

Robert Schuyler's 1853–4 Stock Fraud on the New York and New Haven Rail Road: the Paper Trail

By Michael Mahler

Summary. In 1853–4, Robert Schuyler, president and transfer agent of the New York and New Haven Railroad, issued some \$2 million in unauthorized stock. This was America's first large-scale stock fraud, and its discovery burst like a bombshell over the Eastern establishment. Schuyler had been president of five railroads, helped develop several more, and was known as "America's first railroad king." Moreover, his family was exceedingly well connected at the very highest levels of New York society. The fraud had important repercussions: for the company, years of legal battles and a loss of \$1.8 million; for Wall Street, legal and procedural changes to prevent reoccurrence of this type of fraud; and for New York's upper crust, a sense of shame and disapproval so strong it caused the very name of Robert Schuyler to be all but written out of the historical record. This paper acquaints the reader with Schuyler and his fraud by analyzing documents from the archives of the New York and New Haven Railroad bearing on the affair, including four of the original 1853–4 certificates for spurious shares; twelve 1863–4 agreements by which spurious shares were exchanged for genuine; and 1866 receipts for newly capitalized shares necessitated by some \$1 million in Schuyler fraud claims awarded by the courts.

Recently I had the pleasure of examining an accumulation of several thousand railroad documents of the mid-19th Century, virtually all bearing U.S. revenue stamps of the Civil War era. It was not an original find, but not too far removed from its original state, the great majority having come from the archives of Connecticut roads, chiefly the Boston, Hartford and Erie; Hartford and New Haven; Hartford, Providence and Fishkill; Housatonic; Naugatuck; and New York and New Haven. The hoard had been part of the holdings of the late Henry Tolman, a prominent revenue collector and author of *Railroad Cancellations on United States Revenue Stamps of the 1862–1875 Issues*, the definitive work on that subject. Henry had painstakingly gone through the entire pile, separating out those items with railroad cancels, but evidently with an eye for little else. Here and there were clusters that were still in date order, just as bundled and deposited in the company archives over a century ago. The lion's share of the hoard was a seemingly endless procession of checks and receipts, bearing common 2¢ stamps and non-railroad cancels, themselves usually rather insignificant but together presenting a fascinating picture of the day-to-day details of the running of a railroad. Here were payroll receipts for all manner of employees and all manner of tasks; receipts for recurrent needs like wood, coal, iron, and oil, the printing of timetables and tickets, or payment of U.S. and local taxes; and for myriad occasional or one-time expenditures, some quite exotic, from reupholstering passenger cars to reimbursement for cattle killed in collisions; for major expenditures including locomotives and construction projects, to payments of a dollar or two. Sorting out and analyzing the huge amount of information here would probably be worth a master's thesis or two, or at least an entertaining series of articles. But so much for introductions.

The Stock Certificates: New Haven

Hidden among the checks and receipts were a few dozen stock certificates of the New York and New Haven Railroad Co. To my delight, many were types or subtypes not listed in Terry Cox's compendium, *Collectible Stocks and Bonds from North American Railroads* (<http://www.coxrail.com>). Figure 1 shows the earliest, issued February 1, 1848, at the New Haven office. Note the \$2,500,000 capitalization; as discussed below, this was increased to \$3,000,000 in August 1851. Cox records only one other New Haven certificate showing the original capitalization. In the example at hand, the shares were transferred in 1864, and a 25¢ U.S. revenue stamp affixed to pay the tax on the power of attorney for stock transfer (Mahler, 1999).

Four more certificates of the New Haven office, all dated 1853, have a similar style (Figure 2), but with numerous small differences from the earlier one. The capitalization is now \$3 million; the paper is light blue, not gray; the printer is now "G. S. Roe, Stationer and Printer," not "H. Cogswell, Stationer" (although both are at the same address, 19 and 21 Merchants' Exchange, New York); and there are differences in wording, font or font size, and ornamentation. This type was previously unlisted by Cox. On all four, the stock was transferred in 1863–5, and a revenue stamp affixed. As such they must have been atypical; my intuition is that because they bore stamps these four were culled from a larger group, which has evidently not survived.

New York Certificates

The hoard contained 26 certificates executed at the New York office, dated 1850–54, printed in various shades of red on bluish paper, in two major types showing capitalization \$2.5 million, then \$3 million, each with subtypes. Four certificates, all dated 1850–1, were of the first type; Cox had previously listed just a single example. Again, for all four the shares were transferred in 1863–5 and a 25¢ revenue affixed. The latest of the four is a bit different from the others: its serial number (2271) is in a smaller and bolder font (Figure 3); the imprint reads the same but is in a smaller font; and the paper is darker, a blue gray.

After the capitalization was increased to \$3 million in August 1851 (Shaw, 1972), the certificates were changed to reflect this: the latest recorded showing the original capitalization is dated August 23, 1851 (#2271, Figure 3), and the earliest at \$3 million (#2828), November 14, 1851. Close examination reveals three subtypes. On the aforementioned certificate #2828, the serial number has reverted to a large font (Figure 4). By certificate #3230, dated April 30, 1852, and on all subsequent examples from the present find, it is in a smaller, bolder, different font. And by #3455, dated October 12, 1852, the imprint has been changed from "G. S. Roe" to "George Scott Roe." Small changes, to be sure, but certainly indicative of separate printings.

