

# **MONEY TRUST INVESTIGATION**

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## **INVESTIGATION**

**OF**

## **FINANCIAL AND MONETARY CONDITIONS IN THE UNITED STATES**

**UNDER**

**HOUSE RESOLUTIONS NOS. 429 AND 504**

**BEFORE A**

**SUBCOMMITTEE OF THE COMMITTEE ON  
BANKING AND CURRENCY**

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## **PART 7**

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**1918**

**SUBCOMMITTEE OF THE COMMITTEE ON BANKING AND CURRENCY.**

**HOUSE OF REPRESENTATIVES.**

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# MONEY TRUST INVESTIGATION.

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SUBCOMMITTEE OF THE  
COMMITTEE ON BANKING AND CURRENCY,  
HOUSE OF REPRESENTATIVES,  
*Washington, D. C. Monday, December 9, 1912.*

The subcommittee met at 11 o'clock a. m.

Present: Messrs. Pujo (chairman), Stephens, Daugherty, Byrnes, Neeley, McMorran, Hayes, and Guernsey.

Present also: Samuel Untermyer, Esq., of New York City, counsel for the committee.

The CHAIRMAN. Before proceeding to the regular order the chairman will hand to the representatives of the press the following statement:

In resuming the inquiry the committee feels that the many unauthorized, misleading, and inspired reports that have been circulated concerning its work and plans should be corrected and that the public should be warned against placing any credence in them. There has been a consistent hostile effort in certain directions to embarrass the inquiry. No statements have been made or will be made or authorized on behalf of the committee at any time except such as may be openly announced at the hearings.

At no time has there ever been any friction, misunderstanding, or difference either among the members or with or between counsel. The utmost harmony has prevailed from the beginning, and the reports to the contrary have been sheer fabrications. Nor is there any authority for the persistent published report as to proposed remedies or legislation. The question has never been before the committee and it would be premature to consider it. The committee is not yet in possession of the facts on which to base a judgment. It has barely reached the threshold of the inquiry, so that any opinion as to its action is decidedly premature, to say the least.

Attention is again called to the announcement made at the outset of the hearings in May last, and since frequently repeated, that the terms of the resolution under which the committee is acting can not be fully carried out unless or until Congress shall have enacted the bill that has passed the House and is now pending in the Senate removing all existing doubt as to the power of the committee to inquire into the part, if any, that is played by the national banks in the alleged concentration and control of money and credit.

Meantime the committee will press forward with the other heads of the inquiry with a view of submitting an intermediate report accompanied by such recommendations as may be deemed wise.

The postponement over the presidential campaign was taken pursuant to the frequently announced determination that this important investigation should not be subject to the criticism or suspicion of being in any way influenced by or connected with political exigencies.

Before proceeding with the inquiry I will state that this is an investigation, not a trial, and the committee has the assistance of counsel, who will conduct the investigation; and the procedure has been fixed with the concurrence of the committee.

Under the rules of the House governing committees questions can be propounded to the witness through the chairman, after being submitted to counsel. That applies, under the rules, even to a member of the committee. It is not always observed, but I merely state the rule in carrying out the complete theory of an investigation.

As I understand it, witnesses who appear here have the right, when asked a question, to confer with counsel, but have not the right to be represented by counsel so far as examinations are concerned. With the consent of the committee, however, the courtesy of the committee may be extended so that a question may be propounded to a witness when submitted to counsel for the committee and then put by the chairman.

We will proceed with the first witness.

### TESTIMONY OF W. W. CLOUD.

The witness was sworn by the chairman.

Mr. UNTERMYER. Will you be good enough to state where you reside, Mr. Cloud?

Mr. CLOUD. Baltimore, Md.

Mr. UNTERMYER. What is your occupation?

Mr. CLOUD. I am president of the State Bank of Maryland.

Mr. UNTERMYER. Is that a newly organized bank?

Mr. CLOUD. That bank was organized in January, 1907, and opened for business on the 1st day of April of the same year.

Mr. UNTERMYER. That is a bank organized under the laws of the State of Maryland, is it?

Mr. CLOUD. Yes. We organized under a special charter, I should say, granted by the legislature of 1906, which was prior to what is known as the new banking law of Maryland.

Mr. UNTERMYER. What is your capital?

Mr. CLOUD. Our authorized capital is half a million dollars. At least the charter gave the right to do business with a paid-in capital of \$250,000, and we had the right to increase that to half a million.

Mr. UNTERMYER. What is your paid-in capital?

Mr. CLOUD. Our paid-in capital last fall was—if you will pardon me for referring to a memorandum—

Mr. UNTERMYER. Certainly; use anything you may have to aid you.

Mr. CLOUD (continuing). \$432,725.

Mr. UNTERMYER. Had you a surplus?

Mr. CLOUD. The surplus and undivided profits at the last call—that is, the call of November 26—were \$128,168.08.

Mr. UNTERMYER. What were your deposits, may I ask?

Mr. CLOUD. Our deposits were \$1,755,687.38.

Mr. UNTERMYER. Is there a clearing house in existence in Baltimore?

Mr. CLOUD. There is.

Mr. UNTERMYER. What is its title?

Mr. CLOUD. It is the Baltimore Clearing House, I presume, sir.

Mr. UNTERMYER. Is it an unincorporated association?

Mr. CLOUD. I am under the impression that it is, sir.

Mr. UNTERMYER. Did your bank make application for membership in that association?

Mr. CLOUD. Our bank made application to clear through another institution, which was a full member of the Baltimore Clearing House.

Mr. UNTERMYER. What is the name of the member through which you made application for the privilege of clearing?

Mr. CLOUD. The Merchants' National Bank.

Mr. UNTERMYER. And this clearing house has members and so-called nonmembers, has it not?

Mr. CLOUD. It has members, and I presume you would call the others nonmembers. They have the right or privilege of clearing through members.

Mr. UNTERMYER. But they have no vote in the association?

Mr. CLOUD. I presume not.

Mr. UNTERMYER. They are required to bind themselves to observe the rules and regulations of the clearing house association, are they not?

Mr. CLOUD. They are, as those rules apply to those who have the privilege of clearing through the membership banks.

Mr. UNTERMYER. When was this application made by you for clearance through a clearing house bank?

Mr. CLOUD. My recollection is that the first application was made shortly after we organized. I can not give you the exact date.

Mr. UNTERMYER. Did you present a statement of your bank's affairs?

Mr. CLOUD. I am under the impression that we did, sir. That was a matter, however, of public property. We responded to the call.

Mr. UNTERMYER. What happened to your application?

Mr. CLOUD. That application was considered and verbally declined. The message was conveyed to me through Mr. Douglas Thomas president of the Merchants' National Bank.

Mr. UNTERMYER. What reason was assigned for declining it?

Mr. CLOUD. The reason that it was the desire of the Baltimore Clearing House that no financial institution should clear through another financial institution thereafter; that they would have to become full members. I do not recall the exact conversation. The matter was being considered at that time, however. There were some changes contemplated, I presume, from what I have understood, in the clearing house, with regard to methods and rules.

Mr. UNTERMYER. Did you then make application to become a member?

Mr. CLOUD. We did.

Mr. UNTERMYER. What other effort did you make to procure the privilege of clearance?

Mr. CLOUD. We took the matter up with a number of the bankers who were members of the clearing house, to get their point of view, in order to see just where we stood, and to see what was in view. Of course I was cognizant of what was going on, and what it seemed to be their desire to bring about met with my full approval or the full approval of the officers of my institution. We subsequently made application, in May, 1911, for the same privilege, by reason of the fact that the constitution of the Baltimore Clearing House had not been

changed. That change would have provided for the inclusion of all financial institutions that were eligible.

Mr. UNTERMYER. As members?

Mr. CLOUD. Yes; to put them all on the same basis. I am stating my understanding. As I say, there was no correspondence. It was a matter of discussion, and it has been some time ago. It was a matter of amicable discussion, and that is my recollection.

Mr. UNTERMYER. What I want to find out is what subsequently happened, and whether you have become a member of the clearing house; whether you have obtained the privileges of the clearing house.

Mr. CLOUD. We made this application through the Merchants' Bank in May, 1911—that is, the second application—feeling that it would be accepted at that time, and that we would be accorded this privilege enjoyed by a number of the financial institutions of the city. That application was not declined. It was considered; but before action was taken on that application—this is a matter of hearsay, gentlemen; I am not a member of the clearing house; the institution which I represent is not a member, and I have this simply as a matter of verbal statement—a resolution was put before the clearing house and acted upon favorably, which definitely stated that on and after a certain date—I do not recall the date—no financial institution would be granted the right of clearing through another financial institution, or words to that effect.

Mr. UNTERMYER. You have not obtained the privilege of clearing. have you?

Mr. CLOUD. We have not.

Mr. UNTERMYER. You are desirous of obtaining it, are you not?

Mr. CLOUD. We are, under certain conditions. We, of course, would have to know the conditions.

Mr. UNTERMYER. Is it or not the fact that other institutions in Baltimore still enjoy the right of clearance through clearing-house banks?

Mr. CLOUD. It is a fact, and they do.

Mr. UNTERMYER. How many such institutions are there?

Mr. CLOUD. From 17 to 20, possibly.

Mr. UNTERMYER. Have you examined the regulations of the clearing house?

Mr. CLOUD. I have read them. I do not know whether I am familiar with them up to date, sir. There may have been some changes with which I am not familiar.

Mr. UNTERMYER. Your bank is prepared to subscribe to those, is it not?

Mr. CLOUD. We feel that it is, so far as I know, sir. I can not say what the regulations and rules are, at this date, sir, because I do not know.

Mr. UNTERMYER. But at the time when you were seeking to get admission to the clearing house, you were ready to subscribe to them, were you not?

Mr. CLOUD. We were at that time, sir. We were ready to subscribe to the rules and regulations as they applied to the institutions that were enjoying the privilege which we asked for.

Mr. UNTERMYER. And you have been ever since ready to comply with those regulations. have you?

Mr. CLOUD. As they existed at that time, sir.

Mr. UNTERMYER. And so far as you know, as they exist now?

Mr. CLOUD. I do not know what they are at present. Therefore I can not make that statement, because that would not be conservative, and financial men have to be conservative.

Mr. UNTERMYER. But what is the trouble about your getting in, Mr. Cloud? That is what we want to get at.

Mr. CLOUD. I do not know that there is any trouble, sir.

Mr. UNTERMYER. But you are not in, are you?

Mr. CLOUD. No.

Mr. UNTERMYER. And you want to get in?

Mr. CLOUD. As I stated before, sir, we understand that there have been changes proposed in the Baltimore Clearing House rules and regulations which will admit all institutions, which, of course, would mean doing away with the advantage that certain institutions enjoy at the present time.

Mr. UNTERMYER. My question was this: You do want to get in, do you not?

Mr. CLOUD. To be sure.

Mr. UNTERMYER. You have not any fear or hesitation about possibly arousing the antagonism or animosity of the other Baltimore institutions, have you, by your testimony here?

Mr. CLOUD. Have I any fear?

Mr. UNTERMYER. Yes, or anxiety?

Mr. CLOUD. Absolutely none.

Mr. UNTERMYER. That is not material to you?

Mr. CLOUD. I did not invite this. I am here in response to a summons. I knew nothing about it. A man at the head of a financial institution has no right to have fear.

Mr. UNTERMYER. Have you been promised admission?

Mr. CLOUD. I have not.

Mr. UNTERMYER. I think that is all, unless there is some explanation you would like to make.

Mr. CLOUD. No; I think I have tried to make myself clear.

Mr. UNTERMYER. There is nothing else you want to say, is there, on the subject?

Mr. CLOUD. No, sir.

Mr. UNTERMYER. Will you be good enough to state to the committee the advantages of the clearing-house privileges?

Mr. CLOUD. The clearing house is a medium for making exchanges of checks. It facilitates the handling of the business and saves some expense to the institutions.

Mr. UNTERMYER. Have the institutions in Baltimore any uniform regulations imposed on the banks with respect to charges for collecting out-of-town checks?

Mr. CLOUD. They have, sir. I might say in that connection that we have conformed to those charges so far as we were familiar with them and knew them.

Mr. UNTERMYER. Why did not your bank apply directly to the clearing house for membership, instead of applying to clear through another bank?

Mr. CLOUD. We are a new institution, sir. It would have put us at an unfair advantage, because we simply would have had to have

competed with existing institutions that enjoyed the privileges that we craved.

Mr. UNTERMYER. You say it would have given you an unfair advantage?

Mr. CLOUD. No.

Mr. UNTERMYER. A disadvantage, you meant?

Mr. CLOUD. A disadvantage.

Mr. UNTERMYER. It would have given you a disadvantage. Let me see if I understand that. When you become what they call a non-member—that is, clearing through a member of the association—are you not subject to all the rules and regulations that apply to a member, except that you have no vote?

Mr. CLOUD. We are subject to the rules and regulations as they apply to those members.

Mr. UNTERMYER. Are not the rules and regulations as applied to nonmembers who clear through members precisely the same as the rules that apply to members?

Mr. CLOUD. They were not at that time, sir.

Mr. UNTERMYER. In what respect did they ever differ?

Mr. CLOUD. My understanding is that those members who cleared through the other institutions at that time did not have to conform to the exchange charges.

Mr. UNTERMYER. Are you not mistaken about that?

Mr. CLOUD. I may be. I can not say positively, sir. I do not know how they are at this time.

Mr. UNTERMYER. Have you now explained as fully as you care to explain why you did not apply for membership directly?

Mr. CLOUD. That is the explanation—because of the disadvantage that we would have labored under.

Mr. UNTERMYER. The disadvantage to which you refer, as I understand, is that being a full member you would not have had the right to act independently in the matter of exchange?

Mr. CLOUD. No; we would not have had the right.

Mr. UNTERMYER. That is the disadvantage?

Mr. CLOUD. The disadvantage would have been that these institutions that are or were clearing through membership banks—now, this is my understanding—did not have to comply at that time with the exchange rules. There may have been individual cases where they did; but, not being a member, I can not state, sir.

Mr. UNTERMYER. When you speak of exchange rules, you mean the rules of the clearing-house association with respect to the charges for exchange?

Mr. CLOUD. The charges for exchange.

Mr. UNTERMYER. And that is the only disadvantage which you supposed you would be under in applying for full membership, is it?

Mr. CLOUD. That was my feeling at the time. Competition is very keen, particularly with a new institution; and we wanted to be on the same basis as other institutions that were enjoying that privilege. That was the whole thing.

Mr. UNTERMYER. Competition is keen also with respect to getting customers, is it not?

Mr. CLOUD. Oh, yes.

Mr. UNTERMYER. And if you were able to say to customers that you would not charge them for collecting out-of-town checks, or if



you were able to make your own arrangements with customers with respect to charges on out-of-town checks, it would promote your ability to get business, would it not?

Mr. CLOUD. It would to some extent, possibly.

Mr. UNTERMYER. Do you know how long it is since the clearing house of Baltimore imposed that regulation on the banks as to charging their customers on the collection of out-of-town checks?

Mr. CLOUD. I suppose they have always had that custom to a certain extent.

Mr. UNTERMYER. Do you know?

Mr. CLOUD. There was a rule passed in February, 1897, I think, sir—what is known as the exchange rule—and when we refer to the exchange rule we refer to that resolution or rule.

Mr. UNTERMYER. You were in the banking business before you became the president of this bank, were you not?

Mr. CLOUD. Yes, sir.

Mr. UNTERMYER. So that you are familiar with the rules pertaining to it?

Mr. CLOUD. To a certain extent; yes, sir.

Mr. UNTERMYER. Can you tell us why it is that the banks in Baltimore are not allowed to deal with their customers as they please, independently of one another, with respect to whether they will or will not charge a customer a commission on out-of-town collections?

Mr. CLOUD. That is the rule of the clearing house.

Mr. UNTERMYER. But it throttles competition, does it not?

Mr. CLOUD. I would hardly say that it throttled competition.

Mr. UNTERMYER. It restricts competition, then?

Mr. CLOUD. That depends, sir; that is a broad question.

Mr. UNTERMYER. Do you not admit that it clearly restricts and restrains competition between the banks for business?

Mr. CLOUD. Those rules have been instituted undoubtedly for good and sufficient reasons.

Mr. UNTERMYER. Yes; they may be good and sufficient reasons if they tend to increase the profits of the banks; but the question is whether or not the enforcement of that rule does not materially restrict competition between the banks for business? You would not dispute that proposition, would you?

Mr. CLOUD. I do not think it materially restricts competition, to be candid with you. I am speaking from the banker's standpoint.

Mr. UNTERMYER. Let us see about that.

Mr. CLOUD. Suppose we take a check to-day on Texas, and that item is checked against immediately. The customer gets the cash on it. The bank may be out of the funds 10 days or 12 days. The draft may come back unpaid.

Mr. UNTERMYER. We are not discussing that, Mr. Cloud. The question is whether you believe that rule restricts competition for business between the banks?

Mr. CLOUD. I suppose that rule would restrict competition to a certain extent.

Mr. UNTERMYER. Let us instance: You are a comparatively new bank, for instance, and you want to get business, do you not?

Mr. CLOUD. Most assuredly. We have got to get business.

Mr. UNTERMYER. And it has got to come from your competitors, has it not?

Mr. CLOUD. Not necessarily.

Mr. UNTERMYER. Where does it drop from?

Mr. CLOUD. We create business, sir.

Mr. UNTERMYER. What do you mean by creating business?

Mr. CLOUD. Digging it out.

Mr. UNTERMYER. Digging it out from where?

Mr. CLOUD. Innumerable places.

Mr. UNTERMYER. Name any place you dig it from where you do not get it from another bank.

Mr. CLOUD. We are believers in educational work.

Mr. UNTERMYER. That is very pretty, but you have not answered my question.

Mr. CLOUD. I am trying to give you a concrete example, sir. I have a number.

Mr. UNTERMYER. I want to know where this digging comes from that produces customers that do not come from some other institution, unless they are new men just coming into business.

Mr. CLOUD. We had a case not long ago of a man who owns several sailboats in southern Maryland. We had gotten his name, and wrote to him, and he came in and left some money with us. He had been keeping that money around the house or at some other place.

Mr. UNTERMYER. Of course, your business is not built up of customers who were keeping their money around the house, is it?

Mr. CLOUD. No; I am giving you a concrete case.

Mr. UNTERMYER. How many customers have you?

Mr. CLOUD. In the commercial department?

Mr. UNTERMYER. How many depositors have you?

Mr. CLOUD. I suppose in our savings department we have 6,000, sir—five or six thousand.

Mr. UNTERMYER. How many have you in your commercial banking department?

Mr. CLOUD. Probably three or four hundred.

Mr. UNTERMYER. Some of those came from other banks, did they not?

Mr. CLOUD. Undoubtedly.

Mr. UNTERMYER. So that your business is gotten at the expense of other banks in competition, is it not?

Mr. CLOUD. Not entirely, sir.

Mr. UNTERMYER. But it is substantially and almost entirely, is it not? In other words, it is gotten from people who have bank accounts and had them before they became your customers?

Mr. CLOUD. It is customary, sir, to divide accounts with banks. We work amicably with the other institutions.

Mr. UNTERMYER. Yes; I understand that. But when you get half of an account all of which was formerly kept in another bank, you get it by competition, do you not?

Mr. CLOUD. That depends. Sometimes it might be by competition, and sometimes it is a matter of arrangement between bankers. If the business has grown to a point where it justifies two bank accounts, it is divided.

Mr. UNTERMYER. Sometimes the other bank voluntarily lets go so that you will get part of the business coming to it, does it?

Mr. CLOUD. Absolutely, they do, sir. I think Mr. Thomas will bear me out in that statement.

Mr. UNTERMYER. Nevermind. He will talk for himself. The question is, your business is not built up upon what your competitors give you; is it?

Mr. CLOUD. Oh, no, no.

Mr. UNTERMYER. It is built up by competing with them?

Mr. CLOUD. We would not be in business if it were.

Mr. UNTERMYER. That brings us back to the point from which we started, and that is this: In competing for business there are certain customers whose accounts are so valuable that it pays a bank to collect their out-of-town checks without charge; are there not?

Mr. CLOUD. That is possible, sir.

Mr. UNTERMYER. There are a great many accounts of that kind that you would like to have, are there not?

Mr. CLOUD. It is quite likely.

Mr. UNTERMYER. You know there are, do you not? You have got your eye on them now, have you not, in your mind? You know there are, do you not, Mr. Cloud?

Mr. CLOUD. Oh, yes.

Mr. UNTERMYER. But you are not allowed to do so on account of this commission charge on out-of-town checks; are you?

Mr. CLOUD. No; we would have to meet the exchange charges.

Mr. UNTERMYER. You mean you can not go to that customer and say: "Your account is worth so much to this bank that we are willing to make your out-of-town collections without charge"? You can not do that, can you?

Mr. CLOUD. Well, we can do it.

Mr. UNTERMYER. You can not do it when you get into the clearing house, can you?

Mr. CLOUD. No.

Mr. UNTERMYER. And you can not do it when you clear through the clearing house; can you?

Mr. CLOUD. That depends—unless at the time we made application, sir; I think we could have done that then.

Mr. UNTERMYER. You are not sure about that, are you?

Mr. CLOUD. I am not positive about that.

Mr. UNTERMYER. Do you mean to say that any of the banks in Baltimore that now clear through clearing-house banks have the right to collect out-of-town checks without exacting the usual commission?

Mr. CLOUD. I think they have, sir: banks or trust companies.

Mr. UNTERMYER. Do you know anything about that?

Mr. CLOUD. Yes; unless that has been changed in the past few days.

Mr. UNTERMYER. You remember the time in the banking business, do you not, when each bank was allowed to deal with its customers just as it chose with respect to out-of-town collections?

Mr. CLOUD. I do.

Mr. UNTERMYER. That was until the clearing house put an embargo on it, was it not?

Mr. CLOUD. That was up to the time the resolution or rule of February, 1897, was passed.

Mr. UNTERMYER. That put an embargo on it, did it not? [After a pause.] That is a plain question, Mr. Cloud.

Mr. CLOUD. I reserve the right to decline to answer that, if I may.

