

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 3

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SUBCOMMITTEE OF THE COMMITTEE ON BANKING AND CURRENCY

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MONEY TRUST INVESTIGATION.

SUBCOMMITTEE OF THE
COMMITTEE ON BANKING AND CURRENCY,
HOUSE OF REPRESENTATIVES,
New York, N. Y., Friday, June 7, 1912.

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

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

Present also, Mr. Farrar and Mr. Untermeyer, counsel for the Subcommittee.

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

Mr. UNTERMYER. Have you brought the data for which I asked yesterday?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. Will you please let me have them?

Mr. SHERER. Here they are. I would like to ask permission—

Mr. UNTERMYER. One moment, please. [After examination of the data produced.] Did you want to make some sort of explanation, Mr. Sherer?

Mr. SHERER. I wanted to make an explanation to correct what appears to be a mistake in yesterday's record, in regard to the profit on the exchange charges. The figures were given hastily.

We assumed that it was \$100,000,000 in items per day. That was the assumption. We based our calculations on one-seventh of 1 per cent. taking the average. I went back to the house yesterday and went over the figures again, and the correct statement of the matter, I believe, is as follows: We assume \$100,000,000 of exchanges, items per day, \$60,000,000 of which are on par points, or discretionary points, such as Philadelphia, Boston, Providence, and other large places. That leaves \$40,000,000 of collections at a rate of one-seventh of 1 per cent. which is \$57,000 a day. Taking 300 days in the year, that would be \$17,100,000 profit, from which must be deducted the cost of remittance. Of course what each bank makes on that it is impossible for me to know. They do not tell that. That is nearer correct, I think, than the statement that was allowed to go into the record yesterday through my inability at the time to grasp the figures properly. I ask in protection of myself, not wishing to

make any erroneous statement knowingly, that this correction be made.

Mr. UNTERMYER. Why do you assume that the daily out-of-town business is only \$100,000,000?

Mr. SHERER. That was an assumption of yours, sir. I took your own figures.

Mr. UNTERMYER. But do you assume it? Do you not know it is more when you include discretionary points?

Mr. SHERER. No, I do not know it is more, because it was fifty-five million when this thing was instituted, and I have doubled it.

Mr. UNTERMYER. Was not that \$55,000,000 exclusive of the discretionary points?

Mr. SHERER. No, sir.

Mr. UNTERMYER. What do you mean by discretionary points?

Mr. SHERER. Points on which the banks may charge or not, as they please, without violation of the rules.

Mr. UNTERMYER. Points as to which the Clearing House Association regulations leave the banks free as to whether they will or will not charge their customers?

Mr. SHERER. Yes; commonly called par points.

Mr. UNTERMYER. Do you know whether or not the banks do charge their customers for collections as to the points at which the Clearing House Association permits them to omit this charge?

Mr. SHERER. I do not know that they do. I do not know that.

Mr. UNTERMYER. You do not know whether they do or do not; is that it?

Mr. SHERER. I think it is fair to say they do not. Why should they?

Mr. UNTERMYER. Why should they not make charges, if they are at liberty to do so; simply because the Clearing House Association does not compel them to do so?

Mr. SHERER. Because of reciprocal relationships between the banks.

Mr. UNTERMYER. There are also reciprocal relationships between the banks at points that are not discretionary, and themselves?

Mr. SHERER. Yes.

Mr. UNTERMYER. Then your assumption would be that the only reason they would charge for collection at other reciprocal points than discretionary points is that the Clearing House Association rules compel them to do so?

Mr. SHERER. Yes.

Mr. UNTERMYER. That is right?

Mr. SHERER. Yes. May I say one word more?

Mr. UNTERMYER. Yes.

Mr. SHERER. The average of one-seventh of 1 per cent, the standard on which these figures were based, might be modified very materially, because the bulk of the \$40,000,000 daily on exchange points is drawn in the one-tenth of 1 per cent zone.

Mr. UNTERMYER. Even when you exclude discretionary points?

Mr. SHERER. Yes.

Mr. UNTERMYER. Are you satisfied that this is so, after the discretionary points are excluded?

Mr. SHERER. With a large portion of it; quite 30 per cent is on the one-tenth of 1 per cent zone.

Mr. UNTERMYER. Thirty per cent of it is, you say?

Mr. SHERER. Yes. Therefore the one-seventh of 1 per cent is too large a figure to take for your average.

Mr. UNTERMYER. Let us see about that. You have stated that 40 per cent of the total collections on out-of-town checks are upon what are called discretionary points.

Mr. SHERER. As near as I can say—

Mr. UNTERMYER. As to which the banks have the right to charge or not to charge collection commissions, as they choose. Is that right?

Mr. SHERER. Let me see if I understand it as you put it. What I want to say is that of the \$100,000,000 of items, \$60,000,000 should be crossed out. Forty million dollars, therefore, is to be charged upon under the rules, and a large percentage of that—of course it is impossible for me to tell accurately how much—is in the one-tenth of 1 per cent zone.

Mr. UNTERMYER. I understand you, Mr. Sherer, to say now that 60 per cent of all the out-of-town checks that are collected by the New York banks are upon points that are discretionary.

Mr. SHERER. That is my belief, yes.

Mr. UNTERMYER. That is your belief?

Mr. SHERER. Yes.

Mr. UNTERMYER. Where did you get that belief?

Mr. SHERER. From conversation.

Mr. UNTERMYER. Conversation with whom, Mr. Cannon?

Mr. SHERER. No sir.

Mr. UNTERMYER. Well, with whom?

Mr. SHERER. Conversation with my clerks there at the office.

Mr. UNTERMYER. Which clerks?

Mr. SHERER. Mr. Gilpin, the assistant manager, and Mr.—

Mr. UNTERMYER. What did your clerks know about the collection of out-of-town checks? The clearing house association has nothing to do with it, has it?

Mr. SHERER. Only as we get the information in the clearing house. You take the position that you ask a question that involves certain mathematical figures which are largely matters of information, and ask me to give testimony on them that will bear upon that, without an opportunity to refer to what knowledge I may have and prepare myself to correct any error that might have crept into the testimony.

Mr. UNTERMYER. Mr. Sherer, do you not feel you have been given every opportunity to explain?

Mr. SHERER. I do, sir.

Mr. UNTERMYER. Because if you have not I want you to have it.

Mr. SHERER. All the opportunity I ask for, sir, is simply where a matter of importance is made so much of as to give a wrong impression, that I should use all the machinery I have in my hands to correct that false impression, if I believe it to be one.

Mr. UNTERMYER. Let us see what you know about this subject. You have started by assuming that the average amount of out-of-town checks collected by New York banks in the New York Clearing House is \$100,000,000 a day, have you not?

Mr. SHERER. That was your assumption; not mine.

Mr. UNTERMYER. I understood you to say you thought that was right.

Mr. SHERER. Yes; but I am taking your assumption to make my figures on.

Mr. UNTERMYER. I thought I understood you to say that about 25 per cent of the total business was in out-of-town checks.

Mr. SHERER. Yes.

Mr. UNTERMYER. Is that right?

Mr. SHERER. I said so, yes.

Mr. UNTERMYER. And what do you say that amounts to daily?

Mr. SHERER. Well, I can not say except as guesswork, and I won't guess.

Mr. UNTERMYER. I understood you to say that \$100,000,000 a day was well within the mark?

Mr. SHERER. I did say so, yes.

Mr. UNTERMYER. And it is, is it not?

Mr. SHERER. I should think so, yes.

Mr. UNTERMYER. Is it not nearer \$150,000,000 a day?

Mr. SHERER. I have said it was \$100,000,000.

Mr. UNTERMYER. No; you said \$100,000,000 was well within the mark. I ask you whether it is not nearer \$150,000,000?

Mr. SHERER. I do not know that it is.

Mr. UNTERMYER. You do not know that it is or is not, do you?

Mr. SHERER. I do not know that it is, no.

Mr. UNTERMYER. At any rate, when you say that \$100,000,000 is well within the limit, you are sure about that, are you not?

Mr. SHERER. Only that is from general knowledge. The banks do not report to us how much they receive.

Mr. UNTERMYER. Have you any personal knowledge or any data that enables you to say that 60 per cent of all of the out-of-town checks that are collected through the New York Clearing House banks are upon the few discretionary points?

Mr. SHERER. Yes; because I talked very recently with a man conversant with this matter, making up tables.

Mr. UNTERMYER. Whom did you talk with?

Mr. SHERER. His name is Sherer.

Mr. UNTERMYER. A relative of yours?

Mr. SHERER. Yes; a son of mine.

Mr. UNTERMYER. What is his business?

Mr. SHERER. He is manager of a branch bank.

Mr. UNTERMYER. What bank?

Mr. SHERER. The Corn Exchange Bank.

Mr. UNTERMYER. He is the manager of the Corn Exchange Bank?

Mr. SHERER. Branch bank, yes.

Mr. UNTERMYER. Where is this branch bank?

Mr. SHERER. One hundred and twenty-fifth Street and Lexington Avenue.

Mr. UNTERMYER. From him you got the information, did you—

Mr. SHERER. Some of it, yes.

Mr. UNTERMYER. Just a minute. From him you got the information that 60 per cent of all the business of out-of-town checks that passes through the clearing house banks is at these few discretionary points?

Mr. SHERER. Yes.

Mr. UNTERMYER. Mr. Sherer, do you not know that it is not so?

Mr. SHERER. No; I do not know that it is not so; otherwise I would not say it was so.

Mr. UNTERMYER. Are there no statistics extant on the subject?

Mr. SHERER. None that I know of except what might be gathered in each individual bank.

Mr. UNTERMYER. But I mean there are no statistics gathered?

Mr. SHERER. No.

Mr. UNTERMYER. So when you assume that 60 per cent of all the out-of-town checks come from these few discretionary points, you do so upon the information you have given us, do you?

Mr. SHERER. And on this, if I may add to it, that Philadelphia, Boston, Providence and some other large places do a very large banking business in New York, in the New York banks.

Mr. UNTERMYER. Let us see what are these discretionary points.

Mr. SHERER. You will find them in there [referring to book of rules and regulations.]

Mr. UNTERMYER. These discretionary points at which the banks are left at liberty to charge or not to charge collection commissions are the United States Government, State of New York, City of New York, and Boston, Providence, Albany, Troy, Jersey City, Bayonne, Hoboken, Newark, Philadelphia, and Baltimore, are they not?

Mr. SHERER. Yes, sir; as recited there.

Mr. UNTERMYER. And these, you say, according to your information, comprise 60 per cent of the business of the whole United States and foreign countries done through the clearing house banks of New York?

Mr. SHERER. No; I do not make any such statement at all. I say that 60 per cent of the out of town checks, mind you, taken in business by the New York banks—not the business of the world—that 60 per cent of it is in these what we call discretionary points. Now, there is no charge on foreign checks, on checks all over the world. That is a matter that the banks govern themselves.

Mr. UNTERMYER. That is regulated by exchange.

Mr. SHERER. Take it in London or Paris or Bombay or Calcutta; that is a matter of individual business.

Mr. UNTERMYER. That is regulated in the way of the purchase of exchange.

Mr. SHERER. I assume so.

Mr. UNTERMYER. Now, do I understand you to say that these discretionary points that I have read from Section 2 of the rules and regulations comprise, to the best of your information, 60 per cent of all the business of the clearing house banks in the city of New York in out of town checks throughout this country?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. And that information comes from your son.

Mr. SHERER. A portion of it, yes, and in conversation with others.

Mr. UNTERMYER. When did he give it to you?

Mr. SHERER. He gave it to me this morning.

Mr. UNTERMYER. This morning?

Mr. SHERER. Yes.

Mr. UNTERMYER. And did he give you any data to support the statement made this morning?

Mr. SHERER. This is his own—

Mr. UNTERMYER. I mean did he give you any data, any figures?

Mr. SHERER. Yes.

Mr. UNTERMYER. Have you got them here?

Mr. SHERER. No.

Mr. UNTERMYER. What figures do you say he gave you?

Mr. SHERER. I have no figures on that point.

Mr. UNTERMYER. No; but what figures do you say he gave you?

Mr. SHERER. None except in conversation of their own business.

Mr. UNTERMYER. What figures did he give you in conversation to support that statement?

Mr. SHERER. Except to say that of all their out of town checks 60 per cent were on par points.

Mr. UNTERMYER. That is, in his bank?

Mr. SHERER. Yes.

Mr. UNTERMYER. He is located at One hundred and twenty-fifth Street and where?

Mr. SHERER. Lexington Avenue.

Mr. UNTERMYER. You understand that a bank located up there does a local business, does it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. And that it has not any out of town correspondents?

Mr. SHERER. That is true.

Mr. UNTERMYER. And you know perfectly well, do you not, Mr. Sherer, that his experience with his local bank at One hundred and twenty-fifth Street would be no sort of a criterion on that subject?

Mr. SHERER. I do not know it, at all.

Mr. UNTERMYER. Well, you think it would, do you?

Mr. SHERER. No—

Mr. UNTERMYER. You think it would?

Mr. SHERER. Yes; I think he knows something more than that.

Mr. UNTERMYER. Do you think the experience of his bank would conform in any respect to the experience of a bank like the Hanover Bank or the City Bank, or its proportion of out of town checks on nondiscretionary points?

Mr. SHERER. Mind you—

Mr. UNTERMYER. No; will you not answer?

Mr. SHERER. Say it again, please.

Mr. UNTERMYER. Read it again.

The question was read by the stenographer as above recorded.

Mr. SHERER. Yes, I do.

Mr. UNTERMYER. You think that you might take any little local bank catering to a retail trade in its neighborhood in the Bronx or Staten Island or up in Harlem, and that its proportion of checks that would come to it payable on out of town banks at nondiscretionary points in the west and the south would be as great as that of one of the great national banks down here, do you?

Mr. SHERER. If the parties were students of banking, yes. They would not be confined to their local knowledge; they make a study of the subject.

Mr. UNTERMYER. But I understand you to say your son told you he based his statement on his experience of his branch bank.

Mr. SHERER. And I—

Mr. UNTERMYER. Did you not say so?

Mr. SHERER. Yes; and I wanted to add to that that he was a student of banking and got his information from all the sources open to him.

Mr. UNTERMYER. Did he give his information based on his own experience of his own branch bank?

Mr. SHERER. Yes; but he said he knew positively.

Mr. UNTERMYER. That is all the information that you have had on which you want to correct the statement you made yesterday?

Mr. SHERER. On that point.

Mr. UNTERMYER. Is that all the information?

Mr. SHERER. On that point, yes.

Mr. UNTERMYER. Now, that we understand.

Mr. SHERER. May I make another statement?

Mr. UNTERMYER. I am not through with this discussion, yet.

Mr. SHERER. I beg your pardon.

Mr. UNTERMYER. After I finish with this I will be very glad to have you make any other statement.

Mr. SHERER. I will not take up your time, then, on the other.

Mr. UNTERMYER. As soon as I finish this, you will be afforded an opportunity to explain any other statement you choose. Let us take up the question, now, on the basis of the information received this morning from your son. Upon that basis you have eliminated sixty millions out of one hundred millions, have you not?

Mr. SHERER. Not upon that basis alone. I have conversed with my people in the clearing house.

Mr. UNTERMYER. With whom have you conversed there?

Mr. SHERER. With my assistant manager, and others.

Mr. UNTERMYER. Other clerks there?

Mr. SHERER. Yes; Mr. Bacon.

Mr. UNTERMYER. Who is Mr. Bacon?

Mr. SHERER. One of our clerks.

Mr. UNTERMYER. What is his particular function?

Mr. SHERER. You might call him one of the assistant managers.

Mr. UNTERMYER. With whom else have you talked since you left the stand yesterday, on this particular subject, besides Mr. Gilpin and Mr. Bacon?

Mr. SHERER. Mr. Hanna.

Mr. UNTERMYER. Mr. Hanna. He is the gentleman who is now the examiner for the clearing house?

Mr. SHERER. Yes.

Mr. UNTERMYER. And who was formerly in the government employ?

Mr. SHERER. Yes.

Mr. UNTERMYER. You spoke with him yesterday afternoon?

Mr. SHERER. Not on this subject.

Mr. UNTERMYER. Not on this subject?

Mr. SHERER. Yesterday afternoon, yes.

Mr. UNTERMYER. On this subject?

Mr. SHERER. This morning, on this subject.

Mr. UNTERMYER. Did you approach him, or did he approach you?

Mr. SHERER. I could not say. We were in conversation, three or four of us together.

Mr. UNTERMYER. This talk about which you are now testifying was all at one time, with three or four of you together?

Mr. SHERER. Yes.

Mr. UNTERMYER. Did somebody say that you had made a very unfortunate admission?

Mr. SHERER. No.

Mr. UNTERMYER. You thought so, did you not?

Mr. SHERER. No, I thought the representation——

Mr. UNTERMYER. You thought it was unfortunate, did you not?

Mr. SHERER. Yes, I thought it was——

Mr. UNTERMYER. You thought it was injurious to the clearing houses, the admission that its members were making so much money out of out-of-town collections, did you not?

Mr. SHERER. I did not think it was injurious. because I did not think it was in the power of anybody particularly to hurt the clearing house.

Mr. UNTERMYER. You do not think it is in the power of anybody to injure the clearing house?

Mr. SHERER. Not on points of principle, no.

Mr. UNTERMYER. Let us see about that. Do you not think that if it proves that the clearing house is levying an excessive and outrageous tribute on the merchants of this country, it is in the power of the law to stop it?

Mr. SHERER. It is in the power of the law to stop anything that is unlawful.

Mr. UNTERMYER. Yes, or that is oppressive or unjust?

Mr. SHERER. That may be——

Mr. UNTERMYER. Do you not understand——

Mr. SHERER (continuing). If it is oppressive or unjust, yes.

Mr. UNTERMYER. You know that but for this compulsory regulation of the clearing house that forces its members to exact this tribute, no such commission would be charged, do you not?

Mr. SHERER. I do not think I get you. I may be a little dull this morning.

Mr. UNTERMYER. No, I do not think so.

The question was repeated by the stenographer as follows:

Mr. UNTERMYER. You know that but for this compulsory regulation of the clearing houses that forces its members to exact this tribute, no such commission would be charged, do you not?

Mr. SHERER. No, I do not.

Mr. UNTERMYER. You believe it, do you not?

Mr. SHERER. No; because it would be looking into the future, and I can not see that way.

Mr. UNTERMYER. Do you not think that but for this compulsory regulation the business of collecting out-of-town checks would operate at the compulsory points as it is now operating at the non-compulsory points?

Mr. SHERER. No.

Mr. UNTERMYER. You do not. And it is your opinion. is it, that even if there were no such regulation and each bank were left to do as it pleased, it would still impose the same burden as is now being imposed upon the commercial community of this country?

Mr. SHERER. I may answer that by saying——

Mr. UNTERMYER. Now, Mr. Sherer, you can answer that

Mr. SHERER. Very well.

Mr. UNTERMYER. You know it is not so, do you not?

Mr. SHERER. No, I do not. I say that the banks would continue to individually charge what they are now compelled to charge by virtue of the clearing-house rules.

Mr. UNTERMYER. It is your opinion that a bank would charge exactly the same as it now charges under compulsion?

Mr. SHERER. In general, yes. There might be charges that would be reduced here and there.

Mr. UNTERMYER. You do not think they would compete with each other for business by making more liberal terms with their customers on collection of out of town checks?

Mr. SHERER. Not unless they could make something by it.

Mr. UNTERMYER. Do you know how much they make by it?

Mr. SHERER. No.

Mr. UNTERMYER. Assuming that they make a great deal by it, do you not think they would compete to get the business of out of town customers, in New York, by collecting out of town checks without charge?

Mr. SHERER. No, I do not.

Mr. UNTERMYER. You do not know what was the condition before this rule went into effect?

Mr. SHERER. Yes.

Mr. UNTERMYER. Do you not know this rule was enacted to stop the custom of banks competing for business by collecting out of town checks without charge?

Mr. SHERER. No.

Mr. UNTERMYER. They were collecting them without charge, were they not?

Mr. SHERER. Yes, sir, and they came together—

Mr. UNTERMYER. They were doing it?

Mr. SHERER. They were doing it, yes, sir, except in some individual cases.

Mr. UNTERMYER. Then the object of the rule was to stop their doing it, was it not?

Mr. SHERER. No, sir; the object of the rule was to make some money that they were entitled to.

Mr. UNTERMYER. To make some more money?

Mr. SHERER. To make some more money.

Mr. UNTERMYER. The banks were making some money then, were they not?

Mr. SHERER. No, sir; they were losing on their exchanges.

Mr. UNTERMYER. How do you know?

Mr. SHERER. Because I have been told so.

Mr. UNTERMYER. By whom?

Mr. SHERER. By the Market & Fulton Bank; by any one of a dozen of them at the time these rules were instituted.

Mr. UNTERMYER. They were all making dividends on their capital?

Mr. SHERER. Yes.

Mr. UNTERMYER. Yes.

Mr. SHERER. They had to pass dividends sometimes, you know.

Mr. UNTERMYER. Yes, just the same as they do now.

Mr. SHERER. Yes.

Mr. UNTERMYER. But I mean, on the whole, the banking community, at the time this rule was passed, were making money?

Mr. SHERER. Yes.

Mr. UNTERMYER. As they have been?

Mr. SHERER. Yes; they have always been credited with making money. They do not go on voluntarily doing a losing business.

Mr. UNTERMYER. The object of this rule was to make some more money?

Mr. SHERER. It was to save losses.

Mr. UNTERMYER. Well, to make money?

Mr. SHERER. Yes; you may put it that way. Instead of making an entry in the debit account, they made an entry in the credit account. One bank told me that it cost them \$30,000 a year, until this rule went into effect.

Mr. UNTERMYER. On the other hand, did this bank tell you how much they got from the business of those correspondents on whom they were losing \$30,000 on the collection of out of town checks?

Mr. SHERER. No, sir.

Mr. UNTERMYER. You know that if a bank did not think an account was a good one, they would not keep it, would they?

Mr. SHERER. No, sir.

Mr. UNTERMYER. So that when they were collecting out of town checks for customers without charge, they were making money from them in another way, were they not, on their balances or in some other way?

Mr. SHERER. I do not know.

Mr. UNTERMYER. If they were not, they would not keep a customer, would they?

Mr. SHERER. That would be an inference of mine.

Mr. UNTERMYER. So that, to be perfectly frank about it, the purpose of enacting this rule was not to avoid losing money on a customer of the bank, but it was to enable the bank to make more money on its customers?

Mr. SHERER. I think the answer would be the same, would it not?

Mr. UNTERMYER. Well—

Mr. SHERER. Well, if you do not lose money you make it, and what you make is what you save.

Mr. UNTERMYER. Then you agree with me that the purpose was to make more money on your customers than was then being made?

Mr. SHERER. I think that is natural, of course.

Mr. UNTERMYER. Have you talked with any members of the clearing house committee since the adjournment yesterday?

Mr. SHERER. Yes.

Mr. UNTERMYER. With whom?

Mr. SHERER. With Mr. Vanderlip.

Mr. UNTERMYER. On this subject?

Mr. SHERER. Over the phone.

Mr. UNTERMYER. On this subject?

Mr. SHERER. Yes.

Mr. UNTERMYER. This morning?

Mr. SHERER. Yes.

Mr. UNTERMYER. He seemed rather disturbed, did he not—

Mr. SHERER. No.

Mr. UNTERMYER (continuing). About this exposure of this large amount of money that was being made on this one item of business of the banks?

Mr. SHERER. No, he did not.

Mr. UNTERMYER. He did not. Did he ask you to correct it?

Mr. SHERER. He asked me about that statement, and asked if it was not an error.

Mr. UNTERMYER. He asked you?

Mr. SHERER. He suggested that I ask to have it revised.

Mr. UNTERMYER. Is not that the same thing as asking to have it corrected?

Mr. SHERER. Yes; but I want to say that it was in my mind to do so, I had already given the orders to have this table made before he spoke to me. That table was already made before he spoke to me.

Mr. UNTERMYER. You are speaking of a table you had made.

Mr. SHERER. Yes; the table which you have there.

Mr. UNTERMYER. You mean this statement that your son gave you?

Mr. SHERER. No; that I just gave you there. That is mine.

Mr. UNTERMYER. This is your own figuring, is it?

Mr. SHERER. Yes.

Mr. UNTERMYER. Assuming, now, that sixty millions of this one hundred millions a day really is in the form of checks on these discretionary points, and only \$40,000 a day represents the out-of-town checks on all the points in the United States that pass through the New York clearing-house banks, you do not give the one-quarter of 1 per cent points credit even for one-half of that balance, do you?

Mr. SHERER. No, sir.

Mr. UNTERMYER. You do not?

Mr. SHERER. No, sir.

Mr. UNTERMYER. Where do you get that information on which you make that revision of your figures?

Mr. SHERER. Because—

Mr. UNTERMYER. I want to know in what way you get it.

Mr. SHERER. I get it out of my own thought.

Mr. UNTERMYER. Out of your own thought?

Mr. SHERER. In this way. Take New England, that is, all the eastern states, New Jersey, Pennsylvania, nearby, the banks have such close relations with people in New York, keeping accounts in their banks, that a large proportion of our business of that kind is with these nearby banks, and they are all in the one-tenth of 1 per cent zone. We do not have so many checks on the far west and far south in the one-quarter of 1 per cent zone.

Mr. UNTERMYER. Do you not know that you have already excluded a considerable part of New England and nearby points, in your discretionary zone?

Mr. SHERER. Of course, Providence—

Mr. UNTERMYER. And all of New York State?

Mr. SHERER. No, not all of New York State.

Mr. UNTERMYER. Yes.

Mr. SHERER. I beg pardon.

Mr. UNTERMYER. Albany and Troy?

Mr. SHERER. Those are two small cities.

Mr. UNTERMYER. I had reference to the State of New York.

Mr. SHERER. The State, yes, sir.

Mr. UNTERMYER. That is a mere arbitrary conclusion of yours, is it not?

Mr. SHERER. It is an arbitrary conclusion; not a "mere" one.

Mr. UNTERMYER. You are anxious in your testimony this morning. are you not, so far as you consistently can, to reduce this apparent profit on out of town checks?

Mr. SHERER. No, sir; my object is to correct an error.

Mr. UNTERMYER. I say you are as anxious to have it appear as small as possible?

Mr. SHERER. No, I am not.

Mr. UNTERMYER. You are not. And, according to your present calculation, after you have talked with Mr. Vanderlip and your son and your assistants, you reduce it to about \$17,000,000?

Mr. SHERER. Yes.

Mr. UNTERMYER. \$17,000,000 a year?

Mr. SHERER. Yes.

Mr. UNTERMYER. You do not present a figure to support that statement?

Mr. SHERER. No, sir; simply because I have not any; because I can not get the banks—

Mr. UNTERMYER. What do your assistants know about out of town checks? Have they anything to do with them?

Mr. SHERER. No, sir; only from conversation with bank men that come in there.

Mr. UNTERMYER. I say, they have not any relations with out of town checks? So far as you know, they have no experience in dealing with them?

Mr. SHERER. No; but they have general knowledge given to them by men that come in the clearing house; 200 of them a day, generally.

Mr. UNTERMYER. Are they in the habit of talking about out of town checks?

Mr. SHERER. They talk about all matters relating to the banking business.

Mr. UNTERMYER. Did you ask Mr. Vanderlip what proportion of his business consists of out of town checks?

Mr. SHERER. No.

Mr. UNTERMYER. Did he tell you what proportion of his business consists of out of town checks?

Mr. SHERER. No, sir.

Mr. UNTERMYER. He wanted you to correct your testimony?

Mr. SHERER. He called my attention to the testimony, but I had corrected it.

Mr. UNTERMYER. He wanted you to correct it?

Mr. SHERER. He thought it should be corrected, yes.

Mr. UNTERMYER. Yes; and thinking it should be corrected, he gave you none of the data of his own bank, did he?

Mr. SHERER. No, sir.

Mr. UNTERMYER. Have you any idea what the proportion of out of town checks of the National City Bank is?

Mr. SHERER. No, sir.

Mr. UNTERMYER. Compared to its total business?

Mr. SHERER. No, but if you take the same proportion—

Mr. UNTERMYER. Do you know?

Mr. SHERER. No, sir.

Mr. UNTERMYER. Do you not know that they have some thousands of out of town banks as correspondents?

Mr. SHERER. I do not know it, no.

Mr. UNTERMYER. What?

Mr. SHERER. I do not know it.

Mr. UNTERMYER. You know that practically every out of town bank in the country has an account in New York, either directly or through its intermediate correspondents?

Mr. SHERER. I can not name it, no.

Mr. UNTERMYER. What?

Mr. SHERER. I do not know that every bank has; no.

Mr. UNTERMYER. The bulk of them have, have they not?

Mr. SHERER. Yes, I should say so, without absolute knowledge.

Mr. UNTERMYER. Have you any data or statistics of the Clearing House Association as to the average balances of the out of town banks with the banks and trust companies of the New York Clearing House Association?

