

we have nothing to do with the selling of those ties or the purchase of those ties.

Examiner Burchmore: If they wanted to ship those ties out over the Iron Mountain Railroad instead of floating them down the Black River, how far would they have to team them to get them to the Iron Mountain?

Mr. Quellmalz: Seven miles, I think.

Mr. Coleman: And they could run them by barge down to the Iron Mountain road the same way?

Mr. Quellmalz: No, they could not run them down to the Iron Mountain road by barge.

Mr. Coleman: I understand your testimony to mean that you expect for three cents per hundred pounds you will be able to  
6227 see a profit in handling those ties onto your barge, transporting them, taking them off of the barge and loading them on  
the cars?

Mr. Quellmalz: Well now I said I thought that that would be the charge. Now I am not sure.

Mr. Coleman: You know that your company has no purpose in mind of going in the market to buy them?

Mr. Quellmalz: I am positive of that, yes, sir.

Mr. Coleman: That is all.

Mr. Walter: There is just one question I want to ask. Three cents a hundred pounds would be how much per tie? How much would a tie weigh?

Mr. Quellmalz: A tie will weigh about from 170 to 200 pounds.

Mr. Walter: That is all.

6228 *Trinity Valley & Northern Railway Company.*

J. J. BALDERACH was called as a witness, and having been duly sworn, testified as follows:

Direct examination:

Examiner Gutheim: State your name to the reporter.

Mr. Balderach: J. J. Balderach.

Examiner Gutheim: Where do you live, Mr. Balderach?

Mr. Balderach: Dayton, Texas.

Examiner Gutheim: What is your occupation?

Mr. Balderach: I was formerly treasurer and auditor of the Trinity Valley & Northern, but I hold the title of auditor of the Trinity Valley & Northern, about since the first of the year.

Examiner Gutheim: Will you describe the location of the Trinity Valley & Northern Railway?

Mr. Balderach: Yes, I have a map here that I would like to submit.

Examiner Gutheim: Will you file the map?

Mr. Balderach: Yes, for the record, and I will try to explain this more fully.

(The map so offered and identified was received in evidence and thereupon marked "Balderach Exhibit No. 1," received in evidence January 27, 1911, and is attached hereto.)

Examiner Gutheim: According to this map then, the road runs from Dayton on the T. & N. O. Railroad?

Mr. Balderach: Yes, sir.

Examiner Gutheim: In a sort of a general northerly direction?

Mr. Balderach: Northeastly direction, I believe it is, more.

Examiner Gutheim: What is the other terminus?

Mr. Balderach: It is Fouts, Texas. We have extended the line eight miles north of Fouts to a place called Lumm, designated up here as Mile 18. That eight miles north of Fouts has not as yet been put in operation, but is expected to be put in the first of February, freight and passenger service will be extended to that portion of the line.

Examiner Gutheim: How much have you been operating up to the present time?

Mr. Balderach: Ten miles.

Examiner Gutheim: And your road to go into operation about the 1st of February will be eight miles further?

Mr. Balderach: Yes, sir; making a total of eighteen miles.

Examiner Gutheim: Is that road standard gauge throughout?

6230 Mr. Balderach: Yes, sir.

Examiner Gutheim: About how heavy a rail?

Mr. Balderach: Fifty pound rail.

Examiner Gutheim: Is that rail owned by the Trinity Valley & Northern Railroad?

Mr. Balderach: No, sir, it is leased.

Examiner Gutheim: Who from?

Mr. Balderach: Texas & New Orleans Railroad Company.

Examiner Gutheim: What is the consideration paid for the lease?

Mr. Balderach: \$100 per mile per annum, or the equivalent of 4 per cent on \$40,000.

Examiner Gutheim: Have you any other connection?

Mr. Balderach: Yes, sir.

Examiner Gutheim: Besides the T. & N. O. connection?

Mr. Balderach: Yes, sir, Fullerton, Texas, with the Beaumont, Sour Lake & Western Railway Company.

Examiner Gutheim: Is that a Frisco line?

Mr. Balderach: That is what they call the Frisco Lines in Texas.

Examiner Gutheim: What is the most important industry of the line of this road?

6231 Mr. Balderach: Forest products.

Examiner Gutheim: And what company owns the largest mill?

Mr. Balderach: The Dayton Lumber Company.

Examiner Gutheim: Where is that mill located?

Mr. Balderach: At Ladd, Texas, approximately a mile from the trunk line.

Examiner Gutheim: Is it all of a mile?

Mr. Balderach: Approximately a mile, it is about 5,000 feet.

Examiner Gutheim: How far is that from the Frisco connection at Fullerton?

Mr. Balderach: It is 4.8 miles.

Examiner Gutheim: Is the Dayton Lumber Company as a corporation, or through its stockholders, interested in the Trinity Valley & Northern Railway?

Mr. Balderach: Yes, sir; the controlling interest of the railroad company is held by the stockholders of the Dayton Lumber Company.

Examiner Gutheim: Is all the stock of the railroad company held by the stockholders of the Dayton Lumber Company?

Mr. Balderach: No, sir.

Examiner Gutheim: How much stock of the railroad company is held by parties not connected with the lumber company in any way?

Mr. Balderach: Well, there is Mr. W. P. Cottingham, used to be secretary of the company, he owns one share, and S. H. Fullerton, of St. Louis, who is interested in the company, he does not own any stock in the lumber company. I cannot give you the shares. I think our report to the Railroad Commission of Texas shows the individual stockholders, 50 shares.

Examiner Gutheim: Mr. Fullerton owns 50 shares?

Mr. Balderach: Fifty shares.

Examiner Gutheim: Is he the only stockholder outside of the stockholders of the Dayton Lumber Company owning anything more than sufficient to qualify as a director?

Mr. Balderach: Sir?

Examiner Gutheim: I say, is Mr. Fullerton the only stockholder of the railroad not a stockholder of the Dayton Lumber Company who holds more stock than just what is necessary to qualify as a director?

Mr. Balderach: Well, I think there is Mr. L. J. Boykin. I am not positive, but I think he does not own any stock in the Dayton Lumber Company. He owns one share, I think, one or two shares of the railroad.

Examiner Gutheim: But the same individuals through stock ownership can control the policy of both these corporations?

Mr. Balderach: Yes, sir. As I stated before, the controlling interest of the railroad was held by the stockholders of the Dayton Lumber Company.

Examiner Gutheim: You say Mr. S. H. Fullerton has no interest whatever in the Dayton Lumber Company?

Mr. Balderach: Yes, sir.

Examiner Gutheim: Do you know whether any of the so-called Fullerton Companies have any interest in the Dayton Lumber Company?

Mr. Balderach: I am not familiar with the accounts of the Dayton Lumber Company.

Examiner Gutheim: The Chicago Lumber & Coal Company, do they have any interest in it?

Mr. Balderach: I have no connection with the lumber company at all. Never have seen their books, never have looked into the general subject.

