THE D. & R. G.'S ANSWER.

It Demurs to the Charge of Unjust Discrimination.

FREIGHT TRANSPORTATION TARIFFS.

The Defendant Therefore Asks that the Complaint in the Proceeding be Dismissed.

Before the Inter-State Commerce Commission. The Salt Lake Chamber of Commerce, plaintiff, vs. the Union Pacific Railway et al.

Answer of the Denver & Rio Grande railroad company.

Comes now the Denver & Rio Grande railroad company, in the complaint complained to the Denver & Rio Grande railroad, and makes its separate answer to the complaint herein filed.

I.

1.—This defendant denies that the rates specified in its schedules of tariffs and now entered by the defendants for the transportation of freight between Missouri river common points on the one hand and Salt Lake City, Utah, on the other, are unreasonable or exorbitant; alleges that the line of this defendant is an intermediate link in rates between said Missouri river common points and said Salt Lake City; that this defendant has no knowledge in regard to the cost of movement of freight over the lines of the other defendants herein, and that this defendant does not participate in any traffic between San Francisco and Salt Lake City which originates or terminates in said Salt Lake City; and that defendant denies that the actual cost of movement of freight over its lines for traffic between Missouri common points and Salt Lake City does not exceed 1 9/11 (one nine-eleven) per ton per mile.

2.—The defendant denies each and every allegation in the fourth paragraph of complainant's complaint contained.

3.—The defendant denies that the circumstances and conditions affecting rates between Missouri river common points and Salt Lake City are substantially similar to the circumstances and conditions affecting rates between Missouri river common points and the city of San Francisco, and denies that the rates between said Missouri common points and the said Salt Lake City, Utah, are in violation of the provisions of the "act to regulate commerce," and denies that the defendants charge excessive or unlawful rates for the transportation of freight. Alleges, on the contrary, that the said charges constitute a violation of the "act to regulate commerce."

II

And for a further answer this defendant, the Denver & Rio Grande railway company, respectfully states, that it operates a line of railway between Denver, in the State of Colorado, and Grand Junction in said state, its railway line being constructed through a rugged and mountainous country, with steep curvature and heavy grade, and at great expense as to construction and operation; that in connection with certain of the other defendants herein named, it engages in the transportation of freight between Missouri common points and Salt Lake City, on the one hand, and Salt Lake City and the city of San Francisco on the other; but admits that it does not engage in the transportation of any freight between San Francisco and Salt Lake City, the shipment whether in or out of which is wholly within said Salt Lake City.

That said Salt Lake City is an inland city, not situated or accessible to ocean steam and is the far inferior and less favored terminal of any city of equal or greater population, to have the advantage of water transportation; that all traffic between Missouri river common points and points beyond Salt Lake City and that said Salt Lake City is transported by rail alone, and that any competition affecting traffic beginning at or destined for Salt Lake City is not competition which exists or is confined to the competition between points on the Missouri river and San Francisco on the Pacific coast—herein designated as "through traffic"—are not at all similar to the circumstances and conditions affecting traffic to and from said Salt Lake City; that by reason of the fact that the traffic between said Salt Lake City and points beyond is transported not only by rail, but also by a very large amount—by water; that the circumstances and conditions affecting traffic between points on the Missouri river and east thereof, and points such as San Francisco on the Pacific coast—herein designated as "through traffic"—are not at all similar to the circumstances and conditions affecting traffic to and from said Salt Lake City; that by reason of competition partly by water and partly by railroad through agencies not affected by or within the control of the "Act to Regulate Commerce," there exists a competition, controlling in character and amount as to such through traffic, which does and determines the rates at which this defendant and the other companies terminal with it in the carriage of such traffic shall transport the same, and that such competition compels this defendant and its associates to make rates as to such through traffic much below what would be reasonable and just for the service rendered, if computed solely upon the cost of such service and with a reasonable profit on the capital invested in the business and employed by means of which said service is rendered; that the rates charged by this defendant and its associates on traffic to and from Salt Lake City are reasonable and just, and are less than what might be justly charged, except for the fact of competition existing at said Salt Lake City.

