

AN ABSTRACT OF THE THESIS OF

Margaret Briggs Knecht for the Master of Arts  
(name of student) (degree)

in American History presented on May 4, 1984  
(major) (date)

Title: The Winnipeg, Salina and Gulf Railway: Harry Leone Miller's  
North-South Railroad

Abstract approved: Jean E. Pennington

From 1909 through 1912, Harry Leone Miller promoted a north-south railroad through central Kansas, the Winnipeg, Salina and Gulf Railway. He claimed to have the financial backing of a syndicate of English investors formed by a friend of his, London financier Samuel R. MacLean. The syndicate was ready to purchase the railroad's bonds (covering the cost of construction plus some rolling stock) after Miller completed certain preliminary work, such as making surveys and obtaining an American trustee for the foreign funds. In order to pay for this preliminary work, Miller sold stock in his railway company and in a construction company that he formed to build the road.

Miller focused his promotion to match the interests of his strongest backers at the time. Unfortunately, he was unable to remain associated with any group long enough to complete the bond sale to the English syndicate. He would make some progress with his associates, have a

falling out with them, and then work on another aspect of his proposition with new supporters. He had his greatest success during his association with the Brindley Company, a New York City construction firm. At one point during his association with the firm it appeared that the bonds might be sold in Europe and that actual construction might begin. Before this could occur the Brindley Company filed a lawsuit to recover the funds it had expended on the project. The court put the railway into receivership and dissolved the company in late 1912. Miller encountered other legal difficulties that grew from the railroad promotion, including arrests for mail fraud, perjury, and mailing obscene letters. The mail fraud charge was dropped, and the perjury trial ended in a hung jury. The obscene letters charge, however, brought a conviction and a sentence of eighteen months in the federal penitentiary at Leavenworth.

The Winnipeg, Salina and Gulf Railway was destined to remain a paper railroad. Miller simply lacked the necessary funds to complete such a project. While certain personal characteristics helped him win support for the road, others prevented any significant, sustained progress. The times were also against Miller. The grand trunk railroads were already established, and the golden age of railroading had passed. Miller's proposition belonged in an earlier era that was unfettered by the regulatory legislation brought by Progressivism.



THE WINNIPEG, SALINA AND GULF RAILWAY:  
HARRY LEONE MILLER'S NORTH-SOUTH RAILROAD

---

A Thesis  
Presented to  
the Division of Social Sciences  
Emporia State University

---

In Partial Fulfillment  
of the Requirements for the Degree  
Master of Arts

---

by  
Margaret Briggs Knecht  
May, 1984

Thesis  
1984  
K

Topic  
author  
Access  
waste  
also  
stany  
State  
the  
exam  
peri  
the  
Soc  
cour  
off  
next  
new  
new  
manu  
the  
Br  
M  
gove  
the

John E. Pennington  
Approved for the Major Department

Harold E. Durst  
Approved for the Graduate Council

441864

STATS PROCESSING  
SEP 07 1984

company had had some involvement with the federal court, but the precise relationship was unknown. Eventually it was determined that the records were deposited with the court as a result of a receivership proceeding. These records tell the story of the promotion of a paper railroad in Salina between 1909 and 1912 and reveal an interesting side-light of Kansas history.

This  
without  
allowed  
reproduction  
penalty

Orl

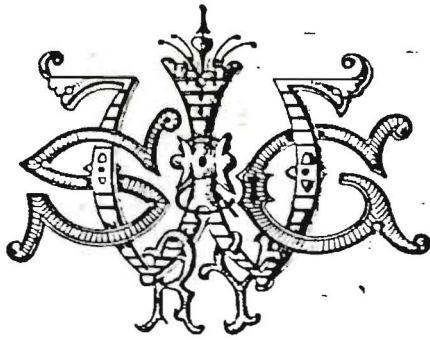


Harry Leone Miller, 1864-1931

ca. 1910

This is the only known photograph of H. Leone Miller. It was taken without his knowledge by his wife's sister, Mary Olson. Miller never allowed photographs to be taken of himself because he said it violated his religious upbringing. Mary Olson took this snapshot because she wanted a photograph of one of Miller's daughters whom Miller was holding.

Original owned by Ralph Leone Miller, Manhattan, Kansas.



Winnipeg, Salina and Gulf Ry.

TABLE OF CONTENTS

Chapter	Page
1. The Setting .....	1
2. First Phase of the Winnipeg, Salina and Gulf, June, 1909 - March, 1910 .....	15
3. The Topeka Southwestern Period, March - July, 1910 .....	28
4. The Alva Period, August, 1910 - February, 1911 .....	41
5. The Turon Period, January - June, 1911 .....	67
6. "Fast Company," part 1, July - December, 1911 .....	102
7. "Fast Company," part 2, January - June, 1912 .....	137
8. The Dissolution of the Winnipeg, Salina and Gulf Railway, June - December, 1912 .....	170
9. Obscenity, Perjury, and Prison, December, 1912 - May, 1915 ...	213
10. Aftermath and Conclusion .....	238
Bibliography .....	246
Appendix A: Affidavit of Hal J. Nesmith and Verne L. Nesmith ....	250
Appendix B: Affidavit of B. F. Brown .....	254
Appendix C: Exhibit "A": Copies of Obscene Letters Allegedly Written by H. Leone Miller .....	257

LIST OF MAPS

Map	Page
Route of the Winnipeg, Yankton and Gulf, 1908-1909 .....	8
Route of the Winnipeg, Yankton and Gulf through Kansas .....	9
Route of the Winnipeg, Yankton and Gulf through Oklahoma .....	10
Route of the Winnipeg, Salina and Gulf through Kansas, 1909 .....	17
Extended Route of the Topeka Southwestern or the Eastern Branch of the Winnipeg, Salina and Gulf Railway, 1910 .....	32
Route of the Winnipeg, Salina and Gulf through Oklahoma, August, 1910 - February, 1911 .....	46
Proposed Western Branch to Des Moines, New Mexico, During the Turon Period .....	75
Route of the Winnipeg, Salina and Gulf, as Specified in the Contract with the Brindley Company, June, 1911 .....	110
Proposed Eastern Branch, January - May, 1912 .....	140

## CHAPTER 1:

### THE SETTING

In the early summer of 1909, H. Leone Miller brought a grand north-and-south railroad proposition to Salina, Kansas. While he was far from being alone in his desire to build a new transcontinental railroad, new construction of roads had slowed considerably from the boom years following the Civil War. The golden age of railroading had passed; the grand trunk lines of the country were well established. Although federal control had been introduced in 1887 with the creation of the Interstate Commerce Commission, it was only with the coming of the Progressive Era that federal regulation began to play a large role in railroad corporate affairs. The Elkins Act of 1903 strengthened the I. C. C. by forbidding railroads to deviate from published rate schedules and by making both railroad officials and their companies liable in rebate cases. The 1906 Hepburn Act extended the governance of the commission to express and sleeping car companies and empowered it to reduce unreasonable rates. Later legislation, Mann-Elkins Act (1910) and the Physical Valuation Act (1913), brought railroads under greater regulatory control.

Similarly, the period of uncontrolled growth of Kansas railroads had passed. The boom of the 1870s and 1880s had given way to a time of economic losses in the 1890s. While some new track was laid, other track was abandoned because of its unprofitability. The State Board of Railroad Commissioners report for the 1909-1910 biennium noted that there were 8,897 miles of single track in the state, just nine more miles



than had been reported in 1895. These figures were for single track only and did not include second track, yard track or sidings.<sup>1</sup>

By the time Miller brought his dream to Salina, Kansas, railroads were dominated by the large established lines. Of the over one thousand railroads chartered in Kansas, twenty-two became incorporated in 1909.<sup>2</sup> Of the approximately two hundred roads that ever laid track in the state, twelve were operating in 1909-1910. Two companies, the Atchison, Topeka & Santa Fe and the Missouri Pacific controlled 55% of Kansas' track. These, together with the next two longest roads, the Rock Island and the Union Pacific, accounted for 80% of the mileage.<sup>3</sup> Although the four largest companies were east-west roads, north-south roads were not uncommon in the eastern part of the state. One of the state's older lines, the Missouri, Kansas and Texas, the "Katy," ran south from Junction City through Emporia and across the eastern counties, passing through Parsons and Columbus. The Kansas City Southern also ran north and south through extreme eastern Kansas and western Missouri. The Leavenworth, Lawrence and Galveston, which ran from Lawrence through Coffeyville, had become a part of the A. T. & S. F. system in 1880.<sup>4</sup> It was possible but probably inconvenient to travel north and south through central Kansas by traveling on different lines. For instance, one branch of the Rock Island ran from Caldwell to Abilene and a branch of the Santa Fe ran from Abilene to Superior, Nebraska. North-south lines across western Kansas, however, did not exist.

Harry Leone Miller was born October 24, 1864, in the village of Auburn in Schuylkill County in eastern Pennsylvania. He received a meager formal education there and began to follow his father's occupation at one of the canal locks in the area. At the age of sixteen, he went to Chicago

to learn the machinist trade in the railroad shops. While there, he became a fireman for one of the lines, the Chicago and Northwestern. He was promoted to engineer when he was twenty-four and worked a route across central and eastern Iowa.

He might have continued as a railroader had he not been involved in a terrible accident in December, 1892. The Chicago and Northwestern was competing with three other lines for a contract to ship cattle between Council Bluffs, Iowa, and Chicago. Test runs were made on each line, and the line with the best time was to receive that year's contract from the shipper. Miller's train had fallen behind schedule and he was told to make up the time during his shift. He had two hours in which to travel his 117 mile division. Thinking he had a clear track order, he was going sixty-five miles per hour when he ran head on into another engine on a sharp curve of single track. Miller's injuries were so severe that they required ten months of hospitalization at Cedar Rapids. Family stories say that he studied both law and medicine while in the hospital. He took a disability settlement of \$21,500 from the railroad, added his savings to it, and started into other areas of railroad work with over \$25,000.<sup>5</sup>

In 1894, Miller began working for Calvin Stewart Brice (1845-1898), prominent Democratic U. S. Senator from Ohio and a veteran railroad builder. Brice had built the Nickel Plate, or the New York, Chicago, and St. Louis, and was associated with numerous other roads.<sup>6</sup> Miller was one of Brice's confidential field men, for which he was paid \$250 a month. His assignment was to select a route from St. Louis southwest through the Ozarks to the Pacific coast.

Brice's sudden death in 1898 stopped plans for that road and Miller went to work for another railroad builder and financier, General Samuel

Thomas (1840-1903) of Ohio and New York.<sup>7</sup> Thomas had also been involved in the building of the Nickel Plate and the Ohio Central. He was the president of the East Tennessee, Virginia and Georgia Railroad which became one of the most important rail systems of the South.<sup>8</sup> Investigating a potential railroad across Nebraska was one of Miller's activities for Thomas. Through Thomas, he became acquainted with Samuel Richter MacLean (1842-?). A native of Pittsburgh, Pennsylvania, MacLean was a well-known negotiator of railroad and corporate bonds. During the Civil War, he was a U. S. fiscal agent, selling Union securities. Later he was an assistant financial editor of the Wall Street Journal and he sold bonds for the Pennsylvania Railroad Company.<sup>9</sup> He was associated with Miller during his later years, which were spent in London where he specialized in selling American bonds to foreign investors.

Sometime between 1900 and 1902, Miller apparently struck out on his own in South Dakota promoting his own north and south railroad, the Winnipeg, Yankton and Gulf Railway. Some stock was sold and other funds raised for the road. The project had enough credibility that the road's supporters secured the passage of a bill in the U. S. Congress which allowed the building of a railroad bridge across the Missouri River at Yankton. There is no evidence to indicate why or when Miller left the Yankton area, but he can next be traced to the small town of Oak in south-central Nebraska sometime around 1904. There he continued his railroad promoting, presumably still for the W. Y. & G.

His career was interrupted in 1905 when he was convicted in federal court of sending an unmailable or obscene letter through the mail. The letter, written in January, 1905, to a woman in Logan, Iowa, had no obvious connection to his railroading activities. Even though it was

signed with initials other than his own, Miller did not deny writing it. He claimed that he had received a letter containing suggestive remarks from the woman and that he was only replying in kind.<sup>10</sup> His defense did not sway the jury and judge, for he was convicted and sentenced to pay a \$100 fine plus serve one year and one day in prison. Since the area had no federal prison, he was sent to the South Dakota State Penitentiary, where he arrived June 15, 1905. He was allowed a sentence reduction of six days per month for good behavior, and he was probably released in late March, 1906.<sup>11</sup>

His precise whereabouts following his release are unknown, but after he left Nebraska, he spent some time in Woodward, Oklahoma, promoting his road. His time there must have been relatively brief, since he left before the arrival of a trunk shipped to him from Nebraska friends. He stayed long enough, however, to run up a sizable bed and board bill, that he left unpaid.<sup>12</sup> Miller then took his railroad scheme to western Kansas. Little is known of his early activities there, except for two events. On August 12, 1907, he married twenty-two year old Elsie Olson, the daughter of Swedish immigrants who lived in the Belmont community of Russell County, Kansas. Prior to their marriage she had worked for him as his stenographer.<sup>13</sup>

Exactly one month after his wedding, Miller was involved in an incident in Ness City, Kansas, which resulted in his detainment in the Ness County jail. On that day, Miller was forcibly removed from the Arlington Hotel by a Dr. J. H. Schrant, who was acting as the hotel clerk. What prompted Schrant's action is unknown, but he apparently acted without the consent of the hotel manager and owner, Mrs. Sue Coltrane. Two days later, on September 14, 1907, Miller swore out a complaint in Ness County



Court against Schrant, charging him with assault. Afterwards he approached Mrs. Coltrane and informed her that he had a case against her that could result in a \$10,000 judgement against her. They agreed that he would drop his case in exchange for \$207. Keeping his part of the bargain, Miller then caused the complaint against Dr. Schrant to be dismissed.

On September 16, Mrs. Coltrane swore out a complaint against Miller charging him with three counts: compounding a misdemeanor (meaning that he agreed to prevent the prosecution of a misdemeanor); blackmail; and obtaining money under false pretenses. She claimed that Miller compounded a misdemeanor by dropping the assault charge against Schrant and that since Schrant had acted on his own, Miller did not have and should not have claimed to have a case against her.

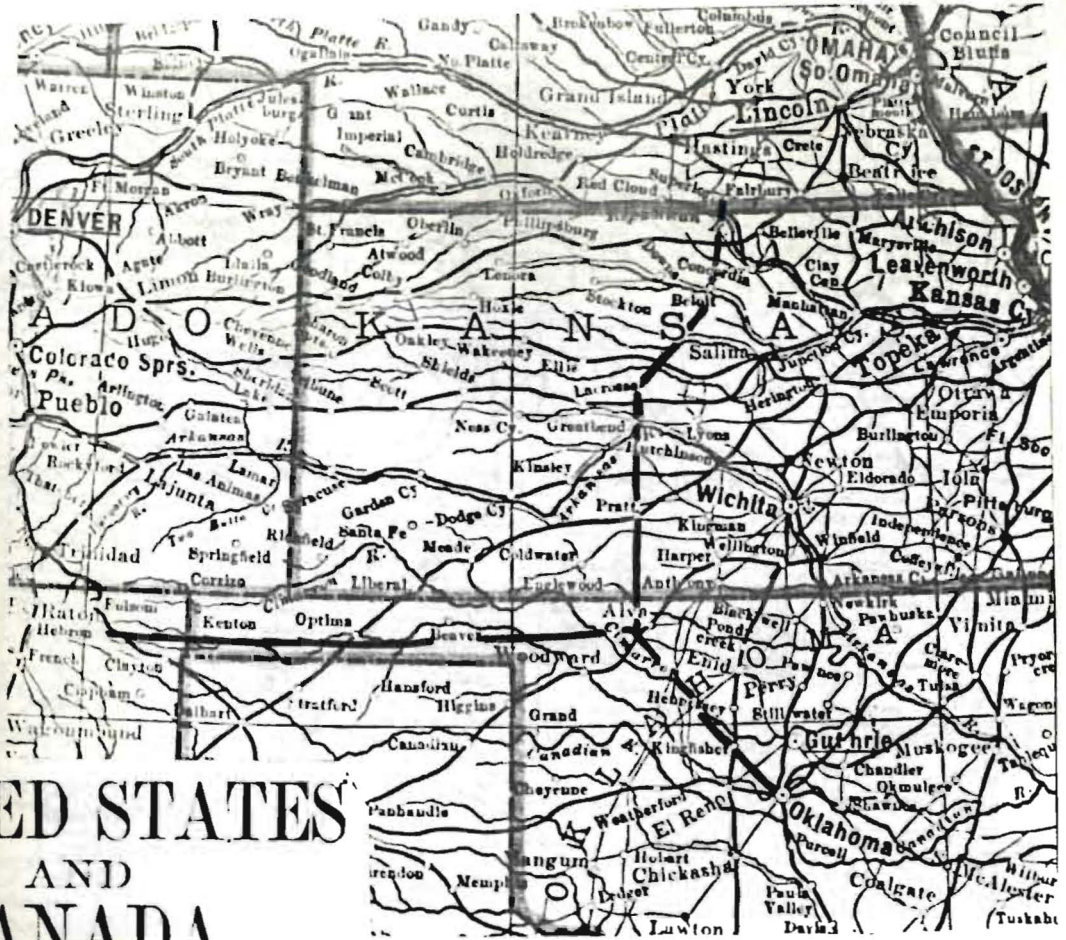
The case was tried on February 10, 1908, in Ness County District Court with Miller's attorneys arguing that the first count, a misdemeanor, was improperly joined with the second and third counts, both felonies. They also moved that the felony counts be quashed for lack of sufficient evidence. The court sustained the objections and directed that the case be dismissed and Miller be re-arrested on the charge of compounding a misdemeanor. A few days later he was re-tried, convicted, and sentenced to ten days in the county jail.<sup>14</sup>

Within a few months, Miller became associated with a group of men from Great Bend, Kansas, including banker J. George Brinkman and the town's mayor, E. W. Moses. The Winnipeg, Yankton and Gulf Railway was incorporated in Kansas on June 3, 1908, with a capitalization of \$100,000. Headquartered in Great Bend, the first Grand Division was to follow a 775 mile route from Superior, Nebraska, south through the Kansas towns of

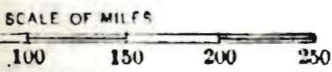
Mankato, Jewell, Beloit, and Lincoln; southwest through Wilson and Great Bend; and then south again through Seward, St. John, Iuka, Pratt, Coats, Lake City, and across the state line to Waynoka, Oklahoma. From Waynoka, the main line was to angle to the southeast, passing through Fairview, Okeene, and Kingfisher before reaching the division terminal, Oklahoma City. There the line would connect with the Katy, giving it a Gulf terminal. A branch was to be built from Waynoka across the panhandle through Guymon to the rich coal fields near Des Moines, New Mexico. The First Grand Division was to be divided into five divisions of about 150 miles each.

Upon the completion of certain preliminary work, Miller's friend Samuel R. MacLean was to sell a \$21,000,000 first mortgage bond issue to a syndicate of English investors.<sup>15</sup> Some of the preliminary work was to be funded through stock sales. Miller approached towns along the route and asked that they subscribe a certain number of shares. He also asked that farmers purchase one share per quarter section owned in a six mile strip on either side of the proposed route. By the end of the year, he claimed to have gathered subscriptions for a large number of shares of stock between Great Bend and Wilson.

Miller was unable, however, to find a suitable contractor who would carry the costs until he could be reimbursed. Some negotiations were conducted with a T. A. Clark of Chicago, but they collapsed after Clark refused to pay Miller's trip to Chicago to finalize the deal. Miller also had problems with his Great Bend associates. The details of their disagreements are unclear, but Miller thought they were stealing the proposition from him and they parted company in January, 1909.<sup>16</sup> Miller's former Great Bend associates continued their railroading efforts,



# UNITED STATES AND CANADA, WEST.



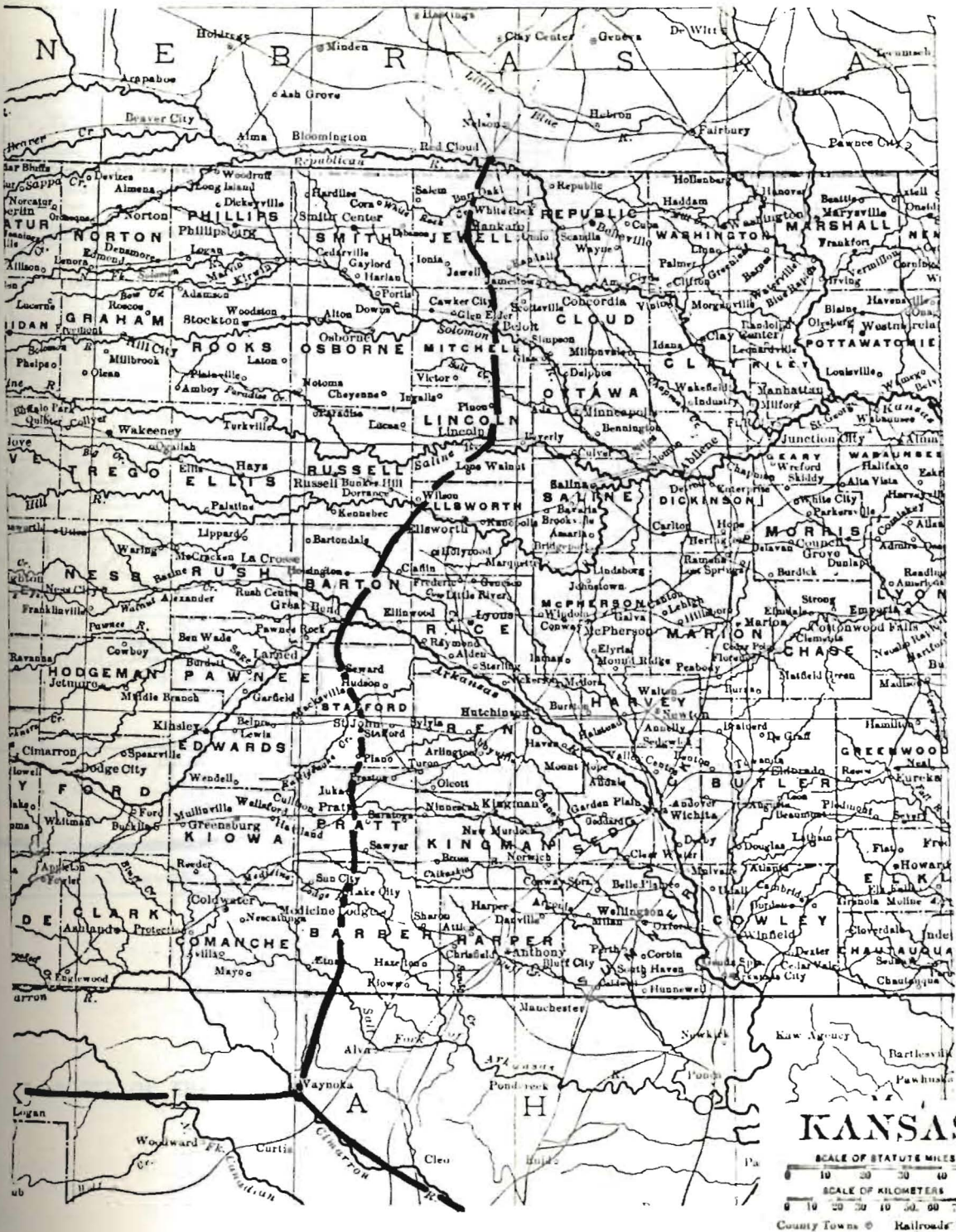
**EXPLANATION:**

- Important Through Railroads
- Projected Railroads
- Other Railroads
- Important Steamship Lines
- Head of Navigation of Streams ↓
- Overland Telegraph Lines

ROUTE OF THE WINNIPEG, YANKTON AND GULF, 1908-1909

Base map: Scarborough's New Standard World Atlas, new census edition (Indianapolis: Scarborough Co., 1911), p. 15.

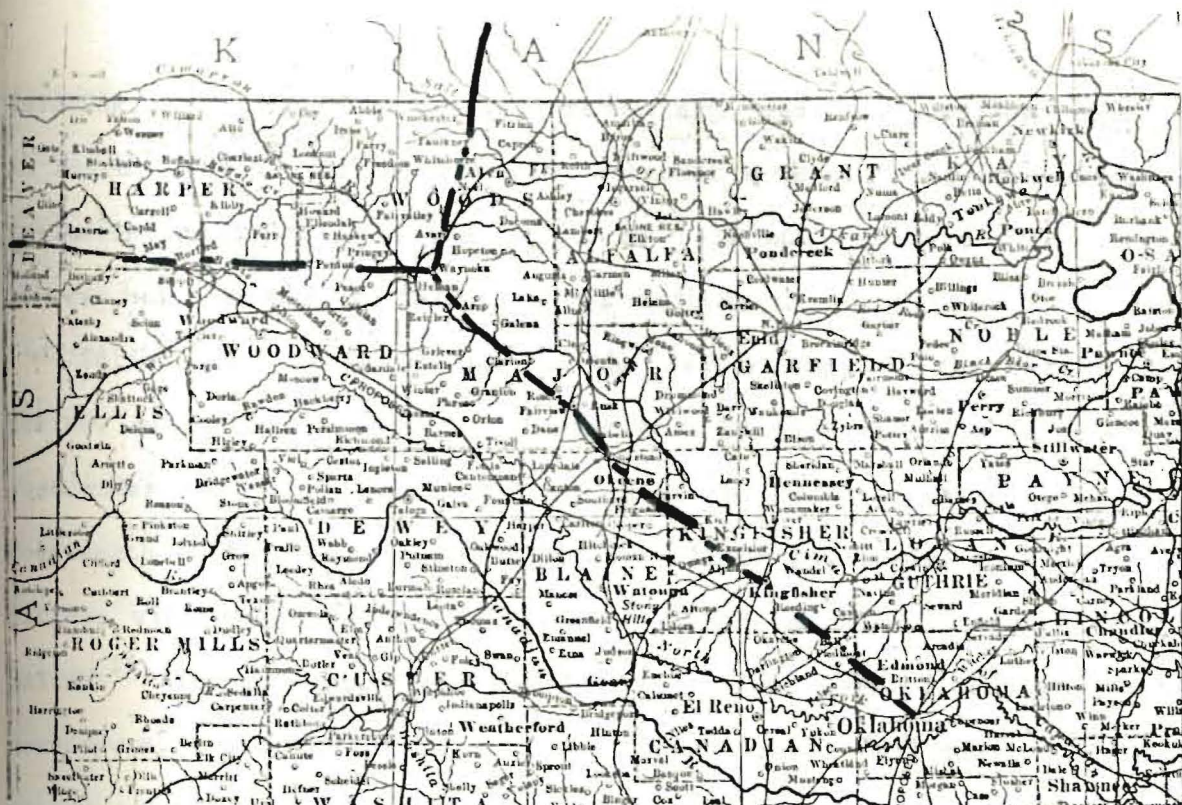




ROUTE OF THE WINNIPEG, YANKTON AND GULF THROUGH KANSAS

Base map: The New Encyclopedic Atlas and Gazetteer of the World (New York: P. F. Collier and son, 1907), p. 27.





ROUTE OF THE WINNIPEG, YANKTON AND GULF THROUGH OKLAHOMA

Base map: The New Encyclopedic Atlas and Gazetteer of the World, 2nd ed., (New York: P. F. Collier and son, 1908), p. 47.

assuming a new name, the Kansas Northwestern, and incorporating under it in March, 1909.<sup>17</sup> Miller tried to interest several Kansas communities, including Hutchinson, in his projected railroad, but met with little success until he went to Salina in the early spring of 1909.

Salina had its beginnings in the latter days of the territorial period, and it was a well established town by 1909 with a population of just under 10,000. Between 1908 and 1910, the city's rank improved from fourteenth to thirteenth in population. All of the twelve more populous cities, with the exception of seventh ranked Hutchinson, were east of Salina.<sup>18</sup> The town supported two daily, two semi-weekly, and two weekly newspapers, a \$15,000 Carnegie library, a convention hall that would seat one third of its population, four banks, twelve churches, and numerous businesses. Manufacturing activities included flour and alfalfa mills, a brick plant that could produce thirty thousand bricks daily, and foundries and factories that produced such every-day items as wagons, carriages, mattresses, shovels, rakes, gloves, brooms, sunbonnets, and razor strops.<sup>19</sup> The town was served by the state's four largest railroads. The Rock Island, the Santa Fe, and one branch of the Union Pacific followed similar routes into Salina from Abilene. Three other branches of the Union Pacific entered Salina: one went south to McPherson; one went west and north through Lincoln and Hill City to Colby; and the main line went west and a bit south through Ellsworth, Russell, Hays, WaKeeney, and Sharon Springs. A branch of the main line of the Missouri Pacific entered Salina from Gypsum City on the southeast and Marquette on the southwest.<sup>20</sup>

Such rail service did not deter the hopes of some for even more railroads to Salina. Many of these planned roads ran north and south

through the town, as did Miller's. In 1910, the Salina Daily Union announced that it seemed as though there had been a different north-south road planned nearly every year since Salina's early history but the town had been disappointed every time.<sup>21</sup> In April, 1909, the Union reported that there was a new north-south road to add to the city's collection: the first part of the Kansas City, Lamar, and Denver Railway was to be built between Concordia and Salina.<sup>22</sup> In 1910, another new road was proposed to run from Beatrice, Nebraska, to Salina and then to Wichita.<sup>23</sup> The Salina, Tipton and Northern, originally chartered in 1906 to run from Salina northwest through Tipton and Smith County, was making a revival in 1910 and 1911. Interurbans were also planned to follow north-south routes through Salina. E. S. Alnutt, who had built Salina's street railway system, announced in September, 1909, that he was planning to build an interurban called the Motor Grand from Concordia through Salina to Wichita.<sup>24</sup> A few months later another group introduced plans to build the Central Kansas, an interurban running between Salina and Newton.<sup>25</sup> Many of these proposed lines went through the initial stages of promotional meetings, stock selling and surveying. Evidence of the many railroad plans can be seen in a comment published in the Hutchinson News in 1912 that stated that the railroad grade and survey stakes on farms north and south of Salina could be used to build a railroad from the Hudson Bay to the Isthmus of Tehuantepec!<sup>26</sup> Thus, when H. Leone Miller proposed a north-south road to run through Salina, he was neither the first, nor was he alone with the idea. Salina had seen many seemingly feasible railroad proposals fail and perhaps it was a bit skeptical of new propositions.



## CHAPTER 1: NOTES

- <sup>1</sup>Kansas, Board of Railroad Commissioners, 21st Report, 1901-1910, p. 593.
- <sup>2</sup>Salina Evening Journal, Feb. 7, 1910, p. 1.
- <sup>3</sup>Kansas, Board of Railroad Commissioners, p. 593.
- <sup>4</sup>Robert W. Richmond, Kansas a Land of Contrasts (2nd ed.; St. Louis, Mo.: Forum Press, 1980), pp. 103, 110.
- <sup>5</sup>Harry Leone Miller, "Autobiography," 1928; fragment owned by Ralph Leone Miller, Manhattan, Kans.
- <sup>6</sup>National Cyclopedia of American Biography, vol. 27 (New York; James T. White, 1939), p. 75.
- <sup>7</sup>Records of the U. S. District Court (record group 21 [hereafter RG 21]; First Division; District of Kansas [hereafter Kansas]; "Records of the Winnipeg, Salina and Gulf Railway Company, 1908-1912" (Microfilm preservation project 6NCN81-002) [hereafter 6NCN81-002]; Winnipeg, Yankton & Gulf [hereafter WY&G], Records of the President [hereafter Pres.], letter to T. A. Clark, Feb. 24, 1909 (fiche 1).
- <sup>8</sup>National Cyclopedia of American Biography, vol. 25, pp. 31-32.
- <sup>9</sup>Who Was Who in America, vol. 4 (Chicago: Marquis Who's Who, Inc., 1968), p. 601.
- <sup>10</sup>Omaha Bee, June 11, 1905.
- <sup>11</sup>RG 21, District of Nebraska, Omaha Division, U. S. v. H. Leone Miller (criminal case 520-N); Archives Branch, Federal Archives & Records Center, Kansas City, Mo.
- <sup>12</sup>RG 21, Kansas, 6NCN81-002, Winnipeg, Salina & Gulf, Pres., letter from L. J. Strohmeier, Jan. 29, 1912 (fiche 12); letter to Harry R. Follmer, Mar. 27, 1912 (fiche 26).
- <sup>13</sup>Interview by author with Ralph Leone and Dorothy Miller, Manhattan, Kansas, Aug. 28, 1983.
- <sup>14</sup>Records of the District Court of Ness County, State of Kansas v. H. Leone Miller (criminal case 157), Ness County Courthouse, Ness City, Kans.
- <sup>15</sup>RG 21, Kansas, 6NCN81-002, WY&G, Resolutions of the Board, Sept. 1, 1909 (fiche 1).
- <sup>16</sup>RG 21, Kansas, 6NCN81-002, WY&G, Pres., letters to T. A. Clark, Feb. 24, 1909; April 19, 1909 (fiche 1).

17 Barnes Railroad collection, Railroad incorporation card file, Kansas Northwestern Railway; Manuscript Department, Kansas State Historical Society, Topeka.

18 Kansas, Board of Agriculture, 16th Biennial Report, 1907-1908, p. 967, and Kansas, Board of Agriculture, 17th Biennial Report, 1909-1910, pp. 949, 1003.

19 R. L. Polk and Company, Kansas State Gazetteer and Business Directory, vol. 11 (Detroit: R. L. Polk & Co., 1908), pp. 1129-1130.

20 Kansas, Board of Railroad Commissioners, Official Railroad Map, 1907.

21 Salina Daily Union, May 2, 1910, p. 5.

22 Salina Daily Union, Apr. 26, 1909, p. 2.

23 Salina Daily Union, June 11, 1910, p. 1.

24 Salina Daily Union, Sept. 15, 1909, p. 6.

25 Salina Daily Union, Dec. 3, 1909, p. 1 and Dec. 16, 1909, p. 5.

26 Hutchinson News, Dec. 15, 1912, p. 2.

## CHAPTER 2:

### FIRST PHASE OF THE WINNIPEG, SALINA AND GULF, JUNE 1909 - MARCH, 1910

After leaving his Great Bend associates, Miller found new supporters for his north-south railroad in Salina. Prospects seemed so good that he decided to move his railroad headquarters there and change the road's name to the Winnipeg, Salina and Gulf Railway Company. Since the Winnipeg, Yankton and Gulf had already been incorporated under Kansas law, a name change was probably a necessity after his break with the Great Bend men. In April, Miller boasted to the line's potential contractor, T. A. Clark of Chicago, that Salina had offered Miller \$100,000 in return for the headquarters, general offices, and machine shops.<sup>1</sup> Such prospects did not persuade Clark, for he still refused to meet Miller's demands. Between his initial contract with Salina parties and his settling in the town, Miller spent seven weeks "in the East and North" trying to secure financing. During this trip he made arrangements with Wilson and Wilson Company, a Chicago engineering firm, to do the surveying and with John W. Wegner, a Milwaukee banker, to form the construction company that was to build the road.

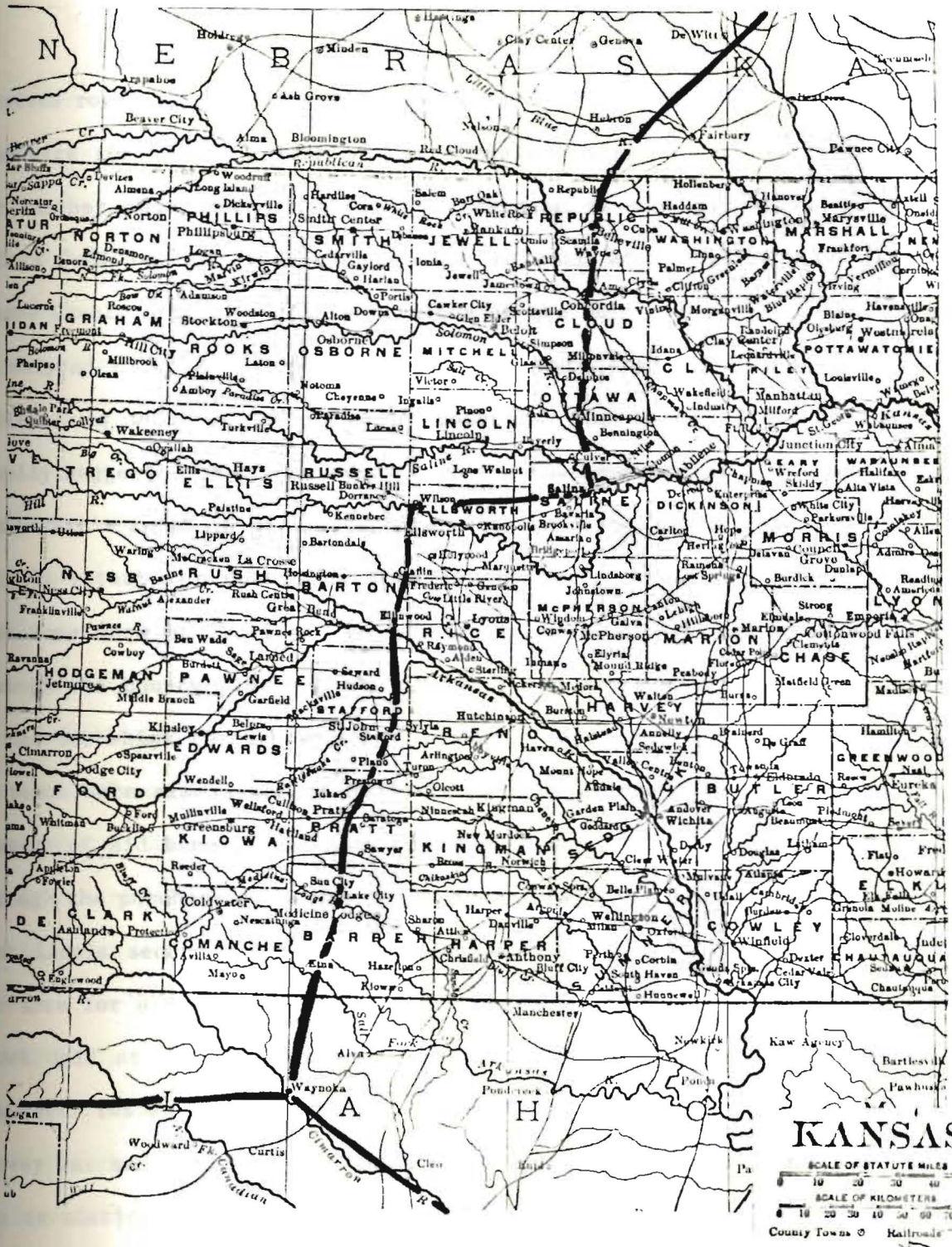
In late June, 1909, Miller told the Salina press that his trip had been a success and that he had moved his family from Russell to Salina in preparation for building the line. He announced that within a few days he would submit a proposition to the Salina Commercial Club in which he would place the machine shops and the road's main line in town in return for a \$150,000 bonus. He declined to name any of the road's backers besides Wegner, but he claimed to have the backing of other financiers as well as

a number of Salina businessmen, that would insure the road's construction. The costs were to average \$26,350 per mile, including a certain amount of rolling stock. Bonds were to be issued for the construction costs, \$21,800,000, and the capital stock of the railway company was to be set at \$25,000,000. The construction company that Wegner was to head was to be capitalized at \$200,000. Within a few weeks, however, that capitalization was increased to \$500,000.

The projected route of the W. S. & G. was similar to the W. Y. & G. with the exception that the northern part was moved east into the next tier of counties and the northern terminus of the First Grand Division was to be Omaha rather than Superior. From Omaha the line extended southwest to Chester, Nebraska, then straight south through Belleville, Concordia, Minneapolis, and Salina where it turned west to Wilson and south again through Ellinwood and Stafford. From Stafford the route was to travel southwest to Pratt and then south, following the path of the W. Y. & G.<sup>2</sup>

Miller also followed familiar paths in the promotion of his new north and south road. He wrote acquaintances along the southern portion of the route, advising them that he had re-organized and re-named the company because of insurmountable difficulties with the Great Bend crowd. The new backers were depicted as having greater financial strength than those in Great Bend and the new route as being more certain. A promotional tour along the line with the new financial backers was promised within thirty to sixty days. To central Kansas towns where there might be a significant percentage of German immigrants, Miller promised that Mr. Wegner would explain the proposition in both English and German.<sup>3</sup> Miller wrote to town commercial clubs along the new part of the route outlining the





ROUTE OF THE WINNIPEG, SALINA AND GULF THROUGH KANSAS, 1909

Base map: The New Encyclopedic Atlas and Gazetteer of the World (New York: P. F. Collier and son, 1907), p. 27.



proposed road and its advantages to the area. Among his arguments for the line were the region's lack of north and south roads, and the necessity for another independent trunk line. Because it was a north-south road with a Gulf outlet, it would be able to take advantage of the planned Panama Canal. From the road's terminus at the Gulf of Mexico, goods could be shipped directly to markets in the Orient, Australia, and the South Pacific, as well as to the west coast of the United States. Miller usually suggested that committees from the town commercial clubs meet with him within a month if they were interested in being on the road.

In return for putting a town on the route in Kansas, Miller asked that some form of local aid be granted to total \$2,000 per mile of line through the county plus a bonus of 5% of the assessed property valuation of the townships through which it passed.<sup>4</sup> Aid bonds or some other type of bonus were also asked of Nebraska towns. Oklahoma laws precluded the passage of aid bonds, so Miller asked that the citizens support the road through the purchase of common stock in the railway company. He suggested that locals secure stock subscriptions from farmers equaling one dollar per acre for a distance of five miles on either side of the right of way. Stock sold at \$100 a share and an installment plan was set up for its payment: 10% was to be paid with the subscription; 20% when the location survey was made through the county; 20% when needed to pay for right of way or station grounds; and 50% when the road was completed through the county.<sup>5</sup>

Stock sales were pushed in Kansas and Nebraska as well. Miller made the point that those who bought stock would realize a profit from their investments, and then aid bonds or other bonuses could be voted to insure that the "tight-wads do their part." Besides railway stock, Miller also

tried to sell stock in the Inter-State Construction Company that was to build the road. Since construction costs were projected to be less than the bonds, share-holders were to receive a portion of the earnings from the sale of the first mortgage bonds. Miller enthusiastically estimated that each share of construction company stock would be worth five hundred times its original cost within two years. Communities that purchased a certain number of shares of construction company stock had the privilege of naming a certain number of people to that company's board of directors. Barber County could name one director after it sold fifteen shares and two after twenty-five or more. The Okeene, Oklahoma, area was to also name two directors, but they only needed to sell between ten and fifty shares. Initially offered at \$1,000 a share, the price was quickly reduced to \$100 because Miller claimed "a big howl was heard from all along the line."<sup>6</sup>

Initial reactions to the new route ranged from outright rejection at Minneapolis, where the commercial club said the amount of aid asked was "entirely out of the possibility,"<sup>7</sup> to cautious acceptance in Pratt and the Oklahoma towns of Kiel, Okeene, and Fairview, where full support was promised to any legitimate railroad proposition.<sup>8</sup> Many responses were noncommittal, such as those from the commercial clubs of Omaha and Oklahoma City that requested more information. Some towns, such as Stafford, requested that Miller come to their town to make his proposition to them in person. Others offered counter proposals. A prominent citizen in western Barber County, Kansas, offered Miller aid but only after the road was built, saying, "You get the money when the people see the smoke."<sup>9</sup>

The demand for local governmental aid went largely unanswered. No counties, townships, or cities voted any type of aid to the road. In fact, it would have been legally impossible to grant Miller the amount he

requested through aid bonds. He had wanted funds equaling \$2,000 per mile plus 5% of the county's assessed valuation, but state law specified that a county's aid could not exceed \$2,000 per mile of track.<sup>10</sup> Although it is unknown how much, if any, stock was sold, it probably was not a significant amount. The suggestion of one dollar in stock per acre in a ten mile wide band would have resulted in the sale of approximately \$6,400 per mile, which may have seemed too high for a railroad that was still in the early stages of promotion. Some individuals purchased shares of construction company stock in hopes of seeing great profits, but not enough were purchased in any one area to allow them to take advantage of Miller's offer to name members of the construction company board of directors.

Except for the initial articles in June, Salina press coverage of the new road was virtually nil. The papers seemed to be more interested in the two proposed interurbans than in Miller's steam road. While the Salina Commercial Club was studying the W. S. & G.'s first proposition, another promoter suggested that his Kearney to Beloit line be extended south to Salina. Under a headline of "Here's Another N & S Road," the Daily Union asked, "How many north and south railroads does Salina want?" The relative frequency of railroad proposals may have created a "wait and see" attitude. After Miller presented his second proposition in March, 1910, to Salina, the Daily Union only reported that the W. S. & G. had an office downtown above Nesmith & Sons grocery and printed a promotional statement from the board of directors. No comment was made about the prospective road or the statement (which had been partly copied from Montreal financier Samuel Graham's promotional literature), except for the perhaps sarcastic headline, "Want to Push a Railroad?"<sup>11</sup> While the

Union's attitude may have been one of skepticism, it gave the railroad more publicity than the other daily, the Salina Evening Journal. In that paper, the road rated only two articles between June, 1909, and March, 1910.

Miller must not have been satisfied with the support given him in Salina. Within six weeks of his arrival, he offered to move the general headquarters and shops to Omaha in return for a purchase of 600 to 1,000 shares of construction stock. A similar offer was made to Pratt, but the amount of shares was not specified. By October, Miller had stated that Pratt only needed to raise \$15,000 in order to name a majority to the construction company board and thus control the location of the road's headquarters and divisions. The secretary of the Pratt Commercial Club replied that it would guarantee any standard gauge road \$2,000 a mile across the county, but the club did not have enough information about the W. S. & G. to commit itself to raise the amount wanted. Pratt, like many other towns, wanted some type of guarantee that Miller would live up to his promises. An experience with the Rock Island in the 1880's had taught Pratt that division points could be promised to a town but that did not guarantee a permanent location.<sup>12</sup>

Miller's relationship with his chief American financier, John W. Wegner, was far less than ideal. The details of their agreement are unknown, but Wegner was to head the construction company which was to contract with MacArthur Brothers of New York to do the actual road work. Wegner represented in some way the Chicago, Milwaukee and St. Paul Railway and was to obtain some funds from them. This relationship was to remain confidential until after the line was built, and then a majority of the railway company's board could be named.<sup>13</sup> Whatever the arrangements,

Wegner was either unable or unwilling to act. He did not come to Salina to make the trip along the line as Miller had promised. As early as July 12, Miller demanded to know the reason for his inaction, stating that valuable time was being wasted and that some were beginning to lose confidence.<sup>14</sup> The Chicago engineering firm, Wilson and Wilson, was more willing to act. In the late summer they reported that Wegner was "fixed" and "up against it in money matters," but they would be willing to conduct the survey at the same time as Miller was raising the necessary funds.<sup>15</sup>

The proposition to the Salina Commercial Club, which had been promised in July, was finally presented in November. Fred A. Taylor and George E. Graves of St. Louis, who were identified as fiscal agents of the Inter-State Construction Company, spent most of the month in Salina promoting the road. They claimed that much of the right of way had been leased and that \$5,000 of stock had just been sold in Wichita. Sale of stock was to be limited to \$25,000 per town and the 51% that had been assigned to the foreign investors was non-voting stock, so that no one area would dominate the company. The commercial club named a committee of W. W. Watson, a wealthy wholesale grocer, Fred H. Quincy, Planters State Bank president and influential member of the Kansas State Senate, and George Cowden, a buyer for H. D. Lee Mercantile Company, to study the proposal.<sup>16</sup> This committee spent several weeks investigating the idea and Watson was sent to Chicago to learn more about the road's prospects (presumably to visit with the surveyors, Wilson and Wilson). Evidently Watson was not pleased with his findings, because he delivered an unfavorable report which resulted in the club's refusal to support the proposition unless the railroad was completely reorganized. Since Miller had not been getting along with Wegner, and Taylor seemed to be siding



with Wegner, he broke off business relations with both and started to re-work that aspect of the proposition.<sup>17</sup> He also refused to have any more dealings with the commercial club, even though he was carrying out their recommendations.<sup>18</sup>

While still associated with Wegner, Miller began corresponding with Samuel Graham, an investment broker in Montreal. For a 10% commission, Graham offered his expert selling force to promising railroads that met his criteria. Among his requirements were a personal interview in Montreal, the sale of a significant amount of stock in the local area, and the use of a stock guarantee. Although he did not visit Montreal until late April, 1910, Miller tried to comply with Graham's other requirements while at the same time he claimed to have a contract with Graham. He optimistically assured Graham that \$30,000 of stock sales could be made along the projected route, and he made initial arrangements with Marine Trust and Savings Bank of San Francisco to guarantee the railway stock.<sup>19</sup> A block of stock could be guaranteed for an initial 1% down payment and subsequent payments of 19% of stock sales. The bank guaranteed to buy the stock at par value from each share-holder after forty years or to simply pay them the stock's par value and cancel the guarantee.<sup>20</sup> Miller also began to make arrangements with another contractor, P. A. McCarthy and Sons of Houston. They submitted a contract to Miller in January, 1910, for doing both the preliminary and the location surveys, and Miller signed it on March 8.<sup>21</sup>

A Salina Daily Union headline announced in early February, 1910, that the "W. S. & G. Is Again on Earth." Miller stated that he had reorganized his company and that virtually all preparations for construction had been completed, including arrangements with Graham for the purchase of all the

railway's stock. Since such financial dealings had been made, it would not be necessary to ask for construction stock purchase, aid bonds, or free rights of way; only moral support would be asked of towns along the line. Miller promised to name four or six Salina men to the board of directors and to "lay the trophy at Salina's feet." In return, Miller asked that Salina subscribe, for immediate use, the amount of \$10,000 to "bind the agreement."<sup>22</sup> About three weeks later the local directors were named: Theo B. Seitz, a banker; M. J. and T. P. Quinn, butchers; Charles H. Wyatt, a real estate broker; and Hal J. Nesmith, a grocer. The proposition was formally presented on February 28, 1910. In return for Salina's \$10,000, Miller promised to place the railway's headquarters, shops and offices in town and to bring in 2,500 skilled workmen's jobs and a total payroll of \$200,000. Construction was to begin within three months of the agreement. Ten percent of the \$10,000 was to be used to send a Salina director to Montreal to meet with Graham and the remainder was to pay for the incorporation fees and other expenses which were to be approved by Theo B. Seitz.<sup>23</sup>

Responses to this proposition were not good, but two other events occurred in the next month that had a greater impact on the future of the W. S. & G. On March 3, Miller borrowed \$2,500 from Traders State Bank of Salina through a third party, Benjamin F. Brown. Brown, a fifty-five year old contractor, became one of Miller's most consistent supporters. Also during March, Miller became interested in the fortunes of another dying railway, the Topeka Southwestern which had been projected to run from Topeka to Council Grove.

While little happened to advance the railroad between Miller's arrival in June, 1909, and the beginning of his interest in the Topeka

Southwestern, patterns emerged that re-occurred throughout the history of the W. S. & G. Miller seemed to make and keep enemies. After W. W. Watson's negative report to the commercial club, Miller refused to have anything to do with either Watson or the club for the remainder of the railroad's existence. Fred H. Quincy, who was also on the Salina Commercial Club's committee that investigated the W. S. & G., was also perceived as an enemy. Miller also indulged in over-optimism in selling his dream. He claimed that financing had been completed when it was only being discussed; he assured Graham that a large block of stock could be sold along the line when he seemed to be having difficulties selling small numbers of shares; and he claimed that arrangements with contractors and stock guarantors had been made when he was in the midst of negotiating with them. His use of certain selling techniques that may have been common to railroad promoters were also revealed during this period. If an area's response did not please Miller, he often threatened to run his road to a rival town; or he would claim that a nearby area was working very hard to "land the proposition" and he was being forced to give it to them. Another pattern that became evident during this period was that of constant change. Miller's apparent readiness to move the headquarters and the route suggest that the railway's plans were far from certain and that Miller did not have access to sufficient capital to execute those plans.



## CHAPTER 2: NOTES

<sup>1</sup>Records of the U.S. District Court (record group 21) [hereafter RG 21]; District of Kansas, First Division [hereafter Kansas]; "Records of the Winnipeg, Salina and Gulf Railway Company, 1908-1912" (microfilm preservation project 6NCN81-002) [hereafter 6NCN81-002]; Winnipeg, Yankton & Gulf; Records of the President [hereafter Pres.]; letter to T. A. Clark, April 19, 1909 (fiche 1).

<sup>2</sup>Salina Daily Union, June 30, 1909, p. 8.

<sup>3</sup>RG 21; Kansas; 6NCN81-002; Winnipeg, Salina & Gulf [hereafter WS&G]; Pres.; letter to N. Weber, June 12, 1909 (fiche 18).

<sup>4</sup>RG 21, Kansas, 6NCN81-002, WS&G, Pres., [hereafter RG 21 . . . Pres.]; letter to Commercial Club of Belleville, Kansas, July 3, 1909 (fiche 18).

<sup>5</sup>RG 21 . . . Pres., letter to H. C. Chapman, July 27, 1909 (fiche 18).

<sup>6</sup>RG 21 . . . Pres., letters to K. J. Russom, Aug. 18, 1909; J. B. Johnson, Aug. 20, 1909; and L. C. Miller, Oct. 25, 1909 (fiche 18).

