STOCK EXCHANGE PRACTICES

HEARINGS

BEFORE THE

COMMITTEE ON BANKING AND CURRENCY
UNITED STATES SENATE

SEVENTY-THIRD CONGRESS

FIRST SESSION

ON

S.Res. 84

(72d CONGRESS)

A RESOLUTION TO INVESTIGATE PRACTICES OF STOCK EXCHANGES WITH RESPECT TO THE BUYING AND SELLING AND THE BORROWING AND LENDING OF LISTED SECURITIES

AND

S.Res. 56

(73d CONGRESS)

A RESOLUTION TO INVESTIGATE THE MATTER OF BANKING OPERATIONS AND PRACTICES, THE ISSUANCE AND SALE OF SECURITIES, AND THE TRADING THEREIN

PART 2

(J. P. Morgan & Co.; O. P. Van Sweringen)

MAY 26, 31, JUNE 1, 2, 5, 6, 7, 8, and 9, 1933

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STOCK EXCHANGE PRACTICES

FRIDAY, MAY 26, 1933

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

The subcommittee met, pursuant to adjournment on yesterday, at 11 o'clock a.m. (at the conclusion of an executive session), in the caucus room of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Glass, Barkley, Costigan, Townsend, and Couzens.

Present also: Senators Bulkely, Gore, Byrnes, Bankhead, Adams, Goldsborough, Kean, Steiwer, Caraway, and Byrd.

Present also: Ferdinand Pecora, counsel to the committee, Julius Silver, David Saperstein, and James B. McDonough Jr., associate counsel to the committee. John W. Davis, counsel for J. P. Morgan & Co. Randall J. LeBoeuf, Jr., and Earle J. Machold, counsel for the United Corporation and for George H. Howard, president of the United Corporation.

The CHAIRMAN. Let there be quite in the room. The committee will come to order. The first witness this morning will be Mr. George H. Howard. Is Mr. Howard present?

Mr. HOWARD. Yes; Mr. Chairman.

The CHAIRMAN. Come around to the committee table, hold up your right hand and be sworn: You solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, regarding the matters now under investigation by the committee. So help you God.

Mr. HOWARD. I do.

The CHAIRMAN. Take a seat.

TESTIMONY OF GEORGE H. HOWARD, 1001 PARK AVENUE, NEW YORK CITY; PRESIDENT UNITED CORPORATION AND PRESIDENT OF NEW YORK UNITED CORPORATION

Mr. PECORA. Mr. Howard, will you give your full name and address to the official committee reporter?

Mr. HOWARD. George H. Howard, 1001 Park Avenue, New York City.

Mr. PECORA. What is your business or profession?

Mr. HOWARD. I am president of the United Corporation, and president of the New York United Corporation.

Mr. PECORA. Is the New York United Corporation a subsidiary of the United Corporation?

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Mr. HOWARD. It is a wholly owned subsidiary of the United Corporation.

Mr. PECORA. When did you become the president of these two corporations, Mr. Howard?

Mr. HOWARD. I was elected president of the United Corporation on the 26th of February 1929, effective on the 2d day of March. And I was elected president of the New York United Corporation, as I recall, some time in the fall of 1929. I can find that exact date if you would like it.

Mr. PECORA. When was the United Corporation organized?

Mr. HOWARD. On the 7th of January 1929.

Mr. PECORA. Under the laws of what State?

Mr. HOWARD. Of the State of Delaware.

Mr. PECORA. Are you familiar with the financial set-up of that corporation at its inception?

Mr. HOWARD. I am familiar by having studied it, sir, in great detail. I did not take an active part in the affairs of the corporation generally until after I became president.

Mr. PECORA. Mr. Howard, I show you a printed document entitled "Certificate of Incorporation of United Corporation, Organized Under the Laws of the State of Delaware", which has been furnished to me by the firm of J. P. Morgan & Co. Will you kindly look at it and tell us if you recognize it to be a true copy of the certificate of incorporation of that company?

Mr. HOWARD. I do not know, Mr. Pecora, whether this is the original or the amended. There have been some amendments of the first articles.

Mr. PECORA. Look at it, please, and see how far you may be able to identify it.

Mr. HOWARD. Well, I think it is the original.

Mr. PECORA. I offer it in evidence.

The CHAIRMAN. It will be received and made a part of the record of our hearings.

(The certificate of incorporation of the United Corporation was received in evidence and marked "Committee Exhibit No. 22, May 26, 1933", and will be found at the end of the day's proceedings.)

The CHAIRMAN. Mr. Howard, do you mean to say there have been some amendments to that paper?

Mr. HOWARD. Why, the stock has been increased, Senator Fletcher, since the original.

Mr. PECORA. Mr. Howard, by profession you are an attorney and counsellor at law and admitted to practice in the courts of the State of New York.

Mr. HOWARD. I am, sir.

Mr. PECORA. Will you tell the committee as concisely as you can what the original set-up was of this corporation?

Mr. HOWARD. Mr. Pecora, I can tell you that only by referring to the records, if you would like for me to do that.

Mr. PECORA. All right, sir.

Mr. HOWARD. The United Corporation, as I have stated to you, was incorporated on the 7th of January 1929. About the 11th of January 1929 it acquired from J. P. Morgan & Co. 350,957 shares of the common stock of the Mohawk Hudson Power Corporation, 62,360 shares of the second preferred stock of the Mohawk Hudson

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Power Corporation, 124,740 option warrants of the Mohawk Hudson Power Corporation, 130,565 shares of the common stock of the United Gas Improvement Co., 59,500 shares of the common stock of the Public Service Corporation of New Jersey, and $700,801.10 in cash. And the United Corporation issued in consideration of the receipt of those shares and that cash, 600,000 shares of its $3 cumulative preference stock, and 800,000 shares of its common stock, and 714.200 option warrants. The second——

Mr. PECORA (interposing). May I just interrupt you there?

Mr. HOWARD. Certainly.

Mr. PECORA. Do you know what the market value was at that time of the securities which the United Corporation received from J. P. Morgan & Co.?

Mr. HOWARD. I do not know the figure, but the market value of the securities received from Morgan at such prices as were made to the corporation, was about $12,000,000 above—no, I mean under their market value at that time.

Mr. PECORA. Did I understand you to say that the market value of the securities was $12,000,000 under their market value?

Mr. HOWARD. Yes, sir.

Mr. PECORA. I do not quite get that statement, Mr. Howard.

Mr. HOWARD. No; I beg pardon, Mr. Pecora. The market value at the time those securties—well, the securities were turned in at a price of about $12,000,000 less than their market at that time.

Mr. PECORA. What was their market value, sir?

Senator COUZENS. Do you mean per share or in the aggregate, Mr. Pecora?

Mr. PECORA. No; in the aggregate.

Mr. HOWARD. May I ask an assistant to compute that figure for you?

Mr. PECORA. You may refer to any document or data to enable you to answer that question.

Mr. HOWARD. I thank you.

Mr. PECORA. Provided you are assured in your own mind that the documents or data that you use to enable you to answer these questions are authentic and correct.

Mr. HOWARD. Oh, yes.

Senator COUZENS. Are you a Philadelphia lawyer?

Mr. HOWARD. No, sir.

Senator GLASS. Well, I am sorry because if you were I was going to ask you what market value in January of 1929 amounted to. It was not worth any more than the paper it was written on, was it?

Mr. HOWARD. I guess it proved subsequently to be so.

Senator COUZENS. Well, I had particular reference to that financial set-up that you were just reading from, when I asked if you are a Philadelphia lawyer.

Mr. HOWARD. No; I am not.

Senator GLASS. Well, I had in mind as an intelligent lawyer if he could discover what the market value of anything in 1929 was really worth.

Mr. PECORA. I assume, Senator Glass, when this corporation received certain securities in exchange for its own securities, they knew something about the market value of what they were receiving in payment for their own securities.

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Senator GLASS. They knew what market prices were, but they did not know market values because market values collapsed soon thereafter.

Mr. PECORA. I am speaking of market value as of the date of the transaction.

Senator GLASS. You said market quotations.

Mr. PECORA. I said market values.

Senator GLASS. Well, I was thinking about market quotations. There is no harm, is there, Mr. Pecora, to suggest that there was a collapse of all market values in 1929?

Mr. PECORA. But not in January of 1929.

Senator GLASS. Would you concede that?

Mr. PECORA. No, sir; not in January of 1929. I concede it to have occurred later on in that year, but I am dealing now with January of 1929.

Senator GLASS. Of course, the country was exceedingly prosperous on paper in January of 1929.

Senator COUZENS. Yes; and they didn't know what was coming.

The CHAIRMAN. Well, let us go ahead with the examination.

Mr. PECORA. Will you answer the question, Mr. Howard?

Mr. HOWARD. The market value of 130,565 shares of United Gas Improvement stock on January 8, 1929, the date of the resolution of the board, was $164 a share. The total market value for that stock was $21,412,660.

Mr. PECORA. Mr. Howard, I have simply asked for the market value in the aggregate of those securities in order to save time.

Mr. HOWARD. All right. I will get it.

Mr. PECORA. Very well.

The CHAIRMAN. Let us make that clear. What securities are you referring to?

Mr. HOWARD. Did you say, to make it clear?

The CHAIRMAN. Let us make it clear what securities you are referring to.

Mr. HOWARD. Mr. Pecora, the market value on January 8, 1929, is the figure I have here of a group of securities that I have just mentioned to you, and is $55,566,644.63.

The CHAIRMAN. Those are the securities which you received?

Mr. HOWARD. Those were the securities, which we received, or which were received by the United Corporation in this initial transaction.

Mr. PECORA. Now, in exchange for those securities what, if anything, did the United Corporation issue or give to J. P. Morgan & Co. in this initial transaction?

Mr. HOWARD. Six hundred thousand shares of its $3 cumulative preference stock, 800,000 shares of its common stock, and 714,200 option warrants.

Mr. PECORA. Who caused the United Corporation to be formed?

Mr. HOWARD. I understand Morgan & Co., Drexel & Co., and Bonbright & Co.

Mr. PECORA. Is the United Corporation a holding company?

Mr. HOWARD. Yes, sir.

Mr. PECORA. And as such does it hold securities issued by public-utility corporations principally?

Mr. HOWARD. Principally; yes.

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Mr. PECORA. And those securities that were received in this initial transaction by the United Corporation were securities issued by public-utility corporations?

Mr. HOWARD. Yes.

Mr. PECORA. What was the original authorized stock plan of the United Corporation? That is to say, what stock was it authorized to issue?

Mr. HOWARD. May I see that paper that you just put in evidence?

Mr. PECORA. Certainly.

Senator TOWNSEND. Here it is.

Mr. HOWARD. I thank you very much.

Mr. PECORA. All right, you may go ahead with your answer.

Mr. HOWARD. The total number of shares of capital stock authorized, Mr. Pecora, was 13,000,000.

Mr. PECORA. And how divided?

Mr. HOWARD. One million shares of first preferred stock, 2,000,000 shares of preference stock, and 10,000,000 shares of common stock.

Mr. PECORA. Will you tell the committee, briefly, the respective attributes and privileges of those different classes of stock?

Mr. HOWARD. No first preferred stock has ever been issued.

Mr. PECORA. I beg pardon?

Mr. HOWARD. I say, no first preferred stock has ever been issued. The $3 preference stock is entitled to dividends at the rate of $3 a share a year, and $50 a share in liquidation if the company is liquidated. And the common stock is ordinary common stock and is entitled only to dividends in case dividends have been paid on the first preferred stock, if issued, and upon the preference stock which has been issued.

Mr. PECORA. What voting rights attach to these classes of stock?

Mr. HOWARD. Each share of stock has 1 vote.

The CHAIRMAN. The stock has no par value?

Mr. HOWARD. All without par value.

Senator TOWNSEND. Both the preferred and the common?

Mr. HOWARD. Yes, sir.

Mr. PECORA. You have said that none of the first preferred stock has ever been issued.

Mr. HOWARD. No, sir.

Mr. PECORA. How much of the 2,000,000 shares of $3 preferrence stock was issued at the outset?

Mr. HOWARD. In connection with this transaction which we have been discussing, 600,000 shares.

Mr. PECORA. Yes, sir. And how many shares of the authorized 10,000,000 shares were issued initially, I mean of common stock?

Mr. HOWARD. In this transaction, 800,000 shares.

Mr. PECORA. And those are the shares that were issued to J. P. Morgan & Co.?

Mr. HOWARD. In this transaction; yes.

Mr. PECORA. You stated that 714,200 option warrants were given to J. P. Morgan & Co. as a part of this initial transaction. Now, will you tell the committee what rights and privileges went with those option warrants?

Mr. HOWARD. Each one of those option warrants entitled the holder to subscribe at any time to one share of the common stock of the corporation as it existed at that time, at $27.50 a share.

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Mr. PECORA. You say that the holders of those option warrants were entitled to purchase a corresponding number of shares of common stock at any time in the future, at $27.50 a share?

Mr. HOWARD. Yes, sir.

Senator COUZENS. Were they a sufficient number of shares to have given control?

Mr. HOWARD. Well, at this minute all those shares were issued to Morgan & Co., Senator Couzens. Of course, they were all the shares that were outstanding.

Senator COUZENS. What I am trying to get is this: Assuming that they disposed of all but the option warrants, would they have given them control if they exercised the option on the warrants?

Mr. HOWARD. Let me see.

Senator COUZENS. Your colleague nods his head no, so I assume no is the answer.

Mr. HOWARD. No.

Mr. PECORA. Mr. Howard, I show you what purports to be photostatic copies of certain letters passing between J. P. Morgan & Co. and the United Corporation, dated, respectively, January 8, 1929, January 9, 1929, and a second letter bearing date January 9, 1929, and a further letter dated January 8, 1929. Will you please look at these copies of letters and tell me if you recognize them to be the letters setting forth the terms of the agreement or arrangement between the United Corporation and J. P. Morgan & Co. at the time of the set-up of this corporation and with respect to the financing of the corporation?

Mr. HOWARD. These, so far as I have examined the minutes book and understand it, are true copies, except for some notations on them that I do not know about.

Mr. PECORA. I offer the letters in evidence.

The CHAIRMAN. They may be received and printed as a part of the record of our proceedings.

(The letters passing between J. P. Morgan & Co. and the United Corporation were ordered made a part of the record, and were marked "Committee Exhibit No. 23, May 26, 1933", and will be found at the end of the day's proceedings.)

Mr. PECORA. Have you the minute book of the United Corporation here, Mr. Howard?

Mr. HOWARD. Yes, sir.

Mr. PECORA. Will you have them readily available before you so that you may refer to them in answering questions?

Mr. HOWARD. They are right here and ready for you at any time you may want them.

Senator COUZENS. May I draw Mr. Pecora's attention to the request previously made of Mr. Howard with reference to the control by Morgan & Co?

Mr. HOWARD. Senator Couzens asked me whether Morgan & Co. would have had control only by the exercise of the 714,200 option warrants; what would then be their situation with respect to the control of the company? With respect to the immediate first transaction, they had 800,000 shares of common stock that would give them control. And if they had converted they would have gotten 714,000 more shares of common stock. So at that moment they had control.

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Mr. PECORA. In other words, they had control without exercising their right under any of these option warrants?

Mr. HOWARD. That is right.

Mr. PECORA. Who were the officers and directors of the United Corporation upon its inception?

Mr. HOWARD. Mr. Pecora, Mr. George Roberts was president, Mr. G. H. Semler, vice president. Pardon me. These are the directors: Mr. George Roberts, Mr. G. H. Semler, Mr. Sherman Ewing, Mr. Hayden M. Smith, Mr. James P. Hendrick.

Mr. PECORA. James P.——

Mr. HOWARD. Hendrick, H-e-n-d-r-i-c-k.

Mr. PECORA. Who were the initial executive officers of the corporation?

Mr. HOWARD. I am sorry to take so long——

Mr. PECORA. Well, Mr. Howard, are you not familiar with these things from your 4 years connection with this company as its president?

Mr. HOWARD. Mr. Pecora, I am familiar with these particular transactions only as they appear in this record. Because, as I told you, I did not become president of the company actively until the 1st of March 1929. Consequently the data I give you with respect to these I must give you from these books.

Mr. PECORA. Well, you became president within two months after the organization of the company?

Mr. HOWARD. I did.

Mr. PECORA. And have been its president ever since?

Mr. HOWARD. Yes.

Mr. PECORA. And haven't you as the result of your more than four years' service as the president of this corporation acquired all this knowledge heretofore?

Mr. HOWARD. I have examined all this detail, but I do not recall who the officers are on organization work.

Mr. PECORA. While your associates are getting that information for out of the records, will you tell me this: Where are the books of the United Corporation kept?

Mr. HOWARD. They are kept by J. P. Morgan & Co.

Mr. PECORA. To this day?

Mr. HOWARD. To this day.

Mr. PECORA. And have been since January 1929, when it was incorporated?

Mr. HOWARD. Yes.

Mr. PECORA. Who signs the checks drawn by this corporation against its accounts?

Mr. HOWARD. The checks since the last annual meeting are signed by me as president and by Mr. Ferguson, the treasurer.

Mr. PECORA. Well, when was the date of that last annual meeting that you have just referred to?

Mr. HOWARD. In the first two weeks of February.

Mr. PECORA. Of this year?

Mr. HOWARD. Of this year.

Mr. PECORA. Prior to that time who signed them?

Mr. HOWARD. Prior to that time Mr. Keyes.

Mr. PECORA. Who is Mr. Keyes?

Mr. HOWARD. Mr. Keyes is, as I heard Mr. Morgan testify, his office manager.

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Mr. PECORA. That is, the office manager of J. P. Morgan & Co.?

Mr. HOWARD. Of J. P. Morgan & Co.; yes, sir.

Mr. PECORA. Now, can you answer the question I put to you a few minutes ago as to the executive officers of this corporation at the outset?

Mr. HOWARD. Mr. George Roberts was president. Mr. Sherman Ewing was vice president. Mr. Leonard A. Keyes was treasurer. Mr. A. P. Taliaferro was assistant treasurer, and Mr. G. H. Semler was secretary.

Mr. PECORA. Where is the office of the United Corporation?

Mr. HOWARD. At Wilmington, Del.

Mr. PECORA. Has it any office for the transaction of business at any other place?

Mr. HOWARD. It is qualified to do business in New Jersey and in Pennsylvania.

Mr. PECORA. Well, does it actually maintain any office for the transaction of business any other place than Wilmington, Del.?

Mr. HOWARD. No. Well, it has an office——

Mr. PECORA. Where?

Mr. HOWARD (continuing). For the service of process at 80 Park Place, Newark, N.J., and it is qualified to do business in Pennsylvania, too.

Mr. PECORA. In whose office are the business transactions of the United Corporation actually carried on?

Mr. HOWARD. All of the meetings of the board of the United Corporation, the Delaware corporation as distinguished from the New York corporation are held, Mr. Pecora, at 80 Park Place, Newark, N.J.

Mr. PECORA. In whose office are the business affairs of the United Corporation actually carried on?

Mr. HOWARD. I have said that.

Mr. PECORA. You have told us where meetings of directors or stockholders are held.

Mr. HOWARD. No——

Mr. PECORA. I did not ask you that question.

Mr. HOWARD. Well, all our business is transacted, Mr. Pecora, at our directors' meetings.

Mr. PECORA. Where are those directors' meetings held?

Mr. HOWARD. At 80 Park Place, Newark, N.J.

Senator COUZENS. How much of a staff have you at that place?

Mr. HOWARD. An assistant secretary, Senator Couzens; that is all.

Senator COUZENS. So all the business is done by an assistant secretary in Newark?

Mr. HOWARD. I did not mean to say that we did not have discussions in New York.

Senator COUZENS. I do not think your answer to Mr. Pecora was adequate, if you do not want this committee to understand that the assistant secretary does all the business of the corporation in Newark.

Mr. HOWARD. Mr. Pecora, I did not intend to infer anything of that kind. Of course we have discussions in New York. Mr. Whitney and Mr. Stanley, Mr. Thorne, and Mr. Williams, and Mr. Carlisle, who are the directors of this company, are there, and I see them frequently and often.

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Mr. PECORA. In whose office do these discussions about the business of the United Corporation take place?

Mr. HOWARD. Very often in my own office. Very often in Mr. Whitney's office. Very often in Mr. Thorne's office. Anywhere where we happen to be.

Mr. PECORA. By Mr. Whitney's office do you mean the office of J. P. Morgan & Co. at 23 Wall Street, New York City?

Mr. HOWARD. Yes; I do.

Senator BARKLEY. Is this a New Jersey corporation?

Mr. HOWARD. This is a Delaware corporation.

Senator COUZENS. Is your office in Mr. Morgan's office, too?

Mr. HOWARD. No; my office is at 15 Broad Street, Senator Couzens. I have my own office.

Mr. PECORA. Fifteen Broad Street immediately adjoins 23 Wall Street, does it not?

Mr. HOWARD. I think it does.

Mr. PECORA. And is there an interior communication or passageway between the two buildings?

Mr. HOWARD. I think there is. But not between my office and this.

Mr. PECORA. Where are the books of account of the United Corporation kept, Mr. Howard?

Mr. HOWARD. They have been kept up to this time under the supervision of Mr. Keyes at the office of J. P. Morgan & Co.

Mr. PECORA. And have they been kept there since the inception of the corporation?

Mr. HOWARD. Yes; they have.

Mr. PECORA. What bookkeepers, accountants, or other class of employees write up the entries in these books of account, or whose bookkeepers do that?

Mr. HOWARD. The whole thing has been done under the supervision of Mr. Keyes, and he is the only person with whom I have had any contact ever about that matter.

Mr. PECORA. Do you as president for the last 4 years or more personally know who made the entries in these books of account of that corporation?

Mr. HOWARD. No; I do not.

Mr. PECORA. You do not?

Mr. HOWARD. No.

Senator KEAN. I would just like to ask the witness one question. In reference to this Broad Street office of yours, how many other people have offices in that building? Would you say 10,000?

Mr. HOWARD. Well, I have no idea. No; I should not think 10,000, but a great many. I haven't any idea how many there are.

Mr. PECORA. I think it will be readily agreed that 15 Wall Street is a very large office building in lower down town in New York City.

Mr. HOWARD. It is the old Equitable Trust Co. Building.

Senator KEAN. Yes.

Senator COUZENS. Is your office primarily maintained for a legal business?

Mr. HOWARD. No. I am entirely out of the law business, Senator Couzens.

Senator COUZENS. Have you any partners in that office outside of yourself?

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Mr. HOWARD. Some of the offices of the Niagara Hudson Corporation are in that office. Mr. LeBoeuf's firm is in that office.

Mr. PECORA. Is Mr. LeBoeuf's firm the counsel for the United Corporation?

Mr. HOWARD. Now, yes.

Mr. PECORA. Is the Niagara and Hudson Power Co. one of the subsidiaries or affiliates of the United Corporation?

Mr. HOWARD. I think, Mr. Pecora, it is probably inaccurate to say subsidiary or affiliate. It is a company in which the United Corporation has a large interest.

Senator COUZENS. A majority interest?

Mr. HOWARD. No.

Senator COUZENS. Do you control it?

Mr. HOWARD. I do not think we control any of these companies, Senator Couzens. I am quite frank to say that I do think in Niagara and Hudson and some of these other companies we have a great influence.

Mr. PECORA. Yes; but you do not think you have great influence with the Niagara Co. do you?

Mr. HOWARD. Yes; we do. I say we do.

Mr. PECORA. When you say you do not think the United Corporation controls any other corporation, do you define control as represented by ownership of the majority stock?

Mr. HOWARD. I define legal control that way; yes.

Mr. PECORA. Well, you recognize that practical control in very many instances may be and is effected by the ownership of much less than a majority of the capital stock of the corporation so controlled, do you not?

Mr. HOWARD. Yes. But may I add that my conception of the United has been from the time I had anything to do with it, and is now, that we do not want the control. And certainly I think we do not control any of these companies in which we have shares, companies like the Public Service, like Niagara Hudson, like United Gas Improvement, and they continue to have a complete and independent way to go ahead themselves.

Senator BARKLEY. In the event a dispute should arise in the board of directors over a question of policy, you do not have enough shares to control, of yourselves, the result?

Mr. HOWARD. No; we do not.

Senator BARKLEY. You would have to combine with somebody else who owned a block of shares in order to make a majority if there were a sharp division as to what was to be done about a given transaction?

Mr. HOWARD. That is true, Senator.

Senator BARKLEY. There are not such sharp divisions often I imagine. Are there?

Mr. HOWARD. There are none that I know of.

Senator BARKLEY. Everything moves smoothly and harmoniously?

Mr. HOWARD. Everything moves harmoniously.

Mr. PECORA. Mr. Howard, how large an office staff or personnel do you maintain in your office in connection with the United Corporation?

Mr. HOWARD. I have, Mr. Pecora, a secretary and an office boy, and in addition to that, Mr. Ferguson, who is a vice president of the corporation; he is there too. Those are the only people active in my office.

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Mr. PECORA. Of how many corporations does the United Corporation own any stock? And also give the names of such corporations.

Mr. HOWARD. As of the 15th of May, Mr. Pecora, the last balance sheet I had, United Corporation owned 62,370 shares of the Mohawk Hudson second preferred stock; 1,914,417 shares of Niagara Hudson common stock.

Senator COUZENS. While you are reading that, have you got the percentage of control that is, which you can give at the same time?

Mr. HOWARD. I have the percentage of ownership in these companies.

Senator COUZENS. Would it interfere with you, Mr. Pecora, if he read that at the same time?

Mr. PECORA. No.

Mr. HOWARD. All right. If you will just give me a moment.

Senator TOWNSEND. Are these the present holdings?

Mr. HOWARD. These are the present holdings; yes, sir.

The CHAIRMAN. Proceed, Mr. Howard.

Mr. HOWARD. Mr. Pecora, as to that first item, Mohawk Hudson second preferred stock, 62,370 shares, I give you in this column percentages of the total owned. The percentage is 2.8 percent.

Niagara Hudson common stock, 1,914,417 shares; 21.9 percent.

Niagara Hudson Power Corporation A warrants, 250,819–⅔; 9 percent.

Niagara Hudson B warrants, 145,530; 29.3 percent.

Niagara Hudson Power Corporation C warrants, 300,000; 13.3 percent.

Common stock of the Public Service Corporation of New Jersey, 988,271 shares; 17.9 percent.

6,066,223 shares of the common stock of the United Gas Improvement Co.; 26.1 percent.

2,424,356 shares of the Columbia Gas & Electric Corporation common stock; 20.9 percent.

Columbia Oil & Gasoline Corporation voting trust certificates, two items, 49,053 shares and 35,716 shares; 3.6 percent.

38,183–4856/8000 of Columbia Gas & Electric Corporation $5 convertible preferred. I haven't that percentage.

Commonweatlh & Southern Corporation, 1,798,270 shares; 5.3 percent.

1,005,000 Commonwealth & Southern Corporation option warrants; 5.7 percent.

34,857–505/600 of the stock of Electric Bond & Share; 67/100 of 1 percent.

Mr. PECORA. That was Commonwealth & Southern?

Mr. HOWARD. No. That is Electric Bond & Share Co.

Mr. PECORA. Well, what was the Commonwealth & Southern Corporation option warrants percent? We have not got that.

Mr. HOWARD. Commonwealth & Southern Corporation common stock, 5.3 percent.

Mr. PECORA. And then you mentioned option warrants?

Mr. HOWARD. 5.7 percent.

Societe Lyonnaise, 30,000 shares; 3.2 percent.

Mr. PECORA. Is that a foreign corporation?

Mr. HOWARD. Yes.

Mr. PECORA. French corporation?

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Mr. HOWARD. French corporation.

Mr. PECORA. In the utilities field?

Mr. HOWARD. In the utilities field. Instead of 30,000 shares of that, there are 32,038 shares.

48,705 shares of Lehigh Coal & Navigation Co.; 2.5 percent.

203,900 shares of the Consolidated Gas Co. of New York; 1.8 percent.

63,002 shares of the common stock of American Waterworks; 3.6 percent.

33,175 shares of the Consolidated Gas Co. of Baltimore; 2.8 percent.

Senator COUZENS. How many companies is that all together?

Mr. HOWARD. Fourteen, I think.

Senator COSTIGAN. Mr. Howard, will you be good enough to develop more definitely the distinction you draw between large influence and legal control in corporate action?

Mr. HOWARD. My idea of the United Corporation has been that it is a holding company, with interests in these various other utility operating or holding companies, without management, without supervision, without engineering of any kind, deriving its income wholly either from interest or dividends, whatever they might be, in connection with its investment. It is never building up any organization, leaving complete control in the separate and independent units.

Senator COSTIGAN. You used the expression, as I recall it, "large influence" or "great influence." What did you mean by that expression, as distinguished from legal control?

Mr. HOWARD. Well, I meant this: Suppose, for example, we take Niagara Hudson Power Corporation. Mr. Carlisle is the chairman of that company. We have in it, as I pointed out to you, 21.9 percent. I believe that our relations with all the people in that are such that any wise thing, always by conference or consultation, if it were in the whole general interest, would be accomplished. On the other hand, we have that percentage, and if the other shareholders disagreed with us, they could throw us all out.

Senator COSTIGAN. In other words, by harmonious action you frequently develop corporate policies and proceed without reference to the precise legal control of those who make the recommendations?

Mr. HOWARD. We try to consult and do consult as to the major policies of these companies.

Senator COSTIGAN. And your advice, regardless of the particular stockholding, is very likely to be followed, and is usually followed, is it not?

Mr. HOWARD. Quite true.

Senator COUZENS. In the parlance of Wall Street, many of these concerns are known as "Morgan companies", are they not?

Mr. HOWARD. I think so.

Mr. PECORA. Mr. Howard, I show you a map or survey containing the following description: "Map to show the territories of the companies in which the United Corporation owns an interest", and bearing a date of July—it looks like July 9, 1929. I suppose that represents the 9th day of July 1929. Which was received by us from among the files of your company. Do you recognize it as being such a map or survey?

Mr. HOWARD. I never saw that before, and I do not know who made it. Did it come from my files?

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Mr. PECORA. Well, it came from the files of the United Corporation. Or from Morgan & Co. Is that disputed? [Addressing Mr. Whitney.]

Mr. WHITNEY. That is not disputed, Mr. Pecora, but——

Mr. HOWARD. Well, I have never seen it.

Mr. PECORA. Will you look at that, Mr. Whitney, and see if we can agree on that?

Mr. WHITNEY. I would like to see it.

(Mr. Pecora handed the map to Mr. Whitney.)

Mr. WHITNEY. I personally never saw it, Mr. Pecora. There is no identifying mark on it. I mean, it was not among the papers photostated at the request of Mr. Pecora, in our office. So I could not positively identify it, but I am perfectly ready to accept that it is. I cannot identify it definitely.

Mr. PECORA. Well, is there any one among your associates, Mr. Whitney, that can identify it?

The CHAIRMAN. Are there any initials on it? Are there no initials on it that would indicate?

Mr. HOWARD. There are "R. P. H." on it. I have never seen this.

Mr. WHITNEY. Mr. Chairman, all the photostats that were requested by the investigators were stamped so that we would be able to identify them. That has no such stamp, so we certainly did not photostat it.

The CHAIRMAN. That is not photostated.

Mr. WHITNEY. Is it not?

Mr. PECORA. Is Mr. McCauliss here?

Mr. WHITNEY. He is right there. Just ask him.

Mr. MCCAULISS. I have no record that such a paper was photographed or taken from our files.

Mr. PECORA. Is it disputed by anybody that this is a map or survey which represents what it purports to represent?

Mr. HOWARD. Well, I have great difficulty in understanding what it purports to represent, Mr. Pecora, because very often people who make maps of these electrical fields take some paint and cover all these towns. If you want to determine this thing or if you really want to know something about it—I do not mean you—but generally—you need to study density of population, you need to consider towns, and not merely the marks which somebody makes on a map.

Mr. PECORA. Mr. Howard, are you familiar as president of the United Corporation with any table which shows the proportion of electrical energy in the eastern United States furnished by the group of companies in which the United Corporation has an interest?

Mr. HOWARD. I may or may not be, Mr. Pecora. I have some idea about that.

Mr. PECORA. Well, give us your idea about it.

Mr. HOWARD. If you take these companies in which we have these larger interests, and if you take Consolidated Gas, notwithstanding our percentage in actual number of shares in Consolidated Gas is small, leaving out American Waterworks and Electric Bond & Share and Consolidated Gas of Baltimore, those companies in which I think we have a smaller interest, I think perhaps those companies at this minute have some 22 or 23 percent of the central station output in the electric business, and perhaps in the gas business something like 22 percent.

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Senator COUZENS. In the United States, or where?

Mr. HOWARD. In the United States; yes.

Mr. PECORA. Why do you leave out Electric Bond & Share Co. and the Consolidated Gas?

Mr. HOWARD. No; I did not leave Consolidated Gas of New York out. Consolidated Gas of Baltimore.

Mr. PECORA. Are you acquainted with any estimate made by or for the United Corporation showing the population that is served by the companies in which the United Corporation has any interest?

Mr. HOWARD. I have had some figures of that kind made, but I have not seen them for a long time.

Mr. PECORA. Do you know what those figures are?

Mr. HOWARD. No; I do not. I have given you generally now. I do not remember what those figures are.

Mr. PECORA. What is your best recollection?

Mr. HOWARD. Well, I really haven't any recollection about it. I have recollection about those percentages which I have given you, but as to population and other things, I have no recollection.

Mr. PECORA. Well, the percentages that you gave us were given by you from some records that you consulted, were they not?

Mr. HOWARD. No; those were percentages that I had in mind; those two as to Central Station output at this time.

Mr. PECORA. Are you personally familiar with any records or files of your corporation which would show that population?

Mr. HOWARD. I recall, as I have said to you, one memorandum which some time ago I had made, and I——

Mr. PECORA. How long ago did you have it made?

Mr. HOWARD. Well, I can not tell you. Probably more than a year ago.

Mr. PECORA. Is that the only one you had made, for the purpose of showing the populations served by the companies, the utility companies in which the United Corporation has a stock interest?

Mr. HOWARD. That is the only one.

Mr. PECORA. Don't you remember the figure?

Mr. HOWARD. I do not.

Mr. PECORA. What?

Mr. HOWARD. No; I do not.

Mr. PECORA. Oh, you don't?

Mr. HOWARD. No; I don't.

Mr. PECORA. I show you what purports to be a photostatic copy designated as "Sheet 4, table to show the proportion of electrical energy in the eastern United States produced by the group of companies in which United Corporation has an interest", together with the proportion of the population served and the proportion of the gross electricity received by these same companies, and which was furnished to us by the photostat department of J. P. Morgan & Co.

Mr. HOWARD. Thank you, sir.

Mr. PECORA. Will you please look at it and tell us whether you ever saw that or a copy of it before.

Mr. HOWARD. I have no recollection of ever having seen that.

Mr. PECORA. You have no recollection of ever having seen it?

Mr. HOWARD. I have none; no.

Mr. PECORA. Is it disputed that that was furnished to us by the photostat department of J. P. Morgan & Co.?

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Mr. DAVIS. Certainly not. It bears the stamp.

Mr. PECORA. Then I offer it in evidence.

The CHAIRMAN. It may be received.

Mr. PECORA. And ask that it be spread on the record.

Mr. DAVIS. I do not question the correctness of it, because I know nothing about it. But I concede it is perfectly obvious that it is a photostat.

Mr. LEBOEUF. Could the record state where it came from, not from the files of the corporation?

Mr. PECORA. Where did it come from?

Mr. LEBOEUF. I don't know. I am asking you.

Mr. PECORA. It came from the photostatic department of J. P. Morgan & Co., as appears upon the face of the exhibit.

Mr. DAVIS. Let me make a correction there, Mr. Pecora. We have no photostat department in which documents of this sort are filed. We have a photostat machine which from time to time photostats documents that are brought forward by your investigation.

Mr. PECORA. I stand corrected.

Mr. DAVIS. It is perfectly apparent that that photostat was made on our machine.

The CHAIRMAN. From records in your office?

Mr. DAVIS. Presumably so. I should accept that as a necessary consequence. But as to the contents of the paper of course I have no knowledge.

The CHAIRMAN. It may be spread upon the record.

(Table showing proportion of electrical energy produced by United Corporation Cos. in Eastern United States, etc., was thereupon designated "Committee Exhibit No. 24," and the same appears in the words and figures following:)

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SHEET IV.—*Table to show the proportion of electrical energy in the eastern United States furnished by the group of companies in which United Corporation has an interest, together with the proportion of the population served, and the proportion of the gross electric revenue received by these same companies*

	Production of electricity, in kilowatt-hours in thousands			Population served [1]			Gross revenue from electric operations		
	Total produced in 1928	Produced by United Corporation group, 1928	Percent of total produced by United Corporation group, 1928	Total estimated, 1927	Estimate served by United Corporation group, 1928	Estimated percent served by United Corporation group	Figures of National Electric Light Association total estimated, 1928	1928 received by United Corporation group from electric operations	Percent of electric gross received by United Corporation group
			Percent			*Percent*			*Percent*
New York	13,034,850	6,390,086	49.0	11,423,000	3,211,000	28.1	$273,600,000	$84,773,000	31.0
New Jersey	2,084,361	1,406,259	67.5	3,749,000	3,100,000	82.7	76,600,000	58,860,000	76.8
Connecticut	1,268,375	438,891	34.6	1,636,000	1,220,000	74.6	36,200,000	9,449,000	26.1
Pennsylvania	7,541,190	2,401,658	31.8	9,730,000	3,586,800	36.8	178,000,000	51,911,000	29.2
Delaware	102,349	95,113	92.9	243,000	240,000	97.0	3,300,000	2,980,000	90.3
Ohio	5,940,397	1,966,176	33.1	6,710,000	1,405,000	20.9	124,900,000	43,527,000	34.8
Michigan	4,346,402	1,102,278	25.4	4,490,000	1,525,000	33.9	93,200,000	23,353,000	25.1
Illinois	6,964,345	228,647	3.3	7,296,000	250,000	3.4	155,500,000	4,527,000	2.9
Tennessee	956,998	730,061	76.3	2,485,000	375,000	15.1	21,100,000	10,058,000	47.6
Mississippi	50,580			1,790,000	250,000	13.9	7,000,000		
Alabama	1,694,550	2,666,209	97.9	2,549,000	1,700,000	66.6	24,700,000	46,259,000	83.7
Georgia	979,130			3,171,000	1,935,000	61.0	23,600,000		
	44,963,527	17,425,378	38.7	55,272,000	18,797,800	34.0	1,017,700,000	335,697,000	32.9
Total for the other States east of Mississippi in which United Corporation has no interest or practically none	16,280,040			24,178,000			356,200,000		
Total for United States east of Mississippi	61,243,567	17,425,378	28.5	79,450,000	18,797,800	23.7	1,373,900,000	335,697,000	24.4
Total for United States	87,802,946			118,628,000			1,900,000,000		

[1] Population figures must be considered as approximate estimates.

NOTE.—Sheets I, II, and III of this series show further details from which these figures are compiled.

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Senator COUZENS. I see Michigan is swallowed up in the group.

Mr. HOWARD. Mr. Dow is still there.

Senator COUZENS. Possibly he is still there, but according to the yellow on the map it looks as though Michigan was yellow.

Mr. PECORA. Mr. Howard, from this table which has been marked "Committee's Exhibit 24" of this date it appears that the population served by these companies in which United Corporation has an interest was 55,272,000, distributed through the following states: New York, New Jersey, Connecticut, Pennsylvania, Delaware, Ohio, Michigan, Illinois, Tennessee, Mississippi, Alabama, and Georgia.

Now I notice a date in the lower left-hand corner of this exhibit of 9–20–29, which I assume refers to the 20th of September, 1929. Did you have a survey made or table prepared showing the population served by these companies at any time since September 1929?

Mr. HOWARD. I said that at some time—and I cannot definitely fix the time, but as we have discussed it my recollection is refreshed somewhat—I think I asked Mr. Lynn, somebody in Bonbright & Co.'s office, to make in tabulated form if he would statistical data which really did show in some way these things. Now where that is I don't know, and I haven't thought of it in a long time until this morning.

Mr. PECORA. Did you have any particular reason for requesting anyone connected with Bonbright & Co. to make that survey or compilation or tabulation?

Mr. Howard. None at all except I thought he happened to be a competent person to do it.

Mr. PECORA. There was no one in the office of the United Corporation that you thought was competent to do it, was there?

Mr. HOWARD. There really is not. I have told you, there is not an engineer or a statistical man in my office.

Mr. PECORA. When you say your office, or "my office" you mean the office of United Corporation?

Mr. HOWARD. I mean the office of the New York United Corporation.

Mr. PECORA. When was the New York United Corporation formed?

Mr. HOWARD. The New York United Co. was formed—[addressing associate] will you get that paper so I can get the correct date?—I think about July 1929, and later in the year the name was changed from the New York United Co., Inc. to the New York United Corporation.

Mr. PECORA. Can you produce here the last balance receipt issued by the United Corporation or a copy of it?

Mr. HOWARD. I have it here, Mr. Pecora [handing document to Mr. Pecora].

Mr. PECORA. The balance sheet is dated, which you have given me, as of December 31, 1932?

Mr. HOWARD. Yes.

Mr. PECORA. I offer it in evidence.

The CHAIRMAN. It will be received and placed in the record.

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(Balance sheet of United Corporation was designated "Committee Exhibit No. 25," and same is in the words and figures following:)

COMMITTEE EXHIBIT No. 25

THE UNITED CORPORATION OF DELAWARE—REPORT TO STOCKHOLDERS FOR THE YEAR ENDED DECEMBER 31, 1932

Board of Directors: Floyd L. Carlisle, B. C. Cobb, Philip G. Gossler, Edward Hopkinson, Jr., George H. Howard, Alfred L. Loomis, Thomas N. McCarter, Harold Stanley, Landon K. Thorne, George Whitney, John E. Zimmerman.

THE UNITED CORPORATION,
Wilmington, Del., January 3, 1933.

To the STOCKHOLDERS OF THE UNITED CORPORATION:

There is submitted herewith a consolidated balance sheet of your corporation as of December 31, 1932, and a consolidated income statement of the corporation for the 12 months ended December 31, 1932.

On December 31, 1932, the number of holders of common stock of the corporation was 102,100 as compared with 87,025 on December 31, 1931, and the number of holders of $3 cumulative preference stock of the corporation was 20,485 as compared with 18,127 on December 31, 1931.

By order of the Board of Directors:

GEORGE H. HOWARD, *President.*

Consolidated income, income charges, and surplus for the year ended Dec. 31, 1932

Dividends[1] and interest		$14, 832, 916. 51
Interest paid	$566, 767. 37	
Current expenses and taxes	441, 962. 07	
		1, 008, 729. 44
Balance applicable to dividends		13, 824, 187. 07
Dividends paid (includes Jan. 3, 1933, dividend) on $3 cumulative preference stock		7, 465, 789. 50
		6, 358, 397. 57
Dividends paid (includes Jan. 3, 1933, dividend) on— Common stock		5, 811, 467. 58
Balance for year		546, 929. 99
Add:		
Balance of earned surplus at Dec. 31, 1931		7, 540, 549. 26
Earned surplus at Dec. 31, 1932		8, 087, 479. 25

The United Corporation consolidated balance sheet, Dec. 31, 1932

ASSETS

	Shares	
Mohawk Hudson Power Corporation second preferred	62, 370	$6, 673, 590. 00
Niagara Hudson Power Corporation common	1, 914, 417	67, 908, 693. 66
Niagara Hudson Power Corporation A option warrants entitling holders to purchase the following number of shares of common stock, at $105 per share	250, 819⅔	
Niagara Hudson Power Corporation B option warrants entitling holders to purchase the following number of shares of common stock at an aggregate price of $50 for each 1⅙ shares	145, 530	
Niagara Hudson Power Corporation C option warrants entitling holders to purchase the following number of units (unit consists of ⅓ of 1 share of common stock and ⅙ class A option warrant), at $25 per unit	300, 000	

[1] Exclusive of dividends received in stock in 1932, viz, 27,274 4/800 shares Columbia Gas & Electric Corporation convertible 5 percent cumulative preference. 1,985 324/600 shares Electric Bond & Share Co. common.

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The United Corporation consolidated balance sheet, Dec. 31, 1932—Continued

ASSETS—Continued

	Shares	
Public Service Corporation of New Jersey common	988, 271	$78, 461, 600. 00
The United Gas Improvement Co. common	6, 066, 223	214, 447, 419. 76
Columbia Gas & Electric Corporation common	2, 424, 356	141, 757, 285. 92
Columbia Gas & Electric Corporation convertible 5 percent cumulative preference	27, 274 4/800	
Columbia Oil & Gasoline Corporation common voting trust certificates	84, 769	
Commonwealth & Southern Corporation common	1, 798, 270	35, 990, 010. 21
Commonwealth & Southern Corporation option warrants entitling holders to purchase the following number of shares of common stock, at $30 per share	1, 005, 000	
Consolidated Gas Co. of New York common	103, 900	24, 823, 554. 00
Electric Bond & Share Co. common	34, 342 427/600	5, 969, 201. 22
Societe Lyonnaise des Eaux et de l'Eclairage ordinary	32, 038	5, 179, 171. 91
The Lehigh Coal & Navigation Co. capital stock	48, 705	2, 220, 945. 78
American Water Works & Electric Co., Inc., common	63, 002	5, 982, 000. 28
Consolidated Gas Electric Light & Power Co. of Baltimore common	33, 175	3, 782, 374. 25
Miscellaneous investments		26, 016. 66
Total cost or declared value of securities[1]		592, 821, 863. 65
Cash on hand		724, 672. 63
		593, 546, 536. 28

LIABILITIES

Demand loan		11, 672, 000. 00
$3 cumulative preference stock, no par value; stated value $50 per share	[2] 2, 489, 064⅔	124, 453, 22. 34
Common stock no par value; stated value $5 per share	14, 531, 197½	72, 655, 987. 50
Option warrants outstanding entitling holders to purchase at any time without limit 3,732,059 shares of common stock, at $27.50 per share.		
Capital surplus		376, 630, 064. 37
Earned surplus		8, 087, 479. 25
Reserve for taxes		47, 771. 82
		593, 546, 536. 28

REPORT OF AUDITORS

We have examined the books and accounts of the United Corporation and its subsidiaries for the year ended December 31, 1932, and the consolidated balance sheet and consolidated statement of income and income charges prepared therefrom. The securities owned by the corporations were verified by confirmations obtained from the custodians thereof and the cash on hand was reconciled with statements received from the corporations' bankers.

In our opinion, these statements correctly reflect the consolidated financial position of the corporation at December 31, 1932, and the consolidated result of its operations for the period then ended.

ARTHUR YOUNG & CO.

[1] Total investments had an estimated market value on Dec. 31, 1932, of $272,256,212.36.

[2] Under the provisions of the charter the $3 cumulative preference stockholders upon any dissolution are entitled to receive $50 per share plus accrued dividends, or in case of call for redemption are entitled to receive $55 per share plus accrued dividends.

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Mr. HOWARD. The exact date, Mr. Pecora, of the incorporation of the New York United Co. was July 13, 1929.

The CHAIRMAN. Does that take the place of the old original United Corporation?

Mr. HOWARD. No; it does not at all, Senator Fletcher.

The CHAIRMAN. It is a different corporation?

Mr. HOWARD. It is a wholly owned subsidiary of the United Corporation, the Delaware Corporation.

Senator BARKLEY. It is still in existence?

Mr. HOWARD. It is still in existence, is a New York corporation.

Senator BARKLEY. I mean both of them are still in existence?

Mr. HOWARD. Both of them are still in existence.

Mr. PECORA. Mr. Howard, in looking over the balance sheet statement marked "Committee's Exhibit No. 25," I note that the corporation has 11 directors.

Mr. HOWARD. Yes.

Mr. PECORA. Composing its board. Do you know how many of them are gentlemen who are partners of J. P. Morgan & Co. or Drexel & Co.?

Mr. HOWARD. I do.

Mr. PECORA. How many?

Mr. HOWARD. Mr. Harold Stanley and Mr. George Whitney and Mr. Edward Hopkinson, Jr.

Mr. PECORA. Are any of these gentlemen on the boards connected with Bonbright & Co.?

Mr. HOWARD. Mr. Alfred L. Loomis and Mr. Landon K. Thorne are connected with Bonbright & Co.

Mr. PECORA. Originally did the bylaws of the corporation require an attendance or representation of 50 percent of the stockholders in order to constitute a quorum at its meetings?

Mr. HOWARD. I think they probably did.

Mr. PECORA. Can't you tell us definitely or don't you know?

Mr. HOWARD. Well, I know that subsequently—I don't know what the exact provision of the bylaws was—I know subsequently that the bylaws were amended to provide that four would be a quorum of record.

Mr. PECORA. You are only referring apparently to the board of directors, aren't you?

Mr. HOWARD. What did you ask me? Pardon me.

Mr. PECORA. Stockholders.

Mr. HOWARD. Oh. Certainly a majority was necessary to create a quorum.

Mr. PECORA. How many are necessary now?

Mr. HOWARD. Twenty-five percent.

Mr. PECORA. When was that change made in the bylaws?

Mr. HOWARD. At the annual meeting on the 4th of February, 1930.

Senator BARKLEY. Why did you reduce the requirement?

Mr. HOWARD. Sometimes when there are a large number of stockholders it is a very difficult thing to get a quorum of proxies, and the reduction was made wholly for that purpose and no other.

Senator KEAN. How many stockholders have you now?

Mr. HOWARD. May I see the balance sheet, which has the number of stockholders?

(The exhibit was handed to Mr. Howard.)

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At the end of last year the number of holders of common stock of the corporation was 102,100 as compared with 87,025 on December 31, the previous year, and the number of holders of the $3 cumulative preference stock was 20,485, as compared with 18,127.

Senator TOWNSEND. Both the preferred and common are entitled to vote?

Mr. HOWARD. Both; and at every meeting of the stockholders there has been more than a majority of the stock represented.

Mr. PECORA. Mr. Howard, you were president of this corporation when this change was made in its bylaws requiring a quorum of only 25 percent of its stockholders?

Mr. HOWARD. I was.

Mr. PECORA. What was the reason for that change?

Mr. HOWARD. I have just expressed the reason.

Mr. PECORA. Pardon me; I was busy conferring. I am sorry.

Mr. HOWARD. Shall I state it again?

Mr. PECORA. No; it will not be necessary. Now, I notice the name of Mr. J. E. Zimmerman as a gentleman now on the board of directors of the United Corporation. Do you know that Mr. Zimmerman was or has been connected as a director with the following corporations: Mohawk-Hudson Power Co., Public Service Corporation of New Jersey, United Gas & Improvement, Philadelphia Electric Co., United Engineers & Constructors, Niagara Hudson Power, as well as United Corporation?

Mr. HOWARD. Yes, sir.

Mr. PECORA. Now, of what public-utility companies are you a director other than United Corporation, Mr. Howard? (After a pause.) Do you have to refer to a record in order to tell us that?

Mr. HOWARD. Well, may I?

Mr. PECORA. Do you have to?

Mr. HOWARD. No; I do not have to.

Mr. PECORA. Do it from memory if you can. If you cannot, why, refer to the record.

Mr. HOWARD. I am a director of the United Corporation, and of the New York United Corporation, of United Gas Improvement Co., of the Public Service Corporation of New Jersey, of the Mohawk-Hudson Power Corporation, Niagara Hudson Power Corporation, Frontier Corporation, St. Lawrence Securities, the Electric Bond & Share Co., New York Power & Light Co., Atlas Corporation, Brooks Bros.—that is not a utility company.

Mr. PECORA. No; just utility companies.

Mr. HOWARD. Well, Atlas is not either. Of the Commonwealth & Southern Corporation, and the Columbia Gas & Electric Corporation, and the Central Hudson Gas & Electric Corporation.

I think those ones. I am not very good at feats of memory.

Senator GLASS. You have an exceptionally good memory. Are you a member of a golf club?

Mr. HOWARD. Yes; but I am a very poor player.

Senator BARKLEY. Does this corporation maintain an office in Delaware?

Mr. HOWARD. Yes. That is its principal office—statutory office.

Senator BARKLEY. Statutory office?

Mr. HOWARD. Yes; statutory office.

Senator BARKLEY. You are required to maintain one there?

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Mr. HOWARD. Yes; we are required.

Senator BARKLEY. Then you have one in Newark, N.J.?

Mr. HOWARD. Yes.

Senator BARKLEY. And your real office is in New York?

Mr. HOWARD. Yes. Technically the Delaware Corporation has no office in New York. The New York United Corporation has an office in New York.

Senator BARKLEY. What is its office maintained in Newark for where you have this office force?

Mr. HOWARD. We are qualified to do business, and we do not want to hold directors' meetings of the Delaware corporation, do not want to qualify the Delaware corporation to do business in New York, as many of its securities are held outside of the State. Consequently the qualifiers in New Jersey have an office in New Jersey and we hold our directors' meetings there.

Senator BARKLEY. Somewhat after the fashion of the meetings of the Southern Pacific Railroad in Anchorage, outside of Louisville?

Mr. HOWARD. I don't know about those.

Mr. PECORA. How large a personnel has the United Corporation in in its Newark (N.J.) office?

Mr. HOWARD. It has only an assistant secretary, Mr. Pecora.

Mr. PECORA. I am going to ask you if you will, Mr. Howard, to tell us what the purpose was of the incorporation of the New York United Corporation.

Mr. HOWARD. I expressed that purpose partly a moment ago. The Delaware corporation—we did not wish to qualify to do business in New York. For that reason the name of the New York United Co. was changed to New York United Corporation. Substantial assets were put in that corporation. That corporation then rented the offices which I have, and that corporation actually does do business in New York, and pays substantial taxes there, too.

Mr. PECORA. What was the purpose of the organization of the New York United Co.?

Mr. HOWARD. When the Delaware corporation was incorporated, as very often happens with this sort of a company, many people in many States like to take the name, and in order to protect the name not only in New York but in other States, for a time small companies with the same or substantially the same name would take place.

Mr. PECORA. Well, if that was the only purpose of it, why did that company acquire substantial blocks of securities?

Mr. HOWARD. I tell you that was the purpose upon the original incorporation. When we concluded that we should do business in New York the name was changed, and these assets were transferred to it.

Mr. PECORA. How much cash did the United Corporation receive from anybody in exchange for its capital stock in January 1929?

Mr. HOWARD. You mean the total?

Mr. PECORA. Yes, sir; the total.

Mr. HOWARD. Mr. Pecora, up to January 11, $20,700,801.10.

Mr. PECORA. And from whom did it receive that sum of money?

Mr. HOWARD. Well, I have testified already in this first transaction which I went over with you as to $700,801.10. As to the other, 10 million dollars from J. P. Morgan & Co., and 10 million dollars from Bonbright Electric Corporation.

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Mr. PECORA. You have already told us what securities issued by the United Corporation were received by J. P. Morgan & Co. for that consideration?

Mr. HOWARD. No. Only as to the securities. As to the 10 million dollars in cash, J. P. Morgan & Co. received 400,000 shares.

Mr. PECORA. Did you give us those?

Mr. HOWARD. No; I did not give you those. We were talking about only the stock transaction, not the cash transaction.

Mr. PECORA. Oh, yes.

Mr. HOWARD. As to this cash transaction, J. P. Morgan & Co. received 400,000 shares of the common stock and 1,000,000 option warrants of the United Corporation, and as to the 10 million dollars which Bonbright Electric paid in at that time they received 400,000 shares of common stock and a million option warrants of the United Corporation.

Mr. PECORA. Do you know the reason for the authorization and issuance of these option warrants which entitle the holders thereof at any time in the future to purchase from the company its common stock at $27.50 per share?

Mr. HOWARD. I was not a director or officer of the company at the time of these transactions. I don't know.

Mr. PECORA. You became its president 2 months thereafter?

Mr. HOWARD. Yes.

Mr. PECORA. Don't you know now what the advantages were considered to be of United Corporation——

Mr. HOWARD (interposing). I thought you asked me the reason.

Mr. PECORA. Or the reason—do you know now?

Mr. HOWARD. Well, I have supposed, and it has been customary in connection with the creation of the financial structure of companies similar to this, to issue various option warrants as a class of security.

Mr. PECORA. Do you mean to say that it has been customary to issue option warrants unlimited as to time?

Mr. HOWARD. Yes; it has been.

Mr. PECORA. How many other corporations did that prior to 1929?

Mr. HOWARD. Well, I don't know. But certainly there were option warrants at that time.

Mr. PECORA. What do you conceive to be the advantages to a corporation in issuing option warrants that are unlimited as to time?

Mr. HOWARD. I suppose that probably is some advantage to the corporation to have those options in the hands of various people who, if the company succeeds and the stock takes a price, pay that much cash into the company, converting their options and thereby giving that company that much additional cash capital.

Mr. PECORA. If the company succeeds at any time after it is launched, isn't that success sufficient inducement to the investing public to buy its shares?

Mr. HOWARD. It may be.

Mr. PECORA. And under such circumstances the public would buy the shares at a figure that would correspond to value at the time?

Mr. HOWARD. They would.

Mr. PECORA. Now, these option warrants entitle the holders at any time in the future to purchase the common shares of the company for a fixed price of $27.50 regardless of how much more than that the value of the stock might be?

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Mr. HOWARD. That is true.

Mr. PECORA. What are the advantages to a corporation in having option warrants issued of that character?

Mr. HOWARD. Only the advantage that I have suggested to you.

Mr. PECORA. Do you consider that an advantage?

Mr. HOWARD. I think it has been advantageous in many cases where option warrants have been issued and the option warrant holders have come in and converted those options into cash and have given the corporation additional cash capital in any way.

Mr. PECORA. Do you know of any cases where that has happened to the advantage of a corporation?

Mr. HOWARD. Well, I cannot enumerate to you now specific cases where it has happened.

Senator BULKLEY. For what consideration were the option warrants issued?

Mr. HOWARD. The option warrants—the shares and the cash were issued in each case here for the 10 million dollars in connection with the other transaction for the shares. The options were carried in at $1 an option.

Senator BULKLEY. As part payment for the price of properties acquired?

Mr. HOWARD. In some cases in part payment for shares of other securities acquired, and in these other cases for the value.

Senator BARKLEY. What is the difference between these option warrants and what are commonly called rights?

Mr. HOWARD. Well, I should think the distinction between rights would be a case where a company conclude, for example, to issue now or some time in the future, but rather immediately, some additional shares of some kind, and in those circumstances rights would be given to the stockholders to subscribe to those shares at a particular price.

Senator BARKLEY. And those rights are frequently put up for public sale and listed on the stock markets and are sold and purchased as if the stock had already been issued?

Mr. HOWARD. Yes.

Senator BARKLEY. Whoever has one of those rights or a thousand of them for which he is given a particular price enjoys the right to buy the stock represented by those rights?

Mr. HOWARD. Yes, sir.

Senator BARKLEY. At a later date at a given price?

Mr. HOWARD. Yes.

Senator BARKLEY. Regardless of the fluctuation?

Senator ADAMS. May I ask a question just right at this point? I notice on your balance sheet, Mr. Howard, under your liabilities you are carrying 14 million shares of common stock at a stated value of $5 a share.

Mr. HOWARD. Yes.

Senator ADAMS. Some 72,000,000 is the liability.

Mr. HOWARD. Yes.

Senator ADAMS. Then you carried these 3,700,000 option warrants. You carry them at a listed figure of $27.50, and your option warrant really represents a share of common stock, doesn't it? I am merely asking as a matter of bookkeeping. I just don't understand it, and I am not a bookkeeper.

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Mr. HOWARD. I am not either. I am not sure I understand what you mean. (After examining documents.) No; they are carried at nothing. Option warrants outstanding entitling holder to purchase at any time, without limit, three million seven hundred thirty-two——

Senator ADAMS (interposing). You carry a liability item of 376 million against that.

Mr. HOWARD. No; that is the capital surplus [indicating on document]. See, this thing stops here. Capital surplus 360,630,000—stock is right there, and this loan goes right over here.

Senator ADAMS. I see.

Mr. PECORA. Isn't it a fact that the company could not issue any shares of common stock except at the request or option of the option warrant holders for those option warrants?

Mr. HOWARD. Yes. I mean to procure a share of stock at $27.50 with respect to one of those options you must have an option warrant.

Mr. PECORA. Yes.

Mr. HOWARD. Yes.

Mr. PECORA. Let us assume that the United Corporation's common shares at some time subsequent to January 1929 reached a market value of $50 a share. Anyone holding any of these option warrants could immediately demand the issuance to him by the company of shares of that common stock having a market value of $50 a share for $27.50 a share?

Mr. HOWARD. Yes, sir.

Mr. PECORA. Is that right?

Mr. HOWARD. That is right.

Mr. PECORA. Then that is not an advantage to the corporation, is it?

Mr. HOWARD. Well, suppose at that time, Mr. Pecora, that the assets, the real asset value of that share, was $27.50 or something else. I should think it would all depend upon what the real value of that thing was at that time.

Mr. PECORA. It would depend on the market value, wouldn't it? You would not expect the holder of a large block of option warrants to come in and ask for the issuance of common stock in exchange for those option warrants when the common stock was selling for less than $27.50?

Mr. HOWARD. No.

Mr. PECORA. And pay $27.50 to the company for that stock, would you?

Mr. HOWARD. No.

Mr. PECORA. But it is easy to conceive that a large holder of these option warrants would avail himself of his right under those option warrants to have the common stock of the company issued to him at $27.50 when it had reached a market value considerably in excess of $27.50, is it not?

Mr. HOWARD. Quite true.

Mr. PECORA. So all the advantages of that situation would inure to the holder of the option warrants, would it not?

Senator GLASS. At the time the stock reached $50 a share, that would be true; but when the company was in need of cash it was of very material advantage to the company, was it not, to have these warrants purchased at $27.50 a share?

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Mr. HOWARD. I think one must go back to the original creation of the corporate structure and must consider the option warrants at that time.

Senator GLASS. That is what I am saying.

Mr. HOWARD. That is exactly what you are saying.

Senator GLASS. Yes.

Mr. HOWARD. But I believe there are many cases where it is an advantage, Mr. Pecora and Senator Glass, to create and sell option warrants in connection with the setting up of the company.

Mr. PECORA. Was the company called upon to issue common stock in exchange for these option warrants to any holder of option warrants at any time when the common stock of the company had a market value of less than $27.50?

Mr. HOWARD. No.

The CHAIRMAN. Are all these stocks listed on the stock exchange?

Senator GLASS. Not unless the holder of the warrant was in dire need of cash would he have been fool enough to do that.

Mr. PECORA. In such a case I apprehend the holder would be still less willing to pay for common stock more than it was worth in the market by the exercise of these option warrants.

Mr. HOWARD. You asked me, Senator Fletcher, whether these stocks were listed on the exchange?

The CHAIRMAN. Yes.

Mr. HOWARD. Most of them are; some are not.

Senator GLASS. I beg your pardon, Mr. Chairman. I did not know you had asked a question.

Mr. PECORA. To whom were any of these option warrants issued by the United Corporation?

Mr. HOWARD. I have given you—would you like to have me read the first——

Mr. PECORA. You told me J. P. Morgan & Co. got a large block of them, and the Bonbright Co.?

Mr. HOWARD. On the first transaction Morgan & Co. got 714,200. On another transaction Morgan & Co. got a million of these and Bonbright Electric Corporation a million.

Mr. PECORA. What did Morgan & Co. pay for those option warrants when it got the block of a million?

Mr. HOWARD. Morgan & Co. did not pay for them separately at that time. Morgan & Co. paid to the corporation $10,000,000 in cash and received 400,000 shares of common stock and a million option warrants, and Bonbright Electric had a similar transaction.

Mr. PECORA. What were the common shares worth at that time when Morgan & Co. received 400,000 of them in addition to the million option warrants for $10,000,000?

Mr. HOWARD. I do not know. That was on the 11th of January, and I do not know whether the shares had sold at that time on the market at all.

Mr. PECORA. Don't you know, now, Mr. Howard?

Mr. HOWARD. No; I do not Mr. Pecora.

Mr. PECORA. The transactions of the corporation with J. P. Morgan & Co. and Bonbright Co. in connection with which each of those firms received 1,000,000 option warrants were had at the same time, were they not, or about the same time, in the early part of January 1929?

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Mr. HOWARD. The 11th of January 1929; about that time.

Mr. PECORA. Do you know what the market value was of the securities in the portfolio of United Corporation at that time?

Mr. HOWARD. I have given you the market value already.

Mr. PECORA. You gave us the market value of something like $55,000,000, as I recall?

Mr. HOWARD. Yes; and those were the only securities up to the 11th of January which were in the portfolio of the United.

Mr. PECORA. Would that indicate to you what the market value was of the common shares of United Corporation?

Mr. HOWARD. It is a fact; I do not know what the value was at that time.

Mr. PECORA. Can you refer to any records showing the market value of the common shares at that time, or the book value? I will take the book value.

Mr. HOWARD. Mr. Pecora, you want the book value on the transactions of the securities which we first discussed this morning, and of the cash?

Mr. PECORA. Yes; the twenty million cash received from Bonbright & Co. and J. P. Morgan & Co. Let me suggest, Mr. Howard, that you turn to the minute book of the corporation, the minutes of the special meeting of the board of directors of the United Corporation held on the 9th of January 1929.

Mr. HOWARD. I have the minutes of the meeting of the board of January 9, 1929.

Mr. PECORA. The special meeting of the board?

Mr. HOWARD. Minutes of the special meeting of the board; yes.

Mr. PECORA. Held at the office of Winthrop, Stimson, Putnam & Roberts?

Mr. HOWARD. Held at the office of J. P. Morgan & Co.

Mr. PECORA. Will you let me look at that, please?

Mr. HOWARD. Yes, certainly [handing a volume to Mr. Pecora]. There may have been another meeting on that date; I do not know; before it or after it, on the same date. That might account for the——

Mr. PECORA. Will you look at the pages upon which are recorded the minutes of a special meeting of the board of directors of the United Corporation held at the office of Winthrop, Stimson, Putnam & Roberts, 32 Liberty Street, Borough of Manhattan, on January 9, 1929, at 10:30 o'clock, in the board room?

Mr. HOWARD. Yes.

Mr. PECORA. Do you find entered in the minutes of that meeting the receipt of a letter from J. P. Morgan & Co. to the United Corporation under date of January 9, 1929, reading as follows [reading]:

UNITED CORPORATION,
Wilmington, Del.

GENTLEMEN: We understand that you have been incorporated with an authorized capital consisting of 1,000,000 shares of first preferred stock, 2,000,000 shares of preference stock and 10,000,000 shares of common stock. We further understand that of this authorized stock you have agreed to issue the amount shown by a contract between yourselves and Messrs. J. P. Morgan & Co., a copy of which is hereto annexed marked "Exhibit A."

We hereby offer on behalf of ourselves and our associates to purchase from you 400,000 shares of your common stock and option warrants entitling the holders thereto to purchase 1,000,000 shares of common stock and to pay you for such purpose the sum of $10,000,000. We understand that the Bonbright

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Electric Corporation has likewise offered to pay to you the sum of $10,000,000 against the issuance and delivery by you of the same amount of securities. We agree to make payments to you for the above shares of common stock and option warrants on the 15th day of January 1929, at which time you agree to issue and deliver to us or our nominees temporary certificates for the common stock and option warrants which are the subject of this purchase. We understand that of the consideration to be received by you from us in payment of said common stock and option warrants $22.50 shall constitute the consideration received from the sale of each share of common stock, and $1 shall constitute the consideration received from the sale of each right represented by said option warrants to purchase 1 share of common stock at $27.50 per share, and that of the consideration received for the sale of your common stock you will capitalize $5 per share and will credit the balance of the consideration received for the common stock and the consideration received for the option warrants to surplus.

That offer was accepted, was it not, by the United Corporation?

Mr. HOWARD. Yes.

Mr. PECORA. So that on the 9th of January——

The CHAIRMAN. By whom was that signed?

Mr. PECORA. J. P. Morgan & Co.

So that on the 9th of January 1929, J. P. Morgan & Co. were enabled to purchase, under this agreement with the United Corporation, 1,000,000 of these option warrants, unlimited as to time, for a consideration of $1 for each warrant?

Mr. HOWARD. Mr. Pecora, I do not understand the transaction in that way, and I do not see how it is possible.

Mr. PECORA. Was not that the allocation of value made between the common stock and these option warrants in the very offer of J. P. Morgan & Co. as appears from the letter which I have just read?

Mr. HOWARD. Morgan & Co. paid $10,000,000 for two things, and I understand that this language is to make technical compliance under the statute of Delaware under which you receive and allocate your consideration.

Mr. PECORA. That was the allocation of the consideration as between the common stock and the option warrants, was it not?

Mr. HOWARD. There was an allocation of $1.

Mr. PECORA. And a similar offer was made by Bonbright & Co., or, to be specific, by Bonbright Electric Co., upon a similar allocation of value?

Mr. HOWARD. Yes.

Mr. PECORA. Were any option warrants at that time issued to anybody other than J. P. Morgan & Co. and Bonbright & Co.?

Mr. HOWARD. On this date?

Mr. PECORA. Yes.

Mr. HOWARD. No.

Mr. PECORA. Were any option warrants ever thereafter issued to anyone other than J. P. Morgan & Co. and Bonbright Electric Co.?

Mr. HOWARD. Yes.

Mr. PECORA. We will come to those transactions later.

Mr. HOWARD. All right.

Mr. PECORA. These option warrants entitled the holders to purchase the common stock at $27.50 a share at any time in the future?

Mr. HOWARD. Yes.

Mr. PECORA. How long after the 9th of January 1929, did the common stock of United Corporation reach a market value in excess of $27.50 per share?

Senator ADAMS. The United Corporation stock was listed, promptly after incorporation, on the stock exchange?

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Mr. HOWARD. No; it was some time after.

Mr. Pecora, in some data I have had prepared, which is all I know about it, on the Philadelphia Stock Exchange, certain units of 1 share of common and 1 share of preferred having been sold, the first notation that I find is on February 2.

Mr. PECORA. 1929?

Mr. HOWARD. 1929, when the common stock was quoted at 58½, 56½, and 56½. On the 9th of May, after the stock had been listed on the New York Stock Exchange, the corresponding prices were 67⅞, 66⅛, and 66⅛.

Senator BYRNES. What date was that?

Mr. HOWARD. May 9, 1929.

Mr. PECORA. The public offering of the shares of United Corporation initially made was in units, was it not?

Mr. HOWARD. Mr. Pecora, I know nothing about the details of that offer personally. The offering was not made, as you know, by the corporation.

Mr. PECORA. The stock was issued in units, was it not?

Mr. HOWARD. It was issued in units of 1 share of common and 1 share of preferred.

Mr. PECORA. From your quotations before you have you any quotations showing the market values for the preferred stock?

Mr. HOWARD. I have some unit figures, if you are interested in those.

Mr. PECORA. Give me those, please.

Mr. HOWARD. On January 21, on the Philadelphia Stock Exchange, the unit figure was 99.

Mr. PECORA. That is enough for my purposes now.

May I at this time withdraw this witness temporarily and ask Mr. George Whitney to resume the stand?

Senator GLASS. Just wait a moment. Mr. Chairman, I am tired of sitting around the table here in absolute ignorance of where we are going or where we are being taken or what is expected to be adduced from the examination of the witnesses. I think the members of the committee are entitled to know some of these things so that they may receive the testimony with some degree of appreciation of its significance, if it has any, and that they may themselves interrogate witnesses with some degree of intelligence. I do not know what all this has meant this morning.

I want to ask the witness now if any of the transactions enumerated have been, to his knowledge or belief, contrary to the law of any of the States in which this company operates, or contrary to any Federal statute.

Mr. HOWARD. No, sir.

Senator GLASS. I note from the chart presented here that this company operates over a pretty wide territory. I do not know why they should have given so much attention to the State of Michigan and none to the State of Virginia; but is there any violation of any Federal law, such as the Sherman antitrust law, or of any Federal statute in your interstate activities?

Mr. HOWARD. No, sir.

Senator GLASS. Well, I am still in doubt as to what it is all about.

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Mr. HOWARD. May I say to you, Senator Glass—and with great respect to you, Mr. Pecora—that all these transactions, as you probably know, have been examined in great detail by the Federal Trade Commission. That may or may not have a bearing on your inquiry.

Mr. PECORA. I learned that for the first time a day or two ago from the public press.

Senator GLASS. Has the Federal Trade Commission made any criticism of your transactions, or has it on any occasion required the company to change its practices as being dangerous to public policy?

Mr. HOWARD. This hearing under Senate resolution in reference to utility holding companies and utility operating companies has been going on for several years.

Senator GLASS. I say, has the Commission up to this time taken any action of prohibition?

Mr. HOWARD. No, sir.

Senator GLASS. Or of modification of your activities?

Mr. HOWARD. No, sir.

Senator BARKLEY. The Commission has not made its report yet, has it?

Mr. HOWARD. I think it has, on United.

Senator BARKLEY. I mean, on the general investigation.

Mr. HOWARD. It has been making periodic reports from time to time.

Senator BARKLEY. The complete report has not been made, has it?

Mr. HOWARD. No, sir; the complete report has not been made.

Senator GLASS. At all events, up to within the period prior to the beginning of the hearing has the Federal Trade Commission interposed any objections to the activities of this company?

Mr. HOWARD. No, sir.

Senator KEAN. It has made its report on your company, has it not?

Mr. HOWARD. I think it has.

Senator GLASS. Whether it has or not, I am talking about prior to the beginning of that investigation.

Mr. HOWARD. No, sir.

Senator GLASS. I do not know how much the house of Morgan made out of its transactions with your company, but if it made a considerable sum was it in contravention of any law of the State of Delaware, where you have your charter rights listed, or of the State of New Jersey, where you have a suboffice, or of the State of New York, where you seem to transact most of your business?

Mr. HOWARD. How much money they made, if any, by the sale of the securities of this corporation, if they sold any, I do not know. Senator Glass.

Senator GLASS. Well, I assume that they tried to make a reasonable amount, did they not? Would you not assume that?

Mr. HOWARD. I assume they did; yes.

Senator GLASS. Sometimes I imagine, from a different point of view, they tried to make an unreasonable amount; but that depends altogether on the point of view; and the point of view depends upon the risk taken and a multiplicity of other considerations. Is not that so?

Mr. HOWARD. That is so.

Senator GLASS. I would just like to know what it is all about.

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Senator KEAN. I would like to ask the witness whether it is not quite customary to issue, and has been customary for a long number of years, to issue convertible bonds?

Mr. HOWARD. It has been.

Senator KEAN. And the railroads have used convertible bonds approved by the Interstate Commerce Commission; and a convertible bond during the outstanding of the bond is a perpetual option to buy the stock, is it not?

Mr. HOWARD. Exactly like this; and the same with respect to convertible preferred stock.

Senator ADAMS. How many of these warrants were turned in for stock?

Mr. HOWARD. Converted?

Senator ADAMS. Yes.

Senator COUZENS. While they are looking that up, Mr. Chairman, I wonder if we could get an answer to Senator Glass's question as to what this is all about.

The CHAIRMAN. I do not see how we can anticipate what Mr. Pecora expects to develop.

Senator GLASS. But, Mr. Chairman, we could have anticipated if the committee had been told by counsel what he wanted to prove.

Mr. PECORA. I shall be very glad to comply with the Senator's suggestion and answer as to what it is all about, or at least what, in my humble opinion, it is all about.

The resolution under which this hearing is being held, Senate Resolution 56, a copy of which I have before me, reads as follows, in part:

Resolved, That the Committee on Banking and Currency, or any duly authorized subcommittee thereof, in addition to the authority granted under S.Res. 84 * * * shall have authority and hereby is directed—

(1) To make a thorough and complete investigation of the operation by any person, firm, copartnership, company, association, corporation, or other entity, of the business of banking, financing, and extending credit; and of the business of issuing, offering, or selling securities;

(2) To make a thorough and complete investigation of the business conduct and practices of security exchanges and of the members thereof;

(3) To make a thorough and complete investigation of the business conduct and practices of security exchanges and of the members thereof;

(3) To make a thorough and complete investigation of the practices with respect to the buying and selling and the borrowing and lending of securities which are traded in upon the various security exchanges, or on the over-the-counter market, or on any other market; and of the values of such securities; and

(4) To make a thorough and complete investigation of the effect of all such business operations and practices upon interstate and foreign commerce, upon the industrial and commercial credit structure of the United States, upon the operation of the national banking system and the Federal Reserve System, and upon the market for securities of the United States Government, and the desirability of the exercise of the taxing power of the United States with respect to any such business and any such securities, and the desirability of limiting or prohibiting the use of the mails, the telegraph, the telephone, the radio, and any other facilities of interstate commerce or communication with respect to any such operations and practices deemed fraudulent or contrary to the public interest.

There are other portions of the resolution which I have not read.

Senator COUZENS. May I ask the chairman to rule upon this question of the Senator from Virginia, as to whether we are proceeding under the resolution?

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The CHAIRMAN. We are proceeding under the resolution, and following that resolution the committee met, the subcommittee, and selected Mr. Pecora as their counsel and instructed him to proceed, in accordance with that resolution, with this investigation.

Senator COUZENS. I ask the Chair if that is not a complete answer to the Senator from Virginia.

Senator GLASS. No; it is not. The Senator from Virginia can answer for himself, and not have the chairman or any other member of this committee answer for him.

The CHAIRMAN. That is the authority under which we are acting and that is the authority under which we are proceeding——

Senator GLASS. Hold on. The Senator from Virginia is going to express himself, and there is no authority in this committee to prevent him from expressing himself.

I say that in compliance with this resolution Mr. Pecora and his numerous investigators went to New York and made this preliminary investigation, having had access to all of the books of this and perhaps other concerns—we do not know how many other concerns; he obtained apparently complete information as to those things—and I have said and I insist now that it was his duty to have come here to Washington and have appeared before the subcommittee of which I am a member and to have told us what he found, what significance he attached to what he found, and what he proposed to establish by the investigation before this committee, and not have to brought the members of the committee here before a crowded assembly room without knowing one solitary thing about the meaning of all this. And I say that is so, and other members of the committee agree with me.

Mr. PECORA. May I remind Senator Glass that after the enactment——

Senator GLASS. So far as that is concerned, now, since the Senator from Michigan raises the issue, I have examined the minutes of the various meetings of the subcommittee, and I do not find that at any meeting of the subcommittee the employment of Mr. Pecora was authorized.

The CHAIRMAN. The minutes have not been written up, then. That is all I can say about that. I know he was employed, and the subcommittee did it unanimously.

Senator COSTIGAN. I agree with what the chairman says, as a member of the subcommittee. There can be no question, in my judgment, about the employment of Mr. Pecora.

Senator GLASS. I have within the three last hours examined the minutes in detail. It may have been that the employment was authorized, but there is no record of it. That is immaterial, because I think the committee is satisfied with Mr. Pecora's employment. But the Senator from Michigan seems always willing to dig me——

Senator COUZENS. I deny that.

Senator GLASS (continuing). And has undertaken to challenge my right here to insist upon some knowledge beforehand of what we are to sit around this table all day long to listen to.

Senator BYRNES. May I suggest this? Mr. Pecora, having read the resolution, would it accomplish the purpose of the examination if he could make a statement instead of propounding all these questions?

The CHAIRMAN. I think he has stated the new resolution and what he has directed to be done.

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Mr. PECORA. I was coming to that when I was interrupted——

Senator COSTIGAN (interposing). Mr. Chairman, before Mr. Pecora proceeds further I desire to say that I have just entered the room, and I do not want to be recorded as committed to any of the statements which have preceded my entrance. It was my understanding that one statement was made to the effect that all members of the committee were agreed on some course of procedure or on some view of the evidence——

Senator BYRNES (interposing). Oh, no; Senator Costigan.

Senator COSTIGAN. I did not hear precisely the purport of that statement, and I speak now solely in order that I may have a chance to examine the record before I appear to be committed.

Senator BYRNES. Senator Costigan, I do not think any such statement was made.

Senator BARKLEY. I suggest that in executive session this morning we agreed to recess at 1 o'clock today until next Wednesday. That hour having arrived I wish to make a motion——

The CHAIRMAN (interposing). Let Mr. Pecora make a statement first.

Senator BARKLEY. I have no objection to his doing that.

Mr. PECORA. This particular line of examination, into the activities and operations of the issuance of securities of the United Corporation, is being conducted under that clause of the resolution which empowers and directs the committee to make a thorough and complete investigation, among other things, of the business of banking, financing, and extending credit, and of the business of issuing, floating or selling securities. This United Corporation it has already been shown, to the extent that I have been permitted to proceed up to the present moment, is a corporation that has issued hundreds of millions of dollars of securities to the investing public. And certainly its size and the area of its operations were deemed to be of sufficient importance to merit the attention of this committee under this resolution. It has already further been shown by the evidence presented at this hearing, that 1,000,000 option warrants were issued to J. P. Morgan & Co. for an allocated value or consideration of $1 each, and a similar amount for a similar valuation to the banking house of Bonbright & Co.; that those option warrants are unlimited as to time, and entitled the holders thereof to purchase for each warrant a share of the common stock of the United Corporation at $27.50. It has already been shown at this hearing that within a few days after the issuance of those option warrants for that consideration of $1 each, the common stock of this company was traded i on the public exchange in Philadelphia at prices doubling or more the sum of $27.50.

Now, there was proof, and the proof on that has not yet been completed, gentlemen of the committee, that the securities of the United Corporation were issued under circumstances and upon terms that enabled a very small number or group of individuals to acquire, at terms certainly against the interests of the corporation, those of its securities that are called option warrants. Now, I want to pursue the inquiry further, and I think the developments will throw considerable light on a certain phase of the business of issuing and floating and selling securities.

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Senator GLASS. Now, let me ask Mr. Pecora if he did not ascertain all these things by reason of his investigation in New York, and if he could not have made to the subcommittee, prior to the meeting of the general committee, just the statement that he has made here, that he expected to develop those facts.

Mr. PECORA. Senator Glass, if I had to come to Washington to consult the members of the subcommittee every time I had any development to report——

Senator GLASS (interposing). I did not ask you that.

Mr. PECORA (continuing). I would have been busy taking every train between New York and Washington.

Senator GLASS. I did not ask you about every time you discovered anything or had any development. What I wanted you to do was to come here at some time after you completed your investigation and given to us some idea of what you proposed to develop here, in order that we might not waste our valuable time sitting around a table here listening to questions propounded and answers given which were of no significance to a man of ordinary intelligence, if I have ordinary intelligence.

Mr. PECORA. Senator Glass will probably recall that in the latter part of March, or shortly after the adoption of Senate Resolution 56, under which this committee is functioning, I appeared before a meeting of the Senate Banking and Currency Committee and outlined to the members thereof the general scope, the lines of inquiry that I was about to undertake as counsel for the committee. I specifically read to the members of the committee at that meeting the draft of the "questionnaire", so-called, that has been alluded to in the evidence here in the past few days, which I had sent to J. P. Morgan & Co. and other private banking firms doing business in the city of New York.

Now, that questionaire to a definite extent suggested quite fully I think the lines and scope of the inquiry that I was undertaking to pursue as counsel for the committee. Since that time I have received not a single request from any Senator on the committee for any further or more specfic advices or information concerning what I was doing. In view of that I have been, with the exception of one visit to Washington that I made about 3 weeks ago, spending my time in the city of New York, from early morn until late at night, engaged on this preliminary investigative work.

And I want to add that I did not seek this assignment as counsel to the committee. I appreciated and I still appreciate the honor and the dignity and opportunity for service in having been asked to serve as committee counsel. I have been happy to render whatever service, modestly I could render as counsel to the committee; and I want to assure Senator Glass that the compensation of $255 a month which I am receiving for these services certainly is no incentive to me to render these services or to continue to render them. [Applause in the room, on the part of spectators, loud and long continued.]

Senator GLASS. I will say to the counsel to the committee that——

The CHAIRMAN (interposing). Let us have order in the room. Order, please.

Senator GLASS. Oh, yes; that is what it is all about. We are having a circus, and the only things lacking now are peanuts and colored lemonade. [Laughter, and applause.]

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The CHAIRMAN. Let us have order.

Senator GLASS. I want to say to the counsel to the committee that the mere sending out of interrogations to bankers did not constitute for the purpose of the committee evidence of data which should have been submitted to the subcommittee.

As I have said and as I insist, so far as the compensation of counsel to the committee is concerned, and I want to say this to the counsel and to the committee, I was utterly opposed to an arrangement of that sort. I do not think that this counsel or any other counsel ought to be required to come here to Washington or to go to New York or anywhere else and work for the United States Senate without adequate compensation. And I was in favor of giving whatever counsel might be employed adequate compensation.

The CHAIRMAN. Senator Glass realizes, I am sure, that——

Senator GLASS (continuing). And I do not imagine that counsel for the committee is working just for the $255 a month. Far from it.

The CHAIRMAN. I am sure the Senator realizes that the statute on that subject limits the amount which a Senate committee can pay.

Senator GLASS. And I realize that we could have passed a resolution through the United States Senate authorizing the employment of counsel for this work. Now, I think counsel to the committee wants to make a further statement before we adjourn.

Senator BYRNES. Mr. Chairman.

Senator KEAN. Mr. Chairman, I should like to ask the witness a couple of questions before he leaves the committee table.

Senator COUZENS. Mr. Chairman, we agreed to adjourn at 1 o'clock today.

The CHAIRMAN. I know, but Senator Kean wants to ask a couple of questions, and he may now do it.

Senator COSTIGAN. Mr. Chairman, before the questioning proceeds I desire to say one word.

The CHAIRMAN. Very well, Senator Costigan.

Senator COSTIGAN. As a member of the committee I wish to express at this time my appreciation of the ability and the efficiency of counsel for the committee. Also to state that in my judgment the investigation thus far conducted has been relevant and material.

The CHAIRMAN. Senator Kean, do you want to ask a question?

Senator KEAN. Mr. Howard, I should like to know at what price the stock of your company is selling at the present time.

Mr. HOWARD. I think about $8 or $9 a share. I do not know the quotation today.

Senator KEAN. Then the people who had those options and have exercised them at $27 and what was the price?

Mr. HOWARD. It was $27.50.

Senator KEAN. At the price of $27.50 a share, at the present time they have made a real contribution to the company's capital, haven't they?

Mr. HOWARD. They did.

The CHAIRMAN. If they held them?

Mr. HOWARD. Yes.

Senator BYRNES. Mr. Chairman, I should like to ask: Is it the desire of counsel to the committee to ask Mr. Whitney to return to the stand for any specific purpose before this session is adjourned?

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Mr. PECORA. I think in view of the hour, if it be the pleasure of the committee, that we might suspend the examination of witnesses at this point.

Senator BYRNES. Is there anything more?

Mr. PECORA. I think I have reached the stage in this particular line of examination that——

Senator COSTIGAN (interposing). I hope the witness will not be excused without an opportunity being afforded to members of the committee to ask further questions.

Senator BYRNES. Counsel to the committee has called Mr. Whitney to the stand for some purpose.

Senator COSTIGAN. And Mr. Howard will return?

Mr. HOWARD. That is what I want to know.

The CHAIRMAN. Mr. Pecora has another statement to make.

Mr. HOWARD. That will be next Wednesday?

Mr. PECORA. I believe so.

The CHAIRMAN. We will decide that, but I think it will be next Wednesday.

Mr. PECORA. Mr. Chairman and Senators, my attention has been called to certain publications in the press of today to the effect that I had threatened to resign on last Tuesday and make a public statement unless the committee rendered a decision with regard to certain matters that it considered in its executive session on the afternoon of last Tuesday, which I thought was proper. I want to say that I never made any threat of any such character. The members of the committee I am satisfied did not hear me make any such threat, and I never made any statement to anybody, in or out of the committee room, or anywhere else on this green earth, that I had made any such threat to resign. Is that satisfactory, Senator Glass?

Senator GLASS. Entirely satisfactory, except that the statement contains the vote in executive session.

Senator BYRNES. Well, Mr. Pecora has stated that he did not make that statement.

Senator GLASS. I never cast a vote in my life in executive session or anywhere else in the Congress of the United States in 32 years that I objected to having published. When this committee has an executive session the supposition is that it is a confidential meeting of the committee, and that what occurs should not be revealed. And in connection with the statement that Mr. Pecora threatened to resign, which was absolutely untrue because I sat right beside him in the committee and he made no such threat, we have published accurately the vote that took place in the subcommittee. That may go for what it is worth.

Mr. PECORA. As to that may I also disclaim any measure of responsibility, for the publication of the vote.

The CHAIRMAN. And as chairman of the committee I say the same thing. I never gave any such information to anybody.

Senator BARKLEY. Mr. Chairman, I should like to make just this observation: I think it ought to be said that so far as the subcommittee or the general committee are concerned, according to my view at least, Mr. Pecora's services in connection with this investigation have been efficient and of value. And I frankly say that I was amazed when I saw in a paper a day or two ago that he is only receiving the compensation which he has this morning stated he is receiving. As

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a matter of orderly procedure, however, I think it would have been better if the subcommittee had been called and Mr. Pecora had been asked to briefly outline what he proposed to prove. Whose fault it was that the subcommittee did not meet, and that such preliminary report was not made, I do not know. But I do not think the fact that it was not called and that he did not make such report is to be blamed upon anybody particularly, or that it ought to interfere with the orderly procedure of this committee in continuing this investigation.

Senator BYRNES. Mr. Chairman, we will continue on next Wednesday morning at 10 o'clock, I believe?

The CHAIRMAN. I want to say as chairman of the subcommittee that I became chairman when this extra session was called on March 4. Prior to that time Senator Norbeck was the chairman of the committee. And the subcommittee has continued the same as it was under him. Senator Norbeck has not been a well man. He has not been able to get together his own committee from time to time to hold sessions if he desired to do so. When I became chairman, as Mr. Pecora has stated, he came here at our instance and made his statement; in fact, we asked him to prepare this resolution. He prepared the resolution, and I introduced it after the committee had seen it and knew of it.

Senator GLASS. Why, I voted for it.

The CHAIRMAN. Absolutely. And this resolution was passed unanimously. That is the authority under which we are acting, is the direction under which we are acting. After that, as Mr. Pecora has stated, he came here before the committee, outlined the plan and purposes he had in view, and submitted the interrogatories he was going to propose. That was all explained before the full committee, not merely the subcommittee but the whole committee. They all told him to go on. I have not asked him to come down here and report to me from time to time because I knew he was busy with his work. I have been in communication with him. He has told me from time to time that he was going along with the work, that he had so many people for this, that, and the other thing, and that he was carrying out the purposes of the resolution. I have trusted him. He was selected by the committee and I had no reason to doubt but what he was acting in thorough good faith in carrying out this resolution, none in the world.

I have been very proud of the work that Mr. Pecora has done. I think it has been quite efficient and thorough, so far as I have been able to keep up with it. He has not been called down here to report to us from time to time what he was doing in detail. The fact is——[Applause.] The fact is that he has been in touch with our office here. He has had Mr. Marrinan here in connection with his work. He has had him to come to New York to report from time to time, and has instructed him what to do here, and how to do it. And they have been in communication, not only as respects themselves but with regard to going into details in a general way with me. I have not asked the committee to meet together to ask Mr. Pecora to come down here and lay before them what he was doing, and how he was doing it, and what it all meant or would lead to or what he supposed it would mean. But he has been busy, and we have all been busy. He set this date, May 23, himself, for the hearing. I have followed his

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request about that, and the committee has, and we set that date for the hearing. I supposed he would be here on Saturday before the Tuesday, and I wanted to get the committee together to confer with him before the meeting, but he was occupied and he could not get here before the time set for the meeting. So that there has been nothing that the subcommittee could do except to tell him as counsel for the committee to proceed with this work and do it as the law requires and as we expected it to be done.

Senator BYRNES. Mr. Chairman, I am not on the subcommittee, but——

Senator GLASS (interposing). Now, Mr. Chairman——

Senator BYRNES (continuing). Mr. Chairman, there is no motion before the whole committee with reference to the services of counsel. We were to adjourn at 1 o'clock to meet next Wednesday, at which time we expect Mr. Pecora to proceed with the investigation. And in accordance with the agreement, I move that the committee do now adjourn.

Senator GLASS. Mr. Chairman, I hope the Senator won't make that motion. I do not intend to be put in an unreasonable attitude.

Senator BYRNES. Then I withhold my motion.

Senator GLASS. And I am perfectly indifferent to clamor or applause. I want that understood. I still say that it would have facilitated the operations of this hearing, and would have enabled the members of this committee to have come in session with some comprehension of what has been discovered by Mr. Pecora, and what he expected to develop here, had he come to Washington and laid before the subcommittee, briefly, the results of his examinations in New York. I say that again. And member after member of the committee have agreed that that would have been the better course to pursue. Now, I do not care anything about the house of Morgan. The house of Morgan never loaned me a dollar in their lives and very likely never would, in any way, shape or form——

Senator COUZENS. Unless you were properly introduced.

Senator ADAMS. And they told Senator Fletcher that they would not take a deposit from him.

Senator GLASS. I am not careful of the house of Morgan except that I am careful of the dignity and orderly procedure of this committee. And as one member of this committee I do not intend to see any injustice done to the house of Morgan or any other house, whether it be of large consequence or of little consequence or of no consequence. That is my attitude, and it is the attitude I intend to maintain to the end of these hearings. I am not afraid to do J. P. Morgan & Co. justice, and if they have done anything they ought not to have done I am not afraid to legislate accordingly. And I want to call to the attention of this committee that the only sentence of statutory legislation that has been put upon the books, that has been offered in either branch of Congress, was framed by me; the only solitary sentence of statutary law that would have corrected the things that we have here talked about was framed by me and passed under my management on the floor of the United States Senate.

Senator ADAMS. Mr. Chairman, might I make a suggestion?

The CHAIRMAN. Certainly, Senator Adams.

Senator ADAMS. These things that have transpired are things of the past. I am not a member of the subcommittee, like Senator

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Byrnes, but if the committee or the subcommittee feel that counsel should make some statement to them in advance, I am satisfied that in the future they would have no difficulty with counsel as to advice in advance as to the prospects. But I do not believe we are getting very far in going back over these things of the past. I am not a member of the subcommittee but I would suggest——

Senator BYRNES (interposing). Mr. Chairman, I renew my motion to adjourn.

Senator GLASS. That does not alter my contention that it ought to have been done in the past.

The CHAIRMAN. Senator Byrnes, your motion is to adjourn until Wednesday, next, at 10 o'clock a.m.

Senator Byrnes. Yes, sir. At the hour stated, 10 o'clock a.m. on next Wednesday.

The CHAIRMAN. Senator Byrnes has moved that the committee do now adjourn until 10 o'clock next Wednesday, May 31, 1933. All in favor of the motion make it known by saying aye. (A number of ayes.) Those opposed will say no. (Silence.) The ayes have it. All witnesses will be in attendance on next Wednesday. The committee will now stand adjourned until that time.

(Thereupon, at 1:25 p.m., Friday, May 26, 1933, the committee adjourned until 10 a.m., Wednesday, May 31, 1933.)

COMMITTEE EXHIBIT NO. 22 OF MAY 26, 1933

CERTIFICATE OF INCORPORATION OF THE UNITED CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF DELAWARE

First. The name of the corporation (which is hereinafter referred to as the corporation) is the United Corporation.

Second. The location of its principal office in the State of Delaware is no. 7 West Tenth Street, in the city of Wilmington, county of New Castle. The name of the agent therein and in charge thereof is the Corporation Trust Co. of America, of no. 7 West Tenth Street, Wilmington, Del.

Third. The nature of the business of the corporation or objects or purposes proposed to be transacted, promoted, or carried on by it are:

1. To acquire and hold the securities of electric power and light and gas companies and other public-utility companies and companies owning the stocks or securities of public-utility companies.

2. To acquire and hold the securities of companies engaged in the business of managing or operating, or supervising the management or operation of public-utility companies, and companies doing a general construction, engineering or contracting business with public utility and other companies.

3. To invest and deal with the moneys of the corporation in any manner, and to acquire by purchase, by the exchange of stock, or other securities of the corporation, by subscription or otherwise, and to invest in, to hold for investment, or for any other purpose, and to deal in and to use, sell, pledge, or otherwise dispose of any stocks, bonds, notes, debentures, and other securities and obligations of any Government, State, municipality, or corporation or association, or partnership, domestic or foreign (including without prejudice to the generality of the foregoing the companies described in pars. 1 and 2 above), and while owner of any such stocks, bonds, notes, debentures, or other securities or obligations to exercise all the rights, powers, and privileges of ownership, including among other things the right to vote thereon for any and all purposes.

4. Either directly or through subsidiary companies to engage in the business of managing, operating, and/or supervising the management or operation of public-utility companies.

5. Either directly or through subsidiary companies to do a general construction and engineering business with public utility and other companies.

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6. To act as financial or business and/or purchasing agent, general or special.

7. To aid in any lawful manner by loan, subsidy, guaranty, or otherwise, any company whose stock, bonds, notes, debentures, or other securities or obligations are held or controlled directly or indirectly by the corporation, and to do any and all lawful acts or things necessary or advisable to protect, preserve, improve, or enhance the value of any such stocks, bonds, notes, debentures, or other securities or obligations.

8. To guarantee and to assume the payment of any dividends on any shares of the capital stock of any company in which the corporation may either directly or indirectly have an interest as stockholder or otherwise, and to assume and to guarantee by endorsement or otherwise the payment of the principal of and the interest on bonds, notes, or other obligations created or to be created by any such company.

9. To acquire, to develop, to improve, to sell, to assign, to transfer, to convey, to lease, to sublease, to pledge, and to otherwise alienate and dispose of and to mortgage or otherwise encumber real property situate in any part of the world and the fixtures and personal property incident thereto or connected therewith.

10. To develop and turn to account any land owned by the corporation or in which it has an interest directly or indirectly, and among other things, to lay out and prepare the same for building purposes and to construct, alter, and equip buildings and let the same by lease or agreement or otherwise and to advance money to and enter into contracts and arrangements of all kinds with builders, contractors, tenants, and others.

11. To purchase, to sell, to manufacture, and generally to deal in building materials and goods, wares, and merchandise, and to carry on any other lawful trade or business incidental to or proper or useful in connection with the purchase, sale, ownership, construction, and equipment of its property.

12. To acquire, to hold, to own, to make, to dispose of, and generally to deal in grants, concessions, franchises, rights of way, and contracts of every kind from or with any person, firm, association, corporation, private, public, or municipal, or body politic, and from or with the Government or public authorities of the United States, or of any State, territory, possession or dependency thereof, or from or with the District of Columbia, or from or with any foreign Government; to cause to be formed, to promote, and to aid in any way in the formation of any corporation or association, domestic or foreign.

13. To make and enter into all manner and kinds of contracts, agreements, and obligations for the purchasing, acquiring, dealing in or selling of any and all kinds of property, real and personal.

14. To borrow money, to issue bonds, debentures, notes or other obligations secured or unsecured by the corporation; to secure the same by mortgage or mortgages, or deed or deeds of trust, or pledge, or other lien upon any or all of the property, rights, privileges, and franchises of the corporation wheresoever situate, acquired, or to be acquired; to confer upon the holders of any debentures, bonds, or other obligations of the corporation secured or unsecured the right to convert the same into any class of stock of any series of the corporation now or hereafter to be issued upon such terms as shall be fixed by the board of directors; to sell, to pledge, and to otherwise dispose of any or all bonds, debentures, notes, or other obligations of the corporation; to purchase and to otherwise acquire shares of its own capital stock and to hold, to sell, to assign, to transfer, and to reissue any or all of such shares.

15. To acquire, to hold, to use, to sell, to assign, to lease, to mortgage, and to otherwise dispose of letters patent of the United States or of any other country, patents, patent rights, copyrights, licenses, and privileges, inventions, improvements and processes, trade marks and trade names or pending applications therefore, relating to or useful in connection with any business of the corporation or of any other company or association in which the corporation may have an interest directly or indirectly as a stockholder or otherwise.

16. To deal in stocks and securities either as an agent or broker, or otherwise; to make advances or loans, upon the pledge of securities to be bought, sold, or otherwise dealt in, or without security, so far as may be permitted by law.

17. To have and to exercise all the powers now or hereafter conferred by the laws of the State of Delaware upon corporations organized under the laws under which the corporation is organized and any and all acts amendatory thereof and supplemental thereto.

18. To conduct business in the State of Delaware, other States, the District of Columbia, the Territories and Colonies of the United States, and in foreign countries, and to have one or more offices out of the State of Delaware, as well as

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within said State, and to hold, purchase, mortgage, and convey real and persona property out of the State of Delaware as well as within said State: *Provided, however*, That nothing herein contained shall be deemed to authorize the corporation to construct, maintain, and/or to operate public utilities within the State of Delaware.

19. Generally to carry on and undertake any other lawful business of the same general nature, which may from time to time seem to the directors of the corporation capable of being conveniently carried on in connection with the above objects, or calculated directly or indirectly to render valuable or enhance the value of any of the corporation's properties, privileges, or rights.

20. Generally to perform any and all acts connected with, arising from or incidental to the business to be carried on by the corporation, and to do all acts proper and necessary for the purposes of its business.

The foregoing clauses shall be construed both as objects and powers; and the foregoing enumeration of specific powers shall not be held to limit or restrict in any manner the powers of the corporation.

Fourth. The total number of shares of capital stock authorized and which may be issued by the corporation is 13,000,000 shares, all without nominal or par value, of which 1,000,000 shares shall be first preferred stock, 2,000,000 shares shall be preference stock, and 10,000,000 shares common stock.

A description of the different classes of stock of the corporation, a statement of the relative rights of the holders of stock of such classes, a statement of the limits of variation between each series of preference stock as to amount of preference upon distribution of assets, rate of dividends, premium on redemption, conversion price or otherwise, and a statement of the voting powers and the designations, preferences, and relative, participating, optional or other special rights or qualifications, limitations, or restrictions thereof of the various classes of stock or series thereof, except so far as the board of directors is expressly authorized to determine the same for the various series of the first preferred stock and of the preference stock are as follows:

FIRST PREFERRED STOCK

(A) First preferred stock of the corporation may be issued in various series, as may be determined from time to time by the board of directors, each of such series of first preferred stock shall be alike in every particular and all series hereafter created shall rank equally and be identical in all respects, except as hereinafter in paragraphs (1) to (5), inclusive, of this clause A set forth:

(1) The dividend rate on the first preferred stock of each series shall be such rate as may be determined by the board of directors of the corporation in the resolutions providing for the issuance of the first preferred stock of such series and as shall be stated in the certificate of stock therefor.

(2) The first preferred stock of any series may, but need not be, made redeemable at the option of the corporation at such price (not less than $100, nor more than $115 per share, plus in each case an amount equal to all cumulative dividends on such share, both accrued up to the date fixed for redemption, whether or not the same shall have been declared or earned, and in arrears) as may be determined by the board of directors in the resolutions providing for the issuance of the first preferred stock of such series and as shall be stated in the certificates of stock therefor.

(3) The dates on which dividends, if declared, shall be payable in the case of first preferred stock of each series, shall be such dates as may be fixed by the board of directors in the resolutions providing for the issuance of the first preferred stock of such series and as shall be stated in the certificates of stock therefor. The periods between such dates, commencing on such dates, are herein designated as "dividend periods".

(4) The board of directors may, in connection with the issue of any series of first preferred stock, provide for a sinking fund for the first preferred stock of such series, installments for which may be made payable in priority to any dividends upon the preference stock and/or the common stock of the corporation, to be applied to the purchase or redemption of shares of such series, the terms and provisions governing the operation of any such sinking fund to be determined by the board of directors in the resolutions providing for the issuance of the first preferred stock of such series and as shall be stated in the certificate of stock therefor. The first preferred stock retired by the operation of any such sinking fund shall not be reissued.

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(5) The board of directors may, in connection with the issue of any series of first preferred stock, provide that the shares of such series may be convertible into, or exchangeable for, shares of any other class or classes or of any other series of the same or any other class or classes of stock of this corporation, at such conversion price or prices or at such rates of exchange and with such adjustments as shall be stated and expressed by the board of directors in the resolutions providing for the issuance of the first preferred stock of such series and as shall be stated in the certificates of stock therefor.

(B) The following provisions shall apply to all the first preferred stock of the corporation irrespective of any variations between the first preferred stock of the different series:

(1) The holders of the first preferred stock of each series shall be entitled to receive dividends payable on such dates as may be determined for such series, when and as declared by the board of directors, at the rates determined for the respective series, from the first day of the current dividend period within which such stock shall have been originally issued, before any dividend shall be declared or paid upon or set apart for preference stock and/or the common stock of the corporation and before any payments are made to any sinking fund created as herein provided for any series of first preferred stock and/or preference stock. Such dividends shall be cumulative, so that, if in any dividend period or periods dividends shall not have been paid or declared and set apart for payment upon all outstanding first preferred stock at the rates determined for the respective series, the deficiency shall be fully paid, or declared and set apart for payment, before any dividends shall be declared or paid upon or set apart for the preference stock and/or the common stock of the corporation and before any payments are made to any sinking fund created as herein provided for any series of first preferred stock and/or preference stock. Dividends shall not be declared and paid on the first preferred stock of any one series for any dividend period unless dividends have been paid or declared and set apart for payment thereof at the same time on the first preferred stock of all series, for all the dividend periods terminating on the same or an earlier date.

(2) When full cumulative dividends as aforesaid upon the first preferred stock of all series then outstanding for all part dividend periods and for the current dividend periods shall have been paid or declared and set apart for payment, and after complying with all provisions in respect of any sinking fund or funds for the first preferred stock of any series entitled thereto, installments for which have been made payable in priority to any dividends on the preference stock and the common stock of the corporation, the board of directors may, subject to the provisions hereof in respect to the preference and common stock, declare dividends on the preference stock and/or the common stock of the corporation, and no holders of any series of the first preferred stock as such shall be entitled to share therein.

(3) Upon any dissolution, liquidation or winding up of the corporation, whether voluntary or involuntary, or upon any reduction of that portion of the capital of the corporation that has been set up out of the consideration received for any of the shares of the common stock of the corporation, followed presently by the distribution to stockholders of assets of the corporation which have been constituted surplus by such reduction, the holders of the first preferred stock of every series shall be entitled to receive out of the assets of the corporation $100 per share, plus an amount equal to accrued dividends, before any distribution of the asset to be distributed shall be made to the holders of preference and/or common stock of the corporation; but they shall be entitled to no further participation in such distribution.

After payment to the holders of the first preferred stock of the full preferential amounts hereinbefore provided for, the holders of the first preferred stock as such shall have no right or claim to any of the remaining assets of the corporation, either upon any distribution of surplus assets or upon dissolution, liquidation, or winding up. The remaining assets to be distributed, if any, upon a distribution of surplus assets or upon dissolution, liquidation, or winding up, shall be distributed among the holders of the preference stock and/or the common stock of the corporation. The sale of all the property of the corporation to, or the merger or consolidation of the corporation with or into, any other corporation shall not be or be deemed to be a distribution of assets or a dissolution, liquidation, or winding up for the purposes of this paragraph.

(4) At the option of the board of directors of the corporation, the corporation may redeem any series of first preferred stock determined to be redeemable, or any part of any series, at any time at the redemption price determined for such

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series: *Provided, however,* That not less than 30 nor more than 60 days previous to the date fixed for redemption a notice of the time and place thereof shall be given to the holders of record of the first preferred stock so to be redeemed, by mail or publication, in such manner as may be prescribed by the bylaws of the corporation or by resolution of the board of directors: *And provided, further,* that in every case of redemption of less than all of the outstanding shares of any one series of first preferred stock, the shares of such series to be redeemed shall be chosen by lot in such manner as may be prescribed by the board of directors.

At any time after notice of redemption has been given in the manner prescribed by the bylaws of the corporation or by resolution of the board of directors, the corporation may deposit, or may cause its nominee to deposit, the aggregate redemption price, with some bank or trust company in the Borough of Manhattan, the city of New York, named in such notice, payable on the date fixed for redemption as aforesaid and in the amounts aforesaid to the respective orders of the holders of the shares so to be redeemed, on endorsement to the corporation or its nominee, or otherwise, as may be required, and upon surrender of the certificates for such shares. Upon the deposit of said money as aforesaid, or, if no such deposit is made, upon said redemption date (unless the corporation defaults in making payment of the redemption price as set forth in such notice), such holders shall cease to be stockholders with respect to said shares, and from and after the making of said deposit, or, if no such deposit is made after the redemption date (the corporation not having defaulted in making payment of the redemption price as set forth in such notice), the said holders shall have no interest in or claim against the corporation, or its nominee, with respect to said shares, but shall be entitled to receive said moneys on the date fixed for redemption as aforesaid from said bank or trust company, or from the corporation, without interest thereon, upon endorsement, if required, and surrender of the certificates as aforesaid.

If such deposit shall be made by a nominee of the corporation as aforesaid, such nominee shall upon such deposit become the owner of the shares with respect to which such deposit was made and certificates of stock may be issued to such nominee in evidence of such ownership.

In case the holder of any such first preferred stock shall not, within 6 years after said deposit, claim the amount deposited as above stated for the redemption thereof, the depositary shall upon demand pay over to the company such amounts so deposited and the depositary shall thereupon be relieved from all responsibility to the holder thereof.

Nothing herein contained shall limit any legal right of the corporation to purchase any shares of the first preferred stock.

(5) At all meetings of the stockholders of the corporation the holders of the first preferred stock shall be entitled to one vote for each share of such first preferred stock held by them respectively.

(6) The term "accrued dividends" and "dividends accrued and in arrears" shall be deemed to mean in respect of any share of the first preferred stock of any series, as of any given date, the amount, if any, by which the product of the rate of dividend per annum, determined upon the shares of such series, multiplied by the number of years and/or parts thereof which shall have elapsed from the date after which dividends on such stock became cumulative to such given date exceeds the total dividends actually paid on such stock and/or declared and set apart for payment. Accumulations of dividends shall not bear interest.

PREFERENCE STOCK

(A) The preference stock of the corporation may be issued in one or more series as may be determined from time to time by the board of directors, each of such series to be distinctly designated. All shares of any one series of preference stock shall be alike in every particular and all series hereafter created shall rank equally and be identical in all respects except as hereinafter in paragraphs (1) to (5), inclusive, in this clause (A) set forth:

(1) The dividend rate on the preference stock of each series shall be such rate as may be determined by the board of directors of the corporation in the resolutions providing for the issuance of the preference stock of such series and as shall be stated in the certificates of stock therefor.

(2) The preference stock of any series may, but need not be, made redeemable at the option of the corporation at such price (not less than $50 nor more than $60 per share plus in each case an amount equal to all cumulative dividends on such share both accrued up to the date fixed for redemption, whether or not the

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same shall have been declared or earned, and in arrears) as may be determined by the board of directors in the resolutions providing for the issuance of the preference stock of such series and as shall be stated in the certificates of stock therefor.

(3) The dates on which dividends, if declared, shall be payable in the case of preference stock of each series, shall be such dates as may be fixed by the board of directors in the resolutions providing for the issuance of the preference stock of such series and as shall be stated in the certificates of stock therefor. The periods between such dates, commencing on such dates, are herein designated as "dividend periods."

(4) The board of directors may, in connection with the issue of any series of preference stock, provide for a sinking fund for the preference stock of the corporation, to be applied to the purchase or redemption of the shares of such series, the terms and provisions governing the operation of any such sinking fund to be as determined by the board of directors in the resolutions providing for the issuance of the preference stock of such series and as shall be stated in the certificates of stock therefor. The preference stock retired by the operation of any such sinking fund shall not be reissued.

(5) The board of directors may, in connection with the issue of any series of preference stock, provide that the shares of such series may be convertible into or exchangeable for, shares of any other class or classes or of any other series of the same or of any other class or classes of stock of this corporation, at such conversion price or prices or at such rates of exchange and with such adjustments as shall be stated and expressed by the board of directors in the resolutions providing for the issuance of the preference stock of such series and as shall be stated in the certificates of stock therefor.

(B) The following provisions shall apply to all the preference stock of the corporation, irrespective of any variations between the preference stock of the different series:

(1) The holders of the preference stock of each series shall be entitled to receive dividends payable upon such dates as may be determined for such series, when as declared by the board of directors, at the rates determined for the respective series, from the first day of the current dividend period within which such stock shall have been originally issued, before any dividends shall be declared or paid upon or set apart for the common stock of the corporation and before any payments are made to any sinking fund created as herein provided for any series of preference stock. Such dividends shall be cumulative, so that, if in any dividend period or periods dividends shall not have been paid or declared and set apart for payment upon all outstanding preference stock at the rates determined for the respective series, the deficiency shall be fully paid, or declared and set apart for payment, before any dividends shall be declared or paid upon or set apart for the common stock of the corporation and before any payments are made to any sinking fund created as herein provided for any series of preference stock. Dividends shall not be declared and paid on the preference stock of any one series for any dividend period unless dividends have been paid or declared and set apart for payment thereof at the same time on the preference stock of all series, for all the dividend periods terminating on the same or an earlier date.

(2) When full cumulative dividends as aforesaid upon the preference stock of all series then outstanding for all past dividend periods and for the current dividend periods shall have been paid or declared and set apart for payment, and after complying with all provisions in respect of any sinking fund or funds for the preference stock of any series entitled thereto, installments for which have been made payable in priority to any dividends on the common stock of the corporation, the board of directors may declare dividends on the common stock of the corporation, and no holders of any series of the preference stock as such shall be entitled to share therein.

(3) Upon any dissolution, liquidation or winding up of the corporation, whether voluntary or involuntary, or upon any reduction of that portion of the capital of the corporation that has been set up out of the consideration received for any of the shares of the common stock of the corporation, followed presently by the distribution to stockholders of assets of the corporation which have been constituted surplus by such reduction the holders of the preference stock of every series shall be entitled to receive out of the assets of the corporation $50 per share, plus an amount equal to accrued dividends, before any distribution of the assets to be distributed shall be made to the holders of common stock of the corporation; but they shall be entitled to no further participation in such distribution. After payment to the holders of the preference stock of the full preferential amounts hereinbefore provided for, the holders of the preference stock as such shall have

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no right or claim to any of the remaining assets of the corporation, either upon any distribution of surplus assets or upon dissolution, liquidation or winding up. The remaining assets to be distributed, if any, upon a distribution of surplus assets or upon dissolution, liquidation or winding up, shall be distributed among the holders of the common stock of the corporation. The sale of all the property of the corporation to, or the merger or consolidation of the corporation into or with, any other corporation shall not be or be deemed to be a distribution of assets, or a dissolution, liquidation or winding up for the purposes of this paragraph.

(4) At the option of the board of directors of the corporation, the corporation may redeem any series of preference stock determined to be redeemable, or any part of any series, at any time at the redemption price determined for such series: *Provided, however,* That not less than 30 nor more than 60 days previous to the date fixed for redemption a notice of the time and place thereof shall be given to the holders of record of the preference stock so to be redeemed, by mail or publication, in such manner as may be prescribed by the bylaws of the corporation, or by resolution of the board of directors: *And provided further,* That in every case of redemption of less than all of the outstanding shares of any one series of preference stock, the shares of such series to be redeemed shall be chosen by lot in such manner as may be prescribed by resolution of the board of directors. At any time after notice of redemption has been given in the manner prescribed by the bylaws of the corporation or by resolution of the board of directors, the corporation may deposit, or may cause its nominee to deposit, the aggregate redemption price, with some bank or trust company in the Borough of Manhattan, the city of New York, named in such notice, payable on the date fixed for redemption as aforesaid and in the amounts aforesaid to the respective orders of the holders of the shares so to be redeemed, on endorsement to the corporation or its nominee, or otherwise, as may be required, and upon surrender of the certificates for such shares. Upon the deposit of said money as aforesaid, or, if no such deposit is made upon said redemption date (unless the corporation defaults in making payments of the redemption price as set forth in such notice), such holders shall cease to be stockholders with respect to such shares, and from and after the making of said deposit, or, if no such deposit is made, after the redemption date (the corporation not having defaulted in making payment of the redemption price as set forth in such notice), the said holders shall have no interest in or claim against the corporation, or its nominee, with respect to said shares, but shall be entitled only to receive said monies on the date fixed for redemption as afresaid from said bank or trust company, or from the corporation, without interest thereon, upon endorsement, if required, and surrender of the certificates as aforesaid.

If such deposit shall be made by a nominee of the corporation as aforesaid, such nominee shall upon such deposit become the owner of the shares with respect to which such deposit was made and certificates of stock may be issued to such nominee in evidence of such ownership.

In case the holder of any such preference stock shall not, within 6 years after said deposit, claim the amount deposited as above stated for the redemption thereof, the depositary shall upon demand pay over to the company such amounts so deposited and the depositary shall thereupon be relieved from all responsibility to the holder thereof.

Nothing herein contained shall limit any legal right of the corporation to purchase any shares of the preference stock.

(5) At all meetings of the stockholders of the corporation the holders of the preference stock shall be entitled to one vote for each share of such preference stock held by them respectively.

(6) The term "accrued dividends" and "dividends accrued and in arrears" shall be deemed to mean in respect of any share of the preference stock of any series, as of any given date, the amount, if any, by which the product of the rate of dividend per annum, determined upon the shares of such series, multiplied by the number of years and/or parts thereof which shall have elapsed from the date after which dividends on such stock became cumulative to such given date exceeds the total dividends actually paid on such stock and/or declared and set apart for payment. Accumulations of dividends shall not bear interest.

COMMON STOCK

None of the shares of the common stock shall be entitled to any preferences and each share of common stock shall be equal to every other share of said stock in every respect.

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Dividends: Out of any assets of this corporation available for dividends remaining after full cumulative dividends on all stock having priority over the common stock shall have been paid or declared or set aside for payment and after complying with all provisions in respect of any sinking fund or funds for the first preferred stock and/or preference stock and after making such provisions, if any, as the board of directors may deem necessary or advisable for working capital and reserves, then, and not otherwise, dividends may be paid upon the common stock but only when and as determined by the board of directors.

Distribution of assets in the event of any liquidation, dissolution or winding up of this corporation or any other proceeding resulting in any distribution of its assets to its stockholders, after there have been paid to or set aside for the holders of all stock having priority over the common stock the full preferential amounts to which they are respectively entitled, the holders of the common stock shall be entitled to receive pro rata all of the remaining assets of this corporation available for distribution to its stockholders. The board of directors, by vote of a majority of the members thereof, may distribute in kind to the holders of the common stock such remaining assets of this corporation, or may sell, transfer or otherwise dispose of all of the remaining property or assets of this corporation to any other corporation and receive payment therefor wholly or partly in cash and/or in stock and/or in obligations of such corporation, and may sell all or any of the consideration received therefor and distribute the balance thereof in kind to the holders of the common stock.

Voting power: At all meetings of the stockholders of the corporation the holders of the common stock shall be entitled to one vote for each share of such common stock held by them respectively.

OPTION WARRANTS

The board of directors shall have power at any time or from time to time (without any action by the stockholders of this corporation) in the name and on behalf of this corporation to grant rights or options to run for any period of time, including an unlimited period of time to purchase from this corporation any shares of its stock of any class or classes for any consideration (not less than par if such shares have par value) and upon any terms and conditions and to create and issue warrants or other instruments representing such rights or options in any form; all as the board of directors may, in its sole discretion, determine.

GENERAL PROVISIONS

Consideration receivable for no par value stock: Shares of capital stock of this corporation without nominal or par value of any class or classes, hereby or hereafter authorized, may be issued by this corporation from time to time for such consideration as may be fixed from time to time by the board of directors. Said board shall have authority, as provided by statute, to determine that only a part of the consideration, which shall be received by this corporation for any of the shares of its capital stock which it shall issue from time to time, shall be capital.

AMOUNT OF CAPITAL WITH WHICH TO COMMENCE BUSINESS

The amount of capital with which the corporation shall commence business is 10 shares of said common stock without nominal or par value.

Fifth. The names and places of residence of each of the original subscribers to the capital stock of the corporation and the number of shares of common stock subscribed for by each are as follows:

A. V. Lane, Wilmington, Del	3
C. S. Peabbles, Wilmington, Del	3
L. E. Gray, Wilmington, Del	4

Sixth. The corporation is to have perpetual existence.

Seventh. The private property of the stockholders of the corporation shall not be subject to the payment of corporate debts to any extent whatever.

Eighth. The number of directors of the corporation shall be fixed by the bylaws, and may be altered from time to time by amendment of such bylaws, adopted by the board of directors or by the stockholders in the manner provided therein, but such number shall never be less than five. Vacancies caused by an increase in the number of directors or otherwise may be filled by the board of directors in the manner provided in the bylaws. Directors need not be stockholders. Any director may be removed at any time with or without cause upon

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the affirmative vote of the holders of a majority of the stock of the corporation at that time entitled to vote for directors.

Ninth. The following additional provisions are inserted for the regulation of the business and for the conduct of the affairs of this corporation and its directors and stockholders:

(1) The board of directors shall have power from time to time to fix and determine and to vary the amount to be reserved as a working capital of the corporation and, before the payment of any dividends or making any distribution of profits, it may set aside out of the net profits of the corporation such sum or sums as it may from time to time in its absolute discretion think proper whether as a reserve fund to meet contingencies or for the equalizing of dividends or for repairing or maintaining any property of the corporation or for such corporate purposes as the board shall think conducive to the interests of the corporation, subject only to such limitations as the bylaws of the corporation may from time to time impose.

(2) In the absence of fraud no contract or other transaction between this corporation shall be affected by the fact that directors of this corporation are directors of such other corporation, if such contract or transaction shall be approved or ratified by the affirmative vote of a majority of the directors present at a meeting of the board of directors or the committee of this corporation having authority in the premises, who are not so interested. Any director individually, or any firm of which any director is a partner, may be a party to or may be interested in any contract or transaction of this corporation provided that such contract or transaction shall be approved or ratified by the affirmative vote of at least a majority of the directors present at a meeting of the board of directors or the committee of the corporation having authority in the premises, who are not so interested. Nor shall any director be liable to account to this corporation for any profit realized by him from or through any such transaction or contract of this corporation, ratified or approved as aforesaid, by reason of his interest in such transaction or contract.

Directors so interested may be counted when present at meetings of the board of directors or of such committee for the purpose of determining the existence of a quorum. Any director whose interest in any such contract or transaction arises solely by reason of the fact that he is a stockholder, officer, or creditor of such other company (or solely by reason of the fact that he is a director of such other company or partner in such firm where such dealing, contract or arrangement is made by officers or employees of the corporation or firm in the ordinary performance of their duties and without the actual participation of such director) shall not be deemed interest in such contract or transaction under any of the provisions of this paragraph, nor shall any contract or transaction be void or voidable because of such interest, nor shall any director be liable to account because of such interest, nor need any such interest be disclosed. Any contract or act that shall be approved or ratified by the vote of the holders of a majority of the capital stock of the corporation having voting powers which is represented in person or by proxy at any annual meeting of the stockholders or at any special meeting called for the purpose, among others, of considering the approval or ratification of the acts of officers and/or directors (providing that a lawful quorum of stockholders be there represented in person or by proxy) shall be as valid and binding upon the corporation and upon all its stockholders as though it had been approved or ratified by every stockholder of the corporation.

(3) The board of directors shall also have power without the assent or vote of the stockholders to make, alter, amend, and repeal the bylaws of the corporation; to fix the times for the declaration and payment of dividends; to authorize and cause to be executed and delivered mortgages on and instruments of pledge, or any other instruments creating liens on the real and personal property of the corporation; to fix from time to time the consideration for which stock of the corporation without nominal or par value may be issued and to determine what part of such consideration shall be capital; to make and determine the use and disposition of any surplus or net profits over and above the capital stock paid in, and in its discretion the board of directors may use and apply any such surplus or accumulated profits in purchasing or acquiring shares of its own capital stock to such extent and in such manner and upon such terms as the board of directors shall deem expedient; the shares of such capital stock so purchased or acquired may be resold unless such shares shall have been retired for the purpose of decreasing the corporation's capital stock as provided by law.

(4) Subject to direction by resolution of a majority of the stockholders the board of directors shall have the power from time to time to determine whether

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and to what extent and at what times and places and under what conditions and regulations the accounts and books of the corporation (other than the stock ledger) or any of them, shall be open to the inspection of stockholders; and no stockholder shall have any right to inspect any account or book or document of the corporation except as conferred by statute or authorized by the directors or by a resolution of the stockholders.

(5) The board of directors shall have the power to appoint an executive committee from among their number, which committee, to the extent and in the manner provided in the bylaws of the corporation, shall have and may exercise all of the powers of the board of directors, so far as may be permitted by law, in the management of the business and affairs of the corporation whenever the board of directors is not in session. The fact that the executive committee has acted shall be conclusive evidence that the board of directors was not in session at the time of such action.

(6) The board of directors, in addition to the powers and authority expressly conferred upon it hereinbefore and by statute and by the bylaws, is hereby empowered to exercise all such powers as may be exercised by the corporation; subject, nevertheless, to the provisions of the statutes of the State of Delaware, of this certificate of incorporation and to any regulations that may from time to time be made by the stockholders, provided that no regulation so made shall invalidate any provision of this certificate of incorporation or any prior act of the directors which would have continued if such regulation had not been made.

Tenth. Whenever a compromise or arrangement is proposed between this corporation and its creditors or any class of them and/or between this corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this corporation or of any creditor or stockholder thereof, or on the application of any receiver or receivers appointed for this corporation under the provisions of section 3883 of the revised code of 1915 of said State, or on the application of trustees in dissolution or of any receiver or receivers appointed for this corporation under the provisions of section 43 of this chapter, order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this corporation as consequence of such compromise or arrangement, the said compromise or arrangement and the said organization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of this corporation, as the case may be, and also on this corporation.

Eleventh. The corporation reserves the right to increase or decrease its authorized capital stock, or any class or series thereof, or to reclassify the same, and to amend, alter, change, or repeal any provision contained in the certificate of incorporation under which the corporation is organized or in any amendment thereto, in the manner now or hereafter prescribed by law, and all the rights conferred upon stockholders in said certificate of incorporation or any amendment thereto are granted subject to this reservation; provided, however, that the corporation shall not decrease the amounts which any class or series of fires preferred stock and/or preference stock shall be entitled to receive as dividends or upon distribution of assets to any other class, or decrease the redemption price of such class or series, unless the holders of all the first preferred stock and/or preference stock of such class or series so affected adversely shall consent thereto.

Twelfth. No stockholder shall be entitled as a matter of right to subscribe for, purchase, or receive any shares of the stop or option warrants of the corporation which it may issue or sell, whether out of the number of shares authorized by this certificate of incorporation or by amendment thereof or out of the shares of the stock of the corporation acquired by it after the issuance thereof, nor shall any stockholder be entitled as a matter of right to purchase or subscribe for or receive any bonds, debentures, or other obligations which the corporation may issue or sell that shall be convertible into or exchangeable for stock or to which shall be attached or appertain any warrant or warrants or other instruments or instruments that shall confer upon the holder or owner of such obligation the right to subscribe for or purchase from the corporation any shares of its capital stock. But all such additional issues of stock, option warrants, or of bonds, debentures, or other obligations confertible into or exchangeable for stock or to which war-

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rants shall be attached or appertain or which shall confer upon the holder the right to subscribe for or purchase any shares of stock may be issued and disposed of by the board of directors to such persons and upon such terms as in their absolute discretion they may deem advisable.

In witness whereof, we, the undersigned, being all the original subscribers to the capital stock of said corporation and having respectively agreed to take the shares of such stock stated in article fifth of this certificate of incorporation, have hereunto set our respective hands and seals this 7th day of January 1929.

A. V. LANE [SEAL]
C. S. PEABBLES [SEAL]
L. E. GRAY [SEAL]

Witness:
ALBERT L. MILLER.

STATE OF DELAWARE,
County of New Castle, ss:

Be it remembered that on this 7th day of January A.D. 1929, personally came before me, Albert L. Miller, a notary public in and for the county and State aforesaid, A. V. Lane, C. S. Peabbles, and L. E. Gray, parties to the foregoing certificate of incorporation, known to me personally to be such, and I having first made known to them and each of them the contents of said certificate, they did each severally acknowledge that they signed, sealed, and delivered the same as their voluntary act and deed, and each deposed that the facts therein stated were truly set forth.

Given under my hand and seal of office the day and year aforesaid.

[SEAL] ALBERT L. MILLER, *Notary Public.*

STATE OF DELAWARE,
Office of Secretary of State:

I, Charles H. Grantland, secretary of state of the State of Delaware, do hereby certify that the above and foregoing is a true and correct copy of the certificate of incorporation of "The United Corporation", as received and filed in this office the 7th day of January, A.D. 1929, at 3 p.m.

In testimony whereof I have hereunto set my hand and official seal at Dover, this 7th day of January in the year of our Lord one thousand nine hundred and twenty-nine.

[SEAL] CHARLES H. GRANTLAND,
Secretary of State.

COMMITTEE EXHIBIT NO. 23, MAY 26, 1933

NEW YORK, *January 9, 1929.*

The UNITED CORPORATION,
Wilmongton, Delaware.

DEAR SIRS: We understand that you have been incorporated with an authorized capital consisting of 1,000,000 shares of first preferred stock, 2,000,000 shares of preference stock, and 10,000,000 shares of common stock. We further understand that, of this authorized stock, you have agreed to issue the amount shown by a contract between yourselves and Messrs. J. P. Morgan & Co., a copy of which is annexed hereto marked "Exhibit A."

We hereby offer, on behalf of ourselves and our associates, to purchase from you 400,000 shares of your common stock and option warrants entitling the holders thereof to purchase 1,000,000 shares of common stock, and to pay you for such purchase the sum of $10,000,000. We understand that Bonbright Electric Corporation has likewise offered to pay to you a sum of $10,000,000 against the issuance and delivery by you of the same amount of securities.

We agree to make payment to you for the above shares of common stock and option warrants on the 15th day of January, 1929, at which time you agree to issue and deliver to us, or our nominees, temporary certificates for the common stock and option warrants, which are the subject of this purchase.

We understand that, of the consideration to be received by you from us in payment of said common stock and option warrants, $22.50 shall constitute the consideration received from the sale of each share of common stock and $1 shall constitute the consideration received from the sale of each right represented by said option warrants to purchase one share of common stock at $27.50 per share, and that, of the consideration received for the sale of your common stock, you

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will capitalize $5 per share and that you will credit the balance of the consideration received for the common stock and the consideration received for the option warrants to surplus.

Upon your acceptance hereof, as provided below, this letter will constitute a contract between us.

Very truly yours,

J. P. MORGAN & CO.

EXHIBIT A

JANUARY 8, 1929.

The UNITED CORPORATION,
Wilmington, Del.

GENTLEMEN: As a part of a plan of reorganization, you have been incorporated with an authorized capital consisting of 1,000,000 shares of first preferred stock, 2,000,000 shares of preference stock and 10,000,000 shares of common stock, none of which is issued, outstanding or subscribed for except 10 shares of common stock subscribed for by the original incorporators.

We also understand that, in accordance with the terms of your charter, you have created or are about to create a form of option warrant, entitling the holder thereof to purchase at any time, without limit, shares of common stock of your corporation, as such stock may be constituted at the time of such purchase, at a price of $27.50 per share, subject to the terms and conditions stated therein which form of option warrant we have examined.

In accordance with said plan of reorganization, we offer to transfer, or cause to be transferred to you, the following:

1. 130,565 shares of the capital stock of the United Gas Improvement Co.
2. 59,500 shares of the common stock of Public Service Corporation of New Jersey.
3. 62,360 shares of the preferred stock of Mohawk Hudson Power Corporation.
4. 358,957 shares of the common stock of Mohawk Hudson Power Corporation.
5. 124,740 option warrants of Mohawk Hudson Power Corporation, each of such option warrants authorizing the holder thereof to purchase at any time one share of common stock of that company at $50 per share.
6. Cash in the sum of $323,655.

In consideration thereof, you agree to issue to us, or to our nominee, 600,000 shares of your $3 cumulative preference stock, 800,000 shares of your common stock, and option warrants, in the form you have created, entitling holders thereof to purchase at any time, without limit, 714,200 shares of your common stock at a price of $27.50 per share. The original incorporators have assigned to us their subscription rights to 10 shares of common stock of your corporation, which shares are included in the above-mentioned shares.

We agree to pay you said cash and to deliver, or cause to be delivered and transferred to you said securities on the 14th day of January, 1929, at which time you agree to issue and deliver to us, or our nominees, temporary certificates for the $3 cumulative preference stock and the common stock, and the option warrants, as above provided.

We understand that, of the consideration to be received by you for the sale of the aforementioned $3 cumulative preference stock, common stock, and option warrants, $50 shall constitute the consideration received for the sale of each share of $3 cumulative preference stock, $1 shall constitute the consideration received for the sale of each right represented by the abovementioned option warrants to purchase 1 share of the common stock at $27.50 per share, and the balance of the consideration shall be received for the sale of the above mentioned common stock, and that, of the consideration received for the sale of the $3 cumulative preference stock, you will capitalize the entire consideration, i.e. $50 per share, and that, of the consideration received for the sale of your common stock, you will capitalize $5 per share and that you will credit the balance of the consideration received for the common stock and the consideration received for the option warrants to surplus.

Upon your acceptance hereof, as provided below, this letter will constitute a contract between us.

Yours very truly,

——— ———.

Accepted, January —, 1929.

THE UNITED CORPORATION,
By ——— ———,
President.

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NEW YORK, *January 8, 1929.*

THE UNITED CORPORATION,
Wilmington, Del.

GENTLEMEN: As a part of a plan of reorganization you have been incorporated with an authorized capital consisting of 1,000,000 shares of first preferred stock, 2,000,000 shares of preference stock, and 10,000,000 shares of common stock, none of which is issued, outstanding, or subscribed for except 10 shares of common stock subscribed for by the original incorporators.

We also understand that, in accordance with the terms of your charter, you have created or are about to create a form of option warrant, entitling the holder thereof to purchase at any time, without limit, shares of common stock of your corporation, as such stock may be constituted at the time of such purchase, at a price of $27.50 per share, subject to the terms and conditions stated therein, which form of option warrant we have examined.

In accordance with said plan of reorganization we offer to transfer, or cause to be transferred to you, the following:

1. 130,565 shares of the capital stock of the United Gas Improvement Co.
2. 59,500 shares of the common stock of Public Service Corporation of New Jersey.
3. 62,360 shares of the second preferred stock of Mohawk Hudson Power Corporation.
4. 359,957 shares of tke common stock of Mohawk Hudson Power Corporation.
5. 124,740 option warrants of Mohawk Hudson Power Corporation, each of such option warrants authorizing the holder thereof to purchase at any time 1 share of common stock of that company at $50 per share.
6. Cash in the sum of $323,655.

In consideration thereof, you agree to issue to us, or to our nominee, 600,000 shares of your $3 cumulative preference stock, 800,000 shares of your common stock, and option warrants, in the form you have created, entitling holders thereof to purchase at any time, without limit, 714,200 shares of your common stock at a price of $27.50 per share. The original incorporators have assigned to us their subscription rights to 10 shares of common stock of your corporation, which shares are included in the above-mentioned shares.

We agree to pay you said cash and to deliver, or cause to be delivered and transferred to you, said securities on the 14th day of January, 1929, at which time you agree to issue and deliver to us, or our nominees, temporary certificates for the $3 cumulative preference stock and the common stock, and the option warrants, as above provided.

We understand that, of the consideration to be received by you for the sale of the aforementioned $3 cumulative preference stock, common stock, and option warrants, $50 shall constitute the consideration received for the sale of each share of $3 cumulative preference stock, $1 shall constitute the consideration received for the sale of each right represented by the above-mentioned option warrants to purchase 1 share of the common stock at $27.50 per share, and the balance of the consideration shall be received for the sale of the above-mentioned common stock, and that, of the consideration received for the sale of the $3 cumulative preference stock, you will capitalize the entire consideration, i. e., $50 per share, and that, of the consideration received for the sale of your common stock, you will capitalize $5 per share and that you will credit the balance of the consideration received for the common stock and the consideration received for the option warrants to surplus.

Upon your acceptance hereof, as provided below, this letter will constitute a contract between us.

Yours very truly,

J. P. MORGAN & Co.

Accepted, January 8, 1929.
[SEAL]

THE UNITED CORPORATION,
By GEORGE ROBERTS, *President.*

NEW YORK, *January 9, 1929.*

The UNITED CORPORATION,
Wilmington, Del.

DEAR SIRS: Referring to the contract between us, as evidenced by letter dated January 8, 1929, we hereby confirm that the number of shares of Mohawk Hudson Power Corporation common to be delivered by us is 358,957 instead of 359,957.

We will make a delivery and transfer to you of the securities covered by such contract on Thursday, January 10, instead of Monday, January 14, 1929, and

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the amount of cash payable by us will be adjusted so that we will pay you the sum of $371,025.76, instead of the sum of $323,655.

We also confirm that under our contract with you, dated January 8, 1929, we will make payment to you of the $10,000,000 which we have contracted to pay for 400,000 shares of your common stock and your option warrants for 1,000,000 shares of common stock, and you will make delivery of the same on January 11, 1929, instead of January 15.

Kindly confirm the above understanding.

Yours very truly,

J. P. MORGAN & CO.

Above understanding is hereby confirmed, dated January 9, 1929.

THE UNITED CORPORATION,
By L. K. THORNE.

Signed as accepted.

L. K. THORNE,
Of Bonbright & Company, Inc

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STOCK EXCHANGE PRACTICES

WEDNESDAY, MAY 31, 1933

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

The subcommittee met, pursuant to adjournment on Friday, May 26, 1933, at 11 a.m. (at the conclusion of an executive session), in the caucus room of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Glass, Costigan, Townsend, and Couzens.

Present also: Senators Bulkley, Gore, Reynolds, Goldsborough, Kean, and Steiwer.

Present also: Ferdinand Pecora, counsel to the committee; Julius Silver, David Saperstein, and James P. McDonough, associate counsel to the committee; John W. Davis, counsel for J. P. Morgan & Co.; Randall J. LeBoeuf, Jr., and Earle J. Machold, counsel for the United Corporation and for George H. Howard, president of the United Corporation.

The CHAIRMAN. Let us have order in the hearing room. The committee will come to order. You may proceed, Mr. Pecora.

Mr. PECORA. Mr. Howard.

The CHAIRMAN. Mr. Howard will take the chair.

TESTIMONY OF GEORGE H. HOWARD, PRESIDENT OF THE UNITED CORPORATION, AND PRESIDENT OF THE NEW YORK UNITED CORPORATION—Resumed

Mr. PECORA. Mr. Howard, you were on the stand last Friday at the time the recess was taken until this morning, and I believe at that time you were being questioned concerning the members of the board of directors of the United Corporation. I think you had told the committee the corporate affiliations of yourself, that is, the names of the corporations of which you were an officer or director, public utility companies. Can you give us the same information with respect to the corporations of which Mr. Floyd L. Carlisle is either an officer or director? That is, the public utility companies.

Mr. HOWARD. I am not sure that I can give that information perfectly. I can give you some of them.

Mr. PECORA. Well, will you please do so.

Mr. HOWARD. He is a director and chairman of the board of the Consolidated Gas Co. of New York. He is chairman of the board and director of the Niagara Hudson Co. He is director and a mem-

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ber of the executive committee of the Columbia Gas & Electric Corporation. He is a director and member of the executive committee of the United Gas Improvement Co. He is a director, and I cannot tell you whether he is an officer or not, of the Mohawk Hudson, and I think of the New York Power & Light. That I think, as far as my recollection goes, without having the formal record, is it.

Mr. PECORA. Can you give us the same information with respect to Mr. B. C. Cobb, who is also a member of the board of directors of the United Corporation?

Mr. HOWARD. Mr. B. C. Cobb is chairman and director of the Commonwealth & Southern Corporation. He is a director of the Columbia Gas & Electric Corporation. And I think he is a director of the Mohawk Hudson Power Corporation, too. That is as far as I can go from memory.

Mr. PECORA. How about being director and chairman of the board of the Allied Power & Light Co.?

Mr. HOWARD. The Allied Light & Power Co. I think had been dissolved or merged with Commonwealth & Southern. He was an officer of that company at one time, but I do not remember what.

Mr. PECORA. What are the corporate affiliations of Mr. Philip G. Gossler, one of the directors of the United Corporation?

Mr. HOWARD. Well, the only boards that I know of he is on is the United Corporation, New York United Corporation, and Columbia Gas & Electric Corporation.

Mr. PECORA. He is the president of the Columbia & Electric Corporation, is he not?

Mr. HOWARD. Yes, sir; he is the president of the Columbia Gas & Electric Corporation.

Mr. PECORA. How about Mr. Edward Hopkinson, Jr.? What are his corporate affiliations?

Mr. HOWARD. He is a director of the United Corporation, and of the New York United Corporation, and he is a director and I think chairman of the executive committee of the United Gas Improvement Co.

Mr. PECORA. He is also a partner of J. P. Morgan & Co.?

Mr. HOWARD. I think he is.

Mr. PECORA. Can you give us the corporate affiliations of Mr. Alfred L. Loomis, one of the members of your board?

Mr. HOWARD. He is a director of the Commonwealth & Southern Corporation, a director of the Public Service Corporation of New Jersey, and I do not know his Bonbright affiliations.

Mr. PECORA. You know that he is connected with Bonbright & Co.?

Mr. HOWARD. Yes.

Mr. PECORA. What are the corporate affiliations of Mr. Thomas N. McCarter.

Mr. HOWARD. Mr. McCarter is president of the Public Service Co. of New Jersey, and a director and member of the executive committee of the United Gas Improvement Co.

Mr. PECORA. Also a director of the Philadelphia Electric Corporation?

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Mr. HOWARD. He is a director of the Philadelphia Electric Corporation; yes.

Mr. PECORA. And of the United Engineers and Constructors, Inc.?

Mr. HOWARD. Yes; I think so.

Mr. PECORA. What are the corporate affiliations of Mr. Harold Stanley, one of your directors?

Mr. HOWARD. He is a director and member of the executive committee of the Columbia Gas & Electric Corporation. He is a director also of the Niagara Hudson, and of the Mohawk Hudson, and of the New York United, I believe.

Mr. PECORA. Also of the United Gas Improvement Co.?

Mr. HOWARD. No. He is no longer a director of the United Gas Improvement Co.

Mr. PECORA. But he was for a number of years?

Mr. HOWARD. He was for some time; yes.

Mr. PECORA. He is also a partner of J. P. Morgan & Co.?

Mr. HOWARD. I think he is.

Mr. PECORA. Now, can you give us the corporate affiliations of Mr. Landon K. Thorne?

Mr. HOWARD. He is a director of Commonwealth & Southern, a director and member of the executive committee of the Niagara Hudson Power Corporation.

Mr. PECORA. And of the Mohawk Hudson Power?

Mr. HOWARD. And I think of the Mohawk Hudson; yes.

Mr. PECORA. And of the Public Service Corporation of New Jersey?

Mr. HOWARD. Yes, sir.

Mr. PECORA. And of the United Gas Improvement Co.?

Mr. HOWARD. No. He is no longer a director of the United Gas Improvement Co.

Mr. PECORA. But he was.

Mr. HOWARD. He was.

Mr. PECORA. He was a director of the Allied Power & Light Co.?

Mr. HOWARD. Well, I do not know about that.

Mr. PECORA. Isn't he also the president of Bonbright & Co.?

Mr. HOWARD. He is president, I think, of Bonbright & Co.

Mr. PECORA. We already have in the record here, I believe, the corporate affiliations of Mr. George Whitney. Now, what are the corporate affiliations of John E. Zimmermann, one of the members of your board?

Mr. HOWARD. He is a director of the Niagara Hudson Power Corporation and of the Mohawk Hudson Power. He is director and president of the United Gas Improvement Co. and a director of the Philadelphia Electric Co. and a director of the Public Service Corporation of New Jersey and a member of the executive committee.

Mr. PECORA. Also of the United Engineers and Constructors, Inc.?

Mr. HOWARD. Yes; I think so.

Mr. PECORA. Mr. Howard, I believe you testified on last Friday that you became the president of the United Corporation in March of 1929, some time in March, did you not?

Mr. HOWARD. I was elected president on the 26th of March, 1929, but my office became effective, I think—no, I was elected president on the 26th of February, and my office became effective on the 2d of March, 1929.

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Mr. PECORA. Were you a stockholder of the company prior to that time?

Mr. HOWARD. I was a stockholder—I think the stock was in my name of record before that time; yes.

Mr. PECORA. How many shares?

Mr. HOWARD. Twenty thousand shares and 100,000 option warrants.

Mr. PECORA. You purchased those shares and those warrants for a total consideration of $500,000, did you not?

Mr. HOWARD. Yes; I did.

Mr. PECORA. Did you purchase those for your own beneficial interest, or were you acting as the nominee for someone else?

Mr. HOWARD. I had been a member of the firm of Simpson, Thacher & Bartlett for a long time, and when I had conversations about withdrawing from that firm, in which it happened that I had at that time a percentage call, and at which time I had been earning, I thought, substantially more than as an officer or otherwise I could earn, and if I had to withdraw I had to give up the insurance privileges which had accrued for 18 years, it was arranged that if I should become the president of the United Corporation I should have in this company this $500,000 participation.

Mr. PECORA. You say it was arranged that you should have that stock participation. Who entered into that arrangement?

Mr. HOWARD. My conversations about that were with Mr. Thorne and with Mr. Whitney.

Mr. PECORA. Mr. Thorne was then connected with Bonbright & Co., and Mr. Whitney with J. P. Morgan & Co.?

Mr. HOWARD. Yes.

Mr. PECORA. Do you understand that those two firms were the organizers of the United Corporation?

Mr. HOWARD. Well, I have understood, under their announcements made at that time, that Morgan & Co., Drexel & Co., and Bonbright & Co. were the organizers of the United Corporation.

Mr. PECORA. Will you tell us what this arrangement was under which you became the owner of those 20,000 shares of common stock of the United Corporation and 100,000 option warrants, the arrangement that you have referred to?

Mr. HOWARD. The arrangement simply was that if I did become the president I should have those shares and those warrants.

Senator STEIWER. What kind of an arrangement was it, oral or written, Mr. Pecora?

Mr. PECORA. Was it an oral or a written arrangement?

Mr. HOWARD. Both.

Mr. PECORA. Did you personally provide the moneys out of your own means with which this stock was purchased?

Mr. HOWARD. Personally, out of my own means.

Mr. PECORA. That is what I want to get.

Mr. HOWARD. Yes.

Mr. PECORA. Who asked you to become president of the United Corporation, at that time?

Mr HOWARD. The first conversation which I ever had about this matter was with Mr. Thorne and Mr. Loomis.

Mr. PECORA. Was that prior to January 7, 1929, which I believe is the date of the incorporation of the United Corporation?

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Mr. HOWARD. It either was just before Christmas of 1928, or just at the beginning of 1929, and I am not sure which.

Mr. PECORA. Will you be good enough to give the committee the substance of that conversation?

Mr. HOWARD. Mr. Thorne and Mr. Loomis asked me to lunch with them, whatever day this was. They said that the United Corporation was about to be formed. They asked me whether, if the offer should be made to me, I would care to withdraw from my old law firm and become the president of it. I said I did not know, because it was a very difficult thing for me to decide. As a matter of fact, it was several weeks before I finally did conclude to withdraw from my law firm. But I did finally withdraw on the 1st of March, and on the 2d of March undertook this job.

Mr. PECORA. Were you personally familiar with the acts and proceedings of the United Corporation from its incorporation on January 7, 1929, up to the time when you became its president, on March 2, 1929?

Mr. HOWARD. In trying very carefully to refresh my recollection about all of that period, I think I made only two suggestions in that time. One was that I wished the corporation might buy some shares of Electric Bond & Share Co., and that they might buy some shares of Lehigh Coal & Navigation Co. As to all other transactions I had no participation or part until after I became president.

Mr. PECORA. Now, the initial set-up of the United Corporation was, in substance, that the United Corporation, for a cash consideration of $10,000,000, issued certain of its securities to the firm of J. P. Morgan & Co., and for a similar cash consideration of $10,000,000 issued others of its securities, other portions of its securities, to Bonbright & Co.; is that correct?

Mr. HOWARD. Well, having studied the record as carefully as I could, I should think it was something more than that.

Mr. PECORA. Will you complete the story?

Mr. HOWARD. Well, I should think there was the step which we considered here on Friday. There was, then, the step of the $10,000,000 for Morgan & Co. and of the $10,000,000 from Bonbright Electric Corporation, and then an almost simultaneous step, and I do not remember the exact date, under which the Public Electric Holding Corporation merged with the United Corporation, under which additional shares of Public Service stock and additional shares of United Gas Improvement Co. stock was acquired.

Mr. PECORA. The initial step consisted of an agreement between Bonbright & Co. and the United Corporation, and J. P. Morgan & Co. and the United Corporation, under the terms of which, substantially, the United Corporation sold certain of its securities for $10,000,000 cash each to Morgan & Co. and Bonbright & Co., isn't that correct?

Mr. HOWARD. In those initial steps, and I do not recall the exact chronological order, that was one of the steps.

Mr. PECORA. Now, let us confine ourselves for the time being to that portion of the transaction which related to J. P. Morgan & Co. and the United Corporation.

Mr. HOWARD. That is, to the cash transaction?

Mr. PECORA. The cash transaction.

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Mr. HOWARD. All right.

Mr. PECORA. Now, in that transaction isn't it a fact that for that $10,000,000 cash J. P. Morgan & Co. received 400,000 shares of the common stock of the United Corporation and 1,000,000 option warrants?

Mr. HOWARD. Yes.

Mr. PECORA. Now, I think you said on Friday that the issuance of those option warrants, which had no time limit, was a common or general practice. Did you understand it to be a common or general practice in January of 1929?

Mr. HOWARD. I think, Mr. Pecora, that we were to survey the history in the 7 or 8 years preceding the incorporation of the United Corporation, and that in many of those companies there had been issued similar option warrants.

Mr. PECORA. That is, without time limitation?

Mr. HOWARD. Yes; without time limitation.

Mr. PECORA. How many such instances do you know of having occurred prior to January of 1929?

Mr. HOWARD. Well, I cannot at this moment indicate to you a single instance, but I think they had occurred.

Mr. PECORA. Do you know when the first statute was passed in any State that authorized or permitted the issuance of option warrants without time limitation?

Mr. HOWARD. No; I do not. I know that a statute was passed in Delaware, but I do not know when it was.

Mr. PECORA. Don't you know that that statute, passed in Delaware, was not enacted and did not become effective until March of 1929, some 2 months after the incorporation of the United Corporation?

Mr. HOWARD. No; I do not recall.

Mr. PECORA. Do you know that at the time of the issuance of those option warrants there was no statute that authorized their issuance without a time limitation?

Mr. HOWARD. No; I did not know that.

Mr. PECORA. Now, just briefly, and without desiring on my part to go over any of the ground that was covered by your testimony on last Friday but solely for the purpose of summarizing and bringing it right up to the moment: Those option warrants entitled the holders thereof at any time in the future to exchange them for shares of the common stock of the United Corporation at $27.50 per share, did they not?

Mr. HOWARD. Yes; exchange the option warrants at $27.50 per share in cash.

Mr. PECORA. Each option warrant to be exchanged for one share of the United Corporation stock.

Mr. HOWARD. Yes, sir.

Mr. PECORA. Upon the payment of $27.50 per share to the corporation.

Mr. HOWARD. Yes. Mr. Pecora, might I say, going back for the moment to your questioning of me as to whether there was any statutory authority for those option warrants, that I have understood from very eminent counsel that those option warrants create a contract, and that that sort of contract is perfectly good without a statute.

Mr. PECORA. Who is the eminent counsel who has so advised you?

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Mr. HOWARD. I have discussed it with many. I have discussed it with—well, I have discussed it with Mr. Roberts.

Mr. PECORA. Who was your predecessor as president of the United Corporation?

Mr. HOWARD. Yes, sir. And I discussed it with members of my old law firm. I have discussed it with Mr. Reed, of Mr. Davis' firm.

Mr. PECORA. You did not have those discussions in 1929, did you?

Mr. HOWARD. No, I did not; but——

Mr. PECORA (continuing). You have had them very recently?

Mr. HOWARD. No. I have had them over a long period of time, because in the practice of law the question of option warrants was very often being considered.

Mr. PECORA. Now, as the president of the United Corporation——

Senator COUZENS (interposing). Before you go on with that, Mr. Pecora: Mr. Howard, did the stockholders in the United Corporation know of those warrants?

Mr. HOWARD. Yes.

Senator COUZENS. All of them?

Mr. HOWARD. All of them.

Senator COUZENS. All those that bought on the market understood also that those option warrants were out?

Mr. HOWARD. Yes; because a public announcement was made at the time, I think, that there were option warrants out. I am not certain of that, however.

Mr. PECORA. Were the terms of those option warrants made known to the public in any public announcement that you know of?

Mr. HOWARD. Well, I think—but I should like to see it.

Mr. PECORA. So would I.

Mr. HOWARD. Well, here is the announcement, if you would like to see it.

Mr. PECORA. All right. Pass it up. [After looking the paper over.] I offer in evidence——

The CHAIRMAN (interposing). Mr. Howard, do you know of any such warrants ever having been issued before without a time limit? Was this the first of that character of warrant that you know of?

Mr. HOWARD. I do not think so, Senator Fletcher, but I do not know. I think perpetual option warrants had been issued before that.

The CHAIRMAN. Without a time limit?

Mr. HOWARD. Without a time limit; yes.

Mr. PECORA. Mr. Chairman, I offer in evidence the printed document that the witness has handed to me in response to my question calling for any such announcement as he referred to and ask that it be made a part of the record.

The CHAIRMAN. It will be received and entered on the record.

(The paper referred to was received and ordered made a part of the record and was marked "Committee Exhibit No. 26, May 31, 1933," and is as follows:)

COMMITTEE EXHIBIT No. 26

(For release to newspapers Friday, Jan. 11, 1929)

The United Corporation has been organized under Delaware laws by Messrs. J. P. Morgan & Co., Drexel & Co., and Bonbright & Co., Inc., and has made arrangements to acquire certain minority interests in the United Gas Improve-

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ment Co., the Public Service Corporation of New Jersey, and the Mohawk Hudson Power Corporation held by the organizers and the American Superpower Corporation.

The capitalization of the corporation is as follows:

	Authorized	To be presently issued
	Shares	*Shares*
First preferred stock	[1] 1,000,000	None.
Preference stock	[1] 2,000,000	944,187
Common stock	[1] [2] 10,000,000	3,810,853

[1] No par value.
[2] 4,000,000 shares will be reserved against exercise of option warrants.

There will also be presently issued adoption warrants entitling holders to purchase at any time without limit not in excess of 4,000,000 shares of common stock at $27.50 per share.

The preference stock presently to be issued will be known as $3 cumulative preference stock; will be entitled to cumulative dividends at the rate of $3 per annum, payable quarterly; will be redeemable at the corporation's option at $55 per share, and will be entitled, on liquidation, to $50 per share and accrued dividends. Both common and preference shares, and, if and when issued, the first preference stock, will have full voting powers.

There have been purchased by the organizers, for $20,000,000 cash, 800,000 shares of the common stock and option warrants for 2,000,000 shares of common stock. The balance to be presently issued of the common stock and option warrants and the 944,197 shares $3 cumulative preference stock are to be issued in exchange for securities. The prices at which securities have been acquired by the corporation from the organizers are in excess of the cost to them, but below the present quoted market.

The corporation's present assets will consist of the securities described, which, on the basis of present market quotations, have an aggregate value in excess of $130,000,000, and cash in excess of $20,000,000.

The balance of the authorized capital may, in the discretion of the directors of the corporation, be issued for cash or property without offering to the stockholders.

The directors of the corporation will be Messrs Thomas S. Gates, Alfred L. Loomis, Landon K. Thorne, and George Whitney.

Dated January 9, 1929.

Senator COUZENS. I find nothing in this press release which indicates that there was no limit to the option warrants.

Mr. DAVIS. Here it is, Senator Couzens.

Senator COUZENS. Oh, I beg pardon.

Senator TOWNSEND. It says "Entitling holders to purchase at any time without limit."

Mr. HOWARD. The language was——

Mr. PECORA (interposing). I will read this. In parentheses it says "For release to newspapers Friday, January 11, 1929", and reads as follows: (Counsel then read the exhibit.) Do you know whether or not this announcement, as you call it, was printed in full in the newspapers on or about January 11, 1929?

Mr. HOWARD. No; I do not know that.

Mr. PECORA. You do not know that?

Mr. HOWARD. No. May I go back for one moment to the option warrants and call attention to the provision in the charter about them, which is here?

Mr. PECORA. Very well, sir; will you read it?

Mr. HOWARD. It says:

Option warrants: The board of directors shall have the power at any time or from time to time without any action by the stockholders of this corporation,

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in the name of and on behalf of this corporation, to grant rights or options, to run for any period of time, including an unlimited period of time, to purchase from this corporation any shares of its stock of any class or classes, for any consideration, not less than par if such stock have a par value, and upon any terms and conditions, and to create and issue warrants and other instruments representing such rights or options, in any form, all as the board of directors may in its sole discretion determine.

Mr. PECORA. What are you reading that from?

Mr. HOWARD. From the certificate of incorporation.

Mr. PECORA. That was not made public other than through the means of the filing of the certificate in the appropriate office of public records of the State officer, was it?

Mr. HOWARD. No. That is true.

Senator ADAMS. Mr. Howard, may I make an inquiry? I find two of these printed circulars, the one which has been read, being a release to newspapers, and one headed "Memorandum", and there is a variation in the figures. In the memorandum, which is dated January 14, 1929, it says, "To be presently issued 1,004,621 shares." And in the release it says, "To be presently issued 944,187 shares." That is as to the preference stock. And in the memorandum of January 14, 1929, it says of common stock to be presently issued 4,198,906 shares, while in the release it says 3,810,853 shares. I do not mean to say that that is material, but there happens to be that variation.

Senator COUZENS. There is five days' difference in date there.

Mr. HOWARD. Yes; they are on different dates.

Senator ADAMS. The newspaper release dated January 9, 1929, gives what I have said, and the memorandum is dated January 14, 1929.

Mr. HOWARD. I think a change had been made in the meanwhile.

The CHAIRMAN. That memorandum has not been offered in evidence.

Mr. PECORA. I had not seen that memorandum.

Mr. DAVIS. Might Mr. Whitney explain what that memorandum is? I do not want that to stand without any explanation here.

The CHAIRMAN. I think that might be done.

Mr. WHITNEY. Mr. Chairman, the first paper given the committee by Mr. Howard, which was a newspaper release for Friday, January 11, 1929, was dated January 9, 1929. The second paper was a memorandum we had prepared subsequently to the press release and delivered to each purchaser of the United Corporation, to which Mr. Pecora referred on Friday. In other words, that was not given out publicly any more than we sold stock publicly, but everybody who made payment or purchase of United Corporation units, which we sold and to which reference has been made, was given at the time of payment for the certificates a copy of that memorandum, so that each purchaser would have full knowledge of the status of the corporation as of that date.

The CHAIRMAN. I think the memorandum ought to go in.

Mr. PECORA. Yes, sir.

Mr. WHITNEY. The reason for the difference in figures, Senator Adams, is a part of the general story of the United Corporation, because there were certain subsequent transactions, which have not

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yet been introduced in evidence, transactions through the purchase of other shares arranged long before those dates, because those dates were merely a part of the legal steps in the formation of the United Corporation, and it really brings in other steps agreed to while the idea of the United Corporation was being discussed and determined upon. The real picture will show why there were these differences in figures between January 9 and 14.

Mr. PECORA. Mr. Whitney, before you leave the stand——

Senator ADAMS (interposing). Senator Reynolds and I were having difficulty following the testimony. We had a copy of the memorandum but we did not have a copy of the release, and we were trying to get at the difference.

Mr. WHITNEY. I tried to catch your eye to give you the other paper, but did not succeed in doing so.

Mr. PECORA. The memorandum you have referred to is this paper which I now show you?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. I offer the paper in evidence and ask that it be spread on the record.

The CHAIRMAN. Let it be received and put on the record.

(The paper referred to was ordered placed on the record, being marked " Committee Exhibit 27, May 31, 1933 ", and is as follows:)

COMMITTEE EXHIBIT No. 27

MEMORANDUM

The United Corporation has been organized under Delaware laws by Messrs. J. P. Morgan & Co., Drexel & Co., and Bonbright & Co., Inc., and has made arrangements to acquire certain minority interests in the United Gas Improvement Co.; the Public Service Corporation of New Jersey; and the Mohawk Hudson Power Corporation including the holdings of the organizers and of others.

The capitalization of the corporation is as follows:

	Authorized	To be presently issued
	Shares	*Shares*
First preferred stock	[1] 1,000,000	None.
Preference stock	[1] 2,000,000	1,004,621
Common stock	[1] [2] 10,000,000	4,198,906

[1] No par value.
[2] 4,000,000 shares will be reserved against exercise of option warrants.

There will also be presently issued option warrants entitling holders to purchase at any time without limit not in excess of 4,000,000 shares of common stock at $27.50 per share.

The preference stock presently to be issued will be a series known as $3 cumulative preference stock, will be entitled to dividends at the rate of $3 per annum, payable quarterly; will be redeemable at the corporation's option at $55 per share and accrued dividends, and will be entitled, on liquidation, to $50 per share and accrued dividends. Both common and preference shares, and, if and when issued, the first preferred stocks will have full voting powers.

There have been purchased by the organizers, for $20,000,000 cash, 800,000 shares of the common stock and option warrants for 2,000,000 shares of common stock. The balance to be presently issued of the common stock and option warrants and the 1,004,621 shares of $3 cumulative preference stock have been or are to be issued in exchange for securities and approximately $370,000 cash. The prices at which securities have been acquired by the corporation from the

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organizers are in excess of the cost to them, but below the present quoted market prices.

The corporation's present assets are to consist of the securities described, representing a cost to the corporation of approximately $135,000,000, which is substantially less than the value of these securities based upon present market quotations, and cash in excess of $20,000,000.

Based on dividends from the above securities (including dividends upon the common stock of the Public Service Corporation of New Jersey at the rate of $2.60 per annum, and upon common stock of the United Gas Improvement Co. at the rate of $4.50 per annum) and interest at 4 percent per annum upon the above amount of cash, the income of the corporation will be in excess of one and one-half times the dividend requirements of the preference stock presently to be issued.

The balance of the authorized capital may at any time, in the discretion of the directors of the corporation, be issued for cash or property without offering to the stockholders. Additional shares of preference stock may be issued as $3 cumulative preference stock, or may be issued as a different series having such rate of dividend, redemption price, and other characteristics as may be determined by the directors, within the limitations provided by the certificate of incorporation, at the time of the creation of any new series. In like manner the directors have power to determine the characteristics of the series of first preferred stock at the time any such series is created.

Statements of the corporation will be published annually but will not necessarily include an itemized list of securities owned.

The directors of the corporation will be Messrs. Thomas S. Gates, Alfred L. Loomis, Landon K. Thorne, and George Whitney.

January 14, 1929.

Mr. PECORA. Mr. Whitney, who prepared the memorandum last offered in evidence?

Mr. WHITNEY. Mr. Pecora, you are taxing my memory pretty generally, but I should think the three partners who had the most to do with it were Mr. Lamont, Mr. Stanley, and I.

Mr. PECORA. Mr. Thomas W. Lamont——

Mr. WHITNEY. Yes, sir.

Mr. PECORA. Or Mr. Thomas S. Lamont?

Mr. WHITNEY. No.

Mr. PECORA. I would suggest, Mr. Chairman, that Mr. Howard be temporarily withdrawn from the stand and Mr. Whitney be asked to resume the stand for examination about this matter of the United Corporation.

The CHAIRMAN. That may be done.

(Mr. Howard temporarily left the committee table.)

TESTIMONY OF GEORGE WHITNEY, A MEMBER OF THE FIRM OF J. P. MORGAN & CO.—Resumed

Mr. PECORA. Mr. Whitney, you have stated that the memorandum last offered in evidence was given or sent to each subscriber for the stock of the United Corporation at the outset.

Mr. WHITNEY. It was delivered to each one; yes, sir.

Mr. PECORA. Who were those subscribers that you claim were either subscribers as a result of a public offering or subscribers as a result of a private offering?

Mr. WHITNEY. There was no public offering. As the result of a private offering.

Mr. PECORA. Now, Mr. Whitney, I show you this typewritten document, and I ask you if it was prepared by your firm and furnished to me as a complete list of the names of the subscribers to whom you have just referred.

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Mr. WHITNEY. The subscribers to whom you have just referred, Mr. Pecora—and you asked two questions there. It was furnished to you as a complete list of purchases of United Corporation units. The first half of your question, being directed to the point if prepared by us and furnished to you, the answer is yes, in conjunction with Bonbright & Co., Inc. If I might be permitted, I should like to explain a little bit about this offering, because the testimony, as I have understood it, of Mr. Howard, leaves the United Corporation rather half formed, as it were.

Mr. PECORA. Just a moment. I will give you that opportunity presently. I just want you now to identify that list, if you can, as being the list furnished to me by J. P. Morgan & Co.

Mr. WHITNEY. That is the list furnished to you by J. P. Morgan & Co.

Mr. PECORA. And is it a complete list of all subscribers who were invited to subscribe for the units of the United Corporation in January of 1929?

Mr. WHITNEY. As far as I know; yes.

Mr. PECORA. I offer this list in evidence as a part of the hearing.

The CHAIRMAN. The list will be received and made a part of the record.

(The list ordered made a part of the record was marked "Committee Exhibit No. 28, May 31, 1933", and is as follows:)

COMMITTEE EXHIBIT No. 28, MAY 31, 1933

The United Corporation unit block interim receipts

Name	Amount of units
Mrs. Helen B. Achelis	300
W. H. Aldridge	1,000
A. M. Anderson	2,000
Joseph Andrews	100
Mrs. Irma D. Ashmead	50
I. C. R. Atkin	100
The Atlantic-Merrill Oldham Corporation	1,000
J. Howland Auchincloss	300
C. A. Austin	500
Mrs. Isabel Valle Austin	200
Gaspar G. Bacon and George Whitney	500
Trustees under deed of trust dated Nov. 13, 1914.	
Mrs. Hope Norman Bacon	1,000
Priscilla T. Bacon, George Whitney	500
And Gaspar G. Bacon, trustees under deed of trust for benefit of Geo. F. Baker	5,000
Donald C. Bakewell	160
Bankers Co. of New York	5,000
Charles H. Barnes	30
Sosthenes Behn	1,000
Otto F. Behrend	100
C. J. Bennett	15
J. J. Bernet	500
Stephen Birch	1,000
C. N. Bliss	2,000
Blyth & Co	1,500
Amy W. Board	25
Bonbright & Co	81,262
Bonbright & Co	121,668
Nicholas F. Brady	3,000
Charles S. Brewer	1,000
Bradford Brinton	300
Brown Bros. & Co	3,000
George F. Brownell	200
Matthew Brush	1,000
Roger H. Bullard	50
George Burgess	50
W. E. Burnet	200
Ward M. Canady	1,000
W. C. Cannon	300
George W. Carpenter	400
Mrs. Kathryn R. Carpenter	5
W. L. Carson	100
Dr. Alfred H. Clark	500
E. H. Clark	500
Clark, Dodge & Co	5,000
Leon R. Clausen	500
E. C. Congdon	160
Continental National Bank & Trust Co	3,000
Clinton H. Crane	500
S. M. Crocker	100
Mrs. P. E. Crowley	500
George Dahl	40
Arthur V. Davis	1,000
A. B. Davis	10
Henry G. Davis	100

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Name	Amount of units
John W. Davis	500
Norman H. Davis	250
Donald K. David	200
Lewis C. Dawes	300
D. Debevoise	10
Moroau Delane	1,000
Wm. F. Delany	20
Edward Dibrell	250
D. J. Dimock	50
Dominick & Dominick	5,000
Camille Dreyfus	300
J. A. M. deSanchez	25
Drexel & Co	82,000
Drexel & Co	5,000
W. Echtermeyer	10
F. H. Ecker	1,000
Mrs. Cornelia Cousins Egan	200
Dean Emery	500
Robert W. Emmons, 3d	100
Miss Alwens G. Evans	5
Evans, Stillman & Co	500
Wm. Everdell	150
Geo. B. Everitt	500
J. V. Ewing Estate	300
Wm. Ewing, special	100
G. Faccioli	80
Eliot Farley	1,000
Mildred Farwell	200
Dr. E. Ross Faulkner	500
William C. Finley	500
First Chicago Corporation	2,000
First National Corporation	2,000
First Security Co	15,000
Laurence P. Fisher	2,000
Maj. Max C. Fleischmann	1,000
Carl Flach	50
H. A. Fortington	500
Albert Foster, Jr	30
Terese Fowler	10
Harry Fraas	10
P. A. S. Franklin	1,000
W. E. Frew	1,000
Giovanni Fummi	500
G. L. Gagan	10
Mary B. Gammack	100
Thomas H. Gammack	200
George H. Gardiner	500
Thomas Garrett, Jr	100
Miss Lydia K. Garrison	20
Mrs. Philip McKim Garrison	60
David L. George	100
F. Gibbons	10
Harvey D. Gibson	1,000
Mrs. S. Parker Gilbert	250
J. Gindorff	10
Rudolph Goepel	100
Philip G. Gossler	2,000
Guaranty Co. of New York	5,000
Guggenheim Bros	5,000
T. S. Hallett	10
Hambleton & Co., Inc	500
Henry Hamill, Jr	10
C. P. Hamilton	1,000
P. T. Hanscom	1,000
Mrs. Hebe Harris	500
Walter P. Haskell	10
Chester W. Harkins	5
Charles Hayden	5,000
R. C. Hill	250
William Hill-Wood	100
Charles D. Hilles	1,000
George C. Hitchcock	300
Hitt, Farwell & Co	500
William E. Holloway, Jr	10
George Holton	500
R. G. Hutchings	500
W. J. Hutchinson	500
Frederic Ewing	500
Old Coloney Corporation	2,000
John Oldham	200
Robert E. Olds	500
General John J. Pershing	250
Harry Peters	500
Frank L. Polk	500
W. Julius Polk	200
Daniel E. Pomeroy	250
W. C. Potter	7,000
John W. Prentiss	1,000
Seward Prosser	7,000
Phillips Exeter Academy, trustees for the benefit of	500
Mrs. D. Y. Ranson, Jr	300
John J. Raskob	2,500
Lansing P. Reed	500
S. W. Reyburn, Lord & Taylor	500
Miss Ester S. Rich	5
Edgar Richard	400
Mrs. Rose M. Ricketts	10
J. Henry Roraback	1,000
Charles S. Ruffner	1,000
Salomon Bros. & Hutzler	1,000
A. H. Sanford	50
Herbert L. Satterlee	500
Franz Schneider	1,000
Schoellkopf, Hutton & Pomery, Inc	1,500
Mrs. Florence S. Schuette	1,000
Robert Meridith Serale	1,000
Charles Seymour	160
Malcolm D. Simpson	25
A. P. Sloan, et al	3,500
Matthew S. Sloan	1,000
Harvey H. Smith	40
F. S. Smithers & Co	1,000
N. L. Snow	200
Spencer Trask & Co	1,000
A. H. Springer	25
Mrs. Edith T. Stanley	400
Gilbert Stanley	1,200
State Street Investment Corporation	2,000
John A. Stephens, Jr	250
Edward R. Stettinius	250
Mrs. E. R. Stettinius	1,000
Geo. D. Stewart	500
Stockholm Enskilda Bank	1,000
Cornelius J. Sullivan	500
J. J. Sullivan	25
E. S. S. Sunderland	400
Sutro Bros. & Co	1,000

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Name	Amount of units
Miss Katharine Taylor	20
Myron C. Taylor	5,000
Walter C. Teagle	1,500
Eldredge Thomas	100
George H. Townsend	300
Mrs. P. M. Trace	10
Mrs. Elizabeth S. Trippe	250
William H. Thurston	400
Union Trust Co	1,000
The Union Trust Co. of Pittsburgh	3,000
O. P. Van Sweringen	5,000
Edmund N. Wakelee	750
Miss Anna Walsh	10
Cornelius J. Walsh	10
Allen Wardwell	400
Mrs. Marie Watkins	100
N. A. Weathers	1,500
F. C. Weems	100
Hartland West	10
John D. Ryan	1,000
Arthur Curtis James	2,000
P. H. Johnston	1,000
A. N. Jones	50
W. J. Jones	10
Kean, Taylor & Co	500
Dr. John J. Honan Keating	200
Daniel Kelleher	250
Cornelius F. Kelley	1,000
A. J. Kennedy	50
Leonard A. Keyes	200
Kidder, Peabody & Co	2,000
Roy Kinnier	10
Kuhn, Loeb & Co	5,000
H. R. Kurrie	100
A. C. Lange	10
Lapondos Corporation	250
Augustin Legoretta	500
Lee, Higginson & Co	3,000
Col. Charles A. Lindbergh	300
Dr. Harley P. Lindsay	60
Stoughton B. Lynd	100
Henry E. Machold	3,000
C. H. Mackay	1,000
C. MacVeagh	25
Mrs. Louis Pugh Macy	500
Manufacturers & Traders Peoples Trust Co	1,000
E. H. Manville	1,000
Marine Trust Co	1,000
Isabel S. Marsh	250
Charles J. Martin	1,000
Dorothy Martin	100
R. C. O. Matheny	100
W. G. McAdoo	250
T. N. McCarter	750
Uxal H. McCarter	750
J. J. McCloy	50
Hall P. McCullough	200
R. B. Mellon	3,000
T. F. Merseles	1,000
Stephen Merselis	100
Albert G. Milbank	500
Edward G. Miner	1,000
C. H. Miner	1,000
Minsch, Monell & Co., Inc	1,000
Wm. A. Mitchell	100
Daniel J. Moran	500
Alexander Perry Morgan	100
D. M. Morgan	10
Morgan Grenfell & Co	15,000
H. S. Morgan, et al	500
J. J. Morgan	100
Morgan & Cie	12,000
J. P. Morgan no. 2 account	1,200
J. R. Morron	500
Hon. Dwight W. Morrow	2,000
Frederick K. Morrow	1,000
Charles Munroe	1,000
J. A. Murray	409
The National City Co	5,000
Newmont Mining Corporation	10,000
Northern Trust Co	1,000
J. D. Northrup	50
Nosivad Corporation	3,000
M. O'Connor	10
Miss Ruth Ogg	10
C. E. Mitchell	7,000
Robert White	500
J. G. White & Co., Inc	1,000
White, Case & Co	2,000
George Whitney, agent	10,000
Martha B. Whitney	100
Trustees for Martha B. Whitney, Robert L. Bacon. Gaspar G. Bacon, and George Whitney	400
Margaret S. Whitney	200
Richard Whitney & Co	20
Do	4,200
Do	2,000
Ira Wight	1,000
A. H. Wilson	25
A. H. Wiggin	4,000
T. R. Williams	300
Joseph Wilshire	1,000
Garrard Winston	500
Wood, Low & Co	1,000
Wood Struthers & Co	1,500
William Woodin	1,000
A. H. Woods	250
Clarence M. Woolley	1,000
J. M. Young	50
Percy S. Young	750
L. Edmund Zacher	5,000
William Zeigler, Jr	200

Mr. PECORA. Now, Mr. Whitney, what do you mean when you say this list was prepared jointly by J. P. Morgan & Co. and Bonbright & Co.?

Mr. WHITNEY. I mean just that, Mr. Pecora. As has been stated publicly at the time and was a matter of common knowledge, the United Corporation was formed after many months, and even years,

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of discussion by Messrs. Bonbright & Co., Drexel & Co., and J. P. Morgan & Co. So when it came to the question of distributing those units, which were quite a different type of operation than any of these other stock transactions which you have introduced thus far, Mr. Pecora, obviously we discussed the matter with Messrs. Bonbright & Co., who were associated with us in the whole undertaking. So, many names that appear on this list were suggested by them.

Mr. PECORA. Can you point out the names suggested by Bonbright & Co.?

Mr. WHITNEY. No; I cannot.

Mr. PECORA. Well, then, can you point out the names suggested by J. P. Morgan & Co.?

Mr. WHITNEY. Well, I think if I run through the list I could suggest some that I am pretty sure were not suggested by J. P. Morgan & Co.

Mr. PECORA. Mr. Whitney, in order to save time, let me ask you if you have a copy of this list.

Mr. WHITNEY. Yes, sir.

Mr. PECORA. Would you be good enough during the next recess period to go over your copy of the list with a view of identifying those names that were put on the list on the recommendation of J. P. Morgan & Co., and those which were not?

Mr. WHITNEY. I will try to do so, but I do not know that we have any records that will designate them.

Mr. PECORA. I notice in the list 87,000 units were allotted to Drexel & Co.

Mr. WHITNEY. Yes, sir.

Mr. PECORA. I have asked for a break-down of those units, and up to the present time I have not received any data or information.

Mr. WHITNEY. Well, if that is so I am sorry. I thought it had been furnished. I knew you had asked for it.

Mr. PECORA. In other words, what I want is the names of the persons who were invited to participate or subscribe for these 87,000 units that were allocated to Drexel & Co.

Mr. WHITNEY. Well, haven't you received it? I thought you had. When did you make that request, Mr. Pecora; do you know?

Mr. PECORA. Within a day or two after we received this document, which is the list which has been marked "Exhibit 28" of this date.

Mr. DAVIS. That is an oversight on my part. Are you sure that you asked for it?

Mr. PECORA. We asked for it. And may we have it as soon as you can get it together?

Mr. WHITNEY. Surely.

Mr. PECORA. All right. On what terms were the persons shown on this list, exhibit 28, invited to subscribe for the units of United Corporation?

Mr. WHITNEY. That is a rather difficult question to answer very briefly, Mr. Pecora. The actual technical terms on which they were asked to offer was for one share of this $3 preference stock and one share of common stock for $75.

Mr. PECORA. $75?

Mr. WHITNEY. Yes.

Mr. PECORA. That is, they were sold in units?

Mr. WHITNEY. They were sold in units.

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Mr. PECORA. And for $75 a unit?

Mr. WHITNEY. Yes.

Mr. PECORA. Each United consisted of 1 share of $3 preference stock and 1 share of common stock?

Mr. WHITNEY. Yes. In other words, the $50 preference stock was included in the unit at its liquidating value—it was a no-par stock—at $50. The common stock was included at $25, which was the same price that we had acquired the stock for cash.

Mr. PECORA. But in addition to acquiring that stock for cash you also received—that is your firm received—1,000,000 option warrants?

Mr. WHITNEY. For the $10,000,000.

Mr. PECORA. For the $10,000,000.

Mr. WHITNEY. Quite right.

Mr. PECORA. Now, let us get that straight. The United Corporation was organized on January 7, 1929, with an authorized capital stock of 1,000,000 shares of preferred stock of no-par value, 2,000,000 shares of $3 preference stock of no-par value, 10,000,000 of common stock of no-par value, and an unlimited number of option warrants?

Mr. WHITNEY. Oh, no, sir; 4,000,000.

