

IN THE SENATE OF THE UNITED STATES.

JANUARY 18, 1895.—Referred to the Committee on Pacific Railroads and ordered to be printed.

The PRESIDENT pro tempore presented the following:

PETITION AND MEMORIAL OF THE UNION PACIFIC RAILWAY COMPANY TO THE CONGRESS OF THE UNITED STATES, OFFERING TO ASSESS ITS STOCKHOLDERS A SUM SUFFICIENT TO PAY ALL BONDS WHICH HAVE PRIORITY OVER THE LIEN OF THE UNITED STATES IN CONSIDERATION OF AN EXTENSION OF THE DEBT OF THE UNITED STATES FOR FIFTY YEARS, AT TWO PER CENT.

Your petitioners respectfully submit the following facts and circumstances, which appear to them to be entitled to consideration in determining the action to be taken by Congress in reference to your petitioners' obligations to the United States.

The indebtedness of your petitioners to the Government is about to mature. A portion thereof will actually become due before the meeting of the Fifty-fourth Congress in December, 1895. The approximate amount of your petitioners' indebtedness, computed to July 1, 1895, upon the principle set forth in the first, second, and third subdivisions of H. R. 7798, the measure known as the Reilly bill, now pending in the House of Representatives, will be about \$70,000,000, of which \$33,539,512 represents the principal of the obligation to the United States.

Your petitioners further show that other bonds of these petitioners, representing a like principal sum of \$33,532,000, are also about to mature, namely:

Union Pacific, Union Division, first mortgage bonds.....	\$27, 229, 000
Kansas Pacific, Eastern Division, first mortgage bonds.....	2, 240, 000
Kansas Pacific, Middle Division, first mortgage bonds.....	4, 063, 000
Total.....	33, 532, 000

That the said bonds are secured by mortgages which are prior to the lien of the United States; that, by reason of the extraordinary depression which has prevailed for the past two years, and which has borne with peculiar and intense severity upon the communities west of the Missouri River, the earning capacity of the Union Pacific Railway has been reduced to an extraordinary extent. The gross earnings of your petitioners' railway for the first ten months of 1894, as compared with the same period of 1892, have fallen off 27 per cent, and its net earnings 48 per cent. In consequence of its inability to meet its obligations S. H. H. Clark, Oliver W. Mink, E. Ellery Anderson, John W. Doane,

and Frederic R. Coudert were appointed the receivers of its properties in October, 1893, and since that date the operations of the railway have been conducted by these receivers. There are no present indications of any improvement in the business or earnings of the said railway. The gross earnings for November, 1894, were 12 per cent below those of November, 1893, while the gross earnings of November, 1893, were 20 per cent below those of November, 1892. In consequence of these disastrous conditions of the business of the company, it has been found impossible to meet the interest which accrued in June, 1894, on the Middle Division bonds of the Kansas Pacific Railway Company, and in August, 1894, on the Eastern Division bonds of the Kansas Pacific Railway Company. The mortgages securing both of the issues of bonds above referred to are prior in lien to the lien of the United States on that portion of the Kansas Pacific between Kansas City and a point $393\frac{1}{8}$ miles westerly therefrom. Owing to the same causes it has been impossible to meet the interest accruing on the 1st day of January, 1895, on the bonds covering the railroad between Omaha and Ogden, which are also secured by a mortgage prior in lien to the lien of the United States. Foreclosure suits are about to be instituted on the three mortgages above referred to; and, while the receivers would doubtless be able to meet all interest in arrears prior to the filing of such bills before a decree in foreclosure and for the sale of the property could be reached, still, in view of the rapidly approaching maturity of the bonds secured by these mortgages, these suits will have the effect of a foreclosure for the principal sums secured by the mortgages, and must be treated as though the said bonds were overdue for principal as well as in default for interest. It would, for these reasons, appear to be the imperative duty of the present Congress to determine whether the indebtedness to the Government shall be protected by a purchase of the railroads in its behalf or by an adjustment with the holders of its securities or their representatives based on measures affording proper protection for the preservation and ultimate payment of the debt of the United States.

Your petitioners seek and desire, if possible, to protect the holders of their stock and of their various securities junior to the Government from the great and irreparable loss which would of necessity fall upon them as the result of a sale in foreclosure, either under the mortgages prior to the lien of the Government or for the satisfaction of the Government debt. With this object in view they have carefully examined the various measures which have been proposed in this Congress, the report made in October, 1894, by the Government directors, and especially the bill pending in the House of Representatives, known as H. R. 7798. This bill provides in brief that whenever either of the bond-aided Pacific railroads shall provide a sum which, together with the funds now held in the sinking fund, shall be sufficient to pay off at or prior to the maturity thereof all bonds secured by mortgages having a lien prior to the lien of the United States, then the bonds of the company making such provision secured by a mortgage upon all of its franchises and property, as in the said act authorized, shall be received as collateral security for the amount of its indebtedness to the United States. The act further provides that the bonds so to be given shall bear interest at 3 per cent per annum, and shall be secured by a mortgage covering all your petitioners' property, subject, however, to any bona fide lawful and paramount lien, claim, or mortgage thereon, except that, as to the entire property covered by the lien of the United States, the mortgage so to be given shall become a first lien by reason of the payment of all prior

liens thereon under the provision to that effect contained in the second section of the said act above referred to.

