chairman: Ray Bohman, Gardiner, Mass.—President New England Traffic League.

Vice Chairman: A. W. Vogtle, Birmingham, Ala.—General Chairman South-eastern Shippers Advisory Board.

Vice Chairman: Philip A. Benson, Brooklyn, N. Y.—President Security Owners Association.

Vice Chairman: Arthur S. Pierce, New York City—Vice President Railroad Owners Association.

Vice Chairman: Robert E. Smith, New York City—Chairman National Conference of Investors.

There will also be represented officers and members of the Thirteen Regional Shippers Advisory Boards.

## PURPOSE

To discuss matters affecting shippers and rail investors, and establish a permanent organization for action on matters of common interest.

## IT HAS BEEN AGREED THAT

(a) Although the conference has been called by the heads of the organizations mentioned above, those in attendance are acting in an individual capacity.

(b) No action shall be taken which will be contrary to the purposes or policies of the several organizations whose members are participating.

(c) There shall be no expense, now or hereafter, connected with membership on the committee, of which the Chicago conference constitutes the first meeting.

## WHO WILL ATTEND

(a) Representatives of the twenty-one organizations mentioned above.

(b) Representatives of their subsidiary organizations, legislative and public ownership committees. Approximately 400 have accepted service on the committee, and good attendance is indicated.

## PROGRAM

The program is being arranged by a committee who will report on the morning of the conference. It can be stated, however, that the agenda will include discussion of legislation and policies which, through increasing transportation costs, tend to raise freight rates to the shipper and impair the integrity of railroad securities; for example, such current matters as the railroad retirement act, the revision of railroad wage schedules, the six-hour day for railroad employees, the full crew bill, and the train limit bill. Authorities on these subjects, such as Mr. Samuel O. Dunn, publisher of "Railway Age", and Mr. H. A. Palmer, publisher of "Traffic World", will lead these discussions.

## IMPORTANT

In order that proper arrangements at the conference can be facilitated, please fill out and return the enclosed card even though you have replied to the association president who requested you to serve on the committee.



## EXHIBIT No. PC-282

[Copy of report from files of R. E. Smith—Western Railways' Committee on Public Relations]

## REPORT OF RESOLUTIONS COMMITTEE

Whereas: Acting in their individual, rather than their official capacities, officers of the National Industrial Traffic League, Associated Traffic Clubs, New England Traffic League, Southern Traffic League, Southwestern Industrial Traffic League, Railroad Security Owners Association, Railroad Owners Association and National Conference of Investors issued invitations to the presidents and committee chairmen of their own and subsidiary or affiliated organizations to a conference in Chicago, Illinois, on February 1, 1937, with the objectives

A. Of determining points of common and mutual interest of railroad shippers and of railroad investors.

B. Of considering the means by which cooperative action may and can be taken by these two general groups in regard to such matters of common and mutual interest, and

Whereas, in response to the invitations issued to them, approximately five hundred officers and committeemen of the previously-named organizations, residing in forty-three states, agreed to serve on a national conference committee created to further the pursuit of these objectives, and

Whereas a Resolutions Committee has been appointed to make appropriate recommendations in respect thereto, your committee recommends as follows:

1. That the points of common and mutual interest between railroad shippers and investors be declared to be "Policies and/or legislation relating to transportation costs, operation or regulation, which, if adopted, will have an important effect on rail rates charged to the shipping and traveling public or the integrity of rail securities held by the investing public.

2. That this Conference Committee of five hundred, hereafter referred to as Conference, be made permanent under a name to be chosen by the Coordinating Committee.

3. That the objectives of the Conference are defined as follows: To secure correlated action among railroad shippers and investors associations and the members thereof in respect to matters of common and mutual interest as defined in paragraph #1 hereof.

4. That the Conference shall have a Coordinating Committee of nine members, which shall be composed of members of the nine associations whose officers joined in the call for this conference, and which may be increased from time to time so as to embrace members from other organizations and geographical districts.