Mr. PECORA. Well, 4,000,000 was the number that was actually issued, but in the articles of incorporation, or in the certificate of incorporation was there any express limitation of the number of option warrants to be issued?

Mr. WHITNEY. I really do not know. The 4,000,000 warrants were never issued. A smaller number.

Mr. PECORA. Three million nine hundred thousand and odd were actually issued.

Mr. WHITNEY. I do not know what the certificate of incorporation stated, but there was never any discussion of any kind of issuing more than 4,000,000 warrants. And all the public announcements covered that amount as the amount outstanding.

Mr. PECORA. Now, on January the 10th or 11th J. P. Morgan & Co. purchased for $10,000,000 in cash from the United Corporation 400,000 shares of the common stock and 1,000,000 option warrants. Is that correct?

Mr. WHITNEY. I should have thought that was the date we contracted to purchase. You see, Mr. Pecora, when you take these isolated technical steps in the formation of this corporation I, not being a lawyer, do not quite follow. I am very familiar with the organization of the corporation. I know exactly what was intended to be done. But when it came to bring together the plans that had been agreed upon by not only ourselves with Bonbrights, but also many other people, I do not remember the details of it.

The net of the story is something like this, if it would be of interest to you. And it is really a very brief story. In the spring of 1928, after many discussions for a long time as to whether we, J. P. Morgan & Co., should become interested in the general public-utility field, we, after discussion with certain groups of people interested at that time in the United Gas Improvement situation and the Public Service of New Jersey Corporation brought some stock, as we have already——

Mr. PECORA. Mr. Whitney, I apprehend that in this statement that you are going to make, your answer is going to give us in

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one statement a rather considerable history of the forming of the United Corporation, its genesis and operation.

Mr. WHITNEY. No. I will, if you wish. But that was not my intention.

Mr. PECORA. Well, no; I suggest that you just answer the question, and then at the conclusion of the examination if there is anything that has been omitted that you think ought to be brought to the attention of the committee I should be glad to have you call it to the attention of the committee. But first answer he question, please.

Mr. WHITNEY. All right. Let me say this, then. I won't go back at all. But when it was decided in the first part of January or the latter part of December to form the United Corporation there were certain blocks of securities which were definitely decided to be included in the United Corporation. It was also decided at that time that there should be certain securities issued for cash. These steps to which you refer were detail steps set down by the lawyers as the proper steps of bringing about the results which had been determined upon. So it is, of course, true, as testified by Mr. Howard, that the first initial step in the transaction was the exchange by J. P. Morgan & Co. and Drexel & Co. of this block of securities, as he testified on Friday. Those at that time were taken in by the company at a value of $50,000,000.

Mr. PECORA. I am going to come to that and bring all those details out, Mr. Whitney.

Mr. WHITNEY. Well, now, you have, sir, have you not?

Mr. PECORA. Not altogether. There are certain features of that that I have not questioned either you or Mr. Howard about.

Mr. WHITNEY. First rate. But you asked me a question, if on January 10 we subscribed to 400,000 shares of United common and a million warrants.

Mr. PECORA. For $10,000,000.

Mr. WHITNEY. For $10,000,000. I think that is actually the date on which we made that contract with the United Corporation. I think the actual payment was subsequent, because all these transactions were pulled in together to make the completed picture against which we sold these United units. I do not carry the legal steps, but what was intended to be done and which I am sure was done I am pretty familiar with.

Mr. PECORA. Well, you recall that that part was done, do you? You offered $10,000,000 for 400,000 shares of common stock and 1,000,000 of option warrants?

Mr. WHITNEY. We and Bonbright & Co. made the same offer simultaneously; yes, sir.

Mr. PECORA. And that offer was accepted?

Mr. WHITNEY. It was.

Mr. PECORA. And the transaction was actually consummated?

Mr. WHITNEY. It was.

Mr. PECORA. By the payment of this $10,000,000 cash by J. P. Morgan & Co. to the United Corporation and the delivery by the United Corporation to J. P. Morgan & Co. of 400,000 shares of common stock and 1,000,000 option warrants?

Mr. WHITNEY. Yes, sir.

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Mr. PECORA. And a similar transaction was had between the United Corporation and Bonbright & Co. at the same time?

Mr. WHITNEY. Yes.

Mr. PECORA. And that provided the United Corporation with its initial funds of $20,000,000?

Mr. WHITNEY. Initial cash plus the $700,000 that came in otherwise.

Mr. PECORA. Yes. Now, at about the same time, or very shortly thereafter, there was another transaction between J. P. Morgan & Co. and the United Corporation involving an exchange of certain securities owned or controlled by J. P. Morgan & Co. for certain securities of the United Corporation, was there not?

Mr. WHITNEY. Well, I would have thought that it was prior to the cash transaction. Because the memorandum I have in front of me says that was covered in the minute books of the United Corporation in the meeting on January the 8th, and that the sale of the stock for cash was of January the 11th. No, wait a minute. Wait a minute. Well, it was near—may I inquire of that from the lawyers? [After conferring.] Well, the answer to your question, Mr. Pecora, is that simultaneously there was this transaction, exchange, because they were both carried through. The cash transaction and the exchange of the securities both went through on the 11th of January 1929.

Mr. PECORA. As the result of that second transaction involving the exchange of securities J. P. Morgan & Co. received 800,000 shares of common stock of United Corporation and 600,000 shares of the $3 preference stock and 714,200 option warrants, did it not?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. Was it from those shares thereby acquired that J. P. Morgan & Co. made a private offering of units of United Corporation $3 preference stock and common stock to the persons whose names are shown on the list that has been put in evidence?

Mr. WHITNEY. Well, it is very difficult to earmark shares. Because it is well known that we sold 600,000 units. So that the units referred to—the preference shares referred to in your statement were. of course, those that were sold because they were the only preference shares we received.

Mr. PECORA. Yes. Well, as a matter of fact, when you invited these various persons whose names appear on that list to subscribe for these units at $75 per unit the only stock of United Corporation which J. P. Morgan & Co. had were the 400,000 shares of common acquired as part of the $10,000,000 transaction, 800,000 shares of common acquired as part of the subsequent transaction involving an exchange of securities, and the 600,000 shares of $3 preference stock which also formed a part of the latter transaction?

Mr. WHITNEY. That is right.

Mr. PECORA. That is correct, is it?

Mr. WHITNEY. That is quite correct.

Mr. PECORA. And that is not taking into account the 1,714,200 option warrants that were acquired by J. P. Morgan & Co. as the result of those two transactions?

Mr. WHITNEY. I do not quite understand what you mean, "not taken into account." They came in at the same time.

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Mr. PECORA. J. P. Morgan & Co. acquired as the result of these two transactions, in addition to the preference and common stock that I have alluded to, a total of 1,714,200 option warrants?

Mr. WHITNEY. Yes; quite right.

Mr. PECORA. None of those option warrants was included in the private offering to the subscribers whose names appear on that list?

Mr. WHITNEY. Oh, no.

Mr. PECORA. No. They were merely offered the right to subscribe for units of the United Corporation stock at $75 per unit, each unit consisting of one share of $3 preference stock and one share of common stock, is that correct?

Mr. WHITNEY. That is exactly correct.

Mr. PECORA. About when was that private offering made to the individuals whose names appear on that list?

Mr. WHITNEY. Well, it was going on, I should think, from the 9th of January to about the 14th. The span of these dates of these two memorandums which have been introduced in evidence would about cover the time it was going on.

Mr. PECORA. Well, it would be fair to say that this private offering of these units at $75 per unit was made to these gentlemen within a week of the incorporation of the United Corporation?

Mr. WHITNEY. Oh, certainly.

Mr. PECORA. Yes. Now at that time—at the time of this private offering at $75 per unit, had there been any trading in those units on a when-issued basis?

Mr. WHITNEY. I do not think so.

Mr. PECORA. Well, had there been any as early as January 16, 1929?

Mr. WHITNEY. There was testimony on Friday with reference to that. And I am frank to say that I do not remember what it was. May I take——

Mr. PECORA. Well, as I recall the testimony of Mr. Howard I think he said that there was trading in the over-the-counter market at about $99 per unit for these units——

Mr. WHITNEY. On January 21.

Mr. PECORA. That, I think was the date.

Mr. WHITNEY. So, to answer your question, on January 16, or at the time at which we were talking to these individuals who purchased these units, there was no quoted market whatever.

Mr. PECORA. By the way, Mr. Whitney, do you know whether or not that printed announcement that was put in evidence this morning, and which is dated January 9, 1929, was actually printed in full by the newspapers on January 11, 1929, or thereafter?

Mr. WHITNEY. My recollection is very clear that it was given the widest kind of publicity.

Mr. PECORA. By that you mean that it was printed according to the text of the printed announcement that was offered in evidence here?

Mr. WHITNEY. Well, I have not checked it, Mr. Pecora, but my recollection is that it was printed textually. Certainly in the newspapers in New York City.

Mr. PECORA. Do you know when the first public trading in these units took place?

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Mr. WHITNEY. Well, Mr. Howard testified that according to his records the first public trading took place on January 21, and the units, as far as our search—if I may answer approximately from my recollection it is that it was quite a considerable time after the public announcement of the formation of United Corporation before there was any trading, because there was no indication of what was to be available for sale.

Mr. PECORA. Well now, when you say that a considerable time elapsed, how long a time have you in mind?

Mr. WHITNEY. Well, a week or 10 days.

Mr. PECORA. After January 9?

Mr. WHITNEY. After the 11th.

Mr. PECORA. After the 11th?

Mr. WHITNEY. I have no knowledge—I have no definite recollection, Mr. Pecora, of my own, other than that which has been refreshed by Mr. Howard's testimony which I just referred to, which showed the first evidence of a public market was on January 21.

Mr. PECORA. Well now, let me show you what purports to be a photostatic copy of a page of the New York Times bearing date Thursday, January 17, 1929, entitled "United Corporation over-the-counter market. Heavy trading in shares of new utility holding company at 92 bid, 94 asked." Will you look at it and see if that refreshes your recollection as to whether or not there was any public trading in these units on and as, if and when issued basis in the over-the-counter market prior to January 21?

Mr. WHITNEY. It does not refresh my recollection at all, Mr. Pecora, because in the financial parlance a counter market does not mean anything anyway. I thought you meant an official market when you said on a when-issued basis; the stock exchange or the curb or some place where there was a listed quotation. I am not questioning the veracity of this, because obviously if it was in the Times it must be so, but I do not remember it.

Mr. PECORA. Now you recall the testimony of Mr. Howard on Friday to the effect that these units were actually traded in on a when-issued basis on the Philadelphia Stock Exchange on January 21, 1929, at $99 per unit?

Mr. WHITNEY. I do, yes. Yes, I remember the testimony.

Mr. PECORA. You have no reason to doubt that that was the fact, have you?

Mr. WHITNEY. Oh, no; sir. I knew that to be the fact.

Mr. PECORA. Now when did J. P. Morgan & Co., make this private offering to the persons whose names are shown on the list that has been offered in evidence to subscribe to these units at $75 per unit?

Mr. WHITNEY. When did we make the offer, or when did we complete the transaction?

Mr. PECORA. When did you make the offer, or when did you complete it—I do not care which.

Mr. WHITNEY. Well, we made offer, as I say, during the days beginning somewhere around January the 7th. It was not done in any one day. Or any explicit date. But the best of my recollection is that it would be somewhere around the 9th to the 14th.

Senator GLASS. Have you put in a preferred list, Mr. Whitney, while I was out?

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Mr. WHITNEY. Well, that was not the way it was introduced in evidence, Senator Glass. There was a list put in evidence.

Senator GLASS. I wanted to inquire if my name was on it?

Mr. WHITNEY. I do not remember, sir. I do not think so.

Senator GLASS. A good many people have been induced to think so.

Mr. PECORA. By the way, Mr. Whitney, was that so-called announcement in the form of that printed document that was put in evidence this morning published in the newspapers as an advertisement by J. P. Morgan & Co., or was it merely sent to the newspapers with the request that it be released for publication on January 11, 1929?

Mr. WHITNEY. Do you mean the first one?

Mr. PECORA. Yes.

Mr. WHITNEY. It was not as an advertisement by J. P. Morgan & Co. It was given out to the newspapers—to the reporters personally for release. There was no occasion for us to advertise anything. We were not advertising. We were not selling anything. We were not offering anything to the public in any sense. We were merely giving an announcement we thought would be of interest to the public about the formation of a holding company in which we were interested. Just a matter of news.

Mr. PECORA. Now I show you a document that has been introduced in evidence in these hearings marked "Committee's Exhibit 15 as of May 25, 1933."

Mr. WHITNEY. What is the number, please, sir?

Mr. PECORA. It is in answer to question 9 of our original so-called questionnaire. Will you look at the page thereof entitled "United Corporation Units", and by reference to the typewritten matter shown on that page, which document was prepared by your office, or at least furnished to me by your office, will you state as of what date these units of United Corporation stock were sold for $75 per unit to the persons listed on that list?

Mr. WHITNEY. Well, this memorandum here shows that we actually sold—by that we mean the date that something is paid for—on January 21. In other words, this establishes the date when actual payment was made for these units as of January 21, 1929. But that, of course, has no reference to the date on which we actually made arrangements or contracts for the disposition of this stock, because quite obviously we had to give the clients to whom it was sold an opportunity to make payment, and, as is customary, there is always an interval of time as between the date when actual payment is made and the date of actual delivery.

Mr. PECORA. Did that figure of $75 per unit represent the cost to J. P. Morgan & Co. of those units?

Mr. WHITNEY. On our books; yes, sir.

Mr. PECORA. When you say "on our books" are you referring to an arbitrary book figure or are you referring to the actual cost to J. P. Morgan & Co. of these units?

Mr. WHITNEY. I am referring to the actual cost to J. P. Morgan & Co. and the basis on which we conducted this transaction. And the books, of course, I refer to merely to prove that that is the way it was carried. The units were set up on our books for no consideration on our books, and when they were sold or distributed, as you know they have been in part, the profit from no cost was taken

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up and returned in all our official returns for that year. I state that, Mr. Pecora, perhaps anticipating a question, because Mr. Howard testified that they were set up on the books of the corporation at $1, and there was a difference between the technical setting up of that for consideration of a dollar and the way we considered them for nothing. We just received them. And we charged the account on our books for the common stock at $25 and the preferred stock at $50.

Mr. PECORA. Well, then, according to the set-up of these securities on your books, you treated these option warrants virtually as a bonus?

Mr. WHITNEY. Not at all, sir. But we did not think they were a proper banking asset to be held by a firm when they involved the payment—when to get any value from the warrants in the set-up of the corporation it would require the payment of $27.50, and therefore an option of that kind, which required the expenditure of money to get any value, and so on, we did not think was a proper asset to be carried on our books for any consideration of value.

Mr. PECORA. Well, they proved to be a very valuable asset, did they not, eventually?

Mr. WHITNEY. Well, they went up in the market with everything else.

Mr. PECORA. To what figure?

Mr. WHITNEY. I do not remember. About 40. I cannot remember the high. They went up with the stock and with the market generally.

Mr. PECORA. Didn't they actually go up to a figure of $47.50 in the open market?

Mr. WHITNEY. Well, I just do not remember, Mr. Pecora. I do not remember. I do not deny it. They may have gone to anything that year.

Mr. PECORA. Now let me refer you to what purports to be a typewritten copy of a letter which was furnished by your office to me, which bears date July 23, 1929, and is addressed to you. Signed with the initials "T. S. L." Will you look at it and see if that does not serve to refresh your recollection as to price at which these warrants were traded in in the open market in July 1929.

Mr. WHITNEY. It does, yes, sir.

Mr. PECORA. And what is the price there set forth?

Mr. WHITNEY. The highest price mentioned here is 46⅞.

Mr. PECORA. And who is "T. S. L." whose initials are signed to that letter to you?

Mr. WHITNEY. My partner, Mr. Thomas S. Lamont.

Mr. PECORA. I offer the copy of that letter in evidence. You do not dispute that is a true copy of the letter, do you, Mr. Whitney, that you received from Mr. Thomas S. Lamont?

Mr. WHITNEY. No, I do not.

The CHAIRMAN. Let it be received and entered on the record.

(Letter dated July 23, 1929, addressed to George Whitney, signed "T. S. L.", was marked "Committee Exhibit 29, of May 31, 1933.")

Mr. PECORA. The body of the letter reads as follows:

DEAR GEORGE. Trading in United Corporation option warrants was started yesterday. They started 1½ points above parity of the stock rather than 1 point, the figure which you discussed with me. Fifty-three thousand were sold,

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as planned, every one ⅛ up, between 45½ and 46⅝. They then continued selling and sold an additional 3,800 between 46¾ and 46⅞.

This morning the first sale was made, I understand, at 45¾, and the market now is 46½–¾.

This letter being dated July 23, 1929.

Mr. DAVIS. I call your attention to a little slip in reading. You said "every one ⅛ up." It should be "every ⅛ up."

Mr. PECORA. "Every one ⅛ up."

Mr. DAVIS. You read two "ones."

Mr. PECORA. No; "every one", and then the fraction "⅛ up."

Mr. WHITNEY. That is not the way it is in the letter. It is misquoted. "Every ⅛ up."

Mr. PECORA. Well, I read it from the copy. This is the copy that you furnished us.

Mr. WHITNEY. Will you correct it then? It is an inaccurate copy. "Every ⅛ up."

Mr. PECORA. "Every ⅛ up"?

Mr. WHITNEY. Yes.

Senator STEIWER. You notice, Mr. Whitney, that the copy from which counsel is reading reads "one ⅛ up."

Mr. WHITNEY. Quite. But I mean here is the actual carbon of the letter from which that copy was made. There is our own copy, you see, with the initials on it. It does not make any difference.

Mr. PECORA. I will show it to you. I read it just as it appears there, and that is the very copy that we have.

Mr. WHITNEY. But it could be corrected on the record. Do you want to see the copy?

Mr. PECORA. No; I accept your record of it.

The CHAIRMAN. Very well then, strike out the "one."

Mr. PECORA. "Every ⅛ up."

Mr. WHITNEY. Yes.

(Committee exhibit 29 of May 31, 1933, is here printed in the record in full, as follows:)

REUNITED CORPORATION DOMESTIC BONDS AND STOCKS IN $3 CUMULATED PREFERRED

File folder: United Corporation—Option warrants—Joint account

J. P. MORGAN & CO., *July 23, 1929.*

GEORGE WHITNEY, Esq.,
Cadwalader Cottage, Dark Harbor, Maine.

DEAR GEORGE: Trading in United Corporation option warrants was started yesterday. They started one and one half points above parity of the stock rather than one point, the figure which you discussed with me. Fifty-three thousand were sold, as planned, every ⅛ up, between 45½ and 45⅝. They then continued selling and sold an additional 3,800 between 46¾ and 46⅞.

This morning the first sale was made, I understand, at 45¾, and the market now is 46½–¾.

Sincerely yours,

T. S. L.

Mr. PECORA. Now, Mr. Whitney, this letter to you says "53,000 were sold, as planned." To what does that refer? To whose plan, or what?

Mr. WHITNEY. Why, the arrangement had been made to sell some of the warrants on the open market.

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Mr. PECORA. That is, arrangement made by J. P. Morgan & Co. to sell some of these warrants?

Mr. WHITNEY. No. If you will notice the date of this letter you will notice that I was away on a holiday, and I had just left on a holiday, and it was an arrangement made between the partners that we would dispose of certain of the warrants, as you know. We have already given you a detail of the fact we sold. This 53,000 I would have to—I would like to look at that list of our sales of warrants we furnished you—I mean the 200,000 warrants that you know we sold during these months.

Mr. PECORA. Well, these 53,000 warrants were sold for the account of J. P. Morgan & Co.?

Mr. WHITNEY. Well, that is what I am not quite clear upon.

Mr. PECORA. Or were they sold for the account of various individual partners?

Mr. WHITNEY. Oh, no. But I am not sure that this means that we did sell. It says "were sold." And my recollection, if I may look—well, I have got it right here. Mr. Pecora, by reference to the answer to your question, as we have got it, 39, which was asking us to cover all the disposition of United Shares, you inquired as to the disposition of our United stock and warrants under date of May 9, and in part answer to that question I find that we, the firm of J. P. Morgan & Co., sold on July 23, which is the date of this letter, 28,450 warrants at an average price of 45.9629. And subsequent sales making a total of 200,000 were sold through the next 2 or 3 months. The next 2 months.

Mr. PECORA. And what was the low for which any of those 200,000 warrants were sold in that period of time?

Mr. WHITNEY. 40.5391. If you will remember, they followed the course of the stock. The beginning of this letter refers to the fact that they started at 1½ points above parity, which, of course, means that this price reflected was in effect 1½ points above the differential between the market for United common stock and the subscription price of $27.50. In other words, people were prepared to pay $1.50 for this option.

Mr. PECORA. What was the high at which they sold during that period of time?

Mr. WHITNEY. That we sold the stock?

Mr. PECORA. The warrants; the option warrants.

Mr. WHITNEY. I mean warrants?

Mr. PECORA. Yes.

Mr. WHITNEY. Well, we sold 1,400 shares on the 25th of July at 47.017.

Mr. PECORA. Now these are the option warrants sold from a range of 40.5391 to 47.017 which your firm acquired for a consideration of $1 per warrant, are they not?

Mr. WHITNEY. Which were issued by the corporation for the consideration of $1 per warrant; yes.

Mr. PECORA. The only other person to whom any of these warrants were issued was Bonbright & Co., who were associated with J. P. Morgan & Co. in the financing of this corporation?

Mr. WHITNEY. Oh, no; there were other warrants issued to others subsequent to these few isolated beginning transactions to which you referred.

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Mr. PECORA. At the outset of the corporation the only persons to whom option warrants were issued were J. P. Morgan & Co. and Bonbright & Co., were they not?

Mr. WHITNEY. Yes, sir; if you restrict your question as definitely as that I am bound to answer yes. But that question brings—I do not think that the clear picture of what this corporation was has as yet been presented to this committee. That is technically true.

Mr. PECORA. According to the calculation which we have made, Mr. Whitney—I do not know whether you have made one also—these 200,000 option warrants which were sold by J. P. Morgan & Co. for its account between July 23, 1929, and September 20, 1929, were sold for an aggregate of $8,490,045.74.

Mr. WHITNEY. What is that?

Mr. PECORA. $8,490,000. Have you any calculation of the accuracy of those sales?

Mr. WHITNEY. It might be of interest to the committee to notice further along in this same question that the remaining 1,514,200 warrants were distributed to the individual partners at $1 per share, which was a dollar above the cost on our books, and, as you know and as we have already answered one of your questions, we still have them without exception.

Mr. PECORA. Well, that distribution was made on December 19, 1929, was it not?

Mr. WHITNEY. Right. These were all of the firm account here.

Mr. PECORA. Yes. And there was no obligation on the part of any of the individual partners to hold these option warrants and not sell them, was there?

Mr. WHITNEY. No.

Mr. PECORA. And that for a long time after this distribution was made to the partners of these 1,514,200 option warrants it remained in the possession of J. P. Morgan & Co. after the sale of 200,000 warrants in the open market?

Mr. WHITNEY. Well, clearly, you have already had the date—December 19.

Mr. PECORA. Yes. And so for a long time after December 19, 1929, these option warrants could have been disposed of in the open market by the individual partners of J. P. Morgan & Co. at very substantial prices? Could they not?

Mr. WHITNEY. Well, Mr. Pecora, when you get "could have been"—we could have sold more in the summer.

Mr. PECORA. Yes.

Mr. WHITNEY. But we did not and have not. Now whether or not—it is a question of idle speculation, is it not, as to whether or not we might have sold things that we own. I do not know the market. I know today, for instance, the warrants are selling somewhere around $2. I know that they have consistently sold during all the period of depression for something above their actual return in value. Obviously today with the stock selling around $9 the opportunity to pay $27.50 is not worth very much, but still for some reason, which I have never understood, the public—there is still a quoted market on the curb of something around $2 by people who believe that privilege to purchase these warrants is worth that to them. I do not understand it.

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Now, by the same token we might have sold at a profit. We still could, if you want to put it that way. But we have not. That is the net of it.

Mr. PECORA. You have not merely in the exercise of your own judgment and discretion?

Mr. WHITNEY. Well, yes; certainly. And, of course, there has not ever been anything like a substantial market for the warrants.

Mr. PECORA. But these option warrants reached an open market value in the summer and early fall of 1929 of $40 per warrant or more, did they not?

Mr. WHITNEY. Yes. I testified here, as shown by this list, that they sold at $47. United common stock in that crazy market in the summer of 1929 sold at 73. So that after all it is about $1.50 differential there on the conversion. These are nothing different from any convertible privilege, if you want, except they are detachable, they are individual pieces of paper, but it is a curious thing but the markets almost always pay for the privilege of an option, particularly if it is a long option. In this case it is 47, which is just running along with the price of the common stock.

I do not know whether we have ever answered this, but it is a fact that something like 265,000 of these warrants were converted into stock and the company received therefor something like $6,000,000 by people who exercised their conversion privilege during that period or have during the life of the warrants.

Mr. PECORA. And they exercised those privileges at a time when the common stock was selling for much more than $27.50 per share, did they not?

Mr. WHITNEY. Oh, I assume it was done on an arbitrage basis.

Mr. PECORA. So that the company in making those exchanges of common stock for these option warrants to the extent of $6,000,000 worth, was issuing its common stock to the holders of these option warrants at a price substantially below the then prevailing market for those shares of common stock?

Mr. WHITNEY. Yes, Mr. Pecora. Obviously like any other conversion privilege. It is a rather unknown practice for a company to just sit by and sell its stock in the open market. This was the formation of the company. These warrants were created with full publicity. Everybody who ever bought a share of United knew about it. And that was a contract made by the company in this instance. The fact that the market went wild in the summer of 1929 and the stock went up does not really influence the question. You would not suggest that a company should sit by and just unload its own stock out of its treasury into the market at any price that just happened to come. And this is a straight conversion privilege which everybody who bought a share of United was aware of. It was publicly announced. It was deemed to the advantage of the company when it was done. And the exercise of these 260,000 warrants was done, as you said, according to the individual judgment of the holder of the warrants. I do not know why or when they did it.

Senator COUZENS. May I ask if that was your first experience in option warrants?

Mr. WHITNEY. Ours, sir?

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Senator COUZENS. Yes.

Mr. WHITNEY. Yes, Senator Couzens. We have had, of course, a lot of experience with convertible bonds.

Senator COUZENS. Yes; but I was asking you about these option warrants.

Mr. WHITNEY. It is; yes, sir.

Senator COUZENS. What inspired these option warrants? What brought about the initiation of issuing option warrants? What suggested it, and what was your idea when you started to issue them?

Mr. WHITNEY. Well, there were a good many motives, Senator Couzens. You asked if this was our first experience. It was our first. But there had been many other cases where other companies had option warrants outstanding. It had been quite a customary form of financing—equity financing in public utilities.

Senator COUZENS. Over how long a period?

Mr. WHITNEY. Well, the only one that I can remember specifically is the Mohawk Hudson Power Corporation, which had been formed previously to the formation of the United Corporation. They had option warrants. And that is the reason why there were option warrants in the Niagara Hudson.

Senator COUZENS. Were they unlimited as to time of the exercising of the options?

Mr. WHITNEY. I am told that some were.

Senator COUZENS. Just what did you hope to gain by that, rather than issuing limited option warrants? Limited as to time?

Mr. WHITNEY. Well, I think it is quite obvious, Senator Couzens, that on the face of it a perpetual warrant, such as that kind, sounds as if it were a more attractive piece of paper to have. I think that experience since—not from the point of view as Mr. Pecora suggested, as to the disadvantage of the company—but I think that our experience since as to a certain inflexibility that it brings about in the future conduct of the company would probably make us, if we had the decision to make again, not make it perpetual. But it would not be because we believe that that company is in any way injured, because it is always, year in and year out, a pretty good thing to have the company get common stock in its equity. And you must remember these warrants have certain disadvantages. In other words, they do not get any right to share in the enlargement of the common stock. They have no stock subscription privileges except through the exercise. They are always a warrant for whatever the common stock at that time may be. In other words, if the stock buys other property at high prices, or if a large amount is offered the stockholders, they still only have a right to buy a share whenever they subscribe for the common stock as at that time constituted. And there are no dividends. If a company should be prosperous and get large income and pay dividends they would not share in that unless they elected to put up their $27.50.

Senator ADAMS. These warrants would affect the stockholder rather than the company, would they not? That is, the effect would be upon the stockholder of the company rather than upon the company itself, if you could distinguish between the two?

Mr. WHITNEY. Well, that would be the only person we ever considered could be affected. I never thought that there was a question about their affecting the company. The question of the minority

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stockholders having the right, at whatever the price of the stock might be at the time, to come in and subscribe to a share at twenty-seven and a half, the question might be raised. That is why we took such infinite pains on every piece of paper that we brought out, everybody we talked to about it, we put them on notice of the fact that those option rights were outstanding to the matter of 3,900,000 shares of stock.

Senator ADAMS. But the fact that the distributed share of stock was, say, $50 a share, if someone else holding an option warrant could buy a share for twenty-seven and a half, why, other stockholders had a slight increase in value of their stock, did they not?

Mr. WHITNEY. It was always a question on these 3,900,000 shares, that they had the right to come in and share in the future stockholdings of the company. But on the other hand, everybody who bought a share of stock was fully on notice that that privilege existed. So he has bought with the entire knowledge of the situation.

Of course, if today something could happen—during the average period since the formation of this company, it would have been over the average very much to the advantage of the stockholder, if everybody had exercised this privilege, but as Mr. Pecora pointed out the other day, people are not apt to exercise such a privilege when the stock is selling substantially below.

Senator COUZENS. May I finish my question, Senator Adams?

Senator ADAMS. I beg your pardon.

Senator COUZENS. I did not get from Mr. Whitney step by step what the arguments were for issuing these option warrants for an unlimited time. I would like to get that on the record, just what you had in mind when you undertook that policy.

Mr. WHITNEY. Well, I will try to, Senator Couzens, as I have tried once before, to lead up to that, and Mr. Pecora asked me to wait till later.

Senator COUZENS. I beg your pardon.

Mr. WHITNEY. Not on this specific question, but that goes into the theory of the organization of this company and all that it involved. It was something that J. P. Morgan & Co. had never done before, was to form a holding company of this kind.

We announced the fact, the first time we ever held ourselves forth as the organizers of a company. We expected over a period of time to take just as much interest in this company as that responsibility warranted, and we felt that it was a perfectly justifiable thing to have these warrants, which were announced at the time to be outstanding, which would take $27.50 per share, which was 10 percent above the price of the stock which we sold, the only stock that we ever sold on our own representation, and we believed that it was a method of continuing interest in this company over the future.

Quite frankly, Bonbrights and ourselves took these million warrants and the others—I might say here, although I am getting ahead of the story, that the other warrants were issued to the other people, who came in subsequent to this initial formation, on exactly the same basis as we received them.

So that the 714,000 warrants stand off by themselves, and the million warrants that Bonbright and ourselves received, together with 800,000 shares, or 400,000 shares, for $10,000,000, are in a little bit different classification, although the rights are the same.

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Senator COUZENS. Did you have in contemplation any measure of control by the exercising of those warrants?

Mr. WHITNEY. No, sir. The facts are that in the initial organization of United J. P. Morgan & Co. for a few months had about 8 percent of the stock. By the exercise of these warrants we held, which involved the subscription of $47,000,000, we would have been able at one time in the very early stages to have about 32 percent of the company. Later on, I think it was in May or March—May, I think—there were certain offers for other securities made by the United Corporation which within 6 months of the formation shrunk our possible control, if you want, or interest, percentage of interest, by the exercise of these warrants that have been mentioned, and the payment of $47,000,000, to something like 22 percent.

Senator COUZENS. When you and your partners talked it over and agreed to take——

Mr. WHITNEY (interposing). That was not an argument. I mean that was not an inducement, Senator Couzens.

Senator COUZENS. When you and your partners talked together about taking these warrants individually, what gain did you expect to make as a result?

Mr. WHITNEY. Well, the primary objective, Senator Couzens, in distributing those——

Senator COUZENS (interposing). Now you are speaking for yourself, from an individual standpoint. I am not speaking from the firm standpoint, but your individual standpoint, when you took the warrants, what did you have in mind as a benefit?

Mr. WHITNEY. Well, I was and am a great believer in the United, and I believe that that option was a valuable option to sit down with and keep, in the hope that some time the company, the affairs of the—general conditions and one thing and another—would make it a very valuable option. I did not take them with the slightest interest to turn and unload them in the market for a slight profit. I believe that the privilege of this option, like any other conversion option, was a very valuable one and would prove so by the years, and I still think so.

Senator COUZENS. Did the issuing of these option warrants in any way create a market for new stock that might be issued by the United? Did the fact that they were out do that?

Mr. WHITNEY. No, sir. There had been an offer of new stock to the stockholders in May, I think, paid for in July, before that, which had already, if you want it, increased the stock to $37.50 a share. There had been an offer to the stockholders which had been taken by the stockholders, so that——

Senator COUZENS (interposing). Now, at that point, if the stockholders had not taken their full quota you could have come along and exercised that option if you had got it for $27.50, could you not?

Mr. WHITNEY. Oh, quite. There would not have been on that stock, because in the capitalization of the company, Senator Couzens, there was 4,000,000 shares set aside—three million nine something—but set aside definitely for the exercise of these options, and on increases in capital stock it increased sufficiently to still leave that stock available under the authorized capital.

Senator COUZENS. What is the idea of leaving that available?

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Mr. WHITNEY. Well, because the company has outstanding a contract with the holders of the option warrants, whereby the company agrees to deliver to him on the payment of $27.50 one share of stock. He has got to come within his authorized capital; he has got to have that stock available.

Senator COUZENS. So that any time when this stock was up around 40 or 50 do I understand you individual partners of the Morgan House could have drawn up those 4,000,000 shares at $27.50? You said that they were held for that purpose.

Mr. WHITNEY. At that time, sir, they were held by the firm, not by the individuals. Mr. Pecora has brought out they were not distributed to the partners till December 19, but during that summer when they were selling at the prices you mentioned the answer is "yes," we could have, by payment of $27.50 turned around and got stock that might have been selling at 50 or wherever.

Senator COUZENS. Why? Why didn't you?

Mr. WHITNEY. Well, for the reason that we wanted to keep the warrants, and we finally did sell some warrants, and I just testified to that effect, to the extent of 200,000 warrants. Why didn't we go——

Senator COUZENS (interposing). Why didn't you exercise your right under those options when this stock was at a high price and the stock was available?

Mr. WHITNEY. I don't know, Senator Couzens. It is hard to answer why we did things. It is even harder to say why we didn't.

Senator COUZENS. That is what I am asking you, why you didn't.

Mr. WHITNEY. It is difficult today to see why, perhaps, we didn't do it, but as I say, we still had a great belief in them. We did sell 200,000 as a partial concession, to which your question is, but we though that the option over a long period was valuable.

Senator COUZENS. If you had exercised the option with that payment of $27.50 that would have gone to the corporation?

Mr. WHITNEY. Oh, certainly.

Senator COUZENS. And increased their capital, working capital?

Mr. WHITNEY. Certainly, increased their cash capital.

Senator ADAMS. Mr. Whitney, what was the situation as to that common stock as to dividends? Has that been a dividend-paying stock?

Mr. WHITNEY. Yes, sir. The situation on dividends is that these gentlemen who bought the unit share of preferred and a share of common have received from that day to this $3 on their preferred stock, on the preferred share, which has meant a 4 percent return on his $75 investment.

He has further received dividends at varying rates on the common stock. I think the highest rate per annum was 75 cents, and the current rate of dividends is at 40 cents per annum.

You will understand that this company's only income comes—practically only income comes—from dividends accruing from the stocks of the constituent companies, and it has very light expenses of any kind. As Mr. Howard has testified, they only have a very small staff there, and that perhaps might be the explanation of Mr. Howard's testimony the other day why the books were kept in our

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office, because in the initial instance we were quite frank in stating that we had organized the company with Bonbrights, and our desire was to keep the expenses down, and both of us had some of our most confidential people to assist so that it would not be necessary for this corporation to hire and engage a lot of other help.

The CHAIRMAN. What salary did Mr. Howard receive?

Mr. HOWARD. $75,000 a year, Senator Fletcher.

The CHAIRMAN. Now, Mr. Whitney, let me ask you this: Is it not true that this practice of issuing warrants in these circumstances is in effect and is equivalent to a type of what we know as stock-watering, watering of stock? Isn't it a type of watering stock?

Mr. WHITNEY. Senator Fletcher, if I may be so bold, that is just what it isn't. That is one of the inducements of using warrants, that Senator Couzens has already asked. There has been a great deal of financing, stock financing, where there are managing contracts, managing stock, founders' shares, all those things, issuance of shares for very much below value at the time of the organization, and that is one thing that the warrant definitely is not.

A warrant is a contract to issue a share of stock, in this case in perpetuity and a definite amount of money is set forth in that warrant. There is nothing watered about it, Senator Fletcher, because no share is issued until there is actual dollars, not securities that may fluctuate, but dollars, $27.50 issued for every warrant.

So it is one of the chief, and we believe a very legitimate, reasons for the use of warrants, is that it gets away from any possibility of watering, because, after all, the assets of a corporation are not dependent upon the market value at which securities fell. The value of its assets is a constant value put on these warrants, and a man to get any advantage from them whatever, from a warrant as a warrant holder, has to put up a certain fixed amount of money to get that advantage in the way of dividends or rights given to stockholders whatever. And we think that it is one of the reasons why the use of warrants is most justified, that it is certainly not watering.

Mr. PECORA. Mr. Whitney——

Senator GLASS (interposing). Mr. Whitney, if I may venture to ask you a question, I want one thing cleared up in my own mind completely.

Mr. WHITNEY. Yes, sir.

Senator GLASS. Who controls the various utility companies; who owns and controls the various utility companies of which this major company of which you speak has holdings?

Mr. WHITNEY. Senator Glass, if I may answer that question on generality, because I cannot speak from the book except insofar as Mr. Howard has already testified——

Senator GLASS (interposing). We have had the percentages stated for the record, and what I want to know is the significance of those percentages.

Mr. WHITNEY. May I take them by companies?

Senator GLASS. In other words, take the companies in which your holding company appeared to own sixty-seven one-hundredths of 1 percent of the common stock. Would you call that ownership or control?

Mr. WHITNEY. No, sir.

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Senator GLASS. And if so, just in what way and by what device do you own and control that company?

Mr. WHITNEY. Well, Senator Glass, we, of course, do not have any measure of control of any kind in that particular instance, and to answer your question generally, the controlling ownership is held by the general public of all these companies.

It may be of interest and relating to your question that the officers—the executive officers, executive staffs—of every one of these companies which the United holds the principal amounts remain unchanged since before the formation of United. That is, there were certain very minor qualifications to that, the fact that Mr. Zimmermann was not actually president; he was acting president at the time; he became president afterward.

So that all that has happened through the formation of United is the holding in one instrument, one corporate instrument, of these minority interests. We have joined with the existing managements in every instance of these corporations and have watched those companies from the point of view of the substantial stockholder. We have got no management contracts. We have never attempted to inflict any question of management or anything other than general policy as a large stockholder on those companies.

If you go down, if you wish to, I can answer your question more in detail.

Senator GLASS. Right there, if I may venture to ask you another question, Do these option certificates enable you in any way to control or coerce the management of these companies?

Mr. WHITNEY. You mean the other companies, the constituent companies?

Senator GLASS. Yes.

Mr. WHITNEY. They have nothing to do with the other companies. No; the warrants have nothing to do with the other companies, Senator Glass, and if we exercised our warrants today we would only have 23—well, I have already said that. They have nothing to do with the constituent companies, Senator Glass.

Senator GLASS. If you were to exercise the warrants could you acquire an interest thereby in all of these or any of these companies that would enable you practically to own and control them?

Mr. WHITNEY. Certainly not. The only thing the warrant does is to permit you to buy an interest in the equity owned by the United Corporation in these constituent properties. It would not change in any sense the percentage of ownership in the constituent companies.

Senator GLASS. Now, it has been suggested that interlocking directorates would enable the United, which eventually would mean Morgan, Drexel, and Bonbright, to control the policies of those companies. Is that so?

Mr. WHITNEY. Well, in my judgment it is not so, Senator Glass, because there is no question. It has been testified this morning and it has been a matter of public knowledge ever since the formation of United that United had very large minority interests, substantial interests but way minority. It has been a matter of public knowledge that certain individuals, such as the president of the United Corporation, sits as a representative of a large stockholding interest

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on the various constituent company boards. This morning Mr. Pecora has brought forth by Mr. Howard's testimony what is also a matter of public knowledge, that these various members of the United Corporation boards are the executive heads of these properties of which we own a large interest, Messrs. Zimmermann, Gossler, McCarter, Cobb—we own a very small interest in Mr. Cobb's company. Frankly, that is the fact. There has never been a question about it. We have announced it publicly ever since the formation of the United, where our interests lay.

The interlocking directorate question to me—I think the answer to your question is definitely "no"; that there is no interlocking directorate. Those companies operate in different States, in different parts of the country. Every one of them is subject to State regulation of the State public utility commissions. They are operated as entities in every possible sense. There is no question of interlocking control of any kind.

Senator GLASS. Is any one or more of these companies indebted to the firm of J. P. Morgan & Co. to the extent that you might exercise control over it or them?

Mr. WHITNEY. Certainly not. That is part of this questionnaire, upon the question of the loans that have been made by the firm of J. P. Morgan & Co. and Drexel & Co. But never at any time have they owed us or both of us or either of us anything but a relatively small amount of money.

Senator COSTIGAN. Mr. Whitney, some years ago the United States Industrial Relations Commission held the hearings in this country, and my recollection is that there was testimony given at the time to the effect that the ownership of approximately 12 percent of the common stock would enable the owners of that stock to direct the policies of the corporations by which such stock was issued. I am wondering whether your answers do not confuse stock ownership and control of policies.

Mr. WHITNEY. Senator Costigan, Mr. Howard testified that on questions of policy it might well be that the executive officers of these various companies might ask to discuss the matters with the United Corporation. The question of whether you could exert—whether 20 percent or whatever would actually be effective control, if there was any occasion to use it I do not have any idea. The only point that I wished to make was that in actual fact in the 4 years that the United Corporation has been in existence the same executive people, the same executives officers, are controlling the destinies of those constituent companies as they did when we first purchased an interest in them and formed United.

So that whether—I would hate to express an opinion on a report made by a commission of the kind you refer to, because it involves a lot of theories and suppositions that I really am not competent to talk about. But we have announced in our initial statement that has been spread in the record here that it was a company holding substantial minority interests, I think is the wording—"acquire certain minority interests"—and there has never been any wish or our part to exert control.

But I do not want to quibble at all with you on the question of policy, because, obviously, as large stockholders we are inter-

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ested in the policies. But the policies of the public-utility companies are necessarily confined to the districts that they serve, in which they are regulated by public-service bodies of various titles. Their rates are controlled by those bodies, and therefore there is an interchange of a certain amount of power. I don't know if that answers your question.

Senator COSTIGAN. Have you ever known an instance in determining the policy of any of the corporations about which you have been testifying in which Mr. Morgan's advice has been disregarded if given?

Mr. WHITNEY. May I—I think I do, but I would just like to check. On a question of—I think I can remember several, Senator Costigan, but I don't want to mean by that that there was a knock-down-drag-out fight about things, but we have often, often differed with these operating heads on matters of policy.

Senator COSTIGAN. What you mean is that if Mr. Morgan gave advice which you thought it wise not to adopt you discussed the subject further with him and he agreed in the changed course which was finally decided upon?

Mr. WHITNEY. I don't——

Senator COSTIGAN. Do you wish the question repeated?

Mr. WHITNEY. Yes; I would like to have that again.

The SHORTHAND REPORTER (Mr. RANDOLPH):

What you mean is that if Mr. Morgan gave advice which you thought it wise not to adopt you discussed the subject further with him and he agreed in the changed course which was finally decided upon?

Mr. WHITNEY. You mean me individually, Senator?

Senator COSTIGAN. I was referring rather to the directors of the corporation.

Mr. WHITNEY. Well, if a question of that kind came up, obviously, when our advice was asked we would give it the best way we knew how, but in the final analysis, in many instances, the decision is left to the board and the executive management, and I am sure that—I don't think there has ever been any question of principles we have ever differed on. Questions of detailed policy I know of many instances, and we do come to an agreement together, as sensible men try to do, but it has not always been J. P. Morgan & Co.'s policies that have been adopted by a long shot.

Senator COSTIGAN. Whenever Mr. Morgan gave advice his advice finally prevailed, did it not?

Mr. WHITNEY. Oh, no, sir.

Senator COSTIGAN. Will you give instances in which it did not?

Mr. WHITNEY. Well, I could, Senator Costigan, but it takes going back in my memory of conversations. I have one very actively in mind, and if it is of any interest I will do it, but I would a little rather not . It involves conversations——

Senator COSTIGAN (interposing). I think that the other members of the committee desire that.

Mr. WHITNEY. I promise you that that is the case.

Senator ADAMS. Mr. Whitney, along the line of Senator Costigan's interrogation, isn't it the fact that in the large business corporations of the day the actual control is not exercised by the majority stockholders but by consolidated minority stockholders? That is, the cor-

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porations are so large that it is financially impossible for single groups to really have a majority stockholding? I have in mind, for instance, a tabulation in the volume of Professor Burrell referring to the United States Steel Corporation saying that the boards had 1.6 percent of the stock.

Mr. WHITNEY. Yes.

Senator ADAMS. That is, an active, concentrated minority necessarily operate these companies?

Mr. WHITNEY. That is true, with the tremendous diversification that has come through the last 5 years in the holdings of common stock by the general public, the way the number of stockholders has grown. You can take almost any industrial, public utility, or railroad corporation; there has been a tremendous growth in the last 5 years in numbers. But I think it is fair to say that in almost every instance that has become true, and there is no longer what you might call a majority control, actual, technical majority. The management has grown in increased numbers, representing generally large bodies of stockholders as against even the minority stockholders.

Senator ADAMS. The individual stockholder across a period of wide distribution has no method of organizing a substantial block of stock?

Mr. WHITNEY. No.

Senator ADAMS. So I think it goes back in substance to what Senator Costigan pointed out, that a comparatively small percentage really controls.

Now, I am wondering in these various cases you refer to having 18 to 20 to 22 percent, having that consolidated stock holding, isn't that adequate for practical purposes to control these corporations?

Mr. WHITNEY. Why, you mean if it came down to a disagreement?

Senator ADAMS. Yes.

Mr. WHITNEY. It must be a very substantial sort of starting-off place, say, twenty-odd percent right off, from which you would only have to gather the same amount, a little more, to have your actual technical control. So obviously there is that much start against any other stockholder starting from scratch, who would have that much more of a job. That is obvious mathematically.

Senator ADAMS. And also having a practical working list of stockholders which is available to build up your proxies?

Mr. WHITNEY. That has never—in our experience, Senator Adams—that has not ever happened. So, again, we are dealing with a—I would not deny that.

Senator GLASS. You would not undertake to say, would you, that Mr. Morgan is not a right powerful and influential figure in investing companies, would you?

Mr. WHITNEY. Well, you mean Mr. Morgan individually, or J. P. Morgan & Co.?

Senator GLASS. I mean J. P. Morgan & Co.

Mr. WHITNEY. Why, no.

Senator GLASS. He is that, isn't he?

Mr. WHITNEY. Yes, sir.

Senator GLASS. Is there anybody in the country so ignorant as not to know that?

Mr. WHITNEY. That is a very hard question for me to answer, Senator Glass.

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Senator GLASS. Let me ask you this more pertinent question: Are any of the executive officers who control these various companies held by the United Co. personally—this is a very intimate question; I don't know that it ought to be asked—are they personally indebted to the house of Morgan?

Mr. WHITNEY. I think, without exception, Senator Glass, the answer is no.

Senator GLASS. Suppose now you go over for my information—it may not afford any to other members of the committee—go over that list of percentages put in the record the other day by Mr. Howard, or, say several, as to the various companies, whether or not the executive officers of these companies are indebted to the house of Morgan or whether or not the house of Morgan controls the operations of these respective companies.

Mr. WHITNEY. Senator Glass, the first group of companies here is the Niagara Hudson group. None of the executive officers are indebted to us in any way. The management of that company is in the hands of the Messrs. Schoellkopf, who have been for several generations identified with Niagara Falls Power in the western end of the State. Its president is Paul Schoellkopf, and his brother Alfred is vice president. Mr. Carlisle is chairman of the board.

Senator GLASS. What is the percentage there?

Mr. WHITNEY. The common stock of that company is 21.91, and the Schoellkopfs have a very holding as a family themselves, I think almost equal to this.

The next one is the Public Service Corporation of New Jersey, of which United own 17.9 percent, and there is no officer of that company that is indebted to J P. Morgan & Co.

The United Gas Improvement, of which United owns 26.1 percent, which is the largest of any, largest percentage of any; there is no officer of that company that is—the question was raised whether my last statement was accurate, Senator Glass. We will check it in a minute, in other words, whether there was a loan to one of the officers. We will know in just a second.

Mr. Zimmermann I find has a loan with Drexel & Co. I don't know what amount, and if I may I would like to complete the record by finding out the amount.

Senator GLASS. I wish you would.

Mr. WHITNEY. Next on the list is the Columbia Gas & Electric Corporation, of which we, the United, own 20.9 percent, and there none of the executive officers owe J. P. Morgan & Co. any money.

Commonwealth Southern, we own, United, 5.3, and there again no executive officer is indebted to us in any way.

The Electric Bond & Share is the one to which you referred earlier, where we only own two thirds of 1 percent, and there again no executive officer or officers of the Electric Bond & Share is indebted to us.

The French Co., the Societe Lyonnaise; while I haven't got the records, I am perfectly confident that none of those officers owe us anything. That is in France.

The Lehigh Navigation, of which we own 2.5; I just don't know enough about the company to know who the officers are, so I cannot tell you.

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Consolidated Gas of New York, of which the United owns less than 2 percent—1.8—no executive or other officer of the Consolidated Gas Co. as of today does owe us any money. A loan came up the first day, a gentleman who was formerly a director.

American Waterworks, of which we own 3.6, the same is true.

Consolidated Gas of Baltimore, of which the United owns 2.8, the same is true.

So with the exception of Mr. Zimmermann—and I do not know the details of that—there is none of the officers of any of the companies in which United has a stock interest that is indebted to the firm of J. P. Morgan & Co. and Drexel.

Senator GLASS. Well, outside of the well-known and well-established influence of the House of Morgan as successful bankers, I am curious to ascertain for the record just how you can manage to control these companies.

Mr. WHITNEY. Senator Glass, I am afraid I cannot tell you that, because I do not think we do. I know we do not, except—I am not denying that our advice is asked—we sit on these boards as many other people who have no connection with us do. We try to be efficient and faithful directors in the sense of attendance, and take an interest in the affairs of the company; but I cannot show you how we control them, because I do not think we do.

Mr. PECORA. Mr. Whitney, are any of the companies whose securities are owned by the United Corporation competing companies?

Mr. WHITNEY. I don't think so. I don't see how they can be.

Mr. PECORA. All of these companies whose securities are held by United Corporation are represented on the board of directors of the United Corporation, are they not?

Mr. WHITNEY. Well, the ones where we have a major interest, Niagara Hudson and the U. G. I., the Public Service, the Columbia Gas, and then Commonwealth Southern, which we have a very small interest in, Mr. Cobb in that and on the United board.

Senator COUZENS. May I ask a question here: Going back to that question of control, a memorandum has been handed to me to ask whether or not the favor Morgan & Co. did to Mr. Sidney L. Mitchell, president of the Electric Bond & Share Co., would not aid the Morgan company in controlling the destinies of the Electric Bond & Share Co.

Mr. WHITNEY. I didn't know we had ever made a loan to Mr. Mitchell.

Senator COUZENS. I didn't say a loan; I said preference shares, outside shares. If I used "loan", I made a mistake.

Mr. PECORA. Senator Couzens, don't you mean Sidney Z. Mitchell instead of S. L.?

Senator COUZENS. Yes. The Electric Bond & Share Co. was permitted to buy 3,000 shares of Standard Brands below cost. In other words, he was on the preferred list, and I ask if that inferentially would not at least suggest to Mr. Mitchell that it might be well to do what Mr. Morgan wanted?

Mr. WHITNEY. Senator Couzens, Standard Brands was offered to Mr. Mitchell, it is true, to the extent of 3,000 shares. It was offered to him on June 24 at what would be the equivalent of $32 a share. The market at that time for Fleischmann, the equivalent market, was something like $33. Mr. Mitchell took an undertaking with

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us, and the others in that list, to be ready to put up on September 5 $32 a share for 3,000 shares of stock. He took the full risk with the course of the market. He took an ordinary underwriting risk, which a man of his large means and knowledge of affairs is entitled to do with his money.

It may have been that on the day—I think the price of Fleischmann, which is translated—the equivalent of Fleischmann—was 80. I think the equivalent was 33¼ on June 24, the day that these contracts with these gentlemen were confirmed by us and Standard Brands. They had a firm, definite commitment to pay 32 on September 5, over 60 days later.

Now, Mr. Mitchell, I think it is a well known fact, is a man of very large means and a man with whom we have never had any business relations of any kind.

Senator COUZENS. I am only using that as an example, Mr. Whitney. I just wondered whether that spreading out of these favors and these lovely gifts didn't——

Mr. WHITNEY (interposing). No, sir.

Senator COUZENS. Didn't influence them to do what the Morgans would like them to do?

Mr. WHITNEY. No, sir. This word "preferred list" has been——

Senator COUZENS (interposing). I didn't coin that; the newspapers coined that.

Mr. WHITNEY. No, sir. I was not charging you——

Senator COUZENS (interposing). I would call it perhaps more than that.

Mr. WHITNEY. May I take your question as a general question on that subject?

Senator COUZENS. Yes; certainly.

Mr. WHITNEY. There are five of these lists that are going to be discussed. Three of them have now been entered as evidence, namely, the Alleghany Corporation, Standard Brands, United Corporation this morning, and Johns-Manville and Niagara Hudson are the other two that Mr. Pecora mentioned the other day.

Now, all those operations have one thing in common, and in this point I think is what destroys the idea of what has come to be known as a "preferred list", because it is not a preference. It is a perfectly definite business transaction. Each one of those transactions, all five, although each one of them are quite different in themselves, in their inception idea and degree of interest and one thing and another, they all involve the question of underwriting common stocks. This theory of having a list of underwriters to share an equity risk with us, J. P. Morgan & Co., is not new. In fact, it is very old. It goes down, traditionally, ever since there has been banking. As you probably know, in England they have underwriters as a part of their security distribution, for individuals, insurance companies, anybody who has got the money and who has the substantial fortune to take the risk and has the knowledge to know the risk he is taking. This creation of these lists which we have was used long before these boom times and is a theory of distributing a risk in equity, where we did not consider it was a proper banking risk for the banking firm of J. P. Morgan to carry these stocks in this volume. We did not believe either it was a proper

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thing for us to sell those through any hullabaloo in the general market to the general public. But we did believe that we knew certain people who had the substantial wealth, the knowledge of their securities, and the willingness to take a risk along with us in the underwriting of these common stocks.

Now, on these lists, so-called "preferred lists", there happened to be a very large market afterward. It happened that certain of these people we had had business relations with, friendly relations with for many years. Some of them have become prominent since 1929, but——

Senator COUZENS (interposing). Let me ask you a question right at that point. Suppose your eminent counsel, Mr. Davis, for instance, had got a letter offering him 3,000 shares at 60 percent of the market. Could he have turned around and offered his friends to get in under the same provisions, or would you have done it?

Mr. WHITNEY. You mean could he have introduced people to the list?

Senator COUZENS. Yes.

Mr. WHITNEY. Well, Senator Couzens, you start with the supposition he was given something 60 percent below the market.

Senator COUZENS. Well, we will take Mr. Raskob, for instance. He was very grateful for what you did for him, according to his letter, and I undoubtedly would myself have been as grateful if I had got a letter like that. But what I am trying to get at is whether Mr. Raskob could have taken under that grateful tent of his a lot of other friends?

Mr. WHITNEY. You mean could he have suggested others?

Senator COUZENS. Yes.

Mr. WHITNEY. Well, he never did.

Senator COUZENS. No; but what would you say if he did? Supposing he suggested Mr. Durant and myself and some others; would you let us in at the same basis?

Mr. WHITNEY. That is a very hard question, because, I have known Mr. Durant a good many years. I think if he asked you, probably.

Senator GLASS. It might be if the chairman of the Republican National Committee, who was on the preferred list, had suggested Senator Couzens, you would have let him in, wouldn't you?

Mr. WHITNEY. Mr. Raskob is a very——

Senator COUZENS (interposing). I am quite sure you would let Senator Glass in if Mr. Raskob had asked you.

Mr. WHITNEY. Mr. Raskob is a very—you, of course, know that Raskob was in General Motors when they commenced.

Senator COUZENS. Oh, yes; I know.

Mr. WHITNEY. He went into public life rather unexpectedly.

Senator COUZENS. I do not want to go into personalities. I am trying to get the scope of this thing. We are thinking about control.

Mr. WHITNEY. Yes, sir.

Senator COUZENS. And that is one of the things that concern me.

Mr. WHITNEY. Yes; quite.

Senator COUZENS. I have sat on boards of directors where 2 and 3 percent of the stock dominated and controlled the policies of the companies, not because they had a physical majority of the ownership.

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Mr. WHITNEY. No.

Senator COUZENS. But because of their influence, and not necessarily their internal influence, but they have influence in the back and strings to pull which make it necessary, if you please, for the majority to do the wishes of the minority. I am just trying to learn, and I am sorry that I am annoying Senator Glass about this, but I cannot help it. I am trying to get educated.

Mr. WHITNEY. Senator Couzens, I hope you do not think I am trying to duck it either.

Senator COUZENS. No; I am just apologizing to Senator Glass, that is all.

Mr. WHITNEY. I am really trying to explain to you that these names have sort of grown up. Now, Mr. Raskob—I am not taking him as an individual, but a lot of these other names——

Senator COUZENS (interposing). Neither did I, but merely as an illustration.

Mr. WHITNEY. That have been used, but he was a very good example. He is known to be a wealthy man. He is a man that we had had very intimate relations with for a great many years. It is true of practically everybody on that list except certain individual personal friends and people not in business at all. Now, they are the type of men that if we were—just as a matter of their financial capacity; they have never taken any commitment in any of these things which involved a strain on them, which involved going out and borrowing money, if you please, which involved anything except their taking a risk. There never was a hope of our friends going out and taking a turn——

Senator COUZENS (interposing). No; I understand.

Mr. WHITNEY. In other words, it was an opportunity for them to come along with us in a perfectly legitimate bit of financing of business, on a necessary bit of financing. The question of whether they appreciated it and were grateful for it, if they made money I assume that they were grateful for it; if they lost money I do not quite know, if they thought about it at all, what their answer would be.

But that was not where the list came up. Now, you take again Mr. Raskob, or if you want to take Republicans, any of the names, if we can speak——

Senator COUZENS (interposing). At least they knew you were remembering them, didn't they?

Mr. WHITNEY. Quite. Quite. And I would not deny that for the world. Certainly we were remembering them, and we thought they were appropriate people because of their financial standing and knowledge of circumstances and existing conditions, and people who had the right to make up their own mind how they wanted to use their own money, and we believed that it was a perfectly proper, and still believe that it was a perfectly proper, method of financing, and it was not the question of the preferred list we produced of the names of the people that have been used, that have been given, we think—I think—a little angle of it that is not really the case.

None of these were gentlemen in public life at the time this happened. None of them were. A great many of them we never

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even dreamed were going to be. They were people with whom we had business and personal relations, so that we knew the condition of their own affairs, knew they were competent, and knew they were well able and desirous of using their money and taking an equal risk with us.

Now, when you get into the motive, Senator Couzens, and how they felt afterwards, I don't know the answer.

Senator COSTIGAN. Have you finished, Senator?

Senator COUZENS. Yes.

Senator COSTIGAN. Mr. Whitney, on the list of the United Corporation I find the name of Edgar Richard, or Rickard. Which is it?

Mr. WHITNEY. Rickard, I think. Which list is that?

Senator COSTIGAN. The United Corporation. Do you know the name of this particular person?

Mr. WHITNEY. I know of it, certainly. He is an engineer in New York.

Senator COSTIGAN. Formerly at Denver, Colo.?

Mr. WHITNEY. I don't know him, Senator Costigan. I assume that is the same man. I know he is an engineer.

Senator COSTIGAN. Is he one of the financially prominent persons to whom you have just referred, or was there some other reason for his selection?

Mr. WHITNEY. Well, I don't know who selected him, Senator Costigan. I have got an idea that that is one of the list of names suggested to us, because we have never had any business relations to my knowledge with Mr. Rickard in any way. I just don't know.

Senator COUZENS. Can you find out who suggested him? I say, can you find out who suggested him?

Mr. WHITNEY. I have been asked by Mr. Pecora to see if I can segregate this list between ourselves and Bonbright, and I will try, but I don't know that I can. I don't personally know him.

Senator COSTIGAN. Is this the Mr. Rickard who is reputed to be the representative of ex-President Hoover, if you know?

Mr. WHITNEY. I don't know enough about him to know.

Senator REYNOLDS. One question, please, Mr. Pecora: Mr. Whitney, do you know a gentleman by the name of F. Gibbons?

Mr. WHITNEY. F. Gibbons?

Senator REYNOLDS. F. Gibbons. I think that he is on your list. Do you recall that?

Mr. WHITNEY. On this list, Senator Reynolds?

Senator REYNOLDS. Yes; the preferred list. He is of the preferred list. You don't recall his name?

Mr. WHITNEY. Not under that designation; no, sir. Let me see—F. Gibbons, 10 shares.

Senator REYNOLDS. Do you find his name there?

Mr. WHITNEY. Yes, sir; 10 shares.

Senator REYNOLDS. Now, I believe that you stated a moment ago that you made offerings of these various opportunities only to those who were able financially to share the responsibility with you?

Mr. WHITNEY. Yes. This is 10 shares.

Senator REYNOLDS. Well, now, 10 shares—what amount of investment did that represent of the things that you offered?

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Mr. WHITNEY. $750.

Senator REYNOLDS. Well, now, why did you make such a small offering to that man?

Mr. WHITNEY. Senator Reynolds, I find he is one of our clerks.

Senator REYNOLDS. Oh. That is all.

Senator BARKLEY. He had not been a clerk long or he could have taken more than that, couldn't he?

Senator REYNOLDS. What did you say?

Senator BARKLEY. I was just wise-cracking.

Senator REYNOLDS. Oh, excuse me.

Senator GLASS. Mr. Whitney, don't you think that you gentlemen have manifested a very great degree of—or failed to manifest any degree of alertness in not appealing to Mr. Raskob, the Chairman of the National Democratic Committee, in the first place, to prevail upon me as a Democratic Member of the Senate to omit from the bank bill three provisions to which I am told your concern very gravely objects, and weren't you derelict in appealing to Senator Couzens' friend, the Republican chairman, not to come here and prevail upon, for instance, Senator Townsend, who is a Republican member of the subcommittee drafting the bill, to omit these sections from the bill which undertakes to divest your investment and deposit, to differentiate your investment and deposit interests?

Mr. WHITNEY. It would appear that we had been from the newspapers; yes, Senator Glass.

Senator GLASS. What on earth is the meaning of it? Can't you tell us why you didn't do that? Mr. Raskob in his letter expressed the desire to reciprocate your kindness. Why didn't you call on him to do that and——

Mr. WHITNEY (interposing). I am afraid——

Senator GLASS. And inasmuch as now I am regarded as the paid counsel of Morgan & Co., why didn't you get him after me?

Mr. WHITNEY. I am afraid, Senator Glass, we just never even thought of it.

Senator GLASS. You were very derelict. You are poor business men.

Mr. WHITNEY. We have often been charged with that.

Senator GLASS. I wonder how you made your money.

Senator COUZENS. May I ask the Senator from Virginia to whom he referred as the Republican that was my friend?

Senator GLASS. Well, there are so few Republicans now and they are in such obscurity that I don't recall his name. [Laughter.] He lived somewhere in Ohio.

Senator COUZENS. A Republican friend of mine in Ohio?

Senator GLASS. Republican—chairman of the Republican National Committee was on the list along with Raskob.

Senator COUZENS. Oh, you mean Mr. John R. Nutt?

Mr. PECORA. Joseph R. Nutt.

Senator COUZENS. Joseph.

Senator GLASS. Yes.

Senator COUZENS. I want it to go on the record that he is no friend of mine.

Senator GLASS. He is treasurer of the national committee.

Senator GOLDSBOROUGH. He was not chairman; he was treasurer.

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Senator GLASS. He is one of your crowd.

Senator COUZENS. No one ever charged me with that before.

Mr. PECORA. Now, Mr. Whitney, in the course of your testimony this morning you said in answer to a question put to you by one of the Senators that these so-called "preference lists" were used long before the boom times. What did you mean by that?

Mr. WHITNEY. Well, I mean historically, the method of distribution of securities in London, which is the oldest security market in the world, this method of underwriting by means of individuals, has been a current form of distribution of securities. You will, of course, remember, Mr. Pecora, that this country changed from a debtor to a creditor nation during the war. Prior to the war there was practically speaking no security market, and the whole method of distributing securities has grown up, really was created, in the sale of Liberty bonds during the war. The whole method of distribution of securities has been changed in the last few years, since 1920.

Mr. PECORA. Do you mean by that that these preference lists were used by J. P. Morgan & Co. prior to the boom years of 1928 and 1929?

Mr. WHITNEY. I just do not go back far enough to know.

Mr. PECORA. You have been a member of that firm for a long time?

Mr. WHITNEY. Oh, I thought you mean prior to that. There have been instances where they have been used prior to 1927. Of course, there is nothing prior to 1927 in that questionnaire, but there have been minor instances and very few opportunities to finance corporations by stock issues prior to 1927.

Again, Mr. Pecora, I do not want to quibble about this use of the words "preference lists."

Senator Couzens quite rightly denies the authorship of that phrase, but it has been given considerable prominence during the last week; and every time you ask me anything about a preference list I sort of gag, because we do not know it that way. We do not consider it a preference list.

Mr. PECORA. I did not invent that term, either; but how would you designate those lists in order accurately to portray the situation represented by them?

Mr. WHITNEY. We have never attempted to define them. They are a list of people, as I said before to Senator Couzens, whom we know and whom we have had relations with, whom we know are competent financially and mentally to undertake the risks, whatever the risk may be, in these various transactions we have offered them. They take a risk of profit; they take a risk of loss. In either event we believe that they are competent to take the risk, in whichever form it may be, based upon their knowledge and their own opinion and their own judgment. We have never considered them preference lists, which implies, it seems to me, that there was some other consideration. There never has been any consideration other than a purely carrying through of a business transaction with people who knew what they were doing and were financially in a position to do whatever they undertook to do.

Mr. PECORA. Mr. Whitney, you call them selected lists, do you not?

Mr. WHITNEY. I did not know it. That is a word that has been used in your inquiries during the investigation. When you write

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letters you use the words "selected list." I think that is where that came from.

Mr. PECORA. These lists are made up of persons selected by J. P. Morgan & Co. who are invited to subscribe for issues of stock that were being underwritten or had been underwritten by J. P. Morgan & Co.?

Mr. WHITNEY. Oh, certainly.

Mr. PECORA. These invitations were extended to those persons to be selected prior to the making of any public offering of the stock; is not that so?

Mr. WHITNEY. Mr. Pecora, with two quite important qualifications, that is so. The first qualification is that I have already testified that many of these people on these lists, which were finally determined upon by the firm of J. P. Morgan & Co., were at the suggestion of others. I testified that in the case of Alleghany. I testified this morning in the case of United units.

The second qualification I wish to make is that you said it was prior to a public offering; but in no case of any of these so-called "lists" has there been any public offering.

Mr. PECORA. In any case, where these persons are selected to subscribe for any of these securities, were they requested to subscribe at any time when the securities were selling at the market price?

Mr. WHITNEY. In certain instances they were offered before there was any market?

Mr. PECORA. Let me put it this way, then——

Mr. WHITNEY. In those cases you could not say they were selling at the market price.

Mr. PECORA. On all occasions when these persons were invited to subscribe at cost price to J. P. Morgan & Co., was not that cost price substantially below the then prevailing market price?

Mr. WHITNEY. The answer is the same as before, that in certain of those instances there was no public market on these securities at the time the offer was made and in the cases where they were accepted. Your question, I think, leads to the whole theory of the distribution of securities. J. P. Morgan & Co. obviously are merchants of securities. Like every other business, that depends on whether you are right in your ability to distribute the securities to buyers or not. Obviously our judgment would depend on whether we believed they would be able to underwrite them, whether bonds or stocks or whatever they were. It would be our judgment if the price at which we had made our purchase and had underwritings was the proper price or not. But, again—and I cannot reiterate it too many times—it seems to me, with the possible exception of the Johns Manville operation to which you have not officially brought attention yet, the market was really nonexistent on the securities offered——

Mr. PECORA. From evidence already in this record, Mr. Whitney——

Mr. WHITNEY. May I just finish just one thing? We asked people to take a 60-day commitment at a time when the market for the stock was 1½ points above the price. Certainly for an underwriting risk involving $32,000,000, or a little over $32,000,000, that could not be considered a very material spread or margin, to take a commitment for something over 60 days.

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Mr. PECORA. At the end of the 60-day period the market was $40 or more, was it not?

Mr. WHITNEY. Yes; but, if you will remember, the general course of the stock market from June 24 to September 5, 1929, that was true of every other security on the list.

Mr. PECORA. In the case of Alleghany Corporation, these gentlemen who were invited to subscribe at $20 a share for the common stock of that company were so invited at a time when the market for those shares was $35 to $37. Is not that so?

Mr. WHITNEY. You have asked me that question three or four times.

Mr. PECORA. Is it so?

Mr. WHITNEY. It is not so.

Mr. PECORA. Is not that the information that was found by members of the firm of J. P. Morgan & Co. in letters which have been put in evidence here and which were sent to some of the individuals who were invited to subscribe at $20 per share?

Mr. WHITNEY. Mr. Pecora, you have introduced two letters to that effect out of a total of something like 220 people that were——

Mr. PECORA. You can produce all the other letters you want to on that.

Mr. WHITNEY. I know it; but that does not really answer the question, because I have already testified under oath that, in my judgment, the great majority of those people were approached personally, through personal conversations; and at that time there was no market for the Alleghany shares, as you know. You talk about $37 and $35. On that same day, it has already been introduced in evidence, the Guaranty Co. of New York sold 500,000 shares to the public at $24 a share.

Mr. PECORA. I am coming to that transaction separately, Mr. Whitney, when I put in the evidence with regard to the Alleghany Corporation.

Mr. WHITNEY. I am sure.

The second point is that on the date, which is the date identified by these two letters that have been produced, there were 14,000 shares of stock traded in. The market opened at $37, and through the sale of 14,000 shares of stock it began at 32½ and closed at 33; and at the same time there was being offered through the Guaranty Co. 500,000 shares at $24 a share.

Now the question is, which was the real market? People had no need of involving themselves in a commitment to pay for them for 2 weeks. The other case was a definite offer where a man took a definite position. But the point, Mr. Pecora, on which you asked me and which I am trying to answer, is that in our formation of these lists, at the time we decided to sell the stock at $20, which was our price, and to have these others share with us in the underwriting of the risk to a total of $25,000,000, there existed no market upon which any business man, or any sensible business man, would look with any approval whatever.

Mr. PECORA. To what market were your partners referring when they wrote letters to some of the individuals who were invited to subscribe for Alleghany shares at $20 a share?

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Mr. WHITNEY. Undoubtedly a when-issued market on the New York Stock Exchange; and undoubtedly, as stated in that letter, it did not mean anything.

Mr. PECORA. It was a public market, was it not?

Mr. WHITNEY. It was a when-issued market on the New York Stock Exchange.

Mr. PECORA. And that is a public market, is it not?

Mr. WHITNEY. On the New York Stock Exchange?

Mr. PECORA. Yes.

Mr. WHITNEY. Certainly.

Mr. PECORA. When you invited these various individuals, whose names are on the United Corporation selected list, to subscribe for the units of the company at $75 per unit, according to the testimony of Mr. Howard, on January 21 those units were traded in on the Philadelphia Stock Exchange at $99, were they not?

Mr. WHITNEY. Yes, Mr. Pecora.

Mr. PECORA. And on January 16, according to the photostatic reproduction of the page of the New York Times dated January 17, 1929, those units were traded in on the open market, over the counter, on a when-issued basis at 92 to 94, were they not?

Mr. WHITNEY. Were they not? Aren't you saying that they were?

Mr. PECORA. I am asking you if that is not your knowledge.

Mr. WHITNEY. No; it is not my knowledge. The first part is; but, also, Mr. Pecora, it has been introduced in the testimony this morning that we made this offer to those people on the United Corporation unit list somewhere between the 9th and the 14th of January, which still remains 2 days earlier than the earliest date you have been able to find any record of with reference to United units. The only official open-market quotation has been testified this morning as January 21. There was some kind of an over-the-counter market on January 16; and we had offered these units to these individuals referred to between January 9 and January 14, as evidenced by this second memorandum introduced today, which is dated January 14, and this, as I say, was delivered to every person who purchased one of the units of the United Corporation.

Senator BARKLEY. Did your firm have anything to do with the listing of these when-issued shares on the New York Stock Exchange?

Mr. WHITNEY. No, sir. I am sure not. No; nothing.

Senator BARKLEY. When you took over the million and a quarter shares of Alleghany Co.—and this same question applies to all the others—did you at that time know when they would be put on the New York Stock Exchange for sale to the public?

Mr. WHITNEY. No; but of course the Alleghany—I testified the other day that an application was to be made for listing the Alleghany bonds, preferred stock and common stock, on the New York Stock Exchange. That generally takes a couple of weeks. In the case of United there was no question of listing that. I do not believe it has been brought out here, but they were not listed until in May, some 4 months later.

Does that answer your question?

Senator BARKLEY. Partially. What I am trying to get at is this. Possibly I asked this question the other day and made this observation, that it would be one thing to agree in the financing or the set-up

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of a new corporation like this, to underwrite a certain portion of the capital stock regardless of what happened to that stock in the future and distribute it among others who were willing and able to buy. It would be quite another thing for you, as a part of that process and that financial set-up, to know in advance or to help in advance to manipulate the listing of that stock on the stock exchange so that the pubic might rush in and buy it and run it up so it might be used as an inducement for the concern to sell these shares which you had turned over to this selected list which has been made public.

Mr. WHITNEY. Senator Barkley, I think I addressed my answer to the wrong part of your question, perhaps. We had knowledge, general knowledge, that these stocks would be listed, but I can say definitely that the firm of J. P. Morgan & Co. had nothing to do with any creation of a market or any purpose of manipulation of the market in connection with any of these stocks at any time.

Does that answer your question?

Senator BARKLEY. Yes.

Mr. WHITNEY. We did know there was going to be a market—as a matter of fact, there was no similar corporation to United listed on the New York Stock Exchange. The stock exchange provided no restrictions or regulations whereby such a corporation could be permitted to list at the time of the organization of the United. In the case of the Alleghany there were similar corporations, and in that case we knew that the company was going to take steps to have a listing which would make a public market.

Senator BARKLEY. All of these companies were in the books—I mean, organized under the direction and supervision and with the assistance of Morgan & Co., the standard brands being a consolidation of other companies and the Alleghany Corporation was a holding company to take over certain railroad stocks, and the United Corporation, and so on?

Mr. WHITNEY. Right.

Senator BARKLEY. I presume that the firm of Morgan & Co., in the very nature of things, knew that ultimately these stocks would be listed on the New York Stock Exchange?

Mr. WHITNEY. Oh, undoubtedly; yes, sir.

Senator BARKLEY. And at that time I think it might also be said that the public generally regarded the Morgan Co., as they were described, as being worth getting into; and it is probably true of a lot of people who regarded the name of Morgan as behind a particular corporation as an indication that it was going to be profitable to rush into the market and help to put it up.

What I am trying to get at is whether Morgan & Co., in the financing of these organizations, had any doubts in determining when those stocks would be put on the stock exchange; whether they bought or sold for the purpose of running the price up or down in connection with their handling of a particular share of the stock which was to be distributed.

Mr. WHITNEY. The answer to the second half of your question, Senator Barkley, is definitely no. If you say, did we have anything to do with the subsequent listing, I cannot answer no, because the cases are not all parallel. In the case of United we did have something to do with the listing. I remember that I personally appeared

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before the listing committee of the New York Stock Exchange where we were put through a cross-examination on the intention as to publicity and one thing and another before they consented. So I cannot say we knew nothing about that listing.

The second half of your question, as to our having anything to do with the market, the creation of a market or the manipulation of the market or the speculative end of the market, I can answer definitely and explicitly, no.

Senator ADAMS. Is there any requirement of the stock exchange as to a company having a certain number of stockholders before it can be listed?

Mr. WHITNEY. Yes, sir. There has to be a certain distribution, a certain percentage of distribution, which is their safeguard against what they call corners. In other words, this distribution of United in the first instance would not have been possible, and it would not have been possible in Alleghany until after there had been a distribution of the shares. You have to certify that there has been a certain number of stockholders. I do not remember what that number is.

Senator COUZENS. Was Mr. S. Parker Gilbert a member of your firm when Mrs. Gilbert took those shares under the several lists?

Mr. WHITNEY. No, sir.

Senator COUZENS. What was Mr. Gilbert's occupation at that time?

Mr. WHITNEY. In 1929, Senator Couzens, he was agent, general, of reparations under the Dawes' plan.

Senator COUZENS. Did she subscribe for those in New York herself?

Mr. WHITNEY. Yes, sir. She had an account with us for a great many years, personally.

Senator COUZENS. That is all.

Senator GLASS. May I venture to ask whether J. P. Morgan & Co. have a corps of salesmen—I might say, high-pressure salesmen—such as was developed and described in a previous examination by this subcommittee of the officers of the National City Bank and which is very entertainingly described in a book called "Scapegoats"?

Mr. WHITNEY. Senator Glass, I testified on Thursday that J. P. Morgan & Co. has no salesmen, bond salesmen or other salesmen; and we have never had. It is further stated in that statement which I read that we have never employed any high-pressure salesmanship.

Senator GLASS. Therefore, then, I gather that you pick your own clients?

Mr. WHITNEY. We try to; yes, sir.

Senator GLASS. And with some degree of human nature you pick people who have money to invest; is that so?

Mr. WHITNEY. Yes, sir.

Senator GLASS. And people who will not, except that clerk in your office, immediately find it necessary to throw their holdings on the market and demoralize the market?

Mr. WHITNEY. Exactly. We believe they are substantial people in every sense of the word.

Senator GLASS. Understand, Mr. Whitney, I am asking for information. I am not undertaking to act as counsel for Morgan & Co.

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just yet, unless you dismiss Mr. Davis. Then I might qualify as a lawyer before the courts——

Mr. DAVIS. I should be delighted to have you for a colleague, Senator Glass.

Senator GLASS. I am asking for information, as to whether that is your method of procedure.

Mr. WHITNEY. Yes.

Senator GLASS. To pick the people to whom you want to sell your stock?

Mr. WHITNEY. Yes.

Senator GLASS. And you exercise reasonable care in the selection of these people?

Mr. WHITNEY. We have tried to.

Senator BARKLEY. There is no invidious implication carried by the word "pick", is there?

Senator COUZENS. You also said in your letter that the stock, in the case of Alleghany, was selling 60 to 75 percent higher than the offering, and that there was no string upon selling it?

Mr. WHITNEY. And in that same letter we said the market meant nothing.

Senator COUZENS. But you said there was no string upon them whatever?

Mr. WHITNEY. Yes.

Senator COUZENS. I just wanted to show that they were perfectly free to take any price at the time.

Mr. WHITNEY. Certainly.

Senator BARKLEY. It meant this, though, that if they wanted to dispose of those shares they had to go to that market to do it?

Mr. WHITNEY. Quite.

Mr. PECORA. Is it not a fact that the officers or directors of both or either one of the utility companies whose securities are held by the United Corporation are included in one or more of these so-called selected lists of persons who are invited to subscribe for stock on the same terms or at cost to J. P. Morgan & Co.?

Mr. WHITNEY. I have not checked the list, but I think it would be the most natural thing in the world that they should be.

Senator COUZENS. May I suggest that we now recess until 2 o'clock?

The CHAIRMAN. Without objection, the committee will stand in recess until 2:30——

Senator GLASS. Just a moment. Mr. Chairman, I had proposed today to make a statement and to introduce into the record quite a bunch of letters, withholding some that are too vile and obscene to appear in the public print, criticizing me in various terms as a crook and as a defender of racketeers and threatening my life because of that; but I will not right at this moment exercise that privilege. I will later on. This is the bunch [indicating file of papers]; and I may, if I can overcome the immodesty of doing such a thing, later introduce into the record this other bunch of letters [indicating another file] from gentlemen, and obviously from women of refinement, who were good enough to applaud my desire to be an investigator and not a spectator at this investigation. But I will exercise that privilege a little later.

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The CHAIRMAN. The committee stands in recess until 2:30.

(Whereupon, at 1:05 p.m., a recess was taken until 2:30 p.m.)

AFTERNOON SESSION

The committee reconvened at 2:50 p.m., Wednesday, May 31, 1933, at the expiration of the noon recess.

The CHAIRMAN. Let us have order, please. You may proceed, Mr. Pecora.

TESTIMONY OF GEORGE WHITNEY—Resumed

Mr. PECORA. Mr. Whitney, you were a member of the board of directors of the United Corporation from its inception, were you not?

Mr. WHITNEY. Well, from very shortly after its inception. Not in its creation, but very shortly thereafter. I have not got the exact date. Very shortly thereafter.

Mr. PECORA. Originally the board was composed of four members, two of whom were members of the firm of J. P. Morgan & Co. and the other two of whom were members of Bonbright & Co., is that right?

Mr. WHITNEY. That is right.

Mr. PECORA. And the president of the company at the outset was Mr. Roberts?

Mr. WHITNEY. At the very outset Mr. George Roberts.

Mr. PECORA. Mr. George Roberts was an attorney, was he not?

Mr. WHITNEY. Yes.

Mr. PECORA. What law firm was he associated with?

Mr. WHITNEY. Winthrop, Stimson.

Mr. PECORA. Stimson.

Mr. WHITNEY. Winthrop, Stimson, Putnam & Roberts. Isn't that the name of it?

Mr. PECORA. And did that firm attend to the legal formalities of the incorporation of this company?

Mr. WHITNEY. That firm, with our counsel, Messrs. Davis, Polk, Wardwell, Gardiner & Reed.

Mr. PECORA. When were conferences first held that led to the incorporation or organization of United Corporation?

Mr. WHITNEY. I should think that the first date that you could fix that that really began was back in October 1928. The consideration of the idea—the actual formal conversations or more definite conversations took place during the month of December 1928.

Mr. PECORA. Now, those conversations were had between members of J. P. Morgan & Co. and of Bonbright & Co., were they not?

Mr. WHITNEY. Yes. If you include, of course, with J. P. Morgan & Co. Drexel & Co.

Mr. PECORA. Yes. And it was as the result of those conferences or conversations that United Corporation was finally set up in January 1929 with authority to issue 4,000,000 option warrants unlimited as to time?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. Was the issuance of those option warrants a matter of definite discussion among these gentlemen?

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Mr. WHITNEY. Everything to do with the formation of United was a matter of definite discussion among these men.

Mr. PECORA. And was the matter of the issuance of these option warrants agreed upon from the start, or was there any dissent on the part of any of the gentlemen who entered into these discussions?

Mr. WHITNEY. Well, I think, Mr. Pecora, the answer to that is "no", but I am not quite clear that I understand. In the first place, just what do you mean by the beginning? Do you mean from December?

Mr. PECORA. From October. You said that the initial conversations were held about in October 1928.

Mr. WHITNEY. I did, but I further said that the definite discussions which led to the formation of the United Corporation in the form that it finally was created did not get down to really talking set-up, the financial set-up, until well on in December. The conversations in October were very much more general, and really that was merely a date when the question of a corporation came up. Nothing definite. Of course, discussions had been going on, as I started to say this morning, for many months prior to that, that culminated in that idea.

Mr. PECORA. Well, whether or not the conversations with respect to the issuance of these option warrants were held in October or in December initially, was there any dissent expressed by any of the gentlemen who took part in those conversations about the proposition of issuing these option warrants when the corporation was formed?

Mr. WHITNEY. Do you mean about the theory of having——

Mr. PECORA. About the theory, or practice, or custom, or whatever you want to call it.

Mr. WHITNEY. Why, no. Nothing that you could dignify by as much of a word as "dissent." The reasons for them, the implications of them, of the different characteristics of warrants, was discussed very fully. As I answered Senator Couzens this morning, this was our first personal experience with the use of warrants, and, obviously, a departure of that kind would be a subject of greater discussion. Bonbright & Co. had been connected with corporations which had used warrants before, so they were, naturally, more familiar with the use than we were.

Mr. PECORA. In those discussions about the option warrants was any decision reached before the corporation was organized as to who was to receive these option warrants from United Corporation?

Mr. WHITNEY. Why, obviously, because the whole general financial set-up of the United Corporation was clearly determined prior to any of these steps which I termed technical steps of organization this morning, which involved not only these steps that have been mentioned, but various subsequent steps where various others were given the opportunity to exchange securities which they held for securities of United on the same basis of exchange as the securities held by J. P. Morgan & Co. and Drexel & Co. and American Superpower finally found their way.

Mr. PECORA. Now, as the result of these discussions was there any decision reached as to who these option warrants were to be issued to?

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Mr. WHITNEY. Well, a portion of them were to be issued in exchange for securities and a portion of them were to be issued against the payment of cash by Messrs. Bonbright & Co. and ourselves, J. P. Morgan & Co.

Mr. PECORA. Then the answer in substance is that it was decided to issue these option warrants to J. P. Morgan & Co. and to Bonbright & Co.?

Mr. WHITNEY. With one exception. As Mr. Howard testified, at the beginning, at the inception of the company, it was deemed in the interest of the company to reserve a certain amount of stock and option warrants for whoever might come to be president in order that he might have an interest in the company, in the development of the company, on the same basis as Bonbright & Co. and ourselves received warrants against payment of cash.

Mr. PECORA. Now, the first public announcement that was made by J. P. Morgan & Co. with respect to the organization of the United Corporation consisted of this printed statement that was read into the record this morning, that bears date January 9, 1929, and is captioned, "For release to newspapers Friday, January 11, 1929", was it not?

Mr. WHITNEY. Yes, sir. That is the first.

Mr. PECORA. Is there anything in that so-called "announcement" that informs the public as to the terms or price upon which those option warrants were to be issued to J. P. Morgan & Co. and to Bonbright & Co.?

Mr. WHITNEY. Well, it very clearly specifies the terms on which they were to be issued to the organizers. If I may read——

Mr. PECORA. If you will.

Mr. WHITNEY. It says:

There have been purchased by the organizers—

Namely, J. P. Morgan & Co. and Drexel & Co. and Bonbright & Co., Inc.—

for $20,000,000 cash, 800,000 shares of the common stock and option warrants for 2,000,000 shares of common stock. The balance to be presently issued of the common stock and option warrants and the 944,197 shares $3 cumulative preference stock are to be issued in exchange for securities.

Mr. PECORA. Well, is the price at which those option warrants were to be issued to the organizers of the corporation set forth anywhere in that announcement?

Mr. WHITNEY. Well, the arithmetic is not given in detail, but it is not a very difficult computation to figure the fact that—no; there is no detail statement of value; no.

Mr. PECORA. Are there any figures given in that printed announcement from which one could sit down with pencil and paper and determine on the basis of figures given in that announcement at what price those option warrants were to be issued to the organizers of this corporation?

Mr. WHITNEY. That was not what the transaction was, Mr. Pecora. The answer to your question is no. Because the transaction did not involve any price for the option warrants. The fact is exactly as set forth in this statement. The organizers, namely, the three firms mentioned, were to receive in consideration for $20,-

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000,000 in cash 800,000 shares of common stock and 2,000,000 option warrants.

Mr. PECORA. Well, as a matter of fact, although the figures are not embodied in that public announcement, these option warrants were issued to the organizers for a consideration of $1 each, were they not?

Mr. WHITNEY. That was the way that they were set up in the—also, if you remember, the common stock was set up on the book at $5 and the balance was carried to surplus, so that unless you went into a full explanation of how the books were going to be set up the $1 price that was set up on the books would have been a very misleading statement.

Mr. PECORA. As a matter of fact, that is all that J. P. Morgan & Co. paid for these option warrants originally, is it not—a dollar apiece?

Mr. WHITNEY. I already testified this morning, Mr. Pecora, that as far as we set up our books we paid $10,000,000 for these 400,000 shares of common stock and 1,000,000 of the warrants. And we charged the account with $25 a share as cost of the common stock and set up on our books the warrants at no cost, because we did not believe, as I testified this morning, that they were a proper asset to carry of value on the books of a banking firm.

Mr. PECORA. As a matter of fact, in the offer that was made formally under date of January 9, 1929, by J. P. Morgan & Co. to the corporation, the offer I refer to being the one involving the purchase by J. P. Morgan & Co. of 400,000 shares of common stock and 1,000,000 option warrants for $10,000,000—was not the value of $1 specifically allocated to those option warrants in the written offer that was made by J. P. Morgan & Co. to the United Corporation?

Mr. WHITNEY. If my recollection of that letter, or that contract, is correct, Mr. Pecora, it said that we understood that the allocation was to be made upon the books of the company.

Mr. PECORA. And when, on or about December 19, 1929, J. P. Morgan & Co. distributed 1,514,720 of these option warrants that on that date still remained in its possession among its individual partners the distribution was made on a basis of $1 per warrant to the individual partners of J. P. Morgan & Co.?

Mr. WHITNEY. It was. That $1,514,200 was taken into the firm's books as a profit.

Mr. PECORA. And it was 200,000 of these option warrants that were sold by J. P. Morgan & Co. on the New York Stock Exchange in the period of time beginning on July 23, 1929, and ending on September 20, 1929, for a total of $400,000,000 and odd; is that right?

Mr. WHITNEY. That is right.

Mr. PECORA. And if J. P. Morgan & Co. had seen fit to sell in the open market the balance of those option warrants which it then held to the number of 1,514,720——

Mr. WHITNEY (interrupting). Two hundred.

Mr. PECORA (continuing). 1,514,200, we will say at a minimum market price of $40, which was the lowest figure reached in the 2-months' period, those warrants would have brought over $68,000,000 in the open market, would they not, on a basis of $40 a warrant?

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Mr. WHITNEY. Well, 15 times 40 is $60,000,000. But, of course, Mr. Pecora, if you speculate what might have been—if we had sold the holdings that we turned in to United in January 1929 without forming United it would have been a profit to us of something like $58,000,000, without having to form United at all. But we did not do that, and we did not sell the warrants. We might have done a lot of things.

Mr. PECORA. Well, it was simply in the exercise of your own judgment that you did not sell more than 200,000 of those option warrants in the summer of 1929, was it not?

Mr. WHITNEY. So was it in the exercise of our own judgment that we formed the United Corporation and did not hold the stocks and sell them. I mean, if we begin speculating about what might have been—if we had had better or worse judgment in the disposition of our assets what might have happened, my supposition is just as real as yours. If you want to take the high price of the year I think undoubtedly if you could have sold 1,514,200 warrants in addition to the 200,000 we sold at a very substantial price, and if the market had held, that undoubtedly by mere arithmetic, is the amount of dollars that would have flowed from the transaction.

Mr. PECORA. What were the securities that J. P. Morgan & Co. turned in to the United Corporation in January 1929 in return for a certain number of its shares and option warrants?

Mr. WHITNEY. We turned in 350,957 common shares of Mohawk Hudson Power Corporation, 62,360 shares of Mohawk Hudson Power Corporation second preferred stock, 124,740 option warrants of the Mohawk Hudson Power Corporation; we turned in 130,565 shares of the common stock of the United Gas Improvement Co., and 59,500 shares of the common stock of the Public Service Corporation of New Jersey. Plus $700,000, approximately $700,000. To bring the total——

Mr. PECORA. $700,000 in cash?

Mr. WHITNEY. In cash. That $700,000 was the difference between the stipulated prices and $50,000,000. So that there was the stated value that was taken up on the United Corporation books of these securities with the $700,000 that was placed at $50,000,000.

Senator COUZENS. Where did you get these shares, Mr. Whitney?

Mr. WHITNEY. What is that?

Senator COUZENS. Where did you get all these shares?

Mr. WHITNEY. Well, Senator Couzens, we got them various places. I will be very glad to tell you.

Senator COUZENS. I asked that question primarily because I understood the Morgan house did not usually deal in common stock.

Mr. WHITNEY. Well, if I may, I would very much like to tell you that story. If I may?

Senator COUZENS. If it does not interfere with counsel.

Mr. PECORA. No, sir.

Mr. WHITNEY. For a great many years Drexel & Co., our Philadelphia house, had been bankers for and had been associated in various ways with the United Gas Improvement Co. and the Public Service Corporation of New Jersey, and they had held shares—not very large amounts, but shares in these companies for many years—I mean for several years. J. P. Morgan & Co., our New York firm,

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as contrasted with the Philadelphia firm, purchased U.G.I. stock and Public Service Corporation of New Jersey common stock during the year 1928, which was the result of some 2 years of consideration by us as to whether or not we wanted to enter in any way into the public-utility field, because for some reason or other for many years our New York office had not been associated with public-utility financing in any way.

Going back 50 years the senior Mr. Morgan had been one of Mr. Thomas A. Edison's original associates in the building of what is now known as the Pearl Street Station in New York City, which is the original Edison plant. But since that time we had had very little, if anything, to do with public-utility financing.

But from 1926 we gave a great deal of consideration to it, and in the winter of 1928 we decided in New York that it would be a perfectly responsible and practical thing for us to do to buy certain public-utility stocks in the belief that they were a good investment for our own portfolio, and we did buy approximately 81,000 shares of U.G.I. and about 25,000 shares of Public Service Corporation. That was in the spring from March, say, to the first part of June, in 1928.

In the summer of 1928 the executive officers of the General Electric Co. approached us stating that they had decided that it would be in their best interest to dispose of their holdings of the Mohawk Hudson common and preferred stock and the warrants which they had held. That being the only public utility operating company stock that the General Electric Co. still held, having, you remember, disposed of their holdings in other operating companies to Electric Bond & Share some years ago. The discussions with the General Electric Co. started in June 1928, as I say, at which time the common stock was selling at about 40. Absence from town and various other things carried those discussions along, and there was a final definite arrangement for us to purchase their holdings of Mohawk Hudson—these shares which I have mentioned—on December 5. And that is the way that I identify the time that the formation of the United first came to be definitely considered. Because it was obvious to us that it would not be prudent banking for us to make an additional investment in public utility operating companies to the amount of approximately twenty-two or twenty-three million dollars which the purchase of Mohawk Hudson involved. So after this definite arrangement between ourselves and the General Electric, the formation of the United Corporation followed right behind that, and our contract called upon us to make payment during January. And we turned in to United Corporation these securities at cost to us, receiving in exchange in partial consideration for the securities received, the United preference and common stock.

Senator COUZENS. You say you turned them in at cost to you?

Mr. WHITNEY. Exactly.

Senator COUZENS. Had you received any carrying charges?

Mr. WHITNEY. No. The arrangement we made with the General Electric Co. was interest from June, the date we first began talking about that. That was part of our contract entered on December 5. So we turned the whole contract bodily over to the United and they paid that same interest charge. After the formation of the United

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we turned them over at an absolute net figure without any commissions or any consideration—whatever there was.

Senator COUZENS. When you started in with this did you have a map before you to lay out a program of the extent to which you would invest in public utilities?

Mr. WHITNEY. Well, when we were giving consideration in our office in New York as to the question of purchasing public utilities at all it was a very natural thing that we should consider first the companies with which our Philadelphia office had been associated for a long time. That was even more brought to the front by the fact that Bonbright & Co., who were very much interested in American Superpower, and who had been among those with whom we had discussed the matter for the 2 years I referred to—they also had a very large interest in the Public Service Corporation of New Jersey, and also a very substantial holding in the United Gas Improvement. So not only our historical, traditional connection was with these two companies, but also the fact that Bonbright, with whom we were associated, were interested in them. And upstate New York came in through the General Electric.

Senator COUZENS. Did you later accumulate some other stocks? As I remember, one of the stocks on one of the lists was Commonwealth & Southern, was it not?

Mr. WHITNEY. Well, that Commonwealth & Southern was later. A very small amount. That was through this Allied Power & Light Co., which had other holdings and had other interest at that time. Certain of the constituent parts, underlying properties, like the Commonwealth Edison, the Penn Ohio, and the Southeastern Power & Light and the Alabama Power, which were later merged into the Commonwealth & Southern. And we got our interest—the United—through an investment we had in Allied Power & Light, which was merged in Commonwealth & Southern, resulting in the United getting that interest.

Senator COUZENS. Who were controlling the Commonwealth & Southern at the time you got in it?

Mr. WHITNEY. Well, Bonbright had been very much interested in that particular corporation. Mr. B. C. Cobb, who was a director of the United, was president then of many of these constituent parts. And a large holding of Commonwealth & Southern—what is now Commonwealth & Southern—is held through the American Superpower Co., with which we had no connection whatever except that Superpower is also a large stockholder in the United. And J. P. Morgan & Co. as such had no connection whatever in the American Superpower.

Senator COUZENS. What field does the Commonwealth & Southern cover generally?

Mr. WHITNEY. Well, I am not very good at maps. But it is into Michigan, as you know, outside of Detroit. And then it runs down more or less from there southeast, going through Ohio, and then it goes down, of course, through Alabama, and then it goes down into Georgia, and the southeastern part of the United States. There is the Georgia Power & Light Co., the Alabama Power & Light Co., the Southeastern Power & Light Co. I am speaking from memory.

Senator COUZENS. Yes.

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Mr. WHITNEY. But that is generally scattered down through there.

Senator COUZENS. They have had a very effective political organization, I understand, in Michigan for some years, and I was just curious to know what the facts were.

Mr. WHITNEY. Well, I know very little about the Commonwealth & Southern. We have never had anything to do with it. Never been on the board. And, as I said, the United Corporation has got a 5-percent interest which came about through the merger of another property that they acquired into Commonwealth & Southern. But our firm, J. P. Morgan & Co., has never been in any way associated with Commonwealth & Southern.

Senator COUZENS. Thank you, Mr. Whitney.

Senator REYNOLDS. Mr. Pecora, may I ask Mr. Whitney a question in regard to my interpretation of his answer this morning to a question? Mr. Whitney, did I understand you to say this morning as a result of an inquiry by Mr. Pecora, I believe it was, that none of the people whose names were on those preferred lists were public officials?

Mr. WHITNEY. You did, Senator Reynolds. And my attention has been called during the luncheon interval that in one instance, or at least one exception, I was mistaken. But, frankly, I have always found it very hard, having been in business with him for so many years, to think of him in public life, to distinguish that from his being a partner of mine.

Senator REYNOLDS. And whom have you in mind?

Mr. WHITNEY. Mr. Dwight W. Morrow.

Senator REYNOLDS. Mr. Dwight W. Morrow. Now I should like to ask you, Mr. Whitney, in further pursuance of that particular part of this subject if Mr. Charles Dawes was not a public official? And I will endeavor to refresh your recollection at this time by making mention of the fact that he was connected with the Reconstruction Finance Corporation.

Mr. WHITNEY. Well, Senator Reynolds, not at the time. These lists all go back to 1929 or before.

Senator REYNOLDS. Yes.

Mr. WHITNEY. And the Reconstruction Finance Corporation did not come into being, did it, until about a year and a half ago?

Senator REYNOLDS. But, anyway, Mr. Charles G. Dawes, later of the Reconstruction Finance Corporation, was listed on your preferred carrying?

Mr. WHITNEY. Well, now that you raise the question, I do not know whether he was Ambassador to Great Britain at that time or not. But Mr. Dawes long before that had been president of the Central Trust Co. of Illinois.

Senator REYNOLDS. Yes; but at that time was he not Ambassador to the Court of St. James?

Mr. WHITNEY. Well, I do not know.

Senator REYNOLDS. You do not know?

Mr. WHITNEY. No; I say I do not know. I just assume it is a fact.

Senator REYNOLDS. I believe you just stated that Mr. Dwight W. Morrow was on your preferred list?

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Mr. WHITNEY. I do not think I said "preferred list", Senator Reynolds. I said he was on these lists.

Senator REYNOLDS. Was he one of those who was favored?

Mr. WHITNEY. Mr. Morrow, as you will remember undoubtedly, retired from the firm of J. P. Morgan & Co. on September 30, 1927. He had been a partner in the firm since, I think, July 1914; and as I say, I think I did make that slip this morning, because it is very hard for any of us to think of him as anything other than a partner of ours.

Senator REYNOLDS. At that time was he Ambassador to Mexico?

Mr. WHITNEY. Yes, sir.

Senator REYNOLDS. He was at that time?

Mr. WHITNEY. Yes, sir.

Senator REYNOLDS. You would, of course, consider Mr. Morrow as being a public official, in view of the fact that he was representing this Government?

Mr. WHITNEY. Yes.

Senator REYNOLDS. Mr. Adams, when he was about to enter the Cabinet, as a matter of fact, or just about the time that considerable talk was had concerning his entering the Cabinet, bought some of this, did he not?

Mr. WHITNEY. He did buy some, certainly; and you will remember that the other day Mr. Pecora introduced a letter written by Mr. Adams to his son-in-law in which he made a rather cryptic remark which I was asked to guess if I knew what it was. So, evidently, the facts are that he had accepted the invitation to subsequently become a Cabinet officer. But my statement still stands, that at the time he was offered it he was not a public official. He was the father-in-law of one of the partners.

Senator REYNOLDS. At the time that this offer was made to him, however, there was considerable speculation in reference to his becoming a member of the Cabinet, was there not?

Mr. WHITNEY. I do not doubt it, but I never happened to see it. I remember I heard of the fact that he was going to become a Cabinet officer somewhere around the 28th of February.

Senator REYNOLDS. Mr. Nutt, who was treasurer of the Republican National Committee, I believe, was on that list?

Mr. WHITNEY. Yes; he was on the Alleghany list.

Senator REYNOLDS. And Mr. Raskob likewise was on the list?

Mr. WHITNEY. He was.

Senator REYNOLDS. He was then directing the Democratic National Committee?

Mr. WHITNEY. Yes, sir.

Senator REYNOLDS. Would you not say, and are you not in accord with me in the opinion, that Mr. Nutt, who was treasurer of the National Republican Party, and Mr. Raskob, who was chairman of the National Democratic Party, men who were actively engaged in the forming of platforms and in the molding of public opinion—would you not say, Mr. Whitney, that they most assuredly should be considered as semipublic officials?

Mr. WHITNEY. I would not attempt to argue that with you, Senator. But the statement I made was "held public office." Of course, it is true that Mr. Raskob was chairman of the National Democratic

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Party—had been during the campaign that closed in the fall of 1928—and I think you will also agree with me that for many years before that he had not been identified in any way with political life.

Senator REYNOLDS. Yes.

Mr. WHITNEY. Mr. Nutt, frankly, as I testified the other day—I had not realized that he was treasurer of the Republican National Committee; and while I cannot pretend to say that people holding those jobs have not got something to do with public life, my statement did not have to do with that, but as to whether they held public office. Neither of them, I can only again assure you, Senator Reynolds, were included on this list because of their what you call semi-public character, but because they were both men of substance, both men with whom we had had business relations for many years, and had no connection with political life in any way; and, as a matter of fact, my recollection is that Mr. Nutt was on that particular list at the suggestion of the Van Sweringens, with whom we had been associated since the beginning of their real-estate development in the city of Cleveland. Mr. Raskob, of course, was our own particular friend during our association with General Motors when he had been one of the people, back in 1920, representing the Du Pont interests who were well known to have a very substantial holding in General Motors and who invited us to come on the board. That was our first acquaintance with Mr. Raskob.

Senator REYNOLDS. Mr. Coolidge was a member of the National Transportation Committee, was he not?

Mr. WHITNEY. You mean, just before his death?

Senator REYNOLDS. Yes.

Mr. WHITNEY. Of course there was no such thing in 1929.

Senator REYNOLDS. And Mr. Olds was on some committee, was he not—the Reparations Committee, Assistant Secretary of State?

Mr. WHITNEY. He had been. He was not at that time. He was a partner at that time and personal representative in Paris of the legal firm of Sullivan & Cromwell.

Senator REYNOLDS. Mr. Hilles was a member of the New York National Committee, was he not?

Mr. WHITNEY. I think so, probably. I do not remember actually as of that date.

Senator REYNOLDS. Thank you, Mr. Pecora.

Mr. WHITNEY. May I also say that Mr. Hilles, as you know, was in the insurance business in New York and was a representative of a certain company with which we had done business.

Senator REYNOLDS. One other thing, with your indulgence. General Pershing got in on this proposition, did he not?

Mr. WHITNEY. You mean by that, Senator Reynolds, that he was on the list?

Senator REYNOLDS. Well, he was one of those lucky fellows, was he not?

Mr. WHITNEY. Do you want to hear the story about why General Pershing happened to be on the list?

Senator REYNOLDS. I should thing it would prove very interesting.

Mr. WHITNEY. Well, during the war, when General Pershing was in charge of the American troops, there happened to be several of our partners who became very close to him, notably Mr. Dwight W.

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Morrow, who was connected with the Maritime Transport, and Mr. Stetinius, who, if I remember correctly, was Assistant Secretary of War during the war time. They in that way became very intimate friends of General Pershing, aside from their official duties. After the war General Pershing asked one or either or both of those two gentlemen if they would assist him with his investments; that he did not pretend to know very much about business. And so, after the war was over, if my recollection is right, General Pershing deposited his securities with us and asked us generally to look out for them. As a result of which he was given the opportunity to participate with us in these various underwritings, which he was fully capable of doing, and fulfilled all the qualifications that I have attempted to outline this morning.

Senator REYNOLDS. Mr. Whitney, are there any judges in the State of Pennsylvania who happen to be on that list?

Mr. WHITNEY. I read so in the newspapers; yes.

Senator REYNOLDS. Is that true?

Mr. WHITNEY. Well, I assume it must be true, because I do not suppose they would have said so otherwise. I do not happen to know their names.

Senator REYNOLDS. Do you happen to know their names?

Mr. WHITNEY. No.

Senator REYNOLDS. Do you know whether or not they were presiding on the bench or the benches, respectively, at the time that those offers were made to them?

Mr. WHITNEY. No; I really don't, Senator Reynolds. I understand, as I say, from the newspapers—that is where I got my information first, and I am not questioning that there are judges; I just do not know. But if there were, it was done through our Philadelphia office. I do know that those lists were made up by Drexel on exactly the same basis as we made them up in New York, but I am not familiar with the individuals who comprise the list.

Senator REYNOLDS. Thank you.

Senator COSTIGAN. Are you impressed, as Senator Reynolds appears to be, by the fact that these various gentlemen were prominent and in positions to influence and perhaps shape public opinion?

Mr. WHITNEY. Senator Costigan, I would never attempt to deny that many of these people are prominent; but, on the other hand, a man must be of some prominence or substance to be able to qualify as a man who is in a position to underwrite these securities. I cannot be impressed, as Senator Reynolds apparently is, by the fact that their inclusion in these lists involves a quid pro quo, because I believe so thoroughly that they were taking a perfectly legitimate business risk with their own money, knowing exactly what it involved. They happened to have the opportunity, after these particular transactions, to make money; but that was a part of the game of underwriting, and that they took them perfectly definitely for that reason. Therefore I cannot be impressed by the inference that is drawn because these men happened to become or to have been prominent.

Senator REYNOLDS. Just one other question, please, Mr. Whitney. You just stated to Senator Costigan that these men to whom you made these offers to purchase this stock at $20 a share were making

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an investment and at the same time, of course, taking a risk, because, regardless of where you place your money, you are taking some sort of a chance. Well, now, how can that be when it has developed in the course of this investigation, according to your own testimony, that at the time the stock was offered to these respective individuals at $20 a share it was then selling on the market at $36 or $37? Could not they have bought the stock the very day that you made this offer at $20 a share and on that same identical day made disposition of it at $36 a share, thereby creating for themselves $16 profit upon each and every share; and that being the case——

Mr. WHITNEY. Senator Reynolds, may I answer it this way, that in the first place I do not think that it has been shown by the testimony that when these gentlemen were offered and accepted this Alleghany stock at $20 it was selling at $35 or $36.

Senator REYNOLDS. What was it selling at at that time?

Mr. WHITNEY. When the majority of them were offered this stock there was no quotation. It has been shown by two letters which were dated on February 1—and, mind you, after all the investigating, those are the only two letters that Mr. Pecora's investigators have produced—showing on the date which has been shown that there was a very narrow market on a when-issued basis on the New York Stock Exchange. So, technically to answer your question, if a few of them had been very quick on their feet, they might have been able to sell the stock at the price you mention.

Senator REYNOLDS. At $35?

Mr. WHITNEY. Yes.

Senator REYNOLDS. On the day you offered it at $20?

Mr. WHITNEY. The same day the 500,000—that is not what I said. We did not offer it on the same day. We had offered it prior to that.

Senator REYNOLDS. At the time you offered that stock at $20 a share was it quoted on the market?

Mr. WHITNEY. No, sir. The first quotation was on February 1.

Senator REYNOLDS. And when did you offer this?

Mr. WHITNEY. Prior to that.

Senator REYNOLDS. But at the same time when this offer was made you told them that you were selling it to them for much less than the price it was worth at that time?

Mr. WHITNEY. We did in one letter, yes; to a man who happened to be away. I am meaning to answer your question directly, but I think perhaps I can get my real answer over to you better indirectly. J. P. Morgan & Co. had undertaken to purchase from the Allegheny Corporation 1,250,000 shares of this common stock at $20 a share, which involved the commitment of $25,000,000. As I testified the other day, that would have been an improper amount of common stock to hold, for a banking firm with its obligations to its depositors. We, therefore, when we were arranging this transaction, determined not to hold that amount as an asset of a banking firm. We arranged with the Guaranty Co. to buy 500,000 shares at 24 less 4. At the same time we determined to invite a certain number of individuals whom we considered competent, both from their knowledge of the situation and their financial capacity, to join with us in the underwriting.

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In any merchandising of securities we have to determine the price. Having determined the price to one man or to the Guaranty Co., or whoever we determined the price at $20, you cannot go ahead and sell securities fluctuating your price every day, dependent upon the market. But I did not seem to be able to make it clear to the committee that this was a transaction with three parts to it. The sale of the common stock, or the underwriting of the common stock, approximating 25 million, was just as much a part of the whole transaction as the sale of the 35 million of bonds or the sale of 25 million of preferred stock. When we determined upon the policy that has been testified to here by me many times, that we were going to ask others to join with us in the underwriting of that 25 million of common stock, for reasons of ordinary prudence, for traditional reasons that that is the proper way, in our judgment, to sell common stocks, we determined that $20 was a fair value at which we bought it. You must remember that we are dealing at arm's length with the organizers of this company. The Van Sweringens had turned in and received in exchange for securities two and a quarter million dollars' worth of shares of common stock. They had a very lively interest in what actual cash consideration was to come in on the same level with them. So this was not a trade with ourselves in any way; it was a trade at arm's length with the other people of the company, and that was determined to be a fair price at $20. We determined to get underwriters on the same floor with us at the price we paid for it, who should take the same risk. Obviously when we determined that that was the proper price, the mere accident of an excited market and a speculative running up of prices did not come into the situation at all. That is the point that I am afraid I am unable to make. The Senators understand, and it is the fact, that this was a plan, a definite procedure of underwriting it, and naturally the price was fixed as a part of the plan, and the accident of market prices did not affect our conduct at all.

Senator COUZENS. May I ask this: Is it not usual that when you solicit underwriters you generally solicit dealers and banks and investment houses?

Mr. WHITNEY. It would depend, Senator Couzens, upon the character of the underwriting. If it was the underwriting of an investment security; yes. But, as I think I said the other day, we do not think that that is the way to sell common stocks. If it had been a convertible bond or preferred stock there is a certain transaction—I think Mr. Pecora mentioned General Motors preferred, that will probably come up here. We underwrote the preferred stock, but we formed a distributing syndicate. This is probably more usual in our transactions, very much more usual.

Senator COUZENS. That is what I understand; but I was wondering why your dealers to whom you allotted these underwritings would not have been delighted to have gotten these shares at $20.

Mr. WHITNEY. I do not doubt they would, sir; but the dealers, by the same token as ourselves, would not have wished to hold them for their own investment. They would again have had to find ultimate buyers, which would involve the whole problem of distribution to the general public, which we were trying to protect against.

Senator BARKLEY. How many were distributing these shares?

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Mr. WHITNEY. I could not answer that Senator Barkley. These things sort of grow. I should have thought there had been discussion enough about the Alleghany, certainly, for——

Senator BARKLEY. I am speaking of this. After you got possession of the million and a quarter which you were to distribute, over what period of time did you engage in this personally, the writing, solicitation, or allotment, whichever it may have been, and the calling of your friends' attention to the fact that you had this stock? How many days would you say?

Mr. WHITNEY. Oh, it would cover a couple of hundred people, such as there were in the Alleghany list of 227. I should think that could be pretty much covered in a couple of days. The contract with the Van Sweringens was the 28th of January. The contract called for payment on the 15th of February. The theory of the trade, in other words, would probably be drawn, and the lawyers would put it into contractual form. I should guess, although I cannot prove it, that we worked on this list for 2 or 3 days before February.

Senator BARKLEY. You have testified, I think, that this value was fixed and you started in to distribute this stock before it was actually listed?

Mr. WHITNEY. Yes, sir. That was the fact.

Senator BARKLEY. Do you remember on what date it was listed? Have you testified to that?

Mr. WHITNEY. The when-issued quotation was on February 1. It was actually listed on February 15, the date it was paid for.

Senator BARKLEY. So you had begun the process of distributing this stock prior to its listing on the stock exchange, but you had not finished it when the stock went up or when it was listed and went up as the result?

Mr. WHITNEY. Of course, these contracts we had with these individuals did not call for payment from them until February 15, because we had no contract to take up. The underwriting did not call for any payment until the 15th of February. Our contract with these individuals called for payment the same date that we called on them. The point—and I think this may answer your question, Senator Barkley—is that in the construction or set-up of the Alleghany Corporation, it was determined through negotiation with the Messrs. Van Sweringen that $20 was a fair price for the Alleghany Corporation to sell us the common stock of that corporation. That was what the other owners, the people who then had two and a quarter million shares, determined was fair. We had decided in these negotiations, naturally, as fairly prudent people, what we were going to do with these securities which we were buying. We knew that we could not sell 35 million of bonds through our own endeavors. It was arranged with the Guaranty Co. to sell the preferred stock, and, of course, we had also made arrangements among ourselves as to what we were going to do with the common stock; and the way we decided to do was to sell 500,000 shares, and did arrange for the Guaranty Co. to sell and secure underwritings on the same basis with us. The price of $20 which we were going to offer to these other individuals, I can say without fear of contradiction that that price was set long before, substantially before

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February 1; but when we made one price to one fellow, that determined it for all the others.

Senator BARKLEY. Yes; I realize that. Is there any significance to be attached to the fact that you wrote this letter on February 1 referring to the fact that the stock was then selling for $35 or $36, which happened to be the first date upon which it was listed or opened up for public sale?

Mr. WHITNEY. I suppose the significance is that the gentleman to whom that letter was written was away from New York, and I assume, although I do not know just of my own knowledge, that we had tried to reach him on the telephone and found he was not there. He was on the list, and therefore at the price which had been fixed for the others. So my partner, when he wrote him the letter, gave him that as a piece of information when he knew he was not going to get the letter for some time. I do not see that it has any other significance, except stating a fact which, as you will remember, he qualified by saying, "It doesn't mean anything."

Senator BARKLEY. We may assume that if this stock had not been listed until the 2d day of February, that sentence would not have been in that letter.

Mr. WHITNEY. You can assume that safely.

Mr. PECORA. Is it not a fact that trading in this Alleghany Corporation common stock commenced on a when-issued basis on the New York Stock Exchange on February 1, and continued on that basis daily thereafter until the stock was actually listed, on about February 15?

Mr. WHITNEY. Certainly. I so testified the other day.

Mr. PECORA. And those quotations were made public from day to day, were they not?

Mr. WHITNEY. Quite.

Mr. PECORA. And the tradings on the opening day, February 1, on the New York Stock Exchange, ranged from about 32 to 37, did they not?

Mr. WHITNEY. You have got your order just reversed. They ranged from 37 to 32, and there was a total number of sales of 14,000 shares during the course of that day.

Mr. PECORA. Can you produce a single letter or copy of a letter from your files showing that any individual was invited to subscribe for the shares of the Alleghany Co. at $20 per share prior to February 1, 1929?

Mr. WHITNEY. You asked me that question the other day and I answered then that I could not, and I think the answer is fairly obvious why I cannot—because if we had been talking to people on the telephone and found we were unable to reach them, obviously we would not get around to report to them until February 1. If we had covered the others by telephonic communication, of course, there would have been no occasion for a letter.

Mr. PECORA. When you were examined last week before this committee with regard to these offers or invitations extended to these persons whose names appear on the list in evidence to subscribe for Alleghany common stock at $20 a share, did you at any time in the course of your testimony last week before this committee refer to those invitations as part of the underwriting game?

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Mr. WHITNEY. I think very probably I did not, for the simple reason that last week when I was testifying I was not wise enough to appreciate the impression that would be given about these lists, and therefore as I have been given an opportunity to explain them further I have tried to go into more details as to what they really were.

Mr. PECORA. When did you first become wise to that impression?

Mr. WHITNEY. When I first read in the newspapers about a preferred list.

Mr. PECORA. Well, you first read in the newspapers about a preferred list before you left the stand on last Friday, did you not?

Mr. WHITNEY. I do not remember.

Mr. PECORA. You know that the first testimony that you gave in regard to the Alleghany Corporation stock was on Wednesday of last week, was it not?

Mr. WHITNEY. Yes; certainly.

Mr. PECORA. And you appeared before this committee not only on that day and on Thursday but on Friday of last week and gave testimony on each of those days, did you not?

Mr. WHITNEY. That is quite true—not on Friday; excuse me. I was not on the stand.

Mr. PECORA. You were in attendance on Friday?

Mr. WHITNEY. Yes.

Senator COSTIGAN. Mr. Whitney, in view of your emphasis on the business aspects of the transaction, why was the expression used in one of the letters, in substance, "We want you to know we are thinking of you"?

Mr. WHITNEY. Senator Costigan, we would have had to think of him to put him on the list, would we not?

Mr. PECORA. Can you produce a single letter or copy of a letter from your files in which you invited any of the gentlemen whose names appear on the Alleghany Corporation stock list who are asked in the letter to become part of an underwriting syndicate for that Alleghany common stock?

Mr. WHITNEY. Mr. Pecora, you have asked me that question a great many times before, and each time I have told you that I have not those files here with me, and I have not examined them for that purpose.

Mr. PECORA. As a matter of fact——

Mr. WHITNEY. I have——

Mr. PECORA. Pardon me.

Mr. WHITNEY. I have tried to explain the nature of this transaction and the others. I have not said we have not called it an underwriting. It was not in the form of an underwriting. It was a direct purchase, as you know. I am explaining, or attempting to explain, the purposes and the theories of these financial transactions to exemplify what I was trying to convey, and have used the word "underwriting." I have referred to the fact that it is a customary thing to have individuals in various types of financing as underwriters. There has never been any contention on my part that this transaction or any of the others took the form of what is legally meant by an underwriting. They have all been in the form of direct purchases.

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Mr. PECORA. Then these transactions between your firm and these gentlemen on these lists were not transactions that were part of an underwriting arrangement, were they?

Mr. WHITNEY. I just said they were not, Mr. Pecora.

Mr. PECORA. I wanted to make that clear, because this afternoon and this morning in your testimony for the first time you brought in references to an underwriting game in connection with those transactions.

Mr. WHITNEY. Mr. Pecora, I think I can clear your mind up on that. These transactions——

Mr. PECORA. My mind does not need clearing on that.

Mr. WHITNEY. They were perfectly frankly in the form of a direct sale by J. P. Morgan & Co. to these various individuals.

Mr. PECORA. That is something entirely different from an underwriting proposition, is it not?

Mr. WHITNEY. In form, in legal form; yes.

Mr. PECORA. And in substance it is different from an underwriting proposition, is it not?

Mr. WHITNEY. Excuse me. It is different in a technical legal form, from the point of view of J. P. Morgan & Co., who made the offer. I understand that this line of questioning is to bring out why all this was done. It was to divide our risk. We had a definite commitment to invest in this instance $25,000,000. I stated that that would not be a prudent banking investment for any individual firm to hold permanently. Therefore we decided it was prudent to and determined to distribute that risk in various directions in what would in effect be an underwriting of our risk. The form of it was never contended to be anything but a straight sale by J. P. Morgan & Co. to those individuals; but it certainly has, in the parlance of financial people, the elements of an underwriting or distribution of risk on our part. In other words, we underwrote through those sales a portion of our risk.

Mr. PECORA. Now, Mr. Whitney, a purchase-and-sale transaction is one thing, and an underwriting agreement is another thing; isn't that so?

Mr. WHITNEY. Certainly.

Mr. PECORA. Now, what were those transactions between your firm and those various persons—a purchase-and-sale transaction or an underwriting agreement?

Mr. WHITNEY. They were perfectly definitely purchase-and-sale transactions. But they had the same result as far as J. P. Morgan & Co. were concerned as an underwriting agreement would have.

Mr. PECORA. Now, a number of these purchase-and-sale transactions with respect to Alleghany Corporation common stock were had with certain gentlemen in their representative capacity as trustees of Phillips Exeter Academy, were they not?

Mr. WHITNEY. Well, I have not the list in front of me.

Mr. PECORA. And also with gentlemen who acted as trustees in these transactions for Andover Academy?

Mr. WHITNEY. Again I must say that I have not the list in front of me.

Mr. PECORA. You did not undertake to ask the trustees of educational institutions to join J. P. Morgan & Co. in underwriting a common-stock issue, did you?

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Mr. WHITNEY. Who were the trustees, if you happen to have their names before you?

Mr. PECORA. Well, with regard to the United Corporation you will find that in the case of the trustees for the benefit of Phillips Exeter Academy the names of the trustees are not given in the list.

Mr. WHITNEY. You are talking about the United Corporation now?

Mr. PECORA. Yes.

Mr. WHITNEY. Your first question was about the Alleghany Corporation.

Mr. PECORA. The answer to question 24.

Mr. WHITNEY. The United Corporation is quite a different thing from the Alleghany Corporation. There was preferred stock with a definite investment flavor to it. As I testified this morning, what we sold to this list in the case of the United Corporation was one share of preference stock backed by $3 dividend, and one share of common stock, so that the purchaser of a unit got a 4 percent return on his investment, exclusive of any dividends or rights he might have had on the common stock. And he has had that 4 percent return from that day to this, as well as certain dividends and rights in the common stock. And if the terms of the trust permitted investments of that kind, I know of no reason why those trustees should not have purchased it.

Mr. PECORA. Now, Mr. Whitney, to get back to the United Corporation: At the time when there was a digression to transactions in the stock of the Alleghany Corporation common stock you had told the committee that in January of 1929 J. P. Morgan & Co. obtained 800,000 shares of common stock of the United Corporation, 600,000 shares of the $3 preference stock of the United Corporation, and 714,200 option warrants in return for three hundred and fifty thousand and odd shares of the Mohawk Hudson Power Corporation common stock, sixty-two thousand and odd shares of the Mohawk Hudson Power Corporation second preferred stock, 124,740 warrants for Mohawk Hudson Power Corporation, one hundred and thirty thousand and odd shares of United Gas Improvement Co. common stock, 59,500 shares of Public Service of New Jersey common stock, and cash in the amount of $700,801.10. I believe you started to tell the committee in answer to some questions put to you by Senator Couzens something about the method or the negotiations by which J. P. Morgan & Co. acquired the Mohawk Hudson Power Corporation common stock that entered into this exchange with the United Corporation. Do you recall that?

Mr. WHITNEY. I thought I finished it.

Mr. PECORA. Well, now, you said that in June of 1928 there was some discussion between J. P. Morgan & Co. and the General Electric Co., which then owned 350,000-odd shares of the Mohawk Hudson Power Corporation stock, about J. P. Morgan & Co. buying that stock or acquiring it from the General Electric Co. Is that correct?

Mr. WHITNEY. It is. My idea——

Mr. PECORA (interposing). Now, were those negotiations first undertaken in June of 1928?

Mr. WHITNEY. With us?

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Mr. PECORA. Yes, sir.

Mr. WHITNEY. Why, yes.

Mr. PECORA. And——

Mr. WHITNEY (continuing). That is, we gave you a memorandum of it, which you no doubt have here.

Mr. PECORA. Yes. The memorandum I have before me bears the caption "Answer to no. 32," and that was question 32 that I submitted to your firm prior to these hearings.

Mr. WHITNEY. And the question was "Date and price of Mohawk Hudson stock purchased from General Electric Co., market value at the time."

Mr. PECORA. And your answer, in part, reads as follows, that is, the answer of your firm to this question 32:

> In June of 1928 the General Electric Co. offered an oral sale to J. P. Morgan & Co. of the entire block of Mohawk Hudson securities then owned by the General Electric Co. and the General Electric Employees Securities Co., setting a price of $40 a share for the common, being approximately the market price at the time, and the mean of high and low prices in 1928 up to that time.

Now, upon whose initiative were those conversations had with respect to the purchase of this stock? Was it J. P. Morgan & Co. or the General Electric Co.?

Mr. WHITNEY. It is my recollection that the first conversation in which those discussions were initiated, were initiated by Mr. Gerard Swope, the president of the General Electric Co., calling upon two partners of J. P. Morgan & Co. and raising the question, making the oral offer referred to here.

Mr. PECORA. Were you one of those two partners?

Mr. WHITNEY. I was.

Mr. PECORA. Did J. P. Morgan & Co. or any of its partners hold that offer under consideration for any period of time?

Mr. WHITNEY. If you would continue to read this answer——

Mr. PECORA (interposing). No. I am going to bring this all out, but I want to supplement it and augment it by this examination.

Mr. WHITNEY. Why, certainly we considered it.

Mr. PECORA. Did you reach a decision prior to the fall of 1928?

Mr. WHITNEY. We did not.

Mr. PECORA. Were the negotiations resumed in the fall of 1928?

Mr. WHITNEY. They were.

Mr. PECORA. Was any definite offer to sell those securities of the Mohawk Hudson Power Co. made to J. P. Morgan & Co. in the fall of 1928 by the General Electric Co.?

Mr. WHITNEY. Different from the one made in June?

Mr. PECORA. Yes, sir.

Mr. WHITNEY. No. That was the offer we closed on.

Mr. PECORA. When did you close on that offer?

Mr. WHITNEY. The offer was accepted and the agreement was embodied in memorandum form dated December 5, 1928, setting the price of the common stock at $40, plus interest at 5 percent from June 1, 1928, to date of payment therefor; and the second preferred stock at a price of $107 flat, and the option warrants at a price of $20 flat, and that meant that these last two prices were approximately the market prices at that time.

Mr. PECORA. There was no formal acceptance of this thing by J. P. Morgan & Co. until December 5, 1928, was there?

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Mr. WHITNEY. No; that is the date.

Senator COUZENS. Might I ask a question of Mr. Whitney right there?

Mr. PECORA. Certainly.

Senator COUZENS. Mr. Whitney, was there any limitation to the Mohawk option warrants; any limitation of a period for them?

Mr. WHITNEY. I think not. I get two answers, Senator Couzens, from associates here. One, that there was none, and the other, that there were two kinds. I will have to check it. I think that is the answer, that there were two kinds.

Senator COUZENS. One with terminating period and one indefinite?

Mr. WHITNEY. Yes, sir. I know that when we came to form the Niagara Hudson we had to take care of both kinds. Mr. LeBoeuf tells me they were perpetual.

Senator COUZENS. All of them were perpetual?

Mr. WHITNEY. All of the Mohawk Hudson were perpetual.

Mr. PECORA. Now, Mr. Whitney, the offer which was accepted on December 5, 1928, by your firm was the same offer that was made originally in June of 1928 to your firm orally by the General Electric Co., wasn't it?

Mr. WHITNEY. Substantially; yes, Mr. Pecora. In that it was the same offer as to the common stock. There had been no price fixed as to the preferred or the warrants in June. And, as I just read to you, the price on December 5 was set at the approximate market as of that date.

Mr. PECORA. What was the approximate market on that date for all these Mohawk Hudson Power Co. securities?

Mr. WHITNEY. The market value of those securities on December 5, 1928, was $26,683,975.

Mr. PECORA. And was that the same market value that those securities had in June of 1928, when the offer was made first to you by the General Electric Co.?

Mr. WHITNEY. It does not say that. But as that was more than the final market price, I assume the market price on December 5—well, it was above the contract price, above the price of 40, in other words. I have not got that figure here. I know that we did not—well, the price that the United Corporation paid was less than $26,000,000.

Mr. PECORA. Let us not discuss the price that the United Corporation paid until we reach the United Corporation. I am still confining myself to the negotiations between your firm and the General Electric Co. for the purchase by your firm of these securities of the Mohawk Hudson Power Co. which the General Electric Co. then owned.

Mr. WHITNEY. I think I can answer that in just a second.

Mr. PECORA. All right. Suppose, Mr. Whitney, in order, possibly, to help you out I have your refer to your copy of your firm's answer to my question 32 in our questionnaire. You will find at the bottom of the first page of that answer the following statement——

Mr. WHITNEY (interposing). It is here. Excuse me.

Mr. PECORA. The market value of those securities on January 10, 1929, was $35,533,260, and the purchase price as aforesaid being $23,634,120.

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Mr. WHITNEY. So that the answer to your question is that the market price on December 5 was approximately $3,000,000 more than the price on which the offer in June was based.

Mr. PECORA. Yes. And the purchase price, or rather the market price, of those securities when the offer was originally made in June of 1928, in oral form, was $23,600,000-odd.

Mr. WHITNEY. That is correct.

Mr. PECORA. And when your firm accepted the offer on December 5, 1928, the market value of those securities was $26,683,975, wasn't it?

Mr. WHITNEY. That is correct.

Mr. PECORA. Now, which was the price that J. P. Morgan & Co. paid to the General Electric Co. for those securities? The market price as of December 5, 1928, or the market price as of the date in June of 1928 when the offer in oral form was first made to you?

Mr. WHITNEY. The price paid by J. P. Morgan & Co. was $23,634,120, which is the price agreed to on December 5, based on the offer made to us in June by the General Electric Co. And, obviously, it took into consideration the size of the block and all other considerations. But the answer to your question is that the price paid by J. P. Morgan & Co. and the United Corporation was the price based upon the value set in June of 1928.

Mr. PECORA. Now, in what form did J. P. Morgan & Co. on December 5, 1928, indicate to the General Electric Co. its acceptance of this oral offer that you say was first made in June of 1928?

Mr. WHITNEY. What date?

Mr. PECORA. In what form?

Mr. WHITNEY. But as of what date?

Mr. PECORA. December 5, 1928.

Mr. WHITNEY. By memorandum form, of which you have a photostatic copy.

Mr. PECORA. Can you produce the original?

Mr. DAVIS. No. We have not got it, Mr. Pecora.

Mr. PECORA. All right. Now, Mr. Whitney, I show you what purports to be a photostatic copy of a memorandum bearing date December 5, 1928. I ask you if that is a photostatic copy which your office furnished to me at my request.

Mr. WHITNEY. Yes, sir.

Mr. PECORA. Is that the written acceptance of the offer I have just referred to?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. I offer it in evidence and ask that it be spread on the record.

Mr. WHITNEY. But without the pencil notations.

Mr. PECORA. Yes, which were not a part of the memorandum.

The CHAIRMAN. It will be received and spread on the record.

(The paper referred to was ordered spread on the record, and was marked "Committee Exhibit No. 30, May 31, 1933", and is as follows:)

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COMMITTEE EXHIBIT No. 30

UNITED STATES SENATE,
COMMITTEE ON BANKING AND CURRENCY,
New York, N.Y., May 11, 1933.

Hon. JOHN W. DAVIS,
New York, N.Y.

DEAR MR. DAVIS: Will you kindly have our examiners furnished with a copy of the memorandum agreement dated December 5, 1928, between the General Electric and General Electric Employees Securities and J. P. Morgan & Co. made mention of in answer to question 32.

Yours very truly,

FERDINAND PECORA,
By FRANK J. MEEHAN.

The General Electric Co. agrees to sell to J. P. Morgan & Co. its holdings and the holdings of the General Electric Employees' Securities Co., after the approval by the board, in the Mohawk Power Corporation on the following terms:

(1) The common stock at the price of $40 plus interest at 5 percent from June 1, 1928, to date of payment therefor; such date to be as J. P. Morgan & Co. may elect between January 1 and January 15, 1929.

(2) The second preferred stock at a price of $107 flat, at the same date as provided above.

(3) The option warrants at a price of $20 flat, payment similarly to be made as above provided.

In making the purchase as described J. P. Morgan & Co. recognize the importance of preserving the good will of the Brady and up State interests in the general power situation. J. P. Morgan & Co. plan to handle their holdings of Mohawk Hudson shares in harmony with the interests as described, having no present intention of divesting themselves of such shares to any so-called foreign corporation or foreign interests and engaging not to do so without full consultation with such interests as described and with officials of the General Electric Co.

J. P. Morgan & Co. recognize the services that have been rendered to the Mohawk Hudson Power Corporation by Charles Brewer as chairman of the board and are prepared to continue the obligations and present relations of the General Electric Co. to him.

J. P. M. & Co., G. S.

Mr. PECORA. I will read that photostatic copy. (Which was done, as shown above.) Now, who initialed this memorandum in behalf of J. P. Morgan & Co., do you know?

Mr. WHITNEY. Yes. Mr. T. W. Lamont.

Mr. PECORA. Mr. T. W. Lamont?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. Who initialed it in behalf of the General Electric Co.?

Mr. WHITNEY. Mr. Gerard Swope.

Mr. DAVIS. Mr. Pecora, weren't you interrupted before you finished reading the last paragraph?

Mr. PECORA. I think not.

Mr. DAVIS. Then I failed to get it.

Mr. PECORA. I will read the last paragraph again:

J. P. Morgan & Co. recognize the services that have been rendered to the Mohawk Hudson Power Corporation by Charles Brewer, as chairman of the board, and are prepared to continue the obligations and present relations of the General Electric Co. to him.

I think that concludes it.

Mr. DAVIS. All right.

Mr. PECORA. Mr. Whitney, do you know who prepared that memorandum?

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Mr. WHITNEY. Did I finish my answer?

Mr. PECORA. I think you said that Mr. Gerard Swope initialed it in behalf of the General Electric Co.

Mr. WHITNEY. And he is the president of the company.

Mr. PECORA. Who prepared this memorandum, Mr. Whitney?

Mr. WHITNEY. I think that Mr. Swope did.

Mr. PECORA. Where was this transaction concluded, in whose office?

Mr. WHITNEY. Again I will say, to the best of my recollection, in ours.

Mr. PECORA. That is, in the office of J. P. Morgan & Co.?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. And are you quite sure that this memorandum agreement was prepared by Mr. Swope?

Mr. WHITNEY. Well, I qualified it by saying to the best of my recollection. I think it was; yes. Do you want me to confirm that, to see if there is any different recollection here?

Mr. PECORA. All right.

Mr. WHITNEY. I am pretty sure of that, sir.

Mr. PECORA. Now, the number of shares of the stock of the Mohawk Hudson Power Corporation I notice is not set forth in this memorandum. Do you know of any reason for that?

Mr. WHITNEY. Well, one reason is that in June I think there was a memorandum—that your investigators saw—a memorandum dated June 11, when those preliminary discussions began, a memorandum to us from Mr. Swope in which they outlined the number of shares that they held.

Mr. PECORA. Will you point out anywhere in this memorandum any language that indicates that J. P. Morgan & Co. agreed to buy those shares from the General Electric Co.?

Mr. WHITNEY. Well, I think, Mr. Pecora, the nearest thing that I could get to that would be Mr. Lamont's initials at the bottom, which would certainly be taken by us an an agreement to purchase under this memorandum.

Mr. PECORA. This was a transaction that involved the purchase of many millions of dollars' worth of securities by J. P. Morgan & Co. wasn't it?

Mr. WHITNEY. $23,000,000.

Mr. PECORA. And does your firm usually undertake in writing agreements or make agreements to purchase large blocks of stock for sums around 20-odd million dollars without a definite statement in writing concerning the amount of securities it is going to buy at any given price.

Mr. WHITNEY. We do have our lawyers advise us that it is an equally binding contract; yes.

Mr. PECORA. Was the opinion of your lawyers consulted by you in this transaction before this agreement was initiated by Mr. Lamont?

Mr. WHITNEY. Unless there are any lawyers here that could say definitely, I would assume it without question, because whenever anything of this kind comes up it is always passed on by our lawyers. That is all that I could answer on that.

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Mr. PECORA. And this memorandum of December 5, 1928, is the first thing reduced to writing with regard to those negotiations that commenced back in June of 1928, is it not?

Mr. WHITNEY. The first and only.

Mr. PECORA. The first and only?

Mr. WHITNEY. Yes. I think, Mr. Pecora, either you or I failed to read the portions of this memorandum which, perhaps, shed a little light on that.

Mr. PECORA. Which memorandum do you refer to? The one of December 5, 1928?

Mr. WHITNEY. No; the answer to question 32. You will remember that you read the first part of it.

Mr. PECORA. I am going to go over it. But I want to go over it step by step.

Mr. WHITNEY. All right.

Mr. PECORA. Now, on what date did J. P. Morgan & Co. elect to make payment for these securities of the Mohawk Hudson Power Corporation that you say they agreed to buy on December 5, 1928, from the General Electric Co.?

Mr. WHITNEY. Will you excuse me while I refresh my memory, because there were a lot of dates in early January.

Mr. PECORA. Won't you find the answer on the first page?

Mr. WHITNEY. It is in 32?

Mr. PECORA. Your answer to question 32, right near the bottom of the first page.

Mr. WHITNEY. The payment was made January 10, 1929.

Mr. PECORA. What was the market value of those shares of the Mohawk Hudson Power Corporation on that date?

Mr. WHITNEY. $35,533,260.

Mr. PECORA. And that was about $12,000,000 more than the price which you paid them on that date for those securities, wasn't it?

Mr. WHITNEY. Very nearly.

Mr. PECORA. Is a member of your firm also a member of the board of directors of the General Electric Co.?

Mr. WHITNEY. There is.

Mr. PECORA. Is there more than one member of your firm who is a member of the board of directors of the General Electric Co.?

Mr. WHITNEY. No.

Mr. PECORA. Was a partner of your firm a director of the General Electric Co. in the years 1928 and 1929?

Mr. WHITNEY. There was.

Mr. PECORA. Which partner?

Mr. WHITNEY. Mr. Cochran. But Mr. Cochran was not present at the meeting at which this transaction was ratified, I will say for your information.

Mr. PECORA. Have you seen the minute books of the General Electric Corporation with regard to this transaction?

Mr. WHITNEY. No. I have never seen them.

Mr. PECORA. Did your attorneys advise you that this memorandum, received in evidence as Committee Exhibit No. 30 on this date, was an enforceable agreement on the part of the General Electric Co. to sell these shares to J. P. Morgan & Co., and on the part of J. P. Morgan & Co. to buy these shares from the General Electric Co.?

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Mr. WHITNEY. Was your question: Do they or did they?

Mr. PECORA. Did they?

Mr. WHITNEY. Well, I do not think they phrased it like that. We probably were, and I assume they did. As I said a minute ago, I cannot speak specifically but I assume we showed it to them, and I assume that they said it was a satisfactory agreement or contract for purchase and sale.

Mr. PECORA. Mr. Whitney, I would rather have the fact in lieu of an assumption if I can get the facts, although I am perfectly willing for you to confer with any of your associates or partners in order to develop what the fact was in that respect.

Mr. DAVIS. Might I say that a member of my firm would be naturally consulted on this matter. And while I am speaking, if I might add, the test as to whether it was an enforceable agreement is that it was enforced.

Mr. PECORA. Well, I should not think that J. P. Morgan & Co. would have objected to its enforcement when they took securities on a date and paid for them when the market value was $12,000,000 above the price that they paid.

Mr. WHITNEY. It has already been testified that they went into the United Corporation at the same price.

Mr. PECORA. Now, Mr. Whitney, in order to save time I am going to ask you to look at this document, entitled "Answer to no. 32", and it is headed "Date and price at which Mohawk Hudson stock was purchased from General Electric Co.; market value at the time." And I ask you if that was supplied to me by your firm in response to my request for that information?

Mr. WHITNEY. That was. Do you only ask me to identify that one page?

Mr. PECORA. No. Look at the whole thing—the entire document.

Mr. WHITNEY. Yes; it was.

Mr. PECORA. Do the contents of this document constitute a complete and correct answer to the question which it purports to answer?

Mr. WHITNEY. To the best of my knowledge and belief; yes.

Mr. PECORA. I offer it in evidence and ask that it may be spread on the record.

Mr. WHITNEY. I do not want to qualify my answer, but wish to say that this is one of the questions as to which we did not have a written request from you and we have put our response as we have understood it, at the top of the different forms, and my answer stands on that basis. Of course, that might have the further qualification: The third part of your question, you know, that we did not know how we could answer, quite.

The CHAIRMAN. That paper will be received and made a part of the record.

(The paper was marked "Committee Exhibit No. 31, May 31, 1933", and is as follows:)

COMMITTEE EXHIBIT NO. 31

ANSWER TO QUESTION NO. 32

First: Date and price at which Mohawk Hudson stock was purchased from General Electric Co.; market value at the time?

In June 1928, General Electric Co. offered orally to sell to J. P. Morgan & Co. the entire block of Mohawk Hudson securities then owned by the General

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Electric and General Electric Employees Securities Co. setting a price of $40 a share for the common, being approximately the market price at the time and the mean of the high and low price for the year 1928 up to that time. J. P. Morgan & Co. not being prepared at that time to reach a final conclusion as to the offer, it was left open for consideration after the summer. In the autumn the matter was again taken up, J. P. Morgan & Co. endeavoring to obtain a lower price because of the large block of securities involved. Mr. Young of the General Electric Co. standing on the previous offer and stating that the purchase price should carry interest from June 1, 1928, on the common stock. The offer was accepted and the agreement was embodied in memorandum form, dated December 5, 1928, settling the price for the common stock at $40, plus interest from June 1, 1928, and $197 flat for the second preferred and $20 flat per warrant, these last two prices being in the approximate market prices at that time. The market value of these securities on December 5, 1928, was $26,683,975. The memorandum provided for payment on or before January 15, 1929. Payment was made on January 10, 1929. The market value of these securities on January 10, 1929, was $35,533,260, the purchase price as aforesaid being $23,634,120.

Second. List of all securities acquired by the corporation from the organizers, showing the following:

1. Name or organizer.
2. Kind of security.
3. Cost price to organizer.
4. Price United Corporation paid for securities.
5. Market price at the time of sale.

J. P. Morgan & Co. and Drexel & Co. were among the organizers of the United Corporation. So far as concerns J. P. Morgan & Co. and Drexel & Co. the following facts are submitted:

SECURITIES EXCHANGED

On January 10, 1929, J. P. Morgan & Co. and Drexel & Co. delivered the following in exchange for securities of the United Corporation: 130,565 shares United Gas Improvement Co. common at 160; 59,500 shares Public Service Corporation of New Jersey common at 80; 350,957 shares Mohawk Hudson Power Corporation common at $41.26; 62,360 shares Mohawk Hudson Power Corporation second preferred at 107; and 124,740 shares Mohawk Hudson Power Corporation warrants at 20.

These securities plus $700,801.10 in cash were valued by the United Corporation on its books at $50,000,000 on January 11, 1929. On the date of delivery of these securities by J. P. Morgan & Co., namely, January 10, 1929, these assets taken at market prices exceeded $64,000,000.

While the prices stated above were those at which these securities were transferred to the United Corporation, J. P. Morgan & Co. and Drexel & Co. received therefor from the United Corporation securities, not cash. Such securities received from the United Corporation on January 11, 1929, in exchange for the above securities and $700 801.10 cash were as follows: 600,000 shares preference stock, 800,000 shares common stock, and 714,200 warrants.

On January 23, 1929, Drexel & Co., in accordance with previous understanding, exchanged an additional amount of Public Service Corporation of New Jersey stock, i.e. 4,510 shares, at prices on that date $40,000 under the market, and received in exchange 11,004 shares United Corporation common stock, 1,714 shares United Corporation preference stock, and 4,979 warrants.

All of the above-mentioned securities were minority interests in large and important concerns.

AS TO THE COST OF THE ABOVE SECURITIES TO J. P. MORGAN & CO. AND DREXEL & CO.

DREXEL & CO.

On December 30, 1927, Drexel & Co.'s holdings were: 25,000 shares United Gas Improvement Co. stock, 34,500 shares Public Service Corporation of New Jersey stock, and 47,530 shares Philadelphia Electric Co. stock.

Shares of these companies (being shares actively dealt in on the Philadelphia markets) had been acquired over a period of years, beginning in 1924, through purchase for cash, exchange or other securities, exercise of rights of stockholders to subscribe for new stock, stock dividends, and stock split-ups.

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On December 31, 1927, Drexel & Co.'s holdings were transferred to a new firm of that name created by the admission of a new partner. The prices at which the new firm of Drexel & Co. acquired these securities on that date were as follows: 112½ for United Gas Improvement Co. stock, 41 for Public Service Corporation of New Jersey stock, and 55½ for Philadelphia Electric Co. stock, being the market prices of the shares at that time.

During 1928 Drexel & Co. neither bought nor sold any of these securities, but in February 1928 they exchanged their holdings of Philadelphia Electric Co. stock for 23,765 shares of United Gas Improvement Co. stock. Therefore, at the end of 1928, their holdings were 48,765 shares United Gas Improvement Co. stock and 34,500 shares Public Service Corporation of New Jersey stock.

On December 31, 1926, four new partners were admitted to Drexel & Co. The new firm acquired the above securities at prices of $160 for United Gas Improvement Co. and $80 for Public Service Corporation of New Jersey. These were the prices at which these securities were exchanged for securities of the United Corporation.

On December 31, 1928, the new firm of Drexel & Co. acquired $205,000 of Public Service Corporation of New Jersey convertible 4½-percent debentures at $180, these bonds being the portion remaining of a block which had been purchased in January 1928 at 98. These bonds were converted according to their terms, into 4,510 shares Public Service Corporation of New Jersey common stock, which was received on January 2, 1929, and which, as above stated, was exchanged for United Corporation securities on January 23, 1929.

J. P. MORGAN & CO.

On January 1, 1928, J. P. Morgan & Co. owned no securities of United Gas Improvement Co., Public Service Corporation of New Jersey, or Mohawk Hudson Power Corporation, but between May 3, 1928, and June 20, 1928, the firm made cash purchases of 81,000 shares of United Gas Improvement Co. stock at an average cost of 114.3015 per share, or a total amount of $11,803,865.25 and 25,000 shares of common stock of the Public Service Corporation of New Jersey at an average cost of 61.2625 per share, or a total amount of $1.531,562.50.

On December 31, 1928, new partners were admitted to the firm of J. P. Morgan & Co. The new firm acquired the United Gas Improvement Co. stock at the price of $160 per share, and the Public Service Corporation of New Jersey stock at $80 per share. These were the prices at which these securities were exchanged for securities of the United Corporation.

In January 1929, J. P. Morgan & Co., pursuant to previous arrangements made payments for 350,957 shares of common stock; 62,360 shares of second preferred stock, and 124,740 option warrants of Mohawk Hudson Power Corporation. For further reference to this transaction see the answer above to "First."

SECURITIES ACQUIRED FOR CASH

J. P. Morgan & Co., on January 11, 1929, subscribed $10,000,000 cash for 400,000 shares of the common stock of United Corporation and 1,000,000 warrants of the United Corporation.

On August 15, 1929, J. P. Morgan & Co. subscribed to 1,396 shares of United Corporation common stock at $37.50 per share through the exercise of subscription rights which had been issued to all stockholders in connection with an increase in the corporation's capital stock. On the same date and in the same way Drexel & Co. subscribed for 2,022 shares of common stock at $37.50 per share.

SECURITIES SOLD FOR CASH

The following securities sold by J. P. Morgan & Co. to the United Corporation for cash were sold at prevailing market prices. These securities were minority interests in important concerns and were dealt in either on the New York Stock Exchange or the Paris Bourse:

COLUMBIA GAS & ELECTRIC CORPORATION

J. P. Morgan & Co. had acquired 10,600 shares of common stock of the Columbia Gas & Electric Corporation between May 3 and July 18, 1928, at a cost of $1,148,104.13. On December 31, 1928, those securities were transferred to the new firm at $135 per share, or $1,431,000. On January 16, 1929, United Corporation accepted an offer of J. P. Morgan & Co. to sell this stock to it at the

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day's closing price on the New York Stock Exchange, namely 145¾ per share, or a total of $1,544,950.

INTERNATIONAL TELEPHONE & TELEGRAPH CORPORATION

In January 1929 United Corporation purchased 12,500 shares of International Telephone & Telegraph Corporation at $195 per share. On this transaction J. P. Morgan & Co. realized a profit of slightly under $17,500. On April 1, 1929, United Corporation sold the stock so purchased at a profit of $963,762.50.

SOCIETE LYONNAISE DES EAUX ET L'ECLAIRAGE

J. P. Morgan & Co. had acquired 10,000 shares of the Society Lyonnaise des eaux l'eclairage on December 18, 1928, at a cost of $975,340.26. This stock was and is traded in on the Paris Bourse. United Corporation on February 4, 1929, accepted an offer of J. P. Morgan & Co. to sell this stock to the United Corporation at the closing price on the Paris Bourse on February 2, 1929; namely, $1,699,218.75, which transaction was consummated on February 9, 1929.

Third. The United Corporation acquired an interest in several companies such as U. G. I., Niagara Hudson Power, etc. What were the prices of above stocks when they were first put on the New York Stock Exchange and what were their prices when the United Corporation acquired them as a holding company?

The answer to this question would involve considerable time in order to give an intelligent reply. Some of these companies whose shares were acquired, such as Columbia Gas & Electric Co., Public Service Corporation of New Jersey, were first listed on the New York Stock Exchange several years ago. The prices at the time of such listing would mean little compared with prices at the time of acquisition by United Corporation, as in certain instances at least there have been split-ups of shares, stock dividends, additional stock issued for cash or property or other changes in capitalization, and there may have been consolidations with other companies. This information can be obtained no doubt from the various manuals and the Commercial & Financial Chronicle.

The stock of the United Corporation was first listed on the New York Stock Exchange on May 9, 1929, the initial sales being 67½ for the common and 45⅝ for the preference stock.

Mr. PECORA. Now, I am going to read this to you, if you will follow me closely. I am reading now:

Exhibit no. 31. Answer to no. 32.

First. Date and price at which Mohawk Hudson stock was purchased from General Electric Co.; market value at the time?

In June 1928 General Electric Co. offered orally to sell to J. P. Morgan & Co. the entire block of Mohawk Hudson securities then owned by the General Electric and General Electric Employees Securities Co., setting a price of $40 a share for the common, being approximately the market price at the time and the mean of the high and low price for the year 1928 up to that time. J. P. Morgan & Co., not being prepared at that time to reach a final conclusion as to the offer, it was left open for consideration after the summer. In the autumn the matter was again taken up, J. P. Morgan & Co. endeavoring to obtain a lower price because of the large block of securities involved, Mr. Young ,of the General Electric Co., standing on the previous offer and stating that the purchase price should carry interest from June 1, 1928, on the common stock. The offer was accepted and the agreement was embodied in memorandum form, dated December 5, 1928, settling the price for the common stock at $40, plus interest from June 1, 1928, and $107 flat for the second preferred, and $20 flat per warrant; these last two prices being the approximate market prices at that time. The market value of these securities on December 5, 1928, was $26,683,975. The memorandum provided for payment on or before January 15, 1929. Payment was made on January 10, 1929. The market value of these securities on January 10, 1929, was $35,533,260, the purchase price as aforesaid being $23,643,120.

Second. List of all securities acquired by the corporation from the organizers, showing the following:

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2. Kind of security.
3. Cost price to organizer.
4. Price United Corporation paid for securities.
5. Market price at the time of sale.

J. P. Morgan & Co. and Drexel & Co. were among the organizers of the United Corporation. So far as concerns J. P. Morgan & Co. and Drexel & Co. the following facts are submitted:

SECURITIES EXCHANGES

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These securities plus $700,801.10 in cash were valued by the United Corporation on its books at $50,000,000 on January 11, 1929. On the date of delivery of these securities by J. P. Morgan & Co., namely, January 10, 1929, these assets taken at market prices exceeded $64,000,000.

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On January 23, 1929, Drexel & Co., in accordance with previous understandings, exchanged an additional amount of Public Service Corporation of New Jersey stock; i.e., 4,510 shares, at prices on that date $40,000 under the market, and received in exchange: 11,004 shares United Corporation common stock, 1,714 shares United Corporation preference stock, and 4,979 warrants.

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DREXEL & CO.

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Shares of these companies (being shares actively dealt in on the Philadelphia markets) had been acquired over a period of years beginning in 1924, through purchase for cash, exchange, or other securities, exercise of rights of stockholders to subscribe for new stock, stock dividends, and stock split-ups.

On December 31, 1927, Drexel & Co.'s holdings were transferred to a new firm of that name created by the admission of a new partner. The prices at which the new firm of Drexel & Co. acquired these securities on that date were as follows: 112½ for United Gas Improvement Co. stock, 41 for Public Service Corporation of New Jersey stock, 55½ for Philadelphia Electric Co. stock, being the market prices of the shares at that time.

Let me stop reading at that point, Mr. Whitney, to ask this question of you with regard to the transfer of these last three blocks of stock by Drexel & Co. on December 31, 1927. That was a transfer virtually by the partners of Drexel & Co. to the reconstituted firm of Drexel & Co., was it not?

Mr. WHITNEY. Sale by the old firm to the new firm.

Mr. PECORA. And the only change in the personnel of the two firms was the admission of a new partner, was it not?

Mr. WHITNEY. I think it was, Senator, but——

Mr. PECORA (interposing). I simply see here "to a new firm created by the admission of a new partner."

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Mr. WHITNEY. You are right, then.

Mr. PECORA. Now I resume the reading of the exhibit. [Reading:]

During 1928 Drexel & Co. neither bought nor sold any of those securities, but in February 1928 they exchanged their holdings of Philadelphia Electric Co. stock for 23,765 shares of United Gas Improvement Co. stock. Therefore at the end of 1928 their holdings were 48,765 shares United Gas Improvement Co. stock, 34,500 shares Public Service Corporation of New Jersey stock.

On December 31, 1926, four new partners were admitted to Drexel & Co. The new firms acquired the above securities at prices of $160 for United Gas Improvement Co. and $80 for Public Service Corporation of New Jersey. These were the prices at which these securities were exchanged for securities of the United Corporation.

I will stop reading for another moment to ask you this question: This transfer on December 31, 1928, of the securities was a transfer made by the old firm of Drexel & Co. to the reconstituted firm, which changed in personnel only by the admission of four new members, is that right?

Mr. WHITNEY. That is right, as required by law.

Mr. PECORA. Yes. Now I resume the reading of the exhibit [reading]:

On December 31, 1928, the new firm of Drexel & Co. also acquired $205,000 Public Service Corporation of New Jersey convertible 4½-percent debentures at $180. These bonds being the portion remaining of a block which had been purchased in January 1928 at 98. These bonds were converted according to their terms into 4,510 shares Public Service Corporation of New Jersey common stock, which was received on January 2, 1929, and which, as above stated, was exchanged for United Corporation securities on January 23, 1929.

J. P. MORGAN & CO.

On January 1, 1928, J. P. Morgan & Co. owned no securities of United Gas Improvement Co., Public Service Corporation of New Jersey, or Mohawk Hudson Power Corporation, but between May 3, 1928, and June 20, 1928, the firm made cash purchases of 81,800 shares of United Gas Improvement Co. stock at an average cost of $144.3015 per share, or a total amount of $11,803,865.25 and 25,000 shares of common stock of the Public Service Corporation of New Jersey at an average cost of $61.2625 per share, or a total amount of $1,531,562.50.

On December 31, 1928, new partners were admitted to the firm of J. P. Morgan & Co. The new firm acquired the United Gas Improvement Co. stock at the price of $160 per share and the Public Service Corporation of New Jersey stock at $80 per share. These were the prices at which these securities were exchanged for securities of the United Corporation.

I will stop reading there to ask you this question: That transaction that I have just referred to was likewise a transaction in which the partners of J. P. Morgan & Co. on December 31, 1928, sold to the firm of J. P. Morgan & Co. as reconstituted on that date these blocks of stock; is that right?

Mr. WHITNEY. Yes. Again as required by law.

Mr. PECORA. Now I will resume the reading from the exhibit [reading]:

In January 1929, J. P. Morgan & Co., pursuant to previous arrangements, made payment for 350,957 shares of common stock, 62,360 shares of second preferred stock, and 124,740 option warrants of Mohawk Hudson Power Corporation. For further reference to this transaction see the answer above to "First."

SECURITIES ACQUIRED FOR CASH

J. P. Morgan & Co. on January 11, 1929, subscribed $10,000,000 cash for 400,000 shares of the common stock of United Corporation and 1,000,000 warrants of the United Corporation.

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On August 15, 1929, J. P. Morgan & Co. subscribed to 1,396 shares of United Corporation common stock at $37.50 per share through the exercise of subscription rights which had been issued to all stockholders in connection with an increase in the corporation's capital stock. On the same date and in the same way Drexel & Co. subscribed for 2,022 shares of common stock at $37.50 per share.

Now I will temporarily leave off reading the exhibit to ask you this question: These 1,396 shares of United Corporation common stock which your firm purchased on August 15, 1929, were not purchased or acquired in connection with any exchange of these option warrants, were they?

Mr. WHITNEY. No. Merely the exercise of rights offered to all stockholders, as stated here, at $37.50 per share.

Mr. PECORA. Up to the time, up to that date, namely, August 15, 1929, had your firm exercised any of these option warrants?

Mr. WHITNEY. August 15?

Mr. PECORA. Up to August 15, 1929.

Mr. WHITNEY. No.

Mr. PECORA. Now, I will resume the reading from the exhibit (reading):

SECURITIES SOLD FOR CASH

The following securities sold by J. P. Morgan & Co. to the United Corporation for cash were sold at prevailing market prices. These securities were minority interests in important concerns and were dealt in either on the New York Stock Exchange or the Paris Bourse.

COLUMBIA GAS & ELECTRIC CORPORATION

J. P. Morgan & Co. had acquired 10,600 shares of common stock of the Columbia Gas & Electric Corporation between May 3 and July 18, 1928, at a cost of $1,148,104.13. On December 31, 1928, those securities were transferred to the new firm at $135 per share, or $1,431,000. On January 16, 1929, United Corporation accepted an offer of J. P. Morgan & Co. to sell this stock to it at the day's closing price on the New York Stock Exchange, namely, 145¾ per share, or a total of $1,544,950.

INTERNATIONAL TELEPHONE & TELEGRAPH CORPORATION

In January 1929 United Corporation purchased 12,500 shares of International Telephone & Telegraph Corporation at $195 per share. On this transaction J. P. Morgan & Co. realized a profit of slightly under $17,500. On April 1, 1929, United Corporation sold the stock so purchased at a profit to it of $963,762.50.

SOCIETE LYONNAISE DES EAUX ET L'ECLAIRAGE

J. P. Morgan & Co. had acquired 10,000 shares of the Societe Lyonnaise [as it now is here] des eaux et l'eclairage on December 18, 1928——

Mr. DAVIS. Societe Lyonnaise is probably right.

Mr. PECORA. Well, I would rather say "chocolate eclair", or something like that.

The CHAIRMAN. Or lyonnaise.

Mr. PECORA (continuing reading):

On December 18, 1928, at a cost of $975,340.26. This stock was and is traded in on the Paris Bourse. United Corporation on February 4, 1929, accepted an offer of J. P. Morgan & Co. to sell this stock to the United Corporation at the closing price on the Paris Bourse on February 2, 1929, namely $1,699,218.75, which transaction was consummated on February 9, 1929.

Third. The United Corporation acquired an interest in several companies, such as U.G.I.—

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That is United Gas Improvement Co., isn't it?

Mr. WHITNEY. This is the question.

Mr. PECORA. That is the question. I am reading the entire document, exhibit no. 31.

Mr. WHITNEY. Yes; that is the question. Yes; U.G.I. is the United Gas Improvement.

Mr. PECORA (resuming reading):

Several companies, such as U.G.I., Niagara Hudson Power, etc. What were the prices of the above stocks when they were first put on the New York Stock Exchange and what were their prices when the United Corporation acquired them as a holding company?

The answer to this question would involve considerable time in order to give an intelligible reply. Some of these companies whose shares were acquired, such as Columbia Gas & Electric Co., Public Service Corporation of New Jersey, were first listed on the New York Stock Exchange several years ago. The prices at the time of such listing would mean little compared with prices at the time of acquisition by United Corporation, as in certain instances at least there have been split-ups of shares, stock dividends, additional stock issued for cash or property or other changes in capitalization, and there may have been consolidations with other companies. This information can be obtained, no doubt, from the various manuals and the Commercial & Financial Chronicle.

The stock of the United Corporation was first listed on the New York Stock Exchange on May 9, 1929, the initial sales being 67½ for the common and 45⅝ for the preference stock.

That is the end of this document, exhibit 31 of this date.

Now, if you can tell us, Mr. Whitney, what was the total profit accruing to your firm from these various transactions that it had with the United Corporation involving the exchange of these securities for the stock and option warrants of the United Corporation? Will you give us that answer?

Mr. WHITNEY. Well, do you want it exact or do you want it approximate?

Mr. PECORA. I prefer it exact, of course; but if you cannot give it exact, give us the best approximation you are able to give at the moment.

(Mr. Whitney examined documents.)

Mr. PECORA. Can you give us the figure now, Mr. Whitney? If you cannot, I will not press it. I will resume the questioning.

Mr. WHITNEY. I have it somewhere, but I haven't got it here. I would rather give it to you exact. It shows some of these things, which is a question of arithmetic, but I would rather give it exact. I will give it to you.

The CHAIRMAN. While Mr. Pecora is looking up some data I may read a statement by Senator Kean. He sends it over to be put in the record. He says [reading]:

A newspaper reporter came in to see me last Thursday and said the name of my firm, Kean, Taylor & Co., was on the list of Messrs. J. P. Morgan & Co.

I asked Mr. Pecora on Friday if this was so, and he said he would look it up.

When I was a young man, after starting the firm in 1892, I was able to place a considerable number of bonds brought out by Messrs. J. P. Morgan & Co. I asked the present Mr. Morgan's father for an interest in the bond syndicates that they were bringing out, and Mr. Morgan, having a kind heart and finding that I was ready to work, gave me a small interest from time to time, on which amounts I made good. In other words, I sold more bonds than my proportion of the syndicates, and I have taken interests in the Morgan offerings ever since. At about the same time I obtained like interests in bond syndicates originated by Messrs. Kuhn, Loeb & Co; Dillon, Read & Co., and other issuing houses, because as a distributor I could be useful to them.

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Since becoming a member of the Senate I have spent most of my time in Washington, so that I am and have been out of touch with my office and the business there.

Mr. WHITNEY. Mr. Pecora, before we adjourn, you asked me some questions about profits or if we had sold, and I asked if I might put this statement which I have in the record. I have put some of our statisticians to work. You remember I got started and you diverted me. May I put this statement in the record? This is the substantiation of the statement I made that if we had not formed United, if we had sold the securities which we turned into the United in exchange for other securities at the high prices per share during the year and had not formed United Corporation at all, we could have made in all, above the prices at which we did turn that in, $57,387,379. This is merely a memorandum which supports that statement I made.

Mr. PECORA. Do you want to put that into the record?

Mr. WHITNEY. I would like to.

Mr. PECORA. All right, I have no objection.

The CHAIRMAN. Let that statement go in the record then.

(Statement submitted by Mr. Whitney is in the words and figures following:)

Value of certain holdings at acquisition and at high market price for 1929

	Cost	High per share	High valuation
Mohawk Hudson common, 350,957, at 41.26	$14,480,486	[1] 116¼	$40,798,751
Mohawk second preferred, 62,360, at 107	6,672,520	[2] 104¾	6,532,210
Mohawk warrants, 124,740, at 20	2,494,800	[3] 88	10,977,120
U.G.I. common, 130,565, at 160	20,890,400	[4] 307¾	40,181,379
Public Service common, 59,500, at 80	4,760,000	[4] 137¾	8,196,125
Total	49,298,206		106,685,585

[1] On the basis of market value of holdings into which Mohawk Hudson was exchanged, i.e., 3½ shares Niagara Hudson common plus ⅞ class A option warrant. July 26.
[2] Actual high 110 Jan. 11. All the other prices given above represent the highest price reached in 1929 after July 1, which price was also the highest for the year. Aug. 2.
[3] July 24.
[4] Sept. 23.

Amount of increase by stocks

Mohawk:	
Common	[1] $26,318,265
Second preferred	[2] 140,310
Warrants	[1] 8,482,320
U.G.I. common	[1] 19,290,979
Public service common	[1] 3,436,125
Total increase	[1] 57,387,379

The CHAIRMAN. These securities which you furnished were owned by you at the time, or did you buy them afterward?

Mr. WHITNEY. No; these are securities, Senator Fletcher, which we referred to as having turned in at the origination of the United Corporation in exchange for the $50,000,000 worth of preference shares, common shares, and option warrants, 740 option warrants.

The CHAIRMAN. You did not go out and buy the securities?

Mr. WHITNEY. Oh, no. Those are the ones that we already had.

[1] Plus.
[2] Minus.

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Mr. PECORA. Mr. Whitney, I notice in the so-called preferred list known as exhibit 28 of this date, constituting the names of persons who were invited to subscribe to the units of United Corporation at $75 per unit, appears the name George Whitney, agent. That refers to yourself, does it not?

Mr. WHITNEY. Refers to me as agent.

Mr. PECORA. Agent for whom?

Mr. WHITNEY. Well, I am the individual that more or less collected that list, and that accounted for certain of my partners, some of my partners, and I don't know, except I know the partners in it. I had nothing whatever to do with it myself. It was purely an agency account.

Mr. PECORA. Were not their allocations of these units at $75 per share made to some other partners directly?

Mr. WHITNEY. Oh, yes, directly; but this is merely an agency account or suspense account.

Mr. PECORA. Why was any resort had to this agency or suspense account? What was the reason for it?

Mr. WHITNEY. Well, it was 10,000 shares that were not allotted anywhere else, and they were allotted to me as agent.

Mr. PECORA. As agent for whom?

Mr. WHITNEY. Some of my partners.

Mr. PECORA. Well, why weren't these units reserved for your partners directly as they were in the case of the Alleghany Corporation?

Mr. WHITNEY. I don't know, Mr. Pecora. The ones that were allotted to them were allocated directly, and this is what we call in the banking business a suspense account. There is no significance.

Mr. PECORA. I am trying to find out what reason there was for not having made the allocation directly to your partners.

Mr. WHITNEY. Well, I could not tell you any particular reason. That particular account was certain sales from it, and sometime—I think it was last year—it was taken back into the firm account. It hung along for 3 or 4 years under that title, "George Whitney, agent", and has now been restored to our own stock account.

Mr. PECORA. Who are the persons that had a beneficial interest in those 10,000 units that were allocated to you as agent?

Mr. WHITNEY. Ultimately it came back in the firm.

Mr. PECORA. But before it came back, and during——

Mr. WHITNEY (interposing). I don't know. As I tell you, it was a suspense account. There is no significance to it one way or the other. Ultimately there were certain sales made by it, and then it ultimately was taken over. What was left in it was taken over by the firm account; I think it was in December of last year.

Mr. PECORA. Well, now, to whom were the profits from any of those sales out of this so-called suspense account distributed?

Mr. WHITNEY. I don't know, except they didn't come to me. I suppose they went to the firm. I don't know. You would have to ask Mr. Keyes. Mr. Keyes says to the firm.

The CHAIRMAN. Really that term "agent" meant agent for the firm?

Mr. WHITNEY. It was a suspense account, Senator Fletcher. Ultimately the profits were taken by the firm, and ultimately that account was cleaned up, last year, and it just hung along in my name. It happened to be in my name because I happened to be the indi-

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vidual who pulled this list together, and it was just what we called a suspense account. It might have been put in any other designated account.

Mr. PECORA. Do you know how many units were sold out of the 10,000 that constituted the allotment?

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

Mr. PECORA. Are all the sales that were made, if any, of the units from this suspense account recorded in the books of J. P. Morgan & Co.?

Mr. WHITNEY. Oh, they must be; and are accounted for, and any profits which we have made, as all these other profits that were made are fully accounted for, and all our income and tax and profits to the firm.

Mr. PECORA. Have you got any transcript of that account here?

Mr. WHITNEY. No. It is really a—it is just an ordinary suspense account. Undoubtedly we could get it, but it is a matter of—there is no significance to it at all. It might have been put in "Commissions executed." It might have been put in half a dozen titles of similar character.

Mr. PECORA. Do you know anything about the Newmont Mining Corporation.

Mr. WHITNEY. Do I know——

Mr. PECORA (interposing). The name of which appears on this list of subscribers to the units of United Corporation?

Mr. WHITNEY. Do I know anything about it?

Mr. PECORA. Yes.

Mr. WHITNEY. Why, yes. I know what it is.

Mr. PECORA. Well, what is it?

Mr. WHITNEY. It is a holding company for shares of stock, largely mining stocks, started originally by Col. William B. Thompson many years ago before his death. It is publicly traded in. It is a public company, traded in, I think, on the New York Curb, isn't it? Listed on the curb.

Mr. PECORA. Who is Lewis C. Dawes, whose name appears on this list, exhibit 28?

Mr. WHITNEY. Lewis C. Dawes? He is a relative—Mr. Stanley tells me he is a relative of his. I didn't know.

The CHAIRMAN. A number of Senators have to be on the floor, and I suggest we now take a recess until tomorrow morning at 10 o'clock. We will take a recess until tomorrow morning at 10 o'clock.

(Accordingly, at 4:55 o'clock p.m., the committee took a recess until 10 o'clock a.m. of the next day, Thursday, June 1, 1933.)

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STOCK EXCHANGE PRACTICES

THURSDAY, JUNE 1, 1933

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

The subcommittee met, pursuant to adjournment on yesterday, at 11:30 a.m. (at the conclusion of an executive session), in the caucus room of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Costigan, and Townsend.

Present also: Senators Steiwer and Adams.

Present also: Ferdinand Pecora, counsel to the committee; Julius Silver, David Saperstein, and James B. McDonough, Jr., associate counsel to the committee; John W. Davis, counsel for J. P. Morgan & Co.; Randall J. LeBoeuf, Jr., and Earle J. Machold, counsel for the United Corporation and for George H. Howard, president of the United Corporation.

The CHAIRMAN. The committee will come to order. Let us have order in the room. I want to make this statement: While the committee was in executive session in the regular committee room this morning I understand that some photographers had a sort of performance here when a certain picture was taken of Mr. Morgan with some midget in his lap, or something of that kind. I consider that wholly undignified, wholly unwarranted, and I am going to ask the newspapers not to publish any such picture as that. I think it was taking advantage of him under the circumstances. He is here under the subpena of the committee. I do not know how he feels about it, but as the chairman of this committee I feel it was an outrage and a shame, an undignified performance, and I am asking the newspapers not to publish that picture or those pictures. I have asked the people who took them not to use them, and have telegraphed to the newspapers not to use them. [Applause on the part of the audience.] We have been rather generous with those people who asked leave to take pictures at times when we were not in session, but that is the sort of thing that should not have occurred. In fact, I think we shall do away entirely with the taking of pictures from now on.

Now, Mr. Pecora, you may proceed.

Mr. PECORA. Will you resume the stand, Mr. Whitney?

Mr. DAVIS. Mr. Chairman, before Mr. Pecora begins, let me say that Senator Gore and Senator McAdoo asked for certain figures, which we have. We are willing to produce them now, but if you

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think it would be more courteous to wait until the Senators are present, we will withhold them.

Mr. PECORA. Suppose you wait until the Senators come in. Probably they had some special purpose in calling for them.

Mr. DAVIS. Very well.

The CHAIRMAN. Yes; I think we might wait until they come into the hearing room.

TESTIMONY OF GEORGE WHITNEY, A PARTNER OF J. P. MORGAN & CO.—Resumed

Mr. PECORA. Mr. Whitney, in looking over the stenographic transcript that I have here of the examination on the hearing held yesterday afternoon I notice at page 1096 of the typewritten transcript a statement which you asked to have made a part of the record. It is captioned "Value of Certain Holdings at Acquisition and at High Market Price for 1929." These figures purport to relate to the valuation of those securities which were turned over by your firm to the United Corporation in January of 1929 in exchange for certain stock and option warrants issued by the United Corporation, do they not?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. And according to these figures, if I properly understand them, had your firm not transferred those securities, which consisted of securities of the Mohawk Hudson Power Co., United Gas Improvement Co., and Public Service Corporation of New Jersey, to the United Corporation in January of 1929, but had held those securities until some time in July of 1929, or July, August, and September of 1929, your firm could have sold those securities in those summer months in the open market at prices representing the highest valuations reached in the open market that year, which would have yielded to J. P. Morgan & Co. a profit equivalent to the difference—well, a profit of $57,387,379. Am I correct in that interpretation of this statement?

Mr. WHITNEY. That is correct. I had introduced it, Mr. Pecora, earlier, or these figures, and the reason I wanted to get it in the record was because at that time I was being questioned on certain suppositious circumstances, and I had said that we had done some guessing ourselves, or investigating, and if we had taken the high points, or the high price at which each sold. And, of course, it is not practical but a supposition, just as was the supposition you had questioned me about, which had been totally impracticable. But that is a fact, in answer to your question, that your definition of this statement is exactly right.

Mr. PECORA. Have you, by any chance, prepared or caused to be prepared, another statement which would indicate the profit which would have accrued to J. P. Morgan & Co. if it had sold in the open market, in July, August, and September of 1929, the securities which it had received from the United Corporation, not only in exchange for these securities referred to in the statement appearing at page 1096 of the stenographic minutes of our hearings, but also the securities which your firm received on or about January 11, 1929, for $10,000,000 cash?

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Mr. WHITNEY. Well, I do not think we have prepared them. You asked me on yesterday, of course, a question about warrants, that if we had sold them at 40 what we would have made. That was the reason I answered that question, and you said $60,000,000.

Mr. PECORA. It was $68,000,000 plus.

Mr. WHITNEY. Well, $68,000,000.

Mr. PECORA. You did sell 200,000 warrants for an aggregate consideration of over $8,460,000, didn't you?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. And that left your firm with 1,514,200 option warrants?

Mr. WHITNEY. Yes. In answer to your question about cash securities, the stock received for cash is rather a simple matter of arithmetic. There were 400,000 shares, and if you will tell me what the high was, and I believe they sold at 73, didn't they? Can anybody tell me what the high was?

Mr. MCCANDLESS. I do not think we have the exact high. Here is 68¼.

Mr. WHITNEY. The highest figure that we have any record of is 68¼.

Mr. PECORA. That is on the common stock?

Mr. WHITNEY. On the common stock.

Mr. PECORA. 68¼?

Mr. WHITNEY. Yes.

Mr. PECORA. And that high was reached on what date?

Mr. WHITNEY. Just to correct it I would say that that was the high, that that is the highest on any date we have a record of.

Mr. PECORA. Well, I am willing to accept that as the basis for a calculation of your potential profits.

Mr. WHITNEY. The record here is that on June 29, 1929, it sold at 68⅝, and on July 31, and on August 31, it sold on both of those dates at 68¼.

Mr. PECORA. Mr. Whitney, I am informed by a gentleman, who has made research for me, that on September 23, 1929, sales of United Corporation common stock were made at 75.

Mr. WHITNEY. Well, I said, Mr. Pecora, that our record and the only record we have of the prices is on the 30th, the last day of the month, during 1929. This is a memorandum prepared for another purpose. I have no record with me to show. I do not deny that on September 30th the stock was selling at 67¾, but I just have no records.

Mr. PECORA. According to information furnished to us by the brokerage firm of Richard Whitney & Co., they sold on that date at 69⅜, the common shares of the United Corporation.

Mr. WHITNEY. Are they the closing?

Mr. PECORA. For any sale price.

Mr. WHITNEY. On this paper it says "market price of common stock, closing price New York Stock Exchange," on this date. That would be the last sale, I mean on these dates.

Senator TOWNSEND. One figure would probably be high and another figure would be low for the day.

Mr. WHITNEY. I do not in any sense deny it, but do not have any record to confirm it. As a matter of fact, Mr. Pecora, you will remember, of course, that in the records we have already given to you

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it is shown that 200,000 of those 400,000 shares were not bought by the firm. They were bought for the account of the partners.

Mr. PECORA. Well, whether the profit accrued to the firm as an entity or was divided with the individual partners, would not alter the amount of the potential profit which might have been made on those exchanges of securities with the United Corporation and upon the purchase of those securities for $10,000,000 cash, would it?

Mr. WHITNEY. No; except that when we were surmising about various things I thought it would be well to get the record accurate as far as we could.

Mr. PECORA. I simply want to get a statement or your calculation on the same basis as the one which you put into the record on yesterday afternoon, which would be designed to show the profit that would have accrued to J. P. Morgan & Co. or its individual partners had the firm sold the securities that it had acquired from the United Corporation during the year 1929 in the open market. Now, let us see: All told, your firm acquired from the United Corporation 800,000 shares of common stock and another block of 400,000 shares of common, did it not?

Mr. WHITNEY. It did.

Mr. PECORA. Which makes a total of 1,200,000 shares of common?

Mr. WHITNEY. Yes.

Mr. PECORA. Assuming that those had been sold for $70 a share, which is in between the price of 68 that you quoted and 75 which according to our records was the high that that stock reached, that would have given your firm $84,000,000 for those 1,200,000 shares of common stock, would it not?

Mr. WHITNEY. You are assuming that we paid for them.

Mr. PECORA. I beg pardon?

Mr. WHITNEY. You are assuming that we paid for them.

Mr. PECORA. I am assuming that who paid for them?

Mr. WHITNEY. That is 45 points profit that you are speaking of.

Mr. PECORA. I am just taking the gross, $70 a share for 1,200,000 shares.

Mr. WHITNEY. If we are going to surmise let me say that you do not credit anything to the fact that we paid something for them.

