

STOCK EXCHANGE PRACTICES

THURSDAY, JUNE 16, 1932

UNITED STATES SENATE,
COMMITTEE ON BANKING AND CURRENCY,
Washington, D. C.

The committee met, pursuant to call, at 10 o'clock a. m., in the hearing room of the Committee on Banking and Currency, Senate Office Building, Senator Peter Norbeck presiding.

Present: Senators Norbeck (chairman), Brookhart, Goldsborough, Townsend, Walcott, Carey, and Fletcher.

Present also: William A. Gray, Esq., counsel to the committee.

Mr. BENJAMIN REASS. Mr. Chairman, I thought that—

Senator TOWNSEND. Mr. Chairman, Mr. Reass has something to say.

Mr. GRAY. Wait a minute, Mr. Reass. Just a moment. Mr. Chairman, Mr. Reass represents Mr. William Fox. I am not going to make any statement about the situation. I am only going to introduce you, Mr. Reass.

Mr. REASS. Thank you very much.

Mr. GRAY. Mr. Reass and I have had a colloquy over Mr. Fox. He asked me to discuss the matter with the steering committee. The matter was in my hands and the steering committee left it with me. He evidently wants to say something to the committee.

The CHAIRMAN. Do you want him to speak?

Mr. GRAY. I think the committee should hear him.

STATEMENT OF BENJAMIN REASS, ATTORNEY FOR WILLIAM FOX, NEW YORK CITY

The CHAIRMAN. Give your name and address, Mr. Reass.

Mr. REASS. My name is Benjamin Reass, 100 Broadway, New York. I do not know what this reference to the steering committee is, but if—

The CHAIRMAN. This is a meeting of the full committee here.

Mr. REASS. Yes, sir. I did say to Mr. Gray that I was desirous of addressing the committee with respect to Mr. Fox, and I found a rather angry attitude with respect to him. I have taken the liberty of coming here and presenting the facts to you.

Mr. Fox, pursuant to a promise that he made to be here this morning, left with me at half past 6 last night, and foolishly, we started by motor, the weather was bad, and we got here about half-past 4 New York time, half-past 3 your time. During the trip Mr. Fox complained of being ill. I knew he was not well, had not been for some time. This morning I went into his room shortly after 9 to tell him to get ready and come here.

I know he is eager and anxious to tell his story to you. I found Doctor Hornaday there, the hotel physician. Doctor Hornaday said that so far as he was able to determine at that moment Mr. Fox had a bilious attack. He was still examining him and he would notify Senator Norbeck just exactly what the condition was.

In the meanwhile I hurried on here to show this committee that we are not lacking in deference and respect for your request, although it was only in the form of an agreement to come here, and to urge on you to give him a little time, to give the doctor a little time to determine whether his physical condition will enable him to come either to-day or to-morrow morning.

I want to make it clear that Mr. Fox is eager and anxious to present his side of the story here.

Let me add another thing while I am on my feet here in behalf of what has been described as a controversy. I received a phone message not couched in particularly courteous language last week requesting that Mr. Fox come to Mr. Gray's office. Of course, I knew perfectly well that there was no obligation on the part of Mr. Fox or anybody else to come to Mr. Gray's office but, nevertheless, I said he would be glad to do so, and he went and a sort of stenographic record was taken of the requests they made. There were so many questions, accounting questions and other matters that Mr. Fox could not answer. You know, of course, that Mr. Fox has been the head of many huge enterprises, that he was a trader in the markets, that his operations were in the hands of accountants; that it was humanly impossible for a man to answer as to figures covering a period of years antedating and covering the rather strenuous era of 1929 and 1930. You doubtless are familiar with the controversies that revolved around the Fox enterprises.

But we gave him what we had and we got a copy of the stenographic minutes the next day, and I told him that whatever he wanted we would answer.

Yesterday morning at half past 10 Mr. Fox went to Mr. Gray's office prepared with a typewritten statement answering the matters, and there was hurled at us a mass of new matter of which there was not the slightest suggestion or intimation of any kind. One of the inquiries I am going to make before I get through is just where they come from, because that is an important part of the investigation and bears strongly on what Mr. Fox came here to tell you.

There was a different atmosphere, a different attitude; no longer an inquiring attitude but a very different one. Mr. Fox remained there until half past 1 answering questions. I want to repeat that they were not couched in a merely inquiring mood at all. Statement after statement was spread in the questions, which did not seem to me to be asking for answers, but merely stating facts. Of course, it was a physical or mental impossibility for Mr. Fox or any other human to answer these matters. They were matters for accountants. I am certain that a lot of these matters and the accountant's report respecting them was available. I am sure of it, because I see here Mr. Hall, of Touche, Niven & Co., who has made a written report concerning these matters to the banks of the Fox Film and Fox Theaters in April and May of 1929, and many of the questions of Mr. Gray's inquiry to Mr. Fox are all answered in a letter which was exhibited to us on Monday of this week in the

office of Mr. Tinker, a name that you will hear something about, representing the Chase Bank.

The CHAIRMAN. You came here to make a statement about Mr. Fox being sick, and you come here and make a stump speech and criticize Mr. Gray. I think you are entirely out of order, but I will leave it to the committee.

Mr. GRAY. Suppose you leave it to me to answer?

The CHAIRMAN. All right; are you ready to proceed, then?

Mr. GRAY. I don't care what he says.

The CHAIRMAN. I am leaving it to you.

Mr. GRAY. It will not do the gentleman any good. Every time he opens his mouth while Mr. Fox is around, Mr. Fox says, "Sit down, Ben. You don't know anything about it. I will do the talking." Let him go ahead. He can not help Mr. Fox. He will only hurt him.

The CHAIRMAN. All right; proceed.

Senator FLETCHER. You were going to tell about Mr. Fox.

Mr. REASS. Yes, sir. I am sorry I went beyond the necessities of the occasion, but you see what I am driving at. Mr. Fox left there about half past 1 or 2 o'clock and we then went back to my office, where we tried to gather up as much as we could. At half past 6 last night we started for Washington.

Senator FLETCHER. We know that.

Mr. REASS. Mr. Fox is up here. He is not well. I don't know what his condition is. I am hopeful the doctor is correct in his statement that it is a bilious attack which will shortly disappear.

Senator FLETCHER. We know that already.

Mr. REASS. In any event, I understand Mr. Gray is going to send a doctor up there. We can get a statement exactly what the situation is.

Senator FLETCHER. What do you want us to do?

Mr. REASS. Hold this for an hour or two until I can get a report from the doctor.

Senator FLETCHER. An hour or two?

Mr. REASS. Yes. May I ask you to put this over to, say, 2 o'clock? If the situation is as the doctor thinks it is, I haven't any doubt he can be here at that time.

Senator FLETCHER. We will go on with Mr. Gray then.

Mr. REASS. That is all I am asking for.

STATEMENT OF WILLIAM A. GRAY, ESQ., COUNSEL FOR THE BANKING AND CURRENCY COMMITTEE, WASHINGTON, D. C.

Mr. GRAY. Mr. Chairman and members of the committee, my friend makes some statements that are incorrect. He states, in the first place, that Mr. Fox was coming here under an agreement. Neither Mr. Fox nor anybody else has been asked to come to this committee under any agreement. Mr. Fox was subpoenaed to be here. I said to Mr. Fox when I communicated with his attorney, Mr. Reass, and requested his presence in my office, as I have said to every other man that I have examined in New York City, that I have no legal authority in New York City to compel any of those

gentlemen to come to my office and answer my questions there; that if they preferred simply to answer the subpoena and come before the committee in Washington they could take that step; that I thought it would be very much more convenient for both myself representing the committee and the gentlemen whom I intended or had subpoenaed to sit down and talk over the matter with me in New York City, because I have found in some of my investigations that after looking carefully into them there, they did not require any presentation to the committee. In other instances I have found that they required presentation and have presented them.

Mr. Fox did come into my office and he did sit down with Mr. Reass and he did answer questions, though he preferred to make statements rather than to answer questions when I would let him do so, and they were taken down stenographically, and Mr. Fox, for a man who managed and controlled his own organizations, displayed an amazing ignorance with respect to the transactions that occurred.

In between the time of Mr. Fox's first visit and when I requested him to see me again yesterday afternoon we, of course, had 10 or 12 accountants and others working on these various transactions and got a great deal of information, which convinced me that Mr. Fox was not, to say the least, open and above board with us.

I examined Mr. Fox from half past 10 yesterday morning until 2 o'clock yesterday afternoon in the presence of Mr. Reass, and Mr. Fox very frankly admitted a number of things that I am going to present to this committee, and again displayed quite an ignorance with respect to certain other things. I told Mr. Fox that I wanted him here at 10 o'clock this morning in response to the subpoena, and he stated that he would be here. After Mr. Fox had left, an effort was made to have me extend the time—some outside sources—to have me extend the time when Mr. Fox would be required to come here, in order that he might go into his vaults in New York City this morning and get certain papers with respect to this case in order that he might present them to the committee, while prior to that time he told me that he did not know where these things were or where they could be secured, that they were not in his possession.

I was not at all satisfied with Mr. Fox's attitude, and I am not satisfied that he has been sincere. I do not know whether he will be sincere before this committee when he is under oath or not, and I am not at all satisfied that the man is doing anything else than avoiding appearance before this committee this morning.

Mr. Fox told me yesterday afternoon that he would have Mr. Leitstein, one of his closest associates, here, with certain books and papers and his income-tax returns this morning. We had Mr. Leitstein on the telephone at half past 11 o'clock last night, and Mr. Leitstein said he was not coming. Mr. Leitstein has probably by this time been served with a subpoena to come down here and produce all the books, records, papers, income-tax returns, and everything else he has got, and I think he will come.

So that I have been not, as a representative of this committee, treated with the fairness that I was entitled to have. Therefore, you will not blame me if when this morning somebody sends word that Mr. Fox had a bilious attack and can not come until to-morrow morning, I have done that which I have already done under the

instructions of the chairman of the committee, sent two physicians there for the purpose of examining him. If Mr. Fox is able to come upon the report of those physicians, I shall make application to the chairman of this committee for the proper process to bring him in. If we find, of course, that he is not able to come after our physicians report to us, why, the committee will, of course—I suggest to them that they shall extend to him the necessary time.

Now, let me say this, that Mr. Fox organized and controlled—and this is what I propose to show to this committee—Fox Films and Fox Theaters; that he owned in one of the concerns 100 per cent of the voting and controlling stock; that he owned in the other concern approximately 51 per cent of the voting and controlling stock; that while he owned and controlled that company he so manipulated it that he used the stocks of the company in any way that he saw fit, either for his own purposes or for the purposes of the company; that he bought and sold their stocks; that according to his statement the companies bought and sold their own stocks; that they entered into syndicates; they entered into pools; that in the very first issue of the stock of the Fox Films they went into the hands of one of the brokerage concerns of New York City for distribution and they had a written agreement that they should have a certain amount of the commission. Another written agreement was executed between that firm and Fox's own daughter that the commission should be divided with her. That was the inception of the organization of those concerns, and it was traced on from time to time.

Not only did he do as he chose, as I say, with these stocks, and I think he will before this committee accuse others of wrecking the company, but I think you will be satisfied that he did it before you get through. When I get through with it all, I will show that at the time Mr. Fox disposed of both these companies by the transfer of this stock, what that agreement and arrangement was, and how he still held on to so many interests, had moneys paid to this one and that one and the other one, and I will show you how he sold 210,000 shares of stock in Fox Theaters, and then when he sustained a loss of three million three hundred and some odd thousand dollars, claimed that he had been acting for the company; and, notwithstanding the fact that he dumped it on them and said that it was their trades, he took credit for the loss on his income-tax return.

I will show you plenty. This is one of the worst and most complicated cases that I have ever investigated, and is it any wonder that he is bilious?

The CHAIRMAN. What is the effect of taking that loss?

Mr. GRAY. The effect of taking that loss is that he first had the loss made good to him by the Fox Theaters and then took credit for it on his income-tax returns.

The CHAIRMAN. Does that mean an evasion?

Mr. GRAY. It means an absolute income-tax evasion. There is no question about it.

So I suggest, since we have reached this point, because I had arranged to go on with this presentation this morning—I understand that the chairman, or some members of the committee at any rate, are required to be on the floor of the Senate or in the meeting of some other committees—I think under all of the circumstances, possibly

in deference to Mr. Fox, if he does happen to be sick, and in order that I may properly present the picture, an adjournment be taken until such hour as the chairman deems proper.

The CHAIRMAN. You are not ready to go ahead with anything else? Senator WALCOTT. There is nothing else?

Mr. GRAY. There is another matter, Senator Walcott, but at the same time I feel that this ought to be presented to the committee first.

The CHAIRMAN. What is the wish of the committee?

Senator WALCOTT. I move we adjourn subject to call of the chair.

Mr. GRAY. Perhaps you better fix the time. The witnesses will have to be advised to come. In other words, there are a large number of witnesses here who will follow up his testimony.

Senator WALCOTT. If 2 o'clock is agreeable I will amend my motion to adjourn until 2 o'clock this afternoon.

The CHAIRMAN. Not later than 2, then. I will try to arrange for a meeting in Senator Couzens's room if the room is not occupied, off the Senate gallery, at 2 o'clock. I do not see how we can start sooner. But the members of the committee will be advised as to that later if the motion carries.

Those in favor of the motion will say, aye.

(Ayes.)

The CHAIRMAN. Those opposed, no.

(None.)

The CHAIRMAN. Carried.

(Accordingly, at 10.35 o'clock a. m., the committee adjourned, to meet again at 2 o'clock p. m. of the same day.)

AFTERNOON SESSION

Pursuant to adjournment of the morning session, the committee met and resumed the hearing at 2 o'clock p. m. in the Interstate Commerce Committee room in the Capitol, Senator Peter Norbeck presiding.

Present: Senators Norbeck (chairman), Brookhart, Goldsborough, Townsend, Walcott, Carey, Couzens, Fletcher, Bulkley, and Gore.

Present also: William A. Gray, Esq., counsel to the committee.

The CHAIRMAN. The committee will come to order. Mr. Gray will make a report on the absence of Mr. Fox.

Mr. GRAY. Mr. Chairman, after the occurrences of this morning and the failure of Mr. Fox to appear, we sent two physicians up to examine him. I have a written report from the two physicians which I shall file with the reporter, and I also had an interview with one of them. He assured me that although Mr. Fox is not at all dangerously ill and could come here this afternoon for the purpose of testifying, he did when he arrived here last night have a vomiting attack: that he had a bilious condition to-day: that he observed himself evidences of that bilious condition: that he had taken medicine this morning which would justify a doctor in advising him to remain in his room, if not in bed, during the day.

I therefore suggest, Mr. Chairman, that we go on as arranged with some other matters and have Mr. Fox here at 10 o'clock tomorrow morning, because the doctors have said that in their opinion

he will be able without any question to be here to testify to-morrow morning.

The CHAIRMAN. If there are no objections, the Fox Film matter will be postponed until to-morrow morning. It is so ordered.

(The physicians' report presented by Mr. Gray is here printed in the record in full, as follows:)

WASHINGTON, D. C., June 16, 1932.

The SENATE COMMITTEE ON BANKING AND CURRENCY.

Washington, D. C.

GENTLEMEN: Examination of Mr. William Fox made on June 16 at 11 a. m. shows the following:

He had a vomiting attack last evening and on attempting to rise this morning he became dizzy and nauseated and returned to bed. He has tenderness over the abdomen on right side, rather heavily coated tongue, and has been belching gas rather frequently. His temperature and pulse are normal and blood pressure, 114/70.

We feel this is a so-called bilious condition. Doctor Hornaday has given him calomel, and we feel that it is best that he remain in bed to-day. In our opinion he will be able to testify before the committee to-morrow.

W. CALHOUN STIELING, M. D.,

W. D. TEWKSBURY, M. D.,

Examining Physicians.

Mr. GRAY. Mr. Chairman, the other matter which I desire to present to you is a matter that involves Continental Shares & Trading Corporation, also Foreign Utilities, which was a Canadian stock-holding corporation—that is, holding of stocks of other companies—and Otis & Co., which was a New York brokerage house. Mr. Stock, my assistant, and I, too, are thoroughly familiar with the situation, but I am going to ask him to present to the committee a little outline of what the situation is, and then I will call some witnesses and offer some documents for the purpose of establishing the facts in connection with the case. Mr. Stock will present the matter to the committee.

The CHAIRMAN. This matter was postponed from a previous hearing on account of the absence of Mr. Eaton, who suggested that he wanted to be here. May I inquire whether he is here now?

Senator BULKLEY. I would like to have Mr. Daley make a statement. I think I can find Mr. Daley in the gallery here.

The CHAIRMAN. I am asking if Mr. Eaton is here now.

Senator BULKLEY. I think not. I am quite sure he is not. Mr. Daley is his associate and I think he is in town and I think I can locate him.

Mr. STOCK. May I suggest, Mr. Chairman, that Mr. Eaton was subpoenaed to be here to-day.

Mr. GRAY. The idea with respect to Mr. Eaton was this, Mr. Chairman: Mr. Eaton was subpoenaed some time ago. His subpoena, of course, holds, and he should be here to-day, because he was notified of the continuance of the hearing and his presence required; notified in addition to other manners by sending him a wire yesterday. However, as far as the counsel for the committee is concerned, Mr. Eaton's presence is absolutely unnecessary. I mean by that, that the entire picture will be presented, but there are reasons known to you, Mr. Chairman, and the other members of the committee, why we deferred taking up the matter until he had an opportunity to be present. Now he has this opportunity. If he does not choose to take advantage of it, why, that is his responsibility.

The CHAIRMAN. I have a telegram from George T. Bishop, of Cleveland, sent me on behalf of Mr. Eaton, which, if there is no objection, I will ask be inserted in the record at this point, as follows:

CLEVELAND, OHIO, June 15, 1932.

HON. PETER NORBECK,

*Chairman Committee on Banking and Finance,
United States Senate:*

I understand your committee has under consideration hearing and possibly making public a report prepared by one of your committee examiners concerning certain financial and business transactions of Continental shares, of which I am now president. I also understand that matters so investigated and covered by report are the subject of litigation pending in Ohio and Maryland courts. All implications of illegality or impropriety of matters investigated are denied in court proceedings by parties against whom charges are made. I respectfully request that you and your committee await outcome litigation so as to avoid possible prejudice to rights of Continental shares and other parties involved by premature publication of such ex parte investigation and report.

GEORGE T. BISHOP.

TESTIMONY OF DAVID STOCK, ASSISTANT COUNSEL TO THE COMMITTEE, WASHINGTON, D. C.

The CHAIRMAN. You will be sworn, Mr. Stock. Do you solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, in the matter of this investigation before this committee, so help you God?

Mr. STOCK. Yes, I do.

The CHAIRMAN. The witness may proceed in his own way. You have investigated this matter?

Mr. STOCK. I investigated this matter thoroughly and have documentary proof here, documents and audits of the books of Continental Shares and other companies that had relations with Continental Shares. So that every statement that I make has been taken from that documentary evidence.

That evidence shows that a company, an investment trust or investment company, was formed in the early part of 1926 for the purpose of buying and selling and holding securities in various ventures; that the public investment in that investment trust was about \$150,000,000.

Senator COUZENS. What is the name of it?

Mr. STOCK. Continental Shares (Inc.). That at its peak the common stock of that trust sold at 78 and was selling at 25 cents a share to-day, resulting in a loss of about \$150,000,000.

Senator BROOKHART. What price?

Mr. STOCK. Twenty-five cents a share; 78 down to one-quarter.

The CHAIRMAN. \$78 down to 25 cents?

Mr. STOCK. \$78 down to a quarter of a dollar—25 cents.

This situation is being presented, I understand, because it involves a great many features of manipulation and the use of public money to further the personal ventures of persons in control of the public moneys.

Now, the stock in this company, Continental Shares, was sold through a banking and brokerage firm, Otis & Co., members of the New York Stock Exchange, through their various branch offices all over the country, by methods which I believe will be recognized as high-pressure selling methods.

Senator BULKLEY. Mr. Chairman, let me interrupt just a minute to protest again against the unfairness of this. Mr. Daley is in town to-day, reported to the clerk of the committee this morning, and asked to be advised what would be done and has not been advised of this. I think it is outrageously unfair. I renew my protest.

The CHAIRMAN. Of course, I can not speak for the clerk of the committee, but we postponed this hearing in order that Mr. Eaton and his friends might have notice or might be here. Now we are told that the attorney is here, and he can not be located.

Senator BULKLEY. Mr. Daley reported to the committee room while you were not available, while you were in session with the steering committee, and he did the proper thing.

The CHAIRMAN. Did he report to you, Mr. Blount?

Mr. BLOUNT (clerk to the committee). He handed me a memorandum this morning stating he would like to be called if the committee took up Continental Shares at the morning session. I asked one of the stenographers to call him up in case they did. This case was not reached by the committee this morning, so the Daley request could not be complied with.

Senator BULKLEY. He took the trouble to be here in town to attend this, and I just can not locate him at the moment.

The CHAIRMAN. Ring up the stenographer and see if she got in touch with him.

Senator COUZENS. May I suggest, Mr. Chairman, that in view of the fact that this is being taken down stenographically, the witness might proceed?

The CHAIRMAN. Yes; we might proceed.

Senator COUZENS. In view of the fact that it is being taken down stenographically and the witness is under oath.

The CHAIRMAN. Yes; I think we might go ahead. I do not see how we can do otherwise. It will be a stenographic report anyway. You may proceed.

Mr. STOCK. The evidence shows that Continental Shares, the investment company, was controlled by Cyrus S. Eaton, of Cleveland, one of the directors, and a member of Otis & Co., the brokerage firm that managed the affairs of Continental Shares and marketed the securities of Continental Shares: that Mr. Eaton was the principal partner of Otis & Co., having a 40 per cent interest in that company; that in addition to Continental Shares, the investment company, and the brokerage house of Otis & Co., there was still a third company, Foreign Utilities, a Canadian corporation, which was Mr. Eaton's personal holding company and which he used as his own instrumentality for furthering his own investments and ventures.

I will show that various methods were used to use the moneys of the public in Continental Shares to further the personal ventures of Mr. Eaton and his associates.

One of these is the transaction whereby the founders of the company, Mr. Eaton and his associates, took founders' shares, which provided that those shares shall receive 25 per cent of all profits after the common stock has been paid a certain dividend; that in 1929, in order to take such a cash payment of dividends to founders' shares, a stock dividend was paid on the common stock in order to make this payment possible, which was in direct violation of the provision of the charter and the laws of Maryland, where the company was

formed; that in spite of the fact that Otis & Co., the brokerage house, had taken underwriting fees of about two and a half million dollars for underwriting the stock of Continental Shares and marketing it, in 1930 it saw fit to sell back a great deal of the common stock of Continental Shares to Continental Shares at a price more than twice the then market, thereby causing a loss of \$3,600,000 to Continental Shares.