As with the certificates already described, with just three exceptions these too were notable for the presence of revenue stamps, affixed when the shares were transferred in 1862–5. To reiterate, they must have been unusual thus, as the certificates

had been generated roughly a decade earlier. Certificates lacking stamps must originally have been much more numerous—but where are they? Four of those in the present find are significant in that they bear matching 25¢ Power of Attorney stamps affixed in late 1862 or early 1863, just as required when the Civil War stamp taxes went into effect October 1, 1862. Agreement stamps were required on agreements, Bank Check stamps on bank checks, and so on; a power of attorney for stock transfer required a 25¢ Power of Attorney stamp. Twenty-five categories of documents were taxed, most with multiple rates, requiring 80 different stamps. The task of producing and circulating so many stamps quickly proved insurmountable, and as of December 25, 1862, matching stamps were no longer required. They continued to be used in significant quantities for some months, however, as stocks ordered in compliance with the original law were gradually depleted. These early matching usages (EMUs) are the *crème de la crème* of fiscal history, avidly sought after by revenue specialists; those from the period of obligatory matching use before December 25, 1862, are doubly desirable. Figure 5 shows a certificate executed in March 1854 with transfer December 17, 1862, and 25¢ Power of Attorney imperforate cancelled December 23.

The Boston Office

Figure 6 shows the *piece de resistance* of this find, a certificate issued not at New York or New Haven, but at the company’s Boston office. It is dated November 16, 1853, with serial number 69. By this time over 4000 certificates had been issued in New York, and another 600 or so in New Haven. This variety was unrecorded by Cox. More will be said of this certificate below.

Robert Schuyler and the “Spurious Stock”

Tucked among the certificates, initially unnoticed, was a small group of printed agreements, which on reading, suddenly became eminently noticeable. Figure 7 shows an example. It reads:

Received, of the **NEW-YORK AND NEW-HAVEN RAIL-ROAD CO.**, (Five) Shares of the newly issued Stock, created under the Resolution of the Board of Directors, October 26, 1863, the same being in full satisfaction and discharge of all claims, demands and damages, arising out of the frauds or over-issues of ROBERT SCHUYLER, former Transfer Agent of the Company, or out of the alleged negligence or misconduct of the Company, or of any Director or officer thereof. And (I) hereby authorize the Cancellation of (Ten) shares of the so-called spurious Stock, standing in (my) name, or of which (I) claim to be the owners. And in consideration of the premises, and of the warranty of the Company of the

Company of the genuineness of the said newly issued Stock, (I) also hereby covenant with the said Company, that no other person has any interest in the said alleged spurious Stock, or any claim for damages or otherwise, in respect thereof.

(Ctf 4896-10)

[signed] (Henry Hart)

(Old Saybrook, Conn.)

Dated, (November 30th) 1863.

A 5¢ Agreement stamp, cancelled “H. H. 11/30/1863” in Hart’s hand pays the 5¢ tax on an Agreement or Contract (Mahler, 1999). The find contained eleven more such documents. On each, the number of new shares was exactly half that of the “so-called spurious Stock.”

“Frauds”? “Over-issues”? “Spurious stock”? Here was a whiff of scandal to quicken the pulse of any history buff. A quick check of the certificates in the group showed that all but one from the New York office had been signed as Transfer Agent by Robert Schuyler (Figures 3–5). Were they spurious? They had been issued nearly a decade before the exchange of bad stock for good in 1863–4. What was going on here?

1853–4: Schuyler’s Sensational Fraud

An Internet search on Schuyler provided a few clues. In the early 1850s Robert Schuyler had achieved fame as “America’s first railroad king,” then infamy as the perpetrator of its first massive stock fraud. Few have fallen so far, so fast. Schuyler had been president of five railroads: the Illinois Central; New York and Harlem; New York and New Haven; Rensselaer and Saratoga; and Sangamon and Morgan, most of them simultaneously; had been instrumental in the construction of the Vermont Valley and the Washington and Saratoga; and involved in the promotion and administration of still others, including the Housatonic; Naugatuck; New Haven and Northampton; and Saratoga and Whitehall. A scion of a blue-blooded New York family that counted Alexander Hamilton among its ancestors, he was widely admired and trusted. But in his capacity as transfer agent of the New York and New Haven Rail Road, beginning October 1853 Robert Schuyler had issued some \$2 million in unauthorized stock. Large blocks had been given as collateral for loans, and some sold to unsuspecting investors, but not a penny had reached the company coffers. The irregularities became public at the beginning of July 1854 during an examination of the company’s books in Schuyler’s absence. He fled to Canada, then to Europe, where he died in disgrace in November 1855.

Schuyler’s defalcations were genuinely sensational, sending shock waves through the realms of finance and high society; one contemporary reaction was that the “Schuyler

fraud fell like a thousand bombshells, or hissed like a million fiery flying serpents in Wall-street” (*Bankers’ Magazine*, 1854). It generated a train of lawsuits, counter-suits, and appeals that kept the affair in the public eye for more than a decade. The New York legislature in 1855 passed a law familiarly known as the “Schuyler Act,” making over-issue of capital stock a felony; previously there had been no statute covering such a breach of trust. The term “Schuylerizing” was coined to describe this and similar financial chicanery (Ackerman, 1890; Withington, 1958).

