

MONEY TRUST INVESTIGATION

INVESTIGATION

OF

FINANCIAL AND MONETARY CONDITIONS IN THE UNITED STATES

UNDER

HOUSE RESOLUTIONS NOS. 429 AND 504

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON
BANKING AND CURRENCY

PART 2

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SUBCOMMITTEE OF THE COMMITTEE ON BANKING AND CURRENCY,

HOUSE OF REPRESENTATIVES.

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MONEY TRUST INVESTIGATION.

SUBCOMMITTEE OF THE
COMMITTEE ON BANKING AND CURRENCY,
HOUSE OF REPRESENTATIVES,
New York, N. Y., Thursday, June 6, 1912.

The subcommittee met at 11 o'clock a. m. in room 328, Custom-house Building.

Present, Messrs. Pujó (Chairman), Brown, Daugherty, Byrnes, Hayes, Neeley and Heald.

Present also, Samuel Untermyer, Esq., and Edgar H. Farrar, Esq., counsel for the subcommittee.

The Chairman administered the following oath to the official stenographers:

I solemnly swear that I will truly and correctly report all testimony taken in proceedings had before the Subcommittee of the Committee on Banking and Currency making investigation by virtue of Resolutions 429 and 504 of the House of Representatives of the United States, and accurately transcribe the stenographic notes of the same, so help me God.

The CHAIRMAN. Gentlemen, the committee will now come to order for the purpose of taking up the investigation.

Preliminary to the investigation I desire to make this statement for the press:

In order to avoid further misunderstanding as to the plans and policy of the Committee the following announcement is made:

1. There will be no testimony taken at this time nor until the Autumn upon the main branch of the Inquiry. In view of the insistence by certain of the leading financial institutions whose affairs it may become necessary to investigate that the Committee is without power to enforce its demands for information the Committee adhere to the conclusion heretofore announced that it is not advisable to take up the main Inquiry until all doubt as to the power of the Committee to conduct the inquiry on the lines that it believes to be necessary has been removed by the passage of the pending Bill to amend Section 5241 of the Banking Law, which has passed the House and is now before the Finance Committee of the Senate.

2. It will require months of painstaking investigation and preparation, after the proposed legislation has been enacted, to secure the data that is essential to the Inquiry. The prevalent impression that this can be accomplished by merely examining witnesses demonstrates the popular misconception of the character of the task and the constructive results sought to be obtained. The field of inquiry is so vast and the subject so highly technical and specialized that the work if attempted in that way would prove endless and aimless.

The required data must be gathered primarily from the books of the corporations concerned and must be segregated before witnesses can be advantageously examined.

The Committee is anxious to avoid exposing legitimate transactions of the institutions concerned and to examine only into those that are believed to be the proper basis for remedial legislation. This can only be accomplished by the plan that has been arranged. The objections put forward by the Banks invite the exposure of their affairs that the Committee has been seeking to avoid and which will be avoided if the desired legislation is enacted.

3. The Committee considers it inadvisable in any event to conduct this important and far-reaching economic inquiry during the heat and excitement of a political campaign and has not from the outset contemplated any such course. It has been recognized as imperative that the public confidence in the judicial attitude of the Committee shall be beyond suspicion and for that additional reason the Committee has not considered pursuing the main branch of the investigation until after the election.

The intervening time will be devoted to taking testimony on certain collateral subjects that are essential to a complete conception of the situation and in collecting the material for more prominent features of the inquiry. The relations of the Clearing House Associations and the Stock Exchange to the financial system and to the increasing concentration of money will be investigated in the few sessions that are to be held before the summer vacation.

I will state that the investigation will be conducted by counsel representing the Committee, Judge Farrar and Mr. Untermeyer. The first witness will be called.

Mr. UNTERMEYER. If agreeable to the Committee, we should like to call first Prof. Laughlin and one other witness. Prof. Laughlin has to leave on the 4 o'clock train, I believe, for Chicago.

Mr. LAUGHLIN. At your pleasure, sir.

TESTIMONY OF JAMES LAURENCE LAUGHLIN.

(The witness was sworn by the chairman.)

Mr. UNTERMEYER. Are you now at the head of the National Civic League?

Mr. LAUGHLIN. I should not say at the head. I am the Chairman of the Executive Committee. Mr. John J. Farwell is the nominal president.

Mr. UNTERMEYER. When was that league organized?

Mr. LAUGHLIN. About a year ago. We began business June 1, 1911.

Mr. UNTERMEYER. Under what law was it organized?

Mr. LAUGHLIN. Under no law; it is a voluntary organization of business men with a charter from the State of Illinois.

Mr. UNTERMEYER. Then it has a charter from the State?

Mr. LAUGHLIN. Certainly.

Mr. UNTERMEYER. Have you there a copy of the law under which it was organized?

Mr. LAUGHLIN. Not a copy of the law. It was organized under the general law for the organization of corporations. I am able to

give you the date of the general act for the organization of corporations. It was approved April 8, 1910.

Mr. UNTERMYER. Have you your original charter here?

Mr. LAUGHLIN. Yes, sir.

Mr. UNTERMYER. Will you be good enough to produce it?

Mr. LAUGHLIN. This is the original charter, and this is the amended charter [witness producing papers].

Mr. UNTERMYER. I would like to have these marked. The original charter will be Exhibit 9, and the amended charter will be Exhibit 10.

(The pamphlets referred to were marked respectively, Exhibit No. 9, June 6, 1912, and Exhibit No. 10, June 6, 1912.)

Mr. LAUGHLIN. Here is the official statement from the Secretary of State as to the amendment.

Mr. UNTERMYER. We do not care about that.

Mr. LAUGHLIN. The amended form is in the second printed statement of the incorporation, dated December 9, 1911.

Mr. UNTERMYER. The name of your organization is the National Citizens' League for the promotion of a Sound Banking System?

Mr. LAUGHLIN. Quite right, sir.

Mr. UNTERMYER. I notice that the object stated in the original certificate of incorporation is as follows:

Object: The object for which it is formed is to give organized expression to the growing public sentiment in favor of and to aid in securing the legislation necessary to insure an improved banking system for the United States.

The further object stated in the by-laws under the head of "Objects" is as follows:

The object for which it is formed is to give organized expression to the growing public sentiment in favor of and to aid in securing the legislation necessary to insure an improved banking system for the United States of America.

Mr. LAUGHLIN. I can explain how that statement came in, if you please.

Mr. UNTERMYER. In a moment, Professor. You amended that statement of the object later on, did you not?

Mr. LAUGHLIN. On December 9, 1911.

Mr. UNTERMYER. It was found that the words "to aid in securing the legislation" were objectionable and misleading, was it not?

Mr. LAUGHLIN. Yes. They happened to be in the original resolution of the Association of Commerce by which this organization was established, which you can see in this statement of the origin of the league.

Mr. UNTERMYER. Then, as a matter of fact, it was not intended that a part of the purpose of the organization of this league should be to aid in the securing of legislation?

Mr. LAUGHLIN. The whole and fundamental purpose in the beginning was to establish a campaign of education.

Mr. UNTERMYER. I forgot to ask you, Prof. Laughlin, whether you had resigned your post as Professor in the University of Chicago in order to take on this work?

Mr. LAUGHLIN. No, sir; I received leave of absence for one year.

Mr. UNTERMYER. You are a professor of economics?

Mr. LAUGHLIN. I am a professor of political economy, to be exact.

Mr. UNTERMYER. When did you resign?

Mr. LAUGHLIN. I have never resigned.

Mr. UNTERMYER. When did you get your leave?

Mr. LAUGHLIN. I took leave of absence just a year ago; June 1.

Mr. UNTERMYER. Since then you have been devoting yourself to the business of this League?

Mr. LAUGHLIN. Entirely.

Mr. UNTERMYER. And you maintain your office in Chicago, do you not?

Mr. LAUGHLIN. Yes; at 223 West Jackson Boulevard.

Mr. UNTERMYER. At whose request did you take on this work?

Mr. LAUGHLIN. At the request of the business men of Chicago who had determined to organize this League; chiefly Mr. Harry A. Wheeler and Mr. John B. Fowler.

Mr. UNTERMYER. With whom have you been prominently in consultation in New York in connection with the organization of the League?

Mr. LAUGHLIN. Almost entirely with the executive committee of our state organization.

Mr. UNTERMYER. The League has now secured subscriptions for this work to the extent of about \$300,000, has it not?

Mr. LAUGHLIN. No, sir. We have never had any such sum.

Mr. UNTERMYER. You have about \$300,000 pledged, have you not?

Mr. LAUGHLIN. No, sir.

Mr. UNTERMYER. Will you give the exact figures; the total figures? I do not care for the details, unless you care to give them. I would like the total figures; the amount that has been paid in for this campaign of education and the amount that has been thus far pledged.

Mr. LAUGHLIN. We started out with a request of the business men to make pledges. Those were moral obligations, that they would collect them.

Mr. UNTERMYER. Will you not give us, first, the sum total?

Mr. LAUGHLIN. The sum total of the amount obtained?

Mr. UNTERMYER. The sum total of the amount actually paid in thus far and of the amount actually pledged.

Mr. LAUGHLIN. The subscriptions paid in to May 25, 1912, amount to \$216,697.02.

Mr. UNTERMYER. And the amounts actually pledged, and not yet paid in, amount to how much?

Mr. LAUGHLIN. Those pledges, unfortunately, are not those that we can count upon.

Mr. UNTERMYER. What is the amount of them, Professor?

Mr. LAUGHLIN. We have \$110,000 from New York. We have pledges of about \$75,000 from Chicago. We have pledges of about \$50,000 from Boston, but they have not yet begun to raise their pledges. We have received from Philadelphia \$32,406.70.

Mr. UNTERMYER. Please separate the amounts received from the amounts pledged and not paid, Professor.

Mr. LAUGHLIN. I beg your pardon.

Mr. UNTERMYER. I want to distinguish between the two, so as to show the total amount paid and the total amount pledged and not paid, up to date.

Mr. LAUGHLIN. I have those figures here.

Mr. UNTERMYER. And the gross total; not the details, unless you care to give them.

Mr. LAUGHLIN. I will first give you, then, the actual guarantees that we have, on which we can call.

Mr. UNTERMYER. Will you not give us the total?

Mr. LAUGHLIN. With pleasure. \$110,087.

Mr. UNTERMYER. That is in addition to how much that has already been paid—\$216,000?

Mr. LAUGHLIN. \$216,672.02. Pardon me. May I make an explanation?

Mr. UNTERMYER. Certainly.

Mr. LAUGHLIN. That \$110,000 is not wholly in addition. I should say that, in addition, we might call for, from New York \$40,000; from Chicago \$25,000. I have not the sum total, but we can give you each one in detail.

Mr. UNTERMYER. We are not really concerned with mathematical accuracy on this point, Professor.

Mr. LAUGHLIN. Yes.

Mr. UNTERMYER. We simply want to know approximately how much has been paid and how much has been actually pledged, to date, for this campaign.

Mr. LAUGHLIN. Quite so.

The amount actually paid in is \$216,000, as I said. The amount pledged I should think would run, roughly, about \$75,000 in addition.

Mr. UNTERMYER. Besides that, you have partial pledges to what extent, up to this time?

Mr. LAUGHLIN. I do not think we have any beyond that. We tried to obtain quotas from New York of \$300,000 which we never obtained. We tried to get \$100,000 from Chicago, and we have about \$75,000. We tried for \$50,000 from Boston, but we have no guaranty beyond the present amount they have paid—\$20,000.

Mr. UNTERMYER. You have also had a state organization, have you not?

Mr. LAUGHLIN. Yes. We have organizations in about 45 states. But, if you will allow me to state, in addition to those previously mentioned, we have these guaranties from other states: San Francisco, \$10,000—

Mr. UNTERMYER. What do they aggregate. Prof. Laughlin?

Mr. LAUGHLIN. They aggregate about \$47,000.

Mr. UNTERMYER. If you care afterwards to put the details on the record, we have no objection to your doing so; but the idea is not to spend any more time than necessary over the details.

Mr. LAUGHLIN. It indicates that we had guaranties from other cities in the west and south.

Mr. UNTERMYER. Have you discussed the aims and purposes of the League with any of the financial people in New York?

Mr. LAUGHLIN. No, sir; I acted with—

Mr. UNTERMYER. You have not discussed it with any of the financial people here?

Mr. LAUGHLIN. No, sir.

Mr. UNTERMYER. What is the name of your local committee?

Mr. LAUGHLIN. In Chicago?

Mr. UNTERMYER. Yes.

Mr. LAUGHLIN. We have no local committee. We have headquarters—

Mr. UNTERMYER. What is the name of your New York committee?

Mr. LAUGHLIN. The State Organization of the National Citizens' League for New York.

Mr. UNTERMYER. Who is the chairman?

Mr. LAUGHLIN. Mr. John Claffin. The treasurer was Mr. Isadore Straus, of lamented memory.

Mr. UNTERMYER. There have been a number of articles written in aid of the propoganda, have there not?

Mr. LAUGHLIN. There have been.

Mr. UNTERMYER. And the purpose generally is to promote the organization of a reserve association, somewhat after the lines of the Monetary Commission bill, is it not?

Mr. LAUGHLIN. This is the volume you probably refer to—

Mr. UNTERMYER. Yes.

Mr. LAUGHLIN. In the preface, if you will allow me, I state the object. I have called attention to the fact that it is engaged in a campaign of education, so that the worth of every measure proposed by Congress may be readily judged. The League, however, is not committed to any specific measure, and if discussion shows that any other plan is superior to that now before Congress it will support that plan.

Mr. UNTERMYER. The League is supporting, in a general way, the main features of the present plan, is it not?

Mr. LAUGHLIN. The League has never committed itself to that plan, or any other, but it thinks that that plan is the best yet proposed.

Mr. UNTERMYER. You have so stated in articles and otherwise?

Mr. LAUGHLIN. Yes, that that is the best plan proposed.

Mr. UNTERMYER. Your agitation is directed at this time toward assisting in the passage of that bill, is it not?

Mr. LAUGHLIN. Not necessarily.

Mr. UNTERMYER. Whether necessarily or not, you have some particular aim, have you not?

Mr. LAUGHLIN. The essential aim is a rediscounting institution, by whatever name it should be called, that would help out the business men in time of panic.

Mr. UNTERMYER. I assume you do not care anything about what the name will be?

Mr. LAUGHLIN. No—

Mr. UNTERMYER. But your League is supporting the general lines of the Monetary Commission bill, is it not?

Mr. LAUGHLIN. We have only approved certain objects, certain general principles. We think that we would support any bill that carried out those general principles.

Mr. UNTERMYER. And that bill, in a general way, does carry out those principles?

Mr. LAUGHLIN. It does, although there might be questions about detail.

Mr. UNTERMYER. I understand. For instance, the question of detail as to who is to be the governor of the institution; do you regard that as a detail?

Mr. LAUGHLIN. Yes; and the general machinery of control.

Mr. UNTERMYER. But do you regard as a detail the question of who shall be at the head of that institution?

Mr. LAUGHLIN. I mean there may be various suggestions—

Mr. UNTERMYER. But do you regard that as a detail?

Mr. LAUGHLIN. No.

Mr. UNTERMYER. I should not think you would.

Mr. LAUGHLIN. The machinery, and suggestions. What I mean to say is that there might be other ways of appointing the governor than the way here suggested.

Mr. UNTERMYER. The way now suggested is that the executive committee of the proposed reserve association shall submit a list of three names, from which three names the president shall select the governor, is it not?

Mr. LAUGHLIN. I think you are right.

Mr. UNTERMYER. And according to the present bill, he would be confined to those three names selected by the financial institution.

Mr. LAUGHLIN. And the League does not feel it is committed to that particular suggestion.

Mr. UNTERMYER. Personally, you do not approve that, do you?

Mr. LAUGHLIN. You are asking me as to my attitude personally, and not as an official of the League?

Mr. UNTERMYER. Yes.

Mr. LAUGHLIN. No; I do not think any question of politics ought to enter—

Mr. UNTERMYER. I am not discussing questions of politics. I say you do not approve of limiting the President, in the selection of a head for this institution, to the three names selected by the financial institution?

Mr. LAUGHLIN. Personally, I should say not. I am not speaking now for all the members of the League.

Mr. UNTERMYER. You understand that the financial interests of the country necessarily have a very substantial interest in the outcome of the pending legislation, do you not?

Mr. LAUGHLIN. True.

Mr. UNTERMYER. You do not mean to imply that they are not interested in your League, do you?

Mr. LAUGHLIN. On the contrary, we hope they will be interested.

Mr. UNTERMYER. You know very well that they are interested, do you not?

Mr. LAUGHLIN. We hope they will be more interested because we have been out of funds so long—

Mr. UNTERMYER. You know that they have contributed substantial funds?

Mr. LAUGHLIN. Yes. They have been scattered all over the country.

Mr. UNTERMYER. You have just about started on the work of collecting your funds, have you not?

Mr. LAUGHLIN. No. I think the largest part of our work has been accomplished by the organizations in the states.

Mr. UNTERMYER. Then you do not think you will need much more money?

Mr. LAUGHLIN. I do not think we will need much more money than we have already subscribed.

Mr. UNTERMYER. About \$300,000?

Mr. LAUGHLIN. No; I mean if we should have \$200,000 it would be probably all we need.

Mr. UNTERMYER. Additional?

Mr. LAUGHLIN. Yes.

Mr. UNTERMYER. That would make, roughly, half a million dollars altogether?

Mr. LAUGHLIN. No; about \$400,000.

Mr. UNTERMYER. In addition to that, your state organizations have money, have they not?

Mr. LAUGHLIN. We have quite a number of states that are self-supporting.

Mr. UNTERMYER. They are self-supporting because they have collected money independently?

Mr. LAUGHLIN. Quite so.

Mr. UNTERMYER. Do you know how much has been collected in the various state organizations for the furtherance of this propaganda?

Mr. LAUGHLIN. I can give you a rough estimate; I can not give you the details.

Mr. UNTERMYER. Will you tell me approximately the sum total? We do not care for the details, unless you want to give them.

Mr. LAUGHLIN. On the basis of Georgia, which is about \$3,000, I should say that there might be \$25,000 to \$30,000, roughly.

Mr. UNTERMYER. You think that is all that the state organizations have raised?

Mr. LAUGHLIN. Yes, and that is an extreme sum.

Mr. UNTERMYER. That is merely a negligible amount.

Mr. LAUGHLIN. We are trying now, I should say, to have all the states pay their own expenses. We have in the past, up to date, given the 45 states \$50,000 for their expenses.

Mr. UNTERMYER. Has anything been done by the League in furtherance of the object that was named in the original certificate and was afterwards corrected, in reference to influencing legislation on this monetary bill?

Mr. LAUGHLIN. Absolutely nothing, as far as I know.

Mr. UNTERMYER. You have confined yourselves thus far to a campaign of education?

Mr. LAUGHLIN. Absolutely, trying to give publicity and get material in the papers.

Mr. UNTERMYER. You have had articles written on the subject?

Mr. LAUGHLIN. Yes.

Mr. UNTERMYER. And conduct a press bureau?

Mr. LAUGHLIN. Three or four of our men are in the office preparing material.

Mr. UNTERMYER. You know what a press bureau is?

Mr. LAUGHLIN. I should not call it a press bureau in a technical sense.

Mr. UNTERMYER. A publicity bureau?

Mr. LAUGHLIN. Yes.

Mr. UNTERMYER. That is better, is it not?

Mr. LAUGHLIN. Quite so.

Mr. UNTERMYER. I will adopt your suggestion, then, and call it a publicity bureau. You have not confined your energies to the press, have you?

Mr. LAUGHLIN. No.

Mr. UNTERMYER. You include magazines?

Mr. LAUGHLIN. Yes, some articles in magazines.

Mr. UNTERMYER. And books?

Mr. LAUGHLIN. Yes, and pamphlets.

Mr. UNTERMYER. And pamphlets?

Mr. LAUGHLIN. Yes.

Mr. UNTERMYER. What sort of a staff have you under you?

Mr. LAUGHLIN. I have under me there in the publicity bureau three men.

Mr. UNTERMYER. That constitutes your entire staff?

Mr. LAUGHLIN. One man is here in the New York branch.

Mr. UNTERMYER. That is your entire staff?

Mr. LAUGHLIN. At present. We have had more in the past, but we have cut down.

Mr. UNTERMYER. How many have you had?

Mr. LAUGHLIN. One more besides.

Mr. UNTERMYER. That is all?

Mr. LAUGHLIN. That is all

Mr. UNTERMYER. You have been in existence how long?

Mr. LAUGHLIN. Since the 1st of June.

Mr. UNTERMYER. 1911?

Mr. LAUGHLIN. Yes.

Mr. UNTERMYER. And with that small staff you have already spent two or three hundred thousand dollars?

Mr. LAUGHLIN. We have been organizing in 45 states. In each state a secretary with an office and stenographer would count perhaps \$400 per month, and in 40 states that would make \$18,000 or \$20,000 a month, and in two years that would make \$216,000 or \$220,000, and we have not even spent that.

Mr. UNTERMYER. Is there anything else you desire to state, Prof. Laughlin, in respect to this league or its aims, or the money it has received or expended; or are there any data you care to file with the committee? If so, you are free to state anything you care to say and to file anything you have on the subject. We do not want the book filed, because it would cost too much money to print it; not that we do not believe it is valuable, because I think most of us have read it.

Mr. LAUGHLIN. You do not wish all that information to go to Congress at once. If you please. I would like to state that the total amount actually paid in has been about \$195,000 to date, at this last accounting. The \$216,000 there represents the expenditure for working funds, which is not an expenditure, because those moneys come back to us from the states. We have received \$6,000 or \$7,000 from Texas on a conditional subscription; a promise of \$10,000 from San Francisco, \$5,000 from Portland, \$5,000 from St. Paul, \$7,500 from Minneapolis, \$5,000 from Milwaukee, \$5,000 from Kansas City, and \$16,000 from the banks of St. Louis, besides the other cities that have been mentioned here.

Several of the cities, like Georgia, have become self-supporting.

That being the amount coming in and the sources from which it has come, and the expenditures. I have a brief statement, if you would like to put this on record.

Mr. UNTERMYER. If you would like to do so, you may file it, Prof. Laughlin.

Mr. LAUGHLIN. It would be a pleasure to give an account of exactly what we have expended to date.

Mr. UNTERMYER. If you care to do so, the committee would be glad to take it.

Mr. LAUGHLIN. I am sure I represent the business men connected with the League when I say we would be glad to give you all the information about the expenditure of every dollar. Moreover, if this statement of expenditure is not satisfactory we would be glad to give you a rescript of every expenditure, and we have a firm of auditors that gives us a weekly statement, and we could give you that.

Q. I do not think there is any question made as to the expenditures, or that we ought to take the time in that discussion. Of course, primarily, the great banks and banking institutions are interested in the formulation of a proper banking system. That is true?

Mr. LAUGHLIN. Unmistakably, sir.