Mr. PECORA. Oh, yes. I am going to do that. I am going to complete the statement.

Mr. WHITNEY. That was not $84,000,000 profit, you understand.

Mr. PECORA. Oh, no.

Mr. WHITNEY. I just wanted to get that clear.

Mr. PECORA. It was the price at which that common stock could have been sold, not the profit.

Mr. WHITNEY. All right.

Mr. PECORA. But the gross price?

Mr. WHITNEY. That is the gross, or I assume it is.

Mr. PECORA. And your firm also acquired in January of 1929 an aggregate of 1,714,200 option warrants. Now, those option warrants according to your own testimony reached a market valuation in July, August, and Steptember of $40 a warrant and up, did they not?

Mr. WHITNEY. Yes.

Mr. PECORA. Just assuming that those option warrants had been sold at 40, not the price of 47, which they reached, that would have

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resulted in a sale of those warrants for an aggregate of $68,568,000, is that right?

Mr. WHITNEY. That is multiplying 40 by 1,714,200 warrants?

Mr. PECORA. Yes.

Mr. WHITNEY. Well, somebody do this arithmetic for me.

Mr. PECORA. That would make a total of $152,568,000 for the option warrants and the common stock alone.

Mr. WHITNEY. You are not putting in the preferred when we are doing this guessing?

Mr. PECORA. No; we are leaving the preferred out of the picture for the time being.

Mr. WHITNEY. All right.

Mr. PECORA. What did those 1,200,000 shares of common and the 1,714,200 option warrants cost J. P. Morgan & Co.?

Mr. WHITNEY. You are still leaving out the preferred? That is not of any interest to you?

Mr. PECORA. Yes.

Mr. WHITNEY. The fact that they were bought together or received together, does not interest you in this calculation?

Mr. PECORA. We will give the preferred stock a valuation if you wish, which was $50, wasn't it?

Mr. WHITNEY. I do not really care. That was the cost, but I do not think it really sold for $50 afterward. We will assume that we will sell that at cost.

Mr. PECORA. It is not necessary to add cost at $50.

Mr. WHITNEY. It did not sell at that afterwards.

Mr. PECORA. You can include them if you want to, and get the valuation of each preferred share.

Mr. WHITNEY. I want to know what you are getting at. Didn't we pay $25 a share for that common stock? Isn't that what you want me to say?

Mr. PECORA. I want you to say whatever the fact is.

Mr. WHITNEY. You see, we paid for those things in blocks and exchanges. We received securities, and the $25 item is the figure you are trying to get at. Say, $25 for 1,200,000 shares and it would be $30,000,000.

Mr. PECORA. What does that $30,000,000 represent? The cost of the preferred?

Mr. WHITNEY. That is again a matter of arithmetic. I may be wrong, but 1,200,000 shares at $25 I think is $30,000,000.

Mr. PECORA. All right, $30,000,000. I have that figure now.

Senator TOWNSEND. What was the set-up there with the preferred and the common?

Mr. WHITNEY. Why, Senator Townsend, we exchanged certain securities which have been introduced here, plus $700,000, for $50,000,000 worth of securities of the United Corporation. Those were 600,000 shares of $3 preferred stock, 800,000 shares common stock, and 700,000 and something warrants. Then in a subsequent transaction we paid $10,000,000 for 400,000 shares of common stock and 1,000,000 warrants. So that is where the 1,200,000 shares of common stock comes in. The fact is that we immediately resold 600,000 shares of preference stock and 600,000 shares of common stock at

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$75 per unit, 1 share each, which was at no profit to us. So we actually disposed of that many.

Mr. PECORA. The preferred was at 50 and the common at 25; isn't that a fact?

Mr. WHITNEY. This is a discussion, as I understand it, of what we might have done, although it is perfectly well known that we did not do any of these things. It is known that we sold some United Corporation warrants, and it is known that we sold some United Corporation common stock. It is a speculation that if we had done none of the things that we did do, that we could have done the other.

Mr. PECORA. Mr. Whitney, don't you recognize the fact that you started that discussion by putting that statement in the record on yesterday?

Mr. WHITNEY. No, sir. I did not start the discussion. You started it, if I may refresh your recollection, by asking me if we sold the remaining 1,500,000 warrants at $40 how much profit we would have made. So I said if we did this——

Mr. PECORA (interposing). Oh, no.

Mr. WHITNEY. I am perfectly willing to go on with this, you understand?

Mr. PECORA. You put in this statement at page 1096 of the stenographic record of our hearings, did you not?

Mr. WHITNEY. Certainly.

Mr. PECORA. And in that statement you purported to show how much profit J. P. Morgan & Co. would have made if instead of exchanging the securities shown on this statement for securities of the United Corporation you had sold those securities in the open market at the highest prices reached during the year 1929.

Mr. WHITNEY. That is exactly right.

Mr. PECORA. And the statement which you put in the record tends to show that had your firm done that your profit would have been $57,387,000.

Mr. WHITNEY. That is exactly right.

Mr. PECORA. Now, I want to show the other side of the picture. That if you had sold the holdings or the stock, the securities, which your firm received from the United Corporation in the open market, not at the high reached during the year 1929 but at prices several points less than the high that was reached, you would have reaped profits aggregating $122,508,000.

Mr. WHITNEY. That exactly checks with my arithmetic.

Mr. PECORA. All right, sir.

The CHAIRMAN. Mr. Whitney, did the United Corporation make the profits on those securities that you might have made?

Mr. WHITNEY. They did not sell them; no, sir. No; they did not sell them. The only securities I remember their selling was the stock, as stated here on yesterday, of the International Telephone & Telegraph Co., which is not in this particular list of securities, in which they made $900,000 profit. As far as I know, that was the only sale.

The CHAIRMAN. When did you dispose of those warrants, Mr. Whitney?

Mr. WHITNEY. Two hundred thousand warrants?

The CHAIRMAN. Yes.

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Mr. WHITNEY. I will just get the dates. It was during the summer of 1929.

The CHAIRMAN. All right.

Mr. WHITNEY. Senator Fletcher, we sold in the months of July, August, and September, and the first date was July 23 and the last date was September 20, that is, 200,000 then, and then the firm distributed the remaining 1,514,200 warrants to the individual partners on December 19, 1929.

Mr. PECORA. Mr. Whitney, didn't you actually sell 294,000 shares of common stock in the market?

Mr. WHITNEY. Senator Fletcher's question was about the warrants.

Mr. PECORA. I am asking in addition to them. You actually sold 294,000 shares of common stock in the market, didn't you?

Mr. WHITNEY. Well, that is right here somewhere. May I look?

Mr. PECORA. All right. That was out of the 400,000-share lot which you received initially with 1,000,000 option warrants for $10,000,000 cash.

Mr. WHITNEY. Of course, it would be impossible for me to identify which stock it came from.

Mr. PECORA. Look at this statement. Maybe it will help you.

Mr. WHITNEY. Mr. Pecora, in answer to your question, I will say, yes; we have since that time and up to the present time we have sold a total of 294,000 shares. Of course, some of that was in 1929. And we purchased some in the time of the panic, and we sold some more. But that is the whole record from that date to this. Then you will also remember that we sold to the partners 200,000 shares.

Mr. PECORA. Now, Mr. Whitney——

The CHAIRMAN (interposing). Let me ask you what you got for the warrants, and what you got for the stock; not in detail but just the average.

Mr. WHITNEY. Well, Senator Fletcher, in the matter of the stock in 1929 the prices we received ranged from——

Mr. PECORA (interposing). The Senator asked for the warrants. What you got for the warrants.

Mr. WHITNEY. Excuse me. The high price I find was 47.017 and the low price was 40.5391. Now, do you want the stock, too?

The CHAIRMAN. Yes.

Mr. WHITNEY. In 1929 the sales that were made ranged from a high of 73¾ to a low of 67. That was in the summer of 1929. Then we purchased certain stock in October of 1929. And we sold certain stock in November of 1929. We purchased stock from a high of 47 down to 24½, and I do not know what the average was for the whole amount. And we sold at about 35 or 36. And then in November again we purchased back 4,000 shares from 33 down to 27. Then in 1930 we bought 3,100 shares at 22⅜ and we sold 3,500 shares at 22½, about the same. In 1931 we sold stock at prices ranging from 31⅛ down to 24. We bought a few shares in 1931. And then the last sale was in 1932 and we sold 300 shares at 9⅝. In January of 1933 we sold 1,700 shares at 9½.

Mr. PECORA. Mr. Whitney, do you know how many sets of the minutes of meetings of the board of directors of United Corporation are made?

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Mr. WHITNEY. How many what?

Mr. PECORA. How many sets or copies.

Mr. WHITNEY. I haven't any idea. Do you want me to ask?

Mr. PECORA. Is there a set of minutes or a copy of the minutes kept in the offices of J. P. Morgan & Co.?

Mr. WHITNEY. Do you mean located in the office?

Mr. PECORA. Yes.

Mr. WHITNEY. I really do not know. But when Mr. Keyes was treasurer of the company he very well might have. I do not know. I am advised there is only one complete set.

Mr. PECORA. Now, in the initial transaction involving the exchange of securities between J. P. Morgan & Co. and the United Corporation, and I am referring to the one that was consummated on or about January 11, 1929, what was the market value of the securities which were turned over by J. P. Morgan & Co. to the United Corporation?

Mr. WHITNEY. Mr. Pecora, in one of the exhibits on yesterday you read a statement on the date of delivery of those securities by J. P. Morgan & Co., namely, January 10, 1929. Those assets taken at the market price exceeded $64,000,000. They were securities which together with the $700,000 cash, were set up in the United Corporation books at $50,000,000.

Mr. PECORA. I was just coming to that. Those securities which you say had a market value of $64,000,000, were set up on the books of the United Corporation for $50,000,000.

Mr. WHITNEY. Yes, sir.

Mr. PECORA. Why was that done?

Mr. WHITNEY. Why?

Mr. PECORA. Why were these securities carried on the books of the United Corporation at $50,000,000 if in truth and in fact their market value then was approximately $64,000,000?

Mr. WHITNEY. Well, for this quite simple reason, I think, Mr. Pecora, that the United Corporation did not just spring into being overnight. It had been discussed for a good while, long while, and the prices at which these securities were to be taken in and the basis of the exchange which was applicable not only to securities which we turned in but also to the securities that were subsequently, almost immediately subsequently, turned in by the—what is the name of the——

Mr. PECORA. American Super Power Co.?

Mr. WHITNEY. Yes. Also, these other individuals who later on turned them in. I refer to Mr. Zimmermann, and there is a list of quite a lot of them, as you know. That all those calculations were based on the price of 160 for the U.G.I., 80 for the Public Service, and, of course, this is the only Mohawk Hudson that was turned in, that price being determined by the fact that it was cost to us, and they just took over that stock at the price we had paid General Electric for it.

In other words, in the whole calculation of the formation of United these prices were determined a way in advance, and, as a matter of fact, the fact that they were selling above that was due to the fact that there was quite an excited market just at this particular moment, and it could not——

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Mr. PECORA. How far in advance of January 10, 1929, were those prices determined?

Mr. WHITNEY. Well, of course, the price of the Mohawk Hudson was determined back in December, as I testified yesterday, at the time—it was always understood that when they were going in here they were going in as cost. I could not speak from definite recollection, Mr. Pecora, on the date, but I should think it was probably a couple of weeks before. Was it? [Addressing an associate.] I really don't remember whether it was the end of December, 1928. I think it was, though. I think it was in December, the latter part of December, 1928. Did I answer that as fully as you wanted me to? I just don't remember exactly, but my guess would be, or my impression would be, it was the last week in December, 1928.

Mr. PECORA. Did that figure of $50,000,000 purport to represent the cost of those securities to the persons who turned them in to the United Corporation?

Mr. WHITNEY. Purport to?

Mr. PECORA. Yes.

Mr. WHITNEY. Again I do not understand you.

Mr. PECORA. I am trying to find out the definite basis or reason for carrying those securities on the books of United Corporation which it received on January 10, 1929, at a figure of $50,000,000 instead of their then market value, which you say was then around $64,000,000.

Mr. WHITNEY. Well, as I say, in the organization of the United these securities were taken in; those prices were fixed in advance of the formation of the company. The whole financial set-up was predicated upon these prices.

Mr. PECORA. You mean by that, Mr. Whitney——

Mr. WHITNEY (interposing). May I——

Mr. PECORA (continuing). That $50,000,000 was the cost to the United Corporation of those securities?

Mr. WHITNEY. They issued securities in exchange for these securities plus the cash, $700,000, which were valued as of $50,000,000. If they had taken them at 64, we obviously would have received $14,000,000 more of preferred and common stocks and new warrants, and it having been determined in advance all the way down the line—I mean the Super Power, these other gentlemen and ourselves, would have obviously received additional securities when you, as we did, determine the value of the preferred to be 50 and the common to be 25. In other words, that would have been the only result.

I am trying to answer you fully. I don't quite understand the question. The fact is they were set up at $50,000,000. Securities were issued in exchange by United Corporation to us for $50,000,000. In other words, 600,000 shares of the units of the preferred stock, 800,000 shares of the common stock, and 714,000 of the warrants were taken to have a value of $25,000,000—of $50,000,000. That was again supported by a listing statement. In May it was stated that they were taken up.

Senator TOWNSEND. Did the fact that the stocks had advanced in price during the negotiations change that figure?

Mr. WHITNEY. No. The arrangement between all the organizers, every individual or corporation, to turn the securities in was ar-

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ranged in advance, and these prices were fixed as being proper prices, and did not fluctuate day to day in the market.

Mr. PECORA. Weren't your firm and Bonbright & Co. virtually dealing with yourselves and among yourselves in this set-up?

Mr. WHITNEY. Why, of course we were.

Mr. PECORA. You could have fixed any valuation you chose for these securities on the books of United Corporation, is that right?

Mr. WHITNEY. Why, Mr. Pecora, I think I must have testified a half a dozen times that Bonbrights and ourselves were the organizers.

Mr. PECORA. I know. Now——

Mr. WHITNEY (interposing). We fixed this price at a fair market at the time it was fixed. It was a little bit below the market. We did not figure eighths, and you will notice that these are round figures, $160 and $80, which was slightly below the market at the time they were fixed. As I say, the Mohawk was determined by cost. This $41.26 is $40 plus interest from June. That is the way it comes to $41.26. The others were fixed at round figures which were at the time of their being fixed slightly below the market. I mean I think it was 61.

Mr. PECORA. Now, the United Corporation was organized as a holding company to acquire securities of public utility companies, wasn't it?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. And it acquired those securities from time to time, made investments in public utility corporation securities from time to time with its capital funds, didn't it?

Mr. WHITNEY. It did.

Mr. PECORA. And the first investment it made——

Mr. WHITNEY (interposing). With capital funds and exchange of stock.

Mr. PECORA. Yes. And the first investment it made following the sale of certain of its common stock and option warrants to your firm and to Bonbright & Co. for an aggregate of $20,000,000 cash; was this transaction of January 10, 1929, involving an exchange of securities, wasn't it?

Mr. WHITNEY. That was the first transaction we had at all; yes.

Mr. PECORA. Yes. Now, the securities that you received, that United Corporation received in that transaction were set up on the books of United Corporation at $50,000,000, weren't they?

Mr. WHITNEY. Certainly.

Mr. PECORA. Was that figure intended to represent the cost of those securities to the United Corporation?

Mr. WHITNEY. Certainly.

Mr. PECORA. All right. The market value of the securities at that time was about $64,000,000, you said?

Mr. WHITNEY. So I just read you.

Mr. PECORA. Yes. Now, as a matter of fact, a financial statement put out by the United Corporation after this initial transaction would have shown a profit to the United Corporation of some $14,000,000 as a result of setting up these securities having a market value of $64,000,000 at $50,000,000, wouldn't it?

Mr. WHITNEY. We never issued a statement where we called it market appreciation. The United never did. The answer to your

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question is no, Mr. Pecora. No financial statement of United would have shown a $14,000,000 profit merely because the market was there.

Mr. PECORA. Suppose a valuation had been made of its assets for the purpose of showing its financial condition after this transaction of January 10?

Mr. WHITNEY. Well, perhaps——

Mr. PECORA (interposing). Wouldn't such a statement show a profit of $14,000,000?

Mr. WHITNEY. I think I can answer that question very simply for you, because the first statement that was ever made, public statement, by the United Corporation was in their application to list on the New York Stock Exchange, which is dated May 8, 1929, and which gives their financial statement right there at the close of business April 23, and that will show these securities set up at that price and not set up showing any profit resulting from any market appreciation, if there was one of that day. Now, do you want me to read that? It gives that and lots of other information, of course.

So I can answer your question definitely no, because they do not show any profit through mere market appreciation.

Mr. PECORA. Does that listing application give the cost or the market value of the securities that the corporation then had in its portfolio?

Mr. WHITNEY (after conferring with associates). Mr. Pecora, Mr. Keyes confirms my own understanding that those prices show the book value, namely, these securities here listed; again, as a matter of arithmetic, but the prices at which these are set up are the prices at which they were taken in, namely, these prices in all instances.

Mr. DAVIS. I think we would rather like that to go into the record, Mr. Chairman, if there is no objection.

Mr. PECORA. I have no objection to its going in.

The CHAIRMAN. It may go in as a part of the record.

(Listing application of the United Corporation dated May 8, 1929, was marked "Exhibit 35 of June 1, 1933", made a part of the record, and appears in the words and figures following:)

EXHIBIT 35

COMMITTEE ON STOCK LIST, NEW YORK STOCK EXCHANGE

The United Corporation (a corporation organized under the laws of Delaware Jan. 7, 1929) $3 cumulative preference stock, without par value (voting) and common stock, without par value (voting)

	Common stock	$3 cumulative preference stock	First preferred stock
Original listing:	*Shares*	*Shares*	*Shares*
Authorized issue	10,000,000	2,000,000	1,000,000
Issued and outstanding to Apr. 23, 1929	5,184,284	1,435,251	None.
Additional shares to provide for exchanges of United Gas Improvement Co. shares	481,626	321,084	
Reserved against issued or authorized option warrants entitling the holders to purchase shares of common stock as hereinafter described	4,000,000		
Applied for	9,665,910	1,756,335	None.
Authorized by directors [1]			
No further authority required.			

[1] Beginning June 8, 1929, to date.

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Capital securities

	Par value	Authorized by charter	Authorized and issued to Apr. 23, 1929	Number of shares authorized for issuance upon exercise of options under common stock option warrants and to provide for exchanges of U.G.I. stock	To be presently issued and outstanding	Previously listed
First preferred stock	None	1,000,000				None
Preference stock	None	2,000,000	1,435,251	321,084	1,756,335	None
Common stock	None	10,000,000	5,184,284	4,481,626	9,665,910	None
Option warrants (entitling the holders to purchase at any time without limit 3,994,757 shares of common stock at $27.50 per share)		(1)	3,994,757		3,994,757	

[1] Authority to issue option warrants and to fix the terms and conditions is specifically conferred on the board of directors by charter.

NEW YORK, *April 24, 1929.*

The United Corporation, a Delaware corporation (hereinafter referred to as the company), hereby makes application for the listing on the New York Stock Exchange of temporary certificates for the stock below described:

1,756,335 shares of the company's $3 cumulative preference stock (without par value) as follows:
1,435,251 shares issued and outstanding;
321,084 shares, on official notice of issuance in exchange for shares of United Gas Improvement Co.;
9,665,910 shares of the companys' common stock (without par value) as follows:
5,184,284 shares issued and outstanding;
481,626 shares, on official notice of issuance in exchange for shares of United Gas Improvement Co.;
4,000,000 shares on official notice of issuance on the exercise of option warrants as hereinafter described;

with authority to admit to the list, upon official notice of issuance, and in exchange for such temporary certificates, permanent engraved certificates of $3 cumulative preference stock, and permanent engraved certificats of common stock.

All of said stock is, or will be when issued, fully paid and nonassessable, and no personal liability attaches to the stockholders.

Of the above stock, for which application to list is hereby made, there was issued for cash or in exchange for securities 1,435,251 shares of $3 cumulative preference stock, 5,184,284 shares of common stock, and certain option warrants entitling the holders to purchase at any time without limit 3,994,757 shares of common stock at $27.50 per share.

On March 1, 1929, the company offered to receive tenders for the exchange of not to exceed 500,000 shares of the capital stock of the United Gas Improvement Co. for shares of the $3 cumulative preference stock and common stock of the United Corporation on the basis of 1 share of the United Gas Improvement Co. capital stock for 1½ shares of the $3 cumulative preference stock entitled to dividends accruing from April 1, 1929, and 2¼ shares of the common stock of the United Corporation. The company reserved the right to withdraw the offer at any time.

ORGANIZATION

The company was incorporated under the laws of the State of Delaware on January 7, 1929.

While the company is possessed of the usual broad charter powers entitling it to acquire, hold, or dispose of stocks of ther corporations, its principal purposes are described as follows:

1. To acquire and hold the securities of electric power and light and gas companies and other public-utility companies and companies owning the stocks or securities of public-utility companies.

2. To acquire and hold the securities of companies engaged in the business of managing or operating, or supervising the management or operation of

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public-utility companies, and of companies doing a general construction, engineering, or contracting business with public utility and other companies.

While possessing the right to dispose of any such holdings, at such time as in the opinion of its officers and directors may be deemed advisable, and also the right to acquire additional securities beyond those with which it begins business, it is not the present intention that the company shall engage in trading in securities as a business.

The duration of the corporate existence is perpetual.

HISTORY OF THE COMPANY

The United Corporation was incorporated under the laws of the State of Delaware on January 7, 1929. The amount of capital wth which the company commenced business was 10 shares of its authorized common stock without nominal or par value.

The Public Electric Holding Corporation was formed January 10, 1929 with one class of authorized capital stock. The number of shares authorized was 10,000 and the par value $100 per share.

Pursuant to an agreement of merger and consolidation between the United Corporation and the Public Electric Holding Corporation continuing the United Corporation, dated January 11, 1929, the United Corporation exchanged shares of its stock for the assets of the Public Electric Holding Corporation. It was provided that each holder of the capital stock of the Public Electric Holding Corporation upon surrender of certificates representing such stock should receive $3 cumulative preference stock, common stock, and option warrants of the United Corporation at the rate of 34.4187 shares of $3 cumulative preference stock, 221.0853 shares of common stock and option warrants entitling the holder to purchase 100 shares of common stock for each share of the capital stock of the Public Electric Holding Corporation surrendered.

All shares of the capital stock of the Public Electric Holding Corporation were surrendered under the agreement and the United Corporation continued without change in its total authorized capitalization.

MANAGEMENT AND AFFILIATION

The management of the United Corporation is vested solely in its board of directors who are elected from time to time by the stockholders. Each class of stock is entitled to 1 vote per share.

The present directors are: George H. Howard, president of this corporation; Thomas S. Gates, of Drexel & Co., Fifteenth and Walnut Streets, Philadelphia, Pa.; Alfred L. Loomis, of Bonbright & Co., Inc., 25 Nassau Street, New York, N.Y.; Landon K. Thorne, of Bonbright & Co., Inc., 25 Nassau Street, New York, N.Y.; George Whitney, of J. P. Morgan & Co., 23 Wall Street, New York, N.Y.

DIVIDENDS

On April 1, 1929, an initial quarterly dividend of 75 cents per share was paid on the $3 cumulative preference stock to holders of record at the close of business March 11, 1929.

CAPITALIZATION

The company's capitalization is as follows:

	Par value	Authorized by charter	Authorized and issued to Apr. 23, 1929	Number of shares authorized for issuance upon exercise of options under common stock option warrants and to provide for exchanges of U.G.I. stock	To be presently issued and outstanding	Previously listed
First preferred stock	None	1,000,000				None
Preference stock	None	2,000,000	1,435,251	321,084	1,756,335	None
Common stock	None	10,000,000	5,184,284	4,481,626	9,665,910	None
Option warrants (entitling the holders to purchase at any time without limit 3,994,757 shares of common stock at $27.50 per share)		(1)	3,994,757		3,994,757	

[1] Authority to issue option warrants and to fix the terms and conditions is specifically conferred on the board of directors by charter.

The company has no funded indebtedness.

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STOCK PROVISIONS

The company under its charter will have three classes of capital stock, viz, first preferred stock, preference stock, and common stock, all without par value.

Of the first preferred stock none has yet been authorized for immediate issuance by the directors of the company.

First preferred stock of the company may be issued under the following provisions:

First preferred stock may be issued in various series, each series to be distinctly designated. The dividend rate of each series shall be determined by the directors in the resolution providing for the issuance of such series. The first preferred stock may, but need not be, made redeemable at the option of the company at a price not less than $100 nor more than $115 per share, plus all cumulative dividends on such share. The board of directors may provide for a sinking fund for the first preferred stock of any series, installments for which may be made payable in priority to any dividends upon the preference stock and the common stock. The first preferred stock retired by the operation of any such sinking fund shall not be reissued. The board of directors may provide that the shares of any series of first preferred stock may be convertible into shares of any other class or classes of stock of the company. The first preferred stock shall be entitled to dividends in priority to the preference stock and the common stock. Such dividends upon the first preferred stock shall be cumulative. Upon dissolution, liquidation, or winding up of the company, the holders of the first preferred stock shall be entitled to receive $100 per share, plus accrued dividends and no more. The holders of first preferred stock shall be entitled to one vote for each share held by them respectively.

Of the preference stock, 1,756,335 shares have been designated as $3 cumulative preference stock with the following provisions:

The $3 cumulative preference stock is entitled to cumulative dividends at the rate of $3 per annum, payable quarterly on the first day of each January, April, July, and October; and is redeemable as a whole or in part at the option of the company at $55 per share and accrued dividends.

The directors may provide for the issuance of additional shares of preferred stock, which may be issued as $3 cumulative preferred stock or may be issued as a different series having such rate of dividend as may be determined by the directors. Such additional shares of preference stock as may be issued may be made redeemable, at the option of the company, at not less than $50 nor more than $60 per share, plus all dividends accrued. The directors may provide for a sinking fund for such shares, installments for which may be made payable in priority to any dividends upon the common stock. The preference stock retired by the operation of any such sinking fund shall not be reissued. The board of directors may provide that the shares of such series may be convertible into any shares of any other class or classes of stock of the company. The preference stock of each series shall be entitled to dividends in priority to the common stock. Such dividends upon the preference stock shall be entitled to receive $50 per share, plus accrued dividends and no more. The holders of preference stock shall be entitled to 1 vote for each share held by them respectively.

None of the shares of the common stock shall be entitled to any preference. Out of any assets of the company available for dividends, after full cumulative dividends on all stock having priority over the common stock have been paid, and after complying with all provisions of any sinking funds, and making provision for working capital and reserves, then the directors may declare dividends upon the common stock. In the event of liquidation, after there have been paid to the holders of all stock having priority over the common stock the full amounts to which they are entitled, the holders of the common stock shall be entitled to receive pro rata all of the remaining assets of the company. The holders of the common stock shall be entitled to 1 vote for each share held by them respectively.

OPTION WARRANTS

There are outstanding option warrants entitling the holders to purchase at any time without limit 3,994,757 shares of common stock at the price of $27.50 per share. The option warrants were issued together with certain shares of common stock, in exchange for securities and/or cash. Additional option warrants may be issued by authority of the board of directors.

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Financial statements of the United Corporation (Delaware corporation) close of business, Apr. 23, 1929

		Shares	Amount
ASSETS			
Mohawk Hudson Power Co.:			
Common stock		350,957	$14,481,478.90
Second preferred stock		62,370	6,673,590.00
Option warrants entitling holders to purchase the following number of shares of common stock at $50 per share		124,740	2,494,800.00
Public Service Corporation of New Jersey common stock		959,682	76,046,220.00
The United Gas Improvement Co. capital stock		525,470	88,364,360.00
Allied Power & Light Corporation common stock		340,000	13,770,000.00
Columbia Gas & Electric Corporation common stock		154,000	8,401,825.00
Miscellaneous investments			11,319,007.83
Cash on hand			241,324.95
			221,792,606.68
LIABILITIES			
$3 cumulative preference stock		1,435,251	71,762,550.00
Common stock		5,184,284	25,921,420.00
Option warrants entitling holders to purchase at any time without limit 3,994,757 shares of common stock at $27.50 per share		3,994,757	
Paid-in surplus	$122,315,095.00		
Less organization expenses and tax stamps	179,503.64		
			122,135,591.36
Demand loans			596,000.00
Reserve for taxes			135,000.00
Profit and loss, Jan. 8 to Apr. 23, 1929, after payment of dividend Apr. 1, 1929			1,242,045.32
			221,792,606.68

Profit and loss statement, close of business, April 23, 1929

CREDITS	
Dividends received	$1,010,046.19
Interest received	58,573.06
Profit on securities sold	963,762.50
Underwriting commission	130,900.00
Total	2,163,281.75
DEBITS	
Interest paid	1,912.50
Current expenses	29,572.68
	31,485.18
	2,131,796.57
Less reserve for Federal income taxes	135,000.00
	1,996,796.57
Dividend paid Apr. 1, 1929, on $3 cumulative preference stock	754,751.25
ESTIMATED EARNINGS AND DIVIDEND REQUIREMENTS	
Estimated annual dividends receivable on the basis of current dividends on stocks owned on Apr. 23, 1929	5,633,257.95
Annual dividend on $3 cumulative preference stock issued and outstanding Apr. 23, 1929	4,305,753.00
Total	1,327,504.95

VALUATION OF SECURITIES

The basis of valuation of the securities held at the close of business April 23, 1929, as set forth in the foregoing balance sheet is the original cost where securities were acquired for cash or the original agreed value at which securities were acquired in exchange for shares, or for shares and option warrants of the United Corporation.

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Certain securities were acquired from firms in which some of the directors are interested.

Certain shares of Public Service Corporation of New Jersey were acquired by the United Corporation at an agreed value of $80 per share.

Certain shares of the United Gas Improvement Co. were acquired at an agreed value of $160 per share.

Mohawk Hudson Power Corporation securities were acquired from bankers at prices representing exact cost and accrued interest to the said bankers.

Miscellaneous assets shown in the balance sheet at a cost of $11,319,007.83 have a market value at the closing sale prices on April 23 of $11,529,807.50.

The total cost of securities acquired and held by the United Corporation at the close of business April 23, 1929, was $221,551,281.73. The market value of the said securities computed at the closing sale prices on April 23 amounted to $242 503,651.75, showing an increase of market value over and above cost of $20,952,370.02.

AGREEMENTS

The company agrees with the New York Stock Exchange as follows:

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

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

To publish statement of earnings semiannually.

To publish once in each year and submit to the stockholders, at least 15 days in advance of the annual meeting of the corporation, a statement of its financial condition, an income account covering the previous fiscal year, and a balance sheet showing assets and liabilities at the end of the term.

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

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

Not to make any change in listed securities, of a transfer agency or of a registrar of its stock, without the approval of the committee on stock list.

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

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

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

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

GENERAL

The fiscal year of the company will end on December 31 of each year.

The annual meeting of stockholders will be held at the office of the company in the city of Wilmington, county of New Castle, State of Delaware, at 2 p.m. on the first Tuesday in February in each year.

The directors are Thomas S. Gates, George H. Howard, Alfred L. Loomis, Landon K. Thorne, and George Whitney.

The officers are George H. Howard, president; Leonhard A. Keyes, vice president and treasurer; A. P. Taliaferro, vice president; Ernest G. Strand, secretary.

The transfer agent of the preference and common stock is J. P. Morgan & Co., of New York.

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The registrar of the preference stock is First National Bank of the City of New York.

The registrar of the common stock is Bankers Trust Co. of New York.

The transfer agent of the option warrants is J. P. Morgan & Co., of New York.

The registrar of the option warrants is Bankers Trust Co. of New York.

THE UNITED CORPORATION,
By ERNEST G. STRAND, *Secretary.*

This committee recommends that the above-described temporary certificates for 1,435,251 shares of $3 cumulative preference stock (without par value), and 5,184,284 shares of common stock (without par value) be admitted to the list, with authority to add 321,084 shares of said $3 cumulative preference stock, and 481,626 shares of said common stock, on official notice of issuance in exchange for shares of United Gas Improvement Co., and 4,000,000 shares of said common stock on official notice of issuance on exercise of option warrants, with further authority to admit permanent engraved certificates on official notice of issuance in exchange for outstanding temporary certificates, all in accordance with the terms of this application, making the total amounts authorized to be listed: 1,756,335 shares of $3 cumulative preference stock (without par value) and 9,665,901 shares of common stock (without par value).

ROBERT GIBSON, *Chairman.*

Adopted by the governing committee May 8, 1929.

ASHBEL GREEN, *Secretary.*

Mr. PECORA. How were the option warrants set up on the books of the United Corporation at the outset.

Mr. WHITNEY. I am not much of a certified public accountant, but I think I heard Mr. Howard say the other day they were set up at a dollar [conferring with associates]. I am wrong. Mr. Pecora, may Mr. Keyes answer your question, because he has told me a long story and I am afraid I won't do it accurately?

Mr. PECORA. I have no objection, if he can answer it.

TESTIMONY OF L. A. KEYES, MANAGER J. P. MORGAN & CO.—Resumed

Mr. KEYES. It is set up as a nonledger liability that always appeared in every public statement, as you will notice in the listing application, and there are option warrants outstanding entitling the holders to subscribe at any time without limit at $27.50, and giving the amount of warrants outstanding.

Mr. PECORA. Were there any advantages accruing to the corporation from that kind of a set-up of these option warrants?

Mr. DAVIS. Are you asking Mr. Keyes?

Mr. PECORA. Yes; I am asking Mr. Keyes.

Mr. KEYES. Would you mind repeating that?

Mr. PECORA. Yes; just read him the question.

The SHORTHAND REPORTER (Mr. Randolph). Were there any advantages accruing to the corporation from that kind of a set-up of these option warrants?

Mr. KEYES. What kind of advantages do you mean?

Mr. PECORA. Any at all. Are there any that you know?

Mr. KEYES. As a nonledger liability?

Mr. PECORA. Did any advantages accrue to the corporation, to the stockholders, in setting up its option warrants on its books in the manner in which you described?

Mr. KEYES. I don't know of any advantage to them.

Mr. PECORA. Do you recall receiving a letter from Mr. Roberts under date of January 30, 1929, Mr. Roberts then being the president of United Corporation, in which he asked you to inform him of the

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way in which these option warrants were entered on the books of United Corporation?

Mr. KEYES. I recall receiving a letter.

Mr. PECORA. Let me show you what purports to be a photostatic copy of such a letter. Will you look at it and see if you can identify it as a true copy of such a letter?

Mr. KEYES. Yes, sir.

(At this point Mr. Keyes took a seat at the committee table.)

Mr. PECORA. Did you answer the question about this letter?

Mr. KEYES. Yes; that is right.

Mr. PECORA. I offer it in evidence and ask it be spread on the record.

The CHAIRMAN. Let it be spread on the record.

(Letter dated January 30, 1929, from George Roberts to L. A. Keyes was thereupon designated "Committee Exhibit 32, June 1, 1933", and appears in the words and figures following:)

COMMITTEE EXHIBIT 32

WINTHROP, STIMSON, PUTNAM & ROBERTS,
NEW YORK CITY, *January 30, 1929.*

L. A. KEYES, ESQ.,
J. P. Morgan & Co., New York City.

DEAR MR. KEYES: I would appreciate it if you would write me as to what entries you have made on the books of the United Corporation in connection with the issue of the option warrants. The practice seems to vary among corporations as to how these should be entered, and I would like to examine the entries of the United Corporation in this respect.

Very truly yours,

GEORGE ROBERTS.

[In handwriting]—Explained to Mr. Roberts February 1.

Mr. PECORA. Now, did you reply to that letter of Mr. Roberts', Mr. Keyes?

Mr. KEYES. I explained it to him, I recall.

Mr. PECORA. Did you make any written reply to it?

Mr. KEYES. Not that I recall. I may have.

Mr. PECORA. I show you what purports to be a photostatic copy of a memorandum dated January 31, 1929, entitled "Memorandum for Mr. Roberts." Will you be good enough to look at it and see if that refreshes your recollection as to whether or not you made a written reply to Mr. Roberts' letter just offered in evidence?

Mr. KEYES (after examining document). That sounds familiar, but I don't remember.

Mr. PECORA. Well, you mean to say the letter itself or its phraseology is familiar to you?

Mr. KEYES. Yes; that phraseology accurately sets forth the position taken.

Mr. PECORA. Now, I understand this was furnished to us by Mr. LeBoeuf of the law firm and counsel for the United Corporation. Is Mr. LeBoeuf here?

Mr. LEBOEUF. Yes; I am here.

Mr. PECORA. Will you look at that, Mr. LeBoeuf, please, just off the record?

Mr. DAVIS. There is no question about its authenticity.

Mr. PECORA. All right. You need not bother with it. In view of the fact that no question is raised as to the authenticity of this, I offer that memorandum in evidence.

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The CHAIRMAN. Let it be admitted and put in the record.

(Memorandum dated January 31, 1929, was thereupon designated "Committee Exhibit No. 33, June 1, 1933", and appears in the words and figures following:)

JANUARY 31, 1929.

MEMORANDUM FOR MR. ROBERTS

Referring to your letter of January 30 concerning entries as to option warrants, I am enclosing herewith a photostat copy of the United Corporation ledger showing the entries.

In the various contracts it was recited that preference stock shall be capitalized at $50 per share, common stock at $5 per share, and the balance of the consideration received for the common stock and the consideration received for the option warrants shall be credited to surplus.

It will be noticed that no dollar values appear in the account. When and as option warrants are exercised an entry will be made debiting cash at $27.50 per share and this debit will also include a memorandum debit entry to the option account for such warrants as are exercised. Credit would be made for the common shares issued at $5 per share and the balance credited to paid-in surplus.

The advantage of the bookkeping following the lines aforesaid is the fact that the entire proceeds are credited to either capital or to paid-in surplus and the paid-in surplus amount is thoroughly identified at all times.

Should it be necessary in the future to make a distribution to stockholders out of paid-in surplus, such paid-in surplus may be distributed as a return of capital to the stockholders and not as a taxable dividend.

I also believe that the method adopted correctly reflects the true position of the option warrants at any time.

Mr. KEYES. That is not a signed memorandum.

Mr. PECORA. Do you recognize it as a memorandum prepared by you, Mr. Keyes?

Mr. KEYES. Yes; I did prepare one along those lines.

Mr. PECORA. I will read for the information of the committee the exhibit 32 just offered in evidence, being the letter written to Mr. Keyes by Mr. George Roberts on the letterhead of Winthrop, Stimson, Putnam & Roberts. [Reading:]

NEW YORK CITY, *January 30, 1929.*

L. A. KEYES, Esq.,
J. P. Morgan & Co., 23 Wall Street, New York City.

DEAR MR. KEYES: I would appreciate it if you would write me as to what entries you have made on the books of the United Corporation in connection with the issue of the option warrants. The practice seems to vary among corporations as to how these should be entered, and I would like to examine the entries of the United Corporation in this respect.

Very truly yours,

GEORGE ROBERTS.

Exhibit 33, just offered in evidence, reads as follows. [Reading:]

JANUARY 31, 1929.

Memorandum for Mr. Roberts.

Referring to your letter of January 30, concerning entries as to option warrants, I am enclosing herewith a photostat copy of the United Corporation ledger showing the entries. In the various contracts it was recited that preferred stocks should be capitalized at $50 per share, common stock at $5 per share, and the balance of the consideration received for the common stock and the consideration received for the option warrants shall be credited to surplus.

It will be noticed that no dollar values appear in the account. When and as option warrants are exercised an entry will be made debiting cash at $27.50 per share, and this debit will also include a memorandum debit entry in the option account for such warrants as are exercised. Credit would be made for the common shares issued at $5 per share, and the balance credited to paid-in surplus.

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The advantage of the bookkeeping following the lines aforesaid is the fact that the entire proceeds are credited to either capital or to paid-in surplus, and the paid-in surplus amount is thoroughly identified at all times.

Should it be necessary in the future to make a distribution to stockholders out of paid-in surplus, such paid-in surplus may be distributed as a return of capital to the stockholders and not as a taxable dividend.

I also believe that the method adopted correctly reflects the true position of the option warrants at any time.

Now, does this memorandum, Mr. Keyes, that I have just read, set forth correctly your opinion of the advantages accruing to the corporation and its stockholders from this method of setting up the consideration received for the original issue of the capital stock and option warrants of the United Corporation?

Mr. KEYES. Mr. Pecora, advantage or no advantage, that method correctly sets forth my idea of the way it should have been set up.

Mr. PECORA. Well, you say "advantage or no advantage"?

Mr. KEYES. Yes, sir.

Mr. PECORA. You refer to certain things here as an "advantage."

Mr. KEYES. Yes, sir.

Mr. PECORA. And one of the advantages was that it would enable the corporation in the future to make a distribution to its stockholders out of what was denominated as paid-in surplus, and that such a distribution would be a return of capital and would not be taxable as a dividend.

Mr. KEYES. That is correct, but that would have been the case either way, any other way that they would have been set up.

Mr. PECORA. Why do you refer to it as an advantage by reason of that set-up?

(At this point there was a short suspension of the proceedings.)

Mr. PECORA. Have you answered the question yet, Mr. Keyes?

Mr. KEYES. May I ask to have that question again?

Mr. PECORA. Will you read it to him?

The shorthand reporter (Mr. RANDOLPH) (reading):

Why do you refer to it as an advantage by reason of that set-up?

Mr. KEYES. Because the proper way to set it up, we believe, is the advantageous way to set it up.

Mr. PECORA. Mr. Roberts in his letter to you indicated that there were various way of setting that up, didn't he?

Mr. KEYES. He indicated that that——

Mr. PECORA (interposing). He asked you what method you adopted?

Mr. KEYES. Yes.

Mr. PECORA. In behalf of the United Corporation, and in your written reply you said something about setting them up in a certain way and called attention to certain "advantage" therefrom.

Senator GLASS. Mr. Keyes, as I read the Roberts request and your memorandum, Mr. Pecora, if I may be permitted to ask a question, was asking you to give him your bookkeeping arrangement, was he not?

Mr. KEYES. Yes, sir.

Senator GLASS. And you in some detail in reply, as embraced in your memorandum, were simply giving him your bookkeeping arrangement and the advantage to the company in keeping the books accordingly?

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Mr. KEYES. Yes, sir.

Senator GLASS. Is that a correct statement of the case?

Mr. KEYES. That is correct.

Senator GLASS. Well, of what pecuniary advantage, if any, to the firm was your particular method of bookkeeping as contrasted with the methods employed by various other concerns?

Mr. KEYES. No pecuniary advantage, Senator, that I know of, because under the regulations the receipt of that $1 for the shares is not taxable to the corporation. There was also the advantage that Mr. Pecora gives, as centered in this: Some of the accountants would credit that $1 to a capital account and have it appear as a liability at $1, and others would say no, that that is not correct, because the corporation owes that dollar to nobody. It came into it in the form of a paid-in surplus, being received in connection with the issue of securities, and any receipts by a corporation in connection with the issue of a security is not a taxable income. So that, instead of setting that——

Senator GORE (interposing). Repeat that sentence.

Mr. KEYES. Any moneys that are received by a corporation from the issuance of its securities is capital and not income.

Senator GORE. Yes.

Mr. KEYES. And the advantage that we had in mind at that time was so as not to place that $1 into an account setting it up as a liability of the necessary amount of $4,000,000, because the corporation did not owe that $4,000,000 to any one, and therefore it was credited to paid-in surplus.

Mr. PECORA. Why was the common stock which, according to the testimony of Mr. Howard, was sold at $25 a share, set up on the books of the company at the outset at $5 per share and the balance credited to surplus?

Mr. KEYES. The common stock was a no-par value stock, and under Delaware law you are permitted to declare a value on the mere amount of the stock and the balance credited to paid-in surplus.

Mr. PECORA. If the common stock had been set up on the books of the company at $25 instead of $5 as capital, then any distribution of that proportion of the assets of the company represented by the common stock would have been taxable, would it not?

Mr. KEYES. No, sir; it would not. It would not have made any difference as far as taxation goes. The amount credited to paid-in surplus or to capital is an exempt fund, has nothing to do with tax exemption.

Mr. PECORA. That distribution could have been made as distribution of capital in the way you set it up rather than as a distribution of taxable dividends?

Mr. KEYES. You could not just credit it as a taxable dividend. You could not. It is paid-in capital or paid-in surplus, one or the other.

Mr. PECORA. What was it, paid-in capital or paid-in surplus?

Mr. KEYES. Five dollars is paid-in capital and the balance is paid-in surplus.

Mr. PECORA. That is an arbitrary determination, isn't it?

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Mr. KEYES. Yes; it is. It is fixed, as permitted by the laws of Delaware, by the board of directors.

The CHAIRMAN. Couldn't you declare dividends out of the surplus but you could not declare dividends out of your capital?

Mr. KEYES. Senator Fletcher, you could not declare the dividends out of a paid-in surplus. A paid-in surplus is a fund that is kept separate by the department, and is continuously identified as belonging to capital, and the distribution out of a paid-in surplus in any return of the stockholder is not a taxable dividend.

Mr. PECORA. May Mr. Whitney resume the stand?

Senator GLASS. While Mr. Keyes is on the stand, may I ask him some questions?

The CHAIRMAN. Certainly, Senator.

Senator GLASS. Can you approximate the amount of income, if any, paid by the firm of J. P. Morgan & Co. in compliance with what is known as the capital issues provision of the Internal Revenue Act?

Mr. KEYES. I would have to compute that, Senator, because the firm of J. P. Morgan & Co. as a partnership carries its partnership income right into the individual returns.

Mr. PECORA. You mean by that, the firm itself pays no income tax; it makes a return but pays no income tax?

Mr. KEYES. Pays no income tax.

Senator GLASS. I meant as to members of the concern, you do not know how much?

Mr. KEYES. No, sir.

Senator GLASS. Do you know, as I do, that the investment bankers of the country, almost to a man, and many other persons, and practically all of the economists, protested against the passage of the capital issues tax provision and from time to time begged Congress to repeal it?

Mr. KEYES. Yes; I do know that.

Senator GLASS. Do you know that the Government in 7 years since the passage of the act has collected $1,075,440,000 in taxes under that provision of the law?

Mr. KEYES. I knew it was approximately that figure, Senator; I did not know accurately.

Senator GLASS. Is it your opinion that if the Government has collected that immense amount of money, nearly a half billion dollars in two years, 1928 and 1929, because of the capital issues tax, that on the other end of the proposition the taxpayer should have the right to write off his losses?

Mr. KEYES. Out of otherwise taxable income?

Senator GLASS. Yes. In other words, if his holdings depreciate in value. Is not that the purpose of the law?

Mr. KEYES. That is the purpose of the law now, Senator.

Senator GLASS. That is all.

Mr. DAVIS. May I ask you, Senator, whether your inquiry was directed to the aggregate amount of taxes paid under this law, prior to 1929?

Senator GLASS. Yes.

Mr. KEYES. For the year 1927, Senator Glass, the partners of J. P. Morgan & Co. collectively paid out for income tax, both Federal and

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State, $5,180,701.19. For the year 1928 they paid $6,172,693.70. For the year 1929 they paid $10,990,876.58, and with an amount pending of another $40,000 that will be paid, bringing it up to over $11,000,000.

The CHAIRMAN. Did they obtain any refund?

Mr. KEYES. Not in those years. I think there is one refund pending for the year 1926, amounting to about $30,000. There is a claim for refund pending.

Senator GLASS. Suppose you had failed, if you please, to have availed yourselves of the clear—if it is clear—the clear permission of the law to write off $21,000,000 of losses under the capital-issues provision of the revenue act and had paid income taxes that would have been required, what would have been the difference in the income tax paid under that provision of the law theretofore and the income tax that you would have been required to pay that year had not the law permitted you to write off?

Mr. KEYES. I think, for 1929—now, this is just an estimate, Senator—the tax, instead of being $11,000,000, would have been seven or eight million. In 1930 the tax would have been somewhere between three and four millions.

Senator GLASS. I am not asking you to compare one year as against another; I am asking you to compare the total of the years in which you were required to pay taxes and the year in which you wrote off your $21,000,000 of losses. In other words, I am trying to derive for my own information and for the information of the committee and, if you please, for the information of the public interested in the matter, how much the firm of J. P. Morgan & Co. has saved under the capital-issues provision of the revenue act.

Mr. KEYES. Senator, I do not think that it could be said we had saved anything.

Senator ADAMS. You think the charging off of that $21,000,000 resulted in no saving of income taxes to J. P. Morgan & Co.

Mr. KEYES. That is right, because the $21,000,000, of course, would have become a registered loss when those securities had been sold; and then in the prior years, of course, there were amounts that were increased and taxes paid on them.

Senator ADAMS. Is part or all of that $21,000,000 still flowing, in a way, so that it can be still availed of?

Mr. KEYES. No, sir. Of that $21,000,000 I do not think, now, there would be a penny available one way or the other.

The CHAIRMAN. Why deduct it if you did not save anything?

Mr. KEYES. I thought the Senator meant on the carry-forward provisions.

Senator ADAMS. I was interested in both aspects, whether or not it was still available to offset against it.

Senator GLASS. What I am particularly interested in as a member of this committee and as a legislator is to determine whether, in the course of 7 years since the adoption of the capital issues provision of the revenue act the house of Morgan has saved money under that provision of law or lost money; and I want to know that for the reason that I see that in one branch of Congress, without any consideration of the question at all, it is proposed now, after we have been importuned for 7 years to repeal that provision of law,

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to repeal it; and I want to know whether it is to the advantage of the Government of the United States to repeal it, because the Government, under that provision of the revenue act, has collected $1,075,440,000 of the revenue in 7 years.

Mr. KEYES. Senator, may I ask, when you refer to the capital gain and loss provision, Do you just have in mind that that levies a tax of 12½ percent on securities held for 2 years?

Senator GLASS. Yes; under that provision of the revenue act.

Mr. KEYES. That provision was never availed of by J. P. Morgan Co. as a firm.

Mr. DAVIS. The whole system of capital gains and losses as a basis for taxation; is that correct?

Senator GLASS. Yes.

Mr. DAVIS. The question which you put to Mr. Keyes was whether that system, up to this time has increased or decreased the taxes paid by J. P. Morgan & Co.?

Senator GLASS. That is right. I am afraid I am not acting as an efficient counsel to the committee if the major counsel is going to explain the matter so much more succinctly.

Mr. DAVIS. I thought the witness had not exactly understood your question.

Senator GLASS. My whole purpose was to determine, as a legislator, whether it would be advantageous or disadvantageous to the Government to repeal that clause of the revenue act.

Mr. KEYES. Senator, I think it would undoubtedly be advantageous to repeal it.

Senator GLASS. You say you doubt if it would be advantageous?

Mr. KEYES. No; I say I think it would be advantageous.

Senator GLASS. That is what you investment bankers have thought all along, but some of us have not agreed with you.

The CHAIRMAN. Why do you say that, Mr. Keyes?

Mr. KEYES. During the past 4 or 5 years there must have been a shrinkage in securities all over the country, not only those who had invested on exchanges, but every corporate stock, no matter what business might be covered; and the drop in values has been so great as to wipe out the basis for otherwise taxable income. I venture to say that the securities on the New York market alone probably shrank in value somewhere around $40,000,000,000 or $50,000,000,000, and in the hands of those persons who owned them, by registering a sale or throwing those securities on the market and selling them, they were able to wipe out otherwise taxable income.

Mr. DAVIS. May I ask Mr. Keyes a question, Mr. Chairman?

The CHAIRMAN. Certainly.

Mr. DAVIS. I note that he has a memorandum showing total income taxes paid by the members of the firm of J. P. Morgan & Co. for the years 1917 to 1929, and I would like to ask him to state that total.

The CHAIRMAN. 1917 to 1929?

Mr. DAVIS. 1917 to 1929, inclusive.

Mr. KEYES. The partners of J. P. Morgan & Co. collectively during the time they were members of the firm paid a total income tax of $51,538,074.75.

The CHAIRMAN. From 1917 inclusive of 1929?

Mr. KEYES. Yes, sir; both years inclusive.

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Senator GORE. What year represented the largest income?
Mr. KEYES. 1929.
Senator GORE. What was it in 1919, for instance?
Mr. KEYES. I do not recall, Senator.
Senator GORE. Oh. I thought you had it there.
Mr. KEYES. No, sir; I just have the total.
Mr. PECORA. Have you in that memorandum the total taxable income of J. P. Morgan & Co. and its respective partners for those 12 years?
Mr. KEYES. No, sir; I have not.
Mr. PECORA. Do you know what it is, approximately?
Mr. KEYES. No, sir.
Mr. PECORA. Have you it for any one year in that 12-year period?
Mr. KEYES. No, sir.
(Mr. Keyes temporarily left the committee table.)

TESTIMONY OF GEORGE WHITNEY, A MEMBER OF THE FIRM OF J. P. MORGAN & CO.—Resumed

Mr. PECORA. Mr. Whitney, you indicated to me yesterday that you would furnish me with a copy of the list of persons to whom Drexel & Co. extended invitations to subscribe to the units of United Corporation in January 1929. Since then I have received this list [indicating] as being a true copy of such a list. Can you identify it as such?
Mr. WHITNEY. Yes, sir.
Mr. PECORA. I offer it in evidence.
The CHAIRMAN. It may be admitted and placed in the record.
(The list referred to was received in evidence, marked "Exhibit No. 34", and is here printed in full, as follows:)

EXHIBIT No. 34

DREXEL & CO.—THE UNITED CORPORATION

	Units		Units
Hiester S. Albright	100	Clarence C. Brinton	100
Edgar Allegaert	100	Alex Brown & Sons	2,000
J. Howard Arthur	25	Edward Browning, Jr	100
Thomas G. Ashton	300	Robert J. Brunker	200
W. W. Atterbury	2,500	James R. Calhoun	6
Charles T. Bach	50	Cassatt & Co	2,500
George Barker	100	E. W. Clark & Co	2,000
C. D. Barney & Co	2,500	John A. Clark	100
Thaddeus R. Beal	1,000	John L. Clawson	100
Charles G. Berwind	200	M. Worthington Clement	100
Anthony J., Drexel Biddle	100	Morris L. Clothier	1,000
Cordelia Bradley Biddle	100	B. Dawson Coleman	300
Eugenia L. Biddle	100	Thomas Conway, Jr	300
Livingston L. Biddle	100	J. Cooke	2,000
Thomas A. Biddle & Co	2,000	Albert J. County	100
Bioren & Co	1,500	D. Graham Craig	100
George H. Blake	50	Anne L. Croasdill	30
Morris R. Bockius	500	Samuel M. Curwen	300
William W. Bodine	500	Agnew T. Dice	300
Matthew R. Boylan	100	William C. Dickerman	5,000
Francis B. Bracken	500	Emily P. Dickson	50
Henry G. Brengle	200	Anthony J. Drexel	400
Sarah H. O. Bright	100	Mary Thompson Drinker	50

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	Units
Sophie H. Drinker	100
John C. Dunn	25
Frederick W. Edmondson	50
George D. Edwards	25
Elkins, Morris & Co	2,000
Eleanor Mayo Riverson	1,000
Florence L. Etting	25
Julian L. Eysmans	100
Edgar C. Felton	200
Philip H. Gadsden	300
John K. Garrigues	100
Jay Gates	400
Thomas S. Gates	1,000
C. H. Geist Securities Corporation	2,500
General Coal Securities Corporation	100
William P. Gest	600
Robert Glendinning & Co	2,100
Gertrude C. Glover	25
Herbert W. Goodall	200
Graham, Parsons & Co	1,500
Alfred M. Gray	100
Albert M. Greenfield	1,000
John H. Gross	50
Harry J. Haas	100
T. Truxton Hare	100
Jonas S. Harley	100
Harrison & Co	1,000
Charles V. Henry	100
Wm. M. Hollanbach	200
John Hopkins	100
Edward Hopkinson, Jr	1,000
Daniel Houseman	100
Thomas W. Hulme	100
George H. Huston	200
Fred S. Hutchings	100
James T. Hutchings	100
Charles E. Ingersoll	500
Albert A. Jackson	250
Janney & Co	1,000
Archibald T. Johnson	50
Arthur Jones	25
Edith Bolling Jones	200
Moorhead C. Kennedy	100
Reid Kennedy	50
Florence M. Kephart	100
John W. Kephart	200
Henry H. King	50
Leonad H. Kinnard	200
William T. Kirk	100
William W. Kitzmiller	50
Charles Z. Klauder	200
Louis J. Kolb	500
Walter D. Larzelere	100
William A. Law	300
Van Antwerp Lea	100
Edward B. Leisenring	100
Francis A. Lewis	200
Charles F. Lineaweaver	200
Horace P. Liversidge	200
Eleanor M. Lloyd	100
George F. Lloyd	50
H. G. Lloyd	1,000
H. G. Lloyd, Jr	250
Stacy B. Lloyd	300
Walter E. Long	100
Edward E. Loomis	500
Uzal H. McCarter	450
Edward McDonald	50
George H. McFadden & Bros	500
William J. McGlinn	100
John W. McGregor	25
Andrew J. Maloney	288
Caroline F. Maloney	12
Donald Markle	300
John C. Martin	1,000
John H. Mason	300
Sidney Mason	100
William Clark Mason	200
Joseph B. Mayer	100
John C. Miller	50
John W. Minds	100
Montgomery, Scott & Co	100
C. Eldridge Morgan	200
E. Corliss Morgan	200
William R. Morgan	100
Marshall S. Morgan	100
Effingham B. Morris	500
Effingham B. Morris, Jr	500
I. Wistar Morris	200
Arthur V. Morton	200
Catharine T. Munson	300
Jonathan C. Neff	100
A. E. Newbold, Jr	500
W. H. Newbold's Son & Co	1,500
C. Stevenson Newhall	100
Thomas Newhall	1,000
William A. Obdyke	500
Charles S. W. Packard	200
Joshua A. Pearson	200
George Wharton Pepper	200
Henry C. Place	100
Charles Raymond Potts	100
Francis X. Quinn	200
Evan Randolph	200
Catherine C. Rapley	25
Mary Thompson Heath	50
Edward B. Robinette	2,000
Alexander C. Robinson	50
Mary D. Robinson	200
Owen J. Roberts	100
Benjamin Rush	300
Fred J. Rutledge	200
Sylvester B. Sadler	200
Bernard J. Samuel	25
William I. Schaffer	500
Charles H. Schlacks	200
Frank C. Schroeder	25
Garfield Scott	200
Arthur W. Sewall	200
George Siefert, Jr	25
J. Willison Smith	100
Harrison Smith & Co	1,500
Alfred G. B. Steel	200
Samuel J. Steele, Jr	100
Stone, Webster & Blodget, Inc	2,000
E. T. Stotesbury	1,000
Morris W. Stroud	200
Stroud & Co., Inc	3,000

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	Units
Jeremiah J. Sullivan, Jr	300
John J. Sullivan	300
Walter Lamar Talbot	100
Clyde C. Taylor	25
Frank H. Taylor	50
William H. Taylor	200
Paul Thompson	200
John B. Townsend	100
Joseph B. Townsend	100
Townsend, Whelen & Co	500
Lewis H. Van Duzen	200
T. Wilson Van Middlesworth	50
Alexander Van Rensselaer	200
Sarah Drexel Van Rensselaer	200
Samuel M. Vauclain	600
Robert Von Moschzisker	400
C. D. Waddell	100
Edmund W. Wakele	200
Charles C. Walbridge	1,000
Philip Wallis	25
Clarence A. Warden	1,000
William G. Warden	1,000
Samuel D. Warriner	600
Joseph Wayne, Jr	1,000
Joseph W. Wear	500
John H. Weaver	300
West & Co	1,000
John L. Wilkie	1,000
James M. Willcox	300
Parker S. Williams	300
Asa S. Wing	50
Clement B. Wood	200
Wendell J. Wright	50
Frederick S. Wynn	200
Edward H. York, Jr	100
Percy S. Young	200
Richard R. Young	100
Total	90,061

Senator GLASS. You do not object to my examining it, do you?

Mr. PECORA. Oh, no, Senator.

Senator REYNOLDS. Mr. Pecora, before you go into that, may I ask Mr. Whitney a few questions?

Mr. PECORA. Certainly, sir.

Senator REYNOLDS. Mr. Whitney, I should like to inquire as to whether or not the House of Morgan has directly or indirectly any utility interests in the Republic of Cuba.

Mr. WHITNEY. No, sir. The answer is, "No," I think, except with this possible qualification. We have an interest in the United Corporation. The United Corporation has a few shares, a relatively few shares out of the total, of Electric Bond & Share Co., which, in turn, owns the common stock of the American-Foreign Power Co., and that company has among its investments some public-utility interests in Cuba. We have none except that as a sort of fourth cousin.

Senator REYNOLDS. Then I take it from your answer that you have investment interests in the Island?

Mr. WHITNEY. We have no investment interest as a firm at all, except through that, four steps removed.

Senator REYNOLDS. But the company the name of which you mention has utility interests in Cuba?

Mr. WHITNEY. I am so advised. I would like to be sure of that.

Senator REYNOLDS. Have you Mr. Guggenheim on your preferred list?

Mr. WHITNEY. You mean, Harry, the Ambassador?

Senator REYNOLDS. The Ambassador to Cuba.

Mr. WHITNEY. I don't think so.

Senator REYNOLDS. I will ask you, Mr. Whitney——

Mr. WHITNEY. It may be Guggenheim Bros.; but I do not think he is a partner there. I am told he is not.

Senator REYNOLDS. I will ask you if Mr. Guggenheim, who is Ambassador to Cuba, was not on the preferred list of Standard Brands to the extent of 5,000 shares which he was offered and which he purchased at 32 when the market at that particular time was 40?

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Mr. WHITNEY. Guggenheim Bros., Senator Reynolds? I am speaking from my memory, and to the best of my recollection Mr. Harry F. Guggenheim is not a partner in that firm.

Senator REYNOLDS. What Guggenheim was on the "Santa Claus" list?

Mr. WHITNEY. Well, I will accept the question, Senator, although I do not accept the definition, Senator Reynolds. But Guggenheim Bros.——

Senator REYNOLDS. What relation is Ambassador Guggenheim to the brothers that you make mention of?

Mr. WHITNEY. Mr. Harry F. Guggenheim is the son of Daniel Guggenheim. I cannot remember whether Daniel Guggenheim was alive in 1929 or not. Does anyone remember? [After conference.] He is now dead. He was the senior partner of that firm at that time; and Harry F. Guggenheim is his son.

Senator REYNOLDS. How many shares did they buy?

Mr. WHITNEY. Five thousand.

Senator REYNOLDS. At 32?

Mr. WHITNEY. Certainly.

Senator REYNOLDS. And at that time the market was 40?

Mr. WHITNEY. No, sir—yes and no. They agreed to buy it, as I explained yesterday, in response to a letter written to them on June 24, when the market of Fleischmann's, translated into Standard Brands, was approximately 33. They stood ready to pay for it on September 5, 1929. In other words, over 60 days, having had a commitment for it over 60 days. The amount was, as has been shown, 40, when they undertook to buy it. In other words, if I make myself clear, when they undertook to buy it, when they confirmed the purchase, the market was somewhere around 33.

Senator REYNOLDS. That, therefore, represented a profit, or you might say a gift, of approximately $40,000, did it not? Eight times 5 is 40.

Mr. WHITNEY. Eight times 5 is 40——

Senator REYNOLDS. Is 40, I believe.

Mr. WHITNEY. But it was in no sense a gift. It was a potential profit if they had sold it at 40. Having paid 32 for it, they would have had a $40,000 profit. But may I again remind you, Senator, that there was no possible semblance of a gift in it, because they had had a commitment to purchase it for something over 60 days. The day they made that commitment there was a 1-point profit. They could not sell at that time. So, if you are getting down to the question of when they made the commitment, they had one point. Finally they had eight, if they had sold it at that date after a 60-day commitment. There is no possible gift about that.

Senator REYNOLDS. In that connection I believe you stated that the records show that the Guggenheim Bros. made purchases of the stock?

Mr. WHITNEY. Yes, sir; they are a private firm.

Senator REYNOLDS. What relation are the Guggenheim Bros. to Ambassador Guggenheim?

Mr. WHITNEY. One of the members of the firm of Guggenheim Bros. is his father, or was his father when he was living; and the other three partners of the Guggenheims are his uncles.

Senator REYNOLDS. I see.

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Mr. WHITNEY. You know, they are prettly largely a private firm of long standing and largely connected with various metal industries. Former Senator Simon Guggenheim was one of them.

Senator REYNOLDS. Has the house of Morgan any other investment in the Republic of Cuba?

Mr. WHITNEY. No, sir.

Senator REYNOLDS. Has the house of Morgan directly or indirectly any public utility interests in Mexico?

Mr. PECORA. How about railways?

Mr. WHITNEY. The answer is, Senator Reynolds——

Senator REYNOLDS. Any public utilities?

Mr. WHITNEY. No. Any investments in Mexico?

Senator REYNOLDS. Have you any investments of any sort, directly or indirectly, in Mexico?

Mr. WHITNEY. The only possible—it is a pretty hard question to think of all the ramifications and state whether any companies in which we have had an indirect interest may have any properties in Mexico. I do not know of any, out of my memory.

Senator REYNOLDS. Has the house of Morgan any investments in the Central American countries?

Mr. WHITNEY. No, sir. Well, you mean—no; we have no investments.

Senator REYNOLDS. That is all, Mr. Chairman.

Mr. PECORA. Mr. Whitney, in exhibit no. 34 it appears that Drexel & Co. distributed 90,061 units of United Corporation to the persons named on that list. As I recall the list put in evidence yesterday there was allocated to Drexel & Co. by J. P. Morgan & Co. a total of 87,000 units in two lots of 82,000 and 5,000, respectively. How do you account for the fact that units distributed by Drexel & Co., as shown by exhibit 34, total 90,061?

Mr. WHITNEY. I could not have explained it at all, except that Mr. Keyes reminded me, as I testified yesterday, that on January 23 Drexel turned in certain additional securities, 4,541 shares of Public Service Corporation, for which they received a certain number more shares of preferred and common stock; and I suppose the discrepancy is accounted for by that amount.

Mr. PECORA. Mr. Whitney, at page 977 of the stenographer's minutes of this hearing, it appears that you were asked a question yesterday by Senator Glass reading as follows:

> Is any one or more of these companies indebted to the firm of J. P. Morgan & Co. to the extent that you might exercise control over it or them?

The companies apparently referred to by Senator Glass were the companies whose securities were owned in whole or in part by the United Corporation. Your answer to that question, according to page 977 of the stenographer's minutes, is as follows:

> Certainly not. That is part of this questionnaire upon the question of the loans that have been made by the firm of J. P. Morgan & Co. and Drexel & Co. But never at any time have they owed us or both of us or either of us anything but a relatively small amount of money.

What was the amount of money that you called a relatively small amount of money that these companies or any of them at any time owed J. P. Morgan & Co. and Drexel & Co., or either of those firms?

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Mr. WHITNEY. I am giving facts here. "Relatively" refers to the size of the company, not the number of dollars. They have owed us various amounts. Which one did you wish to have?

Mr. PECORA. Can you give us the amount of loans that were outstanding to J. P. Morgan & Co. from any of these companies in 1930, say, at the end of the calendar year, 1930, December 31?

Mr. WHITNEY. The first one of the loans I think you must have there in front of you is the Columbia Gas & Electric, in which we had a temporary loan, a 90-day loan, and a total loan with us of $30,000,000 in which we had a participation of half, which was in anticipation of some financing that they had undertaken to do. The Guaranty Co. had seven and a half million, and the Union Trust Co. of Pittsburgh had seven and a half million. That loan was made on October 22, 1930, and was paid off, plus certain other indebtedness. They had a total loan—excuse me—of something over $32,000,000. The full amount was paid off on January 22. That was a loan in anticipation, as I said before, of certain financing which they had arranged for.

Mr. PECORA. In order to abbreviate the answer, is it not a fact, according to your own records, that on December 31, 1930, five of these corporations that were embodied in United Corporation by representation in the portfolio had outstanding loans that were due and owing to J. P. Morgan & Co. and Drexel & Co. aggregating $103,644,636.84?

Mr. WHITNEY. I would have to do some calculation, but I am perfectly sure that that is not true. That is, on December 31, 1930?

Mr. PECORA. Yes.

Mr. WHITNEY. You will see that our total loans at that time amounted to only $158,000,000. I just want to confirm my recollection that never at any one time did J. P. Morgan & Co., and never were we at any one time loaning these companies anything approximating $103,000,000. There are certain loans now outstanding. There have been loans. It is a customary financial method when these types of companies are going to do long-term borrowing for them to borrow temporarily from their bankers. And that is what these loans are. You will find a series of loans—if you are introducing this question, now, of loans—incurred by the United Gas Co. They came along, and they have financed and paid them off. That is a perfectly necessary thing. Senator Glass' question yesterday was, "Were they ever indebted to us in a way to give us control?"

These were all perfectly normal business loans in anticipation of financing. In such cases they have been paid off. They were relatively small as against the total assets of the company. The loans were just a banking transaction they might have had with any bank, and, as a matter of fact, in almost all of these larger ones we had participants with us in the loan, so that the amounts here would not appear—we have got several participants, so these are not the totals.

Mr. PECORA. Who made the loans you have in mind to these various corporations that were opened on December 31, 1930? Was it J. P. Morgan & Co.?

Mr. WHITNEY. The one I have mentioned, we arranged the loan, but we had some participants, so they were not owing us money.

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Mr. PECORA. Who made the loans? Did J. P. Morgan & Co. make the loans with money received in part from participants in the making of the loans?

Mr. WHITNEY. Well, Mr. Pecora, I am afraid I was not sufficiently explicit because I was talking in banking language. The loan was made by the corporation, arranged with us. It is a very customary thing in the banking business to have other participants for the purpose of diversification so that you will not have so much. We arrange with these banks stating to them the terms of the loan, the facts of the loan, and give them what is called a participation with us, and that appears in their statements as a participation in a loan to the Columbia Gas & Electric. We do not borrow, as you implied, the money from the banks. They have the direct obligation of the company, and the company owes them the money directly. We are merely a vehicle through whom in an ordinary way banking loans are made. That is one of the most customary ways of financing large corporations in order to get the proper diversification of risks with banks. Banks do it. It is a steady and normal practice.

Mr. PECORA. Now in order to enable us to understand clearly, take for instance this loan to the Columbia Gas & Electric Corporation. I understand the loan was made on October 22, 1930, and the principal amount of the loan was $30,000,000.

Mr. WHITNEY. And it was paid on January 22, its due date.

Mr. PECORA. Yes. Now who were the immediate parties to that loan agreement?

Mr. WHITNEY. I have already said, Mr. Pecora, that the loan was arranged by the Columbia Gas & Electric Co. with J. P. Morgan & Co.

Mr. PECORA. Do you mean by that, that the loan in form was made by J. P. Morgan & Co. to the Columbia Gas & Electric Corporation, but that other entities had participated with J. P. Morgan & Co. in the making of the loan or in the supplying of the funds which represented the aggregate of the loan?

Mr. WHITNEY. Well, I mean what I said before, that the loan was made and probably the Columbia Gas & Electric issued 1 note for it.

Mr. PECORA. That is what I am trying to get at. Now, who was the payee of the note?

Mr. WHITNEY. I am not yet finished. When the loan was made—when it was being negotiated undoubtedly this matter was discussed with these two other participants. These two other participants are the general banking affiliations of the Columbia Gas & Electric Corporation and have been traditionally so.

Mr. PECORA. Who were the participants in this particular case?

Mr. WHITNEY. I have already read the Guaranty Trust Co. of New York, and the Union Trust Co. of Pittsburgh. I say the loan was arranged with them in conjunction with them, but it was cleared through our office.

Mr. PECORA. Was the note evidencing the loan made payable to J. P. Morgan & Co., or was it made payable jointly to J. P. Morgan & Co., the Guaranty Trust Co. of New York, and the Union Trust Co. of Pittsburgh?

Mr. WHITNEY. I have not got the remotest idea.

The CHAIRMAN. What rate of interest did you charge on that?

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Mr. WHITNEY. I do not know, Senator. It would be the current rate for 90 days, whatever the current rate was at that time. I do not just remember.

Mr. PECORA. To what extent did your firm participate in the making of this $30,000,000 loan to the Columbia Gas & Electric Corporation?

Mr. WHITNEY. As already testified, $15,000,000.

Mr. PECORA. Now, I would suggest, Mr. Whitney, and I think we will save time if during the recess you acquaint yourself with all of the figures and facts with regard to the loans that were outstanding on December 31, 1930, in favor of J. P. Morgan & Co. and Drexel & Co. to any of these corporations.

Mr. DAVIS. Do you mean the corporations in which the United held shares?

Mr. PECORA. Yes; and also to the United Corporation itself. I understand there were loans to the United Corporation itself that were open on that date.

Senator GLASS. Mr. Whitney, if it does not interefere with Mr. Pecora, let me ask you a question. When J. P. Morgan & Co., or any banker, makes a loan it ordinarily is done with a view to making money, is it not?

Mr. WHITNEY. Well, it is for the purpose of investing your funds, certainly, sir. Making an interest return.

Senator GLASS. Do you regard that as a favor to the borrower or a plain business transaction?

Mr. WHITNEY. A perfectly normal business transaction. What the banking business is predicated on, as has been explained very clearly recently. The banking function is to receive deposits and to make loans to legitimate concerns for the conduct of business. Their loans are all made simply for that. If the banks make good loans, like these all are, it is for the purpose of expediting business. And it is the perfectly proper, primary, normal function of the bank to make loans to legitimate concerns for the conduct of their business. And they have to loan them to business conducted in this country or anywhere else, so that they may conduct their normal business. There is no favor of any kind, sir. The most normal type or phase of the banking business.

Senator GLASS. In short, if I should be worth one half a million dollars or a million dollars, as I may be hereafter since my connection with the house of Morgan has been so firmly established, and I should want to borrow with adequate collateral from Peoples National Bank in my town $10,000, would the bank consider that it was doing me a favor to loan me $10,000 or would it be glad to get the discount that would ensue upon the lending me of $10,000?

Mr. WHITNEY. It would, of course, consider it was its normal banking function and would be very glad to get a good loan such as that.

Senator GLASS. That is my view of it.

Mr. PECORA. Let me show you what purports to be a photostat copy of note of Columbia Gas & Electric Corporation payable on demand to the order of J. P. Morgan & Co., dated October 22, 1930. Will you look at it and tell us if that refreshes your recollection as to whether or not the Columbia Gas & Electric Corporation made

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the note evidencing this loan for $30,000,000 to the order of J. P. Morgan & Co.?

Mr. WHITNEY. My memory did not need to be refreshed. I have already said they had.

Mr. PECORA. I thought you said you did not know.

Mr. WHITNEY. I did not know what the note was made out to. No; I said I knew perfectly well who made the loan, Mr. Pecora.

Mr. PECORA. I asked you if the note was made payable to J. P. Morgan & Co.

Mr. WHITNEY. It says so here.

Mr. PECORA. Well, you did not know when I asked you before.

Mr. WHITNEY. I did not know, but I knew that we made the loan.

Mr. PECORA. Yes.

Mr. WHITNEY. Your question was different.

Mr. PECORA. Does that refresh your recollection?

Mr. WHITNEY. It does. You also note it is marked "Paid."

Mr. PECORA. That is already in the record a half a dozen times, that it is marked "Paid."

Mr. WHITNEY. Certainly.

Mr. PECORA. Now, the participation of J. P. Morgan & Co. in this loan was $15,000,000, was it not?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. Now, on the date when that loan was made, did that $15,000,000 exceed 10 percent of the net worth of the firm of J. P. Morgan & Co.?

Mr. WHITNEY. I do not remember. It was a very good loan and was paid off on January 22. Mr. Pecora, if I may just remind you—probably unnecessarily—there is no law controlling the amount we may lend.

Mr. PECORA. I know that.

Mr. WHITNEY. The question of loans is whether they are good loans with us, and that was a good loan. It was a good loan to permit them to carry through a transaction in the normal conduct of their business. Whether or not it had a relation to our then capital and surplus I do not know. You also know—although this was not a secured loan—that this law, State law, permits New York State banks lending 25 percent of their capital on security. You are familiar with that. But that there is no law controlling, and the only law is the law that Mr. Morgan spoke of the first day of his testimony, is that we do good business, make good loans, and the best proof of that as being a good loan, whatever relation it may have had to our capital or our net worth as of that date, is the fact that it was paid back when due on the 22d day of January.

Mr. PECORA. And in your zeal to make good loans, and only good loans, you found it necessary, as developed in the testimony last week, to take $18,000,000 from your net worth as a reserve against bad loans?

Mr. WHITNEY. Absolutely. We made mistakes like everybody else. Our zeal was just as strong even though that resulted, because there has been quite a depression in values during the last 3 years.

Mr. PECORA. What security, if any, was back of this loan? This loan of $30,000,000?

Mr. WHITNEY. You requested me a few minutes ago, Mr. Pecora, to refresh my memory on these details. I will do so after lunch.

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But I think that loan makes no reference to collateral, does it? So there probably was none.

Mr. PECORA. Look at the note and see if this refreshes your recollection so as to enable you to answer the question.

Mr. WHITNEY. I just looked at it.

Mr. PECORA. Was there any security?

Mr. WHITNEY. There was not. And the Columbia Gas & Electric Corporation borrows currently in the ordinary course of its business on the security and faith of its corporation. I do not know what the balance sheet shows, but it is a very large company, as you are aware. It always borrows on that basis.

Mr. PECORA. Do you know that this note of $30,000,000 was paid out of the proceeds of a bond issue that was made by the Columbia Gas & Electric Corporation?

Mr. WHITNEY. No; I do not. I wanted to correct that, because I asked Mr. Stanley if he remembered whether they had a security issue, but he does not. But that is one of the things that I want to find out. Perhaps I was wrong on that. But it was paid, and I had an idea that it was out of the proceeds of a bond issue. I will try to find out about that.

Mr. PECORA. You will try to find out about that.

Mr. WHITNEY. We do not do their security business at all. That is always done through the Guaranty Co.

Mr. PECORA. Are you not a member of the board of the Guaranty Co.?

Mr. WHITNEY. No, sir.

Mr. PECORA. Mr. Thomas W. Lamont is?

Mr. WHITNEY. No, sir.

Mr. PECORA. Of the Guaranty Trust Co.?

Mr. WHITNEY. That is different.

Mr. PECORA. The Guaranty Co. is the investment affiliate of the Guaranty Trust Co., is it not?

Mr. WHITNEY. The Guaranty Trust Co. owns all of the stock of the Guaranty Co.——

Mr. PECORA. I did not ask you that. I asked you if it was not the fact that the Guaranty Co. was the investment affiliate of the Guaranty Trust Co.

Mr. WHITNEY. And I answered it that the Guaranty Trust Co. owned the stock.

Mr. PECORA. You answered it that one company owned all the stock of the other.

Mr. WHITNEY. Exactly.

Mr. PECORA. Well, as a matter of fact the Guaranty Trust Co. does not own all of the stock of the Guaranty Co., does it?

Mr. WHITNEY. Yes, of course it does.

The CHAIRMAN. Which company does the banking business?

Mr. WHITNEY. The Guaranty Trust Co. Senator Fletcher, the Guaranty Co. is a dealer in securities.

Senator ADAMS. Mr. Pecora, this application was offered as an exhibit. I find no exhibit mark on it.

Mr. PECORA. Mr. Whitney produced it on his own volition. I did not hand it to the stenographer. I have not even seen it. But it should have been marked.

Senator ADAMS. It has not been marked.

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Senator GLASS. It was put in the record by the consent of the chairman and of Mr. Pecora.

Mr. PECORA. I did not know that it had not been marked. It ought to be done right away.

(The application of the United Corporation for listing appears in the record as exhibit 35, presented by Mr. Whitney June 1, 1933.)

Mr. PECORA. Now, is it not a fact that on December 31, 1930, J. P. Morgan & Co. had due and owing to it the sum of $15,000,000 by the United Corporation representing a loan your firm had made to that corporation?

Mr. WHITNEY. As a matter of fact it had, as I read you—I put that back now, but they had about $2,000,000 more than that, I think. If you will read the thing that is in front of you. I thought you said Columbia.

Mr. PECORA. The United Corporation.

Mr. WHITNEY. Oh, I have not got the record in front of me. Do you want me to get it back? Excuse me; I thought you were still talking about the Columbia Gas.

Mr. PECORA. No.

Mr. WHITNEY. Thirty-one, is it? Mr. Pecora, I would have to make a footing here to get the date, because, as you know, these things are answered in two columns. Do you want me to do it now?

Mr. PECORA. No.

The CHAIRMAN. The members of the committee have to be on the floor up to 3 o'clock. We will now take a recess until 3:15. Everybody will be ready to proceed at 3:15.

(Thereupon, at 1:20 p.m., a recess was taken until 3:15 p.m. the same day, Thursday, June 1, 1933.)

AFTER RECESS

The subcommittee resumed at 3:30 p.m., pursuant to recess.

The CHAIRMAN. The committee will resume. I believe Mr. Whitney's testimony had not been concluded. You may proceed, Mr. Pecora.

TESTIMONY OF GEORGE WHITNEY, A MEMBER OF THE FIRM OF J. P. MORGAN & CO.—Resumed

Mr. PECORA. Mr. Whitney, I show you what purports to be a copy of the articles of copartnership of the firm of J. P. Morgan & Co. and of Drexel & Co., which have been furnished to me on behalf of your firm. Will you kindly look at it and tell us whether or not that is a true copy; these articles of copartnership, I mean.

Mr. WHITNEY. Let me inquire.

Mr. DAVIS. I am afraid that Mr. Whitney will have to take my word for them.

Mr. WHITNEY. I will have to do that, Mr. Pecora.

Mr. DAVIS. I assume and believe that it is a true copy. If you find any errors on comparison, we will have no trouble correcting them.

Mr. PECORA. I offer this in evidence and ask that it be spread upon the record.

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The CHAIRMAN. Let it be admitted and made a part of the record.

(The articles of copartnership of the firm of J. P. Morgan & Co. and of Drexel & Co. were ordered made a part of the record and were marked "Committee Exhibit No. 36, June 1, 1933", and will be found at the end of the day's proceedings.)

Mr. PECORA. Mr. Whitney, have you had an opportunity during the last recess period of consulting your records with a view to enabling you to tell this committee what loans were open and held by J. P. Morgan & Co. or Drexel & Co. on December 31, 1930, which had been made to the United Corporation, United Gas Improvement Co., Niagara Hudson Power Corporation, and Columbia Gas & Electric Co.?

Mr. WHITNEY. I have; yes, sir.

Mr. PECORA. On that date what was the aggregate amount of those loans?

Mr. WHITNEY. The loans of those companies?

Mr. PECORA. Yes, sir.

Mr. WHITNEY. Might I read from this paper?

Mr. PECORA. Yes.

Mr. WHITNEY. On December 31, 1930, the Columbia Gas & Electric Corporation had outstanding loans arranged with us, J. P. Morgan & Co., amounting to $32,044,636.84. At the same time the Niagara Hudson Power Corporation had a loan of $25,000,000. The United Corporation has $15,000,000. The United Gas Improvement Co. had 2 loans, 1 of $9,600,000 and 1 of $10,000,000.

Of these loans there were with J. P. Morgan & Co. directly, or our participations were: Columbia Gas & Electric Corporation, $17,044,636.84; Niagara Hudson Power Corporation, 6¼ million dollars; The United Corporation, $15,000,000; United Gas Improvement Co., $9,600,000.

Drexel & Co. had a $1,000,000 participation in the $10,000,000 loan to the United Gas Improvement Co.

In other words, there were a total of loans of $91,644,636.84, in which our participation was $48,894,636.84.

I might also say, Mr. Pecora, that I have refreshed my memory in another matter, or checked it, and it is so that the Columbia Gas loan was paid, as I stated this morning, January 26, from the proceed of $50,000,000 debenture issue sold in January, 30-year debentures.

Mr. PECORA. Who floated that issue?

Mr. WHITNEY. The Guaranty Co.

Mr. PECORA. Was the $15,000,000 loan to the United Corporation a secured loan?

Mr. WHITNEY. No, sir.

Mr. PECORA. Was the $19,600,000 loan to the United Gas Improvement Co. a secured loan?

Mr. WHITNEY. No. None of the loans listed were secured. But I might also point out that the United Gas Improvement Co. has no other debts. Neither has the United Corporation. And neither has the Niagara Hudson, although certain of the subsidiaries owned by these companies, and these are all holding companies, have. And the only debt, these two loans of United Gas Improvement, they were the only debts of that company. And the same is true of the United. The Niagara Hudson loan now is reduced to $11,000,000;

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and the United Gas Improvement and the Columbia Gas both have been paid off in January, just after the turn of the year.

Mr. PECORA. These other holding companies, namely, United Gas Improvement Co., Niagara Hudson Power Corporation, and Columbia Gas & Electric Co., do they antedate the United Corporation?

Mr. WHITNEY. Oh, yes, sir; by a long time.

Mr. PECORA. The United Corporation holds in its portfolio, and has had in its portfolio ever since its incorporation, securities of these other holding companies, hasn't it?

Mr. WHITNEY. Well, it has had in its portfolio—well, I have given——

Mr. PECORA (interposing). Pretty nearly from its inception?

Mr. WHITNEY. I made a mistake in a former answer. The Niagara Hudson was formed after the United Corporation.

Mr. PECORA. In August of 1929?

Mr. WHITNEY. Yes, sir; in the summer afterwards. The United Corporation has held in its portfolio since its inception shares of United Gas Improvement and Mohawk Hudson, not Niagara Hudson. And it did not hold from its inception Columbia Gas although as I testified on yesterday they bought 10,000 shares and another 60,000 shares shortly after its inception.

Mr. PECORA. Will you tell the committee any useful public purpose that was served by the incorporation of the United Corporation as a holding company of securities of public-utility companies or holding companies?

Mr. WHITNEY. I think I can, Mr. Pecora, a good many.

Mr. PECORA. Will you do that, please?

Mr. WHITNEY. Well, the initial purpose of the United Corporation, as I testified on yesterday, was to bring into common ownership or in corporate form the holdings of certain groups. Those groups consisted of Superpower, ourselves, Drexel, Bonbright, Messrs. Day & Zimmermann who had previously some time sold certain holdings they had in the public utility field to United Gas Improvement, the interests of the Koppers Co. who held large blocks of United Gas Improvement Co. And then Mr. Bodine, then chairman of the board of U.G.I., had a certain amount. When we were considering and before we purchased any shares of either of these two companies, we had discussed the matter with the people who were then largely interested and represented on the board of U.G.I.; as I say, before we purchased or offered to buy, we asked if they wanted to purchase with us, or how they would feel about our becoming substantial stockholders. That was long before the idea of forming the United Corporation.

The CHAIRMAN. And the members of these groups that you have mentioned were holding companies? In other words, none was an active operating company at all? They were all holding companies?

Mr. WHITNEY. Well, the United Gas Improvement Co. and the Public Service Corporation are, in a way, both. The Public Service Corporation of New Jersey is, technically speaking, a holding company, although it owns its subsidiaries 100 percent, the gas and electric companies and certain traction interests in New Jersey. It may be technically correct to say that it is a holding company, but it is a

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holding company that does operating through subsidiary corporations. In the case of the U.G.I. I think about 40 percent of their total investments are in the form of a holding company, but they practically own all of the Philadelphia Electric, and they own practically all of the Wilmington Gas. So, in effect, they are an operating company through subsidiaries owned by the holding company, but obeying the statutes in different States. Obviously under the law they keep the capital structure of the operating companies under a different system. So the U.G.I. is both a holding company and an operating company.

Mr. PECORA. Well now——

The CHAIRMAN (interposing). That situation seems to lead to this: What is the use of forming another holding company to take stock in holding companies that already exist, in the form of another holding company, when all that they were interested in were holding companies?

Mr. WHITNEY. Well, by the same token—or, perhaps, I can explain it in this way: The Niagara Hudson, which ultimately was formed by a consolidation of the different groups operating along the northern tier of New York State, is also in the form of a holding company, but it holds practically 100 percent of practically all of the operating companies, so that the Niagara Hudson is, in effect, an operating company. To explain what I mean, take the Consolidated Gas Co. of New York City, and it operates gas properties but owns electric properties in New York. The New York Edison Co. is owned 100 percent by Consolidated Gas, but just because of various provisions of the charters of operating companies they keep these entities alive. Consolidated Gas may be termed a holding company, when in fact it is an operating and holding company. They have the electric business separate from the other. The United Corporation is a different type of company.

The United Corporation is in no sense an operating company, was never intended to be, and never has been in any sense an operating company. What I said before was that the active thought in forming the corporation came in really because of the introduction into the picture of Mohawk Hudson, because that involved an expenditure of something over 23 million dollars, and it was more than would have been prudent for any private firm to purchase. Now, we believed that the communities which were served in the beginning by those constituent parts were all right there on the Atlantic seaboard. We believed it gave investors an opportunity of diversification and of good investment. But the first purpose was to put into one pocket, if you want, or one corporation, in one corporate form, the holdings of these different groups to which I have referred, which were in U. G. I. and Public Service. Mohawk Hudson was quite a new element, in which these other people were not interested. All these groups, as shown by papers not yet introduced in evidence, but called for in the questionnaire, had the right, as you have seen it in the organization of the United, all were given practically the same terms and opportunities to come in, and all of them did that we discussed it with.

We believe that it was in the public interest to form such a holding company for the purposes of diversification. Opportunities

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were subsequently given to the holders of the U.G.I. and Columbia Gas & Electric to bring in, exchange, their securities that they then held for that diversified interest, and that we believe has served and is serving a useful purpose in the public interest, to have such a corporation with this minority interest in these different constituent parts.

Does that answer the question in part, Mr. Pecora?

Mr. PECORA. Well, when you say it was done, among other things, for the purpose of bringing about holding of diversified interests, does not it occur to you that these so-called "diversified interests" were all public-utility interests? There was not a diversification of interests, simply a diversification of the holdings of different public-utility companies.

Mr. WHITNEY. Of different—oh, it was quite frankly announced by us in the beginning, stressed, in fact, that it was a holding company to hold minority interests in public-utility properties. There was never any other idea at all other than that it should be holdings in public-utility companies. It was not in the sense of an investment trust where there was a wide diversification of investments purely from the investment point of view. It was quite frankly and deliberately a public-utility holding company.

Mr. PECORA. I recall that during the month of February this year Mr. Owen D. Young testified before this committee, or its predecessor in the Seventy-second Congress, and stated, among other things, that, in his opinion, the creation of holding companies superimposed upon holding companies was an unwise thing from the public standpoint. Do you recall reading anything about his testimony in that respect?

Mr. WHITNEY. Well, I remember the fact that Mr. Young did testify before this committee. My recollection would have been that that is only part of his testimony. I think, if I recollect correctly, that he was testifying in connection with certain Insull holding companies, wasn't he?

Mr. PECORA. He was testifying in connection with utility combinations commonly called the Insull interests.

Mr. WHITNEY. Yes. And it had reference more particularly to the question of bonds and fixed obligations put out on holding companies; and, of course, I assume that any form of corporate finance is subject to abuse if people want to. In that case, of course, it would be very unfortunate through the incurring of very heavy fixed charges upon equities, and based also upon very high prices upon those equities; so that the shrinkage in prices of those loans brought about a collapse. That is quite a different proposition from United, which has had practically, except for this floating debt of $11,000,000, no debt. No public money has been introduced as the basis of debt.

I didn't remember that Mr. Young had made the statement directly criticizing the formation of holding companies, and I didn't know that that was his opinion, because the whole matter of this formation of United was discussed with Mr. Young for many years prior to its inception. Of course, he was fully aware of our intentions in this connection, obviously, through his sale to us, and through the General Electric sale to us of the Mohawk. And at the time, I think it is fair to say, I don't think I had as many talks as some of my

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partners on the matter with Mr. Young, but I had several, and it is my very clear recollection that Mr. Young did think it was a wise thing and in the public interest to form United Corporation. I think Mr. Lamont could confirm that. Isn't that so (addressing Mr. Lamont)?

Mr. LAMONT. Yes.

Mr. PECORA. Mr. Young, as I recall it stated as an abstract principle wholly apart from any question of creation of indebtednesses, and so forth, that in his opinion with regard to public-utility companies the creation of any more than two holding companies with respect to any group of operating companies seemed to him to be not only unwise but wholly unnecessary from the public standpoint.

Mr. WHITNEY. Well, in this case, there is only one.

Mr. PECORA. In this case there is one holding company superimposed on top of several holding companies.

Mr. WHITNEY. Oh, I beg your pardon, Mr. Pecora. Again, if we talk technicalities and legal set-ups, in that sense that is a correct statement; but I do not think, with the exception of the Public Service Corporation of New Jersey or the Niagara Hudson or the Consolidated Gas or even the U. G. I., would be considered among people in the business as holding companies in the sense that Mr. Young referred to. I do not actually remember Mr. Young's testimony, because I have not read it. I remember reading it in the papers at the time.

But the U. G. I. is the only one, which, as I say, I think as to 40 percent of its total assets, are what we would mean by a holding company. In other words, the U. G. I. has an interest in the Niagara Hudson because of the fact that the U. G. I. sold to the Mohawk Hudson, a company that owned Syracuse, it has got an interest in Commonwealth Southern which it had through an interest it had in Southeastern Power & Light. It has a very substantial interest, but a minority interest, in the Public Service Corporation of New Jersey, but I think certainly over half of its assets are companies where it has 100 percent interest and really is an operating unit. I do not think, except for the technical fact of a set-up in the form of a holding company, they can properly be considered as holding companies in Mr. Young's sense of the word.

Senator COUZENS. Have you got along better since the creation of the holding companies than you did before their creation?

Mr. WHITNEY. Have we got along better?

Senator COUZENS. I mean the utility companies. Have the utility companies gotten along better since the creation of holding companies?

Mr. PECORA. You mean the operating companies, Senator?

Senator COUZENS. Yes.

Mr. WHITNEY. Yes; I should think that the formation, certainly, of these holding units, such as the U.G.I., has been very beneficial to the operating companies. It gives a—yes, I think it would be fair to say they have. The reason for it is in a case like the Public Service Corporation of New Jersey—take that as an example—the fact that certain charters these operating companies have which they would not want to merge them for the reason that they might forego certain privileges that are in their charters. As a matter of fact,

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in that particular case, there has been a lot of consideration given to whether they would merge the electric companies in New York City. It has never been done. It has never been proposed. But, generally speaking, with the U.G.I., for example, and the Wilmington Gas that it owns a 100 percent of, and the Philadelphia Electric—now, it would be obviously imprudent to merge those things, with one in the State of Delaware and one in the State of Pennsylvania.

Senator COUZENS. What would be the object of merging them or creating a holding company? What is the public interest in that matter?

Mr. WHITNEY. I do not think I understand. I am sorry.

Senator COUZENS. You stated that obviously you would not want to consolidate, as I understand it, the Delaware Gas Co. and the Philadelphia Rapid Transit.

Mr. WHITNEY. Yes.

Senator COUZENS. Well, why would there be any reason or public interest in having them either consolidated or held as a holding company?

Mr. WHITNEY. Oh, well, in many of these cases there is an interchange of power. They use certain facilities so that they can—for instance, I don't know in that specific case, but they use the same power over a whole system, so that if one corporation buys it from another, they keep the corporate form of separate entities; but, as a matter of fact, they are operated as one unit.

Now, the advantage to the public is, it would seem to me in that case of an operating holding company, that you can keep your costs down, which ultimately results in lower rates to the consumer.

Senator COUZENS. Did it keep the cost down?

Mr. WHITNEY. Well, I think—yes, sir; I think it did. I think that you will find that these properties, generally speaking—I don't pretend to be a public-utility expert—it is my impression that the properties within this so-called United group that we have been talking about, generally speaking, have rates—their general rates are among the lowest in this country. Now, Mr. Howard would know better than I can, and I think you will find that the Niagara Hudson, these other properties, have, generally speaking, lower rates, and the rates tended to be lower as economies have been effected.

Mr. PECORA. Might that not be due to the fact that these companies, the operating utility companies——

Mr. WHITNEY (interposing). I have been speaking of the operating utilities.

Mr. PECORA. Yes. Might that not be due to the fact that they operate in heavily populated sections of the country here in the East where cost of operation would be naturally cheaper?

Mr. WHITNEY. I am afraid, Mr. Pecora, that I am going to get myself over my depth talking rates on public utilities, because I don't pretend to know much about it. I suppose that is obviously one of the factors that would come into the matter, and also the question of the industrial commercial load. But I know I know very little about this.

The CHAIRMAN. Is not the function really of the holding companies not so much for the public interest but for the interest of the

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operating companies? Do not the holding companies dispose of stocks of operating companies, distribute the stocks, and furnish capital? Isn't that the real idea?

Mr. WHITNEY. You mean those so-called operating holding companies?

The CHAIRMAN. Yes.

Mr. WHITNEY. Yes; they do very greatly assist in the financing, because they have various sources in getting the money. That is another reason for keeping the separate entities. In very bad times, such as we have been going through, it is possible for the operating companies to borrow for the sake of—for the general good, where you would not be able to do it by the other way. It gives you more names to borrow with.

Of course, it must be obvious that any holding company, such as the United, where its only income is a profit and its very existence depends upon the proper conduct of these companies—now, whatever benefits the United as a large stockholder obviously benefits all the other stockholders. I mean they only got it as a stockholder.

As Mr. Howard has testified, there are no management contracts or no managerial connections at all. Now, I think it is fair to say that all of the executive officers of these operating companies whose stocks are owned by the United Corporation, every one of them believe that their job is to sell more and more of their product, which obviously tends to reduce the cost, and it has been a definite policy of all these companies within the United—this group of companies—to try to reduce their rates, for the perfectly selfish reason, if you want. In that way you increase the consumption of the power or the gas or electricity. It is a plain business proposition that every time you can reduce your rates you reach a wider circle of customers.

Senator COUZENS. But I also find that in the regulation of the railroads and in the regulation of the operating utilities by State commissions they have great difficulty under the laws of the States and of the Federal Government in reaching the holding companies to get service and information, and it was testified in one of the hearings here, I remember, that obviously the holding companies at times were created for the purpose of evading service either by the Federal agencies or the State agencies.

Mr. WHITNEY. I think that has been true. That would not apply to any of this group of companies now within the United.

Senator COUZENS. That may be true. I was speaking in general terms.

Mr. WHITNEY. I think that has been true; yes, sir.

Senator COUZENS. And in that case, of course, the holding companies are against public interest.

Mr. PECORA. I have before me now the printed copy of the testimony that Mr. Young gave before this committee on February 16, 1933. Let me read just enough from it to inform you of the substance of Mr. Young's opinion.

Mr. WHITNEY. Will you read enough of it to get the context?

Mr. PECORA. Yes; I will. [Reading:]

Question. Mr. Young, would you say that the system of superimposition of company upon company in a structure of that kind would easily lend itself to overcapitalization of the various companies?

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Answer. It would lend itself, I think, to overcapitalization, but it is not that aspect, or not that so much, which disturbs me. It is this: If I am right in thinking that Mr. Insull himself was not able ultimately to understand that structure, how can the ordinary investor, buying shares or buying obligations, especially of the last companies, on the top, how can they be expected to know, or even to inform themselves, conscientious and able as they might be, really as to the value of those securities?

Question. On that proposition, Mr. Young, isn't there some duty on the stock exchange where those things are dealt in to protect the public from losses in buying that sort of stock?

Answer. I am not casting reflections on those shares, Senator, at the moment, or on any shares in these holding-company groups. All I am pointing out is that I think it is unfortunate that we should have developed such a complicated financial structure.

Senator BROOKHART. Well, is it right that those stocks and bonds should be listed on stock exchanges and sold to the public at large without a duty or any obligation of that kind?

Mr. YOUNG. Well, I think it would be better, stock exchange or no stock exchange, to try and work toward the objective in this country of having these structures simplified.

Mr. PECORA. How would you provide for that, if you care to give the committee your views and suggestions about it?

Mr. YOUNG. I should like to see us work toward the end of having not more than one holding company superimposed on the operating companies in the public-utility field.

Senator BROOKHART. Why have any?

Mr. YOUNG. I think there is a very real reason, Senator, for having a holding company. A public-utility company, in the first place, has to be organized in the State of its operation, and should be. It does, as Mr. Insull, Jr. said this morning, a purely local business.

There is a great advantage, not only from the standpoint of connecting different units with transmission, but there is a great advantage on the technical side in unifying those different operating companies, and there is also on the financial side justification for it through diversifying the risk. If you take one operating utility in an industrial community, and another operating utility in an agricultural section which produces cotton, and another operating utility in an agricultural section which produces wheat, and another operating utility perhaps in the fruit district of California, I think you will find that the securities of that holding company, in which all those utilities are grouped——

Senator BROOKHART (interposing). Why do you need to group them?

Mr. YOUNG. Excuse me. Is a safer investment than an investment in any one of those operating companies. For instance, if the cotton crop fails your utility earnings there may go down; if the fruit crop fails they may go down there; if the industry of a particular town is paralyzed they may go down there; but the general average, if you can create a situation where, through holding company, the earnings of these utilities have something like the same diversity that the country itself has, then you get in the security of the holding company a better security through diversification, especially in the common shares, than you would in any one operating company.

Now, that testimony appears at pages 1516 and 1517 of the printed copy of the minutes of the hearings before the subcommittee on February 16, this year.

Mr. WHITNEY. Mr. Pecora, I think that if I had been testifying with reference to the so-called "Insull properties", which, as you know better than I do, have a succession of holding companies and holding companies, three or four tiers of them in some cases, I would not have been able to express myself as well as Mr. Young did, but I think I would have felt very much the same as he does.

Mr. PECORA. If you notice in this testimony, Mr. Young is addressing himself generally to the question of the wisdom or advisability or necessity from the public standpoint of having more than one holding company for a group of operating utility companies.

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Mr. WHITNEY. I fully appreciate the latter part of what you said. He does address himself to that, and I still feel that the companies in the United group or the United Corporation would still be exempt from Mr. Young's testimony there as not breaking his rule of what he things is wise.

I still consider, in spite of the technical fact that the—I make the exception again so there will be no misunderstanding about it—that the U.G.I. has got to the extent of a portion of its assets a purely holding company aspect. With that exception I consider that still the United is exempt from the criticism of Mr. Young's testimony as being only one holding company superimposed upon what in effect or actually are operating companies, although their technical, legal form is that of holding companies.

Senator COUZENS. Let me ask this question.

Mr. WHITNEY. Yes, sir.

Senator COUZENS. Assuming, for instance, that one holding company purchases 40 percent of an operating company and another holding company purchases 20 percent of the same operating company, and another holding company purchases only 20 percent of the same operating company.

Mr. WHITNEY. Yes, sir.

Senator COUZENS. Isn't there likely to be considerable conflict in a case of that sort?

Mr. WHITNEY. Why, certainly. It is susceptible of conflict if they had divergent views as to what was the proper way that their investment was being handled. Certainly it is susceptible of conflict.

Senator COUZENS. Now, let me ask this question: Assuming that I was a prospective investor in the United Corporation and I wanted to get at the real value of the stock and the possibilities of it. Would I not have to take all those list of companies in which you had an interest and analyze their operating costs and their earnings to get at a true value of the investment?

Mr. WHITNEY. Yes, sir. That has always, of course, been true, and it has been a full disclosure always by the United, so that you as a prospective buyer, if you were, would know just where you could look to find out the intrinsic value of the United Corporation, because, obviously, it is based purely on the equities of these various companies held in its portfolio.

Senator COUZENS. It would be some job, though to take all these companies and analyze them before I invested in United, to know——

Mr. WHITNEY (interposing). Yes, sir; it might be quite a job.

Senator COUZENS (continuing). Whether it is a good company.

Mr. WHITNEY. But if you were a prudent or careful investor——

Senator COUZENS (interposing). I am. [Laughter.]

Mr. WHITNEY (continuing). You would not think that was too much trouble to take before you invested your money.

Mr. PECORA. Isn't it possible, though, Mr. Whitney, through the medium of holding companies superimposed on other holding companies which in turn have operating companies underlying them, for a group controlling the top holding company to virtually hold in its hands the reins of the operation of all the underlying operating companies at a minimum investment? Does not this scheme of superimposition of holding company on top of holding companies lend itself to that sort of thing?

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Mr. WHITNEY. Why, certainly. If you build up a suppositious case of holding companies upon holding companies until it pyramids down, certainly it is possible. I do not pretend to argue with you on that, because we know of instances where it has been done. We have a public record of certain instances. One—well, no use talking about them particularly, but there are cases where certainly it is possible.

But that again is not applicable—my only contention is that that possibility is not applicable to the United Corporation. We are not charged or responsible for what other things might be done. We are only responsible for what we do do.

Senator COUZENS. May I ask you in that connection if you believe that it is possible from a legislative standpoint to correct those evils which have grown up in the holding companies?

Mr. WHITNEY. You mean by some regulation or control?

Senator COUZENS. Yes.

Mr. WHITNEY. I should think so; yes, sir.

Senator COUZENS. Do you think it would be advisable?

Mr. WHITNEY. Yes; certainly.

Mr. PECORA. Do you agree generally with the philosphy with regard to these holding companies that is expressed by Mr. Young in his testimony before this committee last February?

Mr. WHITNEY. I stated I did, Mr. Pecora, with the qualification I made, yes.

Mr. PECORA. The qualification you make is such a qualification as you say applies to the United Corporation?

Mr. WHITNEY. That was not the qualification I made. The qualification I made, I agree with his philosophy in the first part of what you read, and I still say that I think the United comes within the scope of what he thinks is permissible or as much as he thinks is permissible.

Mr. PECORA. What he thinks is permissible or should be permissible is one holding company.

Mr. WHITNEY. That is just what we have got, one holding company.

Mr. PECORA. The United is one holding company, but it holds the securities, it invests in the securities of several other holding companies, which in turn have a number of operating companies underlying them. Isn't that the very thing that Mr. Young condemned?

Mr. WHITNEY. Mr. Pecora, if I am to answer strictly on the technical facts, I have already said that that is true, but my contention is that the companies that form the holdings of the United Corporation, while their technical, legal purpose is that of holding companies, with the exception of United they are, in fact, operating companies.

Mr. PECORA. Does the United Corporation—and I am asking you this question, Mr. Whitney, because you have been on the board of directors of that company almost from its inception till up to the present moment—does the United Corporation attempt to influence the operating companies, the conduct of their business?

Mr. WHITNEY. It does not.

Mr. PECORA. How then does it work, or has it sought to work toward the improvement of service to the public through the effecting of economies in operation, and so forth?

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Mr. WHITNEY. Well, because, I suppose the answer to that is, that it has worked in sympathy with the attitude of the managements who were in these various companies before United Corporation was formed, and it found, the United Corporation has found, that its point of view toward the public relations end of these various companies is identical with that of the executive management who were in office in those respective companies before United Corporation was formed.

I don't know that this is an answer to your question, but it has been raised 2 or 3 times here, and that is that working on a board of directors is not a series of conflicts; it is a question that you are there for the mutual advantage of everybody concerned, and you are trying to do just as well for your company as you can.

That is what the duty of a board is. That is the duty of the United. As I said a few minutes ago in answer to Senator Couzens' question, we obviously want these companies that we hold stocks of to prosper, and if they do prosper, obviously the United benefits as a stockholder and all the other stockholders benefit. The purpose of a board of directors is only, as far as I know, to watch and see that the management of a corporation, of that particular corporation, is efficient, effective, and generally on the job. Now, after that you leave it to the people who know their business. It is not constant criticism, but no outsider can know as much about the operation of a company as the people who are running it, and the theory, our theory at least, of J. P. Morgan & Co., has always been to try to insure that the management is efficient and then to put your confidence in the management; let them run each business, because they know a great deal more about it than we do.

Senator COUZENS. Did you ever have a battle of proxies like Mr. Stewart and Mr. Rockefeller had?

Mr. WHITNEY. To the best of my knowledge and belief we have never been in a proxy fight. Is that true, Mr. Morgan?

Mr. MORGAN. Which one is this?

Mr. PECORA. The Standard Oil Co. of Indiana.

Mr. WHITNEY. Have we ever had a proxy fight, Mr. Morgan?

Mr. MORGAN. I never remember having any proxy fight at all, except at times when we were reorganizing a railroad and had to get the proxies to get the management changed, because the management obviously had to be changed.

Senator COUZENS. And in that event the management was trying to get proxies also?

Mr. MORGAN. I think so.

Senator COUZENS. You did have those contests for proxies?

Mr. MORGAN. Well, we had to get proxies when we were asked to reorganize the railroad and had to do it in that way.

Mr. WHITNEY. But I don't think in the normal conduct, certainly not in the last 15 or 20 years, my recollection is, have we ever had what you mean by a struggle for proxies against the management of a going concern.

Mr. PECORA. What things have actually been done by the United Corporation to effect an improvement of service of the operating companies to the public, either through economies of operation or any other way?

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Mr. WHITNEY. Oh, I would not know enough of my own knowledge to answer that question. You know, which I don't think United deserves any credit for, that during these last hard times all these companies have effected very material economies. I don't think that the United per se can claim the credit for that as much as the executive management. I am on only one of these companies, and that is a very minor interest. Mr. Howard would be very much more competent than I to talk on that subject. But there have been economies, I know that, very material ones, as their statements show. Of course, equally obviously, the earnings of these companies, due to falling off in general business, are not as good today as they were in 1928 and 1929, and during that process of tearing down, like all other corporations in the country, they have had to look to their knitting generally to keep their expenses down.

Mr. PECORA. The economies you speak of were made at the same time that other business organizations throughout the country, in the last 3 years, have found it necessary to institute in order to adjust themselves to the trend of business?

Mr. WHITNEY. Certainly.

Mr. PECORA. Have those economies, to your knowledge, been reflected in the rates to the consumer, reductions in rates commensurate with those economies?

Mr. WHITNEY. I can think of two instances, at least since 1929 where there have been reductions in rates in the properties the stocks of which were held by United. I am fairly confident that there are a great many more. Unfortunately these companies, in common with most all other companies in the country in the last 3 years—business has fallen off a great deal faster than it has been possible to economize.

Mr. PECORA. Have those reductions been made voluntarily, upon the initiative of the operating companies, or are they reductions that have been forced upon them by utility commissions or other regulatory bodies?

Mr. WHITNEY. The two cases which I remember specifically were voluntary. One of them was in New York City, about 2 years ago, where they made economies which they estimated would be a saving to the consumers of about five and a half million dollars, but with the result of declining business it actually saved the consumers, or lost that company, about eight and a half million dollars. The other case I specifically have reference to was a Philadelphia company. Mr. Stanley reminds me it was electric rates in Philadelphia. They were also voluntarily reduced. I am pretty sure, without knowledge, that there have also been voluntary reductions in rates in various towns up in New York State, on the Hudson but I do not remember how many. They have all been voluntary, though, Mr. Pecora.

Senator COUZENS. Do you think this customer-ownership company was a good scheme, where the companies go out and get their customers and stockholders and control them somewhat like the Detroit Edison Co.?

Mr. WHITNEY. Senator Couzens, I think that is a very arguable question. It used to be thought to be a fine scheme until the stock market went down; and now it is not thought to be quite so good.

Senator COUZENS. Have you ever made any effort to get control of the Detroit Edison Co.?

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Mr. WHITNEY. No, sir.

Senator COUZENS. Do you think that the drop in the stock market is the only reason that the customer-owner scheme is not regarded so well?

Mr. WHITNEY. No; I do not. Insofar as I have an opinion on it, I should think that it is one of those things that in theory is better than in practice, because it does not seem to me, personally, that there is any relation between a customer of a public-utility company or of a telephone company and the fact of its investment policy, the theory that it is going to make him more interested in using whatever he is buying from the company. I believe it is better to induce him to use it by making fair rates and giving good service, and all the rest of it, rather than by trying to combine the two theories as to whether he happens to have an investment and is going to be more interested. Personally I know of a lot of companies that thought it was the thing to do, and have done it; namely, the telephone company which sold preferred stocks of various of their operating companies, but I do not think they think it has been a very great success.

Senator COUZENS. In that case, assuming you were able to distribute 60 or 70 percent of your stock among your customers, obviously that would leave a very small minority in control of the corporation would it not?

Mr. WHITNEY. You mean, if we did in this particular instance?

Senator COUZENS. In any particular case. Assuming that an operating utility company sold its stock to its customers up to, say, 60 or 70 percent, that would leave a very small minority in control of the corporation, would it not?

Mr. WHITNEY. If you assume that the balance was held in some concentrated hands?

Senator COUZENS. Yes.

Mr. WHITNEY. Yes, sir.

Senator COUZENS. That does, in fact, almost perpetuate the management, does it not?

Mr. WHITNEY. It might have that effect, certainly. One of the theories of this customer-ownership, of course, has been interesting the people in rates and things of that kind, and better relations. It would certainly in the case you mention, Senator, perpetuate the management.

Mr. PECORA. Mr. Whitney, do you recall a meeting of the board of directors of United Corporation at which there was discussed a proposal for the United Corporation to purchase from Mr. P. G. Gossler, then the president of Columbia Gas & Electric Corporation, a certain quantity of stock of the Columbia Gas & Electric Corporation?

Mr. WHITNEY. Was I at the meeting? I remember the discussion all right. I do not remember the meeting. I remember the fact that it was discussed, but I have no knowledge of the specific meeting. Was I there? I suppose I was.

Mr. PECORA. Can you give the committee the substance of your best recollection of that transaction?

The meeting was held on the 4th of February 1929 at the office of Messrs. J. P. Morgan & Co.

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Mr. WHITNEY. My best recollection, of course, antedates that meeting by some—oh, over a month, because the discussion took place as to the acquisition of these 50,000 shares you have reference to, back in December, and we, as a matter of fact, as we have advised you, with the approval of the organizers who ultimately became the directors, purchased as agent on account of this company and agreed to purchase 50,000 shares from Mr. Gossler on the 28th of December.

Mr. PECORA. 1928?

Mr. WHITNEY. Yes; on the 28th of December 1928 we, as agents, with the approval of the Bonbrights and ourselves, who ultimately became the directors, entered into this agency contract with Mr. Gossler to purchase from United Investments, Inc., through Mr. Gossler, this stock, with payment at some later date. So this meeting to which you actually refer was a formal ratification of the purchase which had been agreed upon on December 28.

Mr. PECORA. For whom were you acting as agents?

Mr. WHITNEY. For a corporation in process of formation and which actually was created in 9 days.

Mr. PECORA. Known as the United Corporation?

Mr. WHITNEY. Right.

Mr. PECORA. In connection with these negotiations which culminated in the actual purchase by the United Corporation of 50,000 shares of common stock of Columbia Gas & Electric Corporation from Mr. Gossler, was any arrangement made whereby Mr. Gossler was enabled to purchase some of the common stock of United Corporation at a price below the market price of that stock?

Mr. WHITNEY. You mean at that time, on December 28?

Mr. PECORA. At any time.

Mr. WHITNEY. He did purchase the stock at $25 a share.

Mr. PECORA. When?

Mr. WHITNEY. Let me see if I have it down here [referring to memoranda]. It was some time very shortly after the organization, and it was determined that he should have that stock at $25 a share at the time we were organizing but before we had organized the United; but it had no connection, as far as he was concerned, whatever with this 50,000 shares purchased.

Mr. PECORA. Let us see if there was any connection between the two. Let me read to you the following entry from the minutes of a special meeting of the board of directors of the United Corporation held at the office of Messrs. J. P. Morgan & Co. on the 4th day of February, 1929, at 2:30 p.m. [Reading:]

Present: Messrs. George Whitney, Thomas Gates, Alfred L. Loomis, and George Roberts. Absent: Mr. L. K. Thorne they being all the directors of the corporation.

Mr. Whitney acted as chairman of the meeting and Mr. Roberts as secretary. The chairman stated that in connection with the purchase for the United Corporation from P. G. Gossler, president of Columbia Gas & Electric Corporation, of stock of the Columbia Gas & Electric Corporation, an agreement had been made, subject to the approval of the board, to sell to Mr. Gossler 5,000 shares of the common stock of the United Corporation at $25 per share. The chairman stated that he thought a close relationship with Mr. Gossler would be to the advantage of the United Corporation.

Thereupon, upon motion duly made and seconded and unanimously adopted, it was resolved that the sale to Mr. Gossler of 5,000 shares of common stock of the United Corporation at $25 per share be made, and hereby is ratified, approved, and confirmed.

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And it is further resolved that of the consideration received $5 per share be deemed to be capital and the balance be added to the paid-in surplus of the corporation.

Does not that entry indicate, Mr. Whitney, that the sale of those 5,000 shares of the common stock of the United Corporation at $25 per share to Mr. Gossler was connected with the negotiations or transactions under which the United Corporation purchased 50,000 shares of the common stock of Columbia Gas & Electric from Mr. Gossler?

Mr. WHITNEY. It does, Mr. Pecora, and I apologize for my previous answer; and it shows the danger of answering from memory, without getting my papers so I could look at them. It clearly does. My first answer was clearly wrong.

Mr. PECORA. Why was it necessary in order to enable the United Corporation to buy 50,000 shares of the common stock of the Columbia Gas & Electric from Mr. Gossler to make available and to sell to Mr. Gossler 5,000 shares of the common stock of United Corporation at $25 a share?

Mr. WHITNEY. There is nothing in that minute that you read that showed it was necessary. It merely showed it was done. I could not tell you. I am fairly sure there was no necessity. I think the connection is fairly obvious; that Mr. Gossler was the president of the Columbia Gas & Electric. Mr. Gossler evidently thought it would be to the advantage of his company in some way. He still had a great deal of stock remaining of the Columbia Gas & Electric. He clearly thought it would be an advantage to his company in some way to have the corporation formed, and I suppose he felt that he would like to have an opportunity to come in on the basis of its organization. I think you said I stated that we believed it would be to the interest of the United Corporation to have Mr. Gossler as a stockholder.

Mr. PECORA. As it was stated by you, according to the minutes. You stated that you thought a close relationship with Mr. Gossler would be to the advantage of the United Corporation; but you also stated previously, according to these minutes, that "in connection with the purchase for the United Corporation from Mr. P. G. Gossler, president of Columbia Gas & Electric Corporation, of stock of the Columbia Gas & Electric Corporation, an agreement had been made subject to the approval of the board, to sell to Mr. Gossler 5,000 shares of the common stock of the United Corporation at $25 per share."

Now, let me say that, according to my research, Mr. Whitney——

Mr. WHITNEY. I do not deny that.

Mr. PECORA. According to my research, the market price of the common stock of the United Corporation on the day when this sale was consummated, namely, February 4, was not $25 per share, but $55 a share.

Mr. WHITNEY. But you also read, Mr. Pecora, at the time, in that very minute—it states that it was arranged to sell him stock in this corporation on the date the sale by him to us as agent was made, which was December 28. So that, obviously, we had no knowledge of what the market was going to be on the date it was consummated. It was apparently agreed to sell him stock in the company, and in the statement that you have read here it states that it was done

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in connection with the purchase by us as agent on account of this company, when, as, and if formed, to sell the stock of the company.

Senator COUZENS. Whose 50,000 shares was that?

Mr. WHITNEY. His own personal—or, rather, it was owned by the company that I read here——

Senator COUZENS. It was not stock that came out of the treasury of the Columbia Co.?

Mr. WHITNEY. No, sir.

Mr. PECORA. The 50,000 shares of the Columbia Gas that enters into the transaction were owned by Mr. Gossler personally or by some corporation?

Mr. WHITNEY. No. May I just read what we said here? I did not remember the name of the company. We as agents purchased on January 8 for the United Corporation, from United Investments, Inc., 50,000 shares of Columbia Gas, $6,762,000, with interest at December 28. This stock was acquired in pursuance of an arrangement made with Phillip G. Gossler for its sale at the above price.

Senator COUZENS. How did Mr. Gossler come to have control of the 50,000 shares of this investment company?

Mr. WHITNEY. He owned all of the stock of this United Investment Co.

Senator COUZENS. So he was selling the assets of his own company?

Mr. WHITNEY. Yes.

Mr. PECORA. You do not dispute, do you, that on the date of the consummation of this sale, namely, February 4, 1929, Mr. Gossler received 5,000 shares of the common stock of United Corporation at a total price of $150,000 below the market value of those shares on that date?

Mr. WHITNEY. Again, Mr. Pecora, I cannot do arithmetic in my head as fast as you can.

Mr. PECORA. There were 5,000 shares that had a market value of $55 a share that were sold to Mr. Gossler for $25 a share, or $30 a share below market price—30 times 5,000.

Mr. WHITNEY. That yould be $150,000. I do not deny that at all; but I again call your attention to the fact that that was the day the arrangement was consummated, that had been entered into on December 28 before the United was formed and before there was any possible knowledge on our part as to what the market was to be.

Mr. PECORA. Is there any written evidence of the arrangement you have referred to, the arrangement made between the organizers of United Corporation—which, as I understand it, were J. P. Morgan & Co. and Bonbright & Co.—and Mr. Gossler?

Mr. WHITNEY. Of course, there were no minutes or anything of that kind.

Mr. PECORA. Was there any written agreement?

Mr. WHITNEY. I think that you have introduced the only written testimony there is, namely, the minutes of the meeting, which apparently were satisfactory to all the members of the board that were present, and also those at that time were members of the two firms that organized the United. So it seems to me to be—I rather think that is all the written evidence there is, because I know of no other.

Mr. PECORA. You do not point to these minutes as an agreement made by the organizers of United Corporation with Mr. Gossler, do you?

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Mr. WHITNEY. Certainly not.

Mr. PECORA. These minutes are simply self-serving declarations that there was such an agreement made at some prior time, are they not?

Mr. WHITNEY. I think they might be reasonably interpreted, however, to be an acknowledgment of the fact by the directors of the United that such an arrangement had been made, because that is a recital.

Mr. PECORA. Was there ever any written agreement evidencing that arrangement that was actually formally entered into between the organizers of the United Corporation and Mr. Gossler?

Mr. WHITNEY. May I just inquire of Mr. McCanliss?

[After conference.] I am advised by Mr. McCanliss, Mr. Pecora, that this particular question has never been raised before by you or any of your investigators, and we have never had occasion to check whether there was or not.

Mr. PECORA. Have you any recollection at this time of any such agreements having been entered into in writing with Mr. Gossler?

Mr. WHITNEY. No.

Mr. PECORA. Or with any member of the corporation representing Mr. Gossler?

Mr. WHITNEY. No; but that would not mean anything at all, because a great deal of the business done is done on the given word.

Senator COUZENS. So, in all probability, on December 28 you gave your word?

Mr. WHITNEY. We agreed to do it; yes. Whether it was confirmed in writing I just do not know.

Senator COUZENS. What date was United organized?

Mr. WHITNEY. December 28.

Senator COUZENS. So on that date there was no market value for United?

Mr. WHITNEY. No, sir. We just agreed to sell him the shares at whatever price they were issued at.

Mr. PECORA. Mr. Whitney, let me call your attention to the minutes of a special meeting of the board of directors of the United Corporation held on the 16th day of January 1929 at 3:30 o'clock in the afternoon, at which you were present, according to the minutes, and acted as the presiding officer of the meeting. Have you the minutes before you?

Mr. WHITNEY. No; I have not any minutes.

Mr. PECORA. I will read from the minutes, as follows:

> Mr. Whitney stated that J. P. Morgan & Co. had recently purchased as agent 50.000 shares of the common stock of Columbia Gas & Electric Corporation at $135 per share at an aggregate net cost, including interest and crediting dividends, of $6,711,125, and that the question of the ratification of this purchase should be submitted to the meeting. Thereupon, on motion duly made and seconded, Mr. Whitney not voting, it was unanimously resolved that this company ratify and adopt the purchase by J. P. Morgan & Co. of 50,000 shares of common stock of Columbia Gas & Electric Corporation, and that the proper officers of this company be, and they hereby are, instructed to reimburse J. P. Morgan & Co. for the net cost of such purchase, or $6,711,125.

Does my reading of the minutes recall that transaction to you, Mr. Whitney?

Mr. WHITNEY. Recall what transaction—the one we have just been talking about?

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Mr. PECORA. The one I have just read from the minutes.

Mr. WHITNEY. Why, certainly. I recalled it before.

Mr. PECORA. That is the same transaction that you testified to when I questioned you about certain entries in the minutes of the meeting of he board held on February 4, 1929?

Mr. WHITNEY. Yes. I, of course, remember it was ratified. I do not remember the date. I remember the transaction was obviously ratified by the board.

Mr. PECORA. I am reading from a photostatic copy of the minutes that were obtained from your firm or through your firm——

Mr. WHITNEY. Oh, certainly; I am sure of that. It didn't come from our firm, because we did not have it.

Mr. PECORA. Then, through the United Corporation. Has not your firm got a duplicate copy of the minutes of the United Corporation board meetings, as a matter of fact?

Mr. WHITNEY. I think Mr. Keyes testified this morning that we did not. He tells me that he had them as treasurer at one time, but when he ceased to be treasurer he turned them over to the United.

Mr. PECORA. Well, I see no mention in the minutes of the meeting of the board held on January 16, 1929, of this other portion of that agreement that apparently was made with Mr. Gossler, namely, that portion under which the United Corporation undertook to sell as part of this transaction to Mr. Gossler 5,000 shares of the common stock of United Corporation. Can you tell this committee why the entire arrangement was not referred to by you at this meeting of the board on January 16, 1929?

Mr. WHITNEY. I have not got the remotest recollection. I did not write the minutes. I thought you just read some minutes of a later date in which it was brought out.

Mr. PECORA. Of course I did; and that is why I am now asking you why it was that you did not bring out the entire transaction at the earlier meeting of January 16, 1929.

Mr. WHITNEY. I have not got the remotest recollection one way or the other. You see this company that was just formed——

Mr. PECORA. Are you now telling us something as the result of some memorandum handed to you by Mr. McCanliss?

Mr. WHITNEY. Do you want to see it?

Mr. PECORA. No; I am asking you.

Mr. WHITNEY. No; it is something that I have already testified about. I was just going to repeat it, and that is the fact that the directors of the United Corporation were 4 individuals, I think, at that time——

Mr. PECORA. Five.

Mr. WHITNEY. Five?

Mr. PECORA. Four indicated as present, yourself, Mr. Loomis, Mr. Thorne and Mr. Roberts, and Mr. Gates' absence is noted.

Mr. WHITNEY. I cannot remember Mr. Roberts, but Messrs. Thorne, Loomis, and myself, as has been testified here and was announced at the time, were among the organizers of the company. They became directors of the company. All these matters that I have been talking about in connection with this transaction were fully known to the organizers.

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Why it was not included in the minutes or why I did not bring it up, or whether I brought it up and it was not included in the minutes, I just cannot answer, because I don't know; but it must be remembered through all these initial steps of formal ratification of transactions the same people or the same individuals were acting, prior to the organization, as organizers, and after organization as directors. So that why the minutes did not cover it I do not know.

Mr. PECORA. The minutes of the meeting on January 16, 1929, appear to have been signed by George Roberts, who acted as secretary of the meeting. That is the same Roberts who is a member of a well-known law firm, is it not?

Mr. WHITNEY. Mr. Roberts was the individual who looked after the legal details of the formation of United and in behalf of Bonbright & Co. As I have said earlier, Messrs. Davis, Polk, Wardwell, Gardiner & Reed went over all the legal details of the formation of the United in our behalf, and Mr. Roberts was a member of the firm of Winthrop, Stimson, Putnam & Roberts, and a lawyer.

Mr. PECORA. Wasn't it customary at meetings of the board of directors to read the minutes of the preceding meeting?

Mr. WHITNEY. I cannot remember whether we did. Sometimes they are dispensed with. There were meetings being held, as you already have brought out, every day there. I suppose they read them. I cannot remember that.

Mr. PECORA. I have not brought out that they were held every day.

Mr. WHITNEY. You did with Mr. Howard. The 8th, the 9th, and there were a lot of them along there. To my recollection, that is, they were read; yes, but I could not swear to it.

The CHAIRMAN. Who kept the minutes, Mr. Whitney? Who actually kept the minutes?

Mr. WHITNEY. The physical possession of them?

The CHAIRMAN. Wrote them down. Prepared them?

Mr. WHITNEY. Well, in that instance Mr. Pecora said that Mr. Roberts signed them; acted as secretary.

The CHAIRMAN. My question was generally; not at that particular time. But who generally kept the minutes of the meetings which you held. Was it changed from time to time?

Mr. WHITNEY. Well, my recollection again, Senator Fletcher, would be that during those preliminary days the lawyers—generally Mr. Roberts—were always present, and I think they kept them. Subsequently Mr. Howard will have to tell you, because I just don't know. Who drew them? Mr. Roberts?

Mr. HOWARD. George Roberts and Semler.

Mr. PECORA. George Roberts or Mr. Semler?

Mr. WHITNEY. Yes.

Mr. PECORA. Mr. Semler is also an attorney connected with Mr. Roberts' law firm, isn't he?

Mr. WHITNEY. Right.

Mr. PECORA. Is it not a fact that Mr. Philip G. Gossler was one of the gentlemen who was invited to subscribe for units of United Corporation at $75 per unit during the month of January 1929?

Mr. WHITNEY. I will tell you in just a second. [After examining record.] Yes, sir; 2,000 units.

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Mr. PECORA. Two thousand units. Was he not also invited to subscribe for 2,500 units of Standard Brands, Inc., at $32?

Mr. WHITNEY. Do you mean shares?

Mr. PECORA. Shares, rather. Thank you. Two thousand five hundred shares of Standard Brands, Inc.?

Mr. WHITNEY. I will look it up just to be sure, but I guess almost certainly. [After examining record.] Yes, sir; 2,500 shares.

Mr. PECORA. Wasn't he also one of the gentlemen invited to subscribe for the common stock of the Alleghany Corporation in February 1929 at $20 a share to the extent of 1,000 shares?

Mr. WHITNEY. Again let me look. But I assume that he was. [After examining record.] Yes, sir; 1,000 shares.

Mr. PECORA. Now, during the month of August 1929 did J. P. Morgan & Co. purchase any of the units of the corporation called the Niagara Hudson Power Corporation?

Mr. WHITNEY. It did.

Mr. PECORA. What did those units consist of?

Mr. WHITNEY. That is too complicated for me to try to remember in my mind. (Mr. Whitney asked for a record.) While I am waiting, Mr. Pecora. Of course, units were sold, I think, at a total of $50,000,000 worth, in order to place the property, the Niagara Hudson, which was being the result of a merger of three general groupings of companies in northern New York State, in cash. And the units—I will have to wait until I can read what they were. What the unit was of a share of stock.

The CHAIRMAN. This Mr. Gossler was president of the Columbia Gas & Electric Corporation, was he?

Mr. WHITNEY. Yes, sir. I find I have no description here, Mr. Pecora. But if you will——

Mr. PECORA. Well, my memorandum indicates that each unit consisted of one share of common stock.

Mr. WHITNEY. Right.

Mr. PECORA. One class A warrant and one 5-year class C warrant.

Mr. WHITNEY. Right.

Mr. PECORA. And that Niagara Hudson Power Co., on August 19, 1929, sold 2,000,000 of those units.

Mr. WHITNEY. At $25.

Mr. PECORA. At $25 per unit.

Mr. WHITNEY. That is right. That is if my recollection is correct.

Mr. PECORA. And is it also your recollection that your firm purchased 200,000 of those units at $25 per unit?

Mr. WHITNEY. With Bonbright; yes.

Mr. PECORA. With Bonbright. In equal proportions with Bonbright?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. At the time that your firm acquired those 100,000 units of Niagara Hudson Power Corporation at $25 per unit did your firm invite various persons to subscribe for or to purchase those units from it at the same price, to wit, $25 per unit?

Mr. WHITNEY. Well, to answer that question accurately, we and Bonbright bought 200,000 units, and Bonbright and we offered a certain number of units to the total of 56,500—no, 54,000 units—to certain individuals.

Mr. PECORA. It is 54,000 or 56,500?

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Mr. WHITNEY. Well, it is 56,500, but the last item I see there is 2,500 to J. P. M. and Bonbright, so we offered them to ourselves, so it makes the net 54,000.

Mr. PECORA. I show you the last 2 pages of this document which was furnished to me by your firm, or in its behalf, in answer to so-called "question 37" which sheets are entitled "Niagara Hudson Power Corporation units." Will you please look at it and tell us whether the names that appear on those last two sheets are the names of the various persons who were invited by your firm and by Bonbright & Co. to sucribe for these units at the cost price to yourselves?

Mr. WHITNEY. It is right.

Mr. PECORA. I offer that list in evidence and ask that it be spread on the record. That is the last two pages of this document.

The CHAIRMAN. It may be admitted and placed on the record.

(List headed "Niagara Hudson Power Corporation Units" was marked "Committee Exhibit 37 of June 1, 1933", and is here printed in the record in full, as follows:)

COMMITTEE EXHIBIT No. 37

Niagara Hudson Power Corporation units preferred list

	Units		*Units*
Thaddeus R. Beal	1,000	H. C. McEldowney	1,500
George T. Bishop	1,000	R. B. Mellon	1,000
Samuel T. Bodine	500	S. Z. Mitchell	3,000
Charles S. Brewer	500	E. B. Morris, jr	500
Morris Clothier	500	Wm. H. Putnam	500
B. C. Cobb	4,000	J. Henry Roraback	500
Harvey C. Couch	500	Charles S. Ruffner	500
Arthur V. Davis	2,000	R. P. Stevens	7,000
Charles Day	1,000	O. P. Van Sweringen	4,000
W. C. Dickerman	1,000	E. L. West	2,000
Samuel Ferguson	500	John L. Wilkie	1,000
Philip G. Gossler	1,000	Owen D. Young	6,000
C. E. Grossbeck	2,000	J. P. Morgan & Co. and Bonbright & Co	2,500
George H. Howard	10,000		
T. N. McCarter	500		
Uzal H. McCarter	500	Total	56,500

Mr. PECORA. Do you know what the market price was for these units on the date they were offered to these various persons at $25 per unit?

Mr. WHITNEY. I think I have got a paper here. Have you got that paper [addressing an associate]? No; I do not. I have not got any figures here to refresh my memory, Mr. Pecora, but my recollection is that there was a market for—had been a market for Niagara Hudson when issued common stock since the announcement had been made, and there was also a market for—I think it was the A warrants, and my further recollection is that the combination of those two was in excess of $25, but how much I do not remember. And, of course, the same principle about cost applies here as I have testified so many times before.

Mr. PECORA. Well, according to the Wall Street Journal, as I understand it—and I am subject to correction if you wish to make a research yourself—the common stock of Niagara Hudson on August 19, 1929, was quoted at $27, and the class A warrants at 9⅛. With no quotation for the class C warrants.

Mr. WHITNEY. Those A warrants were for the right to subscribe to stock at 35.

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Mr. PECORA. Yes; $35.

Mr. WHITNEY. I might say, Mr. Pecora, we tried to check this price of Niagara Hudson so as to anticipate your question, but we could not identify the securities that were traded in on a when issued basis as the company that finally came off to be, so we gave up.

Mr. PECORA. I am sorry, but you have not anticipated my question.

Mr. WHITNEY. Well, you asked me if I knew where they were selling. I have not been able to find any record.

[A sheet was handed to Mr. Whitney by an associate.]

Here is a paper or a photostat, I guess it is, of an agreement sent out to the stockholders of the constituent companies which came to be the Niagara Hudson, signed by the four gentlemen who were the committee under this merger, which is dated June 19, so there was knowledge of what these securities were going to be on, I suppose, June 20. So that the date we took and paid for these things we made the undertaking to do this in the general plan of this merger, to apply this $50,000,000 of cash against these 2,000,000 units for $25, and thus, of course, it is public knowledge. So I think you will find that there was some kind of a quotation from June 20 right on, and, of course, this was the date that the agreement was made to buy it. I think we in turn—I do not know when we sold these shares to these people.

Mr. PECORA. Do you want that offered in evidence?

Mr. WHITNEY. No. It was just handed to me to refresh my memory from the record.

Mr. PECORA. I am perfectly willing to have you put it in to complete the record.

Mr. WHITNEY. That is just a letter. That just refreshed my memory as to the date when the transaction was made and agreed to.

The CHAIRMAN. What is the A. E. P. Co., Mr. Whitney, do you know?

Mr. WHITNEY. Sir?

The CHAIRMAN. What is the A. E. P. Co.? A. E. P. Co.?

Mr. WHITNEY. A. E. P. Co.?

Mr. PECORA. American Electric Power, is it? The A. E. P. Co.?

The CHAIRMAN. Stevens connected with it?

Mr. WHITNEY. I do not know, sir. Who was connected with it?

The CHAIRMAN. Stevens. R. P. Stevens.

Mr. WHITNEY. Ray P. Stevens. Well, he was a member of the engineering firm of Stevens & Wood, and for a short time after the organization of the Niagara Hudson I think he was executive vice president. Was he not? [Addressing an associate.] I am told he was the president.

The CHAIRMAN. R. P. Stevens. He had 7,000 units.

Mr. WHITNEY. Well, he was the president at that time, of the Niagara Hudson.

Mr. PECORA. Mr. Whitney, let me show you a photostat that was received by me from your firm. There is the inscription at the top "Prepared by Bonbright & Co."

Total annual gross earnings of all United States power companies	$1,900,000,000
Total annual gross earnings of all United States gas companies	800,000,000
Total	2,700,000,000

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Kindly look at it and tell us if you recognize that as being a table or statistics of the United Corporation group of utility companies and a comparison of the assets of the United Corporation and its constituent companies with other public-utility groups operating in this country?

Mr. DAVIS. What is the date?

Mr. WHITNEY. It is undated.

Mr. PECORA. It is dated, I think, June 19.

Mr. WHITNEY. Mr. Pecora, I can identify this certainly as a statistical memorandum prepared by Bonbright which does group the earnings of certain so-called groupings of companies, public-utility companies, and in the form of a comparison, if you want to use it for comparative purposes.

Mr. PECORA. I offer it in evidence and ask that it be spread on the record.

Mr. WHITNEY. Do you offer the last page, too?

Mr. PECORA. Just as it stands; yes. If you want to make any statement about the last page in order to distinguish it in any way I shall be glad to have you do so.

Mr. WHITNEY. The last page, of course, has nothing to do with it. It is not the same thing. It is entirely different. It is the equity earnings of the holdings of United. There is nothing comparative in that.

Mr. PECORA. No; I know that. Well, that appears upon the face of the last page.

Mr. WHITNEY. Yes.

Mr. PECORA. That is, the caption on the last page clearly sets forth what the last page is.

Mr. WHITNEY. You want to introduce it all?

Mr. PECORA. I want to introduce the whole thing as it stands, and ask that it be spread on the record.

The CHAIRMAN. Let it be admitted and put on the record.

(Two sheets giving gross earnings of all United States power companies and United States gas companies, and one sheet headed "The United Corporation—Equity Earnings", were marked "Committee Exhibit 38 of June 1, 1933", and are here printed in the record in full, as follows:)

COMMITTEE EXHIBIT No. 38

(Prepared by Bonbright & Co., June 1, 1933)

Total annual gross earnings of all United States power companies	$1,900,000,000
Total annual gross earnings of all United States gas companies	800,000,000
	2,700,000,000
Group I. United group:	
Commonwealth & Southern (90 percent Georgia, 65 percent Alabama, 55 percent Tennessee, 45 percent Mississippi, 35 percent Michigan, 15 percent Ohio, 5 percent Indiana, 4 percent Illinois)	145,000,000
Public Service (85 percent New Jersey)	132,000,000
United Gas Improvement (95 percent Delaware, 35 percent Connecticut, 30 percent Pennsylmania)	86,000,000
Niagara Hudson (30 percent New York)	85,000,000
16.5 percent of whole	448,000,000

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COMMITTEE EXHIBIT No. 38—Continued

Group II. Harrison Williams-Emanuel-Langley group:	
North American (100 percent District of Columbia, 70 percent wisconsin, 30 percent Missouri, 20 percent Ohio, 12 percent California, 3 percent Illinois)	$136,000,000
Standard Gas (65 percent Minnesota, 60 percent Oklahoma, 47 percent Kentucky, 15 percent Pennsylvania, 15 percent Colorado, 12 percent Wisconsin, 5 percent California)	165,000,000
Associated Gas (7 percent Florida, 12 percent New York, 12 percent Pennsylvania, 10 percent Kentucky, 6 percent North Carolina and South Carolina, 3 percent New Jersey)	90,000,000
American Water works (75 percent West Virginia, 16 percent Maryland)	51,000,000
16.5 of whole	442,000,000
Group III. Large independent eastern group:	
Consolidated Gas of New York (55 percent New York)	214,000,000
Columbia Gas & Electric	108,000,000
Edison Electric Ill. of Boston (30 percent Massachusetts)	28,000,000
Consolidated Gas of Baltimore (80 percent Maryland)	26,000,000
Detroit Edison Co. (55 percent Michigan)	52,000,000
16 percent of whole	428,000,000
Group IV. Electric Bond & Share Group:	
American Power & Light (95 percent Montana, 60 percent Florida; 50 percent Arizona, 35 percent Washington and Oregon, 30 percent Kansas, 30 percent Nebraska, 22 percent Texas, 15 percent Minnesota)	84,200,000
National (38 percent, Tennessee 35 percent, Alabama, 20 percent North Carolina and South Carolina; 16 percent Pennsylvania, 8 percent Texas)	80,000,000
American Gas & Electric (45 percent Virginia, 20 percent West Virginia; 15 percent Ohio, 15 percent Indiana, 5 percent New Jersey, 4 percent Pennsylvania)	68,000,000
American Foreign Power (all foreign)	65,000,000
Electric Power & Light (90 percent Louisiana, 95 percent Utah; 85 percent Idaho, 45 percent Mississippi, 35 percent Arkansas, 5 percent Texas)	55,600,000
13 percent of whole	353,000,000
Group V. California group:	
Pacific Gas & Electric (37 percent California)	62,000,000
Southern California, Edison (20 percent California)	31,000,000
Pacific Lighting Co. (15 percent California)	22,000,000
4.5 percent of whole	115,000,000
Group VI. Insull group (gross):	
Middle West (90 percent Maine, 65 percent New Hampshire and Vermont, 40 percent Oklahoma; 35 percent Kentucky, 30 percent Arkansas, 20 percent Texas, 20 percent Pennsylvania, 15 percent Virginia, 7 percent Newsey, 5 percent North Carolina, 25 percent Kansas, 20 percent Nebraska, 10 percent Florida, 16 percent Wisconsin, 9 percent Illinois, 5 percent Michigan)	150,000,000
Commonwealth Edison (40 percent Illinois)	77,000,000
Public Service of North Illinois (15 percent Illinois)	30,000,000
Midland United (60 percent Indiana)	47,000,000
Western United (4 percent Illinois)	8,000,000
Peoples Gas Light & Coke Co	42,000,000
	354,000,000

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COMMITTEE EXHIBIT No. 38—Continued

Group VI. Insull group (gross)—Continued.	
United group	$448, 000, 000
Harrison Williams-Emanuel-Langley group	442, 000, 000
Large independent eastern group	428, 000, 000
Electric Bond & Share group	353, 300, 000
Insull group	354, 000, 000
California group	115, 000, 000

The United Corporation, equity earnings (based on holdings of June 14, 1930, after giving effect to acquisition of an additional 2,100,000 shares of common stock of Columbia Gas & Electric Corporation)

	Shares	Earnings per share	Total
Mohawk Hudson second preferred	62, 370	$7. 00	$436, 590
Niagara Hudson:			
Common	1, 673, 250	. 61	1, 020, 682
A warrants	752, 460		
B warrants	436, 590		
C warrants	300, 000		
Public Service Corporation of New Jersey common	959, 921	4. 26	4, 089, 263
U.G.I. common	6, 081, 846	1. 65	10, 035, 045
Columbia Gas common	2, 345, 263	2. 13	4, 995, 410
Commonwealth & Southern:			
Common	1, 798, 270	. 70	1, 258, 789
Option warrants	1, 005, 000		
Electric Bond & Share common	88, 776 7/100	1. 97	174, 888
Societe Lyonnaise des Eaux et de L'Eclairage	30, 000	2. 25	67, 500
Lehigh Coal & Navigation	33, 105	1. 54	50, 981
Consolidated Gas common	202, 900	4. 75	963, 775
Miscellaneous investments			187, 970
Total			23, 280, 893
Less 3 percent on demand loan of $650,000			19, 000
			23, 261, 393
Less dividend at $3 on 2,479,367 preference shares			7, 438, 101
Total			15, 823, 292

Dividend amount 12,332,515 shares. This is equivalent to $1.283 per share.

Mr. WHITNEY. Of course, however, that is introduced as something which was prepared by Messrs. Bonbright & Co., with which we had nothing to do. We just merely got it as a matter of information, that is all. It said on the face that it was prepared by Bonbright.

Mr. PECORA. Yes. I said that at the outset.

Mr. WHITNEY. Yes.

Mr. PECORA. Now that appears to have been prepared some time in June of 1930?

Mr. WHITNEY. No, sir. There is no date on it.

Mr. PECORA. I think there is some date somewhere.

Mr. WHITNEY. Well, there is on the third page. That is what I am calling your attention to. The two things are quite different. On the Bonbright memorandum there is no date.

Senator ADAMS. Well, were all prepared by Bonbright?

Mr. WHITNEY. No, sir. The second one was prepared by our own statistical force.

Mr. PECORA. I might say the physical form of this exhibit is just the way in which we received it from your firm, all clasped together. Three sheets clasped together.

Mr. WHITNEY. I do not know about that. I mean as a matter of fact, Mr. Pecora, the first two pages are prepared by Bonbright as

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one memorandum. The second one prepared by someone, I think, in our own office. Now I do not know how they happened to be tied together. Do you?

An ASSOCIATE. It just happened.

Mr. PECORA. Have you any reason to question the figures shown on this statistical statement?

Mr. WHITNEY. Oh, no; not the slightest. But I just want it to be sure that the first one is Bonbright and the second one is ours.

Mr. PECORA. Yes.

Mr. WHITNEY. And the date of the Bonbright is not on it, that is all.

Senator ADAMS. Is this the memorandum that you mentioned the other day you asked Bonbright to prepare? You said you asked Bonbright to prepare some statistical data because they were better equipped.

Mr. PECORA. I think it was Mr. Howard.

Mr. WHITNEY. I think it was Mr. Howard.

Senator ADAMS. Was that the same data?

Mr. WHITNEY. Well, this is dollars. And that was kilowatt-hours. But, Mr. Pecora, I remember that memorandum. I mean, there is no question. I am not questioning it in any way at all. I just did not want to have it all go in as Bonbright's. They might not like it.

Senator ADAMS. Are Bonbright & Co. bankers as well as security dealers?

Mr. WHITNEY. No, sir. They do not do a banking business. Purely a security firm.

Mr. HOWARD. Mr. Pecora, that is not the one that I had in mind. I do not remember having seen that.

Mr. PECORA. Now, according to exhibit no. 38 of this date, the so-called "United group", which is the group represented by United Corporation, of public-utility companies, is the largest group in the country, is that not so? Why, these are the gross earnings, aren't they?

Mr. WHITNEY. I suppose these refer to that—yes; it says that they are gross earnings. Yes, sir; it shows $448,000,000 on these figures, which I have no reason to question or to vouch for. I cannot possibly vouch for that—that they are the largest.

Mr. PECORA. Mr. Whitney, may I call your attention to a cablegram sent by J. P. Morgan & Co., to Morgan, Grenfell & Co., of London, under date of January 12, 1929, in which among other things it is stated:

> We are reserving for Morgan, Grenfell & Co., London partners and clients, a total of 15,000 units, which is probably the maximum that we can set aside for you as we are having to cut everyone. In case any additional units are available, which we doubt, we will, if you advise us definitely what amount you desire, do our best to carry out your wishes.
>
> Replying to your second paragraph, the total amount of warrants to be issued now will be approximately 3,940,000, leaving approximately 60,000 warrants in the company's treasury reserved for sale to executive officers. Two million of the option warrants were issued to the organizers at a dollar per warrant, and the balance, 1,940,000, were issued in part payment for substantial blocks of securities previously owned by ourselves, American Superpower Co., and a few other friends. We think that the warrants are an attractive speculation, but we do not know whether they will be placed on the market for some time.

Was it understood or arranged by the organizers of United Corporation, namely, J. P. Morgan & Co. and Bonbright & Co., to re-

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serve 60,000 warrants of these option warrants unlimited as to time, for sale to executive officers of the United Corporation?

Mr. WHITNEY. Didn't you just read that?

Mr. PECORA. Yes. I mean was that a correct statement that I read from this cablegram of the fact? Of the fact that it purports to state?

Mr. WHITNEY. Oh, yes, sir.

Mr. PECORA. How?

Mr. WHITNEY. Yes. It is a correct statement if we made it. I don't remember it now, but I don't think—there is no particular reason for not thinking it a correct statement. They were not ever issued, as a matter of fact, I think.

Mr. PECORA. Well, 100,000 of these option warrants were issued to Mr. Howard, weren't they?

Mr. WHITNEY. Well, but I think 3,940,000 are all there are outstanding now, aren't they? So that that must have been inclusive of the 100,000 for Mr. Howard that we had definitely set aside. Sixty thousand never have been issued, have they?

Mr. PECORA. Well, apparantly 60,000, according to this cablegram, were reserved for sale to executive officers.

Mr. WHITNEY. And still reserved.

Mr. PECORA. But they never were sold?

Mr. WHITNEY. Well, I would just like to check it. How many are there outstanding now? [Addressing Mr. LeBoeuf.] Two hundred and sixty-five thousand have been used.

Mr. LEBOEUF. Two hundred and sixty-five thousand have been used.

Mr. WHITNEY. Mr. Pecora, of the warrants there have been accounted for, already issued, 2,714,200, 100,000 went to Mr. Howard, as he testified. Then there were varying amounts that went to others. A million warrants went to the Public Electric Holding Co. Then the Koppers Gas & Coke got 45,000. Day & Zimmerman, 70,656. Bodine got 4,416. Electric Investors got 55,328. And Drexel on that subsequent transaction got 4,979. Now, there have been converted 262,698, so there have been issued a total maximum of 3,994,059. And there are now outstanding 3,732,000.

This figure of 60,000 warrants in this cable does not mean anything to me at all, because—well, they were not issued to executive officers, because the only issue for executive officers was the 100,000 that Mr. Howard has already testified to. So we misadvised our partners.

Mr. PECORA. Well, the reason I called your attention to that is that I thought it might have been the understanding or arrangement at the time you sent this cable that 60,000 of these warrants were to be reserved for sale to the executive officers. But that such sale was not actually made.

Mr. WHITNEY. Well, I am sorry. I just——

Mr. PECORA. Well, were any of these 3,900,000-odd option warrants issued to the public?

Mr. WHITNEY. To the public?

Mr. PECORA. Yes.

Mr. WHITNEY. No; I read off just now——

Mr. PECORA. They were issued to these individuals, your firm, and Bonbright & Co.?

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Mr. WHITNEY. No; they were issued to all these other people that I related earlier had a sort of an informal group, in the spring of 1928—Koppers, Electric Investors, Day & Zimmerman, Bodine; they were issued on the same basis of exchange for U.G.I. or Public Service that they then turned in; they received the same basis of exchange, and that is where the balance of the warrants up to roughly 3,995,000 went to.

Senator ADAMS. I want to inquire a little bit about this exhibit that was just put in the record. Mr. Whitney, just an inquiry about this tabulation prepared by Bonbright. I notice in these different groups there are certain percentages of the power furnished in different States. And then at the bottom of each group is a statement—for instance, 16.5 percent of the whole. That means of the amount furnished in the entire United States?

Mr. WHITNEY. May I look at it, Senator Adams?

Senator ADAMS. Yes. It seems to figure out that way.

Mr. WHITNEY. I just do not remember.

Senator ADAMS. Taking the figures at the top.

Mr. WHITNEY. I should think that would be a fair inference, but I really do not know. Because take Public Service, for instance, 85 percent of New Jersey. That would sound—of course, these are not kilowatt-hours. These are the gross money. Of course, Commonwealth & Southern, you know the United only has 5 percent interest in that, so that is rather a stretch——

Senator ADAMS. I am primarily interested in that statement at the bottom of that tabulation where it says that is the percent of the whole.

Mr. WHITNEY. That is right. I think Mr. Howard testified yesterday that of the kilowatt-hours, of this so-called group, these slightly different constituent parts did approximate 22 percent, and if they did—I do not know that that would mean 16.5 percent of the gross total.

Senator ADAMS. It figures that against this first total which says that the total is $2,700,000,000, and of this aggregate there it works out that that is 16½ percent.

Mr. WHITNEY. I presume that is right; yes, sir.

Mr. PECORA. Apparently you received a reply to this cable from which I have last read. I will call your attention to a cable from Morgan, Grenfell & Co., London, to your firm, dated January 12, 1929, in which, among other things, the following is stated. I am referring to what has been marked—well, you have not got our exhibit number.

Mr. WHITNEY. This is the one that starts, "We thank you."

Mr. PECORA. "We thank you for your most interesting cable 2038."

Mr. WHITNEY. You did not read the whole cable.

Mr. PECORA. Oh, no.

Mr. WHITNEY. You only read the first two paragraphs of it. Yes, sir; I have got a copy of it.

Mr. PECORA. Let me read the following from that reply cable that you received from Morgan Grenfell & Co.:

A point in cable 2038 which is not clear to us is that of options. In your notice to press you state organizers get 2,000,000 option warrants presumably as bonus and that the balance of option warrants, which we understand to be

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a further 2,000,000 in number, are issued in exchange for securities. This would seem to account for 4,000,000 option warrants. In your second paragraph subsequent to the newspaper announcement you state additional shares and warrants have been issued, bringing warrants total up to 3,940,000. Is this correct, and on what basis are warrants allocated? We should like to know if warrants will be the attractive speculative element and will they be sold in the immediate future?

Mr. WHITNEY. Mr. Pecora, I would just like to correct one thing for your information. The cable, a portion of which you read first, is an answer to the cable you have just been reading. Not the other way around. You see, you probably do not know—the way I know that is because our cable refers to the number of the cable that you have just read.

Mr. PECORA. Well, have you got the cable number 2038 which your firm sent to Morgan, Grenfell & Co.?

Mr. WHITNEY. No; I have not. I have only—let me just look. Yes; I have. You have too, sir. Because I have here the photostatic copies of the cables furnished you. The very long cable dated January—yes; there is a cable of the press release. Can I read it just to satisfy——

Mr. PECORA. Oh, that is the cable dated January 11, 1929?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. Yes; I have it here. I overlooked it before.

Mr. WHITNEY. You see it starts—

The following statement was issued to the press last night.

Mr. PECORA. Then the cable that I read first is a reply by J. P. Morgan & Co. to Morgan, Grenfell & Co.'s cable from which I last read?

Mr. WHITNEY. Yes, sir.

Mr. DAVIS. No.

Mr. WHITNEY. Yes.

Mr. DAVIS. The cable you last read was the reply, was it not, of Morgan, Grenfell & Co. to that cable of the press release?

Mr. PECORA. Yes.

Mr. DAVIS. And then the cable that you first read.

Mr. PECORA. But I did not read that cable of the press release.

Mr. DAVIS. And the cable you last read was the Morgan, Grenfell & Co. reply to the press release cable, is that right?

Mr. WHITNEY. Yes.

Mr. PECORA. Yes. In other words, the cable that I first read——

Mr. DAVIS. Was the last of the series.

Mr. PECORA (continuing). Was a reply by J. P. Morgan & Co. to the cable of Morgan Grenfell & Co. from which I last read.

Mr. DAVIS. Yes.

Mr. PECORA. I inverted their order.

Mr. DAVIS. That is right.

Senator ADAMS. That is clear.

Mr. DAVIS. The last shall be first and the first shall be last.

Mr. PECORA. Shall be last. Now, apparently Morgan Grenfell & Co. got the impression from your cable of January 11, 1929, in which you set forth the press release, so-called, that these option warrants were being issued as a bonus. And they asked you for advices with respect to that. Now, apparently the reply you made to their inquiry——

Mr. WHITNEY. I never answered your question.

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Mr. PECORA. Well, go ahead and answer it.

Mr. WHITNEY. You read, of course, that they said "presumably"?

Mr. PECORA. Yes; "presumably as bonus."

Mr. WHITNEY. Presumably they were mistaken, because it is perfectly clear in the press notice that the purchase by the organizers for $20,000,000 cash was 800,000 shares of the common stock and option warrants for 2,000,000 shares of common stock. It is just as clear as it possibly can be that the organizer paid $20,000,000 for 800,000 shares of stock and 2,000,000 warrants. Now, Morgan Grenfell & Co. read that, and they come back to us and say "presumably as a bonus", but they were mistaken.

Mr. PECORA. They were mistaken. After reading your press notice they were mistaken in the impression they got therefrom that these option warrants were issued to the organizers as a bonus?

Mr. WHITNEY. Apparently they were.

Mr. PECORA. Did you correct their misimpression in your reply cable of January 12, 1929, on that score?

Mr. WHITNEY. I should think that would correct that apprehension; yes.

Mr. PECORA. Did you correct it by the statement in your cable of January 12, 1929, which is no. 2042, reading as follows:

> Two million of the option warrants were issued to the organizers at $1 per warrant.

Is that the correction of the impression—of the wrong impression—that they got?

Mr. WHITNEY. Exactly; that corrects it entirely. And you have got to remember that this is the cable to our partners who also talk the same kind of financial language that we do. Bonus would mean to us that it was issued without consideration by the company, and this is correcting their impression; that it was issued by the company and put on their books, for the consideration of a dollar per share; and that would be a complete correction in their minds of any other impression that they might have received.

Mr. PECORA. Did your firm, Mr. Whitney, ever enter into any market operation with Bonbright & Co. to stabilize the market on these shares?

Mr. WHITNEY. In what shares?

Mr. PECORA. United Corporation. Particularly in the $3-preference stock.

Mr. WHITNEY. We entered, as we advised you in answer to your inquiry, Mr. Pecora, into an ordinary transaction for the merchandising of the preferred shares after the units had been split up to the holders at a share of preferred and a share of common. And we acquired in the market with Bonbright & Co. a block of United preferred stock, and then distributed those in the normal course of business to investors as an investment stock through the use of dealers and other purposes.

Your introductory remark about stabilizing. It was a merchandising transaction, a normal merchandising transaction, which is a very customary thing in securities. At that time, if you remember, there had been two—in the first place the units had been split up, and in the second place there had been an offer made shortly previous. if my recollection is correct, to holders of United Gas Improvement

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stock in which they had also received a certain amount of United $3-preference shares. And we purchased in the market—we purchased a certain number of shares of United preferred—and then, as I say, sold it through dealers all over the country to investors. Just an ordinary merchandising proposition.

Mr. PECORA. Well, the reason I did not refer to it as a merchandising operation but rather as a stabilizing operation is because that is the language that your firm itself employed in a cable that was sent to Mr. Thomas W. Lamont under date of April 16, 1929. Will you look at your copy of the cable and follow me while I read from it?

Mr. WHITNEY. Yes; if you will just let me correct you in one instance. It was not sent by the firm.

Mr. PECORA. It was sent by you and by T. S. Lamont, both of whom are members of the firm.

Mr. WHITNEY. Quite different; yes. Two partners sending to a partner who was abroad. And again, if I may say so, we sometimes talk colloquial banking language which means different things to us than perhaps it might to you.

Mr. PECORA. Well, we all are willing to learn, even though it be the banking language. Let me read from that cable, and follow me from your copy, if you will:

As you remember we have discussed with Bonbrights at various times the question of stabilizing the market in the preference shares which have from the inception of the company been rather weak, due perhaps to the sale of large blocks of the preference stock by those who wish to hold only the common stock in United.

Mr. WHITNEY. Mr. Pecora, wait a minute. You are not reading the whole cable.

Mr. PECORA. No. I am only reading a part of it.

Mr. WHITNEY. Yes.

Mr. PECORA. Yes.

Mr. WHITNEY. Well—yes.

Mr. PECORA. I said I was going to read from it. Not all of it.

Mr. WHITNEY. The first paragraph, of course, is rather important to get the context of the cable. However, it does not make any difference really.

Mr. PECORA. All right. Let me continue my reading from it. Not of it entirely.

Up to the present we have made no attempt to stabilize this market, but now we have decided to form a joint account with Bonbright & Co. to purchase stock at approximately the present market with the hope of cleaning it up and disposing of such stock as we may purchase at higher levels through the efforts of dealers. We are hopeful we can do this because we believe that the present level represents an attractive investment opportunity. Also we are now hopeful that both preference and common shares will be listed on the New York Stock Exchange early in May, and the present time, therefore, seems to us an opportune one to purchase shares at this level and start our stabilization program.

Now, in that language were you referring to the merchandising operations that you spoke of a few moments ago, or were you referring specifically to an operation jointly with Bonbright & Co. designed to stabilize the market through purchases and sales of the same security?

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Mr. WHITNEY. I was referring to the operation that I mentioned previously of a merchandising character. And, Mr. Pecora, this cable was written, if I may explain to you, as the two paragraphs which you did not read from it would have shown, because Mr. T. W. Lamont had entrusted his son with the duty of watching certain of his investments while he was abroad. This was sent to him because it related to some United preferred shares that he had; both the introductory paragraph and the last one, which you did not read. This center paragraph which you did read, the middle paragraph, has to do with and uses the word "stabilization." But we told him, as I said before, it obviously would steady the market for us to go and buy those shares. We did so buy those shares because of the reason that I indicated before—there had been the split-up of the units; there had been this offer to U.G.I. stockholders. There were, as we knew, certain people desirous of disposing of their preferred shares and keeping the equity, particularly as the U.G.I. stock that they turned in was purely an equity. And we and Bonbright went into an ordinary merchandising proposition where we purchased the stock in the open market from willing sellers and we then distributed, and I think that we made the gross profit of 2 percent, which is an ordinary merchandising profit.

Mr. PECORA. Well now, what was your objective in that operation? To dispose of your own shares in the open market?

Mr. WHITNEY. We did not dispose of our own shares. The object of it, Mr. Pecora, was one that is a very usual one in the security business, that we wanted to get the shares of United preference in the hands of investors purely. It was an investment stock. We state in this cable, among the other words you read, that "we believe that the present level represents an attractive investment opportunity." In other words, we felt that it was selling at a price and it was the kind of a security that we would be able to induce the dealers throughout the country to sell it for investment. This is one of the most usual types of handling securities in any kind of a security market. A dealer buys a block of bonds or a block of preferred stock, gets together a lot of them, and then engages the services either of his own salesmen, if he has them, or in our case through dealers to go out and distribute those shares.

The CHAIRMAN. Buy them on the stock exchange?

Mr. WHITNEY. Well, I think they were not listed.

Mr. PECORA. It was not listed then?

Mr. WHITNEY. It was not listed. So there was an over-the-counter market or some kind of a market, a curb market—I can't remember. But we just bought them as they came in, and then we turned them out and distributed them.

Mr. PECORA. Now, let me see, Mr. Whitney: On April 16, 1929, which is the date of this cable which you and Mr. T. S. Lamont sent to Mr. T. W. Lamont, had the market in the preference stock of United Corporation been weak?

Mr. WHITNEY. Did it say anywhere what the stock—in the answer to that question about pool that you asked—this thing of joint account—it does not tell us, does it, what we paid for it?

Mr. PECORA. Yes; it does. It does in the last paragraph. Does not the last paragraph give a quotation? The last paragraph?

Mr. WHITNEY. Oh, yes; it does. Excuse me; 43¼.

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Mr. PECORA. 43¼ bid and 43½ offered.

Mr. WHITNEY. Yes.

Mr. PECORA. That is, asked.

Mr. WHITNEY. You asked if it had been weak. I have not got in my mind what it had been ranging at. I just do not remember. Have you got any quotations? [Addressing an associate.]

Mr. PECORA. Now, let me read again a portion of that middle paragraph of this cable:

As you will remember, we have discussed with Bonbrights at various times the question of stabilizing the market in the preference shares which have, from the inception of the company, been rather weak due, perhaps, to the sale of large blocks of the preference stock by those who wished to hold only the common stock in United.

Now, when you cabled that to Mr. T. W. Lamont you were stating the fact and what you knew to be the fact, were you not?

Mr. WHITNEY. Certainly.

Mr. PECORA. Yes.

Mr. WHITNEY. That refreshes my memory that they were. And that is what I have said, Mr. Pecora, that because of the splitting of the units it left in the hands of certain holders preferred and common stocks, and they had been selling that, and that is a perfectly customary function in the merchandising of securities for the bankers who have the responsibility for those securities to take an interest in getting them placed with people who want them rather than just have them on the market.

Mr. PECORA. Well, now, on April 16, 1929, was your firm arranging to have the preference and common shares of United Corporation listed on the New York Stock Exchange?

Mr. WHITNEY. Also we are now hopeful that both preference and common shares will be listed on the New York Stock Exchange early in May. And as the listing application I requested permission this morning to insert in the record—was it May 9 or 8? May 8; as a matter of fact, to answer your question, the directors of the corporation at that time—I think it was Mr. Thorne and I—did appear before the listing committee of the New York Stock Exchange and discussed all this financial set-up that you were questioning Mr. Keyes on this morning, and it was then reviewed—the way these warrants were set up in the books was reviewed by Price, Waterhouse with the accountants, and the method that they were carried was approved by them, as it was subsequently by Arthur Young. So if you ask if we were active, I think it is fair to say that we were assisting the corporation in their application to list upon the New York Stock Exchange.

Mr. PECORA. And that was in contemplation on April 16, 1929, was it?

Mr. WHITNEY. Well, clearly——

Mr. PECORA. That is, to obtain an early listing of the preference and common shares on the New York Stock Exchange?

Mr. WHITNEY. Yes; it must have been. We say that we are now hopeful that they will be.

Mr. PECORA. Yes. Now, at that time when you were saying that to Mr. Lamont you also said that with the consciousness that the preference shares were weak in the over-the-counter market that

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existed and had existed from the inception of the company, didn't you?

Mr. WHITNEY. Well, not that there is any relation between the two thoughts, but we obviously were thinking both those thoughts because they are both mentioned in this cable.

Mr. PECORA. Yes. You say in this cable: "The market is weak and has been weak practically from the inception." "Up to the present time we have done nothing"—I am paraphrasing this in my own way—"we have done nothing to stabilize the market. But"——

Mr. WHITNEY. You have stated that many times, but I have never denied that you have read the cable accurately. We said that; yes, sir.

Mr. PECORA. Yes. Now was it not your purpose at that time to undertake a market operation with Bonbright & Co. which was designed to keep up the market price of the preference shares of United common so that when those shares became listed on the New York Stock Exchange, which you hoped would occur early in May, the market would be in better shape for public trading in those preference shares?

Mr. WHITNEY. You ask so many questions in that one, Mr. Pecora, that I cannot answer it except by degrees.

Mr. PECORA. All right.

Mr. WHITNEY. I have already testified—and there is no question of doubt about it, because we reported to you on this joint account that we were discussing with Bonbright the formation of a joint account to purchase United preference shares. We were not discussing in any sense a market operation. We were discussing the purchase of United preference shares at what we considered to be a level at which they presented an attractive investment opportunity. That is also so. The question that they were listed is obviously also so. But the implication in your question that we were acquiring stocks in the hope of making a turn in the market was not in our minds, and as known by you we did not do it in a market operation, as you call it, but we sold them through dealers for investments throughout the country, paying the dealers, if I remember rightly, 1 percent for their services in that connection.

Mr. PECORA. The use of the verb "stabilize" or "stabilizing" in this cablegram was just an unfortunate employment of terminology, was it?

Mr. WHITNEY. I never said that, Mr. Pecora.

Mr. PECORA. I am asking you if that is a fact now.

Mr. WHITNEY. I do not think it was an unfortunate use of the word; no.

Mr. PECORA. Well, was it an inaccurate use of the word to describe the thought you meant to convey to Mr. Lamont?

Mr. WHITNEY. Well, I do not believe that Mr. Lamont got any impression from this use of language other than what I have said was in our mind. Mr. Lamont knew of the transaction, and I do not think it carried any erroneous implication to him, as it apparently has to you.

The CHAIRMAN. The effect was to stabilize, wasn't it?

Mr. WHITNEY. What, sir?

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The CHAIRMAN. The effect was to stabilize it?

Mr. WHITNEY. Oh, the effect—if we bought 59,000 shares of stock it would obviously—99,000 shares of stock—obviously would have, I assume, some effect on the market if we were standing there ready to buy it, particularly if it was over-the-counter market. Bonbright purchased, I think, the stock. The purchase was made by Bonbright & Co. And the word "stabilize", as Senator Glass suggested the other day, in the last 4 years has come to mean so many things and is used in so many senses that the meaning it has today has got rather a—I don't know quite what the meaning of it is today. But it would have a stabilizing effect in that sense. Obviously, the purchase of 99,000 shares.

Mr. PECORA. You are one of the authors of this cablegram. What did you mean by your reference to stabilizing the market and to attempt to stabilize this market in this cablegram?

Mr. WHITNEY. Well, my only way I can answer that, Mr. Pecora, is this, that I was also the individual who arranged this joint account with Bonbright. So that I speak with complete knowledge of what our intention was in forming the joint account. That was the reason that I have already given to you. Whether my use of language did not properly convey the thought I had in my mind at that time I do not know, but I do know what we formed the joint account for, and I don't think the language had any other effect than what we formed it for, which is as I have stated.

Mr. PECORA. Well, according to the cablegram you formed it——

Mr. WHITNEY (interposing). Further, Mr. Pecora, as I stated before, this is a cable between partners where it was not written for the purpose of a stranger who would read it with care. It was written between us, and I am sure that Mr. Lamont never got any impression of anything except that we were going to do an ordinary business, merchandising proposition.

Mr. PECORA. Well, because it was a communication between partners which probably at the time you did not expect anyone but a partner would ever see, isn't it also quite likely that in phrasing this cablegram you stated baldly just what was in your mind?

Mr. WHITNEY. Well, I have just told you, Mr. Pecora, what was in our mind, because I happened, as I said a minute ago, to be the individual in our office who made this arrangement with Bonbright to enter into this merchandising proposition. So I know what was in our mind clearly enough.

Senator ADAMS. Mr. Whitney, you are speaking of this as an ordinary merchandising matter. Did I understand accurately in the earlier stages of this inquiry that these stock purchases and stock distributions were out of the ordinary for J. P. Morgon & Co.?

Mr. WHITNEY. Well, this, sir, was in the preference shares. There was no public offering connected with this. Bonbright bought it and then there were certain dealers. Bonbright have a retail organization for securities themselves, and they sold a very large amount of stock. We sold it to clients. I do not think we sold any stock on the board at all. It was all done through dealers and gradually through their efforts largely, I mean the great bulk of it was sold through their own retail organization to their own clients.

Senator ADAMS. Did I get an incorrect impression of your earlier statements in reference to this so-called "preference list", one of the

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reasons for it, it is something that you were not in the habit of doing?

Mr. WHITNEY. It is very unusual for us. We have done it. We have sold preferred stocks over our own name. But this case did not involve any what we would call a public issue, because it was not new stock. We offered General Motors over our own name, and we have offered certain preferred stocks over our own name, but very few of them.

Mr. PECORA. Now, Mr. Whitney, do you recall the transaction in the early part of January 1929 between your firm and the United Corporation involving an exchange of securities? That is the transaction that included an exchange of the Mohawk and Hudson Power Co. stock that has already been adverted to here. Do you recall that?

Mr. WHITNEY. I certainly do.

Mr. PECORA. Now, what other securities than those issued by the Mohawk & Hudson Power Corporation were exchanged by your firm, the United Corporation, in return for its stock and warrants?

Mr. DAVIS. At the same time, or are you speaking of another time?

Mr. PECORA. On that same transaction.

Mr. WHITNEY. At the same time, on January 10, Mr. Pecora—I am reading now from the same document that I read yesterday—J. P. Morgan & Co. and Drexel & Co. delivered the following exchange for securities to the United Corporation: 130,565 shares of the United Gas Improvement common stock; 59,500 shares Public Service Corporation of New Jersey common stock; and then the Mohawk-Hudson Power Corporation common, second preferred, and warrants.

Mr. PECORA. How did J. P. Morgan & Co. acquire those two blocks of stock—that is, the United Gas Improvement Co. common and the Public Service of New Jersey common stock?

Mr. WHITNEY. Do you want me to read this again?

Mr. PECORA. How did it acquire them?

Mr. WHITNEY. Insofar as the 81,000, they were partly owned originally by Drexel and partly by us. That is a combination of the figures that you have in answer to question 32 of your questionnaire. I think I testified yesterday that as far as the 81,800 shares of U.G.I. that we got we acquired them from May 3 to June 20 in the open market, and we acquired the 25,000 shares of Public Service Corporation in the same way during the period.

The Drexel situation is: On December 30, 1927, Drexel & Co.'s holdings were 25,000 shares U.G.I. stock, 34,500 Public Service Corporation stock, 47,550 shares of Philadelphia Electric. Shares of these companies, being shares actively dealt in in the Philadelphia market, had been acquired over a period of years beginning in 1924 through purchase for cash, exchange for other securities, exercise of rights of stockholders to subscribe for new stock, stock dividends, and stock split-ups.

I should think that answered your question as well as I can, Mr. Pecora.

Mr. PECORA. Now, do you recall a transaction whereby the United Corporation, on January 14, 1929, acquired all of the capital stock of the Public Electric Holding Corporation from the American Superpower Corporation?

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Mr. WHITNEY. Will you read that again?

The SHORTHAND REPORTER (Mr. Randolph):

Do you recall a transaction whereby the United Corporation on January 14, 1929, acquired all of the capital stock of the Public Electric Holding Corporation from the American Superpower Corporation?

Mr. WHITNEY. I do.

Mr. PECORA. What was the purpose of that transaction?

Mr. WHITNEY. To acquire the assets of the Public Electric Corporation, I suppose.

Mr. PECORA. And those assets consisted of a large block of shares of the Public Service of New Jersey common stock, namely, 800,000 in number, and 53,000 shares of United Gas Improvement common stock, did they not?

Mr. WHITNEY. I would just like to check that. Have you those figures (addressing an associate)? I don't remember the exact amount of shares. I remember there was a large block of Public Service Corporation stock and also a substantial block of U.G.I., but I don't remember the exact amount without checking it.

(After consultation with associates:) That is correct, Mr. Pecora; 800,000 shares of common stock of Public Service Corporation of New Jersey and 53,000 shares of common stock of United Gas Improvement Co.

Mr. PECORA. Now, do you know from whom the Public Electric Holding Corporation acquired those two blocks of securities?

Mr. WHITNEY. Do I know?

Mr. PECORA. Wasn't it from the American Superpower Corporation?

Mr. WHITNEY. I just don't—do I know from whom they acquired them?

Mr. PECORA. Yes.

Mr. WHITNEY. I had no connection with the Public Electric or the American Superpower. I don't know about those companies at all.

Mr. PECORA. Don't you recall saying——

Mr. WHITNEY (interposing). Well, Mr. Pecora, I am perfectly ready to—I assume that one way or another they got it from the American Superpower, because the original arrangement was made with the Superpower that they would turn in their holdings of Public Service and U.G.I. The thing I am not quite clear on is whether it all came from the American Superpower or not. I think the bulk of it did, but I just—there was an arrangement. Of course, it was part of the arrangement. I am not sure of the number of shares.

Mr. PECORA. Now, let's see if this refreshes your recollection: I will read from the minutes of a special meeting of the board of directors of the United Corporation held on the 9th day of January, 1929, at 11:15 a.m., as follows—and according to the minutes, you were 1 of the 4 directors who attended that meeting, the absent 1 being Mr. Sherman Ewing. (Reading:)

It was thereupon proposed that the following offer be made by this corporation to the American Superpower Corporation:

JANUARY 9, 1929.

The AMERICAN SUPERPOWER CORPORATION,
Dover, Del.

GENTLEMEN: The undersigned corporation has been organized under the law of the State of Delaware with an authorized capital stock of 13,000,000 shares,

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all without nominal or par value, of which 1,000,000 shares are to be first preferred stock, 2,000,000 shares are to be preference stock, and 10,000,000 shares are to be common stock.

We enclose herewith certified copy of our certificate of incorporation.

We have created a $3 series of preference stock to be designated as $3 cumulative preference stock, which series is to have a definite rate of $3 per share per annum. It is redeemable at the price of $55 per share, plus an amount equal to accrued dividends. Dividends are to be payable, if declared, on the first days of January, April, July, and October. We enclose a specimen certificate of the $3 cumulative preference stock.

We have also created, in accordance with the terms of our charter, a form of option warrant entitling the holder thereof to purchase at any time without limit shares of common stock of our corporation as such stock may be constituted at the time of such purchase, at a price of $27.50 per share, subject to the further terms and conditions therein stated.

We enclose herewith a specimen form of option warrant. We have issued or contracted to issue and sell partially to J. P. Morgan & Co. and partially to Bonbright Electric Corporation or their nominees an aggregate amount of 600,000 shares of our $3 cumulative preference stock, 1,600,000 shares of our common stock, and option warrants in the form above described, entitling the holders to purchase at any time without limit an aggregate amount of 2,714,200 shares of common stock at $27.50 per share.

In consideration for the issuance of such securities we have or are to receive the following:

Cash in the sum of $20,371,025.76; 130,565 shares of the capital stock of the United Gas Improvement Co.; 59,500 shares of common stock of Public Service Corporation of New Jersey; 62,360 shares of the second preferred stock of Mohawk-Hudson Power Corporation; 358.957 shares of the common stock of Mohawk-Hudson Power Corporation; 124,740 option warrants of Mohawk-Hudson Power Corporation, each of such option warrants authorizing the holder thereof to purchase at any time one share of common stock of that company at $50 per share.

We understand that you have under consideration the creation of a subsidiary corporation under the laws of the State of Delaware, to be known as the Public Electric Holding Corporation, or by some other appropriate name, which corporation is hereafter referred to as the subsidiary corporation, to have an authorized capital stock of 10,000 shares with a par value of $100 each for the purpose of transferring and delivering to that corporation 800,000 shares of the common stock of Public Service Corporation of New Jersey and 53,000 shares of the common stock of the United Gas Improvement Co., together with cash in the amount of $25 in consideration of the issuance and delivery to you of the entire stock of that corporation.

Subject to the necessary approval of our stockholders, we hereby offer to merge and consolidate said subsidiary corporation to be created by you into our corporation, the consolidated corporation to be known as the United Corporation. The terms of the proposed merger and consolidation are contained in a draft of agreement of merger and consolidation which we submit to you herewith.

By the terms of this agreement of merger and consolidation you would receive 34.4187 shares of $3 cumulative preference stock, 221,853 shares of common stock, and option warrants entitling the holder to purchase 100 shares of common stock of the consolidated corporation for each share of the capital stock of the said subsidiary corporation held by you.

You will thus be entitled to receive in exchange for all of the capital stock of the said subsidiary corporation held by you in the aggregate 344,187 shares of $3 cumulative preference stock, 2,210,853 shares of common stock, and option warrants entitling the holder thereof to purchase 1,000,000 shares of common stock at $27.50.