Your petitioners further show that the par value of the securities and money held in the United States sinking fund for account of the Union Pacific Railway Company on December 1, 1894, was \$14,311,156.78 and the actual value thereof is about the same amount; that the amount of cash needed in order to meet the requirements of the said second section of the Reilly bill, so as to fully pay and discharge all bonds which have priority over the lien of the United States, would be about \$20,000,000; that the stockholders of this company represent the only security which would be displaced by a foreclosure of the first mortgages or of the Government lien, from whom a compulsory contribution might be obtained for the purpose of protecting their interests from loss; and that the amount required for that purpose would require a large assessment, exceeding 30 per cent of the par value of the said stock.

Your petitioners further represent that it will be utterly impossible to obtain the very large sum referred to from the said stockholders, unless it be possible to offer to them in satisfaction of their assessments reasonable security for the moneys so advanced; that at a meeting recently held, at which were present representatives of a large amount of the stock of the said company, the conclusion was reached that if the debt to the Government could be funded substantially on the terms of the Reilly bill, but at a rate of interest being 2 per cent per annum instead of 3, the said stockholders or their representatives would endeavor to raise the funds needed for the purpose of meeting the requirements of the Reilly bill. As the security to be offered for the proposed assessment would necessarily be subject to the Government debt on that portion of the railroad which is now affected by the Government lien, which would represent a prior mortgage lien amounting to \$50,000 per mile, it would be impossible to obtain the funds required for the said purpose unless the fixed charge should be reduced to 2 per cent instead of 3 per cent.

And your petitioners further show that, as hereinbefore stated, the mortgage intended to be given to the Government under the provisions of the Reilly bill is intended to convey all your petitioners' property, subject, however, as to all property not now affected by the Government lien, to any existing "bona fide, lawful and paramount lien, claim or mortgage thereon;" that, as hereinafter stated, your petitioners will be compelled to settle and adjust the said "bona fide, lawful, and paramount liens, claims and mortgages," in order to perfect a successful reorganization of the said railroad. They therefore ask that, when such liens, mortgages, and claims shall be paid either by your petitioners or by the successor corporation hereinafter referred to, authority should be given by the bill to issue new bonds affecting only that portion of your petitioners' property which is not now subject to the lien of the United States, to take the place and stead of such bonds when paid and discharged.

And your petitioners respectfully show that, without such power and authority, it would be impossible to adjust, settle, or discharge the said liens, claims, and demands, and that the authority to issue substitute bonds would not in any manner decrease or alter the security given to the United States.

Your petitioners further represent that, by reason of their very large and outstanding unsecured obligations, it will be impossible to perfect any scheme for reorganization which shall make necessary provision

for the Government debt, except by the means of a sale in foreclosure of the entire property of your petitioners, and through the agency of a successor corporation. It would manifestly be impossible for your petitioners to adjust its secured obligations and to continue its business as a postal and military road and as a common carrier, if its operations were embarrassed by the recovery of continual judgments for large amounts representing its said outstanding unsecured obligations. The administration of this property through courts of equity and the receivers can not be permitted to continue indefinitely, so that the only possible solution of this difficulty is through sales in foreclosure and a successor corporation.

Your petitioners have received such assurances as justify them in believing in the ability and readiness of those representing the stock of the Union Pacific Railway Company to provide the funds required for the purposes indicated in the second section of the Reilly bill, but their ability to provide these funds is dependent upon the amendment of the Reilly bill in the following particulars:

First. The bill must be amended by reducing the rate of interest on the bonds, to be issued to the Government, to 2 per cent. These bonds to be payable fifty years after their date, to be secured by a mortgage on the 1,822.59 miles comprising the Union Pacific Railway Company's property, which mortgage shall be a first lien on that part of said railroad which is now covered by the Government lien; and as to the rest of the said railroad it will be subject to the liens and mortgages which now cover the same. The ultimate payment of the said bonds shall be further secured by reasonable sinking-fund provisions.

Second. The benefits of the provisions contained in the Reilly bill shall be extended to a committee charged with the duty of purchasing the said property of the Union Pacific Railway Company, being the 1,822.59 miles referred to in the said bill, and power shall be granted to such purchasing committee to become or form a successor corporation for the general purposes of and with the general powers stated in the acts of 1862 and 1864, under which the Union Pacific Railroad was originally incorporated, and the acts amendatory thereof and additional thereto.

