

October 11th 1895.

Isaac F. Schiff Esq.

227 Pine Street,

New York City.

My dear Mr. Schiff,

I have your letter of the 6th, and have just received one of the 9th instant. We have been very busy at all points. Our traffic is unusually heavy, as you will see by the remittances to New York office which for the first ten days of present month amount to \$300,000.

The Attorney General closed his argument yesterday. He made no new points, and our counsel are confident of success in the Court.

I am sending you today a copy of Judge Keer's decision in the wheat case. This follows Judge Brewer's decision, but is more in detail, and our lawyers all think it will be the ruling decision as to the law in such cases hereafter. He has adopted the principle that the Builders of Railways take the ordinary business risk of their own management of their investment, as to whether their money was well spent, or whether there was sufficient business to justify their enterprise. The question for the Court to determine is the present value of the railway property on the basis of what it could be produced for as it is, and then permit the Company to charge a rate sufficient to give a reasonable return on the investment. This is more than has been heretofore conceded by the

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State Courts, and much more than has been conceded by the various Commissions. The decision is one of the most important ever rendered in the country, and affords Railways protection to the extent of a reasonable return on their present value. But when we bear in mind that re-organizations are apt to go as far as possible to preserve the amount of former securities, it will be more difficult to maintain a rate on a Railway that is over-capitalized. You will note this somewhat particularly in regard to Northern Pacific, which is alongside of our line. He finds the present value of the Manitoba Leased Lines at about \$32,000. per mile. Its stock and bonds together aggregate less than \$28,000.

I note what you say in regard to Northern Pacific matters. I cannot but feel that the legal management of their affairs has been bungled, and I am sure Mr. Beaman, who came here to represent the bondholders, did not finish the position he found things in. There has been, to my mind, too much direction from New York and too little latitude left to local Counsel here. However, until recently the Northern Pacific has had no local Counsel here worthy of the name.

The Pearsall case is appealed to the United States Supreme Court, and will be heard on briefs so that it can be considered out of its regular order, and should be decided in November.

I agree with you that it will not be wise for Adams to bring out the plan he outlined to you. In fact, before he brings out any plan he must consider the whole situation very carefully. Merr's decision

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is not to be overlooked in that regard. He may find it unwise to use any 3% Bonds and may be compelled to reduce the amount of stock materially in order to get the capital within some reasonable limit, to prevent attacks in the Courts which cannot be defended by a Company heavily over capitalized.

I have seen Mr. Morgan two or three times, and do not think that he feels the advantage of immediate action.

Enclosed I send you a statement of the Northern Pacific earnings for last year, which shows net earnings available for the purposes of the Northern Pacific Company, about four and three quarter millions. From this must be paid the interest on the Receivers' Certificates and Collateral Trusts; also the interest on the two early Divisional Mortgages and the First Mortgage and the Sinking Fund thereunder, amounting in all to over five millions of dollars, leaving the Receivers actually \$250,000. in debt. This does not show favorably for the Second Mortgage, when it is remembered that the Consols are a first lien upon over 1200 miles of property owned by the Northern Pacific, the net earnings of which (amounting to three or four hundred thousand dollars per annum) have heretofore been devoted to the payment of prior liens, while they legally belong to the Consols. In other words, the Main Line covered by the First, Second, and Third Mortgages is not only chargeable with the interest on these Mortgages and the various liabilities incurred by the Receivers; but in the final accounting the Consols must be allowed the net earnings of



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the lines upon which they are a first lien. At \$15,000. per mile for the 1200 miles of Branch Lines owned, the Consols would stand at about 45% of their par value. These Branch Lines, however, without equipment, are not worth \$15,000. per mile, so that the actual value of the property upon which the Consols are a First Mortgage may be called between 35 and 40% of the Bonds outstanding. A large amount of the proceeds of these Bonds has, however, been spent for Terminals, equipment, etc., which in an accounting would go to the credit of the Consols. If the Seconds, Thirds, and Consols could get together and in a reasonable way understand the whole situation, it would I think facilitate matters very much, and enable them to agree upon a basis for re-organization. Until some such agreement takes place, I think any plan brought out will fail. The effort of the Northern Pacific crowd to manufacture public sentiment against any unification of the Great Northern and Northern Pacific properties is becoming well understood, and the public are fast seeing that the unification will be an advantage to them.

I note what you say in regard to Union Pacific, and hope your plans will be successful. The Union Pacific Main Line has always been, when well handled, a first rate property, and with well maintained rates it should earn from \$4,500. to \$5,000. per mile net on about 1,850 miles. The Receivers, who are the former officers of the Company and the same men who wrecked the road, have acted without any reference to net revenue. They have reduced rates without any reason, until they have

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carried freight for two mills a ton mile, while their reports show the average cost of carrying freight on their lines as over seven mills per ton mile. In other words, they spend seven dollars to earn two. Their passenger business has been handled in the same way. They made a sweeping reduction in rates from the East to the Salt Lake district (about 33%) in June last to gain public sentiment in Salt Lake in order to prevent the confirmation of the Receivers appointed by Judge Gilbert for the Oregon Short Line. That case, you may remember, was being argued when we were in Portland in June. This reduction must have cost the Union Pacific property a very large sum out of its net earnings, without any reduction in the cost of doing the work.

I may be able to serve you to some extent in Union Pacific matters, as United States Senator Davis, who lives here, is next in order, and if he desires, can become Chairman of the Senate Committee on Pacific roads. He is a clear headed, sound man in every way, and I am sure would be glad to aid in getting the property on a permanent basis.

I will take up the matter of Mr. Silverstone's letter with our Counsel, but at present we employ no lawyer in Oregon as we have no Railway in that State.

Every day shows the great advantage control of the Northern Pacific would give us in matters of rates, and particularly in controlling unnecessary train service and cost of handling the business of both Companies. The full extent of this can hardly be realized, and I am



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more than ever convinced as to the wisdom of our securing control of that property on terms that will not be burdensome to our Company.

Before closing, another word in regard to the Union Pacific. All the accounts of that Company have been under the direction of Judge Sanborn of this City, who has appointed Judge Cornish as Master in Chancery to examine these accounts. Judge Cornish devotes his entire time to this matter. He is an old neighbor and warm friend of mine, and I think if there is any information you desire I can get it for you. Should you need any Western Counsel, I think it might be well to associate E.P. Sanborn of St Paul, who is a very sound, hard working, and attentive lawyer. He is a younger brother and former partner of the Judge, and I know the latter has an active interest in his welfare.

Yours very truly,