The evidence shows a great many syndicates, in rubber ventures, steel, and public utilities, all of which were sponsored personally and controlled personally by Mr. Eaton through Otis & Co., and that these syndicates were financed and furthered with the public moneys of Continental Shares, the investment company, either by having—

Senator BROOKHART (interposing). What do you mean by "public moneys"?

Mr. STOCK. Why, the moneys that were obtained from the public by selling the stock in the investment trust.

Senator BROOKHART. That would be money of the private investors rather than the public?

Mr. STOCK. By the public I mean the public investors. I mean those who were outside the inner control of the company.

I will come to these things more specifically as soon as I outline what the evidence shows. In a general way these syndicates were furthered and financed with the moneys of Continental Shares by having Continental Shares buy the shares in those syndicates or by having Continental Shares loan money to the syndicates or by having Continental Shares guarantee or indorse the notes of the syndicate or by having Continental Shares put up its own collateral to obtain loans to further operations of those syndicates.

That in five years or so that this company operated—we have three full books of minutes here—there is not one single instance where any director ever objected to any action taken by Continental Shares. That and other things indicate very clearly to my mind that the directors of Continental Shares were dummy directors put in office and maintained there by Cyrus S. Eaton.

Senator BULKLEY. Have you named the directors?

Mr. STOCK. I will come to that a little later, Senator Bulkley.

Further evidence of the fact that they were dummy directors is the fact that they subscribed to large amounts of stock in Continental Shares, which they have never paid for until this day. Those shares were taken by Cyrus S. Eaton in his own name and voted by him.

Senator CAREY. These directors are the names—

Mr. STOCK (interposing). I will give you those names.

Senator CAREY. Does the record show that these directors appeared at the meetings?

Mr. STOCK. Yes; the record shows that they were present.

The evidence shows that Foreign Utilities was the personal holding company of Mr. Eaton, and Eaton and Foreign Utilities were one and the same.

The evidence shows that in order to maintain the confidence of the public, certain financial statements of the company were altered—there is evidence of that—at the direction of Mr. Eaton, and that certain items that should have been disclosed were concealed from the public in those statements.

There is evidence that the shares in Continental Shares were manipulated—mind you, these shares were listed on the New York Stock Exchange—by Otis & Co. to further the sale of the securities to the public, and that certain losses resulted from that manipulation which were charged back against Continental Shares, the investment company. So that the public not only had been induced to buy the stock but had later on been charged with a loss incurred in manipulation.

The evidence shows a certain transaction in October, 1930, where Otis & Co., the brokerage house, being very heavily in debt, and the banks calling some of the loans, and being forced to obtain about \$20,000,000 immediately, put through a certain transaction which I will describe in greater detail later, which in effect resulted in Continental Shares obtaining a loan at various banks, putting up collateral, and the proceeds of that loan being used to pay the obligations of Otis & Co. and Cyrus S. Eaton and Foreign Utilities.

Now that transaction probably more than any other resulted in wrecking Continental Shares.

Senator BROOKHART. How much was that?

Mr. STOCK. That transaction involved \$57,000,000, Senator.

The evidence also shows that when Mr. Eaton was involved in litigation concerning the Youngstown-Bethlehem merger, which he was interested in preventing and did prevent, he used the moneys of Continental Shares to purchase large amounts of Youngstown stock, in an effort to obtain control of Youngstown and block the merger, and then charged the entire cost of litigation against Continental Shares and a subsidiary of Continental Shares.

Senator BROOKHART. Was Continental Shares interested in the suit?

Mr. STOCK. Only in so far as Mr. Eaton saw that they were interested. He saw fit to plunge them into that litigation.

Now, starting with the first item, the setting up of the company and the creation of founders' shares—or perhaps I should start and give you the names of the directors at that time—would you want me to name those directors, Senator Bulkley?

Senator BULKLEY. Certainly. If you are going to tell the story you will have to tell it all.

Mr. STOCK. At the time of the formation of this company the directors were F. H. Hobson, who was director and vice president; W. R. Burwell, director and president; Philip Wick, director and member of the executive committee; L. G. Watson, who was a director for a short time and at all times was secretary and treasurer; R. V. Mitchell. That is as far as I know the list of directors.

Senator BULKLEY. At what time was that?

Mr. STOCK. That was in 1926, I believe. Yes.

Senator BULKLEY. That hasn't anything particularly to do with the transactions that you are talking about?

Mr. STOCK. No. It has in connection with these founders' shares.

Senator BULKLEY. Mr. Chairman, I see Mr. Daley coming in here now. This is Mr. Daley, who is president of Otis & Co.

Mr. STOCK. Now, when the company was set up, it was provided that 10,000 founders' shares be issued at \$1 a share for a total consideration of \$10,000. These founders' shares were distributed

to various persons, Mr. Eaton getting 5,000, which he turned over to Foreign Utilities.

The charter provided that after \$1 a share had been paid on the common stock in dividends and if there was an excess of earnings, 25 per cent of that could be paid to the founders' shares, but the dividends on the common were cumulative as far as this provision was concerned.

In 1929, there were certain arrears of dividends on the common; that is, back in 1927 and 1928, dividends had not been paid on the common. A stock dividend was declared and paid in lieu of cash. After that stock dividend was paid, a dividend was paid on the founders' shares.

Senator CAREY. Was that money or stock?

Mr. STOCK. That was not money, Senator. As a matter of fact, the stockholders had no more after they got the stock dividend than they had before.

Senator CAREY. I mean on these founders' shares, was that in cash?

Mr. STOCK. That was in cash. They paid a dividend in two years on the founders' shares. The total amounts paid were as follows:

To Cyrus S. Eaton through Foreign Securities, \$164,324.61; to Otis & Co., \$108,454.23; to F. H. Hobson, \$13,145.96; to W. R. Burwell; \$9,859.47; to Philip Wick, \$9,859.47; to L. G. Watson, \$9,859.47; to R. V. Mitchell, \$3,286.49; to John S. Brooks, \$6,572.98; to F. H. Blackburne, \$2,356.49.

Now, the stock dividend was paid in lieu of cash, although the charter provided that \$1 a share be paid to the common.

If this method had been used logically and long enough, this company could have paid all of its profits to the founders' shares in cash and given the stockholders nothing but stock dividends. As a matter of fact, in the year 1929, dividends on these founders' shares were paid, although the company had a deficit of over \$3,000,000.

The CHAIRMAN. How much was paid as dividends on the founders' shares?

Mr. STOCK. I have not added this up, Senator. I have it in here somewhere. I can look it up.

The CHAIRMAN. Never mind. Go ahead with what you are doing.

Mr. STOCK. Now, all of this, mind you, was authorized by the board of directors. Of course, we have the minutes. Not only did the board of directors authorize that the dividends be paid to founders' shares upon payment of a stock dividend to the common stock, but it provided that an underwriting fee be paid to Otis & Co., the bankers of Continental Shares in connection with distributing the stock dividend. I am unable to find where there was any banking function exercised in that connection.

Senator BROOKHART. How much was the payment to Otis & Co.?

Mr. STOCK. Why, the amount was not very much, Senator. It was 10 per cent of the stated value of the common stock, which was distributed as a stock dividend. It was about \$4,600, but to my mind the principle of the thing is very important.

Senator BULKLEY. What other similar payments were afterwards made?

Mr. STOCK. As a founders' dividend, Senator?

Senator BULKLEY. No; as commissions to Otis & Co.

Mr. STOCK. There is a whole list of them here. They amount to about two and a half million dollars in the aggregate, and they are all in connection with the underwriting of securities.

I am not going to criticize any of those underwriting fees with the exception of one feature of it which I will come to later, where the banking firm sold back to Continental Shares securities which they had, previously underwritten at more than twice the then market price, so that having been paid for underwriting securities and then having securities left over which they were not able to distribute, they unloaded those securities back on Continental Shares, thereby foisting—

Senator BULKLEY (interposing). You are going ahead with the details of that, are you?

Mr. STOCK. Yes.

On June 6, 1930, Otis & Co., having up to that point charged underwriting fees aggregating about two and a half millions dollars in connection with the distribution of Continental stock, unloaded back onto Continental over 36,000 shares of common stock, some of which was sold back to Continental at \$76 a share and some of which at \$62 a share, although the market at that time was only \$32 per share. This resulted in selling Continental stock for \$3,600,000 more than it was selling in the market for at that time.

I might say that in a pending lawsuit in Baltimore an allegation to that effect in the bill of complaint was admitted in the answer.

Senator GOLDSBOROUGH. Can you refer to the suit that is now pending for receiver in the Baltimore courts?

Mr. STOCK. I can do that right now, Senator. There is a suit pending right now in the Circuit Court No. 2 in Baltimore by George L. Gogle, plaintiff, against Continental Shares (Inc.), defendant.

Now, evidence of this sale by Otis & Co. to Continental Shares of its own stock at a loss appears in an audit of the books of Continental Shares by Lybrand, Ross Bros., and Montgomery, from which a great deal of the facts of the statement have been taken.

Now, there were a great many syndicate operations of Mr. Eaton and Otis & Co. I will just name a few of them. There was Industrial Shares (Inc.), Utilities Syndicate, Steel Syndicate, Ohio Industry Syndicate, Rubber Syndicate, Cleveland Cliffs Preferred Syndicate, the Cliffs Corporation, International Share Corporation, Good-year Shares (Inc.).

I will just refer to one of these as illustrative of the method of operations. About November 10, 1928, a syndicate that was controlled by Mr. Eaton and Otis & Co., called the Inland Syndicate, sold to Continental Shares 66,960 shares of Inland Steel at \$70 per share. This purchase by Continental was authorized by its own board of directors at a meeting on November 10, 1928.

Senator BULKLEY. Did you tell us who the directors were at that time?

Mr. STOCK. I can give that, Senator. I do not have it right here.

Senator BULKLEY. I think it has a bearing.

Mr. STOCK. Yes. (Addressing Mr. Tresemer:) Would you let me have a list of directors in November, 1928, please, Mr. Tresemer?

Now, this sale of 66,960 shares of Inland Steel at \$70 per share to Continental was stock for which Inland Steel had paid on an option \$35 per share. It is obvious that if Inland Syndicate had wanted

to sell that much Inland Steel on the open market they could never have realized the market price of 70.

An audit of Continental Shares' books shows in its accounts receivable certain unpaid stock subscriptions by directors and officers and employees of Continental Shares. These are as follows: W. R. Burwell, president, 25,860 shares, on which he owes \$754,709.

L. G. Watson, secretary and treasurer, 11,614 shares, on which he owes \$322,306.

F. H. Hobson, vice president, 1,400 shares, for which he owes \$26,600.

E. C. Brelsford, secretary and treasurer International Shares, a subsidiary of Continental, 1,500 shares, on which he owes \$62,500.

R. J. Lehman, an employee, 720 shares, on which he owes \$24,200.

And Maurice Howard, another employee, 300 shares, on which he owes \$7,466.

Making an aggregate subscription of 41,394 shares, on which there is still owing \$1,197,781.

Mr. GRAY. How is that carried on the books?

Mr. STOCK. As accounts receivable.

The fact that Mr. Eaton and Foreign Utilities were one and the same, Foreign Utilities being the Canadian corporation, is very important, because many, if not most of these transactions whereby the funds or the credit of Continental Shares were used, revolved around that Canadian corporation.

The books of Continental Shares show that on August 10th, 1929, Foreign Utilities subscribed on rights to 38,433 shares of the common stock of Continental Shares at \$60 a share, amounting to \$2,305,980, and that the same was paid for by cash obtained from Continental Shares for which Foreign Utilities was charged on Continental's books.

In other words, Continental loaned this money to Foreign Utilities to enable them to exercise rights and to take up this stock, 38,433 shares, and loaned them \$2,305,980.

Now, when you go back to the minutes of Continental Shares which authorized this transaction you find the authorization does not run to Foreign Utilities but runs to Mr. Eaton personally, showing that Mr. Eaton and Foreign Utilities were one and the same. I would like to refer to those minutes.

The minutes of the meeting of the board of directors of Continental Shares of July 16, 1929, contains the following [reading]:

Attention is directed to the fact that subscription rights aggregating 38,433 shares of stock will accrue to stock held by Mr. C. S. Eaton by virtue of the offering of additional common stock authorized at this meeting.

Thereupon, upon motion duly made, seconded and unanimously carried, with the exception of Mr. Eaton, who did not vote, thereon, it was resolved that the company exercise in behalf of Mr. C. S. Eaton the subscription rights of 38,433 shares of common stock which accrue to stock held by him under the offering of additional common stock authorized at this meeting, upon payment by him of 20 per cent of the total subscription price of August 10, 1929, and 10 per cent monthly thereafter until full payment has been completed.

That was later on entered on the books.

Senator BULKLEY. What directors were present at that meeting?

Mr. STOCK. I would like to look in the minute book for that. Could you tell me the directors [addressing Mr. Tresemer]?

Mr. CARL TRESEMER. Do you want these as you go along?

Mr. STOCK. I might ask if you would let us know who the directors were who were present at the meeting of July 10, 1929.

Mr. TRESEMER. I found them on the Inland transaction that you inquired about.

Mr. STOCK. Who were the directors at that time, at the time of the Inland transaction.

Mr. TRESEMER. Those who voted on it were Burwell, Hobson, Inglis, and Philip Wick.

Mr. STOCK. And do you have the minutes of July 10, 1929?

Mr. TRESEMER. I have.

The CHAIRMAN. Might I suggest you go ahead and testify to what you are familiar with?

Mr. STOCK. Now, as I say, this was an authorization by the board—

Senator BULKLEY (interposing). Mr. Chairman, the witness has testified that these were dummy directors. I think he ought to say who they were. There are a good many people in Cleveland who would hardly think they were dummies.

The CHAIRMAN. He says he does not have the names.

Senator BULKLEY. I think if he could supply the names it would be a fair thing to do.

The CHAIRMAN. Yes; it would be.

Mr. TRESEMER. July 10, 1929, directors present and voting: Messrs C. S. Eaton, W. R. Burwell, F. H. Hobson, and R. B. Mitchell.

Mr. STOCK. That authorization, which was made by the directors to Mr. Eaton personally, was later on entered on the books of Continental as a transaction between Continental and Foreign Utilities.

Senator FLETCHER. In case of bills receivable, what happened? Are these subscribers for stock still due certain amounts on account of stock, just the certificates issued and no claim or liens on the stock at all, but stocks were delivered and they simply hold that amount, just like anybody else would hold an obligation to the corporation?

Mr. STOCK. I understand these certificates were placed in the name of Mr. Eaton personally as trustee.

Senator FLETCHER. You do not know whether they were actually delivered to the people who subscribed for them?

Mr. STOCK. I believe we have some one here, Senator, who is familiar with that and can explain it better than I can.

Now, other evidence of the fact that Foreign Utilities and Mr. Eaton were one and the same appears in a letter which Mr. Eaton wrote.

Senator BULKLEY. Is not that a transaction of Foreign Utilities where Mr. Eaton was not voting?

Mr. STOCK. Oh, yes; the one in which the loan was made to Mr. Eaton.

Senator BULKLEY. What?

Mr. STOCK. The one which Mr. Eaton obtained the loan of over \$2,000,000; of course, he could not vote and did not.

Senator BULKLEY. Was it in his own behalf?

Mr. STOCK. Yes.

Senator BULKLEY. Then, I misunderstood you. I thought it was Foreign Utilities.

Mr. STOCK. Yes. They entered it on the books as Foreign Utilities, yes; but the loan was authorized to him personally.

Senator BULKLEY. Oh, I thought maybe you had some further evidence that he and Foreign Utilities were one and the same.

Mr. STOCK. Mr. Tresemer, would you mind bringing your records around here and sitting close to me? I may have occasion to call for various records.

Mr. TRESEMER. All right.

Senator BULKLEY. Is that a thing that you are trying to prove, Mr. Stock, that Foreign Utilities and Mr. Eaton are one and the same?

Mr. STOCK. Yes, sir.

Senator BULKLEY. I thought that was obviously true. I didn't think there was any doubt about that.

Mr. GRAY. It is obvious. There is ample proof of it. There is not any question about it.

Senator BULKLEY. I didn't suppose there was any doubt about it. Is there any doubt about it, Mr. Daley?

Mr. DALEY. I understand that his family and he control it. They do not own it.

Mr. GRAY. There is ample proof that Foreign Utilities and Mr. Eaton are the same. Foreign Utilities is a holding corporation for the purpose of dealing in stocks in the name of the Foreign Utilities in order that he need not deal in his own name. No question about that.

Senator BULKLEY. I understood that it was practically a family corporation, but I suggest that Mr. Daley tell us what it was and then you would not have to bother about it so much.

Mr. GRAY. Mr. Chairman, as counsel for the committee, I would suggest that if Mr. Daley in due course, after we get through presenting anything, desires to testify with respect to matters the same as any other witnesses called—

Senator BULKLEY (interposing). I was only suggesting a short cut to something that I thought he was being at some labor to prove.

Mr. GRAY. There is no doubt that it will be proved.

Senator BULKLEY. That is what I think.

Mr. STOCK. If the committee is satisfied that Mr. Eaton and Foreign Utilities are one and the same, I will not take up any further time in proving it.

Mr. GRAY. I should not waste any time on that.

Mr. STOCK. All right.

Mr. GRAY. The other transaction demonstrates it beyond any doubt.

Mr. STOCK. Now, I might say that while this Continental Shares and its entire operations were predicated on the sale of securities to the public all over the country by the salesmen of Otis & Co. from their many offices, I want to call this one thing to the attention of the committee, that in many of these cases most of the purchases of stock do not take place on the stock exchange. A company lists its shares and then goes out and has its salesmen sell the stock directly, but the stock exchange is the show window in which the goods are displayed. The salesmen go out and they say, "Well, now, you saw that stock go up five points last week," or "go down," or

whatever it was, and then try to explain prices, but the stock exchange is the show window that enables the salesmen to go out and sell the stock while the attention of the entire country is riveted to the ticker tape.

Now, this company operated on that basis. Most of the stock in this company was sold directly by salesmen. So that it became a very important part of the salesmanship that they make their statements appear as favorable as possible.

I would like to read to this committee a letter written by Mr. Watson, secretary-treasurer of Continental Shares, to Mr. Ferdinand Eberstadt, a partner in Otis & Co., bankers, for this investment company.

JULY 21, 1930.

DEAR MR. EBERSTADT: Mr. Eaton has suggested that we obtain your opinion on the inclosed balance sheet and account sheets as at June 30, 1930. There are one or two points in connection with this balance sheet that we would like to get your specific opinion on before endeavoring to have the auditors alter them our way.

First, under "other assets" there was a loss of slightly in excess of \$2,000,000 taken in treasury stocks. This was due chiefly to two transactions, one in connection with the Lehigh Syndicate, where we had to take back certain securities, and the other in connection with our convertible preferred stock.

My feeling in this is that we should write down the loss but leave out the statement in the parentheses made by the auditors "less reserves to reduce indicated market values." Also under "unpaid subscriptions" I see no reason why we should show the number of shares held.

Second, income and expense account: Neither Mr. Burwell nor myself is at all satisfied with this, in so far as we believe that it would not be any particular breach from accounting principles if the four hundred and twelve thousand-odd dollars representing the loss in Continental Allied and the 2,052,000, the written down total treasury stocks, were combined by way of a reduction under the caption "Profit on sales of securities," so that there would be only one heading here representing approximately 15,700,000.

Now, what happened there was this: The accountants for Continental Shares had prepared a balance sheet and that balance sheet had on the credit side a profit of about \$22,000,000 on the sale of securities in the early part of the year. It also showed certain losses, losses on treasury stocks and losses on other transactions. It showed among other losses a loss of \$412,000 incurred by a subsidiary, Continental Allied, which was set up for the purpose of operating the market in Continental Shares.

Senator BROOKHART. What part did it take in that manipulation? How did it operate?

Mr. STOCK. Well, Senator, I do not know exactly how they operated. It was set up for that purpose, to handle the market and trading operations in that stock.

Senator BROOKHART. Either buying or selling?

Mr. STOCK. Either buying or selling.

Mr. GRAY. Or both?

Mr. STOCK. Or both.

Senator BROOKHART. Would they be doing both?

Mr. STOCK. Yes, sir. That company was in existence all during the year 1930, and I suppose in endeavoring to maintain the market on the stock it lost about \$630,000 in 1930, which of course was sustained by Continental Shares; but by June, 1930, the date of this semiannual statement, those manipulations or operations in the market had resulted in a loss of \$412,000.

In order that the stockholders should not know about that, although the accountants saw fit to include it in the statement they drew up, it was suggested by Mr. Eaton that the auditors alter this statement "their way" and absorb those losses in the profit which they had on a transaction the early part of the year.

Senator BROOKHART. What evidence have you of that?

Mr. STOCK. The statement that actually was issued was exactly in conformity with the suggestion of Mr. Eaton, and those losses did not appear under that balance sheet.

Mr. GRAY. The answer to your question, Senator Brookhart, is that the evidence is contained in the letter that was written first and in the fact that the account afterwards was drawn and published in accordance with the suggestions contained in the letter.

Senator BROOKHART. May I understand it: You say that the net result of the losses is that reflected in the balance sheet?

Mr. STOCK. No, Senator. The fact that they were losses in these instances was not shown.

Senator BROOKHART. I see. But the net result of them in there—

Mr. STOCK. Oh, of course, it had to be.

Senator BROOKHART. I am trying to find out whether you say the balance sheet was false or not.

Mr. STOCK. Well, I will put it this way, that the original balance sheet showed a \$22,000,000 profit in one transaction and smaller losses on other transactions. Now, that is how the accountants showed that statement when they first drew it up. Mr. Eaton saw fit not to show those losses, and have them deducted from the profit of twenty-two million, really showing merely a profit of \$15,000,000.

Senator BROOKHART. But the net result of the balance sheet being the same?

Mr. STOCK. Yes.

Senator BROOKHART. That is what I wanted to get.

Mr. GRAY. The net result was the same.

Mr. STOCK. The committee has heard a great deal of evidence about methods of salesmanship in connection with selling securities. I would like to read a letter—in order to save time I will just read parts of a letter written by Rex Arthur, a partner in Otis & Co., and the resident partner in Denver, Colo., where the operations of Otis & Co. were very extensive, a letter by Mr. Arthur to Ferdinand Eberstadt, a partner of Otis & Co. in the New York office, dated May 22, 1930. [Reading:]

On several occasions I have been at the point of writing you exactly what I think of the Continental Shares situation. Your telegram of yesterday decided me.

First, let me assure you that we are not overestimating the seriousness of the local situation. When Continental Shares breaks below 30 we are in imminent danger of having to sell out a large number of our best accounts, not joy riders and weak speculators, but friends of ours who got this stock in the beginning and all the way up. Naturally, if we start this selling the market will go lower, which will in turn force further liquidation. Granted that this predicament is most serious to the Denver office, I still feel that it is not our predicament alone, but one which in a much larger sense affects the entire firm and the firm's future. When I tell you that the morale of the entire selling organization of Otis & Co. is shot to pieces just over this Continental Shares matter alone, I am not guessing, as I know the feeling of practically every office in the circuit.