Examiner Burchmore: Have you any opinion on that subject?

Mr. Balderach: No, sir, I have never formed any opinion because I have not investigated the business of the lumber company. I am not a lumberman.

Mr. Walter: Mr. Fullerton is here and he can tell you.

Examiner Gutheim: Mr. Balderach, does the Dayton Lumber Company sell its products direct through the Dayton Lumber Company or through a sales agent?

Mr. Balderach: Through a sales agency.

Examiner Gutheim: What sales agency?

Mr. Balderach: It is the Alf. Bennett Lumber Company of St. Louis.

Examiner Gutheim: Are the officials of the railroad company the same individuals who hold some official relation to the lumber company?

Mr. Balderach: Yes, sir.

Examiner Gutheim: About how much equipment do you have?

Mr. Balderach: We have eight flat cars, seven box cars, one passenger coach, or a total of sixteen cars of all classes, and one locomotive, all equipped with train brakes, automatic couplers, safety appliances, and so forth.

Examiner Gutheim: What is the investment of this company in the cost of its road and equipment?

Mr. Balderach: The latest trial balance that we have is of date October 31, 1910, and the physical property owned at that date is \$122,059.38.

Examiner Gutheim: That covers the eighteen miles of road right up to Mile Post 18?

Mr. Balderach: Yes, sir.

Examiner Gutheim: Or only such part as was built up to last October?

Mr. Balderach: Up to October 31, 1910.

Examiner Gutheim: Was it practically all constructed at that time?

Mr. Balderach: No, sir; there has been quite a little construction work carried on since.

Examiner Gutheim: What is the total amount of capital stock outstanding?

Mr. Balderach: \$25,000.

Examiner Gutheim: What other indebtedness does the company owe?

Mr. Balderach: We are indebted to the Dayton Lumber Company for about \$62,537.87, if I remember the account correctly.

Examiner Gutheim: Have you any other outstanding indebtedness?

6236 Mr. Balderach: Yes, we have some trust notes covering a purchase of five flat cars from the Hicks Locomotive & Car Works.

Examiner Gutheim: How much is that?

Mr. Balderach: It was originally \$1,625, but the notes have been taken up as they matured, and we have decreased the indebtedness now to \$180.53.

Examiner Gutheim: So that you seem to have about \$87,000 outstanding in capital indebtedness?

Mr. Balderach: Yes, sir. Approximately \$87,000, more or less.

Examiner Gutheim: How do you carry the rest of the amount, the difference between the equipment investment of \$122,000 and this \$87,000, as a surplus?

Mr. Balderach: No, that is not a surplus. Our voucher account, audited voucher account shows liabilities of \$8,721.52. We have a pay check account which a portion of that represents, pay checks issued in favor of employes engaged in construction service. We also are indebted to several contractors for grading work, which has never been paid for.

Examiner Gutheim: How much is paid to the Dayton Lumber Company in the way of interest on the amount due it?

Mr. Balderach: 8 per cent per annum.

6237 Examiner Gutheim: Is that paid from year to year?

Mr. Balderach: Why, it has not been paid. It has been accrued. We have never had enough money to take up all our obligations, and if we ever do, we will pay them.

Examiner Gutheim: Does the road run its train on a regular schedule?

Mr. Balderach: Yes, sir; I have a time table here I would like to file into the record.

Examiner Gutheim: You may file that as your exhibit 2.

Mr. Balderach: All right, sir.

(The time table so offered and identified, was received in evidence and thereupon marked "Balderach Exhibit No. 2, received in evidence January 27, 1911", and is attached hereto.)

Examiner Gutheim: Do you operate both passenger and freight service?

Mr. Balderach: Yes, sir, we operate on a double daily service.

Examiner Gutheim: Do you carry any United States mail or express?

6238 Mr. Balderach: Yes, sir, under formal contract entered into at the Post Office Department of the United States Government, effective November 1, 1910.

Examiner Gutheim: What other communities along the road are served by this company as a common carrier?

Mr. Balderach: Well, Dayton, Texas, is the junction point with the T. & N. O. Railroad Company, and it is assuming proportions as a distributing center, have five or six mercantile houses there, and those merchants supply the interior farmers, that is, I mean by interior farmers, the people living adjacent to the line of the Trinity

Valley & Northern for a distance of three to five miles. We have a station at Ladd, Texas, which is an open station, and we have several tie camps along the line. We also have an open station at Fouts, Texas, and we contemplate establishing an agency at Lumm station.

In connection with the Lumm station, I wish to state that it is located on what is known as Talkington Prairie, and it is an old settlement up there. The land is very productive, I understand, and we might possibly have a large town there some day—that is, I say a large town, a large country town, probably seven to eight hundred to a thousand people. Arrangements have been made to establish a town there. One of the merchants who has a grocery store  
6239 and general merchandise establishment, having the post office, is going to move his place of business on our line.

Examiner Gutheim: Ladd, where you have an open station, is the site of the Dayton Lumber Company's mill is it not?

Mr. Balderach: Yes, sir.

Examiner Gutheim: And is the railroad station agent a mill employé or a lumber company employé?

Mr. Balderach: No, sir, the agent at Ladd, Texas, has no connection with the Dayton Lumber Company.

Examiner Gutheim: Now, at Fouts, where your line has opened a station, is that a logging camp of the Dayton Lumber Company?

Mr. Balderach: Yes, sir, it might be considered a logging camp. It was established there because the people who owned the land dedicated a town site. It was formerly called Rosswood. Messrs. Ross & Wood of Houston Texas, owned the land and dedicated a townsite that was named in their honor, but subsequently changed to Fouts, Texas; I presume in honor of our former president.

Examiner Gutheim: Well, is the agent at Fouts an employé of the lumber company?

Mr. Balderach: He was but he is not now.

6240 Examiner Gutheim: He is not now?

Mr. Balderach: No, sir.

Examiner Gutheim: This station called Lumm, is the Dayton Lumber Company logging in that vicinity at the present time?

Mr. Balderach: Yes, sir. I don't know whether they are logging right at Lumm, but I know it is north of Fouts.

Examiner Gutheim: Is there a camp at Lumm?

Mr. Balderach: No, the camp is at Fouts, Texas.

Examiner Gutheim: How far is that projected extension up to the Santa Fe connection at Lamb?

Mr. Balderach: I think it is about twelve miles.

Examiner Gutheim: Has there been any actual work done on that line?

Mr. Balderach: Yes, sir, our engineer, Mr. A. J. Wise, of Houston, Texas, has made a preliminary survey up through that territory and has just sent in his bill about thirty days ago for \$450 for his services.

Examiner Gutheim: Now, do you make any distinction in the character of your railroad service between Dayton or Ladd and Fouts, and between Fouts and Lumm?