Mr. UNTERMYER. And they are generally favorable to the bill of the Monetary Commission?

Mr. LAUGHLIN. We think so, because of the vote at New Orleans.

Mr. UNTERMYER. You know it from contact with them and discussions with them?

Mr. LAUGHLIN. Unmistakably.

Mr. UNTERMYER. You have not taken any subscriptions from any of the great New York banking houses, have you?

Mr. LAUGHLIN. I have no information at the headquarters—

Mr. UNTERMYER. You have not taken any, have you?

Mr. LAUGHLIN. No.

Mr. UNTERMYER. And you do not know?

Mr. LAUGHLIN. No. I take the word as it came from Mr. Straus, the Treasurer, as it came to us.

Mr. UNTERMYER. You have also seen the details of the New York subscriptions, have you not?

Mr. LAUGHLIN. I did this morning, for the first time.

Mr. UNTERMYER. Mr. Bush has charge of that now?

Mr. LAUGHLIN. Yes; he has charge of the executive committee's work in New York State.

Mr. UNTERMYER. In the list you have seen did you notice the absence of all the great New York banking houses as subscribers?

Mr. LAUGHLIN. Not at all. I immediately—

Mr. UNTERMYER. Did you notice the absence of them?

Mr. LAUGHLIN. No; I should think there were 5 or 6 or 8 or 10 banks in New York.

Mr. UNTERMYER. You did not find any subscription by J. P. Morgan & Co.?

Mr. LAUGHLIN. No, sir; there was not any.

Mr. UNTERMYER. You did not find any from Kuhn, Loeb & Co.?

Mr. LAUGHLIN. There was none.

Mr. UNTERMYER. Was that due to a policy on the part of the committee?

Mr. LAUGHLIN. Not that I know of.

Mr. UNTERMYER. You know they are in sympathy with the bill?

Mr. LAUGHLIN. I know Mr. Warburg is.

Mr. UNTERMYER. Mr. Paul Warburg?

Mr. LAUGHLIN. Yes sir; I have known him for years.

Mr. UNTERMYER. He is an authority on this matter?

Mr. LAUGHLIN. Yes sir; long before this matter came up.

Mr. UNTERMYER. And has written many articles on the subject of great value?

Mr. LAUGHLIN. Of great value.

Mr. UNTERMYER. And has a deep interest in the subject?

Mr. LAUGHLIN. Very deep.

Mr. UNTERMYER. And is a prominent member of the firm of Kuhn, Loeb & Co.?

Mr. LAUGHLIN. I do not know; I believe so.

Mr. UNTERMYER. And Kuhn, Loeb & Co. are not among the subscribers?

Mr. LAUGHLIN. No sir.

Mr. UNTERMYER. Was that because the League felt it would hurt the propaganda to have them among the subscribers?

Mr. LAUGHLIN. I do not think so.

Mr. UNTERMYER. Has anybody asked them to subscribe?

Mr. LAUGHLIN. I could not tell you.

Mr. UNTERMYER. I think that is all, Prof. Laughlin, unless there is something you care to add.

Mr. LAUGHLIN. Nothing more than to say our whole purpose has been simply, if you please, the education of the public. Suggestions have been made to us about advertising that we have refused right and left. We claimed that if we could not convince the public of the merits and desirability of this measure we should not have any expectation. Unless the general public would demand it of Congress we did not think there was anything else for us to do. So my purpose has been entirely to get discussion and to encourage as much as possible discussion of this measure.

Mr. UNTERMYER. You understand the committee is not expressing any opinion upon the report. They are here to investigate.

Mr. LAUGHLIN. That is true.

Mr. UNTERMYER. Do you know, Prof. Laughlin, what machinery was used in the collection of these subscriptions?

Mr. LAUGHLIN. Oh, yes. In Chicago, for instance, four or five principal business men got together and made a list of the trades and the various interests that they thought they could get money from, and then sent out personal requests. We have helped in that. We have asked the dry goods people and clothing people and all the various interests to subscribe, and that is the way we have reached one half of the proposed \$100,000 that was to be raised in Chicago. The other half we asked the banks to contribute, and they have sent around somewhat in proportion to their footings.

Mr. UNTERMYER. Have not the clearing houses in some localities assessed the banks on a certain basis?

Mr. LAUGHLIN. I think not. I think the clearing houses have generally done it through the officials of the clearing house, not as a clearing house.

Mr. UNTERMYER. The subscriptions have been based on the proportion of clearings, have they not?

Mr. LAUGHLIN. In the main.

Mr. UNTERMYER. So the amounts contributed by some of the banks are in odd figures?

Mr. LAUGHLIN. Yes. For instance, in St. Louis they did not care to contribute as a clearing house, but individual bankers came together and I talked to them, and the question was raised as to whether the banks could contribute, and they raised certain sums as individuals.

Mr. UNTERMYER. You take the Guarantee Trust Co., \$4,130.50. That is not a mere arbitrary sum, is it?

Mr. LAUGHLIN. No.

Mr. UNTERMYER. That is arrived at on a fixed basis of assessment, is it not?

Mr. LAUGHLIN. Yes; some sort of adjustment to the relative proportion of the banks in their capital.

Mr. UNTERMYER. Take for instance the United States Mortgage & Trust Co., \$1,036. That would be on the basis of its business in the clearing house as compared with the business of other institutions?

Mr. LAUGHLIN. Quite so. That is the principle in the main followed in Chicago, also.

Mr. UNTERMYER. I think that is all.

Mr. LAUGHLIN. Thank you.

The CHAIRMAN. We are much obliged to you.

Mr. UNTERMYER. Mr. Bush, will you please take the stand.

Prof. Laughlin, have you any literature on this subject except what is printed in this book?

Mr. LAUGHLIN. Yes; we have printed some 15 or 20 different pamphlets.

Mr. UNTERMYER. Will you send them to us?

Mr. LAUGHLIN. Yes sir. Here or at Washington?

Mr. UNTERMYER. Will you send them to the secretary of the committee at Washington?

Mr. LAUGHLIN. With pleasure, sir.

(Witness excused.)

The statement presented by the witness was marked Exhibit No. 11, June 6, 1912, and is here printed in full in the record as follows:

NATIONAL CITIZENS' LEAGUE FOR THE PROMOTION OF A SOUND BANKING SYSTEM.

Total disbursements, June 1, 1911-May 25, 1912.

Salaries:	
Chicago office (including seven speakers)-----	\$58,736.29
New York Office-----	43,729.45
Traveling and lectures-----	13,399.21
State Organizations (includes salaries, postage, traveling, rent, clerk-hire, etc)-----	50,547.94
Printing (including book, Banking Reform, fortnightly journal, Banking Reform. pamphlets, etc.)-----	16,915.36
Rent-----	3,200.00
Furniture and fixtures-----	2,373.37
Postage and freight and express charges-----	4,121.52
Press clippings, books and periodicals, etc-----	1,333.20
Telephone, telegrams, laundry, water, light, etc-----	763.11
Sundries-----	89.70
	<hr/>
	195,209.15
Working funds-----	14,085.69
	<hr/>
	209,297.84

TESTIMONY OF IRVING T. BUSH, PRESIDENT OF THE BUSH TERMINAL CO.

The witness was sworn by the chairman.

Mr. UNTERMYER. Will you be good enough to state your occupation, Mr. Bush?

Mr. BUSH. I am the President of the Bush Terminal Co.

Mr. UNTERMYER. And your corporation operates the docks and wharves, or a number of them, in Brooklyn?

Mr. BUSH. Yes; a general steamship and railroad terminal in Brooklyn.

Mr. UNTERMYER. What is your present relation to the National Citizens' League for the promotion of a Sound Banking System?

Mr. BUSH. I am the chairman of the executive committee of the New York branch of that League.

Mr. UNTERMYER. Have you been connected with the League since its organization?

Mr. BUSH. Yes; since its beginning.

Mr. UNTERMYER. And have you been concerned in the raising of the funds that were secured from New York?

Mr. BUSH. I have general knowledge of that as chairman of the committee. I have not been directly concerned with the work.

Mr. UNTERMYER. Under whose immediate direction have the funds been raised?

Mr. BUSH. The funds were raised under the immediate direction of Mr. Straus, the Treasurer, and Mr. William Sloan, the chairman of the finance committee.

Mr. UNTERMYER. Were you concerned in the original organization of the League?

Mr. BUSH. Of the League, no. That is, I was concerned in the preliminary meeting which was followed by the organization; but the organization proper was undertaken by the people in Chicago, and I was not there.

Mr. UNTERMYER. Do you know why the great banks and banking institutions were not openly connected with the official organization of the league?

Mr. BUSH. Because the whole theory of the league was that it was an association of business men.

Q. Was that method of organizing the league pursued because of the supposed prejudice that might arise by reason of the banking interests being openly connected with a movement that was so manifestly one in which they were interested?

Mr. BUSH. No; the theory was that business men should form an organization which would carry on a campaign of education by themselves, and that the banks should operate through the American Bankers Association. We would leave that work to them.

Mr. UNTERMYER. But the banks and bankers were expected to furnish the principal sinews of war for the league, were they not?

Mr. BUSH. No: at the beginning that matter was not discussed. When the question of raising money came up we decided to ask the banks if they would furnish half of the money.

Mr. UNTERMYER. The Bankers Association has not taken any official action in the way of financial support of the League, has it?

Mr. BUSH. None that I know of.

Mr. UNTERMYER. The banking associations and the clearing houses are acting through this organization, are they not?

Mr. BUSH. No; they carry on their own work through their own association of bankers.

Mr. UNTERMYER. But they are contributing to this movement, are they not?

Mr. BUSH. We have asked what we may describe as the business banker to contribute, on the theory that he was a business partner of the business man.

Mr. UNTERMYER. You have asked the banks to contribute?

Mr. BUSH. What I describe as the business banks, the national banks and state banks. I differentiate those from the private banks.

Mr. UNTERMYER. And the trust companies?

Mr. BUSH. And the trust companies. Any banking institution that is receiving ordinary business deposits.

Mr. UNTERMYER. You know the private banker is quite as much interested financially and otherwise in proper financial legislation as any chartered, organized bank?

Mr. BUSH. He is interested as much as anyone in the country, excepting that we felt we had not the same right to ask him as we have the organized institutions, because we have direct relations with them.

Mr. UNTERMYER. But the private bankers are actively assisting you with advice and cooperation?

Mr. BUSH. Mr. Paul Warburg has been very active, not only in discussing matters with me, but he has been interested in the currency-reform movement long before this league was formed.

Mr. UNTERMYER. Some of the private bankers have subscribed.

Mr. BUSH. I believe there have been some small subscriptions brought to us by some of them.

Mr. UNTERMYER. Who solicited those?

Mr. BUSH. I do not know, Mr. Untermeyer.

Mr. UNTERMYER. What I want to know, really, is why there have not been any open solicitations.

Mr. BUSH. Of the private bankers?

Mr. UNTERMYER. Of the great private bankers who are vitally interested in this subject. What has been the policy of your league on that subject?

Mr. BUSH. Our theory has been, as I attempted to describe a moment ago, that the relation between the business men who formed this league and the ordinary banks of deposit was that of a business co-partnership in the interest of the business of the country; that we felt we did not have the same relation with the private bankers, who were largely dealers in securities.

Mr. UNTERMYER. Do you not think the private banker who deals largely in securities is just as closely affected and as much interested in this legislation as the merchant in Chicago or Texas?

Mr. BUSH. Our feeling is that everybody is.

Mr. UNTERMYER. Do you not think he is a great deal more so?

Mr. BUSH. No; I do not think so.

Mr. UNTERMYER. You do not think his practical or financial interest would be as great?

Mr. BUSH. Not as great as the merchant's. I think that the real burden of a panic is borne by the merchant and the business man and the man who labors.

Mr. UNTERMYER. You do not think the private banker, then, bears any part of the burden of a panic?

Mr. BUSH. He bears his proportionate burden, but I do not think his burden is anywhere near as great as the burden of the business man. He sells his securities at one price or another. The real bur-

den is borne by the man conducting the industry and the man who loses the job, in my opinion.

Mr. UNTERMYER. Who contributed the money in New York City? Do you recall who they were?

Mr. BUSH. I think I have the list here. I can not recall them.

Mr. UNTERMYER. Who solicited the contributions?

Mr. BUSH. I do not know that, Mr. Untermeyer; I was in Europe at the time. I had general knowledge of that. I would not like to make a positive statement. I can give you my list, if you wish.

Mr. UNTERMYER. Why should banking houses like Muller, Schall & Co. have subscribed, and banking houses like Morgan & Co. and other large banks not be solicited?

Mr. BUSH. I do not know how Muller, Schall & Co. came in.

Mr. UNTERMYER. Was it not because the policy on the part of the league was that it feared a prejudice—an unreasonable prejudice, if you please—might be created by having this monetary legislation openly supported by bankers?

Mr. BUSH. I do not think so.

Mr. UNTERMYER. Frankly, is not that the reason?

Mr. BUSH. I do not think so. I have explained my reason for not approaching private bankers. In some cases checks were sent us voluntarily. In some cases checks were brought in by paid solicitors.

Mr. UNTERMYER. I see you have Mr. Andrew Carnegie here for \$5,000. Who solicited that subscription?

Mr. BUSH. A gentleman named Mr. W. A. Johnson.

Mr. UNTERMYER. Who is he?

Mr. BUSH. He is a writer of magazine articles. He has been in the employ of the league on its literary staff.

Mr. UNTERMYER. Who suggested that he approach Mr. Carnegie?

Mr. BUSH. We had a very good suggestion for that; it came from Mr. Carnegie.

Mr. UNTERMYER. Mr. Carnegie suggested it himself, did he?

Mr. BUSH. Mr. Carnegie wrote Mr. Johnson a note, which Mr. Johnson showed me, in which he stated this work must have cost a good deal of money, and he should be glad to contribute.

Mr. UNTERMYER. What sort of a merchant is he?

Mr. BUSH. He has been a well-known merchant, I think.

Mr. UNTERMYER. Under which class does he come, merchant or banker?

Mr. BUSH. I suppose he would be classed as a capitalist.

Mr. UNTERMYER. Will you turn to this list of branches, please [handing list to the witness]? Mr. Carnegie's subscription was looked at more in the light of a public-spirited contribution than as a business subscription, was it not?

Mr. BUSH. It may sound funny, but he voluntarily offered it.

Mr. UNTERMYER. It does not, at all.

Mr. BUSH. If you can suggest some way of getting another one from him, I should be glad to have the suggestion.

Mr. UNTERMYER. It is very close to a library, you know. You have a literary bureau.

Mr. BUSH. Mr. Carnegie has always taken an interest in banking questions.

Mr. UNTERMYER. Just turn to the list of private bankers who did subscribe to this fund in New York City.

Mr. BUSH. They are scattered all through here.

Mr. UNTERMYER. I am only trying to find out one thing—

Mr. BUSH. You mean the list of the private bankers?

Mr. UNTERMYER. Yes.

Mr. BUSH. I shall have to take the time to read it through.

Mr. UNTERMYER. You furnished me this list, did you not?

Mr. BUSH. Yes. The first name I strike here is the name of Lehman Bros. They are cotton mechants, and I suppose do a banking business.

Mr. UNTERMYER. They are very substantial and important bankers in the city, are they not?

Mr. BUSH. Yes.

Mr. UNTERMYER. What I am trying to get at is this: Was there not some systematic design or policy in the minds of the members of the League in not taking upon their subscription list at this time subscription form the great bankers?

Mr. BUSH. I have tried to state—

Mr. UNTERMYER (interposing). You say there was not?

Mr. BUSH. I have tried to state that there was a systematic design in not asking private bankers for subscriptions.

Mr. UNTERMYER. The design was departed from in a great many instances of smaller private bankers?

Mr. BUSH. I can explain that in this way, I think. The first name I struck was that of Lehman Bros. Mr. Lehman is a member of our New York committee. We found it very difficult to make collections. I called our committee together and urged not only the members of the committee to give what they thought they could to help the movement along, but to have each one of them make a list of some of their friends and get what subscriptions they could.

Mr. UNTERMYER. Do you see a number of private bankers there who are not members of your committee from New York?

Mr. BUSH. I have no doubt there are.

Mr. UNTERMYER. Let us get to the point if we can, Mr. Bush. There is no reproach involved in anybody's subscribing to this?

Mr. BUSH. None whatever.

Mr. UNTERMYER. The only point is why it is that, in a campaign of education vitally affecting bankers and the banking interests, the names of the great bankers are significantly missing from this subscription list.

Mr. BUSH. I have tried to make my answer very clear on that, Mr. Untermyer. There are undoubtedly several hundred or a thousand bankers on this list, and perhaps we have had a dozen private bankers here who have subscribed small amounts; and others have come in from friends of members of the association.

Mr. UNTERMYER. Is there any other explanation to make on that subject, Mr. Bush?

Mr. BUSH. None that I know of.

Mr. UNTERMYER. Have you any list of the associations and other organizations that have taken part in promoting or subscribing to the work of your league?

Mr. BUSH. I do not know any.

Mr. UNTERMYER. Have you any available list here?

Mr. BUSH. I do not know of any association that has done that, as an association.

Mr. UNTERMYER. But there has been an approval of that general work, has there not?

Mr. BUSH. There has been an approval of our work?

Mr. UNTERMYER. It is perfectly proper that there should be, Mr. Bush.

Mr. BUSH. I am not trying to evade any question, Mr. Untermyer. I do not know of any formal approval that has been taken.

Mr. UNTERMYER. Are you not wrong in stating that none of the state banking associations have approved the plan of the Monetary Commission?

Mr. BUSH. I want to understand the question. Do you mean the state banks themselves?

Mr. UNTERMYER. No; the associations; the state banking associations. A number of them have approved the principle of the Monetary Commission bill, have they not?

Mr. BUSH. I think they have.

Mr. UNTERMYER. Have you any record of it in the League?

Mr. BUSH. I have no record of that. I hope that is the case.

Mr. UNTERMYER. I think that is all. Is there anything you would like to add?

Mr. BUSH. Nothing, Mr. Untermyer.

Mr. UNTERMYER. That is your list of subscribers, is it not, that you have there?

Mr. BUSH. That is a list of the New York subscriptions. I also furnished you with a list of the subscriptions which have not been paid in. These are the subscriptions which have been paid.

Mr. UNTERMYER. I think those two lists embrace everything that you have given me, do they not?

Mr. BUSH. Yes.

Mr. UNTERMYER. Would you like to have them go into the record?

Mr. BUSH. I have no objection whatever. It is just as you please. I am glad to furnish you any information you desire.

Mr. UNTERMYER. Then we will not lumber the record with them. I think that is all, Mr. Bush.

TESTIMONY OF WILLIAM SHERER, MANAGER OF THE NEW YORK CLEARING HOUSE ASSOCIATION.

(The witness was sworn by the Chairman.)

Mr. UNTERMYER. You are the manager of the New York Clearing House Association?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. How long have you been connected with the Association?

Mr. SHERER. A little over 23 years; 24 years.

Mr. UNTERMYER. How long have you been the manager?

Mr. SHERER. Twenty years.

Mr. UNTERMYER. Before that time were you assistant manager?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. The New York Clearing House Association was organized in what year?

Mr. SHERER. 1853.

Mr. UNTERMYER. It is a voluntary organization, is it not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. It has no charter from the state?

Mr. SHERER. No, sir.

Mr. UNTERMYER. It is not amenable to legislative or judicial control, is it?

Mr. SHERER. No, not as an organization.

Mr. UNTERMYER. And it has been held, as you know, to be beyond judicial control?

Mr. SHERER. I have never heard it so stated, no.

Mr. UNTERMYER. It is the sole judge of its own membership, is it not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. And of when it shall drop or expel or suspend a member?

Mr. SHERER. In accordance with its constitution and rules.

Mr. UNTERMYER. In accordance with its own constitution?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. It is also the sole judge of when it shall admit a member?

Mr. SHERER. Yes, sir; it is a judge of the eligibility of an applicant.

Mr. UNTERMYER. And of his desirability? It is the judge of the desirability of a member?

Mr. SHERER. And of the good character of the applicant; yes.

Mr. UNTERMYER. It is the judge of the desirability of a member? It can accept or reject a member as it chooses, can it not?

Mr. SHERER. Yes; on justifiable grounds.

Mr. UNTERMYER. Is it required by its constitution that it shall have any grounds at all?

Mr. SHERER. Yes.

Mr. UNTERMYER. To what section of the constitution do you refer?

Mr. SHERER. The section where the capital must be \$100,000; capital and surplus.

Mr. UNTERMYER. Yes. And that is changed, now, to a million dollars, is it not?

Mr. SHERER. Yes; it is changed to a million dollars. That is one requirement. And it is required that they shall have been in business in New York for at least one year before making application; and that its board of directors shall be men of character and standing in the community.

Mr. UNTERMYER. Assuming that it has all of those qualifications, the admissions committee is the sole judge of whether it will admit a member, is it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. Having all those qualifications, it can be rejected or admitted in the judgment of the Association, can it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. And it requires the affirmative votes of three-fourths of the members to admit a member, does it not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. And a majority to expel a member?

Mr. SHERER. Yes.

Mr. UNTERMYER. The majority may expel a member without cause, may it not?

Mr. SHERER. No, sir. The constitution states what reasons are required.

Mr. UNTERMYER. The constitution states that it is in the discretion of the Association as to whether he shall have a hearing, does it not? I refer to page 22, section 8:

The Committee shall investigate the facts and determine whether a formal hearing is necessary.

Mr. SHERER. That is in regard to collection charges [reading]:

In case any member of the Association shall learn that these rules and regulations have been violated by any collecting bank—

And so forth. That is what you refer to?

Mr. UNTERMYER. Yes. As a matter of fact, Mr. Sherer, the power of expelling or suspending a member rests entirely in the committee or this Association, does it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. When the New York Clearing House Association was formed, there were how many members? Fifty-two, were there not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. I would like the list of them marked in evidence. Just turn to the list of them there; the list of 53. You will find it at page 37. We would like to have that list marked in evidence.

(The list referred to, at page 37 of the constitution of the New York Clearing House Association as adopted September 24, 1908, and amended May 9, and June 19, 1911, was marked "Exhibit No. 12, June 6, 1912," and is here printed in the record as follows:)

Original members of the New York Clearing House Association, October 4, 1853.

Bank of New York,
Manhattan Co.,
Merchants' Bank,
Mechanics' Bank,
Union Bank,
Bank of America,
Phenix Bank,
City Bank,
North River Bank,
Tradesmen's Bank,
Fulton Bank,
Chemical Bank,
Merchants' Exchange Bank,
National Bank,
Butchers and Drovers' Bank,
Mechanics and Traders' Bank,
Greenwich Bank,
Leather Manufacturers' Bank,
Seventh Ward Bank,
Bank of the State of New York,
American Exchange Bank,
Mechanics' Banking Association,
Bank of Commerce,
Bowery Bank,
Broadway Bank,
Ocean Bank,

Mercantile Bank,
Pacific Bank,
Bank of the Republic,
Chatham Bank,
People's Bank,
Bank of North America,
Hanover Bank,
Irving Bank,
Metropolitan Bank,
Citizens' Bank,
Knickerbocker Bank,
Grocers' Bank,
Empire City Bank,
Nassau Bank,
East River Bank,
Market Bank,
St. Nicholas Bank,
Shoe and Leather Bank,
Corn Exchange Bank,
Central Bank,
Continental Bank,
Bank of the Commonwealth,
Oriental Bank,
Marine Bank,
Bank of the Union,
Atlantic Bank.