As I see Continental Shares, this company is not only the most important financial vehicle which Cyrus Eaton has at his command, but is potentially a tremendous business incubator for us as bankers. For the past nine months this stock has been continuously and persistently working down. With all due allowance for the condition of the general market, it is perfectly clear that the handling of this particular market has been extremely bad. Sporadic attempts have been made from time to time to give support, but there has been no continuity to the effort, and at no time has the market been aggressively working on the up side. Negative support only, that is, with buying orders under the market is just wasted effort, and money, since any stock left to flounder will inevitably work down and through any support level.

Senator FLETCHER. What is the date of that letter?

Mr. STOCK. May 22, 1930. [Continues reading:]

To remedy the situation first the market should be placed entirely in the hands of one operator. I do not think the streets of New York need to be combed to find some one talented enough to handle this market, but whoever the operator is, he should stay in New York and be given a free hand.

Second, the popgun idea should be definitely abandoned and heavy artillery brought on. The Allied Corporation [which is the subsidiary referred to before] did authorize the buying of as much as 10 per cent of the outstanding capitalization at current levels. We accept human nature as it is, and while in theory an investor would be willing to patiently await the income of assuredly three of the most recognized organizations in the field, it is reasonable to assume that he will change his mind when it gets to the point that there is neither a market nor a possibility of returning to the levels. When the general market has an upturn these shares should easily be distributed by our retail organization and outside dealers. It is just a cinch, by the way, that money and effort spent in building up a dealer following is thrown away until such time as the stock is properly sponsored. Other corporations who need capital constantly are perfectly alive to this, and we must come to it. Our own retail clientele alone could supply us with millions of dollars each year. At present instead of doing that we are letting them and their money be booted right to hell or into the hands of our competitors. It is the most perfect example of killing the goose that laid the golden egg that has ever come to my attention.

Now, that, gentlemen, was written by one partner of a banking firm to another.

Mr. GRAY. Rather would you not say, Mr. Stock, by one partner of a brokerage company to another, Otis & Co.?

Mr. STOCK. Well, they were a banking firm and brokerage company, Mr. Gray. Of course, this Otis & Co., as I stated, were members of the New York Stock Exchange.

Senator BULKLEY. Was there no action taken pursuant to that to peg the market?

Mr. STOCK. I did not go into that, Senator Bulkley. I do not know.

Around October 10, 1930, or slightly before that time Otis & Co. had total obligations of \$125,000,000, and the various banks were calling on them for payment, and on the night of October 13, 1930, a meeting was held at which representatives of the New York Stock Exchange and banks were present and demand was made on Otis & Co. as members of the New York Stock Exchange, the demand being based upon an audit by the New York Stock Exchange of the affairs of Otis & Co. that Otis & Co. would not be permitted to open the next morning unless they obtained \$20,000,000. The arrangement also that night was that they would be permitted to open the next morning if they obtained this money by noon the next day.

Now, in anticipation of this action on October 8, 1930, a transaction was arranged whereby this money was to be obtained, and this is what was done: It was arranged that Continental Shares purchase certain securities from Foreign Utilities, the Canadian corporation, for \$57,000,000, \$35,000,000 of which would be paid in cash and the balance in stock of Continental Shares Co. at \$21 a share, which was presumably the market price at that time.

That transaction appears in the minutes of Continental Shares, the authorization for it, together with the list of the securities involved.

Pursuant to that authorization—

Senator BULKLEY (interposing). That was an authorization by the directors?

Mr. STOCK. Directors of Continental Shares.

Senator BULKLEY. What directors were present and voting?

Mr. STOCK. Directors present were Messrs. C. S. Eaton, W. R. Burwell, Richard Humsted, F. H. Hobson, R. V. Mitchell, and Philip Wick.

Mr. GRAY. Let the committee get that transaction perfectly clear, Mr. Stock, as it appears by that resolution. By that resolution Continental Shares agreed to purchase from Foreign Utilities, the Canadian corporation, that has heretofore been designated as Mr. Eaton's corporation, certain stocks which are listed in that resolution.

Mr. STOCK. That is correct.

Mr. GRAY. And they were to give to Foreign Utilities for that list of stocks \$57,000,000, \$35,000,000 of which was to be in cash and the balance to consist of a certain number of shares of Continental Shares itself, their own stock?

Mr. STOCK. Yes; I was coming to that.

Mr. GRAY. Figured at a basis of \$21 a share. Now, as far as the books of the Continental Shares are concerned, that is to say, the minute book where you have indicated this resolution is to be found, there was no mention of Otis & Co. in any way, shape, or form, was there?

Mr. STOCK. No.

Mr. GRAY. All right. That resolution was dated the 8th day of October. It was the 10th day of October, 1930, was it not, that the stock exchange through its governing committee stepped in on Otis & Co.?

Mr. STOCK. That is right.

Mr. GRAY. And it was the night of the 13th of October, 1930, which was a Monday night, that Otis & Co. were advised that they could not open the next day unless they reduced their liabilities or likewise increased their capital one way or the other, approximately \$20,000,000?

Mr. STOCK. That is correct.

Mr. GRAY. And at a meeting held—and this is all proved by records—at a meeting held as late as 9.30 in the morning Tuesday, Otis & Co., having advised the stock exchange that they could put themselves in that position by noon of that day, were permitted to open at 10; that is correct, is it not?

Mr. STOCK. That is correct.

Mr. GRAY. All right; now, from there on?

Mr. STOCK. If I have not mentioned it, I would like to do it at this point, that the New York Stock Exchange audit of Otis & Co. showed that their obligations totaled \$225,249,000, and that their capital was impaired to the extent of \$18,423,000.

Mr. GRAY. Not their capital but their position with respect to their securities?

Mr. STOCK. That is correct.

Mr. GRAY. Now, right there let me develop another point: It is a fact which the audit of the affairs of Otis & Co. at that time showed that a great deal of their obligations consisted of loans from various banking institutions for which there had been deposited as collateral either stocks that were owned by Eaton himself or stocks that were owned by Foreign Utilities, Eaton's corporation?

Mr. STOCK. That is correct.

Mr. GRAY. Is that correct?

Mr. STOCK. That is correct.

Mr. GRAY. So that the committee may get the picture and understand it as Mr. Stock goes along, it was in order to furnish Otis & Co. money that it was necessary to sell those securities, pay the loans of Otis & Co. or Eaton or both, and release those securities, in order that they might be delivered to Continental Shares for the consideration that was to be paid. That was the scheme, was it not?

Mr. STOCK. Yes, sir.

Mr. GRAY. All right; now, go ahead and relate it in detail.

Mr. STOCK. Before relating how they did this, in order to show that—

Mr. GRAY (interposing). If you go ahead and relate how they did it, when we have gotten to that point, instead of diverging to something else, the committee will get it clear.

Mr. STOCK. All right. There was at that time, of course, collateral at various banks on which Foreign Utilities, Eaton, and Otis & Co. were obligated, and it was in order to lift those obligations that this transaction was put through. This transaction was put through originally—

Senator BROOKHART (interposing). That is Eaton and Otis & Co. or these banks?

Mr. STOCK. With those banks' money; yes, sir.

Senator BROOKHART. How much was the total amount?

Mr. STOCK. If you will permit me—it is difficult to answer that directly.

Mr. GRAY. The answer is, Senator, that the total amount of their obligations was \$125,000,000.

Mr. STOCK. But how much of that was the bank loans and how much was another type of loan we have never analyzed.

Senator BROOKHART. What was the other type of loan?

Mr. STOCK. Well, they may have owed money to persons individually. I do not know. There were these particular loans with various banks.

Senator BROOKHART. What were those particular loans?

Mr. STOCK. There were loans at a New York bank and several Cleveland banks.

Senator BROOKHART. Which New York bank?

Mr. GRAY. Several New York banks, Senator. Give Senator Brookhart the names of the four banks.

Mr. STOCK. Guaranty Trust Co., Chemical Bank & Trust Co., both of New York.

Senator BROOKHART. How much for each one?

Mr. STOCK. \$2,550,000 paid to the Guaranty Trust Co.; \$1,655,000 paid to Chemical Bank & Trust Co.; \$50,000 paid to the Public National Bank & Trust Co. of New York; \$1,600,000 paid to the Chase National Bank. There are other payments here to those banks. There is \$666,000 paid to the Union Trust Co. of Cleveland; \$1,000,000 paid to the Union Trust Co. of Cleveland; \$3,333,333 paid to the Bankers Trust Co. of New York; \$7,000,000 paid to Otis & Co.; \$636,666 paid to Otis & Co.; \$390,000 paid to Otis & Co. I have a complete distribution that was made of that transaction.

Senator BROOKHART. What is the total amount of that distribution?

Mr. STOCK. That total amount was \$37,000,000—

Mr. GRAY. I will get that for you, Senator, as long as you have asked that question. We jumped perhaps a little in order to answer Senator Brookhart's question and you have referred to the distribution there. That distribution sheet represents the payments, in part at least, that were made by the Chase National Bank, from whom Continental Shares borrowed the money, on account of the various loans of Otis & Co. in order to relieve the collateral for delivery to Continental Shares—that is true, is it not?

Mr. STOCK. That is correct.

Mr. GRAY. And that distribution not only represents certain moneys paid in cash to Otis & Co., but represents certain moneys paid to the banks in New York and to the banks in Cleveland to take care of loans, and it also shows bookkeeping transactions by which credits were given for certain amounts, which was the equivalent of the payment of a loan, does it not?

Mr. STOCK. Yes, sir.

Mr. GRAY. Or such transactions of that type.

Senator BROOKHART. That means that \$37,000,000 was furnished by the Chase National Bank?

Mr. GRAY. I will go a little further than that: The first amount furnished by the Chase National Bank was thirty million, was it not?

Mr. STOCK. That is correct.

Mr. GRAY. The second amount furnished by the Chase National Bank was \$5,000,000?

Mr. STOCK. That was furnished by Union Trust of Cleveland.

Mr. GRAY. And that was the amount in cash or represented the entire amount in cash that was to be paid by Continental shares in their deal with Foreign Utilities?

Mr. STOCK. That is correct.

Mr. GRAY. Now I don't want you to go into the details for a moment of the other transaction, because we will reach it in a more orderly way, but the fact is that there was a change in the arrangement for the delivery of \$21,000,000 of stock by which there was a substitution of about seven million and some odd in cash, which resulted in Continental Shares paying even seven million more because it was necessary that that amount—

Mr. STOCK (interposing). \$670,000.

Mr. GRAY. \$7,670,000—in order that Eaton and Otis & Co. should still be saved? In other words, the thirty-five million was not enough, was it?

Mr. STOCK. That is correct.

Mr. GRAY. Now, I want you to go back to the point where we left off, if you please, starting after this deal was made with Continental Shares and that resolution was adopted and we are told of the position of Otis & Co., and tell us just exactly how the transaction was carried out, by what financial manipulation, through what institution, and then how the moneys were distributed, that is, how they reached the point that it was distributed in the way you indicated. Will you go back to that now?

Mr. STOCK. Pursuant to the authorization of the board of directors of Continental Shares, 19 blank promissory notes were given by Continental Shares to the Chase National Bank. These notes were subsequently filled out for various amounts for the purpose of taking up existing loans of Eaton, Otis & Co., and Foreign Utilities at various banks at New York and Cleveland.

Mr. GRAY. What was the provision in the resolution with reference to the authority to be given to the Chase National Bank to use those notes?

Mr. STOCK. There was not any that I could find.

Mr. GRAY. Was there not a provision to the effect that those notes should not be used except upon the authority of certain officers of the company?

Mr. STOCK. Oh, yes. I was just coming to that.

Mr. GRAY. And did the Chase National Bank when this distribution part of it was made early on the morning of the 14th of October, 1930, for the purpose of saving Otis & Co., wait for the carrying out and the receiving of the necessary authority?

Mr. STOCK. No, they did not. They filled out several of these notes immediately in order to obtain the cash to lift the obligations that morning. And subsequently that was handled as a bookkeeping transaction. But the depository agreement between Continental Shares and the Chase Bank provided that it was necessary for Chase to have a written authorization signed by two officers before Chase could honor any draft, check, or order against Continental. These notes were filled out and used without Chase having any such authorization.

In the larger sense, what happened here was that Foreign Utilities was selling \$57,000,000 worth of securities to Continental, which really were up as collateral at various banks.

In addition to that collateral, Continental put up of its own portfolio, not part of the securities that they were buying but out of its own portfolio, securities of a value of \$28,240,000. In other words, what was done in this case was to use not only the collateral that was already up at the banks but to add to that certain collateral already owned by Continental Shares.

Mr. GRAY. Let us get that straight. The collateral, which was sold by Foreign Utilities to Continental Shares for \$57,000,000, was not sufficient to put up to obtain the \$35,000,000 loan; is that correct?

Mr. STOCK. That is correct.

Mr. GRAY. Therefore, Continental Shares had to dip into its own portfolio of outside stocks which it held and deposit them with the

bank in addition to \$57,000,000 worth—or supposed to be valued at \$57,000,000—of Foreign Utilities that were turned over before they could get these \$35,000,000 in loans; is that right?

Mr. STOCK. That is correct.

Mr. GRAY. So the effect of the transaction, as far as Continental Shares was concerned, was to have them part with \$35,000,000 absolutely; that is, in the original agreement to change it to forty-seven thousand six hundred—

Mr. STOCK. Forty-seven million.

Mr. GRAY. Forty-seven million six hundred thousand—I am used to talking in smaller figures—in cash, original \$21,000,000 worth of their stock, which was reduced proportionately as the cash increased—

Senator BROOKHART. Twenty-one million.

Mr. GRAY. Twenty-one million. I told you I was used to small figures. And in addition to that, required them to take \$28,000,000 of their own portfolio, stocks out of their own portfolio, and put them up as additional collateral in order to put through this deal to help out Otis & Co.?

Mr. STOCK. So when this transaction was all finished, the net result of it was that Continental Shares was obligated at the various banks, that its collateral, its own collateral as well as the collateral that it had purchased from Foreign Utilities, was also up as collateral, and the various persons, Otis & Co., Foreign Utilities, and Eaton, had been relieved of the obligations that they owed.

Senator BROOKHART. Your idea of this whole thing is that it was a scheme to loot Continental Shares?

Mr. STOCK. No; I would not put it that way, Senator. I would say that Otis & Co. and Cyrus Eaton got into a very tight hole at this time and the only place that they could turn to to save themselves was this investment company, and that is what they did.

Mr. GRAY. Mr. Stock, it is important to develop one other thing. I can develop it by the accountant, but you probably can state the facts. Continental Shares was an investment trust or a trading corporation. In other words, it was a trust in which the people bought the stock of the particular company which used the money obtained from the sale of their own stock for the purpose of dealing in and investing in other securities?

Mr. STOCK. That is correct.

Mr. GRAY. It had as a result of its investments a certain definite, fixed—or if not fixed a varying income—during the period of a year. What was the effect, if any, on the reduction of the income to Continental Shares stockholders as a result of this transaction?

Mr. STOCK. It cost Continental Shares for carrying charges, interest charges, on the loans at the banks, \$800,000 a year more than the dividends on the securities which they purchased from Foreign Utilities.

Mr. GRAY. Then it cost them a reduction of \$800,000?

Mr. STOCK. Yes, in that year. Now, in the following year—

Mr. GRAY (interposing). It cost them a reduction of \$800,000 in their income.

Mr. STOCK. In the second year it cost them \$2,000,000 in income.

In that connection I want to point out one thing: Otis & Co. being in a very tight fix and the banks being somewhat reluctant to help

them, charged a very fancy figure for these loans. I would like to read a letter written by James Bruce, vice president of the Chase Bank, to Mr. Clarkson, president of the Chase Securities Co., concerning this transaction [reading]:

I really think we are doing Otis & Co. a big service, chiefly because they are not securities which they could put up for their loans, but would have to make special loans on them, and I believe the Cleveland banks are pretty well loaded up with loans on Otis's enterprises, and I think the New York banks are probably a little skeptical. For this reason they should certainly pay a substantial rate on a loan of this kind, and I do not think we should soften up Mr. Wiggin's proposition in any way.

The loan in this case was 3 per cent higher than the rediscount rate. That was a loan of Otis & Co. Why should Continental Shares be charged with it? As a result, it cost Continental Shares \$800,000 the first year and \$2,000,000 the second year more as carrying charges than dividends on the securities that were securing them.

Senator BROOKHART. Who got Continental Shares?

Mr. STOCK. The public, Senator.

Senator BROOKHART. That stock had been sold up to \$150,000,000?

Mr. STOCK. That is correct.

Senator BROOKHART. By people over the country generally?

Mr. STOCK. Yes, sir.

The CHAIRMAN. You said it was 3 per cent over the rediscount rate. What was the actual rate?

Mr. STOCK. The actual rate was 5½ per cent, and the discount rate at that time was 2½ per cent. Mind you, this was a security loan. It was not a commercial loan; it was a loan on securities on which I should say the rate is usually not over 1 or 1½ per cent above the rediscount rate.

The CHAIRMAN. Go ahead.

Mr. STOCK. In order that there be no mistake about the purpose of this transaction, and what the money was to be used for, I would like to read a letter from Mr. S. Smith, vice president of the Chase Bank, to Mr. Wiggin, chairman of the Chase National Bank.

Mr. GRAY. I should say to the committee that these letters are absolutely correct, that they are copies of communications obtained from the Chase National Bank, and that I, myself, personally compared them with the letters, so that they are absolutely correct.

Mr. STOCK. Now, this refers to Otis & Co.

Senator BROOKHART. What is the date of the letter?

Mr. STOCK. The date of this letter is October 10, 1930, and incidentally, the date of the letter from Mr. Bruce to Mr. Clarkson is October 9, 1930.

Mr. GRAY. They are interoffice communications.

Mr. STOCK. I will not read all of this. It refers to the calling of bank loans by various banks and goes on to refer to a statement made by Mr. Eberstadt of Otis & Co. [reading]:

He says the \$30,000,000 loan will clean up their biggest debit account, which is Foreign Shares or Foreign Securities Co.

He is referring there to Foreign Utilities.

They have been buying utility securities and owing Otis. The proceeds of our loan to Continental Shares will go to Foreign Shares and from them to Otis.

(The documents referred to by Mr. Stock are here printed in the record in full, as follows:)

Memorandum,

Mr. CLARKSON,
President Chase Securities:

Referring to the matter of a loan to Continental Shares (Inc.), it seems to me the following collateral is all right:

United Light & Power B should be taken at 40. This stock sells at 78 but has purely a nominal market, whereas the A stock, which shares equally in assets and earnings but has no voting power, sells at 32. In other words, according to market values, 2,100,000 shares of A stock sell for \$67,000,000, whereas 1,000,000 shares of B stock sell for \$78,000,000. I think, however, the B stock should be allowed a 25 per cent increase in value of the A stock, which would bring it to about 40. This would give a value to their holdings of U. L. & P. B. of \$6,600,000.

Lehigh Coal & Navigation I think is all right to take in at the market, which would be \$12,400,000, and subject to seeing the balance sheet of Cliffs Corporation I think we could make the balance of the loans on this stock.

They have valued the same at \$40,000,000 and I presume that reasonable valuation would be around \$30,000,000, which would give us ample margin. On the other hand, none of the manuals have anything on this corporation since the end of 1929 and the information they give is rather meager, and I think we should make the loan subject to seeing the balance sheet and a reasonable valuation being substantiated.

I am quite sure, however, from the set-up of the company, which is turn owns the Cleveland Cliffs Corporation, that their holdings are worth this amount of money.

With regard to any possible option, the Continental Shares (Inc.) has 10,000 Founders shares which are entitled to 25 per cent of the available net profits of the company after common stock receives \$1 per share. I presume it would be a hard matter to get any sort of a hold on any of these shares, although that is the desirable thing if the company has a good future. The amount of common shares issued is 3,400,000 shares.

It seems to me that Mr. Wiggin's proposition to them with regard to interest is overfair in every regard, and I do not believe it is worth while for us to employ our money on any better terms. The only suggestion I could make in case we wanted to go more easy on them would be to establish a rate of 3 per cent over the Federal reserve rediscount rate with a minimum of 5½ per cent. In other words, it would run at 5½ per cent at the moment and if the rediscount rate were lowered we would still get 5½ per cent, but would get any raise that may be in the rate.

I really think we are doing Otis & Co. a big service, chiefly because they are not securities which they could put up for their loans, but would have to make special loans on them, and I believe the Cleveland banks are pretty well loaded up with loans on Otis's enterprises and I think the New York banks are probably a little skeptical. For this reason they should certainly pay a substantial rate on a loan of this kind, and I do not think we should soften up Mr. Wiggin's proposition in any way.

JAMES BRUCE,
Vice President Chase Bank.

OCTOBER 9, 1930.

Memorandum for Fr. Wiggin, re Otis & Co. Continental Securities:

I believe LHJ has or is making a memorandum. He is tied up and I have not seen him. As the matter now stands, the \$30,000,000 Continental Shares (Inc.) loan is to be for 18 months at 5½ per cent interest, payable monthly. The company has a right to pay at the end of any quarter on 30 days' notice. If loan is paid before maturity the commission for the unexpired time at the rate of one-fourth of 1 per cent per annum is due. Otis & Co. to use best efforts for Chase on future financing of concerns in which interested and also best efforts to see that we receive as substantial balances as possible. The only item which Eberstadt quibbled over was the penalty for prepayment. The collateral is not yet fully decided. At present we are discussing as follows:

416,000 United Light & Power B, at 40-----	\$16,600,000
403,000 Lehigh Coal & Navigation, at 30-----	12,100,000
11,400,000 Brooklyn Union Gas, at 115-----	1,311,000
96,000 Goodyear-----	4,600,000
2,625,000 Continental Illinois Bank & Trust, at 570-----	1,500,000
772,000 Guaranty Trust, at 583-----	430,000
5,850,000 Bank of Manhattan Trust, at 100-----	585,000
10,888,000 Union Trust of Cleveland, at 75-----	800,000
3,687,000 Cleveland Trust Co., at 385-----	1,400,000
480,000 Harris Trust of Chicago, at 700-----	336,000
68,850,000 Youngstown Sheet & Tube, at 100-----	6,800,000
Total -----	46,462,000

Mr. Clarkson has told them that while we have listed 416,000 shares United Light & Power we understand there is more available, and we want it all. I have not checked the prices on the above list. I understand most of them are about at the market although United Light & Power B is down at 40 when the market is near 80. In all probability some of this loan at least, may be in temporary form, will be taken to-morrow, because of the following:

Re Otis & Co.