Mr. Balderach: We do not operate to Lumm now. The operation of the railroad has not been continued to Lumm because we  
6241 do not have the rails for that portion of the line, but we have a service between Dayton and Ladd and Fouts and Fullerton. Our train No. 1 leaves Fouts and runs into Dayton, and our Train No. 2 leaves Dayton and runs down to Fouts. Train No. 3 leaves Fouts and runs to Ladd, and Train No. 4 leaves Ladd and runs out to Fouts.

Examiner Gutheim: There is some railroad operation north of Fouts up to Lamb at the present time, is there not?

Mr. Balderach: The Dayton Lumber Company's engine does a logging service.

Examiner Gutheim: That is the track extension that has recently increased your cost of road?

Mr. Balderach: Yes, sir. I might also say that in the month of December there was a crowd came out from Houston, went out to the northern terminus of our line, and we charged them for the train haul, also charged them for the additional equipment. That is the only revenue from train service on that portion of the line.

Examiner Gutheim: How long has the Dayton Lumber Company been running its logging trains between Lamb and Fouts?

Mr. Balderach: Why now, the Dayton Lumber Company has not been operating to Lamb, it is north of Fouts.

6242 Examiner Gutheim: Well, north of Fouts.

Mr. Balderach: Yes, sir—Well, it is over a year.

Examiner Gutheim: And what consideration do they pay to the Trinity Valley & Northern Railroad Company for the service?

Mr. Balderach: They now pay one dollar per train mile under a trackage contract. I don't know whether that contract has been filed with the Commission or not. If it has not, we will file a copy of it.

Examiner Burchmore: Suppose you file a copy.

Mr. Balderach: I have not a copy here, but the original. I will have a copy made from that and send it to you.

Examiner Gutheim: About how many cars in a train do you run?

Mr. Balderach: Why, I have some statistics here that show our average number of loaded cars in our freight trains for the last fiscal year, that I would like to offer.

Examiner Gutheim: This statement, Mr. Balderach, covers the general financial and operating statistics for the road for the fiscal year ending June 30, 1910?

Mr. Balderach: Yes, sir, the accounts are open for inspection.

6243 Examiner Gutheim: You may file that as your Exhibit No. 3.

(The statement so offered and identified was received in evidence and thereupon marked "Balderach's Exhibit No. 3, received in evidence January 27, 1911", and is attached hereto.)

Mr. Balderach: The information concerning the number of cars on our trains from the statistical statement, shows that we have had 2.18 cars in each train, that is, as a statistical item, but the average

loaded freight cars in each freight train including mixed, is 2.18 cars.

Examiner Gutheim: Does that refer to the logging trains of the Dayton Lumber Company?

Mr. Balderach: No, sir, the logging trains of the Dayton Lumber Company do not enter into the statement now, that is, after this fiscal year. I would modify that statement by stating that from July 1, 1909, to December 31, 1909, the logs were hauled by our trains at a compensation of \$5 per car covered by a special application made to the Railroad Commission of Texas. Subsequent to January 1, 1910 a contract was entered into between the Dayton Lumber Company and the Trinity Valley & Northern Railway Company, whereby the railway company was to receive a compensation of \$1.50 per 6244 train mile. That contract was subsequently modified to a rate of a dollar per train mile, and the tonnage for the first six months of the fiscal year, ending June 30, 1910, is included in this exhibit as traffic movement for the fiscal year.

Examiner Gutheim: Can you say about how many cars per train the lumber company puts in logging trains?

Mr. Balderach: About nine.

Examiner Gutheim: And they would run about how many feet per car?

Examiner Balderach: I could not state as to the number of feet in each car.

Examiner Gutheim: Would these cars average about 3,000 feet?

Mr. Balderach: I could not answer that question because I don't know anything about the density of the load on those logging cars.

Examiner Burchmore: Characteristic logging cars, are they?

Mr. Balderach: Yes, sir, skeleton cars.

Examiner Gutheim: About how many miles would they pay that one dollar per train mile on the average?

Mr. Balderach: They operate four trains a day now. 6245 They run about 72, 76 or 78 miles.

Examiner Burchmore: Per day or per train?

Mr. Balderach: Per day, four trains per day; the mileage of the road is only 18 miles.

Examiner Gutheim: Do they pay a dollar per train mile on empties out as well as loads brought in?

Mr. Balderach: Yes, sir, all trains operated by the lumber company, the lumber company pay a dollar per train mile.

Examiner Gutheim: So bringing in two trains a day, with eight or nine cars each, would be about eighteen loaded cars a day?

Mr. Balderach: Yes, sir.

Examiner Gutheim: For which they would pay, if they traveled out fourteen miles, \$56.00?

Mr. Balderach: If they traveled fourteen miles, yes, sir.

Examiner Gutheim: Are they traveling more or less than fourteen miles now?

Mr. Balderach: The last month that I have a bill against the Dayton Lumber Company shows that they operated about seventy-two miles a day.



Examiner Gutheim: Seventy-two miles?

Mr. Balderach: Yes, sir.

6246 Examiner Gutheim: So they would be paying about four dollars per car?

Mr. Balderach: Approximately.

Examiner Gutheim: Does that contract with the Dayton Lumber Company require the approval of the Texas Railroad Commission?

Mr. Balderach: I think it does.

Examiner Gutheim: Was it approved?

Mr. Balderach: Now, the contract was drawn up by Mr. Fouts, the former president of the company, and since that time there has been a change of officers, and I don't know whether that contract has been approved by the Commission or not. However, if you wish to be further informed in connection with that contract, I will try to make an investigation and advise you as to the facts.

Examiner Gutheim: I ask because I desire to know whether the State of Texas' special rate of \$5.00 per car would be superseded by this contract without any comment from the Commission.

Mr. Balderach: As I said before, I don't know whether that matter has been taken up with the Commission or not. I am not in a position to answer. It may be, our former president took that  
6247 matter up with the Commission and it probably authorized him to execute the contract. However, I will state that from the latest report of the Commission, it is shown that we have such a contract in effect with the Dayton Lumber Company.

Examiner Gutheim: That is a fact. Is it likely that the Dayton Lumber Company will log in any more to the mill at Ladd than they do at the present time?

Mr. Balderach: Well, sometimes they do. There is a lot of cut-over land there you know. They make a contract with these loggers to bring in the timber close to the track. Some has been brought to the mill within a distance of three to five miles.

Examiner Gutheim: The point is that on this contract rate of a dollar per ton mile, if they are logging near by the road, it makes their rate a great deal lower, but if they are going to log out further, it will make their rate per car much higher.

Mr. Balderach: I understand that. The extension you see, north of Lumm to Lamb, Texas, will increase the mileage of our line twelve additional miles. That is, when we built our extension up in that territory, and they still operate under the same basis,  
6248 the rates per car will increase a considerable proportion.

Examiner Gutheim: Now, do you have through rates from the mill at Ladd on foreign products by both the T. & N. O. and the Frisco line?

Mr. Balderach: Yes, sir.

Examiner Gutheim: And what divisions accrue to the Trinity Valley & Northern out of those through rates?

