

STATE OF NEVADA

MINUTES OF MEETING

OF THE

State Board of Assessors

WITH THE

STATE REVENUE BOARD

Carson City, January 10 to 15, 1910



CARSON CITY, NEVADA
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Printed and Published by the State Board of Assessors, Carson, Nevada.

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FIRST DAY

CARSON CITY, NEVADA, January 10, 1910.

This being the second Monday in January and the day fixed by law for the annual meeting of the State Board of Assessors, the board assembled in the Governor's office, State Capitol, at 11 o'clock a. m., with Lieutenant and Acting Governor D. S. Dickerson, as Chairman, and James D. Finch, Secretary to the Governor, as Clerk, of the Board.

The State Board of Revenue also met with the State Board of Assessors.

Governor Dickerson—The Clerk will call the names of the members of the State Board of Revenue.

Upon roll-call the following answered present:

D. S. Dickerson, Chairman.
R. C. Stoddard.
J. Eggers.

Governor Dickerson—The Clerk will call the names of the members of the State Board of Assessors.

The following-named Assessors answered present:

C. W. Wightman.....	Churchill County
E. L. Wyatt.....	Douglas County
W. M. Weathers.....	Elko County
J. F. Bradley.....	Esmeralda County
H. C. McTerney.....	Eureka County
H. M. Leonard.....	Humboldt County
H. R. Lemaire.....	Lander County
John F. Roeder.....	Lincoln County
D. P. Randall.....	Lyon County
J. J. Owens.....	Nye County
Edward Regan.....	Ormsby County
R. B. Henrichs.....	Storey County
W. S. Beard.....	Washoe County
J. F. Miles.....	White Pine County
W. J. McBurney.....	Clark County

Mr. Beard—I move that a committee of five be appointed by the Chairman on order of business.

Motion seconded by Mr. Wightman, and unanimously adopted.

The Chairman appointed Messrs. McTerney, Owens, Randall, Henrichs, and Bradley as a Committee on Order of Business.

Mr. Lemaire—I move that the board take a recess until 2 p. m.

Mr. Roeder—I second the motion.

Motion carried unanimously, and board took a recess until 2 p. m.

Afternoon Session

The board resumed its session at 2 p. m., January 10, 1910.

Upon roll-call all members answered to their names, including the members of the State Board of Revenue.

Governor Dickerson—Is the Committee on Order of Business ready to report?

Mr. Owens—It is, Governor. This is the report.

Governor Dickerson—The Clerk will read the report of the committee.

The Clerk read the report of the Committee on Order of Business, as follows:

ORDER OF BUSINESS

1. Work Horses.
2. Saddle Horses.
3. Stock Horses.
4. Work Mules.
5. Stock Mules.
6. Beef Cattle.
7. Milch Cows.
8. Stock Cattle.
9. Thoroughbred Cattle.
10. Sheep.
11. Buck Sheep.
12. Persian Sheep.
13. Goats.
14. Hogs.
15. Telephone Lines.
16. Telegraph Lines.
17. Electric and Power Lines.
18. All Contract Lands.
19. Railroads, classified as follows:
 1. Central Pacific.
 2. Nevada and California—broad-gage.
 3. Tonopah and Goldfield Railroad.
 4. Nevada Northern Railroad.
 5. San Pedro, Los Angeles and Salt Lake Railroad.
 6. Virginia and Truckee Railroad.
 7. Hazen and Fallon Railroad.
 8. Tonopah and Tidewater and Bullfrog and Goldfield Railroad.
 9. Las Vegas and Tonopah Railroad.
 10. Gardnerville Railroad.
 11. Nevada, California and Oregon Railroad.
 12. Nevada and California Railroad—narrow-gage.
 13. Eureka and Palisade Railroad.
 14. Nevada Central Railroad.
 15. Silver Peak Railroad.
 16. Caliente and Pioche Railroad.
 17. Atchison, Topeka and Santa Fé Railroad.
 18. Glasgow and Western Exploration Company Railroad.
 19. Pioche and Pacific Transportation Railroad.
 20. Western Pacific Railroad.
 21. Miscellaneous railroads.
 22. Sidetracks of all.
 23. Rolling stock of all.
 24. Bullfrog and Goldfield Railroad (afterwards transferred from above).

H. C. McTERNEY, *Chairman*,
 J. J. OWENS, *Secretary*,
 D. P. RANDALL,
 R. B. HENRICHS,
 J. F. BRADLEY.

Governor Dickerson—Gentlemen, you have heard the report of the Committee; what is your pleasure?

Mr. Lemaire—Mr. Chairman, I move that the order of business submitted be adopted as read.

Mr. Wightman—I second the motion.

Motion carried.

Mr. Miles—Mr. Chairman, I think this order of business might be amended by placing on the list miscellaneous items of property which are not mentioned.

Governor Dickerson—Do you make that as a motion, Mr. Miles?

Mr. Miles—Yes.

Mr. Owens—I second the motion,

Governor Dickerson—It is moved and seconded that miscellaneous properties be placed on the order of business.

Motion carried.

Mr. Miles—Mr. Chairman, there are many kinds of property in the State not mentioned in the list. We might see proper to act upon these particular items of property and I think it is proper to have them on the list.

Governor Dickerson—Under that rule, Mr. Miles, you would have an opportunity to present any property you saw fit.

Mr. Randall—Can we do it at any time?

Governor Dickerson—It is an order now of the board.

Mr. Randall—Mr. Chairman, under that order I have about seven miles of railroad between Wabuska and Yerington. It is not completed and I would not like to see it put on because I cannot suggest the valuation to put on it. Part of it is old ties, and part new, and for that reason it is not on there. I was a member of the Committee on Order of Business.

Governor Dickerson—Mr. Randall, that can be brought up before the board.

Mr. Owens—Mr. Chairman, with your kind permission, the miscellaneous railroads would cover that matter with a vote to leave it to the various Assessors.

Mr. Miles—Mr. Chairman, the item "Miscellaneous Railroads" would not cover what I have reference to.

Governor Dickerson—I understand that, Mr. Miles. There is nothing before the house at the present time. What is the pleasure of the board?

Mr. Owens—Mr. Chairman, I move that we proceed to the regular order of business as read by the Clerk.

Mr. Bradley—I second the motion.

Motion carried.

Work Horses, Etc.

Governor Dickerson—No. 1, work horses.

Mr. Beard—I move that they be left to the different Assessors of the various counties.

Mr. Lemaire—I suggest that we take the first five in the order of business, which would include work horses, saddle horses, stock horses, work mules and stock mules. I move that as an amendment.

Mr. Beard—I accept the amendment.

Mr. Randall—I second the motion as amended.

Governor Dickerson—The Clerk will call the roll.

The Clerk called the roll.

The result of the vote was announced by the Chairman as follows: Ayes, 15; noes, none.

Motion carried unanimously.

Beef Cattle

Governor Dickerson—No. 6, beef cattle. I will state that the order of business is practically the same as last year.

Mr. Leonard—I move that the valuation be the same as last year, \$25 per head.

Mr. Lemaire—I second the motion.

Governor Dickerson—The Clerk will call the roll.

The Clerk called the roll.

The result of the vote was announced as follows: Ayes, 15; noes, none.

Motion carried unanimously.

Milch Cows

Governor Dickerson—No. 7, milch cows.

Mr. Wyatt—I move that a valuation of \$25 per head be placed upon milch cows.

Mr. Henrichs—I second the motion.

Governor Dickerson—The Clerk will call the roll.

The Clerk called the roll.

The result of the vote was announced as follows: Ayes, 15; noes none.

Motion carried unanimously.

Stock Cattle

Governor Dickerson—No. 8, stock cattle.

Mr. Owens—I move that stock cattle be assessed at \$15 per head, with the exception of stock cattle in the Counties of Nye, Esmeralda, Lincoln, White Pine, and in those counties that the valuation be placed at \$13 per head.

Mr. Randall—I would like to ask Mr. Owens why he cut out the little County of Lyon. Last year they were only assessed at \$13 per head. If you will give me any reason I will agree.

Mr. Owens—Mr. Chairman, I will also include that famous County of Lyon among the counties stated by me.

Mr. McBurney—I would like to offer an amendment to the motion by adding Clark County.

Governor Dickerson—The motion has not been seconded. Will you accept that amendment?

Mr. Roeder—I second the motion.

Mr. Owens—Yes, I accept the amendment.

Governor Dickerson—The Clerk will call the roll.

The Clerk called the roll.

The result of the vote was announced as follows: Ayes, 15; noes, none.

Motion carried unanimously.

Thoroughbred Cattle

Governor Dickerson—No. 9, thoroughbred cattle.

Mr. Lemaire—Mr. Chairman, I move that No. 9 be left to the various Assessors.

Mr. Leonard—I second the motion.

Governor Dickerson—The Clerk will call the roll.

The Clerk called the roll.

The result of the vote was announced as follows: Ayes, 15; noes, none.

Motion carried unanimously.

Stock Sheep

Governor Dickerson—No. 10, stock sheep.

Mr. Weathers—I move that a valuation of \$3 per head be placed upon stock sheep.

Mr. Randall—I second the motion.

Governor Dickerson—The Clerk will call the roll.

The Clerk called the roll.

The result of the vote was announced as follows: Ayes, 15; noes, none.

Motion carried unanimously.

Buck Sheep

Governor Dickerson—No. 11, buck sheep.

Mr. Lemaire—I move that a valuation of \$5 per head be placed upon buck sheep.

Mr. Wightman—I second the motion.

Governor Dickerson—The Clerk will call the roll.

The Clerk called the roll.

The result of the vote was announced as follows: Ayes, 15; noes, none.

Motion carried unanimously.

Persian Sheep

Governor Dickerson—No. 12, Persian sheep.

Mr. Lemaire—I believe I am the only one that has Persian sheep, and as there are only a few there, if I had had time I would have had that stricken from the order of business, but being that it is on I will make

a motion that a valuation of \$5 per head be placed upon Persian sheep.

Mr. Randall—I second the motion.

Governor Dickerson—The Clerk will call the roll.

The result of the roll-call was announced as follows: Ayes, 15; noes none.

Motion carried unanimously.

Goats

Governor Dickerson—No. 13, goats.

Mr. Owens—Mr. Chairman, I move that a valuation of \$5 per head be placed upon goats.

Mr. Roeder—I second the motion.

Governor Dickerson—The Clerk will call the roll.

The Clerk called the roll.

The result of the vote was announced as follows: Ayes, 15; noes, none.

Motion carried unanimously.

Hogs

Governor Dickerson—No. 14, hogs.

Mr. Beard—I move that a valuation of \$5 per head be placed on hogs.

Mr. Bradley—I second the motion.

Mr. Randall—What kind of hogs do you mean?

Mr. Beard—Full grown.

Mr. Randall—They are of various sizes.

Mr. Beard—I call three shoat one hog.

Mr. Randall—I would like to amend that motion by taking from No. 14 to 18, both inclusive, and leave them to the various Assessors.

Mr. Lemaire—Did Mr. Randall make that as an amendment to the motion?

Mr. Randall—Yes.

Mr. Lemaire—I second the amendment.

Governor Dickerson—The Attorney-General suggests that there is a possibility that it might invalidate this assessment unless you fix a valuation on all properties listed, and under that advice the Chair will rule that the motion to include these different items is out of order. I will ask the Attorney-General to read the section of the law.

Attorney-General Stoddard—In section one of the Act of 1903 as amended it is provided that the Assessors shall meet for a period not exceeding ten days, and shall at such meeting establish a valuation throughout the State on all railroads, rolling stock, sheep and cattle, and such other property which in the judgment of such Assessors can be valued and assessed more uniformly by said Assessors acting collectively than by the several County Assessors acting separately. I am of the opinion, as I have heretofore expressed at previous meetings of this board, that those certain designated, etc., that property mentioned in the Act shall be considered by this board, and that it is mandatory that

this board shall fix some valuation upon the property designated and upon all other kinds of property which in the judgment of said Assessors can be valued and assessed more uniformly by said Assessors acting collectively than by the several County Assessors. In other words, it is discretionary with this board whether or not they shall fix a valuation on any other kind of property, and viewing it that way I believe that this board should act upon those matters which the statute mentions and use their discretion with reference to any other property which in their judgment they think should or could be assessed more uniformly or to better advantage than by leaving it to the various Assessors.

Mr. Randall—I have got fourteen hogs in the pen over there, and how are these fellows going to place a valuation upon those hogs without seeing them. If they can stay here and do it they must be mind-readers.

Governor Dickerson—Just one minute, Mr. Randall; this is not included in the list of subjects that require specific action by this board, but you have included in your motion telephone lines, telegraph lines and power lines which are specifically mentioned in the Act and which the Attorney-General holds should be acted upon by this board as a body and not as individual Assessors. You have the right to move as an amendment that this one particular item of hogs be left to the different Assessors.

Mr. Randall—I withdraw my motion and move that No. 14 be left to the various Assessors.

Mr. Wightman—I second the motion.

Governor Dickerson—The Clerk will call the roll.

The Clerk called the roll.

The result of the vote was announced as follows: Ayes, 15; noes, none.

Motion carried unanimously.

Telephone Lines

Governor Dickerson—No. 15, telephone lines.

Mr. Randall—There is a proposition that we all differ on, and I move now that we adjourn until tomorrow morning at 11 o'clock. There is a difference among the Assessors as to the wires, etc., and I think we can get through quicker by adjourning.

Mr. Regan—I second the motion.

Motion carried by a *viva voce* vote.

At 3 p. m. the board adjourned until 11 a. m., January 11, 1910.

SECOND DAY

The board resumed its session at 11 a. m., January 11, 1910.

Upon roll-call all members of the Board of Revenue and Board of Assessors answered present.

Telephone Lines

Governor Dickerson—No. 15, telephone lines.

Mr. Owens—Mr. Chairman and Mr. Attorney-General, the condition the Assessors are placed in is a very bad one. If we levy an assessment on the telephone lines, telegraph lines and contract lands as it is today, we are liable to do the counties which we represent an injustice and we are liable to do the concerns an injustice likewise, because, unless we are thoroughly familiar with what has been our past assessments in the county, we cannot levy those assessments. I have telegraphed to my county, but have received some measly data, and unless I can get at the tax I could not, in justice, levy that assessment. If we have done wrong, we can do no further wrong any more than we have in the past, and I move that the assessment be left to the various Assessors with the understanding that the next time they appear in Carson City, at the next board meeting, that they have all the data and everything required to make the different classifications on telephone and telegraph lines.

Mr. Randall—I second the motion.

Governor Dickerson—Under the advice of the Attorney-General, the Chair will rule the motion out of order. All classes of property specifically mentioned in this Act should be valued by this board.

Attorney-General Stoddard—Contract lands are not mentioned in the Act, Mr. Owens. Simply telegraph and telephone lines, electric-light and power lines, and all cattle and sheep. Whether or not any action of the board in not fixing a valuation during the past sessions of this board has ever been questioned, I called the attention of the board last year, page 15 of the minutes, to the fact that the statute was mandatory so far as the property enumerated in section one of the Act was concerned, that as to all other property it was entirely discretionary with the board. There is a penalty in this Act as to any officer who does not attend and the very object of the Act itself could be defeated if this board could in its discretion decline to fix a valuation upon the property enumerated in section one. They could meet here, call the roll, adjourn, and the object intended by the Act would be entirely destroyed, so under that Act I am of the opinion that some valuation must be fixed upon the property enumerated in section one, and how the Assessors are to arrive at that, or the manner in which it is to be classified, is a matter entirely for the board to consider.

Governor Dickerson—I would suggest, Mr. Owens, that you could overcome that difficulty by having four or five or more classifications of telephones, placing a valuation on each different class.

Mr. Owens—In order to set myself straight before this board I wish to state this, that I would just as soon that this board levy these assessments. It would be easy for us. But it is a complicated matter for us to put in the classifications. In my county we have nine or ten different telephone lines, and there is not one that will be assessed the same as another line. It is the same with rolling stock. We have an inferior grade of rolling stock. We are an undeveloped country. I am talking for Nye County and am here to do the best I can for it.

There is one point here in section one that I would like to have the Attorney-General explain to me: "The County Assessors of the several counties of this State shall meet, etc., and upon all other kinds of property which in the judgment of such Assessors can be valued and assessed more uniformly, etc." What I would call your attention to there, Mr. Attorney-General, is the fact that it says "in the judgment of said Assessors."

Attorney-General Stoddard—That relates to all other kinds of property not specifically enumerated in this section. That is entirely discretionary with the board. If it were made discretionary for the board to place a valuation upon all property, there would be a serious doubt as to what the section meant, but the adding of the conjunction "and"—"and upon all other kinds of property," etc.—that is a distinct and independent phrasing in itself, and is to be read only as additional to the preceding part of the sentence.

Mr. Miles—Mr. Chairman, I am of the opinion of Mr. Owens. While I am not an authority on this matter, I cannot see any distinction as to whether it shall be railroad, telegraph lines, cattle, sheep or horses, or all other kinds of property. It is in my opinion intended that this matter shall be considered by this Board of Assessors, and where the valuations cannot be fixed uniformly by the vote of this board it should be left to the Assessors. Now I believe that under the conditions this should be left to the various Assessors. In my county there are power lines that widely differ. Some are very valuable, others are inferior. In other parts of the State there are power lines which are inferior and some are very valuable, and I do not see how this Board of Assessors can uniformly assess these power lines, and the same rule will apply to telegraph lines and telephone lines, and I believe that the Attorney-General might be mistaken while I do not claim to be an authority, and I think the matter should be looked into, and we should not be forced to cast a vote fixing those valuations unless we see it is justice.

Governor Dickerson—Mr. Miles, suppose you have ten classifications: Class 1, \$1,000 a mile; class 2, \$800 a mile; class 4, etc., and so on

down the list? This board could leave it optional with the Assessor as to what class to place his lines. You could do justice to your county by that method.

Mr. Miles—Mr. Chairman, in my county, as well as other counties, the property which is not valued at this meeting will be valued by the Assessor. The members of our Board of Equalization are acquainted with all properties in that county. They have the right at their meetings to make proper adjustments and assess that property in comparison with other property, whether it be high or low, and under those circumstances it would be much better to leave that matter to the different Assessors to decide and to the Boards of Equalization after the assessments by the Assessor.

Mr. Bradley—Mr. Chairman, I would say that I am wholly unprepared to place any valuation whatever upon power lines, telegraph lines and telephone lines in Esmeralda County. During the assessing last year that was done by a deputy. I was consulted, however, at the time, but the matter became a matter of record and I did not touch any valuations. I did not come here prepared. This is the fourth time I have had the pleasure of meeting with this board, and heretofore it has always been left to the various Assessors of the different counties. I do not think it has ever been done by the board before.

Governor Dickerson—There is a possibility that, as the Attorney-General has called your attention to it, you will invalidate your action by not placing a valuation on these properties.

Mr. Henrichs—Mr. Chairman, would it not be better to let the matter go over for a while? I am not prepared at this time to make a valuation. I would not want to pass on that question at this time. I think we should have further time.

Governor Dickerson—You could classify them, Mr. Henrichs. You could cover all cases with your classification.

Mr. Owens—Mr. Chairman, I would like to ask the Attorney-General a question as regards the invalidation of this assessment. Is it not a fact that after the assessment was levied on the railroads here, on the Tonopah and Goldfield Railroad, that Esmeralda County raised that assessment and the Supreme Court upheld that assessment?

Attorney-General Stoddard—The decision in the 29th Nevada upon the question of the power of the County Board of Equalization to raise an assessment after the Board of Assessors had already assessed the property came up before the Supreme Court in the case of State against the Carson and Colorado Railroad, where the road was broad-gaged after the assessment had been levied as a narrow-gage. The Supreme Court held that the County Board of Equalization has the power to raise the valuation upon any property which changes in character of form since the assessment was levied, notwithstanding the limitation placed in sec-

tion one of the Act of 1903. That was what they decided in that case, although the constitutionality of the Act was raised and several matters of technical pleading. I have the decision before me, and that matter is fully covered.

Mr. Owens—The point I want to know is, Was there anything in the statutes before the decision empowering the board to do it?

Attorney-General Stoddard—On the contrary, the Act of 1903 provides "that nothing herein shall be so construed as to impair the right of the Board of Equalization of any county to equalize taxes on all property, the valuation of which has not been fixed at the annual meeting of the County Assessors as provided in this section; but the said County Board of Equalization shall not have the power to equalize any property on which a valuation has been fixed by the said Board of County Assessors."

Mr. Owens—Did they not raise the assessment fixed by the State Board when they levied on one part of that property?

Attorney-General Stoddard—They simply increased the valuation of the road by reason of the fact that the road had increased in value prior to the time the Board of Equalization met and they added the increased valuation on the road notwithstanding this limitation in this section which the Supreme Court said did not conflict.

Mr. Owens—Don't you think that if this proposition were left over to the Assessor and it should go to the court—don't you think that if this board tried to do what it could for the counties—don't you think that any court of justice would uphold them in the action?

Attorney-General Stoddard—Sheriff, as a matter of law the Legislature is the sole judge of the policy and wisdom and expediency and justness of a law, and the courts will not interfere where a statute is not contrary to any constitutional provision. Whether or not this is practical or impracticable, we cannot say. But I am not prepared to say that if this board should pass this matter that the assessment would be invalid, or that the assessment by the County Assessor would be invalid, because the Board of Equalization may correct that evil, but, in the event of no action by the Board of Equalization or the question whether any taxes could be collected, I think it would be a serious question whether any taxes could be collected under this section of the Act.

Mr. Bradley—Is it not a fact, Mr. Stoddard, that this board is acting upon it when they pass it up to the Assessors of the various counties?

Attorney-General Stoddard—Then what does the Act mean when it says that you "shall establish a valuation throughout the State," etc.? There is no discretion as to that, except as to the valuation.

Mr. Bradley—They are uniformly doing so.

Attorney-General Stoddard—Then what is the object of this Act in providing for this board if the board has the power to refuse to act upon

any of the matters enumerated in section one? What is the object of having the Board of Assessors? The law provides the means. I realize the difficulty at this time, but I called the attention of the board to the matter at the meeting last year, but it was not heeded, and I want it to go into the record.

Mr. Owens—If you enforce that law you are going to create an injustice to the Assessors because we have got to have more time in order to do justice to the counties which we represent. I came here without collar or chain about me and I cannot do justice if we start in to do business as you have outlined. My hands are tied.

Mr. Lemaire—Mr. Chairman, if we attempt to classify the different lines, in our county, also in Elko and Humboldt, we have some telephone lines there the poles of which are made out of cottonwood. We have also some lines along the fences. Now, what is your idea, in what class, how would you classify telephone lines of that kind?

Governor Dickerson—You could make the classification so low that even the wire could be assessed; the cost of the wire would represent the cost per mile of the telephone line. The board is given plenty of latitude if it desires to do that, and it is within the discretion of each Assessor to place the lines in his county in the classification which in his judgment is a proper classification.

Mr. Beard—Mr. Chairman, there is one place I know of they use a barb wire on the fence as a telephone. Now we assess the fence under a double improvement, and would you give them an assessment on the telephone wire?

Governor Dickerson—I don't think you will find many wire-fence telephone lines in this State. The Assessor can overlook the wire fence. The Chair has already ruled on this question. It is optional with the board. The board can take an appeal from the decision of the Chair.

Mr. Bradley—I move, Mr. Chairman, that an appeal be taken from the decision of the Chair.

Mr. McTerney—I second the motion.

Governor Dickerson—The question is, Shall the decision of the Chair stand as the judgment of this board? The Chair has ruled that, telephone lines being mentioned specifically in the statute, it is not discretionary with this board, and the Chair cannot entertain a proposition to leave it to the various Assessors. Are you ready for the question? The Clerk will call the roll.

Mr. Bradley—Do you mean telephone lines alone?

Governor Dickerson—That is the question that is before the board now. They will come right along. The Chair will rule the same on each one mentioned in the Act.

Mr. Henrichs—Mr. Chairman, could that not be avoided by appoint-

ing a committee to draw up these various classifications. I think without a doubt I can get information regarding my lines up there and it will go according to what our lines cost, provided the other members are satisfied. I think we have three of the largest lines that go through the State. I think we had better go safely on this matter before we go any further. I would like to see a committee appointed to classify these lines.

Mr. Miles—Mr. Chairman, I believe the members of this board should have time to consider this matter. It is an important question. We should consult on it, even before it goes to a vote.

Governor Dickerson—It is merely an appeal from the decision of the Chair.

Mr. Henrichs—I move for a recess for fifteen minutes.

Mr. Randall—I second the motion.

Motion carried upon a *viva voce* vote.

At 11:30 a. m. the board took a recess for fifteen minutes.

At 11:50 a. m. the board resumed its session after recess.

Upon roll-call all answered present.

Governor Dickerson—What is the pleasure of the board? There is a motion pending. The question is, Shall the decision of the Chair stand as the judgment of this board? The Clerk will call the roll.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt of Douglas, Randall of Lyon, Regan of Ormsby, and Henrichs of Storey.

NOES—Messrs. Wightman of Churchill, Weathers of Elko, Bradley of Esmeralda, McTerney of Eureka, Leonard of Humboldt, Lemaire of Lander, Roeder of Lincoln, Owens of Nye, Beard of Washoe, Miles of White Pine, and McBurney of Clark.

The result of the vote was announced as follows: Ayes, 4; noes, 11.

So the appeal from the decision of the Chair was sustained.

Governor Dickerson—What is the pleasure of the board?

Mr. Bradley—Mr. Chairman, I move that the telephone lines in the several counties in this State be left to the several Assessors of the different counties to assess.

Mr. Weathers—I second the motion.

Governor Dickerson—The Clerk will call the roll.

The Clerk called the roll, as follows:

AYES—Messrs. Wightman of Churchill, Weathers of Elko, Bradley of Esmeralda, McTerney of Eureka, Leonard of Humboldt, Lemaire of Lander, Roeder of Lincoln, Owens of Nye, Beard of Washoe, Miles of White Pine, and McBurney of Clark.

NOES—Messrs. Wyatt of Douglas, Randall of Lyon, Regan of Ormsby, and Henrichs of Storey.

The result was announced as follows: Ayes, 11; noes, 4.

Motion carried.

Telegraph Lines

Governor Dickerson—No. 16, telegraph lines.

Mr. Lemaire—I move that telegraph lines be left to the various Assessors of the State.

Governor Dickerson—For the same reasons as before stated with reference to telephone lines, I declare the motion out of order.

Mr. Bradley—Mr. Chairman, I move we take a recess until 2 o'clock.

Mr. Weathers—I second the motion.

Motion carried and recess taken until 2 p. m.

Afternoon Session

The board resumed its session at 2 p. m. after recess.

Upon roll-call all answered present, including the Board of Revenue.

Governor Dickerson—No. 16, telegraph lines.

Mr. Bradley—Mr. Chairman, I believe there was a motion made that it be left to the various Assessors, which was overruled by the Chair.

Mr. Lemaire—Mr. Chairman, I move to appeal from the decision of the Chair.

Mr. McTerney—I second the motion.

Governor Dickerson—The Chair desires to state, in support of his action, that the statute requires that a valuation be placed upon all the property specified in the Act; that failure to place a valuation might invalidate the assessment made by the various Assessors. Personally I have no interest in the matter whatever. Personally I would just as soon see the individual Assessors make the assessment as this board fix the valuation, but, under the advice of the Attorney-General, who is the legal adviser of the Governor and also of this board, I do not feel that I can afford to disregard that advice, and I do not feel that this board should disregard that advice. The question is now, Shall the decision of the Chair stand as the judgment of this board? Is there any discussion? I would like to call Judge Bartine, if he is present. Judge Bartine, what is your official position?

Judge H. F. Bartine—I am chairman of the Railroad Commission of this State.

Governor Dickerson—You are also an attorney at law?

Judge Bartine—Have been for something like thirty years.

Governor Dickerson—As chairman of the commission and acting as chairman of that commission and in conjunction with the Attorney-General, you have given considerable attention to these matters, have you not?

Judge Bartine—Certainly; that is part of my duty.

Governor Dickerson—I would like to have you make a statement to this board as to what would be your judgment as to leaving the valuation to the various Assessors?

Judge Bartine—Well, so far as the provisions of that first section are concerned, specifically naming the things which shall be valued by this board, I regard that section and the provisions of that section as mandatory. If they fail to fix the valuation of any of the property therein mentioned, there is another provision of the statute which provides that either the local Assessors or the Boards of Equalization may assess that property, but that, in my judgment, is merely to safeguard the public. It is intended to prevent the loss of revenue to the State in the event of this board not fixing all valuations which are prescribed. It is exactly the same in principle as the general rule which is prescribed by the law of assessments in general. There is a provision that if there is any property which is not assessed by an Assessor the Board of Equalization may place that property upon the assessment roll, but that does not exempt the Assessor from assessing all the property he can find, and if he voluntarily, or in any other way, fails to assess property which he ought to assess, he is officially liable for the dereliction. I do not think that the omission would make an assessment by the local authorities within the respective counties invalid in itself, because the interests of the public would have to be regarded, but I think the provision is clearly mandatory and that it is the duty of the board to assess all of the specific things which are named in that section. Now, is there anything further you would like to have me say?

Governor Dickerson—I think that is all, unless some member of the board desires to ask a question.

Mr. Miles—Mr. Chairman, I would like to ask the Attorney-General if it would or would not invalidate this assessment if we failed to place a valuation on telephone lines?

Attorney-General Stoddard—As I have heretofore stated, and as Judge Bartine has stated, the law of assessment does not depend entirely upon this Act and if any property was omitted that was required to be valued for assessment purposes by this board at this time, the Board of Equalization of the county and the County Assessor have ample authority, I believe, under the statutes to fix a valuation, but in not fixing the valuation upon the property mentioned in this section, which is the controlling section of the Act, the Act is being, in my opinion, violated and so far as the purpose of the Act is concerned, it is nullified, because if you could avoid or refuse or decline, or neglect to fix a valuation upon the property mentioned in the Act in one instance, you can in another. If you can omit telephones, you can omit railroads and the purpose of the Act is nullified and under its provisions I believe that it is the mandatory duty of this board to fix a valuation upon the property mentioned in section one.

Mr. Miles—Now, it is my understanding that the Attorney-General stated that it might invalidate the assessment. Now, what I am trying

to get at directly is whether it will, whether it is your opinion that it will or will not invalidate it.

Attorney-General Stoddard—No, I said it would perhaps raise a question as to the method pursued by the Assessor if this board neglected. Perhaps it would leave the way open for a tax suit or law suit or several of them. As Judge Bartine has stated, the Board of Assessors in neglecting to fix a valuation on that property certainly could not deprive the people of the State of Nevada of the revenue under the general assessment laws that it is entitled to. But as to the validation of the assessment, I said that there would perhaps be some doubt as to it and it could be questioned and lead to numerous, and maybe one, at least, tax suits, to test the question, but I don't think there could be any question about the statement made by Judge Bartine and the one that I made before, that the Assessors and the Board of Equalization could remedy the matter if this board neglected to fix the valuation, but this board is not doing its duty in neglecting or failing, or refusing to fix the valuation.

Governor Dickerson—The question before the board is—

Mr. Miles—Mr. Chairman, I would like to hear the motion.

Governor Dickerson—A motion was made that the matter of fixing valuations on telegraph lines be left to the various Assessors. The Chair ruled that the motion was out of order, that the law requires this board to fix valuations on telegraph lines and the motion to leave it to the various Assessors is out of order and cannot be entertained by this board. From that ruling an appeal has been taken. The question now is, Shall the decision of the Chair stand as the judgment of this board? All voting aye will sustain the Chair; all voting no will vote to overrule the decision of the Chair. As many as are in favor of this motion will, when their names are called, answer aye; those opposed, no. The Clerk will call the roll.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt of Douglas, Randall of Lyon, Regan of Ormsby, and Henrichs of Storey.

NOES—Messrs. Wightman of Churchill, Weathers of Elko, Bradley of Esmeralda, McTerney of Eureka, Leonard of Humboldt, Lemaire of Lander, Roeder of Lincoln, Owens of Nye, Beard of Washoe, Miles of White Pine, and McBurney of Clark.

The result of the vote was announced as follows: Ayes, 4; noes, 11.

Governor Dickerson—The decision of the Chair has been overruled by this board. What is the pleasure of the board?

Mr. Weathers—Mr. Chairman, I move that the item of assessing the values on telegraph lines be left to the various Assessors of the State.

Mr. Wightman—I second the motion.

Governor Dickerson—The Clerk will call the roll.

The Clerk called the roll as follows:

AYES—Messrs. Wightman of Churchill, Weathers of Elko, Bradley of Esme-

ralda, McTerney of Eureka, Leonard of Humboldt, Lemaire of Lander, Roeder of Lincoln, Owens of Nye, Beard of Washoe, Miles of White Pine, and McBurney of Clark.

NOES—Messrs. Wyatt of Douglas, Randall of Lyon, Regan of Ormsby, and Henrichs of Storey.

The result of the vote was announced as follows: Ayes, 11; noes, 4.
Motion carried.

Electric and Power Lines

Governor Dickerson—No. 17, electric and power lines.

Mr. Henrichs—Mr. Chairman, that also includes telegraph and telephone lines. We assess a certain percentage of the gross proceeds or earnings. I would like to hear from somebody as to the way they do in other States.

Governor Dickerson—Would you like some information on that subject?

Mr. Henrichs—Yes, sir.

Governor Dickerson—Without objection the Chair will call on Professor Thurtell.

Prof. Thurtell—Mr. Chairman, I assume that the board refers to the method of taxing gross receipts of the company, and, to make that plain, it might be better illustrated by a concrete case like this: Suppose that a company is operating with a certain mileage of railroad or telegraph or telephone, or whatever it may be. Suppose it were a telegraph line and that the gross receipts of that line amounted to \$400 per mile. Then, say that the tax will amount to \$16 per mile or 4 per cent. Now, in order to do that in this State and in California and in other States where the statutory requirement is that the assessment shall be upon an ad valorem basis it is necessary to assign to that property a value per mile which will bring that \$16 per mile. Now, then, in this State, through the year 1908, the average tax rate was 1.935, almost 2 per cent, and last year, 1909, a little less than that, about 1.9 per cent. Assuming that the tax rate was 2 per cent and you were desiring to tax a line upon an ad valorem basis in such a way that the taxes would amount to \$16 per mile, it would be necessary then to assign to that road a value of \$800 per mile. Two per cent of that would be the \$16. If a railroad or a telegraph line or telephone line, or any other property earned an income of \$1,000 per mile, the assessment in California would be upon the basis that they wanted to receive in taxes from that line an amount equal to \$40 per mile, 4 per cent of a thousand, and if the tax rate were 2 per cent, it would be necessary to assign to that road a value which when interest is taken upon that at 2 per cent would bring \$40. This would be \$2,000 per mile. Two per cent of \$2,000 would be \$40. That is the method that is used in California, so far as I know.

Governor Dickerson—So far as you know, Professor Thurtell, that is

the method used in taxing public service corporations in the State of California.

Prof. Thurtell—Yes, sir.

Governor Dickerson—As a member of the Railroad Commission of Nevada, you have statements on file in your office showing the methods used in other States?

Prof. Thurtell—Yes, sir.

Governor Dickerson—You base what you say upon the reports of other States?

Mr. Bradley—I would like to understand what you mean by the per cent of 1909. Shall we be governed by that for 1910, or shall we wait and see what they are doing?

Prof. Thurtell—I could not advise the board in regard to that.

Mr. Bradley—Then you would not advise the board to assess according to the earnings in 1909?

Prof. Thurtell—You would have to do that. The only basis you would have would be the earnings for the calendar year 1909.