There has been considerable conversation about the firm for sometime past; more of it to-day when they had \$11,500,000 of loans called. Morgan's First National, Guaranty, and ourselves agreed to take these up. Eberstadt says they already have \$7,500,000 cash on the way for partial payment. He says the firm this morning conservatively had capital of \$20,000,000, probably more; that they are absolutely solvent. Their total loans were probably \$120,000,000, all properly secured but, of course, he is uneasy if continual calling like there was to-day continues. He says the \$30,000,000 loan will clean up their biggest debit account, which is Foreign Shares or Foreign Securities Co. They have been buying utility securities and owing Otis. The proceeds of our loan to Continental Shares will go to Foreign Shares and from them to Otis. Eberstadt says he is satisfied that they have no other debit balances which are large enough to cause them any uneasiness. He says the members of the firm altogether don't owe the firm more than \$4,000,000 all properly secured. He don't think there is anything in their debts outside to cause any concern. In addition, he is satisfied the principal partners have very substantial net worth outside the firm. I think he estimated this conservatively at \$25,000,000. He is very emphatic there is no internal situation or buying in of their own shares which is a problem. He says that, of course, in their customers' collateral are large amounts of the stocks of companies they have bought into but they are properly margined and he feels sufficiently diversified with no concentration in any one of such size as to cause undue concern.

S. SMITH,

Vice President, Chase Bank.

OCTOBER 10, 1930.

Mr. STOCK. Now, there can be no question that the Chase Bank in this case knew all of the details in this transaction. They had a copy of the minutes of the meeting of the board of directors that authorized this transaction. They referred to it in all of the inter-office correspondents.

Several weeks later—I might say that this transaction was found because of the fact that the audit of Continental Shares shows that this transaction was entered twice and handled in two different manners. It shows that several weeks after this transaction went through it was decided to send the securities that had been purchased by Continental Shares up to Canada. I will just state the facts and let the committee draw its own conclusions.

The original sale had been put through in this country, of course. The collateral was in the banks in New York and in Cleveland, and the sale of the securities was a sale of those particular securities, but several weeks later it was decided to send those securities up

to Canada. They were sent up to Canada, St. John's New Brunswick, I believe, and they were there delivered.

Senator CAREY. By whom, Mr. Stock?

Mr. STOCK. They were there delivered by an agent of Foreign Utilities—we have that here—to an agent for the correspondent of the Chase Bank in Canada, and a notary public made an affidavit to the effect that the securities were then and there delivered at St. John's. They were then shipped right back to where they had come from, New York and Cleveland. The expense of that shipment up to Canada and back again was over \$34,000, and they were shipped up there just for the purpose of having a notary public attest the fact that he had seen delivery made in Canada.

The CHAIRMAN. And why that?

Mr. STOCK. Well, Senator, the Foreign Utilities was a Canadian corporation, but all of its business was transacted in this country. This particular sale on October the 10th took place in this country, and the income tax in this country, of course, was lower than the Canadian income tax.

The CHAIRMAN. Or higher?

Mr. STOCK. Or higher, I meant to say; yes. One item alone in this transaction, United Light & Power, one of the securities sold by Foreign Utilities to Continental Shares showed a profit of \$17,000,000.

The CHAIRMAN. It showed that profit as happening in Canada?

Mr. STOCK. Well, as they later on put through this transaction, it was made to appear that it was a sale in Canada and not subject to the American tax.

The CHAIRMAN. It has the appearance of being planned to get away from the tax of the American Government?

Mr. STOCK. Yes. I would like to indicate the manner in which they did this. Several weeks after this original transaction went through they put through another transaction in which—

The CHAIRMAN (interposing). What was the amount of taxes, probably?

Mr. STOCK. Our corporation tax at that time, I believe, was 12 per cent.

The CHAIRMAN. The total sum, about how much?

Mr. STOCK. Well, I don't know how much all the profits were. I am only familiar with that one item of United Light, which was \$17,000,000.

The CHAIRMAN. And the tax on that would have been?

Mr. STOCK. \$2,000,000.

Mr. GRAY. A little over \$2,000,000.

Mr. STOCK. I might say that the way that this matter was handled it appears on the books of Continental Shares in both ways, first put through as a sale on October 10, and several weeks later they put it through a second time, in this way, that instead of Continental Shares buying these securities from Foreign Utilities and letting the proceeds go to various persons, they made it appear that Continental Shares had loaned \$57,000,000 to Foreign Utilities.

Now, to my mind that is perfectly absurd, because the Chase Bank had not only recognized that there had been a sale from Foreign Utilities to Continental but had used the securities involved as collateral in extending the original loan to Continental Shares. How

could the Chase Bank extend a loan of \$57,000,000 to Continental Shares without getting any collateral from Continental Shares? And if the securities in question had not been sold to Continental Shares, where was the collateral on which Chase Bank loaned that money? So they put the thing through as a loan of Continental Shares to Foreign Utilities, and had Foreign Utilities send a note down, a note from Foreign Utilities to Continental. They shipped the securities up to St. John's, New Brunswick, and then had an exchange made of the notes for the securities, Continental returning Foreign Utilities notes and taking back the securities.

The CHAIRMAN. Is there any income tax at all in New Brunswick?

Mr. STOCK. Well, Senator, I would hesitate to testify as an income-tax expert. I have inquired of various people that are well informed on the subject and they say that, if I have stated the matter to them correctly, they think there is a tax. I will state this about that, that, if the original transaction, which was a sale from Foreign Utilities to Chase, resulted in an income tax, nothing that they did after that would have removed that tax.

Senator BULKLEY. Did you mean Foreign Utilities to Chase?

Mr. STOCK. Foreign Utilities to Continental.

Mr. GRAY. Likewise, if a transaction, theoretical as well as actual, took place in this country, the tax was due to the United States Government and not to the Government of New Brunswick, unless, in addition to the tax having to be paid to the United States, Foreign Utilities, as a Canadian corporation, itself might have been liable in some way under some taxing laws of New Brunswick to New Brunswick itself—isn't that true?

Mr. STOCK. That is correct.

Senator BROOKHART. What is the date of this transaction?

Mr. STOCK. October 10, 1930.

Senator BROOKHART. It is not too late to collect that tax yet, is it?

Mr. STOCK. No.

Senator BULKLEY. Did I understand you to say that Continental's books were balanced?

Mr. STOCK. No; they had two separate sets of entries; one was a sale on October 10 and one—

Senator BULKLEY (interposing). They showed it as a sale on October 10?

Mr. STOCK. Yes; that is correct.

Senator BULKLEY. And, then, what is the other one?

Mr. STOCK. Then, the other subsequent entry showed it as a loan.

Senator BULKLEY. Then, there must have been something else in there.

Mr. STOCK. No; they really showed it in duplicate, Senator. Of course, you see, the semiannual statements only come out in June and the end of the year. When the end-of-the-year statement came out on December 31, 1930, it was then considered on the books of Continental as a loan transaction.

Senator BULKLEY. They just disregarded the first one?

Mr. STOCK. They disregarded the first altogether.

Senator CAREY. Mr. Stock, who was responsible for sending the bonds to Canada?

Mr. STOCK. Just what do you mean by that, Senator?

Senator CAREY. Did the Chase Bank send them or did Continental send them or Otis send them?

Mr. STOCK. Well, I can only answer that, Senator, in this way, that I do not know whose idea it was or who originated the idea; I do not know that. I will say that the securities were sent up to the Canadian correspondents of the Chase National Bank, so that they had never left the custody of the Chase National Bank.

Senator CAREY. Who would have saved the income tax on these securities?

Mr. STOCK. Whoever owned Foreign Utilities.

Senator CAREY. Mr. Eaton?

Mr. STOCK. They were the people that made the profit, and that was Mr. Eaton's personal company.

Senator CAREY. Were not these securities pledged with Chase for a loan?

Mr. STOCK. Originally; yes.

Senator CAREY. They were released after the sale?

Mr. STOCK. They were released; yes.

Mr. GUGLE. No; they were not released.

Senator CAREY. Didn't Chase still retain these?

Mr. STOCK. Oh, yes; they still retained them as collateral. That is the point. They did not release them at all.

Senator CAREY. They were really still in the possession of the bank?

Mr. STOCK. Exactly; because they still owed money to Chase on that particular collateral.

Senator CAREY. It would not be a natural thing to send bonds which were used as collateral and have them transferred. I do not see the object of the transfer.

Mr. GRAY. May I develop that by a question, Senator?

Senator CAREY. Yes.

Senator WALCOTT. In the first place, Mr. Gray, in order to correct the record, those securities were not released.

Mr. STOCK. No; they were not released. I misunderstood Senator Carey.

Senator WALCOTT. The record ought to be made clear.

Mr. GRAY. As a matter of fact, in order to clear the record and so that we may understand it better, the securities, prior to the little visit that they paid Canada were lodged with the Chase Securities, or with the Chase National Bank, rather, as collateral for the loan that had been made to Continental Shares, the money involved in which loan had been distributed either by bookkeeping entries or by the payment of cash to the various institutions that held these securities prior to that time as collateral for loans to Otis?

Mr. STOCK. That is correct.

Mr. GRAY. And right there, by the way, some of Eaton's personal loans were taken up, were they not?

Mr. STOCK. Yes.

Mr. GRAY. Having passed into the hands of the Chase National Bank, they having held it as security, as Senator Carey suggests in his question, there was no reason in the world and no interest that the Chase National Bank had in having those securities sent to Canada for any purpose whatsoever, was there?

Mr. STOCK. No; there was not.

Mr. GRAY. All right; therefore, the only person that had any interest in the sending of those securities to Canada in order to avoid the tax was whoever it happened to be that made a profit on the sale?

Mr. STOCK. That is correct.

Mr. GRAY. That is true, is it not?

Mr. STOCK. That is correct.

Mr. GRAY. And the concern which made the profit on the sale, or the concerns if you please, because there seems to have been several different ownerships, were Foreign Utilities, Otis & Co., and Cyrus Eaton?

Mr. STOCK. That is correct.

Mr. GRAY. So that, though we may not know the exact inside of who issued those instructions, the fact remained that it must have been one or all of those three individuals or corporations, because those are the only people that would have been interested in saving the tax?

Mr. STOCK. That is correct.

Mr. GRAY. Does that answer your question, Senator Carey?

Senator CAREY. Yes.

Mr. GRAY. Is that the end of the statement, Mr. Stock?

Mr. STOCK. That is all I have to say; yes.

Mr. GRAY. All right. Probably some of the Senators may want to ask you something. If not, why, I will make a statement myself about the situation.

Senator BROOKHART. I want to get something straightened out in my head if I can: This Continental Shares, \$150,000,000 corporation, had sold its stock through the stock exchange?

Mr. STOCK. Well, Senator, the stock was listed on the stock exchange and being traded in every day, but most of the sales to the public took place by stock salesmen all over the country.

Senator BROOKHART. They went out with this high-pressure salesmanship?

Mr. STOCK. That is correct. I have a lot of that material right here in my files.

Senator BROOKHART. At what price did they sell?

Mr. STOCK. Well, they sold over a period of years. You just can not put your finger on a price. There were split ups and conversions, and it would be difficult to generalize about what the price was.

Mr. GRAY. Can you tell Senator Brookhart the range of prices on the stock exchange?

Mr. STOCK. I would say that the high was \$78 and the low 25 cents.

Mr. GRAY. And at or about the time in October of 1930 that this transaction was put through the market was approximately \$21 and something, was it not?

Mr. STOCK. \$21; yes, sir.

Mr. GRAY. And as a matter of fact, however, before the deal was finally put through, consummated, entirely and absolutely completed, the stock fell to a value of about \$10 a share, did it not?

Mr. STOCK. That is correct.

Mr. GRAY. So that in the place of stock of the Continental Shares equivalent to twenty-one or twenty-two million dollars, the difference

between the thirty-five million and the fifty-seven being delivered, there having been in the meanwhile \$7,600,000 additional cash received by Eaton or Otis & Co. out of this deal, what they actually delivered was 280,000 shares of stock at \$10 a share?

Mr. STOCK. That is correct.

Mr. GRAY. Which was the proper equivalent of the difference in stock to make up the \$57,000,000?

Mr. STOCK. I might add this to that line of thought, and that is that as a result of these loans incurred by Continental, Continental at the present time is insolvent to the extent of about \$23,000,000.

Mr. GRAY. And Otis & Co.?

Mr. STOCK. Well, Otis & Co.—

Mr. GRAY (interposing). The long and short about Otis & Co. is that they finally could not stand the strain and they went out of business; that is so, is it not?

Mr. STOCK. Well, I think they have some kind of investment business that they are running, but the brokerage business is not in existence.

Mr. GRAY. You are a little wrong about that, Mr. Stock. They went out absolutely, although there has been a reorganization and a new firm.

Senator BULKLEY. I was just going to ask when the high of \$78 was reached.

Mr. STOCK. That was 1929.

Senator BULKLEY. On the New York Exchange?

Mr. STOCK. Yes; 78.

Senator BULKLEY. And it went down steadily from then on, did it?

Mr. STOCK. Well, it had its ups and downs.

Senator BROOKHART. When was this stock sold, mostly when it was issued?

Mr. STOCK. Yes; I would say it was sold mostly in the years 1928, 1929, and the early part of 1930.

Senator BROOKHART. Now, you have listed several charges of losses against the Continental Co. that apparently were illegal that ought not to have been charged against it. Is that what you mean by those items?

Mr. STOCK. Yes; I say the entire founders' shares arrangement was illegal.

Senator BROOKHART. How much was that?

Mr. GRAY. It is impossible, Senator Brookhart, to figure that in an exact figure. I do not know whether it was made clear to you. It was simply this—

Senator BROOKHART (interposing). What I wanted to get was the total of those charges.

Mr. GRAY. You can not get that in dollars and cents, unless it was gotten by some extensive accounting work. The founders' shares were issued at a dollar a share to certain favored people. They were all taken up by Otis & Co. The understanding and agreement was that the holders of founders' shares should get 25 per cent of the profits that were made by Continental Shares over and above the payment to the stockholders of a certain dividend, and after that had been in operation a short time, during the period of one year,

instead of paying that dividend to the stockholders in cash, which would have exhausted the cash that was available for dividends and would have left nothing for distribution to founders' shares, they distributed to the regular stockholders a stock dividend, which did not increase the cash that they had, which is not a dividend at all, as a matter of fact, as every student of economics will tell you, and left the cash in the treasury in order that they might distribute that as 25 per cent of the profits to the holders of the founders' shares, who were Otis & Co. and Cyrus S. Eaton. That is where the fraud is.

Mr. STOCK. May I add that the founders' shares cost a dollar a share and the return for the years 1928 and 1929 on those founders' shares on the original investment was 1,600 per cent per annum, whereas the return on the common stock on the original investment during those two years was only 2 per cent per annum.

The CHAIRMAN. That is the public.

Mr. STOCK. Correct.

Mr. GRAY. The public got 2 per cent on their investment and on these founders' they got 1,600 per cent.

Senator BROOKHART. What particular connection did the stock exchange have with all of this?

Mr. GRAY. There is one more factor, Senator. I will interrupt again, because of one thing Mr. Stock did not state I want to put into the case. Right after this loan was put through on October 14 what was done by Continental Shares with respect to the New York Stock Exchange and the listing of additional stock, after all of these things had happened, was that they applied to list 1,040,000 shares.

Senator BROOKHART. For sale?

Mr. GRAY. For sale, which was part of the fifty-seven million consideration in that transaction. This is the listing application.

Senator BROOKHART. All right now; let us stop there just a moment. The stock exchange had investigated Otis & Co.?

Mr. GRAY. That is correct.

Senator BROOKHART. They knew that Otis & Co. had gotten on their feet, is that right?

Mr. GRAY. That is correct.

Senator BROOKHART. They should have known, and if they did not know they should have investigated the question of how it was done?

Mr. GRAY. Correct.

Senator BROOKHART. But without any investigation they entertained an application for Continental Shares to list this number of shares on the New York Stock Exchange in addition to the stock which had been already listed and permitted it to be listed and sold to the public; is that right?

Mr. GRAY. That is correct. In other words—

Senator BULKLEY (interposing). What is the date of that application?

Mr. GRAY. October 20, 1930, six days after this deal was put through.

Mr. STOCK. In other words, after the stock exchange had made an audit of all of the offices of Otis & Co. and knew all about their affairs after this application was made the stock exchange was

satisfied that the money be taken away from the stockholders of Continental Shares so that a member firm would be able to meet its obligations.

Senator CAREY. Mr. Stock—

Senator WALCOTT (interposing). Just a minute; excuse me. You say that was October, 1930?

Mr. STOCK. Yes, sir.

Senator WALCOTT. What was the price at which those were put out, what was the price when the application was made?

Mr. STOCK. They were selling at \$21 a share at that time, Senator.

Mr. GRAY. That is on October 10, Senator.

Mr. STOCK. Yes; October 10.

Senator CAREY. Mr. Stock, when this stock was sold by Foreign Utilities to Mr. Eaton, Continental Shares, was there an agreed price? There must have been an agreed price.

Mr. STOCK. As to the stock that was being delivered.

Senator CAREY. Continental Shares was making this loan to Otis & Co.?

Mr. STOCK. Yes.

Senator CAREY. There was an agreed price and Foreign Securities or Mr. Eaton sold certain stocks at that time at a profit?

Mr. STOCK. That is correct.

Senator CAREY. It would be a profit?

Mr. STOCK. That is correct.

Senator CAREY. Do you know what that profit amounted to?

Mr. STOCK. I only know as to one item, Senator, and that is the United Light & Power, on which the profit was \$17,000,000.

Senator CAREY. You do not know the amount of income tax that was avoided by the Canadian transaction?

Mr. STOCK. Our own corporation tax at that time was 12 per cent.

Senator CAREY. You do not know what the Canadian tax was?

Mr. STOCK. No; I do not.

Senator WALCOTT. And if there had not been a Canadian tax, what would be the saving?

Mr. STOCK. I beg pardon?

Senator WALCOTT. If there had not been a Canadian tax—

Mr. STOCK. \$2,000,000.

Mr. GRAY. I am of the opinion, Senator Walcott, that this is, you understand, a capital sales tax and not the ordinary income tax, and, although I do not pretend to have a thorough knowledge of the subject and maybe no knowledge, I do not believe there is a capital sales tax in New Brunswick.

Senator WALCOTT. No; there is not, but capital sales tax is more than 12½.

Mr. STOCK. There would not be a capital gains tax in this, Senator. It would be a corporation tax.

Senator WALCOTT. This is not subject to a capital gains tax.

Mr. GRAY. This is stock sold by a corporation.

Senator WALCOTT. It is not a capital gains tax. At least, I should say so.

Mr. STOCK. It would be about the same in both instances, 12 or 12½.

Mr. GRAY. I do not know how long Foreign Utilities held that stock, you know, before it was sold.

The CHAIRMAN. Let me ask one question: I am not sure that you developed the price at which these shares were selling on the day that application for listing was made.

Mr. STOCK. I am afraid I do not know that price, Senator.

Senator WALCOTT. Well, Senator, he has just stated—that was my question—that on or about that date they were selling at 21.

Mr. GRAY. That was on October 10.

Senator BULKLEY. That was the 10th, and they were listed on the 20th.

Senator WALCOTT. Well, that is pretty close.

Senator BROOKHART. What became of these loans from the Chase National Bank?

Mr. STOCK. You mean, does Continental Shares still owe all of that money that was borrowed?

Senator BROOKHART. Yes.

Mr. STOCK. I know that they owe some of it. I can not say that they owe all of it. Can you answer that, Mr. Gugle?

Mr. GUGLE. They owe a balance of \$27,000,000.

Senator BROOKHART. What security was put against that?

The CHAIRMAN. I suggest that we will have these witnesses sworn if they are to answer questions. They have to answer under oath if they are going to answer questions like that.

Mr. GRAY. If the committee pleases, although I had asked Mr. Stock to outline the matter for you and had present Mr. Gugle, who is thoroughly familiar with the situation and who has instituted this suit in Baltimore, and had present Mr. Tresemer, who is an accountant and is thoroughly familiar from every angle with the situation, and had intended to call them, Mr. Stock has so thoroughly outlined the matter that I am asking, if you please, suggestions from either the chairman of the committee as to whether or not you have the situation fully before you for the purposes of the committee or whether you would like me to call either or both of these gentlemen in addition thereto.

I might also suggest, if it is considered proper by the committee, that I might make inquiry of Mr. Gugle now or Mr. Tresemer or both as to whether there is any phase of the transaction that has been omitted by Mr. Stock which they feel they should supplement by their own testimony, or has it been fully covered?

Mr. GUGLE. There are one or two points that might be developed.

Mr. GRAY. Then I think, Mr. Chairman, that I should put Mr. Gugle upon the stand for the purpose of developing those additional points and answering any questions that the committee might desire to ask him.

The CHAIRMAN. Mr. Gugle, you may come up here and take the witness stand. Just have a seat opposite the reporter.

TESTIMONY OF GEORGE L. GUGLE, COLUMBUS, OHIO

The CHAIRMAN. You do solemnly swear that the statement you are about to make will be the truth, the whole truth, and nothing but the truth in relation to this investigation by the committee, so help you God?

Mr. GUGLE. I do.

Mr. GRAY. Will you sit down, Mr. Gugle, and give your full name, if you please?

Mr. GUGLE. George L. Gugle.

Mr. GRAY. And you live where?

Mr. GUGLE. Columbus, Ohio.

Mr. GRAY. And what was your relationship prior to the time of the difficulties with Continental Shares?

Mr. GUGLE. Small stockholder.

Mr. GRAY. And since these various questions have arisen with respect to which Mr. Stock has testified, your interest has been what, the interest of yourself and other stockholders?

Mr. GUGLE. And an organization of some of the minority stockholders.

Mr. GRAY. Keep your voice up, and may I suggest that you face the reporter and then all of the committee can hear, because I will be able to hear you.

Now, your interest, you say, is that of a small stockholder and an organization of the stockholders of a minority interest. You having instituted the litigation in this case—and I want to develop this, in fairness to Mr. Gugle. It was not you that sought the opportunity to come here and testify, but as a matter of fact as counsel for the committee I had you subpoenaed in Cleveland to be here?

Mr. GUGLE. Exactly. I protested against coming.

Mr. GRAY. That is correct, because Mr. Gugle felt that this was a matter which was in litigation, and though he is here in answer to the subpoena, he did not come here because he sought the opportunity to testify.

Now, suppose, Mr. Gugle, having heard Mr. Stock's statement with respect to this matter, before I make any specific inquiries of you, that you make any additional statement that you desire in order to either clarify any of Mr. Stock's statements or to familiarize the committee with any other phase of the transaction that has not been referred to.

Mr. GUGLE. Mr. Stock has fairly well covered the situation. There is an item of about \$16,000,000 of stocks which Mr. Eaton took from Continental Shares and pledged them as collateral for his various syndicates.

Mr. GRAY. To whom did those shares of stock belong?

Mr. GUGLE. Continental Shares.

Mr. GRAY. Were they shares of Continental Shares or were they shares in the portfolio of Continental Shares?

Mr. GUGLE. Shares in the portfolio of Continental Shares.

Mr. GRAY. In other words, your statement is that he abstracted from the property of Continental Shares, it being practically within his control, a certain lot of shares of stock which he used to pledge as collateral for individual and personal loans?