Mr. SHERER. No, sir.

Mr. UNTERMYER. There is nothing of that kind extant?

Mr. SHERER. No, sir.

Mr. UNTERMYER. How many banks are there in the United States?

Mr. SHERER. Over 5,000, I think. I do not know, sir.

Mr. UNTERMYER. You do not know?

Mr. SHERER. I have not got that here. The report of the Comptroller of the Currency would tell us.

Mr. UNTERMYER. There are over 7,000, are there not?

Mr. DAUGHERTY. There are 7,200, I believe.

Mr. UNTERMYER. Have you the statistics as to the number of national and state banks and trust companies in the United States?

Mr. SHERER. Only the Bankers' Guide, a book that is published by Rand, McNally & Co.

Mr. UNTERMYER. It is said to be about 70,000?

Mr. SHERER. I have forgotten the number.

Mr. UNTERMYER. There has been no calculation, then, by the Clearing House Association, or the association of banks, of the proportion of those institutions that have accounts in New York City?

Mr. SHERER. Not to my knowledge, no, sir.

Mr. UNTERMYER. A bank that had a large number of out-of-town correspondents as depositors would have a very much larger proportion of out-of-town checks to deal with, would it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. Larger than a bank that had no such correspondents?

Mr. SHERER. Yes.

Mr. UNTERMYER. Do you or not know, Mr. Sherer, that the checks drawn on these out-of-town banks are collected for the New York City banks as a rule by their correspondents, at the places at which they are drawn, without charge?

Mr. SHERER. I do not know.

Mr. UNTERMYER. You do not know whether that is so or not?

Mr. SHERER. I do not know whether it is or not, no.

Mr. UNTERMYER. Who constituted the clearing-house committee in 1907?

Mr. SHERER. Have we got that here with us, Mr. Bacon?

Mr. BACON. No.

Mr. SHERER. I have not got it here.

Mr. UNTERMYER. Do you remember them?

Mr. SHERER. James T. Woodward was chairman of the committee. I could get it for you by sending to the clearing house. We change that committee every year.

Mr. UNTERMYER. I know that. Would you be good enough to get a list and furnish it to us, year by year, from 1907?

Mr. SHERER. Yes.

Mr. UNTERMYER. Mr. Cannon was a member in 1907, was he not?

Mr. SHERER. No, sir, not of the clearing house committee.

Mr. UNTERMYER. He took an active part at that time?

Mr. SHERER. He was chairman of one of the loan committees. There were two loan committees. He was the chairman.

Mr. UNTERMYER. Who constituted the loan committee at that time when the loan certificates were issued?

Mr. SHERER. The clearing house committee constituted the loan committee. They had what you might call a second loan committee to assist them, of which Mr. Cannon was the chairman. Mr. Frew was one and Mr. Davidson was one.

Mr. UNTERMYER. Was Mr. McGarrah one?

Mr. SHERER. Yes; on the second loan committee, yes.

Mr. UNTERMYER. Mr. McGarrah was the president of what bank?

Mr. SHERER. Mechanics & Metals Bank now.

Mr. UNTERMYER. That is a consolidation, is it not, of the old Copper Bank and the Mechanics' Bank?

Mr. SHERER. Yes.

Mr. UNTERMYER. And Mr. Frew is the president of the Corn Exchange Bank, is he not?

Mr. SHERER. Yes. Shall I send up for those?

Mr. UNTERMYER. I wish you would get us that, yes.

Mr. SHERER. I find that I have them here in the minutes.

Mr. UNTERMYER. Will you let your assistant write them out without our waiting now?

Mr. SHERER. Yes. The clearing house committee, 1907, and the loan committee also; that is what you want?

Mr. UNTERMYER. Yes. When did the panic start in 1907?

Mr. SHERER. In October, 1907.

Mr. UNTERMYER. The first financial institution that closed was the Knickerbocker Trust Co., was it not?

Mr. SHERER. I do not know. I think so. They were not in the clearing house; they were being cleared for.

Mr. UNTERMYER. They were a nonmember clearing through the Bank of Commerce, were they not?

Mr. SHERER. Yes.

Mr. UNTERMYER. When did the clearing-house committee decide to issue clearing-house certificates to banks?

Mr. SHERER. I will have to look at the record to give you that.

Mr. UNTERMYER. Please give us the date from the record.

Mr. SHERER. And the report of the loan committee for 1907—

Mr. UNTERMYER. I have a copy of that.

Mr. SHERER. In that you will find that at a meeting of the Clearing House Association held October 26, 1907, the clearing-house commit-

tee was appointed to act as a loan committee, with the president, with power to associate with them such bank officers as they judged to be necessary. Then it goes on to give the reason. The committee was unanimously appointed at noon, October 26, and forthwith proceeded to issue loan certificates, blank certificates having been stored in the stationery room. The following officers were appointed as an associate committee:

James G. Cannon, at that time vice president of the Fourth National Bank; Henry P. Davidson, vice president of the First National Bank.

Mr. UNTERMYER. He is now a partner in J. P. Morgan & Co., is he not?

Mr. SHERER. Yes. Walter F. Drew, vice president of the Corn Exchange Bank; Gates W. McGarrah, vice president of the Mechanics National Bank; Albert H. Wiggin, vice president of the Chase Bank. The loan committee itself was Mr. James T. Woodward, president of the Hanover Bank; William A. Nash, president of the Corn Exchange Bank; Dumont Clarke; A. B. Hepburn, of the Chase Bank; and Edward Townsend, of the Mechanics & Traders.

Mr. UNTERMYER. Was there public announcement made at the time these loan certificates were issued by the Clearing House Association, or by the committee, as to the banks to which they were being issued?

Mr. SHERER. No.

Mr. UNTERMYER. That was carefully guarded, was it not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. But there have been reports made since, have there not?

Mr. SHERER. Yes.

Mr. UNTERMYER. So that there is no harm that can come from the statement at this time of the amount of certificates that were issued?

Mr. SHERER. There is none.

Mr. UNTERMYER. Some of the strongest banks took out certificates at that time, did they not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. What was the procedure on the issuance of those certificates that were issued?

Mr. SHERER. The bank would pass a resolution through its directors authorizing its president or officers to pledge the collateral belonging to the bank with the clearing-house loan committee for certificates. They would bring that collateral to the clearing house and make application on a blank applying for \$1,000,000, if you please, and pledge collateral to cover that to a larger extent, of course—some 25 per cent more than the face of the certificates.

Mr. UNTERMYER. The collateral required of some of the banks was as much as two to one, was it not?

Mr. SHERER. That depended on the valuation placed upon the collateral. They could not give it an actual value until it was sold.

Mr. UNTERMYER. It turned out to be, in some instances, as much as two to one for the certificates issued, did it not?

Mr. SHERER. I can not say as to that. I was going to tell you this process.

Mr. UNTERMYER. Very well.

Mr. SHERER. They made this application, and the collateral was turned over to this associate committee. They examined the collateral, and if they found it sufficient they would report to the main committee that it was right, and the main committee would authorize the issuance of the certificates, and the manager's department would fill in the the certificates and they would be signed by three members of the loan committee and paid over to the bank, the collateral remaining with the loan committee until such time as the bank wanted to withdraw any of it, when they would come there with other collateral. Notes due to-morrow they would take out to-day and substitute other notes for them. So there was a substitution going on all the time until the bank was ready to retire its certificates. It was charged 6 per cent interest—that is, the bank to whom the certificates were issued. That was made up daily and the 6 per cent interest was credited to the bank which held those certificates up to the time that they paid them in, each bank making daily report of its certificate condition, being debited with those issued to it and credited with those it held of other banks; and these certificates were received in payment of balances due at the clearing house, and received by creditor banks for their credit balances.

Mr. UNTERMYER. In the meantime, if any of the collateral thus deposited with the loan committee was paid and not substituted by other collateral, the payments made were credited on account of the loan, were they not?

Mr. SHERER. Yes; and the certificates canceled.

Mr. UNTERMYER. What is that?

Mr. SHERER. The certificates were retired. They would bring in the money and take up the certificates and the collateral with them.

Mr. UNTERMYER. But the banks were allowed to collect their own collateral thus deposited with the committee?

Mr. SHERER. Oh, yes. Right here, if I may ask to make clear this function of the loan certificates, something involved in the matter of the depositary certificates, certificates issued for the deposit of gold coin, legal-tender notes and gold certificates.

Mr. UNTERMYER. Do you want to make any statement on that subject?

Mr. SHERER. Very briefly. The National Banking Act permits the clearing houses to have such depositaries, and therefore those certificates were issued in accordance with the law, and were not an inflation of the currency; because the notes and gold were behind, and the loan certificates were only substituted for the currency or depositary certificates, and were not a substitute for currency.

Mr. UNTERMYER. When a bank deposits gold at a subtreasury it gets bills for it, does it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. That is not an inflation of the currency, is it?

Mr. SHERER. No.

Mr. UNTERMYER. Is there any tax on that?

Mr. SHERER. No.

Mr. UNTERMYER. You were doing the same sort of thing, and you are doing the same sort of thing that the Government does through the subtreasury, are you not?

Mr. SHERER. Yes, sir; but we are doing it under the law.

Mr. UNTERMYER. To what section do you refer?

Mr. SHERER. Section 5192 of the regulations of the banking business—the National Banking Act.

Mr. UNTERMYER. Let us hear the section that you have in mind.

Mr. SHERER (reading).

Three-fifths of the reserve of fifteen per centum required by the preceding section to be kept, may consist of balances due to an association, available for the redemption of its circulating notes, from associations approved by the Comptroller of the Currency, organized under the act of June third, eighteen hundred and sixty-four, or under this Title, and doing business in the cities of Albany, Baltimore, Boston, Charleston, Chicago, Cincinnati, Cleveland, Detroit, Louisville, Milwaukee, New Orleans, New York, Philadelphia, Pittsburg, Richmond, Saint Louis, San Francisco, and Washington. Clearing-house certificates, representing specie or lawful money specially deposited for the purpose, of any clearing-house association, shall also be deemed to be lawful money in the possession of any association belonging to such clearing house, holding and owning such certificate, within the preceding section.

Mr. UNTERMYER. Do you construe that, Mr. Sherer, as allowing this transaction to which we have referred?

Mr. SHERER. Our depositary certificates?

Mr. UNTERMYER. Yes.

Mr. SHERER. Yes.

Mr. UNTERMYER. You consider your right to issue depositary certificates as against a deposit of specie or legal tender as authorized by that section?

Mr. SHERER. Yes.

Mr. UNTERMYER. And to issue a form of certificate that shall circulate between the members in place of currency?

Mr. SHERER. Circulate between the members, yes, in place of currency.

Mr. UNTERMYER. You could not issue it to circulate generally, could you?

Mr. SHERER. No.

Mr. UNTERMYER. But you draw the distinction between having a right to issue these certificates which shall circulate as currency among the members, and the right, which you admit you have not, to issue a certificate which would circulate generally, do you?

Mr. SHERER. Yes; for the reason that these certificates which circulate among members are secured by actual deposit of the gold coin.

Mr. UNTERMYER. So would the others be. Suppose you should issue a certificate now on deposit of gold coin that would circulate as currency without restriction. You know you have not the right to do that?

Mr. SHERER. No; there is a 10 per cent tax on that.

Mr. UNTERMYER. That is just the point. You are issuing this substitute for currency without paying that 10 per cent tax, are you not? That is the whole point of the controversy.

Mr. SHERER. We are doing it under the law.

Mr. UNTERMYER. That is your contention, but I am trying to find out what basis there is for that position.

Mr. SHERER. Ask the lawmakers.

Mr. UNTERMYER. No; I am trying to find out your construction. You admit, do you not, that you could not issue these certificates that you are now issuing, upon a deposit of coin, that would circulate generally, without paying the 10 per cent tax, do you not.

Mr. SHERER. Yes.

Mr. UNTERMYER. But you claim that you can issue them where they circulate only among members, without paying the tax?

Mr. SHERER. Yes sir.

Mr. UNTERMYER. That is a question of the construction of the law, is it not?

Mr. SHERER. I should suppose so.

Mr. UNTERMYER. Is that the explanation you wanted to make?

Mr. SHERER. Yes.

Mr. UNTERMYER. And that applies to the depositary certificates as distinguished from the loan certificates that were issued during the panic?

Mr. SHERER. Yes.

Mr. UNTERMYER. As to these loan certificates, they circulated also only among the members, did they not?

Mr. SHERER. That is all.

Mr. UNTERMYER. They were not issued upon the deposit of coin.

Mr. SHERER. Based upon credit.

Mr. UNTERMYER. They were issued for credit upon the deposit of securities?

Mr. SHERER. Yes.

Mr. UNTERMYER. And you would have had just as much authority to issue them without security, would you not?

Mr. SHERER. No; because the law of the clearing house required collateral security to be put up before they were issued.

Mr. UNTERMYER. But I mean apart from the clearing house regulations. As a matter of banking you would have had just as much right to issue them without collateral as with collateral, would you not?

Mr. SHERER. We have no moral right to do it, no.

Mr. UNTERMYER. You are not going into the realm of moral rights now, are you?

Mr. SHERER. I would like to keep within it.

Mr. UNTERMYER. You would?

Mr. SHERER. Yes.

Mr. UNTERMYER. On the subject of moral rights, Mr. Sherer, do you think it is right for the banks of a city to combine together to fix the compensation for a given service; to compel every member of their association either to agree to that arrangement or to subject themselves to expulsion and ruin?

Mr. SHERER. Leave off the ruin.

Mr. UNTERMYER. I will leave off the ruin, because you have said that expulsion means ruin, have you not?

Mr. SHERER. I do not know. Did I say so?

Mr. UNTERMYER. Did you not say so? And is it not so?

Mr. SHERER. I would have to look at the record. I do not think it is right to say so.

Mr. UNTERMYER. You do not think expulsion from the Clearing House Association means an end to the business career of a bank?

Mr. SHERER. Not if it is unjustly expelled.

Mr. UNTERMYER. What has the justice or injustice of the expulsion to do with the question of whether a large bank in the city of New York can exist without the clearing house privileges. The justice of the matter has nothing to do with it, has it?

Mr. SHERER. Yes; because all correct business is governed by justice.

Mr. UNTERMYER. I see. That is your explanation, is it?

Mr. SHERER. Yes.

Mr. UNTERMYER. I will repeat my question, then. I understand you to say that you do not think it is right—or do you think it is right?

Mr. SHERER. For the banks to combine together?

Mr. UNTERMYER. For the banks to combine together to exact a minimum price for the service and to compel every member of the Association to enter into such an agreement upon a threat of expulsion?

Mr. SHERER. It is right for the banks to combine as they have under the Clearing House Association and its collection rules. That is my answer to that.

Mr. UNTERMYER. Do you say this is the right thing to do, that they are doing now?

Mr. SHERER. What they are doing now is right.

Mr. UNTERMYER. You mean it is right for them to enter into an agreement to restrict competition in the collection of out-of-town checks by exacting a minimum price, on pain of expulsion? That you think is right?

Mr. SHERER. Yes.

Mr. UNTERMYER. Morally?

Mr. SHERER. Morally.

Mr. UNTERMYER. What difference do you see between that and any body of merchants in a business combining together to fix a uniform price on the product?

Mr. SHERER. The merchant's product depends on so many questions of supply and demand that it can hardly come into comparison. You had better make the comparison this: It is perfectly right for machinists or carpenters to combine together and not give up their services for less than a minimum price, to anybody.

Mr. UNTERMYER. Oh, you want to come in under the labor-union rules, do you?

Mr. SHERER. Morally, yes.

Mr. UNTERMYER. You want to get in under the labor-union rules. What difference is there between the banks of New York being required by the Association rules to enter into an arrangement to charge a minimum rate for a service, and the right of the railroads of the country to get together and agree to charge a minimum uniform rate for a service?

Mr. SHERER. The privilege, as I understand it, given a railroad corporation, the right of eminent domain, the right to put their road through my house, and the charter giving them the right to run through a number of states to do business, is one thing. They owe to the community more than the bank chartered by a state privilege owes to the communities all over the United States.

Mr. UNTERMYER. They are both under government authority, are they not?

Mr. SHERER. The qualifications—

Mr. UNTERMYER. I say, they are both acting under government authority, are they not?

Mr. SHERER. Yes.

Mr. UNTERMYER. And they are both engaged in interstate commerce, are they not? They are both instrumentalities of interstate commerce, are they not?

Mr. SHERER. I do not think you could be governed by the same details.

Mr. UNTERMYER. Not the same moral rule? Different morals would govern? Do you not think, on the contrary, and is it not your opinion, that what the banks have done here is very much more aggravated and very much less excusable than if the railroads were to combine on uniform rates, or if merchants were to combine on uniform rates, for this reason, that in this case it is true, is it not, that if a man does not want to agree to enter the combination he has got to enter it anyway, or be expelled from the Association; whilst, ordinarily, the merchant can either enter it or stay out of it? Is not that true, and is not the same thing true of the railroad? Is not that the situation?

Mr. SHERER. No; not entirely.

Mr. UNTERMYER. What is the distinction?

Mr. SHERER. The distinction is this, that the banks still have the same freedom that the railroad or the merchant has, not to enter this combination; to stay out of it.

I made an error yesterday in saying that the Harriman Bank was eligible. They are not. They have not the \$500,000. But the National Reserve Bank was the bank next to it. They have the million.

Mr. UNTERMYER. The Harriman bank is not eligible?

Mr. SHERER. No. The National Reserve Bank is. They come in from choice and they can go out freely. They can do business, as many do, without clearing-house privileges.

Mr. UNTERMYER. Your answer is, then, that there is nothing wrong in compelling the banks to uphold this agreement as to rates of service, because a bank that has had the right to membership in the Association can forfeit that right, if it does not want to be forced into the agreement? Is that it?

Mr. SHERER. Yes. It may voluntarily surrender that right.

Mr. UNTERMYER. That is not voluntarily surrendering it, is it, when they are called upon either to surrender it or to go into an agreement of this kind? Is that what you call a voluntary surrender?

Mr. SHERER. Yes; a voluntary surrender.

Mr. UNTERMYER. Voluntary under compulsion. Is that what you mean?

Mr. SHERER. I am obliged to leave the Pullman car if I have not the money to pay the price, and must go into the other car.

Mr. UNTERMYER. Have you read your testimony of yesterday?

Mr. SHERER. Yes; in one or two papers.

Mr. UNTERMYER. But not the minutes of the testimony?

Mr. SHERER. No.

Mr. UNTERMYER. Let us go back, now, to this question of the issue of loan certificates at the time of the 1907 panic. Immediately after the passage of the resolution a number of banks applied for and had issued to them loan certificates, did they not?

Mr. SHERER. Yes sir.

Mr. UNTERMYER. Will you give me, again, the names of the particular members or individuals who passed upon the issue of these certificates—this loan committee of which you spoke?

Mr. SHERER. The associate loan committee.

Mr. UNTERMYER. It was the associate loan committee you have named?

Mr. SHERER. Yes. It passed upon the sufficiency of the collateral.

Mr. UNTERMYER. And upon their recommendation as to the sufficiency of the collateral these loans were made?

Mr. SHERER. Yes sir.

Mr. UNTERMYER. If you see no objection to a disclosure at this time of the names of the banks that applied for these loan certificates, and to which banks they were issued, and the amounts, I will ask you to identify this list [handing paper to the witness]. If you see any objection to it, I do not want it done.

Mr. SHERER. I do not see any objection, no. [After a pause.] I should prefer not to have it entered on the record, sir.

Mr. UNTERMYER. Has it not become a matter of public record?

Mr. SHERER. Not in detail, no. The total amount and, in some instances, I presume, the amount of the issue to individual banks, has been; but it has not been published as an item of news.

Mr. UNTERMYER. Has it been reported to the Association?

Mr. SHERER. Oh, yes; that is reported to the Association—

Mr. UNTERMYER. If there is any doubt about it, we do not want it.

Mr. SHERER. There is a doubt about it.

Mr. UNTERMYER. Then we will not cross the line. We do not want to do anything that may create any difficulty.

Mr. SHERER. This is your property, and that gives you all excepting this detail [referring to report of the Loan Committee of the New York Clearing House Association, 1907-1908].

Mr. UNTERMYER. The detail, you think, should not be made public?

Mr. SHERER. I think not.

Mr. UNTERMYER. Will you be kind enough to tell me, then, how many banks took out loan certificates? There is no objection to that, is there?

Mr. SHERER. No. There were 32.

Mr. UNTERMYER. And among them were the largest and strongest and richest banks of the city?

Mr. SHERER. Yes.

Mr. UNTERMYER. The largest amount of certificates taken out by any one bank was how many million dollars?

Mr. SHERER. \$17,000,000.

Mr. UNTERMYER. Were there a number of banks that took out as much as ten millions in certificates?

Mr. SHERER. There were two that took out ten millions.

Mr. UNTERMYER. The total amount of certificates taken out was how much?

Mr. SHERER. \$101,060,000.

Mr. UNTERMYER. And these were taken out within what space of time, in 1907; between what dates?

Mr. SHERER. Between October 26, 1907, and the final cancellation of March 28, 1908.

Mr. UNTERMYER. I do not mean the date of final cancellation.

Mr. SHERER. Issuance—

Mr. UNTERMYER. The dates of issue. That list that you have before you will give it to you, Mr. Sherer.

Mr. SHERER (referring to list). Oh, yes. I think it was December—

Mr. UNTERMYER. December 26?

Mr. SHERER. December 26.

Mr. UNTERMYER. The great bulk of them were taken out in October. were they not?

Mr. SHERER. Yes.

Mr. UNTERMYER. Between the 26th of October and the end of October the bulk of these certificates were issued?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. I believe there were only two certificates that were issued after November 30?

Mr. SHERER. Only two; yes.

Mr. UNTERMYER. During that time of stress, the accounts receivable and assets of the various banks were largely not collectible without involving great injury to their customers?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. And, therefore, the assets of these banks were not liquid, no matter how large they might have been? That is true, is it not?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. So that the fact that the banks had to take out certificates and put up as collateral bills receivable that they held in order to carry their customers, was no indication that they were not in a sound condition, was it?

Mr. SHERER. No, sir; I should think not.

Mr. UNTERMYER. Before a bank was granted these loan certificates, its affairs were examined, were they not?

Mr. SHERER. No; only the collateral, and they might have had some data from the last examination made by the authorities.

Mr. UNTERMYER. Do you not know that in some instances the committee would first examine the bank?

Mr. SHERER. I know in some instances they did so, but it was not the rule.

Mr. UNTERMYER. They did so, particularly in the instance of the Oriental Bank, did they not?

Mr. SHERER. I believe so; yes.

Mr. UNTERMYER. And they found the bank sound and safe, did they not?

Mr. SHERER. I can not say that, because I was not on duty with that associate committee at all.

Mr. UNTERMYER. Who had more immediate relations with that associate committee?

Mr. SHERER. Mr. Cannon, the Chairman, and the secretary at that time.

Mr. UNTERMYER. Who was the secretary then?

Mr. SHERER. His name is Wolf.

Mr. UNTERMYER. Is he still with the Association?

Mr. SHERER. Yes; he is an officer of the Security Bank.

Mr. UNTERMYER. That is a bank that is controlled by the people who control the Fourth National, is it not?

Mr. SHERER. So the newspapers say. I do not know it.

Mr. UNTERMYER. You know more than what the newspapers say on that subject, do you not, Mr. Sherer?

Mr. SHERER. That would be a large assumption, would it not?

Mr. UNTERMYER. Let us see if you do not. The Security Bank is a clearing house member, is it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. So is the Fourth National Bank, is it not?

Mr. SHERER. Oh, yes sir.

Mr. UNTERMYER. Mr. Cannon is the Chairman of the Board of one and the president of the other, is he not?

Mr. SHERER. Yes.

Mr. UNTERMYER. Yet you tell us you do not know any more about the relations between those two banks than what the newspapers say?

Mr. SHERER. You put it that the Security Bank is under the control of the Fourth National Bank. I say I do not know that, nor do I believe it to be so.

Mr. UNTERMYER. Do you not know that they have a number of directors in common?

Mr. SHERER. Yes. The bank is owned by a great many stockholders.

Mr. UNTERMYER. I am not talking about stockholders. We are talking about the people who control its practical affairs and its management, not about the stockholders. You know what control means, do you not?

Mr. SHERER. Yes.

Mr. UNTERMYER. You know that control of a bank, so far as its active management and direction and policy are concerned, is not dependent upon the stock ownership, and that the two have no relation. do you not?

Mr. SHERER. I do not want to answer that, because I consider the stockholders the owners of the bank, and I do not want to say that the owners of the bank give up the control of it.

Mr. UNTERMYER. But you know the management is one thing and the stockholding is quite another thing?

Mr. SHERER. Yes.

Mr. UNTERMYER. You know that the banks of this city, as a rule, are managed by men who do not control the stock?

Mr. SHERER. No, I do not know that.

Mr. UNTERMYER. Do you know whether that is so or not?

Mr. SHERER. No.

Mr. UNTERMYER. Do you not know that with perhaps two exceptions all the great banks in the City of New York are managed and controlled by men who have comparatively small stock interest in them?

Mr. SHERER. I know this—

Mr. UNTERMYER. Do you know that or not?

Mr. SHERER. No, I do not know it. I was going to tell you why.

Mr. UNTERMYER. You do not know what the facts are, do you?

Mr. SHERER. I was going to tell you. A bank is managed by a board of directors, and how much stock the directors own I can not say; I do not know.

Mr. UNTERMYER. They are controlled nominally by the board, but in effect you know their control rests with their executive officers, in the first instance?

Mr. SHERER. Yes.

Mr. UNTERMYER. Do you not know that in most instances in the City of New York the executive officers are comparatively small stockholders; their stock interest is comparatively small?

Mr. SHERER. No, I do not know how much stock they own; whether it is a great amount or not.

Mr. UNTERMYER. Going back now to this issue of loan certificates, do you remember the negotiations between the Oriental Bank and the loan committee of the Clearing House Association?

Mr. SHERER. No.

Mr. UNTERMYER. You say those are matters with which you had no concern?

Mr. SHERER. Yes.

Mr. UNTERMYER. Had you any concern with the issue of the notice that the loan certificates would be required to be retired?

Mr. SHERER. Yes.

Mr. UNTERMYER. Did you send that notice?

Mr. SHERER. I did.

Mr. UNTERMYER. That was sent on the 25th of January, 1908, was it not?

Mr. SHERER. I think so. You have it there, I think.

Mr. UNTERMYER. Is this a copy of the letter that was issued on the 25th of January, 1908, calling in these certificates?

Mr. SHERER (after examination). Yes sir.

Mr. UNTERMYER. Did you see a copy of that in the newspapers the next morning?

Mr. SHERER. No sir.

Mr. UNTERMYER. Did you see in the newspapers the next morning an announcement of the sending of the notice?

Mr. SHERER. I have no recollection of it, at all.

Mr. UNTERMYER. Do you not know that there was such an announcement?

Mr. SHERER. I do not.

Mr. UNTERMYER. You do not know whether there was or not?

Mr. SHERER. I do not know whether there was or was not.

Mr. UNTERMYER. Do you not know that shortly after that letter was sent there was an announcement of the fact that the clearing house committee sent such a notice out?

Mr. SHERER. No sir.

Mr. UNTERMYER. I offer this letter in evidence.

The paper referred to was marked Exhibit No. 21, June 7, 1912, and is here printed in the record as follows:

Copy of letter dated January 25, 1908, sent by Mr. James T. Woodward, chairman of clearing house committee, to—

Mr. HUGH KELLY, *President Oriental Bank,*

Mr. D. A. SULLIVAN, *President Mechanics & Traders Bank,*

Mr. W. F. HAVEMEYER, *President National Bank of North America,*

Mr. F. W. KINSMAN, *President New Amsterdam National Bank.*

DEAR SIR: It is the desire of the Clearing House Committee that all loan certificates be retired on or before Thursday, February 6, 1908.

Very truly, yours,

JAMES T. WOODWARD,
Chairman Clearing House Committee.

Loan certificates outstanding against above bank January 25, 1908:

Mechanics & Traders Bank	\$2,100,000
Oriental Bank	1,650,000
National Bank of North America	2,200,000
New Amsterdam National Bank	400,000

Mr. UNTERMYER. There were four letters?

Mr. SHERER. Yes.

Mr. UNTERMYER. One was addressed to Mr. Hugh Kelly, president of the Oriental Bank.

Mr. SHERER. Yes.

Mr. UNTERMYER. And another to Mr. D. A. Sullivan, president of the Mechanics & Traders Bank?

Mr. SHERER. Yes.

Mr. UNTERMYER. Another to Mr. W. F. Havemeyer, president of the National Bank of North America?

Mr. SHERER. Yes.

Mr. UNTERMYER. And another to W. F. Kinsman, president of the New Amsterdam National Bank?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. And this letter properly states the amount of certificates that were then outstanding?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. Was there another bank whose certificates were still outstanding at that time?

Mr. SHERER. I do not remember whether there was or not. I have no data here to show it.