There were extenuating circumstances. Schuyler had evidently not used the over-issues for personal enrichment, but to keep afloat other railroad ventures he was juggling. Indeed, a thorough investigation in the aftermath of the 1854 scandal revealed similar over-issues on a much smaller scale as far back as 1848, that Schuyler had almost completely made good on by buying back and retiring the over-issued shares. Presumably he had the same intent toward the much larger defalcations of 1853–4, but events had spun out of his control. Moreover, Schuyler had made no attempt to hide what he was doing; it was all laid out in the company’s books, over which he had complete control and exclusive access.

Nevertheless, he had done considerable damage, and his fall from grace was complete. The railroad would eventually lose nearly \$1.8 million redeeming the spurious stock. Many small investors impatient of settlement sold their shares for pennies on the dollar. Three brokerage firms failed as an immediate consequence of the fraud, each leaving unpaid debts in its wake. (The first of these, Schuyler’s own firm, R. & G. L. Schuyler, had announced its inability to meet its obligations July 1, 1854, days before the scandal broke, presumably because ventures Schuyler had funded with the spurious stock had themselves gone bad.)

Forgotten Fraud, Forgotten Man

Today, a fraud this substantial and significant—the first of its kind—would instantly become a permanent part of financial lore. In Schuyler’s case, precisely the opposite occurred. Gradually a curtain of secrecy was drawn around it, described by Shaw (1972) as a “conspiracy of silence”:

[Robert and George L. Schuyler] were scions of one of the most aristocratic American families, tracing their lineage back to the early Dutch patroons and possessing a fortune based on extensive, semi-feudal landholdings in the Hudson valley. Their grandfather was Philip Schuyler, the distinguished Revolutionary War general and hero of Saratoga; their grandmother was a member of the van Rensselaer clan. Their aunt—a daughter of the general—became the wife of Alexander Hamilton. And George successively married two daughters—his own cousins—of Alexander Hamilton. It would have been difficult to find anyone, during the first half of the 19th century, who was more fortunately endowed with ancestors, or more favorably connected, than the two Schuyler brothers. And, indeed, generations of Schuylers, exempt from the vulgar necessity

of earning a living, have figured prominently as philanthropists, authors, and diplomats.

In his own era Robert Schuyler was certainly the most prominent member of this family. During the mid-19th century, some members of the old, landowning aristocracy were making a transition into commerce, banking—and railroads—but none more successfully so than Robert Schuyler. He held simultaneously the presidency of at least three important railroads, and participated in the financing or construction of many more. Contemporaries instinctively sought him out for participation—or leadership—in projects that were particularly ambitious or challenging. At the same time he was a man of culture and manners, quite devoid of the crudities and indulgences associated with many of the self-made figures of this flamboyant era. ...

Yet, with all of this prominence one may seek in vain for any mention of Robert Schuyler in encyclopedias or other standard reference sources. The accomplishments of many of his close relatives are described in detail, but the name of Robert Schuyler has been expunged as if by some massive conspiracy of silence. And, in a sense, there was such a conspiracy. For Schuyler was the perpetrator of the first large-scale stock swindle, a predecessor of more recent swindlers such as Ponzi, F. Donald Coster, Billie Sol Estes, and Tony de Angelis. Indeed, it might be held that his crime was worse than theirs, for, whereas these later miscreants were social nobodies, caught only momentarily in the spotlight of notoriety, Schuyler had achieved wealth and status at birth. Admittedly, it became clear afterwards that normal precautions to prevent fraud in the affairs of the companies he managed had been woefully lacking, but in the case of a Schuyler no one imagined that such precautions were necessary. As a contemporary newspaper editorialized, “if Robert Schuyler is capable of such a wrong, then no one is to be trusted.”

New York’s upper crust, in their embarrassment at the misdeeds of one of their own, appear to have suffered self-imposed guilt by association. At the very least they must have felt the scandal reflected badly on them as well, and sought to minimize mention of Schuyler in the public record. Such was their influence that they largely succeeded.

General ignorance of the Schuyler affair continues today. Prominent Scripophily dealers offer Illinois Central bonds signed by Schuyler, routinely referring to him as “America’s First Railroad King,” but never as the perpetrator of its first major stock fraud. This can hardly be intentional; the scandal would seem to make his signature considerably more interesting, and hopefully more desirable and valuable. Wikipedia, the online “people’s encyclopedia,” includes profiles of even the most trivially famous, but is silent on Robert Schuyler. Even mighty Google yields only sparse results.

One consequence of Schuyler’s fraud is that the New York stock exchange now required all certificates to be signed by two officers of a company (Ackerman, 1890). In fact nearly all companies took this precaution even pre-Schuyler, but now it became

essentially universal. A survey of my own collection verified this: of 189 different certificates from the decade of Civil War stamp taxes (1862–72), all but one bore two or more signatures, in the array of combinations tabulated below.