Mr. Balderach: Well, we have numerous division sheets on file, and all of them carry a different division. On some I will state that on traffic destined to points east of the Mississippi River, moving by the New Orleans gateway, in connection with the T. & N. O. Rail-

way, the Louisiana Western, the M. K. & T., and the I. C. and their connections, we get two cents out of the proportion up to New Orleans. The proportion to New Orleans is eight cents, and the lines beyond New Orleans get the balance of the through rate. Traffic destined to points west of the Missouri river, we get 20 per cent of the Sunset's proportionate rate up to their connections with the lines leading west to the Texas gateways, leading out of Shreveport, Sherman, Denison, Fort Worth and Dallas gateways.

6249 Examiner Gutheim: Is there any provision in the divisional arrangement whereby the Sunset lines must first receive a minimum revenue before you get any?

Mr. Balderach: There is a division sheet on file to that effect, but I wish to state that the Trinity Valley & Northern Railway Company does not route any lumber via that gateway.

Examiner Burchmore: Will you give us your reason why they do not?

Mr. Balderach: Why, yes. We route the lumber to the best advantage of the Trinity Valley & Northern, to secure to it the greatest revenue for the service performed. The division sheets that I have mentioned, the Sunset line received a minimum of eight cents.

Examiner Gutheim: You don't route it where they get seven cents?

Mr. Balderach: I don't understand your question?

Examiner Gutheim: You don't route it where the Sunset line will get seven cents and you get nothing?

Mr. Balderach: The Sunset Line reserves a minimum of eight cents.

6250 Examiner Gutheim: What divisions do you get on the Frisco?

Mr. Balderach: Why, we get 2½ cents per hundred pounds where the rates are equal, and when the rates are lower via the Florida gateway in connection with the Frisco lines than via the Texas gateway in connection with the Sunset lines, we receive one cent and a half per hundred pounds.

I might say further, that at one time, when I first became connected with the Trinity Valley & Northern Railway Company, that our rate was lower via the Florida gateway than via the Texas gateway in connection with the Frisco and Santa Fe lines, and the Trinity Valley & Northern was not getting any division at all, and when that division was taken up with the Frisco officials, we told them that we would not give them any business at all unless they allowed us a division for the service performed by the T. V. & N. Railway Company.

Examiner Gutheim: Do you get any higher divisions than three cents?

6251 Mr. Balderach: Yes, sir, our maximum division is four cents per 100 pounds, and that is on intrastate traffic, and we receive that division from the Sunset Central lines on a gradual division basis. Where the rate is 18¾ cents per hundred pounds from point of shipment to destination, local points or competitive points on the Sunset Central lines, we are allowed 4 cents per 100. Where the through rate is under 18¾, and over 15, or 15 cents, we

receive 3½ cents a hundred pounds. Between 15 and 10 we receive 3 cents, and under 10 cents we receive 2½. We also have division sheets in effect via the Frisco gateway allowing us practically the same division on competitive business. On traffic destined beyond the Sunset Central lines we receive 20 per cent of their proportion up to their immediate connection.

Examiner Gutheim: Does the statement which you have submitted show about what the average division was received by the Trinity Valley & Northern for each of the lines?

Mr. Balderach: For each of the lines, no, sir; I have not prepared any statement.

Examiner Gutheim: Does it show the general average division?

Mr. Balderach: On lumber it is 2½ cents on the average.

Mr. Walter: To be exact, 2.59.

Mr. Balderach: 2.575 of a cent, to be exact.

Examiner Gutheim: The figure that you gave just now is the average division, that is the average per 100 pounds of all revenues from divisions received, is it?

6252 Mr. Balderach: On lumber only. I think I will let you look at my statement here and I can give you a better idea of what it covers. Average receipts per 100 pounds, lumber, 2.575 cents.

Examiner Gutheim: Do you have through rates inbound and outbound on commodities other than forest products?

Mr. Balderach: Yes, sir. I would further add that I have prepared interline accounts, reporting proportions to our connections.

Examiner Gutheim: Via both roads?

Mr. Balderach: No, not via both roads; via the Frisco. We have interline accounts and through billing arrangements.

Examiner Gutheim: Do you have through rates via both roads?

Mr. Balderach: Yes, sir, we have through rates. Business originating on the Sunset Central lines and their connections, is handled on a transfer at Dayton and rebilled by our joint agent.

Examiner Gutheim: Will you give generally what divisions you receive on commodities other than forest products?

Mr. Balderach: On traffic originating in defined territory north of the Ohio River, the proportion up to the Mississippi river, we are allowed 12½ per cent of the through rate. Traffic  
6253 originating in seaboard territory, we take an arbitrary proportion up to New York, and we are entitled to our 12½ per cent of the balance. That is on interstate shipments in less than carload lots. On carload shipments specific division sheets are issued, allowing our company various amounts. We get 3½ cents per hundred pounds on carloads, and our minimum on less than carloads is 10 cents. On intrastate shipments, the divisions are based on revenue, using each line's local as a factor. That is, when the traffic originates on other than the Sunset Central lines or the Frisco lines. When the traffic originates on the Frisco lines, our division is based on the mileage arrangement. As the Sunset Central mileage increases our proportion decreases accordingly.

Examiner Gutheim: Now, are the divisions on lumber fixed on a milling in transit basis?

Mr. Balderach: No, sir, we have no milling in transit arrangement on our lines.

Examiner Gutheim: Well, on that haul that is performed by your company upon the product of the mill to the T. & N. O. is how much?

Mr. Balderach: The length of haul?

Examiner Gutheim: Yes.

Mr. Balderach: Approximately the haul is over three-  
6254      quarters of a mile.

Examiner Gutheim: And that is always performed with the power of the Trinity Valley & Northern?

Mr. Balderach: Yes, exclusively.

Examiner Gutheim: The T. & N. O. power never goes on to your road at all?

Mr. Balderach: No, sir, the T. & N. O. does not operate on our tracks at all.

Examiner Gutheim: Likewise you haul approximately a distance of five miles to the Frisco.

Mr. Balderach: Yes, sir.

Examiner Gutheim: Now, does this statement of your financial and operating statistics for the year ending June 30, 1909, show the division of your tonnage and revenue?

Mr. Balderach: I wish to correct you there. That is for the fiscal year ending June 30, 1910.

Examiner Gutheim: I beg your pardon. Does it show the division of your tonnage and revenue, so that we can see what business is done for the Dayton Lumber Company and the revenue therefrom, and what business is done for the general public outside of the Dayton Lumber Company?

Mr. Balderach: Well, these financial statements and sta-  
6255      tistical returns I have here for the fiscal year ending June 30, 1910 have not been segregated as between independent shippers and the Dayton Lumber Company. However, the statement shows for itself, and under the products of agriculture there is an item of corn, twenty-one tons that is an independent shipment. Under the products of the forest, ties, 4401 tons, wood, 1231 tons. stave bolts 2400 tons.

In manufactures we have, machinery 24 tons, ice 205 tons.

