antee of small depositors in banks of Federal Reserve System; to the Committee on Banking and Currency.

1126. Also, telegram from J. K. Hughes, president Neversuch Oil Co., and E. L. Smith, president E. L. Smith Oil Co., of Mexia, Tex., favoring Federal legislation to curb oil production; to the Committee on Interstate and Foreign Commerce.

1127. Also, petition of Henderson, Kidd & Henderson, of Cameron, Tex., opposing provision of Senate bill 1094 denying loans to corporations paying salaries in excess of $17,500; to the Committee on Banking and Currency.

1128. Also, resolution adopted by the Senate of the State of Texas, favoring expenditure of relief funds upon highways in the State of Texas; to the Committee on Roads.

1129. By Mr. LINDSAY: Petition of Warehousemen's Association of the Port of New York, Inc., New York City, opposing the passage of Senate bill 158; to the Committee on Labor.

1130. Also, petition of Independent Petroleum Association of America, Washington, D.C., favoring the adoption of the oil-control measure presented by Congressman MARLAND; to the Committee on Interstate and Foreign Commerce.

1131. By Mr. LUDLOW: Petition of the Jewish Educational Association of Indianapolis, Ind., requesting the United States to make official protest of the treatment given the Jewish citizens of Germany; to the Committee on Foreign Affairs.

1132. Also, petition of the Beth-El-Zedeck Sisterhood of Indianapolis, Ind., asking the United States Government to make official protest of treatment given Jewish citizens of Germany; to the Committee on Foreign Affairs.

1133. By Mr. McFADDEN: Petition of the Order of Railroad Telegraphers, opposing the Emergency Railroad Transportation Act of 1933 unless amendments proposed by organized railway labor are incorporated therein; to the Committee on Interstate and Foreign Commerce.

1134. Also, three resolutions of the Strawn-Turner Post, No. 1627, Veterans of Foreign Wars of the United States, Seat Pleasant, Md., (1) on silver—the money of the masses, (2) on banking, (3) support of and cooperation with farmers; to the Committee on Banking and Currency.

1135. Also, petition of Edward T. Lee, a citizen of Chicago, Ill., for the abolition of railroad grade crossings; to the Committee on Interstate and Foreign Commerce.

1136. By Mrs. ROGERS of Massachusetts: Petition of Boston City Council of Boston, Mass., favoring a study of the entire matter of veterans' legislation in the hope that such study will bring about a favorable adjustment, to the end that no veteran suffering from a disability incurred in line of duty while in the active military and naval service of the United States shall be called upon to bear a greater sacrifice than other classes of the American public, bearing in mind the hardships and tribulations that they endured during the period of war; to the Committee on World War Veterans' Legislation.

1137. Also, petition of the Boston City Council of Boston, Mass., opposing the transfer of tradesmen from the Philadelphia Navy Yard to the Boston Navy Yard to work on the new destroyer which is now in process of construction; to the Committee on Naval Affairs.

1138. By Mr. RUDD: Petition of Warehousemen's Association of the Port of New York, Inc., New York, opposing the passage of the Black bill, S. 158, and the enactment of any law under which a definite limit of hours of any working day shall be placed; to the Committee on Labor.

1139. By Mr. WIGGLESWORTH: Petition of the mayor and City Council of Quincy, Mass., with reference to a study of the entire matter of veterans' legislation, in the hope that such study will bring about a favorable adjustment, to the end that no veteran suffering from a disability incurred in line of duty while in the active military and naval service of the United States shall be called upon to bear a greater sacrifice than other classes of the American public; to the Committee on World War Veterans' Legislation.

SENATE

MONDAY, MAY 22, 1933

(Legislative day of Monday, May 15, 1933)

The Senate sitting as a court for the trial of articles of impeachment against Harold Louderback, judge of the United States District Court for the Northern District of California, met at 12 o'clock meridian, on the expiration of the recess.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The respondent, Harold Louderback, with his counsel, Walter H. Linforth, Esq., and James M. Hanley, Esq., appeared in the seats assigned to them.

PROCLAMATION

The VICE PRESIDENT. The Sergeant at Arms will proclaim the Senate sitting as a Court of Impeachment in session.

The Sergeant at Arms made the usual proclamation.

THE JOURNAL

The Chief Clerk proceeded to read the proceedings of the Senate sitting as a Court of Impeachment for the calendar day of Saturday, May 20, when, on motion of Mr. ASHURST, and by unanimous consent, the further reading was dispensed with, and the Journal was approved.

ARREST OF WITNESS LEAKE

The VICE PRESIDENT. The Chair lays before the Senate a report from the Sergeant at Arms, which will be read.

The Chief Clerk read as follows:

SENATE OF THE UNITED STATES,
OFFICE OF THE SERGEANT AT ARMS,
Washington, D.C., May 20, 1933.

Hon. JOHN N. GARNER,
Vice President and President of the Senate,
Washington, D.C.

MY DEAR MR. VICE PRESIDENT: In pursuance of the order of the Senate dated May 17, 1933, commanding me to forthwith arrest and take into custody and bring to the bar of the Senate W. S. Leake, of San Francisco, Calif., I did, acting through my deputy, W. A. Rorer, on May 17, 1933, arrest and take Mr. Leake into custody.

The said W. S. Leake is now in my custody, and I await the further order of the Senate.

The original warrant issued in the case is attached hereto.

Respectfully yours,

CHESLEY W. JURNEY,
Sergeant at Arms.

EXAMINATION OF W. S. LEAKE

Mr. LINFORTH. Mr. W. S. Leake is here, in obedience to the mandate of this honorable body sitting as a Court of Impeachment, and I should like at this time to call him, out of order, as a witness on behalf of the respondent; and we desire merely to supplement the testimony given by him in San Francisco that has already been read into the RECORD by the other side of this proceedings.

The VICE PRESIDENT. The witness will be called.

W. S. Leake, having been duly sworn, was examined and testified as follows:

Mr. LINFORTH. Shall I proceed, Mr. President?

The VICE PRESIDENT. Counsel will proceed.

By Mr. LINFORTH:

Q. Mr. Leake, where do you reside?—A. San Francisco, Calif.

Q. How long have you resided in San Francisco?—A. Off and on, ever since I was 8 years of age, mostly in San Francisco.

Q. And whereabout in San Francisco do you live and how long have you lived there?—A. At the Fairmont Hotel ever since it was rebuilt.

Q. In about what year?—A. It was remodeled right after the fire in 1906.

Q. And is that one of the leading family hotels in San Francisco?—A. It is.

Q. Did you continue to live there with your wife until her death?—A. Yes.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Q. Have you lived there ever since?—A. Yes.

Q. And when did your wife die?—A. November 15, 1931.

Q. Did you have anything whatever to do with Judge Louderback's registering as a voter in Contra Costa County?—A. I did not.

Q. Did you at any time enter into any arrangement or any conspiracy with Judge Louderback with reference to that registration?—A. I did not.

Q. Did you know at or prior to the time of that registration that he had any intention of registering in that county?—A. I did not.

Q. Would you state, in your own way, and as briefly as you can, how it happened that the bills of Judge Louderback in that hotel have been made out in your name?—A. Well, I had an extra room to rent and take a nap in away from my own room on account of the illness of my wife——

Mr. Manager PERKINS. The Managers on the part of the House object to that on account of its being merely a repetition of what is already in the record.

The VICE PRESIDENT. The Senate sitting as a court admitted that record with the idea that when the witness came here he could explain the case entirely to the Senate. The counsel will proceed.

By Mr. LINFORTH:

Q. Will you please proceed with your answer, Mr. Leake?—A. May I have the question read?

The Official Reporter read the question, as follows:

Q. Would you state, in your own way, and as briefly as you can, how it happened that the bills of Judge Louderback in that hotel have been made out in your name?

The WITNESS. He told me he wanted to have a room in the Fairmont Hotel. I was given to understand that upon some little misunderstanding in his own home he preferred not to create any publicity about it. I told him he could have the room that I had used to sleep in and he occupied the room and the room continued in my name.

Q. Did you explain to the management of the hotel the fact that Judge Louderback was to occupy that room?—A. Yes, sir.

Q. And was that arrangement agreeable to them?

Mr. Manager PERKINS. We object on account of the leading form of the question.

Mr. LINFORTH. I am leading him only on account of the condition of the witness. I want to make the examination as brief as possible.

The VICE PRESIDENT. The Chair is in sympathy with the witness, but cannot counsel conduct the examination in the ordinary way?

Mr. LINFORTH. Very well. I ask that the question be read.

The Official Reporter read as follows:

Q. And was that arrangement agreeable to them?

By Mr. LINFORTH:

Q. I will put it in this way: When you took the matter up with the hotel people and explained the situation to them, what did they say?—A. Perfectly satisfactory.

Q. From that time on have you received from Judge Louderback monthly the full amount charged for that room?—A. Every single month.

Q. And did you pay the amount that you received from Judge Louderback for that purpose to the hotel?—A. I did.

Q. Were the payments made to you by Judge Louderback in cash or by check?—A. Mostly in checks. If at any time checks were not presented it was probably when he was away on vacation or away on court in some other locality and in those cases—how frequent I cannot recall—I paid the cash and upon his return invariably I was reimbursed.

Q. The checks that you so received from Judge Louderback—did you endorse those very checks and give them to the hotel?—A. I did.

Q. Do you know Mr. and Mrs. Hathaway?—A. I do.

Q. How long have you known them?—A. Mr. Hathaway and I were boys in Sacramento. Mrs. Hathaway I have known for a long time, but I have known Mr. Hathaway much longer.

Q. Did they reside at the Fairmont Hotel during the entire period that you resided there?—A. Not the entire period that I resided there. I was there a long time before they came.

Q. What were the relations, briefly, between Mrs. Hathaway and your wife?—A. They were very devoted.

Q. And how long was your wife ill before she passed away?—A. More than 2 years.

Q. Did you at any time, directly or indirectly, receive any money from John Douglas Short?—A. Not one cent.

Q. Did you at any time make a loan from your friend, Mr. Hathaway?—A. Make a loan! I borrowed money; I did not make anything.

Q. When was it that you borrowed money from Mr. Hathaway?—A. My recollection is in March—I think it was the 25th of March—1931. It was the year that my wife passed away.

Q. At that time how much did you borrow from Hathaway?—A. $1,000.

Q. Did you give him a note for that sum?—A. I did.

Q. Upon receiving that money what did you do with it?—A. I paid the bill, either to a doctor or a nurse, of $200, and put $800 in the hotel—gave it to the cashier to be credited to my account.

Q. At the time of the making of that loan from your friend, Mr. Hathaway, were you in arrears in your hotel bill?—A. I was.

Q. Do you remember how much or to what extent?—A. About $400.

Q. What was the condition of the health of your wife at that time?—A. Very precarious.

Q. Did you at any time thereafter receive any money from Mr. Hathaway?—A. Yes, sir.

Q. Will you please state when, how much, and under what conditions?—A. I cannot give you the date, but I can give the circumstances and you can perhaps fix it.

Mr. Hathaway was getting ready to go to his property in the country. He came to me and told me that he was going away for a month and he did not feel justified because he knew that I was in financial straits and he insisted and he insisted that I take $250. I told him I thought maybe I could get along until he returned, but to be safe about it I had better take it, and I did, and I am glad that I did.

Q. Were those the only moneys that were ever received as a loan from Mr. Hathaway?—A. That is the only time—those are the only times.

Q. Do you know Mr. Hunter who was appointed receiver in the Russell-Colvin case?—A. I do.

Q. Was he also a resident of this same hotel?—A. He was.

Q. Did you have any talk with him in regard to his acting as receiver in that matter?—A. I did.

Q. Will you state briefly in your own way what talk you had with him on that subject?—A. I am not able to remember the date nor the month nor the day. One afternoon—I would judge about between 5 and 6 o'clock, because I had returned to the hotel from my office—Judge Louderback came in and told me of some controversy that he had had with some gentleman by the name of Strong in reference to a receivership. He asked me if I knew of anyone who was an expert accountant and was familiar with banking and stocks and bonds. I told him that I could not recall anybody at the present time and asked him how long a time would I have to think it over and investigate. He said, "By tomorrow morning will do." I said, "I want to have time enough, because I know that you need a good man and I do not want to suggest anyone that is not."

During the conversation Mr. Hunter, whom I knew very slightly, merely to pass the time of day, walked through the lobby. I said to Judge Louderback, "There is a man you ought to have if you can get him." He asked me what he was doing, and I told him that he had just been appointed to some important position with the firm of Cavalier & Co.

and that he had been in the bank—I forget the name of it—the bank that was headed by Mr. John Drum.

He asked me if that was the same Hunter that had handled some estate or something in Alameda County. I told him I had heard something about it, but I was not sure about it. He said, "If that is the man, I know he is a good man." He asked me if I would see Mr. Hunter and see whether he was available or not. I went over and saw Mr. Hunter and told him briefly the circumstances, and he said he was not sure that he was available because he had just been appointed, and he would have to see his boss. I asked him who his boss was, and he said Mr. Cavalier, and that Mr. Cavalier either lived or had gone to Oakland, and he would not be able to see him until the next morning, and he would let me know.

Q. Did you hear from Mr. Hunter the next day?—A. I think by telephone. That is my recollection.

Q. What did he say to you?—A. That he would accept it; that he had got permission from his firm and would accept it.

Q. Did you communicate that fact then to Judge Louderback?—A. I did.

Q. What, if anything, did Judge Louderback say?—A. He asked me to have Mr. Hunter report at the Post Office Building where his court was.

Q. Did you say anything at that time as to whether or not he had removed Mr. Strong?—A. Yes, sir.

Q. What did he say in that respect?—A. I do not recall any particular conversation except that he had removed Mr. Strong and ordered Mr. Hunter to report there.

Q. When he made the suggestion to have Mr. Hunter report, was anything said about bonds or sureties?—A. Oh, yes; to be prepared to give bond in whatever the proceeding was.

Q. Was that talk with Judge Louderback over the telephone?—A. It was.

Q. After having that talk with Judge Louderback over the telephone did you communicate with Mr. Hunter?—A. I did.

Q. What did you tell him?—A. I told him just what Judge Louderback told me; for him to report there and to be prepared to give a bond.

Q. Was that talk over the telephone?—A. It was.

Q. On the evening of the day that Mr. Hunter was appointed receiver, which for your information was March 13, did you see Mr. Hunter in your room?—A. He came to my room in the evening.

Q. What talk did you have that evening with Mr. Hunter in your room on the question of his appointment as receiver, if any?—A. There was very little talk about it. He told me that he had accepted it and given a bond, and he was going to appoint an attorney by the name of Short and Erskine & Erskine. I told him I did not know who Erskine & Erskine was. He said he knew them well, and he must have known them because he spoke of them, calling them by their first names to me.

Q. Did he in your presence and from your room telephone to Mr. Short at his residence at Woodside?—A. I do not know where it was, but he asked if he could telephone—oh, I think he did, because he asked for the telephone book. He asked me if he could use my phone and I told him he certainly could, and he did use it.

Q. Did you hear his telephone talk with Mr. Short?—A. Yes, sir.

Q. In a few words, briefly, what was it?—A. He asked him if he would accept the attorneyship for the receiver, and I think he told him what the receivership was. I did not pay any particular attention because it was no affair of mine. What Mr. Short said I could not tell except that Mr. Hunter gave me to understand that he would accept it.

Q. Mr. Leake, was that the full extent of everything and anything that you did in regard to the appointment of Mr. Hunter as receiver?—A. Absolutely the last thing I had to do with it.

Q. Did you receive 1 cent of any compensation that Mr. Hunter received as receiver in that matter?—A. Not 1 cent.

Q. Did you receive as much as 1 cent of any fees paid to Messrs. Short and Keyes & Erskine in that matter?—A. Not 1 cent. As just stated, I do not know the two Mr. Erskines. I do not think I would know them if I would see them.

Q. Do you know G. H. Gilbert?—A. I do.

Q. Do you know his wife?—A. I do.

Q. What has been the length of your acquaintanceship with them?—A. With Mr. Gilbert, in our line of business, we knew each other before we met, in the telegraph business. I have known him personally for a number of years; I do not know just how long.

Q. How long have you known his wife—about, not to be exact?—A. About the same time that I have known him.

Q. Have they both been patients of yours?—A. They have and are yet.

Q. How long, without being exact, how many years back has each been a patient of yours?—A. Mrs. Gilbert a number of years; Mr. Gilbert not so long.

Q. Do you know either member of the firm of Dinkelspiel & Dinkelspiel? I do not mean the father, who has passed away, but the two sons.—A. I have never seen either one of them to know it.

Q. Do you know Marshall Woodworth?—A. I do.

Q. How long have you known him?—A. I knew of him when he was a messenger boy in Judge Hoffman's court. I have known him very well for a number of years, particularly since the time he was United States district attorney.

Q. That is, for the Northern District of California?—A. Yes, sir.

Q. The same position to which Mr. McPike has just been appointed?—A. Yes, sir.

Q. Do you know Samuel M. Shortridge, Jr.?—A. Yes, sir.

Q. How long have you known that gentleman?—A. I saw him, I think, 1 or 2 days after he was born. He was born in the Palace Hotel, where I lived.

Q. Has he at times been a patient of yours?—A. Yes, sir.

Q. Having in mind all the gentlemen that I have mentioned, did you ever receive as much as a single cent from any one of them out of any fees received by any of them, either as receivers or attorneys for receivers?—A. Not 1 cent, sir.

Q. During the 5 years that Judge Louderback has been Federal judge, have you ever made any suggestion to him in regard to the appointment of any receiver except in the case of Mr. Hunter?—A. Not one.

Q. It is in evidence here that in some 6 or 7 matters, while Judge Louderback was a judge of the superior court, he appointed you receiver in certain cases. Do you recall that?—A. Yes, sir; I recall it. They were very small cases.

Q. Do you recall generally, without going into details, the character of the cases in which you were appointed?—A. Well, they were small things pertaining to apartment houses.

Q. What was the outside figure, the aggregate figure, that you received as receiver in all of those cases?—A. There were some cases in which I did not receive anything; but, all told, it would not exceed a thousand dollars. I do not think it would come very close to it.

Q. Were you appointed by Judge Louderback as one of the appraisers in the Brickell estate, so called?—A. It was some estate of that name. I am not positive about the name.

Q. Do you recall what the inventory value of that estate was, in round numbers?—A. I could not at this time, because it has been sometime ago, and it was a matter that I did not register it enough, did not think enough about it, to.

Q. With whom, if anyone, did you confer in regard to that appraisement?—A. A Mr. Hogan—Mogan; Mogan.

Q. Was he the State appraisement officer?—A. As I understood.

Q. When you signed that inventory did you have any talk with him about it?—A. Yes, sir.

Q. Go on in your own way, but as briefly as possible, and state what he said to you on that subject.—A. My recollection is that I had 2 or 3 conferences with him, and we

went over his valuations and figures. I questioned him about the accuracy of them—not the accuracy of them but the judgment of things—and got what information I thought was necessary to justify me in signing the papers.

Q. What, if anything, did he say to you on the subject as to whether or not he had examined into and appraised each item of that estate?—A. He did. He was very particular about that and was perfectly willing to go over them, or take me to them, and let me examine them for myself.

Q. Did you make any suggestion to him as to the amount that you should receive as one of the appraisers in that estate?—A. I did not.

Q. Who was it that fixed the amount that should be allowed to the appraisers, if you know? A. I understood——

Mr. LONG. Mr. President, I just want to find out what case they are talking about.

Mr. LINFORTH. The estate of Brickell.

Mr. LONG. In the United States court?

Mr. LINFORTH. No; a State matter.

Mr. LONG. Mr. President, what has a State matter to do with this case? I want to make an objection, if it is in order to make one. I object to going into the State practice in this case.

Mr. LINFORTH. Mr. President, in view of the suggestion from the Senator, we will not go further into that subject.

Mr. Manager SUMNERS. Mr. President, we want to suggest, if we may, that the attorney for respondent should not be deterred from going into the case by reason of the suggestion, because we propose to go into it.

The VICE PRESIDENT. The Chair thinks that it is better practice. However, the counsel can pursue his own method.

Mr. LONG. Mr. President, my attention has been called to the fact——

The VICE PRESIDENT. The Chair will overrule the objection of the Senator from Louisiana if the counsel desires to go on with the case.

Mr. LINFORTH. Then, Mr. Leake, I will ask you but a couple of questions on that subject.

By Mr. LINFORTH:

Q. Did you fix or suggest the amount that you should receive as appraiser in that matter?—A. I did not.

Q. How much did you receive?—A. My recollection is that I received $500.

Q. I hand you a photostatic certified copy of the inventory and appraisement in the matter of the estate of Howard Brickell, and I call your attention to the signature "W. S. Leake", and ask you if that is your signature?—A. Yes, sir.

Q. I call your attention to the page of the inventory where the item reads:

> To services in appraising foregoing, — days at $5 per day each, services and costs, $1,750.

Did you fix or determine that amount?—A. I did not.

Q. Did you have anything to do with fixing or determining that amount?—A. None whatever.

Q. I call your attention to the page of the inventory where the total estate is appraised at $1,020,804.38, and ask you if that refreshes your memory as to the value of that estate?—A. It does.

Mr. LINFORTH. At this time we offer in evidence, as part of the testimony of the witness, the inventory just referred to.

Mr. Manager PERKINS. Mr. President, it is all printed in the record here now, at page 296, under exhibit no. 7.

Mr. LINFORTH. That may be understood. I do not care to ask that it be printed in the RECORD. I offer it, and it can be referred to at the place in the record to which the honorable manager has referred.

The VICE PRESIDENT. The Chair understands that counsel offers it to be submitted without being printed.

Mr. LINFORTH. Yes, Mr. President.

The VICE PRESIDENT. Very well.

(The inventory was marked "U.S.S. Exhibit G.")

By Mr LINFORTH:

Q. One further question, Mr. Leake: Did you at any time telephone to Mr. Short at his residence at Woodside?—A. I did.

Q. Can you fix the time that you telephoned to him?—A. It was, I think, about 1 year before Mrs. Leake's death.

Q. And what was the object of that telephone message?—A. My wife was calling for Mrs. Hathaway, and I was trying to locate her.

Q. At that time was she desperately ill?—A. She was.

Mr. LINFORTH. You may take the witness.

Cross-examination by Mr. Manager PERKINS:

Q. Mr. Leake, how long since you have been engaged in any business?—A. I sold out the business that I was conducting some time after the close of the war.

Q. So that since the close of the war you have not been engaged in any business whatever?—A. Not a business; no, sir.

Q. When did you first occupy room 26, Fairmont Hotel?—A. I do not recall. I occupied the adjoining room for a while.

Q. Please confine your answers to the questions.—A. I will try, sir.

Q. Was it before the month of September 1929—A. I could not say.

Q. How many years have you known Mr. Gilbert?—A. Well, as I have stated, I felt that I knew him before we met; but I have known him a number of years. We became quite friendly.

Q. How many years has he been in the habit of contributing to you money?—A. Only since he became a patient of mine.

Q. Did he contribute money to you in 1928?—A. I do not recall the date he commenced coming to me.

Q. Can you fix for us the date when he became a patient of yours?—A. I cannot.

Q. Was it more than 4 years ago?—A. I guess his wife was a patient at that time, but I do not recall just when he—(the witness did not finish).

Q. Was Mr. Gilbert a patient of yours in 1929?—A. I think so.

Q. And after 1929 did he contribute money to you?—A. I do not remember the dates. The only money he contributed to me was $150. His wife paid me as she went along.

Q. How often did Mrs. Gilbert contribute money to you?—A. Well, just as she felt like it. I do not know how long.

Q. Many times?—A. Well, frequently, yes, small amounts always.

Q. Beginning as early as the year 1929?—A. I would say yes, to the best of my memory.

Q. Since the year 1929 Mrs. Gilbert has frequently contributed money to you?—A. I would not say very frequently.

Q. I did not say very frequently, but you said frequently.—A. Well——

Q. Is that correct?—A. She contributed whenever she felt the disposition. I had no charge against her.

Q. Did you not call up John Douglas Short from your room on the evening of March 11, 1930?—A. I have no recollection of calling Mr. Short from my room at any time, except——

Q. Was anyone——

Mr. LINFORTH. One minute. Let the witness answer.

The WITNESS (continuing). Except the time when I called inquiring for Mrs. Hathaway, and I do not know the date of that.

By Mr. Manager PERKINS:

Q. You remember when Mr. Hunter called Mr. Short from your apartment, do you not?—A. I do not remember the date.

Q. If I should say that it was March 13, the date of his appointment, would that refresh your memory?—A. Well, if that was the time, he came to me the evening he was appointed, and he telephoned from the room at that time.

Q. He was appointed on March 13, and he came to your room on that date, and from your room telephoned to Mr. Short. Is that correct?—A. Yes, sir.

Q. And that was an out-of-town call, was it not?—A. Yes.

Q. Did you not call from your room 2 days before, and call Mr. Short on the long-distance telephone?—A. I have no recollection of it, sir.

Q. Was anyone else in your room on the 11th of March, 2 days previous to Mr. Hunter being appointed?—A. It would be impossible for me to tell. I have a great deal of company.

Q. Do you know who called Mr. Short from your room on the day or evening of March 11, 2 days before Mr. Hunter called?—A. No.

Q. How long have you been intimately acquainted with Mr. Hathaway?—A. We were boys together in Sacramento.

Q. How frequently has Mr. Hathaway contributed to you since 1929?—A. I do not know just how often. Are you referring to money that I borrowed?

Q. I am referring particularly to the $250 which he says he gave to you.—A. Yes, sir.

Q. Do you remember that gift?—A. Yes, sir.

Q. Did Mr. Hathaway contribute other moneys to you?—A. I do not recall of any. If he did, it was very small amounts.

Q. Have you had a bank account in the last 5 years?—A. No, sir.

Q. You have done your banking in cash in the Fairmont Hotel, have you not?—A. Yes, sir.

Q. When Mr. Hathaway loaned you $1,000, did he lend it to you by check or in cash?—A. My recollection is he gave it to me in cash.

Q. In fact, all of your deposits in the Hotel Fairmont have been made by you by cash, have they not?—A. No, sir.

Do you know of any checks you have deposited in the Fairmont Hotel in the last 4 years?—A. Yes, sir.

Q. What checks?—A. Any specific check? I can give you the names of people who have contributed to me by check, but the dates I could not tell you.

Q. Have you any recollection of any checks which you deposited with the Fairmont Hotel in the last 4 years?—A. I could not name any specific check, but I know that I have.

Q. Mr. Hathaway gave you $1,000 in cash, or loaned it to you, did he not?—A. Yes, sir.

Q. Have you ever repaid it?—A. I paid 1 year's interest; I have not been able to pay the principal yet.

Q. The $250 about which you have spoken was a contribution to you without intention of repayment, was it not?—A. Yes, sir.

Q. How frequently has Mr. Samuel Shortridge, Jr., visited your office in the last 4 years?—A. Quite often when he was a patient of mine.

Q. And he has contributed money to you, has he not?—A. He contributed personally $1,000.

Q. And his wife contributed money to you also?—A. He has no wife that I know of.

Q. You know Mr. Woodworth, do you not?—A. I do.

Q. He was a frequent visitor to your office, was he not?—A. I would not say frequent. He came whenever he felt like it.

Q. You maintained an office there in San Francisco, did you not?—A. I did.

Q. And Mr. Woodworth contributed money to you at your office in San Francisco, did he not?—A. Mr. Woodworth never contributed any money to me.

Q. Was he not a patient of yours?—A. No, sir.

Q. How frequently did Samuel Shortridge, Jr., contribute money to you in the last 4 years?—A. Only one time, and that was on account of what I had done for his mother.

Mr. Manager PERKINS. I object. I have not asked any question. The witness is volunteering.

Mr. LINFORTH. Just a moment. I submit the answer of the witness was proper, and it was in explanation.

The VICE PRESIDENT. The answer of the witness may go in the record.

By Mr. Manager PERKINS:

Q. How long have you been an intimate friend of Judge Louderback?

Mr. LONG. Mr. President, I did not hear the explanation the witness gave.

The VICE PRESIDENT. Does the Senator desire to have the witness repeat his answer?

Mr. LONG. I should like to know what it was.

The VICE PRESIDENT. The Official Reporter will repeat the answer.

The Official Reporter read as follows:

Q. How frequently did Samuel Shortridge, Jr., contribute money to you in the last 4 years?—A. Only one time, and that was on account of what I had done for his mother.

Mr. Manager PERKINS. I will ask the reporter to read the last question.

The Official Reporter read as follows:

Q. How long have you been an intimate friend of Judge Louderback?

The WITNESS. My real acquaintanceship with Judge Louderback—while I knew him slightly—my real acquaintance dates from after the war, when he returned from the war.

By Mr. Manager PERKINS:

Q. Will you not please tell us how long you have been an intimate friend of Judge Louderback?—A. An intimate friend? I can only by relating instances; but as to giving dates, I cannot do that.

Q. Have you been an intimate friend of his for the last 6 years?—A. Yes, sir. I do not know what you mean by "intimate." We have been very friendly.

Q. "Intimate" means very close relationship.—A. Yes, sir.

Q. Is that right?—A. I have been intimate enough with him to trust him, and he seemed——

Mr. Manager PERKINS. I object, because I have not asked for the witness' explanation of the word "intimate", and I ask that that be stricken from the record.

By Mr. Manager PERKINS:

Q. Do you recall, Mr. Leake, your employing a detective named Mr. Ramigie to shadow Mrs. Louderback, wife of the respondent?

Mr. LINFORTH. We object to that as being utterly immaterial to any issue here and not cross-examination.

The VICE PRESIDENT. The Chair is of the opinion that this jury will consider the evidence, and that what the opinion of the witness may be will not have very much influence on this jury. The witness may go ahead and answer the question.

The Official Reporter read the last question, as follows:

Q. Do you recall, Mr. Leake, your employing a detective named Mr. Ramigie to shadow Mrs. Louderback, wife of the respondent?

The WITNESS. No, sir.

By Mr. Manager PERKINS:

Q. Did you not ever pay Mr. Ramigie money for work of that character?—A. Not for the watching of Mrs. Louderback.

Mr. LINFORTH. Mr. President, may I have the answer read? I did not hear it.

The VICE PRESIDENT. The reporter will read the answer.

The Official Reporter read the last answer.

By Mr. Manager PERKINS:

Q. Did you, at the request of the respondent, employ a detective named Ramigie?—A. I did not.

Q. Did you do it on your own volition?—A. Whatever transaction I had with him was personal.

Q. Did you employ him in connection with any affair of the respondent?—A. I was trying to ascertain who was following him, or if there was anybody.

Mr. Manager PERKINS. Mr. President, I did not understand the answer. May I have it repeated?

The VICE PRESIDENT. Will the witness repeat the answer, please?

The WITNESS. Give me the question again.

The Official Reporter read as follows:

Q. Did you employ him in connection with any affair of the respondent?

The WITNESS. Any affair of his? I did it on my own responsibility.

By Mr. Manager PERKINS:

Q. What you say is that you employed this detective to find out who was shadowing Judge Louderback?—A. I had heard that such a thing was being done, and I wanted to know who was doing it, if anybody.

Mr. Manager PERKINS. Mr. President, that is all of the cross-examination.

Mr. LINFORTH. Just a question or two.

Redirect examination by Mr. LINFORTH:

Q. How long had the mother of Samuel M. Shortridge, Jr., been a patient of yours before her son made the statement to you to which you have referred?—A. A great many years.

Q. In carrying on the work you do, do you make any charges at all?—A. None whatever.

Q. Is your remuneration whatever the patient sees fit to donate to you?—A. Just whatever they give, and no more.

Mr. LINFORTH. Mr. President, there is one matter which I overlooked in the direct examination.

By Mr. LINFORTH:

Q. Since the death of your wife, have you received moneys on life-insurance policies?—A. Yes; since and before.

Q. Did the moneys you received on life-insurance policies go from time to time into this Fairmont Hotel account?

Mr. Manager PERKINS. I object to the form of the question. It indicates the answer required.

The VICE PRESIDENT. It is not necessary to lead the witness.

Mr. LINFORTH. I am leading on purpose, on account of the condition of the witness, and in order to make the matter as brief as possible. If the objection is made, I will reform the question.

By Mr. LINFORTH:

Q. In the making of deposits to your account in the Fairmont Hotel in the last 3 years, from what sources have you obtained the moneys you have deposited there?—A. Money contributed by friends, sale of my books, money that I borrowed, and money borrowed on my life insurance; and finally, on the passing of Mrs. Leake, I collected the full amount, whatever was due.

Mr. LINFORTH. No further questions, Mr. President.

Mr. CONNALLY. Mr. President, I desire to ask a question.

The VICE PRESIDENT. The Senator from Texas propounds a question, which the Clerk will read.

The Chief Clerk read as follows:

Q. Did you testify that you had employed a detective to ascertain who, if anyone, was following Judge Louderback?

The WITNESS. I did.

Q. If you have so testified, what was the name of the detective?

The WITNESS. "Louie" is about the only name I ever knew of him; "Louie" something—Ramager.

Recross-examination by Mr. Manager PERKINS:

Q. From what company did you borrow money on your life-insurance policy?—A. I think it is called the "New York Equitable".

Q. When did you borrow that?—A. I borrowed $1,500 some time ago.

Q. How long ago?—A. Quite a few years ago.

Q. Mr. Leake, do you designate yourself a metaphysical student?—A. A metaphysical student and practitioner.

Q. You are not connected with any organization, are you?—A. No, sir.

Mr. Manager PERKINS. I think that is all.

Mr. CONNALLY. Mr. President, I desire to ask another question.

Mr. LINFORTH. Mr. President, may I ask one further question?

By Mr. LINFORTH:

Q. After the death of your wife did you borrow any further amount on that life-insurance policy?—A. I borrowed all that was due.

Q. How much was that, in round numbers?—A. About $3,800.

The VICE PRESIDENT. The Senator from Texas propounds a question, which the clerk will read.

The Chief Clerk read as follows:

Q. At whose instance did you employ such detective?

The WITNESS. My own volition.

Q. How much was he paid, and who paid him?

The WITNESS. I do not know just what amount. Whatever amount it was, I paid it.

By Mr. LINFORTH:

Q. Mr. Leake, when you borrowed money from the Equitable Life Assurance Society it was one transaction and one borrowing, was it not?—A. Let me see what you mean. I borrowed first on my life insurance when my wife was alive. When she passed away I then drew the balance that was due on that, which was $3,800.

Q. Since the death of your wife you have only borrowed once, and that was after you borrowed the total cash-surrender value of the policy? Is that right?—A. On the insurance?

Q. Yes.—A. That is all I could borrow.

Q. Have you any other sources of income than those you have mentioned?—A. No.

Mr. LINFORTH. That is all.

Mr. KING. I desire to submit a question.

The VICE PRESIDENT. The Senator from Utah submits a question, which will be read.

The Chief Clerk read as follows:

Q. Were these persons who made contributions, referred to by the managers, your patients?

The WITNESS. Yes.

Mr. ROBINSON of Arkansas. Mr. President, I submit a question.

The VICE PRESIDENT. The Senator from Arkansas submits a question, which the clerk will propound.

The Chief Clerk read as follows:

Q. Did you have any special reason for keeping your funds at the hotel and not in a bank?

The WITNESS. No; it was handier for me; what I got came in such small amounts. I had a safe in my office, and when I accumulated a sufficient amount, I deposited it in the hotel.

The VICE PRESIDENT. Are there any further questions of the witness?

Mr. POPE. I desire to ask a question.

The VICE PRESIDENT. The Senator from Idaho propounds a question, which will be read by the clerk.

The Chief Clerk read as follows:

Q. Why did you employ the detective?

The WITNESS. I had my doubts about anybody following; but, if anyone was, I wanted to know what the object was. I did it as a friendly act.

The VICE PRESIDENT. Are there any further questions?

Mr. ASHURST. I wish to ask the honorable managers on the part of the House and the honorable attorneys for the respondent if they have any further questions to ask Mr. Leake. We wish to know now, because of his desire to go home.

Mr. Manager PERKINS. The managers on the part of the House have no further questions unless they are induced by questions of counsel for the respondent.

The VICE PRESIDENT. Are there any further questions?

Mr. ASHURST. I will ask that they be propounded now if there are any further questions to be asked.

Mr. LINFORTH. The respondent is through with the examination of the witness.

The VICE PRESIDENT. Then the witness may depart for his home so far as the court and Chair are concerned.

Mr. Manager PERKINS. May I ask for one moment's delay?

Mr. ASHURST. I do not know whether or not an order is necessary, but, if necessary, I ask for an order releasing the witness, so that he may return to his home when he pleases.

The VICE PRESIDENT. The Chair thinks that if the announcement is made in the presence of the court, that the witness may depart for home; there is no necessity for any further proceeding.

Mr. ASHURST. I join in that opinion.

Mr. LINFORTH. May I add, so that there will be no misunderstanding, that I was advised that the witness was in a train wreck on the way over and that he desires to rest in bed a day or two in Washington before leaving. I apprehend there is no objection to him doing so.

Mr. ASHURST. None whatever.

Mr. Manager PERKINS. On the part of the managers, there is no objection; but we want it distinctly understood that he is not going to be again recalled.

The VICE PRESIDENT. That is understood, the Chair thinks. Is that correct?

Mr. LINFORTH. We are through with the examination of this witness.

The VICE PRESIDENT. The witness may remain in the city or elsewhere so long as he pleases. The witness will retire.

(The witness thereupon retired.)

PRESIDING OFFICER FOR THE DAY

The VICE PRESIDENT. The Chair appoints the Senator from Indiana [Mr. ROBINSON] to preside for the day.

(Thereupon Mr. ROBINSON of Indiana took the chair as Presiding Officer for the day.)

REDIRECT EXAMINATION OF G. H. GILBERT

Mr. LINFORTH. Mr. President, when we took our recess last Saturday the witness Gilbert was under cross-examination. I ask now if his cross-examination was concluded. If so, we have a few questions on redirect.

Mr. Manager PERKINS. Mr. President, at the time Mr. Gilbert left the stand it was indicated that his cross-examination had not been concluded. Mr. Manager SUMNERS was conducting the cross-examination. At the present moment he is in the Supreme Court chamber.

The PRESIDING OFFICER. Is the Chair to understand that counsel for the respondent desire now to examine this witness further?

Mr. LINFORTH. The witness is right here, and we have a very few questions to ask, and should like to examine him if that is agreeable.

The PRESIDING OFFICER. Is there objection to that?

Mr. Manager PERKINS. We think the cross-examination should be concluded before there is redirect examination.

The PRESIDING OFFICER. Why should we not save time, may the Chair suggest to the managers on the part of the House, by letting counsel for the respondent go ahead and examine the witness?

Mr. Manager PERKINS. We will consent to that.

Mr. Manager BROWNING. With the understanding that we will have the right to recall him when Mr. Manager SUMNERS returns for additional recross-examination.

The PRESIDING OFFICER. The Chair thinks there is no objection to that. Let the witness be summoned.

G. H. Gilbert, having been previously sworn, was examined further and testified as follows:

By Mr. LINFORTH:

Q. Mr. Gilbert, just a question or two: Did you fix the amount of your fee as appraiser in the Brickell estate?—A. No, sir; I did not.

Q. Who did?—A. That was fixed by Mr. Mogan, the State inheritance-tax appraiser.

Q. Did you make any suggestion to him whatever as to the amount which you should receive as appraiser?—A. No, sir; I did not.

Q. When you signed the inventory, did you know what the fee was going to be?—A. No, sir; I did not.

Mr. LINFORTH. That is all of the witness.

ADDITIONAL CROSS-EXAMINATION

The PRESIDING OFFICER. Do the managers on the part of the House desire to cross-examine the witness?

Mr. Manager PERKINS. I will cross-examine on the particular questions and will then reserve the witness for Mr. Manager SUMNERS.

By Mr. Manager PERKINS:

Q. You knew that you were putting in a bill for $5 a day, did you not?—A. No, sir; I did not know that at the time.

Q. Did you not make affidavit in connection with your bill?—A. I signed the appraiser's oath.

Q. Please answer the question responsively.

Mr. LINFORTH. Just a moment. I submit the witness has answered the question.

The PRESIDING OFFICER. Let the question be repeated.

The Official Reporter read as follows:

Q. Did you not make affidavit in connection with your bill?—A. I signed the appraiser's oath.

Mr. Manager PERKINS. I said in connection with the bill, not in connection with the oath of appraiser.

Mr. LINFORTH. One moment. We object to the question upon the ground that it is without foundation, and it does not appear that the witness ever presented any bill.

The PRESIDING OFFICER. The Chair thinks the question is competent, although, strictly speaking, perhaps it is not.

Mr. Manager PERKINS. The bill appears in evidence as exhibit 7.

The PRESIDING OFFICER (to the witness). Answer the question if you can.

The WITNESS. Not before a notary.

Q. Before whom did you swear to it?—A. I signed it in the presence of Mr. Mogan, the State inheritance-tax appraiser.

Q. You knew that bill was for $5 a day, did you not?—A. I do not know that I really knew that. I may have.

Q. Did you read the bill before you signed it?—A. I probably did.

Q. Does it not say?—

Estate of Howard Brickell, deceased, to R. F. Mogan (inheritance-tax appraiser), W. S. Leake, and G. H. Gilbert.

To services in appraising foregoing, ——— days at $5 per day each, services and costs, $1,750.

And you signed that, did you not?—A. I signed that, but there was no amount fixed at the time.

Q. You mean to say that $5 was put in afterward?—A. No; I may have read the stipulation of $5.

Q. You knew that you were entitled to $5 per day for services as appraiser, did you not?—A. I may have; yes, sir.

Q. Did you not sign the paper?—A. I probably did.

Q. Well, say so if it is true. You did, did you not?

Mr. LINFORTH. Just a moment. We want to object to the form of the question as improper.

The PRESIDING OFFICER. Objection is sustained.

By Mr. Manager PERKINS:

Q. You knew that you received money for 100 days' services, did you not?—A. I did not know what I was to be paid.

Q. I object to the answer; it is not responsive. I said you knew when you received the money that you received it for 100 days' services, did you not?—A. I probably did.

Q. And you knew that you rendered no services, did you not?—A. Yes, sir.

Mr. Manager PERKINS. That is all.

Mr. LINFORTH. We have no further questions.

The PRESIDING OFFICER. The witness will stand aside. Is the Chair to understand that it is the desire to have the witness cross-examined further later?

Mr. Manager PERKINS. Yes; there was a reservation that this witness would return.

The PRESIDING OFFICER. The witness will stand aside. Who is the next witness?

EXAMINATION OF JOHN DOUGLAS SHORT

Mr. LINFORTH. Please call John Douglas Short.

John Douglas Short, having been duly sworn, was examined and testified as follows:

By Mr. LINFORTH:

Q. Would you please state your name, age, occupation, and residence?—A. My name is John Douglas Short, I am an attorney at law, and my residence is Woodside, San Francisco.

Q. How long have you been an attorney at law?—A. I was admitted to practice in 1916.

Q. When did you become associated with Keyes & Erskine?—A. In the year 1928.

Q. Prior to that had you been following the practice of your profession from the time of your admission?—A. Yes. I first was associated with Mr. C. Irving Wright. We formed a partnership soon after I was admitted to practice. We then formed an association, a group of us, with Andros & Hinkler. My partner, Mr. Wright, shortly afterward had to retire from business due to his health and I remained on in that association for several years. Mr. Walter Hepman was also a member of that association, and he and I later formed a joint office arrangement and practiced until I joined Keyes & Erskine in 1928.

Q. Did you state your age?—A. I am 38 years old.

Q. Are you a man of family?—A. I am married and have four children.

Q. Do you know the witness, W. S. Leake?—A. I do.

Q. How long have you known him?—A. I met him some time in 1927 or 1928.

Q. Would you state as briefly as possible the extent of your relations and associations with him?—A. I do not remember the occasion of meeting him, but it was sometime in the lobby of the Fairmont Hotel when myself or my family with me had gone to visit my wife's family who lived there.

Q. Are you a son-in-law of Mr. Hathaway who has been referred to here?—A. I am.

Q. Was it during a visit to your wife's family that you became acquainted with Mr. Leake?—A. Yes; my acquaintance with Mr. Leake has been wholly casual. I have only met him in the hotel on a few occasions, probably not over six to a dozen times since I first met him.

Q. Are you acquainted with Mr. Hunter who was appointed receiver in the Russell-Colvin case?—A. Yes.

Q. Would you state the extent of your acquaintanceship with him?—A. I first met Mr. Hunter in 1920 at the residence of my former partner, Mr. Wright, down at Pebble Beach. I have known him ever since. We have always been good friends. I met him professionally when he was receiver for the Security Bond & Finance Co. A client of the firm of Keyes & Erskine was one of the stockholders of that concern and we defended them in a stockholders' liability suit. Mr. Hunter as receiver was in court on a number of occasions then. Later, when he was associated with the bank for which the firm Keyes & Erskine were attorneys, I met him occasionally then. We lived near one another when I lived across from the Fairmont Hotel and we met socially occasionally. We were not intimate, but we were good friends.

Q. Did you meet him during his connections with the firm of Cavalier & Co., for whom Keyes & Erskine were attorneys?—A. Yes; I met him during that period on several occasions also.

Q. How long have you known Judge Louderback?—A. I met him merely as an attorney in his court on a few occasions.

Q. How long have you known him?—A. I think I first met him in 1928. I handled a matter for Keyes & Erskine in his court, a case of patent litigation.

Q. Have you ever had any relations of any kind with Judge Louderback except the usual relations of attorney and judge?—A. None whatever.

Q. Have you ever been a political friend of his?—A. No.

Q. How many appointments did you receive as attorney for receivers appointed by Judge Louderback during the 5 years that he acted as Federal judge?—A. We were appointed as attorneys in the Stempel-Cooley matter, a real-estate bankruptcy matter. Mr. Gilbert was appointed receiver. We acted in the matter for 2 or 3 months, and a trustee was appointed and we were out of the case.

Q. Are that and the Russell-Colvin matter the only matters in which you have been appointed as attorneys for receivers appointed by Judge Louderback during the entire time he has been on the Federal bench?—A. Yes.

Q. Were you ever appointed by him in any capacity during the 8 years he was on the State bench?—A. No. I was never in his court.

Q. Are you acquainted with Mr. Gilbert, who has been a witness here?—A. Yes. We represented him as attorney for the receiver in the Stempel-Cooley matter.

Q. Was that your first acquaintance with him?—A. Yes.

Q. Have you at any time since represented him in any matter?—A. No.

Q. What was the fee allowed in the Stemple-Cooley matter?—A. The fee was allowed by Judge Sheridan, to whom the matter was assigned. He was the referee in bankruptcy. He conducted the few hearings had and fixed the fees. I think it was $500 for the receiver and for the attorney.

Q. What is the business of your father-in-law, Mr. Hathaway?—A. He is manager of the Mutual Life Insurance Co. of New York for northern California, Nevada, and the Hawaiian Islands.

Q. Did you ever give or loan any money to W. S. Leake?—A. Never; no.

Q. When did you first learn that your father-in-law had loaned him a thousand dollars?—A. At the time of the committee hearings in San Francisco in September of last year.

Q. On the 27th of March 1931 did you owe your father-in-law any money?—A. I did.

Q. How much did you owe him?—A. I owed him $2,435 for moneys he had advanced me during the period of approximately a year prior to the time I repaid it.

Q. Were those advances made to you by check?—A. They were.

Q. On what bank?—A. On the Crocker First National Bank.

Q. Have you those checks here with you?—A. Yes.

Mr. LINFORTH. We tender them to counsel on the other side if they wish them.

By Mr. LINFORTH:

Q. On the 27th of March, 1931, did you owe your father-in-law any other money?—A. I did.

Q. How much?—A. I owed him $3,651, I think is the amount—yes; it is—on a transaction connected with his deeding to us a property at Woodside, on which we agreed that we would build a home and pay him the balance then due on the property he was purchasing. He prepared a memorandum and gave it to me at that time, and I agreed to take care of it when I could.

Q. Do you remember the date of the deed to that property by the father of your wife?—A. It was the first part of 1927, the first of the year, I think.

Q. Have you that deed here with you?—A. Yes.

Mr. LINFORTH. We tender it to opposing counsel if they desire it.

By Mr. LINFORTH:

Q. When did you receive your fee in the Russell-Colvin matter?—A. Within a day or two of the date I paid Mr. Hathaway the $5,000, between the 20th and the 27th.

Q. Upon receiving your fee did you pay back to your father-in-law the money he had loaned to you?

Mr. Manager PERKINS. I object. That is a leading question. I object to the form of the question.

Mr. LINFORTH. I withdraw the question. I was merely trying to hasten matters.

Mr. Manager PERKINS. While haste is desirable, indicating to the witness the answer desirable is not desirable.

Mr. LINFORTH. There was no such intention on my part.

The PRESIDING OFFICER. Proceed, gentlemen. The question has been withdrawn.

By Mr. LINFORTH:

Q. Did you accompany the checks to your father-in-law with a letter?—A. I did.

Mr. LINFORTH. May I ask of the learned managers if they have with them a copy of the printed exhibits?

Mr. Manager BROWNING. Which exhibit?

Mr. LINFORTH. The printed volume of exhibits which you had printed and to which you referred the other day. Never mind; a copy of it is now in my possession.

We offer at this time the letter referred to by the witness, which is printed in the RECORD volume of exhibits at page 887, and we ask permission to read it for the benefit of the court.

Mr. Manager PERKINS. We think the original letter should be produced for examination by the managers on the part of the House.

The PRESIDING OFFICER. Do managers on the part of the House deny the existence of the letter?

The WITNESS. Mr. SUMNERS has the original letter.

The PRESIDING OFFICER. In the interest of progress, the Presiding Officer would think if this is an exact copy of the letter that the copy itself might be used. Of course, the best evidence is the letter itself.

Mr. LINFORTH. Mr. President, may I add that the original letter was given to the investigators on behalf of the House when they were in California in September and they have the original letter and we have their receipt.

The PRESIDING OFFICER. If that be true, then the letter cannot be in the custody of counsel for the respondent.

Mr. Manager PERKINS. Then we have no objection to the copy. I did not know that was the fact.

The PRESIDING OFFICER. Let the letter be read.

Mr. LINFORTH. For that reason we offered the printed copy. The letter is as follows:

LAW OFFICES OF KEYES & ERSKINE,
March 27, 1931.

Mr. W. L. HATHAWAY,
San Francisco, Calif.

DEAR MR. HATHAWAY: We have finally received our compensation to date in the Russell-Colvin & Co. matter, and I can now take up at least a part of my obligations to you. The record in my two check books shows the following advances made me by you:

October 1929 (Crocker Bank)	$200
December 1929 (Crocker Bank)	100
February 1930 (Crocker Bank)	100
June 1930 (Crocker Bank)	60
October 1930 (Bank of Italy)	100
December 1930 (Bank of Italy)	100
January 1931 (Crocker Bank)	1,500
Do	75
	2,235

I also have a note in my bill file stating that I owe you "$500 for advances in 1929", which indicates that there is $200 due in addition to the first two items above. If your records do not show this, we can correct it later.

Mr. Manager LEWIS. May I interrupt? The idea is to save time. This is all in the printed record, under Exhibit 32, at page 511 of the record of this trial.

Mr. LINFORTH. It is very brief, and I want it to lay a foundation for what follows.

The PRESIDING OFFICER. The Chair thinks it would be just as well to let it be read.

Mr. LINFORTH (reading).

In addition to these advances there is our understanding in respect to the 12½ acres you deed us at Woodside, that I should reimburse you for the balance remaining due on that portion of your purchase from the Spring Valley Water Co. in accordance with the memorandum you prepared at the time we arranged to build our house. The balance arrived at was $3,651.61.

I am inclosing my check for $5,000 of which $2,435 is in repayment of your advances as above, and the rest is on account of the Woodside property, which leaves a balance on this account of $1,086.61.

Sincerely yours,

DOUGLAS.

By Mr. LINFORTH:

Q. Did you personally deliver that letter to your father-in-law?—A. I did.

Q. I hand you a bunch of canceled checks. Are these the checks showing the advance to you of $2,435 referred to in that letter?—A. Yes; these are the checks.

Mr. LINFORTH. We offer the checks, and state that they need not be printed in the record unless it is so desired.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The checks were marked "U.S.S. Exhibit H.")

The WITNESS. I might explain, in connection with that, that at the time I delivered the check of $500 with this letter to Mr. Hathaway he stated, "You do not owe me this amount." I said, "Well, I insist on paying you the amount of the balance due on the Woodside property." He stated to me at the time that at the time that he had deeded the adjoining property to his other daughter it had been free and clear, and he wanted to treat the two girls alike. Therefor, he said, "You do not owe me this, and I will not accept it; but I will take it as a loan and return it to you, as I need it, because I am going to use this money immediately on my ranch properties down here, which I am improving and building on."

By Mr. LINFORTH:

Q. And did he subsequently return to you the difference between the twenty-four hundred and odd dollars and the $5,000?—A. He did; all of it.

Q. You referred in that letter to a statement in which he had figured the balance due on the Woodside property at $3,657.61. Is the paper I show you that statement?—A. Yes. This is the memorandum Mr. Hathaway prepared and gave me at the time, before he delivered us the deed.

Q. Are those figures in the handwriting of your father-in-law?—A. They are.

Mr. LINFORTH. We offer that paper, and we do not care about it being printed in the RECORD.

(The paper was marked "U.S.S. Exhibit I.")

By Mr. LINFORTH:

Q. I hand you a deed from Caro L. Hathaway and W. L. Hathaway to Marie Hathaway Short, of date the 10th of January 1927. Is the grantee in that deed your wife?—A. Yes.

Q. The daughter of Mr. Hathaway?—A. Yes.

Q. Is this the deed by which the 11 acres that you have referred to were deeded to you?—A. It is.

Mr. LINFORTH. We offer the deed, and do not care about its being printed in the RECORD.

(The deed was marked "U.S.S. Exhibit J.")

By Mr. LINFORTH:

Q. When did you first hear of your appointment in the Russell-Colvin case?—A. I first heard of the matter of our acting as attorneys from Mr. Hunter, who phoned my residence the night of March 13, said he had been appointed as receiver of the Russell-Colvin Co., and said he wanted us to act as his attorneys. He said at the time that it was necessary to take charge the following morning, and he would like that I should meet him early, as early as 8:30, if possible; so I told him that I felt we should be very glad to represent him, and I phoned that I would speak to Herbert Erskine and Morse Erskine in the morning and try to keep an engagement with him at that hour.

I called Mr. Herbert Erskine, told him about it, and arranged to meet in the morning; and he and Morse Erskine and myself discussed it, and said we would give Mr. Hunter every possible service, and be very glad to undertake the work.

I went to Mr. Hunter's office at Cavalier & Co., had a brief discussion with him, and then we went over to the Russell-Colvin office and met Morse Erskine there and took charge of the estate.

Q. Did you have any talk of any kind at any time with Mr. Leake about your appointment as attorneys in that matter?—A. I did not.

Q. Or with Judge Louderback?—A. No.

Q. You are familiar with the statement of services which has been offered in evidence in this matter—the statement of services of the attorneys?—A. Yes.

Q. Without going over the matter, is the statement, insofar as it details the services rendered by you, correct?—A. There are two statements. They are both correct; yes.

There may be omissions from them, but whatever is in those is correct.

Q. The statement in evidence is the statement relating to the first application for fees. Did you subsequently file another statement on application for fees?—A. Yes; about 8 or 9 months after that we filed a second application.

Q. There was an application made separately for compensation on behalf of counsel, was there not?—A. In each instance there was an application made for the receiver's compensation and the attorneys' compensation; the first one at the end of approximately a year, and the second one about 9 months after that.

Q. I will put that second statement in evidence a little later; but I will ask you, Mr. Short, in the interest of brevity, whether the services outlined and designated in that second statement are correct of your own knowledge?—A. Yes.

Q. Will you tell the Presiding Officer and the Members of the Senate in your own way, but very briefly, how much time you and the firm of Keyes & Erskine devoted to the matters of this receivership?—A. Well, the work involved all of my—practically, I should say—all of my time for a year and 6 or 8 months; in other words, until the entire distribution was completed. It involved, for the first 3 or 4 months, practically all of the time of Morse Erskine; and thereafter, I should say, it took from one third to one half of his time for the period I have stated in regard to myself, a year and a half or more.

Q. Did you give to Judge Louderback, or did he receive, to your knowledge, one cent of what was awarded you as fees?—A. No.

Q. Or any other amount?—A. No.

Q. Did Mr. Leake receive any part or portion of your fees in that matter?—A. He did not.

Q. Did anyone except yourself and the firm of Erskine & Erskine receive any part of those fees?—A. No one else.

Q. How long have you lived at Woodside?—A. Since we built our home there in 1927.

Q. That is about 30 miles from San Francisco?—A. Yes.

Q. Do you recall ever receiving a telephone call or message from Mr. W. S. Leake?—A. I recall a telephone message from Mr. Leake on one occasion only.

Q. About what?—A. He was inquiring to reach the Hathaways. He wanted Mrs. Hathaway particularly. Mrs. Leake was asking for her, he said, and wanted to locate her. They were not in the hotel.

Q. Were the Hathaways at your home at that time?—A. They were not. I told him I did not know where they were, but if I could reach them, I would give them his message.

Q. Are you able to fix the time of that telephone call?—A. No; I do not remember the time of it. I merely remember the fact that that was the only time he ever phoned me.

Mr. LINFORTH. You may take the witness.

Mr. KING. Mr. President, I have an interrogatory.

The PRESIDING OFFICER. The interrogatory submitted by the Senator from Utah will be read.

The Chief Clerk read as follows:

Q. What services did Morse Erskine, your legal associate, render in the Russell-Colvin case?

The WITNESS. He was particularly active in the beginning in handling matters concerning the general estate. The thing that we had on hand that required immediate attention was the contract with Mr. Blumberg for the purchase of the Consolidated Box controlling stock; and Mr. Morse Erskine—who was a director of the United Paper Box Co., and the firm were attorneys for that concern, a competitive concern with the Consolidated—was able to interest Mr. Spiegelman, the president of that concern; and through his interest we were able to get an offer that eventually resulted in a satisfactory sale not only of the controlling stock but of a large block of the debentures and the machinery, which would otherwise have been almost a total loss.

He was, as I say, engaged in that work especially for those three very active months, and cooperated with me in research and investigation of the law of stock-brokerage liquidations, and assisted to a certain extent in devising the means and methods for handling the reclamation proceeding, resulting in the return to customers of their securities or proceeds and the eventual disposition of the estate. He was consulted by me constantly, and assisted in every phase of the work.

Mr. KING. I have another interrogatory.

The PRESIDING OFFICER. The interrogatory will be read.

The Chief Clerk read as follows:

Q. As I understand, the record shows that you conferred very often with the receiver. Why were so many conferences necessary?

The WITNESS. Well, that was largely due to the fact that there were so many—such a multiplicity of interests in the concern. There were several subsidiary companies. Each one had to be studied and analyzed and reported on. Then the reclamation proceedings were necessary to be handled.

In a stock-brokerage liquidation, unlike any other ordinary merchandising concern, a very complicated situation exists in which claims must first be had and filed; they must all be analyzed, compared with the books, and any discrepancies or arguments between the customers and the firm must be disposed of, either by litigation or by agreement. Once those claims are in comes the question of tracing securities, which is a very involved and difficult process, requiring legal advice at every turn and every phase of it.

We prepared a questionnaire in the beginning. We first studied the situation to a sufficient extent and analyzed the decisions in stock-brokerage liquidations until we were convinced of the proper method of procedure.

One of three methods could be followed:

We could simply have called for claims, had the court appoint a special master, had the court appoint certified public accountants to assist the special master to report on claims, and forced each claimant in an adversary proceeding to prove his claim and have the special master finally report it.

Or, as the defendants and others had originally hoped, it might be possible to sell the concern as a going concern and effect some sort of compromise, if necessary, with the customers.

The third program was the one we finally adopted, because of our discovery that in practically all stock-brokerage liquidations where they go through the formal procedure of an omnibus proceeding, in which a special master and accountants determine the claim, it would take us from 3 to 4 years to dispose of it. Mr. Hunter was anxious to get back to his employment; and we took the task with the understanding with him that we thought we could dispose of it within 6 months to a year. We fortunately were able to dispose of it in something over a year and half—a record in those proceedings.

The Wilson case was referred to here the other day when I was in the balcony——

Mr. Manager PERKINS. Mr. President, I do not know whether this is in response to an interrogation or not, but it seems to be quite a long speech.

The PRESIDING OFFICER. Is the Senator from Utah satisfied with the response to his question?

Mr. KING. I am satisfied, Mr. President.

The PRESIDING OFFICER. Very well. Then let the managers on the part of the House proceed with their questioning. Was there a further question on the part of the Senator from Utah? If so, the clerk will read it.

The Chief Clerk read as follows:

Q. What was the nature of your services?

Mr. KING. I think he has answered that sufficiently.

Cross-examination by Mr. Manager PERKINS:

Q. Mr. Short, at the time of your appointment as the attorney for the receiver of the Russell-Colvin Co. you were employed by Keyes & Erskine, were you not?—A. Yes.

Q. And you were receiving $200 a month for your services, were you not?—A. That was part of our arrangement; yes.

Q. That was all they paid you for your services, was it not?—A. They supplied me with an office, and all of the overhead expenses were paid. I was permitted to conduct any personal business I had.

Q. Did you conduct personal business?—A. Yes.

Q. How much did you charge, either by day or by hour, to your clients for your services?—A. I do not recall.

Q. Do you not have a rate of charge against your clients for services rendered for them?—A. A rate per hour?

Q. Per hour or per day.—A. No; I do not think so.

Q. So that you never charged your clients either per day or per hour for services?—A. No.

Q. You have testified that you spent practically all of your time on this thing for the first year, have you not?—A. Yes; I think that is right.

Q. When you say all of your time, you mean how many hours a day?—A. I could not say. I think there were some days when I probably spent not more than 4 or 5 hours, and some days when I spent 12 to 14 hours.

Q. You count Saturdays and Sundays in that, when you say all of your time?—A. I would not count Sundays, although we worked Sundays on occasion, sometimes Sunday nights.

Q. So that the total of your services, so far as time was concerned, was set out in the bill you presented to the court?—A. That would be the bulk of it. There were certain things which were omitted from that.

Q. Do you know how many hours you spent on this matter from March 14, the time of employment, to March 31?—A. You mean the year following?

Q. I mean the time of appointment, March 14, to the 31st of the same March.—A. That is, in the first month?

Q. Yes.—A. No; I do not know. I have never added up the hours.

Q. Do you know that your bill as set out shows you spent 66 hours in those 17 days?—A. I do not know. I have never checked it up.

Q. Do you know how many hours you spent in the month of April 1930 on this matter?—A. I do not.

Q. Do you know that your bill shows that you spent 141 hours?—A. I do not know, as I say.

Q. Do you know how many hours you spent in the month of May 1930?—A. I do not know the hours of any month.

Q. Do you know that your bill shows that in the month of May you spent 61 hours, May 1930?—A. I do not know.

Q. I have had a tabulation made showing the total of hours in each month for 1930, the date of your appointment in March, for 1 year, and it shows that the total amount of your time spent was 1,407 hours. Did you know that that was the amount of time spent?—A. In a year's time, 1,407 hours?

Q. Yes.—A. As I say, I never added it up.

Q. You say that Mr. Erskine spent practically all of his time for the first 3 months, do you not?—A. That would be my recollection; yes.

Q. Do you know that in the first 3 months he spent, from March 14 to March 31, 66 hours; in April, 82 hours; and in May, 53 hours?—A. As I say, I have never checked up the hours.

Q. Do you know that in June he spent only 21 hours; in July, 2 hours; in August, 16 hours; in September, 23 hours; and in October, 2 hours?—A. No. As I say, I have never checked it up.

Q. Which does not accord with your idea that he spent practically all of his time, does it?—A. I said he spent practically all of his time for 3 months.

Q. Do you know that in the whole year Mr. Erskine spent only 329 hours, according to the bill, on this matter?—A. I would be surprised if that were true. I would say he spent more time than that. He would be as accurate in keeping track of the hours as I was.

Q. What you were paid for was what was set out in the bill?—A. We were paid for the results obtained, I think.

Q. Why did you show the hours in the bill?—A. The hours we put in, the size of the estate, and the satisfaction of creditors who were at the hearing in court.

Q. What was the allowance made to you and Erskine & Erskine at the end of 1 year in this Russell-Colvin matter?—A. $46,250.

Q. Do you know that you and Erskine & Erskine were allowed $46,250 for a total of 1,741 hours?

Mr. McCARRAN. Mr. President, may the question be repeated?

The PRESIDING OFFICER. The reporter will read the question.

The Official Reporter read the last question.

The WITNESS. I should say that was probably—you have checked it up, and it must be about right.

By Mr. Manager PERKINS:

Q. I have checked it up, and had it certified by an expert accountant. A. You are doubtless right about the hours.

Q. Do you know that they allowed you and Erskine & Erskine at the rate of $26.60 per hour for that total time?—A. Is that what it amounts to?

Q. It does.—A. I take your word for it.

Q. What is the largest fee you ever personally received before this receivership?

Mr. LINFORTH. I object to that as being foreign to this inquiry. The question is as to the value of these services.

The PRESIDING OFFICER. What was the question?

The Official Reporter read as follows:

Q. What is the largest fee you ever personally received before this receivership?

The PRESIDING OFFICER. I suppose that, strictly speaking, it would not be competent, but the Chair overrules the objection. Let the witness answer.

The WITNESS. I have never received any very large fees. I think the largest fee I can recall receiving was $3,000 for some work in connection with handling the 401 Orchard & Land Co.

By Mr. Manager PERKINS:

Q. During the several years before this you had been borrowing considerable from your father-in-law, had you not?—A. No. For a period of practically a year prior to that I had been having trouble with my other properties, and I had considerable real estate, and it was in difficulties; I had lost tenants.

Mr. Manager PERKINS. I move that that be stricken out.

The PRESIDING OFFICER. The question and answer will be read.

The Official Reporter read the last question and answer.

By Mr. Manager PERKINS:

Q. For several years previous to your appointment as receiver you had been borrowing money constantly from your father-in-law, Mr. Hathaway?—A. No; that is not so. The first money I ever borrowed from him was approximately a year before this, and if you want the reason for it——

Q. I will ask for an explanation when I want it. On the 27th of March 1931, out of moneys received by you as attorney for the receiver of the Russell-Colvin Co., you sent Mr. Hathaway $5,000, did you not?—A. Yes.

Q. And 2 days before that he either loaned or gave to Mr. Leake a thousand dollars, did he not?—A. According to the record, and all I know of it, he loaned him a thousand dollars.

Q. And of that $5,000 your father-in-law said that you did not owe him a thousand dollars, did he not?—A. He refused to admit that I did owe him, and I insisted, and said it was too great a sacrifice for him to have made, and he returned it.

Q. He paid it back to you?—A. Yes; every cent of it.

Q. So the net result was that you did not pay the whole $5,000 to your father-in-law?—A. The net result was that I really paid him an advance and he refused to accept the balance I had fixed as the amount I owed him on the Woodside property, and said it was a gift to us. That is correct. I have the canceled checks for it if you wish them.

Mr. McCARRAN. Mr. President, I have sent an interrogatory to the desk which I desire to have propounded.

The PRESIDING OFFICER. The clerk will read.

The legislative clerk read as follows:

Q. What was the average of your annual income from legal services apart from the $200 monthly paid you by Erskine & Erskine?

The WITNESS. I should say not to exceed a thousand dollars a year. I had an independent income of about $5,000 a year at that time.

By Mr. Manager PERKINS:

Q. Was the independent income included in income from services?—A. No.

Mr. Manager PERKINS. Then I move that that be stricken out as not responsive and not competent. A man's private income from investments has nothing to do with this case.

The PRESIDING OFFICER. I think it may remain in the record. I do not see that it does any good or any particular harm.

By Mr. Manager PERKINS:

Q. Do you know the Matson Navigation Co.?—A. Oh, yes.

Q. Did you not apply for a position from them a short time before this appointment?

Mr. LINFORTH. Mr. President, we object to that as being utterly immaterial to any issue here involved, the only question being as to the value of these services, and whether or not the respondent allowed excessive fees.

The PRESIDING OFFICER. What is the theory on which the question is asked?

Mr. Manager PERKINS. We are endeavoring to show that this gentleman had practically no business and no income, that he was living on borrowed money, and that this fee was entirely excessive—out of line with anything he had ever done in his life before.

The PRESIDING OFFICER. The witness may answer.

The WITNESS. Some 2 or 3 years before this, I think, I had a talk with Mr. Bailey, a friend of mine, who was one of the officers of the Matson Co. and discussed the possibility of my going with them.

By Mr. Manager PERKINS:

Q. Getting out of the law business and going into the navigation company?—A. Yes.

Q. What did you say——A. That was before I joined Keyes & Erskine.

Q. What did you say was the total of your income the year previous to your appointment as attorney for the receiver in this matter?—A. My total income?

Q. From the law business.—A. As I said—I answered that inquiry by saying it was probably $1,000, in addition to the moneys I received from Keyes & Erskine.

Q. So that your total income for the year previous to the time you were acting as attorney for the receiver was about $3,400. Is that right?—A. Probably. It might have exceeded that. I recall several years when I had better fees than that. I have no record handy.

Q. Substantially all of the services rendered to the receiver were rendered by Mr. Short, were they not?—A. A great deal of the work was done by me. I do not think the most important work was done by me.

Q. Of the total of 1,741 hours for which this fee of $42,500 was rendered, you performed 1,407 hours, Mr. Erskine 329, and 5 were rendered by some unidentified person. Is not that correct?—A. Have you added up both the applications or just the first application?

Q. I am dealing merely with the allowance of $42,500.—A. Whatever you say on that I will admit, Mr. PERKINS, because I have never checked it. My principal services were in connection with handling the reclamation proceedings and preparing the report on claims, which you have published in your record. I think it was the first time that work was ever done in the West.

Q. Can you tell us the day you actually got the $46,500?—A. I could not tell you the day; no.

Q. It was just a few days previous to the 27th of March 1931, was it not?—A. Yes; because I know I wanted to pay Mr. Hathaway as soon as I could after getting the check. I secured a check from Mrs. Clarkson, Mr. Hunter's secretary, gave it to our bookkeeper——

Mr. Manager PERKINS. I object. I have not asked any question. The witness is volunteering, and we will get through more quickly if he will not volunteer answers.

The PRESIDING OFFICER. Just answer the questions.

Mr. Manager PERKINS. That is all.

The PRESIDING OFFICER. Has counsel for the respondent any further questions?

Mr. LINFORTH. No further questions.

Mr. TYDINGS. I have a question to propound.

The PRESIDING OFFICER. The Senator from Maryland propounds an inquiry, which the clerk will read.

The legislative clerk read as follows:

Q. How long did the attorneys who recommended your fee keep the papers, the petitions filed for the purpose of fixing the fee?

The WITNESS. Each of the attorneys who testified at that proceeding had the reports and the application for compensation, and I think at least 2 of the 3 who testified visited the receiver's office and went over the general lay-out of the work that was done in connection with the reclamation proceedings, in other words, investigated the work of tracing the securities, the work of apportioning the securities into the forty-six-odd pools, the work of drawing back all the customers' claims, and finally, summing up, said papers were in their hands for a period of 5 or 6 days.

Mr. TYDINGS. Mr. President, may I ask the Presiding Officer whether or not the record of the number of lawsuits in connection with this receivership has been put in the record?

The PRESIDING OFFICER. The Chair is not certain on that score.

Mr. TYDINGS. Were a number of separate pieces of litigation instituted?

The PRESIDING OFFICER. Will counsel for the respondent or the managers on the part of the House answer the question of the Senator from Maryland?

Mr. Manager PERKINS. We understand there were practically no lawsuits?

The WITNESS. That is correct. There were a few. I do not know when he took charge of the estate. I think there were five filed prior to the proceedings in pursuit of what we call "desperate" accounts, bad accounts; two of those were tried, and the others were settled. There was very little litigation.

Mr. TYDINGS. May I ask—I do not want to repeat the question if it has already been answered—if the character of the services rendered has been projected in extenso at any time in his testimony?

The PRESIDING OFFICER. If the Chair were stating the opinion of the present occupant of the chair, it would be to the effect that that has been gone into with this witness.

The WITNESS. I would be very glad to take the time of the court to say——

Mr. LINFORTH. It was also gone into by a witness who preceded him—Mr. Erskine.

The PRESIDING OFFICER. The Chair did not understand the statement of counsel.

Mr. LINFORTH. I say it was gone into also by the testimony of a preceding witness, a member of the firm—Mr. Erskine.

The PRESIDING OFFICER. Are there any further questions in the examination of this witness? If not, the witness is excused. The next witness will be summoned.

STIPULATED TESTIMONY OF W. L. HATHAWAY

Mr. LINFORTH. Mr. President, at this time, pursuant to the stipulation entered into by the respective parties, due to the illness of the witness, we read his testimony given at the preliminary examination held in San Francisco in September 1932, and we read the testimony of the witness W. L. Hathaway.

The PRESIDING OFFICER. Is there stipulation to that effect, the Chair will inquire of the managers on the part of the House?

Mr. Manager BROWNING. Yes; there is.

The PRESIDING OFFICER. Very well. Counsel will proceed.

Mr. HANLEY read the testimony given by W. L. Hathaway at the hearing before the special committee of the House of Representatives at San Francisco, Calif., September 6 to September 12, 1932, as follows:

W. L. Hathaway, being duly sworn by the chairman, testified as follows:

Direct examination by Mr. LAGUARDIA:

Q. Mr. Hathaway, where do you reside?—A. Fairmont Hotel.

Q. How long have you lived there?—A. About 12 years.

Q. What is your business, Mr. Hathaway?—A. I am manager for a life insurance company.

Q. Are you related to Mr. Short?—A. He is my son-in-law, married to my oldest daughter.

Q. That is John Douglas Short?—A. Yes.

Q. Do you know Mr. Sam Leake?—A. Very well.

Q. How long have you known him?—A. Oh, I have known Sam since somewhere in the eighties.

Q. Did you ever personally consult him for treatments?—A. I have talked over his system with him, I took his books and read them, and tried, generally, as I do most things I come in contact with, to know something about it. I never considered myself a patient until I read it the other day. I think Sam thought he was treating me, and maybe he was doing me a lot of good, more than I know.

Q. But you did not consult him for treatments?—A. I did not ask him to treat me; no.

Q. Now during the months of 1931 did you give Mr. Leake any money?—A. What month?

Q. During the year 1931?—A. I gave him $250; yes.

Q. I show you a check drawn by you dated April 17, 1931, and ask you if you can identify that.—A. This is a check I drew. I was leaving the next morning for my vacation in the Canadian Rockies and the Yellowstone, and I drew this check for my traveling expenses, and bidding Sam good-bye he told me the terrible condition he was in. His wife was expecting to die, and he did not know how he was going to eat or how he was going to pay his doctors, and he was very hard-up, and I gave him half of this amount, as I recall it, of this $250; that is my recollection. I told him, I said, "Sam, if this will help you, here, take it."

Q. This was in May?

Mr. HANLEY. It is the fifth month on the check. That would be May.

A. Yes; if that is the date on the check, that must be so.

(Check dated San Francisco 5-17-1931, no. 2121, on Crocker First National Bank, of San Francisco, pay to the order of cash, $500, signed by W. L. Hathaway, indorsed by Fairmont Hotel Co., and paid through American Trust Co., marked in evidence as Exhibit No. 29.)

Q. During the month of March 1931 did you give Mr. Leake any money?—A. Yes.

Q. How much?—A. I loaned him $1,000.

Q. Have you the check for this $1,000 that you gave Mr. Leake?—A. No.

Q. How did you give it to him?—A. Cash.

Q. Did he make any request that he preferred cash?—A. Yes.

Q. And also the $250, did he request cash at that time?—A. He did not request that of me at all. I did that voluntarily. He did not ask me for money. He just told me his terrible condition, and as I had helped him a short time before and was perhaps his oldest friend, and as I was going away for a 6 months' vacation, I felt a little guilty to go away and spend a lot of money on vacations and maybe he would be hungry.

Q. Did you take a note from Mr. Leake?—A. For the $1,000.

Q. Did you take it at that time?—A. Yes; I took it at that time.

Q. Is this the note?—A. Yes; that is the note. That is my handwriting. I wrote the note.

Mr. LAGUARDIA. May that be considered as marked, Mr. Chairman?

Mr. SUMNERS. That is the note itself of the witness?

Mr. LAGUARDIA. Yes.

Mr. SUMNERS. Suppose you just state the substance of the note to the reporter.

At this point appears the note. We now offer in evidence the photostatic copy of the note, which reads as folows:

U.S.S. EXHIBIT K

$1,000. SAN FRANCISCO, *March 25, 1931.*

On demand after date (without grace) I promise to pay to the order of W. L. Hathaway one thousand dollars for value received with interest at 6 percent per annum from date—until paid, both principal and interest payable only in United States gold coin.

No. —— Payable —— —— W. S. LEAKE.

(Endorsed on back of note:)

Interest of sixty dollars ($60.00) paid April 1, 1932.

We ask that it be considered the next numbered exhibit in evidence.

The PRESIDING OFFICER. Without objection, that order will be made.

Mr. HANLEY continued reading from the testimony of W. L. Hathaway, as follows:

The WITNESS. Mr. LaGuardia, Mr. Leake wrote that interest payment on the back. That is his handwriting. He asked me if I had the note. I thought he was going to pay it. I said, "Will you bring it up to my room?" and went to get the note. It was in my hotel. I had never taken it to the office. He took it and went over to his desk and come back and gave me $60 in currency with the note back again, and he had written this interest payment on the back.

Q. Are you sure it was in April of 1932?—A. Well, I assume he wrote the right date on there.

Q. As a matter of fact, wasn't it later than the month of April 1932?—A. No; I have no reason to think it was.

Q. You are sure it was April, are you?—A. Well, I don't know just why he wrote the date—do you mean it is something of recent date? No; it was not.

Q. This mark "April 1932"?—A. Yes.

Q. You are not sure whether it was May or June, are you, or July?—A. I think if there was any discrepancy in that date I would have noticed it.

Q. But you are not sure—positive——

Mr. SUMNERS. The witness has answered.

A. I would say that it was the date, without question; but to recall it to memory as the date there was nothing in the transaction that would. If the thought is in your mind that he wrote a later date there and that I knew it—no; there was nothing of that sort.

Q. Or he might have written an earlier date?—A. I think not, because he said, "That note is past due"; and I said, "Just about"; and when I looked at it I realized it was just about a year, and I said, "Sam, this was not a year note—this was a demand note"; and he said, "I thought it was to run for a year"; so it was just somewhere in the neighborhood of a year.

Q. Now, as a matter of fact, Mr. Hathaway, when this loan was made had you expectations that it would ever be paid?—A. Well, according to his interpretation of the letter, it was six thousand and some odd dollars.

Mr. HANLEY. Show it to me, please.

Mr. LAGUARDIA. I will certainly show it to you before I put it in evidence.

Q. According to the letter, there were cash advances of $2,235?—A. Cash advances; that is correct.

Q. And he gave you a check for $5,000?—A. That is right. He also offered to pay me and wanted to pay me an amount of money in connection with a property I had turned over to him that would still leave a balance of a thousand and something.

Q. That was not a loan, though. That was property that you had turned over to your daughter.—A. That we had turned over to them jointly. I proposed, however, when that was turned over, Mr. LaGuardia, to make this thing clear. They wanted a piece of property to build on at Woodside, a subdivision of an acreage I had bought from the Spring Valley Water Co., and which I had been paying on so much a year in installments. They took out one corner, 11½ by 12 acres, and said they would like it, and I finally said, "I will tell you what I will do; if you will pay the remaining money due the Spring Valley on that portion of the property, I will turn it over to you." The property had become very valuable compared with what it previously was, and that was a gift, anyway, because the price I was asking on it was small compared to its value.

The circumstance is this: I named a small amount. I am a man with a steady income but with a scheme of living that I have to live up to all the time, so this extra acreage was quite important to me. I took his formal memorandum. We had no written agreement outside of this memorandum that he gave me.

They went on and took the property that I gave to them, and when they came to build they did not have money enough to carry out the building scheme if they had to return me this money, and so I mortgaged a piece of property here in this city and paid off the Spring Valley so I could give them a deed to these 12 acres. Up to this time it was the intention that he should pay me back that amount.

A short time afterward my other daughter and her husband felt they would like to build on a like acreage jointly—oh, a year or so afterward—and they selected eleven and some hundredths acres. Well, they were not in very good financial condition and they could not pay me, so I gave them outright the deed to their property.

In order to adjust the thing as a family matter I proposed this: I said, "To keep what the two girls were getting equal, I will make you a present of that part also."

Q. That is, to Mr. Short?—A. Yes; that is to Mr. Short. Mr. Short was always sensitive on such matters. He felt he did not want to be taking too much from me, and while it was generally understood that I had given the two girls these two pieces of property, Short showed that the first time he had some money he wanted to repay it, and insisted—wrote this note you have there and brought it to me, and when he brought it to me I said, "Douglas, that thing stands." "Well", he said, "it has been embarrassing. Everybody has heard that 'father gave the girls property.' Now, take at least that part of it." I said, "I won't accept it that way, but I have got to borrow money. I have a

building program going on at my ranch that is going to require about $5,000 more money than my income would look out for in a few months, and it requires it." I said, "If you can give me $5,000 over and above what you owe me—loan me $5,000 over and above what you owe me"—which he could not, because we had figured it out. So I got from him about $2,500, as you will see—twenty-five hundred and some odd dollars, and the other twenty-five hundred, if you will look in my bank account.

I went and borrowed from the Crocker Bank, because you know it took that $5,000 to look out for my building program and pay up the bills, so that was the way that statement came from Mr. Short.

Q. So that the overpayment was after you had offered to give him the property the same as you did the other daughter?—A. Yes. He said, "I won't accept it that way." I said to him, "I won't accept the money. Now, I will take it as a loan, and if you need money again——" Well, it run on, and when he got to that period that seems to come to my young people ever so often—I don't know how it is, but they come to father. I did not urge him to pay it back, but when a few months went by he came in and he needed some money, and gradually I have paid it all back. I have more than paid that off, and he owes me several hundred again. It is one of these family matters that is not run exactly like a bank would.

Mr. HANLEY. I think this letter ought to go in evidence.

Mr. SUMNERS. All right, let it go in.

Mr. HANLEY. I think it is a very nice letter from the son-in-law to the dad. No objection to it going in? I am offering it.

(Letter admitted and marked "Exhibit 30.")

Mr. LAGUARDIA. Anything you offer will go in.

Mr. HANLEY. It is dated March 27, 1931, and addressed to Mr. W. L. Hathaway, Hunter-Dulin Building, San Francisco, Calif.

Mr. SUMNERS (interrupting). Just put it in the record.

Mr. HANLEY. Some letters got lost. I want it in the record. [Reading:]

MARCH 27, 1931.

Mr. W. L. HATHAWAY,
Hunter-Dulin Building, San Francisco, Calif.

DEAR MR. HATHAWAY: We have finally received our compensation to date in the Russell-Colvin & Co. matter, and I can now take up at least a part of my obligations to you. The record in my two check books shows the following advances made me by you:

October 1929 (Crocker Bank)	$200
December 1929 (Crocker Bank)	100
February 1930 (Crocker Bank)	100
June 1930 (Crocker Bank)	60
October 1930 (Bank of Italy)	100
December 1930 (Bank of Italy)	100
January 1931 (Crocker Bank)	1,500
January 1931 (Crocker Bank)	75
	2,235

I also have a note in my bill file stating that I owe you "$500 for advances in 1929", which indicates that there is $200 due in addition to the first two items above. If your records do not show this, we can correct it later.

In addition to these advances there is our understanding in respect to the 12½ acres you deeded us at Woodside, that I should reimburse you for the balance remaining due on that portion of your purchase from the Spring Valley Water Co. in accordance with the memorandum you prepared at the time we arranged to build our house. The balance arrived at was $3,651.61.

I am enclosing my check for $5,000, of which $2,435 is in repayment of your advances as above and the rest is on account of the Woodside property, which leaves a balance on this account of $1,086.61.

Sincerely yours,

DOUGLAS.

By Mr. LAGUARDIA:

Q. Subsequent to that letter, this conversation about giving the property and accepting the surplus as a loan took place?—A. Subsequently.

Q. It was after this letter from Douglas?—A. He brought that letter over to the office.

Q. And then you had the conversation?—A. And then we had the conversation. He said he wanted to pay me. I told him I would accept the difference as a loan. That was on that date, I imagine, or the day after. I don't know what the exact date is.

Mr. LAGUARDIA. May I have the committee's permission to return this note, or may I have it at this time entered in evidence?

Mr. SUMNERS. It is sufficiently in the record. It is sufficiently identified.

Mr. LAGUARDIA. I return it to you, Mr. Hathaway.

(Note returned to Mr. Hathaway.)

Thus ends the stipulated testimony.

Mr. Manager SUMNERS. Mr. President, may I ask counsel for the respondent a question in order to get a matter clear?

The PRESIDING OFFICER. There is no objection to the question being asked, if counsel is willing to answer it.

Mr. Manager SUMNERS. The question I want to ask is, without going into detail, what is the difference indicated that Mr. Hathaway said he would receive as a loan? Have you figured that out?

Mr. HANLEY. It is a question of arithmetic. I have not figured it out yet.

STIPULATED TESTIMONY OF MRS. CARO L. HATHAWAY

Mr. LINFORTH. Mr. President, at this time we offer an agreed statement as to what Mrs. Hathaway would testify to if present, opposing counsel having stipulated that such course might be followed. It is very brief and I read it as follows, it being contained in the statement marked "U.S.S. Exhibit L":

My name is Caro L. Hathaway. I am, and for many years past have been, the wife of William L. Hathaway. For more than 14 years past we have lived at the Fairmont Hotel, San Francisco. Mr. and Mrs. W. S. Leake were living there at the time we commenced to reside there, and Mrs. Leake continued to live there down to the time of her death, November 15, 1931, and Mr. Leake has continued to live there until the present time. Almost immediately upon beginning to live at the hotel I became acquainted with Mrs. Leake and a very warm and intimate friendship grew up and existed between us. In March 1931 Mrs. Leake was desperately ill and bedridden. She had been ill continuously for more than a year prior thereto and this desperate illness of hers continued down to the time of her death. In March 1931 she had day and night nurses in attendance and several doctors. During this time and for some time prior and subsequent I saw her nearly every day, and shortly prior to March 25, 1931, she confided in me the inability of her husband to meet these doctors' and nurses' bill and other expenses incident to her illness. Mr. Leake also advised me of their desperate financial condition and immediate need for help.

My husband had a policy of insurance on his life in the Mutual Life Insurance Co. of New York. I was the beneficiary in this policy. On or about March 25, 1931, I joined with my husband in an application to that company for a loan of $1,000. This was granted. On March 25, 1931, my husband brought me a check or draft issued by the Mutual Life Insurance Co. for $1,000, being check or draft no. 53636, payable to my husband and myself. My husband endorsed the check and I also endorsed it, telling him to get the money and deliver it to Mr. Leake. All of this was done so we could make a loan of $1,000 to Mr. Leake, and was done by me due to my affection for Mrs. Leake and on account of their then embarrassed financial condition, and for no other reason.

On the making of this loan to Mr. Leake, he gave to my husband his promissory note for $1,000. This note has not been paid and neither has the amount we borrowed from the life-insurance company. The reason that this sum was borrowed upon the insurance policy was because at that time neither my husband nor myself had sufficient money on hand to comply with the request of Mr. Leake for the loan of $1,000.

STIPULATION AS TO TESTIMONY OF GERALD W. MURRAY

Mr. LINFORTH. We now offer, Mr. President, the stipulation entered into by counsel representing the other side while in San Francisco relating to the testimony of the witness, Gerald W. Murray. That stipulation is entitled in this matter, and is as follows, omitting the reading of the title:

U.S.S. EXHIBIT M

In order to avoid the necessity of Gerald W. Murray, cashier, San Francisco branch of the Mutual Life Insurance Co. of New York, appearing in person as a witness upon the trial of the above-entitled matter, it is stipulated as follows:

That if present at the trial of said proceeding before the Senate of the United States sitting as a court of impeachment, the said Gerald W. Murray would testify as follows:

1. That on or prior to March 25, 1931, William L. Hathaway and his wife, Caro L. Hathaway, made application to the Mutual Life Insurance Co. of New York for a loan of $1,000 on policy 2129807, theretofore issued and then in force on the life of William L. Hathaway.

2. That such loan was granted, and on March 25, 1931, the Mutual Life Insurance Co. of New York issued its check or draft therefor, no. 53636, for $1,000, payable to the order of William L. Hathaway-Caro L. Hathaway, a photostat of said check, marked "1", being hereto annexed.

3. That the photostat hereto annexed, marked "2", is the loan statement to which the said check was attached.

4. That the said Murray, at the request of William L. Hathaway, cashed said check at the Crocker Bank, being the bank where the Mutual Life Insurance Co. of New York has its account in San Francisco, and thereupon delivered to the said William L. Hathaway the said $1,000 he had obtained upon the cashing of said check.

5. That no part of said loan has been repaid, as shown by the records of said insurance company.

That the said subpena already served upon the said Gerald W. Murray may be withdrawn.

Attached to the stipulation is a photostat of the check, showing that it is made payable to the order of William L.

Hathaway and Caro L. Hathaway, and endorsed "William L. Hathaway", "Caro L. Hathaway", and by the witness, Gerald W. Murray. Annexed to it also is a photostat of the loan agreement made at the time.

We offer the stipulation and ask that it be marked as the next exhibit in order.

EXAMINATION OF WILLIAM L. GLASHEEN

Mr. LINFORTH. If Mr. Edwards is here, we will call him; if not, the witness Mr. Glasheen.

William L. Glasheen, having been duly sworn, was examined and testified as follows:

By Mr. LINFORTH:

Q. Will you please state your name, residence, and occupation?—A. William L. Glasheen; San Francisco; division traffic superintendent of the Western Union Telegraph Co.

Q. How long have you occupied that position with the Western Union Telegraph Co.?—A. Since 1921.

Q. Do you know the witness, G. H. Gilbert, who has been appointed receiver in some of these matters?—A. Yes, sir; I do.

Q. How long have you known him?—A. Since 1897, I believe—about 25 or 26 years.

Q. At the time you first met him was he connected with the Western Union Telegraph Co.?—A. Yes, sir; he was.

Q. During your acquaintanceship with him how long did he continue in the employment of that company?—A. His service was continuous.

Q. Continuously?—A. Yes, sir.

Q. Down to what time?—A. I think his furlough expired in August 1932.

Q. When did he obtain the furlough that you have referred to?—A. I believe it was February 17 or 18, 1932.

Q. So that continuously from that time you became connected with that company down to February 1932 he was connected with it?—A. Correct.

Q. During the last 10 years of his service there, what was his official position?—A. He was night traffic manager.

Q. And, as night traffic manager, what were his hours?—A. From 4 p.m. until midnight.

Q. And what were his duties?—A. Well, he had charge of the entire operating department—general supervisor, you might say. He had entire charge of all of the different departments in the operating room.

Q. In that capacity, did he have any employees under him?—A. Yes; he did.

Q. How many?—A. Approximately 150; sometimes a little less, and sometimes more.

Q. You were his immediate superior officer, were you?—A. No, sir; I was not.

Q. Were you a superior officer of his?—A. Yes, sir.

Q. How did he discharge his duties in the capacity in which he was at the time that he took the furlough you have referred to?—A. His work was very satisfactory.

Q. Did you find him efficient?—A. Yes, sir.

Mr. LINFORTH. We have no further questions.

Cross-examination by Mr. Manager SUMNERS:

Q. What was the business of Mr. Gilbert when you first knew him?—A. He was a telegraph operator.

Q. When did he become traffic manager?—A. He was appointed night traffic manager I believe in 1918.

Q. And continued in that capacity until he was relieved from duty by the furlough?—A. Correct.

Q. Is his furlough still extended?—A. I beg your pardon?

Q. Is his furlough still in operation?—A. No, sir; it is not.

Q. What happened to that?—A. At the expiration of his furlough he failed to return to duty, and he was written off.

Q. Do you know why he failed to return?—A. No, sir; I do not.

Q. Who was his immediate superior?—A. Traffic Manager Mifka.

Q. He was general traffic manager?—A. He was the traffic manager of the San Francisco office. He was in full charge of it for 24 hours a day.

Q. And he had under him a day manager and also Mr. Gilbert, the night manager?—A. Well, in the daytime he had a number of assistants, but he was the only one that held the title of traffic manager during the day tour. There were 3 traffic managers—1 day, 1 night, and 1 late night.

Q. What were Mr. Gilbert's duties?—A. Well, they are rather difficult for me to describe.

Q. I do not mean to go into detail.—A. He had an assistant, the chief operator, for example, in charge of the automatic department, and likewise a man with a similar title in charge of the Morse department, and another one, a lady, with that title in charge of the telephone department, and another in charge of the service department; and he had a wire chief and a repeater chief under him.

Q. He had to do mainly with the mechanical operation of your branch, did he not?—A. No; it would not be "mainly." It would be more a general supervision, to see that the traffic moved promptly.

Q. I think you must have misunderstood my question. He had to do with the traffic operations, did he not?—A. Yes, sir; he did.

Q. That is to say, when a message came in at night he had responsibility to see that the message got out promptly to the party to whom it was consigned?—A. Well, let us put it this way: He was in charge of the entire office, and he had about 150 people working under him.

Q. You put it that way once before; but I am trying to find out what the 150 did.

Mr. LINFORTH. Just a moment, Mr. President. We protest against counsel interrupting the witness in the middle of an answer when the answer is responsive.

Mr. Manager SUMNERS. Yes; I will not interrupt, either, when the answer is responsive.

The PRESIDING OFFICER. Some latitude must be allowed on cross-examination.

By Mr. Manager SUMNERS:

Q. What did he do with these people?—A. What did Mr. Gilbert do?

Q. Yes; that is what I asked you. What did he do?—A. Well, he did not do anything. He was in charge of the office. The organization was such that all of these men knew where to report in their respective departments. They reported to their department head.

Q. What I am trying to find out is, what did he direct these people to do?—A. I do not know just exactly what question you are asking me. I do not know how to answer that. I can tell you what his duties were.

Q. All right; tell me those. Tell me what his duties were.—A. He went around to the different departments, if he did his job correctly, and talked to his assistant chief operator, and observed generally to see that all of the employees were attending to their work, and naturally he must have frequently scrutinized the pile of telegrams to see that they were moving promptly; and, if they were not, to go to the assistants to see why they were not.

Q. The question I asked you a moment ago was if he did not have to do with keeping the messages properly moving to the parties to whom they were respectively directed?—A. Yes; he was in charge of that, to see that all——

Q. I am asking you a specific question. That was part of his duties, was it not?—A. Yes.

Q. What were his other duties?—A. That was practically all.

Mr. Manager SUMNERS. That is all.

Mr. McKELLAR. Mr. President, I send a question to the desk.

The PRESIDING OFFICER. The Senator from Tennessee propounds an interrogatory, which the clerk will read.

The Chief Clerk read as follows:

Q. What salary did Mr. Gilbert receive from the telegraph company?

The WITNESS. $255 a month.

The PRESIDING OFFICER. Are there any further questions? If not, the witness will be excused. Summon the next witness.

EXAMINATION OF GEORGE N. EDWARDS

Mr. LINFORTH. Please call Mr. Edwards.

George N. Edwards, having been duly sworn, was examined and testified as follows:

By Mr. LINFORTH:

Q. Mr. Edwards, you also have been confined in the hospital since you reached Washington?—A. I have.

Q. Can you hear me distinctly? I ask you that because I understood your operation in the hospital was on the ear.—A. Yes; I can.

Q. If you do not hear me distinctly, do not hesitate to say so. What is your occupation and where is your residence?—A. Where is my what?

Q. Residence.—A. My occupation is fruit and vegetable canner. My residence is Berkeley, Calif.

Q. Were you the receiver in the Golden State Asparagus case, so called?—A. I was.

Q. How did you become receiver in that matter? Will you briefly state?—A. I was selected by the committee—creditors' committee—to take charge of the Golden State affairs, and after I had been there about 3 or 4 days some complications arose regarding the bank that held collateral, warehousemen's receipts secured by a certain amount of collateral, also a second mortgage covering the balance of the property.

Q. Mr. Edwards, may I be pardoned for interrupting? I just want at this time to ask by whom were you selected as receiver?—A. By Judge Louderback.

Q. At whose recommendation were you selected?—A. The American Can Co.

Q. The American Can Co., the plaintiff in the case?—A. Yes, sir.

Q. Represented by what firm?—A. Lawyers?

Q. Yes.—A. Chickering & Gregory.

Q. Before you were appointed, did the American Can Co. and its representatives make any arrangement with you as to what your compensation should be?—A. They did.

Q. What, per month, was that arrangement?—A. $1,000.

Q. And you were their appointee as receiver?—A. Yes, sir.

Q. And at their request Judge Louderback appointed you; is that right?—A. Yes, sir; I understand so.

Q. Did you talk with Judge Louderback as to who you should have as your attorney?—A. No.

Q. Let me repeat my question, Mr. Edwards, in case you did not get it. What talk, if any, did you have with Judge Louderback as to who should be the attorney for you as receiver?—A. Well, I will have to go back in order to explain it a little bit.

Q. Will you do it, but do it briefly?—A. Well, when they applied out there for a receivership, the judge said that we could have either the attorney or the receivership, and we decided—the attorneys decided—on the receivership. Then the judge said that he would appoint an attorney, that he would not appoint any particular one, but he would give us a list of attorneys, would give me a list of attorneys, and I could choose one from them. So the next day I went out there to see the judge in his chambers, and he asked me, I believe, if I had any particular preference, and I said no, and he gave me the name of Dinkelspiel & Dinkelspiel. I might qualify that by saying that I did not know that I would have to take the matter up with Mr. Fox as to who would be a competent attorney to handle the matter, so he gave me the name of Dinkelspiel & Dinkelspiel and told me if they were not satisfactory to come back and he would give me another one. So I took that name down to Mr. Fox, of Chickering & Gregory, and he told me that he did not think we could have any better firm acting.

Mr. LINFORTH. Mr. President, may I have the latter part of the answer read?

The PRESIDING OFFICER. The reporter will read.