Signature(s)	Number	Comments
President Geo.)	1	Princeton Manufacturing (Athens,
President, Secretary	144	76.2% of total
President, Treasurer	25	13.3%
President, Cashier	9	4.8% (all banks)
President, Transfer Agent	2	Milwaukee & Prairie du Chien RR; Peoria & Bureau Valley RR
President, Transfer Clerk	1	Cleveland, Columbus, Cincinnati & Indianapolis RR
President, Clerk	2	N.Y., Providence & Boston RR; Eureka Marble
Treasurer, Secretary	2	N.Y. Rubber; Devon Oil
Cashier, Transfer Clerk	1	Chicago, Burlington & Quincy RR
President, Treasurer, Sec.	2	Alden Type Setting & Distributing Machine; Gold Hill & Virginia Tunnel & Mining

I found this variety surprising, as I suspect most collectors would. Also new to me was the function, indeed the very existence, of transfer agents. As shares were constantly changing hands, it was essential that these transactions be recorded and processed; this was the task of the transfer agent. Normally, as the above table implies, this was essentially a clerical chore. In the case of the New York and New Haven Rail Road, though, when the transfer agent was also the president, and partner in his own brokerage firm through which all stock transactions were channeled, the way was open for abuse. For example, one of Schuyler's techniques was simply to record the transfer of non-existent shares, in blocks as large as 5000 shares, to his firm's account.

“Spurious” Survivors; the Battle in the Courts

Amazingly, a few certificates for Schuyler’s spurious stock were included in the present find. Their identification was a byproduct of the legal battle that stemmed from the over-issues, which has been well outlined by Shaw (1972):

After the shock and outrage of the discovery had dissipated there remained vexing questions. What was to be done, what remedies could be pursued, who was to bear the loss? There were three different opinions respecting the fraudulent stock:

- 1) It was entirely bogus and constituted no claim whatever against the New Haven Railroad. As with counterfeit money, the loss rested upon any party accepting it.
- 2) It was entirely genuine, issued under authority of the president and transfer agent of the company, and should participate pro rata with all regularly issued stock.
- 3) It was not genuine, but, having been emitted by the authorized agent of the railroad company, it represented a genuine obligation. In brief, the company was responsible for the acts of its agent.

There were persuasive arguments for and against each of these positions. The company’s maximum share issue, as specified in its charter, was 30,000 shares of \$100 par value. The argument could be lodged, then, that it was *ultra vires* for the company to issue any stock in excess of this amount, and all of the purported Schuyler stock was a mere forgery. This could be countered with the assertion that the limit was \$3 million, but not necessarily 30,000 shares, and the specification could be complied with simply by reducing the par value of every share from its original \$100 to \$60. That would not, of course, avoid the loss, but would spread it equally, pro rata, among both the old stockholders and the Schuyler stockholders. Even if the Schuyler stock was not recognized as valid, those holding it could still make a good case that the railroad should be liable for losses occasioned by its president’s defalcations.

Since the resolution of these issues occupied the courts and some of the most outstanding lawyers of New York State for over a decade, their merits need hardly be debated here in full. From the beginning the New York City newspapers simply assumed that the Schuyler stock would be automatically recognized by the company. Most of the New York stockholders adopted the same view, or at least indicated a willingness to negotiate a compromise. It is only fair to point out, however, that the New York group was not impartial. Many of them held both genuine and bogus shares, others had had bogus shares pass through their hands and feared that they might be declared liable if the company itself avoided responsibility, and still others were brokers who felt that they were obliged to represent the interest of their customers. But a majority of the stock was held in Connecticut, and it soon became apparent that the “country” stockholders had quite a different attitude. Most of them were long-term

investors, rather than stock traders, and they had scant sympathy with the Wall Street operators. Hence, they adamantly opposed any admission of responsibility by the company for Schuyler's misdeeds.

Before the official position of the company could be established, however, one difficult question had to be settled. Who were the genuine stockholders? Who had a right to vote, or to speak, at stockholders' meetings? In most cases it proved possible to trace and identify the bogus stock, which was often held in large lots by creditors or assignees of Schuyler. But sometimes the bogus stock and genuine stock were inextricably intermingled. Suppose, for example, that one investor, call him Mr. A, held 50 shares of good and 50 shares of bogus stock. He sold this to a subsequent holder, Mr. B, who received a single certificate for 100 shares. Later on B sold 50 shares of his stock to C and 50 to D, each lot again being duly transferred by the company. Who, now, holds the bogus stock and who the genuine?

Among the many suits touching on these issues, important decisions in 1856, 1860 and 1862 upheld the hard-line position taken by the railroad, that it bore no responsibility for the over-issued shares. The second of these, *New York and New Haven Railroad Company vs. Robert Schuyler and [322] others*, heard before Judge Ingraham of the misnamed New York Supreme Court in mid-1860, was useful in that it specifically identified the bogus shares for the first time; these findings are reproduced in the Appendix.

The Company's Compromise Offer

Undeterred by these setbacks, a core group of holders of spurious stock pressed forward with appeals and counter-suits. Among them was the indomitable and deep-pocketed Cornelius C. Vanderbilt, who had taken a large block of bogus stock as collateral for a loan to Schuyler. Perhaps sensing an eventual reversal of its legal fortunes, the railroad in October 1863 offered a compromise: for every two spurious shares surrendered, together with a renunciation of all claims arising there from, it would give one share of newly-issued stock. On these terms 12,396 bogus shares were surrendered, some 63% of the number originally issued (Shaw, 1972). Figure 7 above shows the form by which individual shareholders assented. The present find included twelve such agreements, listed below:

Shareholder	No. of Shares	Certificate #
George & Sam Brown	25	"No ctf."
Sumner Bull	50	4604
E. W. Clark, Dodge & Co.	300	4271 (100) 4255 (200)
Corning & Co.	50	"No ctf."