Mr. Miles—Mr. Chairman, with reference to the taxation of electric lines and power lines in accordance with the gross earnings or any other earnings, I wish to say that we could not arrive at any valuation on the part of our power lines in White Pine County under such calculations. The most important power line we have in the county is that running from the Steptoe Valley Mining and Smelting Company to the mines, and there is nothing to show that I know of what their earnings are on that line, or whether there has ever been any earnings. It is a valuable line and should be placed on the roll at its proper value, and I would suggest that the lines should not be assessed according to their gross earnings or any other earnings. We should arrive at what they are actually worth. Now, with reference to power lines and electric lines, I would like very much if this board could classify and place a valuation on each and every electric and power line in the State. It would take quite a burden off my hands, I am sure, and so far as I am concerned, if the members of this board see fit to go into this matter and classify the power lines, I would be very much pleased to go into it with them. I would like to see their valuation set right here and finished. It is a hard matter, much more difficult than telegraph and telephone lines, and it is a hard matter to reach even here or any other place, and I am at a loss right now to know what to do, but I hope the members of the board will see a way out.

Mr. Bradley—Mr. Chairman, it is not necessary for us to sit here and not say anything, so I move that power lines be left to the Assessors of the several counties of the State.

Mr. Lemaire—I second the motion.

Governor Dickerson—For the reasons heretofore given with reference

to telephone and telegraph lines, the Chair rules the motion out of order.

Mr. Bradley—I move to appeal from the decision of the Chair.

Mr. Lemaire—I second the motion.

Governor Dickerson—The Clerk will call the roll.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, Henrichs, and Miles.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, and McBurney.

The result of the vote was announced as follows: Ayes, 5; noes, 10.

Decision of the Chair overruled.

Mr. Bradley—Mr. Chairman, I move that the valuation on electric and power lines be left to the several Assessors of the various counties.

Mr. Lemaire—I second the motion.

Governor Dickerson—The Clerk will call the roll.

The Clerk called the roll as follows:

AYES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, and McBurney.

NOES—Messrs. Wyatt, Randall, Regan, Henrichs, and Miles.

The result of the vote was announced as follows: Ayes, 10; noes, 5.

Motion carried.

Contract Lands

Governor Dickerson—No. 18, contract lands.

Mr. Leonard—Mr. Chairman, I move that contract lands be left to the various Assessors.

Mr. Wightman—I second the motion.

Mr. Miles—Mr. Chairman, I would like to say a word on that before it is voted on. Now, in this matter, I will say that in my county we have many acres of contract land that are perhaps worthless, but there is no man who takes up land under contract or any other way that has not an object in it, and, while it is of little importance to many, it is of great importance to a few, and I will say that in our county there are people who have a few acres under contract while there are people who have 40 acres or perhaps 100 acres here and there around in different places all over the county and are practically monopolizing the ranges through holding contract land. Now, I think if such monopolies are practiced, we should reach some means by which we can give them equal justice. Now, the big man will come in with his thousands of acres of contract land and ask the Board of Equalization to reduce them, and it is within the power of that Board of Equalization to reduce them. The little men with a few acres say it is a small item, which it is of course, and they will not bother to go to the Board of Equalization. They would rather pay their taxes than to go there, consequently they are assessed for their full value and the man with the thousands of acres is reduced. Now, I would like for this board to place a valuation on contract lands,

and I am in favor of all other land being valued here, if it is possible to do so. So far as my county is concerned, we could easily reach a valuation on each and every class of land. So far as other counties are concerned, they would perhaps have a different condition and could not reach a conclusion. The contract lands especially I would like to see valued, and I hope the board will take this matter up and take it under consideration before this vote is taken and place a valuation on the contract lands.

Mr. Leonard—Mr. Chairman, I want to ask Mr. Miles: In our county we have some land that is patented at \$15 per acre, we will say. Near by is the same kind of land raising the same crop and if you put a valuation on that the same as the contract land you are not treating the other fellow right, are you? That is why I want to leave it to the various Assessors.

Mr. Miles—I will say in reference to that that contract lands should be classified. If a man has raised a valuable crop on a piece of contract land and he has water to irrigate his contract land, his land is more valuable than that which is growing up in sagebrush, and we could easily classify it and place a uniform valuation on such land in my opinion. We can classify cultivated land, uncultivated land, wild meadow land, pasture land, and land under different cultivation, that is, cultivation for different purposes, and I would like very much for this matter to be looked into carefully.

Mr. Leonard—Mr. Miles, in my county we have cultivated land and two different classifications. Land that is off the railroad is not as good as land on the railroad. Land in Lovelock Valley has a good market, but there are others that have no market and you cannot say that cultivated land is the same here as it is there. That is why I want it left to the Assessors. He knows the conditions. There is one rancher that I could mention in Humboldt County. He has 2,000 tons of hay and no market. In Lovelock Valley they get \$12 per ton and have a good market. So I don't see how we can place valuations on lands of that kind.

Governor Dickerson—You are going back to the question, then, of gross earnings. Is there any further discussion on this question? If not, the Clerk will call the roll.

The Clerk called the roll as follows:

AYES—Messrs. Wightman, Wyatt, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Randall, Owens, Regan, Henrichs, Beard, and McBurney.

NOES—Mr. Miles.

The result of the vote was announced as follows: Ayes, 14; noes, 1.

Motion carried, and the valuation of contract lands left to the Assessors of the various counties.

RAILROADS**Central Pacific**

Governor Dickerson—No. 19, railroads. The first under this order is the Central Pacific Railroad.

Mr. McTerney—Mr. Chairman, I would like to ask to have some representative of the railroad address the board.

Governor Dickerson—Is there any particular representative you would like to hear from?

Mr. McTerney—Mr. Burke.

Governor Dickerson—Mr. Burke.

Mr. J. T. Burke (Tax Attorney of the Southern Pacific Company)—Mr. Chairman and gentlemen of the board: I come here in the attitude of a voluntary witness. I have nothing especially to say except to furnish such information as you desire and I am able to furnish. We know that in the matter of taxing our company you are going to try to do your duty. We know that the Central Pacific running through Nevada has got to rise and fall with the State of Nevada. We know that in justice to every other interest in the State you are going to be just to the Central Pacific. There have been some suggestions, however, about values of railroads in other places that I would like to speak of for a minute, particularly with reference to the valuation of the railroad in California. During the last four or five years in California a great deal of study and attention has been given to the subject of taxation of corporations and it has been thought by many people who have given the matter close attention that it is desirable to separate State and local taxation, giving to the State the proceeds of taxation on certain public utility corporations. Two or three years ago, in the Legislature of 1907, a constitutional amendment was prepared suggesting such a scheme. It was the result of a long investigation of a committee composed of very bright men, members of the Legislature, the then Governor Pardee, and Professor Plehn of the University of California, a man who probably has given as close attention to the subject of finance and taxation as any in this country or any other country.

In order to arrive at a basis of taxation, however, Professor Plehn for the commission was obliged to make certain assumptions. In the first place he assumed that money was worth 6 per cent, and in the next place he assumed that railroads generally earn about 40 per cent net. If there are any such, I do not know them. In the next place he assumed that property in the State of California was assessed at 60 per cent of its value. Therefore, upon these assumptions, he arrived at the conclusion that railroad property capitalized at 6 per cent upon the basis of earning 40 per cent net, taxed at 4 per cent of its gross earnings, would be the equivalent of the average tax rate of the State during

a period of years upon an ad valorem valuation amounting to 60 per cent of the actual cash value of the railroad property. The amendment framed on these lines went further and took in certain other public utilities, as light, heat and power lines. I think the rate on those was 3 per cent. However, I may be mistaken as to that. But it was arrived at in the same manner and on the assumption that those companies earned 30 per cent net. Consequently the 3 per cent of gross earnings would produce the same result as 4 per cent of the gross earnings of the various railroads.

The amendment also provided for a 1 per cent tax upon the banks, and that tax was so great an increase of taxation on the part of the banks that the common rumor was that all of the bank people fought the adoption of the amendment before the people and certain other interests opposed the adoption of the amendment because it was deemed to be too rigid, not flexible enough; in other words, the rates might be changed only by the adoption of a subsequent constitutional amendment, and for those or other reasons, in any event, the amendment was not adopted. It was, however, readopted in the last session of the Legislature after a very considerable hearing with slight change except as to the bank rate, which was made $\frac{5}{8}$ of 1 per cent, and the provisions that the rates generally might be changed by a three-fourths vote of the members of both houses of the Legislature.

Governor Dickerson—Just one minute, Mr. Burke. Is it not a fact that the Southern Pacific is taxed this year under the 4 per cent principle?

Mr. Burke—Yes, sir, but just one moment. Immediately upon the amendment being adopted by the Legislature and submitted to the people, our State Board of Equalization adopted it as the basis for fixing taxes in the State of California upon the railroad corporations, and the injustice of it was at once manifest to the members of the Board of Equalization. They knew, as everybody knew, that the rule laid down in the constitutional amendment was based upon an assumption that property in California was assessed at 60 per cent of its value. Now a full and complete hearing was had before the Legislature when this matter was pending, and if anything was demonstrated at all it there was demonstrated the fact that property in California is assessed at about 35 per cent, consequently the assessment of the railroads upon this basis was believed by the State Board of Equalization to be unjust and unfair to the railroads. However, the system was so good a one that they felt that the thing to do was to put it into effect, even though it worked a hardship on the railroads, and then try to build the State up to it. And that is what they are doing now. The bank rates in California this year are very much lower than they were last, and eventually they will get other property in the State up to a 4 per cent gross earning system

of taxation, which will be fair to the railroads and to the people. At the present time it is not.

Now I just want to call your attention to a little thing incidental in connection with this. Recently there was a great gathering of our Democratic friends in San Francisco and they viewed with alarm everything that occurred in the State within the last four or five years except taxation and equalization. So far as the proceedings of the recent meeting were concerned, there is no Board of Equalization. Consequently everybody realizes that the railroad was paying more taxes under this system than it should. In the course of years other property will get up to it and it will be fair.

Now I want to say that as far as Nevada is concerned, if you gentlemen are minded to do that and will adopt the views of the California Tax Commission and put the property of the State of Nevada on a 60 per cent basis of the actual cash value, we will be very glad to be assessed in the same way.

Governor Dickerson—Do you know what the valuation of the Central Pacific would be if the California system was adopted?

Mr. Burke—No, sir.

Governor Dickerson—Something over \$66,000.

Mr. Burke—The only authority I have here is your Mr. Bartine, who in 1905 goes into your valuation extensively, and I take it that Nevada is about 35 per cent, about what California was. I want to say that the Central Pacific paid in the State of Nevada last year \$440 a mile taxes.

Attention has been called to Kansas, Nebraska and other States. In 1907, according to the Interstate Commerce Commission, the average taxes paid per mile of road were \$305 for Kansas, for Nebraska \$240; the total for the United States was \$349, or \$100 less than we paid on the Central Pacific here in Nevada. In the State of Iowa the average taxes paid per mile of railroad was \$217. Now the Central Pacific is unquestionably the largest taxpayer of the State of Nevada. It puts its case in the hands of you gentlemen. We know you are going to do what is right with it. We only want you to bear in mind that last year we paid 14 per cent of all the taxes paid in Nevada. The railroads in the State of Nevada last year paid over 35 per cent of all the taxes paid in the State. Nevada is a mining State, yet I want to say that the railroads in the three years last past will have paid more taxes than the mines have paid in the forty-odd years in the history of the bullion tax.

Governor Dickerson—How is that?

Mr. Burke—I will say that the railroads have paid more than the entire bullion taxes for forty years.

Governor Dickerson—I disagree with you in that statement. That is the State tax.

Mr. Burke—That is the State tax, gentlemen. I am mistaken about

that. The State tax on mines amounts to \$1,863,000. My statement was that the railroad taxes for the three years would amount to more than that.

Governor Dickerson—You will understand, Mr. Burke, that these taxes are derived from the net proceeds of the mines; that the hoisting machinery, etc., are not included in that.

Mr. Burke—I understand that. The only point I was making was that we pay a great deal of money in proportion.

As I said, gentlemen, I am here prepared to furnish any information to the board that its members may want.

Governor Dickerson—I would like to ask you, Mr. Burke, what is the actual cash value of the Central Pacific Railway per mile?

Mr. Burke—For what purpose?

Governor Dickerson—For purposes of rate making or taxation. What do you consider the actual cash value of the Central Pacific Railway?

Mr. Burke—I cannot answer that.

Governor Dickerson—You are the tax adjuster, are you not?

Mr. Burke—I am. I am not competent to answer the question as to the actual cash value.

Governor Dickerson—Who would know?

Mr. Burke—I do not know.

Governor Dickerson—Would the vice-president?

Mr. Burke—Yes, I should say he would.

Governor Dickerson—If he said it was worth \$100,000 a mile, would you believe it?

Mr. Burke—Yes, sir.

Governor Dickerson—Do you know the capitalization?

Mr. Burke—No, sir.

Governor Dickerson—Do you know the net operating revenue of the road for 1908?

Mr. Burke—Yes, sir. It would not be fair for purposes of taxation to take the entire road. In California they insist on taxing separately our terminal properties, and the State of California insists on taking to itself all taxes raised on that valuation. If you are going to take a proportionate mileage of the cash value based on earnings to the State of Nevada, you are going to inflict upon us double taxation because you will tax that property that is already taxed in California.

Governor Dickerson—We will take it from another viewpoint. Are you acquainted with Mr. C. B. Seger?

Mr. Burke—Yes, sir.

Governor Dickerson—Do you know him to be the auditor of the Southern Pacific Company?

Mr. Burke—Yes, sir; he was at one time auditor of the Southern Pacific Company.

Governor Dickerson—Would he have available information as to the value of the property?

Mr. Burke—He would have access to the books with reference to the cost of property.

Governor Dickerson—Anything he would say would probably be right?

Mr. Burke—No, sir; it would simply show the items on the books as to what the property cost and in no sense the value of the property.

Governor Dickerson—You stated a moment ago that you did not know what the value was. He would know what the cost of the road was?

Mr. Burke—Yes, sir.

Governor Dickerson—He would also know what the outstanding bonds were, the value of the bonds?

Mr. Burke—Yes, sir.

Governor Dickerson—He would know the amount of money that road earned during any year?

Mr. Burke—He should know that.

Governor Dickerson—I think that is all for the present, Mr. Burke, unless some one desires to ask some questions.

Mr. Burke—I would like to say as to Mr. Kruttschnitt's statement, referred to in some publication concerning what Mr. Kruttschnitt testified to in Salt Lake, was that the cost of reconstruction of the Central Pacific Railroad Company's property apportioned to the State of Nevada was \$132,000 or \$133,000 per mile. Now that was merely a book-keeping item. As all of you gentlemen here know, the Central Pacific Company that runs through Nevada today is not the same road that ran through a few years ago. In fact, there is very little of the old road left. When Mr. Harriman took hold of these properties he was able, by working pretty hard, to get the credit and the money to permit him to entirely rebuild these properties. Now, what Mr. Kruttschnitt testified to in Salt Lake was that the total cost of reconstruction of the Central Pacific line was an amount which when apportioned to Nevada on a mileage basis would make \$132,000 or \$133,000 per mile for the State of Nevada. You all know that eleven miles of bridge across Salt Lake went into that and goodness knows how many hundreds of thousands of dollars a mile that cost. But the cost of the Lucin cut-off was apportioned to the State of Nevada in those figures.

Governor Dickerson—You have read Mr. Kruttschnitt's testimony, have you not, before the Interstate Commerce Commission?

Mr. Burke—Only so much as you quoted.

Governor Dickerson—You did not read that it was only a nominal amount; that the proportion of the bridge across there was so small that it made it \$130,000 a mile to reconstruct it; that the additional cost per mile of the bridge portion was immaterial. I have the testimony here

and will refresh your memory. I read from page 448 of the Interstate Commerce Commission Docket No. 2662:

"Passing on to other items, the general reconstruction of the Union Pacific, made in 1900 to 1903,"—

We would infer from your argument, Mr. Burke, that it covered a long period, but this cost of construction was between the years 1900 to 1903. "covering 183 miles, with a proper allowance for these different items, ran up to \$90,000 a mile. Sundry items of second tracking on the Union Pacific ran from \$95,000 to \$114,000 a mile. Southern Pacific reconstruction between Ogden and Reno, which was put in in 1902 to 1904, embracing 323 miles, ran up to \$132,000 a mile. A piece of O. R. & N. construction of twelve miles between Troutdale and Bonneville near Portland, \$123,000 per mile. Oregon and Washington Railroad, for which very careful estimates were made, including the actual prices paid for terminal facilities in Tacoma and Seattle, but excluding the bridge over the Columbia River used by us, which we lease from the Northern Pacific, ran up to \$246,000 per mile, of which the item of terminals alone was responsible for \$98,000 a mile."

Now I will read the cross-examination by Mr. Prouty, pages 468-70 of Interstate Commerce Commission Docket No. 2662:

Here is a question by Commissioner Prouty:

Commissioner Prouty—Let me ask a question. No. 10, reconstruction, Ogden-Reno; that includes the bridge across Salt Lake?

Mr. Kruttschnitt—No, sir; I think not.

Commissioner Prouty—323 miles there.

Mr. Kruttschnitt—Let me see whether it includes it or not. I was under the impression it did not. Items 15, 16, 17 and 18—from Ogden to Reno would include the bridge, yes.

Commissioner Prouty—How many miles long is that bridge?

Mr. Kruttschnitt—It think it is eleven miles.

Commissioner Prouty—Do you remember what it cost?

Mr. Kruttschnitt—The bridge proper, no.

Mr. Dillard—Do you remember what that eleven miles cost per mile?

Mr. Kruttschnitt—No.

Mr. Dillard—You do not remember?

Mr. Kruttschnitt—No.

Mr. Dillard—We will be pleased to let your honor have it.

Commissioner Prouty—No, I simply desired to know how much effect it produced on the general item. It was very expensive construction, as I have always understood.

Mr. Dillard—Yes, it is expensive construction.

Mr. Kruttschnitt—The mileage, however, is only about 3 per cent of the total mileage, and while the per mile cost is high, the effect on the total is not very great; it is only a little over 3 per cent of the total mileage.

Mr. Burke—That is the bridge, and that is only a short section of the railroad across the Salt Lake, if you recollect. There is a great deal of filling there that is not included in this.

Governor Dickerson—He was testifying as to the per mile value of the

reconstruction in Nevada. Has any member of the board any questions to ask Mr. Burke?

Mr. Miles—Mr. Chairman, I would like to ask Mr. Burke: Mr. Burke, do you know how many years a set of ordinary ties as are now under the rails of the Central Pacific will last?

Mr. Burke—I do not know, Mr. Miles. I am not familiar with the physical conditions over here.

Mr. Miles—Do you know how long a set of rails will last?

Mr. Burke—That is very varying. Over here on a straight track a very long time. In the Sierras nineteen months is the average life of a 110-pound rail.

Mr. Miles—I would like to ask you how much bonds there are outstanding against the Central Pacific?

Mr. Burke—I could not give you that information at once. I could a little later in the day, Mr. Miles.

Mr. Miles—Do you know who holds those bonds?

Mr. Burke—No, sir, I do not; they were sold in the market.

Mr. Miles—Do you know if the Central Pacific does?

Mr. Burke—No, sir; I do not believe it.

Governor Dickerson—As a fact the Southern Pacific Company holds the bonds.

Mr. Burke—I do not know.

Mr. Miles—Do you know what interest these bonds bear?

Mr. Burke—No, sir; I do not.

Governor Dickerson—Would you regard a 35 per cent assessment of the valuation of the Central Pacific an unreasonable assessment in this State?

Mr. Burke—On what basis of the valuation of the road?

Governor Dickerson—The testimony of the sworn officers of the company.

Mr. Burke—That testimony is not admissible here. It is not before the board. I would suggest that if the board will formulate a set of rules and ask for the production of certain testimony here at these hearings, we will be very glad to have it here for your perusal. The other States all do it. California prescribes what we shall make to the board.

Governor Dickerson—The railroads knew this hearing was to be had on this day and they should come here prepared to make any statement to the board that might be of value to the board.

Mr. Burke—I think I can furnish any information that has been asked for so far except the matter of opinion of the value of the property.

Governor Dickerson—You stated that you had no knowledge.

Mr. Burke—No, sir, and am not authorized to give an opinion.

Governor Dickerson—I would like to call Professor Thurtell. If any

member of this board fails to understand these statements, I would be pleased to have them ask any questions they may desire.

Prof. Henry Thurtell—This is a set of tabulated statements that were made up by the members of the Railroad Commission at the request of the Governor for the use of the members of this board, and I think a portion of this was put together in such shape that it might be transmitted to members of the board, was it not?

Governor Dickerson—Yes.

Prof. Thurtell—There are two pages of statistical data here that are not particularly exciting reading, but show better than anything else that can be shown certain data that might be of value and of interest to the members of this board. It shows the operating revenues and the operating expenses and the net operating revenue or deficit of each railroad in the State and those that are operating across the State, partly within the State and partly outside. It shows something with regard to that also. Wells, Fargo & Co.—the gross earnings that were earned in this State last year, and the Western Union Telegraph Company and the Pacific States Telegraph and Telephone Company. It shows that. In regard to the particular railroad under discussion, the operating revenues are shown to have been \$12,608,554.72, and that refers to a division of that that was earned in this State, although that tabulation does not show that.

Mr. Burke—May I ask Professor Thurtell for what year that was?

Prof. Thurtell—That was for the year 1909. The entire earnings of the Central Pacific Railroad Company were somewhere in the neighborhood of \$30,000,000 and this I should judge had been assigned to Nevada upon a mileage basis—that is the total net of the entire road. The affidavits that were made in the court for the benefit of Judge Farrington at the time of the rate hearing in 1907 showed the actual earnings that were made within the State of Nevada for that year, gross and net. The gross earnings within the State that year were about \$12,000,000, in fact a little above that, I think nearly \$13,000,000. The net earnings of the road within the State that year amounted to about \$7,000,000.

Governor Dickerson—How much would that be per mile of road?

Prof. Thurtell—If there are 450 miles of road, the net revenue per mile would be the quotient of \$7,000,000 divided by 450. It is about \$15,000 per mile of net earnings that year. Since that time no data has ever come to the Railroad Commission that would enable it to set aside the mileage in Nevada so that the railroad company had made so much net earnings. At the hearings that were given before the Interstate Commerce Commission at Reno in October data was shown that the earnings on freight which touched Nevada; they included that which was taken up and laid down in Nevada, that which started in the

State and which came from the outside and that which passed through, the earnings of the Central Pacific upon that freight were \$15,000,000. There is no doubt the mileage in Nevada earns all its fair proportion of the cost of the Central Pacific in Nevada, 450 miles of the main line, and the main line is earning the money.

Mr. Burke—It is within the State, just a trifle more than a third of the total mileage. You are giving to the main line—

Prof. Thurtell—You misunderstand the statement. I mean this: If you would take the money that is earned by the Southern Pacific Company which stops and starts in Nevada, that would be local freight purely, that would be \$330,000. Add to that freight which starts in Nevada and goes out and that which starts outside and comes into the State, that freight amounts to about \$4,700,000. Now take the earnings upon freight which passes through the State, that is \$10,000,000, and the three together make the \$15,000,000 to which I have referred.

Governor Dickerson—What percentage, Professor Thurtell, would that be upon a valuation of \$100,000 per mile, the net income, the net earning capacity of that road?

Prof. Thurtell—Well, there are about 1,500 miles of Central Pacific mileage. Upon the assumption that it is worth \$100,000 a mile the entire railroad would be worth the product of 1,500 multiplied by \$100,000, which would be \$150,000,000. Now, the gross earnings of the Central Pacific Company were \$32,000,000 in the year 1907. Those gross earnings would amount to approximately 20 per cent upon that valuation of \$100,000 per mile. The net earnings the same year were about \$12,000,000, which would amount to a net earning of 8 per cent upon the valuation of \$150,000,000. (See page 43 of Stipulations and Affidavits, in United States Circuit Court, District of Nevada, *Southern Pacific Co. v. R. R. Commission of Nevada, et al.*)

Governor Dickerson—What are you reading from?

Prof. Thurtell—This is Mr. Seger's affidavit.

Governor Dickerson—That is on file in the United States Circuit Court for this district?

Prof. Thurtell—Yes, sir. "Gross earnings, \$32,192,827.13; expenses, \$18,282,968.29" (page 42, etc.), leaving \$14,000,000 approximately of net earnings which upon a valuation of \$150,000 would be approximately 9 per cent earnings on the basis of \$100,000 per mile.

Mr. Burke—Mr. Chairman, if I might be permitted right here, I would like to read an excerpt from a decision in the Circuit Court of Appeals of the Eighth Circuit decided by Judge Sanborn in September last in a case involving practically the matter that we have before us now. With reference to the consideration by a Board of Equalization of testimony given by officers of the company before the Interstate Commerce Commission, the court says:

We lay out of consideration here a report of the complainant to the Interstate Commerce Commission for the year ending June 30, 1905, which was introduced in evidence by the defendant, because there is no proof that the assistant to the president and the assistant general auditor, who appear to have made that report, were empowered by the railway company to make any statement or admission on its behalf in the matter of the taxation of its property, and the statements of agents and attorneys authorized to act and admit for their principals in one suit, litigation, or legal proceeding are not admissible against their principals in another such suit or proceeding, in which different issues are involved, without proof of their authority to act and admit in the latter suit or proceeding (*Miller v. United States*, 66 C. C. A. 399, 413, 133 Fed. 337, 351; *Stone v. Bank of Commerce*, 174 U. S. 412, 421, 19 Sup. Ct. 747, 43 L. Ed. 1028; *Horseshoe Mining Company v. Miners' Ore Sampling Co.*, 77 C. C. A. 213, 214, 147 Fed. 517, 518; *New York Life Ins. Co. v. Rankin*, 162 Fed. 103, 108, 98 C. C. A. 103), and because this report does not cover the period of time upon which the valuation for taxation was required to be based, and it was not made for that purpose in pursuance of any statute or otherwise. (*Atchison, T. & S. F. Ry. Co. v. Sullivan, County Treasurer, et al.*, Circuit Court of Appeals, Eighth Circuit. Sept. 23, 1909).—Federal Reporter Advance Sheet, Dec. 23, 1909, p. 456.

Governor Dickerson—In other words, the officers of that road have a right to testify before the Interstate Commerce Commission for the purpose of rate making, but cannot testify for the purpose of taxation. I think this board has full power to investigate the value of that road from any source it can get the information.

Mr. Burke—I merely submit that the admissions before the Interstate Commerce Commission and before the Board of State Railroad Commissioners are not competent to bind the company here.

Attorney-General Stoddard—Do you contend, Mr. Burke, that this board must be confined to certain rules of procedure in considering testimony as to its competency, etc.?

Mr. Burke—The only point in it, General, is that the board is meeting for one purpose here, and these statements were made for another purpose, and it is not competent to introduce them here to bind the company by them.

Attorney-General Stoddard—Don't you think the board has the right to get this information outside from any source it sees fit?

Mr. Burke—I think the board has the right to get it in any way they see fit.

Attorney-General Stoddard—Would not the affidavits of its own officers be correct?

Mr. Burke—The purpose of this hearing is to find the value of the Central Pacific for purposes of taxation.

Attorney-General Stoddard—Do you think a court would inquire into the sources of information into which this board went?

Mr. Burke—I think it would.

Governor Dickerson—This board is unfortunate then, because it cannot get any information from the tax adjuster. From whom is the board going to get this information?

Mr. Burke—I say if the board will formulate a system under which we will be asked to produce information here, we will produce it. Now we have not been asked. I had no knowledge of what I might be called upon to produce here.

Governor Dickerson—The actual cash value of the road, Mr. Burke, is what the board wants, and that is what they are sworn to assess this road at. You have some more statements there, Mr. Thurtell. Will you please explain them?

Prof. Thurtell—There is another statement of the gross taxes paid in the State of Nevada for the years 1907, 1908, and 1909. The statement that was made by Mr. Burke—I think I must have misunderstood that, or else this is in error, and I think it is not in error; I think it is taken from the State Controller's reports, in which the tax rate on the Central Pacific Railway last year amounted to \$398.54. I assume that meant the property that was used in railroad service, while I thought your statement not only referred to that, but to lands owned by the company.

Mr. Burke—My statement shows from vouchers that have been made and the last half of the taxes unpaid that we paid for account of the Central Pacific on company property, exclusive of land, \$196,617.35.

Prof. Thurtell—In our reports the taxes are \$179,343.11.

Mr. Burke—This has been taken from the accounts on file in my office. They get it by counties.

Mr. J. F. Shaughnessy (Railroad Commissioner)—We have it, Mr. Burke, as reported by your company.

Prof. Thurtell—I think this includes half the taxes for one year and half for another.

Mr. Burke—This includes the taxes for 1908 and 1909 tax year. I think our figures only differ because yours cover calendar years and mine fiscal.

Prof. Thurtell—No, I think yours cover calendar years and ours fiscal.

Mr. Burke—At the same time the tax on lands during that period was on an assessment of \$3,000,000 and the taxes were \$60,000 additional. So that is not calculated.

Prof. Thurtell—The rate per mile probably made up of the fiscal year 1909 shows a tax rate of \$398.54, and it shows the taxes in 1909 just a little less than the taxes for 1908, and in that year they were \$3,000 higher than in 1909.

Governor Dickerson—I would like you to read the different valuations on the Central Pacific as testified to by the officers of the road.

Prof. Thurtell—I don't think I have that. Please state that again?

Governor Dickerson—I think I have the statement here. Suppose

you read the different valuations placed on the different roads and the percentage as testified to by the officers of the road.

Prof. Thurtell—(Reading):

AN EXHIBIT OF RAILROAD, TELEPHONE, TELEGRAPH, AND
EXPRESS COMPANY OPERATIONS FOR 1909

Railroads and carriers	Operating revenues (gross)	Operating expenses	Net operating revenue or deficit	Operating revenues (gross) in Nevada
Bullfrog-Goldfield R. R.	\$177,745.55	\$163,756.22	\$13,989.33	
Barnwell & Searchlight Ry.	9,403.53	11,727.75	12,324.22	
Central Pacific Ry.	12,608,554.72	9,928.41	12,598,626.31	
Eureka & Palisade Ry.	129,371.64	125,234.96	4,136.68	
Las Vegas & Tonopah R. R.	304,364.99	286,295.08	18,069.91	
Nevada & California Ry.	1,126,191.71	734,397.87	391,793.84	
Nevada-California-Oregon Ry.	406,668.10	177,811.35	228,856.75	
Nevada Central R. R.	75,388.02	52,202.80	23,185.22	
Nevada Northern Ry.	1,099,320.31	429,647.78	669,672.53	
S. P. L. A. & S. L. R. R.	7,450,461.82	4,968,549.69	2,481,912.13	
Silver Peak R. R.	22,241.48	20,008.56	2,232.92	
Southern Pacific Company	81,402,177.44	45,879,951.85	35,522,225.59	
Tonopah & Goldfield R. R.	910,018.82	681,583.48	228,435.34	
Tonopah & Tidewater R. R.	458,277.88	269,396.07	158,881.81	
Virginia & Truckee Ry.	295,347.30	180,130.25	115,217.05	
Wells, Fargo & Co.	24,476,432.37			\$850,185.68
Western Union Tel. Co. (for 1908)	28,582,212.09	25,179,215.33	3,402,996.76	201,353.88
Pacific Tel. & Tel. Co.	11,172,067.00	7,704,243.00	3,467,824.00	52,477.00

¹Deficit.

GROSS TAXES PAID BY CARRIERS TO STATE OF NEVADA, FOR
YEARS 1907, 1908, AND 1909

Railroads and carriers	1907	1908	1909	Mileage	Taxes paid per mile of line, 1909
Barnwell & Searchlight Ry.					
Bullfrog-Goldfield R. R.		\$11,350.00	\$9,141.46	83.01	\$110.14
Central Pacific Ry.	\$172,562.89	182,008.52	179,343.11	450.89	398.54
Eureka & Palisade Ry.	4,206.83	4,413.99	4,361.29	88.00	49.56
Las Vegas & Tonopah R. R.	15,202.36	24,333.60	45,069.57	199.47	225.35
Nevada & California Ry.	47,649.56	90,945.93	71,993.19	222.43	324.29
Nevada-California-Oregon Ry.	1,646.62	1,973.85	2,147.94	28.14	76.71
Nevada Central R. R.	4,851.33	4,733.00	4,684.10	98.30	50.36
Nevada Northern Ry.	13,891.25	19,153.30	20,976.00	165.08	127.13
S. P. L. A. & S. L. R. R.	47,968.11	47,322.79	57,969.94	243.02	238.56
Silver Peak R. R.			1,055.16	19.00	55.54
Southern Pacific Company					
Tonopah & Goldfield R. R.	44,012.97	55,419.03	45,850.66	109.40	420.65
Tonopah & Tidewater R. R.			6,547.31	36.25	181.86
Virginia & Truckee Ry.	14,197.03	15,600.12	16,388.66	67.48	242.79
Wells, Fargo & Company			2,657.74		
Western Union Tel. Company		4,752.41			
Pacific Tel. and Tel. Co.		1,695.10	1,727.00		
For purpose of comparison taxes paid by Central Pacific Railway in California are given below:					
Central Pacific Ry.	\$424,581.66	\$550,282.63	\$630,721.52	\$748.00	\$843.00

NOTE—These taxes do not include assessment on lands or other outside properties not used in operations.

STATEMENT

Railroads	Capitalization and bonded indebtedness per mile, 1909	Expenditures per mile of line to June 30, 1909	Assessed value per mile of line, 1909	Per cent of assessed value to total expenditures	Net operating revenue per mile of road, 1909
Barnwell & Searchlight Ry.....	\$11,951.00	\$11,973.88	\$3,000.00	25.06	\$100.05
Bullfrog-Goldfield R. R.....	46,991.00	46,305.55	6,000.00	12.95	168.53
Central Pacific Ry.....	142,503.00	150,310.75	18,500.00	12.30	8,142.86
Eureka & Palisade Ry.....	3,996.00	4,154.38			47.01
Las Vegas & Tonopah R. R.....	7,573.58	16,489.51	6,000.00	36.38	90.59
Nevada & California Ry.....	16,194.00	15,663.23	15,000.00	95.76	928.05
Nevada-California-Oregon Ry.....	16,244.00	16,989.41	3,000.00	17.65	1,243.72
Nevada Central R. R.....	16,078.00	16,077.17			248.50
Nevada Northern Ry.....	18,173.00	16,407.09	9,000.00	54.85	4,056.59
S. P. L. A. & S. L. R. R.....	66,130.00	70,601.02	9,000.00	12.74	2,245.37
Silver Peak R. R.....	10,555.55	11,568.11			117.52
Southern Pacific Company					6,305.85
Tonopah & Goldfield R. R.....	34,156.00	37,744.95	12,000.00	31.79	2,088.07
Tonopah & Tidewater R. R.....	24,762.00	24,083.98	6,000.00	24.91	878.52
Virginia & Truckee Ry.....	74,096.00	73,826.33	8,250.00	11.18	1,707.42

NOTES—Figures in *italic* represent deficit. The net operating revenue of the Central Pacific Railroad, per mile of road, is arrived at by taking the amount received for lease of road, deducting fixed expenses, and dividing the remainder by the mileage.

Governor Dickerson—Are those statements as shown by the records in your office?

Prof. Thurtell—Yes, they are compiled from the records in our office. The capitalization and bonded indebtedness amounted to \$142,503 per mile; total expenditures per mile of line to June 30, 1909 (this would be shown from the annual report) amounts to \$150,000,310.75. That is not a good comparison for this reason: The value of the line as testified to does not refer to the main line, but refers to all the property used in the railroad service. The assessed value was \$18,500 per mile last year, but considering all the property used in service last year it would be about \$22,000 per mile, and that should be compared with the \$150,000, the cost, or the \$142,000 of bonded indebtedness.

Governor Dickerson—Take the \$22,000; what percentage would that be as compared with the amount testified to by the officers of the road?