Mr. GUGLE. Exactly.

Mr. GRAY. All right, now; what other statement in addition to that do you want to make to us?

Senator FLETCHER. Were the shares held in the treasury, never issued at all but held in the treasury?

Mr. GUGLE. Oh, no; they were shares in stock of other corporations that Continental owned.

Senator FLETCHER. Oh, I thought the Continental Shares themselves, their own stock.

Mr. GUGLE. But it was shares of stocks in other corporations, like Republic Steel.

Senator WALCOTT. Investment shares?

Mr. GUGLE. Investment portfolio; yes.

Senator CAREY. This was an investment trust?

Mr. GUGLE. This was an investment trust; yes, sir.

Senator BULKLEY. Did you say when that happened, Mr. Gugle?

Mr. GUGLE. That happened in the period from 1927 to 1930.

Senator BULKLEY. From time to time?

Mr. GUGLE. From time to time; yes.

Senator WALCOTT. Were those displacements and substitutions authorized by the board of directors?

Mr. GUGLE. They were taken first and then ratified.

Senator BROOKHART. Will you give the various items?

Mr. GUGLE. I made a notation this noon of some of them. There was \$1,399,500 of Cliffs Corporation, \$8,800,000 of Cliffs Corporation, and \$3,000,000 of Cliffs, put up with the Cleveland Trust Co. as collateral on an indorsement that Eaton had Continental make for the Goodyear shares in the loan of \$11,000,000. And to digress for the moment, that \$11,000,000 liability for Continental Shares did not appear in several of their annual statements to stockholders.

Senator BULKLEY. Who was the principal obligor in that case?

Mr. GUGLE. Goodyear shares, the rubber company of Mr. Eaton's.

Senator BULKLEY. I take it that is the rubber holding company?

Mr. GUGLE. Rubber holding company, yes. Then there was \$3,000,000 Republic Steel and \$800,000 of Youngstown Sheet & Tube. That was the value at the time it was put up, but the Youngstown stock was put up with his steel syndicate.

Senator BULKLEY. Who was the principal obligor then?

Mr. GUGLE. Steel Syndicate.

Senator BULKLEY. Is that the name of it, Steel Syndicate?

Mr. GUGLE. The Steel Syndicate.

Senator BROOKHART. Of course, these transactions did not go through the stock exchange?

Mr. GUGLE. Oh, no. They were just abstractions. You might term them embezzlements. These stocks will never be returned to Continental, because the loans are now more than the value of the collateral.

Senator BROOKHART. What authority did he have to transfer those?

Mr. GUGLE. None whatsoever. If they had not been ratified by the directors it would be embezzlement.

Senator BROOKHART. They have been ratified, then?

Mr. GUGLE. They have been ratified, if they can be ratified by a board of dummy directors.

Senator CAREY. Did Mr. Eaton give the company any note or anything for those stocks?

Mr. GUGLE. No, sir.

Senator CAREY. Nothing to show the obligations?

Mr. GUGLE. Nothing to show the obligations. Except in one instance he took 25,000 shares of Harbison & Walker and in place thereof put up 10,000 shares of Youngstown Sheet & Tube.

Senator FLETCHER. What did he do with this stock?

Mr. GUGLE. He put it up as collateral for notes of various syndicates in which he was interested. For instance, he owed \$11,100,000 in the Goodyear shares note at the Cleveland Trust Co., and for that he put up this \$1,399,500, \$8,800,000, and the \$3,000,000 of Cleveland Cliffs, as collateral.

Senator CAREY. And the loans against them now exceed the value of the securities?

Mr. GUGLE. They do.

Senator FLETCHER. Did they have any specified time to run? The loans on it?

Mr. GUGLE. They are all short time loans, but they have been running several years, as a matter of fact.

Senator WALCOTT. Were they demand or time?

Mr. GUGLE. Time, usually 90 days. No; one of them was a year loan renewed afterwards for six months and subsequently renewed for a six months' period.

The CHAIRMAN. Were these authorizations made before the act or were they ratifications?

Mr. GUGLE. They were ratifications.

The CHAIRMAN. Afterwards?

Mr. GUGLE. Afterwards.

Mr. GRAY. Now, Mr. Gugle, what else besides that do you want to direct the committee's attention to?

Mr. GUGLE. Nothing, unless it is letters that I saw in a bank relative to that, if you care to go into that.

Mr. GRAY. You mean these letters, the interoffice letters of the Chase National?

Mr. GUGLE. Interoffice letters of Chase concerning the sending of those securities to Canada.

Mr. GRAY. I have all of the letters with the exception of two certain letters that you have mentioned to me that you saw with respect to the sending of those securities to Canada.

Mr. GUGLE. Yes.

Mr. GRAY. Now, those letters I have not seen. I can not produce copies of them and you have seen them and you are here under oath. Will you tell the committee what was the substance of those letters, from whom they were, to whom they were addressed, and what your recollection of the substance of those letters is?

Mr. GUGLE. The first letter was dated November 7, from Mr. Stern.

Mr. GRAY. 1930?

Mr. GUGLE. 1930.

Mr. GRAY. Yes.

Mr. GUGLE. From Mr. Stern to Mr. Clarkson.

Mr. GRAY. And Mr. Clarkson is who?

Mr. GUGLE. President of the Chase Securities Co. and an officer also in Chase National Bank.

Mr. GRAY. What was the tenor and effect of that letter?

Mr. GUGLE. The tenor of the letter was:

I am very much opposed to your sending Continental securities to Canada. I also fear that this would amount to a conspiracy to evade an income tax, and urge most strongly that your client's request be not acceded.

Mr. GRAY. You say that it said that "I am also opposed to your sending Continental Shares" or "Continental's shares"?

Mr. GUGLE. Continental Shares' securities.

Mr. GRAY. Meaning Continental Shares', possessive?

Mr. GUGLE. Yes.

Mr. GRAY. Meaning the shares belonging to the Continental Shares that had been lodged with the Chase National Bank as security for this loan?

Mr. GUGLE. Yes.

Mr. GRAY. In other words, the shares that have been referred to as having been thereafter sent to Canada?

Mr. GUGLE. Yes.

Mr. GRAY. Therefore, the first letter was a statement from their own counsel to the effect that he was opposed to the sending of those shares to Canada, for fear that their act in so doing strongly approximated a conspiracy to evade the payment of an income tax?

Mr. GUGLE. Yes.

Senator GOLDSBOROUGH. Who is this Mr. Stern that you speak about?

Mr. GUGLE. He is of the firm of Rushmore, Bisbee & Stern.

Senator CAREY. Is he attorney for the bank?

Mr. GUGLE. They are attorneys for the bank; yes.

Mr. GRAY. I should in fairness to Mr. Stern say that I have given Mr. Stern an opportunity to be here to-day, but when I communicated with his office yesterday afternoon he was away at the convention in Chicago and I could not communicate with him there.

I will say that this letter and another one which Mr. Gugle will testify with respect to, I discussed with Mr. Stern, and Mr. Stern indicates that he sent no such letters. But Mr. Stern, of course, is an attorney and he represents the Chase Bank, and though I have extended him an invitation to come here and state what was in those letters and it was in my power to require him to come, it would be unethical for me to do so, because it was confidential communication that he had given his client as an attorney with regard thereto. That was one letter, and the second letter was dated when and what was that?

Mr. GUGLE. I don't recall the date of the second letter.

Mr. GRAY. Was it at a later date than the first?

Mr. GUGLE. A later date than that.

Mr. GRAY. What was the second letter?

Mr. GUGLE. The second letter was substantially:

Since you are determined to accommodate your client and send Continental's securities to Canada, I wish the following to be the letter written by Continental to Chase.

And attached to that letter was the form of a letter which was subsequently written by Continental to Chase, a copy of which I have in my folder.

Mr. GRAY. I would be glad to have a copy of that letter if you will submit it to us.

Senator FLETCHER. Did Continental Shares show any note or obligation at all for these securities that were taken from their portfolio?

Mr. GUGLE. They have nothing whatsoever to show for them, Senator; no obligation to pay or return.

Senator FLETCHER. And these securities were used as collateral for individual debts?

Mr. GUGLE. No; debts of syndicates or other corporations in which Mr. Eaton was personally interested.

Senator FLETCHER. But Mr. Eaton did not give the Continental Shares a note or memorandum or anything showing that he had taken these securities and used them for his own purpose?

Mr. GUGLE. No, sir.

Senator CAREY. Do the Continental books show this transaction?

Mr. GUGLE. Yes, sir.

Senator CAREY. They are carrying that?

Mr. GUGLE. Yes, sir; they are carrying that.

In addition to what has been developed here, Mr. Eaton personally owes the corporation \$2,087,000, on a note dated December 3, 1930, with collateral worth at that time about \$400,000.

Mr. GRAY. That was a straight loan from the company, authorized in the minutes.

Mr. GUGLE. Exactly.

Senator WALCOTT. What is it worth now?

Mr. GRAY. What is the collateral worth now, Senator Walcott asks?

Mr. GUGLE. About \$15,000.

Mr. GRAY. And that obligation of Mr. Eaton's, of over \$2,000,000, still remains upon the books of Continental Shares?

Mr. GUGLE. Yes.

Senator BULKLEY. What does that represent? Was that a cash advance to Mr. Eaton?

Mr. GUGLE. Yes.

There is another of \$1,100,000, loaned to Industrial Shares. Industrial Shares is a wholly owned Eaton corporation, and the collateral on that was 50,000 shares of Continental's own stock.

Mr. GRAY. I would suggest, because I believe that is the only copy of that letter, that you read it into the record. So that the committee might understand, first, this letter is a letter the form of which accompanied the letter from the counsel of the Chase National Bank to one of the officials of the bank, instructing him that if they persisted in following the suggestion of their clients in the sending of these stocks to Canada, that he wanted them to obtain from Continental Shares a letter in the following form. Is that right?

Mr. GUGLE. Yes.

Mr. GRAY. That letter was written by Continental Shares, and that is the letter you are now going to read into the record?

Mr. GUGLE. Correct.

Mr. GRAY. Please do so.

Mr. GUGLE (reading).

NOVEMBER 8, 1930.

The CHASE NATIONAL BANK OF THE CITY OF NEW YORK,
New York, N. Y.

Attention, Leon Johnson, Esq., vice president.

DEAR MR. JOHNSON: You hold under pledge from the undersigned as security for a loan of \$30,000,000, evidenced by the note of the undersigned in that amount, dated October 28, 1930, the following shares: 394,987 shares United Light & Power Co., class B common stock; 44,646 shares Youngstown Sheet & Tube Co., black stamp common stock, and/or certificates of deposit therefor; 3,600 shares of Union Trust Co. of Cleveland capital stock; 1,844 shares of Cleveland Trust Co. of Cleveland, capital stock.

We are about to engage in a transaction under Canadian laws in New Brunswick, Canada, which will be facilitated if the above-mentioned shares are physically located in New Brunswick at the time the transaction takes place. You are accordingly requested to send such shares by registered mail to the Canadian Bank of Commerce, St. Johns, New Brunswick, Canada, to be held by said bank for your account and promptly to advise the undersigned from time to time upon the receipt by you of information from the Canadian Bank of Commerce that such stock is so held. You are requested to send such shares in separate lots, and if this be consistent with the insurance regulations, on successive days. The first two lots thus to be sent are as follows:

Lot No. 1, 227,500 shares United Light & Power class B common stock, insured for \$16,000,000.

Lot No. 2, 167,487 shares United Light & Power Co. class B common stock. Forty-two thousand shares Youngstown Sheet & Tube Co., black stamp common stock and/or certificates of deposit therefor, the lot insured for \$16,000,000.

We will advise you later as to how the subsequent lots are to be made up. Upon advice from us of the completion of the transaction, but not later than November 19, 1930, we request that you instruct the Canadian Bank of Commerce to return such shares to you by registered mail. We authorize you to charge our account for all expenses incurred by you in connection with your compliance with this request, and also request that you take out transportation and detention insurance in amounts approximating the present market value of the securities.

Very sincerely yours,

CONTINENTAL SHARES (INC.),
_____, Secretary-Treasurer.

With a note that it was written by L. G. Watson.

Senator FLETCHER. Mr. Eaton was then president of Continental Shares?

Mr. GUGLE. Chairman of the executive committee.

Senator FLETCHER. Had he been all along, during these transactions you have mentioned?

Mr. GUGLE. He had been all along chairman of the executive committee of Continental Shares; since its organization.

Senator FLETCHER. He is yet?

Mr. GUGLE. No. On April 25, 1931, his board of directors were superseded by another lot of directors, put in by him.

Mr. GRAY. Mr. Gugle, before I put some other matters on the record that connect up with the things about which you have testified, I want to give you an opportunity, if there is anything else that you desire to call the committee's attention to, to do so.

Mr. GUGLE. I don't recall anything.

Mr. GRAY. If there are no other questions of Mr. Gugle, I will put upon the record, if the committee please, this statement of the distribution of that \$30,000,000, which was the first portion of the loan that was paid out by Chase National Bank.

I will ask Mr. Gugle one question. You have also a report of that distribution that was made to Continental Shares by Chase National Bank, which, with respect to an item that was numbered thereon, as No. 19, failed to disclose how a certain sum of about

\$5,166,000, if I recall correctly, was distributed, and when investigation was made, it was found that that distribution was to these four banks in New York, including the Chase themselves, of one million and some odd thousand.

Mr. GUGLE. Correct.

Mr. GRAY. That was not disclosed at first.

Mr. GUGLE. No.

Mr. GRAY. The investigation of this sheet that I have in my hand, showing the distribution, also establishes—I think I have developed this before, but it will not do any harm if I develop it again—that some of these stocks which were sold and purported to belong to Foreign Utilities, were, as a matter of fact, deposited with various institutions or individuals, to secure loans made to Cyrus Eaton personally.

Mr. GUGLE. That is correct.

Mr. GRAY. I will not bother reading this. It simply shows the distribution, taking up the various loans. I will ask leave to hand it to the reporter for printing in the record.

The CHAIRMAN. If there is no objection, it is so ordered.

(The statement referred to is as follows:)

CHASE BANK—RE CONTINENTAL SHARES (INC.)

Details of \$30,000,000 loan made by Chase to Continental in October, 1930. The Chase made 12 loans to Continental Shares on October 14, 15, 16, and 20, 1930, aggregating in amount the agreed \$30,000,000. These loans were each secured by collateral and were subsequently consolidated in a single \$30,000,000 loan on October 28, 1930, which was to mature on April 28, 1932.

Proceeds of all loans were credited to Continental Shares (Inc.) account and in accordance with their instructions disbursed as indicated below:

Date of loan	Amount	Collateral	Payment to
Oct. 14, 1930	\$666,000.00	20,000 shares United Light & Power Co., class B common.	Union Trust Co. of Cleveland, Ohio, credit account.
Do.....	1,000,000.00	50,000 shares Lehigh Coal & Navigation Co., common.	Do.
Do.....	2,333,333.00	70,000 shares United Light & Power Co., class B common.	We charged Continental's account \$316,667 and credited Cleveland Trust Co. of Cleveland, Ohio, \$3,150,000.
Do.....	3,333,333.00	100,000 shares United Light & Power Co., class B common.	Bankers Trust Co. of New York, \$3,010,833.33 balance remained in account. Bank draft.
Do.....	1,500,000.00	10,300 shares United Light & Power Co., class B common; 5,350 shares Manhattan Co. of New York. 400 shares Harris Trust & Savings Bank, Chicago. 500 shares Continental Illinois Bank & Trust Co., Chicago.	Credited to Continental Shares account.
Do.....	1,800,000.00	3,945 shares United Light & Power Co. class B common. 2,125 shares Continental Illinois Bank & Trust Co., Chicago. 500 shares Manhattan Co. of New York. 7,288 shares Union Trust Co., Cleveland. 1,172 shares Cleveland Trust Co. 80 shares Harris Trust & Savings Bank, Chicago.	Do.
Do.....	10,000,000.00	2,000 shares Youngstown Sheet & Tube Co. common. 25,000 shares United Light & Power Co. class B common. 180,000 shares Lehigh Coal & Navigation Co., comon. 75,600 shares Goodyear Tire & Rubber Co., common. 19,100 shares Youngstown Sheet & Tube Co., common. 41,000 shares Cliff's Corporation.....	\$7,000,000 paid to Otis & Co. Credit account.

Date of loan	Amount	Collateral	Payment to
Oct. 14, 1930	\$1,555,000.00	50,000 shares Lehigh Coal & Navigation Co., common; 8,000 shares Youngstown Sheet & Tube Co., common C/D.	Credited to Continental Shares account.
Do.....	5,166,666.66	155,000 shares United Light & Power Co., class B common.	\$2,550,000, paid to Guaranty Trust Co., New York City (by bank draft); \$1,655,000 paid to Chemical Bank & Trust Co., New York City (by bank draft); \$50,000 Public National Bank & Trust Co., New York City (by bank draft); \$1,600,000 paid Chase National Bank.
Oct. 15, 1930	1,635,666.00	8,000 shares United Light & Power Co. class B common 15,000 shares Youngstown Sheet & Tube Co. common; 18,500 shares Lehigh Coal & Navigation Co., common.	\$635,666 paid to Otis & Co. credit account.
Oct. 16, 1930	390,000.00	1,537 shares Cleveland Trust Co.....	Paid to Otis & Co. credit account.
Oct. 20, 1930	619,001.34	20,700 shares Lehigh Coal & Navigation Co., common; 3,105 shares United Light & Power Co., class B common; 24,700 Youngstown Sheet & Tube Co., common.	Credited to Continental Shares account.

Mr. GRAY. I will offer, so that it will be in the record, the application of Continental Shares for the listing, which was filed on October 20, 1930, with the New York Stock Exchange. Mr. Stock was in error when he spoke of it being for 1,040,000 shares. The listing is for an additional 990,000 shares. It is apparent that the 990,000 shares was the amount that they required in addition to the stock that had already been authorized to be issued. That is, it was their own stock, in their own possession, unissued, so that they might issue it in connection with this transaction we have just been referring to. So that the listing was for 990,000 shares. This application, however, will give you, in addition to that, certain other information as to the construction or set-up of Continental Shares which, of course, it was necessary for them to give to the stock exchange at that time; and I direct the committee's attention to the fact that this application, of course, had to disclose to the stock exchange the fact that there was outstanding this \$30,000,000 loan on account of these securities that had been deposited as collateral. I ask that that be printed in the record.

The CHAIRMAN. If there is no objection, it is so ordered.
(The statement referred to is as follows:)

Continental Shares (Ino.)—Common stock, without par value (voting)

[Incorporated under the laws of the State of Maryland, March 1, 1926; certificate transferable in New York, N. Y., Cleveland, Ohio, and Boston, Mass.]

	Number of shares
Additional listing applied for.....	990,000
Authorized by charter.....	4,000,000
Outstanding.....	2,419,665½
Total listing applied for.....	3,696,317

Authorized by board of directors, October 8, 1930. No other authority required.

Capital securities

Stocks	Par value	Number of shares			
		Authorized by charter ¹	Authorized for issuance	Previously authorized to be listed	Outstanding
Preferred.....	\$100	260,000			
Preferred (6 per cent cumulative).....			30,000	None.	30,000
Preferred series B (6 per cent cumulative).....			128,229	None.	128,229
Convertible preferred (6 per cent cumulative).....	100	240,000	240,000	None.	240,000
Common.....	No par.	4,000,000	3,696,317	2,753,318	2,419,665½
Founders shares.....	No par.	10,000	10,000	None.	10,000

The corporation has no funded debt.

¹ 286,651½ shares of common stock are reserved as follows: 30,804 shares for exercise of outstanding warrants originally issued with preferred stock and preferred stock series B, of the corporation; 253,539 shares for conversion of 240,000 shares of convertible preferred stock; 2,308½ shares to be issued in exchange for common stock of International Share Corporation.

² This figure does not include 47,001 shares formerly reserved for issuance, but released due to expiration of subscription warrants, and to adjustment in the number of shares reserved for conversion privilege.

³ Includes 46,898½ shares of treasury stock held on Sept. 30, 1930, but since used as part consideration for securities subsequently purchased.

CLEVELAND, OHIO, October 20, 1930.

Referring to its previous applications, especially to A-9316, dated April 10, 1930, Continental Shares (Inc.), a Maryland corporation (hereinafter called the corporation), hereby applies for the listing on the New York Stock Exchange of permanent engraved certificates for 990,000 additional shares without par value of its common stock on official notice of issue in connection with the acquisition of certain securities hereinafter more fully described.

The total amount of common stock, the listing of which has been and is hereby applied for, is 3,696,317 shares (of a total authorized issue of 4,000,000 shares of common stock).

Said 990,000 additional shares of common stock will be, when issued, full paid and nonassessable, with no personal liability attaching to the holders thereof.

PURPOSE OF AND AUTHORITY FOR ISSUE

The corporation has acquired the following securities pursuant to resolutions adopted by the board of directors at a meeting held on October 8, 1930:

	Number of shares	Market price per share ¹	Total market value
American bank stocks:			
Bancohio Corporation.....	1,800	\$35.00	\$63,000.00
Central United National Bank (Cleveland, Ohio).....	621	66.00	40,986.00
The Cleveland Trust Co. (Cleveland, Ohio).....	1,844	385.00	709,940.00
Fidelity National Bank & Trust Co. (Kansas City, Mo.).....	867	250.00	216,750.00
The Union Trust Co. (Cleveland, Ohio).....	3,600	74.50	268,200.00
Total.....			1,298,876.00
Canadian bank stocks:			
The Bank of Nova Scotia.....	600	320.00	192,000.00
The Bank of Toronto.....	500	238.00	119,000.00
The Canadian Bank of Commerce.....	3,500	240.00	840,000.00
The Dominion Bank.....	649	228.00	147,972.00
Imperial Bank of Canada.....	466	235.00	109,510.00
Total.....			1,408,482.00
Steel stocks:			
The Cliffs Corporation.....	84,351	115.00	9,700,365.00
Republic Steel Corporation.....	4,888	24.00	117,312.00
The Youngstown Sheet & Tube Co., certificates of deposit.....	44,646	120.00	5,357,520.00
The Youngstown Sheet & Tube Co., unstamped stock.....	1,100	99.00	108,900.00
Total.....			15,284,097.00

¹ Market price as of Oct. 8.

	Number of shares	Market price per share ¹	Total market value
Rubber stocks:			
The Firestone Tire & Rubber Co.....	126,950	\$16.00	\$2,031,200.00
The B. F. Goodrich Co.....	93,800	18.625	1,747,025.00
United States Rubber Co.....	40,000	14.50	580,000.00
			<u>4,358,225.00</u>
Utility stocks:			
Corporation Securities Co. of Chicago.....	4,859	20.00	97,180.00
Insubl Utility Investments (Inc.).....	4,858	50.00	242,900.00
International Paper & Power Co., A.....	25,000	11.25	281,250.00
International Paper & Power Co., B.....	171,400	6.00	1,028,400.00
International Paper & Power Co., C.....	251,000	5.00	1,255,000.00
James MacLaren, (Ltd.) (Buckingham, Quebec).....	450	500.00	225,000.00
The United Light & Power Co., B.....	394,987	78.875	31,154,599.62
			<u>34,284,329.62</u>
Sundry stocks:			
National Acme Co.....	9,600	9.25	88,800.00
The Sherwin-William Co.....	3,100	76.00	235,600.00
			<u>324,400.00</u>
			<u>56,958,409.62</u>

¹ Market price as of Oct. 8.