Mr. UNTERMYER. Why?

Mr. CLOUD. If you will use another word. You used the word "embargo."

Mr. UNTERMYER. Well, it prohibited it?

Mr. CLOUD. It prohibited it to members of the clearing house.

Mr. UNTERMYER. I think that is all.

Mr. CLOUD. Thank you, sir.

Witness excused.

After being excused, Mr. Cloud returned to the stand and presented the following statement, which he desired to go into the record, which was read aloud by Mr. Untermyer:

The State Bank of Maryland applied to the Baltimore Clearing House, through the Merchants' National Bank of Baltimore, for clearance privileges through the said Merchants' National Bank, to be governed by the same rules and regulations as governed other nonmember banks, trust companies, and banking concerns enjoying said clearance arrangements, it being understood that plans were under way to bring about a change in the constitution of the Baltimore Clearing House, which would bring all local financial institutions eligible into full membership and subject to like rules and regulations.

W. W. CLOUD, *President.*

### TESTIMONY OF JOHN R. BLAND.

The witness was sworn by the chairman.

Mr. UNTERMYER. Mr. Bland, you are a resident of Baltimore, are you?

Mr. BLAND. Yes, sir.

Mr. UNTERMYER. Are you the president of any financial institution in Baltimore?

Mr. BLAND. Yes, sir.

Mr. UNTERMYER. Of which institution?

Mr. BLAND. The United States Fidelity & Guaranty Co., which is a surety company.

Mr. UNTERMYER. It is the largest in the country, is it not?

Mr. BLAND. We do the largest business.

Mr. UNTERMYER. Yes; and I hope you make the most money.

Mr. BLAND. We make a few dollars.

Mr. UNTERMYER. You have been president of that company for how many years?

Mr. BLAND. About 14 years.

Mr. UNTERMYER. Are you also president now of any other financial institution in Baltimore?

Mr. BLAND. Yes, sir.

Mr. UNTERMYER. What is its name?

Mr. BLAND. The Equitable Mortgage & Trust Co.

Mr. UNTERMYER. When was it organized?

Mr. BLAND. In May—May 18, I think.

Mr. UNTERMYER. 1912?

Mr. BLAND. Yes, sir.

Mr. UNTERMYER. What is its capital and surplus?

Mr. BLAND. \$800,000 capital and \$125,000 surplus.

Mr. UNTERMYER. That is the amount paid up?

Mr. BLAND. That is paid up; yes, sir.

Mr. UNTERMYER. What is the character of business it was organized to do?

Mr. BLAND. The company was organized primarily to loan money no unincumbered real estate in various parts of the United States.

Mr. UNTERMYER. Does it also do a banking business?

Mr. BLAND. It does.

Mr. UNTERMYER. And takes deposits?

Mr. BLAND. Yes, sir.

Mr. UNTERMYER. Has it under its charter the right to do a general banking business?

Mr. BLAND. Yes, sir.

Mr. UNTERMYER. It is a full-fledged bank?

Mr. BLAND. It is.

Mr. UNTERMYER. In active work?

Mr. BLAND. Yes, sir.

Mr. UNTERMYER. Have you here a list of the directors of that institution?

Mr. BLAND. I have not, with me.

Mr. UNTERMYER. Are they among the leading citizens of Baltimore?

Mr. BLAND. They are.

Mr. UNTERMYER. How large is your board?

Mr. BLAND. It is composed of 24 members.

Mr. UNTERMYER. Did your institution make application to the clearing house for membership?

Mr. BLAND. Conditional application. I should like to correct those figures, please, Mr. Untermeyer.

Mr. UNTERMYER. Yes.

Mr. BLAND. The capital is \$743,650; the surplus is \$185,875. I am speaking now of the Equitable Mortgage & Trust Co.

Mr. UNTERMYER. You were about to say that they made conditional application?

Mr. BLAND. We first made a conditional application to clear through one of the principal banks with which we make deposits.

Mr. UNTERMYER. Which bank was that?

Mr. BLAND. The National Bank of Commerce.

Mr. UNTERMYER. That is the largest bank in Baltimore, is it not?

Mr. BLAND. No, sir. It is one of the large banks. Then we made application to the clearing house, which was also conditional, that we be accepted as members and permitted to make our deposits upon the same conditions that other trust companies made theirs.

Mr. UNTERMYER. What do you mean by "making your deposits on the same conditions?"

Mr. BLAND. All of the trust companies in Baltimore have certain banks of deposit, and we wanted to be put upon the same basis that all of the other trust companies were placed upon—the same favorable conditions. We also stated that we were willing to pay any initiation fee and conform to all the rules of the clearing house that might be necessary or that might be imposed.

Mr. UNTERMYER. Yes; and what happened to your application?

Mr. BLAND. The application, I believe, was taken up and considered carefully.

Mr. UNTERMYER. There was a good deal of controversy over it, was there not?

Mr. BLAND. There was some controversy; but I believe—I understand now, Mr. Untermeyer—that the clearing house—I can not speak officially, because I have not been officially informed—the clearing house has made certain tentative arrangements that will be satisfactory to all the trust companies.

Mr. UNTERMYER. How recently has that conversion taken place?

Mr. BLAND. I think within a few weeks.

Mr. UNTERMYER. Within a few weeks. You had been declined admission, had you not?

Mr. BLAND. No, sir; I can not say that. The application was made some time ago, in midsummer, and we have never received any official information from them as to the disposition of the application.

Mr. UNTERMYER. You had also made an application before midsummer, had you not?

Mr. BLAND. Soon after we opened our doors.

Mr. UNTERMYER. Yes; on the 27th of June, 1912; and that had been declined, had it not?

Mr. BLAND. I do not think that there was ever any positive declination. The matter was held under consideration, and then there was a subsequent letter from me to the president of the clearing house, and they held another meeting and this subsequent letter was presented and considered.

Mr. UNTERMYER. How long ago were you notified, Mr. Bland, that you were to be asked to testify here?

Mr. BLAND. I think the first notice was about a month ago.

Mr. UNTERMYER. You understood on what subjects you were to be asked to testify?

Mr. BLAND. I had a suspicion.

Mr. UNTERMYER. You had a letter telling you, had you not?

Mr. BLAND. Yes.

Mr. UNTERMYER. That is the suspicion?

Mr. BLAND. Yes.

Mr. UNTERMYER. And after that the subject of your institution being admitted to the clearing house was taken up by you with the clearing house officials, was it?

Mr. BLAND. No, sir.

Mr. UNTERMYER. It never has been taken up since then?

Mr. BLAND. I have never said one word.

Mr. UNTERMYER. Have they said anything to you?

Mr. BLAND. No, sir.

Mr. UNTERMYER. You do not know, then, whether you are going to be admitted, do you?

Mr. BLAND. One moment; except occasionally a member of our board, who is also a member of the clearing house, informed me that the thing was going along, and that a solution, a satisfactory solution, of the question would be reached.

Mr. UNTERMYER. How long since did you get that information?

Mr. BLAND. A few weeks ago.

Mr. UNTERMYER. In June last you were complaining bitterly about the situation, were you not?

Mr. BLAND. Well, I was somewhat provoked.

Mr. UNTERMYER. Yes, and you wanted some action taken about it through this committee, did you not?

Mr. BLAND. Well, did I write to you, anything?

Mr. UNTERMYER. I say you wanted some action taken, did you not?

Mr. BLAND. I incidentally had a conversation with you, I believe.

Mr. UNTERMYER. Now, then, your purpose is fairly accomplished, is it not, through the agitation of this committee?

Mr. BLAND. Do I understand that this examination has been brought about through my instigation?

Mr. UNTERMYER. No. No; I think not, Mr. Bland.

Mr. BLAND. No.

Mr. UNTERMYER. I do not think that would be fair to you, at all. You were advised, were you, that the committee knew something about the situation in Baltimore?

Mr. BLAND. Yes.

Mr. UNTERMYER. Yes. The initiative did not come from you, did it?

Mr. BLAND. No.

Mr. UNTERMYER. No. What is the amount of your deposits now?

Mr. BLAND. Something over \$600,000.

Mr. UNTERMYER. And you are expecting to become a full member of the clearing house, are you not?

Mr. BLAND. We would do so if the rules of the clearing house would permit us.

Mr. UNTERMYER. Did you not, in June last, make formal application to the clearing house for admission?

Mr. BLAND. Conditionally, Mr. Untermeyer. In June we made a formal application to the clearing house to clear through one of the clearing-house banks. That was the National Bank of Commerce.

Mr. UNTERMYER. At that time other trust companies were members, were they not?

Mr. BLAND. Yes, sir; as far as I know.

Mr. UNTERMYER. Is this the letter that you wrote on June 13 [handing witness letter]?

Mr. BLAND. I think that letter was written by our vice president.

Mr. UNTERMYER. I ask that it be marked in evidence.

The letter referred to was marked "Exhibit No. 45, December 9, 1912," and will be found in full at the end of the testimony of this witness.

Mr. UNTERMYER. Did you also write on June 17 another letter to the president of the clearing house, of which the following is a copy [handing letter to witness]?

Mr. BLAND. That letter I wrote.

Mr. UNTERMYER. I will ask that that be marked as an exhibit.

The letter of June 17 was marked "Exhibit No. 46, December 9, 1912," and will be found in full at the end of the testimony of this witness.

Mr. UNTERMYER. Is it or is it not the fact that you were later informed orally that the clearing house refused to take action on your application?

Mr. BLAND. Yes, sir.

Mr. UNTERMYER. And that the State Bank of Maryland had been treated in a similar fashion?

Mr. BLAND. That we understood.

Mr. UNTERMYER. And were you told or were you not, Mr. Bland, that the Baltimore banks in the clearing house felt that they had enough competition as it was?

Mr. BLAND. No, sir; no such statement as that was ever made to me.

Mr. UNTERMYER. I think that is all, Mr. Bland. Thank you very much.

Witness excused.

Mr. UNTERMYER. I will read these letters to the committee.

Mr. Untermyer here read aloud to the committee the exhibits just offered, which are printed in the record as follows:

EXHIBIT No. 45, DECEMBER 9, 1912.

JUNE 13, 1912.

WALDO NEWCOMER, Esq.,

*President Baltimore Clearing House Association, Baltimore, Md.*

DEAR SIR: The Equitable Mortgage & Trust Co., of this city, has made formal application to the chairman of your executive committee to have checks on it cleared through the National Bank of Commerce.

We believe that your body is sufficiently familiar with the management of this company and the kind of business it proposes to do, and we will, therefore, omit any remarks along that line. Stated very briefly, some of the reasons why we believe our request should be granted are as follows:

First. That we are willing to become a full member of the clearing house, subject to all its rules, provided the other trust companies should be willing to do so; but until that is realized we feel that we should be accorded the same privilege of clearing through a clearing-house bank now enjoyed by said trust companies.

Second. It is essential that we have clearing privileges of some kind.

Third. To refuse our application and at the same time to continue to allow the other trust companies the benefits which they now enjoy would be to place us at an immense disadvantage.

Fourth. Under the clearing-house rule we will be compelled to pay full rates of exchange to our depository banks, so that we would not have as much advantage over the clearing-house banks as would appear on the surface.

Fifth. It is our intention to conduct our business along lines which will measure up to the highest standard of banking, and while we, of course, intend to secure deposits, we will not adopt a policy which would include the accepting of accounts on unprofitable bases.

We earnestly hope that it will be the will of your respected body to accede to our request.

We further suggest that, if you deem it wise, one of our officers will gladly appear before you and make explanation of any points which may be in doubt.

Very respectfully,

THE EQUITABLE MORTGAGE & TRUST CO.

EXHIBIT No. 46, DECEMBER 9, 1912.

JUNE 17, 1912.

Mr. WALDO NEWCOMER,

*President Clearing House Association of Baltimore City.*

DEAR SIR: In considering the request of the Equitable Mortgage & Trust Co. for clearing privileges I trust you will take into consideration the very large, close, and important relations existing between that company and the United States Fidelity & Guaranty Co.

The United States Fidelity & Guaranty Co. brings into Baltimore from States other than the State of Maryland over \$5,000,000 annually, a large portion of which is paid to residents of the city of Baltimore and for taxes and other expenses. The United States Fidelity & Guaranty Co. was one of the first to rebuild after the fire of 1904 and has invested in real estate in the city of Baltimore nearly three-quarters of a million dollars.

The Equitable Mortgage & Trust Co.'s principal business will be confined to loaning money on real estate located in all the States of the Union, from the Atlantic to the Pacific Oceans. The principal and interest of these mortgages are to be guaranteed by the United States Fidelity & Guaranty Co. and placed in the hands of a trustee. Against these mortgages there will be issued and sold to the public first-mortgage collateral bonds, the proceeds of which will be reinvested in additional mortgages, to be treated in like manner. Thus the amount of money so invested will be limited



only by the ability of the Equitable Mortgage & Trust Co. to sell its collateral mortgage bonds. It follows, therefore, that the chain thus formed would in a measure prove continuous.

Under this plan the Equitable Mortgage & Trust Co. will invest, in all probability, during the first 10 years in mortgages aggregating not less than \$50,000,000. As these mortgages will be placed in every State of the Union, the Equitable Mortgage & Trust Co. will be brought in close contact with the financial interests in every part of the country, and when the mortgages become due payments must be made and transmitted to Baltimore, thus helping to make it and forcing others to recognize it as one of the leading financial centers of the country.

These facts naturally tend to make the application of the Equitable Mortgage & Trust Co. now before you of paramount importance, and it should be treated accordingly.

As the president of the United States Fidelity & Guaranty Co., and also president of the Equitable Mortgage & Trust Co., I do not believe we are asking anything unreasonable. The Equitable Mortgage & Trust Co. will join the clearing house association as a member, pay the same dues and expenses as any other member, and conform to all of its rules and regulations, provided all the other trust companies join, pay the same dues and expenses, and conform to all of its rules and regulations, just as any other member.

In the event, however, that all the other trust companies do not become full members all we ask is to have the same rules applied to the Equitable Mortgage & Trust Co. as you now apply to the Mercantile Trust & Deposit Co., the Baltimore Trust Co., the Fidelity Trust Co., and all the other trust companies of a like character.

If you will consider this question in all its important bearings, recognizing the large interests involved, we believe your honorable body will decide to grant our request.

Very truly, yours,

\_\_\_\_\_  
President.

#### TESTIMONY OF EUGENE LEVERING.

The witness was sworn by the chairman.

Mr. LEVERING. I want to present the inclosed letter from Mr. Winchester, the manager of the Baltimore Clearing House. He is ill and unable to be here.

Mr. UNTERMYER. This is an excuse from Mr. Winchester, the manager of the clearing house, who is also summoned?

Mr. LEVERING. Yes.

Mr. UNTERMYER. Did anybody bring a copy of the constitution and by-laws of the Baltimore Clearing House?

Mr. LEVERING. I received a communication from the committee here, with a long request for documents, and they are all here, I believe.

Mr. UNTERMYER. You are a resident of Baltimore?

Mr. LEVERING. Yes, sir.

Mr. UNTERMYER. Are you the president of the Bank of Commerce?

Mr. LEVERING. I am.

Mr. UNTERMYER. Is that a national bank?

Mr. LEVERING. It is.

Mr. UNTERMYER. How long have you been president of that bank?

Mr. LEVERING. Over 30 years.

Mr. UNTERMYER. Is your bank a member of the Baltimore Clearing House?

Mr. LEVERING. It is.

Mr. UNTERMYER. How long has it been a member?

Mr. LEVERING. I can not answer. I imagine from time immemorial.

Mr. UNTERMYER. From the time of the organization of the clearing house?

Mr. LEVERING. I imagine so. I have not looked it up. I imagine so; no reason why it should not have been.

Mr. UNTERMYER. Do you remember when the clearing house was organized?

Mr. LEVERING. In 1858. I know it because I happen to have been looking up some of these data and saw the date.

Mr. UNTERMYER. It is an unincorporated body, is it not?

Mr. LEVERING. Yes.

Mr. UNTERMYER. Not subject to the regulations of any banking department?

Mr. LEVERING. No; I believe not.

Mr. UNTERMYER. Or of any public authority?

Mr. LEVERING. No.

Mr. UNTERMYER. Operated somewhat like a private club?

Mr. LEVERING. Yes.

Mr. UNTERMYER. It is?

Mr. LEVERING. Yes.

Mr. UNTERMYER. Do you see any objection to requiring clearing houses to be incorporated?

Mr. LEVERING. I have not thought that matter out, Mr. Untermyer. There are certain objections, but I can not recall them just at the moment. I remember seeing a discussion in the papers, some of the other clearing houses having taken that up on advice of counsel.

Mr. UNTERMYER. Regardless of newspaper discussion, and regardless of the advice of counsel, you have at present no views on the subject?

Mr. LEVERING. No, not that I would care to mention.

Mr. UNTERMYER. Have you some views that you would rather not mention?

Mr. LEVERING. No; I really have not thought anything about it.

Mr. UNTERMYER. You have no views?

Mr. LEVERING (continuing). That is what I meant to say.

Mr. UNTERMYER. Will you be good enough now to produce the constitution and by-laws of the Baltimore Clearing House, or a copy of them?

Mr. LEVERING (producing papers). Unfortunately, Mr. Untermyer, the constitution is in a very unsettled state. We have been trying to amend it for three or four years—four or five years, in fact—and there is a committee to get up a new constitution. Here is the amended copy, which belongs to the manager.

Mr. UNTERMYER. But I want the existing constitution.

Mr. LEVERING. This is the existing constitution, with the amendments, so far as the manager understands them. This is the only copy that he has.

Mr. UNTERMYER. Do I understand that the book you now hand me is the existing constitution?

Mr. LEVERING. That is right.

Mr. UNTERMYER. And that all the amendments set forth in that book are existing amendments?

Mr. LEVERING. As far as I understand it. He gave it to me, and gave me that assurance.

Mr. UNTERMYER. You speak of Mr. Winchester now?

Mr. LEVERING. Mr. Winchester, who is manager of the clearing house, and of course has charge of all such documents.

Mr. UNTERMYER. He was subpoenaed here, and you say he is ill?

Mr. LEVERING. Yes, sir. There is his letter. He asked me to see that that copy should be very carefully taken care of, as it is his only copy and is the final authority in case any controversy comes up.

Mr. UNTERMYER. Have not the members of the clearing house a copy of the constitution and by-laws under which they are expected to live?

Mr. LEVERING. We have printed copies, and of course the amendments have been sent around to them; but whether every member has pasted the amendments into his copy of the constitution, I can not answer. That copy which I have handed you is the official copy, sent down here.

Mr. UNTERMYER. Are you an official of the clearing house?

Mr. LEVERING. I am chairman of the executive committee.

Mr. UNTERMYER. The executive committee consists of how many members?

Mr. LEVERING. It consists of seven. There are five members, and the president and secretary are members ex officio, making seven in all. There are seven members in all, of which number the president and secretary are members ex officio.

Mr. UNTERMYER. How many members are there in the clearing house at Baltimore?

Mr. LEVERING. I think there are 19 members. All that information is here.

Mr. UNTERMYER. Will you just let us have it, if you will?

Mr. LEVERING. I can get that for you in a moment; but will you leave that answer open for a few moments?

Mr. UNTERMYER. How many trust companies are members, if you recall? If not, somebody else can give that.

Mr. LEVERING. You sent to Mr. Winchester a list of queries. Perhaps that is what you want:

How many national banks, State banks, trust companies, and savings banks are there in the place where your association is domiciled?

Mr. UNTERMYER. No; not that.

Mr. LEVERING. The total number of banks and institutions in the clearing house is 19.

Mr. UNTERMYER. In the clearing house?

Mr. LEVERING. Yes.

Mr. UNTERMYER. How many trust companies are there?

Mr. LEVERING. State banks, 9; trust companies, 10; savings banks, 16. Those are the ones that are members and also have the privilege of clearing through members. The next question is, how many are members of the clearing house—full members. They are national banks, 17; State banks, 2; trust companies, none; savings banks, none. In other words, we have 19 members.

Mr. UNTERMYER. And how many nonmembers have you who clear through the clearing house?

Mr. LEVERING. Fifty-three altogether; 19 and 34.

Mr. HAYES. Those are members?

Mr. LEVERING. Nonmembers, but have the privilege of clearing.

Mr. UNTERMYER. Those nonmembers are subject to all the rules and regulations applicable to members, are they not?

Mr. LEVERING. They are not subject to any rules.

Mr. UNTERMYER. Are not their books subject to examination by the clearing house at any time?

Mr. LEVERING. My impression is they are not.

Mr. UNTERMYER. Are you not wrong about that?

Mr. LEVERING. I think not, sir.

I think that relates merely to the privilege of clearing.

Mr. UNTERMYER. Do you know anything about it?

Mr. LEVERING. I am only trusting to memory.

Mr. UNTERMYER. We had better have something a little better than that.

Mr. LEVERING. You are talking about nonmember banks?

Mr. UNTERMYER. Certainly.

Mr. LEVERING. I am still of the opinion that we have no control over them.

Mr. UNTERMYER. Are you still of the opinion, after consulting Mr. Ramsay, that you have not any control over them?

Mr. LEVERING. Yes. Mr. Newcomer is here now, and can answer that.

Mr. UNTERMYER. Who is the member of the clearing house most familiar with its procedure and regulations?

Mr. LEVERING. I have been chairman of the executive committee only since January 1.

Mr. UNTERMYER. Who is here who is familiar with its regulations? We do not want to cumulate this evidence. We want to get at it as rapidly as possible.

Mr. LEVERING. Mr. Newcomer or Mr. Thomas, I should say, can answer those questions.

Mr. UNTERMYER. Very well. I think we can excuse you, then. Mr. Newcomer is here now, I believe.

Mr. LEVERING. Yes.

Witness excused.

#### TESTIMONY OF WALDO NEWCOMER.

The witness was sworn by the chairman.

Mr. UNTERMYER. You are a resident of the city of Baltimore?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. Are you connected with any bank in Baltimore?

Mr. NEWCOMER. I am president of the National Exchange Bank.

Mr. UNTERMYER. Are you also president of the Baltimore Clearing House?