It is understood that of the consideration to be received for the issuance of the above shares of $3 cumulative preference stock, common stock, and option warrants, $50 shall constitute the consideration for the issuance of each share of $3 cumulative preference stock, $1 shall constitute the consideration for the issuance of each right represented by the above option warrants to purchase one share of the common stock of the consolidated corporation at $27.50 per share, and the balance of the consideration shall constitute the consideration received for the issue of the above-mentioned common stock, and that of the consideration received for the issue of the $3 cumulative preference stock

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the entire consideration, namely, $50, will be determined to be capital, and that of the consideration received for the issuance of common stock $5 per share will be determined to be capital and the balance of the consideration received from the common stock and the entire consideration received for the option warrants will be credited to paid-in surplus of the consolidated corporation.

By the terms of said agreement the holders of the stock and option warrants of our corporation will be entitled to such stock and option warrants in the merged corporation in the same amounts as their present holdings.

Then follow other provisions. Then this statement [reading]:

If this offer is acceptable to you, you will agree to proceed at once to incorporate said subsidiary corporation and to take the necessary corporate steps to complete the merger, and we agree forthwith to call the necessary directors' and stockholders' meetings in regard thereto.

Now that offer was accepted, wasn't it, by the American Superpower Corporation?

Mr. WHITNEY. That letter is so long—was it written by United to Superpower?

Mr. PECORA. Yes, sir.

Mr. WHITNEY. Yes, sir; it was.

Mr. PECORA. Yes. And the whole purpose of this was to enable the United Corporation to acquire from the Superpower, the American Superpower Corporation, this block of 800,000 shares of the common stock of the Public Service Corporation of New Jersey and the 53,000 shares of the——

Mr. WHITNEY. U.G.I.

Mr. PECORA. Common stock of the United Gas Improvement Co., wasn't it?

Mr. WHITNEY. Yes.

Mr. PECORA. Why wasn't that exchange effected directly between the United Corporation and the American Superpower Corporation?

Mr. WHITNEY. That is a matter that rests with the American Superpower. We had no—I don't know anything about it. We had no connection with the American Superpower.

Mr. PECORA. Why, this offer is made to the American Superpower Corporation by your corporation, the United, wasn't it?

Mr. WHITNEY. Why, certainly.

Mr. PECORA. And these terms and provisions are embodied in the written offer that was made to the American Superpower Corporation by the United Corporation, wasn't it?

Mr. WHITNEY. Mr. Pecora, you asked me if the purpose of that offer was not to acquire 800,000 shares of Public Service Corporation common stock, 53,000 shares of United Gas Improvement common stock, and I answered yes. Again——

Mr. PECORA (interposing). Then, why wasn't the exchange effected directly between the United Corporation and the American Superpower Corporation without any necessity for creating a third company called the Public Electric Holding Co.?

Mr. WHITNEY. It is a matter of the arrangement. All those papers were drawn by the lawyers, and I suppose it was done as a matter of convenience or at the wish of the American Superpower, of which I have no knowledge.

Mr. PECORA. Wouldn't it have been much more convenient for the American Superpower Co. to turn over to the United Corporation directly these shares of Public Service Corporation of New Jersey

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and of United Gas Improvement Co. in exchange for the shares of the United Corporation?

Mr. WHITNEY. Again, I can only say that I don't know anything about the American Superpower, but apparently it was not more convenient, because this was the way it was done. But I just—I had no—we have no—as I testified before, we had no relation then or since with the American Superpower, and why the law is this way I just don't know.

Mr. PECORA. Are you sure that you knew nothing about the American Superpower Corporation at that time, when this offer was made, under date of——

Mr. WHITNEY (interposing). Oh, I would not want to be taken to mean that I did not know it existed, what the character of its holdings were, certainly, as a matter of general knowledge, but I was not, nor was the firm, owners of any of the stock of the American Superpower. Of course, I knew of its existence obviously.

Mr. PECORA. Now, as a matter of fact, Mr. Whitney, wasn't this exchange of securities between the United Corporation on the one hand and the American Superpower Corporation on the other hand effected through the medium of a third company which was specially created for the purpose of this transaction in order to avoid the payment of taxes on such a transfer or upon any profits accruing to either company from such a transfer?

Mr. WHITNEY. I just don't know, Mr. Pecora. Of course, the first part of your question, it was effected through the formation of a third corporation; that is obvious from that letter. But, as I say, I cannot testify of any knowledge of my own as to what was the motive that brought it about.

Mr. PECORA. Well, what advice was given to you as a director of this company, this United Corporation, by any attorney or counsel for the corporation——

Mr. WHITNEY (interposing). Why, I——

Mr. PECORA (continuing). Which prompted you as a director to vote for the making of this offer to the American Superpower Corporation in the form embodied in this letter that is spread in the minutes of the meeting that I have read from?

Mr. WHITNEY. Why, I assume that I was advised by counsel that the offer we made was a perfectly legal method of acquiring those two blocks of shares that you mentioned, and if I was satisfied as to the legality and the propriety of it I would have been satisfied to make the offer that way.

Mr. PECORA. Do you know of any reason why the United Corporation could not have directly transferred its shares, its stock, to the American Superpower Corporation in payment for these two blocks of stock of the Public Service Corporation of New Jersey and the United Gas Improvement which were owned by the American Superpower Corporation?

Mr. WHITNEY. Do I know of any legal reason?

Mr. PECORA. Any reason whatsoever, legal or based upon any practical consideration of convenience or otherwise.

Mr. WHITNEY. I have never given any thought to the subject.

Mr. PECORA. Well now, you are a director in many corporations, aren't you?

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Mr. WHITNEY. Yes.

Mr. PECORA. Haven't you as a director in various corporations frequently taken part in corporate action whereby exchanges of securities were effected?

Mr. WHITNEY. I undoubtedly have, but I would not say frequently.

Mr. PECORA. Well now, as a matter of fact——

Mr. WHITNEY (interposing). I am not a lawyer, you know, Mr. Pecora. When these matters come up we follow our advice of counsel as to the propriety and legality of the steps. The matter of the—I just—you are asking me to testify to something that I have told you I cannot testify on to my own knowledge. This was done this way with the advice of eminent counsel, it was a satisfactory, legal, and proper way to do it, and that was all that I was interested in. The motives, why it was done, what the reasons that suited the American Superpower better this way than any other, was a matter that didn't concern me, and I was advised it was a proper transaction, that is all I know. I just am not able to testify from my own knowledge of why it was done this way rather than directly, and I cannot tell you more than that. If I could, I would be delighted to tell you.

Mr. PECORA. Well now, Mr. Whitney, at about the same time that this transaction was effected, your own firm had exchanged securities which it owned in certain utility companies——

Mr. WHITNEY. Quite right.

Mr. PECORA. With the United Corporation in return for the United Corporation's securities or stock, hadn't it?

Mr. WHITNEY. Certainly.

Mr. PECORA. And that exchange was effected directly between your firm and the United Corporation without resort to the medium of another corporation that was specially created for the purpose of effecting the transfer, wasn't it?

Mr. WHITNEY. Certainly.

Mr. PECORA. Did you ask anyone why this exchange referred to in these minutes of January 9, 1929, could not have been made in the same direct fashion?

Mr. WHITNEY. I may have.

Mr. PECORA. What answer was given to you?

Mr. WHITNEY. I don't remember. Mr. Pecora, if I did remember I would not have told you a minute ago that of my own knowledge I would not be able to testify as to why it was done. I may have asked a question. I may have received an answer. But I don't remember now what the answer was. There is no—I am not trying to deny in any way that this Public Electric Holding Corporation was used. It was through that medium that these securities were received from the superpower to the United Corporation, transferred. The motives were motives that must have been of some interest to the American Superpower. There is no analogy between our transaction, which was a sale by us of certain utility stocks that we, J. P. Morgan, owned, to the United for the exchange of securities. This was done probably to suit, as I said before, I assume, the convenience of the American Superpower, but beyond that I just haven't got any knowledge.

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The CHAIRMAN. Did this new company ever do any other business?

Mr. WHITNEY. I don't think so; no, sir.

Mr. PECORA. It was merged, wasn't it; directly in connection with this transaction it became merged with the United Corporation, and thereby passed out of existence?

Mr. WHITNEY. Certainly. That is what the——

Mr. PECORA (interposing). Its only function, the only purpose for which it was created, was to effect this transfer of securities between American Superpower Co. and the United Corporation; isn't that so?

Mr. WHITNEY. And, of course, it did not affect the United Corporation one way or the other. It was no detriment to the United Corporation and no advantage. It was a method which I assume, therefore, must have had some merit from the point of view of the American Superpower, but I just don't know.

Mr. PECORA. You don't know what merit it has?

Mr. WHITNEY. Of my knowledge I do not.

Mr. PECORA. Well, Mr. Whitney, how was it that the offer to the American Superpower was made by the United Corporation upon those terms? Why didn't the offer come from the American Superpower Corporation to the United Corporation?

Mr. WHITNEY. There again you will have to ask the lawyers. Sometimes they write a letter in one direction and sometimes in another. That I do not know.

Mr. PECORA. It is all a mystery to you?

Mr. WHITNEY. This is 4 years afterward. It is not a mystery. There is no mystery about it. But why it was done I just don't remember 4 years afterward, why it was done. The effect was the same, wasn't it? You have already asked me a question which brought the answer for the purpose of this. The only purpose that the United Corporation was interested in was to acquire 80,000 shares of Public Service stock and 53,000 shares of U.G.I. stock. This transaction accomplished that purpose. It was the only thing that I as a director of the United Corporation was interested in. Beyond that I did not ask questions about other things. We got perfectly satisfactorily——

Mr. PECORA (interposing). Wasn't that transaction this: Assuming now that I am the American Superpower Corporation and that you are the United Corporation. You want to give me your shares of certain stock that I own as an exchange——

Mr. WHITNEY (interposing). You are the United?

Mr. PECORA. I am the American Superpower Corporation and you are the United Corporation.

Mr. WHITNEY. All right.

Mr. PECORA. Instead of giving them to me directly and I giving you the stock that you want directly, we call in someone from out of the room and we effect the exchange with each other through that third person. Isn't that about what happened here?

Mr. WHITNEY. We formed a corporation. Was anybody injured by it, Mr. Pecora?

Mr. PECORA. I am asking you what the reason for it was.

Mr. WHITNEY. Well, I don't know, except that I——

Mr. PECORA (interposing). You don't know, do you?

Mr. WHITNEY. I have answered that half a dozen times.

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Mr. PECORA. I have asked you if it was a species of avoidance of payment of taxes.

Mr. WHITNEY. Well——

Mr. PECORA (continuing). You don't know anything about that?

Mr. DAVIS. That wasn't it.

Mr. PECORA. You wouldn't say that was the reason, would you?

Mr. WHITNEY. I wouldn't say it was the reason or wasn't the reason. I say I don't know. I am perfectly willing to take your assumption. You are a lawyer familiar with all these matters, and if that is the diagnosis you make of it I am perfectly satisfied.

Mr. PECORA. I have not made any diagnosis. I am suggesting something to see if you know anything about that.

Mr. WHITNEY. I am sorry that I cannot answer.

Mr. PECORA. Mr. Whitney, will you be good enough to look at this photostatic copy of a letter addressed to Mr. Arthur M. Anderson under date of January 16, 1929, which we received from your firm?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. Do you identify it as a true copy of such a letter?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. I offer it in evidence and ask that it be spread on the record.

The CHAIRMAN. Let it be admitted and spread on the record.

(The letter referred to was marked "Committee Exhibit No. 39, June 1, 1933," and is as follows:)

Mr. PECORA. For the information of the committee, may I read it? It is on the letterhead of the New York, New Haven & Hartford Railroad Co., office of the chairman of the board:

JANUARY 16, 1929.

Personal.

Mr. ARTHUR M. ANDERSON,
23 Wall Street, New York City.

DEAR ARTHUR: I appreciate very much your telephone suggesting that I subscribe for or purchase shares of the new corporation organized to acquire a substantial interest in public-utility corporations furnishing electrical energy. I understand that one of those corporations is the Connecticut Light & Power Co., with which this company has a contract. We are about to open negotiations for future dealings with this company in regard to power requirements, and I feel that I ought not at this time to consider any investment in its securities or in securities of any corporation which may exercise a directing influence.

This may seem to you leaning over backwards, but—excuse the paradox—I feel more comfortable in that posture. Just the same, I appreciate your having brought this to my attention.

Yours very sincerely,

E. G. BUCKLAND.

Mr. PECORA. This is the Mr. Buckland who did accept your invitation to subscribe to a certain number of shares of the Alleghany Corporation common stock and to a certain number of shares of Standard Brands, Inc., is he not?

Mr. WHITNEY. That is the same gentleman.

The CHAIRMAN. Now, gentlemen——

Mr. WHITNEY. Mr. Pecora, would you be interested by any chance in the reply to that letter, which your investigators did not take?

Mr. PECORA. I am interested in anything you want to produce in reference to any of these matters.

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Mr. WHITNEY. That is such a fine point of view, as stated by Mr. Buckland, that I should like to read this answer to him by Mr. Anderson:

We quite understand your point of view about the stock of the United Corporation. As a matter of fact, it does not directly have any ownership in Connecticut, but, of course, the United Gas Improvement Co., in which the United Corporation has a substantial though a minority interest, has important Connecticut properties.

If the foregoing should change your point of view, please let me know, but we would not for a moment want to suggest your doing anything about anything which would run counter to any of your own views.

The CHAIRMAN. Do you want to put that in the record?

Mr. WHITNEY. If you want it.

The CHAIRMAN. Now, we will go on tomorrow morning at 10 o'clock. On Saturday we will not sit, I think. It is not expected that this inquiry will be completed before Monday and Tuesday. It will consume both Monday and Tuesday. Kuhn, Loeb & Co. are cited to appear on Tuesday, but we won't finish this inquiry we are now engaged in in time for that appearance. We estimate now that by Tuesday night we will be through with this line of inquiry.

Mr. PECORA. Possibly by Monday, Senator Fletcher.

The CHAIRMAN. All right.

Mr. PECORA. I will make every endeavor to get through by Monday.

The CHAIRMAN. We won't be able to finish this inquiry this week. We will go on tomorrow, and then will adjourn and go on on Monday again.

Mr. WHITNEY. Can you tell us what train we will be able to get home tomorrow night? What time will we be through tomorrow night. There are quite a number of us and we would like to get home for over Sunday.

The CHAIRMAN. I think we will adjourn tomorrow so as to get you home in plenty of time for Sunday.

Mr. WHITNEY. We would rather sit late tomorrow if necessary in order to be sure to be discharged on Tuesday.

The CHAIRMAN. All right. We will try to accommodate you if we can. The committee will now adjourn until tomorrow morning at 10 o'clock.

(Thereupon, at 6:20 p.m., Thursday, June 1, 1933, the subcommittee adjourned to meet at 10 o'clock the following morning.)

COMMITTEE EXHIBIT No. 36

JUNE 1, 1933.

This agreement made the 31st day of March 1916 between John Pierpont Morgan and others, witnesseth:

That the parties hereto have this day formed a partnership for the transaction of a general foreign and domestic banking business in the cities of New York and Philadelphia, upon the following terms and conditions:

First. The business shall be conducted in New York under the firm name of "J. P. Morgan & Co.", and in Philadelphia under the firm name of "Drexel & Co.", and shall commence on the 1st day of April 1916.

Second. The capital of the partnership shall be as follows: * * *

Third. The net profits and losses shall be divided and borne as follows: * * *

Fourth. Interest at the rate of 6 percent per annum shall be allowed or charged on all partners' accounts, including capital and undivided profits.

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Fifth. No transaction shall be made which shall be objected to by any member of the partnership.

Sixth. In case of a difference or dispute between members of the partnership, the same shall be submitted to the decision of Mr. John Pierpont Morgan, which shall be final.

Seventh. The partnership may be dissolved at any time by Mr. John Pierpont Morgan, subject to the liquidation thereof; provided that partners representing a majority in the interests in the profits of the partnership shall consent to such dissolution.

Eighth. Any partner may withdraw from the partnership upon giving 3 months' written notice of his intention so to do. In that event, the remaining partners may continue the business and the shares of the profits or losses of the withdrawing partner, or partners shall be divided thereafter among the remaining partners, or otherwise disposed of, according to the decision of Mr. John Pierpont Morgan, who shall fix the valuation of the assets, determine what portion of the assets, if any, shall be appropriated as an offset to liabilities, and also be the judge of the amount due such withdrawing partner or partners on account of capital undivided profits and credit balances. The amount so due may be fixed by Mr. Morgan as of 3 months after the receipt of such notice, and the interest of such withdrawing partner or partners shall continue at the risk of the business until the date as adopted. The determination of Mr. Morgan as to the dates for fixing the amount due such withdrawing partner or partners shall be communicated in writing to him or them within 30 days after receipt of such notice of withdrawal. The amount so fixed shall be paid to such withdrawing partner or partners within 3 months after the date as of which the value of his or their interest shall have been fixed, except in the event that a liquidation of the partnership shall have been entered upon prior to such date, in which event, and notwithstanding the foregoing provisions, the interest of such withdrawing partner or partners shall abide the results of liquidation and shall be payable only as the liquidation proceeds. When Mr. Morgan shall fix the amount as due any withdrawing partner, a schedule shall be furnished showing the valuations at which the various assets of the partnership were appraised, and what portion of the assets, if any, have been appropriated as an offset to liabilities. Any withdrawing partner, if required, shall take his pro rata share of the assets not so appropriated to an extent covering the amount so due him.

Ninth. It is further agreed that Mr. Morgan may, at any time, compel any partner at once to withdraw and retire from the partnership, upon giving him written notice to that effect, and in that event, the amount due such retiring partner shall be dealt with in the same manner as above provided for in the case of a voluntary withdrawal by such partner.

Tenth. In case of the death of any partner, other than Mr. Morgan, is, within 30 days after such partner's death, such of the surviving partners as shall represent a majority in interest in the profits of the partnership (exclusive of the interest of such deceased partner therein) shall give to the persons named in his will as executors, or to his administrators or other legal representatives, written notice that they desire an extension of the partnership for a period specified in such notice not exceeding 3 years after the death of such deceased partner, then and in that event the partnership shall continue for the period not exceeding 3 years so indicated by them, and the capital and interests hereunder of such deceased partner and his estate and his and its responsibility and interests in the business as continued shall continue during such period of extension. The interest of such deceased partner in the partnership shall be ascertained and dealt with in the same manner as is hereinbefore in article 8 provided for in the case of voluntary withdrawal, and the date of the death of such partner, or in the event that notice of extension of the partnership shall have been given as hereinbefore in this article provided, then the date of expiration of the extended period specified in such notice, shall stand in the place of the date adopted for termination of his interest as required by said article 8 in the case of a partner voluntarily withdrawing. If at any time fixed by the provisions of said article 8 or of this present article for the doing of any act or the making of any decision by Mr. Morgan with reference to the interest of a withdrawing or deceased partner, Mr. Morgan shall not be living, then such act may be performed by such of the continuing or surviving partners as shall at such time represent a majority in interest in the profits

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of the partnership (exclusive of the interest of Mr. Morgan therein) with the same force and effect as if performed by Mr. Morgan.

Eleventh. In case of the death of Mr. John Pierpont Morgan, the partnership shall be dissolved on the 31st day of December next ensuing, unless his death be within a period of 6 months prior to December 31 in any year, in which event the partnership shall continue until the 31st day of December in the next ensuing calendar year and shall then be dissolved. If, however, within 30 days after Mr. Morgan's death such of the surviving partners as shall represent a majority in interest in the profits of the partnership (exclusive of the interest of Mr. Morgan therein) shall give to the persons named in his will as executors, or to his executors, or to his administrators or other legal representatives, written notice that they desire an extension of the partnership for a period specified in such notice not exceeding 3 years after Mr. Morgan's death, and then and in that event the partnership shall continue for the period not exceeding 3 years so indicated by them and shall then be dissolved; and the capital and interests hereunder of Mr. Morgan and his estate and its responsibility and interests in the business as continued during such period of extension shall continue.

Twelfth. Upon the dissolution of the partnership following the death of Mr. Morgan, the goodwill of the business and the right to use the firm names of J. P. Morgan & Co. and Drexel & Co. shall belong to the then surviving partners who shall thereupon decide whether to continue the business, and, if continued, upon what terms. In case such surviving partners who shall thereupon decide whether to continue the business, and, if continued, upon what terms. In case such surviving partners cannot agree either as to the continuance of the business or the terms and conditions of the new partnership, the surviving partners representing a majority in interest in the profits of the old partnership (exclusive of the interest of Mr. Morgan therein) shall have the right to decide and shall decide what shall be done in respect of continuing the business and the terms and conditions of a new partnership, and their decision shall be conclusive and binding on all the surviving partners.

In case such majority in interest shall decide to continue the business, such majority shall determine the amount due Mr. Morgan's estate on account of his capital, reserved profits, and net credit balances, and the interest of Mr. Morgan's estate shall be dealt with in the same manner as hereinbefore in article 8 provided for in the case of a voluntary withdrawal of a partner, except that the powers vested in Mr. Morgan by article 8 shall in such case be vested in such majority in interest. In case such majority in interest shall decide not to continue the business, the responsibility and interests of Mr. Morgan's estate shall be subject to the results of the liquidation of the partnership.

In case such majority in interest shall decide to continue the business, any partner not desiring to remain in the partnership may withdraw therefrom in the same manner and upon the same terms and conditions as provided in article 8 hereof; and in no event shall such withdrawing partner or partners be entitled to any interest in or allowance for either the good will of the business or the use of the firm names; but such good will and firm names shall belong to the remaining partners free from any claim whatever of such partner or partners so withdrawing from the partnership.

If the business or any portion thereof be continued under the same firm name of J. P. Morgan & Co. and at any time there should cease to be any lineal male descendant of Mr. J. Pierpont Morgan in the male line bearing the name of Morgan, in the partnership, the right to use the firm name of J. P. Morgan & Co. shall cease after 15 years from such time, unless before the expiration of such 15 years there should again be such a lineal descendant of Mr. J. Pierpont Morgan in the partnership, in which case the right to use said firm name shall continue unimpaired until 15 years after such time as there should again be no such lineal descendant of Mr. J. Pierpont Morgan in the partnership.

In no event shall the good will of the business or the right to use the firm names have any cash or money value either as between the existing partners or as between the existing partners and any withdrawing or former partner or the estate of any deceased partner or any descendant of Mr. J. Pierpont Morgan, whether or not such descendant has ever been a partner in the partnership.

And each of the parties hereto hereby covenants with each of the others that he will never become or be a partner in any partnership using, and that he will never use, said firm name of J. P. Morgan & Co. in violation of the provisions of this article.

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Thirteenth. It is further agreed not only with respect to the partnership hereby formed but also with respect to any successor partnership that upon the death of any partner and the termination of his interest or that of his estate in the partnership, or upon the voluntary or compulsory withdrawal of any partner or partners, or upon the dissolution of the partnership and the formation of a successor partnership, the good will of the business and the right to use the firm names shall belong to the surviving or continuing partners, and that in no case shall any estimate ever be put upon the good will or right to use the firm names in ascertaining the amount due any withdrawing partner, whether such withdrawal be voluntary or compulsory, or the estate of any deceased partner. The valuations, decisions, and determinations made by Mr. Morgan or the majority in interest as hereinbefore provided shall in all cases be final and conclusive against a withdrawing partner or the estate of a deceased partner.

Fourteenth. The books of the partnership shall be settled on the 31st of December in each year. One half of each partner's proportion of profits shall be placed to his credit. The other half shall be set aside and kept as undivided profits until such time as Mr. John Pierpont Morgan may consent to its division among the various parties in interest as provided in article 3. It is also understood that no partner shall draw from the partnership any money beyond the amount placed to his credit, without the consent of the other parties hereto.

Fifteenth. It is understood and agreed that no partner shall engage in any other business or be a general or special partner in any other firm.

Sixteenth. Speculation in stocks or anything else, by the individual members of the partnership is prohibited; but this clause shall not be construed so as to prohibit any partner from investing his private means in such way as he may see fit.

Eighteenth. No member of the partnership shall become security or endorse, except in the partnership business, without the consent of the parties thereto.

Nineteenth. The firms of J. P. Morgan & Co. and Drexel & Co. being partners in the firms of Morgan, Grenfell & Co., of London, and Morgan, Harjes & Co., of Paris, their proportion of the capital thereof shall be supplied out of the partnership capital mentioned in article 2 hereof, and the profit or loss therein shall be included in the partnership accounts hereunder.

Witness our hands and seals the day and year first above written in the presence of—

———— ————.

DECEMBER 31, 1916.

Thomas Cochran has this day become a partner in the firms of J. P. Morgan & Co., and Drexel & Co., subject to all the terms of the foregoing agreement.

NEW YORK, *December 31, 1919.*

Junius Spencer Morgan, Jr., Elliot Cowdin Bacon, and George Whitney have this day become partners in the firms of J. P. Morgan & Co., and Drexel & Co., subject to all the terms and conditions of the foregoing agreement.

NEW YORK, *December 31, 1920.*

Arthur E. Newbold's interest in the firms of J. P. Morgan & Co., and Drexel & Co., having ceased this day and his contribution to the capital having been repaid him. Thomas S. Gates has this day become a partner in the firms of J. P. Morgan & Co., and Drexel & Co., subject to all the terms of the foregoing agreement.

NEW YORK, *December 31, 1921.*

William Pierson Hamilton withdraws this date from the firms of J. P. Morgan & Co., and Drexel & Co., and his contribution to capital has been repaid him.

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NEW YORK, *December 31, 1922.*

After settlement of the books on the 31st day of December 1922, and each year thereafter, as provided in article fourteenth, the net balances then standing to any partner's credit shall be considered as capital, and such amounts shall not be withdrawn without the consent of Mr. Morgan.

NEW YORK, *December 31, 1922.*

Henry P. Davison's interest in the firms of J. P. Morgan & Co., and Drexel & Co., having ceased this day, his contribution to the capital has been repaid to his executors.

NEW YORK, *December 31, 1923.*

Russell Cornell Leffingwell has this day become a partner in the firms of J. P. Morgan & Co., and Drexel & Co., subject to all the terms of the foregoing agreement.

NEW YORK, *December 31, 1924.*

Elliot Cowdin Bacon's interest in the firms of J. P. Morgan & Co. and Drexel & Co. having ceased this day, his contribution to the capital has been repaid to his executors.

NEW YORK, *December 31, 1925.*

Edward R. Stettinius' interest in the firms of J. P. Morgan & Co. and Drexel & Co. having ceased this day, his contribution to the capital has been repaid to his executors.

NEW YORK, *December 31, 1926.*

William H. Porter's interest in the firms of J. P. Morgan & Co. and Drexel & Co. having ceased this day, his contribution to the capital has been repaid to his executors.

Francis Dwight Bartow, Arthur Marvin Anderson, and William Ewing have this day become partners in the firms of J. P. Morgan & Co. and Drexel & Co., subject to all the terms and conditions of the foregoing agreement.

NEW YORK, *December 31, 1927.*

Dwight W. Morrow having retired on September 30, 1927, his interest in the firms of J. P. Morgan & Co. and Drexel & Co. ceased on that date, and his contribution to the capital has been repaid to him.

Harold Stanley has this day become a partner in the firms of J. P. Morgan & Co. and Drexel & Co., subject to all the terms and conditions of the foregoing agreement.

NEW YORK, *December 31, 1928.*

Henry Sturgis Morgan, Thomas Stilwell Lamont, and Henry Pomeroy Davison have this day become partners in the firms of J. P. Morgan & Co. and Drexel & Co., subject to all the terms and conditions of the foregoing agreement.

Thomas Newhall and Edward Hopkins, Jr., have this day become partners in the firms of J. P. Morgan & Co. and Drexel & Co., subject to all the terms and conditions of the foregoing agreement.

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NEW YORK, *June 30 1930.*

Thomas S. Gates withdraws this date from the firms of J. P. Morgan & Co. and Drexel & Co. His contribution to capital and his share in full to date of profit and loss have been paid to him.

NEW YORK, *January 2, 1931.*

S. Parker Gilbert has this day become a partner in the firms of J. P. Morgan & Co. and Drexel & Co., subject to all the terms and conditions of the foregoing agreement.

NEW YORK, *January 2, 1932.*

Charles Denston Dickey has this day become a partner in the firms of J. P. Morgan & Co. and Drexel & Co., subject to all the terms and conditions of the foregoing agreement.

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STOCK EXCHANGE PRACTICES

FRIDAY, JUNE 2, 1933

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

The subcommittee met, pursuant to adjournment on yesterday, at 10:30 o'clock a.m., in the caucus room of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Couzens, and Townsend.

Present also: Senators Reynolds, Adams, and Steiwer.

Present also: Ferdinand Pecora, counsel to the committee; Julius Silver, David Saperstein, and James B. McDonough, Jr., associate counsel to the committee; John W. Davis, counsel for J. P. Morgan & Co., Randall J. LeBoeuf, Jr., and Earle J. Machold, counsel for the United Corporation and for George H. Howard, president of the United Corporation.

The CHAIRMAN. The committee will come to order. Mr. Whitney, you were still on the stand yesterday afternoon. I believe that Senator Reynolds wanted to ask Mr. Whitney some questions.

Senator REYNOLDS. If you please.

The CHAIRMAN. You may proceed.

TESTIMONY OF GEORGE WHITNEY, A MEMBER OF THE FIRM OF J. P. MORGAN & CO.—Resumed

Senator REYNOLDS. Mr. Whitney, I believe that on yesterday, if I am correctly informed, you testified before this committee to the effect that 15,000 units—that is to say, consisting of one share of common and one share of preferred stock of the United Corporation—were allotted to your British representatives, Grenfell & Co.

Mr. WHITNEY. Well, was that in the list? The firm is Morgan, Grenfell & Co., and they are partners, not representatives.

Senator REYNOLDS. Yes. That is correct, is it?

Mr. WHITNEY. Well, I would want to get the list. I do not remember the amount.

Senator REYNOLDS. All right.

Mr. WHITNEY. Yes, sir; to Morgan, Grenfell & Co., 15,000 units.

Senator REYNOLDS. And I believe that it was further revealed by your testimony to the effect that that represented about $1,225,000 or $1,250,000.

Mr. WHITNEY. That would be $1,125,000.

Senator REYNOLDS. It is $1,125,000, is it?

Mr. WHITNEY. Yes. But I did not testify to that. It was $75 a unit.

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Senator REYNOLDS. Mr. Whitney, did your London office request that allowment, or did you designate that particular amount to them without a formal request on their part?

Mr. WHITNEY. I think, Senator Reynolds, that a cable was read on yesterday afternoon by Mr. Pecora, or a portion of a cable, which indicated that we had offered it to them. That is my best recollection. I think we asked them what amount they wanted, and suggested 15,000 units. That would be the best of my recollection.

Senator REYNOLDS. Isn't it a fact that after that particular allotment was made to your London office that they, shortly thereafter or immediately thereafter, requested an additional allotment of units?

Mr. WHITNEY. I do not remember, Senator Reynolds.

Senator REYNOLDS. Now, Mr. Whitney, do you know what disposition was made of the 15,000 units by your London office?

Mr. WHITNEY. Might I inquire?

Senator REYNOLDS. Yes; certainly.

Mr. WHITNEY. Senator Reynolds, the first paragraph of one of the cables which Mr. Pecora read on yesterday I think answers your first question about whether we made the offer or they asked us.

Senator REYNOLDS. Yes, sir.

Mr. WHITNEY. Because it says:

> We are reserving for Morgan, Grenfell & Co., London partners, and clients a total of 15,000 units, which is probably the maximum that we can set aside for you.

That shows that we made the offer.

Senator REYNOLDS. And did they request additional units?

Mr. WHITNEY. Well, the next sentence is:

> In case any additional units are available, which we doubt, we will, if you advise us definitely what amount you desire, do our best to carry out your wishes.

I have no record to show what they did, but this shows clearly that we did not allot more then. As to your question what they did with them, our records do not show whether the individual partners kept them or the firm kept them or they sold them to their own clients over there.

Senator REYNOLDS. Have you made inquiry as to what disposition was made of the units?

Mr. WHITNEY. No, sir. We have never been asked the question before, and we have had no occasion to make the inquiry.

Senator REYNOLDS. Were similar allotments made to your Paris office to the extent of any units?

Mr. WHITNEY. To the extent of 12,000 units; yes, sir.

Senator REYNOLDS. Did you allot them that or did they made request on your firm?

Mr. WHITNEY. Well, I assume, Senator Reynolds, that we did it in the same way with the Paris partners as we did with the London partners.

Senator REYNOLDS. I see. Now, the London office was allotted those 15,000 units at the cut-rate price, were they not? And likewise the Paris office?

Mr. WHITNEY. Might I have that question repeated, as my attention was on this paper for the moment.

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Senator REYNOLDS. Certainly; the committee reporter will read the question.

(The question was read.)

Mr. WHITNEY. Not at any cut-rate price, but at the same price, namely, $75 a unit, which everybody bought it at.

Senator REYNOLDS. The same price that the preferred list of people in this country secured the stock?

Mr. WHITNEY. The same price at which everybody who bought units from us, bought; yes, sir.

Senator REYNOLDS. Do you know what disposition was made of the units by your Paris representatives?

Mr. WHITNEY. Well, I see here a cable which shows, and it reads:

We have debited the account of each Paris partner as of January 11, $50,000—

No, that is another matter. That is common stock. Excuse me. No; I haven't any more than the amount allotted to Morgan, Grenfell & Co.

Senator REYNOLDS. You haven't a partnership in Paris, have you?

Mr. WHITNEY. I, personally?

Senator REYNOLDS. I mean your company.

Mr. WHITNEY. Oh, yes, sir.

Senator REYNOLDS. Similar to the London organization?

Mr. WHITNEY. Well, as Mr. Morgan testified previously, Senator Reynolds, the arrangement is not quite the same. The London partnership is in the form of an unlimited corporation. The Paris partnership is a partnership under the French law, of which I think the firm of J. P. Morgan & Co. is a partner.

Senator REYNOLDS. Have you in your New York offices a list of the names of those who participated in the division of the 15,000 units in London?

Mr. WHITNEY. I am pretty sure that we have not. We would have had no occasion to have it.

Senator REYNOLDS. Have you a list of the individuals who participated in the 12,000 unit allotment made to your Paris office?

Mr. WHITNEY. Might I inquire?

Senator REYNOLDS. Certainly.

Mr. WHITNEY. Because, so far as I know we have not. [After consulting some associate.] I am advised that we have not. I did not think we had.

Senator REYNOLDS. Have you ever endeavored to secure a list from the London office or from the Paris office?

Mr. WHITNEY. No, sir. We have never had occasion to do so.

Senator REYNOLDS. Have you heard, Mr. Whitney, that the allotment made to the London office was distributed to some members of royalty?

Mr. WHITNEY. I have never heard that suggestion made before.

Senator REYNOLDS. Have you heard that some of the allotment which went to your Paris office were distributed to some politicians in France?

Mr. WHITNEY. I have never heard any such suggestion made before, and I am very confident that it is not so.

Senator REYNOLDS. Would you be willing to provide this committee with a list of those who participated in the division of 12,000 units in Paris, and those who participated in the distribution of the 15,000 units in London?

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Mr. WHITNEY. Why, certainly, Senator Reynolds, we will cable if the committee wishes.

Mr. DAVIS. Might I interject right there?

Senator REYNOLDS. Certainly.

Mr. DAVIS. That involves certain gentlemen over there with whom we are associated, and who may have their own ideas about it.

Senator REYNOLDS. Yes, sir.

Mr. WHITNEY. As Mr. Morgan testified, both of those offices are run as complete entities, and are managed by the resident partners, Englishmen in London, and the French resident partners in Paris.

Senator REYNOLDS. Yes. Mr. Whitney, although you have not at the present time knowledge as to the distribution of the 27,000 units in Great Britain and in France, don't you think, in view of the turbulent conditions abroad, the conflict over the dollar and the pound as to international values, and the other differences, that it is unwise to give to Europeans stock under such conditions at this particular time; and particularly in view of the fact that the House of Morgan is interested in enormous investments both in the United States and on the Continent?

Mr. WHITNEY. Senator Reynolds, of course as to this particular time—do you mean now?

Senator REYNOLDS. Well, then and now, because conditions were somewhat similar.

Mr. WHITNEY. Not in 1929, no similarity existed.

Senator REYNOLDS. In 1929 isn't it true that the several countries of Continental Europe were indebted to the United States in a sum something like $11,000,000,000?

Mr. WHITNEY. Governments, certainly.

Senator REYNOLDS. Yes, sir. Well, conditions were about the same then, weren't they?

Mr. WHITNEY. Well, I misunderstood your question. You speak of the conflict of the dollar, and of the turmoil and the various other definitions of conditions. Of course, in 1929 those conditions did not exist. That is what I had reference to. Of course, the intergovernmental debt situation was the same. But those participations were given to our own partners. It is true that in those two countries there were individual allotments or allotments through the two firms. Frankly, in 1929 I would not have thought there was the slightest association of an extent of 27,000 units of the United Corporation, in the investment business, such as we all carry on—I mean that I would not have thought that conditions which you speak of should have been taken into consideration. But conditions were very different then from now. And I still think that today, that it is quite a different situation.

Senator REYNOLDS. Well, by the allotment of those units in the countries of Continental Europe——

Mr. WHITNEY (interposing). Might I just interrupt you there?

Senator REYNOLDS. Certainly.

Mr. WHITNEY. You understand that the governments did not buy them.

Senator REYNOLDS. No. I understand that.

Mr. WHITNEY. It was their nationals.

Senator REYNOLDS. I am referring to your interests there. Don't you believe it tends to line up favored Europeans behind projects in

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which J. P. Morgan & Co. are interested to the detriment of American public welfare whenever American and Morgan interests clash?

Mr. WHITNEY. I do not, sir. I do not think it would have the slightest effect in any way detrimental to United States interests.

Senator REYNOLDS. Have you heard that King Albert of Belgium participated in one of those allotments?

Mr. WHITNEY. I have not so heard, and I am very sure that he did not.

Senator REYNOLDS. A portion of the allotment that went to your Paris office?

Mr. WHITNEY. I never even heard it suggested before, Senator Reynolds, and I am sure that it is not so.

Senator REYNOLDS. Have you heard that the family of King George, or that King George himself, was one of the individuals who participated in this allotment to London?

Mr. WHITNEY. I have never heard it suggested before your question previously about the royal family, that he had any interest in this at all. And I say again, I very seriously doubt it.

Senator REYNOLDS. Have you heard that the director of the Italian Government, and I do not know how to pronounce his name. I sometimes call him Mussolini and I sometimes call him Mussoloni. (Laughter.) I have never learned which it really is. But have you heard that either Mussolini or Mussoloni participated in these allotments?

Mr. WHITNEY. No, I have not heard, I am sure, anything of that kind.

Senator REYNOLDS. So, insofar as your information is concerned, you have no definite information to the effect that any of the leading politicians or any of the members of the royal families in countries of Europe, have ever participated in any of the units of the United Corporation?

Mr. WHITNEY. Senator Reynolds, you have extended that question now a good deal. I have no definite knowledge that any of those gentlemen referred to participated in the sale of those units. I would be willing to state, however, without the slightest fear of contradiction that they did not. Your question then goes on to ask as to whether they ever bought them. To that portion of your question I answer: Whether they ever bought any of them since, of course I do not know anything about it.

Senator REYNOLDS. That is all, Mr. Chairman.

The CHAIRMAN. You may proceed, Mr. Pecora.

Mr. PECORA. Mr. Whitney, have you since the recess yesterday afternoon attempted to obtain confirmation as to whether John W. Kephart purchased from your firm at $20 a share the common stock of the Alleghany Corporation in 1929? His name is shown on the list referring to the Alleghany Corporation, as you will recall.

Mr. WHITNEY. Yes, sir; I have, and our records show that while the allotment was made to him it was paid for by his wife.

Mr. PECORA. But the invitation to subscribe for those shares at $20 a share was extended to him, wasn't it?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. And the acceptance was through his wife? The acceptance of the invitation or the payment in acceptance of that invitation, was made by his wife?

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Mr. WHITNEY. Yes. The payment was made by his wife.

Mr. PECORA. To whom was the stock issued, if you know?

Mr. WHITNEY. Oh, to his wife.

Mr. PECORA. To his wife?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. Now, I notice that John W. Kephart is also one of the gentlemen invited to subscribe to the units of the United Corporation at $75 a unit. Was that invitation accepted?

Mr. WHITNEY. Let me find out.

Senator COUZENS. While Mr. Whitney is looking that up, Mr. Pecora, let me ask: Who is he?

Mr. PECORA. One of the judges of Pennsylvania. I am asking these questions, Senator Couzens, because of a telegram received by me from Governor Pinchot.

Mr. WHITNEY. I am advised, Mr. Pecora, that in the case of the United Corporation units, the amount of which I do not know for the moment but will check up in a minute or two; that that was also issued and delivered to the Philadelphia Trust Co. for the account of Mrs. Kephart, although the invitation, in the same way, was made to him. Whether the stock—well, apparently it was issued to him, but was delivered and paid for for the account of his wife at the Philadelphia Trust Co.

Mr. PECORA. Did your firm or the firm of Drexel & Co. receive any communication from John W. Kephart informing or requesting you to accept payment for those shares from his wife and to issue the shares to her?

Mr. WHITNEY. Well, I assume so, but I do not know that. Mr. Pecora, might I correct my last answer?

Mr. PECORA. Certainly.

Mr. WHITNEY. At the suggestion of Mr. Davis that we, of course, do not know anything about it. I do not know that Drexel & Co. did. But J. P. Morgan & Co. did not know.

Mr. PECORA. Do you know the name of his wife?

Mr. WHITNEY. No; I do not.

Mr. PECORA. I notice on the list that was put in evidence showing the names of persons who were invited to subscribe for units of the United Corporation at $75, not only the name of John W. Kephart but also the name of Florence H. Kephart. Do you know whether or not Florence H. Kephart is the wife of John W. Kephart?

Mr. WHITNEY. No; I do not. I only sought the information over the telephone last night in response to your inquiry on yesterday after the close of the day's hearing, and I did not go into the matter of his wife's name.

Mr. PECORA. Is any partner of your firm or of the firm of Drexel & Co., who is resident in Philadelphia, here in attendance and who might know about this?

Mr. WHITNEY. No resident of Philadelphia is present. But I will be delighted to get you any information you want. But I just do not know.

Mr. PECORA. I am interested in a telegram from Governor Pinchot, of Pennsylvania, which reads as follows:

> Justice John W. Kephart has denied in the papers that he accepted the offer and purchased Alleghany Corporation stock on the preferred list. Would greatly appreciate your giving me the facts. Hearty thanks for your help.

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And the telegram is signed "Gifford Pinchot."

Mr. McCanliss. May I have that for a moment, Mr. Pecora?

Mr. Pecora. Certainly. Now, Mr. Whitney, I am desirous of responding to Governor Pinchot's request as fully as possible, and will be grateful to you if you will get me whatever confirmation, or whatever you can get me, showing the exact facts with regard to the invitations extended to John W. Kephart to subscribe for Alleghany Corporation common shares and for United Corporation units, and what action was taken upon those invitations.

Mr. Whitney. Yes, sir. We will prepare a memorandum and submit it. I did not appreciate on yesterday that you wanted any such detail as that; that you just wanted me to check our list, and that I did.

Mr. Pecora. All right. Now, Mr. Whitney, in the so-called "questionnaire" which I addressed to your firm several weeks ago, item 6 called for the names of officers and directors of any corporations to whom either of said firms or any of their agents have made any personal loan or advance.

Mr. Whitney. Yes, sir.

Mr. Pecora. In response to that I have been furnished with this document by your office. Will you kindly look at it and see if you can identify it.

Mr. Whitney. It says:

Names of all officers and directors of any corporations to whom either of said firms or any of their agents have made any personal loan or advance.

I answer yes, sir; with the qualification as noted on the document itself.

Mr. Pecora. With the qualification as noted there in the document itself?

Mr. Whitney. Yes, sir.

Mr. Pecora. Do the names appearing on that document represent and include all such directors and officers of corporations to whom loans were made during the period called for?

Mr. Whitney. To the best of my knowledge and belief, yes, with that qualification.

Mr. Pecora. And you believe it to be a complete and correct answer to the question?

Mr. Whitney. I do, sir.

Mr. Pecora. I offer that in evidence and ask that it be spread on the record of our hearing.

The Chairman. It may be received and made a part of the record.

(Question 6 and the answer thereto were received in evidence, and marked "Committee Exhibit No. 40, June 2, 1933," and are as follows:

Committee Exhibit No. 40

Question 6. Names of all officers and directors of any corporations to whom either of said firms or any of their agents have made personal loan or advance.

We have included those of whom we have actual knowledge or who are listed in the Directory of Directors other than those listed in answer to question 5:

J. P. MORGAN & CO.

Andrews, Jr., Chas. E., paid off February 1, 1927.
Bacon, G. G., paid off January 4, 1929.
Bowdoin, Geo. T., paid off April 14, 1931.

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Broome, Robert E., paid off August 25, 1932.
Brown, L. H.
Childs, Paul D., Jefferies, J. Amory and Bichols, William B., paid off December 19, 1930.
Clarke, Charles W., paid off December 19, 1930.
Clausen, L. R., paid off May 14, 1930.
Curran, Samuel H.
Davenport, R. S., paid off January 25, 1929.
David, Donald K.
Dawes, Daniel C., paid off January 2, 1931.
Farwell, Walter, paid off January 2, 1932.
Filsinger, Ernest B., paid off April 1, 1931.
Fleischmann, Paul W., paid off September 11, 1929.
Fortington, H. A.
Hodges, Charles H., paid off February 10, 1930.
Hodges, Wetmore.
Irvin, Richard, paid off December 19, 1930.
Keating, J. J., paid off April 9, 1930.
Klusmeyer, William.
Knight, Alfred, paid off September 11, 1929.
Lee, Joseph A., paid off September 11, 1929.
Lemkau, A. C.
Loree, L. F., paid off February 18, 1927.
Macauley, T. B., paid off February 17, 1931.
Markle, John, paid off May 2, 1927.
Marland, E. W. (through Guaranty Trust Co.), paid off November 6, 1930.
McCaughan, H. C., paid off June 13, 1930.
Monagle, A. C.
Moran, D. J., paid off September 29, 1932.
Murray-Graham, A. J. G., paid off January 24, 1930.
Newcomb, H. R., paid off September 13, 1932.
Nichols, George.
Noone, John B., paid off September 13, 1932.
Olds, R. E., paid off February 1, 1928.
Oswald, Hugo A., paid off September 10, 1929.
Ryan, Clendenin J., paid off February 5, 1932.
Scherer, Isidore, paid off November 14, 1930.
Sedlmayr, Theodore, paid off September 11, 1929.
Seigle, W. R.
Skelding, Henry T., paid off October 24, 1932.
Smith, Robert S., paid off October 27, 1930.
Smith, T. L.
Stanley, W. W.
Stearns, F. W., paid off May 2, 1930.
Stettinius, E. R. Jr., paid off January 3, 1930.
Suckley, Arthur R., paid off July 11, 1932.
Swearingen, E. L., paid off February 25, 1927.
Thornton, W. D., paid off May 4, 1931.
Trowbridge, James R., paid off April 1, 1929.
Voorhees, E. M., paid off April 3, 1931.
Wagner, E. C., paid off April 18, 1932.
White, T. J., paid off February 17, 1928.
Williams, S. A.
Wilshire, Joseph.
Winston, Gerrard B., paid off November 1, 1928.
Woods, Arthur, paid off December 21, 1931.
Woolley, Daniel P., paid off September 11, 1929.
Zanetti, J. E., paid off January 14, 1927.

DREXEL & CO.

Dr. Thomas G. Ashton, paid off November 21, 1931.
H. M. Atkinson, paid off July 16, 1931.
Charles T. Bach.
Richard L. Binder, paid off November 9, 1931.
Augustus S. Blagden, paid off May 26, 1931.
Gideon S. Borden.
Edwin M. Chance, paid off August 30, 1930.

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Charles M. Coover, paid off February 9, 1928.
J. H. R. Cromwell, paid off September 23, 1931.
George W. Davis.
John C. Dunn, paid off August 5, 1931.
William duPont, Jr., paid off January 31, 1931.
Joseph Ewing.
Benjamin West Frazier.
John K. Garrigues, paid off December 29, 1927.
Chester I. Hall, paid off February 6, 1930.
Howard F. Hansell, Jr.
Charles S. Hebard.
Daniel L. Hebard.
Hermann M. Hessenbruch.
Charles E. Hires, Jr.
Edward Hopkins, Sr., paid off April 24, 1929.
Archibald T. Johnson, paid off.
Richard D. Leonard, paid off September 19, 1929.
Andrew J. Maloney, paid off September 19, 1929.
Donald Markle.
E. B. C. Markle.
John Markle, 2d.
Orus J. Matthews, paid off August 18, 1931.
J. Kearsley Mitchell, paid off December 31, 1931.
Daniel A. Newhall, paid of October 2, 1931.
C. Lothrop Ritchie.
William I. Schaffer, paid off December 31, 1931.
Joseph T. Schlacks.
A. Homer Smith, paid off April 16, 1931.
Charles A. Smith.
Frank H. Taylor, paid off October 3, 1930.
A. C. Woodman, paid off January 4, 1929.

Mr. PECORA. Mr. Whitney, the document last offered in evidence you will notice contains merely the names of the officers and directors of corporations who received such loans. It does not show the corporations of which they were either officers or directors. Now, I have had prepared a list of the corporations of which these gentlemen were respectively officers or directors from published directories or manuals.

Mr. WHITNEY. We stated in our answer that the list was made up from the Directory of Directors.

Mr. PECORA. I will ask you to be good enough to look at that list, and if you have the facilities for having it confirmed by any of your associates or personnel, that you do so. I mean that you do not have to do it now. Then I will offer it in evidence, after you have had an opportunity to confirm or correct it. Will you be good enough to do that?

Mr. WHITNEY. Yes, sir. It will probably take some time, because we will have to go back and check. We took the list of the gentlemen that we looked up.

Mr. PECORA. Any time between now and Monday will do.

Mr. WHITNEY. All right.

Mr. PECORA. Now, Mr. Whitney, I want to refer to the document known as "Committee Exhibit 16" of May 25, 1933, which is an answer to question no. 10 on the questionnaire which I sent to your firm several weeks ago, which called for a list of all pools, joint accounts or syndicates in which either J. P. Morgan & Co. or Drexel & Co. participated, giving the name of the security involved, names of all participants, all details with respect to the amount of the participation, and profits and losses thereunder. Have you a copy of this exhibit before you?

Mr. WHITNEY. Yes, sir.

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Mr. PECORA. Now, will you turn to page 35 there?

Mr. WHITNEY. Will you give me the heading? Mine is not similarly numbered.

Mr. PECORA. It is the special suspense account.

Mr. DAVIS. Mr. Pecora, I do not think we have it here in just that same paging.

Mr. WHITNEY. It is the big stock pool.

Mr. PECORA. It is entitled "Special Suspense Account."

Mr. WHITNEY. Yes; that was the title on our books.

Mr. PECORA. Now, what was the pool or syndicate account or joint account?

Mr. WHITNEY. It is what we would call a divided joint account.

Mr. PECORA. A divided joint account?

Mr. WHITNEY. In other words, we bought jointly but the amount was then taken up and paid for individually.

Mr. PECORA. Who managed the operations of this account?

Mr. WHITNEY. We did, Mr. Pecora. That is, of course, the operation was a transaction which was undertaken by those seven banks and firms at the time of the stock-market crash in 1929.

Mr. PECORA. Who were the participants in this account?

Mr. WHITNEY. First Securities Co., Chase Securities Co., Guaranty Co. of New York, National City Bank, Bankers Co., the Messrs. Guggenheim, being Messrs. Daniel, Murray, S. R., and Simon Guggenheim, and ourselves.

Mr. PECORA. Now, the First Securities Co. is the investment affiliate of the First National Bank of New York, is it not?

Mr. WHITNEY. They are all securities companies associated with the First National Bank, Chase National Bank, Guaranty Trust Co. of New York, National City Bank, and Bankers Trust Co. of New York. I think I can make this a little clearer to the committee if I may be permitted to just say a word about the formation of it and the circumstances surrounding it.

Mr. PECORA. Go ahead.

Mr. WHITNEY. Because you will all remember, I think, that very uncertain condition in the stock market, the New York Stock Exchange, culminated on the 24th day of October 1929, in an extremely chaotic condition, where there were no bids for stocks of any kind, where the normal functioning of the stock exchange just seemed to be stopped, with very heavy blocks for sale.

About noon of that day the president of the New York Stock Exchange, or vice president he was then, called this matter to our attention. And, practically simultaneously with that, the various heads of these banks in New York called it also to our attention by coming to our office to discuss what, if anything, should be done.

You will remember also that at that time there was a very large amount of money being loaned on call in the New York Stock Exchange, which created a condition with a great deal of danger in it.

It was decided by the representatives of those banks and ourselves—and the Messrs. Guggenheim were not present at that initial meeting—that in order to hope to preserve some order in the whole financial community, something very substantial should be done immediately.

Mr. PECORA. Now, Mr. Whitney, I do not want to interrupt you if I can avoid it, but I want to ask you at this point this question: Who were the gentlemen who actually participated in this conference

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that you have just alluded to? I mean the gentleman to whom you referred as the then vice president of the New York Stock Exchange, and the officers of these banks?

Mr. WHITNEY. Well, the then vice president of the New York Stock Exchange was Mr. Richard Whitney.

Mr. PECORA. Your brother.

Mr. WHITNEY. My brother.

Mr. PECORA. He is now the president of the New York Stock Exchange.

Mr. WHITNEY. He is now the president of the New York Stock Exchange.

Mr. PECORA. And has been since 1930.

Mr. WHITNEY. Yes. The then president of the New York Stock Exchange was away as it happened. The gentlemen at that first conference that morning were Mr. Potter, Mr. Prosser, Mr. Wiggin, and Mr. Charles E. Mitchell. My recollection is that at the very first meeting Mr. George F. Baker, Jr., was not present, not at the first meeting, but was present at the one held that afternoon.

Mr. PECORA. Mr. Potter was the executive head of the Guaranty Trust Co., wasn't he?

Mr. WHITNEY. He was then and is now the president of the Guaranty Trust Co.

Mr. PECORA. And Mr. Prosser was the executive head of the Bankers Trust Co.?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. And Mr. Wiggin was the executive head of the Chase National Bank?

Mr. WHITNEY. Yes.

Mr. PECORA. And Mr. Mitchell was then the head of the National City Bank?

Mr. WHITNEY. Yes, sir; he was then the president of it.

Mr. PECORA. And the chairman of the bank?

Mr. WHITNEY. No; then I think he was the president of the bank.

Mr. PECORA. And Mr. George F. Baker was the executive head of the First National Bank of New York?

Mr. WHITNEY. No, sir; his father was then. But Mr. George F. Baker, Jr., was vice chairman.

Mr. PECORA. What was the date of the first conference?

Mr. WHITNEY. About noon on Thursday, October 24.

Mr. PECORA. Was that on the day of the first crash in the stock market, or do you remember?

Mr. WHITNEY. Well, it was the first day of chaos. My recollection is that the market had been very weak the night before. But this was the first day when there was a really very serious situation threatening. Now, may I go on?

Mr. PECORA. Just in a few moments. Was this conference held in the office of your firm?

Mr. WHITNEY. It was.

Mr. PECORA. Who called it together?

Mr. WHITNEY. It was not called. It just happened.

Mr. PECORA. And these various gentlemen just happened to drop in at your firm's office at practically the same time without prearrangement on that date?

Mr. WHITNEY. No; and I can clear that up if you wish.

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Mr. PECORA. All right.

Mr. WHITNEY. To the best of my recollection, it was this: That Mr. Richard Whitney came over to see us. I think the next person heard from was Mr. Mitchell. I think the next person was by a telephone conversation with Mr. Wiggin; and if I remember rightly, then Mr. Prosser turned up. I think also I called up Mr. Potter, suggesting that inasmuch as the others were there he might come over. That would be to the best of my recollection how it happened.

Mr. PECORA. Who participated in the conference with those gentlemen in behalf of your firm?

Mr. WHITNEY. Let me see. Mr. T. W. Lamont, I think, Mr. Bartow and myself. I am not sure whether Mr. Bartow was there at the first meeting or not, but he was there shortly afterwards.

Mr. PECORA. Will you be good enough to give the committee the substance of the discussion that took place at the initial conference on that date?

Mr. WHITNEY. Yes, sir. The substance, as I tried to indicate before, was that the conditions on the New York Stock Exchange were different from almost any time before in its history, as there was absolutely no demand for securities at any level. As you will doubtless remember, the newspapers coined the phrase of "air pockets" at that time, which became used very extensively. And there were very heavy blocks of stocks being offered for sale. And the only object of this transaction from beginning to end was to try to restore some kind of order to bring the situation out of chaos. There was never the slightest attempt to hold prices at any level. I remember on that first morning that we had to act pretty quickly, and this was around noon, I should think, we put in certain orders with various brokers to bid at the last sale. And that brought a very uncertain level, because there had been sales all over. But that was the order we gave, to make bids at the last sale, for relatively small amounts of stock.

Mr. PECORA. Just a moment. What issues were enumerated in those orders?

Mr. WHITNEY. Well, to show how quickly we were working, my best recollection is that we all sat down and suggested issues that seemed to be particularly weak. That will account for the fact, as you will see on the next page, the photostatic copy, for some very small amounts of stock. Some of those represented purchases on the first day because the whole value of this transaction was rather changed at a meeting after the close of the stock exchange that night.

Mr. PECORA. Well, do you recall the issues with respect to which the first orders were given in pursuance of the judgment of that conference?

Mr. WHITNEY. Well, as near as I can remember, and I haven't brought memoranda of it I made at the time, but my recollection would be that this whole list were the securities for which orders were put in on that first day. The next day a great many of these securities were eliminated from the list, and at that time we only made an effort to steady—instead of the word "stabilize"—steady the market on the leading issues.

Mr. PECORA. Now, are the issues which you have referred to, those issues on the photostatic reproduction attached to committee exhibit no. 16 of May 25, 1933, which is entitled "Special suspense account, 1929 and 1930", and is headed by Alleghany Corporation?

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Mr. WHITNEY. That is the one. That is the transcript of the summary of the whole account. Alleghany Corporation is the first. That is the one to which I referred that we bought 3,500 shares, and, next, Allied Chemical & Dye Co., we bought 940 shares, and so on down the list. But as I explained a minute ago, this whole transaction really divides itself up into two parts, because there was no formal undertaking to go into a transaction of this character at the morning meeting. That morning meeting only dealt with the urgent emergency. At a subsequent meeting that afternoon, when we had more time to know what it was all about and find out what had happened, we really then decided to go into this whole transaction.

Mr. PECORA. Was the afternoon conference held before or after the close of the market?

Mr. WHITNEY. I said after the close.

Senator COUZENS. What was the volume of the purchases, as stated on that page?

Mr. WHITNEY. We purchased altogether 1,146,609 different shares of stocks. The total cost of them was $137,752,705. We sold those later on in 1930, when the account was closed, for $138,820,060.04, which gave us a net gross profit of $1,067,355.04, which is exclusive of interest. And that was the gross.

Senator COUZENS. Was that divided up among a number of firms? Among all of those participating?

Mr. WHITNEY. Yes. The percentages in the group were: The five banks and ourselves each had 4/25, and the Messrs. Guggenheim had 1/25.

The CHAIRMAN. When did you sell?

Mr. WHITNEY. Well, we sold during the early months of 1930.

The CHAIRMAN. And in giving your orders to your brokers to buy these stocks mentioned on the list you specified the amount of each, the number of shares of each?

Mr. WHITNEY. Quite right. And when we got really organized to go ahead following the second conference, to which I referred, we gave very specific orders, just purely with the idea of trying to steady it.

The CHAIRMAN. Yes.

Mr. WHITNEY. With points apart—in some cases 5 points apart.

The CHAIRMAN. And you specified the number of shares of each?

Mr. WHITNEY. The amount and price.

The CHAIRMAN. Yes.

Mr. WHITNEY. And that was a very definite and a very much smaller list in its total.

The CHAIRMAN. Was there a strong bear movement on at that time?

Mr. WHITNEY. Oh, it was not a bear movement. It was sheer liquidation. There was no bear movement about it. It was just stark fright and panic and liquidation.

Senator COUZENS. Why did you take such a large loss on Anaconda Copper Co., the largest loss you took on any of your sales?

Mr. WHITNEY. Well, because when we started to liquidate it we liquidated without very much reference to profit and loss. This was never gone into with the slightest idea that we would do anything but lose money. And at one time before we were able to liquidate it I think we had about a $40,000,000 book loss.

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Senator COUZENS. Well, you must have been a participant in this sheer fear and stark fright when you sold it? Were you not?

Mr. WHITNEY. Well, if you remember, Senator Couzens, in the winter of 1930 everything was much better.

Senator COUZENS. So you did not participate in this stark fear when you sold this Anaconda then?

Mr. WHITNEY. No, sir. We were merely liquidating an account that none of the banks and ourselves wanted to keep. And we only went into it in a desperate effort to be of help in a very dangerous situation.

The CHAIRMAN. There was a rise in the stock market up to October, and then there was another collapse in October 1930?

Mr. WHITNEY. Oh, yes; there was a series of collapses after that. This market transaction lasted about 3 weeks. My recollection is that we decided it was safe to quit on about the 11th of November. And then things from then on to the end of the year were still very bad, and the first time there was any opportunity, when conditions were such that it was possible to liquidate it, came after the turn of the year. My recollection is that it would be about February we started, and the market went up for some time after we finished the liquidation of this account.

Mr. PECORA. Do I understand that all of the shares shown on this photostat page which forms part of committee's exhibit 16 were acquired on behalf of this pool?

Mr. WHITNEY. This what?

Mr. PECORA. This account, this suspense account.

Mr. WHITNEY. Yes, sir.

Mr. PECORA. Within a period of about 3 weeks commencing with October 24, 1929?

Mr. WHITNEY. Well, I would have to check up in my mind. I remember the day it terminated, because we had had a very long session that night before, and some of those present felt that the market should not be opend the next day at all, it was going to be so bad. It shows how wise we all are, because the next day the market opened up and turned and went on up, and I think that was the 11th of November.

Mr. PECORA. And in that period this account—you apparently do not want me to use the word "pool", do you?

Mr. WHITNEY. We are gun shy of certain words.

Mr. PECORA. The newspapers at that time referred to it as a bankers' pool, did they not?

Mr. WHITNEY. They did. And we did our very best to make them change, but they would not change.

Mr. PECORA. Do you recognize a substantial distinction between the word "pool" and the term "suspense account"?

Mr. WHITNEY. In the sense that "pools" are colloquially used, yes, Mr. Pecora, I think there is quite a different implication to it in the use of the word "pool" as you use it, for instance.

Mr. PECORA. No; I simply used it as the newspapers used it.

Mr. WHITNEY. Four years ago?

Mr. PECORA. All the newspapers. Now during that period of time from October 24 to about November 11, 1929, this account purchased 1,146,609 shares of various issues for an aggregate of $137,752,705?

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Mr. WHITNEY. Yes. Do you think it would be of interest to read the list?

Mr. PECORA. Well, I will come to that gradually. Now that is correct though, is it not?

Mr. WHITNEY. Yes.

Mr. PECORA. Now were the moneys necessary to make these purchases subscribed by the participants in this account, this suspense account, on October the 24th?

Mr. WHITNEY. The money put up?

Mr. PECORA. Yes.

Mr. WHITNEY. Oh, no, sir. They were merely paid for as bought.

Mr. PECORA. As bought. And was the scope of the transactions, the extent of the transactions that were to be undertaken in behalf of this suspense account agreed upon at the conferences held on October 24?

Mr. WHITNEY. They were.

Mr. PECORA. And were the respective participations agreed upon at that time also?

Mr. WHITNEY. They were, with the exception that I think it was the following day that——

Mr. PECORA. That the Guggenheim Bros. came in?

Mr. WHITNEY. That two of the brothers Guggenheim came in and offered to put up a certain share in it.

Mr. PECORA. Yes?

Mr. WHITNEY. And they never participated in the discussions. The others all did daily, and there were sometimes twice a day discussions about this. But to the best of my knowledge the Guggenheims never participated in the discussions.

Mr. PECORA. Were the issues that were to be purchased in connection with this suspense account agreed upon by the participants on October 24?

Mr. WHITNEY. No, sir. They were not. That matter was left in our charge subject, of course, as I say, to daily reports by us of what were doing, and we invited the other participants to make any suggestions they would. But the whole operation of the account was left in our hands by the other participants, though it was against our will.

Mr. PECORA. Who, for the firm of J. P. Morgan & Co., actively managed and directed the operations of this account?

Mr. WHITNEY. Why, I guess that I or Mr. Bartow would have to be designated as the two, under Mr. Lamont's supervision.

Mr. PECORA. Was any limitation agreed upon on October 24 by the participants in this joint account or suspense account, as to the amount of money that was to be employed for the purposes of this account? That is, the maximum amount of money agreed upon?

Mr. WHITNEY. Well, as I stated, the first meeting there was no question of amounts. It was a question of an immediate emergency. If my recollection is right the amounts on the afternoon conference were initially fixed, if necessary that we would all put up a total of $120,000,000, that is, $20,000,000 a piece, on the general very wise theory that if you start to do an operation like this with a lot of ammunition you generally spend a great deal less than if you start in any other way. Subsequently—and I cannot remember how quickly—that amount was raised to $40,000,000 each from each one

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of the six banks, and $10,000,000 from the Messrs. Guggenheim, which comes to 4/25 each of the six and 1/25 for the Guggenheims for the total of $250,000,000 that we were prepared to invest.

Mr. PECORA. Now there were some very violent fluctuations in the market with regard to securities generally during that period commencing on October 24 and terminating on November 11, 1929, were there not?

Mr. WHITNEY. Fluctuations is not exactly the word that I would use, except in the sense that they fluctuated downward. They steadied every now and then, and then went down. There was a succession of breaks.

Mr. PECORA. Well then, we will say that there were a number of precipitous drops in the market; is that what occurred?

Mr. WHITNEY. That is a very accurate description.

Mr. PECORA. And did this suspense account buy on those drops?

Mr. WHITNEY. The suspense account put in orders on what is called a very wide scale in order to prevent or to try to prevent having what the papers called air pockets. In other words, to have some bids—some basis upon which these very large bodies of loans which were then in existence and the loans by customers, would have some basis on which to stand, and not have a perfectly empty no-bid market, which is what existed periodically during this period.

If you remember, this was a Thursday. On Friday it rather looked as if the market was in hand.

Saturday it looked pretty steady again. Monday, the 28th, opened up very bad. Worse than any day before, and it continued bad, if I remember, for 3 or 4 days, and then there would be a little breathing spell, and then the thing would start off again. It was a succession of breaks. And, of course, it was made worse by loans being called, and one thing and another, which in the ordinary mechanism of the stock market brings a second avalanche of sellers. We came to look for the hours of 11:15 and 2:15 with a great deal of anxiety, because those were the hours when margin calls have to be responded to in the general practice of stock-exchange houses, so right after that we would get the immediate reflection of that call.

Mr. PECORA. Can you tell us through what brokers these buying orders were executed on behalf of this suspense account?

Mr. WHITNEY. The operation was handled for us. We made no charge ourselves for any of this transaction, although it was all cleared through us, because we did not want to make any profits in the way of commissions, although we were entitled to them under the stock-exchange practices, against our participation transactions. The placing of the orders was handled entirely by Mr. Richard Whitney and Mr. Warren B. Nash, who were respectively, two executive heads of the stock exchange at that time, Mr. Nash being the treasurer and my brother being the vice president and was in charge in the absence of the president. Those two. And they distributed the orders in their discretion—entirely within their discretion, without any knowledge or designation by us. The only thing we would do is every morning we would give them a list of amounts and prices. That was always in our control. But the use of brokers was entirely handled by these two executive heads of the stock exchange.

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Mr. PECORA. At the time of the organization or creation of this suspense account were any partners of J. P. Morgan & Co. directors of the First Securities Co.?

Mr. WHITNEY. Why, I think so.

Mr. PECORA. And were any of them directors of the Chase Securities Corporation?

Mr. WHITNEY. No, sir.

Mr. PECORA. What was the answer?

Mr. WHITNEY. No, sir.

Mr. PECORA. Were any of them directors of the Guaranty Co. of New York?

Mr. WHITNEY. No, sir.

Mr. PECORA. Or of the National City Co.?

Mr. WHITNEY. No, sir.

Mr. PECORA. Or of the Bankers Co.?

Mr. WHITNEY. No, sir.

Mr. PECORA. Were any of the partners of J. P. Morgan & Co. at that time directors of the First National Bank of New York?

Mr. WHITNEY. No, sir.

Mr. PECORA. Or of the Chase National Bank?

Mr. WHITNEY. No, sir.

Mr. PECORA. Or of the Guaranty Trust Co.?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. Of the National City Bank?

Mr. WHITNEY. No, sir.

Mr. PECORA. Of the Bankers Trust Co.?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. Were any of the partners of J. P. Morgan & Co. directors of the City Bank Farmers Trust Co., which was the trust affiliate of the National City Bank?

Mr. WHITNEY. No, sir.

Mr. PECORA. Are you sure of that?

Mr. WHITNEY. Absolutely. Mr. Charles D. Dickey is now a partner of ours. He was then a partner of the firm of Messrs. Brown Brothers, Harriman & Co., or I guess it was Messrs. Brown Brothers at that time—I think he was then a partner—but he was not a partner of ours until January 2, 1932.

It has been suggested to me, Mr. Pecora, that there is one point that might be of interest to the committee in this connection, and that is about these loans that existed at that time, to which I made a very brief reference. I think, if my recollection is right, there were about $8,000,000,000 worth of loans on stock exchange collateral at that time. The vast bulk of that was for what is known as "for the account of others." The New York banks themselves had a practice which we ourselves have never approved of, of lending for the account of others for a commission.

The CHAIRMAN. Called brokers' loans?

Mr. WHITNEY. These are brokers' loans; yes, sir; but not for their own account, but for the account of about evenly divided, as I recollect it, between out of town banks and corporations and individuals. And that involved the whole question not only of the New York banks who did not and were not when this party started, this break, this panic started, were not very deeply involved themselves, but as that panic

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started the others who had no responsibilities in the banking situation at all began calling their loans, and it resulted in the New York banks either calling the loans, which would have made an absolute disaster, as they were instructed to do—they having no responsibility—and as a matter of fact as further evidence of their cooperation the New York banks in most instances took over the loans of others for their own account in a further effort to try to assist in a very difficult situation.

It was that loans for others which really was the most dangerous thing in all, because it was a practice which had crept up during the speculative boom of 1928 and 1929, where there were very high rates, and the out of town banks and individuals and corporations who had no direct responsibility to the handling of the banking funds, thought that was a fine opportunity to make this high rate. It was that money flowing in and the existence of that condition which was one of the most desperate—one of the most dangerous elements of the situation. And I think that is an element in it that should be considered in the considerations of this situation.

In other words, the New York banks, these banks participating, including ourselves, did not have themselves a large investment of their own funds in the call-money market. We have never—not never, but have always refused to loan money for others, because we disapprove of it. There have been certain instances where for some special reason we have done so. The other banks have done it, and I think today they are not quite so sure that they will do it again. But that was the practice at that time. So it was for their own self-protection as much as it was for the general situation that they felt that that call-money situation had to be given consideration and handled in order to prevent the loss that might have been incurred by us and others scattered all over the length and breadth of this country.

Mr. PECORA. The participants in this suspense account assumed a very serious risk, did they not, when they entered into the operations of this suspense account?

Mr. WHITNEY. These institutions?

Mr. PECORA. Yes.

Mr. WHITNEY. Yes, sir. But it was a risk that was, in the judgment of all of us—and, of course, a matter of such importance as this was taken up, as far as any institutions of which I have any knowledge, by the boards of directors of the banks.

The CHAIRMAN. Did you have any relations with the Federal Reserve banks?

Mr. WHITNEY. Sir?

The CHAIRMAN. Did you have any relations with them?

Mr. WHITNEY. Do you mean this transaction?

The CHAIRMAN. Yes.

Mr. WHITNEY. No, sir; none whatever. As a matter of policy—and I think it was held by every thoughtful person in New York, that if some action such as this were not taken the losses to the banking community not only in New York but elsewhere would be infinitely greater than any risks that might be involved in going into this undertaking. As I stated earlier, there was not the slightest intention or expectation of making money out of this. It was not gone into on a profit-making basis, as a profit-making transaction. It was purely what is known as a rescue party in a situation which we all believed,

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and I think the result of the transaction proved that it was a very wise risk to take in preserving something that would have been infinitely worse than the risk which we incurred or the loss we might have made or risked in going into this transaction.

Mr. PECORA. Do you know what holdings the participants in this suspense account had in the securities that the suspense account traded in?

Mr. WHITNEY. No, sir. I never inquired.

Mr. PECORA. You do not know anything about that?

Mr. WHITNEY. Do you mean do I know if any of the participants had any other stocks of these kinds?

Mr. PECORA. Yes. If they had holdings of these stocks?

Mr. WHITNEY. Well I certainly would not say—of course our own business is the only one I know about, and I do not remember, but it is quite possible that we had stocks in certain of these companies that were bought here.

Mr. PECORA. Which can you identify?

Mr. WHITNEY. I know, of course, Mr. Pecora, that we did not, and I am very confident that no participant in this pool sold any stock during this period. If that is the theory of your question.

Mr. PECORA. When you say "during this period" do you mean the period between October 24 and November 11?

Mr. WHITNEY. Yes.

Mr. PECORA. Do you know whether any of the participants sold any of these stocks subsequent to November 11 and up to the time in 1930 when the operations of this suspense account came to an end?

Mr. WHITNEY. I would not know.

Mr. PECORA. Would you know that with respect to your own firm?

Mr. WHITNEY. Well, I suppose I could look it up. I do know, as I testified yesterday, that outside of this transaction we bought United Corporation common stock during this period, and I do know as I testified yesterday—I cannot remember the dates—but it is quite possible we may have sold United Corporation. But I would have to go back over our books to find out if we had any of them. Let me see if I can find it.

Mr. PECORA. Now, let us go down the list right from the beginning.

Mr. WHITNEY. May I——

Mr. PECORA. Your firm did have holdings of the securities of the Alleghany Corporation, did it not?

Mr. WHITNEY. I should not think so at that time.

Mr. PECORA. Well, how about the individual partners of your firm?

Mr. WHITNEY. Well, we may but I have already answered that question, that that first day—the only day that there were any operations in Alleghany was that first emergency minute. It was only a matter of 3,500 shares. And as a matter of fact, sold at a profit. But it was not a part of this general transaction. I have tried to differentiate as clearly as I could between that morning conference when it was an immediate and very urgent emergency, and the formation of this suspense account or this joint account between the banks. That morning we did, as I say—my best recollection is they said, "Well, what will we buy?" And there were suggestions made by the people there, and we made a list and went and bought those securi-

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ties. It was a perfectly haphazard—there was no time to give consideration to exactly what we would buy. And that is where the Alleghany was bought on the first day. And subsequently to that it was not a part of this general operation in any sense. Now, whether or not some of my—as I have already testified, I had some shares of Alleghany at this time, and I guess the other partners did.

The CHAIRMAN. Did the United Corporation have any of the Alleghany Corporation stock?

Mr. WHITNEY. Well, the United Corporation, sir, is not in this list.

The CHAIRMAN. No; but did they have Alleghany Corporation stock?

Mr. WHITNEY. United Corporation?

The CHAIRMAN. Yes.

Mr. WHITNEY. No, sir.

Mr. PECORA. The Senator asked you if they had Alleghany Corporation.

Mr. WHITNEY. Yes; I understand.

Mr. PECORA. Prior to that time your firm had done considerable financing for the Alleghany Corporation, had it not?

Mr. WHITNEY. Why certainly.

Mr. PECORA. Yes. Now how about Allied Chemical & Dye Co.? Had your firm prior to that time ever done any business with them?

Mr. WHITNEY. Never done any business with it in any way. We only bought 940 shares.

The CHAIRMAN. Before you pass from the Alleghany. I have a memorandum here that the Alleghany Corporation had outstanding shares of 4,152,500. In 1929 the high was 56. The recent low 8. Loss per share 48. Total traded there were $190,300,000. Do you suppose that is correct?

Mr. WHITNEY. I do not know, sir. I think the amount of shares you mentioned is correct, because there were rights offered the stockholders in the spring of 1929. There were the original three and one-half million shares in the organization of the company, as has been testified here, and then there were rights offered so that four million figure would very probably be right, I think. I do not know.

The CHAIRMAN. Well, it reached a high of 56, did it?

Mr. WHITNEY. I just do not know, sir.

The CHAIRMAN. You do not remember?

Mr. WHITNEY. I know it was sold somewhere in the 50's, but I do not remember the exact figures.

The CHAIRMAN. Do you remember whether it went down to 8?

Mr. WHITNEY. I know it went down to less than 1.

Mr. PECORA. This year?

Mr. WHITNEY. The last year.

Mr. PECORA. Now, had your firm ever done any financing for the American Can Co.?

Mr. WHITNEY. No, sir.

Mr. PECORA. Did it hold any of its securities?

Mr. WHITNEY. No, sir.

Mr. PECORA. How about individual partners; do you know anything about that?

Mr. WHITNEY. I haven't any idea.

Mr. PECORA. How about American Smelting & Refining Co.? Has your firm done any financing for that company?

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Mr. WHITNEY. No.

Mr. PECORA. Well, that is the corporation with which the Guggenheim Brothers are particularly connected, is it not?

Mr. WHITNEY. No, sir. One of them, Mr. Simon Guggenheim, is chairman of the board, but the others have nothing to do with it.

Mr. PECORA. Now how about American Telephone & Telegraph Co.?

Mr. WHITNEY. Well, we, as is well known, have been bankers for the American Telephone & Telegraph Co., but we did not hold any of their stock.

Mr. PECORA. That is one of the corporations that maintains a big deposit account with your firm, is it not?

Mr. WHITNEY. It has held deposits with us; yes.

Mr. PECORA. Now, the next issue on this list is Anaconda Copper Mining Co. Has your firm done any financing for that company?

Mr. WHITNEY. No, sir.

Mr. PECORA. You know that the National City Bank and its affiliate had some close relations at that time with the Anaconda Copper Mining Co., did you not?

Mr. WHITNEY. Everybody knew it.

Mr. PECORA. Yes. Now, how about the Atchison, Topeka & Santa Fe Railway Co.?

Mr. WHITNEY. Well, we have at times in the past—we have been bankers for them, and they have had deposit relations with us.

Mr. PECORA. How about Baltimore & Ohio Railroad Co.?

Mr. WHITNEY. We have had no stock of Atchison, if that is of any interest to you. Now, the Baltimore & Ohio——

Mr. PECORA. Did you ever do any financing for them?

Mr. WHITNEY. Oh, a great many years ago, but not for 25 years.

Mr. PECORA. How about Bethlehem Steel Corporation?

Mr. WHITNEY. No, sir.

Mr. PECORA. Well now, the Guaranty Trust Co. has on its board some of the officers and directors of the Bethlehem Steel Corporation, has it not?

Mr. WHITNEY. One. It is a matter of public knowledge that the Guaranty Trust Co., or rather, the Guaranty Co., have financed the Bethlehem Steel Corporation.

Mr. PECORA. Yes. And the Guaranty Co. was one of the participants in this suspense account?

Mr. WHITNEY. Yes.

Mr. PECORA. Now, how about the Chesapeake Corporation?

Mr. WHITNEY. Well, that, as I have testified before, is a corporation that holds C. & O. common, the majority of whose shares are owned by Alleghany Corporation. I do not think at this time that we have a share of Chesapeake Corporation stock.

Mr. DAVIS. How many shares of Chesapeake?

Mr. WHITNEY. Well, again, it was only 1,000 shares. That was again the first day.

Mr. PECORA. Now, how about Columbia Gas & Electric Co.? Did your firm have any connection with that corporation, directly or indirectly?

Mr. WHITNEY. Well, of course, as has been testified at some length, the United Corporation owned something like 60,000 shares, but we have never had any banking relations with the Columbia Gas & Electric; did not have at that time, and owned no shares of it ourselves.

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Mr. PECORA. How about the Columbia Graphophone Co.?

Mr. WHITNEY. Well, I rather think—I think it is quite probable that I may have had some shares in the Columbia Graphophone at that time, personally.

Mr. PECORA. How about the firm?

Mr. WHITNEY. I should think not, to the best of my recollection.

Mr. PECORA. Has the firm done financing for it?

Mr. WHITNEY. I do not think so. I am advised, Mr. Pecora, that in a certain reorganization we acted as depositary for them, and they have had deposits with us. The American company.

Mr. PECORA. How about the Consolidated Gas Co. of New York?

Mr. WHITNEY. At that time we had absolutely no connection with them.

Mr. PECORA. Well, the United Corporation owned some of the stock of the Consolidated Gas Co. of New York, did it not?

Mr. WHITNEY. I do not think it did in 1929, did it?

Mr. PECORA. In October 1929?

Mr. WHITNEY. I do not think so. Let me check up. I cannot remember. But we have never had any banking—to this day we have never had any banking relations with the Consolidated Gas. Mr. Pecora, I am advised that at that time the United Corporation did not own any shares of Consolidated Gas.

Mr. PECORA. Did it own any shares of any holding company which held securities of the Consolidated Gas Co.?

Mr. WHITNEY. You mean the New York unit?

Mr. PECORA. Any holdings.

Mr. WHITNEY. No. My answer is complete.

Mr. PECORA. How about E. I. du Pont de Nemours & Co.?

Mr. WHITNEY. Well, we, of course, have had banking transactions—financial transactions with du Pont, but we own no stock in their company.

Mr. PECORA. How about the General Electric Co.?

Mr. WHITNEY. I am pretty sure we own no stock as a firm, and of course it is well known that we have been associated with them for many years.

Mr. PECORA. How about the Great Northern Railway Co.?

Mr. WHITNEY. Well, we have been associated with the First National Bank in financing Great Northern Railroad bonds in the past. We own no stock of it, and I frankly do not know whether they had a deposit with us at that time. You skipped General Motors. Did you mean to?

Mr. PECORA. What is that?

Mr. WHITNEY. You skipped General Motors.

Mr. PECORA. Thanks for calling my attention to it.

Mr. WHITNEY. I think we probably had some stock in that company at that time, and it is more or less known that we have associations with them.

Mr. PECORA. How about the International Nickel Co.?

Mr. WHITNEY. None. I do not think any relations with them.

Mr. PECORA. Do you know whether or not any of the participants in this suspense account had any relations at that time with the International Nickel Co.?

Mr. WHITNEY. No; I do not. Just what I was hesitating about—I got an idea I had some shares myself.

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Mr. PECORA. How about International Telephone & Telegraph Corporation?

Mr. WHITNEY. Well, we have sold securities for that company, and whether we owned stock—I think we did. I am pretty sure.

Mr. PECORA. Johns-Manville Co.?

Mr. WHITNEY. Well, it is well known we own stock in that individually.

Mr. PECORA. Have you done financing for it?

Mr. WHITNEY. When the company was reorganized in December 1926 we arranged for the sale of certain of their preferred shares. But that is the only financial transaction we have ever had with Johns-Manville Corporation.

Mr. PECORA. One or more of the partners have been a director of that company?

Mr. WHITNEY. Two of us.

Mr. PECORA. How about the Kennecott Copper Corporation?

Mr. WHITNEY. Well, of course, as you know, three of us are on that board. We had deposit relations with them, and I think it was back about 16 or 17 years ago we sold some bonds for them, but they have had no need to do any financing since then.

Mr. PECORA. Montgomery Ward & Co?

Mr. WHITNEY. I think we have done some security business for them, and one of our partners is on that board. Whether we owned any stock in that company at this time I don't just remember. We may have.

Mr. PECORA. New York Central Railroad Co.

Mr. WHITNEY. Well known that we have sold securities for them for many, many years. But we held no stock in that company.

Mr. PECORA. Any of your partners on its board of directors?

Mr. WHITNEY. We are not permitted to be under the law which prevents bankers being on the boards of railroad companies for which they act as bankers.

Mr. PECORA. How about the Pennsylvania Railroad Co?

Mr. WHITNEY. Well, the New York office has never had any relations in a banking way with them, or in any other way. I do not know whether Philadelphia has or not. They may have had a deposit from them. I do not know. I do not think so at this time. I am sure we did not own any stock in the Pennsylvania Railroad.

Mr. PECORA. The Public Service Corporation of New Jersey?

Mr. WHITNEY. Of which we bought 100 shares. Of course, United Corporation owned stock. But we only bought 100 shares, you see.

Mr. PECORA. That is in connection with the operations of this suspense account?

Mr. WHITNEY. Yes. We bought 100 shares, it says here, Public Service Corporation.

Mr. PECORA. Now, how about the Radio Corporation of America, or if you prefer it, the Radio Corporation?

Mr. WHITNEY. The Radio. Why, I do not think we have ever had any relations with them. I am sure the firm owns no shares of stock. Of course, it is a matter of almost public knowledge that they are associated in a degree with the General Electric.

Mr. DAVIS. Were.

Mr. WHITNEY. Were; excuse me. Were.

Mr. PECORA. Sears, Roebuck & Co.?

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Mr. WHITNEY. No, sir.

Mr. PECORA. Do you know whether any of the participants in this suspense account have had any relations with that corporation?

Mr. WHITNEY. Well, I happen to know that one of the participants, or, rather, the bank with which one of the participants associated, has banking relations with them, but I do not know anything about the stock.

Mr. PECORA. Southern Pacific Co.?

Mr. WHITNEY. No, sir. We have never had any relations with them.

Mr. PECORA. Do you know the situation with regard to any of your participants with regard to this suspense account?

Mr. WHITNEY. I think what I said before of certain of them is true as far as banking relations, but I do not know anything about the stock.

Mr. PECORA. Southern Railway Co.?

Mr. WHITNEY. We have acted as bankers in the distribution of their bonds, and in the past, while the law permitted it, we have had directors on that board. But we own none of their stock.

Mr. PECORA. Do you know whether any of the participants in the suspense account had any stock holdings in the Southern Railway Co.?

Mr. WHITNEY. Well, I do not. Not at that time; no, sir. I think I have read at some of these previous hearings that one of the participants had some at one time.

Mr. PECORA. Now the Standard Oil Co. of New Jersey is the next on the list.

Mr. WHITNEY. Well, we were instrumental as bankers in underwriting two issues of preferred stock, and also a bond issue, of the Standard Oil Co. of New Jersey, and they have had a deposit relation with us, but we own none of their stock and have never been on their board.

Mr. PECORA. The Texas Corporation?

Mr. WHITNEY. Never done any business with the Texas Corporation at all.

Mr. PECORA. How about any of your participants?

Mr. WHITNEY. Do you mean on stock?

Mr. PECORA. On stock, or any relations with the Texas Co.

Mr. WHITNEY. I think probably several of the banks associated with these security companies had deposit relations with them.

Mr. PECORA. Now, the Union Pacific Railroad Co.?

Mr. WHITNEY. We have never had any relations with them.

Mr. PECORA. How about any of your participants in this suspense account?

Mr. WHITNEY. I think that same answer probably would be true.

Mr. PECORA. What?

Mr. WHITNEY. Well, that some of the banks associated with these security companies have banking relations with the Union Pacific.

Mr. PECORA. Now, the United Aircraft & Transportation Co.?

Mr. WHITNEY. That, again, was a 1-day list. The first day. And I think that I have heard that one of the participants had some relations to that stock.

Mr. PECORA. Did J. P. Morgan & Co. ever have?

Mr. WHITNEY. No, sir.

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Mr. PECORA. Or any of the partners of J. P. Morgan & Co.?

Mr. WHITNEY. Yes; some of the individuals owned some stock. A very small amount of it.

Mr. PECORA. Now, did not Mr. Bartow of your firm hold for the firm a large block of the securities of stock of the United Aircraft & Transportation Corporation at one time?

Mr. WHITNEY. No, sir. Mr. Bartow merely cleared some stock as an individual, which was immediately distributed to the individual partners. The firm did not have anything to do with it.

Mr. PECORA. Then he cleared for the individual members of the firm, as distinguished from the firm as an entity itself?

Mr. WHITNEY. I said the partners had stock, but he did not hold it for account of the firm, which was your question.

Mr. PECORA. How about the United Gas Improvement of Philadelphia?

Mr. WHITNEY. Well that, again, was the first day only.

Mr. PECORA. That was one of the securities held by the United Corporation?

Mr. WHITNEY. In the United; yes, certainly. But it was only done the first day; 1,200 shares.

Mr. PECORA. Was it only done the first day because it was considered that that was all that was necessary to do with regard to this particular issue?

Mr. WHITNEY. Well, Mr. Pecora, I have tried to explain as clearly as I can, and apparently unsuccessfully, that the first day was just a general list of names. We did not sit down and give any careful consideration to it. Thereafter, when we decided to form this account, the obvious purpose of forming the account was to deal in the active, or what might be called the key stocks. They were selected with no relation to anybody's affiliation with them. They were selected purely and simply and merely for the reason that through the purchase of those particular stocks we believed—this joint account believed—that we would be most effective in what we were trying to do. And obviously the names that you have read, or have not quite finished reading, generally speaking, are representative of that classification, namely, they were prominent companies widely traded in, sound companies, and were what you might call key stocks.

We did not attempt to cover the whole 485, I think it is, stocks that are listed, because it was obviously impossible. We did take a good deal of pains to withdraw from any purchases in any of the companies with which we, J. P. Morgan & Co., might be said to be very much identified. That would obviously take in any of the securities held by the United Corporation, any of the securities held by the Alleghany Corporation, and they were traded in or purchased the first day, and then as a matter of policy were deleted, and the stocks that were left were the stocks which were the key stocks in the market, in which such purchases as this joint account planned to make would most effectively steady and reinstate an orderly market.

Mr. PECORA. Now, the next issue on this list, the issues traded in by the suspense account, was United States Steel Corporation.

Mr. WHITNEY. Yes; and that was, as was well known, a company in which three partners of J. P. Morgan & Co. were on that board, and we have been associated with the United States Steel Corporation

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since its inception in 1901, and it also was far and away the most active pivotal stock at that time.

Mr. PECORA. Western Union Telegraph Co. is the next issue.

Mr. WHITNEY. We have never had any relations with it, with that company.

Mr. PECORA. How about any of your participants?

Mr. WHITNEY. Oh, I don't question that some of them may have. I haven't any idea about that stock, but no doubt they were.

Mr. PECORA. Now, the next and last——

Mr. WHITNEY (interposing). It would be very unusual, Mr. Pecora, if these large prominent companies did not have some banking relations with one of those participants, some one of them.

Mr. PECORA. Now, the next and last is the Westinghouse Electric & Manufacturing Co.

Mr. WHITNEY. We have never had any relations with that company at all.

Mr. PECORA. How about participants?

Mr. WHITNEY. Again, I would figure it would be very unusual if some one of them did not have.

Mr. PECORA. Now, at that time, in October 1929, there were very nearly 500 different issues listed on the New York Stock Exchange, were there not?

Mr. WHITNEY. Don't take my word a minute ago. I was just guessing. There were an awful lot.

Mr. PECORA. I am taking the figure you mentioned, four hundred and odd, nearly 500.

Mr. WHITNEY. There were a lot of them, several hundred.

Mr. PECORA. And the issues that were traded in in connection with this suspense account number 37——

Mr. WHITNEY (interposing). Yes; really very many less than that, because I have repeatedly stated about 6 to 10 or a dozen of them were only traded in for 1 day. My recollection is, as Mr. Bartow and I have tried to refresh my memory on this, is that there were about 25 companies that we really went to work on.

Mr. PECORA. Is it fair to say, Mr. Whitney, that every one of those 25 companies, in fact every one of these 37 companies whose issues were dealt in by this suspense account, were companies in which either your firm or one or more of the participants in this suspense account were interested, either through stockholdings or through financing?

Mr. WHITNEY. I think that very possibly if you restrict it to the 25 which this transaction dealt with, I think that very probably would be an accurate statement, but it would be a more accurate statement if my answer was joined with the statement that the interests which any one or all of the participants might have had in any one or all of these companies had nothing whatever to do with the selection of these securities to be purchased by this joint account.

I have repeated it, and I repeat it as often as you wish, that these securities were among the most prominent, most actively traded in, securities in the New York Stock Exchange. It was obviously impossible to cover the whole list, and it was equally obvious that the only way to make this account effective was by putting in some kind of orders in what might be called the leading companies, and that is what this is an attempt to do. We may have left out some, and it

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was in our discretion, and they were selected purely and simply for the reason that these companies' securities would be, I think if you should find out—I remember that we checked at the time, but I don't recall the figures—that they represented a tremendous majority of the total trading, and they were also the securities that were most in loans. In other words, they were the pivotal—what we call pivotal or key stocks—and this operation was not conducted or entered into with the slightest idea or relation to the associations whatever that may have been between these participants and these particular corporations. It was purely an effort to try to bring order out of chaos and to try to make some base upon which the normal conduct of business could proceed.

Mr. PECORA. The fact, then, that the participants in this suspense account also had an interest in these 37 corporations represented by this, by financing, loans, or by stock ownership, was purely a coincidence——

Mr. WHITNEY (interposing). No, it is——

Mr. PECORA (continuing). In the matter of their selection by the managers of this suspense account whose stocks they would be using for the purposes of this suspense account?

Mr. WHITNEY. I should not think the word "coincidence", Mr. Pecora, was a descriptive word at all. It would be rather unusual that if you take a list of such prominent corporations as are included here and none of them should have banking relations of some kind with these five banks or the banks with which these securities companies are associated, any one of them. But it was not a matter of coincidence. There was no effort made to only buy stocks with which these banks had no possible relation. There was no effort made to buy stocks with which they had any particular relation. I repeat that that list was chosen for one simple reason, namely, that the purchase of the shares of the corporations as listed here, the 25, not the 37, was done purely as being a most effective way of conducting this operation in what was believed to be the general interest of the situation.

Mr. PECORA. Mr. Whitney, how long did the operations of this suspense account continue?

Mr. WHITNEY. You mean before——

Mr. PECORA (interposing). Either on the buying side or the selling side?

Mr. WHITNEY. Apparently the date is not here, but I am pretty sure of the accuracy of my previous statement as to the period during which the purchases continued, and I can only speak from my recollection that it was in the early months of 1930 that the liquidation of the account took place, but when the date was we finally finished I just don't remember, I mean the exact date.

Mr. PECORA. Do you remember the month in 1930 when the liquidation ended?

Mr. WHITNEY. I just don't —I should have thought it was March, but it may have been April. I don't remember.

(After consultation with associates:)

Their recollection confirms mine, that it was March.

Mr. PECORA. During that time were values maintained in the open market fairly well?

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Mr. WHITNEY. They were maintained at the very low level; yes, during a great deal of that time.

Mr. PECORA. That is, the sliding stopped during that time?

Mr. WHITNEY. The panic stopped; yes. Business resumed and everybody felt very much better, if you remember, in 1930, the early months of 1930.

Mr. PECORA. Would you say that this was in the nature of a stabilization process?

Mr. WHITNEY. In the proper and then use of the word I should think that this might be almost called an effort to stabilize, which I believe means to steady. I should think that the word could nearer be used in the sense that it had then than any other time that you have used the word since I have had the pleasure of being here.

Mr. PECORA. Mr. Whitney, the only other times I used it was when I questioned you as to the cablegram in which you used that word.

Mr. WHITNEY. Quite, quite; exactly.

Mr. PECORA. During the period of liquidation which we will assume ended some time in March 1930 did your firm sell any of its stock holdings apart from those in which it was interested as a member of this suspense account?

Mr. WHITNEY. I think the correct answer would be—let me look at this, may I? [After examining document:] I read yesterday that we sold during November 1929 some of the United shares that we bought in the earlier—as I read you yesterday, I think we began purchasing United Corporation for our own account on October 24, 1929. We continued to purchase up to the 1st, through the 1st of November. On the 4th there was evidently quite a—I don't understand these figures at all. We sold some United stock on the 4th, and then we purchased some more on the 6th, 7th and 8th.

Mr. PECORA. Mr. Whitney, I do not mean to have you give all the details of any such transaction.

Mr. WHITNEY. Well, with the exception of that——

Mr. PECORA (interposing). Can't you answer the question in a general way?

Mr. WHITNEY. My general recollection is, Mr. Pecora, that we did not dispose of any of our holdings of stocks which we might have had at that time until after the liquidation of this account was completed. Whether that is a literally accurate statement—but as a general answer, to the best of my knowledge and belief, as long as we were charged with the responsibility of looking out for this account we did not sell our own holdings of such stocks as we may have had. That is to the best of my knowledge and belief.

The CHAIRMAN. When was the liquidation completed?

Mr. WHITNEY. I say, Senator Fletcher, I think in March 1930 of this account.

Mr. PECORA. Would your firm have among its records any entries which would indicate whether or not the firm liquidated any of its holdings in any listed securities during this period between November 11, 1929, and March 30, 1930?

Mr. WHITNEY. Why, certainly it would, Mr. Pecora. If you want me to make a strictly accurate statement, obviously I would want to refer to the books. I have already answered you in the spirit of your question, with the qualification that as to details as to whether we may have sold a hundred shares of stock during that period I

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don't know, but my answer was perfectly definite as a general proposition. We did not dispose of the securities which we held in our own portfolio during the time that this, or prior to the time that this, account here was liquidated. Is that your recollection (addressing an associate]? Does anybody's recollection differ from mine on that? Mr. Keyes tells me that is practically an accurate answer.

Mr. PECORA. Could you answer that question with respect to any liquidation by any of the participants in this account?

Mr. WHITNEY. I have no knowledge, of course, of that.

Mr. PECORA. Of course you wouldn't. I wouldn't expect you to. Shortly after the termination of the operations of this suspense account market values began to drop again, did they not?

Mr. WHITNEY. Well, I think a couple of months later.

Mr. PECORA. And they dropped thereafter for many, many months; it was rather continuous?

Mr. WHITNEY. Almost—very continuous.

Mr. PECORA. Almost an unbroken decline, very few landing platforms?

Mr. WHITNEY. A few levels, but downwards.

The CHAIRMAN. Mr. Whitney, may I ask you there, while Mr. Pecora is arranging his data, quite a number of foreign governments have maintained deposit accounts with the J. P. Morgan & Co. in New York, haven't they?

Mr. WHITNEY. At one time and another; yes, sir; a few.

The CHAIRMAN. A few. I won't go into details about that, but are those time deposits or demand deposits?

Mr. WHITNEY. Well, both.

The CHAIRMAN. Is there any objection to stating how many foreign governments you act as fiscal agents for?

Mr. WHITNEY. We have already answered that in one of the questions, Senator Fletcher, and the answer is, with the exception of the Belgian Government, where there was a so-called "fiscal agency arrangement" entered into with the Belgian Government and the Guaranty Trust Co. and ourselves back some time before 1919, under which it was terminable at 30 days' notice by either party, under which we have not acted, I do not know, for a great many years, we are fiscal agents for no foreign government.

Mr. PECORA. You referred in the course of your testimony this morning to the provision of law which prohibits a banker from sitting on the board of a railroad corporation.

Mr. WHITNEY. Why, that is not just what I said, Mr. Pecora. I said it prevents a banker to sit on the board of a railroad corporation if it is selling its securities.

Mr. PECORA. Yes. You consider that is a wise provision, don't you?

Mr. WHITNEY. No.

Mr. PECORA. You don't?

Mr. WHITNEY. No.

Mr. PECORA. Then I presume you consider it equally unwise for Congress to enact any law which would contain a similar prohibition with respect to utility companies?

Mr. WHITNEY. The reason for my answer is, Mr. Pecora, that a banker that sells securities to the public, bonds particularly, such as we do, has a very definite responsibility to the people who buy those

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bonds, and it seems to me that it would not do any harm to anyone if the bankers were permitted to sit on the boards as more or less representative, if you want, of the interest of the security holders to which they have sold securities.

If your question meant that we have any objection to the law, we certainly have not, but I really think that the interests of the properties and of the security holders might well be as well served by permitting the bankers who assume the responsibility of the distribution of the bonds to have a definite responsibility as directors. Of course, the obvious objection to it is that they would be trading with themselves in the purchases of securities. That is the obvious reason for the law, and that is obviously a good provision. But from other points of view I should think that the interests of all parties involved would be well served by having represented in the management and direction the people who are responsible to the public for the sale of the securities.

The CHAIRMAN. Mr. Whitney, will you explain what you mean, what is your conception of the definite responsibility of your firm sellling bonds to the public, to the purchasers of the bonds? What is your responsibility?

Mr. WHITNEY. The bonds that we sell are sold under certain very definite representations by the company from whom we have purchased the bonds and are reselling to the public. We have always endeavored, I think successfully, to have the greatest possible publicity in all matters connected with our security issues. In other words, to make the fullest kind of disclosure to the public of the security, the character of the company, the type of business they do, and all those other matters which are of interest to a prospective buyer.

Now, the responsibility to which I refer is to see that the conditions under which the bonds are issued are lived up to and fulfilled; in other words, so that as far as it is possible, a man who buys a security through our agency continues to have the same conditions met as those under which he purchased his bonds.

The CHAIRMAN. The purchaser of the bonds could not hold you responsible in any legal action?

Mr. WHITNEY. Oh, no, sir.

The CHAIRMAN. It is more of a moral responsibility?

Mr. WHITNEY. Not under the laws up till very recently. I don't know about the law now, the new—oh, no, there is no legal responsibility.

Mr. PECORA. One of the questions, Mr. Whitney, you probably recall, that was included in the so-called questionnaire that your firm received several weeks ago, which was known as question 11, called for the names of all governments, States, municipalities and corporations for which either J. P. Morgan & Co. or Drexel & Co. has acted as fiscal agent during the 5-year period 1927 to 1931, both inclusive, and a statement of the services rendered for each of the same, and the data which was furnished in answer to that question has been received in evidence here as committee's exhibit 18 of May 25, 1933.

Now I notice in that exhibit that there are a number of foreign governments.

Mr. DAVIS. It is covered by the preamble.

Mr. PECORA. Yes.

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Mr. WHITNEY. May I read our answer to that question?

Mr. PECORA. There are a number of foreign governments for whom you act not exactly as fiscal agents but for whose account you hold moneys.

Mr. WHITNEY. If you remember, Mr. Pecora, when you asked me to identify this particular answer I said that we had been at some pains and perhaps overanswered the question. If I may read the preamble, I think that answers your present question. We say:

With the exceptions below stated, neither J. P. Morgan & Co. nor Drexel & Co. are not—are—are not fiscal agents for any governments, States, municipalities, and corporations.

The first exception follows:

J. P. Morgan & Co. and the Guaranty Trust Co. jointly made an agreement wherein they were appointed fiscal agents in the United States for the Belgian Government. This agreement is dated September 11, 1919, and may be terminated by either party upon 30 days' notice.

No Belgian bonds were issued by the Government or publicly offered by the fiscal agents during the period in question.

That is the first exception. The second is as follows, which has to do with your present question, Mr. Pecora:

2. In certain instances indentures covering the bond issues which were offered by the firm contained a paragraph stating with substantial uniformity that J. P. Morgan & Co. or Drexel & Co. are appointed the fiscal agents of the obligor for the service of a loan covered by the indentures. In other instances J. P. Morgan Co. and another were jointly appointed.

The service of the loan included all routine details incident to the effective issuing of the bonds in the first instance, and thereafter the payment of the coupons when and as due and the payment of the bonds at maturity.

There is attached hereto, in answer to this question, a list of all governments or corporations to which we paid coupons or dividends, acting not only as sinking fund agents but for which bonds have been paid during the period in question.

Now, it is true that under loan contracts with foreign governments, under indentures securing corporate bonds, we are termed as fiscal agents for the loan, and that is why we gave you this long list, because we wanted to be sure to cover any possible interpretation that could be put upon the words "fiscal agents".

Mr. PECORA. And there is a long list of foreign governments, states, and municipalities?

Mr. WHITNEY. Oh, yes.

Mr. PECORA. For which you render or have rendered such services?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. They are all shown in this document which has been marked "committee's exhibit 18" in evidence?

Mr. WHITNEY. That is right. But they are all merely that technical paying agency of some kind or other or basis.

Mr. PECORA. Now, Mr. Whitney, when your firm holds funds of such a foreign government or state or municipality for any of the purposes that are enumerated in committee's exhibit 18 does your firm allow interest on those funds while they remain on deposit in your hands?

Mr. WHITNEY. Well, it has already been testified, Mr. Pecora, that we pay going rates of interest on our deposits.

Mr. PECORA. Does that include these funds?

Mr. WHITNEY. Well, because the funds are held by us in this capacity we have just referred to in accordance with the terms of the contract or the document in question. In other words, let's assume

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that a corporation has a general balance with us. Under the terms of their contract they are required, say, 5 days before to deposit the money with us, under the terms of the contract for payment of coupons, for instance, or sinking fund.

Now, my guess is—I wouldn't—my guess is that we pay interest on the funds included here until the date that such payments are due, when the money then does not any longer belong to the corporation but belongs to the man who holds the coupons or maturing bonds. But I again would want to check that.

Mr. PECORA. Don't you know that definitely one way or the other, as to whether or not you allow interest on those bonds?

Mr. WHITNEY. Mr. Pecora, I don't—you mean during the period they are held prior to maturity?

Mr. PECORA. Yes, sir.

Mr. WHITNEY. I have said, Mr. Pecora, that my best recollection is we do, but I frankly don't carry that detail in my head in order to be answered with absolute certainty. If it is of any interest to you at all to have a definite answer, I can check it up very easily.

Mr. PECORA. If you will, sir. I think that is all of Mr. Whitney at this time.

The CHAIRMAN. Mr. Whitney, what do you regard as the functions of a fiscal agent? Is it merely to handle the bonds of a government, for instance?

Mr. WHITNEY. Well, sir, Senator Fletcher, there are two general terms. This technical, legal phraseology with which we act is merely in connection with certain definite operations. There is known to be such things as fiscal agents, where they are general bankers for a corporation or for a government. We do not act in that capacity. In times past we have; I mean many years ago. We have not for many years done so.

The CHAIRMAN. You made loans to foreign governments, did you not?

Mr. WHITNEY. Yes; but under no prior—we have made them, but under no prior arrangement whereby we have any—if you might call preferred position. It is just because they decide to deal with us and we make a negotiation and we issue the bonds. They might have done it just as well with anybody else. A fiscal agency used in that sense rather implies some exclusive position, and that relationship we have with no one.

The CHAIRMAN. I think that is all with you, Mr. Whitney.

Mr. PECORA. Mr. Thomas S. Lamont.

TESTIMONY OF THOMAS S. LAMONT, A MEMBER OF THE FIRM OF J. P. MORGAN & CO., NEW YORK CITY

The CHAIRMAN. Mr. Lamont, will you be sworn. You solemnly swear that the evidence you will give in this hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LAMONT. I do.

Mr. PECORA. Give your full name and address to the stenographer, please.

Mr. LAMONT. Thomas S. Lamont; 101 East Seventy-second Street, New York City.

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Mr. PECORA. Are you a member of the firm or copartnership known as J. P. Morgan & Co.?

Mr. LAMONT. I am.

Mr. PECORA. And also of the firm or copartnership called Drexel & Co.?

Mr. LAMONT. I am.

Mr. PECORA. And have been for how many years?

Mr. LAMONT. Since 1929, December 31, 1928.

Mr. PECORA. Mr. Lamont, do you recall that on or about December 30, 1930, you sold various blocks of stock, which I will enumerate to you, 1,500 shares of Continental Oil Co., 200 shares of Durium Products preferred, 300 shares of Hall Electric Heating, 237 shares of E. R. Mallory & Co., 1,000 shares of Shamrock Oil & Gas Co., 500 shares of State Street Investment Co., 350 shares of Investment Corporation of Philadelphia, and 1,000 shares of Simms Petroleum.

Mr. DAVIS. One moment, Mr. Lamont. Mr. Chairman, I do not follow this at all. We have been for sixty-odd days engaged in giving information about the firm of J. P. Morgan & Co. We have been given no notice of any inquiry into any transactions of any individual, no opportunity to assemble any facts, and I submit it is not fair play. If the committee wants the facts about anything, we should be given notice what it is and an opportunity to assemble the facts.

Nor am I able easily to understand how the individual transactions of any individual partner, Mr. T. S. Lamont or any other, enter into the scope of the inquiry that the committee is conducting. I do not think that is a fair approach.

The CHAIRMAN. What is the purpose, Mr. Pecora, of this examination, and what notice has been given, if any?

Mr. PECORA. Well, I don't know of any requirement that notice should be given to any witness who is to be examined before this committee, or before any Senate investigating committee for that matter, of any of the matters with respect to which it is desired to examine the witness. There is no recognized procedure of that sort that I ever heard of or have learned of since I have been counsel to this committee.

Mr. DAVIS. I venture to say that there is not a man in this room who could be asked about his individual transactions of any sort and give an accurate, correct, responsive, satisfactory reply, unless he had been notified and an opportunity to advise himself.

Mr. PECORA. Well, if this witness cannot answer any of these questions now and wants any time to inform himself, I have no objection to his being given that time, but these are transactions, I understand, of the witness himself. He may have a recollection of them. I don't know. That can only develop by the witness indicating whether he has or not.

Mr. DAVIS. That is another question. I am prepared to assert to the committee that if it is going into the individual transactions of 20-odd men we will be here until the snow flies.

Mr. PECORA. No; we won't.

Mr. DAVIS. And I insist that it is not fair play to ask men about their transactions unless they have been told what the transactions are concerning which they are going to be inquired about.

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Mr. PECORA. I never heard——

Mr. DAVIS (interposing). It would not have been fair play, Mr. Pecora, to call down all the firm of J. P. Morgan & Co. and ask them as to the multitudinous transactions that we have presented to you. It was perfectly fair for you to give us questions, tell us the information you wanted, for us to assemble it and produce it, and that we have done with a degree of thoroughness, of candor, of fullness, which I submit no members appearing before a congressional committee or a court have ever exceeded. Now, we insist that the same sort of fair play shall run the whole way down the line here.

Mr. PECORA. Does the witness claim that he can not answer this question?

Mr. DAVIS. The witness is not called on to claim.

Mr. PECORA. Well, I think the witness is. I do not think you are called upon, as a matter of fact, to represent this witness before this committee with the standing of counsel that usually is accorded in a court proceeding to a litigant.

Mr. DAVIS. I am perfectly within my rights, Mr. Pecora. I am perfectly within my rights, which I know quite as well as you know, and I am submitting that this is not an orderly procedure before this committee.

Mr. PECORA. I cannot understand what there is about it that does not make it an orderly proceeding. I have asked the witness a question that seems to me is simple. If the witness cannot answer it because he desires to refresh his recollection, it is for the witness to indicate that by his answer, and if he does so indicate it, I for one will be glad to see that he is given any reasonable opportunity to inform himself so that he may answer the question. There is nothing complicated about this question. It does not call for any extended transaction.

The CHAIRMAN. There is no question but what Mr. Davis has a right to object and state his reasons; no question but what counsel for the committee has a right to state the reasons for offering this testimony. It is for the Chair to rule whether the testimony will be admitted or not. I think under the circumstances—I do not know where this is going to lead to, but I cannot see any harm in answering the question or in not answering it. So you can proceed with it.

Mr. PECORA. If the witness cannot answer the question, if he wants to inform himself with regard to the subject of the question, I have no objection to his being given a reasonable opportunity to do it.

The CHAIRMAN. He understands that.

Mr. LAMONT. I have no recollection of that, Mr. Pecora.

Mr. PECORA. Very well, sir. Then I would suggest, Mr. Chairman, that I suspend the examination of this witness at this point, and would suggest to the witness that he inform himself with regard to the subject matter of the question that has been asked here so that he may be prepared to answer it fully at another session.

(There was a short consultation among committee members and Mr. Pecora.)

Mr. PECORA. And I might also say at this time or suggest to Mr. William Ewing—is Mr. Ewing present?

(Mr. Ewing rose.)

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Mr. PECORA. This is off the record: Between now and Monday inform yourself, the same as the witness, concerning the subject of these questions.

(At this point there was further consultation in undertones.)

The CHAIRMAN. Mr. Pecora, you might state what witnesses you will need. We do not want to keep all witnesses who have been under subpoena here if we have no further use for them.

Mr. PECORA. Yes, sir.

The CHAIRMAN. If you can state what witnesses may be excused, I think perhaps that would suit their convenience.

Mr. PECORA. I will be very happy to. I think we will require the testimony of Mr. Harold Stanley, of the witness Thomas S. Lamont, Mr. William Ewing, and of Mr. Anderson, if Mr. Anderson has a knowledge of the Alleghany Corporation negotiations which would qualify him to inform the committee about those negotiations, and transactions. And Mr. Bartow for Johns-Manville.

The CHAIRMAN. May the others be excused?

Mr. PECORA. And Mr. Thomas W. Lamont. I think the others may be excused.

(There was further conference in undertones.)

The CHAIRMAN. We have no objection to any picture people who want to take pictures now. We are going to adjourn. It does not interfere with our business. If they want to take pictures they can do so.

The committee will stand adjourned until Monday at 10 o'clock.

(Accordingly, at 12:30 p.m., the subcommittee adjourned until 10 a.m., Monday, June 5, 1933.)

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STOCK EXCHANGE PRACTICES

MONDAY, JUNE 5, 1933

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

The committee met pursuant to adjournment on Friday, June 2, 1933, at 11:30 a.m. (following an executive session) in the caucus room of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Costigan, Adams, Reynolds, Byrnes, Goldsborough, Townsend, Walcott, and Kean.

Present also: Ferdinand Pecora, counsel to the committee; Julius Silver, David Saperstein, and James B. McDonough, Jr., associate counsel to the committee; and Frank J. Meehan, chief statistician; John W. Davis, counsel for J. P. Morgan & Co.; Randall J. LeBoeuf, Jr., and Earle J. Machold, counsel for the United Corporation and for George H. Howard, president of the United Corporation.

The CHAIRMAN. Now, before the committee is called to order, will the photographers take the pictures of the Van Sweringen brothers as quickly as possible so we may get along?

(After a number of flashes had been taken.)

Senator BYRNES. Mr. Chairman, if the photographers are now through I move that the committee adjourn. If there is any business for us I should like to go on.

The CHAIRMAN. The committee will come to order. Mr. O. P. Van Sweringen will be sworn. Please hold up your right hand: You solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, regarding the matters now under investigation by the committee. So help you God.

Mr. O. P. VAN SWERINGEN. I do.

TESTIMONY OF O. P. VAN SWERINGEN, PRESIDENT OF THE ALLEGHANY CORPORATION, CLEVELAND, OHIO

Mr. PECORA. Mr. Van Sweringen, will you give your full name and residence to the committee?

Mr. VAN SWERINGEN. O. P. Van Sweringen, Cleveland, Ohio.

The CHAIRMAN. Speak a little louder, please.

Mr. PECORA. Give your full residence, please.

Mr. VAN SWERINGEN. Cleveland, Ohio, and you might add Shaker Heights.

Mr. PECORA. What is your business, occupation, or profession?

Mr. VAN SWERINGEN. I am president of the Alleghany Corporation.

Mr. PECORA. Where is the office or place of business of the Alleghany Corporation?

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Mr. VAN SWERINGEN. At Cleveland, Ohio.

Mr. PECORA. Will you give the address, please?

Mr. VAN SWERINGEN. Terminal Tower.

Mr. PECORA. When did you become president of that corporation?

Mr. VAN SWERINGEN. Just following its incorporation. Let me inquire. [After conferring with some associate.] The early part of February 1929.

Mr. PECORA. And have you been its president continuously since that date?

Mr. VAN SWERINGEN. I have.

Mr. PECORA. What is the general nature of the business conducted by the Alleghany Corporation?

Mr. VAN SWERINGEN. In answer to your subpena I should like to present to the committee a brief outline of our activities as connected with the scope of this inquiry, if I may, in which that will be answered.

Mr. PECORA. I have no objection, Mr. Chairman.

The CHAIRMAN. You may proceed to do that.

Mr. VAN SWERINGEN. To do this, I go back some 17 or 18 years when, in connection with an undertaking to provide rapid transit to some portions of Cleveland, we wanted to use a part of the Nickel Plate—that railroad passing through Cleveland from east to west in an ideal location for our purpose.

We had heard that the Nickel Plate stock control might be acquired—that is, that the New York Central interests might be willing to dispose of it. We found this was so, and in 1916 we bought it. We didn't have money enough to pay for it all. We arranged to defer a portion of the purchase price and we gathered with us some friends who invested along with us to make the purchase.

Having obtained the stock control of the railroad, it was only natural that we should try to develop and make the most of it, and it wasn't long before we found ourselves in the midst of the general railroad problem. In 1920, the Transportation Act was passed and the Congress declared it as a national policy that the railroads should be put together into a limited number of systems. The Nickel Plate, of course, was a part of one of those systems.

Dr. William Z. Ripley had been engaged in that work by the Government, and others had made studies as to what these limited systems should embrace. For the eastern region, all of the studies, and the Interstate Commerce Commission's tentative plan, provided for a greater number of groupings than our studies led us to believe as ideal, if we were to consider balancing the system in accord with public interest. Our studies convinced us that following the policy laid down in the Transportation Act, there should not be more than four systems in the eastern region, and that the one including the Nickel Plate should also include the Lake Erie & Western, the Toledo, St. Louis & Western, the Erie, Pere Marquette, Chesapeake & Ohio, Hocking Valley, Wheeling & Lake Erie, Chicago & Eastern Illinois, Virginian, the Bessemer & Lake Erie or the Buffalo, Rochester & Pittsburgh, as well as either the Lackawanna or the Lehigh Valley, with some smaller lines and terminal properties.

If such a system were to be created, the plans embracing the Pennsylvania had to be changed, and those of the New York Central and Baltimore & Ohio also, and this all meant that the Interstate Commerce Commission would have to be asked to reconsider their

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groupings, and that there would be much negotiation necessary between the different carriers who were major in the territory.

Along about 1922 an opportunity arose to buy the stock control of the Toledo, St. Louis & Western (commonly called the Clover Leaf), and also of the Lake Erie & Western. These we purchased and consolidated with the Nickel Plate.

While we were studying and developing, we found that the Huntington interests in the Chesapeake & Ohio were for sale. We talked with J. P. Morgan & Co., whom we regarded, as does the world, as wise counsellors in matters of finance. They felt that it wasn't the time for us to make the expenditure. We were going to have to have some money if we bought it—some that we didn't ourselves have. We took their advice and postponed our activities in that direction, keeping in touch with the Huntingtons, however.

In the meantime, the Nickel Plate was prospering and was accumulating money under the able management of M. J. J. Bernet, whom we had engaged as president when we first acquired the Nickel Plate, and a year or so after our first discussions about Chesapeake & Ohio, we reached the place where we again thought we should purchase the interest of the Huntingtons. This time the Morgan firm agreed with us and we closed the deal, the Nickel Plate buying 70,000 of the Huntington shares, the total of which was 73,000. The price on all of the shares was more than the market, so we asked the Nickel Plate to pay only a part of this purchase price, and my brother and I, with our immediate associates, undertook to and did pay the difference (a considerable sum), all in the price of the extra shares which we, instead of the Nickel Plate, purchased.

The Huntington interest, while dominating the property in the sense that it had been seating the directors, was far from a majority ownership. We wanted more of the stock. We thought it was cheap as it was then selling. At that time the property was struggling somewhat because of capital necessities, but we were sure it could be made to earn a lot more money and perform a much better service.

When we went into the management of it, we conferred with Morgan & Co. as to those improvements we felt should be made, and through their aid financed a large purchase of new equipment, which, with other betterments, would provide President Harahan with the tools to accomplish the constructive job of which he was capable. We were correct in our belief. It is the one railroad that has earned and paid its full dividend throughout the period of this depression that we hope is now ending.

We were on our way with both the Nickel Plate and the Chesapeake & Ohio under good management, showing signs of increasing earnings. We then turned our attention to an analysis of the Erie Railroad. Our studies convinced us that we could make it behave a lot better than it was doing. It was one of the properties we felt was a necessary part of the system we were trying to build.

That grand old gentleman, Mr. George F. Baker, now deceased, was the outstanding personality in the ownership of the property, so we talked with him as to our welcome as a participant in its ownership. He heartily concurred, and said that if we decided to move into it, he would be glad to increase his own investment, which he later did to a very considerable extent. When we finished our buying, we, with him, had about half of the common stock and a considerable portion of its preferred shares.

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At nearly the same time, we decided the Chesapeake & Ohio should have additional outlets for its coal shippers. Industrial Michigan seemed to fill the bill, and so we then bought into the Pere Marquette.

With that done, we had very large, and in some cases, majority interests in the Nickel Plate, the Chesapeake & Ohio (including its subsidiary Hocking Valley), the Erie, and the Pere Marquette, and it was then that we went to the Interest Commerce Commission in what is generally known as the first Nickel Plate unification case. This was in the forepart of 1925. In March 1926, the petition was denied, though not to the complete destruction of the grouping.

One of the observations made in the Commission's decision indicated that the Chesapeake & Ohio was more logical as the backbone of the system. Accordingly, the first thing that it seemed advisable to do was to physically connect that property, and its subsidiary, by the building of about 60 miles of doubletrack between the Chesapeake & Ohio at Waverly, Ohio, and the Hocking Valley at Columbus, Ohio. This we built, and then obtained Interstate Commerce Commission approval to consolidate the Chesapeake & Ohio, Hocking Valley and this connecting link, to the end that the Chesapeake & Ohio then had a continuous line from tidewater at Newport News, on Hampton Roads, to Toledo, on the Great Lakes.

What this meant to transportation is illustrated by the fact that in 11 months after the permission was received from the Interstate Commerce Commission, this doubletrack line, with all grade crossings eliminated, was constructed, and we were putting over it as high as 2,400 cars in a day, loaded with coal for the Lakes.

With this accomplished, it was necessary, as we saw it, that if the Chesapeake & Ohio was to become the nucleus of a great system into which the Nickel Plate should go, its position to that road should be changed so that the Nickel Plate would not be an owner in part of its prospective parent. This meant that the Chesapeake & Ohio shares, which the Nickel Plate owned, should be taken out of it. You now have the reason for the creation of Chesapeake Corporation.

To divest the Chesapeake & Ohio shares from Nickel Plate and at the same time keep them compacted with the other similar shares that our interests held, the Chesapeake Corporation was formed and the shares of it that then came to the Nickel Plate by exchange for its Chesapeake & Ohio shares were thus distributed to the stockholders of Nickel Plate in effectuation of this divorcement of ownership. We, of course, put our other Chesapeake & Ohio shares into Chesapeake Corporation upon the same basis.

In order to accomplish all of these things, it was also necessary to provide a considerable sum of money to more permanently fund a portion of the investment and thus avoid the necessity for assessing each shareholder of the Nickel Plate, as well as ourselves, to whom the disbursement was being made. Chesapeake Corporation went to J. P. Morgan & Co. for this financial aid, and realized it by the sale to them in the spring of 1927 of $48,000,000 of 20-year 5-percent bonds.

Still carrying on our efforts to unify the railroads under our control, the Chesapeake & Ohio at about this same time applied to the Interstate Commerce Commission for authority to acquire stock control of the Erie and Pere Marquette. We did not this time ask to include

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the Nickel Plate because it seemed to us that we would progress our undertakings more certainly by proceeding a step at a time. The Commission allowed the Chesapeake & Ohio to have the Pere Marquette control, but withheld approval as to the Erie.

It was not clear that there was a definite need for a vehicle in which to carry, insofar as was consistent, and to mobilize in the financial sense, our activities looking toward the ultimate goal of final upbuilding of the Chesapeake & Ohio, or so-called fourth system for the eastern region, that all through these years of effort had been the subject of negotiation and discussion with the various parties in interest.

All of these efforts and activities could more readily be treated with by a proprietary interest than otherwise, and to that end also we had been accumulating and developing the separate parts of that ultimate whole, as we saw that fourth system to be.

To meet the need to which we have just referred, early in 1929 we brought Alleghany Corporation into being, to take over shares held by us and to furnish a corporate instrumentality to provide funds for carrying on. For each net dollar value of our investment that we put into this corporation, we took in settlement junior, or common shares, only.

In the summer of 1932 the Interstate Commerce Commission handed down a plan for rearrangement of the railroad groupings coinciding with the four system idea, and approving as constituent parts of one of those systems all of the railroads east of the Mississippi River, in which Alleghany now is interested.

We are still expecting to get these railroads together, physically and financially speaking, in spite of the many difficulties we have encountered.

Included in the investments acquired by Alleghany at its outset was the control of the Buffalo, Rochester, & Pittsburgh Railway. which we had gotten a short time before, but as a result of the efforts to reconcile differences in the eastern grouping, it was later decreed that the Baltimore & Ohio should have it and Alleghany therefore disposed of it to them at cost, taking from them (likewise at cost) their interest in the Wheeling & Lake Erie, and at about the same time also taking from the New York Central an interest they owned in Wheeling & Lake Erie. These, with the holdings of Nickel Plate in the same property, amounted to a majority of the Wheeling & Lake Erie, and later, when Nickel Plate was able to do so, all of these shares went over to Nickel Plate from Alleghany, again at cost.

As we were putting these Eastern railroad investments together in Alleghany, we became more and more conscious that we had a lot of railroad investment that, like the average of all railroads of the eastern region, had coal as the major commodity carried. About one half of the tonnage and nearly as many dollars of revenue to the railroads of the eastern region came from coal.

We felt that it would be better if we could have a little more diversity in this respect in our railroad holdings, and, again, we had the time and the forces to direct, and the financial strength, as we thought, to acquire and hold, more than just the eastern combination.

We had been studying for a couple of years in a general way the growth of the country and became convinced of the certainty of development of the Southwest, and concluded that if we were to have

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any more railroad investment we would prefer it in that location. A study of the best railroad investment there—the one which afforded the greatest opportunity for future growth, development, and expansion, and possessing the diversity of basic traffic that we were looking for—led clearly to the Missouri Pacific system.

In the early part of 1929 we began to accumulate its shares, and in the spring of 1930 finished with a majority of them. Soon after we had accomplished these purchases, the country was pitched headlong into the unforeseen depression, the worst the world has ever known. This wrought its accompanying havoc to investments, and its violence to Alleghany Corporation.

Missouri Pacific is now in the first stages of reorganization, and when that is done that system will be one of the best and most prosperous in this country. We knew when we bought control that the railroad needed some capital readjustments, but we also knew that it was headed for some definite betterments that were under way and others that could be put under way to improve its operating ratio. We had expected that the lifting of the topheavy portion of its structure would be accomplished by putting more of the investment into equity, or stock, by voluntary process rather than as it is finally having to be done. We see nothing to change our minds as to the ultimate desirability of that investment and ownership.

Instead of coal, in the Southwest we haul oil and its products, agricultural products, fruits and vegetables. Of course, there is a goodly portion of manufactured articles in both regions.

While we are on this subject of diversity, a peculiar quirk of the present economic situation, contrasting with the belief in that heretofore considered measure of stability, has happened. Our road that is doing the best in the East is the Chesapeake & Ohio, with coal making up 80 percent of its tonnage. In the Southwest, the road of the Missouri Pacific system that is now showing up to the best advantage is the International-Great Northern, majoring, if you will, in oil, so that the wisdom of the past dictating diversity has these striking examples at this time to the contrary, notwithstanding which we are still of the opinion that, in ordinary times, diversity will be of major importance.

Right here we would like to stress that there was no thought of consolidating the Chesapeake & Ohio system of the East with the Missouri Pacific system in the West, nor was our conception that of a transcontinental railroad system.

We hope it is proper, in conclusion, to leave one more thought with you. Upon the completion of the Missouri Pacific control purchase, we had reached the place where Alleghany in a general way had acquired the properties it was seeking to obtain. There were still improvements and refinements to be made, as well as the rounding out of each of these systems pursuant to the Interstate Commerce Commission's plans for them.

We have carried forward in the spirit of the act of Congress of 1920, which decreed that these and all other carriers should unite into a limited number of systems.

Our present aim is toward making these properties satisfy in the highest degree the public need and service, and at the same time produce a just return for the investors who have cast their lot with us.

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Mr. Pecora, I have given you an outline of the purpose of the Alleghany Corporation as we saw it, and the nature of the other, the Chesapeake Corporation, as we saw it, step by step, in a chronological way, and their general operation in a way that I thought might be helpful to you.

Mr. PECORA. Mr. Van Sweringen, the purpose of the organization of the Chesapeake Corporation, and also of the Alleghany Corporation, was essentially to acquire control through the medium of stock ownership of various railroad lines.

Mr. VAN SWERINGEN. That is right, or portions of them in some instances.

Mr. PECORA. Now, according to this prepared statement that you have just read into the record, you invaded the railroad field, so to speak, back in the year 1916. Is that correct?

Mr. VAN SWERINGEN. Our first undertakings were in 1916.

Mr. PECORA. That was in connection with your acquisition of the Nickel Plate Road.

Mr. VAN SWERINGEN. That is true.

Mr. PECORA. Who was associated with you in that acquisition?

Mr. VAN SWERINGEN. My brother, Mr. C. L. Bradley, Mr. J. R. Nutt, and quite a few local people there had portions of that investment.

Mr. PECORA. Let me digress for just a moment to ask you: Who prepared this statement which you have read into the record?

Mr. VAN SWERINGEN. I did.

Mr. PECORA. Did you confer with any other individuals who collaborated with you in the preparation of this statement?

Mr. VAN SWERINGEN. Oh, yes; I submitted it to our people, in our office, to have it checked as to its accuracy, and had several thoughts expressed to me, not all of which I followed. Frankly, I kept it pretty much as I had it.

Mr. PECORA. To whom did you submit it?

Mr. VAN SWERINGEN. To our local counsel, and to Mr. Bradley and others in our office who might have to do with various portions of it.

Mr. PECORA. Can you mention the names of such others?

Mr. VAN SWERINGEN. I do not have anyone outstanding in that matter in mind. Just the general discussion throughout the office.

Mr. PECORA. Do you mean that you cannot recall the names of any other individuals with whom you conferred in connection with this statement and before this statement was given final form?

Mr. VAN SWERINGEN. Only in a very general way did I do that, make any inquiries.

Mr. PECORA. Will you give the names of all other individuals with whom you say you conferred, or whom you consulted?

Mr. VAN SWERINGEN. Whom did I name, Mr. Bradley and Mr. Nutt?

Mr. PECORA. Mr. Bradley and Mr. Nutt.

Mr. VAN SWERINGEN. Yes, I named Mr. Bradley and Mr. Nutt.

Mr. PECORA. Yes. Anybody else?

Mr. VAN SWERINGEN. Mr. Murphy, Mr. Bernet, I had him verify it.

Mr. PECORA. I did not hear you.

Mr. VAN SWERINGEN. Mr. Bernet, and Mr. Ginn and Mr. Barrett.

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Mr. PECORA. Did you confer with any individual outside of your immediate organization or association?

Mr. VAN SWERINGEN. Do you mean in its preparation?

Mr. PECORA. In any way with respect to this statement and the contents of it.

Mr. VAN SWERINGEN. No one but—do you mean, Mr. Pecora, did anyone direct or participate in that way in its preparation?

Mr. PECORA. Well, did you——

Mr. VAN SWERINGEN (continuing). Or with the idea of submitting it here now?

Mr. PECORA. Now let me see if I understand you correctly. You have given the committee the names of all individuals with whom you conferred in connection with the preparation of this statement?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now, did you discuss this statement before presenting it to this committee this morning with any other individual or individuals, either connected with your association or office, or outside of your immediate entourage?

Mr. VAN SWERINGEN. If you mean to discuss it; no. I may have mentioned that I was going to make a statement before the committee.

Mr. PECORA. Did you discuss it in any way, shape, or form with anyone connected with the office of J. P. Morgan & Co.?

Mr. VAN SWERINGEN. No, sir; I did not. I think I told—well, I am quite sure that I did tell one of their partners that I thought I would make a statement. But I had no participation on their part in the preparation of this statement, nor in its presentation in any way. I think that that, perhaps, answers what you have in mind.

Mr. PECORA. Did you make any attempt to get the views or opinions of anyone connected with J. P. Morgan & Co. with respect to the contents of this statement?

Mr. VAN SWERINGEN. No; I did not.

Mr. PECORA. Did you submit a copy of this statement to them?

Mr. VAN SWERINGEN. No, sir. I outlined it.

Mr. PECORA. What was that?

Mr. VAN SWERINGEN. I outlined, several days ago, in a casual way to one of them, Mr. Anderson, that I might make the statement.

Mr. PECORA. To whom?

Mr. VAN SWERINGEN. But this statement has been materially changed since I did that.

Mr. PECORA. To whom did you outline it?

Mr. VAN SWERINGEN. To Mr. Anderson, just in a casual way.

Mr. PECORA. By telephone?

Mr. VAN SWERINGEN. Yes, over the telephone. Yes, just in that way. Really, that has no significance in this statement at all.

Mr. PECORA. Now, will you let the committee have a copy of that statement so that it may physically be offered in evidence and spread on the record?

Mr. VAN SWERINGEN. Yes, sir. You may have the one that I used. And there is a copy here for each member of the committee if you wish.

Mr. PECORA. I now offer this statement and want it marked in evidence.

The CHAIRMAN. That may be done.

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(The statement just read by the witness was marked "Committee Exhibit No. 41, June 5, 1933", and is not again reproduced here.)

Mr. PECORA. Mr. Van Sweringen, you say in this statement, as follows—but, before that, let me ask you: Do you find it necessary to confer with anyone else about you in order to enable you to answer these questions?

Mr. VAN SWERINGEN. Oh, I am liable to do that. You must bear in mind that I have had only a subpena to be here. I have no knowledge of the subjects about which I am to talk, and, naturally, I cannot carry in my head, nor would I undertake to do so, all the transactions of years and try to be accurate. You will have to grant me the right to get information.

Mr. PECORA. Whenever you deem it necessary, or find it necessary, to confer with any of your associates or with any other individuals in order to enable you to answer any question put to you, will you be good enough to say so in order that the record will show that before answering the question you conferred with any particular individual or individuals? Will you do that?

Mr. VAN SWERINGEN. Do you mean at the time that I do it?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. There is no objection to that.

Mr. PECORA. You say you did not know what you were going to be questioned about when you were subpenaed to attend before this committee.

Mr. VAN SWERINGEN. That is true.

Mr. PECORA. Well, didn't you anticipate that you were going to be questioned about the very matters that you have embodied in this statement that you have read into the record?

Mr. VAN SWERINGEN. I anticipated that that might be so. But I had no knowledge that it was so.

Mr. PECORA. Well, I might say to your credit that you had the vision of a seer in that respect. [Laughter.] Of course, you have anticipated it correctly. Now, you say in this prepared statement of yours as follows:

> We had heard that the Nickel Plate stock control might be acquired; that is, that the New York Central interests might be willing to dispose of it.

When you say "we" in that respect, to whom do you refer?

Mr. VAN SWERINGEN. In that instance I would have to have in mind my brother and myself and probably our immediate associates.

Mr. PECORA. Well, who are your immediate associates?

Mr. VAN SWERINGEN. Why, the men I have just named here; Mr. Bradley and Mr. Nutt, at that time.

Mr. PECORA. Well, having heard that, you and your associates then proceeded to make the necessary arrangements to acquire the stock control of the Nickel Plate Road, is that right?

Mr. VAN SWERINGEN. That is right.

Mr. PECORA. And upon what terms did you actually acquire that stock control of that road?

Mr. VAN SWERINGEN. I will have to ask the secretary to get the record. [After conferring with associates.] I cannot tell you without referring to the record as to the number of shares that were purchased, but it was a majority interest, as it was then, two kinds of preferred and common stock.

Mr. PECORA. Well, have you the record with you?

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Mr. VAN SWERINGEN. No. It is in the Manual. You will find it there.

Mr. PECORA. Have you your record with you in that respect?

Mr. VAN SWERINGEN. I am not sure, but I can give you the considerations.

Mr. PECORA. Well, you can use any record that you have, Mr. Van Sweringen, to enable you to answer these questions.

Mr. VAN SWERINGEN. Now, your question is: "What did we buy and what did we pay for it, and how did we arrange the payment," is that it?

Mr. PECORA. Yes, sir.

Mr. VAN SWERINGEN. Our purchases comprised 25,032 shares of the then first preferred stock, 62,750 shares of the second preferred stock, and 62,400 shares of the common stock. The purchase price was $8,500,000.

Mr. PECORA. Now, for that $8,500,000 you and your associates were enabled to acquire and did acquire 25,032 first preferred shares, 62,750 second preferred shares, and 62,400 of the common stock of the Nickel Plate Road?

Mr. VAN SWERINGEN. If those are the figures that I just read to you.

Mr. PECORA. Yes. Now, from whom did you make that purchase?

Mr. VAN SWERINGEN. New York Central Railroad Co.

Mr. PECORA. How was the consideration of $8,500,000 agreed to be paid?

Mr. VAN SWERINGEN (after conferring with an associate). The initial payment I am told was $2,000,000. And the deferred payments $6,500,000.

Mr. PECORA. Did you give notes for those deferred payments?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. In what amounts and what maturities?

Mr. VAN SWERINGEN (after conferring with associates). I am told that there were 10 notes of $650,000 each.

Mr. PECORA. Payable when?

Mr. VAN SWERINGEN. Annually. Over a period of 10 years.

Mr. PECORA. Now, under the terms of this purchase of stock by you from the New York Central, you were required to make a cash payment of $2,000,000?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. On account of this total purchase price of 8½ million dollars?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And you made that cash payment, I presume?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Did you borrow the funds with which to make that initial cash payment?

Mr. VAN SWERINGEN (after conferring with associates). That money was provided by the formation at that time of the Nickel Plate Securities Corporation, and subscribed to in preferred and common stock of that latter corporation. [After further conference with associates.] Now, the amounts of that I haven't here.

Mr. PECORA. As a matter of fact, didn't you and your associates obtain a loan of $2,100,000 from the Guardian Savings & Trust Co. of Cleveland, in order to enable you to make that initial cash payment?

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Mr. VAN SWERINGEN (after conferring with associates). I am told here that what happened at that time was that we made an interim loan—O. P. and M. J. made an interim loan while that corporation was being organized, and then taken that way.

Mr. PECORA. You got that loan from the Guardian Savings & Trust Co. of Cleveland, Ohio?

Mr. VAN SWERINGEN. Is that right? [addressing and conferring with associates]. I do not like to give you this in this way. I prefer not to. I will supply you the record if you wish, but you are getting me into a place here where I do not see the supporting data for it, and I am afraid to give testimony from recollection.

Mr. PECORA. Well, if you have any records to refresh your recollection you are at liberty to use them.

Mr. VAN SWERINGEN (after conferring with associates). I am told that when you subpenaed our records that you did not include in that the Nickel Plate Securities Corporation. I would be very glad to provide them for you.

Mr. PECORA. Mr. Van Sweringen, are you enabled to tell this committee how you and your associates got the $2,000,000 with which you made the initial payment to the New York Central interests in connection with this stock purchase or control of the Nickel Plate?

Mr. VAN SWERINGEN. I can do that in a general way.

Mr. PECORA. Well do that the best way that you can, will you, please?

Mr. VAN SWERINGEN. But if you want the detail record and if you are going to ask for that I would rather put it in for you, and take the time for that.

Mr. PECORA. Have you the detail record with you?

Mr. VAN SWERINGEN. No, sir.

Mr. PECORA. Is it here in the city of Washington?

Mr. VAN SWERINGEN. No, sir; it is not.

Mr. PECORA. Well now, apparently you anticipated that you were going to be questioned before this committee about your control of the Nickel Plate Railroad, because you have adverted to it in your prepared statement. Why didn't you bring your records along then to support any testimony you might give with regard to these transactions?

Mr. VAN SWERINGEN. It depends upon the degree to which you want to go for detail.

Mr. PECORA. Well, have you forgotten the details of this first important transaction, railroad transaction, of yours?

Mr. VAN SWERINGEN. Forgotten the details—that is just what I am afraid I may have done. I can give you general circumstances, if that is what you want.

Mr. PECORA. Well now, perhaps I can refresh your recollection, Mr. Van Sweringen.

Mr. VAN SWERINGEN. All right.

Mr. PECORA. Do you recall that you and your associates completed the negotiations for the purchase from the New York Central Railroad of this control stock of the Nickel Plate Road on July 5, 1916?

Mr. VAN SWERINGEN. I would not have recalled that date; no.

Mr. PECORA. Well, does the mention of that date refresh your recollection?

Mr. VAN SWERINGEN. No, it does not.

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Mr. PECORA. Do you think you could find out the date by conference with your associates gathered about you?

Mr. VAN SWERINGEN. If you have any record there it is probably correct. [After conferring with associates.] What you have there I am told was taken from our records, and that is better than my memory.

Mr. PECORA. I have here a report titled "Regulation of Stock Ownership in Railroads". This being part 2 thereof, submitted by Mr. Parker, of the House of Representatives, pursuant to House Resolution No. 114 on or about February 20, 1931. You have seen that report, have you not, Mr. Van Sweringen?

Mr. VAN SWERINGEN. Is that the Splawn report?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. Yes, sir.

The CHAIRMAN. The question was whether you borrowed this money from the Guardian Trust Co. of Cleveland.

Mr. VAN SWERINGEN. Mr. Chairman, I think I answered that.

Mr. PECORA. Well, what is the answer?

Mr. VAN SWERINGEN. May I have it read, please?

Mr. PECORA. Well, can you not give it over again just as quickly as having the stenographer read it?

Mr. VAN SWERINGEN. I do not think I can.

The CHAIRMAN. You said you got an interim loan, but you never said from whom you got it.

Mr. VAN SWERINGEN. Was that what you wanted?

The CHAIRMAN. Yes.

Mr. VAN SWERINGEN. Guardian Savings & Trust Co.

The CHAIRMAN. That was the question.

Mr. PECORA. Let me read from this Splawn report:

(One of Mr. Van Sweringen's associates asked for the page number.)

Mr. PECORA. Page 839. If you have a copy of that report suppose you give it to the witness so that he may follow. That will save time and it will elucidate the record. Have you got the copy of the report to which I am alluding?

Mr. VAN SWERINGEN. I have. Do you mean that which says: "On July 3, 1916——"

Mr. PECORA. Will you kindly turn to page 839 of it?

Mr. VAN SWERINGEN. I am at that page.

Mr. PECORA. Now, follow me as I read from that page:

On July 5, 1916, O. P. and M. J. Van Sweringen completed negotiations for the purchase from the New York Central Railroad Co. of the following shares of outstanding capital stock of the New York, Chicago & St. Louis Railroad Co.

Then follows an enumeration of the shares which you have already referred to. Now, that is a correct statement, is it, Mr. Van Sweringen?

Mr. VAN SWERINGEN (after conferring with associates). I am told it was taken from our records.

Mr. PECORA. Well, if it was taken from your records would you say it was a correct statement?

Mr. VAN SWERINGEN. I would.

Mr. PECORA. All right. Reading again from that page of this report, as follows:

The consideration of the purchase was $8,500,000, of which $2,000,000 was cash and the balance, $6,500,000, was covered by 10 promissory notes in the amount of $650,000 each dated July 5, 1916, at Cleveland, Ohio, and signed by

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Oris P. Van Sweringen and Mantis J. Van Sweringen. The first note was payable on or before 5 years after date and the others at consecutive intervals of 1 year thereafter.

Now, does that refresh your recollection that those were the terms of this purchase transaction?

Mr. VAN SWERINGEN. I had just given you that from my recollection and it coincides with this.

Mr. PECORA. All right. Now let me read further from that page:

Under the terms of an agreement of pledge dated July 5, 1916, between O. P. and M. J. Van Sweringen and the New York Central Railroad Co. all of the stock referred to was pledged with the Guaranty Trust Co. of New York as collateral security for the payment of the notes.

Do you recall that that was done?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Did you answer?

Mr. VAN SWERINGEN. I beg your pardon. I guess I did not say it aloud. I recall that the pledge was made to the New York Central; yes, sir.

Mr. PECORA. On the date specified in this report?

Mr. VAN SWERINGEN. I have no doubt that is the correct date.

Mr. PECORA. Yes. Now, let me read further from this report at the same page, page 839:

On July 3, 1916, O. P. and M. J. Van Sweringen made the following application to the Guardian Savings & Trust Co., of Cleveland, Ohio, for a cash advance of $2,100,000.

"The undersigned hereby apply for an advance of $2,100,000, payable on or before 6 months from date, and bearing interest at the rate of 6 percent per annum, payable quarterly.

"Should you grant this application, please hand us New York drafts payable to our order for $2,000,000 and place the remaining $100,000 in a special account to our credit, subject to withdrawal on approval of J. A. House and W. S. Hayden."

Do you recall that that was done also, Mr. Van Sweringen?

Mr. VAN SWERINGEN. To be perfectly frank with you, I had forgotten that part of it.

Mr. PECORA. Do you now recall it after having had your recollection refreshed, if it serves to refresh it by reading from this report?

Mr. VAN SWERINGEN. No; I do not. But I have no doubt that we did it at that time. That was 16 or 17 years ago, as you recognize.

Mr. PECORA. Yes. Now, you obtained that loan did you not? You and your brother obtained that loan of $2,100,000 from the Guardian Savings & Trust Co. of Cleveland 2 days before you concluded the negotiations with the New York Central Railroad for the purchase of its stock interest in the Nickel Plate road? Did you not?

Mr. VAN SWERINGEN. Seemingly so; yes, sir.

Mr. PECORA. Yes. And $2,000,000 of that $2,100,000 was actually used by you and your associates to make the cash payment in that transaction with the New York Central Railroad for this stock interest of the Nickel Plate Road? Did you?

Mr. VAN SWERINGEN That seems to be so.

Mr. PECORA. And you gave notes for the balance of the agreed-upon purchase price payable over a period of as long as 10 years?

Mr. VAN SWERINGEN. That also seems true.

Mr. PECORA. Yes. And you pledged as collateral for those notes and also as collateral for this loan of $2,100,000 the stock that you

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were purchasing and that you did purchase from the New York Central lines, did you not?

Mr. VAN SWERINGEN. Seemingly.

Mr. PECORA. What is that?

Mr. VAN SWERINGEN. Read that again, please?

(Thereupon the last question was read by the reporter, as above recorded.)

Mr. PECORA. That is to say, you either pledged that stock or your equity in that stock?

Mr. VAN SWERINGEN (after conferring with associates). Mr. Pecora, do you mean our interest in that stock as distinguished from the stock itself?

Mr. PECORA. I said your interest in the stock, your equity in the stock.

Mr. VAN SWERINGEN. Yes; we did.

Mr. PECORA. So that in order to enable you to conclude this transaction with the New York Central you borrowed every dollar of the money that you had to pay?

Mr. VAN SWERINGEN. For the moment; yes.

Mr. PECORA. For the moment. You borrowed it for 6 months?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Now was that loan repaid within the 6-month period?

Mr. VAN SWERINGEN. I do not have the data here, but the impression here is that it was.

Mr. PECORA. Your recollection is that it was?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Now from what sources did you obtain the funds with which to repay that loan?

Mr. VAN SWERINGEN. By the sale of stock, preferred and common, of the Nickel Plate Securities Corporation.

Mr. PECORA. Well, did you for that purpose cause this Nickel Plate Securities Corporation to be organized?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. It was organized as a holding company, was it?

Mr. VAN SWERINGEN. Well, it did hold the Nickel Plate purchase. I cannot recall all its charter purposes.

Mr. PECORA. You cannot recall all the what?

Mr. VAN SWERINGEN. I cannot recall all its charter purposes, but it did hold the Nickel Plate purchase.

Mr. PECORA. Yes. Now when was the Nickel Plate Securities Corporation organized?

Mr. VAN SWERINGEN (after conferring with associates). Will the year suffice? During 1916.

Mr. PECORA. The month and the year would be preferable.

Mr. VAN SWERINGEN. Well, I cannot tell you the month, but seemingly 1916.

Mr. PECORA. Well, now perhaps if you refer to page 840 of the report that has already been referred to, you will find something there that will refresh your recollection. Let me read therefrom as follows:

At the first meeting of the board of directors of Nickel Plate Securities Corporation held in Cleveland, Ohio, on December 26, 1916, the following proposal of O. P. and M. J. Van Sweringen was accepted by the corporation.

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Now from the fact that the first meeting of the board of directors of the Nickel Plate Securities Corporation was held on December 26, 1916, would you say that the corporation itself was organized some time in December 1916?

Mr. VAN SWERINGEN. I cannot say as to that, but it was some time in 1916.

Mr. PECORA. Now this Nickel Plate Securities Corporation issued certain capital shares, did it not?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And sold them to the public?

Mr. VAN SWERINGEN. Not to the public——

Mr. PECORA. Well, to whom?

Mr. VAN SWERINGEN (continuing). In the general sense of that expression. We had some participants with us in that purchase.

Mr. PECORA. Now, what assets did the Nickel Plate Securities Corporation own at the time its stock was issued and sold either to participants, as you call them, or to the public?

Mr. VAN SWERINGEN. Of course it had the thing that it bought, subject to the balance that it agreed to pay, which was the Nickel Plate, and my recollection is that it had some other assets—and I think they are set out here—well, at the time the stock was sold. (After conferring with associates.) There were some other holdings that it had that seemingly were put in at the time the stock was sold, and are set out—I cannot recall what was put in there. I will supply you with that.

Mr. PECORA. Well now, Mr. Van Sweringen, won't you be good enough to refresh your recollection by reading from pages 840 and 841 of this report the proposal which you and your brother made to the Nickel Plate Securities Corporation at the first meeting of its board of directors on December 26, 1916?

Mr. VAN SWERINGEN. Do you want this all read into the record?

Mr. PECORA. No. Read it to yourself and see if that serves to refresh your recollection as to what the capital assets were of the Nickel Plate Securities Corporation at the time it issued and sold its stock.

Mr. VAN SWERINGEN (after reading to himself). Paragraph 3 sets that out, doesn't it?

Mr. PECORA. Well, now, go ahead and tell us what the assets were.

Mr. VAN SWERINGEN. Paragraph 3 reads this way:

> 3. To transfer or cause to have transferred to you all stock of the Cleveland Terminal Co. issued or to be issued by said Terminal Co. in the acquiring by it of the common stock or property of the Cleveland & Youngstown Railroad Co., the Terminal Building Co., and the Terminal Hotels Co., and also the rights of the Terminal Properties Co. to acquire the lands of the Glenville Syndicate.

Those seemingly went in.

Mr. PECORA. Well, were other assets turned in to the Nickel Plate Securities Corporation at that time by you and your associates in return for the capital stock of the Securities Corporation?

Mr. VAN SWERINGEN. What were the first words? Were there other assets, do you mean, than these? Than these that I have just referred to?

Mr. PECORA. Yes, sir.

Mr. VAN SWERINGEN. And the Nickel Plate purchase?

Mr. PECORA. Yes.

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Mr. VAN SWERINGEN. Not that I recall.

Mr. PECORA. Well, did you not agree to assign and transfer to the Nickel Plate Securities Corporation in return for the issuance to you of its capital stock all your right, title, and interest in and to the agreement which you had entered into with the New York Central Railroad, this agreement of July 5, 1916, under the terms of which you bought the stock control of the Nickel Plate Railroad from the New York Central?

Mr. VAN SWERINGEN. My statement included that.

Mr. PECORA. Oh. How much did the Nickel Plate Securities Corporation derive as a result of this proposal which you and your brother made to it and which was acted upon at its meeting of December 26, 1916?

Mr. VAN SWERINGEN. Your question, I do not believe, is complete. Is it?

Mr. PECORA. Probably not. Will you be good enough to read it, Mr. Reporter?

(Thereupon the last question was read by the Reporter, as above recorded.)

Mr. VAN SWERINGEN. That is not understandable to me. I do not quite get the point that you have in mind.

Mr. PECORA. What did the Nickel Plate Securities Corporation get in return for the stock which it issued to you and your brother in pursuance of this proposal that you submitted to its board of directors on December 26, 1916?

Mr. VAN SWERINGEN. It issued the stock for these assets that I just described.

Mr. PECORA. And what stock did it issue to you and your brother for those assets or securities?

Mr. VAN SWERINGEN. It issued generally. (After conferring with associates.) It issued all of them.

Mr. PECORA. And what stock did it issue to you and your brother?

Mr. VAN SWERINGEN. I cannot give you that accurately. I can give it to you in general terms, if that will give you the——

Mr. PECORA (interposing). Now, look at page 840 of the printed report, will you, bottom of the page?

Mr. VAN SWERINGEN. Where? [Perusing document.]

Mr. PECORA. The bottom.

(Mr. Van Sweringen conferred with associates and perused document.)

Mr. VAN SWERINGEN. Yes. All of the common stock was issued at that time for those assets and the——

Mr. PECORA (interposing). Now, that common stock had a par value of $12,500,000, didn't it?

Mr. VAN SWERINGEN. I think that was no par, wasn't it [addressing an associate]? (After conferring with associates.) Yes; it was.

Mr. PECORA. And in addition to issuing you all of its common stock at a par value of $12,500,000, the Nickel Plate Securities Corporation also delivered to you certificates for certain preferred stock issue?

Mr. VAN SWERINGEN. That is right

Mr. PECORA. Is that right?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. To what amount?

Mr. VAN SWERINGEN. Two million and some-odd dollars.

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Mr. PECORA. $2,075,000 par value, wasn't it?

Mr. VAN SWERINGEN. There is a figure here of 2,074,785. That cannot be right. Somewhere near 2,000,000; yes, sir.

Mr. PECORA. All right.

The CHAIRMAN. How many shares of each? How many shares of common stock, how many of preferred?

Mr. VAN SWERINGEN. I don't know the par of those shares.

Mr. PECORA. Well now, the common stock that was issued to you consisted of 250,000 shares, didn't it?

Mr. VAN SWERINGEN. Well, that is the point. I cannot recall whether it was $50 par or $100 par.

Mr. PECORA. Well, suppose you refresh you recollection by reading from page 841 of that report.

(Mr. Van Sweringen perused document.)

Mr. PECORA. See the second paragraph, Mr. Van Sweringen, the reference to 250,000 shares common stock?

Mr. VAN SWERINGEN. Yes. Yes, sir; 250,000 shares.

Mr. PECORA. That would give it a par value of $50, wouldn't it?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now, in addition to issuing all of its common stock of a par value of 12½ million dollars, this securities corporation also issued to you preferred stock of a par value of $2,075,000 and further agreed to assume the indebtedness or obligation represented by your note to the Guardian Savings & Trust Co. of Cleveland for this loan of $2,100,000, did it not?

Mr. VAN SWERINGEN (conferring with associates). I think that is about right. (Conferring further with associates.)

Mr. PECORA. Now, Mr. Van Sweringen——

Mr. VAN SWERINGEN (after conferring with associates). Your question was, Did we get the common stock and two million and odd of preferred stock and the Nickel Plate Securities assume the Guardian loan of——

Mr. PECORA. Yes, sir.

Mr. VAN SWERINGEN. Two million and odd dollars?

Mr. PECORA. Yes, sir.

Mr. VAN SWERINGEN. That is not right.

(Mr. Van Sweringen conferred with associates.)

Mr. PECORA. Well now, Mr. Van Sweringen, let me suggest——

Mr. VAN SWERINGEN (interposing). You are reading here from a record that does not refer to the preferred. The preferred was used for the payment of this two million and odd dollars. That is the distinction that is troubling me. In other words, they did not assume the $2,000,000 and issue the preferred to us also, except as one canceled the other. I cannot recall the detail of just how that was done, but with the going out of the preferred the debt of two million, of course, went out also.

Mr. PECORA. Well, the preferred was turned over to you to sell to the public, wasn't it?

Mr. VAN SWERINGEN. No.

Mr. PECORA. You undertook to secure subscriptions for the purchase of that preferred stock, didn't you?

Mr. VAN SWERINGEN. And pay the $2,000,000 with it.

Mr. PECORA. All right. I am asking you specifically, in your agreement with the Nickel Plate Securities Corporation which was approved

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by the board of directors of that corporation on December 26, 1916, you agreed to turn over to that corporation your equity in the Nickel Plate Road stock which you had purchased in July 1916 from the New York Central Railroad Co. for $8,500,000, did you not?

Mr. VAN SWERINGEN. The equity; yes, sir.

Mr. PECORA. And you also agreed to turn over to the Securities Corporation certain stock of the Cleveland Terminal Building issued or to be issued by Cleveland Terminal Building Co., did you not?

Mr. VAN SWERINGEN. No. No; it was not the Cleveland Terminal Building Co.; it was the Cleveland Terminal Co.

Mr. PECORA. Cleveland Terminal Co.; all right, sir. Now, in return for those securities or your equity in those securities, the Nickel Plate Securities Corporation transferred to you all of its common stock, having a par value of $12,500,000, did it not?

Mr. VAN SWERINGEN. That part is correct.

Mr. PECORA. Yes. And did not the Nickel Plate Securities Corporation as part of the same agreement or transaction also assume to pay and discharge this loan which you and your brother had obtained on July 3, 1916, from the Guardian Savings & Trust Co. in the sum of $2,100,000?

Mr. VAN SWERINGEN. Now, that is the point and the distinction that I was making with you before. We did not get the preferred and not pay the two million. If you will get that side of it, then we are eye to eye.

Mr. PECORA. Well, the Securities Corporation agreed to pay and discharge that loan which you and your brother had obtained from the Guardian Savings & Trust Co., did it not? Look at the top of page 841, please, Mr. Van Sweringen. I think that will make it clear.

Mr. VAN SWERINGEN. But I go back to your first statement, which undertook to have us say that we had also been given the preferred stock.

Mr. PECORA. No; I corrected that.

Mr. VAN SWERINGEN. All right.

Mr. PECORA. I said you undertook to obtain subscriptions.

Mr. VAN SWERINGEN. Then we are under the same impression.

Mr. PECORA. No, I said later on you undertook to obtain subscriptions for that preferred stock.

Mr. VAN SWERINGEN. Yes. That is all the difference between us.

Mr. PECORA. All right; that difference is passed now.

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. All right, then. Are we now agreed that as part of this exchange of securities which you and your brother made with this Nickel Plate Securities Corporation in December 1916 the Securities Corporation assumed to pay and discharge the loan which you and your brother had obtained in July 1916 from the Guardian Savings & Trust Co. of Cleveland?

Mr. VAN SWERINGEN. With the proceeds of the preferred stock. If you put it that way, the result is the same. I don't know as to the mechanics of it.

Mr. PECORA. All right; let's have it that way—although you do not find anything in the agreement itself, do you, that would indicate that that loan is to be paid out of the proceeds of the sale of preferred stock?

Mr. VAN SWERINGEN. I have not read it carefully in that sense.

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Mr. PECORA. Suppose you do.

Mr. VAN SWERINGEN (after conferring with associates and perusing document). I expect so. This 2-million one was assumed.

Mr. PECORA. Yes, sir.

Mr. VAN SWERINGEN. But the preferred offset it. You understand that.

Mr. PECORA. It was assumed, but it was expected that the company would get the funds with which to repay that loan from the sale of its preferred stock?

Mr. VAN SWERINGEN. Right.

Mr. PECORA. And you undertook to get the subscriptions for the purchase of that preferred stock; is that right?

Mr. VAN SWERINGEN. Yes. I take it that that was the situation.

Mr. PECORA. Now, as part and parcel of this same agreement, did not the Nickel Plate Securities Corporation also assume and agree to pay all the liabilities and obligations which you and your brother had contracted under date of July 5, 1916, in connection with your transaction with the New York Central lines and which involved those 10 notes for an aggregate of $6,500,000?

Mr. VAN SWERINGEN. They did and should.

Mr. PECORA. They did and should?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Very well, sir. So we now have the transaction up to the end of December 1916 somewhat in this fashion: That on July the 5th, 1916, you and your brother saw an opportunity to acquire stock control of the Nickel Plate Railroad from the New York Central Railroad Co., which owned enough shares to effectuate that stock control; is that correct?

Mr. VAN SWERINGEN. Right.

Mr. PECORA. And you agreed to buy that stock and did buy it for a total consideration of 8½ million dollars, of which $2,000,000 was paid in cash by you and the balance was represented by 10 notes each for $650,000 payable at intervals over a period of 10 years?

Mr. VAN SWERINGEN. That is right.

Mr. PECORA. Is that right? And to enable you to finance that transaction and to make the initial $2,000,000 payment thereunder you and your brother on July 3, 1916, 2 days before you concluded your negotiation with the New York Central Railroad Co., borrowed $2,100,000 from the Guardian Savings & Trust Co., of Cleveland; is that right?

Mr. VAN SWERINGEN. That seems to be correct.

Mr. PECORA. Then, in December 1916, you and your brother caused this holding company called the Nickel Plate Securities Corporation to be organized, didn't you?

Mr. VAN SWERINGEN. Yes, sir. The Nickel Plate Securities to be organized.

Mr. PECORA. And you operated with that holding company, if you please, under the terms of which the holding company assumed the obligation of your loan from the Guardian Savings & Trust Co. and also assumed the obligation to pay your 10 notes to the New York Central Railroad Co., did it not?

Mr. VAN SWERINGEN. Those are the same questions I have just answered.

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Mr. PECORA. Yes; I am summarizing it. And also issued to you and your brother all of its common stock, having a par value of 12½ million dollars. Correct?

Mr. VAN SWERINGEN. I think that is right.

Mr. PECORA. And it was also arranged in connection with the set-up of this Nickel Plate Securities Corporation that it was to issue and sell to the public preferred stock having a par value of $2,075,000?

Mr. VAN SWERINGEN. No. There I will have to differ with you a little bit.

Mr. PECORA. All right.

Mr. VAN SWERINGEN. That was not a public offering.

Mr. PECORA. Well, then, it was to sell that preferred stock to somebody?

Mr. VAN SWERINGEN. Yes; to sell it. If you strike the words "to the public" you will have it.

Mr. PECORA. I will rephrase it. It was also arranged for that holding company you caused to be organized to issue its preferred stock to an aggregate par value of $2,075,000 to various persons for cash?

Mr. VAN SWERINGEN. All right.

Mr. PECORA. Is that right?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. And you and your brother undertook to get subscriptions to that preferred stock?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Yes, sir. And it was intended and arranged that from the sale of that preferred stock the holding company would obtain the funds with which to pay back the $2,100,000 loan that you had obtained from the Guardian Savings & Trust Co. of Cleveland in the preceding July?

(Mr. Van Sweringen nodded his head.)

Mr. PECORA. Is that right?

Mr. VAN SWERINGEN. That is the way it seems to be.

Mr. PECORA. Now, the effect of that, among other things, was to transfer to the stockholders of this holding company called the Nickel Plate Securities Corporation the indebtedness which you and your brother had contracted, aggregating $8,500,000, to enable you to buy in the first instance the stock control of the Nickel Plate Railroad from the New York Central Co.; is that right?

Mr. VAN SWERINGEN. That is right.

Mr. PECORA. Is that correct?

The CHAIRMAN. You will have to speak out, Mr. Van Sweringen. The reporter cannot get the meaning when you shake your head.

Mr. VAN SWERINGEN. I said that is correct. Pardon me, Mr. Chairman.

Mr. PECORA. That is correct. And that left you in this position, that you and your brother acquired thereby all of the common stock of this holding company, and it was the common stock only which had voting power; is that correct?

Mr. VAN SWERINGEN. I think it is corect.

Mr. PECORA. The preferred stock that was——

Mr. VAN SWERINGEN (interposing). But let me check it to make certain.

Mr. PECORA. Go ahead.

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Mr. VAN SWERINGEN (after conferring with associates). You are distinguishing as between the voting preferred and common now?

Mr. PECORA. What is that?

Mr. VAN SWERINGEN. May I ask?

Mr. PECORA. What is that?

Mr. VAN SWERINGEN. Is your point that the preferred stock did not have a vote? Is that your——

Mr. PECORA. That is what I am asking you to tell us, whether or not——

Mr. VAN SWERINGEN. I will have to check it to find out. I don't recall. [After conferring with associates and examining document.] The preferred had a limited vote. It did not vote except under certain conditions.

Mr. PECORA. Have those conditions ever arisen?

Mr. VAN SWERINGEN. No.

Mr. PECORA. No; but the common stock had an unqualified voting power, voting right?

Mr. VAN SWERINGEN. The common did.

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Now, have we now, Mr. Van Sweringen, so far as we have proceeded, given the detail steps of the series of transactions that marked your entry into the railroad field?

Mr. VAN SWERINGEN. I think it is in there three times, Mr. Pecora.

Mr. PECORA. But I want to make sure that we have it all there.

Mr. VAN SWERINGEN. Except for one angle of it. Some of the common stock, of course, was given by O. P. and M. J. with the preferred when we sold.

Mr. PECORA. Well, that was a matter of disposition on the part of you and your brother, wasn't it? That was in the exercise of your own discretion, but not in pursuance of any agreement that you had with the Nickel Plate Securities Corporation?

Mr. VAN SWERINGEN. That may be, but the result was the same.

Mr. PECORA. But you still remained in control of the Securities Corporation, which in turn had the stock which represented the control of the Nickel Plate Railroad?

Mr. VAN SWERINGEN. Oh, yes.

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. Oh, yes. Just one minute. [Conferring with associates.] You, of course understand that there were other assets that went in there toward that capitalization.

Mr. PECORA. That is in the record.

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. You were careful to put it in, and it is in there.

The CHAIRMAN. The preferred stock did not vote the directors?

Mr. VAN SWERINGEN. Not for directors, except in the instance of default. I believe there is a provision in there that on the failure to pay dividends. I was looking through that to see what that was. My recollection is it elected a majority of the board in that instance, if it did not pay the dividends.

The CHAIRMAN. Did all the common stock have voting power?

Mr. VAN SWERINGEN. Yes, sir.

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The CHAIRMAN. The committee will now take a recess until 2 o'clock.

(Accordingly, at 12:53 p.m., a recess was taken until 2 p.m. of the same day.)

AFTERNOON SESSION

The hearing was resumed at the expiration of the recess.

The CHAIRMAN. The committee will come to order.

TESTIMONY OF O. P. VAN SWERINGEN—Resumed

Mr. PECORA. Mr. Van Sweringen, in your prepared statement which you read into the record this morning you stated as follows:

We had heard that the Nickel Plate stock control might be acquired.

What proportion of the total outstanding stock of the Nickel Plate road did the New York Central Railroad Co. have which you agreed to buy from it which represented your opinion of stock control of the Nickel Plate Railroad?

Mr. VAN SWERINGEN. What percent?

Mr. PECORA. Yes, sir.

Mr. VAN SWERINGEN. A little over half of it. What I am talking about is the majority ownership, to speak more accurately.

Mr. PECORA. Were those shares of the Nickel Plate road which you bought in July 1916, shares in amount of 50 percent or more of the total outstanding stock of the Nickel Plate road?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. With whom did you have the negotiations with the New York Central Railroad in the matter—with what individual or individuals?

Mr. VAN SWERINGEN. The president, Mr. A. H. Smith, is the man to whom I first talked. Of course, the closing of the transaction, as I recall it, was with Mr. A. H. Harris, who was its vice president in charge of finance, I believe.

Mr. PECORA. Did you in any stage of the negotiations that culminated in that transaction have any dealings or conferences with anyone connected with the firm of J. P. Morgan & Co. or Drexel & Co.?

Mr. VAN SWERINGEN. During the time we were making this arrangement?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. Not that I recall. I feel sure I did not.

Mr. PECORA. Did you and your brother succeed in obtaining subscriptions for the $2,075,000 par value of preferred stock of the Nickel Plate Securities Corporation?

Mr. VAN SWERINGEN. Including those that we ourselves subscribed for, something over half a million or more, I believe.

Mr. PECORA. That is, about a half million dollars or more you and your brother took?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. The rest were sold to others as the result of private offering, or was it as a result of public offerings?

Mr. VAN SWERINGEN. To our associates—that is, in a large measure—and then, some private interests.

Mr. PECORA. Were those preferred shares sold for cash?

Mr. VAN SWERINGEN. With a part of the common stock; yes, sir.

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Mr. PECORA. What portion of the common stock went with the preferred stock that you disposed of?

Mr. VAN SWERINGEN. A share of common with a share of preferred.

Mr. PECORA. And they were sold as units?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. At what price per unit?

Mr. VAN SWERINGEN. $100.

Mr. PECORA. From those sales did the Nickel Plate Securities Corporation realize enough cash to enable it to repay the loan to the Guardian Savings & Trust Co. of $2,100,000?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Eventually did the Nickel Plate Securities Corporation pay to the New York Central Railroad Co. the 10 notes, each for $650,000, which were given in part payment of purchase price of the stock of the Nickel Plate Road that you bought in July 1916?

Mr. VAN SWERINGEN. It did, most of them, quite a little ahead of maturity.

Mr. PECORA. Do you know when those notes were paid finally?

Mr. VAN SWERINGEN. I can find out for you, I think. (After conferring with associates.) The report to which you were referring this morning, this congressional report, shows that those notes were paid as follows: October '21, $650,000——

Mr. PECORA. Of what year?

Mr. VAN SWERINGEN. 1921.

Mr. PECORA. I thought '21 represented the day of the month.

Mr. VAN SWERINGEN. October 1921, $650,000; January 1922, $450,000; April 1922, $100,000; July 1922, $100,000; July 1923, $650,000; and October 1923, $4,550,000.

Mr. PECORA. Now, on or about February 13, 1922, was a supplemental agreement entered into between you and your brother, the New York Central Railroad Co., and the Nickel Plate Securities Corporation, under the terms of which the last named company obtained whatever rights and equities you had in the stock of the Nickel Plate Railroad, under your contract of July 1916, with the New York Central Railroad Co.?

Mr. VAN SWERINGEN. You are reading from page 841, are you not, of that same congressional report?

Mr. PECORA. Yes, sir.

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Meanwhile, who held the stock that you had agreed to buy from the New York Central Railroad Co. pending the payment to the latter company of these 10 notes aggregating $6,500,000?

Mr. VAN SWERINGEN. From this report I discern that the Guaranty Trust Co. was the trustee.

Mr. PECORA. That is, the Guaranty Trust Co. in New York City?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Can you tell us generally the nature of the provisions of the trust agreement under which the Guaranty Trust Co. was made such trustee?

Mr. VAN SWERINGEN. It seems to be set out on page 841. I will read it, if you wish. Pardon me. This is somebody's else interpretation. Would it suit your purpose if we furnished you with a copy of that agreement?

Mr. PECORA. If you have it here I would be very glad to have it.

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Mr. VAN SWERINGEN. We do not have it here. We will be glad to get it for you. We will have to put it into the record at a later date.

Mr. PECORA. Can you give the substance of it now from recollection?

Mr. VAN SWERINGEN. I am reluctant to do that. I should not be here giving you sworn testimony by guesswork.

Mr. PECORA. The record shows that any testimony you give now in response to this question will be given in accordance with and on the basis of your best recollection.

Mr. VAN SWERINGEN. And that is very poor.

Mr. PECORA. Your recollection is poor?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. All right.

Mr. VAN SWERINGEN. On that subject, particularly—the details of a trust agreement of 15 years ago.

Mr. PECORA. You state in the prepared statement which you read into the record this morning, as follows:

> Having obtained the stock control of the railroad—

Meaning, of course, the Nickel Plate Railroad?

Mr. VAN SWERINGEN. Yes. sir.

Mr. PECORA (reading further):

> It was only natural that we should try to develop and make the most of it.

What did you mean by that?

Mr. VAN SWERINGEN. Those words express it, I think, pretty clearly; we wanted to make it a better railroad for service to the public and a better railroad from the standpoint of the investor. Those are not conflicting interests; they run hand in hand, as we see it.

Mr. PECORA. You say further in your statement:

> And it was not long before we found ourselves in the midst of the general railroad problem.

Let me ask you what were the distinguishing features or the main features of the problem that you here refer to as the general railroad problem?

Mr. VAN SWERINGEN. Congress had directed that the railroads should be grouped into a limited number of systems, in the public interest.

Mr. PECORA. That is, all the railroads of the country?

Mr. VAN SWERINGEN. Yes; and those groupings, as we saw them, and as I stated this morning, we felt were too many in number for the eastern region to be well balanced, with the two large ones that were there, the New York Central and the Pennsylvania. So our problem was to get those railroads regrouped so that there would be not more than four systems which we thought could be reasonably well balanced in service and size.

Mr. PECORA. How many systems at that time had Congress declared the railroad lines should be grouped into?

Mr. VAN SWERINGEN. Dr. Ripley had been named by the Interstate Commerce Commission, and he had one idea. I believe the Commission's plan was somewhat different. There were two or three other plans, and all of them were for a greater number of systems than four in the eastern region.

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Mr. PECORA. You and your associates, in studying this general railroad problem, had come to the conclusion that the best interests of the public could be served by grouping the eastern railroads into only four general systems?

Mr. VAN SWERINGEN. That is quite so.

Mr. PECORA. And Congress had declared that those interests could best be served by the grouping of the eastern lines into a greater number of general systems?

Mr. VAN SWERINGEN. No; Congress did not declare it.

Mr. PECORA. The Interstate Commerce Commission?

Mr. VAN SWERINGEN. Congress directed that a plan or a study be made of their grouping, and the groupings of the Interstate Commerce Commission as made, and others to which I have referred, were tentative groupings for consideration and discussion. So that it was quite proper for us to study that problem ourselves and try to find the answer, as we saw it, from the standpoint of the railroads themselves.

Mr. PECORA. And all of the tentative groupings that had been recommended by the governmental authority at that time exceeded four in number?

Mr. VAN SWERINGEN. Yes, sir; for that region.

Mr. PECORA. Groupings into more than four general systems?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. You and your associates, in your study of the problem, came to the conclusion that the best groupings in the public interest would be into four systems?

Mr. VAN SWERINGEN. Well, not more than four; yes.

Mr. PECORA. And you felt that the one that should include the Nickel Plate Road should also include certain other lines, namely, the Lake Erie & Western, the Toledo, St. Louis & Western, the Erie, the Pere Marquette, the Chesapeake & Ohio, the Hocking Valley, the Wheeling & Lake Erie, the Chicago & Eastern Illinois, the Virginian, the Bessemer & Lake Erie or the Buffalo, Rochester & Pittsburgh, as well as either the Lackawanna or the Lehigh Valley, with smaller lines?

Mr. VAN SWERINGEN. That is right.

Senator ADAMS. Mr. Van Sweringen, in your statement that was offered this morning you mentioned the Missouri Pacific. It happens that my section of the country is very much interested in the Missouri Pacific. I happen to live in a town that is on that railroad. Was that railroad to be added to this grouping, or was it entirely independent?

Mr. VAN SWERINGEN. Entirely independent. I would be glad to turn to my statement——

Senator ADAMS. I recall what was in your statement, I think.

Mr. VAN SWERINGEN. We had no thought of ever trying to unite those two systems as one—I mean, the Missouri Pacific system, on the one hand, and the Chesapeake & Ohio, on the other; nor was this so-called "transcontinental system" idea our thought. That was not our purpose.

Senator ADAMS. The grouping that you favored did not involve any transcontinental system?

Mr. VAN SWERINGEN. No; not as a transcontinental system. It so happened that the Missouri Pacific, in the Commission's group-

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ing, had been given an arm that reached to the west coast, that it did not have in the rounding out of the Missouri Pacific sytem, and nothing that we saw should disturb that. But the point I am making is that we were not trying to build a coast-to-coast, if you will, railroad system. What we were trying to do was just what I said this morning—to get that diversification of ownership in a territory that was fast growing and was bound to grow, by a new railroad that we felt was susceptible of material development and improvement.

The CHAIRMAN. The Missouri Pacific came up later, I understand?

Mr. VAN SWERINGEN. Yes.

The CHAIRMAN. That was not involved at the time you were dealing with the Chesapeake & Ohio?

Mr. VAN SWERINGEN. No, sir; not at all. It came about because we saw we were short on a diversified investment and we had gotten very large investments in Alleghany and we wanted to more or less balance up by reason of the commodities that these carriers hauled; to stabilize it, if you will.

Mr. PECORA. After you reached the conclusion, following the enactment of the Transportation Act in 1920, that a proper grouping of certain of the eastern lines would put your road, namely, the Nickel Plate Road, in a system with these various other roads that I last mentioned, beginning with the Lake Erie & Western and ending with the Lackawanna & Lehigh Valley, did you and your associates take any steps to acquire any control over those other railroad lines for the purpose of effecting such a grouping in a practical way, if not in another way?

Mr. VAN SWERINGEN. We took steps to acquire an interest that resulted in being a majority interest in some of those properties.

Mr. PECORA. Which of those other railroad properties did you acquire a majority interest in?

Mr. VAN SWERINGEN. Ultimately in the C. & O., which included the Hocking Valley, and later the connecting link that we built of 60 miles over in Ohio to connect us from tidewater to the Great Lakes, and the Lake Erie & Western and the so-called "Clover-Leaf", or Toledo, St. Louis & Western. Those latter two roads were consolidated with the Nickel Plate with the Commission's approval.

Mr. PECORA. When was that done, Mr. Van Sweringen?

Mr. VAN SWERINGEN. I am terribly weak on dates. [After conferring with associates.] In the beginning of 1922. I think it is set up in my statement here this morning. Yes; in 1922. We acquired the Buffalo, Rochester & Pittsburgh, and then as the groupings were finally developed for the eastern region, and in reconciliation of those groupings, the B. & O. became the one to which that road should go. So we handed it over to them at our cost.

Mr. PECORA. You say in your prepared statement——

Mr. VAN SWERINGEN. I do not believe I have finished my answer to your question.

Mr. PECORA. Pardon me.

Mr. VAN SWERINGEN. We also, as the statement of this morning shows, had a majority interest in the Wheeling & Lake Erie Railroad and the Erie Road, a majority of the common stock and some of the preferred; the Pere Marquette is a substantial interest. I will not say it is a majority interest, but it is in the C. & O., now, with whom it is grouped.

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Mr. PECORA. In your prepared statement this morning you said as follows:

> Along about 1922 an opportunity arose to buy the stock control of the Toledo, St. Louis & Western, commonly called the Clover Leaf, and also the Lake Erie & Western. These we purchased and consolidated with the Nickel Plate.

When you say you purchased them, you mean you purchased a majority of the outstanding stock of those roads?

Mr. VAN SWERINGEN. Yes, sir; I think that is correct—a numerical majority in each instance.

Mr. PECORA. And then, with the permission of the Interstate Commerce Commission, you consolidated those two roads with the Nickel Plate?

Mr. VAN SWERINGEN. That is right.

The CHAIRMAN. The Pere Marquette went to the Alleghany——

Mr. VAN SWERINGEN. I think I need to modify that statement, I am reminded here just now, in one particular, in order to be accurate. The Commission approved the issuance of the securities for its accomplishment, but that consolidation was under State law.