Mr. UNTERMYER. Do you know whether or not, in 1853, there were any banks in the City of New York which did not become members of the association?

Mr. SHERER. Only from hearsay.

Mr. UNTERMYER. Have you any historical facts that would enlighten us on that subject?

Mr. SHERER. I have not any here. I might find it at the house.

Mr. UNTERMYER. Would you be good enough to see whether you can find any data on that subject?

Mr. SHERER. Yes. The question is—

Mr. UNTERMYER. We would like you to file with us a statement of any then existing bank in the City of New York that did not become a member of the Clearing House Association in 1853, or within one year after its organization?

Mr. SHERER. Yes.

Mr. UNTERMYER. The clearances of the New York Clearing House Association for the first year of its existence, 1854, were \$5,750,455,-987, were they not?

Mr. SHERER. Yes.

Mr. UNTERMYER. And the average daily clearances were \$19,-104,504.94, were they not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. The clearances for the year 1911 were \$92,420,-120,091.67, were they not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. The average daily clearances as against this \$19,000,000 in 1853, were \$305,016,897.99, were they not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. And the business for 1910 was still larger than that for 1911, was it not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. And so was the business for 1909, was it not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. The cash balances at the time of the organization of the clearing house in 1853, and for that first year, were \$297,-411,493.69, were they not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. And what were the average daily balances for the first year?

Mr. SHERER. \$988,078.06.

Mr. UNTERMYER. What were the balances for the year 1911 as against this \$297,000,000 in 1853?

Mr. SHERER. In 1911 the balances for the year were \$388,563,-113.05.

Mr. UNTERMYER. The average daily balances for the year were what?

Mr. SHERER. \$14,483,706.64.

Mr. UNTERMYER. When were the trust companies admitted into the clearing house?

Mr. SHERER. A year ago.

Mr. UNTERMYER. Some time in 1911?

Mr. SHERER. Yes; in May, I think.

Mr. UNTERMYER. And there are now how many trust companies members of your clearing house association? About 17. are there not?

Mr. SHERER. Yes.

Mr. UNTERMYER. After the time of the admission of the trust companies, and in the year 1910, how many banks were members of the New York Clearing House Association? Fifty, were there not?

Mr. SHERER. More than that.

Mr. UNTERMYER. Fifty I think you will find is the correct number of banks.

Mr. SHERER. Yes, I think you are right.

Mr. UNTERMYER. So that there were only 50 banks in 1911 as against 52 banks members of the New York Clearing House Association in 1853?

Mr. SHERER. Yes.

Mr. UNTERMYER. And the business is about 20 times as large?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. The number of banks, members of the New York Clearing House Association, has been gradually reduced, has it not, from 1895?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. There were then 67 banks, were there not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. And after that the period of consolidation and combination of banks set in, did it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. And absorption of banks?

Mr. SHERER. Yes.

Mr. UNTERMYER. And that led, did it not, to the elimination of a great many banks?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. In 1910 what banks were there doing business in the city of New York, with a capital of \$1,000,000 or over, which were not members of the New York Clearing House Association?

Mr. SHERER. I could not tell you without reference to the tables, sir.

Mr. UNTERMYER. Were there any?

Mr. SHERER. With a capital of \$1,000,000?

Mr. UNTERMYER. With a capital of \$1,000,000 or over.

Mr. SHERER. I do not know what the Mechanics' Bank of Brooklyn had—what their capitalization was.

Mr. UNTERMYER. There were none that you remember?

Mr. SHERER. None that I can recall to mind. Changes in capitalization have occurred quite frequently, and I might miss one, but I do not think there were any.

Mr. UNTERMYER. Under the present rule a bank must have a capital of \$1,000,000 to become a member, must it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. Formerly it was \$500,000?

Mr. SHERER. Yes.

Mr. UNTERMYER. Do you remember when the change was made?

Mr. SHERER. Not definitely. I think about four years ago.

Mr. UNTERMYER. In determining the eligibility for membership, the surplus is not considered, is it?

Mr. SHERER. It was originally considered. \$500,000 of capital, and the surplus—

Mr. UNTERMYER. \$500,000 of surplus?

Mr. SHERER. Yes.

Mr. UNTERMYER. And by the change, the question of the surplus was eliminated?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. So to-day, no matter how large a bank's surplus be, if its capital is not at least a million dollars it can not be a member of the Clearing House Association?

Mr. SHERER. Correct.

Mr. UNTERMYER. If your rule had been in existence some time ago it would have excluded such banks as the Chemical Bank, would it not?

Mr. SHERER. There was no rule when the Association was first organized, and the Chemical Bank became a member.

Mr. UNTERMYER. The Chemical Bank had a capital of only \$300,000 until recently, did it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. And its surplus was over a million dollars?

Mr. SHERER. Yes. One of our best banks, the Fifth Avenue Bank, has a capital of only \$100,000.

Mr. UNTERMYER. And under the present rule they could not become a member of the Association if their capital was only \$100,000?

Mr. SHERER. That is right.

Mr. UNTERMYER. Will you tell me why, in determining the question of the eligibility of the bank for membership, the question of surplus is eliminated?

Mr. SHERER. In the first place, if a bank desired to become a member of the clearing house and had a capital of only \$500,000, with a surplus of a million or two million dollars, they would certainly increase their capital and diminish their surplus.

Mr. UNTERMYER. That is not the question I am asking, what the banks would do. I want to know what the reason was for eliminating the question of surplus.

Mr. SHERER. There was no reason given excepting to establish the amount of capital that a bank should have to become a member of the Clearing House Association, so that its depositors might have something to fall back on in case of trouble.

Mr. UNTERMYER. Then there is not any reason given?

Mr. SHERER. No. The cases were so very few—

Mr. UNTERMYER. Let us see if that is so. If a bank can not procure admission to the New York Clearing House Association, its only remaining recourse is to clear through some other bank, is it not?

Mr. SHERER. Yes, or pay its checks over its counter.

Mr. UNTERMYER. You know that is impracticable at the present time?

Mr. SHERER. I know some very good banks are doing that.

Mr. UNTERMYER. But you know if that were practicable the clearing house would have no useful purpose, do you not?

Mr. SHERER. Well, I say that there are now several banks not members of the clearing house that are paying checks over their own counters.

Mr. UNTERMYER. Do you think that is an advantage or disadvantage to a bank?

Mr. SHERER. From our standpoint it is a disadvantage.

Mr. UNTERMYER. A very material disadvantage, is it not? Now, if a bank wants to clear through another bank and can not get through the clearing house on its own account, it has to subscribe to the rules and regulations that are prescribed for a clearing house bank, does it not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. And be subject to the same supervision and control as a clearing house bank?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. And be subject to the same expulsion from those rights as the clearing house bank?

Mr. SHERER. Yes, for violating the rules of the clearing house.

Mr. UNTERMYER. But it is subject to expulsion for the same reasons that a clearing house bank would be?

Mr. SHERER. Yes.

Mr. UNTERMYER. It is subject to discipline in the same way, is it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. And subject to fines in the same way that a clearing-house bank is?

Mr. SHERER. No, because it does not come to the clearing house.

Mr. UNTERMYER. But it is subject to fines in the same way, is it not?

Mr. SHERER. No.

Mr. UNTERMYER. Do you mean to say, for instance, a bank that was not in the clearing house, but cleared through a clearing-house bank, could violate the rule as to the collection of out-of-town checks?

Mr. SHERER. In that case we would deal with its agent.

Mr. UNTERMYER. I know you would, but you would discipline the nonclearing-house bank by compelling the clearing-house bank to stop clearing for it, would you not?

Mr. SHERER. Yes, because the exchange rules require nonmembers, as we call them, to charge the same tariff on out-of-town items that the other banks do.

Mr. UNTERMYER. And they are subject to the same fines for not doing it?

Mr. SHERER. Yes.

Mr. UNTERMYER. And if they do not pay the fine, then the clearing-house bank is compelled to drop them?

Mr. SHERER. Yes.

Mr. UNTERMYER. Then such a bank is subject to the same discipline?

Mr. SHERER. Yes, that is true. I was thinking of what we call fines for being late, fines for paying balances, etc.

Mr. UNTERMYER. I understand; but in its general discipline it is subject to the same regulations as though it were a clearing-house bank?

Mr. SHERER. Yes.

Mr. UNTERMYER. No clearing-house bank can clear for what you call a nonclearing-house bank or nonmember without the express authorization or permission of the Clearing-House Association, can it?

Mr. SHERER. Clearing-house committee.

Mr. UNTERMYER. Clearing-house committee. And the clearing-house committee requires the nonmember to sign the same sort of an agreement as to the inspection of its books, does it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. And they are subject to the same inspection as those of a clearing-house member?

Mr. SHERER. Yes.

Mr. UNTERMYER. So that it has all the authority over a nonmember clearing through a clearing-house bank that it possesses over a member?

Mr. SHERER. Yes.

Mr. UNTERMYER. You have furnished me, I think, a list of the nonmembers who clear through the clearing-house banks.

Mr. SHERER. I have, yes.

Mr. UNTERMYER. You have not a copy of that with you, have you?

Mr. SHERER. Yes, sir; here it is.

Mr. UNTERMYER. This is a list of what you call the nonmembers who clear through clearing-house banks [handing witness typewritten paper]?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. Does that embrace banks located in cities other than New York which clear through members of the New York Clearing House, as well as banks in various sections of New York State?

Mr. SHERER. Only in New Jersey.

Mr. UNTERMYER. Does it embrace New Jersey banks?

Mr. SHERER. And Greater New York.

Mr. UNTERMYER. Bayonne, N. J.?

Mr. SHERER. Yes. There are six institutions in New Jersey, sir.

Mr. UNTERMYER. I would like that paper marked.

(The paper last referred to was marked Exhibit No. 13, June 6, 1912, and is here printed in the record as follows:)

Nonmembers and names of their clearing agents, New York Clearing House Association.

NONMEMBERS.

Ætna National Bank.
Bank of Montreal, Agency.
Bank of Washington Heights.
Battery Park National Bank.
Canadian Bank of Commerce, Agency.
Century Bank.
Colonial Bank.
Columbia Bank.
Fidelity Bank.
Mount Morris Bank.
Mutual Bank.
New Netherland Bank.
Twenty-third Ward Bank (Bronx).
Yorkville Bank.

CLEARING AGENT.

Irving National Exchange Bank.
National City Bank.
Fourth National Bank.
National Park Bank.
American Exchange National Bank.
Chatham & Phenix National Bank.
Greenwich Bank.
National City Bank.
National City Bank.
National Park Bank.
National Park Bank.
National Park Bank.
Fourth National Bank.
Hanover National Bank.
National Park Bank.

NONMEMBERS.

Broadway Bank (Brooklyn).
 First National Bank (Brooklyn).
 Manufacturers' National Bank (Brooklyn).
 Mechanics' Bank (Brooklyn).
 National City Bank (Brooklyn).
 North Side Bank.
 First National Bank (Jersey City).
 Hudson County National Bank (Jersey City).
 Third National Bank (Jersey City).
 First National Bank (Hoboken).
 Second National Bank (Hoboken).
 Hamilton Trust Co. (Brooklyn).
 Mechanics' Trust Co. (Bayonne).

CLEARING AGENT.

Mechanics & Metals National Bank.
 Liberty National Bank.
 First National Bank.
 National Park Bank.
 Mechanics & Metals National Bank.
 National Park Bank.
 American Exchange National Bank.
 Merchants' Exchange National Bank.
 National Bank of Commerce.
 American Exchange National Bank.
 National Park Bank.
 Bank of the Manhattan Co.
 Hanover National Bank.

JUNE 3, 1912.

Mr. UNTERMYER. Will you now please give the names of any national banks located in New York that are eligible for membership in the New York Clearing House Association by reason of possessing a capital of \$1,000,000 and over, that are not now members of that association?

Mr. SHERER. The Harriman National Bank.

Mr. UNTERMYER. What is its capital?

Mr. SHERER. \$1,000,000.

Mr. UNTERMYER. Was that formerly the Night and Day Bank?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. And the control of that bank went over to Mr. Harriman at the time of the panic in 1907, did it not?

Mr. SHERER. I do not know.

Mr. UNTERMYER. You know about what time it went over, do you not?

Mr. SHERER. No; because it was never connected with the clearing house in any way.

Mr. UNTERMYER. Was it refused admission?

Mr. SHERER. No, sir; it never applied.

Mr. UNTERMYER. It did business day and night, did it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. That made it rather difficult to adjust its clearing with the clearances of other banks, did it not?

Mr. SHERER. No; it could have done so by making up its exchanges at the close of the day each day and sending them down the next morning.

Mr. UNTERMYER. It had to lose a day on its exchanges?

Mr. SHERER. No; it could have done that.

Mr. UNTERMYER. It was primarily a night bank?

Mr. SHERER. Yes.

Mr. UNTERMYER. So that if it were in the clearing house and under the clearing house regulations, it would lose a day; or, it would lose all after 3 o'clock?

Mr. SHERER. Only after 3 o'clock.

Mr. UNTERMYER. That was the reason it did not go in?

Mr. SHERER. I do not know, sir, the reason.

Mr. UNTERMYER. Can you name any others that are eligible?

Mr. SHERER. I can not name any others with that capital; no, sir.

Mr. UNTERMYER. Then, as I understand you, the Harriman Bank, which was formerly the Night and Day Bank, is the only bank eligible for membership in the New York Clearing House Association that is not a member?

Mr. SHERER. The only national bank.

Mr. UNTERMYER. The only national bank?

Mr. SHERER. The only national bank, yes.

Mr. UNTERMYER. Are there state banks which are eligible to membership which are not members?

Mr. SHERER. You say "not members." There are some national banks that are nonmembers.

Mr. UNTERMYER. Yes; I understand, which clear through banks that are members?

Mr. SHERER. Yes. I do not know of any at this moment, unless it be the Mechanics Bank of Brooklyn, which is a very large bank.

Mr. UNTERMYER. Which does clear through a member?

Mr. SHERER. Yes. It is not a member of the clearing house.

Mr. UNTERMYER. And it is a nonmember member?

Mr. SHERER. Yes. I do not know of any other state bank.

Mr. UNTERMYER. Has the Mechanics Bank of Brooklyn got a capital of a million dollars?

Mr. SHERER. I do not recall what their capital is, but I think that it has. It is a very large bank, I know.

Mr. UNTERMYER. It may have a very large surplus, or large deposits, and yet not be eligible, may it not?

Mr. SHERER. It might be.

Mr. UNTERMYER. By reason of that peculiar rule of the Clearing House Association?

Mr. SHERER. Yes.

Mr. UNTERMYER. Then, so far as you know, from your personal recollection, there is no bank, state or national, in the city of New York, which is eligible to membership, or that would be able to apply for membership, in the New York Clearing House Association, that is not a member, other than the Harriman Bank?

Mr. SHERER. Yes.

Mr. UNTERMYER. You referred awhile ago to banks that were doing business, although not members of the Clearing House Association.

Mr. SHERER. Yes.

Mr. UNTERMYER. Did you have reference to the Harriman Bank?

Mr. SHERER. That is one of them.

Mr. UNTERMYER. To what other bank or banks did you have reference?

Mr. SHERER. The Chelsea Exchange Bank is another.

Mr. UNTERMYER. Where is that?

Mr. SHERER. That is on Thirty-eighth Street or on Thirty-fourth Street. It is uptown, on the West side.

Mr. UNTERMYER. Do you know what its capital is?

Mr. SHERER. No.

Mr. UNTERMYER. It is not eligible to membership?

Mr. SHERER. It is eligible to nonmembership.

Mr. UNTERMYER. It is eligible to nonmembership?

Mr. SHERER. Yes.

Mr. UNTERMYER. You mean clearing through a member?

Mr. SHERER. It is eligible for clearing privileges. The term may be misleading, but that is what we mean.

Mr. UNTERMYER. In your testimony to-day, in speaking of a non-member, you refer only to those who clear through a member?

Mr. SHERER. Yes; not having full privilege of membership, such as attending meetings and voting.

Mr. UNTERMYER. You say you do not know the capital of the Chelsea Bank?

Mr. SHERER. No; I have forgotten it. Of course we have so many figures that we do not trust our memory to carry them for instant consumption. We can find them for you at once, if you give us time to do so.

Mr. UNTERMYER. Yes; we appreciate the courtesy of yourself and of the Clearing House Association in having furnished us data whenever we asked you.

You know, do you not, that banks are not always able to get a member to clear for them?

Mr. SHERER. Yes, I know that—

Mr. UNTERMYER. Sometimes it is a pretty difficult thing, is it not, because, in the first place, they have to have the consent of the Clearing House Association, do they not?

Mr. SHERER. Yes.

Mr. UNTERMYER. And then they have to get a member bank that is willing to clear for them.

Mr. SHERER. Yes.

Mr. UNTERMYER. And if a member bank is ever so willing to clear, it cannot clear unless the committee says it shall?

Mr. SHERER. No sir. May I say a few words there?

Mr. UNTERMYER. Certainly.

Mr. SHERER. The reason that I have often heard given by a member bank for declining to take the business of clearing for another bank was that they assumed responsibility for the business of that nonmember bank; that the nonmember bank might get into difficulties, and the member bank was pledged to make good through the clearing house any debt due by that nonmember bank for one full day after its closing. So that the member bank is assuming a large responsibility when it undertakes to clear for a nonmember bank, because it pledges itself to care for its business in the clearing house as it does for its own matters.

Mr. UNTERMYER. All that could be avoided if the Clearing House Association would let down the bars and let any eligible bank become a member of the Association?

Mr. SHERER. If you will pardon me for not answering that question directly, I will say the clearing house has laid down rules for the admission of members, and the question of any eligible applicant has never been raised in that way.

Mr. UNTERMYER. That depends entirely on the will of the committee, does it not?

Mr. SHERER. It depends upon the will of the committee, they finding reasons why they should or should not.

Mr. UNTERMYER. The committee as at present constituted consists of what gentlemen?

Mr. SHERER. The clearing house committee? Do you want the names of its members?

Mr. UNTERMYER. Yes.

Mr. SHERER. Frank A. Vanderlip, President of the National City Bank; James G. Cannon, President of the Fourth National Bank; Walter E. Frew, President of the Corn Exchange Bank; Richard Delafield, President of the National Park Bank; and Otto T. Barnard, President of the New York Trust Co.

Mr. UNTERMYER. It has five members?

Mr. SHERER. Yes.

Mr. UNTERMYER. And they have practically autocratic powers, have they not?

Mr. SHERER. I must say, further than that, we have a committee on admissions to whom this application would be referred.

Mr. UNTERMYER. I am speaking now of what they call the clearing house committee. It has autocratic powers, has it not?

Mr. SHERER. It has executive powers. I should not call it autocratic, because they have to go to the Association for their authority.

Mr. UNTERMYER. But in practical effect they do not have to do anything of the kind, do they?

Mr. SHERER. They do on the admission of full members.

Mr. UNTERMYER. Yes; but I mean apart from that, apart from voting on the admissions of members, practically all the powers of the Clearing House Association are vested in this committee, and they are exercised by it?

Mr. SHERER. No, not all the powers.

Mr. UNTERMYER. What power is there that is not so exercised?

Mr. SHERER. A bank applies for membership. It applies to the clearing house committee. The clearing house committee refers that application to the committee on admissions. The committee on admissions makes an examination of that bank and reports to the clearing house committee. The clearing house committee reports to the Clearing House Association—must report to the Clearing House Association—and the rejection or admission of the bank is the result of the action of the entire Association and not the result of the action of this committee, except so far as it might in its report—

Mr. UNTERMYER. I think you have not understood me.

Mr. SHERER. Possibly not.

Mr. UNTERMYER. I say, apart from the question of membership, the clearing house committee, so called, consisting of these five gentlemen, exercises all the powers of the Clearing House Association?

Mr. SHERER. Under the constitution.

Mr. UNTERMYER. Certainly, under the constitution.

Mr. SHERER. Yes.

Mr. UNTERMYER. Under anything you please; but they do exercise the powers?

Mr. SHERER. Certainly.

Mr. UNTERMYER. Does this fairly and accurately represent the powers vested in the clearing-house committee?

Mr. SHERER. To what do you refer?

Mr. UNTERMYER. I will read it [reading from book]:

In it is vested almost absolute power, the direction of practically the whole machinery of the clearing house resting in its hands.

Mr. SHERER. From what are you reading?

Mr. UNTERMYER. I am asking you whether that is a fair statement.

Mr. SHERER. Will you not please read it again?

Mr. UNTERMYER. Yes. This refers to the clearing-house committee. It says:

In it is vested almost absolute power, the direction of practically the whole machinery of the clearing house resting in its hands.

Mr. SHERER. Is that all, sir?

Mr. UNTERMYER. Is that a fair statement?

Mr. SHERER. If you add "under the constitution and regulations of the Clearing House Association," I grant it.

Mr. UNTERMYER. Yes. And is this a fair statement?—

The clearing-house committee is clothed with almost absolute power, being second in power only to the association itself.

Mr. SHERER. Yes.

Mr. UNTERMYER. Except in times of great financial stress the association meets how often?

Mr. SHERER. Whenever called.

Mr. UNTERMYER. How often has it met of late years?

Mr. SHERER. Of course it has its annual meeting, the first Tuesday of October.

Mr. UNTERMYER. Yes, for the election of officers?

Mr. SHERER. Yes; and then we have the yearly reports and estimates for expenses. Meetings may be called at any time by the clearing-house committee, or by five members of the association. They may be called for the purpose of—

Mr. UNTERMYER. The point I want to get at is, How often has it met in the last three years, except at annual meetings for the election of directors?

Mr. SHERER. I can tell you. I have here the minute book of the Clearing House Association.

Mr. UNTERMYER. Do you remember any other meeting?

Mr. SHERER. Yes, to admit new members.

Mr. UNTERMYER. That was at the time the trust companies were taken in?

Mr. SHERER. Yes; we had several meetings then.

Mr. UNTERMYER. And they have not taken in any new members since the time when the trust companies were taken in?

Mr. SHERER. Yes, they have taken in one new bank.

Mr. UNTERMYER. What bank was that?

Mr. SHERER. The National Bank of Brooklyn.

Mr. UNTERMYER. Was that a consolidation?

Mr. SHERER. No sir.

Mr. UNTERMYER. Had that been a nonmember bank?

Mr. SHERER. Yes.