The above securities were acquired at a valuation of \$56,958,409.62, which was the market value as of October 8, 1930, payment to be made as follows: \$35,000,000 in cash and the balance in the shares of the common capital stock of the corporation, on the basis of the asset value thereof, through the issuance of 990,000 shares of the common capital stock of the corporation and delivery of 50,000 shares of Treasury stock.

Full authority for the issuance of such shares of stock is contained in the resolutions adopted by the board of directors on October 8, 1930.

OPINION OF COUNSEL

Opinion of counsel covering the authorization, issue, and validity of said 990,000 additional shares of common stock, rendered by Squire, Sanders & Dempsey on October 17, 1930, is herewith furnished the New York Stock Exchange.

ORGANIZATION, BUSINESS, AND HISTORY

The corporation was incorporated under the laws of the State of Maryland on March 1, 1926, with perpetual existence. It possesses broad charter powers authorizing it to acquire, hold, and deal in securities of all kinds, to participate in syndicates and underwritings, and to engage in other financial transactions.

While the corporation places some of its funds in stocks purely for investment, its chief purpose is to acquire substantial holdings, either alone or in cooperation with other interests, in prominent companies in such basic industries as steel, rubber, and public utilities. These larger investments are held with a view to promoting the interests of the companies concerned through cooperation in their financial and industrial activities.

ORGANIZATION EXPENSES

The initial organization expenses included only the usual expenses such as expenses for legal services, organization, and stock issue taxes, etc., and amounted to less than \$5,000. Subsequent expenses incident to amendments to the charter, etc., have been included in the item "Expenses" appearing in the income statement hereinafter set forth. Underwriting fees in connection with different issues of capital stock are shown in detail under the caption, "Summary of issued and issuable capital stock."

MANAGEMENT AND AFFILIATION

The executive management of the corporation is vested in the board of directors and executive committee, the latter taking action between meetings of the board. The actions of the officers are governed by the executive committee whose actions are in turn approved at subsequent meetings of the board of directors. The directors are elected annually. The voting rights are confined exclusively to the common stock, except as may be otherwise provided by law, and subject to the voting privileges conferred upon the preferred stock in the event of default of four quarterly dividends.

The present directors are: C. S. Eaton, chairman of the board of the corporation, partner, Otis & Co., and chairman of the board of the United Light & Power Co.; W. R. Burwell, president of the corporation and director of the Goodyear Tire & Rubber Co.; F. H. Hobson, vice president of the Cleveland Trust Co.; David Ingalls; Richard Inglis, partner, Otis & Co.; R. V. Mitchell, of Mitchell, Herrick & Co.; and Philip Wick, of Wick & Co.

Management compensation paid by the corporation at the present time consists of fixed salaries paid to its officers and nominal fees paid to the members of its board of directors and advisory committee, all of which is included in the item "Expenses," appearing in the hereinafter set forth income statement from March 1, 1926, to September 30, 1930.

The founder shares (hereinafter described) are at present owned by the management or affiliated interests.

Summary of authorized capital stock

Certificates filed in office of State Tax Commission of Maryland—	Number of shares				Remarks
	Preferred stock	Convertible preferred stock	Common stock	Founders shares	
Mar. 1, 1926, at incorporation.....			500,000	10,000	
Sept. 26, 1927, creation of class.....	60,000				
Dec. 3, 1928, increased by.....	200,000				
Mar. 21, 1929, creation of class.....		240,000			
Mar. 21, 1929, increased to.....			4,000,000		
Total.....	260,000	240,000	4,000,000	10,000	Previously authorized 500,000 shares became 2,000,000 shares.

October 8, 1930, summary of issued and issuable capital stock

Date of authorization	Preferred stock	Convertible preferred stock	Number of shares			Founders' shares	Total proceeds	Underwriting fees ¹	Net proceeds	Remarks
			Common stock							
			Issued	Issuable	Total					
Mar. 9, 1926			130,000		130,000	\$6,590,316.10	\$218,400.00	\$6,371,916.10	Sold for cash at \$50 and \$52.50 per share.	
Do.						10,000.00		10,000.00	Sold for cash at \$1 per share.	
Aug. 18, 1927	{ 30,000		¹ 29,865		29,865	3,000,000.00	146,702.50	2,853,297.50	Issued at \$100 per share. To each share of preferred stock was attached a common-stock purchase warrant entitling the holder to purchase common stock on the basis of 1 share of common stock for each share of preferred stock, at \$65 per share to Sept. 15, 1928, thereafter at \$75 per share to Sept. 15, 1929, and thereafter at \$90 per share to Sept. 15, 1930.	
Feb. 18, 1928	30,000					3,000,000.00	44,157.00	2,955,843.00	Issued at \$100 per share.	
May 15, 1928			36,239½		36,239½	2,718,383.75	33,668.00	2,684,715.75	Sold to stockholders at \$75 per share at the rate of 1 share for every 4 shares held.	
Oct. 15, 1928			48,726¼		48,726¼	4,385,407.50	48,553.25	4,336,854.25	Sold to stockholders at \$90 per share at the rate of 1 share for every 4 shares held.	
Do.			4,645¼		4,645¼	46,452.50	4,643.93	41,808.57	Stock dividend in lieu of accrued and unpaid cash dividends on common stock.	
Nov. 10, 1928	{ 40,000		² 36,147	³ 3,853	40,000	4,000,000.00	26,358.00	3,973,642.00	15,097 shares issued at \$100 per share for securities taken at approximately the market value thereof and 24,903 shares sold for cash at \$100 per share. To each share of preferred stock was attached a common stock purchase warrant entitling the holder to purchase common stock on the basis of 1 share of common stock for each share of preferred stock, at \$130 per share to Dec. 15, 1929, and thereafter at \$150 per share to Dec. 15, 1930.	
Dec. 12, 1928	{ 35,000		² 15,797	² 1,703	17,500	3,500,000.00		3,500,000.00	Issued at \$100 per share for securities taken at approximately the market value thereof. To each share of preferred stock was attached a common-stock purchase warrant entitling the holder to purchase common stock on the basis of one-half share of common stock for each share of preferred stock, at \$130 per share to Dec. 15, 1929, and thereafter at \$150 per share to Dec. 15, 1930.	
Do.			2,500		2,500	325,000.00		325,000.00	Sold for cash at \$130 per share pursuant to option granted to the sellers of the securities for which the immediately above-mentioned 35,000 shares of preferred stock were issued, such option price being the same as on the common-stock purchase warrants attached to said 35,000 shares of preferred stock.	

See footnotes at end of table.

October 8, 1930, summary of issued and issuable capital stock—Continued

Date of authorization	Number of shares					Total proceeds	Underwriting fees ¹	Net proceeds	Remarks	
	Preferred stock	Convertible preferred stock	Common stock							Founders' shares
			Issued	Issuable	Total					
Dec. 20, 1928	23, 229		9, 469½	2, 145	11, 614½	\$2, 322, 900.00 1, 420, 425.00		\$2, 322, 900.00 1, 420, 425.00	Issued at \$100 per share for securities taken at approximately the market value thereof. To each share of preferred stock was attached a common-stock purchase warrant entitling the holder to purchase common stock on the basis of one-half share of common stock for each share of preferred stock, at \$150 per share to Feb. 15, 1930, and thereafter at \$175 per share to Feb. 15, 1931.	
Do			133, 177		133, 177	17, 313, 010.00	\$332, 942.50	16, 980, 067.50		Sold to stockholders at \$130 per share at the rate of 1 share for every 2 shares held.
Mar. 21, 1929			446, 567	7, 701	454, 268				Previously authorized shares were through amendment of certificate of incorporation quadrupled.	
Apr. 25, 1929			1, 788, 268	30, 804	1, 817, 072					
July 16, 1929			4, 323		4, 323	324, 225.00		324, 225.00	Issued at approximately \$72.50 per share for securities taken at approximately the market value thereof.	
July 18, 1929		240, 000	354, 333		354, 333	21, 259, 980.00	354, 333.00	20, 905, 647.00	Sold to stockholders at \$60 per share at the rate of 1 share for every 5 shares held.	
Do				253, 539	253, 539	24, 000, 000.00	1, 444, 250.77	22, 555, 749.23	Sold for cash at \$100 per share. Reserved for conversion of 240,000 shares of convertible preferred stock.	
Mar. 24, 1930			274, 741½	2, 308½	277, 050	9, 361, 872.17		9, 361, 872.17	Issued or issuable for all the outstanding common stock of International Share Corporation.	
Oct. 8, 1930				990, 000	990, 000				This listing.	
Total	158, 229	240, 000	2, 419, 665½	1, 276, 651½	3, 696, 317	112, 289, 857.02	2, 654, 008.95	109, 635, 848.07		

¹ Includes all expenses of selling each class of securities which have been issued, but such expenses as legal fees, organization and original issue taxes, blue-skying expenses, etc., are included in the item "Expenses" included in the hereinafter set forth income statement from Mar. 1, 1928, to Sept. 30, 1930. Such item "Expenses" is as follows:

Mar. 1, to Dec. 31, 1928	\$6, 583.17
Year ended Dec. 31, 1927	24, 607.17
Year ended Dec. 31, 1928	83, 785.50
Year ended Dec. 31, 1929	371, 234.16
9 months ended Sept. 30, 1930	415, 253.41

² Issued from time to time on the exercise of common-stock purchase warrants which accompanied the preferred stock.
³ Issuable on the exercise of common-stock purchase warrants which accompanied the preferred stock.

PREFERENCES, ETC., OF THE VARIOUS CLASSES OF STOCK

The original terms of the convertible preferred stock provided for its conversion at par into common stock of the corporation at \$30 per share up to and including August 1, 1930, at \$100 per share thereafter up to and including February 1, 1932, and at \$125 per share thereafter up to and including August 1, 1933, on which date the conversion privilege expires. In case of redemption of the convertible preferred stock, the conversion privilege may be exercised at any time up to and including the redemption date. The amended certificate of incorporation includes protective provisions safeguarding this conversion privilege under which the above conversion prices have been adjusted.

The corporation has agreed that without the affirmative vote or written consent of the holders of a majority of the convertible preferred stock then outstanding, the corporation will not issue any preferred stock on a parity with or having priority over the convertible preferred stock as to dividends or upon liquidation, nor create or incur any capital indebtedness (other than debt for not more than one year) if after such issuance, creation or incurrence the sum total of the amount of convertible preferred stock and such other preferred stock and capital indebtedness then outstanding would be more than two-thirds of the then value of the assets of the corporation, less all indebtedness of the corporation other than capital indebtedness. In computing this ratio, the amount of cash and of United States Government securities is to be deducted both from the assets and from the total of outstanding debt and such preferred stock.

The amended certificate of incorporation provides that no preferred stock in excess of the 898,229 shares now outstanding, or preferred stock of any other class, shall be issued unless after the issuance thereof, and after giving effect to the net proceeds of such issue, the net assets of the corporation, as defined, shall equal at least 150 per cent of the par value of the total preferred stock then outstanding and proposed to be issued: *Provided further*, That no stock having priority or preference over the convertible preferred stock or 6 per cent preferred stock shall be authorized or issued except with the consent of the holders of at least two-thirds of all preferred stock then outstanding.

The amended certificate of incorporation provides that no dividends shall be declared or paid on the common stock or founders' shares if net assets, as defined, are or would by such payment be reduced to less than 150 per cent of the par value of convertible preferred stock and preferred stock having a parity with or preference over convertible preferred stock then outstanding.

The convertible preferred stock is entitled to receive \$105 per share plus accrued dividends in case of voluntary liquidation, dissolution or winding up of the corporation and \$100 per share plus accrued dividends in case of involuntary liquidation, dissolution, or winding up of the corporation, in preference to the common stock and founders' shares.

In the event of default in four quarterly dividends, the convertible preferred stock during continuance of such default is entitled to 1 vote per share in like manner as the common stock.

The provisions of the convertible preferred stock, the 6 per cent preferred stock, and the 6 per cent preferred stock, series B, are substantially identical, except that the 6 per cent preferred stock, series B, is redeemable at \$107.50 per share plus accrued dividends and upon voluntary liquidation is entitled to receive a similar amount per share in preference to the common stock and founders' shares, and except as to conversion privilege of the convertible preferred stock. The convertible preferred stock and all series of 6 per cent preferred stock are on a parity with respect to the payment of dividends or in the event of the liquidation of assets. The convertible preferred stock has no preemptive rights in any additional issues of stock.

Except as may be otherwise provided by law, and subject to the voting privileges conferred upon the preferred stocks in the event of default of four quarterly dividends, the voting rights are confined exclusively to the common stock. The holders of the founders' shares shall not be entitled to participate currently in the distribution of the surplus profits of the corporation for any year unless the surplus profits of the corporation available for the payment of dividends on the common stock and the founders shares for such year (after deducting therefrom the accrued unpaid dividends, if any, on the common

stock), shall be in excess of an amount equal to dividends on the common stock at the rate of \$1 per share (which amount is herein called the "excess profits" for such year), and unless dividends on the common stock at such rate for such year and all previous years shall have been declared and paid.

In the event that in any year there shall be such excess profits and that dividends on the common stock shall have been declared and paid at such rate for such year and for all previous years, then the holders of the founders shares as a class shall be entitled to dividends for such year in an amount equal to 25 per cent, but no more, of such excess profits for such year before any dividends shall be paid upon the common stock in excess of \$1 per share per annum. Upon any dissolution (voluntary or involuntary), or winding up of the corporation, the holders of the common stock for each share thereof shall be entitled to receive the sum of \$12.50, plus accrued unpaid dividends, before any distribution is made to the holders of the founders shares. From any assets of the corporation remaining after such distribution to the holders of the common stock, there shall then be paid to the holders of the founders shares, as a class, a sum equal to 25 per cent of the aggregate excess profits of the corporation, less the amount of all dividends declared and paid upon the founders shares. After such distribution to the holders of the founders shares, the remaining assets of the corporation shall belong to the holders of the common stock.

There is set forth in said original application, A-9092, a more detailed summary of the privileges, preferences, voting powers, restrictions, and qualifications of the stock of the corporation, with respect to which there have been no changes except that additional restrictions relative to the issuance of preferred stock or the incurrence of any capital indebtedness were imposed upon the board of directors by amendment to the certificate of incorporation recorded March 26, 1930.

COMMON STOCK RESERVED

The outstanding warrants entitling the holders thereof to purchase additional shares of common stock of the corporation are the unexercised warrants originally issued with preferred stock and preferred stock, series B, of the corporation. Such warrants entitle the holders thereof to purchase an aggregate of 30,804 shares of common stock as follows:

Price and duration:	Number of shares purchasable
\$37.50 per share to Dec. 15, 1930.....	22, 224
\$43.75 per share to Feb. 15, 1931.....	8, 580
Total.....	30, 804

There are reserved 253,539 shares of common stock for issuance upon conversion of the 240,000 shares of convertible preferred stock outstanding, on the basis of the adjusted conversion prices referred to above. The number of shares of common stock issuable upon such conversion is subject to increase to protect against dilution as set forth in original application, A-9092.

There are also reserved 2,308½ shares of common stock for issuance in exchange for common stock of International Share Corporation.

SUBSIDIARIES

The corporation owns the entire capital stock of Continental Allied Corporation, a corporation of the State of Delaware, organized on February 8, 1930, for the purpose of handling the distribution of the capital securities of the corporation, and more than 99 per cent of the outstanding common capital stock of International Share Corporation, a corporation of the State of Delaware, organized on April 23, 1928, whose charter powers are similar to those of Continental Shares (Inc.).

FUNDED DEBT

The corporation has no funded debt.

DIVIDENDS

All dividends have been paid on all classes of preferred stock and the common stock of the corporation. The amount of dividends paid is hereinafter set forth in the earned surplus account. The current rate of dividend on the common stock is \$1 per share per year.

Pro forma consolidated list of securities owned by Continental Shares (Inc.) and its subsidiaries on October 8

(After giving effect to acquisition of securities the purchase of which was authorized on October 8, 1930)

Description	Number of shares	Market price per share	Total market value	Source of quotation
PUBLIC UTILITY COMPANIES				
The Brooklyn Union Gas Co.....	11,400	\$115.50	\$1,316,700.00	New York Stock Exchange.
Corporation Securities Co. of Chicago (common).	4,859,129 ² / ₁₀₀	20.00	97,192.60	Chicago Stock Exchange.
Foreign Light & Power Co. (second preferred).	500	-----	25,000.00	Appraised value.
Foreign Light & Power Co. (common).	2,000	-----		
Inall Utility Investments (Inc.)	4,858 ⁷ / ₁₀₀	50.00	242,900.50	Chicago Stock Exchange.
International Paper & Power Co.:				
A.....	50,000	11.25	562,500.00	New York Stock Exchange.
B.....	196,400	6.00	1,178,400.00	Do.
C.....	335,700	5.00	1,678,500.00	Do.
The Lehigh Coal & Navigation Co.	403,053	31.375	12,645,787.88	New York Curb Exchange.
Niagara Hudson Power Corporation.	3,500	13.125	45,937.50	Do.
St. Lawrence Corporation (convertible, preferred).	15,000	19.00	285,000.00	Montreal, unlisted.
The United Light & Power Co. B.	416,212	78.875	32,823,721.50	New York Curb Exchange.
Total.....			50,906,639.98	
IRON AND STEEL COMPANIES				
The Cliffs Corporation (common)	349,554	115.00	40,198,710.00	Cleveland, unlisted.
The Cliffs Corporation, voting trust certificates.	136	115.00	15,640.00	Cleveland Stock Exchange.
Inland Steel Co.....	1,000	70.25	70,250.00	New York Stock Exchange.
Republic Steel Corporation (common).	206,777	24.00	4,962,648.00	Do.
Wheeling Steel Corporation.....	3,243	58.00	188,094.00	New York Curb Exchange.
Youngstown Sheet & Tube Co., certificates of deposit.	62,796	120.00	7,535,520.00	New York Stock Exchange.
Youngstown Sheet & Tube Co., unstamped stock.	4,100	99.00	405,900.00	Do.
Total.....			53,376,762.00	
RUBBER COMPANIES				
The Firestone Tire & Rubber Co.	156,700	16.00	2,507,200.00	Do.
The B. F. Goodrich Co.....	113,900	18.625	2,121,387.50	Do.
Goodyear Tire & Rubber Co.....	96,800	46.50	4,501,200.00	Do.
Goodyear Shares (Inc.).....	582	3,024.83	1,760,451.06	Price Goodyear common.
United States Rubber Co.....	110,300	14.50	1,599,350.00	New York Stock Exchange.
Total.....			12,489,688.56	
PAINT COMPANIES				
Devco & Reynolds Co. (Inc.) A...	40,000	18.00	720,000.00	Do.
The Sherwin-Williams Co.....	73,150	76.00	5,559,400.00	Cleveland Stock Exchange.
Total.....			6,279,400.00	
BANK STOCKS				
BancOhio Corporation.....	16,800	35.00	588,000.00	Cleveland, unlisted.
The Bank of Nova Scotia.....	2,633	320.00	842,560.00	New York, unlisted.
The Bank of Nova Scotia (70 per cent paid).	406	245.00	99,470.00	Do.

Pro forma consolidated list of securities owned by Continental Shares (Inc.) and its subsidiaries on October 8—Continued

[After giving effect to acquisition of securities the purchase of which was authorized on October 8, 1938]

Description	Number of shares	Market price per share	Total market value	Source of quotation
BANK STOCK—CON.				
The Bank of Toronto.....	500	\$238. 00	\$119, 000. 00	Montreal Stock Exchange.
The Canadian Bank of Commerce.....	3, 500	240. 00	840, 000. 00	Do.
Central United National Bank.....	621	66. 00	40, 986. 00	Cleveland Stock Exchange.
The Cleveland Trust Co.....	3, 582	385. 00	1, 367, 520. 00	Do.
Continental-Illinois Bank & Trust Co. (Chicago, Ill.).....	2, 625	540. 00	1, 417, 500. 00	Chicago, unlisted.
Dollar First National Bank (Youngstown, Ohio).....	1, 526	165. 00	251, 790. 00	Youngstown, unlisted.
The Dominion Bank.....	649	228. 00	147, 972. 00	Montreal Stock Exchange.
Guaranty Trust Co. of New York.....	772	583. 00	450, 076. 00	New York, unlisted.
Harris Trust & Savings Bank (Chicago, Ill.).....	480	700. 00	336, 000. 00	Chicago, unlisted.
The Huntington National Bank of Columbus, Ohio.....	1, 177	290. 00	341, 330. 00	Columbus, unlisted.
Fidelity National Bank & Trust Co.....	867	250. 00	216, 750. 00	Kansas City, unlisted.
Imperial Bank of Canada.....	466	235. 00	109, 510. 00	Montreal Stock Exchange.
The Manhattan Co.....	5, 850	100. 00	585, 000. 00	New York, unlisted.
The National City Bank of New York.....	200	132. 00	26, 400. 00	Do.
The Ohio State Bank & Trust Co. (Akron, Ohio).....	302	125. 00	37, 750. 00	Akron, unlisted.
The Union Trust Co. (Cleveland, Ohio).....	10, 888	74. 50	811, 156. 00	Cleveland Stock Exchange.
Total.....			8, 628, 770. 00	
FOREIGN INVESTMENTS				
<i>German</i>				
Deutsche Bank & Disconto Gesellschaft.....	1 550, 000	1 115. 00	150, 519. 19	
Hamburgische Electricitats Werke A. G.....	1 100, 000	1 118. 00	28, 081. 05	
I. G. Farben-Industrie A. G.....	1 638, 000	1 136. 00	206, 486. 15	
Total.....			385, 086. 39	
<i>Italian</i>				
Societa Meridionale Di Electricita (Meridionale).....	8, 782	1 305. 00	140, 286. 96	
Societa Generale Per L'Industria Mineralia ed Agricola (Montecatini).....	24, 100	1 203. 00	256, 234. 21	
Societa Generale Electricita Dela Sicilia (Seso).....	8, 000	1 81. 00	33, 939. 00	
Total.....			430, 460. 17	
<i>Sundry</i>				
Cleveland Provision Co. (first preferred).....	1, 500		150, 000. 00	Cleveland, unlisted.
Cleveland Provision Co. (common).....	7, 125			
Easton Axle & Spring Co.....	7, 000	19. 50	136, 500. 00	New York Stock Exchange.
The Gabriel Snubbers Manufacturing Co. A.....	3, 700	4. 50	16, 650. 00	Do.
Hazel Atlas Glass Co.....	5, 500	61. 00	335, 500. 00	New York Curb Exchange.
Harbison Walker Refractories Co.....	40, 000	46. 50	1, 860, 000. 00	New York Stock Exchange.
Interlake Steamship Co.....	3, 465	68. 00	231, 540. 00	Cleveland Stock Exchange.
James MacLaren, (Ltd.).....	450	500. 00	225, 000. 00	Appraised value.
National Acme Co.....	9, 600	9. 25	88, 800. 00	New York Stock Exchange.
National Refining Co.....	1, 000	27. 50	27, 500. 00	Cleveland Stock Exchange.
Perfection Stove Co.....	1, 000	30. 00	30, 000. 00	New York Curb Exchange.
Total.....			3, 101, 490. 00	

1 Par value in reichmarks.

2 Per cent of par.

3 Lire (approximate).

*Pro forma consolidated list of securities owned by Continental Shares (Inc.)
and its subsidiaries on October 8—Continued*

[After giving effect to acquisition of securities the purchase of which was authorized on October 8, 1930]

Description	Number of shares	Market price per share	Total market value	Source of quotation
SYNDICATE PARTICIPATIONS ⁴				
Ohio Industries.....			\$12,000.00	
Libbey-Owens Securities Corp.....			250,000.00	
Iron and steel companies.....			617,500.00	
Utility companies.....			138,000.00	
Cleveland Cliffs Iron Co. preferred.			269,000.00	
Total.....			1,286,500.00	
MISCELLANEOUS				
Securities and syndicate participations. ⁴			8,478,770.50	
Total.....			145,363,467.60	

⁴ Syndicates are taken at their market values as of Sept. 30, 1930.