Mr. PECORA. Just how was that consolidation effected?

Mr. VAN SWERINGEN. You are over my head when you get on that. That is so much of a legal problem that I cannot tell you; but I know it was done that way.

Mr. PECORA. Do you recall the process by which it was done?

Mr. VAN SWERINGEN. To a layman it did not seem much different than the other way, but there undoubtedly was some legal distinction that I do not know.

Mr. PECORA. Do you recall what the actual process was?

Mr. VAN SWERINGEN. No; I do not.

The CHAIRMAN. Was not the Pere Marquette acquired by the Alleghany?

Mr. VAN SWERINGEN. Alleghany had a part of the Pere Marquette. [After conferring with associates:] Part of those shares had been acquired by the Nickel Plate when it was thought that the Nickel Plate would be the main stem of this eastern grouping and before the Commission had, as we saw it, rather hinted that it ought to be the C. & O. that should be the backbone of the system; so that the C. & O. got some of its shares from the Nickel Plate, some from the Alleghany and, I guess, some out of the market, as I recollect it now; the Commission having approved those acquisitions.

The CHAIRMAN. I got the understanding somehow that the Pere Marquette was acquired by the Alleghany.

Mr. VAN SWERINGEN. I suspect that what you have in mind, Mr. Chairman, is that Alleghany went to the Interestate Commerce Commission—or, rather, the C. & O. went to the Interstate Commerce Commission for approval of some shares they purchased from the Nickel Plate, and at the same time they asked us for options on the shares we had in Alleghany. [Addressing an associate:] Is that right? [After conferring with associates:] In the Vaness Co. I think there were some shares there.

Mr. PECORA. Now, Mr. Van Sweringen, when you acquired stock control of the Toledo, St. Louis & Western, how much actual cash did you and your associates put into that purchase?

Mr. VAN SWERINGEN. I do not recall. I can find out. I know this: That the major part of that ownership was in Walter Ross, who was

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the then president and receiver of the Clover Leaf or Toledo, St. Louis & Western Railroad. And what he wanted was an income basis of payment rather than the money. So that it was a long-drawn-out purchase agreement.

Mr. PECORA. Did it follow in its nature generally the manner in which you originally acquired the Nickel Plate road?

Mr. VAN SWERINGEN. Yes, in some respects it had that semblance. That is to say, that there was some payment and a lot of deferred payments.

Mr. PECORA. And those deferred payments——

Mr. VAN SWERINGEN (continuing). With a right or rather a restriction against prior payment.

Mr. PECORA. Well, now, for instance, Mr. Van Sweringen, you said that the liquidation or payment of the ten notes each for $650,000 that were given by you and your brother to the New York Central in the initial transaction, by which you acquired the Nickel Plate road, was made between October of 1921 and October of 1923. Who made those payments? Who paid those notes, in other words?

Mr. VAN SWERINGEN. I beg your pardon?

Mr. PECORA. I asked, who paid those notes? Was it the Nickel Plate Securities Corporation?

Mr. VAN SWERINGEN. Let me inquire. (After conferring with an associate.) The Nickel Plate Securities Corporation were the makers of those notes, and therefore——

Mr. PECORA (interposing). You were the makers of the notes, weren't you?

Mr. VAN SWERINGEN. They tell me not. I thought we were, but I just asked the question. (Again conferring). Let me correct that statement.

Mr. PECORA. You and your brother made those notes?

Mr. VAN SWERINGEN. That is right. I thought he told me the contrary and so I made that answer, and that was a mistake.

Mr. PECORA. Who paid them? Was it the Nickel Plate Securities Corporation?

Mr. VAN SWERINGEN. They afterwards acquired our interests and consequently would pay the debt.

Mr. PECORA. The Nickel Plate Securities Corporation was the corporation which had issued all of its common stock to you and your brother?

Mr. VAN SWERINGEN. No. It went to my brother and to me and to others who participated in providing those dollars.

Mr. PECORA. No——

Mr. VAN SWERINGEN (continuing). The greater portion of it went to my brother and to me.

Mr. PECORA. Did the Securities Corporation actually turn over to you and your brother $12,500,000 of an issue of its common stock?

Mr. VAN SWERINGEN. It turned it over, but from us it went to the——

Mr. PECORA (interposing). I know, but I am asking you now only about——

Mr. VAN SWERINGEN (continuing). That is the mechanics side of it. The practical side was that it went to all those who participated in putting up the money.

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Mr. PECORA. I am only speaking now of that part of the transaction that concerned you and your brother, on the one hand, and the Nickel Plate Securities Corporation on the other.

Mr. VAN SWERINGEN. I realize that you are, but if I answer it in just that way you do not get the whole picture.

Mr. PECORA. I get it very clearly.

Mr. VAN SWERINGEN. If you will pardon me, I want you to get it all.

Mr. PECORA. Let me see if I get it. Under the agreement you and your brother made with the Nickel Plate Securities Corporation you turned over your equity in those stocks which you acquired from the New York Central Railroad Co. in the Nickel Plate road, and then certain other stock was issued or was to be issued by the Cleveland Terminal Co.

Mr. VAN SWERINGEN. Those of which I testified and——

Mr. PECORA (interposing). Wait a minute. To the Securities Corporation in return for all of its common capital stock, $12,500,000 par value, did you not?

Mr. VAN SWERINGEN. We took the stock for stock and equity; yes, sir.

The CHAIRMAN. Mr. Van Sweringen, you spoke about those who participated in putting up the cash. You did not put up any cash, did you?

Mr. VAN SWERINGEN. Oh, yes.

The CHAIRMAN. How much?

Mr. VAN SWERINGEN. There had to be an initial payment of $2,000,000.

Mr. PECORA. But you borrowed that from the Guardian Savings Bank, didn't you?

Mr. VAN SWERINGEN. Yes, sir; temporarily. But that money was repaid to the bank through the sale of the stocks that I have just described.

The CHAIRMAN. I understand that. But you didn't actually put up any cash, did you?

Mr. VAN SWERINGEN. We used our own credit for the interim dollars and our own collateral, pending the time when we distributed, if you will, to those who had participated with us in the creation and absorption of the Nickel Plate Securities stock.

Mr. PECORA. Now, Mr. Van Sweringen, you have already stated that between October of 1921 and October of 1923 the Nickel Plate Securities Corporation paid to the New York Central 10 notes aggregating $6,500,000.

Mr. VAN SWERINGEN. Yes; I guess I have. Yes, sir; I have.

Mr. PECORA. Now, do you know how the Nickel Plate Securities Corporation raised the moneys that were used by it to pay those notes?

Mr. VAN SWERINGEN. A part of it they earned. Let me see. [Inquiring of an associate.] A part of it had been paid out of earnings.

Mr. PECORA. What part?

Mr. VAN SWERINGEN. I cannot tell you offhand.

Mr. PECORA. A minor part?

Mr. VAN SWERINGEN. I will be glad to give you——

Mr. PECORA (interposing). Wasn't it just a minor part?

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Mr. VAN SWERINGEN. Oh, yes; because the major part was $4,550,000. The balance of it—well, in general terms I am going to give you this, because I think it will portray it in better shape—was paid at the time when we brought together the Lake Erie & Western, the Clover Leaf, and the Nickel Plate in the reformed consolidated Nickel Plate structure. And then we sold some preferred shares that came out of that, and paid off the balance of the debt.

Mr. PECORA. In other words, in October of 1923, when the major portion of the indebtedness represented by those 10 notes was paid by the Nickel Plate Securities Corporation, that corporation acquired either all or a substantial portion of that sum through the sale of preferred stock?

Mr. VAN SWERINGEN. The Nickel Plate consolidated unit. In other words, the Clover Leaf, Lake Erie & Western, and Nickel Plate as it was prior to those two being added to it, were consolidated into one unit and reformed in its capital structure.

Mr. PECORA. What was the name of that unit?

Mr. VAN SWERINGEN. Pardon me, and let me ask.

Mr. PECORA. All right.

Mr. VAN SWERINGEN. In the re-forming of that, of course, there were those shares that accrued to the Nickel Plate Securities Corporation for their ownership. Some of those were preferred and some were common. They sold some of their preferred shares of Nickel Plate new and paid their debt.

Mr. PECORA. Sold them to the public?

Mr. VAN SWERINGEN. Those were sold to the public. And those were authenticated by the Interstate Commerce Commission for value.

Mr. PECORA. Now, further along in your prepared statement that was read into the record this morning, you state as follows:

> While we were studying and developing, we found that the Huntington interests in the Chesapeake & Ohio were for sale. We talked with J. P. Morgan & Co., whom we regarded, as does the world, as wise counselors in matters of finance.

In what year did you have those conferences or conversations with J. P. Morgan & Co.?

Mr. VAN SWERINGEN. Oh, you now have me down to dates again, and that is my weakness. [Laughter.] Let me look at that statement again. Well, when I said that was my weakness I meant it was one of my weaknesses, if you will pardon me. I should say that was in 1922.

Mr. PECORA. That was in 1922?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now, just what were those so-called "Huntington interests" in the Chesapeake & Ohio?

Mr. VAN SWERINGEN. The shares that I have mentioned, 73,000 in number, in the C. & O.

Mr. PECORA. Did those shares in your opinion represent control?

Mr. VAN SWERINGEN. Not majority ownership, but, as I stated this morning, they were seating the directors.

Mr. PECORA. Did it represent that degree of control which enabled them then to elect the board of directors of the Chesapeake & Ohio Railroad?

Mr. VAN SWERINGEN. Well, not technically so, but they were——

Mr. PECORA (interposing). But practically so.

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Mr. VAN SWERINGEN. It is true that they had their representatives in that instance on the board.

Mr. PECORA. What proportion did those stock holdings of the Huntington interests in the Chesapeake & Ohio represent of all the outstanding capital stock of that railroad company at that time?

Mr. VAN SWERINGEN. I cannot tell you the percentage. It was relatively small.

Mr. PECORA. Relatively small?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Was it as much as 10 percent?

Mr. VAN SWERINGEN. I think a little more than that.

Mr. PECORA. Was it as much as 15 percent?

Mr. VAN SWERINGEN. I would guess it was somewhere around that, but I do not like to guess.

Mr. PECORA. No; but the record will show when you are guessing and when you are stating a thing as a matter of positive knowledge.

Mr. VAN SWERINGEN. I do not want to be put in that attitude, I mean the attitude of guessing.

Mr. PECORA. So that you felt back in 1922 that an undivided ownership of around 15 percent of the outstanding capital stock of the Chesapeake & Ohio Railroad represented, not technically but in a practical sense, working control of that railroad?

Mr. VAN SWERINGEN. No; I did not. Pardon me, now, but——

Mr. PECORA (interposing). What did it represent in your opinion?

Mr. VAN SWERINGEN. They had, as I stated this morning, been seating the directors with that interest. At least, that was the interest that they had at the time we made the purchase, or rather the shares that they sold to us, which were I think all that they had. But——

Mr. PECORA (interposing). Well, if with that interest they were able to seat the board of directors, weren't they thereby enabled virtually to control the road through the board of directors?

Mr. VAN SWERINGEN. I think there is something to be said on that score. I presume that those who allowed them to do that were content with the operation of the railroad up to that time when they made the trade with us. At any rate, we bought their interest, and then proceeded to enlarge it as I stated before.

The CHAIRMAN. You say in your statement that the Huntington interests were dominating the property.

Mr. VAN SWERINGEN. Yes, sir. The Huntington interests were dominating the property, but whether by virtue of the 73,000 shares, or by virtue of the 73,000 shares plus their reputation in the railroad field, is another story. I do not want to attempt to draw that line.

Mr. PECORA. As to that portion of the story, Mr. Van Sweringen, in your prepared statement it is stated by you as follows, and I am reading from page 3 of that statement:

> The Huntington interest, while dominating the property in the sense that it had been seating the directors, was far from a majority ownership.

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Well, now, with which gentleman connected with J. P. Morgan & Co. did you discuss the matter of your acquisition of the Huntington interest in the Chesapeake & Ohio Railroad?

Mr. VAN SWERINGEN. I do not recall which one I talked with about that matter. But I know I did just what I said I did.

Mr. PECORA. Isn't it possible now for you to recall?

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Mr. VAN SWERINGEN. I may have talked with more than one of them.

Mr. PECORA. What was that?

Mr. VAN SWERINGEN. I say, I may have talked with more than one of them, but just which one I don't recollect.

The CHAIRMAN. You conferred with them to finance you to purchase this——

Mr. VAN SWERINGEN (interposing). I did not get that.

The CHAIRMAN. When it came to financing for equipment you conferred with them?

Mr. VAN SWERINGEN. Yes, sir. But I had talked with them, as I said before, as to the financial aspects as a purchase at that time, and the wisdom of it. I went to them as bankers, just as I would go to my doctor, or my lawyer, for advice, to them in financial matters; and, as I said, believing that that was the best place I could get financial advice. And I took the advice I got at that time.

Mr. PECORA. At the present time you do not recall which of the financial doctors on the staff of J. P. Morgan & Co. you consulted?

Mr. VAN SWERINGEN. No; I do not. I do not quite subscribe to the term you use, but we will let it go at that.

Mr. PECORA. Well, you brought in the term "doctors".

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. You said you regarded them, that is, J. P. Morgan & Co., as wise counsellors in the matter of finance. Did you also regard them as equally wise counsellors in the matter of railroad consolidations and operations?

Mr. VAN SWERINGEN. No; I did not. And I did not try to have their advice about that subject. And if I had tried I wouldn't have gotten it, I feel sure.

Mr. PECORA. Well, what advice did you go to them for?

Mr. VAN SWERINGEN. Financial advice.

Mr. PECORA. That is, as to whether or not it was advisable for you to acquire at that time the Huntington interest in the Chesapeake & Ohio Railroad?

Mr. VAN SWERINGEN. No; that is not quite it, put in that way. It is a little hard to describe, but I will try to do it.

Mr. PECORA. The reason I asked you that question is because of your statement on that subject in your prepared statement.

Mr. VAN SWERINGEN. I know what I said there.

Mr. PECORA. Which is as follows:

> While we were studying and developing, we found that the Huntington interests in the Chesapeake & Ohio were for sale. We talked with J. P. Morgan & Co., whom we regarded, as does the world, as wise counselors in matters of finance. They felt that it wasn't the time for us to make the expenditure.

Now, what expenditure is referred to there?

Mr. VAN SWERINGEN. The expenditure that we would have had to make. In other words, to make the financial transaction as distinguished from the railroad transaction.

Mr. PECORA. Well, the financial expenditure involved in your acquisition of the so-called "Huntington interests" in the Chesapeke & Ohio?

Mr. VAN SWERINGEN. Oh, yes. That is what it referred to.

Mr. PECORA. And J. P. Morgan & Co. told you then that it wasn't the time to make that expenditure. Or, in other words, if I

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properly understand you, it wasn't then the time for you to buy the Huntington interests in the Chesapeake & Ohio Railroad.

Mr. VAN SWERINGEN. Well, now, that is just the difference.

Mr. PECORA. Well, you can clear that up, if you will.

Mr. VAN SWERINGEN. When you said the last part of the question, that is what makes the difference.

Mr. PECORA. Clear it up in your own way, then.

Mr. VAN SWERINGEN. All right. We portrayed to them our financial situation in this matter. They knew that we had this Nickel Plate, and what we had done there. We had some feeling of need for counsel on the subject of whether we should incur further debt at that time, and that comprehended our own circumstances, and it comprehended the situation of the country, and of business in general.

Mr. PECORA. Is that your answer?

Mr. VAN SWERINGEN. But not as to the railroad, not the railroad operating side.

The CHAIRMAN. Let me ask you this, Mr. Van Sweringen: In your statement it appears that you placed Mr. Bernet in charge there as president.

Mr. VAN SWERINGEN. Of the Nickel Plate?

The CHAIRMAN. Yes.

Mr. VAN SWERINGEN. Yes, sir.

The CHAIRMAN. That was Mr. Bernet?

Mr. VAN SWERINGEN. Yes, sir.

The CHAIRMAN. Prior to that was Mr. Harahan the president?

Mr. VAN SWERINGEN. Mr. Harahan was the president of the Chesapeake & Ohio when we acquired that road, and he remained there for some time after our purchase.

The CHAIRMAN. You spoke about providing President Harahan with tools for accomplishing the constructive job of which he was capable.

Mr. VAN SWERINGEN. Yes, sir.

The CHAIRMAN. Did he have to do with the Nickel Plate also?

Mr. VAN SWERINGEN. No, sir. He didn't have to do with the Nickel Plate, just the C. & O., and the Hocking which it owned.

The CHAIRMAN. He had no stock in the Nickel Plate?

Mr. VAN SWERINGEN. No; he had none. Mr. Harahan was the president of the C. & O., you understand.

The CHAIRMAN. He had stock in it?

Mr. VAN SWERINGEN. He had been placed there I think by the Huntington interests in the earlier days.

The CHAIRMAN. And he had stock in the C. & O.?

Mr. VAN SWERINGEN. Well, he might have had; yes, sir.

Senator ADAMS. Mr. Van Sweringen, you do not happen to have available a map of this system, do you? That is, simply to make it a little clearer to us whose railroad geography is somewhat hazy?

Mr. VAN SWERINGEN. I will see if we have one here. (Conferring with associates.) We will have one the next time we come in here.

Mr. PECORA. Now, Mr. Van Sweringen, you say further along in your prepared statement:

> We were going to have to have some money if we bought it.

Meaning the Huntington interest in the Chesapeake & Ohio—

> Some that we did not have ourselves.

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As I interpret that statement, and I am reading from page 2 of your prepared statement, and about the center of the page.

Mr. VAN SWERINGEN. You must have an old copy of my statement of this morning.

Mr. PECORA. I beg pardon. Do you say an old copy? I am reading from the copy furnished to me by your group this morning.

Mr. VAN SWERINGEN. All right. I just noticed a few words that I knew had been changed.

Mr. PECORA. Well, the copy I am reading from says textually—

We were going to have to have some money if we bought it—some that we didn't ourselves have.

What do you mean by that?

Mr. VAN SWERINGEN. Well, as it was finally—

We were going to have some money if we bought it.

We did not have it.

Mr. PECORA. Do you mean if you bought the stock of the Huntington interest in the Chesapeake & Ohio?

Mr. VAN SWERINGEN. Yes, sir; we would have to have some money.

Mr. PECORA. How much money would have been involved at that time in that transaction if you had gone ahead and concluded it instead of deferring it upon the advice of the wise counsellors in matters of finance?

Mr. VAN SWERINGEN. Well, I would have to make an assumption in order to answer that, because we did not progress with our trade to the place at that time where we had the dollar figures determined. Later on as we acquired it, a year or so later, acquired those interests—let me see (conferring with an associate) we paid par for the block of shares. The Nickel Plate, however, paid 80, and we paid the difference.

Mr. PECORA. If you had negotiated the purchase in 1922 of the stock in the Chesapeake & Ohio Railroad held by the Huntington interests, how much would you have had to pay for them?

Mr. VAN SWERINGEN. I cannot answer that any differently than I did, because we did not buy it in 1922, and we did not have a call price on it at that time. I can only relate it to what we did in 1923.

Mr. PECORA. Well, was there much difference between the purchase price that was finally paid in 1923 and that which was discussed by you originally with the Huntington interests in 1922?

Mr. VAN SWERINGEN. We did not fix a price in 1922. That is my difficulty in answering your question specifically.

Mr. PECORA. Well, did you go and consult J. P. Morgan & Co. in 1922 without having some idea of the moneys you were going to require in order to conclude that purchase?

Mr. VAN SWERINGEN. I had a pretty clear idea of what we would ourselves be willing to pay.

Mr. PECORA. Now, you then say in your statement:

We took their advice—

Meaning J. P. Morgan & Co.'s advice—

and postponed our activities in that direction, keeping in touch with the Huntingtons, however.

By that do you mean that the negotiations were temporarily held in abeyance and were resumed in the following year?

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Mr. VAN SWERINGEN. Oh, I should say that might be a fair way to put it. The effect of it, at any rate.

Mr. PECORA. Then you say in your prepared statement as follows:

In the meantime, the Nickel Plate was prospering and was accumulating money under the able management of Mr. J. J. Bernet, whom we had engaged as president when we first acquired the Nickel Plate * * *"

Whom do you mean by "we" in that part of your statement?

Mr. VAN SWERINGEN. Those interests that I have described.

Mr. PECORA. Who are they?

Mr. VAN SWERINGEN. The same ones that we have just talked about here this morning.

Mr. PECORA. That is, you, your brother, Mr. Bradley, Mr. Nutt, and other gentlemen whom you have not yet named?

Mr. VAN SWERINGEN. Yes; that is it.

Mr. PECORA. Is that right?

Mr. VAN SWERINGEN. That is right; yes.

Mr. PECORA. But you individuals did not then actually own the stock of the Nickel Plate Road, did you?

Mr. VAN SWERINGEN. Individuals, did you say?

Mr. PECORA. That stock was then owned by the Nickel Plate Securities Corporation, was it not?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. But you and your associates, meaning the gentlemen whom you have named, and some of whom you have not yet named, controlled the Nickel Plate Securities Corporation, did you not?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Through stock ownership?

Mr. VAN SWERINGEN. Yes, sir. That is what is meant by "we."

Mr. PECORA. That is what is meant by "we." And you go on to say in your prepared statement:

And a year or so after our first discussions about Chesapeake & Ohio, we reached the place where we again thought we should purchase the interest of the Huntingtons. This time the Morgan firm agreed with us and we closed the deal, the Nickel Plate buying 70,000 of the Huntington shares, the total of which was 73,000.

Do you recall now which gentleman connected with Morgan & Co. you consulted in 1923 at which time you were advised to go ahead and purchase the Huntington stock in the Chesapeake & Ohio?

Mr. VAN SWERINGEN. It may seem strange to you, but I do not recall. I have been in the habit of talking to several of them—several of the different partners there, and always assumed that when I had the advice of one that I was pretty well——

Mr. PECORA. Well, can you enumerate—can you give us the names of any of those several?

Mr. VAN SWERINGEN. Yes; I would talk probably with Mr. Anderson—it is hardly fair for me to say that, because I am not sure about it. I think I had better not guess about it, as I reflect upon it.

Mr. PECORA. You are not sure at the present moment of the——

Mr. VAN SWERINGEN. I think I talked to Mr. Lamont about it. (After conferring with associates.) It was Mr. Lamont, they tell me.

Mr. PECORA. Which Mr. Lamont? There are two. Which do you refer to?

Mr. VAN SWERINGEN. Mr. Thomas Lamont, Sr.

Mr. PECORA. Mr. Thomas W.?

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Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Now had Morgan & Co. prior to the time when you first discussed with them in 1922 your contemplated purchase of the Huntington interests in Chesapeake & Ohio done any financing of any kind for you and your associates?

Mr. VAN SWERINGEN. No. (After conferring with associates.) No; I think not. And they did not do any when we bought the C. & O. at that time. I mean on that stock purchase.

Mr. PECORA. Well, now, when did you buy the 70,000 shares out of the 73,000 which the Huntington interests owned in Chesapeake & Ohio?

Mr. VAN SWERINGEN. That must have been 1923, or close to that time.

Mr. PECORA. Who actually bought those 70,000 shares?

Mr. VAN SWERINGEN. I have got to check that. (After conferring with associates.) Oh, pardon me. The Nickel Plate bought 70,000. I testified to that this morning. And the other 3,000 we bought.

Mr. PECORA. That is, the Nickel Plate Securities Corporation?

Mr. VAN SWERINGEN. No; the Nickel Plate Railroad.

Mr. PECORA. The Nickel Plate Railroad bought the 70,000 shares and you and your associates individually bought the remaining 3,000 shares of the Huntington interests? Is that right?

Mr. VAN SWERINGEN. (After conferring with associates.) The Nickel Plate Securities bought the other three.

Mr. PECORA. Oh, the Nickel Plate Securities bought the other three.

The CHAIRMAN. When was the Chesapeake Corporation formed, and why?

Mr. VAN SWERINGEN. That was formed sometime afterwards.

Now, I would like to clear one thing in the record, if I may. In talking about this purchase of 73,000 shares and saying that Nickel Plate bought 70,000, I want to again remind you that Nickel Plate did not pay the price that we paid. Our price was $100 a share—our cost. Their cost was $80 a share for the 70,000 shares they got, and we took the other 3,000 shares at the $100 plus $20 on all the shares—or $1,400,000 more we paid.

Mr. PECORA. Now, let us go into that whole tranaction, if you will, in a general way.

Mr. VAN SWERINGEN. Pardon me, Mr. Pecora, but the chairman asked me a question.

Mr. PECORA. Yes. I will withdraw mine until you answer Senator Fletcher's question.

Mr. VAN SWERINGEN. He has asked me as to a date. (After conferring with associates.) May 19, 1927, I think is the answer to the chairman's question.

Mr. PECORA. That is, that is the date of the incorporation of the Chesapeake Corporation?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now, the 73,000 shares that the Huntington interests owned in the stock of the Chesapeake & Ohio Railroad was bought by your group, your associates, or your corporations, sometime in 1923. Is that correct?

Mr. VAN SWERINGEN. That is correct.

Mr. PECORA. What was the consideration or purchase price paid by those who directly bought those 73,000 shares from the Huntington interests?

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Mr. VAN SWERINGEN. $7,300,000.

Mr. PECORA. That is, they paid par?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. That is $100 a share?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. What was the market value at that time of those shares?

Mr. VAN SWERINGEN. It was quite a little less than that.

Mr. PECORA. How much less?

Mr. VAN SWERINGEN. Somewhere in the 70 range.

Mr. PECORA. Somewhere in the 70's.

Mr. VAN SWERINGEN. Illustrating that market value is not always value.

Mr. PECORA. Sometimes market value is greater than actual value, is it not?

Mr. VAN SWERINGEN. Oh, I think that is so, too.

Mr. PECORA. Yes. Who conducted the negotiations with the Huntington interests whereby you and your associates acquired these 73,000 shares for $7,300,000?

Mr. VAN SWERINGEN. I did, principally.

Mr. PECORA. With whom did you have them?

Mr. VAN SWERINGEN. Mr. Henry E. Huntington.

Mr. PECORA. Was that a cash transaction?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. From what sources was the cash obtained that was paid to the Huntington interests for this block of stock?

Mr. VAN SWERINGEN. Give me the figures. (Addressing an associate.) I have got to keep you a minute before I answer that.

Mr. PECORA. That is all right, sir.

Mr. VAN SWERINGEN (After conferring with associates.) Now, your question is where the $7,300,000 came from?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. That had to come from two sources. The Nickel Plate on the one hand and the Nickel Plate Securities interests on the other hand.

Mr. PECORA. Well, did those two companies obtain those moneys through the issuance and sale of any securities?

Mr. VAN SWERINGEN. Seventy thousand shares of C. & O. common stock was purchased on January 29, 1923, at $80. The amount of dollars being $5,600,000 paid for out of current cash. That is, of the Nickel Plate Railroad. The cash was obtained through the sale of $7,274,000 par value second improvement mortgage bonds.

Mr. PECORA. Then that cash came from the issuance and sale of securities by the Nickel Plate road?

Mr. VAN SWERINGEN. Oh, yes.

Mr. PECORA. Yes; that is what I asked.

Mr. VAN SWERINGEN. Railroads have to get their money that way to a considerable extent.

Mr. PECORA. Yes; and where did the balance of that total purchase price come from?

Mr. VAN SWERINGEN. $1,700,000 paid by Nickel Plate Securities, which were our interests, so-called, was obtained from the Vaness Co.

Mr. PECORA. Was obtained from the Vaness Co. That is, did the Vaness Co. loan that money to the Nickel Plate Securities Corporation?

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Mr. VAN SWERINGEN. It was in the nature of a loan; yes, sir.

Mr PECORA. I did not hear you.

Mr. VAN SWERINGEN. A loan; yes, sir.

Mr. PECORA. A loan.

Mr. VAN SWERINGEN. Its subsidiary.

Mr. PECORA. Now, tell us about this Vaness Co. When was the Vaness Co. organized?

Mr. VAN SWERINGEN. I have got to get that. (After conferring with associates.) The charter is dated January 9, 1922, I am told.

Mr. PECORA. Did you and your associates cause it to be organized?

Mr. VAN SWERINGEN. We did.

Mr. PECORA. Did you and your associates own all of its capital stock?

Mr. VAN SWERINGEN. All of its common stock. (After conferring with associates.) All of its capital stock.

The CHAIRMAN. That was a holding company, was it?

Mr. VAN SWERINGEN. Well, it was a company which did hold it; yes, sir. Hold these assets.

Mr. PECORA. You say it was organized in January 1922? Is that the date, sir?

Mr. VAN SWERINGEN. That is what I was told here. (After conferring with associates.) That is the date of the charter.

Mr. PECORA. Yes. And all of its capital stock was issued to you and your associates?

Mr. VAN SWERINGEN. That is the way it is in my mind.

Mr. PECORA. Now, you only had two associates besides your brother in that transaction, did you not? That is, Mr. J. R. Nutt and Mr. C. L. Bradley?

Mr. VAN SWERINGEN. I think for a time we had two other associates whom we bought out.

Mr. PECORA. Now, what kind of business was conducted or transacted by this Vaness Co.?

Mr. VAN SWERINGEN. It was originally formed to hold and to own securities and other assets that principally surrounded the ownership of O. P. and M. J. Van Sweringen.

The CHAIRMAN. How much capital stock?

Mr. VAN SWERINGEN. I do not recall.

Mr. PECORA. So that all of the cash involved in the purchase of these 73,000 shares of Chesapeake & Ohio which the Huntington interests sold to you and your associates was raised first—or a large portion of it—five million and some odd dollars by the issuance of mortgage bonds by the Nickel Plate Railroad, which were sold to the public, and the balance of one million seven hundred and odd thousand dollars by means of a loan made to the Nickel Plate Securities Corporation by the Vaness Co., is that right?

Mr. VAN SWERINGEN. Those bonds, however, were issued for other property than the shares bought. Having been issued for other expenditures made. So that it was the equivalent of treasury cash all through that. It was reimbursement of treasury cash.

Mr. PECORA. Well, it was cash that was obtained from the investing public through the sale to it of securities by the Nickel Plate road, was it not?

Mr. VAN SWERINGEN. Well, not entirely. And yet I have no objection to the general statement. It was earnings in part that had

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been invested in property and recognized in securities in the treasury—in the reimbursement.

Mr. PECORA. Well, by means of this transaction with the Huntington interests the Nickel Plate road and the Nickel Plate Securities Corporation, which was a holding company, acquired what you called in your prepared statement, or what you referred to in your prepared statement as an interest which dominated the property, meaning the Chesapeake & Ohio in the sense that it had been seating the directors? Is that correct?

Mr. VAN SWERINGEN. Just what I said there I think is correct, yes.

Mr. PECORA. Yes. And those moneys, or the major part of them, came from the investing public through the purchase of securities consisting of these mortgage bonds issued by the Nickel Plate railroad, is that right?

Mr. VAN SWERINGEN. Were I to say that over again I—will you read that question, please?

(Thereupon the last question was read by the reporter, as above recorded.)

Mr. VAN SWERINGEN. Issued for other assets than the stock purchased.

Mr. PECORA. Yes. All right. Well, the practical effect of those transactions then to that point——

Mr. VAN SWERINGEN. Perhaps I should have said the capitalization or other assets.

Mr. PECORA. All right. Was the practical effect of these transactions up to that point as follows: That through the control which you and your associates had of the Nickel Plate Railroad by virtue of your ownership of the common stock of the Nickel Plate Securities Corporation you were able to acquire with moneys principally obtained from the investing public a dominating interest in the Chesapeake & Ohio Railroad Co.?

Mr. VAN SWERINGEN. That is true, subject—and the interlocking relationship there was approved by the Government—the Interstate Commerce Commission. After all, control, as you refer to it, is a right to operate the properties in the interest of the stockholders.

Senator ADAMS. Mr. Van Sweringen, was the stock that you purchased from the Huntington interests divided exactly in proportion to the contributions from the Nickel Plate Securities Corporation and the Nickel Plate Railroad? Perhaps I am in error in that, but I gathered that there was $5,600,000 contributed by the railroad company and $1,700,000 by your private companies.

Mr. VAN SWERINGEN. That is right; yes, sir.

Senator ADAMS. Now, I am asking you whether or not of those 73,000 shares there was an opportionment exactly in proportion to the relative contributions?

Mr. VAN SWERINGEN. No, there was not. They got for their $5,600,000, 70,000 shares, and we got for our $1,700,000, 3,000 shares only. There was an instance of control, so-called, where the control took the cost themselves rather than to put it for the added price above $80 on the railroad that they were operating. It turned out to have market values for considerably more than that.

Mr. PECORA. Well, Mr. Van Sweringen, will you be good enough to tell us what the reason was for putting into the Nickel Plate Rail-

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road 70,000 of these shares at $5,000,000-plus, and putting into the Nickel Plate Securities Corporation only 3,000 shares at a cost of approximately $1,700,000? Why that disparity of value?

Mr. VAN SWERINGEN. In the Nickel Plate one half of the shares were owned by the general public. While we thought that these C. & O. shares were worth all that we paid for them, we were conscious that the market reflected a lower market price. And there was to be expected that element of risk or gamble, if you want to put it that way, in the higher price. As one experienced in the railroad side of that undertaking we were confident that we could develop that property and to make it a much better property than it was. But we felt that we should take that cost ourselves as to that so-called "holding company interest", if you will, rather than to have the question arise from the standpoint of the Nickel Plate stockholder who might think that we had treated him unwisely or unfairly.

Mr. PECORA. Are you through?

Mr. VAN SWERINGEN. That is the best I can describe it.

Mr. PECORA. All right. Now, is it not a fact, Mr. Van Sweringen, that the price of five million-odd dollars at which these 70,000 shares of Chesapeake & Ohio were put into the Nickel Plate Railroad corresponded to the market pr ce at that time of those shares?

Mr. VAN SWERINGEN. No; it did not quite.

Mr. PECORA. How much of a disparity was there between the market price and the price at which those 70,000 shares were put into the Nickel Plate Road?

Mr. VAN SWERINGEN. I cannot answer you as to the disparity, but I can tell you that, if my recollection serves me right, the $80 that the Nickel Plate paid was just a little bit more than the market at that time, or as the market reflected it, but there was a large block of stock, and to have gathered it in the market would have meant that it would have probably been at a different figure.

Mr. PECORA. Been what?

Mr. VAN SWERINGEN. It might have been at a different figure.

Mr. PECORA. And if the Huntington interests sought to sell in the open market their 70,000 shares the price might have been also quite different? The market might have gone down as the result of this large block being offered?

Mr. VAN SWERINGEN. Or it might have gone up. That is anybody's guess.

Mr. PECORA. Usually when a large block is thrown on the market the price goes down, does it not?

Mr. VAN SWERINGEN. Oh, I do not pretend to be a market expert. I do not think I ought to answer that. That depends upon how it is done, I suppose, and when it is done.

Mr. PECORA. Now, what was the financial set-up of the Vaness Co. when it was organized in 1922?

Mr. VAN SWERINGEN. I might add right in there that it was originally designed as our own personal basket. It took a little different form as time went on.

Mr. PECORA. It was designed as a personal corporation vehicle for you and your associates; is that a fair statement?

Mr. VAN SWERINGEN. Yes; that is a very fair statement.

Mr. PECORA. Yes. Now, what was its capital structure?

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Mr. VAN SWERINGEN (after conferring with associates). I am sorry that I am having to keep you waiting here.

Mr. PECORA. That is all right.

Mr. VAN SWERINGEN. One hundred sixty-two thousand five hundred shares of no par common stock and 50,000 shares of preferred stock of a par value of $100. That is the authorized capital.

Mr. PECORA. How much of it was issued?

Mr. VAN SWERINGEN. All of the common. (After conferring with associates.) My recollection is that it was a little more than 4,000,000 of the preferred out. Or that that has been issued.

Mr. PECORA. It is about 80 percent, a little more than 80 percent?

Mr. VAN SWERINGEN. I think so.

Mr. PECORA. Of the authorized preferred stock issued?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now, was all of the common stock of the Vaness Co. issued to you and your associates at the outset?

Mr. VAN SWERINGEN. It was; yes, sir.

Mr. PECORA. And were the preferred shares that were issued also issued to you and your associates at the oustet?

Mr. VAN SWERINGEN. That is my recollection; yes, sir.

Mr. PECORA. And what consideration was paid for that stock to the Vaness Co?

Mr. VAN SWERINGEN. Someone will have to give me that. (Conferring with associates.)

Mr. PECORA. And, incidentally, you might tell us in what form that consideration was paid.

Mr. VAN SWERINGEN. From the minutes I find this, dated January 10, 1922:

The Vaness Co.: We hereby propose to you as follows: 1. To transfer or cause to have transferred to you 195,825 shares of the common capital stock of the Nickel Plate Securities Corporation in the par amount of $9,791,250.

Mr. PECORA. I am sorry, Mr. Van Sweringen. Will you give me that again. I do not hear you down here very well.

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. A little louder, please.

Mr. VAN SWERINGEN (reading):

1. To transfer or cause to have transferred to you 195,825 shares of the common capital stock of the Nickel Plate Securities Corporation in the par amount of $9,791,250.

2. To transfer or cause to have transferred to you 93 shares of the common capital stock of The Traction Terminal Co."

Mr. PECORA. Of what company?

Mr. VAN SWERINGEN. Of the Traction Terminal.

Mr. PECORA. What is that?

Mr. VAN SWERINGEN. That is the Rapid Transit.

Mr. PECORA. I did not get the name of that security. The 93 shares. I will have to ask you to speak a little louder.

Mr. VAN SWERINGEN. Pardon me?

Mr. PECORA. I did not get the name of that security, the 93 shares.

Mr. VAN SWERINGEN. The Cleveland Traction Terminal Co. That is all of the outstanding stock of that company except seven qualifying shares.

Mr. PECORA. Ninety-three shares?

Mr. VAN SWERINGEN. Yes.

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Mr. PECORA. All right.

Mr. VAN SWERINGEN (reading):

and to deposit or cause to be deposited with you.

Those seven shares that I just described.

In consideration of payment for the foregoing, your company shall issue and deliver to us or our order all the common capital stock of your company, amounting to 162,500 shares, without nominal or par value.

These were no-par shares.

pay to us the sum of $9,300 in cash.

The acceptance of this proposal by authority of your board of directors will constitute and be the contract between your company and ourselves covering the matters aforesaid as of January 10, 1922—

And signed

O. P. Van Sweringen and M. J. Van Sweringen.

Mr. PECORA. May I have that minute book here, please, from which you have just read?

Mr. VAN SWERINGEN. We will give you a copy of that minute, if you would like.

Mr. PECORA. Let me have the minute book.

Mr. JOHN P. MURPHY. Would you like to see it now, Mr. Pecora?

Mr. PECORA. If you don't mind.

(The minute book was passed to Mr. Pecora and he examined it.)

Now, upon the organization of the Vaness Co. in January 1922, you and your brother proposed to that company to acquire all of its common stock to the number of 162,500 shares, having a par value—no, without nominal par value—in return for 195,825 shares of the common stock of the Nickel Plate Securities Corporation, having a par value of $9,791,250, and also 93 shares of the common capital stock of the Cleveland Traction Terminals Co., which was all of the outstanding common capital stock of that company with the exception of seven shares to qualify the directors of that company. That was the transaction, wasn't it?

Mr. VAN SWERINGEN. That is the transaction.

Mr. PECORA. So that the capital assets acquired by the Vaness Co. simply consisted of these shares of the common stock of the Nickel Plate Securities Co. and the 93 shares of the common capital stock of the Cleveland Traction Terminals Co.; is that correct?

Mr. VAN SWERINGEN. At that time.

Mr. PECORA. At that time. Now, subsequently, in 1923, the Nickel Plate Securities Corporation purchased 3,000 shares of the common stock of the Chesapeake & Ohio Railroad from the Huntington interests for a consideration of approximately $1,700,000, did it not?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And that money was raised by the Nickel Plate Securities Corporation by means of a loan that it obtained in 1923 from the Vaness Co.; is that correct?

Mr. VAN SWERINGEN. Yes, sir; I believe it is. [After examining document.] Yes, sir.

Mr. PECORA. Where did the Vaness Co. get that one million seven hundred-odd thousand dollars—how did it get it—which it loaned to the Nickel Plate Securities Corporation?

(Mr. Van Sweringen conferred with associates.)

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Mr. MURPHY. You have the record. May I take it back?

Mr. PECORA. Surely. Certainly. [Handing minute book to Mr. Murphy.]

Mr. VAN SWERINGEN. If I could have had your interrogatory I might have saved a lot of time.

Mr. PECORA. That is all right; take whatever time you need.

Senator ADAMS. Mr. Van Sweringen, while they are looking that up, I am wondering if you would check my figures. I have been a little surprised at the apparent cost per share of the 3,000 shares of Chesapeake & Ohio which the Chesapeake Securities Co. got; that is, the price.

Mr. VAN SWERINGEN. You mean the Nickel Plate securities?

Senator ADAMS. Yes. The price reduces itself. How did you figure that? I mean just a mere matter of verifying my mathematics.

Mr. VAN SWERINGEN. You mean the price per share?

Senator ADAMS. It looked like $550 per share to me, and I——

Mr. VAN SWERINGEN (interposing). That is about right. Of course, you have got in mind that the Nickel Plate Securities had the residuary balance.

Senator ADAMS. Yes; I know, and I was just figuring out what it resulted in.

Mr. VAN SWERINGEN. Yes, sir; it did.

Mr. PECORA. I had just made that calculation, Senator Adams.

Mr. VAN SWERINGEN. We did not hurt the Nickel Plate stockholder when we did that.

(Mr. Van Sweringen and his associates conferred and examined documents.)

Mr. PECORA. While your associates are looking up the answer to the last question that I put to you I will ask you something else. From your answers to Senator Adams' question it would seem that the 3,000 shares acquired by the Nickel Plate Securities Corporation of the Chesapeake & Ohio common stock which you bought from the Huntington interests was paid for at the rate of about around $565 a share.

Mr. VAN SWERINGEN. Our interest did; yes.

Mr. PECORA. Yes. Wherein the portion of 70,000 shares put into the Nickel Plate road were put in at prices between $70 and $80 a share?

Mr. VAN SWERINGEN. At $80.

Mr. PECORA. At $80. Now, Mr. Van Sweringen, at that time who held the capital stock of the Nickel Plate Securities Corporation?

Mr. VAN SWERINGEN. Our interests, as I have described them heretofore.

Mr. PECORA. What is that?

Mr. VAN SWERINGEN. Our interests, as I have described them heretofore.

Mr. PECORA. Well, by your interests whom do you mean?

Mr. VAN SWERINGEN. I mean my brother and myself and Mr. Bradley and Mr. Nutt and a few other holders that were close.

Mr. PECORA. Were there any stockholders other than your own immediate group or interest?

Mr. VAN SWERINGEN. In the small percent that I have just noted.

Mr. PECORA. In the small percent. Did you think it was fair upon those other stockholders, those who were outside of your group, to saddle upon them the purchase of these shares at $550 a share?

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Mr. VAN SWERINGEN. Yes; I did, or I would not have done it.

Mr. PECORA. Thought it was very fair, didn't you?

Mr. VAN SWERINGEN. They were our associates and men in business.

Mr. PECORA. I am speaking of those who were not your associates.

Mr. VAN SWERINGEN. This was not a public offering. It was a number of people who had gathered around us, but we had, as I recollect it, about 80 percent.

Mr. PECORA. Well, did you think it was fair to the other 20 percent to do that?

Mr. VAN SWERINGEN. Certainly I did, or I would not have done it.

Mr. PECORA. Think it was fair to saddle upon them as such purchase at more than five times their market value, did you?

Mr. VAN SWERINGEN. I don't like your expression "saddle upon". That is not what we did. What we did was to sell to the Nickel Plate at $80 a share the shares that they got, but the Nickel Plate, you must remember, was owned by the Nickel Plate Securities, and that group who owned that interest paid the difference, put plainly that way.

Mr. PECORA. But 20 percent of the owners in stock of the Nickel Plate Securities Corporation were persons not represented by your interests?

Mr. VAN SWERINGEN. Yes; they were. They came in as associates with us.

Mr. PECORA. And they had to bear their proportion of this——

Mr. VAN SWERINGEN (interposing). They came in as our associates.

Mr. PECORA. And they had to bear their proportion of this transaction, didn't they?

Mr. VAN SWERINGEN. Oh, certainly. They were riding with us.

Mr. PECORA. "Riding with us"?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And at that price they would have paid more than five times the market value of those 3,000 shares?

Senator ADAMS. More than seven.

Mr. PECORA. That was very fair, was it?

Mr. VAN SWERINGEN. Separated off that way; yes. Because they had the residuary interest, you understand, the other way, the Nickel Plate. That turned out to be a very fortunate transaction all around.

Mr. PECORA. Would it have turned out to be a less fortunate transaction for the 20 percent of those stockholders of the Nickel Plate Securities Corporation if that corporation had acquired these 3,000 shares not at $565 but at $100 or at $80?

Mr. VAN SWERINGEN. They were our associates and would have wanted to share with us in what we did, and they did share with us.

Mr. PECORA. Would it have been less fortunate for them if they had paid $80 or $100 a share instead of $565 a share for those 3,000 shares?

Mr. VAN SWERINGEN. That is an academic question, of course, and you can answer it as well as I can. It was not what was done.

Mr. PECORA. Now, let's get down to 1923, when the Vaness Co. loaned a million seven hundred thousand dollars to the Nickel Plate Securities Co. to enable that company to buy these 3,000 shares at $565 a share.

(Mr. Van Sweringen conferred with associates.)

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Mr. PECORA. Where did the Vaness Co. get the money that it loaned to the Nickel Plate Securities Corporation in that transaction?

Mr. VAN SWERINGEN. It seems, Mr. Pecora, that we do not have the detail that is necessary to answer that question. We will get it. It will mean that we will have to communicate with Cleveland to obtain it, and we will have it by night or morning.

The CHAIRMAN. Do you recall, Mr. Van Sweringen, whether you sold stock, the Vaness Co. sold stock, with which to——

Mr. VAN SWERINGEN (interposing). No; I don't just recall.

The CHAIRMAN. They did not have the money in the treasury, did they?

Mr. VAN SWERINGEN. It taxes my memory too much.

The CHAIRMAN. They did not have that money in the treasury, did they?

Mr. VAN SWERINGEN. Well, if I knew that I could answer the rest probably. The safest thing for me to do is know and answer on my knowledge.

The CHAIRMAN. The only capital they had was in shares of the Nickel Plate Co.

Mr. PECORA. The Nickel Plate Securities Corporation.

Mr. VAN SWERINGEN. Mr. Chairman, the difficulty there is that he has picked one date and then jumped over to a later date and then selected another time, without the intervening happenings being disclosed, and to set up those two things or those two periods will leave with everybody a wrong impression.

Mr. PECORA. Well, I am asking you, and you can take all the time you need, Mr. Van Sweringen——

Mr. VAN SWERINGEN (interposing). Well, I will be glad to get it.

Mr. PECORA (continuing). To answer the question as to where the Vaness Co. got the money that it loaned in 1923 to the Nickel Plate Securities Co. to enable it to buy these 3,000 shares at $565 a share.

Mr. VAN SWERINGEN. Mr. Pecora, that is not difficult to answer from the records, but I cannot answer it from memory back there at that time.

Mr. PECORA. Haven't you the minute book of the Vaness Co. here with you?

Mr. VAN SWERINGEN. No, strangely enough, I do not have the data sufficiently in form to answer you. It would be easier to answer than not to answer if I did.

Mr. PECORA. Well, Mr. Van Sweringen, can't you find the data in your minute book?

Mr. VAN SWERINGEN. I have answered that. I am sorry I cannot give it before tonight or morning. That is not an account book, of course.

Mr. PECORA. Well, between January 1922 and that date in 1923 when this transaction was had with the Huntington interests, did the Vaness Co. issue and sell to the public any securities?

Mr. VAN SWERINGEN. The Vaness Co. have never issued or sold to the public securities. I can answer that part of it.

Mr. PECORA. Did it issue and sell any securities to anybody?

Mr. VAN SWERINGEN. That is what I am trying to find out, what we did do, that will enable me to answer your question that you have just asked. I cannot do that without reference to the accounts in Cleveland—the accounting records.

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Mr. PECORA. I understood you to say that this Vaness Co. was sort of a personal corporate vehicle for your interests.

Mr. VAN SWERINGEN. Yes; I said that—that it started out that way. That is correct. I am sorry I cannot give you what you want right at this minute. I will get it for you. You may have it. Your assistants were out there and gathered the records that we presumed that you wanted.

Mr. PECORA. The fact that we want it is best evidenced by the fact that I am asking you these questions.

Mr. VAN SWERINGEN. I thought maybe you had it, too. However, there is one way to get it.

Mr. PECORA. You don't mean to imply that the employees of this committee that examined the books made an audit of the books, do you?

Mr. VAN SWERINGEN. Oh, no.

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. No, I thought perhaps you had it there, and if you had it would refresh my mind.

Mr. PECORA. As a matter of fact, were any of the books of accounts of the Vaness Co. shown to our examiners?

Mr. VAN SWERINGEN. I don't know.

Mr. PECORA. I am informed they were not. Will you have that information between now and the next session of the committee?

Mr. VAN SWERINGEN. Gladly. Gladly.

Mr. PECORA. Perhaps you can tell us this: Did you and your associates use any of your own cash in the transaction that enabled you to get control or dominating operation through seating of the board of directors of the Chesapeake & Ohio Railroad through the acquisition of these 73,000 shares?

Mr. VAN SWERINGEN (after conferring with associates). We undoubtedly did.

Mr. PECORA. How much?

Mr. VAN SWERINGEN. I cannot tell you that without going through the records to find out. We have explained the transaction here.

Mr. PECORA. I don't hear you.

Mr. VAN SWERINGEN. We have explained the transaction here.

Mr. PECORA. Well, the transaction, as I gather it from your explanation, was briefly this: That the Nickel Plate R.R. Co. purchased 70,000 of these shares for $5,600,000, which moneys it raised through the sale of mortgage bonds to the public, and then the other 3,000 shares were purchased by the Nickel Plate Securities Corporation for $1,700,000, which it obtained as a loan from the Vaness Co. Wherein in that operation did you and your associates put up any of your own cash?

Mr. VAN SWERINGEN. Through the Vaness Co. operation we either had to put up collateral or cash before we got money at any stage of the game, or credit, one or the other.

Mr. PECORA. Can you tell us——

Mr. VAN SWERINGEN (interposing). And we owned that corporation.

Mr. PECORA. You owned the Vaness Co.?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. The Vaness Co. in its original set-up merely acquired some shares of the Securities Co., the Nickel Plate Securities Co., in

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return for capital stock which you and your associates received; is that right?

Mr. VAN SWERINGEN. Now, you are back to the place where I could not answer before, because you pick a date as to that transaction and then skip over for more than a year without the intervening transactions. It is as to those intervening transactions that I want the information, and that is what I promise to give you when I can get it.

Mr. PECORA. Can you now recall any moneys that you and your associates actually took out of your pocket to enable the Nickel Plate Railroad and the Nickel Plate Securities Corporation to acquire these 73,000 shares of the capital common stock of the Chesapeake & Ohio?

Mr. VAN SWERINGEN. You are trying to have me answer without the facts again, Mr. Pecora.

Mr. PECORA. I am trying to have you answer on the basis of your best recollection.

Mr. VAN SWERINGEN. I haven't any best recollection. That is my trouble. The record is the best thing I can get you, and we will have that in the morning or tonight.

Mr. PECORA. Have you any recollection at all of you and your associates having furnished out of your own means any of this consideration of $7,300,000 for the 73,000 Chesapeake & Ohio shares?

Mr. VAN SWERINGEN. You will have that answer in the morning.

Mr. PECORA. All right. Now, continuing in your prepared statement of this morning, Mr. Van Sweringen, you say as follows [reading]:

> At that time—

Referring to the time when you bought these 73,000 shares—

> the property was struggling somewhat because of capital necessities, but we were sure it could be made to earn a lot more money and perform a much better service.

Did the fact that the Chesapeake & Ohio Railroad was struggling somewhat at that time because of capital necessities——

Mr. VAN SWERINGEN (interposing). Yes, sir.

Mr. PECORA (continuing). Enter into your consideration that it was fair and proper for the Nickel Plate Securities Corporation to buy 3,000 of its shares at about $565 a share?

Mr. VAN SWERINGEN. Oh, yes. We knew what we were doing.

Mr. PECORA. You then go on to say in your prepared statement as follows [reading]:

> When we went into the management of it we conferred with Morgan & Co. as to those improvements we felt should be made and through their aid financed a large purchase of new equipment, which, with other betterments, would provide President Harahan with the tools to accomplish the constructive job of which he was capable.

Now, when did you go into the management of the Chesapeake & Ohio Railroad?

Mr. VAN SWERINGEN. When did we go in?

Mr. PECORA. Yes, sir.

Mr. VAN SWERINGEN. January 30, 1923.

Mr. PECORA. And with what gentlemen connected with Morgan & Co. did you then confer as to improvements to be made in that road?

Mr. VAN SWERINGEN. I don't recall which ones.

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Mr. PECORA. How much aid did you receive of a financial character from J. P. Morgan & Co. that enabled you to purchase new equipment for the Chesapeake & Ohio road at that time?

Mr. VAN SWERINGEN. $7,875,000 of par amount of equipments in the one instance.

Mr. PECORA. Will you talk a little louder? I can't hear you.

Mr. VAN SWERINGEN. Pardon me; $7,875,000 par amount of equipments in the one instance, and $18,000,000 in par amount in the other instance, and those two dates were March 20, 1923—that is the authority of the boards at that time—and June 17, 1924.

Mr. PECORA. June 17, 1924.

Mr. PECORA. And you are quite unable to tell us with whom you conferred at J. P. Morgan & Co. concerning these loans?

Mr. VAN SWERINGEN. Yes; I am.

Mr. PECORA. Can you tell us from whom this new equipment was purchased?

Mr. VAN SWERINGEN. No; I cannot. I can get the data if you wish. I do not have it here.

The CHAIRMAN. Were they secured by equipment notes?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Further on in your prepared statement of this morning you said as follows:

> We then turned our attention to an analysis of the Erie Railroad. Our studies convinced us that we could make it behave a lot better than it was doing. It was one of the properties we felt was a necessary part of the system we were trying to build.

When did you turn your attention to the Erie Railroad?

Mr. VAN SWERINGEN. At the time stated there, following right along in the chain of events.

Mr. PECORA. When was it—1924, 1923, 1925?

Mr. VAN SWERINGEN. It looks to me like it was 1924; but somewhere in that range—1924 or 1923; 1923, part of it.

Mr. PECORA. Can you give us the terms upon which you obtained these two loans from J. P. Morgan & Co. that aggregate $25,855,000, for new equipment?

Mr. VAN SWERINGEN. The ones of March 20, 1923—those equipments were 5 percent ones and were sold at 96.46. That was the net to us.

Mr. PECORA. That was the net to the railroad?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. What was it?

Mr. VAN SWERINGEN. 96.46. Those of June 1924, the eighteen millions, were 5's at 98 and netted the company 98.

Mr. PECORA. Sold at net 98 to the company?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Are these loans still open?

Mr. VAN SWERINGEN. For the serial equipments I will give you a tabulation, if you wish to have it, of the outstanding amounts.

Mr. PECORA. Just confining yourself now to those two loans?

Mr. VAN SWERINGEN. Your question makes me answer you specifically.

Mr. PECORA. Let us take the first loan, then, the one of March 20, 1923, $7,875,000. Is that still open?

Mr. VAN SWERINGEN. I cannot tell you what amount of it is out, or whether any of it is out, from recollection.

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Mr. PECORA. As a matter of fact, this transaction was one wherein J. P. Morgan & Co. underwrote that issue of equipment bonds?

Mr. VAN SWERINGEN. It was.

Mr. PECORA. They bought them direct from the Chesapeake & Ohio?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. How about the $18,000,000 issue of June 1924? Did they buy that, too?

Mr. VAN SWERINGEN. Yes, sir. Of course they were both approved by the Interstate Commerce Commission.

Mr. PECORA. Are these bonds still outstanding?

Mr. VAN SWERINGEN. I cannot answer that. I am sorry, but I cannot recollect. I will get you the data if you are interested in going further with it.

Mr. PECORA. When you said in your prepared statement as follows: "When we went into the management of it", you meant by that, the management of the Chesapeake & Ohio Railway, did you not—on page 3 of your prepared statement?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And you were enabled to go into the management of it simply through the control and ownership of 73,000 shares of its common stock, were you not?

Mr. VAN SWERINGEN. The Commission's opinion on this subject will be of interest, maybe. [Reading:]

It is represented that the Nickel Plate will purchase additional equipment and improve its facilities to provide for the contemplated increased traffic of the C. & O., and that it will reciprocate in increased tonnage to the C. & O. The Nickel Plate represents, however, that before making the contemplated expenditure it must have assurance that the C. & O. traffic will be given the Nickel Plate without the opposition of the people who control the C. & O.

Mr. PECORA. Mr. Van Sweringen, I cannot hear you.

Mr. VAN SWERINGEN. I do not know where to go back to—

The Nickel Plate represents—

Mr. PECORA. Are you now trying to answer the last question I asked you as to whether or not you were enabled to enter into the management of the Chesapeake & Ohio Railway simply through your ownership or control of 73,000 shares of its capital common stock?

Mr. VAN SWERINGEN. As to that, I think you are right.

Mr. PECORA. That was my question.

Mr. VAN SWERINGEN. What I am not sure about is whether we had any more shares ourselves at that time; but we did shortly thereafter, if we did not have then.

Mr. PECORA. Have you a notation that among other information you are to obtain in order to enable you to give this committee the benefit of it tomorrow, is that relating to the identity of the person or company from whom the C. & O. purchased this equipment out of the proceeds of these two bond issues totaling $25,875,000?

Mr. VAN SWERINGEN. The sellers of the equipment?

Mr. PECORA. Yes, sir.

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. You said, Mr. Van Sweringen, according to your best recollection, that in 1923 you and your associates turned your atten-

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tion to an analysis of the Erie Railroad with a view of acquiring some interest in it. You go on further and say, in your prepared statement:

> That grand old gentleman, Mr. George F. Baker, now deceased, was the outstanding personality in the ownership of the property. So we talked with him as to our welcome as a participant in this ownership.

Did you deem it necessary, in order to enable you to buy stock in a railroad company that you thought might be helpful to your interests, to get anybody's permission?

Mr. VAN SWERINGEN. I thought it was courteous.

Mr. PECORA. How much of the stock then outstanding of the Erie Railroad Co. did the late Mr. George F. Baker then have, if you know?

Mr. VAN SWERINGEN. I do not know.

Mr. PECORA. You said he was the outstanding personality in the ownership of the property. Why did you say that?

Mr. VAN SWERINGEN. Just because that is the way I would interpret it.

Mr. PECORA. Is that interpretation based in any way upon any knowledge you had of the extent of his stock ownership of the Erie Railroad?

Mr. VAN SWERINGEN. I said, the outstanding personality in the ownership.

Mr. PECORA. I ask you if that statement was based in any way upon any knowledge you had of the extent of his stock ownership?

Mr. VAN SWERINGEN. I do not recall; but it would not have to have been to mean what I meant it to be when I said it in this statement.

Mr. PECORA. The late Mr. Baker's personality was an outstanding one, regardless of any shares of stock he owned in any enterprise, was it not?

Mr. VAN SWERINGEN. I would agree with every bit of that.

Mr. PECORA. Why did you think you owed him any courtesy in the matter, before you went out and bought any stock in that road, of first consulting him?

Mr. VAN SWERINGEN. It is difficult to tell why one feels that they owe a man a courtesy to do anything. I don't know that I did owe it to him; but I preferred to approach it that way, as the courteous way.

Mr. PECORA. Why did you think it was necessary for you to do it if you did not owe him any courtesy in the matter?

Mr. VAN SWERINGEN. Maybe I will have to put it on the grounds of business judgment. I expect that is it.

The CHAIRMAN. Was he an officer of the road?

Mr. VAN SWERINGEN. Yes, sir. He was a director of the road; I think that was all. I am not sure but what he was the chairman (consulting associates). He was a director of it, I am sure. I would expect that if you had been identified with it all those years and was known in it in the way he was, I would talk to you in just that same way.

Mr. PECORA. You would have wasted your time, I am afraid. Can you give us the substance of the talk you had with the late Mr. Baker on the subject of your buying into the Erie Railroad at that time?

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Mr. VAN SWERINGEN. I cannot do it any better than I have in that statement. I just told him what we saw in the property and that we would like to have an interest in it.

Mr. PECORA. If Mr. Baker had told you that you would not be welcome as a participant in the ownership of the Erie Railroad Co., would you have accepted his decision and refrained from buying into the road?

Mr. VAN SWERINGEN. I am inclined to think that I would have paused before I would have done it. It was not my ambition to go where I was not welcome.

Mr. PECORA. You recognize that the matter of wanting to buy stock that is traded in in the open market and upon our public exchanges is not in any way dependent upon some one else's wishes?

Mr. VAN SWERINGEN. No.

Mr. PECORA. Or agreeableness?

Mr. VAN SWERINGEN. I don't know that it is. I think if I were going to try to compete in the management of a property with the existing management, that would be one thing. If I was going to try to join it in bringing about a result, that would be another; and that is what I sought to do in this instance.

Mr. PECORA. In other words, you were anxious to avoid competing with Mr. Baker in the management of the Erie Railroad; is that it?

Mr. VAN SWERINGEN. I do not think, as it developed, I would have had to compete, because there was a desire to have us have an interest.

Mr. PECORA. That is one of the things you were anxious to avoid even the appearance of?

Mr. VAN SWERINGEN. What?

Mr. PECORA. Competing with Mr. Baker for the management of the Erie Railroad.

Mr. VAN SWERINGEN. Oh, no; I cannot say that I wanted to avoid the appearance of it, because that would have meant that I was going to do it without feeling that I was going into it——

The CHAIRMAN. How much did he increase the investment?

Mr. VAN SWERINGEN. Quite a lot.

The CHAIRMAN. Quite a lot? Can you not give us some sort of an idea? "Quite a lot" is like the length of "a piece of string".

Mr. VAN SWERINGEN. Mr. Chairman, you do not expect me to come down here——

The CHAIRMAN. You can give us some idea. You said in your paper, "a considerable extent." What did you mean by that?

Mr. VAN SWERINGEN. I will try to get some approximation of that increased holding. I think I can do it. But I am not sure that I can. You do not, of course, expect me to come down here, with the many matters that we have, and without any interrogatory to know what you want from me, expect me to answer down to shares and times and dates and all these other things concerned with all the different angles of the business that we have been in in the last 15 years. That is not humanly possible. I will get the data for you as best I can.

The CHAIRMAN. But this is a rather important transaction, acquiring the Erie Railroad. That was a very important transaction.

Mr. VAN SWERINGEN. I have had several important transactions, but I don't keep all the details in my head.

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The CHAIRMAN. We do not expect you to do that, but you might give us some idea about his investment and how much he increased it; $200,000, maybe?

Mr. PECORA. As I understood your testimony this morning, when you prepared this statement that you read into the record, you endeavored to anticipate the matters that you expected to be interrogated about before this committe.

Mr. VAN SWERINGEN. In a general sense.

Mr. PECORA. And we are questioning you on the basis of your own prepared statement, made up in anticipation of what you were going to be questioned about here. Now, what knowledge did you have of the late Mr. Baker's ownership of Erie Railroad stock that caused you to say in this prepared statement that he was the outstanding personality in the ownership of the property and that he later increased his investment in it to a very considerable extent?

Mr. VAN SWERINGEN. I knew at or about that time as he increased it. As a matter of fact, he went right along, just about the time we were doing it, increasing his holdings. That I know; but I cannot tell you the amounts nor the dates here. I may from our records be able to tell some part of it; but it was a substantial amount.

Mr. PECORA. Did your interests buy any of the Erie Railroad stock from the late Mr. Baker?

Mr. VAN SWERINGEN. No; not that I recall. He was enlarging his holdings, rather than that.

Mr. PECORA. You then go on and say in your prepared statement:

When we finished our buying, we, with him—

Meaning the late George F. Baker?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA (continuing reading).

Had about half of the common stock and a considerable portion of its preferred shares.

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. When did you finish that buying?

Mr. VAN SWERINGEN. It may sound strange to you that I cannot answer as to dates like that, running back 10 years. [After conferring with associates.] If it is important I will try to get that later, if you would like it to be furnished later.

Mr. PECORA. You cannot get it now, even approximately?

Mr. VAN SWERINGEN. No; I cannot. It would be guesswork.

Mr. PECORA. Give it to us as guesswork and then if the guess happens to be bad, upon a check-up, you can correct it later.

Mr. VAN SWERINGEN. No; I would rather not do that.

Mr. PECORA. How long a period of time was covered by your purchases of the shares of the Erie Railroad Co.?

Mr. VAN SWERINGEN. That I do not know. It ran over quite a period, of course.

Mr. PECORA. What do you mean by "quite a period"? That is a relative term.

Mr. VAN SWERINGEN. Months, maybe a year, maybe more than a year.

Mr. PECORA. Did you buy these shares in the open market?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Through whom?

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Mr. VAN SWERINGEN. I do not recall which brokers; maybe more than one.

Mr. PECORA. Which brokers did you use?

Mr. VAN SWERINGEN. I can tell you one I am sure of: Paine, Webber & Co.

Mr. PECORA. That brokerage firm handled a considerable part of your open market operations, did they not?

Mr. VAN SWERINGEN. They handled a considerable portion; yes.

Mr. PECORA. Did they have an office in Cleveland as well as in New York?

Mr. VAN SWERINGEN. They do; they do now. I am not sure that they did at that time.

Mr. PECORA. You say that "we, with him"—meaning Mr. Baker—"had about half of the common stock." How much of that did you and your associates acquire?

Mr. VAN SWERINGEN (after conference with associates). We had in May 1925—the Vaness Co. owned 387,000 common shares; 24,700 first preferred shares and 52,600 second preferred shares.

Mr. PECORA. Of the Erie Railroad?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Do you know what consideration in the aggregate was paid for them?

Mr. VAN SWERINGEN. It was a total of 464,300 shares at that time.

Mr. PECORA. That is, of both common and first and second preferred, too?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. What was the total consideration for purchase price paid by the Vaness Co. for these blocks of stock?

Mr. VAN SWERINGEN. $11,200,000, about.

Mr. PECORA. Do those figures represent the peak of the holdings of the Vaness Co. or the Van Sweringen interests in the stock of the Erie Railroad?

Mr. VAN SWERINGEN. No. If you will include the holdings that the C. & O. have—the C. & O. have some of that, you know.

Mr. PECORA. Well, you mean that the Chesapeake & Ohio had some of these shares that you have just told us the Vaness Co. had in May 1925?

Mr. VAN SWERINGEN. I can not identify the shares. They have some shares. I do not know whether they had some at that time or not. I think it was afterwards.

Mr. PECORA. Let us leave out of our consideration for the time being the shares of Erie which the Cheapeake & Ohio Railway had. Have you given us, now, in the figures put by you into the record a few moments ago, the maximum amount of holdings of the Vaness Co. in the stock of the Erie Railroad?

Mr. VAN SWERINGEN. I cannot answer that. I will get that answer for you. I cannot give it to you from here.

Mr. PECORA. How did the Vaness Co. raise the $11,200,000 that represented the cost to it of these shares of the Erie Railroad?

Mr. VAN SWERINGEN (after conferring with associates). I imagine you will have me here for a week answering that question; but we will try to get the detail of it for you. I do not know whether I can give you the detail by morning, however.

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Mr. PECORA. Are these transactions set forth or referred to in the minute book of the Vaness Co.?

Mr. VAN SWERINGEN. Everyone that ought to have been undoubtedly was. I expect they were, in a serial process. There probably was a general minute in the minute book. But we will give you—we will try to give you the answer to that question. Let me put it that way.

Mr. PECORA. Let me suggest this, then, Mr. Van Sweringen, that between now and tomorrow morning you consult your records of these various corporations we have here, with a view to enabling you to answer questions similar in their character to those that I have asked you this morning and this afternoon, with respect to the balance of the transactions referred to in your prepared statement. Will you do that?

Mr. VAN SWERINGEN. I will not promise to do that. I will try to have the data here for that kind of questions. I am not sure that I can anticipate some of that character of questions.

Mr. PECORA. You can tell from the nature of the questions I have already asked you regarding transactions set forth in your statement that I have already covered, what will be the general nature of the questions that you will be asked concerning the balance of the transactions set forth in your prepared statement. Won't you please verify——

Mr. VAN SWERINGEN. I do not want to hold out any false hopes; but I will try to. And as to tomorrow morning, I will try to have as many of them by that time as I can.

Mr. PECORA. Which of the original records or books of these various corporations are with you here in Washington?

Mr. VAN SWERINGEN. None of our books of account.

Mr. PECORA. You have your minute books, have you not?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Will not the minute books set forth these transactions?

Mr. VAN SWERINGEN. Oh, my gracious! No; not that way.

Mr. PECORA. Won't they set them forth in sufficient detail to give us answers to such questions, for instance, as to how much any of your corporations paid for certain stock acquisitions?

Mr. VAN SWERINGEN. Minute books are not books of account, as you of course realize.

Mr. PECORA. I know that.

Mr. VAN SWERINGEN. So if I could get it out of the minute books you could have it this afternoon; but I cannot do that. I will have to get them from the books of account, and it will take some time and it will mean that some forces have to work tonight and it will mean that I will have to be relieved here in time to set them at work.

Mr. PECORA. Mr. Van Sweringen, I am informed by one of my associates that our representatives or examiners or auditors went to the offices of your company out in Cleveland and asked permission to see these books, and that permission was not accorded to them.

Mr. VAN SWERINGEN. I do not so understand.

Mr. PECORA. Do you know whether any of those books were shown to them?

Mr. VAN SWERINGEN. Let me see. [Conferring.] Our people tell me that your people were advised that we would supply any information that they listed to be supplied, and that that was done.

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Mr. PECORA. Do your people also tell you that our people requested the privilege of looking at your books, examining your books?

Mr. VAN SWERINGEN. Suppose I ask them about that now.

Mr. PECORA. All right.

Mr. VAN SWERINGEN (after conferring). I am told that they do not remember such a request.

Mr. MURPHY. I will stand on what your assistant says. Whatever your assistant says is correct.

Mr. VAN SWERINGEN. I do not know about that.

Mr. MURPHY. Well, I will. I know it was that fellow right there [indicating Mr. McDonough].

Mr. VAN SWERINGEN. Mr. Pecora, let me put it in another way: We thought we were cooperating with your people, and we thought we were giving them what they wanted, and we wanted to give them what they wanted, realizing that they could have it whether we wanted to give it or not. So we proceeded on that theory. Now, if you haven't gotten what you wanted perhaps no one is to blame. For instance, you have been asking a great many questions here about dates and amounts that are, of course, hard for me to give you right off the bat.

The CHAIRMAN. Mr. Van Sweringen, will you get what you can by tomorrow morning?

Mr. VAN SWERINGEN. Yes, sir.

The CHAIRMAN. We will now take a recess until——

Mr. VAN SWERINGEN (continuing). I want you to know that we want to get it for you.

The CHAIRMAN. We appreciate that. And I have no doubt you will be able to get a lot of this data for us.

Mr. VAN SWERINGEN. Thank you very much.

The CHAIRMAN. The committee will now recess until tomorrow morning at half past 10 o'clock.

(Thereupon, at 4:35 o'clock p.m., Monday, June 5, 1933, the committee recessed until 10:30 o'clock on the following morning.)

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STOCK EXCHANGE PRACTICES

TUESDAY, JUNE 6, 1933

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

The committee met pursuant to adjournment on yesterday at 12:10 p.m. (following an executive session) in the caucus room of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Barkley, Adams, and Goldsborough.

Present also: Ferdinand Pecora, counsel to the committee, Julius Silver, David Saperstein, and James B. McDonough, Jr., associate counsel to the committee; and Frank Meehan, chief statistician; John W. Davis, counsel for J. P. Morgan & Co.; Randall J. LeBoeuf, Jr., and Earle J. Machold, counsel for the United Corporation and for George H. Howard, president of the United Corporation; Frank H. Ginn, attorney representing O. P. and M. J. Van Sweringen and John Patrick Murphy.

The CHAIRMAN. The committee will come to order. The committee in executive session adopted a resolution, and I am authorized to report it, as follows:

> It is the sense of this committee that it should inquire into the practices of buying and selling securities, as such practices may affect the taxing powers of the Government; but inasmuch as the legal right of the committee to proceed along this line of inquiry is challenged, the committee should proceed immediately with railroad, public utility, and all other phases of the investigation and the subcommittee charged with the investigation be directed to report a resolution enlarging the powers of the committee as soon as possible, in such manner as may be deemed necessary to enable it to inquire into the above practices.

We will proceed along the line that we were following on yesterday. Mr. Van Sweringen will resume the stand.

Mr. PECORA. Mr. Van Sweringen, will you now resume the stand?

TESTIMONY OF O. P. VAN SWERINGEN, PRESIDENT OF THE ALLEGHANY CORPORATION, CLEVELAND, OHIO—Resumed

Mr. PECORA. Mr. Van Sweringen, in the course of your examination on yesterday before this committee you were asked to produce a copy of the original supplemental agreement dated September 13, 1922, between you and your brother and New York Central Railroad Co., and the Nickel Plate Securities Corporation. And you answered:

> We do not have it here. We will be glad to get it for you. We will have it put into the record at a later date.

I now ask you if you have that supplemental agreement here.

Mr. VAN SWERINGEN. No; we have not.

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Mr. PECORA. When will you be able to procure a copy for submission to this committee?

Mr. VAN SWERINGEN. We hope tomorrow.

Mr. PECORA. Tomorrow?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. All right, sir. Now, you were also asked on yesterday if you had a map or survey showing the various railroad lines embodied in this so-called Van Sweringen System. Have you such a map here now?

Mr. VAN SWERINGEN. On the table here, Mr. Pecora, is a map of the eastern groupings, and underneath is a map of the western groupings.

Mr. PECORA. I offer those in evidence.

The CHAIRMAN. Let them be received, and if it is practicable they will be made a part of the printed record.

(Exhibits nos. 42 and 43 are on file with the committee.)

Mr. VAN SWERINGEN. Perhaps I should point out as to the eastern groupings, those were as we proposed them in 1929.

Mr. PECORA. Very well, sir. Does that appear on the face of the map?

Mr. VAN SWERINGEN. I am not sure, but the point I make is that the Interstate Commerce Commission made some changes. It was made from those.

Mr. PECORA. Very well. Are there descriptions on the map to make that clear?

Mr. VAN SWERINGEN. Yes. There is an exhibit number to identify it.

Mr. PECORA. All right. Now, Mr. Van Sweringen, you were also asked on yesterday to state how or from whom the Vaness Co. obtained the $1,700,000 which it loaned to the Nickel Plate Securities Corporation in order to enable the latter corporation to purchase therewith 3,000 shares of the common stock of the Chesapeake & Ohio Railroad from the Huntington interests. Can you now give the committee that information?

Mr. VAN SWERINGEN. Our records show that this sum was paid by the Vaness Co. to the Nickel Plate Securities Corporation in reduction of open account existing between those companies.

Mr. PECORA. On yesterday you referred to the transaction as a loan transaction. The answer you have just made would indicate that it was not a loan transaction but a transfer of funds out of open account. Which is correct?

Mr. VAN SWERINGEN. The record, of course, would be correct. Pardon me a moment until I look at it. (After conferring with associates.) The record should have said, apparently, reduction of that loan because it was a repayment of the advance.

Mr. PECORA. Talk a little louder, please.

The CHAIRMAN. We cannot hear you up here at this end of the table, Mr. Van Sweringen.

Mr. VAN SWERINGEN. The record of yesterday's proceedings should have said in reduction of open account existing between those companies.

Mr. PECORA. Well, now——

Mr. VAN SWERINGEN (continuing). The difference was technical, I suppose.

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Mr. PECORA. Your testimony of yesterday, as it appears on pages 1493 and 1494 of the stenographic transcript thereof, is as follows:

Q. And that money—

Referring to this $1,700,000—

was raised by the Nickel Plate Securities Corporation by means of a loan that it obtained in 1923 from the Vaness Co.; is that correct?

And your answer is:

Yes, sir; I believe it is. (After examining document.) Yes, sir.

Now, I want to ask you specifically: Did the Nickel Plate Securities Corporation obtain the $1,700,000 that it paid for the 3,000 shares of common stock of Chesapeake & Ohio which it bought in 1923 from the Huntington interests, from the Vaness Co. as a loan?

Mr. VAN SWERINGEN. In reduction of open account existing between those companies.

Mr. PECORA. Then it did not get the money as a loan from the Vaness Co., did it?

Mr. VAN SWERINGEN. It did not.

Mr. PECORA. You say it did not?

Mr. VAN SWERINGEN. No; as it developed.

Mr. PECORA. Now, when was this open account created?

Mr. VAN SWERINGEN. That I cannot tell you.

Mr. PECORA. How was it created?

Mr. VAN SWERINGEN. And that I cannot tell you.

Mr. PECORA. What obligations did the Vaness Co. owe the Nickel Plate Securities Corporation at the time it made this payment of $1,700,000 on account of open account?

Mr. VAN SWERINGEN. That I do not know from what I have here.

Mr. PECORA. Have you any recollection at all about it?

Mr. VAN SWERINGEN. No. I do not recall the transaction. The record speaks for itself.

Mr. PECORA. Which record do you refer to as speaking for itself?

Mr. VAN SWERINGEN. The record of accounts of the company.

Mr. PECORA. Where is that record? Have you it with you?

Mr. VAN SWERINGEN. I do not have it.

Mr. PECORA. Where is it?

Mr. VAN SWERINGEN. In Cleveland.

Mr. PECORA. Have you no present recollection of the circumstances of the creation of this open account that you speak of?

Mr. VAN SWERINGEN. I have a memorandum here from the record, that that money was obtained in reduction of an open account, which was the answer to the question that you asked me that I was to provide.

Mr. PECORA. From what source was that memorandum from which you now give that information, prepared or obtained?

Mr. VAN SWERINGEN. Our forces who are here communicated with Cleveland on the long distance and handed me this bit of information that I have just given to you.

Mr. PECORA. And is that the sole source of your information or recollection?

Mr. VAN SWERINGEN. Yes, sir.

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Mr. PECORA. You have no other present recollection of this open account?

Mr. VAN SWERINGEN. I do not have.

Mr. PECORA. Or of any of the items that enter into it?

Mr. VAN SWERINGEN. No; I do not have.

Mr. PECORA. Had you completely forgotten the existence of the open account when you answered the question on yesterday with respect to the obtaining of this sum of $1,700,000 by the Nickel Plate Securities Corporation from the Vaness Co.?

Mr. VAN SWERINGEN. I did not have a recollection. Of course, I cannot carry these matters in my head.

Mr. PECORA. Even an open account involving millions of dollars between two corporations that are controlled by your interests, you have completely forgotten about?

Mr. VAN SWERINGEN. I do not undertake to try to carry in my head such data. That is what our records are for. I find it much simpler than trying to remember it.

Mr. PECORA. Well, as to your recollection of particular items or transactions, did the mere fact that you keep records for that purpose cause you to lose all recollection of transactions in general?

Mr. VAN SWERINGEN. It is true that I do not charge my mind with their recollection.

Mr. PECORA. Do you know how extensive the balances are in this open account?

Mr. VAN SWERINGEN. No; I do not recall.

Mr. PECORA. You do not know a single thing at the present moment about the circumstances of the creation of the open account, do you?

Mr. VAN SWERINGEN. Well, that was in 1923.

Mr. PECORA. The open account was created in 1923?

Mr. VAN SWERINGEN. That transaction was back in 1923, 10 years ago.

Mr. PECORA. I am asking you now about the open account.

Mr. VAN SWERINGEN. And I am talking about that.

Mr. PECORA. Well, have you absolutely no recollection at this time of the creation of that open account?

Mr. VAN SWERINGEN. No. The situation is just as I stated it. I have not charged my mind with the transactions from day to day, nor operations, where the records of the company are there for reference.

Mr. PECORA. Mr. Van Sweringen, I do not think you have answered my question. My question specifically is this: Have you now no recollection whatsoever of the circumstances that led to the creation of this open account between Nickel Plate Securities Corporation and the Vaness Co.?

Mr. VAN SWERINGEN. I have not a recollection of it. I am sorry that I did not get your question just like you asked it.

Mr. PECORA. Now, I will ask you to produce it at a session of the committee to be held tomorrow, the original books of account with respect to this open account.

Mr. VAN SWERINGEN. All right, sir.

Mr. PECORA. Now, at page 1499 of the stenographic minutes of your testimony given on yesterday, you were asked the following question, to which you made the answer which I will now read:

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Q. Where did the Vaness Co. get the money that it loaned to the Nickel Plate Securities Corporation in that transaction?—A. It seems, Mr. Pecora, that we do not have the detail that is necessary to answer that question. We will get it. It will mean that we will have to communicate with Cleveland to obtain it, and we will have it by night or morning.

Now, the money referred to was this sum of $1,700,000 that you now say was not loaned by the Vaness Co. to the Nickel Plate Securities Corporation, but was paid on open account between the two companies. Now, let me ask you specifically: Where did the Vaness Co. get that money which it paid on what you now say was an open account?

Mr. VAN SWERINGEN. The Vaness Co. at about that time made a loan from the Guaranty Trust Co. of $3,000,000.

Mr. PECORA. Then, again, those moneys that were used by your companies in the purchase of shares of the Chesapeake & Ohio, were moneys that your companies borrowed for that purpose and not your own moneys, is that it?

Mr. VAN SWERINGEN. It was money that was borrowed.

Mr. PECORA. Now, in the course of your testimony on yesterday, as appears at page 1504 of the stenographic minutes, you were asked the following question, or questions, to which you made the following answers:

Q. Can you now recall any moneys that you and your associates actually took out of your pocket to enable the Nickel Plate Railroad and the Nickel Plate Securities Corporation to acquire those 73,000 shares of the capital common stock of the Chesapeake & Ohio?—A. You are trying to have me answer without the facts again, Mr. Pecora.

Q. I am trying to have you answer on the basis of your best recollection.—A. I haven't any best recollection. That is my trouble. The record is the best thing I can get you, and we will have that in the morning or tonight.

Have you now the record which will enable you to answer that question, Mr. Van Sweringen?

Mr. VAN SWERINGEN. That is the question I did answer on yesterday, except as to the possible statement that when the loan was repaid that we made with the Guardian Trust Co., that it was done out of the proceeds of the sale of preferred and common stock, and that in that transaction we took one half million of that preferred stock. I am not sure whether I testified to that full extent on yesterday, but think I did.

Mr. PECORA. Aren't you confused with respect to the moneys that I am now inquiring about, Mr. Van Sweringen?

Mr. VAN SWERINGEN. I might be.

Mr. PECORA. Well, let me read this further question and answer, from page 1504 of the stenographic minutes of your testimony given on yesterday:

Q. Have you any recollection at all of you and your associates having furnished out of your own means any of this consideration of $7,300,000 for the 73,000 Chesapeake & Ohio shares?—A. You will have that answer in the morning?

Mr. VAN SWERINGEN. Pardon me, but I was answering you as to the Nickel Plate, wasn't I?

Mr. PECORA. Perhaps so.

Mr. VAN SWERINGEN (after conferring). Mr. Pecora, that question I did answer just ahead of this one. I was confused for the moment

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between the two transactions, but the $1,700,000, which was a part of that purchase payment to the Huntingtons, is the item that you are now referring to.

Mr. PECORA. No. I am referring to the item of $7,300,000, not the item of $1,700,000.

Mr. VAN SWERINGEN (after conferring). Well, I am still right. The $7,300,000 is made up——

Mr. PECORA (interposing). And so am I right.

Mr. VAN SWERINGEN. At least I think I am. Pardon me, but that $7,300,000 item is made up of 2 parts, 1 of $5,600,000, that I have heretofore explained, and the other of $1,700,000, and that item I told you of in more detail earlier in this proceeding today.

Mr. PECORA. Well, now, I am going to put the question to you in the specific language that I put to you on yesterday, as appears at page 1504 of the stenographic transcript, in which you promised to give your answer to us this morning. Now, see if you can give us an answer to this:

Q. Have you any recollection at all of you and your associates having furnished out of your own means any of this consideration of $7,300,000 for the 73,000 shares of Chesapeake & Ohio?

Mr. VAN SWERINGEN. We and our associates provided the $1,700,000, and we personally took—well, that answers it.

Mr. PECORA. Didn't you say a few minutes ago that that $1,700,000 was obtained by the Vaness Co. out of a loan of $3,000,000 or thereabouts borrowed from the Guaranty Trust Co.?

Mr. VAN SWERINGEN. Certainly, but we provided it just the same.

Mr. PECORA. You provided it out of your means? Out of the personal means of you and your associates?

Mr. VAN SWERINGEN. Yes. Ourselves and our associates were the Vaness Co., and they borrowed that money and they put up the collateral for those dollars.

Mr. PECORA. And did you consider that that money then represented your own means, or the proceeds of a loan obtained from the Guaranty Trust Co.?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Which?

Mr. VAN SWERINGEN. Our own means, but as the proceeds of a loan obtained from the Guaranty.

Mr. PECORA. That is, you put the money into the Vaness Co., but you got the money in the name of the Vaness Co. by borrowing $3,000,000 or more from the Guaranty Trust Co.?

Mr. VAN SWERINGEN. Just as I described.

Mr. PECORA. I mean, is that correct? Have I correctly interpreted your answers?

Mr. VAN SWERINGEN. My answer is as I made it here. Yes.

Mr. PECORA. Did you and your associates—by that I mean you, your brother, Mr. Bradley, Mr. Nutt, and any of your other associates whose names you were unable to give us yesterday, furnish to the Vaness Co. the $1,700,000 which you turned over to the Nickel Plate Securities Corporation out of your own individual means?

Mr. VAN SWERINGEN. That is the same question again, and I am forced to answer it——

Mr. PECORA. Just answer the question as I put it now, Mr. Van Sweringen.

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Mr. VAN SWERINGEN. Well, if you will pardon me, I have got to confine it to the facts, as I understand them, and my answer is the one that I just made.

Mr. PECORA. Well, please answer the question as I last put it to you.

Mr. VAN SWERINGEN. Mr. Stenographer, if you will repeat in the record the answer that I just made it will have to be that answer.

Mr. PECORA. Will you kindly pay attention to the question which I put to you and answer that question specifically if you can.

Mr. VAN SWERINGEN. That is the answer.

Mr. PECORA. Will you repeat my question to the witness, Mr. Stenographer.

(Thereupon the question was read by the reporter as above recorded, as follows:)

Mr. PECORA. Did you and your associates—by that I mean you, your brother, Mr. Bradley, Mr. Nutt, and any of your other associates whose names you were unable to give us yesterday, furnish to the Vaness Co. the $1,700,000 which you turned over to the Nickel Plate Securities Corporation out of your own individual means?

Mr. VAN SWERINGEN. How did I answer that? (Addressing the reporter.)

Mr. PECORA. Now, please answer now, regardless of any answers previously given to it.

Mr. VAN SWERINGEN. No; I want to be accurate about this, and you want me to be accurate about this.

Mr. PECORA. Well, the best way you can be accurate about it is by anwering the present question.

Mr. VAN SWERINGEN. Well, that is a matter of opinion, and I am the one that is to be responsible for the answer.

Mr. PECORA. Well, please answer the question, Mr. Van Sweringen.

Mr. VAN SWERINGEN (addressing the reporter). Will you be good enough to read the answer I just gave.

(Thereupon the following was read by the reporter, as above recorded:)

Mr. VAN SWERINGEN. That is the same question again, and I am forced to answer it——

Mr. VAN SWERINGEN. The one before that.

(Thereupon the reporter read the answer preceding the one just read, as above recorded, as follows:

Mr. VAN SWERINGEN. My answer is as I made it here. Yes.

Mr. VAN SWERINGEN. No; before that.

(Thereupon the reporter read an answer previous to the one last read, as above recorded, as follows:)

Mr. VAN SWERINGEN. Our own means, but as the proceeds of a loan obtained from the Guaranty.

Mr. VAN SWERINGEN. That is it. Now, I will answer it again if you wish. Our own means, but as the proceeds of the loan obtained from the Guaranty Trust Co.

Mr. PECORA. Well, was it in your own means or was it the proceeds of a loan?

Mr. VAN SWERINGEN. It was just what I there said.

Mr. PECORA. Well, which of the two was it? Your own means or the proceeds of a loan?

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Mr. VAN SWERINGEN. It was our own means obtained as the proceeds of a loan.

Senator BARKLEY (presiding). You mean after you borrowed it it was yours?

Mr. VAN SWERINGEN. Yes, sir.

Senator BARKLEY. And you put it into the Vaness Co.?

Mr. PECORA. The Vaness Co. borrowed it.

Senator BARKLEY. I mean the Vaness Co. borrowed it from the Guaranty Co.?

Mr. VAN SWERINGEN. Yes.

Senator BARKLEY. Three million and some odd dollars?

Mr. VAN SWERINGEN. $3,000,000.

Senator BARKLEY. You have no interest in the Guaranty Trust Co.?

Mr. VAN SWERINGEN. None at all.

Senator BARKLEY. So that the Vaness Co. is you and your brother and others?

Mr. VAN SWERINGEN. Yes, sir.

Senator BARKLEY. I do not yet quite understand all I know about it.

Mr. VAN SWERINGEN. You are right about it, Senator.

Senator BARKLEY. So it was borrowed; no matter whether it came through the Vaness Co. or the Van Sweringens, it was money borrowed from the Guaranty Trust Co.?

Mr. VAN SWERINGEN. Yes. It had its origin in that loan.

Senator BARKLEY. And the Vaness Co. and the Van Sweringens being more or less identical it was the same?

Mr. VAN SWERINGEN. Yes. But having been borrowed it was our money and we did as I said.

Senator BARKLEY. You were responsible for the loan.

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Now when you say you were responsible for the loan do you mean you individually, or the Vaness Co. as a corporate entity?

Mr. VAN SWERINGEN. I mean the Vaness Co. as a corporate entity.

Mr. PECORA. In other words, the loan was made directly by the Guaranty Trust Co. to the Vaness Co., was it not?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now, you were asked yesterday the following question, to which you made the answer which I will read, and I am reading from page 1507 of the stenographer's minutes of your testimony:

> Question. Can you tell us from whom this new equipment was purchased?
> Answer. No; I cannot. I can get the data if you wish. I do not have it here.

Are you now able to tell us from whom the Chesapeake & Ohio Railroad purchased the 25 million-odd dollars of new equipment?

Mr. VAN SWERINGEN. The equipment purchased under the 1923 issue consisted of 50 Mallet locomotives and 8 passenger locomotives, purchased from the American Locomotive Co.; also 1,000 70-ton steel hopper gondolas purchased from the Standard Steel Car Co.; and a like amount of said gondolas purchased from the American Car & Foundry Co.

The equipment purchased under the June 1924 issue consisted of a variety of locomotives, rolling stock of different types, including dining and express cars, and also locomotive cranes and other equipment.

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The locomotives, cars, and other equipment were purchased from the following vendors: Illinois Car & Manufacturing Co., Standard Steel Car Co., American Car & Foundry Co., General American Car Co., Newport News Shipbuilding Co., Rodger Ballast Car Co., Pressed Steel Car Co., Brown Hoisting Machinery Co., and O. F. Jordan Co.

Mr. PECORA. Now, on pages 1514 and 1515 of the stenographer's minutes of your testimony of yesterday it appears that you were asked the following questions, to which you made the answers which I will now read:

Question (by the chairman). How much did he increase the investment?

Parenthetically that refers to the investment of the late Mr. George F. Baker in his stockholdings of the Erie Railroad.

Answer. Quite a lot.

Question. Quite a lot? Can you not give us some sort of an idea? "Quite a lot" is like the length of a piece of string.

Answer. Mr. Chairman, you do not expect me to come down here——

The CHAIRMAN. You can give us some idea. You said in your paper, "A considerable extent." What did you mean by that?

Answer. I will try to get some approximation of that increased holding. I think I can do it. But I am not sure that I can.

And so forth.

Can you now tell us to what extent the late Mr. Baker increased his investment in Erie Railroad stock when you and your associates bought into that road?

Mr. VAN SWERINGEN. Our books do not disclose how many shares Mr. Baker had at the outset and, frankly, I do not know. Neither do our books disclose his purchases after we had begun to buy. But I am confident that he was absorbing Erie stock along at the time that we were buying. I had conferences with Mr. Baker from time to time as we were buying, and I am very sure he knew about how much Erie common we had bought, and I am also quite sure that he and I both understood when we stopped buying that our holdings of Erie—that is, the Baker holdings, so-called, and ours—were approximately one half of the common.

Mr. PECORA. Have you since your appearance on the stand yesterday obtained any information which would enable you to tell this committee now how much additional investment Mr. Baker made in the Erie Railroad?

Mr. VAN SWERINGEN, My answer to that, Mr. Pecora, will have to be that one that I have just made.

Mr. PECORA. Is that the only answer that you can make to that question?

Mr. VAN SWERINGEN. That is the only answer that I can make to it.

Mr. PECORA. It is the most definite answer that you can make to the question?

Mr. VAN SWERINGEN. It is the most definite answer that I can make.

Mr. PECORA. Well, what prompted you to say, then, in your prepared statement that was read into the record yesterday as follows: "He"—meaning Mr. Baker—"heartily concurred, and said that if we decided to move into it, he would be glad to increase his own investment, which he later did to a very considerable extent."?

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Mr. VAN SWERINGEN. That is in two parts. The first part is the statement that I reported him as making to me. And the second part is answered in the statement that I made just in front of this one.

Mr. PECORA. Well, have you any knowledge that Mr. Baker did increase to any extent his holdings in Erie Railroad after you consulted him or talked with him as to whether or not you would be welcome as a participant in the ownership of the railroad?

Mr. VAN SWERINGEN. As I said before, I am confident that he was absorbing Erie stock along at the time we were. I had conferences with him, as I also said before, from time to time as we were buying. And I am very sure he knew about the Erie purchases that we had made also.

Mr. PECORA. Have you any personal knowledge that you can give this committee that the late Mr. Baker increased his holdings in Erie Railroad after you had your conversation with him or talk with him concerning your being welcome as a participant in the ownership of the stock of that road?

Mr. VAN SWERINGEN. I am confident that he did.

Mr. PECORA. Have you any knowledge that he did?

Mr. VAN SWERINGEN. I feel sure that he did.

Mr. PECORA. Have you any knowledge, apart from a belief, that he did?

Mr. VAN SWERINGEN. I think that my answer will have to rest.

Mr. PECORA. No; please answer this specific question: Apart from any belief on your part, have you any knowledge that the late Mr. Baker did increase his investment in Erie Railroad stock?

Mr. VAN SWERINGEN (after consulting with associates). I suppose the answer that I will have to make right here is that I talked with him about it and I am confident that he did increase his holdings.

Mr. PECORA. Have you any knowledge that he did, apart from your confidence that he did?

Mr. VAN SWERINGEN. I talked with him about it, and I am confident that he did.

Mr. PECORA. Have you any knowledre that he did?

Mr. VAN SWERINGEN. I talked with him about it, and I am confident that he did.

Mr. PECORA. I submit, Mr. Chairman, this witness be directed to answer the question.

Senator BARKLEY (presiding). Did he or not increase his holdings?

Mr. VAN SWERINGEN. I think he did. But our records do not disclose that. And, of course, you know he is no longer here. He died some——

Senator BARKLEY. I know, but there are records that would disclose that, aren't there?

Mr. VAN SWERINGEN. Not of ours.

Senator BARKLEY. Well, from the best information that you have he did increase his holdings?

Mr. VAN SWERINGEN. Yes, sir; I thoroughly believe that.

Mr. PECORA. What is the basis of your belief?

Mr. VAN SWERINGEN. My talks with him.

Mr. PECORA. Did he say that he had?

Mr. VAN SWERINGEN. Now, I am not going to put words in the mouth of a man who has passed away.

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Senator BARKLEY. Well, we are not trying a criminal case here, Mr. Van Sweringen.

Mr. VAN SWERINGEN. No, I understand——

Senator BARKLEY. We are not limited here to the rules of evidence that might apply to a conversation with a dead man. If you did have such a conversation with him and from that conversation you got the information and now believe that he did increase it, it is entirely competent to say so.

Mr. VAN SWERINGEN. I have tried to do that to the best of my ability. I thoroughly believe that he did. I am confident that he did.

Senator BARKLEY. And you entertain that belief and that conviction from what he told you?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Well, did he tell you that he had increased his investment in Erie Railroad stock?

Mr. VAN SWERINGEN. Again you are asking me to quote in a way that I should not do.

Mr. PECORA. I am asking you to tell us what some one else told you.

Mr. VAN SWERINGEN. That is all I can do, is to testify to the best of my knowledge and belief, and I am doing that.

Senator BARKLEY. Now, was this conversation with him before or after he increased it?

Mr. VAN SWERINGEN. I was talking with him from time to time.

Senator BARKLEY. Well, did he tell you in those conversations that he had increased them or that he was going to increase them?

Mr. VAN SWERINGEN. He told me at the outset that he would, and I am confident that I compared notes with him from time to time as to our buying, and I feel sure that I knew at the time what he had, but I have no record of it.

Senator BARKLEY. Then he told you from time to time he was intending to increase it?

Mr. VAN SWERINGEN. I am confident that he did increase, but I cannot——

Senator BARKLEY. And then later on from time to time he told you he had increased it?

Mr. VAN SWERINGEN (continuing). But I have no records of it.

Senator BARKLEY. Then, after he told you that he intended to, then later on did he tell you that he had?

Mr. VAN SWERINGEN. I don't think I should say just that. Because——

Senator BARKLEY. Well, is it true, whether you should say it or not?

Mr. VAN SWERINGEN. Well, that is—you can appreciate that. What I am trying to say is that I feel sure he did.

Mr. PECORA. Mr. Chairman, may I remind you that yesterday this witness immediately upon his being sworn asked for the privilege of reading into this record a statement which he stated had been prepared by him. He was permitted to read that statement into the record, and I hold a copy of it in my hand which the witness has furnished me. In that statement, among other things, occurs the following: "He"—meaning Mr. Baker—"heartily concurred, and said that if we decided to move into it, he would be

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glad to increase his own investment, which he later did to a very considerable extent."

Now, that statement "which he later did to a very considerable extent" is an unqualified statement of fact. Now, what I am seeking to ascertain from this witness is if it really is the fact. Now he says he is confident that he did, which is a far different thing from saying that he knows that he did. Now, which is the fact? That he knows that he did or that he believes that he did?

Senator BARKLEY. Of course, the Chair is at the disadvantage of not having been at the hearing yesterday, but it strikes me that if he made the positive statement yesterday that he did increase them, that that knowledge would be imputed to Mr. Van Sweringen.

Mr. VAN SWERINGEN. It is my conviction that that statement is correct, but since this point has arisen, if there is any doubt about it my statement will have to stand, as modified by what I have said here today. I am content that that is the fact as expressed there, as I said it. If my statement needs to be modified in the light that I have described here I will modify it.

Senator BARKLEY. Well, has your modification of that statement, which seems to have been an unequivocal statement yesterday, been induced by anything that has occurred since yesterday?

Mr. VAN SWERINGEN. I thought I could find from our books in some way or other something that might reflect the transaction, but our books will not reflect it.

Mr. PECORA. Well now, upon what information and what record did you make the unequivocal statement yesterday that he had increased his holdings?

Mr. VAN SWERINGEN. A conviction that it was so.

Senator BARKLEY. Then, at this time, as I understand you, it is your recollection that he did increase it?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Mr. Van Sewringen, in the course of your examination yesterday you were asked the following question, to which you made the answer which I will now read from page 1517 of the reporter's minutes, at the top of that page:

When did you finish that buying?

That refers to the buying of stock of the Erie Railroad Co.

Mr. VAN SWERINGEN. It may sound strange to you that I cannot answer as to dates like that, running back 10 years. (After conferring with associates.) If it is important I will try to get that later, if you would like it to be furnished later.

Mr. VAN SWERINGEN. This buying was started in November 1923, and covered a period of about 15 months, to January 1925.

Mr. PECORA. Do you know how many shares you bought in that period, of the Erie Railroad?

Mr. VAN SWERINGEN. Our holdings at the finish of that period were 387,000 shares of common, 24,700 shares of first preferred, 52,600 shares of second preferred.

Mr. PECORA. I think you testified yesterday that those purchases were made by or in the name of the Vaness Co.; is that correct?

Mr. VAN SWERINGEN. I do not recall as to that, but they were.

Mr. PECORA. And that the aggregate consideration was $11,200,000 about?

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Mr. VAN SWERINGEN. That is right.

Mr. PECORA. Is that correct?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Oh. I did not hear you. At the top of page 1520 that figure reads $11,200. It should be $11,200,000.

I asked you yesterday in connection with your testimony about these transactions, how the Vaness Co. raised the moneys to make these purchases of Erie Railroad stock. You said you would try to give us the detail by today. Can you do it?

Mr. VAN SWERINGEN (after conferring with associates). What is troubling us is how to present the information. Of course it covered a period of, say, 15 months, and a tremendous number of items. How to present it along with its funding as it went from day to day——

Mr. PECORA. I do not hear you.

Mr. VAN SWERINGEN. How to present it and show its funding from day to day over that period involves a continuous record.

Mr. PECORA. Without giving us the itemized record, can you not give us generally the manner or process in or by which the Vaness Co. obtained the funds with which this $11,200,000 worth of stock was bought?

Mr. VAN SWERINGEN (after conferring with associates). You want from me a general statement as to how we did this; or do you want a sort of transcript from the record as best as we can make it for the purchases as they came over to us in lots from day to day?

Mr. PECORA. Give us a general statement, if you can, now.

Mr. VAN SWERINGEN. I will try to do that. It is a little difficult to describe.

Senator BARKLEY. A little louder, please.

Mr. VAN SWERINGEN. In our day to day buying of these shares, naturally it had to be done through brokers, members of the stock exchange, and they would accumulate the shares, and every now and then when they had a substantial block of them we would account to them in payment for those shares. As I say, it went over a long period. I do not know how many accountings of that kind there were, and I am not prepared here to describe just how each one of those was done at the time it was done; but that, in general, is an illustration of how those shares were gathered, just as you, for instance, would go to your broker, if you wanted 10,000 shares of New York Central, and tell him to buy them. He might buy some of it today; he might buy some of it day after tomorrow and some the next day; and if you had an account with him, when he had it together you would settle for it, or you might settle currently.

Mr. PECORA. That, it seems to me, describes merely the general mechanics of the acquisition of the accumulation of these stocks. The question particularly relates to the way in which the Vaness Co. acquires the moneys with which it made payments for those purchases aggregating $11,200,000.

Mr. VAN SWERINGEN. That I cannot give you from here. That is a long record. I simply don't know.

Senator BARKLEY. Can you state whether it had the money on hand with which to pay for it, or whether it borrowed it, and if so, from whom?

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Mr. VAN SWERINGEN. I cannot do that from my recollection. It might have been both of those things. As I say, it was a 15 months operation.

Mr. PECORA. Would you be good enough to confer with your associates who are grouped about you and see if any of them can give you any information that you can convey to us?

Mr. VAN SWERINGEN. That is just what I have been trying to do.

Mr. PECORA. You have not succeeded.

Mr. VAN SWERINGEN. And that is the sort of information I gathered from them in an effort to give you the answer.

Mr. PECORA. But you have not yet told us, either on the basis of your own knowledge or after having had the benefit of conference with your associates, how the Vaness Co. obtained the moneys which it paid for those shares of Erie Railroad stock aggregating in amount $11,200,000?

Mr. VAN SWERINGEN. No; I have not.

Mr. PECORA. That is what we want to know, particularly.

Mr. VAN SWERINGEN. Then that will have to be fished out of the records, which will take some time. We will see what we can shape up for you that is responsive to your request.

Mr. PECORA. You cannot do it at all from memory?

Mr. VAN SWERINGEN. Oh, that would be out of the question.

Mr. PECORA. You have among your records here on hand, I understood you to say yesterday, minute books of the Vaness Co. Would the minute books enlighten you as to how the Vaness Co. got this $11,200,000?

Mr. VAN SWERINGEN. No.

Mr. PECORA. Have you looked at the minute books to see?

Mr. VAN SWERINGEN. I just know that they would not.

Mr. PECORA. Will you be good enough to consult the minute books of that corporation? Perhaps they might.

Mr. VAN SWERINGEN. I will be glad to accommodate you by doing that, but I can answer you now that that is not what the minute book does. You want the book of accounts for that sort of thing.

Mr. PECORA. Would not the minute books contain entries of corporate acts by the Vaness Co. by means of which it borrowed moneys or obtained moneys through the sale of securities?

Mr. VAN SWERINGEN. Those things which were of course passed upon and should be passed upon by the board of directors are recorded in the minute books; but please bear in mind that the minute book is not a book of accounts.

Mr. PECORA. I have not asked for the itemized accounts of payments. I have asked for the means or methods by which the Vaness Co. obtained this aggregate of $11,200,000 which it paid for this Erie Railroad stock.

Mr. VAN SWERINGEN. And I have answered you to the best of my ability that I will try to get that assembled for you in presentable form. How long it will take I do not know.

Mr. PECORA. I will ask you at this time to produce the minute books of the Vaness Co.——

Mr. VAN SWERINGEN. They are right here.

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Mr. PECORA (continuing). For the period including the time from November 1923 to and including January 1925. Will you let us have them?

Mr. VAN SWERINGEN. Bear in mind that I told you I would be glad to do that——

Mr. PECORA. We will relieve you of that task.

[Addressing one of the associates of the witness:] Will you give them to the witness so that he may identify them?

Mr. VAN SWERINGEN (after book had been handed to him by one of his associates). You want me to identify this record?

Senator BARKLEY. Just identify it.

Mr. VAN SWERINGEN. The minute book of the Vaness Co.

Mr. PECORA. Is that minute book which you are now producing the minute book, to your knowledge, of the Vaness Co. embracing the period from November 1923 to January 1925, both months inclusive?

Mr. VAN SWERINGEN. It is in two volumes and is here.

Mr. PECORA. Will you present the two volumes?

Mr. VAN SWERINGEN. I now do that [handing books to Mr. Pecora].

Mr. PECORA. Thank you.

Senator BARKLEY. The committee will stand in recess until 2:30. The witnesses will return at that time.

(Whereupon, at 1:17 p.m., a recess was taken until 2:30 p.m.)

AFTER RECESS

The committee reconvened at 2:30 p.m. on the expiration of the recess.

Senator BARKLEY (presiding). The committee will come to order. Mr. Pecora, you will proceed with Mr. Van Sweringen.

TESTIMONY OF O. P. VAN SWERINGEN, PRESIDENT OF ALLEGHANY CORPORATION, CLEVELAND, OHIO—Resumed

Mr. PECORA. Mr. Van Sweringen, I wish to ask you——

Mr. VAN SWERINGEN (interposing). Mr. Pecora, somewhere along in these proceedings you asked about a supplemental agreement with the New York Central——

Mr. PECORA (interposing). And Nickel Plate and yourself.

Mr. VAN SWERINGEN. Yes, sir. I find we have the original of that supplemental agreement here. I did not know it. I will present it to you for a photostat and return to us, if that is all right.

Mr. PECORA. All right, sir.

Mr. VAN SWERINGEN. It is dated the 15th day of February, 1922, by and between Oris P. Van Sweringen and Mantis J. Van Sweringen, parties of the first part, the New York Central Ralroad Co., party of the second part, and Nickel Plate Securities Corporation, party of the third part.

Mr. PECORA. I ask that that may be made a part of the record.

Senator BARKLEY. That will be done.

(The paper referred to, to be known as "Committee Exhibit No. 44, June 6, 1933," will be made a part of the record below and the original returned by the committee reporter to the witness.)

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COMMITTEE EXHIBIT NO. 44

Supplemental agreement, made this 15th day of February 1922, by and between Oris P. Van Sweringen and Mantis J. Van Sweringen, parties of the first part, the New York Central Railroad Co., party of the second part, and Nickel Plate Securities Corporation, party of the third part, witnesseth:

Whereas under an agreement dated the 5th day of July 1916, between the parties of the first and second parts hereto, the Guaranty Trust Co. of New York holds common stock, second preferred stock, and first preferred stock of the New York, Chicago & St. Louis Railroad Co., as therein stated, as security for the payment of certain promissory notes of the parties of the first part made and delivered to the party of the second part; and

Whereas by an instrument dated the 3d day of January 1917 the parties of the first part sold, assigned, and transferred to the party of the third part all their right, title, equity, and interest in and to said agreement dated the 5th day of July 1916 and in and to the shares of stock therein described; and

Whereas the party of the third part has requested the execution of this supplemental agreement:

Now, therefore, in consideration of the premises, it is agreed by and between the parties hereto that the Guaranty Trust Co. of New York, trustee under said agreement dated the 5th day of July 1916, may from time to time, at the request of the party of the third part, surrender to it any or all of the shares of common stock of the New York, Chicago & St. Louis Railroad Co. held under said agreement upon receiving, in substitution therefor, properly endorsed in blank for transfer, an amount of first preferred stock or of second preferred stock of said New York, Chicago & St. Louis Railroad Co. equal at par to the amount of common stock of said company so surrendered. It is further agreed by and between the parties hereto that said first preferred stock or second preferred stock so received in substitution for said common stock surrendered shall thereafter be held by the Guaranty Trust Co. of New York under said agreement dated the 5th day of July 1916, and under the terms thereof, as effectively to all intents and purposes as though it had been therein recited and thereunder delivered to the said trust company in place and instead of the common stock so surrendered.

In witness whereof the parties hereto have duly executed this supplemental agreement, in triplicate, as of the day and year first above written.

ORIS P. VAN SWERINGEN.
MANTIS J. VAN SWERINGEN.

Signed and delivered in the presence of—
D. S. BARRETT, Jr.
H. J. WOODWORTH

THE NEW YORK CENTRAL RAILROAD CO.,
By A. H. SMITH, *President.*

[SEAL] E. F. STEPHENSON, *Secretary.*
Attest:

Signed and delivered in the presence of—
EDW. C. CALHOUN.
W. E. WHEELER.

NICKEL PLATE SECURITIES CORPORATION,
By O. P. VAN SWERINGEN, *President.*

SEAL] FRANK H. GINN, *Secretary.*
Attest:

Signed and delivered in the presence of—
D. S. BARRETT, Jr.
W. H. WENNEMAN.

STATE OF OHIO,
County of Cuyahoga, ss:

Before me, a notary public in and for said county and State, personally appeared the above-named Oris P. Van Sweringen and Mantis J. Van Sweringen who acknowledged that they did sign the foregoing instrument, and that the same is their free act and deed and the free act and deed of each of them.

In testimony whereof I have hereunto set my hand and official seal, at Cleveland, Ohio, this 20th day of February, A.D. 1922.

[SEAL] D. S. BARRETT, Jr., *Notary Public.*

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STATE OF NEW YORK,
County of New York, ss:

Before me, a notary public in and for said county and State, personally appeared the above-named A. H. Smith, president, and E. Stephenson, secretary, of the New York Central Railroad Co., and acknowledged that they did sign the foregong instrument for and on behalf of said corporation and that the same is their free act and deed as such officers and the free act and deed of said corporation.

In testimony whereof I have hereunto set my hand and official seal at New York, N.Y., this 27th day of February 1922.

[SEAL] J. M. O'MAHONEY, *Notary Public.*

STATE OF OHIO,
County of Cuyahoga, ss:

Before me, a notary public in and for said county and State, personally appeared the above-named O. P. Van Sweringen, president, and Frank H. Ginn, secretary, of Nickel Plate Securities Corporation, and acknowledged that they did sign the foregoing instrument for and on behalf of said corporation and that the same is their free act and deed as such officers and the free act and deed of said corporation.

In testimony whereof I have hereunto set my hand and official seal, at Cleveland, Ohio, this 21st day of February 1922.

[SEAL] D. S. BARRETT, Jr., *Notary Public.*

Mr. PECORA. Mr. Van Sweringen, during the recess of the hearing today I have caused an examination to be made of two volumes of minute books that you produced just before the recess was ordered, and I am told that between the dates of October 31, 1923, and February 6, 1925, corporate actions were taken at various meetings of the board of directors of the Vaness Co. authorizing the obtaining of different loans from various banks, which loans aggregate in amount the sum of $11,206,466.10. Assuming that that is correct, Mr. Van Sweringen, would you say that those loans represented the moneys that were employed or used by the Vaness Co. to purchase various blocks of shares of the Erie Railroad that you testified this morning had been purchased for an aggregate consideration of $11,200,000?

Mr. VAN SWERINGEN. I am not prepared to say, of course, because I cannot recall those transactions and the uses of those dollars. But that is the statement that we are hoping to prepare for you, or rather the statement that we are hoping to prepare for you may give some light on that.

Mr. PECORA. Was Mr. J. Arthur House one of your associates in these various Van Sweringen enterprises.

Mr. VAN SWERINGEN. Mr. House was a director of the Nickel Plate. That is the only association that I recollect.

Mr. PECORA. When you say "The Nickel Plate" do you mean the operating company, the railroad, or the Securities Co.?

Mr. VAN SWERINGEN. The Railroad Co.

Mr. PECORA. You mean the Railroad Co.

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Was he also at the time the president of the Guardian Savings & Trust Co. of Cleveland?

Mr. VAN SWERINGEN. Oh, yes; and for a great many years.

Mr. PECORA. Isn't it a fact that either the Nickel Plate Railroad or the holding company known as the Nickel Plate Securities Corporation, and the Vaness Co. from time to time obtained large loans from the Guardian Savings & Trust Co. of Cleveland?

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Mr. VAN SWERINGEN. I cannot be quite as comprehensive as that, but some of the companies with which we had to do did a banking business there, and it might well be true that they borrowed money from time to time. I know I testified about one loan that was made, in the course of these proceedings.

Mr. PECORA. Have you any failure of recollection about the names of the banks from whom your companies from time to time borrowed moneys?

Mr. VAN SWERINGEN. That is very awkwardly put, if you don't mind. [Laughter.] I wouldn't attempt from recollection to undertake to give you the transactions for loans of the different interests in the different places. I think you will appreciate that that is difficult to do.

Mr. PECORA. Did any of the companies with which you and your associates were in any way identified, and which are commonly referred to as the Van Sweringen interests, borrow moneys from time to time from the Guardian Savings & Trust Co. of Cleveland?

Mr. VAN SWREINGEN. Yes. There is no doubt but what some of them did. We did business there for a great many years, or some of the companies did.

Mr. PECORA. Did some of the companies borrow money also from time to time from the Union Trust Co. of Cleveland?

Mr. VAN SWERINGEN. They did.

Mr. PECORA. You have already told us that Mr. Joseph R. Nutt was one of the gentlemen who was associated with you and your brother in these various enterprises.

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. He was one of the group that you called your associates, wasn't he?

Mr. VAN SWERINGEN. Yes; he was one of the stockholders of the Vaness Co.

Mr. PECORA. And of other companies with which your interests were identified.

Mr. VAN SWERINGEN. He undoubtedly was. But you might be more comprehensible there.

Mr. PECORA. At the time of the obtaining of loans from the Union Trust Co. of Cleveland was Mr. Joseph R. Nutt the president and chairman of the board of that trust company?

Mr. VAN SWERINGEN. Pardon me, but I missed the first part of that question.

Mr. PECORA. The committee reporter might read it to you. (Which was done.)

Mr. VAN SWERINGEN. He might have been.

Mr. PECORA. Aren't you sure whether he was or not?

Mr. VAN SWERINGEN. Well, I would have to coordinate that with the dates of the loans. That may have been altogether likely.

Mr. PECORA. Mr. Van Sweringen, you have appeared at various times before the Interstate Commerce Commission, haven't you?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And on those appearances you have given testimony and made arguments before the Commission with regard to the Van Sweringen railroad interests?

Mr. VAN SWERINGEN. Oh, yes.

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Mr. PECORA. And I understand that on a number of those occasions members of the Commission publicly called attention to your marvelous memory. Do you recall any such instance?

Mr. VAN SWERINGEN. No; I do not. I understood somebody to make that remark here this morning, but I do not recollect that circumstance.

Mr. PECORA. You wouldn't agree with any such observation, would you, that you have a marvelous memory?

Mr. VAN SWERINGEN. No; I would not.

Mr. PECORA. Would you prefer to say that your memory is poor?

Mr. VAN SWERINGEN. I think that would be wiser. But I might elaborate just a wee bit there. I used to make it a practice to use my mind as a memory tablet. And I have felt that that was a mistake, and I have gradually drifted away, no doubt, from the quality of memory that I once had, and I say that very frankly.

Mr. PECORA. Isn't it a fact that your companies obtained the most of those loans, in number if not in amount, from the Guardian Savings & Trust Co. and the Union Trust Co., both of Cleveland?

Mr. VAN SWERINGEN. They have obtained loans from both of them.

Mr. PECORA. The most of the loans that you have negotiated have been obtained from those two banks, haven't they?

Mr. VAN SWERINGEN. I could not say either "yes" or "no" to that with any degree of certainty.

Mr. PECORA. Can you mention any other bank from which you obtained a larger number of loans than you obtained from the Guardian Savings & Trust Co. or the Union Trust Co., both of Cleveland?

Mr. VAN SWERINGEN. Mr. Pecora, if I could answer that question, I could answer your first question. We did business, in the case of many of our companies, with those two banks, and for many years.

Senator BARKLEY. Were your companies, or any of them, indebted to those banks at the time when they closed?

Mr. VAN SWERINGEN. Yes, sir. And we also had money on deposit.

Mr. PECORA. Did your deposits exceed the amount of your loans at the time when those banks were closed?

Mr. VAN SWERINGEN. They did not.

Mr. PECORA. Do you know by what amount the loans exceeded the deposits at that time?

Mr. VAN SWERINGEN. No; I do not.

Mr. PECORA. You haven't any idea of that either?

Mr. VAN SWERINGEN. No. It is a matter of record, of course.

Mr. PECORA. What was that?

Mr. VAN SWERINGEN. That is a matter of record.

Mr. PECORA. Haven't you any recollection of it?

Mr. VAN SWERINGEN. No.

Mr. PECORA. Or any notion of the amount of the excess of loans over deposits in those closed banks?

Mr. VAN SWERINGEN. No; that would be guesswork.

Mr. PECORA. Does the excess run into the millions of dollars?

Mr. VAN SWERINGEN. That again would be guesswork.

Mr. PECORA. Would that be guesswork, too?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. You could not tell whether the excess was $50,000 or $10,000,000, could you?

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Mr. VAN SWERINGEN. I do not think it stands me in hand to be guessing here. I am trying to give you information accurately in response to all these questions.

Mr. PECORA. Whenever you transact any business with respect to any of your companies do you always go to your corporate records for the purpose of informing yourself with regard to your corporate interests as they might be involved in any such business?

Mr. VAN SWERINGEN. I do not understand that question.

Mr. PECORA. In what way?

Mr. VAN SWERINGEN. In its application.

Mr. PECORA. In its application to what?

Mr. VAN SWERINGEN. To the business.

Mr. PECORA. Do you know of any corporate purposes for which those loans, aggregating $11,206,466.10, were obtained by the Vaness Co. from various banks?

Mr. VAN SWERINGEN. You persist in trying to have me testify on memory, and of course I frankly have tried to avoid testifying from memory.

Mr. PECORA. Well, please rely as much as you can on your memory in the absence of your books of account, won't you?

Mr. VAN SWERINGEN. I would much prefer to have you tell me what you want, and I will try to get that information for you accurately.

Mr. PECORA. Well, for the present will you please give us the information from memory as best you can?

Mr. VAN SWERINGEN. I think it very unwise for me to do it.

Mr. PECORA. Will you do it, whether wise or unwise?

Mr. VAN SWERINGEN. I do not feel that I ought to be asked to do the unwise thing.

Mr. PECORA. Will you please do it from memory, Mr. Van Sweringen, as best you can?

Mr. VAN SWERINGEN. I prefer not to.

Mr. PECORA. Now, I am going to ask you specifically, Mr. Van Sweringen, to tell this committee from memory, or from any data which you have and which may be used by you to refresh your memory, any of the purposes for which the Vaness Co. borrowed any part of these moneys, aggregating the sum of $11,206,466.10, between October of 1923 and February of 1925.

Mr. VAN SWERINGEN. From memory I cannot do that with any degree of accuracy.

Mr. PECORA. Do you mean by that to say that you have an utter and complete failure of recollection with regard to any of those purposes?

Mr. VAN SWERINGEN. Well, again you are back 8, 10, and 12 years ago, and we are perfectly willing to supply that record if you wish to have it now.

Mr. PECORA. Have you a complete failure of memory or recollection concerning that?

Mr. VAN SWERINGEN. I have no recollection of it now.

Mr. PECORA. You cannot tell this committee of a single corporate purpose for which it borrowed any of these moneys in the period of time that I have mentioned?

Mr. VAN SWERINGEN. They are not fresh in my memory at all.

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Mr. PECORA. Do you recall any of the purposes for which the Vaness Co. at any time borrowed any moneys, whether 10 years ago, 8 years ago, or day before yesterday?

Mr. VAN SWERINGEN (after conferring with associates). I testified as to one borrowing here.

Mr. PECORA. Which was that?

Mr. VAN SWERINGEN. $2,100,000, I think. $2,100,000.

Mr. PECORA. No; that was not borrowed by the Vaness Co., was it?

Mr. VAN SWERINGEN. Pardon me. No.

Mr. PECORA. No.

Mr. VAN SWERINGEN. Well, there is the trouble with memory. Now, I will supply you with the data, but I am not holding my memory out here as an example for anybody's else use.

Mr. PECORA. Can you tell this committee any of the purposes for which any loan was ever negotiated by the Vaness Co. at any time in the past?

Mr. VAN SWERINGEN. No; I do not recall them.

Mr. PECORA. As a matter of fact, have you any recollection that the Vaness Co. ever did borrow any money from anybody at any time in the past?

Mr. VAN SWERINGEN. Oh, I think that is safe.

Mr. PECORA. You think you are safe in answering that?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. What is your answer to that?

Mr. VAN SWERINGEN. Just that.

Mr. PECORA. What?

Mr. VAN SWERINGEN. That we undoubtedly had borrowed money from time to time. But to tell you what we borrowed for and when we borrowed it, and the amount of it, and from whom, and all the circumstances surrounding it, I cannot undertake to do from memory.

Mr. PECORA. I have not asked you to give me all of those details. I simply asked you to give this committee any of the purposes for which the Vaness Co. at any time in the past borrowed any money from anyone whatsoever; regardless of the time of the loan, the person or institution that made it—anything else.

Mr. VAN SWERINGEN (after conferring with his associates). Is there a question pending?

Mr. PECORA. I beg your pardon?

Mr. VAN SWERINGEN. What is the question?

(Thereupon the pending question was read by the reporter, as above recorded.)

Mr. VAN SWERINGEN. I do not remember.

Mr. PECORA. Is there such a company known as the Vaness Co. in existence, according to your memory?

Mr. VAN SWERINGEN. There is.

Mr. PECORA. There is. Did that company borrow moneys from time to time for corporate purposes?

Mr. VAN SWERINGEN. I feel sure they did.

Mr. PECORA. You feel sure of that. Can you tell us any of the purposes for which at any time it made such borrowings?

Mr. VAN SWERINGEN. No.

Mr. PECORA. What purposes could your company have had in making these loans—in obtaining these loans?

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Mr. VAN SWERINGEN. They would have had to have been corporate purposes.

Mr. PECORA. Well, what are included in corporate purposes?

Mr. VAN SWERINGEN. Things necessary to the corporate operations.

Mr. PECORA. Such as what, for instance?

Mr. VAN SWERINGEN. I cannot tell you.

Mr. PECORA. You cannot tell me?

Mr. VAN SWERINGEN. No.

Senator BARKLEY. Do you know what they did with the money after they borrowed it?

Mr. VAN SWERINGEN. I beg your pardon?

Senator BARKLEY. Can you tell what was done with the money in any case after it was borrowed?

Mr. VAN SWERINGEN. No; Mr. Chairman, I have said here, and I say again—if there is any specific loan that you want to have enlightenment upon I will be very glad to supply that information. I am not trying to withhold from you, but I am trying to avoid guessing at things.

Senator BARKLEY. Well, now, you have stated that the minutes that have been submitted here do not contain any information as to purposes of any of these loans. If that be correct where would that information be found of record?

Mr. VAN SWERINGEN. Senator, I do not think I said that quite.

Mr. PECORA. I do not hear you, Mr. Van Sweringen.

Mr. VAN SWERINGEN. I do not know what the minutes say there.

Senator BARKLEY. I do not want to misquote you, but I understood you to say before we recessed that the minutes did not show the purposes for which any loans might have been made.

Mr. VAN SWERINGEN. I suspect they do not.

Senator BARKLEY. Now if they do not, what record is there that does show for what purposes?

Mr. VAN SWERINGEN. The corporate records.

Senator BARKLEY. The corporate what?

Mr. VAN SWERINGEN. The books. That is, the books of account.

Senator BARKLEY. The books of account?

Mr. VAN SWERINGEN. Yes.

Senator BARKLEY. Well, the books of account would show probably the amount of money borrowed, but would they show the purposes for which it was borrowed?

Mr. VAN SWERINGEN. Oh, yes, yes.

Mr. PECORA. Mr. Van Sweringen, which of your associates are in the hearing room at the present moment? You had better not trust to memory. Just look around and see.

Mr. VAN SWERINGEN. That is all right. Be facetious if you wish, but this is a serious business.

Senator BARKLEY. Go ahead.

Mr. VAN SWERINGEN. I did not take his question seriously. Do you want that answered?

Mr. PECORA. I advanced it seriously. I press it.

Mr. VAN SWERINGEN. All right. Mr. Barrett has been identified in our interests.

Senator BARKLEY. Mister who?

Mr. VAN SWERINGEN. Mr. Barrett. Mr. D. S.

Senator BARKLEY. What Barrett?

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Mr. VAN SWERINGEN. Mr. D. S. Barrett, for a good many years.

Mr. PECORA. What is his identification with your interests?

Mr. VAN SWERINGEN. He has several in our interests.

Mr. PECORA. Well, what are they?

Mr. VAN SWERINGEN. Pardon me; I will give you some of them. He is a director of several of our companies.

Mr. PECORA. Including the Vaness Co.?

Mr. VAN SWERINGEN. I think he is. (After conferring with associates.) No; he is not.

Mr. PECORA. All right. Now continue the names of those of your associates who are in the hearing room now.

Mr. VAN SWERINGEN. Mr. W. H. Wenneman has been with me as my secretary for a good many years.

Mr. PECORA. Who else?

Mr. VAN SWERINGEN. And Mr. J. P. Murphy.

Mr. PECORA. How is he identified with your companies?

Mr. VAN SWERINGEN. He is office counsel in many matters and the secretary of several of these corporations.

Mr. PECORA. Including the Vaness Co.?

Mr. VAN SWERINGEN (after conferring with associates). He is assistant secretary of that.

Mr. PECORA. Who else is here?

Mr. VAN SWERINGEN. My brother.

Mr. PECORA. Anyone else?

Mr. VAN SWERINGEN. I think that is all.

Mr. PECORA. Anyone else, Mr. Van Sweringen?

Mr. VAN SWERINGEN. That seems to be all.

Mr. PECORA. Are there any gentlemen here representing you as counsel?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Legal advisers?

Mr. VAN SWERINGEN. Mr. F. H. Ginn.

Senator BARKLEY. Will you raise your voice a little, Mr. Van Sweringen?

Mr. VAN SWERINGEN. And Mr. Thomas Jones.

Senator BARKLEY. You speak so low that I cannot hear what you say.

Mr. VAN SWERINGEN. Pardon me. If I get in here probably I will be heard.

Senator BARKLEY. Yes; get in closer.

Mr. VAN SWERINGEN. Yes. Mr. F. H. Ginn, and Mr. Thomas H. Jones are here.

Mr. PECORA. Does that complete the enumeration?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now, Mr. Van Sweringen, will you ask each and every one of those gentlemen, just to save time, if they can tell you any of the corporate purposes for which the Vaness Co. borrowed moneys at any time in the past, and let us have the result?

Mr. VAN SWERINGEN (after conferring with associates). Mr. Murphy thinks that some of it was for buying securities.

Mr. PECORA. Is that the sum total of the information you gleaned from your associates?

Mr. VAN SWERINGEN. Up to the moment it is. I do not get much added light on that subject. Somebody said perhaps there were

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other purchases than shares. And that perhaps there were some dollars that were used in payment of other things.

Mr. PECORA. I cannot hear you, Mr. Van Sweringen.

Mr. VAN SWERINGEN. Does that not carry here?

Mr. PECORA. What you say may not amount to very much, but I would like to hear it anyway. Raise your voice please.

Mr. VAN SWERINGEN. Did you get it in the record? (Addressing the reporter.)

(The reporter replied in the affirmative.)

Mr. VAN SWERINGEN. Would you mind reading it?

(Mr. Van Sweringen's answer was read by the reporter, as above recorded, as follows:

Mr. VAN SWERINGEN. Up to the moment it is. I do not get much added light on that subject. Somebody said perhaps there were other purchases than shares. And that perhaps there were some dollars that were used in payment of other things.)

Mr. PECORA. Now, does that represent the sum total of the information you gleaned from your associates as the result of your conferring with them now concerning corporate purposes for which any of these loans were obtained by the Vaness Co. or any loans were obtained by the Vaness Co.?

Mr. VAN SWERINGEN. On a guessing basis, yes.

Senator BARKLEY. When was the last loan that this company obtained, Mr. Van Sweringen?

Mr. VAN SWERINGEN. I will be glad to supply that information for you.

Senator BARKLEY. Have you any recollection now about it?

Mr. VAN SWERINGEN. No, I have not.

Senator BARKLEY. Has there been within the last month?

Mr. VAN SWERINGEN. Not that I recall.

Senator BARKLEY. Within the last six months?

Mr. VAN SWERINGEN. Well, if I could tell you that, I could probably tell you the rest. I will get that information if you like it.

Senator BARKLEY. Well of course it is no answer to legitimate and serious questions here for you to say that if you could give an answer to one you could give an answer to all. As a matter of fact you have given no answers to any so far.

Mr. VAN SWERINGEN. No; but they both bear on the same point, and I simply can not——

Senator BARKLEY (continuing). And, if I may say so, as acting chairman for this committee, it seems incredible that any man of as large affairs as you have could give as little information concerning them as you seem to be able to give; or willing to give.

Mr. VAN SWERINGEN. By guess work.

Senator BARKLEY. If you transact all of your affairs by guess work, that of course would be——

Mr. VAN SWERINGEN (interposing). That is the important point, I do not wish to.

Senator BARKLEY. No; go ahead.

Mr. PECORA. Now you referred to a Mr. Ginn as counsel for you in attendance at this hearing. Was not Mr. Ginn or his law firm the attorney for the Union Trust Co. of Cleveland at the time that the Vaness Co. and others of your companies obtained loans from that trust company?

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Mr. GINN. May I answer that question, Mr. Chairman?

Mr. PECORA. I would rather have the witness answer it first.

Mr. GINN. I prefer to answer it first, if I may, Mr. Chairman.

Mr. PECORA. Let the witness answer it first, and if your recollection varies from his answer you may state.

Mr. GINN. As counsel——

Senator ADAMS. Is this one of the counsel?

Senator BARKLEY. Let the witness give his recollection, and then you can answer.

Mr. VAN SWERINGEN. Mr. Ginn, I think, can answer that better than I can.

Senator BARKLEY. Do you know whether that is true?

Mr. VAN SWERINGEN. I think he had better answer that.

Mr. PECORA. Do you know whether it is the fact?

Mr. VAN SWERINGEN. I have understood he was counsel for them in some matters.

Mr. PECORA. Counsel for the trust company?

Mr. VAN SWERINGEN. But he will have to confirm it.

Mr. PECORA. Counsel for the trust company?

Mr. VAN SWERINGEN. He will have to confirm that. I cannot.

Mr. PECORA. If Mr. Ginn wants to answer that, very well.

Senator BARKLEY. If Mr. Ginn desires to answer the chairman will permit him to do so.

Mr. GINN. The witness has answered the question as I would have answered it. At the time that you mentioned our firm was counsel for the Union Trust Co. in certain matters. We had no retainer of any kind or character from the Union Trust Co.

Senator BARKLEY. Well, why was there any hesitation about giving that information at the start?

Mr. VAN SWERINGEN. I did not hesitate. I commented that I thought he could answer for himself better than I could, being right here.

Senator BARKLEY. Yes; but you——

Mr. VAN SWERINGEN. And then when you asked me I told you that I had understood that he had been counsel in several matters.

Senator BARKLEY. Your offer to let him answer it was after he had arisen and asked that he might answer it. Until that time you seemed to display no recollection on the subject.

Mr. VAN SWERINGEN. Pardon me; I think he arose rather quickly when the question was asked.

Mr. PECORA. Was Mr. Ginn or his law firm, or any law partner or associate of his, counsel for the Vaness Co. at any time in the past?

(Mr. Van Sweringen conferred with his associates.)

(At this point there was some disturbance and laughter in the room.)

Mr. VAN SWERINGEN (after conferring with associates). Many times.

Senator BARKLEY. The congregation will please be in order.

Mr. VAN SWERINGEN. You got the answer to that?

Mr. PECORA. You think he was at many times?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Is there any law firm or lawyer that has been or is the general counsel for the Vaness Co.?

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Mr. VAN SWERINGEN (after conferring with associates). We have not had a general counsel in that qualification. Mr. Murphy, of course, has been office counsel.

Mr. PECORA. Mr. Murphy is a member of the bar of the State of Ohio?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And Mr. Murphy was unable to give you any more information than you gave us when you conferred with him, respecting any of the purposes for which the Vaness Co. borrowed moneys, was he?

Mr. VAN SWERINGEN. I really—to the best I understood his words. He is here to talk for himself if you will let him. May he do that?

Senator BARKLEY. Well I do not know about that now. Probably a little later. He may testify. I do not know what the plan is.

Mr. PECORA. I notice in what is marked here as "Volume No. 1 of the Minute Book of the Vaness Co.", being one of the two books you produced this morning, that there was a meeting of the board of directors of that company held on October 31, 1923, at which you as president acted as chairman. And it appears that the only business transacted at that meeting was the adoption of a resolution authorizing the company to borrow for its corporate purposes from the Guardian Savings & Trust Co. of Cleveland the sum of $250,000. Now have you any recollection of the purposes, the corporate purposes for which that loan was obtained?

Mr. VAN SWERINGEN. No. Beyond—I notice it says for corporate purposes, and that is all.

Mr. PECORA. Is there anything in the minutes of that meeting which would refresh your recollection concerning those corporate purposes? [Handing the book to the witness.] Will you please look at those minutes?

Mr. VAN SWERINGEN (after examining minute book). There is nothing here to indicate.

Mr. PECORA. I know there is nothing in the minutes to indicate it, but is there anything in the minutes that would refresh your recollection?

Mr. VAN SWERINGEN. No. The minute does just what you say it does. It authorizes the loan for corporate purposes.

Mr. PECORA. And who, according to the minutes, presented that resolution for consideration and adoption?

Mr. VAN SWERINGEN. I did.

Mr. PECORA. You did?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. You now have no recollection of the purposes for which that loan was authorized to be obtained?

Mr. VAN SWERINGEN. No. October 31, 1923——

Mr. PECORA. Well, now, have you any recollection of any meeting——

Mr. VAN SWERINGEN (interposing). I will get you this information if you would like it, as best I can. Would you like it?

Mr. PECORA. I want first to exhaust your own recollection, if you have any.

Mr. VAN SWERINGEN. Well, you have.

Mr. PECORA. I have?

Mr. VAN SWERINGEN. Yes.

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Mr. PECORA. And the net result is what? Zero?

Mr. VAN SWERINGEN. Zero.

Mr. PECORA. Yes.

Senator BARKLEY. While Mr. Pecora is looking at the minutes. A while ago you replied, after conference with Mr. Murphy, that he though that some of this $11,000,000 was used to buy securities?

Mr. VAN SWERINGEN. Yes, sir.

Senator BARKLEY. Do you recall any securities that were bought with any of this $11,000,000?

Mr. VAN SWERINGEN. It may well be that some of these Erie shares were.

Senator BARKLEY. Well, do you know whether they were or not?

Mr. Van SWERINGEN. That is my difficulty. I am here to testify as to the facts, and that is why I shy at doing anything else.

Senator BARKLEY. You say it may well be that some of this money was used for that purpose.

Mr. VAN SWERINGEN. Yes.

Senator BARKLEY. It might well be also that it was used for other purposes—some of it?

Mr. VAN SWERINGEN. Yes.

Senator BARKLEY. To purchase other securities?

Mr. VAN SWERINGEN. Yes; even that. You mean other than Erie?

Senator BARKLEY. Yes.

Mr. VAN SWERINGEN. Yes; that might be.

Senator BARKLEY. Well, when you speak of securities you speak of railroad securities?

Mr. VAN SWERINGEN. Well, not necessarily, but presumably so.

Senator BARKLEY. You were engaged largely in the purchase of railroad stocks?

Mr. VAN SWERINGEN. Yes, we were.

Senator BARKLEY. The object being to get as large a block of stocks in any railroad as you could, which you desired to bring into your system?

Mr. VAN SWERINGEN. As large as we felt that we could; yes, sir.

Senator BARKLEY. Yes. Well, as you could. That carries with it your ability to buy as well as the willingness of somebody to sell.

Mr. VAN SWERINGEN. Yes. That is probably a fair way to put it.

Senator BARKLEY. Yes. So that would you say that a large proportion of this $11,000,000 was used for that purpose?

Mr. VAN SWERINGEN. There is where I am troubled, Senator. I really do not know, I cannot recall.

Senator BARKLEY. What other general purpose did the company have in borrowing money?

Mr. VAN SWERINGEN. Well, that has been answered here just now——

Senator BARKLEY. Well, I will have to disagree with you.

Mr. VAN SWERINGEN. Except that we might have borrowed money to loan to some of these subsidiaries that it had.

Senator BARKLEY. It might have been, but was it?

Mr. VAN SWERINGEN. No; I can not say that.

Senator BARKLEY. You do not know then what proportion of this $11,000,000 that was borrowed by the Vaness Co. was used in buying railroad stocks——

Mr. VAN SWERINGEN. No; I do not.

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Senator BARKLEY (continuing). In which the Van Sweringens were interested?

Mr. VAN SWERINGEN. I am sorry, but I do not. But, as I say, I will supply you with that information if you like.

Mr. PECORA. Do you know whether any of the moneys that were used in the purchase of these Erie Railroad shares that you have testified about, to an aggregate of $11,200,000, represented anything other than loans which the Vaness Co. obtained for the purpose of making those purchases?

Mr. VAN SWERINGEN. I do not. No.

Mr. PECORA. What is that?

Mr. VAN SWERINGEN. I do not know.

Mr. PECORA. You do not know. Now do you recall that on or about October 31, 1930, the Vaness Co. borrowed the sum of $16,000,000?

Mr. VAN SWERINGEN. October—when was that?

Mr. PECORA. October 31, 1930. $16,000,000.

Mr. VAN SWERINGEN. (After conferring with associates.) Yes, sir. That was a loan from J. P. Morgan & Co.

Mr. PECORA. Have you any recollection of the circumstances of that loan?

Mr. VAN SWERINGEN. We needed the money.

Mr. PECORA. For what purposes?

Mr. VAN SWERINGEN. (After conferring with associates.) You will have that.

Mr. PECORA. I am waiting for your answer.

Mr. VAN SWERINGEN. That Vaness Co. loan dated October 31, 1930, for $16,000,000 was used for this purpose—or rather, the following purposes: For the purchase of $10,264,900.49 of United States Government securities; $3,555,992.88 to pay an indebtedness to Paine, Webber & Co.; $2,179,106.63 cash for general corporate purposes.

Mr. PECORA. Now you gave that answer from some memorandum that you read from, did you not?

Mr. VAN SWERINGEN. I beg your pardon. That last?

Mr. PECORA. You gave that answer from some memorandum in your hand that you read from, did you not?

Mr. VAN SWERINGEN. I did. And that information has heretofore been supplied to you.

Mr. PECORA. Without such memoranda would you have been utterly unable to have answered the question about the purposes for which this $16,000,000 was borrowed?

Mr. VAN SWERINGEN. Except in very general terms. For illustration, I would not have been able to divide it up as is shown here.

Mr. PECORA. Now have you any recollection—I am referring now to recollection—of a loan obtained on the same day, that is to say, on October 31, 1930, from J. P. Morgan & Co. of $23,500,000 made to the Cleveland Terminals Building Co.?

(Mr. Van Sweringen consulted with his associates.)

Mr. PECORA. No, I am now asking you from recollection.

Mr. VAN SWERINGEN. I am testifying——

Mr. PECORA. Please do not refer to any memorandum, Mr. Van Sweringen, unless you have to do it. Please first tell us if you have any recollection.

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Mr. VAN SWERINGEN. Mr. Pecora, I am going to testify from records whenever I can.

Mr. PECORA. Well, first tell us what your recollection is. Now do not refer to any record.

Mr. VAN SWERINGEN. No. This is not a guessing contest so far as I am concerned.

Mr. PECORA. Well, Mr. Chairman, I ask that the witness be directed to answer the question.

Senator BARKLEY. The Chair thinks that that is a fair question, and that the witness ought to answer it, whether independent of a memorandum he has any recollection of borrowing $23,000,000.

Mr. VAN SWERINGEN. I am unable to do so.

Senator BARKLEY. You have no recollection of having borrowed that money?

Mr. VAN SWERINGEN. Yes, I have, but I have it right before me.

Senator BARKLEY. You mean your recollection is before you?

Mr. VAN SWERINGEN. I have the figures—I have the facts right before me.

Senator BARKLEY. Well, Mr. Pecora evidently in an effort to test your memory on these matters has asked you if you have any recollection independent of any memorandum as to these $23,000,000.

Mr. VAN SWERINGEN. Yes, I understand.

Senator BARKLEY. Are you willing to say yes or no, that you have a recollection or that you have not?

Mr. VAN SWERINGEN. I have the facts, and I will testify as to those.

Mr. GINN. He wants to know whether you remember independently.

Mr. VAN SWERINGEN. I do not remember, independently.

Senator BARKLEY. All right.

Mr. PECORA. Now, tell us about those loans from any data that you have.

Mr. VAN SWERINGEN. All right. The loan of $23,500,000 is dated October 31, 1930, also. That is the Cleveland Terminals Building Co. loan. From J. P. Morgan & Co. And its proceeds in part were used, in total, $5,000,000 for the purchase of 500,000 shares of Allegheny Corporation common stock; $15,940,331.02 payment of indebtedness to Paine, Webber & Co.; $2,500,000 cash for general corporate purposes.

Senator BARKLEY. May I ask a question? Let me interrupt there.

Mr. PECORA. Yes.

Senator BARKLEY. In your division of this previous loan from Mr. Morgan's company of three million and some odd dollars in payment of a debt to Paine, Webber & Co. They are brokers, I believe, are they?

Mr. VAN SWERINGEN. Yes, sir.

Senator BARKLEY. What was the occasion of this indebtedness of $3,000,000?

Mr. VAN SWERINGEN. Securities that had been purchased.

Senator BARKLEY. Securities?

Mr. VAN SWERINGEN. Yes, sir.

Senator BARKLEY. In the companies which you are interested in?

(Mr. Van Sweringen nodded his head.)

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Senator BARKLEY. And this $15,000,000 indebtedness in this additional loan out of the $23,000,000 which you say went to Paine Webber & Co. was likewise in payment of securities they had bought for you?

Mr. VAN SWERINGEN. Yes, sir.

Senator BARKLEY. In railroad properties?

Mr. VAN SWERINGEN. Yes, sir.

Senator BARKLEY. Are you able to tell what properties they were?

Mr. VAN SWERINGEN. I will undertake to supply you that data, but I cannot recall it.

Senator BARKLEY. You cannot do it from memory? I see there you used a part of this last loan for purchasing stock of the Alleghany Corporation.

Mr. VAN SWERINGEN. Yes, sir.

Senator BARKLEY. How long after its organization was that? Five hundred thousand shares, I believe you said.

Mr. VAN SWERINGEN. Alleghany was organized—[conferring with associates]—Alleghany was organized January 26, 1925—29.

Senator BARKLEY. Some year or so?

Mr. VAN SWERINGEN. Yes, a little over.

Senator BARKLEY. You had been instrumental, your company I mean, your interests, had been instrumental in the organization of the Alleghany Co., I believe?

Mr. VAN SWERINGEN. Yes, sir.

Senator BARKLEY. Prior to that?

Mr. VAN SWERINGEN. Yes, sir.

Senator BARKLEY. How much of the stock of the company did you own at the time you bought this additional 500,000 shares?

Mr. VAN SWERINGEN. These were shares that we, of course, had but that were in the parent company, the Cleveland Building.

Senator BARKLEY. How is that?

Mr. VAN SWERINGEN. These were shares that were received by the parent of the Cleveland Terminals Building Co.

Senator BARKLEY. What was the parent of the Cleveland Terminal?

Mr. VAN SWERINGEN. The Vaness Co.—Van Sweringen Corporation—pardon me.

Mr. PECORA. And who were the the organizers of the Vaness Corporation.

Mr. VAN SWERINGEN. That is a Van Sweringen corporation.

Mr. PECORA. That also is a corporation that you and your associates——

Mr. VAN SWERINGEN (interposing). Yes, sir.

Mr. PECORA (continuing). Use as a corporate vehicle for your transactions, isn't it?

Mr. VAN SWERINGEN. Yes.

Senator BARKLEY. The Alleghany Co. was a holding company?

Mr. VAN SWERINGEN. Yes, sir.

Senator BARKLEY. And the Vaness Co., was that a holding company?

Mr. VAN SWERINGEN. I have described the Alleghany in more complete sense, but I think that is near enough.

Senator BARKLEY. Was the Vaness Co. a holding company or an investment company?

Mr. VAN SWERINGEN. The Van Sweringen Corp., you mean?

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Senator BARKLEY. No, the Vaness Co.

Mr. VAN SWERINGEN. Yes.

Senator BARKLEY. The Van Sweringen Corporation, what was it?

Mr. VAN SWERINGEN. That was organized by our interests to furnish a corporate instrumentality to buy, sell, trade in or hold stocks and securities or other properties and to enter into such other transactions as may from time to time be determined.

Senator BARKLEY. That was a holding company?

Mr. VAN SWERINGEN. Yes.

Senator BARKLEY. And the Nickel Plate Co., was that a holding company?

Mr. VAN SWERINGEN. You mean the Securities Corporation?

Senator BARKLEY. Yes; that was also——

Mr. VAN SWERINGEN. That was extinguished.

Senator BARKLEY. And the Chesapeake Co., is that a similar corporation?

Mr. VAN SWERINGEN. The Chesapeake Corporation was composed of the C. & O.——

Senator BARKLEY (interposing). The C. & O. Railroad Co. was one corporation, but the Chesapeake Corporation was a holding company?

Mr. VAN SWERINGEN. Yes, sir.

Senator BARKLEY. How many holding companies did the Van Sweringens organize?

Mr. VAN SWERINGEN. The Chesapeake Corporation, the Alleghany Corporation, and the Van Sweringen Corporation are the outstanding ones, where the interests are publicly held.

Senator BARKLEY. You had also the Nickel Plate Corporation?

Mr. VAN SWERINGEN. That was extinguished before these were——

Senator BARKLEY (interposing). And the Vaness?

Mr. VAN SWERINGEN. That was a personal—not a publicly distributed corporation.

Senator BARKLEY. Well, I know it was the same type of corporation?

Mr. VAN SWERINGEN. It was a basket, if I might use that expression.

Senator BARKLEY. Sir?

Mr. VAN SWERINGEN. It was a personal basket, if I might use that expression.

Senator BARKLEY. In other words, you did not have as many people in it?

Mr. VAN SWERINGEN. No.

Senator BARKLEY. It was a sort of a family affair?

Mr. VAN SWERINGEN. Yes.

Senator BARKLEY. The purposes were the same as the others, as I understand it.

Mr. VAN SWERINGEN. Identified with the interests of O. P. and M. J. Van Sweringen.

Senator BARKLEY. It was organized under its charter to buy securities in any of these railroad companies?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. You referred to the Vaness Co. as a personal affair. Didn't you say yesterday that 20 percent of its stock was held by outsiders?

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Mr. VAN SWERINGEN. Yes, but I said that it had its origin in a personal basket, later expanded to the degree that I therein outlined.

Mr. PECORA. But when you said now in answer to Senator Barkley's questions that the Vaness Co. is a personal basket, did you mean to convey the impression that all of its stock was held by you and your immediate associates?

Mr. VAN SWERINGEN. No; because I modified it or defined to that degree of exception.

Mr. PECORA. You said heretofore that the Guardian Savings & Trust Co. of Cleveland and the Union Trust Co. of Cleveland had been closed. Has either of those banks been reopened?

Mr. VAN SWERINGEN. They were right on the edge of opening, I think, before I left. I am not sure.

Mr. PECORA. Before you left day before yesterday?

Mr. VAN SWERINGEN. Mr. Ginn tells me specifically no.

Mr. PECORA. And the loans that both of those banks held which have been made to any of your companies still remain unpaid?

Mr. VAN SWERINGEN. Those that were held.

Mr. PECORA. Those that were open on the date of the closing of the banks?

Mr. VAN SWERINGEN. Those that existed.

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Now, after you and your associates, through the medium of any of these holding companies that you have referred to, acquired stock of the Erie Railroad Co., did it proceed to acquire holdings of stock in any other railroad company?

Mr. VAN SWERINGEN. Yes; it did.

Mr. PECORA. What was the next road that you bought into?

Mr. VAN SWERINGEN. That is pretty well set out in my prepared statement.

Mr. PECORA. While you are looking it up may I ask if, in order to enable you to prepare this statement that you read into the record yesterday, you consulted any of the records and books of account of your various companies, or does this statement represent your recollection with respect to the matters embodied in it?

Mr. VAN SWERINGEN. I blocked this out on dictation.

Mr. PECORA. From memory?

Mr. VAN SWERINGEN. In general terms from memory.

Mr. PECORA. All right.

Mr. VAN SWERINGEN. Then had it checked as to sequence of events and facts that it otherwise contains.

Mr. PECORA. Now, what was the next railroad into which your interests bought after the Erie?

Mr. VAN SWERINGEN. Pere Marquette.

Mr. PECORA. When were those purchases made?

Mr. VAN SWERINGEN. They began in April 1924.

Mr. PECORA. And terminated when?

Mr. VAN SWERINGEN (conferring with associates). When did they terminate? I cannot tell you the time of the termination. I will supply it for you.

Mr. PECORA. Was it a period of several months?

Mr. VAN SWERINGEN. I beg your pardon; I didn't hear that.

Mr. PECORA. Was it over a period of several months?

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Mr. VAN SWERINGEN. Yes; it was.

Mr. PECORA. Six months, would you say?

Mr. VAN SWERINGEN. I would say all of that.

Mr. PECORA. A year?

Mr. VAN SWERINGEN. My judgment would be about a year.

Mr. PECORA. How many shares of the Pere Marquette road did your interests acquire in that period?

Mr. VAN SWERINGEN. They are assembling that for you. That was some information you wanted yesterday.

Mr. PECORA. When will we have the result of that assembling process?

Mr. VAN SWERINGEN. The Nickel Plate will be here soon.

Mr. PECORA. I know, but when will we have this information you said they are assemblnig?

Mr. VAN SWERINGEN. We can do that tomorrow.

Mr. PECORA. All right sir; will you?

Mr. VAN SWERINGEN. Gladly.

Mr. PECORA. Now, can you tell us what percentage of the total outstanding stock of the Pere Marquette your interests acquired in this period of time?

Mr. VAN SWERINGEN. A good bit of the Pere Marquette belongs to the C. & O. at this time. As I told you, the Commission approved the right to control the Pere Marquette in the C. & O. And they have now not a majority, approaching it. If I were to approximate it, I would say somewhere near 40 percent of the common stock.

Mr. PECORA. You mean by that in the years 1924 and 1925——

Mr. VAN SWERINGEN (interposing). I think I can give you the number of shares here. Just a minute. (After conference with associates.) They have 267,700 shares of common and 12,600 of preferred, and 46,200 more of common in another block. The total of that is 313,900 of common. That is more than a majority of the common, but it is not more than a majority of all. Now, one more block, 27,500 shares of common, are owned by the Chesapeake Corporation.

Mr. PECORA. Were all of these shares of the common and preferred stock of the Pere Marquette acquired by your interests in 1924 and 1925?

Mr. VAN SWERINGEN (after conferring with associates). They were not. It was over a long period of time, but I will try to give you the period if you wish.

Mr. PECORA. What I want to get at is about the proportion of the stock of the Pere Marquette which your interests acquired in this period of about 1 year commencing in April 1924, in order to get any management control of it.

Mr. VAN SWERINGEN (after continued conference with associates). It was in 1929 that we went into the management of that property or some of our associates did. In other words, the Interstate Commerce Commission approved the interlocking directorates and also approved the right to own the control of the Pere Marquette by the C. & O.

Mr. PECORA. I don't think that fully or quite answers my question, so I will put it in another way.

Mr. VAN SWERINGEN. Yes, sir.

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Mr. PECORA. You have said that commencing with April 1924 and for a period of about a year thereafter you and your associates bought into the Pere Marquette Railroad.

Mr. VAN SWERINGEN. Quite vigorously, at that time.

Mr. PECORA. Quite vigorously. As a result of those purchases made in that period of about one year you obtained, you and your associates, or interests obtained, representation on the board of that railroad?

Mr. VAN SWERINGEN. That is what I was verifying. I didn't think that was so.

Mr. PECORA. Then you verify it?

Mr. VAN SWERINGEN. We did not go in until 1929.

Mr. PECORA. Now, in whose name——

Mr. VAN SWERINGEN (interposing.) Pardon me just a minute. (Conferring with associates.) There were two steps in this thing, and that is what is troubling me a little bit. Mr. Alfred was president of the Pere Marquette for some time after our interests had the ownership in Pere Marquette, and during some of that period I had felt that we had direct representation, but we did not have Mr. Bernet in as President until 1929.

Did I cover now what you wanted to know?

Mr. PECORA. Did you have any representation on the board of the Pere Marquette as a result of the stock of that company which you bought in the year commencing April 1924?

Mr. VAN SWERINGEN. I was thinking we did, but they tell me that we seemingly did not.

Mr. PECORA. Now, in whose name were these various blocks of the common and preferred stock of the Pere Marquette purchased by your interests?

Mr. VAN SWERINGEN. Will you just give me that?

The SHORTHAND REPORTER (reading):

Now, in whose name were these various blocks of the common and preferred stock of the Pere Marquette purchased by your interests?

Mr. VAN SWERINGEN. By "in whose name" do you mean what company took them?

Mr. PECORA. Who; whether it was a company or whether it was an individual? In whose names were these shares acquired?

Mr. VAN SWERINGEN. I suspect some of those shares stand in Street names until this day. I don't know.

Mr. PECORA. Well, for whose account were they purchased?

Mr. VAN SWERINGEN. I wonder if you realize I have put that in the record here just a little while ago.

Mr. PECORA. The only identification that I have from your testimony of any name is that of the Chesapeake Corporation, which you said now has 27,500 shares of the common stock.

Mr. VAN SWERINGEN. You must have, Mr. Pecora, caught the last part of my statement. I had previously testified as to 12,600 shares of preferred, 267,700 shares of common.

Mr. PECORA. And 46,200 other shares of common?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Yes, but now for whose account were those shares purchased, namely, the 12,600 shares of preferred and the 313,900 shares of common?

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Mr. VAN SWERINGEN (after conferring with associates). Yes; but that is not his question (addressing an associate). His question is a technical question. I gave him that information; 12,600——

Mr. GINN. Who bought them?

Mr. VAN SWERINGEN. Now, that is the point. I have given him that. I am trying—12,600 shares by Chesapeake & Ohio.

Mr. PECORA. That is the preferred?

Mr. VAN SWERINGEN. Yes; 267,700 shares by Chesapeake & Ohio, those being common; 27,500 by Chesapeake Corporation.

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. And 46,200 again by Chesapeake & Ohio.

(At this point Mr. Van Sweringen conferred with associates.)

Well, now, Mr. Pecora, there seems to be a difference of opinion back here, and I have got to get straightened out.

Mr. PECORA. Go ahead.

Mr. VAN SWERINGEN. You wanted to know in your first question who owned those shares now—right?

Mr. PECORA. No; I didn't. I wanted to know——

Mr. VAN SWERINGEN (interposing). And in your second question—somebody else better testify to this or else give me the information correctly.

Senator ADAMS. Mr. Van Sweringen, is there somebody else in your organization that has these things at hand a little better?

Mr. VAN SWERINGEN. Well, his questions are so put that it is terrifically difficult to segregate in the answer.

Senator ADAMS. Taking the questions as they are, is there someone else in your group that can give that information a little more directly?

Mr. VAN SWERINGEN. I will be glad if they can.

Senator ADAMS. Well, is there?

Mr. VAN SWERINGEN. I don't think so. I have offered to do that. I have offered to give you statements from the records. Now, I have been asked here all afternoon to guess about these things.

Mr. PECORA. No; I have not asked you to guess; I have asked you to give us your best recollection.

Mr. VAN SWERINGEN. Now, I have in the record, I feel sure, the ownership of these shares as it stands today by corporations and amounts and kinds. Now, he has another question here seemingly that is not answered, and that is who bought them.

Mr. PECORA. Yes, sir. Who bought them in behalf of the Van Sweringen interests, or you and your associates?

Mr. VAN SWERINGEN. All right now; I am trying to separate that out as to who bought them in the first place and how they got here. (After conferring with associates.) The Nickel Plate bought 174,900 shares originally, which they later sold to the C. & O.

Mr. PECORA. You mean the Nickel Plate, the railroad company, or the securities company?

Mr. VAN SWERINGEN. The railroad; oh, yes. And the 46,200 shares was bought by Alleghany.

Mr. PECORA. By the Alleghany Corporation?

Mr. VAN SWERINGEN. They were bought by our interests and went into the Alleghany in the beginning.

Mr. PECORA. No, no; you said they were bought by your interests. Now, which of your interests? Which was the corporate entity that bought them for your interests?

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Mr. VAN SWERINGEN (after conferring with associates). You see you are going back four steps.

Mr. PECORA. No; I am trying to start from the beginning.

Mr. VAN SWERINGEN. I appreciate that. This record is built the other way. Do you mind if I supply you with that record back through?

Mr. PECORA. Well, I suppose we will have to get it that way if you cannot give it to us now or any other way.

Mr. VAN SWERINGEN. Well, I seemingly cannot.

Mr. PECORA. Then let me ask you this question: Is it a fact that these shares of the Pere Marquette Railroad that you have referred to in your testimony were originally purchased by or in behalf of you and your associates?

Mr. VAN SWERINGEN. Now, if you mean by "referred to" being that block of Nickel Plate shares?

Mr. PECORA. No; I mean the shares generally, 313,900 shares of common, 12,600 shares of preferred.

Mr. VAN SWERINGEN. Now may I have that question?

The SHORTHAND REPORTER (reading):

No; I mean the shares generally, 313,900 shares of common, 12,600 shares of preferred.

Is it a fact that these shares or the Pere Marquette Railroad that you have referred to in your testimony were originally purchased by or in behalf of you and your associates?

Mr. VAN SWERINGEN. Mr. Pecora, that is the data that I have just promised to supply you. In other words, when they first struck our estate, if you want to put it that way, and from there on down to where they are now?

Mr. PECORA. They were acquired originally back in 1924——

Mr. VAN SWERINGEN (interposing). A large part of them are in Nickel Plate.

Mr. PECORA. They were acquired back in 1924 and 1925 in behalf of your interests, weren't they?

Mr. VAN SWERINGEN. Yes; a large part there went to the Nickel Plate.

Mr. PECORA. Through the Nickel Plate Railroad?

Mr. VAN SWERINGEN. Yes; and the Nickel Plate obtained authority to sell, or rather the C.&O. obtained authority, to buy them from the Nickel Plate.

Mr. PECORA. Yes. Now, in connection with the original acquisition by your interests of these shares of the Pere Marquette road did you and your associates, any of you, out of your own personal means, pay any part of the consideration or purchase price for any of these shares?

Mr. VAN SWERINGEN. Well, that takes us back to the chain of title in front of these purchases of C.&O. other than the Nickel Plate shares.

Mr. PECORA. Wherever it takes us back, can you tell us whether or not at any stage you and your associates put up any of the moneys for the purchase of these shares out of your own pockets?

Mr. VAN SWERINGEN. That will be disclosed in the statement that we are to build for you.

Mr. PECORA. Can you tell us now from memory?

Mr. VAN SWERINGEN. No; I cannot recall it.

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Mr. PECORA. Cannot recall that?

Mr. VAN SWERINGEN. No.

Mr. PECORA. Well, do you know whether or not the Nickel Plate acquired any of these shares out of moneys other than borrowings or proceeds of the sale of securities to the public?

Mr. VAN SWERINGEN (after conferring at length with associates). I don't know.

Mr. PECORA. Well now, speaking for yourself, individually, do you recall having gone into your personal means for the purpose of enabling any of your interests to purchase any of these shares of the Pere Marquette Road?

Mr. VAN SWERINGEN (after conferring at length with associates). As Vaness Co. we had a block which went over at our cost.

Mr. PECORA. Will you repeat that answer? I didn't hear it.

The SHORTHAND REPORTER (reading):

As Vaness Co. we had a block which went over at our cost.

Mr. PECORA. Where did the Vaness Co. get the money with which to buy that block?

Mr. VAN SWERINGEN. We will supply you with that information. Did I make myself clear?

Mr. PECORA. No; the only thing I heard was "We will supply you with that information."

Mr. VAN SWERINGEN. We will supply you with that information.

Mr. PECORA. Now, for the purpose of saving time in this examination, not only yours but ours, may I make this suggestion, that between now and the hearing tomorrow morning you get up a statement which would show how much of moneys belonging to you and your associates went into the entire scheme of transactions or operations whereby all of these various railroad company shares were acquired by the so-called "Van Sweringen interests", and when I refer to those moneys I mean moneys that you had as distinguished from moneys which you borrowed or obtained through the sale of securities to the public. Can you do that, Mr. Van Sweringen.

Mr. VAN SWERINGEN. Not by tomorrow, I feel sure.

Senator BARKLEY (presiding). Mr. Van Sweringen, how long would it take you to furnish that information?

Mr. VAN SWERINGEN. That is quite a terrific period.

Senator BARKLEY. It may be a terrific period and yet may not be a long period.

Mr. VAN SWERINGEN. Fifteen years or 16 years, or possibly 16 or 17 years.

Mr. PECORA. You need not go back to the Nickel Plate acquisition, because we are not now going into all that. We got that on yesterday.

Mr. VAN SWERINGEN. It brings it in.

Mr. PECORA. Oh, now, it does not go back to 1916. It goes back to about 1922 or 1923.

Mr. VAN SWERINGEN (after conferring). I know that we cannot do it by tomorrow. We will compile it for you as quickly as we can do it.

Mr. PECORA. As a matter of fact, did any of your personal moneys go into this purchase?

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Mr. VAN SWERINGEN. Do you mean, were we born with a lot of money?

Mr. PECORA. Were you born with a lot of money?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. I did not ask you about any money that you were born with. I have asked about any moneys as individuals that you put into the acquisition of the stock of these various railroads that went into the so-called "Van Sweringen system" that you have been testifying about.

Mr. VAN SWERINGEN. Well, I agree to furnish the data as soon as we can.

Senator BARKLEY. I think in view of the effort that is to be made to furnish this information the committee might recess until 10 o'clock tomorrow. Mr. Van Sweringen, can you obtain for the committee any part of that information by tomorrow?

Mr. VAN SWERINGEN (after conferring). Well, we will do what we can in that respect.

Senator BARKLEY (presiding). The committee will stand in recess until 10 o'clock tomorrow morning. All witnesses will return at that time.

(Thereupon, at 4:03 p.m., Tuesday, June 6, 1933, the committee recessed until 10 o'clock the following morning.)

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STOCK EXCHANGE PRACTICES

WEDNESDAY, JUNE 7, 1933

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

The committee met pursuant to adjournment on yesterday at 11 a.m. (following an executive session) in the caucus room of the Senate Office Building, Senator Alben W. Barkley presiding.

Present: Senators Barkley, Adams, and Bulkley.

Present also: Ferdinand Pecora, counsel to the committee; Julius Silver, David Saperstein, and James B. McDonough, Jr., associate counsel to the committee; and Frank Meehan, chief statistician; John W. Davis, counsel for J. P. Morgan & Co.; Randall J. LeBoeuf, Jr., and Earle J. Machold, counsel for the United Corporation and for George H. Howard, president of the United Corporation; Frank H. Ginn, attorney representing O. P. and M. J. Van Sweringen, and John Patrick Murphy.

Senator BARKLEY (presiding). The committee will come to order. Mr. Pecora, are you ready to proceed with Mr. Van Sweringen?

Mr. PECORA. Yes, sir.

Senator BARKLEY. You may proceed.

TESTIMONY OF O. P. VAN SWERINGEN, PRESIDENT OF THE ALLEGHANY CORPORATION, CLEVELAND, OHIO—Resumed

Mr. PECORA. Mr. Van Sweringen, at the conclusion of the hearing on yesterday you were requested to kindly prepare a statement which would show how much moneys belonging to you and your associates went into the entire scheme of the transactions or operations whereby the various railroad companies were acquired by the so-called "Van Sweringen interests." Have you prepared such a statement?

Mr. VAN SWERINGEN. I can answer that question, I feel sure.

Senator BARKLEY. Mr. Van Sweringen, probably you are not in the habit of speaking in as large an auditorium as this, and you, unconsciously, let your voice drop down so that it cannot be heard even with the aid of the amplifiers. Will you keep your voice up so we can hear you?

Mr. VAN SWERINGEN. I will try to do that. I thank you for the suggestion.

Mr. PECORA. You may go ahead.

Mr. VAN SWERINGEN. Mr. Pecora, just as we adjourned on yesterday you asked the question as to how many dollars my brother and I and our associates had put into these railroad ventures, if you will, our own money to start with, not borrowed, not obtained by the sale of securities. I read, and we read, your question last evening, and

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I am pleased that it is in a form that I can answer frankly. That amount of dollars, to come straight to the point, was $1,000,000.

Mr. PECORA. $1,000,000?

Mr. VAN SWERINGEN. Yes, sir; with which we started, back in 1916, in those investments. Now, of course, it should be borne in mind that we bought something at the outset, in the sense of the Nickel Plate purchase, at what we thought at the time we bought it was a cheap price. On the other hand, I suspect the New York Central thought they sold it at a good price. It developed that we were turning it into a very different property than it was at the time when we became identified with it. It was of light construction, the motive power was bad, and all in all it could hardly then have been classed as a railroad as we know that railroad today. So that, under Mr. Bernet's guidance, we built it into a valuable property. Of course, that added to our dollar value of wealth insofar as our ownership related to it. And that gave us the background upon which to expand further. And, as I say, we bought then the Lake Erie & Western and the Clover Leaf, and we had the same result with those. They grew into money. And our experience has been that sort of thing throughout these years that we have been developing.

Now, plainly, we started with—and, by the way, by "we" I should say that I mean O. P. and M. J. Van Sweringen—we started without many dollars. We were poor, and I have never had any reluctance to admit that. I have never felt that it should be a source of embarrassment to us to admit it. And I have not been trying to conceal here what we had put into those properties at the outset. But, as I say, your question of last evening was the first that I could comply with and make the statement that I have made here today. I am glad you made it so I could do that.

Mr. PECORA. Are you now through?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Do you mean by that, Mr. Van Sweringen, among other things, that the total amount of cash, constituting the personal means of you and your brother and your immediate associates in these various railroad enterprises, that have been described by you, was one million dollars?

Mr. VAN SWERINGEN. At the start that was the amount of dollars that we put in, and others grew. You might say that that starting was a shoe string, and I think I would be inclined to agree with you that that is so. Nevertheless, we made of that shoe string what we have today.

Mr. PECORA. What I want to make sure of is, whether or not this one million dollars represents the aggregate of the personal capital that you and your associates put in this whole scheme of formation of the railroad system that is known as the Van Sweringen interests.

Mr. VAN SWERINGEN. At the outset that was the amount of dollars. Of course, as I have said, they grew into more dollars, or more value, as time went on.

Mr. PECORA. You persist in saying at the outset that that was the sum you put in?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Does it represent the aggregate of the capital investment out of your own means, that you and your associates have made in all those enterprises? That is what I want to find out.

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Mr. VAN SWERINGEN. Yes; I think that would be a fair answer, as made.

Mr. PECORA. All right, sir. You say you put this $1,000,000 of your own capital into these railroad enterprises at the very outset. Isn't it a fact that the money that was necessary and that was used in the initial operation, which was the acquisition of the Nickel Plate Railroad, was money that you and your associates had obtained as a loan from the Guardian Savings & Trust Co. of Cleveland?

Mr. VAN SWERINGEN. So far as my brother and I are concerned we borrowed that money. But we had other assets at that time as a result of our working and our saving all the years previous in other lines of endeavor. That enabled us to make that loan with which we were able to participate in this purchase.

Mr. PECORA. But the only cash that was advanced or paid in the purchase of the Nickel Plate Railroad by you and your associates was the $2,000,000 that were paid to the New York Central Railroad Co. for its stockholdings in the Nickel Plate road, wasn't it?

Mr. VAN SWERINGEN. That is right.

Mr. PECORA. And that money came out of the $2,100,000 that you and your associates borrowed from the Guardian Savings & Trust Co. of Cleveland, did it not?

Mr. VAN SWERINGEN. Yes. I am assuming that your question as to how many of our own dollars, other than railroad dollars—well, following the definition of your question, it takes us back to that part of the $2,000,000 that my brother and I and our associates, immediate associates provided. And that is why that sum is $1,000,000 as compared with the $2,000,000 of which you are talking.

Mr. PECORA. What I am trying to understand is: At what stage of those operations you and your associates actually put up the $1,000,000 that you say was invested out of your personal means.

Mr. VAN SWERINGEN. At the time that the $2,000,000 subscription was made to the Nickel Plate Securities Corporation in repayment or in refund of the $2,000,000 borrowed from the Guardian Savings & Trust Co. to which you refer, or along about that time.

Mr. PECORA. Now, the Nickel Plate Securities Corporation was organized by you and your associates to take over the stock of the Nickel Plate Railroad which you had arranged to buy and did buy from the New York Central Railroad Co., wasn't it?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And that Securities Corporation issued preferred stock to the par amount of $2,075,000, as I recall, and that preferred stock you and your associates undertook to get subscriptions for, didn't you?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now, did the $1,000,000 to which you have referred as representing the personal investment of you and your associates, go to acquire any of that preferred stock?

Mr. VAN SWERINGEN. That is exactly it.

Mr. PECORA. That is it?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And did you retain that preferred stock or did you sell it to others?

Mr. VAN SWERINGEN. I think we retained that.

Mr. PECORA. All of it?

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Mr. VAN SWERINGEN. Yes. Now I am speaking by "we" as meaning O. P. and M. J. Van Sweringen.

Mr. PECORA. Who are you and your brother.

Mr. VAN SWERINGEN. Yes.

Senator BARKLEY. May I ask a question right there?

Mr. VAN SWERINGEN. Sure.

Senator BARKLEY. I assume you repaid this $1,000,000 that you put in and which you had borrowed from the Guardian Savings & Trust Co., based upon your general wealth at that time, which you say you had accumulated from other sources. Is that correct?

Mr. VAN SWERINGEN. We repaid the $2,000,000 that were borrowed in the interim to fulfill the commitment of the——

Senator BARKLEY (interposing). Now, did you repay that out of your past accumulations, or by the sale of any of your property, or did you repay it out of profits that you made out of this stock transaction?

Mr. VAN SWERINGEN. I think I have your point.

Senator BARKLEY. All right. Please answer it.

Mr. VAN SWERINGEN. There was that interim loan that I on yesterday described, of $2,000,000 that was made at the Guardian Savings & Trust Co. to complete the transaction. Then that $2,000,000 was repaid by the sale of the preferred and common stock of this Nickel Plate Securities Corporation. And out of that preferred and common stock we took $500,000 as O. P. and M. J. Van Sweringen, and our immediate associates took $500,000 also. So that if I have got your point correctly, we paid the Guardian Savings & Trust Co. loan by the sale of preferred and common stock, but a part of that preferred and common stock was taken by ourselves in consummation of the sale, if you will.

Now, your question goes on I think, probably, or might do so, and I will anticipate it, if you don't mind.

Senator BARKLEY. All right.

Mr. VAN SWERINGEN. How did we get the $500,000? Is that it?

Senator BARKLEY. Well, what I am trying to find out is whether you impaired any of your property accumulations up to that time, by sale or otherwise, in order to get the money.

Mr. VAN SWERINGEN. Well, we used it collaterally, because, as I have just testified here this morning, my brother and I borrowed that half a million dollars, using this collateral that we had accumulated.

Senator BARKLEY. Now, did you sell any of that collateral later in order to obtain money with which to return that loan, or did you repay that loan out of profits that you made by reason of these stock transactions in the railroad company?

Mr. VAN SWERINGEN. Answering from memory, I think it was out of the sale of properties pledged in part, and perhaps some out of earnings, but in general in that way.

Senator BARKLEY. All right.

Mr. PECORA. Now, Mr. Van Sweringen, if you will be good enough to refer to the prepared statement that you read into the record at the beginning of your testimony day before yesterday, page 4 thereof.

Mr. VAN SWERINGEN. Page 4?

Mr. PECORA. Yes, sir.

Mr. VAN SWERINGEN. I have it.

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Mr. PECORA. Now, I assume that this prepared statement purports to give the chronological history of your operations with regard to the acquisition of those railroad lines, does it not?

Mr. VAN SWERINGEN. In general terms; yes, sir.

Mr. PECORA. Yes. Well, following the reference to your acquisition of the stock of the Pere Marquette Railroad, which it appears took place in 1924–25, you say in your prepared statement as follows:

> With that done we had very large and in some cases majority interests in the Nickel Plate, Chesapeake & Ohio, and its subsidiary the Hocking Valley, Erie, and Pere Marquette, and it was then that we went to the Interstate Commerce Commission in what is generally known as the first Nickel Plate unification case. This was in the forepart of 1925. In March of 1926 the petition was denied, though not to the complete destruction of the grouping.

With reference to that statement, Mr. Van Sweringen, will you please tell the committee generally what the substance was of the petition that you presented to the Interstate Commerce Commission at that time?

Mr. VAN SWERINGEN. That was the petition or application in the unification of the C. & O., Pere Marquette, Nickel Plate, Erie, and Hocking Valley, and a contemplated connection of 60 miles that was later built in Ohio. The purpose was to put those into one system.

Mr. PECORA. Now, you say that petition was denied.

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. But without destroying completely the grouping that you had included and requested permission to make in your petition.

Mr. VAN SWERINGEN. Yes, sir; and by that I mean——

Mr. PECORA (interposing). Now, in presenting your——

Mr. VAN SWERINGEN (continuing). I think I ought to explain that slightly: I mean without destroying ultimately an opportunity to do so as we interpreted the decision.

Mr. PECORA. Yes. Now, in presenting your proofs or arguments or data in support of your petition to the Interstate Commerce Commission at that time, there was presented to the Commission, wasn't there, data and information concerning the manner and methods by which you and your associates had acquired control, meaning by that management control, of the various railroad lines that were referred to in your petition?

Mr. VAN SWERINGEN (after conferring). That is the way it lays in my mind. And if my memory serves me correctly, I made a statement to them on that occasion. That is in their records.

Mr. PECORA. Now, do you recall that in its opinion or decision or report the Interstate Commerce Commission in denying your petition, among other things, said as follows:

> We cannot escape the conclusion that the plan was arranged with the intention of keeping the control in the hands of its proponents, even though their interest is a minority one in fact. Such an arrangement is not in accord with sound railroad practice. The Nickel Plate is the only railroad of importance in the country in which the preferred stockholders do not have the right to vote, and now it is proposed to extend this feature to over $155,000,000 of new stock of a company comparable with the New York Central, Pennsylvania, and Baltimore & Ohio. The common stock of the new company will not greatly exceed $174,000,000 out of a total capitalization of over $950,000,000. We believe it to be selfevident that the public interest requires that the entire body of stockholders of a railroad which is bonded in excess of one-half of its investment, and not a powerful few, shall be responsible for its management. It can be done only by giving them the power to control the management. The lethargy of ordinary stock-

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holders in exercising their power to control the management of these large corporations has often been commented upon, but, nevertheless, the power should be in their hands to use as they see fit. It is inimical to the public interest to strip stockholders of their voting power, thus rendering it so much easier to control a great transportation system by a comparatively limited amount of investment.

Do you recall that?

Mr. VAN SWERINGEN. All too well I do. And I have no doubt in their wisdom that was their thought.

Mr. PECORA. You did not agree with their judgment, did you, or with their thought?

Mr. VAN SWERINGEN. Not wholly, no, because frankly a railroad corporation has two obligations: One to its stockholders and investors, and the other to the public.

Mr. PECORA. Which in your opinion should come first?

Mr. VAN SWERINGEN. May I go on with my statement?

Mr. PECORA. I did not mean to interrupt you, but if you will answer that and then continue your statement I will be glad.

Mr. VAN SWERINGEN. My feeling was this about the responsibility to the public: That if a preferred shareholder, by the predominance of his vote, could stay an addition or betterment, he being an investor who had a fixed and limited return and a preferential position in the security strata of the financial structure, that he ought to be content so long as he got his dividend. He should have rights relating to voting when he failed to do that. And then we would not be confronted with what might well happen. Let us assume that the dividend of a given block of preferred stock of a railroad company, as that company had been operating over a course of years, was earned three or four times, there is no incentive on the part of that preferred shareholder to take any risk by making additions and betterments to the property. His thought can well be: Why should I do that? My earnings are assured me. And so we have the conflict there of the private investor on the one hand, who is in a preferential position, and the public on the other hand. And that is what prompted that thing. I did not get a chance to treat with it because the decision came down, as you see it, and it was a closed book. Dr. Ripley talked to me about that.

Mr. PECORA. That is Dr. William Z. Ripley?

Mr. VAN SWERINGEN. Yes. He and I had two or three discussions on this very subject, and he saw the latter, because he is the man that wrote the article that is so widely distributed on this subject; he saw what I saw when we got a chance to discuss it. It so happened that we never got the opportunity to get back there and give them our views. That was not a question of control in the sense of being able to hold our jobs in the administration of these properties. That has never troubled me, so long as our performance was good, and we have aimed to keep it that way. We figured that the investor wanted to be let alone and would be willing to let us alone. And that has proven true through the years that we have been operating.