Mr. UNTERMYER. It was simply converted from a nonmember to a member?

Mr. SHERER. Yes.

Mr. UNTERMYER. It had increased its capital, had it?

Mr. SHERER. Yes. The regular formula was gone through as if it had never been a nonmember.

Mr. UNTERMYER. It had had the approval of the Association, though, when it became a nonmember, had it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. Will you tell me why it is that after the lapse of 59 years from the date of the organization of the New York Clearing House Association, with its transactions twentyfold what they were originally, it finds itself at this time with less members in the way of banks than the number that it started business with 59 years ago, when the population was but a fraction of what it is to-day?

Mr. SHERER. I think if you will read the history of banking, you will get an answer to that, very shortly.

Mr. UNTERMYER. I think we should like it.

Mr. SHERER. Generally, business in New York has increased to 20 times as much as it was in 1853. The banks in 1853 were very small affairs. Few of them had a capital of more than \$100,000 or \$200,000. A bank with \$3,000,000 or \$4,000,000 deposits, when I first went into the business in 1855, was thought to be the largest bank in the city. Now with a small capital a bank could afford very little accommodation to its customers; could not lend them much money; had not much money to lend. Bringing in more capital and consolidating two or more banks made a more effective machine and enabled them to do a great deal more business. The increase of banking here and the making of these consolidations have given us more use of the same capital than if it was distributed all around in locations where it could not be used. By bringing it together by these consolidations they have made applicable to general business a larger percentage than would have been applicable had they gone on in the small retail way in which they were doing business in 1853. If you look at the cash balances of the clearings for all that time, it has been—

Mr. UNTERMYER. I think I have called your attention to this.

Mr. SHERER. Did you? I mean the percentage.

Mr. UNTERMYER. Yes.

Mr. SHERER. The percentage is—

Mr. UNTERMYER. About the same as it was.

Mr. SHERER. \$4.78 in money does \$100,000 worth of business. It was \$4.78 for 1911 and \$4.66 for the entire 53 years. Now the volume of business is greater than it would have been had we kept ourselves to \$200,000 or \$300,000 banks. That is a matter of opinion, and I ought not to give it unless you asked the question.

Mr. UNTERMYER. Do you not see how much more room there was for the play of competition in 1853 when there were 52 banks competing for business, with the smaller volume of business then being done and the comparatively small population?

Mr. SHERER. They had to go out of business; they had to retire; they could not live, numbers of them. I went to one of them to get money to go to the post office to pay for postage, and do you know, they had not \$10 worth of specie in the bank right here in New York; could not give me \$10 worth of specie right here in New York?

Mr. UNTERMYER. You mean the big concerns are driving the little ones out?

Mr. SHERER. The small ones died a natural death.

Mr. UNTERMYER. That was not due to the competition of the big ones?

Mr. SHERER. No, sir.

Mr. UNTERMYER. Just what was the cause of the inanition?

Mr. SHERER. They simply had nothing to do business with.

Mr. UNTERMYER. That is your explanation, is it, of the reason why a community doing 20 times the business has less banks than it had at that time in the clearing house association?

Mr. SHERER. I do not want to go on record as saying any fool things, but what I mean is this: Small banks were not effective. A small bank would not be effective to-day, in my judgment. I would not start a bank in New York with less than half a million dollars capital. I do not think it could do business enough to pay its expenses; I do not think the retail merchants would deal with it. The small people like a big bank.

Mr. UNTERMYER. You do not think small banks in the scattered localities of the city do a successful local business?

Mr. SHERER. I do not.

Mr. UNTERMYER. But they do, do they not?

Mr. SHERER. They do business, but I do not think they make any money.

Mr. UNTERMYER. Some of them have become very rich, have they not?

Mr. SHERER. Not of late years.

Mr. UNTERMYER. That is because of the driving they get from the big aggregations of capital, is it not?

Mr. SHERER. In all things of life it is the survival of the fittest, is it not?

Mr. UNTERMYER. I suppose so; and the fittest are the people who consolidate and aggregate these banks and have this overwhelming power.

Mr. SHERER. I think it comes about naturally, sir; I think it is the evolution.

Mr. UNTERMYER. These banks are known in the banking community as groups, are they not?

Mr. SHERER. I do not know them as such; no, sir.

Mr. UNTERMYER. Mr. Sherer, you know certain banks that are known as the Morgan banks, certain Standard Oil banks, certain Kuhn, Loeb & Co. banks, do you not?

Mr. SHERER. I know from the newspapers; not of my own knowledge.

Mr. UNTERMYER. Being in the banking business you do not know anything more about that than the newspapers do?

Mr. SHERER. Nothing more about what you have just asked me about, the groups.

Mr. UNTERMYER. You state that seriously, do you?

Mr. SHERER. I state that seriously; I do not know, of my own knowledge, about the groups of banks.

Mr. UNTERMYER. You mean you have not looked at the stock certificates; but short of having demonstrated to you the lodgment of control of these great banks, you know the reputation in the community as to the ownership and control of those banks, do you not?

Mr. SHERER. Yes.

Mr. UNTERMYER. That is a pretty well settled thing, is it not; I mean that the banks are labeled?

Mr. SHERER. Yes.

Mr. UNTERMYER. I want you to tell me what those labels are. Suppose you take up this list and tell us what these labels are—how they are labeled.

Mr. SHERER. What ones have you?

Mr. UNTERMYER. On page 6, take the list of membership of the clearing-house association banks.

Mr. SHERER. At the present time?

Mr. UNTERMYER. Yes.

Mr. SHERER. Or at the time this constitution was adopted?

Mr. UNTERMYER. That was in 1910, was it not?

Mr. SHERER. Yes; that is right.

Mr. UNTERMYER. This constitution is up to date, is it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. And the membership is up to date, is it not?

Mr. SHERER. Yes, sir; although there have been one or two retirements. For instance, the Mercantile Bank went out the other day, if you remember.

Mr. UNTERMYER. The Mercantile Bank went out and was absorbed, was it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. By what bank?

Mr. SHERER. The Irving Bank.

Mr. UNTERMYER. And the Irving is also a consolidation of two or more banks, is it not?

Mr. SHERER. A consolidation of the New York National Exchange Bank some time ago—

Mr. UNTERMYER. And the Irving?

Mr. SHERER. Yes.

Mr. UNTERMYER. So the Irving now represents what was previously three banks?

Mr. SHERER. Yes.

Mr. UNTERMYER. That has a well-recognized label, has it not?

Mr. SHERER. No, sir; I do not know it.

Mr. UNTERMYER. Do you not?

Mr. SHERER. No.

Mr. UNTERMYER. Do you know who the directors are?

Mr. SHERER. I do not remember, offhand. I know Woolworth is one of them.

Mr. UNTERMYER. I know, but do you know who the banking directors are, the men in the banking community who are directors?

Mr. SHERER. I only remember one now, that is James M. Donnell, of the Hanover Bank.

Mr. UNTERMYER. It is known to be an associate of the Hanover National Bank, is it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. And the Hanover National Bank is pretty distinctly known, is it not?

Mr. SHERER. Is what?

Mr. UNTERMYER. Pretty distinctly known and labeled?

Mr. SHERER. Oh, yes.

Mr. UNTERMYER. As what sort of a bank?

Mr. SHERER. A very strong, capable institution.

Mr. UNTERMYER. Allied with what group?

Mr. SHERER. I really can not tell you.

Mr. UNTERMYER. You can not tell us that?

Mr. SHERER. No; I could not.

Mr. UNTERMYER. Not even during Mr. Woodward's time here?

Mr. SHERER. No, sir.

Mr. UNTERMYER. Generally known as a Morgan institution?

Mr. SHERER. I do not know it.

Mr. UNTERMYER. I am speaking of the reputation.

Mr. SHERER. I never got that idea; not from Mr. Woodward, and I know him very well.

Mr. UNTERMYER. Of course Mr. Woodward would not tell you that, would he?

Mr. SHERER. No one; I never inferred it.

Mr. UNTERMYER. Now the Merchants' National Bank; that is quite a considerable institution, is it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. To what group is that generally reputed to belong?

Mr. SHERER. I do not know, because the Merchants' Bank is not as large an institution as it used to be, you know.

Mr. UNTERMYER. I know, but you do not know to what group that is reputed to belong?

Mr. SHERER. I do not.

Mr. UNTERMYER. Do you know to what group the National City Bank is reputed to belong?

Mr. SHERER. It belongs to its own, I should think.

Mr. UNTERMYER. You do not understand it is generally understood to be a Standard Oil bank, with Standard Oil affiliations?

Mr. SHERER. I have heard that.

Mr. UNTERMYER. You have heard that. That is the general understanding of the community, is it not?

Mr. SHERER. I have heard that.

Mr. UNTERMYER. What I would like you to do, Mr. Sherer, is to go through this list and tell us the general repute in the community as to the affiliations of these banks, and how they are generally labeled in the community. The Bank of New York is the first one. I think that is entirely independent, as far as I know, of any control except its own direction. That is your understanding of the repute of that bank?

Mr. SHERER. Yes.

Mr. UNTERMYER. That is a comparatively small bank, is it not?

Mr. SHERER. It is pretty good. It has twenty-two or twenty-three million dollars deposits.

Mr. UNTERMYER. That is considered small nowadays, is it not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. As against \$200,000,000, that some others have?

Mr. SHERER. The Bank of the Manhattan Co., a State bank, I think is entirely independent. It has a large business on the Stock Exchange. It is a very good bank in every way.

Mr. UNTERMYER. Have you looked at the board of directors of that bank?

Mr. SHERER. I have not it here, you know.

Mr. UNTERMYER. Do you know the direction of the bank?

Mr. SHERER. I know the president.

Mr. UNTERMYER. Not the president, but the control of the bank. You know the presidents are not the controlling factors of these banks, do you not, with a few exceptions?

Mr. SHERER. I would not say that of my own knowledge, because I do not know it.

Mr. UNTERMYER. You know by reputation that that is so; that they are selected by the interests that control the banks?

Mr. SHERER. No, sir; while I do not want to be thought to be evading your question at all, a great deal is said and a great deal is given out as general knowledge that has no foundation in fact; and it gets to be rumor or talk and gets to be substantial in the minds of the people, and they insensibly group banks as they do individuals, and they have no real reason for doing it.

Mr. UNTERMYER. Mr. Sherer, I am not asking you for general, baseless rumor; I am asking you for your statement as a man who has been 23 years connected with the Clearing House Association and who knows the repute in the financial community, among the banks, as to the control and affiliation of the banking institutions. You know that is a pretty well fixed and established thing in the financial community?

Mr. SHERER. Would you have me on oath state as a fact something that I only know from general repute?

Mr. UNTERMYER. Yes, if I ask for general repute. I know perfectly well that unless you have seen the stock certificates and know the internal business of each bank, you can not state of your own knowledge which is the potential control in the bank; but what I am asking you for is not such knowledge as that, but for the general repute in the financial community in New York, with which you have been for 23 years in intimate contact as manager of the New York Clearing House Association.

Mr. SHERER. In answering your question, sir—

Mr. UNTERMYER. If that is not sufficient to enable you to answer the question, or if you feel that you ought not to answer that class of questions, perhaps you will not be required to do so.

Mr. SHERER. I do not feel myself able to answer those questions, sir, to any extent at all. There are so many banks here that it would be absolutely lugging up something that I had no reason to, to give you an answer, in order to answer your questions. I want to answer them correctly.

Mr. UNTERMYER. I suppose you feel, as an official of the New York Clearing House Association, you would rather not go into that?

Mr. SHERER. I am not controlled by that at all, sir. You can have anything I know except the combination of the vault.

Mr. UNTERMYER. I do not think that would do me much good. But these are matters about which you do not think you know enough to be able to testify to them. Is that right?

Mr. SHERER. That is right, sir.

Mr. UNTERMYER. I would like to take up with you seriatim some of the provisions of the constitution of the New York Clearing House Association and its rules and regulations.

You have said that it requires the affirmative vote of three-fourths of the membership of the association for the introduction of a new member. That is right, is it?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. Through the operation of that rule, Mr. Sherer, it would be possible, would it not, for the Clearing House Association to keep any group of men practically out of the banking business in New York?

Mr. SHERER. So far as affiliation with the clearing house is concerned, yes.

Mr. UNTERMYER. But to inaugurate and conduct a bank on a large scale would be a practical impossibility, in these times, without clearing-house facilities, would it not?

Mr. SHERER. It is a matter of opinion.

Mr. UNTERMYER. You think it is a practical impossibility?

Mr. SHERER. I think it is a practical impossibility, yes; but there are others who think it is not.

Mr. UNTERMYER. In order that we may understand how impossible it is, I wish you would explain to the committee the intricate mechanism of a clearance as conducted by the Clearing House Association. Take the business of this morning, if you please, and tell us how the business is done?

Mr. SHERER. If you will allow me to make it as concise as possible and as clear as I can; we will suppose this room is the exchange room in the clearing house, and these desks are arranged in numerical order. We will say there are four rows of desks running parallel with the room. At the head of the room is the platform or rostrum for the manager and his assistants. At precisely 10 o'clock each bank, member of the clearing house, will have its representative in his place before the desk. A man called the settling clerk sits in front of the desk, and a man called the delivery clerk stands with his parcels of checks, called exchanges. The exchanges are the checks and drafts received by the bank the day before. Exchanges made this morning are the checks and drafts received yesterday up to 3 o'clock, made up in sums for each bank. These are put in parcels or bundles. Some bundles are 4 or 5 feet in length, and others would be only a few inches, according to the number of checks received.

As I say, they appear there at 10 o'clock precisely, and on signal, No. 1 delivers to No. 110, the last bank, his package; No. 2 delivers his to No. 1; No. 3 to No. 2; starting in that way and coming around in front of their own desk again in just about 10 minutes. In that time they have made the circuit of the room, and each bank has received all the checks that every other bank in the clearing house has against it; in bundles, of course. We are dealing only with the details.

The entry clerk, the receiving clerk, has entered them on his sheet in numerical order as he has received the bundles so that when his manager or delivery clerk gets back in front of him he is ready to turn over these packages of checks, and they are taken immediately to the banks and examined there. They are not examined at the clearing house. We never see the checks themselves. We have only the totals.

On receiving them at the bank, they make a list, of course, to prove them.

If they find a check that is not good, or that is missent or otherwise, they must send it back by hand that same day before 3 o'clock,

and make a reclamation for the amount; because they must settle on the balance found on our balance sheet. In other words, for instance, in this sheet here I have the Second National Bank debited \$105,518.60. If there were certain checks in that which were not good, they would have to collect them from the bank from which they received them; because they must pay this into the clearing house on the day this sheet is made up. We found that the exchanges were \$455,983,997, and the cash, \$31,570,534.43. On the right hand of this balance sheet or proof sheet of the manager, our clerk indorsed the amount brought by the bank as its credit, and on the other side, what it received as a debit; so that the debits and credits must agree to a cent, in the compilation of all the amounts sent in. Otherwise we have to keep them there until it does prove.

Mr. UNTERMYER. But you do not go inside of the bundles? You take the figures as given you on the bundles as accurate?

Mr. SHERER. We take the figures as given to us, the total, on their bundles of checks.

I do not know that I have made myself clear on that, but I shall try to do so. The clerks occupy about three-quarters of an hour in making this proof. Then they go downstairs in the countingroom, where we are prepared to receive the debit balances from the banks that are in debt. They come in, in turn, and bring us any money chargeable to them.

Mr. UNTERMYER. What is that clerk called, the man who stays and does that?

Mr. SHERER. He does not stay there. Our own clerks receive this money.

Mr. UNTERMYER. But two men come from each bank?

Mr. SHERER. Two men from each bank. One is the settling clerk and the other the delivery clerk.

Mr. UNTERMYER. One is the messenger who delivers the checks that are held against the various banks?

Mr. SHERER. Yes sir.

Mr. UNTERMYER. After he has delivered those, he goes away?

Mr. SHERER. He takes up the checks that his settling clerk received, himself, and takes those home. They have a number of assistants to help them. Two men could not do it in all cases. The settling clerk remains until this proof is announced. Our own clerks in the countingroom receive these balances in cash after half past 1 o'clock. At that time they are all paid in. We have gotten \$31,570,534.43 here, and we have paid just that sum to the creditors. The creditors arrive before 3 o'clock, each one taking away his money and giving us a receipt for it.

Mr. UNTERMYER. You pay that by check or in currency?

Mr. SHERER. In currency, or in its equivalent.

Mr. UNTERMYER. And the debit balances have to be paid in currency?

Mr. SHERER. Exactly. We get our money from the debtors. We do not pay any creditors until the debtors have all paid us. Then we pay our creditors.

At 3 o'clock we are clean. We have not a penny left, although we may have had millions of dollars during the day.

The receiving of these checks in the morning exchanges, as we call them, occupies 10 minutes. It occupies the time of two or three

men. If those checks had to be presented at the counters of the several banks, it would take them all day.

Mr. UNTERMYER. And a good many days, sometimes, would it not?

Mr. SHERER. Yes. I presume we have 300,000 or 400,000 checks in a day. We do not see the checks, of course, because we deal with the total on the package of checks that is presented. They have these reclamations, and they must, under the rules of the clearing house, observe them and make good.

Mr. UNTERMYER. The proportion of cash that is exchanged, paid in by the debit bank for the benefit of the credit bank, is very trifling as compared with the total business of the day, is it not?

Mr. SHERER. Very. It is about—

Mr. UNTERMYER. It is about 4 per cent, is it not?

Mr. SHERER. It is about $4\frac{1}{2}$ per cent.

Mr. UNTERMYER. So that if you had \$300,000,000 of clearances that day, you would be likely to have—

Mr. SHERER. About \$15,000,000 of money.

Mr. UNTERMYER. About \$12,000,000 to \$15,000,000 of money, that would pass from one to the other. Simply the balances would pass?

Mr. SHERER. Yes. The resulting balances.

Mr. UNTERMYER. How large a force of men does it take to do that business of clearing?

Mr. SHERER. We have a manager, an assistant manager, and six clerks.

Mr. UNTERMYER. Is that the entire staff of the Clearing House Association?

Mr. SHERER. No. There is another department of the clearing house. That is the entire staff of the clearing exchange work.

Mr. UNTERMYER. What is the other department?

Mr. SHERER. The examiner's department.

Mr. UNTERMYER. We will come to that. That is a recent affair?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. That has about 12 members?

Mr. SHERER. Yes.

Mr. UNTERMYER. So that there are six employees in the clearing department, and during the last year or so a dozen employees in the examining department, constituting the staff of the Clearing House Association?

Mr. SHERER. Make it eight, if you please, in the clearing house, instead of six; eight with the manager.

Mr. UNTERMYER. Eight; and 12 in the examiner's department?

Mr. SHERER. Yes.

Mr. UNTERMYER. The Clearing House Association gets initiation fees of \$5,000, does it not, from every member with a capital of under \$5,000,000?

Mr. SHERER. Yes.

Mr. UNTERMYER. And \$7,500 from a member with a capital of over \$5,000,000?

Mr. SHERER. Yes.

Mr. UNTERMYER. And the annual dues are how much?

Mr. SHERER. \$200.

Mr. UNTERMYER. The annual dues payable by the nonmembers are a thousand dollars a year, are they not?

Mr. SHERER. Yes; but if you will allow me, the small sum of \$200 does not, of course, pay the expenses. The expenses of running the clearing house are assessed upon its members; not upon the non-members, but upon the members, pro rata to the amount of exchanges from each.

Mr. UNTERMYER. In addition to the yearly payments?

Mr. SHERER. Yes.

(Whereupon, at 12.55 o'clock p. m., the subcommittee took a recess until 2 o'clock p. m.)

AFTERNOON SESSION.

THURSDAY, JUNE 26, 1912.

The subcommittee met at 2 o'clock p. m., Hon. A. P. Pujo (chairman) presiding.

The CHAIRMAN. The Committee will come to order, and we will continue the hearing. Mr. Sherer will resume the stand.

TESTIMONY OF MR. WILLIAM SHERER—Continued.

Mr. UNTERMYER. Mr. Sherer, you have explained the mechanism of clearances through the Clearing House Association, and told us that besides the business of clearing for members and nonmembers, the clearing house also has examiners. Do those two functions constitute all the business or classes of business of the Clearing House Association?

Mr. SHERER. As part of our system, in order to reduce the risk of carrying money through the streets to pay these large balances of cash, we have what is called a clearing house depository, whose functions are to receive actual gold coin and currency, that is, not bank bills, but United States silver certificates, legal tenders, and gold certificates, and keep them on deposit in our vaults, and issue certificates to the banks depositing, in denominations of \$10,000, made payable to the order of any institution a member of the Association; and they pass in payment of these balances, debit balances and credit balances—a warehouse receipt, if you please—and on presentation of those certificates the banks holding them may get the actual gold or currency as they require.

Mr. UNTERMYER. Those certificates are used among the banks in settlements of balances.

Mr. SHERER. Yes.

Mr. UNTERMYER. It is a sort of annex to the subtreasury?

Mr. SHERER. It is of the same character; but we have not any reciprocal relations with the subtreasury.

Mr. UNTERMYER. Yes, I know; but I mean it corresponds to the subtreasury system?

Mr. SHERER. Yes.

Mr. UNTERMYER. When you deposit gold at the subtreasury you get a certificate from them?

Mr. SHERER. Yes.

Mr. UNTERMYER. And this bears the same relation to the clearing-house banks that the subtreasury bears to the community?

Mr. SHERER. Yes.

Mr. UNTERMYER. Have you brought with you a facsimile of the form of certificate that is used by the Clearing House Association on the deposit of gold coin or legal-tender notes?

Mr. SHERER. Yes. I do not think that I have here the gold coin certificate, but that is in the same form. I gave you one of them, I think, in what I sent you.

Mr. UNTERMYER. I think you gave me a copy. I do not think you gave me an original.

Mr. SHERER. No.

Mr. UNTERMYER. These are canceled certificates?

Mr. SHERER. Those are canceled certificates.

Mr. UNTERMYER. But I think you gave me copies of canceled certificates.

Mr. SHERER. Yes. Those are real certificates, canceled, which I just handed you.

Mr. UNTERMYER. These represent all the varieties of certificates issued by the Clearing House Association, except those for gold coin?

Mr. SHERER. And at times of panic, what are called loan certificates.

Mr. UNTERMYER. You have a copy of the loan certificate here, too, have you?

Mr. SHERER. Is it there? I do not remember whether there is one of those. We gave to either you or Mr. Hepburn one of those bank certificates called loan certificates.

Mr. UNTERMYER. Is not that a loan certificate [exhibiting certificate to the witness]?

Mr. SHERER. Yes.

Mr. UNTERMYER. Now, just designate the various certificates which you now produce, so that we may have them marked in the record.

Mr. SHERER. First, I present a certificate of the Clearing House Association for \$5,000, for a deposit of United States gold certificates. Those are the bearer certificates.

Mr. UNTERMYER. That will be marked Exhibit No. 14.