Mr. UNTERMYER. This list you have before you here will show it. Was there another bank that had outstanding certificates on the 25th of January?

Mr. SHERER. Yes, sir.

Mr. UNTERMYER. And that bank had about \$3,300,000 outstanding?

Mr. SHERER. By that list, yes.

Mr. UNTERMYER. Was there notice sent to the bank?

Mr. SHERER. I have no record of there having been.

Mr. UNTERMYER. About this time when the committee got together and decided to send these notices, the situation in the business and financial world had grown very much better, had it not?

Mr. SHERER. Very much.

Mr. UNTERMYER. Everything was pretty well on the mend, was it not?

Mr. SHERER. Yes sir.

Mr. UNTERMYER. You remember the occasion of those four banks to which that notice was addressed closing their doors?

Mr. SHERER. No sir.

Mr. UNTERMYER. They did close their doors, did they not?

Mr. SHERER. Yes sir.

Mr. UNTERMYER. All four of them?

Mr. SHERER. Yes sir.

Mr. UNTERMYER. How many days was it after the clearing house committee sent out that notice that they closed their doors?

Mr. SHERER. I could not tell you.

Mr. UNTERMYER. Before they closed their doors, and after the notice was sent out, did you see any account in the newspapers of the notice having been sent?

Mr. SHERER. I can not remember to have done so. It is some years ago—

Mr. UNTERMYER. Do you not remember that before they closed their doors there was a simultaneous run on all four of those banks?

Mr. SHERER. I do not remember it, no. May I say that this letter was withdrawn; that these people were all notified a day or two after that—not more than two days after that—recalling this letter?

Mr. UNTERMYER. Yes, certainly; say so. But will you also state whether in the meantime it had been given out to the newspapers?

Mr. SHERER. I do not know that.

Mr. UNTERMYER. And that the banks had been closed?

Mr. SHERER. They were not closed, because I told Hugh Kelly personally—

Mr. UNTERMYER. Was not there a run upon those four banks the day after that notice was sent?

Mr. SHERER. I do not know that there was; but I do know that one of those banks was offered assistance before it closed its doors, after the receipt of this letter. It could have had any assistance its collateral would have proven good for.

Mr. UNTERMYER. Which bank is that?

Mr. SHERER. The Oriental Bank.

Mr. UNTERMYER. Were you present when it was offered assistance?

Mr. SHERER. No, sir.

Mr. UNTERMYER. How do you know that it was offered assistance then?

Mr. SHERER. Because one of the clearing house committee told me so.

Mr. UNTERMYER. Do you know it was offered \$50,000?

Mr. SHERER. No; I do not know how much it was offered.

Mr. UNTERMYER. Is it your idea, then, that the bank voluntarily closed its doors because they wanted to do so, even although the clearing house was willing to stand back of it; is that your idea?

Mr. SHERER. No; I do not have any idea about that at all.

Mr. UNTERMYER. You know perfectly well that before the directors closed the doors of the bank, following a run upon it, after this notice had been sent, they made repeated efforts to get help from the clearing house, do you not?

Mr. SHERER. No, sir.

Mr. UNTERMYER. Do you know whether they did or not?

Mr. SHERER. No.

Mr. UNTERMYER. You do not know that; but not knowing anything about it, you have just told us you know that they had been offered assistance.

Mr. SHERER. I told you what I heard.

Mr. UNTERMYER. Did you hear how much assistance they were offered?

Mr. SHERER. No, sir.

Mr. UNTERMYER. Do you know whether or not the banks had been regaining their deposits following the panic, when this notice was issued?

Mr. SHERER. No, I do not.

Mr. UNTERMYER. You do not know whether they had or not?

Mr. SHERER. No, sir.

Mr. UNTERMYER. Then the sum and substance of your testimony on this point is that you do not remember anything about what transpired after the notice of January 25 was sent, except that a few days later you say it was withdrawn?

Mr. SHERER. Within two days afterwards, yes.

Mr. UNTERMYER. Have you any record of the notice withdrawing it?

Mr. SHERER. I do not think I have, here.

Mr. UNTERMYER. Was it withdrawn by letter? You say it was withdrawn. How was it withdrawn? The notice was given by letter. Now, how was it withdrawn?

Mr. SHERER. If I have a letter I can find it in my letter.

Mr. UNTERMYER. You say if you have a letter.

Mr. SHERER. Or it was verbal with Mr. Kelly—

Mr. UNTERMYER. But, Mr. Sherer, you have made the positive statement here that within a few days after that notice was sent to those four banks it was withdrawn.

Mr. SHERER. Yes.

Mr. UNTERMYER. You do not know whether it was withdrawn in writing, do you?

Mr. SHERER. I do not remember now, but I can ascertain when I go back to the house.

Mr. UNTERMYER. You did not hear anybody withdraw it, did you? You were not present when it was withdrawn?

Mr. SHERER. When these letters were withdrawn?

Mr. UNTERMYER. Yes.

Mr. SHERER. I was authorized to notify these banks that the letter was withdrawn.

Mr. UNTERMYER. But did you do so?

Mr. SHERER. Yes.

Mr. UNTERMYER. How?

Mr. SHERER. I tell you I do not remember just now how we did it.

Mr. UNTERMYER. You say "how we" did it. Did you personally do anything?

Mr. SHERER. Yes.

Mr. UNTERMYER. You personally did it?

Mr. SHERER. Yes.

Mr. UNTERMYER. You do not remember whether you did it by letter or not?

Mr. SHERER. No.

Mr. UNTERMYER. But you will ascertain and let us know?

Mr. SHERER. I will, yes, sir.

Mr. UNTERMYER. You do know, as a fact, though, do you not, that after the sending of this notice of January 25, 1908, every one of those four banks did close its doors?

Mr. SHERER. Yes.

Mr. UNTERMYER. And that it was done within a week of the sending of that letter?

Mr. SHERER. No, sir. I do not think it was as soon as that. I can not remember what dates they closed their doors.

Mr. UNTERMYER. They were required by this notice to pay their balances on or before February 6, were they not?

Mr. SHERER. The reading of the letter—

Mr. UNTERMYER. No, no. Were they not required to pay their balances on or before February 6?

Mr. SHERER. It depends on how you interpret it.

Mr. UNTERMYER. Well, how do you interpret it?

Mr. SHERER. By reading it—

Mr. UNTERMYER. Do you put any interpretation upon it?

Mr. SHERER. Yes.

Mr. UNTERMYER. Do you interpret it as requiring them to pay those balances by that time?

Mr. SHERER. It left the door open for them to come there and show good cause why they should not, because the letter itself says: "It is the desire of the clearing house committee that all loan certificates be retired on or before Thursday, February 6." If I had such a letter I would go to the clearing house and tell them why I should not have them retired, if I had a good reason. If this letter had said: "You are required to redeem your certificates by a certain date," then it would have been a command.

Mr. UNTERMYER. Before February 6 the doors of those banks were closed, were they not?

Mr. SHERER. I do not remember the date on which their doors were closed. I could tell that by looking at my books. The date of the insolvency of the Mechanics and Traders Bank was January 30, 1908; the National Bank of North America, January 25, 1908; the Oriental Bank, January 30, 1908; and the New Amsterdam Bank, January 29, 1908. Those are the dates of the insolvency of those banks, and they were dropped from the roll—

Mr. UNTERMYER. That answers my question. Now, the date of the letters was January 25, 1908.

Mr. SHERER. Yes.

Mr. UNTERMYER. I suppose you do not think the sending of those letters out had anything to do with those banks becoming insolvent, do you?

Mr. SHERER. No; because—

Mr. UNTERMYER. You have answered me. I did not ask you any because.

Mr. SHERER. All right.

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

Mr. SHERER. Yes.

Mr. UNTERMYER. The Clearing House Association had ample collateral for all the moneys which were owing it for which these certificates were outstanding, did it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. In the case of the Oriental Bank it had collateral to the amount of two dollars for one?

Mr. SHERER. I do not know anything about that.

Mr. UNTERMYER. At any rate it had more than enough collateral to make itself safe?

Mr. SHERER. I tell you I do not know of what the collaterals consisted.

Mr. UNTERMYER. But they were all paid, were they not?

Mr. SHERER. Yes; I presume so. I do not know that, even.

Mr. UNTERMYER. You have given me the information to show that they were, have you not?

Mr. SHERER. Some of the collateral may have gone to a protest afterwards, and been a loss to the stockholders.

Mr. UNTERMYER. Yes; but you had a large margin, had you not?

Mr. SHERER. We turned it all back, yes.

Mr. UNTERMYER. I say you had a large margin, had you not?

Mr. SHERER. Yes; of course.

Mr. UNTERMYER. You did not turn it back until you were paid. did you?

Mr. SHERER. Not necessarily.

Mr. UNTERMYER. The Oriental Bank paid its certificates in full, did it not, on the 23d of March, 1908, and the collateral that was remaining was taken up?

Mr. SHERER. Yes.

Mr. UNTERMYER. The Mechanics and Traders Bank paid its certificates after it failed and closed its doors on the 11th of March, 1908. It took up its collateral, did it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. The National Bank of North America paid its certificates after it had closed its doors on the 28th of March, 1908, and took up its collateral?

Mr. SHERER. Yes.

Mr. UNTERMYER. The New Amsterdam Bank paid and took up its collateral on the 6th of February, 1908, did it not?

Mr. SHERER. Yes sir.

Mr. UNTERMYER. In the meantime it had been compelled to close its doors, had it not?

Mr. SHERER. Yes.

Mr. UNTERMYER. The Bank of North America and the New Amsterdam Bank were what were known as Morse banks, were they not?

Mr. SHERER. Yes.

Mr. UNTERMYER. Every Morse bank was closed up, was it not?

Mr. SHERER. I do not know how many Morse banks there were.

Mr. UNTERMYER. Do you know of any that were not closed up?

Mr. SHERER. No sir; I do not know of any.

Mr. UNTERMYER. Do you know, personally, anything about the way in which these banks liquidated?

Mr. SHERER. No.

Mr. UNTERMYER. You know they all paid their creditors in full long ago, do you not?

Mr. SHERER. I believe so, yes.

Mr. UNTERMYER. And every depositor was paid in full long ago?

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

Mr. UNTERMYER. Do you not know it as a matter of general knowledge?

Mr. SHERER. I am sure I do not know.

Mr. UNTERMYER. Do you not know their stockholders have been receiving dividends on their stock in liquidation?

Mr. SHERER. Yes.

Mr. UNTERMYER. You know the stockholders would not get dividends until after the depositors were paid, do you not?

Mr. SHERER. I should infer not.

Mr. UNTERMYER. Infer that?

Mr. SHERER. Yes. I do not say I know anything without I know it.

Mr. UNTERMYER. Is there anything you would like to say, Mr. Sherer, upon any subject of the examination?

Mr. SHERER. No, sir.

Mr. UNTERMYER. Or have you stated everything you would like to say?

Mr. SHERER. Everything I know of, sir.

Mr. UNTERMYER. Very well. If anything occurs to you you may come back.

Mr. SHERER. Am I excused?

Mr. UNTERMYER. I think that is all.

Witness excused.

TESTIMONY OF JAMES G. CANNON, PRESIDENT OF THE FOURTH NATIONAL BANK, NEW YORK, N. Y.

The witness was sworn by the Chairman.

Mr. UNTERMYER. You are the President of the Fourth National Bank, are you not?

Mr. CANNON. Yes sir.

Mr. UNTERMYER. You have been connected with that bank for many years?

Mr. CANNON. About 20 years.

Mr. UNTERMYER. You were formerly the vice president. when Mr. Simmons was president?

Mr. CANNON. Yes sir.

Mr. UNTERMYER. Are you an officer of any other banks in the City of New York?

Mr. CANNON. No sir.

Mr. UNTERMYER. Are you the Chairman of the Security Bank?

Mr. CANNON. No sir.

Mr. UNTERMYER. Of the board of directors?

Mr. CANNON. No sir.

Mr. UNTERMYER. Were you?

Mr. CANNON. Never.

Mr. UNTERMYER. You have never had any relations with the Security Bank as a director?

Mr. CANNON. No sir.

Mr. UNTERMYER. Was that formerly the Fourteenth Street Bank?

Mr. CANNON. Yes sir.

Mr. UNTERMYER. Did you and your friends acquire the control of the bank?

Mr. CANNON. No sir.

Mr. UNTERMYER. Did you acquire an interest in it?

Mr. CANNON. A substantial interest in it, yes.

Mr. UNTERMYER. When was that?

Mr. CANNON. About a year ago.

Mr. UNTERMYER. That had been known as one of the Morse Banks?

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

Mr. UNTERMYER. Mr. Morse and his friends had a large interest in it, had they not?

Mr. CANNON. Not a large interest.

Mr. UNTERMYER. They had a substantial interest?

Mr. CANNON. No; not a large interest.

Mr. UNTERMYER. Let us see about that.

Mr. CANNON. Not to my knowledge; at least, not when I acquired my interest.

Mr. UNTERMYER. No, not when you acquired your interest; but at the time of the 1907 panic you knew the conditions in the City of New York, did you not?

Mr. CANNON. Yes sir.

Mr. UNTERMYER. In the banking world?

Mr. CANNON. Yes sir.

Mr. UNTERMYER. You were very intimate with them?

Mr. CANNON. I was familiar with them, yes sir.

Mr. UNTERMYER. You were in intimate touch with the financial situation at that time, were you not?

Mr. CANNON. Yes sir.

Mr. UNTERMYER. Were you chairman of the loan committee of the Clearing House Association?

Mr. CANNON. No, sir; I was chairman of the subcommittee of the clearing house committee.

Mr. UNTERMYER. This subcommittee of the clearing house committee was known as the loan committee?

Mr. CANNON. No; the loan committee was the clearing house committee with the junior officers attached to it.

Mr. UNTERMYER. The committee of which you were chairman at that time passed upon the collateral that was offered for loan certificates that were issued?

Mr. CANNON. Yes, sir.

Mr. UNTERMYER. Do I correctly understand you to say that you did not know that the Fourteenth Street Bank was one of the so-called Morse banks, in which Mr. Morse and his friends had a large interest?

Mr. CANNON. I knew that they had some interest.

Mr. UNTERMYER. Did you know that Mr. John F. Carroll was the vice president of the bank?

Mr. CANNON. I did.

Mr. UNTERMYER. And that he had come in through Mr. Morse?

Mr. CANNON. I did not know how he came in.

Mr. UNTERMYER. You did not know that?

Mr. CANNON. No.

Mr. UNTERMYER. Who was the president of the bank at that time?

Mr. CANNON. Mr. Appleton.

Mr. UNTERMYER. You say you and your friends bought an interest in that bank about a year ago?

Mr. CANNON. About a year ago, yes.

Mr. UNTERMYER. What was its capital at that time?

Mr. CANNON. Its capital at that time was a million dollars.

Mr. UNTERMYER. How long had it been a million dollars?

Mr. CANNON. I do not know; I could not give you the exact date.

Mr. UNTERMYER. Do you know what its capital was at the time of the 1907 panic?

Mr. CANNON. I could not tell.

Mr. UNTERMYER. Do you know approximately when its capital was increased?

Mr. CANNON. No, I do not. The first increase of capital?

Mr. UNTERMYER. No; the last increase to a million dollars?

Mr. CANNON. No; I do not know.

Mr. UNTERMYER. Was it within a very few weeks of the time your friends bought an interest in the bank?

Mr. CANNON. Not until we made a consolidation with other institutions.

Mr. UNTERMYER. What other institutions?

Mr. CANNON. Took over the Nineteenth Ward Bank and the Twelfth Ward Bank.

Mr. UNTERMYER. These three banks together constituted the Security Bank?

Mr. CANNON. The Security Bank.

Mr. UNTERMYER. And that was the time you came into that bank, was it?

Mr. CANNON. Came in just before that.

Mr. UNTERMYER. Did you have any interest in the Fourteenth Street Bank?

Mr. CANNON. Yes, sir.

Mr. UNTERMYER. What was its capital?

Mr. CANNON. A million dollars.

Mr. UNTERMYER. And what interest did you and your friends acquire at that time?

Mr. CANNON. Why, I do not know the exact amount; it was not a large amount.

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

Mr. CANNON. About 1,000 shares, I think.

Mr. UNTERMYER. You and your friends?

Mr. CANNON. Yes, sir.

Mr. UNTERMYER. Is Mr. Campbell the vice president of the Fourth National Bank?

Mr. CANNON. He is.

Mr. UNTERMYER. Is he an officer of the Security Bank?

Mr. CANNON. He is not.

Mr. UNTERMYER. Was he?

Mr. CANNON. No, sir.

Mr. UNTERMYER. And you never were?

Mr. CANNON. I never have been an officer of the Security Bank; no, sir.

Mr. UNTERMYER. Nor in any of those subsidiary banks that consolidated into the Security Bank?

Mr. CANNON. No, sir.

Mr. UNTERMYER. You and Mr. Campbell are directors?

Mr. CANNON. We are.

Mr. UNTERMYER. And are there any other directors of the Fourth National Bank that are also directors of the Security Bank?

Mr. CANNON. One other; Mr. Weldon Ring.

Mr. UNTERMYER. Before the consolidation of these three banks into the Security Bank did you also acquire interests in the other banks?

Mr. CANNON. No sir.

Mr. UNTERMYER. Then at the time of the consolidation the only bank of the three that were thus consolidated in which you or your friends had an interest was the Fourteenth Street Bank?

Mr. CANNON. The Fourteenth Street Bank, yes sir.

Mr. UNTERMYER. And the interest of yourself and your friends in the Fourteenth Street Bank was then only 1,000 shares out of 10,000?

Mr. CANNON. Yes.

Mr. UNTERMYER. Is that right?

Mr. CANNON. That is right, at that time.

Mr. UNTERMYER. Did you acquire more of it?

Mr. CANNON. We reduced the capital so as to increase the surplus. We reduced the capital from \$1,000,000 to \$750,000 and then immediately increased it, setting aside \$250,000 to surplus, making the capital a million dollars again, and at that time myself and friends acquired about a thousand shares more; that is all.

Mr. UNTERMYER. That is, in the Fourteenth Street Bank?

Mr. CANNON. In the new Security Bank.

Mr. UNTERMYER. Then you took those three banks and organized a single bank with only \$1,000,000 of capital?

Mr. CANNON. \$1,000,000 of capital, yes sir.

Mr. UNTERMYER. The two other banks had how much capital?

Mr. CANNON. They had a small capital; I do not know exactly the amount of capital. They were in liquidation, and we consolidated them with the Security Bank. They went into liquidation.

Mr. UNTERMYER. You acquired them in liquidation?

Mr. CANNON. Yes.

Mr. UNTERMYER. You just acquired the assets?

Mr. CANNON. We acquired the assets in liquidation, yes.

Mr. UNTERMYER. And whom did you put in as president of the Security Bank?

Mr. CANNON. Mr. Appleton.

Mr. UNTERMYER. He had been the president of the old Fourteenth Street Bank?

Mr. CANNON. Yes.

Mr. UNTERMYER. Who did you put in as vice president?

Mr. CANNON. Robert I. Brewster.

Mr. UNTERMYER. Had he been vice president of the Fourteenth Street Bank?

Mr. CANNON. Yes. There was a third vice president; Mr. Henderson M. Wolfe.

Mr. UNTERMYER. Did you retain him in the Security Bank?

Mr. CANNON. He is now the vice president.

Mr. UNTERMYER. Was he in your bank before?

Mr. CANNON. He was my assistant cashier in the Fourth National Bank.

Mr. UNTERMYER. Is he still your assistant cashier in the Fourth National Bank?

Mr. CANNON. He has no relation with us whatever.

Mr. UNTERMYER. You put him in as vice president of the Security Bank?

Mr. CANNON. He was elected vice president of the Security Bank.

Mr. UNTERMYER. He was elected because you nominated him, was he not?

Mr. CANNON. At my suggestion.

Mr. UNTERMYER. Certainly. The Security Bank has established a number of branches, has it not?

Mr. CANNON. It has a number of branches, yes.

Mr. UNTERMYER. How many?

Mr. CANNON. Seven or eight; I do not know exactly how many.

Mr. UNTERMYER. They have been established since the Security Bank was organized, have they not?

Mr. CANNON. No; we took over some.

Mr. UNTERMYER. Some of them?

Mr. CANNON. They had two branches and their main office, and they took over the Nineteenth Ward and Twelfth Ward Banks which had certain branches of their own. That consolidation made the change.

Mr. UNTERMYER. A national bank can not establish any branches, can it.

Mr. CANNON. No branches whatever.

Mr. UNTERMYER. But a state bank may have branches?

Mr. CANNON. It may have branches, yes.

Mr. UNTERMYER. That was one of the advantages of acquiring this property, was it not?

Mr. CANNON. Not necessarily so.

Mr. UNTERMYER. Do you not think that was a great advantage?

Mr. CANNON. It might have been.

Mr. UNTERMYER. Do you not think it was?

Mr. CANNON. To have branches?

Mr. UNTERMYER. Yes.

Mr. CANNON. For a state bank.

Mr. UNTERMYER. Any bank.

Mr. CANNON. I do not know. That is a question of dollars and cents.

Mr. UNTERMYER. That is what the national banks would like to have, but Congress has not given them that?

Mr. CANNON. Never has.

Mr. UNTERMYER. And you do not think it ought to?

Mr. CANNON. No sir; I do not.

Mr. UNTERMYER. But the state banks ought to have branches?

Mr. CANNON. Yes.

Mr. UNTERMYER. Why do you think a state bank should have branches while you do not think a national bank should be allowed to have them?

Mr. CANNON. A state bank can do a local business in a city like this which a national bank would have difficulty, I imagine, in doing.

Mr. UNTERMYER. Why could not a national bank do a local business just as well as a state bank?

Mr. CANNON. Because a national bank is obliged to have a certain amount of capital, of course.

Mr. UNTERMYER. Yes.

Mr. CANNON. And I do not think it would be wise to have national banks have branches.

Mr. UNTERMYER. Is that the only explanation you desire to make of the reason why you think a state bank should be allowed to have branches and a national bank should not?

Mr. CANNON. I think so.

Mr. UNTERMYER. Will you give us your reasons why it would not be wise for a national bank to have branches?

Mr. CANNON. I think it would be consolidating business into too few hands.

Mr. UNTERMYER. It would be worse than it is to-day, would it not?

Mr. CANNON. Too few hands.

Mr. UNTERMYER. If the great national banks could have branches in the city, there would not be anything else, would there?

Mr. CANNON. That is right.

Mr. UNTERMYER. It would be all one bank after a while, after you got out of the field?

There have been some interests come into the Fourth National Bank within recent times, have there not?

Mr. CANNON. Since I became president?

Mr. UNTERMYER. Yes.

Mr. CANNON. Yes.

Mr. UNTERMYER. What are those financial interests that have come into your bank?

Mr. CANNON. I do not understand your question. What do you mean?

Mr. UNTERMYER. I think you do, Mr. Cannon.

Mr. CANNON. No; I do not know what you mean by financial interests.

Mr. UNTERMYER. I mean some great banking interests have identified themselves with your bank, have they not, since you became president?

Mr. CANNON. Yes, and other interests.

Mr. UNTERMYER. You understand me?

Mr. CANNON. Yes.

Mr. UNTERMYER. What is that great interest?

Mr. CANNON. There is no one interest in control of this bank.

Mr. UNTERMYER. Now, Mr. Cannon, will you not answer me frankly. Kuhn, Loeb & Co. have bought a substantial interest in your bank, have they not?

Mr. CANNON. They have.

Mr. UNTERMYER. And have members of the firm gone on the board?

Mr. CANNON. Mr. Mortimer Schiff is on my board.

Mr. UNTERMYER. And on your executive committee?

Mr. CANNON. We have no executive committee.

Mr. UNTERMYER. You are the executive committee, are you not?

Mr. CANNON. No; the board is the executive committee.

Mr. UNTERMYER. You have been the executive committee for a great many years, have you not?

Mr. CANNON. No; I guess not. That is not true. The board is the executive committee.

Mr. UNTERMYER. I will concede your modesty forbids you saying that.

Mr. CANNON. The board is the executive committee, sir.

Mr. UNTERMYER. Have you furnished this committee with the data that it has requested from national banks, Mr. Cannon?

Mr. CANNON. We have not, no sir, but I have sent them a letter with reference to the same.

Mr. UNTERMYER. Yes; they have all sent letters, but the question is as to the furnishing of the data.

Mr. CANNON. Yes.

Mr. UNTERMYER. Why have you not furnished these data?

Mr. CANNON. On the advice of counsel.

Mr. UNTERMYER. Is that all you care to say?

Mr. CANNON. That is all I care to say, yes sir.

Mr. UNTERMYER. What counsel?

Mr. CANNON. Mr. William Opdyke.

Mr. UNTERMYER. The counsel advised you that it would be a violation of your duty to your depositors to do so?

Mr. CANNON. I will read the letter that I wrote you.

Mr. UNTERMYER. No; did counsel so advise you, that it would be a violation of your duty to your depositors?

Mr. CANNON. That it would be a violation of the section in the National Bank Act with reference to that.

Mr. UNTERMYER. Section 5241?

Mr. CANNON. Section 5241?

Mr. UNTERMYER. On the ground that only the Comptroller of the Currency has visitorial powers over the bank?

Mr. CANNON. Only the Comptroller of the Currency has visitorial powers over the bank, yes sir.

Mr. UNTERMYER. You consider, then, the relation between your borrowers, customers, and depositors, and yourself, of so sacred a character that it ought not to be divulged. Is that it?

Mr. CANNON. I will divulge it at any time upon advice of counsel.

Mr. UNTERMYER. But you think it is so sacred it ought not to be divulged?

Mr. CANNON. I am not willing to say that. I am willing to say what I have said in this letter to the committee.

Mr. UNTERMYER. Just a minute, Mr. Cannon. I am asking you for your own judgment and your own point of view. Do you consider the relations between the borrowers and customers and depositors of your bank and yourself of such a character that it would be a breach of faith on your part to allow them to be divulged?

Mr. CANNON. I consider it a breach of faith on my part to divulge certain business of the bank.

Mr. UNTERMYER. Yes. Now, that being so, you know, do you not, that you have given the clearing-house committee the right to come in at any time and learn all these facts which you consider so sacred; have you not?

Mr. CANNON. Yes.

Mr. UNTERMYER. You have also given to the examiners, the unofficial examiners appointed by the clearing house, the right to come in and get this information that is so sacred that the House of Representatives and its committees should not have it, have you?

Mr. CANNON. That is for our own information.

Mr. UNTERMYER. No.

Mr. CANNON. That information is for ourselves.

Mr. UNTERMYER. The information that the examiners of the clearing house get is for the Association, is it not?

Mr. CANNON. No, sir; I consider it is for myself.

Mr. UNTERMYER. The Association has nothing to do with it?

Mr. CANNON. I consider it is for myself.

Mr. UNTERMYER. The Association pays these men?

Mr. CANNON. Yes.

Mr. UNTERMYER. Sends them into your place?

Mr. CANNON. Yes.

Mr. UNTERMYER. Controls them, and yet has nothing to do with the information they gain?

Mr. CANNON. I consider the report belongs to me.

Mr. UNTERMYER. You consider?

Mr. CANNON. Yes.

Mr. UNTERMYER. It does not make much difference, does it, where the property in that report lies, so long as the report is at the disposal of the Clearing House Association?

Mr. CANNON. It is not.

Mr. UNTERMYER. I say, it does not make any difference?

Mr. CANNON. But it is not at the disposal of the Clearing House Association.

Mr. UNTERMYER. But the Clearing House Association has the right to come in at any time and examine your bank?

Mr. CANNON. But it is not at the disposal of the Clearing House Association.

Mr. UNTERMYER. Has not the Clearing House Association at any time the right to come in and examine your bank?

Mr. CANNON. It always has.

Mr. UNTERMYER. And to get this sacred information?

Mr. CANNON. It always has.

Mr. UNTERMYER. So that you consider that you have a duty to the Association that justifies you in allowing it to become the depository of the secrets between the borrowers and your bank, and that these secrets are not open to a committee of the House of Representatives?

Mr. CANNON. I consider that the report that I receive from the Clearing House Association is delivered to me; it does not belong to the Association.

Mr. UNTERMYER. Mr. Cannon, we will not try to fence, will we? You know perfectly well I am not referring now to any particular report, do you not?

Mr. CANNON. I do not know what you are referring to.

Mr. UNTERMYER. Do you not know the Clearing House Association has a right, and every member of that committee has a right, to come in and know all the affairs of your bank?

Mr. CANNON. It has.

Mr. UNTERMYER. And included among those affairs are the ones that you regard as so sacred.

Mr. CANNON. Yes.

Mr. UNTERMYER. You have given that right by agreement, have you not?

Mr. CANNON. We always have.

Mr. UNTERMYER. You were not forced to do it, were you?

Mr. CANNON. No, sir.

Mr. UNTERMYER. You have voluntarily given up the right of secrecy and sacredness which you now refuse to give up to a committee of the House of Representatives?