5. That the duties and powers of the Coordinating Committee shall be:

A. To elect its officers and those of the Conference, which may or may not be the same; and to fill vacancies on the Committee.

B. To invite other associations and individuals whose interests correspond with those defined in paragraph #1 hereof, to cooperate with this Conference and to otherwise increase its membership.

C. To inform all members of this Conference and the several shippers' and investors' associations regarding public policies and proposed legislation which may come within the "Points of common interest" as defined in paragraph #1.

D. To act as a clearing house in the collecting and dissemination of information among the several shippers' and investors' organizations which will lead to a mutual understanding of the action upon and plans concerning these matters of common interest by shippers' and investors' associations.

E. To promote the objectives of the Conference through the appointment of such general and sectional committees as may seem desirable.

F. Whenever two or more organizations authorize such expression, the Coordinating Committee shall have power to appear before any governmental body and express views as to any policy or matter of legislation, provided the names of all such concurring organizations are specifically stated in connection therewith.

G. In general, to further the aims of the Conference and secure correlated action among shippers and investors in such other manner as may seem desirable.

H. To provide a set of by-laws for the guidance of the Conference, its officers and committees.

I. The Coordinating Committee is empowered to secure corporate charter and otherwise perfect the organization of the Conference in such manner as it may

deem best to carry out the objectives of the Conference, provided, however, that it shall take no action in respect to any public policy or legislative matter except in compliance with a vote of the members of the Conference taken at a general meeting thereof or through a mail referendum.

For the immediate guidance of your Coordinating Committee, your Resolutions Committee presents for your consideration and recommends adoption of the following resolutions:

Be it resolved by the Conference that sound public policy in general dictates that no further arbitrary and expensive restrictions be placed upon the railroad industry; and, specifically, that this Conference formally express its disapproval of and its opposition to the enactment of proposed legislation designed to limit the length of trains, to specify the minimum number of employees in a train crew, and to establish upon the railroads a basic six-hour day at the present wage paid for eight hours work.

Be it resolved by the Conference that the present condition of the railway industry will not permit any substantial increase of operating expenses without a corresponding increase of rates; that any such increase of rates would retard the economic recovery of the country and impair the ability of the railways to meet competition; and that for these reasons this Conference formally express its disapproval of and its opposition to the announced program of railroad train and engine service employees to seek an increase of their present basic rates of pay.

The following Coordinating Committee was elected:

Philip A. Benson, Brooklyn, N. Y.  
 Ray Bohman, Gardner, Mass.  
 William H. Day, Boston, Mass.  
 F. A. Leffingwell, Dallas, Tex.  
 Arthur S. Pierce, Summit, N. J.  
 Robert E. Smith, New York, N. Y.  
 Homer S. Snow, St. Louis, Mo.  
 W. L. Thornton, Jr., Winston-Salem, N. C.  
 A. W. Vogtle, Birmingham, Ala.

EXHIBIT No. PC-283

[Copy of memorandum from files of R. E. Smith—Western Railways' Committee on Public Relations]

FEBRUARY 3, 1937.

[MEMORANDUM REGARDING LETTER OF R. V. FLETCHER, DATED AUGUST 10, 1934]

\* \* \* \* \*

This letter centers around an idea of mine to obtain a national list of railway stock-holders, to whom might be sent, from time to time, information regarding the railway situation and current railway problems. After discussing this matter with Judge Fletcher and with a number of other railway officials, the general viewpoint seemed to be that such activity would represent an unnecessary duplication of work being done independently by various independent organizations of railway security holders, and would also be, perhaps, somewhat too broad in scope, reaching many railway stock-holders whose holdings were not large enough to establish, on their part, any particular interest in the situation of the railroad industry. For these reasons this idea was dropped. \* \* \*

P. G. OTTERBACK,  
 Assistant to Chairman.

PGO:T

RAILROADS AND HOLDING COMPANIES

12661

EXHIBIT No. PC-284

[Copy of letter from the files of Robert E. Smith]

SIMMONS-BOARDMAN PUBLISHING Co.  
AMERICAN BUILDER PUBLISHING CORPORATION

FEBRUARY 6, 1937.

