

INDICT 21 IN DEALS OF THE NEW HAVEN

Grand Jurors Charge Conspiracy by Directors, of Whom Five Still Serve.

MELLEN ENJOYS IMMUNITY

Bench Warrants Issued for Defendants and Three Are Released on Bail.

GOES BACK TO JULY 2, 1890

Government Case Is Independent of Recent Agreement to Dissolve —Demurrers Expected.

Twenty-one Directors, past and present, of the New York, New Haven & Hartford Railroad Company were indicted yesterday by the Federal Grand Jury for conspiracy to monopolize interstate commerce by acquiring the control of practically all the transportation facilities of New England. This is the result of the Government investigation of New Haven affairs which has progressed for more than a year and which, as regards the civil aspect of the case, was settled by a decree to which both sides agreed before it was presented for Judge Mayer's signature two weeks ago.

Charles S. Mellen, who was the chief witness before the Grand Jury and thus gained immunity, was not indicted. The defendants named in the true bill were William Rockefeller, George Macculloch Miller, Charles F. Brooker, William Skinner, D. Newton Barney, Robert W. Taft, James S. Elton, James S. Hemingway, Lewis Cass Ledyard, Charles M. Pratt, A. Heaton Robertson, Frederick F. Brewster, Henry K. McHarg, Edward D. Robbins, Alexander Cochrane, John L. Billard, George F. Baker, Thomas De Witt Cuyler, Theodore N. Vail, Edward Milligan, and Francis T. Maxwell.

Directors or ex-Directors.

All these defendants have been or are on the board. Some of them were the leaders in New Haven affairs before the road was reorganized, including Mr. Rockefeller, Mr. Baker, Mr. Ledyard, and Mr. Billard. Mr. Brewster, Mr. McHarg, Mr. Cuyler, Mr. Milligan, and Mr. Maxwell are still members of the board. Mr. Robbins has been general counsel of the road.

Nearly fifty men, some of whom are now dead, were mentioned in the indictment as having conspired with the twenty-one, although they were not indicted. Most prominent among them was the late J. P. Morgan, and some of the others were Chauncey M. Depew, Lucius Tuttle, John M. Hall, Richard A. McCurdy, and Alexander J. Cassatt.

The punishment for the alleged crime is one year in prison, a fine of \$5,000, or both.

The indictment was handed up in the morning to Judge Foster of Louisiana, who was sitting temporarily in the Federal District Court. Assistant Attorney General Frank M. Swacker, R. L. Betts, and James W. Osborne were present for the Government, and Mr. Osborne asked that bench warrants might issue immediately for the defendants. This was ordered by the court, and the Federal officials immediately began to notify the defendants who were in the city.

George F. Baker and Charles M. Pratt, who had with them John D. Lindsay as their attorney, and Lewis Cass Ledyard, who was represented by John G. Milburn, presented themselves before Judge Foster at 2 o'clock.

"George F. Baker to the bar," called Clerk Leary, and the defendants at once stepped forward to offer pleas of not guilty. Assistant District Attorney Robert Stephenson suggested that ten days be allowed to the defendants in which to withdraw their pleas or to demur, but the Judge considered that three weeks would be a more reasonable period.

Bail Fixed at \$5,000.

Mr. Lindsay suggested that, considering the standing of the defendants, there really was no reason why they should be required to give bail.

"A man doesn't like to say he's out on bail," Mr. Baker was heard to remark to Mr. Milburn, who stood beside him, but Judge Foster thought bail should be given.

"It would be more regular, I think," he remarked. "I'll make it \$5,000. There can be no hardship in furnishing it in this case."

There was a general laugh, and the defendants withdrew with their counsel to give bail before Commissioner Houghton. This was furnished for them by the American Surety Company.

Hoffman Miller, son of George Macculloch, another of the defendants, represented that his father was 82 years old and in very poor health, and that it would be a great hardship if he were forced to appear to plead. Mr. Miller, Sr., is now in Morristown, N. J., and, of course, will plead not guilty. The court agreed to leave him for the present in the custody of his son as his counsel and not to demand that he put in a formal appearance.

Outside the courtroom Hoffman Miller was energetic in his denunciations of the action of the Government in indicting his father and in having the Grand Jury return the indictments on the day before election day.

"It's an outrage," he exclaimed, "bringing in these indictments at this period of the year. It is all done for political effect. They could have been returned any time this year. They were found on Monday last week, and the Grand Jury at that time shook hands with Mr. Osborne and almost kissed him."

Assails Grand Jury Action.

"I represented to the Judge that my father is a very old man, 82 years old. He very kindly consented that I should appear as his counsel and enter his plea."

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He is not held under any bail, but is in my custody—the first time he ever has been. He is absolutely guiltless of any wrongdoing, for who could have told when these things were done that the Sherman law would be held to cover them? But this Grand Jury has been really sitting in Washington; at any rate, it adjourned there."