<sup>7</sup>RG 21 . . . Pres., letter from Commercial Club of Minneapolis, Kansas, July 19, 1909 (fiche 3).

<sup>8</sup>RG 21 . . . Pres., letters from H. P. Cunningham, July 18, 1909; Chapman, July 22 and July 27, 1909; Pratt Commercial Club, Aug. 9, 1909; and Russom, Aug. 10, 1909 (fiche 3).

<sup>9</sup>RG 21 . . . Pres., letter from W. H. Drury, July 6, 1909 (fiche 3).

<sup>10</sup>Kansas, General Statutes of Kansas (1909), ch. 99, sec. 7027.

<sup>11</sup>Salina Daily Union, Dec. 1, 1909, p. 8, and Mar. 10, 1910, p. 6.

<sup>12</sup>RG 21 . . . Pres., letters to L. C. Miller, Aug. 11 and Oct. 25, 1909, and E. J. Vann, Aug. [date missing], 1909 (fiche 18); letter from L. C. Miller, Nov. 10, 1909 (fiche 3). In 1887 the Rock Island placed a division point at Pratt as they had promised, only to remove it a few years later.

<sup>13</sup>RG 21 . . . Pres., letter to L. C. Miller, Oct. 25, 1909 (fiche 18).

<sup>14</sup>RG 21 . . . Pres., letter to J. W. Wagner, July 12, 1909 (fiche 18).

<sup>15</sup>RG 21 . . . Pres., letter from C. Clifford Wilson, Aug. 23, 1909 (fiche 3).

<sup>16</sup>Salina Evening Journal, Nov. 16, 1909, p. 1; and Salina Daily Union, Nov. 16, 1909, p. 8; Nov. 20, 1909, p. 10; and Nov. 30, 1909, p. 1.

<sup>17</sup>RG 21 . . . Pres., letter from F. A. Taylor, Dec. 10, [1909] (fiche 6).

<sup>18</sup>Salina Evening Journal, Mar. 8, 1910, p. 1.

<sup>19</sup>RG 21 . . . Pres., letter from Samuel Graham, Nov. 10, 1909 (fiche 3), and Dec. 30, 1909 (fiche 4).

<sup>20</sup>RG 21 . . . Pres., letter from Marine Trust and Savings Bank, Jan. 3, 1910 (fiche 4).

<sup>21</sup>RG 21 . . . Pres., letters from P. A. Houston and Sons, Jan. 4, 1910, and Jan. 12, 1910 (fiche 4).

<sup>22</sup>Salina Daily Union, Feb. 1, 1910, p. 2.

<sup>23</sup>RG 21, Kansas, 6NCN81-002, WS&G, Records of the Board of Directors, Resolutions, Proposition, Feb. 28, 1910 (fiche 2).

### CHAPTER 3:

#### THE TOPEKA SOUTHWESTERN PERIOD, MARCH - JULY, 1910

The Topeka Southwestern Railway was generally considered to be a dead road by March, 1910, when Miller attempted to reorganize and build it. The road began in 1903 as the Topeka, Eskridge and Council Grove Interurban. Construction was to be completed in two phases: the Topeka to Eskridge portion was to be finished first, and then the remainder of the road to Council Grove was to be started. The voters of Topeka Township approved a \$30,000 bond issue that was to pay for a terminal, switching facilities and rights of way. The line's promoters asked that the townships along the route vote the maximum aid bonds; but Mission Township, immediately west of Topeka Township, refused and the hopes of the road's backers were dashed. Arrangements were made in late 1905 or early 1906 with a New York firm, Lamprecht Brothers Company, to both float the company's bonds and to build the road. In 1907, the promoters reorganized with a new name, the Topeka Southwestern Railway Company. Bonds were sold at par and grading work was started in November, 1908. Before construction could begin again the following spring, Lampecht Brothers failed in the aftermath of the 1907 Wall Street panic and took the proceeds of the bond sale with it.<sup>1</sup>

A year later, Miller became interested in the Topeka Southwestern, possibly through George W. Crane, who was one of the road's directors and whose publishing firm had lithographed W. S. & G. stock certificates and prospectuses. Miller tentatively arranged with the board of managers, subject to stockholder approval, to buy the road for a cash payment of the

road's liabilities, estimated at about \$50,000. The liabilities were primarily bonds which had been issued to paid subscribers, \$3,800 owed to the Bank of Topeka, fees owed to Topeka attorney and railroad board member Edwin A. Austin, and several other small claims that were thought to be less than \$1,000. Besides liquidating the road's debts, Miller was to have the line in operation between Topeka and Council Grove no later than December 31, 1910. The road had been given franchises to build through both the State Fairgrounds and the Washburn College campus; and Miller was to act quickly to avoid letting these rights of way lapse since neither the Fair Association nor the college would be likely to sell the rights of way again.<sup>2</sup> In reporting the proposed deal to the Salina Daily Union, Miller stated that he had been merely acting as an agent for the New York railroad construction firm of MacArthur Brothers, and that the transaction would not affect Winnipeg, Salina and Gulf plans because they would remain separate corporations.<sup>3</sup>

In the next few months, Miller was able to take a few initial steps in re-activating the Topeka Southwestern. He interested some Salina men in both that road and the W. S. & G. to the extent that three W. S. & G. board members, Benjamin F. Brown, Hal J. Nesmith, and R. C. Wilson, and three others loaned Miller over \$600 to purchase top quality oak and mahogany furniture for his Salina office.<sup>4</sup>

Arrangements were made with the new fiscal agent, Samuel Graham of Securities Selling Company in Montreal, to sell the road's stock and bonds. After several months of Graham's insistence on a personal interview in Montreal, Miller traveled there in late April, 1910. He signed, as Topeka Southwestern president, a contract with Securities Selling on April 25. The contract stated that the railway would have



subscribed and paid at least \$100,000 of stocks and bonds, which were to be guaranteed, and the railway was to pay a 10% commission to the Montreal firm on the sale of the remaining securities. In return, Securities Selling agreed to sell the balance of the stocks and bonds, to furnish the company a monthly construction account of at least \$65,000, and to name a construction engineer who would oversee and approve all expenditures.<sup>5</sup> Within a few days the firm sent one of its agents, J. S. Rhodes, to the Council Grove area to investigate the road's local support.<sup>6</sup>

After some initial misunderstanding, arrangements were made with Marine Trust and Savings Bank of San Francisco to guarantee both stocks and bonds. Graham had told Miller that a guarantee would not require a cash down payment, while the bank stated that the down payment should accompany the application for a guarantee. After Graham wrote the bank on Miller's behalf, the bank relented, saying that a promissory note would be acceptable in lieu of a down payment. The note was to be liquidated from the proceeds of the first sales and then the guarantee certificate was to be issued. In early June, Miller applied for a guarantee for \$500,000 of common stock and \$1,500,000 of fifty-year 5% bonds, and he sent notes for \$5,000 and \$15,000.<sup>7</sup>

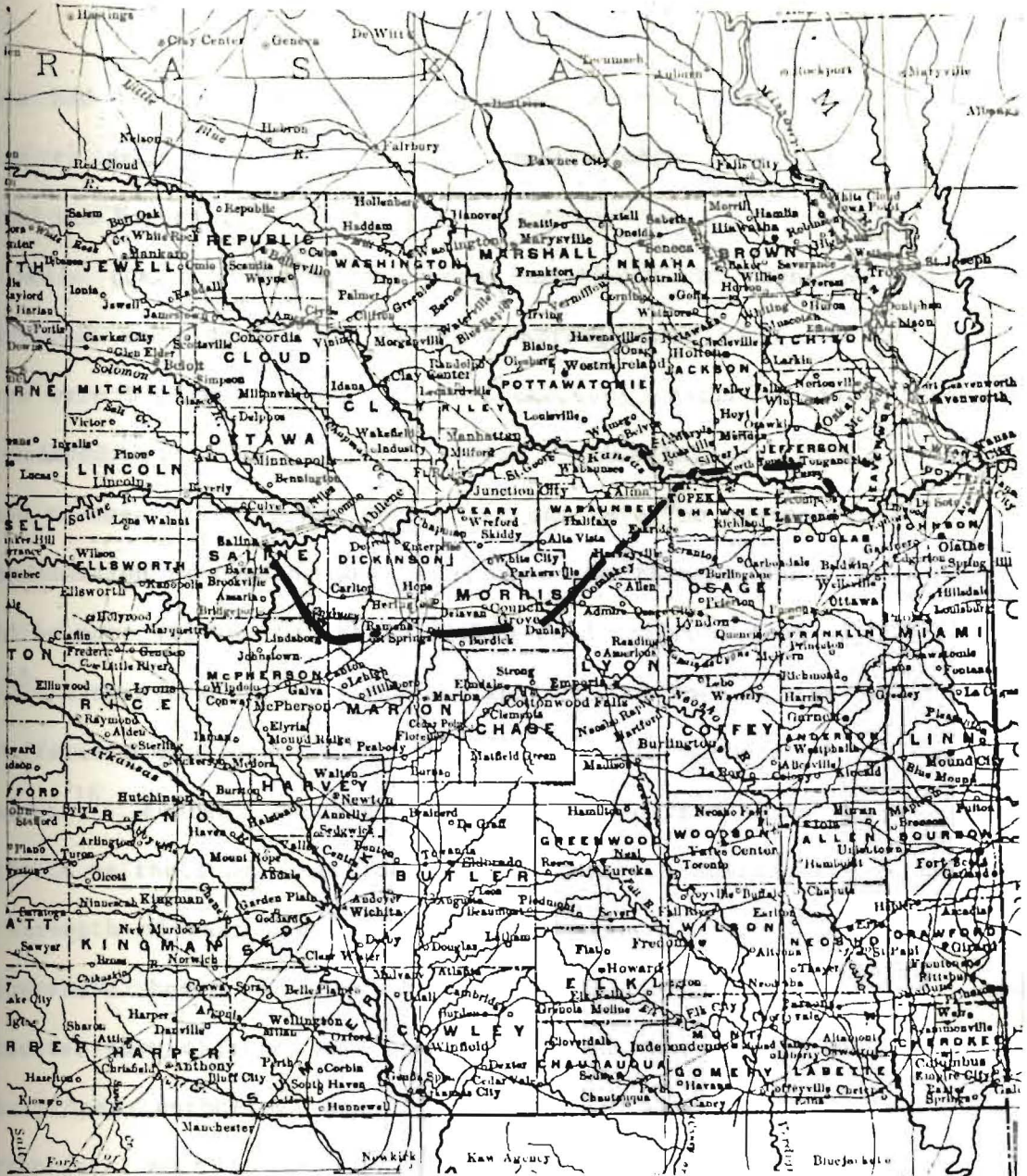
MacArthur Brothers was apparently soon forgotten as the potential builder of the Topeka Southwestern and negotiations were opened with Falkenau Electrical Construction Company of Chicago. Although Securities Selling warned Miller to be very careful in making any contracts with Falkenau, Miller made a preliminary contract with them in May to begin construction at Council Grove.<sup>8</sup> The details of the agreement are unknown but they involved an advance payment of \$5,000 that Falkenau later

offered to waive on receipt of proper assurances of the road's good financial standing.<sup>9</sup>

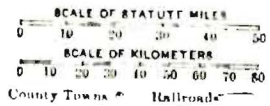
Miller announced plans to re-survey the Topeka Southwestern's original route and extend it to Tonganoxie on the east and to Salina on the west where it would connect with an "unnamed" north and south railroad. He also began to make agreements with towns along this route. Inquiries were made into obtaining enough right of way to provide for a depot and side track near Gypsum.<sup>10</sup> Negotiations were begun with the McPherson County town of Roxbury. A proposal was presented to H. L. Mason and G. M. Frisbie of the town that stipulated that the railroad would be built between Topeka and Roxbury in return for the maximum aid bonds of \$2,000 per mile plus the 250 shares of common stock at \$100 each. This must not have been accepted, for a second proposition was presented in May to the two men as well as the town of Roxbury that stated the road would be in operation between Gypsum and Roxbury by December 31, 1910, if the town would pass the aid bonds and buy 350 shares of stock.<sup>11</sup> This proposal also met with failure and Mason wrote in May that the town would do nothing and suggested that he would raise \$2,000 if Miller would miss Roxbury and start a new town on a site of Mason's choosing.<sup>12</sup>

Arrangements with Council Grove were somewhat more successful. It was agreed that the town would raise the preliminary \$5,000 fee for Falkenau and that construction would begin north from Council Grove. Some subscriptions were taken but many wanted some form of guarantee that the road would be built. They offered to place their money in the care of the Farmers and Drivers Bank in Council Grove until they were satisfied with the road's certainty.<sup>13</sup> The desire for a guarantee was a typical request with which Miller had to deal. As W. H. Melrose of Eskridge stated, the





# KANSAS



EXTENDED ROUTE OF THE TOPEKA SOUTHWESTERN OR THE EASTERN BRANCH OF THE WINNIPEG, SALINA AND GULF RAILWAY, 1910

Base map: The New Encyclopedic Atlas and Gazetteer of the World (New York: P. F. Collier and son, 1907), p. 27.

people had been disappointed many times before because they had been trying to accomplish their hearts' desire with promoters "whose sole capital was hot air."<sup>14</sup>

While the road began to appear as though it might be built, it experienced many problems. Miller's arrangements with contractors and others were hindered because the stockholders' ratification of the sale was delayed from March to May. Edwin A. Austin, the road's attorney, wished to keep the proposed sale quiet and have "no newspaper talk" until a condemnation proceeding was concluded. He thought that the landowner would be more willing to settle with a dead railroad than with a revived one.<sup>15</sup>

Rather than calling the stockholders to vote on the sale, Miller was offered a confidential option signed by all members of the board of managers.<sup>16</sup> Further trouble with Austin occurred when Miller signed contracts as the road's president with Securities Selling and Falkenau on the strength of that signed option. When Austin and a few other Topeka Southwestern board members discovered that Miller had made these contracts, they objected and wrote the firms that Miller was not acting with proper authority and that he was not the president.<sup>17</sup>

A stockholders' meeting was finally held on the evening of May 16, and the first news in Topeka of the road's resurrection appeared in the next few days. Miller told the Topeka Daily Capital that Council Grove had promised to buy \$30,000 of stock and that he expected Eskridge to do the same.<sup>18</sup>

Miller ran into some difficulties with the agreement with Council Grove. In June he wrote Falkenau that "Council Grove is not on the square." The disagreement concerned the control of the collected money in the bank. Miller claimed that the mayor, William F. Shamleffer, wanted



to spend the money for rights of way before the final survey had been made and that he was "an obstructionist unless he gets the coin." Typically, Miller described the conflict as "a very hard fight" but stated that "as usual the victory is mine." Consequently he told Falkenau to begin construction at Topeka because he had more friends at that end of the line.<sup>19</sup>

Competition from another proposed line created problems. E. S. Alnutt's Motor Grand Traction Interurban was projected to come very close to the W. S. & G. route north of Salina and to the western extension of the Topeka Southwestern at Roxbury. Not only were the two roads competing for the same area, they were also competing for the services of the same financial agent, Samuel Graham of Securities Selling. Soon after Miller had signed the Securities Selling contract, the company urged him to alter the W. S. & G. route through Ottawa, Clay and Washington counties in order to "avoid conflict and bad feeling with Mr. Alnutt's line."<sup>20</sup> This problem resolved itself in mid-May when Securities Selling decided that it wouldn't be necessary to move the line. The conflict at Roxbury was more serious. Miller planned to oust Alnutt from the area by attempting to collect the funds that had been subscribed to purchase Alnutt's stock. He sought Graham's aid by asking him to support this tactic. The Montreal office tried to dissuade Miller from his plan of action by replying that his suggested "fighting procedure" would be doom for all concerned because, "Capital likes to bathe in smooth water and it will never venture into rough sea and you will find the bottom sinking from your proposition whenever quarrels arise."<sup>21</sup>

Other difficulties surfaced with Securities Selling. Miller's failure to make immediate arrangements to guarantee the line's stocks and

bonds created a misunderstanding which prompted them to threaten to cancel the contract. Another problem was the firm's concern that the road was not progressing as fast as Miller had promised and that he was not keeping them informed of his activities. In May the firm complained, "Your correspondence is getting to be a bother because we never receive any."<sup>22</sup> Also, Miller failed to make personal contact with Securities Selling's agent, Mr. Rhodes, when he was in the area investigating local support. Soon after his arrival, Rhodes tried to meet Miller at Gypsum but failed. He also wanted Miller and a representative of Falkenau to come to a promotional meeting in mid-May at Council Grove but they did not appear. Rhodes wrote Miller that the failure to appear had dropped the road's credibility "quite a few points" because many had waited in vain to see these two men.<sup>23</sup> Miller never revealed his reasons for refusing to meet with Rhodes, but his inaction surely contributed to Rhodes' negative report on the proposition.

Relations with Securities Selling continued to deteriorate and Miller began to inquire about other financial houses. Marine Trust assured him that their guarantee would still hold if another fiscal agent sold their securities. He wrote the bank in mid-July, telling them that the firm had cancelled its contract with him along with his reasoning for their actions. The bank disagreed with his assessment of the situation and stated that the Montreal firm had simply found too little local support for the enterprise.<sup>24</sup>

Even though Miller had promised to pay the Topeka Southwestern's debts, he could not or would not settle with those who had even small claims against the road. In early May he learned that a former associate of the road, A. G. Goodwin of San Diego, had a number of the engineer's

records, including location profiles, blueprints, cross-section topography maps and plat books, as well as descriptions of the rights of way acquired by the road. Goodwin refused to release this valuable material until he received \$700 that was due him. A month later he reduced his demand to a good faith payment of \$250 and a promise of the balance at a later time.<sup>25</sup> Miller did not fulfill this request and the records were never sent, probably necessitating Miller's claim that the road needed to be re-surveyed.

Perhaps even more damaging to Miller's plans was his inability to settle the claim of the Topeka Southwestern's president, Charles King Holliday, son of the famous Cyrus Kurtz Holliday. Holliday wrote a confidential letter in May that he would discount his claim of \$6,000 by one half if Miller would help him out of a financial tight spot and pay him \$1,000 right away and the remaining \$2,000 the next month.<sup>26</sup> Instead, Miller sent a copy of the letter to George W. Crane who in turn showed it to others involved with the road who were sympathetic to Miller. Of course this perfidy became known to Holliday and he demanded but did not receive an apology from Miller for his breach of confidence. Neither did he receive any settlement on his claim.

In June a committee of Topeka Southwestern associates was formed to establish the road's total indebtedness. The committee was chaired by Holliday and was composed of others who had had problems with Miller--E. A. Austin, William F. Shamleffer, and E. B. Merriam. Merriam had strongly objected to Miller's signing the Montreal contract as the railroad president. On June 28, they reported to Miller that the road's outstanding obligations amounted to \$63,050, considerably higher than the earlier \$50,000 estimate, and that it would be due on August 15.<sup>27</sup>

Miller's plans to rejuvenate the Topeka Southwestern collapsed with the cancellation of the Montreal contract and his inability to carry out his promise to pay the road's debts. Additionally, some of the road's creditors threatened to file suit to block the transfer of any stock until their claims were paid in full. Miller's response to the situation was to protest that the obstructionists had not allowed him to finance the road through the only possible method, the sale of securities. He then announced that he would drop the Topeka Southwestern name and reorganize the line as a part of the Winnipeg, Salina and Gulf Railway.<sup>28</sup> There is little doubt that this had been his original plan. The extension of the road to Salina obviously was made to connect with the W. S. & G. One of Miller's earlier proposals, made in April to Mason and Frisbie in Roxbury, stipulated that the road would be built under the name of the Topeka Southwestern but that it could later be changed to the Winnipeg, Salina and Gulf and that Topeka Southwestern stock could be exchanged for W. S. & G. stock.

During his involvement with the Topeka Southwestern, Miller accomplished little on the original W. S. & G. line. His work was generally confined to correspondence with individuals and commercial clubs along the route, especially in Oklahoma. He had the most success with Okeene, located about thirty-two miles southwest of Enid. Miller sent the town a proposition in early April, 1910, that stated that the road would be in operation from Oak, Nebraska, to Okeene by the end of 1911. The Okeene Commercial Club was to supply some form of local aid to equal \$3,500 per mile to be paid in five installments after the road was completed. Additionally the town was to raise between \$2,500 and \$5,000 for an initial payment to the contractors. The town would then either



share in the road's profits at the rate of 1% per \$1,000 invested or Miller would re-pay them from the line's first profits.<sup>29</sup> The response was positive but the club's secretary, K. J. Russom, reported that the club was reluctant to put up any hard cash for preliminary work because they had been fooled so many times before with railroads that did not materialize. Instead they proposed to buy ten miles of right of way through the town for the road.<sup>30</sup>

Other work on the W. S. & G. included its incorporation under Kansas law on July 26. The application to the Kansas State Charter Board showed that the road intended to build approximately 500 miles in the state and would include a branch from Salina through Topeka to Kansas City and Leavenworth. The road was to be capitalized at \$100,000 and nine of the line's twelve incorporators, including Miller, were Salina residents. The Salina Daily Union reported the incorporation with no comment other than that it was truly a north and south road.<sup>31</sup>

Two other events occurred during the Topeka Southwestern phase which held portent for the road's future. On May 18, Miller received an inquiry from Kansas State Bank Commissioner Joseph N. Dolley seeking information on the W. S. & G.'s financial condition. It was the result of other inquiries that had been made of the bank commissioner's office about the road.<sup>32</sup> Dolley's future interest in the proposition played a significant role in the ultimate outcome of the line. The other event had a more immediate impact: in mid-July Miller received a suggestion from K. R. Russom to contact H. A. Noah of Alva, Oklahoma, who was described as a railroad builder and promoter.<sup>33</sup> Miller took the advice, with the result that he became closely associated with Noah and other Alva men during the next several months.

## CHAPTER 3: NOTES

<sup>1</sup>John W. Ripley, "Topeka to Eskridge or Bust!" Shawnee County Historical Society Bulletin, 46 (December, 1969), 86-91.

<sup>2</sup>Records of the U. S. District Court (record group 21) [hereafter RG 21]; District of Kansas, First Division [hereafter Kansas]; "Records of the Winnipeg, Salina and Gulf Railway Company, 1908-1912" (microfilm preservation project 6NCN81-002) [hereafter 6NCN81-002]; Winnipeg, Salina & Gulf [hereafter WS&G]; Records of the President [hereafter Pres.]; letter from George W. Crane, March 29, 1910; and statement of W. H. Davis, n. d. (fiche 4).

<sup>3</sup>Salina Daily Union, March 30, 1910, p. 1.

<sup>4</sup>RG 21, Kansas, Brindley Company v. Winnipeg, Salina, and Gulf Railway Company, et al. (civil case 1299), Answer to attachment for alleged contempt (filed October 17, 1912), Archives Branch, Federal Archives and Records Center, Kansas City, Mo.

<sup>5</sup>RG 21, Kansas, 6NCN81-002, WS&G, Pres. [hereafter RG 21 . . . Pres.]; Agreement between Topeka Southwestern Railway Company of Kansas [hereafter Top.SW] and Securities Selling Company [hereafter SSC], April 25, 1910 (fiche 4). The guaranteeing institution in a stock guarantee plan would pay each stock-holder the stock's par value after a certain number of years, usually forty. The corporation whose stock was to be guaranteed paid the guaranteeing institution a percentage of the stock sales. The payment was put into a sinking fund that eventually equaled the par value of the stock.

<sup>6</sup>RG 21 . . . Pres., copy of letter to Farmers and Drovers Bank from SSC, May 10, 1910 (fiche 4).

<sup>7</sup>RG 21 . . . Pres., letters from Marine Trust and Savings Bank, May 16, 1910 (fiche 4), and June 10, 1910 (fiche 5).

<sup>8</sup>RG 21 . . . Pres., letter from SSC, April 28, 1910 (fiche 4).

<sup>9</sup>RG 21 . . . Pres., letters from Falkenau Electrical Construction Co., May 3, 1910 (fiche 4), and June 13, 1910 (fiche 5).

<sup>10</sup>RG 21 . . . Pres., letter from Frank Williams, June 1, 1910 (fiche 5).

<sup>11</sup>RG 21 . . . Pres., agreement between H. Leone Miller and H. L. Mason and G. F. Frisbie, April 15, 1910 (fiche 2), and agreement between the Top. SW and the Village of Roxbury, May, 1910 (fiche 4).

<sup>12</sup>RG 21 . . . Pres., letter from Mason, June 14, 1910 (fiche 5).

<sup>13</sup>RG 21 . . . Pres., letter from W. H. White, June 9, 1910 (fiche 5).

<sup>14</sup>RG 21 . . . Pres., letter from W. H. Melrose to W. F. Shamleffer, May 26, 1910 (fiche 5).

- <sup>15</sup>RG 21 . . . Pres., letter from Crane, March 29, 1910 (fiche 4).
- <sup>16</sup>RG 21 . . . Pres., letter from Crane, April 20, 1910 (fiche 4).
- <sup>17</sup>RG 21 . . . Pres., copy of letter to John R. Tomson and Melrose, July 28, 1910 (fiche 18).
- <sup>18</sup>Topeka Daily Capital, May 17, 1910, p. 1, and May 18, 1910, p. 1.
- <sup>19</sup>RG 21 . . . Pres., copy of letter to Falkenau Electrical Construction Co., June 15, 1910 (fiche 18).
- <sup>20</sup>RG 21 . . . Pres., letter from SSC, May 3, 1910 (fiche 4).
- <sup>21</sup>RG 21 . . . Pres., letter from SSC, May 26, 1910 (fiche 5).
- <sup>22</sup>RG 21 . . . Pres., letter from SSC, May 18, 1910 (fiche 4).
- <sup>23</sup>RG 21 . . . Pres., telegram from J. S. Rhodes, May 13, 1910, and letter from Rhodes, May 18, 1910 (fiche 4).
- <sup>24</sup>RG 21 . . . Pres., letters from Marine Trust and Savings Bank, June 17, 1910, and July 15, 1910 (fiche 5).
- <sup>25</sup>RG 21 . . . Pres., telegrams from A. G. Goodwin, May 23, 1910, and June 8, 1910 (fiche 5).
- <sup>26</sup>RG 21 . . . Pres., letters from C. K. Holliday, May 19, 1910, and May 31, 1910 (fiche 5).
- <sup>27</sup>RG 21 . . . Pres., statement of indebtedness, June 28, 1910 (fiche 5).
- <sup>28</sup>RG 21 . . . Pres., copy of letter to Tomson and Melrose, July 28, 1910 (fiche 18).
- <sup>29</sup>RG 21 . . . Pres., copy of letters to Okeene Commercial Club and to K. J. Russom, April 4, 1910 (fiche 18).
- <sup>30</sup>RG 21 . . . Pres., letters from Okeene Commercial Club, April 6, 1910, and May 10, 1910 (fiche 4).
- <sup>31</sup>Salina Daily Union, July 27, 1910, p. 3.
- <sup>32</sup>RG 21 . . . Pres., letter from Kansas State Bank Commissioner, May 18, 1910 (fiche 4A).
- <sup>33</sup>RG 21 . . . Pres., letter from W. B. Noble, July 14, 1910 (fiche 5).

## CHAPTER 4:

### THE ALVA PERIOD, AUGUST, 1910 - FEBRUARY, 1911

As the plans for the Topeka Southwestern disintegrated, Miller started working again on the original W. S. & G. line. Following a suggestion from K. J. Russom, his Okeene, Oklahoma, correspondent, he wrote to Henry Alexander Noah of Alva, Oklahoma, on July 26, 1910. The Massachusetts-born Noah was among the earliest settlers in the area, having moved there from Barber County, Kansas, in 1893 when the Cherokee Strip was opened.<sup>1</sup> He became a relatively wealthy attorney and a booster of the Alva area and was interested in several railroad propositions. Without waiting for a reply to his first letter, Miller wrote again on July 29 and offered Noah a place on the Winnipeg, Salina and Gulf Board of Directors. Within a few days, Noah answered that he had been working on two proposed lines which followed a similar route to the W. S. & G.: one, the Oklahoma Western, ran across northern Oklahoma to Des Moines, New Mexico; and the other from southern Kansas to Oklahoma City. He had one hundred miles of survey for the Oklahoma Western from which grade stakes could be set, but only preliminary work had been done on the Oklahoma City line. Both projects had been suspended due to a lack of financing.<sup>2</sup> He expressed interest in the W. S. & G. and the two met in Miller's Salina office on August 5 to discuss the road. They agreed that Noah would name six other directors besides himself in return for the use of Noah's surveys and the financial aid of the Alva directors. To make room for the new group, a number of Salina and Barber County directors would be retired.



Noah requested that his friend M. M. Fulkerson of Alva become both the W. S. & G. treasurer and a director. Fulkerson was the cashier of Alva Security Bank. Noah also named Alva businessmen George Washington Crowell, Henry E. Noble, George A. Harbaugh, John E. Patterson, and Tom M. Hess to the board. G. W. Crowell had both lumber and grain businesses as well as being very active in city and county government. H. E. Noble was an organizer and cashier of Central State Bank in Alva and had also been on the city council. As president of Alva Roller Mills and Alva Security Bank, George A. Harbaugh was involved in banking, live stock, and grain businesses. Crowell, Noble, and Harbaugh also moved from Southern Kansas to the Alva area in 1893 when the territory was opened.<sup>3</sup> Nothing is known about the two remaining members of the W. S. & G. board from Alva, John E. Patterson and Tom M. Hess. Besides Fulkerson as treasurer, other W. S. & G. officers were Miller, president; Crowell, vice-president; Noble, secretary; and Noah, general solicitor. The new board of directors was composed of the seven Alva men plus Miller, Otto Peterson, Benjamin F. Brown, and Hal J. Nesmith, all of Salina. There was little apparent complaint from the two retired directors from Barber County, but there were some hard feelings with some of those from Salina because they had loaned money to Miller. Some "got ugly" and threatened to sue, but Miller claimed he was able to satisfy them "in a way" by persuading some to accept construction company stock as a repayment. For those who would not accept the stock, Miller claimed to have borrowed money to pay them; and for one party, former treasurer T. B. Seitz, Miller asked that Noah and his friends send Seitz the amount he requested.<sup>4</sup>

Noah was very eager to begin work because he had heard that a Frisco representative was in the area soliciting \$100,000 for an extension of

that line. Anticipating W. S. & G. stock sales, Miller applied for a guarantee from Marine Trust and Savings Bank of San Francisco for \$100,000 of W. S. & G. stock and sent a promissory note in lieu of the \$1,000 down payment. The application was accepted and the bank wrote Noah, who had inquired about the situation, that arrangements had been made to guarantee the stock and that the bank supported the W. S. & G. project.<sup>5</sup>

The bank wrote similar letters over the next several months to many who were trying to verify the guarantee feature of Miller's stock. The bank suggested to Miller that their gold bond plan be used instead of the simple forty year stock guarantee. This plan required that Miller place the bank's gold bonds equaling stock sales in escrow in a local bank. Each stock certificate was to state that after five years the shareholder could trade in his shares for an equal amount of the bank's gold bonds that could then be cashed. If the shareholders wanted to keep their stock (which they would if the road were a success), then the bonds would be held six months past the five year due date and then turned over to the railroad to be cashed in at 90% of their accrued value.<sup>6</sup> Miller welcomed this suggestion because it made the stock more attractive to settlers along the line, who Miller said, "are not an educated people and the word forty years seems to stagger them and five years looks much better."<sup>7</sup>

Miller renewed his correspondence with Samuel R. MacLean, his London financier, who urged him to hurry and send the required documents because money was "plentiful, cheap, and liberal" for American railways.<sup>8</sup> The required documents included a prospectus, incorporation papers, surveys, profiles, and a deed of trust from a New York City bank or trust company. Miller also briefly considered another bond broker, George H. Fisher of Scranton, Pennsylvania, who also promised to sell bonds in Europe.

Attempting to meet MacLean's requirements, the Knickerbocker Trust Company of New York was contacted about becoming the American trustee for the proceeds of the \$29,997,000 bond sale to MacLean's English syndicate. Miller also made arrangements with the help of George W. Crane to incorporate a company to construct the railroad. Using the former Inter-State Construction Company as a guide, an application for the incorporation of the Winnipeg, Salina and Gulf Construction Company was submitted and granted in late October, 1910, after a three week controversy between Miller and Crane over the necessity of the word "The" being the first word of the corporate name. ("The" had been printed on the application forms and Miller, thinking that he had been told it was unnecessary, had crossed it out; Crane disagreed and finally convinced Miller that the names of all Kansas corporations were required by law to begin with "The.") One thousand lithographed construction company stock certificates, railroad letterhead stationery, and seven thousand prospectuses were also ordered from Crane and Company.<sup>9</sup>

Miller and his new associates began to try to raise funds immediately upon the reorganization of the company. Initially Miller promoted the idea of simply assessing farmers who owned land for ten miles on either side of the route. Payments were to be made in fifty monthly installments and ranged from a rate of \$.04 per acre per month for those within three miles of the road to half that for those owning land seven to ten miles from the track. The advantages of this plan, according to Miller, were that the money would be paid in such small amounts that it would not be missed and that it could be used during the first years of operation to pay the interest on the road's bonds.<sup>10</sup> This fund-raising method was soon replaced by asking each town and its surrounding area to buy a certain

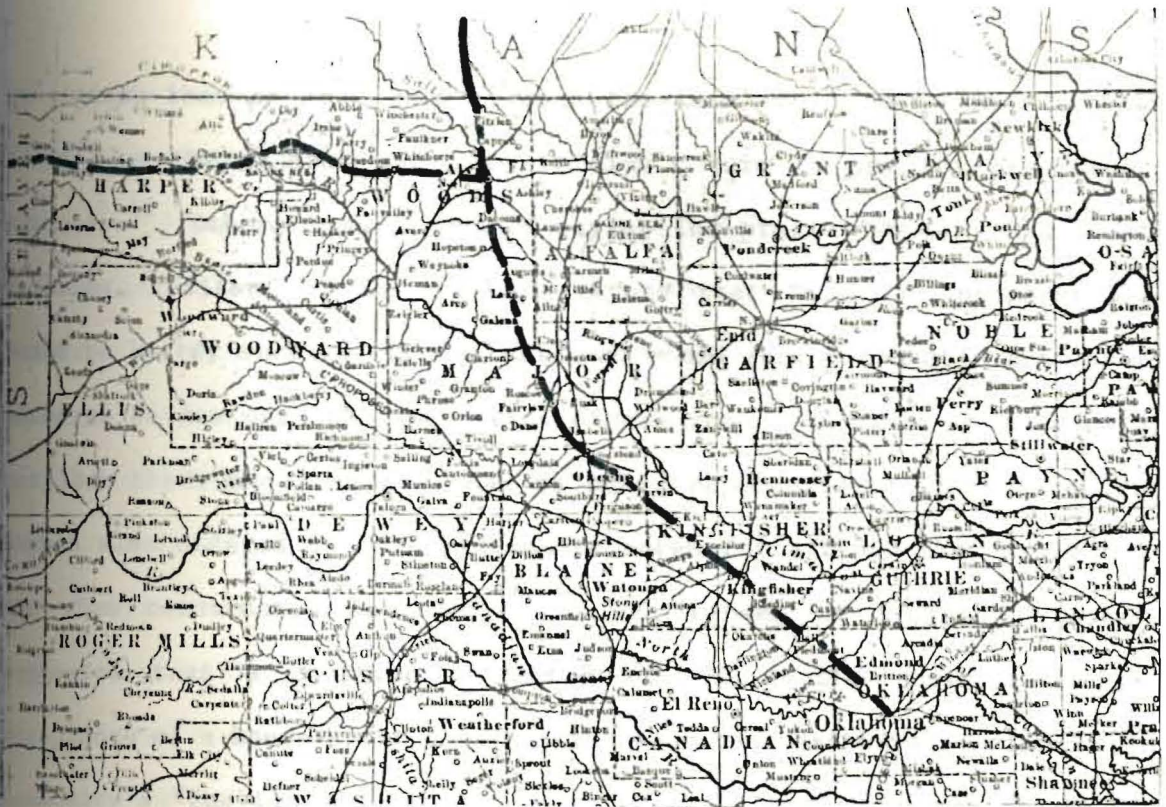
number of shares of guaranteed stock. An installment plan was also set up for these sales: 25% down, 25% when the location survey was completed through the county, and the remaining 50% when the road was in operation.<sup>11</sup>

Much of Miller's time in September and October, 1910, was spent with his new associates in Oklahoma promoting stock sales along the proposed route west of Alva. They held railroad meetings at Tegarden, Freedom, Lookout, Buffalo, Gates, Beaver, and as far west as Hooker. At one time the traveling party involved five automobiles and twenty Alva Commercial Club members.<sup>12</sup>

Response to the road and their promotion of its stock was generally cautious. The Oklahoma trip brought subscriptions for 1,450 shares of guaranteed stock from the area between Alva and Hooker. Relying on promises that were probably made to the Winnipeg, Yankton and Gulf, Miller also claimed that Deerhead and Aetna townships of Barber County, Kansas, were going to buy eighty and 120 shares respectively. Alva also agreed to purchase one thousand shares of common stock as well as numerous shares of construction company stock.<sup>13</sup> More promises were made to buy stock than were actually purchased. Fulkerson reported in November that Alva had just conducted its most successful railroad meeting. Even though the commercial club rooms were not large enough to accommodate the crowd, only \$2,200 of the required \$100,000 was subscribed.<sup>14</sup>

Some towns, such as Oklahoma City, refused to accept Miller's terms. Replying to a promotional letter, the secretary of the Oklahoma City Chamber of Commerce asked, "Am I to understand that you actually expect the parties along the right-of-way to subscribe for the necessary stock and pay for it in advance of the preliminary service, etc.?" He continued





ROUTE OF THE WINNIPEG, SALINA AND GULF THROUGH OKLAHOMA, AUGUST, 1910--  
FEBRUARY, 1911

Base map: The New Encyclopedic Atlas and Gazetteer of the World, 2nd ed.,  
(New York: P. F. Collier and son, 1908), p. 47.

by stating that any new road through the town could count on a healthy bonus from the chamber but that it didn't care to pay for preliminary expenses.<sup>15</sup> Others also protested paying for preliminaries. A Knowles, Oklahoma, realtor, S. T. Woodbury, wrote that Miller's "propersition" would be better received if the railroad would accept bankable promissory notes to be due upon the completion of the road. In this way they would not lose their money as they had to other paper railroads. Citizens at Guymon also offered to give promissory notes for \$15,000 that would come due when construction started.<sup>16</sup> V. E. DeGeer of Deerhead, Kansas, suggested that a positive guarantee of the road's construction and acceptance of a bonus after construction were the best ways to dispell the community's "feeling of distrust as to your motives and sincerity." The township wanted a railroad, he said, but they didn't want to be "goldbricked."<sup>17</sup> Miller's response to these types of letters was usually that of barely controlled rage. The excellence of his railroad education from Calvin Brice and General Samuel Thomas was usually recounted. The established railroads, particularly the Santa Fe and the Rock Island, were portrayed as enemies who were starting bad rumors about him and spending more money in the process than a new road would cost. Since the bonds covering construction costs had been sold, money for preliminaries was all that was needed, making any post-construction payment just so much graft for the promoter. In each case, Miller threatened to run the W. S. & G. through another town that would be more appreciative of his efforts to help the people.<sup>18</sup>

Some towns were unable to raise the requested money because certain segments of the community opposed the road. At Hooker, for instance, realtors and farmers wanted the road but they could not get the support of

many of the merchants who feared that a new railroad would encourage their "captive" customers to shop elsewhere.<sup>19</sup>

Other towns were more receptive to the road but were confused because they received conflicting propositions. The commercial club of Okeene, Oklahoma, sought Noah's help in September, 1910, because Miller had sent them two proposals: one in April, 1910, asking for \$2,500 to \$5,000 and one the following September asking for \$15,000.<sup>20</sup> Confusion over the amount expected from Pratt caused embarrassment to the Alva associates when they presented a proposition there in November, 1910. Miller was not present but had told the Alva crew previously that they could count on \$50,000 from Pratt. Having no exact figure to request, they thought they were safe in asking for \$30,000. The Pratt boosters then showed them an earlier letter of Miller's requesting only \$10,000. Fulkerson reported that Noah got out of the awkward situation by stating that the amount was evidently a stenographer's error, because the smaller town of Aetna was raising \$12,000.<sup>21</sup> Miller hastily replied that the fellows at Pratt "seem to go back several centuries to dig up matter." The \$10,000 proposal had been for cash paid in full and it had been offered long before his association with Alva.<sup>22</sup>

In an effort to encourage stock sales following the fall tour of Oklahoma, Miller flooded the area along the route with prospectuses and various circulars that touted the road's advantages. Details of the common stock were featured: not only was the par value of the stock guaranteed, but it also drew an annual dividend of 6%.<sup>23</sup> Despite the circulars and the hard work of Miller and his Alva associates, the first installment payments were slow to arrive. Miller insisted that Noah and Fulkerson pressure subscribers. He wanted them to hire three or four men



to collect the pledged subscriptions at a salary of \$20 per week plus 4% of the collected money.<sup>24</sup> Fulkerson advised caution, however, and protested that their efforts had been hampered by a tight economy, dry weather, skeptics, and outright opposition to the line. Among their difficulties was a rumor that MacLean was really dead and that Miller was attempting to defraud the people. It was thought that the rumor had been started by a Captain Stine of a rival Alva bank not connected with the W. S. & G. Stine was also closely associated with some of Miller's enemies at Woodward.<sup>25</sup> To counter this rumor, Fulkerson wrote directly to MacLean with questions about both his and Miller's business character. MacLean answered his "peculiar" questions and told him that there was no more practical railroad man than H. Leone Miller. He also advised Fulkerson that if the people really objected to Miller, a popular figurehead president who would bring in the money could be named but that Miller would have to really run the road.<sup>26</sup> Fulkerson thought that MacLean's answer had begun to disprove the rumor and that subscription money was starting to come in. Still, he encouraged Miller to treat Oklahomans carefully and not to antagonize them, stating, "People here are interested, farmers are interested, but we can not run our hands down in their pockets."<sup>27</sup>

In an effort to bring in more funds Miller proposed that each area buy only half of the shares they had promised but that they would pay for them in full. By paying for the stock outright, Miller asserted that it would become guaranteed immediately and would assure those who feared that the company would fold before the final payment and subsequent issue of the guarantee. This tactic had little success along the line and no success with the Alva men. Fulkerson thought that the installment plan



had been thoroughly explained and accepted. To change would only add confusion to the proposition and Fulkerson wrote, "My opinion is that on this end of the line we can come nearer getting the money in small drips than in chunks, for I tell you these people [in the] west have not got the money in chunks."<sup>28</sup>

Failing to sell sufficient stock along the route, Miller turned to professional stock brokers. He corresponded with both Anson H. Russell of Cleveland and F. B. Crawford and Company of New York City. Both were interested but Miller preferred Crawford, whom he described as an "old friend." Crawford also made the better offer. He asked that the W. S. & G. pay two-thirds of the \$2,000 fees for printed circular advertisements plus a 10% commission on all sales.<sup>29</sup> Russell, however, promised to deliver at most 70% of the stock's par value, because he claimed that very few of the financially strong would buy the stock at par.<sup>30</sup> On November 18, 1910, Miller telegraphed Crawford with his acceptance of Crawford's terms.

Although stock sales along the proposed route were rather anemic, Miller had greater success selling stock to the members of the board of directors. Enough money was raised to begin to give the W. S. & G. the appearance of success. On October 20, 1910, Miller made a preliminary contract with W. K. Palmer of W. K. Palmer Company, Kansas City, Missouri, to make location surveys for the Alva-Des Moines branch. A few days later the two traveled to Alva to make the final contract, and Palmer began surveying west from Alva on November 7. In mid-December, Fulkerson reported that Palmer had completed thirty-eight miles of survey and was expected to soon have thirty-two more ready. Palmer continued the surveys until January 21, 1911, when they were discontinued for lack of funds. Later Miller estimated that the surveys had cost approximately \$10,000.<sup>31</sup>

More office furnishings were purchased, and Miller began to hire help for the Salina office. Among the newly hired was Bettie O. Anderson, a seventeen year old stenographer from rural Falun in southeast Saline County. She remained in the employ of the company until its dissolution and played a significant role in some of the charges made against Miller after the road was placed in receivership.

In December, 1910, Miller bragged to a friend from his Nebraska days, George Dallas Follmer of Oak, that the company was "absolutely out of debt" and that its offices were "second to none in this State," and were furnished with the best grade of oak furniture and top quality Wilton rugs.<sup>32</sup> Two months later he told Follmer that the offices had grown to eight rooms, including a board room and a drafting room, and that the staff included four stenographers, a chief engineer, and a janitor. Shortly afterward, Follmer visited Miller in Salina and Miller boasted to another old friend, N. E. Wylie, that Follmer was so impressed with the offices that he thought he was in New York rather than Salina. In March, 1911, Wylie was added to the Salina office staff as consulting engineer at a promised salary of \$200 per month.<sup>33</sup> In January, 1911, Miller reported that Noah had instructed him to keep office expenses down to \$100 per month but that they had been running around \$500 and in February they were nearly \$1,000. It appears that the Alva associates directly contributed little towards the maintenance of the office, and Miller claimed that he paid these expenses himself by selling construction company stock.<sup>34</sup> The Alva men did pay some substantial W. S. & G. bills, however. In October, 1910, they sent MacLean \$3,000 of the \$4,000 he required for "incidentals" involved in forming the syndicate of foreign investors. They also paid for the Palmer surveys as well as \$1,000 to Miller personally.

There were other bills that they did not pay, in spite of Miller's wishes. On October 10, the \$1,000 promissory note to Marine Trust, covering the down payment for the W. S. & G. stock guarantee came due, and in November Miller wrote to Fulkerson asking them to liquidate the note. On the same day Miller also wrote the bank, "There is no reason why this matter should drag any longer, because money is getting in from the sale of these shares. . . . I wish you would write a sharp, good looking letter to Mr. M. M. Fulkerson and insist on a draft of One Thousand Dollars immediately."<sup>35</sup> The note was not paid despite rather icy inquiries from the bank. In early December, 1910, Crane and Company presented a bill of \$471.46 for its printing of prospectuses, stock certificates, and letterhead. Miller forwarded the bill to Fulkerson, and confidentially suggested to Crane that it issue a sight draft for the amount because Fulkerson had a tendency to be slow. A sight draft was issued but ignored in Alva, much to the consternation of George W. Crane who wrote Miller at least once a month concerning the bill. Miller claimed that the trouble at Alva was caused solely by Topeka Southwestern attorney Edwin A. Austin and his friends who were accused of blackmailing the proposition there just as they had in Topeka. Miller made many promises that the bill would be paid "soon" or "after the next board meeting" or that he would pay it personally, but it remained uncollected for nearly a year.<sup>36</sup>

Miller continued to make demands upon the W. S. & G. treasury at Alva that were not met. In early December he asked that Fulkerson send the first installment to Crawford in order to get him started on selling stock. The second \$500 installment was to be paid ten days later and the final payment after another ten days. He made arrangements in late

December with Salina businessman James A. Kimball to purchase the surveys and records of the defunct Nebraska, Kansas and Gulf for \$3,000 paid within thirty days and \$2,000 as soon as the line was put under construction between Salina and Oak, Nebraska.<sup>37</sup> (Kimball was later named W. S. & G. receiver in 1912.) Miller asked that the "boys" in Alva meet this expense, even if they had to make a temporary loan to the treasury. The purchase was to bring \$350,000 to the road as soon as construction was finished, although Miller did not explain how. His primary objective in the deal though, was "to inform the people in general that we meant business."<sup>38</sup> In January, 1911, Fulkerson notified Miller that the treasury was exhausted and that \$4,000 more had been spent than had been taken in. Still, Miller wanted them to at least make a thirty-day loan to the treasury to pay the Crane bill.<sup>39</sup>

Not only was the railroad having trouble meeting its financial obligations, it was also experiencing difficulty in finding a New York City bank to act as trustee. In November, the Knickerbocker Trust and Savings Bank of New York refused to become trustee because "we have made it a rule to not be identified with any undertakings in which the financing has not been completed."<sup>40</sup> MacLean recommended that Miller apply to Empire Trust and to Trust Company of America, but they also declined. The Trust Company of America demanded to know the names of the English investors, which MacLean refused, and the names, character, experience, and financial strength of the other men involved, as well as a complete financial statement of the company. They also stated a reluctance to act for the road because its success depended largely upon the circularizing method used by F. B. Crawford and Company to sell stock.<sup>41</sup> Crawford's method included printing circulars touting the



advantages of the railroad and the soundness of any investment in it. The circulars were mailed to prospective investors, and then salesmen visited those who had responded to the circulars.

Miller did not accept the trust companies' explanations for their refusals and wrote MacLean that Wall Street had joined in a conspiracy to prevent the construction of any north and south railroad. He tried to persuade MacLean to accept a trust company outside New York and suggested Chicago, Philadelphia, or Kansas City as alternatives. MacLean insisted that the investing syndicate needed a New York trust company and suggested that perhaps Miller's applications were too lengthy to catch the New York bankers' interest.<sup>42</sup>

Also making inquiries into W. S. & G.'s financial status was J. N. Dolley, Kansas State Bank Commissioner. His letter, written on December 28, 1910, was very similar to his letter of the previous May, but this letter merited a response from Miller. Miller wrote that MacLean had arranged to sell the company's first mortgage bonds and that subscriptions had been taken for at least \$30,000 of guaranteed stock. He claimed that none of the money from the stock sale had been used. The funds needed by the road, which amounted to nearly \$50,000, had been "put into the deal by the parties who are directly interested."<sup>43</sup>

Relations between Miller and his Alva associates began to deteriorate in December. Most of their disagreements stemmed from the surveys that Noah claimed to have had, direct correspondence with MacLean, the Palmer survey, and Miller's distrust of Noah. In early November, 1910, Noah began to arouse Miller's anger and suspicion by demanding that the company's minute book and seal be sent to secretary Noble. Several weeks later Miller sent them and explained that nothing had been written in the

minute book except for matters relating to the Topeka Southwestern, which had been removed. Miller wrote Noah, "In general I do not like the way things are going" and warned that the Alva crew was making the same mistakes made by his former associates in Great Bend by asking for more than had been originally agreed.<sup>44</sup>

Miller decided that the surveys and profiles that Noah had were not as valuable as Noah had first described. They had been prepared by a Mr. Colby, who was a close friend of one of Miller's old adversaries, a Mr. Peckham. Even though the directors decided that the route would have to be resurveyed, Noah sent a blueprint copy of Colby's profiles to MacLean. Noah notified Miller that they were only meant to be preliminary and were to give MacLean something to show his clients. Miller objected because Noah sent the copy directly to MacLean without first showing it to Miller. After Miller inspected the profiles, he also objected that they were done in the Oklahoma Western name and contained a \$10,000 per mile cost estimate whereas Miller estimated the cost to be \$27,775 a mile. Both Noah and Fulkerson explained that the Colby profiles were intended to be a sample only, but Miller was unconvinced and wrote MacLean that they were trying to mislead him with fictitious profiles.<sup>45</sup>

Fulkerson's direct correspondence with MacLean, that was intended to prove that MacLean was still living, drove another wedge between Miller and his Alva associates. Naturally Miller had always guarded his relationship with MacLean quite closely and was very suspicious of anyone who contacted MacLean directly without his (Miller's) knowledge. Upon receipt of MacLean's letter in which he suggested that a popular figurehead president might be named, Miller fired off this telegram to Fulkerson: "Advised fully by MacLean. There will be no change in

President. Advise at once as to intent. No more delays will be tolerated."<sup>46</sup> Fulkerson wired back, "You must have had bad dreams[;] do not lose any more sleep."<sup>47</sup> He also wrote a letter denying that there had been any thought of replacing Miller and stated that he had only been trying to get ammunition from MacLean to combat the skeptics. Of Miller's accusation he wrote, "It looks to me like you had gone off half cocked. I am surprised at you. . . . Your telegram sounds like a boy to me, and not like the big broad gauged business man I have given you credit for being. You can not gain anything by sending such a telegram to a business man. . . . I presume the trouble is caused by a letter I wrote MacLean, a personal letter [and] not one of the Directors saw it or knew anything about it. So you can cuss me for it and not the rest for they knew absolutely nothing about it. Your cussings don't hurt me, so lets [sic] understand each other. Cuss until you get tired, then lets [sic] get down to business and build the road."<sup>48</sup>

Problems also developed between Palmer and Miller and the Alva group. On November 11, Miller complained, "I do not like the attitude which Mr. Palmer assumes." Palmer had refused to give Miller information about his business experience because he was too busy. In retaliation, Miller wrote Noah, "He will find that I will not ask again and at my request his work will be rejected."<sup>49</sup> By December 9, he announced that he had lost all confidence in Palmer because he wasn't doing anything. Miller then ordered U. S. Geological Survey maps and hired a draftsman at \$5 a day to draw a miniature profile to send to MacLean.<sup>50</sup> Palmer went ahead and prepared a miniature profile of his own, but Miller rejected it after inspecting it because he said it was not properly done. He wrote MacLean about Palmer's miniature profile, "It would be impossible for me to

describe the work he had on paper, other than to say it was a grand scenery of a sun-set, viewed by a person who would ride over the level prairies of this western country and gaze on a western horizon just as the sun was sinking beneath same."<sup>51</sup> Later Miller found further fault with Palmer's work, because he estimated that it would cost approximately \$800 more per mile than Miller's estimate to build the first seventy-five miles west from Alva. Palmer's estimates were also for construction only and did not include the rolling stock or commissions that were included in Miller's estimates.<sup>52</sup>

Miller soon decided that Palmer was against him and that his "malicious intent" could be seen in all his work. Since Miller thought the contract that the company had made was binding, he decided to circumvent Palmer by hiring another survey crew at his expense. He also informed MacLean not to accept any engineering work unless it bore his signature as approval. On January 11, 1911, the new crew headed by C. A. Slayton started to survey the north-south route at Turon in Reno County.<sup>53</sup> Palmer's attorney then threatened to sue the road to force Miller to honor Palmer's contract and prevent Slayton and his crew from proceeding, but the Alva men were able to forestall the threatened litigation by convincing the attorney that Miller had been acting in a personal rather than an official capacity.