Mr. PHILIP A. BENSON,  
President, Railroad Security Owners Assn.,  
39 Broadway, New York, N. Y.

DEAR MR. BENSON: No mention of the meeting of the shippers and investors in Chicago last week, regarding proposed labor legislation affecting the railways, was made in the Railway Age of February 6, and I have about decided that no mention of it is desirable. However, regardless of that, I have issued instructions that in any case your name shall not be used as a member of the committee.

Yours very sincerely,

[Signed] SAMUEL O. DUNN.

EXHIBIT No. PC-285

[Copy of minutes from the files of Robert E. Smith]

APRIL 21ST MEETING OF THE COORDINATING COMMITTEE, NEW YORK CITY

SUGGESTED BY-LAWS

*Preamble*

On February 1, 1937, a conference of representatives of railroad shippers and investors organizations was held in Chicago, Illinois, and the following resolutions were adopted:

(here to follow the "REPORT OF RESOLUTIONS COMMITTEE")

In conformity therewith, the Coordinating Committee, at a meeting held April 21st, 1937, in New York City, adopted the following by-laws:

*Purpose*

1. The Conference of Railroad Shippers and Investors is a voluntary, non-profit organization composed of individuals acting in their individual capacities for the sole purpose of securing and disseminating information concerning matters of common and mutual interest to railroad shippers and investors. Neither the Conference as a whole, nor any committee nor member thereof shall, in the name of this conference, speak for any organization whose officers or members may be members of this conference, and no action, resolution nor statement of this conference shall be construed to in any wise commit any such organizations to such action, resolution or statement.

*Name*

2. The name of the conference shall be "RAILROAD SHIPPERS & INVESTORS CONFERENCE"; and hereafter in these by-laws shall be referred to as the "CONFERENCE".

*Officers*

3. The officers shall be: a Chairman, four Vice-Chairmen, and a Secretary-Treasurer, all of whom shall be elected by the Coordinating Committee, and they shall serve for one year and/or until their successors are elected and qualify.

*Duties of officers*

4. Chairman. The Chairman shall preside at all meetings of Conference and of the Coordinating Committee. He shall call meetings and generally direct and

make effective such policies and plans as shall be determined upon by the Conference or its Coordinating Committee.

**VICE CHAIRMEN.** In the absence of the Chairman, his duties may be performed by a Vice Chairman.

**SECRETARY-TREASURER.** The Secretary-Treasurer shall keep a record of all meetings, issue notices therefor to the members thereof; shall under the direction of the Chairman secure information concerning matters of "Common and Mutual Interest" as defined in sub-paragraph 1, of the resolutions adopted at the February 1st, 1937 Conference held at Chicago, together with information relating to any action or plans of any shippers or investors organizations which may have been taken or made in respect thereto; and from time to time shall transmit a summary of such information to the members of the Conference. He shall be custodian of any funds of the Conference, and shall disburse them in accordance with instruction from the Coordinating Committee and under the direction of the Chairman; and shall generally perform the usual functions of a Secretary-Treasurer.

5. At least fourteen days prior to each meeting of the Coordinating Committee, the Secretary shall forward to each member, by first class mail, a docket of all subjects to be acted upon.

6. Any member of the Coordinating Committee may be represented at the meeting by a substitute of his selection, and such substitute shall be entitled to vote and otherwise participate in the meeting as fully as the committeeman himself.

7. **MAIL QUESTIONNAIRE.** When an expression of opinion on any subject of "mutual and common interest" is secured from the members of the Conference through a mail questionnaire, it shall have the same force and effect as though taken at a general meeting of the Conference.

#### *State committees*

8. The members of the Conference resident within a state shall constitute a state committee whose duties shall be:

- (a) To elect a State Chairman, and such other officers as they may decide upon.
- (b) Generally to supervise the work of the Conference within the State.
- (c) To inform the shippers' and investors' organizations within such state, of matters falling within the definition of "common and mutual interest", whether of national, state or local character.