Mr. PECORA. Now, Mr. Van Sweringen, you have stated that the management of the railroad has two interests to serve. One, that of the investor or stockholder, and, two, that of the public. Which of those two interests do you think is the prime interest that the management of the road should seek to serve?

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Mr. VAN SWERINGEN. The public comes first by virtue of its charter. Those are commitments in the charter, in general trend of covenant.

Mr. PECORA. Well, after the rendition of this report or decision in March 1926 by the Interstate Commerce Commission did you and your associates endeavor in any way to conform your subsequent operations to the criticisms or views expressed by the Commission in this report or decision?

Mr. VAN SWERINGEN. I think I substantially evidence that in my general statement to which you have alluded, wherein we changed our undertaking to that of the C. & O. instead of the Nickel Plate for this unification plan. And it was because of a suggestion that they had in there. And that leads me to another thought.

The way that unification was to be brought about was by the exchange of the shares of the separate carriers into the shares of the consolidated carrier. And in reality it was as broad as it was long as to which one you took. But there was substance for the conviction we thought in the minds of many that the C. & O. was the stronger carrier as time went on. But the Commission's intimation should be treated as a virtual worthy suggestion.

Mr. PECORA. You are referring now to that portion of the Commission's report or decision which declared that the Nickel Plate Lines should not be the backbone of this proposed grouping, but rather the Chesapeake & Ohio should be?

Mr. VAN SWERINGEN. That is right.

Mr. PECORA. I was not referring to that when I asked you my previous question, Mr. Van Sweringen. I was referring to those criticisms or observations embodied in the report of the Commission which I read to you in the previous question, and which concerned the question on a broad scale of the wisdom of vesting control in the hands of a few as against the general body of stockholders.

Mr. VAN SWERINGEN. Well, I would say that is a general question. It depends upon the extent of ownership of that control in those few. I have always believed in parenthood in properties.

Mr. PECORA. In parenthood?

Mr. VAN SWERINGEN. Yes; if I can use that term.

Mr. PECORA. Yes; it is very descriptive. And your views were opposed to those expressed by the Interstate Commerce Commission as those views have been read by me from its report or decision?

Mr. VAN SWERINGEN. No; I would not say opposed. I think what I have suggested maybe supplemented somewhat their thoughts, and were divergent from the general principle that they have outlined.

Mr. PECORA. Now let me read this portion of the opinion or report of the Interstate Commerce Commission handed down in March 1926 in denial of your application or petition:

> Hovering in the background of this entire question of control in this case is the trust agreement dated January 11, 1924, described by counsel as being in the nature of a last will and testament. Under this agreement the Van Sweringens, as owners of 130,000 shares of common voting stock of the Vaness Co., and C. L. Bradley and J. R. Nutt, both directors of the Nickel Plate, as holders of 16,250 shares each of the common stock of the Vaness Co., deposited such stock with the trustee, receiving in lieu thereof trust certificates representing "certificates of interest in the common stock" of the Vaness Co. proportionate to the number of shares deposited. The stock so deposited constitutes the entire voting stock of the Vaness Co.

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The certificates issued to Bradley and Nutt and the rights represented thereby are subject to purchase by the Van Sweringens under the terms of an option expressed in the agreement. The certificates are assignable and transferable upon the books of the trustee "subject to the terms and conditions of the agreement."

The agreement constitutes and appoints the four gentlemen named manager, of the trust, which is to continue for 21 years after the death of the last survivor, with the right on the part of the survivors to appoint successors to a deceased manager.

Without giving further details of this trust agreement, it is safe to say that under it the Van Sweringens may divest themselves of all beneficial interest in the Vaness Co. stock and still retain voting control of the new company without direct or indirect ownership of a share of stock therein.

Do you recall that statement, Mr. Van Sweringen?

Mr. VAN SWERINGEN. I do.

Mr. PECORA. And is that statement based on the facts?

Mr. VAN SWERINGEN. It is, as to the trust agreement and terms. That was done just as you would prepare your will or prepare for the handling of your estate in the instance of death so as not to have general disturbance. The point they made there, however, about that, impressed us, and promptly thereafter we canceled that trust because that angle of it had not developed in our minds.

Mr. PECORA. Well, Mr. Van Sweringen, do you consider that the management control of a railroad system where it is based upon minority interest in the stock of the railroads in the system, or where it might be based upon no ownership whatsoever, directly or indirectly, of a share of stock in those lines, is a property right that the individual should bequeath to those who come after him by a document in the nature of a will or comparable to a will? Is that the philosophy you mean to subscribe to?

Mr. VAN SWERINGEN. I think I covered that in the statement that I just made. With one exception. First, I think you will find that the number of shares that the Vaness Co. would have had would not have been a minority interest, but would have constituted about one half of the total shares. But as to the policy, in the sense that they pointed it out, we agreed with them, and that is why we canceled the trust agreement. And I say in perfect frankness, that angle of it had not occurred to us that way.

Mr. PECORA. Do you mean to say that in the preparation of the trust agreement in question with these remarkable provisions that were adverted to by the Interstate Commerce Commission, that no thought was given by the gentlemen concerned in that trust agreement to the effects and consequences thereof?

Mr. VAN SWERINGEN. None of us are infallible. That was an angle of it that grew out of it, and, as I say, we felt should be corrected.

Mr. PECORA. Well, you did not feel it should be corrected until after the Interstate Commerce Commission expressed this judgment about it, did you?

Mr. VAN SWERINGEN. That is what flashed it to us—from that.

Mr. PECORA. Well now, going back for a moment to the prior portions of this Interstate Commerce Commission report that I have already read to you, I want to repeat this sentence from it:

The common stock of the new company will not greatly exceed $174,000,000 out of a total capitalization of over $950,000,000.

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What was the new company referred to there?

Mr. VAN SWERINGEN. That was the so-called "new" Nickel Plate Railroad Co.

Mr. PECORA. Was that a holding company?

Mr. VAN SWERINGEN. No, sir.

Mr. PECORA. What was it? An operating company?

Mr. VAN SWERINGEN. It was a railroad company, and it was formed because the law in relation to consolidation provided that the properties to be unified or consolidated had to be physically connecting properties. The C. & O. and the Hocking were physically connected except for 60 miles, or thereabouts, between Waverly, Ohio, and Columbus, Ohio. All the other properties physically connected, and connected also with those two, excepting for that so-called "missing link." Now——

Mr. PECORA. What was the name of that company, please?

Mr. VAN SWERINGEN. The Nickel Plate Railroad Co., if my memory serves me right. It is set out in that application.

Mr. PECORA. Railroad company?

Mr. VAN SWERINGEN. Railroad company; yes, sir.

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. Now, what we did then was to organize that new Nickel Plate Railroad Co. to build that 60 miles of railroad in the place that I have indicated, and its building would have constituted the physical connection to bring us around to the consolidation. That had to be done that way as our lawyers saw it at that time. The commission later gave us the right separately to build that railroad, and we built it as I have testified. So that we now are in a position to be able to go by way of the C. & O. for the consolidation unit instead of the Nickel Plate, as it is designated there, which was not the Nickel Plate that you——

Mr. PECORA. Not the original Nickel Plate.

Mr. VAN SWERINGEN. Yes, sir. Our misfortune was we did not call it the Chesapeake & Ohio right there. That would have resulted in what we were after.

Mr. PECORA. Well now, following the handing down of this report did you and your associates cause to be organized a holding company called the Chesapeake Corporation?

Mr. VAN SWERINGEN. Yes, sir. And I have described that in my statement in general terms.

Mr. PECORA. Yes, I know you have. That is why I am coming to that now. You referred to it in your prepared statement in the following language, I believe [reading]:

> With this accomplished—

and by that I understand is referred to the construction of this 60-mile connecting link that you have just spoken about?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA (continuing reading):

> it was necessary, as we saw it, that if the Chesapeake & Ohio was to become the nucleus of a great system into which the Nickel Plate should go, its position to that road should be changed so that the Nickel Plate would not be an owner in part of its prospective parent. This meant that the Chesapeake & Ohio shares, which the Nickel Plate owned, should be taken out of it. You now have the reason for the creation of Chesapeake Corporation.

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Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now, when was the Chesapeake Corporation organized?

Mr. VAN SWERINGEN (after conferring with associates). May 1927.

Mr. PECORA. And it was organized to function as a holding company, was it not?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. And it has functioned exclusively as a holding company, has it not?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Now, what was the original capital structure of the Chesapeake Corporation?

Mr. VAN SWERINGEN. The authorized amount of capital in the original listing was 900,000 shares.

Mr. PECORA. Of common stock?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Of no par value?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Did it have voting rights?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now, was all of that common stock issued?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. To whom?

Mr. VAN SWERINGEN. In the way that I have indicated it in general in the so-called "prepared statement."

Mr. PECORA. Well, to whom was it issued?

Mr. VAN SWERINGEN. Oh, a great many people. Stockholders of the Nickel Plate on the one hand, and of the Vaness Co. on the other.

Mr. PECORA. That is, issued to the individual stockholders of those two companies?

Mr. VAN SWERINGEN. Yes, sir. You see it was disbursed that way.

Mr. PECORA. How was that accomplished, Mr. Van Sweringen?

Mr. VAN SWERINGEN. Do you mind defining that a little bit? I do not know that I get the——

Mr. PECORA. Did the Chesapeake Corporation issue to the individual stockholders of the Nickel Plate Road and the Vaness Co. capital stock consisting of 900,000 shares of common directly?

Mr. VAN SWERINGEN. It was issued in amounts to be distributed to those stockholders and did go that way. Now just what the mechanics of that operation were I do not know whether I can give you offhand.

Mr. PECORA. Well now, it is the mechanics which I would like to have you give us.

Mr. VAN SWERINGEN (after conferring with his associates). Mr. Pecora, the letter to the stockholders, to the common-stock holders of the Nickel Plate—and here I am talking about the existing Nickel Plate—dated May 10, 1927, I will read:

For the purpose of separating the common carrier activities of your company from its holdings of stock in the Chesapeake & Ohio Railway Co. and Pere Marquette Railway Co., your management, during the year 1926, turned over all of such stock in exchange for all of the stock of a subsidiary, which now holds the following assets:

Three hundred and forty-five thousand shares common stock of the Chesapeake & Ohio Railway Co.

One thousand two hundred shares prior preference stock of Pere Marquette Railway Co.

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Eight thousand eight hundred shares preferred stock of Pere Marquette Railway Co.

One hundred and seventy-four thousand nine hundred shares common stock of Pere Marquette Railway Co. (under commitment for sale to the Chesapeake & Ohio Railway Co., subject to approval of the Interstate Commerce Commission at $110 per share as of January 1, 1927).

Against all of these assets there is an indebtedness of approximately $34,000,000.

At a meeting of your board of directors held May 9, 1927, subject, as to certain details, to the approval of the executive committee, which met May 10, 1927, it was voted to vest in a new company, the Chesapeake Corporation, the 345,000 shares of common stock of the Chesapeake & Ohio Railway Co., subject to an indebtedness equal to $67,50 per share thereon. The Chesapeake Corporation will issue 1½ shares of its common stock, without par value, for each share of the common stock of the Cheaspeake & Ohio Railway Co. acquired by it.

It was also voted to distribute shares of the Chesapeake Corporation directly to the common stockholders of your company at the rate of 1.7 shares of the Chesapeake Corporation for each share of the common stock of your company held by common-stock holders of your company as of record at the close of business May 31, 1927.

The Chesapeake Corporation is also to acquire 255,000 additional shares of the common stock of the Chesapeake & Ohio Railway Co. from the Vaness Co. upon the same terms as those acquired from your subsidiary.

The Chesapeake Corporation will provide for the discharge of the indebtedness of $67.50 per share on the 600,000 shares of The Chesapeake & Ohio Railway Co. thus held by it and also for working capital by the issue of $48,000,000 of 20-year 5-percent convertible collateral trust bonds sold to J. P. Morgan & Co. and the Guaranty Co. of New York.

The new shares to be distributed to you together with the shares of your company which you will retain will represent the same value of assets and the same earnings as the present shares of your company which you now hold. Application will be made promptly to list the shares of the Chesapeake Corporation on the New York Stock Exchange.

Yours very truly,

W. L. Ross, *President.*

Mr. PECORA. Did you read that from a document prepared by somebody?

Mr. VAN SWERINGEN. That is the letter——

Mr. PECORA. That is a copy of the letter?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. A true copy?

Mr. VAN SWERINGEN. Yes. It is in print.

Mr. PECORA. I ask that it be received in evidence and spread on the record.

(The letter from W. L. Ross, president of the Nickel Plate Road addressed to common-stock holders, dated May 10, 1927, was marked "Committee exhibit 45 of June 7, 1933", and is here printed in the record in full, as follows:

(Committee exhibit 45, June 7, 1933)

THE NEW YORK, CHICAGO & ST. LOUIS RAILROAD CO.,
Cleveland, Ohio, May 10, 1927.

To Common-Stock Holders of the New York, Chicago & St. Louis Railroad Co.:

For the purpose of separating the common carrier activities of your company from its holdings of stock in the Chesapeake & Ohio Railway Co. and Pere Marquette Railway Co., your management, during the year 1926, turned over all of such stock in exchange for all of the stock of a subsidiary, which now holds the following assets:

Three hundred forty-five thousand shares common stock of the Chesapeake & Ohio Railway Co.

One thousand two hundred shares prior preference stock of Pere Marquette Railway Co.

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Eight thousand eight hundred shares preferred stock of Pere Marquette Railway Co.

One hundred seventy-four thousand nine hundred shares common stock of Pere Marquette Railway Co. (under commitment for sale to the Chesapeake & Ohio Railway Co., subject to approval of the Interstate Commerce Commission at $110 per share as of January 1, 1927).

Against all of these assets there is an indebtedness of approximately $34,000,000.

At a meeting of your board of directors held May 9, 1927, subject, as to certain details, to the approval of the executive committee, which met May 10, 1927, it was voted to vest in a new company, The Chesapeake Corporatiou, the 345,000 shares of common stock of the Chesapeake & Ohio Railway Co., subject to an indebtedness equal to $67.50 per share thereon. The Chesapeake Corporation will issue 1½ shares of its common stock, without par value, for each share of the common stock of the Chesapeake & Ohio Railway Co. acquired by it.

It was also voted to distribute shares of the Chesapeake Corporation directly to the common stockholders of your company at the rate of 1.7 shares of the Chesapeake Corporation for each share of the common stock of your company held by common stockholders of your company as of record at the close of business May 31, 1927.

The Chesapeake Corporation is also to acquire 255,000 additional shares of the common stock of the Chesapeake & Ohio Railway Co. from the Vaness Co. upon the same terms as those acquired from your subsidiary.

The Chesapeake Corporation will provide for the discharge of the indebtedness of $67.50 per share on the 600,000 shares of the Chesapeake & Ohio Railway Co. thus held by it and also for working capital by the issue of $48,000,000 of 20-year 5-percent convertible collateral trust bonds sold to J. P. Morgan & Co. and the Guaranty Co. of New York.

The new shares to be distributed to you together with the shares of your company which you will retain will represent the same value of assets and the same earnings as the present shares of your company which you now hold. Application will be made promptly to list the shares of the Chesapeake Corporation on the New York Stock Exchange.

Yours very truly,

W. L. Ross, *President.*

Mr. PECORA. Now, this letter is addressed to the common-stock holders of the New York, Chicago & St. Louis Railroad Co. That is the actual corporate name of the railroad company which is commonly known as the Nickel Plate Road?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. So whenever in your testimony you have referred to the Nickel Plate Road you are referring to a corporation the true name of which was the New York, Chicago & St. Louis Railroad Co.?

Mr. VAN SWERINGEN. Yes, sir. With the exception of that bit of testimony this morning that related to the 60 miles of railroad.

Mr. PECORA. Yes. Now, at this time—that is, the date of this letter, which is May 10, 1927—did the so-called "Nickel Plate Railroad Co." own 345,000 shares of the common stock of the Chesapeake & Ohio Railway Co.?

Mr. VAN SWERINGEN. That is the figure set out in that printed letter?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And did it also own the common and preferred stock referred to in this letter of the Pere Marquette Railway Co.?

Mr. VAN SWERINGEN. That also was in its treasury.

Mr. PECORA. Now, it was proposed by this letter, in substance, for the Nickel Plate Railroad Co., as the owners of this stock, to turn over to the Chesapeake Corporation—this holding company that you had just then caused to be organized—all these holdings referred to in this letter in the Chesapeake & Ohio Railway Co. and the Pere Marquette Railroad, was it not?

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Mr. VAN SWERINGEN. No; that is not quite right. To turn over to the Chesapeake Corporation the Chesapeake & Ohio shares.

Mr. PECORA. Oh, just the Chesapeake & Ohio shares?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Oh, yes. Now, those Chesapeake & Ohio shares then owned by the Nickel Plate Road were subject to an indebtedness of some kind?

Mr. VAN SWERINGEN. Yes, sir. And the amount of it is set out in the letter there.

Mr. PECORA. And that indebtedness is $67.50 per share?

Mr. VAN SWERINGEN. That is the amount; yes, sir. Those are the figures, I believe.

Mr. PECORA. How was that indebtedness created, and in whose favor?

Mr. VAN SWERINGEN (after conferring with his associates). We will give you a tabulation of that if you wish.

Mr. PECORA. All right. When do you think I might have it?

Mr. VAN SWERINGEN (after conferring with an associate). I think maybe tonight.

Senator KEAN. Mr. Pecora, just a moment. Roughly that was the cost of the shares of the Chesapeake & Ohio, was it not, and the Pere Marquette?

Mr. VAN SWERINGEN. I beg your pardon?

Senator KEAN. Roughly, it was the cost to the Nickel Plate, or to the New York, Chicago & St. Louis Railroad Co. of the Chesapeake & Ohio shares and the Pere Marquette shares?

Mr. VAN SWERINGEN. The Nickel Plate had some Pere Marquette shares as well as Chesapeake & Ohio shares, but in this operation it only separated the C. & O. shares.

Senator KEAN. No; but the debt of this corporation was the cost to the company of those shares?

Mr. VAN SWERINGEN. Yes, sir. The cost—pardon me—I misunderstood. I cannot be sure about that, but the statement will disclose that cost.

Mr. PECORA. The cost, as I understood you to testify heretofore, to the Nickel Plate Road of the common shares of the Chesapeake & Ohio which it acquired was $80 a share, was it not? Not $67.50?

Mr. VAN SWERINGEN. Bear in mind that you are talking there about only 70,000 shares.

Mr. PECORA. Seventy thousand shares?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Well, were those 70,000 embodied in these 345,000 shares?

Mr. VAN SWERINGEN. They are a part of that 345,000 shares.

Mr. PECORA. Well, is it correct then to say that this indebtedness at the rate of $67.50 per share on the common stock of the Chesapeake & Ohio represented the cost to the Nickel Plate Road of those shares?

Mr. VAN SWERINGEN. That is the statement that I just told Senator Kean I wanted to verify.

Mr. PECORA. That you wanted to check up on?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. And it is my understanding that we are to furnish you a tabulation of that.

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Mr. PECORA. Yes. Well, can you tell us now in whose favor that indebtedness was created?

Mr. VAN SWERINGEN. I suspect that was two or three ways. But the statement will disclose that.

Mr. PECORA. The statement will disclose that too. All right, sir. Now, did the Nickel Plate Railroad or its common-stock holders actually directly transfer to the Chesapeake Corporation these 345,000 shares of the common stock of the Chesapeake & Ohio?

Mr. VAN SWERINGEN. That transaction was consummated.

Mr. PECORA. Well, was it a direct transaction between the Nickel Plate Road or its individual stockholders with the Chesapeake Corporation? Or was there some intermediate process of exchange?

Mr. VAN SWERINGEN. There was a subsidiary wholly owned by it that held some of those shares belonging to the Nickel Plate.

Mr. PECORA. That held some of these 345,000 shares?

Mr. VAN SWERINGEN. It seems to me they held them all. I am not sure. (After conferring with his associates.) They held them all.

Mr. PECORA. Some subsidiary corporation held the 345,000 shares of the Chesapeake & Ohio Railway Co?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. What was the name of that intermediate corporation, or subsidiary, rather?

Mr. VAN SWERINGEN (after conferring with his associates). The name of it was the Special Investment Co., and if you will refer to the last line of the first paragraph of the letter to the stockholders, the printed copy of which you have there——

Mr. PECORA. Yes.

Mr. VAN SWERINGEN (continuing). You will find that it sets forth that fact. Except that it does not happen to mention the name of the subsidiary, the wholly owned subsidiary.

Mr. PECORA. I see. As a matter of fact, this subsidiary which was called the Special Investment Corporation was organized solely for the purpose of carrying out the terms of the transaction referred to in this letter marked "Committee's Exhibit 45", was it not?

Mr. VAN SWERINGEN. No. I do not think I can say yes to that. It was a preliminary to some of the ultimate happenings that are set forth in this letter in that it was a creation of the Nickel Plate Railroad and the shares referred to were owned by it.

Mr. PECORA. Now when was this Special Investment Corporation organized?

Mr. VAN SWERINGEN. Well, I will see if I have that here. (After conferring with associates.) The first meeting of the directors was April 12, 1926.

Mr. PECORA. The first meeting of which?

Mr. VAN SWERINGEN. Of the directors of the Special Investment Corporation.

Mr. PECORA. Have you got the minutes of the meeting there?

Mr. VAN SWERINGEN (after consulting associates). Mr. Murphy tells me, yes.

Mr. PECORA. Who caused the Special Investment Corporation to be organized, Mr. Van Sweringen?

Mr. VAN SWERINGEN. The officers of the Nickel Plate Railroad.

Mr. PECORA. What was its initial capital structure?

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Mr. VAN SWERINGEN. Authorized 500,000 shares without par value.

Mr. PECORA. And were those 500,000 shares exchanged for the 345,000 shares of the common stock of the Chesapeake & Ohio?

Mr. VAN SWERINGEN. Oh, no.

Mr. PECORA. What consideration did it get for its capital stock?

Mr. VAN SWERINGEN (after consulting associates). Mr. Murphy will testify a little bit.

Mr. MURPHY. May I answer that question, Mr. Pecora?

Mr. PECORA. You have not been sworn yet, have you?

Mr. MURPHY. No; I have not.

Mr. PECORA. Very well.

TESTIMONY OF JOHN P. MURPHY, CLEVELAND, OHIO

Senator BARKLEY (acting chairman). You solemnly swear that the testimony you are about to give in this inquiry will be the truth, the whole truth, and nothing but the truth. So help you God?

Mr. MURPHY. I do.

Mr. PECORA. I want to ask you a few preliminary questions. What is your full name, and your address?

Mr. MURPHY. John P. Murphy; 3200 Terminal Tower, Cleveland, Ohio.

Mr. PECORA. Are you a member of any profession?

Mr. MURPHY. I am a lawyer by profession.

Mr. PECORA. Have you any other business or occupation?

Mr. MURPHY. I have no other business or occupation.

Mr. PECORA. Are you connected in any way with any of the corporations composing what have been referred to as the Van Sweringen railroad interests?

Mr. MURPHY. I am secretary of several of them, and director of others.

Mr. PECORA. Have you been in attendance at these hearings during the entire examination of evidence presented by Mr. Van Sweringen?

Mr. MURPHY. I have.

Mr. PECORA. And you have heard all of the testimony given by him in such examination?

Mr. MURPHY. I have, Mr. Pecora.

Mr. PECORA. You heard the last question that I addressed to Mr. Van Sweringen concerning the consideration which was received by the Special Investment Corporation for the issuance of capital stock?

Mr. MURPHY. I did.

Mr. PECORA. And you expressed a desire to answer that question?

Mr. MURPHY. I did.

Mr. PECORA. Will you please answer it, Mr. Murphy?

Mr. MURPHY. I have in front of me the minute book of the Special Investment Corporation, in which is recorded——

Senator ADAMS. Was that one of the companies of which you were secretary?

Mr. MURPHY. No, sir. This is by courtesy, in the desire of getting this information for the committee. The minute book is marked "Minutes of First Meeting of Directors of Special Investment Corporation, held April 12, 1926", from which I read [reading]:

The chairman then stated that they had an offer to purchase from the New York Chicago & St. Louis Railroad Co. 155,000 shares of common stock of the

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Chesapeake & Ohio Railway Co. and 120,000 shares of common stock of the Pere Marquette Railroad Co. in return for purchase price payable of 304,065 shares of common stock of this company. After discussion it was, upon motion made, seconded and unanimously carried: *Resolved*, That this company purchase from the New York, Chicago & St. Louis Railroad Co. 155,000 shares of common stock of the Chesapeake & Ohio Railroad Co. and 120,000 shares of common stock of the Pere Marquette Railway Co; that in payment therefor this company issue to the New York, Chicago & St. Louis Railroad Co. 304,065 shares of the common stock, without nominal or par value, of this company.

Does that cover your question?

Mr. PECORA. Yes; it does.

Now, I will ask you if you can tell us, Mr. Murphy, did the Special Investment Corporation acquire an additional number of shares of the common stock of the Chesapeake & Ohio so that by May 10, 1927, its total holdings of that stock amounted to 345,000 shares?

Mr. MURPHY. I am not an officer of the Special Investment Co., and have no intimate knowledge of it, but I have read the letter that was presented here, and I would infer from that that it did.

Mr. PECORA. I was hoping you might be able to give us some testimony on that.

Mr. MURPHY. I am sorry.

Mr. PECORA. Then I will have to resume with Mr. Van Sweringen.

(Witness excused.)

TESTIMONY OF O. P. VAN SWERINGEN—Resumed

Mr. PECORA. Mr. Van Sweringen, subsequent to this transaction in April 1926, to which Mr. Murphy has just referred, did the Special Investment Corporation acquire an additional number of shares of the common stock of the Chesapeake & Ohio so that its total holdings on or about May 10, 1927, amounted to 345,000 shares?

Mr. VAN SWERINGEN. That is my understanding of the way it was done.

Mr. PECORA. Did the Special Investment Corporation acquire those additional shares by issuing its own capital stock for them to the Nickel Plate Road?

Mr. VAN SWERINGEN. I am not sure those latter shares were handled that way. I think, by debt, as to part of them.

Mr. PECORA. By debt?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Just exactly what do you mean by that?

Mr. VAN SWERINGEN. By loan, if you want to put it the other way. In other words——

Mr. PECORA. Loan made to the Special Investment Co. to enable it to buy these shares in the market?

Mr. VAN SWERINGEN. Yes; that is the way it lies in my mind.

Mr. PECORA. So that all of these 345,000 shares which were owned by the Special Investment Corporation, of the Chesapeaka & Ohio common stock, had been acquired either in exchange for its own capital stock or for cash consideration in connection with which the Special Investment Corporation borrowed the moneys to make the cash payment?

Mr. VAN SWERINGEN. That is the way it lies in my mind.

Mr. PECORA. All right. Now, on May 10, 1927, which is the date of this offer by the Chesapeake Corporation to the common stock-

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holders of the Nickel Plate Road, who were the stockholders of the Special Investment Corporation?

Mr. VAN SWERINGEN. I think I should first correct your statement, if I may. That letter is from the Nickel Plate.

Mr. PECORA. This letter is from the Nickel Plate to its own stockholders?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. It refers to an offer of the Chesapeake Corporation, does it not?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. You say in this letter, or said in this letter, which is exhibit no. 45, as follows:

> For the purpose of separating the common-carrier activities of your company from its holdings of stock in the Chesapeake & Ohio Railway Co. and Pere Marquette Railway Co., your management during the year 1926 turned over all of said stock in exchange for all of the stock of a subsidiary.

That subsidiary was the Special Investment Corporation; is that right?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And had it turned over all of its capital stock to the Nickel Plate Railroad?

Mr. VAN SWERINGEN. That is the way it is set out in that letter. I have no doubt it is correct.

Mr. PECORA. Well, that is the impression I get from this letter, too. Is it the fact, to your knowledge?

Mr. VAN SWERINGEN. That is the way I understand it; yes.

Mr. PECORA. I understood you to say earlier that the Special Investment Corporation in its capital structure was authorized to issue and did issue 500,000 shares of stock.

Mr. VAN SWERINGEN. Of course that means all of its——

Mr. PECORA. Outstanding?

Mr. VAN SWERINGEN. Yes; all of its issue.

Mr. PECORA. Then the whole of its authorized stock was issued; is that it?

Mr. VAN SWERINGEN. Yes, sir. It is my recollection that it was all of its issued stock.

Mr. PECORA. Was the transaction which is referred to in this letter of May 10, 1927, marked "Committee's Exhibit 45", eventually consummated?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Was it consummated by the direct exchange of the shares of Chesapeake & Ohio Railway Co. owned by the Special Investment Corporation to the Chesapeake Corporation for the latter's shares?

Mr. VAN SWERINGEN. That is the plan; yes, sir.

Mr. PECORA. Do I understand that the Chesapeake Corporation issued its shares of capital stock directly to the Special Investment Corporation for the purpose of effecting that exchange?

Mr. VAN SWERINGEN. No. The Special Investment Corporation was owned by the Nickel Plate Railroad solely, and it issued them to the stockholders of the Nickel Plate in disbursement.

Mr. PECORA. That is, payment was not received by the Special Investment Corporation in the form of the stock of the Chesapeake

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Corporation, but it was received directly by the individual stockholders of the Nickel Plate Railroad, was it?

Mr. MURPHY. May I read the proposal from the minutes of the Chesapeake Co.?

Mr. PECORA. Without reading the entire proposal.

Mr. VAN SWERINGEN. I think that would be very desirable, because it is not long.

Mr. PECORA. Suppose you give it to Mr. Van Sweringen so that he can testify.

Mr. VAN SWERINGEN. I will read, with your permission, from the minutes of the Chesapeake Corporation of May 10, 1927. [Reading:]

The chairman stated that he had received a telephonic communication from Mr. Higgins in Cleveland, that he had before him a signed proposal from the New York, Chicago & St. Louis Railroad Co. which was read to the meeting, and the written proposal was transmitted by telephone to the directors, which said proposal was substantially as follows:

"The New York, Chicago & St. Louis Railroad Co. represented that Special Investment Corporation, a Maryland corporation, owned 345,000 shares of the common stock of the Chesapeake & Ohio Railway Co. subject to an indebtedness as of June 1, 1927, equal to $67.50 per share and subject to dividend adjustments on said shares as of said date. The New York, Chicago & St. Louis Railroad Co. proposes to deliver to this corporation 304,065 shares of the stock of Special Investment Co., being all of the issued and outstanding shares of the stock of said corporation, in exchange for stock of this corporation as follows:

"589 shares to be issued to the New York, Chicago & St. Louis Railroad Co., and 516,911 shares to be issued to the common stockholders of the New York, Chicago & St. Louis Railroad Co., all of such stock to be simultaneously distributed and delivered to such company and to its common stockholders of record May 31, 1927, and, further, that this corporation shall issue no other shares of stock until after the issue and distribution to the New York, Chicago & St. Louis Railroad Co. common stockholders as above provided. Further, that this corporation may reserve the right to issue such shares in such manner, or to take such other proceedings as it may see fit, so that upon the consummation of this transaction not less than 70 percent of the consideration received for all of its shares shall constitute capital and the remainder of such consideration shall constitute paid-in surplus, and may also reserve the right to amend its charter so as to limit the preemption rights of the stockholders of this company to common stock which may subsequently be issued for cash."

Mr. PECORA. That offer was accepted, was it not?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And after the consummation of this offer, the Special Investment Corporation was dissolved, was it not?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Would you say, then, that the sole purpose for the creation of the Special Investment Corporation was to enable it by exchange of stock and by purchase with moneys that were borrowed to acquire a large block of the common stock of the Chesapeake & Ohio Railway with a view of eventually transferring those holdings to a holding corporation, another holding corporation?

Mr. VAN SWERINGEN. No. It did that——

Mr. PECORA. Did it do anything but that?

Mr. VAN SWERINGEN. It did not do anything but that, as it developed.

Mr. PECORA. The period of time of its corporate existence was a little over 1 year?

Mr. VAN SWERINGEN. Yes; I think that is right. I am just reminded that it also owned some Pere Marquette of which we spoke earlier in this session.

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Mr. PECORA. What were the assets underlying the moneys that the Special Investment Corporation borrowed in order to enable it to buy the stock of the Chesapeake & Ohio Railway?

Mr. VAN SWERINGEN. In other words, what did it use as collateral? Is that your thought?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. We will be glad to give you a tabulation of that.

Mr. PECORA. Did it give any collateral other than the shares themselves which it bought from the Chesapeake & Ohio?

Mr. VAN SWERINGEN. I wish I could answer your question, but I cannot, from recollection, because we had some Pere Marquette shares, and it is possible that some of those were used.

Mr. PECORA. Were those shares also purchased with moneys that the Special Investment Corporation borrowed?

Mr. VAN SWERINGEN. That might have been. Our statement will reflect those matters.

Mr. PECORA. In this letter which is in evidence as committee's exhibit no. 45 reference is made as follows:

> The Chesapeake Corporation is also to acquire 255,000 additional shares of the common stock of the Chesapeake & Ohio Railway Co. from the Vaness Co. upon the same terms as those acquired from your subsidiary.

Was that transaction consummated?

Mr. VAN SWERINGEN. Not that way. We later concluded and volunteered to take cost rather than that $110; and that cost, as I recollect it, was around $70.

(After conferring with associates.)

I was confused; I am sorry. Will you let me have that question again, please?

(The question referred to was read by the reporter as above recorded.)

It is right here that the General Securities came into being. The Vaness Co. owned 255,000 shares of Chesapeake common stock, and these were delivered to General Securities subject to a debt of $67.50 per share, in exchange for issuance of all of General Securities' common stock, being 382,500 shares to stockholders of the Vaness Co.

Mr. PECORA. Does that mean that another corporation, called the General Securities Corporation, was caused to be organized by you and your associates at about that time?

Mr. VAN SWERINGEN. It does.

Mr. PECORA. When was it organized?

Mr. VAN SWERINGEN. About May 1927.

Mr. PECORA. About the time of this transaction?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Was it organized solely for the purpose of effecting the exchange of securities between the Chesapeake Corporation and the Vaness Co. in connection with which the Vaness Co. was to transfer to the Chesapeake Corporation 255,000 shares of the common stock of the Chesapeake & Ohio in return for capital stock of the Chesapeake Corporation?

Mr. VAN SWERINGEN (after conferring with associates). Chiefly for that.

Mr. PECORA. I beg your pardon?

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Mr. VAN SWERINGEN. Chiefly for that, but not solely for that, I guess is the right answer.

Mr. PECORA. Well, I only want the right answer, of course.

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Why was not the exchange of securities made directly between the Vaness Co. and the Chesapeake Corporation?

Mr. VAN SWERINGEN. The Chesapeake Corporation in its acquisition of securities was in fact a reorganization resulting in a mere change in form of ownership of the property. In its formation the General Securities Corporation was organized as a medium for exchange of the Vaness Co. holdings of Chesapeake & Ohio stock for its stock so as to avail of the income tax exemption provided by Congress in connection with corporate reorganizations.

Mr. PECORA. So as to what? I didn't get that.

Mr. VAN SWERINGEN. So as to avail of the income tax exemptions provided by Congress in connection with corporate reorganizations where there is, in fact, no recognized or realized gain, as in this circumstance, just as in the formation of Alleghany, the Geneva corporation was organized as an intermediate step in the exchanges involved in that instance—because you will come to that, no doubt.

Mr. PECORA. So does that give the real purpose for the creation of the General Securities Corporation, as a medium for effecting the transfer of the common stock of Chesapeake & Ohio Railway which the Vaness Co. owned and which the Chesapeake Corporation acquired in return for its own common stock?

Mr. VAN SWERINGEN. Chiefly as outlined in my statement; yes, sir.

Mr. PECORA. Was that procedure advised by your attorneys?

Mr. VAN SWERINGEN. I have no doubt it was; yes, sir.

Mr. PECORA. The stock that was transferred, that is, the stock which the Vaness Co. owned, of the Chesapeake & Ohio Railway, and which was transferred to the Chesapeake Corporation at this time in May 1927, actually was worth more, was it not, than it was at the time the Vaness Co. acquired it?

Mr. VAN SWERINGEN (after conferring with associates). I am at a loss to answer that. I can get that information for you, but we will have to refer to the stock market quotations. What dates would you like there?

Mr. PECORA. Dates when the Vaness Co. acquired these 255,000 shares of the common stock of the Chesapeake & Ohio Railway, the price paid for that stock and its value on or about May 10, 1927, when this stock was transferred by the process that you have testified to through the General Securities Corporation to the Chesapeake Corporation.

Mr. VAN SWERINGEN. Very well. We will supply that.

Mr. PECORA. I am informed that the market value of the Chesapeake & Ohio Railway common stock on or about May 10, 1927, was in the neighborhood of $175 a share. Assuming that that is correct—and it is subject to correction upon looking up the record, Mr. Van Sweringen—if the Vaness Co. had sold its shares, it would have reaped a very handsome profit, would it not?

Mr. VAN SWERINGEN. Do you mean, sold for——

Mr. PECORA. At the market price.

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Mr. VAN SWERINGEN (after conferring with associates). You recall that we were to put in a statement of costs at the time the shares were acquired, and it will involve a comparison of those figures with this figure to make an intelligent answer to your question, I think.

Mr. PECORA. You mean, these shares were put into the Chesapeake Corporation at the cost to the Vaness Co.?

Mr. VAN SWERINGEN. I did not say that or did not intend to say that.

Mr. PECORA. What did you intend to say?

Mr. VAN SWERINGEN. What I said was that the Vaness Co. delivered the 255,000 shares of Chesapeake & Ohio to General Securities, subject to a debt of $67.50 per share, in exchange for issuance of all the General Securities common stock, being 382,500 shares, to stockholders of Vaness.

Mr. PECORA. Well now, when the stock of the Chesapeake & Ohio was put into the Chesapeake Corporation by the General Securities Corporation at what figure was it put into that transaction or exchange with the Chesapeake Corporation?

Mr. VAN SWERINGEN. That was done in exchange for 382,500 shares of Chesapeake Corporation.

Mr. PECORA. Well, at what stated value for that stock?

Mr. VAN SWERINGEN (after conferring at length with associates). I think I have the answer for you. Those shares, being 600,000 shares of the common capital stock of the Chesapeake & Ohio Railway Co., were taken onto the books of Chesapeake Corporation at $104,850,000 or at the rate of $174.75 per share, the lowest quoted sale price on May 10, 1927.

Mr. PECORA. Now, Mr. Van Sweringen, if the Vaness Corporation, which owned these 255,000 shares of the stock of the Chesapeake & Ohio Railroad which were transferred on May 10, 1927, to the Chesapeake Corporation at that figure of $174.50 a share, had been disposed of directly at that figure by the Vaness Co., there would have been shown on its books a very large resultant profit, would there not, that is, on the books of Vaness Co.?

Mr. VAN SWERINGEN. That question, Mr. Pecora, is a good bit like saying that if the dog had not stopped running he would have caught the rabbit.

Mr. PECORA. Well, is it or is it not the fact that if the transaction had been made directly between the Vaness Co. and the Chesapeake Corporation the Vaness Co. would have had on its books as a result of that transaction a very large profit on this transfer of its common stock of the Chesapeake & Ohio Railroad?

Mr. VAN SWERINGEN. You will forgive me if I say that that is not what it did.

Mr. PECORA. I know, but if it had done that, that is what would have happened, would it not?

Mr. VAN SWERINGEN. That would depend on its cost.

Mr. PECORA. Well, the cost was much below $174.50 to the Vaness Co., wasn't it? You know that.

Mr. VAN SWERINGEN. No; it was taken—(after conferring with associates). I will supply that figure for you.

Mr. PECORA. But don't you know now that it was much less than $174.50?

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Mr. VAN SWERINGEN. If I were guessing, I would say that that was so.

Mr. PECORA. Yes. And on such profit the Vaness Co. would have been taxable, would it not; that is, that profit would have been taxable profit, would it not?

Mr. VAN SWERINGEN. Well, there was more than one lawful way of handling this matter.

Mr. PECORA. I know that.

Mr. VAN SWERINGEN. And business judgment——

Mr. PECORA (interposing). I am not saying your method of handling it was unlawful. Please don't misunderstand me.

Mr. VAN SWERINGEN. And business judgment dictated that we do it this way as the most economical way.

Mr. PECORA. Well, that profit would have been a taxable profit, would it not, to the Vaness Co.?

Mr. VAN SWERINGEN. I am not apt on this question.

Mr. PECORA. Do you mean to say you cannot answer that question, Mr. Van Sweringen?

Mr. VAN SWERINGEN. I am not apt about it. That is something these lawyers can answer better than I can.

Mr. PECORA. You mean to say that with all the experience you have had with corporation management you cannot answer that question?

Mr. VAN SWERINGEN. What was that question?

The SHORTHAND REPORTER (reading):

That profit would have been a taxable profit, would it not, to the Vaness Co.?

Mr. VAN SWERINGEN (after conferring with associates). If there had been a profit it would have been taxable.

Mr. PECORA. Yes. Now, isn't it a fact that the purpose for the creation and use of the General Securities Corporation in this transaction was to avoid—and avoid by lawful means—payment of a tax on such profit to the Vaness Co.?

Mr. VAN SWERINGEN. The statement that I made on that subject that is in the record is the answer to that.

Mr. PECORA. Can't you answer it more directly?

Mr. VAN SWERINGEN. It was the economical way of handling this matter lawfully from a tax standpoint.

Mr. PECORA. What economy interest to the Vaness Co. was served by that?

Mr. VAN SWERINGEN. Saving.

Mr. PECORA. Saving what?

Mr. VAN SWERINGEN. As between two routes.

Mr. PECORA. Saving what?

Mr. VAN SWERINGEN. I am going to answer.

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. I am going to try to answer you. Pardon me. As between two routes, the one would have involved the expenditure of more dollars than the other. We choose the economical one, the one which took the least dollars.

Mr. PECORA. Why would the other one have cost more?

Mr. VAN SWERINGEN. That was because of the law on that subject, I suppose.

Mr. PECORA. Wasn't it because you would have had to pay a tax on the resultant profit to the Vaness Co. by the direct exchange?

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Mr. VAN SWERINGEN. Yes.

Mr. PECORA. All right. Now, you said before that the Chesapeake Corporation at the time of its organization issued and disposed of $48,000,000 par value of 20-year 5 percent convertible collateral trust bonds. Do you recall that?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Did anyone underwrite those bonds?

Mr. VAN SWERINGEN. J. P. Morgan & Co. They bought them, I think perhaps is the answer.

Senator ADAMS (presiding). Inasmuch as Mr. Pecora says that the line of inquiry which he is now entering upon will take some time, the committee will recess until 2 o'clock.

(Accordingly, at 12:45 p.m., a recess was taken until 2 p.m. of the same day.)

AFTER RECESS

The committee resumed at 2 p.m., on the expiration of the recess.

The CHAIRMAN. The committee will come to order, please. Mr. Pecora, you may proceed.

TESTIMONY OF O. P. VAN SWERINGEN, PRESIDENT OF THE ALLEGHANY CORPORATION, CLEVELAND, OHIO—Resumed

Mr. PECORA. Now, Mr. Van Sweringen, when you were last on the stand I asked you something about the issuance by the Chesapeake Corporation right after its organization of 48 million dollars par value 20-year 5 percent collateral trust bonds.

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And at that point a recess was taken until now. Now, can you tell us, Mr. Van Sweringen, how those 48 million dollars par value of bonds were disposed of by the Chesapeake Corporation?

Mr. VAN SWERINGEN. They were sold to J. P. Morgan & Co. and the Guaranty Trust Co., or, I mean, the Guaranty Co. of New York.

Mr. PECORA. Do you say the Guaranty Co.?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. That is the investment affiliate of the Guaranty Trust Co. of New York, isn't it?

Mr. VAN SWERINGEN. Yes, sir; as I understand it.

Mr. PECORA. That is, of the Guaranty Trust Co. of New York.

Mr. VAN SWERINGEN. Yes, sir. [After conferring with an associate.] May I point out that that question was asked me just as we were adjourning for lunch?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. And I got as far as: Sold to J. P. Morgan & Co., but did not say and Guaranty Co. in the reply that was given just before lunch.

Mr. PECORA. Well, now, were those bonds sold to J. P. Morgan & Co. and the Guaranty Co. of New York after the Chesapeake Corporation had sought to obtain bids for those bonds from other banking houses or institutions?

Mr. VAN SWERINGEN. No.

Mr. PECORA. There wasn't any so-called "competitive" bidding for those bonds, was there?

Mr. VAN SWERINGEN. No, sir; I should think not.

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Mr. PECORA. Now, do you know in what proportions as between J. P. Morgan & Co. and the Guaranty Co. of New York those bonds were disposed of by the Chesapeake Corporation?

Mr. VAN SWERINGEN. I do not.

Mr. PECORA. You say you do not?

Mr. VAN SWERINGEN. No, sir.

Mr. PECORA. At what price were those bonds issued by the Chesapeake Corporation sold to J. P. Morgan & Co. and the Guaranty Co.?

Mr. VAN SWERINGEN (after conferring with an associate). At 90½.

Mr. PECORA. Do you say at 90½?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And when?

Mr. VAN SWERINGEN. About—or I would say in the forepart of May 1927.

Mr. PECORA. That is, right after the incorporation of the Chesapeake Corporation, wasn't it?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now, was this bond issue made by the Chesapeake Corporation in order to enable the Chesapeake Corporation to acquire the 600,000 shares of common stock of the Chesapeake & Ohio Railroad Co. which you testified about this morning?

Mr. VAN SWERINGEN. No. But to fund a debt——

Mr. PECORA (interposing). What is that?

Mr. VAN SWERINGEN. But to fund a debt that we talked about this morning.

Mr. PECORA. Which funded debt do you mean?

Mr. VAN SWERINGEN. I said: No, but to fund the debt. Pardon me, Mr. Pecora, but I said: But to fund a debt.

Mr. PECORA. To refund what debt?

Senator STEIWER. He says to fund a debt.

Mr. PECORA. Oh, to fund a debt?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. What debt?

Mr. VAN SWERINGEN. The debt at $67.50.

Mr. PECORA. That is, in order to pay off the indebtedness at the rate of $67.50 per share, subject to which those 600,000 shares of common stock of the Chesapeake & Ohio Railroad were acquired by the Chesapeake Corporation; is that it?

Mr. VAN SWERINGEN. Principally that.

Mr. PECORA. Well, now, that indebtedness totals a little over 40 million dollars, whereas the bond issue was for 48 million dollars par value.

Mr. VAN SWERINGEN. Well, of course we sold it at—did I say 91½?

Mr. PECORA. You said 90½.

Mr. VAN SWERINGEN (after conferring with associate). What did I say there it was?

Mr. PECORA. At 90½.

Mr. VAN SWERINGEN. At 90½, which meant, of course, that we did not realize 48 million dollars.

Mr. PECORA (interposing). So that——

Mr. VAN SWERINGEN (continuing). That meant, of course, that we did not realize 48 million dollars from the sale.

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Mr. PECORA. The sale of those 48 million dollars of bonds at 90½ would net the Chesapeake Corporation something like 43 million dollars.

Mr. VAN SWERINGEN. That is right.

Mr. PECORA. Why were bonds issued, then, in an amount of about 3 million dollars in excess of the amount of the indebtedness that those bonds were intended to refund?

Mr. VAN SWERINGEN. My recollection is that that was to provide some treasury cash.

Mr. PECORA. That is, that excess amount of bonds was designed, among other things, then, to provide the Chesapeake Corporation with what you might call an amount of working capital?

Mr. VAN SWERINGEN. Yes, sir; or treasury cash.

Mr. PECORA. Now, that transaction, involving the issuance and sale of those bonds to J. P. Morgan & Co. and the Guaranty Trust Co. of New York, was contemporaneous with the transactions whereby the Chesapeake Corporation acquired those 600,000 shares of common stock of the Chesapeake & Ohio Railroad?

Mr. VAN SWERINGEN. Substantially.

Mr. PECORA. Yes. It all took place on the 10th day of May 1927.

Mr. VAN SWERINGEN. Or thereabouts.

Mr. PECORA. Now, in view of that fact, Mr. Van Sweringen, would you say that for some time prior to May 10, 1927, you had entered into negotiations with J. P. Morgan & Co. and with the Guaranty Co., or either of them, looking toward the purchase by them of those bonds when issued?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. When did you enter into those negotiations?

Mr. VAN SWERINGEN. A day or two before that, as I recall.

Mr. PECORA. What was that?

Mr. VAN SWERINGEN. Just a day or two before that.

Mr. PECORA. Only a day or two before that?

Mr. VAN SWERINGEN. Yes; as I recall.

Mr. PECORA. Who conducted those negotiations with J. P. Morgan & Co. and the Guaranty Co. of New York?

Mr. VAN SWERINGEN. I conducted them.

Mr. PECORA. With whom representing the buyers of the bonds, or the purchasers of those bonds?

Mr. VAN SWERINGEN. My negotiation was with the Morgan firm.

Mr. PECORA. I mean, with whom in the Morgan firm? That is a firm composed of some 20 individuals, you know.

Mr. VAN SWERINGEN. I do not recall which one. If I were to—well, I wouldn't put it as a guess, but I would say it probably was Mr. Anderson.

Mr. PECORA. Mr. Anderson?

Mr. VAN SWERINGEN. Yes, sir; I think so.

Mr. PECORA. Did you make any attempt before that to offer those bonds to any other banking concern or banker?

Mr. VAN SWERINGEN. No, sir.

Mr. PECORA. Was there any reason for not doing so, Mr. Van Sweringen?

Mr. VAN SWERINGEN. I thought there was.

Mr. PECORA. Well, what was the reason?

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Mr. VAN SWERINGEN. I believed that in doing our banking as near as we could with one banking interest, one who would treat us fairly at all times, that it would be good business.

Mr. PECORA. Well, how did you know how fairly, relatively, your treatment was if you had no other offers, or made no attempt to get any other offers, from any other banking house or banker?

Mr. VAN SWERINGEN. That was solely a matter of business judgment.

Mr. PECORA. And that was your only reason?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. You thought you could get the best terms for the Chesapeake Corporation by taking up the matter of financing this bond issue with only one banking group?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Well, now, you said you took it up with J. P. Morgan & Co. Did you also take it up with the Guaranty Co.?

Mr. VAN SWERINGEN. No. I intended to say that my negotiations were with the Morgan firm.

Mr. PECORA. And not with the Guaranty Co.

Mr. VAN SWERINGEN. The trade was finally consummated with them.

Mr. PECORA. But your negotiation was with the Morgan firm?

Mr. VAN SWERINGEN. That is right.

Mr. PECORA. And not with the Guaranty Co.?

Mr. VAN SWERINGEN. That is right.

Mr. PECORA. So that their participation in this financing must have been on the invitation or initiative of J. P. Morgan & Co.?

Mr. VAN SWERINGEN. I think that is so.

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. One minute. (After conferring with an associate.) Mr. Pecora.

Mr. PECORA. Yes, sir.

Mr. VAN SWERINGEN. I may be a little short in stating the number of days over which that negotiation went, but it was just in front of the sale.

Mr. PECORA. Well, the extent of the negotiations with J. P. Morgan & Co. covered at the most only a few days?

Mr. VAN SWERINGEN. I think so.

Mr. PECORA. And just prior to May 10, 1927?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. You heretofore said 1 or 2 days. It might have been 3 or 4 days?

Mr. VAN SWERINGEN. Something like that, and maybe longer than that.

Mr. PECORA. Did you have any correspondence with J. P. Morgan & Co. in connection with those negotiations, Mr. Van Sweringen?

Mr. VAN SWERINGEN (after conferring with an associate). I find that we did. And, incidentally, it discloses that our negotiations ran along for a longer period than I thought they did.

Mr. PECORA. Now, what do you now find about the period of time covered by those negotiations?

Mr. VAN SWERINGEN. This first letter is of date April 12.

Mr. PECORA. Do you mean April 12, 1927?

Mr. VAN SWERINGEN. Yes, sir.

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Mr. PECORA. Now, would you say that that marks the date of the commencement of those negotiations?

Mr. VAN SWERINGEN. No; not the date of the commencement, because the letter itself refers to a conversation of the week previous.

Mr. PECORA. Then would you say they began about April 5, 1927?

Mr. VAN SWERINGEN. That would seem so.

Mr. PECORA. And how many different pieces of correspondence passed between your people and J. P. Morgan & Co. in connection with those negotiations?

Mr. VAN SWERINGEN. Well, there is that letter to which I have just referred, of April 12, 1927——

Mr. PECORA (interposing). Will you let me have that letter? Will you kindly produce it?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Thank you. [After reading the letter.] I offer in evidence the letter produced by the witness, and ask that it may be spread on the record of the hearing.

The CHAIRMAN. That may be done.

Mr. VAN SWERINGEN. Mr. Pecora, may I have that letter back?

Mr. PECORA. Yes. After it is made a part of the record it will be returned to you.

(The letter of April 12, 1927, was received in evidence, marked "Committee Exhibit No. 46, June 7, 1933," read in the record by the witness, and will be returned to the witness.)

Mr. PECORA. The letter without the attached memorandum reads as follows. It is on the letterhead of J. P. Morgan & Co., New York, April 12, 1927 [reading committee exhibit 46, June 7, 1933]:

O. P. VAN SWERINGEN, Esq.,
Marshall Building, Cleveland, Ohio.

DEAR SIR: Enclosed is a memorandum dictated to summarize the substance of our conversation last week about the proposed issue to the Nickel Plate Holding Co., including also some further points which have since developed during a subsequent conversation here, such, for example, as the suggestion of a redemption figure of 110 to run through the life of the issue in substitution for the suggested scale during the first 5 years to a figure above 110 with a later redemption at par.

We are taking the liberty of giving a copy of this to Mr. Gardiner for the purpose of assisting him in drafting language for use in the trust agreement, in case the issue is set up along these lines.

If we come to an understanding with you regarding the issuance of a bond along these lines, we suggest, so far as regards the additional financing which you would wish to do in connection with the increase in C. & O. stock now before the commission, that we take from you an option on the necessary amount of additional bonds on the same terms as apply to the first issue. We make this suggestion as this early increase in C. & O. stock is really part of your present plan, and, if the commission approves the company's application, we should want to protect the buyers and the syndicate by keeping some measure of control over this fairly imminent increase in the financing.

Yours very truly,

J. P. MORGAN & CO.

And the memorandum which is attached to this letter and is referred to therein reads as follows:

NICKEL PLATE HOLDING CO. NOTES

SECOND REVISED PLAN

Amount: $41,250,000.

That is in typewriting. And above that in lead-pencil figures are figures reading "45,000", which I presume should have been

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45,000,000. Is that not so, Mr. Anderson [exhibiting same to Mr. Anderson]?

One moment. Before I read this further. Will you tell me, Mr. Van Sweringen, of lead-pencil notations that appear on the face of the memorandum attached to this letter were there when you received the letter, or were they put there subsequent to your receipt of the letter by somebody? Just look at the memorandum. There are two or three lead-pencil notations on the face of it.

Mr. VAN SWERINGEN. I suspect that those pencil figures were not on there when we received the letter, but I do not identify the handwriting, nor do I know what it is about.

Mr. PECORA. Well then, all right. Then I will not make any reference to those lead-pencil notations. [Reading:]

Maturity: Twenty years.

Interest rate: 5½ percent.

Security: 550,000 shares of Chesapeake & Ohio stock, at the rate of $75 for each present share. Convertible into the pledged stock, as constituted at the time, at the rate of $220 per share of present stock (equivalent to $180 after proposed increase) with a provision for a reduction in the conversion price in the event of any increase in the outstanding stock for a consideration in cash or property less than the equivalent of $220 a share.

Redeemable: In whole or in part, at the company's option, on any interest date, at 110 percent and accrued interest, during the entire life of the issue. In the event of any call for redemption during the period in which the conversion privilege is operative, any bonds called for redemption to be convertible up to and including the date upon which the redemption, pursuant to such call, would take place.

Sinking fund: One half of any dividends paid on the pledged stock in excess of $8 per share on the stock as then constituted (whether such dividends are paid in cash or in property) with a minimum of 2 percent after 3 years, the bonds purchased by the sinking fund to continue to draw interest, such interest to constitute part of the sinking fund.

Any stock dividends to go to the trustee to constitute additional security.

In the event of an increase in the C. & O. stock, a proportionate share is to be taken up by the Nickel Plate Holding Co. (with the right to it to borrow any part of the purchase price) or else the fair value of the warrants not exercised is to be paid in cash to the sinking fund trustees and used in retiring bonds. In the event that any such additional stock is taken up by the company and subsequently sold, the profit, based on the fair market price at the time of sale, is to be similarly used in retiring bonds.

If any dividends are paid in cash or property out of earnings made prior to January 1, 1927, the entire amount of such excess accruing to the pledged stock is to be used in retiring bonds.

A committee is to be appointed, with power to name their successors, to settle any points which may require determination during the life of the bonds, among them specifically the following:

(*a*) The fair value of any rights not exercised by the company.

(*b*) The fair value at which stock may be issued in exchange for property for the purpose of adjusting the conversion price.

(*c*) The fair value of any distribution made by the C. & O. in property.

Mr. PECORA. Now, apparently, Mr. Van Sweringen, the security which was to be given for these $48,000,000 par value of bonds were 550,000 shares of the Chesapeake & Ohio stock at the rate of $75 for each present share. Was that security furnished—pledged for these bonds?

Mr. VAN SWERINGEN. That draft that you have appended to the letter was an earlier suggestion.

Mr. PECORA. Was this memorandum attached to this letter succeeded by another memorandum in the nature of a revision of this memorandum?

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Mr. VAN SWERINGEN. I am sure that was so. There was a contract letter at a later date.

Mr. PECORA. When you received this letter of April 12, 1927, with the attached memorandum from J. P. Morgan & Co. did you send them any written reply to it?

Mr. VAN SWERINGEN. Can I see that a minute, please?

(Mr. Pecora handed the letter to Mr. Van Sweringen.)

Mr. VAN SWERINGEN. Seemingly I did not, because I notice it is not marked "answered."

Mr. PECORA. Well, did you have conversations subsequent to the receipt of that letter with any one representing J. P. Morgan & Co. with respect to the proposal contained in that letter and the accompanying memorandum?

Mr. VAN SWERINGEN. I have no doubt I did; yes, sir.

Mr. PECORA. Well, what were the final terms that were arrived at between you and J. P. Morgan & Co. with respect to the flotation or sale of these $48,000,000 par value of bonds?

Mr. VAN SWERINGEN. That was all set out in this contract letter of May 10, 1927, addressed to Messrs. Morgan & Co. and the Guaranty Co. of New York. And that letter reads:

DEAR SIRS: The undersigned, the Chesapeake Corporation (hereinafter called the "corporation"), is a corporation organized under the laws of the State of Maryland, with a present authorized capital stock of 900,000 shares of the common stock without nominal or par value.

Five hundred and seventeen thousand five hundred of such authorized shares of stock of the corporation have been subscribed for and are to be paid in full by the transfer to it of 345,000 shares of the common capital stock of the Chesapeake & Ohio Railway Co., of the par value of $100 each, subject to an indebtedness of $67.50 per share and subject to the reservation by the transferer of the portion of the quarterly dividend on such shares to be paid July 1, 1927, which has accrued from April 1 to June 1, 1927.

The corporation will acquire 255,000 shares additional of the common capital stock of the Chesapeake & Ohio Railway Co., subject to an indebtedness of $67.50 per share and subject to the reservation by the transferrer of the portion of the quarterly dividend on such shares to be paid July 1, 1927, which has accrued from April 1 to June 1, 1927, in consideration of the transfer of which the corporation is to issue the remaining 382,500 shares of its capital stock.

The corporation reserves the right to issue such additional stock in such manner, or to take such other proceedings, that upon the consummation thereof not less than 70 percent of the consideration received for the issue of its whole capital stock shall constitute capital, and the remainder of such consideration shall constitute paid-in surplus.

To provide the amount of money necessary to pay the indebtedness of $67.50 per share against all of the 600,000 shares of the Chesapeake & Ohio Railway Co. acquired and to be acquired, and also to provide working capital, the corporation will authorize the issue of $48,000,000 principal amount of its 20-year 5 percent convertible collateral trust bonds, dated May 15, 1927, due May 15, 1947, and otherwise conforming to the terms thereof set forth in the proposed selling circular of which a copy is hereunto annexed marked "Schedule A."

Mr. PECORA. Will you stop right there while I ask you if you have a copy of that circular with you?

Mr. VAN SWERINGEN. I do.

Mr. PECORA. All right. Now continue the reading of that letter, will you?

Mr. VAN SWERINGEN (continuing reading):

The corporation will enter into a collateral trust indenture with Guaranty Trust Co. of New York, trustee, pursuant to which the corporation will issue its above-described bonds, and in and by which it will pledge with the trustee, as security for the payment of the principal and interest of such bonds and the performance of its other covenants to be contained in the indenture, the aforesaid

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600,000 shares of the stock of the Chesapeake & Ohio Railway Co. The pledged shares shall be transferred into the name of the trustee or its nominees.

The said indenture shall contain, among other things, provisions substantially to the following effect, viz.:

(*a*) That the corporation will make payments to sinking fund trustees to be computed or determined, as to amounts and terms and method of payment, as set forth in schedule B hereto attached; and which sinking fund moneys shall be applied by the sinking fund trustees as also set forth in said last-mentioned schedule.

(*b*) That the holders of the bonds shall have the right to convert such bonds at par into shares of the pledged stock at conversion prices for such stock, which prices are to be subject at variance from time to time, and are to be fixed or determined, as set forth in schedule C hereto attached.

(*c*) That so long as the corporation shall not be in default in the payment when due (*a*) of any interest on the bonds, or (*b*) of any sinking fund installment, or (*c*) of any part of the principal of the bonds at maturity or upon declaration or otherwise, or so long as there shall not have been (*d*) an adjudication of bankruptcy of the corporation or the appointment of a receiver of its property, not vacated or set aside within 60 days after entry, or (*e*) any proceedings by the corporation for voluntary bankruptcy or any assignment by it for the benefit of its creditors, or any admission by it of inability to pay its debts generally when they become due, or any corporate action to any such effect, the corporation shall be entitled to collect dividends upon and to exercise subscription, preemptive, voting, or other rights in respect of the pledged stock, and to receive from the trustee proper dividends and other orders and proxies for such purposes; but that forthwith upon the happening and continuance of any of the said defaults or events, dividends shall be collected and any voting and other rights may be exercised by the trustee.

(*d*) That the corporation will pledge under the indenture additional stock or other securities of the railway company in the several contingencies referred to in sehedule D hereto attached.

(*e*) That the trustee may declare the principal of the bonds forthwith payable upon 60 days' default in the due payment of either any interest thereon or any sinking-fund installments.

(*f*) That the trustees may sell the pledged security at public or private sale, and may enforce the provisions of the indenture by legal proceedings or otherwise, (*a*) upon default in the payment of any part of the principal of the bonds when due at maturity or by declaration or otherwise, (*b*) on 60 days' default in the payment of any interest on the bonds, (*c*) upon 60 days' default in the payment of any sinking-fund installment, (*d*) upon 60 days' default in the performance of any other covenant in the indenture after notice to the corporation by the trustee, (*e*) upon an adjudication of bankruptcy of the corporation or the appointment of a receiver of its property, not vacated or set aside within 60 days after entry, or (*f*) upon institution by the corporation of proceedings for voluntary bankruptcy or any assignment by it for the benefit of its creditors, or any admission by it of inability to pay its debts generally when they become due, or corporation action to any such effect.

(*g*) Any provision authorizing the release and the application of the proceeds of pledged collateral substantially to the effect of the recitals in schedule E.

(*h*) Also the provisions customary in instruments whereunder stocks, bonds, or other corporate obligations are pledged as security for bonds, including provisions for the administration of the sinking fund, for the redemption of bonds upon call, and for the substitution of proceeds of pledged securities in the case of consolidations, mergers, sales, or readjustments affecting the Chesapeake & Ohio Railway Co.

The form and substance of the charter of the corporation at the time of the issue of the aforesaid bonds, and of said bonds and of the collateral trust indenture, and of any and all corporate proceedings in connection with the transactions herein outlined, shall be subject to the approval of your counsel.

This is to confirm the agreement between this corporation and yourselves that this corporation sells and will deliver to you upon the basis and terms and conditions herein set forth, and that you will purchase the $48,000,000 bonds above described, dated and bearing interest from May 15, 1927, at 90½ percent of the principal amount plus the amount of accrued interest from said date to the date of payment of subscriptions for such bonds upon the public offering which you are to make or cause to be made as below indicated.

It is understood by the corporation that you purpose to form a syndicate which on or before May 12, 1927, will make a public offering of the said bonds subject

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to due issue and the receipt thereof by you from the corporation, and that you purpose to call for payment to yourselves of subscription for such bonds at the offering price on such date (not later than June 1, 1927) as you shall determine, and to issue to the subscribers making such payment your interim receipts entitling the holders thereof to delivery of the bonds therein specified when issued and received by you as aforesaid.

It is understood further that pending such receipt by you of the bonds, you will retain the amount of the subscriptions for the benefit of the holders of your interim receipts, and that upon delivery to you by the corporation on or before June 15, 1927, of the bonds (in temporary or definitive form) you shall forthwith pay to the corporation the purchase price payable by you for the bonds as above specified. The corporation agrees promptly to cause to be prepared definitive bonds in form suitable for listing on the New York Stock Exchange, and to take the customary proceedings at its own cost to obtain the listing of the bonds on such exchange.

In case for any reason the corporation shall not be able to make delivery of the bonds as aforesaid on June 15, 1927, or any later date agreed upon by the corporation with you, the undersigned (*a*) will pay to you such sums as when added to the subscription price received by you from subscribers of your interim receipts the subscription price for the bonds plus interest on the principal amount of the bonds (at the coupon rate) from the date thereof to the date when such moneys are so repaid to such holders; the intention being to protect the subscribers for the bonds and their assigns from losing the income from their investment because of failure of the corporation to make delivery of the bonds as agreed herein; and also (*b*) will reimburse you in the amount of any out-of-pocket expenses (including counsel fees) incurred by yourselves or by any syndicate which you may form in connection with the issue. Upon making such payments all liability of the corporation (except that expressed in the following paragraph) and of yourselves will cease and determine.

The corporation in any event will reimburse you for the expense of issuing your interim receipts as above described.

The contract evidenced by this letter and your confirmation is to be deemed made solely for the benefit of yourselves and the undersigned and shall confer no rights upon any syndicate formed to sell the bonds or any participant therein or any subscriber for the bonds or any bondholder; and at any time before the delivery of the bonds hereunder the parties hereto may agree between themselves to modify any of the provisions hereof in any manner which may be consistent with the statement in respect of the bonds contained in schedule A hereto attached.

Will you kindly confirm the agreement between yourselves and the corporation is as above set forth?

Yours truly,

THE CHESAPEAKE CORPORATION,
By HENRY A. MARTING, *Vice President.*
By JOHN P. MURPHY, *Secretary.*

Mr. PECORA. Now the agreement set forth in this letter which you have just read constitutes the terms and provisions, does it not, under which the Chesapeake Corporation issued and sold at 90½ percent these $48,000,000 of bonds to J. P. Morgan & Co. and the Guaranty Co. of New York?

Mr. VAN SWERINGEN. It does. That is the contract between the Chesapeake Corporation and the two banking firms named.

Mr. PECORA. Yes. And the bonds thereafter were duly issued by the Chesapeake Corporation and delivered to J. P. Morgan & Co. and the Guaranty Co., or their nominees, in accordance with the terms and provisions of this letter of agreement, were they not?

Mr. VAN SWERINGEN. That is true.

Mr. PECORA. Yes. Now Mr. Van Sweringen, was there any collateral agreement, or rather any agreement collateral to this one which was arrived at between the Chesapeake Corporation and J. P. Morgan & Co. to this bond issue?

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Mr. VAN SWERINGEN. There was.

Mr. PECORA. What was the nature of it?

Mr. VAN SWERINGEN. Pardon me. You said between the Chesapeake Corporation?

Mr. PECORA. Or between the Vaness Co. and J. P. Morgan & Co. and the Guaranty Co. of New York?

Mr. VAN SWERINGEN. Yes; there was.

Mr. PECORA. What was the nature of it?

Mr. VAN SWERINGEN. It was a letter agreement addressed to J. P. Morgan & Co. and the Guaranty Co. of New York, dated May 9, 1927, signed by the Vaness Co., by O. P. Van Sweringen, its president. Do you want me to read that letter?

Mr. PECORA. Wait a minute; I have before me what purports to be a photostat copy of that letter, which, I say for your information, was furnished to me by the photostat department of J. P. Morgan & Co. Will you look at it and see if you can identify it as a copy of it?

Mr. VAN SWERINGEN. My copy is——

Mr. PECORA. Your copy is a typewritten copy, is it?

Mr. VAN SWERINGEN. Yes; it is. If they furnished it to you I have no doubt it is.

Mr. PECORA. Well now I will read for the record from this photostat copy, and if you will be good enough to follow me with your typewritten copy any variations or discrepancies between the two may be checked up. You said May 9.

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. The one I have is corrected to May 10.

Mr. VAN SWERINGEN. May 10 is correct.

Mr. PECORA. May 10 is correct, is it?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. All right. May 10, 1927. [Reading:]

Messrs. J. P. MORGAN & CO. AND GUARANTY CO. of New York.

DEAR SIRS: This is to confirm the agreement between the undersigned and yourselves that in consideration of your agreement with the Chesapeake Corporation confirmed and expressed in the writing dated May 10, 1927, addressed by that corporation to yourselves and to be confirmed on your part as of the same date, and as part of the same transaction, the undersigned agrees to make payment to you as below respectively stated, viz:

(1) If the purchase and sale of the bonds of the Chesapeake Corporation be consummated as provided in the aforesaid writing addressed to you by that corporation, the undersigned will pay to you the sum of $240,000 on the date of your payment of the purchase price of said bonds.

(2) If such purchase and sale be not consummated as provided in said writing by reason of failure of the Chesapeake Corporation to deliver the said bonds as agreed by it, the undersigned will pay to you the sum of $480,000 forthwith upon such failure of delivery of the bonds.

Kindly confirm that the agreement between us is as above expressed.

Yours truly,

THE VANESS CO.,
By O. P. VAN SWERINGEN, *President.*

Now, was the agreement embodied in this letter of the Vaness Co. which I have just read, carried out?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. The agreement with respect to the issuance and sale of the bonds to J. P. Morgan & Co. and the Guaranty Co. was made with them by the Chesapeake Corporation, was it not?

Mr. VAN SWERINGEN. It was.

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Mr. PECORA. And we have seen that by the terms of that agreement, in substance, the Chesapeake Corporation was to sell those $48,000,000 par value of bonds which it was to issue, to J. P. Morgan & Co. and the Guaranty Co., at 90½ percent of their par value?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. What was the necessity for the Vaness Co. entering into the agreement which is evidenced by this letter which has last been read into the record, to pay to J. P. Morgan & Co. and the Guaranty Co., in the event of the consummation of the sale of these bonds, the sum of $240,000, and to pay to them, in the event that for any reason of any failure of delivery of those bonds by the Chesapeake Corporation to J. P. Morgan & Co. and the Guaranty Co. of New York, the latter were to receive from the Vaness Corporation $480,000?

Mr. VAN SWERINGEN. First, as to the price or the bargain the Chesapeake Corporation made, relating to the sale, as distinguished from the failure to effect it, we, still feeling that the extra one half percent—and by "we" I mean I take the responsibility—that was paid, we felt that that was a fair consideration.

Mr. PECORA. A fair consideration for what?

Mr. VAN SWERINGEN. For the service rendered in the marketing of these securities.

Mr. PECORA. Were not J. P. Morgan & Co. and the Guaranty Co. of New York getting a pretty fair consideration when they got these bonds at 90½ percent of their par value?

Mr. VAN SWERINGEN. Fair, but not fair enough, as we saw it.

Mr. PECORA. As you saw it, or as they saw it?

Mr. VAN SWERINGEN. It was mutual, as to that, I have no doubt. And so we preferred to take that extra half percent on our larger interest of the Vaness Co.

The other phase of it, relating to the failure to furnish the bonds for which the contract had been made, there was an expense involved there and there were participants that had to be gotten into that transaction.

Mr. PECORA. By whom?

Mr. VAN SWERINGEN. By the people with whom we contracted.

Mr. PECORA. Let us call them the bankers.

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Is that a fair statement?

Mr. VAN SWERINGEN. Yes. Thank you. And a failure to go through with the transaction would have entailed a loss and an expense——

Mr. PECORA. On the part of the bankers?

Mr. VAN SWERINGEN. On the part of those who had been enlisted to come into the transaction as well as to the bankers with whom we were trading. And so this consideration as against failure was made.

Mr. PECORA. But was there not some ample provision contained in the agreement made directly between the Chesapeake Corporation on the one hand and J. P. Morgan & Co.—do you want to tell the witness anything, Mr. Murphy, before I ask the question?

Mr. MURPHY. No.

Mr. PECORA (continuing the question). J. P. Morgan & Co. and the Guaranty Co. of New York, on the other hand, which was designed

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to compensate or reimburse J. P. Morgan & Co. and the Guaranty Co. for any out-of-pocket expenses they might have incurred as the result of any such failure of delivery of the bonds?

Mr. VAN SWERINGEN. Participants were involved also. But answering you specifically, it must be admitted that it was considered that that was not ample.

Mr. PECORA. Let us see about that. Let us turn back to the agreement that has been read into the record here between the Chesapeake Corporation, J. P. Morgan & Co., and the Guaranty Co. of New York. Let me read to you the following provision of the written agreement of the Chesapeake Corporation addressed to Morgan & Co. and the Guaranty Co.:

In case for any reason the corporation—

Meaning the Chesapeake Corporation.

shall not be able to make delivery of the bonds as aforesaid on June 15, 1927, or any later date agreed upon by the corporation with you, the undersigned,

That is, the Chesapeake Corporation.

(*a*) will pay to you such sums as when added to the subscription price received by you from subscribers for the bonds will enable you to repay to the holders of your interim receipts the subscription price for the bonds plus — interest on the principal amount of the bonds at the coupon rate from the date thereof to the date when such moneys are repaid to such holders; the intention being to protect the subscribers for the bonds and assignees from losing income from their investment because of failure of the corporation to make delivery of the bonds as agreed herein; and also (*b*) will reimburse you in the amount of any out-of-pocket expenses, including counsel fees, incurred by yourselves or by any syndicate which you may form in connection with the issue.

Now, Mr. Van Sweringen, does it not strike you that the bankers were adequately protected against a failure of delivery of the bonds by this provision, against any loss that they might incur through such failure?

Mr. VAN SWERINGEN. No; it does not.

Mr. PECORA. It does not?

Mr. VAN SWERINGEN. No. That is out-of-pocket expenditures, as you have read there, but not a service charge in connection with the work. These two agreements were substantially concurrent and interdependent.

Mr. PECORA. It was expected, was it not, that when the bankers—by that I mean J. P. Morgan & Co. and the Guaranty Co.—agreed to buy these bonds at 90½ percent of their par value, those terms would enable the bankers to make what they considered a fair profit on the transaction, was it not?

Mr. VAN SWERINGEN. Taken in conjunction with this commitment of the Vaness Co.; yes, sir.

Mr. PECORA. Why was not that taken care of and allowed for in the price at which the bonds were to be sold and delivered by the Chesapeake Corporation to the bankers?

Mr. VAN SWERINGEN. Because we adopted this method for the reasons I have stated.

Mr. PECORA. Why could it not all have been taken care of by giving the bonds to the bankers at 90 or at 89½ instead of 90½?

Mr. VAN SWERINGEN. I think that it would have been fair to have done that, to have made the Chesapeake Corporation pay it all. I think it would have been fair to have done that.

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Mr. PECORA. Do you know why it was not done that way?

Mr. VAN SWERINGEN. Yes. Pardon me, until I finish. But this seemed to me to be fairer, all things considered.

Mr. PECORA. Under this supplemental agreement on the part of the Vaness Co. with the bankers, in the event that the bankers succeeded in floating the $48,000,000 issue of bonds, they were to receive as additional compensation or profit the sum of $240,000 from the Vaness Co. Is not that so? The bankers were to receive that compensation from the Vaness Co.?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Is not that so?

Mr. VAN SWERINGEN. That is correct.

Mr. PECORA. Which would have made the net cost of the bonds to the bankers 90 instead of 90½, would it not—$240,000 being one half of 1 percent of $48,000,000?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. And in the event, under this agreement between the Vaness Co. and the bankers, there was a failure of the consummation of the issuance and sale of these $48,000,000 worth of bonds by the Chesapeake Corporation, then the bankers were to receive from the Vaness Co. $480,000 for what you call a service charge?

Mr. VAN SWERINGEN. Yes, sir. I think that is fair.

Mr. PECORA. And that was in addition to——

Mr. VAN SWERINGEN. Pardon me. I do not know that I can confine that, and I do not think it is fair to confine it, as I reflect upon it, as a service charge.

Mr. PECORA. Characterize it in any way you wish.

Mr. VAN SWERINGEN. As compensation for the risk which they took, and the other things, including some——

Mr. PECORA. Were they taking any risk at all in the event of failure of delivery of this issue of bonds to them?

Mr. VAN SWERINGEN. Yes; I think they were.

Mr. PECORA. What risk were they taking?

Mr. VAN SWERINGEN. There might have been some other issue by somebody else that was in the offing that could have taken the place of this one had this one not gone through.

Mr. PECORA. But don't you see that the agreement under which the Vaness Co. obligated itself to pay this $480,000 to the bankers was conditioned upon a failure on the part of the Chesapeake Corporation to deliver the bonds to the bankers?

Mr. VAN SWERINGEN. That is the reason for it.

Mr. PECORA. Then what risk were the bankers taking?

Mr. VAN SWERINGEN. They were taking this risk, that they had made the commitment and had to stand ready while we got ready. They were tied to that extent.

The CHAIRMAN. You never did pay any part of that $480,000?

Mr. VAN SWERINGEN. We never did; no. We did not exepct to. As a matter of fact, it was in the bargain as one of the collateral provisions of the trade, and it was the best trade we thought we could make or felt we could make at the time and for the securities that we were selling.

Mr. PECORA. But the Vaness Co. did pay to the bankers the $240,000 it agreed to pay in the event of the issue and sale of the bonds being consummated?

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Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Which, as I remarked before, made the cost of those bonds to the bankers 90 percent of their face value instead of 90½ percent?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. It is customary, is it not, when a banker underwrites an issue of bonds which he is going to float, to set forth in his prospectus or circular the price at which the banker or underwriter is getting the bonds? That is a very common practice in financing, is it not?

Mr. VAN SWERINGEN. No; I don't think so; not to me it is not.

Mr. PECORA. That is usually done by the underwriter in inviting their participants to come in?

Senator ADAMS. That is not going to be done under the securities bill. That is one of the provisions of that bill, fortunately.

Mr. PECORA. In the original terms group?

Mr. VAN SWERINGEN. I take it that the participants in the transaction are advised of all of the facts when they are invited in. But the circular for the sale will contain the price that the bonds are to bring, if you want to put it that way, to the ultimate purchaser.

Mr. PECORA. Now, Mr. Van Sweringen, will you tell the committee, please, what occasion there was, in view of the fact that the Chesapeake Corporation was issuing these bonds as its obligation, for the Vaness Co.'s agreeing to pay the bankers who were to take those bonds any sum whatsoever, whether it be $240,000 or $480,000 or any other sum?

Mr. VAN SWERINGEN. Yes; I am glad to do that. This question of fairness gets into it, and that has always in it the flexibility of judgment, and as against the contingency that we had judged it to the disadvantage in price for the Chesapeake Corporation, or might if we let them take the full cost; and we as the Vaness Co., having that larger interest and being satisfied that we were right, and believing we were, undertook to take it ourselves. There is that difference. All that can be said for that, as I see it, is that we were leaning over backwards, if I may use the expression, to be fair to the Chesapeake interests.

Mr. PECORA. Did the bankers ask for these additional terms from the Vaness Co., or did the Vaness Co. originally offer them to the bankers?

Mr. VAN SWERINGEN. That came out of the trade.

Mr. PECORA. Who took the initiative with respect to the bankers receiving that additional compensation—the bankers or the issuers?

Mr. VAN SWERINGEN. I think it is a safe bet that it was a concession on our part.

Mr. PECORA. To the bankers?

Mr. VAN SWERINGEN. Yes.

The CHAIRMAN. You mean to say, they were parts of the same contract?

Mr. VAN SWERINGEN. Concurrently made.

The CHAIRMAN. And agreed to at the same time?

Mr. VAN SWERINGEN. Exactly, Mr. Chairman.

Mr. PECORA. What interest did the Vaness Co. have at the time in the Chesapeake Corporation?

Mr. VAN SWERINGEN. That parental interest about which I am talking this morning. Here is an illustration of its value, as we see it.

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Mr. PECORA. In other words, the Vaness Co. was considered by you to be the father of the Chesapeake Corporation?

Mr. VAN SWERINGEN. In a measure; yes.

Mr. PECORA. And as a loving and dutiful father, you took care of its child's interest?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. At the time of this issue of $48,000,000 of bonds was the Vaness Co. indebted to J. P. Morgan & Co.?

Mr. VAN SWERINGEN. I will have to check that.

The CHAIRMAN. While you are checking that, may I ask this: What was the actual value of that 900,000 shares of stock?

Mr. VAN SWERINGEN. Six hundred thousand shares of Chesapeake & Ohio.

The CHAIRMAN. Is that all?

Mr. VAN SWERINGEN. Yes, sir. You are talking about the Chesapeake Corporation stock?

The CHAIRMAN. Yes; 900,000 shares.

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. But the 600,000 shares of Chesapeake & Ohio were subject already to an existing indebtedness of $67.50 a share, were they not?

Mr. VAN SWERINGEN. That is ture.

The CHAIRMAN. The Chesapeake & Ohio property was already mortgaged, was it not?

Mr. VAN SWERINGEN. You mean, the Chesapeake & Ohio Railway itself?

The CHAIRMAN. Yes.

Mr. VAN SWERINGEN. Oh, yes. Very few railroads—I don't know that I know of one that is not.

The CHAIRMAN. Was there an additional stock issue by the Chesapeake Corporation or by the Chesapeake & Ohio after that?

Mr. VAN SWERINGEN. I am quite sure there was.

The CHAIRMAN. Do you know how much?

Mr. VAN SWERINGEN (after conferring with associates). I would say an enlargement right at that time. I am quite sure there was, if I recollect correctly.

The CHAIRMAN. Both the Chesapeake Corporation and the Chesapeake & Ohio?

Mr. VAN SWERINGEN. The Chesapeake & Ohio. I do not think the Chesapeake. You asked if there was an enlargement after that?

The CHAIRMAN. Yes.

Mr. VAN SWERINGEN. There was one about the same time, and there was one following that.

Mr. PECORA. The last question that I asked you——

Mr. VAN SWERINGEN. I am trying to get the data for it, Mr. Pecora.

Mr. PECORA (after a pause). Can you answer the question?

Mr. VAN SWERINGEN. I will answer it from the best of my recollection, if you wish me to undertake that.

Mr. PECORA. Subject to correction at any time after you have ascertained from any data in your possession.

Mr. VAN SWERINGEN. I think there was a substantial debt there right at the time.

Mr. PECORA. Of how much?

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Mr. VAN SWERINGEN. As the result of this enlargement of Chesapeake & Ohio stock that was to be ultimately funded, coming along right in this undertaking.

Mr. PECORA. How much was that indebtedness at that time, on or about May 10, 1927, of the Vaness Co. to J. P. Morgan & Co.?

Mr. VAN SWERINGEN. That is the fallacy of trying to guess. (After conferring with associates.) Thirty-five million dollars.

Mr. PECORA. $35,000,000. Now, was that 35-million-dollar indebtedness of the Vaness Co. to J. P. Morgan & Co. paid out of the proceeds, directly, or indirectly, of this bond issue of $45,000,000 by the Chesapeake Corporation?

Mr. VAN SWERINGEN. That is my recollection. (After conferring with associates.) I thought it was, but they tell me only partly paid.

Mr. PECORA. How much of it was paid out of the proceeds of this bond issue?

Mr. VAN SWERINGEN. The record that they have here is not sufficiently clear. We will supply you with that information, if we may.

Mr. PECORA. Was about $15,000,000 of it paid off out of those proceeds?

Mr. VAN SWERINGEN. Please don't make me guess that, because it is a guess.

Mr. DAVIS. We can give you that figure if you want it.

Mr. PECORA. Yes; it is 15 million.

For your possible benefit, Mr. Van Sweringen, and also perhaps it may serve to refresh your recollection, I have been informed by J. P. Morgan & Co. that out of the proceeds of this issue of $48,000,000 of bonds by the Chesapeake Corporation $15,000,000 of the indebtedness which the Vaness Co. owed J. P. Morgan & Co. on May 10, 1927, was paid to J. P. Morgan & Co. on or about June 6, 1927. Does that serve now to refresh your recollection?

Mr. VAN SWERINGEN. If that is the information they gave you, why, you can bank on its being right. I will just bank on that being right.

Mr. PECORA. So that the parent, the Vaness Co.——

Mr. VAN SWERINGEN (interposing). Incidentally I find I have a memorandum here.

Mr. PECORA. I see. Does your memorandum agree with the——

Mr. VAN SWERINGEN. It does.

Mr. PECORA. Statement I made?

Mr. VAN SWERINGEN. It does.

Mr. PECORA. All right. So that the parent, the Vaness Co., this mother and father of the Chesapeake Corporation, took care of its little child by transferring to it part of the indebtedness which the parent owed to J. P. Morgan & Co.; is that right?

Mr. VAN SWERINGEN. No.

Mr. PECORA. Doesn't it work out that way?

Mr. VAN SWERINGEN. Not in that way. Pardon me; you said does it work out?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. It does work out that way.

Mr. PECORA. Does it work out that way in practical effect?

Mr. VAN SWERINGEN. Yes.

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Mr. PECORA. Now, what was the collateral which the Vaness Co. had at that time for this indebtedness of $35,000,000 that it owed J. P. Morgan & Co. on or about May 10, 1927?

Mr. VAN SWERINGEN (after conference with associates). The market value May 10, 1927, of the collateral to the 35-million-dollar note——

The CHAIRMAN (interposing). What collateral? What kind of collateral?

Mr. VAN SWERINGEN. Was—I will give you that—first the collateral was 90,000 shares of Nickel Plate, so-called.

Mr. PECORA. Ninety thousand shares of Nickel Plate road?

Mr. VAN SWERINGEN. Nickel Plate road.

Mr. PECORA. Common stock?

Mr. VAN SWERINGEN. Yes, sir. Two hundred and two thousand shares of Chesapeake & Ohio common, 200,000 shares of Erie Railroad common, 30,000 shares of Pere Marquette common, and the total market value was $67,455,500. I think that covers it.

Mr. PECORA. Sixty seven million four hundred and——

Mr. VAN SWERINGEN (interposing). $55,500.

(At this point Mr. Van Sweringen conferred at length with associates.)

Mr. PECORA. Now, were not the 202,200 shares of Chesapeake & Ohio common stock which was included in that collateral for the 35-million-dollar indebtedness of the Vaness Co. to J. P. Morgan & Co. included in the 255,000 shares Chesapeake & Ohio stock which the Vaness Co. caused to be delivered to the Chesapeake Corporation?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And that block of 202,000 shares of Chesapeake & Ohio, in market value at least, constituted the major part of the collateral securing this loan of J. P. Morgan & Co. to the Vaness Co. of $35,000,000, didn't it?

Mr. VAN SWERINGEN. About half of it. About half of it. The maket value of the Chesapeake & Ohio common was $35,526,750.

Mr. PECORA. Well, that is a little more than half?

Mr. VAN SWERINGEN. It is a little more than half.

Mr. PECORA. Yes; 35 million as compared to 67 million. And the Chesapeake Corporation put up those same shares of Chesapeake & Ohio common stock as security or as part of the security for this $48,000,000 bond issue, didn't it?

Mr. VAN SWERINGEN. That is my recollection.

Mr. PECORA. Was this indebtedness of $35,000,000 of the Vaness Co. to J. P. Morgan & Co. created for the purpose of enabling Vaness Co. to get the money with which to buy these shares of Chesapeake & Ohio, Erie, and Pere Marquette roads?

Mr. VAN SWERINGEN. It probably was in part; either to get them or to carry them.

(At this point Mr. Van Sweringen conferred with associates.)

Mr. PECORA. Now, as a matter of fact, at the time of the issuance of these 48 million dollars of bonds it was secured by the 600,000 shares Chesapeake & Ohio common which the Chesapeake Corporation had obtained from the Nickel Plate road and from the Vaness Co. in the manner that you described in your testimony before recess, wasn't it?

Mr. VAN SWERINGEN. I missed a stroke in there. May I have that again?

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The SHORTHAND REPORTER (reading):

As a matter of fact, at the time of the issuance of these 48 million dollars of bonds it was secured by the 600,000 shares Chesapeake & Ohio common which the Chesapeake Corporation had obtained from the Nickel Plate road and from the Vaness Co. in the manner that you have described in your testimony?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And those 600,000 shares were then subject to an indebtedness of 67½ a share, or a total of $40,500,000?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. It was the purpose of the Chesapeake Corporation, wasn't it, to take care of the indebtedness of $40,500,000 through the medium of this bond issue of 48 million par value?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. The indebtedness of $67.50 a share on the 600,000 shares of Chesapeake & Ohio common which were owned by the Nickel Plate road and the Vaness Co. could not have been discharged from any property or assets either of the Nickel Plate road or Vaness Co. at that time, could it?

Mr. VAN SWERINGEN. Not advisedly. That is true.

Mr. PECORA. Unless resort were had to the issuance and sale of additional stock?

Mr. VAN SWERINGEN. Yes, sir. Or some such method.

Mr. PECORA. That still left the Vaness Co. owing J. P. Morgan & Co. about 20 million dollars, didn't it?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Was that indebtedness eventually liquidated or discharged?

Mr. VAN SWERINGEN (conferring with associates). Yes. Here it is right here (conferring further). What I am trying to find is the date it was.

Mr. PECORA. All right; take your time.

Mr. VAN SWERINGEN (after conferring further with associates). Mr. Barrett here is telling me that he wants to verify from records that came down last night and he has not had time to do it.

Mr. PECORA. Now, let us see what the situation was up to and including May 10, or June 6, rather, 1927. At that time the Chesapeake Corporation had been formed and had acquired 600,000 shares of the common stock of the Chesapeake & Ohio road, hadn't it?

Mr. VAN SWERINGEN. That is correct.

Mr. PECORA. And at the same time the Vaness Co. had acquired a large block of stock of the Erie common and the Pere Marquette road and the Nickel Plate road?

Mr. VAN SWERINGEN. You mean had up to that time?

Mr. PECORA. Up to that time; yes, sir.

Mr. VAN SWERINGEN. That is right.

Mr. PECORA. Acquired up to that time?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And these holdings were enough to give management control of those roads, weren't they?

Mr. VAN SWERINGEN (after conferring with associates). I think the answer to that is yes, but I would like to check.

Mr. PECORA. You may correct it if you find subsequently by reference to your records that it is incorrect.

Mr. VAN SWERINGEN. Yes.

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Mr. PECORA. And all of the assets of the Chesapeake Corporation and the Vaness Co. were pledged as collateral to secure loans that had been made by J. P. Morgan & Co. to the Vaness Co. and also to secure the $48,000,000 bond issue of the Chesapeake Corporation, were they not, up to June 6?

Mr. VAN SWERINGEN. I think I should have added to the statement that I just answered, or to my answer that I have just made, and qualify it a little bit in the sense that you say was enough to permit the management control of the company. I suspect that—I am very sure that was not the whole consideration. In other words, that the management of the property more or less stood by itself, although it did undoubtedly form the basis for election of directors.

Mr. PECORA. Well, management control is effected through directors, isn't it?

Mr. VAN SWERINGEN. Yes, it is; but there is just that shade of difference in this thing that I wanted to bring out.

Mr. PECORA. Subsequent to May 1927 did the Chesapeake Corporation increase its capital stock 900,000 shares?

Mr. VAN SWERINGEN (after conferring with associates). Yes, sir. That was done. It was enlarged at that time.

Mr. PECORA. No; it was not.

Mr. VAN SWERINGEN. It was enlarged——

Mr. PECORA (interposing). It was subsequently. It was in June 1929 that was done?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. And what increase of capital stock was then authorized?

Mr. VAN SWERINGEN. The authorized amount was 2,500,000 shares.

Mr. PECORA. You mean 1,600,000 additional shares?

Mr. VAN SWERINGEN. Additional amount, yes.

Mr. PECORA. To bring the total authorized capital stock up to 2,500,000 shares?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now, was all of that authorized additional stock actually issued?

Mr. VAN SWERINGEN. No, sir.

Mr. PECORA. How much of it was actually issued?

Mr. VAN SWERINGEN. Nine hundred thousand more shares.

Mr. PECORA. And that was done on June 3, 1929, wasn't, it or thereabouts?

Mr. VAN SWERINGEN. June—just about that time. I notice the stock exchange shows June 12.

Mr. PECORA. That made the total outstanding stock of the Chesapeake Corporation 1,800,000 shares?

Mr. VAN SWERINGEN. That is right.

The CHAIRMAN. Was this additional 900,000 sold to the public?

Mr. VAN SWERINGEN. To the stockholders.

Mr. PECORA. All of it to the stockholders?

Mr. VAN SWERINGEN. Prorated; yes, sir.

The CHAIRMAN. How much of it was stock dividends?

Mr. VAN SWERINGEN. One half.

Mr. PECORA. At what price was it sold to the stockholders?

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Mr. VAN SWERINGEN (after examining document and referring to associates). One half of it was sold at $50 a share, and the other half was stock dividends.

Mr. PECORA. That is to say, 450,000 of the additional shares were given to the stockholders of the Chesapeake Corporation as a stock dividend and the other 450,000 shares of the additional shares was sold to them at $50 a share?

Mr. VAN SWERINGEN. That was the plan adopted.

Mr. PECORA. Is that correct?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now, generally speaking, who were the stockholders of the Chesapeake Corporation at that time?

Mr. VAN SWERINGEN. You are now talking about the date——

Mr. PECORA (interposing). In June 1929.

Mr. VAN SWERINGEN. In June 1929?

Mr. PECORA. Yes, sir.

Mr. VAN SWERINGEN. And that takes us into Alleghany—Alleghany Corporation, for your record.

Mr. PECORA. We are getting right near to it now. Who were the stockholders on June 3, 1929, when this stock dividend was given to the stockholders of Chesapeake Corporation and when 450,000 shares were offered to them at $50 a share?

Mr. VAN SWERINGEN. Alleghany was by far the largest stockholder.

Mr. PECORA. The Alleghany actually at that time owned more than 70 percent, didn't it, of the entire outstanding capital stock of the Chesapeake Corporation?

Mr. VAN SWERINGEN. That is about it.

Mr. PECORA. So if this stock dividend and the right to subscribe to shares at $50 a share was in the nature of a lemon—of a melon. [Laughter in the room.]

Mr. VAN SWERINGEN. Very good.

Mr. PECORA. It was a melon, and became a lemon—was in the nature of a melon, the greater part of it went to the Vaness Corporation?

Mr. VAN SWERINGEN. Yes; and still is.

Mr. PECORA. Still is?

Mr. VAN SWERINGEN. It still pays its dividend and earns it.

Mr. PECORA. Who were the other stockholders at that time of Chesapeake Corporation besides the Alleghany?

Mr. VAN SWERINGEN. They were widely scattered. They had their origin in the Nickel Plate stockholders, and from there, of course, changed by a process of sales back and forth. Our last record on that indicates that there are forty-two hundred and odd stockholders.

Mr. PECORA. Now, at the time of the issuance of these 450,000 shares, the increased or additional stock of Chesapeake Corporation to its stockholders at $50 a share, do you know what the market value was of those shares?

Mr. VAN SWERINGEN. I may have it here [conferring with associates]. I am sorry, but I guess I haven't it here.

Mr. PECORA. Well, I understand it was about $85 a share. Would you accept that, subject to correction by you?

Mr. VAN SWERINGEN. That is all right. Yes, sir. Thank you.

The CHAIRMAN. You say the Chesapeake has paid dividends right along and still pays?

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Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now, Mr. Van Sweringen, you have mentioned the Alleghany Corporation. When was that organized?

Mr. VAN SWERINGEN. January 26, 1929.

Mr. PECORA. And did the Van Sweringen interests participate in that organization?

Mr. VAN SWERINGEN. Very definitely.

Mr. PECORA. With whom?

Mr. VAN SWERINGEN. Others who bought stock at that time.

Mr. PECORA. Who were they?

Mr. VAN SWERINGEN. There was a public subscription about that time.

Mr. PECORA. Who were the organizers of the Alleghany Corporation?

Mr. VAN SWERINGEN. Oh, I misunderstood your point.

Mr. PECORA. I thought you did.

Mr. VAN SWERINGEN (after conferring at length with associates). The formation of this, Mr. Pecora, was brought about at the instance of O. P. and M. J. Van Sweringen.

Mr. PECORA. And did O. P. and M. J. Van Sweringen—I will put you first in that—invite anyone else to join with them in the organization of the Alleghany Corporation?

Mr. VAN SWERINGEN. On January 28, 1929, they addressed this letter to Messrs. J. P. Morgan & Co., New York City. I will read it, with your permission.

Mr. PECORA. I think that letter has already been offered in evidence, known as "Committee's Exhibit 9". Now I will read what has been marked as the committee's exhibit 9, just the first few lines, and you follow me; will you?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. And then we will make sure that it is the document that you have before you, so as to obviate the necessity of reading it again.

Mr. VAN SWERINGEN. Yes, sir; thank you.

Mr. PECORA. It is dated January 28, 1929, addressed to [reading]:

Messrs. J. P. MORGAN & Co.,
New York City.

DEAR SIRS: We propose to form a new corporation (to be called the Alleghany Corporation) for the purpose of purchasing and owning certain stock interests in various companies, largely companies owning and controlling railway properties——

Mr. VAN SWERINGEN (interposing). That is the letter.

Mr. PECORA. That is the letter?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And that is signed by O. P. and M. J. Van Sweringen, and at the foot of the letter this inscription: "Confirmed January 28, 1929," signed "J. P. Morgan & Co."

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. That is already in evidence, Mr. Van Sweringen.

Now, the Alleghany Corporation was organized as a holding company to acquire securities of various railroad lines which were owned by either the Vaness Co., General Securities Corporation, or by yourselves, Van Sweringen interests individually, wasn't it?

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Mr. VAN SWERINGEN. Yes, sir. The purposes of the organization are set out in the——

Mr. PECORA (interposing). The purposes are set out in the following language of that letter:

We propose to form a new corporation, to be called the Alleghany Corporation, for the purpose of purchasing and owning certain stock interests in various companies, largely companies owning and controlling railway properties, which holdings are now owned either by the Vaness Co., General Securities Corporation, or by ourselves individually, with full power to such corporation to sell and reinvest from time to time as the directors of the new corporation may determine.

Those generally are the purposes for which the Alleghany Corporation was created?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Is that correct?

Mr. VAN SWERINGEN. That is correct.

Mr. PECORA. Now, why did you and your brother and your associates deem it necessary or advisable at this time, January 1929, to organize the Allehgany Corporation for those purposes?

Mr. VAN SWERINGEN (after looking at some papers). My so-called "prepared statement" made on the first day that I was on the stand in this hearing sets that out rather fully, and——

Mr. PECORA (interposing). Well, now, let me follow you. Does it set it out in this portion thereof which I will now read to you——

Mr. VAN SWERINGEN (interposing). I have it here. May I read it?

Mr. PECORA. All right. Perhaps it will save my voice.

Mr. VAN SWERINGEN. I read for you, if you please, from the statement that I made on my first day here in this hearing:

Still carrying on our efforts to unify the railroads under our control——

Mr. PECORA (interposing). Let me read from that point on, because I can read it faster than you.

Mr. VAN SWERINGEN. All right.

Mr. PECORA. It is:

Still carrying on our efforts to unify the railroads under our control, the Chesapeake & Ohio at about this same time applied to the Interstate Commerce Commission for authority to acquire stock control of the Erie and Pere Marquette. We did not this time ask to include the Nickel Plate because it seemed to us that we would progress our undertakings more certainly by proceeding a step at a time. The Commission allowed the Chesapeake & Ohio to have the Pere Marquette control, but withheld approval as to the Erie.

It was now clear that there was a definite need for a vehicle in which to carry, in so far as was consistent, and to mobilize, in the financial sense, our activities looking toward the ultimate goal of final upbuilding of the Chesapeake & Ohio, or so-called "Fourth system" for the eastern region, that all through these years of effort had been the subject of negotiation and discussion with the various parties in interest.

All of these efforts and activities could more readily be treated with by a proprietary interest than otherwise, and to that end also we had been accumulating and developing the separate parts of that ultimate whole, as we saw that fourth system to be.

To meet the need to which we have just referred, early in 1929 we brought Alleghany Corporation into being, to take over shares held by us and to furnish a corporate instrumentality to provide funds for carrying on. For each net dollar value of our investment that we put into this corporation, we took in settlement junior, or common shares, only.

Now, does that set forth the purpose, or the reasons, rather——

Mr. VAN SWERINGEN (interposing). It does.

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Mr. PECORA (continuing). That you and your associates considered it necessary or advisable to create the Alleghany Corporation?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And in the creation of this corporation you asked for the aid and assistance of J. P. Morgan & Co., didn't you?

Mr. VAN SWERINGEN. We did.

Mr. PECORA. And that aid and assistance was formally set forth in this letter of January 28, 1929, which has been marked "Committee's Exhibit No. 9"?

Mr. VAN SWERINGEN. That is right.

Mr. PECORA. You stated in your testimony this morning that the General Securities Corporation was organized in connection with the exchange of securities between the Vaness Co. and the Chesapeake Corporation, for the purpose of enabling that exchange to be made without either of the two parties paying any tax on any resultant profit. Do you recall that testimony?

Mr. VAN SWERINGEN. Yes, sir; and I have a copy of what I said. I will read it again if you wish.

Mr. PECORA. I know what you said. You have already read it into the record. That is what I recall, that you said this morning, or so testified, and at the same time you said that a corporation called the Geneva Corporation or the Geneva Co. was created for a similar purpose in connection with the organization of the Alleghany Corporation, do you recall that?

Mr. VAN SWERINGEN. I do; yes, sir.

Mr. PECORA. When was that Geneva Corporation formed?

Mr. VAN SWERINGEN (after conferring with an associate). Just about the time that the Alleghany Corporation was formed.

Mr. PECORA. And it was formed for the purpose, or to serve the same purposes of economy as you referred to it this morning, that the General Securities Corporation was formed in connection with the exchange of securities that that corporation was used for, wasn't it?

Mr. VAN SWERINGEN. With the other beneficial purposes.

Mr. PECORA. With the other beneficial purposes.

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now, what was the capital structure of the Alleghany Corporation at the outset.

Mr. VAN SWERINGEN. The authorized common stock of no par value was 7½ million shares, of which there were at the time issued 3½ million shares.

Mr. PECORA. Seven and a half million shares of common?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Well, ——

Mr. VAN SWERINGEN (continuing). The preferred stock at that time was 1,000,000 shares, of which 250,000 shares were issued.

Mr. PECORA. Was that preferred stock of $100 par value?

Mr. VAN SWERINGEN. Yes, sir. I thank you.

Mr. PECORA. Yes. How many of those authorized 7,500,000 shares of common stock were actually issued at the outset by the Alleghany Corporation?

Mr. VAN SWERINGEN. There were issued three and a half million shares.

Mr. PECORA. To whom were those three and a half million shares of common issued?

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Mr. VAN SWERINGEN. Two million two hundred and fifty thousand of those shares were issued to the Van Sweringen interests, or the General Securities, to be exact.

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. The General Securities Corporation. And 1,250,000 shares were sold to the Morgan firm at $20 per share.

Mr. PECORA. At what price per share were the 2¼ million shares of common stock issued to the Van Sweringen interests?

Mr. VAN SWERINGEN. At $20 a share.

Mr. PECORA. That was the same price?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA (continuing). That J. P. Morgan & Co. paid; is that right?

Mr. VAN SWERINGEN. That is right.

Mr. PECORA. Now, it has been put in evidence here, Mr. Van Sweringen, that J. P. Morgan & Co. invited a number of persons to buy or subscribe for different allotments of the shares of the common stock of the Alleghany Corporation at the cost price to J. P. Morgan & Co., namely, $20 per share. I do not know whether you are familiar with that testimony. Are you, Mr. Van Sweringen?

Mr. VAN SWERINGEN. In a general way.

Mr. PECORA. In a general way?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now, it was also testified to heretofore that a number of the persons who were invited by J. P. Morgan & Co. to subscribe for Alleghany Corporation common shares at $20 per share, were suggested by the Van Sweringen interests. Can you tell us who those persons were?

Mr. VAN SWERINGEN. I can tell you some of them.

Mr. PECORA. Will you please do so?

Mr. VAN SWERINGEN. I think I will start first with Mr. Nutt, Mr. J. R. Nutt, and Mr. Barrett—if I had a list of the shareholders I could tell you better. Mr. Fitzpatrick, Mr. Harahan, Mr. Bradley——

Mr. PECORA (interposing). Now, possibly for your convenience, Mr. Van Sweringen, let me turn over to you a printed copy of the testimony to which I have alluded, printed for the use of this committee, pages 138 and 139 of part 1 thereof. Will you just look at the names shown on that list on those two pages, and just go down the list, and when you come across a name that was recommended by the Van Sweringen interests, will you indicate that name to the committee? Start at the beginning.

Mr. VAN SWERINGEN. This is going to be a little bit of a memory test for me again.

Mr. PECORA. Well, we will hope for good results.

Mr. VAN SWERINGEN. I will try to do better. I have already mentioned Mr. Barrett, and I think Mr. Baker, but I am not sure. He was an attorney in the proceedings at the time.

Mr. PECORA. Do you mean Newton D. Baker?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And Mr. Barrett, do you say?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. What is his name?

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Mr. VAN SWERINGEN. D. S. Barrett, Jr. Mr. Bernet, Mr. Charles Bradley, Mr. Herbert Fitzpatrick—but I did give his name, did I not? Mr. Michael Gallagher, Mr. Harahan I did mention, I think.

Mr. PECORA. Mr. W. J. Harahan?

Mr. VAN SWERINGEN. Yes, sir. And Henry A. Marting.

Mr. PECORA. Henry A. Marting?

Mr. VAN SWERINGEN. Yes, sir. And Mr. Murphy—Mr. John P. Murphy, pardon me. W. L. Ross, John Sherwin, Sr. And the record shows G. D., but I suspect it was K. D., Steere.

Mr. PECORA. Was he one of the partners of the brokerage firm of Paine, Webber & Co.?

Mr. VAN SWERINGEN. Yes, sir. And he used to be in our organization. Subject to any inaccuracies of recollection I would say that that was in general it.

Mr. PECORA. Well, we will take these names, errors, and omissions excepted.

Mr. VAN SWERINGEN. Thank you.

Mr. PECORA. Now, you say that Mr. Newton D. Baker was formerly an attorney for your interests?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Who was Mr. D. S. Barrett, Jr.?

Mr. VAN SWERINGEN. He, Mr. Baker, was an attorney in some of these Alleghany proceedings.

Mr. PECORA. Mr. Barrett was?

Mr. VAN SWERINGEN. Mr. Barrett is right here.

Mr. PECORA. Was he connected in any official capacity as an officer or director of any of the railroad companies whose holdings were acquired by the Alleghany Corporation?

Mr. VAN SWERINGEN. He was later in the Missouri Pacific. Mr. Barrett is a director there and with some of its subsidiaries.

Mr. PECORA. And Mr. J. J. Bernet at that time was president of the Erie Railroad, wasn't he?

Mr. VAN SWERINGEN. I am not sure about that particular time, but he has been president of it. He is now president of the C. & O. and the Pere Marquette.

Mr. PECORA. And at that time, in 1929, wasn't he connected as an executive officer with one or more of the railroads whose stock was acquired by the Alleghany Corporation?

Mr. VAN SWERINGEN. Oh, yes.

Mr. PECORA. Mr. Charles Bradley was one of your associates?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Way back in 1916?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. When you first entered the railroad field?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now, Mr. Herbert Fitzpatrick was a director of the Pere Marquette and also of the Chesapeake & Ohio, wasn't he, at that time?

Mr. VAN SWERINGEN. Yes, sir; and counsel.

Mr. PECORA. As well as counsel?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Mr. Michael Gallagher was a director or officer of the Pere Marquette Railroad, wasn't he?

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Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And Mr. W. J. Harahan was also an officer of one of these railroad companies the holdings of which were acquired by the Alleghany Corporation?

Mr. VAN SWERINGEN. That is correct.

Mr. PECORA. Now, did you by any chance overlook the name of J. A. House on that printed list?

Mr. VAN SWERINGEN. No. My recollection was too hazy on that and I did not include it.

Mr. PECORA. Well, was this Mr. House——

Mr. VAN SWERINGEN (continuing). He was a director of the Nickel Plate Railroad.

Mr. PECORA. Was this invitation to subscribe to the common shares of the Alleghany Corporation at $20 a share, extended to him by J. P. Morgan & Co. on your suggestion or recommendation?

Mr. VAN SWERINGEN. It might well have been, but I just didn't vividly remember it.

Mr. PECORA. Now, was Mr. Henry A. Marting connected with any of these railroads as an officer or director at the time?

Mr. VAN SWERINGEN. He was a director of the Chesapeake Corporation and counsel in some of their matters.

Mr. PECORA. What was that?

Mr. VAN SWERINGEN. And counsel in some of their matters, I say.

Mr. PECORA. He was one of the partners of Mr. Ginn's law firm, or isn't he?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And the Mr. John P. Murphy to whom you referred is the gentleman who was sworn as a witness this morning in this hearing?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And an officer of some of your corporations?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Who is W. L. Ross?

Mr. VAN SWERINGEN. He is the president retired of the Nickel Plate.

Mr. PECORA. And he was the president of the Nickel Plate Railroad at that time, wasn't he?

Mr. VAN SWERINGEN. I think he was.

Mr. PECORA. Who was Mr. John Sherwin, Sr.?

Mr. VAN SWERINGEN. Mr. Sherwin is retired and has his own investments.

Mr. PECORA. He was invited to subscribe for 5,000 shares of Alleghany Corporation common at $20 a share upon your recommendation. Will you tell us something more about his business affiliations or any other affiliations that he had?

Mr. VAN SWERINGEN. He is a director of the Nickel Plate, and we have had different transactions together in a financial way, or side by side.

Mr. PECORA. And you have already indentified Mr. K. D. Steere as a partner of Paine, Webber & Co.?

Mr. VAN SWERINGEN. And as a former associate of ours.

Mr. PECORA. Now, the Van Sweringens acquired at its inception 2½ million shares of the common stock of the Alleghany Corporation

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at $20 per share. Did you or your associates extend an invitation to any other gentlemen to participate in the acquisition of that stock at $20 a share?

Mr. VAN SWERINGEN. Do you mean of those shares which we got?

Mr. PECORA. Yes, sir.

Mr. VAN SWERINGEN. No. We wanted to hang on to them, frankly.

Mr. PECORA. They were too good to let go?

Mr. VAN SWERINGEN. No. That was the percentage that we wanted to keep.

Mr. PECORA. And you did keep them, did you?

Mr. VAN SWERINGEN. We have, substantially.

Mr. PECORA. To whom were those 2½ million shares actually issued, Mr. Van Sweringen?

Mr. VAN SWERINGEN. To the General Securities Corporation.

Mr. PECORA. That is another one of the little tots that the Van Sweringen interests regarded themselves as the parent of, isn't it?

Mr. VAN SWERINGEN. It has since been extinguished, as you know. But it came within that category while it was in being, in some respects.

The CHAIRMAN. Why didn't you use the Vaness Co., then?

Mr. VAN SWERINGEN. I was trying to think myself. It didn't occur to me at the moment just why that was.

The CHAIRMAN. Well, it is not very material. You need not take any time to answer it.

Mr. VAN SWERINGEN. All right.

Mr. PECORA. Now, those 2½ million shares at $20 a share totaled $45,000,000. Was that consideration paid in cash to the Alleghany Corporation?

Mr. VAN SWERINGEN. No.

Mr. PECORA. How was it paid?

Mr. VAN SWERINGEN. In exchange for 100,000 chares of Nickel Plate common stock, subject to a debt of $1,029,000. That is the debt that has not the right to be retired before maturity. And 440,386 shares of Chesapeake Corporation stock. And along with this trade or exchange were detached warrants——

Mr. PECORA (interposing). I was just coming to them.

Mr. VAN SWERINGEN (continuing). To purchase 1,725,000 shares of common stock at $30 a share.

Mr. PECORA. Now, what price was paid by your interests to the Alleghany Corporation for those 1,725,000 detached option warrants?

Mr. VAN SWERINGEN. They were measured in the general consideration, but they had an allocated——

Mr. PECORA (interposing). They were allocated at the price of $1 per warrant, weren't they?

Mr. VAN SWERINGEN. Yes; I think that is right.

Mr. PECORA. At a dollar a share to the purchaser?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. But the actual number of warrants that you got was 1,050,000, wasn't it, each warrant entitling the holder to purchase one and a half shares of the common stock of the Alleghany Corporation at the rate of $30 per share.

Mr. VAN SWERINGEN. No; one share, or 1,725,000 as a total.

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Mr. PECORA. What rights were acquired by those holders of those warrants that you have referred to?

Mr. VAN SWERINGEN. The right for each one to buy one share of stock at $30 a share.

Mr. PECORA. Of common stock?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And you got 1,725,000 of them?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. At $1 per warrant?

Mr. VAN SWERINGEN. At an allocated value of that.

Mr. PECORA. An allocated value?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Who were the directors of the Alleghany Corporation at the outset?

Mr. VAN SWERINGEN. I was its president, and——

Mr. PECORA (interposing). You were its president?

Mr. VAN SWERINGEN. Yes, sir. And Mr. C. L. Bradley, Mr. J. R. Nutt, Mr. M. J. Van Sweringen, and Mr. D. S. Barrett, Jr.

Mr. PECORA. Now, they were all persons associated with you, commencing back in 1916, weren't they?

Mr. VAN SWERINGEN. Yes, sir. With the exception of my brother, who commenced quite a number of years sooner.

Mr. PECORA. I mean when you went into the railroad field.

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Now, Mr. Van Sweringen, were any of these option warrants offered to the public?

Mr. VAN SWERINGEN. In the sale of preferred stock there are some warrants.

Mr. PECORA. Not these detachable warrants?

Mr. VAN SWERINGEN. No.

Mr. PECORA. I am referring now to these detachable warrants that entitled holders thereof to subscribe for a share of Alleghany common stock at $30 per share for each warrant.

Mr. VAN SWERINGEN. May I correct my statement? You said "detachable warrant."

Mr. PECORA. Detached.

Mr. VAN SWERINGEN. I think it should be "detached."

Mr. PECORA. I meant detached.

Mr. VAN SWERINGEN. Yes. Now I interrupted you. I am sorry.

Mr. PECORA. My question was: Were any of these detached option warrants offered to the public?

Mr. VAN SWERINGEN. No, sir.

Mr. PECORA. They were all issued to the organizers of the corporation?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. That is, yourselves and J. P. Morgan & Co.?

Mr. VAN SWERINGEN. Yes, sir. To ourselves. You said to the organizers. Ourselves.

Mr. PECORA. Well, weren't some of them issued to J. P. Morgan & Co.?

Mr. VAN SWERINGEN. No.

Mr. PECORA. Did you make any disposition of any of these 1,725,000 warrants?

Mr. VAN SWERINGEN. Yes.

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Mr. PECORA. What disposition did you make of them?

Mr. VAN SWERINGEN. Three hundred and seventy-five thousand of them went from General Securities to the Morgan firm.

Mr. PECORA. To the J. P. Morgan firm?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. For what consideration?

Mr. VAN SWERINGEN. It measured in our general consideration. At that time in the negotiations that we were having there was no identification of that consideration.

Mr. PECORA. Were they given as a bonus for anything?

Mr. VAN SWERINGEN. I could hardly call it a bonus. From our point of view for a part of the measure, for those things that they had done in the different affairs that we had had. It had been my policy, or my habit, rather, to go to them frequently and consult with them about financial matters. I had been doing that over a period of time. Many of those things have no separate compensation, and yet their time taken, and the advice is valuable.

Mr. PECORA. Well, was it given as a token of grateful appreciation of all of this assistance you had obtained in past transactions from them?

Mr. VAN SWERINGEN. I would rather say recognition.

Mr. PECORA. Recognition instead of "grateful appreciation". All right. Now these warrants were unlimited as to time, weren't they?

Mr. VAN SWERINGEN. If my memory serves me right they had fifteen years' life from their issue.

Mr. PECORA. What was the purpose of issuing to the organizers of Alleghany Corporation these 1,725,000 warrants at $1 apiece?

Mr. VAN SWERINGEN. Why did we want them, do you mean?

Mr. PECORA. What is that?

Mr. VAN SWERINGEN. Do you mean, why did our interests want them from the Alleghany?

Mr. PECORA. Let me put it this way: What interests of the Alleghany Corporation did you think were served by the issuance to yourselves as the organizers of that corporation of these 1,725,000 warrants for $1 apiece?

Mr. VAN SWERINGEN. Why, it was a part of the consideration making up the trade by which we put into Alleghany or permitted them to have these railroad interests that I have identified as going to them.

Mr. PECORA. Well, these railroad interests that you refer to were the railroad interests of yourselves, that is, the Van Sweringen interest, weren't they?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. And the Van Sweringen interests created or organized the Alleghany Corporation, did they not?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. So that virtually you were doing business with yourselves, were you not, when you organized the Alleghany Corporation?

Mr. VAN SWERINGEN. There is a measure of interlocking relationship there undoubtedly.

Mr. PECORA. But in the main is that true, that the Van Sweringen interests sat around the council board and organized or caused to be organized the Alleghany Corporation and obtained from it for $1 apiece 1,725,000 warrants to buy its common shares at $30 a share at any time within 15 years?

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Mr. VAN SWERINGEN. As a measure——

Mr. PECORA. Is that a fair statement, Mr. Van Sweringen?

Mr. VAN SWERINGEN. That taken alone is not the story.

Mr. PECORA. Well now, just——

Mr. VAN SWERINGEN. Coupled with the rest of the transaction it is the story.

Mr. PECORA. Well, I notice, Mr. Van Sweringen, that all of the directors of the Alleghany Corporation at the outset were composed of Van Sweringen associates?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. And these directors coming from the personnel of the Van Sweringen associates, if I may use the term, sat around the directors table of the Alleghany Corporation and voted to the Van Sweringen interests 1,725,000 warrants for one dollar apiece. Is that right?

Mr. VAN SWERINGEN. With the other considerations that I have mentioned, yes, sir.

Mr. PECORA. Of course the other considerations related to the acquisition by yourselves of other issues of securities or stock of the Alleghany Corporation? Didn't it?

Mr. VAN SWERINGEN. It did.

Mr. PECORA. Yes. Now confining ourselves for the time-being——

Mr. VAN SWERINGEN. But the two were interrelated; that is the point.

Mr. PECORA. They were all a part and parcel of the one transaction?

Mr. VAN SWERINGEN. Yes, sir. That is a very good description.

Mr. PECORA. But referring to that portion of it which related to the issuance to the organizers—and by that I mean to the Van Sweringen interests—of the 1,725,000 warrants at a dollar apiece, what advantages accrued to the Alleghany Corporation from that part of the transaction?

Mr. VAN SWERINGEN. It was a part of the measure that we all felt was fair for them to concede for that which they got.

Mr. PECORA. For whom to concede, and to whom was the concession made?

Mr. VAN SWERINGEN. For the Alleghany to concede and the General Securities Co. to receive.

Mr. PECORA. Well, now, the Alleghany Corporation insofar as it acted through individuals acted through the individuals that were the Van Sweringen associates. So that the Van Sewringen associates were dealing with themselves, were they not, in this whole transaction?

Mr. VAN SWERINGEN. There was some of that in it.

Mr. PECORA. Now what advantages accrued to the Alleghany Corporation or did you think the Alleghany Corporation could acquire in the future from the issuance of these 1,725,000 warrants to its organizers for a dollar apiece?

Mr. VAN SWERINGEN. Mr. Pecora, I do not think it was a question of advantage to be had, but it was a question of fairness of trade. While we had a relationship in both directions, that did not interfere with our being able to be fair about what we were doing.

Mr. PECORA. Well, now, on this subject of fairness of trade, didn't it amount to this? The Van Sweringen interests, composing as they did, the board of directors of the Alleghany Corporation, at the time

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of the issuance of these warrants conferred with the Van Sweringen interests, as represented in the General Securities Corporation, and concluded that it was a fair thing for the Van Sweringen interests sitting as the board of directors of the Alleghany Corporation to issue to the Van Sweringen interests sitting as the owners of the General Securities Corporation, to make this deal?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. That is it. Well, what did you consider would be the benefits that ever could accrue at any time thereafter to the Alleghany Corporation by that kind of a fair trade?

Mr. VAN SWERINGEN. Again I think I have got to turn back a little bit and say that it was thought to be, and I still believe it was a fair consideration, or, to put it the other way, if you want to, a fair part of the bargain that they conceded in the trade the other way.

Mr. PECORA. But we have seen that the parties ot this trade were the Van Sweringen interests on the one hand and the Van Sweringen interests on the other hand.

Mr. VAN SWERINGEN. Right.

Mr. PECORA. Now, were you thinking only of the Van Sweringen interests when you authorized the issuance of these warrants at a dollar apiece, or were you thinking of the interests of the persons who in time to come would become the stockholders of the Alleghany Corporation? In other words, were you thinking of the interests of the investing public whom you expected would ultimately acquire or buy the stock of the Alleghany Corporation?

Mr. VAN SWERINGEN. Decidedly so, otherwise we could not have made the measure of fairness.

Mr. PECORA. Oh, you were thinking of the interests of the general body of the stockholders to come, were you?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Now, how did you figure that those interests would be served by the issuance of these warrants to the Van Sweringen interests for a dollar apiece?

Mr. VAN SWERINGEN. The price of $30 for their exercise was a fair price to pay for the shares in the light of the conditions as we saw them at the time that the trade and the conditions were made.

Mr. PECORA. But wait just a moment. These warrants——

Mr. VAN SWERINGEN. By giving an option.

Mr. PECORA. These warrants simply consisted of an option?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. An option to the holders of them to buy common shares of Alleghany Corporation at any time in 15 years for $30 a share, did it not?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And all that the Alleghany Corporation got for those option warrants was a dollar a warrant, did it not?

Mr. VAN SWERINGEN. No. That is the distinction that I have been making.

Mr. PECORA. Well now, haven't you said a number of times that that was the value allocated to these option warrants?

Mr. VAN SWERINGEN. In our accounting record it was the allocation, to be sure, but it was part and parcel of the rest of the transaction that was made at that time.

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Mr. PECORA. And it was part and parcel of the transaction under which your interests got a large block of the shares of the common stock of Alleghany Corporation at $20 a share?

Mr. VAN SWERINGEN. Yes, sir; which was the prevailing price at that time based upon the assets that were in the corporation at that time.

Mr. PECORA. Now, was it the prevailing price at that time?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. $20 a share the prevailing price at that time?

Mr. VAN SWERINGEN. At that time. That was the price. Now, you are talking about—or having in mind—markets which is still another thing that followed after this deal was made.

Mr. PECORA. What kind of a market?

Mr. VAN SWERINGEN. You are thinking about market quotations that followed after this trade was made, I suspect.

Mr. PECORA. No; I am thinking particularly of the fact that on February 1, as appears from the record here, in 1929, J. P. Morgan & Co., or one of the partners, advised certain individuals when they invited them to subscribe for these shares, at $20 a share, that they were actually at that time selling in the market for between $35 and $37 per share. That is precisely what I am thinking of, Mr. Van Sweringen.

Mr. VAN SWERINGEN. Notwithstanding that what I have said is the fact.

Mr. PECORA. Well now, did you ever exercise your rights under these option warrants?

Mr. VAN SWERINGEN. No, sir.

Mr. PECORA. Would you have exercised them at any time that the common shares of Allegheny Corporation were selling for less than $30?

Mr. VAN SWERINGEN. Undoubtedly we would not.

Mr. PECORA. No. So that these option warrants put you in the position of having a call on 1,725,000 shares for 15 years at $30 a share?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And you would not expect to exercise those warrants—your option—unless you could buy the stock at $30 at a time when it was worth more or was selling in the market for more than that figure, would you? It would not be good business sense to do it, would it?

Mr. VAN SWERINGEN. That would rather be so.

Mr. PECORA. What is that?

Mr. VAN SWERINGEN. That would rather be so.

Mr. PECORA. Yes. So that what benefits could accrue that would be shared by the general body of the stockholders of the Alleghany Corporation at any time after this from this issuance to the organizers of these option warrants?

Mr. VAN SWERINGEN. The benefits that arose in the origina making of the trade.

Mr. PECORA. You mean the benefits that arose from selling common stock to the organizers at $20 a share when it was selling in the market for $35 to $37 a share?

Mr. VAN SWERINGEN. No; that is not what did happen. Pardon me. Those were sold at the time of organization at $20 a share, but

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the market thereafter attached a value of somewhere in the range that you are talking about.

Mr. PECORA. And is that the best and most complete statement you can make of the benefits that in your opinion accrued and would have accrued to the general body of the stockholders of Alleghany Corporation from the issuance to its organizers for a dollar apiece of 1,725,000 of these option warrants?

Mr. VAN SWERINGEN. That, in my judgment, was enough.

Mr. PECORA. That is enough?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Well, I think it is enough for today.

The CHAIRMAN. Mr. Van Sweringen, was not the effect of the issue of these warrants a dilution of the stock?

Mr. VAN SWERINGEN. No.

The CHAIRMAN. It was not?

Mr. VAN SWERINGEN. No.

The CHAIRMAN. Did it not amount to a continuous dilution of the earnings to continue the issuance of them?

Mr. VAN SWERINGEN. No, sir. Because before any more stocks went out $30 per share would have to come in. Whereas the original shares went out for $20.

The CHAIRMAN. It looks to me like this right to issue warrants and call for stock gives the possibility of continuous dilution of earnings until the warrants are exhausted.

Mr. VAN SWERINGEN. No. That is not it, as I see it. Because the warrant price was 50 percent above the original issuance price of the shares.

The CHAIRMAN. Yes.

Mr. VAN SWERINGEN. Or, in other words, that price——

The CHAIRMAN. But afterward the shares went up in value.

Mr. VAN SWERINGEN. Well, that is on the market.

The CHAIRMAN. Yes.

Mr. VAN SWERINGEN. That is market. And we see it right along. Today Chesapeake & Ohio shares are selling above what the company got for them. That is an awfully healthy condition. I wish there were more of them.

The CHAIRMAN. Yes. We will take a recess until 10 o'clock tomorrow morning.

(Thereupon, at 4:55 p.m., Wednesday, June 7, 1933, an adjournment was taken until 10 a.m. the next day, Thursday, June 8, 1933.)

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STOCK EXCHANGE PRACTICES

THURSDAY, JUNE 8, 1933

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

The committee met, pursuant to adjournment on yesterday, at 10 a.m., in the caucus room of the Senate Office Building, Senator Alva B. Adams presiding.

Present: Senators Adams and Townsend.

Present also: Ferdinand Pecora, counsel to the committee, Julius Silver, David Saperstein, and James B. McDonough, Jr., associate counsel to the committee, and Frank Meehan, chief statistician. John W. Davis, counsel for J. P. Morgan & Co., Randall J. LeBoeuf, Jr., and Earle J. Machold, counsel for the United Corporation and for George H. Howard, president of the United Corporation. Frank H. Ginn, attorney representing O. P. and M. J. Van Sweringen and John Patrick Murphy.

Senator ADAMS (presiding). The committee will please be in order. Mr. Pecora may proceed.

TESTIMONY OF O. P. VAN SWERINGEN, PRESIDENT OF THE ALLEGHANY CORPORATION, CLEVELAND, OHIO—Resumed

Mr. PECORA. Mr. Van Sweringen, do you recall that in the course of your testimony on yesterday you stated that you would endeavor to obtain the cost of those shares of the Chesapeake & Ohio common stock which were acquired by the Chesapeake Corporation? I am referring now to the 600,000 shares.

Mr. VAN SWERINGEN. Your question I think referred to the 255,000 shares, didn't it?

Mr. PECORA. To that portion of those 600,000 shares that went from the Vaness Co. to the Chesapeake Corporation and at the same time to the General Securities Corporation.

Mr. VAN SWERINGEN. It was $31,128,235.33.

Mr. PECORA. What was that figure, $31,000,000?

Mr. VAN SWERINGEN. $31,128,235.33.

Mr. PECORA. That was for the 255,000 shares?

Mr. VAN SWERINGEN. For the 255,000 shares.

Mr. PECORA. Now, have you got the cost price of the other 345,000 shares?

Mr. VAN SWERINGEN. That was not included in your question.

Mr. PECORA. They were acquired by the Chesapeake Corporation through the special Securities Corporation?

Mr. VAN SWERINGEN (after conferring). The trouble with that inquiry is that that was not contained in your request of yesterday,

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and they did not build it in that way. We will build it in that way and supply it if that will be satisfactory.

Mr. PECORA. Haven't you got it now?

Mr. MURPHY. We will get it and supply it to you.

Mr. PECORA. All right. Thank you. Now, Mr. Van Sweringen, you have stated that upon the organization of the Alleghany Corporation the Van Sweringen interests acquired 2¼ million shares of the common stock thereof at $20 per share, in addition to 1,725,000 option warrants at a cost price of $1 per warrant. You also testified, as I recall it, that J. P. Morgan & Co. at the same time acquired a large block of common stock of the Alleghany Corporation, also at $20 per share, and that they invited certain persons whom you named on yesterday to subscribe for some of those shares, at that same price of $20 a share. Now, among the persons that you say you recommended to J. P. Morgan & Co. that this invitation to subscribe at $20 per share should be extended, were Mr. Nutt and Mr. Bradley, two of your associates. What was the occasion for your making that recommendation to J. P. Morgan & Co. in view of the fact that the Van Sweringen interests, which included those two gentlemen, had acquired 2¼ million shares directly at $20 a share?

Mr. VAN SWERINGEN. So that they might themselves have those individually, apart from the Vaness Co.

Mr. PECORA. Couldn't they have had those out of the 2¼ million shares of the Van Sweringen interests?

Mr. VAN SWERINGEN. Well, we, as I have heretofore testified, had a desire at that time to have the number of shares that I have indicated, for the Vaness Co.

Mr. PECORA. Couldn't that desire have been fulfilled or satisfied out of the 2¼ million shares which the Vaness Co. got?

Mr. VAN SWERINGEN. Well, as a matter of fact, it was not satisfied.

Mr. PECORA. What is that?

Mr. VAN SWERINGEN. It was not satisfied out of the 2¼ million shares, that is true.

Mr. PECORA. But, couldn't those individual desires that you have referred to have been satisfied out of the stock which the Van Sweringen interests acquired from the Alleghany Corporation, just as well as out of the stock which J. P. Morgan & Co. acquired from that corporation?

Mr. VAN SWERINGEN. I do not like to treat that as desires that had to be satisfied, although it was our thought that it would be nice if they could have those shares.

Mr. PECORA. Why couldn't you have given them those shares out of the 2¼ million shares which you acquired?

Mr. VAN SWERINGEN. Well, that could have been done, I suppose, but it was not done.

Mr. PECORA. Do you know of any reason why it was not done in that way?

Mr. VAN SWERINGEN. Prompted by what I have heretofore said, that we wanted the number of shares that we got as we then saw it.

Mr. PECORA. Well, now, Mr. Nutt and Mr. Bradley each had a very large interest in the Vaness Co., didn't they?

Mr. VAN SWERINGEN. They did.

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Mr. PECORA. Why was it necessary to enable them to acquire those additional blocks of stock at $20 per share which they acquired through J. P. Morgan & Co.

Mr. VAN SWERINGEN. It wasn't compulsory.

Mr. PECORA. Well, why was it done, Mr. Van Sweringen? I am trying to find out why it was done in that way.

Mr. VAN SWERINGEN. We thought it was a desirable thing to do.

Mr. PECORA. For what reason?

Mr. VAN SWERINGEN. That they would appreciate having the shares and being able to buy them at that time, because we were all looking forward to the future.

Mr. PECORA. Well, couldn't they have gotten those shares from the Vaness Co. at the same terms?

Mr. VAN SWERINGEN. In view of the fact that we four had all the common stock of the Vaness Co. I suppose that could have been done.

Mr. PECORA. Was there any reason why it was not done in that way?

Mr. VAN SWERINGEN. It was not material as to their being had at all, as a matter of fact.

Mr. PECORA. Had they asked you——

Mr. VAN SWERINGEN (continuing). I mean out of the shares that we got.

Mr. PECORA (continuing). To get the right to subscribe for those additional shares from J. P. Morgan & Co. instead of from the Vaness Co.?

Mr. VAN SWERINGEN. Had they asked me?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. I do not really know. I don't remember.

Mr. PECORA. Well, now, those various other individuals whom you named on yesterday as having been persons whom you recommended to J. P. Morgan & Co. to be invited to subscribe for shares of the Alleghany Corporation out of the block which J. P. Morgan & Co. acquired, they were for the most part officers or directors of various railroad corporations that entered into the Alleghany Corporation system, wern't they?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And those individuals asked you to obtain from J. P. Morgan & Co. for them an invitation to subscribe to Alleghany Corporation shares at $20 a share.

Mr. VAN SWERINGEN. I feel sure that many of them did not.

Mr. PECORA. Why did you make the recommendation in their behalf?

Mr. VAN SWERINGEN. Because I wanted them to have the shares if they were obtainable.

Mr. PECORA. They could have been obtainable from the Vaness Co., couldn't they?

Mr. VAN SWERINGEN. I answered that a minute ago, that in view of the fact that we four owners only, owned the stock of the Vaness Co. I presume they could have, although we were thinking in terms of round numbers in the case of the block here.

Mr. PECORA. Now, what was the initial transaction that the Vaness Co. had with the Alleghany Corporation?

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Mr. VAN SWERINGEN (after conferring with an associate). That is the transaction that I described on yesterday. Do you want me to repeat it again?

Mr. PECORA. Yes. I did not get the complete answer with regard to the securities that you turned over.

Mr. VAN SWERINGEN. That went into it?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. There were 100,000 shares of Nickel Plate common stock, subject to a debt of $1,029,000, that being a debt that was not by its terms permitted to be paid ahead of maturity; 440,386 shares of Chesapeake Corporation stock, and that was what went over to the Alleghany Corporation on the one hand, and that which came back was the 2,250,000 shares of common stock of Alleghany Corporation; and the detached warrants to purchase 1,725,000 shares of common stock at $30 a share.

Mr. PECORA. Now, at what price were the 100,000 shares of Nickel Plate set up on the books of the Alleghany Corporation as a result of that transfer?

Mr. VAN SWERINGEN (after conferring with an associate). Seemingly they do not have it in this file. [Again conferring.] I am sorry to delay you but I am trying to get it in that form.

Mr. PECORA. All right.

Mr. VAN SWERINGEN. None of these statements are built to fit that transaction. Do you want me to furnish it later?

Mr. PECORA. You will probably find it there.

Mr. VAN SWERINGEN. They have two different forms of figures here.

Mr. PECORA. Let us straighten it out if we can. As I understood your testimony heretofore you acquired 2¼ million shares of the common capital stock of the Alleghany Corporation and 1,725,000 option warrants. And the allocations as of value were respectively $20 a share for the stock and a dollar apiece for the warrants. I understand you gave in payment for those securities 100,000 shares of the Nickel Plate Road stock and 440,386 shares of Chesapeake Corporation common stock. Now is that statement of the transaction correct?

Mr. VAN SWERINGEN. Yes. But you have asked in relation to that the figures at which those two went on the books.

Mr. PECORA. Yes, sir. That is, the two blocks of securities that you turned over to the Alleghany Corporation.

Mr. VAN SWERINGEN. That has no relation to the $13,000,000 figure that you gave me here a minute ago. The figure as I would give it to you, not from what you have given me, would be $46,725,000.

Mr. PECORA. Well, is that the figure at which those two blocks of securities consisting of the Chesapeake Corporation stock and the Nickel Plate Road stock are set up on the books of the Alleghany Corporation as the result of this transfer?

Mr. VAN SWERINGEN. I believe that to be true. That was what I was trying to verify back here.

Mr. PECORA. Well now, Mr. Van Sweringen, I show you a typewritten document entitled "Alleghany Corporation. Details of purchases and sales of securities from date of organization to March 31, 1929", and I call your attention to the entries appearing on the first page of this document under date of February 18, 1929.

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Mr. VAN SWERINGEN. Before we leave this other subject would you like also the market value at the time those shares——

Mr. PECORA. Well, this relates to that subject. Now will you look at that document which I handed you and which was furnished to me by your office, and tell me if it does not appear therefrom that the 100,000 shares of the Nickel Plate Road stock was set up on the books of the Alleghany Corporation at $13,035,560.15, and that the 440,386 shares of the Chesapeake Corporation common stock was set up on those books at $34,718,439.85, making a total of $47,754,000, and not the figure which you mentioned?

Mr. VAN SWERINGEN (after conferring with his associates). This statement that you furnished me shows that.

Mr. PECORA. What is that?

Mr. VAN SWERINGEN. The figure that I gave you was the consolidated figure, and I could not from the memo that I had separate the two, the Chesapeake Corporation and the Nickel Plate.

Mr. PECORA. I see.

Mr. VAN SWERINGEN. You have it separated here. Now there is a difference in the total as you have it here from this statement.

Mr. PECORA. A difference of over $1,000,000?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. And how do you reconcile that?

Mr. VAN SWERINGEN. And that undoubtedly is the $1,029,000——

Mr. PECORA. For the warrants?

Mr. VAN SWERINGEN. No, of debt.

Mr. PECORA. Oh, of the debt?

Mr. VAN SWERINGEN. Which could not be paid off at the time this transaction was made. It had not the right of a prior payment.

Mr. PECORA. Was that transfer made directly by the Vaness Co. to the Alleghany Corporation or was the transfer effected through the medium of a third company?

Mr. VAN SWERINGEN. The General Securities, as testified yesterday. The General Securities Corporation.

Mr. PECORA. And resort was had to the General Securities Corporation for the purpose of effecting that exchange for the same reasons of economy, as you styled it yesterday, that you testified about yesterday?

Mr. VAN SWERINGEN. That in the form as testified yesterday; yes, sir.

Mr. PECORA. Yes. And the principal economy—probably the only one served—was the avoidance of the payment of a tax on the profit arising from that transfer?

Mr. VAN SWERINGEN. Well, I cannot go quite that far.

Mr. PECORA. Well, just how far can you go?

Mr. VAN SWERINGEN (after conferring with his associates). The statement I made about that, which I again make, was this. Chesapeake Corporation and its acquisition of securities was in fact a reorganization resulting in a mere change in the form of ownership of property. In its formation General Securities Corporation was organized as a medium for exchanging the Vaness Co. holdings of Chesapeake & Ohio stock for its stock so as to avail of the income-tax exemptions provided by Congress in connection with corporate reorganizations where there is in fact no recognized or realized gain as in this circumstance. Just as in the formation of Alleghany, Geneva

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Corporation was organized as an intermediate step in the exchanges involved in that instance.

Mr. PECORA. Now, that answer is read from a prepared statement, is it not?

Mr. VAN SWERINGEN. It is.

Mr. PECORA. And did you prepare it?

Mr. VAN SWERINGEN. I did. After some little difficulty to get the details of the transaction. Perhaps I should say the intricacies of the transaction.

Mr. PECORA. What other transaction did the Vaness Co. have at about the time of the incorporation of the Alleghany Corporation with it?

(Mr. Van Sweringen conferred with his associates.)

Mr. VAN SWERINGEN. Did you complete your question?

Mr. PECORA. What other transactions did the Vaness Co. have with the Alleghany Corporation at about the time that the latter company was organized?

Mr. VAN SWERINGEN. That itemizes in this fashion: February 15, 1929, cash paid to the Vaness Co. for securities as follows: 51,714 shares Chesapeake Corporation common stock, $4,092,747.50; 26,100 shares C. & O. Railway common stock, $5,421,205; 215,000 shares Erie Railroad common stock, $12,900,000.

Mr. PECORA. When was that transaction effected?

Mr. VAN SWERINGEN. I am giving you these as of February 15, 1929. The total of all of those, $22,413,952.50.

Mr. PECORA. Well, that was a cash transaction?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. That is, the Allegheny Corporation paid that $22,000,000 out cash for these securities to the Vaness Co.?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Was that transaction made directly between the Vaness Co. and the Alleghany Corporation?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Or was it effected through the intervention of a third party or entity?

Mr. VAN SWERINGEN. My record shows it direct.

Mr. PECORA. Now, at about the same time did you and your brother consummate a transaction with the Alleghany Corporation involving a sale by you to it——

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA (continuing). Of certain securities?

Mr. VAN SWERINGEN. As of that same date.

Mr. PECORA. What were the details of that transaction?

Mr. VAN SWERINGEN. This memo from which I read the other, says this: Cash paid to O. P. & M. J. Van Sweringen for securities as follows: 96,000 shares B.R. & P. Railway common stock, $9,600,000; 43,000 shares B.R. & P. Railway preferred stock, $4,300,000; a total of $13,900,000.

Mr. PECORA. Now, as the result of those two transactions the Van Sweringen interests sold certain securities to the Alleghany Corporation for an aggregate cash consideration of over $36,000,000?

Mr. VAN SWERINGEN. Those two items of total that I have read would evidence that; yes, sir.

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Mr. PECORA. Now, do you know where the Alleghany Corporation obtained that cash from? How it obtained it?

Mr. VAN SWERINGEN (after conferring with associates). Alleghany at that time realized $82,950,000 made up as follows:

By the sale of $35,000,000 of its bonds to J. P. Morgan & Co. for $32,575,000, or a price net to the company of 93.071.

They also sold $25,000,000 5½ percent preferred stock at $100, or for $25,000,000.

And then there is an item of $375,000 for nondetachable warrants.

Mr. PECORA. Those warrants also gave the holders the right to buy common stock of the Alleghany Corporation at $30 a share?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. At any time within 15 years?

Mr. VAN SWERINGEN. That is my recollection.

Then 1,250,000 shares of common for which the $25,000,000 was received.

The items I have been reading are the break-up, if you will, of that $82,950,000.

The ratio of that financing cost to the company was 2.85 percent.

Mr. PECORA. Now, what was the profit accruing to the Vaness Co. from the sale of those blocks of securities to the Alleghany Corporation to the total of $22,413,952.50?

Mr. VAN SWERINGEN. Pardon me. (Mr. Van Sweringen conferred with his associates.)

Mr. GINN. What was that question?

(The last question was thereupon read by the reporter, as above recorded.)

Mr. VAN SWERINGEN. There is a little bit of computation going on.

Mr. PECORA. All right, sir.

Mr. VAN SWERINGEN. They happen to come in a little different form than ours. Mr. Pecora, one of the problems in answer to your question there is in treating as you have from profit and our original cost figures won't suffice. We will have to carry it down, I understand, from the date of the transaction.

Mr. PECORA. Well, can you give us first the original cost figures?

Mr. VAN SWERINGEN. That is prejudicial to the facts, of course, to do it that way.

Mr. PECORA. Well then, we can add whatever other facts you want to put on the record to carry the thing down, if you want to do it.

Mr. VAN SWERINGEN. In other words, without the carrying charges up to the point?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. Can I put that in the record in a few minutes and save you time?

Mr. PECORA. Well, the only thing was the continuity and the chronological history of the transaction. I do not know whether this will help you any, but we have calculated, on figures obtained from you, that the original cost of these securities that you and your brother and the Vaness Co. sold to the Alleghany Corporation either for cash or for its securities, was $52,044,335.70.

Mr. VAN SWERINGEN. Well, that, you see, is not in compliance with your question which asked us as to the Vaness Co. first. You have got a break in there. Seemingly I have got to supply that to you from the records over at the——

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Mr. PECORA. Well, will you be able to do it in the course of the morning, do you think?

Mr. VAN SWERINGEN (after conferring with his associates). Will it be all right after lunch?

Mr. PECORA. During the recess?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. I do not know whether it will be of any benefit to you in making the calculation that you promised to make during the recess if I give you a break-down made by the accountants or auditors for the committee, but I will be very glad to let you have that copy of it for your possible guidance [handing same to Mr. Van Sweringen].

Mr. VAN SWERINGEN. Thank you.

Mr. PECORA. Now, at the time of these transactions between the Van Sweringen interests and the Alleghany Corporation out of which the Van Sweringen interests received cash totalling over $36,000,000, in addition to securities, were there any indebtednesses owing by the Van Sweringen interests at that time which were satisfied out of this cash?

Mr. VAN SWERINGEN. There undoubtedly were, yes. (After conferring with associates.) There were.

Mr. PECORA. What was the amount on February 15, 1929, of that indebtedness?

Mr. VAN SWERINGEN (after conferring with associates). Your question again involves an orientation of dollars out of twenty-three million something rather than what payments were made as of that date, if you get the point. And I cannot trace the genealogy of those dollars specifically to the $23,000,000 that you are treating with from the statement that I have here. (After further conferring with his associates.) I think what you probably are wanting to have is what we paid on that day elsewhere?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. As distinguished from whether it came out of the $23,000,000 exactly or not.

Mr. PECORA. Now, first tell us, if you can, what was the total indebtedness owing by the Van Sweringen interests as represented by the Vaness Co. or by you and your brother on the date of these transactions with the Alleghany Corporation.

Mr. VAN SWERINGEN. That is the point that is troubling me. I can give you the payment, but I cannot be sure that it attaches to that particular bunch of shares and those particular dollars. Do you get my point? Not from this memorandum.

Mr. PECORA. Well, regardless of how the indebtedness was created, what was the total amount of it?

Mr. VAN SWERINGEN. There was a payment made on that date——

Mr. PECORA. I know that. I mean before the payment was made.

Mr. VAN SWERINGEN. You want that payment, don't you?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. I am glad to give you that. On February 15 the Vaness Co. paid to J. P. Morgan & Co. in payment of the balance due on a loan in the original amount of $27,500,000 dated June 28, 1927, $22,000,000, and interest, $196,777.78.

Mr. PECORA. Now, that $22,000,000 was repaid by the Vaness Co on February 15, 1929, was it not?

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Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Did that serve to extinguish all indebtednesses existing at that time?

Mr. VAN SWERINGEN. I do not have that from my data here. I will answer that for you after lunch.

Mr. PECORA. I understand that it did serve to extinguish the indebtedness the Vaness Co. owed on that date to J. P. Morgan & Co.

Mr. VAN SWERINGEN. Well, it extinguished the indebtedness, but your question is broad enough to comprehend the question whether we owed any other money, and that is my difficulty.

Mr. PECORA. Yes; now on that same day that you repaid J. P. Morgon & Co. the sum of $22,000,000 did you obtain a further loan from them—a new loan from them?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. What amount?

Mr. VAN SWERINGEN. We made a new loan for $10,194,277.50.

Mr. PECORA. Now what was the purpose of that loan?

Mr. VAN SWERINGEN (after conferring with associates). At the time that we got that money in the Vaness Co., the Vaness Co. also received from O. P. & M. J. Van Sweringen for B. R. & P. purchases, $4,185,413.65.

Mr. PECORA. Well, that was to purchase shares of the Buffalo, Rochester & Pittsburgh Railroad?

Mr. VAN SWERINGEN. Yes; now the total of those two items was $14,379,691.15, and we disbursed at that time to Paine, Webber & Co., $13,487,150. And to the General Securities Corporation $800,000.

Mr. PECORA. Thereafter, Mr. Van Sweringen, that is to say, after February 15, 1929 and throughout the balance of that year, did the Alleghany Corporation purchase other securities for its investment account?

Mr. VAN SWERINGEN. It did, but I am trying to. (After conferring with associates.) Do you want the detail figures of those purchases throughout that year following on?

Mr. PECORA. Let me show you this document which was prepared, I understand, by your office and furnished to me, and please look at it. Tell us if that constitutes a correct and complete statement of all investments made by the Alleghany Corporation from the time of its incorporation, including March 31, 1930.

Mr. VAN SWERINGEN (after conferring with associates). I am told that that was prepared by our accountant, and it is undoubtedly correct.

Mr. PECORA. I will offer that in evidence and ask that it be spread on the record.

(Statement of investments made by Alleghany Corporation from incorporation to March 31, 1930, being received in evidence, was designated "Committee Exhibit No. 47, June 8, 1933", and appears in the record in full at the end of this day's proceedings.)

Mr. PECORA. This exhibit which I have just offered in evidence, and which has been marked "Committee's Exhibit 47" of this date, shows the total purchases of securities for the investment account of the Alleghany Corporation up to and including March 31, 1929, to have been $139,004,705.68.

Mr. VAN SWERINGEN. That is right.

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Mr. PECORA. Were those purchases made in the open market?

Mr. VAN SWERINGEN. The B.R. & P. was not. And there I must modify my statement—the bulk of the B.R. & P. was not.

Mr. PECORA. All right.

Mr. VAN SWERINGEN. The Wheeling & Lake Erie—is that on here [addressing an associate]? The Wheeling & Lake Erie was not—in bulk it was not.

Mr. PECORA. The others were?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And were they made through Paine, Webber & Co. as brokers?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And were they made directly for the account of the Alleghany Corporation?

Mr. VAN SWERINGEN. That is my understanding.

Mr. PECORA. Now I notice in this committee's exhibit no. 47 that many of these purchases for the investment account of the Alleghany Corporation were in shares of the Missouri Pacific Railroad common stock. Is that quite correct?

Mr. VAN SWERINGEN. Yes, sir. But I would like to supplement what I said. I just notice a slight variation; $692,695.87 of purchases, if you will, that were in that list, were not through Paine, Webber & Co.

Mr. PECORA. Through other brokers?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. All right. When did you become an officer or director of the Missouri Pacific Railroad Co.?

Mr. VAN SWERINGEN. May 1930.

Mr. PECORA. Between the end of March 1929 and May 1930 did the Alleghany Corporation acquire for its investment account other blocks of Missouri Pacific Railroad Co. stock?

Mr. VAN SWERINGEN. We did.

Mr. PECORA. When you became an officer or director of the Missouri Pacific Railroad how many shares of its capital stock had been acquired or were owned rather, by the Alleghany Corporation?

Mr. VAN SWERINGEN. I can answer you generally.

Mr. PECORA. Yes; all right.

Mr. VAN SWERINGEN. We had a majority.

Mr. PECORA. A majority of the outstanding stock?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Of the Missouri Pacific?

Mr. VAN SWERINGEN. Yes, sir. And we also had of its debenture notes at that time about one half, or near that amount.

Mr. PECORA. What was the par amount of those notes?

Mr. VAN SWERINGEN. Those notes were in the amount of—you mean the total issue of those notes? Forty-six million plus.

Mr. PECORA. Now, can you tell us briefly what your purpose was of having this holding company called the Alleghany Corporation acquire those large blocks of Missouri Pacific stock and notes?

Mr. VAN SWERINGEN. I think that is answered as well as I can do it here in my preliminary statement, but I will be glad to——

Mr. PECORA (interposing). You mean in your prepared statement?

Mr. VAN SWERINGEN. Yes, sir. Do you wish me to answer that again?

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Mr. PECORA. If you will, sir.

Mr. VAN SWERINGEN. We felt that it would be better if we could have a little more diversity in our railroad holdings, and we had the time and the forces to direct and the financial strength, as we saw it, to acquire and hold more than just the eastern group.

Mr. PECORA. Eastern group of railroads?

Mr. VAN SWERINGEN. Yes, sir. And we had been studying, as I testified at the outset of this hearing, for two or more years in a general way the growth of the country, and were impressed with the development of the Southwest and with the Missouri Pacific as the choice of railroads in the Southwest offering an opportunity for development. It also, as I testified, had the diversity in its commodities that appealed to us. In other words, the bulk of its traffic was not made up of coal, as was true and is true of the eastern region roads.

You will remember that about that time oil was coming into production in extensive amounts, and it was difficult to say what effect that would have on the general railroad investment of the East, and it seemed wise to us that we balance that way, and particularly did we want to also devote the balance of our time in the railroad field in that development work.

Mr. PECORA. You say in this prepared statement that was read in evidence by you on the first day of your examination here as follows:

> Right here we would like to stress that there was no thought of consolidating the Chesapeake & Ohio system of the East with the Missouri Pacific system in the West, nor was our conception that of a transcontinental railroad system.

Now whether or not there was any such thought in your mind when you had the Alleghany Corporation buy into the Missouri Pacific Railway, the practical effect or result has been or was to consolidate the eastern group roads with the Missouri Pacific system in the West or Southwest, wasn't it?

Mr. VAN SWERINGEN. Decidedly not. I have found that there is a vast difference between consolidation and ownership of stock.

Mr. PECORA. Well, you were virtually in this position, weren't you, that as managers or those in management control and extensive ownership of the Alleghany Corporation, which in turn exercised control over the Chesapeake & Ohio system of eastern roads, you also became, through the same kind of ownership of stock of the Missouri Pacific Railroad, in a position of having control of that system, all in the one corporate entity or combination called the Alleghany Corporation?

Mr. VAN SWERINGEN. That is a long story. I will be glad to give you as much of it as you will let me give. But to begin with, when I became chairman of the Missouri Pacific I resigned from all directorates and officerships of all the lines east upon which I then was an officer or director and became only the chairman of the Missouri Pacific and its subsidiaries and officer in those lines.

There is no affiliation of accounts. There is no intermingling of credits. Even the traffic that may cross in the natural course of events from one carrier to the other is accounted for right at that junction point, just as if we did not have a share of stock in the one as against the other.

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Senator ADAMS. There is a physical connection between the systems at St. Louis, isn't there; that is, the eastern system comes into St. Louis and the Missouri Pacific starts west and south from there?

Mr. VAN SWERINGEN. Yes; there is that connection through the terminals there. But beyond that and except for such consultation as to what may be good or bad in a casual way, if you will, or just as an officer might talk with a stockholder, our relation has to stop.

Now, frankly, if we saw either one of those properties making a mistake, as stockholders we would try to give our expression of views on that subject, but that could only be received as a stockholder. We have no voice whatever. We do not sit in on their board meetings.

Mr. PECORA. On whose board meetings?

Mr. VAN SWERINGEN. Of the East. I do not, of course, because I am not an officer.

Mr. PECORA. You mean you individually do not or have not since you became chairman of the board of the Missouri Pacific?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. How about your associates?

Mr. VAN SWERINGEN. We have associates there on some of those other boards.

Mr. PECORA. Your associates continue as directors of some or all of these eastern roads?

Mr. VAN SWERINGEN. Yes. And help to advise and sponsor those operations, and we chat about them and are free to do that sort of thing .

Mr. PECORA. Now, Mr. Van Sweringen——

Mr. VAN SWERINGEN (interposing). But so far as giving an order is concerned we have to stop. That is as a stockholder only.

Mr. PECORA. Do you distinguish between giving an order and expressing a wish?

Mr. VAN SWERINGEN. I very much do.

Mr. PECORA. And declaring a preference for a policy?

Mr. VAN SWERINGEN. I do not do it that way.

Mr. PECORA. How do you do it?

Mr. VAN SWERINGEN. I will analyze the subject in the broad sense, as I see it, and if it involves a specific analysis I will do that and rest my case there. I like to feel that such of that as I could do and our associates could do——

Mr. PECORA (interposing). Talk just a little louder, please.

Mr. VAN SWERINGEN. I am sorry. These things [indicating microphones].

Mr. PECORA. Those amplifiers in front of you do not help us very much down here.

Mr. VAN SWERINGEN. I say, I have liked to feel that such advice as we could give and our associates could give has been helpful. I believe it has. I know it has. Just how I can demonstrate that to you here is quite difficult. But if you will analyze the operations of every railroad that is affiliated with the Van Sweringen interests, you will find they are well up in the front rank of performance. And by performance, of course, I mean economy of operation, development of property, service to the public—all those things.

Mr. PECORA. Now, Mr. Van Sweringen, you won't deny, will you, that the Alleghany Corporation has management control of the

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various eastern system so-called group of railroads you have been testifying about, through its ownership of stock in those roads?

Mr. VAN SWERINGEN. May I have just the beginning of that?

The SHORTHAND REPORTER. "You won't deny will you, that the Alleghany Corporation has managment control of the eastern"——

Mr. VAN SWERINGEN. It has the right as a result of its stock holdings to elect the directors insofar as those holdings are concerned pursuant to the corporate charter and its provisions.

Mr. PECORA. The management control flows from directors, does it?

Mr. VAN SWERINGEN. Yes. And the consequence of that is management from the directors; yes, sir.

Mr. PECORA. And you won't deny, will you, that as the chairman of the board of the Missouri Pacific system you exercise very strong influence in the policies of that road, of that system—don't you?

Mr. VAN SWERINGEN. Oh, yes, I think that might be so as to Missouri Pacific.

Mr. PECORA. And you are also president of the Alleghany Corporation and have been since its creation, haven't you?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now, would you say, then, that by virtue of your being president of the Alleghany Corporation and of the degree of management control that it exercises through representation on the boards of the various railroad companies that form the eastern group, plus the degree of control you exercise over the Missouri Pacific system as chairman of that system, that you are virtually in position of greatly influencing, if not controlling, the policies, not only of the eastern group but of this western and southwestern group embodied in the Missouri Pacific?

Mr. VAN SWERINGEN. I could agree with practically all of that.

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. At least I hope that is so.

Mr. PECORA. The Interstate Commerce Commission, you know, has no control of the holding companies, has it?

Mr. VAN SWERINGEN. No, and I don't know why—I haven't any objection—let me start there—to proper regulation as a holding company if it is wisely done. A holding company is a beneficial creature in all of these undertakings, and it is all right to regulate it wisely, but to regulate it ruthlessly will be just too bad.

Mr. PECORA. Well, to regulate anything ruthlessly would be quite too bad, wouldn't it?

Mr. VAN SWERINGEN. Well, I mean by that to the extreme. We are in a period—or just coming through rather, I hope—a period of severe depression. But we must keep our feet squarely on the ground and our head on our shoulders and not go to extremes in times like these in what we do. The faults that we are having today are not attributable in this case—and I will confine myself to the subject of the holding company—to the holding company. All of these difficulties go back beyond that.

And that is very simple. The difficulty today is the absence of business. Railroads can only prosper as business prospers—manufacturing and industry and incident production, they cannot create. One given group can be aggressive and do the things in service to the public that will aid it in getting its full quota. They can do it

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economically or they can do it extravagantly as a carrier. But in the last analysis we have to have the business of the country to make the railroad.

Senator ADAMS. Mr. Van Sweringen, do you feel that any part of the depression was due to the great stock speculation movement that we had?

Mr. VAN SWERINGEN. Not so far as a holding company is concerned. Personally, I am of the belief that the holding company has been a help in that circumstance. I think it might have been much worse had it not been for the holding company.

Senator ADAMS. My question was whether you felt that any part of the present depression could be attributable to stock speculation and its subsequent crash.

Mr. VAN SWERINGEN. Yes; possibly. Whenever one pays more for a thing than it is worth there is a day of reckoning. I have got to recognize that. And people may have paid more in 1929 for a lot of things than today look sound. We are all dealing with hindsight, and I suspect my hindsight is just as good as the other fellow's and his is as good as mine. He will ask the question of himself, at any rate: Did I pay too much in 1929 for that?

Senator ADAMS. My question was leading to this—just a minute, Mr. Van Sweringen; I am not asking for any special data. But this is what was in my mind to give you my view; that is, that the speculation was one of the elements of our depression, that we were paying more not only for some things, but for nearly everything, and the stocks probably more than anything else appreciated beyond real values, and I was wondering whether your holding company—not your particular holding company, but holding companies in general—had not contributed by giving to the public a rather false idea as to the possible profits out of that type of organization.

Mr. VAN SWERINGEN. Personally—I am glad you asked that question, because my thoughts are all to the contrary on that, and I tell you why: A holding company contracts those scattered shares. Remember that what a holding company has is the stock of other companies. Had the holding company not had other companies' shares they would have been scattered or left in the places where they were before the holding company assembled them. We have compacted them that way.

Senator ADAMS. Certain types of holding companies proceeded to distribute their shares. They went from door to door even out in our western country distributing stock, creating a false impression of values.

Mr. VAN SWERINGEN. Let us admit that that is so, but of course it is hard for me to answer as to some holding companies of which I do not know. But let me talk about Alleghany for just a minute and Chesapeake for just a minute.

Mr. PECORA. When you say Chesapeake you mean Chesapeake Corporation?

Mr. VAN SWERINGEN. Corporation; yes.

Mr. PECORA. As distinguished from the operating company, Chesapeake & Ohio?

Mr. VAN SWERINGEN. Yes. Those are a contraction of shares, and while there are some regrettable features right at the moment of some of the collateral trust notes that we have made of Alleghany

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Corporation with respect to the collateral ratios, the fact remains that those investments in those companies—that is, the collateral note security—are better fixed today than the stockholders. Theretofore those shares, which are under those collateral pledges, were stockholdings of somebody somewhere. So that what we have done is to intensify the security through the medium of those notes, and the public have been benefited.

Senator ADAMS. My suggestion is that probably the public had too great confidence in what some of you folks who created holding companies were going to do for them. And that is——

Mr. VAN SWERINGEN (interposing). Well——

Senator ADAMS (continuing). That is, to illustrate, take the Missouri Pacific, where it goes out that the Van Sweringens are in control. There is a body of floating Missouri Pacific stock, and the ordinary fellow would say, or might say, well, there is a chance to invest. My suggestion is that there was an influence or an encouragement to purchase stock by the outside public, due, as I say, to unjustified confidence in what the holding company is going to do with that property.

Mr. VAN SWERINGEN. I do not believe it is fair to say what the holding company was going to do right there. I think that might have attached to what the interests behind that holding company were going to do. But as to that there would have been no regret, I feel sure, except for the extreme depression that came on. And I can tell you why I think that is so: When we went into the Missouri Pacific investment t was after study and knowledge of what we were doing. I do not thiink, so far as we were concerned, we paid any more for that railroad than it was worth. You must remember that market is one thing today and value is another thing today. But to come back to——

Senator ADAMS (interposing). Can you tell me just what value is if you have some knowledge of what value is, for I should like to know it.

Mr. VAN SWERINGEN. I will come back, if you will permit me, to that, but I should like to go on with my general thought there.

Senator ADAMS. All right.

Mr. VAN SWERINGEN. We saw that the Missouri Pacific had earned $10 and $12 a share for its common stock, with the traffic that it was then carrying. We saw that it had an operating ratio—and you know what I mean by operating ratio.

Senator ADAMS. Of course.

Mr. VAN SWERINGEN. And I am not speaking of operating ratio in the sense of transportation ratio, over all cost—that was susceptible of a definite reduction of 6 to 8 points. And we knew we could take that out. We knew that Mr. Baldwin could take it out. We knew that he was on the way to take it out. From what he was doing we felt there were other things that could be done, other economies that could be brought about; and he agrees absolutely with that himself. So we said: "Well, if we can make that correction in its performance, in the performance of the railroad, so that its operating cost will be reduced, with an equal result from an operating standpoint that is there today, then we can transfer, if you will, to earnings those dollars." And that would have put the Missouri Pacific earnings, not at $10 or $12, but at $20 or $24. And that of itself would have justified the price that the stockholders were paying, and more.

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But, not only that, it would have done the other thing which we were aiming to do. We were not blind to the fact that there was a top-heavy financial structure there. We knew that. But we expected to cure it. And I believe I have said in a casual way in our discussions heretofore, why that transfer of earnings to common stock, if you will, would afford the getting of more dollars on the stock side and the reduction of debt on the other side. As a matter of fact, we, ourselves, as I have testified, had twenty-odd million dollars of the notes, convertible notes, unsecured notes, of the Missouri Pacific. They cost us $100, or practically, within a fraction, and it was our purpose to convert those just as soon as it was consistent, and take them out of the debt class and put them into the stock class. And we figured that the other $20,000,000 would do the same thing, and so on down through. Now, all of that was so disturbed by the depression that we could not do it. Business went right out from under us. We had no sooner gotten over on that property than we struck that condition.

Senator ADAMS. My inquiry was as to whether your activities might have had something to do with causing the depression, and in this way: Debt bears a direct ratio to the crest of the wave, and the higher the wave crest of prosperity goes the deeper the trough of the wave. I wondered if some of you folks had not in your enthusiasm gotten the crest of the wave a little high.

Mr. VAN SWERINGEN. I do not think so. I do not think that this made it, but I should like to touch on that: Of course, what one man pays the other man gets. We must not lose sight of that. In other words, if I buy something at too high a price, that means that if I buy it from you, that you get that price. And——

Senator ADAMS (interposing). If that were literally true we would not have had such a shrinkage in assets in the country. For instance, our bank deposits have gone down tremendously. If every purchaser gained, it would have made no difference in the sum total. But in some way out of this depression what one fellow paid somebody else did not get. I do not pretend to explain it, but people who borrowed money in order to purchase various stocks, and they have gone down, they have been wiped out. There was a decline in bank deposits due to that speculation. I think it has probably done more than any other thing to bring about our depression.

Mr. VAN SWERINGEN. I am fearful of going too far with you on this subject. But I think that if you will check——

Senator ADAMS (interposing). Maybe I have.

Mr. VAN SWERINGEN. If you will check these holding company operations that I am talking about, you will find that they have been beneficial even under the present situation, when taking them by and large.

Senator ADAMS. Years ago we had a distinction between good trusts and bad trusts. Now we have a distinction between good holding companies and bad holding companies.

Mr. VAN SWERINGEN. I think that is so. But I did not want to make that comparison.

The CHAIRMAN. Well, the fact that securities depreciated $29,000,000,000 in October of 1929 and along about October of 1930 over $20,000,000,000 more, in other words, a shrinkage of about

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$50,000,000,000, must have had a good deal of effect on the financial situation in the country.

Mr. VAN SWERINGEN. Yes. But there again you are talking about the market.

The CHAIRMAN. Yes.

Mr. VAN SWERINGEN. Oh, a lot can be said on that subject, but market is what you can get by throwing your stuff into the hopper on the spot. That never brings a price equal to true value in a time of depression. We all recognize that, of course. And when everybody was needing money, because everybody was, they had to sell things and get money; but the fact that they could sell them did get them some money. It was unfortunate that they had to sell. I had to sell some things that I did not want to sell; but we all did.

The CHAIRMAN. I guess so.

Mr. VAN SWERINGEN. But the point I am getting at is this: If we talk about value, the value is still there so far as the physical side is concerned, so far as the plant side is concerned, so far as the personnel side is concerned, and all we need is the business to supplement it. And, thank God, we are getting some of that now, and it is being reflected in our earnings. I saw a statement of one of our carriers this morning, that has not been published, and we estimated for last month that we would—and that is a preliminary estimate made some time back—that we would net $1,400,000, as I recall the figures, but I see that that property is netting about $2,000,000 for that month. Now, of course, there is the added business in there. And I see it all the way through with these carriers. This one is doing just a little more business than it did the same week the year before. Some have reached the point where they are doing now, and have done thus far this year, a little more than they did last year. Some of them are not quite up to that point, but all of them seem to be showing business of greater volume at the present moment than was true a year ago at this same time. Now, that is all we need. What we need is encouragement to business instead, if I can be frank, of frightening people. I do not want to get too personal, but these investigations are terrifically destructive.

The CHAIRMAN. Well, if these investigations show the losses that I speak of, shrinkage in value of securities, was really all paper stuff after all——

Mr. VAN SWERINGEN (interposing). Paper losses?

The CHAIRMAN (continuing). And that the real wealth of the country comes from the soil and the mines and the sea, and that is all here still, isn't it?

Mr. VAN SWERINGEN. Yes, sir.

The CHAIRMAN. So if these investigations bring that fact out, that the wealth of the country is still here, it will be helpful, won't it?

Mr. VAN SWERINGEN. They can be helpful if they will do that. And I have no doubt that you gentlemen, when you conclude, will bring out so that the public may know, that side of all of this that you are undertaking.

Senator ADAMS. You do not really mean that all of these investitions are destructive, do you?

Mr. VAN SWERINGEN. No; and I think I ought not to have said that in just such a limited way. I do not mean the matter of in-

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vestigation, but I mean the—well, it is really somewhat difficult to describe it.

Senator ADAMS. I happened to have participated some years ago in an investigation that was conducted here and which involved the oil business, Teapot Dome. And when you look at the United States Treasury records you will find that that was a very profitable investigation, both from the standpoint of public morals and from the standpoint of the United States Treasury. And I think there have been other investigations similarly beneficial. I think the Securities Act, framed under Senator Fletcher's leadership and which was passed very recently, will be very helpful.

Mr. VAN SWERINGEN. I want to distinguish a little bit in what I said about investigations. Of course, to investigate and to know is always desirable. There is no doubt about that. But as these things drift through the press they get the atmosphere of there being something wrong. That is the part that I mean is hurtful. I know that it, perhaps, cannot be avoided, but that feature is in there just the same. All that you are trying to do here as I understand it is to see and to know, and, in the last analysis, to be helpful.

Senator ADAMS. I think if I may be permitted to translate it, that we are trying to reach into past experience in order to guide future acts.

Mr. VAN SWERINGEN. Yes, sir; but——

Senator ADAMS (continuing). That is, to reach in and see if legislation can be of help to prevent a recurrence of some of the misfortunes that have befallen us all. When we go into an investigation we may find things that are not desirable. When we go to a doctor he does not always tell us agreeable things. He finds out what we like to eat and then may say, Don't eat that. He is pretty apt to stop us from doing something that we have been doing, and aren't these investigations along the same line? You say that market value and real value are quite different. May not the same thing be applied here. There are some things that go into the press that do not represent, perhaps, the real substance, but under it is the real value of the investigation—perhaps covered over by a little sensationalism, but in the final analysis don't you recognize that an investigation of the actual facts will do good?

Mr. VAN SWERINGEN. Well, I want to stress that out of it can come a lot of good. But what I am troubled about is this matter of value being based on market values of today. Those are not true values. I know comparisons are going to be made that way in the minds of the public, and if these people become alarmed and sell their shares when they do not have to, that will be too bad. Of course, when they sell somebody else will make a gain, and I suppose that is all in the book.

Senator ADAMS. Real value ultimately shapes itself, doesn't it?

Mr. VAN SWERINGEN. It finds itself in normal times; yes, sir.

Senator ADAMS. Well, if there be such things, just as if there be such a thing as market value, the original real value will adjust itself, and the other is incidental and temporary.

Mr. VAN SWERINGEN. To come back to this Missouri Pacific for just a moment, because the expression "normal times" brought it to my mind. We can do 30 percent less business than we did in 1929 and, under present conditions, we will have a net available for capital

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account equal to what we had in 1929. Now, of course we have the handicap of having some interim losses that have had to be capitalized. I mean that are represented in the way of debt at the present moment. So that I am very, very hopeful that before long, at the rate we are going, many of these worries that we are having today will be behind us.

Senator ADAMS. Well, I do not want to interrupt Mr. Pecora's examination.

Mr. PECORA. While we are talking on the harmful effects, if there be any, of investigations, the fact of the matter is that the debacle in the stock market of 1929, and in the period of time since then, was not due to any investigations, was it?

Mr. VAN SWERINGEN. No.

Mr. PECORA. And since this present investigation has been under way you have noticed quite an appreciable increase in securities values on the market, haven't you?

Mr. VAN SWERINGEN. As I have said, Mr. Pecora, and when I made the statement about their being hurtful, I made that statement by itself, whereas I should have at that moment coupled both sides to that statement. Had I been anticipating it I would have done better. Of course, I did not know that this subject was coming up. There are two sides, and, as I say, out of the grand total I am hopeful that you gentlemen will bring a great deal of encouragement, and if we are to have wise regulation, that that will be brought into this subject.

Mr. PECORA. And wise regulation would be dependent upon first obtaining a factual basis for such wise regulation, isn't that so?

Mr. VAN SWERINGEN. That is all right.

Mr. PECORA. And that factual basis is usually best obtained through the medium of investigations of this character, isn't it?

Mr. VAN SWERINGEN. Well, through the medium of investigations, I will agree.

Mr. PECORA. Now, let us get back to the Missouri Pacific and the eastern group of railroads that we have been talking about here. You know, don't you, from your study of the railroad problem that it has been declared or stated as the policy of the Government, as set forth through court decisions and decisions of the Interstate Commerce Commission, to segregate railroad systems into sectional groups?

Mr. VAN SWERINGEN. They are to be consolidated into a limited number of systems. And, of course, it is about all that that our activities in the East has been concerned.

Mr. PECORA. Those systems are grouped I think according to sectional cosiderations, aren't they?

Mr. VAN SWERINGEN. Consolidated. And they are not to be owned in the way of competitive systems. I think the implication is there, or the thought was there, that one system competitive to another shall not be consolidated. I think that would be barred from being done. For instance, I wouldn't think that the Alleghany could own the New York Central system and the Nickel Plate—C. &. O. system, if you will, because of their competitive nature. The theory of the limited group of consolidations was to preserve that competition. But, remember now, that the Missouri Pacific System is independent and not competitive in that system. So I do not see why the experience that one has and the knowledge that one

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gathers in the railroad line on the one hand, should not be made useful on the other hand in the other investment, as, in this case of Alleghany, where there are two systems.

Mr. PECORA. Why were you careful in preparing this statement of yours that was read into the record on Monday of this week, to disavow any thought or intent when the Van Sweringen interests bought into the Missouri Pacific, to establish control of a transcontinental line or system?

Mr. VAN SWERINGEN. Because I wanted it to represent the fact, and that was not the intent. And I have not seen wherein just a combination of a railroad from the Atlantic to the Pacific as such had the force that would justify its doing other than for these distinctions that I have made here. In other words, I do not want you to get the idea, or to give the idea, that a transcontinental line was a cure-all, or that there as any magic to come out of that. But there is a benefit to the thing that we have been trying to do, as we see it, and for the reasons that we have given as distinguished from it. The other may be incidental because an arm of the Missouri Pacific was to lead to the west coast in the Commission's grouping. It is not there now, you know.

Mr. PECORA. From your experience in the railroad field and your study of railroad problems, would you say that bankers who finance the operations of railroad lines and systems exercise an appreciable influence on the policies of railroads?

Mr. VAN SWERINGEN. Would I say that?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. No. I do not expect that they would invest where they thought the policy was unfit, because wise investment would dictate that they do not do it. But in so far as financial policy is concerned, I would expect that the banker was going to see and to know; in other words, to investigate, again, if you will, if I may come back to your expression.

Mr. PECORA. And don't you conceive that the banker is in a position to influence the policy because of his investment?

Mr. VAN SWERINGEN. A banker buys our securities and he sells our securities, and he feels responsible no doubt for them until they are paid off. But our experience has been, and I confine my discussion to our experience, that all that he is interested in knowing is that the investment, or the dollars that have been put into these properties properly administered from the standpoint of the security of the investment. But I have never had in all the time that I have been in this business, any direction of any kind as to the operating features. Naturally, when they see good performance they are pleased about that; and if we had something that we thought was of interest, whether it was good or bad, as things proved in our operations, and might affect those investments, we would go and talk to our banker about it.

Senator ADAMS. Don't you know that some railroads would have been better off if they had taken their banker's advice now and then?

Mr. VAN SWERINGEN. I think a good many would; yes, sir.

The CHAIRMAN. Who of that group looks after the public interest? The banker is looking after the security, and the operators are looking after the running of the railroad, and so forth. But who is interested on the public's side?

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Mr. VAN SWERINGEN. Well, to begin with, we have the Interstate Commerce Commission, and we have the Congress, and we have the management. Wise management is going to do that every time. One of the first questions when a policy comes up, or I know that is true in the case of our organization, is: What is the public effect of this thing we are going to do? I can go clear back to the beginning of things there. These railroads recognize requirements along that line, and I was touching on one yesterday. We have to covenant to make additions and betterments in keeping with the needs of the public along our line. But there is no conflict there, not from the common-stock holders' point of view as I see it, because what is good for the public means that it is good for the railroad carrier—unless the public should try to impose upon us undue grade elimination expense, or something of that sort, and not carry their part of it, or things of that kind. But management there, of course, tries to enlighten the public on the importance of the preservation of its own status.

The CHAIRMAN. In the matter of rates, the general policy to charge all that the traffic will bear holds pretty good, doesn't it? A railroad is after getting every dollar it can out of the freight that it hauls, and that sometimes has a bad effect on the public, on industry, and on keeping up development, I mean where the rates are too high.

Mr. VAN SWERINGEN. I am glad to talk about that. This rate structure of the country has an interdependence. You might build a plant at Cleveland, and I might build one at Chicago, and someone else might build one at Pittsburgh, all engaged in competitive business. The success of such institutions is interdependent on the rate structure, and when we tinker with rates, if you will pardon me—well, let me correct that expression: When we undertake to adjust rates, if we are not very careful we will destroy capital investment and industry in one place in order to satisfy another.

The CHAIRMAN. To build up another.

Mr. VAN SWERINGEN. Yes. So that we find ourselves today with a result in the matter of a rate structure that is the consequence of years of refinement of rates, brought about by the urge of each industry in its given location, and we have a pretty fair balance. Now, if we do not adjust them uniformly, we might change the results as between industries of a similar kind. So we have to do it with intelligence, of course. But I have never felt that we have had the amount of rates, the amount of rate I mean that we should have. There are some things that ought to be advanced, and I believe that the public would be better off if they paid just a little bit more rate on some things and the railroads had their capital investment restored from the standpoint of earnings support. The Government would be better off, its tax return would be greater; the banks would be better off; insurance companies would be better off, because we would have brought back those dollars from the standpoint of earnings. And, of course, when we talk about values we have to think in terms of earnings and of the traffic to produce them. No railroad wants to put a rate where its traffic will be less. There is no danger of their doing that. They will quickly readjust it if they do. Their self-interest dictates that.

But if you will take the different commodities that the carriers haul, Mr. Chairman, you will find that a variation of rate which

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would restore a lot of these investments, even though it were upward, would not be harmful in many instances to the commodity price.

Mr. PECORA. Now Mr. Van Sweringen, to get back to the position of the banker, do you mean to say that the banker is in no position to influence the policy of the railroad company that he finances?

Mr. VAN SWERINGEN. No; I do not say that.

Mr. PECORA. Well, as a matter of actual fact is he or is he not?

Mr. VAN SWERINGEN. A wise banker knows, just as a wise railroad management knows, that he better leave the banking end to the banker and the railroad end to the railroad management.