Mr. NEWCOMER. Yes, sir. I have been for the past year only.

Mr. UNTERMYER. Had you been on the committee of the clearing house prior to that time?

Mr. NEWCOMER. Not prior to that time; no, sir.

Mr. UNTERMYER. Are you familiar with its regulations?

Mr. NEWCOMER. I do not come in contact with the detailed handling of some matters that I imagine you refer to. At the same time, I have the constitution of the clearing house and am familiar with it in a general way.

Mr. UNTERMYER. The man who knows most about it is the manager, I suppose?

Mr. NEWCOMER. The man who knows most about it is Mr. Winchester, the manager.

Mr. UNTERMYER. And he is ill?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. Have you looked at the constitution and by-laws since you came here?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. Do you know whether it is patterned after that of any of the other exchanges?

Mr. NEWCOMER. I have not read those of other cities, sir. I have seen the regulations of the Boston Clearing House, but I have never compared them in detail.

Mr. UNTERMYER. You know the regulations of the New York Clearing House?

Mr. NEWCOMER. Only as they come to the knowledge of the ordinary banker. I have never taken their constitution and by-laws to examine them.

Mr. UNTERMYER. You have a list of members and nonmembers as they have in other clearing houses?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. And the nonmembers are those banks that clear through a member?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. They pay an initiation fee, do they not?

Mr. NEWCOMER. I think not. They pay merely an annual charge for the privilege of clearance.

Mr. UNTERMYER. They pay that charge to the clearing house?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. They have to be approved before a member can clear for a nonmember, do they not?

Mr. NEWCOMER. Yes. The procedure is for a nonmember to apply in writing for the privilege of clearing through a specified bank, and that bank requests the privilege of clearing for that member, and then it is passed upon.

Mr. UNTERMYER. Have you the right to examine the books of any member?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. Have you not a regulation similar to the one prevailing in the New York Clearing House Association, known as section 4 of article 8, as follows:

Every nonmember bank or institution now or hereafter sending its exchanges through a member of the association shall submit, whenever required by the clearing-house committee, to the same examinations as are now required of members of the association.

Mr. NEWCOMER. May I read the corresponding clause in our constitution?

Mr. UNTERMYER. Yes.

Mr. NEWCOMER. Under article 11 of our constitution I will read—no; I do not think we have any provision in our constitution for the nonmembers, as far as I recall. There is a provision for State banks which are members of the association that they shall be examined in the same manner as national banks are examined. I have not, in the course of a cursory examination, found anything referring to nonmembers at all. That is a matter which came up and was covered

simply by an amendment, as I recall, giving the banks power to clear for nonmembers under certain conditions. I am not aware of any provision for their examination.

Mr. UNTERMYER. What are the conditions that were prescribed? Are they not that the nonmembers shall observe the same rules and regulations as members?

Mr. NEWCOMER. Only in so far as they relate to certain questions. I am not clear but that that was even done away with. That was passed after we had passed a resolution; there was a clause put in within the past year providing for some restriction, but it did not apply to those already in.

Mr. UNTERMYER. Does not the prohibition against your collecting out of town checks without a uniform rate apply to every nonmember as well as to members?

Mr. NEWCOMER. Not as it stands to-day.

Mr. UNTERMYER. The regulations are conformed to, are they not?

Mr. NEWCOMER. No, sir; not at all times.

Mr. UNTERMYER. The nonmember banks do not observe the conditions?

Mr. NEWCOMER. They are taking checks free of exchange, and——

Mr. UNTERMYER. That is not the subject of any complaint?

Mr. NEWCOMER. It is the subject of complaint on the part of the clearing-house members; yes.

Mr. UNTERMYER. Have you made a complaint?

Mr. NEWCOMER. We have no way to complain, except to decide what we will do with the situation. We can not complain to the bank that is doing it when we have admitted them and given them that privilege without restriction.

Mr. UNTERMYER. You have passed amendments to your laws after admitting members, have you not?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. And they are bound by those amendments?

Mr. NEWCOMER. Yes. But we have not passed a law at the present time putting that restriction on the members who are not clearing. It is being considered, but it has never been passed.

Mr. UNTERMYER. You know that in many clearing houses throughout the country, like the New York Clearing House Association, such a law does apply?

Mr. NEWCOMER. To some extent; yes.

Mr. UNTERMYER. And does prevail?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. You are seeking to do the same thing?

Mr. NEWCOMER. We hope to do something of the same sort; yes, sir.

Mr. UNTERMYER. You hope to make it applicable to nonmembers who clear through members?

Mr. NEWCOMER. Yes. We are bound to do it in self-defense.

Mr. UNTERMYER. Let us see about that. Nonmembers who clear through members have no vote, have they?

Mr. NEWCOMER. No, sir.

Mr. UNTERMYER. And in the promulgation of a rule they would have nothing to say about it?

Mr. NEWCOMER. No.

Mr. UNTERMYER. And yet you propose to have them bound by it?

Mr. NEWCOMER. No, sir. The only thing we would bind them to would be this: "If we extend to you such and such a privilege, we expect this in return for that privilege. We are perfectly willing to take you in as members, if you will come."

Mr. UNTERMYER. Have you offered the privilege of membership to all nonmembers?

Mr. NEWCOMER. We have said a number of times that we would be delighted to have them as members. I do not say that that applied to all nonmembers, but a number of them have been invited and have refused to come in.

Mr. UNTERMYER. You would not propose that all should come in if they wanted to?

Mr. NEWCOMER. No, sir. We should require a minimum capital and an examination and some reserve requirements; perhaps not as stringent as the national banks have.

Mr. UNTERMYER. Those are all reasonable regulations?

Mr. NEWCOMER. We think so.

Mr. UNTERMYER. Just come down to these two cases that we have been discussing here to-day, the Equitable Trust and the State Bank of Maryland. You are familiar with the procedure that has been adopted by the clearing house in those cases?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. Have you brought here the book of resolutions of your association bearing on that?

Mr. NEWCOMER. Mr. Levering and Mr. Winchester brought all the clearing-house records.

Mr. UNTERMYER. Have you pointed out in the book the portions that relate to those two transactions?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. Will you be good enough to look at the book of minutes of the clearing-house committee and tell me whether or not there are any entries on those books relating to these two applications?

Mr. NEWCOMER. Yes [referring to book].

Mr. UNTERMYER. Is that the first note of any action?

Mr. NEWCOMER. Yes, sir; I think so.

Mr. UNTERMYER. What book have you there—have you the minutes of the association or the committee?

Mr. NEWCOMER. The minutes of the executive committee.

Mr. UNTERMYER. Of what date?

Mr. NEWCOMER. May 2, 1911. This reads:

A special meeting of the executive committee of the Baltimore Clearing House was held this day at 1 p. m. Present: Messrs. Thomas, Winchester, O'Connell, and Wilcox.

That was a year ago, when I was not a member of the committee at all.

The application of the State Bank of Maryland for the privilege of clearing through the Merchants National Bank was presented, with proper resolutions adopted by the applicant bank and the Merchants National Bank. The application was referred to the clearing house for action.

Mr. UNTERMYER. It requires the vote of three-fourths of the members to admit a nonmember?

Mr. NEWCOMER. I believe so. That is right.

Mr. UNTERMYER. What is the next entry?

Mr. NEWCOMER. The next entry is the application of the Equitable Mortgage & Trust, sir.

Mr. UNTERMYER. Of what date?

Mr. NEWCOMER. On June 12, 1912; a special meeting of the executive committee.

Mr. UNTERMYER. That is also from the book of minutes of the committee?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. At what page?

Mr. NEWCOMER. Page 107, dated June 12, 1912. I read:

Special meeting of the executive committee of the Baltimore Clearing House. Present: Messrs. Levering, Winchester, Newcomer, O'Connell, Seeger, and Wilcox.

The application of the Equitable Mortgage & Trust Co. to be permitted to clear through the National Bank of Commerce was read, and, after some discussion it was, on motion of Mr. Wilcox, seconded by Mr. O'Connell,

*Resolved*, That the Equitable Mortgage & Trust Co. be requested to address a letter to the Baltimore Clearing House asking to be permitted to clear, and setting forth in detail the reasons why they should have that privilege.

The State Bank of Maryland also applied to be permitted to clear through the Merchants National Bank. After discussion that bank was requested to present such a letter as the Equitable Mortgage & Trust Co. had been directed to address to the Baltimore Clearing House.

Mr. UNTERMYER. What is the next entry?

Mr. NEWCOMER. That covers all in the book of minutes of the executive committee. Do you want the clearing-house record?

Mr. UNTERMYER. Yes. Be good enough to refer to any record on the minutes of the association itself, on those two topics.

Mr. NEWCOMER (referring to book). The date is May 2, 1911. Meeting of the clearing house itself. This is an adjourned meeting. [Reading:]

The matter of an application of the State Bank of Maryland for the privilege of clearing its checks through the Merchants National Bank was then brought up by Mr. Douglas H. Thomas, and upon being put to vote, the application was declined by 15 votes against and 3 in favor of granting the privilege. Mr. Newcomer, who occupied the chair at the time, not voting. Some discussion then followed concerning the proposed new constitution, after which a motion to adjourn was unanimously carried.

Mr. UNTERMYER. What is the next entry? Is there anything to show why the application was declined?

Mr. NEWCOMER. No. That is the entire record. I presume the secretary would hardly record the discussions.

Mr. UNTERMYER. What was the page of that last entry?

Mr. NEWCOMER. Page 195.

Mr. UNTERMYER. Of the book of minutes of the association?

Mr. NEWCOMER. Yes.

You will notice that this next meeting is the one that was held after the request of the executive committee that they send in those letters formally applying.

Mr. UNTERMYER. What is the date and the page?

Mr. NEWCOMER. Minutes of the Baltimore Clearing House Association, page 207, June 17, 1912. This is a special meeting of the clearing house. The object of the meeting was to consider the application of the State Bank of Maryland and the Equitable Mortgage & Trust Co. for the privilege of having their checks cleared through the Merchants National Bank and the National Bank of Commerce, respectively, and also to consider the question of the proposition of



issuing clearing-house certificates against one and two dollar silver certificates.

The president, Mr. Newcomer, read letters of application from the above-mentioned institutions, and the matter was laid before the house for discussion;

Whereupon Mr. Levering moved to rescind the resolution which was passed May 11, 1911, which prohibited nonmember institutions from having their checks cleared through member banks.

Speeches were made by Mr. Levering in favor of, and by Messrs. O'Connell, Wilcox, and Crane opposing, the rescinding of the resolution.

A vote was then taken, and roll call resulted in 5 ayes and 14 noes, as follows:

Then follow the names of the banks.

Whereupon the president declared that the original resolution would stand.

Mr. UNTERMYER. Does that cover everything you find in the records of the association?

Mr. NEWCOMER. That covers all, I think, that I have; yes, sir. That covers all relating to those two banks.

Mr. UNTERMYER. That is the last official action that was taken, is it?

Mr. NEWCOMER. Regarding those banks?

Mr. UNTERMYER. Yes.

Mr. NEWCOMER. I think so.

Mr. UNTERMYER. They were refused admission?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. Were you present at the discussion?

Mr. NEWCOMER. I was present and presided at that meeting; yes.

Mr. UNTERMYER. On what ground were they refused admission?

Mr. NEWCOMER. The resolution that they attempted to rescind at that meeting had been passed some time before. It was a resolution practically laying down the policy that hereafter we would not admit additional nonmembers to the clearance privilege; the reason being that, as you referred to a moment ago, they have an absolutely free hand as to the charging of exchange, the hours they will keep their banking houses open, and practically run entirely free, and they get the one great privilege of the clearing house, the privilege of clearing their checks, and then compete with us.

Mr. UNTERMYER. Did you not notice that in the letter of the Equitable Trust Co. that company offered to become a full member of the clearing house association on the same basis as other members?

Mr. NEWCOMER. I will come to that in a second. Will you let me finish as to the line of policy that we were following?

Mr. UNTERMYER. Yes.

Mr. NEWCOMER. We felt then that it was not wise any longer to continue giving that privilege in such an open-handed way as we had been giving it, and that hereafter we should require them to stand by some of our rules, or insist upon their becoming full members. The details as to just how to word this and put it into operation are still under discussion.

As to the Equitable Trust Co., they were willing to become full members, but were not eligible. They did not at that time have the required capital.

Mr. UNTERMYER. How much would it have required?

Mr. NEWCOMER. \$200,000.

Mr. UNTERMYER. They had \$800,000, did they not?

Mr. NEWCOMER. Not at that time. They did not at that time have much of anything paid in. It was very small; \$100,000 paid in at that time, unless I am very much at fault in my memory.

Mr. UNTERMYER. Did you suggest that as a reason?

Mr. NEWCOMER. My recollection is that there was a discussion with Mr. Mooney, who, I think, was representing them, and that they also were not willing to become members unless certain other companies also became members. They took the ground that as certain banks were clearing through us, and certain trust companies, it was a discrimination against them not to treat them the same way. They were willing to become members provided we forced the others to become members, a thing which at the time we had no power to do. We were under contract with them, up to the 1st of next January, to clear for them.

Mr. UNTERMYER. They wanted to be treated on the same basis as other like institutions?

Mr. NEWCOMER. Yes. My reply, when they came to see me informally, was, "We want to treat you the same way, but the way we will do it is not by giving you the privileges, but by cutting off these privileges, and either requiring the banks to become members or that those nonmembers clearing through members shall do so under well-understood restrictions applying to them."

Mr. UNTERMYER. How long have you been in the banking business, Mr. Newcomer?

Mr. NEWCOMER. Since January, 1906. Seven years next month.

Mr. UNTERMYER. You were a merchant theretofore?

Mr. NEWCOMER. No; I was not in any business before that. I started out in a steamship company—

Mr. UNTERMYER. That is sufficient. I did not intend to ask any personal questions. I only wanted to find out whether you were familiar with the situation with respect to the collection of out-of-town checks before the promulgation of the rule?

Mr. NEWCOMER. Only as I have heard it as a matter of history. I know what it was, but I was not there at the time.

Mr. UNTERMYER. You were not concerned in it?

Mr. NEWCOMER. No.

Mr. UNTERMYER. What is the objection to allowing every bank to run its own business?

Mr. NEWCOMER. The objection is that there are always a certain number of banks which will resort to nonconservative methods to get business. They will take business at a loss, to swell their accounts, and it would produce a great demoralization. In fact, one man very heavily interested in one bank in Baltimore said some time ago—if I may digress for a moment—

Mr. UNTERMYER. No. Please do not. He is not here under oath, and anything that he may have told you is not of consequence.

Mr. NEWCOMER. Our point is that some banks will resort to unconservative methods of doing business, and the net result of that is a great unfairness to a lot of your depositors, greater than it would be under the present rules. If we have a certain number of accounts in our bank, and another bank solicits them and offers to take them at a less rate of exchange than ours, or free of exchange, it means, when we come to consider the question of meeting that bid, that we must decide whether we shall let it go as losing business. If we decide to

meet it, and reduce the rate to that man, we are treating unfairly the customer who has stood by us and is not raising any kick, and whose account is possibly worth more than the other.

Mr. UNTERMYER. There is nothing to prevent your giving the same rate to him, is there?

Mr. NEWCOMER. In that case we would lose more than we could afford to lose, possibly, if we gave it to all.

Mr. UNTERMYER. Do you not know that the banks formerly did this business of collecting out-of-town checks without charge?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. And paid dividends?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. And made money?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. The purpose of the rule is just to make more money out of the customers, then?

Mr. NEWCOMER. No, sir.

Mr. UNTERMYER. It does make more money, does it not?

Mr. NEWCOMER. No.

Mr. UNTERMYER. It does not make more money? It makes less?

Mr. NEWCOMER. It makes less, for this reason: We are making less than we did in those days, on account of the great change that has taken place in the whole banking system.

Mr. UNTERMYER. We are speaking of the matter of out-of-town checks.

Mr. NEWCOMER. So am I.

Mr. UNTERMYER. I wish you would confine yourself to that.

Mr. NEWCOMER. I am confining myself to that, strictly. May I illustrate what I mean?

Mr. UNTERMYER. Yes.

Mr. NEWCOMER. Fifteen years ago it was a somewhat unusual thing for a merchant living in Texas, or in some out-of-the-way point, to attempt to pay bills in the eastern part of the United States except by a check on an eastern bank. The multiplication of small banks in all these places, and the multiplication of the use of personal checks, means that the average merchant, in 90 per cent of the cases, remits in checks on those little points, which are very expensive to collect. All of these small banks which have sprung up in that time charge us for collecting checks on their own towns, and we can not get away from that charge. It is costing us three times the amount to do business that it did 10 or 15 years ago.

Mr. UNTERMYER. I understood that you were not familiar with the conditions of 15 years ago.

Mr. NEWCOMER. I said I was not interested in the passage of that rule. I know, in a way, how the banking situation has changed. Any man who has been in business at all has seen that.

Mr. UNTERMYER. The sum and substance of all this is about as follows, then, is it not, that you do not think it is a good thing to allow free competition in the banking business. Is not that about it?

Mr. NEWCOMER. Yes. I do not think so.

Mr. UNTERMYER. You think, if you can force upon the banks a uniform charge to their customers, that it is a better thing for the banking system to force it upon the banks?

Mr. NEWCOMER. Yes; I think if the banks could get together and agree to charge what experience shows brings them a moderate, fair return, at least to pay expenses of the work, that it is better for them to stand together and do that than to have one bank flying around and trying to take this at one-tenth and do this free and to do that free and the other free.

Mr. UNTERMYER. Do you not realize that these regulations force a method of doing business upon banks, whether they like it or not, so long as they are in the clearing house?

Mr. NEWCOMER. As long as they are in the clearing house, certainly; it forces them to charge that.

Mr. UNTERMYER. It takes out of the control of the officers and directors of a bank the determination of how they shall do their business in certain directions and puts it in another place, does it not?

Mr. NEWCOMER. To a certain extent; yes, sir.

Mr. UNTERMYER. Do you not realize that that is a violation of their charter for them to turn over to a clearing house the determination of how they shall conduct their business?

Mr. NEWCOMER. They need not turn it over to the clearing house; they can withdraw from the clearing house.

Mr. UNTERMYER. You know that withdrawing from the clearing house is a great inconvenience, do you not?

Mr. NEWCOMER. Certainly.

Mr. UNTERMYER. And a source of great embarrassment?

Mr. NEWCOMER. Is it not fair that they, in return——

Mr. UNTERMYER. I am not arguing this with you, Mr. Newcomer.

Mr. NEWCOMER. I do not want you to draw a false conclusion from my answers.

Mr. UNTERMYER. If you would like to say anything, please do so.

Mr. NEWCOMER. I simply say that if you consider that they are coming in because there is a great advantage to them in coming into the clearing house, it is perfectly reasonable to say to them that we want them to abide by certain conditions in coming in. We are conducting the clearing house for the general benefit of all concerned.

Mr. UNTERMYER. You do not think that a clearing house accomplishes any public purpose, do you?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. You recognize it as a great public financial agency, do you not?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. And, in some cities, a national agency?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. Do you still contend, Mr. Newcomer, that, it being such a national agency, it ought properly to be made a condition of a bank's becoming a member of that agency that it shall surrender its freedom of action and freedom of doing its own business to that agency?

Mr. NEWCOMER. It should surrender the right to use cut-throat methods against its brother banks.

Mr. UNTERMYER. Tell us what you mean by "cut-throat methods." You know there are many accounts which, if you were free of the clearing house regulations, you would like to have, by agreement to collect their out of town checks without pay?

Mr. NEWCOMER. Very few.

Mr. UNTERMYER. There are some ?

Mr. NEWCOMER. I question whether there are any, with the possible exception of those which have only an occasional item. I know of no business account with a large number of collectable items that I would be willing to take free of exchange.

Mr. UNTERMYER. Plenty of banks would like to have such accounts if they could get free of the clearing house ?

Mr. NEWCOMER. Yes; in order to get hold of the business, and then charge, later.

Mr. UNTERMYER. They used to do it without charge, did they not ?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. And that did not break any of them, did it ?

Mr. NEWCOMER. I have explained the difference in the conditions.

Mr. UNTERMYER. You are not prepared to say that it would break any of them now, are you ?

Mr. NEWCOMER. If you are considering only the question of its breaking the banks, that is a different matter. I hope the banks are strong enough to stand it without breaking. I hope they would have sufficient capital and surplus for that.

Mr. UNTERMYER. What is the capital and surplus of your bank ?

Mr. NEWCOMER. \$1,000,000 capital, \$600,000 surplus, \$150,000 undivided profits.

Mr. UNTERMYER. How many customers have you ?

Mr. NEWCOMER. I should say about 1,500.

Mr. UNTERMYER. Why would not your line of argument apply just as readily to a regulation requiring a uniform rate of interest on deposits and a uniform rate of interest on loans ?

Mr. NEWCOMER. The rate of interest on loans is based on too many considerations.

Mr. UNTERMYER. How about the rate of interest on deposits ? You are in favor of a uniform rate, are you not ?

Mr. NEWCOMER. A uniform rate of interest on deposits ?

Mr. UNTERMYER. Yes. Are you not in favor of the clearing house enforcing a regulation compelling the banks to give no more than a specified rate of interest on deposits ?

Mr. NEWCOMER. I have never considered that as a clearing-house regulation at all. I am opposed to interest on deposits.

Mr. UNTERMYER. You are opposed to paying customers any interest on deposits ?

Mr. NEWCOMER. Except in very special cases; yes, sir.

Mr. UNTERMYER. And your bank does not pay any interest, as a rule ?

Mr. NEWCOMER. Except in special cases. We have some accounts on which we do pay interest.

Mr. UNTERMYER. However, other banks that are trying to get business do pay interest on deposits ?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. And you are opposed to that ?

Mr. NEWCOMER. I think it is a bad plan.

Mr. UNTERMYER. Do you not know that there are clearing houses throughout the country that also undertake to regulate that, so that a customer shall not get too much interest on his deposits ?

Mr. NEWCOMER. I have seen the statement in the papers.

Mr. UNTERMYER. You know nothing else about it ?