None of the other defendants had anything to say about the matter. Howard Elliott, President of the present New Haven board, was in Boston. When he was informed over the telephone of what had occurred he declined to make any comment for publication.

Those who are mentioned as having been in the conspiracy with the defendants were the late J. Pierpont Morgan, George N. Miller, Wilson G. Hunt, E. M. Trowbridge, William D. Bishop, Sr., William D. Bishop, Jr., Nathaniel Wheeler, Henry C. Robinson, Edward M. Reed, Charles P. Clark, Joseph Park, Chauncey M. Depew, Henry S. Lee, Lovett Brainard, William E. Barnett, Lucius Tuttle, Charles S. Mellen, John M. Hall, Charles F. Choate, Nathaniel Thayer, Royal C. Taft, Carlos French, George J. Brush, I. de Ver Warner, Arthur D. Osborne, Luzon B. Morris, Frank W. Cheney, Percy R. Todd, Richard A. McCurdy, H. McK. Twombly, John C. Parker, Alexander J. Cassatt, John H. Whittemore, Timothy E. Byrnes, Hiram M. Kochersperger, James McCrea, Edwin Milner, Amory A. Lawrence, Augustus S. May, Edward G. Buckland, Arthur P. Clarke, Frank Jones, Samuel G. Lawrence, George G. Haven, W. F. Berry, W. H. Newman, Oakleigh Thorne, and Marzden J. Perry.

The Conspiracy Charge.

In addition to these the Grand Jury stated it believed there were others whose names were unknown to it with whom the men indicted had conspired to monopolize interstate commerce. This, it was explained in the indictment, consisted in the common carrier business of transporting passengers and property by railroad, by water, and by both from New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, Maine, and New Hampshire to other States.

The indictment gave a list of the transportation companies which it was alleged had been merged in the New Haven system. There were more than 150 of them, and they included the Boston & Maine, the Boston & Albany, the Central New England Railway Company, the Central Vermont Railway Company, the Eastern Steamship Corporation, the Joy Steamship Company, the Merchants and Miners' Transportation Company, the Maine Steamship Company, the Metropolitan Steamship Company, the New York & New England Railroad Company, the New York, Westchester & Boston, the New York, Ontario & Western, the Connecticut Company, the Rhode Island Company, and the Rutland Railroad Company.

It was noticed that in drawing criminal charges from the development of the New Haven the Government disregarded the compromise which it reached with the present management of the company in arriving at the settlement of the civil dissolution suit. In that it was content with the abandonment by the New Haven of its control over the New England trolley lines, the coast steamship lines, the Merchants and Miners' Company, and its connection with the Boston & Maine and the Boston & Albany. It left to the Interstate Commerce Commission the decision whether the New Haven might continue its relation with the Sound steamship lines, and had nothing to say about the Central New England, the New York & New England,

the Rutland, and the New York, Ontario & Western Railroads.

In the indictment the Government went back to July 2, 1890, and found that from that time until the actual presentation of the indictment yesterday there had been a conspiracy to form a monopoly by acquiring the stock or control of all the subsidiary companies of the New Haven, whether they were left to it in accordance with the civil decree or not. It is likely that the defendants will bring this point up in the demurrers which they are expected to file.

Question of Immunity.

It is believed that some of the defendants may raise the plea that as they have testified on New Haven affairs before the Interstate Commerce Commission they are entitled to immunity. As Mr. Mellen has been the chief witness before the Grand Jury it has been impossible to indict him, but at the time that he was called upon to give evidence at Washington it was suggested that thereby he had won immunity for himself.

Those who now may put forward the same plea are Mr. Skinner, Mr. Billard, and Mr. Cuyler. They were sworn and gave such testimony as they were asked for. In addition Mr. Ledyard and Mr. Robbins submitted to the commission unsworn statements.

The men charged with conspiracy, it was alleged, took advantage of the fact that the New Haven was the only railroad of any importance which led from New York City to the New England States, and treated it as a nucleus to "bring as many of said common carriers and their properties and facilities for carrying on said commerce under their influence, management, domination, and ownership." The Grand Jury asserted that the measures taken to bring this about were "unfair, undue, unreasonable, and unlawful practices."

Special mention was made of the purchase of the Joy Steamship Company by the New Haven, and the use made of it in capturing the Sound steamship trade. Thus it is alleged that the men indicted used the Joy Company and the United Steamship Company, although the fact that they were controlled by the New Haven was kept concealed, "to engage in such destructive competition for limited times, with such common carriers as had not come under the domination and control of said New Haven company, that such common carriers would either be destroyed or compelled to come under such domination and control."