#### EXHIBIT No. PC-286

[Copy of letter from the files of Robert E. Smith]

MAY 3RD, 1937.

**Mr. EDWARD F. LACEY.**

*Executive Secretary, National Industrial Traffic League,*

*Munsey Building, Washington, D. C.*

**Mr. F. A. DOEBBER.**

*Secretary, Associated Traffic Clubs,*

*Majestic Building, Indianapolis, Ind.*

**GENTLEMEN:** In conformity with your request for a report of the April 21st meeting of the Coordinating Committee of the Railroad Shippers and Investors Conference held in New York, I am pleased to advise you as follows:

Secretary reported that the Conference now consists of 723 members who are officers or directors of 206 Shippers and Investors Associations. By-laws for the Conference were adopted and the following were elected officers of the Conference and Coordinating Committee:

President: W. H. Day, Boston, Mass., Chairman of the Executive Committee, National Industrial Traffic League.

Vice-President: Homer S. Snow, St. Louis, Mo., President of Associated Traffic Clubs.

Vice-President: Ray F. Bohman, Gardner, Mass., President of New England Traffic League.

Vice-President: A. W. Vogtle, Birmingham, Ala., General Chairman of South East Shippers Advisory Board.

Vice-President: F. A. Leffingwell, Sec'y-Treas. of Southwestern Industrial Traffic League.

Secretary-Treasurer: Robert E. Smith, New York, Chairman of National Conference of Investors.

The usual duties for officers were prescribed, it being the duty of the President to make effective the policies and plans determined upon by the Conference and its Coordinating Committee.

The Secretary is required to perform the conventional secretarial duties, and, in addition, is charged with the responsibility of keeping informed on matters of national legislation and policies which come within the definition of "Common and Mutual Interest", and, to ascertain what action has been taken or is contemplated by shippers and investors associations in respect thereto, and, at regular intervals, to inform the members of the Conference thereof.

The work of the Conference is to be made effective through State Committees composed of the members of the Conference resident within each state, which are charged with responsibility of securing action upon "matters of common and mutual interest" among associations and their members in their respective states. State Committees are autonomous, and will elect their own officers. Organization of these state committees is now in progress.

ROBERT E. SMITH, *Secretary*.

123 Liberty Street, New York, N. Y.

# IV. CHICAGO & NORTH WESTERN REORGANIZATION— SUPPLEMENTING MATERIAL IN HEARINGS, PART 25

EXHIBIT No. PC-287

[Copy of letter from the files of Robert E. Smith—National Conference of Investors]

SAMUEL H. CADY,  
Vice-President and General Counsel.

CHICAGO AND NORTH WESTERN RAILWAY SYSTEM  
CHICAGO AND NORTH WESTERN RAILWAY COMPANY  
CHICAGO, ST. PAUL, MINNEAPOLIS AND OMAHA RAILWAY COMPANY

CHICAGO, September 1, 1936.

MR. ROBERT E. SMITH,  
Chairman, National Conference of Investors,  
125 Liberty St., New York, N. Y.

MY DEAR MR. SMITH: Pursuant to your request over the telephone yesterday afternoon, I am herewith handing you list of some of our larger stockholders.

I have read with interest the letter of Mr. Nathan Adams, President of the First National Bank of Dallas, Texas. I do not feel that I am sufficiently familiar with southwestern railroad securities to make suggestions as to what he should put into his speech.

Yours very truly,

SAMUEL H. CADY,  
Vice President & General Counsel.