Prof. Thurtell—This is testimony that goes to the cost of the road.

Governor Dickerson—What the road has cost.

Prof. Thurtell—It is just a little above 14 per cent.

Governor Dickerson—That would be including everything that is used in the operation of the road?

Prof. Thurtell—Everything that is used in the railroad service.

Mr. Shaughnessy—We have also a statement of the capitalized value.

Mr. Burke—May I ask the Professor a question with reference to this?

Prof. Thurtell—Yes, sir.

Mr. Burke—You understand that that includes the cost of the Central Pacific Railway that is abandoned, don't you?

Prof. Thurtell—Yes, sir.

Mr. Burke—That it does not refer particularly to the cost of the property as now operated by the Central Pacific Railway Company.

Judge Bartine—Professor Thurtell suggested that these figures do not go to the actual cash value of the road; nevertheless the fact is that in Judge Farrington's court the cost of the road, the original cost, was given at \$212,000,000, and that was used as the basis upon which they were entitled to earn money. Therefore they must have considered that to be the actual cash value of the road because it could have been introduced for no other purpose. That averaged about \$146,000 per mile, and, as Mr. Seger apportioned it, \$66,000,000 of that value was to be assigned to the State of Nevada upon a mileage basis, and upon that they claim the right to earn freight and passenger earnings in this State.

Mr. Burke—I think it is conceded that the company is entitled to earn something on its capitalization. Take our neighbor, the Salt Lake road. They have got to rebuild eighty-five miles next year. Surely you gentlemen will not want to assess them the value of that eighty-five miles of railroad that an all-wise Providence saw fit to take away from them. Their entire road was put out of business. We are in much the same position.

Judge Bartine—I would like to ask Mr. Burke a question. We never raise a question with respect to the sufficiency or the excessive character of any charge that we are not at once confronted by figures and tables from the railroad people. They tell us how much the road cost, how much it takes to produce it, how much their gross earnings are, and how much the net is which remains, and included in their expenses is always the taxes they pay. Therefore they claim a right to a net earning over all taxes, and for that reason the tax question enters into every rate question with them. The proposition of taxing property is simply a question of the actual value of the property assessed at its reasonable proportion compared with other property. Now, if the officials of your company go before Judge Farrington and swear that it is worth \$212,000,000, and worth \$66,000,000 in this State, is that not a fact before this board just as much as it was before Judge Farrington. Is it not a fact?

Mr. Burke—No, sir.

Governor Dickerson—For what purpose would it be a fact?

Mr. Burke—Not for this purpose.

Judge Bartine—How are you going to get at it?

Mr. Burke—I have just read here the opinion of a very high court on that question.

Judge Bartine—Let me suggest, Mr. Burke, that the Supreme Court of the United States by a much higher authority has laid down the rule that what property is worth for rate making purposes it is worth for the purpose of taxation.

Mr. Burke—I should like to see it.

Judge Bartine—I shall show it to you.

Attorney-General Stoddard—Is it not in 154 U. S.?

Judge Bartine—I cannot remember the number of the volume. It was with reference to the Adams Express Company in Ohio.

Mr. Shaughnessy—This is in relation to what Mr. Miles wanted to know about the bonded indebtedness and interest, etc. (Reading):

In 1907 the Southern Pacific Company made before the United States Circuit Court at Carson City, Nevada, an exhaustive showing of valuation, earnings and expenses, segregated and credited to the Central Pacific mileage within Nevada, in the case of Southern Pacific and others vs. the Railroad Commission of Nevada, for the purpose of trying to show that the rates prescribed by the Nevada law were confiscatory. C. B. Seger, auditor of the Southern Pacific Company, introduced a sworn affidavit showing the valuation of the Central Pacific within Nevada to be \$66,000,000, or \$146,936.73 per mile, covering 450 miles, of which 445 miles are main line and 5.89 miles are branch line. Total mileage of the Central Pacific Railway Company as reported June 30, 1907, 1,485 miles.

The stock and bond valuation of the Central Pacific Railway Company as shown in Mr. Seger's affidavit is as follows:

Funded debt of the Central Pacific Railroad Company, issued and outstanding June 30, 1907, and covered by interest-bearing mortgage bonds was	\$116,947,043.12
The interest on said funded debt for 1907 was	\$4,476,538.79
The capital stock of the Central Pacific Railway Company issued and outstanding (common and preferred) June 30, 1907, was	\$80,675,500.00
The said capital stock was classified and shown as follows:	
Common stock	\$67,275,500.00
Preferred stock	\$13,400,000.00
Comprehending under the general term "Capitalization" both the stock and funded debt before shown, the total outstanding capitalization of the Central Pacific Railway Company June 30, 1907, was	\$197,622,543.12
Average valuation per mile, outstanding capitalization	\$133,079.00
Total mileage of the Central Pacific Company as reported June 30, 1909	1,547 miles
The funded debt of the Central Pacific Railway Company outstanding June 30, 1909, as reported under oath to the Railroad Commission of Nevada and covered by mortgage bonds is	\$125,780,000.00
The interest accrued on this amount for 1909 is	\$4,931,283.03
Of the above funded debt the Southern Pacific Company owns only	\$2,902,018.25
The capital stock of the Central Pacific Railway Company outstanding June 30, 1909, is	\$81,075,500.00

The above capital stock is owned and held in the treasury of the Southern Pacific Company and is classified as follows:

Common stock	\$67,275,500.00
Preferred stock	\$13,800,000.00
Total outstanding capitalization of the Central Pacific Railway Company June 30, 1909, was	\$206,855,500.00
Average valuation per mile, outstanding capitalization	\$133,770.00

By comparison it will be noted that there has been an increase of \$8,732,957 in the funded debt outstanding June 30, 1909, over June 30, 1907, and an increase of \$400,000 in the capital stock outstanding, while for the same period there has been an increase in the mileage of the Central Pacific Company of 62 miles.

Seger's affidavit further shows that gross earnings of the Central Pacific Railway Company from all business credited to the Nevada mileage for the year ending June 30, 1907, was

Nevada mileage for the year ending June 30, 1907, was	\$12,005,443.23
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Average per mile, gross earnings	\$26,625.75
Operating expenses in Nevada (same period)	\$5,061,827.75
Net operating income in Nevada, exclusive of taxes (same period)	\$6,943,615.48
Average per mile net operating income, credited to Nevada mileage of the Central Pacific Railway Company	\$15,399.59
Gross earnings of the Central Pacific Railway Company, taken as a whole for the year ending June 30, 1907	\$32,192,827.33
Operating expenses, including taxes	18,975,089.36
Net operating income	\$13,217,737.97
Average per mile net operating income, Central Pacific Railway Company, taken as a whole	\$8,900.00

From the foregoing it will be noted that the earning power of the Nevada mileage is 173 per cent greater than for the Central Pacific Railway Company taken as a whole.

The foregoing exhibit of operation of the Central Pacific Railway Company for the year ending June 30, 1907, shown in Seger's affidavit, was made for the purpose before mentioned, in considerable more detail than the earnings and expenses are regularly reported to the Interstate Commerce Commission and the Railroad Commission of Nevada. For example, the Southern Pacific Company, the lessee and operating company of the Central Pacific Company, does not report to the commission the gross earnings and operating expenses, but instead they show in the Central Pacific annual reports, as provided by a form adopted by the Interstate Commerce Commission and the Nevada Commission for a railway company which maintains an independent corporate existence, though not keeping operating accounts for the reason that its property is leased or is otherwise assigned to another company for operation; under a heading entitled: "Income From Lease of Road" and which should properly represent net operating income:

Income from lease of road as reported by Central Pacific Railway Company to the Railroad Commission of Nevada for a period of three years is as follows:

1907	\$11,967,062.02
1908	\$11,080,225.44
1909	\$12,598,626.31

It may be noted that there is a large discrepancy between the \$11,967,062.02, income from lease of road, as reported by the Southern Pacific Company in the Central Pacific Railway Company's annual report to the Railroad Commission of Nevada for 1907, and the \$13,217,737.97, sworn to in the Seger affidavit as net operating income after deducting taxes. Taxes have not been deducted from the \$11,967,062.02 shown in the annual report. By deducting taxes as shown for the Central Pacific Railway Company for 1907, \$847,061.18, there is left \$11,120,000.84. This leaves a difference in income unaccounted for of \$2,197,737.13, and, unless this was the amount which was taken off by the Southern Pacific Company in the operation of the Central Pacific Railway Company as its proportion in the division of revenue over and above the amount necessary to pay all operating expenses, fixed charges, etc., and the 6 per cent on capital stock as provided in lease before shown, the Railroad Commission is unable to account for it. If this assumption is correct, then it is fair to assume that similar profits have been made by the Southern Pacific Company in the operation of the Central Pacific Railway Company for the years 1908 and 1909, over and above the profits they have realized from dividends on the Central Pacific Railway Company stock, all of which they own, from interest on a portion of the Central Pacific mortgage bonds which they own and from large returns for hire of rolling stock and equipment owned by the Southern Pacific Company and rented to the Central Pacific Railway Company for the transaction of its business as a common carrier.

For the fiscal years ending June 30, 1907, 1908, and 1909, a dividend of 6 per cent on Central Pacific Railway Company common stock and 4 per cent on preferred stock was paid out of income from lease of road, after paying interest on funded debt and taxes, also substantial amounts not disbursed were carried to surplus account, which account, having been accumulating over a period of years, now totals over \$25,000,000, which has increased and accumulated from \$2,000,000 in 1898, a period of eleven years.

Interest on funded debt, taxes, dividends and surplus for the three-year period shown by the Central Pacific Railway Company's reports, sworn to and on file with the Railroad Commission of Nevada, are as follows:

INTEREST

1907—Interest on funded debt and miscellaneous interest. \$4,538,211.43
 1908—Interest on funded debt and miscellaneous interest. 4,395,193.19
 1909—Interest on funded debt and miscellaneous interest. 4,931,283.03

TAXES

Year	Ad valorem tax on the value of real and personal property on Nevada mileage	Taxes on real and personal property on the system as a whole	Taxes on property owned, but not used in operation, such as lands and other outside property within Nevada	Total taxes on all property of Central Pacific Company in California, Nevada, Utah and Idaho
1907	\$172,562.89	\$629,121.07	\$43,332.43	\$847,061.18
1908	182,008.52	862,775.00	43,650.45	1,032,380.35
1909	179,343.11	924,551.78	56,428.89	1,102,324.48

DIVIDENDS

Capital stock	Balance carried to surplus account after payment of interest, taxes and dividends
1907—Common—6 per cent	\$4,036,530.00
1907—Preferred—4 per cent	532,000.00
1908—Common—6 per cent	\$4,036,530.00
1908—Preferred—4 per cent	540,000.00
1909—Common—6 per cent	\$4,036,530.00
1909—Preferred—4 per cent	548,000.00

Total accumulated surplus of the Central Pacific Railway Company, as carried forward and shown on the company's general balance sheet for June 30, 1909, was..... \$25,234,361.91

As an indication of the phenomenal increase in the earning power of the Central Pacific Railway Company during the ten-year period 1899 to 1908, inclusive, the following comparative table of earnings, introduced as evidence before the Interstate Commerce Commission at Salt Lake City, September 22 to 28, 1909, in the case of the Salt Lake Chamber of Commerce Traffic Bureau against the Central Pacific Railway Company, Union Pacific Railroad and others, for a reduction in freight rates, is herewith given:

Gross earnings for the year 1899 on a mileage of 1,359 was.....	\$16,401,026.00
Or an average per mile of.....	\$12,068.45
Gross earnings for the year 1908 on a mileage of 1,525 was.....	\$33,456,141.32
Or an average per mile of.....	\$22,378.69
It will be noted that this is an increase for the period of.....	\$17,055,115.32
Or an average per mile of.....	\$10,310.24

When it is considered that this company actually paid something less than \$400 per mile in taxes for the year 1909, it must be clear to the Assessors that the assessments are abnormally low. With this and other detailed information before the Board of Assessors for their consideration, and in view of the fact that the taxes paid by this great transcontinental line averaged something less than \$400 per mile in Nevada for the year 1909, while the amount paid in California on this same line will average something over \$800 per mile, it is confidently believed that the board will have no difficulty in placing a just assessment on the line of the Central Pacific Railway Company within Nevada at the annual meeting in January.

As the ability of railroads in Nevada to earn a fair income on their investment or the cost of their property, upon which the public is taxed by the application of freight and passenger rates, should be given careful consideration in determining a proper valuation for assessment, a showing is herewith made covering the years 1907, 1908, and 1909, indicating the financial condition and the strong earning capacity of the Central Pacific Railway Company under lease and operated by the Southern Pacific Company.

Following is a copy of operating lease executed by the Southern Pacific Company and the Central Pacific Railway Company for a period of ninety years from January 1, 1894:

Railroads, equipment and appurtenances of the Central Pacific Railroad Company leased to the Southern Pacific Company for ninety years from January 1, 1894, the Central Pacific Railway Company succeeding to said lease.

Lessee will pay to lessor a fixed yearly rental amounting to ten thousand (\$10,000) dollars, to be applied to maintaining corporate organization.

Lessee is to operate said leased property and apply the earnings and income derived therefrom to paying all operating expenses thereof, incidental expenses connected therewith, including rental of leased lines, and according to their lawful priorities to the payment of current interest, sinking fund contributions, United States requirements, etc.

On the 1st day of November in each year, the lessee shall pay to the lessor such balances, if any, of the net earnings or income received by the lessee from leased premises for the year ending on the 30th of June next preceding, as shall remain in its hands after payments provided for are made, provided that if such balance shall exceed the amount of six (6) per cent on the capital stock of the lessor, the lessee shall retain one-half ($\frac{1}{2}$) of such excess.

Lessee shall be entitled to retain and pay to itself whatever may be owing to it from lessor for or in respect of advances which may have been made by lessor.

Agreement subject to revision and change if found to work to the benefit of one party at the expense of the other.

The following paragraph explains the reorganization of the Central Pacific Railroad Company:

The Central Pacific Railway Company is an original corporation incorporated under a special Act of 1897 of the State of Utah, which acquired by purchase the properties and franchises formerly owned by the Central Pacific Railroad Company, a California corporation.

Mr. Shaughnessy—I would like to call the attention of the board to the fact that it may be noted that there is a decrease of \$3,000 in the total amount of taxes paid on personal property in 1909 as compared with 1908, notwithstanding that the valuation per mile was increased, I think, \$1,000.

Mr. Burke—That was caused by a reduction in rates.

Mr. Shaughnessy—That is a complete statement of the capitalization of the Central Pacific and its earning capacity and surplus.

Prof. Thurtell—There is one thing that ought to be remembered in

connection with that matter of taxes. It will be seen that Nevada has 450 miles of the 1,500 miles of the Central Pacific, which is exactly 30 per cent of the mileage. In 1907, 27 per cent of the taxes were paid to Nevada, in 1908, 21 per cent of the taxes were paid to Nevada, and in 1909, 19 per cent of the taxes that were paid, were paid to Nevada.

Mr. Burke—That is admitted, Professor. We simply make the claim as to that that we are unfairly assessed in the State of California, and everybody who thinks about it down there agrees with us. The result of it is to make us pay more than our share of taxes. By the very reasoning of the gentlemen who framed the system we are inordinately assessed. As I said before, their system is based on an assumption of 60 per cent assessment of all property, and it is patent in California that 35 per cent is nearer a fair statement after the raising that was accomplished by the State Board of Equalization during the past year, which will probably be near 45 and the next year 60, and the rates will go down so that eventually we will pay our fair share of taxes. But, as it is, we are paying a great deal more than our fair share of taxes, and the assessment by the State Board of Equalization of the Central Pacific is only \$9,000 a mile higher than it is in Nevada, and that includes these enormously valuable terminal facilities.

Governor Dickerson—Do you know that the road is assessed at \$50,000 in Wyoming? Have you any lines of road in Oregon?

Mr. Burke—Yes, sir, but I know nothing about the road there. I have nothing to do with the taxing there.

Governor Dickerson—Why would you regard \$50,000 as a—would you regard \$50,000 in Wyoming as an unreasonable assessment?

Mr. Burke—It might not be, if all other property was assessed in the same proportion. We could have no cause to complain whatever if all other property was elevated accordingly.

Governor Dickerson—In other words, you are willing that your road be assessed the same as other property?

Mr. Burke—Yes, sir.

Governor Dickerson—That is all that I should ask.

Mr. Burke—But we submit that a statement such as has been made by the Railroad Commission proving merely the solvency of the company is not a fair basis of taxation for the physical property.

Governor Dickerson—I do not agree with you, Mr. Burke. It shows that you earn more than 9 per cent on a valuation of \$150,000 per mile.

Prof. Thurtell—Mr. Burke, would you not consider the statement made by Mr. Kruttschnitt, which went to the actual market value of the road, the physical valuation of the road, in which he excluded the terminals, anything that was not used in railroad service?

Mr. Burke—Mr. Thurtell, Mr. Kruttschnitt's statement includes the cost to the company of a wall of rock 725 feet high built at enormous cost.

Prof. Thurtell—I understand that. But his testimony went to the physical valuation of the Oregon Short line properties and the Union Pacific property and a whole lot of outside properties.

Mr. Burke—Mr. Kruttschnitt, when testifying in a matter which was pending and in which he was appearing as a witness, testified from the books of the company. Mr. Kruttschnitt does not carry the cost per mile of the Central Pacific Railway Company in his head. He goes to the books of the company, and the books show the cost to date, so much for the whole, etc. Now that cost may be from a time distant and tend to add to the value of the property, or it may be, like many, many hundreds of miles of the Central Pacific through Nevada, wiped out of existence, not existent and tending in no sense to go to make up the value of that property as it exists today for the purpose of taxation.

Prof. Thurtell—He was testifying as to the cost for reconstruction.

Mr. Burke—In the books.

Mr. Shaughnessy—He testified as to the probable cost of reconstruction. You remember that he testified in regard to the reproduction of the Union Pacific, and he said a fair estimate of reproducing the Union Pacific, which is a standard line and just the same as the Central Pacific, absolutely the same in every way—he testified that it would cost not less than \$75,000 or \$80,000 per mile.

Mr. Burke—Gentlemen, I submit that it is not competent to consider here in fixing the value of this railroad what it would cost to reproduce the Central Pacific in Wyoming.

Governor Dickerson—But what it cost to reproduce it here.

Judge Bartine—Mr. Kruttschnitt was testifying as to what it would cost to reproduce the Union Pacific Railroad, and in order to arrive at his figures he included many other things, the reconstruction work on the Central Pacific, partly in Utah and partly in Nevada, and then he averaged the whole thing and reached the conclusion that the entire system of the Union Pacific could be reproduced for from \$75,000 to \$80,000 per mile. Now I want to ask Mr. Burke if he considers that the testimony of Mr. Kruttschnitt taken from the books of the company is good testimony, admissible testimony for the purpose of showing what freight rates and passenger fares that company may charge, but is not good testimony with respect to the actual value of the property?

Mr. Burke—Any testimony that Mr. Kruttschnitt will come here and give is good for any purpose.

Judge Bartine—I know what you are going to say. Do you mean to intimate that Mr. Kruttschnitt will go before the Interstate Commerce Commission and swear that his road was worth from \$75,000 to \$80,000 per mile for the purpose of charging people fares and freights, and only worth \$18,000 or \$20,000 for the purpose of taxation?

Mr. Burke—Mr. Kruttschnitt may come before this board and give com-

petent testimony regarding his company, but I maintain that it is not fair to take a part of his testimony given in another proceeding and read it in here to convince this board as to matters of fact concerning which he testified.

Judge Bartine—Suppose this board, acting upon such information as it can get, the railroad company not furnishing information itself—if you wish to cut down that assessment, have you not got to show that it is unreasonable?

Mr. Burke—I know this board is going to do what is fair to the State of Nevada and the railroad company.

Judge Bartine—This board must act upon such information as it can get in the first instance; it is not a judicial body.

Mr. Burke—It is exercising a semi-judicial function, and whatever it decides will be satisfactory to me.

Mr. Randall—Mr. Chairman, I move that we adjourn until tomorrow at 11 o'clock a. m.

Mr. Regan—I second the motion.

The question was put, and the motion to adjourn carried.

Adjournment until 11 a. m., January 12, 1910.

THIRD DAY

The board resumed its session, pursuant to adjournment, January 12, 1910, at 11 a. m.

Upon roll-call the State Board of Revenue and Board of Assessors all answered present.

Governor Dickerson—No. 19, Central Pacific Railroad. Judge Bartine, did you get that court decision which you cited yesterday?

Judge Bartine—I did. In order that it may be definitely understood just what the issue presented is, what the point of controversy between the attorney for the Central Pacific Railroad and myself was, a brief statement may be necessary. I stated that the Supreme Court of the United States had laid down the rule that what property is worth for the purpose of income or revenue it is worth for taxation. That is the point to which this decision goes to which I shall ask your attention while I read. The case as a whole was not the same as this case, but the principle of the valuation of property is the same in all cases.

This was the case of *Adams Express Co. v. The State of Ohio*, which finally found its way into the Supreme Court of the United States. In the State of Ohio they had assessed the property of the express company according to its actual cash value as shown by the value of its stocks on

the market. It appeared that it had a capitalization of stock and that the stock was selling in the market at such figures that the company was actually worth \$16,000,000 and was earning money upon that amount, while its tangible property, consisting of horses and wagons, its paraphernalia and the like, scattered through several States, was worth a trifle more than \$4,000,000. The right of the State to tax the intangible property was attacked by the company. It was carried into the courts of Ohio and from there into the Supreme Court of the United States. It was decided adversely to the company, and afterwards the company petitioned for a rehearing and this is the decision upon the rehearing, upon the application, rendered by Justice Brewer, and upon the point to which I shall direct your attention especially there was no dissension among the court.

I read from page 217 of the 166th volume of the United States Reports, the case of *Adams Express Co. v. Ohio*:

MR. JUSTICE BREWER delivered the opinion of the court.

We have had before us at the present term several cases involving the taxation of the property of express companies, some coming from Ohio, some from Indiana, and one from Kentucky; also a case from the latter State involving the taxation of the property of the Henderson Bridge Company. The Ohio and Indiana cases were decided on the 1st of February. (165 U. S. 194.) Petitions for rehearing of those cases have been presented and are now before us for consideration.

The importance of the questions involved, the close division in this court upon them, and the earnestness of counsel for the express companies in their original arguments, as well as in their briefs on this application, lead those of us who concurred in the judgments to add a few observations to what has hitherto been said.

Again and again has this court affirmed the proposition that no State can interfere with interstate commerce through the imposition of a tax, by whatever name called, which is in effect a tax for the privilege of transacting such commerce. And it has as often affirmed that such restriction upon the power of a State to interfere with interstate commerce does not in the least degree abridge the right of a State to tax at their full value all the instrumentalities used for such commerce.

Now the taxes imposed upon express companies by the statutes of the three States of Ohio, Indiana and Kentucky are certainly not in terms "privilege taxes." They purport to be upon the property of the companies. They are, therefore, not, in form at least, subject to any of the denunciations against privilege taxes which have so often come from this court. The statutes grant no privilege of doing an express business, charge nothing for doing such a business and contemplate only the assessment and levy of taxes upon the property of the express companies situated within the respective States. And the only really substantial question is whether, properly understood and administered, they subject to the taxing power of the State property not within its territorial limits. The burden of the contention of the express companies is that they have within the limits of the State certain tangible property, such as horses, wagons, etc.; that that tangible property is their only property within the State; that it must be valued as other like property, and upon such valuation alone can taxes be assessed and levied against them.

But this contention practically ignores the existence of intangible property, or at least denies its liability for taxation. In the complex civilization of today a large portion of the wealth of a community consists in intangible property and there is nothing in the nature of things or in the limitations of the Federal Constitution which restrains a State from taxing at its real value such intangible property. Take the simplest illustration: B, a solvent man, purchases from A certain property, and gives to A his promise to pay, say, \$100,000 therefor. Such promise may or may not be evidenced by a note or other written instrument. The prop-

erty conveyed to B may or may not be of the value of \$100,000. If there be nothing in the way of fraud or misrepresentation to invalidate that transaction, there exists a legal promise on the part of B to pay to A \$100,000. That promise is a part of A's property. It is something of value, something on which he will receive cash, and which he can sell in the markets of the community for cash. It is as certainly property, and property of value, as if it were a building or a steamboat, and is as justly subject to taxation. It matters not in what this intangible property consists—whether privileges, corporate franchises, contracts or obligations. It is enough that it is property which though intangible exists, which has value, produces income, and passes current in the markets of the world. To ignore this intangible property, or to hold that it is not subject to taxation at its accepted value, is to eliminate from the reach of the taxing power a large portion of the wealth of the country. Now, whenever separate articles of tangible property are joined together, not simply by a unity of ownership, but in a unity of use, there is not infrequently developed a property, intangible though it may be, which in value exceeds the aggregate of the value of the separate pieces of tangible property. Upon what theory of substantial right can it be adjudged that the value of this intangible property must be excluded from the tax lists, and the only property placed thereon be the separate pieces of tangible property?

The first question to be considered therefore is whether there is belonging to these express companies intangible property—property differing from the tangible property—a property created by either the combined use or the manner of use of the separate articles of tangible property, or the grant or acquisition of franchises or privileges, or all together.

To say that there can be no such intangible property, that it is something of no value, is to insult the common intelligence of every man. Take the Henderson Bridge Company's property, the validity of the taxation of which is before us in another case. The facts disclosed in that record show that the bridge company owns a bridge over the Ohio, between the City of Henderson in Kentucky and the Indiana shore, and also ten miles of railroad in Indiana; that that tangible property—that is, the bridge and railroad track—was assessed in the States of Indiana and Kentucky at \$1,277,695.54, such, therefore, being the adjudged value of the tangible property. Thus the physical property could presumably be reproduced by an expenditure of that sum, and if placed elsewhere on the Ohio River, and without its connections or the business passing over it or the franchises connected with it, might not of itself be worth any more. As mere bridge and tracks, that was its value. If the State's power of taxation is limited to the tangible property, the company should only be taxed in the two States for that sum, but it also appears that it, as a corporation, had issued bonds to the amount of \$2,000,000, upon which it was paying interest; that it had a capital stock of \$1,000,000 and that the shares of that stock were worth not less than \$90 per share in the market. The owners, therefore, of that stock had property which for purposes of income and purposes of sale was worth \$2,900,000. What gives this excess of value? Obviously the franchises, the privileges the company possesses—its intangible property.

Now, it is a cardinal rule which should never be forgotten that whatever property is worth for the purposes of income and sale it is also worth for purposes of taxation. Suppose such a bridge were entirely within the territorial limits of a State, and it appeared that the bridge itself cost only \$1,277,000, could be reproduced for that sum, and yet it was so situated with reference to railroad or other connections, so used by the traveling public that it was worth to the holders of it in the matter of income \$2,900,000, could be sold in the markets for that sum, was therefore in the eyes of practical business men of the value of \$2,900,000, can there be any doubt of the State's power to assess it at that sum, and to collect taxes from it upon that basis of value? Substance of right demands that whatever be the real value of any property that value may be accepted by the State for purposes of taxation, and this ought not to be evaded by any mere confusion of words. Suppose an express company is incorporated to transact business within the limits of a State, and does business only within such limits, and for the purpose of transacting that business purchases and holds a few thousands of dollars' worth of horses and wagons, and yet it so meets the wants of the people dwelling in that State, so uses the tangible property which it possesses, so transacts business therein that its stock becomes in the markets of the State of the actual cash value of hundreds of thousands of dollars. To the owners thereof, for the purposes of income and sale, the corporate property is worth hundreds of thousands of dollars. Does substance of right require that it shall pay taxes only upon the thousands of dollars of tangible property which it possesses?

Accumulated wealth will laugh at the crudity of taxing laws which reach only the one and ignore the other, while they who own tangible property, not organized into a single producing plant, will feel the injustice of a system which so misplaces the burden of taxation.

A distinction must be noticed between the construction of a State law and the power of a State. If a statute, properly construed, contemplates only the taxation of horses and wagons, then those belonging to an express company can be taxed at no higher value than those belonging to a farmer. But if the State comprehends all property in its scheme of taxation, then the good-will of an organized and established industry must be recognized as a thing of value. The capital stock of a corporation and the shares in a joint-stock company represent not only the tangible property, but also the intangible, including therein all corporate franchises and all contracts, privileges and good-will of the concern.

Now, the same reality of the value of its intangible property exists when a company does not confine its work to the limits of a single State. Take, for instance, the Adams Express Company. According to the return filed by it with the Auditor of the State of Ohio, as shown in the records of these cases, its number of shares was 120,000, the market value of each \$140 to \$150. Taking the smaller sum, gives the value of the company's property taken as an entirety as \$16,800,000. In other words, it is worth that for the purposes of income to the holders of the stock and for purposes of sale in the markets of the land. But in the same return it shows that the value of its real estate in Ohio was only \$25,170; of real estate owned outside of Ohio \$3,005,157.52; or a total of \$3,030,327.52; the value of its personal property in Ohio \$42,065; of personal property outside of Ohio \$1,117,426.05; or a total of \$1,159,491.05, making a total valuation of its tangible property \$4,189,818.57, and upon that basis it insists that taxes shall be levied. But what a mockery of substantial justice it would be for a corporation, whose property is worth to its stockholders for the purposes of income and sale \$16,800,000, to be adjudged liable for taxation upon only one-fourth of that amount. The value which property bears in the market, the amount for which its stock can be bought and sold, is the real value. Business men do not pay cash for property in moonshine or dreamland. They buy and pay for that which is of value in its power to produce income, or for purposes of sale.

It is suggested that the company may have bonds, stocks or other investments which produce a part of the value of its capital stock, and which have a special situs in other States or are exempt from taxation. If it has, let it show the fact. Courts deal with things as they are, and do not determine rights upon mere possibilities. If half of the property of the Adams Express Company, which by its own showing is worth \$16,000,000 and over, is invested in United States bonds, and therefore exempt from taxation, or invested in any way outside the business of the company and so as to be subject to purely local taxation, let that fact be disclosed, and then if the State of Ohio attempts to include within its taxing power such exempted property, or property of a different situs, it will be time enough to consider and determine the rights of the company. That if such facts exist they must be taken into consideration by a State in its proceedings under such tax laws as are here presented, has been heretofore recognized and distinctly affirmed by this court. (*Pittsburg, Cincinnati, etc., Railway Co. v. Backus*, 154 U. S. 421, 443; *Western Union Telegraph Co. v. Taggart*, 163 U. S. 1, 23; *Adams Express Co. v. Ohio*, 165 U. S. 194, 227.) Presumably all that a corporation has is used in the transaction of its business, and if it has accumulated assets which for any reason affect the question of taxation, it should disclose them. It is called upon to make return of its property, and if its return admits that it is possessed of property of a certain value, and does not disclose anything to show that any portion thereof is not subject to taxation, it cannot complain if the State treats its property as all taxable.

But where is the situs of this intangible property? The Adams Express Company has, according to its showing, in round numbers, \$4,000,000 of tangible property scattered through different States, and with that tangible property thus scattered transacts its business. By the business which it transacts, by combining into a single use all these separate pieces and articles of tangible property, by the contracts, franchises and privileges which it has acquired and possesses, it has created a corporate property of the actual value of \$16,000,000. Thus, according to its figures, this intangible property, its franchises, privileges, etc., is of the value of \$12,000,000, and its tangible property of only \$4,000,000. Where is the situs of this intangible property? Is it simply where its home office is, where

is found the central directing thought which controls the workings of the great machine, or in the State which gave it its corporate franchise; or is that intangible property distributed wherever its tangible property is located and its work is done? Clearly, as we think, the latter. Every State within which it is transacting business and where it has its property, more or less, may rightfully say that the \$16,000,000 of value which it possesses springs not merely from the original grant of corporate power by the State which incorporated it, or from the mere ownership of the tangible property, but it springs from the fact that that tangible property it has combined with contracts, franchises and privileges into a single unit of property, and this State contributes to that aggregate value not merely the separate value of such tangible property as is within its limits, but its proportionate share of the value of the entire property. That this is true is obvious from the result that would follow if all the States other than the one which created the corporation could and should withhold from it the right to transact express business within their limits. It might continue to own all its tangible property within each of those States, but, unable to transact the express business within their limits, that \$12,000,000 of value attributable to its intangible property would shrivel to a mere trifle.

It may be true that the principal office of the corporation is in New York, and that for certain purposes the maxim of the common law was "*mobilis personam sequuntur*," but that maxim was never of universal application, and seldom interfered with the right of taxation. (*Pullman Palace Car Co. v. Pennsylvania*, 141 U. S. 18, 22.) It would certainly seem a misapplication of the doctrine expressed in that maxim to hold that by merely transferring its principal office across the river to Jersey City the situs of \$12,000,000 of intangible property for purposes of taxation was changed from the State of New York to that of New Jersey.

It is also true that a corporation is, for purposes of jurisdiction in the Federal courts, conclusively presumed to be a citizen of the State which created it, but it does not follow therefrom that its franchise to be is for all purposes to be regarded as confined to that State. For the transaction of its business it goes into various States, and wherever it goes as a corporation it carries with it that franchise to be. But the franchise to be is only one of the franchises of a corporation. The franchise to do is an independent franchise, or rather a combination of franchises, embracing all things which the corporation is given power to do, and this power to do is as much a thing of value and a part of the intangible property of the corporation as the franchise to be. Franchises to do go wherever the work is done. The Southern Pacific Railway Company is a corporation chartered by the State of Kentucky, yet within the limits of that State it is said to have no tangible property and no office for the transaction of business. The vast amount of tangible property which by lease or otherwise it holds and operates, and all the franchises to do which it exercises, exist and are exercised in the States and Territories on the Pacific Slope. Do not these intangible properties—these franchises to do—exercised in connection with the tangible property which it holds, create a substantive matter of taxation to be asserted by every State in which that tangible property is found?

It is said that the views thus expressed open the door to possibilities of gross injustice to these corporations, through the conflicting action of the different States in matters of taxation. That may be so, and the courts may be called upon to relieve against such abuses. But such possibilities do not equal the wrong which sustaining the contention of the appellant would at once do. In the City of New York are located the headquarters of a corporation whose corporate property is confessedly of the value of \$16,000,000—a value which can be realized by its stockholders at any moment they see fit. Its tangible property and its business is scattered through many States, all whose powers are invoked to protect its property from trespass and secure it in the peaceful transaction of its widely dispersed business. Yet, because that tangible property is only \$4,000,000, we are told that that is the limit of the taxing power of these States. In other words, it asks these States to protect property which to it is of the value of \$16,000,000, but is willing to pay taxes only on the basis of a valuation of \$4,000,000. The injustice of this speaks for itself.

In conclusion, let us say that this is eminently a practical age; that courts must recognize things as they are and as possessing a value which is accorded to them in the markets of the world, and that no fine-spun theories about situs should interfere to enable these large corporations, whose business is carried on

through many States, to escape from bearing in each State such burden of taxation as a fair distribution of the actual value of their property among those States requires.

The petition for a rehearing is denied.

Judge Bartine—Now just a word, gentlemen, with reference to this one passage. First, I want to call your attention to the fact that the idea running all through that decision is that the value for taxation may be more than it would cost to produce the property because the business which they are doing, the intangible value, would make it more valuable. I want to call your attention once more to this passage:

Now, it is a cardinal rule, which should never be forgotten, that whatever property is worth for the purposes of income and sale it is also worth for purposes of taxation.

Now, Professor Thurtell's figures have shown you that the net profit upon this road of the Nevada mileage for a single year is \$15,000 per mile. It is 10 per cent of \$150,000; it is 6 per cent of \$250,000 per mile, and there is no doubt in my mind that the railroad could sell it for \$150,000 per mile. There is no doubt in my mind that the railroad would not think of selling it for \$100,000 per mile. So that for the purpose of taxation it may be worth more than \$80,000 per mile, which it would take to reproduce it.