This document further alleges that the rates charged upon traffic between Missouri river common points and Pacific coast points are unreasonably low, and are so unreasonably low by reason of circumstances and conditions which do not exist in the traffic to and from Salt Lake City; that while the defendant and its associates are engaged in transporting to and from Salt Lake City and to and from other points situated between the Missouri River on the one hand and the Pacific coast on the other hand and the Pacific coast, on the other, at unreasonable rates, the defendant and its said associates are also over the same tracks and largely with the same facilities transport through traffic passing over its lines en route to and from the Pacific coast and can derive some revenue from such through traffic without a corresponding increase in either; that by reason of transporting such through traffic, which at the time referred to, the competition aforesaid, Goodwin and and its associates are enabled to transport traffic to and from said Salt Lake City at lower rates than if the revenue of this defendant and its associates were not increased by virtue of such through traffic, and that its grateful acknowledgment of the benefit of the reduction of rates to and from Salt Lake City resulting from the addition to the business of the defendant and its associates by the carriage of such through traffic.

That if this defendant and its associates did not make their rates to such through traffic corresponding with those made by other competitors, as aforesaid, the said railway lines would be compelled to go out of such traffic and thereby participation in such through traffic, and such a withdrawal of such through traffic would necessitate an increase of existing rates to and from said Salt Lake City.

This defendant further alleges that under the rules, laws and charges now in force upon its line, for all kinds of traffic which it handles, it is unable to earn in the aggregate a reasonable compensation for the service performed, and that an additional reduction from existing tariff can be made upon any part of said traffic without depriving it of its right to charge reasonable rates for the use of its property, thereby in substance depriving enforcement of its property itself, without the process of law and in violation of the constitution of the United States, and depriving it of that equal protection of the laws to which it is entitled under the constitution.

And this defendant alleges that the rates and charges, as shown upon the tariffs of this defendant and its associates upon traffic transported between Missouri River common points and the said Salt Lake City, Utah, are not unjust or unreasonable in any particular, and that the said rates are not and do not constitute a discrimination against the said Salt Lake City, as compared with any other city whatsoever.

Wherefore, the defendant prays that the complaint in this proceeding be dismissed.

WOOLLEY & VAIL,
Attorneys for said Defendant.

STATE OF COLORADO, }
County of Arapahoe. } ss.

A. S. Hughes being first duly sworn upon his oath, deposes and says that he is traffic manager of the said defendant, the Denver & Rio Grand Railroad Company, and as such has authority to make this verification; that he has read the above and foregoing answer, and that the same is true of his own knowledge except as to those matters therein and therein stated upon information and belief, and as to those he believes it to be true.

(Signed) A. S. HUGHES.

Subscribed and sworn to before me this 8th day of April, A. D. 1892.

(Signed) CALE A. CHRISTIE,
Notary Public.

My commission expires July 10, 1895.

Canal Convention.

Governor Thomas has just received the following from Governor Markham of California:

EXECUTIVE DEPARTMENT,
STATE OF CALIFORNIA,
SACRAMENTO, April 12, 1892.

SIR—At the California State Nicaragua Canal Convention, held in San Francisco on the 26th day of March, 1892, which was numerously attended by delegates from all commercial bodies of California, the following resolution and resolutions were adopted:

By one of these resolutions it was provided that a National Nicaragua Canal Convention should be held in the city of San Francisco, on the 3rd day of June, and to the end that the Governor of the State of California was empowered and requested to invite the Governors of the other States and Territories of the United States, requesting each of said gentlemen to appoint six delegates to said Nicaragua Canal Convention, to be held at the time and place above stated, and that each of said States and Territories shall be entitled to as many delegates at said Nicaragua Canal Convention equal to its congressional representation and number of Senators and Representatives, and the Territorial delegate to the Congress of the United States from the Territories that the governors of the States and Territories be requested to allow the delegates to said National Nicaragua Canal Convention to serve as may be required members from the two great national parties the object being that said National Nicaragua Canal Convention shall voice the best business judgment of the people of this country, and that it shall in no sense be a political convention.

In conformity with the above resolutions, and especially the latter part thereof, I hereby communicate to you the action of the California State Nicaragua Canal Convention, and respectfully request you to comply with its wishes as herein expressed.

Very respectfully,
H. H. MARKHAM,
Governor of the State of California.