SHC:EO

EXHIBIT No. PC-288

[Copy of list from the files of Robert E. Smith—National Conference of Investors]

## Stockholders

Name and Address	Number of Shares	
	Common	Preferred
F. W. Vanderbilt, Grand Central Station, New York City	12000	10000
H. S. Vanderbilt, Grand Central Station, New York City	12000	8250
Rosamond Lancaster Vanderbilt, Grand Central Term, New York City	2500	4250
Louis A. Howard, Chamber of Commerce, Minneapolis, Minn.	3100	600
Will H. Vanderbilt, % United States Trust Co. of N. Y. 45 Wall St., New York City	1127	1860
Frederick T. Fisher, 17 Battery Place, New York City	2800	
Miss Emily L. Norrie, 71 Park Ave., New York City	2785	
Lucien Gallardo, % Cudahy Packing Co. 221 No. La Salle St. Chicago	2500	
Margaret C. Schiller, 914 Union Trust Bldg., Pittsburgh, Pa.	2510	
Helen Hooper Brown, % Philip Dexter, 10 State St. Boston, Mass.	2325	25
Maurice M. Fibk, 326 West Madison St., Chicago, Ills.	2300	
Mrs. Lena N. Wilson, 6536 3rd Ave., Kenosha, Wis.	2000	
Harry W. Harrison, % Fidelity Phila. Tr. Co. Broad & Chestnut Sts., Philadelphia, Pa.	1000	1000
Caroline B. Powers, % Fifth Ave Bank, 530 5th Ave. New York City	1182	800
James S. Watson, 11 Prince St., Rochester, N. Y.	1687	200
Mrs. Muriel Vanderbilt Church, Dudley Place, Newport, R. I.	1000	800
David F. Butcher, 124 New York Ave., Brooklyn, N. Y.	1700	
Camilla Steinbrugg, % Chase Nat'l. Bk., Madison Ave. & 45th St., New York City	1619	
B. E. Tilden, 112 So. Michigan Ave., Chicago, Ills.	1600	
Alfred G. Vanderbilt, 230 Park Ave. (Room 320) New York City	40	1653
Mrs. Eleanor W. Smith, 1050 Fisher Lane, Hubbard Woods, Ills.	1400	200
Clifford W. Barnes, 500 Sheridan Road, Lake Forest, Ills.	1500	
Frederick Espert, 218 North Canal St., Chicago, Ills.	1500	
John Day, 87 Chambers St., New York City	1400	
George Whiting, 1719 Elston Ave., Chicago, Ills.	1263	50
Hobart Ames, % Estate Oakes A. Ames, 106 Ames Bldg., Boston, Mass.	1250	

## EXHIBIT No. PC-289

[Copy of letter from files of Robert E. Smith—National Conference of Investors]

NOVEMBER 30, 1936.

EXECUTOR OF THE ESTATE OF EMILY L. NORRIE,  
*Care Foster & Thompson, 141 Broadway, New York City.*

DEAR SIR: These lines will confirm our conversation of today regarding a protective committee for the common stockholders of the Chicago Northwestern Railroad.

In October we wrote you and some 300 other of larger holders of that stock asking for an expression of opinion regarding the desirability of forming a stockholders protective committee. I enclose herewith statement of the status of the reorganization proceedings which accompanied the letter.

Responses to the letter indicated that the stockholders approved of the formation of such a committee. Substantial blocks of stock are held in Boston, Pittsburgh and Chicago and the larger holders in those cities are selecting the members of the committee which are to represent them.

I am calling on the larger holders in New York City asking their views and assistance in selecting the New York members. With the exception of Harold S. and Frederick K. Vanderbilt, who cannot serve on the committee as they are directors of the corporation, the stock held by the Norrie Estate and affiliated interests constitutes the second largest holding in New York. Consequently I feel that your interest warrants your placing some one on the committee.

As all of the bond issues are represented in these reorganization proceedings, it seems desirable that the common stock be also represented for the purpose of presenting argument to the Interstate Commerce Commission, in behalf of fair treatment for that class of security. Under the provisions of Section 77 of the Bankruptcy Act, under which these reorganizations are being conducted, a plan will be submitted by the Court to the holders of all classes of securities, who will vote on same by classes. It is important that there be a stockholders committee which can analyze the plan so submitted and give its recommendation to the stockholders.