The Official Reporter read as follows:

So the next day I went out there to see the judge in his chambers, and he asked me, I believe, if I had any particular preference, and I said no, and he gave me the name of Dinkelspiel & Dinkelspiel. I might qualify that by saying that I did not know that I would have to take the matter up with Mr. Fox as to who would be a competent attorney to handle the matter, so he gave me the name of Dinkelspiel & Dinkelspiel, and told me if they were not satisfactory to come back and he would give me another one. So I took that name down to Mr. Fox, of Chickering & Gregory, and he told me that he did not think we could have any better firm acting.

By Mr. LINFORTH:

Q. Did you then go to Dinkelspiel & Dinkelspiel, after getting that opinion from your own lawyer?—A. I did.

Q. Did you employ them as your counsel?—A. I did.

Q. Were they your counsel during the entire receivership?—A. Yes, sir.

Q. State in a few words what assistance or cooperation you got from them, and whether it was satisfactory.—A. Well, I could not state in a very few words the assistance I got from them. I got their whole-hearted cooperation. For the first 6 or 8 months I was in communication with them every day, I would say. From my point of view I considered them a very efficient and competent firm.

Q. When it came to the question of an application for fees for yourself and for the attorneys, was that taken up by you gentlemen with Chickering & Gregory, the attorneys for the American Can Co., the plaintiff in the suit?—A. It was.

Q. Did they make any objection to the amount of the fees to either one of you?—A. No.

Mr. LINFORTH. Take the witness.

Cross-examination by Mr. BROWNING:

Q. Mr. Edwards, if I understand you correctly, when you were appointed receiver, Judge Louderback told you at that time he would give you a list of attorneys from which you could choose one. Is that correct?—A. Well, I would not say "give me a list." I think there were two attorneys and myself there; and I just understood that it was not just going to be any individual attorney that he would pick out; it would be a number of ones we could choose from. Whether he actually told me he would give me a list or not I do not know.

Q. In other words, you thought you were going to have a number of legal firms submitted to you to choose from?—A. Yes, sir.

Q. When you actually came back to get the designation of your attorney, how many did he give you?—A. One.

Q. Who was that?—A. Dinkelspiel & Dinkelspiel.

Q. And you went back to Mr. Fox and asked him whether they would do?—A. Yes, sir.

Q. And at that time Mr. Fox told you that was about as good as you could do, did he not?—A. Yes, sir.

Q. In other words, he said to you at that time that that was as good as the judge would give you?—A. No; he did not say it in that way. He said that he did not know a better firm of attorneys in San Francisco—I think those were his exact words—to handle a case of this character.

Q. When did you pay Dinkelspiel & Dinkelspiel their fee in this case?—A. I have never paid them the entire amount.

Q. How much have you paid them?—A. Up to date?

Q. Yes.—A. $5,000.

Q. When did you pay that?—A. Oh, at different times. I do not think I paid them over $500 at any one time. As I had surplus funds on hand, I would give them a check for $500.

Q. Do you know the dates of those checks?—A. I do not.

Q. Have you any way of finding out what it is?—A. Yes, sir.

Q. Could you do it today?—A. No, sir.

Q. Why have you not paid all of the fee in that case?—A. I have not had the funds available for that purpose.

Q. Did you have any money in the estate at all at the time this fee was allowed?—A. Yes, sir.

Q. Why was it not paid at that time?—A. Well, we had quite a few obligations outstanding which I created, and I did not want to take that out until after we had taken care of these other outstanding obligations.

Q. Has the receivership run at a profit or at a loss?—A. Up to date?

Q. Yes.—A. I would say it broke about even.

Q. Have the creditors gotten anything?—A. The secured creditors have.

Q. Have the general creditors gotten anything?—A. You mean the unsecured creditors?

Q. Yes.—A. The unsecured creditors have not.

Q. How much obligation do you owe to these unsecured creditors?—A. About $300,000.

Q. Did the secured creditors get their money out of the sale of property on which they had the security?—A. Some of them did and some of them did not.

Q. How much of them did not, but were paid from the funds of the operation?—A. Offhand, I would say about $50,000.

Q. Can you approximate the date on which these fees were paid to Dinkelspiel & Dinkelspiel?—A. One of the first payments was made shortly after the court allowed it. The last one I made was just before I left for the East.

Q. How much was the last one you paid?—A. $500.

Q. How much was the first one you paid?—A. I am not sure, but I think it was $500. It may have been a thousand.

Mr. Manager BROWNING. That is all.

Mr. DILL. Mr. President, I desire to submit a question.

The PRESIDING OFFICER. The Senator from Washington propounds an interrogatory, which the clerk will read.

The Chief Clerk read as follows:

Q. What salary or income did you receive per month previous to your appointment as receiver?

The WITNESS. $750 a month.

Mr. DILL. I submit another question.

The PRESIDING OFFICER. The clerk will read the question.

The Chief Clerk read as follows:

Q. How much money were you paid?

The WITNESS. By whom?

Mr. DILL. By the receiver, of course.

By Mr. Manager BROWNING:

Q. I think the member of the court means as receiver, out of the estate in which you have served.—A. I have been paid $750 a month since I have been acting.

Q. How many months have you served?—A. Since September 1930.

Mr. DILL. Mr. President, I understood the witness to say that he would receive a thousand dollars a month as receiver. My question was how much he was receiving in his own private business previous to his appointment. I do not know that he understood my question.

The PRESIDING OFFICER. With that explanation of the interrogatory, let the witness answer, if he can.

The WITNESS. I was employed by the Hunt Bros. Packing Co. I had been running my own business from 1916 to 1926. I sold out my business to the Hunt Bros. Packing Co. in 1926. They wanted me to stay with them, and I was simply spending my spare time around there. I did not have any particular job, and they paid me $750 per month as a sort of retainer. In addition to that, I had my own income of probably $15,000 a year.

The PRESIDING OFFICER. Are there any further questions to be asked the witness?

Redirect examination by Mr. LINFORTH:

Q. You said that during the receivership you paid off the secured creditors. How much did you pay them off, in round numbers?—A. About $300,000.

Q. I understood you to say that your attorneys told you that you could not get a better firm than Dinkelspiel & Dinkelspiel for this particular work. Was that the reason why you did not go back to the judge to get any other name?—A. It was.

Mr. Manager BROWNING. I do not think his reason that he would want to give for his action at that time would be competent.

The PRESIDING OFFICER. The Chair does not think it does any harm. Let it stand in the record.

By Mr. LINFORTH:

Q. One further question: Did you give to Judge Louderback, or to anyone else, any part or portion of the fees that you have received as receiver in this matter?—A. I did not.

Mr. LINFORTH. I have no further questions.

The PRESIDING OFFICER. If there be no further questions on the part of the managers of the House, the witness will be excused. Let the next witness be summoned.

STIPULATED TESTIMONY OF MAX THELEN

Mr. LINFORTH. Mr. President, under stipulation entered into by opposing counsel, we now read the testimony of the witness Max Thelen, given at the preliminary hearings in San Francisco in September 1932.

The PRESIDING OFFICER. Do the managers upon the part of the House agree to this stipulation?

Mr. Manager BROWNING. Yes, sir.

The PRESIDING OFFICER. Very well; then the testimony will be read.

Mr. HANLEY read the testimony given by Max Thelen at the hearing before the special committee of the House of Representatives at San Francisco, Calif., September 6 to September 12, 1932, as follows:

Max Thelen, being first duly sworn by the Chair, testified as follows:

Direct examination by Mr. LAGUARDIA:

Q. Your name?—A. Max Thelen.

Q. You are an attorney and counselor at law?—A. Yes.

Q. Practicing in the State of California?—A. Yes.

Q. Where is your office, Mr. Thelen?—A. It is in the Balfour Building on California Street, corner of California and Sansome.

Q. Where is your residence?—A. Berkeley.

Q. You are familiar with certain facts of the Russell-Colvin Co. matter?—A. I am only familiar with certain facts. My firm was the attorney for the plaintiff, and my partner, Mr. Marrin, did most of the detail work, but I am familiar with certain facts of what took place.

Q. In the early stages of these proceedings did you have occasion to confer with Judge Louderback?—A. Yes.

Q. Did you make memorandums of these conferences?—A. Yes; I did.

Q. Do you require your memorandums to refresh your memory?—A. Yes; because this is very sudden. I did not realize until just an hour or two ago that I was to be called, and I thought it wise to bring this memoranda along so that my recollection might be refreshed.

Q. When were these memorandums made?—A. On the same day on which these various transactions took place.

Q. Immediately thereafter?—A. Well, there might be an hour or two intervening; just a short time.

Q. And these memorandums contained what you at that time set down as your recollection of what transpired?—A. That is correct.

Q. May I ask you to look at those memorandums to refresh your memory?

[Witness complies.]

A. I have them here.

Q. Now, by refreshing your memory, will you be good enough to relate in your own way just what transpired between you and others in the matter of the application for a receivership in equity for the firm of Russell-Colvin & Co. with Judge Louderback around the 11th of March 1930, and thereabouts?—A. The complaint in this case was filed on March 11, 1930, by my firm. We then went to the room of Judge Louderback's secretary, and arrangements were made for a conference with him at 11 o'clock. At that time——

Mr. HANLEY (interrupting). Mr. Thelen, so that the chairman will get it, the records on file show it was the 10th.

A. There were several complaints filed, Mr. Hanley.

Mr. HANLEY. All right, let's get no. 1 file.

A. We went to Judge Louderback's office at 11 o'clock. At that time there went into his office Mr. Marrin, my partner; Mr. Francis Brown; Mr. Guy Colvin; Mr. Berlinger; and Mr. Strong, of Hood & Strong; and Mr. Lloyd Dinkelspiel.

We requested—that is, the attorneys for the plaintiff—requested the appointment of Mr. Addison G. Strong as receiver, and that request was concurred in by the other counsel who were present. Mr. Strong had been particularly familiar with the affairs of the stock exchange, and had been familiar with the affairs of this particular concern, and we thought that he was well qualified to act as receiver.

Judge Louderback agreed to appoint Mr. Strong as receiver on his filing of bond in the sum of $50,000, and also the plaintiff's filing of the bond in the sum of $50,000 to protect any creditors who might be injured by the appointment of a receiver. My memorandum of March 11 then contained these remarks:

"Judge Louderback emphasizes the proposition that Mr. Strong will be an officer of the court and that he must confer with the judge in the matter of the appointment of his attorney. The judge asked Mr. Strong whether he had selected any attorney, and particularly whether he had selected any of the attorneys who were there present in the room. Mr. Strong said no, that he had not. Judge Louderback also insisted on the dismissal of case no. 2594, which had preceded case no. 2595, before the receiver should be appointed in the latter case. After leaving Judge Louderback's courtroom, the attorneys conferred, and it seemed

that it would be impossible to raise a bond of $50,000 for the plaintiff, so the attorneys returned to Judge Louderback's chambers and he thereupon consented to reduce the amount of the plaintiff's bond to $10,000."

And by this time it was 12:30. The next memorandum I have is dated March 13. It recites that about 9:20, Miss Berger, who was Judge Louderback's secretary, phoned that the judge would agree to see either Mr. Marrin or myself at 12 o'clock, and it developed later that a similar message had been sent to Mr. Frank Brown, so the three of us called on the judge at 12 o'clock and he told us—and I am referring constantly to my memorandum because I think that would be far more satisfactory. I think you understand now that I haven't the recollection of what took place several years ago. My memorandum states:

"The judge told us that he was dissatisfied with the attitude of Mr. Strong, and that he had failed to keep an engagement to return to see him the afternoon before, and that instead of that, a member of the Heller firm had called upon the judge, and then said that he regarded Mr. Strong's signature to a petition to have the Heller firm appointed as his attorney as an attempt to force the judge's hand, and thereupon the judge said that he had suggested to the receiver the possible appointment of other counsel besides the firm of Pillsbury, Madison & Sutro, or the firm of Sullivan, Sullivan & Theodore J. Roche, but that the receiver did not regard either of those suggestions favorably."

My memorandum says:

"The judge did not say anything of having mentioned to the receiver the name of Douglas Short or of Keyes & Erskine. The judge said that he had decided that he would not go along with Mr. Strong as receiver, but he had asked him to come back at 12:45, at which time he would permit him to sign a resignation which the judge had already prepared. The judge said that if Mr. Strong did not sign that, he would then immediately make an order removing Strong as receiver, and that he would serve a certified copy thereof on the receiver. The judge further said that he had given careful consideration to the selection of some other man as receiver whose ability and standing would be above reproach, and that there had occurred to him the name of H. B. Hunter, who was connected with the firm of William Cavalier & Co. The judge said that Mr. Hunter was a juror in his court and also that he had been recommended to him by Mr. Sidney L. Schwartz, who was the former president of the San Francisco Stock Exchange. The judge asked us whether we knew anything against Mr. Hunter. He gave us until 4 o'clock to make inquiries and advise him, if we so desired, concerning Mr. Hunter. We all three took the position that if any error had been committed, that it was not an error on Mr. Strong's part."

And I am again quoting from my memorandum:

"Mr. Brown pleaded for a reconsideration of the judge's decision as to Mr. Strong, but the judge would not change his mind. He said that if Mr. Strong was retained and the judge did not permit the Heller firm to be his attorneys, it would put the judge in an embarrassing position, and he said that the only way to handle the matter is to cut the Gordian knot by getting rid of Strong as receiver. The judge further said that it would be entirely agreeable to him or this firm (meaning my firm, Thelen & Marrin) to dismiss the pending proceeding, thereby getting rid of the entire matter, but our firm of course could not consent to such action for the reason that we knew that in the interest of the creditors and the partnership a receiver was necessary, and so we could not dismiss the proceeding. Judge Louderback further said that a number of names had been suggested to him for receiver and that two parties who had consulted him in the corridor had suggested the appointment of William A. Sherman, former master of the Masonic lodge in San Francisco, but the judge added he could not think of appointing Mr. Sherman for the reason that his attorneys are Joseph McEnerney and Samuel Shortridge, Jr. The judge further said that he would ask Mr. Hunter, if he decided to invite him to serve, whether any attorney had spoken to him about the matter, and that he would then let him go his own way. He further said that if Mr. Strong resigned, he would withhold notice of the action until 4 o'clock. At that time he might announce the appointment of H. B. Hunter, but that if Mr. Strong refused to resign and the judge made an order removing him, he would file such order promptly."

At 12:45 we three—that is, my partner, Mr. Marrin, Mr. Brown, and myself—left the judge with the understanding that we might communicate to him anything which we desired to say concerning Mr. Hunter prior to 4 o'clock, but as we went out we noted Mr. Strong in the anteroom, apparently awaiting his turn.

My next memorandum is likewise dated March 13, 1930, and states:

"About 1:40 that afternoon Miss Berger, Judge Louderback's secretary, phoned while I was out of the office asking that we call her about 3 o'clock, and shortly after 3 o'clock I came into the office and Miss Berger put me on Judge Louderback's phone. The judge said that he wanted me to know that Mr. Strong had first attempted to straighten out the situation and had admitted that he had done wrong, but (this is the judge's language to me) after that he did not intend to resign, and had been told by his attorneys not to resign. The judge said that Mr. Strong had stated that he considers that he owes allegiance to his attorneys and not to the court."

This action is what the judge told me. My memorandum continues—of course this is hearsay—

"The judge thereupon made and filled his order discharging him."

This is a matter that is not within my personal knowledge. Now Mr. LaGuardia, those are my only memorandums that brought on the initiation of this matter. After that, my partner, Mr. Marrin, did practically all the work that was done by our firm. But I do want to make one comment that bears on the angle of the fees of the receiver and of counsel for the receiver. I heard testimony here this afternoon that all the attorneys had agreed to those fees, and I want to make it perfectly clear that the firm of Thelen & Marrin never did agree to any fees that were requested by the receiver or his counsel or to the fees that were finally allowed by the judge. I want the record to be perfectly clear that this firm made no such agreement. I know other facts in connection with the fixing of the fees, but I don't know whether you are interested, so I have not mentioned them.

Q. You state that you did not consent to the fees asked?—A. We did not consent to any fees asked for by the receiver or by his counsel, and I can expand on that if you desire.

Q. Well now, Mr. Thelen, have you made careful inquiry as to the amount of work that was required to liquidate this partnership?—A. Well, I am sorry that I have not. My partner was very much more familiar with the affairs of the entire liquidation, and he would probably know about it, but as I say, I was in on the beginning, then he did the rest, and I just came in later toward the end.

Q. Just what is it you would like to add concerning these fees?—A. What I would like to add is this, in exemplification of the comment I made, that we had never agreed to those fees. Shortly before the matter of the fees came before the court, our firm was, of course, advised as to the demands which would be made or the requests which would be made by the receiver and by his counsel, and my partner came into the room to discuss what position our firm should take in connection with that matter. Mr. Marrin expressed the opinion that the fees that were being asked were extremely high, and he was bothered to know as to whether this firm owed an obligation to contest those fees. We analyzed the situation and came to this conclusion, as far as one of our clients, the plaintiff Olmstead, is concerned, that he was to get practically everything for which he had asked. His securities were going to be returned to him, so that he had practically no interest in the question of the amount of the fees.

We had another client who was in a different position and who did have an interest. He had a large claim. I think it was at least partly not secured, and we decided that the right thing to do was to ask that client as to what position we should take in connection with the fees that were being asked for the receiver and his counsel, and we did so and pointed out to him—that is, my partner did this—that in case we should be overruled by the court and it should be necessary finally to appeal to the next higher court considerable expense would be involved, and finally our client told us that it would not be necessary for us to take any position in opposition to those fees.

Now, furthermore, later on, when the question of fees came before the court, there were many conferences in the corridor, about which I heard some reference this afternoon, and I want to make it perfectly clear that I never agreed, either in the conferences or in this court room, to the fees that were finally fixed for the receiver and his counsel.

I have no legal interest in the matter, but I make that statement here because I considered it extremely high. I want the record to be perfectly clear on that subject.

Q. When Judge Louderback suggested to you to dismiss the petition, a previous petition had already been dismissed in this matter, had it not, Mr. Thelen?—A. Yes. There had been a former complaint, which I think had been then dismissed. In any event, before our receiver was finally appointed and qualified I believe that prior complaint was dismissed.

Q. So that the only matter before the court was the application then pending in which Mr. Strong had been appointed receiver and was officially receiver at that time?—A. That is correct.

Q. The partnership had already been suspended from the San Francisco Stock Exchange?—A. Yes; that had been done before our complaint was filed.

Q. That was common knowledge?—A. Yes; the newspapers were full of it.

Q. So that a compliance with the request of Judge Louderback to dismiss your petition, the only petition then pending, in order to eliminate an unpleasant situation, would have caused a great deal of confusion and loss to some of the creditors, would it not?—A. I did not mean to say that Judge Louderback had requested that we dismiss the complaint, but he suggested that if we dismiss the complaint the entire matter would be solvable. I don't believe he made the direct request that we dismiss it.

Q. You were in the judge's chambers, were you not?—A. That is correct.

Q. And there were several attorneys before the judge of the court?—A. That is correct.

Q. With due deference to the judge in chambers, the same as on the bench. Attorneys always so conduct themselves, do they not?—A. Yes.

Q. So that the hint was thrown out by the judge that if the complaint were dismissed it would solve all of this trouble concerning the receiver?—A. My memorandum says:

"The judge said it would be entirely agreeable to him if this firm should dismiss the pending proceeding, thereby getting rid of the entire matter."

Q. And leaving the creditors, and leaving the situation at the mercy of the partners or some of the creditors, with the firm

suspended from the stock exchange, and this information already having gone out?

Mr. HANLEY. That is argumentative. He has stated what was said.

Mr. LAGUARDIA. I think you are right.

Cross-examination by Mr. HANLEY:

Q. Mr. Thelen, on the desk of the chairman is the original petition. It shows the filing date as of the 10th day of March.—A. There may be an error of a day there, Mr. Hanley.

Q. Were you present when the papers were both filed?—A. Yes.

Q. Were they filed—the number of this case is 2595-L—"L" meaning Judge Louderback—and the former case that was dismissed was 2594-S—"S" meaning Judge St. Sure. They were filed simultaneously, were they?—A. I think that is correct.

Mr. HANLEY. I think that is all.

RECESS

The PRESIDING OFFICER. May the Chair suggest to the Senator from New Mexico [Mr. BRATTON] in the absence of the Senator from Arizona [Mr. ASHURST] that it might be well to move a 10-minute recess.

Mr. BRATTON. Mr. President, I move that the Senate take a recess for 10 minutes.

The motion was agreed to; and (at 3 o'clock and 25 minutes) the Senate, sitting as a Court of Impeachment, took a recess for 10 minutes. At the conclusion of the recess the Senate, sitting as a court, reassembled.

EXAMINATION OF SAMUEL M. SHORTRIDGE, JR.

Mr. LINFORTH. Please call Mr. Shortridge.

Samuel M. Shortridge, Jr., having been duly sworn, was examined and testified as follows:

By Mr. LINFORTH:

Q. Will you please state your name, occupation, and residence?—A. Samuel M. Shortridge, Jr., attorney at law, Menlo Park, Calif.

Q. Are you a son of the former Senator of the same name from California?—A. I am; yes, sir.

Q. Do you know the respondent, Judge Louderback?—A. I do.

Q. How long have you known him?—A. About 10 years.

Q. And what has been the extent of your acquaintanceship with him?—A. Very casual.

Q. During the time that he was judge of the State court during a term of 8 years, were you appointed to any office by him?—A. I was not.

Q. During the time he has been Federal judge, covering a period of 5 years, did you receive any appointments from him?—A. Yes, sir; two.

Q. Do two appointments cover your entire appointments during the 5 years that he has been Federal judge?—A. Yes, sir.

Q. What were those two cases?—A. H. G. Lane & Co. and the Lumbermen's Reciprocal Association.

Q. In either one, did he fix the amount of your compensation?—A. He did not in the Lane case, but he did in the Lumbermen's case.

Q. Did he receive any part or portion of any compensation awarded to you in either one of those cases?—A. He did not.

Mr. LINFORTH. You may take the witness.

Cross-examination by Mr. Manager BROWNING:

Q. What other receivership matters, Mr. Shortridge, have you had in the Federal court?

Mr. LINFORTH. One minute. We object to the question as not cross-examination and utterly immaterial to this inquiry.

The PRESIDING OFFICER. The Chair thinks that is correct. The objection is sustained.

Mr. Manager BROWNING. Mr. President, do I understand that I will not be permitted to go into anything except these two cases with this man to show his relationship with the Federal court?

The PRESIDING OFFICER. The present occupant of the chair would be bound to hold that it would not be proper cross-examination in connection with the evidence that has already been brought out by the counsel for the respondent.

Mr. Manager BROWNING. When he is presented as a witness, I understand that we have a right to test his relationship to the Federal court when that is the question involved.

The PRESIDING OFFICER. Precisely; but——

Mr. LINFORTH. May I add a word?

The PRESIDING OFFICER. Just a second. The Chair believes that the ruling is correct.

Mr. Manager BROWNING. Very well, sir.

By Mr. Manager BROWNING:

Q. What was your fee in the H. G. Lane case?—A. $10,000.

Q. When did you get that fee—what date?—A. Along in the spring of 1929.

Q. Do you know what month?—A. It was either May or June, I believe. I am not positive.

Q. Did this fee go into your firm?—A. No, sir.

Q. Where did you put it?—A. In the bank.

Q. Have you a safe-deposit box?—A. I have; yes.

Q. Did any of it go into that?—A. No, sir.

Q. In the Lumbermen's Reciprocal Association case there was an appeal taken to the circuit court on your appointment as receiver, was there not?—A. Yes, sir.

Q. The circuit court reversed the respondent in his holding that you were rightful receiver, and sent the case back to be turned over to the State commissioner, did it not?—A. Yes, sir.

Q. And an order was made by the respondent to turn the estate back to the Commissioner of Insurance for the State of California?—A. It was.

Q. Do you recall the provision in that matter——

Mr. LINFORTH. Just one moment, may it please the Presiding Officer. We submit that this is not cross-examination in any sense of the word.

The PRESIDING OFFICER. The Chair would suggest that this may have to do with testing the credibility of the witness; and counsel can go into that matter in any fiduciary relationship the witness has had, except that it must be connected with this respondent, as the Chair understands the law.

As the questions were asked by counsel for respondent, and as the Chair understands the law to be, the managers for the House may go into any question connected with this witness's relation with the respondent in connection with these receiverships; but so far as receiverships are concerned with which this respondent has nothing to do, and clear outside of the record, the Chair has ruled on that question. Therefore the objection will be overruled.

Mr. LINFORTH. Mr. President, my main thought in making the objection was in the interest of time, as I am trying to conclude today, if possible.

The PRESIDING OFFICER. The Chair is interested in that suggestion also, and the Chair is satisfied that counsel for the respondent will do the best possible to save time.

Mr. Manager BROWNING. Mr. President, the suggestion comes rather late from counsel.

By Mr. Manager BROWNING:

Q. You recall the provision in the order that it will be turned over only on condition that there would be no appeal taken from the fees awarded counsel?—A. I never saw the order.

Q. But you do know that is in the order, do you not?—A. I have been so advised since then.

Q. Appeal was taken from the allowance of fees, was it not?—A. It was.

Q. How much in fees did Judge Louderback allow to you in the Lumbermen's Reciprocal case?—A. Six thousand dollars.

Q. How much to your counsel?—A. Six thousand dollars.

Q. That was paid by you as receiver out of the assets of this concern?—A. It was.

Q. Since that time an order has been made on you, because of the partial reversal of that allowance on the second appeal, to pay a portion of the fee back, has it not?—A. I have seen something about it in the newspapers, but I have had no formal order served on me.

Q. Have you been made acquainted with the opinion that was rendered last September reversing, partially at least, the order of respondent in allowing fees?—A. I read it in the advance reports.

Q. It does what?—A. I read the opinion in the advance reports.

Q. You know that it requires a portion to be paid back?—A. So I understand.

Q. You have not returned that fee, have you?—A. I have not been called upon to do so. When I am called upon I will do so, naturally.

Q. Do you mean to say the mandate has not come down from the circuit court?—A. The last I heard of it was about 2 months ago, when I was home very ill, and I read something about it in one of the newspapers, that Mr. Guerena, the attorney for the insurance commissioner, was getting out some writ in the State supreme court.

Q. Do you not know that, at the solicitation of your counsel in that case, the respondent has made an order, since that mandate came down from the court of appeals, calling for that to be paid within 30 days from that order which he made, and that 30 days has long since expired, has it not?—A. It has; yes.

Q. What part of your fee were you asked to refund?—A. One half.

Q. And how much of your expenses?—A. You mean in percentage?

Q. In amount.—A. I think it amounted to around $2,000, I believe it was.

Q. How long have you known W. S. Leake?—A. He once told me that he first saw me when I was 2 days old.

Q. In fact, you have known him practically all your life?—A. Yes.

Q. You have been a patient of his?—A. In a way.

Q. What do you mean by "in a way"?—A. My mother has been a semi-invalid for 25 years. Mr. Leake has treated her for about 10 or 12 years. She has been in a very nervous condition, nervous prostration, and I would go to see Mr. Leake, consulting him about my mother's health, and—I guess this is off the record—but she used to ask him to have me treated, to try to have me stop smoking cigarettes.

Q. Is that the only trouble you have ever been treated for?—A. By him; yes.

Q. Did you pay him for that?—A. Yes; but he was not successful.

Q. How much money have you paid Mr. Leake for that?—A. For that?

Q. Yes.—A. Nothing.

Q. How much money have you given him over this course of years that he has been treating either you or your mother?—A. Oh, maybe $1,500.

Q. Did you pay him in cash or by check?—A. Once or twice by check, and then my mother would give me envelopes to give to him; it may have been cash in them, or it may have been a check—one of my mother's checks.

Q. But you knew it was compensation to him?—A. It was; yes.

Mr. Manager BROWNING. I believe that is all.

Mr. LINFORTH. Just one question, with your permission, Mr. President.

Redirect examination by Mr. LINFORTH:

Q. When the fee for $10,000 was allowed to you in the Lane case, what judge allowed it?—A. Referee in Bankruptcy T. J. Sheridan, sitting as a special master in equity, fixed the fee.

Mr. LINFORTH. No further question.

Recross-examination by Mr. BROWNING:

Q. That was under an appointment, though, made by Judge Louderback?—A. It was.

Mr. Manager BROWNING. That is all.

The PRESIDING OFFICER. The witness will be excused.

The witness retired from the stand.

EXAMINATION OF HARRY L. FOUTS (RECALLED)

Mr. LINFORTH. Call Harry L. Fouts.

Harry L. Fouts, heretofore sworn as a witness, was recalled and testified as follows:

By Mr. LINFORTH:

Q. Mr. Fouts, you have already testified that you are one of the deputy clerks in the ninth circuit, northern district of California?—A. That is correct.

Q. Have you examined the records to ascertain, during the 5 years that Judge Louderback has been a judge of that department, in how many cases he has appointed receivers?—A. In 10 equity cases, 16 bankruptcy cases.

Q. Have you examined the records for the purpose of ascertaining whether or not, prior to the filing in the Russell-Colvin case, there was ever a double filing made before?—A. I have.

Q. How far back did you examine the records?—A. I went back to the beginning of the equity dockets. That was about 1912.

Q. Did you find any such situation except in this one case?—A. This is the only instance it has ever been done.

Mr. LINFORTH. Take the witness.

Cross-examination by Mr. Manager SUMNERS:

Q. Have you found any double filing in bankruptcy cases?—A. No; I have not.

Q. You do not find any of the number of gentlemen who are referred to in connection with receivership or attorneyship in any but the five cases with which you are familiar, the ones to which the inquiries are being directed?—A. No; I do not believe they are connected with any of the other cases.

Q. What is the largest amount, either as a fee for attorney or as a fee for receiver, you found in the other equity cases?

Mr. LINFORTH. We object to that as not being cross-examination in any sense of the word.

The PRESIDING OFFICER. The objection will be overruled. Answer the question.

The WITNESS. The largest amount I know of for any receiver amounted to $70,000.

By Mr. Manager SUMNERS:

Q. What case was that?—A. That was in the receivership of the Western Pacific Railroad Co.

Q. Was that a case in which Judge Louderback appointed the receiver?—A. No; that was back in 1915 or 1916.

Q. That was with reference to a Pacific railroad company, was it not?—A. With reference to what?

Q. A receivership with reference to a Pacific railway company?—A. Western Pacific Railway Co.; yes.

Q. Have you a list of the 10 cases as to which you have examined the record concerning which Judge Louderback appointed receivers or attorneys?—A. I can produce a list of those cases. I have not it with me.

Q. Perhaps this would refresh your memory: Pioneer Fruit case, Fageol Motors case, Lumbermen's case, Asparagus case, Sempel-Cooley case, the Prudential case, the Russell-Colvin case, and the Sonora case. Do you remember the other cases?—A. I think three of those cases you mentioned are bankruptcy cases, and not equity.

Q. They were all instituted in equity cases, were they not?—A. No; that is not true. The Sonora case and the Sempel-Cooley case were both bankruptcy in the original filing. I think one other.

Q. Will you get a list of the cases to which you refer?—A. Yes; I can produce that.

Mr. Manager SUMNERS. That is all.

The PRESIDING OFFICER. Are there any further questions? If not, the witness will be excused.

The witness retired from the stand.

The PRESIDING OFFICER. Are counsel prepared to proceed further?

Mr. LINFORTH. I desire to ask the witness a question or two in redirect examination.

The PRESIDING OFFICER. Let the witness be recalled.

EXAMINATION OF HARRY L. FOUTS (RECALLED)

Harry L. Fouts, having been heretofore duly sworn, was recalled and testified as follows:

By Mr. LINFORTH:

Q. Mr. Fouts, opposing counsel asked you with reference to amounts allowed in receivership cases. Are you familiar with the case of the First National Bank of Medford against the Stewart Fruit Co.?—A. Yes; I am.

Q. Did you examine the record in that case?—A. I did.

Q. In that case, how much were the assets?—A. I think it is a little over a million dollars.

Q. A million ninety-four thousand; is that right?—A. That is about it.

Q. Who were the receivers in that case; do you recall?—A. E. G. Potter.

Q. How much was allowed as receiver's fees in that case?—A. If I remember right, it is about $48,000.

Q. Who were the attorneys for the receiver in that case, if you recall?—A. I think it is Pillsbury, Madison & Sutro.

Q. Merely to refresh your memory, was it Knight, Boland & Christen?—A. Yes; Knight, Boland & Christen.

Q. How much were the fees allowed to them in that case, which concerned approximately a million ninety-four thousand dollars?—A. I do not recall the exact amount now.

Q. In round numbers?—A. I think it is around forty to forty-five thousand dollars, and besides that, they were allowed $75 for every day in court, plus 10 percent of all collections made.

Q. Does it refresh your memory if I call your attention to a record where the aggregate fees were $48,606?—A. I know that it is very nearly that.

Q. That matter was not before Judge Louderback, was it?—A. No; those fees were allowed by both Judge St. Sure and Judge Kerrigan.

Mr. LINFORTH. No further questions.

Mr. Manager SUMNERS. Mr. President, it is understood that this witness is excused, with the privilege on our part of calling him tomorrow when he shall have gotten data.

The PRESIDING OFFICER. Very well. The witness will be excused, subject to being recalled tomorrow.

WITNESS MALING—SERVICE OF SUBPENA

The PRESIDING OFFICER laid before the Senate, sitting as a court, a communication from the Sergeant at Arms, which was read, as follows:

[Chesley W. Jurney, Sergeant at Arms; J. Mark Trice, Deputy Sergeant at Arms and Storekeeper]

SENATE OF THE UNITED STATES,
OFFICE OF THE SERGEANT AT ARMS,
May 20, 1933.

Hon. JOHN N. GARNER,
Vice President and President of the Senate,
Washington, D.C.

MY DEAR MR. VICE PRESIDENT: There is attached hereto a subpena for Walter G. Maling, of San Francisco, Calif., which was ordered by the Senate on May 18, 1933. The subpena has been duly served and return made according to law.

Respectfully,

(Signed) CHESLEY W. JURNEY,
Sergeant at Arms.

EXAMINATION OF WALTER G. MALING

Mr. LINFORTH. Mr. President, we should like to call Mr. Walter G. Maling.

Walter Maling, having been duly sworn, was examined and testified as follows:

By Mr. LINFORTH:

Q. Would you please state your name, your residence, and your occupation?—A. Walter G. Maling, Mill Valley, Calif.; clerk of the United States District Court for the Northern District of California.

Q. How long, Mr. Maling, have you been clerk of that court?—A. Since 1912.

Q. Continuously?—A. Continuously.

Q. Have you examined the records to determine when, if at all, before the filing of the two complaints in the Russell-Colvin case such a condition ever existed before—that is, of two filings being made?—A. I have examined the records.

Q. And did you find any?—A. I did not find one; I found no such thing .

Q. How far back did you examine?—A. I went back carefully about 4 or 5 years; and then I discussed this with my assistants, who had been there for a long time, and a number of us looked through the various dockets quite quickly, but we found no such case; and we were all satisfied, from our knowledge of the business there, that no such situation had existed before.

Q. Do you know Mr. Marrin, the attorney of the firm of Thelen & Marrin?—A. I do

Q. Did you know him at the time of the filing of the two complaints or the one complaint, the first one in the Russell-Colvin matter?—A. Well, I knew him slightly. I did not know him as well as I do some of the other counsel.

Q. Upon the filing of the first complaint in that matter, which the record here shows went to Judge St. Sure's department, did you then or at any other time tell him that no judge present would act for Judge St. Sure in such a matter during his absence?—A. I have no recollection of it, and I am satisfied that he is mistaken if he thinks I said that. He must have misunderstood me, because I never would have made such a statement to any counsel to that question or answer it in that way. I have never undertaken to say what any judge would do in the matter of making an order.

Q. According to your best recollection, no such conversation took place?—A. I am satisfied that if we had a conversation, he misunderstood my statement, because I never would have said that.

Mr. LINFORTH. Take the witness.

Cross-examination by Mr. Manager BROWNING:

Q. In checking over these equity cases, did you make a note of any of them where one judge acted for another in his absence?—A. Yes; I did note that. I noted that from the time that Judge Louderback was appointed down to the Russell-Colvin case. In those cases I looked particularly to see to whom the case was assigned and who had made the order appointing the receiver.

Q. Well, is it not a fact that each one was appointed receiver by the one to whom it was assigned?—A. From the date that Judge Louderback went on the bench up to the time that the Russell-Colvin case was filed we had only about a dozen or 15 equity receivership cases, and in all those cases the appointment of the receiver was made by the judge to whom the case was assigned. I am speaking about equity receiverships.

Q. How many did they have—how many equity receiverships?—A. I cannot tell you the exact number, but it was about a dozen or 15, I should say. I could check up on that possibly by some data that I have here.

Mr. Manager BROWNING. That is all.

The PRESIDING OFFICER. Are there any other questions? If not, the witness will be excused.

(The witness thereupon retired from the stand.)

DEPOSITION OF LLOYD ACKERMAN

Mr. LINFORTH. We now read the deposition of Lloyd Ackerman taken by consent in San Francisco.

Mr. HANLEY read the direct examination as appearing in the deposition, as follows:

U.S.S. EXHIBIT N

Lloyd Ackerman, called on behalf of Harold Louderback; sworn.

By Mr. LINFORTH:

Q. Mr. Ackerman, what is your profession, please?—A. I am an attorney at law.

Q. And you have been following that profession for a good many years?—A. Yes; I have.

Q. In San Francisco and elsewhere?—A. Yes.

Q. Are you acquainted with Addison G. Strong?—A. Yes; I am.

Q. Did you know him in the month of March 1930?—A. I did.

Q. And prior to that time?—A. I did.

Q. About the 9th of March 1930 did you have a conversation with him about your acting as his attorney in the event that he should be appointed receiver in the Russell-Colvin case, so-called?—A. I did.

Q. Where did you have that conversation?—A. It was at my home.

Q. Where was that, Mr. Ackerman?—A. I live at 3080 Pacific Avenue, San Francisco.

Q. Can you state when that conversation took place with reference to the time the order was made appointing him a receiver in that matter?—A. I am under the impression it took place the night prior to his application for appointment as receiver.

Q. And by use of the expression that you have just made that you are under the impression, is that your best recollection?—A. Yes.

Q. Will you please state what the conversation was you had with him at that time and place on that subject?—A. Mr. Strong stated that he had been selected by the San Francisco Stock Exchange to act as receiver of Russell-Colvin & Co., and that he anticipated being appointed receiver, I think it was the following day; it may have been possibly the day succeeding the following day; he said he had given the matter some thought with respect to his legal counsel, and was desirous of knowing whether I would be willing to act as his counsel.

Q. What did you say in reply, if anything?—A. I replied that I should like to give the matter some thought; that if he would give me his telephone number, I would call him on the phone that evening—I think it was Tuesday night—and let him know what my decision was. I called him back later and informed him that I would accept the appointment.

Q. Did you subsequently hear from him again on that same subject?—A. I heard from him on the following day.

Q. Was that after his appointment?—A. I think it was prior to his appointment.

Q. So that both of your conversations with him were prior to his appointment?—A. Yes.

Q. Where was the second conversation that you had with him?—A. I think it was on the telephone while I was at my office; he called me up on the telephone.

Q. And what did he say to you, if anything, on the subject of your acting as his attorney in the event of his receiving the appointment?—A. He said that he was in a situation of some embarrassment; that he learned after consultation with the attorneys for the San Francisco Stock Exchange in the morning of the day that he spoke to me—that was subsequent to my conversation with him on the preceding evening—he learned that the counsel for the San Francisco Stock Exchange expected to act as his counsel as receiver, and he felt under obligation to me in the matter, and that it was an awkward situation for him; and I replied that he need not consider me in the matter at all, that I was entirely willing to eliminate myself, and that he should make whatever selection his interests dictated without consideration of any obligation that he might have to me.

Q. Did he say who the attorneys were for the San Francisco Stock Exchange?—A. Heller, Ehrmann, White & McAuliffe.

Q. Did he say in that talk with you whether or not he had already been in communication with those lawyers?—A. Yes; he stated he had been in communication with those attorneys prior to his telephone conversation with me. That, of course, was the origin of his information that he was in an awkward position in the matter.

Mr. LINFORTH. You may take the witness.

Mr. Manager PERKINS read the cross-examination as appearing in the deposition as follows:

Cross-examination by Mr. PERKINS:

Q. How long had you known Mr. Strong?—A. I should say for 2 years.

Q. Had you ever acted as his attorney?—A. I never did.

Q. Do you know why he first spoke to you about acting as his attorney?—A. I know what he told me, Mr. Perkins; he said that he wished to select counsel who had had experience in stock brokerage law. He selected me because of the fact that he was under the impression that I was expert in that field of the law.

Q. Was he correct in his thought about that?—A. I will leave that to my critics.

Q. Well, you had had a good deal of experience in stock brokerage law, had you?—A. Yes. I have been closely connected with the brokerage business for a period of more than 10 years. A great deal of my practice is in that field.

Q. Are you certain as to whether the second conversation was before or after his appointment as receiver?—A. I am quite certain it was before his appointment.

Q. That was a conversation over the telephone?—A. Yes. I am not sure, Mr. Perkins, I am rather of the recollection now that it was a personal interview. He came to my office. I am quite sure he did.

Q. What was the date of the month of the second conversation?—A. It was either the same day or the day preceding his appearance before Judge Louderback for qualification as receiver.

Q. Can you fix the date in the month?—A. Can you tell me the date of his appointment?

Mr. Manager PERKINS. Mr. President, certain colloquy then appears. Shall I read that, or merely the testimony itself?

The PRESIDING OFFICER. The Chair will suggest that the manager may do as he chooses about that. If he reads the record, that is the important thing for the Senate sitting as a court.

Mr. Manager PERKINS. I will read it all.

The PRESIDING OFFICER. If the Chair may interrupt the manager, if it is agreeable to the managers on the part of the House and to the counsel for the respondent, let the colloquy go in and be printed without being read. That will be entirely agreeable to the Chair, and it is to be assumed it will be agreeable to the Senate sitting as a court.

Mr. Manager PERKINS. Very well.

The matter ordered to be printed in the RECORD from the deposition of Lloyd Ackerman is as follows:

Mr. LINFORTH. I have the date here, Judge, if you would like to know it.

Mr. PERKINS. The date of his appointment was the 11th of March 1930?

Mr. LINFORTH. Yes; it was the 11th of March 1930.

A. And what day of the week was that, Mr. Linforth?

Mr. LINFORTH. I think it was Tuesday, Mr. Ackerman; I am not sure as to that.

Mr. BROWNING. It was.

Mr. Manager PERKINS (continuing the reading):

A. I should say the last conversation to which I have testified took place on the 10th of March, either the 10th or the 11th.

Mr. HANLEY. May I draw the attention of the managers to the fact that Mr. Linforth put the question and the answer was then given by witness? The question appears on the fifth line of the page.

Mr. Manager PERKINS. Mr. Linforth made this statement:

Yes; it was the 11th of March 1930.

A. And what day of the week was that, Mr. Linforth?

Then:

Mr. LINFORTH. I think it was Tuesday, Mr. Ackerman; I am not sure as to that.

Mr. BROWNING. It was.

Then the witness continued his answer, as follows:

A. I should say that the last conversation to which I have testified took place on the 10th of March, either the 10th or the 11th.

Mr. PERKINS. Were there any other conversations?

A. Well, there was a conversation subsequent to his appointment in which he told me what had transpired when he appeared before Judge Louderback to qualify as receiver.

Q. What did he say?

Mr. LINFORTH. We object to that as not cross-examination in any sense of the word, and hearsay.

Mr. LINFORTH. I submit that that objection was well taken. What the witness said to somebody else not in our presence is not binding on us.

The PRESIDING OFFICER. Was this objection made at the time the deposition was taken?

Mr. LINFORTH. It was made at the time the deposition was taken.

The PRESIDING OFFICER. The Chair will have to see the question.

(The deposition was handed to the Presiding Officer, who examined it.)

The PRESIDING OFFICER. The Chair is of the opinion that the question may be answered as in the deposition. It is not particularly vital.

Mr. Manager PERKINS (reading):

A. He said that he had offered the name of Heller, Ehrmann, White & McAuliffe as his counsel, and that that firm was not satisfactory to Judge Louderback; that he thereupon offered my name, and my name was not satisfactory either; and that thereupon Judge Louderback had, I think he said, revoked his appointment, or declined to confirm it.

Mr. PERKINS. That is all.

EXAMINATION OF LLOYD A. LUNDSTROM

Mr. LINFORTH. Mr. President, we will call Lloyd A. Lundstrom as our next witness.

Lloyd A. Lundstrom, having been first duly sworn, was examined and testified as follows:

By Mr. LINFORTH:

Q. Will you please state your residence and your occupation?—A. I live in Oakland, Calif., and am manager for the Fageol Motor Co.

Mr. ROBINSON of Arkansas. Mr. President, we cannot hear either counsel or the witness.

The PRESIDING OFFICER. Let the Senate be in order, and this admonition applies to occupants of the galleries as well. Counsel and the witness will both speak louder.

By Mr. LINFORTH:

Q. May I repeat the question? Please state your name and occupation.—A. Lloyd A. Lundstrom, manager for the Fageol Motor Co., Oakland, Calif., and I live there.

Q. Do you know Mr. G. H. Gilbert?—A. I do.

Q. When did you first make his acquaintance?—A. On February 19, 1932.

Q. At that time where did you make his acquaintance?—A. In the office of John A. Dinkelspiel, of San Francisco, the attorney.

Q. Did he at that time employ you in the Fageol Motor Co. case receivership?—A. No, sir.

Q. How soon after that did he employ you?—A. On March 11, 1932.

Q. Before his employment of you did you furnish him references?—A. I had a conference with him and he asked me for people and my experience, and I gave him some names.

Q. Subsequently you were employed by him, were you not?—A. Yes, sir.

Q. In what capacity?—A. To manage the sales part of the business, the affairs of the Fageol Motor Co. then being in equity receivership.

Q. During that time were you in daily touch with him after that?—A. I was in constant touch with him.

Q. During the entire receivership, from the time you were so employed?—A. Yes, sir.

Q. What were his hours at the office of the Fageol Motor Co.?—A. From 8 in the morning until 5:30 in the evening.

Q. Do you know what he did in the way of reducing the current expenses of that concern?—A. In dollars and cents, I could not answer.

Q. Can you state generally what changes, if any, he made in the personnel of the company or the employees?—A. He let the president and general manager go, and the sales manager and secretary of the company.

Mr. Manager BROWNING. The receivership let those people go, and we hardly see how it would be competent for this witness to testify that Mr. Gilbert did.

Mr. LINFORTH. The charge made is that this was an incompetent man to be receiver of this particular business.

Mr. Manager BROWNING. Absolutely.

Mr. LINFORTH. And that as receiver he merely took instructions from the president of the company. It is the intention of counsel by these questions to show what matters the receiver did of his own initiative.

The PRESIDING OFFICER. There is no objection to the witness' stating what he knows of his own knowledge.

Mr. LINFORTH. That is all I am asking, and I hope he will confine it to what he knows of his own knowledge.

The WITNESS. I know the president and general manager were let go during the equity receivership.

By Mr. LINFORTH:

Q. Do you know what the salary of the president was prior to his removal?—A. Yes, sir.

Q. What was it?—A. $600 a month.

Q. Was anybody put in his place?—A. No; I was employed for that purpose.

Q. And your salary at that time was what?—A. $200 when Mr. Gilbert hired me.

Q. And subsequently increased to what?—A. $400.

Q. At whose suggestion were you employed?—A. I was sent to Mr. Dinkelspiel, Mr. Gilbert's attorney, by Mr. Wainwright, one of the creditors.

Q. Mr. Wainwright was the representative of the bank that was the largest unsecured creditor? Is that right?—A. Yes, sir.

Q. From the time of your appointment, did you, the receiver, and Mr. Wainwright consult on various matters of policy and action that was taken in the matter of the receivership?—A. Mr. Gilbert and Mr. Wainwright and myself were present at all creditors' meetings.

Q. Was there any matter in which you were drawn in where you did not receive cooperation from Mr. Gilbert?—A. No, sir.

Mr. LINFORTH. Take the witness.

Cross-examination by Mr. Manager PERKINS:

Q. You were employed at the suggestion of the creditors' committee, were you not?—A. Yes, sir.

Q. You never knew Mr. Gilbert before the creditors' committee suggested your employment, did you?—A. No, sir.

Q. You are the man who supplanted the management there, are you not?—A. Yes, sir.

Q. You were the practical managing head of that business?—A. Yes, sir.

Q. Mr. Gilbert knew nothing about running the automotive industry, did he?—A. No, sir.

Q. The reason you had to be employed was that he did not know anything about it, was it not?—A. Yes, sir.

Mr. Manager PERKINS. That is all.

The PRESIDING OFFICER. The witness may be excused.

(The witness retired from the stand.)

DEPOSITION OF JOSEPH H. STEPHENS, JR.

Mr. HANLEY. Mr. President, we now offer depositions taken in San Francisco at the same time the deposition of the witness Lloyd Ackerman was taken. I will not read the deposition of Althea Thomas, found on page 6 of those depositions. I do not believe there is any necessity for reading that deposition. Instead we will read the deposition of Joseph H. Stephens, Jr., found on page 16 of the depositions.

The PRESIDING OFFICER. Very well; proceed.

Mr. HANLEY thereupon read the direct examination in the deposition of Joseph H. Stephens, Jr., as follows:

U.S.S. EXHIBIT O

Joseph H. Stephens, Jr., called on behalf of Harold Louderback; sworn.

By Mr. LINFORTH:

Q. Mr. Stephens, where do you reside?—A. Sacramento.

Q. Whereabouts in Sacramento?—A. Twenty-sixth and H.

Q. What is your business at the present time?—A. Contractors Adjustment Bureau.

Q. And in the month of August 1931 did you know of a concern commonly called the Prudential Co.?—A. Yes.

Q. What was the correct name of that company, the full name of it?—A. The Prudential Holding Co.

Q. Were you an officer and director in that company at that time?

Mr. PERKINS. Just don't lead him. Just ask him what he was. Wouldn't that be better?

Mr. LINFORTH. I think the question is perfectly proper; it is not leading.

Q. Were you an officer in that company at that time?—A. I was.

Q. What officer were you in that company at that time?—A. Vice president.

Q. At the time of the filing of a complaint in the office of the Clerk of the United States District Court on the 15th day of August 1931 in a suit entitled *Character Finance Co., of Santa Monica* v. *Prudential Holding Co.*, were you present in the clerk's office when that complaint was filed?—A. I was.

Q. Who else was present at the time?—A. Mr. Kearsley and Judge Louderback.

Q. I am asking you about when the complaint was filed in the clerk's office.—A. I don't know; there were clerks in there, but I didn't know any of them.

Q. Let me put it in this way: After the complaint was filed you saw Judge Louderback, did you?

Mr. PERKINS. Now you are leading him.

Mr. LINFORTH. I will put it in another form to accommodate you, judge.

Q. Did you see Judge Louderback after the complaint in that case was filed?—A. We did.

Q. Where did you see Judge Louderback?—A. In his chambers.

Q. Was that the first time that you had seen Judge Louderback?—A. Correct.

Q. Who was with you when you went to the chambers of Judge Louderback?—A. Mr. Kearsley.

Q. Who was Mr. Kearsley, what was his occupation, if you know?—A. He is an attorney.

Q. Were you introduced to Judge Louderback?—A. I was.

Q. By whom?—A. Mr. Kearsley.

Q. How were you introduced to Judge Louderback?—A. Just the ordinary introduction, that I was Mr. Stephens, of the Prudential Holding Co. That is all there was to it.

Q. Did Judge Louderback ask you anything about in what capacity you were representing the Prudential Holding Co.?

Mr. PERKINS. I object to that. It does not appear that he was representing it, and it does not appear that Judge Louderback had any conversation with him.

Mr. LINFORTH. Let me withdraw the question, judge, and I think I will meet your objection and get at it in another way.

Q. State in your own way the conversation that was had in Judge Louderback's presence by the three of you.—A. Mr. Kearsley had this petition and said that he was representing the stockholders of the Character Finance Co., and that they wanted to conserve the assets of the Prudential Holding Co., and asked that a receiver be appointed. That is all there was to it.

Q. When Mr. Kearsley said that what, if anything, did you or the judge say?—A. Well, the judge asked me what I thought about it, and I told him that I thought something should be done.

Q. In what respect, if anything?—A. For the appointment of a receiver.

Q. Was the petition presented to Judge Louderback at that time by Mr. Kearsley?—A. Yes.

Q. Was it examined or read by the judge?—A. It was.

Q. After the judge read it and examined it, did he ask you any questions in regard to it?—A. He asked me if I had read it.

Q. And what did you tell him?—A. That I had.

Q. What else, if anything, did the judge ask you in regard to that paper?—A. As I remember it, he asked me what I thought about the petition, and I told him that something should be done.

Q. Did you tell Judge Louderback at that time what your office in the company was?—A. I believe during the conversation Mr. Kearsley told him.

Q. What did he tell him?—A. That I was vice president.

Q. Of the company?—A. Of the company.

Mr. LINFORTH. You may take the witness.

Mr. Manager PERKINS read the cross-examination in the deposition of John H. Stephens, Jr., as follows:

Cross-examination by Mr. PERKINS:

Q. Mr. Stephens, have you ever seen or spoken to Mr. Kearsley since that date?—A. I have not.

Q. Did you ever see or speak to him before that date?—A. Before what date?

Q. Aren't you telling us about a time and didn't you identify a date?—A. Oh, in August, there; yes. I saw Mr. Kearsley before that; yes, once.

Q. Where?—A. In San Francisco.

Q. On what date did you see him?—A. I am sure I don't remember.

Q. How many days before the presentation of the petition?—A. It was probably the day prior.

Q. When was the petition presented?—A. You mean in the judge's office here in the building?

Q. Have we talked or have you testified about any other time or about any other petition than the one just asked about?—A. No.

Q. That is what I mean.—A. All right, what is the question, again?

Q. The question is, When was the petition presented to the judge?—A. On August 15.

Q. Do you remember that right out of a clear sky?—A. No; I have been told that right here.

Q. So you adopted the date rather than remembered it?—A. It was in the month of August, sometime or other.

Q. Please answer my question. You adopted the date rather than remembered it?—A. Yes.

Q. Have you told us all that transpired at the time of the filing of the petition by Kearsley?—A. As I remember it; yes.

Q. No attorney was present representing the Prudential Holding Co., was there?—A. No.

Q. Who was the attorney of the Prudential Holding Co. then?—A. I think Mr. Hawkins was.

Q. Did you notify him that you were going to appear?—A. No; I did not.

Q. Did you advise anybody connected with the company that you were going to appear with Kearsley before Judge Louderback?—A. I did not.

Q. Did anybody connected with the company, so far as you know, know that you were going to appear?—A. No, sir.

Q. So far as you know, did the company have any notice whatever that the petition was about to be presented?—A. No.

Q. What induced you to appear with the attorney of this adversary of your company before the judge?—A. There was no inducement at all. The——

Q. No inducement at all?

Mr. LINFORTH. Let him finish his answer, Judge. Please finish your answer.

Mr. PERKINS. No; I am controlling the examination now.

Mr. LINFORTH. I submit that the witness has a right to finish his answer, and counsel should not interrupt him in the middle of his answer.

Mr. PERKINS. I submit he has answered the question.

Mr. LINFORTH. I ask to have the record read. (Record read by the reporter.) The record shows he was still answering, Judge, when you interrupted him with another question.

Mr. PERKINS. How long a time had elapsed since you had been at the office of the Prudential Holding Co.?

Mr. LINFORTH. One moment. We object to the asking of that question, or any other question, until the witness is permitted to finish the answer which counsel interrupted.

The WITNESS. What do you mean by that question?

Mr. PERKINS. Previous to the 15th of August 1931.—A. How long a time had elapsed—I am sure I do not follow you at all.

Q. When were you at the office of the Prudential Holding Co. previous to August 15, 1931?—A. When? I was over there, I think, about a year.

Q. About a year before?—A. Yes; if that is what you want to know.

Mr. PERKINS. That is all.

Mr. LINFORTH (when the objection above set forth was reached). We waive the objection.

Mr. HANLEY thereupon read the redirect examination, as follows:

Redirect examination by Mr. LINFORTH:

Q. Where was the office of the Prudential Holding Co.?—A. In Oakland.

Q. Do you recall just where in Oakland?—A. Between Seventeenth and Eighteenth on Franklin; 1731, I think it was, to be exact.

Q. Will you state, as clearly and as nearly as you can, when you were last in the office of the Prudential Holding Co. at the place you have indicated before your visit with Mr. Kearsley to Judge Louderback's chambers?—A. It was not over 2 days.

Mr. LINFORTH. I thought he did not understand your question, Judge.

Mr. PERKINS. Then I will have to go on with my cross-examination further.

Mr. LINFORTH. Go ahead, Judge, and I will suspend until you complete it.

Mr. Manager PERKINS thereupon read the further cross-examination, as follows:

Mr. PERKINS:

Q. You say that about 2 days before your appearance before Judge Louderback with Mr. Kearsley you had been at the office of the Prudential Holding Co.?—A. Yes.

Q. When Judge Louderback was introduced to you, or you were introduced to the judge, what did you state your relationship or connection with the Prudential Holding Co. was?—A. During the conversation Mr. Kearsley said I was the vice president; that is as I remember it.

Q. Did Judge Louderback ask you if the Prudential Holding Co. was represented by an attorney?—A. I don't remember that angle.

Q. Did Judge Louderback ask if there was any lawyer representing the Prudential Holding Co. in the matter of the filing of the petition?—A. I don't remember that, either.

Q. You are not a lawyer?—A. I am not.

Q. And you did not represent yourself to the judge to be a lawyer, did you?—A. No.

Q. Did you ask the judge for time until you could get a lawyer there?—A. No. This fellow—Mr. Kearsley—was an attorney.

Q. Yes; but he was an attorney opposing your company, was he not?—A. He was representing the stockholders.

Q. Of what company?—A. The Character Finance and the Prudential Holding Co. Here is the situation: The Prudential Holding Co. had taken over the Character Finance Co. of Santa Monica and they had taken stock of the Character Finance Co., as I remember the deal.

Q. So your idea now is that Kearsley was representing the Prudential Holding Co. before the judge?

Mr. LINFORTH. Just a moment. I object to that as contrary to his testimony. He said he was representing stockholders.

Mr. PERKINS:

Q. Did you look at the papers to see whether they said that Kearsley was representing any stockholders of the Prudential Holding Co.?—A. I don't remember the exact words of the petition now.

Q. So you now think that Mr. Kearsley was acting for the stockholders of the Character Finance Co., as well as of the Prudential Co., do you?—A. Yes; I do.

Q. And did he so state to Judge Louderback?—A. He did.

Q. He told Judge Louderback that he, Kearsley, was representing stockholders of the Prudential Holding Co.?—A. And the Character Finance Co.

Q. Are you sure about this, that he said he was representing stockholders of the Prudential Holding Co.?—A. I am pretty sure about it.

Q. Did Judge Louderback say anything about whether there were any other stockholders represented by any other lawyer present?—A. I don't remember that, either.

Q. Did he ask anything about whether a lawyer was present representing the Prudential Holding Co.?—A. I don't remember that.

Q. Did he say anything about giving notice to the Prudential Holding Co. of the application for a receiver?—A. I don't remember those questions at all.

Q. So far as you recollect, did Judge Louderback say anything whatever about giving notice to the Prudential Holding Co. or any stockholder of the Prudential Holding Co. of the intended appointment of a receiver?—A. I don't remember.

Q. How long after your appearance with Mr. Kearsley did you go back to the office of the Prudential Holding Co.?—A. Well, it was not very long.

Q. That means nothing to me. How long?—A. Less than a day.

Q. Who was the president of the Prudential Holding Co. then?—A. Mr. Beck.

Q. Did you tell Mr. Beck that you were going to go before Judge Louderback?—A. I did not.

Q. Did you notify anybody connected with the Prudential Holding Co. that you were going to go before Judge Louderback?—A. Mr. Beck was not here; he was out of the State.

Q. Did you notify anybody connected with the Prudential Holding Co., its lawyer, or any of its officers that you were going to go before Judge Louderback?—A. I did not.

Q. Did Judge Louderback ask you whether any other officer of the Prudential Holding Co. knew that you were there in the matter of the application for a receiver?—A. I don't remember that question at all.

Q. Do you remember any other conversation on the part of Judge Louderback at the time that has been mentioned, when the petition for receiver was presented, other than you have already spoken of?—A. No; I can't remember.

Q. Do you remember anything else he said there other than you have already described?—A. No. It was all new to me.

Q. Please answer my question. Did Judge Louderback say anything other than you have already put into the record here?—A. No; I don't think so.

Mr. PERKINS. That is all.

Mr. LINFORTH. That is all.

EXAMINATION OF J. G. REISNER

Mr. LINFORTH. May we call J. G. Reisner?

J. G. Reisner, having been duly sworn, was examined and testified as follows:

By Mr. LINFORTH:

Q. Mr. Reisner, will you please state your name, your residence, and your occupation?—A. J. G. Reisner, San Francisco, attorney.

Q. You have been a lawyer practicing in California for how long?—A. Twenty-three years.

Q. Were you one of the attorneys in the case of Helen Lay against the Lumbermen's Reciprocal Association?—A. Yes.

Q. Whom did you represent?—A. I represented the plaintiff, Helen Lay.

Q. And who represented the defendant?—A. Bronson, Bronson & Slaven.

Q. Did you, accompanied by Mr. Slaven, present to Judge Louderback the application for the appointment of the receiver?—A. I did.

Q. Who suggested the appointment of Samuel M. Shortridge, Jr., as receiver?—A. Mr. Slaven.

Q. Did you agree to it?—A. I did.

Q. Did the judge have you both put it in writing before he made the appointment?—A. I believe Mr. Slaven had the papers himself; and the one that I signed was left blank, and I filled in the name of Shortridge at that time. We both signed a request.

Q. When Mr. Slaven suggested the name of Samuel M. Shortridge, Jr., as receiver, what did you say?—A. Well, I told him that there was another man that wanted the appointment, but that I did not feel like recommending the other man and that I would be satisfied with Shortridge, as I thought he was qualified.

Q. Were you present when the complaint or the petition was filed?—A. I was.

Q. Did you see anybody hand to Mr. Slaven a slip with any names on it from which a receiver could be selected?—A. I did not.

Q. Did you see any such message?—A. I did not.

Q. Did Mr. Slaven speak to you about any such message?—A. He did not.

Mr. LINFORTH. You may take the witness.

Mr. Manager SUMNERS. No cross-examination.

The PRESIDING OFFICER. The witness will be excused. Call the next witness.

Mr. LINFORTH. Mr. President, I understand there is one witness whose cross-examination was not completed. If counsel is ready to complete that cross-examination, the witness is here—Mr. Gilbert.

Mr. Manager SUMNERS. We do not care to proceed with cross-examination at this moment. We will undertake to cross-examine that witness when we come to the point where we have the privilege of offering rebuttal testimony.

EXAMINATION OF GEORGE D. LOUDERBACK

Mr. LINFORTH. May we call George D. Louderback?

George D. Louderback, having been duly sworn, was examined and testified as follows:

By Mr. LINFORTH:

Q. Will you please state your name, your occupation, and your residence?—A. George Davis Louderback; geologist; 107 Ardmore Road, Kensington, Contra Costa County, Calif.

Q. Are you a professor engaged at the University of the State of California?—A. I am.

Q. What is your title at that university?—A. Professor of geology, chairman of the department of geological sciences, and dean of the college of letters and sciences.

Q. Are you a brother of the respondent Harold Louderback?—A. I am.

Q. Where do you live, please; what exact place?—A. I gave that; 107 Ardmore Road, Kensington, Contra Costa County, Calif.

Q. With reference to the Alameda line, in which Berkeley is situated, where is that?—A. Kensington is immediately over the Berkeley and Alameda County line, which are coincident.

Q. A few feet over the line. About how far, in distance, is it from San Francisco?—A. In time, it is about 40 or 45 minutes.

Q. In 1930, and prior thereto, of whom did your family consist?—A. Myself and my wife.

Q. I call your attention to the 6th of April 1930. Did you on that date at your home have any talk with the respondent upon the subject of his making his home and residence with you?—A. I did.

Q. How do you recall the date?—A. I recall that because it was my birthday, and my brother came over to celebrate that day with me.

Q. Will you please state, for the information of the Presiding Officer and the Senators, what conversation you had with him in the presence and hearing of your wife on that occasion?—A. I was delayed at the university, and my brother had arrived before I got home. When I came in, after greetings concerning my birthday, and after presenting me with a gift for that occasion, my wife said that they had been talking about his coming over to make his home with us again. I said that I was highly delighted, and the conversation then was concerning where he should be located and the satisfactory character of his room, and we went into the place suggested by my wife, the room, to see whether it was satisfactory and what arrangements we should make to be suitable for him.

Q. Was a room at that time agreed upon and set apart for him in your home?—A. It was.

Q. Had he prior to that, at sometime prior, made his home with you and your wife?—A. Yes; for 3 years in Reno, Nev.

Q. Do you recall whether or not, following this conversation on the 6th of April 1930, any of his belongings were sent to your home?—A. Yes; in a day or two he had sent over a couple of trunks, and then a few days later he brought over, I think, another trunk and some hand baggage and various other things, and had these installed in his quarters.

Q. Has he had that room ever since?—A. He has.

Q. Was he furnished with a key to the room at the time you speak of—I mean to the house; not to the room?—A. Yes; a key to the house; no key to the room.

Q. Do you know whether or not on each election day following that time the respondent has voted in that county?—A. Yes; he has always come over, and the whole family has gone out to the polls together.

Q. Have you gone with him on those occasions?—A. I have.

Q. On how many occasions since that time do you know that he has voted in that county?—A. Five times.

Q. When was the last?—A. The last general election in November.

Q. How soon after this arrangement was made on the 6th of April 1930 did the respondent come over to your home to stay?—A. A week or so after; about the middle of April.

Q. How many evenings did he remain there overnight?—A. I believe two evenings.

Q. What happened those two evenings, so far as your own knowledge goes?—A. On the second evening he was taken with a rather severe attack of asthma.

Q. Was he subject to attacks of asthma prior to that?—A. Yes; since he was a small boy 5 or 6 years old.

Q. Upon the second evening, after being subjected to that attack of asthma, when did he next return to your home?—A. He thought he had better wait until this cleared up, and he came over in about 2 weeks, I think. The next time was the 2d of May.

Q. On that occasion did he remain overnight in this room that had been set apart to him?—A. He did.

Q. What, if anything, happened with reference to his condition that evening?—A. He had another attack of asthma, and was unable to eat breakfast the next morning.

Q. The following night did he also return?—A. I think not.

Q. How soon after that did he return again?—A. About the middle of May, about 2 weeks later.

Q. What happened on the third visit with reference to his condition?—A. He suffered again from an attack of asthma, which came on early, and he was unable to eat more than the very start of his dinner, and that caused him a very great deal of trouble during the night.

Q. Have you plants and flowers in your house and around the house?—A. We have.

Q. Have you any animal in the house also?—A. We have a pet cat.

Q. Do you know of your own knowledge that just prior to leaving California for Washington the respondent went to your home in order to get his belongings to come here?

Mr. Manager PERKINS. I object to the form of the question.

Mr. LINFORTH. I withdraw it if there is any objection to it. I am trying to save time if I can.

The PRESIDING OFFICER. The question is withdrawn.

By Mr. LINFORTH:

Q. When was the last time you saw the respondent at your home?—A. The day that he left for Washington this last trip.

Q. You mean on this trip?—A. Yes.

Mr. LINFORTH. You may take the witness.

Cross-examination by Mr. Manager PERKINS:

Q. Doctor, you have told the Senate all of the occasions when your brother spent time at your house, have you not?—A. I think those are all the occasions when he slept there at night.

Q. That is, he slept there three nights?—A. I think I testified to four.

Q. Four nights since when?—A. I did not get the question.

Q. Four nights since when?—A. Since the middle of April 1930.

Q. That is to say, in 3 years and 1 month he has slept at your house four nights. Is that right?—A. Four nights.

Q. As a matter of fact, you and your wife are away over week-ends, are you not, as a rule?—A. No; not as a rule.

Q. So that he did not spend any week-ends with you, did he?—A. Yes; he very frequently spent week-ends.

Q. Overnights?—A. Not overnights; no.

Q. He came over and made a visit upon his brother. Is that right?—A. I suppose he did.

Q. Did he pay you any money during that time?—A. He did not.

Q. He did not pay any room rent?—A. He did not.

Q. He did not pay any board?—A. He did not.

Q. The four occasions he came over, four of those times, he voted, did he not?—A. He did not.

Q. He did not vote then?—A. Not those four times.

Q. You said he voted five times there.—A. He did vote five times, but those are not the times I testified to that he slept there overnight.

Q. That is to say, in 3 years and 1 month he has slept at your house four times, and he has voted from your house five times. Is that right?—A. He has.

Q. You have told the Senate all you know about the residence of your brother at your house, have you not?—A. I have not.

Q. When was the last time that your brother slept at your house?—A. The last time was, I think, in July 1931.

Q. So that for 2 years, less 2 months, he has not even slept there, has he?—A. That is correct.

Q. And for the other 1 year and 3 months he has been there four times overnight?—A. Yes.

Q. And he always has suffered attacks of asthma when he comes, has he not?—A. When he tries to stop overnight.

Q. Do you keep the cat in the house overnight?—A. We generally do.

Q. You know that asthma is due to breathing effluvia of some kind, is it not?—A. I am not sure about the cause.

Q. As a matter of fact, it was impossible for him to stay at your house overnight without having asthma, was it not?—A. That appeared to be the case.

Q. He never paid a dollar for board or a dollar for room, did he?—A. He did not. I did not expect him to.

Q. What did you use that room for previously?—A. That room was used previously as what my wife called the spare room, where guests came in.

Q. How many guest rooms have you in the house?—A. We now have one.

Q. You have one guest room?—A. Yes.

Q. Is that the room you assigned to your brother?—A. No.

Q. You mean one in addition?—A. One in addition.

Q. How do you know he voted five times in your municipality?—A. Because I went with him to the polls.

Q. And he also registered his motor car there, did he not?—A. Yes.

Q. He told you that he had trouble with his wife, and he wanted to come over and live in your home, did he not?—A. He did not.

Mr. LINFORTH. One moment. We object to that as not cross-examination in any sense of the word.

The PRESIDING OFFICER. The objection is sustained.

Mr. Manager PERKINS. May I submit that the conversation that took place is supposed to have been related by the witness, and I might have a right to cross-examine.

The PRESIDING OFFICER. The Chair is under the impression that the relations of the respondent with his wife are not particularly in issue.

Mr. Manager PERKINS. No; but the purpose of establishing this pretended residence is very important.

The PRESIDING OFFICER. The Chair will stand on the ruling which has been made.

Mr. Manager PERKINS. The managers bow to the ruling of the Chair. That is all.

Mr. LINFORTH. May I ask one further question, Mr. President?

Redirect examination by Mr. LINFORTH:

Q. Professor, not to be exact, but approximately, how often has the respondent been to your house per week, on an average, since 1931, April of that year?

Mr. Manager PERKINS. We object to that because it is not redirect examination and is not based on the cross-examination, and it assumes things not in evidence.

The PRESIDING OFFICER. It would seem to the Chair that that very question was gone into in cross-examination, and now on redirect examination the counsel for the respondent would have a right to refer to the question. The objection is overruled.

The WITNESS. Except for the times when he is out of town, he comes almost every week.

Mr. LINFORTH. No further questions.

Recross-examination by Mr. Manager PERKINS:

Q. You mean he makes a visit there sometime during the afternoon in a week?—A. He stays there frequently throughout the afternoon and evening.

Q. As a matter of fact, you know that he has resided continuously at room 26 in the Fairmont Hotel during this period, do you not?

Mr. LINFORTH. One moment. We object to that as calling for the opinion or conclusion of the witness on a legal proposition.

The PRESIDING OFFICER. If he has knowledge of the subject, he can answer. Answer the question. The objection is overruled.

Mr. LINFORTH. May I add, Mr. President, with your permission, that the point of my objection is that the question is, "He has resided"? A question of residence is a legal question, and that is the point of the objection.

The PRESIDING OFFICER. The Chair understood counsel to suggest that the chief reason was that he called for a conclusion, and the Chair simply suggested to the witness that he state what he knows of his own knowledge.

Mr. LINFORTH. I adopt that reasoning.

The PRESIDING OFFICER. The witness will answer the question.

The WITNESS. May the question be read?

The Official Reporter read as follows:

Q. As a matter of fact, you know that he has resided continuously at room 26 in the Fairmont Hotel during this period, do you not?

The WITNESS. I am not sure what that question means.

By Mr. Manager PERKINS:

Q. Well, he has continually had a room in the Fairmont Hotel which he has occupied there every night during the 3 years and 1 month mentioned?

Q. I know that he has had the use of a room in the Fairmont Hotel, but I would hardly say that he has practically occupied it every night for the last 3 years.

Q. Have you visited him at the Fairmont Hotel?—A. I have a couple of times.

Q. And you visted him in his room, did you not?—A. I think once or twice.

Q. And you know from your visitation there that he has occupied room No. 26 in the Fairmont Hotel?—A. He has; yes.

Q. That is all.

The PRESIDING OFFICER. The witness will be excused, if there are no further questions.

Mr. LINFORTH. There are no further questions.

The PRESIDING OFFICER. Very well.

EXAMINATION OF MARSHALL B. WOODWORTH

Mr. LINFORTH. May we call Marshall B. Woodworth?

Marshall B. Woodworth, having been duly sworn, was examined and testified as follows:

By Mr. LINFORTH:

Q. Would you please state your name, residence, and your occupation?—A. Marshall B. Woodworth; residence, San Francisco; attorney at law.

Q. And are you the Marshall B. Woodworth spoken of this afternoon or today as being United States attorney at San Francisco at one time?—A. Yes, sir.

Q. Were you appointed as the attorney for the receiver in the Helen Lay case, the so-called Lumbermen's Reciprocal Association case?—A. I was.

Q. And do you recall who spoke to you about acting in that capacity?—A. Mr. Samuel M. Shortridge, Jr., spoke to me about the matter. He telephoned to my office some 2 or 3 days, as I recall it, previous to his appointment and asked me whether I would act as his attorney in that case.

Q. How long did you act in that receivership matter, Mr. Woodworth? I don't mean to be exact, but just approximately.—A. One year and six months, from the 29th day of July 1930, and until the 9th day of January 1932.

Q. Are you familiar with the orders signed by the respondent on the 15th day of December 1931 settling the final accounts of the receiver?—A. I am very familiar with the order, having myself prepared it.

Q. And did you attend upon the court proceedings at the settlement of the final account of the receiver?—A. What is the question?

The PRESIDING OFFICER. The reporter will read the question.

The Official Reporter read as follows:

Q. And did you attend upon the court proceedings at the settlement of the final account of the receiver?

The WITNESS. I did.

Q. Did the court, upon the submission of that matter, declare that the account was settled and the receiver ordered to turn the property over to the State insurance commissioner?—A. The court did.

Q. Who, then, afterward prepared the written order?—A. I did.

Q. You are familiar with the proviso provision, so called, in that order?—A. Perfectly.

Q. Who inserted that provision in the order as originally drafted?—A. I did myself.

Q. What was your purpose in inserting that provision in that order?—A. On the first appeal the circuit court of appeals had directed the lower court to settle the account of the receiver and then to turn over the property to the State insurance commissioner. In pursuance of that order, the account was settled, and the order made directing the Federal receiver to turn over this property to the State insurance commissioner. Thereafter the attorney for the State commissioner indicated that he would take an appeal from the order of the district judge settling the account. In view of that fact, I took the position that, pending the appeal, the property should remain with the trial court, or should be turned over upon giving a proper bond. I took the position that if an appeal were taken from the order settling the account the account was not settled at all, for the reason that we did not know what action the circuit court of appeals might take with reference to the account; and I explained to the judge that the attorney for the State insurance commissioner——

Q. Pardon me a moment before you reach the point of taking the order to the judge. Did you, after drafting the order, first submit it to Mr. Guerena, the attorney for the insurance commissioner?—A. I did, and I had a number of conferences with Mr. Guerena with reference to that particular portion of the order and also with reference to his furnishing a bond in case the property was turned over by the Federal receiver to the State insurance commissioner.

Q. Now, Mr. Woodworth, we are all tired, and would you please make it as short as you can. What talk did you have with Mr. Guerena, the attorney for the State insurance commissioner, with reference to that proviso provision, so called, in that order?—A. I talked with him about that particular provision in the final decree, and Mr. Guerena's principal objection to it was not the proviso itself but the amount of bond that he should furnish. I contended that the bond should be the equivalent of the property to be turned over, to wit, some thirty or forty thousand dollars, about $25,000 in money, notes totaling some ten or fifteen thousand dollars, and other property. He claimed that the State insurance commissioner, being a public official, the amount of the bond should be nominal or should be in the sum of $5,000. That seemed to be his principal objection.

Q. Now, was it for those reasons and those reasons only——

Mr. Manager SUMNERS. Mr. President, we respectfully make the suggestion that counsel is going too far in the discussion and detailing of conversation between the witness and Mr. Guerena. This is an instance where it is charged that the judge put a condition to the mandate of the circuit court of appeals, and really the reason that may have prompted this witness, or Mr. Guerena will not bear directly upon the motive which prompted the respondent in attaching that condition to the mandate of the circuit court of appeals.

Mr. LINFORTH. May I add just a word in reply, Mr. President? In this article of impeachment the respondent is charged with improperly and oppressively inserting that clause in that order. Surely we have a right, in defense of that charge, to show the circumstances under which the order was made so as to show that it was not oppressively done in any sense of the word.

Mr. Manager SUMNERS. We concede that there should be considerable latitude, but our suggestion is that the witness is going too far afield in making the explanation.

The PRESIDING OFFICER. The Chair is ready to rule. What took place, or substantially took place, the Chair thinks is admissible.

Mr. LINFORTH. That is all I am asking for.

The PRESIDING OFFICER. The Chair would suggest to counsel for the respondent and to the managers on the part of the House, and to the witness as well, to be as brief as possible, and suggests that the witness give the Senate the substantial facts as to what took place.

Mr. LINFORTH. That is my hope. I have stepped along as fast as possible today.

By Mr. LINFORTH:

Q. Mr. Woodworth, was there any other reason why you put that proviso provision in the order?—A. No, sir.

Q. When you presented that letter to Judge Louderback did you give him any explanation of the reason for that provision?—A. When I presented the order to the judge he expressed his disapproval of that particular provision, and I explained to him that the purpose of it was, in view of the fact of a second appeal having been taken from the order settling the account that, in my judgment, the whole matter was held in abeyance until the court of appeals should pass upon the second appeal. The accounts were not really settled; there was no telling what the circuit court of appeals was going to do. It might ratify the action of the district judge or it might enlarge upon the disallowances; there was no telling what would be done; and for that reason the proviso was put in for the purpose of getting a bond. That was the sole purpose.

Q. After that order was filed did you ever see the judge, the respondent, in regard to it?—A. Some 2 weeks subsequent to that I did.

Q. What did he then say to you with regard to that order?—A. He stated that he observed that the second appeal had been taken in the case; that he had reconsidered his decision with reference to the one particular provision in the final decree settling the account, and that he thought, under all the circumstances, that that proviso should be emasculated from the decree and the property turned over. I told him if that was his view that I would naturally submit to it.

Q. Did he at that time tell you that he was satisfied the provision was erroneous and wrong?—A. He did; and over my objection the order was changed, and I was directed to——

Q. What did he direct you then to do?—A. He directed me to obtain a stipulation from all the parties, the party plaintiff, the party defendant, and also the attorney for the State insurance commissioner, stipulating that, in spite of the pending appeal, the property be turned over and the matter terminated.

Q. In other words, that the order be amended by striking out that clause?—A. Yes, sir.

Q. And you obtained that stipulation?—A. I did.

Q. And he then made an order accordingly?—A. The order was made and the property turned over.

Q. In how many matters had you been appointed attorney for receiverships in the 5 years that Judge Louderback had been on the Federal bench?—A. In just two cases.

Q. Which two?—A. The case which I have mentioned and another one, entitled "the Pioneer Fruit Co. case."

Q. Did you give to Judge Louderback or anyone else any part or portion of any fees that were allowed you in either matter?—A. No, sir; absolutely not.

Q. During the 8 years that the judge was upon the State bench did you receive any appointment of any kind from him?—A. I did not. I hardly knew the judge at that time. It was only after he became Federal judge that I became acquainted with him.

Mr. LINFORTH. You may take the witness.

Cross-examination by Mr. Manager BROWNING:

Q. Mr. Woodworth, I believe you testified that some 3 days before the petition was filed Samuel Shortridge, Jr., approached you to know if you would act as his counsel?—A. Yes, sir.

Q. Then, before the petition was filed, you also contacted the respondent?—A. I did. I was requested to call upon the judge and ascertain whether my appointment would be agreeable to him, and I did so.

Q. What day were you appointed with regard to the day the receiver was appointed?—A. I think it must have been on the 30th day of July or the 1st of August 1930.

Q. Was it not in fact the same day the receiver was appointed?—A. I doubt that very much. He was first appointed and thereafter requested my appointment.

Q. You spoke of the Pioneer Fruit Co. case. In what capacity did you act in that?—A. As attorney for the receiver.

Q. Your fee first allowed in that case was how much?—A. The fee allowed by the referee was $500.

Q. You appealed from that?—A. I did appeal from that; yes.

Q. To the respondent?—A. I did; yes, sir.

Q. How much did he allow?—A. He increased the allowance $1,500. He allowed $2,000.

Q. When was that fee paid to you?—A. The fee was paid some time, I think, in the month—I really do not recollect just when, but some time, I think, in the month of March. I was appointed in January and acted for 2 months. It was probably paid in the month of March or April 1932 or 1931; I am not sure as to that.

Q. What fee did you get in the Lumbermen's Reciprocal Association case?—A. I was allowed $3,000 on two successive occasions.

Q. Do you remember the date exactly that you collected?—A. The first $3,000 was allowed in the month of December 1930, and the second $3,000 was allowed in the month of March 1931.

Q. Was there any hearing on the allowance of those fees?—A. All parties plaintiff and defendant, all the parties in interest, agreed that the compensation was fair and reasonable, and upon a stipulation of all parties the judge made the order.

Q. Do you mean that the commissioner of insurance stipulated to those fees?—A. He did not, because we did not consider that he was a party to the case at all.

Q. Who do you mean by the parties in interest?—A. The plaintiff, who brought the suit, and the defendant, whose property was involved.

Q. You did not have any creditor's consent about that, did you?—A. The only creditor here was the defendant himself.

Q. The allowance of fees was reversed on the second appeal?—A. The allowance was to a certain extent reversed; yes, sir.

Q. Has there been any restitution made in the amount that the circuit court ordered to be paid back to the estate?—A. I think that is in process of being done, yes, sir, upon the order of the respondent the receiver was directed to return those moneys, which included two or three thousand dollars' worth of costs on appeal taken by the State insurance commissioner. Those were also taxed against the receiver personally. Upon his failure to return the moneys within a period of 30 days, then a writ of scire facias issued, and that is pending in the circuit court. That was issued to the bonding company and also against Mr. Samuel M. Shortridge, Jr., the principal on the bonds. That has been issued and is now pending.

Q. What authority did you have for the order of the respondent permitting 30 more days before this writ could issue on the mandate of the circuit court?—A. It is usual in all court proceedings to give what is deemed to be reasonable notice.

Q. That is the only authority you know of?—A. I thought that was sufficient authority.

Q. On the order which you state now the judge objected to at the time, I will ask you if you trapped the respondent into making that order?—A. I did not trap him or any other judge. That is ridiculous.

Mr. LINFORTH. Mr. President, may we have the question read?

The PRESIDING OFFICER. The question will be read.

The Official Reporter read as follows:

Q. On the order which you state now the judge objected to at the time, I will ask you if you trapped the respondent into making that order?

Mr. LINFORTH. There is no objection to the question.

By Mr. Manager BROWNING:

Q. I would like to read to you, Mr. Woodworth, the statement of the respondent before the committee in last January, and ask you if this is a correct statement of what took place——

Mr. LINFORTH. At what page?

Mr. Manager BROWNING. At page 363, as follows:

Mr. BROWNING. At the time that the first order of reversal came down to turn over the assets to the receiver in the State court, or

the State commission, you provided in the order that the property should be turned over if there was no appeal taken from the fees allowed?

Judge LOUDERBACK. I think that was a very erroneous order to make. That order was presented to me by Mr. Woodworth. I will concede to you that that was erroneous.

He pleaded with me this way: He said, "Can we tell what to hold out? Shall we hold out on all the 52 objections of Mr. Guerena?" He said, "Now, couldn't that order be made in that form?" And he told me that Mr. Guerena was not going to take the appeal, anyway, and then I signed it and later I told him I would not let that stand, that I had made a grave mistake in suggesting even that the money be held, and I will concede that I should not have done that. It was an error. I suppose every judge has been trapped into errors by attorneys. That was wrong, and I do not think that should have been done.

The WITNESS. That is substantially correct, but I did not purposely trap the judge.

By Mr. Manager BROWNING:

Q. Did you tell him that Mr. Guerena was not going to make the appeal?—A. I told him, on the contrary, that Guerena threatened to appeal, and it was for that very reason that this order was inserted. In other words, it was to protect the status quo of the estate in the hands of the Federal receiver pending the repeal, and the only objection Mr. Guerena had was to the amount of the bond.

Q. When the order was made you informed the respondent in that conversation that Mr. Guerena was threatening the appeal?—A. He certainly was. I think Mr. Guerena will so testify.

Q. You told the respondent at that time that he was threatening the appeal?—A. Yes; and that was the purpose of the proviso.

Q. Do you know Mr. W. S. Leake?—A. Yes; I know him very well.

Q. How long have you known him?—A. I have known him for quite a number of years; I should say 25 years. I knew him when he was editor of the San Francisco Call, a very influential paper in those days.

Q. That was operated by the Spreckels' interests at that time?—A. Yes.

Q. And the Spreckles' interests had him in control of it?—A. Yes; that is true.

Q. You knew him intimately, I believe?—A. I cannot say that I did. I knew him very well as a public man, but socially—intimately—I cannot say that.

Q. Since his retirement from active public life have you not been with him frequently?—A. No, sir; I have not.

Q. You know he has maintained an office in San Francisco?—A. Yes.

Q. You have been to that office?—A. I have been to the office; yes, sir.

Q. You gave him credit for having you appointed district attorney in the northern district of California, I believe?—A. I do not want to do the gentleman an injustice, but my appointment was due to the two Senators of the State. I must confess that Mr. Leake did all he could to help me, but with all due deference I did not owe him my appointment.

Q. You gave him credit for manipulating it for you, did you not?—A. To be charitable, I want to give him credit.

Mr. LINFORTH. Mr. President, I take exception to that question.

The PRESIDING OFFICER. The Chair does not think it is pertinent.

The WITNESS. I feel very grateful to him for what he did for me; I will say that—very grateful.

By Mr. Manager BROWNING:

Q. You did not have a safe-deposit box, did you?—A. No, sir; I am not so fortunate.

Mr. Manager BROWNING. That is all.

Mr. LINFORTH. No further questions of this witness.

The PRESIDING OFFICER. The witness may be excused.

(The witness retired from the stand.)

Mr. LINFORTH. Mr. President, we would like to ask permission of the Presiding Officer for a moment to confer.

The PRESIDING OFFICER. Very well.

(A pause.)

EXAMINATION OF BRICE KEARSLEY, JR.

Mr. HANLEY. We should like to call Mr. Brice Kearsley, Jr.

Brice Kearsley, Jr., having been duly sworn, was examined and testified as follows:

By Mr. HANLEY:

Q. State your name in full, your business, and your residence?—A. My name is Brice Kearsley, Jr. I am an attorney at law, and I live at Los Angeles, Calif.

Q. Were you at one time connected with the firm of Gold, Quittner & Kearsley?—A. I was.

Q. In the year 1931 and about the 5th day of August of that year, did you present a petition or complaint to Judge Louderback on behalf of the Character Finance Co., of Santa Monica, for the appointment of an equity receiver?—A. I did; but it was on the 15th day of August 1931.

Q. With whom did you go to the chambers of Judge Louderback?—A. With Mr. Joseph Stephens, Jr.

Q. Who was he?—A. He was the vice president of the Prudential Holding Co.

Q. Did you present the complaint to the judge and request the appointment of a receiver?—A. I did.

Q. What did you say to Judge Louderback at that time and place, in the presence of Mr. Stephens?—A. I told Judge Louderback that I represented the Character Finance Co., of Santa Monica, who owned and controlled $90,000 worth of the stock of the Prudential Holding Co.; that the Prudential Holding Co. had guaranteed certain obligations of the Character Finance Corporation and had failed to make good the guarantee; that we—that is to say, the corporation and myself—had endeavored to obtain some satisfaction out of them concerning these guaranties; that we had made an investigation of the Prudential Holding Co. and found out that their affairs were in a very precarious situation, and that something would have to be done in order to conserve the assets for the benefit of the Character Finance Corporation; that we thereupon had a meeting of the board of directors, and the board of directors voted to apply for a receiver in equity in order, if possible, to conserve what assets there were left; that I brought Mr. Stephens, who occupied a similar position to certain members of the Character Finance Corporation as the vice president of the Prudential Holding Co., to tell him what he knew about it; that Mr. Stephens was prepared to recommend an equity receivership; that, in our opinion, an equity receivership was absolutely necessary, and that we wished to have a receiver appointed. I also presented him with a petition which set out in full exactly the facts as we had discovered them in our investigation.

Q. Had you made a thorough investigation of what was the then condition of the Prudential Holding Co.?—A. We had; yes.

Q. Had you come to any conclusion from your investigation as to its condition?—A. Yes; we had.

Q. What condition did you find it to be in?—A. We found that the Prudential Holding Co. was absolutely insolvent, and that what assets were left were rapidly being depreciated and done away with; and that the officers of the corporation, in our opinion, were incapable of handling it, and were looting it in every possible way.

Q. Did you in absolute good faith, on behalf of your plaintiff, present these matters in the complaint that was had?

Mr. Manager BROWNING. I think that is going very far afield.

Mr. HANLEY. Oh, no; he is accused——

The PRESIDING OFFICER. Answer the question; but the Chair will suggest to counsel to conserve time as much as possible.

The WITNESS. We did; yes.

By Mr. HANLEY:

Q. Immediately upon the presenting, did you suggest any receiver to Judge Louderback?—A. I did not.

Q. Did you leave an order requesting the appointment of a receiver?—A. I did.

Q. Whom did he appoint?—A. Mr. G. H. Gilbert.

Q. Had you anything to do with the appointment of Mr. G. H. Gilbert?—A. I had not.

Q. Had you anything to do with the appointment of his attorney?—A. I had not.

Q. After the appointment of the receiver, did your office cease at that time?—A. Yes, sir. I never saw him again at any time until here in Washington.

Q. Thereafter a motion was made on behalf of the Prudential Co. set aside the receivership. Did you personally appear in that?—A. I did not; my associate did.

Q. What member of your firm appeared in it?—A. Mr. Francis Quittner.

Q. And he resisted the dismissal that was finally entered in that case?—A. He did.

Mr. HANLEY. You may examine.

Cross-examination by Mr. Manager BROWNING:

Q. Mr. Kearsley, you are not now a member of that firm?—A. I am not.

Q. Your connection with that firm was terminated because of the conduct of this case, was it not?—A. It was not.

Q. You alleged in the petition you filed that the assets of the concern were $1,050,000, did you not?—A. I alleged that, yes; upon information and belief.

Q. And you swore to it yourself?—A. I did.

Q. On information and belief?—A. Correct.

Q. And that is the only verification you had of the petition?—A. That is correct.

Q. What did you allege in that petition were the liabilities of the concern?—A. I do not recall.

Q. How large a bond did you have the receiver put under?—A. I think it was $100,000. I cannot remember exactly. It may have been $50,000.

Q. Was it not $50,000, and was not the bond running in favor of the Government itself?—A. The usual bond was put up.

Q. You did not have any indemnity to the defendant company, did you?—A. I did not.

Q. And you did not have any to the other creditors?—A. I did not.

Q. And nobody appeared for the company there that day in the way of counsel, did they?—A. They did not.

Q. They had no notice of it, did they?—A. They did not.

Q. You give it as your opinion now, do you not, Mr. Kearsley, that the court had no jurisdiction on the face of that petition?—A. I absolutely do not; and subsequent cases have shown the contrary.

Q. What was the termination of this case in that regard?—A. That was dismissed.

Q. And it was dismissed on the ground that there was no jurisdiction?—A. Exactly correct.

Q. Where are you practicing law now?—A. In Los Angeles.

Q. Do you have an office?—A. I do.

Q. Where is it located?—A. 414 Pacific National Building.

Q. Are you associated with any firm now?—A. Not now.

Q. When you went to San Francisco to file this petition, whom did you have associated with you in the preparation of it?—A. No one.

Q. Do you know Dinkelspiel & Dinkelspiel?—A. I do.

Q. How long have you known them?—A. I met them when I went to San Francisco.

Q. To file this petition?—A. Correct.

Q. Where did you meet them?—A. I met Mr. John Dinkelspiel the morning the petition was filed.

Q. Where?—A. I met him at the court room.

Q. What was he doing up there?—A. Well, I can only assume what he was doing. I understand he came to be counsel for Mr. Gilbert.

Q. But you had seen him before that time?—A. No; I had not seen him before that time; no.

Q. Had you seen his brother Martin?—A. No.

Q. You had been to his office?—A. Yes; I had been to his office.

Q. Whom did you see at his office?—A. Mr. Stephens.

Q. Did you not see either one of the Dinkelspiels at their office that day?—A. Yes; I did later on that day, after the petition was filed.

Q. I mean before the petition was filed.—A. No, sir.

Q. But you did meet Mr. Stephens at their office?—A. That is correct.

Q. How came he there? Why was he at their office?—A. Because I asked him to meet me there.

Q. Had you had any correspondence with them about it before you went up there?—A. No. I had talked to Mr. Stephens on the telephone and asked him to meet me at their office. I can explain that.

Q. How did you get hold of Mr. Stephens in the matter?—A. Called him on the telephone.

Q. Had you had any communication with him before that?—A. No. I was directed by the board of directors of the Character Finance Corporation to get in touch with Mr. Stephens concerning this matter.

Q. Why did you not call the president?—A. Mr. Beck?

Q. Yes.—A. Because they did not desire to call the president.

Q. Why did you not call Miss Lind, the secretary?—A. I never heard of her before.

Q. You did not know anything about this concern, did you?—A. I most certainly did.

Q. Did you get your information through Mr. Stephens alone?—A. No, sir.

Q. Had you ever met him before that day?—A. No, sir.

Q. Had you ever had any correspondence with him before that day?—A. I had not; no.

Q. Had your firm had any correspondence with him?—A. No; they had not that I know of.

Q. Why did you pick Dinkelspiel's office for him to meet you?—A. Because we—the firm that I was associated with, not myself—had used the office of Dinkelspiel & Dinkelspiel on other occasions as corresponding attorneys in San Francisco. I personally had never met either of them at any time or been in their office before.

Q. You say now that you did not meet them that morning when you were at their office?—A. I met them afterward. I met Martin Dinkelspiel.

Q. I mean that morning.—A. No, sir.

Q. Did you see them?—A. No. I met him in the anteroom. I was in a great hurry that morning to get over to court.

Q. In fact, it was quite a hurried-up proceeding, was it not?—A. It was not. It was deliberated for approximately a month before we took any steps.

Q. How long did you stay in the presence of the respondent when you filed the petition and asked for the receivership?—A. I should say approximately one half hour.

Q. That was the time when you told him about Mr. Stephens' attitude?—A. Yes; that is correct.

Q. Did Mr. Stephens make any statement about it?—A. He did.

Q. What was it?—A. He told Judge Louderback that, in his opinion, it was absolutely necessary that something be done, and that he thought that the appointment of a receiver would be a wise thing to do.

Q. You remember that language?—A. Not exactly. I remember it in effect.

Q. What was it? What did he say?—A. I do not recall his exact words.

Q. Stephens did not represent himself there that day as representing the firm, the Prudential Holding Co., did he?—A. He told Judge Louderback that he was the vice president of the Prudential Holding Co.

Q. That is not the question I asked you. I asked you if he represented to the respondent at that time that he was representing the firm, the Prudential Holding Co.?—A. Not strictly in the sense of representing it; no.

Q. Did he claim that he was authorized to represent them?—A. He did not.

Mr. Manager BROWNING. That is all.

The witness retired from the stand.

EXAMINATION OF DAVID K. BYERS

Mr. LINFORTH. Please call David K. Byers.

David K. Byers, having been duly sworn, was examined and testified as follows:

By Mr. HANLEY:

Q. Let us have your name, your business, and your residence.—A. David K. Byers; San Francisco, Calif.; secretary and accountant, Western Coast Engineering Co.

Mr. Manager SUMNERS. Please speak louder.

By Mr. HANLEY:

Q. Were you employed at any time as an auditor for the Prudential Holding Co.?—A. I was.

Q. Who employed you?—A. Mr. Beck, the president.

Q. Where is Mr. Beck?—A. To my last knowledge, in Mexico City.

Q. Did he, at the time he employed you, hand you what purported to be a balance sheet of that company as of December 31, 1930?

Mr. Manager PERKINS. Mr. President, we object.

The WITNESS. He did.

Mr. Manager PERKINS. It is wholly immaterial in this proceeding what Mr. Beck did with this employee of his company.

The PRESIDING OFFICER. What is the theory of counsel in offering this testimony?

Mr. HANLEY. The theory is this: We wish to show by this witness that the officers of the Prudential Holding Co., when they employed the auditor, and at the present time, had a stuffed condition of alleged assets, that a balance sheet would not be a balance sheet, that it would not tally; that it practically had no assets, that it was a bankrupt corporation right up to the hilt, and that all it had was a few hundred dollars in bank; that it had hypothecated one piece of property on top of another; that it had made one deed of trust and a second deed of trust; that the officers of the company had decamped with the money; and that Beck had taken the money, after the first officer had died; that this man worked for 2 years and ascertained each and all of those facts. We can go down the balance sheet from the beginning to the end.

The PRESIDING OFFICER. It would be quicker to have the witness answer the question than to have the explanation of counsel. Let the witness go ahead and answer.

Mr. HANLEY. I will ask the reporter to read the last question.