Miller received little support or encouragement in this dispute. MacLean urged him to exercise discretion in criticizing Palmer because MacLean thought Palmer might be providing part of his payment and because "the Truth will eventually discover itself."<sup>54</sup> In February, MacLean wired, "Palmer's preferred[:] cooperate," which prompted an immediate ultimatum from Miller that MacLean either side with him or Miller would



withdraw from the proposition entirely. Following his cable MacLean wrote that he meant for Miller to work in harmony with Palmer and the Alva directors, because he feared that members of the English syndicate would back out if they learned of the dispute and threatened suit. He had also learned from Fulkerson that Miller's trouble was an "unaccountable personal dispute" with Palmer, and therefore he recommended that Miller put his differences aside and work on completing the requirements for foreign financing before his syndicate lost interest and disbanded.<sup>55</sup>

Fulkerson also pleaded with Miller to settle his differences with Palmer amicably and not jeopardize the road with a lawsuit. He reminded Miller that the Alva crew hadn't heard of Palmer before Miller brought him to Alva and that they really weren't ready to begin surveying but signed Palmer's contract anyway to please Miller. They made only one change in the preliminary contract drawn up by Miller and inserted a clause that would allow them to lay Palmer off upon notice if railroad funds were short.<sup>56</sup>

Miller's anger with Palmer spilled over into anger with the Alva associates, especially Noah. After he learned that they had amended Palmer's contract, he claimed that it was not valid because it hadn't been properly approved by the board of directors. The company by-laws stated that Miller could sign contracts but they had to be approved by a majority of the board. While he did not complain at the time, Miller later asserted that "some body blocked a meeting of the Board of Directors" when he and Palmer were in Alva. After his return to Salina, he learned that the Alva directors signed the amended Palmer contract shortly after his departure.<sup>57</sup> The seven Alva men did not represent a majority of the board because Miller suddenly announced that the "retired" Salina board

members had never officially resigned and hinted that the Alva men were not legally directors. Therefore, Miller stated that Palmer had no basis for litigation. Miller asserted that the contract had been rewritten to suit Noah's needs and that it was a part of his plot to further his Oklahoma Western line at the expense of the main north-south line of the W. S. & G. He wrote Fulkerson,

Now we might as well bring this matter to a crisis--there is only one way to do it. Mr. Noah has tried to undermine [sic] me and through Palmer's [attorneys] forced matters acceptable to himself or in other words he wished to extend the surveys of his Oklahoma Western proposition and went so far as to take the matter up abroad to finance them and turn Miller out of the deal. There is an old saying, "That open confession is good for the soul" and my advice at this time is that somebody better confess until things are straightened out, [or else] what is being done by the Alva end of this organization will not be considered. Don't try to bluff Miller because he don't know what that word means.<sup>58</sup>

Nearly everyone concerned with the project advised Miller to reconcile with Noah and Palmer. Fulkerson wrote that because Noah owned the most stock he had the most to lose and consequently he was loyal to Miller. He told Miller that he was unfairly blaming Noah for "every knock that you get from an enemy."<sup>59</sup> MacLean wrote that the Alva men wanted to work with Miller and that he should not allow his temper to hinder the road's progress. He thought that the problems had originated with Noah who had "busied himself in looking up your past personalities (which I informed them had nothing to do with your business and railroad capacities) so they concluded with me and dropped all that and became your friends." MacLean was more concerned that Miller hurry to pay him the remainder of his fee and then complete the documents needed for the bond sale, because he feared that he was losing his syndicate. "The

negotiation delay has already killed one client and another has the influenza badly," he wrote.<sup>60</sup> Harmony was also urged by Martin H. Potter, a Turon, Kansas, banker and newcomer to the proposition. He suggested that Miller "hold down to straight business lines and allow no feeling to enter into what is business."<sup>61</sup>

Despite all the advice to the contrary, Miller continued the feud, claiming that the Alva associates were trying to steal the proposition and that they were only interested in building an east-west road across Oklahoma to the New Mexico coal fields. He continued to portray Noah as the chief conspirator and villain and said that he was secretly working for the Atchison, Topeka and Santa Fe Railway. The Santa Fe wanted someone to build an east-west road to Des Moines that it could then buy. Miller believed that because he refused to consider selling out to an established line, Noah was trying to cut him out of the deal. He informed MacLean that he had eight of eleven directors on his side and more money than Alva had. He issued another ultimatum to MacLean to either take his side in the dispute or accept his departure from the proposition.<sup>62</sup>

MacLean sided with Miller but only after an investigation initiated by the Alva directors forced MacLean to move to another London residence. "A pack of Detectives" thought to have been hired by Fulkerson and Noah had so upset MacLean's "thick-headed German landlords" with its investigation of MacLean that they thought he was "some kind of strange Socialist or Undeveloped Criminal," and they asked him to find other quarters. MacLean accused Fulkerson not only of trying to check up on him but of trying to learn the names of his clients in the syndicate so that he or Noah could approach them directly.<sup>63</sup>

Fulkerson finally gave up being conciliatory and demanded that Miller repay them \$940 that they had paid for miscellaneous bills including a fee to a prospective trust company and the W. S. & G. Construction Company incorporation fee. Upon repayment he promised to send the minute book, seals, construction company charter, and their resignations, that Miller had continually demanded for several months. He informed Miller that he and the others would go back to working on the Oklahoma Western. Miller's suspicions were further confirmed when Noah went to London to approach MacLean about financing the Oklahoma Western. MacLean received Noah politely but made no promises. Upon hearing of Noah's visit, Miller again issued an ultimatum to MacLean to either side with him or not work for the Winnipeg, Salina and Gulf. He recommended that MacLean encourage Noah and then "through some technicality let their deal drop so they cannot go ahead," but MacLean responded that he would not even consider dealing with them.

Miller accused Fulkerson of sending circulars that were derogatory towards Miller and favorable towards the Oklahoma Western to subscribers along the line. He said the circulars were libelous and he threatened to turn them over to the postal authorities. Fulkerson finally wrote a long letter on April 22, 1911, in which he stated,

I have no apology to make for any of my actions or letters. When I saw you were making promises here, there and every where about locating shops, division points, this and that, I saw that you were not the man I at first thought you to be and we dropped you. That is all there is to it. We could no longer work together. I guess this is not your first experience of this kind[;] others have had the same trouble with you and you with them.

I hope you succeed in your road, it is a good one if you can succeed, ours is a good one and needed if we can succeed and it remains to be seen who builds west first. . . .

I trust you will see where in we are reasonable when we ask the return of money spent for things you can use, and that you



will realize that our position is not one of antagonism to your propositions, if it had been we would have been busy long ago . . . for your enemies certainly flooded us with dope and I suppose when they show up at other points you will blame us. But I can show you plenty of affidavits, copies of official letters, etc., to convince you that we were kept informed by your enemies and warned against you. <sup>65</sup>

There is little evidence available that verifies Miller's suspicions about the malicious intent of Palmer or the Alva men. It is obvious, however, that the Alva businessmen were most interested in the Des Moines branch, but this preference was made clear during Miller's first negotiations with them. Their stated preference and their majority on the board of directors, that Miller had approved, may have made it appear to Miller that they were taking over or stealing the proposition. The Alva men officially remained as W. S. & G. directors until the road's annual meeting in May, 1911, but the February board meeting was the last they attended. Aside from vitriolic exchanges with Fulkerson, Miller ceased working on the Des Moines branch and began to concentrate his efforts on the surveys being conducted by Slayton and the north-south line from Oak, Nebraska, to Oklahoma City.

## CHAPTER 4: NOTES

<sup>1</sup>Joseph B. Thoburn and Muriel H. Wright, Oklahoma: a History of the State and Its People, vol. 4 (New York: Lewis Historical Publishing, 1929), p. 564.

<sup>2</sup>Records of the U.S. District Court (record group 21) [hereafter RG 21]; District of Kansas, First Division [hereafter Kansas]; "Records of the Winnipeg, Salina and Gulf Railway Company, 1908-1912" (microfilm preservation project 6NCN81-002) [hereafter 6NCN81-002]; Winnipeg, Salina & Gulf [hereafter WS&G]; Records of the President [hereafter Pres.]; letter from H. A. Noah, Aug. 1, 1910 (fiche 5).

<sup>3</sup>Joseph B. Thoburn, Standard History of Oklahoma . . . , vol. 4 (Chicago: American Historical Society, 1916), pp. 1509-1510, 1523-1524, 1530-1531.

<sup>4</sup>RG 21, Kansas, 6NCN81-002, WS&G, Pres. [hereafter RG21 . . . Pres.], copies of letters to Noah, Oct. 18, 1910; Nov. 4, 1910; and Nov. 8, 1910 (fiche 18).

<sup>5</sup>RG 21 . . . Pres., letter from Marine Trust & Savings Bank [hereafter MT&SB], Aug. 17, 1910 (fiche 5).

<sup>6</sup>RG 21 . . . Pres., letter from MT&SB, Sept. 28, 1910 (fiche 5).

<sup>7</sup>RG 21 . . . Pres., copy of letter to MT&SB, Oct. 15, 1910 (fiche 18).

<sup>8</sup>RG 21 . . . Pres., letter from S. R. MacLean, Aug. 19, 1910 (fiche 17).

<sup>9</sup>RG 21, letters from Crane & Co., Oct. 1, 1910, and Oct. 13, 1910 (fiche 5); letters to Crane & Co., Oct. 14, 1910, and Oct. 18, 1910 (fiche 18); and copy of telegram to George W. Crane, Oct. 17, 1910 (fiche 28).

<sup>10</sup>RG 21 . . . Pres., copy of letter to Howard G. Walker, Aug. 18, 1910 (fiche 18).

<sup>11</sup>RG 21 . . . Pres., copy of letter to J. E. Morse, Oct. 17 [1910] (fiche 18).

<sup>12</sup>Salina Daily Union, Oct. 17, 1910, p. 5, and RG 21 . . . Pres., copy of letter to MacLean, Oct. 13 [1910] (fiche 30).

<sup>13</sup>RG 21 . . . Pres., copy of letter to L. C. Miller, Oct. 18 [1910] (fiche 18).

<sup>14</sup>RG 21 . . . Pres., copy of letter to M. M. Fulkerson, Nov. 2, 1910 (fiche 5).

<sup>15</sup>RG 21 . . . Pres., letter from Oklahoma City Chamber of Commerce, Dec. 10, 1910 (fiche 6).

<sup>16</sup>RG 21 . . . Pres., letters from S. T. Woodbury, Nov. 1, 1910 (fiche 5) and Jan. 17, 1911 (fiche 6), and letter from A. J. Welty, Feb. 18, 1911 (fiche 7). Woodbury's stationery stated, "S. T. Woodbury--A young man using his life for the development of the south west--Get a home of your own."

<sup>17</sup>RG 21 . . . Pres., letter from V. E. DeGeer, Nov. 13, 1910 (fiche 5).

<sup>18</sup>RG 21 . . . Pres., copies of letters to DeGeer, Nov. 16, 1910 (fiche 18), J. H. Johnston, Dec. 14, 1910, and Woodbury, Jan. 23, 1911 (fiche 19), and copy of the telegram to Welty, Feb. 21, 1911 (fiche 28).

<sup>19</sup>RG 21 . . . Pres., letter from E. J. Albright, Nov. 15, 1910 (fiche 5).

<sup>20</sup>RG 21 . . . Pres., copy of letter to Noah from the Okeene Commercial Club, Sept. 24, 1910 (fiche 5).

<sup>21</sup>RG 21 . . . Pres., letter from Fulkerson, Nov. 17, 1910 (fiche 5).

<sup>22</sup>RG 21 . . . Pres., copy of letter to Noah, Nov. 19, 1910 (fiche 18).

<sup>23</sup>RG 21 . . . Pres., "The People Said Give Us a Guarantee" [promotional letter], n. d. (fiche 3).

<sup>24</sup>RG 21 . . . Pres., copy of letter to Noah, Nov. 17, 1910 (fiche 18).

<sup>25</sup>RG 21 . . . Pres., copy of letter to Fulkerson, Dec. 28, 1910 (fiche 19).

<sup>26</sup>RG 21 . . . Pres., letter from MacLean, Dec. 20, 1910 (fiche 17).

<sup>27</sup>RG 21 . . . Pres., letters from Fulkerson, Nov. 22, 1910, and Jan. 9, 1911 (fiche 6).

<sup>28</sup>Ibid.

<sup>29</sup>RG 21 . . . Pres., letter from F. B. Crawford and Co., Nov. 23, 1910 (fiche 6).

<sup>30</sup>RG 21 . . . Pres., copy of letter to Anson H. Russell, Nov. 23, 1910 (fiche 18) and letter from Russell, Nov. 25, 1910 (fiche 6).

<sup>31</sup>RG 21 . . . Pres., letters from Fulkerson, Dec. 13, 1910, and Noah, Jan. 11, 1910 (fiche 6).

<sup>32</sup>RG 21 . . . Pres., copy of letter to G. D. Follmer, Dec. 2, 1910 (fiche 19).

<sup>33</sup>RG 21 . . . Pres., copies of letters to Follmer, Feb. 6, 1911, and N. E. Wylie, Feb. 25, 1911 (fiche 20).

<sup>34</sup>RG 21 . . . Pres., copies of letters to Fulkerson, Jan. 2, 1911 (fiche 19), and Jan. 30, 1911 (fiche 20), and copy of letter to MacLean, Feb. 20, 1911 (fiche 30).

<sup>35</sup>RG 21 . . . Pres., copies of letters to MT&SB and Fulkerson, Nov. 14 [1910] (fiche 18).

<sup>36</sup>RG 21 . . . Pres., copies of letters to Crane & Co., Dec. 1, 1910; Dec. 19, 1910; and Jan. 11, 1911 (fiche 19); and letter from Crane & Co., Dec. 20, 1910 (fiche 6).

<sup>37</sup>RG 21 . . . Pres., copy of letter to James A. Kimball, Dec. 27, 1910 (fiche 19).

<sup>38</sup>RG 21 . . . Pres., copy of letter to Fulkerson, Dec. 26, 1910 (fiche 19).

<sup>39</sup>RG 21 . . . Pres., letter from Fulkerson, Jan. 9, 1911 (fiche 6), and copy of letter to Fulkerson, Jan. 11, 1911 (fiche 19).

<sup>40</sup>RG 21 . . . Pres., letter from Knickerbocker Trust and Savings Bank, Nov. 16, 1910 (fiche 5).

<sup>41</sup>RG 21 . . . Pres., letters from Trust Company of America, Jan. 10, 1911; and Jan. 20, 1911 (fiche 6); and copy of letter to MacLean, Jan. 14, 1911 (fiche 30).

<sup>42</sup>RG 21 . . . Pres., copy of letter to MacLean, Dec. 2, 1910 (fiche 30); and letter from MacLean, Dec. 14, 1910 (fiche 17).

<sup>43</sup>RG 21 . . . Pres., letter from Kansas Bank Commissioner, Dec. 28, 1910 (fiche 6); and copy of letter to Kansas Bank Commissioner, Dec. 30, 1910 (fiche 19).

<sup>44</sup>RG 21 . . . Pres., letters from Noah, Nov. 6, 1910; and Nov. 9, 1910 (fiche 5); and copy of letter to Noah, Nov. 11, 1910 (fiche 18).

<sup>45</sup>RG 21 . . . Pres., letter from Noah, Nov. 17, 1910 (fiche 5); and copies of letters to Fulkerson, Nov. 19, 1910; & MacLean, Nov. 18, 1910; and Dec. 7, 1910 (fiche 30).

<sup>46</sup>RG 21 . . . Pres., copy of telegram to Fulkerson, Dec. 31, 1910 (fiche 28).

<sup>47</sup>RG 21 . . . Pres., telegram from Fulkerson, Dec. 31, 1910 (fiche 6).

<sup>48</sup>RG 21 . . . Pres., letter from Fulkerson, Dec. 31, 1910 (fiche 6).

<sup>49</sup>RG 21 . . . Pres., copy of letter to Noah, Nov. 11, 1910 (fiche 18).



- <sup>50</sup>RG 21 . . . Pres., copy of letter to Noah, Dec. 9, 1910 (fiche 19).
- <sup>51</sup>RG 21 . . . Pres., copy of letter to MacLean, Dec. 19, 1910 (fiche 30).
- <sup>52</sup>RG 21 . . . Pres., copy of letter to MacLean, Feb. 11, 1911 (fiche 30).
- <sup>53</sup>RG 21 . . . Pres., copy of letter to Fulkerson, Dec. 19, 1910 (fiche 19).
- <sup>54</sup>RG 21 . . . Pres., letter from MacLean, Nov. 24, 1910 (fiche 17).
- <sup>55</sup>RG 21 . . . Pres., telegram from MacLean, Feb. 7, 1911; letter from MacLean, Feb. 8, 1911 (fiche 17); and copy of letter to MacLean, Feb. 8, 1911 (fiche 30).
- <sup>56</sup>RG 21 . . . Pres., letter from Fulkerson, Dec. 24, 1910 (fiche 6).
- <sup>57</sup>RG 21 . . . Pres., copies of letters to MacLean, Jan. 26, 1911, and Feb. 11, 1911 (fiche 20).
- <sup>58</sup>RG 21 . . . Pres., copy of letter to Fulkerson, Jan. 25, 1911 (fiche 19).
- <sup>59</sup>RG 21 . . . Pres., letter from Fulkerson, Feb. 3, 1911 (fiche 7).
- <sup>60</sup>RG 21 . . . Pres., letter from MacLean, Feb. 13, 1911 (fiche 17).
- <sup>61</sup>RG 21 . . . Pres., letter from M. H. Potter Feb. 11, 1911 (fiche 7).
- <sup>62</sup>RG 21 . . . Pres., copies of letters to MacLean, Feb. 21, 1911; and Feb. 22, 1911 (fiche 30).
- <sup>63</sup>RG 21 . . . Pres., letter from MacLean, March 7, 1911; and letter from MacLean to Fulkerson, March 8, 1911 (fiche 30).
- <sup>64</sup>RG 21 . . . Pres., copy of letter to MacLean, April 4, 1911 (fiche 30); and letter from MacLean, April 17, 1911 (fiche 17).
- <sup>65</sup>RG 21 . . . Pres., letter from Fulkerson, April 22, 1911 (fiche 8).

CHAPTER 5:

THE TURON PERIOD, JANUARY - JUNE, 1911

As Miller's relationship with his Alva associates began to disintegrate, he renewed his efforts to find other backers for the Winnipeg, Salina and Gulf. He wrote Samuel R. MacLean, his London financier, that he had received more monetary support from Salina businessmen B. F. Brown and H. J. Nesmith than from any of the schemers in Alva. Miller did not, however, return to the Salina city fathers and business community for further financial backing. In early December, 1910, he wrote solicitation letters to the postmaster or commercial club of towns along the north-south route between Oak, Nebraska, and Oklahoma City. The letters extolled the virtues of the W. S. & G.'s north-south road and outlined the advantages of being on the line. The final location surveys were to be made soon and the speedy formation of a W. S. & G. club in each town to rally support was recommended. Postmasters were asked to send Miller the names and addresses of the town's best boosters and to pass Miller's letter along to them.

He explained that he was not receiving much support from Salina and that in fact, many prominent citizens there were fighting him in an under-handed way, because he had once prevented them from taking over his proposition and turning it into a plot to rob the people. He wrote to his old friend from Oak, Nebraska, days, George Dallas Follmer, that Salina would only have a spot on the line and that it would not even have a division point. He revealed that the more likely reason for his disenchantment with Salina was a simple lack of monetary support rather

than any duplicity on the Salinans' part. He wrote, "I am sorry to say that the Bankers of this town took the same stand as the Bankers did at Oak. . . . They [Salina] could have had the general offices, machine shops and everything if they would have made an effort to get them."<sup>1</sup>

Not only was Miller hostile towards Salina, but there is evidence to suggest that Salina was leery of Miller. Progress of the W. S. & G. received little coverage in any of the Salina papers. In early February, 1911, the Salina Semi-weekly Journal printed an editorial concerning the possibility of a new railroad through town. It asserted that Salina citizens should conclude from their experiences with numerous propositions and promoters that the only way to get a north-south railroad was to build it themselves without an outside promoter's aid. Without mentioning the W. S. & G. or Miller specifically, the Journal may have been thinking of him when it stated, "Salina should beware of promoters who make their living by selling stock and building a line on paper. These concerns may be honest and legitimate, but they will all demand about 25 per cent of the gross money raised as their share."<sup>2</sup>

Through his December letter writing campaign, Miller became acquainted with Martin H. Potter of Turon in southwestern Reno County, Kansas, and found him to be his chief supporter during the next few months. Potter has been described as the father of Turon. Born in 1854, he moved to Kansas in 1875 with his parents. He homesteaded and "timber-claimed" 320 acres, which later became part of the city of Turon, in Reno County's Miami Township. Potter was very active in civic, business, and financial affairs of the small town. He had served on the school board and had been postmaster, commercial club president, and president of the Turon Town Company. He owned Turon State Bank as well

as a state bank in Tangier, Oklahoma. He also owned several other Turon business: Potter Mercantile Company, Potter Drug Company, and Botner Motor Company. A biographical sketch written in 1917 stated that Potter was always among the first to contribute towards the building of any church within ten miles of Turon and described him as "liberal with his means" to develop his corner of the county.<sup>3</sup>

Within days of receipt of Miller's promotional letter, the secretary of the Turon Commercial Club, W. B. Ream (who also edited the local paper, the Turon Weekly Press) reported to Miller that a meeting of seventy-five businessmen and farmers was unanimous in wanting Miller to put them on the route. Ream pointed out that since Turon was half-way between Salina and Alva, it would make a good division station.<sup>4</sup> Miller responded that he had intended to make Pratt a division point but that Turon really had the better location. If satisfactory arrangements could be made quickly, he promised to start surveying out of Turon and hinted that it might become a division after all.<sup>5</sup> Potter also wrote concerning the railroad and Miller soon suggested that they meet in his Salina office so that he could show Potter "the in-side works of this proposition."<sup>6</sup>

Miller's first proposal to Turon stipulated that he would have final location surveys made from Turon north to Salina at his own initial expense and that the citizens of Turon would subscribe one hundred shares of stock or \$10,000. One quarter of the amount was to be paid with the subscription and 10% was to be paid each week until the total was met. Potter and the town of Turon agreed to the purchase but details of the payment plan were left uncertain. Miller proceeded with arrangements to get the surveys started by hiring an acquaintance from Kansas City, Charles A. Slayton, as chief engineer. On December 27, Miller told



Potter to reserve rooms for the crew of thirteen men for January 2, 1911, and said that he would be there himself the next day to see the first work. In the same letter, he offered Turon an amended payment schedule of \$1,500 down and \$750 weekly, which he claimed was "quite a margin to work on."<sup>7</sup>

At the same time Miller was also corresponding with the Kingman County town of Cunningham (about twelve miles south of Turon), Sylvania (about thirteen miles north of Turon), and Plevna (four miles east of Sylvania), and the Rice County towns of Sterling, Lyons, and Little River. It is obvious that Miller did not have a definite route in mind, especially in Reno County. No logical route could have included all the towns where Miller wrote, and his selection of Turon as a division point probably resulted more from the town's quick and enthusiastic reaction than from any definite plan or study of Miller's.

Possibly as a means of encouraging prompt responses, Miller often employed the technique of telling each town that he preferred its locality, but that something would prevent him from going there unless he got quick action. To G. R. Chrislip of Langdon, Miller wrote that he favored the more direct route from Sterling to Turon through Langdon rather than the route through Sylvania, but Sylvania boosters were working hard for the road and he had heard little from the Langdon area. To J. P. Ratcliffe, cashier of the Cunningham State Bank, Miller wrote that he wanted the railroad to go through that town. One of his Alva associates, M. M. Fulkerson, had joined with two other men and bought a half-section of land near Pratt on the assumption that the line would not only go through Pratt, but that Pratt would also become a division point. Consequently, they would profit from the sale of their newly acquired

land. Miller told Ratcliffe that he opposed this move "because I am not in the real estate business" and that he now wanted the line to skip Pratt entirely, "but it will aid me in my argument if your people will get busy and close their part of the contract. . . ."8

Possibly intending to rally support, Miller would usually promise towns what they wanted in the way of division points, shops, depots, etc., if "satisfactory arrangements" could be made. The first letters from Turon indicated that the town was interested in having a division point. Even though the division point for that area had been planned for Pratt, Miller hinted that fast action from Turon would put the town in an excellent position of getting it. Shortly after Miller promised Turon this plum, parties at Cunningham became interested in it. Miller replied that their chances had been hurt somewhat by their delays but there remained a good possibility of putting the general shops there. Still, Cunningham citizens were sufficiently encouraged to report to the Wichita Eagle that they had the promise of the division point.<sup>9</sup>

There is also some evidence that Miller was quite ready to engage in under-the-table deals with individuals in order to gain their support. He promised several large landholders that he would build a depot and side-track on their land or that he would run the road across their land so they could put a townsite on it. Potter and Miller may have had some such agreement, since Potter once wrote about seeing Miller in person so they could discuss "matters I don't want to write about."<sup>10</sup>

The propositions that Miller offered to the towns usually varied according to their populations. Lyons, Sterling, and Turon were asked to subscribe one hundred shares and Cunningham, Sylvia, and Little River were asked to buy fifty. Reactions varied from cautious enthusiasm at Turon

and Sylvia to hesitance at Lyons and Sterling to near outright rejection at Plevna. In reply to Miller's initial latter, Plevna postmaster Louis M. Ipson sent only six names of area residents and said that he would try to spread the word about the road but he really didn't have the time.<sup>11</sup> A few months later another Plevna area man, W. D. Greenwood, asked if Miller would accept promissory notes for \$100 to be paid upon completion of the road rather than buying stock. He said that many farmers didn't know what a trust company was and that they were afraid of the percentage installment plan.<sup>12</sup> Correspondents at Sterling, Lyons, and Cunningham expressed uneasiness about the road's certainty and stated that stock sales would be much greater if they could be given a guarantee of the road's completion.

Even the most positive respondents at Turon and Sylvia were reluctant to meet Miller's terms. After receiving a contract from him in December, Sylvia residents made a counter offer in April to give him a bond for \$10,000 (twice the amount asked) to be paid after the road was built. Miller turned down this offer and threatened to drop the town from the route. Perhaps in an effort to gain the support of the president of the Sylvia State Bank, W. H. Hinshaw, Miller confidentially approached him about running the road through a certain tract of land where Hinshaw was interested in placing a townsite. He also offered, through Potter, to place Hinshaw on the railroad board of directors. Hinshaw rejected the directorship, and Potter made an astute observation when he reported that the more Miller offered, the less Hinshaw seemed to think of the proposition.<sup>13</sup>

In late December, Potter himself protested to Miller that the proposed payment schedule for Turon was not realistic.<sup>14</sup> Sometime in the

next month, after the surveys started, Miller and Potter agreed verbally that Turon citizens would buy one hundred shares of guaranteed stock as requested and would pay \$1,250 down (half the amount originally asked) and the balance within ninety days of the deposit of the foreign investors' money in an American bank. In return, Turon was to become a division point. At first Miller refused to put these terms into a contract with the town, saying that all the contracts with towns had to be similar and that his promises of a division point were meant to be confidential. He also complained, in his typical fashion, that Turon was the "only stumbling block" and the commercial club had let him down after he had gone to great lengths to help the town. The club refused to accept Miller's explanation and eventually instructed Potter to inform Miller that there could be no deal unless the verbal agreement was put into a contract. While Potter questioned the original contract, he was clearly distressed by both Miller's threats and the attitude of the commercial club. He wrote Miller, "I am mighty sorry the way things are going, the fact is I am all broke up; yet I keep a stiff upper lip."<sup>15</sup> Despite his threats, Miller soon gave in to the club's demands and sent the type of contract they desired, but he emphasized that it be kept secret because the entire road would be in jeopardy if the contract's contents were known in Lyons, Sterling, and Cunningham.<sup>16</sup>

Miller's relations with the towns of Sterling and Lyons did not fare as well. He was never able to get the Sterling Commercial Club to agree on a contract. In early February, the club informed Miller that their solicitation committee had done nothing on his proposal because sentiment was not as favorable as they thought it should be.<sup>17</sup> The Lyons Commercial Club did agree to purchase its one hundred shares and had raised nearly



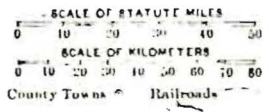
half of the required 25% down payment when it halted collections because it ran into some "unfavorable" reports on the W. S. & G. from Sterling, and the club wanted to investigate those reports. Miller reacted with characteristic anger and traveled to both towns to withdraw his propositions. While he accused the towns of collusion to avoid making any payments, he saw Sterling as more guilty. The surveys that had already been made would be abandoned and the road would go through Alden instead of Sterling. Lyons, on the other hand, was to remain on the route and only the town's moral support would be asked.<sup>18</sup> Since the primary objection was payment before the completion of the road, the Lyons Commercial Club accepted Miller's new proposal and the City Council passed a resolution giving the road its moral support.<sup>19</sup>

In February, 1911, Miller continued his solicitation letter campaign by writing to a number of towns across southern Kansas. He concentrated his efforts on the following cities: Haviland, Greensburg, Coldwater, Ashland, Meade, Ulysses, and Richfield. An announcement was made that the road would travel across southern Kansas towards Des Moines, New Mexico, rather than across northern Oklahoma. Turon was to be the junction of the main north-south route and the branch west to the coal fields. Difficulties in building or "heavy work" west of Alva were cited as the reasons for the route change, but the deteriorating relations with his Alva associates was the real motivation for it.

Miller's proposals to these towns were similar to those made in December, 1910, in that he requested they buy a certain number of shares of guaranteed common stock for 25% down and the remainder in installments. The proposals differed somewhat as Miller refused to pay for any survey expenses himself, because he did not want to get into a situation similar



### KANSAS



PROPOSED WESTERN BRANCH TO DES MOINES, NEW MEXICO, DURING THE TURON PERIOD

Base map: The New Encyclopedic Atlas and Gazetteer of the World  
 (New York: P. F. Collier and son, 1907) p. 27.



to that at Sterling and Lyons where he had made surveys through the towns and then they refused to pay him. As he wrote Potter, "I will not go into any deals again unless the money is up as per contract."<sup>20</sup> The money paid in by the towns was to cover all the expenses of the surveying crew and the completion of the profiles.

These letters did not quite generate the response Miller desired; reaction can be best described as very cautious. A friend of Potter's, A. L. Sooter of Coldwater, was interested in the road and worked diligently on its behalf but was unable to elicit many stock subscriptions. The reaction at Greensburg was more positive than at other towns. Following Miller's letters and visits from Potter, the town revived its dormant commercial club, formed a committee to investigate the W. S. & G., and started taking subscriptions for stock. Still, the club was unable to raise the required amount. On April 1, 1911, it reported that half the amount was subscribed, but that some of the area's more wealthy citizens refused to participate because there was no guarantee of the road's certainty. These wealthy few were afraid that if they sent Miller the requested amount, the survey would be done and that would be the last they would hear from the railroad.<sup>21</sup>

Many of the western Kansas towns wanted more proof that the road would be built than Miller could give. The Ashland Commercial Club told him that they had "plenty of money to invest in a road," but that they were not interested in paying for its preliminary work. "There was a proposition offered us recently to invest \$3,000 in a preliminary survey and we turned it down," they wrote. "Our money is for a road."<sup>22</sup> Respondents from the far western counties of Grant and Morton stated that their experiences had taught them to demand an ironclad guarantee of the

road's completion. I. G. Marshall of Ulysses stated, "So many roads have been built in the county on paper in the last twenty years that we are now in a position that we must be shown."<sup>23</sup> E. M. Dean of Richfield in Morton County promised to work for the road but warned Miller, "We have been chasin [sic] Rainbows in the way of prospective railways so long that we will have to be shown conclusively before putting up any money."<sup>24</sup>

Martin H. Potter and the town of Turon remained the W. S. & G.'s strongest supporters. Potter aided the cause by writing to prospective stock buyers to assure them that he had thoroughly investigated the proposition and found it to be strong. He spent a great deal of his time traveling to other towns to try to secure subscriptions and acting as Miller's "field marshal." In March, 1911, Potter and another Turon businessman, George T. Stevenson, were elected to the W. S. & G. Board of Directors and Potter was named assistant treasurer. Since Miller and treasurer M. M. Fulkerson were not getting along, Potter took over many functions of the treasurer and when the Alva men were voted out of office at the company's annual meeting in May, he officially became treasurer.

Just prior to the settling of Miller's contract with Turon, Miller hinted that he was looking for a section of land, possibly in Turon, on which to put the general machine shops. A month later, on March 2, 1911, he wrote to Potter that he needed \$5,000 in order "to boost the deal over the fence." He offered to enter into another confidential agreement with Potter and Turon to give the town "the general machine shops, the general headquarters, and in fact the whole cheese of this proposition" in return for \$1,000 and a section of land. Additionally, Miller promised to pay fair market value for the land.<sup>25</sup> Potter quickly persuaded Turon to accept the new agreement, and they sent the money within thirty days.<sup>26</sup>



That Miller got the remaining \$4,000 is unlikely, for within a few days of the receipt of Turon's money, on April 6, 1911, Miller wrote Potter saying that he would need \$10,000 to pay railroad bills within the next thirty days. Two weeks later he told Potter that he owed \$5,300, of which \$2,900 was coming due that month, and six days later still he wrote that he needed all of the \$5,300 by May 1, 1911.<sup>27</sup> Although the amount varied, it is clear that Miller was desperate for money to meet his financial obligations. The \$1,000 note to Marine Trust and Savings Bank, which was to cover the down payment for the stock guarantee, had come due on October 10, 1910, and the six month grace period in which to make payment was to end on April 10, 1911. Payment was also due on the \$2,500 loan from Traders State Bank in Salina that Miller and B. F. Brown had made in March, 1910. Besides the loan payments, a considerable sum was owed to the surveying crew, including the March payroll. There were also office expenses to be met, as well as the continual demands for payments from MacLean and from Crane and Company of Topeka. Since stock sales in Kansas were not as great as he had hoped, Miller wanted his New York brokers, F. B. Crawford and Company, to start selling W. S. & G. stock in the East, and that required \$1,334 to pay its initial expenses. There were no funds to pay these bills. In fact, Potter notified Miller in late April or early May that the company's treasury was not only depleted but overdrawn.<sup>28</sup>

To meet his obligations, Miller pressed Potter to force certain towns into "closing up" or agreeing to Miller's contract and making the first payment. He suggested that Potter change his tactics by avoiding mass meetings and just persuading several influential men in each town to buy stock. For reasons that will be clear later, Miller stressed that Potter

not divulge any details of the stock guarantee plan or give the name of the guaranteeing bank. Instead, he was to say only that the stock was guaranteed by a financially strong bank. Miller claimed the members of the Board of Directors were not selling their share of stock, and he threatened to quit if they did not give more support to the cause. He further pressured Potter by informing him that he and his friend Stevenson were the only directors capable of "going out on the line."

The details of Miller's proposition were changed in an effort to bring in funds quickly. He offered to accept full payment for a smaller number of shares instead of the installment purchase of the larger number originally requested. For instance, the towns that had been asked to purchase \$5,000 or \$10,000 of stock were told the road would come through their town if only five or six \$100 shares were bought and paid in full immediately. In late April, Miller tried to persuade a prominent Lyons citizen, H. C. Taylor, to sell five shares of construction company stock to insure his town's spot on the line. When Taylor protested that Miller had asked only for the town's endorsement and moral support, Miller angrily replied that his request had been a test of Lyons's desire for his railroad. Since Taylor declined to sell the stock, the town obviously had no confidence in Miller and therefore he promised to go around the town rather than through it. Taylor was not too upset about the rejection and wrote Miller, "Sorry you must give Lyons the go by, but the owners of the road will miss the town as much as the town will miss the road."<sup>29</sup>

Miller's tactics brought in some ready cash, but not nearly enough to meet his expenses. He was able to send MacLean \$700 of the \$1,000 he had demanded for several months. The loan from Salina's Traders State Bank was not paid, and Miller and Brown signed a new note for \$2,400 to cover

it. After sending messages to Marine Trust and Savings Bank in San Francisco that alternated between boasts of great stock sales and promises to liquidate their \$1,000 note after conditions improved, the note for the down payment for the stock guarantee remained unpaid.

In January, 1911, Miller reported to Marine Trust and Savings Bank that the road had had to overcome the opposition of the Atchison, Topeka and Santa Fe Railway, *which had flooded the countryside with slanderous lies* about the W. S. & G. In early March, he claimed that "many thousands of dollars" had been collected in stock sales and blamed his Alva associates, especially treasurer Fulkerson, for not remitting the needed amount. He wrote, "I don't care how hard you crowd the matter at Alva, if they don't like to do business as I have arranged it they can step out of the deal--I propose to protect our Guaranteed Stock plan."<sup>30</sup> Later in the month, Miller promised to pay the money personally if the bank was unable to collect it from Fulkerson. In late March, the bank notified him that they had sent a letter verifying the stock guarantee to a farmer along the proposed line, as they had done many times before; but they warned that they would not do so after the April 10 deadline if payment was not received. On April Fool's Day, Miller sent a cheery and completely false report that large blocks of stock were being sold and that the Kansas State Banking Commissioner had endorsed the proposition. Finally a month after the due date, the bank returned Miller's note and cancelled their agreement to guarantee the road's common stock. The trust officer demanded that Miller not use the bank's name in connection with his promotion, and stated his case: "You assured us from time to time that large quantities of the stock had been sold but none of the sales have materialized; you also failed to meet your obligation at maturity; and now



we are reliably informed that you have used our bank in such a manner in attempting to promote your enterprise as to cast a reflection on our institution."<sup>31</sup> Typically, Miller protested that he had always kept the bank informed of his doings and that large blocks of stock were ready to be sold but the sales were being blocked by the State Bank Commissioner, who didn't want a north-south railroad. Miller then attempted to make it appear that he had intentionally dropped the Marine Bank's guarantee plan from the Winnipeg, Salina and Gulf proposition. In an unsuccessful attempt to get another San Francisco bank to guarantee his stock, Miller explained that his correspondence with Marine's trust officer had "not been satisfactory" and that the bank "was not heavy enough to handle the amount of money that we would place in their hands." A few days later he explained to K. J. Russom of Okeene, Oklahoma, that a confidential informer had told him that the bank would mishandle Miller's deposits into the sinking fund that was to guarantee the stock.<sup>32</sup>

By March, 1911, the surveys that Miller started in January proved to be more of a financial burden than he could bear. Although the surveying crew made their first camp at Turon, the southernmost point of the survey was about twelve miles south at Cunningham. Winter weather delayed the crew's progress at first and by late February they were between Sterling and Lyons. On the morning of April 3, 1911, the crew of fourteen, locating engineer H. R. Gass, and chief engineer Charles A. Slayton surveyed into Salina city limits and completed their surveys within the city three days later. Miller announced to the Salina Daily Union that the survey had been run to the southern point of the Oak-to-Salina survey of the Nebraska, Kansas, and Gulf, that he had agreed to purchase. The surveying crew was not disbanded at Salina but was sent back south to



correct and make "minor" changes in the route that probably included re-surveying around Sterling and Lyons.<sup>33</sup>

Miller soon began to have problems meeting the expenses of the crew. From Slayton's financial statements, it is evident that he signed a contract with Miller to do the survey work for a price of \$6,230 or \$70 a day from January 2 through March 31, 1911, plus a monthly salary of \$150. Miller was also to furnish a camp outfit and to pay for sending the profiles and plats to MacLean in England. Miller reimbursed Slayton for most of the camp outfit, plus enough to cover the camp's expenses, including the January and partial February payroll, but Miller was unable to meet the March payroll, that was due on April 1. The crew continued working until mid-April, when they threatened legal action and refused to leave their camp near Marquette to do any work until they received their March pay.

With most of the surveyors striking, Miller instructed the camp cook to take charge of the camp and to throw the strikers out. A few days later, Miller took a car to Marquette where he employed a diversionary tactic, perhaps sending word to the camp that their pay was waiting in Salina, to get the men to leave the camp. As soon as they left, he hired other men to pack up the gear and ship it to his offices. He discovered that the strikers had left the profiles, maps, books, and other records in a Marquette bank, but, as he boasted to Potter, "owing to a peculiar move that I made, the matters were turned over to me and with a little patching up I have a completed survey from Salina to Cunningham. All I need is a competent survey Draftsman to complete the work."<sup>34</sup>

Miller blamed Slayton for the trouble, claiming that he and Slayton only had a contract for a certain amount of money and that Slayton was to

hire, fire, and pay the crew. He implied that the company had given Slayton more than the contract required and accused him of making a tidy sum for himself by not paying his men. Miller promised the men that he would pay them himself if Slayton would verify the payroll, but Miller claimed that Slayton was refusing to cooperate with him. Just a few days before the strike, on April 10, Slayton was fired on the official grounds that he had not turned in any completed work as his contract had required. Slayton protested that the surveys were not in final form because Miller had not allowed the draftsman to work on them after he returned from surveying. Miller thought that Slayton was advising the surveying crew to demand their pay, stay in camp, eat Miller's food, and do no work. He also accused Slayton of conspiring with the crew in order to destroy the company's credit.<sup>35</sup>

Slayton's letters to Miller after his dismissal offer evidence that he probably did not conspire to destroy the road or its credit and that he was sympathetic to the company's financial plight. In his final financial statement, he showed a balance of \$2,449.65 due him. He offered to accept \$500 in cash and thirty shares of construction company stock as payment, "realizing that the Company is in rather hard financial straits just at the present and bearing it the best of goodwill."<sup>36</sup> Since he was willing to accept stock as partial payment, he obviously did not wish for the company to fail.

In his dispute with Slayton, Miller employed a technique that later would help put his company into receivership: he avoided contractual obligations by claiming that some technicality had made the contract invalid. Shortly before firing Slayton, Miller informed him that the Board of Directors had refused to ratify his contract because they thought

his price was too high. Therefore, Slayton did not have a valid contract. If the board's action had been a straightforward disagreement, it probably would have been resolved at the first monthly meeting of the board after Slayton and Miller signed the contract. Since it was not brought to Slayton's attention until it was clear that Miller could not meet the payments, it seems that this was only an excuse or "back door" to get out of the contract.<sup>37</sup>

Miller's failure to pay the surveyors had a harmful effect on the road, both in the immediate damage to the road's reputation and in its ultimate failure. Shortly after the men refused to work, Potter reported that two of the crew members were in Turon and were spreading the word that they weren't being paid. "Stevenson and I are being jollied right over the matter," he complained.<sup>38</sup> The crew members continued to try to get their pay, and they eventually filed suit against Miller in Saline County District Court in January, 1912. The more serious effect of Miller's inability to pay the crew was the role it may have played in the Kansas State Bank Commissioner's investigation of the Winnipeg, Salina, and Gulf Railway, that in turn played a significant role in the company's downfall.

On March 10, 1911, the Kansas Legislature passed House Bill 906, commonly known as the "Blue Sky Law," which regulated investment companies. The bill was the result of a campaign against the sale of fraudulent securities and was a part of a larger movement for progressive reforms. The prosperity that followed the Spanish-American War increased the number of swindlers selling phony stocks, especially oil and mining stocks in the West. Gullible citizens were taken in by the promoters' get-rich-quick promises and consequently paid their hard earned money for

pieces of "blue sky." These charlatans roused the ire of many, who wished protection from unscrupulous businessmen. The panic on Wall Street in 1907, that was a result of over-speculation, only increased the demands for reform. The Kansas State Bank Commissioner, Joseph Norman Dolley, was such a reformer. In late 1909, he established within the Banking Department an information bureau on companies selling stock in the state. He intended to disclose the "fakers" and "blue sky merchants" by making information about them readily available. Citizens were encouraged to seek information on companies before investing in them, and Dolley even sent letters to newspaper editors requesting that they publicize the information bureau and include blank request forms for their readers to send in for information.<sup>39</sup> Dolley's letters to Miller in May and December, 1910, were most likely seeking information for his new bureau.

Through the efforts of Dolley and others, the "Blue Sky Law" was introduced and passed in the 1911 session of the Kansas Legislature. It was the first law of its type in the nation and has been regarded as the only progressive victory in regulating the stock market before the outbreak of World War I.<sup>40</sup> The law required that all companies that wished to sell stock in the state, with some exceptions, file certain documents to be examined by the office of the State Bank Commissioner. They also had to receive a certificate from the Bank Commissioner in order to offer their stock for sale. The investigation was to determine if the company was solvent, if its plan of transacting business was "fair, just, and equitable," and if it promised a "fair return" on its securities. Failure to meet these requirements resulted in a refusal to issue a certificate and the company's consequent inability to legally do business within the state. The law also required that companies file semi-annual



reports with the Commissioner and that their general accounts be kept by a double entry system with trial balances made at least monthly. These balances were to be recorded in a special book that was to be available to the public. The law also provided that the Bank Commissioner had the right to send examiners to any company at any time at the company's expense. Fees were similar to those for the examination of state banks: no more than \$5.00 a day plus actual travel and hotel expenses. Of course, refusal to allow such examinations resulted in that firm's forfeiture of its right to sell stock in Kansas.<sup>41</sup>

Not only was the Kansas law the nation's first "Blue Sky Law," but it was also very restrictive. The standards set by the Bank Commissioner were so high that in the first year fewer than one hundred out of fifteen hundred applicants were granted certificates. Seventy-five per cent of the applicants were labelled as fraudulent operations and another 12½% were seen as being too risky or as not promising a "fair return." The law, and similar laws, that were quickly passed in several southern and western states, were not without their critics, who objected to the broad powers given to the enforcing agency and especially to the "fair return" aspect of the law.<sup>42</sup> The 1915 session of the Kansas Legislature weakened the law by differentiating standard from speculative securities and exempting standard securities from nearly all state control.<sup>43</sup> It was Miller's misfortune that the Winnipeg, Salina and Gulf fell under the jurisdiction of the first "Blue Sky Law." The company would still have been covered by the 1915 revision, however, because the stock would have certainly fit into the speculative category.

After the bill passed, the Topeka State Journal reported that Bank Commissioner Dolley was sending out hundreds of letters to all known

businesses and corporations that sold stock informing them of the new law and requesting the required documents.<sup>44</sup> Miller received one of the letters in late March, 1911. On April 5, he sent Dolley a packet of information, including the corporation charter, by-laws, Board of Directors' resolutions, copies of stock certificates, and copies of contracts with various cities. He explained that the sale of bonds by MacLean would guarantee enough money for the fixed expenses of construction and equipment and that preliminary expenses were being met through the sale of stock.<sup>45</sup> A week later he sent a list of board members and a notarized financial statement, that showed assets of \$100,000 of capital stock, \$20,000 of surveys, \$3,000 for office furnishings, \$8,750 of "cash subject to call," and \$1,255.38 cash in the company treasury. Liabilities included only two unpaid bills: \$543.39 for stationery (from Crane and Company) and \$162 for a Smith Brothers typewriter, leaving an available asset balance of \$132,299.99.<sup>46</sup>

Miller's reaction to Dolley's inquiry reflected his characteristic optimism. Even before he responded to Dolley, he wrote to the Marine Trust and Savings Bank that he had already received endorsement and that stock sales were picking up rapidly. On April 6, the Salina Daily Union stated that Miller felt the new law would have little consequence to his railroad. "'We are out the \$3 required as fees, together with our postage, is all that I can see,' he said. 'If this company ever did anything out of the way, we would be pounced upon by the postal authorities the first thing.'"<sup>47</sup> This attitude was communicated to Potter on the same day. "I don't think there is very much up, only the same old story, our Kansas Legislature has undertaken in the last session to attend everybodys [sic] business except their own and that is why we had to make

a report to Dolley and tell him just what we are doing and accept the advice of a guardianship in our work. I . . . am not worried about the out come."<sup>48</sup>

Miller's associates did not share his feelings and were quite concerned about the effects of the new law, but he urged them not to get "week knees" and assured them that the W. S. & G. certificate would come "any day." Miller began to become somewhat annoyed with Dolley when he asked Miller for additional information on the railroad, including the reasons for listing capital stock as an asset, the meaning of "cash subject to call," the amount of commissions paid on stock sales, and the nature of the company's obligation to pay the 6% dividend on guaranteed stock. In his reply Miller complained that his company was only trying to "give the people of this State a North and South line, which they have prayed for for years" and that Dolley was delaying important work which was costing the road thousands of dollars in workers' salaries and in lost stock sales. He claimed that his road's reputation was also being damaged by the investigation. "None of this stock has been sold although arrangements had been made for the sale of a considerable amount of it but owing to the fact, of the statement sent out by the Bank Commissioner to Attica, that we had no authority to sell this stock, all these arrangements have been killed so at the present time, we have not issued any stock and that it will be a very hard matter to again interest the Kansas farmers because they have it in their heads that the Department at Topeka would refuse to grant us a privilege of selling this stock."<sup>49</sup>

Miller traveled to the Bank Commissioner's office in Topeka on April 20, and spoke with F. J. Partridge, who was in charge of the investigations concerning the W. S. & G.'s application. Partridge

apparently told Miller that he could go ahead with his business while the investigation was pending. Miller quickly wired the anxious Potter that they could go on selling stock and that any questions should be directed to Partridge. The Salina Daily Union reported that Miller had already received Dolley's approval, but that the certificates weren't printed yet.<sup>50</sup> Miller quickly notified Partridge that the paper had misquoted him and that it had always opposed him. "The only statement that I made was that I had taken the matter up with the Banking Department and that they explained to me that they did not want to stop work on any legitimate proposition and that I should go ahead and proceed." Miller explained that State Senator Fred H. Quincy of Salina, who introduced the "Blue Sky Law" into the Senate and marshalled support for it there, was being villified by the paper. "You understand this is some of [former U. S.] Senator Burton's work and intended as an insult to Senator Quincy of our City as well as Mr. Dolley and the administration."<sup>51</sup>

Potter remained uneasy and unsatisfied with Miller's news. He thought it would be too risky to go ahead with stock sales without a certificate and stated that Dolley had only two choices--to either grant the certificate or refuse it. He wrote that he and the cashier of his bank would write Dolley to see if they could learn his intentions.<sup>52</sup> Potter's prudence and caution brought an angry response from Miller, who accused him of viewing Dolley as a "Guiding Angel" and of telling Dolley about the existence of the W. S. & G. Construction Company. He also threatened to cancel the contracts with Turon and refund their money.<sup>53</sup> Potter's replies were both conciliatory and frank. He denied that he informed Dolley about the construction company. (Dolley's office must have never learned of this company, because no inquiries were made about



it even though it was covered by the new law.) Potter offered to resign from the Board of Directors if Miller wished but stated, "Our bunch have been 'True Blue' to you and your Company. . . . In conclusion, if our efforts up and down the line, and the money we have put up is not appreciated, and as Directors if we can not make suggestions or exercise our judgement and our own thoughts, when we do it in a gentlemanly way, then we must conclude that your bunch is about through with us."<sup>54</sup> Miller accepted this explanation and assured Potter that they had just misunderstood each other.

In the meantime, the Bank Commissioner's office received news of the unpaid survey crew and requested a complete report on the matter.<sup>55</sup> Miller vehemently replied that the only debts of the company were those already reported, i.e. the stationery and typewriter bills, and that he had broken his contract with Slayton because of Slayton's incompetence. Miller may have been trying to manuever Dolley into a position where he would have to criticize the surveyors by writing, "One of the men you refer to, Mr. H. R. Gass, made the statement in my office that if we would not pay the money they demanded, that Mr. Dolley would put us out of business. I do not know where he got his authority, although he stated that Mr. Dolley had informed Mr. A. S. Hadley [another crew member] that the case would end as just stated."<sup>56</sup>

Dolley wrote a few days later that he had been told that Slayton had agreed to verify the payroll. He asked for an explanation of Miller's continued refusal to pay the crew in light of this fact.<sup>57</sup> Miller fired back a long, angry letter in which he again denied owing the men anything. He also denied that Slayton had agreed to certify the payroll. Slayton's faults and alleged plots against Miller were recounted in detail and

several of the crew, including H. R. Gass, were also accused of mishandling company money. Miller offered his and chief engineer H. E. Wylie's sworn statements regarding the affair and they were sent on May

58  
6.

Miller ceased to be optimistic about receiving certification from the Bank Commissioner and instead began to take the stance of a fighter who was determined to overcome his persecutors. He informed several people that the author of the new law was Salina Senator Fred Quincy and that he had the new law passed especially to put the W. S. & G. out of business. He boasted that the reaction against the Senator was so great that he would not be re-elected. Miller was careful not to let Dolley's office learn that this was his opinion; instead he attributed it to others. On April 27, he wrote to Special Assistant Bank Commissioner Partridge,

I am of the same opinion as you are, that the law was not aimed at our proposition but many people think that because Senator Quincy was the father of the law and that we are located in Salina, that it was the intention to block us in building this line. These reports are being heard on the streets of Salina, in fact it is the common talk and it will have much to do with the defeat of Senator Quincy when he comes up for re-election and I certainly would hate to see the Senator defeated because he is a very valuable man.