Mr. PECORA. You recognize as a general rule, don't you, that he who controls the purse strings runs the household?

Mr. VAN SWERINGEN. Well, that is too general an application.

Mr. PECORA. It is a pretty safe rule to apply, is it not?

Mr. VAN SWERINGEN. Being a bachelor, I am not very apt to know about the running of a household.

Mr. PECORA. It is a fairly sound one, is it not, as a principle?

Mr. VAN SWERINGEN. I have no doubt that the source of supply of money can exert influence, but that does not hold that that source will adopt that course.

Mr. PECORA. Well now, Mr. Van Sweringen, haven't you found as a result of your own personal experience gained by you since 1916, when you first went into the railroad field, that the banker in the railroad field occupied a position of influence that you recognized and respected at all times?

Mr. VAN SWERINGEN. Oh, yes; yes. Certainly. Now you have asked it in the broad sense.

Mr. PECORA. Well, I am speaking about the position that the banker is in by virtue of his financial relations to a railroad system to exercise some influence over its management—over its policy. You recognize that that is so?

Mr. VAN SWERINGEN. It will always be true that money can govern the conditions under which it is put into an enterprise. I recognize that. But you are talking here from the standpoint of whether or not the banker as such directs the operation of the railroad.

Mr. PECORA. No; I have not used that term.

Mr. VAN SWERINGEN. I do not know of——

Mr. PECORA. I have not used that term that he directs the operation. So far I have confined myself to the question of the influence of the banker over the railroad's policy.

Mr. VAN SWERINGEN. Well, in my case I have not experienced anything about that.

Mr. PECORA. Well now, let us see. When you——

Mr. VAN SWERINGEN (continuing). Except as it has to do with finance.

Mr. PECORA. Well, don't you regard that the element of finance is a most important one in the operation of a railroad?

Mr. VAN SWERINGEN. It supplies the tools with which to work in the sense of money; yes.

Mr. PECORA. And in the sense that it supplies the tools and may deprive the working man of the tools it is in a position to have a marked effect on the work that is being done by the working man, is it not?

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Mr. VAN SWERINGEN. I wish you would define that a little further. I do not quite get it.

Mr. PECORA. Well, now, I am borrowing your terms when I am talking about supplying the tools to the working man. You had no difficulty in understanding that. I am borrowing your language now.

Mr. VAN SWERINGEN. Yes; but you used it in a little different sense.

Mr. PECORA. Now, when you first went into the railroad field, or after you entered it through the acquisition of the Nickel Plate road back in 1916, you then cast about to acquire other lines, didn't you?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. One of the lines that you thought you would like to buy into was the Chesapeake & Ohio some time back in 1922?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Do you recall that you testified that before you went ahead and did that you had a conference with some of the partners of J. P. Morgan & Co., and acting upon their advice you deferred your transactions?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And then subsequently you had another conference with them, and this time acting upon their advice you went in and bought into the Chesapeake & Ohio? Do you recall that testimony?

Mr. VAN SWERINGEN. I do.

Mr. PECORA. And as I understood your testimony, in that respect your transactions were influenced by the judgment expressed by J. P. Morgan & Co.?

Mr. VAN SWERINGEN. As to whether we should expand and whether it was the time, and I am speaking financially now, as to the expansion, and the time was fit, and the conditions were fit in the light of our circumstances that we do that. And I shall always hope that I will be able to confer with bankers on those policies.

Mr. PECORA. Then do you recall that later on when you contemplated buying into the Erie Railroad you went and had a talk with the late George F. Baker to find out if you would be welcome as a stockholder of the Erie Railroad? Do you recall that?

Mr. VAN SWERINGEN. I do.

Mr. PECORA. Now the late Mr. Baker was a financier, wasn't he? He was a banker?

Mr. VAN SWERINGEN. He was.

Mr. PECORA. And you went and you made it your business before buying into the Erie to consult with him to find out what his wishes might be about your coming in? Didn't you?

Mr. VAN SWERINGEN. I think I could go all the way with you on that statement; yes.

Mr. PECORA. All right. Well now, Mr. Baker was not operating the Erie Railroad as its banker, was he?

Mr. VAN SWERINGEN. No; I don't think he was.

Mr. PECORA. You were not calling on him for any financial assistance to enable you to buy into the Erie Railroad at that time, were you?

Mr. VAN SWERINGEN. No. And I am glad you made the distinction. Because it must make clear to you why I did it.

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Mr. PECORA. Well, I am going to try to find out why you did it, in addition to the reasons you have already given.

Mr. VAN SWERINGEN. I will tell you. I will be glad to tell you.

Mr. PECORA. That is the reason I am asking these questions. Now you intended to go into the Erie and having something to say about its operation, didn't you?

Mr. VAN SWERINGEN. You have just anticipated what I was going to tell you. Exactly so.

Mr. PECORA. Yes. And before you went ahead and did that you made it your business to find out what the wishes would be of the banker, didn't you?

Mr. VAN SWERINGEN. Right.

Mr. PECORA. In that instance in the personality of the late Mr. Baker?

Mr. VAN SWERINGEN. Well, wait a minute now. The wishes of Mr. Baker. You have just testified that he was not—you have just pointed out that he was not the banker. I went to Mr. Baker as one interested in that property to know what he would—to know how he would feel about our becoming interested in that property. And there was no misunderstanding about that. I wanted to be sure that we were welcome, and I come right back to what I said before, that we were welcome, because I wanted the cooperation of the associates that were in that property if we went in. I go on the theory that a divided house is sure to fall, and that what we wanted was the cooperation and the good fellowship and the good feeling incident to cooperation if we cast our lot in that property along with others. Because, clearly, we could not own it all.

Mr. PECORA. Well, Mr. Baker did not own it all, did he?

Mr. VAN SWERINGEN. No; but he was one of those who owned.

Mr. PECORA. He was one of those who had a minority interest?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And yet he was the one that you went to to find out if you would be welcome in the Erie?

Mr. VAN SWERINGEN. Right. And for the reason that I have said. He was the outstanding personality in that that I could go to, and anybody who knew Mr. Baker and knew his past and knew his relationships and his character and integrity would know that his thoughts were important in a matter that to us was so momentous as that undertaking was at that time.

Mr. PECORA. Your thought in buying into the Erie was to eventually acquire the management control of it?

Mr. VAN SWERINGEN. Certainly.

Mr. PECORA. Its operation, in other words?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And before you ventured to do it you sought to ascertain how you would be regarded by the late Mr. Baker, who owned a minority of the stock?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Well, did you have in mind the thought that if you bought into the Erie to an extent that would enable you to acquire management control and were not welcome to Mr. Baker, that your control would be affected?

Mr. VAN SWERINGEN. Well, I cannot add those two factors together. Because I think it would have been imprudent for us to

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have made a material investment in that direction unless those who were investors in the property at the time that would be likely to retain their investment and not sell it out—remember now that we could only get into the property by somebody else selling it out, and we had to make our bet on those that would sell out as against those that would be likely to stay in the investments as time went on, in other words, the permanent investor—we regarded Mr. Baker as a permanent investor in those properties, and if we were going into it we would be glad to have him stay there. And so naturally——

Mr. PECORA. Aren't you putting it the other way around now? In your prepared statement and in the testimony that you gave subsequent to the reading of that statement into the record you stated that you went to Mr. Baker before you bought into the Erie and talked with him as to your welcome as a participant in its ownership.

Mr. VAN SWERINGEN. That I did.

Mr. PECORA. It was not necessary for you to do that in order to buy this stock, was it?

Mr. VAN SWERINGEN. I, as I have said before, thought it was the courteous thing to do. I thought it was the wise thing to do. I still do.

Mr. PECORA. And if Mr. Baker had indicated to you that you would not be welcome as a participant you would not have gone into the Erie, would you?

Mr. VAN SWERINGEN. As I said also, heretofore, I would have paused before I did.

Mr. PECORA. It might have been a very long pause, too?

Mr. VAN SWERINGEN. Yes, sir.

Senator ADAMS. If Mr. Baker would not want you in you probably could not have gotten control of it, could you?

Mr. VAN SWERINGEN. I would not be able to say as to that. I am not sure.

Mr. PECORA. Well, you did not actually get control of it through the majority ownership of the stock, did you?

Mr. VAN SWERINGEN. I wanted to stand on our merits if we went into the property. I wanted to go in with the confidence that we would do the right thing. And the confidence that I am talking about is the confidence of those people who would stay in the property; not those who sold out that we could get in.

Mr. PECORA. Did you go to other large owners of the stock of the Erie at that time to ascertain their wishes?

Mr. VAN SWERINGEN. I do not recall that I did.

Mr. PECORA. Now again when you organized the Vaness Co. and that company bought stock interest in other railroads you consulted J. P. Morgan & Co., didn't you?

Mr. VAN SWERINGEN. But they were not in the C. & O.

Mr. PECORA. I say you consulted them, did you not?

Mr. VAN SWERINGEN. Pardon me. Do you mean when we bought into the Erie?

Mr. PECORA. When you bought into any of these other roads.

Mr. VAN SWERINGEN. I would perhaps have done that, and I suspect that I did do it as to the—that is a pretty broad question. Let me think it through, will you, as to what really happened in each of these circumstances. We did not when we bought the Nickel

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Plate, that issue, did we? When we bought the Lake Erie and Western—as to our buying that we did not, as I recollect. As to the Clover Leaf I do not think we did. When it came to the C. & O. I have already told you. And the record is full of that. When it came to the expansion of the C. & O. into the Pere Marquette I have no doubt that I, in a general way, reviewed the financial policy of that. Now as to the Erie I have told you. So we are down to the Missouri Pacific. And as to the Missouri Pacific, they knew we were making investment, of course.

Mr. PECORA. Well, they knew because you told them?

Mr. VAN SWERINGEN. That came around by way of the Alleghany, of course.

Mr. PECORA. Yes. Now, has the financial policy of these roads that are embodied in the Alleghany Corporation been influenced by the bankers, who in this case are J. P. Morgan & Co.?

Mr. VAN SWERINGEN. In what sense do you refer to?

Mr. PECORA. In any sense? Financial policies of the roads?

Mr. VAN SWERINGEN. Oh, as to the financing?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. Whenever they were bankers for the railroads—and they are bankers for these railroads.

Mr. PECORA. And in that way as bankers for them they control the financial policies, would you say, of the roads?

Mr. VAN SWERINGEN. They are influencing in our——

Mr. PECORA. What is that?

Mr. VAN SWERINGEN. They are influencing in our minds in that respect.

Mr. PECORA. And influencing to a paramount degree?

Mr. VAN SWERINGEN. Well, if they disagreed with the financial policy I think it would be up to me to convince them that I was right about it, if I was. And if I was not it would be up to me to see quickly that I was not. I will put it that way.

Mr. PECORA. Well, do you know of any instance where you convinced them against their own judgment about a matter of financial policy.

Mr. VAN SWERINGEN. Oh, I do not recall. I have no doubt that there are instances when we discussed back and forth factors of financial policy. And we would come to a meeting of minds on a given subject.

Mr. PECORA. While we are on that question let me ask you if you recall receiving a letter from J. P. Morgan & Co. dated March 10, 1926, reading as follows:

DEAR MR. VAN SWERINGEN: Following our conversation over the telephone this afternoon, we had a further talk with Jackson Reynolds and we tentatively suggest the following method of procedure for your consideration:

Our taking up and consolidating the existing indebtedness mentioned in your memorandum, $25,205,000, together with the loan at the First National Bank, $6,000,000, making a total of $31,205,000; with the understanding that this loan may be increased from time to time in the event that you proceed along the lines which we suggested, up to a total of, say, $35,000,000; or more by mutual agreement. You have told us that you may desire to borrow up to $44,000,000, and you are aware that, as the situation permits, we are desirous of accommodating you in every way possible.

For the reason that it corresponds more closely with ordinary banking practice, we suggest that this loan be made for a period of six months and at 6 percent interest. So much of it will be taken in the first instance, that we suggest waiving the compensation for the commitment, as previously discussed, thus making

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merely a straight 6 percent interest charge on the amount utilized. We haven't talked with anybody but the First National Bank, but our assumption is that these terms would be agreeable.

The size of this loan is so unusual and extraordinary, and as you probably would not wish us to discuss with participants in the loan the precise collateral from time to time, we desire to be put in a position to tell them merely that the collateral will at all times represent at current market prices a margin of 50 percent of the amount of the loan. On an amount of $31,205,000, this would require an aggregate of $46,800,000 collateral which is fairly close to the figure of $44,967,000, as shown on your memorandum, and will avoid unnecessary explanation.

We assume that the loan as suggested over the telephone will be made to the Vaness Corporation with the endorsement of Messrs. O. P. and M. J. Van Sweringen. The exact nature of the collateral to be reserved by your brother and yourself, that is whether all Erie or partly Erie and partly Nickel Plate, for example, we shall be glad to discuss with you when you decide what you would most like to do.

If you will be good enough to telephone me tomorrow whether something along the above line suits your book, we can then talk with one or two of the banks about it. I might say, however, that some arrangement such as the foregoing has the complete approval of the First National Bank which would be prepared to go along.

Yours sincerely,

(Signed) T. W. LAMONT,

O. P. VAN SWERINGEN, ESQ.,
Marshall Building, Cleveland, Ohio.

P.S.—Incidentally, we talked with Colonel Hartfield as to joining you in Washington to get your views as to his activities and he will await word from you as to joining you there. T. W. L.

Mr. PECORA. Do you recall that letter?

Mr. VAN SWERINGEN. I do.

Mr. PECORA. Now, all the suggestions made by the bankers in that letter were carried out by you, weren't they?

Mr. VAN SWERINGEN (after conferring with associates). I think they were.

Mr. PECORA. Can you point to a single instance, Mr. Van Sweringen, where your financing operations in connection with these roads were conducted on lines other than those suggested by J. P. Morgan & Co.?

Mr. VAN SWERINGEN. We would go to them with a financial necessity. We might have an idea as to how that money ought to be had, in general terms. We would see whether they thought that was the best way to get it and the best way to provide for its getting, and we would reconcile any differences in thoughts about that at that time. And with the meeting of minds there we would close the transaction. Now, that pretty generally describes the relationship of getting money into these enterprises through the medium of the banker as to these transactions at the time.

Mr. PECORA. Well, now, let me put the question in another way. Do you know of any instance where in connection with any financial operation on behalf of any of your roads in which J. P. Morgan & Co. participated you overruled the judgment of J. P. Morgan & Co. in any respect?

Mr. VAN SWERINGEN. I would not say we would have done that. We might have a notion of the way to do a thing. They might have had another. We might have met somewhere in between those places in order that we adapted the situation to our needs and to their necessities from the standpoint of buyers and sellers of the kind of thing that we were trying to make to get us the money.

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Mr. PECORA. Have you a letter or copy of a letter which the Vaness Co. addressed to J. P. Morgan & Co. under date of October 30, 1930?

Mr. VAN SWERINGEN. I have a copy of that letter.

Mr. PECORA. Well, I have what purports to be a photostat copy of it furnished to me by J. P. Morgan & Co., and, as I read it, will you follow me with your copy?

Mr. VAN SWERINGEN. I will.

Mr. PECORA (reading):

THE VANESS COMPANY,
TERMINAL TOWER, CLEVELAND,
New York, N.Y., October 30, 1930.

Messrs. J. P. MORGAN & Co.,
23 Wall Street, New York City.

DEAR SIRS: In entering into our agreement with you of even date, we have discussed with you our understanding as to future commitments of companies hereinafter named, owned or controlled by the Vaness Co. and the stock of which will be security either directly——

Mr. VAN SWERINGEN. Pardon me just a minute.

Mr. MURPHY. You have there two letters of the same date.

Mr. VAN SWERINGEN. There are two letters of that date. Yes, sir. Pardon me.

Mr. PECORA. Have you got it now?

Mr. VAN SWERINGEN. I have.

Mr. PECORA. I will start again. [Reading:]

DEAR SIRS: In entering into our agreement with you of even date, we have discussed with you our understanding as to future commitments of companies hereinafter named, owned, or controlled by The Vaness Company and the stock of which will be security either directly or indirectly for the advances you are agreeing to make, viz, Van Sweringen Corporation, The Cleveland Terminals Building Company, Nhe Van Sweringen Company, The Shaker Company, and The Terminal Building Company.

Mr. VAN SWERINGEN. That corresponds with this.

Mr. PECORA. That corresponds. [Continuing reading:]

While the Van Sweringen Corporation is solely a holding company, the other companies are operating companies controlling and developing important real-estate properties.

We are glad to confirm the understanding between us, which is as follows:

That, except by mutual agreement, so long as the loans to be made pursuant to said agreement of October 30, 1930, are outstanding, The Vaness Company will not and the undersigned will not suffer or permit any of these subsidiary companies to incur any substantial liabilities or commitments for capital purposes, including the purchase of securities or the acquisition or construction of additional properties. By the term "substantial" we mean expenditures or commitments for any one company, other than the Van Sweringen Corporation which would aggregate more than $1,000,000. In the case of the Van Sweringen Corporation, we confirm the understanding that without your approval, it will incur no further obligations, except such as may be necessary to meet interest on its indebtedness, taxes, or other current expenses. Nor will The Vaness Company pledge or permit any subsidiary to pledge any book account or obligation owing to The Vaness Company or any subsidiary, as the case may be, from any other subsidiary company.

It is also understood that, except by mutual agreement, no important assets of any of the subsidiary companies above named will be transferred to any other company owned or controlled by any of the undersigned. However, it may be desirable to effect consolidations of one or more of the subsidiaries named or the acquisition by one of the entire assets of the other, but before taking any such steps we will be glad to advise with you and will not permit such action to be taken if, in your opinion, it would in any way prejudice the security of your loans.

It is also understood that you have agreed to the transfer or exchange of certain real estate or real estate interests between The Terminal Building Co., subsidiaries

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of Metropolitan Utilities, the Nickel Plate, and The Cleveland Terminals Building Company, pursuant to plans now under discussion, to effect the delivery of an easement from The Cleveland Terminals Building Company to The Cleveland Union Terminals Company for the latter's East Approach, which transfer or exchange will not decrease the values behind your advances by more than Three Million Dollars ($3,000,000). In general, we, of course, will conduct the business of this company and its subsidiaries to the end that the equities which are security for the advances you are making shall not be impaired, and we shall be pleased to keep you currently fully advised of any plans or any development with respect to The Vaness Company or its subsidiaries which might result in any material change in its or their assets, liabilities, or income.

Very truly yours,

THE VANESS COMPANY,
By O. P. VAN SWERINGEN, *President.*
By CHARLES STAGE, *Secretary.*

And then the letter is also signed by

And O. P. Van Sweringen, individually and M. J. Van Sweringen, individually.

Mr. PECORA. Now didn't you virtually agree in this letter that you would be guided entirely in the financial operations of the Vaness Co. by the bankers?

Mr. VAN SWERINGEN. That is not quite the way to put it.

Mr. PECORA. Isn't that the gist of this letter?

Mr. VAN SWERINGEN. We agreed to certain restrictions that would involve the credit that they were extending to us at that time. These were protective features to conserve that security.

Mr. PECORA. Weren't you doing something more than that? Weren't you definitely committing yourselves to make no further—to do no further financing except where necessary in their judgment?

Mr. VAN SWERINGEN. We were making a covenant not to expand or to weaken what we had pledged. That is done in bond issues in general terms right and left. You can pick up hundreds of them and find covenants of this character.

Mr. PECORA. Who prepared this letter?

Mr. VAN SWERINGEN. Why, I could not tell you where that originated.

Mr. PECORA. Have you a full and complete copy of it before you?

Mr. VAN SWERINGEN. I have a copy of it.

Mr. PECORA. Has the Vaness Co. an office in New York, or did it have in October 1930?

Mr. VAN SWERINGEN. No. But at that time I was in New York.

Mr. PECORA. You notice that this letter is written on the letterhead of the Vaness Co., giving its Cleveland address, but that the letter itself is dated New York, N.Y., October 30, 1930?

Mr. VAN SWERINGEN. Yes, sir, that is true. In other words, it is on our stationery and seemingly written at New York, and I am quite sure it was.

Mr. PECORA. At what place in New York? Whose office?

Mr. VAN SWERINGEN. Why, I do not know. It may have been drafted at the hotel, or it may have been drafted at the time—probably at the—well, that is guess work. It may have been drafted there or it might have been drafted right at the Morgan's while we were trying to complete these arrangements.

Mr. PECORA. Well now——

Mr. VAN SWERINGEN. Just a minute. Mr. Murphy tells me that it was.

Mr. PECORA. Drawn in the office of J. P. Morgan & Co.?

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Mr. VAN SWERINGEN. Yes. Written there.

Mr. PECORA. Yes. Now when you bought into the Missouri Pacific road did you borrow any moneys from J. P. Morgan & Co. to enable you to do so?

Mr. VAN SWERINGEN. We had sold securities, you understand, that left us with a treasury position that was substantial, and then as time went on we sold some more.

Mr. PECORA. By that you mean you sold bonds? You issued and sold bonds?

Mr. VAN SWERINGEN. We sold preferred stock at times. And we may have borrowed some money at that time. It would not surprise me if we had.

Mr. PECORA. Well, that is what I want to find out, if you did.

Mr. VAN SWERINGEN (after conferring with associates). They tell me that we did at that time. [After a pause.] I thought I had finished the answer.

Mr. PECORA. I did not hear the answer. Pardon me.

Mr. VAN SWERINGEN. I say we may have borrowed some money at that time, and we probably did.

Mr. PECORA. Have you got the data showing such borrowings which you may have made?

(Mr. Van Sweringen conferred with his associates.)

Mr. VAN SWERINGEN (after conferring with associates). Do you mind having the fore part of your question read to me so that I can answer?

Mr. PECORA. Yes, sir; read that.

The SHORTHAND REPORTER (reading):

When you bought into the Missouri Pacific road did you borrow any moneys from J. P. Morgan & Co. to enable you to do so?

Mr. VAN SWERINGEN (after conferring with associates). It is my understanding that we began that buying along the early part of 1929, January if you will, and we borrowed some money from the Morgan firm the 1st of May.

The CHAIRMAN. How much?

Mr. VAN SWERINGEN. $19,264,050.

Mr. PECORA. Was that to enable you to buy the stock of the Missouri Pacific?

Mr. VAN SWERINGEN. Let me see just a second here. [After conferring with associates.] Yes, I recall this now. It comes back to me. That was to enable us to take what was our allotment, if you will, of convertible notes of the Missouri Pacific that were being sold at that time, and I believe we got some others in addition. In other words, the Missouri Pacific was selling some convertible notes that I have described heretofore, and we were wanting to have some of those. That loan was paid June 1, 1929.

The CHAIRMAN. How was it secured?

Mr. VAN SWERINGEN. The collateral to it was $19,758,000 of Missouri Pacific 20-year convertible 5½ percent bonds, and then we added to that 50,000 shares Missouri Pacific Railroad common stock and 50,000 shares of Chesapeake Corporation common stock.

Mr. PECORA. What did you say was the date of that loan?

Mr. VAN SWERINGEN. May 1, 1929.

Mr. PECORA. When was it paid?

Mr. VAN SWERINGEN. Paid June 1, 1929.

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Mr. PECORA. One month later?

Mr. VAN SWERINGEN. One month later.

Mr. PECORA. Was that loan paid out of the proceeds obtained from the sale of preferred stock and the issuance of bonds by the Alleghany Corporation?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Tell us about that transaction.

Mr. VAN SWERINGEN. And common stock which was sold also. Now, what was your question?

Mr. PECORA. Now, let's see; the loan was obtained on May 1, 1929, to enable you to obtain stock of the Missouri Pacific Railroad—or its notes?

Mr. VAN SWERINGEN. Convertible notes.

Mr. PECORA. Yes. It was paid a month later out of the proceeds of the sale of further stock and the issuance of bonds by the Alleghany Corporation, wasn't it?

Mr. VAN SWERINGEN. By the issuance of common stock, preferred stock, and bonds. In other words, this takes us over to the time when the proceeds of those sales could be realized.

Mr. PECORA. What was the par amount of the bonds that were issued at that time?

Mr. VAN SWERINGEN. Twenty-five million.

Mr. PECORA. And what was the amount of the preferred stock?

Mr. VAN SWERINGEN. Twenty-five million.

Mr. PECORA. Was that sold at par?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And what was the amount of par value, or no par value, of the common stock? How many shares of common stock were issued and sold?

Mr. VAN SWERINGEN. We realized $15,783,690 for common stock issued at that time.

Mr. PECORA. To whom were the bonds——

Mr. VAN SWERINGEN (interposing). And the price was $30 per share.

Mr. PECORA. To whom were the bonds issued?

Mr. VAN SWERINGEN. You don't mean issued; you mean——

Mr. PECORA. Sold.

Mr. VAN SWERINGEN. To the Morgan firm.

Mr. PECORA. On what terms?

Mr. VAN SWERINGEN (addressing an associate). Is this the 25,000,000, 95.79, the realizable amount of dollars being $23,947,500?

Mr. PECORA. Now, I take it, Mr. Van Sweringen, that in this case also these bonds were sold at that figure to J. P. Morgan & Co. without first having been offered to any other banker or banking institution?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. That was true in all of these bond sales, bond issues?

Mr. VAN SWERINGEN. Yes, sir. I am talking now of Alleghany.

Mr. PECORA. Yes; these were Alleghany Corporation issues. Don't you think that better results might have been obtained for the Alleghany Corporation and its stockholders if you had undertaken to get competitive bids for these bonds?

Mr. VAN SWERINGEN. I do not. And I decidedly do not.

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Mr. PECORA. That is often done; it is most frequently done, isn't it, in the case of the issuance of municipals?

Mr. VAN SWERINGEN. Yes; that is a rather different story.

Mr. PECORA. Do you recognize that there is a sort of a canon of ethics in the banking field under which a corporation which has its financing done at the outset by a particular banker or banking institution continues to have its financing done by that banker or banking institution?

Mr. VAN SWERINGEN. I think it is a good policy for a corporation to pursue in good and bad times.

Mr. PECORA. I say, there is such a policy that is generally recognized and followed, isn't there?

Mr. VAN SWERINGEN. There are many instances of it.

Mr. PECORA. Well, there are very few instances of a departure from it without the consent of the banker or the banking house?

Mr. VAN SWERINGEN. I don't know as to that.

Mr. PECORA. What is that?

Mr. VAN SWERINGEN. I don't know as to that.

Mr. PECORA. Do you know of any departures from it without the consent of the original banker?

Mr. VAN SWERINGEN. In our matters of importance we have tried to pursue that policy.

Mr. PECORA. And don't you know from your experience that that is a general policy which almost invariably prevails?

Mr. VAN SWERINGEN. Well, I don't like to testify as to what somebody else may have done that I am not familiar with. But it is a policy that prevails in many instances with which I am familiar.

Mr. PECORA. Doesn't that policy, among other things, lead to the entrenchment of the banker into the affairs of the corporation the financing of which he does?

Mr. VAN SWERINGEN. I don't see that it makes any difference in that respect, if I get the inference of your question.

Mr. PECORA. Mr. Van Sweringen, before you bought into the Missouri Pacific Railroad did you know who the bankers were for that road at that time?

Mr. VAN SWERINGEN. The Missouri Pacific is made up of three or four properties, well, a great many different corporations, and some of its securities had been sold by the firm of Kuhn, Loeb & Co. and some had been sold, I think in one of the subsidiaries, by the firm of Dillon Read, and I am not sure, but I think that Seligman & Co. sold some, but I would not be certain about that. I would have to check back through.

Mr. PECORA. Treating the Missouri Pacific lines as a group or system or entity, who had done the major financing for it before you bought into it?

Mr. VAN SWERINGEN. Just at the time that we were—or just ahead of the time that we went in, the firm of Kuhn, Loeb & Co. had been doing that.

Mr. PECORA. Did you consult Kuhn, Loeb & Co. with a view of ascertaining if you would be welcome as a participant in that road?

Mr. VAN SWERINGEN. No, sir.

Mr. PECORA. Now, when you bought into the Erie Railroad did the Erie Railroad then have any stock in the Pittston Co.?

Mr. VAN SWERINGEN. No.

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Mr. PECORA. Did you buy into the Pittston Co.?

Mr. VAN SWERINGEN. No. The Pittston Co. was a creation that followed some time after our interest in the Erie.

Mr. PECORA. How long after?

Mr. VAN SWERINGEN. About 2 years, maybe more than that. If it is important, I can let you know.

Mr. PECORA. If you will.

Mr. VAN SWERINGEN (after conferring with associates). Oh, quite a long while afterwards. I didn't realize there was as much of a gap in there.

Mr. PECORA. When did you buy into the Pittston Co.?

Mr. VAN SWERINGEN. We created that corporation.

Mr. PECORA. You organized it?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. A coal company?

Mr. VAN SWERINGEN. Beg pardon?

Mr. PECORA. As a coal company? Was that engaged in the coal business?

Mr. VAN SWERINGEN. Yes; largely so, and in pursuance of the divestment of the coal operations from the railroad.

Mr. PECORA. Now, were there any other coal companies that you became identified with at that time or about that time?

Mr. VAN SWERINGEN. You mean that the Pittston became identified with?

Mr. PECORA. Yes; or you through the Pittston.

Mr. VAN SWERINGEN. Quite a lot of distributing units.

Mr. PECORA. What were their names?

Mr. VAN SWERINGEN. Oh, there are probably 20 of those. I cannot give them to you from memory.

Mr. PECORA. What territory would you say those distributing units served?

Mr. VAN SWERINGEN. In and around Boston and that New England territory, and the Jersey, Brooklyn, and New York territory, where anthracite coal was being consumed in the larger percentages.

Mr. PECORA. Do you know whether or not the First National Bank of New York or the First Securities Co., which is the investment affiliate of the First National Bank, participated in any of the financing for the Allegheny Corporation or any of its roads with J. P. Morgan & Co.?

Mr. VAN SWERINGEN. I think they did.

Mr. PECORA. They did in practically every instance, didn't they?

Mr. VAN SWERINGEN. When I say I think—you have coupled Alleghany with these railroads?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. And I need a little refreshment on the participation in the Alleghany. I feel sure that they did participate in Alleghany, too. But they have participated in the distribution of securities of several of these roads; yes, sir.

Mr. PECORA. And Mr. Jackson Reynolds, whose name is contained in one of the letters that was read in evidence here this morning, is connected with the First National Bank and with the First Securities Co., isn't he?

Mr. VAN SWERINGEN. He is.

Mr. PECORA. You know him personally, don't you?

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Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Do you know that those banking interests do the financing for the Lackawanna Railroad?

Mr. VAN SWERINGEN. I had so understood.

Mr. PECORA. And also for the Glen Alden Coal Co., the Lehigh & Wilkes-Barre Coal Co.?

Mr. VAN SWERINGEN. That might be so.

Mr. PECORA. Those companies also serve the same territories, either directly or through their distributing units, in New England, that your companies serve, don't they?

Mr. VAN SWERINGEN. Generally speaking.

Mr. PECORA. Have you heard a complaint on the part of people up in those New England States of any price they have to pay for coal because of transportation rates and because of production costs?

Mr. VAN SWERINGEN. That is ever present, the price from all angles, of course. Everybody is seeking to buy as cheaply as he can, pretty generally speaking.

Mr. PECORA. Mr. Van Sweringen, is there any real competition between the coal companies you are interested in and those that the First National Bank, First Securities Co., are interested in through their interests in the Lackawanna Railroad and the Glen Alden Coal Co. and the Lehigh & Wilkes-Barre Coal Co.?

Mr. VAN SWERINGEN. I can answer that most emphatically, that there is lots of it.

Mr. PECORA. Lots of it?

Mr. VAN SWERINGEN. Yes, sir. They are vigorous competitors.

The CHAIRMAN. The committee will now take a recess until 2 o'clock.

(Thereupon, at 12:55 p.m., the committee took a recess until 2 p.m. of the same day.)

AFTER RECESS

The committee resumed at 2 p.m., on the expiration of the recess.

The CHAIRMAN. The committee will come to order. Mr. Pecora, you may proceed with the witness.

TESTIMONY OF O. P. VAN SWERINGEN, PRESIDENT OF THE ALLEGHANY CORPORATION, CLEVELAND, OHIO—Resumed

Mr. PECORA. Mr. Van Sweringen, have you succeeded in obtaining during the recess period the data that was called for this morning? I think it related to the cost of the 345,000 shares of Chesapeake & Ohio common stock that was transferred to the Chesapeake Corporation.

Mr. VAN SWERINGEN. Mr. Pecora, that bit of data is on its way up here.

Mr. PECORA. When you get it will you kindly indicate that fact to me?

Mr. VAN SWERINGEN. I will.

Mr. PECORA. How about the other data you were to get?

Mr. VAN SWERINGEN. I have before me the carbon copy that you handed to me just before lunch, pertaining to the cost of securities delivered to the Alleghany Corporation by the Van Sweringen group, so-called. The item of cost in the first bracket of that statement

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entitled "Total original cost," of $52,000,000 plus, is substantially correct. The next item of dollars received by the parties there stated, aggregating $36,000,000 plus, is substantially correct. But the next item is based upon an assumption and conditions that did not happen.

Mr. PECORA. How should that item be corrected in your opinion?

Mr. VAN SWERINGEN. Well, I hardly know how to start in to do that. It is based on profits that were not realized. There is one part of it that is correct, which relates to a liability that was assumed in connection with the purchase of the Nickel Plate. Now, moving into the next paragraph, wherein there is a reference to profits on sales during 1929, approximating $23,000,000 [after conferring]—those are substantially correct.

Mr. PECORA. Then with respect to the transactions by which the Van Sweringen interests transferred certain securities to the Alleghany Corporation, and received in return for those securities, cash and other securities from the Alleghany Corporation, is it correct to say that in that exchange the Van Sweringen interests transferred to the Alleghany Corporation 51,714 shares of Chesapeake Corporation, 26,100 shares of Chesapeake & Ohio Railway Co., 215,000 shares of Erie Railroad Co., 96,000 shares of the Buffalo, Rochester & Pittsburgh Railroad Co. common stock, and 43,000 shares of Buffalo, Rochester & Pittsburgh preferred stock, 440,386 shares of Chesapeake Corporation; and that is in addition to the first item of 51,714 shares, and 100,000 shares of Nickel Plate Railroad stock, which originally cost the Van Sweringen interests the sum of $52,044,335.70?

Mr. VAN SWERINGEN. I can subscribe substantially as to the original cost part of that statement or question.

Mr. PECORA. Yes. Now, is it also substantially correct to say that in return for those securities the Van Sweringen interests received from the Alleghany Corporation, either directly or indirectly, cash in the sum of $36,313,952.50 and 2,250,000 shares of common stock of the Alleghany Corporation and option warrants for the purchase of 1,725,000 shares of the common stock of the Alleghany Corporation at $30 a share; and in addition to that the Alleghany Corporation assumed a liability which theretofore rested on the Van Sweringen interests, amounting to $1,029,000?

Mr. VAN SWERINGEN. As to the Van Sweringen interests, of course, in this connection you are undertaking to confine it as it is set out in this pink carbon sheet?

Mr. PECORA. Well, now, the carbon sheet that you refer to—therein are included the book values of the 2¼ million shares of Alleghany Corporation common stock, and the book value of option warrants for the purchase of 1,725,000 shares of Alleghany Corporation common stock.

Mr. VAN SWERINGEN. Well——

Mr. PECORA (interposing). I have not in my last question mentioned book value of those securities.

Mr. VAN SWERINGEN. I recognize that. The only thing I was first trying to do was to distinguish the particular interests, so that I could start right.

Mr. PECORA. Well, then, go ahead and do it.

Mr. VAN SWERINGEN. Of this cash received, it was received in part by the Vaness Co. and in part by O. P. and M. J. Van Sweringen.

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Mr. PECORA. Yes.

Mr. VAN SWERINGEN. That is what I was trying to bring out.

Mr. PECORA. In other words, for the $36,000,000 plus, which was received in cash from the Alleghany Corporation on this exchange of securities, $22,413,952.50 thereof was paid to and received by the Vaness Co., wasn't it?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And $13,900,000 was paid to and received by O. P. and M. J. Van Sweringen.

Mr. VAN SWERINGEN. That is right.

Mr. PECORA. Now, what was the book value of the 2¼ million shares of common stock of the Alleghany Corporation and of the 1,725,000 option warrants that the Van Sweringen interests received from the Alleghany Corporation as a part of that transaction?

Mr. VAN SWERINGEN (after conferring). Your question is book cost of Alleghany, or, I mean, book value of Alleghany Corporation, and you are talking now about—what is it?

Mr. PECORA. Let the committee reporter read the question. [Which was done.]

Mr. VAN SWERINGEN. Dealing with the first item of $20 per share?

Mr. PECORA. That would make $45,000,000 for the 2¼ million shares of common stock, wouldn't it?

Mr. VAN SWERINGEN. As the book value on Alleghany Corporation's books.

Mr. PECORA. Yes. What was the book value of the 1,725,000 option warrants?

Mr. VAN SWERINGEN. It would be $1,725,000 on the Alleghany books as book value.

Mr. PECORA. In view of the fact, admitted by you heretofore, that as a part of this transaction the Alleghany Corporation also assumed a liability, which had theretofore rested on the Van Sweringen interests, amounting to $1,029,000, doesn't that indicate that in return for those securities which the Van Sweringen interests transferred to the Alleghany Corporation, and which had cost those interests a total of $52,044,000 plus, that the Van Sweringen interests received cash in the amount of $36,000,000 plus, and securities of the book value of $46,725,000, and with the assumption of this $1,029,000 liability by the Alleghany Corporation, that the total consideration received by the Van Sweringen interests on this transaction was $84,067,952.50 made up of both cash and securities.

Mr. VAN SWERINGEN. No.

Mr. PECORA. Why not?

Mr. VAN SWERINGEN. Because it is based upon assumptions and happenings that did not happen, unrealized gains.

Mr. PECORA. Well, I am speaking now of the value of that portion of the consideration which the Van Sweringen interests received in the form of common stock and option warrants of the Alleghany Corporation. Their book value at the time of the transaction aggregated $46,725,000, didn't it?

Mr. VAN SWERINGEN. Alleghany's book value, do you mean?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. Alleghany's book value was as stated here by me just a minute ago.

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Mr. PECORA. Well, it is $46,725,000 in the aggregate, isn't it?

Mr. VAN SWERINGEN. Yes; that is right.

Mr. PECORA. In addition to that being the book value, wasn't it also the sales value on the basis of the price paid by J. P. Morgan & Co. for 1,250,000 of those shares of common stock at $20 a share?

Mr. VAN SWERINGEN. As to the shares sold to J. P. Morgan & Co. and the amount was 1,250,000 shares, which were others shares, the price realized was $20 in cash.

Mr. PECORA. What was that?

Mr. VAN SWERINGEN. $20 was paid in cash.

Mr. PECORA. Which makes a total of $45,000,000, doesn't it?

Mr. VAN SWERINGEN. Well, that is in this transaction.

Mr. PECORA. Which was $45,000,000 at that rate.

Mr. VAN SWERINGEN. It was $25,000,000 as to those shares.

Mr. PECORA. That is, on the block that J. P. Morgan & Co. purchased?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. But adopting that as a basis of value for the common shares of the Alleghany Corporation which the Van Sweringen interests got in this transaction from the Alleghany Corporation, the common stock which the Van Sweringen interests got from that company had a value of $45,000,000.

Mr. VAN SWERINGEN. The distinction as it seems to me is this: In the one instance you had a realized gain, or a realized value I should say, pardon me; and in the other we did not have the realized value.

Mr. PECORA. All right. But in your case the 2¼ million shares of common stock of the Alleghany Corporation which you received, had a realizable value, I will put it, of $45,000,000, didn't they?

Mr. VAN SWERINGEN. That is based upon an assumption again.

Mr. PECORA. That is based upon a unit of value of $20 per share, which was the price paid by J. P. Morgan & Co. for one and one quarter million shares at that time.

Mr. VAN SWERINGEN. I know how you calculate it.

Mr. PECORA. What was that?

Mr. VAN SWERINGEN. I understand how you calculate it, but the facts are that that $20 was not realized.

Mr. PECORA. But it was the realizable value, wasn't it.? Isnt it fair to say that?

Mr. VAN SWERINGEN. That is anybody's guess, I suppose.

Mr. PECORA. Did you think that J. P. Morgan & Co. were paying too much for this common stock when they paid $20 a share for it?

Mr. VAN SWERINGEN. No; I would not say that.

Mr. PECORA. The Alleghany Corporation did not stick them, to use the vernacular, in that transaction, did it?

Mr. VAN SWERINGEN. I hope not.

Mr. PECORA. You did not think it could stick them, did you?

Mr. VAN SWERINGEN. I would not want to do it.

Mr. PECORA. You would not even want to try to do it?

Mr. VAN SWERINGEN. No, sir.

Mr. PECORA. And you were the president of the Alleghany Corporation at the time this sale was made?

Mr. VAN SWERINGEN. Yes, sir; I was the president of the Alleghany Corporation at that time. I did not mean, Mr. Pecora, in

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answering you the way I did, to give the impression that I thought I could, either.

Mr. PECORA. And that is why I assumed you would not even want to try to.

Mr. VAN SWERINGEN. No.

Mr. PECORA. Now let us see what the market value really was during the year 1929 of these common shares of the Alleghany Corporation. In your testimony at the outset of this afternoon's session you said, among other things, that the General Securities Corporation, which was a Van Sweringen group interest, sold in the open market through Paine, Webber & Co. during the year 1929, 672,810 shares of Alleghany Corporation common stock at a profit to it of over $23,000,000.

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Now that profit of over $23,000,000 is estimated on a cost to the General Securities Corporation of $20 a share for that stock, isn't it?

Mr. VAN SWERINGEN. No, it was not. I will see if I can say it. The cost of those shares of Alleghany to General Securities Corporation reflects the cost of the securities to it that were exchanged or came to it by reorganization, or in the reorganization that I have heretofore described, and that was not $20 per share.

The CHAIRMAN. What was it?

Mr. VAN SWERINGEN. I do not know. [Conferring with his associates.]

The CHAIRMAN. $15 a share?

Mr. VAN SWERINGEN. I hesitate to guess about it. I only know that it was not as much as the $20 figure. It runs back over a long period.

Mr. PECORA. Well, in any event, on whatever the basis this profit of $23,000,000 plus was based, the fact remains that during the year 1929 the Van Sweringen interests in the open market disposed of 672,810 shares of the Alleghany Corporation common stock which they had received from the Alleghany Corporation, as the result of this transaction, at a profit of over $23,000,000?

Mr. VAN SWERINGEN. I have heretofore testified that that figure is substantially correct.

Mr. PECORA. The Van Sweringen interests also had received $36,000,000 plus in cash from the Alleghany Corporation?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Now that makes a total of $59,000,000 or $60,000,000 in cash which it received either by way of profit on the sale of the stock in the open market or the cash it received directly from the Alleghany Corporation on the transfer of the securities, is that true?

Mr. VAN SWERINGEN. Just a minute. [After conferring with his associates.] What is troubling me, Mr. Pecora, is that it seems to me that you have done the equivalent of adding apples and peaches.

Mr. PECORA. No; we are adding dollars.

Mr. VAN SWERINGEN. That is my impression.

Mr. PECORA. We are adding dollars of profit received from the sale of a block of the Alleghany Corporation stock to the dollars received from the Alleghany Corporation.

Mr. VAN SWERINGEN. That is what is troubling me.

Mr. PECORA. What is that?

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Mr. VAN SWERINGEN. That is what is troubling me.

Mr. PECORA. We are not adding apples and peaches; we are adding dollars and dollars.

Mr. VAN SWERINGEN. Well, that is the point. [After conferring with his associates]. I guess maybe I can say it. In the one case we received cash and made a profit. In the other case we are treating with proceeds of sales that were not profits. There is where the difficulty lies in answering you yes or no, which I cannot do.

Mr. PECORA. But what I am trying to do is to get a figure which would represent the profit to the Van Sweringen interests from this exchange of securities that they effected with the Alleghany Coporation for securities and cash.

Mr. VAN SWERINGEN. [After conferring with his associates.] I think that gets down to a realized profit of $23,000,000 approximately. The figure that I had given.

Mr. PECORA. Of how much?

Mr. VAN SWERINGEN. Of $23,000,000 approximately. A realized profit of that.

Mr. PECORA. A realized profit?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. On the 682,000 shares?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Yes. You actually realized a profit of $23,000,000?

Mr. VAN SWERINGEN. Yes; about that.

Mr. PECORA. On the sale of 682,000-plus shares of Alleghany Corporation you got from that company, didn't you?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Now calculation has been made which would indicate that those 682,810 shares had been sold at an average of 48½.

Mr. VAN SWERINGEN. As to that block.

Mr. PECORA. As to that block. During the year nineteen——

Mr. VAN SWERINGEN. I am not subscribing to that figure, but I think that is pretty close to it.

Mr. PECORA. And that left the Van Sweringen interests with 1,567,190 shares of the common stock of Alleghany Corporation out of the two and a quarter million they originally got from the Alleghany Corporation?

Mr. VAN SWERINGEN. If your calculation is correct, and I suspect that it is.

Mr. PECORA. Yes.

Mr. VAN SWERINGEN (after conferring with his associates). There seems to be a little confusion back here. I would like to——

Mr. PECORA. Let me state the transaction in another way and see if I am not correct.

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. The common shares of Alleghany Corporation were sold to the extent of 682,000 thereof by the Van Sweringen interests in the open market during the year 1929, we will say, for a price averaging $48.50 a share.

Mr. VAN SWERINGEN. Subject to a check of those figures I am willing to accept them.

Mr. PECORA. Yes. Well, you do recall, don't you——

Mr. VAN SWERINGEN. At least they sound to me substantially correct.

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Mr. PECORA. You do recall that the Vaness Co., or the General Securities Corporation during the year 1929 sold Alleghany Corporation common stock for its own account at prices around $48.50 and more?

Mr. VAN SWERINGEN. Yes; but Mr. Pecora, the thing that was troubling me was this, that you made a computation as to the residue shares that we had after disposing of that number.

Mr. PECORA. Well, I am trying to get the realizable value.

Mr. VAN SWERINGEN. Well, what I am trying to get at and what I am trying to be accurate about is this. There seems to be a feeling here that there were some shares that we afterward acquired and had, so that the number of shares as residue shares might have been a little larger than the figure that you have shown there, and that was what was——

Mr. PECORA. That is a little larger than $48.50?

Mr. VAN SWERINGEN. No; the number of shares remaining—as you have said it—as I recollect it.

Mr. PECORA. Well, let us leave that out of consideration for the moment. Is it fair to say that the Alleghany Corporation shares were selling in substantial amounts in the open market during the year 1929 at an average of $48.50?

Mr. VAN SWERINGEN. They were.

Mr. PECORA. Yes; and that that average value was realized by your interests in the sale that year of over 680,000 shares of it?

Mr. VAN SWERINGEN. Yes, sir; if that is right. Now, just a minute—pardon me. (After conferring with his associates.) I am sticking until it is proved that I am wrong about it. (After further conference with his associates.) Oh, I see where this trouble arises. I had not caught it. The point about it is this, that you reach a figure of $48 per share as the result of an assumption that cost is $20 on the one hand and our point is——

Mr. PECORA. No; I am not.

Mr. VAN SWERINGEN (continuing). That the cost was not $20 as to those shares in the interest that we had.

Mr. PECORA. No; I am not, Mr. Van Sweringen. I am basing——

Mr. VAN SWERINGEN (interposing). Well, I mean by that that you get your $48 by an addition of that kind.

Mr. PECORA. No. I am getting this average of $48.50 a share for those 682,810 shares from the Paine, Webber & Co. account, which shows that during the year 1929 they sold for the account of the Van Sweringen interests 682,810 shares of the Alleghany Corporation common stock for a total of $33,137,778.85, and those figures appear from the Splawn report. I will show you the report.

Mr. VAN SWERINGEN. I told you I was sticking until they proved to me that I was wrong. And I think I was all right.

Mr. PECORA. Well, does that mean that I am all right too?

Mr. VAN SWERINGEN. I think so.

Mr. PECORA. All right.

Mr. VAN SWERINGEN. As to that phase of it.

Mr. PECORA. Yes. Well, now, ascribing a value, market value, realizable value, if you please, of $48.50 a share to the common stock of the Alleghany Corporation, your interests received two and one quarter million of those shares, which would give those two and one quarter million shares a market value during the year 1929 of

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$109,125,000. I mean that is the result of the multiplication of 2,250,000 by 48½.

Mr. VAN SWERINGEN. Forty-eight and one half times that number would produce that calculation?

Mr. PECORA. Produce that, yes; $109,145,000. Now, in addition to receiving the 2,250,000 shares of stock the Van Sweringen interests received cash from the Alleghany Corporation of over $36,000,000—$36,313,932—did it not?

Mr. VAN SWERINGEN. I testified to the receipt of that cash in the way shown, yes.

Mr. PECORA. Yes. And that would give us a total of $145,458,932 that the Van Sweringen interests received from the Alleghany Corporation in the form of stock and cash combined, ascribing to the stock this realizable market value at the rate of $48.50 a share?

Mr. VAN SWERINGEN. Adding realized and unrealized one would get that result upon that basis.

Mr. PECORA. That is why I am referring to that as a realizable basis.

Mr. VAN SWERINGEN. Well, realizable is another word from realized.

Mr. PECORA. I am not referring to it as a realized profit, but a realizable one.

Mr. VAN SWERINGEN. Well, there is the trouble. I can not subscribe to the realizable. And I know it was not realized.

Mr. PECORA. Well, but would you say it was a realizable value based upon the prices you actually received or realized from the sale of 682,000 shares of that stock?

Mr. VAN SWERINGEN. It is only realizable if it is sold.

Mr. PECORA. No; then it is realized.

Mr. VAN SWERINGEN. And that is the result.

Mr. PECORA. No; it becomes realized if it is sold.

Mr. VAN SWERINGEN. Well, I have got that too, but using it the way you use it I think I would have to say what I have said.

Mr. PECORA. Is there anything wrong with my calculation or statement?

Mr. VAN SWERINGEN. Do you mean with your mathematics?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. I do not see anything wrong with your mathematics.

Mr. PECORA. No.

Mr. VAN SWERINGEN. But I think there is something wrong with the calculation, if you will pardon me.

Mr. PECORA. Now what do you say is wrong with it?

Mr. VAN SWERINGEN. The fact that you have added together realized calculations with unrealized results.

Mr. PECORA. Now you have mentioned heretofore a number of times the Geneva Co. or Corporation. In what transaction was the Geneva Co. or Corporation used?

Mr. VAN SWERINGEN. I have outlined that heretofore. That the Geneva Corporation was organized as an intermediate step in the exchanges involved in Alleghany, just as the General Securities Corporation was in the instance of the Chesapeake Corporation.

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Mr. PECORA. Now will you tell us, please, what the exchanges were between the Van Sweringen interests and the Alleghany Corporation which were effected through the Geneva Corporation?

Mr. VAN SWERINGEN (after conferring with his associates). I am sorry to keep you waiting here.

Mr. PECORA. That is all right.

Mr. VAN SWERINGEN. The minutes show this——

Mr. PECORA. Now what minutes are you referring to? The minutes of which corporation?

Mr. VAN SWERINGEN. Of the Geneva Corporation.

The CHAIRMAN. What date?

Mr. VAN SWERINGEN. February 12, 1929. Relating to an agreement and a plan of reorganization.

Mr. PECORA. Will you be good enough to talk a little louder?

Mr. VAN SWERINGEN. I am sorry. The minutes of the Geneva Corporation of date February 12, 1929, cite an agreement and plan of reorganization whereby—

The General Securities Corporation will transfer and deliver to Geneva Corporation"—

And I am reading from the minutes from the words—

General Securities Corporation——

Mr. PECORA. Yes.

Mr. VAN SWERINGEN (continuing):

65,000 shares of common capital stock of the New York, Chicago & St. Louis Railroad Co., and 160,900 shares of the common capital stock of the Erie Railroad Co. Geneva Corporation will issue and deliver to General Securities Corporation all of its capital stock, to wit, 10,000 shares of common capital stock without par value.

Mr. PECORA. Is that the only transaction in which the Geneva Corporation took part?

Mr. VAN SWERINGEN. As referred to in that minute and at that time.

Mr. PECORA. Was it a party to any other transaction?

(Mr. Van Sweringen conferred with associates.)

Mr. Van Sweringen, let me ask you this question: As a result of this that you have informed us about from the minute book of the Geneva Corporation, the General Securities Corporation was enabled to effect a transfer to the Alleghany Corporation of those 65,000 shares of the Nickel Plate road stock and the 160,900 shares of the Erie Railroad common stock without setting up on the books of the General Securities Corporation any resultant profit?

Mr. VAN SWERINGEN. It is true that the shares ultimately found their resting place in Alleghany Corporation.

Mr. PECORA. Through the Geneva Corporation?

Mr. VAN SWERINGEN. And it is true also that there was no unrealized profit—I mean realized profit—pardon me.

Mr. PECORA. Had the transaction taken place directly between the General Securities Corporation and the Alleghany Corporation, the General Securities Corporation would have had to set up on its books any resultant profit from that transfer of securities, would it not?

Mr. VAN SWERINGEN. Of course, that did not happen.

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Mr. PECORA. I know; but if it had happened, if the transfer had been effected in that way, that would have happened, wouldn't it?

Mr. VAN SWERINGEN. I don't know. I don't know, but I know that didn't happen, and I know that it was the economic route.

Mr. PECORA. And it was an economic route because it avoided the payment of any tax on a resultant profit, wasn't it?

Mr. VAN SWERINGEN. There was no realized profit by this lawful way of handling it.

Mr. PECORA. Yes; that is just what I mean. The lawful way of handling it avoided the setting up of a realized profit on the books of the General Securities Corporation, which would have been taxable?

Mr. VAN SWERINGEN. I don't like the word "avoid" in that. That is why I put it in my way.

Mr. PECORA. Well, you rendered yourselves not liable for the payment of a tax on the profit by that means, didn't you? There is no question about the legality of this, Mr. Van Sweringen.

Mr. VAN SWERINGEN. It is highly technical. I think that is right.

The CHAIRMAN. Is the Geneva Corporation a going concern now?

Mr. VAN SWERINGEN. No, sir.

The CHAIRMAN. When did it go out of business?

Mr. VAN SWERINGEN. It was extinguished—I think that is in the record now.

Mr. PECORA. No; you did not refer to it heretofore.

Mr. VAN SWERINGEN. About a year after this happening, they tell me.

Mr. PECORA. That is, it was dissolved right after this transaction of February 12?

Mr. VAN SWERINGEN. No; about a year or so after.

Mr. PECORA. Did the Geneva Corporation take part in any other transaction of a similar character?

Mr. VAN SWERINGEN. Not that I can recall.

Mr. PECORA. Now, Mr. Van Sweringen, did the Missouri Pacific Railroad ask for and obtain any loan from the Reconstruction Finance Corporation at any time in the past?

Mr. VAN SWERINGEN. It did.

Mr. PECORA. How many such loans did it obtain?

Mr. VAN SWERINGEN. I cannot tell you how it was parceled out to us, but we have had—the Missouri Pacific—we have had quite a little money there, and my recollection is it was upwards of 20 millions; around 21 or 22 millions.

Senator ADAMS. Mr. Pecora, you are not on the stand, but I am just wondering about this: You have apparently conceded that this 3-party transaction successfully escaped payment of taxes. I was wondering if you are perfectly sure of that, if it is conceded that the Geneva Corporation was created for that purpose and functioned only for that purpose, if the court would not look through the essence of the transaction to what really took place and if there were income taxes chargeable if the transaction had been direct, if they would not assess them notwithstanding they are indirect.

Mr. PECORA. It is conceivable that the courts will cut through the form of the transaction in order to determine the substance of it and base a determination on the substance. And I am venturing that modestly as my opinion. It seems to coincide with your idea of it.

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Senator ADAMS. If there is a taxable profit under any condition, it is because the securities which were in the hands of the General Securities Co. had increased in value during the time they held it.

Mr. PECORA. Yes, sir.

Senator ADAMS. But when they made a transfer they realized the profit. Now, necessarily, somewhere along the situation they set up a new value. That is, they took over Alleghany stock, or whatever it was, and set up a value. I am merely just wondering if we ought to go far enough to concede that that was successful.

Mr. PECORA. When I say there is no question about the legality, I was referring to the form of the transaction.

Senator ADAMS. Oh, the form; of course, that was a legal consequence from an income-tax standpoint.

Mr. DAVIS. May I interject this statement: Isn't this a case where in order not to violate the income tax law it was made without the exchange of stock? As I understand, the law is certainly intended so as to permit that, in order not to interfere with corporation regoranization. It was felt that if every reorganization involved a tax they could not readjust their business.

Senator ADAMS. But, Mr. Davis, here is my inquiry: Would there have been, in view of that change in law, a tax if the exchange had been direct, for instance between company A and company C without the intervention of company B?

Mr. DAVIS. It was purely an exchange of stock for stock. Perhaps not. I am not sure.

Senator ADAMS. I am really curious as to the necessity of this intermediate corporation, whether it was for the purpose that I apparently get from the witness. I know little about income.

Mr. MURPHY. I would like to call the Senator's attention to the fact that when this was accomplished we had merely the same thing but represented by different pieces of paper in this particular instance. The thing that we received, Alleghany stock, we took over on our books at the same price as that which we exchanged. When we sold Alleghany then we were required to report the base price and the profit realized in that sale.

Now, I would like to read here the report, as I understand it, of Congress on this very section which will perhaps bring this matter more fully to the attention of the committee. I am reading "Exchanges of property for property." [Reading:]

Section 202 (subdivision C) provides new rules for those exchanges or "trades" in which, although a technical "gain" may be realized under the present law, the taxpayer actually realizes no cash profit.

Under existing law "when property is exchanged for other property, the property received in exchange shall, for the purpose of determining gain and loss, be treated as the equivalent of cash to the amount of its fair market value, if any * * *". Probably no part of the present income tax law has been productive of so much uncertainty or has more seriously interfered with necessary business readjustments. The existing law makes a presumption in favor of taxation. The proposed act—

Which was adopted here; that is parenthetical—

modifies that presumption by providing that in the case of an exchange of property for property no gain or loss shall be recognized unless the property received in exchange has a readily realizable market value, and specifies in addition certain classes of exchanges on which no gain or loss is recognized, even if the property received in exchange has a readily recognizable market value. These classes comprise the cases where productive property (other than stock in trade

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or property held primarily for sale) used in a trade or business is exchanged for property of a like kind in use——

Senator ADAMS (interposing). May I ask what you are reading, Mr. Murphy?

Mr. MURPHY. I am reading here from the Senates' committee report on the Revenue Act of 1921.

Senator ADAMS. Yes; but whose statement is that?

Mr. MURPHY. That is right in the report. I would not know whose statement that was, Senator. It is a report of the committee. I would not know who prepared it. May I read the title of it?

Report to accompany House 8245, Committee on Finance, to whom the bill—

And so forth, was referred to.

Mr. VAN SWERINGEN. Do you want the reference page?

Mr. MURPHY. I will give this to you when I am through. But this goes particularly into the question that we are now discussing. At the time that the law was changed to make this possible it was considered by the committee a proper thing to do, and it was done, and what was done by us in this instance is merely availing ourselves of that provision, because we only had a different piece of paper for the same thing, which piece of paper took the same cost as that which we exchanged.

The CHAIRMAN. There was no exchange of stock between the General Securities Co. and the Geneva Co.?

Mr. MURPHY. There was.

The CHAIRMAN. What stock did you get from the Geneva Co.?

Mr. MURPHY. The General Securities Co. took the Geneva Corporation stock for the Erie and Nickel Plate stock that was exchanged, Mr. Chairman.

Senator ADAMS. Of course, it is quite true that the Geneva stock represented identically what you transferred, because the Geneva Co. had nothing else, as I understand it.

Mr. MURPHY. That is correct. There was no real——

Senator ADAMS (interposing). On the other hand, I gather that the Geneva Co. was interjected into the transaction as the first step in a real exchange between the third company and the first.

Mr. MURPHY. This is the situation, Senator: The General Securities Corporation had certain assets that were to go into the Alleghany Corporation; it had certain assets that were not to go into Alleghany Corporation Those that were not to go into Alleghany Corporation were exchanged for the stock of Geneva Corporation. That is what we are talking about here. If you would like to have this report—I have not read it fully, but I would like to have it submitted into the record if that is agreeable.

Mr. DAVIS. That is submitted by reference, I suppose.

The CHAIRMAN. The report can be put into the record.

(The reference to the report submitted by Mr. Murphy is: "Senate, Calendar No. 289. Report No. 275, dated September 26, 1921, to accompany H.R. 8245," and the portion thereof, from which Mr. Murphy read above in part, is as follows:)

EXCHANGES OF PROPERTY FOR PROPERTY

Section 202 (subdivision C) provides new rules for those exchanges or "trades" in which, although a technical "gain" may be realized under the present law, the taxpayer actually realizes no cash profit.

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Under existing law "when property is exchanged for other property, the property received in exchange shall, for the purpose of determining gain or loss, be treated as the equivalent of cash to the amount of its fair market value, if any * * *." Probably no part of the present income-tax law has been productive of so much uncertainty nor has more seriously interferred with necessary business readjustments. The existing law makes a presumption in favor of taxation. The proposed act modifies that presumption by providing that in the case of an exchange of property for property no gain or loss shall be recognized unless the property received in exchange has a readily realizable market value, and specifies in addition certain classes of exchanges on which no gain or loss is recognized even if the property received in exchange has a readily realizable market value. These classes comprise the cases where productive property (other than stock in trade or property held primarily for sale) used in a trade or business is exchanged for property of a like kind or use; where in any corporate reorganization or readjustment stock or securities are exchanged for stock or securities of a corporation which is a party to or results from such reorganization; and where an individual or individuals transfer property to a corporation and after such transfer are in control of such corporation.

The preceding amendments if adopted, will, by removing a source of grave uncertainty and by eliminating many technical constructions which are economically unsound, not only permit business to go forward with the readjustments required by existing conditions, but also will considerably increase the revenue by preventing taxpayers from taking colorable losses in wash sales and other fictitious exchanges.

Proper safeguards are found in subdivision (d) which provides that where property is exchanged for other property, where property is involuntarily converted into cash and the proceeds of such conversion are used to replace the property converted, or where a wash sale is not recognized, the property received in exchange shall be treated as taking the place of the original property.

Mr. PECORA. Mr. Murphy, under the then existing revenue laws, if you want to answer the question——

Mr. MURPHY. I will be glad to if I can.

Mr. PECORA. Had the transaction or exchange of securities between the General Securities Corporation and the Alleghany Corporation been made directly between those two companies without the intervention of a third company or entity, what then would have been the taxable result?

Mr. MURPHY. I realize that is quite possible, Mr. Pecora.

Mr. PECORA. What is that?

Mr. MURPHY. I would have to say that that is quite possible. In passing this act of 1921, as I understand, they made certain precedent in connection with a plan of reorganization that had to exist in order that the plan of reorganization would be effective for the purpose it was designed to create, namely, to prevent an individual paying taxes when he merely exchanged his property.

Mr. PECORA. Perhaps I did not make my question clear. I am asking you what the result would have been insofar as liability for payment of tax is concerned had the General Securities Corporation exchanged the stock of the Nickel Plate road and the Erie Railroad, which it owned, with the Alleghany Corporation in return for the stock of the latter corporation.

Mr. MURPHY. There would have been no tax in that instance, but I do not think I have made it clear that we did not put the Nickel Plate stock into the Alleghany Corporation at that time.

Mr. PECORA. Then if you say the result would have been the same in that instance, why resort to the Geneva Corporation?

Mr. MURPHY. Because we did not want to put into the Alleghany Corporation this Erie stock, Mr. Pecora. Is that clear? Or this Nickel Plate stock that went over from General Securities.

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Mr. PECORA. One thing that is clear is the statement—the answer that Mr. Van Sweringen made on more than one occasion, in which he read apparently from a prepared statement that he held in his hand—that it was done in this fashion; that is, through the intervention of a third company or entity for reasons of economy.

The CHAIRMAN. For economic reasons.

Mr. MURPHY. I think he also went further in his statement and said it was for the purpose of availing of the provisions of the Internal Revenue Act as it existed at that time.

Mr. PECORA. That was the interest of economy that was served, wasn't it?

Mr. MURPHY. I presume it was.

Mr. PECORA. Not rendering itself liable to the payment of a tax on a resultant profit?

Mr. MURPHY. I presume that is the case.

Mr. PECORA. Yes.

The CHAIRMAN. Were there not regulations issued in 1926 and 1928? A number of regulations have been issued since that?

Mr. MURPHY. Yes; there have.

The CHAIRMAN. Do you know whether they conform to the regulations as they existed then?

Mr. MURPHY. That I would not be able to say.

Mr. VAN SWERINGEN. Mr. Pecora, I agreed to announce when certain data was here about which you were heretofore inquiring. It had reference to the C. & O. shares in the number of 345,000, their cost, which is $39,960,425, and their market value May 10, 1927, $60,375,000, or at the rate of $175 per share. I think that is the data that you wanted.

Mr. PECORA. Yes. Now, let us go back to the question of loans obtained by the Missouri Pacific Railroad from the Reconstruction Finance Corporation. How many such loans were obtained?

Mr. VAN SWERINGEN. You know how those loans are had, don't you? Perhaps I better describe them. First we make an application to the Reconstruction Finance Corporation setting up our needs, what they are in short, the collateral to be provided. Simultaneously we file with the Interstate Commerce Commission a duplicate of that application. The Commission reviews it and determines as to the public interest and necessity from the railroad point of view and either approves or disapproves. If they disapprove we get no money from the R.F.C., or if they revise that is weighed in the balance. If they approve, then the R.F.C. may or may not—and either one may or may not as to the other—approve.

The dollars, therefore, that we got from the Missouri Pacific were gotten with that joint approval of Reconstruction Finance Corporation and Interstate Commerce Commission, satisfying fully the public convenience and necessity on the one hand and the collateral security and other arrangements as to the financial side of the transaction on the other hand.

Now, in letting us have those dollars we will forecast ahead what we think is the operating result that will happen in the light of the business, as we have to forecast that, and we need this money. So that instead of their handing over all this money at one time, they hand us these amounts from time to time. That is why it is a little difficult to answer you specifically.

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If we treat each one of these separate awards of dollars in the actual transfer, that is one thing. If we treat the over-all application, that is another. But I cannot tell you here, because I did not expect that I was going to be examined on that matter. And I do not have the Missouri Pacific records here nor any of the officers of the Missouri Pacific who were naturally familiar with those subjects.

The CHAIRMAN. Did you have to state to the R.F.C. the purpose for which the money was used?

Mr. VAN SWERINGEN. Yes.

The CHAIRMAN. They had to approve that?

Mr. VAN SWERINGEN. Yes.

The CHAIRMAN. And they were required to take adequate security?

Mr. VAN SWERINGEN. Yes.

The CHAIRMAN. They passed upon the security after the Interstate Commerce Commission approved the application?

Mr. VAN SWERINGEN. They both approved of that; yes, sir; each.

The CHAIRMAN. Do you remember what salary the president of the Missouri Pacific was receiving then?

Mr. VAN SWERINGEN. When we went into that property the president of that company was—I mean all of those companies; it is a pretty large system, as you know—was receiving a salary upward of $100,000.

The CHAIRMAN. About one hundred and twenty, wasn't it?

Mr. VAN SWERINGEN. I don't recall that exact amount. It was in several different units. My recollection is that the amount is now 60,000.

The CHAIRMAN. It was 120, I think.

Mr. VAN SWERINGEN. Somewhere near that, yes. The chairman was receiving a salary at that time, and when I entered the chair, I might add, I asked that that be rescinded.

The CHAIRMAN. The chairman was receiving how much?

Mr. VAN SWERINGEN. The chairman was receiving a salary in those corporations. That is my predecessor. And when our interests came into the property I asked that the chairman's salary be rescinded, and it was.

The CHAIRMAN. You did not state the amount.

Mr. VAN SWERINGEN. I think the aggregate of it was somewhere around $75,000 from the different companies. But I have never drawn any salary.

The CHAIRMAN. That was the first loan. Now you made an application for another loan, did you say, later?

Mr. VAN SWERINGEN. The dollars that we have had from the Reconstruction Finance Corporation to the Missouri Pacific, to which I have heretofore referred, somewhere in the range of $22,000,000, was the aggregate of applications and awards.

Mr. PECORA. Now, do you remember a loan of $11,700,000 that was obtained by the Missouri Pacific from the Reconstruction Finance Corporation?

Mr. VAN SWERINGEN. As one item?

Mr. PECORA. Well, now, either as one item or as a group.

Mr. VAN SWERINGEN. I do not identify that sum as a unit sum, due to these various transactions, if you will, that have been added from time to time.

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Mr. PECORA. You remember that the application to the R.F.C. was for a loan of $11,700,000?

Mr. VAN SWERINGEN. Oh, that is one of these forecasts of need, and we always followed under their form "forecasts" with an application for dollars, and then we readjust those as we go along.

Mr. PECORA. Now, do you remember the application for a loan of $11,700,000?

Mr. VAN SWERINGEN. I don't remember it in that exact amount, but it is probably correct if you have the notation there.

Mr. PECORA. Well now, I have before me report of the Interstate Commerce Commission handed down on March 23, 1932, with respect to the application of the Missouri Pacific Railroad Co. for a loan from the Reconstruction Finance Corporation, the caption of which is—

Upon further consideration of the application of the Missouri Pacific Railroad Co. for a loan of $23,250,000 from the Reconstruction Finance Corporation an additional loan of $12,800,000 approved without prejudice to further loans.

Do you recall that application?

Mr. VAN SWERINGEN. In general terms I recall it.

Mr. PECORA. In connection with that application didn't you set forth the fact that there were bank loans totaling $11,700,000 held by J. P. Morgan & Co., Kuhn, Loeb & Co., and the Guaranty Trust Co. of New York, which were maturing on April 1, 1932?

Mr. VAN SWERINGEN. I believe we did.

Mr. PECORA. Now, you obtained a loan from the R.F.C. at that time, didn't you, that is, the Missouri Pacific Railroad Co.?

Mr. VAN SWERINGEN. Pursuant to the application.

Mr. PECORA. Yes. And was a portion of that loan used to refund any of these bank loans?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. What proportion?

Mr. VAN SWERINGEN. One half of the bank loans were paid.

Mr. PECORA. What collateral was given to the R.F.C.?

Mr. VAN SWERINGEN. Oh, my gracious! I don't believe I can give you the detail of that. There was a string of it. I would like to answer that by saying adequate collateral.

Mr. PECORA. Wasn't there a division of the collateral which was held by the bankers at that time for this indebtedness of $11,700,000 with the R.F.C.?

Mr. VAN SWERINGEN. A substantial division, as I recollect it, although some of the items were not divisible and had to be slightly adjusted on that account.

Mr. PECORA. But the intent was to make about an equal division of collateral?

Mr. VAN SWERINGEN. That is the way it is in my mind.

Mr. PECORA. Between the bankers and the R.F.C.?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And that, in substance, was what was done?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And the balance of the unpaid portion of the loan representing one half thereof was extended by the bankers?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. Originally in connection with the obtaining of the loan for the purpose, among other things, of refunding these bank

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loans maturing on April 1, 1932, had the railroad sought to get an extension of those loans from the bankers?

Mr. VAN SWERINGEN. I think the facts surrounding it are set out in the application.

Mr. PECORA. Without reading all of that lengthy application, what is your answer?

Mr. VAN SWERINGEN. It is a prerequisite, I believe, to the getting of a loan that the other loan must have matured——

Mr. PECORA. That is not the question.

Mr. VAN SWERINGEN (continuing). And that the corporation was unable to get the money otherwise.

Mr. PECORA. Before this application was made by the railroad company to the R.F.C. had the company sought to get those bank loans extended?

Mr. VAN SWERINGEN. I think so, as it lies again in my mind.

Mr. PECORA. Did it succeed in getting the loans extended, or any portion?

Mr. VAN SWERINGEN. One half of it.

Mr. PECORA. No; I mean, before the loan was obtained from the R.F.C.

Mr. VAN SWERINGEN. The result was that one half of it was extended.

Mr. PECORA. Before the loan from the R.F.C. was procured for the railroad company, the railroad company made an application or request of the bankers to extend its loans, did it not?

Mr. VAN SWERINGEN. Yes; I believe it did.

Mr. PECORA. And was that application granted in whole or in part?

Mr. VAN SWERINGEN. In part.

Mr. PECORA. How?

Mr. VAN SWERINGEN. By one half of the loan being extended.

Mr. PECORA. Was that done before the loan was obtained from the R.F.C. by the railroad company?

Mr. VAN SWERINGEN. Was one half?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. Coincidental with the loan.

Mr. PECORA. Before you ever made your application to the R.F.C. for this loan did the railroad company ask J. P. Morgan & Co. to extend this loan or loans totaling $11,700,000?

Mr. VAN SWERINGEN. I thought I answered that, but if I did not, I will do it again. I am sorry. It is my understanding they did, and it is my understanding that the loan was called.

Mr. PECORA. That is, no exception was granted?

Mr. VAN SWERINGEN. Up until April 1.

Mr. PECORA. Before you made any application to the R.F.C. for a loan, you applied to the bankers for an extension of their loan, did you not?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Just answer that first, will you? Did you or did you not?

Mr. VAN SWERINGEN. Pardon me just a moment. There is nothing mysterious about this, and I am not trying to evade answering you——

Mr. PECORA. Then why not answer?

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Mr. VAN SWERINGEN. Just let me answer it in my own words and try to give you the facts as they lie in my mind, because I forewarned you that I did not come here with those records and I did not know you were going into that subject. As it happens I find I have a little something on it that I did not know I had with me. But the loan was seemingly called the latter part of January for payment April 1 following, that being 60 days later; and then it was that one half of it was replaced with the bankers who held it all theretofore, and one half of it was taken by the R.F.C.

I would like to make a little explanation of that——

Mr. PECORA. I wish you would first answer my question, Mr. Van Sweringen, and then make any explanations you wish.

Mr. VAN SWERINGEN. Have I not done that now? If I have not I missed your point.

Mr. PECORA. Before the application was made by the Missouri Pacific Railroad Co. to the R.F.C. for a loan, did the company ask J. P. Morgan & Co. to extend the loan of $11,700,000 that was maturing on April 1, 1932?

Mr. VAN SWERINGEN. I must have missed that point, because I thought—there is some confusion, because I thought I answered that in the affirmative, that it did.

Mr. PECORA. All right. What reply did you get from J. P. Morgan & Co. to that request?

Mr. VAN SWERINGEN. Just what I have also said here a minute ago.

Mr. PECORA. What was the reply?

Mr. VAN SWERINGEN. That the loan should be paid April 1. I have a copy of the letter here—

Referring to your company's indebtedness of $11,700,000—

Mr. PECORA. Is it necessary to give your answer in that form? Can you not tell us whether or not J. P. Morgan & Co., in response to that request, agreed to extend that loan or any part of it——

Mr. VAN SWERINGEN. It is just four lines.

Mr. PECORA (continuing). Prior to the time that you applied to the R.F.C. for a loan?

Mr. VAN SWERINGEN. I have said that they did agree to its remaining until the following April 1.

Mr. PECORA. But the loan matured on April 1——

Mr. VAN SWERINGEN. Won't you please let me read this letter? It is only four lines.

Mr. PECORA. Did not the loan mature on April 1?

Mr. VAN SWERINGEN. It was a demand obligation, I think, that was fixed to mature as of April 1 by this extension.

Mr. PECORA. All right. Now read that letter.

Mr. VAN SWERINGEN. (reading):

Referring to your company's indebtedness of $11,700,000, with interest to ourselves representing a group of banks and bankers, we hereby call for the payment of such loan with interest on April 1, 1932, being slightly more than 60 days from the date of this letter.

Yours very truly.

And that letter or that message is dated January 29, 1932.

Mr. PECORA. Did you after that apply to the bankers for an extension of that loan beyond April 1, 1932?

Mr. VAN SWERINGEN. Did we apply?

Mr. PECORA. To the bankers.

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Mr. VAN SWERINGEN. We applied for an extension, but I cannot say that we applied for an extension beyond April 1, 1932.

The CHAIRMAN. You did not need to; they had already granted you that?

Mr. VAN SWERINGEN. They did grant that.

Mr. PECORA. They granted it to that date?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. I am asking you if you applied to the bankers for an extension beyond April 1, 1932?

Mr. VAN SWERINGEN. I do not think we did.

Mr. PECORA. When did you apply to the R.F.C. for a loan?

Mr. VAN SWERINGEN. Just about the term of that message, or the latter part of January.

Mr. PECORA. How much of a loan did you obtain from the R.F.C.?

Mr. VAN SWERINGEN. As to this, one half?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. One half of these dollars. There may have been other dollars that went for other purposes.

Mr. PECORA. In your application for a loan you cited this obligation of $11,700,000 to the bankers?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. And you obtained a loan from the R.F.C. sufficient to repay or refund one half of that amount to the bankers?

Mr. VAN SWERINGEN. Yes, sir.

The CHAIRMAN. Did the bankers propose that if you could raise funds from the R.F.C. to pay one half of their loan, they would extend the other half?

Mr. VAN SWERINGEN. No; that was not done. But that arrangement was made.

The CHAIRMAN. That arrangement was made because they had not yet undertaken to enforce that other half of it?

Mr. VAN SWERINGEN. Yes.

The CHAIRMAN. They proceeded now to do that?

Mr. VAN SWERINGEN. Well, this, of course, is running back to January of this year—I mean, of last year.

The CHAIRMAN. Was the other half of the bankers' loans extended then, and for what period?

Mr. VAN SWERINGEN. May I have that question again?

The CHAIRMAN. Was the other half of the loans made by the bankers extended after they received one half, and if so, to what time?

Mr. VAN SWERINGEN. It was extended to October 1, 1932. I believe there was some—as it lies now in my mind, it was later extended concurrently with the R.F.C. loan; but I hesitate to testify to those details without any records before me.

The CHAIRMAN. Are they still outstanding—those notes to the bankers?

Mr. VAN SWERINGEN. The one half is; yes, sir.

Mr. PECORA. Mr. Van Sweringen, perhaps if I read to you the concurring opinion or report of Commissioner Eastman of the Interstate Commerce Commission in passing upon the application which the Missouri Pacific Railroad Co. made to the R.F.C. for a loan, it may serve to refresh your recollection as to whether the bankers agreed to extend all or any part of the loan of $11,700,000 that was maturing on April 1, 1932. [Reading:]

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Commissioner Eastman concurring in part.

No good reason has been shown for approving a Government loan to enable the applicant to make a 50 percent payment of the bank loans maturing April 1. I would have no difficulty in joining in such approval if there were any evidence that the loan is needed in the public interest, but no one has made or attempted to make such a showing. Applicant tells us that the banks would not extend the loan. The Reconstruction Finance Corporation now tells us that they will extend 50 percent. The theory is, apparently, that a Government loan to pay the other 50 per cent is necessary in order to prevent the Missouri Pacific receivership. No such necessity exists. Morgan & Co., Kuhn Loeb & Co., and the Guaranty Trust Co. would not, so long as the interest on these bank loans is paid, force a receivership by refusing an extension. The repercussions would be much too dangerous in other quarters where the private interests of these financial institutions are involved.

I realize that the majority are no more persuaded than I am that there is any need for using Government funds to bail out these bankers. They place the responsibility on the Reconstruction Finance Corporation. It seems to me, however, that we have a responsibility which we cannot thus escape.

Does not that serve to refresh your recollection as to whether or not the bankers refused to extend the loan beyond April 1?

Mr. VAN SWERINGEN. I have testified rather fully on that subject.

Mr. PECORA. Is your testimony to the effect that the bankers had refused to extend the loan beyond April 1?

Mr. VAN SWERINGEN. They called it for payment April 1.

Mr. PECORA. And refused to extend it?

Mr. VAN SWERINGEN. Well, your question was, Did they refuse to extend it after April 1? That contingency did not arise. They called it for payment April 1.

Mr. PECORA. Had you asked them——

Mr. VAN SWERINGEN. Pardon me. May I finish?

Mr. PECORA. All right.

Mr. VAN SWERINGEN. They called it for payment April 1. We went to the R. F. C. We had one half of the money awarded to us there. We paid that half and extended the remainder or made a new note for the balance. That is the way the thing was handled in the ordinary course of events. Now, the question with us, from the railroad point of view, was, Shall we get this money from the Reconstruction Finance Corporation in order to pay the bankers? I believe, frankly, and I would say it without hesitation, that I do not believe we would have faced a receivership because of the nonpayment of that item laying where it was. That was not the theory of it at all. Banks, after all, exist by keeping mobile; and the question of public interest surrounds that point just as much as it does some of these other points we have been discussing from the public interest point of view. It was our thought that the railroad company was far wiser to keep its banking condition flexible and keep its reserve opportunities there by paying off its debts if it could, when they matured. I still think that is right. There was just as much of a desire on the part of the carrier to pay that as there was on the part of anybody else to have it paid. I believe the country would have been helped; I believe the general situation would have been helped, if as to all those loans that laid in the banks that were well secured, the carriers could have gone over to the Reconstruction Finance Corporation and funded. I believe their credit would have been much better.

The CHAIRMAN. You think that all the people of the country should put up that fund to pay it back?

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Mr. VAN SWERINGEN. It was a question of keeping mobile. The law provided for adequate collateral. I want to assure you that the Reconstruction Finance Corporation and the Commission have done a good job on that. They just clean up your till of collateral when you ask for a loan. They take it all and then they parcel out to you the dollars that they are satisfied you need. And so it goes. As I say, I think with that provision for security the Government dollars through the R.F.C. could well go there and then let those dollars in banks which were paid to the banks be used in the ordinary commercial activities, in the ordinary bank credit risks, and get more good out of it than to leave them frozen with the banks, because no banker wants a frozen loan, and he is going to be shy of taking any more loans that do freeze. I think that has generally resulted. It was just a question of business judgment as to which was the better way to do. We did it the way I have told you.

Just one more word, in dropping the subject, as far as I am concerned. The Missouri Pacific I think was no. 1, because of its maturity of items, at the time that it went to the Reconstruction Finance Corporation. When we went down first they did not even have their forms; the policies were not crystallized; there was nothing to guide us; there was nothing to guide anybody. That policy in reconstruction has developed since, and it is a policy, as I understand it now, of not funding. But then it was an undetermined question.

Senator STEIWER. When did you first contact the Reconstruction Finance Corporation in respect to the initial loan?

Mr. VAN SWERINGEN. They did not have an office when we started. They were scattered around here in Washington. I guess that will give you the answer.

Senator STEIWER. That partially answers the question; but do you know about how many days it was after the law was approved before you were here in Washington?

Mr. VAN SWERINGEN. We were sitting on their doorstep waiting for them to open.

Senator STEIWER. Waiting for them to open for business?

Mr. VAN SWERINGEN. We were afraid it would not get finished in time.

Mr. PECORA. Let me read to you the resolution of the Reconstruction Finance Corporation with regard to the application of the Missouri Pacific Railroad for a loan. [Reading:]

Whereas the Missouri Pacific Railroad Co., under date of March 10, 1932, filed an application with the Reconstruction Finance Corporation for loans aggregating $23,250,000 covering said company's estimated requirements for the entire year 1932, this corporation has acted in part on this application and has loaned $4,300,000, with the approval of the Interstate Commerce Commission, secured by $7,300,000 of first and refunding mortgage 5 percent bonds, series I, due 1981, this loan being made without prejudice to the application for additional further amounts. This application includes, among other things, a request for an advance to pay bank loans aggregating $11,700,000 due April 1, 1932, payment of which has been duly demanded, said notes bearing 5½ percent interest and being secured by fifteen and a half million dollars principal amount of first and refunding mortgage 5 percent gold bonds, series I, and 229,500 shares of common stock of the Texas & Pacific Railway Co.;

And whereas in the opinion of this board, the existing uncertainty as to the disposition of the April 1 maturity of the Missouri Pacific Railroad Co. is detrimental to the general credit situation of the railroads, and whereas the Missouri Pacific Railroad Co. has stated, and it is the opinion of this board, that the said railroad is unable to obtain funds through banking channels or from the general public in order to pay said bank loans now: therefore, be it

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Resolved (subject to the approval of the Interstate Commerce Commission), That this board authorize a loan to the Missouri Pacific Railroad Co. to the extent of $5,850,000, which amount is 50 percent of said railroad company's bank loans maturing April 1, 1932, on condition that the holders of the balance of said bank loans agree to an extension of the payment of said balance of $5,850,000 to a date not earlier than October 1, 1932, and on further condition that there be delivered to this Corporation as collateral security for said loan one half of the collateral now held as security of said $11,700,000 of bank loans, and such additional security, if any, as may be recommended by the Interstate Commerce Commission or as to this Board may hereafter seem advisable.

And so forth.

Does the reading of that portion of the resolution of the R.F.C.—I will withdraw that. Let me ask you this question. Had the Missouri Pacific Railroad Co., prior to the making of this application of March 10, 1932, to the R.F.C. for a loan, sought to get funds from any banking channels whatsoever to enable it to refund the loans of $11,700,000 maturing on April 1, 1932?

Mr. VAN SWERINGEN. Yes; I think it had.

Mr. PECORA. Through what channels?

Mr. VAN SWERINGEN. I am testifying from memory, now, and you will appreciate that there is quite a wide range of things that I am expected to remember in detail here. My recollection is that we sort of sounded out that situation and found it was not practicable for us to expect that we could get the dollars. No man confronts a definite refusal if he can avoid it. At least, we did not.

Mr. PECORA. Did you actually apply to any banking interests for a loan?

Mr. VAN SWERINGEN. I have no doubt we talked to our bankers about those maturities and what we were going to do about them, and tried to sense their attitude as to being willing to put further money at that time in that place; and the result of it all was that we were in such shape where we had to, when the time came as to the Missouri Pacific, say we were unable to obtain the moneys that we wanted from the R.F.C. from any other source upon terms and conditions that we could withstand.

Mr. PECORA. Had you actually gone to any other bank or bankers or any banking institution or any banking agency to obtain a loan to enable you to refund on these bank maturities of April 1, 1932?

Mr. VAN SWERINGEN. You mean, any other banker than the bankers for the property?

Mr. PECORA. Yes.

Mr. VAN SWERINGEN. No; I don't think so. I know we did not do that.

Mr. PECORA. Had you gone to other bankers for the property?

Mr. VAN SWERINGEN. That is what I just talked about; yes.

Mr. PECORA. Did you learn from them that they were unwilling to and would not extend the loan?

Mr. VAN SWERINGEN. Just what I testified here, again—if I were to answer that question I would answer it as I have just testified. There is just one thing I might add there. There are several banking interests, you understand, who participate in the banking of the Missouri Pacific, so that there was quite a range of coverage of the things that you have been pointing out.

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Mr. PECORA. What I am getting at is this. I have read to you from the resolution of the R.F.C. in regard to your application—

That the Missouri Pacific Railroad Co. has stated, and it is the opinion of this Board, that the said railroad is unable to obtain funds through banking channels or from the general public in order to pay said bank loans.

With regard to that recital in this resolution, is it the fact that the Missouri Pacific Railroad Co. had actually tried to obtain funds through banking channels or from the general public in order to pay the loan of $11,700,000 which J. P. Morgan & Co. held and which matured on April 1, 1932?

Mr. VAN SWERINGEN. Oh, yes; I think there is no doubt about that. But when reading that paragraph that you have just read——

Mr. PECORA. What efforts had you made through private or other banking channels to get those funds?

Mr. VAN SWERINGEN. When reading the paragraph you just read, Mr. Pecora, I think, in fairness, you ought to read one more line of it.

Mr. PECORA. I have read the whole paragraph.

Mr. VAN SWERINGEN. The certification has a little more to it than that. It says: "Upon terms and conditions that are"—I don't recall the language.

Mr. PECORA. Well, I will read the entire paragraph, or rather the preamble, again:

Whereas the Missouri Pacific Railroad has stated, and it is the opinion of this board, that the said railroad is unable to obtain funds through banking channels or from the general public in order to pay said bank loans.

Now, that completes a paragraph, Mr. Van Sweringen.

Mr. VAN SWERINGEN. What are you reading from?

Mr. PECORA. From the resolution in regard to bank loans of the Missouri Pacific Railroad Co.

Mr. VAN SWERINGEN. Yes; but whose resolution is it?

Mr. PECORA. Adopted by the Reconstruction Finance Corporation's board on March 18, 1932.

Mr. VAN SWERINGEN. I see. Well, of course that wasn't the certification of the Missouri Pacific, in that form. It had one, with the added words, in the application, and——

Mr. PECORA (interposing). No; but here is the statement in the resolution of the board of the R.F.C. to the effect that the Missouri Pacific Railroad Co. had stated to that board that it was unable to obtain funds through banking channels or from the general public in order to pay said bank loans.

Mr. VAN SWERINGEN. I think that would have been true anyway. But what I am getting at is, that in their minutes they haven't gone on with the complete recitation that was in the application. That is the point that I was making, which is the modification of that provision.

Mr. PECORA. Did the Missouri Pacific state to the R.F.C. that it was unable to obtain funds through banking channels or from the public to enable it to pay those loans?

Mr. VAN SWERINGEN. Upon reasonable terms, yes.

Mr. PECORA. Had you tried to obtain those funds through banking channels?

Mr. VAN SWERINGEN. Yes.

Mr. PECORA. Through what channels had you tried?

Mr. VAN SWERINGEN. Through our bankers.

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Mr. PECORA. And by that you mean J. P. Morgan & Co.

Mr. VAN SWERINGEN. Oh, yes.

Mr. PECORA. Had you tried to obtain them from the public?

Mr. VAN SWERINGEN. No. The certification that we were unable was self-evident there, that we could not do it, on reasonable terms and conditions.

Mr. PECORA. Whom did you confer with in the office of J. P. Morgan & Co. in connection with the extension of those loans?

Mr. VAN SWERINGEN. My recollection is that it was Mr. Anderson.

Mr. PECORA. What did he say to you, in substance?

Mr. VAN SWERINGEN. Just what I have stated here, in substance.

Mr. PECORA. What?

Mr. VAN SWERINGEN. That it wasn't a loan——

Mr. PECORA (interposing). What is that?

Mr. VAN SWERINGEN. That it wasn't a loan that they could consistently consider. As I say—well, I think I better let it go at that. That is near enough.

Mr. PECORA. Let me read to you from the majority opinion of the Interstate Commerce Commission in giving its approval to this loan by the R.F.C. to the Missouri Pacific:

> The bankers who hold the loans are bankers for the carrier. As such they have profited largely in handling its financing in the past. It is often represented to us that the relation of the banker to a railroad is very valuable to it because of banking assistance so rendered available in time of stress is such that a railroad can afford to compensate its bankers well in connection with its regular financing in order to have such support available when it is needed.

Do you agree with that observation?

Mr. VAN SWERINGEN. I decidedly do.

Mr. PECORA. Did you point out those things to Mr. Anderson when you asked J. P. Morgan & Co. to extend this loan?

Mr. VAN SWERINGEN. I don't think I did, particularly.

Mr. PECORA. In other words, did you, among other things, in urging them to extend this loan say, in substance: You as the bankers of this road have profited largely in the past. We count upon this banking assistance in times of stress as well as in times of plenty and ease. These are times of stress. Come to our assistance now.

Mr. VAN SWERINGEN. I suppose I could have made a speech like that, but——

Mr. PECORA (interposing). Did you?

Mr. VAN SWERINGEN. But the point about it is this——

Mr. PECORA (interposing). Well, call it a speech or a plea or a statement of fact if you wish, did you say or represent any such things to Mr. Anderson?

Mr. VAN SWERINGEN. I knew without that that I would have had their complete cooperation insofar as was consistent.

Mr. PECORA. Consistent with what, with whose interests?

Mr. VAN SWERINGEN. Consistent with the times and circumstances.

Mr. PECORA. Consistent with whose interests?

Mr. VAN SWERINGEN. Why, after all, the banker's interests get to be the public's interest, too, because he has his depositors for whom he has to be responsible. I think it is just as faulty to try to do something with a banker that good business should not dictate from

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a banking standpoint, as it is to do it otherwise. We do not want to participate in that kind of financing, or in that kind of urging. What we do want is the consistent aid on a sound money basis, and to the full extent that our business justifies. And I think we have had it.

Mr. PECORA. Did you think that the R.F.C. was extending that aid on a sound business basis?

Mr. VAN SWERINGEN. Yes; and I think it could have gone further than that.

Mr. PECORA. Why do you think it was not a sound business basis for a banker to grant it?

Mr. VAN SWERINGEN. That is the subject I just covered a minute ago. The banker has his depositors to consider, and the need for keeping liquid. The R.F.C. had this arrangement with the Government, or this arrangement that the Government had made through them, so it does not have to preserve that liquidity as well as to preserve the negotiability, that we had to have in these times of stress. I think it would have been easier for the R.F.C. to have treated with this loan, and I was disappointed that they did not take all of this loan.

Mr. PECORA. Do you think that the R.F.C. received adequate collateral for this loan?

Mr. VAN SWERINGEN. Oh, yes.

Mr. PECORA. And that collateral which it received, it received from the bankers, didn't it?

Mr. VAN SWERINGEN. A part of it.

Mr. PECORA. And the bankers divided equally the collateral they had for this $11,700,000 loan with the R.F.C. when the R.F.C. loaned half of the amount necessary in order to refund this $11,700,000.

Mr. VAN SWERINGEN. Substantially so.

Mr. PECORA. Why wasn't it just as good business for the bankers to have done it on that collateral as for the Government to do it through the R.F.C.

Mr. VAN SWERINGEN. None other than for the matter of liquidity, and the need in that respect of protecting obligations to others. Otherwise it might have been. But somebody else will have to judge as to that.

Mr. PECORA. As a matter of fact, hadn't J. P. Morgan & Co. informed you or communicated to you some time prior to March 10, 1932, that the Missouri Pacific Railroad Co. should look to the Government for funds with which to refund those bank loans?

Mr. VAN SWERINGEN. I don't think they ever did that.

Mr. PECORA. Well, now, let us see——

Mr. VAN SWERINGEN (interposing). I don't think they ever did that. They might have told us that we would have to look elsewhere for more dollars. I do not carry these things in my mind in their details.

The CHAIRMAN. Was there any threat of receivership unless you got this money up?

Mr. VAN SWERINGEN. I beg your pardon?

The CHAIRMAN. Was there any threat of receivership?

Mr. VAN SWERINGEN. Sir?

The CHAIRMAN. Was there any threat of receivership?

Mr. VAN SWERINGEN. Oh. I beg your pardon. Well, any nonpayment of an obligation at its maturity has that threat in it.

Mr. PECORA. Let me call your attention to——

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Mr. VAN SWERINGEN (interposing). Pardon me for a moment.

Mr. PECORA. All right.

Mr. VAN SWERINGEN. You are apparently having in mind—well, fortunately, there has been handed to me a copy of a letter that the Missouri Pacific received from the Morgan firm, which is dated January 29, 1932, and is much more dependable than my memory.

Mr. PECORA. Well, I have that letter before me now, or rather a photostatic copy of it.

Mr. VAN SWERINGEN. I see.

Mr. PECORA. Let me read it to you:

J. P. MORGAN & CO.,
New York, January 29, 1932.

MISSOURI PACIFIC RAILROAD CO.,
Cleveland, Ohio.

DEAR SIRS: This letter will serve to set forth the various conversations and understandings between us with respect to certain of your financial requirements this year.

You have stated to us that since the proposal arose for the organization of a corporation under Government auspices to extend necessary financial aid to various classes of borrowers, including railroad companies (this corporation having since been organized under the name of Reconstruction Finance Corporation) you have made repeated efforts to submit an application for loans to meet the requirements of your corporation during the present year, including the repayment of your existing advance of $11,700,000. In view, however, of the time required for Congress to act on the enabling legislation and subsequently, for the confirmation of its directors, and the organization of its personnel, you state that the Reconstruction Finance Corporation is not in position to advance even the sum of $1,500,000 now required by your corporation on Monday, February 1, to meet payment of interest charges on bonds held by the public.

In view of the emergency which exists, and for the purpose of avoiding a public default on Monday, we and our associates are considering a 2 weeks' advance to your company of $1,500,000 to be used for the purpose of paying such interest requirements of approximately $1,500,000 due to the public on Monday, February 1, and to bridge over the period after which the Reconstruction Finance Corporation will be in operation, provided—

(*a*) That your corporation, with the approval of the Interstate Commerce Commission, pledges with us an amount of your refunding mortgage 5-percent bonds adequate in our judgment to secure such loan; and

(*b*) That your corporation, with the approval of the Interstate Commerce Commission, pledges simultaneously with us $15,500,000 of such refunding mortgage 5-percent bonds as additional collateral to your company's now outstanding loan of $11,700,000.

Any such loan will be made only on the basis of the expectation that the Reconstruction Finance Corporation will lend you the sum necessary to repay with interest such loan at its maturity on February 15, 1932.

Yours very truly,

J. P. MORGAN & CO.

Now, that is the letter you received from J. P. Morgan & Co., isn't it?

Mr. VAN SWERINGEN. Yes; and it supports the statement I made that we were sitting on the doorstep.

Mr. PECORA. Yes. And J. P. Morgan & Co. knew that you were sitting on the doorstep, didn't they?

Mr. VAN SWERINGEN. Yes, sir.

Mr. PECORA. And they wanted you to continue to sit there until the doors were opened for business, didn't they?

Mr. VAN SWERINGEN. Well, we wanted to do so.

Mr. PECORA. Who was the head of the R.F.C. at that time, do you remember?

Mr. VAN SWERINGEN. My recollection is that—do you mean the head of it?

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Mr. PECORA. The president or the chairman of it, whatever his title is.

Mr. VAN SWERINGEN. The president of it as I recall, at that time, was Mr. Miller.

Mr. PECORA. Who were the members of the Board?

Mr. VAN SWERINGEN. Mr. Couch, Mr. Jesse H. Jones, Mr. McCardy, Mr. Cowles, and Mr. Miller, of course, and Mr. Pomerene—wait a minute—I am not sure that Mr. Pomerene was at that time—Mr. Eugene Meyer, Mr. Ogden Mills, the Secretary of the Treasury. I think I have given you all of them, or that is the way they lay in my mind.

Mr. PECORA. Was General Dawes on it at that time?

Mr. VAN SWERINGEN. Oh, yes; and General Dawes. [Laughter.] I shouldn't have forgotten that.

Mr. PECORA. Wasn't he the chairman at that time?

Mr. VAN SWERINGEN. I am not sure whether he was chairman or president. Well, now, that is it according to the best of my recollection.

Mr. PECORA. To the best of mine, too.

Mr. VAN SWERINGEN. Excuse me if I have some of them misplaced.

The CHAIRMAN. Mr. Pomerene went on after General Dawes left.

Mr. VAN SWERINGEN. Seemingly so. This memorandum was handed to me as covering the men, and I notice on it Mr. Mellon's name instead of Mr. Mills' name.

Senator ADAMS. What is Mr. Miller's name?

Mr. VAN SWERINGEN. He is from New York State. He was not on then but was afterward, I believe. Or some time. He is from New York State.

Mr. PECORA. Now, I am reminded that in the testimony given before this committee on May 23, 1933, by Mr. Morgan, or rather in the statement which he read into the record on that date, he said, among other things, as follows:

> Another very important duty of the private banker is to take special care that his banking position in regard to his deposits is at all times sufficiently strong, knowing as he does that none of the aids provided by the Government for incorporated banks, such as the Federal Reserve System or the Reconstruction Finance Corporation, are at his disposal.

Now, referring to that, Mr. Van Sweringen, wouldn't you say that in this particular instance the Reconstruction Finance Corporation's aid was at the disposal of J. P. Morgan & Co., or that they availed themselves of it through the medium of this loan to the Missouri Pacific Railroad Co.?

Mr. VAN SWERINGEN. I do not know anything about that side of the Reconstruction Finance Corporation's affairs, and their rights and privileges.

Mr. PECORA. Well, I am told that the Missouri Pacific Railroad Co. did have that aid after these loans were held up by J. P. Morgan & Co.

Mr. VAN SWERINGEN. Oh, undoubtedly.

Mr. PECORA. And that the loan was necessary in order to refund those loans, in whole or in part, don't you know that?

Mr. VAN SWERINGEN. Yes, undoubtedly.

Mr. PECORA. And——

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Mr. VAN SWERINGEN (interposing). But they were not wholly held by J. P. Morgan & Co.

Mr. PECORA. The loan was made by J. P. Morgan & Co., wasn't it, to the Missouri Pacific?

Mr. VAN SWERINGEN. Yes, but that——

Mr. PECORA (interposing). But J. P. Morgan & Co. had invited the participation of Kuhn, Loeb & Co. and the Guaranty Trust Co. in the making of that loan?

Mr. VAN SWERINGEN. I suppose so.

Mr. PECORA. But the application of the Missouri Pacific Railroad Co. for that loan was made directly to J. P. Morgan & Co., wasn't it?

Mr. VAN SWERINGEN. Yes, sir; in behalf of all.

Mr. PECORA. Did you go to Kuhn, Loeb & Co. and the Guaranty Trust Co. when you were seeking an extension of the loan?

Mr. VAN SWERINGEN. No. Our arrangement was to go to the initiating banker.

Senator ADAMS. When the payment was made on the loan was there a release of a proportionate part of the securities that you had put up?

Mr. VAN SWERINGEN. Yes, sir.

Senator ADAMS. A full proportionate part?

Mr. VAN SWERINGEN. Yes, sir; a full proportionate part.

The CHAIRMAN. That is all, then, Mr. Van Sweringen now, unless you want to say something.

Mr. VAN SWERINGEN. No; I believe not.

The CHAIRMAN. Then we will take a recess until 10:30 o'clock tomorrow morning.

Mr. MURPHY. Mr. Pecora, are you expecting us to be back at that time?

Mr. PECORA. Yes; I think you better come back. We will look over the record tonight in order to be sure.

Mr. MURPHY. Well, you know we are a long ways from Cleveland, and there are a lot of us here that would like to get back.

Mr. PECORA. Well, we will do the best we can. We will look over the record tonight and make sure.

The CHAIRMAN. The committee will now take a recess until 10:30 o'clock tomorrow morning.

(Thereupon, at 4:20 p.m., Thursday, June 8, 1933, the committee recessed until 10:30 o'clock the following morning.)

COMMITTEE EXHIBIT NO. 47.—ALLEGHANY CORPORATION

DETAILS OF PURCHASES AND SALES OF SECURITIES DATE OF ORGANIZATION TO MARCH 31, 1929

1929		
Feb. 15.	Cash paid to the Vaness Co. for securities as follows:	
	51,714 shares Chesapeake Corporation common stock	$4, 092, 747. 50
	26,100 shares Chesapeake & Ohio Ry. common stock	5, 421, 205. 00
	215,000 shares Erie R. R. common stock	12, 900, 000. 00
		22, 413, 952. 50

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COMMITTEE EXHIBIT No. 47.—ALLEGHANY CORPORATION—Continued

DETAILS OF PURCHASES AND SALES OF SECURITIES—continued

1929		
Feb. 15.	Cash paid to O. P. and M. J. Van Sweringen for securities as follows:	
	96,000 shares Buffalo, Rochester & Pittsburgh Ry. common stock	$9, 600, 000. 00
	43,000 shares Buffalo, Rochester & Pittsburgh Ry. preferred stock	4, 300, 000. 00
		13, 900, 000. 00
Feb. 18.	2,250,000 shares common capital stock and detached warrants for the purchase of 1,725,000 shares of common capital stock, at $30 per share, issued to General Securities Corporation for all of its assets, as follows:	
	440,386 shares Chesapeake Corporation common stock	34, 718, 439. 85
	100,000 shares New York Central & St. Louis R.R.	13, 035, 560. 15
		47, 754, 000. 00
	Cash paid to the Cleveland Trust Co. for purchase from Norman Loeb, 51 East Forty-second Street, New York, of 200 shares Buffalo, Rochester & Pittsburgh Ry. common stock	20, 000. 00
Feb. 19.	Cash paid to O. P. and M. J. Van Sweringen for securities as follows:	
	727 shares Buffalo, Rochester & Pittsburgh Ry. common stock	72, 700. 00
	24 shares Buffalo, Rochester & Pittsburgh Ry. preferred stock	2, 400. 00
		75, 100. 00
Feb. 26.	Cash paid to the New York Central R.R. Co. for securities as follows:	
	56,000 shares Wheeling & Lake Erie Ry. common stock; 4,933 shares Wheeling & Lake Erie Ry. preferred stock; 38,398 shares Wheeling & Lake Erie Ry. prior lien stock	10, 679, 721. 21
Mar. 1.	Cash paid to the Baltimore & Ohio R.R. Co. for securities as follows:	
	56,000 shares Wheeling & Lake Erie Ry. common stock; 4,934 shares Wheeling & Lake Erie Ry. preferred stock; 38,397 shares Wheeling & Lake Erie Ry. prior lien stock	10, 682, 917. 44
	Cash paid for open market purchases of securities through Paine, Webber & Co. as follows:	
Feb. 15.	118,000 shares Missouri-Pacific R.R. common stock	8, 589, 655. 27
	33,100 shares Missouri Pacific R. R. preferred stock	4, 257, 366. 97
		12, 847, 022. 24
Feb. 18.	10,000 shares Chesapeake Corporation common stock	840, 000. 00

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COMMITTEE EXHIBIT NO. 47. ALLEGHANY CORPORATION—Continued

DETAILS OF PURCHASES AND SALES OF SECURITIES—continued

1929		
Feb. 21.	3,900 shares Chesapeake Corporation common stock	$327, 470. 03
	41,400 shares Missouri Pacific R.R. common stock	2, 992, 172. 92
	6,100 shares Missouri Pacific R.R. preferred stock	798, 945. 97
		4, 118, 588. 92
Feb. 28.	300 shares Chesapeak Corporation common stock	25, 260. 00
	3,000 shares Chicago, Rock Island & Pacific Ry. common stock	395, 050. 00
	20,500 shares Missouri Pacific R.R. common stock	1, 591, 100. 00
	4,900 shares Missouri Pacific R.R. preferred stock	650, 962. 50
		2, 662, 372. 50
Mar. 1.	2,000 shares Chesapeake Corporation common stock	170, 400. 00
	200 shares Chicago, Rock Island & Pacific Ry. common stock	26, 450. 00
	4,500 shares Missouri, Pacific R.R. common stock	353, 587. 50
	1,000 shares Missouri Pacific R.R. preferred stock	133, 875. 00
		684, 312. 50
Mar. 4.	2,700 shares Chesapeake Corporation common stock	235, 090. 00
	1,800 shares Missouri Pacific R.R. preferred stock	243, 050. 00
		478, 140. 00
Mar. 5.	2,000 shares Chesapeake Corporation common stock	173, 400. 00
Mar. 6.	2,700 shares Chesapeake Corporation common stock	232, 390. 00
Mar. 7.	3,300 shares Chesapeake Corporation common stock	281, 810. 00
	6,200 shares Missouri Pacific R.R. common stock	523, 627. 50
	400 shares Missouri Pacific R.R. preferred stock	54, 087. 50
		859, 525. 00
Mar. 8.	1,000 shares Chesapeake Corporation common stock	84, 700. 00
	100 shares Chicago, Rock Island & Pacific Ry. common stock	13, 175. 00
	2,700 shares Missouri Pacific R.R. common stock	226, 340. 00
	200 shares Missouri Pacific R.R. preferred stock	26, 837. 50
		351, 052. 50
Mar. 11.	2,300 shares Chesapeake Corporation common stock	195, 922. 50
	100 shares Chicago, Rock Island & Pacific Ry. common stock	13, 075. 00
	2,900 shares Missouri Pacific R.R. common stock	241, 817. 50
	800 shares Missouri Pacific R.R. preferred stock	106, 975. 00
		557, 790. 00

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COMMITTEE EXHIBIT NO. 47.—ALLEGHANY CORPORATION—Continued

DETAILS OF PURCHASES AND SALES OF SECURITIES—continued

1929			
Mar.	12.	3,000 shares Chesapeake Corporation common stock	$254, 100. 00
		2,000 shares Chicago, Rock Island & Pacific Ry. common stock	260, 862. 50
		2,400 shares Missouri Pacific R.R. common stock	198, 005. 00
		300 shares Missouri Pacific R.R. preferred stock	39, 550. 00
			752, 517. 50
Mar.	13.	1,000 shares Chicago, Rock Island & Pacific common stock	129, 250. 00
		1,900 shares Missouri Pacific R.R. common stock	154, 455. 00
		300 shares Missouri Pacific R.R. preferred stock	39, 662. 50
			323, 376. 50
Mar.	14.	800 shares Missouri Pacific R.R. common stock	65, 172. 50
		300 shares Missouri Pacific R.R preferred stock	39, 825. 00
			104, 997. 50
Mar.	15.	2,000 shares Missouri Pacific R.R. common stock	164, 550. 00
		600 shares Missouri Pacific R.R. preferred stock	80, 137. 50
			244, 687. 50
Mar.	18.	2,800 shares Missouri Pacific R.R. common stock	231, 172. 50
		3,100 shares Missouri Pacific R.R. preferred stock	419, 962. 50
			651, 135. 00
Mar.	19.	1,000 shares Chesapeake Corporation common stock	83, 700. 00
		700 shares Chicago, Rock Island & Pacific Ry. common stock	89, 775. 00
		2,400 shares Missouri Pacific R.R. common stock	195, 292. 50
		900 shares Missouri Pacific R.R. preferred stock	121, 875. 00
			490, 642. 50
Mar.	20.	1,000 shares Chesapeake Corporation common stock	83, 200. 00
		3,000 shares Missouri Pacific R.R. common stock	244, 887. 50
		200 shares Missouri Pacific R.R. preferred stock	27, 187. 50
			355, 275. 00
Mar.	21.	800 shares Missouri Pacific R.R. common stock	64, 860. 00
		600 shares Missouri Pacific R.R. preferred stock	81, 337. 50
			146, 197. 50
Mar.	22.	500 shares Missouri Pacific R.R. common stock	40, 587. 50
		100 shares Missouri Pacific R.R. preferred stock	13, 525. 00
			54, 112. 50
Mar.	25.	2,200 shares Chesapeake Corporation common stock	181, 240. 00
		1,300 shares Chicago, Rock Island & Pacific Ry. common stock	166, 425. 00
		4,300 shares Missouri Pacific R.R. common stock	340, 772. 50
		1,700 shares Missouri Pacific R.R. preferred stock	224, 687. 50
			913, 125. 00

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COMMITTEE EXHIBIT NO. 47.—ALLEGHANY CORPORATION—Continued

DETAILS OF PURCHASES AND SALES OF SECURITIES—continued

1929		
Mar. 26.	3,300 shares Chesapeake Corporation common stock	$267, 660. 00
	2,000 shares Chicago, Rock Island & Pacific Ry. common stock	251, 487. 50
	6,700 shares Missouri Pacific R.R. common stock	506, 665. 00
	1,400 shares Missouri Pacific R.R. preferred stock	182, 650. 00
		1, 208, 462. 50
Mar. 27.	3,100 shares Chesapeake Corporation common stock	246, 970. 00
	2,200 shares Chicago, Rock Island & Pacific Ry. common stock	274, 100. 00
	15,800 shares Missouri Pacific R.R. common stock	1, 171, 585. 00
	6,700 shares Missouri Pacific R.R. preferred stock	871, 925. 99
		2, 564, 580. 00
Mar. 28.	9,000 shares Missouri Pacific R.R. preferred stock	1, 172, 625. 00

Cash paid for open market purchases of Lehigh Coal & Navigation Co. common stock through Otis & Co., as follows:

1929		
Mar. 14.	433⅓ shares	$69, 958. 34
Mar. 15.	233⅓ shares	37, 941. 67
Mar. 18.	1,066⅔ shares	174, 766. 67
Mar. 19.	700 shares	112, 341. 67
Mar. 20.	333⅓ shares	53, 250. 00
Mar. 21.	233⅓ shares	37, 033. 34
Mar. 22.	200 shares	31, 700. 00
Mar. 25.	466⅔ shares	73, 279. 18
Mar. 26.	666⅔ shares	102, 425. 00
		692, 695. 87
	Total purchases	139, 004, 705. 68
	Less sale of securities to the Baltimore & Ohio R.R. Co. as follows:	
	96,927 shares Buffalo, Rochester & Pittsburgh Ry. common stock	9, 692, 700. 00
	43,024 shares Buffalo, Rochester & Pittsburgh Ry. preferred stock	4, 302, 400. 00
		13, 995, 100. 00
	Securities owned March 31, 1929	125, 009, 605. 68

Summary of securities owned as of Mar. 31, 1929

	Shares pledged	Shares free
Chesapeake Corporation	300, 000	235, 900
Chesapeake & Ohio	20, 000	6, 100
Erie	32, 400	182, 600
Chicago Rock Island		12, 600
Nickel Plate	95, 580	4, 420
Wheeling & Lake Erie	91, 000	21, 000
Wheeling & Lake Erie (preferred)	7, 867	2, 000
Wheeling & Lake Erie (prior)	52, 295	24, 500
Missouri Pacific		239, 600
Missouri Pacific (preferred)		73, 500
Lehigh Coal & Navigation		4, 333⅓

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STOCK EXCHANGE PRACTICES

FRIDAY, JUNE 9, 1933

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

The committee met, pursuant to adjournment on yesterday, at 10:30 a.m., in the caucus room of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Glass, Costigan, Gore, Adams, Steiwer, Townsend, and Kean.

Present also: Ferdinand Pecora, counsel to the committee; Julius Silver, David Saperstein, and James B. McDonough, Jr., associate counsel to the committee; and Frank Meehan, chief statistician; John W. Davis, counsel for J. P. Morgan & Co.; Randall J. Le Boeuf, Jr., and Earle J. Machold, counsel for the United Corporation and for George H. Howard, president of the United Corporation; Frank H. Ginn, attorney representing O. P. and M. J. Van Sweringen and John Patrick Murphy.

The CHAIRMAN. The committee will come to order, please. Mr. Pecora, call your next witness.

Mr. PECORA. Mr. Thomas S. Lamont.

TESTIMONY OF THOMAS S. LAMONT, A MEMBER OF THE FIRM OF J. P. MORGAN & CO., NEW YORK CITY—Resumed

Mr. PECORA. Mr. Lamont——

Mr. DAVIS (interposing). Mr. Chairman.

The CHAIRMAN. Mr. Davis.

Mr. DAVIS. Before this witness proceeds to testify, as he is quite ready to do, I want to make a short statement for the sake of the record.

The CHAIRMAN. Very well, Mr. Davis, you may do so.

Mr. DAVIS. The committee will remember that when this witness was called to the stand on last Friday and the question was put to him, I inquired and learned from Mr. Pecora that the question was directed to the matter of personal income-tax payments. I asked to be heard before this committee in executive session and received a very full and very courteous hearing. I should not want to add anything to what I there said were it not for the fear of public misconstruction. I made that objection on my own personal responsibility as counsel because I have got the old-fashioned idea that every man who asserts his rights serves both himself and the country. And the committee will recall that I based my objection upon two legal

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grounds: First, the question whether under the statute a committee of Congress at a public hearing could inquire into personal income-tax payments; and, second, whether the resolution under which the committee was proceeding was broad enough to permit it.

As to the latter, the committee will pardon me, I hope, the satisfaction of feeling that by the adoption of an additional resolution there is sufficient proof that my objection was not altogether factitious. Now, I ask to have the grounds of that objection so stated as to be clearly understood, because I realize that any man who stands upon his rights runs the risk of misrepresentation and misconstruction, and that I feel I am entitled to avoid. Now, the attitude of my clients in this hearing, and in this I am sure the committee will bear me out, has been one of the utmost frankness and a sincere desire to furnish to the committee any information that the committee in its good judgment thought it desired. That is our attitude now on the question. And entertaining that attitude I must ask the committee not to require me as a lawyer to confess error, nor to admit that I do not still entertain the legal opinions I have heretofore expressed, but expressing that attitude on the part of my clients. Mr. Lamont is now ready to testify.

The CHAIRMAN. I think it might be well to place in the record at this point Senate Resolution No. 97, adopted on yesterday.

Resolved, That the Committee on Banking and Currency, or any duly authorized subcommittee thereof, in addition to and supplementing the authority granted under Senate Resolution 84, Seventy-second Congress, agreed to March 4, 1932, and continued and supplemented by Senate Resolution 239, Seventy-second Congress, agreed to June 21, 1932, Senate Resolution 371, Seventy-second Congress, agreed to February 28, 1933, and Senate Resolution 56, Seventy-third Congress, agreed to April 4, 1933, shall have authority to investigate any transactions or activities relating to any sale, exchange, purchase, acquisition, borrowing, lending, financing, issuing, distributing or other disposition of, or dealing in, securities or credit by any person, firm, partnership, company, association, corporation or other entity, and/or any other acts or operations of any one or more of them or of agents, affiliates, or subsidiaries of any one or more of them or of any entity (corporate or therwise) directly or indirectly controlled or influenced by any one or more of them, which may affect or bear upon, either directly or indirectly, any of the foregoing transactions or activities. Such investigation shall be made with a view to recommending necessary legislation, under the taxing power or other Federal powers.

For the purpose of this resolution the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places, either in the District of Columbia or elsewhere, during the first session of the Seventy-third Congress or any recess thereof, and until the termination of the first regular session thereof, to employ such experts, and clerical, stenographic, and other assistants, to require by subpena, or otherwise the attendance of such witnesses and the production and impounding of such books, papers, and documents, to administer such oaths, and to take such testimony and to make such expenditures, as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the investigation authorized by this resolution shall be paid out of the sums heretofore or hereafter made available for the investigations authorized under Senate Resolution 84, Seventy-second Congress, as continued by the resolutions above specified and by this resolution. The authority conferred by Senate Resolution 84, Seventy-second Congress, as continued by such resolutions, shall extend until the termination of the first regular session of the Seventy-third Congress.

The CHAIRMAN. You may proceed, Mr. Pecora.

Mr. PECORA. Mr. Lamont, when you were on the stand before this committee on Friday, June 2, last, you were asked by me the follow-

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ing questions, which I will read from page 1386 of the stenographic transcript of that hearing:

Question. Mr. Lamont, do you recall that on or about December 30, 1930, you sold various blocks of stock, which I will enumerate to you, 1,500 shares of Continental Oil Co., 200 shares of Durium Products preferred, 300 shares of Hall Electric Heating, 237 shares of E. R. Mallory & Co., 1,000 shares of Shamrock Oil & Gas Co., 500 shares of State Street Investment Company, 350 shares of Investment Corporation of Philadelphia, and 1,000 shares of Simms Petroleum.

And the record shows that after that there was a considerable colloquy between Mr. Davis and myself and members of the committee, but you appear to have made the following answer to that question, as it appears on page 1390 of the transcript of the stenographer's minutes:

Answer. I have no recollection of that, Mr. Pecora.

I now ask you, Mr. Lamont, have you been able to refresh your recollection concerning the making of any such sales by you?

Mr. LAMONT. Yes, sir; I have.

Mr. PECORA. Did you make the sales of the securities referred to?

Mr. LAMONT. I did. And I have prepared a statement setting forth all the facts, which I should like the leave of the committee to read, if I may.

Mr. PECORA. I have no objection, Mr. Chairman.

The CHAIRMAN. Very well, Mr. Lamont, you may read your statement.

Mr. LAMONT. When I went home over last week-end I looked up as thoroughly as I could in those two days the transactions which I had had in those stocks mentioned last Friday by Mr. Pecora. I ascertained the following facts:

I was in 1930 the owner of those stocks which Mr. Pecora specifically referred to. At the end of that year I had a real loss in them due to the decline in values. I sold them as follows:

(*a*) Publicly:

1,000 shares Shamrock Oil & Gas Co. on December 30, 1930.

1,500 shares Continental Oil Co. on December 31, 1930.

200 shares Durium Products Corporation preferred on December 31, 1930.

300 shares Hall Electric Heating Co. on December 31, 1930.

(*b*) To my wife on December 30, 1930:

500 shares State Street Investment Corporation.

350 shares Investment Corporation of Philadelphia.

237 shares P. R. Mallory & Co., common.

My beneficial interest in 1,000 shares of Simms Petroleum capital stock.

My wife purchased in the market a similar amount of the shares sold publicly.

She purchased them for cash and borrowed an equal amount from me, upon her demand note which, though not specifically collateralled, was well covered by the shares themselves plus her other personal estate.

Proper transfer stamps were affixed to each transfer; the usual commissions were paid to the brokers where securities were sold through public sales.

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There was no agreement nor any understanding between us that I should any time later on repurchase these shares from her or any of them. I intended the sale to be a complete and final disposal of these shares, and she understood it to be so. Dividends on these shares after she bought them were naturally paid to my wife for her own personal account. I was advised that under these circumstances I was fully within my rights in deducting from my income return for the year 1930 the amount of the loss sustained.

In the early part of 1931 things seemed to improve, but after several months they seemed to me to be slipping, and by April it looked to me as though they might get considerably worse. I talked to my wife about this, and we both felt that it was not wise that she should continue to carry this debt against stocks. Therefore, I purchased the stocks from her on April 8, 1931, at the original price and she thereupon paid her loan; the note was surrendered and marked "paid." There was no substantial difference then in the value of the securities compared to December 1930. The necessary steps involved in a purchase of securities took place, including the payment of transfer taxes. I believe that I acted fully within my rights in making this purchase.

I am told that even if my tax deductions growing out of the loss on all the above sales, except those made publicly, were eliminated it would result in an additional tax of $1,440.29 in my return, and $595.57 in my wife's.

I have always understood that the Bureau of Internal Revenue regularly examines the tax returns made in our office and that whenever they find mistakes they call our attention to them. I have been told that in 1932 they made their usual examination both of my own and my wife's income-tax return for 1930. At that time they were given full access to all books, papers, and accounts, including the accounts of J. P. Morgan & Co., in which those transactions were recorded. Complete information was given to the Bureau regarding both my sale in December 1930, and my purchase in April 1931. I'd like to say here that mistakes in my returns could come from clerical errors in their compilation, which in our office are rare, or they could come from some error on my own part in the handling of my affairs. If the Bureau had found the latter I can only say that it would have been an honest mistake and that it would probably have been due to my difficulty—which others share—of fully understanding the technique and details of the income-tax law.

Since the Bureau's examination I have received from them no further inquiry, criticism or complaint, nor has there been at any time any redetermination of my tax or any request for a further payment.

Someone has said that the time allotted to the Bureau under the statute to make a redetermination has expired. That doesn't mean anything to me because I don't intend to try and hide my income-tax return now, or at any time, behind a statute of limitation. If the Bureau wants to make a reinvestigation of these transactions, naturally I am entirely willing that they should do so, and quite ready to waive any benefit from the lapse of time which the statutes may give.

Mr. PECORA. Mr. Lamont, who prepared this statement?

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Mr. LAMONT. I prepared it, Mr. Pecora. And I——

Mr. PECORA (interposing). Well, I wish to ask—but go ahead.

Mr. LAMONT. I went back over the week-end and went down tc the office and looked up as many of the facts as I could, and turned those facts over on Sunday and Monday to Mr. Davis, who dictated in my presence a statement which he presented the other day to you, or to the committee. And then, later on, he suggested that I write out my own statement, and using those facts as a basis I wrote this statement.

Mr. PECORA. In this statement, a copy of which has been furnished to me, you say, among other things, as follows:

> I was advised that under these circumstances I was fully within my rights in deducting from my income return for the year 1930 the amount of the loss sustained.

That is on page 2 of the typewritten transcript that I have of the statement you have just read into the record.

Mr. LAMONT. Yes, sir.

Mr. PECORA. I want to ask you if you sustained a loss as a result of those transactions.

Mr. LAMONT. I did.

Mr. PECORA. In what aggregate amount?

Mr. LAMONT. A loss of $114,807.35.

Mr. PECORA. And did you in pursuance of the advice that you say in this prepared statement you received, make a deduction of that loss from your taxable income for that year, that is, for the calendar year 1930?

Mr. LAMONT. Yes, sir.

Mr. PECORA. Now, do you know for what consideration you sold on December 30, 1930, 1,000 shares of Shamrock Oil & Gas. Co. stock?

Mr. LAMONT. At 7½, less stamps and commissions.

Mr. PECORA. That is, for $7,500, less stamps and commissions?

Mr. LAMONT. Yes, sir; amounting to $115, and the proceeds were $7,385.

Mr. PECORA. The net proceeds to you from that sale was $7,385?

Mr. LAMONT. Yes, sir.

Mr. PECORA. Now, do you know for what consideration you sold the 1,500 shares of Continental Oil Co. stock on December 31, 1930?

Mr. LAMONT. At 8⅛, less stamps and commissions; or $12,187.50, less $172.50, which was $12,015.

Mr. PECORA. Do you know the consideration that you received from the sale of 200 shares of Durium Products Corporation preferred stock that you sold on December 31, 1930?

Mr. LAMONT. It was $1,015, less $38 for stamps and commissions, or $977.

Mr. PECORA. And for what consideration did you sell, or what consideration did you receive from the sale of 300 shares of Hall Electric Heating Co. stock on December 31, 1930?

Mr. LAMONT. Do you want me to give you the net, or shall I continue to give you the breakup?

Mr. PECORA. If you will just give me the selling price, and then make your deductions and give the net.

Mr. LAMONT. It was $1,522.50 less $57 for stamps.

Mr. PECORA. Making a net of——

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Mr. LAMONT (continuing). I might mention, Mr. Pecora, that those two commissions were not paid until January 1 or 2, and that is why I have not mentioned them in here, because they did not come in my 1930 return.

The CHAIRMAN. What were the commissions?

Mr. LAMONT. I do not recall. It was the regular commission paid to the public auctioneers through whom they were sold.

The CHAIRMAN. Can you state what that regular commission is usually?

Senator KEAN. It is one quarter of 1 percent.

Mr. LAMONT. I will get it for you.

The CHAIRMAN. The customary charge is one quarter of 1 percent, isn't it?

Mr. LAMONT. I do not recall.

The CHAIRMAN. I mean the customary or usual commission.

Mr. LAMONT. All right; I will get it for you.

Mr. PECORA. Were the shares of the Shamrock Oil & Gas Co. listed on any public exchange at that time, Mr. Lamont?

Mr. LAMONT. They were traded in on the Pittsburgh Stock Exchange.

Mr. PECORA. Did you sell them through that exchange?

Mr. LAMONT. My broker sold them through that exchange.

Mr. PECORA. Who was the broker?

Mr. LAMONT. Gammack & Co.

Mr. PECORA. Of Pittsburgh or New York?

Mr. LAMONT. Of New York. But they have a branch in Pittsburgh.

Mr. PECORA. Were the shares of the Continental Oil Co. listed on any public exchange on December 31, 1930?

Mr. LAMONT. On the New York Stock Exchange.

Mr. PECORA. Did you sell those 1,500 shares of that stock which you have referred to, through the New York Stock Exchange?

Mr. LAMONT. Yes, sir.

Mr. PECORA. Through what broker?

Mr. LAMONT. I gave it to our own stock department, J. P. Morgan & Co., and they gave it out to brokers.

Mr. PECORA. Do you know the broker that actually made the sale?

Mr. LAMONT. I do not know the broker that made the sale. I did not have an opportunity to check up on that. I found the name of the broker through whom the purchase was made by my wife, which was Herrick, Berg & Co.

Mr. PECORA. Were those shares of the Continental Oil Co. at the time you sold them in your name?

Mr. LAMONT. I was not able to check on that over Saturday and Sunday. I think they were held by nominees.

Mr. PECORA. Can you tell us the name of your nominee?

Mr. LAMONT. At that time we had—no, I cannot. I just don't recall. At that time they used the names of a number of nominees.

Mr. PECORA. On those dates you were one of the partners of the firm of J. P. Morgan & Co., were you not?

Mr. LAMONT. Yes.

Mr. PECORA. And have been since that time right up to the present time?

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Mr. LAMONT. Yes, sir.

The CHAIRMAN. Mr. Lamont, it is in the record, but you might state again when you became a partner.

Mr. LAMONT. December 31, 1928.

Mr. PECORA. Mr. Lamont, this stock of the Continental Oil Co. that we are now speaking of was in the name of a nominee. Was it one of the nominees of J. P. Morgan & Co.?

Mr. LAMONT. Yes. You see, my securities account is kept in J. P. Morgan & Co., and they keep the securities of all their clients, who so wished, in the names of nominees for convenience.

Mr. PECORA. How many different names of nominees were used for such transactions, or transactions involving the purchase and sale of securities?

Mr. LAMONT. Well, I just wouldn't know. I just wouldn't know, Mr. Pecora.

Mr. PECORA. Do you know whether there is more than one nominee?

Mr. LAMONT. Oh, yes; at that time.

Mr. PECORA. About how many were there?

Mr. LAMONT. I wouldn't know. I just don't know. I can find out and let you know.

Mr. PECORA. Do you know the names of any of the nominees?

Mr. LAMONT. No; I do not. But again I can find out and give you a list of them if you like.

Mr. PECORA. All right.

Senator KEAN. Let me ask a question right there: Isn't it true that in your office the probability is that you go into one transaction where you may have certain nominees for that transaction, and into another transaction where you may have the names of other nominees for that transaction?

Mr. LAMONT. Yes. I don't know, Senator Kean, but there were different nominees who would hold shares of the stock which would be in their names. But so far as I know there was no set arrangement or rule.

Mr. PECORA. Now, with reference to the 200 shares of stock of Durium Products Corporation preferred which you say you sold or caused to be sold on December 31, 1930, were those shares listed on any public exchange?

Mr. LAMONT. No; they were not.

Mr. PECORA. And through what medium was the sale of those 200 shares effected?

Mr. LAMONT. They were sold through Adrian A. Muller & Co.—or I mean Adrian A. Muller & Son, public auctioneers.

Mr. PECORA. Did you attend the sale?

Mr. LAMONT. No, sir.

Mr. PECORA. Did any representatives of yours attend the sale in your behalf?

Mr. LAMONT. I put the sale through the brokerage firm of Whitney & Co., and I do not know what they did. I asked them to have those stocks sold by Muller.

Mr. PECORA. The stock could have been sold in the so-called over-the-counter market, couldn't it?

Mr. LAMONT. No; I do not think there was any over-the-counter market for it.

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Senator KEAN. Let me ask a question right there: Muller is the regular auctioneer that has such auctions once a week?

Mr. LAMONT. That is right, or quite frequently.

Senator KEAN. And if anybody wants to sell unlisted stocks, for which there is no market, and to establish a legal sale, in the case of estates, trustees, and various other people, they send them up to Muller and they are sold at public auction, and a big crowd appears there, so that that is the way they are sold, as you state it?

Mr. LAMONT. Yes, sir. And they advertise them in the newspapers. I ran across one the other day.

Mr. PECORA. This firm of Adrian Muller & Son specialize in auction sales of that character, don't they?

Mr. LAMONT. Yes, sir.

The CHAIRMAN. Do they sell stocks that are listed or only those that are not listed?

Mr. LAMONT. Well, I think they sell anything, yes.

Senator KEAN. Isn't it true that very often a lawyer who closes an estate has some doubt about the best way to sell securities, and therefore he goes to Adrian Muller & Son, who are public auctioneers, and who sell stocks whether listed or not, and sells them through Adrian Muller & Son in order to get a record, is that true?

Mr. LAMONT. Well, I am not a lawyer, Senator Kean, but that is true, they tell me.

Mr. PECORA. Now were the shares of Hall Electric Heating Co. which you say you sold or caused to be sold on December 31, 1930, listed on any public exchange at that time?

Mr. LAMONT. No, sir; not to my knowledge.

Mr. PECORA. And through what medium was the sale of 300 shares of that stock effected?

Mr. LAMONT. Again, through Adrian R. Muller & Son.

Mr. PECORA. Now were the shares of the State Street Investment Corporation which you say you sold on December 30, 1930, listed on any public exchange at that time?

Mr. LAMONT. No, sir. Before you go to that, may I just make a correction. That is Adrian H. Muller & Son. And as to the amount of commission I paid on those sales, it was $70.50. That is, advertising and catalogues, salesmen's fees and commission one eighth percent, or 12½ cents per par. Now State Street?

Mr. PECORA. Yes, sir; State Street Investment Corporation; were those shares listed on any public exchange?

Mr. LAMONT. No, sir.

Mr. PECORA. Through what medium did you sell them?

Mr. LAMONT. I sold them, as I said in my statement, to my wife.

Mr. PECORA. That was a direct sale by you to your wife without medium of any broker or any other agency?

Mr. LAMONT. That is right.

Mr. PECORA. What was the consideration that you received for those 500 shares of State Street Investment Corporation stock?

Mr. LAMONT. $26,250. Less stamps, $14. $26,236.

Mr. PECORA. Were the shares of the Investment Corporation of Philadelphia, which you say you sold on December 30, 1930, listed on any public exchange on that date?

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Mr. LAMONT. No, sir.

Mr. PECORA. Through what medium or in what channel did you effect the sale of those 350 shares on December 30, 1930?

Mr. LAMONT. In the same way as the State Street Investment Corporation.

Mr. PECORA. Was the sale made directly by you to your wife without the medium or intervention of a broker or other agency?

Mr. LAMONT. Right.

Mr. PECORA. And what was the consideration that you received for the sale of those 350 shares of Investment Corporation of Philadelphia stock?

Mr. LAMONT. Mr. Pecora, I made a mistake in reading this, on the previous one. I got the State Street and the Investment Corporation——

Mr. PECORA. Mixed up?

Mr. LAMONT. Reversed.

Mr. PECORA. I see.

Mr. LAMONT. Can I now give you the State Street?

Mr. PECORA. Yes; if you will.

Mr. LAMONT. And you can switch them around.

Mr. PECORA. All right.

Mr. LAMONT. The one I gave was the Investment Corporation of Philadelphia, the net of which was $26,236. State Street proceeds were $32,500, less $20 taxes; net, $32,480.

Mr. PECORA. Were the shares of P. R. Mallory & Co. common stock, which you say you sold on December 30, 1930, listed on the public exchange at that time?

Mr. LAMONT. No, sir; not that I know of.

Mr. PECORA. And how was that sale effected?

Mr. LAMONT. In the same way.

Mr. PECORA. That is, to your wife?

Mr. LAMONT. Yes, sir.

Mr. PECORA. Directly by you, without any broker or other agent?

Mr. LAMONT. Right.

Mr. PECORA. And what was the consideration you received for the 237 shares of that stock which you sold on that date?

Mr. LAMONT. $1,422, less stamps, $9.48; net, $1,412.52.

Mr. PECORA. How many cents?

Mr. LAMONT. 52 cents.

Mr. PECORA. Were the shares of the Simms Petroleum Co. stock, which you say you sold on December 30, 1930, listed on any public exchange on that date?

Mr. LAMONT. They were so.

Mr. PECORA. On what exchange?

Mr. LAMONT. On the New York Stock Exchange.

Mr. PECORA. And was the sale of your beneficial interest in 1,000 shares of that stock made through that exchange?

Mr. LAMONT. No. I did not have the right to sell the shares. I could sell my ownership of beneficial interest. And they were held by trustees, these shares.

Mr. PECORA. What was the nature and the extent of your beneficial interest in those shares at that time?

Mr. LAMONT. One thousand shares.

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Mr. PECORA. No; what was the nature of your beneficial interest?

Mr. LAMONT. Well, they were shares which I had paid for and they were held by trustees.

Mr. PECORA. For your account?

Mr. LAMONT. Yes. They were part of a larger block of shares that the trustees held.

Mr. PECORA. When was that trust created?

Mr. LAMONT. Well, some time prior to this time. I do not know exactly.

Mr. PECORA. Was it some time during the year 1930?

Mr. LAMONT (after conferring with associates). That would be my recollection; yes.

Mr. PECORA. And will you tell us who created the trust?

Mr. LAMONT. No; I do not know, Mr. Pecora. These shares were—I had an interest in a syndicate, and at the time the syndicate expired the shares were trusteed pending—my shares with many others of the shares were trusteed pending a possible sale of the shares in a block.

Mr. PECORA. Who were the trustees?

Mr. LAMONT. There were three trustees, as I recall, looking at it over the weekend. One of them—his name I do not recall. And the others' names were John J. Raskob and Cornelius N. Bliss, Jr.

Mr. PECORA. How did you make the sale of your beneficial interest in a thousand shares of Simms Petroleum Co. stock on December 30, 1930?

Mr. LAMONT. It is my understanding that the books of these trustees—that the trustees or the bookkeeper for them was notified.

Mr. PECORA. Well, did you make the sale directly to your wife?

Mr. LAMONT. I did; yes.

Mr. PECORA. Without the intervention or medium of a broker or other agent?

Mr. LAMONT. That is right.

Mr. PECORA. And what was the consideration that you received therefor on that sale?

Mr. LAMONT. $6,500, less stamps, $4; net $6,496.

Mr. PECORA. Who were the other members of the syndicate in that trust exchange?

Mr. LAMONT. I just would not recall them, Mr. Pecora.

Mr. PECORA. Do you know how many other participants there were in the syndicate?

Mr. LAMONT. No. I do not know the details of it at all.

Mr. PECORA. Did you give any notice to the trustees of the sale of your beneficial interest of these 1,000 shares?

Mr. LAMONT. Yes, sir.

Mr. PECORA. Was it a notice in writing?

Mr. LAMONT. No; but the books of this trusteed stock were—it was recorded in those books.

Mr. PECORA. Who keeps those books, Mr. Lamont?

Mr. LAMONT. The trustees. I just do not remember the names.

Mr. PECORA. In what office are they kept?

Mr. LAMONT (after conferring with associates). No; I do not know.

Mr. PECORA. You do not know?

Mr. LAMONT. I do not know; no, sir.

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Mr. PECORA. Did you have a certificate evidencing your beneficial interest in these shares?

Mr. LAMONT. I had data and letters, but I had no certificate in my own possession; no.

Mr. PECORA. Did you ever have one so far as you know, whether in your possession or in the custody of any one else?

Mr. LAMONT. No.

Mr. PECORA. Now have you ever had a copy of the trust agreement under which these shares were held in trust?

Mr. LAMONT. I do not recall having seen one. No doubt there was—I am sure there was one, but I just don't——

Mr. PECORA. Now, you say in your prepared statement which you read into the record this morning—you say as follows, on page 1:

My wife purchased in the market a similar amount of the shares sold publicly.

Does that relate to the shares of Shamrock Oil & Gas Co., of Continental Oil Co., of Durium Products Corporation preferred, and of Hall Electric Heating Co. that you have testified you sold or caused to be sold either through the medium of the exchange or of public auction on December 30 or December 31, 1930?

Mr. LAMONT. Yes, sir.

Mr. PECORA. Did you at any time prior to the making of these sales of the securities mentioned in my last question have any conversation with your wife with respect to those shares?

Mr. LAMONT. Yes; indeed I did.

Mr. PECORA. And will you please give us the substance of such conversation in so far as it related to these shares? In so far as the conversation related to these shares?

Mr. LAMONT. Well, I talked to her about these shares and about the whole transaction. My wife takes a fairly lively interest in her account, and I went over the purchase which she might make of these with her, and she signified a desire to purchase, and we both agreed that there was an opportunity for profit there from her standpoint, and she agreed and was glad to make that purchase.

Mr. PECORA. Do you know how she made the purchase of those four securities—four blocks of securities?

Mr. LAMONT. I am not sure. Her account was also in J. P. Morgan & Co.'s office, and on the Continental Oil and the Shamrock and Durium Products she may have—I may have or someone in the office—I may have as her agent, or someone in the office may have given the orders for her purchase of those things.

Mr. PECORA. When you say someone in the office, do you refer to the office of J. P. Morgan & Co.?

Mr. LAMONT. Yes. My secretary, my father's secretary, or any one in there.

Mr. PECORA. How long before the date of the making of these sales of those four blocks of securities did you have that conversation with your wife?

Mr. LAMONT. I could not recall that, Mr. Pecora.

Mr. PECORA. Was it the same day or——

Mr. LAMONT. Oh, no; oh, no.

Mr. PECORA. Or a day or two previously?

Mr. LAMONT. Oh, yes.

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Mr. PECORA. It was very, very close to the date of the making of the sales, was it, that you had this conversation?

Mr. LAMONT. Well, I probably had conversed with her about it from time to time. I do not know how often or how many times, or when, but it was certainly prior to December 30.

Mr. PECORA. When did you definitely make up your mind to sell those four blocks of securities?

Mr. LAMONT. Well, I could not recall exactly, but along toward the end of the year there.

Mr. PECORA. And was it after you had made up your mind to sell these four blocks of securities that you discussed these securities with your wife in the manner that you have told us?

Mr. LAMONT. I do not think so, no. I think that it was probably simultaneous. I discussed frequently with my wife my own affairs and her affairs, and she discusses her affairs with me.

Mr. PECORA. Now toward the bottom of page 2 of your prepared statement which you read into the record, Mr. Lamont, I find the following statement:

> I am told that even if my tax deductions growing out of the loss on all the above sales, except those made publicly, were eliminated it would result in an additional tax of $1,440.29 in my return, and $595.57 in my wife's.

Was that calculation of the additional tax made by you, or was it made for you by somebody else?

Mr. LAMONT. Made for me by somebody else. I could not calculate that.

Mr. PECORA. Now would there have been an additional tax on either your return or your wife's return for the calendar year 1930, other than the sums of $1,440.29 and $595.57 if you were to include in any such calculation the sales that were publicly made by you, namely, sales of the Shamrock Oil & Gas Co., the Continental Oil Co., Durium Products Corporation preferred, and the Hall Electric Heating Co. stocks?

Mr. DAVIS. May I correct you, Mr. Pecora? You said if he included that. You meant, did you not, if he excluded the deductions for those?

Mr. PECORA. Yes; if the deductions for the losses resulting from those shares were excluded.

Mr. LAMONT. Yes.

Mr. PECORA. Do you know how much the additional tax would have been?

Mr. LAMONT. No; I do not know.

Senator KEAN. Just one minute there. I would like to ask him a question. As those sales represented a very small amount of money, why, the tax could not have been very large, could it?

Mr. LAMONT. I should not assume it would have been, Senator Kean.

Mr. PECORA. Do you know how much of a loss you sustained as the result of those public sales of those four classes or blocks of securities?

Mr. LAMONT. I can work it out.

Mr. PECORA. Well, if you will tell us.

Mr. LAMONT. $52,000. Around about $52,000.

Mr. PECORA. How much did you say? Fifty-two?

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Mr. LAMONT. Around $52,000; yes.

Mr. PECORA. That is, the sales of those four blocks resulted in a loss to you of around $52,000 which you deducted from your income in your return?

Mr. LAMONT. That is right.

Mr. PECORA. Now with respect to the sales that you made directly to your wife of the three blocks of securities referred to in your statement, namely, the shares of the State Street Investment Corporation, of the Investment Corporation of Philadelphia, and the P. R. Mallory & Co. common, when did you discuss with your wife the matter of your selling to her those shares?

Mr. LAMONT. Well, presumably some time in the latter part of December. I do not recall, but it was certainly prior to the time she—prior to the time I sold them. Prior to the time she bought them.

Mr. PECORA. Were there any public quotations on those three securities, or any of them, on December 30, 1930?

Mr. LAMONT (after consulting with associates). I think that there were some over-the-counter—the State Street Investment Co. of Philadelphia and the——

Mr. PECORA. No; in the Mallory——

Mr. LAMONT. Just Mallory?

Mr. PECORA. No; the three of them.

Mr. LAMONT (after conferring with associates). We could not find anything on Mallory. On the others—on State Street, that company will buy or sell its stock. It is a sort of open-ended investment trust and will buy and sell its stock subject to 30 days' notice. And they will give you a quote, giving them a spread, around the liquidating value; an investment corporation. I can find out the liquidating value, but there was practically no market that I know of of any kind.

Mr. PECORA. With respect to your making the sale of these blocks of State Street Investment Corporation, of Investment Corporation of Philadelphia, and of P. R. Mallory & Co. common stock to your wife on December 30, 1930, did you obtain any public quotations at any time?

Mr. LAMONT. I obtained the quotations—as I recall, I obtained the quotations from the companies as to their liquidating value, and I may have also checked to see if there were any other quotations anywhere else on them than I got from the company.

Mr. PECORA. By the liquidating value do you mean the book value?

Mr. LAMONT. Break-up value. Based on the market for the securities they held.

Mr. PECORA. Now Mr. Lamont, how was the price determined in this transaction between you and your wife which she was to pay and which you were to receive on the sale of these securities, these three last-mentioned blocks?

Mr. LAMONT. Well, as I said, on State Street and on Investment Corporation of Philadelphia, I believe those prices were somewhere around, if not the exact figures, quoted by those companies themselves, which they will give you, as to what their break-up value is. In the case of Mallory I do not just recall whether I got that quotation there, but I think that I must have called up some one who knew something about it. It must have been an over-the-

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counter market. I knew approximately around where it was, and I called up to get the over-the-counter market, if there was an over-the-counter market.

Mr. PECORA. Now with respect to your sales of these three last-mentioned blocks of securities, will you tell the committee the course of the negotiations between you and your wife that terminated in the making of the sales?

Mr. LAMONT (after conferring with associates). I thought, Mr. Pecora, that I had said a little while ago that I had talked to her some time previous to December 30 and discussed with her, as she discussed with me, the advisability of her buying these three stocks. And the others as well.

Mr. PECORA. Was the price discussed between you?

Mr. LAMONT. Sir?

Mr. PECORA. Was the price discussed between you? The price you were willing to sell for and that she was willing to pay, that she was willing to buy them for?

Mr. LAMONT. Yes; because I knew the approximate prices that they were selling at then when I talked to her. There was no fluctuation. Of course she, on the other hand, herself knew about these stocks—State Street Investment Corporation, and the Investment Corporation of Philadelphia, and she knew of her own knowledge about those, and as to the P. R. Mallory, I told her of the nature of the company, the business.

Mr. PECORA. Now, did you have in your name the certificates of stock for those three last-named blocks of stock at the time you made these sales to your wife?

Mr. LAMONT (aside to an associate). Were they in my name? (After conferring:) They were in the names of nominees, all three of them.

Mr. PECORA. Do you know the names of those nominees?

Mr. LAMONT. I don't; no, sir.

Mr. PECORA. Were they among the nominees usually used by the firm of J. P. Morgan & Co. for stock transactions?

Mr. LAMONT. I presume they were; yes.

Mr. PECORA. Did you actually deliver to your wife on the occasion of the sale of these three last-named blocks of stock the certificates?

Mr. LAMONT. I ordered the delivery of them through J. P. Morgan & Co., and they were so delivered and held for our own account, duly recorded in the books, her account and my account, in the books of J. P. Morgan & Co.

Mr. PECORA. And will you also get if you can, as you also said you would in connection with these other blocks, the names of nominees?

Mr. LAMONT. Names of nominees on——

Mr. PECORA. On these three blocks.

(Mr. Lamont wrote on a piece of paper.)

Mr. PECORA. Now, Mr. Lamont, I believe you said that the shares of the Simms Petroleum Co. were listed on the New York Stock Exchange?

Mr. LAMONT. That is my recollection; yes, sir.

Mr. PECORA. On December 30, 1930; but that you did not make the sale of your beneficial interest in a thousand shares of that stock

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to your wife through the exchange or through a broker. That is correct, isn't it?

Mr. LAMONT. Yes.

Mr. PECORA. How was the price that you were willing to sell for and that your wife was willing to pay for your beneficial interest in those shares of Simms Petroleum Co. agreed upon between you? How was it fixed?

Mr. LAMONT. Well, based on current market.

Mr. PECORA. That is, on the current public quotations?

Mr. LAMONT. Yes, sir.

Mr. PECORA. Of the trades in that security on the New York Stock Exchange?

Mr. LAMONT. That is right.

Mr. PECORA. At that date?

Senator KEAN. Mr. Lamont, you could not have sold those beneficial certificates on the stock exchange because they were not listed?

Mr. LAMONT. No. I owned the beneficial interest. I could not sell the beneficial interest. I didn't own the shares. I owned a beneficial interest in a thousand shares. And therefore it could not go through—be sold on the stock exchange.

Mr. PECORA. Well, I want to understand that correctly, so I will ask you this about those shares: Were you one of a syndicate that included a number of other participants or members which had the title to a block of the capital stock of the Simms Petroleum Co. on December 30, 1930?

Mr. LAMONT. The syndicate, so far as I was able to find out over the week end, the syndicate had wound up, and I was one of a group who owned these shares which had been trusteed upon the termination of the syndicate.

Mr. PECORA. When was that syndicate terminated, Mr. Lamont?

Mr. LAMONT (after conferring with associates). A good many months before. It may have been a year. Some months before.

Mr. PECORA. Then, was there a distribution among the various members of the syndicate of the securities that were held in that syndicate account?

Mr. LAMONT. No. As I said a little earlier, the members of the syndicate agreed to trustee their shares pending the possible sale of the shares in a block to some buyer.

Mr. PECORA. You said there were—how many trustees did you say there were?

Mr. LAMONT. Three.

Mr. PECORA. And you could not recall the name of one of those three?

Mr. LAMONT. That is right.

Mr. PECORA. You recall that Mr. Raskob and Mr. Bliss——

Mr. LAMONT (interposing). The name didn't mean anything.

Mr. PECORA. Were the other two trustees?

Mr. LAMONT. Yes.

Mr. PECORA. Do you know whether they were participants in or members of the syndicate?

Mr. LAMONT. I don't know.

The CHAIRMAN. Do you know the number of total shares in this block originally?

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Mr. LAMONT. Well, it was substantial. I know it was substantial, because they wanted to sell it in a block. It would have been more advantageous to have sold it in a block. But I don't know what the number was.

Mr. PECORA. Did you have only one conversation with your wife respecting the sale by you of all these eight blocks of securities and the purchase of them by her?

Mr. LAMONT. As I said a minute or two ago, I just don't recall how many I had, whether it was one or how many, but I had one or more, certainly, prior to December 30.

Mr. PECORA. Did you advise, counsel your wife to buy these securities when you sold them?

Mr. LAMONT. I advised her and she wanted to buy them.

Mr. PECORA. And she did buy them?

Mr. LAMONT. And she did buy them.

Mr. PECORA. In the manner that you have told us about in your testimony?

Mr. LAMONT. That is right.

Mr. PECORA. Now, you say in your statement, you say on the first page of your prepared statement as follows:

> She [referring to your wife] purchased them for cash and borrowed an equal amount from me upon her demand note, which, though not specifically collateraled, was well covered by the shares themselves, plus her other personal estate.

Now, do you mean by that, Mr. Lamont, that your wife actually paid to you by check or otherwise the purchase price for these eight blocks of securities?

Mr. LAMONT. Yes, sir.

Mr. PECORA. And was that done on December 30 or December 31, 1930?

Mr. LAMONT. December 31.

Mr. PECORA. Now, in what form did she make payment to you for these securities on December 31, 1930?

Mr. LAMONT. Her account in the office of J. P. Morgan & Co. was debited, was charged with the cost of these securities, and my account was credited.

Mr. PECORA. Then there was not any actual transfer, physical transfer, of any cash or other medium of payment, was there?

Mr. LAMONT. Well, I thought that a bank—in a bank's operations [Mr. Whitney whispered to Mr. Lamont] an operation of that sort, it is the same thing as an actual—it is the same thing as an actual check or otherwise. A cash credit is just the same as any other transaction, not currency.

Mr. PECORA. Mr. Lamont, I noticed while you were answering the question then one of your partners, Mr. Whitney, whispered something to you. I have no objection to your consulting with him before answering any question I put to you, provided you have the record show that your answer is made after consulting with anyone with whom you consult.

Senator GLASS. Well, there should not be any objection to that, Mr. Pecora. You frequently consult with your experts here—

Mr. PECORA (interposing). Well, I am saying I have no objection to it.

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Senator GLASS. Who suggest to you to ask questions. What is the objection to that?

Mr. PECORA. I say there is no objection, but I think I simply want the record to show it.

Senator GLASS. I just want to be fair.

Mr. PECORA. Now, Mr. Whitney—I beg your pardon—Mr. Lamont, when did you get this demand note from your wife that you referred to in the next to the last paragraph of the first page of your prepared statement?

Mr. LAMONT. December 31.

Mr. PECORA. And you say that it was not specifically collateraled. Do you mean by that that there was no actual collateral given to secure the note?

Mr. LAMONT. Yes, sir.

Mr. PECORA. That is, there was no collateral given to secure the note?

Mr. LAMONT. No, sir.

Senator KEAN. You mean that there was no collateral specified in the note?

Mr. LAMONT. There was no collateral specified in the note.

Mr. PECORA. Well, do you mean that, or do you mean that there was no collateral whatsoever given to you to secure the note?

Mr. LAMONT. I didn't ask for any collateral. I didn't think I needed it.

Mr. PECORA. And you didn't receive any?

Mr. LAMONT. No.

Mr. PECORA. Was it an interest-bearing note, Mr. Lamont?

Mr. LAMONT. Yes.

Mr. PECORA. And did you collect interest on it?

Mr. LAMONT. Over the week end I was unable to find that I did collect interest on it. I cannot say that I did or didn't, but we looked it up and I didn't find an entry in the——

Mr. PECORA. And you have no present recollection of receiving any interest on that note?

Mr. LAMONT. I have no recollection one way or the other, Mr. Pecora. I would have assumed that I did, because it carried interest.

Mr. PECORA. I notice that you say on page 2 of your [Mr. Lamont conferred with Mr. Davis] prepared statement in the first paragraph on that page that "dividends on these shares after she bought them were naturally paid to my wife for her own personal account."

Do you know that to be the fact?

Mr. LAMONT. I do.

(Mr. Lamont at this point conferred with Mr. Davis.)

Mr. PECORA. Now, you say further on page 2 [Mr. Lamont continued to confer with Mr. Davis]—you say further on page 2 of your prepared statement as follows:

> In the early part of 1931 things seemed to improve, but after several months they seemed to me to be slipping, and by April it looked to me as though they might get considerably worse. I talked to my wife about this and we both felt that it was not wise that she should continue to carry this debt against stocks. Therefore, I purchased the stocks from her on April 8, 1931, at the original price, and she thereupon paid her loan. The note was surrendered and marked "paid." There was no substantial difference then in the value of the securities compared to December 1930.

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How was that sale of those securities by your wife to you effected in April 1931?

Mr. LAMONT. I bought it back direct from her. Didn't occur to me to do it in any other manner.

Mr. PECORA. That is, there was no broker?

Mr. LAMONT. There was no broker.

Mr. PECORA. Or other agent or intermediary involved in the purchase of these securities by you from your wife?

Mr. LAMONT. That is right.

Mr. PECORA. And when did you buy them back from her?

Mr. LAMONT. April 8.

Senator KEAN. I would like to ask a question there—and the stamps were attached at that time?

Mr. LAMONT. Oh, yes. Yes, indeed.

The CHAIRMAN. Did you have any idea of making deductions from your returns on account of losses growing out of that transaction when you took back the stock?

Mr. LAMONT. No. My reason for buying it back, as stated in this statement, Senator Fletcher, that looked to me as if things were getting worse, and my wife wanted to get rid of them. She felt the same way about it.

Senator KEAN. In other words, she thought that when they had gone down so far in December, when you bought them, she was getting them at bargain prices?

Mr. LAMONT. Well, things generally looked at the end of that year pretty good. I mean looked as if they were going to turn for a while.

Senator KEAN. And 3 months afterwards, when she looked as if she was going to face a loss, why, she went back to her husband and said, "Now, take these off my hands"; is that right?

Mr. LAMONT. Yes, sir.

The CHAIRMAN. She was a little nervous over the situation.

Mr. PECORA. Mr. Lamont, what was the amount, the principal amount of the demand note you say you received from your wife on December 31, 1930, in connection with these stock transactions?

Mr. LAMONT. $89,084.50.

Mr. PECORA. Now, that represented the aggregate price that she paid?

Mr. LAMONT. Yes.

Mr. PECORA. On December 30 and 31, 1930, for these eight blocks.

Mr. LAMONT. That is right.

Mr. PECORA. Of securities that you sold—that is right?

Mr. LAMONT. Yes.

Mr. PECORA. And when you purchased those securities from her on April 8, 1931, did you pay her the consideration upon such purchase by you in the form of cash or any check, or did you make payment by returning to her this demand note marked paid?

Mr. LAMONT. I returned the demand note and the entries, credits, charges, were duly made in our accounts in the books in J. P. Morgan & Co.

Mr. PECORA. What was the market value of these eight blocks of securities when you purchased them from her on April 8, 1931?

Mr. LAMONT. Well, as I said in here, it was—there was no substantial difference in the price on April 8, 1931, and the price on

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December—at the end of December 1930. So far as I was able to check over the week-end, the difference might have been one or two hundred dollars. I just don't know one way or the other.

Mr. PECORA. That is in the aggregate?

Mr. LAMONT. Yes; altogether.

Mr. PECORA. Then was the difference—I withdraw that. On April 8, 1931, was the market price of these eight blocks of shares, some one or two hundred dollars less than the price which she paid for them in the end of December 1930, or was it some one or two hundred dollars more? Which was it?

Mr. LAMONT. Over the week-end I was not able to figure it out exactly and get the exact quotations on things like this Investment Corporation of Philadelphia and those things, but the indications were that it was just about the same, and whether it was a little less or a little more I just don't know. I mean it may have been right on it. I just don't know.

Mr. PECORA. You would say that whatever difference there was only amounted to around $200 one way or the other?

Mr. LAMONT. Something like that; yes.

Mr. PECORA. Then there had not been any real appreciation or depreciation of these securities between the end of 1930 and the 8th of April, 1931?

Mr. LAMONT. There had been an appreciation which began to look pretty good just the first couple of months of the year, and then things went off again and—she had some appreciation at one time, along in February I think it was.

Mr. PECORA. Well, when your wife spoke to you about her selling these eight blocks of securities back to you, selling them to you on April 8, 1931, did you advise her to sell?

Mr. LAMONT. I did, yes. We both—both of us felt that it was wise to sell. In fact, it was the general feeling in our office that things didn't look too happy for the immediate future, and it was best to trim your sails, and I didn't want my wife to continue, as I said here, to carry—and she didn't want to carry—these stocks against this debt.

Mr. PECORA. Did both of you at that time reach a conclusion to the effect in substance that if she were to continue to hold these securities after April 8, 1931 she might sustain a loss from so doing?

Mr. LAMONT. Yes.

Mr. PECORA. You both felt that the depreciation and value of those securities would continue after April 8, 1931?

Mr. LAMONT. Yes.

Mr. PECORA. And for that reason she decided to sell?

Mr. LAMONT. That is right.

Mr. PECORA. Why did you decide to buy them then, Mr. Lamont, if you felt at that time that those securities would continue to depreciate in value after April 8, 1931?

Mr. LAMONT. Because I had the confidence in these securities and I was a business man willing to take the risk of holding them, and on the other hand, my wife, though familiar and interested in securities—well, she just felt she didn't want to take the loss, and I was willing to, if there were a loss, by holding them to take it, and I was willing to take over these securities and be glad to take them over.

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Senator KEAN. Mr. Lamont, is it not also true that there was a certain amount of obligation on your part because these securities were securities which you were supposed to hold? For instance, this trusteeship.

Mr. LAMONT. Well, the obligation—if there were any obligation on my part, Senator Kean, it would be something intangible.

Senator KEAN. Yes.

Mr. LAMONT. In that these securities I felt I wanted to hold, because they were securities in large measure of companies which were run by personal friends of mine and my wife's.

Senator GLASS. Mr. Lamont, assuming this transaction to have been a bona fide transaction, is it something extraordinary in the world that a husband would prefer to take a loss than to have his wife endure it?

Mr. LAMONT. No, sir; I think it is pretty general. I should hope that it was, between husband and wife.

Mr. PECORA. Is it your knowledge or belief that certain transactions between husband and wife were of common occurrence, Mr. Lamont?

Mr. LAMONT. It is—no; that is not my knowledge or belief. That was not exactly the question that Senator Glass asked.

Mr. PECORA. No; I know it. It is a question that I asked.

Senator GLASS. No; I am assuming, I based my question upon the assumption, that the transaction was a bona fide transaction. Of course, if it was not a bona fide transaction, as counsel seemed to think, why, that is a different proposition.

But, assuming that it was a bona fide transaction, I do not know how counsel or other members of the committee may feel about it, but I would rather take a loss than to have my wife sustain it. And I don't think that that is an extraordinary—I hope it is not an extraordinary thing.

Mr. PECORA. You were in a position, Mr. Lamont, weren't you, on April 8, 1931, or at any time subsequent thereto, to have foregone a loss if you thought one was developing with respect to the market value of these eight blocks of securities and to have purchased those securities if you so desired at any time after April 8, 1931, and saved yourself any intervening loss?

Mr. LAMONT. I don't understand that question.

Mr. PECORA. I don't blame you for not understanding it. I have stated it rather clumsily. Put it this way——

Senator GLASS. You mean you stated it rather cleverly.

Mr. PECORA. Mr. Lamont, you have already testified, if I properly understood your testimony heretofore, that when you and your wife discussed the condition of the market with respect to these eight blocks of securities prior to April 8, 1931, both of you reached a conclusion that for her to continue to hold these securities would or might result in a loss to her from such continuation. Is that a correct understanding of your testimony on my part?

Mr. LAMONT. Yes, sir.

Mr. PECORA. Well, now, if you were correct in that conclusion, you felt that you were, wouldn't it have been good business practice for Mrs. Lamont to have sold these securities on April 8 in the market and let someone else buy them and take any loss that seemed apparent at that time to be taken?

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Mr. LAMONT. Well, I don't see that it would have made much difference to Mrs. Lamont. I think, first of all, she should have thought of herself. But whether they were sold publicly or not, she preferred and I preferred, because we were both friends of these people who ran some of these companies, not—I preferred to keep them for myself as she to buy them for herself.

Mr. PECORA. If you thought on April 8, 1931, that the market value of these shares was going to continue to slide, or whatever—I think the term you used here was to "slip."

Mr. LAMONT. Yes.

Mr. PECORA. You could have avoided taking any loss as a result of such continuous slipping of the market value of these securities by not buying them yourself on April 8, 1931, couldn't you?

Mr. DAVIS. May I suggest, Mr. Chairman, that this does not seem to me the place for hypothetical questions?

The CHAIRMAN. It looks to me like we are going into unnecessary length and detail about this matter. I think we better just confine ourselves to the gist of the matter. There is no objection to answering the question. I hope we will confine ourselves to the real gist of the matter, not to speculation.

Mr. PECORA. The only reason, Mr. Chairman, I have asked this series of questions is because it seems to me that the witness has testified that one of the reasons for his wife selling this stock to him on April 8, 1931, was because they had both reached the conclusion that securities would continue to depreciate in the market, from that date on. It seemed to me that that was somewhat of a factor. That was somewhat based upon a speculation as to what would occur in the future.

The CHAIRMAN. And as I understand, he prefers to take the risk himself.

Mr. PECORA. Now, Mr. Lamont, you have set forth in your prepared statement, on page 2 thereof, that if the tax deductions which you made in your 1930 return on account of losses you had incurred from the private sale that you made of such portions of those securities to your wife that you have testified to, had been eliminated, the result would have been an additional tax on you of $1,440.29, and $595.57 on your wife. A calculation has been made by an accountant for the committee and rendered to me, which would indicate that, had all those deductions been eliminated—that is, from your return for the year 1930, deductions aggregating about $114,000 on account of those transactions—that the total additional taxes that would have been levied by reason of the elimination of that total loss, would have been about $20,365. Now, do you want to check up on that, or have some one else do it for you? I shall be very glad to have you do it and give us the result of your computations.

Mr. LAMONT. I do not think it could possibly have been as much as that, but——

Mr. PECORA (interposing). I am not an accountant myself, and these are not my own figures, and they are just given to me, as I have stated, by an accountant for the committee. So I will be glad for you to make your own computation and give us the result.

Mr. LAMONT. All right.

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Mr. PECORA. That is all that I have to ask of this witness, Mr. Chairman.

Mr. DAVIS. Now that Mr. Pecora is through with this witness, I want to offer for the sake of the record, or to put in a 2-page memorandum, which states certain legal principles, and citing authorities to support them.

1. By all the revenue acts from 1913 to 1932, individuals in determining their net taxable income have been allowed unlimited deductions from their gross incomes on account of losses actually sustained on the sale of securities or other property.

2. The fact that a sale is made for the avowed purpose of reducing the tax does not preclude the taxpayer from deducting the loss thus ascertained. It is a settled principle of law that a taxpayer is entitled to resort to any legal method available to lessen the amount of his tax liability. (*U.S.* v. *Isham*, 17 Wall. 496; *Bullen* v. *Wisconsin*, 240 U.S. 625; *Superior Oil Co.* v. *Mississippi*, 280 U.S. 390; *Ford* v. *Nauts*, 25 F. (2d) 1015; *Weeks* v. *Sibley*, 269 Fed. 155; *Marshall* v. *Commissioner*, 57 F. (2d) 633.)

As the court remarked in the last case cited, "There was nothing unlawful, or even mildly unethical, in the motive of petitioner, to avoid some portion of the burden of taxation."

3. Where, as in the State of New York, a married woman is given all the rights of contract and of property which any other person enjoys, contracts and agreements between husband and wife are legal and binding on both parties. A sale by a husband to his wife is just as legal and just as effective in establishing a loss by the sale of securities as a sale to any other person. (*R. W. Hale* v. *Commissioner*, 25 B.T.A. 1450, memorandum opinion printed in Prentice Hall Federal Tax Service, 1933, par. 587, p. 682; *Ladew* v. *Commissioner*, 22 Board of Tax Appeals, 443; *Kunau* v. *Commissioner*, 27 Board of Tax Appeals, —); *Mallinckrodt* v. *Commissioner*, 4 Board of Tax Appeals, 1112, 14 Board of Tax Appeals, 194; *Catlin* v. *Commissioner*, 25 Board of Tax Appeals, 854; *Foster* v. *Commissioner*, 22 Board of Tax Appeals, 717; *Callaway* v. *Commissioner*, 18 Board of Tax Appeals, 1059; and many, many other cases.

4. In case of sales to husband and wife, relatives, friends, or business associates, the mere fact that thereafter there was a repurchase of the property by the seller, after the time limited in the statute, does not invalidate the original transaction or justify denial to the taxpayer of a deduction for the losses thereby incurred. (*Appeal of Pennsylvania Co. for Insurance, etc.*, 2 Board of Tax Appeals, 48 (June 12, 1925); *Appeal of Britt*, 2 Board of Tax Appeals, 53 (June 12, 1925); *Cole* v. *Helburn*, F. (2d) ((D.C.Ky.) (March 24, 1933); *Griffin* v. *Commissioner*, 7 Board of Tax Appeals, 1094 (Aug. 22, 1927); *Kurtz* v. *Commissioner*, 8 Board of Tax Appeals, 679 (Oct. 10, 1927); *Kunau* v. *Commissioner*, 27 Board of Tax Appeals — (Jan. 4, 1933); *Budd* v. *Commissioner*, 43 F. (2d) 509, reversing 12 Board of Tax Appeals, 490 (Aug. 13, 1930); *Wood Lumber Co.* v. *Commissioner*, 25 Board of Tax Appeals, 1013 (Mar. 28, 1932).)

These well-established principles of law make it clear that the action of Mr. Thomas S. Lamont, concerning which the committee had inquired and he has testified, was fully within his rights and not subject to any justifiable criticism.

I ask to have that made a part of the record.

The CHAIRMAN. That statement may be entered on the record. I understand that Mr. Lamont takes a very creditable position in regard to the matter, that he is perfectly willing to waive any statutory limitation and to have the whole matter reexamined by the Internal Revenue Bureau if they see fit.

Mr. DAVIS. So he does, at any time.

Mr. PECORA. The only comment I have to make at this time on this prepared statement or opinion by Mr. Davis—and any legal opinion by Mr. Davis is always entitled to respect, of course, and any member of the legal profession knows that, and is willing to accord that respect to his judgments and opinions on questions of law—but the only comment I have to make at this time is this:

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That the real question involved is always one of the bona fides of the transaction, not the mere form.

The CHAIRMAN. Now, Mr. Lamont is excused.

(Thereupon the witness was excused.)

The CHAIRMAN. Who is your next witness, Mr. Pecora?

Mr. PECORA. Mr. Ewing.

The CHAIRMAN. Is Mr. Ewing present?

Mr. EWING. Yes, sir.

The CHAIRMAN. You will please stand, hold up your right hand, and be sworn. You solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, regarding the matters now under investigation by the committee. So help you God.

Mr. EWING. I do.

TESTIMONY OF WILLIAM EWING, MOUNT KISCO, N.Y., A MEMBER OF THE FIRM OF J. P. MORGAN & CO.

Mr. PECORA. Mr. Ewing, will you kindly give the committee reporter your full name and address?

Mr. EWING. William Ewing, Broad Brook Road, Mount Kisco, N.Y. That is my residence.

Mr. PECORA. Are you a member of the firm of J. P. Morgan & Co.?

Mr. EWING. I am.

Mr. PECORA. How long have you been a member of that firm?

Mr. EWING. Since December 31, 1926.

Mr. PECORA. And you have been continuously a member thereof from that date until the present time?

Mr. EWING. Yes, sir.

Mr. PECORA. Now, do you recall whether or not in the year 1928 you created some trusts for the benefit of children of yours?

Mr. EWING. No; I did not in that year.

Mr. PECORA. When did you create such trusts?

Mr. EWING. I did not create any trusts, Mr. Pecora. Mrs. Ewing created the trusts.

Mr. PECORA. Mrs. Ewing, your wife, created such trusts?

Mr. EWING. Yes, sir.

Mr. PECORA. When?

Mr. EWING. The first two trusts were created in 1925 and the second two trusts in 1926.

Mr. PECORA. Who was named as the trustee in each of those trusts?

Mr. EWING. I was named as trustee.

Mr. PECORA. And you accepted the trust in each case?

Mr. EWING. I did.

Mr. PECORA. And have acted as such trustee in each of those instances ever since?

Mr. EWING. I have.

Mr. PECORA. Those trusts are still in existence?

Mr. EWING. Those trusts are still in existence.

Mr. PECORA. Was there a formal or written indenture of trust by which those four trusts were created, Mr. Ewing?

Mr. EWING. There was, Mr. Pecora.

Mr. PECORA. Have you copies of them?

Mr. EWING. I think I can supply copies.

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Mr. PECORA. All right.

Mr. EWING (after conferring). This is the trust for William Ewing, Jr., and they are all substantially the same.

Mr. PECORA. Thank you. This is a photostatic copy of an indenture of trust creating a trust estate for the benefit of William Ewing, Jr.

Mr. EWING. That is correct.

Mr. PECORA. And this is a true and correct copy of the original trust instrument?

Mr. EWING. To the best of my belief it is.

Mr. PECORA. I offer it in evidence and ask that it may be spread on the record of our hearings.

The CHAIRMAN. It may be admitted and will be spread on the record.

(The indenture of trust dated November 17, 1925, was ordered spread on the record and marked "Committee Exhibit No. 48, June 9, 1933", and is as follows:)

This indenture made the 17th day of November 1925 between Maria T. Ewing, residing at 1111 Park Avenue, city, county, and State of New York, party of the first part, and William Ewing, resident at 1111 Park Avenue, city county, and State of New York, hereinafter called the "Trustee", party of the second part, witnesseth:

That in consideration of the mutual covenants herein contained and of the sum of $1 to her in hand paid by the trustee at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, the party of the first part has transferred, assigned, and set over, and by these presents does transfer, assign, and set over, unto said trustee, his successors and assigns, the sum of $1,000.

To have and to hold said property unto said trustee, his successors and assigns, in trust, nevertheless, for and upon the following uses and purposes:

First. To hold, manage, sell, invest, and reinvest the same as hereinafter specified, and to collect and receive the interest, income, and profits thereof (hereinafter called "Income"), and after deducting proper expenses in the administration of the trust, to pay the same from time to time unto William Ewing, Jr., son of the party of the first part, for and during the term of his natural life.

Upon the death of said William Ewing, Jr., to assign, transfer, and pay over the principal and accumulations, if any, of said trust fund to the children and the issue of deceased children of William Ewing, Jr., the issue of deceased children taking per stirpes and not per capita. If there be no children or issue of deceased children then to assign, transfer, and pay over the principal and accumulations, if any, to Maria T. Ewing, the party of the first part, for her own use absolutely and forever.

If at any time during the life of the said William Ewing, Jr., the party of the second part, shall in his sole discretion deem it advisable to pay over all or any part of the principal of the trust herein created then full right and authority so to do is hereby granted and thereupon the trust herein created shall cease and determine.

In case said Maria T. Ewing shall not be living at the termination of the trust, as aforesaid, to assign, transfer, and pay over the principal of said trust fund, in equal shares, to the children and the issue of deceased children of the party of the first part then living, the issue of deceased children taking per stirpes and not per capita.

Second. The trustee is authorized to invest and reinvest any cash herein transferred to the trustee in such stocks, bonds, or other securities as in the discretion of the trustee may be deemed safe and for the best interests of the trust estate, although such securities are not of the character permissible for legal trust investments.

The trustee is authorized to borrow money for this trust for investment or for any other purpose.

The trustee shall have full power to make, execute, and deliver good and sufficient deeds, transfers, assignments, and other instruments necessary and proper in the premises.

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No purchaser upon any sale by the trustee shall be bound to see to the application of the purchase money arising therefrom, or to inquire into the validity, expediency, or propriety of any such sale.

Third. In case of securities purchased for the trust fund at a premium, the trustee shall not be required to set aside any part of the income as a sinking fund to retire or absorb such premium, or to make any other provisions for possible appreciation or depreciation in the value of the securities constituting the trust fund by reason of the approaching maturity of said securities or otherwise.

Fourth. The trustee is authorized to pay out of income all taxes which are properly payable on the trust property, or on any transfer thereof or transaction affecting the same, and to affix and cancel tax stamps as required by law.

Fifth. The trustee by joining in the execution of this instrument signifies his acceptance of the trust.

Sixth. The trustee may resign his duties under this indenture, and in the case of such resignation the party of the second part is hereby solely granted the right to name and appoint the substituted trustee. In case of the death of the trustee the party of the first part reserves the right to name and appoint a successor trustee. The appointment of such substituted or successor trustee shall be evidenced by an instrument in writing executed and acknowledged or proved in the manner required for a deed of real estate (so as to enable such deed to be recorded in the State of New York).

Seventh. It is mutually agreed that those presents shall extend to and be obligatory upon the executors, administrators, legal representatives, and successors, respectively, of the parties hereto.

In witness whereof, the parties hereunto have set their hands and seals, as of the day and year first above written.

[SEAL] MARIA TAYLOR EWING.
[SEAL] WILLIAM EWING.

STATE OF NEW YORK,
County of New York, ss:

On this 17th day of November 1925, before me personally came Maria T. Ewing, to me known and known to be the individual described in and who executed the foregoing instrument, and she duly acknowledged to me that she executed the same.

[SEAL] ARCHER M. VANDERVORT, *Notary Public.*

Commission expires March 30, 1927.

STATE OF NEW YORK,
County of New York, ss:

On this 17th day of November 1925, before me personally came William Ewing, to me known and known to me to be the individual described in and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same.

[SEAL] THOS. W. JOYCE, *Notary Public.*

Mr. PECORA. The date of this instrument is November 17, 1925, made by and between Maria T. Ewing, party of the first part, and William Ewing, called the trustee, party of the second part. The Maria T. Ewing mentioned in this indenture is your wife?

Mr. EWING. She is.

Mr. PECORA. And the William Ewing referred to therein and called the trustee, is you?

Mr. EWING. That is me.

Mr. PECORA. Now, I notice in this trust agreement that the corpus of the trust estate, the body of it, is the sum of $1,000.

Mr. EWING. That was when it was started.

Mr. PECORA. When the other three trusts were created by your wife, was each of them also started with $1,000?

Mr. EWING. That is correct.

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Mr. PECORA. Now, what were the names, if you please, of the three other beneficiaries of the other three trust estates, respectively?

Mr. EWING. William Ewing, Jr., is the first one.

Mr. PECORA. Yes.

Mr. EWING. And Jane Ewing, and Jessie Valle Ewing.

Mr. PECORA. Is it J-e-s-s-i-e or J-e-s-s-e?

Mr. EWING. It is J-e-s-s-i-e, and Grace Valle Ewing, and that is V-a-l-l-e.

Mr. PECORA. Now, as trustee of those four trust estates, did you in the year 1928 sell any securities for the account of such trust estates or any of them respectively?

Mr. EWING. I did, Mr. Pecora.

Mr. PECORA. Did you make any such sales in 1928?

Mr. EWING. Yes; I have bought and sold securities in substantial amounts for these trusts since they were formed.

Mr. PECORA. Have trust accounts been prepared by you for each and every year since the creation of those trusts? I mean trust accounts or reports prepared by you for each and every year since the creation of those trusts.

Mr. EWING. If I understand your question, sir, when those trusts were formed they were separate accounts.

Mr. PECORA. Yes.

Mr. EWING (continuing). And set up on the books of J. P. Morgan & Co. for each trust, separate and specific accounts.

Mr. PECORA. Have you as trustee made an annual accounting of those trusts since the creation of them?

Mr. EWING. An annual accounting to whom?

Mr. PECORA. To anybody.

Mr. EWING. I have not to my children, and they are the only people that are interested.

Mr. PECORA. Then the answer would be that you have not?

Mr. EWING. Yes, sir.

Mr. PECORA. During the year 1928 did you as the trustee for each of those four trust estates sell any shares of the capital stock of the Johns-Manville Co.?

Mr. EWING. I did, sir.

Mr. PECORA. What was the aggregate amount of the sales that you made in that year as trustee for these trust estates of that security?

Mr. EWING. I sold an aggregate amount of 4,350 shares, equally divided among the four trusts.

Mr. PECORA. What was the total purchase price, or rather what was the selling price of those 4,350 shares of Johns-Manville stock that you sold for the account of those four trusts in 1928?

Mr. EWING. I made my first sale I think in August, and I sold at various times until December of 1928. I started selling at 127, and I reached a price of the last sale that I made of 200¾. That is, 200¾ of 1 percent.

Mr. PECORA. Two hundred and what?

Mr. EWING. And three quarters of 1 percent.

Mr. PECORA. Then that would be a price of 200¾?

Mr. EWING. 2-0-0-¾.

Mr. PECORA. At the time you made those sales did the trust estates, or did you as trustee, have in your possession the shares of Johns-Manville Co. stock which you sold?

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Mr. EWING. I did not have all of the stock; no.

Mr. PECORA. To the extent that you did not have any of the shares involved in those sales, were they known as short sales?

Mr. EWING. No; that answer was not correct, Mr. Pecora. Those sales were all short sales.

Mr. PECORA. They were all short sales.

Mr. EWING. They were all short sales, made by me as trustee for the four accounts, as short sales on the New York Stock Exchange through brokers in the usual manner that short sales are made. And the details were carried out in every respect in the manner of a short sale.