The Official Reporter read as follows:

Q. Did he, at the time he employed you, hand you what purported to be a balance sheet of that company as of December 31, 1930?—A. He did.

By Mr. HANLEY:

Q. What assets, if any, did you find in that company?

Mr. Manager PERKINS. We object. If this be admissible, we will have to go in and try the whole case of whether or not the Prudential Holding Co. was or was not in fact insolvent, and the only inquiry here is as to the conduct of the respondent with reference to the petition filed, and not with respect to the actual assets of the company.

The PRESIDING OFFICER. The Chair thinks it is in issue here, but that it is more or less unimportant. Might not the Chair suggest to counsel to confine himself to the issue as closely as possible, and go along with the evidence?

Mr. HANLEY. We are trying to do that and do it expeditiously. It is alleged that this was a million-dollar corporation. It is alleged that they did so-and-so and so-and-so. Now I am going to show the real condition of this alleged, mythical corporation of some millions of dollars.

The PRESIDING OFFICER. The objection is overruled.

By Mr. HANLEY:

Q. What did you find, if anything, with reference to its assets, as given to you by the president?—A. Owing to the condition of the accounts, it was impossible to determine any definite values to any of their assets. The accounts they showed me in most cases could not be supported by any evidence supporting any values whatsoever; and with regard to the depreciation of the properties which they entered on their books, they never had any authentic appraisal made. The president of the company would simply add the values, depreciate the values, and have them entered on the books. Insofar as their operations since their inception, they always ran at a heavy loss, their operating expense was very heavy, their trades in real estate and stocks always showed a big loss to the corporation; and in later days, when I attempted to find deeds of trust or stock certificates supporting the assets as they appeared in their ledgers, they were not there, and I never was given a satisfactory explanation as to where they disappeared to.

Q. Was the property mortgaged and second mortgaged?—A. Yes, sir.

Q. Were you, during the 2 years you were connected with the company, ever able to get from anyone connected with the company an intelligent statement or set-up of the assets or the liabilities?—A. No, sir.

Mr. Manager SUMNERS. Mr. President, we object to that question as being leading. We object to the line of testimony because, insofar as we have undertaken to develop the evidence, and as far as we think it can be developed, the issues are these, that the respondent took jurisdiction of this matter when, as a matter of fact, he had no jurisdiction under the law. No hearing was given to the defendant, and then later on the matter went into the bankruptcy court, and this proceeding in equity was then dismissed, and the same parties were appointed receiver and attorney, respectively, in the bankruptcy court. Without regard to the condition of the business, the point is, in the first instance, a matter of jurisdiction.

The PRESIDING OFFICER. The managers on the part of the House insist that the court had no jurisdiction in the matter at all?

Mr. Manager SUMNERS. That is right.

The PRESIDING OFFICER. And regardless of the condition?

Mr. Manager SUMNERS. That is right. That issue was never touched by anybody. We are going to have to go over this case. We cannot afford to take the testimony of this auditor. We would have to have an opportunity to check up on that case, and see whether, with all respect to this witness, the witness' testimony is correct or not.

The PRESIDING OFFICER. The Chair will permit this question to be answered, but other questions along this line will be subject to objection by the managers on the part of the House.

The reporter repeated the pending question as follows:

Q. Were you, during the 2 years you were connected with the company, ever able to get from anyone connected with the company an intelligent statement or set-up of the assets of the liabilities?—A. No, sir.

Mr. Manager SUMNERS. Mr. President, in order to get the record straight, we respectfully request that the question and answer be stricken from the record.

The PRESIDING OFFICER. The motion is overruled.

By Mr. HANLEY:

Q. Were you ever paid for your services?—A. No, sir.

Mr. HANLEY. That is all. Cross-examine.

Cross-examination by Mr. Manager SUMNERS:

Q. Mr. Byers, you have no personal knowledge of the assets of this corporation, have you?—A. I have not actually seen the assets.

Q. You have no personal knowledge of what assets this corporation had, have you?—A. I have personal knowledge of the values.

Q. If you have never seen the assets, how can you tell anything about their values?—A. For the reason that as to all the operations reported on there was always heavy loss.

Q. All the railroads in the country would be valueless according to that system, would they not?

Mr. LINFORTH. Mr. President, I submit these questions are all argumentative. Counsel should not argue with the witness.

The PRESIDING OFFICER. On cross-examination, counsel has a good deal of latitude.

By Mr. Manager PERKINS:

Q. You were with the company 2 years, were you not?—A. I was not permanently with them. I was merely visiting.

Q. You only visited this company?—A. My arrangement with the president was that I was to come over and supervise and assist the bookkeeper.

Q. You were not the bookkeeper?—A. Oh, no.

Q. You supervised? How often did you get there?—A. Three and four times a week; sometimes less than that.

Q. And during all the time you were coming there, 3 or 4 times a week, it was a going concern, was it not?—A. The doors were open; yes, sir.

Q. I said, "It was a going concern."—A. Yes.

Mr. Manager PERKINS. That is all.

The PRESIDING OFFICER. Are there further questions? If not, the witness will be excused.

(The witness retired from the stand.)

Mr. LINFORTH. Mr. President, there are several witnesses whom we have in attendance whose testimony would be merely cumulative. Due to the stress under which the Senate is working, with emergency measures and the like, we have concluded not to call those witnesses, and I take it that there will be no reflection, so far as the honorable Senate is concerned, for our not doing so, having brought them this distance to testify. If that is correct, I am now prepared to announce that we have one short witness, who will not take longer than 10 minutes, if we conclude to call him, and then the respondent; and then we will be prepared to rest. Mr. President, with this statement, I would appreciate it very much if the honorable Senators could see their way clear at this time to take a recess until tomorrow morning.

RECESS

Mr. ASHURST. Mr. President, I move that the Senate, sitting as a Court of Impeachment, take a recess until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 6 o'clock p.m.) the Senate, sitting as a Court of Impeachment, took a recess until tomorrow, Tuesday, May 23, 1933, at 10 o'clock a.m.

LEGISLATIVE SESSION

The Senate, pursuant to the order for the recess entered on Saturday, May 20, resumed legislative session.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5480) to provide full and fair disclosure of the character of securities sold in interstate and foreign commerce and through the mails, and to prevent frauds in the sale thereof, and for other purposes.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate the following resolution of the House of Representatives of the State of Illinois, which was referred to the Committee on Banking and Currency:

STATE OF ILLINOIS,
OFFICE OF THE SECRETARY OF STATE.

To all to whom these presents shall come, greeting:

I, Edward J. Hughes, secretary of state of the State of Illinois, do hereby certify that the following and hereto attached is a true photostatic copy of House Resolution No. 55, the original of which is now on file and a matter of record in this office.

In testimony whereof I hereto set my hand and cause to be affixed the great seal of the State of Illinois. Done at the city of Springfield this 19th day of May A.D. 1933.

[SEAL] EDWARD J. HUGHES,
Secretary of State.

House Resolution 55

Whereas hundreds of thousands of depositors in State and National banks throughout the State of Illinois, and millions of depositors in banks throughout the Nation, have their moneys tied up in closed banks; and

Whereas heretofore only a small percentage of such deposits has been paid by some of the closed banks to the depositors at great cost and expense to the depositors on account of exorbitant fees paid to receivers and attorneys for receivers; and

Whereas in order to reestablish the confidence of the people at large in the State and Nation and to restore confidence in banks and bankers, as well as to stimulate business in this State and Nation, it is of vital importance that some Federal agency be created to take over all the assets and liabilities of closed banks in the State and Nation and pay all the depositors in said closed banks 100 cents on the dollar: Now, therefore, be it

Resolved by the House of Representatives of the Fifty-eighth General Assembly of the State of Illinois, That this body urgently request the Congress of the United States at its present session to enact such legislation and make such appropriations as may be necessary to put into effect the suggestions contained herein; and be it further

Resolved, That copies of this preamble and resolution be sent forthwith to the President of the United States, the President of the Senate, the Speaker of the House, and to each Senator and Congressman from Illinois.

I hereby certify the foregoing to be a true copy of a resolution adopted by the House of Representatives of the Fifty-eighth General Assembly of the State of Illinois on May 17, 1933.

CHAS. P. CUSEY,
Clerk of the House of Representatives.

The VICE PRESIDENT also laid before the Senate the following joint resolution of the Legislature of the State of Wisconsin, which was referred to the Committee on Finance:

STATE OF WISCONSIN.

Joint resolution memorializing Congress to enact laws providing for the use of ethyl alcohol in all motor fuels

Whereas at present low prices it is impossible for farmers to meet insurance, interest, and taxes, and a continuation of this condition will result not only in depriving the majority of farmers of their farms and life savings but in making impossible any substantial improvement in general economic conditions; and

Whereas the only real solution to this situation lies in an increased demand, market, and price for farm products; and

Whereas legislation providing that motor fuel must be blended with alcohol made from farm products grown in this country would increase the demand and price for farm products; and

Whereas the blending of gasoline with alcohol made from farm products has proved to be a more efficient motor fuel than that now in use, and would result in placing this country on an import rather than on an export basis and would greatly increase the price of farm products; and

Whereas 14 foreign countries have already passed legislation requiring such blending of motor fuels: Now, therefore, be it

Resolved by the senate (the assembly concurring), That the Legislature of Wisconsin hereby respectfully memorializes the Congress of the United States to pass a law providing that all petroleum products used as a fuel in internal-combustion engines shall be blended with ethyl alcohol made from agricultural products grown within the United States; be it further

Resolved, That properly attested copies of this resolution be sent to President Roosevelt, to both Houses of the Congress of the United States, and to each Representative and Senator from Wisconsin.

THOMAS J. O'MALLEY,
President of the Senate.
R. A. COBBAN,
Chief Clerk of the Senate.
C. T. YOUNG,
Speaker of the Assembly.
JOHN J. SLOCUM,
Chief Clerk of the Assembly

The VICE PRESIDENT also laid before the Senate a cablegram embodying a concurrent resolution adopted by the Legislature of the Territory of Hawaii, which was referred to the Committee on Territories and Insular Affairs, as follows:

HONOLULU, *May 21, 1933.*

Hon. JOHN N. GARNER,
President Senate, Washington, D.C.:

We have the honor to transmit the following concurrent resolution unanimously adopted this day by the Legislature of the Territory of Hawaii:

"Whereas it has come to the attention of this legislature through items in the public press and otherwise that action is contemplated in Washington toward the amendment of the Hawaiian organic act removing the 3-year residence qualification for the Governor of Hawaii; and

"Whereas it is well known that there are among those who have resided in this Territory during the preceding 3 years numerous men of the Democratic Party who are fully and ably qualified for this high office; and

"Whereas it is also the firm conviction of this legislature that it would result most unfairly and unfortunately for the Territory should a nonresident of necessity unfamiliar with local conditions and problems be appointed to this office; and

"Whereas the threatened procedure would be absolutely contrary to all principles of American self-government, in the fulfill-

ment of which principles this Territory has heretofore given an excellent account of itself: Now, therefore, be it

"*Resolved by the Senate of the Territory of Hawaii, seventeenth regular session (the house of representatives concurring)*, That on behalf of the people of this Territory this legislature earnestly protests against any action by the Congress of the United States of America toward the elimination of the 3-year residence qualification for the Governor of this Territory; and be it further

"*Resolved*, That certified copies of this resolution be forwarded to the President of the United States of America, to each of the two Houses of Congress, to the Secretary of the Interior, and to the Delegate to Congress from Hawaii."

GEO. P. COOKE,
President of the Senate.
HERBERT N. AHUNA,
Speaker House of Representatives.

The VICE PRESIDENT also laid before the Senate resolutions adopted by the Galveston Boosters' Club and the Kiwanis Club, both of Galveston; the Chambers of Commerce of Buffalo, Dalhart, and Hearne; the board of directors of the Lamar County Chamber of Commerce; and the Commissioners' Courts of the Counties of Galveston, McCulloch, and Wood, all in the State of Texas, endorsing the program of President Roosevelt and favoring the inauguration of a public-works program for unemployment relief providing highway construction in the State of Texas, which were referred to the Committee on Finance.

He also laid before the Senate a resolution adopted by Hope Council, No. 1, Sons and Daughters of Liberty, of Washington, D.C., favoring the prompt passage of House bill 4114, the so-called "Dies bill", establishing a fixed quota pertaining to the immigration of aliens, which was referred to the Committee on Immigration.

He also laid before the Senate a resolution adopted by John A. Hadley Chapter, No. 3, Eighth Army Corps Association of the United States, Los Angeles, Calif., protesting against the curtailment or elimination of pensions of Spanish-American War veterans, which was referred to the Committee on Pensions.

VETERANS' LEGISLATION

Mr. WALSH. Mr. President, I present resolutions adopted by the mayor and City Council of Brockton, Mass., favoring the further study of veterans' legislation toward the end of a favorable adjustment, and ask that they be printed in full in the RECORD and appropriately referred.

There being no objection, the resolutions were referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

CITY OF BROCKTON,
COMMONWEALTH OF MASSACHUSETTS,
In Common Council, May 4, 1933.

Whereas it has come to the attention of the mayor and City Council of the City of Brockton that unwarranted misery and suffering will be caused disabled veterans of the Spanish-American and World Wars due to the operation of the act to curtail current expenses of benefits to war veterans recently enacted by the Federal Government, including many veterans who incurred their disabilities or disease in line of duty while in the active military service; and

Whereas the reduction in benefits from the Federal Government will compel many beneficiaries to apply to our local relief agencies to enable their families to obtain sufficient sustenance, thereby shifting the burden of providing for ex-soldiers from the National Government to the local government, thus departing from the established custom which has been in existence since the days of the Revolutionary War that men who served the Federal Government in time of stress should be cared for by the United States; and

Whereas this council believes that these unwarranted and drastic cuts in compensation now being paid to veterans does not meet with the approval of the American public in general, and believing that if the matter was brought to the personal attention of the President of the United States that immediate legislation would be enacted to bring about a more equitable and fair adjustment of veterans' benefits: Therefore be it

Resolved, That the mayor and City Council of the City of Brockton hereby goes on record in favor of a study of the entire matter of veterans' legislation in the hope that such study will bring about a favorable adjustment to the end that no veteran suffering from a disability incurred in line of duty while in the active military and naval service of the United States shall be called upon to bear a greater sacrifice than other classes of the American public, bearing in mind the hardships and tribulations that they endured during the period of war; and be it further

Resolved, That a copy of these resolutions be forwarded to the President of the United States, United States Senators from Massachusetts, and the Member of the United States House of Representatives from this district.

In common council May 4, 1933, passed and sent up for concurrence.

HAROLD C. BYRAM, *Clerk.*

In board of aldermen May 8, 1933, passed in concurrence.

J. ALBERT SULLIVAN, *Clerk.*

Approved May 11, 1933.

HORACE C. BAKER, *Mayor.*

A true copy. Attest:
[SEAL] J. ALBERT SULLIVAN, *City Clerk.*

THE FOREIGN DEBT

Mr. WALSH. Mr. President, I present and ask that there be printed in the CONGRESSIONAL RECORD and appropriately referred resolutions I have just received from the John Boyle O'Reilly Club, of West Newton, Mass., in opposition to cancelation or further reduction of foreign war debts due the American people.

There being no objection, the resolutions were referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

Hon. DAVID I. WALSH,
United States Senator, Washington, D.C.

DEAR SIR: The resolutions which follow were adopted by a unanimous vote at a meeting of the John Boyle O'Reilly Club, which was held at West Newton, Mass., on Wednesday evening, May 10.

We have been directed to forward the resolutions to you for your information and consideration. The members hope that you will take a firm stand against the further reduction or cancelation of foreign war debts.

Respectfully yours,

TIMOTHY O'CONNELL, *Chairman.*
PATRICK J. GLEASON, *Secretary,*
78 Walnut Street, Wellesley Hills, Mass.

Whereas Mr. Ramsay MacDonald, the British Premier, in public utterances while in this country expressed his desire for "international harmony", decried "economic retaliation", and professed the interest of himself and his Government in world peace and unity; and

Whereas the Government of which Mr. MacDonald is head has been and is carrying on a relentless economic war against the people of the Irish Free State; and

Whereas the British Government declines to submit to an independent tribunal Britain's claim to Irish land annuities and rejects with scorn Ireland's demand for restitution of overtaxation of more than £360,000,000, which, according to the finding of the Irish Financial Relations Committee, a body appointed by Britain, the Government in London has wrung from the taxpayers of Ireland since 1801: Therefore be it

Resolved, That we draw the attention of our National Government in Washington and of our fellow citizens generally to this striking difference between Mr. MacDonald's amicable statements and the belligerent attitude of his Government toward the people of the 26 counties of Ireland, known as the "Irish Free State"; and be it

Resolved, That we brand as insincere the statements of Mr. Ramsay MacDonald regarding "economic harmony" and "world peace", and that we declare his disapproval of "economic retaliation" is contradicted by the attempt of his Government to throttle the people of the Irish Free State by economic aggression; and be it also

Resolved, That as loyal citizens sincerely interested in the welfare of the United States, we request the Members of both Houses of Congress to oppose the cancelation or further reduction of foreign war debts due to the American people, because cancelation or downward revision of those debts would transfer Europe's burden to the shoulders of American taxpayers of the present time and of generations to come; and we exhort our fellow citizens generally to prevent any such ruinous development by vigilantly guarding their rights and vigorously asserting their claim to what belongs to them.

CAPITAL STRUCTURE OF THE RAILROADS

Mr. WALSH. Mr. President, I present and ask to have printed in full in the RECORD and appropriately referred a communication from Massachusetts Lodge, No. 229, of the Brotherhood of Railroad Clerks, urging that the capital structure of the railroads be revised.

There being no objection, the communication was referred to the Committee on Interstate Commerce and ordered to be printed in the RECORD, as follows:

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES,
COMMONWEALTH LODGE, NO. 229,
Worcester, Mass., May 15, 1933.

Hon. DAVID I. WALSH,
Senator from Massachusetts, Washington, D.C.

DEAR SIR: I am writing you on behalf of the members of Commonwealth Lodge, No. 229, of Brotherhood of Railroad Clerks relative to the railroad legislation now pending before Congress.

We are given to understand that the main purpose of this legislation is to effect economy on the railroads. We are informed that the means to attain this end will be by dismissing thousands of employees who are now at work.

In view of the fact that the Government has been doing all within its power to provide jobs for some of the people who are now out of work, does it seem logical to now proceed to throw out those who now have work?

It is said that the financial structure of the railroads must be protected and made secure. With that we agree, but we ask in all sincerity if you think that labor should bear all the burden.

We are firmly of the opinion that the capital structure of the railroads should be revised and that this is one of the avenues through which economy should be made.

It is conceded by all that the main objective now is to increase the purchasing power of the masses and that now that the skies seem to be brightening it would seem too bad if this proposed law should have the effect of destroying the purchasing power of a large number of railroad employees.

Is it not reasonable to suppose that if the now apparent upturn in business should continue to increase that the added revenue that would flow to the railroads would make it unnecessary for a program so drastic as is now proposed? If this be true, might it not be the part of wisdom to proceed in a less drastic manner and thereby safeguard the jobs of thousands?

We are not unmindful of the superhuman efforts of our President to restore prosperity to the country and the loyal support given him by the Members of Congress. May we take this opportunity to extend to you our sincere appreciation of your assistance in these efforts?

In conclusion may we presume to suggest that you give this matter your careful consideration to the end that those who are now enjoying the blessing of peace and contentment derived from the fruits of their labor may be allowed to continue to do so?

Yours sincerely,

[SEAL] J. A. McCUM, *President*.

NAVAL AND MARINE HOSPITALS AT CHELSEA, MASS.

Mr. WALSH. Mr. President, I present and ask that there be printed in full in the CONGRESSIONAL RECORD and appropriately referred resolutions I have just received from the secretary of the Commonwealth of Massachusetts, relative to the United States Naval Hospital and the United States Marine Hospital at Chelsea.

There being no objection, the resolutions were referred to the Committee on Naval Affairs and ordered to be printed in the RECORD, as follows:

Resolutions relative to the United States Naval Hospital and the United States Marine Hospital at Chelsea

Whereas the United States Naval Hospital and the United States Marine Hospital in the city of Chelsea have for many years rendered invaluable service in the care and treatment of veterans and employees of the Federal Government and are equipped with excellent medical and surgical facilities and apparatus and skilled personnel; and

Whereas said hospitals have established a notable record for efficient and humanitarian work in this section of the United States, and have made an indelible impression upon the citizens of our Commonwealth for the admirable service rendered during a long period of years: Therefore be it

Resolved, That the senate respectfully petitions the President of the United States, in the interests of the public health and convenience, to continue these hospitals as necessary institutions of our Federal Government in the performance of the efficient and humanitarian functions for which they are especially adapted and fitted, because of location, equipment, and personnel, as clearly demonstrated by their long record of public service; and be it further

Resolved, That copies of these resolutions be forwarded forthwith by the secretary of the Commonwealth to the President of the United States, to the presiding officers of both branches of Congress, and to the Members thereof representing this Commonwealth.

In senate, adopted, May 11, 1933.

IRVING N. HAYDEN, *Clerk*.

A true copy. Attest:

F. W. COOK,
Secretary of the Commonwealth.

REPORTS OF COMMITTEES

Mr. BYRNES, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred the resolution (S.Res. 82) authorizing a further expenditure in connection with the impeachment trial of Judge Harold Louderback, reported it without amendment.

Mr. DILL, from the Committee on Interstate Commerce, to which was referred the bill (S. 1580) to relieve the existing national emergency in relation to interstate railroad transportation, and to amend sections 5, 15a, and 19a of the Interstate Commerce Act, as amended, reported it with amendments and submitted a report (No. 87) thereon.

Mr. KING, from the Committee on the Judiciary, to which was referred the bill (S. 1581) to amend the act approved July 3, 1930 (46 Stat. 1005), authorizing commissioners or members of international tribunals to administer oaths, etc., reported it with amendments and submitted a report (No. 88) thereon.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. VANDENBERG:

A bill (S. 1740) to extend certain benefits of the Public Health Service to certain seamen, and for other purposes; to the Committee on Commerce.

By Mr. NYE:

A bill (S. 1741) to stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development, to stabilize the livestock industry dependent upon the public range, and for other purposes; to the Committee on Public Lands and Surveys.

By Mr. DILL:

A bill (S. 1742) granting consent of Congress to Ernest N. Hutchinson, Otto A. Case, and A. C. Martin to construct, maintain, and operate a bridge across Deception Pass between Whidby Island and Fidalgo Island in the State of Washington; to the Committee on Commerce.

A bill (S. 1743) authorizing the extension of time for the payment of governmental fees in the nature of purchase price payable to the United States Government under applications for commutations of homestead entries, the purchase of timber lands; and the purchase of coal lands of the United States; to the Committee on Public Lands and Surveys.

By Mr. TRAMMELL:

A bill (S. 1744) enabling certain farmers and fruit growers to receive the benefits of the Federal Farm Loan Act and amendments thereto and the Emergency Farm Mortgage Act of 1933; to the Committee on Banking and Currency.

By Mr. McNARY:

A bill (S. 1745) granting the consent of Congress to the State of Oregon to construct, maintain, and operate a toll bridge across the Umpqua River at or near Reedsport, Douglas County, Oreg.;

A bill (S. 1746) granting the consent of Congress to the State of Oregon to construct, maintain, and operate a toll bridge across Yaquima Bay at or near Newport, Lincoln County, Oreg.;

A bill (S. 1747) granting the consent of Congress to the State of Oregon to construct, maintain, and operate a toll bridge across Alsea Bay at or near Walport, Lincoln County, Oreg.;

A bill (S. 1748) granting the consent of Congress to the State of Oregon to construct, maintain, and operate a toll bridge across Coos Bay at or near North Bend, Coos County, Oreg.; and

A bill (S. 1749) granting the consent of Congress to the State of Oregon to construct, maintain, and operate a toll bridge across the Siuslaw River at or near Florence, Lane County, Oreg.; to the Committee on Commerce.

AMENDMENTS TO PUBLIC-WORKS BILL

Mr. BARBOUR submitted an amendment intended to be proposed by him to Senate bill 1712, the industrial control and public-works bill, which was ordered to lie on the table and to be printed.

Mr. WALSH and Mr. DIETERICH each submitted an amendment intended to be proposed by them, respectively, to Senate bill 1712, the industrial control and public-works bill, which were referred to the Committee on Finance and ordered to be printed.

REGULATION OF BANKING

Mr. VANDENBERG. Mr. President, the pending amendment to the banking bill is my proposal dealing with the immediate application of an insurance formula. The mutual savings banks have requested that the amendment be changed to permit them to qualify within the amendment.

The entire amendment has now been canvassed on both sides of the Senate by a number of Members of the Senate, and a final reprint, in conclusive form, is now available. I ask unanimous consent that this final print, identified as printed on May 15, 1933, be the pending amendment to the bill, and that it be printed in the RECORD.

The PRESIDING OFFICER (Mr. ROBINSON of Indiana in the chair). Is there objection? The Chair hears none, and it is so ordered.

The amendment is as follows:

Amendment proposed by Mr. VANDENBERG to the bill (S. 1631) to provide for the safer and more effective use of the assets of Federal Reserve banks and of national banking associations, to regulate interbank control, to prevent the undue diversion of funds into speculative operations, and for other purposes, viz:

On page 45, after line 3, insert the following new section:

"SEC. 12C. (a) There is hereby created a Temporary Federal Bank Deposit Insurance Fund (hereinafter referred to as the 'Fund'), which shall become operative on July 1, 1933, and whose duty it shall be to insure deposits as hereinafter provided until July 1, 1934.

"(b) Each member bank licensed before July 1, 1933, by the Secretary of the Treasury, pursuant to the authority vested in him by the proclamation of the President issued March 10, 1933, shall, on or before July 1, 1933, become a member of the Fund; each member bank so licensed after such date, and each State bank or trust company which becomes a member of the Federal Reserve System after such date, shall, upon being so licensed or so admitted to membership, become a member of the Fund; and any State bank or trust company and/or mutual savings bank which is not a member of the Federal Reserve System may, upon application therefor, become a member of the Fund on or before January 1, 1934, if such application is accompanied by a certificate of the State banking authority that such State bank or trust company or mutual savings bank is, on the date of such application, solvent with respect to its unrestricted deposits.

"(c) The Fund shall insure the amounts owed to each of the depositors of each of its members, but not to exceed $2,500 in the case of any one depositor; but the provisions of this section shall not apply to any impounded deposit or any impounded portion thereof. Any restrictions heretofore or hereafter proclaimed by the Secretary of the Treasury shall not render a deposit ineligible for insurance.

"(d) Each member of the Fund which shall become a member on or before July 1, 1933, shall file with the Fund on or before such date, a certified statement under oath showing the number of its depositors and the total amount of its deposits as of June 15, 1933, which are eligible for insurance under this section, together with a certified check in an amount equal to one half of 1 percent of the total amount of the deposits so certified; and each member bank, State bank, and trust company which shall become a member of the Fund after July 1, 1933, shall at the time of its admission to membership file with the Fund such a statement showing the number of its depositors and the total amount of its deposits as of the 15th day of the month preceding the month in which it was so admitted, which are eligible for insurance under this section, together with a certified check in an amount equal to one half of 1 percent of the total amount of the deposits so certified. A similar statement shall be filed by each such member on January 1, 1934, showing the number of its depositors and the total amount of its deposits as of December 15, 1933, which are eligible for such insurance, together with a certified check in an amount equal to one half of 1 percent of the increase, if any, in the total amount of such deposits since the date covered by the statement filed upon its admission to membership in the Fund.

"(e) If at any time prior to July 1, 1934, the Fund requires additional funds with which to meet its obligations under this section, each member of the Fund shall be subject to one additional assessment only in an amount not exceeding the total amount theretofore paid to the Fund by such member.

"(f) During the period that deposits are insured under this section, no member of the Fund shall pay interest at a rate in excess of 2½ percent per annum on the amount of any of its deposits so insured.

"(g) Whenever any member of the Fund shall have been closed by the appropriate legal authorities, the Fund shall pay to the depositors of such member as soon as possible thereafter the amount of their deposits on the date of such closing which are insured under this section. After such payment the Fund shall be subrogated to all rights against the closed bank of the owners of such insured deposits and shall be entitled to receive the same dividends from the proceeds of the assets of such closed bank as would have been payable to each such depositor with respect to his insured deposit.

"(h) In the event that the Fund shall be unable to pay any of its obligations, when due, the Secretary of the Treasury shall pay the amount thereof, which is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated. If any such advances are made by the Secretary of the Treasury, they shall be subsequently reimbursed to the Treasury by the Federal Bank Deposit Insurance Corporation by means of a special annual assessment on the members of the Fund of one fourth of 1 percent of the total insured deposits of such members on January 1, 1934, which the corporation is hereby authorized to collect until such time as such advances shall have been fully reimbursed, but no such assessment shall be made after the expiration of 10 years after July 1, 1934.

"(i) In the event that the Fund shall pay all of its obligations without recourse to the provisions of subsection (h) of this section, any balance remaining in the Fund on July 1, 1934, shall be transferred to the Federal Bank Deposit Insurance Corporation and credited to its deposit insurance account.

"(j) The Fund shall be a body corporate with power to adopt and use a corporate seal; to make contracts; to sue and be sued, complain and defend in any court of law or equity, State or Federal; to appoint by its board of directors, which shall consist of the members of the Federal Reserve Board, such officers and employees as may be necessary to carry out the powers granted to the Fund by this section, to define their duties, fix their compensation, require bonds of them and fix the penalty thereof, and to dismiss at pleasure such officers or employees; to prescribe by its board of directors bylaws, not inconsistent with law, regulating the manner in which its general business may be conducted and the privileges granted to it by law may be exercised and enjoyed; and to exercise by its board of directors, or duly authorized officers or agents, all powers specifically granted by this section and such incidental powers as shall be necessary to carry out the powers so granted. No member of the board of directors of the Fund shall receive any additional compensation for his services as such member.

"(k) There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $10,000,000, which shall be made immediately available to the Fund for the purpose of paying any of its expenses or obligations.

"(l) All functions of the Fund shall cease on July 1, 1934; except that it may proceed to collect any liquidating dividends to which it may be entitled under subsection (g) of this section. The net proceeds of all such collections after July 1, 1934, shall be paid to the Federal Bank Deposit Insurance Corporation for credit to its deposit insurance account, unless there is a balance due the Treasury under subsection (h) of this section, in which event such collections shall first be paid into the Treasury to the extent of such balance."

On page 45, line 3, strike out the quotation marks.

MIGRATORY BIRD CONSERVATION COMMISSION

Mr. McNARY. Mr. President, in the temporary absence of the Senator from Arkansas [Mr. ROBINSON], I desire to propose the following order. It meets with his approval, and I should like to have it entered at this time.

The PRESIDING OFFICER. Let it be read for the information of the Senate.

The Chief Clerk read as follows:

The Chair appoints the Senator from Nevada [Mr. PITTMAN] as a member of the Migratory Bird Conservation Commission to fill the vacancy created by the resignation of the Senator from Missouri, Mr. Hawes.

The PRESIDING OFFICER. The question is on agreeing to the order.

Mr. NORRIS. Mr. President, I should like to have the order read again.

The PRESIDING OFFICER. The clerk will read, as requested.

The Chief Clerk read as follows:

The Chair appoints the Senator from Nevada [Mr. PITTMAN]——

Mr. NORRIS. That is far enough. That is not an order. The Chair has not appointed him. We cannot say what the Chair has done. As a matter of fact, the Chair has not done anything of the kind. It does not make it any stronger if we pass the resolution, if it might be called that.

Mr. McNARY. Mr. President, there is a vacancy on the Commission due to the retirement of former Senator Hawes, of Missouri. This is an order I want the Chair himself to make. It does not require a vote. It is simply an order to be made, and I have requested it in the absence of the Senator from Arkansas, at his request.

Mr. NORRIS. I am not objecting to the appointment of the Senator from Nevada to fill the vacancy. We are trying to vote an order through the Senate when the order says, "The Chair appoints the Senator from Nevada", and so forth. If it is desired to have the Senate do it, I have no objection.

Mr. McNARY. It is not necessary for the Senate to do it. It is an order prepared for the Chair to make himself in his own way. It does not require action of the Senate at all. I simply sent it to the Chair to have it entered as his order.

Mr. NORRIS. If the Chair wants to do that, I have no objection.

The PRESIDING OFFICER. The Chair appoints the Senator from Nevada [Mr. PITTMAN] as a member of the Migratory Bird Conservation Commission to fill the vacancy created by the resignation of the Senator from Missouri, Mr. Hawes.

Mr. NORRIS. I thank the Chair! [Laughter.]

Mr. WALCOTT. Mr. President, before we leave the subject, if I can have just a moment for the purpose, I should like to explain the order of the Chair and its significance at this time.

The executive Commission to enforce the Migratory Bird Treaty Act is an important body. A special meeting of the Commission has been called for tomorrow at 11:30. There is a vacancy on the Commission, created by the resignation from the Senate of Senator Hawes, and the powers that be are very anxious to have the Senator from Nevada [Mr. PITTMAN] fill that vacancy.

Probably there is no one in the Senate as well qualified to take that place as the Senator from Nevada. He is very much in earnest about the work of conservation and is very well qualified for it and can and will be present at the meeting tomorrow. That is why there was some haste in getting this appointment through—because during the last few days a very important program has been laid out by several conservationists in different parts of the country that will be seriously considered tomorrow by the Commission and, I hope, will be approved.

PROTECTION OF INVESTORS—CONFERENCE REPORT

Mr. FLETCHER. Mr. President, I present a conference report which was adopted in the House today. I should like to have it considered now. I do not think it will lead to any debate.

The report presented by Mr. FLETCHER is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5480) to provide full and fair disclosure of the character of securities sold in interstate and foreign commerce and through the mails, and to prevent frauds in the sale thereof, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"TITLE I

"SHORT TITLE

"SECTION 1. This title may be cited as the 'Securities Act of 1933.'

"DEFINITIONS

"SEC. 2. When used in this title, unless the context otherwise requires—

"(1) The term 'security' means any note, stock, Treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of interest in property, tangible or intangible, or, in general, any instrument commonly known as a security, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing.

"(2) The term 'person' means an individual, a corporation, a partnership, an association, a joint-stock company, a trust, any unincorporated organization, or a government or political subdivision thereof. As used in this paragraph the term 'trust' shall include only a trust where the interest or interests of the beneficiary or beneficiaries are evidenced by a security.

"(3) The term 'sale', 'sell', 'offer to sell', or 'offer for sale' shall include every contract of sale or disposition of, attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value; except that such terms shall not include preliminary negotiations or agreements between an issuer and any underwriter. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing, shall be conclusively presumed to constitute a part of the subject of such purchase and to have been sold for value. The issue or transfer of a right or privilege, when originally issued or transferred with a security, giving the holder of such security the right to convert such security into another security of the same issuer or of another person, or giving a right to subscribe to another security of the same issuer or of another person, which right cannot be exercised until some future date, shall not be deemed to be a sale of such other security; but the issue or transfer of such other security upon the exercise of such right of conversion or subscription shall be deemed a sale of such other security.

"(4) The term 'issuer' means every person who issues or proposes to issue any security or who guarantees a security either as to principal or income; except that with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term 'issuer' means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which such securities are issued; and except that with respect to equipment-trust certificates or like securities, the term 'issuer' means the person by whom the equipment or property is or is to be used.

"(5) The term 'Commission' means the Federal Trade Commission.

"(6) The term 'Territory' means Alaska, Hawaii, Puerto Rico, the Philippine Islands, Canal Zone, the Virgin Islands, and the insular possessions of the United States.

"(7) The term 'interstate commerce' means trade or commerce in securities or any transportation or communication relating thereto among the several States or between the District of Columbia or any Territory of the United States and any State or other Territory, or between any foreign country and any State, Territory, or the District of Columbia, or within the District of Columbia.

"(8) The term 'registration statement' means the statement provided for in section 6, and includes any amendment thereto and any report, document, or memorandum accompanying such statement or incorporated therein by reference.

"(9) The term 'write' or 'written' shall include printed, lithographed, or any means of graphic communication.

"(10) The term 'prospectus' means any prospectus, notice, circular, advertisement, letter, or communication, written or by radio, which offers any security for sale; except that (a) a communication shall not be deemed a prospectus if it is proved that prior to such communication a written prospectus meeting the requirements of section 10 was received, by the person to whom the communication was made, from the person making such communication or his principal, and (b) a notice, circular, advertisement, letter, or communication in respect of a security shall not be deemed to be a prospectus if it states from whom a written prospectus meeting the requirements of section 10 may be obtained and, in addition, does no more than identify the security, state the price thereof, and state by whom orders will be executed.

"(11) The term 'underwriter' means any person who has purchased from an issuer with a view to, or sells for an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking; but such term shall not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers' commission. As used in this paragraph the term 'issuer' shall include, in addition to an issuer, any person directly or indirectly controlling or controlled by the issuer, or any

person under direct or indirect common control with the issuer.

"(12) The term 'dealer' means any person who engages either for all or part of his time, directly or indirectly, as agent, broker, or principal, in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.

"EXEMPTED SECURITIES

"SEC. 3. (a) Except as hereinafter expressly provided, the provisions of this title shall not apply to any of the following classes of securities:

"(1) Any security which, prior to or within 60 days after the enactment of this title, has been sold or disposed of by the issuer or bona fide offered to the public, but this exemption shall not apply to any new offering of any such security by an issuer or underwriter subsequent to such 60 days;

"(2) Any security issued or guaranteed by the United States or any Territory thereof, or by the District of Columbia, or by any State of the United States, or by any political subdivision of a State or Territory, or by any public instrumentality of one or more States or Territories exercising an essential governmental function, or by any corporation created and controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States, or by any national bank, or by any banking institution organized under the laws of any State or Territory, the business of which is substantially confined to banking and is supervised by the State or Territorial banking commission or similar official; or any security issued by or representing an interest in or a direct obligation of a Federal Reserve bank;

"(3) Any note, draft, bill of exchange, or banker's acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which has a maturity at the time of issuance of not exceeding 9 months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited;

"(4) Any security issued by a corporation organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes and not for pecuniary profit, and no part of the net earnings of which inures to the benefit of any person, private stockholder, or individual;

"(5) Any security issued by a building and loan association, homestead association, savings and loan association, or similar institution, substantially all the business of which is confined to the making of loans to members (but the foregoing exemption shall not apply with respect to any such security where the issuer takes from the total amount paid or deposited by the purchaser, by way of any fee, cash value, or other device whatsoever, either upon termination of the investment at maturity or before maturity, an aggregate amount in excess of 3 percent of the face value of such security), or any security issued by a farmers' cooperative association as defined in paragraphs (12), (13), and (14) of section 103 of the Revenue Act of 1932;

"(6) Any security issued by a common carrier which is subject to the provisions of section 20a of the Interstate Commerce Act, as amended;

"(7) Certificates issued by a receiver or by a trustee in bankruptcy, with the approval of the court;

"(8) Any insurance or endowment policy or annuity contract or optional annuity contract, issued by a corporation subject to the supervision of the insurance commissioner, bank commissioner, or any agency or officer performing like functions, of any State or Territory of the United States or the District of Columbia.

"(b) The Commission may from time to time by its rules and regulations, and subject to such terms and conditions as may be prescribed therein, add any class of securities to the securities exempted as provided in this section, if it finds that the enforcement of this title with respect to such securities is not necessary in the public interest and for the protection of investors by reason of the small amount involved or the limited character of the public offering; but no issue of securities shall be exempted under this subsection where the aggregate amount at which such issue is offered to the public exceeds $100,000.

"EXEMPTED TRANSACTIONS

"SEC. 4. The provisions of section 5 shall not apply to any of the following transactions:

"(1) Transactions by any person other than an issuer, underwriter, or dealer; transactions by an issuer not with or through an underwriter and not involving any public offering; or transactions by a dealer (including an underwriter no longer acting as an underwriter in respect of the security involved in such transaction), except transactions within 1 year after the last date upon which the security was bona fide offered to the public by the issuer or by or through an underwriter (excluding in the computation of such year any time during which a stop order issued under sec. 8 is in effect as to the security), and except transactions as to securities constituting the whole or a part of an unsold allotment to or subscription by such dealer as a participant in the distribution of such securities by the issuer or by or through an underwriter.

"(2) Brokers' transactions, executed upon customers' orders on any exchange or in the open or counter market, but not the solicitation of such orders.

"(3) The issuance of a security of a person exchanged by it with its existing security holders exclusively, where no commission or other remuneration is paid or given directly or indirectly in connection with such exchange; or the issuance of securities to the existing security holders or other existing creditors of a corporation in the process of a bona-fide reorganization of such corporation under the supervision of any court, either in exchange for the securities of such security holders or claims of such creditors or partly for cash and partly in exchange for the securities or claims of such security holders or creditors.

"PROHIBITIONS RELATING TO INTERSTATE COMMERCE AND THE MAILS

"SEC. 5. (a) Unless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly—

"(1) to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell or offer to buy such security through the use or medium of any prospectus or otherwise; or

"(2) to carry or cause to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale.

"(b) It shall be unlawful for any person, directly or indirectly—

"(1) to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to carry or transmit any prospectus relating to any security registered under this title, unless such prospectus meets the requirements of section 10; or

"(2) to carry or to cause to be carried through the mails or in interstate commerce any such security for the purpose of sale or for delivery after sale, unless accompanied or preceded by a prospectus that meets the requirements of section 10.

"(c) The provisions of this section relating to the use of the mails shall not apply to the sale of any security where the issue of which it is a part is sold only to persons resident within a single State or Territory, where the issuer of such securities is a person resident and doing business within, or, if a corporation, incorporated by and doing business within, such State or Territory.

"REGISTRATION OF SECURITIES AND SIGNING OF REGISTRATION STATEMENT

"SEC. 6. (a) Any security may be registered with the Commission under the terms and conditions hereinafter provided, by filing a registration statement in triplicate, at least one of which shall be signed by each issuer, its principal executive officer or officers, its principal financial officer, its comptroller or principal accounting officer, and the majority of its board of directors or persons performing similar functions (or, if there is no board of directors or

persons performing similar functions, by the majority of the persons or board having the power of management of the issuer), and in case the issuer is a foreign or territorial person by its duly authorized representative in the United States; except that when such registration statement relates to a security issued by a foreign government, or political subdivision thereof, it need be signed only by the underwriter of such security. Signatures of all such persons when written on the said registration statements shall be presumed to have been so written by authority of the person whose signature is so affixed and the burden of proof, in the event such authority shall be denied, shall be upon the party denying the same. The affixing of any signature without the authority of the purported signer shall constitute a violation of this title. A registration statement shall be deemed effective only as to the securities specified therein as proposed to be offered.

"(b) At the time of filing a registration statement the applicant shall pay to the Commission a fee of one one-hundredth of 1 percent of the maximum aggregate price at which such securities are proposed to be offered, but in no case shall such fee be less than $25.

"(c) The filing with the Commission of a registration statement, or of an amendment to a registration statement, shall be deemed to have taken place upon the receipt thereof, but the filing of a registration statement shall not be deemed to have taken place unless it is accompanied by a United States postal money order or a certified bank check or cash for the amount of the fee required under subsection (b).

"(d) The information contained in or filed with any registration statement shall be made available to the public under such regulations as the Commission may prescribe, and copies thereof, photostatic or otherwise, shall be furnished to every applicant at such reasonable charge as the commission may prescribe.

"(e) No registration statement may be filed within the first 40 days following the enactment of this act.

"INFORMATION REQUIRED IN REGISTERED STATEMENT

"SEC. 7. The registration statement, when relating to a security other than a security issued by a foreign government, or political subdivision thereof, shall contain the information, and be accompanied by the documents, specified in schedule A, and when relating to a security issued by a foreign government, or political subdivision thereof, shall contain the information, and be accompanied by the documents, specified in schedule B; except that the Commission may by rules or regulations provide that any such information or document need not be included in respect of any class of issuers or securities if it finds that the requirement of such information or document is inapplicable to such class and that disclosure fully adequate for the protection of investors is otherwise required to be included within the registration statement. If any accountant, engineer, or appraiser, or any person whose profession gives authority to a statement made by him, is named as having prepared or certified any part of the registration statement, or is named as having prepared or certified a report or valuation for use in connection with the registration statement, the written consent of such person shall be filed with the registration statement. If any such person is named as having prepared or certified a report or valuation (other than a public official document or statement) which is used in connection with the registration statement, but is not named as having prepared or certified such report or valuation for use in connection with the registration statement, the written consent of such person shall be filed with the registration statement unless the Commission dispenses with such filing as impracticable or as involving undue hardship on the person filing the registration statement. Any such registration statement shall contain such other information, and be accompanied by such other documents, as the Commission may by rules or regulations require as being necessary or appropriate in the public interest or for the protection of investors.

"TAKING EFFECT OF REGISTRATION STATEMENTS AND AMENDMENTS THERETO

"SEC. 8. (a) The effective date of a registration statement shall be the twentieth day after the filing thereof, except as hereinafter provided, and except that in case of securities of any foreign public authority, which has continued the full service of its obligations in the United States, the proceeds of which are to be devoted to the refunding of obligations payable in the United States, the registration statement shall become effective 7 days after the filing thereof. If any amendment to any such statement is filed prior to the effective date of such statement, the registration statement shall be deemed to have been filed when such amendment was filed; except that an amendment filed with the consent of the Commission, prior to the effective date of the registration statement, or filed pursuant to an order of the Commission, shall be treated as a part of the registration statement.

"(b) If it appears to the Commission that a registration statement is on its face incomplete or inaccurate in any material respect, the Commission may, after notice by personal service or the sending of confirmed telegraphic notice not later than 10 days after the filing of the registration statement, and opportunity for hearing (at a time fixed by the Commission) within 10 days after such notice by personal service or the sending of such telegraphic notice, issue an order prior to the effective date of registration refusing to permit such statement to become effective until it has been amended in accordance with such order. When such statment has been amended in accordance with such order the Commission shall so declare and the registration shall become effective at the time provided in subsection (a) or upon the date of such declaration, whichever date is the later.

"(c) An amendment filed after the effective date of the registration statement, if such amendment, upon its face, appears to the Commission not to be incomplete or inaccurate in any material respect, shall become effective on such date as the Commission may determine, having due regard to the public interest and the protection of investors.

"(d) If it appears to the Commission at any time that the registration statement includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, the Commission may, after notice by personal service or the sending of confirmed telegraphic notice, and after opportunity for hearing (at a time fixed by the Commission) within 15 days after such notice by personal service or the sending of such telegraphic notice, issue a stop order suspending the effectiveness of the registration statement. When such statement has been amended in accordance wtih such stop order the Commission shall so declare and thereupon the stop order shall cease to be effective.

"(e) The Commission is hereby empowered to make an examination in any case in order to determine whether a stop order should issue under subsection (d). In making such examination the Commission or any officer or officers designated by it shall have access to and may demand the production of any books and papers of, and may administer oaths and affirmations to and examine, the issuer, underwriter, or any other person, in respect of any matter relevant to the examination, and may, in its discretion, require the production of a balance sheet exhibiting the assets and liabilities of the issuer, or its income statement, or both, to be certified to by a public or certified accountant approved by the Commission. If the issuer or underwriter shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of a stop order.

"(f) Any notice required under this section shall be sent to or served on the issuer, or, in case of a foreign government or political subdivision thereof, to or on the underwriter, or, in the case of a foreign or Territorial person, to or on its duly authorized representative in the United States named in the registration statement, properly directed in each case of telegraphic notice to the address given in such statement.

"COURT REVIEW OF ORDERS

"SEC. 9. (a) Any person aggrieved by an order of the Commission may obtain a review of such order in the Circuit Court of Appeals of the United States, within any circuit wherein such person resides or has his principal place

of business, or in the Court of Appeals of the District of Columbia, by filing in such court within 60 days after the entry of such order, a written petition praying that the order of the Commission be modified or be set aside in whole or in part. A copy of such petition shall be forthwith served upon the Commission, and thereupon the Commission shall certify and file in the court a transcript of the record upon which the order complained of was entered. No objection to the order of the Commission shall be considered by the court unless such objection shall have been urged before the Commission. The finding of the Commission as to the facts, if supported by evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of the original order. The jurisdiction of the court shall be exclusive and its judgment and decree, affirming, modifying, or setting aside, in whole or in part, any order of the Commission, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 346 and 347).

"(b) The commencement of proceedings under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

INFORMATION REQUIRED IN PROSPECTUS

"SEC. 10. (a) A prospectus—

"(1) when relating to a security other than a security issued by a foreign government or political subdivision thereof, shall contain the same statements made in the registration statement, but it need not include the documents referred to in paragraphs (28) to (32) inclusive of schedule A;

"(2) When relating to a security issued by a foreign government or political subdivision thereof shall contain the same statements made in the registration statement, but it need not include the documents referred to in paragraphs (13) and (14) of schedule B.

"(b) Notwithstanding the provisions of subsection (a)—

"(1) When a prospectus is used more than 13 months after the effective date of the registration statement, the information in the statements contained therein shall be as of a date not more than 12 months prior to such use.

"(2) There may be omitted from any prospectus any of the statements required under such subsection (a) which the Commission may by rules or regulations designate as not being necessary or appropriate in the public interest or for the protection of investors.

"(3) Any prospectus shall contain such other information as the Commission may by rules or regulations require as being necessary or appropriate in the public interest or for the protection of investors.

"(4) In the exercise of its powers under paragraphs (2) and (3) of this subsection, the Commission shall have authority to classify prospectuses according to the nature and circumstances of their use, and, by rules and regulations and subject to such terms and conditions as it shall specify therein, to prescribe as to each class the form and contents which it may find appropriate to such use and consistent with the public interest and the protection of investors.

"(c) The statements or information required to be included in a prospectus by or under authority of subsection (a) or (b), when written, shall be placed in a conspicuous part of the prospectus in type as large as that used generally in the body of the prospectus.

"(d) In any case where a prospectus consists of a radio broadcast, copies thereof shall be filed with the Commission under such rules and regulations as it shall prescribe. The Commission may by rules and regulations require the filing with it of forms of prospectuses used in connection with the sale of securities registered under this title.

"CIVIL LIABILITIES ON ACCOUNT OF FALSE REGISTRATION STATEMENT

"SEC. 11. (a) In case any part of the registration statement, when such part became effective, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading, any person acquiring such security (unless it is proved that at the time of such acquisition he knew of such untruth or omission) may, either at law or in equity, in any court of competent jurisdiction, sue—

"(1) every person who signed the registration statement;

"(2) every person who was a director of (or person performing similar functions), or partner in, the issuer at the time of the filing of the part of the registration statement with respect to which his liability is asserted;

"(3) every person who, with his consent, is named in the registration statement as being or about to become a director, person performing similar functions, or partner;

"(4) every accountant, engineer, or appraiser, or any person whose profession gives authority to a statement made by him, who has with his consent been named as having prepared or certified any part of the registration statement, or as having prepared or certified any report or valuation which is used in connection with the registration statement, with respect to the statement in such registration statement, report, or valuation, which purports to have been prepared or certified by him;

"(5) every underwriter with respect to such security.

"(b) Notwithstanding the provisions of subsection (a) no person, other than the issuer, shall be liable as provided therein who shall sustain the burden of proof—

"(1) that before the effective date of the part of the registration statement with respect to which his liability is asserted (A) he had resigned from or had taken such steps as are permitted by law to resign from, or ceased or refused to act in, every office, capacity, or relationship in which he was described in the registration statement as acting or agreeing to act, and (B) he had advised the Commission and the issuer in writing that he had taken such action and that he would not be responsible for such part of the registration statment; or

"(2) that if such part of the registration statement became effective without his knowledge, upon becoming aware of such fact, he forthwith acted and advised the Commission, in accordance with paragraph (1), and, in addition, gave reasonable public notice that such part of the registration statement had become effective without his knowledge; or

"(3) that (A) as regards any part of the registration statement not purporting to be made on the authority of an expert, and not purporting to be a copy of or extract from a report or valuation of an expert, and not purporting to be made on the authority of a public official document or statement, he had, after reasonable investigation, reasonable ground to believe, and did believe, at the time such part of the registration statement became effective, that the statements therein were true and that there was no omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading; and (B) as regards any part of the registration statement purporting to be made upon his authority as an expert or purporting to be a copy of or extract from a report or valuation of himself as an expert, (i) he had, after reasonable investigation, reasonable ground to believe, and did believe, at the time such part of the registration statement became effective, that the statements therein were true and that there was no omission to state a material fact required to be stated therein or necessary to make the statements

therein not misleading, or (ii) such part of the registration statement did not fairly represent his statement as an expert or was not a fair copy of or extract from his report or valuation as an expert; and (C) as regards any part of the registration statement purporting to be made on the authority of an expert (other than himself) or purporting to be a copy of or extract from a report or valuation of an expert (other than himself), he had reasonable ground to believe, and did believe, at the time such part of the registration statement became effective, that the statements therein were true and that there was no omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, and that such part of the registration statement fairly represented the statement of the expert or was a fair copy of or extract from the report or valuation of the expert; and (D) as regards any part of the registration statement purporting to be a statement made by an official person or purporting to be a copy of or extract from a public official document, he had reasonable ground to believe, and did believe, at the time such part of the registration statement became effective, that the statements therein were true, and that there was no omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, and that such part of the registration statement fairly represented the statement made by the official person or was a fair copy of or extract from the public official document."

"(c) In determining, for the purpose of paragraph (3) of subsection (b) of this section, what constitutes reasonable investigation and reasonable ground for belief, the standard of reasonableness shall be that required of a person occupying a fiduciary relationship.

"(d) If any person becomes an underwriter with respect to the security after the part of the registration statement with respect to which his liability is asserted has become effective, then for the purposes of paragraph (3) of subsection (b) of this section such part of the registration statement shall be considered as having become effective with respect to such person as of the time when he became an underwriter.

"(e) The suit authorized under subsection (a) may be either (1) to recover the consideration paid for such security with interest thereon, less the amount of any income received thereon, upon the tender of such security, or (2) for damages if the person suing no longer owns the security.

"(f) All or any one or more of the persons specified in subsection (a) shall be jointly and severally liable, and every person who becomes liable to make any payment under this section may recover contribution as in cases of contract from any person who, if sued separately, would have been liable to make the same payment, unless the person who has become liable was, and the other was not, guilty of fraudulent misrepresentation.

"(g) In no case shall the amount recoverable under this section exceed the price at which the security was offered to the public.

"CIVIL LIABILITIES ARISING IN CONNECTION WITH PROSPECTUSES AND COMMUNICATIONS

"SEC. 12. Any person who—

"(1) sells a security in violation of section 5, or

"(2) sells a security (whether or not exempted by the provisions of section 3, other than paragraph (2) of subsection (a) thereof), by the use of any means or instruments of transportation or communication in interstate commerce or of the mails, by means of a prospectus or oral communication, which includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading (the purchaser not knowing of such untruth or omission), and who shall not sustain the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of such untruth or omission—

"shall be liable to the person purchasing such security from him, who may sue either at law or in equity in any court of competent jurisdiction, to recover the consideration paid for such security with interest thereon, less the amount of any income received thereon, upon the tender of such security, or for damages if he no longer owns the security.

"LIMITATION OF ACTIONS

"SEC. 13. No action shall be maintained to enforce any liability created under section 11 or section 12 (2) unless brought within 2 years after the discovery of the untrue statement or the omission, or after such discovery should have been made by the exercise of reasonable diligence, or, if the action is to enforce a liability created under section 12 (1), unless brought within 2 years after the violation upon which it is based. In no event shall any such action be brought to enforce a liability created under section 11 or section 12 (1) more than 10 years after the security was bona fide offered to the public.

"CONTRARY STIPULATIONS VOID

"SEC. 14. Any condition, stipulation, or provision binding any person acquiring any security to waive compliance with any provision of this title or of the rules and regulations of the Commission shall be void.

"LIABILITY OF CONTROLLING PERSONS

"SEC. 15. Every person who, by or through stock ownership, agency, or otherwise, or who, pursuant to or in connection with an agreement or understanding with one or more other persons by or through stock ownership, agency, or otherwise, controls any person liable under section 11 or 12, shall also be liable jointly and severally with and to the same extent as such controlled person to any person to whom such controlled person is liable.

"ADDITIONAL REMEDIES

"SEC. 16. The rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist at law or in equity.

"FRAUDULENT INTERSTATE TRANSACTIONS

"SEC. 17. (a) It shall be unlawful for any person in the sale of any securities by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly—

"(1) to employ any device, scheme, or artifice to defraud, or

"(2) to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

"(3) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

"(b) It shall be unlawful for any person, by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, to publish, give publicity to, or circulate any notice, circular, advertisement, newspaper, article, letter, investment service, or communication which, though not purporting to offer a security for sale, describes such security for a consideration received or to be received, directly or indirectly, from an issuer, underwriter, or dealer, without fully disclosing the receipt, whether past or prospective, of such consideration and the amount thereof.

"(c) The exemptions provided in section 3 shall not apply to the provisions of this section.

"STATE CONTROL OF SECURITIES

"SEC. 18. Nothing in this title shall affect the jurisdiction of the Securities Commission (or any agency or office performing like functions) of any State or Territory of the United States, or the District of Columbia, over any security or any person.

"SPECIAL POWERS OF COMMISSION

"SEC. 19. (a) The Commission shall have authority from time to time to make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of this title, including rules and regulations governing registration statements and prospectuses for various classes of

securities and issues, and defining accounting and trade terms used in this title. Among other things, the Commission shall have authority, for the purposes of this title, to prescribe the form or forms in which required information shall be set forth, the items or details to be shown in the balance sheet and earning statement, and the methods to be followed in the preparation of accounts, in the appraisal or valuation of assets and liabilities, in the determination of depreciation and depletion, in the differentiation of recurring and nonrecurring income, in the differentiation of investment and operating income, and in the preparation, where the Commission deems it necessary or desirable, of consolidated balance sheets or income accounts of any person directly or indirectly controlling or controlled by the issuer, or any person under direct or indirect common control with the issuer; but insofar as they relate to any common carrier subject to the provisions of section 20 of the Interstate Commerce Act, as amended, the rules and regulations of the Commission with respect to accounts shall not be inconsistent with the requirements imposed by the Interstate Commerce Commission under authority of such section 20. The rules and regulations of the Commission shall be effective upon publication in the manner which the Commission shall prescribe.

"(b) For the purpose of all investigations which, in the opinion of the Commission, are necessary and proper for the enforcement of this title, any member of the Commission or any officer or officers designated by it are empowered to administer oaths and affirmations, subpena witnesses, take evidence, and require the production of any books, papers, or other documents which the Commission deems relevant or material to the inquiry. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States or any Territory at any designated place of hearing.

"INJUNCTION AND PROSECUTION OF OFFENSES

"SEC. 20. (a) Whenever it shall appear to the Commission, either upon complaint or otherwise, that the provisions of this title, or of any rule or regulation prescribed under authority thereof, have been or are about to be violated, it may, in its discretion, either require or permit such person to file with it a statement in writing, under oath, or otherwise, as to all the facts and circumstances concerning the subject matter which it believes to be in the public interest to investigate, and may investigate such facts.

"(b) Whenever it shall appear to the Commission that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this title, or of any rule or regulation prescribed under authority thereof, it may in its discretion, bring an action in any district court of the United States, United States court of any Territory, or the Supreme Court of the District of Columbia to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. The Commission may transmit such evidence as may be available concerning such acts or practices to the Attorney General who may, in his discretion, institute the necessary criminal proceedings under this title. Any such criminal proceeding may be brought either in the district wherein the transmittal of the prospectus or security complained of begins, or in the district wherein such prospectus or security is received.

"(c) Upon application of the Commission the district courts of the United States, the United States courts of any Territory, and the Supreme Court of the District of Columbia, shall also have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this title or any order of the Commission made in pursuance thereof.

"HEARINGS BY COMMISSION

"SEC. 21. All hearings shall be public and may be held before the Commission or an officer or officers of the Commission designated by it, and appropriate records thereof shall be kept.

"JURISDICTION OF OFFENSES AND SUITS

"SEC. 22. (a) The district courts of the United States, the United States courts of any Territory, and the Supreme Court of the District of Columbia shall have jurisdiction of offenses and violations under this title and under the rules and regulations promulgated by the Commission in respect thereto, and, concurrent with State and Territorial courts, of all suits in equity and actions at law brought to enforce any liability or duty created by this title. Any such suit or action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, or in the district where the sale took place, if the defendant participated therein, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 128 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 225 and 347). No case arising under this title and brought in any State court of competent jurisdiction shall be removed to any court of the United States. No costs shall be assessed for or against the Commission in any proceeding under this title brought by or against it in the Supreme Court or such other courts.

"(b) In case of contumacy or refusal to obey a subpena issued to any person, any of the said United States courts, within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides, upon application by the Commission may issue to such person an order requiring such person to appear before the Commission, or one of its examiners designated by it, there to produce documentary evidence if so ordered, or there to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

"(c) No person shall be excused from attending and testifying or from producting books, papers, contracts, agreements, and other documents before the Commission, or in obedience to the subpena of the Commission or any member thereof or any officer designated by it, or in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of him, may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

"UNLAWFUL REPRESENTATION

"SEC. 23. Neither the fact that the registration statement for a security has been filed or is in effect nor the fact that a stop order is not in effect with respect thereto shall be deemed a finding by the Commission that the registration statement is true and accurate on its face or that it does not contain an untrue statement of fact or omit to state a material fact, or be held to mean that the Commission has in any way passed upon the merits of, or given approval to, such security. It shall be unlawful to make, or cause to be made, to any prospective purchaser any representation contrary to the foregoing provisions of this section.

"PENALTIES

"SEC. 24. Any person who willfully violates any of the provisions of this title, or the rules and regulations promulgated by the Commission under authority thereof, or any person who willfully, in a registration statement filed under this title, makes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both.

"JURISDICTION OF OTHER GOVERNMENT AGENCIES OVER SECURITIES

"SEC. 25. Nothing in this title shall relieve any person from submitting to the respective supervisory units of the

Government of the United States information, reports, or other documents that are now or may hereafter be required by any provision of law.

"SEPARABILITY OF PROVISIONS

"SEC. 26. If any provision of this act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

"SCHEDULE A

"(1) The name under which the issuer is doing or intends to do business;

"(2) the name of the State or other sovereign power under which the issuer is organized;

"(3) the location of the issuer's principal business office, and if the issuer is a foreign or Territorial person, the name and address of its agent in the United States authorized to receive notice;

"(4) the names and addresses of the directors or persons performing similar functions, and the chief executive, financial and accounting officers, chosen or to be chosen if the issuer be a corporation, association, trust, or other entity; of all partners, if the issuer be a partnership; and of the issuer, if the issuer be an individual; and of the promoters in the case of a business to be formed, or formed within 2 years prior to the filing of the registration statement;

"(5) the names and addresses of the underwriters;

"(6) the names and addresses of all persons, if any, owning of record or beneficially, if known, more than 10 percent of any class of stock of the issuer, or more than 10 percent in the aggregate of the outstanding stock of the issuer as of a date within 20 days prior to the filing of the registration statement;

"(7) the amount of securities of the issuer held by any person specified in paragraphs (4), (5), and (6) of this schedule, as of a date within 20 days prior to the filing of the registration statement, and, if possible, as of 1 year prior thereto, and the amount of the securities, for which the registration statement is filed, to which such persons have indicated their intention to subscribe;

"(8) the general character of the business actually transacted or to be transacted by the issuer;

"(9) a statement of the capitalization of the issuer, including the authorized and outstanding amounts of its capital stock and the proportion thereof paid up, the number and classes of shares in which such capital stock is divided, par value thereof, or if it has no par value, the stated or assigned value thereof, a description of the respective voting rights, preferences, conversion and exchange rights, rights to dividends, profits, or capital of each class, with respect to each other class, including the retirement and liquidation rights or values thereof;

"(10) a statement of the securities, if any, covered by options outstanding or to be created in connection with the security to be offered, together with the names and addresses of all persons, if any, to be allotted more than 10 percent in the aggregate of such options;

"(11) the amount of capital stock of each class issued or included in the shares of stock to be offered;

"(12) the amount of the funded debt outstanding and to be created by the security to be offered, with a brief description of the date, maturity, and character of such debt, rate of interest, character of amortization provisions, and the security, if any, therefor. If substitution of any security is permissible, a summarized statement of the conditions under which such substitution is permitted. If substitution is permissible without notice, a specific statement to that effect;

"(13) the specific purposes in detail and the approximate amounts to be devoted to such purposes, so far as determinable, for which the security to be offered is to supply funds, and if the funds are to be raised in part from other sources, the amounts thereof and the sources thereof shall be stated;

"(14) the remuneration, paid or estimated to be paid, by the issuer or its predecessor, directly or indirectly, during the past year and ensuing year to (a) the directors or persons performing similar functions, and (b) its officers and other persons, naming them wherever such remuneration exceeded $25,000 during any such year;

"(15) the estimated net proceeds to be derived from the security to be offered;

"(16) the price at which it is proposed that the security shall be offered to the public or the method by which such price is computed and any variation therefrom at which any portion of such security is proposed to be offered to any persons or classes of persons, other than the underwriters, naming them or specifying the class. A variation in price may be proposed prior to the date of the public offering of the security, but the Commission shall immediately be notified of such variation;

"(17) all commissions or discounts paid or to be paid, directly or indirectly, by the issuer to the underwriters in respect of the sale of the security to be offered. Commissions shall include all cash, securities, contracts, or anything else of value, paid, to be set aside, disposed of, or understandings with or for the benefit of any other persons in which any underwriter is interested, made, in connection with the sale of such security. A commission paid or to be paid in connection with the sale of such security by a person in which the issuer has an interest or which is controlled or directed by, or under common control with, the issuer shall be deemed to have been paid by the issuer. Where any such commission is paid, the amount of such commission paid to each underwriter shall be stated;

"(18) the amount or estimated amounts, itemized in reasonable detail, of expenses, other than commissions specified in paragraph (17) of this schedule, incurred or borne by or for the account of the issuer in connection with the sale of the security to be offered or properly chargeable thereto, including legal, engineering, certification, authentication, and other charges;

"(19) the net proceeds derived from any security sold by the issuer during the 2 years preceding the filing of the registration statement, the price at which such security was offered to the public, and the names of the principal underwriters of such security;

"(20) any amount paid within 2 years preceding the filing of the registration statement or intended to be paid to any promoter and the consideration for any such payment;

"(21) the names and addresses of the vendors and the purchase price of any property, or goodwill, acquired or to be acquired, not in the ordinary course of business, which is to be defrayed in whole or in part from the proceeds of the security to be offered, the amount of any commission payable to any person in connection with such acquisition, and the name or names of such person or persons, together with any expense incurred or to be incurred in connection with such acquisition, including the cost of borrowing money to finance such acquisition;

"(22) full particulars of the nature and extent of the interest, if any, of every director, principal executive officer, and of every stockholder holding more than 10 percent of any class of stock or more than 10 percent in the aggregate of the stock of the issuer, in any property acquired, not in the ordinary course of business of the issuer, within 2 years preceding the filing of the registration statement or proposed to be acquired at such date;

"(23) the names and addresses of counsel who have passed on the legality of the issue;

"(24) dates of and parties to, and the general effect concisely stated of every material contract made, not in the ordinary course of business, which contract is to be executed in whole or in part at or after the filing of the registration statement or which contract has been made not more than 2 years before such filing. Any management contract or contract providing for special bonuses or profit-sharing arrangements, and every material patent or contract for a material patent right, and every contract by or with a public-utility company or an affiliate thereof, providing for the giving or receiving of technical or financial advice or service (if such contract may involve a charge to any party thereto

at a rate in excess of $2,500 per year in cash or securities or anything else of value), shall be deemed a material contract;

"(25) a balance sheet as of a date not more than 90 days prior to the date of the filing of the registration statement showing all of the assets of the issuer, the nature and cost thereof, whenever determinable, in such detail and in such form as the Commission shall prescribe (with intangible items segregated), including any loan in excess of $20,000 to any officer, director, stockholder or person directly or indirectly controlling or controlled by the issuer, or person under direct or indirect common control with the issuer. All the liabilities of the issuer in such detail and such form as the Commission shall prescribe, including surplus of the issuer showing how and from what sources such surplus was created, all as of a date not more than 90 days prior to the filing of the registration statement. If such statement be not certified by an independent public or certified accountant, in addition to the balance sheet required to be submitted under this schedule, a similar detailed balance sheet of the assets and liabilities of the issuer, certified by an independent public or certified accountant, of a date not more than 1 year prior to the filing of the registration statement, shall be submitted;

"(26) a profit and loss statement of the issuer showing earnings and income, the nature and source thereof, and the expenses and fixed charges in such detail and such form as the Commission shall prescribe for the latest fiscal year for which such statement is available and for the 2 preceding fiscal years, year by year, or, if such issuer has been in actual business for less than 3 years, then for such time as the issuer has been in actual business, year by year. If the date of the filing of the registration statement is more than 6 months after the close of the last fiscal year, a statement from such closing date to the latest practicable date. Such statement shall show what the practice of the issuer has been during the 3 years or lesser period as to the character of the charges, dividends, or other distributions made against its various surplus accounts, and as to depreciation, depletion, and maintenance charges, in such detail and form as the Commission shall prescribe, and if stock dividends or avails from the sale of rights have been credited to income, they shall be shown separately with a statement of the basis upon which the credit is computed. Such statement shall also differentiate between any recurring and nonrecurring income and between any investment and operating income. Such statement shall be certified by an independent public or certified accountant;

"(27) if the proceeds, or any part of the proceeds, of the security to be issued is to be applied directly or indirectly to the purchase of any business, a profit and loss statement of such business certified by an independent public or certified accountant, meeting the requirements of paragraph (26) of this schedule, for the 3 preceding fiscal years, together with a balance sheet, similarly certified, of such business, meeting the requirements of paragraph (25) of this schedule of a date not more than 90 days prior to the filing of the registration statement or at the date such business was acquired by the issuer if the business was acquired by the issuer more than 90 days prior to the filing of the registration statement;

"(28) a copy of any agreement or agreements (or if identic agreements are used, the forms thereof) made with any underwriter, including all contracts and agreements referred to in paragraph (17) of this schedule;

"(29) a copy of the opinion or opinions of counsel in respect to the legality of the issue, with a translation of such opinion, when necessary, into the English language;

"(30) a copy of all material contracts referred to in paragraph (24) of this schedule, but no disclosure shall be required of any portion of any such contract if the Commission determines that disclosure of such portion would impair the value of the contract and would not be necessary for the protection of investors;

"(31) unless previously filed and registered under the provisions of this title, and brought up-to-date, (a) a copy of its articles of incorporation, with all amendments thereof and of its existing bylaws or instruments corresponding thereto, whatever the name, if the issuer be a corporation; (b) copy of all instruments by which the trust is created or declared, if the issuer is a trust; (c) a copy of its articles of partnership or association and all other papers pertaining to its organization, if the issuer is a partnership, unincorporated association, joint-stock company, or any other form of organization; and

"(32) a copy of the underlying agreements or indentures affecting any stock, bonds, or debentures offered or to be offered.

"In case of certificates of deposit, voting trust certificates, collateral trust certificates, certificates of interest or shares in unincorporated investment trusts, equipment trust certificates, interim or other receipts for certificates, and like securities, the Commission shall establish rules and regulations requiring the submission of information of a like character applicable to such cases, together with such other information as it may deem appropriate and necessary regarding the character, financial or otherwise, of the actual issuer of the securities and/or the person performing the acts and assuming the duties of depositor or manager.

"SCHEDULE B

"(1) Name of borrowing government or subdivision thereof;

"(2) specific purposes in detail and the approximate amounts to be devoted to such purposes, so far as determinable, for which the security to be offered is to supply funds, and if the funds are to be raised in part from other sources, the amounts thereof and the sources thereof, shall be stated;

"(3) the amount of the funded debt and the estimated amount of the floating debt outstanding and to be created by the security to be offered, excluding intergovernmental debt, and a brief description of the date, maturity, character of such debt, rate of interest, character of amortization provisions, and the security, if any, therefor. If substitution of any security is permissible, a statement of the conditions under which such substitution is permitted. If substitution is permissible without notice, a specific statement to that effect;

"(4) whether or not the issuer or its predecessor has, within a period of 20 years prior to the filing of the registration statement, defaulted on the principal or interest of any external security, excluding intergovernmental debt, and, if so, the date, amount, and circumstances of such default, and the terms of the succeeding arrangement, if any;

"(5) the receipts, classified by source, and the expenditures, classified by purpose, in such detail and form as the Commission shall prescribe for the latest fiscal year for which such information is available and the 2 preceding fiscal years, year by year;

"(6) the names and addresses of the underwriters;

"(7) the name and address of its authorized agent, if any, in the United States;

"(8) the estimated net proceeds to be derived from the sale in the United States of the security to be offered;

"(9) the price at which it is proposed that the security shall be offered in the United States to the public or the method by which such price is computed. A variation in price may be proposed prior to the date of the public offering of the security, but the Commission shall immediately be notified of such variation;

"(10) all commissions paid or to be paid, directly or indirectly, by the issuer to the underwriters in respect of the sale of the security to be offered. Commissions shall include all cash, securities, contracts, or anything else of value, paid, to be set aside, disposed of, or understandings with or for the benefit of any other persons in which the underwriter is interested, made, in connection with the sale of such security. Where any such commission is paid, the amount of such commission paid to each underwriter shall be stated;

"(11) the amount or estimated amounts, itemized in reasonable detail, of expenses, other than the commissions specified in paragraph (10) of this schedule, incurred or

borne by or for the account of the issuer in connection with the sale of the security to be offered or properly chargeable thereto, including legal, engineering, certification, and other charges;

"(12) the names and addresses of counsel who have passed upon the legality of the issue;

"(13) a copy of any agreement or agreements made with any underwriter governing the sale of the security within the United States; and

"(14) an agreement of the issuer to furnish a copy of the opinion or opinions of counsel in respect to the legality of the issue, with a translation, where necessary, into the English language. Such opinion shall set out in full all laws, decrees, ordinances, or other acts of Government under which the issue of such security has been authorized.

"TITLE II

"SEC. 201. For the purpose of protecting, conserving, and advancing the interests of the holders of foreign securities in default, there is hereby created a body corporate with the name 'Corporation of Foreign Security Holders' (herein called the 'Corporation'). The principal office of the Corporation shall be located in the District of Columbia, but there may be established agencies or branch offices in any city or cities of the United States under rules and regulations prescribed by the board of directors.

"SEC. 202. The control and management of the Corporation shall be vested in a board of 6 directors, who shall be appointed and hold office in the following manner: As soon as practicable after the date this act takes effect the Federal Trade Commission (hereinafter in this title called 'Commission') shall appoint six directors, and shall designate a chairman and a vice chairman from among their number. After the directors designated as chairman and vice chairman cease to be directors, their successors as chairman and vice chairman shall be elected by the board of directors itself. Of the directors first appointed, two shall continue in office for a term of 2 years, two for a term of 4 years, and two for a term of 6 years, from the date this act takes effect, the term of each to be designated by the Commission at the time of appointment. Their successors shall be appointed by the Commission, each for a term of 6 years from the date of the expiration of the term for which his predecessor was appointed, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term of such predecessor. No person shall be eligible to serve as a director who within 5 years preceding has had any interest, direct or indirect, in any corporation, company, partnership, bank, or association which has sold, or offered for sale, any foreign securities. The office of a director shall be vacated if the board of directors shall at a meeting specially convened for that purpose by resolution passed by a majority of at least two thirds of the board of directors, remove such member from office, provided that the member whom it is proposed to remove shall have 7 days' notice sent to him of such meeting and that he may be heard.

"SEC. 203. The Corporation shall have power to adopt, alter, and use a corporate seal; to make contracts; to lease such real estate as may be necessary for the transaction of its business; to sue and be sued, to complain and to defend, in any court of competent jurisdiction, State or Federal; to require from trustees, financial agents, or dealers in foreign securities information relative to the original or present holders of foreign securities and such other information as may be required and to issue subpenas therefor; to take over the functions of any fiscal and paying agents of any foreign securities in default; to borrow money for the purposes of this title, and to pledge as collateral for such loans any securities deposited with the corporation pursuant to this title; by and with the consent and approval of the Commission to select, employ, and fix the compensation of officers, directors, members of committees, employees, attorneys, and agents of the Corporation, without regard to the provisions of other laws applicable to the employment and compensation of officers or employees of the United States; to define their authority and duties, require bonds of them and fix the penalties thereof, and to dismiss at pleasure such officers, employees, attorneys, and agents; and to prescribe, amend, and repeal, by its board of directors, bylaws, rules, and regulations governing the manner in which its general business may be conducted and the powers granted to it by law may be exercised and enjoyed, together with provisions for such committees and the functions thereof as the board of directors may deem necessary for facilitating its business under this title. The board of directors of the Corporation shall determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid.

"SEC. 204. The board of directors may—

"(1) Convene meetings of holders of foreign securities.

"(2) Invite the deposit and undertake the custody of foreign securities which have defaulted in the payment either of principal or interest, and issue receipts or certificates in the place of securities so deposited.

"(3) Appoint committees from the directors of the Corporation and/or all other persons to represent holders of any class or classes of foreign securities which have defaulted in the payment either of principal or interest and determine and regulate the functions of such committees. The chairman and vice chairman of the board of directors shall be ex officio chairman and vice chairman of each committee.

"(4) Negotiate and carry out, or assist in negotiating and carrying out, arrangements for the resumption of payments due or in arrears in respect of any foreign securities in default or for rearranging the terms on which such securities may in future be held or for converting and exchanging the same for new securities or for any other object in relation thereto; and under this paragraph any plan or agreement made with respect to such securities shall be binding upon depositors, providing that the consent of holders resident in the United States of 60 percent of the securities deposited with the Corporation shall be obtained.

"(5) Undertake, superintend, or take part in the collection and application of funds derived from foreign securities which come into the possession of or under the control or management of the Corporation.

"(6) Collect, preserve, publish, circulate, and render available in readily accessible form, when deemed essential or necessary, documents, statistics, reports, and information of all kinds in respect of foreign securities, including particularly records of foreign external securities in default and records of the progress made toward the payment of past-due obligations.

"(7) Take such steps as it may deem expedient with the view of securing the adoption of clear and simple forms of foreign securities and just and sound principles in the conditions and terms thereof.

"(8) Generally, act in the name and on behalf of the holders of foreign securities the care or representation of whose interests may be entrusted to the Corporation; conserve and protect the rights and interests of holders of foreign securities issued, sold, or owned in the United States; adopt measures for the protection, vindication, and preservation or reservation of the rights and interests of holders of foreign securities either on any default in or on breach or contemplated breach of the conditions on which such foreign securities may have been issued, or otherwise; obtain for such holders such legal and other assistance and advice as the board of directors may deem expedient; and do all such other things as are incident or conducive to the attainment of the above objects.

"SEC. 205. The board of directors shall cause accounts to be kept of all matters relating to or connected with the transactions and business of the Corporation, and cause a general account and balance sheet of the Corporation to be made out in each year, and cause all accounts to be audited by one or more auditors who shall examine the same and report thereon to the board of directors.

"SEC. 206. The Corporation shall make, print, and make public an annual report of its operations during each year,

send a copy thereof, together with a copy of the account and balance sheet and auditor's report, to the Commission and to both Houses of Congress, and provide one copy of such report but not more than one on the application of any person and on receipt of a sum not exceeding $1: *Provided*, That the board of directors in its discretion may distribute copies gratuitously.

"SEC. 207. The Corporation may in its discretion levy charges, assessed on a pro-rata basis, on the holders of foreign securities deposited with it: *Provided*, That any charge levied at the time of depositing securities with the Corporation shall not exceed one fifth of 1 percent of the face value of such securities: *Provided further*, That any additional charges shall bear a close relationship to the cost of operations and negotiations including those enumerated in sections 203 and 204 and shall not exceed 1 percent of the face value of such securities.

"SEC. 208. The Corporation may receive subscriptions from any person, foundation with a public purpose, or agency of the United States Government, and such subscriptions may, in the discretion of the board of directors, be treated as loans repayable when and as the board of directors shall determine.

"SEC. 209. The Reconstruction Finance Corporation is hereby authorized to loan out of its funds not to exceed $75,000 for the use of the Corporation.

"SEC. 210. Notwithstanding the foregoing provisions of this title, it shall be unlawful for, and nothing in this title shall be taken or construed as permitting or authorizing, the Corporation in this title created, or any committee of said Corporation, or any person or persons acting for or representing or purporting to represent it—

"(a) to claim or assert or pretend to be acting for or to represent the Department of State or the United States Government;

"(b) to make any statements or representations of any kind to any foreign government or its officials or the officials of any political subdivision of any foreign government that said Corporation or any committee thereof or any individual or individuals connected therewith were speaking or acting for the said Department of State or the United States Government; or

"(c) to do any act directly or indirectly which would interfere with or obstruct or hinder or which might be calculated to obstruct, hinder, or interfere with the policy or policies of the said Department of State or the Government of the United States or any pending or contemplated diplomatic negotiations, arrangements, business or exchanges between the Government of the United States or said Department of State and any foreign government or any political subdivision thereof.

"SEC. 211. This title shall not take effect until the President finds that its taking effect is in the public interest and by proclamation so declares.

"SEC. 212. This title may be cited as the 'Corporation of Foreign Bondholders Act, 1933.'"

And the Senate agree to the same.

DUNCAN U. FLETCHER,
CARTER GLASS,
ROBERT F. WAGNER,
Managers on the part of the Senate.

SAM RAYBURN,
GEO. HUDDLESTON,
CLARENCE LEA,
JAMES S. PARKER,
CARL E. MAPES,
Managers on the part of the House.

Mr. McNARY. Mr. President, it has become the fixed practice of the Senate in matters of this kind, when they have not been printed, that they go over for the day, so that the Members of the Senate may read them. I ask the Senator to have this report printed and bring it up the first thing tomorrow.

Mr. FLETCHER. There is no rule requiring that; but——

Mr. McNARY. I say, that is the uniform practice of the Senate, and I desire to adhere to that practice.

The PRESIDING OFFICER. The report will lie on the table and go over until tomorrow, then.

MISSOURI RIVER BRIDGE, MISSOURI-KANSAS

Mr. McGILL. Mr. President, on the last day when the calendar was under consideration, the Senate passed a bill granting the consent of Congress to a compact or agreement between the States of Kansas and Missouri authorizing the acceptance, on behalf of said States, of title to a certain bridge across the Missouri River for which the Reconstruction Finance Corporation has made a loan to the company constructing the bridge. This is to be a toll bridge. That measure was passed by unanimous consent on the part of the Senate, and a similar measure was passed by the House with the exception of one or two slight amendments which do not alter the effect or meaning of the bill.

On the House measure—which is House Joint Resolution 159, Order of Business 89 of the Senate—we have a unanimous report by the Committee on Commerce favorable to the passage of the measure. I ask unanimous consent at this time that the House joint resolution be considered and passed by the Senate, which will merely have the effect of allowing the Senate bill to lapse.

Mr. BLACK. Mr. President, I desire to ask the Senator a question. Is this toll bridge to be owned by the States or by the company?

Mr. McGILL. It will be owned and managed by the States of Missouri and Kansas, as I understand.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution (H.J.Res. 159) granting the consent of Congress to a compact or agreement between the State of Kansas and the State of Missouri authorizing the acceptance for and on behalf of the States of Kansas and Missouri of title to a toll bridge across the Missouri River from a point in Platte County, Mo., to a point at or near Kansas City, in Wyandotte County, Kans., and specifying the conditions thereof, which was read, as follows:

Whereas by an act of Congress approved May 22, 1928, a franchise was granted to the Interstate Bridge Co. for the construction of a toll bridge across the Missouri River at or near Kansas City, Kans., which has been extended by the acts of March 2, 1929, and June 30, 1930, and which is now owned by the Regional Bridge Co., a corporation organized and existing under the laws of the State of Delaware, as assignee of the Interstate Bridge Co.; and

Whereas authority has been granted the State Highway Commission of Kansas by an act of the Legislature of the State of Kansas, approved March 24, 1933, and published in the official State paper on March 27, 1933, and to the State Highway Commission of Missouri by an identical act, mutatis mutandis, of the General Assembly of the State of Missouri, approved April 17, 1933, to include in the highway systems of the respective States of Kansas and Missouri any toll bridge across any river forming a common boundary between the two States; to join in entering into contracts with the owner of any such toll bridge and with the holders of any bonds issued in connection with the construction of such bridge, by the terms of which the State Highway Commissions of Kansas and Missouri shall maintain, operate, and insure such bridge, and fix and collect and apply tolls thereon, and shall construct, maintain, and operate as free State highways, approaches thereto, and shall make and treat as part of the highway system of their respective States such entire bridge and any part of such approaches lying within their respective States; and to accept conveyance of title to and ownership of any such bridge or part thereof situated within their respective States, subject to any encumbrance against any such bridge and pledge of its tolls previously executed; and

Whereas Regional Bridge Co. has obtained an agreement from the Reconstruction Finance Corporation of the United States to aid in financing the construction of a bridge under the franchise granted by the act of May 22, 1928, and extensions thereof, under authority of the act of Congress known as the "Emergency Relief and Construction Act of 1932", by purchasing at par the bonds of Regional Bridge Co., secured by mortgage on such bridge, in the amount of $600,000, upon condition that certain requirements be met and agreed to by the States of Kansas and Missouri; and

Whereas the Legislature of the State of Kansas and the General Assembly of the State of Missouri, to make effective the acts of their respective legislative bodies herein cited and to meet the requirements imposed by the Reconstruction Finance Corporation, have each adopted the following resolution:

"Whereas Regional Bridge Co., a corporation organized and existing under the laws of the State of Delaware, is the owner and holder of a franchise granted by the Congress of the United States to construct (according to plans approved by the War Department of the United States), maintain, and operate a toll bridge across the Missouri River from a point at or near Kansas City in Wyandotte County, Kans., to a point in Platte County, Mo.; and

"Whereas Regional Bridge Co. desires to commence the construction of such bridge as soon as the same is fully financed; and

"Whereas Reconstruction Finance Corporation of the United States has agreed with Regional Bridge Co. to aid in financing the construction of such bridge, under authority of the act of Congress known as the 'Emergency Relief and Construction Act of 1932', by purchasing at par the bonds of Regional Bridge Co., secured by mortgage on such bridge, in the amount of $600,000; but

"Whereas Reconstruction Finance Corporation has imposed certain requirements, to be met and agreed to by the States of Missouri and Kansas, as conditions precedent to its purchase of such bonds; and

"Whereas inasmuch as such bridge will form an important link in and improvement to the highway systems of the States of Missouri and Kansas, and will be of benefit and advantage to the citizens of both and the public, and inasmuch as Regional Bridge Co., by resolution duly passed by the unanimous vote of its stockholders, has agreed to transfer and convey such bridge, free of costs, to the State Highway Commissions of Missouri and of Kansas, on behalf of such States of Missouri and Kansas jointly, such conveyance to be made as soon as such mortgage shall have been properly recorded in both Missouri and Kansas, subject to the right of and duty upon Regional Bridge Co. fully to complete the construction of such bridge, it is to the interest and benefit of the States of Missouri and Kansas, and the citizens of both, that the States of Missouri and Kansas meet and agree to the requirements of the Reconstruction Finance Corporation as conditions precedent to the purchase of such bonds: Now therefore

"In consideration of the benefits and advantage accruing to the States of Missouri and Kansas and the citizens of both, and in consideration of the adoption of this resolution by both the States of Missouri and Kansas, the States of Missouri and Kansas hereby enter into the following compact and agreement:

"*Be it resolved by the Senate of the State of Kansas (the House of Representatives agreeing thereto):*

"SECTION 1. Regional Bridge Co., its successors and assigns, shall be, and it is hereby, authorized to construct, maintain, and operate such bridge across the Missouri River from a point at or near Kansas City, in Wyandotte County, Kans., to a point in Platte County, Mo., according to plans approved by the War Department of the United States; and the said States hereby authorize Regional Bridge Co. to enter upon and use for the purpose of constructing, maintaining, and operating such bridge all necessary lands under water belonging to said States, and the fee to any lands so used shall upon such use be vested in such Regional Bridge Co.

"SEC. 2. The State Highway Commission of Missouri and the State Highway Commission of Kansas shall be, and they are hereby, authorized and directed to accept, when tendered by Regional Bridge Co., conveyance of such bridge and franchise therefor to such state highway commission jointly, on behalf of the States of Missouri and Kansas. Such conveyance shall not be in assumption of such mortgage, but shall expressly be subject to such mortgage, and to the right and duty upon Regional Bridge Co. fully to complete the construction of such bridge.

"SEC. 3. The State Highway Commission of Missouri and the State Highway Commission of Kansas shall be, and they, and each of them, hereby are, authorized to maintain, operate, and insure such bridge and to fix and collect tolls thereon and apply such tolls, and to enter into any and all contracts with said Reconstruction Finance Corporation, or any other party or parties considered by said highway commissions, or either of them, to be necessary or expedient for or in connection with the proper maintenance, operation, and insurance of such bridge and such fixing, collection, and application of tolls thereon, and to incur joint and several obligations under such contracts; and to construct and maintain, and to enter into any contracts severally with said Reconstruction Finance Corporation, or any other party or parties, considered by said highway commissions, or either of them, to be necessary or expedient, for or in connection with the construction and maintenance of approaches to such bridge and roadways leading thereto lying within their respective States. And said highway commissions, and each of them, are further authorized to make and treat as a part of the State highway system of their respective States the entire such bridge and that portion of the approaches thereto lying within their respective States, and to enter into contracts with the Reconstruction Finance Corporation or any other party or parties in respect thereto.

"SEC. 4. Neither the State of Kansas nor the State of Missouri, nor any department or political subdivision thereof, shall construct or cause to be constructed, or grant any right, privilege, or franchise for the construction of, any bridge, ferry, tunnel, or other competing facility across or under the Missouri River within a distance of 5 miles from said bridge, measured along the meanderings of the thread of the stream of the Missouri River, until the construction costs of said bridge, with interest thereon, shall have been fully paid.

"SEC. 5. To the faithful observance of this compact and agreement the States of Missouri and Kansas, by the adoption of this resolution, each pledges its good faith.

"SEC. 6. This compact and agreement shall be in force and take effect from and after its adoption by the General Assembly of the State of Missouri, and approval by the Governor of Missouri, and its adoption by the Legislature of the State of Kansas, and approval by the Governor of Kansas, and publication in the official State paper of the State of Kansas, and upon its receiving the consent and approval of the Congress of the United States." Therefore be it

Resolved, etc., That the consent of Congress is hereby given to the aforesaid compact or agreement and to each and every term and provision thereof, and to all agreements to be made pursuant thereto by and between the said States or any agencies, commissions, or public or municipal bodies thereof: *Provided*, That nothing herein contained shall be construed to affect, impair, or diminish any right, power, or jurisdiction of the United States or of any court, department, board, bureau, officer, or official of the United States, over or in regard to any navigable waters, or any commerce between the States or with foreign countries, or any bridge, railroad highway, pier, wharf, or other facility or improvement, or any other person, matter, or thing, forming the subject matter of the aforesaid compact or agreement or otherwise affected by the terms thereof: *And provided further*, That the right to alter, amend, or repeal this resolution or any part thereof is hereby expressly reserved.

The joint resolution was ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

SELECTION OF A GOVERNOR OF HAWAII (H.DOC. NO. 42)

The PRESIDING OFFICER laid before the Senate a communication from the President of the United States, which was read, as follows:

To the Congress:

It is particularly necessary to select for the post of Governor of Hawaii a man of experience and vision, who will be regarded by all citizens of the islands as one who will be absolutely impartial in his decisions on matters as to which there may be a difference of local opinion. In making my choice I should like to be free to pick either from the islands themselves or from the entire United States the best man for this post. I request, therefore, suitable legislation temporarily suspending that part of the law which requires the Governor of Hawaii to be an actual resident of the islands.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *May 22, 1933.*

The PRESIDING OFFICER. The communication will be printed and referred to the Committee on Territories and Insular Affairs.

PROTECTION OF GOVERNMENT RECORDS

Mr. ROBINSON of Arkansas. I ask the Chair to lay before the Senate a message from the House of Representatives relating to House bill 4220, which is on the Vice President's desk.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendment of the Senate to the bill (H.R. 4220) for the protection of Government records, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBINSON of Arkansas. I move that the Senate agree to the conference asked by the House, and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to; and the Vice President appointed Mr. PITTMAN, Mr. ROBINSON of Arkansas, and Mr. BORAH conferees on the part of the Senate.

OFFICIAL REPORTERS OF DEBATES

Mr. HAYDEN. By direction of the Committee on Printing I report a Senate resolution and ask unanimous consent for its immediate consideration.

The VICE PRESIDENT. The resolution will be read.

The legislative clerk read the resolution (S.Res. 84) as follows:

Resolved, That James W. Murphy and Percy E. Budlong are hereby appointed Official Reporters for reporting the proceedings

and debates of the Senate until further order of the Senate, subject to all the duties and obligations of the contract made with D. F. Murphy, deceased, late reporter of the Senate, and to the supervision and control of the Committee on Printing on behalf of the Senate in all respects therein provided, and to receive payment for such services according to law: *Provided*, That the contract heretofore made with the late Theodore F. Shuey and said James W. Murphy be considered as terminated by the death of the former on May 18, 1933, and that said James W. Murphy and said Percy E. Budlong be paid for services rendered in reporting the debates and proceedings of the Senate at the rate allowable by law for such services from May 19, 1933, to the date upon which this resolution is agreed to by the Senate, both dates inclusive: *Provided further*, That in the event of the death of either said James W. Murphy or said Percy E. Budlong during any recess or adjourned period of the Senate, the survivor of them shall discharge all the duties and obligations and be entitled to all the rights and benefits of said contract made with said D. F. Murphy, deceased, and shall receive payment for such services according to law, until further order of the Senate.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. HEBERT. Mr. President, in the absence of the Senator from Oregon [Mr. McNARY] I ask if that Senator is informed concerning this resolution and what his desire is.

Mr. ROBINSON of Arkansas. I will say that the resolution is satisfactory to the Senator from Oregon.

Mr. HEBERT. With that assurance, I have no objection.

The VICE PRESIDENT. Without objection, the resolution is agreed to.

INSTRUCTION AT MILITARY ACADEMY OF POSHENG YEN

Mr. SHEPPARD. I ask unanimous consent for the immediate consideration of Calendar No. 76, Senate Joint Resolution 48, admitting a Chinese student to West Point. The joint resolution is in the usual form and is similar to other measures considered in cases of this kind.

The VICE PRESIDENT. Is there objection to the request of the Senator from Texas for the present consideration of the joint resolution?

There being no objection, the joint resolution (S.J.Res. 48) authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point Posheng Yen, a citizen of China, was read, considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved, etc., That the Secretary of War be, and he is hereby, authorized to permit Posheng Yen to receive instruction at the United States Military Academy at West Point: *Provided*, That no expense shall be caused to the United States thereby, and that Posheng Yen shall agree to comply with all regulations for the police and discipline of the academy, to be studious, and to give his utmost efforts to accomplish the courses in the various departments of instruction, and that said Posheng Yen shall not be admitted to the academy until he shall have passed the mental and physical examinations prescribed for candidates from the United States, and that he shall be immediately withdrawn if deficient in studies or in conduct and so recommended by the academic board: *Provided further*, That in the case of said Posheng Yen the provisions of sections 1320 and 1321 of the Revised Statutes shall be suspended.

EXECUTIVE SESSION

Mr. ROBINSON of Arkansas. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The VICE PRESIDENT laid before the Senate messages from the President of the United States submitting nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

REPORTS OF COMMITTEES

The VICE PRESIDENT. Reports of committees are in order.

Mr. VAN NUYS, from the Committee on the Judiciary, reported the nomination of Al W. Hosinski, of Indiana, to be United States marshal for the Northern District of Indiana, which was ordered to be placed on the calendar.

He, also, from the same committee, reported favorably the nomination of Norman D. Godbold, of Hawaii, to be first judge, Circuit Court, First Circuit of Hawaii, which was ordered to be placed on the calendar.

Mr. McCARRAN, from the Committee on the Judiciary, reported favorably the nomination of T. Hoyt Davis, of Georgia, to be United States attorney, middle district of Georgia.

The VICE PRESIDENT. The nomination will be placed on the calendar.

UNITED STATES MARSHAL, MIDDLE DISTRICT OF GEORGIA

Mr. BRATTON. From the Committee on the Judiciary I report favorably the nomination of Edward B. Doyle, of Georgia, to be United States marshal, middle district of Georgia.

Mr. GEORGE. Mr. President, I ask unanimous consent for the immediate consideration of the nomination.

The VICE PRESIDENT. Is there objection?

Mr. HEBERT. Mr. President, the Senator from Oregon [Mr. McNARY] wished me to say to the Senate that he had no objection to the consideration of this nomination, but he did object to a further proceeding which would involve notification to the President. I assume that is the understanding he had with the Senator from Georgia.

Mr. GEORGE. That is correct.

The VICE PRESIDENT. Is there objection to confirming the nomination?

There being no objection, the nomination was confirmed.

UNITED STATES ASSISTANT ATTORNEY GENERAL

Mr. KING. From the Committee on the Judiciary I report favorably the nomination of Pat Malloy, of Oklahoma, to be Assistant Attorney General. May I inquire of the Senator from Rhode Island, who is here, representing, as I understand, the leader on the other side, whether there will be any objection to the confirmation of this nomination?

Mr. HEBERT. I am not informed whether the Senator from Oregon would want that nomination to go over, but I take it, from what he said to me, that he would prefer that course to be adopted.

Mr. KING. Very well. I will ask that the nomination go to the calendar.

The VICE PRESIDENT. The nomination will be placed on the calendar.

THE CALENDAR—THE ADJUTANT GENERAL

The VICE PRESIDENT. The calendar is in order.

The Chief Clerk read the nomination of James Fuller McKinley to be The Adjutant General.

Mr. ROBINSON of Arkansas. Mr. President, it is recalled that the Senator from Maryland [Mr. TYDINGS] stated that he wished to discuss this nomination before final action was taken upon it. He appears not to be present this afternoon, and I ask that the nomination may go over for the day.

The VICE PRESIDENT. Without objection, the nomination will be passed over. That completes the calendar.

RECESS

Mr. ROBINSON of Arkansas. As in legislative session, I move that the Senate take a recess until immediately following the conclusion of the proceedings of the Senate sitting as a Court of Impeachment on tomorrow.