We have merchandise 604 tons, emigrant outfits, 10 tons.

A proportion of the merchandise is hauled for the Dayton Lumber Company, but it is such a small amount I don't think it would be of any value to have it in the report.

Examiner Gutheim: It is approximately correct to say that the items which you have mentioned are all the items that were handled for the general public?

Mr. Balderach: Approximately speaking. I have not prepared an exact statement from the waybills, because it entailed a good deal of clerical work, and I did not have the time to do it. I am the only one who handles the affairs of the railroad company, and

when I file my monthly reports with the Interstate Commerce Commission and the Railroad Commission of Texas, I think I have done a good month's work.

6256 Examiner Burchmore: It looks that way.

Mr. Balderach: I have. What was that, Mr. Examiner?

Examiner Burchmore: The figures you read, Mr. Balderach, seem to foot up 10 per cent of the total.

Mr. Balderach: On what stuff?

Examiner Burchmore: Outside.

Mr. Balderach: I have a little pencil memorandum here that I have prepared from my returns for the four months of the present fiscal year, which seems to indicate that the outside tonnage is approximately 29.72 per cent.

Examiner Burchmore: That is quite an increase in proportion. How do you explain it?

Mr. Balderach: It would be explained by the reason that the present fiscal year the log tonnage does not enter into our traffic statement. You will notice the log tonnage is 32,085 tons, or 51.33 per cent. If you eliminate the log tonnage the percentage of the other items would be much greater than it was.

Examiner Gutheim: Why do you eliminate the log tonnage?

Mr. Balderach: The log tonnage is now handled exclusively by the T. & N. O. Railway Company locomotives under trackage arrangement.

6257 Examiner Gutheim: Well, if you let that appear in evidence it will explain the difference.

Mr. Balderach: For the previous year.

Examiner Burchmore: Does the present report give those figures?

Mr. Balderach: Yes, that is the percentage of revenue of each item to the total amount of revenue.

Examiner Burchmore: Less than 20 per cent of the revenue last year was derived from outside operation.

Mr. Balderach: Of course if you take the percentage based on this statement here, you see this revenue from the log tonnage is 42 per cent, and if you eliminate that it makes the difference.

Examiner Burchmore: How about the percentage of revenue this year?

Mr. Balderach: The percentage of revenue this year is 28.52 per cent. I wish to state in connection with this exhibit here that I just prepared it from my returns on those four months' statements.

Examiner Burchmore: You think as an accountant that these figures you have given us are sufficiently accurate for——

Mr. Balderach: I think they are all right.

6258 Examiner Burchmore: The percentage of error would be very small?

Mr. Balderach: Very small.

Examiner Gutheim: Taking the revenues on the one item of logs including four months this year, how does it compare with the total of twelve months the previous year?



Mr. Balderach: I have not made any comparison of our revenue—Why, yes, I could give it to you. I am not able to give you that information, but I will state that the revenue from the log service was approximately \$3,000 a month, and our revenue from the operations of the joint track with the Dayton Lumber Company is, for the four months ended October 31st, \$3,739. There has been considerable decrease, however. The last bill I made against the lumber company for trackage aggregated, I think, about \$1,500 for the month of November.

Examiner Gutheim: Referring to your statement for the period July 1, 1910 to October 31, 1910, it should be—It reads 1911—

Mr. Balderach: It must be a typographical error.

Examiner Gutheim: What item in your revenue account covers the amount received from the Dayton Lumber Company for 6259 trackage at \$1.00 per mile?

Mr. Balderach: That comes under revenue from transportation: You will find it right down below.

Examiner Gutheim: You will submit this four months' statement, also that statement of the fiscal and financial operations for the previous year?

Mr. Balderach: Yes, sir.

Examiner Gutheim: It may be filed as an exhibit.

(The statement so offered and identified was received in evidence and thereupon marked "Balderach Exhibit No. 4, received in evidence January 27, 1911", and is attached hereto.)

Examiner Gutheim: Now, who does the log spur work of the Dayton Lumber Company?

Mr. Balderach: The Dayton Lumber Company do their own work.

Examiner Gutheim: Who does the construction work?

Mr. Balderach: Sometimes, when they might be short-handed, we will run our section men over on their spur work and put our section foreman's report of the number of days engaged in that class of service—we bill on the Dayton Lumber Company for that amount of time and also probably of roadmaster's time 6260 for supervision.

Examiner Gutheim: Then where the men handle the traffic, including the use of the Trinity Valley & Northern power and equipment on the logging spurs here, does the Dayton Lumber Company operate its own railroad?

Mr. Balderach: The Dayton Lumber Company operate its own locomotives.

Examiner Gutheim: On the logging spurs?

Mr. Balderach: On the logging spurs.

Examiner Gutheim: In fact, does all of the log spur work at its own expense?

Mr. Balderach: At its own expense. In connection with that exhibit of operation—you might call it a general statistical statement—in that statement of July 1, 1910 to October 31, 1910, the total tonnage handled for the Dayton Lumber Company is 5,638 tons, 70.28 per cent. The tons we have hauled are 9,843, or 32.36



per cent. Revenue, \$3,054.08, or 71.48 per cent. Tonnage for the independent shippers is 2,385 tons, or 29.72 per cent. The ton mileage is 20,572 tons, or 67.64 per cent. The revenue is \$1,218.66, or 28.52 per cent. Now, these figures there would indicate that our general mileage is greater for independent traffic than 6261 it is for the Dayton Lumber Company. In other words, we perform a greater transportation service for the independent shippers than we do for the Dayton Lumber Company, and we are serving territory not heretofore reached by rail transportation. This tonnage of staves, wood, etc., is products that are being secured from independent land owners, and I might further add that if our charter should be revoked by the state, that there is a considerable lot of timber up there that could not be shipped out only by the Dayton Lumber Company, and if they wanted to ship that out the Dayton Lumber Company would inform them that they are not a common carrier.

Examiner Gutheim: Mr. Balderach, do you file statements similar to these, periodically from month to month?

Mr. Balderach: No, not from month to month. I prepared that memorandum for my own information.

Examiner Gutheim: Are they sent to the head office of the company?

Mr. Balderach: Our president, our former president, is located there, and I show them to him to show him what we are doing.

Examiner Gutheim: No reports of this nature are given to 6262 Mr. Fullerton, are they?

Mr. Balderach: They are available, and if Mr. Fullerton wants to examine it I will be glad to give it to him.

Examiner Gutheim: Do you make an annual report or a monthly report to the Interstate Commerce Commission?

Mr. Balderach: I think they are on file, yes, sir. I have had correspondence in regard to the annual reports afterwards, had a statement from Mr. Burley.

Examiner Burchmore: If you made the annual report, what does the correspondence relate to?

Mr. Balderach: One or two items there, in the preparation of my annual report I failed to make returns on a certain page. We had an increase in the bonded indebtedness under the physical charges, which is a very important question to be answered. In a hurry I omit things, and it was not our intention to do so, and he directed my attention to it, and also,—I don't know whether I have mentioned the fact in this record or not about the discrepancy which I was telling you about in the tonnage of the coal consumed by the locomotives.