Third. The exceptional restrictions on usual corporate powers and rights which are contained in the Reilly bill must be stricken from the act and the successor corporation given the same rights, privileges, and freedom of action that are exercised and enjoyed by other railroads.

And your petitioners further show that the satisfaction of the bonds which have priority over the lien of the United States represents but a small portion of the burdens which those charged with the reorganization of your petitioners' property would be required to carry in order to give successful effect to such reorganization; that there are outstanding bonds which are a lien on that portion of the railroad which is not covered by the lien of the United States, the said portion of the said railroad comprising that part thereof extending from a point $393\frac{5}{6}$ miles from Kansas City; thence westerly to Denver, and extending from Denver northerly to Cheyenne. There are also bonds secured by special lien on rolling stock, by the bridge over the Missouri River at Omaha, by the terminal property at Kansas City, and by the various land grants made by the United States to your petitioners. It will be necessary to adjust all these outstanding liens in order to complete any plan of reorganization, and this duty, if not discharged by those representing your petitioners, would rest upon the United States if it

should become the purchaser of the property subject to its lien. The following is a list of the bonds referred to:

Omaha Bridge 8 per cent bonds	\$565,000
Kansas Pacific, Denver Extension, 6s.....	4,218,000
Kansas Pacific, Leavenworth Branch, 6s.....	15,000
Denver Pacific first mortgage 7s.....	4,000
Union Pacific sinking fund 8s	3,782,000
Kansas Pacific consolidated mortgage 6s.....	11,720,000
Omaha Bridge renewal 5 per cent bonds.....	589,000
Union Pacific equipment trust 5 per cent bonds.....	2,010,000
Kansas Pacific incomes, unsubordinated.....	9,850
Kansas Pacific incomes, subordinated	20,550
Coupon certificates	385
Kansas Division and collateral mortgage.....	5,000,000
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	27,933,785

Your petitioners further show that in view of the very large sum to be paid in aid of the security to be held by the United States, of the greatly increased security to be given for the public debt, and of the undertaking of those interested in your petitioners' property to carry out their plan of reorganization by which the property of this company shall be restored to the management of those interested in its development and success, the amendments suggested to the pending bill ought to be conceded. That the passage of the bill amended as proposed would be for the manifest advantage of the United States, inasmuch as it would improve its security and release its Treasury from the necessity of meeting not only its own outstanding obligations but all of the bonds which have priority of lien over it, as well as adjusting the claims of the holders of other bonds above referred to, without which adjustment the operation of the said railroad can not be successfully continued.

And your petitioners further show that for many other reasons affecting the interests of the United States, as well as the interests of the holders of your petitioners' securities, there is urgent need for action by the present Congress. The most important element in the value of the Union Pacific Railroad is the fact that, in connection with the network of branch railroads in Kansas, Nebraska, and Colorado, and by means of its connection with the Oregon Short Line and Utah Northern Railway Company, it derives a large revenue from the extensive freight and passenger business controlled by and interchanged between the different parts of this system. These petitioners further show that it is impossible to retain the benefits and advantages resulting from the combined action of these railroads and branches, unless some successful plan of reorganization can be carried into effect; that no such plan is possible without an adjustment of your petitioners' relations to the Government; that foreclosure suits have already been instituted covering the entire property and all the divisions of the Oregon Short Line and Utah Northern Railway Company, which threaten a severance of the relations existing between your petitioners and that property; that the Oregon Railway and Navigation Company and the Union Pacific, Denver and Gulf Railway Company have already been severed from the system through the operation of foreclosures and independent receiverships; that foreclosures have been instituted and are now pending on several of the branches in Kansas, Nebraska, and Colorado, and that similar suits are about to be instituted for the foreclosure of the mortgages on your petitioners' main lines which are paramount to the lien of the Government. It is therefore manifest that unless prompt action is taken the entire system and its various connections and branches will be completely dismembered. The result, as your

petitioners are advised, will largely decrease the earning power of the Union Pacific Railway itself and will disastrously affect the value of all its securities, including therein the value of the United States lien on the property of your petitioners.

For these reasons your petitioners pray for an early consideration by Congress of the measures now pending relating to your petitioners' railroad, and that such action be taken thereon as in the judgment of Congress will best serve the interests of the United States and enable your petitioners to successfully reorganize the said properties.

In witness whereof the Union Pacific Railway Company has caused its corporate seal to be hereto affixed and these presents to be subscribed by Alexander E. Orr, chairman of its board of directors, and attested by Alexander Millar, its secretary, this 14th day of January, 1895.

[SEAL.]

A. E. ORR,
Chairman of the Board.

Attest:

ALEX. MILLAR, *Secretary.*