The motion was agreed to; and (at 6 o'clock and 6 minutes p.m.) the Senate, as in legislative session, took a recess until the conclusion of the proceedings of the Senate sitting as a Court of Impeachment on Tuesday, May 23, 1933, the hour of meeting of the Senate sitting as a Court of Impeachment being 10 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate May 22 (legislative day of May 15), 1933

MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY

Arthur E. Morgan, of Ohio, to be a member of the board of directors of the Tennessee Valley Authority for the term expiring 9 years after May 18, 1933.

COLLECTOR OF CUSTOMS

Clement L. West, of Omaha, Nebr., to be collector of customs for customs collection district no. 46, with headquarters at Omaha, Nebr., to fill an existing vacancy.

CONFIRMATION

Executive nomination confirmed by the Senate May 22 (legislative day of May 15), 1933

UNITED STATES MARSHAL

Edward B. Doyle to be United States marshal, middle district of Georgia.

HOUSE OF REPRESENTATIVES

MONDAY, MAY 22, 1933

The House met at 11 o'clock a.m.

The Rev. Thomas Logan Justice, pastor of the First Baptist Church, Kings Mountain, N.C., offered the following prayer:

Omnipotent, omniscient, and omnipresent God, we bow before Thee this morning amidst all of the variegated circumstances of life, realizing the inability of human strength to discharge many of the duties and responsibilities which devolve upon us; and we beseech that Thou wilt take us close to Thyself as we enter into the opening session of this Congress and let all that is done here today redound to Thy glory and result in the stabilization of all of the departments of life with which men have to do. Bless our President and grant that throughout all this Nation he may be one of the objects of prayer, and all who are associated with him here and in the Senate and everywhere in official authority in this Republic may uphold him and cooperate with him and bring about a glorious realization of optimism and recovery in the various walks in which we find ourselves. Now we pray Thee to cleanse us from all sin, and may the great God of all the earth lead us and have His way and have His will until the day when every knee shall bow and every tongue shall confess to the glory of Him who is the Father of our Lord Jesus Christ. We ask it in His name. Amen.

The Journal of the proceedings of Saturday, May 20, 1933, was read and approved.

CORRECTION

Mr. CLARKE of New York. Mr. Speaker, there is evidently an omission in the RECORD of Saturday. Something has gone wrong somewhere with it. I propounded a parliamentary inquiry of the Speaker regarding whether a motion to adjourn was a preferential motion, and then made the request that if it were a preferential motion that it be preferred. There is an entire omission in the RECORD about this.

The SPEAKER. Without objection, the RECORD will be corrected in that particular.

Mr. CLARKE of New York. One minute, Mr. Speaker. Let us not move quite as fast as that. More than that, the RECORD should show that the Speaker's ruling was against that motion being a preferential one.

The SPEAKER. The Chair did not make any ruling at all.

Mr. BLANTON. Mr. Speaker, the gentleman's motion was made after a roll call had been ordered.

Mr. CLARKE of New York. Yes; but not a name had been called. That is the point.

Mr. BLANTON. Mr. Speaker, if what the distinguished gentleman from New York [Mr. CLARKE] says is correct, that Members had not yet begun to respond to their names on such roll call, his motion to adjourn would have been in order; for a motion to adjourn may be made after the yeas and nays are ordered, provided it is made before the roll call has begun (V, Hinds' Precedents 5363). My remembrance was that the roll call had begun and the Clerk had called several names.

Mr. CLARKE of New York. If there had not been a name called, I had the right to offer that motion.

Mr. BLANTON. Certainly; the gentleman is correct, and I might add that he is usually correct; and I deem it an honor that I find myself voting with him many times, except on partisan party questions.

Mr. CLARKE of New York. There had not been a name called.

Mr. BLANTON. There are precedents which hold that where the yeas and nays have been ordered, but no Member has yet responded to his name on roll call, that it is deemed that the roll call has not yet begun, and a motion to adjourn would be in order. Our distinguished Speaker is so uniformly correct in his rulings that if he ruled against the gentleman's contention he must have been of the opinion that the roll call had begun.

Mr. CLARKE of New York. The roll call had been ordered, but no names had been called.

The SPEAKER. The Chair thinks several names were called, but there had been no response.

SECURITIES REGULATION BILL

Mr. RAYBURN. Mr. Speaker, I call up the conference report on the bill (H.R. 5480) to provide full and fair disclosure of the character of securities sold in interstate and foreign commerce and through the mails, and to prevent frauds in the sale thereof, and for other purposes, and ask unanimous consent that the statement may be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5480) to provide full and fair disclosure of the character of securities sold in interstate and foreign commerce and through the mails, and to prevent frauds in the sale thereof, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"TITLE I

"SHORT TITLE

"SECTION 1. This title may be cited as the 'Securities Act of 1933.'

"DEFINITIONS

"SEC. 2. When used in this title, unless the context otherwise requires—

"(1) The term 'security' means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment, contract, voting-trust certificate, certificate of interest in property, tangible or intangible or, in general, any instrument commonly known as a 'security', or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing.

"(2) The term 'person' means an individual, a corporation, a partnership, an association, a joint-stock company, a trust, any unincorporated organization, or a government or political subdivision thereof. As used in this paragraph the term 'trust' shall include only a trust where the interest or interests of the beneficiary or beneficiaries are evidenced by a security.

"(3) The term 'sale', 'sell', 'offer to sell', or 'offer for sale' shall include every contract of sale or disposition of, attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value; except that such terms shall not include preliminary negotiations or

agreements between an issuer and any underwriter. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing, shall be conclusively presumed to constitute a part of the subject of such purchase and to have been sold for value. The issue or transfer of a right or privilege, when originally issued or transferred with a security, giving the holder of such security the right to convert such security into another security of the same issuer or of another person, or giving a right to subscribe to another security of the same issuer or of another person, which right cannot be exercised until some future date, shall not be deemed to be a sale of such other security; but the issue or transfer of such other security upon the exercise of such right of conversion or subscription shall be deemed a sale of such other security.

"(4) The term 'issuer' means every person who issues or proposes to issue any security or who guarantees a security either as to principal or income; except that with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term 'issuer' means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which such securities are issued; and except that with respect to equipment-trust certificates or like securities, the term 'issuer' means the person by whom the equipment or property is or is to be used.

"(5) The term 'Commission' means the Federal Trade Commission.

"(6) The term 'Territory' means Alaska, Hawaii, Puerto Rico, the Philippine Islands, Canal Zone, the Virgin Islands, and the insular possessions of the United States.

"(7) The term 'interstate commerce' means trade or commerce in securities or any transportation or communication relating thereto among the several States or between the District of Columbia or any Territory of the United States and any State or other Territory, or between any foreign country and any State, Territory, or the District of Columbia, or within the District of Columbia.

"(8) The term 'registration statement' means the statement provided for in section 6, and includes any amendment thereto and any report, document, or memorandum accompanying such statement or incorporated therein by reference.

"(9) The term 'write' or 'written' shall include printed, lithographed, or any means of graphic communication.

"(10) The term 'prospectus' means any prospectus, notice, circular, advertisement, letter, or communication, written or by radio, which offers any security for sale; except that (a) a communication shall not be deemed a prospectus if it is proved that prior to such communication a written prospectus meeting the requirements of section 10 was received, by the person to whom the communication was made, from the person making such communication or his principal, and (b) a notice, circular, advertisement, letter, or communication in respect of a security shall not be deemed to be a prospectus if it states from whom a written prospectus meeting the requirements of section 10 may be obtained and, in addition, does no more than identify the security, state the price thereof, and state by whom orders will be executed.

"(11) The term 'underwriter' means any person who has purchased from an issuer with a view to, or sells for an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking; but such term shall not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers' commission. As used in this paragraph the term 'issuer' shall include, in addition to an issuer, any person directly or indirectly controlling or controlled by the issuer, or any person under direct or indirect common control with the issuer.

"(12) The term 'dealer' means any person who engages either for all or part of his time, directly or indirectly, as agent, broker, or principal, in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.

"EXEMPTED SECURITIES

"SEC. 3. (a) Except as hereinafter expressly provided, the provisions of this title shall not apply to any of the following classes of securities:

"(1) Any security which, prior to or within 60 days after the enactment of this title, has been sold or disposed of by the issuer or bona fide offered to the public, but this exemption shall not apply to any new offering of any such security by an issuer or underwriter subsequent to such 60 days;

"(2) Any security issued or guaranteed by the United States or any Territory thereof, or by the District of Columbia, or by any State of the United States, or by any political subdivision of a State or Territory, or by any public instrumentality of one or more States or Territories exercising an essential governmental function, or by any corporation created and controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States, or by any national bank, or by any banking institution organized under the laws of any State or Territory, the business of which is substantially confined to banking and is supervised by the State or territorial banking commission or similar official, or any security issued by or representing an interest in or a direct obligation of a Federal Reserve bank;

"(3) Any note, draft, bill of exchange, or banker's acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which has a maturity at the time of issuance of not exceeding 9 months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited;

"(4) Any security issued by a corporation organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes and not for pecuniary profit, and no part of the net earnings of which inures to the benefit of any person, private stockholder, or individual;

"(5) Any security issued by a building and loan association, homestead association, savings and loan association, or similar institution, substantially all the business of which is confined to the making of loans to members (but the foregoing exemption shall not apply with respect to any such security where the issuer takes from the total amount paid or deposited by the purchaser, by way of any fee, cash value, or other device whatsoever, either upon termination of the investment at maturity or before maturity, an aggregate amount in excess of 3 percent of the face value of such security), or any security issued by a farmers' cooperative association as defined in paragraphs (12), (13), and (14) of section 103 of the Revenue Act of 1932;

"(6) Any security issued by a common carrier which is subject to the provisions of section 20a of the Interstate Commerce Act, as amended;

"(7) Certificates issued by a receiver or by a trustee in bankruptcy, with the approval of the court;

"(8) Any insurance or endowment policy or annuity contract or optional annuity contract, issued by a corporation subject to the supervision of the insurance commissioner, bank commissioner, or any agency or officer performing like functions, of any State or Territory of the United States or the District of Columbia.

"(b) The Commission may from time to time by its rules and regulations, and subject to such terms and conditions as may be prescribed therein, add any class of securities to the securities exempted as provided in this section, if it finds that the enforcement of this title with respect to such securities is not necessary in the public interest and for the protection of investors by reason of the small amount in-

volved or the limited character of the public offering; but no issue of securities shall be exempted under this subsection where the aggregate amount at which such issue is offered to the public exceeds $100,000.

"EXEMPTED TRANSACTIONS

"SEC. 4. The provisions of section 5 shall not apply to any of the following transactions:

"(1) Transactions by any person other than an issuer, underwriter, or dealer; transactions by an issuer not with or through an underwriter and not involving any public offering; or transactions by a dealer (including an underwriter no longer acting as an underwriter in respect of the security involved in such transaction), except transactions within 1 year after the last date upon which the security was bona fide offered to the public by the issuer or by or through an underwriter (excluding in the computation of such year any time during which a stop order issued under section 8 is in effect as to the security), and except transactions as to securities constituting the whole or a part of an unsold allotment to or subscription by such dealer as a participant in the distribution of such securities by the issuer or by or through an underwriter.

"(2) Brokers' transactions, executed upon customers' orders on any exchange or in the open or counter market, but not the solicitation of such orders.

"(3) The issuance of a security of a person exchanged by it with its existing security holders exclusively, where no commission or other remuneration is paid or given directly or indirectly in connection with such exchange; or the issuance of securities to the existing security holders or other existing creditors of a corporation in the process of a bona fide reorganization of such corporation under the supervision of any court, either in exchange for the securities of such security holders or claims of such creditors or partly for cash and partly in exchange for the securities or claims of such security holders or creditors.

"PROHIBITIONS RELATING TO INTERSTATE COMMERCE AND THE MAILS

"SEC. 5. (a) Unless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly—

"(1) to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell or offer to buy such security through the use or medium of any prospectus or otherwise; or

"(2) to carry or cause to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale.

"(b) It shall be unlawful for any person, directly or indirectly—

"(1) to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to carry or transmit any prospectus relating to any security registered under this title, unless such prospectus meets the requirements of section 10; or

"(2) to carry or to cause to be carried through the mails or in interstate commerce any such security for the purpose of sale or for delivery after sale, unless accompanied or preceded by a prospectus that meets the requirements of section 10.

"(c) The provisions of this section relating to the use of the mails shall not apply to the sale of any security where the issue of which it is a part is sold only to persons resident within a single State or Territory, where the issuer of such securities is a person resident and doing business within, or, if a corporation, incorporated by and doing business within, such State or Territory.

"REGISTRATION OF SECURITIES AND SIGNING OF REGISTRATION STATEMENT

"SEC. 6. (a) Any security may be registered with the Commission under the terms and conditions hereinafter provided, by filing a registration statement in triplicate, at least one of which shall be signed by each issuer, its principal executive officer or officers, its principal financial officer, its comptroller or principal accounting officer, and the majority of its board of directors or persons performing similar functions (or, if there is no board of directors or persons performing similar functions, by the majority of the persons or board having the power of management of the issuer), and in case the issuer is a foreign or Territorial person by its duly authorized representative in the United States; except that when such registration statement relates to a security issued by a foreign government, or political subdivision thereof, it need be signed only by the underwriter of such security. Signatures of all such persons when written on the said registration statements shall be presumed to have been so written by authority of the person whose signature is so affixed and the burden of proof, in the event such authority shall be denied, shall be upon the party denying the same. The affixing of any signature without the authority of the purported signer shall constitute a violation of this title. A registration statement shall be deemed effective only as to the securities specified therein as proposed to be offered.

"(b) At the time of filing a registration statement the applicant shall pay to the Commission a fee of one one-hundredth of 1 percent of the maximum aggregate price at which such securities are proposed to be offered, but in no case shall such fee be less than $25.

"(c) The filing with the Commission of a registration statement, or of an amendment to a registration statement, shall be deemed to have taken place upon the receipt thereof, but the filing of a registration statement shall not be deemed to have taken place unless it is accompanied by a United States postal money order or a certified bank check or cash for the amount of the fee required under subsection (b).

"(d) The information contained in or filed with any registration statement shall be made available to the public under such regulations as the Commission may prescribe, and copies thereof, photostatic or otherwise, shall be furnished to every applicant at such reasonable charge as the Commission may prescribe.

"(e) No registration statement may be filed within the first 40 days following the enactment of this act.

"INFORMATION REQUIRED IN REGISTERED STATEMENT

"SEC. 7. The registration statement, when relating to a security other than a security issued by a foreign government, or political subdivision thereof, shall contain the information and be accompanied by the documents specified in schedule A, and when relating to a security issued by a foreign government, or political subdivision thereof, shall contain the information and be accompanied by the documents specified in schedule B; except that the Commission may by rules or regulations provide that any such information or document need not be included in respect of any class of issuers or securities if it finds that the requirement of such information or document is inapplicable to such class and that disclosure fully adequate for the protection of investors is otherwise required to be included within the registration statement. If any accountant, engineer, or appraiser, or any person whose profession gives authority to a statement made by him is named as having prepared or certified any part of the registration statement, or is named as having prepared or certified a report or valuation for use in connection with the registration statement, the written consent of such person shall be filed with the registration statement. If any such person is named as having prepared or certified a report or valuation (other than a public official document or statement) which is used in connection with the registration statement, but is not named as having prepared or certified such report or valuation for use in connection with the registration statement, the written consent of such person shall be filed with the registration statement unless the Commission dispenses with such filing as impracticable or as involving undue hardship on the person filing the registration statement. Any such registration statement shall contain such other information, and be accompanied by such other documents, as the Commission may by rules or regulations require as being necessary or appropriate in the public interest or for the protection of investors.

"TAKING EFFECT OF REGISTRATION STATEMENTS AND AMENDMENTS THERETO

"SEC. 8. (a) The effective date of a registration statement shall be the twentieth day after the filing thereof, except as hereinafter provided, and except that in case of securities of any foreign public authority, which has continued the full service of its obligations in the United States, the proceeds of which are to be devoted to the refunding of obligations payable in the United States, the registration statement shall become effective 7 days after the filing thereof. If any amendment to any such statement is filed prior to the effective date of such statement, the registration statement shall be deemed to have been filed when such amendment was filed; except that an amendment filed with the consent of the Commission, prior to the effective date of the registration statement, or filed pursuant to an order of the Commission, shall be treated as a part of the registration statement.

"(b) If it appears to the Commission that a registration statement is on its face incomplete or inaccurate in any material respect, the Commission may, after notice by personal service or the sending of confirmed telegraphic notice not later than 10 days after the filing of the registration statement, and opportunity for hearing (at a time fixed by the Commission) within 10 days after such notice by personal service or the sending of such telegraphic notice, issue an order prior to the effective date of registration refusing to permit such statement to become effective until it has been amended in accordance with such order. When such statement has been amended in accordance with such order the Commission shall so declare and the registration shall become effective at the time provided in subsection (a) or upon the date of such declaration, whichever date is the later.

"(c) An amendment filed after the effective date of the registration statement, if such amendment, upon its face, appears to the Commission not to be incomplete or inaccurate in any material respect, shall become effective on such date as the Commission may determine, having due regard to the public interest and the protection of investors.

"(d) If it appears to the Commission at any time that the registration statement includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, the Commission may, after notice by personal service or the sending of confirmed telegraphic notice, and after opportunity for hearing (at a time fixed by the Commission) within 15 days after such notice by personal service or the sending of such telegraphic notice, issue a stop order suspending the effectiveness of the registration statement. When such statement has been amended in accordance with such stop order the Commission shall so declare and thereupon the stop order shall cease to be effective.

"(e) The Commission is hereby empowered to make an examination in any case in order to determine whether a stop order should issue under subsection (d). In making such examination the Commission or any officer or officers designated by it shall have access to and may demand the production of any books and papers of, and may administer oaths and affirmations to and examine, the issuer, underwriter, or any other person, in respect of any matter relevant to the examination, and may, in its discretion, require the production of a balance sheet exhibiting the assets and liabilities of the issuer, or its income statement, or both, to be certified to by a public or certified accountant approved by the Commission. If the issuer or underwriter shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of a stop order.

"(f) Any notice required under this section shall be sent to or served on the issuer, or, in case of a foreign government or political subdivision thereof, to or on the underwriter, or, in the case of a foreign or Territorial person, to or on its duly authorized representative in the United States named in the registration statement, properly directed in each case of telegraphic notice to the address given in such statement.

"COURT REVIEW OF ORDERS

"SEC. 9. (a) Any person aggrieved by an order of the Commission may obtain a review of such order in the Circuit Court of Appeals of the United States, within any circuit wherein such person resides or has his principal place of business, or in the Court of Appeals of the District of Columbia, by filing in such court, within 60 days after the entry of such order, a written petition praying that the order of the Commission be modified or be set aside in whole or in part. A copy of such petition shall be forthwith served upon the Commission, and thereupon the Commission shall certify and file in the court a transcript of the record upon which the order complained of was entered. No objection to the order of the Commission shall be considered by the court unless such objection shall have been urged before the Commission. The finding of the Commission as to the facts, if supported by evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of the original order. The jurisdiction of the court shall be exclusive and its judgment and decree, affirming, modifying, or setting aside, in whole or in part, any order of the Commission, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 346 and 347).

"(b) The commencement of proceedings under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"INFORMATION REQUIRED IN PROSPECTUS

"SEC. 10. (a) A prospectus—

"(1) when relating to a security other than a security issued by a foreign government or political subdivision thereof, shall contain the same statements made in the registration statement, but it need not include the documents referred to in paragraphs (28) to (32), inclusive, of schedule A;

"(2) when relating to a security issued for a foreign government or political subdivision thereof shall contain the same statements made in the registration statement, but it need not include the documents referred to in paragraphs (13) and (14) of schedule B.

"(b) Notwithstanding the provisions of subsection (a)—

"(1) when a prospectus is used more than 13 months after the effective date of the registration statement, the information in the statements contained therein shall be as of a date not more than 12 months prior to such use.

"(2) there may be omitted from any prospectus any of the statements required under such subsection (a) which the Commission may by rules or regulations designate as not being necessary or appropriate in the public interest or for the protection of investors.

"(3) any prospectus shall contain such other information as the Commission may by rules or regulations require as being necessary or appropriate in the public interest or for the protection of investors.

"(4) in the exercise of its powers under paragraphs (2) and (3) of this subsection, the Commission shall have authority to classify prospectuses according to the nature and circumstances of their use, and, by rules and regulations and subject to such terms and conditions as it shall specify

therein, to prescribe as to each class the form and contents which it may find appropriate to such use and consistent with the public interest and the protection of investors.

"(c) The statements or information required to be included in a prospectus by or under authority of subsection (a) or (b), when written, shall be placed in a conspicuous part of the prospectus in type as large as that used generally in the body of the prospectus.

"(d) In any case where a prospectus consists of a radio-broadcast, copies thereof shall be filed with the Commission under such rules and regulations as it shall prescribe. The Commission may by rules and regulations require the filing with it of forms of prospectuses used in connection with the sale of securities registered under this title.

"CIVIL LIABILITIES ON ACCOUNT OF FALSE REGISTRATION STATEMENT

"SEC. 11. (a) In case any part of the registration statement, when such part became effective, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading, any person acquiring such security (unless it is proved that at the time of such acquisition he knew of such untruth or omission) may, either at law or in equity, in any court of competent jurisdiction, sue—

"(1) every person who signed the registration statement;

"(2) every person who was a director of (or person performing similar functions), or partner in, the issuer at the time of the filing of the part of the registration statement with respect to which his liability is asserted;

"(3) every person who, with his consent, is named in the registration statement as being or about to become a director, person performing similar functions, or partner;

"(4) every accountant, engineer, or appraiser, or any person whose profession gives authority to a statement made by him, who has with his consent been named as having prepared or certified any part of the registration statement, or as having prepared or certified any report or valuation which is used in connection with the registration statement, with respect to the statement in such registration statement, report, or valuation which purports to have been prepared or certified by him;

"(5) every underwriter with respect to such security.

"(b) Notwithstanding the provisions of subsection (a) no person, other than the issuer, shall be liable as provided therein who shall sustain the burden of proof—

"(1) that before the effective date of the part of the registration statement with respect to which his liability is asserted (A) he had resigned from or had taken such steps as are permitted by law to resign from, or ceased or refused to act in, every office, capacity, or relationship in which he was described in the registration statement as acting or agreeing to act, and (B) he had advised the Commission and the issuer in writing that he had taken such action and that he would not be responsible for such part of the registration statement; or

"(2) that if such part of the registration statement became effective without his knowledge, upon becoming aware of such fact he forthwith acted and advised the Commission, in accordance with paragraph (1), and, in addition, gave reasonable public notice that such part of the registration statement had become effective without his knowledge; or

"(3) that (A) as regards any part of the registration statement not purporting to be made on the authority of an expert, and not purporting to be a copy of or extract from a report or valuation of an expert, and not purporting to be made on the authority of a public official document or statement, he had, after reasonable investigation, reasonable ground to believe and did believe, at the time such part of the registration statement became effective, that the statements therein were true and that there was no omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading; and (B) as regards any part of the registration statement purporting to be made upon his authority as an expert or purporting to be a copy of or extract from a report or valuation of himself as an expert, (i) he had, after reasonable investigation, reasonable ground to believe and did believe, at the time such part of the registration statement became effective, that the statements therein were true and that there was no omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, or (ii) such part of the registration statement did not fairly represent his statement as an expert or was not a fair copy of or extract from his report or valuation as an expert; and (C) as regards any part of the registration statement purporting to be made on the authority of an expert (other than himself) or purporting to be a copy of or extract from a report or valuation of an expert (other than himself), he had reasonable ground to believe and did believe, at the time such part of the registration statement became effective, that the statements therein were true and that there was no omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, and that such part of the registration statement fairly represented the statement of the expert or was a fair copy of or extract from the report or valuation of the expert; and (D) as regards any part of the registration statement purporting to be a statement made by an official person or purporting to be a copy of or extract from a public official document, he had reasonable ground to believe and did believe, at the time such part of the registration statement became effective, that the statements therein were true, and that there was no omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, and that such part of the registration statement fairly represented the statement made by the official person or was a fair copy of or extract from the public official document.

"(c) In determining, for the purpose of paragraph (3) of subsection (b) of this section, what constitutes reasonable investigation and reasonable ground for belief, the standard of reasonableness shall be that required of a person occupying a fiduciary relationship.

"(d) If any person becomes an underwriter with respect to the security after the part of the registration statement with respect to which his liability is asserted has become effective, then for the purposes of paragraph (3) of subsection (b) of this section such part of the registration statement shall be considered as having become effective with respect to such person as of the time when he became an underwriter.

"(e) The suit authorized under subsection (a) may be either (1) to recover the consideration paid for such security with interest thereon, less the amount of any income received thereon, upon the tender of such security, or (2) for damages if the person suing no longer owns the security.

"(f) All or any one or more of the persons specified in subsection (a) shall be jointly and severally liable, and every person who becomes liable to make any payment under this section may recover contribution as in cases of contract from any person who, if sued separately, would have been liable to make the same payment, unless the person who has become liable was, and the other was not, guilty of fraudulent misrepresentation.

"(g) In no case shall the amount recoverable under this section exceed the price at which the security was offered to the public.

"CIVIL LIABILITIES ARISING IN CONNECTION WITH PROSPECTUSES AND COMMUNICATIONS

"SEC. 12. Any person who—

"(1) sells a security in violation of section 5, or

"(2) sells a security (whether or not exempted by the provisions of section 3, other than paragraph (2) of subsection (a) thereof), by the use of any means or instruments of transportation or communication in interstate commerce or of the mails, by means of a prospectus or oral communication, which includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading (the purchaser not knowing of such untruth or omission), and who shall not sustain the burden of proof that he did not know, and in the

exercise of reasonable care could not have known, of such untruth or omissions,

" shall be liable to the person purchasing such security from him, who may sue either at law or in equity in any court of competent jurisdiction, to recover the consideration paid for such security with interest thereon, less the amount of any income received thereon, upon the tender of such security, or for damages if he no longer owns the security.

"LIMITATION OF ACTIONS

"SEC. 13. No action shall be maintained to enforce any liability created under section 11 or section 12 (2) unless brought within 2 years after the discovery of the untrue statement or the omission, or after such discovery should have been made by the exercise of reasonable diligence, or, if the action is to enforce a liability created under section 12 (1), unless brought within 2 years after the violation upon which it is based. In no event shall any such action be brought to enforce a liability created under section 11 or section 12 (1) more than 10 years after the security was bona fide offered to the public.

"CONTRARY STIPULATIONS VOID

"SEC. 14. Any condition, stipulation, or provision binding any person acquiring any security to waive compliance with any provision of this title or of the rules and regulations of the Commission shall be void.

"LIABILITY OF CONTROLLING PERSONS

"SEC. 15. Every person who, by or through stock ownership, agency, or otherwise, or who, pursuant to or in connection with an agreement or understanding with one or more other persons by or through stock ownership, agency, or otherwise, controls any person liable under section 11 or 12, shall also be liable jointly and severally with and to the same extent as such controlled person to any person to whom such controlled person is liable.

"ADDITIONAL REMEDIES

"SEC. 16. The rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist at law or in equity.

"FRAUDULENT INTERSTATE TRANSACTIONS

"SEC. 17. (a) It shall be unlawful for any person in the sale of any securities by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly—

"(1) to employ any device, scheme, or artifice to defraud, or

"(2) to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

"(3) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

"(b) It shall be unlawful for any person, by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, to publish, give publicity to, or circulate any notice, circular, advertisement, newspaper, article, letter, investment service, or communication which, though not purporting to offer a security for sale, describes such security for a consideration received or to be received, directly or indirectly, from an issuer, underwriter, or dealer, without fully disclosing the receipt, whether past or prospective, of such consideration and the amount thereof.

"(c) The exemptions provided in section 3 shall not apply to the provisions of this section.

"STATE CONTROL OF SECURITIES

"SEC. 18. Nothing in this title shall affect the jurisdiction of the securities commission (or any agency or office performing like functions) of any State or Territory of the United States, or the District of Columbia, over any security or any person.

"SPECIAL POWERS OF COMMISSION

"SEC. 19. (a) The Commission shall have authority from time to time to make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of this title, including rules and regulations governing registration statements and prospectuses for various classes of securities and issuers, and defining accounting and trade terms used in this title. Among other things, the Commission shall have authority, for the purposes of this title, to prescribe the form or forms in which required information shall be set forth, the items or details to be shown in the balance sheet and earning statement, and the methods to be followed in the preparation of accounts, in the appraisal or valuation of assets and liabilities, in the determination of depreciation and depletion, in the differentiation of recurring and nonrecurring income, in the differentiation of investment and operating income, and in the preparation, where the Commission deems it necessary or desirable, of consolidated balance sheets or income accounts of any person directly or indirectly controlling or controlled by the issuer, or any person under direct or indirect common control with the issuer; but insofar as they relate to any common carrier subject to the provisions of section 20 of the Interstate Commerce Act, as amended, the rules and regulations of the Commission with respect to accounts shall not be inconsistent with the requirements imposed by the Interstate Commerce Commission under authority of such section 20. The rules and regulations of the Commission shall be effective upon publication in the manner which the Commission shall prescribe.

"(b) For the purpose of all investigations which, in the opinion of the Commission, are necessary and proper for the enforcement of this title, any member of the Commission or any officer or officers designated by it are empowered to administer oaths and affirmations, subpena witnesses, take evidence, and require the production of any books, papers, or other documents which the Commission deems relevant or material to the inquiry. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States or any Territory at any designated place of hearing.

"INJUNCTIONS AND PROSECUTION OF OFFENSES

"SEC. 20. (a) Whenever it shall appear to the Commission, either upon complaint or otherwise, that the provisions of this title, or of any rule or regulation prescribed under authority thereof, have been or are about to be violated, it may, in its discretion, either require or permit such person to file with it a statement in writing, under oath, or otherwise, as to all the facts and circumstances concerning the subject matter which it believes to be in the public interest to investigate, and may investigate such facts.

"(b) Whenever it shall appear to the Commission that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this title, or of any rule or regulation prescribed under authority thereof, it may in its discretion, bring an action in any district court of the United States, United States court of any Territory, or the Supreme Court of the District of Columbia to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. The Commission may transmit such evidence as may be available concerning such acts or practices to the Attorney General who may, in his discretion, institute the necessary criminal proceedings under this title. Any such criminal proceeding may be brought either in the district wherein the transmittal of the prospectus or security complained of begins, or in the district wherein such prospectus or security is received.

"(c) Upon application of the Commission the district courts of the United States, the United States courts of any Territory, and the Supreme Court of the District of Columbia, shall also have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this title or any order of the Commission made in pursuance thereof.

"HEARINGS BY COMMISSION

"SEC. 21. All hearings shall be public and may be held before the Commission or an officer or officers of the Com-

mission designated by it, and appropriate records thereof shall be kept.

"JURISDICTION OF OFFENSES AND SUITS

"SEC. 22. (a) The district courts of the United States, the United States courts of any Territory, and the Supreme Court of the District of Columbia shall have jurisdiction of offenses and violations under this title and under the rules and regulations promulgated by the Commission in respect thereto, and, concurrent with State and Territorial courts, of all suits in equity and actions at law brought to enforce any liability or duty created by this title. Any such suit or action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, or in the district where the sale took place, if the defendant participated therein, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 128 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 225 and 347). No case arising under this title and brought in any State court of competent jurisdiction shall be removed to any court of the United States. No costs shall be assessed for or against the Commission in any proceeding under this title brought by or against it in the Supreme Court or such other courts.

"(b) In case of contumacy or refusal to obey a subpena issued to any person, any of the said United States courts, within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides, upon application by the Commission may issue to such person an order requiring such person to appear before the Commission, or one of its examiners designated by it, there to produce documentary evidence if so ordered, or there to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

"(c) No person shall be excused from attending and testifying or from producing books, papers, contracts, agreements, and other documents before the Commission, or in obedience to the subpena of the Commission or any member thereof or any officer designated by it, or in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of him, may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

"UNLAWFUL REPRESENTATIONS

"SEC. 23. Neither the fact that the registration statement for a security has been filed or is in effect nor the fact that a stop order is not in effect with respect thereto shall be deemed a finding by the Commission that the registration statement is true and accurate on its face or that it does not contain an untrue statement of fact or omit to state a material fact, or be held to mean that the Commission has in any way passed upon the merits of, or given approval to, such security. It shall be unlawful to make, or cause to be made, to any prospective purchaser any representation contrary to the foregoing provisions of this section.

"PENALTIES

"SEC. 24. Any person who willfully violates any of the provisions of this title, or the rules and regulations promulgated by the Commission under authority thereof, or any person who willfully, in a registration statement filed under this title, makes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both.

"JURISDICTION OF OTHER GOVERNMENT AGENCIES OVER SECURITIES

"SEC. 25. Nothing in this title shall relieve any person from submitting to the respective supervisory units of the Government of the United States information, reports, or other documents that are now or may hereafter be required by any provision of law.

"SEPARABILITY OF PROVISIONS

"SEC. 26. If any provision of this act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

"SCHEDULE A

"(1) The name under which the issuer is doing or intends to do business;

"(2) the name of the State or other sovereign power under which the issuer is organized;

"(3) the location of the issuer's principal business office, and if the issuer is a foreign or Territorial person, the name and address of its agent in the United States authorized to receive notice;

"(4) the names and addresses of the directors or persons performing similar functions, and the chief executive, financial, and accounting officers, chosen or to be chosen if the issuer be a corporation, association, trust, or other entity; of all partners, if the issuer be a partnership; and of the issuer, if the issuer be an individual; and of the promoters in the case of a business to be formed, or formed within 2 years prior to the filing of the registration statement;

"(5) the names and addresses of the underwriters;

"(6) the names and addresses of all persons, if any, owning of record or beneficially, if known, more than 10 percent of any class of stock of the issuer, or more than 10 percent in the aggregate of the outstanding stock of the issuer as of a date within 20 days prior to the filing of the registration statement;

"(7) the amount of securities of the issuer held by any person specified in paragraphs (4), (5), and (6) of this schedule, as of a date within 20 days prior to the filing of the registration statement, and, if possible, as of 1 year prior thereto, and the amount of the securities, for which the registration statement is filed, to which such persons have indicated their intention to subscribe;

"(8) the general character of the business actually transacted or to be transacted by the issuer;

"(9) a statement of the capitalization of the issuer, including the authorized and outstanding amounts of its capital stock and the proportion thereof paid up, the number and classes of shares in which such capital stock is divided, par value thereof, or if it has no par value, the stated or assigned value thereof, a description of the respective voting rights, preferences, conversion and exchange rights, rights to dividends, profits, or capital of each class, with respect to each other class, including the retirement and liquidation rights or values thereof;

"(10) a statement of the securities, if any, covered by options outstanding or to be created in connection with the security to be offered, together with the names and addresses of all persons, if any, to be allotted more than 10 percent in the aggregate of such options;

"(11) the amount of capital stock of each class issued or included in the shares of stock to be offered;

"(12) the amount of the funded debt outstanding and to be created by the security to be offered, with a brief description of the date, maturity, and character of such debt, rate of interest, character of amortization provisions, and the security, if any, therefor. If substitution of any security is permissible, a summarized statement of the conditions under which such substitution is permitted. If substitution is permissible without notice, a specific statement to that effect;

"(13) the specific purposes in detail and the approximate amounts to be devoted to such purposes, so far as determinable, for which the security to be offered is to supply funds,

and if the funds are to be raised in part from other sources, the amounts thereof and the sources thereof, shall be stated;

"(14) the remuneration, paid or estimated to be paid, by the issuer or its predecessor, directly or indirectly, during the past year and ensuing year to (a) the directors or persons performing similar functions, and (b) its officers and other persons, naming them wherever such remuneration exceeded $25,000 during any such year;

"(15) the estimated net proceeds to be derived from the security to be offered;

"(16) the price at which it is proposed that the security shall be offered to the public or the method by which such price is computed and any variation therefrom at which any portion of such security is proposed to be offered to any persons or classes of persons, other than the underwriters, naming them or specifying the class. A variation in price may be proposed prior to the date of the public offering of the security, but the Commission shall immediately be notified of such variation;

"(17) all commissions or discounts paid or to be paid, directly or indirectly, by the issuer to the underwriters in respect of the sale of the security to be offered. Commissions shall include all cash, securities, contracts, or anything else of value, paid, to be set aside, disposed of, or understandings with or for the benefit of any other persons in which any underwriter is interested, made, in connection with the sale of such security. A commission paid or to be paid in connection with the sale of such security by a person in which the issuer has an interest or which is controlled or directed by, or under common control with, the issuer shall be deemed to have been paid by the issuer. Where any such commission is paid, the amount of such commission paid to each underwriter shall be stated;

"(18) the amount or estimated amounts, itemized in reasonable detail, of expenses, other than commissions specified in paragraph (17) of this schedule, incurred or borne by or for the account of the issuer in connection with the sale of the security to be offered or properly chargeable thereto, including legal, engineering, certification, authentication, and other charges;

"(19) the net proceeds derived from any security sold by the issuer during the 2 years preceding the filing of the registration statement, the price at which such security was offered to the public, and the names of the principal underwriters of such security;

"(20) any amount paid within 2 years preceding the filing of the registration statement or intended to be paid to any promoter and the consideration for any such payment;

"(21) the names and addresses of the vendors and the purchase price of any property, or good will, acquired or to be acquired, not in the ordinary course of business, which is to be defrayed in whole or in part from the proceeds of the security to be offered, the amount of any commission payable to any person in connection with such acquisition, and the name or names of such person or persons, together with any expense incurred or to be incurred in connection with such acquisition, including the cost of borrowing money to finance such acquisition;

"(22) full particulars of the nature and extent of the interest, if any, of every director, principal executive officer, and of every stockholder holding more than 10 percent of any class of stock or more than 10 percent in the aggregate of the stock of the issuer, in any property acquired, not in the ordinary course of business of the issuer, within 2 years preceding the filing of the registration statement or proposed to be acquired at such date;

"(23) the names and addresses of counsel who have passed on the legality of the issue;

"(24) dates of and parties to, and the general effect concisely stated of every material contract made, not in the ordinary course of business, which contract is to be executed in whole or in part at or after the filing of the registration statement or which contract has been made not more than 2 years before such filing. Any management contract or contract providing for special bonuses or profit-sharing arrangements, and every material patent or contract for a material patent right, and every contract by or with a public utility company or an affiliate thereof, providing for the giving or receiving of technical or financial advice or service (if such contract may involve a charge to any party thereto at a rate in excess of $2,500 per year in cash or securities or anything else of value), shall be deemed a material contract;

"(25) a balance sheet as of a date not more than 90 days prior to the date of the filing of the registration statement showing all of the assets of the issuer, the nature and cost thereof, whenever determinable, in such detail and in such form as the Commission shall prescribe (with intangible items segregated), including any loan in excess of $20,000 to any officer, director, stockholder or person directly or indirectly controlling or controlled by the issuer, or person under direct or indirect common control with the issuer. All the liabilities of the issuer in such detail and such form as the Commission shall prescribe, including surplus of the issuer showing how and from what sources such surplus was created, all as of a date not more than 90 days prior to the filing of the registration statement. If such statement be not certified by an independent public or certified accountant, in addition to the balance sheet required to be submitted under this schedule, a similar detailed balance sheet of the assets and liabilities of the issuer, certified by an independent public or certified accountant, of a date not more than 1 year prior to the filing of the registration statement, shall be submitted;

"(26) a profit-and-loss statement of the issuer showing earnings and income, the nature and source thereof, and the expenses and fixed charges in such detail and such form as the Commission shall prescribe for the latest fiscal year for which such statement is available and for the 2 preceding fiscal years, year by year, or, if such issuer has been in actual business for less than 3 years, then for such time as the issuer has been in actual business, year by year. If the date of the filing of the registration statement is more than 6 months after the close of the last fiscal year, a statement from such closing date to the latest practicable date. Such statement shall show what the practice of the issuer has been during the 3 years or lesser period as to the character of the charges, dividends or other distributions made against its various surplus accounts, and as to depreciation, depletion, and maintenance charges, in such detail and form as the Commission shall prescribe, and if stock dividends or avails from the sale of rights have been credited to income, they shall be shown separately with a statement of the basis upon which the credit is computed. Such statement shall also differentiate between any recurring and nonrecurring income and between any investment and operating income. Such statement shall be certified by an independent public or certified accountant;

"(27) if the proceeds, or any part of the proceeds, of the security to be issued is to be applied directly or indirectly to the purchase of any business, a profit-and-loss statement of such business, certified by an independent public or certified accountant, meeting the requirements of paragraph (26) of this schedule, for the 3 preceding fiscal years, together with a balance sheet, similarly certified, of such business, meeting the requirements of paragraph (25) of this schedule of a date not more than 90 days prior to the filing of the registration statement or at the date such business was acquired by the issuer if the business was acquired by the issuer more than 90 days prior to the filing of the registration statement;

"(28) a copy of any agreement or agreements (or, if identic agreements are used, the forms thereof) made with any underwriter, including all contracts and agreements referred to in paragraph (17) of this schedule;

"(29) a copy of the opinion or opinions of counsel in respect to the legality of the issue, with a translation of such opinion, when necessary, into the English language;

"(30) a copy of all material contracts referred to in paragraph (24) of this schedule, but no disclosure shall be required of any portion of any such contract if the Commis-

sion determines that disclosure of such portion would impair the value of the contract and would not be necessary for the protection of investors;

"(31) unless previously filed and registered under the provisions of this title, and brought up to date, (a) a copy of its articles of incorporation, with all amendments thereof and of its existing bylaws or instruments corresponding thereto, whatever the name, if the issuer be a corporation; (b) copy of all instruments by which the trust is created or declared, if the issuer is a trust; (c) a copy of its articles of partnership or association and all other papers pertaining to its organization, if the issuer is a partnership, unincorporated association, joint-stock company, or any other form of organization; and

"(32) a copy of the underlying agreements or indentures affecting any stock, bonds, or debentures offered or to be offered.

"In case of certificates of deposit, voting trust certificates, collateral trust certificates, certificates of interest or shares in unincorporated investment trusts, equipment trust certificates, interim or other receipts for certificates, and like securities, the Commission shall establish rules and regulations requiring the submission of information of a like character applicable to such cases, together with such other information as it may deem appropriate and necessary regarding the character, financial or otherwise, of the actual issuer of the securities and/or the person performing the acts and assuming the duties of depositor or manager.

"SCHEDULE B

"(1) Name of borrowing government or subdivision thereof;

"(2) specific purposes in detail and the approximate amounts to be devoted to such purposes, so far as determinable, for which the security to be offered is to supply funds, and if the funds are to be raised in part from other sources, the amounts thereof and the sources thereof, shall be stated;

"(3) the amount of the funded debt and the estimated amount of the floating debt outstanding and to be created by the security to be offered, excluding intergovernmental debt, and a brief description of the date, maturity, character of such debt, rate of interest, character of amortization provisions, and the security, if any, therefor. If substitution of any security is permissible, a statement of the conditions under which such substitution is permitted. If substitution is permissible without notice, a specific statement to that effect;

"(4) whether or not the issuer or its predecessor has, within a period of 20 years prior to the filing of the registration statement, defaulted on the principal or interest of any external security, excluding intergovernmental debt, and, if so, the date, amount, and circumstances of such default, and the terms of the succeeding arrangement, if any;

"(5) the receipts, classified by source, and the expenditures, classified by purpose, in such detail and form as the Commission shall prescribe for the latest fiscal year for which such information is available and the 2 proceding fiscal years, year by year;

"(6) the names and addresses of the underwriters;

"(7) the name and address of its authorized agent, if any, in the United States;

"(8) the estimated net proceeds to be derived from the sale in the United States of the security to be offered;

"(9) the price at which it is proposed that the security shall be offered in the United States to the public or the method by which such price is computed. A variation in price may be proposed prior to the date of the public offering of the security, but the Commission shall immediately be notified of such variation;

"(10) all commissions paid or to be paid, directly or indirectly, by the issuer to the underwriters in respect of the sale of the security to be offered. Commissions shall include all cash, securities, contracts, or anything else of value, paid, to be set aside, disposed of, or understandings with or for the benefit of any other persons in which the underwriter is interested, made, in connection with the sale of such security. Where any such commission is paid, the amount of such commission paid to each underwriter shall be stated;

"(11) the amount or estimated amounts, itemized in reasonable detail, of expenses, other than the commissions specified in paragraph (10) of this schedule, incurred or borne by or for the account of the issuer in connection with the sale of the security to be offered or properly chargeable thereto, including legal, engineering, certification, and other charges;

"(12) the names and addresses of counsel who have passed upon the legality of the issue;

"(13) a copy of any agreement or agreements made with any underwriter governing the sale of the security within the United States; and

"(14) an agreement of the issuer to furnish a copy of the opinion or opinions of counsel in respect to the legality of the issue, with a translation, where necessary, into the English language. Such opinion shall set out in full all laws, decrees, ordinances, or other acts of government under which the issue of such security has been authorized.

"TITLE II

"SECTION 201. For the purpose of protecting, conserving, and advancing the interests of the holders of foreign securities in default, there is hereby created a body corporate with the name 'Corporation of Foreign Security Holders' (herein called the 'Corporation'). The principal office of the Corporation shall be located in the District of Columbia, but there may be established agencies or branch offices in any city or cities of the United States under rules and regulations prescribed by the board of directors.

"SEC. 202. The control and management of the Corporation shall be vested in a board of 6 directors, who shall be appointed and hold office in the following manner: As soon as practicable after the date this act takes effect the Federal Trade Commission (hereinafter in this title called 'Commission') shall appoint six directors, and shall designate a chairman and a vice chairman from among their number. After the directors designated as chairman and vice chairman cease to be directors, their successors as chairman and vice chairman shall be elected by the board of directors itself. Of the directors first appointed, 2 shall continue in office for a term of 2 years, 2 for a term of 4 years, and 2 for a term of 6 years, from the date this act takes effect, the term of each to be designated by the Commission at the time of appointment. Their successors shall be appointed by the Commission, each for a term of 6 years from the date of the expiration of the term for which his predecessor was appointed, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term of such predecessor. No person shall be eligible to serve as a director who within the 5 years preceding has had any interest, direct or indirect, in any corporation, company, partnership, bank, or association which has sold, or offered for sale, any foreign securities. The office of a director shall be vacated if the board of directors shall at a meeting specially convened for that purpose by resolution passed by a majority of at least two thirds of the board of directors, remove such member from office, provided that the member whom it is proposed to remove shall have 7 days' notice sent to him of such meeting and that he may be heard.

"SEC. 203. The Corporation shall have power to adopt, alter, and use a corporate seal; to make contracts; to lease such real estate as may be necessary for the transaction of its business; to sue and be sued, to complain and to defend, in any court of competent jurisdiction, State or Federal; to require from trustees, financial agents, or dealers in foreign securities information relative to the original or present holders of foreign securities and such other information as may be required and to issue subpenas therefor; to take over the functions of any fiscal and paying agents of any foreign securities in default; to borrow money for the purposes of this title, and to pledge as collateral for such loans any securities deposited with the Corporation pursuant to this title; by and with the consent and approval of the Commission to select, employ, and fix the compensation of officers,

directors, members of committees, employees, attorneys, and agents of the Corporation, without regard to the provisions of other laws applicable to the employment and compensation of officers or employees of the United States; to define their authority and duties, require bonds of them and fix the penalties thereof, and to dismiss at pleasure such officers, employees, attorneys, and agents; and to prescribe, amend, and repeal, by its board of directors, bylaws, rules, and regulations governing the manner in which its general business may be conducted and the powers granted to it by law may be exercised and enjoyed, together with provisions for such committees and the functions thereof as the board of directors may deem necessary for facilitating its business under this title. The board of directors of the Corporation shall determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid.

"SEC. 204. The board of directors may—

"(1) Convene meetings of holders of foreign securities.

"(2) Invite the deposit and undertake the custody of foreign securities which have defaulted in the payment either of principal or interest, and issue receipts or certificates in the place of securities so deposited.

"(3) Appoint committees from the directors of the Corporation and/or all other persons to represent holders of any class or classes of foreign securities which have defaulted in the payment either of principal or interest and determine and regulate the functions of such committees. The chairman and vice chairman of the board of directors shall be ex-officio chairman and vice chairman of each committee.

"(4) Negotiate and carry out, or assist in negotiating and carrying out, arrangements for the resumption of payments due or in arrears in respect of any foreign securities in default or for rearranging the terms on which such securities may in future be held or for converting and exchanging the same for new securities or for any other object in relation thereto; and under this paragraph any plan or agreement made with respect to such securities shall be binding upon depositors, providing that the consent of holders resident in the United States of 60 per cent of the securities deposited with the Corporation shall be obtained.

"(5) Undertake, superintend, or take part in the collection and application of funds derived from foreign securities which come into the possession of or under the control or management of the Corporation.

"(6) Collect, preserve, publish, circulate, and render available in readily accessible form, when deemed essential or necessary, documents, statistics, reports, and information of all kinds in respect of foreign securities, including particularly records of foreign external securities in default and records of the progress made toward the payment of past-due obligations.

"(7) Take such steps as it may deem expedient with the view of securing the adoption of clear and simple forms of foreign securities and just and sound principles in the conditions and terms thereof.

"(8) Generally, act in the name and on behalf of the holders of foreign securities the care or representation of whose interests may be entrusted to the Corporation; conserve and protect the rights and interests of holders of foreign securities issued, sold, or owned in the United States; adopt measures for the protection, vindication, and preservation or reservation of the rights and interests of holders of foreign securities either on any default in or on breach or contemplated breach of the conditions on which such foreign securities may have been issued, or otherwise; obtain for such holders such legal and other assistance and advice as the board of directors may deem expedient; and do all such other things as are incident or conducive to the attainment of the above objects.

"SEC. 205. The board of directors shall cause accounts to be kept of all matters relating to or connected with the transactions and business of the Corporation, and cause a general account and balance sheet of the Corporation to be made out in each year, and cause all accounts to be audited by one or more auditors who shall examine the same and report thereon to the board of directors.

"SEC. 206. The Corporation shall make, print, and make public an annual report of its operations during each year, send a copy thereof, together with a copy of the account and balance sheet and auditor's report, to the Commission and to both Houses of Congress, and provide one copy of such report but not more than one on the application of any person and on receipt of a sum not exceeding $1: *Provided*, That the board of directors in its discretion may distribute copies gratuitously.

"SEC. 207. The Corporation may in its discretion levy charges, assessed on a pro-rata basis, on the holders of foreign securities deposited with it: *Provided*, That any charge levied at the time of depositing securities with the Corporation shall not exceed one fifth of 1 percent of the face value of such securities: *Provided further*, That any additional charges shall bear a close relationship to the cost of operations and negotiations including those enumerated in sections 203 and 204 and shall not exceed 1 percent of the face value of such securities.

"SEC. 208. The Corporation may receive subscriptions from any person, foundation with a public purpose, or agency of the United States Government, and such subscriptions may, in the discretion of the board of directors, be treated as loans repayable when and as the board of directors shall determine.

"SEC. 209. The Reconstruction Finance Corporation is hereby authorized to loan out of its funds not to exceed $75,000 for the use of the Corporation.

"SEC. 210. Notwithstanding the foregoing provisions of this title, it shall be unlawful for, and nothing in this title shall be taken or construed as permitting or authorizing, the Corporation in this title created, or any committee of said Corporation, or any person or persons acting for or representing or purporting to represent it—

"(a) to claim or assert or pretend to be acting for or to represent the Department of State or the United States Government;

"(b) to make any statements or representations of any kind to any foreign government or its officials or the officials of any political subdivision of any foreign government that said Corporation or any committee thereof or any individual or individuals connected therewith were speaking or acting for the said Department of State or the United States Government; or

"(c) to do any act directly or indirectly which would interfere with or obstruct or hinder or which might be calculated to obstruct, hinder, or interfere with the policy or policies of the said Department of State or the Government of the United States or any pending or contemplated diplomatic negotiations, arrangements, business, or exchanges between the Government of the United States or said Department of State and any foreign government or any political subdivision thereof.

"SEC. 211. This title shall not take effect until the President finds that its taking effect is in the public interest and by proclamation so declares.

"SEC. 212. This title may be cited as the 'Corporation of Foreign Bondholers Act, 1933'."

And the Senate agree to the same.

SAM RAYBURN,
GEO. HUDDLESTON,
CLARENCE LEA,
JAMES S. PARKER,
CARL E. MAPES,
Managers on the part of the House.

DUNCAN U. FLETCHER,
CARTER GLASS,
ROBERT F. WAGNER,
Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill (H.R.

5480) to provide full and fair disclosure of the character of securities sold in interstate and foreign commerce and through the mails, and to prevent frauds in the sale thereof, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause. The House recedes from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill and the substitute agreed upon by the conferees are noted in the following discussion, except for incidental changes made necessary to harmonize various provisions affected by the agreements reached, and minor and clarifying changes to make clear and effective the administrative procedure provided for and to remove uncertainties.

The House bill did not apply to traffic in securities wholly within the District of Columbia, but the Senate amendment did. This feature was omitted from the House bill upon the basis of a misunderstanding, and is incorporated in the substitute.

The House bill (sec. 2 (11)) and the Senate amendment contained differences as to the definition of the term "underwriter" as used in the act. The substitute amends the definition of underwriter contained in the House bill so as to make clear that a person merely furnishing an underwriter money to enable him to enter into an underwriting agreement is not an underwriter. Persons, however, who participate in any underwriting transaction or who have a direct or indirect participation in such a transaction are deemed to be underwriters. The test is one of participation in the underwriting undertaking rather than that of a mere interest in it.

The House bill (sec. 3 (a)(5)) exempted the securities of building and loan associations and other similar institutions when their business was substantially confined to their members. The Senate amendment limited this exemption by further requiring that these associations must not charge withdrawal or other fees in excess of 2 percent of the face value of the security. This provision in the Senate amendment was accepted with the change of extending the exemption only to institutions that did not charge in excess of 3 percent of the face value of the security by way of a withdrawal fee or otherwise.

The Senate amendment also exempted the securities of farmers' cooperatives. This exemption is incorporated in the substitute.

The Senate amendment provided for an exemption in the case of annuity contracts. The House bill contained no such exemption. The substitute, however, only exempts such contracts when issued by a corporation subject to the supervision of the appropriate State or Territorial governmental agency.

The Senate agreed to the House exemption (sec. 4 (3)) of the issuance of securities to the existing security holders or other existing creditors of a corporation in the process of a bona fide reorganization of such corporation under the supervision of any court. It is clear that under section 3 (a)(1) protective committees even though not under the supervision of a court will not be covered by the act if they have in good faith commenced to solicit deposits of claims or securities within 60 days after the enactment of the act although deposits continue to be solicited after such 60 days.

The House provision (sec. 4 (3)) exempting stock dividends and the sale of stock to stockholders is omitted from the substitute, since stock dividends are exempt without express provision, as they do not constitute a sale, not being given for value. Sales of stock to stockholders become subject to the act unless the stockholders are so small in number that the sale to them does not constitute a public offering. The Senate agreed that the mere exchange with its security holders of one form of security for another by an issuer where no commission or other remuneration is paid, shall be exempt. This exemption is considered necessary to permit certain voluntary readjustment of obligations. Inasmuch as any exchange that involves the payment of a commission of any sort is not exempt, there is no danger of the provision being used for purposes of evasion.

The House provision (sec. 4 (4)) exempting subscriptions for shares prior to incorporation where no expense is incurred or commission paid, is omitted from the substitute. This exemption is unnecessary in view of section 4 (1), which exempts transactions by any person other than an issuer, underwriter, or dealer.

The House bill (sec. 6 (b)) provided that the minimum fee for registration should be $50. The Senate amendment made the minimum fee $25. The provisions of the Senate amendment on this point are contained in the substitute.

The House bill (sec. 8) provided that a registration statement had to be on file with the Commission for 30 days before it became effective. Under the Senate amendment the registration statement became effective upon filing, but the grounds for revocation after filing were considerably broader than those for a stop order under the House bill. In the substitute the registration statement becomes effective only 20 days after filing. This time is sufficient for public scrutiny, while the Commission is expected during this period to make only a preliminary check-up. The stop-order provisions are retained as in the original House measure. Where the security is that of a foreign public authority which has continued the full service of its obligations in the United States and the proceeds of which are to be devoted to the refunding of obligations payable in the United States, the registration statement becomes effective 7 days after the filing of such statement.

The House bill (sec. 9) provided that any review from an order of the Commission should be taken only in the Court of Appeals of the District of Columbia. The Senate amendment permitted these appeals from the Commission's orders to be taken to the appropriate circuit courts of appeal. The substitute embodies this provision. It also, in accordance with phraseology contained in the Senate amendment, makes clear that review over the orders of the Federal Trade Commission shall extend only to questions of law.

A point of difference between the House bill and the Senate amendment concerned the civil liability of persons responsible for the flotation of an issue. The Senate amendment imposed upon the issuer, its directors, its chief executive and financial officers, a liability which might appropriately be denominated as an insurer's liability. They were held liable without regard to whatever care they may have used for the accuracy of the statements made in the registration statement. The House bill, on the other hand, measured liability for these statements in terms of reasonable care, placing upon the defendants the duty, in case they were sued, of proving that they had used reasonable care to assure the accuracy of these statements. The standard by which reasonable care was exemplified was expressed in terms of a fiduciary relationship. A fiduciary under the law is bound to exercise diligence of a type commensurate with the confidence, both as to integrity and competence, that is placed in him. This does not, of course, necessitate that he shall individually perform every duty imposed upon him. Delegation to others of the performance of acts which it is unreasonable to require that the fiduciary shall personally perform is permissible. Especially is this true where the character of the acts involves professional skill or facilities not possessed by the fiduciary himself. In such cases reliance by the fiduciary, if his reliance is reasonable in the light of all the circumstances, is a full discharge of his responsibilities. In choosing between these two standards of liability the Senate accepted the standards imposed by the House bill.

Though the standards of the Senate amendment were more severe than those embodied in the House bill, the

classes of persons upon whom liability was imposed were less. The House bill imposed liability upon the underwriters and also upon the experts, such as accountants, appraisers, and engineers, who gave the authority of their names to statements made in the registration statement. The Senate accepted the provisions of the House bill with reference to this matter, but with the modification that, to protect an unauthorized use of the expert's name, written consent to the use of his name, as having prepared or certified part of the registration statement or as having prepared a report to which statements in the registration statement were attributed, should be filed at the time of the filing of the registration statement. The necessary changes to effectuate this end have been made in the substitute.

The Senate amendment imposed liability upon persons making false and deceptive statements in connection with the distribution or sale of a security. The House bill made the liability depend upon the making of untrue statements or omissions to state material facts. This phrase has been clarified in the substitute to make the omission relate to the statements made in order that these statements shall not be misleading, rather than making mere omission—unless the act expressly requires such a fact to be stated—a ground for liability where no circumstances exist to make the omission in itself misleading.

The House bill (sec. 12) imposes civil liability for using the mails or the facilities of interstate commerce to sell securities (including securities exempt, under section 3, from other provisions of the bill) by means of representations which are untrue or are misleading by reason of omissions of material facts. The substantially similar provisions of the Senate amendment did not apply to any of the securities exempted under the Senate amendment. The substitute exempts from the operation of this section sales of securities covered by section 3 (a) (2), which relates, broadly speaking, to securities issued or guaranteed by the United States or any State, Territory, or the District of Columbia, or by a public instrumentality, or by a Federal Reserve bank or national bank, or by a supervised State bank.

The Senate amendment contained provisions referred to as "dummy provisions" which were calculated to place liability upon a person who acted through another, irrespective of whether a direct agency relationship existed but dependent upon the actual control exercised by the one party over the other. The House bill did not contain these provisions. The various provisions of the Senate amendment on this subject have been welded into one and incorporated as a new section in the substitute.

The House bill (sec. 18) contained a provision prohibiting the selling of securities in interstate commerce in any State, Territory, or the District of Columbia where such sale would have been a violation of the laws thereof relating to the sale of securities if it had taken place wholly therein. This provision is not in the Senate amendment and is eliminated from the substitute.

The House bill (sec. 21) limited the venue of actions brought in the district courts to enforce civil liabilities under the act to the district in which the defendant was an inhabitant or had its principal place of business or in the district where the sale took place. The Senate amendment extended this provision to permit suit in the district where the defendant might be found or where he transacts business. The substitute incorporates the provision of the Senate bill in this respect.

The schedules of the House bill required the disclosure of certain material contracts made not in the ordinary course of business. The Senate amendment contained no such provision. The substitute clarifies the meaning of "material contract" as used in the House bill, and also provides against any disclosure of the content of any portion of a material contract when the Commission finds that such disclosure would both impair the value of the contract and would not be necessary for the protection of investors. Ample protection is thereby afforded against the disclosure of secret formulae, trade secrets, or competitive advantages achieved by agreement.

Numerous differences between the House bill and the Senate amendment resolve themselves about the powers of the Federal Trade Commission. In some instances the provisions of the Senate amendment on these matters are contained in the substitute, in others the provisions of the Senate amendment have been adapted to the basic machinery underlying the House bill. Throughout, the aim has been to invest the Federal Trade Commission with full and adequate powers to perform the duties vested upon it under the act. Care has also been taken to avoid any conflict between the exercise of such powers by the Federal Trade Commission and the exercise of similar powers by any other Federal agency.

Title II of the Senate amendment provides for the creation of a "corporation of foreign security holders" for the protecting, serving, and advancing of the interests of the holders of foreign securities in default. The control and management of the Corporation is vested in a board of 12 directors appointed by the Commission. The normal term of a director is 6 years, but the terms of the first directors are so arranged that a third of the board will retire every 2 years. No person is eligible to serve as a director who within the 5 years preceding has had any interest in any corporation which has sold any foreign securities.

The Corporation is given power, among other things, to make contracts; to lease such real estate as may be necessary for the transaction of its business; to sue and be sued in any court of competent jurisdiction; to require from trustees, financial agents, or dealers in foreign securities information relative to the original or present holders of foreign securities, and to issue subpenas therefor; to take over the functions of any fiscal and paying agents of any foreign securities in default; to borrow money and to pledge as collateral any securities deposited with the Corporation; with the consent of the commission to employ and fix the compensation of officers, directors, members of committees, employees, attorneys, and agents of the Corporation, without regard to the provisions of other laws applicable to the employment and compensation of officers and employees of the United States.

The board of directors are authorized (1) to convene meetings of holders of foreign securities; (2) to invite the deposit of defaulted foreign securities; (3) to appoint committees consisting of the directors of the Corporation and/or of other persons to represent the holders of defaulted foreign securities; (4) to negotiate and carry out arrangements for the resumption of payments on defaulted foreign securities, and any plan or agreement made with respect to such securities shall be binding upon depositors provided the consent of 60 percent of the holders of such securities deposited with the Corporation is obtained; (5) to undertake or superintend the collection and application of funds derived from foreign securities deposited with the Corporation; (6) to collect and publish statistics and other information regarding foreign securities; (7) to take steps to facilitate the adoption of clear and simple forms of foreign securities and just and sound principles in the conditions and terms thereof; and (8) generally to act in the name and on behalf of the holders of foreign securities the care or representation of whose interest is entrusted to the Corporation.

The board of directors is to keep accounts of all transactions and business of the Corporation and to publish an audited general account and balance sheet annually.

The Corporation is to make an annual report of its operations, which shall be available to any person at a nominal cost.

The Corporation may levy charges on a pro-rata basis on the holders of foreign securities deposited with it, provided that any such levy at the time of the deposit shall not exceed one fifth of 1 percent of the face value of such security, and provided that any additional charge shall bear a close relationship to the costs and should not exceed 1 percent of the face value of such security.

The Corporation may receive subscriptions from any person or foundation or agency of the United States Government.

The Reconstruction Finance Corporation is authorized to loan out of its funds not to exceed $75,000 for the use of the Corporation.

Under the bill as agreed to in conference title II of the Senate amendment is included, with the following amendments:

1. The board of directors is reduced from 12 to 6.

2. Title II is not to take effect until the President finds that its taking effect is in the public interest and by proclamation so declares.

3. A new section is added providing that it should be unlawful for the Corporation or any committee of the corporation or any person acting for the Corporation (a) to claim or assert to be acting for the Department of State of the United States Government; (b) to make any statements or representations of any kind to any foreign government or of any political subdivision thereof that the Corporation or any committee or any person connected therewith was speaking or acting for the Department of State or the United States Government; or (c) to do any act, directly or indirectly, which would interfere with the policy or policies of the Department of State or of the Government of the United States.

SAM RAYBURN,
GEO. HUDDLESTON,
CLARENCE LEA,
JAMES S. PARKER,
CARL E. MAPES,
Managers on the part of the House.

Mr. RAYBURN. Mr. Speaker, there are two typographical errors. In title II, section 202, where "12" is used, it should be "6", and in the same section, near the end of the section, the words "three fourths" should be "two thirds."

I ask unanimous consent that the corrections may be made.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. RAYBURN. Mr. Speaker, I move the adoption of the conference report.

The conference report was agreed to.

A motion to reconsider the vote by which the conference report was agreed to was laid on the table.

REGULATION OF BANKING

Mr. STEAGALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 5661) to provide for the safer and more effective use of the assets of banks, to regulate interbank control, to prevent the undue diversion of funds into speculative operations, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H.R. 5661, with Mr. CANNON of Missouri in the chair.

The Clerk read the title of the bill.

Mr. LUCE. Mr. Chairman, I yield 15 minutes to the gentleman from Kansas [Mr. McGUGIN].

Mr. McGUGIN. Mr. Chairman, at the outset I wish to pay my tribute to the Honorable HENRY B. STEAGALL as a most valuable friend of the State banks. In defiance of the opposition of powerful influences the gentleman from Alabama [Mr. STEAGALL] has been making a gallant struggle to save the State banks.

Now we have before the Congress two banking bills, the Glass bill in the Senate and the Steagall bill in the House. They both provide for an insurance or guaranty of bank deposits. The Glass bill is intolerable and impossible as far as the State banks are concerned. The Steagall bill in the House is far preferable to the Glass bill in the Senate. The Glass bill provides for the insurance of deposits in banks which are members of the Federal Reserve System. No other bank can participate in the fund under this bill. The only way a State bank can participate in the fund under the Glass bill would be for it to come into the Federal Reserve. Thousands of them cannot do that now. They cannot meet the qualifications, yet in many instances they are equally as solvent as thousands of national banks which are now in the Federal Reserve, but which could not get in it if they were out of it now and were required to meet the entrance qualifications.

If the Glass bill were enacted into law and the deposits of banks which are members of the Federal Reserve were insured, it would mean the instant insolvency of the overwhelming majority of the State banks which could not participate in the fund. People would immediately withdraw their deposits from the State banks and carry them across the street to the insured national banks. That would mean immediate liquidation of the State banks, which in turn would cause intolerable loss to the depositors in State banks. It would mean forced liquidation of billions of dollars now due to the State banks, which in turn would mean the immediate bankruptcy of millions of debtors to the State banks. It would cause chaos and pandemonium in American banking and credit such as we have not yet seen. Such a cruel contraction of credit would not only drive millions of debtors into bankruptcy but would close down their business institutions and would thereby increase the army of the unemployed by legions.

The Steagall bill and the bill which we are now considering in the House does not amply take care of the State banks. Considering the formidable and powerful opposition with which Mr. STEAGALL has been confronted, he deserves the commendation rather than the criticism of the State banks and the friends of the State banks. So what I have to say is in no sense a criticism of the gentleman from Alabama.

Subsection (a), section 302, pages 53 and 54, of the Steagall bill provides that any State bank or trust company not a member of the Federal Reserve can come into this fund upon a certificate of solvency from the proper State authorities and "after examination by and approval of the corporation." Those words "after examination by and approval of the corporation" only temporarily postpone the execution date of the State banking system. This section further provides that the corporation in charge of this insurance fund is authorized to prescribe rules and regulations for the further examination of State banks. It also provides that at any time the board of directors of this corporation is of the opinion that a State bank should no longer be permitted to remain in this fund, it has the power to order it out of the fund.

These three provisions place the State banks at the mercy of a Federal agency. This means the inevitable end of the State banking system. With subsection (a), section 302, left in this bill intact, the entire bill must be defeated, unless we are willing to pay the price of ultimately doing away with the State banks. The only way the Steagall bill can be placed in condition so that it deserves enactment is for section 302, subsection (a), to be amended so that a State bank or trust company not a member of the Federal Reserve System can come into this fund on a certificate of solvency from the State banking authorities and remain in the fund upon providing a semiannual certificate of solvency from the proper State banking authorities, and further providing that they can remain in such fund under the same terms and conditions as to assessments and purchases of stock as is required of member banks of the Federal Reserve. Without such a provision, the bill should be defeated. At the proper time I shall offer such an amendment. I trust the House will accept it. On a similar bill which was before the House in the first session of the Seventy-second Congress the bill introduced was like this bill, in that it failed to take care of the State banks. The House amended it by inserting a provision that State banks should enter into the fund upon certification of solvency from the State banking authorities and remain in the fund upon furnishing a semiannual certificate of solvency from the State banking authorities, and that such banks should pay the same dues, assessments, and fees that were collected from banks which were members of the Federal Reserve System. I may say

that in the Seventy-second Congress, when a similar bill was before the House, which also provided that State banks should be subject to examination by this Federal board, the House amended the bill by providing that State banks could come into the fund by a certificate of solvency from the State authorities, and stay in it by certificate of solvency from State authorities.

It makes no difference what the Federal agency may be, whether it is the Federal Reserve Board, the national banking department, or this board set up to operate this guaranty fund, any time the State banks are subjected to the domination and regulation of such a Federal board, they may just as well be national banking institutions with national charters. Whenever the State banks are obliged to be under the domination of a Federal board, then we have but one uniform banking system in the United States, and that is the national banking system.

There are those who believe it would be a good thing for our country if our banks were in one system, the national banking system. Personally I think they realize not what they are doing. When they advocate this program they are advocating something which leads directly to the end of individual credit. They are advocating something which leads to the day when credit will no longer exist for individuals, small corporations, and small business institutions. There is no such thing as a uniform banking regulation which will serve the needs of international, Nation-wide, and metropolitan banking on the one hand and local banking on the other. There is no such thing as uniform banking regulations which will serve the credit needs of large and Nation-wide corporations on the one hand and small local and individual business on the other. It is no more possible to operate international banking, Nation-wide banking, and metropolitan banking on the one hand and local banking on the other, and great credit on the one hand and small credit on the other, under the same regulations than it is to operate a metropolitan department store and a country grocery store under the same principles of business.

This has been well illustrated during the last 10 years. The national banking department laid down rules and regulations that in order for paper to be eligible for acceptance in a national-bank examination it had to be liquidated every 90 days or 6 months. That rule of examination was all right for speculative credit. It was wrong for legitimate agricultural credit, small mining, and industrial credit, and local business credit. The national banking system put this rule into effect. In doing so it took credit away from agriculture and small business, commercial and industrial. At the same time, it correspondingly expanded speculative credit. This country is run on credit. Our civilization has been built up on credit. When under these rules of examination credit was taken away from legitimate business, such as agriculture, small and independent business institutions, such classes of debtors and business were deflated and led to the natural and inevitable end of bankruptcy. When under these rules of examination excessive credit was given to the corporations which were large enough for their stocks and bonds to be listed on some board of trade, such institutions and gambling were inflated. The inflation of these institutions led to the inevitable ends of the stock-market crash of 1929 and the present bankruptcy of big business.

There is no way to run this country with credit facilities for big business and inadequate credit facilities for small business. As long as small business institutions are bankrupt the big ones must remain bankrupt. The big ones have no source of income except that which is derived from the individuals and small business units.

Any time the banking system of this country is under the domination of one national head, be it the Federal Reserve, the national banking department, or this deposit-guaranty board, it means that there will be one uniform set of banking regulations. Those regulations will always be prescribed for the benefit of international, Nation-wide, and metropolitan banking and for the credit needs of Nation-wide institutions, and to the corresponding detriment of local banking and small individual and corporation credit. This is inevitable and inescapable. The reason is that the great banks and great institutions needing credit will always be able to get to Washington to present their side of the question and make rules and regulations according to their needs. Not only their selfishness but their complete ignorance and lack of understanding of the needs of local banking and small credit will control their activities in picking the members of any Federal board and prescribing such rules and regulations. This has been well illustrated in the case of the Federal Reserve Board. It is not raising class hatred—it is simply a statement of the simple and eternal truth—when one says that the Federal Reserve System and the national banking system have been operated in accordance with the needs and selfish demands of big banks and big credit and to the detriment of local banking and small credit.

We must have two separate and distinct banking systems in this country, one for the needs of big banking and big credit and another for the needs of local banking and small credit. I am not adverse to; in fact, I favor big banking and big credit having a banking system which will meet their needs. I only ask that big banking and big credit extend the same rights and privileges to local banking and small credit that I am willing to grant to big banking and big credit. Let them have the national banking system. I only ask that they leave to local business and small and individual credit the State banking system. The Glass bill will immediately and the Steagall bill eventually and in the near future destroy the State banking system and thereby destroy local credit and small and individual credit.

The existence of the State banking system as a free, independent, and competitive system means much to the national banks located in towns and cities of less than 100,000 people. The existence of the State banking system as a competitive system has done much to restrain the influence of the metropolitan national banks and the bureaucratic national banking department from being still more ruthless in prescribing and laying down rules and regulations which would be most destructive of the welfare of national banks operating in the smaller cities and towns. The opportunity for national banks to surrender their national charters and turn to the State banking system has been a sheet armor of protection for national banks located in smaller cities and towns against still more intolerable national banking regulations for such banks.

He who votes for this bill may think he is serving an ideal end and answering the public demand for a guaranty of bank deposits, which, of course, is a much-desired end, and if it can be accomplished without causing more social and economic chaos than it prevents. The facts are, irrespective of what one may think, he who votes for this bill is voting to destroy the State banking system.

At first blush, when an individual or the public compares the State banking system with the national banking system, there is pictured in the mind of the individual or the public the comparison of one small country State bank and a great metropolitan bank. Such a deceptive comparison! Such a ravishment of the actual facts! Here is how far this comparison misses the truth: There are 6,150 national banks in this country with $17,000,000,000 of deposits. There are 10,455 State banks with $7,000,000,000 of deposits. There are 1,235 loan and trust companies with $9,000,000,000 of deposits. There are 1,096 savings banks with $11,000,000,000 of deposits.

This bill in its present form gives congressional and governmental special privilege to 6,150 banks with $17,000,000,000 of deposits and at the same time congressional and governmental discrimination against 12,786 State banks, trust companies, and savings banks with total deposits of $27,000,000,000. If this bill in its present form is enacted into law, 6,150 banks are stabilized; 12,786 banks are cast into unwarranted chaos. Seventeen billion dollars of deposits are protected and stabilized; $27,000,000,000 of deposits are nonprotected and jeopardized.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. McGUGIN. Not now, but later. Our banking troubles are enough. Our era of wild inflation, reckless speculation, and discriminatory banking regulations of the 10 years following the war has brought us near enough to the brink of social and economic breakdown. Our era of asinine governmental regulation emanating from the national banking department at Washington and of dishonest and incompetent banking has brought enough chaos to our economic structure. Let not the Congress enact this legislation, which will unsettle and throw into a chaotic state 12,786 banks, in the hope that we can save 6,150 banks. Let not this Congress by legislation jeopardize $27,000,000,000 of bank deposits in the hope that it may secure $17,000,000,000 of deposits.

My statistics pertaining to banks and deposits are the latest available statistics I have been able to obtain. These statistics, together with their source, are as of June 30, 1932. I have taken my statistics from the World Almanac of 1933, and shall ask a couple of pages to distribute some of these statistics among the Members.

Mr. LUCE. Mr. Chairman, will the gentleman yield?

Mr. McGUGIN. Yes.

Mr. LUCE. I suggest that the gentleman take, instead, the figures from the recent reports from the Comptroller of the Treasury, which are likely to be more accurate.

Mr. McGUGIN. My statistics are set forth in the table that follows:

Statistics of banks in the United States, June 30, 1932

[Taken from 1933 World Almanac, p. 409]

Nature of banks	Number	Deposits
National banks	6,150	$17,460,913,000
State banks (commercial)	10,455	7,154,100,000
Loan and trust companies	1,235	9,714,000,000
Savings banks	1,096	11,020,577,000
FIRST RECAPITULATION		
National banks	6,150	17,460,913,000
State banks and trust companies	11,690	16,868,100,000
Savings banks	1,096	11,020,577,000
SECOND RECAPITULATION		
National banks	6,150	17,460,913,000
State banks, trust companies, and savings banks	12,786	27,888,677,000

NOTE.—Deposits do not include amounts due to banks or United States deposits.

Mr. GOLDSBOROUGH. Mr. Chairman, I yield 10 minutes to the gentleman from Mississippi [Mr. BUSBY].

Mr. BUSBY. Mr. Chairman, we are again considering the much-talked-of-bank guaranty bill. A great many questions are being asked concerning the bill, and some of these questions it is impossible for us to answer. In order to guarantee anything the thing you undertake to guarantee should be worthy of the guaranty. I remember when I was a small boy that a very thrifty and enterprising young fellow came back from college, and in order to raise funds for the next year decided that he would sell some gold watches and guarantee them. The price he was to receive was $5 each. He sold practically all of the watches he had on hand and about the last one he had he was trying to sell to an old farmer. The farmer was a little slow in making the purchase. He said to this young man, "You say this watch is solid gold, and you are selling it to me for $5?" The young man replied, "Yes; it is solid gold, and I absolutely guarantee it to be such." "But", said the farmer, "what if I buy it and then it turns out to be brass?" The young man had gotten a little impatient by this time and replied, "In that case the guaranty ain't worth a darn; if it does not turn, the guaranty is all right."

We ought to guarantee a bank set-up that is worthy of guaranty. I am going to support this proposition because later, after we pass the guaranty law, it will be up to the Government to see to it that we have a banking set-up that is worthy of the guaranty that we place upon it, regardless of what it costs. It is absolutely necessary, if people are going to do business with the banks of this country, that they have some faith in being able to take their credits out of those banks after they have once placed them there. Most of the bank credits that we find represent borrowings of the different peoples of the country in dealing with these several banks.

If I go down to a bank and borrow $4,000 on my farm, I usually leave the $4,000 in the bank until I have checked it out. That shows as a deposit in the bank, and it shows as a debt that I have obligated myself to pay. If the bank fails and leaves me with that mortgage on my farm, and I cannot get my deposit out of the bank, then I am left in the same situation that many hundreds of thousands of people find themselves in in this country today.

We have in this country the most wonderful banking system in the world from the standpoint of liquidity or easy credit. That is, the banks and the borrower can make forms, and so forth, by loans absolutely liquid, when it comes to extending credit, if you and the banker agree that he will accept your security for the loan. But our banking system is the poorest one in the world from the standpoint of safety to the depositors. Some 10,000 banks failed within the last 2 or 3 years. We were reduced from 30,000 banks in the country to less than 20,000. Then along came the bank moratorium, when all banks were closed, and only a part of them were permitted to open. The last figures I am able to get show that there are 12,787 banks open, and 5,200 of those that were closed have not been permitted to open or are open partially. That condition affects very largely the depositors of the banks in this country. It affects those who credited the banks.

People talk about banks not failing in Canada, and they talk about them not failing in France. Let us see about the situation. In this country we rely on gold to redeem all currency. It will not do it, because there is not as much gold by far as there is currency. Then we rely on currency to redeem the bank credits in all the banks and it cannot do that because the currency is not more than one tenth of the bank credit, and not more than one half of that currency can be obtained by the banks. So those two propositions are a failure and prove to be such in stress times. We rely on banks to redeem the contracts made by people and to carry forward and execute those contracts with the medium of exchange that we commonly use known as our check money. The banks can do that at certain times, but at other times they cannot do it, and we have a recent example of it today. When the banks were closed they would not accept checks. You cannot get your deposits out of them now if you cannot execute your contracts, because you have no medium of exchange with which to do it, the bank credit having broken down. I am pointing out some of the weaknesses in our bank set-up. Our bank deposits cannot be guaranteed and made safe by the little amount of funds that you are providing in this bill.

Six or seven billion dollars of the people's deposits or credit, or whatever you term it, are now practically out of existence in closed banks, and $1,000,000,000, at most, provided in this bill would not meet that situation, or one anywhere near it in bank losses.

The gentleman from Kansas [Mr. McGUGIN] said that this is a move to destroy State banks. This is not the first move. The Comptroller of the Currency, Mr. J. W. Pole, who resigned some time ago, had that thing in mind with the branch-banking system he advocated, but the House and Senate and the country would not accept his proposition. But the banking element in this country is not asleep. It is astute. It is subtle. It is in possession of the best intelligence for carrying these things forward, and if you cut it off at one point it will begin to work at another. The biggest move that was ever put into force in this country to destroy State banks and to destroy all banks that the banking element did not want was the bank moratorium which closed them and which will not let them open. I do not say that for any critical purpose, but that is exactly what has happened. Many of the banks that were closed and are not being permitted to open were running along all right and never would have closed.

Now, what is the situation? All of the banks of this country, big and little, would have closed and remained closed

but for the moratorium, and the law passed by Congress which permits banks to go under the Comptroller of the Currency and drive the depositors away from their deposits. That is an indication that the foundation on which the banking system is set up is so insecure that any guarantee of the banking system as it is now founded cannot endure. There is not enough margin of safety between the man who trusts the bank with his deposits and the ability of the bank to return that trust to him.

In other words, if I have $1 and five of you gentlemen have $1 each, I would say to you, "Let me have your dollar. If you will, I will return it to you at any time you ask for it." You say, "That is fine." Some one of you say, "Well, perhaps you will not be able to do that." "Oh, yes; I will let my dollar stand surety to each of you and I will give it back any time, but don't all of you come the same day and ask for your dollar; in fact, don't any two of you come for your dollar the same day. Otherwise I might not be able to return it." That is a better basis of security—$1 for $5—than that set up by almost any bank in this country. That is five dollars liability to one of security. They have not got enough capital stock and surplus to secure the people who trust them with their funds, no matter how honestly or well the banks may be managed. That is the weakness of any bank guaranty law which we might enact. The bank loans money to the individual and becomes an investor in the property in the community where it operates by making loans to people in that community, and like the boy who sold the watch for $5 and "guaranteed" it to be solid gold, it is no sufficient answer for us to say that we passed a "bank-guaranty law." We did that in Mississippi. It cost the people $5,000,000 in bonds issued and sold after the bank guaranty law collapsed to pay the certificates of indebtedness that had been issued to people in closed banks who lost their money in those banks. The State had to take over the loss and pay it out of the taxpayers' funds instead of paying it out of the guaranty fund. The guaranty fund was entirely exhausted with $5,000,000 deficit to be paid, and this had to be met by a special law laying the burden on the people generally through taxes to meet the bank-guaranty debt. Yet I am going to vote for this bill because I think the Government will be forced to set up a banking system that people can depend on after it gets behind the guaranty. [Applause.]

The CHAIRMAN. The time of the gentleman from Mississippi [Mr. BUSBY] has expired.

Mr. LUCE. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, guaranty of bank deposits is my baby in Michigan. I was credited by the famous radio reporter, Billy Repaid, as being the first man in either major party to publicly declare for a guaranty bank deposit law. My ideas were condemned by bankers, and even depositors could not see the practical need for such legislation at that time. We in Michigan know the situation in banking about as well as any other portion of the United States of America today. Our banks are laid low. Our people are driven to despair. However, I am not so sure that I could go sled length for a bill that might mean the guaranty of deposits and the existence of one third of the banks, while it meant the destruction and sounded the death knell of the other two thirds. However, I am definitely and positively committed to the principle of guaranty of bank deposits.

I am actuated to a great extent in my attitude on this bill by the confidence I have in the chairman of the Committee on Banking and Currency in the House, Mr. STEAGALL. I have been in correspondence with him for 2 years before I came to the House. Moreover, I have conferred with my colleague from Michigan, Mr. PRENTISS BROWN, who is a member of the Banking and Currency Committee, and he informs me that he has analyzed this situation very thoroughly and that the bill will pass muster. On the strength of these recommendations I am going to do what I can for the bill, and I shall insist that a specific declaration be included in the terms of this bill by which the State banks will be placed on par with the Federal Reserve banks, will receive protection, and by which the depositors' money will be made safe in all banks that comply with the necessary minimum regulations.

We have heard a great deal in the past about the opposition of bankers. That is entirely out. A gentleman on the floor the other day declared that some of the bankers are opposed to this bill. The recent tragedy in the banking world has made Christians out of all bankers, particularly so in Michigan. I had an experience recently when I was notified that a convention at Grand Rapids, composed of 377 bankers, met and insisted that their Representatives in Congress sustain and support with all of their power a guaranty of bank deposits law. Every Congressman from my State received a 200-word telegram to that effect.

Mr. ROGERS of Oklahoma. Will the gentleman yield?

Mr. DINGELL. I have only 5 minutes. I am sorry.

I, of course, was curious to know whether this idea originated with a few provincial small-town bankers, or whether the metropolitan banker became a convert to progressive bank legislation. I inquired whether I could have a list of those present. I found that among them were accredited representatatives of two of the largest banks in the State. The First National Bank, of Detroit, was represented by Walter F. Truettner, Donald M. Sweeney, and Thomas Long. The Guardian National Bank of Commerce was represented by Hal Smith. Both of these banks, having had depositors nearly 800,000 in number, and deposits of nearly $1,000,000,000, are out of existence today. This goes to prove that even the metropolitan banker is converted to the idea of the guaranty of bank deposits. It is only a question of a short time ago when all bankers who classed themselves as conservative and safe opposed the guaranty of bank deposits.

I received a letter this morning from the Michigan Bankers' Association and signed by Mr. Kenneth M. Burns, executive manager. I think the request he makes is very timely. I should like to include this letter in my remarks:

MICHIGAN BANKERS ASSOCIATION,
Detroit, May 19, 1933.

Hon. JOHN D. DINGELL,
House Office Building, Washington, D.C.

MY DEAR MR. DINGELL: The reports that an agreement has been reached to defer the effects of the insurance-of-deposits feature of the new banking bill until 1934 are producing alarm in many quarters.

It is our belief that the public demand which has resulted in an acceptance by Congress of the insurance-of-deposits idea will not be satisfied unless its provisions are immediately effective, and it is therefore hoped that you will use your utmost efforts to prevent any delay in the date of its operation and that you will also see that it includes protection for the depositors in all sound banks as well as in national banks and members of the Federal Reserve System.

Very respectfully yours,
KENNETH M. BURNS, *Executive Manager.*

In order to give you some idea of what it covers, let me say that the Michigan Bankers Association is very anxious about the provisions in this bill. It requests that the guaranty features be put into effect at the earliest possible date instead of waiting until 1934.

For this reason I shall strive to amend the bill to provide for the guaranty of all deposits up to $2,500 immediately. I think the larger deposits can well take care of themselves, there being very few large depositors that remain today.

I believe that the myopic banker as an adviser should receive about as much consideration at the hands of the House as a braying jackass on the prairies of Missouri. They proved by their inability to maintain their own business that they have absolutely no right to advise the House as to what course we should follow.

I believe in preparing the medicine and forcing it down the throats of the few oppositionists who remain. Reactionary bankers opposed all progressive regulatory or safety laws in connection with their business.

As a matter of fact, recent developments in the field of American banking convinced the people that America had no bankers and much less a banking system. We discovered that what we believed to be a bank system was in fact a respectable racket and so many connected with it only cheap, petty loan sharks and Shylocks.

There are a few notable examples of fine banks and bankers left. We have them in Detroit, but they have suffered because of the loose practice and lack of knowledge on the part of those who failed. This element which survived the storm is entitled to every consideration the law will permit. They favor guaranties of bank deposits and are willing to cooperate and to shoulder a fair portion of the burden.

Mr. LUCE. Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut [Mr. KOPPLEMANN].

Mr. KOPPLEMANN. Mr. Chairman, under this bill from and after January 1, 1934, no officer or director of any member bank shall be an officer, director, or manager of any corporation, partnership, or unincorporated association engaged primarily in a business of purchasing, selling, underwriting, or negotiating securities.

One of the chief purposes of the bill under consideration is the prevention of the undue diversion of bank funds into speculative operations. Many provisions of this bill have been framed with this end in view. The member bank shall inform the Federal Reserve bank of the general character and amount of its loans with a view to discovering whether or not there is an undue use of bank credit for the speculative carrying on and trading in securities, real estate, or commodities. Again the Federal Reserve banks have a privilege of limiting the loans made to member banks if too large a percentage of such loans is secured by collateral in the form of stocks, bonds, debentures, and similar obligations put up by an organized stock exchange, investment house, or dealer in securities. In the provisions compelling the divorce of security affiliates, further steps are taken to prevent this diversion of banking funds into speculative operations.

The unholy alliance between the brokerage office and the bank must be broken. Up to now it has been possible for directors and officers of a brokerage house to be directors of a national or member bank. This has grave dangers. It violates the fundamental principle of the lawyers' code of ethics—that of undivided allegiance. In banking as elsewhere, no man can serve two masters. The bank must invest its money in good securities. In order to do this it must be in a position to judge impartially. If the men who are to determine the type and character of the banks' investments are at the same time promoters and sellers of these securities, the bank will be prevented from acting with untramelled judgment. Under the present order of things the bank director too often acts in a dual capacity; on the one hand he is supposed to act in a fiduciary capacity as a trustee for the benefit of the depositors of the bank; on the other hand he wants to add to the commissions and underwriting profits of his own company. These two positions are irreconcilable. Human nature remains the same as in the days of old, for—

Where thy money is there shall thy heart be also.

What, my friends, is the chief reason for the lack of confidence that has been expressed in bankers and in banks? Is it not the popular feeling that many bankers too often have some secret, personal, financial gain at heart? Instead of working for the interests of their depositors they are silently working for their own interests. No amount of exhortation will restore confidence in the American banking system. People must have the assurance that directors of a bank have but one interest to serve—the safeguarding of the moneys solemnly intrusted to them by their depositors. Banking must be made a profession the same as the law and medicine. It is unthinkable to any honest lawyer that he represent the two opposing sides in a litigation. The lawyer with a delicate sense of honor will never represent a client if the opposing litigant is being defended by that lawyer's partner. Yet, gentlemen, we have been permitting the very same situation in our banks. We are permitting a bank director to represent both the seller and the purchaser. This position is untenable and indefensible. This bill will put an end to this reprehensible condition.

One of the chief causes of this depression has been the diversion of depositors' moneys into the speculative markets of Wall Street. Instead of keeping the money for the use of the legitimate needs of commerce and agriculture, money has been lent to gamblers to use in buying stocks on margin. This bill prevents this evil from again occurring. Let us once and for all drive the money changers out of the directors' rooms of our American banks. Only in this way will banking become an honored profession; only in this way will bankers become public servants charged with a sacred responsibility to administer the funds intrusted to them for the benefit of their depositors and not for the gain of themselves. Only thus will we accomplish the sentiment voiced by Mr. Justice Cardozo in another connection in the case of Meinhard against Salson while chief judge of the New York Court of Appeals:

Preference of self must be subordinated to loyalty to others.

This provision will drive the speculator from the inner councils of the banks. It will restore the honest banker to the position of dignity and prestige, to which his character and ability entitle him. [Applause.]

Mr. LUCE. Mr. Chairman, I yield 5 minutes to the gentleman from North Dakota [Mr. LEMKE].

Mr. LEMKE. Mr. Chairman, the Steagall banking bill here under consideration is, like Gaul, divided into three parts—three sugar-coated pills—but each one is as bitter and deceptive as the other. The first part has for its object and its purpose the strengthening of the strangle hold of the Federal Reserve System upon the public. It has for its purpose the adding of tentacles to the Federal Reserve System—the visible hand of the invisible empire—that has choked and throttled the prosperity of the people of this Nation. It would add these tentacles by the cunning device of admitting desirable State banks and trust companies into the Federal Reserve System and then mercilessly crushing the undesirable. It has for its purpose the usurpation of the entire banking system of this Nation in the hands and under the control of the Federal Reserve Board, located here in Washington, within a stone's throw of the international bankers and Wall Street.

I can well understand why this bill was considered in executive sessions by the committee, because if my friends and colleagues the gentleman from Texas [Mr. PATMAN], the gentleman from Pennsylvania [Mr. MCFADDEN], and others had been permitted to take part in the considerations, this bill would never have appeared on the floor of this House in its present form—it would have died in its making. A bill of this kind could never have been born in the bright sunlight of day. It had to be born in executive session. And now we are asked to vote for it without knowing its contents and without having had time to digest its far-reaching results.

I have always made it a rule never to vote for anything I did not understand. Permit me to say to the Members of this House that the only safe rule is to vote "no" on anything you are not familiar with. It has been well said, "The devil you know is better than the devil you don't know," and I say in all frankness that that is especially true of this bill. Corroded and corrupted as the present Federal Reserve System is, this bill makes it worse. I am confident that not 75 Members of this House would vote for this bill if they had time to study it and know all its terms and far-reaching results. Not 75 Members of this House are ready to surrender to Wall Street—to the international bankers—without a struggle.

When an able lawyer defends a notorious criminal he always attempts to divert the jury's attention from the criminal to the innocent wife and children; he paints a glowing picture of the wife and children, of their suffering, misery, and disgrace, if the criminal is convicted. Likewise the able and distinguished Chairman of the Banking Committee [Mr. STEAGALL] painted to us in passionate language and emotion the ruin, the devastation, and the sufferings of the American people, in an attempt to divert our attention from the monster that was largely, if not wholly, responsible for that situation—the Federal Reserve Bank-

ing System, and then in a moment of triumph, he turned to us with a gesture, insinuated that here in this bill is the remedy—the three sugar-coated pills, bitter as gall.

In all frankness we have been hypnotizing ourselves into a make-believe Paradise—like Alice in Wonderland. Let us face the facts and analyze this bill, and we will realize that, if passed, it would crush not only the remaining of our State banks and financial institutions, but will, through the power of manipulating the money of this Nation, give to the money changers in the temples the absolute control and domination of all State legislation. Already the Reconstruction Finance Corporation is attempting to dictate to States what kind of laws they must pass or repeal in order to get financial aid. Already the Federal land banks are dictating to the States what kind of laws they must pass or repeal in order that the farmers may get loans through that system. In my State, North Dakota, the Federal land bank has temporarily withdrawn because the State legislature last winter saw fit to pass a law prohibiting the taking of deficiency judgment in mortgage foreclosures. Pass this law, and you may as well abolish your State legislatures and take all your orders from the international bankers and Wall Street, via the Federal Reserve Board here in Washington.

The distinguished gentleman from Alabama [Mr. STEAGALL] stated Saturday that no one wanted to repeal the Federal Reserve Act. Permit me to correct him and say that 75 percent of the people of this Nation are ready and willing to repeal the Federal Reserve Banking System, if you give them a chance.

The people know that it was the Federal Reserve bank that, during the war, increased the money in actual circulation—doubled it—and then in 1920 and 1921 contracted it—virtually cut it square in two. I mean the money that was actually in circulation at that time, not including the money that was then in foreign countries or that has been lost, burned, or destroyed since the Government began to make money. The people know that it was the Federal Reserve octopus that contracted the currency in the Nation as a whole, and at the same time, increased it in the large cities—increased it for the gamblers in stocks, bonds, and the necessities of life. The people know that the Federal Reserve octopus loaned, in an aggregate, to the gamblers of this Nation in 1928 some sixty billion dollars of credit money—bank money—hot air—to gamble with in domestic and foreign stocks and bonds, and that in the first 9 months of 1929 it loaned them some fifty-eight billion, and then when the crisis came in the last 3 months of 1929, cut that credit money—bank money—hot air—down to thirteen billion.

No nation, no industry, can survive such an expansion and contraction of money and credit. Give to me the power to double the money at will, and then give me the power to cut it square in two at will, and I can keep you in bondage. That is exactly what the Federal Reserve banking system has been doing for the American people—it has taken their homes—it has filled the penitentiaries with its victims—it has caused self-destruction and suicides by the thousands. This bill not only continues that system with its cruel, brutal, and devastating policies, but gives it all the more power to destroy us.

The second part of the bill here under consideration has for its objects the strengthening of the tentacles of the octopus via monopoly—it legalizes branch banks and affiliates, and takes them into the bosom of the Federal Reserve System—this is just another link in the strangle hold upon the money and credit of the Nation.

The third and last part professes to guarantee bank deposits. The provisions made are altogether insufficient. It provides that the Government shall buy $150,000,000 worth of stock in a Federal deposit insurance corporation, and that the Federal Reserve banks and member banks shall buy another 350 million in the same corporation.

Now, since there are $42,000,000,000 on deposit in the banks and trust companies of this Nation, and since on January 9, 1933, there was only 684 million of actual money in all the banks and trust companies with which to pay this 42 billion on deposit, can anyone seriously argue that you can pay off $42,000,000,000 with 684 million plus 500 million? There is nothing in this bill that prohibits the Federal Reserve System from again becoming racketeer and bringing about a worse condition than the present depression. By this bill we give complete control of the money and the credit to that System, and with that power they can and will control the Government itself, and can and will again go off on a spree. Power is always deaf, dumb, and blind.

I propose as a remedy that we recommit this bill to the Committee on Banking and Currency with instruction that they substitute for it H.R. 3834, a bill that I introduced on March 20, 1933, which is now pending before that committee. This bill provides for the creation of the Bank of the United States, and will give the Nation a banking system owned, controlled, and operated by the Government of the United States in its sovereign and governmental capacity. If you do this, then you will have a banking system that will be as sound as the Government of the United States.

According to that bill, the Bank of the United States would be controlled by a board of 48 directors, 1 from each State, appointed by the President from a list of 3 furnished him by the Governors of their respective States. The board of directors would appoint an executive committee and a manager and other officers to operate the bank. The Government of the United States would issue $2,000,000,000 of United States bank notes to the bank for its capital and revolving fund. Such notes would be made full legal tender for all public and private debts, and would be secured by the full faith and credit of all the resources of the United States.

All funds belonging to the Government of the United States or any department thereof, except gold coin, gold bullion, and silver bullion now held in the Treasury and Postal Savings, would be deposited in the Bank of the United States. All gold coin, gold bullion, or gold certificates that the Bank of the United States would come into possession of and owner of would be deposited in the Treasury of the United States in exchange for any lawful money of the United States, all such gold to be used by the Government in its international transactions.

The bank would also receive deposits from any State or Territory, or any political subdivision thereof, or from any State or Federal bank. All deposits in the Bank of the United States would be guaranteed by the Government of the United States.