As a hearing before the Interstate Commerce Commission has been set for January 19, it is important that the formation of the Committee be expedited and consequently I hope it will be possible for you to give this matter your early consideration.

Truly yours,

[ROBERT E. SMITH.]

RES/O

## EXHIBIT No. PC-290

[Copy of memorandum from the files of Robert E. Smith—National Conference of Investors]

MEMORANDUM TO HOLDERS OF 500 SHARES AND OVER, CHICAGO & NORTHWESTERN RY.  
CO. COMMON STOCK

## STATUS OF REORGANIZATION OF THE C. &amp; N. RY.

On June 28, 1935, the company filed a petition with the U. S. District Court at Chicago, under the provisions of Section 77 of the Bankruptcy Act.

Under the provisions of the Act, the Interstate Commerce Commission will submit a plan to the Court, and if it is approved by the Court it will be submitted to the security holders who will vote on it by classes of securities held. If the requisite percentage of each class approve, the plan becomes operative. However, the Court is empowered to declare the plan operative even though one or more classes of security holders fail to approve.

Hearings on a proposed plan commenced September 9, 1936 and adjourned September 12th till further notice.

The statute under which the reorganization is proceeding was enacted in 1933 and amended in 1935 and no important reorganizations have been completed under it. Consequently there are no precedents to indicate the character of plan which will be evolved or the treatment which will be accorded the several classes of securities. Accordingly it would seem important that each class have its own

representatives at the hearings before the I. C. C. while the formation of a plan is under consideration; and that when the Commission's plan is submitted to the Court their own representatives participate in the argument in respect thereto.

Thus far only bondholders have been specially represented in these proceedings. Interventions have been filed by the trustees of each of the bond issues and by certain groups of life insurance companies and banks. No interventions have been filed by preferred or common stockholders, and no committee has been formed for their protection.

In other reorganizations under this statute, proposals have been made to declare the preferred and common stock worthless, and to eliminate present equities from participating in the reorganized company. For this and other reasons it would seem important that the common stockholders be organized for cooperative action, either for or against the plan which may be submitted to the security holders by the Court for approval or rejection.

In our opinion, these objectives can best be achieved through a protective committee.

The officers of the company cannot take the initiative in forming protective committees for any class of security, as under the statute, they are placed in a neutral position in regard to the different classes of bonds and stocks. Accordingly, if a common stockholders protective committee is formed, the stockholders must take the initiative in forming it.

The statute and the Interstate Commerce Commission have prescribed regulations for the formation and conduct of protective committees, and the law provides that expenses of such committees, as well as those of intervenors, are repayable out of the general assets of the company to the degree they are approved by the I. C. C. and the Court.

If it is the desire of the larger stockholders to form a protective committee, we shall be pleased to advise you of these regulations and give you our own recommendations as to procedure.

NATIONAL CONFERENCE OF INVESTORS.

EXHIBIT No. PC-291

[Copy of letter from the files of Robert E. Smith—National Conference of Investors]

APRIL 3, 1937.

MR. WILLIAM CHURCH OSBORN,  
20 Exchange Place, New York, New York.

DEAR MR. OSBORN: You will recall some conversations we have had regarding a protective committee for the Chicago and North Western Railway. This is approaching completion, and I enclose a copy of a letter to Mr. D. B. Fulton, who is looking after Chicago representation on the Committee. This letter gives the present status of the committee.

Substantial amounts of this stock are held by colleges, as follows:

Harvard College (direct holdings)-----	1816 shares
University of Chicago-----	3000 shares
Wellesly College-----	524 shares
Union Trust Co. of Pittsburgh for Henry C. Frick Ed. Comm-----	5750 shares
Union Trust Co. of Pittsburgh for Princeton College-----	2010 shares
Union Trust Co. of Pittsburgh for Harvard College-----	570 shares
Union Trust Co. of Pittsburgh for Mass. Inst. of Tech.-----	670 shares

It would seem desirable that these educational institutions be represented on the committee. I am hopeful that you, yourself, will feel like serving, but if you still feel that you cannot give the time, may I not suggest that you canvass the situation among the several institutions, and suggest some one. I expect to return from Chicago on April 12th, and complete the committee shortly thereafter.