The people in general want a North and South Line of railroad and I find that reports are coming from all points along the line condemning the action of the department relative to our matters.<sup>59</sup>

As the chances of gaining certification dimmed, Miller began to claim that it was inconsequential to the ultimate completion of the road. Even though he might not be able to sell stock in Kansas, he would be able to sell it in the East and in Oklahoma where its importance would be appreciated.

at Miller

Miller int-

Although some of the framers of the "Blue Sky Law" were acquainted with Miller's operation, the idea that they specifically aimed to put him out of business probably existed only in his mind. The W. S. & G. was not well enough known to have rated that type of attention from the State Legislature. Neither was Quincy the father of the law, as Miller claimed; Dolley is generally given credit for that role. Quincy did introduce the bill, which originated in the House, into the Senate and led it through that chamber to its passage. All Senators voted for the measure except four, who either abstained or were absent. Miller had long regarded Quincy as an enemy of the W. S. & G., because Quincy was on the Salina Commercial Club committee that had given a negative report on the road in 1909. Because of this real or imagined enmity, Quincy's role in the passage of the bill may have been magnified in Miller's mind. While Miller was incorrect in giving Quincy sole credit for the law, he was correct in predicting his re-election chances. In the November, 1912, election the four-term Senator was narrowly defeated by the Democratic candidate.<sup>60</sup>

Sometime before June 16, 1911, Dolley made a final request of Miller: he wanted Miller to submit to an examination of the company's books by an auditor at the company's expense. The exact nature of the request is unknown, but Miller claimed that he was instructed to pay Dolley's auditor \$10 a day for an unspecified length of time. Miller denied the request and claimed that the Bank Commissioner's office was making a personal attack on him, and threatened to sue.<sup>61</sup> Finally, on June 29, Dolley denied the W. S. & G. certification to sell stock within the state because of Miller's refusal to have the books audited. Dolley stated that if Miller intended to do business in Kansas, he would have to use "straight-

forward business methods" with "everything played upon top of the table and in the broad open sun light." He would also have to have records available for examination that would show the company's cash flow: "Whose pockets it is coming out of and also whose pockets receive it." Dolley denied making any attack on Miller but stated, "We have received much information as to your business life in the past."<sup>62</sup> Miller's rejoinder was that his Board of Directors had refused the audit because Dolley asked for \$10 a day when the law called for \$5 plus expenses. "The boys were of the unanimous opinion that the excessed \$5.00 spelled graft in capital letters," he wrote.<sup>63</sup> Without Dolley's original letter, it is difficult to determine how Dolley arrived at the \$10 figure. Perhaps he was estimating that it would be the total cost, including expenses, to the company. Dolley was a member of the progressive reforming wing of the Republican Party and it is unlikely that he would participate in any plan to accept graft. Even if he had, it is also very unlikely that arrangements to collect it would have been made through official correspondence.

Miller was undaunted by his troubles with the Bank Commissioner. He explained that he was being persecuted because Dolley was a jealous, frustrated railroad promoter who had tried and failed to build his own road. Dolley was also portrayed as a tool of the established lines, especially the Atchison, Topeka and Santa Fe. He threatened to bring suit to force Dolley to grant the W. S. & G. a certificate; but he agreed not to sell stock in Kansas in the meantime because, "I do not think it best to stick my head in the noose and let old Dolley throw the rope over the limb and hitch a Santa Fe Engine on to the end of it."<sup>64</sup>



Miller encountered other troubles as well. He remained unable to persuade a trust company to act as trustee for the English syndicate's money. He had hopes that Farmers' Loan and Trust Company in New York would accept his application, because one of Potter's friends was familiar with the firm and had written a recommendation for the W. S. & G. Unfortunately the recommendation did not produce the desired results. Numerous applications were sent to other New York trust companies. Those that responded to the applications offered polite refusals, usually with no explanations. Miller blamed the refusal of one company, Guaranty Trust Company of New York, on Dolley, who was accused of advising the firm against Miller. Whether Dolley did this or not, Miller probably did himself no favor by informing the company that only one of Salina's four banks would give him a good recommendation.<sup>65</sup>

Miller suggested and MacLean finally agreed that MacLean would travel to New York to use his personal powers of persuasion to gain a trustee for the road. Funds for the trip were not forthcoming and it was never made. Miller remained convinced that the New York companies had conspired to prevent all new railroad construction and he asked for MacLean's approval on a Chicago firm. MacLean reluctantly agreed to accept a Chicago firm but still preferred a New York trust company. In early May, H. J. Stover, cashier of Traders State Bank in Salina and a new friend of the W. S. & G., presented the road's case to the Continental and Commercial Trust and Savings Bank in Chicago, but to no avail. A month later Miller reported to MacLean that since no trust company would act as trustee for a new road, he would try to raise enough money from stock sales to build ten miles of track. Then he thought the proposition would not be considered an unbuilt road and a New York bank would be willing to serve as trustee.<sup>66</sup>

On April 29, 1911, Miller announced to Potter that he had changed the road's route because of his problems with Dolley. The north-south route would still go through Turon but it would not branch west there. Instead it would travel across the Oklahoma Panhandle and would therefore reduce the number of miles of track in ungrateful Kansas.<sup>67</sup> Potter became ill in mid-May and suffered a nervous breakdown, which he attributed to overworking for the railroad and troubles with his own bank at Turon (the cashier embezzled \$3,000). He resigned from the Board of Directors on May 20, and left "to take the waters" in Colorado for several months. Soon after his resignation, his friend George T. Stevenson also resigned, stating that Miller could find a stronger man than he to further the road's interests. Miller was understanding at first and wished Potter a speedy recovery, but later he became rather hostile towards both Potter and Turon. He complained that they had given up on the proposition just when he needed them. He accused Potter of resigning at the request of Dolley and of having some part, along with Dolley, in the Guaranty Trust Company's refusal to act as trustee. Potter responded to these accusations in a calm, frank manner. He reminded Miller of Turon's hard work and the \$3,700 that they had contributed to the cause. "I tell you, Miller, you are the limit," he wrote. "You ought to be the last man in the Company to cast any insinuations. What you need is friends--not enemies--if you are in earnest to put this proposition through."<sup>68</sup> Miller responded with an angry restatement of his complaints and accusations and temporarily ended his relationship with Potter.

As it became clearer that he would be barred from selling stock in Kansas and that even if he could sell stock, sales would not raise enough money, Miller again began to make arrangements for F. B. Crawford and

Company of New York City to sell stock in the East. Crawford was anxious to have Miller's work and noted that "the present time is conspicuously good for an energetic campaign on such an attractive investment."<sup>69</sup> A contract was signed in May, but Miller was unable to come up with the required \$1,334 to pay part of Crawford's initial expenses. He blamed Potter for this, claiming that he had spread bad rumors about the firm and had upset the Board of Directors. It was not until he found other financial backers that Miller would be able to send the necessary funds.

After Potter's resignation, K. J. Russom, a real estate broker from Okeene in northeastern Blaine County, Oklahoma, briefly took his place as the chief W. S. & G. supporter. When Miller became disenchanted with the southern Kansas route, he used Russom's services, as he had Potter's, in interesting other Oklahoma towns in the road. Employing the same technique used in Kansas, Miller contacted a number of Oklahoma towns with promises of running his line through their town in return for a certain number of stock subscriptions. Okeene was promised a freight division, but, like Turon, was to keep it confidential because he had hinted to nearby Fairview thought that they might get it. On the proposed north-south route, Miller corresponded with Cherokee and Helena in Alfalfa County, Fairview and Ringwood in Major County, and Omega and Kingfisher in Kingfisher County, besides Okeene. For the Panhandle branch to New Mexico, Miller invited the following towns to join the proposition: Lookout and Freedom in Woods county, Buffalo in Harper County, Gate and Beaver in Beaver County, Guymon in Texas County, and Boise City in Cimarron County. By late May, Okeene had raised enough money to make its first payment of nearly \$1,000. Miller had instructed Russom earlier

to send their money directly to Crawford and Company, but when it was ready, he told him to send the money to Salina because he claimed arrangements had already been made with Crawford.

Miller reopened negotiations with the promoters of the Denver, Kingfisher and Gulf Railroad, in order to avoid paying the high charter fees and still gain the right of eminent domain in Oklahoma, a right granted only to Oklahoma corporations. The road's promoters claimed to have surveys from Okeene to Oklahoma City and twelve miles of grade completed. Miller offered to purchase all rights and franchises of the road for \$100,000 in cash, to be paid within six months, and to bring the road's president, D. K. Cunningham, on to the W. S. & G. board and appoint him General Attorney of the company. Miller promised to start construction in the summer of 1911 and upon completion he would incorporate the road into the W. S. & G. system.<sup>70</sup> Cunningham had some difficulty in contacting the D. K. & G. stockholders, but in late June they finally reached a tentative agreement that Miller would pay \$10,000 in cash and \$90,000 by January 1, 1912. Miller had already begun to make preliminary arrangements to begin construction. In mid-June he boosted the road's credibility by notifying Oklahoma towns along the line that he was planning to purchase 600,000 ties and ten thousand tons of steel to be delivered at Oklahoma City and Okeene in August. With this material and a track laying machine, he planned to build the road's first one hundred miles at a rate of two or more miles a day. He also reported that he had found new, wealthy financial backers, the Brindley Company of New York City and that they would build the road as soon as he could close a contract with them.<sup>71</sup>



## CHAPTER 5: NOTES

<sup>1</sup>Records of the U.S. District Court (record group 21) [hereafter RG 21]; District of Kansas, First Division [hereafter Kansas]; "Records of the Winnipeg, Salina and Gulf Railway Company, 1908-1912" (microfilm preservation project 6NCN81-002) [hereafter 6NCN81-002]; Winnipeg, Salina & Gulf [hereafter WS&G]; Records of the President [hereafter Pres.]; copy of letter to G. D. Follmer, Dec. 2, 1910 (fiche 19).

<sup>2</sup>Salina Semi-weekly Journal, Feb. 3, 1911, p. 4.

<sup>3</sup>Sheridan Ploughe, History of Reno County, Kansas, vol. 2 (Indianapolis, Ind., B. F. Bowen and company, 1917), pp. 635-638.

<sup>4</sup>RG 21, Kansas, 6NCN81-002, WS&G, Pres. [hereafter RG 21 . . . Pres.], letter from Turon Commercial Club, Dec. 12, 1910 (fiche 6).

<sup>5</sup>RG 21 . . . Pres., copy of letter to W. B. Ream, Dec. 14, 1910 (fiche 19).

<sup>6</sup>RG 21 . . . Pres., copy of letter to Martin H. Potter, Dec. 19, 1910 (fiche 19).

<sup>7</sup>RG 21 . . . Pres., copy of letter to Potter, Dec. 27, 1910 (fiche 19).

<sup>8</sup>RG 21 . . . Pres., copies of letters to G. R. Chrislip, Jan. 6 and 14, 1911, and copy of letter to J. P. Ratcliffe, Jan. 21, 1911 (fiche 19).

<sup>9</sup>RG 21 . . . Pres., letter from Potter, Jan. 28, 1911 (fiche 7) and copy of letter to B. H. Henthorn, Feb. 18, 1911 (fiche 20).

<sup>10</sup>RG 21 . . . Pres., letter from Potter, Jan. 25, 1911 (fiche 6A).

<sup>11</sup>RG 21 . . . Pres., letter from Louis M. Ipson, Dec. 13, 1910 (fiche 6).

<sup>12</sup>RG 21 . . . Pres., letter from W. D. Greenwood, March 3, 1911 (fiche 7).

<sup>13</sup>RG 21 . . . Pres., letter from Potter, April 8, 1911 (fiche 8), and copy of telegram to Potter, Apr. 8, 1911 (fiche 29).

<sup>14</sup>RG 21 . . . Pres., letter from Potter, Dec. 30, 1910 (fiche 6).

<sup>15</sup>RG 21 . . . Pres., letter from Potter, Jan. 31, 1911 (fiche 7).

<sup>16</sup>RG 21 . . . Pres., copy of letter to Potter, Feb. 1, 1911 (fiche 20).

<sup>17</sup>RG 21 . . . Pres., letter from John E. Junkin, Feb. 4, 1911 (fiche 7).

<sup>18</sup>RG 21 . . . Pres., letter from H. C. Taylor, Mar. 20 [1911] (fiche 8), and copy of letter to Taylor, Mar. 31, 1911 (fiche 21).

<sup>19</sup>RG 21 . . . Pres., copy of letter to Taylor, April 11, 1911 (fiche 21).

<sup>20</sup>RG 21 . . . Pres., copy of letter to Potter, Feb. 28 [1911] (fiche 20).

<sup>21</sup>RG 21 . . . Pres., letter from John D. Beck, Mar. 11, 1911 (fiche 7), and letter from Floyd Burt, Apr. 1, 1911 (fiche 8).

<sup>22</sup>RG 21 . . . Pres., letter from Ashland Commercial Club, Feb. 6, 1911 (fiche 7).

<sup>23</sup>RG 21 . . . Pres., letter from I. G. Marshall, Feb. 27, 1911 (fiche 7).

<sup>24</sup>RG 21 . . . Pres., letter from E. M. Dean, Mar. 21 [1911] (fiche 13).

<sup>25</sup>RG 21 . . . Pres., copy of letter to Potter, Mar. 2, 1911 (fiche 20).

<sup>26</sup>RG 21 . . . Pres., letter from Potter, Apr. 1, 1911 (fiche 8).

<sup>27</sup>RG 21 . . . Pres., copies of letters to Potter, Apr. 6, 21, and 27, 1911 (fiche 21).

<sup>28</sup>Miller blamed "the boys at Turon" for the overdrawn treasury. He had offered to let them trade their first payment for railroad company guaranteed common stock to one for the more lucrative construction company common stock. Later, he claimed that he had stipulated that the balance of the amount be paid in full, but none of the would-be stockholders seemed to have understood this part of the agreement. Consequently, they did not make any more payments and Miller overdrew the account.

<sup>29</sup>RG 21 . . . Pres., letter from Taylor, May 6, 1911 (fiche 9).

<sup>30</sup>RG 21 . . . Pres., copy of letter to Marine Trust and Savings Bank [hereafter MT&SB], Mar. 4, 1911 (fiche 20).

<sup>31</sup>RG 21 . . . Pres., letter from MT&SB, May 10, 1911 (fiche 9).

<sup>32</sup>RG 21 . . . Pres., copy of letter to MT&SB, May 16, 1910 [1911] (fiche 18) and copy of letter to MT&SB, May 15, 1911, and copy of letter to K. J. Russom, May 20 [1911] (fiche 22).

<sup>33</sup>Salina Daily Union, April 6, 1911, p. 5.

<sup>34</sup>RG 21 . . . Pres., copy of letter to Potter, May 5, 1911 (fiche 22).

<sup>35</sup>RG 21 . . . Pres., copy of letter to S. K. Titus, Apr. 22, 1911 (fiche 21).

<sup>36</sup>RG 21 . . . Pres., letter from C. A. Slayton, Apr. 12, 1911 (fiche 8).

<sup>37</sup>RG 21, Kansas, 6NCN-81-002, WS&G, Engineering Records, Statement of Account of C. A. Slayton [April, 1911] (fiche 32).

<sup>38</sup>RG 21 . . . Pres., letter from Potter, Apr. 21, 1911 (fiche 8).

<sup>39</sup>Topeka Daily Capital, Dec. 22, 1910, in "Banks and Banking Clippings," vol. 1, p. 304a, Library, Kansas State Historical Society, Topeka [hereafter KSHS].

<sup>40</sup>Cedric B. Cowing, Populists, Plungers, and Progressives: A Social History of Stock and Commodity Speculation, 1890-1936 (Princeton, Princeton University Press, 1965), p. 260.

<sup>41</sup>Kansas, Session Laws (1911), ch. 133.

<sup>42</sup>Cowing, pp. 67-70.

<sup>43</sup>Topeka Daily Capital, Mar. 24, 1915, in "Banks and Banking Clippings," vol. 1, p. 421, KSHS.

<sup>44</sup>Topeka Daily Capital, Mar. 27, 1915, in "Banks and Banking Clippings," vol. 1, p. 313, KSHS.

<sup>45</sup>RG 21 . . . Pres., copy of letter to Joseph N. Dolley, Apr. 5, 1911 (fiche 21).

<sup>46</sup>RG 21 . . . Pres., copy of letter to Dolley, Apr. 15, 1911 (fiche 8).

<sup>47</sup>Salina Daily Union, Apr. 6, 1911, p. 5.

<sup>48</sup>RG 21 . . . Pres., copy of letter to Potter, Apr. 6, 1911 (fiche 21).

<sup>49</sup>RG 21 . . . Pres., copy of letter to Dolley, Apr. 18, 1911 (fiche 21).

<sup>50</sup>Salina Daily Union, Apr. 21, 1911, p. 2.

<sup>51</sup>RG 21 . . . Pres., copy of letter to F. J. Partridge, Apr. 22 [1911] (fiche 21).

<sup>52</sup>RG 21 . . . Pres., letters from Potter, Apr. 21 and 26, 1911 (fiche 8), and May 3, 1911 (fiche 9).

<sup>53</sup>RG 21 . . . Pres., copy of letter to Potter, Apr. 27 [1911] (fiche 21) and May 1 [1911] (fiche 21A).

- <sup>54</sup>RG 21 . . . Pres., letter from Potter, Apr. 28, 1911 (fiche 8).
- <sup>55</sup>RG 21 . . . Pres., letter from Dolley, Apr. 28, 1911 (fiche 8).
- <sup>56</sup>RG 21 . . . Pres., copy of letter to Dolley, Apr. 28, 1911 (fiche 21).
- <sup>57</sup>RG 21 . . . Pres., letter from Dolley, May 1, 1911 (fiche 8).
- <sup>58</sup>RG 21 . . . Pres., copy of letter to Dolley, May 1, 1911 (fiche 21).
- <sup>59</sup>RG 21 . . . Pres., copy of letter to Partridge, Apr. 27 [1911] (fiche 21).
- <sup>60</sup>Kansas, Secretary of State, Eighteenth Biennial Report (1911-12), p. 8.
- <sup>61</sup>RG 21 . . . Pres., copy of letter to Dolley, June 16 [1911] (fiche 22). The exact contents of Dolley's request is unknown, because this letter did not survive with the others.
- <sup>62</sup>RG 21 . . . Pres., letter from Dolley, June 29, 1911 (fiche 9).
- <sup>63</sup>RG 21 . . . Pres., copy of letter to Dolley, June 30 [1911] (fiche 22).
- <sup>64</sup>RG 21 . . . Pres., copy of letter to Ream, July 15 [1911] (fiche 23).
- <sup>65</sup>RG 21 . . . Pres., copy of letter to Guaranty Trust Company, May 18 [1911] (fiche 22).
- <sup>66</sup>RG 21 . . . Pres., copy of letter to S. R. MacLean, June 7 [1911] (fiche 30).
- <sup>67</sup>RG 21 . . . Pres., copy of letter to Potter, Apr. 29, 1911 (fiche 21).
- <sup>68</sup>RG 21 . . . Pres., letter from Potter, June 26, 1911 (fiche 9).
- <sup>69</sup>RG 21 . . . Pres., letter from F. B. Crawford, May 15, 1911 (fiche 9).
- <sup>70</sup>RG 21 . . . Pres., copy of letter to D. K. Cunningham, May 11 [1911] (fiche 22).
- <sup>71</sup>RG 21 . . . Pres., copies of letters to Russom, June 12 [1911], and J. M. Miller, June 16 [1911] (fiche 22).



CHAPTER 6:

"FAST COMPANY," PART 1, JULY - DECEMBER, 1911

Sometime in June, 1911, Miller began serious negotiations with the Brindley Company of New York City to construct and equip the Winnipeg, Salina and Gulf's first grand division from Omaha to Oklahoma City with connecting branches from Kansas City and Des Moines, New Mexico. A final contract was signed on July 28, and Miller wrote to MacLean, "I have broken into fast company but I found it was necessary to handle this deal."<sup>1</sup> Through its association with the Brindley Company, the Winnipeg, Salina and Gulf Railway met with both its greatest successes and its ultimate failure. The officers of the Brindley Company, described as being close to the "Wall Street crowd," and their money gave the W. S. & G. a new respectability. For a time it seemed that Miller's dream would become a reality; but just one day less than ten months after signing the contract, the Brindley Company filed suit in U. S. District Court in Topeka, Kansas, that resulted in the eventual dissolution of the railroad. How the relationship between Miller and the New York firm was initiated is unknown, for virtually none of the correspondence between the two has survived. It is possible that the officers of the Brindley Company saw one of the notices Miller periodically sent in to trade journals that stated that construction would start "soon." They may have then contacted him, as did many other businesses that dealt with railroads, to offer their services. Or perhaps Miller wrote to the Brindley Company and invited it to submit a bid for the road's construction.

The expectations of Brindley Company officials are also unknown. They may have approached Miller's proposition as a safe business venture or they may have seen the offer as a speculative arrangement. Regardless of the Brindley Company's reasoning, it is obvious that Miller had a desperate need to find new financial supporters to continue the W. S. & G. He had been barred from his chief fund-raising method, stock-selling, in Kansas, and he was unable to raise enough funds to complete the documents that MacLean required for his negotiation of the road's first mortgage bonds. Miller believed that many of his problems would be solved if he could manage to build at least ten miles of track. He thought there would be no problem then in finding a New York City trustee because the W. S. & G. would be considered an already established road and it would not be affected by Wall Street's prejudice against new lines. Obtaining a trustee would fulfill the most difficult of MacLean's requirements and then the English syndicate's money would become available to build the rest of the railroad.

To MacLean, Miller explained that it was necessary to bring in the eastern men because his local board of directors deserted him after one of his former associates from Alva, Henry A. Noah, circulated a story that Miller and MacLean were conspiring to defraud the people. According to Miller, Noah claimed to have learned of Miller's and MacLean's intentions during his trip to London to see MacLean about financing his Oklahoma Western line.<sup>2</sup> There is no evidence, however, to substantiate this story. To his friend, K. J. Russom of Okeene, Oklahoma, Miller was somewhat more truthful when he wrote that he had invited the Brindley Company to join the proposition because he couldn't raise enough cash alone. But he blamed his problem on Russom's neighbors, the Oklahoma farmers, whose

demands for cash for rights of way were "something that has never been known in the history of railroad construction."<sup>3</sup>

As the negotiations continued, it began to appear that the future of the W. S. & G. was more secure. Miller hinted to his correspondents along the line that a new proposition would be offered which would be far more appealing than previous proposals. He would not ask for money to cover preliminary expenses but instead would yield to the many requests he had received and would accept cash bonuses after the road's completion. He offered to refund the money already put in by Turon and Okeene, because it would not be fair to keep their money when other towns would get the road although they had only made promises to pay after its completion. He warned his correspondents that even though their funds would not be required immediately, the New York associates would demand quick action and commitment from them. Cautioning a party in Guymon, Oklahoma, he wrote, "Do not frame up any deals, that cannot be carried through, for this reason; I have now associated with me, men who will not trifle and if you were to offer a proposition and our people were to come to Guymon and close it up and the thing failed, it would be all off as far as Guymon was concerned."<sup>4</sup> He also warned his friends along the line that if they "wanted in on the ground floor" of the proposition, they should buy stock in the W. S. & G. Construction Company without delay because the Brindley people had recognized the stock's great potential and were planning to purchase all available shares.<sup>5</sup>

Negotiations with the owners of the Denver, Kingfisher and Gulf reached a stalemate at the same time that negotiations with the Brindley Company concluded. While D. K. & G. owners and Miller had agreed on a purchase price and terms of payment and Miller had received their surveys

and profiles, he still demanded a "complete invoice of the proposition." He wanted precise information about rights of way, especially the exact amounts actually deeded to the D. K. & G., as well as the status and number of contracts for rights of way. On the other hand, the owners of the road demanded Miller make the \$10,000 down payment and threatened to limit the time in which to make it. Neither side was satisfied, since Miller did not have the \$10,000 and the D. K. & G. officials did not have the documentation that Miller wanted. By the time he had signed the Brindley contract, Miller had nearly given up on acquiring the Oklahoma road. He told Russom that he was writing to the owners again for detailed financial information but he considered it a waste of a stamp. A few days later he wrote that he no longer wanted the D. K. & G. because its debts amounted to more than twice the agreed purchase price.<sup>6</sup>

Prior to his agreement with the Brindley Company, Miller began to prepare his office for increased activity: two new typewriters and an adding machine were ordered and preliminary arrangements were made to hire a new chief engineer, Warren Nickerson of Milwaukee, at a monthly salary of \$200. In mid-July, Miller approved proofs for stock certificates to be engraved by Security Bank Note Company in Philadelphia and sent the initial \$25 payment. He promised that the subsequent payment, as well as the payments for the new office equipment, would be made later by the new Brindley associates. He also notified F. B. Crawford and Company in New York that his new Eastern associates would pay its initial fee so Crawford could begin selling W. S. & G. stock in the East. Miller received an unexpected boost from the Oklahoma State Banking Department in July shortly after his rejection by the Kansas State Banking Department. In response to a request from Russom, the building and loan auditor of the



Oklahoma department, W. M. Malone, wrote, "Mr. Miller the president is regarded as a man of fair general reputation, and spoken of as a good business man, but [his] means regarded limited. Authorities report the company prompt in meeting obligations and speak of prospects as fair."<sup>7</sup>

As the prospects of a contract between the W. S. & G. and the Brindley Company grew brighter, it was apparently agreed that the principals would meet at the railroad's headquarters. Miller notified many along the line that he and the Brindley officers would be traveling the proposed route. He thought that the branch across northern Oklahoma would receive the most attention from the Easterners because of its connection to the coal fields. He wrote to G. E. Patten of Lookout, Oklahoma, "Do not be surprised with the next thirty days if you find a hungry lot rolling into Lookout and tell Mrs. Patten that the whole crowd likes fried chicken."<sup>8</sup>

The trip never materialized but Miller did entertain some of his new associates for two or three weeks. On July 8, the Salina Evening Journal announced that the W. S. & G.'s new vice president and general manager, James M. Herbert, had arrived in Salina to begin arranging for the road's construction. Herbert had been in the railroad business since 1880 and had held various positions, including superintendent of the Kansas and Colorado division of the Missouri Pacific, general manager of the Denver and Rio Grande, and vice-president and general manager of both the Colorado and Southern and the Fort Worth and Denver City Railway. He had retired from railroading in 1908 and had become interested in the iron and foundry business. He told the Journal that the great possibilities of the W. S. & G. had lured him back into active railroad work. The paper also reported

that the Brindley Company had accepted the terms of a contract to construct the road and that financing had been completed.<sup>9</sup>

Sometime after Herbert's arrival, another new associate, George R. Cotter, joined the W. S. & G. Cotter, of Texarkana, Arkansas, was a lumberman and also had railroad management experience with the Fort Worth and Denver City. Cotter and Herbert may have known each other through their experience with this railway. The connection between the two men and the Brindley Company is unclear. Neither man appeared to have been associated with either the Brindley Company or Miller prior to July, 1911. It is possible that Brindley recommended Herbert and he, in turn, recommended Cotter.

Gilbert H. Gilbert of the Brindley Company and possibly other officers of the company also arrived in Salina in July. Rumors began to circulate about the railroad and one of the newspapers reported that strangers from New York and elsewhere had been seen at Miller's offices. Although Miller denied it, the Salina Daily Union reported a rumor from Union Pacific circles that the W. S. & G. had purchased the Union Pacific's entire tie pile.<sup>10</sup>

After several weeks, Miller signed a contract as president of the Winnipeg, Salina and Gulf Construction Company with the Brindley Company to survey, design, build, and equip the W. S. & G.'s first grand division. The division was approximately 1080 miles, from Omaha to Oklahoma City with branches from Kansas City to Salina and from Kiowa, Kansas, to Des Moines, New Mexico. The contract stipulated that the W. S. & G. turn over all its surveys, profiles, and plans to the Brindley Company and that it was to immediately make a final location survey for the line. The completed survey was to be submitted to the W. S. & G. for its approval.

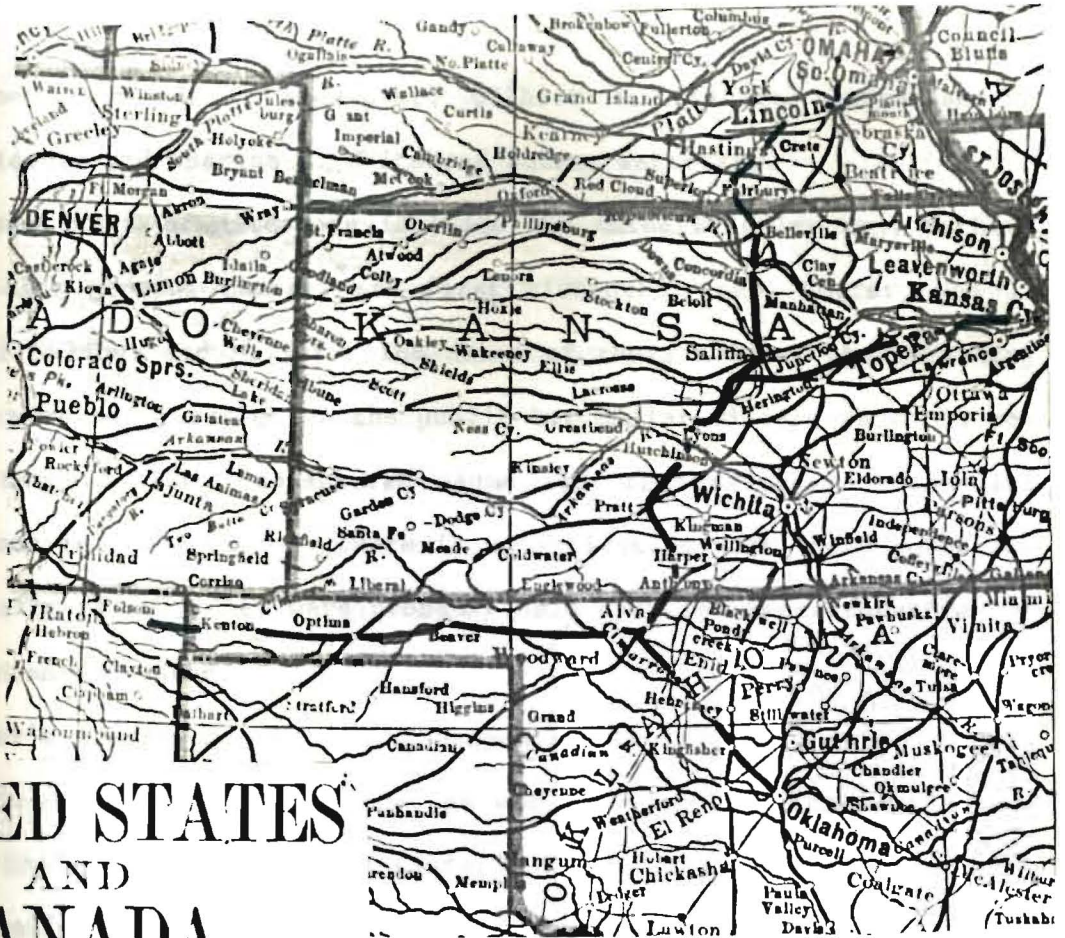
The railroad construction company was to pay for the survey as well as to provide all necessary rights of way. As soon as rights of way were obtained, the Brindley Company was to begin construction of a first class steam railway. Details of the construction were left unspecified except that the track was to be laid with seventy-pound new rails and that the average cost per mile was not to exceed \$14,500. The W. S. & G. reserved the right to make arrangements for subcontractors, equipment manufacturers, and others, with the agreement of the Brindley Company. As it completed construction of each division of approximately one hundred miles, the Brindley Company was to immediately turn it over to the W. S. & G. Construction Company. The railroad construction company agreed to assume the purchase and delivery of the rolling stock but in return the Brindley Company was to design and build all terminals, roundhouses, and other buildings needed by the road. All work was to be completed within three years.

For its services, the Brindley Company was to be paid actual construction costs plus 10% in cash. Expenditure statements and consequent payments were to be made twice monthly. The W. S. & G. Construction Company was to turn over nearly one quarter of the railway company's common stock to the Brindley Company immediately and one year later, on July 28, 1912, it was to receive 92 1/3% of the unsold preferred stock. In order to defray the construction costs, the W. S. & G. Construction Company was to arrange the sale of the first mortgage bond issue of \$29,997,000 and the sale of \$3,000,000 par value of the railway company's cumulative 6% preferred stock. (Prior to his involvement with the Brindley Company, Miller had claimed that all railway company stock was common stock that paid a 6% dividend. Part of the agreement with the

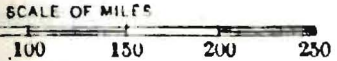
Brindley Company must have included differentiating the stock between \$27,000,000 par value common stock and \$3,000,000 preferred stock.)<sup>11</sup> The contract was made with the Winnipeg, Salina and Gulf Construction Company, which was merely a tool of the railway company and Miller. A contract, that was virtually identical to the contract between the construction company and the Brindley Company, was also made on July 28 between the W. S. & G. Railway Company and the W. S. & G. Construction Company.

In addition to the contract, the Brindley Company agreed to advance funds to meet the immediate operating expenses of the railway. The Brindley Company later claimed that it had been misled into believing that the W. S. & G's financial status was far better than it actually was. It contended that Miller had claimed \$5,000,000 of the first mortgage bonds were already subscribed and would be immediately purchased at a price of about eighty-five cents on the dollar. A deposit of \$500,000 was said to have been made and immediately available. Additionally, large subscriptions for W. S. & G. stock, that were to be paid in cash, were claimed to have been placed, and negotiations for bonuses from the various towns along the route were nearly completed.<sup>12</sup> Miller's rationale for Brindley's advancement of funds is unknown but he did tell MacLean that he would pay Brindley up to 25% of the entire capital stock of the railway company for the advances.<sup>13</sup> The Brindley Company was also to secure through their Wall Street connection a New York trustee for the road. The Trust Company of America was cited as its first choice and Knickerbocker Trust was second. The officers of the Brindley Company also became officers and directors of the W. S. & G. Railway and Construction companies.<sup>14</sup> The apparent leader of the Brindley men, Alexander Perry,





# UNITED STATES AND CANADA, WEST.



**EXPLANATION:**

- Important Through Railroads
- Projected Railroads
- Other Railroads
- Important Steamship Lines
- Head of Navigation of Streams ↓
- Overland Telegraph Lines

ROUTE OF THE WINNIPEG, SALINA AND GULF, AS SPECIFIED IN THE CONTRACT WITH THE BRINDLEY COMPANY, JUNE, 1911

Base map: Scarborough's New Standard World Atlas, new census edition (Indianapolis: Scarborough Co., 1911), p. 15.

became the W. S. & G. treasurer, Gilbert H. Gilbert became second vice-president, and Charles C. Whitehead became secretary.

The new board of directors included the three Brindley men, Herbert (who was also general manager and first vice-president), Cotter, Hal J. Nesmith of Salina, and Miller. The names of those holding the remaining positions were not revealed to the public but Miller claimed that the men were Easterners who represented some of the strongest financial institutions in the country. There is no indication that these positions were actually filled; they were probably held open for representatives of the yet unnamed trustee.

Miller's assessment of his arrangements with the "Wall Street crowd" is unclear. At times he wrote that he was allowing the Brindley Company to "take the proposition off my hands." To K. J. Russom, he wrote, "I have virtually turned this matter over to them and am only sitting in the game now to protect the interests of my friends and see that the line is built according to my pledges to the people along the line."<sup>14</sup> To MacLean, Miller gave a different view. He wrote that the Brindley Company had relieved him of the construction work only and that it was to turn an operating railroad back to him. In another letter, Miller told MacLean that he had "lost nothing" in his arrangements with the Brindley people. He claimed to have come out of the deal stronger than before. "I have bound these fellows down by a money consideration," he boasted.<sup>15</sup> This may have been Miller's true feeling about his new association. As he told Warren Nickerson before hiring him, "We have entered into a mixed up arrangement relative to the construction of the line. The Brindley Company will act as subcontractors but I find that virtually everything is

going to fall on myself and Mr. Herbert to see that the line is constructed in the proper form."<sup>16</sup>

In the weeks prior to his closing the contract with the Brindley Company, all seemed to be going well for Miller except for his relationship with MacLean. As he had in the past, MacLean complained that the members of the English syndicate were growing impatient with Miller's delays and had their money ready to spend. "Fully half million cash option is reported ready for closing up the underwriting, and the balance is to be duly arranged for in payments suitable to your construction requirements," he wrote.<sup>17</sup> He also complained that Miller had not sent him all the expense money he needed and warned that he might not be able to hold the syndicate together past the August bank holidays.<sup>18</sup> News of Miller's negotiations with Brindley seemed to encourage MacLean who then decided that the bank holidays need not be a deadline as long as it looked as though Miller was actually progressing with the road. He also said that he could interest some French and Swiss bankers in the proposition even if the English syndicate did break up. He did want, though, to be fully informed of Miller's progress with Brindley.<sup>19</sup> Before his request could reach Miller, Miller telegraphed him that the new board of directors was in session and that all required documents would be forwarded to him. MacLean was quite pleased with the news and reported that he had tried to inform the syndicate but could only locate one member. The other investors were away at the seaside, avoiding London's heat.<sup>20</sup>

Miller instructed MacLean, as he had in the past, to restrict his substantive communications to others and send them only to Miller. He reminded MacLean, "Owing to the fact, that our experiences in the past . . . have ended in failure, I wish to suggest that I have matters now, where



they will materialize and should any of the representatives from New York or elsewhere write you, simply inform them, that you have a resolution from the Board of Directors, authorizing that the negotiation is being handled between the writer and yourself." In the same letter, he stated that Alexander Perry was "inclined to be a little inquisitive and for that reason [I] insist that you recognize no one in this deal but myself. I have given him to understand that this will be the case." Miller also suggested that MacLean persuade most of his clients to pool their stock with Miller's and in that way they would have enough stock to vote out the Brindley Company if it became necessary. "We will have absolute control and should the New York parties get smart on our hands, we can eliminate them," he advised.<sup>21</sup>

After the Brindley contract was signed, Miller did as he had hinted and offered a new proposition to the towns along the route. No funds were asked for preliminary expenses but bonuses to be paid after the road's completion were requested instead. The amount asked depended on the size and population of the area. Lindsborg was asked for a bonus of \$10,000, Greensburg for \$12,000 and Guymon for \$15,000. Miller told residents of the western Cloud County towns of Jamestown and Delphos that he would need a \$24,000 bonus from the county in order to run the road in their direction. In most cases, the localities were to pay 25% of the amount upon completion of the road and the remaining 75% over the following three years. \$50.

Miller announced that the first construction would take place between Salina and Oak because there was a greater demand for a northern outlet than a southern one. Even though many preliminaries still remained to be done, he confidently stated that "cars will be running out of Salina on



the Winnipeg, Salina and Gulf Railway before Christmas."<sup>22</sup> The route of the Des Moines branch was undetermined since Miller contacted towns in both northern Oklahoma and southern Kansas. By late August, Martin H. Potter of Turon had recovered from his illness and had returned to that city. He expressed a willingness to work for the proposition again but asked Miller rather pointed questions in regard to the arrangements with the Brindley Company and the nature of the road's finances. Miller responded by accepting Potter's offer to work for the road and then threatening to drop Turon from the Des Moines branch. He told Potter's friend, A. L. Sooter of Coldwater, that this was his last offer to southwestern Kansas towns and that he would build across Oklahoma if he did not receive the proper support from them. He complained about Potter, "I have tried to get brother Potter and the Turon boys to aid me in this matter but Potter seems to want to do everything but what we are anxious to have done."<sup>23</sup>

Miller did not correspond with many towns along the Salina to Kansas City branch, but he briefly reconsidered the Topeka Southwestern. George W. Crane saw the Salina Evening Journal's article announcing the arrival of Herbert and when he wrote to again remind Miller of his unpaid bill, he asked how the new plans would affect the Topeka Southwestern line. Miller replied that he would still be willing to incorporate the line into the W. S. & G. system if the Topeka group would agree to the original terms, i.e. about \$50,000 with \$5,000 or \$10,000 down and construction started in ninety days.<sup>24</sup> Crane was certain the terms would still be acceptable and thought that the only difficulty would be in assembling the road's Board of Managers during the hot summer months. "Whenever matters are in such shape that you think you can take hold and swing it, let some of us know,"

he wrote.<sup>25</sup> Miller quickly replied that he was ready for action, but at this point the matter sank into oblivion.

The announcement of Miller's association with the Brindley Company had a favorable reaction from the Salina press. The Salina Daily Union wrote, "They [Saline County citizens] have not taken a general interest in the Winnipeg, Salina and Gulf, because several proposed north and south railroads have never materialized, but the change of tactics by the management . . . has given rise to rumors that success has crowned the efforts of the promoters so far as raising the money was concerned and the definite movements would be made soon looking to the immediate construction of the road."<sup>26</sup>

The Union's rival, the Salina Journal, in its semi-weekly version, noted that the construction of the W. S. & G. had become "practically an assured fact," and predicted that the road might make Salina the Kansas metropolis rather than Wichita or Hutchinson.<sup>27</sup>

Miller was certainly pleased with this new-found support but was careful to not overuse it. He wrote to his editor friend in Turon, W. B. Ream, "Salina has at last come to their senses and I am being given here a most loyal support. Both papers are doing their best for us and I am bound to hold them down. We do not wish them to write too strongly at this time."<sup>28</sup>

Miller cited the press's new support to MacLean in his argument for the necessity of allying himself with Easterners. MacLean had originally recommended that the railway board of directors consist of local businessmen. Miller contended that he had tried this but was unable to succeed because of "extreme jealousy" among Kansas businessmen. He claimed that Kansans were so jealous that they would fight a business venture rather than see fellow citizens make money from it.<sup>29</sup>

Within three weeks of closing with the Brindley Company, trouble arose which caused Miller to threaten to annul the contract. The cause, according to Miller, was the Brindley Company's reluctance or tardiness in meeting the railroad's expenses. On August 10, Miller wired the Brindley Company that he needed \$500 wired to him that day. He also inquired as to when he would receive the draft with which to pay Crawford.<sup>30</sup> Brindley's response is not known, but it probably demanded an accounting of the money, because the next day Miller fired back, "I am not an employee and refuse to explain but will annul the Brindley contract unless amount is sent by wire today." The day following that Miller declared to Herbert, "Perry cannot run this office."<sup>31</sup> On August 14, Miller telegraphed the eastern office that its failure had caused him much trouble but that all would be well if the cash was to be immediately forthcoming: a week later he had still not received any funds and he asked, "Is it your intention to continue this method of meeting Company obligations?" On August 29, Miller said he had sent approved vouchers for Crane and Company, Nesmith, and himself and issued the following warning to Brindley: "You will hear nothing from this office until amounts are paid in full." The form in which the vouchers had been prepared seemed to have been part of the controversy, because two days later Miller wired, "Prepare vouchers to suit yourself. I want cash as per your agreement."<sup>32</sup>

The situation reached a crisis in early September when Gilbert and Whitehead of the Brindley Company traveled to Salina. On Tuesday morning, September 5, Miller met with them and Cotter and had what he characterized as a "stormy session" in which he was ultimately victorious. He described the proceedings to MacLean, "After discussing the matter for ten minutes on their [Gilbert's and Whitehead's] part, I convinced Mr. Cotter, who was

acting for himself and Mr. Herbert, that the Brindley Company were a pack of educated liars and without any delay Mr. Cotter stepped in to one of our stenographers and dictated a letter, which . . . is an ultimatum for the Brindley Company to make good." The two Brindley representatives then laid the blame on the absent Perry, and Whitehead was said to have written him a seventeen page letter advising him to make the necessary payments. An agreement was made, according to Miller, between Whitehead, Cotter, and "others who are acting straight" to "take the matter up and push it forward annulling the Brindley contract" if Perry did not make good on the Company's promises. During this meeting Miller also reported that he had learned the Brindley Company was not strong enough to secure a New York trustee as they had agreed to do. Consequently Mr. Cotter contacted some friends at Commerce Trust Company in Kansas City, Missouri, and began negotiations for it to act as trustee. Miller claimed this move followed MacLean's instructions, and although the letter of instruction has not survived, MacLean was apparently happy with the Kansas City trust company.<sup>33</sup> Miller told MacLean that he thought he now had a good working relationship with the Brindley Company and reminded him that, "it only requires a little firmness on your part to absolutely refuse to recognize any factions and as I told you, you conduct matters with me alone."<sup>34</sup>

Brindley's version of the proceedings of the September meeting is unknown, but with one exception it did meet the railroad's expenses, including the long overdue bill from Crane and Company of Topeka and the \$1,334 payment to F. B. Crawford and Company of New York to start its stock selling campaign. Brindley did not, however, pay MacLean the \$2,550 he demanded. The amount that Miller received is also unknown, but the Brindley Company did meet the August payroll of \$1,850 for the Salina



office, which included \$1,250 to Herbert, \$200 each to Special Engineer Wylie and Chief Engineer Nickerson and \$50 each to two stenographers, one bookkeeper, and one janitor.

After the September meeting, Miller's relations with the Brindley Company improved for a few weeks. One of the results of the meeting was that Wylie and Nickerson were sent over the route north of Salina. Purchase of the surveys of the Nebraska, Kansas & Gulf, which ran between Salina and Oak was not ruled out, but it was evident that running new surveys was preferred. They returned on September 23 and reported that there would be heavy work in Cloud County between the Solomon and Republican rivers. Nickerson also reported that there did not seem to be much support for the road in northern Kansas. He wrote, "Although there had been much talk of aid in showing us the country, it all resolved into 'hot air' and no man went a foot of the distance with us except when looking over the country via Hedville."<sup>35</sup>

On their return, they discovered that the line would have to be resurveyed south of Salina in order to include Lindsborg and make other changes in the route. A surveying crew was organized, tents were ordered, and the party of fourteen in three heavily loaded wagons left the Salina offices on the morning of September 29.<sup>36</sup> Nearly a month later it was reported that the crew had reached Lindsborg and were headed on to Turon.<sup>37</sup>

In early October Miller informed Potter, with whom he was still annoyed, that the line would branch at Kiowa and go through the Panhandle rather than branch at Turon and take the southern Kansas route. Potter expressed his regrets but indicated that he would still do all he could for the road as long as it went through his town.<sup>38</sup> When the news spread

to others in the town, several wrote Miller imploring him to reconsider. Miller responded by blaming the Santa Fe railroad for his cool reception in southwest Kansas and stating that he would build the branch from Turon after all "if the Turon Commercial Club will take hold of this matter and help us to carry out our plans." The plans were for the club to help drum up support for the W. S. & G. along the southern and southwestern Kansas route. They club was to assure towns that Turon had known about the W. S. & G. for some time and that there was so much support for it that the town had placed a considerable sum of money in a trust for the road.<sup>39</sup> At the same time, Miller was telling his Oklahoma correspondents that the line would branch at Fairview, Oklahoma, and take the Panhandle route to the New Mexico coal fields. The surveying party continued south from Salina and at the end of the year it was announced that they were within ten miles of Turon. Miller announced that the road would begin to acquire rights of way between Salina and Kiowa as soon as the crew reached Kiowa and that part of the first grand division would be constructed first.<sup>40</sup>

Miller made other preparations for construction. Through his friend, K. J. Russom of Okeene, Miller made inquiries into acquiring another Oklahoma railroad, the Pueblo, Oklahoma City and New Orleans. Miller had been very familiar with the state of the company in 1908 and claimed that he wanted to obtain their charter because the road had little, if any, indebtedness. If they were successful in buying the charter, he promised that construction would begin in Oklahoma. He might very well have had unsatisfactory dealings with the road's owners in the past because he insisted that Russom do the negotiating and that he reveal neither the railroad nor the promoter he was representing.<sup>41</sup> Russom began corresponding with the line's secretary, George H. Dodson of Oklahoma

City. Since Dodson and his associates had not completely abandoned their plans for construction, they were more interested in a partnership than in a sale. If a partnership was out of the question, Russom learned that they would offer the road for about \$50,000. Miller had objected to the \$50,000 price tag because he knew that only \$15,000 to \$22,000 had been invested in it and that it had been offered for sale in 1908 for \$25,000.

While Russom did not disclose Miller's name, he did tell Dodson a bit about the road he presented and that a contract for its construction had been let. Dodson commented rather sarcastically that Russom had described a totally new method of railroad construction. He asserted that the usual first step in promoting a railroad was to decide upon a route and make permanent surveys that would show the exact numbers of bridges, culverts, fills, and the amounts of dirt to be moved. Only then could financiers and construction contractors be approached because only then could an intelligent estimate of construction costs be made. He also questioned the competence of a financier and contractor who would work for a road without a permanent survey, maps, profile, and field notes. Russom indignantly replied that the financing and construction parties had ample opportunity to know what "every foot" of the line would cost.<sup>42</sup> A few days later Russom notified Dodson that he could expect to hear directly from the president of the road he represented, but Miller never contacted Dodson. In early November, Miller advised Russom that it was no longer necessary to obtain an Oklahoma chartered railroad because a recent U. S. Supreme Court ruling had virtually invalidated the advantages that Oklahoma had given roads chartered in the state.<sup>43</sup>

Miller continued to prepare for construction. He made initial inquiries into the procedures and charges for filing foreign charters in

the states of Nebraska and New Mexico. He also promised to make a contract with the Pennsylvania Inspection Bureau of Johnstown, Pennsylvania, to inspect the road's rolling stock and all bridge and structural material upon its arrival.<sup>44</sup> For a brief time, Miller negotiated with an Edward Roemer of New York City about financing and building the W. S. & G.'s second grand division from Oak, Nebraska, to Winnipeg. Roemer owned the Winnipeg and Galveston, another paper railroad covering much the same territory as the W. S. & G. Miller gave up negotiations, however, when Roemer informed him that Roemer's contacts in both railroad financing and construction were doing his work only as a favor to him and that they rejected ninety-nine out of one hundred applications for their services.<sup>45</sup>

As a result of the September confrontation with the Brindley Company, Commerce Trust Company of Kansas City, Missouri, was approached by Cotter and H. J. Stover, cashier of Traders State Bank in Salina, about acting as the trustee for the funds raised by the English syndicate. Stover reported that both the company's president, W. T. Kemper, and treasurer, Richard C. Menefee, were impressed with the W. S. & G. and interested in acting as trustee. Menefee himself wrote and indicated that the trust company would be pleased to act as trustee "if satisfactory arrangements could be made."<sup>46</sup> Miller immediately informed MacLean of the breakthrough but he refused to release the news locally. In response to a query by Potter, Miller stated that the road had a trustee but that the Board of Directors had instructed him to tell as little as possible about it because the trustee would be flooded with bothersome letters asking for verification.<sup>47</sup> In mid-October Miller sent the trust company a proposed Deed of Trust, a mortgage bond, and the W. S. & G. stock agreements. He



also proposed that the trust company name four men to the W. S. & G. board. President Kemper quickly responded that while they were interested in the road, Miller still needed to show them that the bonds had been placed and that the road would be adequately financed. A few days later the firm suggested that MacLean persuade his syndicate to place at least a \$500,000 deposit on the bond sales in a London bank as a pledge of good faith.<sup>48</sup>

Cotter continued with his negotiations with the prospective trustee and by the end of October he reached the following tentative agreement: Commerce Trust would act as trustee for the W. S. & G. for a payment of \$5,000 plus \$.50 for each of the first twenty thousand bonds issued. It was expected that MacLean would arrange for the \$500,000 deposit as soon as he received word of the trust company's acceptance of the railroad's deed of trust and mortgage bond. There was also an understanding that the trust company could withdraw if the bonds were not sold within a specified time period. Shortly after the agreement Cotter wired Miller and stated that it might be possible to persuade the trust company to require only \$1,000 down with a promise to pay the remaining \$4,000 with the money released by F. B. Crawford and Company from their stock selling campaign. Cotter also suggested that the Brindley Company advance the necessary down payment.<sup>49</sup>

While Herbert was pleased with Commerce Trust's interest, he cautioned Miller against assuming that any definite action would occur immediately because the final surveys hadn't been completed and the rights of way hadn't been obtained. He wrote, "It is a mistake to say that MacLean will have deposited a million or half million on receipt of Trust Deed and that the Trust Deed can be secured at the present time through

the Trust Company without any further showing. We must have a mortgage on which to base our bond. Now what have we to mortgage? Nothing that will be accepted until we have permanent surveys made and right of way secured by deed, etc."<sup>50</sup>

After the Brindley Company paid its initial fees, F. B. Crawford and Company launched its stock selling campaign. Miller expected the company to start turning over the proceeds of its sales to him but none appeared. In response to Miller's inquiry, the company stated that it was not delaying its sales, as Miller suggested, but that it was waiting until enough subscriptions were taken to insure that the company could handle the sale of all the preferred stock. At that point, the company would require MacLean to prove that the bonds had been sold. Proof was necessary because, "we do not intend to let our investors get a railroad on their hands, which is under way, and then not be able to complete same because of the failure of the underwriting of the bonds."<sup>51</sup>

Miller's initial response was typical. He threatened to withdraw the contract with Crawford if they didn't hurry up and send him the sale's proceeds because the road needed the money then and would not need it later. He accused Crawford of asking for information that was neither its concern nor required by its contract. He also denied he had said the bonds were underwritten "because that is not the way that our Bonds are being disposed of," but he did not elaborate on the method MacLean planned to use.<sup>52</sup>

Despite his threats to withdraw, Miller did all that he could to persuade Crawford to transfer the money from the stock sales to him. He asked that MacLean notify Crawford that the bonds had actually been sold. He also wanted MacLean have his syndicate put up a deposit of any

amount and have a London bank certify it. Miller thought this would meet the requirements of both Crawford and Commerce Trust and that he would then receive enough money from Crawford to complete the road without Brindley's help.<sup>53</sup> Of course, MacLean did neither because he had not received all of the needed documentation, particularly an executed agreement with Commerce Trust and a complete set of profiles, maps, and surveys. Miller confidentially offered to give Crawford a certain number of shares in both the railway and construction companies if Crawford would send Miller the first installment from the sale. He also offered to give Crawford his personal "absolute note" in return for the funds which would stipulate that Miller would refund the money if the bonds were not sold within a specified time. In late October, Miller wrote that he had been having some difficulty with the Brindley Company. He promised to give Crawford all the information it required if it would recognize and communicate with Miller only. The money from Crawford was to be deposited directly into Commerce Trust to ensure its safety.<sup>54</sup>

F. B. Crawford and Company rejected all Miller's offers and always reminded him that the company had taken up the selling campaign on his representations that the bonds had been sold in London. He was also reminded that he had changed the proofs on Crawford's circulars to state that the bonds were sold. Crawford stated that had it been aware that this was not the case, it would not have launched its campaign. Such a sale would be a waste of time and money and would subject the company to litigation. The letter continued, "Our reports on Mr. McLean [sic] lead us to believe that he is honest but not of any special strength financially, in fact he has not had any business office for five years. You can understand that with information of this kind, why we insist upon

being shown the real money or substantial underwriting."<sup>55</sup> Miller then blamed the Brindley Company attorneys for the state of affairs. He stated that MacLean could not sell the bonds until he received a properly executed deed of trust and mortgage bond. Miller claimed he was ready to do this but stated that the Brindley's attorneys were causing a delay for some unknown reason.<sup>56</sup> Miller's relationship with Crawford remained at this status for the remainder of 1911.