Mr. CANNON. I refuse it only on the advice of counsel.

Mr. UNTERMYER. Yes.

Mr. CANNON. I have no desire—I refuse it only on the advice of counsel.

Mr. UNTERMYER. Do you think that advice of counsel is right?

Mr. CANNON. I would like to say that there is no desire on the part of our bank—

Mr. UNTERMYER. Yes; but, Mr. Cannon, we have had speeches from every bank, but no data.

Mr. CANNON. All right. I can not make a speech, but I want to state this fact, that so far as the Fourth National Bank is concerned, we feel that it is entirely in the hands of our counsel—the giving of these data.

Mr. UNTERMYER. That is a pretty good way of escaping responsibility?

Mr. CANNON. No, it is not. I should like to present this letter that we have written. Have I a right to present his?

Mr. UNTERMYER. Certainly, if you like.

Mr. CANNON. I would like to do so.

Mr. UNTERMYER. We have all seen it. Still, if you would like to present it again, there is no objection.

Mr. BROWN. We have all seen it.

Mr. UNTERMYER. If Mr. Cannon would like to present it, there is no objection.

Mr. CANNON. This letter reads as follows:

MONDAY, June 3, 1912.

A. P. PUJO, Esq.,

*Chairman Committee on Banking and Currency,
House of Representatives, Washington, D. C.*

DEAR SIR: Replying to your circular letter of the 28th ultimo, this Bank begs to say that upon the receipt of your former letter, this Bank sought legal advice as to the propriety of its furnishing the detailed information required by that letter in view of the fact that it is a National Bank and that under the provisions of Section 5241, U. S. R. S., it is specifically provided that a National Bank shall not be subject to any visitatorial powers other than those that are vested by the terms of the National Bank Act in the Comptroller of the Currency or in the courts of justice.

There is no desire on the part of this Bank, so far as it is itself concerned, to refrain from giving full publicity to any information in respect to any of its affairs which Congress or even the public may desire. It is, however, reluctant to disclose the private business of those with whom it deals, or to violate any rules of law or business which make its relations with its customers of a confidential character, without the consent of those concerned.

Much of the information requested by your Committee is from time to time communicated by National Banks to the Comptroller of the Currency, under the provisions of the Statutes as to National Banks, and this would seem to be all that Congress has deemed it desirable to have brought to the attention of the Federal Government.

This Bank and its counsel are still considering the legal questions this involves.

Mr. UNTERMYER. Do you not realize, after reading that letter, that such a letter might well have been written by any bank that was very much averse to letting the committee know its affairs?

Mr. CANNON. I do not know that.

Mr. UNTERMYER. Do you not? I mean that the man who is violently opposed to having the authorities see into his affairs might have written that letter just as much as the man who would like to do it, but somebody tells him he should not?

Mr. CANNON. I do not know, so far as that is concerned.

Mr. UNTERMYER. You have stated, have you not, the only reason you care to give, or explanation you care to make, as to why you have voluntarily surrendered to a non-incorporated association of banks, such as the Clearing House Association, the right to look into these affairs that you regard as secret and sacred from the Government authorities and from the House of Representatives?

Mr. CANNON. You asked me that question before?

Mr. UNTERMYER. I say, you have made the only explanation you desire to make, have you not?

Mr. CANNON. I think so, yes.

Mr. UNTERMYER. Have you had talks with other heads of banks on this subject?

Mr. CANNON. In regard to this—

Mr. UNTERMYER. Yes.

Mr. CANNON. Yes.

Mr. UNTERMYER. From time to time?

Mr. CANNON. Yes.

Mr. UNTERMYER. And meetings?

Mr. CANNON. No meetings.

Mr. UNTERMYER. But you have met them to talk with them?

Mr. CANNON. Yes.

Mr. UNTERMYER. Then you have had meetings, in that sense?

Mr. CANNON. In that sense, yes.

Mr. UNTERMYER. With which heads of the leading banks in New York have you had talks on this subject?

Mr. CANNON. That would be a pretty difficult matter to answer.

Mr. UNTERMYER. You mean with all of them?

Mr. CANNON. Oh, no. I do not remember, now.

Mr. UNTERMYER. With so many of them that you do not remember?

Mr. CANNON. No.

Mr. UNTERMYER. I did not ask you for all the conversation, but I asked you simply the names of the men with whom you had had talks about resisting the requests of this committee.

Mr. CANNON. I object to the word "resisting." It was not resisting.

Mr. UNTERMYER. Well, "failing to comply with"? How is that?

Mr. CANNON. I object to the word "resisting."

Mr. UNTERMYER. You are resisting, are you not, under the advice of counsel?

Mr. CANNON. Under the advice of counsel. That is all. I am not resisting.

Mr. UNTERMYER. That is it. Why should you object to say you are resisting when you are resisting? I want to know with whom you have talked, with what heads of banks in this city you have talked, on that subject.

Mr. CANNON. I am trying to think.

Mr. UNTERMYER. Mr. Vanderlip?

Mr. CANNON. Yes.

Mr. UNTERMYER. You might have said you talked with him, right away?

Mr. CANNON. Yes.

Mr. UNTERMYER. With Mr. Baker, of the First National Bank?

Mr. CANNON. No, sir.

Mr. UNTERMYER. With anybody in the First National?

Mr. CANNON. No.

Mr. UNTERMYER. With nobody connected with the First National?

Mr. CANNON. Yes; with Mr. Hepburn.

Mr. UNTERMYER. He is in the First National, is he not?

Mr. CANNON. Yes; now you speak of it, I remember him.

Mr. UNTERMYER. He is also head of the Chase Bank, is he not?

Mr. CANNON. Yes.

Mr. UNTERMYER. Name some of the others?

Mr. CANNON. Let me think if there are any others.

Mr. UNTERMYER. Mr. Woodward of the Hanover Bank?

Mr. CANNON. No, sir.

Mr. UNTERMYER. Anybody in the Hanover Bank?

Mr. CANNON. No, I do not think so.

Mr. UNTERMYER. Now I will include trust company heads as well as bank heads.

Mr. CANNON. Now let me think. Give me time to think.

Mr. UNTERMYER. I want you to talk, and I want to do the thinking. That is all right. You do the talking and let me do the thinking.

Mr. CANNON. Mr. Frizzell of the Fifth Avenue National Bank, I think, was one I spoke to; and, I think, the president of the United States Mortgage & Trust Co.

Mr. UNTERMYER. Yes, Mr. Platten?

Mr. CANNON. Yes. It is very hard for me to tell whom I talked to on this subject.

Mr. UNTERMYER. Suppose we say "and the others"?

Mr. CANNON. No, not "and the others." There are a great many that I have not talked to.

Mr. UNTERMYER. There are some of them?

Mr. CANNON. Yes.

Mr. UNTERMYER. They were all imbued with this advice of counsel, were they not?

Mr. CANNON. No, they were not.

Mr. UNTERMYER. They were not. They were willing to refuse on their own account?

Mr. CANNON. Yes.

Mr. UNTERMYER. You are the only man that took shelter behind the advice of counsel?

Mr. CANNON. I do not know anything about that. I do not know what the others have done.

Mr. UNTERMYER. You did not consult with anybody connected with the Corn Exchange Bank, did you?

Mr. CANNON. Mr. Frew. I did speak to Mr. Frew.

Mr. UNTERMYER. Did he not tell you that his bank had sent in its report?

Mr. CANNON. Sent in its report?

Mr. UNTERMYER. That it had been the shining exception?

Mr. CANNON. I do not know that they were the shining exception. He said that his bank had sent in a report.

Mr. UNTERMYER. And you differed with him, did you not, as to the advisability of complying with that request?

Mr. CANNON. I did.

Mr. UNTERMYER. On the advice of counsel?

Mr. CANNON. Certainly.

The CHAIRMAN. We will take a recess at this point until 2 o'clock.

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

AFTER RECESS.

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

TESTIMONY OF JAMES G. CANNON—Resumed.

Mr. UNTERMYER. I forgot to ask you, Mr. Cannon, with what financial institutions you are associated other than those you have named?

Mr. CANNON. The Fifth Avenue Bank.

Mr. UNTERMYER. You are a director of that bank?

Mr. CANNON. I am a director of that bank.

Mr. UNTERMYER. And a member of the executive committee?

Mr. CANNON. There is no executive committee.

Mr. UNTERMYER. Proceed.

Mr. CANNON. And the Franklin Savings Bank.

Mr. UNTERMYER. Is there an executive committee there?

Mr. CANNON. There is no executive committee there. Also the Fidelity Trust Co. I am not a member of the executive committee there.

Mr. UNTERMYER. You are a director in that institution?

Mr. CANNON. I am a director, yes. Also the Metropolitan Trust Co. I am a member of the executive committee there. Also the United States Mortgage & Trust Co. I am a member of the executive committee there. Also the Trans-Atlantic Trust Co. I think that is all, seven—four trust companies and three banks. I think that is all.

Mr. UNTERMYER. How long have you been a member of the board of the United States Mortgage & Trust Co.?

Mr. CANNON. I can not tell you the exact time. A little over a year, I think.

Mr. UNTERMYER. You became a member of the board of that company when the new financial interests took hold of it, did you not?

Mr. CANNON. No; I became a member of the board of that company after I became president of the Fourth National Bank.

Mr. UNTERMYER. That is not the question. The question is whether you became a member of the board of the United States Mortgage & Trust Co. following the acquisition of a block of the stock of that company by a new financial interest that had not theretofore been interested in the company?

Mr. CANNON. I do not know the date of that, at all, Mr. Untermyer.

Mr. UNTERMYER. You do not know the date?

Mr. CANNON. No.

Mr. UNTERMYER. You know the fact of the acquisition of that interest, do you not?

Mr. CANNON. Yes. There were several interests besides—

Mr. UNTERMYER. The United States Mortgage & Trust Co. had a large block of stock owned by the Mutual Life Insurance Co., did it not?

Mr. CANNON. Yes.

Mr. UNTERMYER. The Mutual Life Insurance Co. sold that stock?

Mr. CANNON. Yes.

Mr. UNTERMYER. That block of stock was acquired by the Kuhn-Loeb interest, was it not?

Mr. CANNON. I do not think so, entirely.

Mr. UNTERMYER. What do you mean when you say "entirely"? Did they have some one with them?

Mr. CANNON. I do not think they acquired it entirely. I do not know the circumstances of that sale. My impression was that there were others besides them interested in it.

Mr. UNTERMYER. They formed the syndicate to acquire it, did they not?

Mr. CANNON. That I do not know. That was before I came into the trust company.

Mr. UNTERMYER. They invited you in, did they not?

Mr. CANNON. Yes.

Mr. UNTERMYER. Are you a substantial holder of its securities?

Mr. CANNON. I have a holding in the United States Mortgage & Trust Co. I would not say that it is a substantial holding.

Mr. UNTERMYER. It is a mere formal holding?

Mr. CANNON. No; I could not say that, exactly.

Mr. UNTERMYER. How many shares do you hold?

Mr. CANNON. A moderate number. Enough to qualify me as a director.

Mr. UNTERMYER. How many shares?

Mr. CANNON. Enough to qualify me as a director.

Mr. UNTERMYER. How many shares?

Mr. CANNON. Ten.

Mr. UNTERMYER. That is not a very substantial holding?

Mr. CANNON. That is enough to qualify me as a director.

Mr. UNTERMYER. How is it with the Metropolitan Trust Co.?

Mr. CANNON. I represent there the Simmons estate, which are large holders of the stock.

Mr. UNTERMYER. You were a director before Mr. Simmons died?

Mr. CANNON. No; not until after his death.

Mr. UNTERMYER. Are you a large stockholder in the Fourth National Bank?

Mr. CANNON. Yes; considerable.

Mr. UNTERMYER. How many shares do you hold?

Mr. CANNON. I think that is a question of privilege, Mr. Untermyer.

Mr. UNTERMYER. I do not think it is, Mr. Cannon. The stock list will show that, will it not?

Mr. CANNON. Certainly.

Mr. UNTERMYER. I mean, there is nothing secret about the stock list of a bank. It is on file with the public authorities, is it not?

Mr. CANNON. It is on file with the Comptroller of the Currency—a confidential authority.

Mr. UNTERMYER. It is on file in the tax office, is it not?

Mr. CANNON. Yes.

Mr. UNTERMYER. You do not consider that the asking from you of information that is on file in a public office is intruding upon your privacy, do you?

Mr. CANNON. No. There is no objection to giving it. I am perfectly willing to do so.

Mr. UNTERMYER. Then why not state it.

Mr. CANNON. 260 shares.

Mr. UNTERMYER. How many shares are there now in the Fourth National Bank?

Mr. CANNON. 50,000 shares.

Mr. UNTERMYER. Who are the largest holders?

Mr. CANNON. I could not say, without consulting the books.

Mr. UNTERMYER. You have a pretty good idea as to who is the largest, have you not?

Mr. CANNON. No; I have not.

Mr. UNTERMYER. You can give us no idea? How many years have you been connected with the Fourth National Bank?

Mr. CANNON. I have no idea of who are the largest holders?

Mr. UNTERMYER. Yes. You can give us no idea, from memory, as to who are the largest stockholders in the Fourth National Bank?

Mr. CANNON. Yes, I can; from memory. I can not give the exact number of shares, at all.

Mr. UNTERMYER. Certainly.

Mr. CANNON. I would be glad to supply that to you if you would like to have it.

Mr. UNTERMYER. Perhaps you will be kind enough to do that, and that will be more accurate.

Mr. CANNON. It will be more accurate than any statement of mine from memory. I will give you the first 10 largest holders, if you would like to have me do so.

Mr. UNTERMYER. Yes. You understand there is no disposition to inquire into your private affairs, Mr. Cannon?

Mr. CANNON. That is why I made that question. That is all.

Mr. UNTERMYER. You have been connected with the Fifth Avenue Bank for many years, have you not?

Mr. CANNON. Yes; ever since its inception.

Mr. UNTERMYER. Has there been any change in the control of that bank in the last three or four years?

Mr. CANNON. No; none whatever.

Mr. UNTERMYER. That is one of the few banks which remain pretty much distributed?

Mr. CANNON. It is distributed down through estates all the way through.

Mr. UNTERMYER. That is a somewhat exceptional situation in the city, is it not?

Mr. CANNON. Yes; very.

Mr. UNTERMYER. Most of them have drifted pretty much one way?

Mr. CANNON. I do not think so.

Mr. UNTERMYER. Two ways, then.

Mr. CANNON. The Fourth National has not.

Mr. UNTERMYER. It has to some extent, has it not? It has changed the character of its ownership quite materially, has it not?

Mr. CANNON. Not materially, no.

Mr. UNTERMYER. Do you not think the injection into the control of a large financial interest makes a difference?

Mr. CANNON. I do not think it does. It has not with us.

Mr. UNTERMYER. And adds to its power and strength?

Mr. CANNON. It may have done so.

Mr. UNTERMYER. And puts it in the ring instead of outside of it?

Mr. CANNON. We always considered ourselves in the ring, Mr. Untermeyer. We have never considered ourselves on the outside.

Mr. UNTERMYER. What are the institutions that you do consider on the outside, now? Would you like to name them, or would you prefer not to do so?

Mr. CANNON. I should prefer not to name them.

Mr. UNTERMYER. There are not many of them to name, are there? [After a pause.] You have not answered that.

Mr. CANNON. I prefer not to answer, as I have no intimate knowledge of it.

Pardon me for a moment. When I was answering your question a few minutes ago, I forget to mention the Bankers' Trust Co.

Mr. UNTERMYER. You forgot that you were a director in the Bankers' Trust Co., did you not?

Mr. CANNON. Yes; I did.

Mr. UNTERMYER. That is a very important office, is it not?

Mr. CANNON. It is an important trust company.

Mr. UNTERMYER. Yes.

Mr. CANNON. I am not a member of the executive committee. I am simply a director.

Mr. UNTERMYER. That is the largest trust company in the city to-day, is it not, in its deposits?

Mr. CANNON. I do not know whether it is larger than the Guaranty or not. I have not noticed.

Mr. UNTERMYER. That trust company has absorbed two or three very large trust companies recently, has it not?

Mr. CANNON. Yes sir.

Mr. UNTERMYER. It absorbed the Mercantile Trust Co., did it not?

Mr. CANNON. Yes; it absorbed the Mercantile Trust.

Mr. UNTERMYER. And it absorbed the Manhattan Trust Co., did it not?

Mr. CANNON. The Manhattan also, yes.

Mr. UNTERMYER. Has it done any more absorbing, Mr. Cannon?

Mr. CANNON. Not to my knowledge.

Mr. UNTERMYER. Not yet?

Mr. CANNON. I do not know of any.

Mr. UNTERMYER. That has been done within the past year, has it not?

Mr. CANNON. Yes; within the past year.

Mr. UNTERMYER. The Mercantile Trust Co. was owned, was it not, or controlled by the Equitable Life?

Mr. CANNON. I am not familiar with the holdings of that, at all.

Mr. UNTERMYER. Do you not know that it was an adjunct of the Equitable Life?

Mr. CANNON. It was understood that it was. I do not know the actual holdings. I could not testify from actual knowledge.

Mr. UNTERMYER. During your entire career down town, Mr. Cannon, do you not know that the Mercantile Trust has been generally regarded as an adjunct of the Equitable Life?

Mr. CANNON. Oh, yes.

Mr. UNTERMYER. Do you not remember that in the insurance investigation its holdings were disclosed—the holdings of the Equitable Life in the Mercantile Trust?

Mr. CANNON. Now that you have brought it to my attention, I do remember, yes.

Mr. UNTERMYER. Do you not remember that it was admitted there to be controlled by the Equitable Life?

Mr. CANNON. I remember, now that you speak of it. I do not know the actual number of shares, or anything like that.

Mr. UNTERMYER. The life insurance companies were required to dispose of their holdings in banks and trust companies, were they not?

Mr. CANNON. They were.

Mr. UNTERMYER. And in that way the Bankers' Trust Co. has acquired the control of the Mercantile?

Mr. CANNON. As I understand.

Mr. UNTERMYER. In fact, it acquired it all, and closed it up?

Mr. CANNON. Yes. It acquired it all and closed it up.

Mr. UNTERMYER. It has done the same thing with the Manhattan Trust, has it not?

Mr. CANNON. Yes. It has done the same thing with the Manhattan Trust.

Mr. UNTERMYER. This process of absorption and the closing up of banks and trust companies has been going on for the last three or four years in the City of New York pretty largely, has it not?

Mr. CANNON. Yes, sir; it has.

Mr. UNTERMYER. You have been in the business yourself, to some extent, have you not?

Mr. CANNON. No; we have not.

Mr. UNTERMYER. You have taken these three little banks, have you not?

Mr. CANNON. That is only one instance. I would not—

Mr. UNTERMYER. That is only three offenses, is it?

Mr. CANNON. No; that is not three.

Mr. UNTERMYER. There were three banks?

Mr. CANNON. There were three banks put together in one, yes.

Mr. UNTERMYER. I want to take up with you, Mr. Cannon, this clearing-house situation. You have been very closely affiliated with the Clearing House Association for the last 20 years, have you not?

Mr. CANNON. I have never been on the clearing-house committee before, until this term. The clearing-house committee consists of the presidents of banks only.

Mr. UNTERMYER. It was because you were a vice president that you were not formerly a member of the committee?

Mr. CANNON. I was not formerly a member of the committee, yes.

Mr. UNTERMYER. But you were very active in the work of the Association, were you not?

Mr. CANNON. Yes.

Mr. UNTERMYER. In 1907 you were a member of the loan committee, were you not?

Mr. CANNON. I was a member of the subcommittee of the clearing-house committee—the loan committee.

Mr. UNTERMYER. That was before you became president of the Fourth National Bank?

Mr. CANNON. Yes.

Mr. UNTERMYER. Prior to that time you had familiarized yourself with the work of the Clearing House Association?

Mr. CANNON. Yes, sir.

Mr. UNTERMYER. You have written books on the subject, have you not?

Mr. CANNON. I have attempted to.

Mr. UNTERMYER. You have even done it, have you not?

Mr. CANNON. Yes sir; such as they are.

Mr. UNTERMYER. And you have also given very valuable and enlightening public addresses on the subject?

Mr. CANNON. I leave it to others to say that.

Mr. UNTERMYER. You have delivered addresses?

Mr. CANNON. Yes.

Mr. UNTERMYER. That were believed to be valuable and enlightening?

Mr. CANNON. Yes; if you wish to put it that way.

Mr. UNTERMYER. Then you know the system thoroughly?

Mr. CANNON. I know it pretty well.

Mr. UNTERMYER. Do you know how many clearing house associations there are in the United States at this time?

Mr. CANNON. I can tell you exactly, yes.

Mr. UNTERMYER. Can you furnish a list of them?

Mr. CANNON. I have a list at the bank, yes, and I can furnish you a list. I have not a list here, but I can tell you in a moment how many there are.

Mr. UNTERMYER. If you do not mind, will you please furnish me a copy of that list for the use of the committee?

Mr. CANNON. I will do so with great pleasure.

Mr. UNTERMYER. How many are there?

Mr. CANNON. There are to-day 242 clearing house associations.

Mr. UNTERMYER. Each independent of the other?

Mr. CANNON. Each independent of the other, yes.

Mr. UNTERMYER. Is there any association of clearing house associations?

Mr. CANNON. No, sir, there is not. There is a section of the American Bankers' Association which is a sort of clearing house committee, but there is no clearing house association, per se, of all the associations of the country.

Mr. UNTERMYER. The American Bankers' Association is an association of the various local associations of bankers throughout the country, is it not?

Mr. CANNON. Yes, sir.

Mr. UNTERMYER. And it has a department called—

Mr. CANNON. Called the clearing house department, of which they have a special committee in charge.

Mr. UNTERMYER. And that brings together, in a way, the various clearing house associations of the country?

Mr. CANNON. No; that attempts to put into practice various things in this clearing house association. Each clearing house does not have a representative association, or anything of that character; there is no representative association of clearing houses. Is that what you asked me?

Mr. UNTERMYER. I want to know as to this committee of the American Bankers' Association. That is a committee devoted to the clearing house associations of the country.

Mr. CANNON. And discussing things pertaining to them.

Mr. UNTERMYER. And making recommendations for uniform adoption.

Mr. CANNON. For uniform adoption, yes.

Mr. UNTERMYER. You have been president of the American Bankers' Association, have you not?

Mr. CANNON. No; I never have been.

Mr. UNTERMYER. You have made addresses at its annual meetings?

Mr. CANNON. Yes.

Mr. UNTERMYER. Have you been an officer of the Association?

Mr. CANNON. I have been a member of the executive council; twice, I think.

Mr. UNTERMYER. Have you ever been a member of this committee having to do with the clearing house associations?

Mr. CANNON. No, sir.

Mr. UNTERMYER. You know its work, do you not?

Mr. CANNON. I have only read it in the proceedings.

Mr. UNTERMYER. You have written about it, have you not?

Mr. CANNON. No, not about the work of this committee.

Mr. UNTERMYER. But you have kept in touch with it, have you not?

Mr. CANNON. No, I have not corresponded about it or kept in touch with it.

Mr. UNTERMYER. You say the purpose of that committee is to secure uniformity among the members of the Association.

Mr. CANNON. Yes, on various matters.

Mr. UNTERMYER. Has the committee ever attempted to secure uniformity of action on the question of out-of-town checks?

Mr. CANNON. I think they have passed some resolutions on the question of out-of-town checks.

Mr. UNTERMYER. Have they succeeded in securing any uniformity of action?

Mr. CANNON. There are 91 associations now that regulate the question of foreign checks.

Mr. UNTERMYER. Do they all regulate them on the same basis of commission for collections as prevails in the New York Clearing House Association?

Mr. CANNON. There are various systems prevailing, according to the section of the country—

Mr. UNTERMYER. There is no uniformity in the rate?

Mr. CANNON. There is no uniformity in the rate, no.

Mr. UNTERMYER. Will you be good enough to furnish us with a list of the 91 associations that undertake to regulate that subject?

Mr. CANNON. With great pleasure, yes.

Mr. UNTERMYER. Has that been brought about through this committee of the American Bankers' Association?

Mr. CANNON. No, I do not think so.

Mr. UNTERMYER. Do some of the clearing-house associations also attempt to regulate the interest rate on loans?

Mr. CANNON. I have not looked into that lately. My book, which you have referred to, gives the last authority I have on that subject,

from corresponding with the clearing houses. I gathered information on that; but whether that is up to date or not, I could not say. I am not familiar with it.

Mr. UNTERMYER. They did at one time?

Mr. CANNON. Some of them did. You will find the records there.

Mr. UNTERMYER. How about the regulation of interest on deposits; has that been attempted by a member of the associations?

Mr. CANNON. It has been by some of them, yes.

Mr. UNTERMYER. This book of yours was written in 1908, I think?

Mr. CANNON. In 1908, yes.

Mr. UNTERMYER. Have you kept in touch with the data since then?

Mr. CANNON. No.

Mr. UNTERMYER. So you could not tell us how many clearing-house associations to-day attempt to regulate the interest that shall be payable, by the banks members of the association, on deposits?

Mr. CANNON. I could not.

Mr. UNTERMYER. Do you not think that is a very vicious practice?

Mr. CANNON. I do.

Mr. UNTERMYER. You know it is contrary to law, do you not?

Mr. CANNON. Certainly. We have never attempted it in this Association.

Mr. UNTERMYER. You have talked about it, have you not?

Mr. CANNON. No. I do not remember of it ever being broached.

Mr. UNTERMYER. Can you furnish us a list of associations that are now regulating interest on deposits?

Mr. CANNON. I do not think I can, except as you find it in that book, there. That is the only knowledge I have on the subject.

Mr. UNTERMYER. Or can you furnish us a list of the associations that are regulating or attempting to regulate interest on loans?

Mr. CANNON. I can not furnish any further information on that than is given in the book.

Mr. UNTERMYER. That you regard as a vicious thing, too, do you not?

Mr. CANNON. Yes.

Mr. UNTERMYER. And clearly contrary to law?

Mr. CANNON. Yes.

Mr. UNTERMYER. Do you know whether there are any clearing-house associations that regulate rates of exchange in their localities, among their members?

Mr. CANNON. How do you mean—regulate rates of exchange?

Mr. UNTERMYER. In the purchase and sale of exchange.

Mr. CANNON. In the purchase and sale of exchange on other points?

Mr. UNTERMYER. Yes.

Mr. CANNON. I do not recollect any, at all.

Mr. UNTERMYER. There is no uniformity on that subject, as to the commissions?

Mr. CANNON. Not that I have discovered.

Mr. UNTERMYER. How many associations undertake, like the New York Clearing House Association, to regulate the commissions payable on the collection of out-of-town checks?

Mr. CANNON. That is what I say; they number 91.

Mr. UNTERMYER. Oh, I did not understand.

Mr. CANNON. The number regulating the collection of foreign checks is 91.

Mr. UNTERMYER. In all those cases, do they expel a member who does not care to become a party to the arrangement?

Mr. CANNON. I can not tell without looking over their data.

Mr. UNTERMYER. That is also a very vicious proposition, is it not?

Mr. CANNON. I do not think so.

Mr. UNTERMYER. Well, now, let us see. The things that the others do are vicious, but the things you do you do not think are vicious; that is all there is to it, is it not?

Mr. CANNON. Oh, no.

Mr. UNTERMYER. You remember the condition in the financial community before this regulation was put into effect, do you not?

Mr. CANNON. Yes.

Mr. UNTERMYER. And you know, do you not, that a great many banks, in competing for business, were willing to collect out-of-town checks without compensation?

Mr. CANNON. Some were, but very few.

Mr. UNTERMYER. The Fourth National Bank was one, was it not?

Mr. CANNON. No, sir.

Mr. UNTERMYER. Sometimes, where it had a big customer, did it not vary from the rule?

Mr. CANNON. I am not prepared to say.

Mr. UNTERMYER. I know you are not, but I want you to say.

Mr. CANNON. I will tell you. The regulations as to country checks, charging on country checks, I regard as not a tax but a reimbursement to the banks.

Mr. UNTERMYER. We will see. The question now is as to whether or not the Fourth National Bank, when you were vice president, before this rule went into effect, did not have arrangements with some of its larger customers to collect out-of-town checks without charge.

Mr. CANNON. Yes, I think they did.

Mr. UNTERMYER. And some were required to pay?

Mr. CANNON. Yes.

Mr. UNTERMYER. That depended on the value of the account?

Mr. CANNON. Surely.

Mr. UNTERMYER. And that was regulated by competition, was it not?

Mr. CANNON. I do not know.

Mr. UNTERMYER. If the customer had been willing to pay the commission you would have collected it, would you not?

Mr. CANNON. I do not know; I could not say it was regulated by competition.

Mr. UNTERMYER. I say you did not agree to collect out-of-town checks without pay unless the customer demanded it, did you?

Mr. CANNON. Just repeat that question again.

Mr. UNTERMYER. You did not offer it to him, did you?

Mr. CANNON. For nothing?

Mr. UNTERMYER. You did not offer it to him for nothing, did you?