Genin & Lockwood	15	4475
Thomas Johnston	5	4057
Jacob Little & Co.	261	4892, 4893 (100)
Henry Hart	10	4896
W. S. Holabird	10	4167
H. F. Pease	12	“No ctf.”
J. Deming Perkins	15	4302
George Phipps	4	69

To my delight, for four of these—those of Holabird, Johnston, Little and Phipps—the surrendered bogus certificates were also present in the find.

Four Certificates for Spurious Shares

Certificate #4057 to Thomas Johnston is doubly desirable in that Schuyler’s signature as Transfer Agent is not obliterated (Figure 8). The same can be said for certificate #4167, to W. S. Holabird, from which the power of attorney portion was cut away before it was pinned to the matching agreement (Figure 9).

Certificate #4893, to Jacob Little & Co., dated July 1, 1854, is unusual in that it was one of those transferred not by Schuyler, but by William Worthen (Figure 10). Schuyler had absented himself from his office June 29, 1854, pleading sickness. Nothing was suspected, but with his house of cards about to crumble, Schuyler had in fact fled the scene. In the early days of his absence, Vice President Worthen went to Schuyler’s office, and acting as transfer agent innocently transferred 4446 shares of the false stock for 21 different persons and firms. On July 3 the fraud was discovered, and on July 5 made public; trading in the stock was suspended the same day (Withington, 1958; Shaw, 1972).

The sole recorded Boston office certificate, to George Phipps (Figure 6) adds yet another twist to this tale. It was issued for 50 shares, only four of which were spurious. The exchange agreement, dated Framingham, May 20, 1864, is for just four shares, and an accompanying handwritten note from Phipps reads “I herewith enclose my Certificate for 50 shares ... , also receipt for two Shares of new in place of 4 of Bogus—please send my new Certificate by mail.” On the certificate itself, reading upward at center left, “4 Shares Spurious” is written in purple (Figure 11). As shown in the Appendix, these details match precisely those given in the list of bogus stock identified in 1860. A century and a half after the fact, it is impossible to trace how spurious shares generated in New York came to be commingled with genuine in a certificate issued in Boston; we can only marvel that it did, and that the documents proving it have survived.

Certificate #3963, issued October 8, 1854, to John Deane for 20 shares (Figure 12) might be thought spurious. It falls within the proper time window, and the Supreme Court's list does include 20 shares issued to Deane (see Appendix); they are attributed, though, to "no certificate." Moreover, this one is annotated "Canceled ... by substitution," attested by hand stamp of Treasurer Wm. Bement dated March 31, 1863. It seems unlikely that a substitute certificate would have been issued if these shares had been spurious; more likely they represent a second, genuine block of 20 shares sold to Deane. This piece is philatelically notable, though, for its early matching usage of a wide-margined 25¢ Power of Attorney imperforate affixed March 20, 1863.

It seems reasonable to include these four certificates for spurious stock—the very instruments by which Schuyler's fraud was perpetrated—among the gems of 1850s Scripophily. The 1863–4 agreements for surrender of spurious shares are only slightly less significant, but are more in the nature of peripheral pieces. Together they comprise the only remnants of America's first large-scale stock swindle. The spurious certificates are among very few in the present holding not bearing revenue stamps; probably they survived by virtue of being tucked into the exchange agreements, which were stamped.

The Commodore Grinds Them Down

With the books closed on the railroad's compromise offer, there remained some 7000 spurious shares outstanding, their holders determined to receive full value. The undisputed champion of this cause was Vanderbilt; the 1860 Supreme Court list shows he held 2320 spurious shares, by far the largest block (see Appendix). The \$232,000 par value of his stock—the equivalent of some \$10 million today—was obviously a powerful incentive to persevere, but Vanderbilt may also have been motivated by a sense of personal betrayal. "The Commodore" had been a close associate of Schuyler's, even offering to rescue him if he could be assured that "all was right." The embattled financier had responded only by shaking his head (Withington, 1958). When the long legal war had finally ended, *Harper's Weekly* for February 10th, 1866, described it almost as a one-man crusade:

Year after year [the case had] dragged on, but little progress was made. ... At last, some six years after the commencement of the suit a Judgment was obtained ... subsequently in favor of the Company.

This was so discouraging to the litigants that many of them, worn out by long waiting concluded to accept a compromise, which was offered by the Company. Thus at least one-half of the claims were adjusted.

But there was one man among the prosecutors who was not discouraged. This was Cornelius Vanderbilt. He had lent money to Schuyler on the so-called spurious stock. ... The adverse judgment did not dismay him. If the Company had patience, so had he. If they had a long purse, so had he. He rejected the proffered compromise with derision and bade his lawyers appeal and prosecute the appeal with vigor. ...

Then followed more tedious years of postponements, arguments and side issues, motions and counter-motions, and all the legal maneuvers,

which are so profitable to lawyers. ... There is no doubt but the Company based its hopes in great part upon the death of Commodore Vanderbilt. If he died there was every reason to believe they might succeed in wearing out the other suitors and either induce them to accept the proposed compromise or defeat them altogether.