Mr. Burke, the attorney for the Southern Pacific Company, yesterday stated that the property might have one value for taxation purposes and another for the purpose of making rates and passenger fares, etc. I am prepared to agree with him to this extent: Property may have a higher value for taxation than for rate making, but it cannot have a lower. It cannot reproduce that property for \$80,000 a mile and that is all it is entitled to make money upon. It has not the right to make rates greater than produces a fair return upon the investment, but if it chances that property is handled in such a way that it gets double a fair return, that is property subject to taxation just the same as any other property which has an enhanced value by reason of its location. Suppose they should say this road is worth \$150,000 because it makes \$15,000 a mile? We would say that you are charging too much and you are invoking one wrong to justify another. That is all I care to say.

Governor Dickerson—Thank you, Judge.

Mr. Burke—Mr. Chairman, may I say a word?

Governor Dickerson—You may, Mr. Burke.

Mr. Burke—Mr. Chairman and gentlemen of the board, in the State of Ohio they have a very modern system of taxation. The State takes to itself, as it is proposed to be done in California, a percentage tax upon what amounts to the gross earnings of certain public utility corporations, and the case read by Mr. Bartine was one growing out of a

tax levied under that new system. They have separate sources of revenue in Ohio for State purposes, and ad valorem taxes are levied only for county and municipal purposes, and the subject for taxation there was based upon a unity of use, in no way or sense applicable to the matter pending before this board. The matter pending here is the matter of the value of the main track of the Central Pacific Railway Company. The case I do not think has any reference to the matter you gentlemen have before you.

Governor Dickerson—I want to ask Mr. Burke some questions. In what capacity do you represent the Southern Pacific Company?

Mr. Burke—As tax attorney.

Governor Dickerson—You suggested that this board is interested only in finding the actual value of the Central Pacific Railway Company. You admit that you are unable to furnish this board with any information.

Mr. Burke—I do not admit that. I admit that I am unable to state the value of the Central Pacific main track.

Governor Dickerson—You admitted yesterday that you did not know the value of the property. As its tax attorney you come here before this board and ask this board to place a reasonable valuation on your property and at the same time you are not able to furnish this board with any reasonable valuation. Can you say that \$100,000 valuation would not be a reasonable valuation?

Mr. Burke—I say as a matter of belief that it is not.

Governor Dickerson—What leads you to that belief?

Mr. Burke—It is a matter of general opinion.

Governor Dickerson—You could not give this board any idea as to how you arrive at that opinion, could you?

Mr. Burke—No, sir, I could not. I beg to say, Mr. Chairman, that this board is charged with the duty of valuing that property and assessing it at a fair valuation, and I believe that the board is actuated by the sincerest motives, and I believe that they will place on that property a fair valuation. It is their duty to value it as it is their duty to value all other kinds of property that they assess throughout the State.

Governor Dickerson—If a sheep man would come before this board and ask that a reasonable value be placed on his sheep, he would in all probability be able to furnish this board with information as to what the value of sheep are. The railroad company comes here and denies that the testimony of Mr. Kruttschnitt should be used, denies that the testimony of its auditor should be used, and yet refuses to furnish any idea as to the value of this road. It strikes me as eminently inconsistent.

Mr. Burke—I can only repeat, Mr. Chairman and gentlemen, what I

said yesterday, that there was no intimation or suggestion as to the character of the information that would be required by this board at this time. I came here for that reason unprepared. It is customary for boards like this in considering these matters to ask for the information that they want in advance so that it may be prepared and filed.

Governor Dickerson—I do not agree with you, Mr. Burke. It is a generally known fact that this board meets the second Monday in January for the purpose of fixing valuations. Anyone who has business before this board should come prepared to furnish the board all the information it requires, and you have been given previous notice. You were given notice that this board would meet and you had that notice, and it rests with you to come before this board prepared to show that any valuation less than \$150,000 is an unreasonable valuation.

I have some letters that I desire to incorporate into the record. Here is a letter from the Tax Commission of Washington. I will submit this to the board and ask that it go into the record. I do not care to read it and consume the time of the board:

STATE OF WASHINGTON,
STATE BOARD OF TAX COMMISSIONERS,
OLYMPIA, December 1, 1909.

HON. J. F. SHAUGHNESSY, *Railroad Commissioner, Carson City, Nevada.*

DEAR SIR: Replying to your letter of the 18th instant, *in re* the assessment of railroads in the State of Washington, we have to say that the O. R. & N. Company has in the State of Washington 337.95 miles of main track of main line, the actual value of which was found to be \$53,288.91 per mile; it has 53.85 miles of main line sidings valued at \$10,657.78 per mile, making a total valuation of main line track and sidings of \$18,582,910, the equipment upon which was found to be worth \$996,373; it also has 238.25 miles of main track of branch lines, the actual value of which was found to be \$31,073.86 per mile. These branch lines have 26.75 miles of sidings valued at \$5,328.89 per mile, making a total value of branch lines and sidings, \$7,545,894. The valuation of the equipment of these branch lines was found to be \$404,594.

The O. R. & N. comprises practically all of the Harriman railroads in operation in the State of Washington, except a short line, 6.12 miles in length, known as the Oregon and Washington Railway, in Thurston and Lewis Counties, which was found to have a total valuation of \$100,157, including equipment.

The Railroad Commission of Washington placed a value upon the railroad properties in the State of Washington; they found, first, the original cost of construction; second, the cost of reproduction; and, third, what they termed the present commercial value of the railroad. The so-called "present commercial value" of the railroads, as found by the Railroad Commission, has been in most instances adopted by this commission as a basis of taxation, but we were not satisfied with the valuation placed on the Harriman lines in this State and declined to adopt the valuation placed upon them by the Railroad Commission, this board finding the O. R. & N. Company's operating property to be worth approximately \$9,000,000 more than the value placed upon it by the State Railroad Commission.

We employed both the stock and bond method and the capitalization of net

earnings averaged over a five-year period. By the stock and bond method we mean adding to the funded debt the market value of the capital stock, both common and preferred, averaged over a five-year period. We also employed this method in arriving at the value of all electric and street railways, and have used it repeatedly to check the work of the Railroad Commission so far as steam roads are concerned.

After arriving at the actual value, this value is distributed on a mileage basis to the various counties through which the lines extend, and they are assessed and equalized at the same percentage of their actual value as is found to obtain in the assessment of the general mass of property in the county through which the railroad extends. This ratio varies from 23.42 per cent in Chehalis County to 57.18 per cent in Okanogan. This ratio is arrived at by this board in the following manner:

Sessions of the board are held at all the important places in each county throughout the State; expert witnesses are compelled to appear before the board and testify as to the actual value of specific tracts of real property and as to the value of personal property, stocks and merchandise, manufacturing plants, etc.; all transfers are looked up, and the actual consideration paid is ascertained by sworn testimony of parties to the transaction. In no case do we take the consideration shown in the conveyance. Merchants, manufacturers, etc., are required to produce and show invoices, stock accounts, etc. In this way the actual value of property is ascertained, and a list accurately describing the property is furnished the County Auditor, who is required to certify to the value of each tract or item of property as equalized by the County Board of Equalization. The ratio of assessed to actual value is then ascertained by this board, and the operating property of the railroads, street railroads, telegraphs and other public service concerns assessed by this board, is assessed and equalized in the various counties throughout the State at the same proportion of its actual value as general property is assessed.

We are sending you, under separate cover, copies of the proceedings of the State Board of Equalization for 1909. On page 40, etc., is shown the assessment of the Harriman lines and the ratio of assessed to actual value found to obtain in the counties through which their lines extend. Page 50 contains a recapitulation, which will show that the actual value of the operating property of the O. R. & N. Company in the State of Washington was \$27,529,771, equalized for taxation at \$10,774,185.

In reply to your query as to whether or not we favor assessing all property at a full valuation with a low tax rate, or at a low valuation and a high tax rate, the writer has to say that his early impressions led him to greatly favor a full valuation of all property. When this commission was organized, property was assessed at a very small proportion of its actual value. During the four years that the commission has had supervisory authority over the assessment of property in the State of Washington the assessed valuation of the State has increased from \$328,000,000 to \$790,000,000, and we regret to say that taxes have increased in the same proportion. If the assessment of property at its full value could be made to result, as it should, in reduced tax levies, we would be inclined to favor it, but our experience has been an unhappy one. High valuations seem to result in extravagance in public expenditure—State, county and local.

We shall be glad at all times to furnish you any information within our power, and to cooperate with you in all endeavors for better management of public affairs and more equitable taxation.

Sincerely yours,

J. E. FROST,

President State Board of Tax Commissioners.

Governor Dickerson—I also submit the proceedings of the State Board of Equalization of the State of Washington, session of 1909; page 36 of that record to be incorporated into the minutes of the board:

SCHEDULE C—TABLE 1—RAILROADS
GREAT NORTHERN RAILWAY
Main Line Right of Way and Tracks

Counties	Main track and sidings	Miles	Equalized rate per mile
Chelan	Main track	64.978	\$38,360.78
	Sidings	23.540	6,480.22
	Total	88.516	
Douglas	Main track	15.065	\$38,461.46
	Sidings	2.660	6,497.23
	Total	17.725	
Ferry	Main track		
	Sidings		
	Total		
Grant	Main track	57.560	\$38,525.54
	Sidings	12.026	6,508.05
	Total	69.586	
King	Main track	152.368	\$43,706.21
	Sidings	40.175	7,383.21
	Total	92.541	
Lincoln	Main track	64.086	\$36,713.22
	Sidings	10.074	6,201.90
	Total	74.160	
Okanogan	Main track		
	Sidings		
	Total		
Skagit	Main track	26.912	\$26,342.72
	Sidings	16.289	4,450.03
	Total	43.201	
Snohomish	Main track	91.610	\$43,184.48
	Sidings	36.105	7,295.08
	Total	127.715	
Spokane	Main track	58.356	\$47,221.01
	Sidings	45.326	7,976.96
	Total	103.682	
Stevens	Main track	14.787	\$34,296.79
	Sidings	3.693	5,793.70
	Total	18.480	
Whatcom	Main track	31.828	\$38,049.57
	Sidings	11.533	6,427.65
	Total	43.361	
Total	Main track	477.546	\$39,933.09
	Sidings	201.421	6,951.39

¹Includes 6.220 miles second track.

Governor Dickerson—I have here a letter from the State of Wyoming. It is brief and I will read this to the board:

STATE OF WYOMING.
OFFICE OF THE COMMISSIONER OF TAXATION,
CHEYENNE, November 24, 1909.

RAILROAD COMMISSION OF NEVADA, *Carson City, Nevada.*

GENTLEMEN: Replying to your letter of the 18th concerning the taxation of railroads within this State, I will say that this department has nothing to do with the assessment and taxation of this class of property, that duty devolving upon the State Board of Equalization, consisting of the State Treasurer, State Auditor, and Secretary of State.

All property in this State is by law valued, assessed and taxed at its full cash value; and the year 1909, when this law went into effect, shows an increase in valuation from \$67,500,000 to \$187,000,000, with a corresponding reduction in levy. I believe that full valuation with a low levy is the only correct and proper system. The reasons for this are too numerous to mention.

I am unable to give you the details with reference to the method by which our State Board arrives at the valuation of railroad property, or as to what items are considered by the board in making its computations and arriving at the assessable value.

The Union Pacific Railroad was assessed in 1909 at \$50,000 per mile, the Oregon Short Line at \$40,000 per mile. The Southern Pacific Company has no trackage in this State.

The lands of the Union Pacific, exclusive of the right of way, are assessed locally and at their full cash market value.

I am mailing you under separate cover a copy of the laws of this State relating to this department.

Very truly yours,

W. A. RICHARDS,
Commissioner of Taxation.

Governor Dickerson—There is a long letter from the Tax Commissioner of the State of Oregon which I will ask to be incorporated into the record:

STATE OF OREGON.
BOARD OF STATE TAX COMMISSIONERS,
SALEM, November 23, 1909.

RAILROAD COMMISSION OF NEVADA, *Carson City, Nevada.*

GENTLEMEN: We are in receipt of your letter of the 18th instant, in which you make inquiry regarding the taxation of railroads in this State.

The Act by which this board was created did not go into effect until after the date fixed for the valuation of property by the County Assessors for the year 1909. Consequently this board has not made the assessment of railroad property in Oregon this year, such assessments being made on the various railroads by the County Assessors.

Our State Board of Equalization does not meet until next month and only a part of the summaries of the county assessment rolls have thus far been received at this office. We find that in some cases County Assessors have varied rather widely in valuations placed on the same or similar railroad operating properties. For instance what we term the Southern Pacific main line (Oregon and California) has been assessed at from \$28,000 to \$35,000 per mile for roadbed and from \$2,000 to \$3,000 per mile for rolling stock. S. P. branch lines have been assessed all the way from \$8,000 to \$20,000 per mile. So far as we have been advised, assessed valuations on the O. R. & N. main line run from \$20,000 to \$44,000 per mile for roadbed and from \$1,500 to \$3,000 per mile for rolling stock. I will say that the companies are threatening to contest in the courts some of these highest valuations.

Beginning with 1910 all railroad properties operated as a unit partly within and partly without this State, or so operated in more than one county, will be assessed by this board. We then hope to do away with some of the apparent inequalities of this taxation of railroads under the County Assessors' valuations.

Under the old system land and buildings connected with railroad operating property have been assessed in the same manner as other real property by the County Assessors. In only a few cases have sidetracks been assessed at all.

Under the new law we will be permitted to take into consideration capitalized value, cost of reproduction, net earnings and various other pertinent factors in determining the value of railroad operating property. A rule which is of considerable importance in this State was fixed by the Oregon Supreme Court in the case of *Oregon and Cal. R. R. Co. v. Jackson County* (38 Or. 589, 64 Pac. 307, 65 Pac. 369). This rule is to the effect that the value of a railroad may be fairly determined by computing the average net earnings per mile of the road for a series of years, and capitalizing it from those earnings at the rate of interest paid on its bonded indebtedness.

The law in this State presumes that all property is to be assessed at its full cash value; but of course here, as elsewhere, such a condition is practically impossible of accomplishment. As a general principle this board favors a full valuation of property with low tax rate.

Under separate cover we are sending a copy of the recent compilation of the laws of Oregon relating to assessment and taxation. At page 62 will be found the Act by which this board was created; at page 115 will be found extracts from the court decision above referred to in reference to railroad valuations.

Very truly yours,

BOARD OF STATE TAX COMMISSIONERS,
By CHAS. V. GALLOWAY, *Commissioner*.

Governor Dickerson—I have also a letter from the Secretary of the State Board of Equalization of the State of California which would consume considerable time to read. I will ask that it be incorporated into the record:

STATE OF CALIFORNIA,
OFFICE OF STATE BOARD OF EQUALIZATION,
SACRAMENTO, December 9, 1909.

RAILROAD COMMISSION OF NEVADA, *Carson City, Nevada*.

GENTLEMEN: Replying to yours of December 8th, supplemented by yours of November 18th:

I think a complete reply will be found in a newspaper article very recently issued by the chairman of this board, giving the mode and manner of arriving at the assessment of railroads in California. We operate under what may be termed a "gross earning plan," which is embodied in a proposed constitutional amendment, rejected by the people in 1908, but revamped and again before the people, with some alterations, for their consideration in 1910. Enclosed a copy thereof.

This board cannot, of course, put such amendment or mode in full force by exacting an outright payment of 4 per cent of the gross earnings; for the reason that *all property* must be assessed under the ad valorem system; but we do levy an assessment ad valorem "which will produce 4 per cent of the gross earnings" as a tax. I think you will fully understand the procedure by perusing the article. As we therein state, there is a divided authority in the assessment of railroads "operated in more than one county" (the only roads this board has jurisdiction over), in the fact that this board assesses only the "roadway, roadbed, and rails" which constitute the "main line" running between the counties, *together* with the franchise for such operation, and the rolling stock used on the entire system in California. All other property—depots, sidings, terminals, etc.—are assessed locally.

To put the example tersely: We ascertain the California portion of the gross earnings of the "system" on a "road mileage basis"—the number of miles in the State bears to the total of the system. We then take 4 per cent of such State portion. We then ascertain the "average tax rate" which obtains in the counties through which the road operates, and then capitalize the 4 per cent of gross earnings at this average rate. This gives our assessment.

The "rate per mile" has nothing to do with the assessment. The rate per mile is used only in apportioning and determining the amount which shall go to each county, based upon the number of miles of main line laid in the county.

As to the percentage of assessed value to real value, I send you a copy of the report of our State Tax Commission upon which the proposed constitutional amendment is based. Commencing on page 93 you will note that the commission in a manner determines that 4 per cent of the gross earnings of railroads is equal to a 60 per cent ad valorem assessment of all other property. Hence we claim to assess the railway property at about 60 per cent of its cash value. Under

this determination as to ratio, our board this year endeavored, by some very stiff raises of assessment rolls, to place all counties on a basis of 60 per cent of their cash value.

If I can assist you further, command me.

Yours very truly,

T. M. EBY,

Secretary State Board Equalization.

Governor Dickerson—I will say for the information of the board that I have the report of the Commission on Revenue and Taxation of the State of California which will be of considerable value to the board in arriving at a solution of the Central Pacific valuation. I had a place marked, but cannot find it now or refer to it readily.

Mr. Burke—Mr. Chairman, with your permission and the permission of the board I would like to answer a question asked by Mr. Miles yesterday as to the bonded indebtedness of the Central Pacific. On the 30th of June, 1909, the interest-bearing debt of the Central Pacific Railway Company was \$125,780,000, the interest upon which was annually \$4,949,380.

Judge Bartine—In order that there may be no misunderstanding with regard to this matter, it is proper for me to say, because it is something we are studying all the time, we have to consider it in the matter of rate making as in taxation. I want to say that the bonded indebtedness is given as a part of the capitalization. It is given as a part of the investment upon which it is entitled to earn money. It pays the interest upon these bonds and the \$15,000 per mile which it has left is what it has after paying the interest on these bonds. The \$15,000 it has left is absolutely net over and above everything. Mr. Miles asked as to the life of a rail or tie. Those rails and ties are replaced and charged to the general expense, and after meeting all those expenses of every kind the net profit is just as given yesterday.

Mr. Henrichs—I move that we adjourn until 2 o'clock.

Mr. Randall—I second the motion.

The question was taken and the motion carried.

The board thereupon adjourned until 2 p. m.

Afternoon Session

The board resumed its session at 2 p. m., pursuant to adjournment.

Upon roll-call the State Board of Revenue and State Board of Assessors were all present.

Judge Bartine—Mr. Chairman, I ask the privilege of making a correction in a statement I made before adjournment. I do this as a matter of courtesy to the railroad company, as I want to be entirely fair. It is not the object of the Railroad Commission or myself to cinch anybody or make improper statements. I stated in general terms that the \$15,000 per mile net profit was what was left after the road had paid all its expenses, including the interest upon the bonded debt. My state-

ment was correct as to everything except the interest upon the bonded debt. I have had a statement made by Professor Thurtell during recess which shows just what the net earnings would be after the interest on the bonded debt is paid. I will read it, and then with the permission of the Chair and the board I will make it a part of the record. I will state that the interest is 4 per cent:

NET EARNINGS PER MILE OF CENTRAL PACIFIC RAILWAY ON NEVADA MILEAGE AFTER DEDUCTING INTEREST ON BONDED INDEBTEDNESS

Bonded debt.....	\$125,780,000.00
Interest.....	\$4,931,283.03

Thirty per cent of this applies to Nevada mileage, or

Bonded indebtedness.....	\$37,734,000.00
Interest.....	\$1,379,384.90

Gross revenue, 1907, for State of Nevada mileage.....	\$12,005,443.23
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Expenses, 1907, for State of Nevada mileage.....	\$5,061,827.75
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Net revenue, 1907, for State of Nevada mileage.....	\$6,943,615.48
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Deduct interest on bonds.....	1,379,384.90
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Net income.....	\$5,564,230.58
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After interest on bonds is paid net revenue per mile of line in Nevada is ... \$12,340.00

Judge Bartine—I ask to have this made a part of the record.

Mr. Henrichs—Mr. Chairman, I move that this board go into executive session.

Mr. Bradley—Mr. Chairman, I would ask Mr. Henrichs to bear with me a moment for a suggestion. In order to expedite matters, there are other parties here who would like to be heard that have other interests aside from the Central Pacific in this State, properties that are taxable, and if we would listen to them now a while, if we are through with the Central Pacific, then we could go right on and transact our business afterwards and they can go on home. They have been waiting for some time. I make that as a suggestion.

Governor Dickerson—Don't you think, Captain Bradley, that after considering the Central Pacific for the past day and a half it would be likely to confuse the minds of the board to inject some other railroad into the matter?

Mr. Bradley—I hardly think so, Mr. Chairman. I suggest this to expedite matters.

Governor Dickerson—The board can go into executive session and take up other matters afterwards.

Mr. Bradley—They have the right to explain their affairs the same as the representatives of the Central Pacific, and in that way we will kill considerable time as there are several roads, and each road might be represented, as far as I know, that would like to explain themselves to the board. It strikes me now it would be a very good time for them to explain themselves, and then when we go into executive session we can consider them all and be ready to act when we come in.

Governor Dickerson—It would take the same length of time. It does not make any difference whether you consider the roads collectively or separately. The Chair will rule that the board is bound to consider the Central Pacific in the order in which it appears on the order of business.

Mr. Randall—I second the motion to go into executive session.

The question was put and the motion carried.

Accordingly at 2:10 p. m. the board went into executive session and retired into the Governor's private chambers.

EXECUTIVE SESSION

Governor Dickerson—Gentlemen, I wish to take up the valuation on the Central Pacific. The evidence has been presented.

Mr. Henrichs—Mr. Chairman, what do they figure that the rate down there in California is, the percentage?

Governor Dickerson—They figure on a 4 per cent basis in California. If you want a further explanation I will call Professor Thurtell in to explain it to you.

Mr. Henrichs—I would like to hear that.

Governor Dickerson—They take the gross earnings and figure the valuation on a basis of 4 per cent as the valuation of the road and then tax it on that valuation.

Mr. Henrichs—We have the figures of the gross earnings. Of course we cannot figure putting the Central Pacific up to 4 per cent at the first meeting. What is the matter with splitting them in half? I think this would be well, and then each year come up. For instance, 2 per cent of their gross earnings. I think that is meeting them fair and square.

Mr. Bradley—Mr. Chairman, I would like to say this, that the Central Pacific runs through five counties in this State and the Assessors of those counties are directly interested for the full amount of taxes. The rest of us Assessors are interested as far as the State is concerned, which is about one-fourth. Now, I would like to hear from these five different Assessors from the counties in which this road runs; let them suggest.

Mr. Henrichs—I would state, Mr. Bradley, that I have 13.72 miles. I would like to hear from the balance of the men.

Mr. Bradley—In my county we have none.

Governor Dickerson—Has any member of the board from the counties through which this road passes anything to say?

Mr. Randall—Mr. Chairman, I have six miles and I am willing to agree to take 2 per cent of the gross earnings, and I don't think they can ask for anything less.

Mr. Henrichs—I will state that we have 13.72 miles of road. I have I think a little over a half of our road that we now have that is in dispute with Lyon and Storey Counties, but still we assess that portion of the road, 13.72 miles.

Mr. Lemaire—Mr. Chairman, I would like to ask at what figure that would make it on a 4 per cent and a 2 per cent basis?

Governor Dickerson—Two per cent would make it \$33,000 a mile.

Mr. Henrichs—According to the figures in California it would be \$66,000 on a 4 per cent basis.

Mr. Lemaire—The way I look at these things there is this to take into consideration also, and that is the land which the railroad runs through.

Mr. Henrichs—In what respect, Mr. Lemaire?

Mr. Lemaire—Well, the land that is alongside, you might say feeders to the road. I don't think we can compare our State with California in that respect.

Mr. Henrichs—We all know that the railroad has land all the way through, contract lands and patented lands.

Mr. Beard—Does that \$33,000 include the sidetracks?

Governor Dickerson—No.

Mr. Beard—I understood from the statement yesterday that it did. I thought they said that was the way they assessed in California.

Governor Dickerson—The California plan is on a general plan, and not on a mileage basis. The personal property and other matters are not connected with that.

Mr. Beard—They cannot make the earning unless they use the rolling stock and the sidetracks, can they?

Mr. Owens—Would that include the sidetracks with the main line, on 2 per cent?

Mr. Beard—I think it would include the rolling stock. They have no earning power without that.

Governor Dickerson—It would include that. That is one-half the California valuation. This board in cutting down the per mile value would be justified in taking other measures with reference to the rolling stock. They are certainly entitled to half what they get in California in this State without any injustice to the railroad.

Mr. Beard—What is the assessment in California?

Governor Dickerson—\$66,000. They have little branch lines in California and we are on the main line. This is an important system. It is a transcontinental road. In California they take many little branch lines and they place all that mileage on the same basis.

Mr. Owens—Then I understand you to say it is inclusive of branch lines and everything connected with the main line?

Governor Dickerson—Yes, \$66,000 in California. I think it includes the rolling stock and everything.

Mr. Weathers—That is taking a big advantage of them in this State.

Governor Dickerson—All of the lines in California are valued at \$66,000 per mile on a 4 per cent basis. I figure that just one-half the

valuation in California would be a fair valuation in this State to start with. Take the main line at \$33,000 per mile and the rolling stock at whatever you want to place that at. It would not begin to bring it up to the California basis, and I would not be in favor of doing it. It is too radical a jump at one time. You want to give them a chance to adjust themselves.

Mr. Owens—How would it do to give the main line 2 per cent and the sidetracks to make up this good, would that not make it equal to California?

Governor Dickerson—The California valuation is \$66,000 a mile. These little branch lines do not earn anything. Some of them are merely for convenience as feeders.

Mr. Weathers—I don't understand that. You say the tributaries are assessed at \$66,000 included with the main line?

Governor Dickerson—They assess the whole thing on a basis of 4 per cent of the gross earnings; \$33,000 for main line and sidetracks in this State would be a fair valuation, I think.

Mr. Owens—I do, too.

Governor Dickerson—Make it \$33,000 for all lines in this State.

Mr. Henrichs—There are very little sidetracks.

Mr. Lemaire—Do I understand you that 2 per cent would bring us \$33,000?

Governor Dickerson—I was figuring on cutting the California valuation in half.

Mr. Lemaire—I think at this time, the way I feel, that if we were to get a valuation of that kind in this State, including the sidetracks, it would be a good assessment.

Mr. Henrichs—Suppose a county has only sidetracks, would they assess them at \$33,000 a mile?

Governor Dickerson—I can't imagine a county only having sidetracks.

Mr. Bradley—Mr. Chairman, I would think this, as I said before: Esmeralda County has not any of the Central Pacific road within its boundaries, and my notion would be not to depart from the manner in which assessments have been made. Go on and fix a valuation for the main line and so much for the sidetracks, and leave it to the Assessors to assess the rolling stock, the same as they have done heretofore.

Governor Dickerson—You understand this, Mr. Bradley, that every Assessor in this board has an interest in this assessment, and the reason that this board meets here is to get outside Assessors to cast an unbiased and an uninfluenced vote in this board. It is just as important that the outside Assessors should take an active interest in this matter as the Assessors who are actually interested.

Mr. Bradley—If they wish to assess at so much on the gross value, let them pass a law to that effect.

Mr. Miles—Mr. Chairman, do I understand that the proposition of assessing this road would be—in assessing the mileage through the State we assess the main line at so much, including sidetracks?

Governor Dickerson—Yes.

Mr. Miles—That then would leave the sidetracks out of the question.

Mr. Randall—Would you knock out the sidetracks entirely?

Mr. Weathers—We take 450 miles of Central Pacific Railroad at so much. That is the idea, is it not, Governor?

Governor Dickerson—Yes.

Mr. Miles—That then would leave the sidetracks out of the question.

Mr. Wightman—As I understand this thing from your statement these sidetracks—for instance we have 100 miles of main track in the county and 20 miles of sidetrack—according to my understanding you propose to simply take a valuation of \$33,000 per mile on 120 miles of road?

Mr. McTerney—Excuse me one moment. I have 36 miles of main line. They are only to be assessed for 36 miles of the road and the sidetrack is part and parcel of the road.

Mr. Miles—I would like to know whether this sidetrack would be equally divided in proportion with the length of the main line which they have in each county.

Mr. McTerney—There would be no division of it at all.

Mr. Lemaire—That is done away with entirely.

Mr. Miles—If there are two counties, suppose there are 75 miles of sidetrack in one county and 50 miles in the other, then this county with the 75 miles of sidetrack would be deprived of its share of the taxes.

Governor Dickerson—How many sidetracks are there?

Mr. Randall—Call it 200 miles.

Mr. Owens—I would ask you the question, Governor, before we get away from this proposition, would this rule us in any way in regard to the other roads?

Governor Dickerson—No, it would not. I want to say this, that every other road in the State would be benefited by a 4 per cent instead of a 2 per cent. I think every other road would agree to be assessed on the California basis. I would not ask it of the Central Pacific because it would be too big a jump. These little roads should not be taxed out of existence.

Mr. Henrichs—This percentage rate of the gross proceeds would help little roads?

Governor Dickerson—It would help every road in the State except the Central Pacific.

Mr. Owens—I want to look out for the interests of the county as well as the railroad.

Governor Dickerson—For the information of the board I would ask that the Clerk read these letters.

The Clerk read the letters from the Tax Commissions of the various States which were incorporated in the record previously.

Mr. Beard—I was going to say if the California basis is \$66,000, they must put the rolling stock in.

Governor Dickerson—I want to say that the claim has been heretofore made that the valuation should be based upon the cost of reconstruction. It is not a fair valuation, but, even assuming that is true, that that is the standard by which you should be governed, I want to call your attention to Mr. Kruttschnitt's testimony. There is no higher authority in the United States on railroad construction than Mr. Kruttschnitt. He is vice-president of the Southern Pacific and the man through whom all contracts pass. They go through his office. He gives \$132,000 per mile as the cost of reconstruction in Nevada, but this includes the Lucin cut-off, but he said that was only 3 per cent of the mileage, and he gave other reconstruction work not so expensive as the Nevada reconstruction, and it went over \$90,000. It is safe to say that the cost of reconstruction in Nevada would be more than \$100,000 per mile. His own testimony here will show that. Thirty-three and one-third per cent of the actual value of that road is a very low valuation. They certainly cannot find any fault with it and it is only justice to the other taxpayers of the State. I pay 66 $\frac{2}{3}$ per cent on some property. Every taxpayer ought to be equal, the big company as well as the little individual struggling on with a little money. Mr. Owens, what do you assess them at?

Mr. Owens—At about 50 per cent.

Governor Dickerson—What value have you placed, Mr. Weathers, in your county?

Mr. Weathers—Thirty-five or forty per cent.

Governor Dickerson—Mr. Leonard?

Mr. Leonard—Forty per cent.

Governor Dickerson—Mr. McTerney?

Mr. McTerney—I try to get 60 per cent, but don't get it.

Governor Dickerson—Mr. Regan?

Mr. Regan—Between 50 and 60 per cent.

Governor Dickerson—Mr. Henrichs?

Mr. Henrichs—About 60.

Governor Dickerson—Mr. Wyatt?

Mr. Wyatt—From 35 to 60—45 per cent on the average.

Governor Dickerson—Mr. McBurney?

Mr. McBurney—About 40 per cent.

Governor Dickerson—Mr. Lemaire?

Mr. Lemaire—About 50 per cent.

Governor Dickerson—Mr. Randall?

Mr. Randall—Sixty per cent.

Governor Dickerson—Mr. Wightman?

Mr. Wightman—I try to figure on 60, but don't get it.

Governor Dickerson—Mr. Roeder?

Mr. Roeder—Forty per cent.

Governor Dickerson—Mr. Miles?

Mr. Miles—I ask for full cash value, but in every case I assess according to condition and circumstances. Under my assessments generally I do not believe I have exceeded 50 per cent. There is one item in my county that is admitted to have cost \$6,500,000 that was assessed after the finish of the Board of Equalization at about \$1,250,000.

Governor Dickerson—That was an enterprise just getting on its feet, was it not, Mr. Miles?

Mr. Miles—Yes, sir. That is a big item, and it did not exceed in my opinion over 20 per cent, this one item. Other than that, I would say that the whole county did not exceed 50 per cent.

Governor Dickerson—I think, taking all the assessments together throughout the State, they will average 45 per cent.

Mr. McTerney—You don't get it on ranches.

Mr. Beard—Nor on stock, either.

Mr. McTerney—It is hard to get land values.

Mr. Henrichs—How do you assess patented mines, Mr. McTerney?

Mr. McTerney—Ten dollars an acre.

Mr. Lemaire—When I went into office, everything being new, it took me some time to find how everything was. I found that the little fellow was paying on nearly all that he had and some were paying on a third, a fifth and some one-twentieth of what they had, and since I have been in office I have raised the valuations in Lander County so that they would all come in proportion, over a half a million dollars. In our county there is never any distinction made in lands. There is something that has to be done at this time so that in time everything will be uniform.

Mr. McTerney—I have had the same difficulty.

Mr. Lemaire—The roll has been kept the same for fifteen or twenty years.

Governor Dickerson—That was the practice in White Pine County for years.

Mr. Beard—Does that \$66,000 include everything they have?

Governor Dickerson—It makes the valuation on all their mileage. If all other property in this State is assessed at 45 per cent, the railroads should certainly be assessed at least 35 per cent.

Mr. Weathers—You have to take into consideration that Nevada would not be worth much if the railroads were not here.

Governor Dickerson—You must consider that the United States Government gave them the land and that the land is worth more than the entire railroad. The railroad would not be here today if the Government had not paid interest on its bonds.

Mr. Lemaire—I have just been figuring here a little on the proposition of \$28,000. In Lander County we have 26.58 miles with 4.28 miles of sidetrack. Last year it was \$6,000 for the sidetrack. Now figure that at the proportion of \$28,000.

Governor Dickerson—Let's see what it will amount to. It will amount to \$745,000.

Mr. Lemaire—Now the sidetrack at \$6,000. That is the way it was last year.

Governor Dickerson—That will make it total \$770,680 for main line and sidetracks in your county.

Mr. Lemaire—I would suggest at this time that we place a valuation of \$28,000 on the main line and \$6,000 on the sidetracks. Leave the sidetracks where they are and in that way it will straighten up matters.

Mr. Miles—Mr. Chairman and gentlemen, I believe that this suggestion is a proper one. While I am not interested in these counties in which the Central Pacific Railroad runs, it would be fair to the counties and to the taxpayers of those counties to have the sidetrack divided as it lays in the counties, and the valuation that Mr. Lemaire suggested is in my opinion a very good one.

Mr. Lemaire—I think it is a valuation that we can all agree on at this time, and I think it is a fair valuation.

Mr. Beard—You take that and the rolling stock and the sidetracks, it would bring it up to \$33,000.

Governor Dickerson—It will mean a loss of a million or a million and a half dollars to the State.

Mr. Lemaire—On the other hand, see the raise that has been made. I do not think it is right to make too big a jump.

Mr. Henrichs—Why not compromise and split the difference between the \$28,000 and \$33,000? Call it \$30,000. If we had done this years ago, we would not have had this trouble today.

Mr. Miles—The proposition is to assess the main line at \$30,000 and leave the sidetracks as they are?

Mr. Wightman—What is your idea?

Mr. Henrichs—That is helping Beard. I said leave the sidetracks as they are at \$6,000.

Mr. Lemaire—I don't think it is right. Take it in Elko County and also in Washoe, where they have many sidetracks, and it means quite an item.

Mr. Beard—\$28,000 is a \$9,000 raise.

Governor Dickerson—Well, but you must understand that you are assessing other property at 45 and 50 per cent. This is less than 33½ per cent. Is there any justification for making it less?