Mr. NEWCOMER. No, sir.

Mr. UNTERMYER. Are you in favor of any sort of governmental regulation of clearing house associations?

Mr. NEWCOMER. I am inclined to think it would be a mistake.

Mr. UNTERMYER. You do not favor any governmental regulation of clearing house associations?

Mr. NEWCOMER. Not as I see it at present. I am open to something that I have not already seen.

Mr. UNTERMYER. Have you thought about it?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. Let us see what your objections are.

Mr. NEWCOMER. My objection is based—I say it very respectfully—on my idea that the clearing houses have been a great power for good, and are not used oppressively; and that any attempt on the part of the Government to pass laws against them is going to have the result of hampering their efficiency.

Mr. UNTERMYER. Are you familiar with the operations of all the clearing houses in the United States?

Mr. NEWCOMER. I would not be conceited enough to say that, no.

Mr. UNTERMYER. Are you familiar with the operations of the New York Clearing House, except from what you see in the newspapers?

Mr. NEWCOMER. From what I have seen in the newspapers, and as a result of conversations that I have had with New York bankers about it.

Mr. UNTERMYER. You know that there are 242 clearing houses in the United States?

Mr. NEWCOMER. I do not know the number. I take that as a fact, if you say it. I do not know the number, myself.

Mr. UNTERMYER. You do not know their various methods of doing business, do you?

Mr. NEWCOMER. No, sir.

Mr. UNTERMYER. Does your clearing house require every bank to charge for every check book they furnish a customer?

Mr. NEWCOMER. No, sir.

Mr. UNTERMYER. That would not be a fair thing to do, would it?

Mr. NEWCOMER. It might be. It is too trifling for a clearing house to go into it.

Mr. UNTERMYER. You think it might be fair for a clearing house to say to a bank that they shall not attract business by a slight accommodation of that kind?

Mr. NEWCOMER. That is too slight a thing for a clearing house to rule on. I do not think they should rule on things of that character.

Mr. UNTERMYER. Have you ever heard what the Salt Lake City Clearing House has done on that subject?

Mr. NEWCOMER. No, sir.

Mr. UNTERMYER. Have you ever heard of their making a scale of prices for check books?

Mr. NEWCOMER. No, sir.

Mr. UNTERMYER. And forcing it on the banks to charge that?

Mr. NEWCOMER. No, sir.

Mr. UNTERMYER. You have said here a moment ago that you do not think the clearing houses have ever abused their privileges?

Mr. NEWCOMER. I said as far as I knew they have not.

Mr. UNTERMYER. And your knowledge goes, we are intended to understand, to the city of Baltimore only?

Mr. NEWCOMER. I will go further than that. I think the New York Clearing House has done a great deal of good.

Mr. UNTERMYER. Do you know what its regulations are?

Mr. NEWCOMER. Not its specific rules and regulations; no, sir.

Mr. UNTERMYER. Do you know that every nonmember of the New York Clearing House is compelled to subscribe to all the regulations applicable to members?

Mr. NEWCOMER. I do know that; yes.

Mr. UNTERMYER. You think that is quite right?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. You have not done it?

Mr. NEWCOMER. No, sir. We are not as strong as the New York Clearing House.

Mr. UNTERMYER. You are not as strong?

Mr. NEWCOMER. No.

Mr. UNTERMYER. The more strength you have the more exactions you think you can make?

Mr. NEWCOMER. If you call it exactions. The more strength you have the more closely you can bind the banks together in your city and the better financial situation you have in case of a panic.

Mr. UNTERMYER. You think that would be a good thing?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. You also think it would be a good thing that nonmembers should be bound by the rules and regulations applicable to members, or that may thereafter be passed, and yet not have any vote as to what should be done? Do you regard that as a good thing or a just thing?

Mr. NEWCOMER. I should not say all regulations. I do not know that I would go into it that far. There are some that might not be applied to a nonmember. I think this exchange rule should be applied to nonmembers.

Mr. UNTERMYER. You think nonmembers should be bound by that rule as to the commission for collecting out-of-town checks, although they have not any vote as to whether they would be bound?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. And that there are other regulations of the clearing house by which nonmembers should be bound, even though they have nothing to say about them?

Mr. NEWCOMER. I do not recall others at the moment.

Mr. UNTERMYER. How about rates of exchange?

Mr. NEWCOMER. That is just what you are asking me about, is it not?

Mr. UNTERMYER. I am speaking of exchange as distinguished from mere commission on collecting out-of-town checks. For instance, foreign exchange.

Mr. NEWCOMER. I know of so little foreign exchange business done through Baltimore that that would hardly come up as a very serious question.

Mr. UNTERMYER. Do you know the regulations of the New York Clearing House on that subject?

Mr. NEWCOMER. On foreign exchange?

Mr. UNTERMYER. Yes.

Mr. NEWCOMER. No, sir.

Mr. UNTERMYER. Have you ever read their regulations?

Mr. NEWCOMER. I think not.

Mr. UNTERMYER. You do not know how liberal or how oppressive they may be, then?

Mr. NEWCOMER. No, sir.

Mr. UNTERMYER. And yet you want us to understand that you approve of them?

Mr. NEWCOMER. I say I approve of the results of the work done by the New York Clearing House, and have never seen any evidence that they have been oppressive to anybody.

Mr. UNTERMYER. But you say you have not read their regulations?

Mr. NEWCOMER. I do not have to read them in order to know that.

Mr. UNTERMYER. You do not know their operation?

Mr. NEWCOMER. I do not think that is necessary, in order to know whether they have been oppressive or not.

Mr. UNTERMYER. In your opinion, should there be some uniform rule by which a bank undertaking to go into business can get into the clearing house?

Mr. NEWCOMER. Do you mean a regulation as to its capital?

Mr. UNTERMYER. As to its capital and surplus and its solvency.

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. You think every bank should be admitted on the same basis?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. And that every bank should be entitled to retain membership on the same basis?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. You think that should be a right, do you not?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. What would you say to a regulation that required that three-fourths of the members of a clearing house must consent to a bank's being admitted to the clearing house, even though it conform to all the requirements as to capital and surplus? Would you say that was oppressive?

Mr. NEWCOMER. Not necessarily.

Mr. UNTERMYER. You have just told us that you thought that they ought to be admitted on a uniform basis, as a matter of right?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. Now you tell us, as I understand, that it would not be oppressive to refuse them unless three-fourths consented?

Mr. NEWCOMER. It might not, under some conditions that I can conceive.

Mr. UNTERMYER. Generally, would it be oppressive?

Mr. NEWCOMER. Generally, yes. May I mention one of the conditions that I have in mind?

Mr. UNTERMYER. Certainly.

Mr. NEWCOMER. Take any city where there are a few large banks and a considerable number of small ones; I do not think it should be possible for a mere majority, which might consist of a whole lot of smaller and perhaps less conservative banks, to pass on the thing, and a large bank, of a great deal of power, and presumably better able to judge the situation, having no disproportionate vote.



Mr. UNTERMYER. What has that to do with the proposition I put to you? I put to you the proposition as to whether you thought that, as a matter of right, banks that conform to certain conditions should be able to join a clearing-house association or whether you thought, in justice, it should be made subject to the consent of three-fourths of their competitors?

Mr. NEWCOMER. It has this to do with it, that I replied that I thought there was a conceivable situation in which a majority vote should not rule.

Mr. UNTERMYER. We are speaking of a three-fourths vote.

Mr. NEWCOMER. I am not prepared to answer on the basis of a three-fourths vote.

Mr. UNTERMYER. All of my questions have been on that basis.

Are you aware that the New York Clearing House Association has such a regulation?

Mr. NEWCOMER. I believe so.

Mr. UNTERMYER. You know that it takes three-fourths of the members to admit a member and a majority to expel a member?

Mr. NEWCOMER. I was not aware of that difference.

Mr. UNTERMYER. Do you not think there should be authority vested somewhere—in some Government official or some department—that would permit of a bank that comes up to the requirements becoming a member of the clearing house?

Mr. NEWCOMER. I do not think the Government ought to step in and run as many of the State things as they are.

Mr. UNTERMYER. You think it should be run like a private club?

Mr. NEWCOMER. It is hardly a private club.

Mr. UNTERMYER. Is not that the situation to-day?

Mr. NEWCOMER. No, sir.

Mr. UNTERMYER. Is there any review of any of the acts of the Clearing House Association of Baltimore in the courts?

Mr. NEWCOMER. Not that I am aware of.

Mr. UNTERMYER. There is no remedy by anybody who is aggrieved, is there?

Mr. NEWCOMER. He would have a remedy under the ordinary law.

Mr. UNTERMYER. Would he? You are not a lawyer, are you?

Mr. NEWCOMER. No.

Mr. UNTERMYER. I will not discuss that any further with you, then.

Mr. NEWCOMER. All right, sir.

Mr. UNTERMYER. I have not heard you yet point to any specific reason why clearing house associations should not be subject to some sort of Government regulation. For instance, do you think it would be unreasonable to require that, before a member of a clearing house association should be expelled, the approval of the banking department should be obtained?

Mr. NEWCOMER. I should not think that was necessary.

Mr. UNTERMYER. Of course not, because you do not think you ever do any wrong, do you?

Mr. NEWCOMER. Oh, yes.

Mr. UNTERMYER. Do you think you all do wrong?

Mr. NEWCOMER. Certainly; we make mistakes.

Mr. UNTERMYER. Do you not think there should be power vested somewhere to correct those mistakes?

Mr. NEWCOMER. Not with reference to the clearing house question.

Mr. UNTERMYER. Where would you lodge the power to correct your mistakes?

Mr. NEWCOMER. I have just said that I did not think it was necessary to have a power to correct them.

Mr. UNTERMYER. You think they should be allowed to go uncorrected?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. Let us suppose, for instance, that the clearing house notifies a member to-day that he can not clear any longer.

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. How much notice do you give, in your territory?

Mr. NEWCOMER. I do not believe such a case has ever arisen.

Mr. UNTERMYER. I am talking about your rules. Do you remember them?

Mr. NEWCOMER. I think it is 24 hours.

Mr. UNTERMYER. You know the effect of that, do you not?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. The effect is to close the bank, is it not?

Mr. NEWCOMER. Certainly.

Mr. UNTERMYER. It puts it out of business?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. Is it your judgment that it should rest with the clearing house association to put a bank out of business and to imperil its deposits, with no power of review or of correction anywhere?

Mr. NEWCOMER. Can you conceive of a clearing house doing such a thing?

Mr. UNTERMYER. I am perfectly willing to let you ask me questions at some other time. On this occasion I must ask you to answer my questions.

The stenographer repeated the pending question as follows:

Is it your judgment that it should rest with the clearing house association to put a bank out of business and to imperil its deposits with no power of review or of correction anywhere?

Mr. NEWCOMER. My answer is that I think that power is left with perfect safety with the clearing house, for the reason that it would never in this world be exercised for any but the very strongest of reasons. In self-defense to the other banks, they could not do it.

Mr. UNTERMYER. Have you ever gone into the history of the cases in which clearing-house privileges have been refused or withdrawn?

Mr. NEWCOMER. I have never gone into the history of it; no, sir. I know of one or two cases.

Mr. UNTERMYER. Do you not know of a dozen or two?

Mr. NEWCOMER. No, sir; I do not.

Mr. UNTERMYER. Do you not know that there are many dozens of them?

Mr. NEWCOMER. I suppose there are. I do not know how many there are.

Mr. UNTERMYER. Do you not know of the merits of any of them?

Mr. NEWCOMER. Not that I can quote in detail at the present time.

Mr. UNTERMYER. What harm would it have been if, before exercising an act of that kind, that put a bank out of business, the State banking authority had been obtained?

Mr. NEWCOMER. That depends on how critical the situation was.  
Mr. UNTERMYER. It could not have been any more critical for the bank that was put out?

Mr. NEWCOMER. No.

Mr. UNTERMYER. As I understand, you are opposed to any kind of supervision of clearing houses?

Mr. NEWCOMER. I think it would probably be a mistake, sir.

Mr. UNTERMYER. I do not think you have told us any specific thing that leads you to the conclusion that it would be a mistake—any specific act. Can you conceive of one?

Mr. NEWCOMER. Yes. Take the case of a nonmember clearing through a certain bank. A situation frequently comes up where that bank will refuse to clear for that nonmember and has to do it in self-defense.

Mr. UNTERMYER. We will take that up in a moment. We are speaking of members of the clearing house associations for the moment.

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. I want you to tell me how and in what way any abuse could arise through requiring some sort of Government supervision over a national financial agency such as a clearing house.

Mr. NEWCOMER. Suppose we learned to-day that a certain bank was in a situation that was very critical and that it was liable to fail at any moment.

Mr. UNTERMYER. Yes.

Mr. NEWCOMER. We would want to protect our members from being loaded with a lot of dishonored checks. I will not say that we would certainly, but we might be in a position where we would have to act promptly. If it was not necessary, we would give them the longest kind of notice.

Mr. UNTERMYER. Let us see about that, because that is a fair case. In the first place, clearing houses have the right to examine the books of their members at all times, have they not?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. So that you can find out, whenever you please, how a bank stands; that is, in the clearing house?

Mr. NEWCOMER. Yes; as far as an examination will show.

Mr. UNTERMYER. So far as an examination will show?

Mr. NEWCOMER. Yes. An examination might not show a bad defalcation of the cashier, for instance.

Mr. UNTERMYER. If an examination would not show it, how would you be able to find out that the bank was in bad condition?

Mr. NEWCOMER. That you will find out when it comes to the ultimate point. You can not send around and examine a bank every few days to make sure that there is nothing wrong with it.

Mr. UNTERMYER. We understand all that. You instance a case in which you suddenly find out that a bank is in a precarious condition?

Mr. NEWCOMER. Yes; or it may not be sudden. You may have warned that bank 20 times that something must be changed, but it comes to a critical point suddenly.

Mr. UNTERMYER. You may want to act on the instant, then?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. You realize you are acting against a competitor, do you not?

Mr. NEWCOMER. We are acting as to fellow members. He is a competitor as to the individuals; yes.

Mr. UNTERMYER. He is a competitor of every other member, is he not?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. You do not think that that is likely to sway anybody's judgment?

Mr. NEWCOMER. No; because——

Mr. UNTERMYER. Is it or not?

Mr. NEWCOMER. May I not give my reason?

Mr. UNTERMYER. If you did that every time, I do not think we should ever get through. I will concede that you have a reason for everything you say.

Mr. NEWCOMER. I wish to say that it is a misleading answer if I say "No," and stop there.

Mr. UNTERMYER. Very well. Go on and state your reason.

Mr. NEWCOMER. Because it would be so much to the disadvantage of other banks to have a bank driven into bankruptcy in that way.

Mr. UNTERMYER. That would depend on conditions, would it not?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. There would be certain conditions in which it would be a good thing to get rid of it?

Mr. NEWCOMER. It is a bad thing to drive a bank in that way unless it is absolutely necessary.

Mr. UNTERMYER. Did you ever read Mr. Cannon's book on clearing houses?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. It is considered a standard work among bankers, is it not?

Mr. NEWCOMER. I believe so. It is a very fine book.

Mr. UNTERMYER. Have you ever read what he says about times of stress for getting rid of weak banks?

Mr. NEWCOMER. I do not recall the argument at present.

Mr. UNTERMYER. Dealing, as you say, with a competitor, what is the difficulty or the inconvenience about getting the cooperation of the state department before you close the doors of that bank and bring havoc to the depositors?

Mr. NEWCOMER. The delay might be objectionable in some cases.

Mr. UNTERMYER. Yes; but the bank department is supposed to keep its eye on these institutions, too, is it not?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. And in cases of national banks, the Comptroller of the Currency?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. They make examinations, do they not?

Mr. NEWCOMER. Yes.

Mr. UNTERMYER. So you think that would be sufficient of a hardship, the possibility of having to wait until you could communicate with the bank department, to induce you to say there should be no control over such an act?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. You have no other reason?

Mr. NEWCOMER. The general reason stated first, that I do not believe in the Government interfering in those places.

Mr. UNTERMYER. You do not believe in the Government interfering in anything, do you?

Mr. NEWCOMER. In its own business.

Mr. UNTERMYER. What is its business, if it is not that of safeguarding people who have their money in public institutions?

Mr. NEWCOMER. I do not think it is its business to go down into private associations that men have formed in different States.

Mr. UNTERMYER. I see. You think those are private associations?

Mr. NEWCOMER. Yes, sir.

Mr. UNTERMYER. You would be opposed to a banking law, then, would you not? You think everybody should do banking as he pleases, without Government interference?

Mr. NEWCOMER. Not at all.

Mr. UNTERMYER. I think that is all.

One of the members of the committee would like to know whether in your opinion clearing houses ought not to be restricted to their legitimate function of clearing checks among their own members.

Mr. NEWCOMER. I think not.

Mr. UNTERMYER. You think not. You think they ought to extend it to the regulation of the business of all their members, do you?

Mr. NEWCOMER. I think so.

Mr. UNTERMYER. You think they ought to control their members' business?

Mr. NEWCOMER. I think that is better for the community.

Mr. UNTERMYER. What would you do with the board of directors of a bank; would you abolish them?

Mr. NEWCOMER. No, sir; the board has plenty to do.

Mr. UNTERMYER. You would leave them there?

Mr. NEWCOMER. Yes. They have plenty to do to-day, sir.

Mr. UNTERMYER. That is all. Thank you.

Witness excused.

Mr. UNTERMYER. I do not think it will be necessary for any of the other gentlemen from Baltimore to remain.

Mr. LEVERING. May I ask if you want any more of these documents, or anything left with you?

Mr. UNTERMYER. I think not.

Mr. LEVERING. They are at your disposal at any time.

Mr. UNTERMYER. Thank you. I have everything except your clearing house constitution and by-laws. I wish you would furnish us with a copy of those as they exist to-day.

Mr. LEVERING. I will have that done.

Mr. UNTERMYER. Will you, please?

Mr. LEVERING. Yes.

Mr. UNTERMYER. And they may be regarded as being marked in evidence and given a number as an exhibit now.

The constitution and by-laws of the Baltimore Clearing House are to be marked, when received, Exhibit No. 47, December 9, 1912.

At 1 o'clock p. m. the committee took a recess until 2 o'clock p. m.

## AFTER RECESS.

The committee met pursuant to the taking of the recess.

**TESTIMONY OF WALDO NEWCOMER—Continued.**

Mr. UNTERMYER. Mr. Newcomer, I understand that in your testimony this morning, as explained to me after the hearing, you did not intend to suggest that you were opposed to the incorporation of clearing-house associations, did you?

Mr. NEWCOMER. No, sir. I do not remember any such question being asked me.

Mr. UNTERMYER. Do you believe that clearing-house associations should be incorporated?

Mr. NEWCOMER. I do not see any objection to it, but I am not committed to it one way or the other.

Mr. UNTERMYER. That is all, Mr. Newcomer.

Witness excused.

**TESTIMONY OF HENRY B. WILCOX.**

The witness was sworn by the chairman.

Mr. UNTERMYER. You are the president of the First National Bank of Baltimore, are you not?

Mr. WILCOX. Yes, sir.

Mr. UNTERMYER. And your bank is a member of the Baltimore Clearing House Association?

Mr. WILCOX. Yes, sir.

Mr. UNTERMYER. Have you been in the banking business a great many years?

Mr. WILCOX. About 30 years.

Mr. UNTERMYER. How long have you been a member of the clearing house association?

Mr. WILCOX. Our bank has been a member ever since it was established.

Mr. UNTERMYER. For how many years?

Mr. WILCOX. I do not just recall when the clearing house was established. It was before I became an officer of the bank, of course.

Mr. UNTERMYER. I notice from the resolutions that have been put in evidence that you were one of the gentlemen who voted against the admission of the State Bank of Maryland and the Equitable Trust Co. That is a correct statement, is it not?

Mr. WILCOX. I think that is a fact.

Mr. UNTERMYER. That was the last official action that was taken by the association, was it not, with reference to those two institutions?

Mr. WILCOX. You mean regarding that matter?

Mr. UNTERMYER. Yes; regarding those two institutions.

Mr. WILCOX. I think so.

Mr. UNTERMYER. Was there any discussion as to the reasons why you voted against the admission of these institutions?

Mr. WILCOX. I think I made myself plain at the time. I do not know whether the minutes are a matter of record or not.

Mr. UNTERMYER. The minutes contain no statement of the discussion or the reasons for refusing admission to these two houses. Was there a discussion at the time?

Mr. WILCOX. There was a discussion.

Mr. UNTERMYER. What were your reasons as then stated, Mr. Wilcox?

Mr. WILCOX. In the first place, Mr. Untermeyer, I do not think the State Bank of Maryland applied for admission as a member. My objection to their coming in as a nonmember or clearing member was that they were quite eligible to be a full member, pay the \$1,000 initiation fee, and abide by our rules and regulations.

Mr. UNTERMYER. Do you not understand that they are eager to do that, and have offered to do so?

Mr. WILCOX. No, sir; I have never understood so.

Mr. UNTERMYER. Then there is no objection to their now becoming a full member, is there?

Mr. WILCOX. The State Bank of Maryland?

Mr. UNTERMYER. Yes.

Mr. WILCOX. There never was, in my judgment.

Mr. UNTERMYER. Is there now any objection?

Mr. WILCOX. I do not know of any.

Mr. UNTERMYER. You would not vote against that, would you?

Mr. WILCOX. Against their becoming a member?

Mr. UNTERMYER. Yes.

Mr. WILCOX. Certainly not.

Mr. UNTERMYER. What was your objection to the Equitable Trust Co. coming in on the same terms on which other trust companies had the facilities of the clearing house?

Mr. WILCOX. I do not know that that was denied to them.

Mr. UNTERMYER. The resolution shows that it was, and the correspondence, I think.

Mr. WILCOX. They were not permitted to clear? Was that it?

Mr. UNTERMYER. Yes.

Mr. WILCOX. At that time, my recollection is, we were discussing the advisability of admitting trust companies as members.

Mr. UNTERMYER. But why did you deny their application, which has been put in evidence here? Their application was either to become a member or to have the privilege of clearing through members on the same terms as those that applied to other trust companies. Why did you vote against them and deny them either of those privileges?