(The certificate referred to was marked "Exhibit No. 14, June 6, 1912.")

Mr. SHERER. Second, I present a certificate for \$5,000 for a deposit of United States legal-tender notes.

(The certificate referred to was marked "Exhibit No. 15, June 6, 1912.")

Mr. SHERER. Next I have a certificate for \$5,000 for United States silver certificates.

(The certificate referred to was marked "Exhibit No. 16, June 6, 1912.")

Mr. SHERER. Next I have a certificate for \$5,000 for United States gold coin.

(The certificate referred to was marked "Exhibit No. 17, June 6, 1912.")

Mr. SHERER. Next I have what is called a loan certificate, for \$50,000, certifying that certain collateral—by any bank member—has been deposited with the loan committee, and these certificates were used in lieu of either of those, or the actual cash, in payment of balances during the panics of several periods.

Mr. UNTERMYER. That is the form of certificate that was in use during the panic of 1907, is it not?

Mr. SHERER. Yes.

(The certificate referred to was marked "Exhibit No. 18, June 6, 1912," and is here printed in the record as follows:)

EXHIBIT No. 118, JUNE 6, 1912.

Fifty thousand dollars.

No. 50580.

\$50,000.

LOAN COMMITTEE OF THE NEW YORK CLEARING HOUSE ASSOCIATION.

NEW YORK, -- -----

This certifies, that the ----- has deposited with this committee, securities in accordance with the proceedings of a meeting of the association, held October 26th, 1907, upon which this certificate is issued. This certificate will be received in payment of balances at the Clearing House for the sum of fifty thousand dollars, from any member of the Clearing House Association.

Committee.

On the surrender of this certificate by the depositing bank above named, the committee will endorse the amount as a payment on the obligations of said bank, held by them, and surrender a proportionate share of the collateral securities held therefor.

\$50,000.

(Stamped:) Cancelled.

(On back:) Pay only to any member of the New York Clearing House Association.

Mr. UNTERMYER. Those were issued by the loan committee in several panics. Here is the report of the committee of 1907, and it goes on and gives a recapitulation of loan certificates that were issued from 1860 to 1897. Has the clearing house ever taken an opinion of counsel, and if so is there any opinion on file, as to its right to issue these gold and legal tender certificates?

Mr. SHERER. You mean depository certificates?

Mr. UNTERMYER. Yes.

Mr. SHERER. You do not mean the loan certificates?

Mr. UNTERMYER. No, I mean the depository certificates, being in the nature of circulation?

Mr. SHERER. Yes, but I can not point to it at the moment.

Mr. UNTERMYER. Is that opinion on file?

Mr. SHERER. I do not think so. If you will pardon me—

Mr. UNTERMYER. No, Mr. Sherer, I want to know whether you have any written opinion, from any reputable lawyer in this city, upon the right of the clearing house committee, the right of the Clearing House Association, to issue these gold and silver and legal tender certificates upon the deposit of coin or bills.

Mr. SHERER. Yes.

Mr. UNTERMYER. Whose opinion have you?

Mr. SHERER. We have Mr. Updike's.

Mr. UNTERMYER. Will you bring it to us?

Mr. SHERER. Yes. I do not know just where to put my hands upon it, but I will bring it if I can. If you will pardon me, these depository certificates were proposed by Updike and Bristow.

Mr. UNTERMYER. Bristow, Peet and Updike? That was about 20 years ago, was it not? How many years ago?

Mr. SHERER. That was the firm 20 years ago; but I think it was Wilcox & Updike or Updike & Wilcox. The form of the certificates was gotten up by them. The reason for the issuing of these certificates was to lessen the risk of handling money through the streets, and they are useful. You or I or anybody not a member of the clearing house could not use them.

Mr. UNTERMYER. But it would be useful for all of us to be able to issue a circulating medium, would it not?

Mr. SHERER. No; it would not be, because we could not use them for legitimate purposes.

Mr. UNTERMYER. Those certificates pass freely as a medium of circulation among the members of the Association, in lieu of money?

Mr. SHERER. For the purpose of paying balances only.

Mr. UNTERMYER. But they pass in lieu of money?

Mr. SHERER. Yes.

Mr. UNTERMYER. You know that the question has frequently been mooted as to the right of the association to issue these certificates, do you not?

Mr. SHERER. Yes, recently.

Mr. UNTERMYER. Do you not know that the question has been mooted for many years?

Mr. SHERER. No.

Mr. UNTERMYER. Do you not know that Mr. Cannon, in a work on the clearing house, questioned the right to issue those certificates?

Mr. SHERER. As a circulating medium among the general public?

Mr. UNTERMYER. No, as a circulating medium among a part of the general public, that is, the banks of the clearing house?

Mr. SHERER. I do not know that he did, no.

Mr. UNTERMYER. You know that throughout the country, during the panic of 1907, these certificates in small denominations were issued by clearing house associations in lieu of money, do you not?

Mr. SHERER. Yes.

Mr. UNTERMYER. And that they passed current not only among the banks, but among the general public.

Mr. SHERER. I know that is the fact, yes.

Mr. UNTERMYER. And that they were generally regarded as contrary to law?

Mr. SHERER. I do not know what those who took them or paid them out thought about it. I never had to use them.

Mr. UNTERMYER. But they were justified, excused, at that time, by reason of the emergencies of the situation, were they not?

Mr. SHERER. Yes, I presume so. There is a clearing-house rule—you can see it on the certificate—that prohibits the use by anyone else of these certificates issued by the New York Clearing House, and the finding of them in the hands of any bank not a member subjects that bank to a fine. They can only be used in the restricted way in which we use them.

Mr. UNTERMYER. But your idea is that the members of the Clearing House Association have a right that is not possessed by other banks or individuals, to have a currency of their own that is not subject to be taxed?

Mr. SHERER. I could not call it a circulation, because if I choose to take your I O U for anything, and you choose to take my I O U, it does not enter into the circulation of the country at all. It is a matter between ourselves. If we have a mind to settle balances between ourselves in that way we have a right to do it. Those evidences of indebtedness would not enter into circulation, and do not cost the community anything.

Mr. UNTERMYER. Do you not realize that these certificates are not an I O U at all, but are made in imitation of a bank note?

Mr. SHERER. They are not a legal tender; neither is the United States gold certificate a legal tender.

Mr. UNTERMYER. Is there any other business that the Clearing House Association does, that you have not described?

Mr. SHERER. No, sir.

Mr. UNTERMYER. It has nothing to do with the handling of out-of-town checks that are deposited in the various banks that are members of the Association, has it?

Mr. SHERER. No, sir.

Mr. UNTERMYER. It only deals with checks and drafts between the members and nonmembers clearing through members?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. So that all questions and regulations connected with the collection of out-of-town checks are really foreign to the idea of a clearing-house association and to its legitimate and ordinary functions?

Mr. SHERER. I would not say its legitimate functions. They are contrary to its original conception of the uses for the clearing house.

Mr. UNTERMYER. Yes.

Mr. SHERER. It is one of the things that came on as a growth.

Mr. UNTERMYER. Well, we will see. It has no relation to the business of clearing?

Mr. SHERER. No.

Mr. UNTERMYER. Every bank collects its own out-of-town checks in its own way and through its own correspondents, does it not, independent of the clearing house?

Mr. SHERER. It does.

Mr. UNTERMYER. Those checks never come into the clearances of the clearing house and it has no relation to them.

Mr. SHERER. That is correct.

Mr. UNTERMYER. In that connection, I call your attention to Section 6 of Article 6 of the constitution of this Association, as follows:

The Clearing House Committee shall have power to establish rules and regulations regarding collections outside of the City of New York by members of the Association, or banks, or trust companies, or others clearing through such such members and the rates to be charged for such collections, and also to provide for the enforcement of the same.

Mr. SHERER. On what page is that?

Mr. UNTERMYER. Page 10 [reading]:

The committee may from time to time make any additions to or changes in such rules and regulations as it deems judicious. After any rule or regulation upon the subject has been once established it shall not be altered or rescinded until it has been in force at least three months, except by majority vote of all the members of the Association. (For rules see p. 20.)

Referring to that section, under the head of rules and regulations, I find the following:

RULES AND REGULATIONS REGARDING COLLECTIONS OUTSIDE OF THE CITY OF NEW YORK.

Pursuant to authority conferred upon it by the Constitution of the New York Clearing House Association, the Clearing House Committee of said Association establishes the following rules and regulations regarding collections outside of the City of New York by members of the Association, or banks, trust companies, or others clearing through such members, and the rates to be charged for such collections, and also regarding enforcement of the provisions hereof.

SEC. 1. These rules and regulations shall apply to all members of the Association, and to all banks, trust companies or others clearing through such members. The parties to which the same so apply are hereinafter described as collecting banks.

* * * * *
 SEC. 3. For all items from whomsoever received, (except on those points declared discretionary in Section 2,) payable at points in Connecticut, Delaware, District of Columbia, Indiana, Illinois, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Wisconsin, the collecting banks shall charge not less than one-tenth of 1 per cent of the amount of the items respectively.

SEC. 4. For all items from whomsoever received payable at points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Indian Territory, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, Wyoming, and Canada, the collecting banks shall charge not less than one-quarter per cent of 1 per cent of the amount of the items, respectively.

* * * * *
 SEC. 6. The charges herein specified shall in all cases be collected at the time of deposit or not later than the 10th day of the following calendar month. No collecting bank shall, directly or indirectly, allow any abatement, rebate, or return for or on account of such charges or make in any form, whether of interest on balances or otherwise, any compensation therefor.

SEC. 7. Every collecting bank, trust company or other corporation not a member of the Association, but clearing through a member thereof, shall forthwith adopt by its Board of Directors a resolution in the following terms, and file a certified copy thereof with the Association as evidence as therein specified:

"Whereas, this corporation has acquired the privilege of clearing and making exchange of its checks through the New York Clearing House Association, and is subject to its rules and regulations; Now, therefore,

"Be it Resolved, That this corporation hereby in all respects assents to and agrees to be bound by and to comply with all rules and regulations regarding collections outside of the City of New York, which may be established pursuant to the Constitution of said Association, and that the president of this corporation is hereby instructed to file a certified copy of this resolution with the Clearing House Association as evidence of such assent and agreement on the part of this corporation."

Section 8 provides for the procedure with respect to any member or any person subject to a member who violates this rule as to the commissions on out of town collections, and for the manner in which he shall be punished, as follows:

If the report of the Committee is approved by the Association, the collecting bank charged with such violation shall pay to the Association the sum of five thousand dollars, and in case of a second violation of these rules and regulations, any collecting bank may also in the discretion of the Association be excluded from using its privileges directly or indirectly, and, if it is a member, expelled from the Association.

The Clearing House Association as such had about as much to do legitimately with attempting to fix the commissions that banks should charge on their collections of out of town checks as the man in the moon, did it not? It is no part of their function as a clearing house association, is it?

Mr. SHERER. Why, I disagree. I do not know what the man in the moon had to do with it.

Mr. UNTERMYER. What did the Clearing House Association have to do with it?

Mr. SHERER. Because it was a voluntary association of banks, associated together for mutual advancement and protection in business. When they found that the character of the business was losing them money, why, they resolved to reform. They found they were taking checks on far-away points and giving the depositor credit for the full amount and allowing him to draw that money a day or two after depositing it and before they had collected it. They were losing the interest on that money, and in various ways were losing money. Their collection account was always a debit. And they had the right, as any people engaged in business have a right to do, to get paid for their services.

Mr. UNTERMYER. You know they might as well have passed that in their luncheon club, as far as the function of the Clearing House was concerned?

Mr. SHERER. No; because their luncheon club would have nothing to do with the rules and regulations of a well known association.

Mr. UNTERMYER. Do you not know the Clearing House Association, under its constitution and purposes, had nothing to do with the collections by its members from out of town banks?

Mr. SHERER. Not under the original constitution, no sir; but as time went on they saw that no constitution of a body of this sort could last. Changes were coming about all the time. When the original clearing house was formed, the volume of out of town checks was not considerable.

Mr. UNTERMYER. What is the total percentage of out of town checks to the whole business of New York City?

Mr. SHERER. About 25 per cent.

Mr. UNTERMYER. About a quarter of the total business?

Mr. SHERER. Yes.

Mr. UNTERMYER. And this regulation put upon the merchants of the country, did it not, whose checks went through New York, a tax in some instances of one-quarter of 1 per cent?

Mr. SHERER. Just the same as the boxing up of their dry goods or hardware put a charge on them.

Mr. UNTERMYER. But by what right are you able to say that these gentlemen could get together and restrain the independence of the banks in dealing with their customers in any way they saw fit to do?

Mr. SHERER. If the banks chose to come together and charge something for what was costing them more than they were receiving from their customers, they certainly had the right to do that as long as it was within the law?

Mr. UNTERMYER. Yes; but suppose one bank that it was agreed should have the privileges of the clearing house, and had them and was a member, chose to deal with its customers independently, and

not to be compelled to charge not less than one quarter of 1 per cent; it would be expelled for doing it, would it not?

Mr. SHERER. If they had not all unanimously agreed to this scale. That is what they did do.

Mr. UNTERMYER. Mr. Sherer, what I want to know is, a member bank was either compelled to do this thing and subscribe to this rule, or it would be expelled, would it not?

Mr. SHERER. Yes; according to this.

Mr. UNTERMYER. Now, let me ask you this: This was a sort of evolution of the Association, was it not; a new power that it took on?

Mr. SHERER. Yes.

Mr. UNTERMYER. It was not germane to its functions as originally organized, was it? It is not really germane to any function it has to perform now with respect to these out-of-town checks, is it, except to bind the bank by a penalty with respect to a part of their business with which the Clearing House Association has nothing to do.

Mr. SHERER. They had a right to withdraw from the Association before being subjected to any penalty.

Mr. UNTERMYER. That is your answer, is it, that a bank in the Clearing House Association could either conform to that method or retire from the Association?

Mr. SHERER. Yes sir.

Mr. UNTERMYER. You look upon this association as a sort of private club, do you not; I mean in the nature of a private club, governed by the general rules that would govern a private club?

Mr. SHERER. So far as the general rules that govern it go, yes.

Mr. UNTERMYER. Do you not recognize that it has very important public functions which do not appertain to a private club?

Mr. SHERER. Yes.

Mr. UNTERMYER. And that it plays a very important part in the interstate business of the community?

Mr. SHERER. Yes.

Mr. UNTERMYER. You recognize that it is one of the important factors in the interstate commerce of this country, do you not?

Mr. SHERER. Yes; it has been recognized as one of the important factors since the Civil War, when it put all its money in the hands of the government.

Mr. UNTERMYER. It being an important factor as a clearing house association in interstate commerce, according to your idea it would have the right to-morrow, would it not, to bind all members of the Association, and all nonmembers clearing through it, to fix the rate of interest or discount?

Mr. SHERER. No.

Mr. UNTERMYER. It has done so in some cases, has it not?

Mr. SHERER. It has not done so in New York, no sir.

Mr. UNTERMYER. But some of the clearing houses in the country have attempted it?

Mr. SHERER. I can not answer for any but my own.

Mr. UNTERMYER. I am not asking you to answer for them, but you know that to be the fact, do you not?

Mr. SHERER. I have heard it, but I do not know it.

Mr. UNTERMYER. They did it in Buffalo, did they not?

Mr. SHERER. Not to my knowledge.

Mr. UNTERMYER. If you think it is within the functions of the association to say to the members that they must charge not less than a given rate of commission on collecting their customers' checks, why would it not be equally within their power to say that the banks should not charge less than a certain rate of discount?

Mr. SHERER. Because the rates of interest vary, sir, almost hourly in New York, and daily anyhow, and it costs the same to-day as it did five years ago to collect a check on Tuscaloosa, Ala.

Mr. UNTERMYER. But why would it not be within their proper functions, if they can do the one, to do the other, and simply have the clearing house committee fix from month to month the rate that every bank shall charge?

Mr. SHERER. That would be supposing a condition that has not arisen, that I would not feel able to answer.

Mr. UNTERMYER. It has been very much agitated, has it not?

Mr. SHERER. I presume so, yes. Many things have been agitated that have never been brought to a consummation.

Mr. UNTERMYER. Do you not realize that this arrangement of the clearing house in respect to the collection of out of town checks, a matter with which it has nothing to do, is a regulation of interstate commerce, and that it is in restraint of trade?

Mr. SHERER. No; I do not recognize it as such.

Mr. UNTERMYER. You do not? Let us see if it is not in restraint of trade.

You recognize that it is an interference with competition between the banks, do you not?

Mr. SHERER. Let us see. No; not if they act independently. Not if they are acting independently of each other.

Mr. UNTERMYER. How can they act independently of each other when they have all been compelled to agree not to do so?

Mr. SHERER. They can go to the clearing house and collect their own checks—

Mr. UNTERMYER. You know perfectly well, Mr. Sherer, that they can not go out of the clearing house and live.

Mr. SHERER. I say they can live. The private bankers are not in the clearing house, and they take deposits of out-of-town checks.

Mr. UNTERMYER. I thought you said some time ago, Mr. Sherer, that the clearing house was essential to the bankers?

Mr. SHERER. It is essential to domestic bankers, yes.

Mr. UNTERMYER. If it is essential, how can they live without the essential?

Mr. SHERER. That would be one point.

Mr. UNTERMYER. What is the other point?

Mr. SHERER. The other point is that the private bankers do not charge any exchange.

Mr. UNTERMYER. You know perfectly well that the private bankers do not do a general checking business.

Mr. SHERER. They take deposits.

Mr. UNTERMYER. But they do not do a general checking business?

Mr. SHERER. They may if they wish.

Mr. UNTERMYER. But they do not, as a matter of fact?

Mr. SHERER. That is a point of their own management.

Mr. UNTERMYER. You know it, however?

Mr. SHERER. Yes.

Mr. UNTERMYER. We are talking about banks that check against their accounts. You know perfectly well that a great bank, with large deposits and a vast volume of business, could not in practical effect do business to-day outside of the clearing house, do you not?

Mr. SHERER. Yes.

Mr. UNTERMYER. Let us see. You know that a bank can not stay in the clearing house and at the same time compete with other banks in the clearing house on this subject of collections, do you not?

Mr. SHERER. No; they can not.

Mr. UNTERMYER. This rule was intended to forbid that, was it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. Do you not realize that is in violation of law?

Mr. SHERER. No; I do not.

Mr. UNTERMYER. Let us see about it. Suppose one bank wants to take a customer from another bank, and for the purpose of getting that valuable business it is willing to collect out-of-town checks without charge, so as to get that business away. It can not do it, can it, and remain a member of the clearing house?

Mr. SHERER. He has his option.

Mr. UNTERMYER. I say, he can not do it?

Mr. SHERER. Not and remain a member, no.

Mr. UNTERMYER. He can do it and get put out?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. And you know that is an impossible option?

Mr. SHERER. But would you have a bank loan its money for nothing?

Mr. UNTERMYER. Wait a minute. The banks, as a rule, do not pay interest on deposits, do they?

Mr. SHERER. Yes, sir; they do, as a rule.

Mr. UNTERMYER. As a rule they do?

Mr. SHERER. As a rule they do pay interest on deposits.

Mr. UNTERMYER. The national banks?

Mr. SHERER. The national banks.

Mr. UNTERMYER. As a rule, or as an exception?

Mr. SHERER. I know of only one exception in New York.

Mr. UNTERMYER. The Chemical never does, does it?

Mr. SHERER. No. All the others do.

Mr. UNTERMYER. Do you not know, so far as concerns ordinary checking accounts, that on daily balances most banks do not pay any interest except on very large balances?

Mr. SHERER. Each bank has its own rules; some pay interest on a lesser amount than others pay on.

Mr. UNTERMYER. The average depositor in a bank does not get interest?

Mr. SHERER. He does not look for it, because he does not leave a sufficient deposit to warrant it.

Mr. UNTERMYER. If he wants to have his out-of-town checks collected without charge, he can not do it, can he, with a clearing house bank?

Mr. SHERER. No.

Mr. UNTERMYER. And that is because of this rule?

Mr. SHERER. Yes.

Mr. UNTERMYER. And if this bank wants to make an arrangement with its customers to take one-tenth of 1 per cent on collections where your rule requires one-fourth of 1 per cent, that is a violation, is it not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. You have had very few complaints under this rule, have you not?

Mr. SHERER. Very few.

Mr. UNTERMYER. You had one case in which you fined the bank \$5,000?

Mr. SHERER. Yes. That was the only fine.

Mr. UNTERMYER. You have had no instance in which there was a second offense?

Mr. SHERER. No, sir.

Mr. UNTERMYER. The second offense is punishable by expulsion?

Mr. SHERER. Yes.

Mr. UNTERMYER. And that means the bank has to close up, does it not? You know that if you take the clearing-house privilege away from a bank overnight it has to close up? You never saw one stay open, did you, under those circumstances?

Mr. SHERER. A solvent bank need not close up.

Mr. UNTERMYER. You have never seen a solvent bank fail after the clearing-house privilege was taken away from it, have you?

Mr. SHERER. I would not say the bank was solvent when the privilege was taken away from it. I never yet knew of a solvent bank where it was taken away.

Mr. UNTERMYER. You have known banks that have had the privilege taken away which have not only paid their depositors but have paid 200 per cent on the stock, have you not?

Mr. SHERER. Not 200 per cent.

Mr. UNTERMYER. Well, over a hundred per cent on the stock. You do not call them solvent?

Mr. SHERER. It took a long time to settle it up. They could not pay on demand.

Mr. UNTERMYER. No bank could pay on demand, could it?

Mr. SHERER. Of course it could not.

Mr. UNTERMYER. Could any bank pay on demand?

Mr. SHERER. Why, no. Any business man knows that. It could not pay on demand all its obligations.

Mr. UNTERMYER. Then what are you talking about by saying that it was not a solvent bank because it could not pay its depositors on demand?

Mr. SHERER. I meant the bank that does not refuse to pay a check when it is presented to it. Certain banks have lost their clearing-house privileges because the state authorities or the national authorities closed the bank and refused to let them pay checks presented at the counter when they had money enough to do that with.

Mr. UNTERMYER. But banks have also closed up because the clearing house has withdrawn their clearing privilege?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. So that it is a pretty severe penalty to lose your clearing-house privilege?

Mr. SHERER. Yes.

Mr. UNTERMYER. It is a fatal thing in most cases, is it not? The very rumor of it causes a run on the bank, does it not?

Mr. SHERER. Well, it is——

Mr. UNTERMYER. You know that?

Mr. SHERER. Slighter things than that cause a run on a bank. It takes a very little thing to do that.

Mr. UNTERMYER. The rumor that the clearing-house privilege has been withdrawn from a bank is sure to cause a run on a bank, is it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. Therefore the idea of a bank allowing itself to be expelled from the clearing house rather than submit to this rule against the collection without charge of checks on country banks is not conceivable, is it?

Mr. SHERER. No; because it is not conceivable that the bank would wait until that contingency arose. If they sought that independence, they would withdraw before the clearing house had a right to expel them.