The bill provides that the Bank of the United States may transfer funds to the Government, and that it may make loans to any State or any Territory or any political subdivision thereof, or may make redeposits or loans to any bank within the United States or any Territory thereof, provided such loans are secured by bonds of the United States or by approved bonds of any State, Territory, or political subdivision thereof, provided that the bonded indebtedness of any such State, Territory, or political subdivision thereof is not in excess of 15 percent of the assessed valuation of the taxable property of any such State, Territory, or political subdivision thereof. It provides that the Bank of the United States shall make loans to the Federal Farm Loan Board secured by farm-loan bonds issued for the purpose of making new farm loans or refinancing and scaling down existing farm loans, which farm-loan bonds shall not bear interest in excess of 1½ percent.

The bill also provides that the Bank of the United States, with its capital and revolving fund and other available funds, shall take up the $21,000,000,000 outstanding bonded indebtedness of the United States, and that if it requires additional funds for this purpose and for the other purposes set forth, that then it may acquire such additional Bank of the United States notes from the Government by delivering to the Treasurer bonds or certificates of indebtedness of the United States, or bonds of any State or Territory or any political subdivision thereof, in an amount equal to the additional Bank of the United States notes required.

The bill provides that on any funds transferred to the United States or loaned to any State, or Territory, or political subdivision thereof, or redeposited or loaned to any bank, the Bank of the United States shall receive interest at a rate not to exceed 1 percent per annum.

It provides that the Bank of the United States shall control and regulate the money and credit of the Nation, and it shall at all times provide the public with a national elastic currency, and a sufficient national medium of exchange to do the Nation's business. It provides that the executive committee of the bank shall regulate the value of the money of the United States and shall stabilize the same. It makes it the duty of the executive committee to ascertain and determine the average value and buying power of the dollar over a period beginning with January 1, 1915, and ending with January 1, 1925, by an analysis of the wholesale market prices in the principal markets in the United States of not less than 300 or more than 400 stable commodities, which average value and price shall be declared to be the general normal price level of such commodities and to be the value or buying power of the dollar.

When that bill becomes a law it will save to the Nation millions and millions of dollars and will put the money and credit structure on a sound and firm basis and will meet the requirements of the Constitution of the United States, which says:

> The Congress shall have power * * * to coin money, regulate the value thereof, and of foreign coins.

In drawing the bill for the Bank of the United States, I drew it along the lines of the bill that created the Bank of North Dakota. That bank was created in 1919 and is the only bank in the United States owned, operated, and controlled by a State in its sovereign capacity. It has saved the people of my State millions of dollars and rendered inestimable service to the State and its people. No political faction or politician now dares suggest that it be discontinued or abolished. If we continue to concentrate the money power in the hands of the international bankers through the Federal Reserve bank, then let me warn you that there will be only one escape from that octopus, and that will be that we will have to have 47 other State banks, owned, operated, and controlled by the States in their sovereign capacity, and then with the Bank of the United States added, we will have a perfect control over money and credit.

Mr. LUCE. Mr. Chairman, I yield 15 minutes to the gentleman from Pennsylvania [Mr. McFADDEN].

Mr. McFADDEN. Mr. Chairman, I have given careful consideration to this bill. As I have previously stated on the floor of the House, I think it is a mistake to deal in piecemeal with the Federal Reserve law. During the past 4 or 5 years we have had an opportunity to observe the control of credits and finance under the operation of the Federal Reserve Board, and the officers of the 12 Federal Reserve banks. I have stated on several occasions that the administration of this system is more responsible for the things that have happened to the people of the United States than any other one instrument. In this particular bill now, under the guise of guaranteeing the depositors the money they deposit in the banks of the country, you are strengthening the further control and domination of the finances of this Nation under the Federal Reserve System. Unless I miss my guess, you are concentrating in this System the entire control over finances in this country; you are centralizing the control of money in the speculative market entirely under the control and domination of the Federal Reserve System. You are going to force all banks in the United States to become members of the Federal Reserve System, and unless I make a mistake in my analysis of this situation, no bank whose deposits are not guaranteed will be able to survive in the United States after this bill becomes a law.

During the further consideration of this bill under the 5-minute rule, I may talk about several features of it. I do not at this time desire to take up further time of the Committee, but want to use the balance of my time and speak out of order, if I may.

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. McFADDEN. Yes.

Mr. MAY. Has the gentleman read the opinion of Mr. Wyatt, the chief counsel of the Federal Reserve Board, in the March issue of the Federal Reserve Bulletin, in which he raises the question of the power of the Federal Government to abolish all State banks or force them into the Federal Reserve System by the process of taxation?

Mr. McFADDEN. I have.

Mr. MAY. And this bill, perhaps, embodies some of his ideas about that?

Mr. McFADDEN. I think the Members of the House would do well to study the other provisions of this bill than simply the one that would guarantee deposits.

The CHAIRMAN. Is there objection to the gentleman from Pennsylvania proceeding out of order?

There was no objection.

Mr. McFADDEN. Mr. Chairman, on several occasions I have called the attention of the House to what I believe to be a violation of the tax laws of the United States by large taxpayers. About 10 days ago I referred one of these particular charges to the Attorney General of the United States. I am informed by the press reports that the Attorney General is proceeding with an investigation of this particular reference, which was the tax evasion of Andrew W. Mellon. I shall now read to the House a letter which I sent last week to the Attorney General of the United States:

> MAY 20, 1933.
>
> Hon. HOMER S. CUMMINGS,
> *Attorney General of the United States,*
> *Washington, D.C.*
>
> MY DEAR MR. ATTORNEY GENERAL: Supplementing my letter of the 5th, in which I referred to you definite charges of violations of the tax laws by Mr. Andrew W. Mellon, I now desire to submit additional information in connection with this same matter.
>
> I am informed that the Coalesced Co. is owned 100 percent by A. W. Mellon, that he himself owns all of the preferred stock and that the common stock is divided equally as issued to his son, Paul Mellon, and his daughter, Mrs. David Bruce. It has been stated that this company is being used by Mr. Mellon for the purpose of concentrating his wealth and thus, during his lifetime, effecting a distribution to his legal heirs, principally for the purpose of avoiding inheritance taxes. I am further informed that the Coalesced Co. was organized at or about the time impeachment proceedings were pending against him in the House of Representatives just prior to his appointment as Ambassador to Great Britain.
>
> Webster defines the meaning of "coalesce" as "to grow together", "to unite in one body" or "of uniting by natural affinity or attraction."
>
> I now desire to direct your attention to the Riscar Co., which is owned entirely by Richard B. Mellon, a brother of Andrew W. Mellon. This company is apparently organized and being used by Mr. Mellon for the same purposes that the Coalesced Co. is being used, and I am calling this to your attention that this company and the income-tax statements of Mr. Richard B. Mellon be likewise investigated to ascertain whether or not the same practices have been resorted to as in the case of Andrew W. Mellon.
>
> In view of this specific evasion, may I also suggest that the Mellon group own and control many corporations and trusts whose tax returns should be scrutinized with a view to determining whether or not illegal losses have been deducted or falsification of accounts has been resorted to for the purpose of reducing the annual legal tax payments to the United States Government.
>
> I am submitting this additional information to you in the public interest, and while I have had no reply from you to my letter of May 5, I have noted through press reports that you have taken up the investigation of the specific matters referred to in that letter for thorough investigation and report.
>
> Respectfully yours,
>
> L. T. McFADDEN.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. McFADDEN. Yes.

Mr. BOLAND. In the Mellon category of organizations which they own, is the gentleman familiar with the fact that Mr. Mellon owns the Koppers Co., of Pittsburgh, which is a subsidiary of the New England Gas & Coal Co., that gets all the coal shipped to them from Russia?

Mr. McFADDEN. Yes; I am aware of that fact. My attention was called to that fact by a letter which I recently received; and in view of the question put by the gentleman, perhaps I had better read this. I quote as follows:

> My understanding is that Mr. Mellon, who owns the Koppers Co. which produces about 15,000,000 tons a year of southern coal,

bought this stock in the Pittsburgh Coal Co. when he was Secretary of the Treasury and not supposed to have been engaged in business. With the control of this company, together with the Koppers Co., it gives him control of both fields. As I understand it, the Koppers Co. sells coal at fancy prices to the utilities in which it holds a stock interest, while the Pittsburgh Coal Co. goes out and sells below cost in order to ruin the independent coal operators. This also works a great hardship on labor.

If something could be put in the law to compel coal companies which sell coal to public utilities to give them as low a price as they or any of their allied interests sold coal for to other consumers in which they were not interested and for that reason did not have the same pull they had with their utilities, I think it would go a long way toward clearing up some of the troubles in the coal industry. At the present time railroads are not supposed to engage in the coal industry, but the utilities or other allied concerns do this.

In view of that statement by this prominent Pittsburgh man, who calls this to my attention, I am wondering what effect the operation of these two particular combinations has in continuing the terrible condition that exists in the western Pennsylvania coal regions.

I have had pending in this House before the Committee on Rules two resolutions introduced last March, House Resolution 20 and House Concurrent Resolution 12, calling for an investigation and audit of the Treasury Department and for an inquiry into the operations of the Federal Reserve System. These resolutions are as follows:

House Concurrent Resolution 12

Resolved by the House of Representatives (the Senate concurring), That there is hereby established a special joint congressional committee (hereinafter in this resolution referred to as the "committee") to be composed of 5 Members of the Senate, to be appointed by the President of the Senate, and 5 Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. Upon the termination of the present Congress the committee shall cease to exist.

SEC. 2. The committee is authorized and directed to investigate and make an audit of the operations of the Treasury Department in the collection, investment, and disbursement of public moneys, and of moneys derived in whole or in part from sources other than taxation, and to report to the Senate and the House of Representatives, as soon as practicable, but not later than the termination of the present Congress, the results of its investigation, together with such recommendations for legislation as it deems advisable.

SEC. 3. For the purposes of this resolution the committee is authorized to select a chairman, to sit and act during the present Congress at such times, whether or not the Congress, or either House thereof, is sitting, has recessed, or has adjourned, to employ such experts and such clerical, stenographic, and other assistants, to require the attendance and testimony of such witnesses and the production of such books, papers, and documents, to take such testimony, to have such printing and binding done, and to make such expenditures (not exceeding $250,000), as it deems necessary. Subpenas shall be issued under the signature of the chairman, and shall be served by any person designated by him. The provisions of sections 101, 102, 103, and 104 of the Revised Statues (U.S.C., title 2, secs. 191, 192, 193, and 194) shall be applicable in respect of any person summoned as a witness, in the same manner as such provisions are applicable in respect of any person summoned as a witness in the case of an inquiry before a committee of the House of Representatives.

House Resolution 20

Resolved, That for the purpose of obtaining information necessary as a basis of legislation the Committee on Banking and Currency of the House is authorized and directed, as a whole or by subcommittee, to investigate the Federal Reserve Board of the Federal Reserve banks, and such member banks of the Federal Reserve System as may be necessary, in their activities with respect to foreign banks and foreign central banks, their open-market operations and acceptance business, and their connection with the American Acceptance Council, and their collaboration with other banks (American and foreign) in the operations of such banks in foreign financing; and for the purpose of this investigation the committee may make such audit of the books of the Federal Reserve Board, Federal Reserve banks, and member banks of the Federal Reserve System as it deems necessary.

SEC. 2. Such committee shall, as soon as practicable, report the results of its investigation to the House, together with such recommendations for legislation as it deems advisable. For the purposes of this resolution the committee is authorized to sit and act during the present Congress at such times and places in the United States, or elsewhere, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to employ such experts, and such clerical, stenographic, and other assistants, to require the attendance of such witnesses, and the production of such books, papers, and documents, to administer such oaths and affirmations, to take such testimony, to have such printing and binding done, and to make such expenditures, as it deems necessary.

The administration in charge here in this House has paid no attention whatsoever to the consideration which I have repeatedly asked for in regard to these two measures. I have been continually calling attention to the illegality of the operations of the Federal Reserve System and the Treasury Department, especially the Income Tax Division, for a long time. I want to say again, with just as much emphasis as I can put upon it, that the Membership of this House is making a mistake in not giving consideration to those two measures. You cannot afford to grant more power to the Federal Reserve System until you know what the Federal Reserve System has been doing. May I repeat that which I have said previously, that you are not going to restore the credit of the United States or confidence in government until you look into and audit the Treasury of the United States and the Federal Reserve System.

In the balance of the time I have I want to call attention to another resolution which I am offering today, and I am going to read it to you:

Resolved, That the Secretary of the Treasury is hereby directed to furnish the House of Representatives a list of the clients for whom the firm of Smith, Shaw & McClay, and/or the firm of Reed, Smith, Shaw & McClay, of Pittsburgh, Pa., have appeared before the Treasury Department of the Bureau of Internal Revenue in connection with the settlement, or other adjustments, of income taxes from the year 1920 up to the present time.

Suits are being brought in the United States Court in the District of Columbia, with definite facts presented, and today in Pittsburgh depositions of the officers of the Gulf Oil Co. are being taken in connection with the fraudulent disposal of income of the officers for that company. I presented that matter to the House and the Rules Committee over a year ago and tried to get action, but no action; why? I want to ask what influences are brought to bear upon this House of Representatives and its leaders to see to it that these very worthy investigations are not made? They should be made, and I am putting it squarely up to you Members as to whether or not you are going to assume responsibility by inaction in covering up frauds such as I am now calling attention to. Why do you not act? If the Rules Committee will not act, I have placed the proper petition on the Speaker's desk; sign it and we will discharge the Committee on Rules and pass these resolutions; it is now up to you.

Mr. WEIDEMAN. Will the gentleman yield?

Mr. McFADDEN. I yield.

Mr. WEIDEMAN. The 1932 report of the Federal Reserve Board contains only 44 pages, with absolutely no information or facts concerning the operation, while the 1931 report contained 315 pages and gave all the conditions of its operation. I think this House should demand a complete and more full report so that we can find out what this Board is doing, which now comes here and wants its power extended. They are deceiving this House of Congress by misleading it with filing this kind of report.

Mr. McFADDEN. I called to the attention of the House the other day the evident tax violation of H. L. Doherty and asked for an investigation of his reports for 1927, 1928, 1929, and 1930. I also asked that an investigation be made into the tax reports of the J. P. Morgan & Co. partners in New York, and stated specific instances where they should be investigated. I am hoping that this House, under the control of the present administration who promised the people of this country that they would clean up the mess, will get active and do these things which they should do and give proper heed to them at once.

Mr. KELLER. Will the gentleman yield?

Mr. McFADDEN. I yield.

Mr. KELLER. I should like to know how we are going to get at the facts in relation to the income tax and the payers of income taxes in this country so long as the Members of this House are denied the possible chance of knowing anything at all about it.

Mr. McFADDEN. Well, that is just the point; but if you will pass these resolutions which I am referring to here and appoint committees, all of this information can be made available to you; and I say to you gentlemen, as I did on the

floor of the House the other day, that there is a clique of racketeers that is practicing in this income-tax matter at the present time. It is headed in New York. The accountants who are engaged in this practice, together with clever lawyers, are located in New York and in Washington; and men in the Department are cooperating. It is time this ring is broken up. The man who handled the Charles E. Mitchell tax audit in the Treasury was fired. How many more such fellows are there in the Department? Mr. Chairman, I yield back the balance of my time. [Applause.]

The CHAIRMAN. The gentleman has consumed all but 45 seconds of his time.

Mr. LUCE. Mr. Chairman, I yield 15 minutes to the gentleman from Maine [Mr. BEEDY].

Mr. BEEDY. Mr. Chairman, I shall take but very little of the Committee's time. The gentleman from Massachusetts [Mr. LUCE], I believe, plans to conclude the debate, and if we are to judge by his speeches in this House made in the past, we may anticipate a very fair and comprehensive discussion of the pending bill.

I have a well-grounded conviction that this bill contains more of constructive proposals designed for permanent legislation than any bill which has come to the attention of the committee or of the House at this session of Congress.

I want to say just a word about the Federal Reserve System, and what I shall say is prompted by the references to it of the gentleman from Pennsylvania [Mr. MCFADDEN]. Somebody has said that a very poor law or a poor system well administered is far better for the whole people than an excellent law and a wisely conceived system which is poorly administered. The Federal Reserve System is a wisely conceived system. The best thought in the banking world, not only in this country but of the world, will, I believe, confirm us when we say that it is, from the standpoint of sound finance and proper administration of credits, a scientifically constructed system of banking. Any system may be poorly administered, and there is ample evidence to attest mistakes in the administration of this System. Many steps have been taken and many others which should have been taken have not been taken by the Federal Reserve Board. Their errors of commission and omission have aroused my displeasure and disapproval, but the essence of the System is something which we ought to cling to. I see nothing in this bill which seeks to add vicious compulsion in the way of additional authority.

The gentleman from Pennsylvania [Mr. MCFADDEN] said we ought to study the bill carefully to find out what power we are giving to the System; that he thought there were many banks in this country which would be unable to comply with its provisions, and that, therefore, would fail.

If there are any banks open or about to be opened which cannot comply with every provision of this bill, then it is in the interest of the whole people, the small wage earner, the middle class, and the man of large resources that those banks be cleaned out now.

Much of the trouble in this bank crisis came by reason of the fact that we had set up too many banks without a proper capital structure. There is no hardship imposed upon any bank by the provisions of this bill. The bill is written in the interest of sound banking; I submit that these statements are justified. My point of view is not poisoned. My natural sympathies have always been with the under dog, because I have been one of them all my life. Thank God, nevertheless, that I have had, or endeavored to acquire, a fair point of view. I have come to understand that in this complex system of ours the man of resources and the man not of money but of brain and of a willingness to use his hands and his head in honest toil are both indispensable to the general well-being. It ought to be the aim of every man here who has taken his oath solemnly before the bar of this House to undertake at all times to serve the interests of both these groups.

The gentleman from Michigan [Mr. DINGELL] said he wished some assurance that there was in this bill a guarantee, using that word, I think perhaps inadvisedly, because there is no deposit guarantee in this bill, but there is in it a provision for the insurance of deposits; he seemed to feel that he had not read within the pages of this bill anything to justify full confidence that State banks which are not member banks of the Reserve System were to be protected as well as others. I ask him to read, if he is inclined to pursue this thought, section 302 of the bill, beginning at the bottom of page 53 and continuing over into page 54. I myself perhaps will ask the indulgence of the House while I read it.

However, before I leave the general fundamentals of the bill, let me say that I support it and support it gladly and I am giving you some of my reasons for so doing, not in the order of their importance but as they occur to me at the moment. First, because I think it properly gives closer supervision to banking authorities over all the banks of the System. Second, because it puts restrictions upon loans for speculative purposes. Third, because it separates investment banking from commercial banking.

I hope to see the day when there will be a wall built between the savings-bank funds and the commercial banking funds. However, we cannot do everything in a moment, and so there is no attempt to set up such a dividing wall in this bill.

I will support the bill also because I think the insurance method of protecting the money of depositors is one of the wisest of such proposals I have yet seen advanced.

It has been stated that we ought to compel banks who desire to avail themselves of this insurance provision to become members of the System. I confess that after some years of study, if I now had the authority to determine this question, I should hesitate as to the proper step to take. I have had a feeling that if we could be sure that men in authority administering the System would at all times be honest, we ought to have a single banking system. But perhaps for the present, human nature being weak and frail as we have seen it proven in these later days, perhaps we ought to give both systems a further trial. At any rate we left that proposal out of this bill. So I think the statement of the gentleman from Pennsylvania that we are attempting to force all banks into one system, that we are going to destroy all banks outside the system, is not a fair statement. We are giving them all an equal chance. There is not a provision in the bill that can be construed as a compulsion upon or as hostile to State banks.

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. BEEDY. I yield.

Mr. MAY. Under the provisions of section 302, to which the gentleman referred, State banks are permitted to become members, but they are subjected to supervisory examination by the Board. I wish, when he comes to discuss it, the gentleman would emphasize the importance of this examination.

Mr. BEEDY. Yes. I am coming to that feature. I think I shall take time to read part of that section, because we ought to have it well in mind.

Remember this, too, in connection with the statement of the gentleman from Pennsylvania, that the Federal Reserve System itself is not attempting to insure the deposits. We divorce that feature entirely from the Federal Reserve System. We are setting up an insurance-deposit corporation, in which nonmember State banks and State banks which are members of the Federal Reserve System, as well as the national banks which by law are made members, may subscribe to stock and avail themselves of the advantages which flow from the insurance of deposits.

If we are going to accord nonmember State banks such a valuable privilege, we ought to impose some obligations and conditions precedent.

Let me read section 302, which is found at page 53 of the bill:

> Any State bank or trust company, not a member bank of the Federal Reserve System, with the approval of the State authority having supervision of such bank or trust company and certification to the corporation—

That is this insurance corporation—

by such authority that such bank or trust company is in solvent condition, after examination by, and approval of, the corporation, shall be entitled to the privileges of this title upon agreeing to comply with this title and upon subscribing to the same amount of stock as would be required if such bank or trust company became a member bank.

Now you will see how important those provisions are, and I submit you will see how fair they are. If this corporation is to insure the deposits (within the limits set forth in this bill) in nonmember State banks, it should have the right to an accurate determination of the financial status of those banks. This could be had by a thorough examination of applying banks.

Therefore a preliminary examination is called for, and surely banks, in addition to this examination, should be compelled to comply with the protective provisions set up in creating this corporation. They should be compelled to subscribe to the same amount of stock in the corporation as a member of the Federal Reserve System. Both classes of banks are required to take an amount of stock equaling one half of 1 percent of their outstanding time and demand deposits. Is there anything in this provision calculated to force banks into the Federal Reserve System? Why, certainly not. We permit them to stay out if they so desire. We impose no unreasonable demands. This is a separate corporate entity which is dealing with the insurance of deposits. Nothing, it seems to me, could be sounder. I think this separation of the insurance-corporation feature should appeal to all of us who are equally interested in the small as well as the large banks.

Mr. RAMSPECK. Will the gentleman yield?

Mr. BEEDY. I wish I might finish my statement and then, perhaps, I can get 3 or 4 minutes to answer questions, unless the gentleman insists.

Mr. RAMSPECK. There is one point I want to be clear on. Does this corporation have a right to first examine the State bank before it is admitted into the plan?

Mr. BEEDY. Yes.

Mr. RAMSPECK. And they can refuse it admission?

Mr. BEEDY. Yes; if it is unsound. This corporation collects funds from numerous banks totaling one fourth of 1 percent of their deposits. They are trust funds in a way, and no undue strain should be put upon the corporation by forcing it to insure any unsound bank. One of the objections made to this proposal is that strong banks will be compelled to pay the penalties for poor banking and thus to sustain weak banks. If they are not weak when they are admitted to the corporation, there is a strong degree of assurance for success in the operation of the insurance provisions of this bill. The weak are not imposed upon the strong at the very outset, as might be the case were no examination required.

[Here the gavel fell.]

Mr. LUCE. Mr. Chairman, I yield the gentleman from Maine 5 additional minutes.

Mr. MAY. Will the gentleman yield for a question?

Mr. BEEDY. I wish the gentleman would please excuse me, because in the 5 minutes I should like to call your attention to a feature of the bill whose importance has been impressed upon me by a situation which developed in my own State.

I was almost tempted to say that if there were no other more highly commendable feature in this bill than that to which I am now about to refer I should be inclined to swallow all the rest of it.

You will notice on page 2 of the bill that an affiliate is defined as "any corporation, business, trust, association, or other similar organization." You will find later, under this section which deals with affiliates, that after 2 years the affiliate institution is banned and that within that time close examination and supervision of these affiliates is to be had by the authorities. I think this is wise.

Now, just what does this mean? I call your attention to this because of a situation that arose in my own State. We had a certain bank in the city of Portland, Maine. It was supposed to be one of the soundest banking institutions of the State. I supposed the men in control of this institution stood for the finest and the highest ideals in business and in citizenship. They became ambitious. They began to reach out and buy up banks. They established a chain-bank system. They set up a holding corporation and transferred to this holding corporation their shares in these banks. They thus relieved themselves of the double liability that should attach to stockholders who are handling trust funds. Presently we found this Portland bank closed, and investigation revealed an abhorrent situation. It revealed the fact that a majority of the directors in that bank, the home bank, had set up what might be known as "affiliate corporations" under the definition in this bill. One affiliate corporation was engaged in the fiber business; another affiliate corporation was engaged in a tooth-paste venture.

These same men who were in control of the directorate of this bank were also in the majority control of the directorate of these affiliate corporations, and they were lending to themselves, through the fiction of an interlinked corporate structure, hundreds of thousands of dollars of honest depositors' money. These loans ran up to almost $800,000, which, in a small bank, is a large amount of money, and when the crash came the depositors were astounded to find what had been going on. These abhorrent loaning practices were revealed and naturally they shocked the best sense of the citizens of my community.

Now, from the day this bill becomes a law it will never be possible for any bank to be run and controlled by a majority of men who at the same time are in majority control of industrial corporations. This temptation to lend money to oneself through a corporate interlocking structure ought to be removed, and it will be removed when this bill is written into law.

Mr. WEIDEMAN. Will the gentleman yield?

Mr. BEEDY. I will yield if the gentleman will explain to me what he meant by saying that the Federal Reserve Board deceived us by insulting us. What does the gentleman mean by that?

Mr. WEIDEMAN. I mean they apparently sent out a bulletin as their 1932 bulletin——

Mr. BEEDY. What the gentleman means is that that report is not extensive enough to satisfy him, but he does not mean to say that an insult necessarily amounts to a deception.

Mr. WEIDEMAN. Oh, well, the gentleman can take that whichever way the gentlemen on the other side want to take it.

The gentleman has made the statement that interlocking directorates would be forbidden the minute this bill takes effect and that these big corporations will not be able to control everything, and so forth.

Mr. BEEDY. Oh, no; I did not say that. I did not say "big corporations will not be able to control everything, and so forth."

Mr. WEIDEMAN. I call the gentleman's attention to the language on page 7 of the bill relating to such corporations.

Mr. BEEDY. Just a moment, I do not yield further.

Mr. ROBERTSON. If the gentleman will yield to me a moment, I should like to ask him a question. I have great respect for the views of the gentleman on this whole problem. I should like for the gentleman to give us some assurance about the fairness and the friendliness of the board of directors of the corporation, and more assurance that after the State organization approves the financial solvency of a nonmember bank and then it goes to the corporation for approval before the nonmember bank can come under this bill, that such nonmember bank will be treated fairly in its claim for this protection.

Mr. BEEDY. Of course, that question reaches far into the human element, but here is a corporation set up for the express purpose of insuring deposits within the limits of the bill. It can certainly have no other motive or purpose than to treat with a kindly justice every deserving and sound bank which reaches out for help and protection. [Applause.]

[Here the gavel fell.]

Mr. GOLDSBOROUGH. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois [Mr. KELLER].

Mr. KELLER. Mr. Chairman, I am as much for the guaranty of bank deposits as the Chairman of the Committee on Banking and Currency can be. I honor him for bringing forward this idea session after session, when there was no possible chance of having it considered favorably. When it finally becomes the law—as it is bound to do—no one will go farther than I in bestowing upon him the rightful honor as the real champion of this great measure. It will be his due.

There is what we call the credit stream, through the gigantic power of which, when running free, we carry more than 10 times as much ability to do business through bank credits as all the currency outstanding at any time. But we must hold constantly in mind that as this great stream of the blood of industry circles round and round, deep flowing and mighty, that every time a dollar is taken out at one point another dollar must be put in at some other point. Only by making this certain can we carry on the gigantic economic life of this great Nation.

There have been more than 12,000 bank failures (not including the 5,000 still in jeopardy) during the last 12 years. Millions of people have lost billions of dollars through these failures. Banks that had stood like a rock through all the other panics and depressions went tumbling into the discard in this one. Men whose honor never had or could or ever can be questioned saw the banks which they had spent a lifetime in building up come tumbling down before their helpless eyes in the cataclysm of 1929 to 1933. Under these conditions it is nonsense to talk about restoring confidence. There is only one way that we can bring back into usefulness of national credit the necessarily recurring bank deposits, which restoration of industry requires, and that is to make it absolutely certain that when any and every man, woman, or child who puts a dollar in any bank can absolutely know that he will under no circumstances lose a single penny of it. Unless and until that guaranty is made we can not recover our lost industry in this country. [Applause.]

But to accomplish that it is not necessary to sacrifice any of the people's rights. It is the part of wisdom that this Congress shall look with great care at any surrender of the rights of the people who have suffered so shamefully from the abuses of the great interests who are at present seeking by every means to retain the very control which enabled them to rob the people of so many billions of their hard-earned wealth.

This bill is in most regards a splendid bill. It represents a vast amount of labor on the part of the committee. But for all their thought and care somehow a section has found its way into this bill that would nullify most of its benefits. I refer to section 3, which seeks to turn over to this privately owned bankers' banking system for all time to come every penny of the franchise tax which has existed from the start.

Let us see what section 3 provides:

SEC. 3. The first paragraph of section 7 of the Federal Reserve Act, as amended (U.S.C., title 12, sec. 289), is amended, effective July 1, 1933, to read as follows:

"After all necessary expenses of a Federal Reserve bank shall have been paid or provided for, the stockholders shall be entitled to receive an annual dividend of 6 percent on the paid-in capital stock, which dividend shall be cumulative. After the aforesaid dividend claims have been fully met the net earnings shall be paid into the surplus fund of the Federal Reserve bank."

Read and reread that section; get clearly in your mind its full signifiance; then check up on what we propose to give to these banks. Consider also what we have already given them. They already have their hands into the United States Treasury clear up to their armpits. Must we completely immerse them in profit in order to secure a small part of the sovereign rights of the people?

The right to issue money has always been the right of the sovereign power, whether it be emperor or king. Upon the formation of this Republic we vested all sovereign rights in the people. In other words, we took over all the rights which before that time were acknowledged as belonging to the king and gave them to the people for their own. We designated the Congress as the representative of the people.

A previous Congress, as representatives of our people, saw fit to give a small group of our citizens the power to issue money. For that privilege it exacted a small tax. That small group has paid itself a generous profit on that privilege in the past, and it now comes to the representatives of a sovereign power and asks that it be given all the profit.

It is necessary to set out the plain, simple facts about the Federal Reserve System, so that no misunderstanding can exist in relation to this all-important matter.

The Federal Reserve System is a bankers' banking system owned by the member banks of the System. It is entirely privately owned. It does not belong to the people of the United States or to the United States Government—not one dollar of it.

The Government is supposed to supervise it in the people's interest. But under recent practices the officials appointed for that purpose have supervised it entirely in the interest of the big banks. Why should they not do this, since their salaries are not paid by the United States Government, but by assessments on the member banks? A man naturally feels an obligation to those who pay his salary. That part of the law ought to be changed. The Federal Reserve System was clearly a compromise, but better by far than the total lack of system which it replaced. It was administered with great effect and benefit from the time of its enactment through the World War.

From the autumn of 1920 to the present time it has to an unthinkable extent been administered in the interest of the great currency and credit controllers and the international bankers and terribly against the interests of the American people.

The people, generally speaking, seem to think that the gold reserve belongs to the Government. It does not. Outside the small amount in the Treasury to provide 40 percent gold reserve for the old greenbacks, the Government has not a dollar of gold. The gold reserve belongs to this private banking system. And the gold is all stored in the 12 Federal Reserve bank vaults, not in the United States Treasury.

Here is a statement from the Treasury Department which shows total gold in America at the present to be $4,310,767,000. Federal Reserve banks hold and own $3,416,210,000. Of this, the United States Treasury vaults have $236,463,000, only 7 percent as much as the Federal Reserve vaults contain.

There is somewhere among the people gold—mostly gold certificates—in the amount of $658,094,000. The Federal Reserve banks are organized with a capital stock just like any other corporation. The capital stock of the whole Federal Reserve System is $321,000,000—subscribed and actually paid in is $150,217,000 by all the member banks put together. That is the entire capital.

Now, what has this $150,000,000 earned or gained since 1913, when the System was begun? The figures show a gross earning of $1,020,000,000. What has been done with that billion dollars gained? The expenditures by the Federal Reserve System during these years, including the construction of Federal Reserve bank buildings, was $472,000,000. The net returns on the $150,217,000 paid in capital was $548,000,000. These net earnings have been divided up as follows:

Dividends on the $150,000,000; paid in capital, $120,000,000; transferred to surplus account, $279,000,000. These two items, interest and surplus, totaling $399,000,000, would equal 13.3 percent annual income on the $150,217,000 actual capital paid in.

What possible excuse can there be for presenting without any consideration a surplus to the Federal Reserve System when the stockholders have only paid in one half the stock the member banks had subscribed?

Paid to the Government as a franchise tax, $149,000,000, equals 4.5 percent.

The $279,000,000 should also have been paid to the Government, or a total of $428,000,000, and if this Congress does its duty the next 20-year period will see much more than that amount paid into the National Treasury.

This amount is nearly sufficient to pay the amount required for 2 years' interest and amortization of the $3,000,000,000 bond issue which we are about to authorize to put the men to work who were thrown out of employment by the maladministration of the Federal Reserve Act. [Applause.]

Now, let us see what that means to a bank that became a member at the beginning and had a capital and surplus of $150,000.

Here it is: Subscribed under the law 6 percent, equals $9,000. But only half that amount was ever actually paid in, or $4,500 cash.

For this $4,500 cash investment this small bank has received back in interest $4,600, or $100 more than the cash paid in at the beginning, and that surely is sufficient. But it now has an interest in the surplus which amounts to $8,370 cash, to which it has no possible moral right, and only such a legal right as a Congress in the service of the big interests voted to it.

Now, what does this section 3 mean? It means this and nothing less, that if section 3 becomes the law we forever give up all claims to any return to the Government whatever. If section 3 had been in the original law, we would not have received the $149,000,000 which we have received, but the Federal Reserve System would have added that amount to the present $279,000,000 surplus, or $428,000,000 would belong to this purely private banking system.

Therefore if we keep section 3 in this bill, it means the people will never receive another penny from this private banking system for the tremendously valuable franchise which it holds. Any man who votes to retain it in the bill votes to take from the people all the hundreds of millions of money which will come to them if this section is left out of this bill.

We ought to see that this very great profit in cash is the least of the advantages which this privately owned bankers' banking system has been granted because whoever controls currency also controls credits, whoever controls credit controls prices, whoever controls prices controls industry, whoever controls industry controls civilization, and the lives and labor of those who make up civilization.

Mr. LUCE. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has 52 minutes.

Mr. LUCE. I should like to have the Chairman notify me when 47 minutes have expired.

Mr. LUCE. Mr. Chairman, the subject under discussion is one of much technical detail and difficulty. It is one impossible to adorn, and all that I may hope to do is to explain to such members of the committee as desire to be informed, what is in the bill. If gentlemen who are not interested in knowing what is in the bill will allow me to have the attention of those who are interested I shall be doubly grateful. I know I shall tax the patience of the House, for finance is a dreary topic and one that cannot be made entertaining.

But if I may help Members to know what is here proposed and to understand the reason why the committee as a whole has made a unanimous report in favor of the passage of the bill, in spite of certain objections, then we may take the matter up more intelligently under the 5-minute rule.

The depression emphasized the fact that our banking system is not satisfactory. A growing distrust has now been turned into universal apprehension. In the middle of the depression the Senate Committee on Banking and Currency took up for consideration what is everywhere known as the "Glass bank bill." It held long hearings.

The membership of that committee, I think I may be pardoned in saying, comprises men peculiarly qualified to study the subject. They recommended a bill that failed to become a law in the last Congress. When that bill was given out, it was exposed to careful scrutiny through the strongest motives of interest on the part of the attorneys of the leading banks of the country, and various objections were raised.

In the course of the months that passed and the study given to the matter by the Senate Committee on Banking and Currency, and further consideration by the sponsor of the bill, I find that fully nine tenths of the matters to which objection was made a year ago have been eliminated.

So far as relates to the reorganization of the bank structure of the country, it is fair to assume that the Glass bill in its present form, under consideration at the present time in another branch, is as nearly satisfactory as such a long and complicated measure ever can be.

So when your committee of the House approached the subject it did not feel it necessary to hold long hearings on the bill and repeat what was already at our command in the form of the printed Senate report. Accordingly the Glass bill was copied for introduction in the House as far as it related to two branches of the subject. Your committee made certain changes, some of importance, which I shall call to your attention as embodied in the bill before you.

The third branch of the subject, that relating to Government insurance of bank deposits, has been quite differently treated by the House committee, and there will necessarily be discussion of it in conference with an attempt to reconcile the two proposals and produce from them one that will meet at any rate the most serious of the objections.

Taking up in turn the three titles of the bill, for we have rearranged it so that it may be more intelligible, let us first examine title I, which contains such provisions as materially change the banking structure of the country. Many of these provisions will frighten a stranger to the subject by their length and intricacy, but on examination you will find that for the most part they are repetitions of existing law with comparatively small insertions.

Mr. HOEPPEL. Mr. Chairman, will the gentleman yield for a question before he concludes? I do not want to interrupt him now.

Mr. LUCE. I shall hope to have the time.

The first section concerns itself merely with definitions and need not have your attention. The second section brings us down to what was a prime purpose in the mind of the author of the bill and his associates in another branch. The use of banking funds for speculation became a stench in the nostrils of the people. The second section of the bill brings us right to the control of the use of banking funds for speculation. All through the bill there are scattered provisions of like intent which I think all will accept, for nobody questions the desirability of accomplishing their object.

The third section of the bill concerns itself with the topic to which the previous speaker has called attention, that of the disposition to be made of the surplus funds that have accumulated in the Federal Reserve System. I have reason to believe that this matter will be thoroughly discussed when we reach it under the 5-minute rule, and I shall not now anticipate that discussion.

The fourth section of the bill admits the Morris Plan banks, against which I imagine no protest will be raised. Also, by a minor correction, it puts State banks on the same level with national banks in the matter of certain operations with foreign countries. It also treats, on page 6, a matter to which I would particularly address myself, not directly, perhaps, as bearing on the bill but as bearing on some of the issues that have been raised, for it concerns itself with the mutual savings bank.

The mutual savings bank, which this bill would let enter the Federal Reserve System, is an institution with which, most unfortunately, Members of the House from the central and southern parts of the country are unfamiliar. I have been told, but I shall not vouch for the complete accuracy of the statement, that there is not a mutual savings bank between Cleveland and Sacramento. It is greatly to be regretted that the communities in the central and southern parts of the country have not acquainted themselves with the value of the mutual savings bank. Let me give the figures that show the situation. It is preliminary to my regret at the absence from the bill of one provision which I hope might yet receive your attention. The criticisms of the bill, in fact, for my own part, and I think on the part

of several of my associates on the committee, are based chiefly on its omissions and not on its commissions.

Later on I shall try to develop the reasons why I fear this bill will gravely disappoint those who have looked for an adequate and thorough reform of the banking system of the country. But returning to the situation in regard to mutual savings banks, I find by the last report of the Comptroller of the Currency that in New England per capita, for each unit in the population, we have in our mutual savings banks $539. In the Southern States demand savings deposits have an average of only $37 per capita. In the Middle Western States it is $114; in the Western States, to the Rockies, $46; and in the Pacific States, $196. I do not speak in a boastful way when I glory in the fact that in New England our savings deposits average $539 per capita. I say it again to bring home, if I can, to my friends from the South and from the West that when they declare we are withdrawing from them their capital to be used for the benefit of the East they fail to recognize that on the contrary we are drawing from ourselves the money which is going to finance in some part the great West. When you point the finger of scorn at the banks, at the financiers, at the capitalists of New England, let me tell you that you are pointing it at the shoe workers in Lynn, at the men and women who tend the looms in Fall River and New Bedford, at the men and women in my own town who put together the works of the Waltham watches, at the men and women through all our section who toil and have scanty incomes.

It is the income of the poor in New England that fructifies the West, and every time you try to throw into disrepute our eastern communities because they have been thrifty, because they have organized these mutual savings institutions, you are abusing our working people, the wage earners of New England. One of our most prosperous savings banks in Boston is called the Five Cent Savings Bank, because it takes deposits as small as 5 cents, and it has amassed millions of dollars of the workers, of the wage earners, of the school teachers, of the people generally, which dollars, directly or indirectly, have in great part gone to help and benefit the rest of the country.

Before you abuse the financial institutions of the East make your own hands clean. Ask yourselves what you have done in Indiana, Illinois, Michigan, or in any of the other Western States or in those of the South to bring together the philanthropically minded men of the community to organize institutions where the poor can join together their little sums, not only for their own advantage but also to the common good. Many a nickel makes a muckle. There is the road to travel if you would furnish your own capital.

I wanted in this bill to protect the savings of the poor. I am shocked when I go into the national bank of my own town and there see on one side the commercial windows and on the other side the window where they take in the savings. Every night the receipts of the day are put together in one lump, and the savings of the citizens who are in moderate or humble circumstances are thus being risked in commerce, while in our mutual savings bank the most strict protection is thrown about the funds.

The savings bank is strictly limited as to the securities in which it may invest. It may have no dangerous dealings with a national bank. Our law requires that a brick wall without any aperture shall be maintained between the two institutions if in the same building, so that if the cashier of the national bank and the treasurer of the savings bank wish to connive, they must go out on the sidewalk to do it. When I find all through the rest of the country you are allowing the savings of the poor to be exposed to the risks that have brought destruction to so many banks, I believe you are negligent in not introducing into this bill a provision that thrift deposits in commercial banks shall be segregated and shall be invested only in limited range of high-grade securities. Long-time investment and short-time lending ought to be kept wholly independent. It is my regret that, because the greater part of my associates on the committee came from regions where the mutual savings bank is unknown, I could not convince them of the need for this.

Mr. FLETCHER. Will the gentleman yield?

Mr. LUCE. I yield.

Mr. FLETCHER. I should like to inquire whether a large percentage of the mutual savings banks in the gentleman's State failed?

Mr. LUCE. Within a few months, for the first time in all the history of savings banks in Massachusetts, one failed. That is the only instance in all the history of savings banks in Massachusetts.

Mr. FLETCHER. How many are there now in Massachusetts?

Mr. LUCE. About 200. They are to be found in every city and every good-sized town. Their two billions of deposits have been the mainstay of the masses in this trying period. They in no small part account for the fact that Massachusetts, though an industrial State, has probably seen much less of real suffering than almost any other State in the land.

To go on with the bill, the next sections are unimportant. They refer to details of the Federal Reserve System. I may point out we are requiring the approval of six members of the Federal Reserve Board instead of five for certain loans that are to be made.

Then we come to a new section which legitimatizes and regulates the open-market committee. There has been such a committee in operation for years, and this simply formulates the conditions under which it shall operate. That is on page 11, section 12 (a).

Mr. WEIDEMAN. Will the gentleman yield?

Mr. LUCE. I yield.

Mr. WEIDEMAN. What are the functions of the open-market committee?

Mr. LUCE. The open-market committee is that instrument of the Federal Reserve Board which, by buying or selling securities and acceptances, accomplishes one of the purposes of the system, which, through 9 or 10 years after the war, kept the ship of finance on an even keel. It is the system, I may explain, to which those of the House who approved the first plank of the President's money program look for accomplishing the result most desired, that of reviving and stabilizing business by expanding or decreasing the volume of credit.

Mr. WEIDEMAN. This open-market committee has been functioning for a long time. Is it not just one step in the formation of a great central bank?

Mr. LUCE. Oh, I cannot share the gentleman's apprehension on that score.

Mr. WEIDEMAN. It deals in all kinds of securities, national and international. There is no limit, is there?

Mr. LUCE. I hope not.

Mr. WEIDEMAN. This is the opening wedge in the consolidation of the entire banking industry, both of this country and of the world, into the hands of a few men, is it not?

Mr. LUCE. I do not share the gentleman's fear on that score.

Now, on page 14, section 9, is still another section meant to hamper the Federal Reserve Bank of New York. Through the years when Gov. Benjamin Strong was the head of that bank until his untimely death its relations with foreign banks worked with admirable effect in accomplishing the level range of prices, which is so much to be desired again for the welfare of this country. However, the idea on the part of those who see red whenever anything of a foreign nature is recommended is to the effect that there should be no transactions between the New York bank and the Bank of London, or French or German central banks, without the knowledge and approval of the Federal Reserve Board. Fortunately, the provision is not likely to do serious harm.

Then there is another section, meant to hamper speculation. Then one about banks not lending money to their own executive officers. That is on page 16. With it we

are beginning to get near the vitals of the bill. Little by little we find something that is really of importance, and here is one. It is at the bottom of page 16:

No member bank shall make any loan or extend credit in any other manner to any of its own executive officers.

That is, the officers of the banks.

Then, on the next page there is a new section which forbids banks to invest their capital in bank premises, it being found that some banks, for publicity and advertising and notoriety, are spending too much of their capital on the buildings they occupy.

Then there is a page or more that only a lawyer can understand, and not having been actively engaged in the practice of the law for a long time, I dare not try to explain it to you. It is something about taking Federal Reserve bank business into the United States district courts. I suppose it is desirable. You will have to take that for granted, so far as I go.

On page 20 there is much new matter aimed at the practices of banks engaging in the investment business. In brief, it seeks to take them out of that business to an important degree.

Section 15 will prevent further organizing of national banks with less than $50,000 capital in places of from 3,000 to 6,000 inhabitants. Hitherto such banks may have been started with as little as $25,000 of capital. Many, many of the 9,000 failures of banks in the course of the last decade have been the result of too small capitalization. We seek to stop that.

Mr. KVALE. Mr. Chairman, will the gentleman yield?

Mr. LUCE. I yield.

Mr. KVALE. Does the gentleman feel this will do justice to the large number of small independent banks that are solvent and secure but which will be estopped from entering the System and participating in the benefits?

Mr. LUCE. I think all the authorities on banking are of the belief that no small part of our trouble in the last few years has been due to the fact that in many parts of the country banks exist having a capital of $25,000 or less. I have been told there are $15,000 and $10,000 banks. It is a question of comparative gains and losses. The weight of judgment is that a bank will not be safe unless it starts with at least $50,000 in cash.

Mr. KVALE. I understand the force of that argument, but the gentleman is familiar with the fact there are a great many small banks throughout the country which have been successful and which today are solvent.

Mr. LUCE. In this matter I incline to rely on the judgment of those who are more familiar with banking conditions than I am.

Mr. KVALE. If the gentleman will be patient for one moment, out in my section of the country for 10 years we have gone through the wringer; and there are unquestionably many banks that are stable and secure and solvent, but whose capital is not up to the $50,000 level arbitrarily set in this bill. Hence my interest.

Mr. LUCE. This section simply states that no national banking association shall be organized after this section takes effect with less capital than $50,000 in places with from 3,000 to 5,000 inhabitants. It affects no existing banks.

Mr. KVALE. But by implication will it affect those banks having less than $50,000 capital so they cannot come under the blanket guaranty or insurance of deposits?

Mr. LUCE. Let me wait until we come to that part of the bill.

Mr. GOLDSBOROUGH. Mr. Chairman, will the gentleman yield that I may reply to the gentleman from Minnesota?

Mr. LUCE. I yield.

Mr. GOLDSBOROUGH. I may say it does not adversely affect them.

Mr. KELLER. Mr. Chairman, will the gentleman yield?

Mr. LUCE. I yield.

Mr. KELLER. I should like to know if there are any figures proving the statement which is so generally made that the number of failures are greater in small banks than in large banks?

Mr. LUCE. I have not seen them. Only general statements have come to my notice.

Mr. KELLER. I have been trying to get some figures along this line for some time but have not been able to, and if the gentleman or some member of the committee can supply them I shall be pleased to have the facts.

Mr. LUCE. I shall bear that in mind.

Then there comes a collateral provision whereby entry of new banks into the Federal Reserve System will no longer be permitted when there has been cash payment of only 60 percent of capital, the present law allowing them to make good the additional 40 percent out of their earnings from time to time. This conforms to the idea that the capital structure of our banks ought to be strengthened.

Again the matter of affiliate relationship appears, the next section eliminating from the capital structure the stock of other corporations.

Section 17, on the bottom of page 23, cuts out brokers from deposit banking after 2 years; and on the next appears the corresponding aspect of that matter, with provision about concerns other than brokers, to accomplish the same result.

After a minor provision about interest rates on loans in States where laws are lacking, come the provisions for reopening closed banks. One of them I wish I had brought to the attention of the committee, inasmuch as I should hope before we get through with this bill the figure "85" on page 26, line 15, will be lowered, for it is going to be difficult to secure consent in writing of the holders of 85 percent of the deposits and unsecured credit liabilities in a closed bank. However, that is a mere detail with which we may not concern ourselves now, for if change is found desirable, it can be easily made by the conference committee.

Section 20 is, in my judgment, the best thing in the whole bill. It is pretty nearly the only provision in the whole bill that puts any teeth into existing law.

The reasons why we have had so many bank failures are not easy to determine, but we know, at least, that one reason has been the inability of the Comptroller of the Currency to compel banks to conduct their business according to sound methods and on right principles.

All the Comptroller has been able to do has been to slap a bank officer on the wrist and gently say, "I wish you would not do that again." Comptrollers have not been able to put any punch into their orders. I regard this provision of the bill as an attempt to inject more energy into the Comptroller of the Currency. I should like to jack up his office by giving it more authority, more inspectors, more money, with demand that it find out a bank is going to fail before it fails. [Applause.] But all that the authors of this bill have seen fit to do is to provide that when in the opinion of the Federal Reserve agent a director or officer shall have continued to violate any law or shall have continued unsafe or unsound practices he shall have a trial. That trial bids fair to take from 2 to 6 months and so does not insure any prompt meeting of the situation.

It has come to my knowledge that studies have been made determining the causes of the bank failures in this country over a period of years. They remarkably disclose the presence of the same causes. They show that failures have been chiefly due to bad banking practices of which the authorities knew, or might have known, and which they have not stopped.

In this section we give them a chance to stop these practices. I wish the section were a good deal stronger and went farther, but I am glad it goes as far as it does.

Section 21 puts an end to the practice of some of the big banks in having a board of directors whose names occupy half a letterheading, for publicity purposes, without in reality guaranteeing any real responsibility whatever. We tell the big banks that they shall not have more than 25 directors.

In the next section there is an attempt further to prevent the interlocking of banks and investment companies.

I told you that you would find this scattered all the way through.

Then, there is a section that prevents bank employees or officers from having any interest in lending companies, and then one that cuts out the double liability of stockholders.

This provision on double liability cannot and will not stand if the bank insurance end of the bill goes by the board. The committee has put it in with the belief that in case the deposits are insured, there will no longer be need for the requirement of double liability. I think the committee was influenced in putting in this section by the knowledge we all possess that double liability often prevents getting the help of the best men in the community; men who would gladly undertake some of the duties of directors or officers if the danger were not so great. Also double liability too often brings undeserved loss to the innocent. These considerations seemed to us to offset any advantage that may remain in double liability after the insurance-guaranty provision goes into force, if it does go into force.

Mr. DUNN. Will the gentleman yield?

Mr. LUCE. I yield.

Mr. DUNN. In the gentleman's opinion, if the bill passes in its present form, will the depositors in our banks be given a bona fide guaranty that their money will be safe?

Mr. LUCE. I shall get to that in a discussion of the last third of the bill. I am proceeding in the order of the bill and shall discuss that question then.

Mr. HOEPPEL. Will the gentleman yield?

Mr. LUCE. Yes.

Mr. HOEPPEL. I just heard the gentleman make the statement that all the Comptroller could do would be merely to slap these bankers.

Mr. LUCE. That is what my understanding is.

Mr. HOEPPEL. Would not the Comptroller have power to do more than slap these bankers if in the organization of the banks of America the United States held 25 or 50 percent of the stock of the various banks? We would not then require a bank guaranty law; is not that true?

Mr. LUCE. That is another question not entering into my attempt to explain this bill.

Mr. GREEN. Will the gentleman yield?

Mr. LUCE. Certainly.

Mr. GREEN. I was wondering if this committee had given consideration to placing a criminal liability upon all bank officers in case the bank fails. It seems to me this is a question that should have consideration in these times.

Mr. LUCE. I do not think that has been given consideration.

What the bill tries to do is not to punish, but to prevent. It does not go far enough in preventing; that is all there is to it.

Now, we come to the second title of the bill, and I desire so much to emphasize the third title that I want to hasten now and dispose of this whole title about affiliates in just a word.

The affiliates are to be put out of business in 2 years. Eighteen pages are given chiefly to the conduct of these affiliates within the 2 years. In my judgment, they are now so ashamed of themselves or else are making so little money that abuse of the affiliate idea no longer exists and is not likely soon to be reborn. If I had my own way, instead of having 19 pages, I would put this into 19 lines, and I am not going to give 19 seconds more to its discussion. So far as I know it is all right.

We come now to the important part of the bill, the guaranteeing of deposits.

Mr. BEEDY. Will the gentleman yield to me a moment in order to correct the record?

Mr. LUCE. Yes.

Mr. BEEDY. I notice the gentleman said there is no savings bank between Cleveland and the coast.

Mr. LUCE. Between Cleveland and Sacramento; so I have been told.

Mr. BEEDY. That is true, with one exception in Minneapolis.

Mr. LUCE. I am glad to be informed about Minneapolis. New England men must have carried the idea there.

Mr. BEEDY. And I made a misleading statement which ought to be corrected. Affiliates, as such—that is, separate corporations doing other than a banking business—are taboo after 2 years, but holding-company affiliates endure for a longer period, under close supervision.

Mr. LUCE. They do. It is unfortunate that the phrase "holding-company affiliates" was used. It confuses two things.

Mr. BEEDY. I agree with the gentleman.

Mr. LUCE. The essential part of this bill is that it puts an end to what we ordinarily think of as affiliates.

Mr. KELLER. I did not get that and I am very much interested in that part of the bill.

Mr. LUCE. The 2-year provision applies to only what you and I think of as affiliates. It does not apply to holding companies which hold the stock of various banks or what we ordinarily refer to as group banking or chain banking. It does not touch that beyond some control. What the public thinks of as affiliates will go out of existence in 2 years and I am quite indifferent about what the provisions relating to affiliates are, because I do not think they will amount to a hill of beans in the meantime.

Title III, the deposit insurance corporation, is the controversial part of the bill.

There are men in the country who are gravely apprehensive of doing anything in this direction.

Your committee differs radically as to some provisions of this section. We are expecting in the conference that agreement will be reached which will give us a better insurance bill. For one I have felt that the public is ready for some sort of insurance. The public demands it, and inasmuch as enactment will at any rate add to the reasons we are trying to give why men should once more be confident, I am willing to sink any doubts I may have and go along with the committee, desiring to have it put upon record, however, that in this measure, as in all the big measures of this session, the responsibility is that of the administration now controlling the Government. Our position as a minority is that we accept but we refrain from endorsing.

I wish, however, to preface consideration of the proposal with certain observations about insurance. In my time I have seen insurance ideas extended far beyond what anybody would have dreamed when I first became interested in the subject. I have seen each extension met by the same objections raised against insurance of deposits—that it will encourage carelessness and indifference on the part of those protected.

I remember the fight in my own legislature over the Workmen's Compensation Act.

I remember one Saturday afternoon I rode out to the western part of the State in company with one of my fellow legislators who afterward became President of the United States. We were good friends. As I sat with him I noticed that he was gloomy. At last I turned to him and said, "Calvin, what makes you so glum today?" He was then in the senate. He said, "They have just killed my Workmen's Compensation Act."

That was only 25 years ago, and today there is not a man in the United States, in my belief, of any intelligence who would ask us to repeal a workmen's compensation act.

I have seen insurance extended in every direction, and I fail to understand why the depositors in a bank, persons who have no opportunity to know, who have in fact no knowledge about the interior affairs of the bank, who do not know what securities are being bought for the investment on their money or anything else about the use of their money—I do not see why those people also should not be insured against mischance that they cannot guard against and prevent. [Applause.]

But, sir, I recognize the difficulties in the way. I recognize the fact that undoubtedly strong, prosperous, well-con-

ducted banks will have to contribute in some cases by reason of the weakness of some other banks. That is true of all insurance.

I have been insured by a life-insurance policy for the greater part of my life. I am still here, and I hope someone else will not have to cash in on that policy for some time. [Laughter and applause.]

But all these years I have been paying money every quarter for the benefit of dependents of somebody else less fortunate than myself—somebody who met with accident or who was not gifted with equal physical strength to withstand the ravages of time.

Will you say that there should be no insurance because the weak and poor are protected? "God help the poor, the rich can look out for themselves." [Applause.]

So, Mr. Chairman, I am hoping that a sound, prudent system may in the end be agreed upon which will carry into this field the benefits that insurance has brought in so many other fields.

The main issues here, so far as I can make out, are the treatment of the State banks that are not members of the Federal Reserve System and that of the closed member banks. The latter brings to the surface my sense of fairness. There are gentlemen who desire this insurance to be carried so far that every depositor in every bank that is already closed shall receive to the full every penny of his deposits. That is not insurance. That is charity.

Why should you give to one class of the country and not to another? Why should you give to depositors in banks, and not give to the merchants who have failed, not give to the men who have lost their homes by foreclosure of mortgages, not give to all of the other distressed? Why do you make fish of one and fowl of the other? Why draw these distinctions, and say because a man had his money in a bank, therefore, he shall get back every penny? I claim that is unfair, I claim it is unsound, I claim it is unreasonable and ought not to be permitted.

Mr. HOEPPEL. Mr. Chairman, will the gentleman yield?

Mr. LUCE. Hastily.

Mr. HOEPPEL. What do you call this lending of money on securities which have no value? Is that charity, or is it good business on the part of the Government?

Mr. LUCE. Mr. Chairman, the gentleman is inviting me into green fields, where I would like to stray, but unfortunately the hands of the clock persist in traveling, and I must limit my attention to the bill as it is. At the moment I am objecting to these retroactive provisions.

There are other parts of this title which, when it is considered in detail, I may desire to discuss, but I would use the few remaining minutes now at my command to make some general observations upon this bill.

The country has been led to believe we are about to revise our banking system so that hereafter there should be far less danger of suffering by depositors and injury to investors. We have the right to ask whether the assurance that this would be done is herein carried out. I maintain it is not carried out, that there will be grave disappointment when once the people of the land know how little has here been done. I would not be so cruel as to say that the mountain has labored and brought forth a mouse, for that would not be true. There are good things in this bill, things that ought to become law and that I am confident will become law, but it does not go to the heart of the question. The heart of the question you may find in the answer to another question, Why do banks fail?

In the last 10 years one third of the banks of this country have failed. One third of all the banks in this country have been unable to survive under our banking laws. Thousands, yes, millions of our people have been brought to distress by our failure to have a safe, sound, defensible banking system.

This bill does not provide that, it does not face the real issue, it does not attempt to answer the question of why banks fail; and until that question is answered, you will be disappointed. I am not one of those who criticize the President of the United States for taking the advice of men expert in various fields of knowledge. I am a believer in the expert. I ask why the expert is not brought into this field. I ask why the President does not bring to his command the ablest, the soundest, the most thoughtful, if you please, the most progressive men in the United States to tell him why, in the preparation of this bill, we have failed to meet the issue.

Such a group of men will find that we alone of all the countries in the world persist in the system of unit banking. I know that the moment I mention that name I am arousing the prejudice of two thirds of the men who are listening to me. I may be wrong in thinking that unit banking is one of the great causes of our troubles, but let us find out. Let us not rely on what has been virtually the snap judgment of one of your committees. We have had this session in the committee no discussion of that matter worth while. I want that question answered. I want to know why it is that there are no bank failures in England; why there are next to none in Canada; why in all the other countries of the globe there are better banking systems than we have; and so, whether I arouse the ire of some of my good friends on the committee, whether I arouse the ire of others who worship at the throne of unit bankers, I insist that this question will not be settled right until you have studied it and found out all the facts and have ascertained whether it is because of unit banking that we have so much suffered.

By their fruits ye shall know them, and by the fruits of a system under which one third of all its financial institutions go to ruin inside of 10 years—by those fruits certainly you may know something is wrong. You may know it deserves your study, and that there is nothing of more importance to the mechants, to the agriculturalists, to the industrialists, to the workingmen of this country than the discovery of the reason why banks fail. If you will answer that question and find out why banks fail, then you will be able to provide the remedy. [Applause.]

I yield whatever time I have remaining to the gentleman from Maryland [Mr. GOLDSBOROUGH].

Mr. GOLDSBOROUGH. Mr. Chairman, I yield myself the balance of the time.

The CHAIRMAN. The gentleman is recognized for 16 minutes.

Mr. GOLDSBOROUGH. Mr. Chairman, there are three parts to this bill. One attempts to dissociate what are known as "affiliates" from commercial banks, and for that effort Senator GLASS deserves the thanks of the Congress and the country, because he is the father of that very, very important provision of the bill.

Another part of the bill attempts to regulate the open-market operations of the Federal Reserve banks. In that provision I am not in entire accord, because it is an attempt to prevent the Federal Reserve banks from using their open-market operations for the purpose of stabilizing the currency of the country. However, as it is written it would, in my judgment, be totally ineffective, and therefore is not a serious defect in the bill.

No more important measure for the economic security and welfare of the country was ever offered to a legislative body than the bank-deposit insurance plan offered in this bill.

Mr. DUNN. Will the gentleman yield for a question right there?

Mr. GOLDSBOROUGH. I yield.

Mr. DUNN. Does this bill in its present form give the depositors of the banks of the United States a bona-fide guaranty that when they place their money in the bank it will be safe?

Mr. GOLDSBOROUGH. It does. It guarantees all deposits up to $10,000. It guarantees deposits from $10,000 to $50,000 to the extent of 75 percent, and all deposits from $50,000 upward to the extent of 50 percent. I will say to the gentleman who asked the same question of the preceding speaker that within the first 60 years of our national banking system the entire system lost less than $75,000,000. This corporation will have assets of approximately $2,000,000,000.

Mr. MAPES. Will the gentleman yield there?

Mr. GOLDSBOROUGH. I yield.

Mr. MAPES. Does the insurance corporation or guaranty corporation have a first lien upon the assets of a failed bank for whatever it must pay depositors?

Mr. GOLDSBOROUGH. It actually takes over the failed bank and sets up a new institution, pays off the depositors of the old bank, keeps the new institution running for 2 years, and if the local people want to reestablish the institution by buying stock in a new bank, they have 2 years in which to do it.

Mr. MAPES. Can the corporation take all of the assets of the failed bank to pay itself for the payments it makes to the depositors?

Mr. GOLDSBOROUGH. Yes; but after it pays off the depositors and reimburses itself for what it has to pay off, if there is any balance it goes back to the bank, so that it is not a money-making proposition.

Mr. THOM. Will the gentleman yield?

Mr. GOLDSBOROUGH. I yield.

Mr. THOM. In the State of Ohio a great deal of our saving is through the medium of what is known as "building and loan associations." As I understand it, the building-and-loan association originally implied the idea that a person had to be a borrower in that institution, but in our State persons who are not borrowers and not owners of stock deposit their money in the building-and-loan-associations.

Mr. GOLDSBOROUGH. This does not take care of building-and-loan associations.

Mr. KVALE. Will the gentleman yield for a question?

Mr. GOLDSBOROUGH. I will yield briefly, but I only have a few minutes.

Mr. KVALE. Will the gentleman discuss the veto power which the corporation holds over the action of the State banking departments in certifying banks under this act?

Mr. GOLDSBOROUGH. I will go into that. I only have a few minutes, so I must hurry.

The people of this country and of this world owe a great debt to the Chairman of the Committee on Banking and Currency [Mr. STEAGALL], who for 15 years, and for 12 years to my knowledge, has fought this battle for a bank-deposit guaranty. [Applause.] This time this bill will not only pass this House but it will pass the Senate and be signed by the President and will become a law.

Now, I will attempt to answer the question asked by the gentleman from Minnesota [Mr. KVALE]. Under the 5-minute rule the committee will offer two amendments. The chairman of the committee will offer an amendment to strike out section 3 of the bill; and when section 203, subsection (a), is read, I will offer an amendment. That is the subsection that applies to State banks. I will offer this amendment:

> It is not the purpose of this subsection to discriminate in any manner against State nonmember and in favor of national or member banks, but the purpose is to provide all banks with the same opportunity to obtain and enjoy the benefits of this title. No bank shall be discriminated against because its capital stock is less than the amount required for eligibility for admission into the Federal Reserve System.

Mr. BOILEAU. Where is that to be offered?

Mr. GOLDSBOROUGH. That will be offered at the end of subsection (a) of section 302, at the top of page 55.

It seemed necessary to allow this corporation to examine State banks before permitting them to come into this insurance fund. It seemed necessary to let them continue to do it, but we propose to put into the act a rule of interpretation which shall instruct them that that section is not to be used for the purpose of putting the State banks out of business, but for the purpose of allowing the State banks to enjoy the privileges of that act, under the same conditions and circumstances that national banks and member banks can do.

Now, I am going to suggest to the members of the Committee that the Chairman of the Committee on Banking and Currency has for the last 8 months done, to my certain knowledge, the most intensive work on this bill. It would read like a romance if I could tell you the tremendous obstacles he has had to overcome to get this bill before the House. It is not exactly what he would want. It is not exactly what I would want, but it is, in good faith, a workable bank deposit insurance bill. It will actually do what it purports to do; and an individual in this country who puts his money in the bank, if this becomes law, will know that when he wants it he can get it out. [Applause.]

So, please approach the consideration of this bill with the understanding that your committee have gone just as far as they possibly could in helping the small institution in this country, in helping the small depositor; that it was extremely difficult to get any sort of legislation to insure bank deposits at all. The great bankers of this country are all opposed to it. Their power and authority—controlling, as they do, the credit of the country—is almost beyond belief; and it has taken labor, patience, and political strategy to get as far with this sort of legislation as we have been able to. In order that it may not be defeated, in order that nothing may happen to it, I am going to ask the Members of this House to vote down any amendment which is not supported by the committee. I give you my assurance that the committee has gone and will go as far as it can without losing the benefits of the legislation entirely, legislation which will be such a wonderful step in social service, unprecedented in the history of the world.

Mr. HOEPPEL. Mr. Chairman, will the gentleman yield?

Mr. GOLDSBOROUGH. I yield.

Mr. HOEPPEL. I propose to offer an amendment providing that banks may not charge the borrower over 100 percent more than they themselves pay for deposits. I offer the amendment particularly in reference to Postal Savings. The banks of America today have over $1,000,000,000 which they receive from the Government for 2½-percent interest. Under this bill they have the right to charge borrowers up to 7 percent. I think my amendment ought to be accepted prohibiting banks from charging more than 100 percent in excess of the cost to them of getting the money they loan.

Mr. GOLDSBOROUGH. The gentleman, of course, has the privilege of offering any amendment he may see fit. As I indicated before, the committee has gone as far, and will go as far as it can safely go without endangering the life of the bill.

Mr. KVALE. Mr. Chairman, will the gentleman yield?

Mr. GOLDSBOROUGH. I yield.

Mr. KVALE. Once we embark on the guarantee or insurance of bank deposits, would it not be advisable to cease payment of interest upon Postal Savings deposits? Has the gentleman considered the advisability of such a policy?

Mr. GOLDSBOROUGH. I may say to my friend that as soon as the people know their deposits are guaranteed they will forget all about the Postal Savings System.

Mr. ZIONCHECK. Mr. Chairman, will the gentleman yield?

Mr. GOLDSBOROUGH. I yield.

Mr. ZIONCHECK. The gentleman made the statement that this insurance corporation would have a fund of $2,000,000,000.

Mr. GOLDSBOROUGH. Nearly $2,000,000,000.

Mr. ZIONCHECK. Why does this bill require that the United States put in $150,000,000 to start this company going?

Mr. GOLDSBOROUGH. The Government has received about $750,000,000 as earnings of the Federal Reserve banks. It seemed to us it was but fair and right, inasmuch as practically the whole country will get the benefits of this act, that the Federal Treasury should contribute at least a part of the capital.

Mr. ZIONCHECK. Then it will be a contribution of $150,000,000?

Mr. GOLDSBOROUGH. No; the Government takes stock and will be entitled to dividends on its stock.

Mr. McFARLANE. Mr. Chairman, will the gentleman yield?

Mr. GOLDSBOROUGH. I yield.

Mr. McFARLANE. Section (e), page 51, provides that banks shall subscribe certain amounts, up to one half of 1 percent of their total deposits. Is any part of this sub-

scription to be passed on to the depositors, or is it to be solely and wholly paid by the banks themselves?

Mr. GOLDSBOROUGH. It is to be paid by the banks themselves.

Mr. GLOVER. Mr. Chairman, will the gentleman yield?

Mr. GOLDSBOROUGH. I yield.

Mr. GLOVER. The gentleman knows I am for the bill. I voted for every bank guaranty bill that has been brought up, but will not the gentleman make very plain to us how this bill will affect our State banks that are not members of the Federal Reserve, banks having a small capital, say, of $25,000?

Mr. GOLDSBOROUGH. They are not required to have any particular amount of capital to get in.

Mr. GLOVER. The only requirement then, is that they be liquid and solvent and willing to carry out certain conditions imposed on them?

Mr. GOLDSBOROUGH. That is all that is necessary.

Mr. McFARLANE. Mr. Chairman, will the gentleman yield for a further question?

Mr. GOLDSBOROUGH. I yield.

Mr. McFARLANE. In the matter of State banks does not the gentleman believe that a report of the State bank examiner showing the solvency of a State bank should be sufficient so that State banks can operate without a lot of further red tape in the Department in Washington?

Mr. GOLDSBOROUGH. This corporation will only have two members who are connected with the Federal Reserve System and three, the major part, it is provided shall be appointed by the President. This would seem to indicate that the State banks will not be discriminated against. It looks to me as though they will have full and fair opportunity to receive the benefit of the insurance fund.

The CHAIRMAN. The time of the gentleman from Maryland has expired. All time has expired. The Clerk will read the bill for amendment.

The Clerk read as follows:

TITLE I

SECTION 1. As used in this act and in any provision of law amended by this act—

(a) The terms "banks", "national bank", "national banking association", "member bank", "board", "district", and "reserve bank" shall have the meanings assigned to them in section 1 of the Federal Reserve Act, as amended.

(b) Except where otherwise specifically provided, the term "affiliate" shall include any corporation, business trust, association, or other similar organization—

(1) Of which a member bank, directly or indirectly, owns or controls either a majority of the voting shares or more than 50 percent of the number of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions; or

(2) Of which control is held, directly or indirectly, through stock ownership or in any other manner, by the shareholders of a member bank who own or control either a majority of the shares of such bank or more than 50 percent of the number of shares voted for the election of directors of such bank at the preceding election, or by trustees for the benefit of the shareholders of any such bank; or

(3) Of which a majority of its directors, trustees, or other persons exercising similar functions are directors of any one member bank.

(c) The term "holding company affiliate" shall include any corporation, business trust, association, or other similar organization—

(1) Which owns or controls, directly or indirectly, either a majority of the shares of capital stock of a member bank or more than 50 percent of the number of shares voted for the election of directors of any one bank at the preceding election, or controls in any manner the election of a majority of the directors of any one bank; or

(2) For the benefit of whose shareholders or members all or substantially all the capital stock of a member bank is held by trustees.

Mr. WEIDEMAN. Mr. Chairman, I move to strike out the last two words.

WHO GOT THE GOLD

Mr. Chairman, before the Federal Reserve Act came into operation the national banks of the United States kept a percentage of their lawfully required gold reserves in their own vaults on their own premises. Each national bank kept the remainder of its gold reserve with its city correspondent. Gold was widely diffused. There were over 7,000 national banks and each one had gold on its premises. The principle of dividing a risk for safety's sake was well observed. Gold circulated freely in those days. It met the constant challenge of paper money and insured its prompt and quick redemption. The currency of the United States at that time was sound. Now all is changed. United States currency, even gold certificates, which are evidences of contract, have been pronounced irredeemable. The gold of the United States, in a great hoard, is under the control not of the Government but of private interests which have unlawfully taken it away from the people by currency tricks and low-class financial juggling. The blackest page in the history of piracy has been written in the United States during the past 19 years by the administrators of the Federal Reserve Act. To them and to them alone this country owes its ruin.

Mr. Chairman, gold is the prize as it has always been the prize of unscrupulous men.

Twenty years ago the gold in the vaults of our national banks, the gold in the pockets of the people, the gold in the cash drawers of our independent business men, and the gold in the independent United States Treasury attracted the covetous gaze of European financial adventurers. A number of them had already fastened themselves down upon the United States to batten on our growing wealth. Others came and brought the seeds of financial corruption with them. The evil central bank lifted its head here. The United States had twice risen to cast off the accursed thing. The first bank of the United States was unable to obtain a renewal of its charter and went out of existence in the year 1811. The second bank of the United States, commonly known as Biddle's Bank, reached the place where it dominated the Government and it was from that pinnacle of worldly success for itself and ruin for the country that Andrew Jackson, almost single-handed, dislodged it.

WHAT ANDREW JACKSON THOUGHT OF CENTRALIZED BANKS

In his farewell message to the American people, before he went back to the Hermitage, he uttered the following words concerning it:

The immense capital and peculiar privileges bestowed upon it enabled it to exercise despotic sway over the other banks in every part of the country. From its superior strength it could seriously injure, if not destroy, the business of any one of them which might incur its resentment; and it openly claimed for itself the power of regulating the currency throughout the United States. In other words, it asserted (and it undoubtedly possessed) the power to make money plenty or scarce at its pleasure, at any time and in any quarter of the Union, by controlling the issues of other banks and permitting an expansion or compelling a general contraction of the circulating medium according to its own will. The other banking institutions were sensible of its strength, and they soon generally became its obedient instruments, ready at all times to execute its mandates; and with the banks necessarily went also that numerous class of persons in our commercial cities who depend altogether on bank credits for their solvency and means of business, and who are therefore obliged, for their own safety, to propitiate the favor of the money power by distinguished zeal and devotion in its service. The result of the ill-advised legislation which established this great monopoly was to concentrate the whole moneyed power of the Union, with its boundless means of corruption and its numerous dependents, under the direction and command of one acknowledged head, thus organizing this particular interest as one body and securing to it unity and concert of action throughout the United States and enabling it to bring forward upon any occasion its entire and undivided strength to support or defeat any measure of the Government. In the hands of this formidable power, thus perfectly organized, was also placed unlimited dominion over the amount of the circulating medium, giving it the power to regulate the value of property and the fruits of labor in every quarter of the Union, and to bestow prosperity or bring ruin upon any city or section of the country as might best comport with its own interest or policy.

We are not left to conjecture how the moneyed power, thus organized and with such a weapon in its hands, would be likely to use it. The distress and alarm which pervaded and agitated the whole country when the Bank of the United States waged war upon the people in order to compel them to submit to its demands cannot yet be forgotten. The ruthless and unsparing temper with which whole cities and communities were oppressed, individuals impoverished and ruined, and a scene of cheerful prosperity suddenly changed into one of gloom and despondency ought to be indelibly impressed on the memory of the people of the United States. If such was its power in a time of peace,

what would it not have been in a season of war, with an enemy at your doors? No nation but the freemen of the United States could have come out victorious from such a contest; yet, if you had not conquered, the Government would have passed from the hands of the many to the hands of the few, and this organized money power from its secret conclave would have dictated the choice of your highest officers and compelled you to make peace or war, as best suited their own wishes. The forms of your Government might for a time have remained, but its living spirit would have departed from it.

The distress and suffering inflicted on the people by the bank are some of the fruits of that system of policy which is continually striving to enlarge the authority of the Federal Government beyond the limits fixed by the Constitution—

Mr. Chairman, these words might have been written yesterday—

The powers enumerated in that instrument do not confer on Congress the right to establish such a corporation as the Bank of the United States, and the evil consequences which followed may warn us of the danger of departing from the true rule of construction and of permitting temporary circumstances or the hope of better promoting the public welfare to influence in any degree our decisions upon the extent of the authority of the general Government. Let us abide by the Constitution as it is written, or amend it in the constitutional mode if it is found to be defective.

The severe lessons of experience will, I doubt not, be sufficient to prevent Congress from again chartering such a monopoly, even if the Constitution did not present an insuperable objection to it. But you must remember, my fellow citizens, that eternal vigilance by the people is the price of liberty, and that you must pay the price if you wish to secure the blessing. It behooves you, therefore, to be watchful in your States as well as in the Federal Government. The power which the moneyed interest can exercise when concentrated under a single head and with our present system of currency was sufficiently demonstrated in the struggle made by the Bank of the United States.

Defeated in the general Government, the same class of intriguers and politicians will now resort to the States and endeavor to obtain there the same organization which they failed to perpetuate in the Union; and with specious and deceitful plans of public advantages and State interests and State pride they will endeavor to establish in the different States one moneyed institution with overgrown capital and exclusive privileges sufficient to enable it to control the operations of the other banks. Such an institution will be pregnant with the same evils produced by the Bank of the United States, although its sphere of action is more confined, and in the State in which it is chartered the money power will be able to embody its whole strength and to move together with undivided force to accomplish any object it may wish to attain. You have already had abundant evidence of its power to inflict injury upon the agricultural, mechanical, and laboring classes of society, and over those whose engagements in trade or speculation render them dependent on bank facilities the dominion of the State monopoly will be absolute and their obedience unlimited. With such a bank and a paper currency the money power would in a few years govern the State and control its measures, and if a sufficient number of States can be induced to create such establishments, the time will soon come when it will again take the field against the United States and succeed in perfecting and perpetuating its organization by a charter from Congress.

It is one of the serious evils of our present system of banking that it enables one class of society—and that by no means a numerous one—by its control over the currency to act injuriously upon the interests of all the others and to exercise more than its just proportion of influence in political affairs. The agricultural, the mechanical, and the laboring classes have little or no share in the direction of the great moneyed corporations, and from their habits and the nature of their pursuits they are incapable of forming extensive combinations to act together with united force. Such concert of action may sometimes be produced in a single city or in a small district of country by means of personal communications with each other, but they have no regular or active correspondence with those who are engaged in similar pursuits in distant places; they have but little patronage to give to the press, and exercise but a small share of influence over it; they have no crowd of dependents about them who hope to grow rich without labor by their countenance and favor, and who are therefore always ready to execute their wishes. The planter, the farmer, the mechanic, and the laborer all know that their success depends upon their own industry and economy, and that they must not expect to become suddenly rich by the fruits of their toil.

Yet these classes of society form the great body of the people of the United States; they are the bone and sinew of the country—men who love liberty and desire nothing but equal rights and equal laws, and who, moreover, hold the great mass of our national wealth, although it is distributed in moderate amounts among the millions of freemen who possess it. But with overwhelming numbers and wealth on their side they are in constant danger of losing their fair influence in the Government, and with difficulty maintain their just rights against the incessant efforts daily made to encroach upon them. The mischief springs from the power which the moneyed interest derives from a paper currency which they are able to control, from the multitude of corporations with exclusive privileges which they have succeeded in obtaining in the different States and which are employed together for their benefit; and unless you become more watchful in your States and check this spirit of monopoly and thirst for exclusive privileges you will in the end find that the most important powers of Government have been given or bartered away and the control over your dearest interests has passed into the hands of these corporations.

Thus spoke Andrew Jackson, who destroyed the Second Bank of the United States and reestablished in this country the financial freedom of the individual according to the intention of the founders.

With the destruction of the Second Bank of the United States the golden age of America began. What though some people were poor and others were obliged to address themselves to mighty tasks for which the means were not always sufficient, the United States grew upward. The people were united; they became disunited, and then they became united again because, as Lincoln said, the Nation could not endure "half slave and half free", and it was not written in the stars that a nation "so conceived and so dedicated" should perish from the face of the earth. The heroic struggle of the people of the United States from the day when Andrew Jackson broke the monopoly of Biddle's Bank by taking United States Government funds out of it, thereby delivering the United States from the greatest peril that had up to that time beset it, down to the day when a monopoly of money and credit was established here by means of the Federal Reserve Act, was the golden age of the United States.

DANGEROUS BEASTS MAKE SOFTEST APPROACH

Mr. Chairman, I have been told that some of the most dangerous beasts in the jungle make the softest approach. Those who approached the American people in order to obtain their gold walked softly and spoke with what appeared to be gentle reasonableness. The American people were told that panics would be prevented and that no panic would ever happen here again if a part of the reserves of our national banks were put into a central pool for use in emergencies. The American people were unsuspicious. They did not take the trouble to subject the arguments to the test of reason. The Federal Reserve Act was passed, and a part of the gold reserves of every national bank in the country was put into a central pool for the benefit of money lenders and foreign and domestic speculators. While this was being done a great war broke out. There has been a great deal of discussion in regard to the origin of that war. Some say that Germany started it; others say that France was waiting for it; and still others say that England might easily have prevented it. Such discussions always seem to me to be beside the mark. I do not think that nations start wars. I think that financiers give the signal. I do not find the origin of the World War where others look for it.

The international money lenders intended to finance the World War on an inflation of American credit. Several events occurred before the murder of the Archduke at Sarajevo, any one of which might have led to war had the bankers been ready with their apparatus for financing the feuds of Europe with the labor and the products and the wealth and the savings of the American people. Six months after the Federal Reserve Act was passed the war began.

Mr. Chairman, the international bankers were not long content with the percentage of gold reserves placed in a single pool for their benefit by the Federal Reserve Act. They lifted up their eyes to the field and saw that it was white for another harvest. On June 21, 1917, using the war as an excuse, they had the Federal Reserve Board send to the Congress a batch of ill-conceived and disastrous amendments to the Federal Reserve Act. Of these vicious amendments I will, at the moment, mention but one. That was an amendment requiring the national banks to surrender the remainder of their gold reserves to the central pool. Concerning this amendment of June 21, 1917, to section 19 of the Federal Reserve Act, the Honorable Charles A. Lindbergh, of Minnesota, presented a minority report, as follows:

I cannot join with the Committee in recommending that the member banks of the Federal Reserve banks be authorized to remove from their own vaults any portion of reserves now required of them to be kept in their vaults. I was first to suggest in our original committee meetings the reduction of the reserves

required to be kept. That reduction was adopted, I supposed, in the interest of the localities where deposits are made. But this amendment proposes to let the banks remove all the reserves from their vaults. It is admitted to be the purpose, practically stated by Mr. Warburg, a member of the Federal Reserve Board, that all the lawful money be taken from the country generally and placed in the 12 Federal Reserve banks. He stated to the Committee, with reference to the proposed amendment, that, if adopted, "with the pressure we could place upon them, it would be done."

I took down that statement and later asked Mr. Warburg what he meant by "the pressure we could place upon them." His answer indicated that, through the Federal Reserve Board, pressure would be brought to bear on the banks which would practically force them to remove the lawful money from their own vaults and place it in their Federal Reserve banks. While the banks themselves own the Federal Reserve banks and would profit thereby, I do not believe that the smaller country banks would be so disloyal to their localities as to take all the lawful money of their depositors and centralize it into the 12 Federal Reserve cities.

I was opposed to the orginal bill. I know that many Members voted for it under protest, but I doubt that these would have voted for it if the bill then had given to the Federal Reserve banks all the lawful money. Of course, anyone owning any money that is in circulation can get it redeemed. Any bank will accommodate its customers, and also courteously exchange it for others than customers as things now are, but if the bank would be required to ship currency to the reserve centers and have these ship back lawful money it would incur expense. The people may not generally observe whether they have lawful money or not as long as it all passes at par, but if they find out, as they will and have a right to, that the money left to circulate among them is not the best you may find that they will seek the best for the very purpose of hoarding. If the Federal Reserve banks are going to set the example of hoarding the lawful money, not even the bankers could "peep" if the people followed the example.

Congress has given to the bankers the exclusive privilege to inflate the currency several billion dollars. Nearly one and one half billions of dollars are granted to them in the act of August 4 last. If this amendment is passed, allowing the banks to be put in a position where the Federal Reserve Board can "with the pressure" it "could place upon them", force all the lawful money into the Federal Reserve banks, they will be able to secure from Uncle Sam the issue of still more bank currency. What would happen if the whole System were to break down? Who would get the lawful money? Do you think it would be the plain people, who have no time to study the different kinds of money? Would they be the first to get into the vaults of the Reserve banks, which belong to the other banks? No answer is needed. We all know who would get it.

The very purpose of accumulating all this lawful money in the central banks is to make it the basis for further inflation of credit for one thing, and another to enable certain speculators to pluck a prize that will be ready when the readjustment from the effect of the European war begins. This is the credit that the bankers sell, and is in effect backed by Uncle Sam. The plans are laid to sell that credit to an enormous extent in order to reap interest returns from the borrowers to enrich the professional speculators.

We are approaching the limit, the falling-off place. It is utterly impossible to keep the pace. Practically all of us will suffer when the break comes. If it should come while the European war is on, the interests, as well as those responsible for this kind of legislation, will have the good fortune of being able to make the war the goat. But in reality the only thing the war has to do with it is to hasten the day of reckoning. No country can long withstand this drain upon the general population caused by centralized wealth through this process of pyramiding credits on which to collect interest and in payment seize the products of the toilers. After the war there will be a readjustment of world-wide influence. The New York bankers and their affiliated interests everywhere are preparing to make a "ten-strike" in that readjustment. They wish to use the capital of the country—that is, the people's deposits—to accomplish that. That is the purpose of their pressing for this amendment. They want to gather all the lawful money into their 12 Reserve banks. They want the kind of money they can use to buy out the Europeans and make the enormous profits that will result.

That capital may be used by the speculators to make us pay dividends and profits on. It will be just that much more to offset against the labor of the toiling millions—the "reasonable profits", as the courts term it. These people figure far in advance; so in anticipation of the great rake-off that they hope to secure in the near future, they now seek to centralize the aggregate deposits of the lawful money belonging to the people in order that it may be within their control when the prize is ready for plucking. If it were merely a question between our speculators and foreign speculators, we might prefer the success of our own, but why permit them to gather in all of the people's lawful money to make the speculation on?

Mr. Chairman, the more I consider this minority report of the House Banking and Currency Committee by our former Member, the Honorable Charles A. Lindbergh, of Minnesota, the more I admire and respect that man. I regret that he died young and that the House lost the benefit of his moral grandeur and intellectual power. There are those who opposed him in this matter who will bear the mark of Cain to the day of judgment. He sleeps unsullied—the constant champion of the rights of man.

BIG BANKERS RULE FEDERAL RESERVE BOARD

The disastrous amendment that Lindbergh denounced was suggested and recommended by the Federal Reserve Board. It was watched over with jealous care while the bill for its adoption was pending in the Senate and the House. When either Chamber departed from the form dictated to it by the Federal Reserve Board, the matter was at once called to the attention of the legislators. I have read, with a sense of acute distaste, some of the communications which were prepared and sent to members of the Banking and Currency Committee in regard to this and other proposed amendments to the Federal Reserve Act by W. P. G. Harding, who was at that time the Governor of the Federal Reserve Board. I have some of those pages at hand but I will not read them because I do not wish to see them reproduced in the CONGRESSIONAL RECORD, which is, after all, the journal of a legislative body and not the journal of a body which will for long suffer itself to be ordered into action by the Federal Reserve Board. But I will say that the domination attempted to be exercised over Congress as shown by those communications has been continuously in evidence ever since. What the Federal Reserve Board asks for, it expects to obtain. The Federal Reserve Board represents the "invisible government" of the United States.

INTERNATIONAL BANKERS GOT CONTROL OF GOLD

Mr. Chairman, by the passage of this disastrous amendment of June 21, 1917, the private interests which were seeking to have all the gold in the United States placed in a central pool obtained control of all the gold reserves of all the national banks in the United States. Thereafter, a part of every dollar deposited in a national bank was sent to the central pool for the use of discount bankers and speculators. Mr. Chairman, it was a great mistake to seize any part of the gold reserves of our national banks by force of class legislation such as the Federal Reserve Act and it was a worse mistake to require the national banks to surrender the remainder of their gold reserves to the central pool. The reserves of the national banks belong to the national-bank depositors. With what justice could those bank deposits have been arbitrarily taken from the communities where they were earned and deposited and have been sent to the great gambling center of the American continent to feed the maw of international speculation? With what justice can the gold reserves of our national banks be left in that discount bankers' gambling pool now that the stucco-fronted, holier-than-thou Federal Reserve Board has announced the bankruptcy of the Federal Reserve banks? Their bankruptcy has been announced by their refusal to redeem their special Federal Reserve currency.

The Steagall bill shows that the Federal Reserve Board is incompetent to exercise proper supervision over the Federal Reserve banks and that it will cost the Government 150 millions to cushion their mistakes and to have the future losses of national banks transferred to the universal goat, the long-suffering American public. Mr. Chairman, it is no use to beat around the bush. The Federal Reserve System is doomed unless it "mends its ways", and the Wall Street bankers know it. The Federal Reserve banks have violated their charters. They are bankrupt and as for the Federal Reserve Board, which was to have been a "supreme court of banking", it now presents an almost pitiful spectacle. A little group of fallible and frightened men surveying the wreckage of the national banking system of the United States! The international money changers may keep this Board in the Treasury a while longer, but the day is coming when it will have to move out, bag and baggage. Mr. Chairman, this issue is the great political question of the day. The people of the United States are lining up against the creatures of privilege. The people of the United States are demanding a return to the Constitution and a return to democratic self-government. The party of Jefferson will stand with them. The party of Jefferson will stay close to

the people in the approaching struggle, and if there is any disciple of Jefferson, real or pretended, who does not intend to uphold the principles of Jefferson, now is the time for him to make other connections. The party of Jefferson can dispense with him.

We cannot have the present Federal Reserve Act and the Constitution of the United States operating here at one and the same time. The Constitution is a charter of human freedom. The Federal Reserve Act is a charter of monopoly granted to a special class in direct defiance of the Constitution. A certain international banker used to say that if the Federal Reserve System ever got into politics that would be the end of it. It is in politics now, Mr. Speaker, and it is on its way to join the Second Bank of the United States on the scrapheap of special privilege.

[Here the gavel fell.]

Mr. WEIDEMAN. Mr. Chairman, I ask unanimous consent to extend my remarks and to include therein portions of the minority report of former Representative Lindbergh and portions of a statement by former President Jackson and to also include excerpts from volume 136, May 20, 1933, of the Financial Chronicle, concerning the resignation of Eugene Black as Federal Reserve Director at Atlanta.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HASTINGS. Mr. Chairman, everybody appreciates the importance of the pending bill to provide for the safer and more effective use of the assets of banks, to regulate interbank control, to prevent the undue diversion of funds into speculative operations, and for the guaranty of bank deposits.

The bill contains 76 pages and is divided into three titles.

I am going to confine my remarks for the most part to title III, which deals with the subject of the guaranty of bank deposits.

The committees of the House and Senate have been studying the provisions of this bill for more than a year, and the bill now under consideration is the result of the most careful study. There is a great number of amendments included in the bill changing provisions of existing law. These are extremely technical, and Members of Congress not on the Committee on Banking and Currency are unable to give sufficient time to a detailed study of these amendments, particularly to title I, to intelligently and effectively discuss them. Some of them are very far-reaching in effect; but in order that one may familiarize himself with any amendment, he must compare the amended section with the original act and must know the interpretation that has been placed upon the original section. This would require much time and more than the average Member of Congress could devote to the bill.

In the time allotted to me I want to discuss briefly title III, which provides for the creation of a Federal deposit insurance corporation and the guaranty of bank deposits.

I have been advocating the guaranty of bank deposits ever since I have been in Congress. There is a Nation-wide demand for such a law. The guaranty of deposits is, first, in the interest of the general depositors themselves, and particularly the smaller ones. When the amount of money a small depositor has in a bank is lost, as a general thing, he has no other credit, and he therefore suffers a great loss. Second, the guaranty of bank deposits is in the interest of the shareholders of the bank.

This bill provides for the establishment of a fund of approximately $450,000,000, as follows: The Federal Reserve banks are to contribute to the extent of one half of their surplus on January 1, 1933, which will amount to about $150,000,000. There is to be subscribed for stock $150,000,000, to be appropriated out of Government funds, and the banks are required to contribute to the extent of one half of 1 percent of their deposits, and this will provide a fund of approximately $450,000,000.

Further provision is made that the corporation may issue notes, bonds, and debentures in an amount aggregating not more than three times the amount of its capital. This will provide a guaranty fund of approximately $2,000,000,000. In the event a bank is in a failing condition and its assets are taken over by the corporation, the depositors of $10,000 or less are paid in full at once. Seventy-five percent of deposits of $50,000 and 50 percent of the amount of deposits in excess of $50,000 are paid.

The bill takes generous care of State banks and permits them to take advantage of the law by giving them the same privileges of national banks upon compliance with the law by the State banks and subscribing for the same amount of stock as would be required of such State banks or trust companies if they became members of the Federal Reserve System. There is no discrimination against State banks.

The States are of course privileged to enact further bank deposit guaranty laws for the benefit of State banks, but this bill permits both national and State banks to take equal advantage of the provisions of this law. There cannot be any just complaint of any discrimination against State banks.

I have been fighting for the guaranty of bank deposits ever since I came to Congress. Year after year I have introduced such a bill, and during the present session I reintroduced the bill in a slightly amended form, H.R. 3359. This bill would require every bank belonging to the Federal Reserve System to furnish surety bonds for the protection of its depositors. In my State, and I assume this is true of all States where a bank is designated as a depository for public funds, such as Federal, school, county, city, State, or Indian funds, it is required to give a surety bond or to deposit certain securities, such as Government, State, or municipal bonds, to protect these special deposits. I have frequently stated, and want to restate it now in order to emphasize it, that I have never seen any difference in principle in requiring a bank to guarantee the deposit of public funds, such as I have indicated, and those of the general depositors.

The bill which I have introduced would require each bank to insure its own deposits by furnishing a bond of 25 percent of the total or aggregate amount of the general deposits, exclusive of interest-bearing time deposits. The Comptroller of the Currency reports for the year 1927, in his annual report for that year, page 17, as follows:

> The average percentage of dividends paid on claims proved against the 706 receiverships that have been finally closed was 74.74 percent. Had offsets, loans paid, and other disbursements been included in this calculation the disbursements to creditors would show an average of 80.95 percent.

For this reason I thought that a bond of 25 percent would in all but extraordinary cases be sufficient to cover the loss and pay the depositors of any bank. However, I appreciate that during this great emergency, when banking structures have been crumbling, that it will perhaps be impossible for the banks at present to comply with such a law to make bonds in the sum of 23 percent of their total deposits. That could have been done when my bill was first introduced 10 years ago, and I think in normal times that the bill I have introduced is sound in principle and should be enacted into law. Every man insures his own property, his own life, and pays his own premiums. I think when the depression is over that we should enact a law requiring each bank to take out its own insurance for the protection of its general depositors.

I appreciate that this cannot perhaps be done at the present session, and I am therefore in favor of the provision in the bill creating a Federal deposit-insurance corporation. This bill will do more to restore confidence throughout the country than any other bill pending in Congress. It has been stated over and over again that unreasoning fear has seized hold of the people of the country and caused them to withdraw their money from the banks and hoard it, thus taking it out of circulation. This reduces the circulating medium to the extent of the amount hoarded. If this bill is enacted, all depositors great and small would redeposit their money in the banks because they know it would be safe. This would increase bank deposits greatly and from the use of the increased deposits the banks will be able to earn more than the one half of 1 percent of their aggregate deposits assessed against them.

If this bill is enacted, there will be a closer supervision over the banks and there will be fewer failures. When a bank fails there is not only a serious loss to the depositors but the general business of the community suffers, and, of course, the direct loss falls upon the shareholders of the bank. In my judgment it is short-sighted policy for the banks to oppose the payment of one half of 1 percent of their deposits when by so doing they are assured of additional deposits and increased loans.

In 1913 the banks of the country fought the enactment of the Federal Reserve Bank Act but later appreciated that it was a mistake and that the system properly administered was in their interest. As has been stated here today, much depends upon the administration of the law. We must and should assume the law is to be honestly and sympathetically administered, and if this is done it will do more to restore confidence than any other legislation we are to enact during this session of Congress.

There may be some provisions of the bill which need amending. I have not been able to study and analyze all of them. If the bill is enacted, undoubtedly when it is being administered it may be found that other amendments are necessary to be made during the next session of Congress. However, let me say that this bill is a step in the right direction, and that I most heartily favor and approve this or any other bill that has for its purpose the guaranty of general bank deposits. Unfortunately, more than one third of our banks have failed within the last 5 years. This of itself shows the necessity for the enactment of this bill.

Mr. BROWN of Kentucky. Does the gentleman know how the rate in this bill compares with the rates of bonding companies?

Mr. HASTINGS. I do not know what rates the bonding companies would charge such insurance now under present conditions.

Mr. BROWN of Kentucky. They do not do that now.

Mr. HASTINGS. For that reason the provisions of my bill could not be enacted and made effective during this period of depression; but when first introduced, and before the depression, it could have been, and when normal business conditions are restored each bank should guarantee its own deposits. In further answer to the gentleman from Kentucky, I think the rate charged by insurance companies was about one half of 1 percent.

Mr. GREEN. Mr. Chairman, I move to strike out the last three words. I am interested in an amendment which a member of the committee, Mr. GOLDSBOROUGH, may soon offer to the bill, which purports to permit State banks to come under the provisions of the bill. I do not think we could enact any bill that would be more pleasing to the people of the country than a bank insurance law. This is a crying need, and the American people demand it.

It is impossible to enumerate all the injustices and hardships that have been brought about through bank failures. I hope this amendment of Mr. GOLDSBOROUGH will be so worded that there will be no question that the State banks can avail themselves of the privilege of coming under this law, if they so desire and meet the assessments which will be required.

The bill as passed last year in the House provided for this very thing; but if it is left to a Federal Board to administer, I am afraid we will find ourselves in the same predicament that we have been in with some of the Federal bureaus and agencies now in existence. These bureaus rarely meet the needs or wishes of the people, unless they are expressly so commanded.

So I hope the amendment will be so worded that it will be mandatory that if the State banks meet the assessment requirements, they can and must be admitted, rather than to leave it to the discretion of the board.

This is a serious situation with which we are confronted. Banks have been closed up, fortunes of the rich and pennies of the poor carried away, destroyed, or even stolen. Immediately after the collapse of the real-estate boom in my State our citizens lost millions of dollars in deposits, with no recourse, and our people have not even yet been able to overcome these adversities, losses, and hardships. Life savings, checking deposits, charity funds, church funds wiped out alike, leaving many destitute and almost desperate.

It is time that we pass a law so secure that when a man puts his money in a bank he will know for sure that when he comes back it will be there the same as he does when he deposits in his own post office. [Applause.] It is only fair and just that our citizens be protected from the unwise, the unscrupulous, and dishonest.