Although Miller's relationship with the Brindley Company seemed to improve for a few weeks following the September confrontation, Alexander Perry of the Brindley Company, who was also the W. S. & G. treasurer, never regained Miller's confidence. Miller informed MacLean, "I am fully convinced, that our man Perry in New York is putting up a deal there, that if allowed to go ahead, he would turn the entire proposition to some of his Wall Street friends and by so doing, kill it."<sup>57</sup> Consequently, Miller and Herbert had planned to be able to influence enough members of the Board of Directors (including those to be named by Comemrce Trust) to control the situation and prevent the Brindley men from taking the proposition away from them.

By early October, MacLean still had not received his \$2,550 fee from Brindley. Miller advised him that Miller, Herbert, and Cotter were following a course in which Brindley would be forced to pay up or get out of the deal at the next board meeting, which was scheduled for October 17 at Kansas City.<sup>58</sup> At that meeting Miller learned that Layng, Spencer and Crane, Brindley attorneys, had advised that the company spend nothing on the W. S. & G. until it could be proven that the bonds had been sold. Some weeks before, they had written directly to MacLean and informed him of their advice. They also told him that new trust company practices



resulting from the 1907 Wall Street Panic would require that the bonds be sold before there could be any agreement with any reputable trust company.<sup>59</sup> Miller was fairly pleased, however, with the outcome of the October board meeting, and the Brindley Company finally sent MacLean the amount he required. Subsequently Miller once again reminded MacLean to communicate only with him and to ignore Brindley. He claimed that MacLean should feel that he owed Brindley nothing because the money he received was from the W. S. & G. and not Brindley. He promised Brindley that when MacLean received the executed deed of trust, the English syndicate would place \$7,500,000 on deposit for the bonds. Unfortunately Miller never mentioned this figure to MacLean. On the same day that he told Brindley about this deposit, he also wired MacLean asking if he would place just \$500,000 on deposit when he received the proper papers.<sup>60</sup>

Herbert and Cotter were not as pleased, apparently, as Miller with the October meeting. In the latter part of the month Herbert demanded that a special board meeting be scheduled for November 3, at Salina unless the Brindley Company paid all the W. S. & G.'s outstanding bills, as they had agreed. The Brindley Company responded that they did not see the necessity of such a meeting and thought that Herbert was expecting too much. They also indicated that they were trying to comply with MacLean's requirements as quickly as possible. Herbert declined to delay the meeting, which Miller saw as a bad move because he thought that the Brindley "boys" would "make good."<sup>61</sup> Miller offered to stay away from the meeting, which would result in there being no quorum, if Brindley sent him \$250 immediately and another \$1,000 later. The Brindley Company did send him a check for an unknown amount and the meeting was delayed until early December. Brindley further pleased Miller on November 15, by meeting the

October payroll in full on time and with cash.<sup>62</sup> Miller explained to MacLean that even though it appeared as though he was being impartial in the dispute between Herbert and Cotter on one side and the Brindley Company on the other, Herbert and Cotter were really following Miller's instructions. By using this technique, Miller was confident that Brindley would live up to their agreement.<sup>63</sup>

In the meantime, Miller continued to have problems with MacLean. Miller's telegram asking for verification of a \$500,000 deposit had gone unanswered and Miller believed that it had damaged his position with Commerce Trust. About two weeks later Miller received a letter from MacLean in which he stated that the remaining requirements would probably cost between \$60,000 and \$70,000 and that the bonds would have to be completely engraved before the syndicate would put up any money. "This is what begins to hurt," Miller protested. "I have followed your instructions and told my associates, that when the Deed of Trust was filed, that a deposit could be made and that the Bonds would be ready for delivery as soon as possible." If MacLean would only have his syndicate place a deposit, Commerce Trust would be satisfied and Miller thought that Crawford would begin to turn over the proceeds of the stock sales.<sup>64</sup> MacLean then claimed that he had often explained that such a deposit was a "very impractical proposition" and, noting that his clients were impatient, he again outlined the necessary requirements, that now included an additional £189 to meet his expenses.<sup>65</sup>

At some point in early November, Miller must have given up on the Brindley Company. He entered into a scheme with Herbert and Cotter to oust Brindley and bring in some of Herbert's wealthy friends in its place. Miller suggested that they employ his favorite technique of declaring a

contract invalid through some technicality. Herbert disagreed and stated, "I cannot harmonize my opinion, from my experience in corporation business and executive work, with yours to the effect that some small technicality may be advanced to abrogate contracts if they were or are based on legal and legitimate premises. My opinion is that we will have difficulty in getting Brindley Company out if they should make a fight to stay with it. The better way I think is to carry it to them as Cotter and I have outlined: to have them either make good immediately, or retire of their own accord." Herbert was of the opinion that the Brindley Company would bow out of the proposition. As a part of the plan, Cotter traveled to New York in mid-November to obtain the resignations of the Brindley men.<sup>66</sup>

The stage was set for the final confrontation with the Brindley Company to be held at the annual meeting of the W. S. & G. Construction Company's Board of Directors in Salina on December 5, 1911. Miller, Herbert, and Cotter were to issue a final ultimatum to the Brindley associates: either they were to immediately remit \$48,849.86 that Herbert and Miller had determined would meet their obligations, or they would be voted out of office and Herbert's associates would be voted in. Miller warned the Brindley Company in a telegram on November 20 that he was tired of fooling with them and that directors would be elected who would "let the deal go through." The next day he telegraphed, "All business suspended with Brindley Company. Contract will be officially annulled at annual meeting."<sup>67</sup> Miller notified MacLean of these plans and stated that they expected Whitehead, who was portrayed as a reasonable man, to withdraw from the Brindley Company and join the W. S. & G. at his and Herbert's invitation. (Miller thought that the Brindley Company would then fold.) Miller was to be in charge of all the financial arrangements

and Herbert was to take over all duties concerned with construction. All MacLean's requirements were to be completed by mid-January and Miller wanted MacLean to then move quickly to get the bonds sold. He wrote, "Owing to the fact, that I have challenged them, stating that I have confidence in you being able to do your part, I hope you will come to my rescue as rapidly as possible."<sup>68</sup>

Even though nearly \$49,000 would be demanded of the Brindley Company and MacLean had estimated that \$60,000 to \$70,000 would be needed to complete the documentation, Miller told Herbert that \$25,000 would be all that would be necessary to meet all the requirements. In return, Herbert and his new associates were to have a contract similar to Brindley's and they were to receive all the stock that had been assigned to Brindley.<sup>69</sup> By December 1, Miller said he had the resignations of the Brindley associates and warned Crawford and Company that they might demand a refund for the money Brindley had paid for the stock selling promotion. If such a demand were made, Miller instructed Crawford to refuse and to say that its account was charged directly to the W. S. & G.<sup>70</sup> The Brindley officers did not come to the annual meeting and left the way clear for Herbert and his associates.

The meeting did not go as planned. Miller suddenly reversed his opinions of Herbert and the Brindley Company. He claimed that Herbert had demanded to be in charge of the entire W. S. & G. operation, including both construction and finance. Miller immediately suspected that Herbert and his new associates would kill the proposition in order to benefit the older, established lines. The delays that Miller had previously credited to Brindley were now chalked up to Herbert, because Miller learned that Herbert had instructed Perry to delay until Herbert gave his okay.



Furthermore, Miller accused Herbert and Cotter of conspiring with Commerce Trust to get \$5,000 of the railroad's money to convert to their own use. Miller now preferred the Brindley Company to Herbert. He wired Perry, "Standing by Brindley against Herbert crowd. Will reject Herbert if you are ready to amend contract and go ahead. Fight hot. Answer quick."<sup>71</sup>

Herbert and Cotter did not resign immediately after Miller turned on them and still tried to have two wealthy associates, J. E. Hutt of Lawrence, Kansas, and J. B. W. Amsden of Joplin, Missouri, elected to the W. S. & G. Construction Company Board of Directors.<sup>72</sup> A few days later Herbert and Cotter left the Winnipeg proposition. Their departure briefly left Miller without any substantial financial supporters. He approached one of Herbert's associates, Amsden, about joining the proposition without Herbert. Miller told him that Herbert had deliberately inflated the amount needed to complete MacLean's requirements to \$25,000 in hopes of making a profit from Amsden's contributions to the construction fund. Miller claimed that this was his reason for forcing Herbert out of the company. The amount really needed was estimated to be no more than \$15,000. Miller promised that he would be completely open and honest with Amsden, but Amsden was apparently unconvinced and did not join the W. S. &

G.<sup>73</sup>

Salina banker H. J. Stover managed to convince Miller that Commerce Trust had not conspired with Cotter and Herbert but that Cotter was really the source of the trouble with the Kansas City trust company. Miller notified MacLean that the trust company was making a few changes in the deed of trust and that it would be properly executed after the Christmas holidays. He wrote, "You cannot dream of the opposition I have overcome in working out this proposition but you well knew when I undertook it I

recognized no master except death and you will find that if I stay above the ground a short time longer that I will pull it through. . . . I think now, however, that our hardest fight is over."<sup>74</sup> By maintaining his relationship with Commerce Trust, Miller managed not to throw away one of the most significant achievements of this period.

While Miller wanted to renegotiate with the Brindley Company, it did not go smoothly at first. The firm apparently sent him some indication of a willingness to rejoin the proposition, but they did not send any funds for the surveying crew as Miller had requested. The crew and Chief Engineer Nickerson were unpaid and threatened to quit. Finally, on December 15, Miller notified Brindley that he had sent the official notice of the annulment of their contract. The next day he telegraphed that the annulment would be cancelled if they were ready to proceed with him. Brindley must have again indicated a willingness to continue working with him, since Miller wrote that all could be worked out but that it would "require a personal interview to expedite matters as action must be taken to hold things together."<sup>75</sup> The interview did not take place, but Miller was satisfied with Brindley's letters. By late December funds were sent for the surveying crew and the proposition was "held together" for a few more months.<sup>76</sup>

## CHAPTER 6: NOTES

<sup>1</sup>Records of the U.S. District Court (record group 21) [hereafter RG 21]; District of Kansas, First Division [hereafter Kansas]; "Records of the Winnipeg, Salina and Gulf Railway Company, 1908-1912" (microfilm preservation project 6NCN81-002) [hereafter 6NCN81-002]; Winnipeg, Salina and Gulf [hereafter WS&G]; records of the President [hereafter Pres.]; copy of letter to Samuel R. MacLean, July 20 [1911] (fiche 30).

<sup>2</sup>RG 21, Kansas 6NCN81-002, WS&G, Pres. [hereafter RG 21 . . . Pres.], copy of letter to MacLean, Aug. 1 [1911] (fiche 30).

<sup>3</sup>RG 21 . . . Pres., copy of letter to K. J. Russom, July 12 [1911] (fiche 23).

<sup>4</sup>RG 21 . . . Pres., copy of letter to A. J. Welty, July 29 [1911] (fiche 23).

<sup>5</sup>RG 21 . . . Pres., copy of letter to Russom, June 19 [1911] (fiche 22).

<sup>6</sup>RG 21 . . . Pres., copies of letters to Russom, July 29 and Aug. 3 [1911] (fiche 23).

<sup>7</sup>RG 21 . . . Pres., letter from the Oklahoma State Banking Dept. to Russom, July 11, 1911 (fiche 10).

<sup>8</sup>RG 21 . . . Pres., copy of letter to G. E. Patton, June 20 [1911] (fiche 23).

<sup>9</sup>Salina Evening Journal, July 8, 1911, p. 8.

<sup>10</sup>Salina Daily Union, July 10, 1911, p. 1.

<sup>11</sup>RG 21, Kansas, The Brindley Company v. The Winnipeg, Salina and Gulf Railway Company et al. (civil case 1299), Bill of Complaint, pp. 15-19, Archives Branch, Federal Archives and Records Center, Kansas City, Mo.

<sup>12</sup>Ibid., pp. 8-10.

<sup>13</sup>RG 21 . . . Pres., copy of letter to MacLean, Aug. 7 [1911] (fiche 30).

<sup>14</sup>RG 21 . . . Pres., copy of letter to Russom, July 29 [1911] (fiche 23).

<sup>15</sup>RG 21 . . . Pres., copies of letters to MacLean, Aug. 7 and Aug. 1 [1911] (fiche 30).

<sup>16</sup>RG 21 . . . Pres., copy of letter to Warren Nickerson, July 21 [1911] (fiche 23).

- <sup>17</sup>RG 21 . . . Pres., copy of letter from MacLean, June 31, 1911 (fiche 17).
- <sup>18</sup>RG 21 . . . Pres., letter from MacLean, July 12, 1911 (fiche 17).
- <sup>19</sup>RG 21 . . . Pres., letter from MacLean, July 13 and 17, 1911 (fiche 17).
- <sup>20</sup>RG 21 . . . Pres., copy of telegram to MacLean, July 22, 1911 (fiche 29) and copy of letter from MacLean, July 24, 1911 (fiche 17).
- <sup>21</sup>RG 21 . . . Pres., copy of letter to MacLean, Aug. 7 [1911] (fiche 30).
- <sup>22</sup>Salina Daily Union, Aug. 1, 1911, p. 2.
- <sup>23</sup>RG 21 . . . Pres., copy of letter to A. L. Sooter, Sept. 19 [1911] (fiche 23).
- <sup>24</sup>RG 21 . . . Pres., letter from George W. Crane, July 14, 1911 (fiche 10), and copy of letter to Crane, July 15 [1911] (fiche 23).
- <sup>25</sup>RG 21 . . . Pres., letter from Crane, July 18, 1911 (fiche 10).
- <sup>26</sup>Salina Daily Union, July 19, 1911, p. 3.
- <sup>27</sup>Salina Semi-weekly Journal, Aug. 3, 1911, p. 2.
- <sup>28</sup>RG 21 . . . Pres., copy of letter to W. B. Ream, Aug. 7 [1911] (fiche 23).
- <sup>29</sup>RG 21 . . . Pres., copy of letter to MacLean, Aug. 7 [1911] (fiche 30).
- <sup>30</sup>RG 21 . . . Pres., copies of telegrams to Brindley Co., Aug. 10 [1911] (fiche 29).
- <sup>31</sup>RG 21 . . . Pres., copy of telegram to Brindley Co., Aug. 10 [1911], and copy of telegram to J. M. Herbert, Aug. 12 [1911] (fiche 30).
- <sup>32</sup>RG 21 . . . Pres., copies of telegrams to Brindley Co., Aug. 14, 22, 29, and 31, 1911 (fiche 29).
- <sup>33</sup>RG 21 . . . Pres., copy of letter to MacLean, Sept. 14 [1911] (fiche 30).
- <sup>34</sup>RG 21 . . . Pres., copy of letter to MacLean, Sept. 18 [1911] (fiche 30).
- <sup>35</sup>RG 21 . . . Pres., letter from Nickerson, Oct. 2, 1911 (fiche 11).
- <sup>36</sup>Salina Semi-weekly Journal, Sept. 29, 1911, p. 1.



<sup>37</sup> Salina Daily Union, Oct. 14, 1911, p. 3.

<sup>38</sup> The day after Miller wrote his news, Potter became involved in an altercation in the office of the Turon Weekly Press with a lady compositor and the editor, W. B. Ream. The young woman claimed that Potter had been forcing his attentions on her which she had rejected and that she had called him to the office to apologize. When he refused she chased him around the office and hit him with a broom until he managed to take it away from her. At this point, Ream, who was also the woman's brother-in-law, stepped in and held Potter down while she hit him with a twenty-inch brass column rule. The incident was reported and appeared on page one of the Turon Weekly Press and the Hutchinson papers. Potter promptly sued Ream for libel but eventually lost his case. Turon Weekly Press, Oct. 12, 1911, p. 1, and Oct. 19, 1911, p. 1, and Hutchinson Daily Gazette, Oct. 10, 1911, p. 1.

<sup>39</sup> RG 21 . . . Pres., copy of letter to Turon Commercial Club, Nov. 6 [1911] (fiche 24).

<sup>40</sup> Salina Daily Union, Dec. 26, 1911, p. 1.

<sup>41</sup> RG 21 . . . Pres., copies of letters to Russom, Aug. 24 and Sept. 7 [1911] (fiche 23).

<sup>42</sup> RG 21 . . . Pres., copies of letters from George H. Dodson to Russom, Sept. 4 and 11, 1911, and copy of letter from Russom to Dodson, Sept. 12, 1911 (fiche 10).

<sup>43</sup> RG 21 . . . Pres., copy of letter to Russom, Nov. 1 [1911] (fiche 24).

<sup>44</sup> RG 21 . . . Pres., contract between Pennsylvania Inspection Bureau and the Winnipeg, Salina & Gulf Ry. Co., Oct. 10, 1911 (fiche 11).

<sup>45</sup> RG 21 . . . Pres., letters from Edward Roemer, Dec. 4 and 21, 1911 (fiche 11).

<sup>46</sup> RG 21 . . . Pres., letters from H. J. Stover and Commerce Trust Co., Sept. 26, 1911 (fiche 11).

<sup>47</sup> RG 21 . . . Pres., copy of letter to Martin H. Potter, Oct. 5 [1911] (fiche 30).

<sup>48</sup> RG 21 . . . Pres., letter from Commerce Trust Co., Oct. 13, 1911 (fiche 11), and copy of letter to MacLean, Oct. 20 [1911] (fiche 30).

<sup>49</sup> RG 21 . . . Pres., telegrams from George R. Cotter, Oct. 27 [1911] (fiche 5) and Oct. 28, 1911 (fiche 29).

<sup>50</sup> RG 21, Kansas, 6NCN81-002, WS&G, records of the general manager [hereafter Gen. Mgr.], copy of letter from Herbert to H. Leone Miller, Nov. 14, 1911 (fiche 31).

<sup>51</sup>RG 21 . . . Pres., letter from F. B. Crawford and Co., Sept. 19, 1911 (fiche 10).

<sup>52</sup>RG 21 . . . Pres., copy of letter to Crawford and Co., Sept. 23 [1911] (fiche 23).

<sup>53</sup>RG 21 . . . Pres., copies of letters to MacLean, Oct. 19, Nov. 3, and Nov. 10 [1911] (fiche 30).

<sup>54</sup>RG 21 . . . Pres., copy of letter to Crawford and Co., Nov. 6 and Oct. 30 [1911] (fiche 24).

<sup>55</sup>RG 21 . . . Pres., letter from Crawford and Co., Nov. 4, 1911 (fiche 11).

<sup>56</sup>RG 21 . . . Pres., copy of letter to Crawford and Co., Nov. 6 [1911] (fiche 24).

<sup>57</sup>RG 21 . . . Pres., copies of letters to MacLean, Sept. 28 [1911] (fiche 30).

<sup>58</sup>RG 21 . . . Pres., copies of letters to MacLean, Sept. 29 and Oct. 30 [1911] (fiche 30).

<sup>59</sup>RG 21 . . . Pres., copy of letter from Layng, Spencer & Crane to MacLean, Sept. 6, 1911 (fiche 17).

<sup>60</sup>RG 21 . . . Pres., copies of telegrams to Brindley Co. and MacLean, Oct. 28 [1911] (fiche 29).

<sup>61</sup>RG 21 . . . Pres., telegrams from Brindley Co. and to Herbert, Oct. 30, 1911 (fiche 11), and copy of telegram to Cotter, Oct. 31, 1911 (fiche 29).

<sup>62</sup>RG 21 . . . Pres., copies of telegrams to Brindley Co., Nov. 1 [1911] and Nov. 3, 1911, and to Herbert, Nov. 15, 1911 (fiche 29).

<sup>63</sup>RG 21 . . . Pres., copy of letter to MacLean, Nov. 8 [1911] (fiche 30).

<sup>64</sup>RG 21 . . . Pres., copy of letter to MacLean, Nov. 3 [1911] (fiche 30).

<sup>65</sup>RG 21 . . . Pres., copy of letter from MacLean, Nov. 14, 1911 (fiche 17).

<sup>66</sup>RG 21, Kansas 6NCN81-002, WS&G, Gen. Mgr., copy of letter from Herbert to Miller, Nov. 14, 1911 (fiche 31).

<sup>67</sup>RG 21 . . . Pres., copy of telegram to Alexander Perry, Nov. 20, 1911 (fiche 29).

<sup>68</sup>RG 21 . . . Pres., copy of letter to MacLean, Nov. 23 and Dec. 2 [1911] (fiche 30).

<sup>69</sup>RG 21 . . . Pres., copies of telegrams to Herbert, Nov. 27 and Dec. 1, 1911 (fiche 29).

<sup>70</sup>RG 21 . . . Pres., copy of letter to Crawford and Co., Dec. 1 [1911] (fiche 24).

<sup>71</sup>RG 21 . . . Pres., copy of telegram to Perry, Dec. 7, 1911 (fiche 29).

<sup>72</sup>RG 21 . . . Pres., copy of letter to Stover, Dec. 8 [1911] (fiche 24).

<sup>73</sup>RG 21 . . . Pres., copy of letter to J. B. W. Amsden, Dec. 15 [1911] (fiche 28).

<sup>74</sup>RG 21 . . . Pres., copies of letters to MacLean, Dec. 9 and Dec. 12 [1911] (fiche 30).

<sup>75</sup>RG 21 . . . Pres., copy of telegram to Brindley Co., Dec. 18 [1911] (fiche 29).

<sup>76</sup>RG 21, Kansas, 6NCN81-002, WS&G, records of the Engineering Dept., copy of telegram from Nickerson to H. E. Wylie, Dec. 26, 1911 (fiche 31).

## CHAPTER 7:

### "FAST COMPANY," PART 2, JANUARY - JUNE, 1912

With the departure of Herbert and Cotter from the railroad, Miller entered into the second and final phase of his relationship with the Brindley Company. Outwardly, it usually appeared that the Winnipeg, Salina and Gulf Railway would soon emerge from its status as a paper road and start construction. It enjoyed continued support from the Salina press, and public interest in the road grew. Despite the outward positive appearances, Miller's sources of financial support either failed or rejected him, and the stage was set for the events that led to the ultimate dissolution of his company.

At the request of Commerce Trust Company, David Ritchie, a Salina attorney, appeared before the Kansas Public Utilities Commission on January 4 on behalf of the W. S. & G. He applied for and received certification from the commission for the railway company to issue bonds to the amount of \$29,997,000 at the rate of \$27,775 per mile. This achievement was widely reported and was generally seen as another sign of the line's impending construction. Miller notified his London financier, Samuel R. MacLean, of the event and claimed that not only did the commission give its permission to issue bonds, it also gave the road its special endorsement.<sup>1</sup>

For the first time in the existence of the proposition, towns approached Miller offering their support in return for a spot on the line. In mid-January, Miller received a delegation of five businessmen from the Oak, Nebraska, area. They offered two proposals: one was for a freight

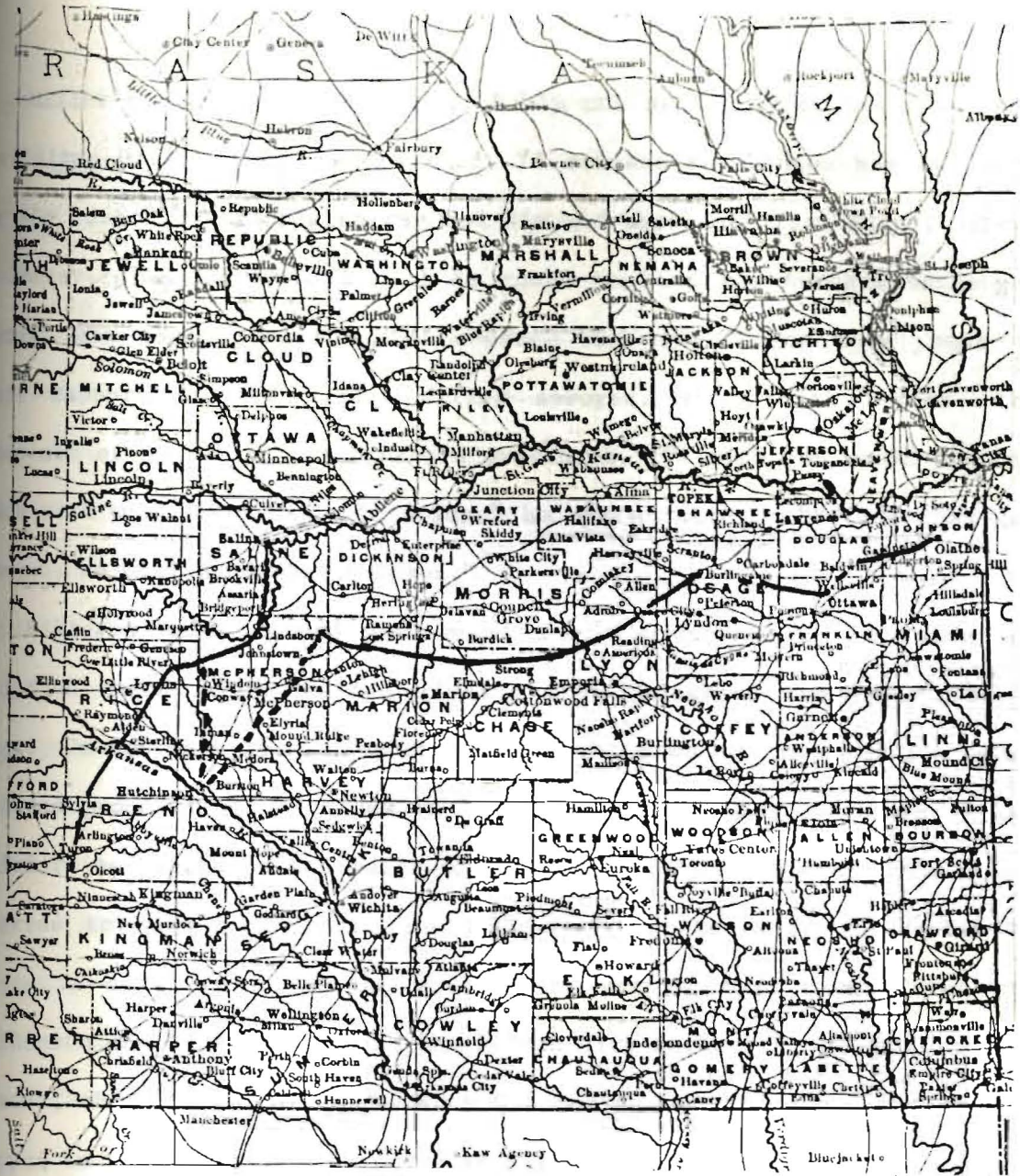


division point and the other was for the general division shops and offices, as well as the freight division. In return for the freight division alone, the Nebraska men offered \$20,000 plus enough land for the freight terminal tracks. If they were to have the shops and offices also, they offered the \$20,000 bonus plus an entire section of land. It was estimated that the road would only need half the section for its buildings and grounds, and it was presumed that the road would use the other half section for its own purposes, such as locating a townsite or an addition to Oak. This greatly distressed the Salina Daily Union, which reported Oak's offer under the headline of "Oak Wants to Steal Our Shops." Miller pointed out that the town that got the shops would be very lucky indeed because they planned to employ five thousand men and have a monthly payroll of over \$200,000.<sup>2</sup> As with most of the proposals he received from towns, Miller made no definite decision but let the Oak businessmen think that their proposal stood a good chance of acceptance.

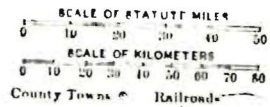
For a brief time, Miller again took up the branch to Kansas City. After receiving several letters from individuals in Osage and Franklin counties, Miller decided to offer his proposition along a new route to Kansas City which included Roxbury in northeast McPherson County, Tampa and Lincolnville in Marion County, Burlingame in Osage County, Centropolis in Franklin County, Baldwin in Douglas County, and Olathe in Johnson County. He expected to receive \$1,000 per mile to be paid after the road's completion plus the necessary rights of way.<sup>3</sup> The junction of this branch and the main north-south line remained unspecified. Those at Centropolis were the most interested in the prospects, and eventually two Franklin County townships held elections in May to vote aid bonds for the road. For most of the W. S. & G.'s existence Miller had rejected all

offers of aid bonds because he felt it would be putting a debt upon the railroad. He had also objected to aid bonds because they could be voted only to buy stock. He changed his mind and decided to accept the aid bonds if the township would agree to pay the costs of the election and if the township trustees would agree to sell the purchased stock back to the railroad for the nominal fee of \$1. Miller felt that the Centropolis parties should have made an effort to "line up" the other towns, especially Burlingame, Baldwin, and Olathe, but they apparently did not.<sup>4</sup> The railroad received little support along the rest of the proposed branch and consequently Miller let the matter drop.

In mid-January, the Hutchinson Commercial Club approached Miller about the possibility of running the W. S. & G. through its town and offered to vote for \$20,000 in terminal bonds. Miller took a special delight in this offer because he had spent some time in Hutchinson prior to moving to Salina trying to interest the town in his north and south road, and he had met with failure. The Hutchinson press had also criticized Miller's road after he moved to Salina, especially in early 1911 when Hutchinson's nearby small town neighbor, Turon, was playing an important role in the W. S. & G. In responding to the Hutchinson club, Miller was relatively positive. He stated that while the surveyors were south of Turon and had already passed Hutchinson, they had run into an undisclosed difficulty that would be hard to overcome. If this were the case and if Hutchinson were to "get busy," then there was a possibility that the line would run from Lindsborg to McPherson to Hutchinson and across southern Kansas to New Mexico. There was also the possibility that the Kansas City branch would join the main north-south line at Hutchinson.<sup>5</sup>



# KANSAS



PROPOSED EASTERN BRANCH, JANUARY - MAY, 1912

Base map: The New Encyclopedic Atlas and Gazetteer of the World (New York: P. F. Collier and son, 1907), p. 27.



Miller's true feelings were probably not as kindly or positive. To the Salina Daily Union, he remarked, "I believe Hutchinson has spoken a bit too late."<sup>6</sup> Miller also assured his old associate from Turon, Martin H. Potter, that he would do all he could to keep the surveys unchanged through his town, providing, of course, that the "Turon boys" kept up their support of the road. Miller savored, along with Potter, the prospects of rejecting Hutchinson's overtures. "I wish you would keep in touch with what Hutchinson is doing," he wrote Potter. "Before they get through, we will hand them a lemon."<sup>7</sup>

Miller finally turned down Hutchinson's proposal and in doing so, rekindled a Hutchinson-Salina rivalry that delighted the Salina Daily Union. On February 19, it reported that Hutchinson had advanced two other railroad propositions in hopes of killing the W. S. & G., because it had failed to be placed on the railroad's route. One of the propositions was reported to have backfired. The town tried to build an interurban to Sylvia in order to drive the W. S. & G. out of that town. When the Hutchinson committee approached the Sylvia city fathers for a small bonus, however, the friends of the W. S. & G., acting on Miller's instructions, stepped in and informed the city that Miller would ask for neither bonuses nor bonds but would demand the town's wholehearted moral support only. Given the choice of an interurban for a small price or a transcontinental steam railway for free, Sylvia chose the W. S. & G. and the interurban idea was dropped. The Union also announced that Hutchinson was behind a new proposed north-south railroad which was projected to run from Concordia to Wichita, through Salina and Hutchinson. The road was reportedly being organized to embarrass the W. S. & G. "Mr. Miller says the Winnipeg, Salina and Gulf has passed the embarrassing stage," the



Union gloated.<sup>8</sup> About a month later, under a headline of "Oh You Dear, Sweet Revenge: Hutchinson Could Not Get the Winnipeg Road So It Slaps Back at Salina," the Union reported that Hutchinson's new north-south road, now named the Hutchinson and Northern, had dropped Salina from its route and would go through Abilene instead.<sup>9</sup> When the Hutchinson Gazette reported on the bond elections in Franklin County and questioned the motives of a railroad promoter who would ask for funds for a north-south road from both eastern and central Kansas towns, the Union poked fun at the paper for not realizing that Franklin County was to be an east-west branch of Miller's north-south road.<sup>10</sup>

The first steps were taken in February towards securing terminal facility bond elections in both Lindsborg and Salina. Miller employed Salina attorney David Ritchie to draw up petitions for both towns. Lindsborg's was to be for \$12,000 and the money would presumably be Miller's bonus. From Salina, Miller wanted a \$30,000 bond voted, to which he promised to add \$10,000 to make a \$40,000 depot for Salina. Another petition was to be prepared for aid bonds from Smoky Hill Township in Saline County for 10% of the township's total land valuation of \$241,000. If the bond issue were to pass, Miller promised to build the line's general shops and general offices in the township.<sup>11</sup> Unfortunately, none of the elections became a reality. Ritchie's services in drawing up aid bond petitions were offered to other towns along the proposed route but few were interested.

Following the certification of the W. S. & G. to issue bonds by the Kansas Public Utilities Commission, Miller made the final arrangements with B. C. Howard of Commerce Trust Company in Kansas City, Missouri, to execute the indenture of mortgage and deed of trust. By the middle

of the month, Howard and Miller had tentatively agreed on a draft of the document and a copy was sent at the Brindley Company's request on January 15 to New York. In the agreement, Commerce Trust Company was to act as the American trustee for money raised by the English syndicate to purchase the W. S. & G.'s first mortgage bonds. It was to receive the English money and to distribute it to the contractors constructing the line. In return, the railway company was to give the trustee 51% of its stock to hold in trust for the mortgage bond holders during the construction phase.<sup>12</sup> The railway company may have also agreed to assign other railroad assets to the trustee as well.<sup>13</sup> On Monday, January 29, 1912, Miller met with representatives of the Brindley Company and Howard at the Commerce Trust Company offices in Kansas City and all signed the trust deed. A copy was immediately sent to MacLean in London, and the financial requirements were met for the negotiating of the bonds.

The execution of the trust deed was not accomplished, however, without problems with the Brindley Company. While Brindley had expressed a willingness to continue with Miller after the departure of Herbert and Cotter, there was no immediate renegotiation and Miller continued to have the same problems he had had with the Brindley Company. Soon after Brindley had sent funds for the surveying crew, Miller requested that \$250 be sent to him for expenses incurred in obtaining Commerce Trust's services as trustee. Brindley promised to send the money in a few days, but Miller complained that Brindley was causing a possibly fatal delay.<sup>14</sup>

Brindley had notified Miller in early January, 1912, that it was willing to make the \$5,000 deposit required by Commerce Trust and to pay MacLean the amount he claimed, but it first needed to see the deed of trust and have the document examined by its attorneys.<sup>15</sup> Miller

evidently expected the New Yorkers to object to the terms of the document, because within two days of mailing it he threatened to cut the Brindley Company out of the deal entirely if they did not accept it as he had sent it. He claimed that Commerce Trust had suggested that the W. S. & G. elect a new secretary and treasurer (positions held by the Brindley officials) if the Brindley Company continued to delay the execution of the papers.<sup>16</sup>

The Brindley Company wanted to insert a provision into the document which would exempt its representatives, Whitehead and Perry, from any personal liability for W. S. & G. debts. Although he did not care for the suggestion, Miller agreed to incorporate it into the agreement, and on January 22, he stated that matters had reached a crisis which necessitated the signing of the document that week. At the same time, other matters reached a crisis: the Saline County Sheriff attached Miller's office fixtures for non-payment of taxes, and Miller wired Perry for \$300 to retrieve them.<sup>17</sup>

The next day Miller pressed his threat to replace the Brindley men by telegraphing O. T. Johnson, Brindley Company president, "Unless satisfactory assurance can be given by wire that your crowd will be here and qualify as officers and close mortgage and other business, we will consider that you decline and elect new men tomorrow night and proceed." He also wired his threat to Charles C. Whitehead, W. S. & G. secretary, and claimed that the local directors had called for the election because Whitehead had ignored Miller's previous telegrams and had gone behind Miller's back to ask Commerce Trust for information about the trust deed.<sup>18</sup> The threats must have been effective because the next afternoon's Salina Daily Union announced that five Brindley officials would be coming for a meeting to be held about January 26 in order to complete the

arrangements for the road's construction. The Union continued, "Then there is nothing more to do save to start out additional corps of surveyors at once and commence building the road in March."<sup>19</sup>

Miller did his best to prepare B. C. Howard of Commerce Trust for the meeting with the Brindley men and make certain that Howard would side with him in any dispute that might arise. Miller requested that Howard address the railroad's offer of placing three men on the W. S. & G. boards in hopes that he would accept. With these new directors, Miller felt he would be able to control the board and consequently be victorious in any disagreement with the Brindley Company. Howard declined Miller's offer and stated that the officers of Commerce Trust felt Miller could name better directors than they. They also thought that it would be better not to have any role in the railroad management since their company was acting as trustee.<sup>20</sup> Miller accepted Commerce's decision but informed Howard that he would only tell the Brindley representatives that the trustee did not want its name connected with the W. S. & G. Board of Directors at that time.<sup>21</sup>

Miller warned Howard that the "boys from New York" were "a bunch of fellows (at least some of them) who have considerable money and think they know it all." They were taking issue with the deed of trust that Howard and Miller had drawn up. Miller felt that the Brindley attorneys were partly to blame; he thought they were advising the Brindley Company to act contrary to Miller's wishes because Miller had decided against appointing them as the W. S. & G.'s general solicitors. Miller asserted that since the document pleased the railway company, the trustee, and the investors (who hadn't seen it yet), then it shouldn't matter if it pleased a "lot of New York Lawyers" or not. He told Howard that he should insist that the



document be accepted the way it had been drawn up.<sup>22</sup> On Saturday before the Monday meeting with the Brindley officials, Miller sent a special delivery letter to Howard with last minute instructions on handling the "Brindley crowd," because they might arrive at Kansas City and try to meet with Howard before Miller could get there. Miller was sure that they would want to substitute a new deed of trust and indenture of mortgage prepared by their attorneys, and he wanted Howard to say that Commerce Trust would only agree to the original document. "On our arrival don't argue, just say, that the paper must be executed as it is drawn and there will be no further argument," he advised. "I will take care of the rest."<sup>23</sup> The meeting went smoothly, the document was executed, and Brindley made the \$5,000 deposit.

It continued to appear as though the W. S. & G. was moving towards construction. In late January, Miller placed an order for five thousand copies of the W. S. & G. prospectus to be printed by Schooley Stationery Company in Kansas City, Missouri. Miller made a contract for a \$3,500 fee with another Kansas City printing company, F. P. Burnap Stationery and Printing, to lithograph fifty thousand \$100 bonds with sixty coupons for semi-annual payments. Miller planned to use these lithographed bonds, which were more quickly and less expensively produced than engraved bonds, in lieu of engraved bonds and would substitute the engraved ones when they were ready. At Howard's suggestion, the order was delayed in February until MacLean could approve the printed part or the story of the bond. The company did go ahead and complete samples and all the other work on the bonds. In mid-February, Miller made arrangements with Security Bank Note Company of Philadelphia to make ten thousand stock certificates for the W. S. & G.'s preferred 6% stock. A charge of \$550 was quoted and

Miller promised that payment would be remitted by the railroad's "finance department" in New York City.

In January, Miller signed contracts with the American Steel and Wire Company of Chicago to provide fence posts, woven wire fencing and gates for the road. In late March, Miller reported to the Salina Daily Union that arrangements had been made to purchase enough ties and steel rails to build three hundred miles of track. By mid-March, the W. S. & G. companies had filed the proper papers with the Oklahoma Secretary of State as a "foreign" corporation doing business within the state. One of Miller's Oklahoma correspondents, J. W. McCully of Helena, was an Oklahoma state legislator and used his friendship with the Secretary of State to get the papers filed. He claimed that the W. S. & G. companies were the first "foreign" corporations to file in Oklahoma since statehood. Also in March, the Brindley Company obtained a charter from the Kansas Secretary of State for a Kansas branch of the company. The charter was required before the Brindley Company could do any construction work in the state. When the granting of the charter was announced in the Salina Daily Union, it was also reported that only the bad winter weather was delaying construction work.<sup>24</sup>

In mid-February, Miller announced to the Salina press that the Winnipeg, Salina and Gulf had begun to acquire rights of way starting at Salina and working south. He promised to pay a good price for the land, to buy it outright, and to allow for any damage done to it. Condemnation proceedings were to be used only as a last resort. Miller predicted that most would want to accept his offer because they would receive much less if the land were condemned. Unlike other railroads, no one man would be in charge of soliciting the rights of way. Instead, committees of local

residents would take care of the matter in or near their communities. For instance, a committee from Salina was to secure the right of way from Salina to Salemsborg and another committee from Salemsborg would work the distance between their town and the McPherson County line. Using this procedure, Miller predicted that the work would progress much faster. Speed was to be an important feature of the right of way work because Miller announced that the money from London would be available for construction within the next thirty days.<sup>25</sup> A few days later, Miller announced to the Union that his railroad would not establish townsites as other roads had done but would not object if individuals established them near W. S. & G. side-tracks, which were to be placed six to eight miles apart. As far as the townsite business was concerned, Miller stated that the "railroad knows no friends and no foes."<sup>26</sup>

In mid-January, Miller received the application of William Coughlin of Denver for the position of general manager vacated by Herbert. He had heard of the opening through his friend E. E. Smythe, who was on the Kansas Railway Commission. Smythe was also a friend of Miller's and he recommended Coughlin for the job. Coughlin had had over twenty years experience in railroading, holding various positions, such as assistant general superintendent of the St. Louis and Southwestern, general superintendent of the Denver and Rio Grande, and general manager of the Kansas City Southern. He left the Kansas City Southern in November, 1910, and had been giving expert reports for other roads since then.<sup>27</sup> Miller accepted his application and offered him the position, effective April 1, 1912, at a monthly salary of \$1,000, his salary with the Kansas City Southern. Coughlin accepted and arrived in Salina on March 19.<sup>28</sup>

Despite the external optimistic signs, Miller and his railroad began to encounter serious problems. His inability and unwillingness to pay former W. S. & G. Chief Engineer Charles A. Slayton and the surveying crew for their work in March and April of 1911 returned to haunt Miller. On January 31, 1912, the crew, led by H. R. Gass, brought suit against Miller and the railway company in Saline County District Court for its wages plus interest, which amounted to \$786.98. The suit itself amounted to little, for Miller's attorney Ritchie was successful in finding and protesting flaws in the plaintiffs' petitions that resulted in delays. Ritchie's objection or demurrer to the original petition were sustained on March 23, 1912. The plaintiffs were given thirty days to file an amended petition but this was not done until May 10. Other objections were made and a second amended petition was filed on September 30, 1912. The case continued into 1913 but was eventually dropped.<sup>29</sup>

Miller suffered more from the adverse publicity than from the suit itself. As the word spread down the proposed line, Miller found it necessary to defend his past actions when he should have been concentrating on other matters. To J. M. Miller of Kiowa, Kansas, who had been working diligently to "line up" support for the Kiowa and Panhandle route to Des Moines, Miller justified his actions by stating that he had proof that he had overpaid Slayton and that the crew had refused Miller's offer to work under his direct supervision. Explaining that even though he could not prevent the crew from suing him, he continued, "I write this for your information that you may be in position to tell some of these fellows down there that they are a cussed lot of liars."<sup>30</sup>

The new surveying crew, that had been organized and paid by the Brindley Company in the fall of 1911, had reached Turon by the end of



1911, and it proceeded slowly southward towards Kiowa. Winter weather hampered progress, but Miller explained, "We mean to have this line ready not later than the first of April . . . and we cannot wait for summer time--the money will burn our fingers, if we let it lay too long."<sup>31</sup> In late March, the party reached Kiowa and inched into Woods County, Oklahoma. By the end of June, Woods and Harper counties had been surveyed.

Even though the Kiowa and Panhandle route to the New Mexico coal fields was being surveyed, Miller still let correspondents in southwestern Kansas believe there was a chance for them to land the W. S. & G. In early February, Miller wrote A. L. Sooter of Coldwater that if he could gather Coldwater's and the rest of Comanche County's support quickly, it would "cinch" the southwest Kansas route, and the Kiowa route would be abandoned.<sup>32</sup> When a businessman at Stafford expressed an interest in the road, Miller replied that he wanted to run the western branch through Stafford to Greensburg and westward to New Ulysses in Grant County and Santa Fe in Haskell County. He apparently did not receive the amount of support he expected from these various communities.

Miller also encountered problems in finding support along the Kiowa and Panhandle route. Miller accepted the aid of two men, J. M. Miller of Kiowa and L. J. Strohmeier, also of Kiowa and formerly of Speermore, Oklahoma, in soliciting aid in the Kiowa, Kansas, area and in Woods and Harper counties in Oklahoma. They ran into considerable difficulty at Buffalo in Harper County. The town had already made a commitment to the proposed line of Miller's old adversaries at Alva. Miller wanted the town to drop its support of that line, the St. Louis, Oklahoma, and Pacific Railroad, in favor of the W. S. & G. The town's residents were unwilling

to do so and Miller threatened to cut Harper County off the route entirely.<sup>30</sup>

In the midst of Miller's threats and promises, one of his letters to Strohmeier was misdirected to a Mr. Strosnyder of Buffalo. It was read by Strosnyder and others, and its alleged contents were reported to the Buffalo Republican. Its editor wrote, that while he had not seen the letter, it had been read by "one of the best citizens of Harper County" and its contents proved that the W. S. & S. was run by a lot of grafters.<sup>33</sup> Miller reacted with moral outrage. He insisted that Strohmeier ask the U. S. Post Office Department to investigate the incident, which he did on February 20. Miller also sent a copy of the letter in question to the Republican's editor and threatened to turn the paper in to the postal authorities unless the paper retracted its statements. Miller told Strohmeier that he didn't expect to hear from the postal inspectors because they did "not seem to pay much attention to irregularities." He regarded them more as playing a "game of politics rather than serving the people right."<sup>34</sup> Miller's threats, however, did frighten L. R. H. Durham, the Republican editor, who wrote, "You are a man of affairs, Mr. Miller, and you cannot think that a fat corporation like the Winnipeg, Salina & Gulf Railway would be seriously injured by a little country paper." He offered to retract his earlier statements and print Miller's correspondence, which pleased Miller and caused him to ask that the postal authorities cancel their investigation.<sup>35</sup>

Miller's past reputation in Oklahoma also hindered his progress there. In late January, Strohmeier reported that he had been unable to muster any enthusiasm in the Woodward area because Miller had been there several years before and had left town without paying his \$400 board bill.

Residents there thought Miller was a "dead beat" who could never build a railroad.<sup>36</sup>

In February, J. M. Miller and the Speermore (Oklahoma) Commercial Club discovered apparently independently that there were certain discrepancies between the contracts Miller gave towns and the notes he wanted the subscribers to sign. The notes stated that there would be an 8% charge on the last three payments. The contracts stated that the railway had only three years in which to complete its obligation but the notes made no mention of any time limit. Robert Newberry of the Speermore Commercial Club stated, "Mr. Miller, we mean business but [we] have received several very queer reports, as to your past dealings in other places."<sup>37</sup> Miller responded by immediately annulling the contract with Speermore, even though the town had filled the necessary subscriptions. He threatened to bypass J. M. Miller's and Strohmeier's town of Kiowa entirely by taking the southwest Kansas route. Miller also accused J. M. Miller and Strohmeier of changing the contracts by demanding cash in advance of construction, and he asked them to withdraw from the Buffalo area. Strohmeier protested their removal and stated that they had only added a townsite deal to Buffalo's proposition. It did require a cash down payment but Strohmeier justified his position by stating, "You shurely [sic] did not expect us to spend our time and money for the expense of the contracts of right away [sic] and bonus simply for pleasure."<sup>38</sup>

In late March, Miller learned that the Oklahoma Corporation Commission had advised the Guymon Commercial Club of Kansas State Bank Commissioner J. N. Dolley's refusal to grant the railroad permission to sell stock in Kansas. Miller assured the parties at Guymon that the

matter did not apply to his proposition in Oklahoma, and at the same time he fired off two angry letters to the Commission accusing them of being duped by Dolley. The Commission replied that it had indeed learned of Dolley's attitude toward the W. S. & G., but that it had played a small part in their letter to Guymon. The Commission asked to be notified if Miller had purchased or attempted to purchase the rights of way originally surveyed in the Panhandle by the Santa Fe, Liberal and Englewood Railroad. It continued, "We note that a considerable portion of your prospectus is a reproduction of an article published in an Oklahoma newspaper about five years ago concerning the Santa Fe, Liberal & Englewood Railroad."<sup>39</sup> Miller then explained the commission's hostility by saying that one of his "worst enemies in the entire world," E. F. McKay, worked for the Commission. McKay had been associated with the Santa Fe, Liberal and Englewood, that Miller claimed failed because false representations were made in order to sell its securities. Since he knew the true facts, he had not hesitated to inform his friends. Consequently, he earned McKay's enmity and McKay had poisoned the Corporation Commission against him.<sup>40</sup>

The new-found support shown by Salina after the arrival of the Brindley Company began to erode in the early spring of 1912. The long dormant Salina, Tipton and Northern, that ran northwest from Salina to Tipton and on to Nebraska, resurfaced in December, 1911, and plans were made in two Saline County townships to hold aid bond elections. In early March, Miller threatened in his characteristic manner to build neither the W. S. & G. shops nor the \$40,000 depot in Salina if those aid bonds passed. The Salina Daily Union editorialized,



Mr. Miller had better hire a guardian to pass upon his "stuff" before he gives it to the public, if he contemplates any more talk to the public along this line. Nobody is capable of building a railroad nor managing a smaller business, who does not know enough to know that the building of "The Salina, Tipton and Northern" road, instead of injuring, will materially help, his proposed line. This break of Miller about not building a \$40,000 depot and placing his shops at Salina, in case the people of Salina extend aid to the other road, will go far, yes very far, to cast suspicion on his enterprise. Mr. Miller must learn that threats of this kind will only hurt his project, and not the Tipton road.

The people of this city, and county, will gladly aid both roads, when they are assured that they mean business, and they are now assured that the Salina, Tipton and Northern does mean business. Now let Miller get his enterprise in as good a shape instead of fighting the other enterprise.<sup>41</sup>

Miller continued his battle with the Tipton road by reporting their stock selling activities to Commissioner Dolley. He also tried one last time to persuade Dolley to give the W. S. & G. permission to sell stock in Kansas. He argued that "Democrat socialists" were going to use Dolley's refusal in a smear campaign against Republicans in the up-coming elections. Therefore, he advised that it would be for the good of the party to grant him the needed certification.<sup>42</sup> Dolley did not respond to this request.

While he did not prevail in his conflict with the Salina, Tipton and Northern, Miller felt vindicated in his running dispute with Dolley. In April, the Kansas Attorney General ruled that the Public Utilities Commission had authority in railroad matters, rather than the Bank Commission. Miller boasted to many that the opinion proved he had triumphed over the "Blue Sky Law," that he claimed was passed especially to put him out of business.<sup>43</sup>

Sources of financial support that Miller had planned to depend upon began to wither away in early 1912. In February he learned that the firm he had engaged to sell his stock in the East, Crawford and Company, had

discontinued its campaign until MacLean could prove that the bonds were sold. It refunded the money to those who had already subscribed. Miller tried to gloss over the situation and conceal the facts from all, including MacLean. He claimed that he had instructed Crawford to hold the funds until the bonds were sold because he had "from the very start protected all money matters."<sup>44</sup>

MacLean's actions fell far short of Miller's expectations. With the executed deed of trust, Miller also sent MacLean a map and profile of the first freight division, that ran south from Salina to Turon. He promised that the Brindley Company would be sending MacLean the additional 200 that he had requested. All of MacLean's requirements had been met and Miller expected him to sell the bonds to his English syndicate. "I have strained myself financially beyond a point where I should have done but had absolute faith in your word, that your people are ready to make good," he wrote. "I ask you to move with all possible haste and . . . get at least \$200,000 of their money in the bank so that the situation will be relieved here."<sup>45</sup> Miller was so confident that the entire bond issue would be sold quickly that he suggested MacLean begin to work on financing the road's second grand division from Oak to Winnipeg. He had deduced from MacLean's letters that MacLean's French secretary had strong ties to some of the French financiers who were supposedly backing the railroad of Miller's foes in Alva. Since the W. S. & G. was obviously the stronger road, Miller suggested that MacLean persuade the financiers to drop the Alva road and purchase bonds for the W. S. & G.'s second grand division.<sup>46</sup>

Much to his dismay, Miller learned in mid-February that MacLean had not been able to sell the bonds to the English syndicate of investors.