Mr. UNTERMYER. That is an independence that is a pure theory; and no one has got it, have they, to-day, as things stand? That is true, is it not?

Mr. SHERER. What is a theory?

Mr. UNTERMYER. In practical operation, not a theory. In theory, any bank can withdraw.

Mr. SHERER. I have never known it to arise. But the way I feel about it is that if I were the president of a bank and could not conform to the rules and regulations of the clearing house without subjecting myself to expulsion, I would call my board together and retire from the clearing house and present the facts to the public; and I do not think I would lose in business or in standing.

Mr. UNTERMYER. You think that if you complained of outrageous regulations, the sympathy of the public would prevent a run on your bank?

Mr. SHERER. Unless the public chose to pay the cost of the collections——

Mr. UNTERMYER. If you were the president of a bank, would you take that chance with your depositors' money?

Mr. SHERER. If I were unjustly used, yes.

Mr. UNTERMYER. Have you any better reason to give than you have already given why the independence of the banks has been taken away by these regulations with respect to the collection of out-of-town checks, with which the Clearing House Association, as such, has nothing to do; or have you made all the explanation you care to make on that subject?

Mr. SHERER. I do not remember just all the positions I have taken in answering you questions in that matter, but this is what I would like to say, that I do not think the independence of the banks is taken away from them when they voluntarily come together and adopt rules for their government and fix penalties for the violation of the same, any more than is the case when any number of people get together for a common object and voluntarily place the control of the details in the hands of those whom they choose to conduct them. The governing committee makes regulations to which they unani-

mously agree and which they all indorse. I do not think they are, in that case, sacrificing or jeopardizing their independence, when the right is still open to them, should those rules be arbitrary or unjust, to retreat honorably and assume an independent position.

Mr. UNTERMYER. That is a very good speech, Mr. Sherer, but let us see what the facts are. This rule was passed in 1899, was it not?

Mr. SHERER. Yes; I think that was the date.

Mr. UNTERMYER. The 13th of March, 1899. There have been new members of the clearing house since then, have there not?

Mr. SHERER. Oh, yes.

Mr. UNTERMYER. These banks that came in afterwards had the option of subscribing to the rules as they were or of not coming in, had they not?

Mr. SHERER. Yes.

Mr. UNTERMYER. So that that is what you call a voluntary acceding to the rules and regulations?

Mr. SHERER. Yes.

Mr. UNTERMYER. That is your idea of a voluntary acceding to the rules and regulations?

Mr. SHERER. Yes.

Mr. UNTERMYER. There was no other clearing house to which they could go?

Mr. SHERER. Not here, no.

Mr. UNTERMYER. You are not subject to any law? You are not subject to any legislative control or judicial control? You are a law unto yourselves?

Mr. SHERER. I would not state it as broad as that.

Mr. UNTERMYER. In what respect are you not a law unto yourselves?

Mr. SHERER. Because, through the legislature, the bank superintendent can administer proper discipline under the State banking laws to any institution they have chartered.

Mr. UNTERMYER. But not to the Clearing House Association?

Mr. SHERER. They can influence the members.

Mr. UNTERMYER. But have they anything to do with the Clearing House Association?

Mr. SHERER. No. But every district attorney has the option of going into the clearing house.

Mr. UNTERMYER. You mean every Federal district attorney would indict them for these regulations in restraint of trade? Is that what you mean?

Mr. SHERER. If they are unlawful, yes. We are not above the law, at all.

Mr. UNTERMYER. That is what you call being subject to legislative and judicial control?

Mr. SHERER. We are not above the law. We do not claim to be.

Mr. UNTERMYER. Let us see how that operates with respect to these nonmember banks that clear through member banks. They are subject to the same penalties with respect to the collection of out-of-town checks, are they not?

Mr. SHERER. Yes.

Mr. UNTERMYER. And they have no say in the association, have they?

Mr. SHERER. Through their representatives.

Mr. UNTERMYER. They have no vote?

Mr. SHERER. As such, no.

Mr. UNTERMYER. They have not any vote at all, have they?

Mr. SHERER. Their representative defends them.

Mr. UNTERMYER. Their representative has its own vote, has it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. But their representative has no vote for them, has it?

Mr. SHERER. No, sir.

Mr. UNTERMYER. So that if they do not happen to have \$1,000,000 or more of capital, or do not happen to be satisfactory in other respects to three-fourths of their competitors who are in the association, they can neither get into the association, nor can they have any say as to what the regulations shall be under which they are to do their clearances, can they?

Mr. SHERER. No.

Mr. UNTERMYER. They can not?

Mr. SHERER. No.

Mr. UNTERMYER. And that is a satisfactory condition of things, financially?

Mr. SHERER. Yes, sir, but—

Mr. UNTERMYER. You think it is? I ask your opinion.

Mr. SHERER. I have to qualify it a little.

Mr. UNTERMYER. You do not think it is, do you? Otherwise you would not want to qualify it.

Mr. SHERER. If they do not want to come into the association, there is no law that compels them to do so.

Mr. UNTERMYER. But they have to, do they not?

Mr. SHERER. If they want to come into the association, they know what the rules and regulations are before they come in.

If I am not of a certain age, have not a certain standing in the community, I can not join a certain club. They can not join the clearing house unless they can satisfy the Clearing-House authorities that they have sufficient capital to care for their customers, to guarantee their depositors, in the first place \$1,000,000. Or, if they are not of sufficient standing in the board of direction to take charge of the business which they assume, if in the judgment of the experienced members of the clearing house they are not up to that standard, they are not admitted. It is no reflection on their character, at all.

Mr. UNTERMYER. Why do you constantly compare the membership in this association to that in a private social club?

Mr. SHERER. Merely for the sake of comparison, because it is not a corporate institution.

Mr. UNTERMYER. You know that in the case of a private club a man may be excluded without reason, because they do not want him?

Mr. SHERER. Oh, yes.

Mr. UNTERMYER. And that is so in your association, too, is it not?

Mr. SHERER. We do not go as far as that.

Mr. UNTERMYER. But you have the right to do so?

Mr. SHERER. We have our requirements here.

Mr. UNTERMYER. You have the right to do so, have you not?

Mr. SHERER. Yes, we have the right; not the moral right, if they comply with these requirements.

Mr. UNTERMYER. You have taken the legal right, have you not?

Mr. SHERER. Yes.

Mr. UNTERMYER. You spoke of a man not wanting to come in. I shall have to repeat my question to you in that respect.

You know that unless the bank happens to have a million dollars in capital, it can not come in, can it? That is right, is it not?

Mr. SHERER. That is right.

Mr. UNTERMYER. And if it has a million dollars of capital, and it does not suit three-fourths of its competitors that it shall come in, it can not come in anyway, can it?

Mr. SHERER. No.

Mr. UNTERMYER. And if it does not suit its competitors who are in the Association to let another bank that is a member of the Association clear for it, it can not get clearance can it?

Mr. SHERER. No.

Mr. UNTERMYER. Do you know how many new banks have been started in the city of New York in the last five years?

Mr. SHERER. I can not tell you at once. I could find the information from our books.

Mr. UNTERMYER. Do you know of any?

Mr. SHERER. Do I know of any new banks in the last five years?

Mr. UNTERMYER. Yes.

Mr. SHERER. I can not state offhand.

Mr. UNTERMYER. Do you know how many have gone out of existence in the last 10 years?

Mr. SHERER. I think I gave you a table showing that.

Mr. UNTERMYER. Yes. There were about 103 in that table?

Mr. SHERER. Yes. You mean by consolidations and otherwise?

Mr. UNTERMYER. Principally otherwise.

Mr. SHERER. Here is a list of banks that were members of the clearing house whose privileges were withdrawn or suspended on account of temporary or final insolvency.

Mr. UNTERMYER. Those are not the ones to which I am referring. I have another list.

Mr. SHERER. Yes.

Mr. UNTERMYER. This is another list which you have been kind enough to furnish me. Here is a list, is it not, of nonmember institutions having clearing privileges at the New York Clearing House, giving dates when they ceased to have such privileges, and names of banks then clearing for them?

Mr. SHERER. Yes.

Mr. UNTERMYER. Compiled—I think that is from January 1, 1891, is it not?

Mr. SHERER. Yes; compiled from the date when permission from the clearing house was first made necessary for clearing privileges. Up to that time any bank would take on a nonmember and clear for it without permission of the clearing house.

Mr. UNTERMYER. The banks formerly had the right to do that without permission?

Mr. SHERER. Yes.

Mr. UNTERMYER. When was that stopped?

Mr. SHERER. In January, 1891.

Mr. UNTERMYER. This is the list, is it not, to which I referred, containing the names of 103 banks?

Mr. SHERER. Yes. No. 10, is it?

Mr. UNTERMYER. Yes.

Mr. SHERER. I have a copy of the list marked.

(The paper just referred to was marked "Exhibit No. 19, June 16, 1912," and is here printed in the record as follows:)

Nonmember institutions having clearing privileges at the New York Clearing House, dates when they ceased to have such privileges, and names of banks then clearing for them.

[Compiled from the date when permission from the clearing-house committee was first made necessary for clearing privileges—Jan. 1, 1891.]

Astor Place Bank	May 1, 1901	Corn Exchange Bank.
Atlantic Trust Co.	Feb. 2, 1903	Western National Bank of United States.
Astor National Bank	Mar. 13, 1899	First National Bank, New York.
Bedford Bank, Brooklyn.	Mar. 2, 1903	First National Bank, Brooklyn.
Brooklyn Bank, Brooklyn.	Oct. 15, 1907	Oriental Bank.
Borough Bank, Brooklyn.	Oct. 24, 1907	Oriental Bank.
Brooklyn Trust Co.	July 7, 1904	Mechanics National Bank.
Canal Street Bank.	June 6, 1893	Shoe & Leather National Bank.
Clinton Bank.	Feb. —, 1898	National Park Bank.
Columbus National Bank.	Oct. 19, 1891	Garfield National Bank.
Continental Trust Co.	May 16, 1903	Bank of Manhattan Co.
Commercial Bank of Brooklyn.	Aug. 11, 1893	Bank of New York, National Banking Association.
Colonial Trust Co.	May 31, 1904	National Park Bank.
Consolidated National Bank.	June 29, 1908	Mechanics & Traders Bank.
Chelsea Exchange Bank.	Jan. 30, 1908	Oriental Bank.
Coal & Iron National Bank.	July 27, 1909	Mechanics National Bank.
Deposit, National Bank of.	May 22, 1893	Seaboard National Bank.
Eleventh Ward Bank.	May —, 1902	Corn Exchange Bank.
East Side Bank.	Feb. 2, 1895	Shoe & Leather National Bank.
Empire State Bank.	Dec. —, 1895	National Bank of the Republic.
Eighth Ward Bank, Brooklyn.	Oct. 1, 1903	Market & Fulton National Bank.
Federal Bank.	Dec. 21, 1894	Merchants National Bank.
Fourteenth Street Bank.	Apr. 12, 1907	National Bank of North America.
Fulton Bank, Brooklyn.	May 25, 1899	Corn Exchange Bank.
Fifth Avenue Bank, Brooklyn.	Dec. 29, 1902	Hanover National Bank.
Franklin Trust Co., Brooklyn.	May 26, 1904	Mechanics National Bank.
Franklin National Bank.	Aug. —, 1899	Market & Fulton National Bank.
Fifth Avenue Trust Co.	May 28, 1903	Western National Bank of United States.
Flatbush Trust Co.	Mar. —, 1912	Irving National Exchange Bank.
Gansevoort Bank.	June 16, 1905	National Bank of North America.
German-American Bank, Brooklyn.	Dec. 6, 1899	Irving National Bank.
Gotham National Bank.	Apr. 30, 1912	Liberty National Bank.
Harlem, Bank of.	May 10, 1892	Third National Bank.
Harlem River Bank.	Apr. 26, 1894	Garfield National Bank.
Home Bank.	Mar. —, 1900	Corn Exchange Bank.
Hudson River Bank.	—, 1891	Corn Exchange Bank.
Hamilton Bank.	Oct. 22, 1907	Mercantile National Bank.
Hamilton Bank, Brooklyn.	Feb. 5, 1895	American Exchange National Bank.
Hide & Leather National Bank.	Oct. 26, 1899	Mechanics National Bank.
Interstate National Bank.	Apr. —, 1892	National Bank of the Republic.
International Banking & Trust.	Dec. 19, 1899	Seventh National Bank.
Jersey City, Second National Bank.	Feb. 17, 1906	Fourth National Bank.
Jefferson Bank.	Mar. —, 1912	National Park Bank.
Kings County Bank, Brooklyn.	Mar. —, 1902	National Bank of Commerce.
Kings County Trust Co.	Dec. 31, 1904	Mechanics National Bank.
Knickerbocker Trust Co.	Oct. 22, 1907	National Bank of Commerce.
Liberty National Bank.	June 26, 1894	First National Bank, New York.
Long Island Loan & Trust Co.	July 7, 1904	Mechanics National Bank.
Long Island Bank, Brooklyn.	Aug. 31, 1896	Merchants National Bank.
Lenox Hill Bank.	Aug. —, 1891	Western National Bank.
Madison Square Bank.	Aug. 8, 1893	St. Nicholas Bank.
Murray Hill Bank.	Aug. 11, 1896	First National Bank, New York.
Manhattan Trust Co.	May 25, 1911	Chase National Bank.
Mercantile Trust Co.	May 16, 1903	Western National Bank of the United States.
Metropolitan Trust Co.	May 25, 1903	Western National Bank of the United States.
Mechanics & Traders Bank, Brooklyn.	Jan. 6, 1902	Corn Exchange Bank.
Manufacturers Trust Co., Brooklyn.	Dec. 31, 1902	Corn Exchange Bank.
Morton Trust Co.	May 20, 1903	Western National Bank of the United States.
Merchants Bank of Brooklyn.	Aug. 23, 1905	Oriental Bank.
Maiden Lane National Bank.	Apr. 28, 1906	Shoe & Leather National Bank.
New Amsterdam Bank of.	May 20, 1907	Merchants National Bank.
Nineteenth Ward Bank.	Apr. 30, 1909	Fourth National Bank.
New York Produce Exchange Bank.	Mar. —, 1895	Gallatin National Bank.
New York Security & Trust Co.	May 16, 1903	National City Bank.
Nassau National Bank of Brooklyn.	July 10, 1911	Hanover National Bank.

Nonmember institutions having clearing privileges at the New York Clearing House, etc.—Continued.

Northside Bank, Brooklyn.....	Oct. 25, 1907	First National Bank, Brooklyn.
Nassau Trust Co., Brooklyn.....	Dec. 26, 1908	First National Bank, New York.
National Union Bank.....	June 26, 1894	First National Bank, of New York.
National Commercial Bank.....	Oct. 31, 1901	New Amsterdam National Bank.
Plaza Bank.....	Dec. 26, 1911	National Park Bank.
Peoples Trust Co., Brooklyn.....	Jan. 17, 1905	National Bank of Commerce.
Peoples Bank, Brooklyn.....	Apr. 5, 1906	National Bank of Commerce.
Produce Exchange Trust Co.....	Aug. 31, 1899	Western National Bank.
Queens County Bank.....	Aug. —, 1899	Corn Exchange Bank.
Riverside Bank.....	June 29, 1907	Bank of Manhattan Co.
Real Estate Trust Co.....	Apr. 28, 1904	Bank of New York, National Banking Association.
State Bank.....	Aug. 1, 1906	National Bank of North America.
Southern National Bank.....	Feb. —, 1892	National Park Bank.
State Trust Co.....	Apr. 23, 1900	Corn Exchange Bank.
Sprague National Bank, Brooklyn.....	Apr. 3, 1905	Mercantile National Bank.
Seventh Ward Bank, Brooklyn.....	Dec. 30, 1905	First National Bank, Brooklyn.
Staten Island, Bank of.....	Dec. 31, 1903	National Bank of Commerce.
Staten Island, First National.....	Apr. 1, 1905	Corn Exchange Bank.
Sherman Bank.....	July 14, 1892	Central National Bank.
Schermehorn Bank, Brooklyn.....	Dec. 26, 1901	Western National Bank.
Standard National Bank.....	Apr. 29, 1898	Hanover National Bank.
Twelfth Ward Bank.....	Oct. 24, 1907	New Amsterdam National Bank.
Twenty-sixth Ward Bank, Brooklyn.....	Apr. 18, 1903	National Bank of Commerce.
Title Guarantee & Trust Co.....	May 9, 1904	Corn Exchange Bank.
Trust Co. of America.....	May 28, 1903	Hanover National Bank.
Union Square Bank.....	June —, 1902	National Park Bank.
Union Trust Co.....	Apr. 15, 1903	Hanover National Bank.
Union Bank of Brooklyn.....	Mar. 23, 1907	Mercantile National Bank.
United States Mortgage & Trust Co.....	May 9, 1903	National Bank of Commerce.
United National Bank.....	July 28, 1906	American Exchange National Bank.
Union Exchange National Bank.....	Oct. 4, 1910	National Bank of Commerce.
Varick Bank.....	Apr. 9, 1904	National Bank of Commerce.
Van Norden Trust Co.....	May 30, 1909	Fourth National Bank.
Washington Trust Co.....	May 9, 1904	Merchants Exchange National Bank.
Wallabout Bank, Brooklyn.....	Dec. 28, 1905	First National Bank, Brooklyn.
Williamsburg Trust Co.....	Oct. 25, 1907	First National Bank, Brooklyn.
Washington Bank.....	Feb. 2, 1903	Western National Bank.
Washington National Bank.....	Apr. 13, 1891	Gallatin National Bank.

Mr. UNTERMYER. I see among the names that of the Fourteenth Street Bank. Does not that clear through some other bank?

Mr. SHERER. It is now called the Security Bank. It is a member of the clearing house. It was a member of the clearing house, and changed its name and became the Security Bank.

Mr. UNTERMYER. It changed its ownership, too, did it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. It came into the hands of James G. Cannon and his associates?

Mr. SHERER. Yes.

Mr. UNTERMYER. And is held by them under a voting trust, is it not?

Mr. SHERER. That I do not know. I do not know how their ownership is, there.

Mr. UNTERMYER. I want to come back, for a moment, to this question of clearance of out-of-town checks. You say it amounts to about one-quarter of the business of the banks, approximately?

Mr. SHERER. I have not any data now.

Mr. UNTERMYER. That would be your idea?

Mr. SHERER. Yes. It was so when I first investigated the matter, some years ago. Thirteen years ago I found that the average amount of out-of-town checks passing through the New York Clearing House banks averaged \$55,000,000 daily.

Mr. UNTERMYER. And the enforced collection charge upon those checks is one-tenth of 1 per cent in certain territory, and one-quarter of 1 per cent in other territory?

Mr. SHERER. It is now, yes, sir. At that time there was no charge.

Mr. UNTERMYER. When was this compulsory charge put on?

Mr. SHERER. The date is shown in the constitution, I think.

Mr. UNTERMYER. I think it was 1909, was it not?

Mr. SHERER. March 13. Judge Farrar gave the date.

Mr. FARRAR. 1899.

Mr. UNTERMYER. 1899; not 1909. That is right, is it not?

Mr. FARRAR. March 13, 1899.

Mr. SHERER. Yes; that is right.

Mr. UNTERMYER. Taking this minimum charge of one-tenth of 1 per cent in certain localities and one-quarter of 1 per cent in other localities makes an average of one-seventh of 1 per cent, does it not?

Mr. SHERER. Yes; I think so; although I have not figured it.

Mr. UNTERMYER. On \$55,000,000 of daily business, that charge would be how much a day?

Mr. SHERER. I shall have to get out a paper and pencil.

Mr. UNTERMYER. It is about \$80,000 a day, is it not; a little less than \$80,000 a day?

Mr. SHERER. Divide that among the number of institutions—

Mr. UNTERMYER. Wait a minute, Mr. Sherer. We are asking for facts, now. That is a tax of about \$80,000 a day, that is, about \$24,000,000 a year, is it not, that the people of the United States outside of New York pay in the way of tribute or compensation to the clearing-house banks of New York for their collections?

Mr. SHERER. Before I answer that—

Mr. UNTERMYER. No; I want to know if I am right in my arithmetic.

Mr. SHERER. Well, I have to test that, you know. I can not sit here and do any figuring.

Mr. UNTERMYER. I have put it a little less; I have taken 300 days.

Mr. SHERER. I do not want to go on record until I put it down in black and white.

Mr. UNTERMYER. Can you take your pencil there and do it now?

Mr. SHERER. No sir; I never go on record as to figures until I figure them out where I belong.

Mr. UNTERMYER. Just figure it for us, will you? We just want to see what that figure amounts to a year.

Mr. SHERER. Before you arrive at that result would you not look at the other side?

Mr. UNTERMYER. No; I would rather look at one side at a time.

Mr. SHERER. Because there is another side.

Mr. UNTERMYER. We will have the other side later.

Mr. SHERER. What is it you want to figure.

Mr. UNTERMYER. It is one-tenth and one-fourth. The average is one-seventh of 1 per cent.

Mr. NEELEY. That would be approximately \$80,000. It would not be quite \$80,000.

Mr. HAYES. \$78,500, in round numbers.

Mr. UNTERMYER. At any rate it is about \$25,000,000 a year. Mr. Sherer, we would be glad to have you state the other side of that proposition.

Mr. SHERER. If there is that much profit, it must have been that before imposing this exchange charge the banks were at pretty

nearly the same cost themselves to collect these checks, because they were loaning money to the depositors, in effect, by allowing them to cash out of town checks which it would take the banks anywhere from 4 days to 10 or 12 days to collect and get the money; and the rates for money in New York varying all the time. These banks were out the interest on these out of town checks as well as the actual cost paid the country bank for remitting New York funds.

Again, merchants of the country—this is no reflection on the merchants of the country, because they are just as honorable as merchants of the city, but they took advantage of every opportunity, and they would draw checks on banks in far-away places, awaiting the arrival of their goods, before the money was in the banks to meet those checks; in other words, kiting or floating a large amount of money through checks in the New York banks, and paying them some days after they drew them. The whole situation then was a matter of seeing who could make the most by floating checks, and they were buying their goods and throwing the burden of it on the New York banks. The New York merchants were trying to save themselves; and to-day we hear little or no complaint whatever of the collection charges from the business people in New York.

Mr. UNTERMYER. If you charged 1 per cent instead of one quarter of 1 per cent you probably would hear less, would you not?

Mr. SHERER. Hear what, less complaint?

Mr. UNTERMYER. Yes.

Mr. SHERER. I do not know why.

Mr. UNTERMYER. If you charged 1 per cent instead of one-fourth of 1 per cent the country checks would not come here at all, would they?

Mr. SHERER. I do not think that would be good reasoning; because we can not take extremes, you know.

Mr. UNTERMYER. Do you not think each bank can pretty well take care of itself on this subject?

Mr. SHERER. That is a matter of opinion.