The Grand Jury summed up the case, by representing that the men indicted used, or threatened to use, the advantage of position of the New Haven "to grasp the commerce rightfully and normally belonging to" the transportation corporations which the indictment enumerated.

The process which brought the defendants before the courts began with the pressure put on the New York & New England Railroad Company in 1891 by the New Haven, which resulted in the first investigation of the latter's methods by the Massachusetts Legislature. This ended in the purchase by the New Haven and the New York Central of what is now the Putnam Division of the latter and the throwing of the New York & New England into a receivership.

Series of Mergers and Leases.

In 1893 the New Haven leased the Old Colony Company and formed the first agreement with the Boston & Maine Railroad. Meanwhile a series of mergers and leases were in progress, by which the New Haven absorbed small railroad lines in New England, and in 1896 it acquired a majority of the stock of the Boston Terminal Company, which controlled the terminals in Boston.

In 1904 the New Haven acquired the Central New England, and in the following year the New York, Ontario & Western. Three years later the Boston & Maine passed finally under New Haven ownership, and the agreement for the joint operation of the Boston &

Albany was made with the New York Central. In June, 1909, the Boston Railroad Holding Company was organized, and in February, 1911, the New York Central sold to the New Haven the Rutland Railroad. Finally in 1912 an agreement was entered into between Mr. Mellen and Edson J. Chamberlin of the Grand Trunk of Canada, which ended the latter's invasion of New England.

The acquisition of a steamboat monopoly by the New Haven began before 1895, by which time it had acquired the Providence and Stonington and other important lines. Between 1900 and 1903 it took over the New Haven Steamboat Company, the New London Steamboat Company, and the Bridgeport Steamboat Company, and in 1904 to 1905 it sold its steamship holdings to the New England Navigation Company, which sold them in 1907 to the Consolidated Railway Company, which, in its turn, was merged with the New Haven.

In 1911 the Eastern Steamship Corporation, another New Haven subsidiary, took over the Metropolitan, the Maine, and the Eastern Steamship Companies, and the New England Navigation Company, by secretly buying up the stock of the Joy Line, was able to drive out all competition. In this way the New Haven acquired twenty-two of the thirty steamship lines serving New England.

Control of Trolley Lines.

It was in 1893 that the appearance of trolley lines began to disturb the New Haven, and, beginning with the purchase in 1895 of the Stanford Street Railway Company, it by 1906 had obtained the ownership of 1,500 of the 1,652 miles of trolley lines in Rhode Island, and all but 119 miles of the trolleys in Connecticut. In Massachusetts, it had practically everything south of the Boston & Albany line and west of Worcester. Then, in 1906, occurred the Westchester deal, by which it acquired the New York, Westchester & Boston at, approximately, \$12,000,000 more than its value, according to the Government. This was merged with the New York & Port Chester in 1910, and last year earned \$400,000 less than its operating expenses.

It was remembered that at the annual meeting of the New Haven last week Mr. Elliott had given out some notes with regard to the personnel of the present board of the company in which five of the men indicted still have seats. Mr. Brewster, who was elected on May 5, 1907, he said, was a substantial holder of the securities of the company and had been identified with the financial and industrial life of the community.

Praised by Mr. Elliott.

Mr. McHarg, who has also been a Director since May, 1907, was said by Mr. Elliott to have been helpful to the New Haven in its financing and by his good advice and criticism. Mr. Cuyler, whose service on the board dates from October, 1910, was referred to as a representative stockholder from Pennsylvania with much experience in large corporations and financial affairs, and Mr. Maxwell, who joined the directorate in May, 1911, was said to have been most active in the last year in trying to better the position of the company.

Mr. Milligan, who also became a Director in 1911, was praised as a most earnest student of the conditions surrounding the company and for his activity in safeguarding its interests.

Of the other defendants William Rockefeller was one of the senior members of the board when he resigned on Sept. 29 last. On Jan. 1, 1914, he was the owner of 2,150 shares. George M. Miller had been on the board a long time when he resigned on Jan. 16, 1913, and Charles M. Pratt, Theodore N. Vail, and Alexander Cochrane also dropped out of the directorate.

John L. Billard was placed on the board in 1910 and resigned on Aug. 11 last, and in September Charles F. Brooker, James S. Elton, and George F. Bak-

er, who, with an ownership of 100 shares, had been on the board since 1910, retired. On Oct. 15 William Skinner, Thomas De Witt Cuyler, who had been a Director since Oct. 26, 1910, and A. Heaton Robertson, who was elected on May 31, 1907, resigned. Finally last week, at the annual meeting, the resignations of D. Newton Barney, Robert W. Taft, and James F. Hemingway were announced.

E. D. Robbins, who is also indicted, has been a Director for a few months, but he is included in the charges brought as the general counsel of the New Haven during the years in which the alleged conspiracy has been in existence.