Mr. WILCOX. My vote in that instance was influenced by the information which I had that they were simply a company to loan money on mortgages.

Mr. UNTERMYER. Did you not know that they had accounts of customers?

Mr. WILCOX. I did not know at that time that they intended to do it.

Mr. UNTERMYER. You know it now, do you not?

Mr. WILCOX. I know that now; yes, sir.

Mr. UNTERMYER. How long have you known it?

Mr. WILCOX. It was some time after that, I think, when I met Mr. Mooney on the street—the president or vice president—and said to him, “I never knew you were going to receive deposits,” and he

said, "Oh, yes; we are going to do a banking business like the rest of you."

Mr. UNTERMYER. Did you not know that they were receiving deposits at that time?

Mr. WILCOX. I did not.

Mr. UNTERMYER. Did you inquire?

Mr. WILCOX. No; I do not think I inquired.

Mr. UNTERMYER. But you voted to refuse them the facilities, did you not?

Mr. WILCOX. From the information which I had that they were to lend money on mortgages which were to be guaranteed.

Mr. UNTERMYER. You see no objection now to their admission, do you?

Mr. WILCOX. I see no objection if they will abide by our rules and regulations.

Mr. UNTERMYER. You noticed that in their application they offered to abide by all your rules and regulations, did you not?

Mr. WILCOX. They offered to abide by the rules and regulations regarding trust companies, but not members.

Mr. UNTERMYER. But you had rules and regulations under which other trust companies were clearing through members, had you not?

Mr. WILCOX. Yes.

Mr. UNTERMYER. And you know that they offered to abide by those rules and regulations, do you not?

Mr. WILCOX. I suppose they did in making their application.

Mr. UNTERMYER. Did you not hear the application read?

Mr. WILCOX. I am not sure that I did; no.

Mr. UNTERMYER. I will read from the application:

We are willing to become a full member of the clearing house, subject to all its rules, provided the other trust companies should be willing to do so; but until that is realized, we feel that we should be accorded the same privilege of clearing through a clearing-house bank now enjoyed by said trust companies.

You heard that read, did you not?

Mr. WILCOX. I do not remember it, sir.

Mr. UNTERMYER. Then, you do not remember why you refused or voted against them, do you?

Mr. WILCOX. I did not say that I did not remember that. I told you why.

Mr. UNTERMYER. Have you anything to add?

Mr. WILCOX. Nothing.

Mr. UNTERMYER. That is all, Mr. Wilcox.

Witness excused.

#### TESTIMONY OF ALFRED C. KNOX.

The witness was sworn by the chairman.

Mr. UNTERMYER. Will you please give your full name?

Mr. KNOX. Alfred C. Knox.

Mr. UNTERMYER. You are a resident of Pittsburgh, Pa., are you not?

Mr. KNOX. Yes, sir; I am a resident of one of its suburbs.

Mr. UNTERMYER. Are you the vice president of the Mellon National Bank of Pittsburgh?

Mr. KNOX. I am one of them. There is one other besides myself.



Mr. UNTERMYER. Is the Mellon National Bank a member of the Clearing House Association of Pittsburgh?

Mr. KNOX. It is.

Mr. UNTERMYER. How long has that bank been a member of that association?

Mr. KNOX. Since 1902.

Mr. UNTERMYER. Is the Farmers Deposit National Bank another such member?

Mr. KNOX. It is.

Mr. UNTERMYER. And the Lincoln National Bank? Is that another member?

Mr. KNOX. It is.

Mr. UNTERMYER. Are they all Pittsburgh banks?

Mr. KNOX. They are.

Mr. UNTERMYER. What is the membership of the Pittsburgh Clearing House Association?

Mr. KNOX. Do you mean how many?

Mr. UNTERMYER. Yes.

Mr. KNOX. Twenty.

Mr. UNTERMYER. Twenty full members?

Mr. KNOX. Twenty full members.

Mr. UNTERMYER. And how many nonmembers are there?

Mr. KNOX. I think there are about 119, as nearly as I can recollect.

Mr. UNTERMYER. They are banks and trust companies that clear through members?

Mr. KNOX. Yes, sir.

Mr. UNTERMYER. Is the book I now show you the constitution, rules, and regulations of the Pittsburgh Clearing House Association?

Mr. KNOX. I believe it to be; yes, sir.

The book in question, being the constitution and by-laws of the Pittsburgh Clearing House Association, was marked "Exhibit No. 48, December 9, 1912."

Mr. UNTERMYER. I read the following from the constitution and by-laws, from subdivision e of section 19:

The clearing house committee is also empowered, whenever it shall consider it for the interest of the association, to examine any bank member of the association and to require from any member securities of such an amount and character as said committee may deem sufficient for the protection of the balances resulting from the exchanges of the clearing house. They shall have the authority to suspend a member from the privileges of the clearing house when it is considered necessary for the best interests of the association, but shall submit the case to the association as soon as possible.

Sec. 23. Applicants for membership shall be admitted by affirmative vote by ballot of three-fourths of the members of the association, \* \* \* by the payment of an admission fee of \$5,000 and by signing, under proper authority granted by its board of directors, an acceptance of the constitution and by-laws of this association.

Sec. 26 (subdivision fifth). The clearing house committee shall, when deemed necessary, have the right to examine into the condition of any nonmember, and shall have the power to withdraw from a nonmember the right to clear through any member whenever, in the judgment of the clearing house committee, such action shall be expedient.

Seventh subdivision. After the acceptance of this constitution all nonmembers, either clearing now through a member or who may hereafter be permitted so to do, must signify in writing to the clearing house committee, under proper authority, assent to section 26 of this constitution and the provisions thereof and any amendments thereof, and also agree to abide by and be governed by the constitution and rules and regulations of the clearing house association to the same extent as are the regular members thereof, and to pay the quarterly dues as hereinbefore provided.

Under the provisions that I have read from the constitution and by-laws, Mr. KNOX, is it or not the fact that the one hundred and odd nonmembers are required to observe all the conditions and provisions of the constitution and by-laws as though they were members?

Mr. KNOX. I think so.

Mr. UNTERMYER. Have they any vote?

Mr. KNOX. No, sir.

Mr. UNTERMYER. They have no vote?

Mr. KNOX. No, sir.

Mr. UNTERMYER. And they are required also, are they not, to abide by all future rules and regulations that may be made by the voting members?

Mr. KNOX. I would take it that way from the reading of it.

Mr. UNTERMYER. That is your understanding of the operation of the rule, is it not?

Mr. KNOX. That is the way I take it, from the way you have read it. I do not remember reading it carefully.

Mr. UNTERMYER. Did a time come in the affairs of the Pittsburgh Clearing House Association when the Mellon Bank and the Farmers Deposit National Bank and the Lincoln National Bank got into a controversy with the other members of the clearing house association?

Mr. KNOX. Yes, sir.

Mr. UNTERMYER. When was that? When did that controversy begin?

Mr. KNOX. I think it was just about one year ago.

Mr. UNTERMYER. Did it arise out of the passage of a resolution by the clearing house association?

Mr. KNOX. Yes; I think that was in September, 1911.

Mr. UNTERMYER. How large are the three banks that had that controversy?

Mr. KNOX. The Farmers Deposit Bank has a capital of \$6,000,000. The Mellon National Bank has a capital of \$6,000,000. The capital of the Lincoln National Bank I do not remember. Of course it must be over \$500,000, because that is one of the provisions, that a bank to become a member of the association must have at least \$500,000 capital.

Mr. UNTERMYER. Five hundred thousand dollars capital; and is there any arrangement as to surplus?

Mr. KNOX. Five hundred thousand dollars surplus. I have a memorandum in my pocket that I think I can give you the Lincoln figures from.

Mr. UNTERMYER. I wish you would.

Mr. KNOX (after consulting memorandum). The Lincoln National Bank has a capital of \$600,000, and a surplus of \$878,000. This was a year ago.

Mr. UNTERMYER. What was the surplus of the Mellon Bank?

Mr. KNOX. At that time—\$1,717,000.

Mr. UNTERMYER. And the surplus of the Farmers Deposit National Bank?

Mr. KNOX. \$2,344,000; that is capital, surplus, and profits.

Mr. UNTERMYER. I include the undivided profits in the surplus.

Mr. KNOX. Yes. You understand this is the statement of a year ago that I have been reading from?

Mr. UNTERMYER. Yes; I understand. Is the secretary of the Pittsburgh Clearing House Association here?

Mr. McCANDLESS. Yes, sir.

Mr. UNTERMYER. With the minutes?

Mr. McCANDLESS. Yes, sir.

Mr. UNTERMYER. Are these the resolutions and the proceedings that gave rise to the controversy to which you have referred [handing papers to witness]?

Mr. KNOX. Yes.

Mr. UNTERMYER. I will read them for the record, if the secretary will follow me to see that they conform to the records in the original book of minutes. Have you there the minutes of the committee meeting of April 14, 1910?

Mr. McCANDLESS. Yes, sir.

Mr. UNTERMYER. Will you let me have it?

Mr. McCANDLESS (handing book to Mr. Untermyer). That is the book of minutes of the committee meetings.

Mr. UNTERMYER. I read from the book of minutes of the Pittsburgh Clearing House committee of a meeting under date of April 14, 1910:

A special meeting of the Clearing House committee was held this afternoon at 2 o'clock, at the Union National Bank to meet Mr. George Guckenberger, president of the Cincinnati Clearing House Association. Mr. E. R. Fancher, president of the Cleveland Clearing House Association, was also present. \* \* \* Mr. Guckenberger read the minutes of a conference held at Cincinnati February 22, 1910, at which representatives from Cleveland, Columbus, Louisville, and Cincinnati were present. At this conference matters pertaining to banking conditions and clearing-house rules in those cities were discussed, and a series of resolutions as to uniform charges, interest computations, uniform rate of interest on bank balances were unanimously adopted.

After the reading of these minutes, some time was spent in gathering and giving information on the subjects of interest and collection charges, after which the following motion, made by Mr. Kuhn and seconded by Mr. Bailey, was passed, viz: That a committee of three from the association be appointed by the president to confer in Philadelphia with the clearing house association of that city. \* \* \* The president afterwards appointed on this committee Messrs. Ayres, Bailey, Wardrop.

I now read the following resolution offered at the meeting of the clearing house association on September 6, 1911:

Mr. Ayres, Bank of Pittsburgh, N. A., submitted the following resolution:

Whereas it is the custom of banks in the central reserve cities to make time deductions from interest balances for items in transit; and

Whereas a similar rule was adopted by the Clearing House Association of Philadelphia, to take effect September 1, 1911; and

Whereas the Clearing House Association of Cincinnati had adopted a similar rule, to become effective when Pittsburgh, Cleveland, Columbus, and Indianapolis concur; and

Whereas the Cleveland Clearing House Association has adopted a similar rule, to become effective when the clearing house association of the cities of Pittsburgh, Cincinnati, and Columbus take similar actions; and

Whereas representatives of the clearing house associations of Cincinnati and Cleveland have expressed the opinion that their respective associations will make their rule effective, provided the clearing house associations of Pittsburgh, Cincinnati, and Cleveland act together: Therefore be it

*Resolved*, That the Pittsburgh Clearing House Association adopt the following rule, to become effective at the same time as a similar rule becomes effective in Cleveland and Cincinnati:

"In computing interest on balances of banks, bankers, and trust companies, and other banking institutions, time deductions shall be made on such local items as are not available for the day's clearings, and for all items while in transit. Minimum deductions shall be in accordance with the following schedule:"

Here follows the schedule.

Any member violating this rule, directly or indirectly, shall upon the first offense be subject to a fine not to exceed \$1,000, in the discretion of the clearing house committee; and upon further violation shall, in addition to the above fine, be subject to such penalty as the association may prescribe.

I now read from the minutes of the meeting of the Pittsburgh Clearing House Association of December 18, 1911, where a resolution was proposed amending section 2 of the constitution as follows:

(a) Same as now.

That is, enumerating and amending the powers of the clearing house association over its members.

(b) To regulate exchanges, fix rates to be charged on drafts and collections, regulate the payment of interest upon deposits, and generally to take such action in matters of common interest arising, or affecting their relations with each other, and with other banks, in this and other localities, as will tend to the fostering and promoting of sound and conservative methods of banking, and

(c) To make rules and regulations for the conduct and supervision of members, and nonmembers clearing through members, and provide for the imposition and enforcement of penalties for the violation of such rules and regulations.

The following proceedings are recorded in the minutes of that meeting:

Mr. Nesbit moved, seconded by Mr. Bailey, that the previous action of the association in regard to deducting time on out-of-town items be reaffirmed, and that the notices to correspondents be sent December 22, 1911.

After the passage of these resolutions, Mr. Knox, did your bank and the Farmers Bank and the Lincoln Bank take any action or make any protest?

Mr. KNOX. I do not recall any written protest. We voted against the resolutions at the time they came up in the clearing house association.

Mr. UNTERMYER. Yes; and what else was done by you?

Mr. KNOX. We filed a bill in equity to prevent its being carried out.

Mr. UNTERMYER. You filed a bill in equity, you say, to prevent its being carried out?

Mr. KNOX. Yes, sir.

Mr. UNTERMYER. What was it that the Clearing House Association of Pittsburgh was endeavoring to carry out, and with respect to which it was attempting to bind your bank and its members and nonmembers?

Mr. KNOX. Requiring us to defer interest on all out of town items in crediting them to the banker's account. This did not apply to individual deposits; only to banks and bankers.

Mr. UNTERMYER. Were they also endeavoring to fix and prescribe the rates of interest which might be paid by your bank upon moneys deposited with you?

Mr. KNOX. Yes, sir.

Mr. UNTERMYER. And what were they proposing to do with respect to prescribing charges for collecting checks, drafts, notes, and bills of exchange?

Mr. KNOX. They wished to fix those rates.

Mr. UNTERMYER. Was there anything else they were proposing to do with respect to supervising or regulating the business of your bank?

Mr. KNOX. Only as provided by the resolutions there.

Mr. UNTERMYER. What about supervising and determining how much money you should lend to your customers, and those to whom you should lend it, and the collateral which you should take?

Mr. KNOX. The general supervision, I presume, would cover that.

Mr. UNTERMYER. Yes; you understood that this authority for the general supervision of your affairs covered all that?

Mr. KNOX. Yes, sir.

Mr. UNTERMYER. Were you present at the discussions in the association?

Mr. KNOX. At the first meeting I was. That was in September.

Mr. UNTERMYER. Did you discuss the subject at that meeting?

Mr. KNOX. I did not take any part in the discussion.

Mr. UNTERMYER. Was there anything stated as to the reason why the association wanted to enforce on its members and nonmembers a rule as to what they should allow by way of interest on deposits, or as to prescribing the method by which the banks should conduct their business?

Mr. KNOX. I do not recall any discussion on that point, Mr. Untermyer. I think it was probably the intention to cover that later on.

Mr. UNTERMYER. You mean of the association?

Mr. KNOX. Yes.

Mr. UNTERMYER. To outline those rules later on?

Mr. KNOX. I presume so.

Mr. UNTERMYER. Do you know whether or not any of the banks in the Pittsburgh Clearing House Association had, by their directors, authorized any such resolution?

Mr. KNOX. I do not.

Mr. UNTERMYER. Had your bank?

Mr. KNOX. It was talked of informally in the executive board.

Mr. UNTERMYER. What did your executive board do; refuse to abide by them?

Mr. KNOX. There was no formal action taken, but it was discussed, and it was decided that it was advisable to vote against any plan of that kind.

Mr. UNTERMYER. Then you say your bank and these two other banks brought suit?

Mr. KNOX. Yes, sir.

Mr. UNTERMYER. Suit to do what?

Mr. KNOX. To restrain them from carrying into effect these resolutions and amendments.

Mr. UNTERMYER. Is that suit now pending?

Mr. KNOX. It is.

Mr. UNTERMYER. Is the Pittsburgh Clearing House Association contesting that suit, which seeks to restrain it from carrying into effect these resolutions?

Mr. KNOX. It is; yes, sir.

Mr. UNTERMYER. It is fighting it, is it?

Mr. KNOX. It is fighting it.

Mr. UNTERMYER. I offer in evidence the amended bill of complaint in the suit in equity referred to by the witness. Have you a copy of that bill with you?

Mr. KNOX. Yes, sir [producing pamphlet].

Mr. UNTERMYER. Please hand that to the stenographer and let him mark it as an exhibit.

The pamphlet in question, being the amended bill of complaint in the suit above referred to, was marked "Exhibit No. 49, December 9, 1912."

Mr. UNTERMYER. Is there at present any rule or regulation of the association that compels the members to conform to a uniform rate of commission on collecting out-of-town checks?

Mr. KNOX. There is not.

Mr. UNTERMYER. How long have you been connected with the Mellon Bank?

Mr. KNOX. Since 1903.

Mr. UNTERMYER. At present, then, the banks in the association deal with their customers as they see fit?

Mr. KNOX. Yes, sir.

Mr. UNTERMYER. How many years have you been in the banking business, Mr. Knox?

Mr. KNOX. Forty-six years.

Mr. UNTERMYER. Have you found any difficulty in conducting the banking business by allowing each bank to attend to its own business?

Mr. KNOX. No, sir; none at all.

Mr. UNTERMYER. As a rule, do you charge customers now on out-of-town collections?

Mr. KNOX. It depends entirely on the account—whether it is profitable or not.

Mr. UNTERMYER. It depends on the value of the account?

Mr. KNOX. On the value of the account.

Mr. UNTERMYER. And you object to having somebody else determine that you shall charge customers?

Mr. KNOX. We certainly do.

Mr. UNTERMYER. Do the other banks in Pittsburgh at present exercise each one the same discretion as to how they will run their own business?

Mr. KNOX. They do.

Mr. UNTERMYER. In your judgment, is it to the interest of the banks and the bankers and their customers that they should have a uniform arrangement imposed upon them, or that they shall be allowed to run their own business through their own boards of directors?

Mr. KNOX. I think the board of directors should run a bank.

Mr. UNTERMYER. That is the reason you are engaged in this lawsuit, is it not?

Mr. KNOX. Yes, sir.

Mr. UNTERMYER. You do not object to the incorporation of clearing houses, do you?

Mr. KNOX. I can see no objection to it.

Mr. UNTERMYER. As at present constituted, what rights have these 119 nonmember banks of the Pittsburgh Clearing House Association, except the right to clear through some clearing-house bank?

Mr. KNOX. That is all.

Mr. UNTERMYER. That is all?

Mr. KNOX. Yes, sir.

Mr. UNTERMEYER. But they are bound by all the regulations that may be passed by the association, even though they have not a vote, are they not?

Mr. KNOX. That is the way I understand it.

Mr. UNTERMEYER. What would be the effect of the passage of resolutions such as are proposed and your exclusion from the Clearing House Association of Pittsburgh?

Mr. KNOX. It would cause us very great loss, because—you mean as to deferred interest?

Mr. UNTERMEYER. No, no; I mean——

Mr. KNOX. Generally?

Mr. UNTERMEYER. Suppose this suit should fail, and they should put you out because you would not conform to their new regulation of allowing only so much interest on deposits, and of charging on the collection of checks, and of running your business from the clearing house instead of from your own bank. What would be the effect of your not complying with these regulations and being put out of the clearing house?

Mr. KNOX. We would probably lose half of our business.

Mr. UNTERMEYER. Explain to the committee, please, why that would probably result.

Mr. KNOX. We clear for about 25 banks. We would lose, probably, their custom. They would go to other banks. And if we had to send out to each bank to collect our items, it would put us to a great deal of expense to send all around to different banks.

Mr. UNTERMEYER. It is not a practicable way of doing banking business nowadays; is it?

Mr. KNOX. No, sir; not at all.

Mr. UNTERMEYER. Then do you or do you not, in the present state of the banking business, regard clearing house associations in the great cities as a necessity of finance?

Mr. KNOX. Oh, undoubtedly.

Mr. UNTERMEYER. An absolute necessity?

Mr. KNOX. Yes, sir.

Mr. UNTERMEYER. What is the effect of refusing clearance to a non-clearing house bank?

Mr. KNOX. I do not know, except in the way I already explained. It would necessitate their sending out the items that they have on other banks all over the city to make the collections.

Mr. UNTERMEYER. But suppose one of your banks for which you clear was refused clearance and the fact became known, what would be the effect upon its business?

Mr. KNOX. It certainly would have some deleterious effect, I think.

Mr. UNTERMEYER. It would close it up, would it not?

Mr. KNOX. Very likely; very likely.

Mr. UNTERMEYER. What protection is there now, under the Pittsburgh Clearing House Association rules, against an injustice of that kind being perpetrated upon a nonclearing house bank?

Mr. KNOX. I can hardly imagine such a case, Mr. Untermeyer.

Mr. UNTERMEYER. But there is no protection against that, is there?

Mr. KNOX. No. The clearing-house committee is composed of men who are among the best men of the city, always, and they would go very slowly about it.

Mr. UNTERMYER. The best men make mistakes, too, do they not?

Mr. KNOX. Oh, yes; to be sure

Mr. UNTERMYER. But if they make mistakes, as things now stand there is no way of correcting them, is there?

Mr. KNOX. I do not know of any way.

Mr. UNTERMYER. Do you not think there ought to be some way?

Mr. KNOX. I do not see how there could be, Mr. Untermyer. They are men that are on the ground and know the conditions.

Mr. UNTERMYER. Let us suppose that the banking authorities would have to concur before they were allowed to close up a bank by suspending its clearances; that would be a remedy, would it not?

Mr. KNOX. Do you mean the national banking authorities?

Mr. UNTERMYER. Where it is a national bank, we will say the national banking authorities; where it is a State bank, suppose we say the State banking authorities. If their concurrence had to be obtained, that would furnish a protection, would it not?

Mr. KNOX. Yes; certainly.

Mr. UNTERMYER. That would be a wholesome thing, would it not?

Mr. KNOX. Probably it would.

Mr. UNTERMYER. Have you seen these regulations of the Salt Lake City Clearing House Association?

Mr. KNOX. I have seen what purport to be such regulations.