The foregoing market quotations are given to comply with the regulations of the stock exchange, but it is the opinion of the management that the quotations in important instances can not be regarded as conclusive evidence of the value of the securities in question because both of the size and the nature of certain holdings.

In connection with valuing the portfolio of the corporation, attention is called to the fundamental purposes of the corporation and to the fact that immediate accretions of market value are not its ultimate purpose, but that the policy of the corporation is to look to the consummation of its plans for profits rather than to current market quotations. From this point of view it is the feeling of the management that the foregoing statement of values is conservative.

FINANCIAL STATEMENTS

There are hereinafter set forth financial statements of the Corporation as follows:

- (1) Income statement from March 1, 1926, to September 30, 1930;
- (2) Earned surplus account from March 1, 1926, to September 30, 1930;
- (3) Paid-in surplus account from March 1, 1926, to September 30, 1930;
- (4) Balance sheets as of December 31, 1928, December 31, 1929, and September 30, 1930.

(1) INCOME STATEMENT FROM MARCH 1, 1926, TO SEPTEMBER 30, 1929

	Mar. 1, 1926, to Dec. 31, 1926	Year ended Dec. 31, 1927	Year ended Dec. 31, 1928	Year ended Dec. 31, 1929	9 months ended Sept. 30, 1930
Income:					
Dividends.....	\$163,624.47	\$506,000.09	\$1,369,987.66	\$3,297,802.48	\$3,267,066.16
Interest.....	5,211.92	14,861.47	84,630.67	294,055.13	669,429.48
Profit on sale of securities.....	21,701.99	403,410.36	757,559.49	2,636,754.38	15,802,515.83
	190,538.38	926,271.92	2,212,177.82	6,228,611.99	19,739,041.47
Less:					
Expenses.....	6,583.17	24,607.17	83,785.50	371,234.16	415,253.41
Interest.....	59,209.87	227,272.33	820,125.37	1,647,940.30	1,224,074.39
	65,793.04	251,879.50	903,910.87	2,019,174.46	1,639,327.80
Profit before Federal income tax.....	124,745.34	674,392.42	1,308,266.95	4,209,437.53	18,099,713.67
Federal income tax and contingencies.....		25,842.52		102,500.00	2,100,000.00
Net profit.....	124,745.34	648,549.90	1,308,266.95	4,106,937.53	15,999,713.67
Unrealized appreciation or depreciation in market values during each year (or period) of securities held as of the end of such year (or period).....	¹ 22,212.61	2,015,613.53	12,897,287.67	² 6,614,666.22	² 38,202,202.46

¹ Includes operations of subsidiaries since date of acquisition or organization.

² Depreciation.

(2) EARNED SURPLUS ACCOUNT FROM MARCH 1, 1926, TO SEPTEMBER 30, 1930

	Mar. 1, 1926, to Dec. 31, 1926	Year ended Dec. 31, 1927	Year ended Dec. 31, 1928	Year ended Dec. 31, 1929	9 months ended Sept. 30, 1930
Balance at beginning.....		\$124,745.34	\$567,796.99	\$1,152,201.10	\$1,578,852.24
Net profit as shown above.....	\$124,745.34	648,549.90	1,308,266.95	4,106,937.53	15,999,713.67
	124,745.34	773,295.24	1,876,063.94	5,259,138.63	17,578,565.91
Less dividends:					
On preferred stock.....		43,000.00	318,583.34	1,511,929.75	1,792,080.50
On common stock.....		162,498.25	405,279.50	2,014,539.69	1,745,234.75
On founders' shares.....				153,816.95	174,532.22
		205,498.25	723,862.84	3,680,286.39	3,712,097.47
Balance at end.....	124,745.34	567,796.99	1,152,201.10	1,578,852.24	13,866,468.44

† Includes stock dividend of 4,645 ²⁵⁹/₁₀₀₀ common shares at paid-in or nominal value of \$10 per share.

‡ Covers dividend requirement from date of organization to Dec. 31, 1928.

§ Covers dividend requirement from Jan. 1, 1929, to Dec. 31, 1929.

(3) PAID-IN SURPLUS ACCOUNT FROM MARCH 1, 1926, TO SEPTEMBER 30, 1930

	Debit	Credit
Sale of 130,000 shares of common stock (original issue)....	\$5,294,726.51	
Less:		
Underwriting fee.....	218,400.00	
Organization expense charged to surplus.....	4,410.41	
	\$222,810.41	\$5,071,916.10
Underwriting fee on 30,000 shares of preferred stock.....		146,702.50
Do.....		44,157.00
Sale of 36,245 shares of common stock through rights at \$75 per share.....	\$2,355,933.75	
Less: Underwriting fee.....	33,668.00	
		2,322,265.75
Underwriting fee on 4,645 ¹ / ₄ shares of common stock (issued as stock dividend in lieu of accrued and unpaid dividends on common stock).....		4,643.93
Sale of 48,726 ¹ / ₄ shares of common stock through rights at \$90 per share.....	\$3,898,140.00	
Less: Underwriting fee.....	48,553.25	
		3,849,586.75
Underwriting fee on 40,000 shares of preferred stock.....		26,358.00
Sale of 133,177 shares of common stock through rights at \$130 per share.....	\$15,981,240.00	
Less: Underwriting fee.....	332,942.50	
		15,648,297.50
Sale of 10,000 shares of common stock (new).....		300,000.00
Sale of 4,323 shares of common stock (new).....		313,417.50
Sale of 112,584 shares of common stock (new) through warrants attached to preferred stock, at \$16.25 per share.....		1,548,030.00
Sale of 6,676 shares of common stock (new) through warrants attached to preferred stock, at \$18.75 per share.....		108,485.00
Sale of 207,776 shares of common stock (new) through warrants attached to preferred stock, at \$32.50 per share.....		6,233,280.00
Sale of 37,878 shares of common stock (new) through warrants attached to preferred stock, at \$37.50 per share.....		1,325,730.00
Sale of 200 shares of common stock (new) through warrants attached to preferred stock, at \$22.50 per share.....		4,000.00
Sale of 333 shares of common stock through rights, at \$60 per share.....	\$20,374,147.50	
Less: Underwriting fee.....	354,333.00	
		20,019,814.50
Underwriting fee on 240,000 shares of convertible preferred stock.....		1,444,250.77
Premium on treasury stock sold.....		162,810.30
Scrap canceled—22 shares.....		65.00
Issuance of 274,741 ¹ / ₄ shares of common stock in exchange for common stock of International Share Corporation.....		8,675,018.42
	1,666,112.20	65,582,706.82
		1,666,112.20
Balance September 30, 1930.....		63,916,594.62

(4) Balance sheets as of December 31, 1928 and 1929, and September 30, 1930

	December 31, 1928	December 31, 1929	September 30, 1930 ¹
ASSETS			
Cash and Government securities.....	\$1,185,920.26	\$5,356,895.23	\$2,800,245.75
Notes and accounts receivable.....	1,802,925.00	3,611,770.49	30,170,398.86
Investments—At cost:			
Securities.....	\$44,621,489.41	\$119,641,116.26	\$116,047,771.08
Syndicate participation payments ²	2,655,001.00	1,833,000.00	2,588,500.00
Treasury stock and unpaid common stock subscriptions.....	47,276,490.41	121,474,116.26	118,636,271.08
Accrued dividends on securities.....	643,302.75	1,353,019.18	3,824,659.55
Prepaid corporate taxes.....	293,636.23	522,183.55	333,907.06
			27,527.89
	51,202,324.65	132,317,994.71	155,793,010.19
LIABILITIES			
Notes, accounts and option payable:			
Notes payable.....	12,238,420.40	15,699,500.00	23,100,000.00
Accounts payable, including brokers' accounts.....	6,929,907.23	11,911,796.51	6,071,738.96
Balance due on option.....	2,033,000.00	1,926,000.00	
	21,201,327.63	29,537,296.51	29,171,738.96
Dividend payable.....	124,100.59	536,231.00	6 ⁴ 806.25
Reserves:			
For State taxes, preferred dividends, interest, etc.....	111,802.24	202,617.99	172,619.06
For Federal taxes and contingencies.....		102,500.00	2,100,000.00
For outstanding shares of International Share Corporation.....			78,719.11
	111,802.24	305,117.99	2,351,338.17
Capital stock outstanding: ³			
Preferred (6 per cent cumulative).....	135,000 13,500,000.00	158,229 15,822,900.00	158,229 15,822,900.00
Convertible preferred (6 per cent cumulative).....		240,000 24,000,000.00	240,000 24,000,000.00
Common and common scrip (no par value).....	248,335	2,144,924	2,419,665 ⁵
Founders shares—Nonvoting (no par value).....	10,000	10,000	10,000
Paid-in capital.....	2,483,350.00	5,372,310.00	6,059,163.75
Surplus:			
Paid-in.....	12,619,534.13	55,195,296.97	63,916,594.62
Profit and loss.....	1,152,201.10	1,578,852.24	13,866,468.44
	13,771,735.23	56,774,139.21	77,783,063.06
	51,202,324.65	132,317,994.71	155,793,010.19
Aggregate market value of securities held.....	59,512,178.00	129,750,138.63	88,710,090.99
Total cost of securities as above.....	44,621,489.41	121,474,116.26	118,636,271.08
Market appreciation or depreciation.....	14,890,688.59	8,276,022.37	70,073,819.91

¹ Includes operations of subsidiaries since acquisition and organization.

² Includes unpaid balance on sale of securities, and interest, of \$24,272,376.60 which amount had been paid in full to the corporation by October 9, 1930.

³ In addition to the payments on syndicates, the corporation had at September 30, 1930, a maximum commitment of \$10,835,100 on syndicate participations when, as, and if called.

⁴ Includes 46,898¹/₂ shares of common stock, 3,245 shares of convertible preferred stock, and 8,530 shares of preferred stock.

⁵ 286,651¹/₂ shares of the common capital stock of the corporation were reserved at September 30, 1930; 30,804 shares for subscription warrants issued with preferred stock and 253,839 shares for conversion of convertible preferred stock and 2,308¹/₂ shares to be issued in exchange for the common stock of International Share Corporation.

⁶ Shares.

⁷ Depreciation.

Continental Shares (Inc.) and subsidiaries—Adjusted balance sheet

[Based upon balance sheet as of September 30, 1930, adjusted to give effect to the following: (a) Receipt on October 7 and 9 of \$24,272,376.60 from the sale of securities and the application thereof to reduce notes and accounts payable; (b) purchase of securities in the aggregate amount of \$56,958,409.62 and payment for same by incurrence of \$35,000,000 of indebtedness and issuance of 990,000 common shares of Continental Shares (Inc.), and delivery of 50,000 shares of treasury stock, of which approximately 3,100 have been purchased subsequent to September 30, 1930, at current market prices]

ASSETS		
Cash-----		\$2, 800, 245. 75
Notes and accounts receivable-----		5, 898, 022. 26
Investments at cost: Securities and syndicate participations-----	175, 594, 680. 70	
Treasury stock and unpaid subscriptions to common capital stock-----	2, 099, 887. 44	
Accrued dividends on securities held-----	333, 907. 06	
Prepaid expenses-----	27, 527. 89	
Total-----		187, 354, 271. 10
LIABILITIES		
Notes payable to banks—secured-----		35, 000, 000. 00
Accounts payable:		
To brokers—secured-----	\$4, 937, 093. 02	
Sundry-----	10, 149. 61	
		4, 947, 242. 63
Reserves and accruals-----		2, 956, 144. 42
Capital stock:		
Preferred (authorized 260,000 shares; issued, 6 per cent cumulative)-----		
Original issue, 30,000 shares--	\$3, 000, 000. 00	
Series B, 128,229 shares-----	12, 822, 900. 00	
		15, 822, 900. 00
Convertible preferred (6 per cent cumulative), authorized and issued 240,000 shares-----		24, 000, 000. 00
Preferred capital-----		39, 822, 900. 00
Common (no par value)-----		
Authorized 4,000,000 shares, issued 3,409,665½ shares--	\$8, 524, 163. 75	
Founders' shares (nonvoting), authorized and issued 10,000 no par shares-----	10, 000. 00	
Common capital-----	8, 534, 163. 75	
Surplus:		
Paid in-----	\$82, 344, 304. 24	
Earned-----	13, 749, 516. 06	
	96, 093, 820. 30	
		104, 627, 984. 05
		144, 450, 884. 05
		187, 354, 271. 10

NOTE A.—In addition to the payments on syndicates, the corporations had a maximum commitment of \$7,049,386 on syndicate participations, when, as, and if called.

The foregoing financial statements of the corporation through December 31, 1929 (and also the statement of securities owned at December 31, 1929) have been certified by Messrs. Ernst & Ernst, whose certificate as to the 1929 financial statements appears in the annual report of the corporation, which has been duly published and distributed to the stockholders of the corporation. A copy of the certificate appearing in the annual report is as follows:

"We hereby certify that we have examined the books of account and record of Continental Shares (Inc.), Maryland corporation, and that, in our opinion, based upon the records examined and information obtained by us, the accompanying balance sheet sets forth the financial position of the corporation as at the close of business December 31, 1929, and the relative summary of profit and loss surplus is correct.

"ERNST & ERNST,
"Certified Public Accountants."

"JANUARY 9, 1930."

The financial statements covering the period of nine months ended September 30, 1930, and also the statement of securities owned by the corporations as of September 30, 1930, are taken from the books of the corporations and the treasurer of the corporation has certified that the consolidated balance sheet as of September 30, 1930, correctly sets forth the financial position of the corporation and its subsidiaries as at such date and that the accompanying consolidated income statement and earned surplus account, and also the statement of securities owned by the corporations as of October 8, 1930, are correct.

AGREEMENTS

Continental Shares (Inc.) agrees with the New York Stock Exchange as follows:

To notify the stock exchange promptly in the event of a change in the character of its business.

To notify the stock exchange promptly in the event of any substantial change in the management or affiliations of the corporation.

To publish within 30 days after the close of each fiscal year, and to submit to the stockholders, at least 15 days in advance of each annual meeting, a detailed consolidated statement of earnings and consolidated statement of surplus covering the previous fiscal year, and a consolidated balance sheet as of the end of the year, or separate statements of the parent company and each subsidiary in which the corporation owns a majority of the voting stock.

To publish in each annual report, as a footnote to the balance sheet, a statement showing the aggregate value of securities held directly, or indirectly, at the close of the period, based upon market value for all securities listed on recognized stock exchanges and upon fair appraisal of other securities, compared with the aggregate cost of such securities.

To publish in each annual report a footnote to the income account showing the increase or decrease during the current year of the amount by which the market value of securities held exceeds or is less than their book value.

To publish in each annual report a list of securities held showing names and quantities, provided, however, that an amount equal to 10 per cent of either the combined capital and surplus of the corporation or of the cost of the securities, whichever is lower, may be combined under the heading "Miscellaneous." This list shall disclose the aggregate cost of the securities and their aggregate value, and, in the case of securities not listed on either the New York Stock Exchange or the New York Curb Exchange, the price at which each holding is inventoried for the purpose of determining aggregate market value will be clearly set forth with such information as may be required to support such valuation.

To append to all annual financial statements and inventories required by the committee the certificate of a public accountant qualified under the laws of some State or country, which certificate shall include a statement that no one of the items carried under the term "Miscellaneous" in the list of investments has been held for more than one year.

Not itself, and not to permit any subsidiary, directly or indirectly controlled, to take up as income stock dividends received at an amount greater than that charged against earnings or earned surplus by the issuing company in relation thereto.

Not to pay any cash or stock dividends on common stock when such dividends, plus the amount by which the current value of securities held shall be less than their cost, exceed the earned surplus and undivided profits, without at the time of the payment of such dividends sending to stockholders a statement, in a form which has been approved by the committee on stock list, setting forth clearly the net impairment which will exist after the payment of such dividends stated both in aggregate dollars and dollars per share of common stock. If at the time of the payment of any such dividends the corporation has senior securities outstanding such statement shall, in addition, state in terms of percentage the ratio of the common stock equity remaining after the declaration of such dividends, to such senior securities, taken at par value or the sum to which they would be entitled upon involuntary liquidation, whichever is the greater. For the purpose of this agreement, stock dividends shall be charged against earnings on a basis approved by the committee on stock list.

To notify the stock exchange, on behalf of itself or any subsidiaries which have been, or may be formed, of any change in the terms of any management contract existing at the time of listing and of the terms and conditions of contracts subsequently consummated.

To notify the stock exchange, on behalf of itself and of any subsidiaries, of any changes in the terms and conditions of option warrants.

To maintain, in accordance with the rules of the stock exchange, a transfer office or agency in the Borough of Manhattan, city of New York, where all listed securities shall be directly transferable, and the principal of all listed securities with interest or dividends thereon shall be payable; also a registry office in the Borough of Manhattan, city of New York, other than its transfer office or agency in said city, where all listed securities shall be registered.

To notify the stock exchange 30 days in advance of the effective date of any change in the authorized amounts of listed securities.

Not to make any change in listed securities, of a transfer agency or of a registrar of its listed stock, or of a trustee of its listed bonds or other listed securities, without the approval of the committee on stock list, and not to select as a trustee an officer or director of the company.

To notify the stock exchange in the event of the issuance or creation in any form or manner of any rights to subscribe to, or to be allotted, its securities, or of any other rights or benefits pertaining to ownership in its listed securities, so as to afford the holders of its listed securities a proper period within which to record their interests, and that all rights to subscribe or to receive allotments and all other such rights and benefits with respect to listed securities shall be transferable; and shall be transferable, payable, and deliverable in the Borough of Manhattan, city of New York.

In the event of issuance of options or warrants to purchase stock, otherwise than pro rata to stockholders, to notify the stock exchange promptly of the number of shares covered by such options, of their terms and of the time within which they may be exercised, and thereafter to include this information together with like information as to any options in existence at the time of approval of this application so long as said options are outstanding in all financial reports furnished to stockholders or published.

To make application to the stock exchange for the listing of additional amounts of listed securities prior to the issuance thereof.

To publish promptly to holders of listed bonds and stocks any action in respect to interest on bonds, dividends on shares, or allotment of rights for subscription to securities, notices thereof to be sent to the stock exchange, and to give to the stock exchange at least 10 days' notice in advance of the closing of the transfer books or extensions, or the taking of a record of holders for any purpose.

To redeem preferred stock in accordance with the requirements.

To notify the stock exchange if deposited collateral is changed or removed.

To have on hand at all times a sufficient supply of certificates to meet the demands for transfer.

GENERAL

The fiscal year of the corporation ends on December 31.

The annual meeting of the stockholders is held at the office of the corporation in the city of Baltimore, Md., on the third Tuesday of March in each year.

The principal office of the corporation in the State of Maryland is Baltimore Trust Building, 10 Light Street, Baltimore, Md.

The principal business office of the corporation is 520 Cuyahoga Building, Cleveland, Ohio.

The directors of the corporation (elected annually) are: C. S. Eaton, chairman of the board; W. R. Burwell, F. H. Hobson, Richard Inglis and R. V. Mitchell, all of Cleveland, Ohio; David Ingalls, of Washington, D. C.; and Philip Wick, of Youngstown, Ohio.

The members of the advisory committee are as follows: F. H. Blackburn, chairman of investment committees, General Electric employees' funds; John S. Brookes, jr., general counsel the Koppers Co.; H. W. Fenton, president Harris Trust & Savings Bank (Chicago); T. M. Girdler, director Union Trust Co. (Cleveland); G. M. Hubbard, vice president J. G. White & Co. (Inc.); J. F. Schoellkopf, jr., vice president Schoellkopf, Hutton & Pomeroy (Inc.); and S. D. Warriner, president Lehigh Coal & Navigation Co.

The officers of the corporation are: C. S. Eaton, chairman of the board; W. R. Burwell, president; F. H. Hobson, vice president; and L. G. Watson, secretary and treasurer.

The transfer agents for the common stock are: Guaranty Trust Co. of New York, New York, N. Y., the Cleveland Trust Co., Cleveland, Ohio, and the First National Bank of Boston, Boston, Mass.

The registrars for the common stock are: Bankers Trust Co., New York, N. Y., the Guardian Trust Co., Cleveland, Ohio, and Harris Forbes Trust Co., Boston, Mass.

Certificates for the common stock are interchangeably transferable in New York, N. Y., Cleveland, Ohio, and Boston, Mass.

CONTINENTAL SHARES (INC.),
By W. R. BURWELL, *President*.

This committee recommends that the above-mentioned 990,000 shares of common stock without par value, be added to the list on official notice of issuance in connection with the acquisition of securities, in accordance with the terms of this application, making the total amount authorized to be listed 3,696,317 shares.

FRANK ALTSCHUL, *Chairman.*

Adopted by the governing committee October 29, 1930.

ASHBEL GREEN, *Secretary.*

Mr. GRAY. I ask that these letters, which I will read, be printed in the record. Mr. Stock has made reference to some of them. I do not know whether he has covered them fully. The first one is a memorandum dated October 10, 1930. It comes from Mr. Johnson, an officer of the Chase National Bank, to Mr. Clarkson, another officer of the Chase National Bank. It is their interoffice communication. [Reading:]

Memorandum to Mr. Clarkson.

CONTINENTAL SHARES (INC.)