In order that the institutions other than Princeton may be advised of the situation, I am taking the liberty of sending them copies of this letter.

Truly yours,

[Signed] ROBERT E. SMITH.



## RAILROADS AND HOLDING COMPANIES

12667

EXHIBIT No. PC-292

[Copy of letter from the files of Robert E. Smith—National Conference of Investors]

[Stamped] National Conference of Investors. [Pencil initials:] O &amp; N W

APRIL 6, 1937.

Mr. FRANK WALTERS,  
132 South Bedford Drive, Beverly Hills, Calif.

DEAR MR. WALTERS: Some time ago we wrote you and other of the larger holders of Chicago & North Western Ry. Co. common stock regarding its reorganization proceedings and asked for stockholders views as to the desirability of forming a protective committee for the common shares.

Replies indicate that those addressed are practically unanimous in recommending that such a committee be formed.

The writer has discussed the personnel of the committee with some of the Chicago stockholders, and it has been suggested that you act as a member of the committee.

Your knowledge of the North Western situation especially qualifies you for service on the committee, and I am sure you will not find your duties burdensome.

The present personnel of the Committee is:

Nelson B. Williams of New York, formerly of Chicago. Owner of 2,000 shares of common. You will recall that Mrs. Williams is related to Mr. Keep, a former president of the road.

W. H. Dayton, in charge of railroad securities of Loddell & Co. Prior to this connection, Mr. Dayton was railroad editor of the Wall Street Journal.

William Byrd, of Harrison Elliott & Byrd, 63 Wall St., New York, one of the recognized financial legal firms of that city.

Baker Kleinfelter, of the New York Society for the prevention of Cruelty to Children, owner of 675 shares.

Harry W. Harrison, of Philadelphia, owner of 2000 common shares and 2000 shares of preferred.

Arthur T. Gault, attorney, Chicago, owner of 880 shares.

Clifford W. Barnes, Pasadena, Calif. owns 1500 shares. Mr. Barnes also resides in Chicago and will return in April.

As procedure under the provisions of Section 77 is somewhat new, I am enclosing copy of forms used in the Missouri Pacific reorganization which will indicate how these protective committees operate under the supervision of the Interstate Commerce Commission.

You will note that the expense of the Committee and its members are repayable out of the general assets of the corporation at termination of the proceedings. Consequently the voluntary contributions from stockholders are likewise payable to them. The counsel, secretary and technical advisor must wait till termination of proceedings for their compensation, which is fixed by the Commission and the Courts. Membership on the committee involves no financial obligation of any character other than advancing your own personal traveling expenses.

Committee meetings will be held every four or five months, probably alternating between Chicago and New York. The fact that you will be unable to attend the first meeting will in no way militate against serving on the Committee.

As you know, under the provisions of Section 77, the officers of the company must be neutral as between the various classes of securities. Consequently they feel they cannot take the initiative in the formation of protective committees. For that reason our association, an organization of junior railroad security holders, is forming the committee for the common stock.

For fear that you may feel that your connection with the company may disqualify you as a member of a protective committee, I have taken the liberty of discussing this point with one of the I. C. C. examiners in charge of this reorganization. He sees no obligation, in fact stated he could see no objection to a director of the railroad serving, so long as the letter to stockholders stated the connection.

I regret the necessity of trespassing on your attention at such length, but several of the stockholders are quite anxious that you serve, believing you particularly equipped. Therefore I deemed it desirable to go into these details.

As all classes of securities excepting equities are especially represented in these reorganization proceedings, I bespeak your favorable and early consideration in this matter. Please address your reply to our New York office.

Truly yours,

[ROBERT E. SMITH.]