Mr. UNTERMYER. Will you look at them? Those are the documents, are they not, to which reference has been made?

Mr. KNOX. These are the documents.

Mr. UNTERMYER. I will offer those. Those came to you, did they not?

Mr. KNOX. Yes, sir; from another bank.

Mr. UNTERMYER. Accompanying those resolutions is there some correspondence between the Copper Bank of Salt Lake City and the secretary of the executive committee of the Salt Lake City Clearing House?

Mr. KNOX. There seems to be. Of course I do not know, though, that those are all actual facts. They were simply handed to me.

Mr. UNTERMYER. As being the new rules and regulations of the Salt Lake City Clearing House?

Mr. KNOX. Yes.

Mr. UNTERMYER. And the correspondence containing the protest of the Copper Bank against the imposition of those new regulations?

Mr. KNOX. I was not told that they were at the time they were handed to me. They were just simply handed to me, and purported to be those papers.

Mr. UNTERMYER. We will put them in the record for what they may be worth, and with the privilege to the Salt Lake City Clearing House Association to make any corrections that they may desire, if that is agreeable to the committee.

The CHAIRMAN. Yes.

Mr. UNTERMYER. It is not legal evidence, such as would be accepted in a court. Shall we make that disposition of it?

The CHAIRMAN. Yes. It can be corrected if it is in error.

Mr. UNTERMYER. Yes.



The documents referred to were marked, respectively, "Exhibit No. 50, December 9, 1912," and "Exhibit No. 51, December 9, 1912," and will be found printed in the record at the end of this day's proceedings.

Mr. UNTERMYER. I think those eight institutions that withdrew constituted the whole clearing house, did they not, except the Copper Bank?

Mr. KNOX. I think so; yes.

Mr. UNTERMYER. Have you examined the bank register on that subject?

Mr. KNOX. Not on what the old association was. I think there were either 10 or 11 members in the old association.

Mr. UNTERMYER. This is the correspondence from the secretary of the Clearing House Association of Salt Lake City to the National Copper Bank.

Mr. Untermeyer here read various extracts from Exhibits 50 and 51, appended to this hearing.

Mr. UNTERMYER. Are those reasonable regulations, Mr. Knox, in your opinion?

Mr. KNOX. I do not think so.

Mr. UNTERMYER. What is there left for the directors of a bank to determine, when they get through obeying those regulations?

Mr. KNOX. Very little.

Mr. UNTERMYER. I think that is all. One of the members of the committee puts this question:

Is the committee to understand that in your judgment no bank can continue in business in clearing-house cities if prevented from clearing through the clearing house?

Mr. KNOX. I think they can continue in business, but they would do a very small business.

Mr. UNTERMYER. It would handicap them very seriously?

Mr. KNOX. Yes.

Mr. UNTERMYER. Could any bank thus deprived of clearing-house privileges continue to do business for another bank, and clear its checks?

Mr. KNOX. Oh, no.

Mr. UNTERMYER. No; it would cut out all that business, would it not?

Mr. KNOX. Yes.

Mr. UNTERMYER. You have already stated, have you not, the number of banks in Pittsburgh, and trust companies in Pittsburgh?

Mr. KNOX. I have not. I stated—

Mr. UNTERMYER. You said there were how many in the clearing house?

Mr. KNOX. I think I could tell you that, now.

Mr. UNTERMYER. I think he said there were 20 in the clearing house and 113 outside.

Mr. NEELEY. Twenty members, and 113 nonmembers; but he did not give the number of banks and trust companies in the city.

Mr. KNOX. Twenty-eight national banks, 32 trust companies, and 25 State banks.

Mr. UNTERMYER. Are they all members or nonmembers?

Mr. KNOX. I think they are all either members or nonmembers.

Mr. UNTERMYER. The 119 nonmembers of which you spoke, does that take in some banks in the vicinity of Pittsburgh?

Mr. KNOX. I think pretty much all in Allegheny County.

Mr. UNTERMYER. It takes in all the banks in Allegheny County?

Mr. KNOX. Yes.

Mr. UNTERMYER. I think that is all.

Witness excused.

### TESTIMONY OF HARRISON NESBIT.

The witness was sworn by the chairman.

Mr. UNTERMYER. You are a resident of Pittsburgh?

Mr. NESBIT. Yes.

Mr. UNTERMYER. Are you in the banking business?

Mr. NESBIT. Yes.

Mr. UNTERMYER. Connected with what bank?

Mr. NESBIT. I am president of the Bank of Pittsburgh, a national institution, and president of the Homewood People's Bank.

Mr. UNTERMYER. Is the Homewood bank a State institution?

Mr. NESBIT. A State institution.

Mr. UNTERMYER. And the other is a national institution?

Mr. NESBIT. Yes.

Mr. UNTERMYER. Your bank is a member of the clearing house?

Mr. NESBIT. The oldest member of the clearing house association.

Mr. UNTERMYER. And has been a member since when?

Mr. NESBIT. Since the clearing house was organized, in 1866.

Mr. UNTERMYER. How long have you been connected with it?

Mr. NESBIT. With the Bank of Pittsburgh?

Mr. UNTERMYER. Yes.

Mr. NESBIT. About four years.

Mr. UNTERMYER. You have been in the banking business for many years, have you?

Mr. NESBIT. No, sir. Previous to my connection with the Bank of Pittsburgh I was a national-bank examiner.

Mr. UNTERMYER. What position do you occupy in the clearing house association?

Mr. NESBIT. I am not a member of the clearing house committee. I simply, at some of the meetings, represent my bank, at the meetings of the association. I am not an officer of the clearing house association.

Mr. UNTERMYER. Have you been a member of the committee?

Mr. NESBIT. No, sir.

Mr. UNTERMYER. Are you familiar with this controversy about which we are now inquiring?

Mr. NESBIT. To a certain extent. I have some knowledge of it; yes, sir.

Mr. UNTERMYER. Having heard the side represented by Mr. Knox, the committee would be glad to hear what the Pittsburgh Clearing House Association has to say on the subject.

Mr. NESBIT. I can not speak for the association.

Mr. UNTERMYER. We have called members of the association for the purpose of giving them an opportunity to present their side of the controversy.

Mr. NESBIT. Well, of course that case is now in the courts.

Mr. UNTERMYER. Yes.

Mr. NESBIT. And will be settled there.

Mr. UNTERMYER. You mean the legal rights of the parties will be settled there?

Mr. NESBIT. Yes.

Mr. UNTERMYER. That does not, by any means, settle the question of the advisability of this action?

Mr. NESBIT. Probably not.

Mr. UNTERMYER. Do you not know that the association is claiming in that suit that it is a mere voluntary association and is not subject to the regulation of the courts?

Mr. NESBIT. I do not know that the clearing-house association is making that contention.

Mr. UNTERMYER. Do you know whether it is or not?

Mr. NESBIT. I do not know. I do not know that it is.

Mr. UNTERMYER. Is there anybody here who can give evidence on this subject for the association?

Mr. NESBIT. Mr. Wardrop, the president of the association, is here.

Mr. UNTERMYER. Very well, we will call Mr. Wardrop. I think that is all, Mr. Nesbit.

Witness excused.

#### TESTIMONY OF ROBERT WARDROP,

The witness was sworn by the chairman.

Mr. UNTERMYER. Are you the president of the clearing-house association of Pittsburgh?

Mr. WARDROP. I am, sir.

Mr. UNTERMYER. What relation do you bear to any of the banks there?

Mr. WARDROP. I am president of the People's National Bank there.

Mr. UNTERMYER. Is that an old institution?

Mr. WARDROP. Yes; organized in 1864.

Mr. UNTERMYER. How long have you been connected with it?

Mr. WARDROP. Thirteen years.

Mr. UNTERMYER. How long have you been connected with the clearing-house association through your relationship with the bank?

Mr. WARDROP. Oh, I suppose about 20 years.

Mr. UNTERMYER. You are familiar with this controversy between the Mellon Bank, the Farmers Bank, and the Lincoln Bank on the one hand, and the association on the other, are you not?

Mr. WARDROP. Somewhat; yes, sir.

Mr. UNTERMYER. Do the resolutions, as read from the minutes, properly outline the situation of that controversy?

Mr. WARDROP. They do, sir.

Mr. UNTERMYER. What?

Mr. WARDROP. As read from our minutes?

Mr. UNTERMYER. Yes.

Mr. WARDROP. Yes, sir.

Mr. UNTERMYER. Have you heard anything read from the books here, which are supposed to be a copy of the minutes, that does not conform to the actual facts as recorded in the minutes?

Mr. WARDROP. No, sir.

Mr. UNTERMYER. So far as you remember, it is quite correct?

Mr. WARDROP. So far as I remember, they are correct.

Mr. UNTERMYER. At this time does the Pittsburgh Clearing House Association undertake to regulate the commissions that shall be payable on the collections by the banks of their out-of-town checks?

Mr. WARDROP. Not at the present time.

Mr. UNTERMYER. You are endeavoring to do so, are you not?

Mr. WARDROP. Yes, sir; we passed a resolution to that effect.

Mr. UNTERMYER. And is its enactment awaiting the outcome of is pending suit?

Mr. WARDROP. It is.

Mr. UNTERMYER. Your bank now collects out-of-town checks for its own customers, does it not?

Mr. WARDROP. Yes.

Mr. UNTERMYER. Does it make a charge?

Mr. WARDROP. No, sir; it does not.

Mr. UNTERMYER. What you are seeking to do is to compel all the banks to make a charge, is it not?

Mr. WARDROP. Yes.

Mr. UNTERMYER. Your bank pays dividends?

Mr. WARDROP. Yes.

Mr. UNTERMYER. All the Pittsburgh banks are prosperous, are they not?

Mr. WARDROP. Well, I should say, fairly so.

Mr. UNTERMYER. All the older ones pay large dividends and have accumulated very substantial surpluses, have they not?

Mr. WARDROP. Yes.

Mr. UNTERMYER. So that the fact that they are collecting out-of-town checks for their customers, who are good enough customers to justify it, is not destroying their solvency, is it?

Mr. WARDROP. No, sir; it is simply reducing their earnings.

Mr. UNTERMYER. Reducing their earnings; and the purpose of the rule is to augment their earnings, is it not?

Mr. WARDROP. Yes.

Mr. UNTERMYER. If you put the price up a little higher, could you not augment the earnings a little more?

Mr. WARDROP. The price of exchange?

Mr. UNTERMYER. Yes.

Mr. WARDROP. Yes.

Mr. UNTERMYER. So that it is only a question of how much you want to earn?

Mr. WARDROP. Yes; and I might also add, increase our earnings and improve our banking methods.

Mr. UNTERMYER. Let us see what you mean by improving your banking methods. Do you mean that your bank would be any better run, or give any better service to your customers, if you charged for collecting these checks, than at present?

Mr. WARDROP. I think it is an admitted banking principle that the depositor should deposit his items—that is, everything that he deposits should be taken—on a par basis; and if there is a charge on those items the customer should pay it.

Mr. UNTERMYER. That depends on what you are able to get out of the customer and what other banks are willing to do, does it not?

Mr. WARDROP. Yes.

Mr. UNTERMYER. The purpose of this rule is to leave the customers without any remedy in the way of competition from other banks, is it not; to get as much as you can out of them?

Mr. WARDROP. Yes.

Mr. UNTERMYER. Do you think that is justifiable?

Mr. WARDROP. I might add that it is to get the actual cost of the service. We lose on all collections we make, and we want to get the actual cost. We are not trying to make money out of it.

Mr. UNTERMYER. You mean that it costs you something to collect out-of-town checks?

Mr. WARDROP. Yes; and we are trying to make the actual cost, and no profit.

Mr. UNTERMYER. You can not do that unless you combine against the customers?

Mr. WARDROP. Yes.

Mr. UNTERMYER. So that you think this is a good way to do it?

Mr. WARDROP. Yes.

Mr. UNTERMYER. Is that right?

Mr. WARDROP. Yes.

Mr. UNTERMYER. Do you pay interest on your deposits?

Mr. WARDROP. Yes.

Mr. UNTERMYER. Do you pay on all your deposits?

Mr. WARDROP. Not on all; no, sir.

Mr. UNTERMYER. You pay wherever you have to pay, and where you do not have to pay you do not; is that it?

Mr. WARDROP. No; not where we have to pay. We pay on accounts that we think are worth paying on.

Mr. UNTERMYER. You mean that you pay where the customer exacts it?

Mr. WARDROP. No, sir.

Mr. UNTERMYER. You offer to pay, do you?

Mr. WARDROP. No; we pay on the accounts that we think we can afford to pay on, and it is dependent on the size of the balance and the volume of the country items we are asked to collect.

Mr. UNTERMYER. Do you not also take into consideration the customer's demand on his deposits?

Mr. WARDROP. Of course we consider—for instance, we consider it, and we analyze his account, and if he does not give us any out-of-town items we can well afford to pay interest; but if he gives us too many out-of-town checks which absorb profits on the account, we can not afford it. It is simply a matter of arithmetic.

Mr. UNTERMYER. So that you make such arrangements between you and your customers for paying interest on deposits as you conceive to be good business?

Mr. WARDROP. Yes.

Mr. UNTERMYER. Why is not that condition satisfactory as it stands?

Mr. WARDROP. It is fairly satisfactory so far as city customers are concerned, but it is difficult when you are dealing with out-of-town banks.

Mr. UNTERMYER. Then you do not propose to charge city customers under this rule anything for collecting their out-of-town checks?

Mr. WARDROP. Yes, we do.

Mr. UNTERMYER. You do?

Mr. WARDROP. Yes.

Mr. UNTERMYER. If it is perfectly satisfactory now so far as your city customers are concerned, why are you proposing to put this tax on them?

Mr. WARDROP. Because if we charged our out-of-town customers at a uniform charge on their country checks, then we would make up the value of their accounts to them in the rate of interest we paid to them on their accounts.

Mr. UNTERMYER. Is there anything in this resolution proposing to pay them more interest if they pay more commission?

Mr. WARDROP. I think there would be.

Mr. UNTERMYER. There is nothing in the resolution offering it, is there?

Mr. WARDROP. No, sir.

Mr. UNTERMYER. On the contrary, the resolution proposes to limit the interest on deposits?

Mr. WARDROP. No, sir; we never had the resolution up before the Association.

Mr. UNTERMYER. You had it up in the committee?

Mr. WARDROP. No, sir.

Mr. UNTERMYER. Why, I read it to you.

Mr. WARDROP. That was simply an amendment to the constitution and by-laws; there was not any action to put it into effect, at all.

Mr. UNTERMYER. Was it not offered?

Mr. WARDROP. No, sir.

Mr. UNTERMYER. And presented to the association?

Mr. WARDROP. No, sir. It was simply an amendment to the constitution and by-laws giving the clearing house that right, but that was not—

Mr. UNTERMYER. But why did you want that right and that amendment unless you proposed exercising it?

Mr. WARDROP. I do not know.

Mr. UNTERMYER. What?

Mr. WARDROP. They thought it was better in amending the constitution and by-laws to amend it and put in the things that might come up in the future.

Mr. UNTERMYER. You thought it was pretty well to have the power to regulate the payment of interest on deposits, did you not?

Mr. WARDROP. We thought it was well to put that in.

Mr. UNTERMYER. So that you asked for the power, did you not?

Mr. WARDROP. For the power; but that has never come up as a matter of putting it into force.

Mr. UNTERMYER. You are waiting for this lawsuit, are you not? You are awaiting the outcome of this lawsuit, are you not?

Mr. WARDROP. We are.

Mr. UNTERMYER. Well, as I read it, what you asked for is the right "To regulate exchanges, fix rates to be charged on drafts and collections, regulate the payment of interest upon deposits, and generally to take such action \* \* \* as will tend to the fostering and promoting of sound and conservative methods of banking?"

Mr. WARDROP. Yes.

Mr. UNTERMYER. What did you mean by that "conservative methods" of banking—to regulate what you were to pay by way of interest on deposits?

Mr. WARDROP. I think that is a proper thing to do, to regulate that.

Mr. UNTERMYER. You do?

Mr. WARDROP. Yes.

Mr. UNTERMYER. You think it is. You think it is a proper thing for the clearing house association to tell every bank how much it may allow its customers by way of interest, and to expel it if it does not conform to that?

Mr. WARDROP. I would like to add, in so far as such a resolution should be legal and not interfere with the duties of the directors of the banks. I understand there is a question there. I think so far as it can be legally done it is proper.

Mr. UNTERMYER. What is the question that you think there is?

Mr. WARDROP. Sir?

Mr. UNTERMYER. What is the question that you think there is there?

Mr. WARDROP. I understand in this case, in this law suit which we have, the plaintiffs take the position that if we did these things it would be interfering with the duties of the directors. That is a legal proposition. I do not know whether it would be or not.

Mr. UNTERMYER. Do you not think that the clearing house association telling the banks, under penalty of expulsion, how much they can charge for collections, is the same sort of interference with the conduct of the directors as would be the act of the clearing house association in telling them how much interest they shall charge on deposits? Do you see any distinction?

Mr. WARDROP. How much interest they shall charge on deposits?

Mr. UNTERMYER. How much interest they shall allow on deposits. Do you see any difference between the two cases?

Mr. WARDROP. Will you state that again?

Mr. UNTERMYER. Do you see any distinction, so far as interfering with the action of the directors in managing their banks is concerned, between telling them how much they shall charge for collecting out-of-town checks and telling them how much interest they shall allow the depositors on their deposits?

Mr. WARDROP. No, sir; I do not see any difference.

Mr. UNTERMYER. One is just as much an interference with the liberty of the directors and the conduct of their business as the other, is it not?

Mr. WARDROP. I think so.

Mr. UNTERMYER. Then how do you justify the attempt to take this action?

Mr. WARDROP. Well, I think this, that the fixing of the rate of exchange, as it is fixed, so that it does not vary from day to day, could be taken up by the directors, if it was a clearing house proposition, and it could be decided whether they were willing to do it.

Mr. UNTERMYER. But suppose a bank like the Mellon Bank says it does not want to do it; how do you justify trying to compel them to do it under penalty of expulsion?

Mr. WARDROP. Well, we have not threatened to expel them.

Mr. UNTERMYER. But do you not know that they brought suit to prevent you from doing so?

Mr. WARDROP. Well——

Mr. UNTERMYER. Do you not know that?

Mr. WARDROP. Yes, I know that.

Mr. UNTERMYER. And do you not know that your counsel is claiming that you have the right to do it?

Mr. WARDROP. No, I do not know that they are claiming we have the right to do it.

Mr. UNTERMYER. Do you not know that?

Mr. WARDROP. No, sir.

Mr. UNTERMEYER. Do you not know that they were claiming that as an unincorporated institution you had the right to impose these penalties upon them?

Mr. WARDROP. No, I did not know that.

Mr. UNTERMYER. Are you president of the Pittsburgh Clearing House Association?

Mr. WARDROP. Yes.

Mr. UNTERMYER. Are you willing to withdraw the regulation as to collections on out-of-town checks as against these three banks?

Mr. WARDROP. I do not know. That would be for the association to settle. I do not speak for the association.

Mr. UNTERMYER. Would you have any objection to repealing that?

Mr. WARDROP. Yes.

Mr. UNTERMYER. There has been no effort to repeal it?

Mr. WARDROP. No, sir.

Mr. UNTERMYER. You are standing by it and fighting for it in the courts?

Mr. WARDROP. Yes, up to the present time.

Mr. UNTERMYER. In the courts?

Mr. WARDROP. In the courts.

Mr. UNTERMYER. Is there anything else you would like to say on that subject?

Mr. WARDROP. No, sir.

Mr. UNTERMYER. It has been suggested that I ask you the amount of your capital, surplus, and undivided profits.

Mr. WARDROP. Of our bank, \$1,000,000 capital, \$1,000,000 surplus, and about \$950,000 of undivided profits.

Mr. UNTERMYER. I suppose it is not an infraction of any of your private affairs to ask you what were the earnings of the bank last year?

Mr. WARDROP. Our earnings are running about 22 or 23 per cent upon the capital. It runs from 7 to 8 per cent upon the actual money invested.

Mr. UNTERMYER. And you are earning about 22 per cent or upward on your capital? Those are net profits?

Mr. WARDROP. Net profits.

Mr. UNTERMYER. What dividends do you pay?

Mr. WARDROP. Eighteen per cent. That is, the regular dividend of 4 per cent quarterly, but we usually declare an extra dividend of one-half of 1 per cent quarterly.

Mr. UNTERMYER. How much extra could you pay if the clearing house would enforce this uniform regulation for the collection of out-of-town checks?

Mr. WARDROP. I think it would make a difference in our earnings of about \$1,000 a month; \$12,000 a year. That is approximate, of course.

Mr. UNTERMYER. And if they should make the collection charge more, it would be proportionately larger?



Mr. WARDROP. I mean that is about what we are out on our collection business each year. If we got that back we would not expect to make a profit.

Mr. UNTERMYER. But do you not think that 22 per cent is enough for you?

Mr. WARDROP. It is only about 7 per cent on the actual money invested.

Mr. UNTERMYER. You do not think that is enough, do you?

Mr. WARDROP. That is very satisfactory.

Witness excused.

Mr. UNTERMYER. Mr. McCandless, I do not think we shall require you. Have we everything bearing on this subject that is in your book of minutes?

Mr. MCCANDLESS. Yes, you have.

Mr. UNTERMYER. Is there anything that the Pittsburgh Association would like to present on this subject that has not been presented?

Mr. MCCANDLESS. I am only an employee. You will have to get that information from the treasurer.

Mr. UNTERMYER. Very well, then. Is the president of the Philadelphia Clearing House Association here?

#### TESTIMONY OF FRANCIS B. REEVES.

The witness was sworn by the chairman.

Mr. UNTERMYER. Are you the president of the Philadelphia Clearing House Association?

Mr. REEVES. I am.

Mr. UNTERMYER. Are you the president of any bank in Philadelphia?

Mr. REEVES. Of the Girard National Bank.

Mr. UNTERMYER. That is one of the old institutions of Philadelphia, is it not?

Mr. REEVES. Yes; very old.