Mr. Beard—If you count their rolling stock and improvements, it will bring it up to that.

Governor Dickerson—It would not bring it to half the California assessment. You are cutting it in two. What did you assess them at last year?

Mr. Beard—I assessed them at \$100,000.

Governor Dickerson—That is only \$2,000 per mile.

Mr. Beard—You will recollect that I have mogul engines that come into my county that do not go into the other counties at all. They only go to Sparks.

Governor Dickerson—I think this road is worth \$100,000 a mile, and I think one-third of that is a reasonable and just valuation on the road.

Mr. Beard—Let us have a straw ballot. If the majority are in favor of \$30,000 I think it is fair.

Mr. Lemaire—I move that we place a valuation of \$28,000 on the main line and \$6,000 on the sidetracks, to include them in the one motion.

Mr. Henrichs—We agreed to take just one-half of the California valuation, or 2 per cent. We are willing to compromise on \$30,000. We are willing to drop down from \$33,000 to \$30,000. I think that is fair.

Mr. McTerney—Who agreed?

Mr. Henrichs—That is merely a suggestion.

Mr. Beard—I am willing to go with the majority.

Mr. Wightman—What do you figure, Governor, that this road should be assessed at when it comes to the top?

Governor Dickerson—Not less than \$100,000 when it comes to its full value. I think \$35,000 is a reasonable valuation now.

Mr. Wightman—When?

Governor Dickerson—It may take ten or twenty years.

Mr. Wightman—Where should be the stopping point?

Governor Dickerson—\$100,000 per mile and other property in proportion. If the State and county administrations are economical you can reduce your tax rate, and at the end of ten or fifteen years you will be on their full cash value and have a low tax rate. It is a disgraceful situation. You see a tax attorney for the Southern Pacific Company up here before this board ostensibly to furnish information for this board. His testimony before this board ought to convince anyone that he has not come here to furnish this meeting any information. He did not furnish this board any information. What does he come here for? He offered no suggestion as to the valuation of this property, and I claim that this board has every right to consider the testimony of Mr. Kruttschnitt as to the cost of reconstruction, which is \$100,000 a mile, and the testimony of Mr. Seger, who knew what he was speaking about, that it was worth \$146,000 a mile. The property is earning 6 per cent today on \$146,000 a mile. Some of these other little roads are losing money. Some of them are assessed at 95 per cent of their value, and they are

not making 2 per cent on their investment. That is an injustice. This board is not carrying out the intention of the law if that is done.

Mr. Beard—They are going to ask for reductions.

Governor Dickerson—Those who are entitled to it should have it. There is no question in the world that this company should be assessed at \$35,000. They are getting off cheaper than I am and I think they are getting off cheaper than any one of you gentlemen. I have a statement here taken from the reports filed with the Railroad Commission, sworn to by the officers of the railroad company:

STATEMENT

Taxes paid by the Central Pacific Company in California, covering approximately 800 miles of the system's mileage, on real and personal property only:

1907.....	\$424,531.66
1908.....	\$550,282.63
1909.....	\$630,721.52

As sworn to and reported to the Railroad Commission of Nevada and the Interstate Commerce Commission.

Mr. Lemaire—I move that we adjourn until 11 o'clock a. m. tomorrow.

Mr. Wyatt—I second the motion.

The question was put and the motion carried.

The board accordingly, at 3:30 p. m., adjourned until tomorrow, January 13, 1910, at 11 a. m.

FOURTH DAY

The board resumed its session at 11 a. m., January 13, 1910, pursuant to adjournment.

Upon roll-call the State Board of Revenue and State Board of Assessors all answered present.

Governor Dickerson—Central Pacific.

Mr. Owens—Mr. Chairman, after being in session several days and after giving this matter deep consideration and thought, knowing that there is a difference existing between the different Assessors of the counties, I rise at this time to place a motion in front of this board with the object in view of getting an expression from all the Assessors here. We have got to settle the matter some time and we might as well now settle it as later on. I readily understand that by difference of opinion we arrive at sound conclusions. I fully realize the fact that each and everyone here is doing what he thinks is his duty by the State and by the individuals or corporations, no matter who they are, that are affected by these motions. In order to place this matter before the board I move that \$28,000 per mile be placed as the valuation on the Central Pacific Railway.

Mr. Lemaire—I second the motion.

Mr. Henrichs—Mr. Chairman, I move to amend the motion by placing the valuation at \$33,000.

Mr. Regan—I second the motion.

Mr. Randall—Mr. Chairman, after listening to all this data here I consider it my duty to place a valuation on this property somewhere near the valuation placed by me on other property. If we place a valuation of \$40,000 or \$50,000 some think it might be too high. If we put a valuation of \$150,000 a mile on this road it would not be unjust for the reason that heretofore they have not paid anywhere near what they should have paid. I move to amend the amendment by placing a valuation of \$45,000 a mile on the Central Pacific.

Mr. Wyatt—I second the motion.

Governor Dickerson—The question before the house is on the amendment to the amendment. The Clerk will call the roll.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

The result of the vote was announced as follows: Ayes, 4; noes, 11. So the amendment to the amendment was rejected.

Mr. Henrichs—Mr. Chairman, I move to amend the amendment by making the assessment \$44,000.

Mr. Regan—I second the motion.

Governor Dickerson—The Clerk will call the roll.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

The result of the vote was announced as follows: Ayes, 4; noes, 11. So the amendment to the amendment was rejected.

Mr. Randall—Mr. Chairman, I hate to see this thing go down like this. I move to amend the amendment by making it \$43,999.

Mr. Wyatt—I second the motion.

Governor Dickerson—The Clerk will call the roll.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Henrichs—Mr. Chairman, I move to amend the amendment by making it \$43,500.

Mr. Regan—I second the motion.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Randall—Mr. Chairman, I move to amend the amendment and place a valuation of \$43,400, and before that is put I would like to have some of these gentlemen state and show why they don't think that a fair valuation. I am taking the facts and figures given here the last three or four days. Let them show why it is not worth it.

Mr. Wyatt—I second the motion.

Governor Dickerson—Has any member of this board any answer to make to Mr. Randall's request? If not, the Clerk will call the roll.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Henrichs—Mr. Chairman, I move to amend the amendment by making the valuation \$43,350.

Mr. Wyatt—I second the motion.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Randall—Mr. Chairman, I again have to rise and get as high as I can. Will not someone get up and tell me why they vote this way? Show us your figures. I move to amend the amendment by making the valuation \$43,300.

Mr. Wyatt—I second the motion.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Henrichs—Mr. Chairman, I move to amend the amendment by making it \$43,250.

Mr. Regan—I second the motion.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Randall—Mr. Chairman, I again rise for the same purpose and move to amend the amendment by placing it at \$43,200.

Mr. Wyatt—I second the motion.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Henrichs—Mr. Chairman, I wish to make an amendment to the amendment to place the valuation at \$43,150, and before that is put I would like to have some of the figures we have gone over showing the valuation of the road read again.

Mr. Regan—I second the motion.

Mr. Randall—Mr. Chairman, in regard to the operating expenses, here is \$9,928. I believe Mr. Shaughnessy can explain that. We did not quite understand that yesterday.

Mr. Shaughnessy—We have reported as gross operating revenues of the Central Pacific Company for the year ending June 30, 1909, \$12,608,554.72, and we have reported as operating expenses \$9,928.41. The report is rendered to us by the Central Pacific Company. The gross operating expenses of the Central Pacific Company have not been reported. The \$12,608,000 here reported is properly net income. I should imagine, basing my opinion upon the gross earnings for 1907 as reported in Mr. Seger's affidavit, in which year the gross earnings of the Central Pacific Company were \$32,000,000, I would imagine that the gross operating revenue for the year 1909 for the Central Pacific Railway Company would be about \$30,000,000, somewhere in that neighborhood. This \$9,928.41 that we reported as operating expenses here is for the maintenance of the corporate organization of the Central Pacific Company and is not properly an operating expense, although it is all that is reported to us by the operating company, the Southern Pacific. Is there anything further, Mr. Randall?

Mr. Randall—No, I guess that is all.

Governor Dickerson—That \$9,000 is for the purpose of maintaining the corporate existence of the company?

Mr. Shaughnessy—Yes, that is the idea.

Mr. Randall—Mr. Chairman, I move to amend the amendment and make it \$43,100.

Mr. Wyatt—I second the motion.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Henrichs—Mr. Chairman, I move to amend the amendment by making it \$43,050.

Mr. Regan—I second the motion.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Randall—Mr. Chairman, I move to amend by making it even \$43,000.

Mr. Wyatt—I second the motion.

Mr. McTerney—Mr. Chairman, are these motions in order? I move the previous question; that the amendment to the original motion be considered.

Governor Dickerson—The motion is out of order. An amendment to an amendment is always in order. There is an amendment to the amendment pending, and you cannot consider any other question until that is disposed of.

Mr. Regan—Mr. Chairman, I move that we adjourn until 2 o'clock this afternoon.

Mr. Beard—Let us keep on until 12 o'clock.

The question on adjournment was put, and the Chair declared that the noes seemed to have it.

Upon a division being called for 4 stood for adjournment—Messrs. Regan, Henrichs, Wyatt, and Randall—and 11 opposed.

So the motion to adjourn was lost.

Mr. Henrichs—Mr. Chairman, I move to amend by making it \$42,999.

Mr. Regan—I second the motion.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Randall—Mr. Chairman, I will get used to this after a while and will like it. I move to amend to make it \$42,990.

Mr. Wyatt—I second the motion.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Henrichs—Mr. Chairman, I wish to amend the amendment by making it \$42,900.

Mr. Regan—I second the motion.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Randall—Mr. Chairman, I move to amend by making it \$42,890.

Mr. Wyatt—I second the motion.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Henrichs—Mr. Chairman, I move to amend the amendment by making it \$42,885.

Mr. Regan—I second the motion.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Randall—Mr. Chairman, I move to amend that amendment and make it \$42,880.

Mr. Wyatt—I second the motion.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Henrichs—I move to amend the amendment and make it \$42,875.

Mr. Regan—I second the motion.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Randall—Mr. Chairman, I move to amend the amendment by making it \$42,870.

Mr. Wyatt—I second the motion.

Mr. Regan—I move that we adjourn until 2 p. m.

Mr. Henrichs—I second the motion.

The question was put, and the Chair stated that the ayes seemed to have it.

Mr. McTerney—I call for a division.

Upon a division 4 stood for adjournment—Messrs. Wyatt, Randall, Regan, and Henrichs—and 11 opposed.

So the motion to adjourn was lost.

Mr. Henrichs—Mr. Chairman, I would like to have the Clerk read

some of those letters from the State Boards of Assessors of various States.

Mr. Randall—So would I, Mr. Chairman.

At the request of the Chairman, Mr. T. J. Salter, stenographer assisting the Clerk, read letters from various States, as previously incorporated into the record.

When the reading had commenced:

Mr. Beard—Is that a motion, Mr. Chairman?

Governor Dickerson—It is not necessary that it be made as a motion, Mr. Beard, unless you wish to object to the ruling of the Chair and vote it down.

At the conclusion of the reading:

Mr. Beard—I move we adjourn until 2 p. m.

Mr. Bradley—I second the motion.

Upon a division being called for, 10 stood for adjournment, and the Chair announced the motion carried.

Accordingly the board adjourned until 2 p. m.

Afternoon Session

The board resumed its session at 2 p. m., January 13, 1910, pursuant to adjournment.

Upon roll-call the State Board of Revenue and State Board of Assessors all answered present.

Mr. Lemaire—Mr. Chairman, I move that a recess be taken for fifteen minutes.

Mr. Henrichs—I second the motion.

Accordingly the board took a recess until 2:15 p. m.

The board resumed its session at 2:15 p. m.

All present.

Mr. Henrichs—Mr. Chairman, for the information of the board I would like to read the testimony of Mr. Seger regarding the Central Pacific Company.

Mr. Lemaire—Mr. Chairman, I would like to ask if that report has been already read.

Governor Dickerson—No, it has not.

Mr. Henrichs—It is interesting to a certain extent.

Governor Dickerson—You have a right to read the report.

Mr. Henrichs—(Reading affidavit of C. B. Seger):

IN THE UNITED STATES CIRCUIT COURT, DISTRICT OF NEVADA
SOUTHERN PACIFIC COMPANY, *Complainant*, v. HORACE F. BARTINE, ET AL.,
AS RAILROAD COMMISSION OF NEVADA, ETC., *Defendants*

State of California,
City and County of San Francisco. } ss.

C. B. Seger, being sworn, says: He is auditor of Southern Pacific Company, complainant above named, and has been such since November 1, 1904. As such auditor, this affiant has had and now has full charge of all the accounts of said

company, including accounts of receipts and income from its operations and traffic, both in local or intrastate business and in through or interstate business; including also accounts of disbursements in the aforesaid operations and business of said company, and particularly for maintenance of way and structures, maintenance of equipment, conducting transportation and general expenses, and including generally all accounts covering the financial showing hereinafter made in detail.

The receipts and disbursements of and by the company throughout its business are regularly reported to affiant, and entered by him in the accounts of the company, in substantial pursuance of the form and method approved by the Interstate Commerce Commission of the United States. Affiant has the custody of the aforesaid accounts and of all the records pertaining to the said business and to the said showing, and he is able therefrom to exhibit the receipts and disbursements of and by the company and the source and the purposes respectively of such receipts and disbursements.

Said Southern Pacific Company has acquired by leasehold interest and is operating thereunder the railroad of the Southern Pacific Railroad Company, a corporation organized and consolidated under the laws of the State of California, the Territory of Arizona, and the Territory of New Mexico, the railroad of which extends through said State and Territories from San Francisco, California, to the Rio Grande River, near El Paso, Texas.

Said Southern Pacific Company has acquired by leasehold interest and is operating thereunder the railroad of the Central Pacific Railway Company, a corporation of the State of Utah, which said railroad extends through the States of California, Nevada, and Utah, from San Francisco, California, through that State to the Oregon line on the north, and to Goshen on the south, and through said State of California in a general easterly direction to the State line, and thence through the State of Nevada into and through the State of Utah, terminating at Ogden therein.

Said Southern Pacific Company has acquired by leasehold interest and is operating thereunder the railroad of the Oregon and California Railroad Company, a corporation of the State of Oregon, which said railroad extends through that State from Portland to the State line on the south.

In connection with the railroad lines in California it is to be said that the Southern Pacific Company has acquired the leasehold interest and is operating the railroad of the South Pacific Coast Railway Company, a California corporation, extending from San Francisco, California, to Santa Cruz, California.

In connection with the railroad lines in Arizona, it is to be said that the Southern Pacific Company has acquired by leasehold interest and is operating the railroad of the New Mexico and Arizona Railroad Company, an Arizona corporation, extending from Benson, Arizona, to Nogales, Arizona. It is further to be said in this connection that the Southern Pacific Company has acquired by leasehold interest and is operating the railroad of the Sonora Railway, a Massachusetts corporation, and also having local board and government directors under laws of Mexico; said railroad extending from Nogales, Arizona, to Guaymas, Mexico.

The foregoing leased lines are operating as the Southern Pacific Company, Pacific system. The Nevada and California Railway Company, a California corporation, is also a part of said Pacific system, and is operated by said Southern Pacific Company as a part thereof, but not as a leased line. Said Southern Pacific Company is, and for more than one year last past has been, the owner of substantially all the stock of said Nevada and California Railway Company.

The instruments of lease covering the aforesaid leasehold interests are hereto attached and made part hereof, and are marked as exhibits in the order of said leasehold interests as hereinabove set forth, namely, Exhibits 1, 2, 3, 4, 5 and 6. Said instruments of lease were made and delivered as of the dates thereof, and have ever since been and still are in full force and effect.

On and prior to March 5, 1907, and for more than one year next prior thereto, and ever since and now, the Southern Pacific Company was and is the owner of substantially all of the stock of said Southern Pacific Railway Company, of said Central Pacific Railway Company, of said Oregon and California Railroad Company, of said South Pacific Coast Railway Company.

Dealing now with said Southern Pacific Company and its business in the State of Nevada, in contradistinction from the said Nevada and California Railway Company as to the rates and business of which there is a separate suit, and as to which there is a separate showing, affiant will now proceed to show the freight

earnings accruing to the said Southern Pacific Company on all freight business in Nevada, for the fiscal year beginning July 1, 1906, and ending June 30, 1907. In this behalf affiant states that the records of said company pertinent to its said business in Nevada and covering the period antedating the 18th day of April, 1906, were destroyed in the San Francisco fire of that date. By such records affiant means to refer to such recorded details of the company's business as would be available for the reproduction of calculations similar to those herein-after set forth. The showing, therefore, hereinafter made has been for the fiscal year above mentioned; and affiant states in this regard that if a similar showing were reproduced for the two fiscal years next preceding the one hereinabove mentioned, such showing would be less favorable for the rates and charges prescribed in the bill and more favorable for the complainant's contention in the pending suit.

The freight earnings accruing to and made by said Southern Pacific Company in Nevada, being the revenue itself, without reference to its disposition under any lease, agreement, or otherwise, are derived for the said fiscal year 1907, from through and local business, understanding by local business such as is strictly intrastate in character, picked up and laid down within the limits of the State of Nevada, and understanding by through business such as interstate in character. Further differentiating said interstate business consists, first, of business originating outside and coming into the State; second, of business originating in and passing out of the State; and, third, of business originating outside the State, having destination beyond the State, and, in relation to the State itself, simply passing through the State. The freight earnings for said fiscal year, and pertaining to the said business as above classified, are set forth under the appropriate heads and are in fact as follows:

Month	Intrastate	Interstate originating outside and coming into the State	Interstate originating in and passing out of the State	Passing through the State
July, 1906.....	\$10,436.18	\$107,875.11	\$35,523.82	\$470,924.55
August, 1906.....	10,605.96	111,782.02	51,277.74	522,843.06
September, 1906.....	12,937.64	121,850.55	63,737.20	415,844.09
October, 1906.....	14,375.08	120,886.80	86,735.16	509,245.84
November, 1906.....	12,272.02	117,030.14	113,018.04	569,330.37
December, 1906.....	9,131.88	142,993.44	76,050.50	484,171.39
Total, six months.....	\$69,758.76	\$722,418.06	\$426,342.46	\$2,972,360.20
January, 1907.....	\$11,262.49	\$148,057.52	\$93,319.83	\$453,731.84
February, 1907.....	14,259.94	139,205.91	81,015.25	370,756.09
March, 1907.....	15,187.64	145,352.33	80,805.29	382,881.61
April, 1907.....	17,114.10	173,795.60	57,354.54	340,027.50
May, 1907.....	17,023.36	179,521.34	46,874.90	514,887.25
June, 1907.....	15,185.11	175,336.93	46,090.69	543,637.79
Total, six months.....	\$90,032.64	\$961,269.63	\$405,460.50	\$2,605,922.08
Total, twelve months.....	\$159,791.40	\$1,683,687.69	\$831,802.96	\$5,578,282.28

Recapitulation

Intrastate.....	\$159,791.40
Originating outside and coming into the State.....	1,683,687.69
Originating in and passing out of the State.....	831,802.96
Passing through the State.....	5,578,282.28
Sum total.....	\$8,253,564.33

In explanation of the above statement, and first with reference to the showing therein made as to the intrastate or local business: This showing, in its entirety, is actual, it is taken directly from the records of the company and it is the result of the aggregation of intrastate freight earnings upon every shipment, and for every day of every shipment for every month of the above fiscal year. The daily record of every shipment from and to points in Nevada is reported to the audit-

or's office by the agent at destination of shipment, in the shape of an abstract of the shipment, the movement, and the earning, accompanied and supported by the way-bill.

These reports are checked and verified in the auditor's office, and are aggregated and computed into monthly statements; and the above statement presented for the fiscal year 1907 is a true and correct statement of the said monthly showing as thus reported, aggregated and computed.

The same course is pursued with respect to the through or interstate business, and with respect to that business, the foregoing statement for the fiscal year 1907 has been accordingly made up. That statement, however, in reference to the interstate business, is actual, in the sense in which that term has been used of the local business to the extent of the first seven months of said fiscal year, and is constructive as to the remaining five months: that is to say, the figures for the remaining five months are the result of percentages obtained by using said seven months applied to the business of the entire year; and such results thus constructively obtained represent by close approximation the true earnings of the company on interstate business for the mileage operated in Nevada.

To illustrate these monthly computations of freight movement as a matter of actual result, as in the case of the first seven months of said fiscal year, the movement of commercial freight from Oakland, in California, to Reno, in Nevada, for the month of June, 1907, may be instanced. This movement is exhibited upon a monthly sheet, entitled: "Southern Pacific Company—Pacific System, Movement of Commercial Freight, No. of Tons, Tons 1 Mile, and Earnings." Said monthly sheet contains the list of stations from which the freight moves and to which it is destined; the number of miles of haul in that movement for the month, the number of tons hauled, the tons per mile, and the freight earnings for that month; also the distribution of the total mileage, the ton miles, percentage of earning, and extension of that earning into dollars and cents; all this as among the main line or lines and branches which are contributory to the total haul. Thus: Station, Oakland; miles, 301; destination, Reno; tons, 29.7; tons 1 mile, 8,940; freight earnings, \$756.64. Then follows a farther division among the main line Central Pacific Railway and operating divisions thereof, contributory to the total haul, of the respective miles, tons 1 mile, percentage and earnings. This farther division will not be followed out, as not being necessary to the illustration.

The total mileage from Oakland to Reno being 301 miles, while the mileage in such haul pertaining to the State of Nevada is 14 miles, it results that the mileage haul in Nevada is approximately five per cent (5%) of the entire haul. Five per cent (5%) of the said earnings, \$756.64, would be \$37.83, and this last amount would represent the freight earnings on the particular interstate business, now being illustrated, which would accrue and be credited to the State of Nevada. By the same calculations, if the destination point in Nevada had been Elko, the Nevada mileage would be 328 miles, and the total haul, Oakland to Elko, would be 558 miles—making the Nevada percentage about fifty-nine per cent (59%). Assuming the freight earnings for the entire movement to be the same as in the Reno illustration, the proportion thereof assignable to the State of Nevada would be \$446.41.

The same method has been followed in respect to shipments originating in Nevada and destined beyond the State, also to shipments originating outside the State and passing through the State to a destination beyond. For the first seven months of the fiscal year 1907, the Nevada proportion of freight earnings on all three classes of interstate freight was calculated in the method just shown, and such calculation was made for every point of origin in the State of Nevada, for every destination point in the State of Nevada, and for every interstate movement passing through the State. The items in such calculation were multitudinous and the work was exceedingly laborious. From the actual results of these seven months, an average percentage accruing to the State of Nevada upon all through business was obtained, and this percentage was applied to such through business for said State during the remaining five months, and with results which approached by close approximation the actual results derived for similar operations during the first seven months.

Passing from freight to passenger business, affiant states that the conditions hereinbefore mentioned in reference to the destruction of the records of this company, to the difficulties in the way of reproduction of calculations for periods anterior to said destruction, and to the showing for the two fiscal years next preceding the fiscal year herein dealt with, are likewise applicable to passenger business.

The passenger earnings accruing to and made by said Southern Pacific Company in Nevada, being the revenue itself, apart from its disposition under any conventional relation, are derived for the fiscal year 1907 from through and local business as hereinabove explained and differentiated. Such passenger earnings for said fiscal year are set forth under the appropriate heads and are in fact, as follows:

Month	Revenue on intrastate business	Revenue on business originating in and passing out of the State	Revenue on business originating out of and passing into State	Revenue on business passing through State	Total
July, 1906.....	\$17,601.77	\$15,485.67	\$18,417.84	\$129,135.47	\$180,640.75
August, 1906.....	19,068.05	17,977.52	19,272.84	140,958.67	197,277.08
September, 1906.....	18,277.68	19,096.60	18,902.57	156,760.31	213,037.16
October, 1906.....	16,031.10	15,074.16	21,811.29	162,461.39	215,377.94
November, 1906.....	17,713.41	17,694.33	27,211.91	170,099.46	232,719.11
December, 1906.....	20,253.14	24,728.41	31,452.85	134,314.68	210,749.08
January, 1907.....	19,063.30	21,810.31	31,541.75	129,549.75	201,965.11
February, 1907.....	19,412.86	18,894.78	32,202.06	153,346.53	223,856.23
March, 1907.....	25,860.48	24,428.05	32,694.03	138,424.00	221,406.56
April, 1907.....	37,636.74	27,820.36	41,611.20	212,044.53	319,112.83
May, 1907.....	37,917.08	29,160.36	44,873.20	231,189.62	343,140.26
June, 1907.....	37,400.04	35,412.80	37,520.01	204,630.92	314,963.27
Total.....	\$286,235.65	\$267,582.85	\$357,511.55	\$1,962,915.33	\$2,874,245.38

The foregoing statement is computed in the same way as the statement in reference to freight earnings and from similar data. The difference, however, between said passenger statement and the freight statement hereinabove submitted is, that whereas in the freight statement, the earnings for five months were arrived at constructively by the application of percentages as hereinabove explained, in the case of passenger earnings no constructive method has been employed, and the foregoing statement of passenger earnings is made up from the actual figures for every month of said fiscal year, and is a full and accurate presentation of the passenger earnings for the time and of the kind stated.

It is to be further said in reference to the aforesaid statement of passenger earnings, that any earnings on the said passenger traffic covered by said statement resulting from excess baggage, are included in and comprehended by said statement.

Affiant further shows that for said fiscal year 1907 the mail earnings accruing and credited to the mileage in the State of Nevada amounted on actual basis to the sum of \$590,528.96. The earnings for said fiscal year from express business accruing and credited to the State of Nevada on a mileage basis were \$201,421.93. The telegraph earnings accruing and credited to said State of Nevada for said fiscal year were \$9,292.88. As to the mail earnings, the line from San Francisco to Ogden is one of the mail routes into which, for convenience, the Government divides the Southern Pacific Company, Pacific System. The revenue received for this route from the Government, for the carrying of the mails, is computed upon the Government rates applied to the mail tonnage as ascertained by the weighing of the mail in accordance with the law and the practice of the Postal Department. On the ascertainment of the revenue for said route, so much thereof is credited to the State of Nevada as would be apportioned thereto on a road mileage basis. This is the basis of the above statement as to mail earnings for the State of Nevada, for the fiscal year 1907. With reference to express earnings, the amount accruing therefrom to the Southern Pacific Company, Pacific System, is apportioned to the operating divisions thereof upon a percentage ascertained by a computation of the actual express business and earnings for the several divisions for typical months of the year, and such apportionment to a particular division being thus ascertained, the sub-apportionment thereof to a part of such division, as in the case in hand, to the State of Nevada is made upon a road mileage basis. As to telegraph earnings, the amount accruing to the Southern Pacific Company, Pacific System, is apportioned to the operating divisions affected thereby, on a revenue train mileage basis, and is then sub-apportioned in the same way as just indicated with reference to express earnings.

The earnings from rents and miscellaneous sources for the State of Nevada during said fiscal year 1907 amounted to \$76,389.75. These earnings were not local to the State are apportioned thereto on a revenue train mileage basis.

Summing up for the State of Nevada, fiscal year 1907:

Freight earnings on all business.....	\$8,253,564.33
Passenger earnings on all business.....	2,874,245.38
Mail earnings.....	590,528.96
Express earnings.....	201,421.93
Telegraph earnings.....	9,292.88
Earnings from rents and miscellaneous sources.....	76,389.75
Sum total.....	\$12,005,443.23

Segregation of intrastate business

Freight earnings on intrastate business.....	\$159,791.40
Passenger earnings on intrastate business.....	286,235.65
Mail, express, telegraph, rents, and miscellaneous as above.....	

Passing now to the operating expenses for the State of Nevada, affiant shows: These expenses in their entirety are divided into classes, as follows:

1. Maintenance of Way and Structures;
2. Maintenance of Equipment;
3. Conducting Transportation;
4. General Expenses.

Maintenance of Way and Structures: The expense of operation under this head is ascertained by determining for the fiscal year in question, 1907, the actual cost of maintaining the way and the structures local to the State of Nevada, and such cost is treated as a charge against all business for the State of Nevada, through and local, for said fiscal year. This statement is subject to a slight qualification; that is to say, the salaries of the Engineer of Maintenance of Way, and his subordinates, with their expenses, would be apportioned to the State of Nevada on a road mileage basis; but this quantity would not affect the result materially, and hence it may be said generally that the expenses of operation for maintenance of way and structures in Nevada are, in and of themselves, on an actual basis.

Maintenance of Equipment: Expenses under this head are apportioned to the State of Nevada, in the case of locomotives, on the basis of revenue engine mileage, and in the case of cars, on the basis respectively of total freight car mileage and total passenger car mileage.

Conducting Transportation: The expenses of the items of conducting transportation, where such items cannot be located within and to the State of Nevada, are apportioned to the State on the basis of engine and train mileage as the case may be; except that in the case of car mileage, the apportionment of the expense to Nevada is on a road mileage basis.

General Expenses: The apportionment of these expenses to the State of Nevada is on the basis of revenue train mileage.

The aforesaid basis in respect to the apportionment of earnings and expenses are standard bases deduced from experience and careful comparisons, in the business of railroading, they have been in use for many years, and the results thereby obtained are fair, just and accurate expressions of the fact. The said bases have been used herein in respect to said earnings and expenses only in so far as direct and actual ascertainment of the fact was not practicable.

Affiant now shows that for the fiscal year 1907, for the State of Nevada, the operating expenses have been calculated, in manner as hereinabove explained, to be and the same are in fact as follows:

1. Maintenance of way and structures.....	\$740,953.99
2. Maintenance of equipment.....	1,255,635.77
3. Conducting transportation.....	2,797,489.92
4. General expenses.....	267,748.07
Total.....	\$5,061,827.75
Taxes for said fiscal year for the State of Nevada are.....	\$172,562.89

Affiant further shows that the above statement of operating expenses does not include the expense of additions and betterments for said fiscal year. Said additions and betterments are located to and within the State of Nevada and are therefore computed on actual basis. Such additions and betterments for said fiscal year amount to the sum of \$362,008.15.

Affiant further says that the funded debt of said Central Pacific Railway Company, as of July 1, 1907, by actual issue was \$116,947,043.12, consisting of first refunding mortgage 4 per cent gold bonds, \$79,242,000; 3½ per cent mortgage gold bonds, \$16,743,500; through short-line mortgage 4 per cent gold bonds,

\$9,199,000; notes to United States of America, 3 per cent, \$11,762,543.12. The annual interest charge on said funded debt is \$4,476,538.79. The proportional amount of said funded debt allotted to the mileage in the State of Nevada is \$35,768,253.44; and the annual interest charge thereon is \$1,369,149.88.

The capital stock of said Central Pacific Railway Company as authorized is as follows:

Common stock	\$67,275,500
Preferred stock	\$20,000,000
The issued common stock is	\$67,275,500
The issued preferred stock is	\$13,400,000
Total authorized capital stock, common and preferred	\$87,275,500
Total issued capital stock, common and preferred	\$80,675,500

Said preferred stock is entitled to cumulative dividends up to 4 per cent per annum, gold, payable semi-annually, before payment of any dividend on the common stock; thereafter, dividends up to 4 per cent per annum are payable on the common stock, and the balance of dividends are payable pro rata upon preferred and common stock.

Comprehending under the general term "capitalization" both stock and funded debt, the total capitalization, on the basis of outstanding funded debt and authorized capital stock, of said Central Pacific Railway Company is \$204,222,543.12. Similarly, the total capitalization on the basis of outstanding funded debt and issued capital stock is \$197,622,543.12. The total cost of the entire line of road of Central Pacific Railway Company, to June 30, 1907, was \$212,970,953.07; and the proportional amount thereof allotted to the State of Nevada on mileage basis is \$66,253,187.21. [An average of \$149,936.73 per mile.]

For said fiscal year 1907 the total number of local shipments of freight within said State of Nevada, in carload lots, was 2,239; in less than carload lots, 31,296, or a sum total of 33,535 shipments. On said carload lots the amount collected under the present rates was \$90,691.15; on less than carload lots, \$69,100.25, or a total of \$159,791.40. On the same basis for the same period, and under the same circumstances, the amount collectible, if the Act of the Legislature of Nevada of March 5, 1907, sometimes referred to as the "Railroad Commission Bill" and being the Act in controversy, had been the law, would have been \$103,042.05, or a reduction and loss of earnings, on local freight business, under said Railroad Commission bill, of \$56,749.35, or a percentage of 35.58. It should be noted, and the fact is, that in the case of minimum shipments carried at the rate of 25 cents per shipment under present tariffs, there is a loss in earnings, and such loss is figured in said statement, resulting from the impracticability of carrying such shipments at charges less than 25 cents per shipment without loss; and the amount of such loss for the period in question, and carried into the aforesaid calculation, is approximately \$790.27.

It is taken in the above calculation, and it is the fact, with reference to hauls of less than fifty miles, that the present tariffs cannot be increased to the maximum allowed by said Railroad Commission as for fifty-mile hauls, and this because it is impracticable on such short hauls to impose such maximum rates.

The percentage of the business involved in reference just made to hauls of less than fifty miles may be expressed by relation to total receipts and will involve therein a difference of approximately 3.3 per cent. As to the approximate statement just made of loss in respect to minimum shipments, \$790.27, it is to be said that the task of ascertaining the precise number of these small shipments for each month of said fiscal year would be exceedingly protracted. A fair average, however, of the number of said shipments per month has been arrived at by taking the exact number of shipments for each month of a period of five months, striking an average, and computing thereon the total number for the year. Thus:

Month, 1906	Consignments	Pounds	Charges	Month, 1907	Consignments	Pounds	Charges
July	80,705	\$184.40	January	68,234	136.71		
August	76,323	184.04	February	508	60.171	133.83	
September	85,370	165.47	March	605	86,012	144.10	
October	74,198	188.11	April	556	66,052	142.39	
November	71,644	215.32	May	704	91,756	172.25	
December	54,105	137.11	June	555	49,158	135.59	
Total, five months				2,928			
Total for year				7,032	864,008	\$1,009.32	
Estimated average of consignments per month						586	

Minimums moving within Nevada for the month of March, 1907

Consignments	Pounds	Collected	Proposed
605	86,012	\$144.10	\$85.37
Loss, \$58.73, or 40.75 per cent.			
Estimated loss for the 12 months based upon above percentage, at 40.75 per cent			
			\$790.27

The proposed charges as above noted for the month of March, 1907, have been arrived at by considering all shipments at third class, although the fact is that many of them take a higher classification.

Affiant shows in illustration of the necessary work in the handling of less than carload shipments, the following circumstances in respect to the movement thereof and the necessary accounting work and supplies:

SAMPLE PACKAGE MOVEMENT, RENO, NEVADA, TO GOLCONDA, NEVADA

Weight, 100 pounds; \$1.27 per cwt.; revenue, \$1.27

1st. A receipt of bill of lading is furnished consignor when package is received at station.

2d. Package is weighed and the weight noted on duplicate shipping bill retained by agent.

3d. Package is handled on truck from freight station warehouse to box car.

4th. Way-bill is written showing following: Way-bill number, date, car number and car initial, shipper, marks, consignee, billing station, destination, number of packages, contents, classification conditions, weight, rate and freight charges.

5th. Impression copy of way-bill is made for station record (original way-bill accompanies shipment to destination).

6th. A report of way-bill is made to the auditor on "Statement of Way-bills Forwarded" Information thus reported is as follows: Way-bill number, date, car number, car initial, station from and station to, commodity, weight, charges.

7th. The car containing package is switched into a train at point of origin; at destination is taken from the train and switched to station warehouse.

8th. At destination package is unloaded from the car to the warehouse, weighed and checked with way-bill accompanying car.

9th. Way-bill is revised, that is, the rate shown on the way-bill is compared with current freight traffics to see that the proper rate has been applied; the calculations are also verified.