And he was an old man, over seventy, with heart disease (so 'twas said), with a fondness for fast horses, and a habit of being dashed out of his wagon from time to time. The New Haven Directors each morning carefully examined the deaths under the letter "V," and mutely prayed for the release of their relentless prosecutor.

Their prayers were not heard. The Commodore did not die. On the contrary, in spite of heart disease, fast horses and upsets he seemed to grow most pertinacious at the very time other men's patience would weary and, at the very moment the Company expected a season of repose, he was upon them more furiously than ever, with new motions and arguments and fresh reinforcements of lawyers. And so at last, after more than eleven years of waiting, he fought the suit to judgment in the Court of Appeals and won it—obtaining a decision for the whole amount claimed, with eleven years interest and costs. ...

The final legal battle, *New York and New Haven Railroad Company vs. Schuyler, Morris Ketchum, Edward Bement et al.*, known as the omnibus suit, had commenced in June 1865 and concluded that December. Since it was an appeal, the railroad appeared as plaintiff; the defendants were 323 original holders of spurious stock. Judge Noah Davis, delivering the opinion, concluded "a judicial investigation has shown that the apparent stock on the books was not real [and] that at some remote time it had its origin in a fraudulent over-issue. ... Does the peril of that fact rest upon the buyer? I think not. ..." The company was ordered to fully compensate the holders of the spurious stock.

The Bill Comes Due: New Certificates

In January 1866 the company formalized its capitulation. Redeeming the outstanding 7000 spurious shares at par would cost some \$700,000, in addition to the considerably greater expenses already incurred. To meet these obligations the stock would be increased to 50,000 shares, par \$5,000,000. According to Shaw (1972) this was neatly accomplished at the expense of the existing genuine stockholders,

... by assessing each existing share—approximately 36,000 of them—\$75, in return for which each shareholder would receive a 40% increase in his stock. To put it another way, all shareholders suffered a dilution of 20%. (This was, of course, in addition to the previous dilution, when two bogus shares were exchanged for one genuine.)

The net effects would be several: the company would not have to woo and win new buyers of its stock; the assessment would raise some \$2,700,000, precisely enough to redeem the spurious shares and support the increase in capitalization from \$3 million to \$5 million; and the number of shares would rise, in round numbers, from 36,000 to 50,000.

As tidy as this solution is on paper, readers will perhaps share my sense of wonder that stockholders would assent to it. Rather than absorb a 20% loss, why not simply sell the stock? On the other hand, how many buyers would there be for shares facing a \$75 assessment? In fact, the very idea of an assessment that large seems outlandish. In the more familiar example of cash-strapped Western mining companies, assessments were typically a more palatable \$1–\$5 per share, in extreme examples as high as \$10. But \$75? On balance, this arrangement raises more questions than it answers. As it turns out, Shaw had the \$75 and 40% figures right, but their arrangement wrong.

The *New Haven Journal* of January 24, 1866, quoted in the *New York Times* a day later, gives an alternative explanation:

The Schuyler Fraud Case

The case of ROBERT SCHUYLER et al. vs. The New-York and New-Haven Railroad, otherwise known in the New-York courts as the Omnibus suit, was decided in December by the Court of Errors of New-York, the court of the last resort in that State, in favor of the plaintiffs. The Judges awarded to the plaintiffs judgment and costs to the amount of \$900,000. The case can go no further, and the company have now made arrangements to pay the judgment and costs. On Monday the Directors met and voted to increase the capital stock of the road to \$5,000,000, which will raise enough funds to meet the amount required. On the 27th instant, the subscription books will be opened, and all who are stockholders then will be allowed to subscribe for the new stock by surrendering two and a half shares of their old stock for one of the new, and paying for the new stock \$75 per share. The capital stock of the company was formerly \$3,000,000. The amount of fraudulent [stock] was \$2,100,000. A large part of these were bought up by compromising with the holders, the capital stock being increased to accomplish it, and the holders giving two shares for one. The present increase will now pay up all the liabilities caused by the fraudulent issue. The road is considered worth \$10,000,000, and there is no doubt that the new stock will soon be taken, the great clog which the Schuyler frauds have been for years to the road will be removed, and the road will now enter on an era of great prosperity.

At first reading, this arrangement makes even less sense than that proffered by Shaw. Why shareholders would be expected to exchange two and a half shares of old stock for one of new is difficult to imagine, but that they would pay \$75 for the privilege is flatly impossible. Reflection shows that the actual proposal must have been the following. The old certificates were to be replaced by new ones showing the increased capitalization. For each share of old stock surrendered, holders would receive one of the new, and *in addition*, for every two and a half shares surrendered they would have the opportunity to purchase one share of the new at \$75. This was eminently sensible. If fully subscribed, some 14,000 new shares at \$75 apiece would raise \$1 million, enough to pay the \$900,000 awarded by the court in the Schuyler case. And the shareholders had a healthy

incentive to subscribe; with the fraud cases settled and the road healthy, there was every prospect of the shares soon trading at par.

It can be said with certainty that this was the offer made by the company, and that it was very nearly fully subscribed, for these transactions have left a paper trail. The current find included a large number of receipts of the type shown in Figure 13, printed in red, reading:

New York and New Haven Railroad Company
No.
February1866
Received from

..... Dollars, in
full for
..... Shares of the CAPITAL
STOCK of this Company.
Certificates will be ready for delivery (on or after
March 1st,) on surrender
of this receipt.
.....Treasurer.