Examiner Burchmore: The Commission has a rule about that.

Mr. Balderach: I don't know what they want in that case. 6263 I did not answer that letter. I addressed a letter to the Commission.

Examiner Burchmore: That is not a matter that is of any legal consequence.

## Cross-examination:

Mr. Walter: Mr. Balderach, has the Trinity Valley & Northern Railway Company ever had occasion to condemn property?

Mr. Balderach: Yes, sir, we had several condemnation suits, in fact, the award of the condemnation court was carried to the County court, tried by a jury there, and the complainants have appealed the case to the court of civil appeals.

Mr. Walter: Who was that man who appealed?

Mr. Balderach: The condemnation proceedings were originally against a Mrs. Hood, and unknown heirs, and the condemnation commission awarded something like \$33 or \$40—I think it was about thirty-three and some odd dollars, and later on Mr. Chapman came in and filed objections to the condemnation award.

Mr. Walter: Who is this Mr. Chapman?

Mr. Balderach: Mr. Chapman, from the best information I can obtain, is holding a lot of land in trust for the Kirby Lumber Company.

6264 Mr. Walter: What are his initials? J. R.?

Mr. Balderach: I think it is J. R. Chapman.

Examiner Gutheim: And he made the contention that you were not a common carrier?

Mr. Balderach: He made the contention that we were not a common carrier, and he further stated that he had an interest in that land that was condemned, he was the owner of the timber, and the condemnation commission in making the award failed to segregate the amount of the award, and he did not know whether it was all to be paid to J. R. Chapman, or whether it was all to be paid to Mrs. Hood or the unknown heirs. A jury in the county court at Liberty tried the case, and they increased the allowance to about forty some odd dollars, and they segregated the award between the Chapman interest and the Hood interest.

Mr. Walter: Did the court decide that you were a common carrier?

Mr. Balderach: They found that we were a bona fide common carrier entitled to exercise the power of eminent domain.

Mr. Walter: Has that been decided by the Appellate Court yet?

6265 Mr. Balderach: Not that I know of. Briefs have been filed, and I think a decision will probably be rendered within the next thirty days, if it has not already been passed upon.

Mr. Walter: Has the railroad Commission of Texas had before it the status of your road?

Mr. Balderach: Why, yes, sir.

Mr. Walter: Did they make any formal notice to you by way of letter or otherwise?

Mr. Balderach: Yes, we have a letter here addressed—from the Railroad Commission of Texas addressed to Mr. L. Fouts, our former president of the Trinity Valley & Northern Railway Company, signed by Mr. E. R. McLean, secretary, which I will read into the record.

(Mr. Balderach here read the letter referred to, which is in the words and figures following, to-wit:)

“Railroad Commission of Texas.

“AUSTIN, June 10, 1909.

“Mr. L. Fouts, President Trinity Valley & Northern Ry., Dayton, Texas.

6266 “DEAR SIR: In connection with your application of April 15, 1909, for recognition at the hands of the Commission, as common carrier, I quote the following opinion of Commissioner Williams, which opinion is concurred in by Commissioner Colquitt, and is therefore, the action of a majority of the Commission on this case:

“The Railroad Commission is given no authority to determine when railroad companies are common carriers. On the contrary, the law itself fixes the status of such companies, and does this absolutely and without reference to the judgment or opinion of the Commission. Every railroad company organized under the laws of Texas has the right to construct and operate a railroad and all railroads are declared to be public highways and all railroad companies common carriers.

“A railroad company having a Texas charter and owning a Texas line is a common carrier by force of the statute, and it is its duty to operate its road as a common carrier, complying with the laws of the State regulating such carriers, and obeying and conforming to the authorized rates, rules and regulations of the State Railroad Commission.

“A declaration by the Commission has, in my opinion, no effect whatever upon the status of a railroad company.

6267 “In company with Commissioner Colquitt, I inspected the road of the Trinity Valley & Northern Railway Company a few weeks ago, and found it in possession of and operating a railroad and apparently acting toward and transacting business with the public as a common carrier of freight and passengers, and since that time, I have, without taking any official action, expressed the belief, and now believe, that the company is a common carrier by rail in Texas and bound by all the statutes of the State on that subject. That the present traffic consists largely of the products of the forests tributary to its line, and that its traffic and revenues will apparently be injuriously diminished when these forests shall have been cut away, does not seem to me to be material. The Railroad Commission is given no power to limit the construction of railroads to territory which in its judgment will be perpetually profitable, or in any respect to control the location of such lines. Indeed, it requires only a moment's consideration to realize that limitations against the extension of transportation facilities into territories which promise, so far as we can see at this moment, only a temporary traffic would be unfortunate and injurious. To mention only a few of the many

6268 products of a like nature which will occur to the minds of all, who is there that would contend against the construction of railroads to the coal and oil fields, and to the ore beds of this country? Yet all these yield temporarily only, but will anyone contend that they are for this reason alone to be denied transportation and kept out of use?

"It seems to me that these considerations are irrelevant and that when a duly organized railroad company comes to own a line of railroad, the Commission's jurisdiction attaches by virtue of the statutes forthwith and without action on the part of the Commission.

"I believe we are without legal authority to recognize a railroad company as a common carrier, except as such recognition may be incidental to an enforced division of rates or the performance of some other duty legally incumbent upon the Commission.

"But, if we are to make a practice of recognizing other companies, then I am unwilling to discriminate against the Trinity Valley & Northern by refusing its application."

Yours truly,

E. R. McLEAN, *Secretary.*"

6269 Mr. Walter: Has the Railroad Commission of Texas made any orders relative to the construction or change of your line?

Mr. Balderach: Yes. At the time of our application for recognition as a common carrier, the Railroad Commission made an inspection of our line, and they recommended that a large curvature be eliminated, which necessitated the expenditure of approximately \$2,500, in excess of the original estimate of the cost of the property abandoned, and we subsequently made an arrangement to have that curvature eliminated. A contract was given a contractor and he has been cutting through some hills there, and incidentally reducing the curvature. The excess over the original cost is now being carried right on our general balance sheet as property abandoned, chargeable to operating expenses under authority from the Railroad Commission, which is approved by Commissioner Harlan.

Examiner Gutheim: That is charged in the account all right.

Examiner Burchmore: What was that?

Mr. Balderach: I said the excess—rather, not the excess, but the excess cost of constructing this, or in other words, eliminating this large curvature—what I mean by excess is the cost of the abandoned property over this original construction is being carried on the balance sheet of the Trinity Valley & Northern Railroad Company in the account caption, "Property Abandoned, Chargeable to Operating Expenses," which is carried under authority from the Interstate Commerce Commission in the form of a letter approved by Commissioner Harlan, and Mr. H. C. Adam personally.

Examiner Gutheim: Have you got that letter here?