Mr. UNTERMYER. What is its capital and what is its surplus?

Mr. REEVES. The capital is at present \$2,000,000 and the surplus is \$4,500,000. The undivided profits are about \$300,000.

Mr. UNTERMYER. Have you brought with you the resolutions respecting the collection of out-of-town checks, if there are any?

Mr. REEVES. We have no resolutions with regard to the collection of out-of-town checks. You refer now to the clearing house?

Mr. UNTERMYER. Yes. As I understand it, the Philadelphia Clearing House imposes no restrictions upon its members with respect to what they shall charge on the collection of out-of-town checks?

Mr. REEVES. No, sir.

Mr. UNTERMYER. And the clearing house never has had any such regulations?

Mr. REEVES. No, sir; never has had.

Mr. UNTERMYER. You have not found it necessary to have, as yet?

Mr. REEVES. I suppose that is the case.

Mr. UNTERMYER. That is all, Mr. Reeves. You are not losing any money over there, are you?

Mr. REEVES. No, sir; we are getting along very well.

Witness excused.

## TESTIMONY OF CORNELIUS A. PUGSLEY.

The witness was sworn by the chairman.

Mr. UNTERMYER. What is your occupation?

Mr. PUGSLEY. Banker; president of the Westchester County National Bank, at Peekskill, N. Y.

Mr. UNTERMYER. Is your bank a member of the New York Bankers' Association?

Mr. PUGSLEY. It is.

Mr. UNTERMYER. And is it also a member of the American Bankers' Association?

Mr. PUGSLEY. It is.

Mr. UNTERMYER. Are you an official of the American Bankers' Association?

Mr. PUGSLEY. I am not at the present time.

Mr. UNTERMYER. Have you at times been?

Mr. PUGSLEY. I have been a member of the executive council of the American Bankers' Association for two terms, and am also vice president for the State of New York of the American Bankers' Association.

Mr. UNTERMYER. Are you in touch with and familiar with the proceedings of the American Bankers' Association and with its organization?

Mr. PUGSLEY. Quite so.

Mr. UNTERMYER. Is there in the American Bankers' Association a so-called department called the clearing-house department?

Mr. PUGSLEY. It is called the clearing-house section.

Mr. UNTERMYER. It consists of what?

Mr. PUGSLEY. Of, I think, about 120 clearing houses of the country at the present time.

Mr. UNTERMYER. And those clearing houses of the country are banded in this department of the bankers' association, are they?

Mr. PUGSLEY. They have what is called a clearing-house section, and they meet in separate sections at the time of the meeting of the American Bankers' Association, having their own officers and secretary, and the proceedings are published in a little different form from that of the others.

Mr. UNTERMYER. It is in effect an association of clearing-house associations?

Mr. PUGSLEY. Yes.

Mr. UNTERMYER. With a membership of about 100?

Mr. PUGSLEY. About 120, I think.

Mr. UNTERMYER. Do you know how many clearing-house associations there are in the United States?

Mr. PUGSLEY. I think there are some 200 or more, as I recall. I am not quite positive about that.

Mr. UNTERMYER. Have you a list of the membership of this association of clearing-house associations?

Mr. PUGSLEY. I think there is a list here in this book, giving the names of those who are in membership.

Mr. UNTERMYER. It includes, does it not, the associations of all the larger cities?

Mr. PUGSLEY. All the larger cities, as I understand.

Mr. UNTERMYER. I would like to offer this list in evidence, taken from the proceedings of the American Bankers' Association of 1911, I believe.

Mr. PUGSLEY. That is right, sir.

Mr. UNTERMYER. May we have this copy?

Mr. PUGSLEY. Certainly.

Mr. UNTERMYER. This is at pages 734 and 735.

The list referred to, marked "Exhibit No. 52, December 9, 1912," is here printed in the record, as follows:

EXHIBIT No. 52, DECEMBER 9, 1912.

MEMBERSHIP CLEARING HOUSE SECTION.

|                       |                       |
|-----------------------|-----------------------|
| Aberdeen, S. Dak.     | Louisville, Ky.       |
| Akron, Ohio.          | Lowell, Mass.         |
| Altoona, Pa.          | Macon, Ga.            |
| Atlanta, Ga.          | Mansfield, Ohio.      |
| Augusta, Ga.          | Memphis, Tenn.        |
| Austin, Tex.          | Meridian, Miss.       |
| Baltimore, Md.        | Milwaukee, Wis.       |
| Birmingham, Ala.      | Minneapolis, Minn.    |
| Boston, Mass.         | Mobile, Ala.          |
| Brunswick, Ga.        | Muskogee, Okla.       |
| Buffalo, N. Y.        | Nashville, Tenn.      |
| Cedar Rapids, Iowa.   | New Albany, Ind.      |
| Charleston, S. C.     | New Bedford, Mass.    |
| Chattanooga, Tenn.    | New Haven, Conn.      |
| Chester, Pa.          | New Orleans, La.      |
| Chicago, Ill.         | Newport News, Va.     |
| Chillicothe, Mo.      | New York, N. Y.       |
| Cincinnati, Ohio.     | Oakland, Cal.         |
| Cleveland, Ohio.      | Oklahoma City, Okla.  |
| Coeur d'Alene, Idaho. | Omaha, Nebr.          |
| Columbus, Ga.         | Owensboro, Ky.        |
| Columbus, Ohio.       | Pasadena, Cal.        |
| Davenport, Iowa.      | Peoria, Ill.          |
| Denver, Colo.         | Philadelphia, Pa.     |
| Des Moines, Iowa.     | Pine Bluff, Ark.      |
| Detroit, Mich.        | Pittsburgh, Pa.       |
| Erie, Pa.             | Port Huron, Mich.     |
| Eugene, Oreg.         | Portland, Me.         |
| Fall River, Mass.     | Portland, Oreg.       |
| Flint, Mich.          | Providence, R. I.     |
| Fort Wayne, Ind.      | Raleigh, N. C.        |
| Fort Worth, Tex.      | Richmond, Va.         |
| Fremont, Nebr.        | Rochester, N. Y.      |
| Galveston, Tex.       | Rockford, Ill.        |
| Grand Rapids, Mich.   | Roswell, N. Mex.      |
| Harrisburg, Pa.       | Sacramento, Cal.      |
| Hartford, Conn.       | St. Joseph, Mo.       |
| Hastings, Nebr.       | St. Louis, Mo.        |
| Holyoke, Mass.        | St. Paul, Minn.       |
| Indianapolis, Ind.    | Salt Lake City, Utah. |
| Jacksonville, Ill.    | San Antonio, Tex.     |
| Joplin, Mo.           | San Jose, Cal.        |
| Kansas City, Mo.      | San Francisco, Cal.   |
| Lancaster, Pa.        | Santa Rosa, Cal.      |
| Lansing, Mich.        | Savannah, Ga.         |
| Lawrence, Kans.       | Scranton, Pa.         |
| Lawton, Okla.         | Seattle, Wash.        |
| Lexington, Ky.        | Sedalia, Mo.          |
| Lincoln, Nebr.        | South Bend, Ind.      |
| Little Rock, Ark.     | Spartanburg, S. C.    |
| Los Angeles, Cal.     | Spokane, Wash.        |

Springfield, Ill.  
 Springfield, Mo.  
 Stockton, Cal.  
 Syracuse, N. Y.  
 Tacoma, Wash.  
 Toledo, Ohio.  
 Topeka, Kans.  
 Trenton, N. J.  
 Tulsa, Okla.  
 Vicksburg, Miss.

Washington, D. C.  
 Wheeling, W. Va.  
 Wichita, Kans.  
 Wilkes-Barre, Pa.  
 Wilmington, Del.  
 Wilmington, N. C.  
 Worcester, Mass.  
 Youngstown, Ohio.  
 York, Pa.  
 Zanesville, Ohio.

Mr. UNTERMYER. Is there a record in this volume of the proceedings of the last annual meeting of this association of clearing house associations?

Mr. PUGSLEY. Yes; I think there is.

Mr. UNTERMYER. Will you please refer to the pages covered by the record of those proceedings, so that we may have a note of them in our record?

Mr. PUGSLEY. It extends from page 673 to page 733.

Mr. UNTERMYER. Has this department a separate set of by-laws?

Mr. PUGSLEY. Yes.

Mr. UNTERMYER. Are they also found in this volume?

Mr. PUGSLEY. They are found on page 672.

The by-laws referred to, marked "Exhibit No. 53," December 9, 1912, are here printed in the record as follows:

EXHIBIT No. 53, DECEMBER 9, 1912.

BY-LAWS OF THE CLEARING HOUSE SECTION.

SECTION 1. All regularly organized clearing house associations shall be eligible to membership in this section.

Sec. 2. The administration of the affairs of this section shall be vested in a president and a first vice president of the section, and an executive committee of six members, who shall serve until their successors are chosen or appointed.

Sec. 3. The president and the first vice president, and also the ex-presidents for three years after the expiration of their term of office as president, shall be members ex officio of the executive committee.

Sec. 4. The executive committee shall select its own chairman from among its members, and shall also select a secretary of the section, who may or may not be a member of the section.

Sec. 5. The executive committee shall, as soon as may be after their organization, divide themselves by ballot into three classes of equal number, designated as the first, second, and third class, of which the first class shall remain in office one year, the second class two years, and the third class three years, and at each annual election members of the executive committee shall be elected for a term of three years to fill the vacancies of the retiring class.

Sec. 6. The executive committee shall have power to fill vacancies until the next annual meeting, and may adopt all necessary rules for the business of this section.

Sec. 7. The section shall meet annually at the time of the convention of the American Bankers' Association, and may be called together at any time by the executive committee. At its annual meetings, clearing houses may be represented by one delegate for every five banks members of the clearing house. Any clearing house having less than five members shall be entitled to one delegate, but other than this no fractional part of five members shall entitle a clearing house to an additional delegate.

Sec. 8. The executive committee may be called together at any time by the chairman thereof, or on the request of three members of the executive committee, and shall be vested with full power to transact such business as may have been authorized by this section, or as may be required in furtherance of the interests of the clearing houses, and shall also have authority to expend such annual appropriation as may be made for the section by the executive council of the American Bankers' Association.

Mr. UNTERMYER. Were you present at the last meeting of the association of Clearing House Associations?

Mr. PUGSLEY. I was not. I was present at the meeting of the American Bankers' Association, of which it forms a part.

Mr. UNTERMYER. What sort of business does this association of Clearing House Associations do?

Mr. PUGSLEY. I should judge from reading their proceedings that they merely meet and confer together as to the best interests of the clearing houses of the country.

Mr. UNTERMYER. They have not as yet, have they, passed any resolutions imposing uniform rules on the various members of this department?

Mr. PUGSLEY. I do not think so.

Mr. UNTERMYER. Has that subject been discussed?

Mr. PUGSLEY. I do not think that it has. I do not recall that it has.

Witness excused.

Mr. UNTERMYER. Without putting them into the record, we will consider those proceedings as in evidence. If there is no objection, we will have Mr. Frew sworn, and take up his examination in the morning.

Mr. FREW. I will thank you very much if you will do that.

Thereupon Mr. Walter E. Frew was sworn by the chairman, and the committee adjourned until to-morrow, Tuesday, December 10, 1912, at 11 o'clock a. m.

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#### EXHIBIT No. 50, DECEMBER 9, 1912.

#### WHY THE NATIONAL COPPER BANK DECLINED AN INVITATION TO JOIN THE NEW CLEARING HOUSE ASSOCIATION OF SALT LAKE CITY.

##### CHRONOLOGICAL.

June 1, 1910, we joined the old clearing house association.

October 24, 1910, the executive committee, on which we were not represented, passed rule 10-B. (See Exhibit A.)

November 10, 1910, we declined, in writing, to abide by rule 10-B. (See Exhibit B.) Shortly after, this rule was withdrawn.

January 12, 1912, the association amended rule 10-B. (See Exhibit D.) We declined to vote either for or against the rule until our attorneys and directors fully considered its effect.

April 29, 1912, the association demanded our vote upon this rule. We voted "no," submitting in writing our reasons. (See Exhibit E.) Then our withdrawal from the clearing house was demanded; we declined; then certain members sought to expel us, but on obtaining advice of counsel, learned that the result would be serious to themselves.

June 1, 1912, the failure of the association to force our submission to rule 10-B resulted in eight banks withdrawing and immediately organizing a new clearing house, which adopted in its constitution and by-laws all of the old and some additional objectionable rules.

Then the new association invited us to join and subscribe to the new conditions of membership.

##### WE DECLINED THE INVITATION—WHY.

First. Such rules, we are advised, create a trust—are in effect, in restraint of trade, and render subscribers thereto liable to indictment under the Sherman Act.

Second. Such rules delegate partial management of our banks to a clearing house committee, conferring upon it judicial and legislative power over our property, in which it has no ownership or interest.

Third. Such delegation of authority by our directors would render them liable to prosecution for violation of their oaths of office.

Fourth. Such rules are against the best interests of depositors and shareholders.

Fifth. The functions of a clearing house should be limited to the interchanging of checks and facilitating movement of the city's banking business. To confer upon a clearing house judicial and legislative powers over a combined membership of banks destroys competition, which the public has a right to receive in return for charters granted.

Our advice upon all legal questions in this matter was from three able and distinguished law firms. Our directors, after mature deliberation, decided our course and accept all responsibility.

Please understand that we have no quarrel with the other banks of the city, individually; we recognize the distinct ability of their officers, ably reflected in safe and conservative lines of management.

We believe competition in all lines, including banks, is necessary to the growth of a great city.

We are a bank competing for business along safe lines, declining to enter unwise and unlawful combinations and denying the power to control or manage our resources to other than our officers.

The National Copper Bank of Salt Lake City, W. W. Armstrong, president and director; John Dern, vice president and director; W. V. Rice, vice president and director; John S. Bransford, director; A. C. Ellis, jr., director; Sherman Fargo, director; James Farrell, director; Geo. E. Gunn, director; Lafayette Hanchett, director; David Keith, director; D. MacVichie, director; W. N. McGill, director; P. J. Moran, director; J. B. Risque, director; Wm. B. Thompson, director.

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EXHIBIT A.

OCTOBER 24, 1910.

NATIONAL COPPER BANK, *City*.

GENTLEMEN: At a meeting held Monday, October 24, 1910, of the executive committee of the Salt Lake City Clearing House, all members being present, the following was unanimously adopted, viz:

Whereas it is contrary to the ethics of banking to solicit the account or business from any customer where banking relations have already been established: Therefore be it

*Resolved*, That the following be inserted in the rules of the Salt Lake City Clearing House, to take effect immediately, and shall be designated as section 10-B of rules:

"Sec. 10-B. No bank official, director, agent, attorney, or employee shall solicit, by offering special inducements or other monetary considerations, the account or business of any customer of another bank where banking relations have already been established."

The secretary was instructed to call attention to section 11 of rules, as follows:

"A violation of any provision of these rules shall be punishable by a fine of \$500 for the first offense, a fine of \$1,000 for the second offense, and by expulsion from the clearing house for the third offense; and a refusal to pay a fine imposed under the provision of this section shall be punishable by expulsion."

Respectfully, yours,

L. H. FARNSWORTH, *Secretary*.

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EXHIBIT B.

NOVEMBER 10, 1910.

L. H. FARNSWORTH,

*Secretary Executive Committee, Salt Lake City Clearing House, City.*

DEAR SIR: Your communication of October 24, inclosing rule —, section 10-B —, was duly received and at the first opportunity has been laid before the board of directors of this bank at the regular meeting held yesterday. The board has authorized me to advise the executive committee as follows:

We feel that the connection of this bank with the Salt Lake City Clearing House is of material benefit in conducting the detail work of the bank. We also consider it an honor to be a member of your association. We expect to live up to your rules both in spirit and in letter so long as we are a member thereof, not desiring to share the benefits without also assuming the burdens as such a member. Our banking experience and observation of the business methods of many of the leading banking institutions throughout the United States inclines us to the belief that the resolution

which serves as a preamble to the above-mentioned rule is not correct in point of fact, and we desire to protest against the ethical rule laid down therein, wishing to go on record as refusing to subscribe or assent thereto.

Regarding the rule itself—section 10-B—we find that this rule, as we construe it, is vague, indefinite, and utterly incapable of application—that we are unable to determine what is meant, what it intends to convey, or what line of conduct it aims to impose upon the members of the clearing house.

We beg to remain,

Very respectfully, yours,

W. W. ARMSTRONG, *President.*

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EXHIBIT C.

NOVEMBER 14, 1910.

Mr. W. W. ARMSTRONG,  
*President the National Copper Bank, City.*

DEAR SIR: Referring to your communication of November 10, 1910, relative to rule—section 10-B of the clearing house—I beg to advise that a meeting of the executive committee was held this morning, there being a full quorum present, at which meeting your letter was presented and duly considered. For your information I beg to advise the following action thereon, viz: "The communication of November 10 of the National Copper Bank, referring to rule section 10-B, and protesting against the ethics of the preamble and refusing to subscribe or assent thereto, was presented and duly considered. On motion unanimously adopted, the secretary was instructed to acknowledge the receipt of said communication and advise said bank that the rule so adopted on October 24, 1910, is now in force and will remain in force from the date of its adoption until revised by the association; that under section 1, article 10, a meeting of the association may be called for the consideration and revision of said rule."

If it is your wish that a meeting of the clearing house association be called, kindly so advise me.

Yours, very truly,

L. H. FARNSWORTH, *Secretary.*

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EXHIBIT D.

JANUARY 12, 1912.

NATIONAL COPPER BANK, *City.*

GENTLEMEN: At a meeting of the Salt Lake City Clearing House Association, held January 11, 1912, the following rule was adopted:

Whereas it is recognized that fair competition in the banking business, as in all others, is a well-established and desirable principle, the soliciting or bidding for accounts subject to check, by offering to pay interest on daily balances, is demoralizing in its tendencies and a practice to be severely condemned; and

Whereas it is claimed by members of this association that it is necessary for them to pay interest on certain existing accounts in order to keep their customers from depositing in other cities or for other reasons which are proper and unassailable: Therefore be it

*Resolved*, That in order to prevent the practice of offering to pay interest on accounts subject to check in an endeavor to induce the severance of well-established relations or to procure new business and in order also to uphold and maintain existing relations which are regarded as legitimate and beyond criticism the following be inserted in the rules of this association, to take effect immediately, to be substituted as section 10-B:

"SEC. 10-B. No member of this association shall, directly or indirectly, pay interest on an open or checking account except to banks as provided for in section 8: *Provided*, That where arrangements heretofore have been made between a member of this association and a depositor which require the payment of interest they shall not be disturbed: *And provided further*, That, should it become necessary for any member of this association to pay interest on a checking or open account, permission so to do must first be obtained from the executive committee, to which committee the facts and reasons therefor shall be presented: *And provided*, That public funds shall not be subject to this rule."

T. W. BOYER, *Secretary.*

## EXHIBIT E.

APRIL 29, 1912.

CLEARING HOUSE ASSOCIATION,  
*Salt Lake City, Utah.*

GENTLEMEN: At the last meeting of the clearing house association, as a representative of the National Copper Bank of this city, I refrained from voting either in favor of or against the adoption of section 10-B, giving my reason at that time that I desired to submit the question as to whether or not the National Copper Bank was in favor of or against the adoption of said resolution to the board of directors of said bank. Since then I have submitted the matter to the board of directors of the National Copper Bank, and now desire to inform you that the board of directors of the bank which I represent has instructed me to vote against the adoption of said section 10-B, and to protest against the adoption of said section and the enforcement thereof, in case the same should be adopted by the clearing house association.

The National Copper Bank finds itself unable to abide by the provisions of section 10-B, and takes this opportunity of notifying the clearing house association that it does not intend to abide by the same.

I have been advised that the adoption by the clearing house of this section and the acquiescence in the same by the members of the clearing house association is, and will be, illegal as against public policy.

I have also been advised that membership in the clearing house clothes each member with an interest in its property and benefits, which you of course recognize is of very great value to every member thereof. This interest in the property and benefits accruing to a membership in the clearing house association, I have been advised, constitutes a valuable property right, which the courts will protect and maintain, and that any member of the clearing house association whose property rights are sought to be interfered with by an attempt to enforce the provisions of this illegal section can seek and secure redress in the courts.

In this connection I desire to state that there is now pending in the court of Allegheny County, Pa., a suit wherein certain members of the clearing house association are seeking to enjoin the clearing house association and certain members thereof from adopting and attempting to enforce certain provisions of the Articles of Association of the Pittsburgh Clearing House, which, in some respects, are very similar to section 10-B of our local association. This suit has not yet been determined, as I am advised, and I would respectfully suggest that section 10-B of the rules of our local clearing house association be suspended pending the final determination of this case. I believe that the clearing house association is making a great mistake in attempting to enforce section 10-B, and that no good can come from it. For any combination of banks, whether chartered under the national law or the state statute, to enter into a combination to regulate in an arbitrary way the amount of interest that any bank belonging to the association shall pay upon its account, or upon daily balances of banks or individuals, I have been advised is against public policy and void, and is an encroachment upon the rights of the respective banks to carry on their business by and through their respective boards of directors, amounting thus to a delegation of power by the board to unauthorized persons, which is contrary to the provisions of the statutes under which each bank is incorporated. Such a rule, if acquiesced in, would subject the members of the clearing house to very severe criticism, if not to a prosecution upon a conspiracy in restraint of trade and commerce.

While, of course, it is true that any member of the clearing house, not wishing to acquiesce in this rule, has the privilege of withdrawing therefrom or being expelled from membership therein, still this condition of affairs would be exceedingly undesirable and would subject the withdrawing member or the expelled member to very material financial loss and deprive it of a valuable property right.

I have placed the view that the National Copper Bank takes upon this subject in writing, so that there may not be any misunderstanding as to its position, and desire again to state that that bank protests against the adoption and enforcement of section 10-B, and that it will not abide by the same in case said section shall be adopted, and reserves to itself the right to take such steps as it may be advised to protect its interest as a member of the clearing-house association.