Then example shown is to Eli Whitney—alas, not the famous inventor, who had died in 1825, probably his like-named son (1820–94), or even his grandson (1847–1924). Another was made to Josiah Macy, namesake of the Josiah Macy, Jr. Foundation. For each of the receipts in the find, the dollar amount divided by the number of shares is \$75. This and the February 1866 date identify these as the receipts for the new stock proffered by the company to the existing shareholders. 585 receipts are present, with numbers ranging from No. 1, made February 1, 1866, to No. 1090, made March 31. With such a large sample—slightly more than every other one—we can assume with very small possible loss of accuracy that the entire group comprised 1090 receipts, and that the sample is an excellent representation of the whole. These 585 receipts account for 7236 shares, an average of 12.37 per receipt, which predicts with a probable error of no more than a few hundred that the total number sold was 13,482.

The actual number sold is buried in the company’s Annual Report for the year ending March 31, 1866, which was summarized in the *New York Times* of May 17, 1866. Listed, as income is “Proceeds of allocated stock, \$1,001,025.00.” This figure is exactly divisible by \$75, and must represent the sale of new shares at that price; doing the division yields a total of 13,347 shares sold, in eminently satisfying agreement with the estimate from our receipts.

Thirteen of the 31 certificates in the present find may have been among those surrendered in 1866. The others all bear hand stamps or notations indicating earlier cancellation (see Figures 3, 5, 12), but these do not (e.g., Figure 4). Eight of them, all made to the firm Bischoffsheim & Goldschmidt of London on October 12, 1852, consecutively numbered (#3455–62), are conspicuous by the anomalous use of revenue

stamps. On each the power of attorney for stock transfer was executed September 9, 1859, more than three years before the Civil War stamp taxes took effect, yet in each case a 25¢ Certificate stamp has been affixed, cancelled by pen strokes (Figure 14). Documents liable to stamp tax, but not duly stamped, could not be admitted as evidence in any court, and thus had no legal standing (Mahler, 1988). In order to ensure legality documents could be stamped after the fact by any interested party. When unsure of the tax laws, those affixing the stamps tended to err on the side of caution. This is evidently what was done here, but who would have gone to such lengths to assure the legality of these transfers is an open question.

Where are the 1866 Certificates?—and a Footnote

Certificates showing the new capitalization of 50,000 shares and \$5 million would bookend the paper trail of the Schuyler fraud. Surprisingly none appear to have survived; they are not listed by Cox. The find did include another bundle of documents that may bear on this matter. These are receipts for stock similar to those just discussed, printed in brown, not red, with wording:

New York and New Haven Railroad Company

No. New
 York,1866
 Received from

Dollars, on account of
 Shares of the increased
 CAPITAL STOCK of this
 Company, authorized August 8, 1866.
 Certificates will be ready for delivery (on or after December
 3d.,) on surrender of
 receipts for full paid Stock.

..... Treasurer.

(Figure 15). Buyers paid \$100 per share, usually in two installments, the first always for \$10 per share in late September to mid-October, the second for \$90 per share in late October to mid-November, but with occasional stragglers as late as January 1867; and in about 20% of cases, in a single payment of \$100 per share. The illustrated example records a second installment payment of none other than Cornelius Vanderbilt, of \$23,310 for 259 shares; the matching receipt for his initial installment was also present. The find included 518 receipts to 357 buyers for 3584 shares, with numbers ranging from No. 1, made September 17, 1866, to No. 1745, made January 15, 1867. Vanderbilt's was by far the largest purchase, the average hovering just above 10 shares.

Assuming these comprise a representative sample of the entire group, we can estimate the total number of shares subscribed. Of the 518 receipts here, 124 were for just one of the \$10 or \$90 installments, with the complementary installment receipt missing. These 124 missing receipts contribute no new information about buyers or shares, but are

useful in that they enable the calculation that the full complement of receipts for our 357 buyers numbers 642. Since the sample accounts for roughly a third of the group, the estimated size of the entire group is 1746. By simple proportionality, the estimated number of buyers represented by 1746 receipts is thus 971, and the number of shares purchased, 9747, plus or minus a few hundred. This suggests that the company increased its capitalization yet again in August 1866, to 60,000 shares and \$6 million.

Internal evidence from the two batches of receipts—the red, from February/March of 1866, at \$75 per share, and the brown, from later that year, at \$100—provides more evidence for this. The two batches had 160 names in common. For these, the number of shares subscribed in the later batch was a nearly constant fraction of the number subscribed earlier, averaging 0.67. Particularly striking was that whenever the earlier number was a multiple of ten, the later was almost always exactly 70% as large: ten shares and seven; 20 shares and 14; 40 shares and 28; and so on, a pattern difficult to ignore. From this we can deduce that shareholders, having already had the opportunity to increase their holdings by 40% earlier in the year, were in the second call for subscription allowed another 20% increase. To see this easily, consider a party originally owning 100 shares; with the first subscription he adds 40, and with the second, 28 more; the second increase is precisely 20%. For the entire population of shareholders, if fully subscribed, this translates to an increase from 50,000 shares to 60,000. Our independent estimate that roughly 10,000 shares were sold is completely consistent with this. Simply on the basis of these receipts we can predict with complete confidence that the company increased its capitalization to 60,000 shares and \$6 million in August 1866, and that the offer was almost immediately fully subscribed, or nearly so.