Mr. CANNON. No.

Mr. UNTERMYER. It was only when you had to give it to him for nothing to hold his account that you did it?

Mr. CANNON. I would not say that.

Mr. UNTERMYER. Sometimes you did it as a matter of favor?

Mr. CANNON. Yes.

Mr. UNTERMYER. But it was in order to keep his business, was it not?

Mr. CANNON. I should say so, yes.

Mr. UNTERMYER. Now, the moment the rule went into effect you had to make a charge against him?

Mr. CANNON. Had to make a charge, yes.

Mr. UNTERMYER. And you had to make a uniform charge?

Mr. CANNON. A uniform charge.

Mr. UNTERMYER. Up to that time the banks had made varying charges, and some of them no charges at all, had they not?

Mr. CANNON. Varying charges, yes.

Mr. UNTERMYER. Each bank made its own deals with its own customers?

Mr. CANNON. Yes.

Mr. UNTERMYER. And the passage of this rule stopped all that?

Mr. CANNON. Yes.

Mr. UNTERMYER. You realize that if a member of the Association did not feel like observing that regulation, he had to go out of the Association, do you not?

Mr. CANNON. Yes.

Mr. UNTERMYER. Do you not see that that is a very exaggerated form of agreement in restraint of trade?

Mr. CANNON. I can not see it, Mr. Untermyer.

Mr. UNTERMYER. You can not see it?

Mr. CANNON. No.

Mr. UNTERMYER. Do you not see it has the additional vice, that does not pertain to other agreements in restraint of trade, that a man can not get out if he wants to, and he has got to violate the law or get out of the Association.

Mr. CANNON. I do not think it is in restraint of trade.

Mr. UNTERMYER. Let us see about it. What was the custom prior to the passage of the law, of crediting the customer's account with collections before they were made?

Mr. CANNON. The same as now.

Mr. UNTERMYER. Was there any uniform rule?

Mr. CANNON. Not that I know of.

Mr. UNTERMYER. What?

Mr. CANNON. I do not know whether there was or not.

Mr. UNTERMYER. Every bank had its own arrangements, did it not?

Mr. CANNON. Generally a uniform rule of crediting their accounts.

Mr. UNTERMYER. A general rule of crediting their accounts with the amounts of the checks as soon as they were received?

Mr. CANNON. Immediately on deposit.

Mr. UNTERMYER. That depended a good deal on the solvency or responsibility of the customer, did it not?

Mr. CANNON. Sure.

Mr. UNTERMYER. If it should be a shaky customer, you would simply take his checks for collection?

Mr. CANNON. I would not take the account.

Mr. UNTERMYER. You find sometimes you have shaky customers?

Mr. CANNON. I suppose so.

Mr. UNTERMYER. Then you shake them out.

Mr. CANNON. We would not take the account if he was shaky.

Mr. UNTERMYER. But you did have customers, did you not, prior to the adoption of this rule, whose accounts were not credited with the collections until collected?

Mr. CANNON. No sir; I do not remember any at all.

Mr. UNTERMYER. And the same system prevails now that prevailed then?

Mr. CANNON. With me, yes sir.

Mr. UNTERMYER. There is no difference now from then in that respect?

Mr. CANNON. No sir.

Mr. UNTERMYER. Were you then in the habit of paying customers interest on balances?

Mr. CANNON. Daily balances.

Mr. UNTERMYER. Daily balances against checks?

Mr. CANNON. Yes.

Mr. UNTERMYER. Was that so with all your customers?

Mr. CANNON. Oh, no, not with all our customers.

Mr. UNTERMYER. On what proportion of the accounts did you pay interest in 1899?

Mr. CANNON. I could not tell you.

Mr. UNTERMYER. On what proportion do you pay interest now?

Mr. CANNON. I could not tell you that.

Mr. UNTERMYER. You mean you would rather not?

Mr. CANNON. No.

Mr. UNTERMYER. If you would rather not I will not press you.

Mr. CANNON. I can not tell you.

Mr. UNTERMYER. But you could give us an idea.

Mr. CANNON. By searching the books.

Mr. UNTERMYER. You could give us an idea?

Mr. CANNON. No; I could not give you an idea.

Mr. UNTERMYER. Do you pay on the majority of them?

Mr. CANNON. That I could not tell you; I could not give that out of my head.

Mr. UNTERMYER. It is a matter of bargain in each case?

Mr. CANNON. Yes; I should say it was.

Mr. UNTERMYER. Whether you will or will not pay interest on the deposit.

Mr. CANNON. Yes.

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

Mr. CANNON. Yes.

Mr. UNTERMYER. It depends a good deal on whether the customer is a borrower too?

Mr. CANNON. There are all sorts of things to be taken into consideration.

Mr. UNTERMYER. I mean when you are lending money to your customers in the ordinary course of business, then you do not pay interest on their deposits?

Mr. CANNON. I do not know. Competition is such, they do all sorts of things.

Mr. UNTERMYER. Competition is the same on that sort of business?

Mr. CANNON. It is the same on all subjects of business.

Mr. UNTERMYER. It does not prevail on country checks?

Mr. CANNON. No, sir.

Mr. UNTERMYER. When you said "all subjects," you meant to except that?

Mr. CANNON. Yes.

Mr. UNTERMYER. It was discovered in 1908, was it not, by the Clearing House Committee, that some of the members were trying to get around these regulations with respect to a uniform rate for the collection of customers' accounts?

Mr. CANNON. I do not know; I could not speak for that.

Mr. UNTERMYER. Have you the rules there before you?

Mr. CANNON. Yes.

Mr. UNTERMYER. Will you please look at page 25, Rule 8, passed May 14, 1908, and see whether that refreshes your recollection so that you can say whether there was such a situation in 1908?

Mr. CANNON. I do not know; I was not on the clearing-house committee on that date. All I know is what I see here.

Mr. UNTERMYER. Does not that refresh your recollection?

Mr. CANNON. No sir; it does not, because I knew nothing of the circumstances attending it.

Mr. UNTERMYER. Are these regulations made by the committee without consulting the Association?

Mr. CANNON. They are rulings made by the committee without consulting the Association. They are not regulations; they are rulings made by the committee.

Mr. UNTERMYER. I would like to know what this is if it is not a regulation?

Mr. CANNON. Turn back to page 23. Do you see the heading?

Mr. UNTERMYER. Yes, I see the heading, but I also see the phraseology on page 25. As I understand page 25, 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.

Do you not think that is a pretty effective regulation?

Mr. CANNON. It is a ruling of the committee, as I understand it.

Mr. UNTERMYER. It is a law of the Association?

Mr. CANNON. Well, repealing a previous—

Mr. UNTERMYER. I say it is a law of the Association, is it not?

Mr. CANNON. The clearing-house committee has, according to these rules, a right to promulgate these rules and regulations, and these are rulings and interpretations of the rules and regulations governing them, made by the committee.

Mr. UNTERMYER. We will not quarrel about mere phraseology.

Mr. CANNON. No.

Mr. UNTERMYER. The fact is that from the time that was promulgated it became the law of the Association?

Mr. CANNON. It had been promulgated before that, because the rules and regulations originally promulgated called for that. This is simply a reiteration, as I understand it, of the rules and regulations on that matter.

Mr. UNTERMYER. Do you know what brought about that regulation?

Mr. CANNON. No sir; I do not.

Mr. UNTERMYER. Does not the reading of it make it plain to you?

Mr. CANNON. No; I was not a member of the committee.

Mr. UNTERMYER. But you were a member of the Association?

Mr. CANNON. Yes. I have no knowledge of that at all, Mr. Untermyer.

Mr. UNTERMYER. Had there been attempts on the part of members to get around this regulation with respect to the uniform rate of commission on out-of-town checks?

Mr. CANNON. Not to my knowledge.

Mr. UNTERMYER. By offsetting interest on deposits?

Mr. CANNON. Not to my knowledge.

Mr. UNTERMYER. Does not that ruling or regulation make it plain to you that there was such a situation?

Mr. CANNON. I do not know; I do not know the circumstances of the case at all. I say I was not a member of the committee; I do not know what the rule is about.

Mr. UNTERMYER. This, you say, is a decision of the committee?

Mr. CANNON. A ruling of the committee.

Mr. UNTERMYER. A decision?

Mr. CANNON. A ruling of the committee, yes.

Mr. UNTERMYER. Does not that convey to your mind that there was a controversy, resulting in that ruling?

Mr. CANNON. No sir.

Mr. UNTERMYER. It does not?

Mr. CANNON. No sir. It might have been that somebody wrote and asked them a question. It does not say it was a controversy. Somebody might have written a letter and asked a question of the committee and they might have passed that ruling on that letter.

Mr. UNTERMYER. But you do not know the circumstances that led to the adoption of that regulation?

Mr. CANNON. I do not.

Mr. UNTERMYER. Do you know what the average daily proportion of out-of-town checks to the total business of the Association is?

Mr. CANNON. No one knows.

Mr. UNTERMYER. What?

Mr. CANNON. I do not think anyone knows.

Mr. UNTERMYER. Even approximately?

Mr. CANNON. Even approximately.

Mr. UNTERMYER. Take your own bank, for instance.

Mr. CANNON. I know something about that.

Mr. UNTERMYER. Yes. What is your total business?

Mr. CANNON. I can only give it to you for one month.

Mr. UNTERMYER. Which month is that?

Mr. CANNON. The month of May.

Mr. UNTERMYER. 1912?

Mr. CANNON. Yes, just now; if you would like to know that.

Mr. UNTERMYER. You anticipated we might want that, did you?

Mr. CANNON. I did.

Mr. UNTERMYER. And after reading the morning papers you got it together?

Mr. CANNON. No sir; I have had it together for a long time.

Mr. UNTERMYER. All right. You could not have gotten together the data for May, 1912, a very long time ago, could you, Mr. Cannon?

Mr. CANNON. No. We are gathering statistics—

Mr. UNTERMYER. No. Where are the data for April, 1912?

Mr. CANNON. I have not the data for April, 1912.

Mr. UNTERMYER. Or for any other month?

Mr. CANNON. No; or for any other month. I can get them, though.

Mr. UNTERMYER. Then we will take for the time being the data for May, 1912.

Mr. CANNON. In May, 1912, in my own institution, 65 per cent of the checks were on discretionary points.

Mr. UNTERMYER. You see that is not exactly what we have asked you.

Mr. CANNON. What did you ask?

Mr. UNTERMYER. That is arguing your case. I asked you what was the total business of your bank during that month.

Mr. CANNON. What do you mean; the total business of what kind?

Mr. UNTERMYER. The total business; say the clearances with the Association.

Mr. CANNON. The total volume of clearances with the Association for the month of May was \$214,000,000.

Mr. UNTERMYER. That, of course, had nothing to do with out of town checks, did it?

Mr. CANNON. No; nothing to do with out of town checks.

Mr. UNTERMYER. What was your total business for that month in out of town checks?

Mr. CANNON. \$13,000,000.

Mr. UNTERMYER. That is a very small proportion?

Mr. CANNON. Yes; that is about the average proportion.

Mr. UNTERMYER. For your bank?

Mr. CANNON. Yes.

Mr. UNTERMYER. Are you a correspondent for any out of town bank?

Mr. CANNON. Oh, lots of them.

Mr. UNTERMYER. How many of them?

Mr. CANNON. I could not tell you that without counting them up.

Mr. UNTERMYER. You can not give us any idea?

Mr. CANNON. No; I do not carry that in my mind, at all.

Mr. UNTERMYER. There are no data extant, then, showing the amount of out of town checks that is handled by the banks and trust companies that are members of the Association?

Mr. CANNON. None extant.

Mr. UNTERMYER. Is \$214,000,000 of business in the Association a normal monthly business for your bank?

Mr. CANNON. I should say that was about normal.

Mr. UNTERMYER. That would be about two and a half billions a year?

Mr. CANNON. Yes.

Mr. UNTERMYER. And how much a day would that be—your daily clearances?

Mr. CANNON. That I would have to figure up.

Mr. UNTERMYER. Yes; just do it. About \$7,000,000 a day, would it not be?

Mr. CANNON. That is about it; something of that kind, yes.

Mr. UNTERMYER. And the total daily clearances at the Clearing House Association are about \$400,000,000, are they not?

Mr. CANNON. I do not know the number; I could not give you that.

Mr. UNTERMYER. What bank in the city does the largest business in out of town checks?

Mr. CANNON. Well, that I could not tell you.

Mr. UNTERMYER. You have no idea?

Mr. CANNON. No. Some of the uptown banks do a very large amount of business in out of town checks.

Mr. UNTERMYER. You mean some of the small banks?

Mr. CANNON. Some of the moderately small banks uptown.

Mr. UNTERMYER. I asked which bank does the largest?

Mr. CANNON. I should suppose the banks with the largest deposits would naturally do the largest amount of business.

Mr. UNTERMYER. What are your deposits now?

Mr. CANNON. About 35 to 36 million.

Mr. UNTERMYER. Do you approve of the present irresponsible and unincorporated state of the Clearing House Association?

Mr. CANNON. I have been in favor—

Mr. UNTERMYER. Do you approve of it?

Mr. CANNON. Of what? Repeat that once more?

Mr. UNTERMYER. Of the present unincorporated state of the Association, not responsible to law?

Mr. CANNON. I think the Association is responsible to law, is it not?

Mr. UNTERMYER. You believe it ought to be incorporated, do you not?

Mr. CANNON. I believe it ought to be incorporated, and I believe it is responsible to law.

Mr. UNTERMYER. You believe it ought to be regulated, do you not?

Mr. CANNON. Yes.

Mr. UNTERMYER. By statute.

Mr. CANNON. By statute.

Mr. UNTERMYER. You believe, do you not, that any bank that is eligible to membership under reasonable conditions ought to have the right to membership?

Mr. CANNON. I do not think it has ever been refused in the Association.

Mr. UNTERMYER. You have not answered my question, at all, Mr. Cannon. Do you know anything about it?

Mr. CANNON. Just let me get that question once more in my head. The question was repeated by the stenographer, as follows:

Mr. UNTERMYER. You believe, do you not, that any bank that is eligible to membership under reasonable conditions ought to have the right to membership?

Mr. CANNON. Sure.

Mr. UNTERMYER. They have not got it now, have they?

Mr. CANNON. Yes; I think they have.

Mr. UNTERMYER. As a matter of right? Have you read the constitution?

Mr. CANNON. Yes.

Mr. UNTERMYER. You know they have not got it as a matter of right?

Mr. CANNON. Do I not know they have not got it as a matter of right?

Mr. UNTERMYER. Yes.

Mr. CANNON. They apply—

Mr. UNTERMYER. Do you not know as a matter of right they have not got it, and that they can not get it unless three-fourths of the members consent?

Mr. CANNON. Well, three-fourths of the members have the right to consent to the bank they will do business with.

Mr. UNTERMYER. That is not the question, Mr. Cannon. We will come to that. I understood you to say just now they ought to have the right to membership without regard to the wishes of the other members, if they are eligible.

Mr. CANNON. I did not say without regard to the wishes of the other members. You asked if they had a right—

Mr. UNTERMYER. Do you not know that under your present constitution and by-laws a banking association that is eligible has not the right to membership, and that its right depends upon the consent of three-fourths of the existing members?

Mr. CANNON. Upon a vote of three-fourths of the existing members?

Mr. UNTERMYER. Yes. You know that, do you not?

Mr. CANNON. Sure.

Mr. UNTERMYER. And you know that these banks are potentially competitors?

Mr. CANNON. Not necessarily so.

Mr. UNTERMYER. Do you not understand that banks are and ought to be competitors?

Mr. CANNON. Oh, yes; sure. They are competitors, now.

Mr. UNTERMYER. That is all I say. They are potential competitors.

Mr. CANNON. What do you mean by potential?

Mr. UNTERMYER. That they ought to compete.

Mr. CANNON. They do compete, now.

Mr. UNTERMYER. What do they compete for, Mr. Cannon?

Mr. CANNON. They compete for business in every direction.

Mr. UNTERMYER. Do they?

Mr. CANNON. Yes sir.

Mr. UNTERMYER. Do you think the right of an applicant for membership in the banking business ought to depend upon the consent of his prospective competitors?

Mr. CANNON. He has the right to go in the banking business.

Mr. UNTERMYER. I say do you think his right to go into this Association and get the benefit of clearances, the necessity of clearances, should depend on the consent of his competitors?

Mr. CANNON. Why, yes; I do not see why it should not.

Mr. UNTERMYER. You do not see why it should not; and I understood you to say you are in favor of the incorporation of the Association?

Mr. CANNON. I am, exactly.

Mr. UNTERMYER. And you are also in favor of its being regulated by law?

Mr. CANNON. Sure.

Mr. UNTERMYER. But you are in favor of every applicant who subscribes to certain conditions having the right to membership?

Mr. CANNON. That is covered.

Mr. UNTERMYER. That is covered both ways, Mr. Cannon. First you say he ought not to have the right unless three-fourths of the prospective competitors consent, and now you say he ought to have the right when he has subscribed to certain conditions.

Mr. CANNON. Certainly, if he has subscribed to the conditions that would be provided for good banking, and handles himself properly.

Mr. UNTERMYER. Suppose you should amend your rules to-morrow requiring nine-tenths of the members to consent.

Mr. CANNON. It could not be done.

Mr. UNTERMYER. You could not amend your constitution?

Mr. CANNON. Not to require nine-tenths.

Mr. UNTERMYER. I say, you could not amend your constitution?

Mr. CANNON. Yes; you could amend it.

Mr. UNTERMYER. And you could amend it so as to require tenths.

Mr. CANNON. I doubt it.

Mr. UNTERMYER. If the people who were in it did not want any more competition they could amend it so as to require the unanimous consent of the members?

Mr. CANNON. Yes, but that is unthinkable.

Mr. UNTERMYER. Do you not think it is quite as unthinkable that you should require the consent of three-fourths?

Mr. CANNON. No; I do not.

Mr. UNTERMYER. All right.

Mr. CANNON. Oh, no.

Mr. UNTERMYER. And do you think it is reasonable that where a bank member of the Association, or a nonmember that is clearing through a member, changes its ownership, it should lose its right to membership in the Association, or the right to clear, unless the Association assents to the change of ownership?

Mr. CANNON. It does not.

Mr. UNTERMYER. It does not seem right?

Mr. CANNON. It does not; not as I understand that rule.

Mr. UNTERMYER. Let us see about it. Do you not know that it does, when there is a change of management or ownership, unless there is a consent of a majority?

Mr. CANNON. Not as I understand the rule.

Mr. UNTERMYER. Let us see how that is.

Mr. CANNON. These rules have all grown up—

Mr. UNTERMYER. Wait a minute.

Mr. CANNON. What rule have you reference to?

Mr. UNTERMYER. I will have it for you in a minute. I refer to Section 7 of Article 3, as follows:

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.

Which is that whenever there is any change in management or ownership it must receive the assent of a majority of the Association.

Mr. CANNON. I do not look upon that as mandatory in any sense of the word.

Mr. UNTERMYER. You do not?

Mr. CANNON. No sir.

Mr. UNTERMYER. "Any action on which question must receive the same assent" is not mandatory, is it?

Mr. CANNON. "May"?

Mr. UNTERMYER. What does "must" mean?

Mr. CANNON. Taking the whole section there, that is what I am looking at.

Mr. UNTERMYER. Yes.

Mr. CANNON (reading):

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—

They shall have the power; but it does not say it is mandatory.

Mr. UNTERMYER. Where does it say they shall have the power?

Mr. CANNON. It says, "shall have the power to examine said member."

Mr. UNTERMYER. Yes; go on.

Mr. CANNON (continuing reading):

And submit the question of a continuance of its membership to the Association; any action on which question—

Mr. UNTERMYER. One moment.

Mr. CANNON. But it does not say they shall do it.

Mr. UNTERMYER. After "Association" there is a semicolon, is there not?

Mr. CANNON. Yes.

Mr. UNTERMYER. There then is a statement, "any action on which question must receive the same assent as provided in the case of the expulsion of members."

Mr. CANNON. Any action they take.

Mr. UNTERMYER. As I understand you, you do not understand from this that upon a change in the ownership of a bank or upon the merger of a bank you must get the assent of the Association?

Mr. CANNON. Not necessarily so. It is not mandatory.

Mr. UNTERMYER. Do you not know that that has been required in every case.

Mr. CANNON. I do not know that it has been required in every case.

Mr. UNTERMYER. Answer the question.

Mr. CANNON. No; I do not.

Mr. UNTERMYER. Do you know of any case in which it has not been required?

Mr. CANNON. Yes; I do.

Mr. UNTERMYER. Name one.

Mr. CANNON. I do not think it was required in the cases of the Irving, the National Exchange, the Gallatin, and the Hamilton Banks. I do not think it was required there.

Mr. UNTERMYER. You do not know whether it was or not?

Mr. CANNON. No, sir. I do not think it was.

Mr. UNTERMYER. Is a formal application generally made?

Mr. CANNON. A formal application is generally made.

Mr. UNTERMYER. When the Fourth National took over these other banks, did you make a formal application?

Mr. CANNON. No. We had not taken over any banks.

Mr. UNTERMYER. That was not taken over by your bank as such?

Mr. CANNON. Not at all.

Mr. UNTERMYER. I understand. Let us see; is there a blank form for that application?

Mr. CANNON. No, sir; not to my knowledge.

Mr. UNTERMYER. Who passes on the application?

Mr. CANNON. The clearing house committee will pass on it.

Mr. UNTERMYER. The committee does that?

Mr. CANNON. Yes.

Mr. UNTERMYER. Does the committee itself pass on it, or does it put it up to the Association?

Mr. CANNON. I think the committee itself passes on it.

Mr. UNTERMYER. In every instance?

Mr. CANNON. In every instance of which I have known.

Mr. UNTERMYER. It has the power to do so, and it does it?

Mr. CANNON. It does it, yes.

Mr. UNTERMYER. Do you recall instances in which the Clearing House Association has given notice, through the committee, that it would not permit of a change of ownership, where it thought it was not in the interest of the bank?

Mr. CANNON. No, sir. I do not.

Mr. UNTERMYER. Where it thought it was not in the interest of the bank?

Mr. CANNON. No; I know of no such instances.

Mr. UNTERMYER. You never heard of it?

Mr. CANNON. I never heard of it.

Mr. UNTERMYER. But, as a matter of fact, the application is made before the change takes place, is it?

Mr. CANNON. As a matter of practice I do not consider this is mandatory, at all.

Mr. UNTERMYER. That is not the question. We can all read this document.

Mr. CANNON. All right.

Mr. UNTERMYER. I am asking you about how it has been construed in actual practice.

Mr. CANNON. Yes.

Mr. UNTERMYER. In actual practice these mergers and changes have been preceded by an application, have they not?

Mr. CANNON. Only in one instance that I know of.

Mr. UNTERMYER. Do you know anything about the others?

Mr. CANNON. No applications were made.

Mr. UNTERMYER. Do you know anything about the others? Were you a member of the committee?

Mr. CANNON. I was a member of the committee.

Mr. UNTERMYER. You have been a member of the committee only how long?

Mr. CANNON. Just about 15 months. Wait a minute; about 18 months, I think it is.

Mr. UNTERMYER. During that time, how many such applications have come before your committee?

Mr. CANNON. One application.

Mr. UNTERMYER. Which one was that?

Mr. CANNON. That of the Knickerbocker and the Columbia.

Mr. UNTERMYER. That is within a few weeks?

Mr. CANNON. Just within a few weeks, yes.

Mr. UNTERMYER. That is since the trust companies have been members?

Mr. CANNON. Since the trust companies have been members, yes.

Mr. UNTERMYER. During your incumbency of the office of committee man what mergers have taken place without the assent of the committee of clearing house members?

Mr. CANNON. I should have to look that up. I could not say. I do not know.

Mr. UNTERMYER. Can you name any?

Mr. CANNON. I think that of the Gallatin and Hanover.

Mr. UNTERMYER. They merged into what?

Mr. CANNON. Into the Hanover.

Mr. UNTERMYER. Was that a merger or a mere purchase of stock?

Mr. CANNON. That I am not familiar with.

Mr. UNTERMYER. You know that a merger is one thing and a purchase of stock is another? You know that, do you not?

Mr. CANNON. Yes, sir.

Mr. UNTERMYER. You do not need the consent of the committee to a mere purchase of stock, do you?

Mr. CANNON. It is a change of ownership.

Mr. UNTERMYER. But the Gallatin went out of business, did it not?

Mr. CANNON. Yes.

Mr. UNTERMYER. I am not talking about such a case as that. You do not need the permission of the Clearing House Association to go out of business, do you?

Mr. CANNON. No.

Mr. UNTERMYER. Do you not see we are talking about those that stayed in business?

Mr. CANNON. Yes.

Mr. UNTERMYER. Will you name the companies that stayed in business that undertook to merge without the consent of the Clearing House Association?

Mr. CANNON. The Mercantile and the Irving National Exchange, I think. They merged, I think.

Mr. UNTERMYER. Now, then, did they.

Mr. CANNON. Did not the Irving and the National Exchange—no, you can not merge two national banks. That is very true.

Mr. UNTERMYER. You take it all back?

Mr. CANNON. So far as national banks are concerned.

Mr. UNTERMYER. Will you not take it back in its entirety?

Mr. CANNON. No. What do you mean by "in its entirety"?

Mr. UNTERMYER. I want you to tell me of a single merger, during your incumbency on the committee, that was not preceded by an application to the committee and the assent of the committee.

Mr. CANNON. I should have to look that up, Mr. Untermyer.

Mr. UNTERMYER. Of course you would.

Mr. CANNON. Yes.

Mr. UNTERMYER. I will ask you about the conditions surrounding the panic of 1907. They are very active in your mind, are they not?

Mr. CANNON. I remember a few of them.

Mr. UNTERMYER. You were a very active participant in the work of the Clearing House Association at that time, were you not?

Mr. CANNON. Yes.

Mr. UNTERMYER. Were you one of the committee that examined the assets of the Oriental Bank?

Mr. CANNON. I was not, no, sir.

Mr. UNTERMYER. What committee did that?

Mr. CANNON. The clearing house committee requested a special committee to examine the Oriental Bank, if I remember right. I am not sure, but I think Mr. Wiggin, Mr. McGarrah and Mr. Porter comprised the committee. I was not a member of the committee to examine the assets of that bank.

Mr. UNTERMYER. You know how those examinations are made, do you not?

Mr. CANNON. In what way?

Mr. UNTERMYER. You know that they are very thorough and that they are made with the aid of experts?

Mr. CANNON. Yes.

Mr. UNTERMYER. And after the experts have made the investigation the committee supervises the figures as to the values put upon the various assets?

Mr. CANNON. Yes.

Mr. UNTERMYER. That is about the procedure, is it not?

Mr. CANNON. That is about the procedure, yes.

Mr. UNTERMYER. Did you come into personal contact with that transaction, at all.

Mr. CANNON. I did not come into personal contact with it, at all. I was not on that committee.

Mr. UNTERMYER. You had nothing to do with it?

Mr. CANNON. No, sir.

Mr. UNTERMYER. And is that true as to the loan certificates that were issued to other banks at that time?

Mr. CANNON. No. Mr. Frew and myself examined the Mercantile National Bank and the National Bank of North America. Is that what you mean?

Mr. UNTERMYER. Yes. Unless you found a bank perfectly solvent, you would not issue certificates?

Mr. CANNON. Unless we found it perfectly solvent on the day of issue.

Mr. UNTERMYER. Unless you found it perfectly solvent you would not make the loan?

Mr. CANNON. No, sir; we would not make the loan.

Mr. UNTERMYER. That was one condition?

Mr. CANNON. Yes.

Mr. UNTERMYER. And another condition was that the Association should have ample security?

Mr. CANNON. Surely.

Mr. UNTERMYER. And in that connection you made your own pick of securities, did you not?

Mr. CANNON. We used our best judgment.

Mr. UNTERMYER. And in using your best judgment, you did not pick the poor ones, did you?

Mr. CANNON. We tried not to.

Mr. UNTERMYER. What margin did you allow yourselves in selecting the securities of the Bank of North America as a basis for issuing certificates?

Mr. CANNON. I do not remember.

Mr. UNTERMYER. It was a liberal one, was it not?

Mr. CANNON. They were all liberal.

Mr. UNTERMYER. Do you mean you took all the security in sight?

Mr. CANNON. No; no; not much.

Mr. UNTERMYER. You took what you called a liberal security?

Mr. CANNON. We took what we called ample security.

Mr. UNTERMYER. What is the margin that you allowed yourselves as ample security?

Mr. CANNON. Anywhere from 33½ per cent to 50 per cent, according to the salability of the collateral and according to the circumstances surrounding it.

Mr. UNTERMYER. You mean that you took a margin of 33½ to 50 per cent; whatever the circumstances at the time warranted?

Mr. CANNON. Yes; whatever the circumstances at the time warranted; a margin over and above the amount of the loan.

Mr. UNTERMYER. Did you have anything to do with the arrangement for the loan to the New Amsterdam Bank?