Very respectfully,

W. W. ARMSTRONG, *President.*



## EXHIBIT No. 51, DECEMBER 9, 1912.

The following differences exist between the new constitution and the old:

**Preamble:** The new preamble adds the phrase "of maintaining friendly and harmonious relations" and substitutes for "to promote the safety and efficiency of the banking business" this phrase "and of promoting uniform, safe, and efficient banking methods." This brings the matter from a general statement to a specific application.

**Article I:** Changes verbal only.

**Article II:** Adds the word "enforcement" after the word "adoption," referring to rules and regulations for the conduct of banking business, and the same article adds a general penalty clause referring for details to articles following.

**Article III:** Verbal only.

**Article IV:** The old article reads "members or their representatives." The new article reads "representatives of the members." Section 2 of this article is unchanged.

**Article V, section 1:** Verbal only. **Section 2:** Provides in addition to the provisions of the old section that not less than two hours' notice shall be given, and if less than four hours notice be given, written notice shall contain a brief statement of the purpose of the meeting, and that no business shall be taken up except that specified in the notice. **Section 3:** The old constitution provides that the members may be represented by one or more officers. The new constitution provides for one officer.

**Article VI:** No change.

**Article VII:** No change.

**Article VIII:** No change.

**Article IX:** No change.

**Article X, section 1:** No change. **Section 2** adds the clause that the executive committee shall exercise all the powers of the association in the interim between meetings, subject to revision by the association itself. It omits the stipulation as to what constitutes a quorum. **Section 3:** Same. **Section 4:** Same. **Section 5:** Same.

**Article XI:** Verbal only.

**Article XII:** Section 1 adds that new members must be admitted by an affirmative vote of three-fourths of the members. The old constitution provides for three-fourths or more. **Section 2** omits clause as to the release of rights which becomes operative upon the withdrawal or expulsion of a member. This clause is gathered up with other clauses referring in any way to any penalties, and they are combined in article 15. **Section 3:** The same. **Section 4:** This is a new section; is intended as a substitute for the omitted clause of section 2 of the old constitution, and provides for a compensation for the right surrendered.

**Article XIII:** Verbal only.

**Article XIV:** Is practically the old article 18, with the addition that it provides that the secretary and treasurer shall furnish to the members promptly copies of all amendments and additions to those articles.

**Article XV:** Combines all the stipulations as to penalties. Prominent in it is the stipulation that any acts or declarations upon the part of any member evidencing a refusal upon its part to abide by the constitution or rules of the association, etc., shall be punishable; also that the series of first and second fines and expulsions, as provided for by the old constitution are abolished, and "fine, suspension, or expulsion, as may be deemed proper by the association," is substituted; also that any member complained of or under investigation must answer all questions and submit all books.

**Article XVI, section 1:** The notice is cut from 30 days to 5 days. **Section 2:** Verbal only.

**Article XVII:** Contains all the old rules, plus all the matter in articles 14, 15, 16, and 17 of the old constitution, omitting all the penalty clauses in the old.

The rules in this section:

**Rule 1,** unchanged from article 14.

**Rule 2,** unchanged from article 15, section 1.

**Rule 3,** unchanged from article 15, section 2.

**Rule 4,** unchanged from article 15, section 3.

**Rule 5,** unchanged from article 16, section 1.

**Rule 6,** unchanged from article 16, section 2.

**Rule 7,** unchanged from article 16, section 3.

**Rule 8:** The penalty clause of the old article 17 is omitted in this rule.

**Rule 9,** contains the gist of the matter contained in the old section 10-B.

**Rule 10,** verbal only.

**Rule 11,** verbal only, except for the change of what was evidently a typographical error in the old section 2.

**Rule 12,** verbal only.

**Rule 13:** The minimum size of items on which collection charges shall be made is raised from \$3 to \$5, as provided for in section 4 of the old rules.

Rule 14, unchanged.

Rule 15, unchanged.

Rule 16: The penalty phrase is omitted.

Rule 17, unchanged.

Rule 18, unchanged.

Rule 19: The first half of this rule is the same as the old section 10-A; the second half is new matter and deals with routine.

Rule 20 is the same as section 10-C of the old rules.

CONSTITUTION OF THE SALT LAKE CLEARING HOUSE ASSOCIATION.

\* \* \* \* \*

The undersigned banking institutions and banking houses in Salt Lake City, Utah, hereinafter designated either as banks or as members, for the purpose of effecting a more perfect and satisfactory settlement of the daily exchanges and balances between them, of maintaining friendly and harmonious relations, and of promoting uniform, safe, and efficient banking methods, hereby associate themselves for the maintenance of a clearing house, and do hereby agree upon and adopt the following constitution:

ARTICLE I.

The name of the association shall be the Salt Lake Clearing House Association.

ARTICLE II.

The objects of the association shall be the effecting at one place of the daily exchanges between the several banks, the settlement of the balances resulting from such exchanges, the adoption and enforcement of such rules and regulations as will encourage mutual trust and confidence and promote uniform methods, safety, and efficiency in the transaction of banking business among themselves, with their customers, and with the public. And for the purpose of accomplishing these objects the associates reserve the right by a majority vote to amend these articles of agreement, to adopt additional rules and regulations, and to enforce any of its articles, orders, rules, or regulations by fines, suspension, or expulsion, as hereinafter set forth, or as may be hereafter provided.

ARTICLE III.

The association consists of the banks and banking institutions which subscribe this agreement: *Provided*, That any member reorganizing under State or national laws may, with the consent of the executive committee, continue its membership.

ARTICLE IV.

SECTION 1. The officers of the association shall be a president, vice president, secretary and treasurer, who shall be elected by ballot from among the representatives of the members at the annual meeting, and shall hold their offices for one year, or until their successors are elected and qualified. There shall also be chosen by ballot from the representatives of the members at their annual meeting a standing committee of five, to be called the executive committee, of whom the president of this association must be one, who shall hold their offices for one year, or until their successors are elected and qualified.

SEC. 2. All books, records, and other property of the association shall be surrendered by the several officers and committees to their successors in office.

ARTICLE V.

SECTION 1. A general annual meeting of the association shall be held at the clearing house on the second Thursday in January in each year, at 11 o'clock a. m., for the election of officers and executive committee, and of any other standing committee, and for the hearing of annual reports, and for any other business that may be brought before it.

SEC. 2. Special meetings of the association shall be called by the president or by the executive committee, whenever the president or said committee may deem it expedient or be requested so to do by three members of the association; and in all such cases the president or the executive committee, as the case may be shall cause notice of the meeting to be given in writing at the banking house of each member. Not less than two hours' notice shall be given, and if less than four hours' notice be given, the

written notice shall contain a brief statement of the purpose of the meeting, and no business shall be taken up except that specified in the notice.

Sec. 3. At all meetings of the association each member may be represented by one of its officers or directors, and shall be entitled to one vote. The president may vote as a member or he may have the casting vote in case of a tie when his bank has not voted on the question as a member. At all meetings of the association a quorum for the transaction of business shall consist of a majority of the whole number of members, and all questions shall be decided by a majority vote of the members present, except as otherwise specially provided; should there be no quorum present, the meeting may be adjourned by those then present to any subsequent time. Voting by proxy shall not be allowed.

#### ARTICLE VI.

The association shall not in any way be responsible either in regard to the exchanges or the balances resulting therefrom, nor in regard to any errors, reclamations or default between the several members. The exchange and delivery of checks at the clearing house shall be in trust until the debit balances are paid. The action of the clearing house is that of an agent; and in no case is the association to be held responsible for any loss that may occur.

#### ARTICLE VII.

It shall be the duty of the president to preside at all meetings of the association; to call such meetings as are required to be called by him; and to exercise, under the direction of the executive committee, a general supervision over the clearing house affairs, and to perform the duties pertaining to an executive officer. He shall also be ex officio chairman of the executive committee, and of all standing committees, having in committee one vote.

#### ARTICLE VIII.

In the absence or inability of the president, the vice president shall perform all his duties. In the absence of both the president and the vice president, a president pro tempore may be appointed at any meeting.

#### ARTICLE IX.

The secretary and treasurer shall keep an exact record of proceedings of the meetings of the association, and report annually his receipts and disbursements, accompanied by receipted vouchers, and shall perform all duties usually pertaining to the office of secretary and treasurer. In the event of his temporary absence, a secretary pro tempore may be appointed at any meeting, but in the event of his resignation or inability to perform his duties, the executive committee shall appoint another member of the association to be secretary and treasurer for the unexpired term.

#### ARTICLE X.

SECTION 1. The executive committee shall procure a suitable office or offices for the clearing house; provide proper books, stationery, furniture, and whatever else may be necessary; appoint annually a manager, and any other employees who may be required, fix their salaries, and require such securities for the faithful performance of their duties as the committee may deem best. The committee may suspend or remove the manager or any employees of the clearing house when, in the opinion of the committee, the interests of the association require it; may fill any vacancies in the offices of employees occurring during the year; and establish any new rules and regulations in cases not provided for, subject to revision by the association; and shall supervise generally the clearing house affairs.

Sec. 2. The executive committee shall have charge of all property of the association. It shall exercise all the powers of the association in the interim between meetings, and any action taken by it shall stand as the act of the association until reversed, changed, or modified at a regular or special meeting of the association.

Sec. 3. The executive committee shall hold meetings whenever called together by the president, or by a majority of its members.

Sec. 4. The executive committee shall make report to the association upon all applications for membership. It shall have power in case of extreme emergency to suspend, by unanimous vote of those present entitled to vote upon the question, any bank from the privileges of the clearing house until the pleasure of the association therein shall be ascertained: *Provided*, That no member of the committee shall vote

upon any question involving the suspension of the bank represented by him in the association; in case of such suspension, the executive committee shall forthwith call a meeting of the association to take action in the matter.

Sec. 5. The executive committee shall act as a committee of arbitration to hear and determine all disputes that may be submitted to it by parties thereto, being members of the Clearing House Association; such committee shall keep a record in brief of each case referred to it and of its decision therein, in a book to be provided for that purpose, and to be kept at the clearing house, open to the inspection of the association; should any member of this committee of arbitration be disqualified from acting by reason of being a party to the dispute, the other members of the committee shall select another representative, a member of the association, to fill, temporarily, the place of the disqualified. A majority of the committee shall be a quorum for the transaction of business, and a majority decision of such quorum shall be valid and binding upon the parties to the dispute: *Provided*, That an appeal may be taken to the association within five days.

#### ARTICLE XI.

The manager shall be subject to the control of the executive committee; he shall have immediate charge of all business at the clearing house so far as relates to the manner in which it shall be transacted, and the employees of the establishment as well as the settling clerks and messengers of the several members, while at the clearing house, shall be under his direction; he shall report monthly to each member such errors as its settling clerk or messenger may commit; he shall keep in books provided for the purpose, a faithful record of all clearances and settlements, and preserve all vouchers and see that the clearing house rooms and the property connected therewith are kept in order; he shall also prepare an annual report of the business for the annual meeting and perform such other duties as may be required of him.

#### ARTICLE XII.

SECTION 1. Application for new membership shall be made to the executive committee and by it reported upon and referred for action to the association. New members may be admitted at any meeting of the association by an affirmative vote by ballot of three-fourths of the members. New members shall pay an initiation fee of \$500 each, and shall signify their assent to the constitution and by-laws and pay their quota of current expenses in the same way as the original members.

Sec. 2. Any members may withdraw from the association at pleasure, by giving notice in writing to the executive committee of its intention to withdraw and paying its due proportion of its expenses and obligations theretofore incurred.

Sec. 3. For cause deemed sufficient, any member may be expelled and debarred from all the privileges of the association by an affirmative vote of three-fourths of the members of the association at any meeting called for the purpose of considering the question.

Sec. 4. Whenever a member shall withdraw or be expelled, it shall be the duty of the executive committee to ascertain the just and equitable right of the member in any moneys on hand or tangible property of the association, and to certify to the secretary and treasurer the amount so ascertained. Upon the payment or tender of such sum, all right, title and interest of such withdrawn or expelled member in any of the property or to any of the benefits of the association, shall forthwith be terminated.

#### ARTICLE XIII.

The expenses of the clearing house shall be borne and paid by the several members of the association as follows: Each member shall pay a quarterly fee of \$25 whenever the funds in the treasury shall be less than \$500; the balance of funds required shall be made up by assessment levied by the executive committee upon the members, in proportion to the amounts cleared by them respectively during the preceding quarter. This assessment shall be paid to the secretary and treasurer on his draft.

#### ARTICLE XIV.

Two copies of this constitution shall be signed by an authorized officer of each bank, and shall be kept, one by the president and one by the secretary of the association. It shall be the duty of the secretary and treasurer to furnish to the members promptly copies of all amendments and additions to these articles.

## ARTICLE XV.

Any violation of any of the provisions of this agreement, or of the rules and regulations of the clearing house, any acts or declarations upon the part of any member evidencing a refusal upon its part to abide by the constitution or rules of the association, and any conduct deemed prejudicial to the interests of the association, shall be punishable by fine, suspension, or expulsion, as may be deemed proper by the association. Fines may be imposed by the executive committee, but suspension or expulsion shall be only upon the affirmative vote of three-fourths of the members of the association. Any supposed violation of the articles, rules, or regulations of the association or conduct deemed prejudicial to its interests shall be investigated by the executive committee. Any member complained of or under investigation must, on notice, appear and answer all questions pertaining to the inquiry, and submit all books and records required. This committee shall take action thereon and, in the event that the matter is deemed to be of sufficient importance to warrant either suspension or expulsion, it shall cause to be called a meeting of the association to consider the matter. Nothing herein contained shall prevent complaint being made to the association as to the conduct of any member, whether the matter complained of shall have been investigated by the executive committee or not.

## ARTICLE XVI.

SECTION 1. Amendments to the preamble, or to Articles I to XVI, inclusive, of this constitution, may be made at any meeting of the association by a vote of three-fourths or more of all members of the association, notice of any proposed amendment having been given in writing at least five days previously to such meeting.

SEC. 2. Any rule or regulation contained in Article XVII of this constitution may be amended, and any new rule or regulation may be added at any meeting, upon a majority vote.

## ARTICLE XVII.

This article contains the rules for the government of the association, its officers and employees, in the conduct of its clearing house. These may be altered, repealed, or added to at any meeting of the association.

## RULES.

1. At 10.30 a. m. on each business day, messengers from the several banks shall present at the clearing house their respective demands against each member, totalized, and, after exchanging, shall determine and make known the debit or credit balance to the manager, who will, when proof is made, issue his certificate on the following form to the creditor members or the debtor members, for the balance due: Salt Lake Clearing House Association ———.

No. \_\_\_\_\_.

Pay to (No. \_\_\_\_\_) \$ \_\_\_\_\_ dollars, account debit balance resulting from the adjustment of exchanges made this date, between members of this association. Not negotiable or transferable.

To (No. \_\_\_\_\_) \_\_\_\_\_.

\_\_\_\_\_, Manager.

Salt Lake City, Utah.

Proper matter for the clearing house shall consist of all checks, drafts, certificates of deposit, and any other matter especially agreed upon by any member, until notice to the contrary is given.

2. It shall be the duty of the banks holding the manager's certificates issued in settlement for balances, to collect the same daily, and should any bank fail to pay the balance against it on presentation of the said certificate, the amount of that balance shall be supplied to the manager by the members to whom the defaulting bank is a debtor in proportion to the amounts due to them, respectively, from the defaulting bank according to the exchanges of that day, the manager making the necessary requisitions upon them, so that the general settlement may be completed with as little delay as possible. After clearing, the respective amounts so supplied to the clearing house on account of the defaulting bank will constitute claims on the part of the several responding members against the defaulting member, but the association shall in no wise be responsible therefor.

3. Errors in the exchanges and claims arising from the return of checks, or from any other cause, are not to be adjusted through the clearing house, but directly through the members who are parties to them; all checks, drafts, notes, or other items in the

exchanges found not good, or missent, shall be returned without mutilation, or notice of dishonor given directly to the member from whom they were received, as soon as examined, or presented, not later than 2.30 p. m. on the day of clearance in which said return vouchers were exchanged, and the said members shall immediately refund to the bank returning the same the amount for which it had received credit through the clearing house for the said checks, drafts, notes, or other items so returned to it: *Provided*, Such returns and refund shall on Saturdays be made not later than 11.30 a. m.

4. In case of default by any member, all checks and vouchers delivered through the clearing house to such defaulting members shall be returned, if required, to the member owning the same, without mutilation, but the association shall not be responsible therefor.

5. All negotiable paper deposited for clearance by the members of this association shall bear the stamp of the depositing bank, which shall clearly indicate the name of the bank, its clearing house number, and the date of clearance. The stamp shall be for clearing house purposes only, and shall guarantee the validity and regularity of all prior indorsements on the paper so cleared, except the indorsement of an original payee of a certificate of deposit, and it shall not be construed to supply a missing indorsement.

6. Each bank shall file with every other member of this association, a certified impression of its clearing-house stamp and certification stamp, and the signatures of persons authorized to certify and indorse checks.

7. Checks shall be made payable in current funds, except that when the executive committee authorizes the issue of clearing-house certificates, checks may be drawn payable in clearing-house funds.

8. Members of this association shall not open their respective offices for business, except between the hours of 10 a. m. and 3 p. m., on business days: *Provided*, That the hours of business on Saturdays shall be from 9 a. m. to 12 m.

9. No member shall directly or indirectly pay interest upon an open or checking account, excepting upon the accounts of banking institutions, and in no case shall interest be allowed to such institutions upon daily balances at a rate in excess of 2½ per cent per annum: *Provided*, That where arrangements have heretofore been entered into between a member of the association and a depositor not a banking institution, which require the payment of interest, they shall not be disturbed, and the same arrangement may be continued by any other member succeeding to the account: *And provided further*. That application may be made by a member to the executive committee for permission and permission may be granted, to pay interest upon a checking or open account upon a statement in writing of the facts and reasons therefor: *And provided further*, That public funds shall not be subject to this rule.

10. The following charges shall be made upon escrow:

"A deposit of \$2.50, payable in advance, where the sum does not exceed \$1,000.

A deposit fee of \$5, payable in advance, where the amount involved exceeds \$1,000.

In addition to said deposit fees, a charge at the rate of 50 cents per \$1,000 (minimum fee, 10 cents) shall be made upon all amounts paid under the provisions of any escrow agreement.

11. A charge shall be made for all domestic exchange sold at not less than the following rates:

On all single drafts of \$5 or less, 5 cents.

On all single drafts over \$50 and not exceeding \$100, 10 cents.

On all drafts aggregating over \$100, one-tenth of 1 per cent.

No charge need be made upon drafts issued to the Government of the United States, or its disbursing officers; to express companies; to telegraph companies; to interstate railroad companies or their subsidiary companies; to nonresident customers; to banks in Salt Lake City, or their corresponding banks, or for the trading of western for eastern exchange, or vice versa, with customers outside of Utah.

A charge shall be made upon all telegraphic transfers at not less than the following rates:

One-fourth of 1 per cent on all amounts up to \$1,000, minimum charge, 50 cents.

One-eighth of 1 per cent on all amounts over \$1,000; minimum charge, \$2.50.

One-tenth of 1 per cent on all amounts transferred by telegraph, in addition to cost of telegram, shall be made to all banks.

12. Where a remittance letter contains a check or checks, including cashier's checks, dated and issued at Salt Lake City or county, drawn upon any bank in Salt Lake City, whether remitted for credit or for collection and returns, and bearing the indorsement of any person, firm, or corporation, bank or banker, located outside the States of Utah, Idaho, Montana, Wyoming, and Nevada, a charge of not less than one-tenth of 1 per cent, minimum charge 15 cents, shall be made by the receiving bank

upon the total amount of such checks, provided that no charge need be made for checks of \$5 or less.

Where local checks are received for credit on an account kept with the receiving bank, no charge need be made, but where checks are received from a bank with which the receiving bank keeps an account, the regular charge shall be made.

13. A charge of one-tenth of 1 per cent, minimum charge 15 cents for each item, shall be made upon all items in excess of \$5, received for collection by any bank in this city and requiring returns in exchange. In the event of failure to collect a minimum charge of 15 cents for each item shall be made to defray the cost of handling same. Regular correspondents may be exempted from this charge.

A charge of 10 cents for each item, in addition to the cost of collection, may be made upon all collections received from local customers and payable outside of Salt Lake City; this charge to be payable in advance, and to be retained whether item is collected or not.

14. A charge of not less than one-tenth of 1 per cent shall be made upon sight drafts cashed or credited on receipt, when drawn upon any point where days of grace are allowed.

15. No clearing house bank shall clear checks for any bank in this city that does not comply with the constitution and rules of the clearing house.

16. No refund or rebate shall be made to effect or reduce any of the charges hereinbefore provided. Any evasion of the letter or spirit of these rules shall be considered a violation.

17. Check books and tabbed checks furnished by the clearing house banks of Salt Lake City shall be charged for according to the following schedule:

Books or tabs containing 200 checks, \$1.25; books or tabs containing 300 checks, \$1.50; books or tabs containing 400 checks, \$1.75; books or tabs containing 500 checks, \$2; books or tabs containing 1,000 checks, \$4. Checks lithographed to order will be charged for at actual cost. No charge need be made for check books furnished to the disbursing officers of the United States Government. The only exceptions to the above rules are United States Government and public accounts and customers residing and doing business outside of Salt Lake County.

18. Banks will not allow overdrafts except of a temporary nature; customers to be notified with a special request not to overdraw the account.

19. Items on points other than Salt Lake City received through the clearing house from associate members and thereafter lost in transit through no negligence of the receiving bank may be charged back to the sending bank.

In receiving checks, drafts, or other paper on deposit or for collection a member acts only as agent and assumes no responsibility for the acts, omissions, neglect, or default of agents or subagents at other points. Any credit allowed for items on other banks or parties is only provisional until the proceeds thereof in money shall have been actually received by the member.

20. Applications for contributions from members of the association to charities, celebrations, excursions, local organizations, etc., shall be referred to the executive committee, provided that any member may contribute not to exceed the sum of \$10 to such purpose without reference to the committee.

The names and clearing-house numbers of the members of this association and the date of subscription hereto of each is as follows, to wit:

No. ———,

By ————, ————,

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