Britain had had a coal miners' strike which had paralyzed business, and MacLean's syndicate refused to take any action on the American bonds. He wrote that one of his correspondents in France had expressed some interest in \$5,000,000 of the bonds and the railway company's \$3,000,000 issue of preferred stock. He offered to go to Paris to close the deal, if Miller would pay his trip expenses. Upon receipt of MacLean's letter, Miller wired, "Cannot accept French offer. What became of syndicate . . . [I] have followed your advice."<sup>47</sup> His primary objection to the French financing was that he would receive only 62.5% of the bonds' value. He needed to sell the bonds at no less than 85% net to meet the requirements of the Kansas Public Utilities Commission. There would also be higher trustee fees because the French wanted the bonds in different denominations than the English. Later that same day, Miller devised a way in which the French financing would be acceptable: the road would simply issue more bonds. He telegraphed MacLean, "Can accept Paris offer and meet conditions by increasing rate per mile twenty percent. Close if acceptable."<sup>48</sup> By increasing the rate to \$33,330 a mile from \$27,775, the extra expenses would be met. Presumably, the Kansas Public Utilities Commission would not be notified of the change so it would appear that 85% was being received. Miller also authorized MacLean to sell the preferred stock to the French in order "to get things agoing [sic] and get quick money."<sup>49</sup>

The prospect of French financing caused some concern at Commerce Trust Company because it would require a reworking of the deed of trust. Miller assured trust officer Howard that MacLean was using the French offer as a ploy to force the English syndicate to take some action. If the English investors did as Miller expected, they would purchase the

bond issue and the deed of trust would not need to be revised. Then MacLean would be free to sell the French the bonds for the second grand division.<sup>50</sup> In late February, Miller received sample copies of the lithographed bonds from F. P. Burnap Stationery and Printing and immediately sent them to London for MacLean's approval. He wired MacLean, "Printed bonds mailed today. Arrange deposit quick." He remained optimistic, outwardly at least, that MacLean would send the first installment of the English syndicate's money so that construction could start. He told the Salina Daily Union, "The instant a cablegram is sent from London that a part of the money is on deposit, things will break loose here. We may get the money any day now. I am certain we will get it inside thirty days."<sup>51</sup>

MacLean, however, refused to take any action but instead demanded £100 for his trip to Paris to close the deal. Miller wrote him a sharply worded letter expressing his surprise and disappointment. Miller asserted that he had believed the English syndicate's money was ready and waiting to be delivered upon the completion of MacLean's requirements. He told MacLean that none of the others in the proposition trusted MacLean but that he had always followed MacLean's directions completely. He complained that his reward for this faithfulness was to learn that no bonds had been sold and that MacLean wanted more money. A few days later he notified MacLean that the Brindley Company would be sending the £100 for his Paris trip.<sup>52</sup> In mid-March, MacLean acknowledged receipt of the money but stated that he felt another £100 was still owed him to cover the expenses of keeping the syndicate together. In mid-April, MacLean reported that while he was waiting for an invitation from Paris to close the deal, he had taken a soliciting tour of Brighton and other seaside



resorts. The "men-capitalists" of the area were interested in at least \$5,000,000 of the bonds. Additionally, his French contacts were still interested in \$5,000,000 of the bonds and \$3,000,000 in preferred stock. The French would buy the bonds at 5% less than par and MacLean would take a 10% commission, leaving Miller 85% net. The disadvantages to the French investors' offer were that they demanded different denominations than the English and that the bonds would have to be in both French and English. There were other requirements to be met, such as making the bonds in blue and white, the French national colors. MacLean renewed his request for more funds and increased it to £125. He claimed he had already spent the £100 from Brindley for "incidentals hereabouts."<sup>53</sup>

Finally on May 2, MacLean sent Miller the following telegram from Paris: "Engaged five millions stamped bonds [at] agreed price."<sup>54</sup> Unfortunately, telegraph communications were hampered because MacLean started using a code book that Miller did not have, and he was unable to interpret some of the words. Miller protested that the skeptics in the company were claiming that these uninterpreted words were really secret code words known only to MacLean and Miller and that these words were proof that the two were plotting against the rest of the company. In mid-May, Miller received letters from MacLean that further explained the sale. MacLean promised he could sell the entire bond issue to the French within twenty-four hours on receipt of Miller's bonds. The bonds had to meet the French requirements and half of the stamp tax or \$50,000 for the \$5,000,000 block of bonds had to be paid. The sample bonds done by Burnap were unacceptable and MacLean suggested that the bonds be printed in Europe. He also suggested that Commerce Trust Company place a certificate of deposit for the \$50,000 duty in any Paris bank as a good will gesture

and then the French financiers would pay all the government duties.<sup>55</sup> By the time Miller received these letters, MacLean had left Paris and was en route to London. Miller was unable to locate him via cable at either Paris or London and more doubt was cast upon the negotiations. On his return to London, MacLean ceased telegraphing because he said he had no money for the wires and he communicated only through letters to Miller, that arrived in Salina about two weeks later. While MacLean's success was certainly welcome and Miller tried to make the best of it, it really came too late to benefit the W. S. & G. Other events had occurred which made it impossible for Miller to meet MacLean's new requirements to complete the bond sale.

Despite his claims to the contrary, Miller's relationship with the Brindley Company remained unsteady. Following the departure of Herbert and Cotter and the reinstatement of the Brindley contract in December, 1911, Miller had boasted to MacLean, "I have virtually broken up The Brindley Company and accepted some of its representatives in our Companies and while The Brindley Company's name is still connected with the proposition to disguise some matters, which we do not wish the public to understand at this time, The Winnipeg, Salina & Gulf Construction Company are the contractors of the line and of this Company I am President and have a control of the Board of Directors."<sup>56</sup> It is doubtful that the Brindley Company had the same view, since two more of its officials joined the board of directors of the W. S. & G. companies. O. T. Johnson, Brindley Company president, became the W. S. & G. vice-president and another Brindley employee, W. J. Miller, became a board member.<sup>57</sup> Shortly after the execution of the trust deed in late January, Miller was successful in forcing Alexander Perry, with whom Miller had never got

along, out of the W. S. & G. treasurer's position. The treasurer's duties were taken over by the secretary, Charles C. Whitehead, who was also a Brindley man.

Miller continued to have money problems with the Brindley Company. While it was willing to make the \$5,000 deposit with Commerce Trust and support the surveying crew, it was reluctant to pay Miller himself. Just two weeks after the deed of trust was signed, the Brindley Company failed to meet the payroll for Miller and his office staff. On February 16, Miller cabled Brindley president O. T. Johnson, "Why were checks for Salina office omitted. We need money on vouchers mailed you February first. Wire answer."<sup>58</sup> Miller called a special meeting of the local directors and threats about Brindley's future association with the railroad were probably made. Within a few days the payroll checks for the office staff were sent, but money for Miller was not included. He wired Johnson again, "Personal expense check omitted. Forward without further delay. Must have cash to close abroad."<sup>59</sup> Two days later Miller reassured the Brindley Company that the funds from the foreign syndicate would be released soon because he had just sent the sample bonds to London. The New Yorkers were probably satisfied, at least temporarily, and forwarded Miller's money to him.

The next month another crisis with the Brindley Company erupted. The nature of the dispute is unknown, but it caused Miller to claim that one or more of the Brindley officials were improperly placed on the W. S. & G. board of directors because they were not stockholders. He also "discovered" an unspecified defect in the contract between the two W. S. & G. companies and declared it void. He demanded that a new contract be made and that Coughlin, who had just arrived on the job, manage both

companies. Apparently Brindley officials had objected in some way to Coughlin, because Miller threatened, "Your action relative to Coughlin will bring matters to a halt."<sup>60</sup> Enough concern was created among the Brindley associates that one of their number, Gilbert H. Gilbert, and possibly others traveled to Salina to consult with Miller in early April.<sup>61</sup> The outcome of the meeting was unrecorded, but Miller later claimed that Gilbert had only come to stir up trouble in the Salina office.

Money problems continued in April. On April 9, Johnson complained to Miller that MacLean had not signed the voucher for the \$100 Brindley had sent, because he thought Brindley had paid too high an exchange rate. Johnson's attitude toward MacLean was revealed when he wrote, "It is extremely annoying having this continual return of vouchers, as I am firmly of the belief that New York Bankers know as much about exchange rates as Mr. MacLean, if not a little more."<sup>62</sup> Since Miller thought that he was keeping the record on payments to MacLean, he immediately suspected that Johnson was making a duplicate set of records in order to make it appear as though twice as much had been paid to MacLean. Miller promptly wrote MacLean of his suspicions and chided him for returning any vouchers to New York. Miller repeated his demand that MacLean confine his correspondence to the Salina office only. MacLean was also instructed him to insist that the Treasurer's position be given to a Salina man because of the Brindley Company's attempted trickery in regard to the vouchers. Miller's nominee for the position was Earle G. Eberhardt, who was the former Saline County Treasurer, a local banker, and a relative newcomer to the proposition.<sup>63</sup> In late April, the Brindley Company sent Miller a notice that they would not put any more funds into the W. S. & G. until



the money from MacLean's bond sales was available. Litigation was apparently threatened. Upon receipt of this notice, Miller recommended to Coughlin that the surveying crew be disbanded.<sup>64</sup> For some unknown reason this course of action was not taken and the railroad tried to keep the crew surveying. In the following weeks, the crew became a source of trouble and embarrassment to Miller because he was unable to meet its payroll.

In early May, Miller invited the Brindley Company's threatened lawsuit and predicted that it would not succeed. The defect in the contract between the two W. S. & G. companies had not been corrected and it remained void. Therefore, Miller reasoned that the contract between the Brindley Company and the W. S. & G. Construction Company was also illegal. At the same time, Miller also engaged the services of a new attorney, C. W. Burch, senior partner of the firm Burch, Litowich and Mason, to represent him if the Brindley Company carried through with its threatened suit.

The Brindley Company, in the meantime, tried to convince Coughlin of their position. At this point, Coughlin was held in higher regard at the Brindley Company, and it may have been thought that Coughlin could reason with Miller if Coughlin understood Brindley's position. Gilbert wrote that the Brindley Company's object was to build a railroad but it also wanted to protect its interests by employing usual business measures. He continued, "Heretofore we have not taken the most ordinary business precautions in connection with the advancement of funds to promote and assist the project, and it is being forcibly impressed upon us that this confidence in the ultimate outcome of the scheme is being imposed upon."<sup>65</sup> Coughlin defended Miller's expenditures, saying they were necessary to

begin construction. He admitted he had told Miller of the Brindley's doubts about MacLean being able to float the railroad's bonds, but stated that he hoped it would help create more harmony by putting Miller in a position to dispel their doubts. Instead, he realized he had created more friction and he regretted it.<sup>66</sup>

Johnson and Gilbert traveled to Salina and met with Miller a final time on May 21 or May 22. At Gilbert's insistence, Coughlin sat in on the meeting. It lasted two days, during which the Brindley Company indicated that it would continue to finance the railroad only if it could prove that \$5,000,000 of the bonds had been sold. Apparently Miller was unable or unwilling to satisfy Johnson and Gilbert and instead asked that the Brindley Company send \$50,000 to Paris to cover the railroad's half of the stamp tax on the bonds. Having already spent about \$45,000 on the proposition, the Brindley Company refused to spend more. On this note any semblance of a working relationship between Brindley and the railroad ended.

The Salina Daily Union reported the meeting and stated that the railroad's contract with the Brindley Company had been dissolved. It quoted Miller, "'The Brindley Company agreed to finance matters until our money from London was secured. In the meantime we discovered that the company could not furnish the money and so we called their hand. I have heard something about a suit being started. Anyone can bring suit. How it will end is a different matter. We agreed to pay back the Brindley Company all the money they put in plus 6 per cent interest. I don't know what they can sue on. I will make a demand for the books in New York and if they are not received, we will commence a suit against the Brindley Company.'" He assured the paper's readers that the threatened suit would

not impede the railroad's progress. He reported that other contractors were interested in taking over the Brindley contract and that money would soon be arriving from abroad.<sup>67</sup>

A few days following his return to New York City, Gilbert wrote Coughlin and apologized for placing him in an uncomfortable position during their meeting in Salina. He restated the Brindley Company's position that Miller had misled it into believing that the construction work was "very light" and sent copies of Miller's letters to prove this point. Gilbert noted that his company had completed a survey of about 160 miles but that Miller had never turned over any previous surveys to Brindley as the contract had stipulated. He reviewed MacLean's excuses for not selling the bonds quickly and stated, "Personally I have no faith in Mr. MacLean's ability to handle the financial end of a project of this size, nor have I any confidence in Mr. Miller's various statements regarding the condition of the bond issue." Gilbert was also of the opinion that Miller should have amassed more local enthusiasm for the W. S. & G., especially since he had lived in Salina for several years. He noted that the seventy-six mile Tipton road had about \$300,000 of subscribed bonds and other subsidies that were legally collectible and stated that if Miller had done as well, he would have had between \$600,000 and \$700,000 of collectible aid from the portion of the route that Brindley had surveyed. Gilbert indicated that his company had investigated both Miller's and MacLean's past performance records and had been unable to find any encouraging news. He concluded, "In an enterprise of this magnitude, we are not justified in being governed by what Mr. Miller says he has done or will do. There comes a time when it is essential that he should prove his assertions by delivering the goods,

and we are of the opinion that this time has long passed. . . . Of course I recognize that in your present position the matter is a rather delicate one, but I also feel that the Brindley Company, to say the least, have been humbugged."<sup>68</sup>

On May 27, attorneys for the Brindley Company filed suit in U. S. District Court against the Winnipeg, Salina and Gulf Construction Company for \$48,211.45 for payment of twenty-two promissory notes dated from September 1, 1911, to May 3, 1912, plus 6% interest. Miller was served with the papers on May 31 and given until June 26 to answer the charges.<sup>69</sup> Miller acknowledged the action to the Union but professed to know nothing of the grounds of the suit. He stated that the Brindley Company had accepted his offer to repay them everything that they had advanced plus 6% within thirty days. "I don't know why they are suing," he was quoted. "Unless they hope to injure other plans I have made for railroad construction but they cannot touch them." He also asserted that the money the company wanted was more than it deserved, because it was over \$18,000 more than the amount Brindley had advanced.<sup>70</sup>

Miller's new attorneys, Burch, Litowich and Mason, prepared a motion for the court that the Brindley's petition needed to be "more definite and certain" by stating when, where, and of whom payment of Miller's notes was demanded. The motion also asked that the Brindley Company specify the form of the demand for payment and if it were written, Brindley should provide copies. The motion was filed on June 26, and it was the last action taken in the case.<sup>71</sup> Unfortunately it did not advance the cause of the W. S. & G. much, because a few days earlier the Brindley Company apparently decided to drop that suit. It filed a second suit against Miller, the two W. S. & G. companies, and the Commerce Trust Company.



## CHAPTER 7: NOTES

<sup>1</sup>Records of the U.S. District Court (record group 21) [hereafter RG 21]; District of Kansas, First Division [hereafter Kansas]; "Records of the Winnipeg, Salina and Gulf Railway Company, 1908-1912" (microfilm preservation project 6NCN81-002) [hereafter 6NCN81-002]; Winnipeg, Salina and Gulf [hereafter WS&G]; records of the President [hereafter Pres.]; copy of letter to Samuel R. MacLean, Jan. 6, 1912 (fiche 30).

<sup>2</sup>Salina Daily Union, Jan. 19, 1912, p. 2.

<sup>3</sup>RG 21, Kansas, 6NCN81-002, WS&G, Pres. [hereafter RG 21 . . . Pres.], copies of letters to W. D. Kaub, Jan. 25, 1912 (fiche 24) and to P. H. Mecham, Feb. 2, 1912 (fiche 25).

<sup>4</sup>RG 21 . . . Pres., copy of letter to L. L. McKim, Feb. 24, 1912 (fiche 25).

<sup>5</sup>RG 21 . . . Pres., copy of letter to Lincoln S. Davis, Jan. 18, 1912 (fiche 24).

<sup>6</sup>Salina Daily Union, Jan. 31, 1912, p. 3.

<sup>7</sup>RG 21 . . . Pres., copy of letter to Martin H. Potter, Feb. 12, 1912 (fiche 25).

<sup>8</sup>Salina Daily Union, Feb. 19, 1912, p. 8.

<sup>9</sup>Salina Daily Union, March 22, 1912, p. 6.

<sup>10</sup>Salina Daily Union, March 4, 1912, p. 3.

<sup>11</sup>RG 21 . . . Pres., copy of letter to David Ritchie, Feb. 27, 1912 (fiche 25).

<sup>12</sup>RG 21 . . . Pres., copy of letter to B. C. Howard, Feb. 28, 1912 (fiche 25).

<sup>13</sup>RG 21, Kansas, The Brindley Company v. The Winnipeg, Salina and Gulf Railway Co., et al. (civil case 1299), Bill of Complaint, pp. 24-27, Archives Branch, Federal Archives and Records Center, Kansas City, Mo. [hereafter FARC].

<sup>14</sup>RG 21 . . . Pres., copies of telegrams to Brindley Company, Jan. 5, 1912, and to Alexander Perry, Jan. 6, 1912 (fiche 29).

<sup>15</sup>RG 21 . . . Pres., telegram from O. T. Johnson, Jan. 11, 1912 (fiche 12).

<sup>16</sup>RG 21 . . . Pres., copy of telegram to Perry, Jan. 17, 1912 (fiche 29).

<sup>17</sup>RG 21 . . . Pres., copies of telegrams to Charles C. Whitehead and to Perry, Jan. 22, 1912 (fiche 29).

- <sup>18</sup>RG 21 . . . Pres., copies of telegrams to Johnson and to Whitehead, Jan. 23, 1912 (fiche 29).
- <sup>19</sup>Salina Daily Union, Jan. 24, 1912, p. 1.
- <sup>20</sup>RG 21 . . . Pres., letter from Howard, Jan. 20, 1912 (fiche 12).
- <sup>21</sup>RG 21 . . . Pres., copy of letter to Howard, Jan. 24, 1912 (fiche 24).
- <sup>22</sup>RG 21 . . . Pres., copies of letters to Howard, Jan. 23 and Jan. 24, 1912 (fiche 24).
- <sup>23</sup>RG 21 . . . Pres., copy of letter to Howard, Jan. 27, 1912 (fiche 24).
- <sup>24</sup>RG 21 . . . Pres., letter from J. W. McCully, March 23, 1912 (fiche 13), and Salina Daily Union, March 9, 1912, p. 6.
- <sup>25</sup>Salina Daily Union, Feb. 15, 1912, p. 2.
- <sup>26</sup>Salina Daily Union, Feb. 20, 1912, p. 2.
- <sup>27</sup>RG 21 . . . Pres., letters from William Coughlin, Jan. 16 and Jan. 22, 1912 (fiche 12), and Salina Daily Union, March 20, 1912, p. 1.
- <sup>28</sup>RG 21 . . . Pres., letter from Coughlin, Jan. 29, 1912 (fiche 12).
- <sup>29</sup>Records of the District Court of Saline County, Kansas; H. R. Gass, et al., v. H. Leone Miller and The Winnipeg, Salina & Gulf Railway Company (civil case 8272); Saline County Courthouse, Salina, Kansas.
- <sup>30</sup>RG 21 . . . Pres., copy of letter to J. M. Miller, Feb. 19, 1912 (fiche 25).
- <sup>31</sup>RG 21 . . . Pres., copy of letter to Potter, Jan. 22, 1912 (fiche 24).
- <sup>32</sup>RG 21 . . . Pres., copies of letters to A. L. Sooter, Feb. 6, 1912 (fiche 25), and to Robert Garvin, April 9, 1912 (fiche 26).
- <sup>33</sup>Buffalo Republican, February 8, 1912, p. 1.
- <sup>34</sup>RG 21 . . . Pres., copy of letter to L. J. Strohmeier, March 7, 1912 (fiche 26).
- <sup>35</sup>RG 21 . . . Pres., letter from Buffalo Republican, March 13, 1912 (fiche 13).
- <sup>36</sup>RG 21 . . . Pres., letter from Strohmeier, Jan. 29, 1912 (fiche 12).
- <sup>37</sup>RG 21 . . . Pres., letter from Robert Newberry, Feb. 14, 1912 (fiche 12).

- 38 RG 21 . . . Pres., letter from Strohmeier, May 18, 1912 (fiche 15).
- 39 RG 21 . . . Pres., copies of letters to Oklahoma Corporation Commission, April 1, 1912 (fiche 26), and letter from Oklahoma Corporation Commission, April 22, 1912 (fiche 14).
- 40 RG 21 . . . Pres., copy of letter to J. W. McCully, April 25, 1912 (fiche 27).
- 41 Salina Daily Union, March 7, 1912, p. 4.
- 42 RG 21 . . . Pres., copies of letters to J. N. Dolley, March 21 and March 30, 1912 (fiche 26).
- 43 Salina Daily Union, April 15, 1912, p. 2.
- 44 RG 21 . . . Pres., letter from F. B. Crawford and Company, Feb. 9, 1912 (fiche 12), and copy of letter to Coughlin, Jan. 24, 1912 (fiche 24).
- 45 RG 21 . . . Pres., copy of letter to MacLean, Jan. 30, 1912 (fiche 30).
- 46 RG 21 . . . Pres., copy of letter to MacLean, Jan. 31, 1912 (fiche 30).
- 47 RG 21 . . . Pres., copy of telegram to MacLean, Feb. 13, 1912 (fiche 29).
- 48 RG 21 . . . Pres., copy of telegram (second) to MacLean, Feb. 13, 1912 (fiche 29).
- 49 RG 21 . . . Pres., copy of letter to MacLean, Feb. 14, 1912 (fiche 30).
- 50 RG 21 . . . Pres., copy of letter to Howard, Feb. 19, 1912 (fiche 25).
- 51 RG 21 . . . Pres., copy of telegram to MacLean, Feb. 24, 1912 (fiche 30), and Salina Daily Union, Feb. 27, 1912, p. 5.
- 52 RG 21 . . . Pres., copies of letters from MacLean, March 18, April 16, and April 23, 1912 (fiche 17), and copy of letter to MacLean, April 11, 1912 (fiche 30).
- 53 RG 21 . . . Pres., copies of letters from MacLean, March 18, April 16, and April 23, 1912 (fiche 17), and copy of letter to MacLean, April 11, 1912 (fiche 30).
- 54 RG 21 . . . Pres., telegram from MacLean, May 2 [1912] (fiche 8).
- 55 RG 21 . . . Pres., copies of letters from MacLean, May 1 and May 4, 1912 (fiche 17).

56 RG 21 . . . Pres., copy of letter to MacLean, Feb. 29, 1912 (fiche 30).

57 Salina Daily Union, Jan. 24, 1912, p. 1.

58 RG 21 . . . Pres., copy of telegram to Johnson, Feb. 16, 1912 (fiche 29).

59 RG 21 . . . Pres., copy of telegram to Johnson, Feb. 22, 1912 (fiche 29).

60 RG 21 . . . Pres., copy of telegram to Johnson, April 15, 1912 (fiche 29).

61 RG 21 . . . Pres., copies of telegrams to Gilbert, March 26 and March 27, 1912, and to Whitehead, March 28, 1912 (fiche 29).

62 RG 21 . . . Pres., letter from Johnson, April 9, 1912 (fiche 14).

63 RG 21 . . . Pres., copy of letter to MacLean, April 11, 1912 (fiche 30).

64 RG 21 . . . Pres., copy of letter to Coughlin, April 26, 1912 (fiche 27).

65 RG 21, Kansas, 6NCN-81-002, WS&G, records of the General Manager [hereafter RG 21 . . . Gen. Mgr.], copy of letter from Brindley Co. to Coughlin, May 10, 1912 (fiche 31).

66 RG 21 . . . Pres., copy of letter to Gilbert from Coughlin, May 14, 1912 (fiche 27).

67 Salina Daily Union, May 24, 1912, p. 1.

68 RG 21 . . . Gen. Mgr., copy of letter from Gilbert, June 1, 1912 (fiche 31).

69 RG 21, Kansas, Brindley Company v. Winnipeg, Salina and Gulf Construction Company (civil case 1283) [hereafter civil case 1283], motion filed May 27, 1912, and summons filed June 3, 1912, FARC.

70 Salina Daily Union, June 1, 1912, p. 1.

71 RG 21, Kansas, civil case 1283, motion, filed June 26, 1912, FARC.



## CHAPTER 8:

### THE DISSOLUTION OF THE WINNIPEG, SALINA AND GULF RAILWAY, JUNE - DECEMBER, 1912

The filing on June 22, 1912, of the bill of complaint in the second suit brought by the Brindley Company against the Winnipeg, Salina and Gulf began the legal process that put the company into receivership and resulted in the court-ordered dissolution of the W. S. & G. in November. In these months Miller made a valiant and desperate effort to save his companies. His efforts met with some success but those successes were greatly overshadowed by his failures. Not only were the W. S. & G. companies dissolved and their meager assets sold, but in October Miller was arrested on the federal charge of mail fraud. During this period it appears that Miller began to lose his grasp of reality. His correspondence and statements to the press were always optimistic about the future of his north-south railroad and never recognized the gravity of the true situation. As public support slipped away and conditions worsened, his statements became even more optimistic. His public optimism notwithstanding, Miller took a course of action that brought an end to the W. S. & G. and his dream of building a north-south railroad.

On Monday, June 24, 1912, B. C. Howard, trust officer of the Commerce Trust Company, advised Miller by phone that they had been named as co-defendants in a suit brought by the Brindley Company. Shortly afterward Miller was served by J. R. Harrison, U. S. marshal for Kansas, with papers notifying him of the litigation. A copy of the Brindley Company's bill of complaint, which amounted to thirty-three typewritten pages, was also delivered by the marshal.

The bill of complaint asserted that Miller had conspired with MacLean to defraud those who bought stock and that the two never intended to build a railroad. A "pretended bond and investment office" had been set up in London for MacLean to make it appear that he had formed a syndicate of investors who were ready to buy the railroad's bonds. Miller and MacLean were said to have run this scam in other states and received "considerable sums of money" from it. Still, the complaint contended that Miller at no time had the financial means to carry out railroad construction, and the W. S. & G. companies were formed entirely for Miller's benefit. Miller's failure to get certification to sell stock in Kansas under the "Blue Sky Law" was reviewed, and the complaint contended that Miller had "sedulously concealed" his failure from the Brindley Company.

Miller was said to have fraudulently represented himself and his plans to Brindley by showing letters which were purportedly written by MacLean concerning a successful bond sale. He was also said to have claimed to have aid agreements nearly completed with towns along the route. Through fraudulent means, Miller had persuaded the Brindley Company to advance money for office and operating expenses pending a deposit in the railroad's account by the supposed syndicate. The Brindley Company professed to know nothing of the "actual facts surrounding the origin of the said projects and the said scheme and design of the said Miller" until mid-April, 1912. The provisions of the contracts between the two W. S. & G. companies and between the Brindley Company and the W. S. & G. Construction Company were reviewed, and it was noted that the Brindley Company had not received the \$7,617,500 par value common stock of the W. S. & G. Railway Company as the contract stipulated. The bill of complaint further contended that Miller had signed promissory notes

amounting to \$49,061.11, including a 10% fee as granted by the contract, to reimburse the Brindley Company for the amount it had advanced. It was asserted that Miller had diverted much of this money for his personal use. The notes were claimed to have matured on May 27, 1912, and Miller had refused their payment because neither he nor the W. S. & G. had the necessary funds.

The bill of complaint reviewed the deed of trust and noted that the Brindley Company had supplied the \$5,000 required to procure the services of the Commerce Trust Company. The court was asked to examine the deed of trust, because the Brindley Company thought that the circumstances surrounding "the procurement of the Public Utilities Commission's certificate authorizing the proposed bond issue" raised "grave doubts" about the trust deed's validity. While it was thought that Commerce Trust had not certified any bonds under the terms of the deed of trust, it was also thought that the trust company still might have some claim on W. S. & G. property. Since the trustee's claim on railroad property would be given precedence over the contractors', the court was asked to determine if any claims to W. S. & G. property were held by Commerce Trust.

The Brindley Company also asked that the court remove Miller from the presidency of the two W. S. & G. companies. The suit requested that the court declare the companies insolvent and incapable of performing the purpose for which they were incorporated, and therefore dissolve them. The court was also requested to appoint a receiver who would determine both the companies' assets and liabilities. The receiver would then sell the assets and divide the proceeds among the road's creditors. The court was asked to declare that the Brindley Company had a valid claim to \$49,061.11 plus 6% interest from the dates of the various promissory

notes. Finally, the Brindley Company asked that the contract between the W. S. & G. Construction Company and the Brindley Company be "rescinded and cancelled."<sup>1</sup>

Along with the bill of complaint and subpoena that notified Miller of the suit and required him to answer it, the U. S. marshal also served him with a notice that the Brindley Company would apply on Saturday morning, June 29, 1912, to U. S. District Court Judge John C. Pollock in Kansas City, Kansas, for the appointment of receivers for the W. S. & G. companies pending the completion of the litigation. Bernard Litowich, of the Salina law firm of Burch, Litowich and Mason, was also served with this notice, since he was the general solicitor for both W. S. & G. companies.<sup>2</sup> After reading the papers, Miller wrote Howard that it was "a deep laid scheme" to put him out of business. He wanted Howard to bring a Kansas City attorney to the Saturday hearing so Miller could arrange to have him assist Litowich. "It occurs to me, that I have been wrongly advised relative to some matters by local Attorneys," he wrote. "I am not quite sure that I can depend on them altogether."<sup>3</sup> The matters about which Miller thought he had been misinformed remained unspecified. Apparently, no immediate action was taken about adding new attorneys, because Burch, Litowich and Mason remained his solicitors of record until mid-August.

The day before the receivership hearing, Litowich entered into a stipulation or agreement with the Brindley's principal attorney, D. R. Hite. Litowich acted on behalf of the two W. S. & G. companies and Miller only. Commerce Trust Company was evidently dropped from the list of defendants, as it was not mentioned in the remainder of the suit. The stipulation stated that the court was to appoint a receiver the next day



but that he was not to take possession of the companies until August 15. If either of the companies or anyone acting on their behalf gave the court \$49,000 in cash to pay the Brindley Company before that date, then the order appointing the receiver would become void. If payment were made, then the case would be dismissed at Brindley's expense.<sup>4</sup>

The stipulation virtually insured that the companies would be put into receivership on August 16. Miller did not have \$49,000 or any amount close to that figure, and his past performance at raising money indicated that he would be unable to raise that amount in forty-five days. Litowich's reasoning for making the stipulation is unknown. He may have thought that the case against his clients was so strong that it was the best arrangement he could make; or Miller may have possibly told Litowich, as he did the Salina Daily Union and many of his correspondents, that he had offered to repay Brindley, and Litowich may have thought the stipulation would give Miller plenty of time to make the remittance.

Privately, Miller may have realized that the stipulation spelled the end of the W. S. & G. The stipulation was the last action taken by Litowich as Miller's counsel. Sometime between July 1 and August 24, Litowich earned Miller's enmity because of it. By August 24, Miller dismissed Litowich and his firm as his solicitors and new attorneys, Sackett, Brewster and Spafford of Beatrice, Nebraska, were engaged. Publicly, however, Miller never acknowledged the significance of the stipulation, but instead kept telling correspondents the same things he had said after the initiation of the first Brindley suit. At that time he wrote his old associate at Turon, Martin H. Potter, that the Brindley Company had "neither the brains nor the money to put this deal through and we turned them out and as you might know, in cases of this kind, it means

a Law Suit and that will be the end of The Brindley Company." He also boasted that a new contractor would be on the job "soon."<sup>5</sup> After the stipulation was filed, Miller told his correspondents that the Brindley Company had tried to put the W. S. & G. into receivership but the court had given the railroad forty-five days "to see what it could do." On July 3, he told the Salina Daily Union, "There will be no receiver. Those people have got to come clean if they want a receiver and that is something they cannot do."<sup>6</sup>

A few days later the Union reported that Brindley officials O. T. Johnson, Charles C. Whitehead, Gilbert H. Gilbert, and W. J. Miller had been officially voted out as officers and directors of the W. S. & G. companies. Seven new directors were reported to be coming to Salina the following week. They were not identified, but it was reported that none were from Kansas and that all were interested in developing a certain point along the proposed route. It also reported that the railroad's bonds were being made in Paris. When they were done, a representative of Commerce Trust would go to Paris and certify them. Then the French investors would purchase the bonds and transfer their payment to the trustee.<sup>7</sup>

Evidently Miller's strategy after the filing of the first Brindley suit was to raise enough money to pay the fees necessary to sell the bonds in Paris. Part of the first money from the sale could be used to pay off the Brindley Company. In this effort he failed miserably. He interested some Nebraska men in the railroad and got some money from them, but it was too little and too lately received. If he had been more immediately successful, it is doubtful that Commerce Trust would have certified any of

the bonds because of the pending litigation; and even if it had, the process would have probably taken longer than the time in which Miller had to act.

As it became obvious in the early spring of 1912 that the Brindley Company was going to leave the proposition, Miller began searching for new contractors. He and Coughlin wrote to many railroad contractors across the nation, described the W. S. & G. in the best possible terms, and invited them to submit bids for their construction services. Miller received many responses and began corresponding with several.

In early June, Miller began to correspond with John D. Porter of Porter Brothers in Kansas City, Missouri. On June 11, Porter and his assistant met with Miller in his Salina offices. They were shown the railroad's prospectus, profiles of 140 miles of the road, and numerous letters from MacLean that supposedly revealed the good condition of the bond sale to the French. Porter was favorably impressed and Miller orally offered him a contract. The contract was similar to the one made with the Brindley Company; it contained the all-important provision that Porter Brothers would advance funds needed before the money from the bond sales was available. Miller sent Porter written confirmation of the offer and Porter replied that he needed to consult with his brothers and business partners in Portland, Oregon, and Tacoma, Washington, and that he would have an answer within a few days. Assuming that the answer was positive, Porter planned to go to Salina to prepare a detailed engineering report. "Pending this report, no time will be lost on our part to consummate an equitable contract," he assured Miller. "Providing your financial agent, Mr. MacLean, closes his deals as outlined."<sup>8</sup> Miller was so certain that the firm would accept his contract, that on June 14, he wired MacLean,

"Porter Brothers contractors will relieve financial situation within ten days by cable."<sup>9</sup> Unfortunately for Miller, Porter left Kansas City shortly after writing Miller and spent the next seven weeks in the West. Consequently, Porter Brothers did not respond to Miller's proposed contract in time to be of any value to him, and he turned his attentions towards another of his correspondents.

In early May, Miller had received a letter from LeRoy Davidson of Charlotte, North Carolina, whose stationery advertised, "LeRoy Davidson: Banker, Broker, Organizer, and Promoter" and "Unlimited Capital Seeking Good Investment." Davidson offered his services and noted that he had all projects investigated before working on them.<sup>10</sup> Miller responded with a cablegram that read, "If you are prepared with quarter million ready cash to push preliminaries, come to Salina . . . bonds are sold, money in bank."<sup>11</sup>

Davidson didn't understand Miller's wire and even had the telegraph company repeat it to make certain that the message was properly transmitted. Still, he volunteered that his railroad expert would be available soon, and the two could give Miller an estimate of the expenses Miller would be expected to pay for the examination. Davidson earned a commission of 2.5% to 5% of the loan minus the amount for the expert examination. Miller described the proposition and stated that it would take about \$100,000 "to get things in motion." Davidson replied that if the examination was favorable, he could finance the proposition.<sup>12</sup>

The expert's fee was \$500, of which Miller was to advance \$100 and pay the remaining \$400 on the expert's arrival in Salina. Miller requested that Davidson send him references and was told that the expert, E. L. Propst would bring the proper credentials with him. Miller sent the

\$100 and Propst left for Salina on June 9. The trip was a disappointment to Davidson, because Miller claimed that Propst had arrived without the proper credentials and Miller refused to recognize him as Davidson's agent. Neither did Miller pay Propst the remaining \$400 of his fee.<sup>13</sup> Miller learned Propst was a construction contractor in his own right and offered him the contract to build the W. S. & G. After Propst returned to North Carolina, Miller wired, "Get busy. Bind contract with ten thousand in ten days."<sup>14</sup> Near the end of June, Propst returned Miller's contract and proposed certain changes that eliminated the time limit placed on the contractor. Propst also wanted to make the contract with the railway rather than the construction company. Miller rejected Propst's proposal and a few days later Propst rejected the W. S. & G. contract. He explained, "I decided that I could not sign the contract in the shape it was drawn up. I can put up cash if it is necessary, or bond, but I can't put up cash, until it is secured. I do not see how a contract with a Construction Company will bind the Railroad Company to anything. I could make our contract with the Construction Company, but before we put any cash in it, or put up any, I would have to know what it was to be spent for, and know, that the Construction Company was solvent." He invited Miller to submit another contract, but at this point, Miller let the matter drop.<sup>15</sup>

During May and June, Miller had tried, without success, to get money from his old friends at Turon. On May 17, he wrote M. H. Potter that Turon's neighbor, Stafford, was making a determined effort to land the railroad for itself. Miller wanted Turon to "cinch the deal" and force the W. S. & G. to come through the town by sending Miller the remainder of its subscription, or \$8,750.<sup>16</sup> The next week Miller called Potter's home



in hopes of persuading him to come to Salina "to protect what we are trying to do for Turon."<sup>17</sup> Miller was unable to reach him, but when Potter got the message, he wrote that it was not necessary to hurry to Salina because the money from Paris would not be available for three months. Miller refuted Potter's assertions and threatened that the board of directors would cancel Turon's contract if the remainder of its subscription was not sent to Salina immediately. Potter protested that the contract stated that the subscriptions were due after the sale of the bonds. He reminded Miller that Turon had contributed \$3,750 already, including \$1,800 of his own at a crucial time, and that other towns, such as Sylvia, had contributed nothing. He accused Miller of not showing good faith but softened the accusation with a compliment: "So you cheer up, a man with your ability will get enough money to put this deal through now, even if we cannot get our fellows to make a payment at this time."<sup>18</sup> Miller admitted that the wording of the contract was not exactly what he was asking of Turon but justified his request by stating that his intentions remained the same. The contract specified that the money could be used to pay for making the bonds, and the French, in contrast to the English, required that the bonds be made and delivered to them before they deposited any money.

Potter went to work trying to raise money from individuals in his area and on June 8, he wrote that he had found four men who would "go most any limit to help your closing out the deal at Paris." Two days later Miller suggested that Turon could "put the deal through" and send their money to Paris by June 15. He stated that Wichita had offered \$10,000 to \$50,000 in return for a spot on the line and the shops that had been promised to Turon. (Only an initial inquiry had been made by the Wichita

Businessmen's Association.) Miller threatened, "I will say frankly that before I would let the deal fail now . . . I would make most any sacrifice."<sup>19</sup> Upon receipt of this letter, Potter wrote, "You are certainly becoming desperate. . . . I tell you Miller, as well as I know you, your last few letters almost shakes my faith. If your Company can make contracts then break them, what assurances would we have if we put up \$100,000.00 to get this railroad, and then you could change the line and build it to Wichita. No; this will not do." He continued that he and his committee of four thought they could raise \$1,000 each from towns in the area, including Sylvia, in return for an assurance that the towns would be on the route and that they would not be asked to contribute any more than what was specified in their contracts. The money was to be deposited at Commerce Trust with the stipulation that it be used to close the deal in Paris. He stated that his committee had planned to visit Miller the next day and discuss their plan.<sup>20</sup> Miller rejected them, though, with the following telegram: "You will only waste your time coming to Salina on your proposition. We refuse to accept your offering."<sup>21</sup>

In the meantime, MacLean kept urging Miller to send him the money to have the bonds lithographed in Paris and to close the deal there. He claimed to have groups of financiers ready to finance the railroad's second and third grand divisions as soon as the Paris deal was finished. He admonished Miller, "Don't waste Time and Opportunity." He had learned of the Brindley's lack of faith in his ability and he advised, "Instead of misusing Time and Nerve at questioning and finding fault with their universally faithful, untiring, industrious, honest Agent at London, they [the Brindley Company] had best hereafter Act Promptly on practical advices hereafter, to succeed and not lag at Opportunity."<sup>22</sup>

Prior to the beginning of the second Brindley suit, B. C. Howard was more than willing to do Commerce Trust Company's part in arranging the bond sale. Since the trust company was not a party to the first Brindley suit, it is quite possible that Howard was unaware of the litigation. After an unintentional delay on MacLean's part, a sample form of bond was sent to Miller. Miller and Howard examined it and in early June prepared a bond they thought would be acceptable to all. Howard had informed Miller earlier in May that he would be willing to go to Paris and certify each of the fifty thousand bonds, but the trust company expected Miller to pay the trip's expenses, from \$200 to \$250, and to add another \$5,000 to the trustee's fees. Miller acted as though he had not received this information; on June 8, he informed Howard that a representative of the trust company should be leaving for Paris by June 15, because the bonds needed to be certified and sold before the hot weather hit around July 1. He assured Howard, "I am quite sure, that the Representative can go over there and certify to the Bonds and bring back the cash."<sup>23</sup> Howard reminded Miller of his unpaid financial obligations to the trust company and stated that it would be a physical impossibility to certify all the bonds by July 1. Besides, the mortgage or deed of trust would have to be changed, since the French were taking smaller denominations of bonds than the English. He noted that that would take time. He seemed willing to do all within his power to help Miller and suggested that perhaps two men from Commerce Trust might make the trip to speed up the bond-signing process.<sup>24</sup> Of course, after the departure of the Brindley Company, Miller did not have any funds to lithograph the bonds or to send a Commerce Trust representative to Paris, or to pay the trustee another \$5,000.

After Commerce Trust was named as a co-defendant in the Brindley Company's second suit, Howard's attitude changed. About two weeks after the initiation of the suit, Miller wrote that he and new associates would be sending the trustee \$500 to cover the expenses of the trip, which he expected to be soon. Howard replied that \$500 was insufficient and that Miller needed to pay the additional \$5,000 in trustee's fees. There were also complications resulting from the Brindley suit: even though the receiver would not qualify until mid-August, the railway company had still been placed in receivership by the court and it would not be proper for a trustee to certify bonds of a company in receivership.<sup>25</sup> Miller replied that the trustee's stand would "bust up the entire matter." In his characteristic style, he threatened to find a temporary trustee in Paris and then a permanent one in New York, but Howard and the Commerce Trust Company were unmoved.<sup>26</sup> On this note, Miller's plan to carry out the bond sale and pay off the Brindley Company failed.

After the commencement of the second Brindley suit, Miller changed his strategy to one of a direct attack on the Brindley Company. Interestingly, Miller accused his opponents of misusing the U. S. mails, a crime that had already sent him to prison once and would do so again. He sent MacLean a copy of the bill of complaint and pointed out the accusations made against MacLean's character and intentions. Miller recommended that MacLean authorize Miller's attorneys, Burch, Litowich and Mason, to file suit against the Brindley Company. Miller stated that he was certain MacLean's record would prove that he was not a grafter, as the Brindley Company has asserted, and Miller thought MacLean's suit would stop the company from "using the United States mail as a medium from which

to blackmail people."<sup>27</sup> MacLean denounced the perfidy of the Brindley Company but he did not take Miller's advice.

On July 10, Miller wrote to Joe P. Johnson, chief postal inspector at Kansas City, Missouri. He sent a letter written by Warren Nickerson (former W. S. & G. chief engineer, who had been fired in May) to Benjamin F. Brown, a long-time W. S. & G. director and supporter. Miller stated that Nickerson had joined with the Brindley Company and that they were trying to put him out of business by using the U. S. mail to blackmail him. The letter written by Nickerson was an example of their dirty scheme. Miller further charged that the Brindley Company officials were guilty of mail fraud, because they had led him to believe that their company was strong enough financially to build the road when in fact it was not. "It can be readily shown, that the matter is a rank conspiracy to prevent the building of this line," he declared. "We think that we are entitled to the protection of the United States Laws."<sup>28</sup>

Miller's Salina foes also figured into the conspiracy that he saw formed against him. On July 15, he warned MacLean that W. W. Watson, whom Miller described as "the worst enemey that I have in the City," was traveling to London to check up on and visit with MacLean. Watson was the Salina booster who had given the city's commercial club a negative report on the W. S. & G. when Miller moved to Salina in 1909. Miller advised MacLean that Watson intended to be a witness for the Brindley Company and substantiate its allegations. "You will find this fellow pretty smooth, so take warning and have nothing to do with him," Miller wrote.<sup>29</sup> Two weeks later he wrote that the postal authorities had assured him that indictments would be brought against Perry, Gilbert, Johnson, and Whitehead of the Brindley Company for using the mails to defraud. He



predicted that other indictments would follow which would prove that W. W. Watson and his crowd had been the cause of the trouble. Miller tried to keep MacLean interested in the proposition by informing him that Miller would soon be able to send him at least \$500 for his services and that all would be set to complete the bond sale in the latter part of August.<sup>30</sup> Later events were to prove, however, that Miller had again deluded himself with optimistic hopes.

After the departure of the Brindley Company's money, in May, 1912, the surveying crew became a source of trouble for Miller. When Chief Engineer Nickerson was fired in May, the party was left under the care of a Mr. Thruston. He, too, was soon fired at the recommendations of Couglin and Special Engineer H. E. Wylie, and the locating engineer, William H. Bush, was put in charge. Others in the party left when they did not receive their pay for May. Bush wrote in late June that the remainder of the crew was discouraged and that he would not be able to hold the "boys" together after July 1 without their back pay.<sup>31</sup> Miller tried to convince the crew that the fault lay with the Brindley Company and not him. "It has been rumored, that several parties in your camp will proceed to attack the camp out-fit," he advised. "You might suggest to them, that this would be a very foolish move on their part for the reason, that the money they are seeking to collect must be collected from the Brindley Company. . . . We consider it unjust on the part of the boys in making these threats, for the reason they were working for another party who failed to pay them and we have come to their rescue and are doing our very best to pay them their money."<sup>32</sup>

That the crew was really rescued is open to question. In late June, 1912, Miller sent Bush three checks for \$50 each, drawn on the railway's

account at Traders State Bank in Salina. Bush cashed one at Protection, Kansas, and another at Buffalo, Oklahoma, and both were refused payment because of insufficient funds. Upon receiving a collect telegram on July 8 from Protection State Bank about the situation, Miller wired, "Some one has blundered. There will be no loss."<sup>33</sup> He then sent drafts, apparently drawn on his own account, to cover the two checks. He denied that there had been insufficient funds and blamed the cashier and assistant cashier of Traders State Bank, H. J. Stover and Earle Eberhardt, who were also the railroad's secretary and treasurer, respectively. He revealed his beleaguered state of mind when he explained, "I simply forwarded the checks, without an order of the Board of Directors and they questioned my authority for doing this and I took the position, that our engineer needed the money and I did not care to wait for a meeting of the Board of Directors. I make this statement to show you what assistance a man gets even from his own friends in trying to carry out the work, which I have undertaken."<sup>34</sup>

Bush tried to keep the men working, but they made little progress, partly because there were not enough men left in the party and partly because they were working in very rough and hilly terrain. By the first of August, they had only reached the western edge of Harper County, Oklahoma, surveying less than thirty miles in two months. Miller made arrangements with his friends at Guymon to hire replacements for those who had left, and he sent small amounts of money to Bush for supplies. In late July, he sent Bush \$380, but how he expected him to spend it is unknown. It was probably more than was needed for supplies and groceries for the camp, but it was far short of meeting the payroll. The crew's pay

for June amounted to nearly \$800 and a similar or possibly higher amount was due for May. July's payroll was considerably less, \$630, which reflected the crew's loss of manpower.<sup>35</sup>

Despite the forboding situation created by the second Brindley suit, Miller continued to try to make it appear as though the railroad was progressing towards construction. In early July he ordered and received a new typewriter from L. C. Smith and Brothers in Kansas City, Missouri. Though there were no funds to pay for it, he promised to send the check by August 30.<sup>36</sup> A few days later he informed the Armour packing plant in Kansas City that construction would start around September 1 and stated, "We would have no objections, even at this time, to make a contract for supplies in your line."<sup>37</sup> Even though he was having trouble keeping the survey crew together, he promised one of his Guymon correspondents, R. B. Quinn, that he would "crowd" the board of directors for authority to start a second party that would work from Guymon west to Des Moines.<sup>38</sup>

Miller's greatest success in these months was in persuading several Nebraska businessmen to join the proposition. On July 3, Miller received a telegram from Harry R. Follmer of Lincoln, Nebraska, and son of Miller's old friend George Dallas Follmer from Oak. Follmer stated that he knew a potential investor in the road and requested "as much information as you deem advisable in regard to the French deal."<sup>39</sup> On the same day Miller cabled back, "Ten thousand will earn ten million. Money back in sixty days. French deal ready. Bring your man at once. I can satisfy." Later in the day he cabled again with a better idea: "Can you bring seven men with ten thousand to form new board. If so act at once."<sup>40</sup> Two days later Follmer replied that he had three "good strong men" but he didn't

want to push the deal too hard because he didn't know enough about Miller's offer. By return mail, Miller outlined his proposal: he needed \$10,700 to complete the bond sale. The money was to be used for having the bonds lithographed, for sending the representative to Paris, and for meeting "local" expenses, such as the back payrolls of the survey crew and the Salina office staff. All expenditures were to be authorized by the local directors. In return he offered one thousand shares of W. S. & G. Construction Company stock and 55,000 shares of railway company common stock; he again claimed that the \$10,000 investment would soon be worth \$10,000,000. Copies of MacLean's letters about the bond sale were sent to prove that Miller was not promoting a "gold brick scheme."<sup>41</sup>

Within a few days Follmer notified Miller that he and five to seven men would visit Miller on Thursday night, July 11, 1912. "Everything is all up to you," he wired. "They have the money."<sup>42</sup> The meeting lasted most of the night; the men decided to accept Miller's offer by raising the money among themselves and their friends. None put down their money that night, but two, A. L. Hannah of Beaver Crossing, Nebraska, and J. A. Reuling of Wymore, delivered their money and signed contracts with Miller within two weeks. Hannah contributed \$750 and Rueling \$1,500. The contracts stipulated that the money was to be used for "certain outstanding obligations and in providing for expenses in closing the sale of certain bonds referred to in the correspondence of Samuel R. MacLean, and for no other purpose." Hannah was to receive fifty shares of construction company stock and 2,750 shares of railway common stock and Reuling was to receive twice those amounts. Additionally, the men were to be reimbursed dollar for dollar from the first proceeds from the bond

sale. Those who contributed were allowed to form a townsite company which would have the exclusive rights and cooperation of the W. S. & G. Finally, Miller promised to name seven of the contributors to the boards of directors of the W. S. & G. companies.<sup>43</sup>

In a burst of optimism, Miller notified his survey crew, Commerce Trust, and MacLean that enough money would be coming in soon to put everything in motion. Unfortunately, the \$2,250 may have been all that Miller received from his new Nebraska friends. Two weeks after the all-night meeting, Miller traveled to Follmer's home in Lincoln and to Wymore (about fifty miles south of Lincoln) in hopes of signing contracts with some of Follmer's contacts. Miller told the Salina Daily Union that he was making a business trip to "eastern points" and that he would be back in a few days with some "interesting news."<sup>44</sup> Despite Follmer's efforts, the trip was unsuccessful. After Miller returned to Salina, Follmer reported that he was working with several good prospects. He continued, "Ready cash is a little close with me, and if I could get the commission on the \$2,250 that we got before, it would help me emmensely [sic]."<sup>45</sup> Miller replied in a disgusted tone that he had just about given up on signing up any more of Follmer's prospects in time, and consequently he would not advance any part of Follmer's commission. Furthermore, he threatened that if he did not receive the needed \$10,700, he would return the \$2,250 to Hannah and Reuling.<sup>46</sup>

Only one other of Miller's new group seemed to be trying to persuade others to contribute to the cause, and he did not produce the quick results that Miller desired. L. H. Archard, an insurance and real estate salesman from Wymore, wrote Miller on August 2, "I have tried to hasten my prospective investors all I think I could without making them suspicious,



but it does seem difficult to find men who are not a little shy of any kind of a stock deal. As I told a man yesterday, if some stranger with a smooth talk should come into town with some proposition with not one half the chance to make good that this one has, he would sell some stock all right. I am afraid we have made this proposition look a little too good." He noted that he had four "first class" prospects, but they wanted to study the proposition very carefully before investing and that would take time.<sup>47</sup> Within ten days, one or more of the men had decided to join the proposition and a meeting was scheduled for Monday, August 12, at Miller's offices to sign the contracts. Unfortunately Miller's past caught up with him before any additional funds could be donated. On Friday, August 9, Archard received a telegram from Follmer telling him to not take in any more money until he received Follmer's letter.