There is no reason why one man should take another's earnings and use it in wild speculation and also loan it to others unable to pay. This abuse of the American people must cease. Deposits must either be insured or guaranteed or the amount of loans regulated in proportion to capital stock and surplus. This swindling of the American people must cease. Why, the former officials of closed banks are even trying to commit self-destruction. They dread to face the story of their own mismanagement and probable theft. The Congress should and can successfully regulate and control banking. I do not indict all bankers; some are honest and possess the greatest integrity. In some instances it is the system and the economic conditions and not the individual, but there have been those who handle depositors' money in a way that they would not handle their own. I hope this bill will put a stop to this orgy of speculation with depositors' funds thoughout the United States and make safe in the future our bank deposits. [Applause.]

Mr. SISSON. Mr. Chairman, I rise in opposition to the pro-forma amendment. I am in favor generally of all the provisions of this bill, as a member of the committee, and I want to add my humble testimony to the great amount of work that has been done on the bill by the Chairman of the Banking and Currency Committee of the House and by several of the other members of the committee, both majority and minority. Only one thing, in my opinion, has been standing between the people of this country and their being pushed over the brink, perhaps into a communistic state, and that is the confidence and the credit, if you please, the people have had, and I hope still have in the Government of the United States. That is one of the reasons, and it is reason enough, why I am for the deposit-insurance features of the bill, which have been discussed here today and which I will not now attempt to rediscuss.

I call the attention of the House to section 309, page 75, of the bill, for which I, perhaps, more than any other member of the committee, was responsible. That is the section which forbids a bank from engaging in the business of operating an insurance agency. I come from up-State New York. I was born and brought up on a farm. I am familiar with the little village and hamlet, and in every one of those places, as well as in the larger towns and cities, you will find an insurance agent who is capable of and who does honestly advise his clients with regard to all forms of insurance.

To allow any bank to engage in the business of local insurance is to subject that man who maintains an office and who pays a tax to unfair competition. Besides, writing and selling insurance is not a proper function of a bank. I think that is so obvious that further argument on my part is unnecessary.

The gentleman from North Carolina [Mr. HANCOCK] will offer an amendment to this section, which has been considered, and with which I may say in advance I agree. I hope that the entire bill will be passed, and I hope particularly that this section will not be weakened or emasculated, though I am in favor of the amendment of the gentleman from North Carolina. It is in the interest of protecting the man who is expert in his line of business. I refer to a general insurance agent. It is in the interest of protecting him against unfair competition. Perhaps there are other Members of the House of Representatives who have had the experience of going to a bank and trying to get a loan, or a note renewed, and who have in that way learned of the credit pressure that can be put upon one. That is why I am in favor of this, and I am in favor of those who are in need of insurance in any of its forms being given the advice of disinterested experts. [Applause]

Mr. GLOVER. Mr. Chairman, and gentlemen of the committee, in my opinion, this is one of the most important pieces of legislation that has come before this Congress or that could come before it. The country is looking for this kind of legislation. The return to normalcy, the return back to business prosperity, is dependent largely upon legislation of this kind. People want to know when they put their money in a bank, where it may be used, that it is absolutely safe. As it is now, the banks have lost confidence in the people and the people in the banks, and as a result of that condition we have banks transacting practically no business at all. When you pass this bill and insure the depositors of men and women who have saved their earnings, it will go into the banks at once. It is now hiding away. You cannot blame them for it. Take the bank failures we have had in the United States for the last 3 or 4 years, and especially for the last year. Who can blame the individual who has a little hard-earned money for getting a lockbox and hiding his money away. If he puts it in a bank, he does not know whether the bank will fail or not. When this is passed, you are going to find that all that money will flow back into the banks that is now hidden away, and then you will have money to carry on the business of our country. Not only that, but you will have men willing to invest in bank stock. A man who has good judgment and knows how to use his money is very slow to purchase bank stock anywhere at the present time. The truth of the matter is that in the smaller banks nobody would care to invest at all, because if the bank fails they would be called upon for a double assessment, just as they have recently through a court decision in my district, where my friends had to pay $40,000 on a double indemnity. When this legislation passes, there will be none of that. When this is passed and our banks get under this law, my opinion is that we will have very few bank failures thereafter, for the reason that this will bring them under careful and close supervision of those who understand and know a good banking business. And we ought to have that kind of business or we ought not to have any at all.

I am vitally interested in that part of this bill which permits our State banks that are not under the Federal Reserve to come in under this protection. I do not want to support any kind of national legislation that would crush out our smaller banks in the States, that are serving a useful purpose in every community in which they undertake to function. I want to help them, and this bill will help them.

Mr. McGUGIN. Will the gentleman yield?

Mr. GLOVER. Yes; I yield.

Mr. McGUGIN. Does the gentleman have any idea that this bill will do anything other than close out State banks which have small capital surplus?

Mr. GLOVER. Oh, I am not alarmed as the gentleman is on everything that comes up. [Laughter and applause.] I have confidence in the administration of this act. I believe that under the administration of the bill we are now considering, these banks will be taken care of; that is, those that are liquid. I do not believe any other kind of bank ought to receive a man's deposits at all. If it is not in a solvent condition, they have no right to hold out to the public that they are solvent and receive the funds of individuals, and then fail possibly the next day. With this kind of restriction over them, that condition will not prevail. I think this will mean that many of the banks that are now closed, which can come under the provisions of this bill, will come back into active operation [applause], and we will have prosperity come back to this country. I am supporting it on that ground. [Applause.]

The CHAIRMAN. The time of the gentleman from Arkansas [Mr. GLOVER] has expired.

Mr. GLOVER. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. GLOVER. I have the utmost confidence in the Chairman of the Committee on Banking and Currency as well as the committee which has drafted this bill. I know very little about banking myself. I know how to struggle to get out of the red when I get there, and that is about my knowledge of banking; but I do know the effects of banking as well as anybody, and I believe that the committee which has studied this bill has studied it carefully, and I am going along with the committee on the bill and I hope to see it enacted into law and signed by the President and in operation within the next 10 days. [Applause.]

The CHAIRMAN. The time of the gentleman from Arkansas has again expired.

Mr. McGUGIN. Mr. Chairman, I move to strike out the first word.

Now, in considering this bill that which counts is that which is written into the bill, not that which here is glibly spoken, and I invite the attention of the members of the committee to page 22.

Section 5138 provides that no bank shall be given a national charter in a town of less than 6,000 population, except that its capital stock be not less than $50,000.

Then on page 23, the very next page, it specifically provides:

> No applying bank shall be admitted to membership in a Federal Reserve bank unless it possesses a paid-up unimpaired capital sufficient to entitle it to become a national banking association in the place where it is situated, under the provisions of the National Bank Act, as amended.

That means clearly that no State bank anywhere in the United States can enter the Federal Reserve, after the enactment of this law, unless it has a capital of at least $50,000. Now, where does that leave the ordinary country bank in Arkansas or Kansas or the other agricultural States, when it comes to a State bank's applying for membership in the Federal Reserve?

Mr. PATMAN. Will the gentleman yield for a question?

Mr. McGUGIN. No; I cannot yield now. I will later.

Let us turn over to title III, page 53. Section 302 is a joker section as it stands now, and is lulling State banks into destruction if this body permits this bill to be enacted with this section as it now stands. It provides first that State banks shall come in upon certification of the State authority, but then it follows with these words, "After examination by and approval of the Corporation." Why these additional words except to trap the State banks into eternal destruction, and force a 1-bank system in this country? Why these words "after examination by and approval of the Corporation"? Why not let it stand with the provision that State banks shall enter upon a certificate of solvency from their own State authority?

Let us go on down to line 7 on page 54:

> The Corporation is authorized to prescribe rules and regulations for the further examination of such bank or trust company.

It follows as night follows day that that corporation, in the fullness of time, is going to lay down rules equal to entrance into the Federal Reserve System, because this deposit-guaranty fund is set up primarily for Federal Reserve member banks.

Go a little farther down, in line 13:

> If at any time the board of directors of the Corporation is of opinion that any such State bank or trust company has failed to comply with the provisions of this title applicable to such State bank or trust company or that the continued participation by any such State bank or trust company is detrimental to the safe and economical carrying out of the duties of the Corporation under this title.

All of those who are for this bill insist that no bank is safe unless it is a member of the Federal Reserve System or has a capital stock of $50,000 or more. If that is not true, why do you write it into the act that a bank cannot enter the Federal Reserve System unless it has a minimum capital of $50,000? Obviously, because you do not think it is a sound bank, but you leave it in the power of this corporation which will administer this insurance fund, to provide rules and regulations, and to by its arbitrary order, drive State banks from that fund whenever in its judgment it is unsafe for the corporation to leave the bank in it.

There is no excuse for Members of this Congress to stand here and sugar coat their words to the agricultural States,

and permit this crucifixion of the State banks. Those of you who do it, saying you are trying to do something for the State banking system of this country, are either not reading this bill or you are betraying the State banks of this country. It ill-behooves a Democratic Congress to surrender State sovereignty to the extent that a State cannot prescribe its own banking system without bowing to the dictates of a Federal agency. [Applause.]

The CHAIRMAN. The time of the gentleman from Kansas [Mr. McGUGIN] has expired.

Mr. BEEDY. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, in the spirit of calm deliberation let us get our facts straight. There is not any question about this fact. Under the terms of this bill any bank which is not now in existence and which proposes to organize and to become a member of the Federal Reserve System must have a capital stock of at least $50,000. But any State bank now in existence with a capital of $25,000, if it is a sound bank and will submit to a proper examination by this corporation which is undertaking to insure the bank's deposits, can participate in the benefits of this insurance provision. [Applause.]

Why do we set a limit of $50,000 as the necessary amount of capital for banks hereafter to be organized to become members of the Federal Reserve System? To destroy State banks? Certainly not! I do not suppose there is any man in this Chamber who represents a State with more small State banks according to population than I. Why do I vote to support this proposal?

Let me read you some figures: 10,500 banks, in round numbers, with $5,000,000,000 of deposits, failed between 1921 and 1932. Eighty percent of them were nonmember banks, with average deposits of only $350,000. Ninety percent of them were situated in towns of less than 25,000 people. Sixty percent of them were in towns of less than 10,000 people. Fifty-nine percent of them had a capital of less than $25,000. Only one quarter of 1 percent of them had a capital of more than $1,000,000,000. Eighty-five percent of them, unfortunately but most lamentably the fact, 85 percent of them were State banks. Seventy percent of all the loans by the Reconstruction Finance Corporation were made to State banks.

This $50,000 capital stock provision, my friends, was written into this bill in order that this country might be saved, so far as human foresight by a single provision can save it, from a repetition of this bank calamity we have just experienced. [Applause.]

This afternoon a friend of mine, a Member of this Congress from the Second District of Maine, was discussing the pending bill with me. He is an insurance man and is capable of offering pertinent suggestions relating to the insurance-of-deposits section of this proposed legislation.

He said:

> Did it over occur to you that it is a very wise and reasonable provision that the deposit-insurance corporation, if it is to insure bank deposits, should be given the right to examine the bank applying for insurance? Did you ever apply for life insurance when the insurance company did not subject you to a physical examination?

Why should not this corporation have the right to examine the banks whose deposits it is asked to insure?

Mr. Chairman, when this matter is approached in the calm light of reason it will be seen that the provisions of this bill so far as it goes are substantially sound. Every member of this committee has done his best to bring to this House a sensible and sound proposal for the modification of our banking laws.

Mr. McGUGIN. Mr. Chairman, will the gentleman yield?

Mr. BEEDY. I yield.

Mr. McGUGIN. The gentleman will concede, however, that the set-up is essentially a Federal board and the State of Maine will have nothing to say about it.

Mr. BEEDY. But the State of Maine is not undertaking to insure the deposits of banks throughout the country. The deposit-insurance company, if this bill becomes law, must undertake the responsibility of insuring deposits. Its board of directors will be appointed by the President of the United States, and surely no President would ever think of appointing to this board of directors any but public-spirited men, men of sound judgment, whose sole aim will be to deal justly with any bank seeking to protect its depositors. I have faith to believe that the present President of the United States will appoint the right kind of men.

Mr. McGUGIN. Mr. Chairman, will the gentleman yield for a further question?

Mr. BEEDY. I yield.

Mr. McGUGIN. Does the gentleman take the position that when the State banking department of Maine issues a certificate that a Maine bank is solvent, that that is not sufficient and that the gentleman's own State banking department is not dependable but that dependence must be placed upon a Federal board to make this examination?

Mr. BEEDY. That is all right as far as it goes, but I repeat that the State banking department of Maine is not guaranteeing to insure the deposits of the banks and this corporation set up by the Federal Government is. [Applause.] It is a responsibility and obligation assumed in pursuance of Federal law, and the Federal agency should have the right to demand the examination.

Mr. KELLER. Mr. Chairman, will the gentleman yield?

Mr. BEEDY. I yield.

Mr. KELLER. It will be an American board, will it not?

Mr. BEEDY. I have faith enough in the present President, or any President, regardless of the party to which he may belong, to believe that such will be the case.

Mr. KVALE. Mr. Chairman, will the gentleman yield?

Mr. BEEDY. I yield.

Mr. KVALE. Does not the gentleman believe that the powers this corporation is to exercise should be circumscribed a little more closely so we will have some definite assurance that these $25,000 sound banks will not be ruled out?

Mr. BEEDY. I may say to the gentleman from Minnesota that the aim of this corporation must of necessity be to make the insurance feature helpful, and to do so it must admit as many sound banks as possible. Unsound banks are not entitled to impose the hazardous burden of insured deposits upon any institution which aims to make the insurance of deposits a success by admitting only those banks whose moneys are reasonably safeguarded by sound management.

[Here the gavel fell.]

The pro forma amendment was withdrawn.

DESTROY SMALL BANKS

Mr. PATMAN. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman, in connection with the closing of so many banks in the last 12 years, during the time that Mr. Mellon was Secretary of the Treasury, I desire to invite the gentleman's attention to the fact that it is my belief, and I think this belief is corroborated and substantiated by sufficient facts, that there was a deliberate attempt on the part of Mr. Andrew W. Mellon and his Comptroller of the Currency to destroy the small banks of this country.

I think they issued plenty of rules and regulations which had for their purpose the destruction of the small banks of the country. In this connection, it will also be interesting, possibly, to the Membership of the House to know that the Mellon fortune increased from just a relatively small amount before the World War to owning and controlling about $2,000,000,000 at the close of the World War to the enormous sum of $7,990,000,000 at the time he left the office of Secretary of the Treasury and ran off to England.

MELLON WEALTH $7,990,000,000

I invite your attention to a well-written article by one of the writers for the World's Work magazine, Mr. William Preston Beazell, in which he describes the value of the Mellon fortune. He names the companies that are owned and controlled by Mr. Mellon and his family, and the total resources of these companies aggregate not $8,000,000,000, but $7,990,000,000. This is equal to——

Mr. BEEDY. Mr. Chairman, I am not particularly fond of these big fortunes and I do not care to defend Mr. Mellon, but I think under the 5-minute rule we ought to confine our remarks to the bill. This is an intricate, technical bill.

Mr. PATMAN. I think it ill becomes the gentleman from Maine, after taking up as much time as he has taken up this afternoon, to object to anyone talking on a subject which is so closely related to the bill and in answer to what the gentleman himself has discussed.

Mr. BEEDY. I try not to take up too much time, and I am sorry if I have taken up too much of the time of the House.

Mr. PATMAN. In fact, I can bring the remarks within the rule.

Mr. BEEDY. Mr. Chairman, I shall insist on the point of order.

The CHAIRMAN. The gentleman will proceed in order.

Mr. PATMAN. The fortune I have mentioned is twice as much money as the average amount of money that has been in circulation during the past 3 years, or at least twice the average amount in circulation. It is twice all the gold in the United States and is equal to two thirds of all the gold in the entire world. It is equal to one half the value of all the property in the United States in the year 1860. It is equal to twice the value of all agricultural products sold in America by all producers during the year 1932; equal to entire value of all property in Texas or all property in Alabama, Mississippi, and Georgia; or all property in Maryland and Virginia; or all livestock, farm implements, and machinery. It is nearly twice the expenses of the Federal Government in 1 year.

Mr. LUCE. Mr. Chairman, I rise to a point of order. Mr. Chairman, having used more time in the House today than any other Member I feel qualified to accept all the gentleman's comments in this matter. We want to get through this bill today if we can. It is doubtful if we can, but we would like to do it, and I am quite willing to take whatever responsibility may come to my shoulders for protesting against using up time on matters not pertinent to the question now at issue.

The CHAIRMAN. Debate under the 5-minute rule is confined to the bill. The gentleman will proceed in order.

Mr. PATMAN. This is on the question of breaking these banks and Mr. Mellon was then Secretary of the Treasury and caused them to break. More than 10,000 banks closed their doors while he held that position.

Mr. LUCE. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. LUCE. That a discussion of Mr. Mellon is not pertinent to the question before the House.

Mr. PATMAN. Mr. Chairman, I am talking about closed banks and this is what the gentleman from Maine talked about.

The CHAIRMAN. The gentleman will confine himself to the bill.

BIG BANKS VERSUS SMALL BANKS

Mr. PATMAN. This is in connection with banks and banking legislation and answering the gentleman from Maine [Mr. BEEDY]. I want to invite your attention to how the big banks fared during this time. The gentleman from Maine [Mr. BEEDY] has told you about how the little banks got along and I want to tell you something about the big ones.

You take the Union Trust Co., a Mellon-owned and a close corporation in Pittsburgh; it is capitalized at $1,500,000. During the period of time that the gentleman from Maine was talking about, from 1921 to 1932, it has been paying dividends amounting to 206 percent a year.

Mr. LUCE. Mr. Chairman, I insist on the point of order.

Mr. PATMAN. And in addition to that, placing aside——

The CHAIRMAN. Debate under the 5-minute rule is confined to the bill. The gentleman will confine his remarks to the bill.

Mr. PATMAN. Mr. Chairman, of course, I feel this is closely related to the bill and is in connection with the subject matter and is in answer to what the gentleman from Maine [Mr. BEEDY] said about the small banks that were compelled to go out of business—10,000 of them during the last 12 years. He did not say during the reign of Mr. Mellon, but I want to make it plain that it was during the time Mr. Mellon was Secretary of the Treasury [laughter], and I should also like to make it plain why the little banks were taken out of business and why the big banks made 200 percent profit during a like period. The Mellon bank paid over 200 percent in annual dividends during this period, also set aside what was equal to 600 percent annually to surplus or 400 percent a year.

Mr. LUCE. Mr. Chairman, I insist on my point of order.

The CHAIRMAN. The point of order of the gentleman from Massachusetts is well taken. The amendment before the House is to strike out the last four words. The gentleman will proceed in order.

UNFAITHFUL TRUSTEE

Mr. PATMAN. The last word is "trustees" and you know Mr. Mellon was a trustee for the people of this Nation [laughter], and it was his duty and obligation to represent the people and not represent his own special and private interests. You cannot go into any of these public buildings that were constructed during the time he was Secretary of the Treasury and not find all kinds of aluminum. [Laughter and applause.] Mellon produced, Mellon sold at Mellon's price to Mellon for the United States Government.

Mr. LUCE. Mr. Chairman, I rise to a point of order and desire to be heard on the point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. LUCE. Orderly conduct of the proceedings of the House calls for a Member of the House to comply with the direction of the presiding officer. If the Member insists upon disregarding that direction, he not only brings the procedure of the House into disrepute but he wastes the time of the House. Believing the members of the committee in charge of the bill desire that the debate shall be confined to the bill for the common convenience and for the benefit of all the Members, it seems to me appropriate to ask that the Chair enforce its ruling.

Mr. McFARLANE. Mr. Chairman, I make the point of order that the gentleman is not talking to his point of order, but is making a speech that we do not care to listen to.

Mr. PATMAN. Mr. Chairman, I assure the gentleman from Massachusetts that I have covered all I desire to say, and, Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

UNION TRUST CO. OF PITTSBURGH—ANDREW W. MELLON'S BANK

Mr. PATMAN. It was organized by him and owned by him ever since.

	Capital stock	Surplus	Undivided profits [1]	Dividends
1892 [2]	[3] $250,000		$2,764.00	
1893	[4] 250,000		33,833.71	
1894	250,000		35,184.43	
1895	250,000		49,117.92	6 per cent.
1896	250,000		63,612.56	Do.
1897	250,000			Do.
1898	250,000		101,427.73	Do.
1899	250,000		271,732.17	Do.
1900	500,000	$500,000	384,166.66	Do.
1901	500,000	500,000	669,558.14	Do.
1902	1,000,000	5,978,100	486,646.46	Do.
1903	1,500,000	16,000,000	713,131.82	60 per cent.
1904	1,500,000	16,000,000	1,835,760.41	60 percent, 6 percent extra.
1905	1,500,000	20,000,000	689,696.52	Do.
1906	1,500,000	22,000,000	678,703.45	Do.
1907	1,500,000	23,000,000	1,081,569.77	Do.
1908	1,500,000	24,000,000	926,971.45	Do.
1909	1,500,000	25,000,000	1,294,598.18	Do.
1910	1,500,000	26,500,000	871,180.22	Do.

[1] Capital paid in, $125,000.

[2] Figures are taken for the years 1892 (the earliest available) to 1917, from the Annual Report of the Superintendent of Banking, Pennsylvania; for the years 1918–23, from the Bankers Encyclopedia; for the years 1924–26 from Poor's 1926 Volume on Banks; and for the years 1926–33, from Moody's Volumes on Banks and Finance.

[3] Less expenses and taxes paid in for the figures derived from the Annual Report of the Superintendent of Banking.

[4] Capital paid in, $227,200.

	Capital stock	Surplus	Undivided profits	Dividends
1911	$1,500,000	$27,500,000	$1,497,965.83	100 percent, 6 percent extra.
1912	1,500,000	29,000,000	1,040,541.54	Do.
1913	1,500,000	30,000,000	1,416,585.21	Do.
1914	1,500,000	31,000,000	1,213,435.97	Do.
1915	1,500,000	32,000,000	1,586,497.09	Do.
1916	1,500,000	33,500,000	1,344,088.12	140 percent, 6 percent extra.
1917	1,500,000	34,500,000	1,612,382.78	Do.
1918	1,500,000	35,000,000	618,000.00	Do.
1919	1,500,000	34,500,000	1,766,000.00	Do.
1920	1,500,000	35,500,000	464,000.00	Do.
1921	1,500,000	36,500,000	888,000.00	Do.
1922	1,500,000	37,500,000	1,177,000.00	Do.
1923	1,500,000	40,000,000	7,429,000.00	Do.
1924	1,500,000	44,000,000	508,713.00	Do.
1925	1,500,000	47,000,000	175,371.00	Do.
1926	1,500,000	50,000,000	19,340.00	Do.
1927 [5]	1,500,000	52,000,000	409,785.00	200 percent, 6 percent extra.
1928 [5]	1,500,000	55,000,000	123,478.00	Do.
1929 [5]	1,500,000	58,500,000	402,597.00	Do.
1930 [5]	1,500,000	61,500,000	373,930.00	Do.
1931 [5]	1,500,000	63,500,000	492,442.00	Do.
1932 [5]	1,500,000	65,500,000	334,712.00	Do.

[5] From 1927 on, definite figures are available in Moody's for the yearly dividend, yearly net profit, and yearly surplus together with the surplus and dividend profits to $1 of capital, as follows:

	1927	1928	1929	1930	1931	1932
Net profits	$5,480,445	$5,803,693	$6,869,118	$6,061,334	$6,208,511	$5,438,633
Dividends	3,090,000	3,090,000	3,090,000	3,090,000	3,090,000	3,090,000
Surplus for year	2,390,445	2,713,693	3,779,118	2,971,334	3,118,511	2,348,633
Surplus and undivided profits to $1 of capital	34.94	36.75	39.27	41.25	42.66	43.89

Mr. PATMAN. Now, Mr. Chairman, I offer the following amendment.

Mr. STEAGALL. Mr. Chairman, I desire to say that the Committee on Banking and Currency approves of that amendment, and I ask that the House adopt it.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Mr. PATMAN moves to strike out section 3, line 22, page 4, and ending on line 5, page 5, as follows:

"SEC. 3. The first paragraph of section 7 of the Federal Reserve Act, as amended (U.S.C., title 12, sec. 289), is amended, effective July 1, 1933, to read as follows:

"'After all necessary expenses of a Federal Reserve bank shall have been paid or provided for, the stockholders shall be entitled to receive an annual dividend of 6 percent on the paid-in capital stock, which dividend shall be cumulative. After the aforesaid dividend claims have been fully met, the net earnings shall be paid into the surplus fund of the Federal Reserve bank.'"

Mr. PATMAN. Mr. Chairman, I discussed that fully last Saturday, and I have nothing further to say.

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

The Clerk read as follows:

SEC. 4. (a) The first paragraph of section 9 of the Federal Reserve Act, as amended (U.S.C., title 12, sec. 321; supp. VI, title 12, sec. 321), is amended by inserting immediately after the words "United States" a comma and the following: "including Morris Plan banks and other incorporated banking institutions engaged in similar business."

(b) The second paragraph of section 9 of the Federal Reserve Act, as amended (U.S.C., title 12, sec. 329), is amended by adding at the end thereof the following: *"Provided, however,* That nothing herein contained shall prevent any State member bank from establishing and operating branches in the United States or any dependency or insular possession thereof or in any foreign country, on the same terms and conditions and subject to the same limitations and restrictions as are applicable to the establishment of branches by national banks."

(c) Section 9 of the Federal Reserve Act, as amended (U.S.C., title 12, secs. 321–331; supp. VI, title 12, secs. 321–331), is further amended by adding at the end thereof the following new paragraphs:

"Any mutual savings bank having no capital stock but having surplus and undivided profits not less than the amount of capital required for the organization of a national bank in the same place may apply for and be admitted to membership in the Federal Reserve System in the same manner and subject to the same provisions of law as State banks and trust companies, except that such savings bank shall subscribe for capital stock of the Federal Reserve bank in an amount equal to six tenths of 1 percent of its total deposit liabilities as shown by the most recent report of examination of such savings bank preceding its admission to membership. Thereafter such subscription shall be adjusted semiannually on the same percentage basis in accordance with rules and regulations prescribed by the Federal Reserve Board. If any mutual savings bank applying for membership is not permitted by the laws under which it was organized to purchase stock in a Federal Reserve bank, it shall, upon admission to the system, deposit with the Federal Reserve bank an amount equal to the amount which it would have been required to pay in on account of a subscription to capital stock. Thereafter such deposit shall be adjusted semiannually in the same manner as subscriptions for stock. Such deposit shall be subject to the same conditions with respect to repayment as amounts paid upon subscriptions to capital stock by other member banks, and the Federal Reserve bank shall pay interest thereon at the same rate as dividends are actually paid on outstanding shares of stock of such Federal Reserve bank. If the laws under which such savings bank was organized be amended so as to authorize mutual savings banks to subscribe for Federal Reserve bank stock, such savings bank shall thereupon subscribe for the appropriate amount of stock in the Federal Reserve bank, and the deposit hereinbefore provided for in lieu of payment upon capital stock shall be applied upon such subscription. If the laws under which such savings bank was organized be not amended at the next session of the legislature following the admission of such savings bank to membership so as to authorize mutual savings banks to purchase Federal Reserve bank stock, or if such laws be so amended and such bank fail within 6 months thereafter to purchase such stock, all of its rights and privileges as a member bank shall be forfeited and its membership in the Federal Reserve System shall be terminated in the manner prescribed elsewhere in this section with respect to State banks and trust companies. Each mutual savings bank shall comply with all the provisions of law applicable to State member banks and trust companies, with the regulations of the Federal Reserve Board, and with the conditions of membership prescribed for such savings bank at the time of admission to membership, except as otherwise hereinbefore provided with respect to capital stock."

Mr. McFARLANE. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 5, strike out all of section 4 (b) from line 12 to line 21, inclusive, page 5.

Mr. McFARLANE. Mr. Chairman, this is the section that provides an extension of the right of State banks to establish branch banks. I want to call the attention of the Members of the House to the provision of the law as it now exists. This provision, section (b), contained in this bill, changes that.

It reads as follows:

(b) The second paragraph of section 9 of the Federal Reserve Act, as amended (U.S.C., title 12, sec. 329), is amended by adding at the end thereof the following: *"Provided, however,* That nothing herein contained shall prevent any State member bank from establishing and operating branches in the United States or any dependency or insular possession thereof or in any foreign country on the same terms and conditions and subject to the same limitations and restrictions as are applicable to the establishment of branches by national banks."

Under this provision, which is foreign to all other provisions of the bill, you will notice that it permits any State-bank member to establish and operate branches anywhere in the United States if permitted to do so under State law. It is extending the system of chain banks and as it applies to State-bank members that have not the privilege under the law.

Our State-bank association has gone on record in strong resolutions in opposition to chain branch banks. They have said in their resolutions in no uncertain terms that they are opposed to chain banking. I have not heard nor have we been shown in any of the speeches here so far why we should at this time particularly extend the system of branch or chain banking as it applies to the respective States.

Mr. McKEOWN. Mr. Chairman, will the gentleman yield?

Mr. McFARLANE. Yes; I yield.

Mr. McKEOWN. Does the gentleman in his State allow interlocking directorates and ownership of banks by certain groups of individual bankers?

Mr. McFARLANE. I am not sure about that. I think I know what the gentleman has in mind—group banking. I am opposed to that system of banking just as much as I am to chain banking.

Mr. McKEOWN. The gentleman has that system in his State?

Mr. McFARLANE. Yes; but I do not favor it, and I do not favor extending the system any further than it is now. Our bankers are not asking for it. I see no reason why we should put a provision like this into a perfectly good bank insurance law, in order to give the banks of certain States additional chain-banking privileges and rights. I do not believe it is right or that the country needs that kind of legislation.

Mr. McKEOWN. The gentleman agrees that State banks ought to have a right to come into the guaranty system?

Mr. McFARLANE. I am in favor of that, but I do not think we ought to wrap the chains around the necks of the bankers any more than they are wrapped at the present time. I do not think it is right to extend the system of branch banking any further than it is now.

I call the attention of the membership particularly to a letter that was written to Senator LEWIS, showing the large number of branch-bank failures in the United States and abroad in the last few years. It is a very illuminating article. Some gentlemen have referred here in their speeches to the strength of branch banking.

Is there safety in branch banking? Witness the closing of the branch-banking systems in the United States when they were put to the test. The most disastrous failures we had were branch, group, and chain failures, such as the following:

Bank of United States, New York, 59 branches; Federal National, Boston, 8 branches; Banco Kentucky group, 7 branches; A. B. Banks, American chain, Arkansas, 27 branches; Manley chain, Georgia, 87 branches; Bain Banks, Chicago, 12 branches; Bankers Trust Co., Pennsylvania, 20 branches; United States National, Los Angeles, 8 branches; Security Home Trust, Toledo, 10 branches; Peoples State Bank, South Carolina, 44 branches; Arizona State Bank, 5 branches; and Foreman National group, Chicago, 6 branches.

To this rather impressive group, with deposits running into hundreds of millions of dollars, of branch- and chain-bank collapses, which were due to many of the same abuses that weaken unit banks, I could name important branch-, group-, and chain-banking systems in Detroit, Boston, San Francisco, and other cities which got into trouble and merged or were supported by other banks or United States credit until the crisis was past.

The weakest links in our banking system proved to be the "branch banks", and they went down comparatively early in the depression. It was their failures that caused public confidence to be shaken so badly that runs were precipitated on and closed many well-managed small independent banks.

[Here the gavel fell.]

The CHAIRMAN. The time of the gentleman from Texas has expired. The question is on the amendment offered by the gentleman from Texas.

The question was taken; and on a division (demanded by Mr. CHRISTIANSON) there were—ayes 10, noes 62.

So the amendment was rejected.

Mr. GIBSON. Mr. Chairman, I move to strike out the first four words on page 6.

When the distinguished gentleman from Massachusetts [Mr. LUCE] was speaking he referred to mutual savings banks as a New England institution, and it occurred to me that the experience in my State might be of interest in connection with this section. We have a State made up of rural communities. We have 20 mutual savings banks. We have 19 savings banks and trust companies combined; that is, these have a savings-bank department and a commercial department. We also have 16 trust companies. We have had no failure of a mutual savings bank in 50 years. We have had no failure of a trust company with one exception during that period of time. We had no banks close up to the time of the bank holiday, and I have a feeling that our country bankers could have worked through this depression if they had been left alone.

The mutual savings banks and trust companies in my State, particularly, have been a great reservoir from which the West and the South have drawn for a portion of their material prosperity. We have from these banks in the small communities nearly $50,000,000 invested today in farm mortgages in the West and the South, and we consider them a fairly good investment. We do not begrudge at all the toil which was necessary to dig that out of the soil. So the prosperity of other sections is our prosperity. I repeat, if these had been left alone they could have gotten along during the depression, because I believe the country bankers know more about the banking facilities and the needs of these local communities than all the Federal Reserve officials put together. [Applause.]

Mr. WEIDEMAN. Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Page 5, lines 6 to 11, strike out subsection (a) of section 4.

Mr. WEIDEMAN. Mr. Chairman, this section attempts to bring the Morris Plan Banks within the protection of the Federal Reserve Act. I do not think by any stretch of the imagination, at the inception of this act or any time since, has it been the purpose of the originators of the act or anyone else to make it possible for the Morris Plan Banks or any similar small-loan plan bank to be able to come within the provisions of this law. You gentlemen know what these banks are. They loan money to the small-wage earners. They not only get security, but they get double security. They always demand two endorsers, and everyone signs his life away to them when he gets the loan. They get a high rate of interest. One endorser has to be a man who has a Government or State or municipal position and the other must show a good line of credit. That is practically the only kind of banking they do.

I say we should strike subsection (a) from section 4 entirely.

Mr. BOILEAU. Will the gentleman yield?

Mr. WEIDEMAN. I yield.

Mr. BOILEAU. What protection is given to the Morris Plan Bank under this bill?

Mr. WEIDEMAN. What protection need we give them? The Morris Plan Bank is owned by the Chemical National Bank, of New York.

Mr. BOILEAU. I think this paragraph amends the original Federal Reserve Act. What provision of the Federal Reserve Act does this apply to?

Mr. WEIDEMAN. Section 9 of the Federal Reserve Act, pages 14 and 15, referring to admission to membership. It makes them members of the Federal Reserve System. You will find that in section 9, page 4 of the act. I do not think there should be any argument on this.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. WEIDEMAN].

The question was taken; and on a division (demanded by Mr. WEIDEMAN) there were ayes 36 and noes 64.

So the amendment was rejected.

The Clerk read as follows:

SEC. 5. (a) The second paragraph of section 10 of the Federal Reserve Act, as amended (U.S.C., title 12, sec. 242), is amended to read as follows:

"The Secretary of the Treasury and the Comptroller of the Currency shall be ineligible during the time they are in office and for 2 years thereafter to hold any office, position, or employment in any member bank. The appointive members of the Federal Reserve Board shall be ineligible during the time they are in office and for 2 years thereafter to hold any office, position, or employment in any member bank, except that this restriction shall not apply to a member who has served the full term for which he was appointed. Upon the expiration of the term of any appointive member of the Federal Reserve Board in office when this paragraph as amended takes effect, the President shall fix the term of the successor to such member at not to exceed 12 years, as designated by the President at the time of nomination, but in such manner as to provide for the expiration of the term of not more than one appointive member in any 2-year period, and thereafter each appointive member shall hold office for a term of 12 years from the expiration of the term of his predecessor. Of the 6 persons thus appointed, 1 shall be designated by the President as governor and 1 as vice governor of the Federal Reserve Board. The governor of the Federal Reserve Board, subject to its supervision, shall be its active executive officer. Each member of the Federal Reserve Board shall within 15 days after notice of appointment make and subscribe to the oath of office."

(b) The fourth paragraph of section 10 of the Federal Reserve Act, as amended (U.S.C., title 12, sec. 244), is amended to read as follows:

"The principal offices of the Board shall be in the District of Columbia. At meetings of the Board the Secretary of the Treasury shall preside as chairman, and, in his absence, the governor shall preside. In the absence of both the Secretary of the Treasury and the governor the vice governor shall preside. In the absence of the Secretary of the Treasury, the governor, and the vice governor the Board shall elect a member to act as chairman pro tempore. The Board shall determine and prescribe the manner in which its obligations shall be incurred and its disbursements and expenses allowed and paid, and may leave on deposit in the Federal Reserve banks the proceeds of assessments levied upon them to defray its estimated expenses and the salaries of its members and employees, whose employment, compensation, leave, and expenses shall be governed solely by the provisions of this act, specific amendments thereof, and rules and regulations of the Board not inconsistent therewith; and funds derived from such assessments shall not be construed to be Government funds or appropriated moneys. No member of the Federal Reserve Board shall be an officer or director of any bank, banking institution, trust company, or Federal Reserve bank or hold stock in any bank, banking institution, or trust company; and before entering upon his duties as a member of the Federal Reserve Board he shall certify under oath that he has complied with this requirement, and such certification shall be filed with the secretary of the Board. Whenever a vacancy shall occur, other than by expiration of term, among the six members of the Federal Reserve Board appointed by the President as above provided, a successor shall be appointed by the President, by and with the advice and consent of the Senate, to fill such vacancy, and when appointed he shall hold office for the unexpired term of his predecessor."

Mr. COLMER. Mr. Chairman, I offer an amendment, which is at the desk.

The Clerk read as follows:

Amendment by Mr. COLMER: On page 10, line 2, after the word "moneys", insert "*Provided, however,* That no salary or other compensation shall be paid by said Federal Reserve Board to any of its governors, officers, agents, or employees in excess of $15,000 per annum."

Mr. LUCE. Mr. Chairman, I make the point of order that the amendment is not germane. There is nothing in this provision about salaries of members.

The CHAIRMAN. Does the gentleman from Mississippi [Mr. COLMER] desire to be heard on the point of order?

Mr. PATMAN. Mr. Chairman, I desire to be heard on the point of order.

The CHAIRMAN. The Chair will hear the gentleman from Texas [Mr. PATMAN].

SALARIES OF FEDERAL RESERVE OFFICIALS

Mr. PATMAN. This section has to do with setting the salaries of the officers and employees of the Federal Reserve Board and those working for the Federal Reserve banks. Under section 3 of this act, and under section 7 of the original Federal Reserve Act, all money that is earned by Federal Reserve banks is applied as follows: First, current operating expenses, which usually amount to $27,000,000 or $29,000,000 a year are paid; secondly, 6-percent dividends, paid on the capital stock of the banks, actually paid in; third, the remainder, after a proper surplus fund has been accumulated, goes into the Treasury of the United States. Therefore, the more money that is spent by the Federal Reserve Board for officers and employees, the less money goes to the Treasury of the United States. It is certainly material, since it amounts to an appropriation of public funds, that we restrict the salaries of the officers and employees, if we desire to restrict their salaries. It is public money and comes within this section which relates to the payment of officers and employees.

The CHAIRMAN. Does the gentleman from Massachusetts desire to be heard?

Mr. LUCE. I submit the matter, Mr. Chairman.

The CHAIRMAN (Mr. CANNON of Missouri). The point of order is sustained.

The Clerk read as follows:

SEC. 7. The Federal Reserve Act, as amended, is amended by inserting between sections 12 and 13 (U.S.C., title 12, secs, 261, 262, and 342) thereof the following new section:

"SEC. 12A. (a) There is hereby created a Federal Open Market Committee (hereinafter referred to as the 'committee'), which shall consist of as many members as there are Federal Reserve districts. Each Federal Reserve bank by its board of directors shall annually select one member of said committee. The meetings of said committee shall be held at Washington, District of Columbia, at least four times each year, upon the call of the governor of the Federal Reserve Board or at the request of any three members of the committee, and, in the discretion of the Board, may be attended by the members of the Board.

"(b) No Federal Reserve bank shall engage in open-market operations under section 14 of this act except in accordance with regulations adopted by the Federal Reserve Board. The Board shall consider, adopt, and transmit to the committee and to the several Federal Reserve banks regulations relating to the open-market transactions of such banks and the relations of the Federal Reserve System with foreign central or other foreign banks.

"(c) The time, character, and volume of all purchases and sales of paper described in section 14 of this act as eligible for open-market operations shall be governed with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country.

"(d) If any Federal Reserve bank shall decide not to participate in open-market operations recommended and approved as provided in paragraph (b) hereof, it shall file with the chairman of the committee within 30 days a notice of its decision, and transmit a copy thereof to the Federal Reserve Board."

Mr. STOKES. Mr. Chairman, I offer an amendment which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. STOKES: On page 12, line 1, strike out the whole of subsection (b) and insert in lieu thereof the following:

"*Provided, however,* That the Federal Reserve Board shall have power to prohibit any operations which any Federal Reserve bank is authorized by this section to conduct, when the volume or extent of said operation is, in the judgment of the Board, calculated to affect the general credit situation of the country or the relations of the Federal Reserve System with foreign, central, or other foreign banks."

Mr. STOKES. Mr. Chairman, this section (b) would practically restrict Federal Reserve banks in all purchases of Government bonds, and open-market operations and the purchase of gold. Open-market operations of the Federal Reserve banks is a matter which they have been working up for the past 10 or 15 years, and it is of very great advantage to the merchants of the country, because they can borrow on those bills at very low rates of interest, anywhere from one half or three quarters of 1 percent or 1 percent, whereas if this section is not stricken, it leaves the entire matter to the discretion of the Federal Reserve Board in Washington, a political body appointed by the President. In case we should have a poor board it might affect the entire operations of these very important banks.

I urge the Membership to vote for the amendment.

Mr. McFADDEN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania [Mr. STOKES].

I do this to call particular attention to this section of the bill. It is one of the most important sections of the bill. It deals with the open-market transactions of the 12 Federal Reserve banks. I desire to speak with particular reference to the operations carried on by the New York Federal Reserve Bank.

Under the amendment proposed by the gentleman from Pennsylvania [Mr. STOKES] the New York Federal Reserve Bank and any other of the 12 banks will be permitted to carry on open-market operations just as they have been doing over the past several years in paper originating in any country in the world. His amendment apparently is to leave the right about where it is at present. I wonder if the Members of the House really know and understand the authority that this section gives and the practical operations of the Federal Reserve as carried on in the open market, which is being made wide open here? You are now authorizing and making legal the right to the Federal Reserve Board and through them to the 12 Federal Reserve banks to buy and sell foreign business paper. The Federal Reserve credit can be used to finance operations between any foreign country, and they will be given the low rate of interest that prevails in open-market transactions in the United States. It has been the common practice of the Federal Reserve for the past several years to carry on those transactions and finance foreign competitors of United States industry. I have called attention to this section repeatedly. It is one of the most important we can deal with.

Are you willing to finance foreign business to the detriment of American industry who employ American labor.

Then if you are vote for these amendments to the open-markets provisions of the Federal Reserve Act, proposed in this bill. It is what the Bank of England, the Bank of France, and the Reichsbank of Germany, want you to do.

In this bill you are authorizing the appointment of a new committee, supposedly to be picked from one of the official family of each of the Federal Reserve districts, but I would call your attention to the fact that there is no such limitation. If each one of the 12 Federal Reserve banks see fit to pick a man, a specialist in New York City to represent it, this entire open-market committee can be in New York City. That is where the open market is located. That is where this foreign paper comes to the United States. It comes over to the big acceptance houses in New York City.

I do not know what they are going to do. It may be these 12 banks are going to call on some foreigners to sit in to supervise these open-market transactions. They can do so under the provisions of this section, if they see fit to, because there is absolutely no restriction as to whom they shall appoint. This amendment provides that each Federal Reserve district may appoint a man.

Now, I know that the officers of many of the other Federal Reserve banks have been complaining because they did not want to handle all these open-market operations that the New York banks wanted them to handle. I happen to know that some of the officers of the other 11 banks have been very much disturbed about the transactions that were carried on in financing the foreigners in their own transactions between their own countries. All has not been complete harmony in financing the foreigner.

If you want to extend this opportunity along those lines, to use cheap Federal Reserve credit and continue to charge Americans who are engaged in industry and who employ American labor at higher rates, this is the plan by which to do it. The thing this amendment does in changing the present activities is that it permits these members of the open-market committee to be picked anywhere the management sees fit to pick them and legalizes this foreign acceptance business under the Federal Reserve Board.

Mr. WEIDEMAN. And the open-market committee has as a medium of their operation 10 or 11 distinct corporations now existing, for example, the Discount Corporation of New York, the American Securities Co., the First National, the Old Colony Corporation, and so forth.

Mr. McFADDEN. Yes; I may say to the gentleman that is where the open-market transactions originate. The International Acceptance Bank was one of these discount houses. Hundreds of millions of dollars—yes, billions of dollars—worth of these acceptances flow in from foreign countries to be purchased by Federal Reserve and member banks and others who have money to invest.

Mr. WEIDEMAN. To get it into the RECORD, the Discount Corporation of New York has as acceptances and assets $147,000,000, and that listed as directors are Mr. J. P. Morgan, Mr. Albert H. Wiggin——

Mr. McFADDEN. Yes; and many others of the same kind. I would like to yield to the gentleman, but I cannot.

There are nine of these acceptance houses in New York who make a practice of accumulating this open-markets paper from foreigners, discounting paper that originates in Germany, in China, in South America, and everywhere else. There is now in operation the stand-still committee headed by Albert H. Wiggin, of New York, dealing with billions of dollars worth of this credit that is tied up and frozen in Germany and is now held by the Federal Reserve and the banks of the United States which they got through this channel, all approved by the Federal Reserve Board and banks.

I am simply calling it to the attention of the House. I realize how useless it is to attempt to amend this bill, but I do not want this bill to pass without the House at least knowing what it is doing.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment of the gentleman from Pennsylvania.

The amendment was rejected.

The Clerk read as follows:

SEC. 9. Section 14 of the Federal Reserve Act, as amended (U.S.C., title 12, secs. 353 to 358), is amended by adding at the end thereof the following new paragraph:

"(g) The Federal Reserve Board shall exercise special supervision over all relationships and transactions of any kind entered into by any Federal Reserve bank with any foreign bank or banker, or with any group of foreign banks or bankers, and all such relationships and transactions shall be subject to such regulations, conditions, and limitations as the Board may prescribe. No officer or other representative of any Federal Reserve bank shall conduct negotiations of any kind with the officers or representatives of any foreign bank or banker without first obtaining the permission of the Federal Reserve Board. The Federal Reserve Board shall have the right, in its discretion, to be represented in any conference or negotiations by such representative or representatives as the Board may designate. A full report of all conferences or negotiations, and all understandings or agreements arrived at or transactions agreed upon, and all other material facts appertaining to such conferences or negotiations, shall be filed with the Federal Reserve Board in writing by a duly authorized officer of each Federal Reserve bank which shall have participated in such conferences or negotiations."

Mr. PATMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PATMAN: On page 15, line 11, at the end of the paragraph, add the following: "*Provided, however,* That no agreement shall be made that will directly or indirectly permit the credit of the United States Government for the assets of any Federal Reserve bank to be used or pledged in any way or manner whatsoever in furtherance of a world bank."

Mr. GOSS. Mr. Chairman, I make the point of order that the amendment is not germane.

The CHAIRMAN. The Chair will hear the gentleman from Connecticut.

Mr. GOSS. Mr. Chairman, I make the point of order the amendment is not germane. I think it is up to the gentleman from Texas to prove that it is germane.

The CHAIRMAN. The Chair will hear the gentleman from Texas.

POINT OF ORDER

Mr. PATMAN. Mr. Chairman, this section has reference to agreements entered into by and between the Federal Reserve bank of the United States and banks of foreign countries. This amendment provides that a Federal Reserve bank shall not enter into any agreement that will directly or indirectly permit the pledging of the credit of the United States or the assets of any Federal Reserve bank in connection with the establishment of a world bank.

The CHAIRMAN. The Chair overrules the point of order.

MONEY MANUFACTURING PLANT

Mr. PATMAN. Mr. Chairman, it is all right for the credit of this Nation to be used for the people of the United States. The Bureau of Engraving and Printing employs about 5,000 people. That is the place where the paper money is printed. This great manufacturing plant turns out every day from $1,000,000 to $30,000,000 of plain greenbacks, or paper money. The Federal Reserve notes are issued there and delivered from the Bureau of Engraving and Printing to a Federal Reserve bank.

MORTGAGE ON ALL PROPERTY OF PEOPLE

Each Federal Reserve note that is so delivered represents a mortgage upon all the homes and other property of all the people of this Nation. It is a mortgage upon the incomes of all the people. We can justify the issuance of this credit for the benefit of the people of the United States, but I would like to know from the members of this committee, or any Member of this House, how we can justify mortgaging the property of this Nation and the incomes of the people in aid and furtherance of a world bank, or furthering the business of a foreign country.

EXPORTATION AND IMPORTATION OF GOODS

In the original Federal Reserve Act it is stated that Federal Reserve banks may use the credit of this Nation for the exportation and importation of goods, clearly meaning goods exported from and to the United States.

However, the Federal Reserve Board in the past, having been so anxious to use the credit of this Nation for the interest of those in foreign countries and possibly in the interest of international bankers here in America, has con-

strued this language to mean that the credit of this Nation may be used for the exportation and the importation of goods between foreign countries when the goods do not touch the United States at all. For instance, if a German merchant or manufacturer desires to sell goods to a merchant in Japan, he can draw his draft in dollars, get it accepted in New York, have it delivered to the Federal Reserve bank, and draw out Federal Reserve notes before these goods ever leave Germany to go to Japan; and all during the time these goods are being manufactured and stored in Germany and all during the time they are being shipped to Japan and delivered there, the credit of this Nation, which represents a mortgage upon all the property of this country, is used to finance the sale of these goods.

I know you can justify the use of this credit for our own people, but I do submit that we should not use this credit and this power for foreign countries or for foreign people in opposition to and in competition with citizens of the United States of America. [Applause.]

[Here the gavel fell.]

Mr. McFADDEN. Mr. Chairman, I do not desire to speak in opposition, but I rise in opposition to the amendment, if the committee will permit, to confirm what the gentleman from Texas [Mr. PATMAN] has just said.

I should like to go a little farther to elucidate these transactions and show you that when the transaction has been consummated, as the gentleman from Texas has pointed out, the foreigners hold these first mortgages against the people of the United States in the form of Federal Reserve notes.

We know from the Treasury, in a statement that was issued recently, that the foreigners hold $600,000,000 worth of our gold certificates, undoubtedly acquired in the same manner, in the settlement of transactions with the Federal Reserve bank in financing transactions between foreign countries in which the United States has no interest whatsoever, except to furnish the money to finance foreign competitors of United States industry.

Why, in this open-market provision which we have just agreed to here, you open up the opportunity, if you intend to issue $3,000,000,000 worth of Federal Reserve bank notes or greenbacks, for the Federal Reserve System to buy in the open market $3,000,000,000 worth of paper representing foreign trade transactions between foreign countries.

There is not any question about the part the Federal Reserve is playing in aiding and assisting these foreign competitors of the people of the United States through the operations that are carried on with the central banks and with the Bank of International Settlements.

Why, at the coming economic conference at London what are you going to do? You are going to enlarge the possibilities of the Bank for International Settlements to absorb the money and the credit of the United States in financing the foreigners as against the American people. There is not any question about that. They are all provided for, and the agent of the governor of the Bank of England, Prof. O. M. W. Sprague, came here last Saturday and visited the Treasury and the White House for the purpose of arranging a standardization of exchanges in preparation for the benefits which England and the other countries will receive when this bill has been passed by the Congress of the United States. They want this open-market amendment; are you going to give it to them?

I should like to know who is back of this bill. According to a statement that was issued today from the White House, this is not a part of the emergency program, but, apparently, influences are behind this effort to slip the measure through under the guise of a guaranty of bank deposits which, of course, everybody wants. However, you are doing things in this bill that are surrendering the financial supremacy of the people of the United States, through the Federal Reserve, to these international bankers who are operating and propose to operate through building up the Bank for International Settlements to control the issuance of an international money and give them complete control of money and credit throughout the whole world. If you want to do this, accept the amendment provided in this bill and you will completely deliver the finances of this country that have not already been delivered to the business interests and bankers of these foreign countries.

Mr. DUNN. Will the gentleman yield?

Mr. McFADDEN. I yield.

Mr. DUNN. Is the gentleman in favor of the amendment just offered by the gentleman from Texas [Mr. PATMAN]?

Mr. McFADDEN. Yes; I shall favor the amendment offered by the gentleman from Texas [Mr. PATMAN].

Mr. FORD. Will the gentleman yield?

Mr. McFADDEN. Yes.

Mr. FORD. How is the United States ever going to be a world financial power if we are going to stop or force the stopping of any transaction of an international character?

Mr. McFADDEN. In answer to that, I am not ambitious that the United States shall become a world financial power. [Applause.] I am more interested, I will say to the gentleman, in the welfare of the American people.

Mr. FORD. Not any more than I am.

Mr. McFADDEN. And in the employment of the 12,000,000 to 15,000,000 people who are now unemployed and in making a settlement with the soldiers who fought our battle and fought the battle of the foreigners in the World War. Let us pay our debts to our own people first.

Mr. FORD. Of course, that is all hooey; but answer this one question: How are the European countries ever going to pay the United States the debts that they owe if this and other means are not afforded to create an equivalent of exchange in the United States to take up that debt?

Mr. McFADDEN. I am not so much concerned about that, I will say to the gentleman. We have domestic affairs here that are of more importance. I will say, however, in regard to the debt the foreigners owe us—and I have not changed my position in regard to that from that which I took in 1931—if these foreign nations do not intend to pay, let them default. That is the position of the Congress today. [Applause.]

[Here the gavel fell.]

Mr. STEAGALL. Mr. Chairman, I think the gentleman has voiced a sentiment that finds a sincere response among the Members of this House.

I am sure that every Member of the House feels just as the gentleman does with respect to the uncontrolled use of the credit facilities of the Federal Reserve System in the international financing programs. These transactions have been carried on in the past without restraint. One of the fundamental purposes of the bill now before this House is to prevent those practices. I want to say to the gentleman that there has been no undue rush or effort to blindfold anybody in connection with this legislation. It has been under consideration for 2 years. It has been the subject of prolonged hearings and discussions by the Senate, and the measure as it relates to the matter under discussion passed that body last year.

It has been worked out with the utmost care, and the purpose of the section is that the Federal Reserve Board shall have control of the open-market operations of Federal Reserve banks. This section makes it the duty of the Federal Reserve Board to regulate such transactions and restrict them in order to protect the people of the United States against the unauthorized use of credits by the Federal Reserve System.

Mr. McFADDEN. Will the gentleman yield?

Mr. STEAGALL. I yield.

Mr. McFADDEN. The gentleman knows that this open market is no new proposition.

Mr. STEAGALL. That is true; but this section places on the Board the duty and responsibility of restricting such operations and to no longer permit the banks to exercise free and unbridled power in the extension of such credits.

Mr. McFADDEN. Under the supervision of the Federal Reserve Board, the operations have been carried on.

Mr. STEAGALL. But this bill specifically imposes regulations and restrictions. If there had been such a law in the past—there has been some division of opinion in the construction of the existing law—and proper enforcement

of it, the complaints which the gentleman makes would never have been heard. This bill makes it clear the duty of the Federal Reserve Board is to supervise and restrict these transactions.

Mr. McFADDEN. I still want to reiterate that this will not change it one iota.

Mr. STEAGALL. I beg the gentleman's pardon, but I cannot yield further for a speech, because we should like to get along with the bill as far as we can today, and the discussion has ranged beyond necessary limits.

Mr. PATMAN. Mr. Chairman, I ask unanimous consent that the amendment be again reported.

There being no objection, the amendment was again reported.

Mr. KVALE. Mr. Chairman, I move to strike out the last two words. I should like to ask the gentleman from Pennsylvania to make us a brief statement, as we could not hear what he had in mind.

Mr. McFADDEN. If the gentleman will permit, what I mean is this: Under the operation of the open market during the past few years they, the Federal Reserve banks and member banks, have loaned hundreds of millions of dollars of Federal Reserve credit, some of it illegally obtained, to carry on and finance transactions between foreign countries. The Federal Reserve System was created as a financial system for the people of the United States. It never was contemplated that they were going to finance bankers, foreign governments, and manufacturers in foreign commerce between other countries outside the United States. How many of you gentlemen here would vote to give the foreigner the right to use Federal Reserve credit to finance his commercial transactions between foreign countries, and to finance him with this cheap money to undersell American-made goods in our own market?

I am not taking a narrow view in regard to this. This is exactly what you are doing. I know that it is necessary for the people and the banking interests of the country to carry on certain foreign financial transactions, but when an illicit use of the credit of the United States through the employment of Federal Reserve notes and credit which have been illegally issued is made, and vast amounts running into billions of dollars have been tied up and now remain frozen in Germany and Japan and other countries, I think it is time to call a halt. I see nothing in this bill that is going to change the policy which was approved and acquiesced in by the Federal Reserve Board. There is no question but that the Federal Reserve Board could have stopped these illegal transactions, if they had wanted to do it. But did they do it? Was the Congress ever advised that the Federal Reserve Board was incompetent to carry on the safety of the transactions of the Federal Reserve banks? No, it was not. I again repeat, that you are opening up this System in a way to further exploitation and furnishing of funds to finance foreigners, to the detriment of the United States. The Federal Reserve were evidently of the opinion that the rank and file of the public were unaware of what was being done, that these great transactions were only known to the insiders, the international financial group, who were making millions of dollars out of the fraudulent use of the Federal Reserve money and credit they were using, because even the Secretary of the Treasury raised no objection.

Mr. STEAGALL. Mr. Chairman, will the gentleman yield?

Mr. KVALE. Yes.

Mr. STEAGALL. Let me read one paragraph from the bill, subsection (c), page 12:

The time, character, and volume of all purchases and sales of paper described in section 14 of this act as eligible for open-market operations shall be governed with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. WEIDEMAN. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. WEIDEMAN: Page 15, line 11, subsection (g), add the following: "A complete report of all conferences and transactions herein covered shall be made to the Congress of the United States on January 1 of each year."

Mr. WEIDEMAN. Mr. Chairman, subsection (g) provides that reports shall be made to the Federal Reserve Board, but that does not necessarily mean that they shall be made to Congress or that they are even available to Congress, because I find there is some information that I want to get out of that Board now and I cannot, and my experience is not unusual. All Members of Congress have run into the same thing. If this section is going to operate the way it is intended, and they should make a report to their own Board, I can see no harm in the report being made also to the Congress; and if some of you gentlemen in this body are suspicious of what is going to happen, I think you should vote to amend this section in this way. You will then have a report every year as to what the international conferences are. I do not think the risk is unreasonable, and I think for your own protection you should approve the amendment. Congress is entitled to know what is going on in the Federal Reserve System.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan.

The question was taken; and on a division (demanded by Mr. WEIDEMAN) there were—ayes 68, noes 55.

So the amendment was agreed to.

The Clerk read as follows:

SEC. 10. (a) Section 19 of the Federal Reserve Act, as amended, is amended by inserting, after the sixth paragraph thereof, the following new paragraph:

"No member bank shall act as the medium or agent of any nonbanking corporation, partnership, association, business trust, or individual in making loans on the security of stocks, bonds, and other investment securities to brokers or dealers in stocks, bonds, and other investment securities. Every violation of this provision by any member bank shall be punishable by a fine of not more than $100 per day during the continuance of such violation; and such fine may be collected, by suit or otherwise, by the Federal Reserve bank of the district in which such member bank is located."

(b) Such section 19 of the Federal Reserve Act, as amended (U.S.C., title 12, secs. 142, 374, 461–466; Supp. VI, title 12, sec. 462a), is further amended by adding at the end thereof the following new paragraph:

"The Federal Reserve Board shall from time to time limit by regulation the rate of interest which may be paid by member banks on deposits, and may prescribe different rates for such payment on time and savings deposits having different maturities or subject to different conditions respecting withdrawal or repayment. No member bank shall pay any time deposit before its maturity, or waive any requirement of notice before payment of any savings deposit except as to all saving deposits having the same requirement."

Mr. HOEPPEL. Mr. Chairman, I move to strike out the last word. I am much in favor of the guaranty provisions of this bill; and while I have been hearing nothing but banking the last few months, I must admit that I need additional information if I am going to vote for this bill. I rise for the purpose of getting information from the chairman on one point in this section. I notice on page 25 of the bill it is provided that the interest charged by the bank to the borrower shall be 7 percent. In the section under discussion the interest which the bank pays to the depositor is left indeterminate. In other words, the banker is assured of his 7 percent, but the poor individual, who has very little, if anything, left today, must take such interest rate as this self-constituted board may designate. I contend that if the Postal Savings Department can stipulate a rate of 2 percent, we should at least designate that the minimum amount these member banks shall pay will be at least 2 percent.

The subject of inflation was brought up, and inflation, we are told, is going to bring us out of our present distress. The only thing that will bring this Nation out of its distress is a more equitable distribution of the wealth of the Nation.

In this provision you are making the rich richer, with no provision for the poor. I wish the chairman of the committee would inform us what assurance we have if we put money in these banks of the amount of interest that we,

as depositors, will receive. It is well defined how much we will be charged when we go to the bank to borrow, but nothing is stipulated as to the interest that is to be paid to us on our money deposited.

Mr. GOLDSBOROUGH. Mr. Chairman, there is nothing definite at all about the amount to be charged. The only thing that is definite is that the borrower shall not be charged more than 7 percent, or 1 percent more than the rediscount cost of the Federal Reserve bank, which is regulated entirely by the law of supply and demand. It goes down as low as one half of 1 percent sometimes.

Mr. HOEPPEL. I admit that, but this provision of 7 percent stands out in this bill and is the amount the small borrower must pay when in financial distress.

Mr. GOLDSBOROUGH. Seven percent is the extreme limit of interest which a member bank can charge a borrower, and that only in case it can rediscount its paper and has to pay 6 percent to rediscount its paper in the Federal Reserve banks. The Federal Reserve never has charged 6 percent except probably during 1921, I believe. Usually it is from 2½ to 3 percent.

Mr. HOEPPEL. There is one provision in this bill which is definite and positive. You may not be able to give me a definite figure as to what interest I am going to receive as a depositor, but this I know: That the Post Office Department has turned over to the banks of America $1,157,000,000. The Government receives from the banks for this amount only 2½ percent interest; yet, when I go to the bank to borrow this money, you as well as I must pay 7 percent interest.

That is being done today in my district, and that, I say, is unfair. We are giving the American banker $45,000,000 gratuity on our own postal savings. I hope that when this proposition comes up in my amendment that the amendment will be accepted and that no bank will be permitted to charge any borrower interest in excess of 100 percent of the interest rate the bank pays its depositors. If a bank cannot function and stand on its own feet with 100 percent profit on our money, it has no economic or business right to exist.

I yield back the balance of my time, Mr. Chairman.

The Clerk read as follows:

SEC. 11. Section 22 of the Federal Reserve Act, as amended (U.S.C., title 12, secs. 375, 376, 503, 593–595; Supp. VI, title 12, sec. 593), is further amended by adding at the end thereof the following new paragraph:

"(g) No executive officer of any member bank shall borrow from or otherwise become indebted to any member bank of which he is an executive officer, and no member bank shall make any loan or extend credit in any other manner to any of its own executive officers: *Provided*, That loans heretofore made to any such officer may be renewed or extended not more than 2 years from the effective date of this title, if in accord with sound banking practice. If any executive officer of any member bank borrow from or if he be or become indebted to any bank other than a member bank of which he is an executive officer, he shall make a written report to the chairman of the board of directors of the member bank of which he is an executive officer, stating the date and amount of such loan or indebtedness, the security therefor, and the purpose for which the proceeds have been or are to be used. Any executive officer of any member bank violating the provisions of this paragraph shall be deemed guilty of a misdemeanor and shall be imprisoned not exceeding 1 year, or fined not more than $5,000, or both; and any member bank violating the provisions of this paragraph shall be fined not more than $10,000, and may be fined a further sum equal to the amount so loaned or credit so extended."

Mr. BAILEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAILEY: Page 16, line 18, after the word "officer", insert the words "or director"; and add the same language at each point in section (g) after the word "officer" each time such word is used.

Mr. BAILEY. Mr. Chairman, this apparently is but a simple amendment, but, in fact, it will have considerable to do with the final result of the operation of this bill. I happen to be one of those who cannot agree that the Federal Government should adopt a guaranty of deposits. I do it because the experience in my own State has been very sad; and I want to say that if, as I believe is true, you are going to adopt a guaranty deposit bill, you must tighten the laws governing the operation of banks. Otherwise you will find the national banks in the same condition in which we found our State banks.

One of the greatest troubles, one of the worst banking practices, has been loans made to people connected with banks. For that reason I believe this Congress should add in this law a prohibition against borrowing by a director from a bank in which he is a director.

It will be said that we may make it difficult to obtain good directors, but I say that is a fallacy that is easily exploded, because if a director has good credit, he can borrow money from other banks, and if he has not good credit, he ought not be permitted to borrow from any bank. This amendment simply changes the wording of this section so as to include the directors of banks with executive officers.

The CHAIRMAN. The question is on the amendment of the gentleman from Texas.

The question was taken; and on a division (demanded by Mr. GOLDSBOROUGH) there were—ayes 59, noes 51.

Mr. STEAGALL. Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. GOLDSBOROUGH and Mr. BAILEY.

The committee again divided; and the tellers reported that there were—ayes 58, noes 80.

So the amendment was rejected.

Mr. BAILEY. Mr. Chairman, I offer a further amendment.

The Clerk read as follows:

Amendment by Mr. BAILEY: Page 17, line 3, after the word "shall", insert a comma and the following: "and if the loan is made by a member bank the executive officer of such bank making the loan shall."

Mr. BAILEY. Mr. Chairman, a careful reading of this section shows that the executive officer who borrows the money is required to make the report. My amendment would require the executive officer of the banks making the loan also to make a report. In other words, it is simply a provision to make it certain that someone not interested in the loan is compelled by law to make the report.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The amendment was rejected.

Mr. McFARLANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McFARLANE: Between section 11 and section 12 add section 11a, as follows:

"In no case shall the compensation of any member or employee be at a rate in excess of the rate of compensation received for like or similar work performed under the Classification Act of 1923, as amended, and the Civil Service laws and regulations: *Provided further*, That in no event shall such compensation be at a rate in excess of $10,000 per annum less any deductions provided for in the act entitled 'An act to maintain the credit of the Government of the United States, approved March 29, 1933.'"

Mr. LUCE. Mr. Chairman, I make the point of order that the amendment is not germane.

The CHAIRMAN. The Chair will hear the gentleman from Texas.

Mr. McFARLANE. Mr. Chairman, speaking to the point of order, this is a separate section to the bill that limits the salaries in keeping with the Civil Service laws and the rules and regulations thereunder, and is, I think, germane to the bill. It is a separate section.

The CHAIRMAN. The Chair overrules the point of order.

LET US LIMIT THESE SALARIES AND SAVE MILLIONS FOR THE GOVERNMENT

Mr. McFARLANE. Mr. Chairman, under the original Federal Reserve Act the Federal Reserve Board members have the right to administer the act under the Civil Service rules. They are not doing this. This amendment permits them, if they wish, the way they are operating now, to use the Civil Service rules and regulations to administer the act; and if they do not care to do that, they can make the payment to the different officers and employees on the same basis as all Civil Service employees are paid.

$10,000 PER YEAR IS ENOUGH

Mr. COLMER. Mr. Chairman, will the gentleman yield?

Mr. McFARLANE. The other limitation and the amendment is a limitation of the compensation to be received by

the officers and employees to the same pay that you as Congressmen are receiving. Is not this fair? Do you not think we can get good members to work in the Federal Reserve System for not to exceed $10,000 per year?

Mr. BEEDY. Mr. Chairman, will the gentleman yield?

Mr. McFARLANE. This is a limitation on the compensation we pay these officers. I am informed that many of the officers are now being paid salaries from $20,000 to $50,000 per year.

I submit in all fairness and with all candor that these officers and these employees in the Federal Reserve System should not receive any more than you yourselves receive, and I believe we can get good men to fill these positions for not to exceed $10,000 per year.

Mr. COLMER. Will the gentleman yield?

Mr. BEEDY. Will the gentleman yield to me for a matter of information? I made the request not long ago.

Mr. McFARLANE. I yield first to the gentleman from Mississippi [Mr. COLMER], who had an amendment on the same subject.

Mr. COLMER. Do I understand that the gentleman's amendment will limit the pay of the governors in the Federal Reserve System to $10,000?

Mr. McFARLANE. Yes.

Mr. COLMER. Does the gentleman know that they are now receiving as high as $50,000?

Mr. McFARLANE. Yes. I know that they are receiving that amount, and that is the purpose of the amendment.

Mr. COLMER. I am with the gentleman.

Mr. McFARLANE. I submit we can get good men for this money, and it is money that comes out of the Treasury of the United States. It is very important that we limit these salaries.

I now yield to the gentleman from Maine.

Mr. BEEDY. I did not get the amendment clearly. Is the amendment limited in its proposals to the salary of the governor of each of the 12 central banks?

Mr. McFARLANE. No; it covers all the officers and employees.

Mr. BEEDY. Of just the central banks?

Mr. McFARLANE. No; all 12 of them.

Mr. BEEDY. That is what I was afraid of. The gentleman understands that the banks that are in the System are private banks and the Government has nothing to do with them. The gentleman does not mean to propose that the Federal Government shall limit the salaries of men employed by private banks?

Mr. McFARLANE. Yes; they are using the credit of the United States, and all money over a certain amount plus 6-percent dividends on their paid-up capital stock under the law must be paid into the Treasury of the United States, and I want to limit these salaries so as to keep these banks from eating up this surplus in big salaries. That is what I want to do. I want to limit the salaries of all officers and employees of organizations using the credit of the United States and making enormous profits accordingly.

Mr. BEEDY. I think there would be very sound reason in limiting it as to the central banks, but I doubt the wisdom of it as to others.

Mr. McFARLANE. I yielded for a question and not for a speech.

Mr. BOILEAU. Will the gentleman yield?

Mr. McFARLANE. Yes.

Mr. BOILEAU. As I understand it, in order for a man to be an officer or governor of a Federal Reserve bank he is supposed to leave behind him all of his banking connections. If the gentleman wants to get a man who has experience in banking, naturally he wants to get someone who has been in the banking business; and if he has to leave all his other connections behind him, does not the gentleman think we are possibly limiting it to small an amount if we limit it to $10,000?

Mr. McFARLANE. In answer to the gentleman I would point out that in our Federal Reserve district, which is the eleventh district, we have had a gentleman there, Mr. Talley, who has taken the position of governor of that district, who was receiving $5,000 a year before he received this political appointment, and since that time has been receiving several times that amount.

Mr. BOILEAU. The gentleman believes we can get good men at this salary?

Mr. McFARLANE. Yes; I know we can.

[Here the gavel fell.]

Mr. LUCE. Mr. Chairman, an examination of the amendment at the desk indicates that it applies only to officers of the Federal Reserve banks. If the gentleman meant also to include member banks, then he should modify his amendment. Whether we would have any right to interfere or whether it would be prudent to interfere thus with the practices of institutions that are private corporations is another question.

An amendment of this sort to one familiar with the conditions of living in the big cities where the Federal Reserve banks are located, seems wholly unjustifiable.

Some years ago Samuel L. Vauclain, president of one of the Baldwin Locomotive Works, in an article in the American Magazine, made the estimate that in the city of New York there were 50,000 persons who must be making $25,000 a year or more. Is it conceivable that you would put in charge of the huge New York Federal Reserve bank, entrusted with the responsibility of caring for more millions of dollars each year than the human mind can conceive——

Mr. COLMER. Will the gentleman yield?

Mr. LUCE. May I finish the sentence first?

Mr. COLMER. You may; yes.

Mr. LUCE. Is it conceivable that you will put in charge of such an institution a man not worth receiving more than $10,000 a year? Larger salaries than this are paid to men in the legal departments of such institutions and they are paid because the men can earn more outside than the smaller salaries suggested. You would drain your great Federal Reserve System of its trained men; its men who by long experience in banking and finance have acquired powers of administration, who are true executives. Nothing could be more rash than for the public to insist that its executives handling these millions and millions of dollars shall be of that grade suggested by this salary.

Now, while I am on my feet, I know there is rising in the minds of some gentlemen here that fact that our own salaries, recently $10,000, but are now $8,500. It was for many years in the English parliament the custom to pay no salaries. A small salary has now been paid there for some time in order that Labor members may serve. It is a grave question whether it is wise to pay salaries of any kind to members of legislative bodies, but inasmuch as we have established that system, there is no better rule than to say that the salary of a legislator shall be that which will allow him to leave his ordinary occupations for a time and without suffering serve his country. He must look for a great part of his reward to the honor of the office, to the satisfaction of trying to serve his fellow men and making whatever talents the Lord may have given him useful as far as they may go, but in the business world the law of supply and demand rules. You do not get good men unless you pay them what they can receive in other occupations.

You will, inevitably, by the passage of a provision of this sort, lower the quality of the men conducting a system upon which the welfare of the country greatly depends. [Applause.]

[Here the gavel fell.]

Mr. McFADDEN. Mr. Chairman, I am opposed to this amendment, not for the reason that the gentleman from Massachusetts has suggested but because I do not believe that Congress has a right to do this. These are private banks. If the amendment extends to member banks, I cannot see that we have any business to dictate what salaries shall be paid by member banks of the Federal Reserve System.

I agree with the purposes that the gentleman is intending to serve. I agree that the salaries of the officers of the Federal Reserve banks in many instances are altogether too high, but I think the matter should be reached in another

way. If Congress wants to deal with it, it should deal with it by instructing the Federal Reserve Board to make the changes suggested. The Federal Reserve Board have been most generous with the 12 banks in this matter of salaries. It is a subject that ought to be dealt with, but I do not think that we would be dealing with it in a proper manner by this amendment.

Mr. WEIDEMAN. Mr. Chairman, I want to give you gentlemen the savings that would be accomplished by putting this amendment in effect. Upon reducing 48 employees of the Federal Reserve banks and the Federal Reserve Board to $10,000 a year salary, you would save $496,000.

You have been talking about economy ever since we have been here. The gentleman from Massachusetts heretofore has been talking economy, and now, not because this little item of $496,000 will be saved, but because it affects the big bankers, they are not in favor of it.

These Federal Reserve banks do spend some of our money. On page 156 of their report you will find that spent for telegraph and telephone lines, $737,000.

On page 226 of the Federal Reserve Board report they spent for private wires and telephones $251,000. In other words, the Federal Reserve Board spent of your money $969,414.10 for telephones and private wires.

On page 151 the expenses of directors' meetings, $175,000; travel, $214,000; printing and office supplies and binding, $703,000; amounting to over a million dollars.

Mr. McFADDEN. Will the gentleman yield?

Mr. WEIDEMAN. Yes.

Mr. McFADDEN. Is the gentleman quoting from the Federal Reserve bank report and not from appropriations made by Congress?

Mr. WEIDEMAN. I quote from Federal Reserve Report for 1932. We pay for that, whether we pay one way or the other.

Mr. ZIONCHECK. If these salaries were cut from the surplus we would receive the revenue?

Mr. WEIDEMAN. Well, we were supposed to receive a certain portion of it, but we never did. The more money the Federal Reserve spends, the less there is to be refunded to the Treasury.

Mr. KELLER. Mr. Chairman, I want to say that generally speaking, I have been in favor of the changes that have so far taken place. Further, what the gentleman from Pennsylvania [Mr. McFADDEN] called attention to is literally true. The Federal Reserve System is a private banking system. I think we have a perfect right to limit expenditures because of our right to control, but this is not the place to do it. We are getting along here, and we are fooling away a lot of time on nonessentials, things that are not vital. I hope we will get along and finish this bill up, because the work that has been done by this committee is well worthy of our support, unless there is a vital reason for not supporting it. It does seem to me that this is not a vital matter and it is not the place to do this thing. If the gentleman will bring this up in a separate bill at the right time and make the corrections along that line, I shall not only be glad to go along with him and aid him to accomplish the things he wants to do, but this is not the time, and it is not vital to this matter.

Mr. McFARLANE. Mr. Chairman, will the gentleman yield?

Mr. KELLER. Yes.

Mr. McFARLANE. If we want to reduce salaries, why is not now the place to start?

Mr. KELLER. For the reason that the Government of the United States does not pay the salaries at all.

Mr. McFARLANE. But they are using the credit of the Government of the United States, they are making their money off the credit of the United States, and should not we have the right to limit their salaries because we receive the surplus?

Mr. KELLER. But as long as we permit them to go on as a private organization I doubt whether we have such a right.

Mr. KVALE. Mr. Chairman, will the gentleman yield so that I may make a suggestion to the gentleman from Texas?

Mr. KELLER. Certainly.

Mr. KVALE. The gentleman from Pennsylvania [Mr. McFADDEN] in his short talk made a suggestion that might be worthy of being followed out at this point. If the gentleman's amendment is defeated, then offer another amendment carrying instructions to the Federal Reserve Board.

Mr. McFARLANE. Mr. Chairman, will the gentleman yield?

Mr. KELLER. Yes.

Mr. McFARLANE. This amendment is prepared by the drafting committee and is in harmony with each and every other provision of the bill. If you want to cut these salaries this will do the job.

Mr. TRUAX. Mr. Chairman, will the gentleman yield?

Mr. KELLER. Yes.

Mr. TRUAX. The gentleman stated that there was a time and a place to introduce the bill. I should like to ask the gentleman when that time is and where the place is.

Mr. KELLER. I will answer that and I think I can do it. The time and place to introduce the bill is in the next session, when we are not laboring under the necessity of emergency as we are at the present time. I shall be delighted to join with the gentleman in that matter at that time.

Mr. WEIDEMAN. Mr. Chairman, will the gentleman yield?

Mr. KELLER. Yes.

Mr. WEIDEMAN. We have put many things into the various bills that we have passed almost to the regulation of ash cans.

Mr. KELLER. Unfortunately, we have.

Mr. WEIDEMAN. Let us just pass this and see what happens. Let us start our economy right now. Charity begins at home.

Mr. KELLER. Yes, but this is not charity; it is business. We ought to carry this through and do it as rapidly as possible. The amendment is not a vital matter here.

CAPITAL AND SURPLUS OF FEDERAL RESERVE BANKS

Mr. PATMAN. Mr. Chairman, I move to strike out the last three words. I am in favor of this amendment. The Federal Reserve banks were organized in 1913. Each member bank is required—at least, it was in the law—to subscribe for stock to an amount equal to 6 percent of its capital and surplus. They have never paid in more than 3 percent of their capital and surplus. The largest amount ever paid in by the member banks to the Federal Reserve banks is $160,500,000. The capital stock of the Federal Reserve banks aggregates $321,000,000. On that small capital stock of $160,500,000—and it was as low as $100,000,000—those banks have transacted business aggregating almost $100,000,000,000 a year. Could they do it on that small capital stock? No; it would not be possible. The reason they have been able to transact that large amount of business is because they were using free of charge the credit of the entire Nation. It was contemplated by the framers of the Federal Reserve Act that the Federal Reserve System or the Federal Reserve banks should pay a small compensation for the use of that Government credit, and it was written into section 16 of the Federal Reserve Act that when the Federal Reserve notes were delivered by the Bureau of Engraving and Printing to a private bank, a Federal Reserve bank, the bank should pay to the Treasury of the United States such an interest charge as may be assessed by the Federal Reserve Board. The Federal Reserve Board set a zero rate, no interest at all, upon the theory that when the earnings of the Federal Reserve banks came in at the end of the year, and when the operating expenses of the banks had been paid, and 6 percent dividends paid on paid-in capital stock, the surplus would go into the Treasury of the United States, and therefore the initial interest rate should not be required since the surplus would go into the Treasury.

GOVERNMENT MONEY BEING SPENT

Mr. KELLER. Will the gentleman yield?

Mr. PATMAN. Now, under the present law they are challenged, or we dare them to spend all the money they can. The more money they spend the less they have to pay into the Treasury. That being true, the money they are spending is Government money. We really should make the appropriation for the Federal Reserve banks. We should set the salaries of the officers and employees, because it is Government money they are using. That being true, it is just as necessary and essential to place a limitation upon their salaries as it is to place a limitation upon the salary of any officer or employee of any department of this Government. [Applause.]

Now I yield to the gentleman from Illinois.

Mr. KELLER. I should like to know what we are driving at in this bill; whether it is to guarantee bank deposits or an attempt to rewrite the entire Federal Reserve Act.

Mr. PATMAN. Well, in any event, when an amendment can be offered and passed that would save the Government of the United States a half million dollars a year, I see no reason why the gentleman should oppose it. Why should we permit Federal Reserve banks to pay salaries aggregating twenty or thirty or forty or fifty thousand dollars a year out of Government money, money that should go to the Treasury of the United States, and yet reduce by 15 percent the salaries of employees who are only making $1,000 a year? [Applause.]

Mr. KELLER. But, I repeat the question to the gentleman in different form—that is, what we are driving at is one certain, specific thing, and to do no more than that at the present time. If the gentleman will write a bill covering the thing he is driving at, I will join whole-heartedly and enthusiastically with him in putting it forward.

Mr. PATMAN. I should be glad to do that, were it necessary, but it is germane to this bill. Anything that is germane should be considered. If it is not germane, the Chairman will not permit its consideration.

The CHAIRMAN. The time of the gentleman from Texas [Mr. PATMAN] has expired.

Mr. BLANTON. Mr. Chairman, I rise in support of the amendment.

Mr. STEAGALL. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama [Mr. STEAGALL]?

Mr. McFADDEN. Reserving the right to object, I should like to have 5 minutes on this amendment.

Mr. STEAGALL. Mr. Chairman, I modify the request to make it 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama [Mr. STEAGALL] that all debate on this section and all amendments thereto close in 10 minutes?

There was no objection.

Mr. BLANTON. Mr. Chairman, the big salaries paid by the Federal Reserve Board to its officers and employees and the extravagance of it for several years have been a scandal to this Nation. [Applause.] We must stop these tremendous unearned salaries. Some of the finest bankers of the United States are bankers that you find at home—honest, sincere, hard-working men, who sometimes work from 8 o'clock in the morning until 6 and 7 and 8 o'clock in the evening, and not many of them get as much as $5,000 a year. And many get only $2,500, $3,000, and $4,000, while many officials and employees of the Federal Reserve banks must get these tremendous, unreasonable salaries of twenty, twenty-five, thirty, thirty-five, forty, and even fifty thousand dollars a year. It ought to stop.

Our former colleague from Texas, Mr. Williams, who went out this last election and whose place Mr. McFARLANE now occupies, has put some information into this RECORD that every Member ought to read. During the last 5 or 6 years I have put in statement after statement showing its inexcusable extravagance and the many palaces that have been built with this money by the Federal Reserve Board all over the country, outlandish palaces, unreasonable in their extravagances.

Mr. STEAGALL. Will the gentleman yield?

Mr. BLANTON. Certainly.

Mr. STEAGALL. Of course, Congress has passed legislation to prohibit a repetition of that.

Mr. BLANTON. Yes; finally we did prohibit it, and we should pass legislation to stop these outrageous salaries. If not now, when are we going to do it? Are we going to put it off until next year or year after next, or until all of us here die? We want to do it while we are living do we not? When is a better time than right now to put a limitation on these scandalous salaries?

Some Congressmen and some Senators here work as hard as any banker in the United States. The time we give to the people of this country, in my judgment, is just as valuable as the time that any banker gives, and if Congressmen and Senators can work for $8,500 a year, why should you pay some of those bankers $50,000. It ought to stop. [Applause.]

The only fault I have with this amendment is that I object to any reference to the Classification Act of 1923. That is such a monstrosity that it ought to be repealed.

Mr. McFARLANE. Will the gentleman yield?

Mr. BLANTON. In just one minute. The provision in this amendment which limits salaries of the bankers to $10,000, as a maximum is good, and I am in favor of it, and I hope it will pass. [Applause.]

Mr. McFARLANE. As to the Civil Service amendment, to which the gentleman refers, that is just a guidepost in setting the salaries.

Mr. BLANTON. Well, I do not even like to refer to it except to try to repeal it, although it is appropos to Federal Reserve bankers, because under that 1923 Classification Act there have been so many very ordinary $1,500 clerks put into nine- and ten-thousand dollar positions, by a mere sleight-of-hand performance of calling them "chief", or "director", or "commissioner", that, of course, it ought to go along with the Federal Reserve banking legislation.

Mr. SHOEMAKER. Will the gentleman yield?

Mr. BLANTON. I yield.

Mr. SHOEMAKER. Is it not true that the governors of the Federal Reserve System are limited to $12,000 a year?

Mr. BLANTON. Oh, yes; but they pay some of their officials twenty, thirty, thirty-five, forty, and even fifty thousand dollar salaries.

Mr. SHOEMAKER. That is the way it is done, is it?

Mr. BLANTON. That is the way it is done. At one time in years gone by I sat here with my mouth open, almost entranced, every time the gentleman from Alabama [Mr. STEAGALL] got up to speak, listening to him. At that time he was for cutting down these outrageous expenses of government, and I have been looking for him to get up every minute for the last 10 or 15 minutes and say, "I accept the amendment to limit these salaries. It is a good one." Why he does not do it, I cannot understand.

You know, after fellows get up into these high positions, and get to associating with these highbrow Federal Reserve bankers their ideas change. [Laughter.] But, after all, our friend, the Chairman of the Banking and Currency Committee [Mr. STEAGALL], is a good scout, and "with all his faults we love him still."

Mr. JOHNSON of Minnesota. Mr. Chairman, will the gentleman yield for a question?

[Here the gavel fell.]

Mr. BLANTON. I yield to my friend, the distinguished gentleman from Minnesota, the balance of my time.

Mr. JOHNSON of Minnesota. Will the gentleman vote for a bill I have introduced——

Mr. BLANTON. Certainly I will.

Mr. JOHNSON of Minnesota (continuing). Limiting the salary of the Members of the House and Senate to $7,500 a year?

Mr. BLANTON. I have a similar bill now pending before the committee.

Mr. McFADDEN. Mr. Chairman, I am just reminded that the amendment refers to employees only. It would not apply to the officers of the Federal Reserve bank.

Mr. Chairman, I ask unanimous consent that the amendment be again read so that Members may know what it is.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk again read the McFarlane amendment.

Mr. McFADDEN. Mr. Chairman, again I should like to point out to the membership here that the amendment refers only to employees.

Mr. BLANTON. Mr. Chairman, if the gentleman will permit, I think the suggestion is a wise one.

I ask unanimous consent, with the approval of my colleague, that the word "officer" be inserted just preceding the word "member", so it will read "officer, member, or employee."

Mr. McFARLANE. Mr. Chairman, I accept the gentleman's amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. BEEDY and Mr. RAMSPECK objected.

Mr. BLANTON. Mr. Chairman, if the gentleman will permit, I move to amend the amendment of my colleague by inserting the word "officer" preceding the word "member."

Mr. RAMSPECK. Mr. Chairman, I make the point of order that the amendment must be in writing.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BLANTON. I will put it in writing inside of 2 minutes.

Mr. McFADDEN. Mr. Chairman, these salaries are paid from the earnings of the Federal Reserve banks, private banks, and I question very seriously whether we have the right to deal with the earnings of these private banks in this manner, much as I should like to reach this situation.

I think also that the amendment as read would include member banks. That would include the fixing of the salaries of the president, vice president, cashier, and other officers of member banks located throughout the country.

Mr. STEAGALL. Mr. Chairman, will the gentleman yield?

Mr. McFADDEN. I yield.

Mr. STEAGALL. And a large number of the member banks are State institutions, over which we have no jurisdiction whatsoever.

Mr. McFADDEN. The gentleman is correct.

I think it would be well if this could be rephrased so as to be a direction to the Federal Reserve Board to do this thing that the gentleman is trying to bring about.

Now, I should like to go as far as the gentleman is proposing to go in fixing the salaries of some of the officers of these city banks. I have a resolution pending before this House inquiring into the salary that was paid for the last 5 years to Albert H. Wiggin of the Chase National Bank. I understand now he has been retired at a salary or pension which would surprise even the most enthusiastic Member here.

Some of these things should have been attended to by the supervising officers of the Federal Reserve bank or the Comptroller of the Currency; and such salaries as have been paid should have been stopped.

Mr. McFARLANE. I am sure the gentleman is in sympathy, is he not, with the purport of the amendment to limit the salaries of all these officials?

Mr. McFADDEN. I am in sympathy with its purport.

Mr. McFARLANE. Then vote for the amendment.

Mr. McFADDEN. I do not want to vote for something which is none of the business of the House of Representatives.

Mr. McFARLANE. Vote for it and we can correct it in free conference.

Mr. MAPES. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MAPES. May we have the amendment divided so we can vote upon that part which would put the employees of the Board under Civil Service as distinguished from the part relating to salaries?

The CHAIRMAN. The phraseology of the amendment does not permit of division.

Mr. MAPES. May I call the Chairman's attention to the fact that the limitation as to salaries is included in the proviso? It seems to me, therefore, that the amendment might be divided in this way.

The CHAIRMAN. The amendment is not so drawn that one part of it being taken away a substantive proposition remains.

Mr. MAPES. If the Chair will read the amendment and then so holds, I will, of course, submit to the Chair's decision, but I call the Chair's attention to the fact that the limitation on salaries is included in the proviso, which is an entirely separate and distinct provision.

The CHAIRMAN. The phraseology of the amendment does not permit of division.

The question is on the amendment offered by the gentleman from Texas.

The question was taken; and on a division (demanded by Mr. McFARLANE and Mr. PATMAN) there were—ayes 55, noes 104.

So the amendment was rejected.

The Clerk read as follows:

SEC. 12. The Federal Reserve Act, as amended, is amended by inserting between section 24 and section 25 (U.S.C., title 12, sec. 371 and 601–605; Supp. VI, title 12, sec. 371) thereof the following new section:

"SEC. 24A. Hereafter no national bank, without the approval of the Comptroller of the Currency, and no State member bank, without the approval of the Federal Reserve Board, shall (1) invest in bank premises, or in the stock, bonds, debentures, or other such obligations of any corporation holding the premises of such bank or (2) make loans to or upon the security of the stock of any such corporation, if the aggregate of all such investments and loans will exceed the amount of the capital stock of such bank."

Mr. BEEDY. Mr. Chairman, I move to strike out the last word.

I do this to ask the Chairman of the Committee if he will not move that the Committee now rise. The Members of the House are tired, the members of the Committee are tired, and I do not think we ought to be held here any longer.

Mr. STEAGALL. I may say to the gentleman that I am urged by the majority leader to try to make further progress before we quit this afternoon.

Mr. BYRNS. Let me say to the gentleman and to the House that we have a public-works bill that is longer than this, we have an insurance bill for which there is a rule, we have a railroad bill, we have a possible tariff bill, and we have a possible farm bill that is coming before this House. We have read about 17 pages of the pending bill. At this rate it will take 4 days to finish the consideration of this bill. I think the Members of the House ought to be willing to stay here for a reasonable time and let us make some progress on the bill before we rise. [Applause.] It is no more to me than it is to you, but I say to you that the President of the United States and the Members of Congress and the people of this country, who are above us all, want this Congress to get through with its work and adjourn and go home, and we are not going to do it unless we make some progress on these bills.

Mr. BEEDY. Mr. Chairman, we want to get through and we want to go home, but we have been here 6 long hours and I will stay here without anything to eat until midnight if you want me to.

Mr. BYRNS. There is no intention of requiring that.

Mr. BEEDY. But I thought I sensed the feeling of the House and the Committee. I want to cooperate with the gentleman to do all that we ought to do, and I will go just as far as any other Member.

Mr. BYRNS. I appreciate that, and let me say to the gentleman that it is only 10 minutes past 5 and I dare say there is not anybody in the gentleman's district or in anybody else's district who quits work at 5 o'clock. We certainly can stay here until 6 o'clock or even longer and then

get home in time to have our dinner, and I think we ought to do this. [Applause.]

The Clerk read as follows:

SEC. 14. Paragraph "Seventh" of section 5136 of the Revised Statutes, as amended (U.S.C., title 12, sec. 24; supp. VI, title 12, sec. 24), is amended to read as follows:

"Seventh. To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing, and circulating notes according to the provisions of this title; and generally by engaging in all forms of banking business and undertakings all types of banking transactions that may, by the laws of the State in which such bank is situated, be permitted to banks of deposit and discount organized and incorporated under the laws of such State, except insofar as they may be forbidden by the provisions of any act of Congress. The business of dealing in investment securities by the association shall be limited to purchasing and selling such securities without recourse, solely upon the order, and for the account of customers, and in no case for its own account, and the association shall not underwrite any issue of securities: *Provided*, That the association may purchase for its own account investment securities under such limitations and restrictions as the Comptroller of the Currency may by regulation prescribe, but in no event (1) shall the total amount of any issue of investment securities of any one obligor or maker purchased after this section as amended takes effect and held by the association for its own account exceed at any time 10 percent of the total amount of such issue outstanding, but this limitation shall not apply to any such issue the total amount of which does not exceed $100,000 and does not exceed 50 percent of the capital of the association, nor (2) shall the total amount of the investment securities of any one obligor or maker purchased after this section as amended takes effect and held by the association for its own account exceed at any time 15 percent of the amount of the capital stock of the association actually paid in and unimpaired and 25 percent of its unimpaired surplus fund. As used in this section the term 'investment securities' shall mean marketable obligations evidencing indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes, and/or debentures commonly known as investment securities under such further definition of the term 'investment securities' as may by regulation be prescribed by the Comptroller of the Currency. Except as hereinafter provided, or otherwise permitted by law, nothing herein contained shall authorize the purchase by the association of any shares of stock of any corporation. The limitations herein contained as to investment securities shall not apply to obligations of the United States, or obligations of any State or of any political subdivision thereof, or obligations issued under authority of the Federal Farm Loan Act, as amended, or any other acts creating Federal corporations: *Provided*, That in carrying on the business commonly known as the safe-deposit business the association shall not invest in the capital stock of a corporation organized under the law of any State to conduct a safe-deposit business in an amount in excess of 15 percent of the capital stock of the association actually paid in and unimpaired and 15 percent of its unimpaired surplus."

The restrictions of this section as to dealing in investment securities shall take effect 2 years after the date of the approval of this act.

SEC. 15. (a) Section 5138 of the Revised Statutes, as amended (U.S.C., title 12, sec. 51; supp. VI, title 12, sec. 51), is amended to read as follows:

"SEC. 5138. After this section as amended takes effect, no national banking association shall be organized with a less capital than $100,000, except that such associations with a capital of not less than $50,000 may be organized in any place the population of which does not exceed 6,000 inhabitants. No such association shall be organized in a city the population of which exceeds 50,000 persons with a capital of less than $200,000, except that in the outlying districts of such a city where the State laws permit the organization of State banks with a capital of $100,000 or less, national banking associations now organized or hereafter organized may, with the approval of the Comptroller of the Currency, have a capital of not less than $100,000."

(b) The tenth paragraph of section 9 of the Federal Reserve Act, as amended (U.S.C., title 12, sec. 329), is amended to read as follows:

"No applying bank shall be admitted to membership in a Federal Reserve bank unless it possesses a paid-up unimpaired capital sufficient to entitle it to become a national banking association in the place where it is situated under the provisions of the National Bank Act, as amended."

SEC. 16. Section 5139 of the Revised Statutes, as amended (U.S.C., title 12, sec. 52; supp. VI, title 12, sec 52), is amended by adding at the end thereof the following new paragraph:

"After 2 years from the date of the enactment of the Banking Act of 1933, no certificate representing the stock of any such association shall represent the stock of any other corporation, except a member bank, nor shall the ownership, sale, or transfer of any certificate representing the stock of any such association be conditioned in any manner whatsoever upon the ownership, sale, or transfer of a certificate representing the stock of any other corporation, except a member bank."

Mr. McFADDEN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise for the purpose of asking the gentleman from Tennessee [Mr. BYRNS], in view of the colloquy that recently took place with the gentleman from Maine about the need for haste in the consideration of this legislation, whether this bill is a part of the emergency program of the President?

Mr. BYRNS. I have no information on the subject.

Mr. McFADDEN. I may say that the papers today have given out a program that the President, apparently, put out, and this bill is not a part of that program.

Mr. BYRNS. I have no information that it is.

Mr. McFADDEN. I will say to the gentleman further that I am reliably informed that the Secretary of the Treasury is unalterably opposed to this bill, and I am trying to find out in this great rush we are in whether or not the administration considers this a part of the emergency program.

Mr. BYRNS. I may say to the gentleman that I have no information that it is, but I do know that it is to be followed by 2 or 3 or 4 bills that are of vital interest to the administration and which the administration is anxious to have passed.

Mr. McFADDEN. In view of the fact that the gentleman has no information as to whether or not this measure is a part of the emergency program and in view of the further fact that there is no emergency provision in this bill, I want to suggest to the gentleman that this bill be laid aside and that we carry out the President's program. [Applause.] After that program is finished, if there is a chance to consider this bill, I suggest that that would be the proper course to pursue.

Mr. BYRNS. I will say to my friend from Pennsylvania that this bill is now before the House. He should address his appeal, of course, to the Chairman of the Banking and Currency Committee; but if the gentleman will assist Members in quickly disposing of the bill we will get to the emergency program of the President very quickly. I do not want to deny anybody the right to offer any legitimate amendments, but it does seem to me that we should discuss our amendments and dispose of this bill within a reasonable time, and that is all I am asking.

As I said a while ago, it is no more to me than it is to any other Member of the House, but I do think it is important, and particularly important to Members upon this side of the aisle to get through with this legislation so that we can go home, as the people want us to do.

Mr. BEEDY. Will the gentleman from Pennsylvania yield to me while I ask the gentleman from Tennessee a question?

Mr. McFADDEN. I yield.

Mr. BEEDY. Is it the purpose to take this bill up tomorrow and make it the order of business tomorrow and continue with its consideration?

Mr. BYRNS. That is my understanding. I have no information to the contrary.

Mr. BEEDY. And there has been no request to postpone the consideration of the bill until Wednesday?

Mr. BYRNS. Not to my knowledge.

Mr. McFADDEN. Under the statement the gentleman has just given, it seems to me that the bill should be laid aside, and I want to ask the gentleman from Alabama if he will not agree to laying the bill aside so that the President's program can be carried out. This evidently is not a part of his program.

Mr. STEAGALL. Is the gentleman speaking for the President of the United States?

Mr. McFADDEN. I read the announcements made in the paper. I am trying to get some information from the administration leadership on the floor of the House, and I am still seeking information whether this is a part of the President's emergency plan.