Mr. Balderach: I think I have it here.

Mr. Walter: I have here various tables I want to offer in evidence.

(The tables so offered and identified were received in evidence and thereupon marked respectively "Balderach Exhibits Nos. 5 and 6, received in evidence January 27, 1911," and are attached hereto.)

Mr. Balderach: Here is the general balance sheet.

Mr. Walter: For what period?

Mr. Balderach: For the period ending October 31, 1910.

(The balance sheet so offered and identified was received in evidence and thereupon marked "Balderach Exhibit No. 7, received in evidence January 27, 1911," and is attached hereto.)

6271 Mr. Coleman: The through rates you mentioned, via New Orleans and the Illinois Central, they would use the Southern Pacific Lines?

Mr. Balderach: I don't know whether they would use the Southern Pacific. It moves in connection with the T. & N. O. Company, the Louisiana & Western, and the M. L. & T.

Mr. Coleman: Those are Southern Pacific lines?

Mr. Balderach: I don't know whether they are supposed to be called Southern Pacific. I don't know whether they are called the Southern Pacific lines in Texas. Of course, I don't know what interest might be held by the Southern Pacific Company.

Mr. Coleman: Via the T. & N. O. and the Louisiana and Texas is one of the lines going to New Orleans.

Mr. Balderach: Yes, sir, the Louisiana Western and the M. L. & T.

Mr. Coleman: Would that finally be moved up north of the Ohio River?

Mr. Balderach: The cars would move into Illinois, Michigan, Ohio, New York, Canada, some in Tennessee; that would not be north of the Ohio, though.

6272 Mr. Coleman: Those markets would all be available via the Frisco Route and Cairo, would they not?

Mr. Balderach: Yes, sir, but it is reasonable to presume just as sure as night follows day, that it is more economical to haul a carload of lumber loaded upon a car and receive 72 cents a hundred pounds for it, than to haul a carload five miles and only receive 2½ cents, and incur in connection with the operation of that five miles a possible liability of an accident or a wreck.

Mr. Coleman: That is not what I had in mind, if you will just answer my question.

Mr. Balderach: You just stated that the routes were available.

Mr. Coleman: I would like to ask you what your division is in connection with the Frisco and Rock Island?

Mr. Balderach: We have a division of two and two and a half cents of the proportion south of the crossing.

Mr. Coleman: Cairo?

Mr. Balderach: Cairo. two and a half cents.

Mr. Coleman: How long have those divisions been in effect?

Mr. Balderach: I don't know, but several years.

Mr. Coleman: Do you know whether the Trinity Valley & Northern ever received higher divisions via the Cairo Route I mentioned?

6273 Mr. Balderach: The divisions via the Frisco never exceeded two and a half cents. As I explained it in the beginning, those were rates via the Frisco, by which, I mean the Florida-Texas gateway, and were as much as or equal to the rates via the Texas gateway in connection with the T. & N. O. and its connections.

The Frisco rate was 2½ cents per hundred pounds, and the rates were lower via the Florida-Texas gateway than via the other gateway.

Mr. Coleman: I asked you whether they were ever changed. Are you familiar—

Mr. Balderach: Yes, I am familiar with the divisions, and they have not been changed other than as I have stated it in the beginning. At one time we operated a service there for which we received no division whatever, no compensation.

Mr. Coleman: Are you familiar with the testimony in the Chicago Lumber & Coal Company case?

Mr. Balderach: No, I have not read it.

Mr. Coleman: Were you with the Trinity Valley & Northern at the time that that case was heard?

Mr. Balderach: Yes, I think I was; yes, I was with the Trinity Valley & Northern at the time I think this decision was  
6274 rendered, in December, 1909, wasn't it?

Mr. Coleman: Were you with them when the testimony was taken?

Mr. Balderach: I don't know when the testimony was taken in the Chicago Coal & Lumber Company case.

Mr. Coleman: This Chicago Coal & Lumber Company case testimony was heard in St. Louis and New Orleans.

Mr. Balderach: No, I don't know anything about it.

Mr. Coleman: Were you connected with the company at that time?

Mr. Balderach: When was the testimony taken, then I can answer your question.

Examiner Burchmore: December, 1908, taken in New Orleans.

Mr. Balderach: Then I was not. I entered the service of the Trinity Valley & Northern Railway in the capacity of auditor, on June 15, 1909.

Mr. Coleman: Did you ever have occasion to look up divisions prior to the time that you engaged your services with the Trinity Valley?

Mr. Balderach: Yes, sir, I checked over the inter-line accounts and made discrepancy statements, and in checking over our tissue  
6275 copies of billings it was ascertained that a considerable number of way-bills had been forwarded covering shipments of lumber on which the T. V. & N. Railway was receiving no



returns. Now, I did not go back and investigate all of the divisions, but in checking over the billing and inter-line accounts, it was ascertained that a good number of waybills had been forwarded covering shipments of lumber on which the Trinity Valley & Northern Railway Company was entitled to two and a half cents, on which their line had never reported any revenue.

Examiner Burchmore: Will you examine your record and see whether you received anything out of that two and a half cents?

Mr. Balderach: Yes, sir; I have a copy of the interline accounts. They take up the way bill and report the revenue to the T. V. & N. Railway inter-line account, and I will examine those, and if we received a greater proportion than two and a half cents, I will be glad to inform the commission.

Mr. Walter: I think that is better than taking Mr. Coleman's memory.

Mr. Coleman: Do you understand, Mr. Walter, that the Rock Island Road may have given wrong divisions?

Mr. Walter: Sure, I should not be at all surprised.

6276 Mr. Balderach: If the Rock Island-Frisco lines gave us four cents per hundred they would get considerably more of our traffic. They will cut down my wages unless I get more business.

Mr. Coleman: You made mention of a contemplated extension of your line in connection with the Santa Fe.

Mr. Balderach: Yes, sir.

Mr. Coleman: Do you have serious intentions of connecting with the Santa Fe?

Mr. Balderach: Yes, sir, we have serious intentions. We don't know whether we will accept the survey to Lamb, or whether we will change the survey and go to Cleveland and connect with the H. E. & W. and the Santa Fe at Cleveland.

Mr. Coleman: Does the lumber company that is affiliated with your railroad have any timber adjacent to the Santa Fe?

Mr. Balderach: I don't know what the holdings of the lumber company are. Just as I stated in the beginning, I am a railroad employé, and I do not know what the holdings of the lumber company are and I am not interested in any way whatever in the operation of the lumber company, while I would like to see them be successful, that is all.

Mr. Coleman: Do you know what it is that is prompting your people to build to a connection with the Santa Fe?

6277 Mr. Balderach: I presume it is the same interest that prompted the people who held that land to try to prevent the Trinity Valley & Northern Railway from exercising the power of eminent domain. One of the attorneys of Mr. Chapman stated that the country through which the Trinity Valley Railway ran was very sparsely settled and of no value at all, but when it came to taking the Chapman property, it became very valuable all of a sudden.