10th. Freight bill is made in duplicate (sometimes in triplicate), and shows the same information as was on the way-bill.

11th. Postal card notice is sent to consignee advising him of the arrival of package; package is delivered to consignee upon presentation by him of shipping receipt or bill of lading and the payment of the freight charges.

12th. The original freight bill is receipted and delivered to consignee, he acknowledging receipt of the package on the duplicate of freight bill, which is retained by the agent.

13th. A reporting of the way-bill received with the shipment is made to the auditor on "Statement of Way-bills Received" This shows the following information: Way-bill number, date, car number, car initial, station from and station to, commodity, weight and charges. Way-bills accompany this report to the auditor.

14th. Amount received is entered on station cash-book, giving reference to the freight bill, number and party from whom collection is made.

15th. In the auditor's office: Way-bills, when received in auditor's office, are compared with "Statement of Way-bills Received" which is made by receiving agent, to see that each way-bill has been correctly reported; the way-bills are then checked against "Statement of Way-bills Forwarded" to see that all way-bills by forwarding agents have reached destination and been properly accounted for.

16th. Rates and extensions on way-bills are verified by revising clerk in auditor's office, and agents are debited or credited with errors made by them.

GENERALLY

17th. Other services are incidental to such portion of the company's traffic as may require the running of refrigerator cars in which perishable goods are carried, such as packing-house products, eggs, butter, cheese, beer, and other like commodities; and local freights of such classes, carried from point of origin thereof in the State to the destination thereof in the State in such cars, would involve expense incident and special to each shipment, depending in part upon the quantity and quality thereof and the care necessary to be specially paid to the individual or particular shipment.

18th. For the carriage of live stock from one point within the State to another point within the State it is necessary to provide feed and watering stations, and to feed and water, load and reload such stock according to the provisions of law governing the transportation thereof, and also to sand, clean and at times to comply with the fumigation or disinfecting rules prescribed by proper quarantine officers in respect thereto, all of which expenses are incident to the transportation of the individual care of lot of stock, and cannot be generally stated.

19th. It is believed, as a consequence of irrigation service, that the industry of fruits and vegetables produced in Nevada for intrastate transportation will be developed and this will require of the carrier special facilities in the way of refrigerator and ventilated cars, for the services of which the expenses will be incidental of the furnishing of ice for cooling the car, and for the icing of the load, the usual and ordinary inspection and watching of the loaded car, and the return of the car empty. At the rates prescribed by the Railroad Commission bill, such products, as a part of the local traffic would be, in less than carload lots and first class, at a rate of 8 cents per ton per mile. The result would be, in the case of such less-than-carload business, which would ordinarily be carried in a package of about 80 pounds, that, on a haul of ten miles at 8 cents per ton per mile, such package, charged for on the basis of a fifty-mile haul, would not as a maximum charge yield more than 16 cents.

20th. That all carload shipments transported from one place to another place within the State of Nevada involve or require the switching service at a point of origin and at point of destination; that the additional cost and value of such switching service is nowhere permitted or allowed to be charged independently of the rates for the transportation as prescribed in said bill.

Affiant further shows that the records of his office include the payment to employees of said Southern Pacific Company locally engaged and in local service in the State of Nevada. A fair average of the number of employees thus locally engaged and locally employed is gathered from the period between January 1, 1907, and June 30, 1907. Such average number per month was 2,437, the amount paid to said employees during the aforesaid period was \$812,987.39, which extends into an annual payment of \$1,625,974.80.

A more detailed classification and exhibit is now set forth:

Average number of employees and average wages paid

	No. of men	Amount
Assistant Superintendent's office	28	\$3,614.24
Stations.....	414	23,106.21
Maintenance of way	1,114	46,455.34
Bridge and building	100	6,769.14
Round-house and shop men.....	706	48,061.98
Engineering gangs.....	75	7,490.99
Totals.....	2,437	\$135,497.90

Affiant further shows that the cost of local freight business in the State of Nevada is relatively greater than the cost of the general business of the company—that is to say, of its business as a whole—and that a fair, just and conservative estimate of the greater relative cost of such local business is that such cost as related to the cost of said general business is in the proportion of 3 to 1. Affiant now shows the relative cost of said general business, the additional cost of such local business on the basis, as well of 2 to 1 as of 3 to 1, the total cost of said local business and the loss resulting from the rates named in said Railroad Commission bill. This showing is made in the form of two tables hereto attached and marked respectively "Table 1" and "Table 2" and made part thereof. The point in making said two tables is to develop the conditions now being dealt with, both in reference to the Southern Pacific system as a unit, and to the said Central Pacific Railway Company as a segregated line.

In ascertaining the additional cost of local business, as presented in said tables, said additional cost is not affirmed of operating expenses generally, but is limited to the conducting of transportation. Ascertaining such additional cost on the basis of 2 to 1, it appears that under the rates named in said bill, regard being had to the computation in Table 1, the company is subjected to a loss of 28.65 per cent; and regard being had to the computation in Table 2, such loss is 25.92 per cent. Similarly on the basis of 3 to 1, and with reference to Table 1 the loss is 59.50 per cent; with reference to Table 2, it is 57.32 per cent.

Affiant further shows the respective percentages on freight and passenger traf-

fic of revenue engine mileage and revenue train mileage, wholly within the State of Nevada, and the corresponding earnings in said State for the fiscal year 1907. The facts in detail are set forth in Table 3, hereto attached and made part hereof. Said respective percentages of revenue engine mileage on freight and passenger traffic are as follows:

California-Nevada State line to Sparks, 49.99 freight, and 50.01 passenger.

Sparks to Nevada-Utah State line, 56.04 freight, and 43.96 passenger.

The corresponding figures for revenue train mileage are: California-Nevada State line to Sparks, 43.99 freight, and 56.01 passenger.

Sparks to Nevada-Utah State line, 54.14 freight, and 45.86 passenger.

The amount of freight earnings under this head is \$8,253,564.33; and the amount of the passenger earnings \$3,666,196.27. Expressed in terms of percentage, said freight earnings are 69.24 per cent, and said passenger earnings, 30.76 per cent.

Affiant further shows that in the statement in Table 3, of the amount of said passenger earnings, there have been included mail earnings \$590,528.96, and express earnings \$201,421.93, apportioned to the State of Nevada. The freight earnings on intrastate business for said fiscal year 1907 amounted to \$159,749.40, and the passenger earnings on like business amounted to \$286,235.65; or, expressed in terms of percentages, the local freight earnings were 35.83 per cent and the local passenger earnings 64.17 per cent. And of the interstate business, in freight traffic, as against the total earnings of \$8,253,564.33, the amount thereof represented by interstate freight having neither origin nor destination in the State, but passing through the same as over a bridge, was \$5,578,282.28, or 67.58 per cent of the whole.

Affiant further shows for the fiscal year 1907 taking the above freight earnings on local business of \$159,749.40, and the above total earnings on interstate freight into, out of, and through said State of Nevada, that the said local earnings amount to but 1.8 per cent of the said total freight earnings on through business; and further, the said local earnings, as compared with the said "bridge" business of \$5,578,282.28, are but 2.8 per cent of said "bridge" business. In point of fact, as related to the State of Nevada in distinction from other parts of the Central Pacific Railway Company and the said Pacific system, and in distinction from said railway of the Central Pacific Railway Company as an entirety, and said system as a unit, the preponderance of through business as above referred to, involving volume and density of traffic and long hauls, as against said local business with its relatively short hauls is extremely marked, as illustrated in said comparative statement of earnings and percentages of earnings.

Affiant further states that the mining country in Nevada, of which Goldfield, Tonopah, Rhyolite and Bullfrog are among the principal distributing points and points of consignment, and which is served by the rails of complainant in Nevada, in the sense that freight passes over such rails and on to the rails of the Nevada and California Railway Company, and thence over the Tonopah and Goldfield Railroad Company, and other connections, into said mining country, is beginning to be served by the Las Vegas and Tonopah Railroad Company, extending north from Las Vegas on the line of the San Pedro, Los Angeles and Salt Lake Railroad Company; and that said mining country will also be shortly served by the Tonopah and Tidewater Railroad Company, extending north from Cruccero, a point on the line of said San Pedro, Los Angeles and Salt Lake Railroad Company, and that the service of said two last-named lines of railroad will have the effect of diverting traffic from the lines of complainant, and materially affecting its revenue, so far as the State of Nevada is concerned. The cost of business, local to the rails of complainant, in said State of Nevada, will greatly exceed the proportion of 3 to 1 in comparison with the cost of all business, accruing to said State.

Affiant attaches as an exhibit hereto Table 4, showing the earnings and expenses of said system apportioned between freight and passenger traffic for said fiscal year 1907, with percentages of expenses to earnings, computed in reference to the earnings of each class of traffic and also to the total earnings. It appears from this table that the said percentage of freight expenses to freight earnings is 55.49; that the said percentage of passenger expenses to passenger earnings is 66.96; that the percentage of said freight expenses to the total earnings is 34.84; and of passenger expenses to total earnings, 24.92. In the sum total the percentage of expenses to earnings is, therefore, 59.76.

A similar exhibit, Table 5, is hereto attached for said Central Pacific Railway Company. From this table the percentage of freight expenses to freight earnings is shown to be 54.65; the percentage of passenger expenses to passenger earnings is 60.43; the percentage of said freight expenses to total earnings is 34.41, and of

passenger expenses to total earnings, 22.39. In the sum total the percentage of expenses to earnings is 56.80. The said exhibits, Tables 4 and 5, do not include any expenditure for taxes.

Affiant attaches hereto another exhibit, marked Table 6, showing earnings and expenses accruing within the State of Nevada for fiscal year 1907, as apportioned between freight and passenger traffic with percentages of expenses to earnings. It appears from this table that the percentage of freight expenses to freight earnings is 38.40; of passenger expenses to passenger earnings, 50.65; of freight expenses to total earnings, 26.58; of passenger expenses to total earnings, 15.58. In sum total, percentage of expenses to earnings, 42.16. This does not take account of taxes.

Affiant attaches hereto two exhibits, marked respectively Table 7 and Table 8, showing freight receipts on local tonnage for fiscal year 1907, percentage of expenses to earnings as related to general business of system as a unit, percentage of expenses to earnings as enlarged by additional cost of conducting transportation on local business on the basis of 2 and 3 to 1, like percentages for Central Pacific Railway Company, cost of hauling local freight on aforesaid bases of cost thereof; net earnings accordingly; amount of reduction under Railroad Commission bill; net results under said bill, and gain or deficiency accordingly.

On the basis of percentage of expenses to earnings just mentioned, increased by the additional cost of local freight business, on the basis of 2 to 1, Table 7 shows a deficiency or loss for said fiscal year of \$45,780.24, or 28.65 per cent. And on a basis for local business of 3 to 1, the deficiency or loss shown by said table is \$95,075.87, or 59.50 per cent.

Table No. 8, constructed with reference to the Central Pacific Railway Company, makes a corresponding showing, first of a deficiency or loss of \$41,417.93 or 25.92 per cent and, second, of a deficiency or loss of \$91,592.43, or 57.32 per cent.

Affiant states, as the result of his examination of the records, computations and statistics in his office, based upon the operations and expenses of said Southern Pacific Company, with reference to the said system as a unit, as follows:

FISCAL YEAR 1907

Cost of service per passenger train mile	\$1.34
Cost of operation per freight train mile	\$2.32
Inclusive of expenses—of station, train, engine, contingencies, maintenance of way, maintenance of equipment, and general expenses, the average cost of handling commercial freight is per ton per mile (in cents)	.685
Average cost for station service, handling commercial freight per ton (in cents)	29.48
Average cost of station service per passenger (in cents)	5.41
Average cost of operating expenses per passenger per mile (in cents)	1.618
Average cost of operating expenses per estimated loaded car per mile (in cents)	9.309
Estimated number loaded cars per train mile	24.94
Average number of tons per loaded car per mile	19.40

For said Central Pacific Railway Company on like records, computations and statistics, the figures are as follows:

FISCAL YEAR 1907

Cost of service per passenger train mile	\$1.41
Cost of operation per freight train mile	\$2.36
Inclusive of expenses—of station, train, engine, contingencies, maintenance of way, maintenance of equipment, and general expenses, the average cost of handling commercial freight is per ton per mile (in cents)	.705
Average cost for station service, handling commercial freight per ton (in cents)	16.86
Average cost station service per passenger (in cents)	4.88
Average cost operating expenses per passenger per mile (in cents)	1.382
Average cost operating expenses per estimated loaded car per mile (in cents)	6.697
Estimated number loaded cars per train mile	24.29
Average number of tons per loaded car per mile	18.84

Affiant further shows for said fiscal year 1907, for said system, assuming, for the sake of showing, that the Nevada and California Railway Company is not part of the system, as follows:

Tons of commercial freight carried	16,312,444
Tons of company freight, including fuel and material	3,815,727
Total tons, commercial and company	20,128,171
Commercial freight, tons carried 1 mile	4,239,030,891
Company freight, tons carried 1 mile	883,926,595
Total tons, 1 mile	5,122,957,486
Average length of haul, interline freight	598.8 miles

Average length of haul of all freight local to said system.....	110.3 miles
Average length of haul of all commercial freight, interstate and intrastate.....	259.9 miles
Average length of haul of company freight.....	231.7 miles
Average length of haul of all freight transportation on system's lines.....	254.5 miles

For said Central Pacific Railway Company the corresponding figures are as follows:

Tons of commercial freight carried.....	7,062,019
Tons of company freight, including fuel and material.....	2,078,062
Total tons, commercial and company.....	10,040,111
Commercial freight, tons carried 1 mile.....	1,571,427,501
Company freight, tons carried 1 mile.....	255,023,510
Total tons, 1 mile.....	1,826,451,011
Average length of haul, interline freight.....	391.02 miles
Average length of haul of all freight local to said company.....	58.84 miles
Average length of haul of all commercial freight, interstate and intrastate.....	197.37 miles
Average length of haul of company freight.....	122.72 miles
Average length of haul of all freight transported on company's lines.....	181.92 miles

Affiant further states from the statistics in his office, made and checked in the regular course of business, that the average distance haul for the commodities following, is as stated below:

Products of agriculture, including Pacific Coast fruits, deciduous and citrus, canned fruits, canned vegetables, and all agricultural products, fiscal year 1907; average haul per ton carried.....	331.45
Products of animals, including live stock, packing-house products, wool, hides and leather, other animal products, poultry, game and fish; average haul per ton carried.....	340.45
Products of mines, including coal, coke, ore, bullion, asphaltum, bituminous rock, borax, clay, stone, salt, and other mineral products; average haul per ton carried.....	157.31
Products of the forest; average haul per ton carried.....	247.52
Manufactured articles, including oils, other than crude petroleum, also sugar, molasses and syrups, naval stores, iron, machinery, metal, cement, agricultural implements, wagons, tools, liquors, household goods and furniture, and other manufactures; average haul per ton carried.....	447.78
Merchandise, emigrant movables and miscellaneous freight; average haul per ton carried.....	156.75

The above showing as to said products, manufactured articles and merchandise, pertains to the said system as a unit. It is proper to say that the statistics from which the said showing was deduced are inclusive of the operations of the Nevada and California Railway Company. But the presence in said computations, as a factor, of the operations of said Nevada and California Railway Company will not appreciably disturb the result.

While the Nevada and California Railway Company, as above stated, has been assumed not to be part of the system, yet, as to so much of the foregoing computation as relates to said products, manufactured articles and merchandise, the operations of said Nevada and California Railway Company have been included in the calculations for the reason that to exclude them would involve prodigious and unnecessary labor. Regarding the Nevada and California Railway Company as a part of the system, instead of isolating it therefrom, the percentage of operating expenses to earnings on said system would not be affected so much as 1 per cent.

All the aforesaid railroad, operated by the Southern Pacific Company in Nevada, is standard broad-gage.

C. B. SEGER.

Subscribed and sworn to before me this 19th day of October, 1907.

P. J. KENNEDY,

[SEAL]

Notary Public in and for the the City and County of
San Francisco, State of California.

During the reading by Mr. Henrichs:

Mr. Henrichs—Would you like to hear this?

Mr. Lemaire—If you please.

Mr. Henrichs—I would like to have the Assessors while they are voting on this subject to think of these figures.

At the conclusion of the reading by Mr. Henrichs:

Governor Dickerson—The question before the house is an amendment to the amendment placing a valuation of \$42,870 on the Central Pacific Railway in this State. The Clerk will call the roll.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Henrichs—I wish to amend the amendment by making it \$35,000 per mile on the main line of the Central Pacific.

Mr. Wyatt—I second the motion.

Mr. Lemaire—How many amendments have there been?

Governor Dickerson—There have been twenty-five. For your information, Mr. Lemaire, I will say they can make a thousand amendments. Is there any discussion on this motion? If not, the Clerk will call the roll.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Randall—Mr. Chairman, I think by voting along this way we will get a valuation pretty soon. I move now to amend the amendment by making the valuation \$34,100.

Mr. Wyatt—I second the motion.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Henrichs—Mr. Chairman, I move to amend the amendment and make it \$33,900.

Mr. Wyatt—I second the motion.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Henrichs—Mr. Chairman, I move an amendment to the amendment making it \$33,800.

Mr. Regan—I second the motion.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Randall—Mr. Chairman, I move to place a valuation of \$33,700.

Mr. Regan—I second the motion.

Mr. Lemaire—Mr. Chairman, I would like to have my name there to show that I addressed the Chair first.

Governor Dickerson—The Chair is the judge of who addressed him first, Mr. Lemaire. Is there any discussion?

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Henrichs—Mr. Chairman, I move to amend the amendment to make the valuation \$33,500. That is just a little over 2 per cent of the net earnings.

Mr. Regan—I second the motion.

Mr. Henrichs—I would like to hear a little discussion on that, Mr. Chairman. Nearly all of the Assessors say they assess other property over 30 and 40 per cent of the valuations in their counties.

Governor Dickerson—Just one moment, Mr. Henrichs. What in your judgment is a proper valuation of the Central Pacific Railroad?

Mr. Henrichs—In my judgment \$66,000, as the figures are submitted here.

Governor Dickerson—What in your judgment is the actual cash value of that road today?

Mr. Henrichs—That is hard to say. I have been trying to get the figures and have not had them submitted to us. You mean throughout the State?

Governor Dickerson—I mean the value of the road as it runs through the State.

Mr. Henrichs—About \$150,000.

Governor Dickerson—You base your judgment upon the affidavit of Mr. Seger?

Mr. Henrichs—Yes, sir.

Governor Dickerson—Did you figure out the percentage of \$33,500 as compared with the actual valuation of \$150,000?

Mr. Henrichs—Just a little over 20 per cent.

Governor Dickerson—If there is no discussion further, the Clerk will call the roll.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Randall—Mr. Chairman, I move to make it even \$33,000.

Mr. Wyatt—I second the motion.

Mr. Lemaire—Mr. Chairman, as I understand it, that is the original amendment, \$33,000.

Governor Dickerson—Yes, you are right.

Mr. Bradley—Mr. Chairman, do I understand we are voting on the original amendment now?

Governor Dickerson—This is the same as the original amendment was. It is an amendment to the amendment just the same.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Henrichs—Mr. Chairman, I move to amend the motion by making it \$32,500.

Mr. Regan—I second the motion.

Governor Dickerson—Is there any discussion? The Clerk will call the roll.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Randall—Mr. Chairman, I move to place a valuation of \$32,450.

Mr. Wyatt—I second the motion.

Governor Dickerson—In order to give the Clerk a chance to rest a little bit, I would like to hear from the gentleman who made that motion as to the reasons for the valuation you place on this property?

Mr. Randall—Mr. Chairman, I am trying to get as high a valuation as I can and get something these fellows can agree on. I really think the road is worth more according to the figures given us. If we cannot get that, I am willing to take the next thing to it. I get every cow I can, and if I have to go around a corner to get one or two, I go there and get them.

Governor Dickerson—I would like to hear from the different Assessors on this question. Mr. Roeder, have you anything to say?

Mr. Roeder—Mr. Chairman, I think it is a pretty good raise to put it up to \$28,000 for one year.

Governor Dickerson—Regardless of the valuation? You are basing your judgment this time as to the raise and not as to the valuation of the road.

Governor Dickerson—Mr. Lemaire?

Mr. Lemaire—I have nothing to say at all. I tried to get the floor a minute ago and I have nothing to say.

Governor Dickerson—You did not say much when you got the floor, Mr. Lemaire.

Mr. Leonard—Mr. Chairman, it strikes me that a 50 per cent increase in valuation for the first year under the present rate of valuation is pretty good.

Governor Dickerson—What do you call the first year, Mr. Leonard? Do you know how long this Board of Assessors has been in existence?

Mr. Leonard—About ten years.

Governor Dickerson—So you consider that a good raise for ten years, do you?

Mr. Leonard—To make it all at once does not seem to me to be hardly fair. We always make our rates before the assessment is made.

Governor Dickerson—You make what? Have the Board of County Commissioners in your county met this year?

Mr. Leonard—No, not yet. They always take the last year's valuation as a basis.

Governor Dickerson—You have a peculiar board. Mr. McTerney, have you anything to say?

Mr. McTerney—Nothing to say.

Governor Dickerson—Mr. Weathers?

Mr. Weathers—Nothing.

Mr. Wightman—Nothing.

Governor Dickerson—Mr. Owens?

Mr. Owens—We are all entitled to our own opinion and what I think is right I am going to do, and if I go out of this hall a political corpse it is all right. When I went into that executive chamber the proposition was whether it should be \$28,000 or \$30,000. Some said \$28,000 and some said \$30,000. I think if we get together, we will save time.

Mr. Henrichs—Mr. Owens, we sort of agreed to a compromise. If it were assessed at 2 per cent it would be \$30,000.

Governor Dickerson—Mr. Bradley?

Mr. Bradley—I have nothing to say. The road does not touch my county.

Governor Dickerson—Mr. Beard?

Mr. Beard—Nothing.

Governor Dickerson—Mr. Miles?

Mr. Miles—Mr. Chairman and gentlemen, we came here to do our duty as we are instructed under the law to do in every branch of our official duties. We came here to fix the very best valuation we could find upon this property or would be within justice. If we cannot find a higher rate of taxation, let us reach the best we can. I am here to vote for the very best valuation that I can get within justice and when it comes to that time I will vote for that valuation. That is all I have to say.

Governor Dickerson—Mr. Wyatt?

Mr. Wyatt—I have nothing to say, Governor.

Governor Dickerson—Mr. Randall?

Mr. Randall—Mr. Owens is right in regard to that conversation in there. I differ with Mr. Leonard as to jumping up. If it is worth it we are only getting justice on account of what we did not get before. I cannot agree with him that it is too much of a raise in one year. We are trying to get the valuation regardless of the raise.

Governor Dickerson—Mr. Henrichs?

Mr. Henrichs—I think I have said all I have to say at present on the valuation of the road. I have been talking all the time.

Governor Dickerson—Mr. Regan?

Mr. Regan—I have nothing to say, Mr. Chairman.

Governor Dickerson—Mr. McBurney?

Mr. McBurney—Mr. Chairman, Mr. Owens has voiced my sentiments exactly. I am satisfied with anything between \$28,000 and \$30,000.

Mr. Henrichs—Mr. Chairman, I move we adjourn for one hour.

Mr. Regan—I second the motion.

The question was put, and the motion carried.

Accordingly at 3 p. m. the board adjourned for one hour.

The board resumed its session, pursuant to adjournment, at 4 p. m.

Upon roll-call all members of the State Board of Revenue and State Board of Assessors answered present.

Mr. Randall—I move to amend the motion by making the valuation on the Central Pacific \$32,450.

Mr. Regan—I second the motion.

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the amendment to the amendment was rejected.

Mr. Lemaire—Mr. Chairman, I move to amend the motion that the main line be assessed at \$28,000 per mile.

Mr. McTerney—I second the motion.

Mr. Miles—Mr. Chairman, did I understand that the motion was \$28,000 on the main line only?

Governor Dickerson—Yes, sir.

The Clerk called the roll, and the motion was carried unanimously.

Governor Dickerson—The question now recurs on the amendment to the original motion. The original motion is \$28,000. The motion now before the board is \$33,000 per mile as amended, making it \$28,000 per mile.

Mr. Bradley—If the motion is now carried it will be \$28,000?

Governor Dickerson—The original motion was \$28,000. There was

an amendment to that motion making it \$33,000. Heretofore you have been voting on an amendment to the amendment. The motion just carried was an amendment to the amendment making it \$28,000. The motion is now on the amendment making it \$28,000.

Mr. Bradley—If now we vote for the amendment which is \$33,000 we are voting for \$28,000. We have amended the amendment to \$28,000?

Governor Dickerson—We have just recorded your vote on an amendment to the amendment making it \$28,000. That was carried. Now you ratify your action by voting for the amendment to the original motion making the amendment to the motion \$28,000.

Mr. Miles—Mr. Chairman, I do not see this clearly. If we vote for the amendment which was calling for \$33,000, we decide upon the original motion? If we vote for the amendment—

Governor Dickerson—If you vote for this amendment you make it \$28,000, and after you vote on this you have to take another vote on the original motion.

The roll was called, and the motion carried unanimously.

Governor Dickerson—The question recurs on the original motion. At this time I want to make a statement to the board that I do not believe that \$28,000 is a proper valuation; that from a conversation with the Board of Assessors yesterday I found that the lowest valuation they placed in their respective counties was 35 per cent of the actual valuation of the property in their counties. Taking the valuation of the Central Pacific from any standpoint from which you desire to view it, the property is worth \$100,000 a mile, and this valuation ought to have been \$35,000, instead of \$28,000. That is all I have to say. Is there any discussion on this question?

The Clerk called the roll, and the motion was carried unanimously.

So the valuation fixed on the Central Pacific Railroad in this State is \$28,000 per mile.

Tonopah and Goldfield Railroad

Mr. Bradley—Mr. Chairman, I move we adjourn until 11 a. m. tomorrow.

Mr. Randall—Mr. Chairman, I believe that Mr. Campbell wishes to make a few remarks before we adjourn.

Mr. Bradley—I withdraw the motion for that purpose.

Governor Dickerson—Do you represent the Nevada and California?

Mr. Campbell—No, I represent the Tonopah and Goldfield.

Mr. Lemaire—Mr. Chairman, I suggest that we take up the Nevada and California at this time and continue to the Tonopah and Goldfield. I understand Mr. Campbell desires to go away tonight.

Mr. Bradley—Mr. Chairman, on account of this other road occupying so much time, the parties who are directly interested in the counties the railroad touches have not had a chance to consult in this matter. It

was put off until we settled the Central Pacific. I hardly think we should take this matter up at this time.

Governor Dickerson—You can suspend the rules.

Mr. Bradley—I move that the rules be suspended and we take up the Tonopah and Goldfield road out of order.

Mr. Beard—I second the motion, Mr. Chairman.

The roll was called, and the motion to suspend the rules was unanimously carried.

Governor Dickerson—The board will now consider the Tonopah and Goldfield Railroad.

Mr. Campbell—Mr. Chairman and gentlemen, I thank you for the courtesy you have extended me, and I will repay it by being brief. I am here asking the board to reduce the valuation placed last year. Under any method which has been advanced here we are entitled to quite a considerable reduction. The history of the Tonopah and Goldfield Railroad is known to everyone. It is a part of the history of Southern Nevada. While when it was built it cost a good deal of money, labor cost from \$4 to \$6 and \$10 per day. If we take the actual value of the railroad today, a month ago I caused to be made by two engineers an itemized statement of what that railroad could be replaced for in the condition it is today. It is a hundred miles long, and about a month ago I furnished to the Assessor who has most of it in his county that itemized statement, going down to spikes, rails, ties, work and everything of that kind, and today at the present prices the railroad can be replaced for \$9,568 per mile. So if you take that as the value of it, the railroad being assessed for \$12,000 per mile, the entire railroad property of the Tonopah and Goldfield Company in Nevada was assessed last year at something like \$1,900,000, about \$700,000 for sidetracks, for the main line, for the terminal facilities, and for the rolling stock and equipment of the road. If we take it upon the other basis, if you take 4 per cent of the net revenue of the Tonopah and Goldfield Railroad, as shown by the records on file, and I speak from them and if I make any mistake I call on Judge Bartine or the Railroad Commission here to contradict what I say—

Governor Dickerson—Just one moment; you said the revenue?

Mr. Campbell—The gross receipts, I mean. Including the money we have on deposit and a little interest on that, the gross receipts from all sources last year for the fiscal year was \$910,000. If you take 4 per cent of that that would be \$36,400. We paid in taxes \$45,850.66. So if you take 4 per cent of our gross revenue we were assessed something over—assuming the taxes to be \$3 on the hundred—we were assessed something over \$300,000 too much on that basis. If you take the earning basis of the railroad from the record which is here on file in the Railroad Commission's office, this railroad earned, after paying all of

the expenses—and permit me to say that they pay the highest wages of any railroad in the United States—40 per cent of the gross receipts, in round numbers, 40 per cent; it is about seven-tenths less than 40 per cent of the entire net income of that railroad which goes for wages. We have to pay section men in that country \$3 per day for eight hours work. We pay the bosses from \$4 to \$4.50. A conductor makes \$250 to \$275 per month; an engineer from \$300 to \$375; a brakeman from \$140 to \$175 per month. We are compelled to pay those wages on account of the situation and conditions there. The water that we buy for the railroad, which used to be about \$40,000 a year, is now about \$20,000 a year, which we have to buy as we go along.

So, taking all the expenses of the railroad with the capital stock, which has no value—it has no market value at all today—that railroad earned \$26,000 in round numbers last year. It earned $1\frac{1}{6}$ per cent upon its capital stock, and I ask you gentlemen: When times were good this board assessed that railroad at \$17,000 and we paid the taxes. When they again commenced to go down the board reduced the assessment the next year to \$14,000 and last year to \$12,000, but I ask the board this year to meet us half way, to assess that railroad at about \$10,000 per mile. That will make about a million dollars on the main line, and if they value the other property the same as they did last year it will make a \$17,000 assessment, except the sidetracks, which are composed of old ties and rails that are taken from the main track and were assessed last year at \$2,800 a mile. I think that is too much. We can replace that, except about seven or eight miles of those sidetracks which are in good condition, we can replace all that for \$2,000 to \$2,200 per mile. I ask you in fairness to reduce that to \$2,500 a mile. I ask \$10,000 on the main line and on the sidetracks \$2,500. I thank you.

Governor Dickerson—What is the pleasure of the board?

Mr. Bradley—Mr. Chairman, I renew my motion that we adjourn until 11 o'clock tomorrow morning.

Mr. Randall—I second the motion.

The question was put, and the motion carried.

Accordingly the board adjourned until 11 a. m., January 14, 1910.

FIFTH DAY

The board resumed its session at 11 a. m., January 14, 1910, pursuant to adjournment.

Upon roll-call all members of the State Board of Revenue and State Board of Assessors answered present.

Governor Dickerson—The first order of business is Tonopah and Goldfield Railroad, taken up out of order yesterday.

Mr. Bradley—Mr. Chairman, would it be necessary for a motion to go back to the regular order of business, the Central Pacific sidetracks?

Governor Dickerson—You can make a motion to return to the regular order of business; you can pass this order for the present.

Mr. Bradley—I move that we return to the regular order of business.

Mr. Lemaire—I second the motion.

The question was put, and the motion carried.

Nevada and California—Broad-gage

Governor Dickerson—No. 2, railroads, Nevada and California, broad-gage.

Mr. Bradley—Mr. Chairman, I understand that the members of the Railroad Commission, inasmuch as they have given us information in regard to the Central Pacific, I would like to have them give us some information in regard to the earnings of the Nevada and California, some idea in regard to the assessment we should make.

Governor Dickerson—What member of the commission do you desire to call on, Mr. Bradley?

Mr. Bradley—I understand that Professor Thurtell would be glad to enlighten us.

Governor Dickerson—Professor Thurtell, are you prepared to give the facts?

Prof. Thurtell—I am not able to arrive at the Nevada and California business in Nevada exactly. I am only able to take from the statements on file with the commission as given in the report referred to here as Mr. Seger's affidavit used in the Federal Court in which in that year the Nevada earnings and the California earnings were separated. Assuming that the Nevada and California earnings for 1909 were the same as they were for the year 1907—I am not quite certain whether that is the fact or not, or whether that is likely to be the fact or not—but I am inclined to think they are not quite as high in 1909 as they were in 1907. I don't think they were much higher in 1909 than in 1907. The actual earnings in 1907 were \$140,000. Whether they were more in 1909 than

in 1907 I am not prepared to say, but inasmuch as the total earnings were less in 1909 than in 1907, assuming that they were \$144,000 upon the California mileage, earnings upon the total mileage in the year 1909, fiscal year, amount to \$1,126,191, and on the Nevada mileage the probable earnings are \$980,000 in round numbers.

Mr. Bradley—That is the gross earnings?

Prof. Thurtell—Yes, sir. The net earnings for the entire line amounted to \$391,000. Inasmuch as the California mileage in 1907 did not pay expenses, the net earnings in 1907 were entirely upon the Nevada mileage, and the net earnings on the Nevada mileage this year are probably not far from this \$391,000. Mr. Burke, perhaps, has some information.

Mr. Burke—I have no figures.

Prof. Thurtell—These are the figures shown in our report.

Mr. Bradley—Professor, if the tax rate should be \$2.65 and the valuation \$15,000 as in 1909, what per cent of the gross earnings would that be?

Prof. Thurtell—I will tell you in a moment. What is the total Nevada mileage?

Mr. Burke—Two hundred and twenty-two miles. However, if I might suggest to Prof. Thurtell, Mr. Bradley's question will only apply to 168 miles in Nevada because there are only 168 miles of it assessed at the \$15,000 rate.

Prof. Thurtell—If the 168 miles of broad-gage were assessed at \$15,000 per mile and the tax rate along the line was \$2.65, the taxes per mile would be \$397.50 and the total taxes collected would be \$66,780, and that upon the gross earnings, counting the gross earnings in Nevada, and the gross earnings in Nevada were nearly all earned upon this broad-gage mileage, that would be approximately 7 per cent of the gross earnings, just a little less than 7 per cent of the gross earnings.

Mr. Bradley—Professor, have you figures that would lead you to place a cash valuation upon the Nevada and California broad-gage, the same as placed upon the Central Pacific, approximately?

Prof. Thurtell—We have in the affidavit of Mr. Seger statements concerning its cost, the same sort of statements that were made relative to the cost of the Central Pacific Railroad. In the testimony of Mr. Kruttschnitt that was given at the Salt Lake hearing, reference to which was made heretofore, no evidence was given relative to the physical valuation of the Nevada and California Railroad. It would be a little hard to figure upon that. I can give very quickly the result as shown by Mr. Seger's affidavit, so far as that is concerned. Here it is: Total funded debt of Nevada and California Railway, July 1, 1907, \$12,000,000.

Annual interest charge on funded debt, \$80,000. The proportional amount of said funded debt allotted to mileage in the State of Nevada was \$1,346,000, and the annual interest charge thereon \$53,843.64. The issued capital stock is \$4,837,000. Here is the nearest we can get to it. The total cost of entire line of road to June 30, 1907, was \$6,544,511.32, and the proportional amount thereof allotted to the State of Nevada on a mileage basis is \$4,405,061.20. Now that distributed over the 222 miles would be \$20,000 per mile. That is as near as one can get at it of the cost—construction and betterments that have gone into the road since the date of its construction.

Mr. Bradley—We have a report here on the actual cost of construction, \$16,000 per mile. Taking into consideration the actual cost of construction, say \$16,000, and the earnings of the road, can't you approximate a value upon which assessment should be levied in case we levy for the full amount of the valuation?

Prof. Thurtell—Well, the road earned the net operating revenue of \$391,000. If that were distributed over this broad-gage area, it would have earned about a little over \$2,000 per mile net.