Mr. UNTERMYER. Do you not think each bank ought to be allowed to take care of itself and compete with others in business of that kind?

Mr. SHERER. I would not like to answer that, because it is a matter of opinion.

Mr. UNTERMYER. Let us take up your argument. You say the banks would be out the interest whilst these checks were being collected, do you not?

Mr. SHERER. Yes.

Mr. UNTERMYER. That would depend on whether they were simply received for collection, or were credited to the customer's account.

Mr. SHERER. Yes.

Mr. UNTERMYER. That is a matter between the bank and its customer.

Mr. SHERER. Yes sir.

Mr. UNTERMYER. If the bank simply received them for collection it would not credit them until they were collected.

Mr. SHERER. No.

Mr. UNTERMYER. Then it would make interest instead of losing it.

Mr. SHERER. No.

Mr. UNTERMYER. Because it would be credited in its account at the place of collection, and it would not allow the customer the credit until it had received advices, would it.

Mr. SHERER. The foreign bank which does the collecting for the New York bank does not allow it interest on that collection. They collect that money and forward it and charge them for doing it.

Mr. UNTERMYER. The collecting bank does, does it?

Mr. SHERER. Yes.

Mr. UNTERMYER. That is not uniformly so; either, is it?

Mr. SHERER. I do not know, of course.

Mr. UNTERMYER. Do you not know there are times of the year when it is to the interest of New York City banks to take these out of town checks, when the exchange is in favor of the interior against the city of New York?

Mr. SHERER. That might happen—

Mr. UNTERMYER. Will you not answer my question? Do you not know there are seasons of the year when that is so?

Mr. SHERER. Very seldom.

Mr. UNTERMYER. Do you not know it is nearly half the year that exchange is in favor of the interior against New York?

Mr. SHERER. Not on all points, no.

Mr. UNTERMYER. But on many points?

Mr. SHERER. Yes; some points.

Mr. UNTERMYER. Therefore, this argument of yours that it is a burden is not true in all seasons of the year, is it?

Mr. SHERER. No; not in all cases.

Mr. UNTERMYER. No; there are many times and many seasons of the year when a bank in New York could afford to pay something for the privilege of getting out-of-town checks. Is not that true?

Mr. SHERER. Not now. It was, some years ago.

Mr. UNTERMYER. It is so to-day, is it not? You know that?

Mr. SHERER. I do not know it to-day, at all; because I know when exchange at certain periods on New Orleans was worth a premium here we paid for it, but now I think that thing settles itself so that there is no longer a great influx or outgo of money into and out of New York as there was in former years on account of crop movement, and things of that kind. It is spread out better.

Mr. UNTERMYER. Do you state that seriously, of your own knowledge?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. That there is no great influx of money into New York.

Mr. SHERER. Not such as there was a few years ago. There is an influx, of course. I will not say there is not.

Mr. UNTERMYER. And do you not know that every bank in the country, either directly or through an intermediary, keeps an account in New York?

Mr. SHERER. Yes.

Mr. UNTERMYER. Do you not know that and that it has a balance here?

Mr. SHERER. Yes; and I know in times of stress they have to take it away.

Mr. UNTERMYER. We are not talking about that, now. We are talking about the balance of exchange being in favor of the interior parts of the country.

Mr. SHERER. My answer to that, sir, is that if I remember right it is so occasionally, but not as a rule; not during the majority of the time, or at least 7 months out of the 12 it is not so.

Mr. UNTERMYER. At any rate, you are not able to give us any reason, are you, why each bank should not be allowed to deal as it pleases with its own customers on the question of collecting out-of-town checks?

Mr. SHERER. No, sir; I have not.

Mr. UNTERMYER. This average commission of one-seventh of 1 per cent on the collection of checks amounts to how much on each thousand dollars of face value of the checks? That is \$7 a thousand, is it not?

Mr. SHERER. No; it is one-seventh of 1 per cent.

Mr. HAYES. It is one and three-sevenths dollars.

Mr. UNTERMYER. It is one and three-sevenths dollars, is it not?

Mr. SHERER. Yes. One-tenth of 1 per cent is 10 cents on a hundred dollars.

Mr. FARRAR. It is 70 cents per thousand.

Mr. SHERER. That is exactly what it is.

Mr. UNTERMYER. The Boston Clearing House has a department for the collection of out-of-town checks, has it not?

Mr. SHERER. Yes, sir; New England checks only.

Mr. UNTERMYER. And do you know what it costs them to collect?

Mr. SHERER. I do not.

Mr. UNTERMYER. Do you not know it costs them only 7 cents per \$1,000?

Mr. SHERER. I do not know what it costs them.

Mr. UNTERMYER. You have read Mr. James G. Cannon's book on clearing houses, have you not?

Mr. SHERER. Yes; I think so; I have not read it very closely.

Mr. UNTERMYER. It is generally regarded as accurate, is it not?

Mr. SHERER. Oh, yes.

Mr. UNTERMYER. I will read from page 274 as follows:

The cost of collecting these items—

Referring to the out-of-town checks—

has averaged about 7 cents per \$1,000.

Mr. SHERER. That territory, New England, is a small one.

Mr. UNTERMYER. I am not asking you to justify everything; I am only asking you whether you would accept that as a fact?

Mr. SHERER. Yes. If it is so stated there, yes. But there is a difference between collecting checks right around Boston and in the narrow territory of New England, and collecting checks on Bloomington, Ill., and on Iowa, or on Louisville, Ky.

Mr. UNTERMYER. Do you call the whole of New England "right around Boston"?

Mr. SHERER. That which is not in Boston, yes.

Mr. UNTERMYER. I think you said that the average daily amount of out-of-town checks coming through the New York banks is \$55,000,000. That was in what year, Mr. Sherer?

Mr. SHERER. That was just about the time the collection charges were adopted.

Mr. UNTERMYER. That was in 1899?

Mr. SHERER. Yes.

Mr. UNTERMYER. Do you not know they are vastly greater now?

Mr. SHERER. The amount is greater, but I do not think the percentage of out-of-town checks is any greater.

Mr. UNTERMYER. No; the percentage would still be about 25 per cent.

Mr. SHERER. Yes.

Mr. UNTERMYER. And 25 per cent of the present business would be how much as compared with \$55,000,000? Probably double that, would it not?

Mr. SHERER. Yes; double that, quite.

Mr. UNTERMYER. We would have to deal with an item of \$100,000,000, approximately, per day of out-of-town checks as against \$55,000,000?

Mr. SHERER. Yes.

Mr. UNTERMYER. And instead of this entailing an annual expenditure of approximately \$25,000,000 for collection charges it would be about \$50,000,000 a year, would it not?

Mr. SHERER. Yes; but not on the same amount of business.

Mr. UNTERMYER. No; but on the present business.

Mr. SHERER. Yes.

Mr. UNTERMYER. The tax on the present business would be about \$50,000,000 a year.

Mr. SHERER. But that would be no greater than the tax on the volume of business in 1899.

Mr. UNTERMYER. I would like to ask you not to argue the questions, Mr. Sherer.

Mr. SHERER. I beg your pardon, I did not mean to.

Mr. UNTERMYER. I am trying to get the fact, if the country now pays this tribute or charge, or whatever it may be, to the clearing house banks in the city of New York, of approximately \$50,000,000 a year for collecting out-of-town checks.

Mr. SHERER. That amount seems so very large I am not ready to adopt it unless I could figure on it. Fifty million dollars is a great deal of money; a great deal of money. I would not like to go on record as stating that, without analysis. That is more than the profits of the business in New York City in the banking line.

Mr. UNTERMYER. I know it looks big, but if you will figure it perhaps you will find it is not so big. You can figure it now, can you not? Take an average of one-seventh of 1 per cent on \$100,000,000 per day. How much is that?

Mr. SHERER. Well, it is \$70,000, is it not?

Mr. FARRAR. One per cent is \$1,000,000.

Mr. SHERER. It is not 1 per cent, it is one-seventh of 1 per cent.

Mr. UNTERMYER. That is \$70,000 a day, is it not?

Mr. NEELY. Figure it on \$100,000,000. It is \$142,857 per day.

Mr. UNTERMYER. What, one-seventh of 1 per cent is?

Mr. NEELY. Yes.

Mr. UNTERMYER. \$142,857 per day, taking only 300 days of the year, would be \$42,857,152.

Mr. SHERER. Well, it is so if it so figures.

Mr. UNTERMYER. In that connection let me read you something else from Mr. Cannon's book. By the way, Mr. Cannon is the president of the Fourth National Bank, is he not?

Mr. SHERER. He is, yes sir.

Mr. UNTERMYER. He is a recognized authority on clearing-house matters?

Mr. SHERER. Yes sir.

Mr. UNTERMYER. He has been an active member of the clearing house for many years?

Mr. SHERER. Yes sir.

Mr. UNTERMYER. And a member of the clearing-house committee.

Mr. SHERER. At present, yes.

Mr. UNTERMYER. He has made many valuable addresses and written many interesting works on clearing-house and banking affairs, has he not?

Mr. SHERER. Yes sir.

Mr. UNTERMYER. He is an eminent authority on the subject, is he not?

Mr. SHERER. Yes sir.

Mr. UNTERMYER. Let me read you from pages 14 and 15 of his book on clearing houses, and then ask you whether your understanding of this subject is the same as is there stated:

Still another of the special functions of a clearing house is the fixing of uniform rates of exchange, and of charges on the collection of items. In 1881, the year in which the clearing house in Buffalo was organized, a prominent banker in that city succeeded in uniting the banks on rates. The promoter of the enterprise, though well known for rate cutting, was a successful banker, and had always been able to meet competition successfully. Hence, when he proposed a uniform-rate system, the other banks were only too glad to consider his propositions. Meetings were accordingly held, schedules of charges were drawn up, and rules were formulated for the guidance of the banks. In a short time a schedule was adopted and put in successful operation. The rates were not high, but were arranged so as to do justice, as far as possible, to the banks on the one hand and the depositors on the other, and so satisfactory was the new régime that it remained in harmonious operation for nearly nine years. It is said that the increase in profits or collections, to the 12 banks interested, over the former method of doing business free of charge, paid the dividends of all the banks each year, and whatever profit was made on loans and discounts was used to build up the surplus. But the formation of new banks finally played havoc with the uniform-rate system. While it lasted, it was made obligatory upon every bank, but in 1891 the newly organized banks began to cut on rates. The clearing-house members endeavored to induce the new banks to join the association, but did not at first succeed. It was regarded as unjust to the member banks to hold them to the existing agreement when their competitors were free, and accordingly, in June, 1891, the schedule of rates was made no longer obligatory.

Do you remember the history of that movement?

Mr. SHERER. No sir; I do not remember it myself, but I expect it is right if Mr. Cannon says so. That is true.

Mr. UNTERMYER. It would appear from that that it was rather a profitable business, would it not?

Mr. SHERER. In Buffalo, yes.

Mr. UNTERMYER. Do you know how profitable it is in New York?

Mr. SHERER. I do not, no.

Mr. UNTERMYER. Have you any idea how long it would last if the banks were let loose to compete for business?

Mr. SHERER. No sir.

Mr. UNTERMYER. It would not last over many nights, would it?

Mr. SHERER. I do not think so; because unless they were united in it, it could not last.

Mr. UNTERMYER. Now, Mr. Sherer!

Mr. SHERER. They would give it up.

Mr. UNTERMYER. Why do you repeat that when you have already told us that the only alternative that a bank would have would be to go out of the clearing house?

Mr. SHERER. I had no idea of repeating it, except that—

Mr. UNTERMYER. Do you not know that is no alternative at all? You have said it a number of times.

Mr. SHERER. If they gave it up it would not exist, would it?

Mr. UNTERMYER. You mean if they all gave it up?

Mr. SHERER. Yes.

Mr. UNTERMYER. But why should they all give that up when it is making so much money for them?

Mr. SHERER. I do not think they ought to.

Mr. UNTERMYER. But suppose one of them wanted to give it up so as to get more business, it would not be possible for him to do so, would it?

Mr. SHERER. It would not be, you say?

Mr. UNTERMYER. Yes.

Mr. SHERER. No.

Mr. UNTERMYER. Suppose the Clearing House Association were to change this rule so as to leave it to the option of the bank; how long, in your judgment would this regulation last?

Mr. SHERER. I do not think it would last very long.

Mr. UNTERMYER. It is only because they have them by the throat and hold them to it that it lasts, is it not?

Mr. SHERER. No sir; I would not answer that anybody is held by the throat, at all.

Mr. UNTERMYER. Is there any regulation as to the charge on exchange?

Mr. SHERER. Any regulation as to the charge? No; excepting, as I understand the question, sir, as answered here, the charge—

Mr. UNTERMYER. There is no rule regulating that, yet?

Mr. SHERER. No, sir.

Mr. UNTERMYER. It has been mooted a good deal, has it not?

Mr. SHERER. It has never come up among us.

Mr. UNTERMYER. I know, but it has been mooted among the members?

Mr. SHERER. Yes.

Mr. UNTERMYER. And it has been mooted among the members as to whether they had not better get up a combination on the rates of exchange?

Mr. SHERER. I suppose that is one of the things that has been mooted.

Mr. UNTERMYER. It has also been mooted as to whether they had not better get up a combination on interest?

Mr. SHERER. I know as to some of the exchanges—

Mr. UNTERMYER. Some of the exchanges have a combination on rates of interest?

Mr. SHERER. Some clearing houses?

Mr. UNTERMYER. Some clearing houses.

Mr. SHERER. I do not know of any.

Mr. UNTERMYER. Do you not know that that existed in Buffalo at that time?

Mr. SHERER. Only as you read it there.

Mr. UNTERMYER. I did not read that.

Mr. SHERER. I did not know that.

Mr. UNTERMYER. I will read it to you. All of those matters are really outside of the functions of the Clearing House Association?

Mr. SHERER. Yes.

Mr. UNTERMYER. They are things that have no relation to clearing, that are done under cover of the Association?

Mr. SHERER. I should say that is true.

Mr. UNTERMYER. Yes; that is true. And you think it is right to do, under cover of the Association, things not relating to it, by either compelling the members to agree to it or expelling them from the Association?

Mr. SHERER. Why, certainly not. Let me read, if you please, section 1, article 2, of the constitution.

Mr. UNTERMYER. What page is that?

Mr. SHERER. It is page 1 of the constitution.

Mr. UNTERMYER. Yes.

Mr. SHERER. It simply sets forth all that we have been talking about. It says:

SECTION 1. The objects of the Association shall be the effecting at one place of the daily exchanges between the members thereof and the payment at the same place of the balances resulting from such exchanges, the promotion of the interests of the members and the maintenance of conservative banking through wise and intelligent cooperation.

That is the object of the Association. Beyond that, it is matter of opinion as to whether it is wise to have this or that. The results will show whether it has been or not.

Mr. UNTERMYER. You might justify anything under that phraseology, "the promotion of the interests of the members," might you not?

Mr. SHERER. Well, yes; within reason.

Mr. UNTERMYER. I mean anything, no matter how harmful to the public?

Mr. SHERER. Oh, no.

Mr. UNTERMYER. So long as it was in the interests of the members, it might be justified under the language of that clause?

Mr. SHERER. Anything that was harmful to the public would be detrimental to the interests of the banks.

Mr. UNTERMYER. Suppose it was suggested to jump the rate of exchange one-half.

Mr. SHERER. That would be detrimental to the interests of society and would hurt the banks.

Mr. UNTERMYER. Who says so?

Mr. SHERER. Common intelligence, to my mind; as small as I am, it says so.

Mr. UNTERMYER. It would add to the revenues of the banks, would it not?

Mr. SHERER. For a very brief time, sir.

Mr. UNTERMYER. Do you mean that they would not get any more country checks?

Mr. SHERER. No, sir; there would be a financial revolution.

Mr. UNTERMYER. You mean some people would not stand it?

Mr. SHERER. Yes; a great many people would not stand it.

Mr. UNTERMYER. And that is the reason you think it would not be wise?

Mr. SHERER. It would not be wise.

Mr. UNTERMYER. You have got the rate now about as high as they will stand it, have you not?

Mr. SHERER. I think so. May I read another section, Mr. Untermyer, and not take up your time?

Mr. UNTERMYER. From what page?

Mr. SHERER. From the same page, section 3. It reads as follows:

SEC. 3. The responsibility of the Association is strictly limited to the faithful distribution among the creditor members of the sums actually received from debtor members. Should any loss occur whilst the said balances are in the custody of the Manager or his assistants it shall be borne and paid by the members pro rata according to the average amount which each shall have sent to the Clearing House for the preceding year.

The responsibility of the association is strictly limited, and beyond that as an association it is not responsible for what it does. The individual banks are responsible for their action.

Mr. UNTERMYER. Now, let us see what you mean by that. You mean by that that the Clearing House Association is, as an association, responsible for these rules relating to the collection of out-of-town paper. Is that right?

Mr. SHERER. Only—

Mr. UNTERMYER. Is that what you mean?

Mr. SHERER. It is.

Mr. UNTERMYER. Then, if they are not responsible for those rules, why do they expel a member if he does not conform to them?

Mr. SHERER. Because he agrees to be expelled.

Mr. UNTERMYER. I see. That is your explanation, is it? Well, the real responsibility of the Association, as you say, is limited?

Mr. SHERER. Yes; the law says so.

Mr. UNTERMYER. It is limited to the distribution of the exchanges among members?

Mr. SHERER. The correct payments of balances, etc.

Mr. UNTERMYER. Yes. That is really all the Association assumes to do. Is that right?

Mr. SHERER. Yes.

Mr. UNTERMYER. And when it assumed to do this other thing, it had not really any right as an association to do it? Is that your idea?

Mr. SHERER. Yes; it had a right if they all complied with it.

Mr. UNTERMYER. I know; but as an association, your idea is that they had not any right to do it?

Mr. SHERER. That would be the inference from that rule.

Mr. UNTERMYER. That is the inference from the rule. Then, not having any right to do it, but everybody having agreed to do it, and everybody having agreed to be expelled if they did not do it, you think that is a matter in which the public have no interest?

Mr. SHERER. The public have an interest in everything that relates to their finances; and the banks have an interest in it, too.

Mr. UNTERMYER. Yes. We will leave that right there. May I call your attention, in connection with the subject we are now discussing, to a certain statement, on page 13 of this valuable book of Mr. Cannon's, on clearing-house deposits. It reads as follows:

Another of the special functions of a clearing house is the fixing of uniform rates of interest on deposits, and in a few instances on loans.

Do you agree to that?

Mr. SHERER. No, I do not.

Mr. UNTERMYER. No. You think that is quite outside the functions of a clearing house?

Mr. SHERER. Yes.

Mr. UNTERMYER. I read further:

In some associations the legality of such action is still regarded as a moot question, and hence they are reluctant to enforce such a rule. Other associations, however, have not hesitated to regulate the members on these points. As early as 1881 rates of interest were agreed upon in Buffalo, and were observed practically without fraction or violation for some nine years thereafter. They were broken at last only because of their nonobservance by new banks, which at the outset refused to become members of the clearing-house organization.

Are you aware of those facts?

Mr. SHERER. No.

Mr. UNTERMYER. This is all news to you, is it?

Mr. SHERER. Yes, although I must say I have read the book; but I had no particular interest in the details of that part of it.

Mr. UNTERMYER. You have read it?

Mr. SHERER. Yes.

Mr. UNTERMYER. I read further:

The Sioux City Clearing House Association has fixed a maximum rate of interest of 2 per cent per annum, to be paid by the members upon bank accounts or balances, and on time certificates of deposit 3 per cent. Without any special clearing-house regulation on the subject, it is generally understood by the banks that 6 per cent is the minimum rate that shall be charged on first class loans, and that the rate shall range from that to 8 per cent, according to the character of the risk.

Are those new facts to you?

Mr. SHERER. They are new; and if I had read them I should not consider them, because legal rates of interest are fixed in most States.

Mr. UNTERMYER. Yes; but a minimum rate, by an arrangement or combination between the banks, is not fixed in any State, is it?

Mr. SHERER. Possibly I did not consider Sioux City as a very important part of the banking interests of the United States, and did not pay much attention to what they were doing down there.

Mr. UNTERMYER. Yes, but you would not approve of the banks of New York getting together?

Mr. SHERER. No, sir.

Mr. UNTERMYER (continuing). And combining to charge such a minimum rate of interest of 6 per cent, if money was worth about 2 per cent, would you?

Mr. SHERER. No, sir.

Mr. UNTERMYER. And that is about as reasonable a thing for them to do as to get together in the Clearing House Association and tax all country checks, is it not?

Mr. SHERER. No, I do not agree with you.

Mr. UNTERMYER. You do not think so?

Mr. SHERER. No, sir.

Mr. UNTERMYER. It all depends upon how moderately they use their power, does it not?

Mr. SHERER. Not moderately, but how carefully they use it.

Mr. UNTERMYER. How sensibly they use it?

Mr. SHERER. In their relations to the general business public.

Mr. UNTERMYER. You think that the banks ought to have a right to combine to stifle competition as long as they are amiable gentlemen; is that the idea?

Mr. SHERER. I do not like to say that they have a right to stifle competition.

Mr. UNTERMYER. They have a right to combine and——

Mr. SHERER. To combine to protect their interests, and their stockholders, and the business community.

Mr. UNTERMYER. And to tax the public what they think reasonable?

Mr. SHERER. No; they have no right to tax the public what they think reasonable, but they have a right to charge their dealers a little above what it costs.

Mr. UNTERMYER. So as to make enough to pay dividends on their stock?

Mr. SHERER. There is plenty of bank stock in New York very cheap, if they do make so much money.

Mr. UNTERMYER. There is plenty of it that is pretty dear, too.

Mr. SHERER. Not so much, when you take the double responsibility.

Mr. UNTERMYER. Do you not know that the bank and trust company stocks are selling at an average of from four to six times the issue cost?

Mr. SHERER. Yes, but take the interest on that——

Mr. UNTERMYER. And that they are paying dividends, and large dividends?

Mr. SHERER. I know of bank stock in New York that is worth three or four thousand dollars, and it is only a four per cent investment.

Mr. UNTERMYER. That is because those stocks are considered very highly as an investment?

Mr. SHERER. Yes; it is only a four per cent investment, at that.

Mr. UNTERMYER. You know of stocks of banks that have a capital of \$25,000,000 that are earning 30 or 40 per cent a year, now?

Mr. SHERER. Yes, but they are——

Mr. UNTERMYER. Do you not know it?

Mr. SHERER. No, I do not know of any paying 30 or 40 per cent a year.

Mr. UNTERMYER. Earning, I said.

Mr. SHERER. No.

Mr. UNTERMYER. I said earning 30 or 40 per cent?

Mr. SHERER. No, I do not know it.

Mr. UNTERMYER. Have you looked at their statements?

Mr. SHERER. Yes.

Mr. UNTERMYER. You get them frequently, do you not?

Mr. SHERER. I do not figure that they make as much as that. However, that is only a question of detail.