In the meantime, Miller was having difficulties with his employees because of his inability to pay them. At the beginning of August, one of the stenographers and the bookkeeper quit. The Salina Evening Journal reported that the young women had walked out because they could not get their pay. Miller denied this and stated that he had discharged them. He showed the Journal reporter two cancelled checks, dated July 26, for \$100 to each of the two to cover their salaries for May and June. He stated that they would receive their July pay at the regular time in mid-August. It was also reported that Miller's private stenographer, Bettie O. Anderson, was still in his employ, "but owing to some personal differences she was not at work today [August 3]."<sup>48</sup>

On July 29, Coughlin "flew the track" and Special Engineer Wylie announced plans to leave soon on a long vacation. Miller told William Bush, locating engineer and acting chief of the surveying party, that the

two had left because of differences over the surveying crew. Miller claimed that they were not keeping him properly informed of the crew's monetary needs.<sup>49</sup> Coughlin's departure was not reported in the Salina papers until August 7. The Salina Daily Union noted that Coughlin had had a long series of disagreements with Miller and that the last straw came when he demanded and was refused his back salary. The Union commented, "A fistful encounter figured in the final breaking up."<sup>50</sup>

Within a few days, Miller became suspicious of Bush and discharged him. Miller instructed him to turn over the company money to another man in the party and to come to Salina to present receipts for the money he had spent. Bush came to Salina but did not visit the railroad offices, because the papers he needed had been sent on with his luggage to his destination in Kansas City. Miller wrote to Bush's Kansas City address demanding an immediate settlement. Miller claimed that Bush and Coughlin were old friends and that Coughlin had hired Bush in order to extract funds from the railroad's treasury. Coughlin later denied any conspiracy, but there seems to have been some truth to Miller's allegations that Bush had not followed instructions in dispensing the \$380 sent him in July. Bush apparently spent part of it for supplies and food but gave none to the party when he left. He apparently took the balance, possibly as much as \$300, to cover his own salary for May and June. Bush claimed that Miller still owed him \$160 for his July pay. He wrote, "I regret that I was obliged to use the means I have to secure at least a part of what you owe me but I was advised to do so both by my lawyer and other parties who have lost what is due them from you."<sup>51</sup> The relationship between Bush and Miller ended with each threatening, but not taking, legal action against the other.

Miller was also having problems with Bettie Anderson, his private stenographer. The "personal differences" that kept her away from work on August 3, kept her away for nearly two weeks. On August 12, Miller must have wanted her to return to work because he wired her in Wichita in care of her uncle, "Come to Salina tomorrow or I must send sheriff with warrant." On the same day he also wired her father, C. G. Anderson of rural Falun in southern Saline County, "Unless Bettie appears today we must arrest her. Important papers have gone and we believe she has them. I am her friend."<sup>52</sup> Miller told both Salina papers that important correspondence between him and Bush had disappeared from his desk and that Anderson was the only other person who had a key to it. He called her absence from work a "disappearance" and implied that it proved she had stolen the papers. On August 16, under a headline of "Miss Anderson Denies Story; Says Mr. Miller Agreed It Was False; But Another Question; Mr. Miller Says He Was Not Quoted Right--Reporter Submits Answer," the Union printed a letter from Anderson denying Miller's earlier statements and asking the paper to correct them. She stated that she had been at her parents' home the entire time and had not gone to Wichita. She further stated that Miller had exonerated her and had told her he had notified the Union reporter to have the paper correct its statements. He also told her that Coughlin had had a key to Miller's desk. Following her letter was a statement from Fred Ludes, the reporter of the original story. He asserted that he had correctly quoted Miller. He further contended that he had seen Miller several times since and that he had never been approached about correcting the article.<sup>53</sup> Also on August 16, the Union's rival the Salina Evening Journal merely announced that Miller had

retracted his former statement.<sup>54</sup> Evidently Anderson returned to work, but Miller's conflicts with her were far from over.

Miller's troubles were mounting. Not only did he have problems with the office staff and survey crew, but he was running out of time to save the railroad from receivership, and he was not raising enough money from his new Nebraska friends. After Henry Follmer notified L. H. Archard on Friday, August 9, not to take in any more money until Archard received his letter, Archard cancelled his plan to take one or more prospective investors to Salina on the following Monday. He received Follmer's letter on Sunday and learned that Follmer had received some damaging letters about the W. S. & G. Follmer had intended to enclose copies of those letters but had forgotten to do so.

Not knowing the contents of the damaging letters and believing that Miller should know about the trouble so he could properly address it, Archard went to Salina alone and spent Monday and Tuesday, August 12 and 13, with Miller. Archard told Miller of his strange communication from Follmer, but Miller was apparently able to reassure him. Among the things the two discussed was the possible reorganization of the railroad. Since it appeared that the Winnipeg, Salina and Gulf would go into receivership, Miller thought it would be best to reorganize under a new name and start over. They apparently discussed and agreed that Follmer's role in the new organization would be brief and that he would either be persuaded or forced to leave the proposition.<sup>55</sup>

Upon his return to Wymore, Archard received the damaging letters from Follmer. Following Miller's refusal to pay Follmer the 10% commission on the \$2,250, Follmer wrote Coughlin confidentially and asked about the status of the railroad. Coughlin (who had already left the company)

replied that the "project will undoubtedly go to the wall" and that he would probably lose \$4,500 due him. Coughlin accused Miller of mishandling the \$2,250 he had received from Nebraska. Of the amount, \$750 was used to pay only some of the employees and the balance was deposited in Miller's personal account. Obviously, Coughlin had been among those who had not been paid, since his \$1,000 a month salary would have wiped out the entire amount. Before the receipt of the money, Coughlin contended that Miller had so little money that he had been soliciting funds to pay his fare to and from Kansas City; but after the receipt of the funds, he purchased a \$100 glass lined refrigerator for his home.

Follmer sent a copy of a letter from William Bush to the Salina postmaster in which Bush accused Miller of tampering with Bush's mail. Bush claimed to have proof that Miller had opened letters that were addressed to him and sent to him at the Salina office. He further claimed that Miller had destroyed one of the letters and that Bettie Anderson had seen him do it. Copies of the letters from both Bush and Coughlin to the judge in the Brindley case were also sent to Archard, along with a letter from former Chief Engineer Warren Nickerson to Follmer's father, G. D. Follmer. Nickerson's letter advised G. D. Follmer to check out Miller's record before investing any money in the deal and stated that a copy of same could be obtained from Kansas State Bank Commissioner J. N. Dolley.<sup>56</sup>

Archard believed that Miller was not guilty of any of the accusations made by Follmer's informants. Believing that Miller could exonerate himself, Archard wrote Miller about his correspondence with Follmer about the accusations made by Coughlin and Bush. Archard asked Miller to keep their correspondence confidential, but Miller did not.<sup>57</sup> Miller soon wrote to Follmer and demanded that Follmer send the Coughlin letters to



him or to the Salina postal inspector, J. F. Elston, so that Elston could prepare a charge against Coughlin of misusing the mails. Miller threatened that Follmer would be arrested if he refused to turn over the letters.<sup>58</sup> (It is ironic that Miller would want Elston to investigate alleged postal violations for him, because at this time Miller himself was probably being investigated for misuse of the U. S. mail.) Follmer refused saying that if the postal authorities were interested, they could contact him directly and he would show them the letters. Furthermore Follmer stated, "After I have written a man for anything in confidence, you can bet your last life that H. R. Follmer is not giving up anything after so doing."<sup>59</sup> He tried to impress upon Miller that he was Miller's friend and was not antagonistic to the Winnipeg, Salina and Gulf; but Miller replied that he could prove his friendship only by sending all the letters to him.<sup>60</sup>

The forty-five day grace period on the receivership proceeding ended on August 15 and the next day the court revealed that D. J. Hanna, a Salina businessman, had been appointed receiver of the W. S. & G. companies. Miller denied that there was going to be a receiver. The Salina Evening Journal reported, "'I have seen nothing that looks like receiver taking charge over the office,' said Mr. Miller, 'and in fact I think that proceedings that we have started in the courts will tend to stop this.'"<sup>61</sup> Miller was given a few more days when Hanna declined to act as receiver. He had been vacationing in Colorado at the time of the announcement, and on his return the next week, he refused to post the bond necessary to qualify as receiver. He explained to the Salina Evening Journal on August 23, "'I know nothing of the affairs of the company and

do not care to.'" On August 23, the court appointed a new receiver, Salina businessman James A. Kimball.<sup>62</sup>

In the meantime, Miller had made plans to reorganize. He, Archard, and others from Nebraska met in Salina on Monday, August 19, 1912, to form the Winnipeg, Kansas, and Gulf Railway Company. Miller informed MacLean and others that the W. S. & G. case would probably be tied up in the courts for years, and it would therefore be better to form a new company and forge ahead. It is unknown how long the organizational meeting lasted, but the Salina Evening Journal reported on Friday of the same week that two strangers had been seen in Miller's offices intently studying a map of Nebraska. The Salina Daily Union reported that on Thursday, August 22, the word "Salina" had been scratched from the railroad's name that had been painted on the windows of the W. S. & G. offices.<sup>63</sup>

Through his Nebraska friends, Miller found new attorneys, Sacket, Brewster and Spafford, of Beatrice. They filed an appearance as attorneys for both W. S. & G. companies on Saturday, August 24. They seemed to accept the inevitability of receivership. They advised Miller to prepare a bona fide claim of his own against the railway company so that he would recover something from the company and so that the share received by the Brindley Company would be less.<sup>64</sup> Miller made a claim, but clearly had another strategy in mind. He thought that the W. S. & G. Railway Company could be removed from receivership because he thought the attorneys could prove the company had no liabilities. With the railway company protected, it could sell its rights and franchises to the new W. K. & G. The W. S. & G. Construction Company could also be protected by employing one of Miller's old techniques: invalidating a contract through a technicality. He claimed that the contract between the Brindley Company and W. S. & G.

Construction company stipulated that the Brindley Company could begin working only after the construction company had ordered Brindley to begin, and no such order had ever been issued. Furthermore, the money Brindley claimed to have advanced did not pass through the W. S. & G. treasury but went directly to individuals without Miller's knowledge.

Miller also asserted that he could prove that the Brindley Company had conspired from the beginning to steal the proposition from him and that Miller's first attorney, Bernard Litowich, was a part of the conspiracy. In advising his new attorneys about Litowich, Miller made a statement which is very intriguing in light of later events which brought him a prison sentence.

We should show this man Litowich up in court, and show the judge that he was acting for the other side while pretending to be our attorney, and that he deliberately [sic] was a party to having the court make an order contrary to the agreement which we entered into. He admitted this in the presence of Mr. Reuling, Mr. Archard, and Mr. Penrod in my office, and in my presence, and if you think best, I will draw up just the agreement as he stated it in the presence of the three gentlemen named, so that you can prepare the necessary affidavits to present to the court.<sup>65</sup>

Sacket, Brewster and Spafford's reactions to Miller's suggestions are unknown for they did not remain his attorneys. When Miller next appeared in court in October, Ira Lloyd of Ellsworth represented him.

On August 28, James A. Kimball took his oath and posted a \$5,000 bond to qualify as receiver of the two W. S. & G. companies. The next day he and his attorney, who incidentally was Bernard Litowich, called on Miller and asked him to turn over the assets of the Winnipeg, Salina and Gulf. Miller gave them the company's seal and said that he had "no property, books, papers, charter, or memorandum of any nature whatsoever, except the seal" of the W. S. & G. When asked about accounts or credits at the bank,

Miller said there were none. Kimball asked about the furniture, suspecting that it had been purchased from funds of people who had bought stock.<sup>66</sup> He claimed that Miller had told him that he owned the furnishings personally. Miller later claimed that he had told Kimball that it belonged to different individuals. Miller also claimed that he had told Kimball there was "stuff" in the offices he could have and that Kimball had declined.<sup>67</sup> Kimball's account of the proceedings did not include this supposed exchange. Miller's refusal to turn over the railroad offices bought him three more weeks in which he could try to salvage his companies without the interference of a receiver.

During those weeks Miller continued to work with Archard and others in hopes of getting the Winnipeg, Kansas and Gulf off the ground, but he fell far short of his goal. He also had more problems with his former private stenographer, Bettie Anderson. Although Anderson was still on the railroad's payroll, she obviously was not being paid. She left the railroad offices and went to Wichita probably in the latter part of August to visit relatives. Miller followed her there, accused her of stealing \$1,000 from his desk, and tried to persuade the Wichita police to arrest her. There are two newspaper accounts of Miller's trip to Wichita: one published by the Salina Daily Union on the day of his return, September 3, and the other in the Kansas City Star a month later. The Star reported that Miller had informed the Wichita police chief that a warrant for Anderson's arrest was being sent from Salina. The chief then sent Anderson back to Salina with Miller and a Wichita police detective. At Abilene, Miller was reported to have told the detective that he would not need to go to Salina because Salina police would be waiting, but the detective traveled on to Salina where he learned there was no warrant for

Anderson's arrest. Miller was said to have explained that Wichita authorities had misunderstood him.<sup>68</sup>

The Union's version differed somewhat. It reported that since there was no warrant, the Wichita police refused to arrest Anderson. Miller was successful, however, in persuading her to return to Salina with him, and her relatives hired the detective to accompany her "so that she would not be molested in any way." Prior to their arrival, Salina police received a message from Miller to meet their train and arrest Anderson. The Salina police also refused because there was no warrant. Upon their arrival Anderson and the detective went directly to Saline County Attorney Frank Knittle for assistance. A few hours later, Miller and his attorney appeared in Knittle's office and asked that a warrant be issued for Anderson's arrest. Knittle refused on the grounds that there was not enough evidence to justify issuing a warrant.<sup>69</sup> Of the two accounts, the Union's is probably the more accurate, because its reporters knew both Miller and Anderson and had interviewed the principals involved.

Miller's efforts in getting Anderson to stay in Salina were for naught, and she returned to Wichita. Miller still accused her of stealing \$1,000 from his desk, and he wrote to the Wichita Businessmen's Association warning its members against hiring her. He also attempted to gather enough evidence to have an arrest warrant issued. In this effort he solicited written sworn statements from witnesses. He may have been less than straightforward with at least one of these potential witnesses. He apparently informed H. V. Harden of Strong City that his statement would be helping Anderson. Harden replied, "I received your letter of the sixth in request of some information. But I could not swear to what you say. . . . If I can be of any other service to you or her, please let me



know and I will do anything straight to help you, or her."<sup>70</sup> Miller also tried to persuade his Beatrice, Nebraska, attorneys to come to Salina to help him. "I would much rather get her to talk than to prosecute her and I thought if you would be here and take the matter up with her attorney, we might arrange the matter," he wrote.<sup>71</sup>

Miller also contacted Anderson directly. She evidently told him that she would return if he sent her two months salary. On Wednesday, September 11, he telegraphed her, "My promise fulfilled. One hundred fifty wired you by postal. Silence is the word. Will meet you Thursday evening at Missouri Pacific depot." [Emphasis added.]<sup>72</sup> Expecting her to arrive the next day, Miller wrote to Archard, clearing her of any wrongdoing: "The horizon is now clearing relative to the \$1,000 so far as Miss Anderson is concerned and I stand ready to convince the most skeptical that she was not a party to the stealing of it."<sup>73</sup> Miller's plans went awry when Anderson did not arrive as he had instructed. The next day he cabled her, "You pledged me on your honor you would come on receipt of one hundred fifty. Why are you not here. Act promptly." He also cabled the Kirkwood Auto Company where he thought she was working and implied that she was on his payroll and that she should not be working for the Wichita firm. Anderson still remained in Wichita and Miller's telegrams demanding her return became more threatening. On September 14, he wrote, "They are arranging to send officer for you. Better come today as you agreed," and on Tuesday, September 17, "Galbreath [one of Miller's old friends and former member of the surveying crew] made affidavit yesterday that he saw you take the money. I must swear to complaint Wednesday and will do so unless you make good your promise made last

Tuesday and get here today on Mo. P. Better accept advice and I will vindicate you. Answer."<sup>74</sup>

Miller may have carried out his threat on September 18 and signed a complaint against Anderson, but nothing appeared in the Salina newspapers concerning the story. Since Miller was so willing to vindicate Anderson if she would only return to Salina, the accusation of the theft was probably invented by him as a means of securing her return. While it is clear that Miller wanted Anderson to be in town, his motivation in demanding her return is less clear. He may have thought, as a Kansas City paper later suggested, that he could influence her actions better if she were in Salina. Although he told his Nebraska attorneys that he wanted her to talk, his instructions to her reveal that he wanted her to remain silent. Precisely what he feared she would tell is unknown. If former locating engineer William Bush's accusations were true, Miller may have feared that she would testify that she had seen Miller open, read, and destroy Bush's mail. Or, perhaps he feared that she would reveal other damaging information about him. Miller may have also thought that in case she did not remain silent and spoke against him, he would discredit her before she discredited him. On Thursday morning, September 19, Miller encountered difficulties that were more serious than those Anderson presented; but later events indicate that he still felt threatened by her.

While Miller was scheming to get Anderson back to Salina, receiver Kimball was informing the court that Miller had refused to turn railroad property over to him. On September 17, Kimball asked the court to hold Miller in contempt of the court because of his "neglect and refusal and disregard for the court's orders."<sup>75</sup> The next day the court issued a show cause order that commanded Miller to appear in court on October 4 in

Kansas City, Kansas, to present his case for not being held in contempt. Also issued on the same day was an order directing the U. S. marshal to take possession of the railroad offices, eject its occupants, and appoint a custodian to see that the offices remained unoccupied until the hearing on the contempt charge. At 8:30 on Thursday morning, Deputy U. S. Marshal Frank Flenniker served Miller with the show cause order and the possession order. Miller was ejected from the offices and Saline County Sheriff Howard Burke was appointed their custodian.<sup>76</sup> The Salina Daily Union reported that Burke had placed a large padlock on the door to the offices.<sup>77</sup>

Miller was given two weeks in which to prove that he was not guilty of contempt of court. He also seemed to have been having problems with his attorneys. The Beatrice lawyers either retired from the case at their own request or Miller dropped them. When Miller appeared in federal court to answer the contempt charges, he was represented by a new solicitor, Ira Lloyd of Ellsworth.

Miller's defense was primarily devoted to proving that the contents of the seized offices did not belong to either of the W. S. & G. companies, but belonged either to himself or others. One group of furnishings, including four desks, two tables, twenty chairs, three rugs, curtains and a davenport, were said to have been purchased from "monies furnished by different persons in Saline County, Kansas, and that not a dollar paid for same came directly or indirectly from the said Winnipeg, Salina & Gulf Railway Company, or construction company, nor has either of the said companies ever owned the same." Attached was an affidavit from six men who stated that they had given Miller more than \$600 in the spring of 1910 so that he could buy furniture for use of the Topeka Southwestern.

Even though the furniture was in the W. S. & G. offices, they stated that neither Miller nor the W. S. & G. had repaid them in any way. Another group of furniture, including two desks, two typewriters, two chairs, and one rug, was purchased from funds that long-time W. S. & G. supporter Benjamin F. Brown had loaned Miller. Brown's affidavit substantiating this was attached. He stated that he had loaned \$2,200 to Miller between October, 1910, and March, 1911, and that Miller had not repaid any of it.

Miller claimed that he purchased a third set of furniture, including three desks, three chairs, and two rugs, for the W. S. & G. but that the board of directors had refused to authorize the \$327 purchase. Consequently, Miller paid \$200 down in March, 1912, and Brown completed the payment on September 5, 1912. Brown's affidavit also substantiated Miller's assertions. A final group of furnishings, including two typewriters, an adding machine, desks and chairs, belonged to the Brindley Company. Miller also reported that payment had not been made for the newest typewriter from L. C. Smith and Brothers. Miller further contended that the balance of the furniture belonged to him personally, as well as the stationery, books, private papers, and correspondence. Although he claimed that he had told Kimball that there was some "stuff" belonging to the W. S. & G. in the offices (and that Kimball had refused to take it), he did not offer any details about the "stuff." Miller contended that he was not in contempt of the court because the marshal had seized the offices and Miller no longer had any control over them.

Also prepared for Miller's court appearance was a motion by W. L. Nesmith and his attorney, who was also Ira Lloyd. Nesmith owned the building that housed the W. S. & G. offices, and he was the father of

Verne and Hal J. Nesmith, two of Miller's long-time supporters. Nesmith submitted Miller's leases for the offices and stated that rent was past due on them. The first lease was for eight rooms at an annual rent of \$750. The annual rent payment due on March 1, 1912, had not been made. Also on March 1, 1912, Miller leased six more rooms for \$650; Nesmith had received no payment on this lease either. On September 23, Lloyd had served Kimball with notices to vacate the rooms within ten days or pay the rent due him. Kimball had responded that he, as receiver, did not have possession of the property, but that if the court decided he should take possession, he would immediately vacate. Nesmith told the court that the marshal and the receiver had refused without just cause to turn over the rooms to him. He requested that the court order the marshal, the receiver, and the railroad to leave the premises immediately, or to allow him to sue to recover possession of the rooms.

The contempt hearing was postponed from Friday, October 4, to the following Monday, October 7. On that day Miller appeared in court ready to present his defense, only to find himself in deeper trouble. At 3:00 P.M. Miller was arrested in the courtroom by U. S. Marshal J. R. Harrison on the charge of using the mails to defraud. The investigation that caused the grand jury to return the indictment had been conducted by Salina post-office inspector J. F. Elston, and was reportedly initiated by complaint from Miller's former associate at Turon, Martin H. Potter. Miller was charged with fraudulently representing that his project was backed with \$29,997,00 of foreign capital that was claimed to be on deposit. The Kansas City Star stated that throughout the proceeding Miller maintained the dignity and bearing befitting the president of a grand railroad. "He was a railroad president, so far as outside



appearances went," the Star reported. "A moment later he was a prisoner. Still, he was dignified. Even the surprise he expressed at being in the uncouth hands of the law was dignified."<sup>78</sup> Miller was taken to the Wyandotte County jail where he remained for six weeks because he was unable to post the \$15,000 bond.

The next day the Star interviewed him in prison to get his side of the story: he blamed Wall Street for his imprisonment.

"They have Miller locked up to keep him from building that road," Miller declared. "I simply am in wrong with Wall Street. That is the only reason I am here."

The promoter of the railroad . . . says he has committed no offense for which he can be convicted. He declares that in spite of his arrest, the road will be built some day.

"We brought about the organization of a Paris syndicate to finance this proposition," Miller said--the plural referring to himself. "This syndicate is organized now and it had the money ready to furnish for the road. It was to pay 5 million dollars in the first installment and 5 million dollars later in other installments.

"This syndicate was heard about the road's receivership now, however, and it may back out of the proposition and put its money somewhere else. That is just what the Wall Street financiers who were not interested in the road desired to happen. Wall Street was not in on it, and I'll tell you right now they're afraid of Miller when he starts out alone."<sup>79</sup>

The news made the front pages of the Salina papers, where the stories from the Kansas City papers were reprinted. No local comment was reported on the events. It may be that interest in Miller and the W. S. & G. had dwindled to a point that there was no newsworthy reaction to the events. A more likely explanation, however, is that the papers saw their journalistic duty to publish the news as they received it from Kansas City; but neither wanted to print anything else in order to avoid embarrassment to the Salina businessmen and bankers who were still associated with the proposition.

Miller's arrest virtually ended his defense in the Brindley case. It also ended, apparently, Miller's relationship with Ira Lloyd. On October 15, the court declared that Miller should be discharged from the attachment for contempt. The marshal was to turn the offices over to Kimball who was to preserve all W. S. & G. property as well as "all records, papers, books, letters, reports, accounts, letters files, and documents" that were in the offices. Kimball was to allow Miller and his attorneys access to the records and let them make copies of the records in order to prepare his defense in the mail fraud charge. The court answered Nesmith's motion by admonishing Kimball to vacate the rooms "with all convenient speed and without unnecessary delay."<sup>80</sup>

On November 2, 1912, a hearing on the Brindley's bill of complaint and the stipulation was held. Miller was represented by a new attorney, Jacob S. Detweiler of Kansas City, Kansas. The court found generally with the complainant. It was decreed that Miller be removed from both the W. S. & G. companies. The companies were declared insolvent and therefore dissolved, and the receiver was ordered to sell the companies' assets and divide the proceeds between their creditors. The court also found that the defendants owed Brindley Company \$49,061.11 plus \$981.22 (6% interest from July 2, 1912, to November 2, 1912) and ordered that the total amount be paid from the proceeds of the receiver's sale.<sup>81</sup>

Kimball inventoried the contents of the offices and reported that the two companies' assets were inseparable. Those assets, with the exception of the office furnishings, were of little or no value and would only interest a railroad company or someone wanting to build a railroad. He asked that he be allowed to deposit the companies' correspondence with the court, since it was of no value.<sup>82</sup>

On November 10, Judge John C. Pollock reduced Miller's bond from \$15,000 to \$5,00. W. L. Nesmith posted the bond and Miller was released on November 19. The next morning the Salina Daily Union reported that he was at the offices and feeling fine. He told the Union, "'The road will be built as has been planned. We will occupy the same offices as we formerly occupied. The offices will be refurnished with new furniture as completely as they were formerly furnished.'"<sup>83</sup> Through Detweiler's efforts, the L. C. Smith and Brothers Typewriter Company recovered their typewriter for which they had not been paid. Detweiler was not successful at removing from the receiver's sale certain pieces of furniture that Miller claimed belonged to him personally.

The sale was held on November 25, 1912. Hal J. Nesmith purchased the furniture, fixtures, and stationery for \$877.72. The Brindley Company purchased all the surveys, blueprints, profiles, maps, and other data concerning the construction of the road. The Brindley Company did not pay the court for these items but indicated that they would satisfy the company's claim. After expenses of the receivership, including receiver's and attorney's fees, rent for the rooms, and taxes were deducted from the proceeds of the sale, and the remainder was divided among those who held claims against the W. S. & G. The claimants received only a small fraction of their claims. For instance, Coughlin had the largest claim of \$4,072: he recovered \$64.37.<sup>84</sup> The sale of the office furniture to Nesmith probably pleased Miller because the two were still friends. Miller was allowed use of the furniture and offices after the receiver's sale.

The Brindley Company tried to recoup its losses by using the material gained from the receiver's sale in another enterprise. In late October,

the Topeka Daily Capital announced that four Brindley Company officials joined three Topekans, C. E. Gault, J. R. Mulvane, and W. S. Webb, to form the North American Midland Railway Company. Gault had been one of Brindley's attorneys in its suit against Miller. A charter was granted to the company in early November and a month later it was announced that the New York incorporators were busily at work arranging for foreign financing.<sup>85</sup> The financing must not have been forthcoming or perhaps something else stopped their plans, because nothing more was heard from the North American Midland Railroad.

Miller, in the meantime, was trying to rebuild. Shortly before Christmas he reported to W. B. Ream, editor of the Turon Weekly Press, that he had purchased everything of value from the old W. S. & G. He said he was back at the "old stand" and had "completely whipped the Brindley Company in their efforts to steal the proposition."<sup>86</sup> Had Miller concentrated on the positive aspects of rebuilding his proposition rather than trying to fight his detractors, he might very well have avoided a prison term. The mail fraud case still hung over him but it may not have been much of a case. In early December, the case's prosecutor, Charles Briggs, an assistant U. S. attorney for Kansas, wrote Salina postal inspector J. F. Elston and requested that he bring his report and all papers concerning the mail fraud case to Briggs's office as soon as possible in order to get witnesses subpoenaed and draw the indictment. He wrote, "We anticipate a fight, and a hard one, on this case and for that reason want plenty of time to draw and redraw the indictment if necessary."<sup>87</sup> This indictment was never drawn and there are no remnants of the case in the court's records. In late December and early January, Miller or possibly Miller's enemies took a course of action which authorities found far easier to prosecute.

## CHAPTER 8: NOTES

- <sup>1</sup>Records of the U.S. District Court (record group 21) [hereafter RG 21]; District of Kansas, First Division [hereafter Kansas]; Brindley Company v. Winnipeg, Salina and Gulf Railway Company, et al. (civil case 1299) [hereafter civil case 1299]; Bill of Complaint; Archives Branch, Federal Archives and Records Center, Kansas City, Mo. [hereafter FARC].
- <sup>2</sup>RG 21, Kansas, civil case 1299, Notice, filed June 26, 1912, FARC.
- <sup>3</sup>RG 21; Kansas; "Records of the Winnipeg, Salina and Gulf Railway Company, 1908-1912" (microfilm preservation project 6NCN-81-002) [hereafter 6NCN81-002]; Winnipeg, Salina and Gulf [hereafter WS&G]; records of the president [hereafter Pres.]; copy of letter to B. C. Howard, June 25, 1912 (fiche 28).
- <sup>4</sup>RG 21, Kansas, civil case 1299, Stipulation.
- <sup>5</sup>RG 21, Kansas, 6NCN81-002, WS&G, Pres., [hereafter RG 21 . . . Pres.]; copy of letter to Martin H. Potter, June 1, 1911 (fiche 27).
- <sup>6</sup>Salina Daily Union, July 3, 1912, p. 8.
- <sup>7</sup>Salina Daily Union, July 6, 1912, p. 1.
- <sup>8</sup>RG 21 . . . Pres., copy of letter to John D. Porter, June 11, 1912 (fiche 27), and letter from Porter, June 15, 1912 (fiche 15).
- <sup>9</sup>RG 21 . . . Pres., copy of telegram to Samuel R. MacLean, June 14, 1912 (fiche 31).
- <sup>10</sup>RG 21 . . . Pres., letter from LeRoy Davidson, May 6, 1912 (fiche 14).
- <sup>11</sup>RG 21 . . . Pres., copy of telegram to Davidson, May 11, 1912 (fiche 27).
- <sup>12</sup>RG 21 . . . Pres., letter from Davidson, May 11, 1912 (fiche 14); copy of letter to Davidson, May 20, 1912 (fiche 27); and telegram from Davidson, May 24 [1912] (fiche 15).
- <sup>13</sup>RG 21 . . . Pres., letter from Davidson, June 18, 1912 (fiche 16), and copy of letter to Davidson, July 1, 1912 (fiche 28).
- <sup>14</sup>RG 21 . . . Pres., copy of telegram to E. L. Propst, June 18, 1912 (fiche 27).
- <sup>15</sup>RG 21 . . . Pres., letter from Propst, July 8, 1912 (fiche 16).
- <sup>16</sup>RG 21 . . . Pres., copy of letter to Potter, May 17, 1912 (fiche 27).



17 RG 21 . . . Pres., copy of letter to Potter, May 27, 1912 (fiche 27).

18 RG 21 . . . Pres., copy of letter to Potter, May 29, 1912 (fiche 27), and letter from Potter, May 31, 1912 (fiche 15).

19 RG 21 . . . Pres., letter from Potter, June 8, 1912 (fiche 15), and copy of letter to Potter, June 10, 1912 (fiche 27).

20 RG 21 . . . Pres., letter from Potter, June 11, 1912 (fiche 15).

21 RG 21 . . . Pres., copy of telegram to Potter, June 12, 1912 (fiche 29).

22 RG 21 . . . Pres., copy of letter from MacLean, May 21, 1912 (fiche 17).

23 RG 21 . . . Pres., copy of letter to Howard, June 8, 1912 (fiche 27).

24 RG 21 . . . Pres., letters from Howard, June 10 and 15, 1912 (fiche 15).

25 RG 21 . . . Pres., copy of letter to Howard, July 12, 1912 (fiche 28), and letter from Howard, July 15, 1912 (fiche 16).

26 RG 21 . . . Pres., copy of letter to Howard, July 16, 1912 (fiche 28).

27 RG 21 . . . Pres., copy of letter to MacLean, July 1, 1912 (fiche 31).

28 RG 21 . . . Pres., copy of letter to Post Office Department, Kansas City, Mo., July 10, 1912 (fiche 28).

29 RG 21 . . . Pres., copy of letter to MacLean, July 15, 1912 (fiche 31).

30 RG 21 . . . Pres., copy of letter to MacLean, July 30, 1912 (fiche 31).

31 RG 21 . . . Pres., letter from William E. Bush, June 26, 1912 (fiche 16).

32 RG 21 . . . Pres., copy of letter to Bush, July 6, 1912 (fiche 28).

33 RG 21 . . . Pres., copy of telegram to Protection State Bank, July 8, 1912 (fiche 28).

34 RG 21 . . . Pres., copy of letter to Protection State Bank, July 12, 1912 (fiche 28).

- 35 RG 21; Kansas; 6NCN81-002; WS&G; records of the Engineering Department; Payrolls for June and July, 1912 (fiche 31).
- 36 RG 21 . . . Pres., copy of letter to L. C. Smith & Bros. Typewriter Co., July 5, 1912 (fiche 28).
- 37 RG 21 . . . Pres., copy of letter to Armour & Co., July 9, 1912 (fiche 28).
- 38 RG 21 . . . Pres., copy of letter to R. B. Quinn, July 10, 1912 (fiche 28).
- 39 RG 21 . . . Pres., telegram from Harry R. Follmer, July 3, 1912 (fiche 16).
- 40 RG 21 . . . Pres., copies of telegrams to Follmer, July 3, 1912 (fiche 29).
- 41 RG 21 . . . Pres., copy of letter to Follmer, July 6, 1912 (fiche 28).
- 42 RG 21 . . . Pres., telegram from Follmer, July 9, 1912 (fiche 16).
- 43 RG 21 . . . Pres., contract between A. L. Hannah and the WS&G Construction and Railway companies, July 20, 1912 (fiche 3).
- 44 Salina Daily Union, July 25, 1912, p. 1.
- 45 RG 21 . . . Pres., letter from Follmer, Aug. 3, 1912 (fiche 16).
- 46 RG 21 . . . Pres., copy of letter to Follmer, Aug. 5, 1912 (fiche 28).
- 47 RG 21 . . . Pres., letter from L. H. Archard, Aug. 2, 1912 (fiche 16).
- 48 Salina Evening Journal, Aug. 3, 1912, p. 1.
- 49 RG 21 . . . Pres., copy of letter to Bush, July 29, 1912 (fiche 28).
- 50 Salina Daily Union, Aug. 7, 1912, p. 1.
- 51 RG 21 . . . Pres., letter from Bush, Aug. 10, 1912 (fiche 16); Salina Daily Union, Aug. 13, 1912, p. 1; and Salina Evening Journal, Aug. 15, 1912, p. 1.
- 52 RG 21 . . . Pres., copies of telegrams to Bettie Anderson and to C. G. Anderson, Aug. 12, 1912 (fiche 28).
- 53 Salina Daily Union, Aug. 15, 1912, p. 1.
- 54 Salina Evening Journal, Aug. 16, 1912, p. 1.

- <sup>55</sup>RG 21 . . . Pres., copy of letter from Archard to Follmer, Aug. 13, 1912, and letter from Archard, Aug. 17, 1912 (fiche 16).
- <sup>56</sup>RG 21 . . . Pres., letter from Archard, Aug. 15, 1912 (fiche 16).
- <sup>57</sup>RG 21 . . . Pres., letter from Archard, Aug. 17, 1912 (fiche 16).
- <sup>58</sup>RG 21 . . . Pres., copy of letter to Follmer, Aug. 17, 1912 (fiche 28).
- <sup>59</sup>RG 21 . . . Pres., letter from Follmer, Aug. 19, 1912 (fiche 16).
- <sup>60</sup>RG 21 . . . Pres., letter from Follmer, Aug. 23, 1912 (fiche 16), and copy of letter to Follmer, Aug. 24, 1912 (fiche 28).
- <sup>61</sup>Salina Evening Journal, Aug. 16, 1912, p. 1.
- <sup>62</sup>Salina Evening Journal, Aug. 23, 1912, p. 1.
- <sup>63</sup>Ibid. and Salina Daily Union, Aug. 23, 1912, p. 1.
- <sup>64</sup>RG 21 . . . Pres., letter from Sackett, Brewster & Spafford, Aug. 28, 1912 (fiche 28).
- <sup>65</sup>RG 21 . . . Pres., copy of letter to Sackett, Brewster & Spafford, Aug. 30, 1912 (fiche 28).
- <sup>66</sup>RG 21, Kansas, civil case 1299, Application and affidavit in re contempt, Sept. 17, 1912, FARC.
- <sup>67</sup>RG 21, Kansas, civil case 1299, Answer to attachment for alleged contempt, FARC.
- <sup>68</sup>Kansas City Star, Oct. 9, 1912, in "Vertical File, H. Leone Miller," Library, Kansas State Historical Society, Topeka [hereafter KSHS].
- <sup>69</sup>Salina Daily Union, Sept. 3, 1912, p. 1.
- <sup>70</sup>RG 21 . . . Pres., letter from H. V. Harden, Sept. 8, 1912 (fiche 17).
- <sup>71</sup>RG 21 . . . Pres., copy of letter to Sackett, Brewster and Spafford, Sept. 4, 1912 (fiche 28).
- <sup>72</sup>RG 21 . . . Pres., copy of telegram to B. Anderson, Sept. 11, 1912 (fiche 29).
- <sup>73</sup>RG 21 . . . Pres., copy of letter to Archard, Sept. 12, 1912 (fiche 28).
- <sup>74</sup>RG 21 . . . Pres., copy of telegrams to B. Anderson, Sept. 13, Sept. 14, and Sept. 17, 1912, and to Kirkwood Auto, Sept. 13, 1912 (fiche 29).

75 RG 21, Kansas, civil case 1299, Application and affidavit in re contempt, filed Sept. 17, 1912, FARC.

76 RG 21, Kansas, civil case 1299, copy of Show cause order with Return of service and copy of Order directing marshal to take possession of property, etc., of defendants with Return of service, FARC.

77 Salina Daily Union, Sept. 19, 1912, p. 5.

78 Kansas City Star, Oct. 7, 1912, in "Vertical File, H. Leone Miller," Library, KSHS.

79 Kansas City Star, Oct. 8, 1912, in "Vertical File, H. Leone Miller," Library, KSHS.

80 RG 21, Kansas, civil case 1299, Journal entry, FARC.

81 RG 21, Kansas, civil case 1299, Final decree, FARC.

82 RG 21, Kansas, civil case 1299, Report of receiver, filed Nov. 2, 1912, and Order, filed Nov. 12, 1912, FARC.

83 Salina Daily Union, Nov. 20, 1912, p. 1.

84 RG 21, Kansas, civil case 1299, report of sale, and order confirming receiver's sale, FARC.

85 Topeka Daily Capital, Oct. 26, 1912, p. 1, and Dec. 5, 1912, p. 1.

86 Salina Daily Union, Dec. 24, 1912, p. 2.

87 Records of U.S. attorneys and marshals (record group 118), Records of the U.S. attorney, District of Kansas, First Division, Correspondence, copy of letter to J. F. Elston, Dec. 3, 1912, FARC.

## CHAPTER 9:

OBSCENITY, PERJURY, AND PRISON, DECEMBER, 1912 - MAY, 1915

The final decree in the Brindley suit dissolved the Winnipeg, Salina and Gulf Railway and Construction companies, but it did not end Miller's dream of building a grand trunk railroad from Winnipeg to the Gulf. On November 20, 1912, Miller returned from the Wyandotte County jail, where he had spent six weeks on the mail fraud charge waiting for his bail to be reduced to a point that one of his friends would post it for him. It appears that he immediately began working on the Winnipeg, Kansas, and Gulf Railway proposition. After the receiver's sale in late November, Miller was allowed by the Nesmith brothers and their father to reoccupy his former offices and use the furniture he had purchased for the Topeka Southwestern and the Winnipeg, Salina and Gulf. During these months, he may have depended heavily upon the Nesmith brothers and Benjamin F. Brown, three of his staunchest supporters. Miller faced an up-hill task. His reputation had been so damaged by the Brindley case and the mail fraud charge that he enjoyed little public support. His personal finances had also dwindled. Miller probably saw himself as the victim of a miscarriage of justice; his frequent change of attorneys suggests that he thought he had been improperly represented in the Brindley case. He certainly thought a conspiracy of his enemies from Wall Street to Salina was formed against him. He still had to face the mail fraud trial that may have been planned for the April term of the U. S. District Court. The course that Miller took to defend himself was counter-productive: it resulted in additional charges of sending obscene letters through the mail and perjury and finally a prison term.



On one of the days just before Christmas, 1912, Charles W. Burch, the senior partner of the Salina law firm of Burch, Litowich, and Mason, received a letter in an envelope postmarked at Salina on December 20, at 3:30 P.M. and marked "Confidential." Upon opening the envelope, he found a long typewritten, unsigned letter from a person who wrote that he could neither reveal his name nor visit Burch in person but that he had "for some time been employed as a special officer to gain what information I could pertaining to the 'Winnipeg' concern and its self-elected president." Burch's informant had discovered some things that he thought would interest Burch. He had learned that rather than being enemies, Miller still enjoyed the confidence of his former stenographers, Bettie Anderson and Jessie Whitton, because both were his mistresses. Publicly, they pretended to be enemies but in reality each of the young women, especially Bettie Anderson, was supplying Miller with information about his true enemies. Describing his discovery, the informant wrote,

I was standing at the corner of the alley in front of Obers, it was about 7 P.M., I saw one of the former office girls, Miss Anderson, pass by and turn north into the alley, I trailed her and found that she went by the rear entrance to the "Winnipeg" offices, some one met her at the rear door and locked it as she passed in.

I hastened to the hall by way of the front west stairway and was soon in possession of the fact that she was in Miller[']s private office and that Miller was her companion and the surprise was that they are not enemies but even more than friends for I learned on that evening that she is his mistress for I watched them over the transom and saw him having sexual [sic] intercourse with her (if you will go to the offices[, ] take the step ladder that usually stands in the hall, climb up and with a bright moon and the curtain up you can see as well as in the day time, but they cannot see you in the dark hallway); I watched and listened and almost froze for it was after mid-night when they left the office together and walked south on seventh street.<sup>1</sup>

Burch's informant also learned that Miller and Anderson had staged the incident over the missing \$1,000 so that it would appear that they were enemies. The scheme was part of a "deep laid plot" to place her in a position to gain information wanted by Miller. Their first plan failed. They tried to get her a job with W. W. Watson's wholesale grocery firm in early October while Watson was on his European trip. Miller was reported to have thought that W. W. Watson was the direct cause of much of his trouble and that Watson's trip to Europe was a "special mission" to steal Miller's syndicate of foreign investors from him and to persuade them to support the Brindley Company. Miller wanted Anderson to get a job with Watson's firm so that when he returned she would be able to discover what had happened. As a part of their plan, she hired Frank Knittle as her attorney when Miller brought her back from Wichita, because they thought that Knittle's influence would help her find employment with Watson. Unfortunately this plan didn't work: George Watson, vice-president of W. W. Watson's firm, "run her off and did not hire her."

After Frank Knittle's recommendation failed to get Anderson in at Watson's, she and Miller approached Salina attorney David Ritchie, because they thought he had more influence with Watson. (Ritchie had represented the W. S. & G. until early 1912.) Before Ritchie would recommend her for a job, he demanded that she first take a position with C. W. Lamer, owner of the National Hotel in Salina, so that she could learn and inform Ritchie of "certain information regarding the affairs of C. W. Lamar." (Throughout the letter the informant spelled the name "Lamar" rather than "Lamer.") They were successful in placing Anderson in Lamer's employment, and even though she had worked with Lamer for only a few days, she was making a detailed report to Miller on that Wednesday evening of what she

had learned. Burch's informant reported that Miller had advised Anderson to make false affidavits about her activities at the National Hotel and noted that she would soon possess the information Ritchie wanted because "a girl of her character will easily gain the confidence of Lamar." The informant continued, "The plot is to have some one start a fire in the National Hotel and then have the girl swear [sic] that she wrote a letter to some one at Lamars request to do the job for a consideration and my advice to Lamar would be to select some one else as stenographer before the fire." This plot to frame Lamer for arson was to be of special interest to Burch because Lamer was one of Burch's best clients.

Also of interest to Burch was Miller's plan to disbar Bernard Litowich or at least give Burch's firm a bad reputation. It was reported that Miller had become suspicious of Litowich after he made the stipulation in the Brindley case, and Miller had asked Litowich to make "a certain affidavit." Litowich did so and gave it to Miller. A few days later Miller "got in his play" and set a trap for Litowich: he called Litowich to his office to explain the stipulation to a group of Miller's Nebraska associates. Litowich's explanation differed from the affidavit, and as he finished his explanation, Miller took the affidavit from his desk and asked which was true. "Litowich then and there admitted his affidavit false and that he had betrayed Miller and had lied to Judge Pollock and had with Dick Hite entered on the records a false stipulation but that he would immediately take the matter up with the court and correct his mistake." Each of the Nebraska associates had separately made affidavits about the incident "in the strongest terms possible to secure a disbarment." Miller and Anderson had reviewed and rewritten the affidavits, and she was keeping them until they were to be sent to the

Nebraska supporters for their signatures. Anderson did not have, however, the affidavit that Litowich had made, but the informant had heard them say where they had hidden it. He also heard them say they were "tickled to death" that the affidavit was not in the offices when the marshal seized them. They thought that the seizure was planned by Burch's law firm for the sole purpose of finding Litowich's affidavit and destroying it.

The informant characterized Miller and Anderson as a "dangerous pair" and asked Burch's help in separating them. Burch was to quietly and confidentially force Anderson to leave town. The informant did not suggest precisely how this was to be accomplished; but he promised that on the day she left, he would retrieve the Litowich affidavit, mail it to Burch, and "break that deal forever."

The informant continued that Miller's other stenographer, Miss Jessie Whitton, had spent one and a half hours in Miller's office and that they also had sexual intercourse. At one point in the letter, this encounter occurred "yesterday afternoon" (Wednesday, December 18) and at another it was "this afternoon." She was working at Putnam's Investment Company where she could "learn much about the affairs at the Planters Bank and what that crowd is doing to down Miller as he puts it." Burch's informant thought that the young woman should be fired from her present job so that all of Miller's sources of information would be cut off. He continued, "It is a well known fact that he [Miller] paid these girls a very large salary for many month[s] when they sat in the office day after day and looked out of the windows and he paid them only because they were his mistresses." Burch's assistance was sought in getting the girls out of Salina, because "we must down this man." In his closing sentence, the informant warned Burch, "Act with caution as that man Miller is no fool."<sup>2</sup>

Had Burch taken the letter at face value and believed its contents, he probably would have thought that the letter had been written by J. F. Elston, the Salina postal inspector. Elston would certainly fit the description of a "special agent." It was well known that the mail fraud charge was a result of his investigation. It was also possible that the investigation was continuing, because the case had not yet come to court. Burch later told the Salina Evening Journal that he had not made any complaint about the letter but had simply given it to Postal Inspector Elston, who in turn delivered it to the U. S. grand jury.<sup>3</sup>

In the latter part of the second week in January, 1913, Bettie Anderson also received a typewritten letter, ostensibly from Mrs. John F. Elston in Salina. There was no signature, but Mrs. Elston's name was typed on the bottom of the letter. "Mrs. Elston" admonished Anderson, "I must insist that your relations with my husband be broken off at once." Anderson was informed that all respectable people knew that Miller had hired her only because she was his mistress and that he had fired her when he had no more use for her. The letter continued that everyone knew that she was "trying to send him [Miller] to the pen and that you are laying up with my husband in payment of his services to aid you." She was accused of posing as Elston's stenographer at hotels where she was making her "payments" to him.<sup>4</sup> This letter also found its way to the grand jury, probably via Postal Inspector Elston.

On January 13, the Salina Evening Journal reported that Miller, J. F. Elston, Bettie Anderson, and her father, C. G. Anderson, and taken the early train to Kansas City that morning to testify before the U. S. grand jury, presumably on the mail fraud case.<sup>5</sup> The Salina Daily Union noted that Miller had returned late the next day and was quite confident that



there was no case against him. "The star witness against me didn't star and they had nothing. My case was called and then the witnesses were sent home," he told a Union reporter.<sup>6</sup> In the late afternoon of January 15, however, the grand jury returned two indictments against Miller for sending the two letters described above, that were judged to be obscene, through the U. S. Mail. Using a standard indictment form for this charge, the letters were described as to their postmarks, addresses, and beginning and ending statements; but the full text of the letters was not quoted because it was "too obscene, lewd, lascivious and filthy to be spread upon the records of this Honorable Court."<sup>7</sup> (The letters were presented in their entirety as exhibits to accompany affidavits later in the case.)

The Salina Evening Journal reported the indictments and stated that they came as a surprise, even though the existence of the improper letters was generally known among those who had been watching the case. Miller correctly observed to the Journal, "I see that they have dropped the big subject [mail fraud] for the time to take up smaller matters."<sup>8</sup> When Postal Inspector Elston, who had been chiefly responsible for gathering the evidence in the mail fraud case, had been made aware of the two letters, he apparently suspected immediately that Miller had written them. He and the officials in the U. S. Attorney's office, who were in charge of prosecuting Miller's mail fraud case, probably decided that it would be easier to obtain a conviction on an obscene letter charge than on the mail fraud. They apparently determined not to continue with the mail fraud case, since there is no trace of it in the court records.

Although the indictments were returned on January 15, Miller was not arrested until February 17, 1913. Deputy U. S. Marshal U. E. Need took Miller into custody at 4:25 P. M. and Miller posted the \$1,000 bond with

Edward H. Sudendorf and Winfield S. Harvey as sureties. Sudendorf was the treasurer of the Western Star Mill in Salina and Harvey a Salina physician. Miller was released at 5:30 that afternoon.<sup>9</sup>

The case was to be tried on Monday, April 14, 1913, in Topeka. On that day Miller presented two affidavits as a part of his defense and requested that the court grant him a continuance in the case. He cited two reasons in his application for a continuance: a sudden and recent change in attorneys and the illness of one of his material witnesses. Miller claimed that he had thought that he had engaged John O. Wilson of Salina to defend him, but he learned that was not the case just the Saturday before the trial. Subsequently Miller had engaged Jacob S. Detweiler of Kansas City, Kansas, to defend him and the new attorney needed time in which to prepare Miller's defense. Detweiler had represented Miller in the final stages of the Brindley suit. Miller also claimed B. F. Brown, one of his material witnesses, was ill and had been forbidden to leave Salina by his physician.<sup>10</sup>

One of the affidavits that Miller presented was from B. F. Brown and the other was signed by the Nesmith brothers, Hal J. and Verne L. In the Nesmiths' affidavit, Hal J. Nesmith verified that he had purchased the fixtures and furniture at the receiver's sale for the Winnipeg, Salina and Gulf and that the keys to the W. S. & G. offices were the same keys as those to the offices that Miller occupied after the receiver's sale. When the furniture and keys to the office were turned over the Nesmith, he, along with Brown and Miller, discovered that two keys to the main doors were missing and that someone had had access to Miller's offices during the receivership. Consequently, Nesmith stated, "I thought best to keep

watch of the offices and did so to find out if I could who had the missing keys and what they wanted them for."

The Nesmiths' affidavit further stated that they had been working in their store late one night in the middle of December "lining up for the Christmas rush" when B. F. Brown came to the door. He informed them that either there was a fire in Miller's offices or else someone had a light on there. The Nesmiths' store was located in the same building as Miller's but on the ground floor. The Nesmiths and Brown rushed up the stairs but smelled no smoke. "When we got to the upper hall we went very quietly to the glass office door and looked through scratch holes on the door," they stated. They saw J. F. Elston in Miller's private office dictating something to a woman who had her back to them. (It is interesting to note that Nesmiths and Brown only needed to look through holes scratched in the paint on the glass doors in order to see into Miller's private office while Burch's informant had to climb a step ladder and peek through the transom.) As they heard the woman read back the lengthy document to Elston, the Nesmiths learned that it was addressed to C. W. Burch and that Elston was dictating from notes that Saline County Attorney Frank Knittle had given him. They also heard enough of the contents to be certain that it was the objectionable letter that Burch received.

After the woman finished typing, she put the typewriter away and turned off the light. Supposing that the two were ready to leave and not wanting them to see their eavesdroppers, the Nesmiths and Brown slipped into the north hall (which was dark) and waited. To their surprise the couple did not emerge until thirty minutes later. The trio went down to the street to try to determine the identity of the woman but the couple was out of sight by the time they got there.

The Nesmiths' affidavit further stated that they had seen Elston alone in Miller's offices late at night possibly six times between December 3, 1912, and January 13, 1913. Wondering what he was doing there, they telephoned his home in early January to ask him to come see them at their store. They left a message for him but he never returned it.<sup>11</sup> Brown's affidavit was similar to the Nesmiths', except that he contended that he did not hear anything Elston said because his hearing was "somewhat defective."<sup>12</sup>

Two days after the application for a continuance was filed, Miller sent the U. S. Attorney's office a letter and affidavit of his own concerning Frank Knittle, J. F. Elston, and others. The matter evidently contained accusations about these men that Miller thought should be taken to the grand jury. Charles S. Briggs, the assistant U. S. attorney who was handling the prosecution of Miller's case, politely responded that the grand jury had been dismissed the day before the arrival of Miller's letter but that the matter would be given "careful attention and consideration."<sup>13</sup>

On the same day that Miller sent the material to the U. S. attorney, the grand jury returned perjury indictments against Miller, Brown and the Nesmith brothers. The charge against Miller resulted from application for continuance in which the grand jury contended that Miller had perjured himself when he stated that Brown was too ill to testify and that his physician had directed him to stay in Salina. The charges against Brown and the Nesmiths stemmed from their affidavits for the obscene letters case. The indictments asserted that all of the allegations in the affidavits were false and that they were made in order to discredit and disgrace J. F. Elston and in order to deceive the court in the obscene letters case.<sup>14</sup>

On April 18, 1913, Deputy Marshal U. E. Need arrested Miller on the perjury charge and released him the same day. R. C. Wilson, one of the early supporters of the W. S. & G., and E. H. Sudendorf posted the \$2,000 bond.<sup>15</sup> Brown was arrested at 5:40 P.M. and the Nesmiths at 5:45. Brown and Verne L. Nesmith also posted bonds and were released later that day, but Hal J. Nesmith spent the night in jail and posted his bond the next day.<sup>16</sup> The three trials were set for the next term of court, that was to be in October in Leavenworth.