Mr. Burke—A little less, Mr. Thurtell, would it not?

Prof. Thurtell—It earned a little over \$2,000 per mile net. That would amount to 7 per cent interest on nearly \$30,000.

Mr. Bradley—About \$30,000?

Prof. Thurtell—Yes.

Mr. Bradley—Then assessing the road at a valuation of 40 per cent net would mean about \$12,000 per mile?

Prof. Thurtell—Yes, sir.

Mr. Bradley—That is the way I endeavor to assess in Esmeralda County, although of course the owners say it is more. There are two others of the Assessors who are interested in this road and are directly interested as well as all the Assessors. If they wish, I would like to have them ask you some questions, Mr. Randall or Mr. Wightman.

Mr. Randall—Mr. Chairman, if we take the gross earnings at 2 per cent it would be \$19,600.

Mr. Bradley—I believe the Professor says the gross earnings on a valuation of \$15,000 was about 7 per cent.

Prof. Thurtell—That is true.

Mr. Bradley—Mr. Chairman, in my estimation, according to the evidence of the commissioners, and they have made a study of this matter, and I am quite willing to accept their good, honest judgment in the matter and their careful consideration of the figures, it seems to me in all probability the Nevada and California is at the present time, or was last year, assessed a little bit too high. However, I hate to cut down

the valuation in my own county, but, however, I like to be fair and, taking everything into consideration, I would like to consult with these other two Assessors for a few minutes to determine about what valuation we should place.

Governor Dickerson—Would you like a recess?

Mr. Bradley—I would like a recess for ten minutes. I move we take recess for ten minutes.

Mr. Wightman—I second the motion.

The question was put, and the motion carried.

Accordingly the board took a recess for ten minutes at 11:20 a. m.

The board resumed its session, after recess, at 11:30 a. m.

Upon roll-call all members of the State Board of Revenue and State Board of Assessors answered present.

Governor Dickerson—We have under consideration the Nevada and California, broad-gage.

Mr. Bradley—Mr. Chairman, I move that the valuation of the Nevada and California, broad-gage, be placed at \$14,000 per mile.

Mr. Randall—I second the motion.

The Clerk called the roll, and the motion was carried unanimously.

Tonopah and Goldfield Railroad

Governor Dickerson—No. 3, Tonopah and Goldfield Railroad.

Mr. Bradley—Mr. Chairman, as the Tonopah and Goldfield is almost all in Esmeralda County, I move that the valuation be placed at \$10,000 per mile.

Mr. Owens—I second the motion.

The Clerk called the roll, and the motion was carried unanimously.

Nevada Northern Railroad

Mr. Miles—Mr. Chairman and gentlemen of the board, it is my opinion that the Nevada Northern Railroad is one of the most prosperous roads in the State. It is carrying a large amount of freight and a good passenger traffic. While it is argued by people of my county that they should not be overtaxed, I believe in a just taxation as nearly in proportion to other properties as possible, and for that reason I moved the valuation that was placed on the road last year. They argued to me that the road could be duplicated for a little over what it was taxed. Even though that might be true, I think that we should look to the welfare of the general people as well as the railroad. I will say that as I remember the statement from that road last year we were given some 27 miles of sidetrack and something between 70 and 80 miles of main line. In this sidetrack there was included some of their ore lines which are very important roads, at \$2,500, a very low value. Now I do not wish to do an injustice to the Nevada Northern Railroad or to the com-

mon taxpayers of the county, and for that reason I am going to ask for a little change, and I would like to hear from Mr. Weathers especially, who is interested in the Nevada Northern, and from every other member of this board on the subject before the motion is made.

Mr. Weathers—Mr. Chairman, while I am interested in the railroad as far as taxation is concerned, our people are not—that is, we do not derive a great deal of benefit, and anything that is satisfactory to Mr. Miles is satisfactory to me. I leave it entirely to Mr. Miles.

Mr. Miles—Mr. Chairman, I move that the valuation upon the Nevada Northern Railroad be placed at \$9,000 per mile on its main line and to include the branch line on which the ore trains are run from the switch east of East Ely to the concentrating plant of the Steptoe Valley Smelting and Mining Company at the same valuation of \$9,000 per mile.

Mr. Weathers—I second the motion.

The roll was called, and the motion carried unanimously.

San Pedro, Los Angeles and Salt Lake Railroad

Governor Dickerson—No. 5, San Pedro, Los Angeles and Salt Lake Railroad.

Mr. Waters (representing the railroad)—Mr. Chairman, may I make a statement?

Governor Dickerson—Yes.

Mr. Waters—For the benefit of those who are not familiar with that part of the State, and particularly with that road, I would like to give an idea of what we are up against. When the road was organized, and before they entered the State of Nevada with construction, they were offered in Nevada a subsidy of \$2,000 per mile—this entire road was offered that subsidy if they would build into the State—but this road did not deem it necessary or expedient to take the matter up, and they waived the subsidy, but they did acquire, instead of the subsidy, a bonded indebtedness in Lincoln County of \$800,000, and that was the first thing that they had to meet there in the shape of trouble. Besides the interest and eventual redemption of the bonds, the railroad has undertaken with the people of Lincoln County to take care of; it has operated in this way; it is over the minimum provided in the Act for graduation and lowering in the scale of tax rates so that our tax rate has been very high there all the time. We paid last year about 4½ per cent of our gross earnings in the State of Nevada. Two years ago we had a washout and had quite a good deal of expense of putting it back in shape, and almost immediately it washed out again. It was said to have been the worst flood that ever came down the Meadow Valley Wash for ten years, and our people proceeded to put the line back into shape, and they put through four or five tunnel changes where they cut through the mountain to keep the water on one side of the bed; they raised the

track in several places; put in miles of riprapping and twenty-four new steel bridges, and on January 1st last the whole thing went out again. From the reports I got before I left Los Angeles there were about 78 miles washed out. We had not heard from all along the line, and Mr. Clark told me that at the board of directors' meeting it was thought absolutely impossible to ever think of building the line back along where it existed before, practically along the floor of the canyon, because this washout we had the first of this month was treble the force of the one two years ago.

I would like to read into the minutes and file with the board an affidavit made by Mr. Clark:

AFFIDAVIT

STATE OF CALIFORNIA, }
COUNTY OF LOS ANGELES. } ss.

J. Ross Clark, being first duly sworn, deposes and says: That he is a citizen of the United States over the age of twenty-one years, and is, and at all times hereinafter mentioned was, the second vice-president of the San Pedro, Los Angeles and Salt Lake Railroad Company, a corporation organized under the laws of the State of Utah; that said railroad company was organized for the purpose of constructing and operating a line of railroad extending from the City of Salt Lake, in the State of Utah, through the State of Nevada, to the City of Los Angeles, in the State of California; that the portion of said line of railroad situate in the State of Nevada was constructed along a certain canyon known as Meadow Valley Wash; that since the construction of said road, and its opening in 1905, that portion thereof extending through said Meadow Valley Wash has been greatly damaged, and a large part of it destroyed, by floods three different times; that the second of said floods occurred in March, 1907, and the operation of said railroad as a through line was completely cut off for a period of about forty days; that after said second flood the said company expended over one million dollars in raising the grade of said railroad track through the said Meadow Valley Wash and protecting the same as far as possible from damage by subsequent floods; that notwithstanding said expenditure and said reconstruction, on or about the 1st day of January, 1910, a third flood occurred in said Meadow Valley Wash and completely destroyed the line of said railroad from a point at or near the station of Big Springs to a point at or near the station of Guelph, a distance of seventy-eight miles, besides greatly damaging the said line of railroad at many other points in the State of Nevada; that said flood of January 1, 1910, was of great force and severity, not only washing out the tracks of said railroad company, but destroying many of its steel bridges; that on account of the succession of floods it has been determined that it is impracticable to reconstruct and maintain the said line of railroad as it existed prior to the said 1st day of January, 1910, and that it will be necessary to choose a different location therefor, either by constructing a new line at a much higher level in the said Meadow Valley Wash, or by entirely abandoning the route along the said Meadow Valley Wash; that in any event, in the opinion of affiant, the traffic of said railroad as a through line will be entirely suspended for at least one year; that that part of the said railroad through the said Meadow Valley Wash, as aforesaid, is of no value whatever; that the remainder of the said railroad in the State of Nevada, until a new line is completed, and the said railroad can be operated again as a through line, will have little, if any, value in that the income from the operation of the said remaining portions of said railroad will not pay the cost of operation; that the actual value of the main track so left intact, in the opinion of affiant, does not exceed the sum of \$2,000 per mile, and that the actual value of sidetracks left intact does not exceed the sum of \$500 per mile.

And further affiant sayeth not.

J. ROSS CLARK.

Subscribed and sworn before me this 6th day of January, 1910.

[SEAL]

AMELIA GUEST,
Notary Public in and for the County of Los Angeles,
State of California.

I would say that we found that all but one of the twenty-four bridges were washed out. That was the last report I received before I left home. Since then, in order to verify that, I would like to read a short clipping, an eastern dispatch to the Examiner from Salt Lake City. This is the issue of January 13th. The dispatch is dated the 12th:

SAN PEDRO ROAD IS GONE

Floods Have Washed Out 93 Miles of Track; Loss, \$14,000,000

[Special Dispatch to The Examiner.]

SALT LAKE, January 12.—News from the washed-out districts on the San Pedro, Los Angeles and Salt Lake Railroad indicates that the disaster is probably the greatest in the history of railroading. It is known that 93 miles of track have vanished, and many other points are affected where the damage is not so complete.

All trains save four locals have been abandoned on the through schedule. This includes the famous Los Angeles Limited between Chicago and Los Angeles. All officials below the general freight and passenger agent have been laid off and all train and engine crews have also been dispensed with.

Three years ago it cost the company \$3,000,000 to repair the damage caused by washouts, and traffic was delayed four weeks.

The estimate of the cost for reconstruction of a line to follow an entirely different route is about \$14,000,000.

In any event, gentlemen, to emphasize this particular point, it will take the company at least a year to get back into shape to do any business. We will be doing business at each end, local business, but that will hardly pay the operating expense, and we ask in all sincerity that we be given every chance to start in again and be considered as though we were just under construction for the first time and had not completed the line. In fact, we will not be in as good shape as though we were just beginning construction, because of this washout; it adds to the cost of our road and adds to our interest. It makes the road cost more as though we were beginning to build. We want to turn in the value of that track there at \$2,000 per mile. We think that would be a fair and reasonable valuation considering its utility, according to the context of the 10th Nevada Report, which has been quoted here so often, and also from the standpoint of the earnings of the company and its ability to pay taxes. I think that anything above \$5,000 would be unjust and unfair to us.

Governor Dickerson—I want to ask you some questions, Mr. Waters. You say you were offered a bonus of \$2,000 per mile. By whom was that bonus offered?

Mr. Waters—It is found in Cutting's Compiled Laws. I forget the section. It is provided for by petition in Lincoln County.

Governor Dickerson—You say you came into possession of the bonds of Lincoln County?

Mr. Waters—I say we assumed the responsibility of taking care of those bonds when we came into the county.

Governor Dickerson—What is the pleasure of the board with reference to the San Pedro, Los Angeles and Salt Lake Railroad?

Mr. Roeder—Mr. Chairman, I move that we place the valuation at \$6,000 per mile on the San Pedro, Los Angeles and Salt Lake Railroad.

Mr. McBurney—I second the motion.

Governor Dickerson—What was the assessment last year, Mr. Roeder?

Mr. Roeder—Nine thousand dollars on 210 miles.

Mr. Waters—Mr. Chairman, may I enter a formal objection to the assessment?

Governor Dickerson—You may make a statement, Mr. Waters.

Mr. Waters—I don't want to make a statement. I want to make a formal objection.

Governor Dickerson—Is Attorney-General Stoddard here? I would like to ask a member of the Railroad Commission what the cost of construction of that road was, if you have the data at hand.

Prof. Thurtell—Mr. Chairman, it appears that the capitalization and bonded indebtedness per mile amount to \$66,130, and the total expenditures per mile of line to June 30, 1909, appears to be \$70,000,101.02.

Governor Dickerson—What were the earnings of that road last year?

Prof. Thurtell—The total earnings were \$17,461,000. That which is assigned to Nevada on a mileage basis on 210 miles of main line and the Caliente and Pioche branch; that amounted to \$1,637,611.50, the gross earnings.

Governor Dickerson—Have you the net operating revenue?

Prof. Thurtell—For the whole road and not for the State of Nevada. It includes 210 miles of main line and 32.9 miles of branch line.

Mr. Waters—What was that percentage, Professor?

Prof. Thurtell—I did not give the percentage. I said it included 210 miles of main line and 32.9 branch line. The total mileage is 1,105 miles; the Nevada portion altogether is 243 miles, which is 22 per cent of the total mileage. The net earnings of the whole line, 1,105 miles, amounted to \$2,481,912.13.

Governor Dickerson—I would like to ask you, Professor, to take the net earnings of the entire road and take the number of miles in Nevada as compared to the number of miles of the entire road and on that basis figure out the net operating revenue of the road as near as you can. Attorney-General Stoddard, Mr. Waters, on behalf of the San Pedro, Los Angeles and Salt Lake Railroad, asked leave to file a formal protest

against the valuation on his road, the road he represents. I want to know if the Chairman of this board can entertain such a protest. Is it proper to entertain it?

Attorney-General Stoddard—It is entirely within the discretion of the board to consider whatever evidence or data or argument or other matters relating to any assessments on any road, and the board may consider it or not consider it as it sees fit, and as to whether or not it would be proper or not, it is entirely within the discretion of the board. As to its legal effect, I do not think it has any so far as reserving any rights or anything of that kind relative to the assessment of the road. Any railroad or any person who is dissatisfied with any value or any tax levied pursuant to a valuation fixed by this board has his remedy at law as provided by the Act, and even if the Act did not provide that he would have his remedy at law or equity.

Governor Dickerson—What I want to get at, Mr. Attorney-General—they unquestionably have a right to appear before this board and make arguments—but as to the right of any outsider, anyone representing a property of any character, to appear before this board and protest against the action of the board; that is the question I want to get at.

Attorney-General Stoddard—I do not think it has any legal effect whatever. As to whether or not the board has the right to consider the protest or not, that is a matter entirely with the discretion of the board. The statute says they shall meet here and fix valuations.

Mr. Waters—The statutes generally provide for a protest in any assessment, and I simply wanted to enter a formal protest.

Attorney-General Stoddard—The record shows your position in the matter.

Mr. Waters—That is all I wanted to show.

Attorney-General Stoddard—The minutes simply show that he protests, but the statute provides no method of procedure for protesting against any valuation and the record simply shows that the matter is before the board and whatever action the board takes makes no difference so far as the effect is concerned.

Governor Dickerson—Without objection the Chair will allow Mr. Waters to file a formal protest against the action of the board in placing a valuation of \$6,000 per mile upon the San Pedro, Los Angeles and Salt Lake Railroad. The Chair hearing no objection it is so ordered.

Prof. Thurtell—Governor, the question you asked me concerning what the probable net revenue of the San Pedro, Los Angeles and Salt Lake road within the State was—the percentage of Nevada mileage of the whole road is almost exactly 22 and the total net earnings amounted to the sum I said, \$2,481,912.13. The percentage of that which was probably earned within the State of Nevada would be \$546,020.66, which would be \$2,240 per mile net; that would be 7 per cent on a \$32,000 valuation.

Mr. Regan—Mr. Chairman, I move for an adjournment until 2 p. m.

Mr. Randall—I second the motion.

Mr. McBurney—Mr. Chairman, I call for a vote on the question.

The question on adjournment was put, and the motion carried.

Accordingly the board adjourned until 2 p. m.

Afternoon Session

The board resumed its session, pursuant to adjournment, January 14, 1910, at 2 p. m.

Upon roll-call the members of the State Board of Revenue and State Board of Assessors all answered present.

Governor Dickerson—We are now under the head of San Pedro, Los Angeles and Salt Lake Railroad, No. 5.

Mr. Lemaire—Mr. Chairman, I move that we take a recess for ten minutes.

Mr. McBurney—I second the motion.

The question was put and the motion carried.

Accordingly the board took a recess for ten minutes, at 2 p. m.

The board resumed its session at 2:10 p. m., pursuant to adjournment.

Upon roll-call all answered present.

Governor Dickerson—The question before the board is the valuation on the San Pedro, Los Angeles and Salt Lake Railroad.

Mr. Roeder—Mr. Chairman, I wish to withdraw my motion with the consent of the second and place a valuation of \$5,000.

Mr. McBurney—Mr. Chairman, I consent to the withdrawal.

Governor Dickerson—Without objection the mover of the motion will be permitted to withdraw his motion. Is there objection? The Chair hearing none, leave is granted to withdraw the motion. The motion is withdrawn.

Mr. Roeder—Mr. Chairman, I move to place a valuation on the San Pedro, Los Angeles and Salt Lake Railroad of \$5,000.

Mr. McBurney—I second the motion.

The Clerk called the roll, and the motion was carried unanimously.

Virginia and Truckee Railroad

Governor Dickerson—Virginia and Truckee Railroad, No. 6.

Mr. Regan—Mr. Chairman, I move to place a valuation of \$8,500 on the Virginia and Truckee Railroad.

Mr. Henrichs—I second the motion.

The Clerk called the roll, and the motion was carried unanimously.

Hazen and Fallon Railroad

Governor Dickerson—No. 7, Hazen and Fallon Railroad.

Mr. Wightman—Mr. Chairman, as this road is all within my county, I move to place a valuation of \$8,000.

Mr. Roeder—I second the motion.

Mr. Burke—If you please, Mr. Chairman and gentlemen of the board, I desire only to call the board's attention to the fact that everything that was said this morning in reference to the Nevada and California Railroad Company, that all that was said by Mr. Campbell about the Tonopah and Goldfield, applies to the Fallon branch, so called. The road is not making any money, and it is in a country of somewhat arrested development. The people out there desire to have more railroads. They desire to have extensions of that line and I would respectfully suggest to the members of this board that this road and the narrow-gage mileage of the Nevada and California ought to be specially treated by the board in the matter of fixing the valuation. I think it would be only fair to the Nevada and California that the valuation on that particular branch be fixed at \$6,000. It is a part of the Nevada and California, and I therefore respectfully urge that for your consideration. I do not want to go into a long dissertation again on those figures, but I submit that the reports read here by the member of the Board of Railroad Commissioners would justify the board in fixing that valuation at \$6,000 per mile.

Governor Dickerson—I would ask you Mr. Burke, what is the length of the Hazen and Fallon Railroad?

Mr. Wightman—Seventeen miles.

Governor Dickerson—It is a branch line running from Hazen to Fallon?

Mr. Burke—Yes, sir.

Governor Dickerson—Do you know if your report shows the earnings of that road?

Mr. Burke—We have no segregation of the earnings of that road. The business of that road has fallen off with the business of the country.

Mr. Wightman—Mr. Chairman, with the consent of my second, I will withdraw my motion and place the valuation at \$6,000. I understand that we are asking for a great many improvements that we expect to get, and therefore I withdraw my motion.

Mr. Roeder—I consent to the withdrawal of the motion.

Governor Dickerson—The mover of the motion asks consent to withdraw his motion. Is there objection?

Mr. Miles—Mr. Chairman, I would like to hear the original motion.

Governor Dickerson—I think it is out of all proportion to the valuation on all other roads. It is a little road of only 17 miles, and the valuation is out of all proportion to the other roads. The Chair hearing no objection, the motion is allowed to be withdrawn and it is so ordered.

Mr. Wightman—I move that the Hazen and Fallon branch be assessed at \$6,000 per mile for the main line.

Mr. Roeder—I second the motion.

The Clerk called the roll, and the motion was carried unanimously.

Tonopah and Tidewater Railroad

Governor Dickerson—No. 8, Tonopah and Tidewater Railroad.

Mr. Owens—Mr. Chairman, the Tonopah and Tidewater Railroad has its terminal I guess at Los Angeles. It comes within sixty miles of Goldfield, where it connects with the Bullfrog and Goldfield Railroad. The Tonopah and Tidewater Railroad is owned by Mr. Smith, commonly known as "Borax Smith," and the Bullfrog and Goldfield Railroad is owned by the Tonopah and Goldfield, but leased to the Tonopah and Tidewater. The majority of the offices of the Tonopah and Tidewater are down at Los Angeles and where it makes its connection with the Bullfrog and Goldfield Railroad, and I would ask at this time to place two different assessments on the two different roads, if that would be in order.

Governor Dickerson—They are both connected here, Mr. Owens, and I think it would be better to have them separated.

Mr. Owens—That was made at some previous board meeting, and I would like to remedy it now because almost any day it may change hands.

Governor Dickerson—You can make a motion to that effect.

Mr. Owens—Mr. Chairman, I would therefore move that the Tonopah and Tidewater and the Bullfrog and Goldfield Railroads be segregated and placed in their proper order of business.

Governor Dickerson—You move that the Bullfrog and Goldfield be placed on the order of business as No. 24?

Mr. Owens—Yes, sir, I make that motion.

Mr. Beard—I second the motion.

The question was put, and the motion carried.

Governor Dickerson—The order of business before the house is Tonopah and Tidewater Railroad.

Mr. Owens—Mr. Chairman, I move that an assessment of \$6,000 per mile be placed on the Tonopah and Tidewater Railroad.

Mr. Randall—I second the motion.

Mr. Miles—Mr. Chairman, I understand that last year this Tonopah and Tidewater and Bullfrog and Goldfield Railroads were assessed in one item and placed at \$6,000 per mile. Now, I would like to hear from the members of this board as to what difference there is in the Tonopah and Tidewater and the Bullfrog and Goldfield roads in reference to valuation, and, provided we place the valuation at \$6,000 per mile as the present motion provides, what difference in valuation will we get on the whole?

Mr. Owens—Mr. Chairman, for the enlightenment of Mr. Miles I would state that I asked for the segregation of those roads with the object in view of getting a good and just assessment in this way. The Tonopah and Tidewater gets a good deal of passenger traffic from Los

Angeles, which country it reaches before the Bullfrog country, where it becomes as a matter of fact a very small traffic. It is also the same in the freight business which it does over the road and it is owned by a separate company. Therefore I would like to assess it separately. It is a road that can well afford to pay the \$6,000, but, if you take it as a whole, the earnings of the Tonopah and Tidewater and place their earnings on the mileage of the Bullfrog and Goldfield you are keeping up the assessment on the Bullfrog and Goldfield Railroad on that account, whereas, in my estimation, there is a difference of probably \$1,500 in the assessment valuation that ought to be placed on the Bullfrog and Goldfield, for this reason, that today in Goldfield and in that country instead of shipping their ores out they are building mills and of course that takes most of the freight in that country away from the railroads and it is not a productive country; it is not an agricultural country and it depends on the little ore they ship out and the small passenger traffic. That is the sole object I had in view in assessing them separately.

Mr. Miles—My idea is this, that I did not know whether there would be a reduction or a raise on the other road. There will be a reduction on the Bullfrog and Goldfield?

Mr. Owens—Yes, sir.

Mr. Miles—You believe we would be justified in doing it that way then?

Mr. Owens—I do.

Governor Dickerson—The question is on the motion to place the valuation of \$6,000 per mile on the Tonopah and Tidewater Railroad.

The Clerk called the roll, and the motion was carried unanimously.

Las Vegas and Tonopah Railroad

Governor Dickerson—No. 9, Las Vegas and Tonopah Railroad.

Mr. McBurney—Mr. Chairman, I move that we place a valuation of \$4,500 on the Las Vegas and Tonopah.

Mr. Owens—I second the motion.

Governor Dickerson—I would like to ask what the valuation was last year on this road?

Mr. Owens—\$6,000.

Governor Dickerson—I would like to ask what the difference between the gross receipts of this year and last year were.

Mr. C. O. Whittemore (representing the railroad)—I have it here. For the year ending December 31, 1908, the gross earnings of the road were \$379,456.21; the operating expenses were \$435,460.53.

Governor Dickerson—What is the net operating revenue?

Mr. Whittemore—The road was operated in 1908 at a loss to the company of \$56,004.32. In 1909 the total earnings of the road were \$226,929.91, a falling off of \$152,526.30. The operating expenses were \$317,463.69. The road was operated during the year 1909 at a loss to

the company of \$90,533.78, a difference of \$34,529.46 more than the year before, or nearly 40 per cent. During that time, or for these years, in 1908 this company paid \$34,529.46 in taxes to this State. During 1909 this company paid \$41,450.01 to this State, practically one-fourth the taxes that were paid by the Southern Pacific Company and more than the highest proportion of taxes paid by any railroad in the State in spite of the fact that for those two years we have operated that road and have continued to operate it at a loss of \$90,000 last year and \$56,000 the year before. We are now confronted with the situation that our connecting main line has been wiped out and during the period that that road is out of business we are cut off from all our eastern business, so that it is fair to assume that the losses for the year 1910 will be very much greater than they were before. However, I will state that in spite of all that we are willing to bear our proportion—we have done it right along—of taxes and that the amount proposed by Mr. Owens of \$4,500 a mile, while it is not entirely proportionate to our losses, will be accepted as the assessment for the year and be satisfactory.

Mr. Owens—Mr. Chairman, in reply to Mr. Whittemore I would like to state that now that there is a washout on the main line on his road it will benefit this branch road of his, for most of the merchants of our country have to do business with Los Angeles. That will divert a good deal of traffic over your road, Mr. Whittemore, as well as a large traffic that goes out of those mining camps and it has always been the disposition of Tonopah to help you people out. Each and every year that I have appeared here I have been instructed by the Board of County Commissioners to be as reasonable as I could. I came down here with the original intention of lowering you \$400 or \$500 and I have changed it to \$1,500. As regards your paying high taxes, you built your railroad in a country when there was much business and in order to keep the government going we had to get the revenue.

Mr. Whittemore—I want my friend Owens to understand that in making this statement I was making it in reply to the Chairman of the board and not in any way as criticism of his action, and I want to say to him and the other Assessors that we have been fairly treated and we have no criticism to offer and no objection to make. In fact, in closing I stated that, while the estimates show that we would probably be entitled to a somewhat lower assessment than that, we are perfectly satisfied to leave it to the good judgment of these gentlemen and let that assessment stand.

With respect to any benefit that may accrue I did not state that this same country is reached from Los Angeles by the Tonopah and Tidewater, unfortunately for us, a distance of nearly 100 miles to their advantage, and for that reason, no matter whether there was an increase of business, most of it would go to that line, but, however, I have no

objection whatever and want Mr. Owens to understand that we have paid our taxes in the past and we propose to pay them and that we are satisfied to rest upon his judgment and the judgment of this board.

Governor Dickerson—The question before the board is the fixing of a valuation of \$4,500 per mile on the Las Vegas and Tonopah Railroad.

The Clerk called the roll, and the motion was carried unanimously.

Gardnerville Railroad

Governor Dickerson—No. 10, Gardnerville Railroad.

Mr. Wyatt—I move that a valuation of \$5,750 be placed on the Gardnerville Railroad.

Mr. Randall—I second the motion.

The Clerk called the roll, and the motion was carried unanimously.

Nevada, California and Oregon Railroad

Governor Dickerson—No. 11, Nevada California and Oregon Railroad.

Mr. Beard—Mr. Chairman, I believe that road is in my county. It was assessed last year at \$3,000, I believe. I move to assess it at \$3,500.

Mr. Randall—I second the motion.

The Clerk called the roll, and the motion was carried unanimously.

Nevada and California Railroad—Narrow-gage

Governor Dickerson—No. 12, Nevada and California Railroad, narrow-gage.

Mr. Bradley—Mr. Chairman, I move that the Nevada and California, narrow-gage, inasmuch as we reduced the broad-gage, be placed at \$2,800 per mile.

Mr. Wightman—I second the motion.

The Clerk called the roll, and the motion was carried unanimously.

Eureka and Palisade Railroad

Governor Dickerson—No. 13, Eureka and Palisade Railroad.

Mr. McTerney—Mr. Chairman, I move that a valuation of \$1,700 be placed on this road.

Mr. Weathers—I second the motion.

Governor Dickerson—What was the assessment last year, Mr. McTerney?

Mr. McTerney—\$1,800.

Governor Dickerson—The road is operating at a loss, is it not, Mr. McTerney?

Mr. McTerney—Yes, sir; a great deal of a loss.

The Clerk called the roll, and the motion was carried unanimously.

Nevada Central Railroad

Governor Dickerson—No. 14, Nevada Central Railroad.

Mr. Lemaire—Mr. Chairman, this road is entirely in Lander County and it is one of the poorest roads in the State and I would like to have it left to the Assessor, unless you want me to place a valuation on it.

Governor Dickerson—The Chair will rule the same as he has in other instances of this character.

Mr. Lemaire—The conditions are such that it is a kind of a hard matter to do anything. I will move to make it \$1,350. It is nothing but an iron rail, and it has not paid for a good many years. This is the same as I assessed it last year.

Mr. Randall—I second the motion.

Governor Dickerson—I will ask you, Mr. Lemaire, if the road is operating at a loss at the present time?

Mr. Lemaire—I believe it is. I believe, Mr. Chairman, that at the present time they are doing better than they ever have for the last five or six years, on account of Austin picking up a little. For a good many years they have been operating at a loss I know, at least for the last six or eight years.

The Clerk called the roll, and the motion was carried unanimously.

Silver Peak Railroad

Governor Dickerson—No. 15, Silver Peak Railroad.

Mr. Bradley—Mr. Chairman, that is a small road in Esmeralda County, and I move that the valuation be placed at \$1,700 per mile.

Mr. Wightman—I second the motion.

The Clerk called the roll, and the motion was carried unanimously.

Caliente and Pioche Railroad

Governor Dickerson—No. 16, Caliente and Pioche Railroad.

Mr. Roeder—Mr. Chairman, the Caliente and Pioche Railroad is washed out to a certain extent, so I will place the valuation the same as it was last year, \$3,000 a mile.

Mr. McBurney—I second the motion.

The Clerk called the roll, and the motion was carried unanimously.

Atchison, Topeka and Santa Fe Railroad

Governor Dickerson—No. 17, Atchison, Topeka and Santa Fe Railroad.

Mr. McBurney—Mr. Chairman, I move that a valuation of \$2,500 be placed on the Atchison, Topeka and Santa Fe Railroad. Last year it was \$3,000.

Mr. Roeder—I second the motion.

Mr. McBurney—According to the report I got it shows a deficit.

Governor Dickerson—You say, Mr. McBurney, this road is operating at a loss at the present time?

Mr. McBurney—Yes, sir.

The Clerk called the roll, and the motion was carried unanimously.

Glasgow and Western Exploration Company Railroad

Governor Dickerson—No. 18, Glasgow and Western Exploration Company Railroad.

Mr. Leonard—Mr. Chairman, I move that we leave it to the Assessor.

It is not a railroad; it is but a tramway. They do no business, not making more than two trips a week and collecting no revenue.

Attorney-General Stoddard—Are they a common carrier?

Mr. Leonard—No, sir. They charge nothing. It is a railroad from the mine to the smelter and has been out of business for several years.

Mr. Roeder—I second the motion.

Governor Dickerson—Under the advice of the Attorney-General, the railroad not being a common carrier, the Chair will put the motion.

The question was put, and the motion carried.

Pioche and Pacific Transportation Railroad

Governor Dickerson—No. 19, Pioche and Pacific Transportation Railroad.

Mr. Roeder—Mr. Chairman, that is the same kind of road. It belongs to the company and they do not do any business at all and ought not to have been listed on this order of business.

Attorney-General Stoddard—To what use is it put?

Mr. Roeder—Hauling wood and ore for the Pioche Consolidated Mining Company. I move that it be left to the Assessor.

Governor Dickerson—Does it extend into more than one county?

Mr. Wightman—I second the motion.

The Clerk called the roll, and the motion was carried unanimously.

Western Pacific Railroad

Governor Dickerson—No. 20, Western Pacific Railroad.

Mr. Weathers—Mr. Chairman, I move that a valuation of \$5,000 be placed on the main line of the Western Pacific.

Mr. McTerney—I second the motion.

The Clerk called the roll, and the motion was carried unanimously.

Miscellaneous Railroads

Governor Dickerson—No. 21, miscellaneous railroads.

Mr. McBurney—Mr. Chairman, there is a little railroad running from the gypsum mine to the plaster plant in my county. It hauls the ore or gypsum from the quarry to the mill.

Mr. Bradley—Mr. Chairman, if the motion has not been seconded, I would move that all miscellaneous railroads be left to the Assessors.

Governor Dickerson—With your permission, Mr. Bradley, I would suggest that you make the motion to include all roads not common carriers.

Attorney-General Stoddard—Miscellaneous railroads, you think, would mean all railroads not engaged in the business of common carriers? Is that what you mean?

Mr. Bradley—Yes, sir. Miscellaneous railroads, I think, would be those not engaged as common carriers. If you will assist me in wording it to cover the whole proposition, I think it can be taken in one motion. What did you remark, Governor?

Governor Dickerson—All railroads not engaged in the business of common carrier, but operating in connection with some other business, be left to the various Assessors.

Mr. Bradley—I move that all railroads not engaged in business as common carriers and engaged in some other business be left to the several Assessors of the different counties.

Mr. Roeder—I second the motion.

The question was put, and the motion carried.

Sidetracks of All

Governor Dickerson—No. 22, sidetracks of all.

Mr. Bradley—Shall we start with the Central Pacific, Mr. Chairman?

Governor Dickerson—We had just as well commence at the head of the list.

Mr. Miles—In going over this list I can see there is a chance for argument on the valuation of railroads in my county, and I would like to consult with Mr. Weathers and also any other member of this board on that matter for a few minutes, and I would ask for a recess of ten minutes.

Mr. Randall—I second the motion.

The question was put, and the motion carried.

Accordingly the board at 3 p. m. took a recess for ten minutes.

The board resumed its session at 3.10 p. m., pursuant to recess.

Upon roll-call all answered present.

Governor Dickerson—No. 22, sidetracks of all.

Central Pacific Sidetracks

Mr. Beard—Mr. Chairman, I move that the sidetracks of the Central Pacific Railway Company be placed at \$6,000 per mile.

Mr. Leonard—I second the motion.

The Clerk called the roll, and the motion was carried unanimously.

Governor Dickerson—At this time I would like the indulgence of the board. I have been sick all during this session, and I do not feel like continuing on tonight. There are some matters I want to bring before the board. I do not think you can get through tonight. I want to be prepared to discuss some matters with you and I would like to have an adjournment until tomorrow.

Mr. Beard—Mr. Chairman, I move that we adjourn until 11 a. m. tomorrow.

Mr. Owens—I second the motion.

The question was put, and the motion carried.

Accordingly at 3:15 p. m. the board adjourned until 11 a. m., January 15, 1910.

SIXTH DAY

The board resumed its session, pursuant to adjournment, January 15, 1910, at 11 a. m.

Upon roll-call all answered present, except Attorney-General Stoddard.

Governor Dickerson—The Attorney-General was called to Reno last night and is unable to be here today. We are under No. 22, sidetracks of all. The next is Nevada and California, broad-gage.

Nevada and California (Broad-gage) Sidetracks

Mr. Randall—Mr. Chairman, I move to place a valuation of \$3,200 mile on the sidetracks of the Nevada and California, broad-gage.

Mr. Henrichs—I second the motion.

The Clerk called the roll, and the motion was carried unanimously.

Tonopah and Goldfield Railroad Sidetracks

Governor Dickerson—Tonopah and Goldfield Railroad sidetracks.

Mr. Owens—Mr. Chairman, I move that a valuation of \$2,500 per mile be placed on the sidetracks, which is a reduction of \$300.

The Clerk called the roll, and the motion was carried unanimously.

Nevada Northern Railroad

Governor Dickerson—Nevada Northern Railroad.