Mr. CANNON. Nothing, no. That was a special committee that did that.

Mr. UNTERMYER. Did you know of the notice that was issued on the 25th of January to the Oriental, the Mechanics & Traders, the Bank of North America, and the New Amsterdam Bank, requiring them to pay their certificates?

Mr. CANNON. I was trying to recollect, this morning, when Mr. Sherer was testifying, whether I remembered anything about it. I was not present, I think, at the clearing house committee.

Mr. UNTERMYER. You were in the city?

Mr. CANNON. Yes; but we were busy taking care of our own collateral, and we did not attend those meetings of the clearing house committee except when we were called on particularly.

Mr. UNTERMYER. You remember hearing of that the next morning?

Mr. CANNON. No, sir.

Mr. UNTERMYER. Do you remember whether you did or not?

Mr. CANNON. No; I could not testify as to that.

Mr. UNTERMYER. Do you remember that notice being followed by a run on those banks?

Mr. CANNON. No, I do not remember the details of that, at all.

Mr. UNTERMYER. On the 25th of January, 1908, financial conditions had cleared considerably, had they not?

Mr. CANNON. Yes; they were clearing up.

Mr. UNTERMYER. Things were very much better?

Mr. CANNON. Yes.

Mr. UNTERMYER. A great many of these certificates had been paid back?

Mr. CANNON. I do not know the exact number. Some had been paid back.

Mr. UNTERMYER. What?

Mr. CANNON. I do not know the amount that had been repaid at that time.

Mr. UNTERMYER. Do you not know that those were the only four banks that were called on to pay?

Mr. CANNON. I did not know it until I heard it read this morning.

Mr. UNTERMYER. Yes.

Mr. CANNON. It had passed entirely out of my recollection, if I did know it.

Mr. UNTERMYER. You do know pretty well what happened after the Oriental Bank closed, do you not?

Mr. CANNON. Yes.

Mr. UNTERMYER. Do you remember the day it closed?

Mr. CANNON. No, I do not remember the day it closed.

Mr. UNTERMYER. The 29th of January, 1908?

Mr. CANNON. Yes.

Mr. UNTERMYER. I think that was the date. At that time you were a member of the board of directors and of the executive committee of the Metropolitan Trust Co., were you not?

Mr. CANNON. No, sir; I had no connection with it at all.

Mr. UNTERMYER. You had not, at that time?

Mr. CANNON. No, sir.

Mr. UNTERMYER. When did you go upon the board?

Mr. CANNON. Not until about a year ago.

Mr. UNTERMYER. Can you fix the time?

Mr. CANNON. I can not. I can give you the time, but I do not know the exact time. I think it was about a year ago.

Mr. UNTERMYER. You remember that within 10 days after the Oriental Bank closed its doors, the Metropolitan Trust Co. assumed the payment of all its deposits?

Mr. CANNON. Yes.

Mr. UNTERMYER. And it received \$200,000 for doing it?

Mr. CANNON. Yes.

Mr. UNTERMYER. You remember that in addition to the \$200,000 it received for doing it, there was a vast amount of other expenses connected with the liquidation of that bank?

Mr. CANNON. Not a vast amount, but there was a very considerable one.

Mr. UNTERMYER. Because you were paid, too, in that connection, were you not?

Mr. CANNON. I have forgotten just—

Mr. UNTERMYER. Oh, do not forget. Try to remember.

Mr. CANNON. I do not remember the exact amount.

Mr. UNTERMYER. I am not asking that. I asked if you were paid. Have you forgotten that?

Mr. CANNON. Not a bit. I was a member of the liquidating committee.

Mr. UNTERMYER. In addition to the Metropolitan Trust getting \$200,000 for liquidating the bank, Mr. Ives, the president of the Metropolitan Trust, got \$15,000, did he not?

Mr. CANNON. Yes, for services on the committee of liquidation.

Mr. UNTERMYER. You got \$6,000?

Mr. CANNON. For services on the committee.

Mr. UNTERMYER. Who were the other liquidating members?

Mr. CANNON. Mr. Jones and Mr. Hewitt, and I think somebody else.

Mr. UNTERMYER. Mr. Jones was the former president?

Mr. CANNON. Former president, yes.

Mr. UNTERMYER. You know what it cost to liquidate that bank, whose depositors the Metropolitan Trust undertook to pay within one week after its doors were closed?

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

Mr. UNTERMYER. Do you not know positively, as a liquidating officer who was paid for his services in liquidating the bank?

Mr. CANNON. I could not tell you without looking it up. I could find out.

Mr. UNTERMYER. Will you give us the figures, Mr. Cannon?

Mr. CANNON. I will endeavor to find out the figures, if I can.

Mr. UNTERMYER. It has cost pretty nearly \$500,000, has it not?

Mr. CANNON. No, sir, not to my knowledge.

Mr. UNTERMYER. It has cost \$465,000, has it not?

Mr. CANNON. Not to my knowledge.

Mr. UNTERMYER. You will give us the figures?

Mr. CANNON. I will endeavor to find out and give them to you.

Mr. UNTERMYER. The depositors were all ultimately paid, were they not?

Mr. CANNON. Yes, sir, in full.

Mr. UNTERMYER. Then there had been 37½ per cent paid on stock?

Mr. CANNON. I do not know the exact amount, or whether it was 30 per cent or 37½ per cent.

Mr. UNTERMYER. The capital was \$750,000, was it not?

Mr. CANNON. \$750,000.

Mr. UNTERMYER. It cost about 60 per cent of the stock for the Metropolitan Trust Co. and the expenses of liquidation, did it not?

Mr. CANNON. I do not remember; I could not testify as to that.

Mr. UNTERMYER. And the bank has still about 100 cents on the dollar left in assets, has it not?

Mr. CANNON. I do not know.

Mr. UNTERMYER. More than 100 cents on the dollar, has it not?

Mr. CANNON. I do not know; I could not testify as to that.

Mr. UNTERMYER. You will give us that statement?

Mr. CANNON. If I can get it.

Mr. UNTERMYER. If you will figure together 37½ per cent on the stock and assume 60 per cent that has been expended in liquidating the Metropolitan Trust and others being 97½ per cent, and upward of 100 per cent still left on the stock, it would appear that the Oriental Bank was a pretty solvent concern when its doors were closed, would it not?

Mr. CANNON. It would appear that way.

Mr. UNTERMYER. It was, too?

Mr. CANNON. I am not passing upon the judgment of other people.

Mr. UNTERMYER. I am asking for yours. You know it was a perfectly solvent concern?

Mr. CANNON. It paid 100 cents on the dollar.

Mr. UNTERMYER. Not only 100 cents on the dollar, but it had 200 cents on the dollar for its stockholders?

Mr. CANNON. I do not know the figures, at all.

Mr. UNTERMYER. And do you not know that it was increasing its business and its deposits when the notice went out from the clearing house and was published in the papers to the effect that its certificates had been called?

Mr. CANNON. No, I do not know that.

Mr. UNTERMYER. Do you not know that there was a run?

Mr. CANNON. Yes, but I do not know about increasing its deposits.

Mr. UNTERMYER. Do you not know the run on the bank came after the 25th of January?

Mr. CANNON. No, I do not know the date.

Mr. UNTERMYER. Do you not recall, Mr. Cannon, that about that same time, after the panic was apparently over, and everything was getting better, there was a simultaneous run on the Mechanics & Traders, the Oriental, the Bank of North America and the New Amsterdam Bank?

Mr. CANNON. I do not remember the dates.

Mr. UNTERMYER. There was a simultaneous run?

Mr. CANNON. It was not a simultaneous run, was it? I do not remember the date. I know there was a run, but I can not give the date.

Mr. UNTERMYER. On those banks that had been notified that their certificates would have to be retired or they must close up, or close down, had they not?

Mr. CANNON. Yes.

Mr. UNTERMYER. If there is no objection, we would now like to call Mr. Jones, out of order. He is compelled to leave to undergo an operation.

At this point the testimony of Mr. Cannon was temporarily suspended.

TESTIMONY OF RICHARD W. JONES, JR.

The witness was sworn by the Chairman.

Mr. UNTERMYER. Where do you live, Mr. Jones?

Mr. JONES. Monroe, Orange County, N. Y.

Mr. UNTERMYER. Are you in any occupation at the present time?

Mr. JONES. I am.

Mr. UNTERMYER. What is your business?

Mr. JONES. I am in the brokerage business.

Mr. UNTERMYER. Were you in 1907 connected with the Oriental Bank?

Mr. JONES. I was.

Mr. UNTERMYER. In what capacity?

Mr. JONES. Up to the 27th of November, I was president.

Mr. UNTERMYER. How long had you been associated with that bank?

Mr. JONES. Since 1902.

Mr. UNTERMYER. What had been your business?

Mr. JONES. The banking business.

Mr. UNTERMYER. Were you in a banking firm?

Mr. JONES. No, sir. I had been previous to that time vice president of the Seventh National Bank in New York, and just prior to that I had been president of the American National Bank in Kansas City, Mo.

Mr. UNTERMYER. And in 1902 you became connected with the Oriental Bank?

Mr. JONES. I did.

Mr. UNTERMYER. As president?

Mr. JONES. As president.

Mr. UNTERMYER. And remained president until November, 1907?

Mr. JONES. I did.

Mr. UNTERMYER. What was the capital of the bank?

Mr. JONES. \$750,000.

Mr. UNTERMYER. What was its book surplus on October 1, 1907, just before the panic?

Mr. JONES. About \$1,200,000.

Mr. UNTERMYER. What was the stock selling for on the market?

Mr. JONES. About \$270 to \$275 a share.

Mr. UNTERMYER. Had it been continuously paying dividends?

Mr. JONES. It had.

Mr. UNTERMYER. At what rate?

Mr. JONES. Two and one-half per cent quarterly and 2 per cent extra on the 1st of January of each year.

Mr. UNTERMYER. That was 12 per cent a year?

Mr. JONES. Yes.

Mr. UNTERMYER. And it was an old established bank, was it not?

Mr. JONES. It was organized in 1853.

Mr. UNTERMYER. I think it was one of the charter members of the Clearing House Association. Is that correct?

Mr. JONES. I do not know about that.

Mr. UNTERMYER (after examination of record). Yes, I see it was. Had its earnings been largely in excess of the dividends it had been paying?

Mr. JONES. They had been at the rate of about 25 to 30 per cent.

Mr. UNTERMYER. You remember when the panic started in October, 1907, do you not?

Mr. JONES. I do.

Mr. UNTERMYER. Did you, in common with other banks in the clearing house, have any transactions with the clearing-house committee after the panic started?

Mr. JONES. I did.

Mr. UNTERMYER. Do you remember when you had those dealings?

Mr. JONES. I should say about the 20th to the 22d of October, I met the clearing-house committee in answer to their request.

Mr. UNTERMYER. Who was with you?

Mr. JONES. No one.

Mr. UNTERMYER. Where did you meet them?

Mr. JONES. At the clearing house.

Mr. UNTERMYER. Whom did you meet?

Mr. JONES. I do not remember the committee. I only remember several on the committee. Mr. Woodward, Mr. Nash, and Mr. Townsend, were there. Those are the only members of the committee I recall.

Mr. UNTERMYER. Did you meet Mr. Hepburn at that time?

Mr. JONES. I do not positively remember whether he was at the meeting or attended at that time or not. I remember the other three gentlemen were there.

Mr. UNTERMYER. Did you apply for certificates?

Mr. JONES. Not at that time.

Mr. UNTERMYER. What was your errand at that time?

Mr. JONES. I was asked what banks we were clearing for.

Mr. UNTERMYER. What did you say?

Mr. JONES. I told them we were clearing for three—the Brooklyn Bank and the Borough Bank, both of Brooklyn, and the Chelsea Exchange Bank of New York.

Mr. UNTERMYER. What took place?

Mr. JONES. They inquired about banks and their condition and the balances which they were maintaining with us, and they first said to me that they would prefer that I would send notices discontinuing the clearances.

Mr. UNTERMYER. For all of them?

Mr. JONES. For all of them.

Mr. UNTERMYER. Proceed.

Mr. JONES. Then the matter was discussed.

Mr. UNTERMYER. What did you say as to that?

Mr. JONES. I said I felt if we did it would probably result in a large loss of business to us, and possibly trouble.

Mr. UNTERMYER. Did you say it would ruin the bank?

Mr. JONES. I do not know that I did. I felt that it would make trouble if we did send out the notices, and I protested against it. Finally my understanding was that if the Brooklyn Bank and the Borough Bank would bring their balances up to \$500,000 each, we might continue to clear for them; and if not, that it was a matter to be reported against. I was to get in touch with the clearing house.

Mr. UNTERMYER. Did they bring their balances up?

Mr. JONES. One of them did. The other approximated the balance, but not fully up to the \$500,000.

Mr. UNTERMYER. Which one brought the balance up to \$500,000?

Mr. JONES. I think it was the Brooklyn Bank.

Mr. UNTERMYER. What happened then?

Mr. JONES. The next day I had a visit from Mr. Townsend asking if I had sent out the notices, and I told him that I had not; that I understood that if the two banks mentioned brought their balances up, we would not have to send out the notices. The requirement did not apply to the Chelsea Exchange bank. He said that was not his understanding. He went down to the clearing house, and I got a call to come down again, and the matter was discussed. It was decided that I should send out the notices.

Mr. UNTERMYER. What were the notices?

Mr. JONES. To discontinue clearing for the Brooklyn Bank and the Borough Bank—not the Chelsea Exchange, however.

Mr. UNTERMYER. You were to discontinue for the one that had brought its balance up to the required amount?

Mr. JONES. Yes.

Mr. UNTERMYER. As well as for the one that had only approximated the amount?

Mr. JONES. Yes.

Mr. UNTERMYER. Did you say anything to that?

Mr. JONES. I told them that they had large balances with us, and I knew it would mean the withdrawal of those balances immediately and I felt that it would mean trouble for us, and I asked that a committee be appointed to examine our bank.

Mr. UNTERMYER. Was there a committee appointed?

Mr. JONES. There was.

Mr. UNTERMYER. You had not sent out the notices then, had you?

Mr. JONES. No, sir.

Mr. UNTERMYER. And who constituted the committee that was appointed to make the examination of your bank?

Mr. JONES. Mr. Wiggin, Mr. McGarrah and Mr. Porter.

Mr. UNTERMYER. Mr. Wiggin is the vice president of the Chase Bank?

Mr. JONES. He is the president, now.

Mr. UNTERMYER. Mr. Hepburn is the chairman of the board, is he not?

Mr. JONES. Yes,

Mr. UNTERMYER. And Mr. McGarrah is the president—

Mr. JONES. He is the president of the Mechanics and Metals Bank.

Mr. UNTERMYER. And Mr. Porter was then president of the Chemical Bank?

Mr. JONES. He was.

Mr. UNTERMYER. And is now a partner in J. P. Morgan & Co.?

Mr. JONES. He is.

Mr. UNTERMYER. This committee came to your bank?

Mr. JONES. Yes.

Mr. UNTERMYER. Did they bring accountants with them?

Mr. JONES. They brought accountants with them.

Mr. UNTERMYER. How long did the examination last?

Mr. JONES. Until about 3 o'clock in the morning.

Mr. UNTERMYER. Did they say anything to you then?

Mr. JONES. Yes, they told us they would pass us.

Mr. UNTERMYER. Did they say anything as to the condition of the bank?

Mr. JONES. Yes.

Mr. UNTERMYER. What did they say?

Mr. JONES. They said it was good.

Mr. UNTERMYER. Did they say anything else?

Mr. JONES. They rather complimented us.

Mr. UNTERMYER. That is what I want to know. Did they compliment you on the condition of the bank?

Mr. JONES. Yes.

Mr. UNTERMYER. What did they say?

Mr. JONES. They said it was in good condition; that we were doing a legitimate business and not being used or abused by anybody.

Mr. UNTERMYER. What was the upshot of that, as to whether you could continue to clear for the two other banks?

Mr. JONES. We discontinued that immediately.

Mr. UNTERMYER. They told you to stop it, did they?

Mr. JONES. Yes.

Mr. UNTERMYER. And did you send out the notices?

Mr. JONES. We did.

Mr. UNTERMYER. And did they tell you that same night to discontinue clearing for those banks?

Mr. JONES. That afternoon, prior to the examination.

Mr. UNTERMYER. What is your answer?

Mr. JONES. They told us that that afternoon, prior to the examination.

Mr. UNTERMYER. Before the examination?

Mr. JONES. Yes sir.

Mr. UNTERMYER. And you sent out the notices?

Mr. JONES. I did.

Mr. UNTERMYER. And how soon after that did those two banks close?

Mr. JONES. I can not tell you exactly, but within a day or two.

Mr. UNTERMYER. They closed as soon as their clearances were thrown out, did they not?

Mr. JONES. No, I think probably they ran a day or two.

Mr. UNTERMYER. They were entitled to 24 hours' notice, were they not?

Mr. JONES. That is correct.

Mr. UNTERMYER. So that the clearances of the next day had to be passed through?

Mr. JONES. Yes, they had to be passed.

Mr. UNTERMYER. And the following day they closed the bank?

Mr. JONES. They closed on the 24th. I do not remember the day we had the examination.

Mr. UNTERMYER. Well, was it within a day or two?

Mr. JONES. Yes sir.

Mr. UNTERMYER. When they closed, upon the withdrawal of their clearance privileges, did that publicity create a run on your bank?

Mr. JONES. Yes; we had considerable disturbance.

Mr. UNTERMYER. At that time what were your deposits?

Mr. JONES. I should say about nine million to nine and one-half million dollars, although I am not sure.

Mr. UNTERMYER. They had been \$13,000,000, had they not?

Mr. JONES. Yes sir; they had.

Mr. UNTERMYER. And all the banks in the meantime had lost a considerable portion of their deposits?

Mr. JONES. We had, and I presume a good many had.

Mr. UNTERMYER. Did you then take out certificates?

Mr. JONES. We took out certificates the next morning after the examination.

Mr. UNTERMYER. You knew that other banks were getting them, did you not?

Mr. JONES. Yes sir.

Mr. UNTERMYER. And to what extent did you take out certificates?

Mr. JONES. The first amount was about \$300,000.

Mr. UNTERMYER. All together, you took out how much?

Mr. JONES. The maximum, as I remember it, was about \$2,800,000.

Mr. UNTERMYER. Did the clearing house committee take security?

Mr. JONES. They did.

Mr. UNTERMYER. To what extent?

Mr. JONES. I can not state the exact extent, except that at the time the bank closed we had outstanding \$1,751,000; and there was collateral to the extent of about \$3,600,000 pledged.

Mr. UNTERMYER. That is about two dollars for one?

Mr. JONES. About.

Mr. UNTERMYER. Did you shortly after that become ill?

Mr. JONES. I was taken ill on the 17th of November.

Mr. UNTERMYER. In the meantime did you have any further dealings with the clearing house?

Mr. JONES. Only to get clearing house certificates.

Mr. UNTERMYER. Was there any talk about what the clearing house would do to protect your bank when they notified you to discontinue clearing for those two banks?

Mr. JONES. No, except we were told we could get the clearing-house certificates.

Mr. UNTERMYER. Then, as I understand it, you were taken ill?

Mr. JONES. On the 17th of November.

Mr. UNTERMYER. You were unconscious for some days, were you not?

Mr. JONES. Yes sir.

Mr. UNTERMYER. What was your trouble?

Mr. JONES. Pneumonia.

Mr. UNTERMYER. When did you get back to work?

Mr. JONES. I got back to work about the 29th of December.

Mr. UNTERMYER. That was before the bank closed?

Mr. JONES. Yes sir.

Mr. UNTERMYER. What happened after you got back, in your relations with the clearing house or the clearing-house committee?

Mr. JONES. I had no relations with them, at all. I had resigned in the meantime, and I had no relations with the bank or the clearing house.

Mr. UNTERMYER. You had resigned from the presidency, had you?

Mr. JONES. Yes sir.

Mr. UNTERMYER. Who had been put in your place?

Mr. JONES. Mr. Hugh Kelly.

Mr. UNTERMYER. Was he a director?

Mr. JONES. He was.

Mr. UNTERMYER. Do you know who selected him as president?

Mr. JONES. The board of directors, of course.

Mr. UNTERMYER. Do you know at whose dictation?

Mr. JONES. I have only been told; I do not know from my personal knowledge.

Mr. UNTERMYER. What have you learned as to that?

Mr. JONES. I was told that the clearing house suggested that he be elected president.

Mr. UNTERMYER. Mr. Kelly is dead, is he not?

Mr. JONES. He is.

Mr. UNTERMYER. Did Mr. Kelly make a report to the board of directors of the Oriental Bank as to his transactions with the Clearing House Association?

Mr. JONES. That I do not know.

Mr. UNTERMYER. He wrote some sort of a letter, did he not?

Mr. JONES. He did.

Mr. UNTERMYER. I subpoenaed you to produce it. Would you be good enough to produce it?

Mr. JONES. That letter was not to the clearing house. It was a letter prepared to send to the stockholders and depositors of the bank.

Mr. UNTERMYER. You have been subpoenaed, have you not?

Mr. JONES. Yes.

Mr. UNTERMYER. And you have been subpoenaed to produce that letter, have you not?

Mr. JONES. Yes.

Mr. UNTERMYER. Please produce it.

The witness produced the letter referred to.

Mr. UNTERMYER. Is that letter in the handwriting of Mr. Hugh Kelly, now dead?

Mr. JONES. It is.

Mr. UNTERMYER. And was it prepared at or about the time of these transactions referred to?

Mr. JONES. It was prepared some time after the bank closed.

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

The letter referred to was marked "Exhibit No. 22, June 7, 1912."

Mr. UNTERMYER. I will read this letter.

Mr. Untermyer read the letter referred to marked "Exhibit No. 22," as follows:

To the Depositors and Stockholders of the Oriental Bank,

GENTLEMEN: The Oriental Bank, which closed its doors on January 31 last, after an honorable career of 55 years, was in a condition of absolute solvency. Its suspension was not an ordinary incident of the banking business—it was a tragedy of finance growing, not out of its own condition, but of the conditions which in November last menaced every Clearing House bank in New York. On October 24 last when the recent financial storm broke loose upon the community its deposits were \$10,500,000 net; on January 31 when it closed its doors, they had been paid down to \$3,982,000 net. Thus, in the short period of three months of financial turmoil it had liquidated its demand indebtedness to the extent of 65 per cent, say \$6,578,000, with the assistance of \$1,750,000 of Clearing House certificates, these latter secured by the deposit of \$3,600,000 of collateral.

To those who are familiar with deposit banking this must appeal as a very creditable performance, that under stress of a constant demand for the payment of its demand liability it was able to meet the demand without hesitation or halt in the doing. It is certainly a fair indication of solvency, for it must be remembered that banks receive money on deposit payable on demand, and then loan it out upon time for periods ranging between say 30 days and 6 months.

On November 27 last the operations of certain Brooklyn financiers were the subject of investigation by the District Attorney of Brooklyn, who requested the attendance of President Jones of the Oriental Bank as a witness in the matter. Mr. Jones was ill at his home with pneumonia and could not respond. A story was at once manufactured and spread that he was shamming illness, and this was quickly followed by a rumor that he was in danger of indictment. It has since transpired that he was never in the position of an alleged criminal facing indictment, but that he was simply required as a witness. His testimony was afterwards taken while he was lying upon his bed during his recovery, and nothing has been heard of the matter since.

In the meantime a number of gentlemen of high place in financial affairs had sat in judgment upon him, their fellow member, and concluded their deliberations with the following sentence, viz: that the Board of Directors of the Oriental Bank must meet at once, accept Mr. Jones' resignation of the presidency, and elect another president in his place.

Thus, in a moment, without excuse other than the statement without foundation in fact, that Mr. Jones was either already indicted or would be indicted that day, was a fair reputation blasted, and the work of a lifetime of energy, application and honest dealing destroyed. Mr. Jones, in obedience to the demand, resigned and Mr. Hugh Kelly was elected in his place. Mr. Kelly who had returned from Europe only two days previously, sought a hearing before the gentlemen who had thus condemned Mr. Jones, and with a committee of three directors of the Oriental Bank, protested with energy against the summary treatment which it was proposed to measure out to their colleague while he was ill and unable to defend himself. This protest being of no avail Mr. Kelly demanded to know how far he could rely upon the protection and aid of the Clearing House if he accepted the presidency, and was told in unqualified terms that he and the bank would be protected to the end of the trouble. Under no other circumstances would he have accepted the office, which he did without salary and with no hope of reward other than the satisfaction to himself and his fellow-directors of safeguarding the depositors of the bank. How the pledge given at that time has been carried out is easily told by the bank's suspension two months later, on January 31, while in a condition of absolute solvency. Its assets had been minutely examined on December 31 and were marked down in a manner probably unparalleled in banking history in New York. The book value of its stock was voluntarily marked off from 270 per cent to 207 per cent in the effort to make it superlatively clean. If the Banking Department of the State of New York were permitted to speak publicly on matters of this kind it could tell you how courageously and how honestly this process was

carried out. From November 27 onward its business was conducted conservatively, and more or less under the advice of influential members of the Clearing House, who actually pronounced the "Oriental now as safe as the Chemical."

Then, without previous warning or discussion of the subject with the officers of the Oriental, came the demand, publicly announced, for the retirement of the outstanding Clearing House certificates before February 6. In previous periods of financial uneasiness certificates had been permitted to run for six months or more. In this instance the larger institutions had recovered their deposits and their equilibrium in a shorter term, and then the situation resolved itself into a case of "the devil take the hindmost." The fatal blow had been struck at the Oriental and the run, both over the counter and through the Exchanges which followed, compelled the closing of its doors. Subsequent events prove the monstrous injustice that was done to it and to its president personally. The latter was made use of to satisfy a condition that threatened not merely the Oriental, but every Clearing House bank in New York at the time. When that condition was past the engagements made with him were forgotten.

Within 10 days of the closing of the bank the depositors have been provided for and paid, and its Clearing House loan certificates retired, all by its own resources. Thus is its solvency proven. The only ones now concerned with its affairs are its stockholders and they alone suffer the consequences of its treatment at the hands of those whose care it should have been to protect it for their own sakes. From this time forward it is only a memory among New York banks, but its honorable record of 55 years entitled it to this eulogy.

THE BOARD OF DIRECTORS.

HUGH KELLY, *President.*

Mr. UNTERMYER. Do you remember how soon after the closing of the bank that letter was written?

Mr. JONES. I think it must have been some time in April.

Mr. UNTERMYER. 1908?

Mr. JONES. Yes, sir.

Mr. UNTERMYER. Have you the figures here, Mr. Jones, with respect to the Oriental Bank, its resources and obligations?

Mr. JONES. Of what date?

Mr. UNTERMYER. As of the present, if you please. Tell us, first, in that connection, how soon, after its failure or after it closed its doors, the depositors were paid?

Mr. JONES. Beginning with about March 23, they were paid just as rapidly as their accounts could be verified.

Mr. UNTERMYER. It took the intervening time to verify their accounts, did it not?

Mr. JONES. No; the intervening time was taken first in making arrangements for the money with which to pay them, and then in getting the bank out of the hands of a receiver, where it had been put.

Mr. UNTERMYER. Do you remember the occasion of the sending of the notice of January 25, to the effect that the clearing house certificates would have to be retired on February 6?

Mr. JONES. I remember that such a notice was sent about January 25.

Mr. UNTERMYER. Do you remember the fact of its appearing in the newspapers the following morning?

Mr. JONES. I do.

Mr. UNTERMYER. Were there any other banks mentioned as having received like notice?

Mr. JONES. Well, I do not know that the newspapers stated the banks. I do not think so. I think there was a published notice that the clearing-house certificates would have to be retired by February 6, but I do not know that there was any mention made of who had certificates.

Mr. UNTERMYER. Do you not know that notice did state the names of the banks, and that it was followed by a run on your bank?

Mr. JONES. I do not recall that the name of the bank was given.

Mr. UNTERMYER. Was it not followed immediately by a run on those four banks?

Mr. JONES. It was.

Mr. UNTERMYER. The next day, was it not?

Mr. JONES. Yes.

Mr. UNTERMYER. And that same day?

Mr. JONES. Yes.

Mr. UNTERMYER. Does not that refresh your memory?

Mr. JONES. Well, I could not state positively that the names of the banks were given in the newspapers at the time.

Mr. UNTERMYER. Up to that time the run had stopped, had it not?

Mr. JONES. Yes; there was no disturbance. The bank had been going along from the time in November when it lost so many of its deposits, about the 17th to the 25th of November—it had been going along about on the same basis—that is, it had about \$6,000,000 in the vaults.

Mr. UNTERMYER. Had it not increased its deposits?

Mr. JONES. It had increased some.

Mr. UNTERMYER. It was on the up move?

Mr. JONES. Yes.

Mr. UNTERMYER. And getting better?

Mr. JONES. Yes.

Mr. UNTERMYER. Until this notice appeared?

Mr. JONES. Yes.