Mr. UNTERMYER. Not exactly a question of detail. Do you not know that the National City Bank and the First National Bank are earning over 30 per cent on their present large capital?

Mr. SHERER. The National City Bank is only paying 8 per cent dividends.

Mr. UNTERMYER. I did not ask you that. I asked you whether you did not know that they were earning 30 per cent or 40 per cent.

Mr. SHERER. I do not know that.

Mr. UNTERMYER. I think it is 40 per cent, on a capital of \$25,000,000. Is not the capital \$25,000,000?

Mr. SHERER. \$25,000,000. And they have a surplus of \$15,000,000.

Mr. UNTERMYER. A surplus that has been accumulated within a few years.

Mr. SHERER. But they have to earn on that, too.

Mr. BROWN. And that has been accumulated from the earnings.

Mr. UNTERMYER. This is all by way of parenthesis. I do not mean to criticize those banks or pick them out from the others.

Mr. SHERER. And they do not need my defense, either.

Mr. UNTERMYER. The New York banks do compete with one another as to interest they pay on deposits?

Mr. SHERER. Yes.

Mr. UNTERMYER. The Association has no rule stopping that, has it?

Mr. SHERER. None whatever.

Mr. UNTERMYER. I want to take up now Section 7 of Article 3 of the Constitution of the New York Clearing House Association.

Mr. SHERER. What page, please?

Mr. UNTERMYER. On page 7.

Whenever a member of this Association shall make any change in its condition either in its management or ownership, or any change in its charter, or shall merge with any other institution not a member of this Association, the Clearing House Committee shall have the power to examine said member, and submit the question of a continuance of its membership to the Association; any action on which question must receive the same assent as provided in the case of the expulsion of members.

In the expulsion of members a majority vote is required, is it not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. So that under this section, if a bank makes any change in its management or ownership, or merges with any other bank, it is optional with the Association whether it will drop the bank or retain it in the Association, is it not?

Mr. SHERER. Yes, sir. May I explain the answer?

Mr. UNTERMYER. Yes, certainly.

Mr. SHERER. This clause in the constitution was put in the amended form for this reason—

Mr. UNTERMYER. That is not an explanation of the answer. I have not asked the reason.

Mr. SHERER. Very well, then.

Mr. UNTERMYER. But if you would like to state it, and it will not take too long, you may do so.

Mr. SHERER. I would like to, because it seems to be something that needs an explanation.

Mr. UNTERMYER. It is pretty arbitrary, is it not?

Mr. SHERER. The old Mechanics & Traders Bank got in rather bad shape. and an enterprising individual owning the Union Bank

of Brooklyn wanted to get into the clearing house and thought the best way was to merge with the Mechanics & Traders Bank. They thought that after they got into the clearing house they would change their name back again. As history shows, both those institutions were too weak, and they went to pieces. The Union Bank is still in trouble and trying to settle obligations. That rule was established to prevent the tail from wagging the dog.

Mr. UNTERMYER. Which was the tail and which was the dog?

Mr. SHERER. The dog in that case was the Mechanics & Traders Bank and the tail was the Union Bank of Brooklyn, and the Mechanics Bank could not get into the clearing house except by the subterfuge of merging with the other bank.

Mr. UNTERMYER. That was not a criminal thing to do, to buy out a bank and merge it, and then ask to be allowed to come into the clearing house? Your clearing house members are doing that every day.

Mr. SHERER. But they must have a good character in order to do it.

Mr. UNTERMYER. But we are not talking about character. Good character often depends on which group of bankers you belong to.

Mr. SHERER. I do not admit that.

Mr. UNTERMYER. Have you any other explanation to make of this Section 7?

Mr. SHERER. The clearing house shall have the power, it provides, to examine said member. If they examine him and find it is a case of the tail wagging the dog, they keep him out. If they find the institution is all right, they let it in and it assumes all the prerogatives of a member.

Mr. UNTERMYER. No, that is not what it says.

Mr. SHERER. Why not?

Mr. UNTERMYER. They shall not only have the power of examining the member, but unless the member gets the consent of the members of the Association he can not come in, can he?

Mr. SHERER. No.

Mr. UNTERMYER. Under this rule, if a bank changes its management, or one man sells a bank to another bank, it is entirely optional with the Clearing House Association whether it will put that bank out, which has been and is a member, or leave that bank in, is it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. And that rests primarily with the committee, does it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. The clearing house committee.

Mr. SHERER. Yes.

Mr. UNTERMYER. You recognize, do you not, that in the City of New York potentially every bank is a competitor of the other banks?

Mr. SHERER. Yes.

Mr. UNTERMYER. That is, in theory, is it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. In practice it is not true, is it?

Mr. SHERER. That I could not answer.

Mr. UNTERMYER. Well, due to their interlocking directorates and their community of interests, it is no longer true as to the large banks, is it?

Mr. SHERER. I can not answer that.

Mr. UNTERMYER. You would rather not answer it?

Mr. SHERER. Yes; I would rather not say what they are doing, when I do not know positively.

Mr. UNTERMYER. Under this rule no man or group of men can buy the control of a clearing house bank without the consent of the clearing house, can they?

Mr. SHERER. They can not, and remain in the clearing house.

Mr. UNTERMYER. Of course I mean and remain in the clearing house. And if they could not remain in the clearing house they would not want to buy it. So that that gives the clearing house really an absolute veto upon any man going into the banking business in the City of New York, in effect, does it not?

Mr. SHERER. No, I do not say so at all.

Mr. UNTERMYER. Well, it gives them the veto against any man or group of men that want to acquire a bank without putting it out of the clearing house?

Mr. SHERER. Yes, if that was applied strictly.

Mr. UNTERMYER. You understand I am discussing the power of the committee under this constitution. You understand that, do you not?

Mr. SHERER. Yes.

Mr. UNTERMYER. I am not discussing the question of the use of that power.

Mr. SHERER. Well, they certainly have that power, that no bank can merge with another bank and no one man or a dozen men can buy a bank a member of the clearing house unless they can submit to the same examination that they did when they were originally admitted.

Mr. UNTERMYER. No, that is not the only way. Suppose they make the examination and do not choose to allow that bank to continue in the clearing house.

Mr. SHERER. That would be imputing wrong motives, which I will not do.

Mr. UNTERMYER. We are talking about the constitution of the Clearing House Association, and we are discussing section 7. Do you or not understand that under section 7 no bank can change control, if it is a clearing-house member, and remain a clearing-house member, without the consent of the clearing-house committee? That is so, is it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. Do you not think that is a monstrous regulation for a great interstate financial association to have?

Mr. SHERER. No, I do not.

Mr. UNTERMYER. It rests entirely, for its proper application, upon the will and discretion of the five men who constitute the committee, does it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. And those men are in the control and the management of financial institutions of which this institution would be a competitor, are they not?

Mr. SHERER. Yes.

Mr. UNTERMYER. They can keep their competitor out.

Mr. SHERER. Yes.

Mr. UNTERMYER. That you do not consider a monstrous regulation?

Mr. SHERER. No. I can tell you the reason why.

Mr. UNTERMYER. Well, you may state the reason why.

Mr. SHERER. The reason why is that it is to be supposed that the average business man who is manager of a bank or controlling a bank is a person of some moral status, and that he must see from his experience that he can make more money, to put it that way, by walking straight than by walking crooked. If they find an honorable man or set of men merging a bank or taking hold and showing that they can do business in a responsible manner, they have never yet refused them admission to the clearing house; and if they took the narrow view that because they were competitors of theirs they would not allow them to compete, it would react upon them, and the business community would not stand for it. You must understand that the business men of this town are behind the banks. The banks do not run the business here; it is the business men that run it. During the panic—

Mr. UNTERMYER. What do you mean by business men; the big financiers?

Mr. SHERER. No, I mean the merchants.

Mr. UNTERMYER. Do you not know that it is the men who really control the patronage of these banks that really control the banks?

Mr. SHERER. No.

Mr. UNTERMYER. You do not think so?

Mr. SHERER. I will tell you why.

Mr. UNTERMYER. I am afraid we will never get through if we listen to any more whys.

Mr. SHERER. There is one point I would like to make.

Mr. UNTERMYER. Very well; you may make your point.

Mr. SHERER. In 1907 we issued \$101,000,000 of loan certificates.

Mr. UNTERMYER. We are coming to that in a little while.

Mr. SHERER. Seventy-two per cent of that collateral consisted of merchants' and manufacturers' notes and business men's notes, and only 28 per cent consisted of stocks and bonds put up by Wall Street brokers and bankers. That shows how the credit system went out to the manufacturers and business men all over the United States.

Mr. UNTERMYER. Let us see if it shows it. The merchants' paper was time paper, was it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. And therefore it was borrowed on; whereas the stock exchange collateral was salable at any time.

Mr. SHERER. Yes.

Mr. UNTERMYER. It was demand paper?

Mr. SHERER. Yes.

Mr. UNTERMYER. It was not necessary for the bank to borrow on the stock exchange collateral; they could go out and sell out the loan?

Mr. SHERER. Yes, if forced to do so.

Mr. UNTERMYER. They had a right to.

Mr. SHERER. Yes.

Mr. UNTERMYER. Pursuing your argument, that this is not a monstrous regulation because of the despotic power it gives to a few men, does it not resolve itself into this, that these men ought not to be

subject to any kind of law at all, because they are going to do right anyway?

Mr. SHERER. No, I would not grant that.

Mr. UNTERMYER. Mind you, we are not impugning these gentlemen or their motives, and we have no intention of doing so.

Mr. SHERER. I understand that.

Mr. UNTERMYER. We are speaking of a condition, and of unbridled and unlicensed and uncontrolled power. Do you not believe that a power such as that, the power to prevent men from buying an institution and going in the banking business, ought to be subject to some sort of judicial review or control?

Mr. SHERER. I do not think any—

Mr. UNTERMYER. Will you not answer my question? Do you not think, in all justice, that such a power should be subject to some sort of judicial review or control?

Mr. SHERER. Judicial review?

Mr. UNTERMYER. Yes.

Mr. SHERER. Yes.

Mr. UNTERMYER. Do you think, for instance, that if I want to buy a bank in good standing, and have the money to pay for it, and am a man of good character, and the clearing-house committee, who are in the same business that I want to go into, should refuse to allow me to buy that bank, that I ought to have some sort of redress in the courts?

Mr. SHERER. Yes.

Mr. UNTERMYER. You know that there is no such thing?

Mr. SHERER. I know there is no such thing.

Mr. UNTERMYER. And that is a matter that ought to be corrected?

Mr. SHERER. Would you leave me in that position without another word?

Mr. UNTERMYER. No; certainly not. Say anything you please on the subject.

Mr. SHERER. What I would add to that would be that the courts would rightly rule that I can buy the bank if I want to.

Mr. UNTERMYER. Do you not know that the courts have repeatedly ruled that they have no control of the Clearing House Association?

Mr. SHERER. I was going to say, further, that the court would not deny me the right to buy that bank, or to get a charter or whatever authority is necessary to carry on the banking business; but no court would say that a voluntary institution is obliged to admit members on request without their submitting to certain conditions which that voluntary institution has in its constitution.

Mr. UNTERMYER. That is the present law.

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. Do you not think that the law ought to be amended as affecting an interstate institution like the Clearing House Association, so that the courts can review the action of the committee in refusing a man the right to remain in the clearing house when the ownership of the bank changes or put him out on account of the change of ownership?

Mr. SHERER. Oh, yes; because whenever there is a wrong there should be a way to correct it.

Mr. UNTERMYER. So there you agree with us?

Mr. SHERER. Yes.

Mr. UNTERMYER. All right. We will pass on to something else.

I would ask that this pamphlet, it being the constitution and the rules and regulations of the New York Clearing House Association, be marked as an exhibit.

(The pamphlet referred to was marked "Exhibit 20, June 6, 1912.")

Mr. UNTERMYER. I call your attention to Sections 2, 3, and 4 of article 9 of the constitution, on page 13, as follows:

SEC. 2. The consent of the clearing house committee shall also be necessary to the transfer of the making of exchanges for a nonmember from one member to another member.

Under that regulation, as I understand it, if a nonmember is using any one member of the Association through which to clear, and wants to clear through another member, that can not be done without the approval of the clearing house committee. Is that right?

Mr. SHERER. That is right.

Mr. UNTERMYER. If that nonmember bank finds it can make better arrangements, more advantageous clearing-house arrangements, with some other member, it can not do it without the consent of the Association?

Mr. SHERER. It can not, no.

Mr. UNTERMYER. Why should that be so?

Mr. SHERER. Because we have in mind, in giving to a member bank the privilege of making the exchanges for nonmember banks, the responsibility, capital, etc., of the member bank, and we would not like to have a small bank, with a small capital, assume the responsibility of clearing for several nonmember banks, as they have done in some instances; so we would hold back that consent, having in mind always the protection of the entire body against the overloading of one member of that body with some responsibility that it ought not to assume.

Mr. UNTERMYER. It is a sort of a parental concern, over the members of the Association, is it?

Mr. SHERER. Yes sir.

Mr. UNTERMYER. And that is the keynote of most of these rules, is it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. Section 3 reads as follows:

SEC. 3. Every nonmember bank or institution now or hereafter sending its exchanges through a member of the Association shall pay to the Association the amount of \$1,000 annually in advance.

Mr. SHERER. Yes sir.

Mr. UNTERMYER. That does not give the nonmember bank any voting power, does it?

Mr. SHERER. No.

Mr. UNTERMYER. Or any rights in the Association?

Mr. SHERER. No sir, except to have his exchanges made.

Mr. UNTERMYER. But he is under obligation to have his books open to the investigation of the Clearing House Association at any time, is he not?

Mr. SHERER. Yes; and his advantage of course is to have checks on him passed through the clearing house instead of having them presented at his counter.

Mr. UNTERMYER. But as against that if some day the clearing house committee took it into its head that they did not think he was a proper member, they could end him, could they not?

Mr. SHERER. Yes; they could take away any bank's privileges.

Mr. UNTERMYER. But I mean when they take away a privilege of that kind they practically end the bank, do they not? That is so in effect, is it not?

Mr. SHERER. Yes; it is so in effect. I have in mind—

Mr. UNTERMYER. Is not that a tremendous power for any private bank not subject to legal supervision—the power to simply close up a bank by its ipse dixit, without judicial review? You do not approve of that?

Mr. SHERER. I have approved of a case where one bank, a member of the Association, was reported to the Comptroller of the Currency as having its capital impaired—

Mr. UNTERMYER. I am not speaking of any power of the Comptroller of the Currency, or a case where a bank is closed by Federal authority or state authority; I am speaking of the exercise of the power of the Clearing House Association to stop a member bank clearing for a nonmember having the effect of closing that nonmember bank without federal or state authority.

Mr. SHERER. Are they responsible for the effect?

Mr. UNTERMYER. Do you not think that is too great a power, without judicial review? Frankly, please tell us what you think?

Mr. SHERER. No, not as it affects us.

Mr. UNTERMYER. Very well, then, if you think it is not. I am surprised. Why should not such a power be subject to judicial review?

Mr. SHERER. I agree with you to an extent, but its application, through this instrument here, is not as bad as you infer.

Mr. UNTERMYER. Not as bad as it looks.

Mr. SHERER. No.

Mr. UNTERMYER. It looks pretty bad, does it not?

Mr. SHERER. Yes. It has always been administered with care.

Mr. UNTERMYER. I am not talking about the administration; I am talking about the law of the Association. You admit that power ought to be subject to judicial review, do you not?

Mr. SHERER. Yes.

Mr. UNTERMYER. I read section 4 of the same article:

SEC. 4. Every nonmember bank or institution now or hereafter sending its exchanges through a member of the Association shall submit, whenever required by the Clearing House Committee, to the same examinations as are now required by the members of the Association.

That we have covered, have we not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. I think I omitted, in connection with this subject of the collection of out-of-town checks, to call your attention to a rule promulgated by the clearing-house committee May 14, 1908, and in that connection may I ask you whether the clearing-house committee has the power to promulgate these rules.

Mr. SHERER. Yes.

Mr. UNTERMYER. All these rules are promulgated by it and not by the Association, are they not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. That is the committee of five members to which you have referred, is it not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. This rule is on page 25, and is known as Rule H, passed May 14, 1908. It reads as follows:

Any agreement, written or implied, entered into by a Clearing House member or by a nonmember clearing through a member, with any individual, firm, or corporation, by the terms of which it is intended that the rate of interest agreed to be paid on deposits is to offset and compensate for charges made on out of town checks, is a violation of Clearing House rules, and if brought to the attention of the Committee will be dealt with as provided by Section 8 of the Clearing House rules and regulations relating to the charges on out of town items.

You have that rule in mind, have you not?

Mr. SHERER. Yes; I have it here [indicating book].

Mr. UNTERMYER. I suppose that was intended to cover the case in which an arrangement for interest on deposits is coupled with an arrangement for between a member and his customer collecting out of town checks?

Mr. SHERER. Yes.

Mr. UNTERMYER. And you wanted to stop anything in the way of competition?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. Under cover of interest on deposits?

Mr. SHERER. Yes.

Mr. UNTERMYER. When did the Association inaugurate the department of examinations of banks and trust companies members of the Association?

Mr. SHERER. I think it was last August; August, 1911, I think.

Mr. UNTERMYER. Prior to that time had it relied on the state and federal authorities, and on their examinations?

Mr. SHERER. On their examinations.

Mr. UNTERMYER. And on the weekly statements?

Mr. SHERER. Weekly statements made to the clearing house.

Mr. UNTERMYER. Each member is required to make a weekly statement yet, is he not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. And in that statement the member sets forth its condition?

Mr. SHERER. Yes.

Mr. UNTERMYER. That statement, I suppose, contains the assets in the way of loans and discounts?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. And the liabilities?

Mr. SHERER. Yes, sir. I have them here, if you wish them.

Mr. UNTERMYER. Have you the form here?

Mr. SHERER. Yes.

Mr. UNTERMYER. Will you please produce it?

Mr. SHERER (reading):

Statement of the members of the New York Clearing House Association from Reports as Required Under Article 3 of the Constitution for the Week Ending Saturday, June 1, 1911.

Mr. UNTERMYER. I want the form on which each member is required to make his reports.

Mr. SHERER. This is a compilation of forms.

Mr. UNTERMYER. I think you will find what you have there is a mere summary of them.

Mr. SHERER. A compilation of them. I have the form; but I think it is in this constitution.

Mr. UNTERMYER. Yes; I think it is.

Mr. SHERER. I think you will find it on page 33.

Mr. UNTERMYER. That is in evidence, then, is it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. For how many years had the Clearing House Association, prior to 1900, been relying upon the examinations by the state banking authorities of state institutions, and by the federal banking department of national institutions, in conjunction with the weekly statements required by it?

Mr. SHERER. In addition to that the clearing house committee have at any time the power, and have always had it, to make examinations.

Mr. UNTERMYER. I know that.

Mr. SHERER. They have relied on that, sir, until last August, since its organization.

Mr. UNTERMYER. Last August the clearing house committee inaugurated this department.

Mr. SHERER. The Clearing House Association did, sir, on the advice of the clearing house committee.

Mr. UNTERMYER. Was that a subject of action at a general meeting of the Association?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. Is that department now located in your building?

Mr. SHERER. It is.

Mr. UNTERMYER. And your building is where?

Mr. SHERER. 77 to 83 Cedar Street, New York.

Mr. UNTERMYER. Does the Association own that building?

Mr. SHERER. Yes.

Mr. UNTERMYER. It is owned by the members of the Association?

Mr. SHERER. There is a corporation called the New York Clearing House Building Company, composed of five directors who are appointed or elected by the Clearing House Association. They hold the title to the property. They are incorporated for that purpose only, and the Clearing House Association own an interest in the building in proportion to their capital and surplus at which they were assessed at the time of its construction. \$630,000 of ownership certificates are now held by the Association.

Mr. UNTERMYER. You mean \$630,000 par value?

Mr. SHERER. Par value, yes.

Mr. UNTERMYER. How many examiners are now in the employ of the Association for this work?

Mr. SHERER. I think the force consists of the examiner and 12 assistants of various grades.

Mr. UNTERMYER. The examiner is Mr. Charles A. Hanna, is he not?

Mr. SHERER. Yes.

Mr. UNTERMYER. And he had been in the government employ?

Mr. SHERER. He had been national-bank examiner here for some years; I have forgotten how many.

Mr. UNTERMYER. He was the bank examiner at the time of the 1907 panic, was he not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. It was he who had charge of the New York banks at that time?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. You say you have 12 assistants under the examiner?

Mr. SHERER. Yes; a force of 12 men; I do not know the functions of all of them, or their duties.

Mr. UNTERMYER. Do they act under the direction of the clearing-house committee?

Mr. SHERER. Under the direction of Mr. Hanna; they are his force.

Mr. UNTERMYER. But does Mr. Hanna act under the direction of the clearing-house committee?

Mr. SHERER. Yes; that is, I am told that he makes the examinations at his own discretion. He was not told specially—

Mr. UNTERMYER. You would rather—

Mr. SHERER. Leave that to some one else.

Mr. UNTERMYER. You do not know who told him what to do, do you?

Mr. SHERER. No.

Mr. UNTERMYER. Do those reports of the examiner come to you?

Mr. SHERER. No.

Mr. UNTERMYER. Do you know where they go?

Mr. SHERER. Yes.

Mr. UNTERMYER. Of your own knowledge?

Mr. SHERER. I do not know to what part of the building they go.

Mr. UNTERMYER. Do you know how frequently these members of the Association are examined, or their affairs are examined?

Mr. SHERER. No.

Mr. UNTERMYER. Is there any rule? Are they examined at any stated intervals?

Mr. SHERER. No; they are not examined at stated intervals.

Mr. UNTERMYER. There are 12 examiners or assistants, and there are about 67 institutions in the Association, and 27 nonmembers?

Mr. SHERER. Yes.

Mr. UNTERMYER. Is that right?

Mr. SHERER. That is right.

Mr. UNTERMYER. There are 50 banks and 17 trust companies and about 27 nonmembers. Is that right?

Mr. SHERER. That is right.

Mr. UNTERMYER. Are these 12 men busy all the time?

Mr. SHERER. I do not know, sir, because I never come in contact with them.

Mr. UNTERMYER. You do not come in contact with them at all?

Mr. SHERER. Not at all.

Mr. UNTERMYER. And I suppose you can not testify as to their doings?

Mr. SHERER. Not at all, sir.

Mr. UNTERMYER. Mr. Sherer, are you tired?

Mr. **SHERER**. Well, yes; but rather than put you to another session I would like to finish, if you can finish.

Mr. **UNTERMYER**. I do not know that we can get through to-day, and if you would rather suspend until the morning we can suspend now.

Mr. **SHERER**. Yes; I think I had better.

Mr. **PUJO**. The Committee will be in recess until to-morrow at 11 o'clock.

(Whereupon, at 4.10 o'clock p. m., the subcommittee adjourned until to-morrow, Friday, June 7, 1912, at 11 o'clock a. m.)