Mr. Miles—Mr. Chairman, at this time I am going to ask for a reconsideration of the valuation of the main line and also the spur or branch mentioned in our previous action on the Nevada Northern Railroad. I move for a reconsideration of the vote on that question.

Mr. Lemaire—I second the motion.

The question was put, and the motion carried.

Mr. Miles—Mr. Chairman and gentlemen of the board, after hearing the arguments here on the various railroads and listening carefully to the arguments and after going down the list of valuations that were placed on the various railroads, I can see that the Nevada Northern is not placed as high as it should be. Now, in my opinion, the Nevada Northern Railroad is second best in the State so far as prosperity is concerned. I will say that the line running from Cobre to Ely perhaps is not carrying the freight and passengers that other lines do, but nevertheless there is a line, perhaps 20 miles or more, running from the mines to the smelting works that is carrying a large amount of freight, and I want to illustrate one item which is very important. From the Nevada Consolidated Copper Company's mines, which are just simply one great mass of ore, one pit, I will say from the reports of that company on that mine for the third quarter of 1909, as near as I remember it now, it is a little over, the tonnage was 497,000 tons of ore. Now that is from one

mine, and it will show this board partly the resources that that railroad has. They carry to that county freight, passengers and everything else that supplies almost the entire county. There may be a few ranches on the extreme east or a few on the extreme west that are not supplied by that railroad. Other than that it has almost the entire county. The traffic is increasing, both passenger and freight, and their outlook for the future is undoubtedly bright and there is no indication of decline. On the other hand, I will say for the Central Pacific, which we passed on the other day, there is a prospect of decline, and, as I said a while ago, the Nevada Northern is undoubtedly, in my mind, the second on the list so far as prosperity is concerned, and I move that this board place a valuation upon that main line and upon the branch that I have called to the attention of the board—I move at this time to place a valuation on the Nevada Northern Railroad main line of \$10,000 per mile and to include the branch line on which the ore trains are run from the switch east of East Ely to the concentrating plant of the Steptoe Valley Smelting and Mining Company at the same valuation of \$10,000 per mile.

Mr. Beard—I second the motion.

The Clerk called the roll, and the motion was carried unanimously.

Nevada Northern Railroad Sidetracks

Governor Dickerson—Nevada Northern Railroad sidetracks.

Mr. Miles—Mr. Chairman, I move that the valuation of the sidetracks of the Nevada Northern Railroad be placed at \$2,500 per mile.

Mr. Randall—I second the motion.

The Clerk called the roll, and the motion was carried unanimously.

San Pedro, Los Angeles and Salt Lake Railroad Sidetracks

Governor Dickerson—San Pedro, Los Angeles and Salt Lake Railroad sidetracks.

Mr. Roeder—Mr. Chairman, I move to place the valuation at \$1,800 per mile.

Mr. McBurney—I second the motion.

The Clerk called the roll, and the motion was carried unanimously.

Virginia and Truckee Railroad Sidetracks

Governor Dickerson—Virginia and Truckee Railroad sidetracks.

Mr. Henrichs—Mr. Chairman, I move that the sidetracks of this road be valued at \$2,500.

Mr. Regan—I second the motion.

The Clerk called the roll, and the motion was unanimously carried.

Hazen and Fallon Railroad Sidetracks

Governor Dickerson—Hazen and Fallon Railroad sidetracks.

Mr. Wightman—Mr. Chairman, I move to place a valuation of \$1,000 per mile on the Hazen and Fallon sidetracks.

Mr. Roeder—I second the motion.

The Clerk called the roll, and the motion was unanimously carried.

Tonopah and Tidewater Railroad Sidetracks

Governor Dickerson—Tonopah and Tidewater Railroad sidetracks.

Mr. Owens—Mr. Chairman, I move that a valuation of \$2,000 per mile be placed on the sidetracks of the Tonopah and Tidewater Railroad. Excuse me, I withdraw that, I was thinking of another road. I mean \$2,200 on the Tonopah and Tidewater Railroad.

Mr. Randall—I second the motion.

The Clerk called the roll, and the motion was unanimously carried.

Las Vegas and Tonopah Railroad Sidetracks

Governor Dickerson—Las Vegas and Tonopah Railroad sidetracks.

Mr. McBurney—Mr. Chairman, I move that a valuation of \$1,500 per mile be placed on the Las Vegas and Tonopah sidetracks.

Mr. Owens—I second the motion.

The Clerk called the roll, and the motion was unanimously carried.

Gardnerville Railroad Sidetracks

Governor Dickerson—Gardnerville Railroad sidetracks.

Mr. Wyatt—Mr. Chairman, I move that the sidetracks of the Gardnerville Railroad be placed at \$1,000.

Mr. Regan—I second the motion.

The Clerk called the roll, and the motion was unanimously carried.

Nevada, California and Oregon Railroad Sidetracks

Governor Dickerson—Nevada, California and Oregon Railroad sidetracks.

Mr. Beard—Mr. Chairman, I move a valuation of \$1,000 per mile.

Mr. Randall—I second the motion.

The Clerk called the roll, and the motion was unanimously carried.

Nevada and California Railroad (Narrow-gage) Sidetracks

Governor Dickerson—Nevada and California Railroad, narrow-gage, sidetracks.

Mr. Bradley—I move that a valuation of \$800 per mile be placed on the sidetracks.

Mr. Roeder—I second the motion.

The Clerk called the roll, and the motion was unanimously carried.

Eureka and Palisade Railroad Sidetracks

Governor Dickerson—Eureka and Palisade Railroad sidetracks.

Mr. McTerney—Mr. Chairman, I move that a valuation of \$400 per mile be placed on the sidetracks of that road.

Mr. Wyatt—I second the motion.

The Clerk called the roll, and the motion was unanimously carried.

Nevada Central Railroad Sidetracks

Governor Dickerson—Nevada Central Railroad sidetracks.

Mr. Lemaire—Mr. Chairman, I move that a valuation of \$300 be placed on the sidetracks. Every time the train goes on a siding there they are scared to death of going off the track.

Mr. Randall—I second the motion.

Governor Dickerson—It might be advisable to make them repair their sidetrack and shoot up the valuation a little bit.

The Clerk called the roll, and the motion was unanimously carried.

Silver Peak Railroad Sidetracks

Governor Dickerson—Silver Peak Railroad sidetracks.

Mr. Bradley—Mr. Chairman, I move that a valuation of \$400 per mile be placed upon the sidetracks of the Silver Peak Railroad.

Mr. Roeder—I second the motion.

The Clerk called the roll, and the motion was unanimously carried.

Caliente and Pioche Railroad Sidetracks

Governor Dickerson—Caliente and Pioche Railroad sidetracks.

Mr. Roeder—Mr. Chairman, I move that a valuation of \$800 per mile be placed on the sidetracks of the Caliente and Pioche Railroad.

Mr. McBurney—I second the motion.

The Clerk called the roll, and the motion was unanimously carried.

Atchison, Topeka and Santa Fe Railroad Sidetracks

Governor Dickerson—Atchison, Topeka and Santa Fe Railroad sidetracks.

Mr. McBurney—Mr. Chairman, I move that a valuation of \$800 be placed on the sidetracks of the Atchison, Topeka and Santa Fe Railroad.

Mr. Roeder—I second the motion.

The Clerk called the roll, and the motion was unanimously carried.

Glasgow and Western Exploration Company Railroad Sidetracks

Governor Dickerson—Glasgow and Western Exploration Company Railroad sidetracks.

Mr. Leonard—I move that it be left to the Assessor. I do not think they have any.

Mr. Wightman—I second the motion.

The question was put, and the motion carried.

Pioche and Pacific Transportation Railroad Sidetracks

Governor Dickerson—Pioche and Pacific Transportation Company Railroad sidetracks.

Mr. Roeder—I don't think they have any sidetracks. I move that it be left to the Assessor of Lincoln County.

Mr. Lemaire—I second the motion.

The question was put, and the motion carried.

Western Pacific Railroad Sidetracks

Governor Dickerson—Western Pacific Railroad sidetracks.

Mr. Weathers—I move that a valuation of \$1,500 per mile be placed on the sidetracks of the Western Pacific.

Mr. Lemaire—I second the motion.

The Clerk called the roll, and the motion was unanimously carried.

MISCELLANEOUS RAILROADS—SIDETRACKS

Governor Dickerson—Miscellaneous railroads sidetracks.

Mr. McTerney—Mr. Chairman, I move that the miscellaneous railroads sidetracks that are not common carriers be left to the various Assessors.

Mr. Leonard—I second the motion.

The question was put, and the motion carried.

ROLLING STOCK OF ALL RAILROADS

Governor Dickerson—Rolling stock of all railroads.

Mr. Miles—Mr. Chairman, I wish to call your attention to the fact that the sidetracks of the Bullfrog and Goldfield Railroad have not been reached yet.

Governor Dickerson—It was placed at No. 24 on the order of business and has not been reached.

Mr. Lemaire—Mr. Chairman, I move that the rolling stock of all railroads be left to the various assessors.

Mr. Bradley—I second the motion.

Governor Dickerson—Under the opinion of the Attorney-General and my conception of the law, the Chair will rule the motion out of order.

Mr. Lemaire—It being impossible, in my mind, to place a valuation on rolling stock, I move that we appeal from the decision of the Chair.

Mr. Bradley—I second the motion.

Governor Dickerson—An appeal is taken from the decision of the Chair. The question before the board is, Shall the decision of the Chair stand as the judgment of this board?

Mr. Miles—Mr. Chairman, I would like to say a word or two here, if I have not lost my little paper. I am prepared to itemize and classify the rolling stock of the Nevada Northern Railroad, and so far as I am concerned personally I am very much in favor of putting a valuation on the rolling stock of the railroads, and if this board, if the members of this board, can see fit to do so, I am with them and would like to do it. I can easily go over the Nevada Northern and put it on what I believe is a proper valuation. I hope the board will see fit to place a value on each and every class of rolling stock.

Mr. Bradley—Mr. Chairman, I will say that so far as my county is concerned it would be absolutely impossible for me to attempt it. The rolling stock I place according to the condition of the stock, whether it is new or old cars; the same way with engines, and I am not posted with regard to that. We have got to take the sworn statement of the company and investigate the matter and put it up to the commissioners. If the valuation is too low, let them raise the valuation.

Mr. Beard—I suppose, Mr. Chairman, you understand that in appealing from your decision, it is nothing personal. I see no way we can do

it. I have been on this board ever since it has been a board. We have had three different Chairmen and three different Attorneys-General—Mr. Woodburn, Mr. Sweeney, and Mr. Stoddard. Mr. Woodburn told us in the first place just about the same that Judge Bartine told us, that it works no hardship on the people, and if I could see any possible reason for getting at it I would be only too willing to do it. Don't you think so, Mr. Randall? As I said before, it is no disrespect to the Attorney-General or to yourself, Mr. Chairman, but we really do not see how we can do it.

Mr. Owens—Mr. Chairman, I wish to explain myself on this matter likewise. There is no disrespect on my part in the way I vote on this proposition. I fully realize your position when the law is put up to you plain. I realize that you have got to state to us the law as it exists and as you are informed by the Attorney-General, but the position that it places me in as an Assessor is one that will compel me to vote against the assessing of the stock of the railroads. For this reason I could not intelligently place a valuation on that property. It would be impossible for me and I would be doing probably an injustice to the people of the county and probably an injustice to the people that own the rolling stock, but while I am on the floor I would wish to make this statement, whether the motion is carried or lost, that the Assessors here be instructed to have the various classifications on rolling stock the next time they appear.

Mr. McTerney—Mr. Chairman, where would the Assessors get these classifications? In my county I could classify them very readily, but where would we get it from the Central Pacific and the other roads?

Governor Dickerson—I would say that the Assessor could take his last year's classification and could find out if there had been any new rolling stock added to the road.

I want to say to the members of this board that there is nothing personal in this matter with me whatever. I feel it my duty to follow the advice of the Attorney-General. If he makes a mistake, it is his fault. If I go against his opinion, the mistake is mine, and, taking the matter as a whole, this is a trivial matter in my judgment, but, as the Attorney-General pointed out the other day, if the board can leave off one single item mentioned in this Act, it can leave off every item mentioned in the law and thereby defeat the intent of the law itself. If the board is not prepared I will not consider it any affront to myself by any means if the board overrules my decision. It is merely to justify myself before the people of the State. The question is on the appeal from the Chair. The question before the house is, Shall the decision of the Chair stand as the judgment of this board?

The Clerk called the roll as follows:

AYES—Messrs. Wyatt, Randall, Regan, and Henrichs—4.

NOES—Messrs. Wightman, Weathers, Bradley, McTerney, Leonard, Lemaire, Roeder, Owens, Beard, Miles, and McBurney—11.

So the decision of the Chair was overruled.

Governor Dickerson—The Chair will now entertain a motion to leave the valuation of rolling stock of all railroads to the various Assessors.

Mr. Lemaire—Mr. Chairman, I move that the valuation of the rolling stock of all railroads be left to the various Assessors.

Mr. McTerney—I second the motion.

The question was put, and the motion carried.

Bullfrog and Goldfield Railroad—Main Line and Sidetracks

Governor Dickerson—No. 24, Bullfrog and Goldfield Railroad, main line and sidetracks.

Mr. Owens—Mr. Chairman, I move that the valuation of the Bullfrog and Goldfield Railroad, main line, be placed at \$4,500 for the reasons already stated in the case of the Las Vegas and Tonopah Railroad, and if you mind I will make this inclusive of the sidetracks and that the sidetracks be placed at \$1,500 per mile.

Mr. Bradley—I second the motion.

The Clerk called the roll, and the motion was unanimously carried.

Mr. Lemaire—Mr. Chairman, is that all of the order of business?

Governor Dickerson—There is an order we passed, No. 18½, miscellaneous property.

Nevada Copper Belt Railroad

Mr. Lemaire—The reason why I ask is, I would like to ask some of the Assessors here where the Nevada Copper Belt Railroad is. Here is an article I saw in the Gazette.

Mr. Randall—Mr. Chairman, they have just started to build the road. It is partly old ties and partly new and it is impossible for me to place any valuation on it.

Mr. Lemaire—Where does the line run?

Mr. Randall—It is going to run from Wabuska to the Douglas mine.

Governor Dickerson—Mr. Randall, will this be a common carrier?

Mr. Randall—When it is finished.

Governor Dickerson—It has not been finished as yet?

Mr. Randall—It is under construction and only six miles of it has been built.

Governor Dickerson—Without objection the board will take a recess until 2 p. m.

There being no objection, the board adjourned until 2 p. m.

Afternoon Session

The board resumed its session at 2 p. m., January 15, 1910.

All members of the State Board of Revenue, except General Stoddard, and all members of the State Board of Assessors present.

Governor Dickerson—We are now under order No. 18 $\frac{1}{2}$, miscellaneous property. Under this order I desire to present to the board a few facts relative to Wells, Fargo & Company.

Wells, Fargo & Company

Governor Dickerson—You are all supplied with copies of this paper prepared by the Railroad Commission, taken from the sworn statements of the Wells, Fargo & Company. You will notice that the company is capitalized at \$8,000,000. You will also notice that for the year ending June 30, 1909, this company paid dividends of 8 per cent on the gross capitalization of \$8,000,000. It has no funded debt.

Now every company operating is entitled to a fair, just and reasonable valuation on its investment and if they make money there is no reason why the State should try to penalize them, but it is a reason why they should pay their proportion of the taxes of the State and county. There is probably no class of property requires more service from the State than the railroads and the express companies. If a robbery is committed the county and State authorities are required to make a thorough investigation and, if it is possible, run down the perpetrators of the crime and to prosecute them after they are apprehended. There is no reason why this company should not be taxed at a much higher valuation than they have been taxed in the past.

I call your attention to just one fact: During the past year the Tonopah and Goldfield Railroad, whose gross earnings were \$910,000, paid to the State and county \$45,850 in taxes. I want you to bear this in mind. The Wells, Fargo & Co. express—this is their revenue derived in the State of Nevada: They earned \$850,000, just \$60,000 less than the Tonopah and Goldfield Railroad, and they paid in taxes \$2,657 as against \$45,850 paid by the Tonopah and Goldfield Railroad. You will see at a glance the gross injustice of the matter. I suggest that this board place a per mile valuation on Wells, Fargo & Company in this State. Under the decision of the Supreme Court read to you yesterday by Judge Bartine there can be no question as to your right in fixing that valuation, absolutely none.

I want to cite another instance of disproportion. You will not find this in your statement. The Virginia and Truckee Railroad's gross earnings last year were only \$295,000. This company paid \$16,366 in taxes. This little road runs from Reno to Virginia City. Wells, Fargo & Company, extending all over the State, paid in the entire State, as I said before, \$2,650.

The Railroad Commission has figured out different valuations. The net earnings as reported to the commission are \$291,840.85 and this amount is 7 per cent on \$4,000,000, which could fairly be used as the value of the express company property, real, personal and intangible, within the State of Nevada. Taking 40 per cent of this valuation, the

same as other property in Nevada, we have a valuation of \$1,650,000 for taxation in this State.

The following is the statement furnished by the Railroad Commission:

WELLS, FARGO & COMPANY

For the year ending June 30, 1909

Capitalization	\$8,000,000.00
Dividend paid during the year, 10 per cent	800,000.00
Funded debt	None
Gross revenue from operation	\$24,476,432.37
Express privileges (paid to railroads)	11,416,199.60
Operating revenue	\$13,060,232.77
Operating expenses	9,664,933.85
Net express revenue	\$3,395,298.92
Taxes (system as a whole)	132,820.04
	\$3,262,478.88
Other income	1,401,900.46
Total income after paying taxes	\$4,664,379.34
Dividends	800,000.00
Net income, carried to surplus	\$3,864,379.34
Total surplus accumulated and on hand June 30, 1909	\$24,455,417.51
The gross earnings of Wells, Fargo & Company for the State of Nevada, as reported to the Railroad Commission for the calendar year ending December 31, 1908, was	\$850,000.00
Taxes paid to the State of Nevada, as reported to the Railroad Commission, was	\$2,657.74

Comparing the Wells-Fargo Express Company as a revenue producer and a taxpayer, attention may be directed to the fact that the Tonopah and Goldfield Railroad, which is a Nevada corporation, with gross earnings for the past year of \$910,000, paid toward the maintenance of the county and State governments in taxes \$45,850.66, while by contrast it may be noted that the Wells-Fargo Express Company, with gross earnings of \$850,000, only paid in taxes \$2,657.74.

Further contrast in taxes may be shown by taking the Virginia and Truckee Railway with gross earnings of only \$295,000, and it is noted that they paid in taxes for the past year \$16,366, while the Wells Fargo Express Company, with gross earnings of \$850,000, only paid in taxes \$2,657.74.

It has been suggested by your Chairman that a per mile valuation should be assessed against this company in order that the various counties and the State may receive their just proportion of taxes.

To find the valuation the 4 per cent of gross earnings basis may be used, or net earnings may be capitalized on a basis of 7 per cent. The net earnings as reported to the commission are \$291,084.85, and this amount is 7 per cent on \$4,000,000, which could fairly be taken as the value of express company's property, real, personal, and intangible, franchises, etc., within the State of Nevada. Applying 40 per cent of this valuation the same as other property is assessed in Nevada, we have a valuation of \$1,600,000 for the purpose of taxation within this State. This company is operating within the State 1,890 miles of rail and stage line, and this would make an assessed valuation of \$847 per mile.

Assuming that an average levy of 2 per cent was applied it would produce \$16.94 per mile, or a total of approximately \$32,000 in gross taxes to the State and counties.

If the 4 per cent of gross earnings basis is used it may be noted that this will produce \$34,000 in taxes for State and counties.

The railroad express mileage of the Wells-Fargo Express Company in the State is approximately 1,700 miles and the stage-line mileage is 200 miles.

If it is found expedient to eliminate the stage mileage and place an assessed valuation of \$500 per mile on the 1,700 miles of railroad express mileage, it will make an assessed valuation of the express company's taxable property, tangible and intangible, of \$850,000, and assuming that an average levy of 2 per cent was applied it would produce a tax of \$10 per mile, or \$17,000 in gross taxes for the State and counties.

In response to a request of your Chairman the Railroad Commission submits for the information and consideration of the honorable State Board of County Assessors the aforesaid data taken from the records in the office of the commission. The commission will be pleased to furnish the board such other information as may be desired.

I would not ask at this time that the board adopt the 4 per cent basis. I think it is sufficient if we make a starter and cut this practically in two. That would be well enough. But a starter should be made by this board to bring the valuation of that company up the same as other property in the State is taxed, and I ask at this time that the board consider the matter.

Mr. Owens—Mr. Chairman, I move we have a recess of fifteen or twenty minutes so we can get around and talk the matter among ourselves and we might be able to arrive at some conclusion.

Mr. Beard—I second the motion.

The question was put, and the motion carried.

Accordingly at 2:10 p. m. the board took a recess until 2:30 p. m.

The board resumed its session at 2:30 p. m.

All present, except Attorney-General Stoddard.

Governor Dickerson—I will state to the board that the Railroad Commission has figured out that \$500 per mile—there are 1,700 miles—on Wells, Fargo & Company would be a reasonable valuation, and as a starter I would suggest that we go even lower than that, that a valuation of \$300 per mile be placed on the mileage of the lines in this State operated by rail.

Mr. Bradley—Mr. Chairman, just for information I would like to ask if we assess so much a mile do we assess the personal property?

Mr. Shaughnessy—No.

Governor Dickerson—I would include the tangible property with the intangible at so much per mile.

Mr. Bradley—Suppose we try to collect it? I would like some information. Personal property you are supposed to collect out of the property. Now they have not sufficient personal property in my county to pay the taxes. They have teams and wagons, etc., but they own no buildings. Would you advise that it go on to the roll as delinquent if they do not pay up, and then bring suit? I would like some information.

Judge Bartine—In my judgment, Mr. Bradley, the law does not require of anybody an impossibility, and when the law of this State

makes the Assessor liable for personal property it most certainly refers to tangible property. It is utterly impossible for an Assessor to collect the taxes upon an intangible thing. The case I read from Ohio involved exactly the same idea, but the total value of Adams Express Company's physical property in the State of Ohio was only a few thousand dollars while their earnings were something like \$350,000 in that State, and yet the whole question was before the Supreme Court of the United States upon the judgment which had been rendered against Adams Express Company. Now my suggestion would be as an attorney that you collect what you can collect and if they refuse to pay let it go upon the roll as delinquent. There would be nobody disposed to take advantage of an Assessor upon that ground, and then when the time comes let a suit be brought to test the validity of the law, and that could be done by the Attorney-General and relieve the various counties, and a test case made by the Attorney-General for the State's proportion of the tax would be decisive, and I do not think there will be any trouble about getting the money.

I should very much like, as a taxpayer and as an official who is more or less interested in this matter, to see the board make a start, even though it may not go anywhere near the real value of the property.

Let me suggest further that in this Ohio case which I read the entire property of the express company was included by the Supreme Court to make it \$16,000,000—\$4,000,000 tangible and \$12,000,000 consisting of the business they were doing. They were all lumped in together. So if you fix a valuation of \$300 per mile, that would include all the utilities they use in the transaction of their business, and not tax them separately.

Mr. Owens—Mr. Chairman, I move that a valuation of \$300 per mile be placed against Wells, Fargo & Company for all the railroad mileage they have in the State of Nevada.

Mr. McBurney—I second the motion.

Mr. Miles—Mr. Chairman, in this case, if it is levied on mileage only and not on horses, wagons, offices, office furniture, etc., the question is now as to whether or not the Assessor in including those items of property could seize and sell such property for the taxes, provided there was enough of that kind in the county.

Judge Bartine—I don't think there is any question about it at all as long as \$300 per mile is placed as the valuation of their property. The Supreme Court has said that it is just to take aggregate mileage as the basis in order to find out what the rate of taxes should be. If you make the total tax \$300 per mile in your county, that includes the offices, office furniture, safe and wagons and horses, etc., because they cannot do the business without these things, and when you levy the tax of \$300 per mile that is the entire tax to be levied upon that company,

Mr. Owens—I will include that in my motion. I would like to know for the information of the board, after listening to the statement by Judge Bartine, if the various buildings are not included in that intangible property?

Mr. Beard—There is only one good building, and I have that. It is assessed at about \$5,000.

Mr. Owens—If there were a few places like Ely spring up, and they built new buildings, they would be getting off easy.

Mr. Miles—I wish to say to the board that White Pine's taxes on Wells, Fargo & Company are very light and the property is very little, and we have no buildings that belong to Wells, Fargo & Company.

Governor Dickerson—I will say for the information of the board that the Attorney-General will take the responsibility of seeing that these taxes are collected if this is levied, and the machinery of the State will be used to collect the taxes, and if the Assessors are held responsible by placing personal property on the roll, there is no question in my mind if they cannot collect it through process of law that the Legislature will remit any amount charged against the Assessor.

The Clerk called the roll, and the motion to place a valuation of \$300 per mile on Wells, Fargo & Company was unanimously carried.

Mr. Roeder—I would like to ask if any valuation has been placed on the stage lines.

Governor Dickerson—They have been excluded. It would probably mean the suspension of some of these small stage lines and would work a hardship on the community.

The Pullman Company

Governor Dickerson—There is another matter I would like to bring before the board. It is the Pullman Company. This company, under an Act of the Legislature, is required to file a report with the Railroad Commission, but it has not done this, but from the financial statement furnished Poor's Manual, one of the leading authorities of the United States, we find that the gross earnings, etc., are as follows:

STATEMENT BY RAILROAD COMMISSION

The Pullman Company have not yet filed an annual report with the Railroad Commission, although it is promised and should be forthcoming at an early date.

From financial statement carried in Poor's Manual for the year 1908 we find the following report of operations:

Gross earnings for year 1907	\$32,186,013
Operating expenses	17,388,741
Net earnings	\$14,797,272
Dividends on stock, 8 per cent	\$7,476,878
Interest	\$749,342
Balance surplus	\$6,571,052
Surplus carried forward	1,106,765
Total surplus	\$7,677,817

The total surplus of \$7,677,817 shown covers only the years 1906 and 1907 and the report shows the distribution of surplus accumulated prior to 1906 as follows:

On November 14th, the capital stock was further increased by \$26,000,000, making the capitalization of the Pullman Company \$100,000,000. The \$26,000,000 additional stock represented accumulated surplus of the company and was distributed pro rata to the stockholders of the company.

We have no way of saying what the Pullman earnings in Nevada are.

We suggest an assessed valuation of \$200 per mile on the large lines like the Central Pacific and \$100 per mile on the small lines like the Nevada Northern, Nevada and California, Tonopah and Goldfield, Las Vegas and Tonopah, and Tonopah and Tidewater Railroads.

Governor Dickerson—Instead of paying dividends they increased the capital stock and they pay the stockholders in stock of the company. It is a water proposition in order to earn a valuation on their stock so they can contend before the courts and against the Interstate Commerce Commission or any other commission that might inquire into it that they are entitled to such large earnings. I would suggest that a valuation of \$200 per mile on the Central Pacific be levied against the Pullman Company and a valuation of \$100 per mile be levied on the smaller lines such as the Virginia and Truckee, the Tonopah and Goldfield and on all other lines in the State. Two hundred dollars on the main line would be a fair valuation.

Mr. Beard—Mr. Chairman, they give in so many standard and so many tourists at so much apiece. Then they take eleven States and they count the mileage from Chicago to the Coast and they make it so much a mile through our State.

Mr. Weathers—Something like \$81.

Mr. Beard—I think myself that \$200 would not be too much. I move, Mr. Chairman, that a valuation of \$200 per mile be placed on the Pullman Company on the Central Pacific Railroad and \$100 per mile on all other lines where Pullman cars are used.

Mr. Roeder—Do you consider the Central Pacific and the San Pedro, Los Angeles and Salt Lake Railroads as trunk lines?

Governor Dickerson—Yes.

Mr. Roeder—I second the motion.

The Clerk called the roll, and the motion was carried unanimously.

Governor Dickerson—What is the further pleasure of the board?

MINUTES OF LAST MEETING

Mr. Lemaire—Mr. Chairman, I have something I would like to ask about, and that is with regard to the minutes of last year's meeting of the State Board of Assessors, and that is there is nothing to show where an amendment to a motion placing a valuation of \$20,000 per mile on the main line, that there was a tie vote in which you refused to vote. I think it is through an error of the printer or the Clerk that this was probably overlooked, and I spoke to Mr. Henrichs and Mr. Randall con-

cerning this, and they told me that you explained it to them satisfactorily and if possible, before we adjourn, myself and other members of the board would like to have it explained to them, and if there is an error I would like to have it corrected.

Governor Dickerson—I am pleased to furnish the board any information they want. I will say there never was a tie vote on the \$20,000 proposition. Where the misconception occurred was on the amendment making it \$18,500. When the amendment was submitted there was a tie vote and I refused to vote on the amendment. I resubmitted that vote and the amendment carried, and then it came up on the original motion and some of you did not vote right on that. Then it came on the original motion to make it \$18,500, and again there was a tie vote, and I voted again on the original motion. There never was a time when there was a tie vote on the \$20,000 proposition.

Mr. Lemaire—Most of us were under the impression that the tie vote was on the \$20,000.

Governor Dickerson—That is not true, Mr. Lemaire. It was 8 to 6, if my memory serves me right, on the \$20,000, and the Chair had no opportunity to vote. Here is the record. The \$30,000 vote was taken first; there were 4 ayes and 10 noes. Mr. Owens moved that the amount of the taxes be placed on the Central Pacific at \$18,500. Mr. Regan amended to make it \$20,000. The roll-call was first on the \$20,000, you understand, on the amendment; the ayes were Mr. Wyatt, Mr. Randall, Mr. Owens, Mr. Regan, Mr. Henrichs, and Mr. Miles. There were 6 on that. There was no chance for the Chair to vote there. The vote was on the \$18,500 and there was a tie, and I resubmitted the tie vote. When it carried on the original motion you voted against the \$18,500, Mr. Lemaire, and then changed your vote, and the Chair cast its vote on the original motion.

Mr. Owens—This explains it here, Mr. Chairman:

Mr. Owens—Mr. Chairman, I move you that the amount of taxation be placed on the mileage of the Central Pacific road at \$18,500.

Mr. Regan—I amend that by making it \$20,000.

Mr. Randall—I second Mr. Regan's amendment.

Governor Dickerson—The Clerk will call the roll.

The Clerk called the roll as follows:

Name and county	Vote	Name and county	Vote
Mr. Wightman of Churchill.....	No	Mr. Roeder of Lincoln.....	No
Mr. Wyatt of Douglas.....	Aye	Mr. Randall of Lyon.....	Aye
Mr. Weathers of Elko.....	No	Mr. Owens of Nye.....	Aye
Mr. Bradley of Esmeralda.....	No	Mr. Regan of Ormsby.....	Aye
Mr. McTerney of Eureka.....	No	Mr. Henrichs of Storey.....	Aye
Mr. Leonard of Humboldt.....	No	Mr. Beard of Washoe.....	No
Mr. Lemaire of Lander.....	No	Mr. Miles of White Pine.....	Aye

The result was announced as follows: Ayes, 6; noes, 8.

Governor Dickerson—The motion is lost. The question recurs on the amendment to make it \$18,500. The Clerk will call the roll.

The Clerk called the roll as follows:

Name and county	Vote	Name and county	Vote
Mr. Wightman of Churchill	No	Mr. Roeder of Lincoln	No
Mr. Wyatt of Douglas	Aye	Mr. Randall of Lyon	Aye
Mr. Weathers of Elko	No	Mr. Owens of Nye	Aye
Mr. Bradley of Esmeralda	Aye	Mr. Regan of Ormsby	Aye
Mr. McTerney of Eureka	No	Mr. Henrichs of Storey	Aye
Mr. Leonard of Humboldt	No	Mr. Beard of Washoe	No
Mr. Lemaire of Lander	No	Mr. Miles of White Pine	Aye

The result of the vote was announced as follows: Ayes, 7; noes, 7.

Governor Dickerson—The Chair refuses to vote on this question. The Clerk will call the roll again.

The Clerk called the roll again as follows:

Name and county	Vote	Name and county	Vote
Mr. Wightman of Churchill	No	Mr. Roeder of Lincoln	No
Mr. Wyatt of Douglas	Aye	Mr. Randall of Lyon	Aye
Mr. Weathers of Elko	No	Mr. Owens of Nye	Aye
Mr. Bradley of Esmeralda	Aye	Mr. Regan of Ormsby	Aye
Mr. McTerney of Eureka	No	Mr. Henrichs of Storey	Aye
Mr. Leonard of Humboldt	No	Mr. Beard of Washoe	No
Mr. Lemaire of Lander	Aye	Mr. Miles of White Pine	Aye

The result was announced as follows: Ayes, 8; noes, 6.

Governor Dickerson—The amendment is carried. The question now recurs on the original motion as amended. The Clerk will call the roll.

The Clerk called the roll as follows:

Name and county	Vote	Name and county	Vote
Mr. Wightman of Churchill	No	Mr. Roeder of Lincoln	No
Mr. Wyatt of Douglas	Aye	Mr. Randall of Lyon	Aye
Mr. Weathers of Elko	No	Mr. Owens of Nye	Aye
Mr. Bradley of Esmeralda	Aye	Mr. Regan of Ormsby	Aye
Mr. McTerney of Eureka	No	Mr. Henrichs of Storey	Aye
Mr. Leonard of Humboldt	No	Mr. Beard of Washoe	No
Mr. Lemaire of Lander	No	Mr. Miles of White Pine	Aye

The result of the vote was announced as follows: Ayes, 7; noes, 7.

Governor Dickerson—The Chair will cast the deciding vote. It is better to have it \$18,500 than \$17,500. The Clerk will call my name.

The Clerk—Governor Dickerson.

Governor Dickerson—Aye. The motion as amended is carried.

Governor Dickerson—I resubmitted the question as I refused to vote on account of there being a tie vote. The original motion is the last motion acted upon. A motion is made. Mr. Wightman amends that motion; Mr. Owens amends the amendment. You first vote on the amendment to the amendment. If that is carried you make that a part of the amendment and then you vote on the amendment as amended, and if you carry that you vote on the original motion as amended. There is where the confusion arose last year. I resubmitted it and you voted for the amendment and it carried; then when it carried on the original motion you voted against it, Mr. Lemaire, and my vote was necessary to carry it. I am satisfied the minutes are absolutely straight.

Miscellaneous Property

Mr. Miles—Mr. Chairman, I believe I proposed this additional item on the order of business. My object in doing so was to go back over these lands, but it seems as though it is impossible to reach a classification on contract lands, so I have nothing further to say with reference to lands, unless the board wishes to take it up.

Mr. Beard—I move that we adjourn *sine die*.

Mr. Roeder—I second the motion.

The question was put, and the motion carried.

Accordingly, at 2:50 p. m., January 15, 1910, the State Board of Assessors adjourned *sine die*.

JAMES D. FINCH,

Clerk of the Board.

Approved: D. S. DICKERSON,

Chairman.

AFFIDAVIT OF STENOGRAPHERS

STATE OF NEVADA,)
) ss.
COUNTY OF ORMSBY.)

James D. Finch, Archibald Dickson, and T. J. Salter, being first duly sworn upon oath, depose and say, each for himself and not one for the other, as follows:

That the above and foregoing is a full, true, and correct transcription of stenographic notes of the minutes of the State Board of Assessors for the session beginning January 10, 1910, and ending January 15, 1910; that the said notes so taken were transcribed by said James D. Finch after a comparison of his notes with the notes of said Dickson and said Salter, and each of said affiants has read said transcription and deposes that the same is full, true, and correct as aforesaid.

JAMES D. FINCH,
ARCHIBALD DICKSON,
T. J. SALTER.

Subscribed and sworn to before me this 7th day of February, A. D. 1910.

[SEAL]

J. DOANE,
*Notary Public, Ormsby County,
State of Nevada.*

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