Mr. UNTERMYER. And when that notice appeared, the same day or the following day—

Mr. JONES. A run began, which took about a million and a half additional.

Mr. UNTERMYER. A run also began on three other banks?

Mr. JONES. Yes.

Mr. UNTERMYER. Those were the three other banks mentioned in the notice, were they not?

Mr. JONES. Well, they were the other banks that had clearing-house certificates.

Mr. UNTERMYER. Two of those were what are known as Morse institutions?

Mr. JONES. Yes; commonly known as Morse banks.

Mr. UNTERMYER. Now I wish you would tell us, if you have the figures, which I have asked you to bring under my subpoena, as to the condition of the Oriental Bank.

Mr. JONES. Mr. Untermyer, I will have to send to my office for them. I have them over there.

Mr. UNTERMYER. Let us see if we can not get along with what we have.

Mr. JONES. I have the statements over there as to the amount of the present assets. I have the statement of the condition of the bank at the time it closed, the amount that has been liquidated, and the amount still outstanding unliquidated. I can get it in a few minutes.

Mr. UNTERMYER. How much did it cost to liquidate the bank?

Mr. JONES. In attorneys' fees and losses on securities sold then—

Mr. UNTERMYER. No; I do not include losses on securities.

Mr. JONES (continuing). And expenses, etc., I should say over \$400,000.

Mr. UNTERMYER. I want you to exclude any question of losses on securities sold and confine yourself to the expenses incident to liquidation, regardless of any question of losses on securities.

Mr. JONES. It would be very difficult for me to give you that accurately. These expenses incurred about that time were \$376,000, not including any losses at all.

Mr. UNTERMYER. How were they made up?

Mr. JONES. Well, there was \$245,000 to the Metropolitan Trust Co.

Mr. UNTERMYER. What was that for?

Mr. JONES. Well, \$200,000 we paid them at the time the loan was made, in addition.

Mr. UNTERMYER. In addition to the interest?

Mr. JONES. Yes, sir.

Mr. UNTERMYER. You paid them a bonus of \$200,000?

Mr. JONES. Yes sir.

Mr. UNTERMYER. How much did they lend you?

Mr. JONES. They agreed to advance us the entire amount of our liabilities at that time—about \$2,600,000.

Mr. UNTERMYER. But they had your assets, did they not?

Mr. JONES. All of them.

Mr. UNTERMYER. How much did they actually advance?

Mr. JONES. I should say a maximum of about from \$3,000,000 to \$3,500,000.

Mr. UNTERMYER. And on that they received 6 per cent, did they not?

Mr. JONES. Yes sir.

Mr. UNTERMYER. And a bonus of \$200,000?

Mr. JONES. Yes sir.

Mr. UNTERMYER. In addition to that did they credit you with the interest on moneys received from the collaterals that they had while charging you with interest on the loan?

Mr. JONES. There was an adjustment of interest made. I do not remember exactly what the result of it was, but it resulted in our paying \$45,000.

Mr. UNTERMYER. Additional to the \$200,000?

Mr. JONES. Yes.

Mr. UNTERMYER. Besides that, did you pay anything to the president personally for his services?

Mr. JONES. He was chairman of the liquidating committee of the Oriental Bank, and as such received a salary.

Mr. UNTERMYER. Of how much?

Mr. JONES. \$15,000.

Mr. UNTERMYER. He had nothing to do with the Oriental Bank up to that time, had he?

Mr. JONES. No sir.

Mr. UNTERMYER. He was president of the Metropolitan Trust Company that was getting \$200,000 and interest for the loan, was he not?

Mr. JONES. Yes sir.

Mr. UNTERMYER. In addition to the \$15,000 that he received, did the other members of the liquidating committee also receive salaries?

Mr. JONES. Several of them did, yes.

Mr. UNTERMYER. Then in addition to this question of salaries, what else was there that was paid?

Mr. JONES. Well, legal expenses involved at that time.

Mr. UNTERMYER. What did they amount to?

Mr. JONES. About \$1,000.

Mr. UNTERMYER. Those items together amounted to about 50 per cent on the stock, did they not?

Mr. JONES. Yes sir; about.

Mr. UNTERMYER. The stock has paid out 37½ per cent dividends has it not?

Mr. JONES. It has.

Mr. UNTERMYER. And you have still in hand assets of about how much?

Mr. JONES. About \$1,300,000, against which we owe \$130,000.

Mr. UNTERMYER. \$1,150,000 assets still in hand?

Mr. JONES. We have.

Mr. UNTERMYER. Which is about 120 on the stock, is it not?

Mr. JONES. Yes sir.

Mr. UNTERMYER. In addition to the 37½ per cent you paid on the stock?

Mr. JONES. Yes sir.

Mr. UNTERMYER. In addition to about 50 per cent that went into expenses?

Mr. JONES. Yes sir.

Mr. UNTERMYER. So that on the liquidating basis of this bank the stock was worth over \$200, was it not, after paying all deposits?

Mr. JONES. I feel that would be probably right, with the protection of the assets and proper liquidation of the balance of them.

Mr. UNTERMYER. How is that?

Mr. JONES. I think that is about right, with a proper protection and liquidation of the balance of the assets.

Mr. UNTERMYER. Mr. Jones, do you know of your own knowledge anything concerning any promise or agreement to protect the bank, or were you ill at the time?

Mr. JONES. I do not know a thing about it.

Mr. UNTERMYER. You know nothing except from hearsay?

Mr. JONES. Nothing except from hearsay.

Mr. UNTERMYER. Will you supply the committee with a detailed statement as to the condition of the bank, in furtherance of your testimony of to-day?

Mr. JONES. I will.

Mr. UNTERMYER. I think that is all.

Witness excused.

TESTIMONY OF ERSKINE HEWITT.

Mr. UNTERMYER. Will you be good enough to state your residence?

Mr. HEWITT. I have a request to make of the committee before being examined, that I be excused from testifying on the ground that most of my information is of a privileged and confidential nature derived because of my position as a lawyer and a director, and because my recollection is too vague to admit of my telling the whole truth and nothing but the truth, on account of the lapse of time, the

great excitement and strain of those events, as well as my connection with many other institutions. I hope that the committee will be brief and respect the above position, and further respect the fact that this is a state institution, over which there is doubt as to its jurisdiction.

Mr. UNTERMYER. You have not been sworn yet.

Mr. HEWITT. Is my request acted upon?

Mr. UNTERMYER. The committee can not assume what you are going to testify to until the questions are asked.

At this point the witness was sworn by the Chairman.

Mr. HEWITT. Subject to this statement.

Mr. PUJO. You can raise the point.

Mr. UNTERMYER. Where do you reside?

Mr. HEWITT. Ringwood Manor, Passaic County, N. J.

Mr. UNTERMYER. What is your occupation?

Mr. HEWITT. Well, I am partly miner, partly a lumberman, a little bit in railroading, a little bit in various occupations.

Mr. UNTERMYER. You are managing the estate of your father?

Mr. HEWITT. The estate has been settled a long time. No; I am managing other people's affairs, largely.

Mr. UNTERMYER. In 1907 you were a director of the Oriental Bank, were you not?

Mr. HEWITT. I was a director, yes.

Mr. UNTERMYER. How long had you been a director?

Mr. HEWITT. Ever since Mr. Jones bought the stock. I can not tell whether it was 1902 or 1903, without looking. We all purchased stock at the same time.

Mr. UNTERMYER. Were you, in 1907, a member of the executive committee?

Mr. HEWITT. I was.

Mr. UNTERMYER. Who was the counsel for the bank?

Mr. HEWITT. Mr. Beekman.

Mr. UNTERMYER. You had certain transactions with the clearing-house committee in 1907 as a member of the executive committee of the bank, did you not?

Mr. HEWITT. I do not know whether it was the committee or not. I went down to the clearing house. I do not know who the people were whom I met.

Mr. UNTERMYER. How many visits did you make at the clearing house?

Mr. HEWITT. To the best of my recollection, two, one of which was subdivided in two; so you might call it three or two, just as you choose to look at it. That is to the best of my recollection.

Mr. UNTERMYER. Were you present when the clearing house committee made an examination of the Oriental Bank?

Mr. HEWITT. You mean of the actual, physical assets?

Mr. UNTERMYER. Yes.

Mr. HEWITT. No; I was not present at that time.

Mr. UNTERMYER. Were you present when they came up there and made some calculation as to the assets?

Mr. HEWITT. No; those matters were reported to me simply.

Mr. UNTERMYER. Will you be good enough to state who went with you on your first visit to the Clearing House Association?

Mr. HEWITT. To the best of my recollection Mr. Hugh Kelly, Mr. C. K. Beekman, Mr. Charles E. Levy, and I do not recollect whether there was anybody else or not, but my impression is, not.

Mr. UNTERMYER. Was it before Mr. Kelly became president of the bank?

Mr. HEWITT. Yes.

Mr. UNTERMYER. Were Mr. Beekman and Mr. Levy directors of the bank at that time?

Mr. HEWITT. They were.

Mr. UNTERMYER. Were they members of the executive committee?

Mr. HEWITT. I think they both were, but I am not sure whether the counsel was or not; but my impression is he was.

Mr. UNTERMYER. On this first occasion, did you go down to the clearing house on the invitation of the clearing house committee?

Mr. HEWITT. I think not.

Mr. UNTERMYER. Do you remember with whom you gentlemen had your conference on that occasion?

Mr. HEWITT. There were a number of gentlemen in the room; I do not think that I had ever met any of them before. My impression is that when I came in the room I was simply introduced as Mr. Hewitt to all the gentlemen there. Later on I believe that I heard various names passed, but whether they were distributed to each gentleman I would be unable to say.

Mr. UNTERMYER. Mr. Hepburn was one of them, was he not?

Mr. HEWITT. I think he was.

Mr. UNTERMYER. Who was the spokesman?

Mr. HEWITT. Mr. Kelly had a conversation with Mr. Hepburn on one side of the room.

Mr. UNTERMYER. Will you be good enough to tell us in substance all you recollect that took place at that conference? You may refer to any data that will refresh your recollection, Mr. Hewitt.

Mr. HEWITT. Yes; I will have to do that. According to my data that is not exactly a fair question, Mr. Untermyer. It would be very difficult for me to answer that. If you put the question in some other form perhaps it can be done differently.

Mr. UNTERMYER. The form I want to put it in is to have you tell us all you remember that took place. Now, surely there can not be anything very objectionable about that form, can there?

Mr. HEWITT. Yes; it is either not inclusive enough or too inclusive.

Mr. UNTERMYER. You can tell us all you remember, can you not?

Mr. HEWITT. Yes.

Mr. UNTERMYER. Please do so.

Mr. HEWITT. First I wish to know whether you wish me to say what happened between the different individuals or with the body as a whole?

Mr. UNTERMYER. I wish you to say both. I wish you to state all that happened in that room on that occasion, so far as you remember. That is a perfectly plain question, Mr. Hewitt.

Mr. HEWITT. We understood that a request was being made for Mr. Jones's removal.

Mr. UNTERMYER. As president?

Mr. HEWITT. As president, and this committee, if it could be called such, of our directors went to the clearing-house rooms to see if a reversal of such a matter could not be obtained on the ground that it

was an injustice, and on the ground that there was no provision in the by-laws, the institution being an old one, for the removal of the president.

Mr. UNTERMYER. Mr. Jones was then very ill, was he not?

Mr. HEWITT. I was informed that Mr. Jones was ill.

Mr. UNTERMYER. And unconscious?

Mr. HEWITT. I was so informed.

Mr. UNTERMYER. Critically ill. Now, then, will you go on and tell us what took place?

Mr. HEWITT. The reason for the protest was that in our judgment, in the then state of public sentiment, it would close the bank, the removal of the president, the same as the Knickerbocker, and therefore we were unwilling to do it, both on the ground of injustice and on the ground that the bank would stand a better chance of reopening if Mr. Jones was president.

Mr. UNTERMYER. You mean of remaining open.

Mr. HEWITT. Both of remaining open, and reopening in case it had to close.

Mr. UNTERMYER. It had not closed, had it?

Mr. HEWITT. No.

Mr. UNTERMYER. You presented that protest to the gentlemen in that room, and what was said?

Mr. HEWITT. The protest was presented, by whom I can not recollect.

Mr. UNTERMYER. It was presented, and what was said in response to it?

Mr. HEWITT. The request was reiterated.

Mr. UNTERMYER. You mean the request for Mr. Jones's removal was reiterated?

Mr. HEWITT. Yes. There was a refusal on the part of our committee to accede.

Mr. UNTERMYER. Yes.

Mr. HEWITT. Some one, I do not know who, made the statement that they could not afford to have any clearing-house institution under fire, and that, therefore, Mr. Kelly must be made president.

Mr. UNTERMYER. You mean some of the gentlemen other than the members of your committee?

Mr. HEWITT. Yes.

Mr. UNTERMYER. What did Mr. Kelly say as to this?

Mr. HEWITT. Mr. Kelly stated that he would not accept without some pledge, as his business character and success had been above reproach up to that time.

Mr. UNTERMYER. He would not accept without what sort of a pledge; a pledge as to what?

Mr. HEWITT. As to what action would be taken in case he did take the presidency.

Mr. UNTERMYER. What pledge did he say he wanted, Mr. Hewitt?

Mr. HEWITT. The implication I presume was that of support; there was no specific statement required.

Mr. UNTERMYER. Well, go on. What was said in response to that demand of Mr. Kelly that he should have the pledge of the support of the clearing house before he would accept the presidency?

Mr. HEWITT. The statement was made that they would stand behind him until the last ditch.

Mr. UNTERMYER. And thereupon what did Mr. Kelly say?

Mr. HEWITT. He said, "Gentlemen, what does that mean? Because I do not propose to be a president of a bank for a few days."

Mr. UNTERMYER. Did he refer to anybody as having been put in that predicament?

Mr. HEWITT. I believe he did, but I do not remember any names in that connection.

Mr. UNTERMYER. He did refer to a gentleman who had been put in that predicament as having been put in such a position for three days and then turned out?

Mr. HEWITT. I do not know that the other gentleman was put there, or whether he took it, or not; but anyway, the reference was made.

Mr. UNTERMYER. What did these gentlemen in the clearing house say to that?

Mr. HEWITT. It meant the entire resources of the clearing-house association; that no one bank could fail unless all went down.

Mr. UNTERMYER. And thereupon what did Mr. Kelly do or say?

Mr. HEWITT. Mr. Kelly was taken by one of the gentlemen aside, and had an understanding in one corner of the room with him, and when he came back he appeared to be absolutely satisfied.

Mr. UNTERMYER. Do you remember when that was; what day?

Mr. HEWITT. I could not tell you.

Mr. UNTERMYER. Do you remember how long it was before the bank closed?

Mr. HEWITT. I would have no way of verifying that, that I know of.

Mr. UNTERMYER. Can you not give it approximately?

Mr. HEWITT. I presume the clearing-house records would show, or the attendance of our body there. I have no way of placing the date.

Mr. UNTERMYER. The bank records, of course, would show the date of Mr. Jones's resignation.

Mr. HEWITT. That would be subsequent to this.

Mr. UNTERMYER. How soon after this pledge was given was Mr. Kelly elected president?

Mr. HEWITT. I think very shortly afterwards.

Mr. UNTERMYER. The same day?

Mr. HEWITT. That I could not say.

Mr. UNTERMYER. Within a few days?

Mr. HEWITT. Shortly, yes sir; within a short time. I could not state what the interval was.

Mr. UNTERMYER. You were at the meeting at which he was elected, were you not?

Mr. HEWITT. I would have to look at the record to tell, but I presume I was. I would have to verify that from the record.

Mr. UNTERMYER. Do you not know which member of the clearing-house committee it was who stated that they would stand by the bank until the last ditch?

Mr. HEWITT. I can not be positive, but it is my impression that it was Mr. Hepburn. But I can not be positive.

Mr. UNTERMYER. And what is your recollection as to which member of the clearing-house committee it was who said that all the

resources of the clearing-house banks would be put behind each bank, and that if one went down all would go down?

Mr. HEWITT. I have no knowledge about that.

Mr. UNTERMYER. You do not remember which one said that?

Mr. HEWITT. No; I doubt if I could place that gentleman, even if they were all here.

Mr. UNTERMYER. After that, things began to improve, did they not?

Mr. HEWITT. No. Upon Mr. Jones's withdrawal there was a further withdrawal of deposits.

Mr. UNTERMYER. That was announced, was it?

Mr. HEWITT. I do not recollect any announcement.

Mr. UNTERMYER. Did that appear in the papers, or not?

Mr. HEWITT. You would have to look at the files of the papers.

Mr. UNTERMYER. You do not know?

Mr. HEWITT. I do not know whether it appeared at the time or not.

Mr. UNTERMYER. After the change of presidents there was some further withdrawal of money, and then did that stop, and did the deposits begin to increase?

Mr. HEWITT (referring to memorandum). Additional clearing-house certificates were taken out until, I think, much of our collateral was down at the clearing house, and my impression is that as fast as the collateral was paid the money went into the clearing house and the margin was increased.

Mr. UNTERMYER. The point is that a time came when the excitement had worn off and the bank was open and was increasing its business?

Mr. HEWITT. Such a time did arrive. At least, I think the deposits were increasing. I would have to look that up.

Mr. UNTERMYER. They were increasing at the time the bank closed, were they not?

Mr. HEWITT. I think they were, but I would have to look that up.

Mr. UNTERMYER. In the meantime, between your first visit to the clearing house and the time the bank closed, did you make another visit there?

Mr. HEWITT. Yes sir.

Mr. UNTERMYER. About how long was that before the bank closed?

Mr. HEWITT. Somewhere between one and three days.

Mr. UNTERMYER. That was your second visit, was it not? Was that after this notice had appeared, that the certificates would have to be paid, or was it before then?

Mr. HEWITT. It was after the time that the notice was published in the newspapers.

Mr. UNTERMYER. You saw that publication, did you?

Mr. HEWITT. I believe I did.

Mr. UNTERMYER. It referred to other banks, in addition to the Oriental Bank, did it not?

Mr. HEWITT. I can not recollect.

Mr. UNTERMYER. Now, go on and tell us what took place down there on the second visit to the clearing house?

Mr. HEWITT. My impression is that we did not receive the notice until next morning, and it was on receipt of that notice that we went to the clearing house, although it may have been on the previous afternoon. That is the reason why I am indistinct as to this day.

Mr. UNTERMYER. Now, let us go on.

Mr. HEWITT. I went to the clearing house to secure the withdrawal, with other members, if possible, of this resolution calling for the payment of these certificates.

Mr. UNTERMYER. Who was with you?

Mr. HEWITT. I think Mr. Kelly was with me, and I am uncertain as to the other gentlemen who were with me.

Mr. UNTERMYER. Was Mr. Levy with you on that occasion?

Mr. HEWITT. I am uncertain as to whether he was or not.

Mr. UNTERMYER. Tell us what took place there at this second visit to the clearing house?

Mr. HEWITT (referring to memorandum). The situation having been explained, a willingness was expressed to recall the resolution and allow the certificates to stand. The statement was made that this was not sufficient, as the damage had been done, the advertisement being such that the institution would be unable to stand without they were prepared to pay the depositors. The individual injustice to Mr. Kelly could only be rectified by the cancellation of this resolution, and with a supply of funds sufficient to enable the bank to meet the demands, either by the loan of cash, or by the permission to take out additional certificates.

Mr. UNTERMYER. What was said as to that?

Mr. HEWITT. The statement was made that they could not allow the issuance of additional certificates.

Mr. UNTERMYER. Was there anything said as to the security you had to offer?

Mr. HEWITT. No statement.

Mr. UNTERMYER. You had ample security, had you not?

Mr. HEWITT. I presume so.

Mr. UNTERMYER. Do you not know that you had?

Mr. HEWITT. Security is purely a matter of judgment.

Mr. UNTERMYER. We are asking for your judgment.

Mr. HEWITT. I think the securities were sufficient.

Mr. UNTERMYER. The result has shown that it was many times ample.

Mr. HEWITT. It was justified by the result.

Mr. UNTERMYER. Then these gentlemen refused, as I understand it, to allow further certificates to be issued.

Mr. HEWITT. That is my understanding.

Mr. UNTERMYER. That is substantially all that took place on that occasion, is it?

Mr. HEWITT. No.

Mr. UNTERMYER. Tell us the rest.

Mr. HEWITT. I would prefer to be asked questions.

Mr. UNTERMYER. The question is to tell us the rest of what took place.

Mr. HEWITT. My understanding is that I have the right to have questions put to me that will enable me to answer yes or no.

Mr. UNTERMYER. No, no; if you are asked to tell a story you can not answer that question by yes or no. The question is, Mr. Hewitt if you will please go on and tell us what took place at that meeting. Then we will have the whole story. You have told us part of it. You say that is not all.

Mr. HEWITT. Some individuals suggested getting up a subscription among the different institutions to enable us to meet the demand which would follow.

Mr. UNTERMYER. Yes. What happened to that?

Mr. HEWITT. The amount suggested was inadequate, in our judgment.

Mr. UNTERMYER. What was the amount suggested?

Mr. HEWITT. The lapse of time is too great. I simply remember that the amount suggested was insufficient, in our judgment. The guaranty of the directors and an amount of individual money was requested from myself. The amount requested from myself was so large as to be impossible. I stated the largest amount which I might secure, and a time was given me in which to secure it.

Mr. UNTERMYER. How much time was given you for that purpose?

Mr. HEWITT. A short time. No definite time was stated, but it was a very short period.

Mr. UNTERMYER. That is, a few hours?

Mr. HEWITT. Less.

Mr. UNTERMYER. Less than a few hours. You went out and tried to do it, did you not?

Mr. HEWITT. I got it.

Mr. UNTERMYER. And you came back with that amount?

Mr. HEWITT. At least, I said I had it, because I was informed that it would be forthcoming.

Mr. UNTERMYER. And then what happened to you?

Mr. HEWITT. During my absence the amount was further reduced, and it appearing that any amount that was raised then would be inadequate, the whole matter was dropped.

Mr. UNTERMYER. What do you mean by saying that the amount was further reduced?

Mr. HEWITT. I can not tell. It was done during my absence.

Mr. UNTERMYER. You mean the amount that the committee would raise?

Mr. HEWITT. This was not a committee. It was either individuals, or institutions.

Mr. UNTERMYER. Whose amount was reduced while you were away?

Mr. HEWITT. I can not tell. The total was reduced. All I know was the total—

Mr. UNTERMYER. The amount required from you was not reduced?

Mr. HEWITT. It was not mentioned when I came back. The amount was so small, in my judgment, that it was not availed of.

Mr. UNTERMYER. You mean that the subscription of the other subscribers had dwindled?

Mr. HEWITT. I mean the amount of our people, the amount that they were going to raise—

Mr. UNTERMYER. They had cut down the amount they were willing to contribute?

Mr. HEWITT. Yes.

Mr. UNTERMYER. All this was simply to be loaned to the bank, was it not?

Mr. HEWITT. Oh, yes.

Mr. UNTERMYER. And the loan was perfectly good?

Mr. HEWITT. That is a matter of judgment.

Mr. UNTERMYER. There was nobody there who doubted the loan was good, was there.

Mr. HEWITT. There may have been.

Mr. UNTERMYER. There was nobody who expressed any doubt, was there?

Mr. HEWITT. Not that I know of; not that I recollect.

Mr. UNTERMYER. Does that, now, complete your statement, so far as you remember, of what took place at that interview?

Mr. HEWITT. I think it is only just for me to say that for the idea of starting this subscription credit should be given to those gentlemen that put forward that idea. Their intentions were certainly of the very best, and they wished to ameliorate the situation in every way possible, and those individuals who were willing to come forward at that time and help out in that way I think deserve great credit. I wish to express that idea.

Mr. UNTERMYER. Do you remember whether you reminded the gentlemen who were present there of their promise to stand by the bank until the last ditch?

Mr. HEWITT. It is my impression that somebody was just about reminding them of it when I left the room to get the money.

Mr. UNTERMYER. Did anybody remind them of their promise that all the institutions would stand together or fall together?

Mr. HEWITT. I have no knowledge of what happened after I left the room.

Mr. UNTERMYER. Did you have a subsequent meeting, or was that the last meeting?

Mr. HEWITT. That was the last, as I recollect it.

Mr. UNTERMYER. That is the end of the story, then? The thing resulted in not getting the money, then?

Mr. HEWITT. The money was not availed of. The smaller amount could have been gotten, in my judgment.

Mr. UNTERMYER. What was the smaller amount?

Mr. HEWITT. I have no means of verifying that.

Mr. UNTERMYER. Have you any idea of that amount?

Mr. HEWITT. None whatever.

Mr. UNTERMYER. You remember what amount you gave?

Mr. HEWITT. I remember what amount I had to get, yes.

Mr. UNTERMYER. How much was that?

Mr. HEWITT. I was to get \$100,000.

Mr. UNTERMYER. That is, you were personally to lend the bank \$100,000, and other directors were also to lend it some?

Mr. HEWITT. I do not think that anybody else was going to lend money.

Mr. UNTERMYER. Mr. Kelly—

Mr. HEWITT. He may have said so, but my impression is that they were to guarantee a certain amount.

Mr. UNTERMYER. The other directors?

Mr. HEWITT. Some. I do not know whether all were required to do so or not. Some were.

Mr. UNTERMYER. Then, as the result of that interview, the notice that had been sent out was not withdrawn?

Mr. HEWITT. I think the notice was withdrawn.

Mr. UNTERMYER. The bank closed because of the notice, you say?

Mr. HEWITT. Because of the advertisement of the notice.

Mr. UNTERMYER. Which resulted in this run on the bank. I think that is all.

Witness excused.

TESTIMONY OF JAMES G. CANNON—Resumed.

Mr. UNTERMYER. I am reminded that when your examination was suspended I was inquiring of you as to what you knew concerning the solvency of the Oriental Bank?

Mr. CANNON. Yes, sir.

Mr. UNTERMYER. Is your memory on that subject refreshed by what you have heard?

Mr. CANNON. It is refreshed by what I have heard.

Mr. UNTERMYER. The Oriental Bank was a perfectly solvent bank when this notice was sent out, was it not?

Mr. CANNON. According to this statement, it was.

Mr. UNTERMYER. According to your recollection, was it not?

Mr. CANNON. I do not recollect at that time the condition of the assets or the conditions of the collateral which we held at that time.

Mr. UNTERMYER. Had you anything to do with the liquidation of the Bank of North America?

Mr. CANNON. Nothing whatever, no sir.

Mr. UNTERMYER. You know its depositors were paid in full, do you not?

Mr. CANNON. From what I have seen in the papers, yes.

Mr. UNTERMYER. Is that all you know about it?

Mr. CANNON. That is all I know, yes.

Mr. UNTERMYER. Do you not know that the stockholders were paid 100 cents on the dollar?

Mr. CANNON. No sir.

Mr. UNTERMYER. Do you know as to the New Amsterdam Bank?

Mr. CANNON. No sir.

Mr. UNTERMYER. You know its depositors were paid in full, do you not?

Mr. CANNON. I saw a notice to that effect in the papers. That is all I know about it.

Mr. UNTERMYER. They were taken over by the Assets Liquidation Co., were they not?

Mr. CANNON. I think they were.

Mr. UNTERMYER. Which guaranteed to pay all depositors in full?

Mr. CANNON. I do not know anything about that, at all.

Mr. UNTERMYER. I suppose you can not give any precise data on that subject?

Mr. CANNON. I have none whatever, no sir.

Mr. UNTERMYER. The clearing-house committee has very unusual and autocratic powers, has it not?

Mr. CANNON. The same as any other executive committee would have.

Mr. UNTERMYER. They have very much greater powers than any other executive committee, have they not?

Mr. CANNON. Yes.

Mr. UNTERMYER. You say you have written a book on the subject.

Mr. CANNON. Sure.

Mr. UNTERMYER. You forgot that for the moment, did you not?

Mr. CANNON. Those powers have been a growth, however, of 58 years.

Mr. UNTERMYER. And they have grown more and more absolute all the time, have they not?

Mr. CANNON. Only for better banking, I think.

Mr. UNTERMYER. But they have grown, have they not?

Mr. CANNON. They have grown. This whole constitution and by-laws have grown during a period of 50 years.

Mr. UNTERMYER. You do not want to take back anything that you wrote in this book, do you?

Mr. CANNON. Oh, no. Give me the page and I will read it.

Mr. UNTERMYER. You do not want to reedit it, do you?

Mr. CANNON. Not a bit.

Mr. UNTERMYER. For instance, at page 32:

The clearing-house committee is elected annually, and is by far the most important of all the committees. In it is vested almost absolute power, the direction of practically the whole machinery of the clearing house resting in its hands.

That is about right, is it not?

Mr. CANNON. That is about right, yes. Its membership is changed annually, too.

Mr. UNTERMYER. Do you want to make any more arguments on that?

Mr. CANNON. No, but I would like to add to that that the membership is changed.

Mr. UNTERMYER. Why not write another book? At page 161, this is a correct statement, is it not?