EXHIBIT No. PC-293

[Copy of list from the files of Robert E. Smith—National Conference of Investors]

MEMBERS OF THE CHICAGO & NORTH WESTERN RAILWAY COMPANY STOCK HOLDERS PROTECTIVE COMMITTEE, AS OF APRIL 21, 1937

1. Mr. Clifford W. Barnes, of 999 South San Rafael Ave., Pasadena, Cal., also a resident of Chicago, Owns 1,500 shares.
2. Mr. William Byrd, of New York, of Harrison, Elliott & Byrd, 63 Wall Street; one of the recognized legal firms of the city. 200 shares.
3. Mr. R. A. Crawford, Chairman of the Valley Savings Bank, Des Moines, Iowa.
4. Mr. W. H. Dayton, % Lobbell & Co., 120 Broadway, New York, N. Y. He has charge of the Railroad Securities for Lobbell & Co. Formerly Railroad Editor of the Wall Street Journal.
5. Mr. Arthur A. Galt, of 69 West Washington St., Chicago, Ill. Attorney. Owns 880 shares.
6. Mr. Harry W. Harrison, of 1520 Locust St., Philadelphia, Pa. Retired. Owns 2,000 shares of Common and 2,000 shares of Preferred.
7. Mr. Arthur H. Kelly, President, Henry Kelly & Sons, Inc., 413-19 West 14th St., New York, N. Y.
8. Mr. H. S. Leyman, Chairman, First National Bank, Cincinnati, Ohio. He represents 800 shares.
9. Mr. Arlie W. Schorger, President, Burgess Cellulose Co., 1011 E. Washington St., Madison, Wis., Owns 1,000 shares of Common.
10. Mr. S. C. Steinhardt, of 76 Beaver Street, New York, N. Y. Counsellor-at-law. Trustee for 1,000 shares.
11. Mr. B. El. Tilden, of 2011 E. 76th Place, Los Angeles, Cal. Also of Chicago, Ill. Many years in the railroad supply business. Familiar with the C & N W Ry. In California at present, but returning shortly.
12. Mr. Nelson B. Williams, of 31 E. 77th St., New York, N. Y. Represents 2,000 shares. Related to Mr. Keep, former President of the road.

EXHIBIT No. PC-294

[Copy of list from the files of Robert E. Smith—National Conference of Investors]

	Shares
Ira G. Carothers, 47 So. Sixth St., Sharpsville, Pa.....	500
Children's Hospital of Pgh. c/o Fidelity Title & Trust Co., Pgh. Pa.....	
Robert S. Fraser, Arthur E. Braun, Wm. S. Linderman, A. W. Robertson, Managers of Buhl Foundation & Trustees under the will and codicils of Henry Buhl, Jr., Dec'd., residuary legattees Farmers Bank Building, Pgh. Pa.....	500
Ethel Shield Garrett & Union Trust Co. of Pgh.....	514
Homestead Hospital, Homestead, Pa.....	500
William H. Jackson, c/o Pittsburgh Des Moines Co., Neville Sta., Pgh., Pa.....	600
The Kingsley Association, c/o Fidelity Title & Trust Co., Pgh. Pa.....	574
Albert R. Laubenstein, c/o Laubenstein Mfg. Co., Ashland, Pa.....	500
Mercy Hospital, Pittsburgh, Pa.....	5,750
Merit Underwear Co., Shoemakersville, Pa.....	700
Grace M. Morton, 1350 Eriga Drive, Erie, Pa.....	1,000
George E. McFetridge, Tarentum, Pa.....	1,100
Harry A. Phillips, P. O. Box 1139, Pgh., Pa.....	800
Pgh. & Allegheny Home for the Friendless, 211 Fourth Ave., Pgh. Pa.....	574
Margaret C. Schiller, 914 Union Trust Building, Pgh. Pa.....	2,510
Frederick A. Stilburg, 550 Hazlett St., Pgh., Pa.....	550
Uniontown Hospital Ass'n.....	574
Union Trust Co. of Pgh.....	12,658
Western Pa. Hospital Assn., c/o Commonwealth Trust Co., Pittsburgh, Pa.	
Westmorland Hospital Assn. Greensburg, Pa.	

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