Mr. Eberstadt, partner of Otis & Co., called this morning and saw Mr. Clarkson regarding the loan for \$30,000,000, which we have agreed to make to the above. We have agreed to take the United Light & Power B stock at \$50 a share instead of \$40 and release from the collateral the following: \$2,000,000, Lehigh Navigation; 500 M 1,000,000, Brooklyn Union Gas; 1,500 M 1,000,000 Goodyear.

That "500 M," which, though it reads 500 million, is evidently intended to mean half a million, and not 500 million. The "1,500 M" is evidently meant for 1,500,000, that being his way of abbreviating it. [Continuing reading:]

They will give us as additional collateral \$4,000,000 Cliffs Corporation which he says has a market in Cleveland. He will put the Cliffs Corporation stock in at 15 points under the market price. They will further agree to maintain a margin of 50 per cent at all times and will not withdraw any collateral until the margin equals 60 per cent. Mr. Eberstadt says that this \$30,000,000 loan will be their entire indebtedness aside from the \$7,000,000 loan shown on their statement. After allowing for a write-off of about \$25,000,000 to bring their securities to the market, he figures their net worth about \$120,000,000. He says last fall they owed \$45,000,000, but were able to clear this by the sale to Insull. They do not expect to borrow any more money and Mr. Eberstadt says that they are all opposed to anything that would increase their debt.

OTIS & CO.

With respect to Otis & Co. (these figures are New York office only) he is not sure of the figure but says that they owe between \$110,000,000 and \$120,000,000, that they have a box of \$6,000,000, practically all good usable stuff, and \$6,000,000 in cash. I pointed out to him that his box was entirely too small, which he appreciates. He says he will give us the Cleveland figures as soon as he can get them.

L. H. J.

OCTOBER 10, 1930.

I point out to the committee that this was a loan that was being made to Continental Shares, but the man who was negotiating it was Mr. Eberstadt, who had absolutely nothing to do with Continental Shares, and was a partner of Otis & Co., a brokerage house in New York City.

There is a memorandum dated October 11, which I shall not read. It is addressed to Chase National Bank. It is headed "Otis

& Co." It starts out by saying, "I wish to confirm the arrangement agreed upon by me acting on behalf of Continental Shares (Inc.)"

It simply recites the arrangement, and it is signed, "Otis & Co." by Mr. Eberstadt. So that he, having no interest in Continental Shares, was the one who made the arrangement.

There is attached to that, which I ask also to go into the record, a schedule of the securities, amounting to \$50,671,000, the stated value of the securities which are to be deposited with the Chase by Continental Shares as security for the loan.

(The statements referred to are as follows:)

OTIS & Co.,

New York, October 11, 1930.

CHASE NATIONAL BANK,

New York, N. Y.

GENTLEMEN: I wish to confirm the arrangement agreed upon by me acting on behalf of Continental Shares (Inc.).

(1) You will make Continental Shares (Inc.) a loan in the amount of \$30,000,000 for 18 months, bearing interest at the rate of $5\frac{1}{2}$ per cent per annum, payable monthly. The obligation of the company will be evidenced by its execution and delivery to you of a note substantially in the form attached hereto marked schedule A.

(2) The company is to have the right to anticipate and pay off the above loan, or any part thereof, at any time after 30 days' written notice to you, at 100.25 per cent of the face amount of the part so to be paid off.

(3) There is attached hereto, marked "Schedule B," a list of collateral to be lodged with you as security for the loan. This collateral will be delivered to you piecemeal from time to time; and upon such delivery you will make arrangements with the company to make advances to the company on the above loan, from time to time, on a basis arranged between you and the company.

(4) The company is to have the right to substitute from time to time as collateral securities satisfactory to you on a basis acceptable to you, in your discretion, except that there is to be no substitution of the shares of United Light & Power, regardless of basis, unless such substitution is agreed to by you.

(5) The company will deposit as collateral for the loan any additional shares of United Light & Power B acquired by it from time to time during the continuance of the loan.

(6) The company will at all times maintain as collateral security a margin of 50 per cent. In case the margin exceeds 60 per cent the company shall have the right to draw down collateral.

(7) You will not subparticipate any part of this loan to any Canadian or Cleveland banks, and you will, wherever convenient, advise us before of any proposed subparticipations of the loan, so that we can discuss them with you from the point of view of mutual interest.

(8) The company will be pleased to use its influence to initiate or solidify your business relations with companies whose stock it owns, both from the point of view of deposits and financing.

Very truly yours,

OTIS & Co.

SCHEDULE B

416,000 shares United Light & Power B, at 50.....	\$20, 800, 000
337,000 shares Lehigh Coal & Navigation, at 30.....	10, 110, 000
41,000 shares Cliffs Corporation, at 100.....	4, 100, 000
7,000 shares Brooklyn Union Gas, at 115.....	805, 000
75,600 shares Goodyear Tire & Rubber, at 41.....	3, 100, 000
2,625 shares Continental Illinois Bank & Trust, at 570.....	1, 500, 000
772 shares Guaranty Trust Co. of New York, at 583.....	450, 000
5,850 shares Bank of Manhattan Trust, at 100.....	585, 000
10,888 shares Union Trust Co. of Cleveland, at 74.....	800, 000
3,687 shares Cleveland Trust Co. at 885.....	1, 400, 000
480 shares Harris Trust of Chicago, at 700.....	336, 000
68,850 shares Youngstown Sheet & Tube, at 100.....	6, 885, 000
	<hr/>
	50, 871, 000

Senator WALCOTT. Was the partner of Otis & Co. a director in Continental Shares?

Mr. GUGLE. He was not.

Senator WALCOTT. Was there any resolution on the part of Continental Shares to authorize him to do this?

Mr. GRAY. None that we know of, and we have the minutes. There was no resolution, was there, Mr. Gugle?

Mr. GUGLE. There was a resolution afterwards passed, confirming his negotiations.

Mr. GRAY. Confirming his negotiations. They did not adopt this resolution until the thing was through.

Senator GOLDSBOROUGH. A ratification.

Mr. GUGLE. A ratification.

Mr. GRAY. I will say to the committee that I have subpoenaed Mr. Eberstadt, and, not anticipating putting Continental Shares on until to-morrow, and recognizing a really important matter that he had to attend to to-day, I relieved him until to-morrow morning. I did that yesterday in New York; so that he will be here to-morrow morning, and we will put Mr. Eberstadt on and ask him a few pointed questions about the situation.

Mr. Gugle states that there is another matter he would like to present to the committee. I think the committee would be glad to hear it, Mr. Gugle.

Mr. GUGLE. What I am about to speak of, is intended to indicate that this loan was made for the relief of Otis & Co. During the period from October 14 to 20, Chase and other banks paid out and charged to the account of Continental, \$50,500,000, of which \$12,150,000 was later repaid by Otis & Co. That left a net—

Senator GOLDSBOROUGH. Are you speaking about the \$30,000,000 loan of Chase?

Mr. GUGLE. Speaking about the \$30,000,000 loan. Chase was supposed to be closing a transaction wherein it was to pay out not over \$35,000,000, and was to get \$57,000,000 worth of securities. They paid out during that period \$50,500,000 of Continental's money, part of which was afterwards returned by Otis & Co., but the net amount that Chase paid out was \$37,500,000, and they did not get, by \$12,000,000, the amount of securities that the contract called for, and later, to get that \$12,000,000, we had to pay the \$7,600,000 in addition.

Senator CAREY. You say "we." You mean Continental?

Mr. GUGLE. Yes, sir.

Mr. GRAY. Continental Shares.

That is all, Mr. Gugle, as far as I am concerned.

Mr. Chairman, of course I anticipated, as I say, presenting the Fox picture to-day, and, although we have one or two other small matters, I think that the matter that has been presented, and the Fox picture, which I do not hesitate to say to you publicly will present an even stronger picture of manipulation of a man's own personally-controlled corporations than this docs, will be sufficient. I will present to you to-morrow morning, if Mr. Fox is able to be here to present his side of it and answer some questions, that matter; and if he is not here I will present it by authoritative testimony without him.

The CHAIRMAN. I understand that Mr. Daley is present, and desires to make a short statement, and subject himself to cross-

examination by counsel for the committee. You may make a brief statement under oath and be subject to cross-examination in case counsel desires to ask you any questions.

**TESTIMONY OF WILLIAM B. DALEY, PRESIDENT OTIS & CO.,
NEW YORK**

The **CHAIRMAN**. Do you solemnly swear that the testimony you will give in the matter under investigation by the committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. DALEY. I do.

I have given my name. Do you want to ask me any questions first?

Mr. GRAY. No. It is only a matter of your making such statement as you desire to make.

Mr. DALEY. If this case were tried in the regular manner in court, strict proof of these charges could be required, and proper proof could be submitted by the company and its officers.

Some of the statements made here to-day are false. Other inferences are made which are supported here and there by documentary proof which makes a reasonable inference appear. It is very difficult to try to go through these charges one by one in this committee hearing, but I submit to the committee that these charges, having been denied, and in view of the fact that they are brought by an investigator of the committee who has not in any degree examined the records of the company, or the officers or directors of the company, it is unfair to have it come as a report of the investigator of the committee. But, on the cursory examination of certain of the transactions, he would have known that some of the inferences he has made here are not reasonable inferences.

Mr. GRAY. Now, Mr. Daley, you are a member of the bar in Cleveland, is that correct?

Mr. DALEY. Yes.

Mr. GRAY. What association, if any, have you with Continental Shares?

Mr. DALEY. I have none.

Mr. GRAY. What association, if any, had you with Otis & Co.?

Mr. DALEY. I was an employee.

Mr. GRAY. You were an employee in what capacity?

Mr. DALEY. I was in what is known as their buying department, the department that originated the purchase of securities.

Mr. GRAY. When was that?

Mr. DALEY. That was from about the middle of 1928.

Mr. GRAY. Until when?

Mr. DALEY. I am still with the reorganized Otis & Co.

Mr. GRAY. What is your business? Are you practicing law, or are you in the buying department of Otis & Co.?

Mr. DALEY. I am with Otis & Co. (Inc.).

Mr. GRAY. In other words, you are a member of the bar, but not practicing?

Mr. DALEY. Yes.

Mr. GRAY. Then, you know nothing about the affairs of Continental Shares, because you are only connected with Otis & Co., is that correct?

Mr. DALEY. That is correct.

Mr. GRAY. Then, any statements you have made with regard to the statements or testimony that has been produced here with respect to Continental Shares, represent only some personal opinion of yours, based upon an absolute lack of knowledge?

Mr. DALEY. That is not correct.

Mr. GRAY. Where did you get your knowledge about Continental Shares?

Mr. DALEY. One of the statements made by your investigator—

Mr. GRAY. No; pardon me. Where did you get your knowledge about Continental Shares?

Mr. DALEY. Otis & Co. was involved in the report. I am not claiming to know about Continental Shares.

Mr. GRAY. Then, your statement with respect to any statements made here to-day with respect to Continental Shares transactions, you have no knowledge about at all, only where they contact with Otis & Co.?

Mr. DALEY. That is right. Some of the statements made were included—

Mr. GRAY. We will come to that. What connection had you with Foreign Utilities?

Mr. DALEY. No connection.

Mr. GRAY. What connection had you with Cyrus Eaton?

Mr. DALEY. I worked for Otis & Co., in which he was a partner.

Mr. GRAY. He was the dominating partner?

Mr. DALEY. The partner who had the largest interest.

Mr. GRAY. And the one who had the say as to what was to be done?

Mr. DALEY. No, that is not true.

Mr. GRAY. Who did have, then? Name the man.

Mr. DALEY. The executive committee.

Mr. GRAY. The executive committee of Otis & Co.?

Mr. DALEY. Yes.

Mr. GRAY. The executive committee consisted of whom?

Mr. DALEY. It was changed from time to time.

Mr. GRAY. Of whom did it consist in October, 1930?

Mr. DALEY. Mr. Eaton was not one of them; Mr. Inglis.

Mr. GRAY. You are talking about Otis & Co.?

Mr. DALEY. I am.

Mr. GRAY. Mr. Inglis. Who else?

Mr. DALEY. J. O. Eaton, who is not related in any way to C. S. Eaton.

Mr. GRAY. Who else?

Mr. DALEY. Ferdinand Eberstadt; and I think M. C. Harvey.

Mr. GRAY. That same Mr. Inglis was connected with Continental Shares?

Mr. DALEY. That is correct.

Mr. GRAY. Mr. Eberstadt is the one that has been mentioned here to-day?

Mr. DALEY. That is correct.

Mr. GRAY. Who named the executive committee?

Mr. DALEY. The members of the firm.

Mr. GRAY. Of which Mr. Eaton was the dominating member, and held the largest interest?

Mr. DALEY. He held the largest interest, but under the articles of partnership all questions were decided by the majority of the members of the partnership.

Mr. GRAY. You say, of course, that which all of us who happen to be members of the bar know, that if the matter were tried in court, strict proof would be required.

Mr. DALEY. That is correct.

Mr. GRAY. That is true. You have said that some of the statements that were made here to-day were false.

Mr. DALEY. That is correct.

Mr. GRAY. You have made a rather important accusation. I ask you to detail each statement you say is false, and to tell me in what the falsity consists in each case.

Mr. DALEY. The investigator made one statement, that Continental Shares had unloaded stock on Otis & Co.

Mr. GRAY. Unloaded stock on Otis & Co.?

Mr. DALEY. Just the opposite—Otis & Co. had unloaded stock on Continental Shares at a price of \$76 per share, when the market was \$32 per share. An examination of the Otis & Co. records would indicate clearly to an investigator that that was a Continental Shares account on Otis & Co.'s books, and that they have always had that liability.

Mr. GRAY. Let me ask you whether or not Otis & Co., in the first place, did not underwrite the selling of the shares of Continental Shares?

Mr. DALEY. They did, on several occasions, I know.

Mr. GRAY. Let me ask you how much Otis & Co. made from the underwriting of those shares?

Mr. DALEY. I would have to give you approximate figures.

Mr. GRAY. Give it to me approximately, and I will know whether you are correct or not.

Mr. DALEY. For raising somewhere around \$100,000,000, the total fees are \$2,600,000, approximately, gross, which they had, in turn, to distribute among the bankers, which worked out to be something around 2 to 2½ per cent on the amount of money that was raised on the underwriting.

Mr. GRAY. What was the net result to Otis & Co.?

Mr. DALEY. I would say the total net to Otis & Co. would run \$1,600,000.

Mr. GRAY. The statement was made by Mr. Stock to-day that a certain amount of Continental Shares stock was unloaded by Otis & Co. upon Continental Shares at a certain price, when it was worth much less. I ask you whether or not, after Otis & Co. failed to carry out their complete underwriting agreement, it is a fact that some of the shares which they were to underwrite, and which they did not dispose of, though they were obligated to do so, and had been paid a commission for doing so, were handed back to Continental Shares at the original price at which they were to be underwritten, notwithstanding the fact that the price had dropped from \$76 to \$32 at that time?

Mr. DALEY. That not only is not the fact, but your own examination of the Otis records would convince you that was not a fact.

Mr. GRAY. Will you furnish to the committee the records of Otis & Co. here to-morrow, in order to confirm or disaffirm your statement that has been made here to-day that that statement is false?

Mr. DALEY. I think I can do that.

Mr. GRAY. If you will get them here at 10 o'clock to-morrow morning, we will give you an opportunity to present them. What other statement do you say is false?

Mr. DALEY. The reference to Inland Syndicate. I think Otis & Co. was not the manager of that syndicate. If Otis & Co. did since join it, any interest in it was small. Mr. Gugle, who testified, I am sure did have an interest in it, and that was a public syndicate, the stock of which was sold to Continental Shares with the approval of the directors of Continental Shares.

Mr. GRAY. The falsity in that statement you pick out is that Otis & Co. were not the managers of it, and yet you are not sure whether that is so or not?

Mr. DALEY. I know they had only a small interest in it.

Mr. GRAY. You do not know whether they were managers or not?

Mr. DALEY. No; I do not.

Mr. GRAY. And yet that is the statement you do not know about, that you are saying is false?

Mr. DALEY. I know about the small interest they had in it.

Mr. GRAY. Is it not a fact that frequently the managers of syndicates have only a small interest, while they make a very large amount of money out of the percentage paid to them for operating the syndicate, and the commissions they get upon the brokerage transactions that pass through their houses?

Mr. DALEY. That is the case in many instances.

Mr. GRAY. That was where Otis & Co. made their money in this, was it not?

Mr. DALEY. Before I answer that, I think they made their commissions—I have forgotten that syndicate. I would like to look that up.

Mr. GRAY. You look it up, and come in to-morrow and tell us. What else is false?

Mr. DALEY. In the shares of the Cliffs Corporation that were put out, with the Cleveland Trust Co.—

Mr. GRAY. By Continental Shares?

Mr. DALEY. By Continental Shares.

Mr. GRAY. Had Otis & Co. anything to do with that?

Mr. DALEY. No; they did not.

Mr. GRAY. Then, what do you know about it? You said a minute ago, under oath, that you did not know anything about the affairs of Continental Shares.

Mr. DALEY. I have seen some of the transactions of Continental Shares.

Mr. GRAY. You have seen some, but you have not seen as many as our people have seen, have you?

Mr. DALEY. I do not know that you have seen any of them.

Mr. GRAY. You say you have seen them?

Mr. DALEY. Some of them.

Mr. GRAY. When did you see the books of the Continental Shares with relation to this Cliffs Corporation matter?

Mr. DALEY. This particular one, I talked to the president of Continental Shares about.

Mr. GRAY. Who is the president of Continental Shares?

Mr. DALEY. His name is Burwell.

Mr. GRAY. When did you talk to him?

Mr. DALEY. When the Gule charges were first made.

Mr. GRAY. How long ago was that?

Mr. DALEY. I think that has been pending six months, anyway.

Mr. GRAY. You are drawing on your recollection of a talk you had with Mr. Burwell, that makes you come in here and say that the statements we made are not so; is that it?

Mr. DALEY. I said statements and inferences. I have given you one specific statement that is not so. I have not, of course, been permitted to say what is the truth about the Cliffs Corporation.

Mr. GRAY. I am going to give you an opportunity.

Mr. DALEY. I am pretty certain my information comes from Mr. Burwell, the president of it.

Mr. GRAY. Why not wire Mr. Burwell and have him here to-morrow morning, and tell him what has been said about that corporation, in order that he may refute it if it is not so. Wouldn't that be a good idea?

Mr. DALEY. I think it would.

Mr. GRAY. Mr. Burwell is Mr. Eaton's brother-in-law, is he not?

Mr. DALEY. No, sir.

Mr. GRAY. What relation is he?

Mr. DALEY. I think he married a niece.

Mr. GRAY. Then he is a nephew; is that it? Is there any other statement that is false?

Mr. DALEY. No; there are inferences in here that I am sure will not be supported if the investigator would check——

Mr. GRAY. Inferences are a matter of a man's own personality. He draws one inference, and somebody else might draw another.

Mr. DALEY. The objection I make is that the inference was drawn from a one-sided investigation.

Mr. GRAY. You know that Cyrus Eaton was subpoenaed some four or five weeks ago to come here.

Mr. DALEY. That is correct.

Mr. GRAY. You know that at your request he was relieved from a subpoena that was returnable on a certain Thursday, until a certain Friday?

Mr. DALEY. Yes.

Mr. GRAY. You know that you had a conference with me on that Friday, as his attorney, and asked me to advise you when he would be needed, and I told you I would. That is correct, isn't it.

Mr. DALEY. Yes.

Mr. GRAY. You know that though you were in New York with Otis & Co., and not in Cleveland with Continental Shares, that Mr. Eaton got a wire yesterday afternoon telling him to be here to-day, do you not?

Mr. DALEY. I have not seen the wire.

Mr. GRAY. You knew of it?

Mr. DALEY. May I finish?

Mr. GRAY. Yes.

Mr. DALEY. I did not understand that to be the wire.

Mr. GRAY. What did you understand the wire to be?

Mr. DALEY. I understood your wire stated that the hearing of the committee would be held "to-morrow morning"—substantially those words.

Mr. GRAY. Yes.

Mr. DALEY. Not that he should be there.

Mr. GRAY. Was the wire read to you?

Mr. DALEY. It was not read to me, but the substance of it was given to me.

Mr. GRAY. By whom?

Mr. DALEY. By Mr. Eaton.

Mr. GRAY. In other words, he called you up over the long-distance phone, and advised you about the wire, did he?

Mr. DALEY. No; I called him up.

Mr. GRAY. You called him up. Are you his attorney?

Mr. DALEY. Yes.

Mr. GRAY. Then, I will not ask you anything about your conferences with Mr. Eaton. But, as a result of your calling him up, and his reading you the wire, he is not here?

Mr. DALEY. Not as a result of that conversation.

Mr. GRAY. But he is not here, is he? Don't you think that Mr. Eaton is the best man in the world to tell us whether or not any of these things are false, and that it would be a good idea to wire him to-night and tell him to be here to-morrow morning?

Mr. DALEY. I do not think anybody in the world can defend a transaction before a Senate committee where these charges are flung here. I think it has to be tried out in court.

Mr. GRAY. Do you intend that as a reflection on the committee, or to mean that we will not give him a patient hearing?

Mr. DALEY. In any of those things—you, as a lawyer, know the same thing—it takes weeks of trial to get this.

Mr. GRAY. I will say this to you, as counsel for this committee: Without requiring Mr. Eaton to offer any absolute proof, we will permit Mr. Eaton to take the stand and make any statement he desires, subject, of course, to any questions either the committee or myself desire to ask him. He can make any statement he desires, whether it is hearsay, or whether it is something as to which he will furnish us actual documentary or other proof at the same time. Do you not think it would be very wise to have Mr. Eaton, if he thinks he is being maligned by these statements, come into this committee room to-morrow morning and accept that invitation?

Mr. DALEY. No; I would not do it if I were in his place.

Mr. GRAY. Why?

Mr. DALEY. I do not think a man has a chance to build up a defense, or show his defense in a committee hearing.

Mr. GRAY. Of course, you understand that Mr. Eaton is under subpoena.

Mr. DALEY. Yes.

Mr. GRAY. It would be unpleasant to him, then, and he would prefer me not to take any extreme measures to get him here?

Mr. DALEY. I should think so.

Mr. GRAY. Why would it be unpleasant to him?

Mr. DALEY. I have tried to explain that. I think it is a little bit unfair to have him try his case here before the committee.

Mr. GRAY. You say that the investigator has not examined the books of the company. How do you know that?

Mr. DALEY. I was told that by the employees of Continental Shares.

Mr. GRAY. You were told that by one of the employees of Continental Shares. In other words, everything you have told us today is based upon some information that you have gotten from somebody else?

Mr. DALEY. That is correct.

Mr. GRAY. All right. I think that is all I want to ask him.

Senator WALCOTT. I move we adjourn, Mr. Chairman.

(The motion was agreed to.)

The CHAIRMAN. We will adjourn at this time, to meet at 10 o'clock to-morrow morning in the committee room.

(Whereupon, at 4.20 o'clock p. m., the committee adjourned to meet to-morrow, Friday, June 17, 1932, at 10 o'clock a. m.)