This sudden second increase may also have been motivated by debts related to the Schuyler fraud. It was only in its Annual Report of 1868 that the company could report that the last claims had been settled, bringing the final aggregate cost to \$1,772, 869 (Shaw, 1972).

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Anonymous. Notes of the Month. *The Bankers' Magazine; Journal of the Money Market and Commercial Digest* 14 (January–December): 596, 1854.

Cox, Terry. Collectible Stocks and Bonds from North American Railroads (<http://www.coxrail.com>).

Mahler, Michael. *United States Civil War Revenue Stamp Taxes*. Pacific Palisades CA: Castenholz and Sons, 1988.

Mahler, Michael. *A Catalog of United States Revenue-Stamped Documents of the Civil War Era by Type and Tax Rate*. Rockford, IA: American Revenue Association, 1999.

New York and New-Haven Railroad. *New York Times*, May 17, 1866.

New York and New Haven Railroad Company vs. Robert Schuyler and others. New York Supreme Court, Judge J. Ingraham, Special Term 1860.

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Shaw, Robert B. The Great Schuyler Stock Fraud. *Railroad History* 141:5–18, 1972.

Smith, Grant H. *The History of the Comstock Lode, 1850–1920*. Reno: University of Nevada Bulletin, Geology and Mining Series No. 37, 1943.

Withington, Sidney. The Strange Case of Robert Schuyler. *Railway and Locomotive Historical Society Bulletin* 98:32–46, 1958.

Footnotes

[1] In an attempt to speed the delivery of stamps to the public, on November 7, 1862, the order was given to “fill all orders with utmost dispatch without perforating.” The resultant imperforate or partly perforated stamps are generally scarce to rare, and sought by specialists.

[2] It is the state’s highest trial court, but its decisions are subject to appeal to the Court of Appeals.

[3] Schuyler claimed to be suffering from “a dangerous hemorrhage of the lungs.” The *New York Herald* of July 6 politely demurred: “Mr. Schuyler has not been confined to his house by sickness lately. The statements about an attack of hemorrhage of the lungs were inventions. He has gone to Canada or some other cool place. New York was too hot for him.” (Withington, 1958).

[4] Judge Davis took the company to task elsewhere in a picturesque, 59-page analysis, in which he pointed out that the Directors had “handed over to Schuyler the substance of all their authority, and then for nearly seven years laid down to sleep in supine indifference at his feet. ... Aroused by the shock of the calamity which their folly had induced, are they now to look calmly over the wreck with no answer to its innocent victims but that of Macbeth to the ghost of Banquo?” (Withington, 1958). He evidently felt no need to inform his readers *what* Macbeth had said (“Thou canst not say I did it!”). If nothing else, this is an impressive testament to the literary sophistication of the public in 1860, or at least to Davis’s estimation of it.

[5] 30,000 had been authorized in 1851, and 6198 more issued in the one-for-two exchange for spurious shares surrendered in the 1863–4 compromise.

[6] More accurately, a *loss* of 20%. To see this, value shares at par (\$100). For each share bought at \$100 and assessed \$75, 1.4 shares of the new stock would be received, worth \$140, just 80% of the \$175 outlay. The stock had been diluted by 40%, true, but since each holder now had 40% more of it, his stake in the company remained unchanged.

[7] The Bullion Mine on the Comstock Lode was arguably the most heavily assessed in the history of Western mining, but even here individual assessments were never more than \$10 per share. Tantalizingly located near the center of the Lode, bracketed by proven producers Chollar-Potosi immediately to the north and Consolidated Imperial to the south, the Bullion tempted a succession of owners and an army of investors. As described by Smith (1943), “Assessments of \$10 a share were levied like clockwork every ninety

days upon the 2,550 shares in the mine. The stockholders, in the main, were local people. As some dropped out others took their places.” Indeed, a certificate in the author’s collection dated April 9, 1866, bears on the reverse notations for payment of ten different assessments. Alas, the Bullion was a veritable money pit. By 1869 over \$1 million had been spent to sink its shaft to 1400 feet with no ore, nor any indications of ore. Undeterred, new owners probed ever deeper, eventually reaching 2550 feet, still with no ore, before the quest was abandoned.

[8] The sample comprises roughly a third of the whole. Imagine the three highest numbers in the whole group. On average, the highest number in a sample this size will have one of these three, but which one? In repeated samples, one-third of the time it will be the highest, one-third of the time the second highest, and one-third of the time the third highest. On average, it will be the second highest. So the predicted highest number in the sample is one less than that in the whole. [Mathematically, if N is the highest number, the predicted value of the highest in the sample is $(N-2)/3 + (N-1)/3 + N/3 = N-1$.]

[9] The 1868 report also informed stockholders of yet another defalcation, this time by Treasurer William Bement, whose name appears on several of the documents illustrated here, amounting to \$88,255. No recovery was ever made (Shaw, 1972).

[10] There are undoubtedly some small errors in this listing. For starters, the numbers of shares listed sum to 17,761, not 17,752.