Mr. BYRNS. That has nothing to do with the merits or demerits of this bill. We have no information from the President as to his views on this. If the gentleman will go down and see the President he will doubtless tell him, but so

far as I know he has not given any information as to his position on this bill.

Mr. McGUGIN. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amendment offered by Mr. McGUGIN: Page 22, lines 13 and 14, strike out the words "six thousand" and insert in lieu thereof the words "fifteen thousand"; and in line 14 strike out the period and insert in lieu thereof a comma and add the following: "except further in cities of not to exceed six thousand inhabitants the amount of capital required shall not exceed twenty-five thousand, and in cities of less than three thousand inhabitants the amount of capital required shall not exceed $15,000."

The CHAIRMAN. The gentleman is proposing an amendment to section 15. We have passed that section.

Mr. STEAGALL. Mr. Chairman, I make the point of order against the amendment.

The CHAIRMAN. The Chair sustains the point of order.

Mr. McGUGIN. I move to strike out the last word. If there was ever any question that it is the very purpose of this committee and those sponsoring this bill to drive the State banking system into the Federal Reserve System, this action of the Chairman closes the book on that subject.

I did not think the gentleman from Alabama would raise the question, in view of the fact that we went by the section when Members of the House could not keep track of where the Clerk was reading.

Here is what the facts are: When you take section 5138, the minimum capital for any bank is $50,000; and when you turn to the next section the minimum capital for an applying bank in the Federal Reserve is the same as would be required if the bank was seeking an initial charter.

Under this bill no bank can come into the Federal Reserve System with less than $50,000 capital, and then it must be located in a city of less than 6,000 inhabitants. That means an end of independent banking in small towns. That is the very purpose of this bill. The small banks will be driven out and the people will demand banking facilities, and then they will be forced to turn to chain banks in order to obtain banking facilities.

There is no greater hypocrisy, no greater falsehood uttered in the name of banking, than that which frequently is said—that these small banks were the ones that broke down the banking system of the country. I deny the charge. It was the large banks that contributed most to the demoralizing of the banking system of the country. What State bank came down to Washington as Dawes did and begged the Government for $90,000,000 in order to keep its doors open? Was it the failure of a country bank that caused the banks of this country to close a few weeks ago? No. It was the failure of a great bank in Detroit. I resent the slander against the State and local banks. It is the very purpose of the majority of the Banking and Currency Committee to destroy the State banking system and draft it into a national system.

They want to drive this country into one bank system, a national system, and that is the thing that I am opposing, and we have no chance to reach it now, after you have gone by this section, because the capital stock must be a minimum of $50,000, and as we go on in the bill a State bank cannot obtain this insurance unless it becomes a Federal Reserve bank, and to become a Federal Reserve bank it must have a capital of $50,000, or meet rules and regulations that a board which is not yet set up shall make, and no one knows what those rules will be.

Mr. GILCHRIST. Mr. Chairman, will the gentleman yield?

Mr. McGUGIN. Yes.

Mr. GILCHRIST. Did the gentleman hear section 15 read by the Clerk, or did any other man in this House hear it read?

Mr. McGUGIN. I did not; and I was listening attentively. I did not hear it, and I was sitting on the front seat. I am certain it was not read. The only reason we cannot offer an amendment to reach that section is because the Banking and Currency Committee, through its chairman, Mr. STEAGALL, is taking advantage of the fact that it was not read, or if read a Member could not hear the reading of the section and he is now invoking the rule that we cannot offer such an amendment at this time.

Mr. O'CONNOR. Mr. Chairman, will the gentleman yield?

Mr. McGUGIN. Yes.

Mr. O'CONNOR. Mr. Chairman, I ask unanimous consent that the gentleman be permitted to offer his amendment.

Mr. McGUGIN. I thank the gentleman.

Mr. GILCHRIST. The section was not read and I know it.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the gentleman from Kansas be permitted to offer an amendment. Is there objection?

Mr. HOLLISTER. Mr. Chairman, I object.

Mr. McGUGIN. I thought so. The gentleman from Cincinnati, Ohio [Mr. HOLLISTER], knows little about the needs of farm credit or the credit of a man living out in the country, or a small merchant; he knows the credit needs of Cincinnati.

Mr. LUCE. Mr. Chairman, I am somewhat surprised at the attitude of my friend from Kansas [Mr. McGUGIN] because if his view in respect to the deflation of the dollar takes place, and the dollar is cut in two, then $50,000 tomorrow will be the equivalent of $25,000 today. Inasmuch as he advocates very strongly that change I do not think he ought to disturb these figures, lest the result might not be consistent with that obtained by cutting the value of the dollar in two.

Mr. McGUGIN. Will the gentleman yield?

Mr. LUCE. Certainly.

Mr. McGUGIN. Assuming that the gentleman knows something about rural credit and needs, does the gentleman think there is any need in a town of 1,500 to 3,000 people for a bank having the capitalization of $50,000 as a minimum?

Mr. LUCE. Inasmuch as the record of the failures of 9,000 banks in the last 10 years shows that a chief cause of their failure has been too small an amount of capital, I think the gentleman is butting his head against a fact.

Mr. McGUGIN. Did lack of capitalization cause Mr. Dawes' bank to fail? Was it lack of capitalization that caused the Detroit banks to fail?

Mr. LUCE. Oh, the gentleman is drawing a herring across the trail to distract our attention from the small banks, to which he addressed his remarks. We are concerned at the moment with the small banks and the fact that all the thinking men of the country in these matters of finance attribute a very great part of the distressing failures of the last 10 years to their lack of capitalization.

Mr. McGUGIN. I say to the gentleman if it is the purpose of the gentleman to do away with the small banks, he is succeeding admirably.

Mr. LUCE. We are going to make the small bank safe or we will put it out of business.

Mr. McGUGIN. I thank the gentleman for that last statement.

Mr. STEAGALL. Mr. Chairman, will the gentleman yield?

Mr. LUCE. Yes.

Mr. STEAGALL. I suggest to the gentleman from Massachusetts that the restrictions to which the gentleman from Kansas objects applies only to national banks, or to a State bank which joins the Federal Reserve System. Those restrictions will increase the chartering of small State banks all over the country, out of their necessity.

Mr. McGUGIN. Will the gentleman yield?

Mr. STEAGALL. The gentleman from Massachusetts has the floor.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. STEAGALL. Mr. Chairman, I move that all debate on this section and all amendments thereto do now close.

Mr. McFADDEN. I hope the gentleman will not do that. He will not gain time by that sort of tactics.

The CHAIRMAN. The question is on the motion of the gentleman from Alabama [Mr. STEAGALL].

The question was taken; and on a division (demanded by Mr. McGUGIN) there were—ayes 71 and noes 29.

Mr. McGUGIN. Mr. Chairman, I demand tellers.

Tellers were refused.

So the motion was agreed to.

Mr. McGUGIN. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. McGUGIN. I now make the point of order that the page including section 15 was never read by the Clerk. That was my judgment at the time, and I was watching it. I was not prone to make the point of order until I find I am substantiated in that statement by other Members on the floor.

The CHAIRMAN (Mr. CANNON of Missouri). The point of order is overruled.

Mr. FISH. Mr. Chairman, I ask unanimous consent that the gentleman from Kansas [Mr. McGUGIN] be permitted to offer his amendment. I think there was so much confusion in the House at the time that no one knew just where the Clerk was reading. The gentleman should at least have a right to offer his amendment.

Mr. BYRNS. How much time will it require?

Mr. McFADDEN. I should like 5 minutes.

Mr. BYRNS. The gentleman from Kansas has already spoken 5 minutes.

Mr. FISH. Give the gentleman 2 minutes then.

Mr. BYRNS. If the gentleman will confine it to 2 minutes' debate I hope there will be no objection.

Mr. McFADDEN. Reserving the right to object, I should like 5 minutes on this amendment.

The CHAIRMAN. The gentleman from New York [Mr. FISH], asks unanimous consent that the gentleman from Kansas [Mr. McGUGIN], may be allowed to offer an amendment out of order, and that debate thereon be limited to 2 minutes. Is there objection to the request of the gentleman from New York?

Mr. McFADDEN. Reserving the right to object, I should like to discuss the amendment for 5 minutes.

Mr. CHAVEZ. Mr. Chairman, I object.

Mr. BYRNS. Mr. Chairman, let me say that I dare say the gentleman from Pennsylvania [Mr. McFADDEN] has taken more time on this bill than any other Member of the House. It does seem to me the gentleman ought to permit those Members here, who are anxious to dispose of this bill or to get along as far as page 49 to do so, and then come back here tomorrow at 11 o'clock.

Mr. McFADDEN. I am not attempting to delay the bill. This is an important provision. It may be that I am unnecessarily taking up the time of the House.

Mr. BYRNS. Mr. Chairman, if it means 7 minutes' debate I will take the responsibility of objecting myself.

The CHAIRMAN. Is there objection to the request of the gentleman from New York [Mr. FISH] limiting the debate to 2 minutes?

Mr. CHAVEZ. Mr. Chairman, I object.

The Clerk read as follows:

SEC. 17. (a) After the expiration of 2 years after the date of enactment of this act, it shall be unlawful—

(1) For any person, firm, corporation, association, business trust, or other similar organization, engaged principally in the business of issuing, underwriting, selling, or distributing, at wholesale or retail, or through syndicate participation, stocks, bonds, debentures, notes, or other securities, to engage at the same time to any extent whatever in the business of receiving deposits subject to check or to repayment upon presentation of a passbook, certificate of deposit, or other evidence of debt, or upon request of the depositor; or

(2) For any person, firm, corporation, association, business trust, or other similar organization, other than a banking institution or private banker subject to examination and regulation under State or Federal law, to engage to any extent whatever in the business of receiving deposits subject to check or to repayment upon presentation of a passbook, certificate of deposit, or other evidence of debt, or upon request of the depositor, unless such person, firm, corporation, association, business trust, or other similar organization shall submit to periodic examination by the Comptroller of the Currency or by the Federal Reserve bank of the district and shall make and publish periodic reports of its condition, exhibiting in detail its resources and liabilities, such examination and reports to be made and published at the same time and in the same manner and with like effect and penalties as are now provided by law in respect of national banking associations transacting business in the same locality.

(b) Whoever shall willfully violate any of the provisions of this section shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both, and any officer, director, employee, or agent of any person, firm, corporation, association, business trust, or other similar organization who knowingly participates in any such violation shall be punished by a like fine or imprisonment or both.

Mr. McFADDEN. Mr. Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. McFADDEN: On page 25, after line 6, insert the following new sections:

"SEC. —. That any person, firm, or corporation subject to the laws of any State or Territory of the United States and acting in any fiduciary capacity for another residing within another State or Territory, or in the District of Columbia, who shall use the mails to induce others or another living within or outside the State or Territory where such person, firm, or corporation resides, or does any profit-gaining business, or who shall by an argument, advertisement, device, or other method persuade or induce others or another to enter into an agreement or arrangement to avoid the payment of any tax or revenue due or liable to become due to the Government of the United States, shall be guilty of a felony, and all persons combining, cooperating, or acting with one or more other persons for the purpose herein declared a felony shall be likewise guilty of a felony.

"No officer, agent, employee, attorney in fact or proxy, for any stockholder of a corporation doing business under the National Banking Act, or doing an interstate business of any kind within the United States or any of its States or Territories, when such a stockholder shall be either a trustee, guardian, agent, attorney, depository, or holder of the capital stock of any such corporation, for anyone owning a legal, equitable, or beneficial interest in said capital stock, for the purpose of voting said stock at any meeting of such corporation, or for the purpose of holding or accumulating said stock in any manner to avoid the payment of any tax or revenue due or to become due the Government of the United States, or to give to anyone holding or exercising any control over said capital stock the power to vote the same at any election of such corporation, shall hereafter hold or vote such capital stock at any meeting of any such corporation without the written consent of the owner of such legal, equitable, or beneficial interest of or to such capital stock.

"Any person or firm convicted of any violation of any provisions of this section shall be imprisoned for a term of not less than 3 years nor more than 10 years in a Federal penitentiary, and to pay a fine of not less than $2,000 nor more than $10,000, and, in the case of a violation by a corporation, such corporation, upon conviction, shall pay a fine of $10,000, together with all the costs incident to the prosecution thereof."

Mr. GOSS. Mr. Chairman, I make a point of order against the amendment.

Mr. McFADDEN. Will the gentleman reserve the point of order?

Mr. GOSS. I am willing to reserve the point of order.

Mr. McFADDEN. Mr. Chairman, my amendment proposes to deal with a subject which is of tremendous importance. I refer to the trust departments of National and State member banks of the Federal Reserve System. In the operation of these departments in some of the big cities of the country there are great abuses. The trust officers of those institutions, under the authority of the officers of the main bank, are resorting, in the handling of estates, to practices which I am surprised that the heads of the banks themselves even permit to continue. I am the more surprised that the supervisory officer of the Federal Reserve System allows it to continue.

Those trust officers, in carrying on sacred trust operations, are conniving with the people to leave their trust funds with the institution, under the assurance and promise that if they will do so they will secure them a refund or a cutting out of the legal taxes which are due the United States Government. That is a practice that should be stopped. I am trying to reach that in this amendment. I believe this amendment will cure it. This, I realize, is subject to a point of order; but I appeal to the committee and to the membership of this House to permit the enactment of the provision in this bill.

It will correct the evil that now is practiced. I realize that the gentleman from Connecticut [Mr. Goss], who has raised the point of order, will make the point of order; and because of this fact I shall not be able to say all that should

be said, so I shall extend my remarks so that the Membership may know and understand what I am trying to do.

These remarks are as follows:

I want to call attention to a practice that has grown up in the operation of trust departments of banks, members of the Federal Reserve System, and otherwise, known as their trust or estates department, a comparatively new venture developed during the past few years and now not supervised as this sacred trust business should be supervised. It is through this channel that unscrupulous bank officers have proceeded and now are continuing to proceed in their nefarious scheming to defraud the public and particularly these trust accounts and the estates which are trusted to the bank for safe-keeping. Clever lawyers have so manipulated trust agreements between banks and their clients' trust estates as to give these unscrupulous officers practically entire control over the management of the securities placed in these departments, and history records almost a complete spoliation of many estates that have been entrusted to some of our leading financial institutions.

This business has become so profitable that the officers of these trust departments are now engaged in soliciting among aged wealthy people and others that their life savings or gains be placed with them for safe-keeping. In some instances owners of estates have been so deceived as to the agreement or understanding entered into for the management of their estates as to deprive their heirs of practically any rights whatsoever, and an investigation will show in some instances where estates have been entirely plundered and the rights of the heirs entirely taken away and the assets purloined for the benefit of the bank or its managing officers.

I intend this to be a severe indictment of this particular class and operation of trust business, and I desire to cite one specific instance which is illustrative probably of many others in the hope that the calling of attention to this particular phase of the banking business as now conducted throughout the country will bring about a thorough investigation and correction of the dastardly practices that are being pursued.

In some of the larger institutions this particular business is mixed up along with the investment and security affiliates. It would almost seem as though some of these supposedly strong, well-managed financial institutions, officered by outstanding men with national reputations, were organized and operated as rackets, with legal departments officered by clever lawyers who maintain lobbies at the State and National capitals for the purpose of directing the course of legislation so as not to interfere with their own particular methods of operation.

In what I am about to say now I have in mind one of the leading institutions of this character in the United States, whose assets are in excess of $500,000,000. This institution is practicing the very kind of business that I am referring to. Its affiliates and subsidiaries and trust departments are capitalized with over $5,000,000. It is a common practice for this class of institutions which are engaged in distribution of securities to use the funds in these trust departments to trade in and out, and oftentimes stable, well-seasoned securities, which are placed in these trusts, have been taken out and unseasoned securities of speculative nature and of questionable value have been substituted, and estates have thus been depleted in this manner.

In other instances, securities of an inferior grade held by the parent institution or one of its affiliates have been unloaded into these sacred trust estates which are supposed to be honestly managed by the officers of the institution.

In this particular instance the unscrupulous officers of this institution have not been content with the exploitation of these trust estates, but have extended their nefarious operations to exploit the stockholders of the institution of which they are the trusted and supposedly respected officers. In order to accomplish this they have organized within themselves securities companies through which are liquidated the good assets of the parent institution. These liquidated assets are then repurchased at greatly depreciated values by cliques of officers of the same institution who profit personally, either through their control of the affiliate or by the losses which have been thus sustained by the stockholders in the supposed liquidation of assets which have been depreciated in value by one reason or another through the process of writing down the good securities and substituting in their place the worthless stuff of the subsidiaries. Under this plan, the inside group are enabled to pick up great bargains for half their market value, while the rest of the stockholders are left to hold the sack filled with worthless junk.

So that you may know how this plan works, a piece of property worth $1,000,000 right now in sound values is written down to $300,000, foreclosed on, and taken over by the inside gang by a bid of $200,000, which carries a deficiency judgment with it for the rest. It is a rich melon, but it is nevertheless a form of looting peculiarly known and practiced by certain New York City bankers who are now on the griddle or are about to be placed there for violations of the laws of the land. In some instances even the money used to buy at sheriff sale is lent by the bank to the inside gang in control of the inside subsidiaries.

In connection with this course, drives have been put on to depress the stock of the bank, then buy it up and gain absolute ownership of it for as low as 30 percent of its value, also on money borrowed from the bank itself.

The officers of these trust departments and their attorneys have invented a scheme to evade income taxes and by such practices which are now in operation are actively engaged in a conspiracy to defraud the Government of the United States.

The part taken by the officers in control of the trust department is new to most people so I will give you the plan which has been uncovered from the brokers who have been engaged in the stock transactions for these bankers. The heads of the trust department under the guidance of their able lawyers have organized a policy for absorbing the income of beneficiaries into capital asset of all estates, such as stock dividends, for the purpose of market manipulation. That declared policy is this: The trust department does not regard the book value or the market value of stock dividends coming into estates under their control in making distribution of the income. They always look to the actual value of the stock coming in as a stock dividend. Only the actual values are regarded by them. Then in the open court, within the hearing of all the lawyers for the brokers on the street, ready to pick up stock thrown over by frightened stockholders, the annual accounts of the trust estates, with the inside and superior knowledge of trust officers knowing all the inside facts about the securities held by the bank itself, which have any bank stock in the list of their securities report to the court openly that this "actual value" is from 50 to 75 percent less than it is carried at on the books of the bank which issued it. This happens in many instances and many people are caught to their sorrow.

There is another angle to this conspiracy. By absorbing the stock dividends into the corpus of the fund the income taxes, after the decision in *United States* v. *Phellis* (257 U.S. 156), are avoided and the earnings of the trustee is increased by the amount of the dividends withheld from distribution. This has been done to boost the price of the stock on the market and among new subscribers while the insiders were unloading their securities on the bank proper—a favorite plan to depress values and permit the officers to gather it in for themselves.

This loose plan of the conduct of these trust departments of banks that are under Government and State supervision should be looked into by the Department of Justice of this Government because the supervision of the operations of these banks and their trust departments have not been properly carried on by the Federal Reserve management or by the Comptroller of the Currency.

The fact of the matter is that these big banks doing the particular business that I am referring to are so powerful and influential, financially and politically, that they use this influence to overcome any possible interruption to the racket which they are carrying on. The literature and correspond-

ence of these officers who are corruptly carrying on these trust departments discloses clearly a conspiracy to defraud the Government out of its income taxes. In fact they secure much of their business on the basis that they will in the handling of these life trusts avoid the payment of legal taxes due the United States Government.

When the Department of Justice starts its investigations of the handling of these trusts it will find many exquisite pieces of literature, such as I am referring to, which invites the prospective "living trust" customer into a conspiracy with the trust officers to evade their income taxes to the Federal Government. The trustees offer to save more than enough to take care of their fees for all their services. They will split on these savings to save the honest taxpayer over half his taxes due the Government, and the citizens thus corrupted are allowing the trustees to keep part of what they prevent the Government from collecting from honest men after their corruption. To say the least, this is a fine, ethical standard for a bank.

The Income Tax Act provides a penalty of fine, costs of prosecution, and imprisonment for evasion of its provisions. Our Federal Criminal Code takes care of that. Section 37 covers acts of conspiracy to defeat the purposes of our revenue laws. It even goes so far as to protect war savings stamps from financial jugglery, as seen by the decisions of *United States* v. *Janowitz* (257 U.S. 42), also *United States* v. *Hutto* (256 U.S. 524), and *Goldman* v. *United States* (245 U.S. 474), where it is held that an unlawful conspiracy to bring about an illegal act, and the doing of an overt act, in furtherance of such conspiracy, is inherently and substantially, in itself, a crime, punishable as such irrespective of whether the result of the conspiracy has been to accomplish its illegal end. I would point out that the mere criminal agreement is the gravemen of the offense, under section 37 of our Criminal Code. And what is a conspiracy? It is held in the case of *Duplex Printing Press Co.* v. *Deering*, (254 U.S. 443), that a "conspiracy" is a combination of two or more persons, by concerted action, to accomplish a criminal or unlawful purpose, or (b) to accomplish some purpose not in itself criminal or unlawful, by criminal or unlawful means. This, I believe, is the general and universal rule.

I would point out that, when these trust officers tell their customers that their plan is the lawful way to evade paying their income taxes as they are now doing, they are entering into a conspiracy to defraud the Government that is indictable under our laws. I would point out the similarity of these cases to the cases that I have referred to the Attorney General of the United States, namely, Andrew W. Mellon, the Union Trust Co. of Pittsburgh, and the coalesced company, where these three interests have conspired together for the purpose of avoiding the payment of legal taxes due the United States Government. The same applies to the cases which are now pending before the Government and the Federal courts in the *Gulf Oil cases*, wherein W. L. Mellon and his associate officers entered into a profit-sharing agreement through which agreement millions of dollars' worth of Gulf Oil stock was distributed to the officers of the Gulf Refining Co. for the purpose of defrauding the Government out of legal taxes that were due it.

These kind of practices and many others which are now known are responsible for the lack of confidence which is so prevalent in Government and financial institutions. This Government must rid our banks of this kind of banditti, and if it does not do so they will spread throughout the land an epidemic of treason that will overthrow the Government and make our country a nation of slaves and sycophants and cowards.

I am proposing, therefore, to provide for the punishment of these acts, relating to the violation by officers of banks of the revenue laws, in an amendment which I hope this House will adopt when it is offered in connection with other amendments to this bill which will be made during its consideration.

Mr. GOSS. Mr. Chairman, the amendment clearly is subject to a point of order. It brings in a lot of extraneous matters the committee have not had the opportunity of going into. Therefore, I shall have to make the point of order.

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. GOSS. Yes, Mr. Chairman; I insist on the point of order.

The CHAIRMAN. Does the gentleman from Pennsylvania desire to be heard on the point of order?

Mr. McFADDEN. Yes, Mr. Chairman; I desire to be heard on it.

Mr. BYRNS. The gentleman just admitted it was subject to a point of order.

Mr. McFADDEN. That is all right; I have the right to be heard on it.

The CHAIRMAN. Has the gentleman admitted it was subject to a point of order?

Mr. BYRNS. I ask that the Chair rule on the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. McFADDEN. It is very evident a proper discussion of the provisions of this bill cannot take place.

Mr. McGUGIN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I make this motion to strike out the last word because I want it to appear clearly in the RECORD so that the country may know it and so that the body at the other end of the Capitol may know it when this bill gets over there, that when this bill was in the House, section 513 (a), the section which pertains to the capitalization of national banks, was deliberately skipped, that it was not read to the House, that the Constitution was made a scrap of paper in that respect.

Mr. STEAGALL. Mr. Chairman, a point of order.

Mr. McGUGIN. The gentleman should make a point of order to clear himself, considering the trick he played in order to shut off amendments in the consideration of this section of the bill.

The CHAIRMAN. The gentleman will state his point of order.

Mr. STEAGALL. Mr. Chairman, I make the point of order the gentleman is not discussing the section now before the House.

The CHAIRMAN. The gentleman from Kansas will proceed in order.

Mr. BLANTON. Mr. Chairman, I make the point of order that it was the duty of the gentleman from Kansas [Mr. McGUGIN], if there was any skipping done here, to stop the reading at that time and have the "skipped part" read.

And further, Mr. Chairman, I make the point of order that the presumption is that all of the bill thus far has been read. I know it has been read scientifically. Our very efficient reading clerks know how to read scientifically. Bills have been read scientifically in this House for the last 50 years, and as long as we have a House of Representatives the practice of reading them scientifically will continue.

The CHAIRMAN. That question has been passed upon.

The gentleman will proceed to discuss the last word.

Mr. McGUGIN. The trouble in this instance is that scientific reading was deliberate skipping of a section in order to shut off amendments to an important section.

Mr. Chairman, the last word is the word "both." It is a very peculiar word. It contains four letters. Its first letter, "b", is the second letter of the alphabet. The next letter in this word, the letter "o", is that letter in the English alphabet which comes immediately following the letter "n." "t" is another letter of the English alphabet immediately following the letter "s." The letter "h", the last letter of the word "both", is another letter of the English alphabet.

Considering this word—it has only four letters—I think the House is entirely justified in striking it out.

Mr. GOSS. Mr. Chairman, I make the point of order the gentleman is discussing a dilatory motion.

Mr. McGUGIN. Mr. Chairman, I take it the gentleman from Alabama would not object to striking out this word because I take it this word "both" was read.

I am very glad to know that it is not well for me to discuss anything other than the word "both", because there are other matters in which I am more interested.

Mr. KELLER. Nobody else is.

Mr. McGUGIN. If the gentleman from Illinois were discussing the subject he could do it much more entertainingly than I. I would deeply appreciate it if I had his great talent. I would use it to show why the word "both" should be stricken out.

I am not so much interested in striking from this bill the word "both" as I am interested in having the opportunity to offer amendments to bills in a constitutional manner, which I have not had this afternoon, as many Members of this House know. A little honesty and fair dealing, even in the House of Representatives in considering a banking bill, will not hurt the country.

Mr. BYRNS. Mr. Chairman, may I say in defense of the reading clerk that in the confusion here it frequently happens that I do not keep up with the reading of a bill. If the gentleman from Kansas sat in his seat without paying attention to the reading of the bill, that was his fault and not the fault of the House, and I do not think the gentleman ought to get up here and detain the House because of some fault on his own part, for, as the gentleman from Texas said, if the gentleman knew at the time it was being skipped, it was his privilege then, and his duty then to insist upon its being read. I think the gentleman convicts himself of sitting in this House and not paying attention to the reading of the bill. [Applause.]

Mr. McGUGIN. Mr. Chairman, will the gentleman yield?

Mr. O'CONNOR. Mr. Chairman, may I inquire the regular order of business?

The CHAIRMAN. The order of business is the pending point of order made by the gentleman from Connecticut.

The Chair sustains the point of order.

Mr. BEEDY. Mr. Chairman, has the time of the gentleman from Kansas expired?

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. BEEDY. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, a few moments ago I sensed the temper of the House, and I again call attention to the fact that the Committee is not making progress, and I have felt that the chairman should move that the Committee do now rise.

Mr. BYRNS. It is quite apparent that only one or two Members object to continuing a while longer.

If these gentlemen will kindly consent, we can read a few more pages of the bill and be in a position to finish it tomorrow, and that is what we must do if the House wishes to dispose of these other bills.

Mr. BEEDY. Let me say to the gentleman that he is advocating on his side of the House a 6-hour day, and I think he ought to be consistent with the principle he advocates and, after sitting here 7 hours steady in the House today, let us go home.

Mr. BYRNS. We would have come to the point we want to reach if the Committee had permitted us to continue.

The Clerk read as follows:

SEC. 18. The first two sentences of section 5197 of the Revised Statutes (U.S.C., title 12, sec. 85) are amended to read as follows: "Any association may take, receive, reserve, and charge on any loan or discount made, or upon any notes, bills of exchange, or other evidences of debt, interest at the rate allowed by the laws of the State, Territory, or District where the bank is located, or at a rate of 1 percent in excess of the discount rate on 90-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, whichever may be the greater, and no more, except that where by the laws of any State a different rate is limited for banks organized under State laws, the rate so limited shall be allowed for associations organized or existing in any such State under this title. When no rate is fixed by the laws of the State, or Territory, or District, the bank may take, receive, reserve, or charge a rate not exceeding 7 percent, or 1 percent in excess of the discount rate on 90-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, whichever may be the greater, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run."

Mr. HOEPPEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOEPPEL: On page 26, line 5, after the word "run", strike out the period and quotation mark and insert in lieu thereof a semicolon and add: "*Provided*, The interest charged the borrower shall in no instance exceed by 100 percent the rate of interest the association itself pays its depositors on time and/or savings deposits."

Mr. HOEPPEL. Mr. Chairman, this amendment refers to the subject I spoke about a moment ago. It refers specificially to Postal Savings deposits. Not only are the banks of the United States receiving and not only do they now have over $1,000,000,000 of post-office funds for which they pay only 2½-percent interest, but they in turn charge you and me 7 percent interest for that same money when we borrow from them. Here is a curious fact in addition to this. The $1,000,000,000 which they now have is supposed to be guaranteed or protected by the deposit of Government bonds as a guaranty to the Government. What do we find in this bill? This bill provides for a repeal of that provision and the security which the bank must give to the Government is to be erased entirely, and instead of that we are drawing on our own Treasury for $150,000,000 to guarantee our own money.

This obnoxious feature is written into this bill and it is unfair to the taxpayer as well as the small borrower. There is no doubt about the fact that the broker in Wall Street can borrow money quite often at a lower rate of interest than the man who needs a little loan and is the one who is paying 7 percent, and I think if these banks are able to make 100 percent clear profit on our money which the Government turns over to them, that ought to be sufficient. This would give us a chance to borrow this money back from the banks at not more than 5 percent.

Mr. WOLCOTT. Will the gentleman yield?

Mr. HOEPPEL. I yield.

Mr. WOLCOTT. Possibly the gentleman's question is answered if he will turn to page 75 and read the proviso in line 5 wherein it is stated—

Provided, That no such security shall be required in case of such part of the deposits as are insured under title III of the Banking Act of 1933.

Mr. HOEPPEL. That is just what I am putting forth. We are now putting our own Government money in private banks and providing $150,000,000 to guarantee it. This is what I am objecting to. Heretofore they have had to put up bonds as a guaranty.

Mr. STEAGALL. Mr. Chairman, this section simply limits the interest rates that may be charged by national banking associations to the rate fixed by the law of the State in which it does business or 1 percent above the rediscount rate of the Federal Reserve bank in that territory.

There are States that have no limitation on interest rates to be charged, and to meet conditions in these States this section is drawn so as to provide that in States that have no laws on the subject the rate shall not be higher than 7 percent. It is simply a limitation.

Mr. Chairman, I move that all debate on this section and all amendments thereto do now close.

The motion was agreed to.

The CHAIRMAN. The question is on the amendment.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 19. In any case in which, in the opinion of the Comptroller of the Currency, it would be to the advantage of the depositors and unsecured creditors of any national banking association whose business has been closed, for such association to resume business upon the retention by the association, for a reasonable period to be prescribed by the Comptroller, of all or any part of its deposits, the Comptroller is authorized, in his discretion, to permit the association to resume business if depositors and unsecured creditors of the association representing at least 85 percent of its total deposit and unsecured credit liabilities consent in writing to such retention of deposits. Nothing in this section shall be construed to affect in any manner any powers of the Comptroller under the provisions of law in force on the date of enactment of this act with respect to the reorganization of national banking associations.

Mr. McFADDEN. Mr. Chairman, I think the House ought to have some explanation of this important section, and I

ask the chairman of the committee to explain it to the House.

Mr. STEAGALL. Mr. Chairman, this simply provides that 85 percent of the depositors and creditors of the banking association that has been closed may determine what shall be done with the assets of that bank.

The Clerk read as follows:

SEC. 21. After 1 year from the date of enactment of this act, notwithstanding any other provision of law, the board of directors, board of trustees, or other similar governing body of every national banking association and of every State bank or trust company which is a member of the Federal Reserve System shall consist of not less than 5 nor more than 25 members; and every director, trustee, or other member of such governing body shall be the bona fide owner in his own right of shares of stock of such banking association, State bank, or trust company having a par value in the aggregate of not less than $2,000. If any national banking association violates the provisions of this section and continues such violation after 30 days' notice from the Comptroller of the Currency, the said Comptroller may appoint a receiver or conservator therefor, in accordance with the provisions of existing law. If any State bank or trust company which is a member of the Federal Reserve System violates the provisions of this section and continues such violation after 30 days' notice from the Federal Reserve Board, it shall be subject to the forfeiture of its membership in the Federal Reserve System in accordance with the provisions of section 9 of the Federal Reserve Act, as amended.

Mr. KVALE. Mr. Chairman, I move to strike out the last word. I do that for the purpose of calling attention to the last line of page 28, where there is a provision for the qualification of a director which requires the ownership of a block of stock of not less than $2,000 in amount.

I have not given this any study, I am frank to say, but as I read it, it occurred to me that that is going to deprive from membership on the board a good many worthy, efficient, and competent retired farmers, or business and professional men who give unselfish service on these boards, and it may work a hardship to some unit banks, particularly the smaller ones that may elect to come in under the terms of the section.

I wonder if we cannot have a statement from some member of the committee justifying the fixing of that figure at $2,000. Perhaps it might be well to fix the requirement at $1,000, or perhaps even at $500. A small unit of $500 block of stock in a bank with $50,000, or even with $20,000, capital would insure the genuine interest of the director and would temper justice with mercy. I should like to hear from some member of the committee.

Mr. LUCE. Mr. Chairman, my recollection is that that is the existing law, but it would take a few minutes for me to look it up.

Mr. STEAGALL. I will say that the existing law places the requirement at the sum of $1,000. This provision increases it to $2,000. It is simply an additional safeguard thrown around the banks in the interest of the safety of depositors and the public.

Mr. KVALE. Mr. Chairman, I am not satisfied with these statements, and I believe the committee should have a chance to express itself. I begin to believe this is truly important. I therefore offer this amendment:

The Clerk read as follows:

Page 28, line 25, strike out "$2,000" and insert "$1,000."

Mr. LUCE. Mr. Chairman, I am grateful to the chairman for refreshing my memory and disclosing that this is a change. Had I noticed it in the committee, I should have favored a larger amount. There is much complaint and criticism these days of men who are members of boards of directors of corporations conducting large enterprises whose own share and risk in the concern are very small. They are put on the board for publicity purposes. Their names are used to attract investments by leading investors to think that the directors have really a substantial interest in the corporation. I trust the gentleman will not press his amendment.

Mr. DONDERO. Mr. Chairman, will the gentleman yield?

Mr. LUCE. Yes.

Mr. DONDERO. I understood that the reason for the $2,000 limit was to eliminate the double liability on the stock ownership; that is, that this should take its place. In other words the liability on the stock would be eliminated, but that the amount of stock to be owned must be $2,000.

Mr. LUCE. That was in part the reason, but it would not, of course, apply if a man were a large stockholder.

Mr. FISH. Mr. Chairman, I rise to speak in favor of the amendment. I do so with considerable trepidation, because I have no knowledge on this subject, but if this is to apply to national banks with a capitalization of $25,000 or $50,000, then I think the $2,000 should be reduced to $1,000. One thousand dollars would be a large share in the capital stock of a bank of $25,000 or $50,000. As far as the big banks are concerned, with millions of dollars of capital, the question of whether it is $1,000 or $5,000 is immaterial. It does not affect the big banks. They should not be permitted to go on as directors unless they have a much larger sum than $2,000. However, if they are going to continue the small banks, I believe the amendment of the gentleman from Minnesota to reduce it to $1,000 should be agreed to. I should like to hear from the committee further.

Mr. KVALE. Is it not true that this limitation will operate only to restrict and limit the qualifications for the directors of small banks?

Mr. FISH. I think it will. Only within the last week I had a request in respect to the reorganization of a national bank. They have a very good citizen whom they want to put on as a director. He has not even $1,000 of stock. Raising it to $2,000 would make it difficult for a small institution, and of course this does not apply to big institutions.

Mr. McGUGIN. Mr. Chairman, will the gentleman yield?

Mr. FISH. Yes; but I am not a specialist on this matter.

Mr. McGUGIN. Does not the gentleman recognize that this is just another section of the bill the purpose of which is to embarrass small banks to make it impossible to operate them?

Mr. FISH. I am not going into that issue. My contention is that if we are going to keep the small banks we should not make it difficult for them to get a proper board of directors. If you have a capitalization of $25,000, then I think a qualification of $2,000 in stock is too high a percentage. If you are going to wipe them out, that is another matter. I do not want to discuss that.

Mr. STEAGALL. Mr. Chairman, I move that all debate upon this section and all amendments thereto do now close.

The motion was agreed to.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and on a division (demanded by Mr. KVALE) there were—ayes 27, noes 73.

Mr. KVALE. Mr. Chairman, I demand tellers.

The CHAIRMAN. All those in favor of ordering tellers will rise. [After a pause.] Not a sufficient number, and tellers are refused.

The Clerk read as follows:

SEC. 24. The provisions of section 5151 of the Revised Statutes and section 23 of the Federal Reserve Act, as amended (U.S.C., title 12, secs. 63 and 64) (imposing liability upon shareholders in national banking associations in addition to the amount invested in shares), shall not apply to hold any shareholder in any national banking association individually responsible in any amounts in excess of the amount invested in shares in such association, on account of any shares acquired by him after the date of enactment of this title.

Mr. SNELL. Mr. Chairman, I move to strike out the last word to ask the chairman of the committee a question. Why should any difference be made in the liability of the stock, as to whether I owned it previously or acquired it after the passage of this act?

Mr. STEAGALL. Mr. Chairman, the purpose is not to affect existing contractual relationships. Any holder of shares in an existing institution subscribed for those shares under a law which imposes what we commonly call double liability upon stockholders. In removing that liability, of course, it is desirable that we do not disturb any contractual obligation now in existence, but that it be made applicable to future ownership, or ownership acquired in the future.

Mr. SNELL. But when I subscribed for shares of stock or deposited my money in a bank, I did not have any guaranty. We are going to have a Government guaranty of deposits. I can see no reason why you should not treat stockholders exactly the same. Under this law the next day after it goes into effect, if I own any bank stock, I am going to sell it and buy some other man's bank stock.

Mr. STEAGALL. Of course, there are some difficulties in adjustments that will follow this legislation, but I do not think they are serious. It seems to me they will be worked out without much harm to anybody. Of course, the practical thing is just as suggested by the gentleman: Those who hold stock upon which they are now liable for additional assessments will, of course, undertake to readjust their holdings so as to come within the provisions of the new statute, which of course fits in with the deposit guaranty or insurance plan. This plan obviates the necessity for protection of depositors in the way of additional liability upon stock.

Mr. SNELL. The gentleman is stating that that is what will be done, and it probably will be done. Why would it not be better in framing this law to cut out these last two lines and let it apply to everyone equally?

Mr. STEAGALL. I am not seriously averse to the suggestion the gentleman has made. Probably it is constructive.

Mr. SNELL. I should like to offer the amendment, if the gentleman will accept it.

Mr. STEAGALL. It seems to me that the orderly way in which to go about making this change is to provide that it shall apply to shares hereafter acquired. I think the difficulties to which the gentleman refers will be very easily adjusted.

Mr. SNELL. The gentleman admits my point, and he says, "I know people will do it." I do not happen to be much of a bank stockholder; but if I were, I would sell my stock the next day and buy some other man's stock.

Mr. STEAGALL. Of course, there will be adjustments along the line which the gentleman suggests.

Mr. SNELL. Unless that is so, why is it not better, when we are drafting this bill to guarantee deposits, to cut it out of the bill? There is no reason for having a double assessment.

Mr. STEAGALL. To be frank, I wrote that section of this bill, employing the language of the original statute. What we sought to do was to avoid interference with any contractual relationships existing because of the liability imposed at the time stock now outstanding was purchased.

Mr. SNELL. But we are doing away with the liability need, because we are guaranteeing the deposits.

Mr. STEAGALL. I may say to the gentleman that as the bill is now drawn, and as it will probably be enacted, it only provides for the guaranty of deposits in full which do not exceed $10,000. Above that amount the insurance is partial.

The CHAIRMAN. The time of the gentleman from New York [Mr. SNELL] has expired.

Mr. SNELL. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. STEAGALL. As to deposits between $10,000 and $50,000 in amount, the insurance is 75 percent; and on any deposit above $50,000 the amount of the excess insured is 50 percent.

Mr. SNELL. I understand that; but there is no sense in having two different kinds of stockholders, one a favored class and another a special class with double liability. It does not seem to me that the fundamental principle carried in the bill is right.

Mr. STEAGALL. I really think the better way to go about this change in the law is to make it apply to transactions in the future in order to avoid any legal controversy. Otherwise the question of disturbing contractual relations may arise, and that was the thought underlying the preparation of the bill as it reads.

Mr. McFADDEN. Will the gentleman yield?

Mr. SNELL. I yield.

Mr. McFADDEN. I should like to call attention to the fact that his suggestion proposes relieving present stockholders in banks of the total amount of double liability, whereas the amendment as it is now in the bill provides single liability on new stockholders only. I want to point out the practical impossibility of the operation, or the confusion that will result from the provision in the bill. For instance, bank stocks that are dealt in on exchanges, and many of them are. The exchanges will have two prices on the same stock at all times. The one which carries double liability will have a lower price, and the one that has single liability will have a higher price. It tends to all kinds of confusion.

Mr. SNELL. How can they have double liability, because every time you change stockholders he escapes liability?

Mr. BcFADDEN. But when he trades, he is trading with different-price stock, because his stock that carries double liability will not be worth as much as that carrying single liability. All the double-liability holders will be getting rid of their stock.

Mr. SNELL. But when you buy it, it will be worth just as much to you. Of course, you are a new stockholder.

Mr. BOILEAU. Will the gentleman yield?

Mr. SNELL. I yield.

Mr. BOILEAU. The liability does not attach on the stock, but merely after the stock is transferred, so that if I have 100 shares of stock and you have 100 and we change about, you have acquired that particular stock at a later date and the double liability does not attach. It does not attach upon the stock, but, according to this provision, as soon as that stock is transferred, the double liability is removed.

Mr. McFADDEN. There will be thousands of shares of bank stock that will not be exchanged, and the double liability will prevail.

Mr. BOILEAU. But they know what it is; and when they exchange it for the other, they will not have the double liability.

Mr. DONDERO. Mr. Chairman, will the gentleman yield?

Mr. SNELL. I yield.

Mr. DONDERO. I wish to ask the chairman of the committee a question. Might it not do this, unless we do accept the amendment proposed by the gentleman from New York, might it not force many banks to go into a reorganization plan to give up the old stock and issue new stock for the exact purpose of evading this double liability and coming under this section of this bill?

Mr. STEAGALL. The plan suggested, we think, is the simple way of doing it. I may say to the gentleman I have no stubborn view as to the method by which this change may be accomplished. There will be another day for consideration of this bill during which the matter may be reviewed, and, if it can be worked out in a more lawyer-like way, I shall be very glad to go along with the effort.

Mr. TABER. Mr. Chairman, will the gentleman yield?

Mr. SNELL. I yield to my colleague from New York.

Mr. TABER. I think the gentleman from Alabama seems to be afraid that if something of this character is not in it, some of the stockholders of banks already in liquidation might be released.

Would it not be better to have the limitation applied simply to those banks which are closed at the date of the passage of this act? In this way the situation is covered.

[Here the gavel fell.]

Mr. BOILEAU. Mr. Chairman, I move to strike out the section.

Mr. Chairman, I have not as yet been satisfied in my own mind that there is any justification for changing our entire banking system so far as the issuance of bank stock is concerned.

In my opinion a good case has not been made out here for the removal of the double-liability feature from bank stock. State banks have been operating upon this same system, and

all the States of the Union still have the double-liability feature on bank stocks. I do not see any reason why stock issued by Federal banks should have this liability taken from them.

A man who is engaged in the banking business in normal times receives good dividends. This has been so at least until just recently. Bank stocks have been good business investments. The bankers of this country have received good dividends from their stock, and I feel, in view of the fact they have the active and actual management of the banks, they should be subject to this double liability. They are handling the deposits of the great masses of the people who have nothing whatsoever to say about the management of the banks. Those men who have stock in the bank are largely responsible for its management, and I believe it is not unfair to have double liability attached to bank stock.

Mr. LAMBETH. Mr. Chairman, will the gentleman yield?

Mr. BOILEAU. I yield.

Mr. LAMBETH. Does the gentleman think the average stockholder has much to do with the management of a bank?

Mr. BOILEAU. I may say to the gentleman that out in the Middle West the stockholder is going to have much to say about management because this bill provides that in order to qualify as a director a man must have $2,000 worth of stock. This means that in many of the small national banks capitalized at $25,000, 4, 5, or 6 men are going to hold all the stock and be the directors, because a man who has only $100 worth of stock, or $200 or $300 worth of stock, cannot be a director. Thus the men who own the stock will actually be the directors of these banks, and I submit that if they are going to have the authority of complete management of the bank it is not unjust to submit them to double liability, because in the banking business there should not be anything of a speculative nature. The banker deals in dollars. The banker does not buy something and take the chance of having to dispose of it at a smaller price. It is true a banker now and then will make a bad investment, but if he makes a bad investment there is no reason why he should be relieved entirely of the responsibility.

Mr. McFARLANE. Mr. Chairman, will the gentleman yield?

Mr. BOILEAU. I yield.

Mr. McFARLANE. I think the gentleman's proposition is a sound one. The bankers of the country are receiving $40,000,000,000 and more of the depositors' money, and the average depositor does not know anything about the operation of banks.

Mr. BOILEAU. That is absolutely correct. I believe we should continue the policy we have followed up to this time. We should couple double liability of bank stocks with the guaranty of deposits that is written into this bill. Then we shall have gone a long ways toward better banking and honest banking in this country.

[Here the gavel fell.]

Mr. STEAGALL. Mr. Chairman, experience has shown that creditors and depositors of banks realize only about 17 percent upon the liability of stockholders upon shares held in banks that are liquidated.

This is a situation that frequently develops:

Stockholders who own the larger portion of shares and who are officers in a bank have all the necessary facilities for keeping fully informed as to the condition of the bank and what is involved in the liability imposed upon the shares held by them.

Many citizens of the community who invest in the shares of banking institutions in response out of public spirit are sometimes without the information that officers and some of the stockholders in banks have.

It has been shown in many, many instances where banks have failed that some of the stockholders and officers have foreseen developments and relieved themselves of the liability imposed upon the holders of the shares, whereas the more innocent purchasers of stock in the institution are caught unawares and made to respond to the liability which may be assessed against them in cases of insolvency.

I have known many instances where citizens died leaving shares of stock in national banks to widows and children, and it turned out that instead of having inherited an asset they had inherited a liability. I can name numerous instances within my knowledge where widows, left with scant security against want in old age, are being called upon to respond to liability upon shares of stock in national banks held by their husbands, and in some instances there is serious question in some of the States as to whether a widow can claim her homestead exemption against the liability upon such stock held by her deceased husband.

These developments in connection with bank failures in recent years have brought us to a situation where in many of the communities that have been deprived of banking facilities it is going to be impossible for a long time to induce citizens to subscribe for stock in national banks.

The provision offered here will encourage investment in national banks and bring about the organization of national banks in communities that are now deprived of banking facilities because of bank failures.

Mr. HOEPPEL. Will the gentleman yield?

Mr. McFADDEN. Yes.

Mr. HOEPPEL. Will the gentleman kindly state how many millions of dollars are lost by depositors for every dollar which some widow who inherited some stock has lost?

Mr. STEAGALL. I have just stated that in practical results it has been shown that not over 17 percent is realized by depositors and creditors out of liability upon shares of the stockholders. This is what the record shows.

Mr. Chairman, I move that all debate on this section and all amendments thereto do now close.

The motion was agreed to.

Mr. McGUGIN. Mr. Chairman, I make the point of no quorum.

Mr. STEAGALL. We are going to rise in just a moment.

Mr. McGUGIN. I withdraw the point of no quorum, Mr. Chairman.

The CHAIRMAN. The question is on the motion of the gentleman from Wisconsin to strike out the section.

The question was taken; and on a division (demanded by Mr. BOILEAU) there were—ayes 21, noes 73.

Mr. McFARLANE. Mr. Chairman, I make the point of no quorum.

Mr. BOILEAU. Mr. Chairman, I object to the vote on the ground that no quorum is present.

Mr. STEAGALL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. CANNON of Missouri, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill H.R. 5661, had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States communicated to the House by Mr. Latta, one of his secretaries.

GOVERNOR OF HAWAII (H.DOC. NO. 42)

The SPEAKER laid before the House the following message from the President, which was read and referred to the Committee on Territories and ordered printed:

To the Congress:

It is particularly necessary to select for the post of Governor of Hawaii a man of experience and vision, who will be regarded by all citizens of the islands as one who will be absolutely impartial in his decisions on matters as to which there may be a difference of local opinion. In making my choice I should like to be free to pick, either from the islands themselves or from the entire United States, the best man for this post. I request, therefore, suitable legislation temporarily suspending that part of the law which requires the Governor of Hawaii to be an actual resident of the islands.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *May 22, 1933.*

Mr. BOILEAU. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BOILEAU. Just before the Committee rose I objected to the vote on a motion to strike out a section of the bill on the ground there was no quorum present. Is that the unfinished business when the Committee resumes business tomorrow?

The SPEAKER. That will be the unfinished business tomorrow in the Committee.

PURCHASE OF STOCK AND BONDS OF INSURANCE COMPANIES

Mr. O'CONNOR, from the Committee on Rules, submitted the following privileged report for printing in the RECORD under the rule:

House Resolution 156

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 1094, an act "To provide for the purchase by the Reconstruction Finance Corporation of preferred stock and/or bonds and/or debentures of insurance companies." That after general debate, which shall be confined to the bill and shall continue not to exceed 2 hours, to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

OUR AMERICAN SCHOOLS

Mr. DOXEY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing a radio address by my colleague [Mr. ELLZEY] on the American Schools.

The SPEAKER. Is there objection?

There was no objection.

Mr. DOXEY. Mr. Speaker, under the leave to extend my remarks in the RECORD I include the following radio address delivered by my colleague, Hon. RUSSELL ELLZEY:

It was my happy privilege for 18 years to be actively associated with a large number of Mississippi school children and patrons, and therefore I am delighted to present my views. During the 12 minutes allotted to me I shall discuss three phases, namely:

1. The past achievements of our American schools.
2 Our American schools in a crisis.
3. The future hope of our American public-school system.

Approximately a century ago this Nation conceived the idea of offering education to the public, and this new ideal was clearly based on the principle of American free democracy. In the practical application of this system of educating the masses, necessarily the cost was transferred from the individual to the community. It awakened a new interest among citizens and offered hope to the stalwart taxpayer of limited means.

As a result of this growing interest, the smallest hamlets of this Nation have erected splendid school buildings. Millions of dollars have been expended by the taxpayers for such school equipment as science laboratories, libraries, modern classroom fixtures, and playgrounds. These splendid school plants are today the pride of the American communities and represent the honest efforts of our taxpayers to educate the children of the country.

While school plants were being constructed and equipped, marked progress was being made in developing a splendid personnel in the teaching profession. Teachers have spent millions of dollars in preparation for the work of this profession, always with the hope of rendering efficient service to the youth of America. No fair-minded American will charge that teachers hoard money, but, on the contrary, they contribute most generously to the community enterprises. They are interested in the spiritual, social, and economic development of that community where they reside—many of them being taxpayers and home owners. In this day of inspection of public institutions, when audits of banks, insurance companies, railroads, finance corporations, and industry are being made, the taxpayers of America, with appreciation, will find honest and efficient administration of school systems. These school officials have kept faith with the people and are disciples of rigid honesty.

Thousands of teachers during this great crisis have continued their services, even when the community was unable to pay their salaries for several months. Today one State owes her teachers $7,000,000, representing salaries long since past due. In one city there are 2,278 teachers who have been unable to meet payments on $7,800,567 worth of life insurance, 759 were unable to meet payments on homes, and 500 were actually assisted by a charitable foundation. Regardless of such conditions, the patriotic teachers have continued their services in the hope that the children of America might not suffer.

Each year there is mobilized through our American schools approximately 25,000,000 children. With a splendid personnel of teachers, and with modern school equipment, most remarkable results have been obtained in developing the youth of this country. Emphasis is given to subject matter, and to a fine program of physical development. The spiritual growth is most ecouraging to the mothers and fathers. Those fine virtues of teamwork, self-respect, honesty, and fair play are emphasized in school programs. The Nation owes a lasting debt of gratitude to the American schools for instilling into the hearts of our youth a spirit of patriotism. In 1917, when America entered the greatest conflict in history, from our American schools the very flower of youth marched forth to war. Without fear of contradiction, I contend they will always constitute an important part of our national defense.

Every normal community of this Nation rejoices at the accomplishments of our public-school system. Yet, today, the very existence of our schools is threatened because of prevailing economic conditions. With so many heavy financial losses in bonds, bank deposits, stocks and foreclosures of mortgages on homes, there remains for the average taxpayer only one hope for his child, and that is an education at public expense.

Briefly I shall submit to you some reasons for the threatened collapse of the public-school system. Recently the national survey of school finance found that one half of the States of the Nation obtain 90 percent of financial support for schools from a general property tax and five sixths of the States receive 80 percent revenue from property tax.

During this great economic crisis two factors must be considered in planning school budgets. First, serious thought must be given to the tremendous shrinkage in the assessed valuation of property, necessarily resulting in decreased tax returns. Secondly, officials must remember that the earning power of the American citizen has so decreased, because of low commodity prices, lower wages, unemployment, and bank closures, that a surprisingly large number of patriotic and honest taxpayers have been unable to pay taxes. Remember that these same factors threatened, and in many cases have destroyed, other American institutions within the last 2 years. In analyzing this question, one so vital to the hearts of all Americans, let us consider very frankly what has happened. When financial institutions saw dangers ahead their leaders came to the Federal Government and successfully demanded financial assistance. The Government has extended loans, millions of dollars, to banks, insurance and railroad companies, and other public corporations. Furthermore, private industry is now turning to the Federal Government and making insistent demands for financial assistance through the Federal Treasury. I merely mention these convincing facts to clearly show you that other public and private institutions have had to face a threatened collapse, and that the school system is no exception to a general rule.

With "our public schools" threatened for lack of financial support, what is the hope for the future? For your consideration, ladies and gentlemen, I submit the following:

I. ECONOMY

1. Public-school officials will continue to effect every safe economy commensurate with efficiency and American ideals. In this connection let us not forget that drastic economies have already been made in many States. For instance, there are counties in the States of Arkansas, Florida, Kansas, Kentucky, Mississippi, Tennessee, Washington, Michigan, Missouri, New Mexico, South Dakota, and Wyoming where the average teachers' salaries have been reduced 40 percent and yet at the peak of prosperity the average wage of teachers was only $29 per week.

2. Every service in the school system that has outlived its usefulness must be eliminated.

3. Consideration must be given to a unified school system, at least within the individual State, to eliminate duplication in school costs.

II. STATE SUPPORT

Hitherto the economic ability of the individual school district has determined the program of education. Even during the most prosperous period of this Nation, in some States there existed certain areas which offered very limited educational advantages to the public. In those sections where wealth has been concentrated, superior advantages are available. Therefore, I am firmly convinced that each State, in its State financial budget, should make provisions for public education of all sections of that State.

III. FEDERAL SUPPORT

The Federal Government owes the same protection to all sections of the Nation. Likewise, each American child is entitled to an equal opportunity in life. Therefore, I am firmly convinced that the Federal Government should share its part in the cost of public education.

For several years much of the Nation's wealth has been concentrated in financial centers, but each section of the Nation has contributed. Therefore, it is eminently logical that the financial centers should help bear the public costs to society of all sections of the Nation, and of foremost importance among these is public education.

Ladies and gentlemen, you will be interested in knowing that the national government of several European countries contribute very generously to the public education of their children. For instance, the percentage of the government budget for education in Denmark is 20 percent; Belgium, 13 percent; Germany, 18.3 percent; Norway, 14.9 percent; Rumania, 17 percent; Sweden, 17.1

percent; Switzerland, 24.6 percent. Yet, in the greatest Nation on earth—America—only four tenths of 1 percent goes for public education.

Last year the English Government appropriated for educational purposes £51,000,000, or approximately $202,470,000, while our Federal Budget appropriated for education only $17,000,000. Please consider the very small amount of Federal appropriations—$17,000,000—for education in comparison with appropriations within recent years for other purposes.

The Editorial Research Reports show Federal subsidies to shipping and aviation for a 10-year period—$30,000,000 per year. The report of the Secretary of the Treasury for the fiscal year 1932 showed, in part, the following appropriations, viz:

Agricultural experiment stations	$4,356,591.65
Cooperative agricultural extension work	8,649,649.90
Forest fire	1,573,193.50
Cooperative construction of rural post roads	127,367,119.74

I submit to you that no Federal appropriation would reach the masses of the people as would Federal support of public education—whereas often in the past millions of dollars of Federal funds have benefited only special groups of American citizens.

In conclusion, may I bespeak your most careful consideration of our American schools—especially at a time when these splendid institutions need the cooperation and loyal support of every American citizen. Frankly, I believe that each State should assume a large portion of the financial responsibility of educating the children of every section of that State. The Federal Government should contribute to public education its just share of the cost to the end that every worthy child of the greatest Nation on earth may have a golden opportunity of preparing for the walks of life and becoming a constructive builder for society as a whole. Above all, let us not be swept off our feet by a determined effort of a very few, who, under the guise of economy, would literally destroy our American schools. In this great crisis, let me appeal to taxpayers, teachers, and the American youth to carry on that fine type of service for society which has always been characteristics of our American schools!

EXTENSION OF REMARKS—H.R. 5480

Mr. STEAGALL. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their own remarks in the RECORD on the bill H. R. 5480, for 5 legislative days.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. BACON. Mr. Speaker, member banks of the Federal Reserve System number about 6,900, with aggregate resources of about $30,000,000,000. Of these about 6,100 are national banks and 800 are State banks, which could escape the provisions of this bill by withdrawing from the system.

There are about 11,800 nonmember banks, with aggregate resources of about $20,000,000,000. These would not be affected by the bill, except as they might become member banks or branches of member banks.

I. BRANCH BANKING

A. Provisions of the bill, sections 22, 17, and 5–b

First. Section 22 provides that national banks having a capital of $500,000 or more may, with the approval of the Comptroller of the Currency, establish branches at any point within the State in which they are located, provided that this is permited by the laws of that State and subject to them. (The States in which State-wide branch banking is expressly allowed by law are Arizona, California, Delaware, Maryland, North Carolina, Rhode Island, South Carolina, Vermont, and Virginia. In 16 other States branch banking is permitted under certain restrictions or within certain limited areas. Branch banking is prohibited in 18 States and in 5 there is no law regarding the subject.) An exceptio nis made in States having a population of less than 1,000,000 and no city exceeding 100,000, where the minimum capital requirement is reduced to $250,000. Further, the aggregate capital of a national bank and all of its branches must not be less than the capital required for as many national banks in the places in which they are located.

Capital requirements for the establishment of national banks are fixed by section 17 as follows:

In towns of less than 6,000 population	$50,000
In towns of less than 50,000 population	100,000
In towns of more than 50,000 population	200,000

Section 5 (b) authorizes State member banks to establish branches under the same conditions as apply to national banks.

B. Supporting arguments, with comments

First. The Reconstruction Finance Corporation has been obliged to make loans to about 5,000 banks which were in a critical condition. Much of this was used for the purpose of paying off loans from metropolitan correspondent banks. It has not eradicated the fundamental weaknesses of many of these banks, however, nor eliminated the probability of many bank failures during the near future. Last January Senator GLASS stated that he had reliable information as to the ultimate failure of at least 470 banks unless they are recapitalized or taken over by stronger institutions. The number of loans made by the Reconstruction Finance Corporation indicate that this conservative figure probably represents a small proportion of the banks that are insecure.

With local capital for refinancing these banks available only in very rare cases, a serious emergency exists unless the machinery is created permitting strong institutions to take these unsound banks over. The consequences of continued bank failures are not confined to the further freezing of assets and forced liquidation of loans but will also result in a panic psychology which would seriously endanger many banks that are otherwise secure.

Second. Another emergency to be met results from the closing of 10,500 banks since 1920—more than a third of the then existing banks. This has left literally thousands of communities entirely devoid of banking facilities. Because of the absence of local capital for reorganizing these banks and the prohibitions placed upon branch banking there is a virtual economic paralysis in many sections which have suffered. Under the provisions of the bill strong metropolitan banks would be quick to meet this need and take a long step toward the revival of local business.

Third. The following figures reveal the nature of the banks which have suffered most heavily and indicate the direction of the steps necessary to remedy these conditions:

About 10,500 banks with $5,000,000,000 deposits failed during 1921–32. Eighty percent of these were nonmember banks with average deposits of only $350,000; 90 percent of these were situated in towns of less than 25,000 people; 60 percent were in towns of less than 1,000; 59 percent had capital of less than $25,000; one fourth of 1 percent only had capital of more than $1,000,000; 85 percent were State banks; 70 percent of the Reconstruction Finance loans were to State banks.

The following table shows that during a period of relative general prosperity the small banks, termed "one-crop banks" by Senator GLASS, are likely to have a high mortality. As economic conditions grow worse, the average size of failures increases but does not reach the level of the average bank in the larger towns and cities:

	Number of banks failed	Average deposits
1921–28	5,000	$297,400
1929	642	365,300
1930	1,345	642,900
1931	2,298	736,000

Internal causes generally assigned these failures are undercapitalization, lack of diversification and bad management, in order of importance. The first two of these will be obviously removed by consolidation with larger institutions. The third also, presumably, will be largely eliminated by the fact that large banks can better afford the services of the more skilled and experienced bankers.

Fourth. The external causes for the failure of so many local unit banks are the depression in agriculture during the period and—of fundamental though less immediate significance—the migration of opportunity for profitable banking operations toward the metropolitan centers. The former was manifested wherever a community largely dependent upon a single crop was adversely affected by a poor yield or an unfavorable market. Such a situation would bring about heavy withdrawals simultaneously with the freezing of the banks' assets.

The increased use of automobiles and other new social and economic trends of the past decade have set in motion a geographical integration of business. Local enterprises have merged with regional or State-wide corporations; the chain stores and public utilities which now serve the small towns generally carry only working balances in the small town; local depositors, with a wider shopping range, now seek the relative security afforded by the banks in the larger cities; as business units grow larger, loan requirements exceed what the small banker can lend under the restrictions of the National Banking Act (loans to single borrowers not to exceed 10 percent of capital and surplus). As a partial result of the reduction of opportunities for placing funds profitably in local enterprise, the unit banker has therefore been tempted to try some degree of diversification by purchasing securities with a high yield.

Thus the original conception of unit banking, which has been so nurtured to the exclusion of branch banking—that the bank's function is to finance local enterprise with local capital—has been gradually destroyed by several irresistible trends, and the banks themselves are being destroyed with it.

Fifth. Unit banking in its present state of collapse in the United States contrasts with the branch banking practiced in every important country today. During the present economic depression bank failures abroad have been few.

Among the countries where great branch-banking systems have long and successfully performed the functions of deposit and commercial banking are Scotland, England, and Canada. In Scotland, where branch banking has been practiced since the eighteenth century, there has never been a failure resulting in loss to note holders or depositors. In England, which a century ago was largely served by independent banks similar to ours, there are now only 16 chartered banks with 8,000 branches. There also depositors have suffered no losses in recent times.

Most interesting for the present purpose, however, is the record of branch banking in Canada, which is adjacent and economically and geographically similar to the portion of our country which has suffered most from bank failures. Branch banking existed there at the time of the Confederation in 1867, and in 1871 was laid the legislative foundation of the present system. Since then Canadian banking has been concentrated into 11 banks operating more than 4,000 branches (loan-and-trust companies excepted). During that period there have been 35 consolidations, of which the majority were after 1900, and 26 failures, of which the majority were prior to that date. Of these failures only nine involved loss to noteholders or depositors, and the aggregate of such losses during the 65 years was only $13,500,000. There have been no insolvencies since 1923.

In addition to the conclusions to be drawn from this remarkable record, Canadian experience with branch banking affords refutations of several of the arguments advanced by the opponents of branch banking. It disproves the assertion that branch banking tends toward monopoly, excluding the benefits of competition. It shows that the system does not drain money into the cities to the detriment of local development. There is no evidence of over-emphasis of collateral security as against progressive "character" loans. The record shows a distribution rather than centralization of credit. Although it is asserted the United States has too many banks, Canada enjoys more banking offices and more bank employees per capita than the United States. On the positive side, branch banking in Canada has achieved three things which must be attempted in any reform of American banking: Adequate capitalization, diversification of loans, and low overhead costs for rural banking accommodation. (These points will be further touched upon separately.)

Sixth. Contrary to the assertions of many opponents of branch banking, it is not a system alien to the United States and incompatible with its individualistic traditions. The provisions of the Glass bill by which it is to be limited to State-wide activities constitute a safeguard against the dreaded financial autocracy which, in fact, is more likely to become a reality under present laws. By prohibiting State-wide branch banking we have, in fact, encouraged interstate group banking.

In 1848 branch banking was practiced in half of our States, particularly those of the South, where strong systems grew and prospered until the Civil War. The early legislative inhibitions were not aimed at branch banking itself but at the abuses of note issuance and of "wildcat banking." The Civil War practically wiped out branch banking in the South, and the National Bank Act and prohibitive taxation of note issues of State banks brought about the conversion of most State branch banks into national unit banks. Thereafter there was no important change in banking law nor much development of branch banking in the national system until 1900. State branch banking has grown rapidly in some States during the last 30 years, and national branch banking has grown considerably as the result of the Consolidation Act of 1918 and the city-wide provisions of the McFadden Act of 1927.

Among the several States in which branch banking has reached a high degree of development under State charters or in which State branch systems have been converted into national banks, California is outstanding and offers the best illustration of the advantages of this type of banking. Here, in 1930, 63 out of 496 banks operated 826 branches. Of these 500 were operated by two banks—one of which had become a national bank, the other was under State charter—both owned by a single holding company. The record of banking in this State, of which two thirds of the banking offices are branches, shows a lower rate of suspensions and a higher percentage of profits than the average for the country. The State is not overbanked, but has adequate facilities which compete keenly in the agricultural and industrial development of the State.

State-wide branch banking, therefore, is neither new nor untried in the United States.

Seventh. Branch banking as authorized by the Glass bill is not only safer because of its capital strength but also because of the diversification it will permit. The "one-crop bank" is at the mercy of local conditions, with all its eggs in one basket, while the bank whose operations are regional may diversify their loans both as to borrowers' lines of business and as to liquidity. The rural bank generally lends to the farmer for 9-month periods. The city bank can take 90-day negotiable paper from merchants and shorter loans from industries. The branch bank, covering a region instead of a locality, can vary its investments to compensate for seasonal fluctuations or losses in one or more type of loans.

Eighth. Branch banking can supply loanable capital from the centers of population to outposts where credit needs are greater than money for deposits. In this sense a bank should function, like a railway, regionally and not locally. This mobility of capital will tend to equalize interest rates, which are at present unfavorable to the farmer. It is the frequent practice of banks establishing branches in agricultural or newly developed localities to take a moderate loss over a certain period while it builds up the community financially. This progressive policy is, of course, an impossibility for a unit bank financed by local funds. Moreover, the Bank of Italy in California and most of the Canadian branch systems frequently lend more money to rural localities than they receive in deposits from them, demonstrating again the relative shortcomings of the unit bank as a benefactor to local enterprise.

Ninth. The foregoing is a partial refutation of the assertion that branch banking will not only drain off deposits from small communities for use in the cities but that it will place the banking facilities of rural towns in the hands of officials who are not familiar or sympathetic with their needs. This popular argument does not bear examination. In the first place, it is unlikely that branches will be established in places where balanced banking cannot be developed—both deposits and loans.

Second. A branch bank will seek to place its funds where they will yield the best interest, namely in the rural communities.

Third. It is a common practice to place local branches under the management of local bankers intimately acquainted with conditions.

Fourth. Local managers are generally given discretionary powers in making loans up to a certain amount. In Canada this ranges from $2,500 to $10,000. In this connection a prominent Canadian banker has stated that in the case of his bank there invariably was at the main office at least one official who was personally acquainted with any client seeking a loan of $50,000 or more, and even generally with clients seeking loans of $10,000. This condition would apply all the more to State-wide branch banking as compared with dominion-wide banking.

Fifth. Local managers, as with managers of chain stores, will make every effort, for their own advancement, to lend as much money as is consistent with sound principles.

"Character loans" therefore, may be made under branch banking as readily as under unit banking, except for unsound loans made under the pressure of personal friendship.

A secondary point under this heading is the fact that, when a unit bank fails, it injures most those whom it was especially intended to help—the man who borrows on character instead of collateral. In this case a borrower who may be a good risk and a constructive force in the community will be rendered helpless by suits resulting from the forced liquidation of the bank's assets.

Tenth. It is asserted that branch banking will further centralize credit and produce a financial autocracy contrary to the public interest. Yet under our present laws 50 percent of the banking business is conducted by only 0.5 percent of our banks, while the other 99.5 percent of our banks handle the remaining 50 percent. This concentration is largely the result of the restrictions placed upon State-wide branch banking, which have driven many industries seeking large loans to money centers in other States. Under the provisions of the Glass bill the capital resources within States will tend to concentrate and to become available for financing the business of that State. This would actually tend toward decentralization.

Eleventh. I have already given, paragraph 3, the average deposits of the banks which have failed during the last decade, demonstrating the insecurity of the small banks, owing partly to under capitalization and bad management. The following table further shows the percentage of small banks which reported a loss during the period 1926–30, in terms of their volume of loans and discounts:

	Percent lost money
Banks with loans and discounts less than $150,000	35
$150,000 to $250,000	28
$250,000 to $500,000	20.6
$500,000 to $750,000	14.6
$750,000 to $1,000,000	13.2

The smaller banks show the higher percentage of losses as well as failures. Here again becomes apparent one of the fundamental disadvantages of the small unit bank—its higher percentage of overhead and smaller margin for reserve. The magazine Fortune gives, in this connection, a hypothetical income and expense account for a small bank with $100,000 capital and $1,000,000 deposits:

Earnings:		
Discounts and interest on investments	$56,000	
From various other sources	6,000	
		$62,000
Expenses:		
Interest on deposits	28,000	
Taxes	3,000	
Other running expenses	7,000	
Losses on bad loans	6,000	
Dividends at 6 percent	6,000	
		50,000
Left for salaries and reserves		12,000

If this rough calculation approximates the actual figures of a representative bank of this type, it is evident that there is little left to spend for banking brains and experience and none for building up a reserve. Under adverse circumstances the bank will lose money and eventually fail.

As a branch, however, it would be under the supervision of presumably skillful and experienced bankers. As to reserves, the resources of the parent institution, protected by diversification, are behind the small branch. For these reasons, therefore, the branch does not have to present as substantial a front as the unit bank designed to inspire the confidence of its depositors. Branch banking, as in rural Canada, may be done in simple quarters which the unit bank does not dare to use.

Twelfth. Branch banking would tend to increase both banking facilities and employment, rather than to decrease them, if we may judge by comparison with Canada. In the United States there are about 20,000 banks and 3,500 branches, or 1 banking office for every 5,000 persons, while in Canada there are 11 banks with 4,000 banking offices, or 1 to each 2,500 inhabitants. Should branch banking in this country bring the number of banking facilities up to the Canadian average, we would have 11,500 more than at present, employing, at 3 persons each, 34,500 persons.

Although the United States was admittedly overbanked in 1920, an increase of banking offices not separately incorporated is desirable. There are 3,165 urban places in the United States, of which at least 2,000 should have more than one banking office; there are 13,433 incorporated places in the rural districts; and outside of these 16,598 towns and villages lives 36.4 percent of our population.

Thirteenth. Other sections of the Glass bill deal with chain and group banking through holding company affiliates controlling member banks. Many such groups, including National and State member banks, have been formed throughout the country in order to realize some of the advantages of branch banking while circumventing the prohibitions in the National Bank Act. In 1911 Solicitor General Lehmann, with Attorney General Wickersham concurring, declared the establishment of such chains or groups to be illegal. This decision was never applied, however, nor brought to light until recently.

Group bankers themselves welcome branch-banking legislation by which they could simplify their organizations and afford their depositors more security than they now enjoy in most of these extralegal unsupervised organizations. Although many of them have been operated on sound and conservative principles, others have represented a menace to the public by their ability to conceal their true condition from both State and National examination.

Fourteenth. Unit banks are described as "very, very limited in scope * * * and monopolistic in their area." Senator GLASS attributes many of the banking evils to the "pawnshop" banks in the country districts where, free from the competition of branches of sound institutions, they monopolize the banking business of the area and involve its assets in failure as soon as difficulties arise.

Branch banking therefore would not tend toward monopoly, as frequently charged, but would rebuild the banking system on a sound competitive basis. Strong local institutions adequately serving their communities would be protected by the Comptroller of the Currency, whose consent is necessary for the establishment of branches. But where adequate banking facilities are lacking, healthy competition between branch systems would serve best the public interest. At present many unit banks have joined in clearing-house arrangements designed to curb competition and monopolistic in their intent. These same combinations would serve to protect unit banks from dangerous branch competition in the same manner as independent grocers have successfully organized to compete with the chain stores on equal footing. In France closely knit associations of local banks have been successful against branch-bank competition.

Fifteenth. The frequent assertion that branch banking is supported by the "big interests" of New York for their own profit is contrary to fact. The strongest supporters of this measure have been men representing all types of business except banking. The strongest opposition has come from bankers themselves, as witnessed by the hostility of the American Bankers' Association. Wall Street, by which is generally understood the 'big interests", has observed a general neutrality in the matter. Strong advocacy would tend to antagonize the correspondents of New York banks. And open

opposition would run counter to the judgment of New York bankers as to the best course for reorganizing national banking. New York banks would to some extent lose importance as the result of State-wide branch banking, because much more financing would be handled within the various States which now bring their banking business to New York. Another reason for the noncommittal attitude of New York is the fact that the large banks there would, in order to maintain their prestige in New York State, be obliged to undertake the expenses and risks of opening branches throughout the State—a course which would not be particularly desirable to them.

Sixteenth. Prior to the amendment which limited the application of section 22 to the States in which branch banking is already permitted, it was opposed on the grounds that it would be an unconstitutional usurpation of State rights to impose branch banking upon States prohibiting it to their State chartered banks. This general issue has frequently been before the Supreme Court. Its several decisions in the matter have established beyond question the fact that Congress, having established a national banking system under its constitutional powers, may take any measure it determines necessary to preserve it. (Some of the outstanding cases are *McCulloch* v. *Maryland, Osborn* v. *Bank of the United States, Farmers and Mechanics National Bank* v. *Dearing.*)

It is also established that wherever Federal legislation passed by Congress in exercise of its constitutional faculties shall conflict with State laws, the former shall be the law of the land and shall be binding upon the States. (*Casey* v. *Gall, Davis* v. *Elmira Savings Bank,* and others.) Opponents of branch banking erroneously refer to the Supreme Court decision in *First National Bank in St. Louis* v. *Missouri* as evidence of the unconstitutionality of section 20. In this decision the jurisdiction of State courts in enforcing State branch-banking prohibitions against a national bank was sustained. The national bank in question, however, had established a branch without the authority of any permissive Federal law or authorization by the Comptroller of the Currency. The case clearly indicates, however, that had there been a Federal statute authorizing branch banking, the laws of the State would not have applied.

A recent opinion written by Walter Wyatt, counsel for the Federal Reserve Board, states that the national bank system and the Federal Reserve Act having been constitutional Congress has the power to modify these to preserve their purposes. Second, that congressional power over the national currency extends over all modification of the Federal Reserve System. Third, that impending bank failures jeopardize interstate commerce, and that Congress may, therefore, take any steps it deems necessary to protect it.

C. The negative arguments, with comments

First. The branch-banking provisions of the Glass bill were drafted under the misconception that the banking disasters of recent years have been due to the fundamental weakness of unit banking as a system merely because we happened to have unit banking at the time. The real causes of the present banking crisis have been, first, the depression in agriculture and then the deflation following the boom in securities speculation. Both unit and branch or chain systems of banks failed prior to 1929 in the sections that were suffering economically. Both unit and branch banks failed in the cities when investment prices collapsed.

Economic conditions were a cause of banking failures, not an effect. Moreover, another cause for many banking collapses was the domination of smaller banks by their large metropolitan correspondents, which drained funds from the country districts for speculative purposes and loaded up the small bank with worthless securities. Had branch banking then been in Nation-wide practice, the same results would have ensued.

Section 22, therefore, seems to be conceived in a punitive spirit, threatening the innocent injured party, unit banking, with destruction by State-wide branch banking. It does not strike underlying factors requiring remedy.

Second. The foundation of the Federal Reserve System, upon which rests our national financial structure, is a system of independent banks serving their localities but drawing upon the elastic credit reserves of the 12 great Federal Reserve banks. The present system, with such modifications as will prevent speculation and other abuses, is capable of adjusting itself to all contingencies and effectively serving the Nation.

Branch banking, however, would tend to weaken this structure and eventually to destroy it. Experience in other nations shows that branch banking drives out unit banking. Thus we should be substituting for our present system other credit reservoirs in the form of great branch banks privately owned and operated for profit. The accommodation the local bank now receives from the Federal Reserve bank of its district under supervision in the public interest would instead be monopolized by the parent bank without recourse to the Federal Reserve.

Third. Corollary to the above point is the fact that under the unit system coordination with the money market and the automatic flow of credit in the interests of the general public is effected through the Federal Reserve System. In it are represented a wide range of diverse conditions throughout the country. Collectively its actions in providing fluidity and mobilization in times of emergency are uninfluenced by considerations of private profit. Under a branch-banking system this diversification of representation in the membership of the Federal Reserve System would be lost as the member units became larger. With effective control placed in a few hands, there would arise a prejudicial tendency for it to serve private rather than public interest.

Fourth. The common assertion that State-wide branch banking would achieve a desirable diversification of risks is fallacious. In States which rely primarily upon one or two crops, the dangers of concentrating banking business in a few large institutions are no less than the dangers of having isolated failures among independent banks. And in States where there is a great diversity of economic activity the local banker is better fitted to understand and to meet the peculiar problems of his community than is the big banker in the metropolis, who will be better acquainted with national industrial conditions.

Fifth. The present dual system of banking in the United States provides a salutary check upon illiberal or mistaken general policies to which a unified banking system under an overburdened bureaucracy would be subject. Depositors and borrowers now have a choice of the facilities they use, national or State. In a large number of cases comparative statistics show that State banks have served their communities better than national banks. In support of this Senator NORBECK, in his minority report on the Glass bill, cites the following figures:

December 1931:	
State-bank deposits	$30,486,000,000
National-bank deposits	19,210,000,000
State-bank capital more than national	175,000,000
State-bank surplus more than national	1,700,000,000

March 25, 1931, to December 30, 1931: State-bank deposits decreased $3,700,000,000, or 8 percent; national-bank deposits decreased $3,100,000,000, or 13 percent. (These figures are evidently inaccurate. The percentages actually work out about 11 and 14 percent, respectively.)

In 1931 national-bank failures increased over 1930 by 154 percent; State-bank failures increased over 1930 by 60 percent.

National banks reopened in 1930	5
National banks reopened in 1931	25
State banks reopened in 1930	140
State banks reopened in 1931	250

Comment: I cite these figures not because they are convincing but because they are the only evidence offered in support of this favorite argument of the opponents of branch banking.

Sixth. Branch banking, with its nonresident management, will tend to eliminate character as an element in credit and to overemphasize collateral as the basis for loans. Comp-

troller Dawes asserts that under these conditions banks would "degenerate into a glorified pawnshop." These "character loans", it is asserted, have been a major factor in the progressive development of the United States. They are generally made to young and constructive men who do not have the necessary collateral security, and they depend entirely upon the local banker's intimate knowledge of the borrowers and their projects.

Comment: Among advantages character loans have been discussed, with special reference to the Canadian branch-banking practice. In Scotland, which has the oldest and one of the most comprehensive branch-banking systems, it is the well-established practice to make such loans very liberally. The Morris Plan banks in the country also successfully practice a form of character loans of the same type. In this connection two more points on this subject may be made: First, the local banker, responsible to no one but himself, is not only tempted to extend credit to personal friends irrespective of the risk involved, but he is frequently practically obliged to, against his better judgment. Under branch banking, even though the local manager may be a local man, the responsibility for such loans rests with the main office, and he is relieved of this difficulty. Second, the very borrowers who are supposed to be most benefited by liberal character loans are those to suffer most in case of the bank's failure. Lacking collateral they are rendered helpless by suit incident to the bank's liquidation.

Seventh. Advocates of branch banking frequently allude to its safety in Canada as contrasted with bank failures in the United States. Yet Canada, with natural resources nearly equal to ours, with similar climatic conditions and population, has remained relatively undeveloped. This is attributed to the unprogressiveness of branch banking, controlled from two metropolitan cities. The money actually lost to depositors in America, enormous though the sum is, is not a high price to have paid for the great national development our unit banking system has made possible. Under branch banking the flow of credit for constructive purposes would be reduced until our system might resemble Postal Savings banking—purely a deposit business.

Comment: The fallacies of this are discussed earlier. A further point to be made is the fact that the Glass bill does not contemplate branch banking on a Nation-wide scale, as in Canada, and that the comparison can be made only insofar as Canadian experience demonstrates some of the general advantages of branch banking.

Eighth. Branch banking tends to be monopolistic to an unwholesome degree.

Comment: The prohibition of branch banking has driven half of our banking business into a few institutions, thus tending toward an effective monopoly. And the small unit bank itself is intensely monopolistic in its area. State-wide branch banking, on the contrary, would decentralize credit and bring banking business back to the States in which it originates.

Ninth. Branch banking spells the ultimate ruin of the sound, independent, progressive unit bank which has long well served its locality.

Comment: While under the Glass bill the Comptroller of the Currency must approve the establishment of branches and will refuse them in communities already adequately served, at present unit banks have to meet the competition of chain and group banks established under scant supervision. Moreover, as discussed earlier, independent banks can and have joined in clearinghouse agreements for protection against competition, in much the same way as local grocers have combined.

Tenth. The common assumption that size, developed through branch banking, means strength is not supported by experience. It is vastly more dangerous, to use the branch banker's simile, to place all the eggs of a considerable region into one basket than to risk scattered unit bank failures. The failure of the Bank of the United States, for example, was greater disaster to a vast number of depositors than the failure of a number of country banks. Huge branch-bank failures have occurred in France, Germany, and Austria, unsettling international finance in their fall. Even the apparently excellent Canadian record is not conclusive proof of the greater safety of branch banking. The few losses to depositors have been achieved by ruinous assessments to the stockholders.

Moreover, a fair comparison cannot be made between the $13,500,000 lost to Canadian depositors and the five billions tied up in American banks. Bank liquidations are so slow in Canada that in 1929 the liquidations of three banks that failed in 1910, 1914, and 1923 were still reported incomplete. The last of these was the great Home Bank of Canada. Finally, the large number of consolidations in Canada is partly the result of the imminent collapse of large branch banks which had to be taken over to prevent failure. This process of attrition will eventually leave banks so few and so huge that it will be impossible to avert failures by absorption.

Eleventh. The branch-banking provisions of the Glass bill, prior to the amendment, would have been declared unconstitutional as an infringement of State rights. See *First National Bank in St. Louis* v. *Missouri* (263 U.S. 640, 1924).

Comment: The unquestionable constitutionality of such a law has been touched upon earlier.

Twelfth. Another criticism of the branch-banking provisions of the Glass bill is the opinion that it does not go far enough to cure the evils it is attacking. The diagnosis of the faults in our banking system and the points made in favor of branch banking would nearly all apply with even more force as support for a unified banking system nationalizing State banks and generally tending to bring them into larger branch-banking organization.

The opponents of branch banking answer this objection themselves by asserting that this Federal sanction of branch banking is "the camel's nose under the tent", and that it will rapidly lead to the elimination of independent banks throughout the country.

Proponents of a unified banking system, including Mr. GLASS, consider this a far-from-sufficient measure to strengthen and perfect our banking system. It admittedly does not go to the root of the evil—duality—by which we have 50 different sets of banking laws instead of 1. Types of banking which are successful in some States, under excellent supervision, are disastrous in others. Group- and chain-banking systems, which have become important in our financial life, may easily elude examination by shifting paper in their portfolios from National to State banks or from one State to another. And only by nationalizing banks will it be possible to do away with such fatal laws as fixing capital requirements as low as $5,000.

II—DIVORCE OF INVESTMENT BANKING AND SECURITY AFFILIATES

A. The provisions of the bill

First. Section 9 seeks to prevent the use of Federal Reserve credit for speculative purposes by providing that loans to member banks shall become immediately due if, after warning, borrowing members increase, during the life of the loans, the amount of loans outstanding secured by investment securities or by the notes of investment houses. As further penalty such member banks would remain ineligible for credit during a period to be determined by the Federal Reserve Board.

Section 3-a. Federal Reserve banks shall report to the Board instances of member banks making undue use of credit for speculation in securities. Board may, after hearing, suspend such bank from use of credit facilities of Federal Reserve System.

Second. Section 16 prohibits national banks from underwriting or dealing in investment securities except upon order, and places the following restrictions upon the purchase of securities for own account:

National banks may not purchase for own account and hold more than 10 percent of the issue of any one obligor—unless the issue does not exceed $100,000—nor may such purchase exceed 50 percent of the bank's capital stock.

The total investments outstanding of any one obligor that may be purchased and held after this section takes ef-

fect shall not exceed 15 percent of the bank's capital and 25 percent of its surplus.

This section shall take effect 2 years after the enactment of the bill.

Last year, when this was under consideration, critics of the bill termed it extremely deflationary by requiring liquidation of bank's security holdings. Senator GLASS, however, insisted that its application was in futuro and would not affect bank's present portfolios but only purchases after enactment.

By investment securities under this section shall be meant bonds, notes, and debentures; the purchase of stocks is not permitted. Exception to this is made in the case of stock in a safety-deposit company, which may be purchased to the extent of 15 percent of the bank's capital and surplus.

The obligations of the United States, and of its political subdivisions, and those issued under the Federal Farm Loan Act, are excepted from all of the above limitations. Section 5 (b) applies these restrictions also to State member banks.

Section 10 prohibits "loans for the account of others" made on security collateral.

Third. Section 18 requires the divorce of security affiliates within 2 years. At the end of that period no certificates representing stock in any national banks shall represent stock in any other corporation except a member bank, nor shall the ownership or sale of such stock be conditioned upon ownership or sale of stock of any stock but that of a member bank.

No inhibitions are placed upon the methods for separating stock ownership. Section 5 (b) extends these limitations to State member banks and requires reports from and examinations of their affiliates.

Fourth. After 2 years no member bank shall in any way be associated with a holding company or any other organization chiefly engaged in the flotation, underwriting, or sale of investment securities. Section 20.

It should be observed that the regulations concerning holding-company affiliates are not treated in this section, as they do not fall under the heading of security dealings by member banks.

B. Supporting arguments

Leaving aside the question as to how successfully the details of these measures as drafted will effect the separation of investment from commercial banking and will keep Federal Reserve credit from speculative uses, the affirmative case for these sections may be treated under the following general headings:

First. The evils resulting from the present mingling of commercial and investment banking.

Second. The positive advantages to be achieved by the bill.

Third. Refutation of objections; not deflationary or difficult of achievement.

Fourth. Security affiliates are already illegal.

Fifth. Purposes of the bill approved; but it should go further; Aldrich.

First. The specific abuses and general disasters which have attended the participation of commercial banks, either directly or through their affiliates, in the investment business are widely known and have received recent publicity. The following will serve as summary of the part played by deposit banks in the boom which ended in 1929:

Prior to the World War and the liberty-loan drives, in which commercial banks assisted, the security business was largely conducted by private banks and investment houses. Then a few security affiliates were established for selling bankers' acceptances and Government issues. These rapidly grew and built up elaborate and expensive sales organizations which, to sustain themselves, entered more and more into the business of industrial long-term financing. First primarily concerned with selling these securities, their needs for more merchandise led them to participate in, underwrite, or originate a growing proportion of them. The more they sold, the more new issues they sought to handle. And as this growth continued, the more bank credit they were forced to make available for the purchase of new securities.

The unhealthy inflation of bank credit—far in excess of the requirements of gradually increasing business in production and distribution—were the result of a vicious circle. Nearly every line of industry was overcapitalized with new security issues. New investments had to be sold. Credit had to be extended freely to permit the purchase of these. This credit was applied to sustaining and increasing stock-market prices. And again these securities at inflated prices were accepted as collateral for still more credit, until brokers' loans alone reached $8,500,000,000, with "outside loans" at $5,000,000,000.

In the era of high-pressure investment sales many unsound issues were offered, and many found their way into the portfolios of the smaller banks in the agricultural States. Metropolitan banks held their correspondents in a condition of involuntary servitude and, under the threat of cutting off accommodations, coerced them into buying securities from the sale of which they were deriving profitable commissions. And the rural banks, finding less local use for their funds, were generally not adverse to these opportunities for diversification and more rapid returns. Then the individual depositors were urged to place their savings in stocks and bonds, and against these more credit was given.

Thus when stock-exchange values shrank about $60,000,000,000, thousands of small banks took large losses on their securities and were caught with frozen loans on unsalable collateral. Billions in deposits were tied up by failures, and credit tightened until all normal business was strangled, and nearly every industry had assumed an excessive capital debt, greater than normal development had justified and the proceeds of which were partly dissipated through speculation.

This situation, it is asserted, indicates that the remedy which will prevent its recurrence must be measures to keep commercial banks out of the investment business and commercial credit out of speculative channels. Had banks confined their activities to commercial banking they would not have been tempted to load the country down with securities at inflated prices. They would not so lavishly have extended credit for speculative uses. They would not have used their coercive powers over correspondents nor their persuasive power over depositors to cause them to buy on faith. Had private banks and investment houses—which are the logical medium for long-term financing—not had this competition they would have handled legitimate issues on their merits and the market would have been conditioned by credit policies consistent with sound commercial banking.

The measures of this bill not only abolish security affiliates and prevent member banks from dealing in securities but they also close Federal Reserve credit to borrowers engaged in securities speculation.

Second. (a) The Central Hanover Bank, among others, advertises that it has "no securities for sale." This constitutes an assurance to its depositors and to its correspondents that it is in a position to give them unbiased service and advice. It is in line with the principle set forth by Justice Day in *Magruder* v. *Drury* (235 U.S. 119), and which should be made to apply to the deposit bankers as well:

> In effect, he is not allowed to unite the two opposite characters of buyer and seller, because his interests, when he is the seller or buyer on his own account, are directly conflicting with those of the person for whose account he buys or sells.

Further to develop the advantages of safeguarding the public against the frailties of human nature by separating the securities business from banking, the following points should be noted:

Bankers' advice to commercial accounts as to the issuance of securities will be untainted by self-interest.

The public will be protected against the possibility of being offered bonds which represent bad bank loans or "dirty linen" converted through a security affiliate.

A bank will not be tempted to make security loans for the purpose of selling issues in which it has a financial interest.

A bank will not be embarrassed by the necessity of appraising as collateral for loans securities sold to its customers by its own affiliates.

(b) Bank credit is a controlling factor in the business life of the Nation, and should be conditioned by the needs of commerce, industry, and agriculture. Heretofore, with banks interested in the securities market, speculation has exerted an undue influence upon the control of credit. Moreover, as we have seen, the abundance of money banks made available for speculation produced, through the inflation and subsequent collapse, unsound conditions in long-term financing. By divorcing long-term financing from short-term financing the conditions affecting each will serve as a check upon the other, and the exaggerated results of the intimate association between the two will be avoided. From this we may expect sounder credit policies from our commercial banks and an investment business more accurately responsive to the needs of industry.

Third. (a) It is asserted that these measures will have a deflationary effect when this is least desirable for business recovery. This criticism is made under the misconception that articles 16 and 18 will involve the liquidation of many security holdings and will require the liquidation of affiliates and their holdings. As a matter of fact, as Senator GLASS has pointed out, the sale of securities held prior to the enactment of the bill in excess of the specified percentages is not required. And the provisions as to security affiliates do not require their destruction, but allow ample time for separating their ownership in an orderly fashion.

(b) Critics predict that a vital part of the machinery for handling long-term financing will be destroyed, thereby crippling the reconstruction of business life of the country and placing obstacles to the necessary conversions of slow bank loans into securities. Banks and their affiliates, they assert, have become indispensable to these operations.

Facts do not support this argument. Although there are not reliable figures available showing the relative importance of commercial banks as compared with private banks and investment houses, the following shows the rapid rate at which the former captured the legitimate business of the latter in the origination and participation of more than $20,000,000,000 of investment securities during the 4-year period of 1927–30, inclusive:

	Originated in—		Participated in—	
	1927	1930	1927	1930
	Percent	*Percent*	*Percent*	*Percent*
Private banks, etc.	78.0	55.4	63.2	38.8
Commercial bank affiliates	12.8	39.2	20.6	54.4
Commercial banks	9.2	5.4	16.2	6.8
	100.0	100.0	100.0	100.0

The large volume of business which the private banks lost to security affiliates could easily be recaptured and handled again through its proper channels. Formerly these facilities were adequate, and would presumably be so again, especially as there is likely to be a smaller volume of capital issues in the future than in the days of the speculative boom in overcapitalization. There would be more strength in the argument if security affiliates had actually handled more than half of this business over a long period of time and not principally in boom years.

(c) Another argument in opposition which has been disproved by recent developments is the belief that the divorce of these affiliates in 2 years would not only be undesirable but difficult of accomplishment without heavy losses. In the first place, there is no necessity, under the bill, of destroying these affiliates, which could continue independently if they were justified. All that is required is the separation of stock ownership. Moreover, after expressing a bitter opposition to these measures, 7 out of 10 New York banks having such affiliates have already discontinued their affiliates, or started doing so, expressing, in several instances, the belief that their maintenance is contrary to the best interests of sound commercial banking. The bill, when enacted, would supplement this voluntary separation and would preclude a recurrence of the conditions which made it advisable.

In this connection it should be noted that relatively few institutions will be affected. Of the 300 security affiliates in the country, about 200 belong to national banks, 70 belong to State member banks, 30 belong to nonmember banks. But the member banks by which the 270 affiliates are controlled represent about one half of the banking business of the country.

About three fifths of the security affiliates controlled by national banks have their stock trusteed, and one fourth of them are owned directly by the stockholders of the bank. The stock of the remaining few is either owned by the bank or by another affiliate.

Fourth. Sponsors of the bill state that while the bill was not drafted for legal reasons, the security affiliates established by national banks are not only in contravention of the intended purposes of the National Banking Act but actually illegal. Authority for this is an opinion of Solicitor General Lehman, in 1911, with Attorney General Wickersham concurring. Decisions of the Supreme and many lower courts are copiously cited in support of this view. (See CONGRESSIONAL RECORD, vol. 75, pt. 9, pp. 9899–9904.) This was never acted upon, however, nor even brought to public notice until 1932. Senator GLASS charges that it was suppressed.

Fifth. Beside criticisms of the purposes of these measures of the bill, some who favor such measures criticize it on the ground that it does not go far enough in realizing its objectives. Among those holding this view are Winthrop Aldrich, president of the Chase Bank—which, by the way, has bitterly assailed the proposed separation of commercial and investment banking through the pages of its Economic Bulletin—who recently said:

> I am entirely in sympathy with the divorcing by law of security affiliates from commercial banks. I do not think, however, that the Glass bill goes sufficiently far in separating the business of commercial banking from that of dealing in securities. To separate commercial banks from their security affiliates is only half the problem.

He proposes four additional measures to make this more effective: First, no corporation or partnership should be permitted to accept deposits without being subject to the same regulations as commercial banks; second, no corporation dealing in securities should be permitted to take any deposits at all; third, interlocking directorates between banks and organizations dealing in securities should be prohibited; and, fourth, boards of directors of commercial banks should be small enough to enable each member to be familiar with the affairs of the banks and to discharge their responsibilities to stockholders, depositors, and business.

These suggestions are supplementary to the provisions of the Glass bill, of which he approves.

C. Arguments in opposition

The principal opposition to the divorce of investment banking from commercial banking comes from bankers and bank publications—which are by no means unanimous—and from the United States Chamber of Commerce. Three items in the report of its special committee on banking submitted for referendum declare against these measures and in favor of voluntary or Government regulation rather than complete divorce. The vote on them was, on the average, 6 to 1 against divorce and in favor of bond departments, affiliates, and loans for others.

The three classes of arguments in opposition are, in the order they will be treated: First, that the premises on which the bill was drafted were false and that it is attacking from the wrong direction; second, that the measures as drafted will be ineffectual anyway and will not achieve their purposes; and, third, that the enactment of the bill is dangerous to the business life of the country.

First. (a) These measures of the bill are aimed at the abuses which contributed to the financial debacle but were only symptomatic of a single underlying cause—cheap money and excessive credit. The prevention of this should be the object of legislation and of Federal Reserve policy. But to inhibit the normal functions of banking by restrictive measures directed at the mere details resulting from cheap money is futile and mistaken. Commercial customers have

priority on loan funds of banks; and if such funds are not excessive, not much will be diverted into speculation and inflation of security values. The simplest way to achieve this fundamental safeguard is by extensive open-market operations and careful manipulation of the rediscount rate by the Federal Reserve, thus keeping the money market under control. This was not sufficiently done during the boom, until the easy-money policy of the Federal Reserve had allowed it to get out of control. Driving the rediscount rate higher came too late to tighten money effectively.

(b) Exception must be taken to a campaign statement of President Roosevelt:

> Investment banking is a legitimate business. Commercial banking is another wholly separate and distinct legitimate business. Their consolidation and mingling is contrary to public policy.

This is not in harmony with the consensus of opinion in the business world, as shown by the testimony before the Senate committee and as reflected in the business press, nor with the academic opinions published in such organs as the Harvard Business Review.

The line of demarcation between commercial and investment banking—long- and short-term credit—is not distinct and they cannot be separated. Frequently their functions are interchangeable, such as, for example, the almost perpetual accommodations sometimes granted by banks to customers in the place of capital issues and such as instances of the conversion of short-term loans into bond issues. Commercial paper is sold in much the same way as investment securities. Market conditions are a controlling factor in the choice between these complementary means of financing.