Mr. Coleman: Through how many miles of country that has no timber would this land be extended?

Mr. Balderach: I am not sufficiently informed to tell you that, but if you would like——

Mr. Coleman: Approximately.

Mr. Balderach: But if you want any information of that fact I can consult our chief engineer there, and he can probably give it.

Mr. Coleman: You seem to have an idea in your mind that you people want to build up and connect with the Santa Fe because the Chapman interests are opposed to your connecting with them.

Mr. Balderach: No, not exactly. We have a large amount of investment down there.

6278 Mr. Coleman: There is nothing on that line that you would secure except wood, is there?

Mr. Balderach: There is cotton, grain and agricultural products.

Mr. Coleman: Are they moving now?

Mr. Balderach: They move over the Santa Fe Railway Company, and some of it goes to the Frisco sometimes.

Mr. Coleman: I am talking about connecting with the Santa Fe.

Mr. Balderach: We intend to connect with the Santa Fe.

Mr. Coleman: What is your purpose in connecting with the Santa Fe?

Mr. Balderach: We might be able to get some sort of a traffic arrangement out of it.

Mr. Coleman: Out of the Santa Fe?

Mr. Balderach: Yes, you never can tell.

Mr. Coleman: Have you received any encouragement from the Santa Fe?

Mr. Balderach: We don't necessarily have to wait for encouragement. We can carry on our construction, and when we see fit we might connect with the Cotton Belt. The Cotton Belt might

6279 probably want a deep water outlet there at that point, too.

Mr. Coleman: At Corsicana?

Mr. Balderach: Well, I don't know.

Mr. Coleman: A deep waterway outlet?

Mr. Balderach: We intend going down to deep water there. I presume you have read a great deal about this waterway they are going to have at the Mississippi. If we connect with the Cotton Belt we might extend further south and go even down to deep water.

Mr. Coleman: That is all that you have got tangible to——

Mr. Balderach: We have something tangible. We have considerable tonnage down there——

Mr. Coleman: I don't want to prevent you from making a statement; I only want to try to find out whether there was anything tangible that prompted you to connect with the Santa Fe, and unless you want to make a statement of your own, I don't want to encumber the record with any other information.

Mr. Balderach: I am trying to enlighten you to the best of my knowledge.

Mr. Coleman: That is all right.

Mr. Balderach: If I can.

6280 Mr. Walter: Can you tell me whether you have known of any encouragement by the Santa Fe or the Santa Fe inter-

ests to the building of any other railroads into that territory?

Mr. Balderach: Why, not that I have any recollection of, but it seems by the tariff that has been in effect that they have evidently encouraged some line. They have published through rates from certain lines in the past.

Mr. Walter: Do you refer to that tariff? (Indicating.)

Mr. Balderach: Yes.

Mr. Walter: I think we will offer that in evidence, as Exhibit 8 of this witness' testimony.

(The tariff so offered and identified was received in evidence and thereupon marked "Balderach's Exhibit No. 8, received in evidence January 27, 1911," and is attached hereto.)

Mr. Balderach: I will say that this is strictly an intrastate tariff and is not to be used for any purposes in arriving at through rates.

Mr. Coleman: You say it is an intrastate tariff?

Mr. Balderach: Yes, sir, intrastate tariff, railroad Commission of Texas tariff. It is Supplement No. 15, Railroad Commission of Texas Tariff, numbers 5*b*, 19*a*, 23*a*, and 30*a*.

6281 Mr. Coleman: Isn't it your understanding that the Commission prescribes through rates and compels the carrier to accept those rates with the connections that they indicate on intrastate business?

Mr. Balderach: Yes, sir, that is my understanding, but I had reference to interstate tariffs. I wish to state that the several lines here have milling in transit privileges.

Examiner Burchmore: Just mention those lines, the originating lines, certain ones there.

Mr. Balderach: Here is one over the Orange & Northwestern extending milling in transit privileges to Miller's Lake Lumber Company on very advantageous terms.

Mr. Coleman: If you admit that the Commission can prescribe the application of joint rates within the State of Texas in connection with the Santa Fe as well as any other road, wherein do we become responsible for the rates?

Examiner Burchmore: This tariff will speak for itself.

Mr. Coleman: It is well understood we are carrying as low as any other line.

Mr. Balderach: I wish to state in connection with your inquiry, that if it was not for the request of the Commission, these so-called short lines would not receive any division from the Santa Fe connections, because every time we forward a shipment  
6282 to a local point on the Santa Fe we have got to make application for a billing order to determine the divisions. They are not published in the divisions with the side lines at all.

Mr. Coleman: If I am correctly informed, the Texas Commission can make operative through rates, intrastate from points on the Santa Fe with any line that they have recognized as a Texas common carrier, as well as with any other railroad. Now, having recognized your road as a common carrier, wouldn't we be compelled to carry through rates with you?

Mr. Balderach: Yes, sir, on intrastate shipments you would, but on interstate shipments it might be said that through rates for local points on the Santa Fe are not effective from side line connections, there is a differential of five cents over the trunk line rates.

Examiner Burchmore: I think that is clear.

Mr. Coleman: Mr. Balderach, the question that you have raised here was threshed out in the Chicago Lumber & Coal Case and in the Star Grain case.

Mr. Walter: It is going to be threshed out some more.

6283 Mr. Coleman: Let me ask you just one more question.

What mill is on that line that you referred to?

Mr. Balderach: I think it is the Kirby Lumber Company's mill.

Examiner Burchmore: One of the intervenors in this case.

Mr. Coleman: The lumber company; the Kirby Lumber Company has no mill there.

Examiner Gutheim: Let me ask you, I want this matter understood—

Mr. Balderach: I understand that the Kirby Lumber Company is very deeply interested in the operation of that road, that they have large holdings there.

Examiner Gutheim: What mill do they have there?

Mr. Balderach: I cannot just name the mill. I know that the Kirby Lumber Company purchased the railroad. They also have quarries in connection with the line there—if I am not mistaken, there is a mill located there in which the Kirby Lumber Company is very deeply interested. I do not recall the name right now.

Examiner Gutheim: Do you mean J. H. Kirby or the Kirby Lumber Company?

Mr. Balderach: John H. Kirby and the Kirby Lumber Company.

6284 Examiner Gutheim: Both?

Mr. Balderach: I think so.

Mr. Walter: Anything further you want to say?

Mr. Balderach: Not unless the Commission wishes further information.

Whereupon, at 10:30 P. M., an adjournment was taken until Saturday, January 28, 1911, at 9 o'clock A. M.

6285 ST. LOUIS, MISSOURI,  
SATURDAY, January 28, 1911—9:00 o'clock a. m.  
The Commission met pursuant to adjournment.  
Present as before.

*Louisiana Central Railroad Company.*

W. Q. CHURCH was called as a witness, and having been duly sworn, testified as follows:

Direct examination:

Examiner Burchmore: State your name to the stenographer, please.