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

Mr. CANNON. That is about right. Then it says: "The committee is elected annually."

Mr. UNTERMYER. I think you have told us that right along.

Mr. CANNON. I was reading that from the book; what I have written in the book. I did not stop at one sentence.

Mr. UNTERMYER. Is this a correct statement? I read from page 12:

The most important of the special functions of a clearing house are (a) the extending of loans to the Government, (b) mutual assistance of members, (c) fixing uniform rates of interest on deposits—

Mr. CANNON. On what page is that?

Mr. UNTERMYER. That is on page 12. [Continuing reading:]

(d) Fixing uniform rates of exchange and of charges on collections; and (e) the issue of clearing-house loan certificates.

Mr. CANNON. I should say that is right.

Mr. UNTERMYER. You think that is right? So that one of the most important functions of a clearing house is to fix uniform rates on deposits, is it? I thought you said that was a very improper thing to do?

Mr. CANNON. I say so, yes.

Mr. UNTERMYER. But that is one of the most important of its functions?

Mr. CANNON. As I find it in the country.

Mr. UNTERMYER. And fixing uniform rates of exchange is a very improper thing to do?

Mr. CANNON. No, it is not.

Mr. UNTERMYER. You approve of that, do you?

Mr. CANNON. I approve of it, yes.

Mr. UNTERMYER. Does the clearing house here fix uniform rates of exchange?

Mr. CANNON. That refers to the charges on country checks.

Mr. UNTERMYER. Oh, no, it does not.

Mr. CANNON. Oh, yes. That is what it means.

Mr. UNTERMYER. Let us see if it does. [Reading:]

(a) Fixing uniform rates of exchange and of charges on collections.

Mr. CANNON. Yes.

Mr. UNTERMYER. Those are two different things, are they not?

Mr. CANNON. That is a mistake in that book, because I do not know of any clearing house that fixes uniform rates of exchange.

Mr. UNTERMYER. It is not my mistake; it is your mistake.

Mr. CANNON. It is my mistake; I will admit that right over the counter.

Mr. UNTERMYER. You know what is meant by fixing rates of exchange, do you not?

Mr. CANNON. No, I do not.

Mr. UNTERMYER. Did you not know it when you wrote this book?

Mr. CANNON. No; I intended it for country checks. I do not know of any clearing house that fixes uniform rates of exchange, in that sense of the word.

Mr. UNTERMYER. Does this refer to foreign exchange?

Mr. CANNON. No sir; it does not.

Mr. UNTERMYER. The banks do deal in foreign exchange, do they not?

Mr. CANNON. Yes sir.

Mr. UNTERMYER. And you know of many communities, do you not, in which the banks agree on the rates of foreign exchange?

Mr. CANNON. I do not, no sir. I do not know of one.

Mr. UNTERMYER. You know it is done all over Europe, do you not?

Mr. CANNON. I do not.

Mr. UNTERMYER. Do you not know that the bankers get together and fix the rates of exchange that they will charge?

Mr. CANNON. No sir; I do not.

Mr. UNTERMYER. And there is no arrangement in New York whereby the bankers do not compete on the rates of foreign exchange?

Mr. CANNON. No arrangement that I know of; no arrangement whatever.

Mr. UNTERMYER. There is a regular daily quotation of foreign exchange, is there not?

Mr. CANNON. Yes.

Mr. UNTERMYER. Who makes it?

Mr. CANNON. I do not know.

Mr. UNTERMYER. You have been 24 years in the banking business?

Mr. CANNON. Yes sir.

Mr. UNTERMYER. And the business of dealing in foreign exchange is a very important feature of the banking business, is it not?

Mr. CANNON. I have always done a local banking business.

Mr. UNTERMYER. That is a very important part of the business, however, is it not?

Mr. CANNON. Of the banking business?

Mr. UNTERMYER. Yes.

Mr. CANNON. I do not consider it so, no.

Mr. UNTERMYER. Does not the Fourth National Bank sell foreign exchange?

Mr. CANNON. Just a very little.

Mr. UNTERMYER. Just as much as it can get people to buy?

Mr. CANNON. No.

Mr. UNTERMYER. When you get an order, or a customer who wants exchange on London, do you go out and buy it?

Mr. CANNON. Our department does, I suppose.

Mr. UNTERMYER. You have a department for doing that?

Mr. CANNON. Yes sir.

Mr. UNTERMYER. How many people are in that department?

Mr. CANNON. One man.

Mr. UNTERMYER. He does that business alone, does he?

Mr. CANNON. Yes.

Mr. UNTERMYER. And that has been in existence in your bank for 24 years?

Mr. CANNON. No; it has been in existence for three months.

Mr. UNTERMYER. Up to three months ago, you did not have any foreign exchange department in your bank?

Mr. CANNON. No sir.

Mr. UNTERMYER. Do you not know that there is not a bank in the city that does not buy foreign exchange?

Mr. CANNON. Certainly.

Mr. UNTERMYER. And your bank has not been an exception to the rule, has it?

Mr. CANNON. It has been an exception to the rule, inasmuch as it did not have a department at all until within the last three months.

Mr. UNTERMYER. But it did the business, anyway?

Mr. CANNON. Not very much.

Mr. UNTERMYER. Do you know how much exchange business your bank has been doing, year by year?

Mr. CANNON. It has been doing a very small business.

Mr. UNTERMYER. Do you know how much?

Mr. CANNON. No; I do not.

Mr. UNTERMYER. Do you know what its aggregate has been, each year?

Mr. CANNON. No. It is a very small part of our business.

Mr. UNTERMYER. You know that some banks make it a specialty, do you not?

Mr. CANNON. Yes, surely; but we do not.

Mr. UNTERMYER. You have correspondents in the foreign cities, have you not?

Mr. CANNON. We have just opened there.

Mr. UNTERMYER. And you sell exchange direct?

Mr. CANNON. Yes.

Mr. UNTERMYER. And formerly you used to buy it?

Mr. CANNON. Yes.

Mr. UNTERMYER. A great many banks go out and buy it now, do they not?

Mr. CANNON. Yes.

Mr. UNTERMYER. And make a little something on it?

Mr. CANNON. Very little.

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

Mr. CANNON. A very small profit.

Mr. UNTERMYER. It is not a very lucrative business?

Mr. CANNON. No.

Mr. UNTERMYER. But it is a business?

Mr. CANNON. Yes.

Mr. UNTERMYER. It is a business so big that some banks make it their chief business, do they not?

Mr. CANNON. Yes; there is no doubt about it, so far as that is concerned.

Mr. UNTERMYER. You know therefore, do you not, that the rates on exchange are quoted every day in the papers?

Mr. CANNON. Yes.

Mr. UNTERMYER. You do not know who makes those rates?

Mr. CANNON. No, sir. I do not.

Mr. UNTERMYER. And those are what guided you when you sold exchange?

Mr. CANNON. I would have to refer you to my foreign-exchange man.

Mr. UNTERMYER. You do not know?

Mr. CANNON. I do not know. I am not up on foreign exchange.

Mr. UNTERMYER. You do not know, when you sell foreign exchange now, whether you will get the rate that you find published for the day?

Mr. CANNON. I do not.

Mr. UNTERMYER. You do not know anything about that. When you refer to one of the most important functions of the clearing house being to fix uniform rates of exchange, you refer only to inland exchange?

Mr. CANNON. That is all.

Mr. UNTERMYER. Your bank does sell inland exchange, does it not?

Mr. CANNON. Very little.

Mr. UNTERMYER. But it sells some?

Mr. CANNON. Not once in six months.

Mr. UNTERMYER. You have correspondents in different cities?

Mr. CANNON. Sure.

Mr. UNTERMYER. When you want to make a check on some other city or draw on a bank in some other city you go out and buy the exchange?

Mr. CANNON. We do draw on a bank, but they seldom ask for any inland exchange.

Mr. UNTERMYER. But you are in a position to do an exchange business?

Mr. CANNON. Yes.

Mr. UNTERMYER. And when you spoke of one of the most important functions of a clearing house being to fix the rate of exchange, that is the kind of exchange you referred to, is it not?

Mr. CANNON. No. I referred to exchange on country checks.

Mr. UNTERMYER. What about inland exchange?

Mr. CANNON. Inland exchange is so small——

Mr. UNTERMYER. It is not small with everybody?

Mr. CANNON. No.

Mr. UNTERMYER. You were not writing this book just for your own bank?

Mr. CANNON. It may be small with other cities in the country—

Mr. UNTERMYER. You know it is very large between the great cities, is it not?

Mr. CANNON. Between the great cities, yes.

Mr. UNTERMYER. And in the crop-making time it is a very big business?

Mr. CANNON. Yes.

Mr. UNTERMYER. That is when exchange is bought and sold?

Mr. CANNON. Yes.

Mr. UNTERMYER. That is what you refer to?

Mr. CANNON. Now that you refresh my recollection, yes.

Mr. UNTERMYER. That is what you wanted, uniform rates on exchange?

Mr. CANNON. I do not want uniform rates on exchange.

Mr. UNTERMYER. That is what you said was an important feature of the clearing house, and that is a different thing from country checks.

Mr. CANNON. Yes. I will admit that now; now that you have enlightened me.

Mr. UNTERMYER. If we had more time I might enlighten you a little more.

Mr. CANNON. There is no doubt of it. It is never too late to learn.

Mr. UNTERMYER. Mr. Cannon, I would like you to look at page 12 of this very enlightening book of yours, and tell me what you mean by this. Referring to times of panic, you say:

In such an emergency the other members of the clearing house are usually willing to render assistance until the strain is relaxed. To secure such aid, however, a bank must be sound in its management and of good repute in every respect. Otherwise the members of the clearing house—

This is all in times of panic, mind you—

are likely to decline assistance, being quite willing to get rid of a weak and ill-managed member.

Mr. CANNON. I think that speaks for itself.

Mr. UNTERMYER. You do not mean that, do you?

Mr. CANNON. What do you mean?

Mr. UNTERMYER. Do you mean that in times of panic, when they get hold of a weak member, they are willing to get rid of them?

Mr. CANNON. They do not get rid of them. It is a question of credit.

Mr. UNTERMYER. Are they quite willing to get rid of them?

Mr. CANNON. It is a question, absolutely, of credit.

Mr. UNTERMYER. Is that the time to get rid of your weak members?

Mr. CANNON. No; the time to get rid of weak members is always; not especially in times of panic.

Mr. UNTERMYER. It is quite true that the Clearing House Association is quite willing to get rid of a weak member?

Mr. CANNON. Weak in credit?

Mr. UNTERMYER. Yes.

Mr. CANNON. If it is a failing institution. That is what it means there.

Mr. UNTERMYER. Does it say so?

Mr. CANNON. That is what it means. It is not intended—

Mr. UNTERMYER. When they are on the brink you are ready to throw them over?

Mr. CANNON. Oh, no; not by a long shot.

Mr. UNTERMYER. On the next page, do you adhere to this statement?—

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.

Mr. CANNON. That is according as you see it there.

Mr. UNTERMYER. Is that the result of your experience?

Mr. CANNON. No, that is the result of my examination. This book is written from an examination of all the constitutions of clearing houses of the United States.

Mr. UNTERMYER. You found as a result of that examination, as you say here: "Another of the special functions"—

Mr. CANNON. Yes.

Mr. UNTERMYER. "Functions," mind you.

Mr. CANNON. Functions, yes.

Mr. UNTERMYER (continuing reading)—

of a clearing house is the fixing of uniform rates of interest on deposits, and in a few instances on loans?

Mr. CANNON. In a few instances on loans.

Mr. UNTERMYER. You found that to be the case, on loans?

Mr. CANNON. I found that to be the case in a few instances.

Mr. UNTERMYER. And you think that to be very reprehensible?

Mr. CANNON. Oh, very. I would be glad to furnish you with the data of all these clearing houses.

Mr. UNTERMYER. Yes; and some of these reprehensible arrangements of clearing houses, such as the fixing of interest on deposits and on loans, were broken off because new banks came in and upset the agreements with the old banks, were they not?

Mr. CANNON. That is what they tell us in these places.

Mr. UNTERMYER. And you verified all this before you wrote the book, then?

Mr. CANNON. I hoped to,

Mr. UNTERMYER. There is no doubt about this statement on page 13, that those arrangements or agreements for interest on loans and deposits "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"?

Mr. CANNON. That is the information given to me from various cities.

Mr. UNTERMYER. Yes.

Mr. CANNON. Where I secured the information.

Mr. UNTERMYER. Where did you get this statement, and is it correct? Referring to the profits of collections on country checks, on page 15, you say: "It is said that the increase in profits or collections." that is, under these arrangements such as you have in these clearing houses?

Mr. CANNON. Yes.

Mr. UNTERMYER (continuing reading) :

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.

Mr. CANNON. That was secured from Buffalo. It is from information secured from Buffalo in 1881, which is 40 years ago.

Mr. UNTERMYER. Oh, no, it is not.

Mr. FARRAR. It is 31 years ago.

Mr. CANNON. In 1881. It says the year the clearing house was organized. It commenced in 1881.

Mr. UNTERMYER. And it was such a good thing that you all copied it?

Mr. CANNON. No, sir.

Mr. UNTERMYER. You did copy it from some of the other associations.

Mr. CANNON. We did not copy it from Buffalo.

Mr. UNTERMYER. Where did you copy it from?

Mr. CANNON. It was originally brought out, I think, in St. Louis.

Mr. UNTERMYER. That is just as good a place, I think, as Buffalo.

Mr. CANNON. That position was one simply of caring for costs and not for profits.

Mr. UNTERMYER. I notice from your book that it costs 7 cents a thousand dollars in Boston to collect the out-of-town checks in New England.

Mr. CANNON. Just in New England alone.

Mr. UNTERMYER. In New England alone; 7 cents a thousand?

Mr. CANNON. Yes.

Mr. UNTERMYER. Do you recognize that this rate you are charging here amounts to a dollar a thousand in certain sections of the country, and \$2.50 a thousand in other sections.

Mr. CANNON. It only covers the cost of time—

Mr. UNTERMYER. That is what it figures up, is it not?

Mr. CANNON. What is that?

Mr. UNTERMYER. It figures up a dollar a thousand in certain sections, and \$2.50 in others, does it not?

Mr. CANNON. I can not figure that.

Mr. UNTERMYER. Just figure it, will you not?

Mr. CANNON. I can figure what the average is.

Mr. UNTERMYER. Oh, no—

Mr. CANNON. One-tenth of 1 per cent; yes. I see what you mean.

Mr. UNTERMYER. That is a dollar a thousand?

Mr. CANNON. Yes, a dollar a thousand.

Mr. UNTERMYER. And one-quarter of 1 per cent is how much a thousand?

Mr. CANNON. That does not take into consideration the time, in such allowance, or anything of the kind.

Mr. UNTERMYER. I am not asking you about that. I am asking you about charging.

Mr. CANNON. The charge we make?

Mr. UNTERMYER. Yes. I have asked you what one-quarter of 1 per cent per thousand means in dollars. It is a plain question

Mr. CANNON. That is a plain question. That is right.

Mr. UNTERMYER. Can you figure it for us?

Mr. CANNON. Yes.

Mr. UNTERMYER. How much is it?

Mr. CANNON. \$2.50. Would you like to know what that covers?

Mr. UNTERMYER. I do not like to have you make so many speeches. Does that cover any more service than was covered when the banks did the service free of charge?

Mr. CANNON. It covers cash—

Mr. UNTERMYER. No, do not. Will you not answer that? Does it cover any more service than when the banks did the same service free of charge?

Mr. CANNON. We always charged, yes. We charged. It is a charge that covers two lines of service.

Mr. UNTERMYER. Do you not know that prior to this rule many of the banks did this service without charge for their customers?

Mr. CANNON. Partially so, yes, sir.

Mr. UNTERMYER. Does the service that is being done now cover other or different service, or does the service that is being done now cover the same service?

Mr. CANNON. It covers the same service.

Mr. UNTERMYER. The same service that was being done without charge?

Mr. CANNON. Not entirely without charge.

Mr. UNTERMYER. Without charge of material extent?

Mr. CANNON. Without charge of material extent.

Mr. UNTERMYER. When your bank gets a check drawn on Philadelphia, for collection, and sends it to your correspondent in Philadelphia—

Mr. CANNON. Yes; that is a discretionary point.

Mr. UNTERMYER. Well, then, we will not take Philadelphia. We will take some point that is not discretionary; in Pennsylvania, for instance.

Mr. CANNON. Yes.

Mr. UNTERMYER. Your correspondent makes you no charge whatever?

Mr. CANNON. Oh, yes; they do make a charge.

Mr. UNTERMYER. Always?

Mr. CANNON. Nearly always. It has become fashionable to charge.

Mr. UNTERMYER. Do you know why they do not make you a charge.

Mr. CANNON. I know that they do not make me a charge always. A very large proportion of them make charges.

Mr. UNTERMYER. What proportion of your correspondents make charges?

Mr. CANNON. That I could not tell you.

Mr. UNTERMYER. You could not tell me. There are times, are there not, when exchange on the interior cities is valuable to you?

Mr. CANNON. Not necessarily so.

Mr. UNTERMYER. There are no times? There are no times when the exchange in favor of an interior point against New York is valuable to you?

Mr. CANNON. There are swings. Exchange inland is a very peculiar thing.

Mr. UNTERMYER. I say, there are times when it is?

Mr. CANNON. No.

Mr. UNTERMYER. There are times when exchange in favor of the interior against New York is valuable? That is notorious, is it not?

Mr. CANNON. Well, it varies from time to time.

Mr. UNTERMYER. But there are times when it is in favor of the interior against New York, are there not?

Mr. CANNON. Yes, in the matter of shipping currency and in the matter of express charges.

Mr. UNTERMYER. Apart from the difference you speak of, express charges?

Mr. CANNON. No, sir.

Mr. UNTERMYER. That is all.

Witness excused.

TESTIMONY OF CHARLES K. BEEKMAN.

The witness was sworn by the Chairman.

Mr. UNTERMYER. You are a member of the bar, are you not?

Mr. BEEKMAN. Yes.

Mr. UNTERMYER. What is your firm?

Mr. BEEKMAN. The firm is Philbin, Beekman, Menken & Griscom.

Mr. UNTERMYER. You have been a practicing lawyer in New York for many years?

Mr. BEEKMAN. For 20 years.

Mr. UNTERMYER. In 1907 were you a director of the Oriental Bank?

Mr. BEEKMAN. I was.

Mr. UNTERMYER. You were also counsel for the bank, were you not?

Mr. BEEKMAN. I was counsel for that bank.

Mr. UNTERMYER. Your firm was counsel?

Mr. BEEKMAN. Yes.

Mr. UNTERMYER. Were you also a member of the executive committee of the bank?

Mr. BEEKMAN. No.

Mr. UNTERMYER. Do you remember the occasion of the 1907 panic?

Mr. BEEKMAN. I do.

Mr. UNTERMYER. And the relation of the Oriental Bank to that situation?

Mr. BEEKMAN. I do.

Mr. UNTERMYER. Will you be good enough to go on and state, in your own way, what dealings you had in conjunction with your co-directors, in your capacity as a director, with the members of the clearing-house committee or any of them?

Mr. BEEKMAN. It is rather difficult for me to answer that, because all my relations were as director and as counsel at the same time.

Mr. UNTERMYER. Are you not aware of the fact that when you are acting as a director you can not claim your privilege as counsel?

Mr. BEEKMAN. I am not claiming any privilege. I merely state that fact.

Mr. UNTERMYER. Will you be good enough to go on and state what took place?

Mr. BEEKMAN. As I remember it, in the early part of October, 1907, the president of the bank told me that the clearing house had stated that the bank must stop clearing for two Brooklyn banks. One was the Borough Bank and the other was the Brooklyn Bank.

Mr. UNTERMYER. Mr. Jones told you that?

Mr. BEEKMAN. Yes; and he told me at the same time that he feared that as a result of the Oriental Bank ceasing to clear for those two banks, its credit would be impaired, which might result in a run on the bank, and that as a matter of caution, it would be wise to obtain additional cash so that the bank would be strong in cash, so that it could respond to such a run. As a result of that, Mr. Jones made a request to the clearing house for a loan to the bank, and for an examination of the bank to see whether the condition of the bank would justify such action on the part of the clearing house. An examination was made by a committee from the clearing house consisting of Mr. Wiggin of the Chase Bank, the president of the Chemical Bank, and another gentleman whose name I have forgotten, together with their experts, and a whole night was devoted to that examination. As a result—I was there myself at the time the examination was in progress—the committee stated that they were satisfied with the solvency of the bank and would advise the making of a loan to assist the bank.

Mr. UNTERMYER. Did they not congratulate Mr. Jones on the condition of the bank?

Mr. BEEKMAN. I can not remember that. It was very, very late, and they were all very tired and quite anxious to get home, and they did not waste many words, but they distinctly stated that they were satisfied with the condition of the bank and as the result a loan was made to the bank by the clearing house and that money was used in the course of the business at the bank.

Mr. UNTERMYER. They took out certificates at the clearing house at the same time that other banks were taking out certificates?

Mr. BEEKMAN. Yes. This loan which I am now referring to antedated the loans made on the clearing-house certificates later on. This was several weeks, or possibly two weeks, before the clearing house issued the certificates to the various members.

Mr. UNTERMYER. The result of the instruction of the clearing house committee to the Oriental Bank to cease clearing for those banks was to close those banks, was it not?

Mr. BEEKMAN. Those banks closed a day or so afterwards.

Mr. UNTERMYER. Yes. Now, will you be good enough to go on from where I interrupted you?

Mr. BEEKMAN. Shortly after that period Mr. Jones, the president of the bank, was taken seriously ill with pneumonia and was unconscious for several days, and was at the point of death. About that time the newspapers, which were very active with respect to these two Brooklyn banks and other Brooklyn banks that had failed, had reports to the effect that he was going to be indicted or might be indicted. I, personally, went to the district attorney in Brooklyn to ascertain whether any such proceedings were contemplated, and I was assured that they were not.

Mr. UNTERMYER. You were assured that there was nothing against him, were you?

Mr. BEEKMAN. Yes. About that time Mr. Hepburn of the clearing house—I think he was president of the clearing house at that time, or chairman—sent for Mr. Hugh Kelly and Mr. Hewitt and myself.

Mr. UNTERMYER. Had Mr. Hugh Kelly just returned from Europe before that?

Mr. BEEKMAN. I do not remember that. Mr. Hepburn said that he wished to see us with respect to the affairs of the Oriental Bank. We went to the clearing house, and he said that, owing to the criticisms against Mr. Jones, it would be necessary to have Mr. Jones resign as president, and to elect Mr. Kelly in his place.

There were one or two other gentlemen with Mr. Hepburn at the time, but I can not now remember who they were. Mr. Kelly and Mr. Hewitt and myself all explained to Mr. Hepburn that all these charges against Mr. Jones were absolutely unfounded and false. As I remember, I stated to him my conversation with the assistant district attorney in Brooklyn. He answered that while that was all probably true, still, in view of the inflamed condition of the public mind, it was unwise to have Mr. Jones as president under the existing circumstances, in spite of his absolute innocence; and after some discussion on that point, we said that we would use our influence with the other directors of the bank to have Mr. Kelly made president. Mr. Kelly said that he did not care to take the presidency unless he was assured that the clearing house would stand behind the bank; that this preliminary investigation to which I have alluded had shown that the bank was perfectly sound, and he did not care to take the position of being president of a bank for a few days, and being stigmatized for the rest of his life as the president of a bank which failed; and Mr. Hepburn assured him, as I remember, that the clearing house would stand behind the bank.

Mr. UNTERMYER. He said it would stand to the last ditch?

Mr. BEEKMAN. I can not remember the exact words; but they were to that effect.

Subsequent to that meeting the directors of the bank met, Mr. Jones was retired, and Mr. Kelly was made president in his place.

Mr. UNTERMYER. Was that followed by a renewed run on the bank?

Mr. BEEKMAN. No; I do not remember. The bank went along; it just about held its own, as I remember, after that.

Mr. UNTERMYER. It increased its deposits afterwards, did it not?

Mr. BEEKMAN. After a while it did increase its deposits; but I do not remember that there was any immediate change in the condition of the bank.

Subsequently the bank took out clearing-house certificates, with several other banks. As well as I can remember, they took out \$1,750,000 of certificates.

Mr. UNTERMYER. Giving how much collateral?

Mr. BEEKMAN. I have forgotten what the collateral was. The collateral was arranged by a committee from the clearing house, and it was the best collateral the bank had.

Mr. UNTERMYER. I was about \$2 for \$1, was it not?

Mr. BEEKMAN. I can not remember that. I did not personally oversee that. The certificates were paid down rather slowly, and finally I noticed in the newspapers a statement that the certificates were going to be called, and that the Oriental Bank, together with two or three other banks, had certificates outstanding in the amounts mentioned in the notice. I immediately went to Mr. Jones and told him I was afraid it would create a very serious situation for the bank. Then efforts were made to prepare for what followed.

Mr. UNTERMYER. There was a serious situation immediately, was there not?

Mr. BEEKMAN. It came practically the next day.

Mr. UNTERMYER. In the form of a run on the bank?

Mr. BEEKMAN. People commenced to withdraw their deposits. It was not so violent at first, but it increased day by day until it became of such proportions that the bank could not stand it. Representations were made to the clearing house of the gravity of the situation, and, as I remember it, they recalled their notice requiring the certificates to be paid; but the damage had been done, and it made no difference in the situation.

Mr. UNTERMYER. Did you make an effort, then, to get them to stand behind the bank to pay the deposits?

Mr. BEEKMAN. We did. Mr. Jones and Mr. Kelly and Mr. Hewitt and myself had several interviews with several members of the clearing house. Mr. Kelly and myself had one interview with several gentlemen in which we suggested that one of the large clearing-house banks might take over the Oriental Bank, take over all its assets and assume its obligations. That matter was discussed, but nothing came of it. We urged that on several occasions.

Finally, when matters became still worse, we were allowed to be present at a meeting of the clearing house, and we made a very strenuous demand for assistance, and reminded the members of what Mr. Hepburn had said. I might say that Mr. Hepburn was away at that time. He was abroad.

It was finally suggested by the president of one of the banks that a subscription be taken up amongst the representatives of the various banks who were present, with the idea of making a loan to the bank; and as Mr. Hewitt has testified, we deemed that the sum which was offered to us under those conditions was inadequate.

Mr. UNTERMYER. What was the amount of it?

Mr. BEEKMAN. I can not remember that. It was not more than three or four hundred thousand dollars, according to my recollection. My recollection is not clear.

Mr. UNTERMYER. Was that in addition to the \$100,000 that Mr. Hewitt himself had raised?

Mr. BEEKMAN. I do not know. I can not remember. I do remember that Mr. Hewitt offered to contribute his share in cash, and the other directors present said that we would guarantee a certain part of the loan each, and that we would use our influence with the other directors to guarantee their proportion of the loan, also.

Mr. UNTERMYER. The loan was considered amply secured by the assets, was it not? Any loan that might be made to pay the deposits was considered amply secured by the assets of the bank?

Mr. BEEKMAN. I should have considered it so.

Mr. UNTERMYER. There was no question about that, was there?

Mr. BEEKMAN. That question was not raised.

Mr. UNTERMYER. No. Subsequent events have shown that it was overwhelmingly adequate?

Mr. BEEKMAN. Yes. As soon as the bank closed its doors, and a loan was arranged with the trust company here on the assets of the bank, it provided enough money to pay all the depositors in full.

Mr. UNTERMYER. But that cost the bank a good deal of money?

Mr. BEEKMAN. That cost us some money, yes.

Mr. UNTERMYER. And that forced the liquidation of the bank, and through that means cost the bank in the neighborhood of \$400,000, did it not?

Mr. BEEKMAN. It cost it a good deal. I doubt whether it cost as much as that. It had to pay interest on the loan; but, on the other hand—

Mr. UNTERMYER. I mean, apart from the question of interest on the loan?

Mr. BEEKMAN. I do not think it cost as much as that.

Mr. UNTERMYER. The liquidating expenses were around that, were they not? There was \$200,000 paid to the Metropolitan Trust, was there not—\$245,000, altogether?

Mr. BEEKMAN. I do not think it was as much as \$400,000. However, I have not the figures, and I can not testify to that exactly.

Mr. UNTERMYER. Then the committee was paid?

Mr. BEEKMAN. The members of the liquidating committee received salaries.

Mr. UNTERMYER. And counsel had to be paid?

Mr. BEEKMAN. And counsel had to be paid.

Mr. UNTERMYER. And there were receivers in there for a few days, were there not?

Mr. BEEKMAN. There were receivers in there for some days, until they were removed by the court.

Mr. UNTERMYER. They were removed on the ground that the bank was not insolvent?

Mr. BEEKMAN. Exactly.

Mr. UNTERMYER. I think that is all.

The CHAIRMAN. The subcommittee will now adjourn until Tuesday next, at 11 o'clock.

Whereupon, at 4.45 o'clock p. m., the subcommittee adjourned until Tuesday, June 11, 1912, at 11 o'clock a. m.