Hon. Arthur L. Thomas, Governor of Utah.

Sunday School Notice.

The Sunday School officers and teachers of this Stake will hold their regular meeting on Monday evening next, April 18, at 7:30 o'clock, in the Fourteenth Ward Assembly Hall. The following excellent programme has been prepared for the occasion:

Inclemency, "The Seasons," by Sisters Ida Smith and Mary Ann Lyman.
Song, "Home in the Valley," by Sisters Ida Smith and Mary Ann Lyman.
Inclemency, "The Book of Mormon and Testament to a Gentile," by Sister Ann Bailey.
Inclemency, "The Book of Mormon and Testament to a Gentile," by Sister Ann Bailey.

The Tenth Ward School will furnish the musical exercises during the evening.

All Sunday School workers are cordially invited to attend.

The Book of Mormon Charts and accompanying rules are now ready for delivery, and are presented to the officers of this Stake, and can be had on application to the secretary. Those called to officiate will be instructed at the Union meeting on Monday evening.

JOS. H. PARRY, Secretary.

Amusements.

The engagement of Miss Agnes Huntington and her company at the Salt Lake Theatre will close tonight with the presentation of Planquette's latest opera "Captain Therese."

WONDERLAND.

A new week of wonders commences today at the popular resort. A crowded house is the rule at Wonderland.

THE NEW ESTRAY LAW.

Providing for the Disposal of Animals for Trespass and Damage.

THE NEW COUNTY OF WAYNE.

An Act Creating it and Prescribing its Boundaries and Appointing its Officers.

THE NEW ESTRAY LAW.

An act providing for the disposal of estrays, and repealing certain laws therein.

Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:

Section 1. That any resident of said Territory may, at any general or special election, vote for the purpose of the county court thereof, by a vote of the majority of all the taxpayers of said county, to dispense with the law requiring their herds and allowing their animals to run at large; and in such cases the provisions of this act authorizing the seizure of such animals for damages shall be inoperative.

Sec. 2. It shall be the duty of the county court of such county, at its regular session in the year A. D. 1892, or as soon thereafter as may be practicable, to declare what shall constitute a lawful fence in that county and the officers of said county shall enforce said law.

Sec. 3. Fence viewers shall be appointed by the county court, and, after advertising them by posting notices in three of the most public places in said precinct, giving a period sufficient thereof, for ten days, shall sell the same at public auction, to the highest bidder for cash, and after deducting costs and expenses of keeping and sale, shall deposit the balance of the proceeds of the sale with the justice of peace in and for said precinct, to be paid over to the owner of said herd, upon his release of said animals or demands so hereinafter provided. Provided, That the constable shall have the power to hold fence viewers general "round up" or drives, and such exercise his intention to do so for a period of thirteen days previous thereto, by posting notices in three places in circulation in such county, and he shall receive as compensation fifteen per cent. of the proceeds of such sales.

Sec. 4. If any neat cattle, horses, mules, asses, sheep, goats or hogs shall trespass or damage upon the premises of any person, except in cases where said places are not enclosed by a lawful fence, in counties where a fence is required by law, the party aggrieved may recover the damages by an action at law against the owner of the trespassing animals, and to animals trespassing shall be exempt from exclusion, provided, The fence in such cases shall be not less than the fence in civil cases.

Sec. 5. The owner or occupant of any inclosed and improved or improved or cultivated land, or any person or persons of substance of any animals doing damage on such premises and keep them in some secure place and properly care for the same or immediately have them so secured and cared, and shall notify the owners, if they be known, of such seizure, and notify the constable of such seizure within the precinct where said animals are detained, and notice shall be by registered letter, addressed to owners of such animals, including all marks and brands, with the amount of damages and costs. If the owner of said animals be not known, the poundkeeper shall examine the Territorial brand record books, and, if marks and brands are recorded thereto corresponding with the marks or brands on said animals, the poundkeeper shall notify, by registered letter, the person to whom said marks and brands are recorded, and if such owner does not take said animals, he shall enter suit in the justice justice's court of the county of said seizure, and, upon the amount of such damages, costs and keeping, and said justice shall hear and try such cases in the same manner as other civil cases are tried; provided, That no cause of action, for