In fact, these two forms of financing should be still more closely associated rather than separated, so that the conservation of sound banking will be reflected in higher-quality securities offered to the public. Moreover, banks, with their wide contacts with the public through their correspondents and branches, are the logical medium for selling securities. Investment houses have to resort to the expenses of traveling salesmen and costly branch sales offices.

Comment: Mere prevalence of these opinions does not prove the case against these provisions. In many instances the conversion of short-term loans into securities should never have been done nor would have except because of the connection between the two. Moreover, if banks had not been in the investment business, they would not have tended to drain so rapidly money from the small towns into the cities for speculative purposes, leaving the rates for agricultural accommodations higher than they should have been.

Another comment: Some hold the opinion that commercial and investment banking require very different types of temperament and experience. This is offered as further reason for their separation.

(c) It is untrue that many of the bank failures during 1929–31 were due to losses through security affiliates. In fact, 80 percent of the deposits in banks that failed were in banks which had neither bond departments nor security affiliates.

(d) The belief that affiliates endanger the depositor's money is contrary to fact. Affiliates are separately capitalized and generally owned in some manner by the stockholders. Deposits are not involved.

Comment: Depositors' money is lent to the affiliate, however. It is estimated that 50 percent of short-term credit to affiliates was granted by parent banks.

(e) The practice of placing securities in which an affiliate is interested into trust accounts operated by the parent bank is generally avoided by reputable bankers and should be prohibited by law. The same thing applies to the sale of a bank's stock by its affiliates, although there were some notorious cases of this. These matters therefore should be subject to regulation, but they should not be advanced as reasons for discontinuing affiliates altogether.

(f) The statement that commercial banks took advantage of their superior opportunities for selling investments by putting low-grade securities on the market is disproven by the fact that surveys show the securities they were responsible for have had better records as to defaults. This is further evidence that the best interests of the investing public are served by commercial banks.

(g) Economy in the costs of financing through commercial banks is shown by a survey of the origination of $8,000,000,000 in foreign bonds by commercial banks and investment houses. The spread, in the case of those handled by the latter, was 25 percent greater. Like figures are not available for domestic issues, but would probably indicate an equal saving.

Second. The foregoing arguments show that it is mistaken to attempt to separate investment from security banking. Next are comments as to whether the Glass bill will effectually prevent the use of Federal Reserve credit for speculative purposes.

(a) Section 3 authorizes Federal Reserve authorities to refuse rediscounts for speculative purposes when the Reserve banks shall find that their members are making such use of it. This is obviously a mild provision simply making into law a power they already had and tried, without success, to exercise in 1929. An earlier draft (S. 4115) proposed forbidding the Reserve banks from making loans to members for the purpose of lending on securities or carrying loans on them. As it stands now, this will probably have little effect, even though it its strengthened by section 8, which provides that loans to member banks shall fall immediately due if such members shall have increased, during the life of the loans, their own outstanding loans secured by investment securities. Under this section member banks to which this is applied may be declared ineligible for further loans for a period fixed by the Board.

Both of these, not being mandatory, are likely to be ineffectual and to become inoperative. Moreover, rediscounts are not the only way in which Federal Reserve credit may find its way into speculative uses. In 1929, when the System was striving to check speculation, it actually supplied important funds for that purpose by buying heavily in acceptances, trying to support them. Thus, member banks, selling acceptances to the general market, were releasing commercial paper, which, through purchase by the Reserve banks, became available money free of any control. Any such artificial attempt to make money easy for commerce and tight for speculation is bound to fail. It cannot be kept in separate compartments or distinguished by its color. I quote from the Chase Economic Bulletin a hypothetical case under the heading, "Blue, Pink, and Yellow Money", (Apr. 25, 1932):

> When Federal Reserve authorities put out their credit, either by buying Government securities or by buying acceptances, they do not know for what purpose the money will be used. They pay for these with checks on themselves to dealers in Government securities or acceptances, who deposit these checks with their commercial banks—member banks. The member bank will redeposit these checks with the Federal Reserve bank, building up its balance there. Assume that the bank which first receives the Federal Reserve bank checks has ground to suppose that they represent an increase in Federal Reserve credit and, wishing to obey the spirit of the law, refrains from employing the money in security loans. Instead of so doing, it buys Government securities or even commercial paper. It pays for these with deposit credits or with checks on itself. These checks come in against it at the clearing house next day and the extra Federal Reserve funds are transferred to some other bank. This other bank has no notion whatever that the money which has come into it represents new Federal Reserve credit. The identity of the money is absolutely lost in the general stream of funds. The second bank, with a clear conscience, lends its excess money at the money post of the stock exchange. The money was blue when the Federal Reserve bank put it out. It became pink in the possession of the first bank, but it became definitely yellow once it got into the hands of the second bank.

(b) Not only will the measures of the bill fail to prevent the diversion of Federal Reserve credit into speculative channels but the bill does not take into consideration the fact that dangerous speculative inflation may take place in fields other than investment securities. The boom in 1919–20, ending in a crash that marked the beginning of the period of high bank mortality, was one of commodity prices. At its peak brokers' loans amounted to only $1,750,000,000, as compared with about $8,500,000,000 in 1929. Nothing in the bill will prevent a recurrence of this situation.

(c) These controversial measures in the Glass bill will therefore fail to achieve their primary purpose. The only way in which speculation may be kept within bounds is by control of the money market through the rediscount rate and open-market operations. By these means the Federal Reserve System may prevent the accumulation of excessive reserve credits which can be put to speculative use.

Comment: In 1929 the Federal Reserve System attempted to check speculation by selling Government securities until its portfolio was run down to within the danger point of losing all credit control whatever. It also unsuccessfully raised the discount rate. The effect these measures would have had if taken earlier is entirely a matter of conjecture, but experience does not prove them infallible.

Third. More serious than its shortcomings are the destructive effects the bill would have upon our financial structure. Some critics who have presented these arguments may have changed their views in the light of very recent developments, such as the Aldrich announcement, mentioned earlier, and the action taken by several banks in discontinuing their security affiliates. These measures were not taken, however, so much for the public interest as for private self-protection, and they need not therefore be considered to affect the validity of the following points as general propositions of public policy.

(a) Member banks, through their bond departments, or through their affiliates, represent probably about 50 percent of the machinery for handling securities in this country. To abolish new securities altogether would clearly be industrial suicide. Therefore to destroy half of the machinery for handing them and to leave the other half of it alone and free of supervision is extremely dangerous, especially at the present time when financial reconstruction will require new issues to cover many recurring maturities of short-term loans.

Comment: On the contrary, now that the so-called "new era" of the boom days has collapsed, "banks will go back to banking" and borrowers may go back to borrowing for their current needs instead of floating more issues. The private banks and investment houses will be sufficient for the demands of the security business.

(b) The existence of investment banking without commercial bank credit is impossible unless the financial machinery of the country is completely revolutionized. Investment houses depend for profits upon a rapid capital turnover. They must, therefore, operate on large loans against their security collateral. Since they perform a vital function, therefore, any attempt, futile though it may be, to deny them Federal Reserve credit, direct or indirect, must be wrong in principle and undesirable in effect.

Comment: The bill does not outlaw investment banking nor prohibit member banks from lending to investment banks and thus assisting in flotations. They may also invest in securities within the prescribed limitations of section 15. These measures are merely intended to separate the two kinds of banking and not to outlaw investments. Member banks will be able to lend on securities, but they will not be able to increase such loans unduly while borrowing from the Federal Reserve. This will make available ample credit while preventing too rapid expansion.

(c) Long-term financing of industries is a vital function of the business community. During the decade of 1922–31, $74,000,000,000 of new securities were issued, most of them sound, despite a few abuses. In 1924 the average volume of commercial loans was about $8,000,000,000, while new issues that year aggregated less than $4,000,000,000. In 1929 commercial loans had only grown to $9,000,000,000—a growth not commensurate with our commercial and industrial expansion—while new issues that year were $10,000,000,000. Banking legislation must face the fact that this form of financing has grown relatively more important and that reform must look to its regulation rather than to turning back and opposing this trend.

(d) The dangers of the Glass bill are shown by an examination of its effect, had it been then in force, upon some of the emergency municipal and utilities transactions of the past 18 months, by which maturing obligations were converted into securities, thus saving several large cities and utilities from disastrous insolvencies. Among these operations were credits to New York City amounting to $251,000,000, $62,000,000 to three Chicago power and light companies shaken by the Insull crash, $30,000,000 to the city of Detroit, and $27,500,000 to Toledo utilities. (Another earlier but important case in point was the offer of a $230,000,000 bond issue for the Great Northern and Northern Pacific in 1921, in which more than 50 banks and investment houses participated.)

A typical procedure in these cases was the Chicago transaction: A group of banks extend a bank loan to meet the maturing obligations and receive as collateral a new bond issue which they underwrite. When the market is favorable they sell these, and the loans are repaid with the proceeds. The New York transaction, including practically all the clearing-house banks and the large private banks in New York, consisted of a $100,000,000 bond issue, which the banks bought for future resale, and a $151,000,000 revolving fund covered by warrants issued against anticipated tax revenue. Another bond issue to meet further short-term maturities is expected to be handled the same way in April.

Now, if this section of the bill had been in force, member banks could not have underwritten nor bought for resale any of the utilities issues. And purchases for own account would have been limited to 10 percent of any issue and to 15 percent of capital and 25 percent of surplus of the purchasing bank. It is doubtful, however, that the banks would have absorbed these huge issues for their investment accounts.

Some critics interpret the language of section 16 as prohibiting member banks also from underwriting or buying for resale even Federal, State, and municipal issues. They hold that, as the bill now reads, the proviso excepting these securities from its restrictions refers only to purchases for own account and does not tie back to the following prohibition:

> The business of dealing in investment securities by the association.

State banks are included by section 5-b—

> shall be limited to purchasing and selling such securities without recourse, solely upon order, and for the account of customers, and in no case for its own account, and the association shall not underwrite any issue of securities.

A clarifying amendment is suggested, either modifying this passage or making line 17, page 56, to read as follows:

> The limitations and prohibitions herein contained as to investment securities shall not apply to obligations of the United States * * *.

And so forth.

It is also suggested the obligations of the Reconstruction Finance Corporation, the Port of New York Authority, and other such Government agencies be included in these exceptions.

The purchase of these securities for resale to the public would then have been confined to nonmember banks, and it is doubtful that under those circumstances they could have made available sufficient funds to rescue these great corporate organizations from disastrous receiverships.

Moreover, even though the bill is interpreted as allowing member banks to deal in Government securities, this would not justify them in maintaining their present elaborate distributive machinery. Thus facilities for selling Federal, State, and municipal issues would be seriously curtailed.

Comment: The 2 years allowed will be sufficient for investment houses to adjust their sales organizations to the needs of the long-term market they will handle. Member banks, still dealing in Government issues, will be in a position to assist them with loans if necessary.

(e) The limitation of purchases to 10 percent of the issue of one obligor should not be in the bill merely because some bankers overbought during the inflation and subsequently took heavy losses. Frequently a large bank is justified in

buying a whole issue, as in the case of a slow loan that had better be converted into a bond issue which may be held until the market justifies its sale. Many corporations may be saved by funding debts that now threaten them with bankruptcy every time they come to maturity.

(f) By section 11 member banks are prohibited under penalty from handling brokers' loans for account of others. In view of the volume of "outside loans" which contributed to the recent inflation, this would appear a wise provision. But outside loans are not necessarily evil and were not a fundamental cause but a result of the excessive volume of money. In the past outside loans have been valuable support in a crisis, as in 1907 and 1920, when they were attracted to the market by the high rates. Moreover, if member banks are not allowed to handle these, when money again appears on the market it will come through other channels anyway.

(g) The National Banking Act prohibits loans to one obligor exceeding 10 percent of the lending bank's capital and surplus. Section 25 amends this by including within this limit all subsidiaries in which the obligor "owns or controls a majority interest." The purpose of this is to prevent the establishment of dummy subsidiaries in order to secure more credit under the law. It will work a hardship, however, upon the many organizations with several legitimate subsidiaries separately capitalized and already enjoying and deserving their own separate lines of credit. If these lines of credit are so discontinued, the subsidiaries will, in view of the present difficulties of establishing new ones, be compelled to seek money for their current needs through long-term financing. And in view of the other limitations in this bill, they will have to go to investment houses for this. This section, therefore, should be so modified that it will only apply to subsidiaries expressly organized to evade the law.

(h) The aggregate effect of these various restrictions upon member banks will be to drive many of them out of the Federal Reserve System in order to preserve their investment business. This would come at a time when it is highly desirable to strengthen the membership and to achieve a more unified control of banking. Strong State nonmember banks with affiliates will have many advantages, among them the ability to afford their customers a complete financial service under one roof; expert advice from their affiliates as to investments and in appraising securities as collateral for loans; source of new business derived from customers of the affiliate. The same advantages largely apply also to banks with highly developed bond departments.

(i) By severing all investment banking from the Federal Reserve we will be cutting it adrift from all control. Investment bankers will be given a monopoly of the kind of financing which, it has been shown, has grown in importance and is to a measure replacing the use of bank loans in financing industry. The consequences of this would be fraught with danger to the investing public, especially as investment houses, lacking the resources of affiliated banks, will never have equal stability in withstanding heavy losses and continuing service to their clients during critical periods.

(j) The objectives of any banking reform should be better regulation and examination of all financial machinery and more courageous control of the money market by the Federal Reserve System. These measures in the Glass bill attack symptoms and not causes. On the other hand, the consensus of opinion among bankers in general and such bodies as the United States Chamber of Commerce—though they are not unanimous on all the points—favors the following general provisions of other parts of the Glass bill: Section 29 providing for the removal of officers for unsound practices, sections 5-b and 26 requiring the examination of security affiliates, the open market committee under section 7 (12-A), and branch banking under section 22. These, it is asserted, are steps in the right direction. The provisions governing the investment business, treated in this chapter, however, are said to offset the other advantages of the bill.

III—FEDERAL BANK DEPOSIT INSURANCE CORPORATION

A—The provisions of the bill (sec. 8, amending 12-B of Federal Reserve Act)

First. (sub a) A corporation is established for the purpose of liquidating the assets of closed member banks and for insuring, after July 1, 1934, the time and demand deposits of all member banks which shall have become class A stockholders in the corporation.

Second. (sub b) The directors of the corporation shall consist of the Comptroller of the Currency, 1 member of the Federal Reserve Board, and 3 other members chosen by the governors of the 12 Federal Reserve banks.

Third. (sub c-e) The corporation shall be financed as follows: The sum of $150,000,000 (approximately the amount paid into the Treasury by the Federal Reserve banks as a franchise tax) shall be appropriated for subscription to class A stock in the corporation; prior to July 1, 1934, all member banks shall subscribe to class A stock in the amount of one half of 1 percent of their net time and demand deposits, one half of this subscription being payable at once, the balance subject to call; member banks newly organized shall initially subscribe 5 percent of their paid-in capital and surplus, but at the end of 12 months their subscription shall be readjusted to equal one half of 1 percent of their deposits; the 12 Federal Reserve banks shall subscribe to class B stock in the amount of one half of their surplus, one half of such subscription being payable at once, the balance upon 90 days' notice. Class A stockholders shall be entitled to an annual dividend of 6 percent or 30 percent of net earnings of the corporation, whichever shall be greater. No dividends are payable on B stock. Stock subscription to class A by member banks shall not be accepted without certification by the appropriate examining authority as to the sufficiency of their assets to meet their liabilities. National banks that have failed to make such subscription by July 1, 1934, shall be liquidated; State member banks shall lose their charters.

Note, according to recent figures in the Federal Reserve Bulletin, these subscriptions would be as follows:

From U.S. Treasury, subscription to class A stock	$150,000,000
Member banks, one half of 1 percent of $25,000,000,000 total net deposits	125,000,000
Federal Reserve banks, one half of $279,599,000 surplus	139,000,000
Total insurance fund	$414,000,000

Note further, as indicated in subhead 5 below, nonmember banks applying for membership and mutual savings banks may subscribe to class A stock under certain conditions, as well as the Morris Plan banks made eligibile for membership under section 5-a. Mutual savings banks have aggregate deposits of about $10,000,000,000, so that if they availed of the opportunity they would subscribe $50,000,000 and raise the initial fund to $464,000,000.

Fourth. (sub h-i) Class A stock held by member banks shall be readjusted annually as deposits in the stockholding banks increase or decrease, these changes to maintain their holdings at one half of 1 percent of deposits. In the case of the failure of a member bank, its stock will be surrendered and the amount of its paid subscription will be applied to its liabilities.

Fifth. (sub f-g) Nonmember banks and mutual savings banks applying for membership in the Federal Reserve System may subscribe to this stock and enjoy the benefits of the corporation, provided that if membership be not granted or, being granted, is not acted upon promptly, they shall surrender their stock. Provision is made for depositing funds with the corporation instead if State laws prohibit such stock subscription.

Sixth. The "insured deposit liabilities", under this bill, are defined as follows (sub 1): 100 percent of net individual deposits up to $10,000, 75 percent of net individual deposits $10,000 to $50,000, 50 percent of net individual deposits exceeding $50,000. Whenever a national bank shall have been closed subsequent to July 1, 1934, the corporation shall

organize a new national bank to assume its insured deposit liabilities and to take over certain banking functions temporarily, including the receiving of new deposits. To this new bank shall be made available by the corporation an amount equal to the insured-deposit liabilities of the closed bank as defined above. The corporation shall receive all dividends realized upon the assets of the closed bank until they aggregate an amount equal to the sum made available to the new national bank, after which further dividends shall be payable to the depositors. Acting as receiver, the corporation shall wind up the affairs of the closed bank as rapidly as consistent with local credit conditions and shall enforce the double liability upon the shareholders of the closed bank. The corporation shall keep a deposit-insurance account to which shall be debited the excess of sums paid out to cover insured-deposit liabilities over amounts realized on the assets of the bank. Whenever the debit balance of this account falls below one fourth of 1 percent of the aggregate deposits of member bank stockholders, they shall be assessed one fourth of 1 percent of their deposits, the same to be credited to the deposit-insurance account. The provisions regarding the liquidation of State member banks are similar, except that provision is made for conforming with State banking laws where these conflict. In their case, also, a new national bank is organized. These new national banks shall be operated by the corporation until such a time as it deems suitable to offer for sale capital stock in them and to turn them over to the new stockholders, under the regulations governing national banks. Failing such subscription to stock in the new bank, the business may be sold to another bank or the new bank placed in voluntary liquidation.

Seventh (sub m–n). The corporation may make loans to closed member banks or enter negotiations to secure their reopening, and it may purchase the assets of closed member banks and liquidate them under present regulations.

Eighth (sub o). The corporation may issue its tax-exempt bonds, debentures, or other obligations to the amount of double its capital. Subsections j, k, p–x are administrative provisions of no controversial significance.

In giving the points in favor of this measure the general ones will be briefly noted first, reserving several others as comments in rebuttal of negative arguments. Naturally a large part of the case must be defensive, in response assertions that the general idea of deposit insurance is unsound or unworkable. In this chapter the terms "guaranty" and "insurance" are used interchangeably because no clear distinction has been made heretofore, and because neither of them appear absolutely accurate in this application. The negative points are given from the general to the particular.

B. Arguments favoring the deposit-insurance section

First. Nine tenths of the money of the Nation is in the form of bank credit. The effects of the recent great number of bank failures have shown that it is essential to the economic health of the country to establish confidence in bank deposits. To this end banking reform is necessary, and most desirable is the safety of bank deposits so that deposit slips will be as safe as Government bonds.

Second. As the result of the banking crisis of the past several years, an aggregate of $2,500,000,000 in deposits was estimated tied up in closed banks. There are more than $2,715,000,000 in deposits in banks which have not yet been licensed to operate under the recent Emergency Banking Act, according to the Federal Reserve Bulletin for April. Although a considerable portion of this will eventually be recovered, it would otherwise be withdrawn from the uses of business during the 4½-year average period of bank liquidation. Under the terms of this bill the banks could be taken over or reopened by the corporation and the recoverable funds made available. Moreover, when the insurance provision becomes operative, such a deflationary situation will not recur.

Comment: The Federal liquidating corporation provided by the early Glass bills, and by the Beedy and Luce bills, would have served the same purpose of releasing the recoverable funds in closed banks. The present measure, however, does not require subscription to class A stock until July 1, 1934, and therefore will be inoperative in affording immediate relief to the depositors of closed banks.

Comment further: A fund of $414,000,000 would not be sufficient in any case to afford prompt relief to depositors with claims of two and a half billions.

Third. In January the estimated hoarded currency amounted to $1,500,000,000. This was due to lack of confidence in the security of bank deposits. As a result, the Nation's commerce, industry, and agriculture were deprived of cash which would have been a conservative base for $15,000,000,000 of bank credit. Under a deposit-insurance plan such a situation would not have been possible, and the disastrous effect of the present deflation would have been mitigated, with higher price levels and better credit conditions.

Fourth. A guaranty of bank deposits would relieve banks of the fear of runs which causes a constriction of credit. In 1932 it was estimated that our banks had eligible paper available aggregating $10,000,000,000. This possible reservoir of credit was not used because banks feared unfavorable consequences of being known to be borrowing heavily. Credit was tightened in the desire to remain as liquid as possible to meet the emergencies of runs. Such an aggravation of deflation and tightening of credit would not have occurred if this bill has been in effect, as banks would have been relieved of the consequences of depositors' fears. Moreover, many banks would not have been forced to close and to liquidate at serious losses to depositors and to the business community.

Fifth. At present the depositor is at the mercy of his fellow depositors, over whom he has no control, and of the management of the bank, about which he is not usually in a position to be well informed. The depositor takes the risks, and the banks take the profits. It is only just, therefore, that his funds be made secure against panic psychology or dishonest banking, against which every precaution must be taken in the future. Such an assessment upon banks as that in this bill would simply be a tax on a privilege—that of lending other people's money.

Sixth. Insurance is based upon a universally accepted principle of distribution of risks for the protection of all. Fire and life insurance are not unsound merely because there are cases of incendiarism and suicide. Neither should deposit insurance be unsound because there are dishonest bankers or because localized economic conditions may injure local banks. It is objected that similar guaranty plans have failed in the States that have tried it. This may be partly attributed to defects in the guaranty laws, but is principally the result of localization of risks—as though a single town insured itself against fire and was then wiped out. As in the case of branch banking, Nation-wide diversification of insurance risks would secure banking against any eventuality except such a national calamity as would destroy the Government itself.

Comment: For refutation of this specious analogy of insurance, see subhead C–1.

Seventh. In 1932 there was more than $700,000,000 on deposit on which the equivalent of an insurance premium was paid. These funds were in the Postal Savings banks, which pay only 1½ percent on savings, as compared with about 4 percent in savings banks. The rapid increase in these savings accounts, which doubled twice in 2 years, indicated a lack of confidence in our banks and a willingness to forego 2½ percent annually for the safety of Government credit.

Comment: Other deposit-insurance plans have been proposed by which depositors could secure this optional protection by paying a premium. Such plans would avoid the grave dangers of the present measures for assessing good banks for the protection of the bad.

Eighth. The assertion is frequently made that a guaranty of deposits would encourage "wildcat" banking by relieving depositors of the necessity of discriminating between banks that were soundly run and those that offered the highest interest rates or the greatest convenience; a reputation for high character would be cheapened and recklessness would be encouraged. This criticism is not valid be-

cause it assumes that a deposit guaranty would invite mismanagement. No such thing is likely, especially as the Glass bill prohibits the payment of interest upon demand deposits and authorizes the Federal Reserve Board to limit interest to be paid on time deposits—I understand that the Steagall committee amendment eliminates these limitations. Thus is eliminated the danger of competition in offering attractive rates to bring deposits to the wildcat bank. As a matter of fact, it is the stockholders in a bank that are responsible for its management, and this bill does not relieve them of their double liability. Only a guaranty of stock, not of deposits, would reduce the insistence upon sound management. To make the insurance of deposits occasion for unsound practices would be like burning down your uninsured warehouse in order to destroy the insured goods of your customers stored in it.

Ninth. The common objection that deposit guaranty removes the need for care in placing deposits is further inapplicable to the Glass bill. The small depositor is not usually in a position to know much about the condition and policies of a bank, and the large depositors with deposits exceeding $50,000 or even $10,000 are only partially protected. The large depositor—as I understand this section—is even discriminated against to the extent that he does not receive a pro rata share of the funds realized from assets but only receives over and above 50 or 75 percent, as the case may be, his share of what is left after all "insured deposit liabilities" have been met. This will leave every incentive to caution in the selection of a depository.

Tenth. As with branch banking, which is authorized in this bill, deposit insurance will tend to stop the flow of money from small places into the great metropolitan banks and to keep it in the place of its origin, for the uses of local business. It is fear of the instability of the local bank that drives the money to the larger ones. Thus this measure will assist the decentralization of industry.

Eleventh. The banking community, when its risks are shared under this measure, will insist upon the highest standards of inspection and regulation. Good bankers will have a direct interest in the ethics of other banks in order to minimize the possibilities of losses to them. The laxities in bank examination recently revealed will not be tolerated nor will they be expedient, as the fear of bank runs upon news of dishonesties will be eliminated. This is further refutation to the wildcat assertion.

Twelfth. Before the deposit-insurance section of this bill becomes effective, the other measures for stricter regulation will have been in force. Many of the abuses of the past will have been corrected, so that failures within the Federal Reserve System will be cut to the irreducible minimum caused by contingencies beyond the control of banking regulation. Under these circumstances the risks of deposit insurance will be small, and the benefits great, as it will close the gap between better regulation and absolute safety.

Thirteenth. The following table will show a trend away from the Federal Reserve System which deposit insurance will correct:

	National banks converted into State banks		State banks that took national charters	
	Number	Authorized capital	Number	Authorized capital
1922	77	$12,590,000	129	$13,815,800
1931	135	28,945,000	6	700,000
1922-31	1,029	293,048,700	457	101,608,300

This progressive weakening of the Federal Reserve System was a movement away from strict banking supervision to the greater freedom, or laxity, of State banking laws. That this would be reflected in the bank failures of the future is shown by the fact that between 1865 and 1931 the ratio of State banks to National was as 2.24 is to 1, but the ratio of State bank failures to National bank failures was as 4.9 is to 1. From this it is evident that any measure to strengthen the national-bank system is highly desirable. The guaranty of member-bank deposits will eventually probably bring all State banking institutions into the Federal Reserve System. On the other hand, it will not destroy those that do not join, as it leaves them free to offer higher interest rates on deposits.

Fourteenth. At the time that the Federal Reserve Act was under consideration its most strenuous opponents were those who are now its stanchest supporters—the conservative bankers. This has been the usual case with bank-reform legislation, and rightly so, as bankers are expected to be conservative. But this indicates that predictions of ruin, if this measure is passed, need not be heeded even though they come from high authority. For many years distinguished economists and occupants of public office have advocated some form of deposit guaranty. Among them was Comptroller of the Currency John Skelton Williams who, in his 1917 report, advocated a measure similar to this section of the Glass bill.

C. Arguments in the negative

First. The term "insurance" is here misapplied to bank deposits, and the analogy insisted upon by the guaranteeists (see B-6 of this chapter) is false. In these provisions there is only a superficial resemblance to insurance, and no comparison may be made as to soundness of principle. The following points are to be noted: (1) In the case of insurance the buyer, having risks in common with others, seeks protection and pays a premium for it. Under this bill, however, such banks as are confident of their own soundness and are therefore not subject to risks are compelled to pay for the errors of their competitors; (2) the insurance underwriter selects his risks and charges premiums according to degree. Here, however, no attempt is made to classify risks as between strong and weak banks, and no differentiation is made in the amount of the premiums; (3) while insurance practice estimates probabilities within a negligible margin of error, no such estimation has been made as to the laws governing bank mortalities, which do not follow a curve that may be accurately determined. For example, in the 3-year period 1930–32, deposits involved in bank failures exceeded $3,000,000,000, a total in excess of deposits in all failed banks during the 65 years preceding. In other words, any scientifically operated insurance scheme that would have been about twenty-two-fold inadequate during 1930–32. No fire-insurance company, for example, could have survived a 3-year period of fire losses at a rate 22 times the normal. It may be objected that these figures were deposits and not net losses which would have been borne by a deposit insurance fund. But in this case the evidence against such a plan is even more condemning; for, while losses to depositors in closed receiverships have been only about 30 percent, it is estimated that they will be much greater in the case of failures subsequent to 1929, probably as high as 50 percent.

Second. Guaranteeists—Mr. STEAGALL, Mr. SHALLENBERGER, and others—often cite the figures of only $85,000,000 lost in national-bank failures until 1930, and assert that a sum so small would have put no strain upon a guaranty fund, had one been in existence since 1865. Ex-Senator Owen asserts that only $55,000,000 was lost in national-bank-closed receiverships up until 1929, while national banks during that period handled $400,000,000,000 in deposits. He declares, therefore, that a fund of one sixtieth of 1 percent would have covered them. This does not reflect the actual facts, however, as far the greater proportion of deposits were in still active receiverships. In fact in C-15 of this chapter will be shown that a similar guaranty plan would probably have collapsed in 1907, and would certainly have collapsed during the recent banking crisis. It is futile to recommend an insurance fund on the basis of experience when losses were least when such a fund is designed to meet conditions when losses are great.

Third. Guaranteeists discount the experience of States that have tried similar plans. They attribute the losses to defects in the laws, to the fact that all banks were not included, to the failure of crops, and so forth. If the laws were defective, then so is the present proposal, for it is similar in purpose and operation. Five out of the eight States

that established deposit guaranties made membership compulsory, as does the present bill. As to crop failures, not all the collapses of guaranty funds may be traced to them. Moreover, a local crop failure is not unlike a national economic depression which any permanent insurance fund would have to be sufficient to meet. The disaster which has overtaken every guaranty plan may rather, be traved to the fundamental fallacies of the idea and to the impossibility of estimating the risks on a scientific insurance basis.

Our experience with such plans is as follows: New York State adopted a safety fund banking law in 1829. The fund became bankrupt in 1837, and the law was repealed. Eight States adopted guaranty laws between 1907 and 1917: Oklahoma, Kansas, Nebraska, Texas, Mississippi, South Dakota, North Dakota, and Washington. In each case the fund went bankrupt and the laws were repealed between 1923 and 1930. In several instances the deficits of the fund exceeded the total capitalization of the insured banks. The aggregate deficit of the eight amounted to about $110,000,000. Bank failures increased in the States during the period that the guaranty funds were in force, although this was before the height of the depression. In Kansas, for example, 134 guaranteed banks failed, and of these the depositors of 5 were paid in full out of the banks' assets, depositors in 29 were paid in full out of the guaranty fund, those in 2 were partly paid out of the fund, and by that time the guaranty law was repealed with a large deficit. In Nebraska an assessment has been levied against the banks for the next 10 years to make up the deficit in the guaranty fund, and so forth.

Comment: It is noteworthy that the strongest proponents of deposit guaranty are legislators or officials from these States where guaranty laws were tried. Senator SHEPPARD, of Texas, for example, inserted in the RECORD for May 12, 1933, an article on the Texas bank guaranty in which it is asserted that there was no deficit in the guaranty fund that was discontinued in 1926, that all depositors were paid in full, at small cost to the member banks, that capital, surplus, and profits of the guaranteed banks increased rapidly, that the percentage of surplus and undivided profits increased, during the period, from 18.3 percent to 38.5 percent; and so forth.

Fourth. An insurance of deposits is the equivalent of a guaranty of loans, an endorsement of borrowers' notes, for payment to depositors is conditioned upon the collectibility of loans. Considered in this light it is economically fallacious. The repayment of loans is conditioned generally by influences beyond the control of the Federal Reserve System, floods, droughts, world economic conditions, foreign wars affecting trade, and so forth. In a sense, then the system would be placing itself at the mercy of external eventualities.

Fifth. At a time when strenuous efforts are made to balance the Budget this bill proposes to take from the Treasury $150,000,000 to relieve depositors who make the error of placing their money in unsound institutions. It would be no less reasonable to appropriate money for the compensation of investors who have lost on defaulted securities. Banking reform should be directed at correcting past abuses, not subsidizing them.

Sixth. It is asserted that by preventing bank runs deposit insurance will prevent the failure of sound but insufficiently liquid banks. It has frequently occurred, however, that banks which have been closed have reopened again without being liquidated through cooperation between depositors and stockholders. Under a guaranty plan the depositors would have no personal interest in the reopening of a closed bank, with the result that whenever for any reason a bank closes it will be taken over by the Corporation, regardless of its actual condition, and liquidated. Liquidation is undoubtedly more wasteful and harmful to the business community than the restoration of impaired capital. Section 11 of the recent Luce bill authorizes the liquidating corporation therein established—similar to the previous Glass bill—to underwrite new issues of preferred capital stock in national banks whose capital shall have become impaired and fallen below 10 percent of deposits. A similar preventive of unnecessary bank liquidations would be a sound measure in preference to deposit guaranty.

Seventh. The National Banking Act already provides as much protection for bank deposits as is consistent with sound principles: The capital, surplus, and undivided profits of the bank; the stock of and the reserves in the Federal Reserve banks; the assets of the bank; the double liability of the stockholders; the regulations and examinations designed to assure liquidity and sound management.

Comment: The experience of the recent years indicates that these are insufficient and that they do not protect or preserve confidence in banks which possess these necessaries to an adequate degree. As for the double liability law, it is negligible insofar as dividends to the depositors are concerned. Since 1865 the stockholders in suspended national banks have been assessed 66.79 percent of their liability and of this only 47.54 percent has been collected, or about 32 percent of the stockholders' total liability. Estimating deposits at 10 times as great as capital stock, this would mean a return of only 3.2 cents on the dollar. (Mr. STEAGALL in several places gives the rate of collection from stockholders as only 16 percent. I can find no authority for this. The above figures are taken from the 1931 Report of the Comptroller of the Currency.)

Eighth. Although the fear of bank runs tends, when it is acute, to have a deflationary effect through the desire to maintain great liquidity, the total absence of it promised by guarantyists would, on the other hand, tempt banks to become less liquid than they should. Without the healthy anticiption of having to meet unusual withdrawals upon short notice—which might arise not through panic but as the result of local conditions—a bank might permit its assets to become frozen beyond the danger point.

Ninth. Past experience shows that whenever deposits are guaranteed, irresponsible banking ensues. Such measures remove the need for conservative operation in behalf of the depositors and substitutes speculative action for the profit of the stockholders. Externally, the sound and the speculative bankers are put on an equal basis and the value of character is cheapened. Within the banks, however, the conservative banker is at a disadvantage, for he will instinctively observe a caution no longer required by his moral obligations toward the depositors. Deposit guaranty is undoubtedly a guaranty of reckless banking, it is usually followed by increasing bank failures, and this in turn accelerates the depletion of the guaranty fund and its ultimate bankruptcy. Safety for the depositor can best be achieved by a unified branch banking system under competent bankers, strict examination and supervision, limitations as to interest rates and dividends until large surpluses are created, and responsibility placed where it belongs—on the officers and directors of the individual banks. A guaranty fund does not supplement but defeats these purposes.

Comment: For rebuttal of this "wildcat" point, see paragraph B-8 of this chapter.

Tenth. Not only would this measure force good banks to shoulder the burdens of the bad, but geographically it would force certain States to pay for the losses in others. For example, in 1924-5, 80 percent of the bank failures were in 15 agricultural States. But 6 industrial States would have had to bear nearly 65 percent of the losses, as the following excerpt from a table showing percentage of bank deposits by States will prove:

(Source: Celler extension of remarks, RECORD, May 25, 1932.)

Percentage of Nation's bank deposits

New York	31.3
Pennsylvania	9.9
California	8.0
Illinois	6.9
Ohio	4.9
Michigan	3.8
Percentage of deposits in 6 States	64.8

Eleventh. The compulsory conversion of liquid assets equal to one half of 1 percent of deposits into a completely and

permanently frozen asset will work a hardship upon member banks and will tend to have a deflationary effect. This assessment upon member banks would be about equivalent to 2 percent of aggregate capital, surplus, and undivided profits, and more than 6 percent of the aggregate reserves of member banks. Banks whose capital and surplus bear a higher ratio to deposits than the average will contribute proportionately a smaller portion of them, while banks that can least afford the assessment, those whose weakness is evidenced by a ratio of capital and surplus to deposits lower than the average, will have to pay a proportionately higher amount.

Twelfth. The initial assessment of one half of 1 percent of deposits will probably be followed periodically by others in order to maintain, as required, the insurance fund at one fourth of 1 percent of aggregate deposits. Under present unfavorable conditions this drain upon member banks will be such that net additions to profits would be wiped out. The following is an excerpt from a table supplied by the Comptroller of the Currency at House deposit-guaranty hearings, 1932: Earnings and dividends of member banks, 1923–1931—I have not the figures for 1932—

	1923	1929, peak	1931
National banks	$194,382,000	$291,384,000	[1] $55,054,000
State member banks	142,504,000	265,130,000	68,553,000
All member banks	336,886,000	556,514,000	13,499,000

[1] Loss.

Obviously, with a net addition to profit of only $13,499,000 in 1931, these member banks cannot well afford to pay $125,000,000 to the fund plus further assessment of unknown extent.

The effect of assessments, under this bill, upon small member banks may be shown by using again the table given on page 6 of this report consisting of a hypothetical income and expense account of a bank with $100,000 capital and $1,000,000 deposits, according to an article published in Fortune:

Earnings:		
Discounts and interest on investments	$56,000	
From various other sources and services	6,000	
		$62,000
Expenses:		
Interest on deposits [1]	$28,000	
Taxes	3,000	
Other running expenses	7,000	
Losses from bad loans	6,000	
Dividends at 6 percent	6,000	
		50,000
Left for salaries and reserves		12,000

The initial assessment upon a bank of this size would be $5,000, with the probability of others to follow. Thus, with only $7,000 left out of a year's earnings to cover salaries, such a bank would have nothing with which to build up its reserves. As a consequence it is much more likely to fail under slightly adverse conditions.

Thirteenth. The guaranty fund would compel member banks to build up two reserves, one of which would be controlled by another agency. Liabilities would be materially increased without any addition to assets. This would tend to unsettle banking conditions and to render the insurance fund self-destructive.

Fourteenth. Such a deposit guaranty would afford only a false sense of security, likely to be shattered whenever an economic crisis occurs. With deposits of more than $25,000,000,000 in the Federal Reserve System, and with an insurance fund of $414,000,000, we actually have $1 in the fund to insure $60 on deposit.

Fifteenth. The most casual examination shows that this so-called "insurance fund", arbitrarily established without adequate analysis of bank risks and losses, would not be sufficient to meet a major banking crisis without large additional assessments at a time when sound banks could least afford to meet them. (In this connection it should be borne in mind that the portion of the fund derived from the Treasury and from the surplus of the Federal Reserve banks is not replenishable from the same sources. Additional funds in the future would come from the member banks.) For example, in 1907, bank deposits aggregated $15,358,215,000. In the banks that failed that year there were $226,453,000 on deposit. An insurance fund of one half of 1 percent of deposits at that time would have amounted to only $76,790,000, or only 34 percent of the deposit liabilities to be taken over. It follows, therefore, that heavy assessments upon banks would have been necessary at the time when they could least afford it. The deposits in failed banks in 1907 amounted to 15 percent of the aggregate capital stock of all banks at that time.

The inadequacy of the fund provided by this bill becomes especially striking when we consider what would have happened had it been in existence in 1921 and during the ensuing years. Approximately $5,000,000,000 in deposits were involved in bank suspensions during the period—for the present purpose we may assume that practically all banks in the country would have been forced by the guaranty into the Federal Reserve System. A large portion of these failures was, as shown in chapter I, among smaller banks, in which deposits of more than $10,000 to a single account were probably rare. We may, therefore, conservatively put the "insured-deposit liabilities" that would have been taken over at about $3,000,000,000, or an amount exceeding the capitalization of all existing banks in 1921 and nearly equal to their present capitalization. Recently reported estimates fix the probable loss upon deposits in banks recently closed at about 50 percent. Mr. STEAGALL is quoted as predicting that losses to be sustained by such a fund would probably be only 25 percent of deposits in closed banks. On several occasions he has interpreted the reports of the Comptroller of the Currency as indicating losses to depositors in closed national banks as far below 20 percent. The American Bankers' Association puts it at less than 10 percent, and the Bankers' Monthly, February 1932, puts the loss at 11.6 percent in closed receiverships.

I cannot reconcile these figures, however, with the report of the Comptroller of the Currency for 1931. Probably they include secured and preferred liabilities. The Comptroller's figures are: Deposits at date of failure, $314,854,705; dividends, $220,382,118. This would indicate a loss to unsecured depositors of 30 percent. And it is generally conceded that losses in banks still in active receiverships will be much higher. It may consequently be asserted that had this fund been in operation during the past few years many of the banks that have survived would have been taxed out of existence and would have dragged down with them many still stronger banks. It must be remembered that the deposits in banks that failed during a single year, 1931, about equalled one third of the capital stock of all the banks in the country. A guaranty fund would have destroyed the survivors.

Sixteenth. The bill requires the annual readjustment of stock subscriptions to keep pace with the increase or decrease of deposits. This manifestly is the reverse of what would appear desirable. Periods of increasing deposits and prosperity are those when bank failures are least likely to occur. Yet the funds are then increased. When deposits are falling, on the other hand, bank failures become more frequent; yet, paradoxically, this is the time when the deposit insurance corporation is required to retire its stock and reduce its funds.

Seventeenth. If banks are compelled to subscribe to stock in the corporation, exchanging liquid assets for a frozen one, they should at least be entitled to representation upon the governing board of the corporation, and they should have priority in dividends and in the event of the corporation's liquidation. The authors of the bill take $150,000,000 out of the Treasury, asserting that it originated in the Federal Reserve System and should be recaptured. Yet they propose

[1] The Glass bill prohibits the payment of interest on demand deposits and provides for a limitation of interest on time deposits. Senator GLASS estimates that this measure would save member banks $259,000,000 annually, or more than enough to cover any assessments. The present House bill, however, is reported not to include such limitations upon interest.

to give the Treasury more in dividends on this subscription than the member banks will receive on their compulsory investment.

Eighteenth. Advocates of this measure assert that it will bring nonmember State banks into the Federal Reserve System. It is more probable, however, that, in the interval between its passage and the taking effect of the insurance provision in 1934, it will achieve the destruction of nonmember banks, with the consequent economic distress in every part of the country. There are 7,000 of them licensed to operate under the emergency banking legislation and 4,000 more that are still closed, according to the Federal Reserve Bulletin for April. A large number of these are ineligible for membership in the Federal Reserve System or could not afford to meet the requirements. As soon as guaranty legislation covering member banks is passed, depositors throughout the country will withdraw their funds from State nonmember banks. This, of course, will mean the rapid contraction of credit and liquidation of loans.

Nineteenth. Another probable effect of the legislation is that, while weak banks will be striving to join the System, strong banks, unwilling to bear the burden of the insurance fund, and sure of their own stability, will be leaving the System.

Twentieth. Comptroller Pole, testifying before the House Banking and Currency Committee at hearings on the Steagall bill for deposit guaranty, expressed himself as follows:

> This bill presupposes that our system of country banking stands in urgent need of a pronounced reform. With that diagnosis I am in complete accord. This bill also raises an implication of unification of our country banking system under Federal supervision and control. I am in favor of that in principle. But as to the method proposed by the bill to accomplish these results, namely, a guaranty of deposits in banks, I am unequivocably and unalterably opposed.
>
> In my opinion the enactment of this bill would destroy the Federal Reserve System by driving the strong banks from it. It would lead to the closing of thousands of small State banks which cannot qualify as members of the Federal Reserve System. It would put a premium on incompetency and irresponsibility by rendering no longer necessary for the country banker to be concerned for the safety of his depositors.
>
> I should say that to guarantee the deposits of 7,500 banks with the possible closing of 13,700 banks would by no means be a remedy for the present banking situation.

Mr. SMITH of Washington. Mr. Speaker, the passage of this bill to insure bank deposits is the result of a contest which has been waged for two decades. When the Federal Reserve Bank Act was written into law by a Democratic administration in 1913, 20 years ago, a provision to guarantee bank deposits was sponsored by John Sharp Williams, of Mississippi, for many years a leading Member of this body, and at that time a Member of the Senate, but his efforts were defeated in the Republican Senate by the machinations of a powerful lobby of eastern bankers. It has been said that this outcome was so disappointing to John Sharp Williams that he voluntarily gave up his seat in the Senate and retired from political life to his plantation in the Southland, where he spent a beautiful old age with his books and legion of friends.

However, a few years later a young Congressman, also from the South, the present able and distinguished chairman of the Banking and Currency Committee, the gentleman from Alabama [Mr. STEAGALL], took up the fight and has labored unceasingly during all the years since and in every session of Congress for the enactment of legislation to secure and safeguard the deposits of the people in the banks of the United States. Chairman STEAGALL and his committee colleagues are entitled to all the credit and honor which can be bestowed upon them for the consummation of this great reform.

The act as finally passed today amply protects the State banks and the sections to which some Members objected have been stricken or modified, although we did not succeed in limiting the salaries of the officials of the Federal Reserve banks, which I should like to have seen done. However, lawmaking is not an exact science, and every law leaves something to be desired and to be the subject of future consideration.

When we passed the Bank Emergency Relief Act on March 9, 1933, at the opening of this special session, I said:

> Mr. Speaker, we must have a Federal guaranty of bank deposits law, so that the savings of our citizens and the money of our merchants and business men in all the communities of our land will be safe and secure. Not until such a Federal statute is passed and in force will complete confidence in our banking system be restored, nor the funds of the American people placed on deposit in the banks and enable the bankers to make loans to finance the transactions of business and industry in this country.

Mr. Speaker, I am pleased and gratified and take pride in the fact that in less than 3 months from the day on which I made this expression of the wishes and hopes of the people everywhere such a law protecting their bank deposits has been passed by a Democratic House of Representatives, and will be passed by a Democratic Senate and be signed by a Democratic President, Franklin D. Roosevelt, who is leading America into a new, a better, and a happier day.

Mr. AYERS of Montana. Mr. Speaker, it is a much-indulged habit of lawmakers to include several subjects in one bill, evidently with the idea in mind that a majority of the Members will be so determined to get one provision enacted that they will vote for all. That is the way the veterans of this country were crucified in a body on the cross of economy early in this session. We all know that injustices prevail in that some men draw unwarranted compensation, but those evils can be corrected, and the veterans are willing and anxious to correct them. Congress knows that, too, so I am fortified in asserting that the provisions of the economy bill, emasculating the veterans in general, would never have become law if those provisions had been put up independently.

Now we are confronted with a like condition in this bill which provides for the guarantee of bank deposits. The primary object of the bill is to guarantee bank deposits, but in it we find many amendments to the Federal Reserve law, none of which are germane to the primary subject of the bill and many of which are beneficial only to big banks, dividend dividers, coupon clippers, and taxdodgers. However, the bill comes on for consideration before the House under a different rule than the economy bill did, and I have faith that this House will, through the process of amendments and eliminations, cure the faults which are found in these collateral subjects.

SOME OF THE FAULTS OF THE BILL

Section 3 of this bill, which has no relation to the guarantee of bank deposits, is an attempt to divert, after all of the expense of the Federal Reserve System has been paid and after the stockholders have received an annual cumulative dividend of 6 percent, all of the balance of the earnings of this System have gone into private hands, without paying the Government a penny for its right to operate.

The subscribed and actual paid-in capital stock of the Federal Reserve System is $150,217,000. That is its entire invested capital. And it shows a gross earning since 1913, when the System was begun, of $1,020,000,000. This earning is set up by an item of expenditures of $472,000,000, which includes the Federal Reserve bank buildings, all of which have become an asset of the System, and a second item of $548,000,000 as net return. This item of net return is disposed of by $120,000,000 paid-in dividends, $279,000,000 transferred to the surplus account, and $149,000,000 paid the Government as a franchise tax. The total of these amounts balances the $1,020,000,000 gross earnings. The two items of dividends and surplus total $399,000,000, all of which goes to the stockholders under the present program, and it equals 13.3 percent annual income on the investment of $150,217,000. This percentage of income is surely adequate. Then why should we now permit this huge private banking system, fostered and protected by the Government in its earnings of over 13 percent, to escape that franchise tax?

If we are to measure the future by the ratio of the past 19 years that this system has been in existence, then that franchise tax will average $7,842,105 per annum in the future, and if the law requiring its payment is repealed this money is then directed to the private stockholders, and it would make the earnings of this private banking system in-

crease from 13.3 percent to 18.52 percent, and the Government would be receiving nothing for this amazingly valuable franchise.

Now, Mr. Speaker, if this section 3 is kept in this bill, it will surely defeat the bill in its entirety, for this Congress undoubtedly will not deprive the people of this country of hundreds of millions of dollars in the future by giving to the bankers of this land this fabulously valuable franchise upon which the Government is entitled to this legitimate franchise tax.

ATTEMPT TO ELIMINATE DOUBLE LIABILITY ON BANK STOCK

Section 24 repeals the double liability of stockholders of national banks. This section by all means should be eliminated. The double liability of stockholders of national banks as provided by the present law should not be disturbed. A large number of States have double-liability laws for State banks, and the repeal of such law as to national banks would be an unfair discrimination against State banks. I anticipate the argument in favor of this repeal will be that the States can and should repeal their laws on double liability for State banks. But the State legislatures will not do so. The people are not for such repeal. The people of my State would not stand for it. The Governor of my State would not stand for it, and should the legislature in an unguarded moment pass such a law he would promptly veto it. Let us not create such a palpable discrimination between national and State banks.

ATTEMPT TO GIVE PRIVATE CORPORATION FREE USE OF MAIL

Section 305, page 57 of the bill, gives the deposit insurance corporation, which is to be set up under the guaranty provisions of the bill, the free use of the United States mails. Now this corporation, according to this bill, is not a Government corporation, it is a private corporation to be operated under the direction of the Government, and therefore it is no more entitled to the free use of the mails than is the Federal Reserve or any other private corporation. I hope we will not make the mistake of leading the people to believe that this is a Government corporation, and particularly let us not lead them to believe that to be a fact by giving this corporation the franking privilege of the mail. The people have already suffered a deception by having been led to believe that the Federal Reserve System is a governmental institution instead of a private system made of and for private bankers. The proposed deposit insurance corporation is to be a dividend-paying concern, and certainly should not have the free use of the mails. The mailing privilege should be paid before dividends are paid. The money paid for the mailing privilege is a part of the item of $472,000,000 listed as expenditures of the Federal Reserve.

It is reported that last year the Federal Reserve paid over $1,500,000 for postage, and it is not beyond a reasonable anticipation that this deposit-insurance corporation will in time reach that annual amount. Now, the question occurs, Shall such a Government donation be made to a dividend-paying private corporation? I do not believe this House will do so. It is not right and our postal treasury can ill afford it. There was a postal deficit last year of approximately $200,000,000. This section 305 must be eliminated. Our Government could never permit dividend checks of private corporations to be mailed to stockholders in franked envelopes.

NECESSITY OF BANK-DEPOSIT GUARANTY

There can be no resumption of normal banking in this country without the guaranty of deposits. It is an undisputed fact that at least 90 percent of the business of the country is conducted with bank credit and with checks used as the medium of exchange.

The use of bank credit has declined to such a degree that it has about reached the vanishing point. The public is afraid to deposit its money in banks, and the banks operating along legitimate lines are afraid to use their deposits in the extension of bank credit for the support of business and trade; hence we stand on the zero point in this line of business, which affects all industries of this land. Bank credit must be resumed if we are to find our way out of our present difficulties. Credit cannot be extended again until confidence on all sides is restored. Confidence cannot be restored until, first, the people know that their money is safe when deposited in a bank, and second, until they believe their money is safe when invested. Various States have tried various plans for guaranteeing bank deposits, but they have all failed, and the people will not have confidence in banks until the strong arm of the Government, either directly or indirectly, is back of the deposits. An absolute demonstration of this fact is revealed by a glance at the footings of the Postal Savings System.

The Postal Savings deposits of America on January 1, 1932, were $597,000,000. On January 1, 1933, 1 year later, these deposits had increased to $900,000,000, which increase amounted to $25,250,000 per month for the calendar year 1932. These Postal Savings deposits had increased to $1,157,000,000 on April 30, 1933, 4 months later, which means an increase of $64,250,000 for each of these last 4 months. These figures were furnished me today by the Postal Savings Department, and they reflect a monthly increase for these last 4 months in excess of 250 percent over the monthly increase for the year 1932. The reason for this increase is "guaranty of deposit" on the part of the Postal Department and lack of that "guaranty" on the part of the banks.

This is conclusive evidence of what the people demand and what they must have if banking is to be revived. The sudden increase of postal deposits is justified under existing laws, or lack of laws, present-day conditions, and physical examples confronting us. A considerable percentage of bank deposits, and particularly in the agricultural districts, represents borrowings of the depositors. In a large percentage of such cases, if the bank closes, the borrower and depositor, who is one and the same person, loses 100 percent. To the casual observer or the person not familiar with the conditions, that statement seems absurd and impossible, for you will say the deposit will offset the loan, but I have seen quite the contrary happen many, many times. Here is one instance where it always happens: The borrower, a farmer, goes to the bank and borrows $5,000, giving his note secured by his farm mortgage. He leaves the money in the bank to be checked out in payment of his debts and for operating expenses; the bank immediately sells the note and assigns the mortgage to a mortgage company or an insurance company; the bank closes before the checks have cleared.

The borrower thinks his account is balanced in the closed bank, thinks that his deposit will offset his note, but not so. He does not owe the bank. His note and mortgage are in the hands of an innocent purchaser for value. He must pay the note or his mortgage will be foreclosed, and he has already lost his deposit. One could hardly expect that borrower-depositor-loser to go through that same process again, but he does. A new bank is organized, the community is reported to be back of it, and he is loyal to his institutions and he is loyal to his community, and he tries it again, with the same result as before. Indeed, I have seen them try it as many as three times out in my country. They have been gamesters. But now they have decided that they have the wrong deck; they have entirely lost faith; they will not play longer. They have been hit from in front and kicked from behind, and we must not expect them to deposit their money in a bank again, for they have been repeatedly powder burned and now they are gun-shy. Oh, they must have a guaranty before they will make deposits any more, and it must not be a "make-believe" guaranty either.

GUARANTY MUST EXTEND TO SMALL BANKS

The Government must either make the guaranty itself or set up the machinery for it and stand back of such machinery and wield its strong arm in directing it, before public confidence will or can be restored, and such guaranty must extend to the small bank and the State bank as well as the big bank and the national bank.

Mr. Speaker, that the guaranty law must apply to the small bank and the State bank is absolutely necessary if we survive this dilemma. Since this bill has been introduced I have had dozens of letters and telegrams from my

State on the subject, cautioning against discrimination, and I shall transgress upon the time of the House to read just one letter which is typical of the others.

BASIN STATE BANK,
Stanford, Mont., May 19, 1933.

Hon. ROY E. AYERS,
Member of Congress, Washington, D.C.

MY DEAR JUDGE AYERS: Will you please send me copy of proposed Steagall bank bill, also proposed Glas bank bill? From press reports, if either of these bills is enacted in its present form it will put the little banks out of the running. If Senator GLASS has his way, deposit insurance will only extend to national banks and Federal Reserve members complying with the National Banking Act, which provides a minimum capital of $50,000 in cities of less than 6,000 population. Now, with such a minimum, that would eliminate us unless we increased our capital to $50,000, and who in this country would desire to invest in bank stock at this time?

I feel that the guaranty of deposits or the insurance of deposits is a good thing, but I do not feel that we should be eliminated from the provisions of the law simply because of our small capital when we are in all other respects qualified. I feel that there should be provisions so that the small banks could get in on the deposit-guaranty provisions under proper examination and without having to increase their capital to $50,000.

In this State my information is that there are 56 banks capitalized at over $50,000, and 92 banks capitalized at under that amount.

We have been hard hit for the past 13 years, and I sincerely hope that a law will be enacted that will help the little country bank as well as the larger banks. With sincere good wishes, I am,

Yours very truly,

N. B. MATTHEWS, *Cashier.*

Mr. Speaker, I have been pleased to advise this constituent that the Steagall bill included banks like the Basin State Bank, of Stanford, Mont., and that the press reports had been misleading.

PROVISIONS OF STEAGALL BILL

This bill first reforms our banking laws by restricting banks and bankers in making loans for speculative purposes and in the investment of bank funds. It then makes provision for insuring deposits both in national and State banks, regardless of size, which insurance it is believed will provide absolute indemnity against loss for depositors in banks insured. The bill does not provide that the Government shall guarantee the payment of the deposits, but it does provide and require that banks shall mutually guarantee the deposits of each other through the medium of a Government-controlled instrumentality designed for that purpose, to be known as the "Federal Bank Deposit Insurance Corporation."

The banks shall make such contributions to the insurance fund provided for, from time to time, as may be necessary to provide for the payment of all deposits in banks which may be closed; and that such contributions shall be made by the banks in proportion to the amount of their deposits. This seems to be an equitable adjustment for the maintenance of the fund.

It is claimed by the parents of this bill that the guaranty of bank deposits against loss provided by it is absolute in making the protection of the deposits complete, and, to see that this guaranty is continuously maintained, the Government has complete supervision and control of the machinery of guaranty.

The bill provides that the deposit-insurance corporation shall insure all deposits of all banks, regardless of size, joining it and complying with the conditions prescribed, and they do not have to have Federal Reserve membership.

If this bill is passed it will, on going into effect, automatically close every bank that does not join. No person will leave his deposit in a bank not guaranteed when he can place it in a bank that is guaranteed; hence the law must be safeguarded so as to include all banks that can qualify, whether they be large or small, State or National, and also whether they be members of the Federal Reserve or not. It is also absolutely necessary that the order of approval going out under this law be issued for all banks of a town, city, county, locality, or State, as the case may be, at one and the same time, for if this were not done it would greatly mitigate in favor of the bank getting the first order of approval, and it would probably wreck the other banks of that particular town, city, or locality.

This bill proposes to guarantee all deposits to the extent of 100 percent for the first $10,000, 75 percent of the next $50,000, and 50 percent of the amount of all additional deposits. Provision is made that when a bank is closed the amount of the deposits insured shall be immediately available to the depositors.

The Deposit Insurance Corporation provided by this act is to have a capital stock to start with which is contributed by the Federal Reserve banks to the extent of one half of their surplus on January 1, 1933, which will amount to a little less than $150,000,000, while each member bank is required to subscribe to the stock of the Corporation to the extent of one half of 1 percent of its total deposit liabilities. This will allow an additional sum of approximately $150,000,000, in addition to which the Government shall subscribe $150,000,000 for stock of the Deposit Insurance Corporation, thus providing about $450,000,000 of original capital for it; further provision is made that it may issue notes, bonds, debentures, and other similar obligations in an amount aggregating not more than three times the amount of its capital.

This makes a starting reserve and credit of $1,350,000,000 for the Deposit Insurance Corporation; then it is to be maintained by the mutual assessment which I have mentioned and, in addition to that, it is provided that whenever a bank increases its time and demand deposits it shall subscribe at the beginning of each calendar year for an additional amount of the capital stock of the Deposit Insurance Corporation, equal to one half of 1 percent of such increase in deposits. This is an adjustment to reach the increased deposits of the big banks.

I trust that when this bill has run the gantlet of the House and Senate the objectionable features will be eliminated so that it will be a bona-fide measure which can be identified as a law requiring the insuring and guaranteeing of deposits of all banks qualifying under it.

VALLEY FORGE

Mr. WHITTINGTON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing an address delivered by me on May 21 at Valley Forge.

The SPEAKER. Is there objection?

There was no objection.

Mr. WHITTINGTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I am inserting an address I delivered at Valley Forge, Pa., on Sunday, May 21, 1933, as follows:

The State Sundays in the Washington Memorial Chapel, erected at Valley Forge as a memorial to George Washington and the patriots of the Revolution, are commendable and should be inspiring. This is Mississippi Sunday, and in response to the invitation of the Rev. Dr. W. Herbert Burk, the originator, the builder, and the rector of the chapel, to Gov. Sennett Conner, I am honored to represent on this auspicious occasion both the Governor and the State of Mississippi.

We are descendants of pioneers. Many of the brightest and most promising young men of the Original Thirteen States sought fortune and fame in the other 35 States as they were organized as Territories or admitted into the Union as States. We are Americans. We are citizens of the Republic. We speak the same language. We have common creeds.

Many Pennsylvanians settled in Mississippi. They traveled down the Ohio and the Mississippi Rivers to Vicksburg and to Natchez, and thence frequently into the interior of the State. Some became eminent at the bar and renowned as statesmen. Others were leaders in education and planting. Christopher Rankin, a native of Pennsylvania, died while a Member of Congress from Mississippi and is buried in the Congressional Cemetery in Washington, D.C. A native of Pennsylvania, Robert J. Walker, as a Senator from Mississippi, was one of the outstanding statesmen of his time. He was a leading contender for the Presidency of the United States. As Secretary of the Treasury in the administration of James K. Polk, he was the author of the Tariff Act of 1846, known as "the Walker Tariff Act", probably the most satisfactory and successful tariff act ever passed by Congress.

Mississippi therefore gladly joins today with Pennsylvania in perpetuating the heroism of the patriots of Valley Forge. I believe in memorials and monuments. They encourage sacrifice. They stimulate patriotism. A nation without memorials, monuments, or anniversaries is a land without liberty and without freedom. The savage has no hero, nor has he any Fourth of July.

We are on holy ground today. We are on the most famous spot in the United States. Valley Forge is the Mecca of the American patriot. As long as men love liberty, so long will the sons of freedom make their pilgrimage to Valley Forge to renew their devotion to freedom and their loyalty to country.

In this valley and among these hills was the most celebrated encampment in the history of the human race. The 6 months at Valley Forge, from December 19, 1777, to June 19, 1778, marked the turning point not only in the War for Independence but in the contest for liberty throughout the world. As Salamis prepared for Marathon, so Valley Forge prepared for Yorktown. No bloody battle was fought here, but the poverty, the privations, the sufferings, the sacrifices, and the training placed the soldiers of Washington at Valley Forge among the immortals of all time. The legions of Caesar and the followers of Cromwell won no battle comparable to the victory of Valley Forge. The fate of the War for Independence rested here. The winter quarters at Valley Forge was the pivotal bloodless battle of the Revolution. It marked the end of short-term enlistments and secured enlistments for the duration of the war. It marked the end of State control of troops and saw the centralization of authority in the Commander in Chief.

THE COMMANDER

It takes loyal and trained soldiers, and a great general, for the success of any army. George Washington was the commander. He not only led the Army, but he led the people. There were Governors and there was a Continental Congress, but Washington typified the spirit of the War for Independence.

When the idolators and the debunkers are forgotten, Washington will continue the ideal American and the national hero. He came from English stock. He was from among the first families of the Colonies. Without college or university education, largely self-educated, Washington possessed a well-trained mind. His profession of surveyor or civil engineer stood him in good stead in his mission to the Northwest. He was prepared for leadership. He was trained in both war and government. He was a great administrator, for he was familiar with large affairs and was probably the wealthiest man of his time. He saved the survivors of Braddock's army and won fame in the French and Indian War. As colonel of the Virginia militia, he was the best-known soldier in all the Colonies. It was while serving as an aide to General Braddock that he made the statement, "My inclinations are strongly bent to arms."

He did not know the meaning of fear. After the fatal wounding of General Braddock, with two horses shot beneath him and four bullets through his coat, the young Virginia colonel took command and saved the remnant of the brilliant English army.

He was widely experienced in government. Although defeated when first a candidate, he was a member of the Virginia House of Burgesses for 15 years. He was in the Continental Congress when chosen Commander in Chief of the Revolutionary Army.

King George III was not an Englishman at heart. He was of German blood and third in descent from the House of Hanover. He asserted and exercised the divine right of kings. Washington knew the tyranny of King George. The petitions of the colonists for redress were heard over and over again. The protests against the tyranny of the English King constantly rang in Washington's ears. He was familiar with the debates, the petitions, and the protests. His personality and his character largely shaped and controlled the policies of the Colonies. Patrick Henry, on being asked to name the greatest man in the Continental Congress, replied: "If you speak of eloquence, Mr. Rutledge, of South Carolina, is by far the greatest orator, but if you speak of solid information and solid judgment, Colonel Washington is unquestionably the greatest man on the floor."

In the Virginia convention, when the British closed the port of Boston, Washington said: "I will raise 1,000 men, subsist them at my own expense, and march myself at their head for the relief of Boston." He knew that war was inevitable. He realized that only bloodshed could preserve the rights for which Jamestown was settled and Plymouth was founded.

Washington was elected Commander in Chief of the Revolutionary Army on June 15, 1775. He served for 8 years without compensation and stipulated that he would expect only reimbursement for his actual expenses. He was 43 years of age, and his heart and soul were in the cause. For 6 years, although frequently within a comparatively short distance of his beloved Mount Vernon, he never visited his home. Like all great men, Washington was humble. In accepting the appointment as Commander in Chief, he said: "I beg it may be remembered by every gentleman in the room that I this day declare, with the utmost sincerity, I do not think myself equal to the command I am honored with."

The War of Independence was not popular in England. It was in reality waged by King George III. Many of the leading English statesmen protested against the tyranny and injustice to the Colonies. There were no conscriptions in the English Army, and volunteers were lacking to fight their relatives across the seas. The English armies were made up largely of alien troops. There were many Hessians from the German provinces. It was the English policy to conscript only to repel invasion.

Lexington, Concord, and Bunker Hill were followed by defeat at Long Island. The British frequently defeated the Continental Army, but they never defeated George Washington. The campaign of Washington across New Jersey excited the praise of the great Frederick of Prussia and would have done credit to Napoleon. The Trenton-Princeton campaign marked Washington as a military genius of the highest order. It is studied in the military schools of Europe.

There were enemies within as well as without. Enlistments were few. The army was dwindling. When Washington crossed the ice-filled Delaware on a dark and stormy night in Christmas 1776 and captured 1,000 hated Hessians at Trenton, after marching 9 miles in sleet and snow, new hope was inspired in the Colonies. The Hessians had plundered and pillaged in the British marches through New Jersey. They had become as Attila to the colonists. The brutalities and the ravages of the civilian population by the foreign Hessians brought defenders to Washington's cause. The success at Trenton and at Princeton brought renewed hope to the cause of independence.

The British had planned to separate New England from the South. At Stony Point and Kings Mountain the Continentals were braver than the bravest of the British. Ticonderoga had fallen and Burgoyne had surrendered at Saratoga. The British campaign in the Mohawk and Hudson Valleys in 1777 had failed. Lord Howe decided to abandon New York City and take possession of Philadelphia, the cradle of liberty and the capitol of the Colonies. He sailed from New York. Washington prepared to check his advance. The attacks of Washington at Brandywine and Germantown were defeats for the Continental Army. It was the darkest day of the Revolution when Lord Howe, with 15,000 trained British troops, took possession of Philadelphia in December 1777. Benjamin Franklin, then in Paris, when he heard that Howe had taken possession of Philadelphia, remarked: "No; Philadelphia has taken Howe." There were many Tories in Philadelphia as well as in the Colonies.

There have been greater generals and there have been greater statesmen, but no greater character than George Washington. The contemporaries of George Washington appreciated and admired his patriotism, justice, honesty, patience, courage, unselfishness, and tenacity. John Adams said: "I know him to be only an exemplification of the American character." Thomas Jefferson expressed the estimate of his day when he said: "It may truly be said that never did nature and fortune combine more perfectly to make a great man and to place him in the same constellation with whatever worthies have merited everlasting remembrance."

There was a great leader at Valley Forge. Never was leadership so imperative. The final victory was due to the great commander. If Washington had despaired at Valley Forge, not only the Colonies but humanity would have lost. Of his leadership and skill, Von Moltke said in Berlin in 1874: "You have in American history one of the great captains of all times. It might be said of him as it was of William the Silent, that he seldom won a battle but he never lost a campaign."

THE CONGRESS

There was no central authority. The States were supreme. They were jealous of their rights and of one another. Rivalry among the States and statesmen was the order of the day. The Government was as a rope of sand. The soldiers acknowledged allegiance only to the States. The operations of the commissary departments were worse than failures. The lack of transportation was tragic. The crops in the country were abundant and the supplies were ample. There were blankets and there was clothing, but they did not reach the Army.

The Continental Congress was the only semblance of a central government. The able men had left Congress for service in the States. Hancock had resigned. Samuel Adams was in Massachusetts. Jefferson and Henry were in Virginia. The Congress was without money and without credit. Coin found its way to Philadelphia and New York, both of which were in possession of the British. The Congress issued paper currency. It depreciated so much in value that it took $2,000 in continental currency to buy an ordinary suit of clothes. Hence the origin of the expression, "not worth a continental."

Moreover, the Government was in flight. At one time Congress went to Baltimore, and then to Lancaster and finally to York. Quorums were frequently lacking. When there were sessions the Congress was either impotent or indifferent. The commissary department had utterly broken down. The statesmen frequently undertook to direct the Army. Failure always resulted. There were intrigues in the Congress and cabals in the Army. The Continental Army was handicapped by a vacillating, meddlesome, and inefficient Congress. The British Army was supported by a strong central government. There were both money and resources. Trained officers and trained soldiers were sent across the seas to vanquish Washington. They received much help at the hands of the loyal Tories.

THE ARMY

Thomas Paine, secretary of the Congressional Committee on Foreign Affairs, whose pamphlet Common Sense was thought to have influenced the Declaration of Independence, said, while Washington was in the winter quarters at Morristown, N.J., in 1776 and 1777, "These are the times that try men's souls." But conditions were worse in the winter quarters at Valley Forge in 1777 and 1778. On December 23, 1777, with 11,089 troops, Washington informed Congress that he had 2,898 men "unfit for duty because they are barefoot and otherwise naked", and he further said, "For want of blankets, many feign to sit up all night by the fires instead of taking comfortable rest." Again Washington wrote, "Naked and starving as they are, we cannot sufficiently admire the incomparable patience and fidelity of the soldiery."

Chief Justice John Marshall afterward wrote, "At no period of the war had the American Army been reduced to a situation

of greater peril than during the winter at Valley Forge. More than once they were absolutely without food. In February, 3,989 men in camp were unfit for duty for want of clothes. Of this number scarcely a man had a pair of shoes. Although the total of the Army exceeded 17,000 men, the present effective rank and file amounted to only 5,012 men." No better description of the miseries and sufferings of the winter can be found than in the words of Washington himself: "Without arrogance or the smallest deviation from truth, it may be said that no history now extant can furnish an instance of an army's suffering such uncommon hardships as ours has done, and bearing them with the same patience and fortitude. To see men without clothes to cover their nakedness, without blankets to lie on (for the want of which their marches might be traced from the blood from their feet), and almost as often without provisions as with them, marching through the frost and snow, and at Christmas taking up their winter quarters within a day's march of the enemy, without a house or a hut to cover them until they could be built, and submitting without a murmur, is a proof of patience and obedience which in my opinion can scarce be paralleled."

Valley Forge is known in every American home because of the red footprints of its soldiers. Years after the encampment, Washington told Dr. Gordon: "Through the want of shoes and stockings, and the hard-frozen ground, you might have tracked the men from White Marsh to Valley Forge by the blood of their feet." As he rode in the rear of his army toward Valley Forge, Washington demanded of the first officer he met, "How comes it, sir, that I have tracked the march of your troops by the bloodstains of their feet upon the frozen ground? Were there no shoes in the commissary's stores?"

The soldiers lacked not only food but clothes. Lafayette wrote: "They had neither coats, hats, shirts, nor shoes." Baron Steuben said: "The men were literally naked, some of them in the fullest extent of the word."

With Spartan spirit the soldiers built mud huts and log cabins for their winter quarters. Disease followed exposure. Of the 11,089 men who were encamped at Valley Forge on December 19, it is said that 3,000 died from exposure and from disease. None know the place of their burial. When it is recalled that in the 26 important engagements in the War of Independence only 9,000 lost their lives, the fatalities at Valley Forge can be fully realized. There is but a single monument to mark any of the graves of the heroes who perished. Only one simple stone is to be found to mark the burial place of the probable 3,000 who died here. There is a small stone to the memory of John Waterman, of Rhode Island. Deaths were so frequent that funeral services were finally abandoned.

It took more heroism to withstand the privations and sacrifices of the fierce snows and winds of winter at Valley Forge than to face bullets and bayonets. There was no attack. There was no march or countermarch, but only grips with disease, hunger, and poverty. It was worse than the trench or the dug-out of the World War, for it was 6 months and not 48 hours at Valley Forge. It was the proud boast of the single survivor of the soldiers of Leonidas that he was at Thermopylae. So it was the boast of Washington's patriots that they were at Valley Forge.

Suffering and sacrifice make kindred spirits. The soldiers from all the Colonies at Valley Forge drank from the same canteen. There is no bond comparable to the fellowship of soldiers.

"There are bonds of all sorts in this world of ours;
Fetters of friendship and ties of flowers,
And true lovers' knots, I ween;
The boy and girl are bound by a kiss,
But there never was a bond, my friends, like this;
We have drunk from the same canteen."

It was here the Continental Army first learned the meaning of the word "comrade." There were months of patient endurance and days of active drilling. There was no fighting, but there was martial faith and dauntless courage.

During the winter at Valley Forge the scheme to replace Washington with Gates, known as the "Conway Cabal", came to naught. Washington endured criticism and complaint with patience. From every contest and over every obstacle he emerged a greater and a nobler figure.

A majority of the newly assembled troops at Valley Forge were without training and organization. During the winter of 1777–78 Washington changed all this before 6 months had elapsed.

To add to the difficulties the Tories were active. Desertions were encouraged. The British troops in Philadelphia, watched by Washington, were being wined and dined by the loyal Tories. They spent the winter in ease and luxury, while gaunt hunger and dreaded disease brought deaths every day and night at Valley Forge.

The Liberty Bell in Philadelphia on July 4, 1776, proclaimed: "Liberty throughout the land and to the inhabitants thereof." The farmers of Massachusetts on the Commons at Lexington, April 19, 1775, "fired the shot that was heard round the world", but there were despair and gloom at Valley Forge. The troops were passing through the darkest nights of the Revolution. Lord North offered conciliation. His proposals for conciliation were made early in 1778, but Washington urged Congress not to be misled by them. He asserted: "Nothing short of independence, it appears to me, can possibly do." His soldiers caught his spirit and determined to die but never to surrender.

Winter quarters at Valley Forge did not mean idleness. Howe was kept in Philadelphia. The country was protected by the army at Valley Forge. Washington was constantly watching the British. Deaths and desertions were more than made up by enlistments. The army was increased from 11,000 to 17,000. Long-term enlistments were inaugurated. There were daily drills. There was discipline. Washington was familiar with the English system. The dependence was upon the officer in the battle. The soldier was not emphasized. His training was overlooked. Washington capitalized the weakness of the British system. The conquering army must be a trained army.

As every cloud has a silver lining, so there were rays of hope at Valley Forge. Baron Steuben, of Prussia, with a decoration at the hands of the great Frederick, joined Washington at Valley Forge. He was a skilled soldier and a strict disciplinarian. He came to the Colonies in their hour of direst need. Washington appointed him major general and inspector of the Army. Discipline took possession of the entire encampment. He transformed volunteers into a trained army. It will not be forgotten that Frederick of Prussia was in sympathy with Washington in the Revolution. He forbade the Hessians crossing the borders of Prussia as they enlisted in the English Army for service in America.

To Valley Forge there came the gallant Lafayette, at 20 years of age. He had left the vine-clad hills of his native France to join Washington in the contest for liberty. He brought strength to a despairing cause and hope to a despondent army. The admiration of Lafayette and Washington was mutual. The friendship, begun when Washington was 46 and Lafayette was 20, continued until death.

In war as in peace the statesman and the diplomat have their place. The Army must always be supported by the people and by the Government. Benjamin Franklin, the greatest of American philosophers and the greatest of American diplomats, was in France while Washington was at Valley Forge. On February 6, 1778, the alliance with France was concluded at Versailles. The news brought rejoicing to the Army at Valley Forge. It brought inspiration to soldier and commander.

In the ranks there were great men. John Marshall was there, and he became the great Chief Justice. James Monroe, a future President of the United States, was among the soldiers at Valley Forge. There were conspicuous leaders among the officers. Steuben, from Prussia, and Lafayette, from France, have been mentioned. Washington's chief engineer was Brig. Gen. Louis du Portail, of France. Alexander Hamilton was the aide de camp of Washington. Nathaniel Greene, Anthony Wayne, John Laurens, and Richard Henry Lee, of cavalry fame, known as "Light Horse Harry", were among his trusted lieutenants.

Martha Washington and the wives of the officers were a benediction to the Army. Washington had forbidden dice and cards among the men. There were but few diversions. There were more important things to do. The women sewed, knitted, and nursed. There was no American Red Cross, and there was no Knights of Columbus. There was no Young Men's Christian Association. There were no movies, but Martha Washington and the wives of the officers were angels of mercy as they ministered to the sick and nursed the dying. There were the hardest of hardships. It was like the darkness before the dawn.

Reverence was encouraged. Washington was always interested in his chaplains. Both Army and commander put their confidence in God. It may be tradition, but I like to think of it as fact rather than fiction. It is said that Isaac Potts, at whose house Washington was quartered, one day while the soldiers were in camp at Valley Forge, strolled up the creek and when not far from his dam he heard a solemn voice. He walked quietly in the direction of it. He saw General Washington's horse tied to a sapling. In a thicket nearby was the beloved Commander in Chief upon his knees in prayer, his cheeks suffused with tears. Small wonder is it that Chatham, the English statesman, said, "You cannot conquer America."

It takes a great commander and great soldiers to make a great army. Training and discipline made armies then as now. Preparation is always essential to victory.

When the British evacuated Philadelphia in June 1778 Washington left Valley Forge in pursuit of Clinton, who had succeeded Howe: There were now 17,000 soldiers. They were well-trained and disciplined. Clinton was overtaken and defeated at Monmouth, notwithstanding the perfidy, if not the treason, of Charles Lee. Lafayette said of Washington at Monmouth, "I never beheld so superb a man."

THE MEANING

Nations have their Valley Forge in peace as well as war. The United States has been in the dark valleys of another Valley Forge for the past 3 years. As leadership snatched victory from the very jaws of defeat in 1778, so is leadership imperative in the world today. The world needs leadership of the Washington mold. Other leaders with passing fame vanish like bubbles that burst on the great ocean of time, but Washington is like the rock that borders the ocean, against which the billows roll and break, without injuring the rock. Of Washington it has been justly said, "He changed mankind's ideas of political greatness." The great commander at Valley Forge became the great President of the Nation.

The road to success always traverses the hills and valleys of suffering and of sacrifice. There must be sacrifice before victory. The valley ever leads to the hills. The cross always precedes the crown.

The forces of destruction are never idle. There are those today that would destroy. The evil tree ever grows by the side of the

good tree. The forces of wickedness are always arrayed against the forces of righteousness. There are intrigues today that would destroy liberty.

It is not enough to win liberty. It is just as important to maintain freedom as it is to fight for it. The oppressor is always selfish. As our forefathers fought for liberty, we must fight to make that liberty secure. As Goethe said: "In this world it is necessary that man should not only fight for his liberty; he must fight again and again to keep his liberty. He must be vigilant for liberty."

Amid hunger and suffering the patriots did not despair. They chose the hard way. Morale is as essential in the people as morale is important in the army. Napoleon said: "Morale is to the physical as 4 to 1." The spirit of defeatism would be as dangerous today as it was at Valley Forge. As Washington and his patriots did not despair, so Americans must carry on.

Other nations were not indifferent to the cause of the Colonies. Kosciusko came from Poland, Steuben from Prussia, and Lafayette from France. Without France, Yorktown would have been long delayed if not impossible. Today no nation can live unto itself. The good neighbor is honored among nations as among people. France, England, Germany, and the United States must be friends or civilization is in danger.

There was preparedness. We know that the best way to promote peace is to be prepared for war. Oliver Cromwell expressed the thought when he said, "Trust in God, but keep your powder dry." Washington was right when he said, "To be prepared for war is one of the most effectual means of preserving peace."

There were courage, faith, and confidence at Valley Forge. The need of our day and of our age is not more education, not more learning, but more courage and more faith. The world cries today for the justice that was exemplified in George Washington and for the faith and courage of Valley Forge.

Six months at Valley Forge not only created an army but made a Nation. The need for central government and authority was fully demonstrated here. The Union was born in the huts of Valley Forge. Valley Forge is responsible, in the language of Webster, for that "unity of government which constitutes us one people." The Commonwealth of Pennsylvania is fortunate in having within its borders Valley Forge, where the Union was born, and Gettysburg, where the Union was saved.

THE GLORY

Valley Forge has a glory all its own. It little matters whether we know the places of burial of the heroes who fell here. Who knows where Caesar's legions are buried? Who knows where the soldiers of Assyria are buried?

The heroism of the patriots of Valley Forge is celebrated in song and story. The memories of the winter quarters here are cherished in every household in the land. The best monument that America can erect to the heroes of Valley Forge is to exemplify in peace as well as war the courage and the faith of Washington and his army. If Washington could speak to America today, he would say again, "Well done, my patriotic Americans. The fire that stirred your fathers to high deeds for a high cause lives on in you. In you the same soul that made this country flames on to keep it safe."

Washington and the patriots looked beyond the valley and over the hills at Valley Forge to see the greatest nation in human history. We must look beyond the valleys of the depression and the hills of economic difficulty to the victory that will bring prosperity not only to the average and forgotten man of the United States but of the world.

The importance of the individual soldier was emphasized at Valley Forge. We are emphasizing today the opportunities and responsibilities of the individual citizen. Patriotism is as imperative in peace as in war. America needs today the spirit of the heroes of Valley Forge. There is the trumpet call on every hand to the life of hardship, discipline, and denial. We can find anew in this foremost shrine in the western world our spirit and our soul.

As the soldiers of the American Revolution were at their best at Valley Forge so should the citizens of the United States be at their best in distress and depression. It will be so if we have the spirit of Valley Forge.

There is a painting entitled "The Spirit of '76." Three figures are conspicuous. An old man, with white hair, with figure erect and eye aglow, is keeping step to the sound of his drum, which he is beating with all his might. On the right there is a middle-aged man, blowing his trumpet with all the force at his command and keeping step with the aged drummer at his right. On the left is a youthful drummer looking with admiration toward the old man, and evidently he is getting inspiration from the courage of the aged hero. The color bearers with the flag are behind the three. Following the flag there is a company of patriots marching with steady step and with the same high spirit that characterizes their leaders. In the extreme right corner of the picture there is still another figure. By the side of the broken wheel of a cannon there is a mortally wounded soldier, and as he lies there he waves his cap enthusiastically as his comrades advance to meet the enemy. In the picture, youth, middle age, and old age are animated by love of country. The spirit of patriotism is perpetuated in the celebrated painting. It is symbolic of the spirit of Valley Forge. As was said by the English historian, John Richard Greene, "The camp at Valley Forge is the noblest of Washington's triumphs." His troops never lost a battle after Valley Forge. As confidence in country and faith in God were victorious at Valley Forge, so will courage, faith, and confidence conquer today. Righteousness ever exalts a nation. In this historic shrine we renew our faith in America and in the God of our fathers. We believe with Washington, "Standeth God within the shadows keeping watch above His own." If we commit ourselves and our common country to the keeping of the Almighty, who holds the fate of nations in the hollow of His hand, our destiny will be secure unto the remotest generations.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mrs. NORTON (at the request of Mr. BYRNS), for 1 week, on account of illness; and

To Mr. BRUNNER, for 2 days, on account of important business.

A PROTEST AGAINST HILTER'S PERSECUTION OF THE JEWS

Mr. SWICK. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include a short address on the persecution of the Jews.

The SPEAKER. Is there objection?

There was no objection.

Mr. SWICK. Mr. Speaker, the cause of liberty, freedom, and justice, three of the most important parts of modern civilization, has received its most recent blow at the hands of Adolph Hitler and his Nazi dictatorship in the German Republic, and subsequent persecution of the Jews.

In this day of enlightenment the atrocities perpetrated on the Jewish people in Germany recall the Dark Ages at a time when a troubled world is endeavoring to cultivate good will and cooperation among all nations and races. No man or woman, be they Christian or Jew, who is an American can be indifferent to this menace to civilization. The pages of history record the fact that religious discrimination does not confine its attacks to one people or creed; all have at one time or another been the victims of its blind abuse.

The world looks to America for leadership. Americans everywhere recognize the right of every human being to worship God as they please; we are a God-fearing people. Such action as that of Hitler against any group of people in the world is revolting to our sense of justice. The successful culmination of our efforts for world peace depends on our ability to disperse the forces of fear and hate; we must banish intolerance and persecution if we are to draw the nations of the world together in brotherhood and fellowship; otherwise civilization will fail.

Mr. BYRNS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 o'clock tomorrow.

The SPEAKER. Is there objection?

Mr. McGUGIN. I object.

Mr. BYRNS. If the gentleman insists on that objection, we will have to stay here 1 hour longer tomorrow, because it is the purpose of the House to act on this bill tomorrow. I hope the gentleman, in deference not only to this side of the House but to the other side of the House, will agree that we shall meet at 11 o'clock.

Mr. McGUGIN. I insist on my objection.

ADJOURNMENT

Mr. BYRNS. Mr. Speaker, I move that the House do now adjourn, with notice that we will stay here until we finish this bill tomorrow.

The motion was agreed to; accordingly (at 6 o'clock and 33 minutes p.m.) the House adjourned until tomorrow, Tuesday, May 23, 1933, at 12 o'clock noon.

COMMITTEE HEARING

COMMITTEE ON IMMIGRATION AND NATURALIZATION

(Tuesday, May 23, 10 a.m.)

The Committee on Immigration and Naturalization will hold hearings Tuesday, May 23, at 10 o'clock a.m., at Room 305, Old Office Building, on H.R. 5630.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. RUFFIN: Committee on the Judiciary. H.R. 5690. A bill to legalize the manufacture, sale, or possession of 3.2-

percent beer in the State of Oklahoma when and if the same is legalized by a majority vote of the people of Oklahoma or by an act of the Legislature of the State of Oklahoma; without amendment (Rept. No. 154). Referred to the House Calendar.

Mr. MITCHELL: Committee on Agriculture. H.R. 3511. A bill to authorize the creation of game refuge in the Ouachita National Forest in the State of Arkansas; without amendment (Rept. No. 155). Referred to the Committee of the Whole House on the state of the Union.

Mr. AYERS of Montana: Committee on the Public Lands. S. 604. An act amending section 1 of the act entitled "An act to provide for stock-raising homesteads, and for other purposes," approved December 29, 1916 (ch. 9, par. 1, 39 Stat. 862), and as amended February 28, 1931 (ch. 328, 46 Stat. 1454); without amendment (Rept. No. 156). Referred to the Committee of the Whole House on the State of the Union.

Mr. O'CONNOR: Committee on Rules. H.Res. 156. Resolution providing for the consideration of S. 1094, an act to provide for the purchase by the Reconstruction Finance Corporation of preferred stock and/or bonds and/or debentures of insurance companies; without amendment (Rept. No. 157). Referred to the House Calendar.

Mr. CONNERY: Committee on Labor. H.R. 4559. A bill to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes; with amendment (Rept. No. 158). Referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HOWARD (by departmental request): A bill (H.R. 5739) to facilitate a more economical administration of forest and grazing lands on Indian reservations: to the Committee on Indian Affairs.

By Mr. STEAGALL: A bill (H.R. 5740) to amend section 13 of the Federal Reserve Act, as amended, approved December 23, 1913, relating to acceptances of drafts or bills of exchange by member banks and the discounting thereof by Federal Reserve banks, and for other purposes; to the Committee on Banking and Currency.

By Mrs. NORTON: A bill (H.R. 5741) to amend an act entitled "An act to incorporate the Mount Olivet Cemetery Co. in the District of Columbia"; to the Committee on the District of Columbia.

Also, a bill (H.R. 5742) to amend an act entitled "An act to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes, approved March 4, 1913", and for other purposes; to the Committee on the District of Columbia.

By Mr. MARTIN of Oregon: A bill (H.R. 5743) relating to the retirement of the late senior member of the Board of Engineers for Rivers and Harbors; to the Committee on Military Affairs.

By Mr. KVALE: A bill (H.R. 5744) to promote employment of adult labor by preventing interstate commerce in the products of child labor, and for other purposes; to the Committee on Labor.

By Mr. DIMOND: A bill (H.R. 5745) granting abandoned public buildings and grounds at Sitka, Alaska, to the Territory of Alaska, and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. AYERS of Montana: A bill (H.R. 5746) for the relief of certain homeless Indians in the State of Montana, and for other purposes; to the Committee on Indian Affairs.

Also, a bill (H.R. 5747) to authorize appropriations for the completion of the public high school at Frazer, Mont.; to the Committee on Indian Affairs.

By Mr. McFADDEN: Resolution (H.Res. 154) to request certain information from the Secretary of the Treasury; to the Committee on Ways and Means.

By Mr. McSWAIN: Resolution (H.Res. 155) providing for the consideration of H.R. 5645; to the Committee on Rules.

By Mr. O'CONNOR: Resolution (H.Res. 156) providing for the consideration of S. 1094, an act to provide for the purchase by the Reconstruction Finance Corporation of preferred stock and/or bonds and/or debentures of insurance companies; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FORD: A bill (H.R. 5748) granting a pension to Matilda Keeney; to the Committee on Pensions.

Also, a bill (H.R. 5749) granting an increase of pension to Elizabeth Gates Perry; to the Committee on Pensions.

By Mr. GRAY: A bill (H.R. 5750) granting an increase of pension to Indamora Francis; to the Committee on Invalid Pensions.

Also, a bill (H.R. 5751) granting a pension to Catherine Stout; to the Committee on Invalid Pensions.

Also, a bill (H.R. 5752) granting a pension to Hannah C. Adamson Hoke; to the Committee on Invalid Pensions.

By Mr. GASQUE: A bill (H.R. 5753) granting a pension to Rufus E. Davidson; to the Committee on Pensions.

Also, a bill (H.R. 5754) granting a pension to Coile Lynch: to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1140. By Mr. BEITER: Petition of Erie County committee, American Legion Auxiliary, Buffalo, N.Y., protesting against proposed reduction in strength, personnel, and training of the Army, Navy, and Marine Corps, and protesting recognition of Soviet Russia; to the Committee on Appropriations.

1141. By Mr. CARTER of California: Senate Joint Resolution No. 19 of the Senate of the State of California, relative to approval by the President of the United States of a project for the completion of the John Muir Trail under the provisions of act of Congress approved March 31, 1933; to the Committee on Roads.

1142. Also, resolution of the Senate of the State of California, relative to memorializing Congress to exempt from the provisions of legislation limiting hours of labor to 30 hours a week people engaged in the mining industry; to the Committee on Labor.

1143. By Mr. CHAPMAN: Resolution of the board of directors of Frankfort (Ky.) Chamber of Commerce, May 18, 1933, requesting the support of the Congress of a resolution to be sponsored by Sgt. Alvin C. York for the purpose of making a Federal highway from Sault Ste. Marie, Mich., to Fort Myers, Fla., a national memorial highway in memory of the late President and Chief Justice William Howard Taft; to the Committee on Roads.

1144. By Mr. CHURCH: Petition signed by members of the Women's Foreign Missionary Society of the First Methodist Episcopal Church of Fresno, Calif., protesting against citizens' military training camps and military training in schools; to the Committee on Military Affairs.

1145. By Mr. FOSS: Resolution of the City Council of Boston, Mass., opposing transfer of tradesmen from Philadelphia Navy Yard to Boston Navy Yard to work on the new destroyer now in process of construction; to the Committee on Naval Affairs.

1146. Also, resolution adopted by the City Council of Boston, Mass., favoring a study of the entire matter of veterans' legislation; to the Committee on World War Veterans' Legislation.

1147. Also, resolution of the mayor and City Council of the city of Marlborough, Mass., favoring a study of the entire matter of veterans' legislation; to the Committee on World War Veterans' Legislation.

1148. Also, resolution adopted by the City Council, Cambridge, Mass., memorializing Congress to enact House Joint

Resolution 151 and issue a special series of postage stamps in honor of Gen. Thaddeus Kosciusko sesquicentennial anniversary; to the Committee on the Post Office and Post Roads.

1149. Also, letter from the chairman, Boston congress committee, American-Jewish Congress, Boston, Mass., calling attention to the outrageous treatment and conduct against the Jews in Germany; to the Committee on Foreign Affairs.

1150. Also, resolution of the Order of Railroad Telegraphers, adopted at their convention in the city of Montreal, Quebec, opposing passage of the bill known as the "Emergency Railroad Transportation Act, 1933", submitted by the president of the Order of Railroad Telegraphers, St. Louis, Mo.; to the Committee on Interstate and Foreign Commerce.

1151. By Mr. JOHNSON of Texas: Telegram from R. L. Wheelock, J. L. Collins, W. C. Stroube, and H. R. Stroube, of Corsicana, Tex., opposing an increase in the tax on gasoline; to the Committee on Ways and Means.

1152. By Mr. KENNEY: Petition of Federation of Jewish Organizations of Bergen County, that it is the unanimous opinion of the Federation of Jewish Organizations of Bergen County that the United States Government be called upon in this critical moment, in the lives of the Jews of Germany, to act and officially use its good offices to speedily bring to an end the persecution and outrageous practices perpetrated against members of our faith residing in Germany, and to the end that they may be restored to their former status and the enjoyment of all of the privileges previously enjoyed by them and that the Congress of the United States increase the quota of German Jewish immigrants seeking admission to this country, so that they may be able to find refuge here from the intolerance they are now made to endure in Germany; to the Committee on Foreign Affairs.

1153. By Mr. KVALE: Petition of Watonwan County Legislative Committee Farm Bureau, St. James, Minn., urging refinancing of farm mortgages at low interest rate and controlled inflation; to the Committee on Agriculture.

1154. Also, petition of St. Paul (Minn.) Lodge, No. 122, Brotherhood of Railroad Trainmen, vigorously opposing legislation to establish a national coordinator for railroads in the United States; to the Committee on Interstate and Foreign Commerce.

1155. Also, petition of Waseca (Minn.) American Legion Post, No. 228, opposing the Economy Act as it affects veterans; to the Committee on Economy.

1156. Also, petition of Brotherhood of Railroad Trainmen in Minnesota, urging enactment of House bill 4876; to the Committee on Interstate and Foreign Commerce.

1157. Also, petition of Waseca (Minn.) Post, No. 228, urging economy of the United States Government through discontinuance of position of postmaster in offices under population of 25,000, of subsidies to shipping and air lines, and so forth; to the Committee on Economy.

1158. By Mr. LINDSAY: Petition of Laundryowners National Association of the United States and Canada, Joliet, Ill., approving program of intra-industry cooperation through established national trade association; to the Committee on Interstate and Foreign Commerce.

1159. Also, petition of Brotherhood of Railroad Trainmen, New Haven, Conn., opposing prospective railroad legislation; to the Committee on Interstate and Foreign Commerce.

1160. By Mr. MALONEY of Connecticut: Petition relating to the tragic situation of the Jews of Germany; to the Committee on Foreign Affairs.

1161. By Mr. RUDD: Petition of Laundryowners National Association of the United States and Canada, Joliet, Ill., favoring the President's recommendations for intra-industry cooperation with the Government through established national trade associations; to the Committee on Ways and Means.

1162. Also, petition of Brotherhood of Railroad Trainmen, New York, New Haven & Hartford Railroad system, New Haven, Conn., favoring amendments to the proposed railroad legislation as proposed by the Railway Labor Executives Association; to the Committee on Interstate and Foreign Commerce.

SENATE

TUESDAY, MAY 23, 1933

(Legislative day of Monday, May 15, 1933)

The Senate sitting as a court for the trial of articles of impeachment against Harold Louderback, judge of the United States District Court for the Northern District of California, met at 10 o'clock a.m., on the expiration of the recess.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The respondent, Harold Louderback, with his counsel, Walter H. Linforth, Esq., and James M. Hanley, Esq., appeared in the seats assigned to them.

PROCLAMATION

The VICE PRESIDENT. The Sergeant at Arms will proclaim the Senate sitting as a Court of Impeachment in session.

The Sergeant at Arms made the usual proclamation.

THE JOURNAL

The legislative clerk proceeded to read the proceedings of the Senate sitting as a Court of Impeachment for the calendar day of Monday, May 22, when, on motion of Mr. ASHURST and by unanimous consent, the further reading was dispensed with, and the Journal was approved.

FURTHER CROSS-EXAMINATION OF G. H. GILBERT

The VICE PRESIDENT. Are counsel prepared to call another witness?

Mr. LINFORTH. Mr. President, the witness Gilbert was still under cross-examination when the court took a recess yesterday afternoon. I should like the cross-examination to be completed before I call the last witness for the respondent, so that we may know what, if anything, we may have to meet in that testimony.

The VICE PRESIDENT. Call the witness.

G. H. Gilbert, having been previously sworn, was further cross-examined as follows:

By Mr. Manager SUMNERS:

Q. Mr. Gilbert, will you state to the court the exact time when you got information of your appointment as receiver in the Faegol Motors Co. case?—A. To the best of my recollection it was at 1:30 or 2 o'clock p.m.; around 2 o'clock p.m.

Q. Where were you when you received that information?—A. At home; I think I was at home.

Q. How often were you paid compensation for your receivership services?—A. In the Faegol case I was paid only one time; at the termination of the receivership, about a month later than the termination.

Q. Can you indicate the exact date of that payment?—A. No; I cannot give you the exact date; it was sometime in August of 1932; about a month, possibly a little over a month, after the termination of the receivership.

Q. Mr. Gilbert, who notified you that you were to be appointed in the Faegol Motors Co. case?—A. I received a telephone call. I did not ask who was speaking, but I assumed it was Judge Louderback's secretary, Miss Berger; it was a lady talking.

Q. What did she say to you, briefly?—A. She said that I had been appointed receiver in the Fageol matter and to report to the judge's chambers.

Q. How long before that time, if at all, had you discussed receivership appointments with Judge Louderback?—A. I do not recall having any discussion with the judge on receivership matters since the Prudential Holding Co. case. That was a case I was previously in, the last case prior to the Fageol case. That is the only time I recall having any discussion with the judge on such matters.

Q. There is one matter that is not quite clear—in my mind, at least—and that is just how you came to choose Dinkelspiel & Dinkelspiel instead of John Douglas Short, who, you indicated, was your preference?—A. In the Sonora case, do you refer to?

Q. That is right. The first case you had Dinkelspiel & Dinkelspiel as attorneys.—A. Well, the circumstances were