The perjury indictments ended the friendship and support that Miller had received from the Nesmiths and Brown. It appears that the Nesmiths and Brown may have also dissolved their friendship, at least for a time. Following the arrests, the Nesmiths went to Elston and told him confidentially that they had been used and fooled by both Miller and Brown. They thought they were signing an affidavit that they knew to be true, but Miller had switched affidavits on them. Elston must have been swayed by their arguments and he evidently wrote to the U. S. attorney's office asking that the Nesmiths be given leniency or some special treatment, especially considering their prominence in Salina. Assistant U. S. Attorney Briggs refused Elston's request:

If these parties have been fooled by Miller and Brown it is not our fault, neither is it yours. These matters that have come to their minds after the indictments had been returned are matters they should have considered before they made the affidavits. The higher their standing in that community the less reason for them to be in this trouble. . . . It seems that they deliberately and without any cause, so far as we know, butted into this matter, and so far as I am personally concerned, if I am in this office when these cases are prosecuted they will all be treated alike.<sup>17</sup>

Briggs may not have been in office when the cases were tried. The change in administration occasioned by the 1912 presidential election



brought a new man, Fred Robertson, into the office of U. S. attorney for Kansas. If Briggs stayed in office, he was removed from these cases; Robertson took over the prosecution of all the cases relating to Miller. It appears that Robertson did not have the same adamant feelings about the prosecution of the Nesmiths or Brown, since their cases were dismissed before they came to trial.

The next development occurred in late May, 1913, when Miller's bondsmen W. S. Harvey, E. H. Sudendorf, and Roy C. Wilson reported to the court that they wished to be released from their bondsmen's responsibilities. They appointed Saline County Sheriff August V. Anderson as their agent; he arrested Miller on May 26 and took him to Topeka to the Shawnee County jail to await trial or until he could post another bond.<sup>18</sup> The bondsmen's motivations for withdrawing are unknown, but it appears they became convinced that Miller was going to disappear and leave them to pay his bonds. Miller later claimed that Hal J. Nesmith had turned the bondsmen against him. The Salina Daily Union reported that the arrest came as a surprise and only a few knew about it beforehand.<sup>19</sup> Immediately following Miller's arrest, his attorney notified the court that he would request that Miller's bonds be reduced.<sup>20</sup> Either the motion was denied by the court or the attorney did not make the motion, because Miller remained in prison until October, 1913.

In July, the new U. S. attorney for Kansas, Fred Robertson, took office and began to review the office's case load. In mid-September he wrote to Elston concerning Miller's obscene letters charge: "We are something at a loss to understand how we are going to establish a case against the defendant. . . . Kindly explain to us how and by what means we are going to be able to prove that these letters were written by the

defendant." Later that day Robertson wrote Elston again and told him that he had just learned that Miller had written "certain letters" while in the Shawnee County jail and that C. W. Burch had them. Robertson wanted Elston to collect them from Burch and add them to his report to Robertson.<sup>21</sup> Elston must have been able to satisfy Robertson because Robertson was able to present a strong case against Miller when the obscene letter charge was heard in November, 1913.

The perjury charges were heard in the October term of court at Leavenworth. The Nesmiths and Brown appeared on the cases against them and both entered demurrers objecting that the charges were not "sufficient in law."<sup>22</sup> Both cases were continued until the November term of court in Topeka.

Miller asked that the court subpoena and pay the expenses for the following witnesses to testify on his behalf: Brown; Dr. J. A. Simpson, who was Brown's attending physician and who made a certificate attesting to his illness; T. B. Braniff, the notary public that notarized Simpson's certificate; and Dr. W. S. Harvey, who was Brown's former physician.<sup>23</sup> The court agreed and subpoenaed the witnesses. The case was heard on October 15. The principal witnesses were Brown, Miller, and Simpson. Simpson testified that he had told Brown that he was not in good health and that the excitement of the witness stand might be hard on him. Miller testified that Brown had told him that Brown was under doctor's orders to stay in Salina, but Brown denied that he had said anything of that nature to Miller. While on the stand, Miller was reported to have admitted that he had previously served a term in the penitentiary and that the present case resolved into a matter of which side was more credible. It is possible that Miller may have protested that Brown had been promised

immunity or leniency in his own perjury case if he would aid the state in prosecuting Miller.<sup>24</sup> After deliberating the case for more than twenty-four hours, the jury was unable to agree on a verdict. Six voted for an acquittal and six for a conviction. The jury was dismissed and the case continued until the next term of court.<sup>25</sup>

As Miller's trial had ended with a hung jury, Miller, through his attorneys, applied to have his bond reduced. The attorneys stated that Miller had repeatedly tried to secure the necessary bonds but that he was "absolutely unable to accomplish it." Miller submitted an affidavit that stated that he was the head of a household of a sickly and delicate wife and three small children and that they depended upon him solely for support. He had learned that his wife had become ill after attempting to perform her only means of earning a livelihood: manual labor for a neighbor lady. Furthermore, he had learned from his wife's letters that she and the children were lacking "the necessaries of life" and they had been relieved only by a neighbor's charity. Miller requested that his bond be set at no more than \$500 for the two cases so that he could post them and "do something toward the support of his family and protect them from want during the coming winter."<sup>26</sup> The court ordered on October 16, that Miller's bonds be reduced to \$500 each, and on October 23, the bond for the obscene letters case was met by Taylor Miller, Salina city councilman, Charles E. Hanley, owner of Salina Mattress Factory, and a J. C. Henry. Two days later the bond for the perjury charge was signed by John R. Smith, who worked for Salina Poster Advertising Company, D. W. Norton, a Salina contractor, and a William Howard.<sup>27</sup>

The bonds were filed on October 27 and that evening Miller returned to Salina ready to resume work on building his railroad. He was very

optimistic about the outcome of his upcoming trials and noted that the hung jury only proved that there was no case against him. The Salina Daily Union reported that Miller was ready to build "if the court would only kindly settle up business." The Union continued, "'There are only two things that can keep me from building,' said Mr. Miller today. 'One is imprisonment; the other is death. The boys would be ready to begin the work of building right now only they don't care to start the work when their leader is in jail.'"<sup>28</sup>

How much railroad work Miller accomplished is unknown, but he had less than one month in which to prepare for his trial on the obscene letters charge. It is possible to reconstruct, at least partially, Miller's plan of defense from his requests to the court to subpoena witnesses on his behalf. Since he was requesting that the U. S. government pay his witnesses' expenses because Miller was too poor to pay them himself, he was required to state the expected testimony from each witness. Miller requested that a long list of people be subpoenaed to appear on his behalf. Their proposed testimony was to prove the following points: Elston and his wife wrote the objectionable letters; Elston was a womanizer and had had problems with his wife because of it; Bettie Anderson was a tramp and was out to get Miller; and the Nesmiths and Brown were unfriendly toward Miller.

Five men were to testify that Hal J. Nesmith and Brown had told them that Elston had been seen in Miller's office, as their affidavits stated. Dr. W. S. Harvey was to testify that Bettie Anderson had told him she would "fix" Miller because he had told others that she had had a miscarriage. Miller's sister-in-law, Miss Mary Olson, was to swear that Anderson became angry with Miller when he discharged her because she had

a miscarriage. Several, including one of Miller's bondsmen, were to testify that the Nesmiths and Brown were enemies of Miller. Some of the proposed testimony seemed to suggest that the Nesmiths and Brown had some part in writing the letters. Salina businessman E. W. Ober was to swear that Brown had had duplicate keys to Miller's office desks; and the former janitor for the W. S. & G. was to testify that Hal J. Nesmith had taken one of the typewriters from Miller's office to use in Nesmith's store. R. J. Nichols, an agent for a Topeka typewriter company, was also to take the stand as an expert on typewriters and typewriting. I. P. Leith, a former W. S. & G. board member, and his wife were expected to show that Mrs. Elston was very jealous of her husband, and Mrs. Elston's parents were to testify that their daughter had had much trouble with Elston because of other women.<sup>29</sup> Miller's defense on the letter to Burch is fairly clear: he wanted to prove that Elston had written it. Miller's idea on the letter to Bettie Anderson is less clear. He apparently wanted to show that Mrs. Elston had written the letter and that the allegations in it were true, but none of his witnesses had seen Mrs. Elston in the offices. Nor was there an explanation of how she could have typed the letter. It would have made little sense for Elston to have written the letter himself.

The November term of court began in Topeka on Monday, November 24, 1913. On that day the two perjury cases against Brown and the Nesmith brothers came up and were dismissed. The jury on Miller's trial was impaneled shortly before noon on the next day. Testimony for the prosecution was presented that afternoon and the next morning. It was reported that J. C. Shearman of Wichita spent several hours on the stand testifying for the prosecution that the typewriter used to type the



obscene letters was one of the machines that had belonged to Miller and that the letters had been typed in a "peculiar" manner. Letters typed by Miller were entered as proof that he typed in an identical manner. It may have also been introduced that Elston's given name was Jesse, not John as the letter to Bettie Anderson had indicated; and it may have been shown that Miller had referred to the postal inspector as John F. Elston in various letters, such as the ones to Harry R. Follmer that demanded the return of former W. S. & G. General Manager William Coughlin's letters. The prosecution contended that Miller wrote the letters in order to damage Elston's reputation and thereby weaken Elston's case against Miller on the mail fraud charge.

On Thursday morning, Sylvester H. Dickinson, a Salina private detective, testified that Miller had employed him at one time and that Miller had tried to persuade him to make a false affidavit that he had seen Elston and Miss Anderson in Miller's offices late at night. Dickinson explained Miller's motivations through Miller's statement that "Elston and some of the others had been doing him dirt, and that if they wanted dirty work he could give them plenty of it."<sup>30</sup> It appears that Miller had once hired Dickinson. When Miller had prepared the obscene letter case for the October, 1913 term of court, he had asked that Dickinson be subpoenaed to testify for him. Dickinson's testimony was to cover the results of his investigations that would prove Elston had written the letters.

At the close of the prosecution testimony, Miller's attorneys must have decided that the best defense testimony was no defense testimony, for they sprang a surprise on the court by calling no defense witnesses. The defense's closing arguments were centered on the contention that the

prosecution had not sufficiently shown that Miller had either written or mailed the letters and that no motive had been shown. The case went to the jury shortly before the noon recess on November 26. Later that afternoon the jury returned verdicts of guilty on both counts.<sup>31</sup>

Sentencing was set for the next morning, Thanksgiving. Prosecuting attorney Robertson suspected, probably correctly, that Miller intended to plead for clemency or a reduced sentence because of his frail wife and three small children and Robertson set about to discredit that plea. Mrs. Miller's sister, Miss Mary Olson was mostly likely unaware of Miller's plan and when Robertson approached her about the care that Mrs. Miller and the children would receive without Miller's support, she volunteered that they would be well provided for at her family's home near Russell. It is possible that she may have approached Robertson with her offer, but it seems more likely to have been the reverse, especially since Robertson was anticipating and building a case against giving Miller a lighter sentence than usual.

Before Judge John C. Pollock delivered the sentence and before Miller could make any plea for clemency, Robertson asked to address the court. Newspapers recorded his statement: "'Your Honor, I regret that I cannot recommend clemency in this case. Of all men who should have known better than to become implicated in such a matter as this, it seems to me that it is Miller, since he has served a term in the penitentiary for a similar crime. There may be a question as to the future care of the prisoner's wife and children, and in that event I wish to call to your honor's attention, the fact that a sister-in-law of Miller's has offered to take the family to her home.'" Judge Pollock questioned Miss Olson about the offer and seemed satisfied. Miller, seeing his hope for a reduced or

suspended sentence evaporate, flew into a rage and exclaimed to the court, "'That woman is responsible for all my trouble.'" Mary Olson left the courtroom in tears.<sup>32</sup> Pollock sentenced Miller to eighteen months in the federal penitentiary at Leavenworth for each of the two counts. He stated that in light of the severity of sentences, Miller should not be tried on any other charge. The sentences were to run concurrently and the seven months that Miller had spent in jail awaiting trial were to be counted against the sentence. The next day, November 28, 1913, Miller was taken by a deputy U. S. marshal to Leavenworth.

Press coverage of the trial was provided primarily by the Topeka papers. They reported, as did the Kansas City papers when Miller was arrested for mail fraud, that Miller was dignified and gave the appearance of a solid businessman. Miller was compared to J. Rufus Wallingford, a character in a popular 1910 novel by George Randolph Chester and dramatization by George M. Cohan titled Get-Rich-Quick Wallingford. J. Rufus Wallingford, the comedy's protagonist, was a confidence man. Miller's outburst about his sister-in-law was reported as a surprise to all, even Miller's attorneys, since her name had not come up during any of the testimony and since she had been subpoenaed to testify on Miller's behalf. The press recognized that Mary Olson had had nothing to do with the railroad or the obscene letters and reported that Miller was like Adam: he blamed a woman for his downfall.

The Topeka State Journal noted that Miller's case had raised considerable interest in central Kansas, but that could not be discerned from the coverage the Salina papers gave to Miller's trials. Stories about the case made the front pages of the papers but they were copied directly from the Topeka papers and there was little reporting by Salina

reporters about the events.<sup>33</sup> One of Salina's minor papers, the Salina Sun, was the only one to comment editorially on Miller's case. It merely stated, "He fooled with the buzz saw and was nipped."<sup>34</sup> As when Miller was arrested for mail fraud, the Salina papers may not have wanted to print any more than the wire stories in order not to embarrass those Salinans who had been connected with the scheme.

Miller's legal troubles did not end with his sentencing. The loan that B. F. Brown had taken out for Miller's benefit from Traders State Bank for \$2,500 in March, 1910, had not been paid off. The original note was for ninety days and Miller used the mortgage on his Salina home as collateral. Brown had made some payments but not enough to liquidate the note. New notes were signed on May 2, 1911, November 27, 1912, and August 27, 1913, in order to extend the time of payment. The last note was for \$1,500 with 10% interest.

In mid-February, 1914, Traders State Bank approached the Probate Court of Saline County and requested that since Miller was in prison, a trustee be appointed for him so that the bank could take steps to collect what it was owed. On February 20, Probate Court Judge C. W. Wilson appointed J. A. Fleming "trustee of all and singular, the goods, and chattels, rights and credits . . . with full power to secure and dispose of said property, according to law."<sup>35</sup>

On March 2, 1914, Traders State Bank filed suit in Saline County District Court against Fleming, Miller's wife Elsie, B. F. Brown, and his wife Mary to recover the \$1,500. It requested that the property Miller and his wife had put up as collateral be foreclosed and sold to pay off the note. On March 31, Brown filed his answer and a cross petition. He stated that the money was borrowed for Miller's sole use and

benefit and that neither he nor his wife had received anything from the loan. Brown further stated that he had paid \$1,043.50 on the principal and \$495.13 interest. He asked that Fleming and Mrs. Miller repay him the \$1,538.88 from the proceeds of the sale of the property that exceeded the amount Traders State claimed.

During May, 1914, Mrs. Miller's attorney, Frank Knittle, filed a demurrer stating that the plaintiff's petition was insufficient and a motion requesting that the plaintiff's petition be more specific. On June 1, 1914, he filed an answer that denied "each and every allegation" in the original petition and in Brown's petition. Ironically, Miller had seen Knittle as an enemy during Miller's earlier legal troubles. Knittle was Saline County Attorney and had represented Bettie Anderson after her return from Wichita in September, 1912. Knittle's efforts were fruitless, however, and the court ruled on June 2, 1914, for the plaintiff and ordered that the property be foreclosed and sold.

On July 22, 1914, at the east front door of the Saline County Courthouse, Saline County Sheriff August V. Anderson auctioned Miller's home. The highest bidder was B. F. Brown, who bid \$1,500, the principal of the amount due Traders State. The court confirmed the sale on August 11, 1914, and gave Fleming and Mrs. Miller six months in which they, or anyone acting on their behalf, could redeem or buy back the property for \$1,500. The property was not redeemed, and Sheriff Anderson delivered the deed to Brown in mid-February, 1915. In the meantime, Miller had been released from prison and had returned to Salina. When Brown tried to take possession of the property, Miller refused to turn it over to him. Brown returned to the court and requested that the Millers be removed from the property. An order was issued; Miller, his wife, and family left the property, and it was turned over to B. F. Brown by March 19, 1915.<sup>36</sup>



The Millers moved to another house in Salina and remained in town nearly eighteen more months. Although Miller may have given some thought to promoting his railroad, he probably did not work on it again. When they turned over their property, it seemed that the legal problems stemming from the Winnipeg, Salina and Gulf promotion were at last over. The official end came, however, a few months later. On May 19, 1915, the perjury charge that had never been retried was dismissed at the request of U. S. attorney Fred Robertson on the bases of Judge Pollock's remarks at Miller's sentencing and the assertion that there was insufficient evidence to convict Miller.<sup>37</sup> Thus ended Miller's dream of building a grand railroad from Winnipeg to the Gulf of Mexico.

## CHAPTER 9: NOTES

<sup>1</sup>Records of the U.S. District Court (record group 21) [hereafter RG 21]; District of Kansas, First Division [hereafter Kansas]; U.S. v. H. Leone Miller (criminal case 4098) [hereafter criminal case 4098]; Exhibit, filed with affidavits of April 12, 1913; Archives Branch, Federal Archives and Records Center, Kansas City, Mo. [hereafter FARC].

<sup>2</sup>Ibid.

<sup>3</sup>Salina Evening Journal, Jan. 16, 1913, p. 1.

<sup>4</sup>RG 21, Kansas, criminal case 4098, Exhibit filed with affidavits of April 21, 1913, FARC.

<sup>5</sup>Salina Evening Journal, Jan. 13, 1913, p. 1.

<sup>6</sup>Salina Daily Union, Jan. 15, 1913, p. 1.

<sup>7</sup>RG 21, Kansas, criminal case 4098, Indictment, FARC.

<sup>8</sup>Salina Evening Journal, Jan. 16, 1913. p. 1.

<sup>9</sup>RG 21, Kansas, criminal case 4098, Capias and bond, filed Feb. 18, 1913, FARC.

<sup>10</sup>RG 21, Kansas, criminal case 4098, Application for continuance, FARC.

<sup>11</sup>RG 21, Kansas, criminal case 4098, Nesmith affidavit, Apr. 12, 1913, FARC.

<sup>12</sup>RG 21, Kansas, criminal case 4098, Brown affidavit, Apr. 12, 1913, FARC.

<sup>13</sup>Records of U. S. attorneys and marshals (record group 118), Records of the U.S. attorney, District of Kansas, First Division [hereafter RG 118]; Copies of letters sent [hereafter Corr.]; copy of letter to H. Leon Miller, Apr. 17, 1913, FARC.

<sup>14</sup>RG 21, Kansas, U.S. v. H. Leon Miller (criminal case 4115) [hereafter criminal case 4115], Indictment; U.S. v. Hal J. Nesmith and Verne L. Nesmith (criminal case 4113) [hereafter criminal case 4113], Indictment; and U.S. v. B. F. Brown (criminal case 4114) [hereafter criminal case 4114]; Indictment; FARC.

<sup>15</sup>RG 21, Kansas, criminal case 4115, Capias with marshal's return and bond, filed Apr. 21, 1913, FARC.

<sup>16</sup>RG 21, Kansas, criminal case 4114, Capias with marshal's return, filed Apr. 21, 1913, and crminal case 4113, Capias with marshal's return, filed Apr. 21, 1913, FARC.

<sup>17</sup>RG 118, Corr., copy of letter to J. F. Elston, Apr. 30, 1913, FARC.

<sup>18</sup>RG 21, Kansas, criminal case 4098, Receipt of marshal for defendant and certificate discharging sureties, and criminal case 4115, Receipt of marshal for defendant and certificate discharging sureties, FARC.

<sup>19</sup>Salina Daily Union, May 26, 1913, p. 1.

<sup>20</sup>RG 118, Corr., copy of letter to Jacob S. Detweiler, May 27, 1913, FARC.

<sup>21</sup>RG 118, Corr., copies of letters to Elston, Sept. 19, 1913, FARC.

<sup>22</sup>RG 21, Kansas, criminal case 4113, Demurrer, and criminal case 4114, Demurrer, FARC.

<sup>23</sup>RG 21, Kansas, criminal case 4115, Affidavit for subpoena for witnesses, filed Sept. 19, 1913, FARC.

<sup>24</sup>Leavenworth Post, Oct. 14, 1913, p. 1; Salina Evening Journal, Oct. 15, 1913, p. 1; and Salina Daily Union, Oct. 15, 1913, p. 1.

<sup>25</sup>RG 21, Kansas, criminal case 4115, Application for removal of defendant, filed Oct. 16, 1913, FARC.

<sup>26</sup>RG 21, Kansas, criminal case 4098, Application for reduction of bail and affidavit of H. Leone Miller in support of application for reduction of bond, and criminal case 4115, Application for reduction of bond, FARC.

<sup>27</sup>RG 21, Kansas, criminal case 4098, Order of Court, filed Oct. 16, 1913, and Bond, filed Oct. 27, 1913, and criminal case 4115, Order of Court, filed Oct. 16, 1913, and Bond, filed Oct. 27, 1913, FARC.

<sup>28</sup>Salina Daily Union, October 28, 1913, p. 1.

<sup>29</sup>RG 21, Kansas, criminal case 4098, Application of H. Leone Miller for order for subpoena for witnesses on his behalf, filed Nov. 18, 1913, FARC.

<sup>30</sup>Salina Daily Union, Nov. 26, 1913, p. 1.

<sup>31</sup>Ibid.; Topeka Daily Capital, Nov. 22, 1913, p. 5, and Nov. 27, 1913, p. 1; and RG 21, Kansas, criminal case 4098, Verdicts, FARC.

<sup>32</sup>Salina Daily Union, Nov. 29, 1913, p. 1.

<sup>33</sup>RG 21, Kansas, criminal case 4098, Commitment, FARC; Salina Daily Union, Nov. 28, 1913, p. 2; and Topeka State Journal, Nov. 28, 1913, p. 2.

<sup>34</sup>Salina Sun, Dec. 6, 1913, p. 1.

<sup>35</sup>Records of the Probate Court of Saline County, Kansas, In re H. Leone Miller, convict (case 2261), filed Feb. 13, 1914, Saline County Courthouse, Salina, Kans. [hereafter Saline Co. CH]

<sup>36</sup>Records of the District Court of Saline County, Kansas; Traders State Bank v. J. A. Fleming, Elsie Miller, B. F. Brown, and Mary M. Brown (civil case 8563), Salina Co. CH; and Salina Daily Union, Mar. 2, 1914, p. 7, and Mar. 31, 1914, p. 1.

<sup>37</sup>RG 21, Kansas, criminal case 4115, Application and order of dismissal, FARC.

## CHAPTER 10:

### AFTERMATH AND CONCLUSION

After Miller and his family had been removed from their foreclosed home, they remained in Salina until August, 1916. How he supported himself is unknown, but it seems unlikely that he tried to revive his north-south railroad: he and his road had been too thoroughly discredited. At some point, Miller became interested in the commercial laundry business. According to family members, he may have worked at the prison laundry and become acquainted with the techniques of the business there.

In late August, 1916, Miller and his family moved to Blue Rapids in Marshall County, where he had purchased or leased an old mitten and glove factory building. He planned to open the town's first commercial laundry and had invested most of his money in the building and equipment. Family stories relate that tragedy struck on the night of their arrival in Blue Rapids: Miller's building burned to the ground. Nevertheless, the Millers stayed in the town. For the next decade, Miller and his wife made a living for themselves by taking in laundry in their rented home. They worked together, with Miller doing the heavy work, such as bringing in water from the outside hydrant and carrying the wet laundry outdoors to the clothesline. Besides helping with the laundry, Miller also kept a large, neatly planted vegetable garden bordered with rows of parsley that provided much of the family's food. What was not eaten immediately was canned for winter meals and stored in boxes neatly stacked in the cellar.

Miller's children remember him as a kindly father who eschewed the use of alcohol and tobacco and was very concerned about his children's



moral up-bringing. He had a bad temper that occasionally got the better of him. Even though his plan of building a transcontinental railroad had vanished, Miller still dreamed of bigger things and a better way of life. His new plans involved in some way dairy farms in the East, possibly his home state of Pennsylvania. His children remember that he spent long hours at a drafting table figuring and planning and that he occasionally took out his best clothes and went to Kansas City to discuss the project with associates there.

Apparently his behavior was sometimes such that it caused some townspeople to question his sanity. Sometime around 1924 Miller was brought to a commitment hearing, but he acted as his own attorney and convinced the court of his sanity. In August, 1926, he became involved in an incident that resulted in his arrest and ultimate commitment. His oldest daughter was at Marysville finishing institute or high school and was expecting to teach after graduation. She had found a position open at a country school, and a local attorney had offered to drive her to the school for an interview. Miller objected because he thought it was improper for his daughter to ride that far into the country alone with a man who was not a relative. Miller determined that he could solve the problem by taking his daughter out of the academy.<sup>1</sup> The Blue Rapids Times described the incident:

Harry Leon [sic] Miller made two trips to Marysville Tuesday morning. He paid for the first trip in cash and as a result of the second trip is paying by sitting in jail. Family matters in the Miller household became worse than usual Monday night. Many curious citizens had their ears burned by the loud language and un-believable conversation they heard between the head of the house and his family. Tuesday morning the arrested man went to Marysville with the view of getting his oldest daughter who was there attending institute. County authorities were warned of his coming and when he arrived at the office of the county superintendent of schools he was greeted by a

gathering composed of Kirkpatrick [county superintendent of schools], the county attorney, sheriff, and his daughter. He was informed that his daughter did not have to return with him. He said, "If that's the law, God save the state" and walked out of the room.

When he arrived home Mrs. Julia Hewitt was visiting with his wife. The arrested man proceeded to engage in one of his fits of temper and knocked Mrs. Hewitt over. She was badly bruised but not seriously injured. Upon being urged by friends she swore to a warrant charging Miller with "assault, beating, and wounding."

The criminal charges were soon dropped in favor of a sanity hearing. The hearing was held in Marysville at the Marshall County Probate Court. Two Marysville physicians examined Miller and pronounced him of "unsound mind." Additionally, many Blue Rapids residents were called to testify. On September 1, 1926, the jury adjudged Miller to be insane. He was sent to the sanitarium for the insane at Larned because of the over-crowded conditions at the state hospital in Topeka.<sup>3</sup> His admission record there attributes the cause of his insanity to senility.<sup>4</sup> While at the hospital, doctors reported to his wife that he felt persecuted and entertained notions of great wealth. He thought that he would soon be released so that he could return to his family and share his wealth with them. Harry Leone Miller's release came in a different fasion: he died at the hospital on September 21, 1931, at the age of sixty-seven and was buried on the hospital grounds.<sup>5</sup>

From a distance of over seventy years, it seems that the Winnipeg, Salina and Gulf Railway was predestined to remain a paper railroad. Miller's detractors at the time charged that he was a fraud and that he never intended to build a railway. His actions and his letters do not support this accusation. Miller had been promoting his north-south

railroad six to eight years before he moved to Salina. If he had ever been a deliberate fraud or charlatan, he had fooled himself with his own bill of goods by the time he formed the Winnipeg, Salina and Gulf.

Despite his intentions, Miller's financial status and certain of his characteristics hindered his progress. Miller simply did not have nor was he able to gain any access to the capital necessary to undertake a project of the magnitude of building a transcontinental railroad. His willingness to change the road's route to a town where there was a hint of money exemplifies his own lack of funds. While many were intrigued with Miller's project and thought that it could work, no one wanted to be among the first to invest in it. The foreign syndicate would not put in any of its money until expensive preliminary work was done. Towns along the route and individual citizens did not seem to be interested in buying stock to pay for preliminary work unless the railroad was already financed and seemed secure. Consequently, Miller strove to give his proposition the appearance of solvency and security through "fast talk." He told prospective American investors that the road's construction was already financed by a foreign syndicate and its money already deposited. He must have made it appear to his London financier, Samuel R. MacLean, that he had the financial means to complete MacLean's requirements in order to keep him and his syndicate interested in the road. While Miller was able to raise some American money on the strength of foreign "financing," it was insufficient to complete MacLean's requirements and keep the proposition afloat. MacLean's performance suggests that the foreign funds, that both he and Miller had claimed were ready and waiting, were not really all that plentiful or available, at least through MacLean's services. Even when

MacLean had the promise of a sale of the bonds, as he did in May, 1912, Miller was financially unable to meet the requirements to complete the sale.

It may also be that Miller did not have a realistic idea of the amount of money that it would take to complete the project or even the preliminary work. Big promises were made, such as those to Turon, Kansas, and Martin H. Potter, in return for relatively small amounts of money. An overly optimistic outlook on the proposition as well as a desperate need for funds may have prompted this behavior.

Even if Miller had been able to get some of the foreign money, it might not have been enough to build the road. The amounts for road construction set by the bonds had been made long before any surveys were taken from which construction estimates could have been made. While Miller thought that these amounts were sufficiently large enough to cover both construction costs and a healthy profit to the stockholders, some of the estimates done by W. K. Palmer during the Alva phase suggest that the construction was going to cost far more than Miller had planned. Miller also had committed part of the foreign funds for expenses other than construction, such as repaying contractors and investors.

Some of Miller's personal characteristics helped him win support for his proposition. His appearance and bearing, for instance, gave the impression of a dignified, solid businessman with whom a safe investment could be made. Other characteristics, however, hindered him. He seemed to be completely unable to get along with any associates for any length of time. Criticism and disagreement were not tolerated. He made and kept enemies when he should have concentrated on finding friends for his proposition. For example, it appears that the men of the Brindley Company

may have had the financial strength to have carried Miller's preliminary expenses, but Miller could not remain associated with them long enough to make any sustained progress. It may be that part of Miller's failure to maintain good business relationships stemmed from a reasonable fear that his associates, who had the funds that he did not, would try to steal the proposition from him and keep it for themselves. Still, he made rather unreasonable demands of his associates. He wanted them, along with the other investors, to turn their money over to him without strings attached, so that he could have complete control over it.

While Miller may have been somewhat justified in his apparent constant fear of losing his proposition to wealthier associates, his behavior sometimes suggested paranoia. He saw his opponents forming great conspiracies to prevent him from building his road. He indicated that he thought that Wall Street and the established railroads, especially the Atchison, Topeka and Santa Fe, were afraid of him and his planned north-south road and that they were going to great lengths to stop him. He also perceived the "Blue Sky Law," a piece of reform legislation that resulted from a general desire to protect the public from shady businesses, as a law enacted for the sole purpose of putting him out of business.

Miller's temper also compromised his ability to maintain any long-term business associations. The disagreements that inevitably arose between Miller and his associates often resulted in Miller breaking off relations with them and harming himself in the process. After Miller ended his association with the Alva businessmen, he lost much of the support that he had gained in Oklahoma. Surveys that had been completed were rejected and redone because of real or imagined slights that Miller



suffered at the hands of a contractor or a town. Consequently, the route in some areas, such as the part of Reno County near Turon, was surveyed three times.

Miller's personality faults alone cannot explain his failure to build the Winnipeg, Salina and Gulf. The times were also against him. In some ways the proposition that he offered would have been more appropriate a generation earlier when speculation was greater and fast talk a more acceptable substitute for hard cash. Miller and MacLean seemed to have been unaware of the growing demand for reform and regulatory legislation that became Progressivism. Neither were they aware of the changes in the practices of big business that were occasioned by the 1907 Wall Street Panic. MacLean, especially, did not seem to understand that New York trust companies would not act as trustees for projects as large as Miller's unless the bonds were already sold. He still thought that his word alone was sufficient proof of financing. References made by Brindley Company officials that MacLean's term "syndicate" was old fashioned also suggest an out-of-date proposition. It may be that Miller's proposition fit the 1890s when he was learning to promote railroads and that he did not change with the times. The Winnipeg, Salina and Gulf Railway was just one of many proposed north-south railroads that were to run through central Kansas. None of the others were built either. Although there was certainly a desire for such a north-south road, the area may not have been able to support it. By the time Miller moved to Salina, the trunk lines were already established, and the golden age of railroading had passed.

## CHAPTER 10: NOTES

<sup>1</sup>Interviews by the author with Elsie L. Miller and Mr. and Mrs. Ralph Leone Miller at Manhattan, Kansas, Aug. 28, 1983.

<sup>2</sup>Blue Rapids Times, Aug. 26, 1926, p. 1.

<sup>3</sup>Blue Rapids Times, Sept. 2, 1926, p. 1.

<sup>4</sup>Kansas Department of Social and Rehabilitative Services, Mental Health and Retardation Division, Applications for Admission to State Hospitals, Vol. E, p. 32, State Archives, Kansas State Historical Society, Topeka.

<sup>5</sup>Interview by author with Mr. and Mrs. Ralph Leone Miller at Manhattan, Kansas, Aug. 28, 1983.

## BIBLIOGRAPHY

### Unpublished sources

- Barnes Railroad collection; Railroad incorporation card file; Kansas Northwestern Railway; Manuscript department, Kansas State Historical Society, Topeka, Kansas.
- Kansas. Department of Social and Rehabilitative Services, Mental Health and Retardation Division; Applications for Admission to State Hospitals, vol. E; State Archives, Kansas State Historical Society, Topeka, Kansas.
- Miller, Harry Leone. "Autobiography." 1928. Fragment owned by Ralph Leone Miller, Manhattan, Kansas.
- Records of the District Court of Ness County, Kansas; State of Kansas v. H. Leone Miller (criminal case 157); Ness County Courthouse, Ness City, Kansas.
- Records of the District Court of Saline County, Kansas; R. H. Gass v. H. Leone Miller and The Winnipeg, Salina & Gulf Railway Company (civil case 8272); Saline County Courthouse, Salina, Kansas.
- Records of the District Court of Saline County, Kansas; Traders State Bank v. J. A. Fleming, trustee, et al. (civil case 8563); Saline County Courthouse, Salina, Kansas.
- Records of the Probate Court of Saline County, Kansas; In re H. Leone Miller, convict (case 2261); filed February 13, 1914; Saline County Courthouse, Salina, Kansas.
- Records of U. S. Attorneys and Marshals (record group 118); Records of the U. S. Attorney, District of Kansas, First Division, Correspondence, 1912-1915; Archives Branch, Federal Archives and Records Center, Kansas City, Missouri.
- Records of the U. S. District Court (record group 21); District of Kansas; First Division; Brindley Company v. Winnipeg, Salina & Gulf Construction Company (civil case 1283); Archives Branch, Federal Archives and Records Center, Kansas City, Missouri.
- Records of the U. S. District Court (record group 21); District of Kansas; First Division; Brindley Company v. Winnipeg, Salina & Gulf Railway Company, et al. (civil case 1299). Archives Branch, Federal Archives and Records Center, Kansas City, Missouri.
- Records of the U. S. District Court (record group 21); District of Kansas; First Division; "Records of the Winnipeg, Salina and Gulf Railway Company, 1908-1912" (microfilm preservation project 6NCN81-002); Archives Branch, Federal Archives and Records Center, Kansas City, Missouri.

Records of the U. S. District Court (record group 21); District of Kansas; First Division; U. S. v. B. F. Brown (criminal case 4114); Archives Branch, Federal Archives and Records Center, Kansas City, Missouri.

Records of the U. S. District Court (record group 21); District of Kansas; First Division; U. S. v. H. Leone Miller (criminal case 4098); Archives Branch, Federal Archives and Records Center, Kansas City, Missouri.

Records of the U. S. District Court (record group 21); District of Kansas; First Division; U. S. v. H. Leone Miller (criminal case 4115); Archives Branch, Federal Archives and Records Center, Kansas City, Missouri.

Records of the U. S. District Court (record group 21); District of Kansas; First Division; U. S. v. Hal J. Nesmith and Verne L. Nesmith (criminal case 4113); Archives Branch, Federal Archives and Records Center, Kansas City, Missouri.

Records of the U. S. District Court (record group 21); District of Nebraska; Omaha Division; U. S. v. H. Leone Miller (criminal case 520-N); Archives Branch, Federal Archives and Records Center, Kansas City, Missouri.

### Interviews

Miller, Elsie. Manhattan, Kansas. Interview by Margaret Briggs Knecht, August 28, 1983.

Miller, Ralph Leone and Miller, Dorothy. Manhattan, Kansas. Interview by Margaret Briggs Knecht, August 28, 1983.

### Published sources

#### Books:

Cowing, Cedric B. Populists, Plungers, and Progressives: A Social History of Stock and Commodity Speculation, 1890-1936. Princeton, N. J.: Princeton University Press, 1965.

Kansas. Board of Agriculture. 16th Biennial Report (1907-1908).

Kansas. Board of Agriculture. 17th Biennial Report (1909-1910).

Kansas. Board of Railroad Commissioners. Official Railroad Map, 1907.

Kansas. Board of Railroad Commissioners. 21st Report (1909-1910).

Kansas. General Statutes of Kansas (1909).

Kansas. Secretary of State. Eighteenth Biennial Report (1911-1912).

Kansas. Session Laws (1911).

National Cyclopedia of American Biography, vol. 27. New York: James T. White, 1939.

The New Encyclopedic Atlas and Gazetteer of the World. New York: P. F. Collier and son, 1907.

The New Encyclopedic Atlas and Gazetteer of the World. 2nd ed. New York: P. F. Collier and son, 1908.

Ploughe, Sheridan. History of Reno County, Kansas, vol. 2. Indianapolis: B. F. Bowen and company, 1917.

R. L. Polk and Company. Kansas State Gazetteer and Business Directory, vol. 11. Detroit: R. L. Polk and co. 1908.

Richmond, Robert W. Kansas, a Land of Contrasts. 2nd ed. St. Louis: Forum Press, 1980.

Scarborough's New Standard World Atlas. New census edition, Indianapolis: Scarborough company, 1911.

Thoburn, Joseph B. Standard History of Oklahoma, vol. 4. Chicago: American Historical Society, 1916.

Thoburn, Joseph B. and Wright, Muriel H. Oklahoma: a History of the State and Its People, vol. 4. New York: Lewis Historical Publishing, 1929.

Who Was Who In America, vol. 4. Chicago: Marquis Who's Who, inc., 1968.

#### Periodicals:

Ripley, John W. "Topeka to Eskridge or Bust!" Shawnee County Historical Society Bulletin 46 (December, 1969): 86-91.

#### Newspapers:

Blue Rapids Times, August-December, 1916, and January, 1924-September, 1926.

Buffalo (Oklahoma) Republican, February 8, 1912.

Hutchinson Daily Gazette, October, 1911.

Hutchinson News, December, 1912.

Leavenworth Post, October, 1913.

Omaha Bee, June, 1915.



Salina Daily Union, 1901-1915.

Salina Evening Journal, 1909-1915.

Salina Semi-Weekly Journal, 1909-1915.

Salina Sun, November-December, 1913.

Topeka Daily Capital, October, 1912, December, 1912, and October-November, 1913.

Topeka State Journal, October-November, 1913.

Turon Weekly Press, 1911-1912.

Collected newspaper clippings, in Library, Kansas State Historical Society, Topeka, Kansas:

"Banks and Banking Clippings," volume 1.

"Vertical File: H. Leone Miller."

A F F I D A V I T

Nesmith of 1

year

sworn on

The

of December

was rush and to

door and in

Area Contained A

APPENDIX A:

AFFIDAVIT OF HAL J. NESMITH AND VERNE L. NESMITH

Class office

M. P. Elston

papers that

Photocopied from: Records of the U. S. District Court (record group 21); District of Kansas; First Division; U.S. v. H. Leone Miller (criminal case 4098); Affidavit of Hal J. Nesmith and Verne L. Nesmith, filed April 12, 1913; Archives Branch, Federal Archives and Records Center, Kansas City, Mo.

ographer

written

of Kansas )  
 e County ) SS

A F F I D A V I T.

al J. Nesmith and Verne L. Nesmith of lawful age and citizens of the State of Kansas being first duly sworn on oath depose and say: That one [ ] along about the middle of December 1912 we were at work in our store getting up for the Christmas rush and it must have been after ten o'clock when Brown came to the door and informed us that there was either a fire or a light up in the offices occupied by Miller and we hastened to find out the truth and smelling no smoke when we got to the upper hall we went quietly to the glass office door and looked through scratch holes in the door we saw J. F. Elston was at work in the office, he was busy talking from some papers that he held in his hand to some woman who was writing on one of the type-writers in Miller's private office. Elston did not talk very loud and we could not hear some of the words that he said to the stenographer but after he had finished he asked the woman to read what she had written while he followed his notes; we heard him say at one time that she should not read so fast as he could not follow her notes that Frank Knittle had written; it was a very lengthy document and took several minutes to read it but we learned that it was addressed to W. Burch, we could well remember the general points made in the letter and after reading a copy of the letter furnished by some one to J. O. Wilson we are certain that it is the same letter dictated by J. F. Elston on the night above stated while we were listening at the door to Miller's private office; after the letter was written the woman took the machine in the desk and the light turned off and we supposed the parties were ready to depart and we dropped back into the north hall

was dark having decided to not expose the man because we were cur  
nd out why he should steal into the office of another man in the  
of night and write such a letter, they remained in the office abou  
y minutes after the letter was written and the light turned off. W  
unable to recognize the woman because she was sitting with her bac  
ile writing and the light went out as she left the machine. It was  
II P.M. when they left the office. We followed as soon as we thou  
fe but the parties were out of sight when we got to the street.  
Affiants sayeth further that said J. F. Elston was seen in the sai  
es late at night working on said machines at various times, perhap  
a dozen times, by himself, between December 3rd 1913 and January  
1913 but that they had no way of learning what he was writing but  
it was decided to ask said J. F. Elston what business he had in sa  
es and that they did during the early part of January 1913 call sa  
Elston's home by phone for the purpose of asking him to come to  
of business of Nesmith and Sons but were informed that said Elsto  
out of town, but a request was made to have said Elston answer the  
when he returned home, but that he never did answer. That the copy  
the letter marked "Exhibit A." and made apart of this affidavit is  
s written and read as afore stated and further Verne L. Nesmith say  
not. Hal. J. Nesmith sayeth further that he conducted the negotia  
Jas. A. Kimball, Receiver for the Winnipeg Salina & Gulf Railway  
any for the purchase of all the fixtures and furniture that was so  
receivers sale and that the keys to said offices are the same key  
ne offices now occupied by H. Leone Miller and that when said offic  
n contained said fixtures and furniture were turned over to me on



3rd day of December 1912 that I with B. F. Brown and H. Leone Miller  
 discovered that two main door keys were missing and knowing that several  
 persons had access to said offices while said receiver was in charge I  
 thought best to keep watch of the offices and did so to find out if I  
 could find out who had the missing keys and what they wanted them for. And further  
 the affiant sayeth not.

Geo. J. Mesmith  
Attest Mesmith

Subscribed and sworn to before me this 12 day of April, 1913.

Edw. L. Bledsoe  
 Notary Public.

Commission expires

6/17/15



A F F I D A V I T

and a copy of same  
deposited and  
to the effect  
are formally  
be turned over  
by, Mr. J.

APPENDIX B:

AFFIDAVIT OF B. F. BROWN

contained  
to take an  
two keys  
a ten week  
as parties

Photocopied from: Records of the U. S. District Court (record group 21); District of Kansas; First Division; U. S. v. H. Leone Miller (criminal case 4098); Affidavit of B. F. Brown, filed April 12, 1913; Archives Branch, Federal Archives and Records Center, Kansas City, Mo.

through the  
and same and  
that the affi  
with quietly to the effect on

State of Kansas )  
 ) SS  
 Saline County )

A F F I D A V I T.

B. F. Brown of lawful age and a citizen of the state of Kansas being first duly sworn on oath deposes and says: That on or about the 3rd day of December 1912 the keys to the offices in the Nesmith Block in the city of Salina, Kansas formerly occupied by the Winnipeg Salina & Gulf Railway Company, were turned over to H. J. Nesmith by the Receiver of the above named company, Mr. J. A. Kimball, with the furniture and fixtures that the rooms contained and it was decided by myself and other interested persons to take an invoice of what we received and among other things we found that two keys to two main entrance doors were missing and that during the ten weeks that the offices were in the hands of the Receiver that various parties had been in the offices and I with other persons decided to watch and see who, if any body would try to get into the offices and what the object might be and on several occasions between the 10th of December 1912 and the 13th of January 1913 we saw J. F. Elston in the said offices and saw him at work on the type-writer which is situated at the desk in the private office occupied by H. Leone Miller and on the night of the middle of December 1912 and after ten o'clock at night I was walking on the south side of the street just opposite to the said offices and naturally looked toward the office windows and saw a flicker of light through the window curtain and I immediately went to the Nesmith and Sons and notified them that some one was up in Miller's office or that the office was on fire and I went with H. J. Nesmith and L. Nesmith quietly to the floor on which said office was located and

ooking through a small hole where the paint had been removed in the  
 door I saw that J. F. Elston was in the office room reading from  
 to a lady who was writing on the type-writer; the lady was sitting  
 her back to the door so that I could not see her face; I could not  
 distinctly what Elston was saying as my hearing is somewhat defective.  
 We watched the proceedings until they left the office and as they  
 ed out we dropped back into a dark hall that leads to the north  
 in front of the private office door, when we got to the street they  
 were out of sight.

And further affiant sayeth not.

B. F. Brown

scribed and sworn to before me this 12 day of April, 1913.

Edw. L. Linder  
 Notary Public.

commission expires

6/27/15

has been a...  
world peo...  
and pro...  
catching...  
to their...  
value to...  
if you say...  
since...  
at in what...  
At the...  
at 7 7...  
on, per...  
found that...  
officer,...

an officer to  
Minnesota  
in the...  
the office

APPENDIX C:

EXHIBIT "A": COPIES OF OBSCENE LETTERS ALLEGEDLY  
WRITTEN BY H. LEONE MILLER

Photocopied from: Records of the U. S. District Court (record group 21);  
District of Kansas; Frist Division; U. S. v. H. Leone Miller (criminal  
case 4098); Exhibit, filed with affidavits of April 12, 1913; Archives  
Branch, Federal Archives and Records Center, Kansas City, Mo.

the matt...  
ly Watson  
denies, on...  
and applic...  
that she w...  
return of...  
ed, but...  
say in...  
known fact...  
orney...  
ed friend...  
and on the...



COPY

Salina, Kansas, 12/16

Hon. C. W. Burch,  
Salina, Kansas.

Sir-

I have for some time been employed as a special officer to gain what information I could pertaining to the "Winnipeg" concern and its self elected president and while in the performance of my duty while watching all who call at the office and if possible listen to their conversation that I heard something that may be of value to your office.

What I will now tell you may seem strange and to me was the most complete surprise since I am on the job but future events will bear me out in what I now write; on Wednesday evening I was standing at the corner of the alley in front of Obbers, it was about 7 P. M., I saw one of the former office girls, Miss Anderson, pass by and turn north into the alley, I trailed her and found that she went by the rear entrance to the "Winnipeg" offices, some one met her at the rear door and locked it as she passed in.

I hastened to the hall by way of the front west stairway and was soon in possession of the fact that she was in Millers private office and that Miller was her companion and the surprise was that they are not enemies but even more than friends for I learned on that evening that she is his mistress for I watched them over the transom and saw him having sexual intercourse with her (if you will go to the officetake the step ladder that usually stands in the hall, climb up and with a bright moon and the curtain up you can see as well as in the day time, but they cannot see you in the dark hallway); I watched and listened and almost froze for it was after midnight when they left the office together and walked south on seventh street.

The secret to the \$1000. which disappeared from Millers office on the last of August and for the stealing of which Miller went to Wichita and brought her back was part of a deep laid plot on the part of the pair so that the girl might be in position to gain certain information sought by Miller.

Miller thinks that considerable of his trouble is caused directly by W. W. Watson and that Watson went to Europe on a special mission to turn him down over their and have the investors accept the Brindley people and to learn something about the matter, after it was thought that people and especially Watson would think that Miss Anderson and Miller were enemies, on the 5th day of October the girl went to Watsons and applied as for a position as stenographer expecting that she would be employed on the regular staff and on the return of Watson be in position to learn what had happened, but Geo. Watson run her off and did not hire her. I might say in addition to this Watson matter that it is a well known fact that this girl employed Frank Knittle as her attorney because of the fact that he and Fred Bloggett are good friends and that it was Frank Knittle who sent her to Watsons on the 5th of October.



The next thing that I learned was something that it of direct interest to you as the intention is to dis-bar Litowich if possible or at least place your firm in bad repute and it seems as though this was the main cause of the secret meeting on Wednesday evening. It seems that sometime last summer that Miller became suspicious that your firm was working against him and that to protect himself if necessary, he asked Litowich to make a certain affidavit and that Litowich did make an affidavit and deliver the same to Miller. Here is where Miller got in his play as a few days later he called some of his associates from Nebraska for the purpose of leading Litowich into a trap and it seems as though they did by calling Litowich to Millers office and asking him to explain as attorney the stipulation concerning \$49000. so that the supposed capitalists might fully understand the matter, and as Litowich finished Miller drew the affidavit from his desk and asked Litowich if the affidavit was true or if the story he had just told was the truth and that Litowich then and there admitted his affidavit false and that he had betrayed Miller and had lied to Judge Pollock and had with Dick Hite entered on the records a false stipulation but that he would immediately take the matter up with the court and correct his mistake.

Now the gentlemen in question from Nebraska have each and every one separately made affidavits in the strongest terms possible to secure a dis-barment and these affidavits were carefully read and argued by Miller and the girl after all was ironed out the girl re-wrote them and is now the custodian of them as it was agreed to trust them in the office desks until it was agreed to forward them to the parties in Nebraska for to be sworn to &c. She has not in her possession the Litowich affidavit. I heard her say where it is hidden and that they was tickled to death that the paper was not in the office on the morning that the Marshall locked it up and they also think that the coupe was planned by your office especially to get said affidavit and destroy it.

Now this is a dangerous pair and they must be separated before a new plot which they are working on can be consummated and in this I ask your assistance and quietly and confidentially the work can be done and force her to leave town and on the day that she leaves I will mail you the Litowich affidavit and break that deal forever, as I can and will get it where it is hidden.

Now you may be also interested in the latest plot to get here they suppose the Watson secrets can be learned because one of your best clients is the victim. The plan to get her in as one of Watsons stenographers, failed in October, because the nittle was not heavy enough, but now that have secured the services of Mr. Ritchie, who as you know is very close to Watson, but before Ritchie will act he demands certain information regarding the affairs of C. W. Lamar which can be pos-



ble through the services of his stenographer and to gain his information for Ritchie so that he will aid in getting the girl a position at Watsons they have actually worked the girl to accept a position as stenographer in Lamars office and I heard her make a detailed report of what she had done and heard during the few days that she has been in his employ to Miller, and as you well know, a girl of her character will easily gain the confidence of Lamar and soon learn what she is sent there for, even as Miller advised her to make false affidavits if possible. The plot is to have some one start a fire in the National Hotel and then have the girl swear that she wrote a letter to some one at Lamars request to do the job for a consideration and my advice to Lamar would be to select some one else as stenographer before the fire.

Now something else, yesterday afternoon at 4.35 P. M. Miss Whitton went to Millers office and they remained behind closed locked doors until five minutes of six o'clock but matters were so that I could not get all of the conversation because the janitor was about the rooms, but I discovered that this former stenographer and mistress of Millers is working at Putnams where she can learn much about the affairs of the Planters Bank and <sup>what</sup> that crowd is doing to down Miller as he puts it.

We must down this man, but to do so we must cut off his source of information, and it is a well known fact that he paid these girls a very large salary for many month when they sat in the office day after day and looked out of the windows and he paid them only because they were his mistresses and he still holds their confidence because I know he fucked one of them Wednesday night and the other this afternoon, so it will be best to cut out their jobs at once.

I am not permitted to disclose who I am at the present time so I cannot sign my name or callon you. Act with caution as that man Miller is no fool.

(On envelope)

Mr. C. W. Burch

City

Confidential

(Envelope Postmarked)

SALINA, KANS.

Dec. 20 12

3-30 PM

Salina, Kansas, 1, 7, 1913.

Miss Bettie Anderson,  
Falun, Kansas.

Miss Anderson:

Maybe you will pardon me for writing this letter because a wifes heart prompts the act and people say that you are already an outcast because of your lose days during the last year, but I must insist that your relations with my husband be broken off at once. You should be ashamed of your self to have relations with another womans husband and lay up with him at hotels under the disguise of being his stenographer, when in fact you cannot even hold a position as stenographer, nor it is the general opinion of all respectable people who know of you that you held your position under Miller because you were his mistress and because he had no more use for you and discharged you that you are now trying to send him to the pen and that you are laying up with my husband in payment of his services to aid you.

I have the goods on you so cut it out at once unless you are looking for trouble.

Mrs. John F Elston

III, N, College Ave.

(On envelope)

Miss Bettie Anderson,  
Falun  
Kansas.

(Envelope Postmarked)

SALINA, KANS

Jan 8-13

7-30 PM