Mr. PECORA. Now, just for the sake of the record will you give the mechanics of the making of a short sale?

Mr. EWING. Well—in this connection, do you mean?

Mr. PECORA. Yes; you may do it in connection with this or any sales.

Mr. EWING. Well, a short sale is sold on the exchange and the stock is borrowed by the seller, and——

Mr. PECORA (interposing). That is borrowed in order to enable the seller to make delivery?

Mr. EWING. In order to make delivery of the short sale.

The CHAIRMAN. Did you suffer any loss by reason of those sales?

Mr. EWING. Those were short sales, sir.

Mr. PECORA. Senator Fletcher asked if you suffered any loss by reason of those sales.

Mr. EWING. I did not sell them. Those were short sales made for the account of these four trusts.

The CHAIRMAN. You spoke about selling stock during that year amounting to 4,350 shares.

Mr. EWING. Those were short sales, those sales were.

Mr. PECORA (interposing). That is, in order——

Mr. EWING (continuing). They did not own the stock.

Mr. PECORA. That is, at the time of the making of those so-called "short sales" you, as the trustee making the sale, did not have the stock that you sold short?

Mr. EWING. I did not. I was acting as trustee for the trust estates, and they did not have the stock.

Mr. PECORA. As such trustee, acting in your representative capacity, you made these so-called "short sales"?

Mr. EWING. Correct.

Mr. PECORA. And that meant that you as trustee did not have the stock that you sold short?

Mr. EWING. That is right.

Mr. PECORA. So that it became necessary for you as trustee to obtain that stock by some process in order to deliver it to the person or persons to whom the sales were made?

Mr. EWING. That is correct.

Mr. PECORA. Did you as trustee make delivery of those 4,350 shares of stock which you had sold short?

Mr. EWING. I did, Mr. Pecora.

Mr. PECORA. How were you enabled to make delivery of the stock that you sold short if you did not have it?

Mr. EWING. I borrowed 1,800 shares from Mrs. Ewing——

Mr. PECORA (interposing). That is, your wife?

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Mr. EWING. My wife. And I borrowed 2,550 shares from myself individually, out of my own stock.

Mr. PECORA. You borrowed 2,850—or what was it?

Mr. EWING. Two thousand five hundred and fifty shares from myself, individually.

Mr. PECORA. What was the aggregate selling price for which you as trustee sold for the account of those four trusts those 4,350 shares of Johns Manville Co. stock?

Mr. EWING. For $652,000 or $654,000.

Mr. PECORA. Did you say $654,000?

Mr. EWING. Yes; $654,000.

Mr. PECORA. Is that the aproximate figure, Mr. Ewing?

Mr. EWING. I think it was 650-odd thousand dollars. Let me see. It was $654,476, that is the exact amount.

Mr. PECORA. The figure is $654,476?

Mr. EWING. Yes.

Mr. PECORA. And was there deposited with you and with Mrs. Ewing sums aggregating the $654,476 when you and Mrs. Ewing loaned those shares to you as trustee for those four trust estates?

Mr. EWING. Mr. Pecora, in the practice of short sales it is customary that the person lending the stock receives as security for the return of that stock the proceeds from the sale of it.

Mr. PECORA. Yes. Now, you as trustee for those four estates received from the purchasers to whom as such trustee you sold those 4,350 shares, the aggregate sum of $654,476.

Mr. EWING. That is correct.

Mr. PECORA. And did you as such trustee——

Mr. EWING (interposing). I will make one correction there: Myself and my wife.

Mr. PECORA. No; you received them as trustee, this purchase price as trustee.

Mr. EWING. That is correct.

Mr. PECORA. And then did you as trustee turn over in proper proportions to yourself and your wife individually, this aggregate sum of $654,476?

Mr. EWING. I did; yes, sir.

Mr. PECORA. And why was that done?

Mr. EWING. That was turned over, as I have said, in accordance with the practice of short sales, to secure the stock loaned to the trusts, for the return of that stock, as securtiy for its return on demand.

Mr. PECORA. And that is the usual practice in the making of short sales?

Mr. EWING. That is the usual practice.

Mr. PECORA. That is, the person selling short borrows the stock from someone else and turns over to the lender of the stock the purchase price or the consideration that the seller has received upon the short sale?

Mr. EWING. To be held as security for that stock.

Mr. PECORA. And it is held as security until the short seller turns back to the lender of the stock the stock which he has borrowed?

Mr. EWING. That is correct.

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Mr. PECORA. Now, what was the cost price to you and your wife of the 4,350 shares that both of you, in different amounts, loaned to yourself as trustee of those four trust estates?

Mr. EWING. I do not know what that was, Mr. Pecora. I did not check that.

Mr. PECORA. What was that answer?

Mr. EWING. I do not know what that was, what that cost to myself or to my wife was. I mean that I just haven't the records here of that. That was bought—well, I do not even know in what year it was bought. It was stock that we owned.

Mr. PECORA. Yes.

Mr. EWING. I do not remember and cannot recollect what I paid for it at the time I bought it.

Mr. PECORA. Well, as I understand, you personally or you individually, let us put it that way, were the owner at the time of the making of those short sales by you as trustee?

Mr. EWING. That is correct.

Mr. PECORA. Of 2,550 shares of this Johns-Manville Co. stock?

Mr. EWING. Yes, sir.

Mr. PECORA. And that your wife individually was the owner of 1,800 shares thereof?

Mr. EWING. That is correct.

Mr. PECORA. And both of you, of course, had purchased that stock for your own respective individual accounts some time prior to the making of those short sales by you as trustee?

Mr. EWING. That is correct.

Mr. PECORA. Now, you haven't got the data here which would indicate the price paid by you for the 2,550 shares?

Mr. EWING. No; I haven't that.

Mr. PECORA. Nor the price paid by your wife for the 1,800 shares?

Mr. EWING. No; I haven't got that.

Mr. PECORA. Isn't that information available to you?

Mr. EWING. I can get it.

Mr. PECORA. How long would it take you to get it?

Mr. EWING (after conferring). Mr. Pecora, subject to checking it, the cost as I understand was 47½.

Mr. PECORA. That is, the cost to you and to Mrs. Ewing was 47½?

Mr. EWING. Yes, sir. And I think that is correct.

The CHAIRMAN. What was the history of the stock after you sold it?

Mr. EWING. It kept on going up. It went up to—in fact it went up over 240, it went to that and it may have gone much higher. It went to 243, I understand. I remembered the figure of 240.

Mr. PECORA. Now, the 4,350 shares of 47½ per share would make a total cost of those shares to you and Mrs. Ewing, according to my calculation, of $206,625.

Mr. EWING. Subject to correction I will say yes.

Mr. PECORA. And so at the time they were sold by you as trustee for those four estates, that you sold this aggregate of 4,350 shares of this Johns-Manville Co. stock short, they were sold for a consideration or a purchase price or a selling price of $654,476, which, according to my calculation, was $447,851 more than the cost price of those shares to you and your wife individually.

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Mr. EWING. I accept that.

The CHAIRMAN. Do you call that a profit?

Mr. EWING. No, sir; there was not any sale there by me.

Mr. PECORA. You say there was not any sale of these shares by you?

Mr. EWING. Individually.

Mr. PECORA. Simply a loaning of those shares to you as trustee?

Mr. EWING. That is correct.

Mr. PECORA. To enable you to proceed to deliver the shares that you had sold short for the benefit and account of the four trusts, is that right?

Mr. EWING. Yes.

Mr. PECORA. If it had been a sale made by you and your wife outright it would have resulted in this profit of some $447,000?

Mr. EWING. That is a hypothetical question.

Mr. PECORA. Well, as a hypothetical question that would be correct?

Mr. EWING. As a hypothetical question; yes, sir.

Mr. PECORA. Now do you as trustee for these four trust estates still owe to you and your wife individually these 4,350 shares of Johns-Manville Co. stock?

Mr. EWING. Do the trusts still owe those?

Mr. PECORA. Yes.

Mr. EWING. Not all of them; no.

Mr. PECORA. Have they returned any of that stock to you?

Mr. EWING. They have, sir.

Mr. PECORA. And to your wife?

Mr. EWING. And to my wife.

Mr. PECORA. When were the returns of the stock made either to you or to your wife individually by you as trustee?

Mr. EWING. In October and November of 1929 I as trustee for the four trusts purchased on the New York Stock Exchange 500 shares of Johns-Manville stock at $125 to $120 a share.

Mr. PECORA. At $125 per share?

Mr. EWING. At $125 to $120 a share. At varying prices. That stock was returned to me as the lender by the trusts, and in return I returned to the trusts the funds I was holding as security for that stock.

Mr. PECORA. What amount did you actually return?

Mr. EWING. May I go on, because I covered some more?

Mr. PECORA. All right.

Mr. EWING. In May, the 11th and 12th, 1931, I bought 500 additional shares of Johns-Manville.

Mr. PECORA. As trustee?

Mr. EWING. As trustee. At 47½.

Mr. PECORA. At 47½?

Mr. EWING. Yes, sir. And that was returned to me individually against the stock I had loaned the four trusts. And the total sum of money of the two covering purchases for the trusts of these 1,000 shares amounted to $126,000 and odd—$126,872.50. That was returned by the trusts to me, I mean that was returned by me to the trusts, and the trusts returned me the thousand shares of Johns-Manville stock that I had lent them. There was a profit on that transaction when that was covered of $44,634.51.

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Mr. PECORA. A profit to whom?

Mr. EWING. To the trusts.

Mr. PECORA. Of how much?

Mr. EWING. $44,634.51.

Mr. PECORA. Did you as trustee make any other coverings on account of these short sales aggregating 4,350 shares?

Mr. EWING. No, sir; I did not. That left the trusts short, as I figured, 3,350 shares of Johns-Manville stock in these transactions.

Mr. PECORA. Was there any reason why you as trustee for these four trust estates have not covered the remainder of these short sales?

Mr. EWING. Yes; there is. Well, there are various reasons. I think the two principal reasons are the taxes and the market. Both I——

Mr. PECORA. What taxes do you mean?

Mr. EWING. That if the trusts covered, the tax they would have to pay certainly comes into that consideration as trustee for the trusts.

Mr. PECORA. That is, income tax, do you mean?

Mr. EWING. Income tax; yes.

Mr. PECORA. They could have been covered at any time since the last covering in May 1931, at a very considerable profit to the trust estates?

Mr. EWING. They could have been; yes, sir. And they still can be.

Mr. PECORA. And still can be?

Mr. EWING. Yes.

Mr. PECORA. You, as trustee, sold these 4,350 shares short for prices ranging, as I understood you to say, from $127 to two hundred and three fourths dollars?

Mr. EWING. That is correct.

Mr. PECORA. Now what has been the low price in the market for that stock since that time?

Mr. EWING. I think it sold as low as $11 a share.

Mr. PECORA. $11 a share?

Mr. EWING. Yes.

Mr. PECORA. What is the quotation at about the present time? I do not mean today, but as closely as you can give it to us at the present time.

Mr. EWING. 39 or 40.

Mr. PECORA. And you as trustee have been free to cover these short sales at any time at a very large resultant profit to the trust estates, is that right?

Mr. EWING. At any time since 1928 when they were sold.

Mr. PECORA. Yes.

Mr. EWING. I could have covered those at a profit—not at any time since they were sold, because I had a considerable loss—I want to correct that—first for the trusts.

Mr. PECORA. I mean at any time since 1931—I said at any time since May 1931, the last covering?

Mr. EWING. Well, I could have covered them at any time since the break in 1929 at a profit. But it was——

Mr. PECORA. Now did you as trustee for these four trust estates actually receive from the purchases of these 4,350 shares the purchase price of $654,476?

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Mr. EWING. I received a part of it and Mrs. Ewing received the other part.

Mr. PECORA. No; did you as trustee receive the purchase price of those short sales on the occasion of the making of those short sales?

Mr. EWING. I, as trustee, received for those four trusts the purchase price from the sale of that stock.

Mr. PECORA. From whom?

Mr. EWING. From the brokers to whom they were sold.

Mr. PECORA. Who were they?

Mr. EWING. I sold them through the firm—our stock department, J. P. Morgan & Co.

Mr. PECORA. Who were the brokers?

Mr. EWING. They were given out—I do not know. They were given out as all our stock orders are given out.

Mr. PECORA. Well, now, these trust estates were not part of the assets of J. P. Morgan & Co., were they?

Mr. EWING. Certainly not.

Mr. PECORA. J. P. Morgan & Co. had nothing to do with them, did they?

Mr. EWING. They had nothing to do with those trust estates.

Mr. PECORA. Did you as trustee actually receive the price for which those shares were sold short by you?

Mr. EWING. I as trustee actually received the price at which those stocks were sold short; yes, sir.

Mr. PECORA. And what did you do with that money?

Mr. EWING. I, as trustee, as I think I stated before, Mr. Pecora—I as trustee placed that money as security that myself and my wife—as security against the loan of stock to the four trusts, and those funds were credited on the books of J. P. Morgan & Co. to my personal account, and they were credited on the books of J. P. Morgan & Co. to Mrs. Ewing.

Mr. PECORA. Have you paid interest to the trust estates?

Mr. EWING. I have, sir.

Mr. PECORA. On those sums?

Mr. EWING. Yes, sir.

Mr. PECORA. By checks or by transfer of funds on books?

Mr. EWING. I have paid interest regularly to those trusts—myself and Mrs. Ewing, both of us—by a debit from my account and a credit, and a debit from her account and a credit, on the accounts of the four trusts separately.

Mr. PECORA. In what manner? By check?

Mr. EWING. No.

Mr. PECORA. How?

Mr. EWING. By debit and credit on the books of J. P. Morgan & Co.

Mr. PECORA. That is, through the medium of book entries?

Mr. EWING. Well, the same as all my payments are made, sir. All purchase of stock, sale of stock, and the purchase of anything of that kind I do not pay checks for. Credited or debited to my account with J. P. Morgan & Co.

Mr. PECORA. By this process of selling short by or for the account of these trust estates haven't you and Mrs. Ewing virtually enjoyed all the benefits of outright sales of those stocks which you loaned

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to the trust estates in order to enable you as trustee to make delivery on these short sales?

Mr. EWING. All I can say in answer to that, Mr. Pecora, is that this transaction was carried out as the regular short sales are done. The only difference in this transaction from any short sale that was made—it may not even be a difference—is that the stock was borrowed from me and Mrs. Ewing.

Mr. PECORA. I did not get the last part of your answer.

Mr. EWING. From me and Mrs. Ewing.

Mr. PECORA. Where are the stock certificates now for the sales that have not yet been covered? Do you still hold the stock?

Mr. EWING. No; it is loaned to the trusts. And the trusts delivered it against the actual sales on the exchange.

Mr. PECORA. You have in lieu of those stock certificates the cash?

Mr. EWING. Correct, sir.

Mr. PECORA. On deposit?

Mr. EWING. As security for their return.

Mr. PECORA. You were free to go out in the market and cover those short sales at any time as trustee and return the stock to yourself and Mrs. Ewing in your individual capacities?

Mr. EWING. That is correct, sir. And I am free to demand the return of that stock individually, and Mrs. Ewing is too.

Mr. PECORA. Can you tell me as a partner of J. P. Morgan & Co. if that firm has any settled or fixed policy with respect to the making of short sales?

Mr. EWING. Yes, I can. The partners are not supposed to sell stocks short.

Mr. PECORA. Is that the policy of the firm, Mr. Ewing?

Mr. EWING. That is the policy of the firm, I think.

Mr. PECORA. Now, you would not say, would you, that you departed from that policy when you——

Mr. EWING. I would not, sir.

Mr. PECORA (continuing). When you as trustee of the trust estates created by your wife sold 4,350 shares of Johns-Manville short?

Mr. EWING. No, sir. I did not——

Mr. PECORA (continuing). And loaned your own shares—you and Mrs. Ewing loaned your own shares to you as trustee to make delivery? That was not a departure from that policy, was it?

Mr. EWING. No, sir. Those short sales were made for the account of the trusts.

The CHAIRMAN. When do you contemplate covering this? Making settlement? Do you think it may go on forever?

Mr. EWING. No. Senator Fletcher, let me explain a little bit. I wish I could tell what markets are going to do, but I cannot foresee. When I made these sales, I think it is frank to say, for these four trusts, I thought I would cover within a reasonable time and make a profit for those trusts. I, in fact, started to cover, as I have stated here—I covered first 500 shares at a small profit. I think that was about $1,800. And then I covered 500 more when it got down to $47.50. Then I became—at least my judgment was that I had better not cover any more; that it would go lower. I happened to be right that time. But that was my good fortune.

The CHAIRMAN. Then you sold short?

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Mr. EWING. What is that?

Mr. PECORA. He sold short originally.

Mr. EWING. No; originally I sold short.

The CHAIRMAN. Yes.

Mr. EWING. But I could not foresee this terrific panic for 3 years. A break in the market for 3 years. I wish I had been able to, but I could not. And this thing went on and kept going lower and lower. And as trustee for these trusts I felt it was my duty to exercise my best judgment in the repurchase. I probably won't get them back at the lowest point, either.

Mr. PECORA. Now when did the Johns-Manville Co. stock reach the low of 11?

Mr. EWING. Well, it must have been in '32 some time.

Mr. PECORA. Some time in 1932?

Mr. EWING. Yes, sir.

Mr. PECORA. And when it reached——

Mr. EWING. Mr. Whitney advises me that he thinks it was March this year.

Mr. PECORA. Did you think, then, in March of this year that it would go still lower?

Mr. EWING. That was my feeling; yes. I was scared to death.

Mr. PECORA. Now, if you had covered at 11 last March these trust estates would have reaped a very large profit, wouldn't they?

Mr. EWING. They would have, Mr. Pecora. But I do not think, up to the present time, the trust estates have any kick coming.

Mr. PECORA. I know that. But they will have if you do not cover it——

Mr. EWING. Very soon.

Mr. PECORA (continuing). Before this market goes still higher, won't they?

Mr. EWING. They will have if I do not exercise proper care and in my best judgment do what I think best for them. Certainly.

Mr. PECORA. Well, you have noticed a decided upward trend in market values since March of this year?

Mr. EWING. Have seen it for the last—a good deal of the time I was down here I noticed it in the papers.

Mr. PECORA. And in the last 3 months that trend has been steadily upward?

Mr. EWING. Not steady——

Mr. PECORA. Well——

Mr. EWING. Fairly steady. It has been up and down.

Mr. PECORA. Yes. And the extent of it in Johns-Manville Co. stock represented by the difference between 11 and the present market of around 39 or 40. And you still have not covered it?

Mr. EWING. I did not catch that.

Mr. PECORA. And you still have not covered it?

Mr. EWING. I have not covered that balance.

Mr. PECORA. Did you not think that it was your duty as trustee to cover the balance or these short sales when the market went as low as 11?

Mr. EWING. I did not; or I would have done it, Mr. Pecora. Mr. Whitney just corrected me. The low point was 12¼.

Mr. PECORA. Do you not think that if you had taken the big profit that would have resulted from covering at 12¼ that you would have

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been discharging very handsomely your full duty as trustee of these trust estates?

Mr. EWING. Mr. Pecora, at any time after the panic, after the break in 1929, you could have said the same thing about that. But I did not know. My best judgment of it——

Mr. PECORA. Does anybody know?

Mr. EWING. No. My best judgment was not to do it.

Mr. PECORA. The best judgment generally is to cover a short sale whenever you can make a handsome profit, is it not?

Mr. EWING. It would not have been in this case.

Mr. PECORA. Why not?

Mr. EWING. Because I could have made a handsome profit in 1929 and it would not have been probably one third as handsome as it is today.

Mr. PECORA. But when it reached 11½ in March of this year, was not the profit handsome enough to attract you as trustee?

Mr. DAVIS. Mr. Chairman, you are now beyond hypothesis.

The CHAIRMAN. Well, Mr. Ewing is rather an expert. His opinion may be valuable.

Mr. EWING. I just did not think so. Maybe I was wrong, and it looks now as if I might be, Mr. Pecora.

Mr. PECORA. Were you waiting to get the bottom eighth?

Mr. EWING. No.

Mr. PECORA. To cover at the bottom eighth?

Mr. EWING. No.

Mr. PECORA. You know nobody can do that definitely——

Mr. EWING. No; I have never seen anyone that could.

Mr. PECORA. You have never seen anyone that could do that definitely and with assurance, have you?

Mr. EWING. No. That is what I tried to say.

Mr. PECORA. Now, were any of your partners members of the board of directors of Johns-Manville Co. when you as trustee sold its stock short in 1928?

Mr. EWING. I think they were.

Mr. PECORA. Which of them?

Mr. EWING. I think Mr. Whitney and Mr. Bartow were directors. I think that is correct. I will have to check that date.

Mr. PECORA. Now, when you sold as trustee these shares short in 1928 you did it upon your judgment that the short sale could profitably be made for the estates, did you not?

Mr. EWING. I did, sir.

Mr. PECORA. And did you for the purpose of reaching that judgment, formulating that judgment, discuss Johns-Manville Co. stock with such of your partners as were directors of that company?

Mr. EWING. Most of the companies that we were interested in at times were discussed as to their affairs. But I can say this, Mr. Pecora: They knew nothing about these short sales of the trusts.

Mr. PECORA. No, but you reached the conclusion as trustee that it would be profitable for the trusts to sell Johns-Manville Co. stock short in 1928, did you not?

Mr. EWING. I did, sir.

Mr. PECORA. And acting upon that judgment you made these short sales as such trustee?

Mr. EWING. I did.

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Mr. PECORA. Now, in reaching that judgment that it would be profitable to sell that stock short, did you obtain any information from such of your partners as were directors of the Johns-Manville Co. that helped you reach that judgment?

Mr. EWING. No, sir. That was entirely an independent judgment on my part.

The CHAIRMAN. The effect of short sales was to depress the market, was it not? Is that not the general effect?

Mr. EWING. But this one did not, Senator Fletcher, because the market kept on going up very much. I did not sell it at the top at all. I sustained for those trusts a very substantial loss at one time.

The CHAIRMAN. But the general effect of short sales, if they amount to a considerable quantity, the general effect is to depress the market, is it not? The general effect of short sales?

Mr. EWING. It depends entirely on the market, Senator Fletcher. Sometimes it does not, and sometimes it does.

Mr. PECORA. Now, you said a moment ago that at one time you took a substantial loss as trustee. What did you mean by that?

Mr. EWING. I said I had on paper a substantial loss.

Mr. PECORA. On paper. That means there was a time after you made these short sales when the stock of Johns-Manville went up?

Mr. EWING. Exactly.

Mr. PECORA. Went up in the market from the prices at which you sold short?

Mr. EWING. That is correct.

Mr. PECORA. But that was only for a short period of time, was it not?

Mr. EWING. No; it was quite a period.

Mr. PECORA. And of course you did not cover at that time, did you?

Mr. EWING. No; I did not.

Mr. PECORA. No. And you would not have covered because you and your wife were the ones that were in control of the situation, because you and your wife were the ones who had loaned the stock to yourself as trustee, isn't that so?

Mr. EWING. Mr. Pecora, I still believed I was right, although the market was going against me.

Mr. PECORA. You believed you were right in what respect?

Mr. EWING. That the stock was high at that time and I would be able to cover at some future time at a profit for the trusts.

Mr. PECORA. Now when you made these short sales it was firmly your purpose as trustee to realize a profit for the trust estates, was it not?

Mr. EWING. It was, sir.

Mr. PECORA. And you knew at that time that some of your partners were members of the board of directors of the Johns-Manville Co., did you not?

Mr. EWING. I did, sir.

Mr. PECORA. Did you deliberately abstain from discussing with those partners the probable course of value of that stock in the market?

Mr. EWING. No; I did not, because it was all available. They make very complete statements of their condition, their earnings, are

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made public. And I had all those figures and could judge for myself.

Mr. PECORA. Did you have any reason for not even discussing them with those of your partners who were directors?

Mr. EWING. I had none at all.

Mr. PECORA. You just simply did not discuss them.

Mr. EWING. I may have said something—I may have talked to them about Johns-Manville at any time, or any other company, but not in connection with making this short sale for the trusts.

Mr. PECORA. Now, Senator Fletcher asked you a few moments ago if short sales do not, generally speaking, operate to depress the market value of the security. What is your answer to that?

Mr. EWING. Well——

Mr. PECORA. The answer you made to Senator Fletcher, as I recall it, was that it depends on the market.

Mr. EWING. I think it depends largely on the market, Senator Fletcher.

Mr. PECORA. Well, can you not answer that as an abstract proposition? That is, what is generally the effect of the making of short sales on the market values of the securities that are sold short?

Mr. EWING. Well, I do not think that can be answered abstractly. I really do not know, Mr. Pecora. I would if I could. Because conditions—they all have such a tremendous amount to do with this—conditions at the time. I could not make an abstract statement on that.

Mr. PECORA. Well, is it not the general opinion that the making of short sales generally operates to depress the market value?

Mr. EWING. That might well be.

Mr. PECORA. Don't you know that that is the general opinion, if it be not your own?

Mr. EWING. Well, what do you mean? Of the public at large, or the dealers down town, or the bankers, or who?

Mr. PECORA. Oh, the general opinion of persons who are market wise.

Mr. EWING. I think if you take 120,000,000 people in the country, yes.

Mr. PECORA. No; I am not referring to 120,000,000 people in this country when I am referring to the general opinion, Mr. Ewing. You know that. Talking about the general opinion of the persons who are market wise.

Mr. EWING. Well, I never saw anybody market wise, Mr. Pecora. [Laughter.] I have heard them talk about it, but I never saw them.

Mr. PECORA. Was there any reason why the number of shares that you as trustee sold short for these trust estates corresponded exactly to the number of shares that you and Mrs. Ewing owned in your individual right?

Mr. EWING. Yes, I think so.

Mr. PECORA. What was it?

Mr. EWING. I was able to protect those short sales. And Mrs. Ewing—I felt she would also. I frankly would not have sold those short sales, I do not think, if I had not been in the position to protect the trusts against loss. I feel a real responsibility towards the trusts. I ought to.

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Mr. PECORA. Now the making of a short sale is a speculative transaction, is it not? A short sale is a pure speculation, is it not?

Mr. EWING. It is considered so, generally.

Mr. PECORA. Considered so by you too?

Mr. EWING. Yes, I think it is.

Mr. PECORA. Did you think then that you as trustee were doing your full duty to the trust estates by indulging in speculative transactions?

Mr. EWING. I did in this case, sir.

Mr. PECORA. Only in this case?

Mr. EWING. Well, these trusts—I have full power——

Mr. PECORA. I know you have full power.

Mr. EWING (continuing). To buy and sell and borrow money for them.

Mr. PECORA. But the fact that you had full power did not in any way militate against the exercise by you of the soundest possible judgment for the benefit of the trust estates, did it?

Mr. EWING. I think I exercised it.

Mr. PECORA. Did you think that as trustee it was right for you to go into speculative stock market transactions in behalf of the trusts?

Mr. EWING. I felt it was right for me to make those short sales under those conditions.

Mr. PECORA. What were the conditions that you referred to?

Mr. EWING. The ones that I have outlined, of how those were made, and other details.

Mr. PECORA. Now Mr. Ewing, is it amiss to say that the procedure followed by you in connection with these short sales and the way in which they have been covered, and the way in which they have not been covered with respect to the major portion thereof is nothing but an artifice to avoid payment of an income tax?

Mr. EWING. That is not true, sir; that statement is not true.

Mr. PECORA. That would not be a fair statement in your opinion?

Mr. EWING. No; that would not be a fair statement. Mr. Pecora——

Mr. PECORA. You did say——

Mr. EWING. I have made a good many transactions in the past for those trusts that you might call speculative. They were successful. In the markets in those good times I was buying stock for them, and I was selling, and I made considerable money for those trusts. I was very fortunate that my judgment was pretty well correct on it. And it was on this short sale business.

Mr. PECORA. If these short sales are not covered at a profit to the trust estates you still will be in possession, you and your wife will be in possession——

Mr. EWING (interposing). They must be covered.

Mr. PECORA. Wait a minute (continuing). Of the sums for which these stocks were sold short in 1928? Won't you?

Mr. EWING. I am in possession of the funds now and Mrs. Ewing is in possession of the funds now.

Mr. PECORA. And if they are not covered you will have virtually sold those shares at a big profit to yourselves, won't you?

Mr. EWING. No, sir.

Mr. PECORA. Well, you already hold on deposit the purchase price realized upon the short sales, don't you?

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Mr. EWING. Mr. Pecora, I as trustee have a definite commitment and obligation to those trusts for the profit when they are covered. I could be sued. I would be breaking every form of trust that a person has if I do not act for those—if I tried to take the profits for myself or Mrs. Ewing that were made for those trusts. That is a fact legally. Those trusts are nonrevocable trusts. They are absolutely legal. I haven't any right as an individual in any way to benefit from anything made for those trusts. None whatsoever.

Mr. PECORA. That is why I marvel, Mr. Ewing, at the fact that you did not cover these short sales long ago, particularly when the price reached around $12 a share.

Mr. EWING. Mr. Pecora——

Mr. PECORA. It is because of those very elements of trusteeship that you have referred to.

Mr. EWING. You could easily show during the 3 years—I could show any time. As a matter of fact this transaction was questioned by the Internal Revenue Department. Now I received a letter from them in 1931—March, I think it was—I think it was what you call one of those 60-day letters claiming profit for myself and Mrs. Ewing as the result of sales of Johns-Manville stock, of these sales of Johns-Manville stock, the sales of them.

At that time I naturally took the matter up with Mr. Keyes and I asked him to get Mr. Angell, who was the tax expert of Mr. Davis's office, and I said I wanted them to look into it carefully again, which they did, and they asked for a hearing before the special advisory committee of the Internal Revenue Department in Washington, and I understand from them that two hearings were granted. I think one was in April and one was in October. They had two hearings.

The CHAIRMAN. What year?

Mr. EWING. In 1931.

Mr. PECORA. What was the amount of the tax they tried to assess on you?

Mr. EWING. Can I just finish this, and then I will take that up?

Mr. PECORA. All right.

Mr. EWING. They went—I would just like to finish that—they submitted before the advisory committee all the records in connection with these transactions, photostatic copies of the book entries in connection with same, copies of the trusts, and they went into it in great detail that time.

Then they went back and had a second hearing, and they went into this transaction most carefully. Every detail was laid before them. As a matter of fact, the details of this had been laid before the examiner at the time they examined our books, and he—the first I heard of it was when I got this 60-day letter.

They finally entered into stipulations; the advisory committee finally ruled that there was no tax payable by myself or my wife in connection with these sales.

Then I understand the proceeding was that my attorneys entered into stipulations with the General Counsel of the Internal Revenue Department, and those stipulations were filed with the United States Board of Tax Appeals. The United States Board of Tax Appeals handed down a ruling that these were—that there was

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no assessment, additional assessment, in connection with these sales, against myself and my wife, bona fide short sales made on the New York Stock Exchange.

Mr. PECORA. When did they make that ruling?

Mr. DAVIS. Mr. Chairman, may I suggest that my law partner, Mr. Angell, conducted this proceeding, and he is here. I think we could make progress if we just take the statement from him and get the history of this inquiry.

Mr. PECORA. I just want one or two things about it. When was that ruling made, Mr. Ewing?

Mr. EWING. That ruling was—let's see—just a minute. (After conferring with associates.) The Board's final orders were entered on January 16, 1922.

Mr. PECORA. 1932?

Mr. EWING. 1932—excuse me.

Mr. PECORA. What was the amount of tax that they originally sought to assess upon you and your wife on account of these transactions?

Mr. EWING. Sixty-four thousand—[Mr. Angell showed Mr. Ewing a paper]—60,000 against me—$60,687.13 against me and $52,528.13 against Mrs. Ewing.

Mr. PECORA. That is a total of one hundred and thirteen thousand and odd dollars, is it?

Mr. EWING. Yes, sir.

Mr. PECORA. Have you individually made any short sales in securities?

Mr. EWING. No, sir.

Mr. PECORA. You only made them as trustee?

(Mr. Ewing nodded his head.)

Mr. PECORA. Never have made them for your individual account?

Mr. EWING. Not since I have been with J. P. Morgan & Co.

Mr. PECORA. Did you make any other short sales as trustee for the account of these four trusts?

Mr. EWING. Yes, I did.

Mr. PECORA. Have they been covered?

Mr. EWING. No; they have not been covered.

Mr. PECORA. And were these short sales made of securities corresponding to securities owned by you or your wife?

Mr. EWING. They were made in a similar manner to these, Mr. Pecora, and they were also passed on by the authorities—the tax authorities.

Mr. PECORA. Have you got the statement that Mr. Angell has to make?

Mr. EWING. I would like Mr. Angell to give his exact statement of the chronology of this tax procedure.

Mr. PECORA. Have you got a statement of it, or does he want to make it orally?

Mr. ANGELL. I have nothing written. I could give it to you orally very hurriedly from the record.

The CHAIRMAN. I was thinking we might avoid going into details about it by just putting the final order in.

Mr. PECORA. Why not prepare a statement and put it in?

Mr. ANGELL. I can do it right here, to save time, Mr. Pecora.

Mr. PECORA. All right.

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STATEMENT OF MONTGOMERY B. ANGELL, ATTORNEY AT LAW, NEW YORK CITY

Mr. ANGELL. The two 60-day letters to which Mr. Ewing has referred are both dated March 12, 1931. The deficiency asserted in those letters against Mr. Ewing, as he stated, was $60,687.13, and against Mrs. Ewing was $52,528.13.

The deficiency was predicated upon the statement of a profit of $240,863 in respect of Mr. Ewing and a similar figure in respect of Mrs. Ewing. It was derived from a sale of stock of the Johns-Manville Co. which constituted taxable income for 1928.

Within the 30-day period Mr. Leonard Keyes and I took the matter up with the special advisory committee in Washington, which was set up, as you gentlemen know, for the purpose of considering cases following the issuance of 60-day letters.

We arranged for a hearing in April, April 7, 1931, within the 60-day period, and at that hearing we submitted full and complete affidavits, copies of the four trusts and indentures, photostatic copies of the book entries in the J. P. Morgan & Co. accounts covering the entire transaction.

Later, and without having any determination, we received a letter from the special advisory committee indicating it would be impossible for them to make a decision before the expiration of the 60 days, suggesting that an appeal be filed with the Board of Tax Appeals. That was done.

Again, in October 1931, as Mr. Ewing has stated, Mr. Keyes and I again appeared in Washington, and on this occasion, instead of being confronted by the usual conferees representing the advisory committee, as I recall it, there were two members, and I think three members of the committee itself were present at that conference, where we went over the ground in great detail.

Following several points being raised by the members of that committee we filed in addition to our affidavits two complete and comprehensive memoranda of law, an original statement, and then a second or supplemental statement to meet several particular points that had been raised during the hearing.

The committee's decision apparently was made on the case some time in November or December of 1931, and as Mr. Ewing has outlined, as in these cases before the advisory committee, stipulations were prepared by the General Counsel, Bureau of Internal Revenue, and submitted to us for our signature as his attorneys. Those stipulations found small minor deficiencies which we had made and conceded from the outset in these two returns. They finally found that there was no taxable gain realized by Mr. Ewing or by Mrs. Ewing by virtue of these short sales on account of four trusts.

On the execution of those two stipulations they were returned to the general accountant of the Bureau of Internal Revenue, who filed a stipulation with the Board of Tax Appeals. The Board of Tax Appeals, as Mr. Ewing has stated, entered its final order on January 16, 1932. I have copies of these orders, and I should like to submit them in connection with my statement.

The CHAIRMAN. I think they may go in.

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(Two decisions of the United States Board of Tax Appeals, Docket numbered 58345 and 58346, submitted by Mr. Angell, are as follows:)

UNITED STATES BOARD OF TAX APPEALS, WASHINGTON, D.C.

William Ewing, petitioner, v. *Commissioner of Internal Revenue*, respondent. Docket No. 58345.

DECISION

Under written stipulation signed by counsel for the parties in the above-entitled proceeding and filed with the board on January 14, 1932, it is

Ordered and decided: That there is a deficiency for the year 1928 in the amount of $228.77.

Entered January 16, 1932.

A true copy.

Teste.

[SEAL]

B. D. GAMBLE,
Clerk United States Board of Tax Appeals.

UNITED STATES BOARD OF TAX APPEALS, WASHINGTON, D.C.

Maria T. Ewing, petitioner, v. *Commissioner of Internal Revenue*, respondent. Docket No. 58346.

DECISION

Under written stipulation signed by counsel for the parties in the above-entitled proceeding and filed with the Board on January 14, 1932, it is

Ordered and decided: That there is a deficiency for the year 1928 in the amount of $403.30.

Entered January 16, 1932.

A true copy.

Teste.

[SEAL.]

B. D. GAMBLE,
Clerk, United States Board of Tax Appeals.

Mr. PECORA. I just want to ask Mr. Angell a question. You say the board found no profit had been realized by Mr. and Mrs. Ewing on account of these transactions?

Mr. ANGELL. That is correct.

Mr. PECORA. Isn't that because the short sales had not been covered?

Mr. ANGELL. No, Mr. Pecora; the covering of the short sales was the occasion for giving rise to a taxable income on account of the trusts.

Mr. PECORA. Yes.

Mr. ANGELL. The submission made on account of the 60-day letter was that these so-called "short sales" were in fact sales made by Mr. and Mrs. Ewing individually of Johns-Manville stock. The Commissioner undertook to disregard the existence of the four trusts, and the activities taken on behalf of the four trusts. The issue was sharply drawn, first as to whether these were bona fide short sales on account of the four trusts or whether they were sales made by Mr. and Mrs. Ewing individually for loans on Johns-Manville. Secondly, that so-called "loan", as the Commissioner put it, was it a bona fide and real loan? That was the issue squarely presented to the special advisory committee, issues submitted in view of all the facts and circumstances, as Mr. Ewing has here recounted,

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and as set forth in our affidavits, which reflected all the book entries, as well as the general statement of what occurred, and on the basis of that presentation—as I say, there were two hearings, the second of which, if my recollection serves me right, there were two, if not three, members of the advisory committee themselves were present, which is a rather unusual course of procedure.

The special advisory committee came to the conclusion that these short sales were bona fide short sales made on behalf of the four trusts; that the loans of stock to complete these short sales were bona fide loans made by Mr. and Mrs. Ewing; that the deposit of the proceeds of the sales by Mr. and Mrs. Ewing individually were simply carrying out a long and natural custom in respect to short sales, and in 1928 neither Mr. nor Mrs. Ewing individually had realized any taxable gain growing out of the transactions concerning which you have been inquiring.

TESTIMONY OF WILLIAM EWING—Resumed

Mr. PECORA. Now, just one more question of Mr. Ewing that I believe might go in. On the occasion of these other short sales that you say you made as trustee for these four trust estates, did you at the time you made those short sales own, or did Mrs. Ewing own, or both of you together, the stock that you sold short as trustees?

Mr. EWING. We did, Mr. Pecora.

Mr. PECORA. In every instance?

Mr. EWING. They were done in exactly similar ways in every case.

Mr. PECORA. In every instance where you made such short sales, you made them of securities and in amounts of securities corresponding to the securities that you and Mrs. Ewing had at that time?

Mr. EWING. Not necessarily that, Mr. Pecora. They were made where I was able or Mrs. Ewing was able to protect that short sale by lending stock. We might have had more stock or we might have had—but we had enough stock. It was not an identical amount necessarily.

Mr. PECORA. You had enough stock to lend to yourself as trustee for the purpose of delivering on those short sales?

Mr. EWING. We had enough stock to lend for that purpose.

Mr. PECORA. That is what I wanted.

The CHAIRMAN. One of these decisions, in the case of Mrs. Ewing, reads:

> Ordered and decided that there is a deficiency for the year 1928 in the amount of $403.30.

That was irrespective of these short sales?

Mr. ANGELL. Quite irrespective, Senator. That was an item and a similar item in the final order in Mr. Ewing's case, which grew out of the original order and which was conceded immediately.

Mr. EWING. There were some other rulings.

The CHAIRMAN. In Mr. Ewing's case it states:

> Ordered and decided that there is a deficiency for the year 1928 in the amount of $228.77.

That was irrespective of short sales?

Mr. EWING. Yes.

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The CHAIRMAN. These may be filed and go in the record.

Mr. ANGELL. May I add, in view of Senator Fletcher's inquiry, the two small deficiencies found by the board in its final order had nothing whatever to do with this transaction which we were discussing. In both instances it grew out of minor adjustments.

The CHAIRMAN. Yes; I understand.

We will take a recess now till 2:30.

(Accordingly, at 1:20 p.m. a recess was taken until 2:30 p.m. of the same day.)

AFTER RECESS

The committee reconvened at 2:30 p.m. on the expiration of the recess.

The CHAIRMAN. The committee will come to order. Mr. Pecora, who is your next witness?

Mr. PECORA. May I recall Mr. Whitney?

The CHAIRMAN. Mr. Whitney will resume the stand.

TESTIMONY OF GEORGE WHITNEY, A PARTNER IN THE FIRM OF J. P. MORGAN & CO.—Resumed

Mr. PECORA. Mr. Whitney, do you recall that several days ago I asked you in behalf of the committee to confirm the transactions that were had between J. P. Morgan & Co. and Drexel & Co. with Judge Kephart in connection with units of the United Corporation and common stock of the Alleghany Corporation that have heretofore been testified to?

Mr. WHITNEY. I do; yes, sir.

Mr. PECORA. Have you prepared or caused to be prepared a statement fully setting forth those transactions?

Mr. WHITNEY. I have; yes, sir. Our Philadelphia office prepared them.

Mr. PECORA. Is this the statement in question that I now show you?

Mr. WHITNEY. Yes, sir; without the notations.

Mr. PECORA. Without the lead-pencil notations?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. I offer it in evidence and ask that it may be spread on the record.

The CHAIRMAN. Let it be admitted and spread on the record.

Mr. PECORA. I will read it for the record. And the exhibit 49 or the statement reads as follows:

(The statement was received in evidence and marked "Committee Exhibit No. 49, June 9, 1933", and was read by counsel to the committee, as follows:)

Re: John W. Kephart's transactions with Drexel & Co. in United Corporation and Alleghany Corporation.

Our transactions with Judge Kephart were in the usual course of business and conducted on exactly the same terms as with our other customers in both United Corporation and Allegheny, and in advance of dates of confirmation customers of Drexel & Co. accepted invitations to subscribe which had previously been made to them.

In the case of United Corporation, on January 17, 1929, Drexel & Co. confirmed to Judge Kephart his prior order for 200 units of United Corporation. On the same date Drexel & Co. confirmed to Mrs. Florence M. Kephart her prior order for 100 units. On the same date Judge Kephart deposited with Drexel & Co. his check for $22,500.

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On January 21, Judge Kephart instructed Drexel & Co. to charge the cost of both of his own and Mrs. Kephart's units to his account, and the interim receipts registered in their respective names were mailed to Judge Kephart.

On February 5, 1929, Drexel & Co. confirmed to Judge Kephart his prior order for 300 shares of Alleghany Corporation common stock at $20 per share. On February 15, 1929, Drexel & Co. received the Philadelphia National Bank's check to the order of Mrs. Florence M. Kephart, endorsed by her to Drexel & Co., in the amount of $6,000. On April 14, 1929, the certificates were delivered to Judge Kephart.

Mr. PECORA. Now, Mr. Whitney, under date of May 2, 1933, or rather by a letter dated that day, addressed to Hon. John W. Davis, by counsel to this committee, the following information was requested, among other things.

In June of 1927 J. P. Morgan & Co. acquired 400,000 shares of the Johns-Manville Corporation common stock at 47½. They sold 343,750 at the same price to a selected list, and 56,250 shares to another selected list at 10 points profit. We would like to know:

(*a*) How, from whom, and under what circumstances was the stock originally acquired;

(*b*) A copy of the selected list, showing the names of the purchasers of said shares at 47½, together with the number of shares each of the said purchasers received; and

(*c*) A copy of the selected list showing the names of the purchasers of the said shares at 57½, together with the number of shares each of the said purchasers received.

Now, I show you a document, and ask you if that constitutes the document which includes the information called for by that letter insofar as it relates to the shares of the Johns-Manville Corporation?

Mr. DAVIS. What is the number of that question?

Mr. PECORA. No. 37, I think it is.

Mr. WHITNEY. Yes, Mr. Pecora; but perhaps I ought to qualify it by saying that, of course, there is no answer here to "(*a*) How, from whom, and under what circumstances was the stock originally acquired." But these lists as presented here are the lists presented by us. The first list being the so-called "partners" individually or their own families, and then the 56,550 shares on the second list at 57½, being those to whom the stock was sold at 57½.

Mr. PECORA. I offer that in evidence, being the document referred to by the witness, and ask that it may be spread upon the record of the hearing.

The CHAIRMAN. Let it be admitted and so spread upon the record.

Mr. WHITNEY. And there is a third list.

Mr. PECORA. The first one shows the Johns-Manville common stock at 47½, which is followed by a list entitled "Johns-Manville Corporation common stock at $57.50."

Mr. WHITNEY. Did I understand that you wanted me to answer the (*a*) part of the question?

Mr. PECORA. Not at the present time, Mr. Whitney, unless you wish to do it.

Mr. WHITNEY. Well, it is so different from any of these other transactions that we have talked about here before.

Mr. PECORA. We will take that up subsequently.

(The paper referred to and marked "Committee Exhibit No. 50, June 9, 1933," was made a part of the record, and is as follows:)

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Bought at $47.50

	Shares		Shares
Anderson, Alice M	8,500	Leffingwell R. C	17,000
Bartow, F. D	8,500	Merseles, Theodore F	35,000
Beech Corporation	18,500	Morgan et Cie	10,000
Cochran, Thomas	26,200	Morgan, Grenfell & Co	15,000
Davison, Henry P	1,500	Morgan, Henry S	1,500
Drexel & Co	4,000	Morgan, J. P	55,500
Egan, Martin	500	Morgan, J. S., Jr	11,000
Ewing, Frederic	200	Morrow, Anne S	1,500
Ewing, Maria T	2,400	Morrow, Constance C	3,000
Ewing, William	3,565	Morrow, Dwight W	14,000
Ewing, William, trustee for Grave V. Ewing	600	Do	1,100
Ewing, William, trustee for Jane Ewing	600	Do	700
Ewing, William, trustee for Jessie V. Ewing	600	Do	700
Ewing, William, trustee for Wm. Ewing, Jr	500	Morrow, Elizabeth C	4,000
Gates, Thomas S	10,500	Morrow, Elizabeth R	1,500
Hall, Perry E	500	Munroe, Vernon	250
Lamont, Thomas S	1,500	Price, Jane Taylor	35
Lamont, Thomas W	10,000	Steele, Charles	20,500
Lloyd, H. G	11 000	Stotesbury, E. T	20,500
		Ward, Francis F	500
		Whitney, George	20,500
		Total	343,450

Bought at $57.50

	Shares		Shares
Aldridge, Walter H	1,000	Potter, William C	2,500
Baker, George F., Jr	5,000	Prentiss, John W	500
Behn, Sosthenes	1,000	Prosser, Seward	2,500
Birch, Stephen	1,000	Raskob, John J	1,000
Bliss, Cornelius N	1,000	Rayburn, Samuel W	500
Carry, Edward F	1,000	Ross, W. G	1,000
Choate, Arthur O	1,500	Ryan, John D	1,000
Crowley, Patrick E	500	Schneider, Franz, Jr	250
Davis, Norman H	250	Sloan, Alfred P., Jr	1,000
Drexel & Co	500	Stephens, John A., Jr	300
Fummi, Giovanni	500	Strawn, Silas H	1,000
Franklin, Philip A. S	500	Swope, Gerard	1,000
Gibson, Harvey D	1,500	Taylor, Myron C	5,000
Gifford, Walter S	500	Teagle, Walter C	1,000
Halladay, Reginald	1,200	Thompson, William Boyce	4,000
Harris, Albert H	500	Wardwell, Allen	1,500
Hayden, Charles	1,000	White, J. du Pratt	1,000
Hilles, Charles D	500	Wiggin, Albert H	2,000
Kelley, Cornelius	1,000	Taylor, Sir Frederick William	250
Lamont, Corliss & Co	300	Winston, Garrard B	500
McHugh, John	250	Woodin, William H	1,000
McLennan, Donald R	1,000	Wooley, Clarence M	1,000
Mitchell, Charles E	2,500	Young, Owen D	1,000
Morrow, George K	1,000		
Oldham, John E	500		
Pomeroy, Daniel E	250	Total	56,550

Mr. PECORA. There are four sheets constituting this list.

Mr. WHITNEY. Oh, no. There are more than four sheets. I count six sheets here in my file. You asked me to identify both lists.

Mr. PECORA. Here is one sheet headed $47.50.

Mr. WHITNEY. There is one before that.

Mr. PECORA. And then there is this other one headed $57.50, and there are five sheets in all.

Mr. WHITNEY. No; there are six sheets.

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Mr. PECORA. I only have five sheets here in what was submitted to us.

Mr. WHITNEY. No; there are six sheets. There is one sheet with the 100,000 shares for the partners, that you have not got.

Mr. PECORA. No; we have not got that. That sheet is missing.

Mr. WHITNEY. There are 100,000 shares left hanging, and the total number of shares won't add up right without that.

Mr. PECORA. Let me ask you, Mr. Whitney, were there any other shares of the capital common stock of the Johns-Manville Corporation which were acquired by J. P. Morgan & Co. in June of 1927 at $47.50 in addition to those shown on the five sheets of paper that form the exhibit no. 50 I have offered?

Mr. WHITNEY. There was a total of 400,000 shares of common stock purchased.

Mr. PECORA. By J. P. Morgan & Co.?

Mr. WHITNEY. Yes.

Mr. PECORA. And as I understand it, 343,450 of those shares were delivered at a price of $47.50 to various individuals whose names are shown upon the first two typewritten pages of committee's exhibit no. 50.

Mr. WHITNEY. Yes; they being with one exception all members of our own family, I mean partners or their wives or definite assignees.

Mr. PECORA. And then there is the aggregate of 56,550 of those shares which were delivered at a price of $57.50 per share to the individuals shown on the remaining three sheets that constitute committee's exhibit no. 50 of this date?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. That made up a total of 300,000 shares that were so disposed of by J. P. Morgan & Co. Now, what became of the other 100,000 shares of the original block of 400,000 shares that J. P. Morgan & Co. acquired in June of 1927?

Mr. WHITNEY. The remaining 100,000 shares were sold to individual persons, I mean partners, at $47.50.

Mr. PECORA. Individual partners of J. P. Morgan & Co.?

Mr. WHITNEY. Yes.

Mr. PECORA. In various allotments?

Mr. WHITNEY. Yes.

Mr. PECORA. And were sold only to the individual partners, as to all of them.

Mr. WHITNEY. It would be more correct to say that 343,450 shares were sold to partners and their families and to the gentleman who became president of the company, that one exception; and that 56,550 shares were sold as shown on another list at $57.50 a share, and——

Mr. PECORA (interposing). Have you copies of those lists there before you?

Mr. WHITNEY. Yes, sir.

Mr. PECORA. Will you kindly have the stenographer mark them in evidence?

Mr. WHITNEY. All three of the lists?

Mr. PECORA. No; just all those that we have not already included in committee's exhibit no. 50 of this date.

Mr. WHITNEY. All right.

Mr. DAVIS. Wasn't that given in response to question 37?

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Mr. PECORA. Apparently not.

Mr. WHITNEY. They say it was given to you collectively, including these 100,000 firm shares.

Mr. PECORA. We were given general information about the disposition of those remaining 100,000 shares, but not the names of the partners, or their respective allotments. What I want is to get a list showing that distribution.

Mr. WHITNEY. May I read it in?

Mr. PECORA. Yes. I do not wish to destroy the continuity of your record there. So you may read it in.

Mr. WHITNEY. It says:

Sold Johns-Manville Corporation common stock at 47½.

	Shares
J. P. Morgan	25,500
E. T. Stotesbury	10,500
Charles Steele	7,000
T. W. Lamont	10,000
H. G. Lloyd	5,000
D. W. Morrow	8,000
Thomas Cochran	8,000
J. S. Morgan	4,000
George Whitney	6,000
Thomas S. Gates	4,000
R. C. Leffingwell	6,000
F. D. Bartow	1,500
A. M. Anderson	1,500
William Ewing	1,500
Henry S. Morgan	500
Thomas S. Lamont	500
H. P. Davison	500
Total	100,000

(See letter at end of this day's hearing in explanation of this table.)

Mr. PECORA. Thank you.

Now, Mr. Chairman, I think that is all from Mr. Whitney for the time being. Oh, Mr. Whitney, as of what date were those deliveries made, or was that distribution made, of those 400,000 shares?

Mr. WHITNEY. Well, my recollection is that they were made in the first part of June. The contract to purchase those shares was made way back in March, and I think the 7th of March, if I rememmer correctly.

Mr. PECORA. That was a contract made by J. P. Morgan & Co.?

Mr. WHITNEY. Yes; to purchase.

Mr. PECORA. When was the distribution made to the various persons whose names appear on those lists?

Mr. WHITNEY. The firm's letters were written by us June 9, 1927.

Mr. PECORA. On that date what was the market value of that stock?

Mr. WHITNEY. Well, I think the market was very much above that. I haven't that information here, I believe. I am advised, and it is my belief that it was about 78. Now, Mr. Pecora, that brings up the point again, of course, of this whole transaction, which you will realize was a transaction with an individual who had been managing the company, Mr. H. E. Manville, for a great many years. He, on account of the bad condition of his health, decided that he

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no longer was up to running his company. So he approached us—oh, way back in the winter, in February if I remember rightly, to see if we would take it, or to say to us that he would like to sell out the actual control of the common shares of his company, and be relieved of the responsibility of management. We had known of this company very intimately since way back in 1924, and prior to the death of Mr. H. E. Manville's brother, T. F. Manville, we had practically concluded arrangements on the refinancing of the Johns-Manville Co., but it never went into effect because of his death. When Mr. H. E. Manville assumed control and ownership of the company he did refinance it, in December of 1926, and concluded to go on and operate the company himself and continue it as a family concern.

But, as I say, his health became such that he decided he could not go on with the work, and he persuaded us to purchase the company. So that in this case we did something that was quite different from any of these other operations that we have discussed. We bought 400,000 shares, a major part of the 750,000 shares of stock, which, of course, gave us control of the common shares, although there were 75,000 preferred shares with voting rights. At the time we purchased it we rather had it in our mind to keep that as a block, because we had discussed and had had various negotiations looking to disposing of this company through a merger with some other company. But when, as it developed, that we managed to persuade Mr. Theodore F. Marseles, who was the chairman of Montgomery Ward & Co., and whose name was the only outside name on the $47.50 list, to retire from Montgomery Ward & Co. and take up the management of this company, having done that, we then determined that we did not want to keep within our own individual hands the actual voting control of the common stock. So we decided to sell approximately 50,000 shares, which would bring us down below half of the 750,000 shares.

At that time and subsequent to the announcement that we assumed responsibility for the management, this stock had gone way up, obviously. I think it was selling around 78. But we were faced with the question of just what it was fair to do. And we decided that we make this rather arbitrary price, rather half-way between the price that it was selling—it was less than half-way—but it was a substantial profit to us, and yet it was a very large amount below the market. And we explained, as you notice in these confirmatory letters—we fully explained the circumstances to all the people who were entitled to join us, and fully explained to them that we were taking a 10-point profit on our stock which we had bought not with the idea of distribution. On the other hand, we did not want to sell it to them at the market, because they were a small group, very close friends and associates in business, some of whom we asked to go on the board of Johns-Manville.

So it is rather a different circumstance than the others.

Mr. PECORA. Yes. I am glad you made reference to this.

The CHAIRMAN. What was the business of this company at that time?

Mr. WHITNEY. The business?

The CHAIRMAN. Yes. You spoke about operating the company.

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Mr. WHITNEY. Of course it is a roofing business. It is asbestos primarily. All kinds of installations. High heat-tension coverings. A very large business of roofing. But all its business—or practically all its business—is collateral to the building industry, although they make asbestos brake linings. It is a very diversified business, most of which is related in some direct way to the building business. More or less accessories. They make boards—accoustics.

The CHAIRMAN. Are they manufacturers?

Mr. WHITNEY. They are manufacturers; entirely manufacturers and distributors.

Mr. PECORA. Mr. Whitney, in the letters which your firm sent to the various gentlemen who were invited to purchase this stock from you at $57.50, did you, for the purpose of informing them that the price of $57.50 was not the cost price to J. P. Morgan & Co., do so by language of this character—and I am reading from photostat copy of a letter dated June 9, 1927, addressed by your firm to George F. Baker, Jr., and which photostat copy has been furnished to me by your firm?—

The firm has recently purchased a substantial block of common shares of the Johns-Manville Corporation, and I enclose a statement as furnished to us of the company as of December 31, 1926. In this connection we contemplate no public issue of securities, but of disposing of a limited number of shares, and take pleasure in offering you 5,000 shares at $57.50 per share, which represents a price higher than that paid by us. If you desire to accept this offer, payments should be made at our office on Friday, July 1. Also, please give us the instructions as to the names in which you wish the stock to be issued for delivery of extra dividend payable July 15.

Is that the form of letter which was used?

Mr. WHITNEY. Yes, sir; that is the form of letter. That was the form of letter of confirmation in all cases. The price was not disclosed, but my recollection is very clear that it was publicly announced, the price at which we bought these shares from Mr. H. E. Manville; and, at any rate, all of these gentlemen that bought it knew.

Mr. PECORA. I merely wanted to get a record of having the form which was used.

Mr. WHITNEY. That is the form of confirmation; yes.

Mr. PECORA. In haviong these gentlemen invited to subscribe to the stock at $57.50?

Mr. WHITNEY. That is right; yes, sir.

Mr. PECORA. That is all with this witness at this time.

The CHAIRMAN. We will excuse you, Mr. Whitney.

(Thereupon Mr. Whitney retired from the witness stand.)

Mr. PECORA. Mr. Chairman, I will ask that Mr. Harold Stanley be called to the stand.

The CHAIRMAN. Is Mr. Stanley present?

Mr. STANLEY. Yes.

The CHAIRMAN. Mr. Stanley, will you be sworn? You solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, regarding the matters now under investigation by the committee. So help you God.

Mr. STANLEY. I do.

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TESTIMONY OF HAROLD STANLEY, PARTNER IN THE FIRM OF J. P. MORGAN & CO., GREENWICH, CONN.

Mr. PECORA. Mr. Stanley, will you kindly give your full name and address to the stenographer?

Mr. STANLEY. Harold Stanley, 511 Indian Field Road, Greenwich, Conn.

Mr. PECORA. Mr. Stanley, are you a member of the firm of J. P. Morgan & Co.?

Mr. STANLEY. Yes, sir.

Mr. PECORA. How long have you been a member of that firm?

Mr. STANLEY. Since December 31, 1927.

Mr. PECORA. Have you on occasions since that time bought and sold securities for your individual account?

Mr. STANLEY. I have.

Mr. PECORA. Have you recollection of certain transactions had by you in 1929 involving the sale by you of 286 shares of the capital stock of the Phelps Dodge Corporation?

Mr. STANLEY. Yes.

Mr. PECORA. Have you also a recollection of the sale made by you in 1929 of 660 shares of the capital stock of Porto Rican American Tobacco B?

Mr. STANLEY. Excuse me, Mr. Pecora; I was looking for a pencil. Would you mind repeating that?

Mr. PECORA. Six hundred and sixty shares of Porto Rican American Tobacco B.

Mr. STANLEY. Yes.

Mr. PECORA. On what date did you make the sale of the 660 shares of Porto Rican American Tobacco stock?

Mr. STANLEY. On November 7.

Mr. PECORA. 1929?

Mr. STANLEY. 1929, yes.

Mr. PECORA. What consideration did you receive for that stock on the occasion of that sale?

Mr. STANLEY. $10,533.60.

Mr. PECORA. Was the stock at that time listed on any public securities exchange?

Mr. STANLEY. I think so.

Mr. PECORA. Which exchange?

Mr. STANLEY (after conferring with associates). I do not know. But I think it was listed either on the board or on the curb.

Mr. PECORA. What?

Mr. STANLEY. I think it was listed either on the board or on the curb. I do not know which.

Mr. PECORA. Either on the board of the New York Stock Exchange or the board of the New York Curb Exchange?

Mr. STANLEY. I should think so; yes.

Mr. PECORA. And did you make that sale through the exchange——

Mr. STANLEY. I did not.

Mr. PECORA (continuing). On which its shares were listed?

Mr. STANLEY. I did not; no.

Mr. PECORA. I did not hear you, Mr. Stanley.

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Mr. STANLEY. I am sorry. I did not make it on the board.

Mr. PECORA. How did you make it?

Mr. STANLEY. I sold it to my wife.

Mr. PECORA. Directly to your wife?

Mr. STANLEY. I think so. Yes; I did.

Mr. PECORA. Was any broker employed in the making of these sales?

Mr. STANLEY. No.

Mr. PECORA. Did your wife pay you in cash or in any other form of payment the $10,533.60 for which you say you sold that stock?

Mr. STANLEY. Yes; she paid me by cash transfer on the books of J. P. Morgan & Co.

Mr. PECORA. Paid you by a cash transfer on the books of J. P. Morgan & Co.?

Mr. STANLEY. Yes.

Mr. PECORA. There was no actual delivery or transfer of cash or a check for that amount, was there?

Mr. STANLEY. Well, it is the same thing as a check, I should say.

Mr. PECORA. Well, there was no actual delivery of either cash or a check, was there?

Mr. STANLEY. Well, my account was credited and her account was charged.

Mr. PECORA. That is the way in which you received payment?

Mr. STANLEY. Yes. I should think——

Mr. PECORA. Merely by a credit to you and a corresponding debit to you on your respective accounts with J. P. Morgan & Co.?

Mr. STANLEY. Correct.

Mr. PECORA. Is that correct?

Mr. STANLEY. Correct.

Mr. PECORA. Did that sale result in any loss to you?

Mr. STANLEY. It did.

Mr. PECORA. Of how much?

Mr. STANLEY. $12,858.05.

Mr. PECORA. Did you make and claim a deduction of that amount of loss in your income-tax return——

Mr. STANLEY. I did.

Mr. PECORA (continuing). For the year 1929?

Mr. STANLEY. I did.

Mr. PECORA. Was it allowed?

Mr. STANLEY. I think so; yes.

Mr. PECORA. Now, how long before the date of the making of the sale had you determined to sell that stock?

Mr. STANLEY. I really could not say, Mr. Pecora. It was sold on November 7.

Mr. PECORA. Did you afterward repurchase this stock, Mr. Stanley?

Mr. STANLEY. No, sir. No; I did not.

Mr. PECORA. Do you know whether or not Mrs. Stanley disposed of that stock at any time subsequent to her purchase of it from you?

Mr. STANLEY. I think so, Mr. Pecora.

Mr. PECORA. What?

Mr. STANLEY. I think so.

Mr. PECORA. But not to you?

Mr. STANLEY. No.

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Mr. PECORA. Do you know whether when she disposed of it subsequently she did so at a profit? Have you any information on that?

Mr. STANLEY. I do not know.

Mr. PECORA. Now, were you a director at any time of the United Corporation?

Mr. STANLEY. I was; yes.

Mr. PECORA. When? In what years?

Mr. STANLEY. In 1930, I think. I don't know the month when I was elected. I still am.

Mr. PECORA. Were you in the year 1929 a director in that corporation?

Mr. STANLEY. No. I think it was 1930, Mr. Pecora, that I was elected.

Mr. PECORA. Were you in the year 1929 a director of any corporations that were either subsidiaries or affiliates of United Corporation, in 1929?

Mr. STANLEY. I was a director—would you mind repeating that question again?

Mr. PECORA. The stenographer will read it.

(Thereupon the last question was read by the reporter, as above recorded.)

Mr. STANLEY. I was a director of the Columbia Gas & Electric Co. in 1929, but I should say that at that time it was not—you could not consider it an affiliate.

Mr. PECORA. Were you also in 1929 a director of the United Gas Improvement Co.?

Mr. STANLEY. I think I became a director of that in 1930.

Mr. PECORA. I think it was 1929.

Mr. STANLEY. Was it? I thought it was 1930.

Mr. PECORA. Were you also in the year 1929 a director of the Niagara Hudson Power Corporation?

Mr. STANLEY. Yes, I was.

Mr. PECORA. Now, did the United Corporation in 1929 have any large holdings of the stock of the United Gas Improvement Co. and of the Niagara Hudson Power Corporation?

Mr. STANLEY. Yes; they did.

Mr. PECORA. Did it also have large holdings of stock of the Columbia Gas & Electric Corporation?

Mr. STANLEY. Well, they had substantial holdings, but nothing like as large as the others.

Mr. PECORA. Did you for your individual account have any extensive transactions in the buying and selling of the stock of Columbia Gas & Electric Corporation and the United Corporation in the year 1929?

Mr. STANLEY. Yes; I had substantial transactions in United Corporation stock. I had owned Columbia Gas & Electric stock for some years, and I have a record here as to whether I bought any more or not during that year. I will have to look it up. I had owned 1,500 shares of Columbia Gas & Electric ever since 1923, or between 1923 and 1925. Do you want me to try to check on any further transactions, Mr. Pecora?

Mr. PECORA. Well, I do not think it is necessary to check it in all that detail, Mr. Stanley. Thank you. Let me ask you this. In con-

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nection with your stock market transactions in the shares of the United Corporation during the year 1929 did you receive profits as the result of such transactions aggregating about $365,000?

Mr. STANLEY. I do not know, Mr. Pecora. Are those figures from my income tax? Whatever profits I had were reported.

Mr. PECORA. Yes; but do you know what the profits were from the sale of securities of the United Corporation that you made that year?

Mr. STANLEY. I will have to add them up.

Mr. PECORA. That is all right.

Mr. STANLEY (after adding up figures. I make it about $368,000.

Mr. PECORA. Yes. Yes; I guess that is about right. Would you say, Mr. Stanley—would it be a fair statement to make that you were enabled to make these profits in your market operations with respect to the stock of United Corporation in part because of knowledge you acquired as a director either of that corporation or of some of the corporations of which it had stock holdings?

Mr. STANLEY. Mr. Pecora, I do not consider that these were what you would ordinarily call market operations. This was an investment of my own funds, and fortunately it turned out to result in a profit.

Mr. PECORA. Well, by the term of market operations I did not mean to indicate what is known ordinarily as an active trading account.

Mr. STANLEY. I see. Yes.

Mr. PECORA. But they were market transactions in which you bought for your own account and sold for your own account whenever it suited your judgment and purpose to do so?

Mr. STANLEY. Yes.

Mr. PECORA. Yes.

Mr. STANLEY. The question was whether the profits that resulted were due to the fact that I was a director? Is that the question?

Mr. PECORA. Yes. Do you think that you were aided by the information gained by you as a director of any of these companies?

Mr. STANLEY. No; I do not.

Mr. PECORA. Well, as a director of any company you would acquire knowledge concerning the financial condition of the company that an ordinary stockholder would not have? Wouldn't you, generally speaking?

Mr. STANLEY. Why, certainly. We would acquire perhaps more intimate knowledge of the corporation than a stockholder. But the corporation published very full statements of its condition every 3 months, and the United Gas Improvement also published a very full statement of its condition I think also every 3 months. At regular periods anyway. It was a matter of common knowledge of what the assets and earnings of those two companies were.

Mr. PECORA. But you had information——

Mr. STANLEY. I mean I think the information as to the earnings was given to the directors and published in the papers the next day—maybe the same day.

Mr. PECORA. You as a director would have current information that would not be detailed on any of these quarterly statements, would you not?

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Mr. STANLEY. I do not think there was much that did not appear on those statements.

Mr. PECORA. But whatever there was you would have it?

Mr. STANLEY. Possibly. I certainly had a more intimate connection with the company than a man who was not a director. I know that.

Mr. PECORA. I see. That is all, Mr. Stanley.

(Thereupon Mr. Stanley retired from the witness stand.)

Senator REYNOLDS. Mr. Chairman, as a member of this committee I want to ask that the senatorial courtesy be extended to Senator Long, who is desirous of directing some several questions to Mr. Lamont, and if you will be good enough to extend that senatorial courtesy to Senator Long and call Mr. Lamont.

The CHAIRMAN. Is Mr. Lamont present?

(The question was raised as to which Mr. Lamont.)

Senator LONG. Mr. Thomas W. Lamont.

Senator REYNOLDS. Mr. Thomas W. Lamont.

Senator LONG. T. W.

The CHAIRMAN. Not the Mr. Lamont who was on the stand?

Mr. PECORA. Thomas W.

The CHAIRMAN. Mr. Lamont, I believe you have not been sworn.

Mr. THOMAS W. LAMONT. No; not as yet.

The CHAIRMAN. You solemnly swear that you will tell the truth, the whole truth, and nothing but the truth regarding the matters now under investigation by the committee. So help you God.

Mr. LAMONT. Yes, sir.

The CHAIRMAN. You may proceed, Senator.

TESTIMONY OF THOMAS W. LAMONT, A MEMBER OF THE FIRM OF J. P. MORGAN & CO.

Senator LONG. Your name is Thomas W. Lamont?

Mr. LAMONT. My name is Thomas W. Lamont.

Senator LONG. You are a partner of J. P. Morgan & Co.?

Mr. LAMONT. I am.

Senator LONG. Mr. Lamont, are you a director of the Crowell Publishing Co., of this country?

Mr. LAMONT. I am.

Senator LONG. What connection has the Crowell Publishing Co. with the Collier's Weekly?

Mr. LAMONT. The Crowell Publishing Co., as I recall it, owns substantially the control of Collier's Weekly.

Senator LONG. Yes. Therefore you are a director of the concern controlling Collier's Weekly?

Mr. LAMONT. Yes.

Senator LONG. You are also one of the feature writers of Collier's Weekly, are you not, Mr. Lamont?

Mr. LAMONT. I could not so designate myself.

Senator LONG. I hand you a paper dated May 6, 1923, a copy of Collier's Weekly, in which you are listed as one of the feature writers in that weekly. If you did not write it, who did?

Mr. LAMONT. Oh, yes; I wrote those articles upon my late partner, Mr. Davison; certainly.

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Senator LONG. Yes. Mr. Lamont, do you remember when you came down here for this hearing? About how long ago it was?

Mr. LAMONT. Might I inquire what was the date we started the hearings here?

Mr. PECORA. The first date was May 23, 1933.

Senator LONG. You came down here about May 23, 1933, for this hearing?

Mr. LAMONT. Yes.

Senator LONG. You are familiar, as the director of the Collier's Weekly, with its conduct of its operations to some extent, I take it?

Mr. LAMONT. I am not. Not as to its editorial conduct whatsoever.

Senator LONG. Not with its news conduct, its business conduct, or its editorials?

Mr. LAMONT. Nothing to do with the editorial conduct of the Collier's Weekly, of which I am not a director.

Senator LONG. You state that you are a director of the concern that owns the corporation that owns the paper? And yet you do not consider that is any connection with the paper?

Mr. LAMONT. I have not said that. I said that I am a director of the Crowell Publishing Co., and that the Crowell Publishing Co. publishes as one of its publications Collier's Weekly.

Senator LONG. All right.

Mr. LAMONT. And to that I added that I know nothing about the editorial conduct of Collier's Weekly, because I have no connection with that end of it.

Senator LONG. I will ask you if you have had any connection with Mr. John C. Martin or Mr. Cyrus K. Curtis?

Mr. LAMONT. Mr. John C. Martin and Mr. Cyrus K. Curtis. I have not of recent years.

Senator LONG. Well, did you have any connection with them?

Mr. LAMONT. I never had any connection with either of those gentlemen. I knew them back in 1924. I saw them on several occasions.

Senator LONG. You are aware of the fact——

Mr. LAMONT. And 1923.

Senator LONG. You are aware of the fact that they are publishers, aren't they, Mr. Curtis and Mr. Martin, of the New York Evening Post and the Saturday Evening Post? You are aware of that, aren't you?

Mr. LAMONT. I am aware that Mr. Curtis, who died the day before yesterday, was the proprietor of the Saturday Evening Post and also of the New York Evening Post, and that Mr. Martin was his son-in-law.

Senator LONG. Was he not also his partner?

Mr. LAMONT. That I do not know.

Senator LONG. And are you not further aware that Mr. Martin is the vice president and treasurer of the Evening Post?

Mr. LAMONT. I am not so aware.

Senator LONG. You have never heard that?

Mr. LAMONT. I may have heard it, but I am not so aware.

Senator LONG. Did you ever have anything to do with the New York Evening Post yourself, directly or indirectly?

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Mr. LAMONT. I did.

Senator LONG. What was that connection?

Mr. LAMONT. In 1918 I bought the stock of the New York Evening Post and sold it, as I recall it, in 1921 or 1922.

Senator LONG. To whom?

Mr. LAMONT. I sold it to a group of gentlemen headed by Edwin F. Gay.

Senator LONG. That finally landed in the hands of Mr. Curtis and Mr. Martin?

Mr. LAMONT. Mr. Curtis bought it, as I recall it, from Mr. Gay a couple of years later. I can't remember the exact date.

Senator LONG. And what year did you say you sold it?

Mr. LAMONT. I sold it to Mr. Gay, as I recall it, in 1921, or it may have been in 1922, I do not recall which.

Senator LONG. Well, you sold it to Mr. Gay about the time that he sold it to Mr. Curtis and Mr. Martin?

Mr. LAMONT. No. As I recall it, he kept it a year or 2 years before he sold it to those gentlemen.

Senator LONG. Now, Mr. Martin, the son-in-law of Mr. Curtis, and the business partner of Mr. Curtis—I have asked you if he is not the same man who is treasurer of the Evening Post, but at least the son-in-law of Mr. Curtis—has also been shown, I believe, here, as being one of what the newspapers call your preferred customers for United stock and for Alleghany stock, has he not?

Mr. LAMONT. If that is true I did not know it.

Senator LONG. You did not know that?

Mr. LAMONT. No; I did not.

Senator LONG. You did not know that he was?

Mr. LAMONT. I did not know that he was and I do not know that he was.

Senator LONG. May I inquire: Has that been offered in the record?

Mr. PECORA. Yes, sir; Senator. There is evidence here that Mr.——

Senator LONG. Yes. For your information, the evidence is in the record here in this hearing that Mr.——

The CHAIRMAN. Mr. Martin.

Senator LONG (continuing). Mr. Martin, the son-in-law of Mr. Curtis, and business partner, I think we can convince you, was on the preferred list for 1,000 shares of Alleghany Stock and 1,000 shares of United stock.

Mr. LAMONT. I see. Very well.

Senator LONG. All right. Then you are bound to have known him pretty well—or somebody in the House of Morgan?

Mr. LAMONT. Well, Senator Long, if he bought that stock it was from Drexel & Co. of Philadelphia.

Senator LONG. Yes, sir.

Mr. LAMONT. It does not imply my knowledge, or it does not imply lack of knowledge, one way or the other. I suppose he was a customer of Drexel & Co.

Senator LONG. Did you ever have any direct or indirect interest in what is known as the "McClure Feature Syndicate?"

Mr. LAMONT. Not that I recall.

Senator LONG. Not at all. Did you have anything to do with any other newspapers?

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Mr. LAMONT. Not that I recall.

Senator LONG. Or magazines?

Mr. LAMONT. Not that I recall.

Senator LONG. Does the Crowell Publishing Co. publish any other magazine but Collier's Weekly?

Mr. LAMONT. Indeed it does.

Senator LONG. What others?

Mr. LAMONT. It publishes the Woman's Home Companion. It publishes the Farm and Fireside, I think. It tells the farmers how to improve the egg-laying qualities of their chickens. It publishes—what else does it publish? American Magazine and Collier's Weekly; I think that is all.

Senator LONG. So that, Mr. Lamont, through the egg paper and the farm paper and the woman's paper and Collier's paper——

Mr. LAMONT (interposing). I haven't control of any of those papers, Senator Long.

Senator LONG. And therefore, through the preferred list you got Mr. Martin, and you got the New York Evening Post, and through this company of which you were a director you got Collier's and these other publications.

Mr. LAMONT. I would not put it in that way; no. You see, Senator Long, my connection with the Crowell Publishing Co. is simply a financial connection.

Senator LONG. It is only benevolence.

Mr. LAMONT. Oh, no; I do not say that at all.

Senator LONG. You do not?

Mr. LAMONT. I do not say that at all. I hold such stock as I hold in that company for the purpose of the dividends that I gain through it, I hope.

Senator LONG. I see. Thank you. [Laughter.]

Mr. LAMONT. What I mean to say is that my advices in connection with the company are wholly financial. I am not consulted upon editorial policies at all, nor upon the policy of the Woman's Home Companion.

Senator LONG. Now, Mr. Lamont, do you read the newspapers?

Mr. LAMONT. Yes; I think so.

Senator LONG. Have you at any time read on the front pages or other pages of newspapers anything having to do with the proceedings of the United States Senate, particularly connected with yourself and the House of Morgan?

Mr. LAMONT. Oh, certainly.

Senator LONG. I see. Did it ever so happen prior to the time or about the time this hearing was started and for some time prior thereto, that you had happened to read anything in regard to a statement made by me upon the floor of the United States Senate to the effect that the Treasury Department of this country ought not to be dominated by a man who came from or was affiliated with the House of Morgan?

Mr. LAMONT. I do not recall whether I read that or not, Senator Long, but it is very possible that I did.

Senator LONG. You have understood that?

Mr. LAMONT. Understood what?

Senator LONG. Well, you say it is very possible that you did.

Mr. LAMONT. But, understood what?

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Senator LONG. Well, I will ask you another question [laughter in the room]: You state that it is very possible you have read my statements made on the floor of the United States Senate to the effect that one connected with the House of Morgan should not be in the Treasury Department of the United States Government. Now, you say it is very possible you have read those statements. Do you remember about how long it would have been, that you remember, if you do remember it, from possibly having read such things before this investigation commenced?

Mr. LAMONT. Well, Senator Long, I should not have recalled it for very long, because such a statement, if ever made, would not have made the slightest impression upon me. [Laughter in the room.]

Senator LONG. I see. Then a statement made by a Member of the United States Senate naturally made no impression on you?

Mr. LAMONT. Any statement made by a Senator of the United States that was founded on anything approaching the facts, would, of course, made a great impression upon me, and I would have great respect for it. But a statement without the slightest foundation in fact would have no effect upon me.

Senator LONG. Well, if the statement I made contained the statement that Mr. Woodin was one of your preferred clients, and as shown by an item in the newspapers was buying Alleghany stock at $20 when it was selling on the market at $34, that would have been founded on fact, and would have naturally had great weight with you, as it should have in order to impress you; isn't that so?

Mr. LAMONT. Well, of course, Senator Long, if you read the testimony of our Mr. George Whitney of last week and the week before, you would have noted that your explanation of the sale of stock to Mr. William H. Woodin did not accord with the facts.

Senator LONG. You state that it did not accord with the facts. Well, I will say that that letter published in the newspapers that I saw, was written to him something to this effect: "We are holding some stock for you at $20 and it is selling above $30." Was that true?

Mr. LAMONT. That letter was true at the time, of course.

Senator LONG. Well, that is all that I know about it. As I say, I never have seen the original letter. All right. Now, as I have said, following that time Collier's has had some articles published by you, hasn't it?

Mr. LAMONT. Collier's Weekly has published six articles that I wrote upon the life of my late friend Henry P. Davison.

Senator LONG. I want to pause, Mr. Chairman, to say that I seem to be provoking mirth from that corner of the room where the Morgan interests are seated. And I want to give them plenty of time to laugh. And then I ask you this question, Mr. Lamont: Do you know of any reason why Collier's Weekly was making the pronouncement that it was going to fight Huey P. Long, and was sending to every Member of Congress a previously printed document that was to appear in Collier's Weekly, supposedly to make a great exposure of Huey P. Long, a Member of the United States Senate, after that speech was made on the floor of the Senate here more than a month before to the effect that the Treasury Department of the United States should be ousted from the House of Morgan?

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Mr. LAMONT. Senator Long, I hadn't the remotest idea that Collier's Weekly was going to make any such publication at all. The notification of it in the papers this morning, or by you, of a speech was the first information of any kind, shape, or nature that I had of that matter.

Senator LONG. Oh, then you read my speech, that I made, in the papers on yesterday? You followed me again, did you? [Laughter in the room.]

Mr. LAMONT. No.

Senator LONG. Then you read the speech that appeared this morning, and as a director of a concern controlling, as you say, the stock of Collier's——

Mr. LAMONT (interposing). Yes; I am a director.

Senator LONG (continuing). Are you in accord personally with the practice of sending to the Members of the United States Senate, and the Members of the House of Representatives, in advance, statements attacking the credibility and the personal and private life of a Member of the United States Senate, beginning back some time, oh, at least a month ago, opposing the confirmation or retention of officers in the United States Government who were under the dominating wing of the House of Morgan, and on their preferred list? Are you in accord with that policy?

Mr. LAMONT. I do not know of any such policy as that of which you speak at all. I can only say to you, Senator Long, that I had no knowledge whatsoever of this particular article, or the manner in which it was to be handled. As a matter of fact, I haven't attended a meeting of the directors of the Crowell Publishing Co. for 10 years. I have kept informed in a general way on their financial operations by merely a visit on the part of their treasurer. As to their editorial policies and plans, I know nothing whatsoever.

Senator LONG. Then you have nothing whatever to do with them except as concerns them financially, and as a feature writer?

Mr. LAMONT. As to the latter, perhaps you would like me to explain how those articles happened to appear or be published in that paper?

Senator LONG. I do not care, but perhaps the committee would like for you to explain it, and if so, you may do so.

Mr. LAMONT. I will. For several years I have been engaged in writing the life of my late partner, Mr. Henry P. Davison. It was got ready for publication last winter. It seems that, without any suggestion on my part, the editors of Collier's Weekly heard of this volume. They got a set of the proofs, and they asked whether they might have the privilege of printing a few instalments from that volume. At first I hesitated, wondering whether it entirely accorded with the dignity of the volume I was endeavoring to bring out. They persuaded me that it did. I accordingly gave my permission. Some weeks thereafter, Mr. Pecora, as counsel to this committee, began his inquiries from us, his conversations with us, leading up to this inquiry, whereupon it occurred to me that possibly the publication of those articles at that time would be misconstrued.

For that reason I communicated with the editors and asked them whether or not there was some way to stop the publication. To my

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regret—and to theirs—it seems that was impossible, for the articles were already in type and on the presses, their advertisements or announcements had been printed, and there was no way to stop it.

Senator LONG. Then it so happened, just by accident, that those articles came out about the time or shortly before this investigation was to take place; and that was a mere coincidence, I am sure.

Mr. LAMONT. It happened exactly in the way I have just told you.

Mr. LONG. It was just a mere coincidence, and it so happened that the article attacking the life of a Member of the United States Senate was an accident, coming a month after the speech was made calling upon something to be done to keep the House of Morgan from having control of the Treasury Department of the United States; that is, those are two unusual accidents. That is almost like your egg paper that hatched out on time, Mr. Davison, or, I mean, Mr. Lamont, excuse me; isn't that so?

Mr. LAMONT. This article that you say attacked you so bitterly was never called to my attention and I never read it.

Senator LONG. Can you explain the peculiar reason at this particular juncture that your paper—and I call it your paper because you own the company and so are the director of the company that owns it—can you explain in your own mind, or give us any information, as to why this paper of yours should have timed the article in such haste that it would reach Members of Congress, would have had printed in advance a special print and forwared it under special cover to every Member of Congress in advance? Can you give us any light upon why that unusual coincidence should have occurred, why that extraordinary diligence to get it before Members of Congress should have taken place?

Mr. LAMONT. Certainly not, because, as I stated before, I have no knowledge of their editorial policy, and had no knowledge whatsoever of this article relating to you. I suggest that you ask the editors of that publication to make their own explanation to you.

Senator LONG. I want to ask you as a director of this concern which owns this other concern, if you are standing by the statements made in that paper, and as a co-feature writer with Mr. Davenport, all simultaneously, if you consider yourself charged with any knowledge of what it is doing?

Mr. LAMONT. As a director of the Crowell Publishing Co., which in turn owns the company which owns Collier's Weekly, I consider that I have no responsibility, near or remote, as to any editorial policy of that publication. And——

Senator LONG (interposing). Now, Mr. Lamont——

Mr. LAMONT (continuing). Senator Long, may I interrupt you for one moment?

Senator LONG. All right.

Mr. LAMONT. You mentioned a while back my temporary ownership of the Evening Post, and I should like now to allude to that. To show you, if you please, the scrupulous regard which I had at that time for my relationship with that publication; I bought that publication on very short notice and because of a sentimental attachment which I had for it. My only brother, who died, had been the managing editor of it, and the property came suddenly into the market for sale, and, as I was told, had to be sold. In order to

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prevent it from falling into the hands of someone that might not preserve its high traditions I stepped forward and bought it. I bought every share of its stock. As soon as I had done that I trusteed every share of stock in the names of Henry S. Pritchett, president of the Carnegie Foundation for the Advancement of Teaching, and Theodore N. Vail, the retired honorable head of the American Telephone & Telegraph Co., and Mr. Ellery Sedgwick, the editor of Atlantic Monthly. I did that in order to divest myself of the ownership of that publication, and to make it perfectly clear, not only in fact but in name, that the proprietors of that publication were absolutely free to pursue whatever editorial policy they cared to pursue, which they did.

Senator LONG. Now, as I understand you, or think I understand you at least, these things are mere matters of coincidence and of accident, so far as you are concerned; that you know nothing about them, and that they have no connection with you here; that your writing the articles that are appearing just before this investigation, in the paper that you indirectly direct——

Mr. LAMONT (interposing). Excuse me, Senator Long, but I do not indirectly direct it.

Senator LONG. Well, all right. Let us put it in this way: Your writing the series of articles in which you bring in, not only Mr. Davison but other members of the House of Morgan, and extol their virtues, occurring just on the eve of this investigation, that is not a matter of publicity or not a matter of propaganda, but it just happens to be a mere coincidence that it comes just around the time of this investigation. I understand from your answers that that is correct; isn't it?

Mr. LAMONT. It is correct, as I have stated before, that I knew nothing whatsoever about their editorial policies; that I did my best as a matter of fact to have those articles postponed, but was unable to do so. But as for the article about you, Senator Long, I knew nothing whatsoever about it, as I stated before. And I never even read the article, and did not know that it had appeared until you mentioned it.

Senator LONG. Had you known of Collier's Weekly going to the extent that it did in getting out this article, and if you did not know it can you give us any reason why, at this particular time, it would have printed those articles in advance and sent them here before the paper could be sent to the market?

Mr. LAMONT. I haven't the remotest idea.

Senator LONG. You have no idea at all?

Mr. LAMONT. No. I do not know the technique of publication, Senator Long, in that way at all.

Senator LONG. You haven't any idea about that?

Mr. LAMONT. None whatsoever.

Senator LONG. And you do not intend to do anything about it, and you do not intend to have anything to do with it?

Mr. LAMONT. Well, there are two questions there, and I will answer the last one first: I have said repeatedly that I had nothing whatsoever to do with it, and had no knowledge of it. And I intend to do nothing about it in pursuance of the policy I have always preserved of not making editorial suggestions.

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Senator LONG. In the meantime you will go side by side as one of the writers in the columns of this paper, which is owned by a concern of which you are a director; that is your intention, is it?

Mr. LAMONT. Well, Senator Long, I will take you into my confidence and say that I have no other articles on my mind to produce at the present time, and that I have no intention whatever of producing any in Collier's Weekly.

Senator LONG. When was the first business transaction that you had with Mr. Martin? That is his name, isn't it?

Mr. LAMONT. The Mr. Martin that you mentioned?

Senator LONG. The son-in-law and partner of Mr. Curtis, now vice president and treasurer of the New York Evening Post that you formerly owned.

Mr. LAMONT. I should think that the first and last business transaction I ever had with Mr. Curtis, and with Mr. Martin, was back there about 1922 or 1923 or 1924, and I don't remember the date, at the time when they bought the property of the New York Evening Post from Mr. Edwin F. Gray and his associates. And I have never had any business transaction with either of them since.

Senator LONG. Now, this Farm and Egg Journal of yours, it has a considerable circulation among farmers, and do you call it a Farm and Egg Journal, or what was the name of it?

Mr. LAMONT. It used to be Farm and Fireside, but it changed its name, and I have forgotten what it is called now.

Senator LONG. Well, I remember a paper called Farm and Fireside.

Mr. LAMONT. Yes, sir.

Senator LONG. These papers from time to time, either from you or somebody else, have carried a considerable complimentary reference to the House of Morgan.

Mr. LAMONT. Have they, indeed? Well, I have never seen that.

Senator LONG. You did not know that?

Mr. LAMONT. No.

Senator LONG. That is strange. Well, I can give you one here:

Mr. T. W. Lamont——

Mr. LAMONT (interposing). Well, are you now speaking of Farm and Fireside?

Senator LONG. Well, it is in that.

Mr. LAMONT. I have never seen any.

Senator LONG. You are sure it never did?

Mr. LAMONT. Well, I do know enough of Farm and Fireside, although I haven't seen a copy of it for several years, to know that they confine themselves to agricultural subjects.

Senator LONG. You are sure that they never printed any other subjects, such as——

Mr. LAMONT (interposing). I am sure they never printed anything about the activities of J. P. Morgan & Co.

Senator LONG. Or of any concern in which J. P. Morgan & Co. is interested?

Mr. LAMONT. No. I cannot imagine their going into finance at all.

Senator LONG. And other concerns, such as the Woman's Home Companion?

Mr. LAMONT. Yes; and the Woman's Home Companion.

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Senator LONG. All right. And through the connection of Mr. Martin, who was on your preferred list and is now vice president and treasurer of the Evening Post that you formerly owned, you reach into the Curtis side of the family, and through your own part of it you reach into the Collier's and Farm and Fireside and Woman's Home Companion, and I should have stated through the Curtises you go to the Ladies Home Journal, and the Philadelphia Public Ledger, and the New York Evening Post, and the Saturday Evening Post, and that is not all of your connection, is it, Mr. Lamont?

Mr. LAMONT. Well, Senator Long, you would not, I am sure, or at least I would not permit myself to characterize the extent of imagination necessary to figure out all these things. I could not imagine them.

Senator LONG. And you cannot imagine how it happened that in these papers, and in these publications, with your connections, that the propaganda and publicity so favorably to you, breaks amidst this investigation; and that the publicity against those who are opposing the preferred clients of yours breaks so mysteriously against them at the same time, together with a special flood of mail editions in advance of publications being able to reach the news stands. That is unexplainable to you, is it?

Mr. LAMONT. Now, Senator Long, just a minute.

You have named half a dozen publications, and I want to say——

Senator LONG (interposing). Wait a minute.

Mr. Chairman, I am asking that the committee reporter read the question back to Mr. Lamont, and that he then explain it. I should like for him to understand the question, and then I should like to get it answered.

The CHAIRMAN. All right. The committee reporter will read the question propounded by Senator Long.

(Which was done.)

Mr. LAMONT. Any comment upon that, Senator Long——

Senator LONG (interposing). Well, now, Mr. Lamont, will you answer yes or no? Is it unexplainable to you?

Mr. LAMONT. I won't answer it yes or no, of course, because it cannot be thus answered by reason of the hypothesis stated in the question, which hypothesis is quite without warrant in fact. Senator Long, you speak as though all these publications had been publishing propaganda, or whatever you may call it, in reference to the house of Morgan. I haven't seen anything whatsoever in any of these publications of that nature, but you have called my attention to my own articles in Collier's Weekly. I have already explained to you, Senator Long, and I call your attention to the fact once again, that because of the fear that they might be misconstrued I tried to get those articles stopped. But with the exception of those articles I am not aware of any article in any of these publications that had to do with J. P. Morgan & Co.

Senator LONG. Now, Mr. Lamont, in order that I may get an answer from you: You know that this article appearing in Collier's Weekly for May 6 contains, among other things, such statements as this:

A vague doubt dispelled. Precisely what it was that first raised a hue and cry about a money trust nobody ever knew.

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Appearing in your article purporting to be on the life of Henry P. Davison.

Mr. LAMONT. Yes.

Senator LONG. And a complimentary reference relative to Mr. J. P. Morgan, such as "Mr. Morgan's statement was 'No, sir; it is because people believe in the man.'" Referring to a man obtaining credit.

Mr. LAMONT. Senator Long, that was the late Mr. Morgan.

Senator LONG. Was that the late Mr. Morgan?

Mr. LAMONT. Yes.

Senator LONG. O.K. Still better. Now, that happens to break, together with similar articles, along about the time of the investigation, and along during the investigation by some mishap, which you say you cannot explain, we have hurriedly sent from this same publication through the mails before they can ever get them into bound volumes of Collier's, this stuff to 435 Congressmen and 96 Members of the Senate, a castigation of a number of pages of a Member of the Senate who has denounced the Treasury for being dominated by the preferred employees of the House of Morgan. And yet you cannot understand, you say, this thing and that it is strictly an accident and something of which you had no notice and that you undertook in no manner to influence any publication.

Mr. LAMONT. Absolutely; I have no knowledge of it, Senator.

Senator LONG. That is all, Mr. Chairman.

The CHAIRMAN. That is all, Mr. Lamont.

Senator COSTIGAN. Mr. Chairman, before the witness leaves the stand, may I ask a question?

The CHAIRMAN. Yes.

Senator COSTIGAN. Mr. Lamont, I have just entered the room and am not familiar with the course of the questions to which you have been responding. I have been impressed, from my knowledge of your practical experience with banking and finance, and your educational equipment, that you have a philosophic mind and are concerned, as the members of this committee are, over the relations between Government and finance and industry. May I ask whether you feel that a large private banking business, such as that which you represent, ought to be free from Governmental supervision?

Mr. LAMONT. Well, Senator Costigan, that, of course——

Senator COSTIGAN. I have, of course, in mind certain legislative remedies which this committee will be called upon to apply.

Mr. LAMONT. Quite. That opens up a large field of endeavor, a large field to cover in the way of an answer, and I hardly feel that there is time to cover a question of the magniture and importance which you put to me. I should say that a very careful inquiry ought to be made, prior to extensive legislation, as to the uses and/or, if you please, abuses of private banking and as to bankers who have given them such standing as they now have, so that the Senate committee would be apprised of the actual facts as to how these things have worked out in practice, and then could determine the bearing of those facts upon future legislation. On that point, after a possible interruption, I should like to enlarge.

Senator LONG. Mr. Chairman, I have found a couple of questions that I should like to ask.

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Senator COSTIGAN. Senator, will you allow the witness to complete his answer?

The CHAIRMAN. Let him answer the question that was put to him.

Mr. LAMONT. This will take some time.

Senator COSTIGAN. Would you prefer at this time that we defer to Senator Long?

Mr. LAMONT. It is entirely agreeable.

Senator LONG. Mr. Lamont, I believe you are interested in the publication of the Harvard Classics, are you not?

Mr. LAMONT. The publication of the Harvard Classics?

Senator LONG. Yes.

Mr. LAMONT. No; I never had that honor.

Senator LONG. You did not know you were interested in that?

Mr. LAMONT. I know I was not interested in it.

Senator LONG. You didn't know that the Collier Co. published the Harvard Classics and the Popular Science Library? You didn't know that, did you?

Mr. LAMONT. If I ever knew it, I had forgotten it.

Senator LONG. Did you know that your company had anything to do with the American Magazine?

Mr. LAMONT. Did I know they are publishers of the American Magazine?

Senator LONG. You had forgotten that, had you not?

Mr. LAMONT. I had. Didn't I mention that?

Senator LONG. No; you didn't.

Mr. LAMONT. Yes. That should have been mentioned.

Senator LONG. It also publishes another magazine called the Country Home.

Mr. LAMONT. That is the new name, I guess, of the Farm and Fireside.

Senator LONG. I see that the Moody's Manual extract that I have here seems to report you as a director of the P. F. Collier Co. for 1932.

Mr. LAMONT. A what?

Senator LONG. A director of the P. F. Collier Co. Maybe they have——

Mr. LAMONT. That is incorrect.

Senator LONG. Does that mean the Crowell Publishing Co.?

Mr. LAMONT. I do not know what the P. F. Collier Co. is. Possibly that is the company that owns Collier's Weekly; but I do not know.

Senator LONG. Also the report that I have here indicates the following:

> That the sole voting power of P. F. Collier lies in the 7 percent cumulative prior preferred stock of which one million five hundred thousand is outstanding, all owned by Crowell Publishing Co. The latter company also owns a majority of 80,000 shares of common stock outstanding.

Is that approximately correct?

Mr. LAMONT. I could not answer that. I am not familiar with the details.

Senator LONG. Do you ever read the American Magazine?

Mr. LAMONT. I look it over every now and then. I am sorry to say that I do not read it regularly.

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Senator LONG. Do you read Collier's?

Mr. LAMONT. Not regularly.

Senator LONG. You would not know any reason why the Collier's Co. would have had Mr. Walter Davenport write a story on myself along about the first part of 1931, I believe it was, giving me credit for having smashed the ring in the State of Louisiana and broken up a corrupt political system, and then to have had the same author in the year 1933, during the Morgan investigation, picture me as having been elected as the result of political corruption? You would not know why such a change should mysteriously have taken place?

Mr. LAMONT. I do not know the first article, nor did I know of the second article. Therefore I can imagine no situation such as you indicate.

Senator LONG. You do not remember reading either one of them?

Mr. LAMONT. No, sir.

Senator LONG. You would not know why this publication of yours—understanding the connection that you have with it—you do not know why this publication of yours would publish an article in 1931, playing up the virtues of Huey P. Long, at least some virtue of having put free school books into the hands of the children, and paved highways, and raised the standards of the university, and then to have had the same author, just after this Morgan investigation started and my criticism was made, write another article entirely opposite to the facts stated in the first? You would not know why that could have occurred?

Mr. LAMONT. I would not have the slightest knowledge. I have no knowledge of the matter, but I would be pretty certain that it had nothing whatsoever to do with this inquiry.

Senator LONG. And if the American Magazine, which published a very favorable, or at least not an entirely unfavorable article about me, should suddenly turn around and, since this thing started, write another about me like the Collier publication, you would not know anything more about that than you do about this?

Mr. LAMONT. I do not think I should consider it any more my business than I consider this.

Senator LONG. All right.

Mr. LAMONT. Is that all, Senator?

Senator LONG. That is all.

The CHAIRMAN. Proceed, Senator Costigan.

Senator LONG. Thank you, gentlemen.

Mr. LAMONT. Senator Costigan, it is hard to answer your question in a brief space of time. I shall not attempt to take up much of your time and that of the committee. It must be obvious from the fact that in the last 13 years something like 12,000 or 15,000 of our banking institutions in this country have folded up; but at the same time all those institutions were regulated and supervised by some governmental authority—it must be manifest that mere supervision and regulation are not the factors that lead to safety. Now, you take our institution. As Mr. Morgan described, in principle, when he first appeared on the stand, that institution as a private banking institution has not been subject to regulation except insofar as the New York State laws forbid it, in effect, to solicit the public for deposits; but during all of that same period that and most other

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private institutions have been free from the losses to depositors that have come to these other institutions.

Senator COSTIGAN. Of course you do not mean to imply that the absence of supervision or regulation insures safety for banks?

Mr. LAMONT. Ah, no; and I am not for one moment, Senator Costigan, suggesting that so far as the financial institutions generally are concerned, there should be any less supervision. I think it is a matter of the nature of it rather than the extent. I am simply pointing out the fact that actually happened.

Now, so far as we are concerned, as I think Mr. Morgan has made or will make clear, we have for these years submitted our statements of condition to the Federal Reserve bank, and are always glad to do it. We are always glad to have our affairs examined by the Federal Reserve bank or any other constituted authority; but we do consider, speaking for ourselves, that the tradition of the house and the financial responsibility of the partners have been such as to lead us to conduct our affairs with unusual care.

Senator COSTIGAN. Without questioning your statement, should not the affairs of Morgan & Co. be submitted to the compulsory supervision of the Federal Government, on general principles?

Mr. LAMONT. Federal or State, do you mean, Senator?

Senator COSTIGAN. The State government or the Federal Government, or both.

Mr. LAMONT. Of course, we are a partnership in New York State, and offhand, unless there were some change in the law, I assume we could hardly come under Federal regulation. But so far as the State is concerned, we are under the regulation to the effect that we are subject to examination periodically to ascertain whether we are conforming to all the laws pertaining to private banks.

Senator COSTIGAN. So far as interstate transactions are concerned, would you be inclined to favor Federal supervision?

Mr. LAMONT. So far, Senator Costigan, as Federal supervision could be exercised through the Federal Reserve banks—the Federal Reserve bank in New York, for example—I should think it would be very welcome.

Senator COSTIGAN. May I ask you something about the concentration of wealth? It is my understanding that at the time of the Pujo investigation, in 1912 and 1913, it was estimated that the house of Morgan, through interlocking directorates and otherwise, and directly, was represented on corporations controlling assets of approximately twenty-two billions of dollars. Are you in position to say about how much of the corporate wealth of America is now touched, if not controlled, by the house of Morgan directly or through interlocking directorates?

Mr. LAMONT. Oh, no, Senator Costigan. I have no figures on anything approaching that, because, with great respect, I may say that that theory has never impressed us as possessing any soundness, any real soundness, at all. The theory of interlocking directorates, for example, is based on the idea that because I am a director of the Smith Co., and John Jones is also a director of the Smith Co., and also of the Brown Co., therefore I control the Brown Co. That has never been our experience.

You take, for example, that graph, or whatever you would call it, that was built up to that enormous extent. It was based upon the

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theory that we absolutely control any banking institution in New York in which any of our members sit on the board of directors. To give you a concrete example, there are three banking institutions in New York on whose boards we sit. We have seven directors out of ninety-six. You can see to what extent we control those institutions.

Senator COSTIGAN. If you or Mr. Morgan happened to be one or two of those members of the board, do you not think your influence would be disproportionate to your number?

Mr. LAMONT. No, Senator Costigan; I really don't and that answer to you is based upon an experience on those boards of over 20 years. We very frequently differ from the other directors. I can recall instances, very recent instances, where we have differed very radically; and the strength of those institutions, sir, is in the independence of their management.

Senator COSTIGAN. Regardless of that answer, may I call your attention to the fact that in a recent book by Mr. Lewis Corey, entitled "The House of Morgan", published, I believe, about a year ago, it was suggested in some detail and, I think, by way of contrast to the figures at the time of the Pujo report, that the house of Morgan, either directly or through interlocking directorates, influences about $74,000,000,000 of corporate wealth. Mr. Corey, I believe, says that the amount is or was approximately one fourth of the corporate assets of the United States. Do you know anything about the accuracy of those figures? And I now refer to "influence," if you prefer the word, as distinguished from "control."

Mr. LAMONT. Senator Costigan, I know nothing whatsoever as to just how those figures are built up; but from my own point of view, very respectfully, I should be unable to adopt even the word "influence," because I know that to have arrived at any figures like those they must have followed the process that I have described; that is to say, some Chicago man sits on a New York board on which we happen to sit. That Chicago man sits on a Chicago board on which a man from Oklahoma may happen to sit. In order to build up that theory, you know, we must control the man out in Oklahoma through that indirection when we do not know anything about the business and have no interest in it.

Senator COSTIGAN. You feel, then, that there is a popular illusion, or perhaps delusion, that the House of Morgan is much more powerful than it is in fact?

Mr. LAMONT. Yes; exactly, Senator. I feel that there is a very strong popular delusion which has been nourished, I do not say, by people insincerely. I have no doubt that a great many people have followed up this idea and have laid out these graphs and have said, "It must be so." But it just isn't so.

I don't want to make a speech here or to attempt it, but if I may point out one or two factors in the situation: We are credited with having what is known as power or influence; and we admit and are glad to admit that we hope that our counsels are of some avail in certain directions in sound finance. What is that derived from? Is it derived from money? Has the Morgan fortune ever been known as one of the great fortunes of this country? No. With all

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due respect to Mr. Morgan and to his father, it has not been so known.

Senator COSTIGAN. Is it by any chance derived from the so-called "preferred lists"?

Mr. LAMONT. No. I do not think it is derived in any measure from the so-called "preferred lists" which we do not call them. And there, again, I hope Mr. Morgan will bring it out later, or any one, in regard to these 3 or 4 or 5 stocks that Mr. Pecora has brought out very carefully, in that sale in the year 1929, or whenever it was. That was about 3 percent, Senator Costigan, of the whole amount of the security business that we did in the last 13 years. Three percent. It was really, if I may say so—and I intend no disrespect, Mr. Counsel— it was very trifling. That is quite aside from the volume of our banking business.

We are some times credited with exerting influence because of our alleged large ownership in banking institutions. We own stock in only two banking institutions in New York City, the Guaranty and the Bankers, as I recall it, and there our holdings of stock are less than one half percent.

We are credited with influence by reason of large holdings in industrial companies. Our holdings in industrial companies are exceedingly small, the reason being that as prudent bankers we do not attempt to load up our portfolios with equity stocks, which we would have to if we attempted to hold large quantities of such stocks.

We are credited with controlling large deposits. That is not accurate. At times our deposits have been large, but on the whole those deposits have had to be utilized in the most cautious manner. They have not been able to be utilized for long-term operations because of the necessity of keeping them liquid. You spoke of that so-called "illusion." It is built up partly on the theory that we have large deposits in banking institutions, distributed all over the country, and that is contrary to the fact.

Senator COSTIGAN. You do concede, however, do you not, that it is not necessary to have 51 percent or more than 50 percent of the common stock of a corporation in order to determine, at least most of the time, the policies of such a corporation?

Mr. LAMONT. Oh, I should be inclined to agree with you, Senator Costigan, that if an organized minority, much less than 51 percent, were available it could probably run the company. But our stock holdings are not only minority; they are fractional.

Senator COSTIGAN. How small an organized minority in practice controls the policies of our major corporations?

Mr. LAMONT. I would not know how to answer that, and I do not think, in the sense you said, it could be done. And in practice it is not done. I mean by that, we have a difficulty in the conduct of our corporations, you know, Senator Costigan, in the fact that the ordinary common-stock holder does not take an interest in the affairs of his company; and it is natural that he should not so long as the company is properly and well managed. So that in the case of a large corporation, if its affairs are well managed the proxies go out, and they are given year by year without any let or hindrance.

Senator COSTIGAN. They ordinarily sustain the governing officers?

Mr. LAMONT. Quite; and that does not mean that there has been a minority organized to do that, at all.

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Senator COSTIGAN. It is this tendency of the ordinary stockholder to support the executive officers which enables the organized minority in the long run to determine policies, is it not?

Mr. LAMONT. Yes; except that when you say that you rather intimate—the idea that there are a great many organized minorities; and that I do not think is correct.

Senator COSTIGAN. Whether organized or not—and I can understand that the minority may not be organized—it may not even be necessary to organize a small group who come together, let us say, at the time of the annual elections or the elections of officers and who are sustained by votes of absent stockholders who send in their proxies—they are in a very favorable position?

Mr. LAMONT. Yes, sir.

Senator COSTIGAN. Reverting again to Mr. Corey's statements, do you know any reason to doubt his suggestion, I think, with respect to 1929—apparently at that time there were 17 partners—as distinguished from your present larger number, who held many directorates. For example, it is asserted that you and your partners held 99 directorships in 72 corporations with combined assets of approximately $20,000,000,000. Do you know any reason to doubt that general statement?

Mr. LAMONT. I should not wish to confirm it without looking it up, Senator Costigan. But it does not sound unreasonable that the boards of the corporations that we sit on have aggregate assets in factories and equipment, and all that sort of thing, to that amount. But as you well know, Mr. Corey and people generally back in 1912 always assumed that all the assets of every manufacturing or transportation corporation in the United States were liquid assets and were able to be mobilized at will all over the country; which of course is an entirely false assumption.

Senator COSTIGAN. Do you know any reason to doubt the further statement of Mr. Corey, that, eliminating duplications, the Morgan combination in 1929 was represented by directorships in corporations with net assets of approximately $74,000,000,000?

Mr. LAMONT. Senator Costigan, I know that you want to be as careful as I do, and I would not want to say anything in affirmation of any figures like that, if you please, without having them checked back.

Senator COSTIGAN. In any event, you do recognize a growing and substantial concentration of wealth in the United States, do you not, Mr. Lamont?

Mr. LAMONT. I really do not think I should have said so, Senator Costigan. I have a general belief, and my experience is, that the shares of our industrial and railroad companies are being distributed further and further among the investors. If you will look at the annual reports of most of our leading companies you will see, I think, that year by year the number of stockholders increases steadily.

Senator COSTIGAN. Does that increase in the number of stockholders indicate a general increase in the wealth of individuals, considering the entire population of the United States?

Mr. LAMONT. I would think it indicated, with the exception of these last very sad and disastrous years, a very steadily growing investment power on the part of the American public, Senator Costigan.

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Senator COSTIGAN. Have you seen such figures as were given out some years ago by the United States Industrial Relations Commission and the Federal Trade Commission on the growing concentration of wealth? My recollection is that in 1915 or 1916, when the United States Industrial Relations Commission issued its report, it found that approximately 59 percent of the wealth of the people of this country was concentrated in the hands of about 2 percent of our people; and the Federal Trade Commission in a report, I think, in 1926, found that approximately 1 percent of the people of this country then owned about 60 percent of the wealth of the country, which indicated a very rapid concentration of wealth in that brief period. Have you given consideration to such facts, alleged or facts?

Mr. LAMONT. No, sir; I have never had occasion to have those particular reports to which you allude, analyzed; but now that you have brought it up, I should be very glad to give my attention to them. Is it not true that in making those compilations they are very apt to consider mobilizable wealth rather than static wealth? Did they include farms in that category?

Senator COSTIGAN. My understanding is they took the entire census of the wealth of the United States for the purposes of their conclusion. It is my further recollection that in 1912, before the Pujo investigating committee, Mr. George F. Baker, whom you doubtless knew, a distinguished financier, testified in regard to the concentration of wealth at that time, in substance, that he thought it had gone far enough, and that if it got into bad hands it would be very bad; and he was asked—I believe the interrogator was Mr. Samuel Untermeyer—whether he saw peril in that, to which he replied in the affirmative; that he was further asked:

> Do you think that that is a comfortable situation for a great country to be in?

To which he answered:

> Not entirely.

Have you any comment to make on the general situation about which I am inquiring? I am not endeavoring to be personal; I am trying to be impersonal, for legislative purposes.

Mr. LAMONT. Quite. I have no comment to make upon Mr. Baker's statement of 20 years ago, although I do not think that at that time, from what he told me afterward, he had in mind the same thing that Mr. Untermeyer had in mind. But that is neither here nor there. I have not projected my mind to questions of measures of change so far as the handling of the corporate resources of this country is concerned, Senator Costigan. Our experience, of course, is that by and large the men in the American business world, the men that we do business with, are trying to do the honest and fair thing by their stockholders and by the American community as a whole. I think that although there have been exceptions, which are deplorable, these corporations of which you speak have been conducted in a manner aimed toward helping the public; but it is quite impossible for me to give offhand, much as I should like to do it for you, sir, a formula as to any change. But now that you have called my attention to those statistics I shall be very glad to have a study made.

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Senator COSTIGAN. Mr. Lamont, do you know Mr. Arthur Reynolds, who was, or is, head of the Continental Illinois Bank & Trust Co., if he is still living?

Mr. LAMONT. I used to have a slight acquaintance with Mr. Reynolds; yes, certainly.

Senator COSTIGAN. I am informed, and it is my recollection that Mr. Reynolds, testifying before the Pujo Committee, in answer to a question of Mr. Untermyer, said this:

I am inclined to think that the concentration—

Meaning, as I understood, the concentration of control of wealth and resources in this country—

that the concentration having gone to the extent it has, does constitute a menace.

Will you be good enough to give the committee the benefit of your judgment as to whether you concur in that view, thinking now of public welfare as paramount over private profit in America?

Mr. LAMONT. Quite. And I think that is the point of view from which every self-respecting American business man does look at it, Senator Costigan.

I should not agree with Mr. Arthur Reynolds, because I fail to see this concentration of which so much has been spoken. It is true that it is not an easy thing to get as directors of corporations men who, by experience and capacity, are equipped to direct the policies of those corporations, and it frequently happens that the same man is drafted over and over again because of his character and capacity as a director, just the same as you will find in the small town, Senator Costigan, such as I was brought up in, or perhaps you, that a few of the leading men of the community are in almost every local industry. You see? And it gives the appearance, therefore, because these men are drafted over and over again, of a concentration, which in fact it does not seem to me exists, and I do not see that the operations of one corporation necessarily impinge at all upon the operations of another corporation. I only know from my experience that these directors are sometimes overburdened with their duties and they do not sit on those boards for the purpose of bringing about a concentration or bringing about a control. They sit on those boards because they are invited to in order to serve the community. And as long as that is their attitude, I do not really see the dangers of this so-called "concentration", and it does not seem to me that it exists.

Senator COSTIGAN. Personally, I am apprehensive about the future of America under the conditions we have been discussing. Am I to infer that you regard those conditions as wholesome?

Mr. LAMONT. I regard the corporate activities of our country as a whole, as on the whole, wholesome. That is to say, I regard the corporate management of our corporations as on the whole good.

Now, when you come to analyze those corporations, you at once have to differentiate. You take the railroad corporations, the transportation industry, and you see right away that the management is controlled by the Government already. The Interstate Commerce Commission states just how the railroads' accounting methods, their rates, everything to do with them, the prices at which they shall issue their securities, shall be conducted.

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In the same way you come to the question of the public utilities, and there the public-utility bodies again are charged with the duty of supervising those companies.

That leaves the ordinary industrial corporations, we will say; and now we have the Federal Trade Commission that is supposed to keep its eye on those.

But I do not see how, even with the lapses that occur now and then, I do not see just any fundamental weakness in the corporate structure of American business corporations.

Senator COSTIGAN. Is that not because you regard present corporate conditions as inevitable rather than desirable?

Mr. LAMONT. Well, no, I don't think so, although I think that the organization of the modern corporation, of course, was inevitable, that it had to be done. We could not carry on the whole business of the country through private funds as the units grow so large. I do not think it is due to that necessarily.

Senator COSTIGAN. If the chairman and counsel will indulge me for just a moment longer, I think I may complete my inquiry.

The CHAIRMAN. Proceed.

Senator COSTIGAN. Mr. Lamont, there is great concern in this country among certain groups of citizens who are interested in the promotion of peace in the world, over corporate activities, over which, as they view the landscape, popular opinion has little influence. May I ask you with what munitions companies your bank is connected?

Mr. LAMONT. With none, so far as I know, sir.

Senator COSTIGAN. Are there no joint boards on which you are represented?

Mr. LAMONT. No. No. The only—I don't know of a munitions company, except the Du Pont and we are not on the Du Pont board.

Senator COSTIGAN. You have some relation to the Du Pont's organization, have you? If so, what?

Mr. LAMONT. No; we have no relationship that I know of to the Du Pont organization, and I say that subject to any correction. Two of my partners are members of the board of the General Motors Co., in which we happen to know that the Du Ponts are largely interested.

Senator COSTIGAN. Do you participate——

(Mr. Lamont conferred with Mr. George Whitney.)

Mr. LAMONT. Mr. Whitney reminds me, which had gone out of my head, that we sold one issue of preferred stock of the Du Pont Co. to enable them to go into the nitrate business. That had gone out of my mind.

Senator COSTIGAN. For the manufacture of T.N.T. and other explosives?

Mr. LAMONT. No, no.

Mr. WHITNEY. The rayon industry.

Senator COSTIGAN. The rayon industry as distinguished from munitions?

Mr. WHITNEY. And the nitrate industry.

Senator COSTIGAN. That is in the chemical field of the Du Pont establishment?

Mr. WHITNEY. Their accessory field; yes, sir.

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Senator COSTIGAN. And that corporate organization does branch out into medicinals on the one hand and explosives on the other?

Mr. WHITNEY. All kinds.

Senator COSTIGAN. And other industrial developments.

May I ask whether the house of Morgan is represented on Vickers, I believe it is called, the English munitions manufacturing concern?

Mr. LAMONT. No, sir. No interest whatsoever, Senator Costigan. No representation on the board at all.

Senator COSTIGAN. Is that true of all foreign munitions plants?

Mr. LAMONT. Yes, sir; so far as I know.

Senator COSTIGAN. Of which you have any knowledge?

Mr. LAMONT. So far as I know, absolutely.

Senator COSTIGAN. In France or in Germany?

Mr. LAMONT. Certainly in France and certainly in Germany.

Senator COSTIGAN. You have no relations with Krupp in Germany?

Mr. LAMONT. Certainly no relations to Krupp in Germany, nor to any industrial company, it so happens.

Senator COSTIGAN. Nor have had in the past?

Mr. LAMONT. Nor have had in the past.

Senator COSTIGAN. You have, however, made various foreign loans to Japan and Manchuria, and certain South American states, have you?

Mr. LAMONT. We have made a good many foreign governmental loans, and I think that you will probably—members of this committee will—be a little tired of hearing us say, as we do each time the subject is brought up, that of all the foreign loans, aggregating upward of $2,000,000,000 that we have issued since the war, there are none in default.

Answering your question directly, Senator Costigan, the only South American loan or loans that we have issued since the war have been those to the Argentine Republic, which, of course, are continuing their course uninterruptedly, and one loan to the Republic of Chile, which was paid off.

Now, you said something about Manchuria. No; we have never made any loan to Manchuria. We have made two loans to the Imperial Japanese Government and one or two to Japanese municipalities, guaranteed by the Japanese Government.

Senator COSTIGAN. I think there is but one other question which I should like to ask. It is my understanding that three directors of your partnership are directors of the United Corporation, and that the United Corporation controls the Commonwealth & Southren, a holding company which has among its subsidiaries Alabama Power, Tennessee Electric, Georgia Power, Mississippi Power, and the Gulf Electric Co. of Florida.

Some recent hearings were held before a committee of the House of Representatives on the possible development by the Government of Muscle Shoals, incidental to which, as you know, electric power is produced. At that hearing various officers of the companies I have named, that is, those subsidiary companies beginning with Alabama Power, under the chairmanship of Mr. Wendell Wilkie, president of the Commonwealth and Southern, appeared to oppose the provision of the Muscle Shoals bill permitting the Government to construct transmission lines.

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Is it a fair inference that the House of Morgan is interested and concerned itself either directly or through subsidiaries in appearances of this sort and in lobbying activities which are commonly known to have been carried on around Washington in opposition to Federal development of Muscle Shoals?

Mr. LAMONT. No, Senator Costigan. I will answer that if I may, in a general sense, and then as to any detailed inquiries I should like to have my partner, Mr. Whitney, if you please, and if it please the chairman, on the stand, because he is familiar with the United Corporation.

But in a general sense we are not interested in any lobbying tactics at Washington. We do not appear here and we do not send representatives over here. If we are invited here from time to time to express our opinions on matters having to do with any particular financial legislation, we come here only and talk with you, sir, and with your colleagues or members of whatever committee it may be.

Senator COSTIGAN. I regret to say that you have not done me the honor of talking to me about any legislation.

Mr. LAMONT. Will you permit me in the future to do so?

Senator COSTIGAN. Is it conceivable, Mr. Lamont, that the officers of these subsidiary companies should urge or oppose legislation in Washington without the approval of J. P. Morgan & Co. or its representatives in the holding company?

Mr. LAMONT. Decidedly, Senator Costigan.

Senator COSTIGAN. Or any of the partnership.

Mr. LAMONT. Without even our knowledge, Senator Costigan, although that may seem unusual to you. But I can assure you that that is the fact, because, as Mr. Whitney must have made clear in his testimony and as we have all tried to say, we do not operate these companies in which we sit on the boards, and those like United where they have an interest. The operations are left to the people in charge, to the officers in charge.

Now, in the case that you speak of, if it appeared to the local power companies in Alabama and Tennessee that this was a bill which was destructive to the interests of the community they would have a right to appear, of course, without our knowledge and undoubtedly with our knowledge.

Senator COSTIGAN. Mr. Whitney, did you start to say something?

Mr. WHITNEY. Senator Costigan, may I explain a minute?

Senator COSTIGAN. Certainly.

Mr. WHITNEY. I have already testified as to Commonwealth & Southern. While the United owns in that corporation something like 5 percent only, United Corporation came into possession of those shares through a merger of a company in which it owned other shares, which incidentally is owned by Commonwealth & Southern, called Allied Power & Light. No member of our firm has ever been a director of Commonwealth & Southern. The management is completely divorced. We know less about it than any of the units within the United picture at all. The very large holding of the Commonwealth & Southern is held by the American Superpower, who is also a shareholder in United, and, as far as United goes, United has no representation on the Commonwealth & Southern board as such, although the president of Commonwealth & Southern is on the United board, Mr. B. C. Cobb. This question you spoke of, United

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has nothing to say, I can assure you, and has nothing to do with Commonwealth & Southern, and we have no control except in an indirect way by a relatively small holding.

Senator COSTIGAN. Mr. Whitney, doubtless what you say is in accordance with the understanding of the facts that you have, but a suspicion persists in the public mind that at any time it desires to do so the dominating influence of the House of Morgan may draw reins on any subsidiary corporation. Have you any comment to make on that?

Mr. WHITNEY. I could not possibly better Mr. Lamont's comment than that we perhaps recognize that as a delusion, but I certainly know that it is not so.

Senator COSTIGAN. Mr. Chairman, before Mr. Lamont proceeds, since Mr. Whitney has spoken, may I ask one question which I intended to ask before this meeting adjourned?

The CHAIRMAN. Proceed, Senator.

Senator COSTIGAN. Mr. Whitney, some days ago I asked you about the appearance of the name of Mr. Edgar Rickard upon the preferred list of the United Corporation. At that time as I understood the testimony it was indicated that those who were on the preferred list were either wealthy and in the investing class or that they were friends of the House of Morgan or its representatives. When questioned about Mr. Rickard—and I was uncertain whether it was Mr. Rickard, because on the list which I first saw the name appeared Richard——

Mr. WHITNEY. Yes.

Senator COSTIGAN. You replied that you did not know why Mr. Rickard was included in the list and gave the impression at least to me that Mr. Rickard was not among the friends who would naturally be selected. In any event, you promised to inquire further and explain to us why Mr. Rickard was given this preferential opportunity and whether it was in any sense because he represented in a business way ex-President Hoover. Will you be good enough to reply to that question now, or later?

Mr. WHITNEY. I am afraid that I cannot comply with your request as fully as I would like to, because we have not been able to get an adequate answer. I can merely assure you that the latter suggestion or reason had nothing to do with it. Of course, Mr. Rickard is a well-to-do man as I understand it, but I have made inquiries through our office and nobody can remember who suggested him particularly or why he was there. It may have come, as I said, certain of the people on the list may have been suggested by others, and we, I think, find that several of the partners knew Mr. Rickard, not well. But I have not been able to find out any reason as far as I can make out why he was on there, but I am sure that the consideration you mentioned, he would certainly qualify as a man well enough to be perfectly able to buy United shares, I think it was 300 shares.

Senator COSTIGAN. Four hundred, as I recall it.

Mr. WHITNEY. But I have not been able to find anybody to qualify as the suggester of Mr. Rickard.

Senator COSTIGAN. Mr. Rickard is a former resident of Denver, and there is considerable interest in Colorado over the selection of his name.

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Mr. WHITNEY. He has done a certain amount of engineering work in certain copper companies that we have been interested in. But we have inquired among the 9 or 10 of us down here and we just have not been able to find anyoue of us that suggested him.

Senator COSTIGAN. Mr. Chairman, I wish to thank the witnesses and the Chairman and counsel for their courtesy in permitting me to interrogate.

The CHAIRMAN. We have been very glad to have you ask questions, Senator. May I ask Mr. Lamont just one question. Assuming that there is a pronounced tendency toward the concentration of wealth in this country getting into the hands of comparatively few people, the real wealth and resources of the country, and assuming that to be a menace, which I think it would be if that existed. If that is a fact, what would be in your judgment a remedy for that sort of thing? What method would you adopt to correct it?

Mr. LAMONT. Senator Fletcher and Mr. Counsel, you put it up to me pretty hard to suggest the sort of legislation to remedy that, to remedy conditions that actually I believe do not exist. I believe that instead of increasing concentration in this country there is increasing scattering of or increase of the spread of wealth among the smaller people all the time.

That process, you recall, started with the Liberty Loan campaigns in the war in 1917, when an entirely new class of investors in the United States sprang up. Under the urgency of the Government and encouragement of the Government that tendency has steadily increased ever since, and while that tendency received a very sad setback in 1929, because the whole country went mad with speculation, not only in securities but in real estate and farm lands and everything else, nevertheless on the whole the tendency I believe is to diffuse wealth rather than concentrate it.

The CHAIRMAN. I see. Then would you suggest any method for increasing this diffusion or adding to it in any way; or do you think it is going on in a natural, ordinary way?

Mr. LAMONT. Over the years I think, Senator Fletcher, it will go on in a natural, ordinary way so far as possible, but of course it had a very rude interruption in the overspeculation of 1928 and 1929. A bull market for this country or any other country is always very much more detrimental to the country and to our citizens and to our wages earners than any bear market.

Senator COSTIGAN. Mr. Chairman, may I ask one other question of Mr. Lamont?

The CHAIRMAN. You certainly may, Senator Costigan.

Senator COSTIGAN. Mr. Lamont, Mr. Justice Brandeis some years ago used an intriguing phrase as the title of a book which he published. It was Other People's Money.

Is it fair to say that such influences as the House of Morgan exercises over the financial and industrial and political life of America, which you apparently consider very slight, which others regard as very substantial, grows out of the use by a private banking house of other people's money in America entrusted to it in one way or other for safe keeping or investment?

Mr. LAMONT. No; Senator Costigan. I should not agree with that thesis, and I did not mean to intimate to you that such influence

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as the firm of J. P. Morgan & Co., extended was necessarily slight. We hope that in sound directions it is much more than slight.

Senator COSTIGAN. It is in fact substantial, isn't it?

Mr. LAMONT. I should think it were substantial, but it does not arise from the use of other people's money.

Senator COSTIGAN. Is it in any directions monopolistic or nearly so?

Mr. LAMONT. I should say decidedly the contrary. On the contrary, we encourage every other house to do as much business as possible. We have frequently refrained from doing possible business in favor of our so-called "competitors." As a matter of fact, I had a long talk with Justice Brandeis at the time he was bringing out that book. We spent an afternoon together on it, and I entirely failed to convince him and he entirely failed to convince me.

Senator COSTIGAN. And, so far as you know, he still remains unconvinced?

Mr. LAMONT. He still remains recalcitrant.

Mr. PECORA. Mr. Lamont, in the course of the very interesting discussion that has been brought here through the medium of your examination by Senator Costigan and Senator Fletcher, reference has been made to and use has been made of the term "concentration of wealth." You have indicated your opinion firmly to be that there is no concentration of wealth. Do you recognize that there is a distinction between concentration of wealth and concentration of the control of wealth?

Mr. LAMONT. Well, yes; there might be. There might be.

Mr. PECORA. And it would be possible to have a concentration of the control of wealth without having a concentration of the wealth itself, would it not?

Mr. LAMONT. Under our present system of corporation management I should agree even to that extent, Mr. Pecora.

Mr. PECORA. Well, Mr. Lamont, it has been testified to here by other witnesses, and I believe you, too, have made some acknowledgement of the fact in the course of your testimony this afternoon, that it was possible for an organized minority—I think that was the term used—to control at least to the extent of management a corporation. That would afford an instance of concentration of control of wealth as distinguished from concentration of wealth itself, wouldn't it?

Mr. LAMONT. Yes; that would, but I don't know any examples. I said in answer, I think, to a question of Senator Costigan's, who asked about the percentage that would constitute control, that an organized minority could control, but as a matter of fact I do not know such instances.

Mr. PECORA. You heard the testimony of Mr. O. P. Van Sweringen in the course of this week's hearings, haven't you?

Mr. LAMONT. Yes; I heard that.

Mr. PECORA. You heard him testify, among other things, that when he and his associates, a group of five or six individuals, bought some 73,000 of the common stock of the Chesapeake & Ohio Railroad Co. from the Huntington interests, that that block of stock represented not more than 15 percent of all of the outstanding stock of the company at that time, but that by their acquisition of it they were enabled to acquire management control of that railroad company. Didn't you hear that testimony of Mr. Van Sweringen?

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Mr. LAMONT. I heard it in general, yes, Mr. Pecora.

Mr. PECORA. Wouldn't that constitute an instance of an organized minority that owned only 15 percent or less of the outstanding capital stock of an important railroad line, where they were enabled through that ownership to acquire management control over the entire line?

Mr. LAMONT. Well, Mr. Pecora, I think I would have to answer that this way: I was not familiar with all of the detail of the circumstances, and Mr. Van Sweringen's testimony, of course, as you point out, speaks for itself. But I had an idea at the time that their advent into Chesapeake & Ohio was welcomed very warmly by the great majority of the stockholders there by reason of their very high repute as managers of successful railways, and that, therefore, while in effect control may have been gained technically through a comparatively small holding, nevertheless, their advent met the approval of a very large majority of the stockholders.

Mr. PECORA. I do not recall any testimony that Mr. Van Sweringen gave along those lines, although it might have been the fact, as you assumed. But it would be much easier to obtain a concentration of control of wealth than it would be to obtain a concentration of wealth itself, wouldn't it?

Mr. LAMONT. To my mind—and I may be benighted in the matter—it seems that the idea of obtaining control of the concentration of wealth is quite fantastic. Our community, Mr. Pecora, is made up of such a large diversity of elements. The farming community is the one single community of the greatest wealth of this country, to start with. Nobody, unless they are going to do it under the farm bill, would have any idea of trying to control this greatest single source of our national wealth, and I think if you take up every phase of industry you would find that it could not be controlled or that it was subject to very strict governmental regulation.

Mr. PECORA. When I was speaking of concentration of wealth or concentration of control of wealth I was speaking of it in the same sense that I understood Senator Costigan and you were, namely, concentration of corporate wealth, which would exclude wealth of the country represented in its agricultural industry.

Mr. LAMONT. I see.

Mr. PECORA. Now, you are a director, are you not, of one or more banks?

Mr. LAMONT. I am a director of the Guaranty Trust Co. of New York, sir.

Mr. PECORA. Are you chairman of the board or of the executive committee of the board?

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

Mr. PECORA. That gives you a power or influence equivalent to that which would be possessed by an executive officer of the bank, would it not?

Mr. LAMONT. No; I would not agree with you as to that, because I do not devote my time to the company at all, except to attend the meetings. I am under no retainer whatsoever. I simply preside at the meetings of the executive committee.

Mr. PECORA. But the powers of the executive committee and the powers that in turn you have as chairman of that executive com-

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mittee of the board are powers that are comparable to those possessed by an executive officer, aren't they?

Mr. LAMONT. Well, of course, you have asked there, I think, two questions. I will answer the last one first. As chairman of the executive committee I have no power whatsoever, Mr. Pecora, beyond that possessed by any other member of that committee. If I happen to be absent, some other member presides. And there is no power that I have there.

Mr. PECORA. Well, the general powers possessed by the members of the executive committee of the board are in the nature of a pretty close supervisory power over the bank, aren't they?

Mr. LAMONT. Supervisory, Mr. Pecora, in the sense——

Mr. PECORA. Of policy? Power of determining policy.

Mr. LAMONT. Policies. That is it.

Mr. PECORA. Yes.

Mr. LAMONT. They would have the final determination.

Mr. PECORA. Yes.

Mr. LAMONT. Subject always to the board of directors.

Mr. PECORA. Yes. Now, from your experience in the field of finance generally, and particularly that portion of it that you have gained as a director of a commercial bank, do you think that the policy of public examination of the bank is a sound public policy?

Mr. LAMONT. Well, you see, Mr. Pecora, a company like the Guaranty Trust Co. of New York is subject—you speak of a public examination.

Mr. PECORA. I mean by that the examination, for instance, that is made of the Guaranty Trust Co. annually or twice a year under the laws of the State of New York by the State superintendent of banks in New York.

Mr. LAMONT. I see. There are three sorts of examinations that they are subject to. One, the one that you have just mentioned, Mr. Pecora, namely, the periodical examinations by the superintendent of banks. Another is the periodic examination by the clearing-house examiners. The third is the periodic examination by a committee of the board of directors which employs high-class public accountants to assist them in their work. So that those particular companies are thrice examined.

Mr. PECORA. But the only one of those three examinations made under the auspices of public authority is the examination made by the State superintendent of banks?

Mr. LAMONT. Right. Except insofar as the State law specifies that these directors shall make periodic examinations.

Mr. PECORA. Shall make periodic examinations and make reports of their examinations to the State superintendent?

Mr. LAMONT. To the State superintendent and to the board of directors.

Mr. PECORA. Yes. Now do you think that the examination of the bank by the State superintendent of banks is in the interests of sound public policy or is based upon a sound public policy?

Mr. LAMONT. Oh, I have never questioned it. I have never questioned it. It does not always work well, as we have had one or two sad instances; but I have never questioned it.

Mr. PECORA. And one of the elements entering into that public policy which you say justifies these provisions of law for an exam-

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ination of a bank by the public authorities is the social relationships, so to speak, of the bank to the community that it serves; would you say that?

Mr. LAMONT. Well, I do not exactly know what you mean by the social relationships.

Mr. PECORA. Well, let us define it a little bit further. The bank is the custodian of moneys intrusted to it by its depositors.

Mr. LAMONT. Quite.

Mr PECORA. Drawn from the ranks of the public. And it makes investments and reinvestments and other dispositions of those moneys.

Mr. LAMONT. Quite.

Mr. PECORA. And the bank is accountable to the depositors for the safe, sound custodianship of those moneys.

Mr. LAMONT. Quite.

Mr. PECORA. And the bank also serves the needs of the community through the extension of credit from these deposit accounts.

Mr. LAMONT. Yes; certainly.

Mr. PECORA. Yes. Now, those are the items which I group together and call clumsily, perhaps, a social relationship which a bank bears to the community which it serves.

Mr. LAMONT. Quite.

Mr. PECORA. Yes. That relationship is one of the factors that makes the principle of the examination of such a bank by public authority a sound one?

Mr. LAMONT. I do not question it.

Mr. PECORA. No. Well, now, are not those same relationships entered into by a private banking firm that accepts for deposit moneys of individuals and corporations and loans those moneys for various purposes?

Mr. LAMONT. Well, you see, Mr. Pecora, as I think both Mr. Morgan and Mr. Whitney tried to make plain in their testimony, the relationship is really a very different one. The relationship is a much more limited one because by law we are not permitted to solicit deposits from the public generally. Therefore to the general public we do not occupy that same relationship of which you speak. We are not permitted under the law to have the custody of trusts and all that sort of thing. As a matter of fact, we do not conduct a commercial bank in the active sense of that term. And for that reason I do not think the relationship is on all fours.

Mr. PECORA. I recognize those differences. But essentially the private banking firm of J. P. Morgan & Co. functions in the same general fashion as does a commercial bank to the extent that it receives and accepts deposits from private individuals and corporations and loans those deposits or investments——

Mr. LAMONT. Yes.

Mr. PECORA (continuing). In one fashion or another.

Mr. LAMONT. Yes.

Mr. PECORA. To that extent at least the functions of your banking firm are similar to those of a commercial bank, isn't that true?

Mr. LAMONT. To that extent.

Mr. PECORA. Now, in view of that, would you say that the private bank so functioning should also be made subject to examination by private authority?

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Mr. LAMONT. Well, of course, as has already been testified, we are already subject to examination by the superintendent of banks to see whether we fall into the category that requires minute examination.

Mr. PECORA. Ah, but that examination is only for the purpose of enabling the State superintendent of banks to determine whether or not you conduct your banking operations in a manner that would subject you to the kind of examination that State banks in New York are amenable to under the law.

Mr. LAMONT. Right.

Mr. PECORA. Those are two entirely different kinds of examinations, aren't they?

Mr. LAMONT. Well, but they lead to the same end, because if they see that we are getting out of our class at all and are really soliciting small accounts from the public, then we fall under their complete authority immediately.

Mr. PECORA. Now, if they lead to the same end, as you say, tell me this: Has there ever been made an examination of the banking business of J. P. Morgan & Co. by the State superintendent of banks of the same kind and nature that you as a director of the Guaranty Trust Co. know he makes of that bank?

Mr. LAMONT. Oh, no. Oh, no.

The CHAIRMAN. Is the Guaranty Trust Co. a member of the Federal Reserve System?

Mr. LAMONT. Yes; the Guaranty Trust Co. is a member of the Federal Reserve System.

Mr. PECORA. Do you think that a law subjecting the bank or the private bank of J. P. Morgan & Co. to the same kind of examination as the State superintendent of banks is required by law to make of State banks in the State of New York would violate a sound principle or public policy?

Mr. LAMONT. No; I do not think it would violate anything of vast importance, Mr. Pecora. As Mr. Morgan testified, I do not think it would be essential, but I do not think it would violate anything that we should object to.

Mr. PECORA. You would not object to that?

Mr. LAMONT. I do not think that we should object to examination by any properly consistuted authority that it was felt wise should conduct an examination.

Mr. PECORA. Well, do you object now, or would you object to an examination of the affairs and the conduct of the banking business of J. P. Morgan & Co. similar to that which is made by the State superintendent of banks in the State of New York of State banks?

Mr. LAMONT. Why, I do not think I should be prepared to answer that question offhand, Mr. Pecora. Because we have just finished, as Mr. Whitney testified, an examination, an outside examination, and as to the question of the law, we do not envisage that at all.

Mr. PECORA. Oh, no; I have not asked you that as a question of law. I have asked you that as a matter of public policy. Would you be opposed to such an examination as a matter of public policy?

Mr. LAMONT. I do not think that we should be opposed to it at all; no. But I do not——

Mr. PECORA. Would you favor it?

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Mr. LAMONT. I do not know until—I should like to have a chance to study the matter, Mr. Pecora.

Mr. PECORA. Well, can we not find reasonably the answer to the question of whether or not you would favor it in the fact that has been admitted here a number of times that the firm of J. P. Morgan & Co. are astute to see to it that the manner in which they conduct their banking business is such as will not render them subject to examination by the State superintendent of banks in New York?

Mr. LAMONT. May I ask the clerk to read that?

(Thereupon the last question was read by the reporter, as above recorded.)

Mr. LAMONT. I am afraid that I do not follow that inquiry fully. It credits us with a degree of astuteness in some directions that I do not quite understand.

Mr. PECORA. Well, let me use another term then, and recast the question.

Mr. LAMONT. Fine.

Mr. PECORA. It is a fact, is it not, that J. P. Morgan & Co. take special care to conduct their banking business, their private banking business, in a manner that will not subject them to the kind of examination at the hands of the State superintendent of banks which that officer is required by law to make of State banks?

Mr. LAMONT. Oh, I would not put it in that way, Mr. Pecora, would you? All we do is to see to it that we do comply very strictly with the law. The reason that we do that is to comply with the law, and not for the purpose of evading examination by the superintendent of banks.

Mr. PECORA. But the law that you are now talking about as one that you see to it that you comply with, is that provision of the law which leaves the State superintendent of banks in New York without power to examine your bank in the same manner that he examines State banks?

Mr. LAMONT. Well, that may be so. We do comply very strictly with the law; there is no doubt about that; and complying so strictly as we do, the bank superintendent does not at present examine us. No doubt about that.

Mr. PECORA. Now, because of that fact, is it fair to say that the firm of J. P. Morgan & Co., or its constituent partners, are not in favor of having their private bank subjected to the kind of examination by the State superintendent of banks in New York that he makes of State banks?

Mr. LAMONT. No; I would not think that that was a fair assumption, Mr. Pecora. I do not know how fully Mr. Morgan would agree with me, or my other partners, but speaking in general, and to get at the root of the matter, I do not think that there would be the slightest objection on the part of anybody in our firm to periodical examination by duly constituted public authorities, and in that category I do include the Federal Reserve bank.

Senator KEAN. Mr. Lamont, when an examination is made of the Guaranty Trust Co. it takes the examiner about 2 weeks, does it not?

Mr. LAMONT. Oh——

Mr. PECORA. More than that.

Mr. LAMONT. I should think more than that.

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Senator KEAN. More than that.

Mr. LAMONT. But it is a very extensive examination, Senator Kean.

Senator KEAN. In other words, you have your whole office upset for 2 weeks; is that right?

Mr. LAMONT. Well, there is a good deal going on during those examinations, certainly.

Senator KEAN. I mean to say that I have gone through this with a good many bank examinations, and they come in and they occupy 2 or 3 weeks making an examination, and in that time why your corps is so upset that you cannot do any business. Is that so?

Mr. PECORA. May I say——

Mr. LAMONT. On that point, Senator Kean, I think it was Mr. Pecora that asked Mr. Whitney a few days ago how many men Price, Waterhouse & Co. put in our shop to check us up, and he looked it up and found that 172 men—was it not—marched in there. So that there is something in what you say.

Senator KEAN. And, in addition to that, you would have to pay for the examination.

Mr. LAMONT. Well, that is all right. We would not mind that.

Senator COSTIGAN. That is the least of your embarrassments.

Mr. PECORA. Is it the thought of Senator Kean, may I ask, with all respect, that because these periodical examinations of commercial banks by public authorities may to a certain extent disrupt or dislocate the personnel of the bank during the time of these examinations, that such examinations are unwise and should be dispensed with?

Senator KEAN. Oh, no.

Mr. PECORA. No.

Senator KEAN. Oh, no. I do not say that at all. But I do say that they are a perfect nuisance when they are in the middle of that examination, if you are very busy in the bank.

Mr. PECORA. Well, you would not advocate that because they are a nuisance in that respect the law requiring it should be repealed?

Senator KEAN. Oh, no; no, no. I do not agree with that at all. I believe in it. But just the same do I believe also in having public accountants come in and examine your firm.

Mr. PECORA. The taking of inventory by a commercial house is frequently a nuisance to the commercial house.

Senator KEAN. Yes.

Mr. PECORA. But it is a wise thing to take inventory in a commercial house.

Senator KEAN. Yes.

Senator COSTIGAN. Senator Kean, you have no objections to such examinations in the case of your own banking house?

Senator KEAN. No.

Mr. LAMONT. Mr. Pecora, may I say——

Senator COSTIGAN. Mr. Pecora, may I ask the witness, if it will not divert your examination, one further question so I may return to the Senate?

Mr. PECORA. Certainly, Senator. It will not divert my examination.

Senator COSTIGAN. Mr. Lamont, I am advised that a Mr. LeBoeuf, who is unknown to me, but who is said to be the counsel, or one of the counsel now with the partnership of J. P. Morgan & Co., recently

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appeared before the Finance Committee in opposition to the levying of a tax on electric energy on the producing companies as distinguished from the consumer. Do you know whether that is true or not, or do you know Mr. LeBoeuf?

Mr. LAMONT. I am acquainted with Mr. LeBoeuf. He is not a counsel of our firm nor ever has been.

Senator COSTIGAN. Then my further inquiry is not important, which was to develop whether he would thus appear here, if he were your counsel, without your knowledge or consent.

Mr. LAMONT. Oh, no; if he were our counsel, no. We did not know that he did appear.

Mr. PECORA. Now, Mr. Lamont, I started to ask you, before Senator Costigan asked leave to intervene, a question to which you made an answer, in which you said something about an examination of the banking business of J. P. Morgan & Co. by the Federal Reserve bank. As a matter of fact, Mr. Lamont, does the Federal Reserve bank make an examination of the banking business of J. P. Morgan & Co. as that term is ordinarily understood?

Mr. LAMONT. No, sir.

Mr. PECORA. No. Were you not in fact in that statement referring to the fact that once a year for the past few years J. P. Morgan & Co. have furnished to the Federal Reserve bank a statement of its financial condition in the form somewhat of a balance sheet?

Mr. LAMONT. No, Mr. Pecora; I was not referring to that. It is true that we do, and that has been our practice for a good many years, as Mr. Morgan testified. But when I made that suggestion I had something distinctly more in mind. And the reason that I threw out the suggestion—and I merely threw it out as to the Federal Reserve bank because it was so competent—was this. It is not a matter of objecting to examination by the superintendent of banks of the State of New York at all. But let me point this out, that the superinendent's office has an enormous task on its hands. It has institutions running up into the thousands that it has to examine. It has a limited corps of workers. And we have a great respect for that department of the State. And yet it sometimes happens that we think that the examinations of institutions in New York conducted by their own responsible directors with the help of an outside audit, and conducted by the clearing-house banks, is, perhaps owing to more time available, more efficacious than that of the superintendent of banks. And yet I am not criticising the superintendent of banks at all. The present encumbent of the office is a very high-minded man of great capacity.

Mr. PECORA. Why, the remedy for that would be by such additional appropriation as would equip the State superintendent of banks with a large enough examining personnel to adequately examine all of the banks, would it not?

Mr. LAMONT. Perhaps. Perhaps. But we have to recall, and we have to recall it with a good deal of regret, that in the last dozen years or so institutional banks all over this country have been steadily examined by the State superintendent of banks—State institutions have—and the result has not been sufficient to keep them out of danger.

Mr. PECORA. Well, take, for instance, the recent case of the Harriman National Bank in the city of New York; the directors of that

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bank presumably made the board examinations of that bank without disclosing what was ascertained by the national-bank examiners sometime last year, according to public reports of the fact.

Mr. LAMONT. But, Mr. Pecora, may I point out that the Harriman National Bank was a national bank and not under the supervision of the State superintendent of banks.

Mr. PECORA. But the kind of examination made by the national bank examiners is similar to that made by the examiners of the State superintendent of banks, is it not?

Mr. LAMONT. I assume that it is similar.

Mr. PECORA. Yes. And according to recent public reports the clearing-house examiners examined the Harriman National Bank without disclosing or bringing to the surface, so far as public report informed me, the facts that were ascertained about in July or June of last year by the national bank examiners. Is that so?

Mr. LAMONT. Well, of that I have no knowledge, Mr. Pecora.

Mr. PECORA. Now, do you approve in principle of interlocking bank directorates?

Mr. LAMONT. Well, I do not know exactly what you mean by the principle of interlocking bank directorates, Mr. Pecora.

Mr. PECORA. Well, let me put it this way. Do you approve in principle of a man being permitted to sit on the board of more than one bank in the same community?

Mr. LAMONT. Well, as I understand it under the law now existent he is permitted to sit on the board of more than one bank only with the consent of the Federal Reserve Board of Washington.

Mr. PECORA. Yes.

Mr. LAMONT. And with that consent I see no harm.

Mr. PECORA. Well, that applies to Federal Reserve banks, does it not? Banks that are members of the Federal Reserve System?

Mr. LAMONT. No; it applies also to others. He could not go on the board of a State institution without that permission if he were on the board of a national bank, or if he were on the board of a State institution he could not go on the board of a national bank without that permission.

Mr. PECORA. Do you think, generally speaking, that it is sound public policy to permit a man to sit on the boards of more than one commercial bank?

Mr. LAMONT. Oh; I do not think that it is unsound, Mr. Pecora. I think it all depends upon the circumstances of every individual case.

Mr. PECORA. Well, now, commercial banks compete with private banks to an extent, do they not?

Mr. LAMONT. To a limited extent. Very limited.

Mr. PECORA. As a partner of J. P. Morgan & Co aren't you relatively in the position of a director of a banking business?

Mr. LAMONT. No. I am one of the managers of it, really.

Mr. PECORA. What is that?

Mr. LAMONT. I am one of the managers of it, really.

Mr. PECORA. Well, as one of the managers you are something equivalent to a director of a bank, aren't you?

Mr. LAMONT. Very well.

Mr. PECORA. And as a member of the board of the Guaranty Trust Co., and particularly as chairman of the executive committee of that

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board, you have a good deal of influence in the determination of the policies of that bank?

Mr. LAMONT. I have the same as any other director, Mr. Pecora, on the general policies.

Mr. PECORA. Won't you admit something more than that, because you are chairman of the executive committee of the board?

Mr. LAMONT. No; I would not venture to attach any additional importance to that. I simply preside at the meetings. I am not even mentioned on the stationery, Mr. Pecora.

Mr. PECORA. Now, it has been testified to here by one or more of your partners that the firm of J. P. Morgan & Co. as a firm or as an entity is a partner of the English banking firm of Morgan, Grenfell & Co.

Mr. LAMONT. Yes.

Mr. PECORA. And as such partner it is liable for the obligations of that English firm, that English banking firm.

Mr. LAMONT. I think so.

Mr. PECORA. And that is also true of the relationship which J. P. Morgan & Co. bears to the French banking firm, Morgan et Compagnie, in Paris.

Mr. LAMONT. That is true; and in the same way that it is liable for their liabilities it also has the advantage of their resources.

Mr. PECORA. Yes. Now have the resources of Morgan, Grenfell & Co. and of Morgan et Compagnie been made available and actually been used by J. P. Morgan & Co. or Drexel & Co.?

Mr. LAMONT. Oh, no; not in that sense.

Mr. PECORA. Well, have they been, in any sense? I was not confining it to any particular sense.

Mr. LAMONT. No; except that in the way in which we regard our whole condition we have a regard for the high liquidity of those two firms as well as for our own.

Mr. PECORA. Is it correct to say that because of this liability which the firm of J. P. Morgan & Co. has for the obligations and indebtedness of Morgan, Grenfell & Co. and Morgan et Compagnie of Paris, that the resources of Morgan & Co. are more or less drawn into the maelstrom, so to speak, of European or international finance?

Mr. LAMONT. Oh, no, Mr. Pecora. They are kept entirely separate. They are performing their own functions. They do their own business. We do ours.

Mr. PECORA. But J. P. Morgan & Co. in New York are liable to the full extent of their resources for the obligations and indebtedness of the English and the French firms?

Mr. LAMONT. Ah, yes; that is technically so. And also, as I say, we know all about their resources.

Mr. MORGAN. Mr. Pecora, may I put in a word there?

Mr. PECORA. Certainly.

Mr. MORGAN. With regard to the partnerships of Morgan, Grenfell & Co. and Morgan et Compagnie, we know our liability if things go wrong, but we regard them as a very great asset. They have got a long history behind them, and they are fine houses, both of them. I do not like them to be treated this way, as sort of semibankrupt concerns that we have got to support.

Mr. PECORA. Have I indicated in any way, Mr. Morgan, by any questions that I have asked, that I regarded them as semibankrupt?

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Mr. MORGAN. Well, you seemed to include them always as a vast liability, and drawn into the maelstrom of European politics, and all that sort of thing. I just wanted to put in a word, that is all.

Mr. PECORA. Well, I do not know what question I have asked or statement I have made here that should have led any one to infer that it was my belief or my purpose to show that Morgan, Grenfell & Co. or Morgan et Compagnie were bankrupt or semibankrupt, or were anything but sound, flourishing concerns.

Mr. MORGAN. They are; I assure you.

Mr. PECORA. I do not know anything about them, sir.

Senator KEAN. Well, Mr. Lamont, it is true, is it not, that in the old days when it was Peabody & Co., in which Mr. J. S. Morgan, however, was a partner, they floated all of the United States bonds during the Civil War in London?

Mr. LAMONT. During the Civil War the United States bonds were floated in London; I think that is true, Senator Kean.

Senator COSTIGAN. Mr. Chairman, may I ask Mr. Lamont one other question? I inquired a moment ago about Mr. LeBoeuf. I have since been told that Mr. LeBoeuf is counsel for the Niagara——

Mr. PECORA. The United Corporation, I think.

Senator COSTIGAN. The Niagara——

The CHAIRMAN. And Hudson.

Mr. PECORA. The Niagara & Hudson, is it?

Mr. WHITNEY. The Niagara-Hudson Power Corporation.

Senator COSTIGAN. That is a subsidiary which is more or less controlled, is it not, by J. P. Morgan & Co.?

Mr. LAMONT. Oh, no; not at all.

Senator COSTIGAN. Is it of the United Corporation?

Mr. WHITNEY. The United Corporation owns shares in the Niagara Hudson Power Corporation. Mr. LeBoeuf is counsel of the Niagara Hudson Power Corporation.

Senator COSTIGAN. My understanding is that Mr. LeBoeuf says that he did not consult any representative of the House of Morgan; but I am simply trying to develop that he represented a subsidiary, if it be, of the United Corporation, about which there has been testimony at this hearing, and that he appeared here.

Mr. WHITNEY. He appeared here as counsel for Mr. Howard. And it is true, I think, Senator Costigan, that at the time of the public hearings, at the time when there was consideration being given by the Senate of the transfer of the present electric power consumption tax from the consumer to the company, that he did appear here in behalf of the Niagara Hudson Power Corporation in opposition to that transfer from the consumer, where it lay under the former law. I have been down here so long that I do not know what has happened to that. I think he did.

Senator COSTIGAN. Do you know whether it is customary for these corporations, holding or otherwise, to interfere with legislation or send representatives here to testify or lobby against legislation?

Mr. WHITNEY. There certainly has never been any practice of lobbying, but I understood that at public hearings companies were permitted and encouraged to appear to present their case.

Senator COSTIGAN. There is no doubt about their right to appear.

Mr. WHITNEY. No question about a lobby, Senator Costigan. Mr. Le Boeuf, who has been counsel for many years for Niagara Hudson

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Power Corporation before it was one of the constituent parts of United, did appear as the official spokesman of the Niagara Hudson Power Corporation at the public hearings. So I have been informed. I never, however, had any conversation with him and do not know anything beyond that, but I understand he did appear.

Senator COSTIGAN. As I stated, there is no doubt about the right of attorneys or others to appear and give testimony in hearings. My inquiry was whether the corporations themselves instruct their counsel or representatives to appear here and testify in favor of or in opposition to proposed Federal legislation pending in Congress?

Mr. WHITNEY. I can only answer your question, Senator Costigan, that as far as you mention the word lobby I am perfectly satisfied and know that these companies do not maintain what might be termed a lobby. In this particular case I know that Mr. Le Boeuf did appear as representative of his company, as counsel for the company, to state their belief as to how the change would affect them.

Senator COSTIGAN. How do you define "lobbying", Mr. Whitney?

Mr. WHITNEY. I do not know. You made the distinction yourself, as appearing in public hearings representing the company.

Senator COSTIGAN. Perhaps I am unduly concerned because Mr. Lamont suggested that he might wish to come to my office some day and confer with me about legislation.

Will you read the last that was said, Mr. Reporter, to Mr. Lamont?

(Thereupon the last portion of the record was read by the reporter, as above recorded.)

Mr. LAMONT. I apologize, Senator Costigan.

Senator COSTIGAN. I was not questioning you, Mr. Lamont, but since I referred to you I thought perhaps you ought to hear the question and reply. Of course the remark was made semihumorously, Mr. Lamont, but I felt that since I had made it and you had not heard it you were entitled to hear it and comment, if you desired to do so.

Mr. LAMONT. If you should be gracious enough to invite me, Senator Costigan, I will come.

Mr. PECORA. Mr. Lamont, a few more questions. Reference was made in the course of the testimony you gave upon your examination by Senator Costigan this afternoon, to these so-called "preferred lists" that have been put in evidence in the course of these hearings. I am not using that term as my own description of them, but merely because that has been the terminology employed generally in connection with these lists in the course of these hearings. But how many other lists of that kind are there?

Mr. LAMONT. Covering what period of time?

Mr. PECORA. At any time since you have been a partner of J. P. Morgan & Co.?

Mr. LAMONT. Well, I made inquiry on that point the other day, Senator PECORA——

Mr. PECORA. Pardon me. I thank you for the compliment.

Mr. LAMONT. Mister Pecora. Perhaps I am anticipating. [Laughter.] I made inquiry on that point the other day because it came up directly. And I was told, according to the recollection of my partners here, that sort of sale of stocks had taken place only twice before then, so far as they could remember. It was an unusual

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matter. As Mr. Whitney, I think, made it clear in his several descriptions of each one of those operations.

Mr. PECORA. Well, what were the other two occasions?

Mr. LAMONT. I don't remember.

Mr. PECORA. What issues did they relate to?

Mr. LAMONT. I don't recall any. It has gone out of my mind. It is easy enough to look them up by going back over the years, I suppose, but I don't remember what they were.

Mr. PECORA. Perhaps Mr. Whitney can tell us very readily.

Senator COSTIGAN. May I ask that the question be repeated?

(The committee reporter read as follows:)

Mr. PECORA. What issues did they relate to?

Senator COSTIGAN. In regard to what?

Mr. PECORA. The other "preferred lists", so-called.

Senator COSTIGAN. Did Mr. Whitney answer?

Mr. PECORA. No, sir.

Mr. WHITNEY. Well, Mr. Pecora, I have to rely on my memory, but my thought, and Mr. Lamont has that idea, too, that the only two I can remember offhand, and we have never looked back, are these: Prior to 1927 there was one somewhat similar in the case of the Marland Oil, and I think that was back in 1924, and there was one similar back in 1920 when we first entered General Motors. We have not made any check at all, and you will recall that Senator Gore asked me about the Marland note, and that was the way I seem to have refreshed my memory on that. I cannot tell you that those are the only two, but those are the only two I remember.

Mr. PECORA. I am relying in putting this question upon my lame recollection of some of the evidence here, but my recollection is that in the letter which was read into the record as having been sent by John J. Raskob to J. P. Morgan & Co. acknowledging the invitation to subscribe to the shares of Alleghany Corporation, and I think it was in 1929, he expressed thanks for the many courtesies. I wondered if the many courtesies he referred to were courtesies of a similar character that he was acknowledging in that letter.

Mr. LAMONT. I wouldn't have thought so at all, Mr. Pecora. And Mr. Whitney testified at that time that in his judgment it was simply a very polite acknowledgment, just as you would thank any man for many courtesies extended, as a form of speech.

Mr. PECORA. The letter was in acknowledgment of that particular courtesy, calling it that, and that consisted of an invitation to him to subscribe for shares of the Alleghany Corporation common stock at $20 a share. Now, what were the many other courtesies that he referred to by that expression in his letter?

Mr. LAMONT. I do not know, Mr. Pecora. You might ask Mr. Raskob if he can recall any. We cannot recall any. Mr. Whitney reminds me that he had done a general business with us for 10 years, and it might have been just a general acknowledgment of courtesies extended throughout his business connection. I don't think he had anything definitely in mind any more than we had.

Mr. PECORA. I am merely inquiring because of the language he used.

Mr. LAMONT. I do not think there is any significance in it at all.

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Mr. PECORA. Is it fair to assume that whenever he acknowledged the extension of a courtesy to him that he did it as the courtesy was extended?

Mr. LAMONT. That he did what?

Mr. PECORA. That whenever he acknowledged the extension of a courtesy to him that he did it as the courtesy was extended and did not wait until many of them had accumulated and then make one acknowledgment of the many courtesies. Which do you think is the more likely.

Mr. LAMONT. Well, that is a little too much for me. That is the first letter from Mr. Raskob I had ever seen. And I never heard of it until it was read down here. Anyway, I do not know whether he has ever written us other letters or not.

Mr. PECORA. Now, I do not know that I have any other questions at this time to ask Mr. Lamont. Yes; Mr. Lamont, may I ask if you are a member, or have been at any time in the past, of the executive committee of the board of directors of the United States Steel Corporation?

Mr. LAMONT. Of the finance committee, Mr. Pecora.

Mr. PECORA. Of the finance committee?

Mr. LAMONT. Yes, sir.

Mr. PECORA. And are you such member now?

Mr. LAMONT. I am a member of the finance committee.

Senator COSTIGAN. How long have you been a member?

Mr. LAMONT. I think, Senator Costigan, for 2 and possibly 3 years.

The CHAIRMAN. That means that you are a director and also a member of the finance committee?

Mr. LAMONT. Yes, sir.

Mr. PECORA. How long have you been a member of that board?

Mr. LAMONT. I became a member of the finance committee I think simultaneously with my joining the board.

The CHAIRMAN. Do you remember what year that was?

Mr. LAMONT. I think it was in 1929, or it may have been 1930. I really do not recall, Senator Fletcher.

Mr. PECORA. Mr. Lamont, have you bought and sold for your own individual account shares of stock listed on the various public exchanges from time to time?

Mr. LAMONT. From time to time I certainly have.

Mr. PECORA. And have you had or did you have during the year 1930 a number of transactions of that kind in the stock of the United States Steel Corporation?

Mr. LAMONT. I haven't the slightest recollection, Mr. Pecora. It is easy enough to look it up.

Mr. PECORA. Have you any recollection of any transaction or any transactions in the stock of the United States Steel Corporation during the year 1930, dealing with 1,786 shares, at a resultant profit of about or over $263,000?

Mr. LAMONT. No; I do not recall that particular transaction.

Mr. PECORA. It might not have been one transaction. It might represent the aggregate of a number of transactions, and do you recall it?

Mr. LAMONT. I do not happen to recall it at all.

Mr. PECORA. Do you recall whether or not during the year 1930 you sold short any shares of United States Steel?

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Mr. LAMONT. I have never sold any shares of United States Steel short, to the best of my knowledge and belief.

Mr. PECORA. What was the general course, if you can tell us, of market values of United States Steel Corporation stock in the year 1930?

Mr. LAMONT. I shouldn't dare to trust my memory on that, Mr. Pecora. And do you mind my saying that if you have a general chart of the course of the stock market undoubtedly United States Steel followed that general course.

Mr. PECORA. Do you recall that there was a very decided downward tendency in market values of United States Steel Corporation stock, particularly between the end of March of 1930 and the end of December of 1930?

Mr. LAMONT. No; I am stupid enough not to recall the trend of the stock market there at all during that particular time. I imagine it was weak, but I don't recall in detail at all, Mr. Pecora.

The CHAIRMAN. Do you know what the price is today of United States Steel, the market quotation?

Mr. LAMONT. No; I do not know what the price is today, but it has gone up with the rest of the market, I think. Mr. Pecora, if you have any data indicating that I sold United States Steel stock short I should like to know, because I haven't the slightest recollection of ever having done that.

Mr. PECORA. The information that I have is that you sold 1,786 shares of United States Steel Corporation stock in 1930 for $333,-491.06, and that those shares cost you $70,296.44, with a resultant profit of $263,194.62. In other words, the information that I have seems to indicate that you both acquired and sold those shares at those figures in the year 1930. Does that statement of my information awaken a recollection in your mind?

Mr. LAMONT. It doesn't awaken any recollection in my mind, except to say again that to my knowledge and belief I have never sold a share of United States Steel stock short, and your recital of the instance wouldn't indicate that I had, would it?

Mr. PECORA. Well, except that I understand there was a very decided slump in market value of United States Steel Corporation stock between the end of March 1930 and the end of that year.

Mr. LAMONT. But, that isn't in agreement with the proposition that I sold the stock short, is it?

Mr. PECORA. Well, I wondered if it would have been possible that transactions involving 1,786 shares, making you a profit of that sum, over $263,000 could have occurred unless it was through the medium of short sales made at the peak of the market and covered near the base of the market that year.

Mr. LAMONT. No. I have never sold anything short at all. That might have been due to some rights accruing that I got very cheaply and after selling at the market, and considering the cost of the stock I got a very large profit. But I don't remember anything about it.

Mr. PECORA. Did you ever indulge in the practice of what is known as "selling against the box"?

Mr. LAMONT. I don't think I have ever done that, either. I may have, but I don't recall any instance there.

Senator COSTIGAN. What is selling against the box, if I may ask?

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Mr. LAMONT. Counsel to the committee is an expert on that, Senator Costigan.

Mr. MORGAN. Counsel to the committee is the only one who knows.

Mr. PECORA. I have become familiar with those things only since I became counsel to the committee. I have never bought or sold a share of stock in my life, except one security which I bought outright and still hold.

Mr. MORGAN. I hope it has gone up.

Mr. PECORA. And it is a rather small amount.

Mr. LAMONT. I suppose I am the very worst man in the world to attempt to explain anything about the technique of stock-market selling, especially short selling. But I have heard the phrase "selling against the box" now and then, and I understand it to mean this: That the holder of a stock decides that he wants to dispose of his shares. His shares may stand in his own name or they may stand in the name of a nominee who is more or less well known. Therefore he doesn't want the stock-exchange brokers, or whoever they are, to know immediately that he has sold all of his stock, necessarily. So that he has a sale executed and borrows the stock temporarily, technically goes short of it, but always has the covering stock in his box. Now, is that a correct explanation, Mr. Whitney?

Mr. WHITNEY. Yes.

Senator COSTIGAN. Thank you.

Mr. PECORA. Mr. Lamont, during the year 1930 did you own or have any beneficial interest in the capital stock of the Simms Petroleum Co.?

Mr. LAMONT. That I do not remember. It is a familiar name, and very likely I did, but I don't remember.

Mr. PECORA. Did you ever sell any shares of Simms Petroleum stock, and to be specific, shares aggregating 4,500 in number, during the year 1930, at a resultant loss to you of $100,517.05?

Mr. LAMONT. I haven't the remotest recollection, Mr. Pecora.

Mr. PECORA. Did you ever sell any shares of stock, either directly or indirectly, of the Simms Petroleum Co. during the year 1930 to your wife?

Mr. LAMONT. I haven't the slightest recollection.

Mr. PECORA. Do you mean by that that you might have done so but you do not now recall it?

Mr. LAMONT. I suppose I might have, but there again I haven't the slightest recollection of ever having done it. But I might have.

Mr. PECORA. Well, have you any recollection at all that you ever owned any Simms Petroleum Co. stock, or had any beneficial interest in any of that security?

Mr. LAMONT. I haven't any definite recollection of that. But the name is familiar, and it is very likely that I might have had some.

Mr. PECORA. Would a transaction involving a sale by you of 4,500 shares of a certain stock, at a resultant loss of over $100,000 to you, be of a character that would escape your present recollection?

Mr. LAMONT. Mr. Pecora, you may not think it possible, but it would probably escape my recollection within a week. I have been very much occupied with firm matters, and the details of my personal affairs I haven't attempted to carry in my head. They are all spread out on the books for the inspection of anybody authorized to look at them.

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Mr. PECORA. Well, it has been testified to here that the deliberations of the partners of J. P. Morgan & Co. in their daily conferences are not made a matter of written record but rest in the memory of the participants. Would you subscribe to that statement?

Mr. LAMONT. Oh, quite; except insofar as any such decisions are translated into any immediate action that appears on the books of the firm.

Mr. PECORA. Well, what you want us to believe is that your recollection or memory is a faulty one?

Mr. LAMONT. Oh, I don't think I have to make any apologies for my memory. I do not think that I have to characterize my memory as a faulty one because I cannot remember some personal transaction 3 years ago, with all that has happened in between, Mr. Pecora.

Mr. PECORA. Well, did you have many transactions in which you sold stock directly to your wife so that one of them might escape your recollection?

Mr. LAMONT. I testified a moment ago that I didn't have any recollection of any sales to my wife.

Mr. PECORA. All right, now——

Senator COSTIGAN (interposing). What I suppose Mr. Pecora was about to inquire was, whether your memory is good as to the action of the board of directors, as to which you keep no minutes, and is bad as to personal transactions a week following such losses or possible losses as he has mentioned.

Mr. LAMONT. Well, Senator Costigan, I think I have the average memory on both of those things. But occupied as I am, and as my partners are, with a great many matters of fairly large importance, I deliberately do not try to carry the details of personal matters in my head. They go out, and if I want to know about them I press a button and they are brought to my attention.

Mr. PECORA. May I suggest the presence of Mr. Keyes, the manager of J. P. Morgan & Co., and that perhaps he might be able to give you some information that would recall some such transaction to your mind as I am questioning you about?

Mr. LAMONT. Certainly. (After consulting Mr. Keyes.) Well, Mr. Keyes points out that, of course, he has not attempted to keep in his mind my own matters, and that we have had no notification, Mr. Pecora, that you wanted to ask about my individual matters. If you had, I should have been delighted to have looked them up.

Mr. PECORA. Well, there will be subsequent hearings, Mr. Lamont, and I will be glad to communicate with you about these matters so that you may give them your attention and consideration.

Mr. LAMONT. If you will make a list of anything you want, I will have it looked up.

Mr. PECORA. All right. Now, Mr. Chairman, I have had prepared by accountants in the employ of the committee a list that might be styled a consolidated list of all of the individuals who were invited to subscribe to securities or shares by J. P. Morgan & Co., and which are represented by the lists that have already been offered in evidence, and which have been referred to as preferred lists or selected lists. And I have had an examination made of publications showing the corporate affiliations of the various persons on this consolidated list, and I have here a statement showing those corporate affiliations of

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the various individuals which I should like to put in evidence and have spread on the record, subject to any correction that may be made or that may be desired to be made.

Mr. DAVIS. Have you a copy of that that we might have?

Mr. PECORA. I will be very glad to furnish you with a copy.

Mr. DAVIS. And there is no objection to the right of us to check the list?

Mr. PECORA. Oh, yes. I have had the accountants make up this list, but it has not been checked by me.

The CHAIRMAN. The list will be received and made a part of the record.

Mr. LAMONT. Are you through with me?

Mr. PECORA. That is all for the present, at least.

(Thereupon, Mr. Lamont was excused for the present.)

(A list composed of 24 pages and entitled "Selected list of J. P. Morgan & Co., to whom stock was sold, name of issue, and number of shares sold", with title of the person, if any, and the directorships, that he may hold, and so forth, is to be made a part of the printed record, and is marked "Committee Exhibit No. 51, June 9, 1933," and will be found only in the chairman's copy of the record, which is to go to the Government Printing Office for printing.)

Mr. PECORA. Mr. Chairman, I have also had prepared by accountants in the employ of the committee, a report made by Mr. Cranston, one of those accountants, purporting to set forth the corporate relationships of the partners of J. P. Morgan & Co. and of Drexel & Co.——

Mr. DAVIS (interposing). What is that list?

Mr. PECORA. I will read the inscription on the first page, which I think will serve to characterize it or to designate it:

The following chart sets out the corporate relationship of J. P. Morgan & Co. and Drexel & Co. established through the partners of the two aforementioned companies serving in the capacity of "director" of the 89 corporations and banks, with the 537 nonpartner directors also served on the board of directors of 2,305 additional companies, the chart setting out the two classes of corporations, etc., under separate major titles.

To further illustrate and establish the relationship and control of the two companies mentioned above over the directors of the entire 626 corporations and banks, the list of nonpartner directors discloses that 82 of same appear on the 4 "selected lists" of J. P. Morgan & Co. and 8 as having secured loans from J. P. Morgan & Co. or Drexel & Co.

The chart further segregates the two major classifications of corporations and banks into group operating classifications setting out where possible the combined resources of each.

And we will be glad, Mr. Davis, to let you have a copy of this.

Mr. DAVIS. I thank you.

Mr. PECORA. I ask that this may be received in evidence and made a part of the record of the hearing.

The CHAIRMAN. It will be admitted in evidence, and printed as a part of the proceedings.

Mr. DAVIS. It is not necessary to note it, but, of course, we will reserve the right to check that list.

Mr. PECORA. Oh, yes. And I might say that these two last exhibits have only recently been completed by the employees of the committee, and I personally haven't had a chance to examine and study them.

The CHAIRMAN. Well, they will be printed in the record, and, of course, will become accessible to everybody.

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(The data setting out the corporate relationship of J. P. Morgan & Co. and Drexel & Co. established through the partners of the two firms, was marked "Committee Exhibit No. 52, June 9, 1933.")

Mr. PECORA. Now, Mr. Chairman, at a prior hearing held about a week or two ago, I asked in behalf of the committee for a break-down of the balance sheet of J. P. Morgan & Co. and of Drexel & Co. We were then informed that an audit of those firms was in progress, and that it was being made by Price, Waterhouse & Co. I do not know whether the audit includes the break-down of the balance sheet; but if it does I should like to have, for the purpose of the record, a copy of such audit insofar as it discloses a break-down of the balance sheet.

Mr. DAVIS. Mr. Chairman, you will remember that we had the audit at one of your executive sessions, and I have it here, with copies for Mr. Pecora and for the record. But I am not just clear as to what Mr. Pecora means by "break-down." Of course, that is a matter of highly indefinite meaning. But I think there is everything here which may be needed, or at least that I can conceive might be needed by this committee.

Mr. PECORA. The break-down that I refer to is, as I understand the term in the field of accountancy, a schedule showing the dates and items shown on the balance sheet. What has been handed to me by Mr. Davis does not purport to be such a statement or report or break-down; is that correct?

Mr. DAVIS. This is accompanied by a certificate of Price, Waterhouse & Co. to this effect—well, have I given you the original or a copy?

Mr. PECORA. It looks like the original.

Mr. DAVIS. Or perhaps they are all signed.

Mr. PECORA. Perhaps they are. I don't know.

Mr. DAVIS. I will read this [reading]:

We have made an examination of the books and accounts of J. P. Morgan & Co. and of Drexel & Co. as at the close of business March 31, 1933. Our examination comprised an inspection of cash and securities on hand, including safe-keeping securities; reconcilement of cash on deposit with banks and bankers with the balances confirmed by the depositaries; confirmation of loans receivable and advances by correspondence with the debtors; confirmation of securities held by others by direct correspondence.

Senator COSTIGAN. Mr. Chairman, I regret that I am unable to hear Mr. Davis.

Mr. DAVIS. Suppose I come forward and begin all over again?

Senator COSTIGAN. Thank you.

Mr. DAVIS. This is a certificate [reading]:

MESSRS. J. P. MORGAN & CO.,
New York.

DEAR SIRS: We have made an examination of the books and accounts of J. P. Morgan & Co. and of Drexel & Co. as at the close of business March 31, 1933. Our examination comprised an inspection of cash and securities on hand, including safe-keeping securities; reconcilement of cash on deposit with banks and bankers, with the balances confirmed by the depositaries; confirmation of loans receivable and advances by correspondence with the debtors; confirmation of securities held by others by direct correspondence; and requests for confirmation from customers in respect of deposit accounts and securities held in safe-keeping for their account.

The firm's investments are stated, in the attached balance sheet, at quoted market values or as regards unlisted securities at estimated fair values as at

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March 31, 1933, and the reserves provided are sufficient, in our judgment, to meet any shrinkage in value at the above date. Full provision has been made for all ascertainable liabilities.

In our opinion, the attached combined balance sheet fairly sets forth the financial position of J. P. Morgan & Co. and Drexel & Co. as at March 31, 1933.

Yours very truly,

PRICE, WATERHOUSE & CO.

Now, it is not just clear to me, with that sheet before you here, what it is Mr. Pecora wants besides that.

Mr. PECORA. What we want is the supporting schedules for the items shown on this statement.

The CHAIRMAN. What do you mean? Do you mean you want the State and municipal bonds listed or loans listed?

Mr. PECORA. We want, in other words, Mr. Chairman, what is commonly referred to as a break-down of the balance sheet, which means the schedules supporting the items shown in the balance sheet.

Mr. DAVIS. If you mean that in the literal sense—and I don't know any sense in which the word "break-down" is commonly used—if you mean that in the literal sense an itemized list of all securities held, and everything from top to bottom, it is a very large task.

Mr. PECORA. We will take these supporting schedules that were made by Price, Waterhouse & Co. In other words, that is something that has already been done. We simply want the——

Mr. DAVIS (interposing). I hope—let me ask, is it your purpose to audit the audit of Price, Waterhouse & Co.?

Mr. PECORA. No, of course not. You know that.

Mr. DAVIS. Well, I should think, with great respect for your accountants—and I have entire respect for them—I doubt very much if there are any more expert than the auditors of Price, Waterhouse & Co. I do not think, Mr. Chairman, that is a reasonable request.

Mr. PECORA. I should think it is in keeping with the purposes of this inquiry as those purposes are set forth in the various resolutions with the power of this committee to conduct such an inquiry. Is there objection to giving us a copy of the report as distinguished from the certificate of Price, Waterhouse & Co.?

Mr. DAVIS. Yes. Why should we?

Mr. PECORA. Because I think that the committee is entitled to it under the resolution.

Mr. DAVIS. I cannot see any purpose which it could possibly serve in connection with this investigation. This is the report of Price, Waterhouse to us. This is the only report we have.

Senator COSTIGAN. Mr. Chairman, will it suffice for the committee's purposes if the committee takes under consideration the suggestion at this point in the record—it is my understanding that the committee is planning on meeting possibly tomorrow morning. I do not know whether that serves Mr. Pecora's immediate purposes, however. If not, I withdraw the suggestion.

The CHAIRMAN. Mr. Davis has tendered the report of Price, Waterhouse & Co. That report will be admitted, filed, and entered in the record. The suggestion is made by Mr. Pecora that there be submitted a break-down of this statement. I am not clear myself exactly what he means by "break-down", but it may be possible that counsel can get together on some sort of itemized statement. I presume he means these matters here should be itemized.

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Mr. PECORA. By break-down, Mr. Chairman, I mean the supporting schedules for the various items shown on the balance sheet, which is included in this so-called report or certificate of Price, Waterhouse & Co. that has just been handed to us.

Mr. DAVIS. Of course, Mr. Chairman, you employ a firm of auditors. They make their own figures and do it in their own way. I am no accountant myself. They have their work sheets. What they got at the end is just what you have got here. That is a certification of your condition based upon their examination. They certify that, in the course of that examination, they have investigated all the details that are necessary to build up their final certificate.

Now, these we have got from Price, Waterhouse & Co. It is that which anybody gets from an accountant, and we gave to Mr. Pecora, it seems to me, everything which can be to this committee of the slightest possible value. Now, to go to work and itemize each one of these things—that is a long job.

Senator KEAN. Mr. Chairman, Senator Costigan made a motion, and I think——

Senator COSTIGAN (interposing). A suggestion.

Senator KEAN. Or suggestion. I think that is a reasonable suggestion, that we take this matter up in the morning and Mr. Pecora have ample time from now on to say just what he wants.

Mr. PECORA. I have said so now, Senator.

Senator KEAN. What?

Mr. PECORA. I have said what I want.

Senator KEAN. No; but you don't want the postage stamps?

Mr. PECORA. I have not said that I want the postage stamps.

Senator KEAN. No; but I mean to say if you break down the thing, how far are you going to break it down? That is the point.

Mr. PECORA. Let me explain in the very language of the accountants that make this certificate or balance sheet.

Senator KEAN. I mean to say, do you want a complete list of the securities of J. P. Morgan? Do you want a list of the indebtedness of all the partners, and everybody else of J. P. Morgan? Is that what you want, or what do you want?

Mr. PECORA. I want the data supporting the various items that are comprehended on this balance sheet statement.

Senator KEAN. How far do you want to go down into that? There are so many postage stamps and so many sheets of paper and so many this and so many that and so many of the other thing.

Mr. PECORA. I will go just as far down or just as far up as Price, Waterhouse & Co. themselves went, no farther. I doubt if they went into postage stamps or sheets of paper.

Senator KEAN. Sure they do.

Mr. PECORA. Well, perhaps they did.

Senator KEAN. Sure they did. They went into so many postage stamps, and so many stamps of the stock exchange, and so many stamps for this, and so many stamps for the foreign exchange, and they went into every detail, and so much dollar bills and so much $10 bills, and so forth. Now, that is the way they——

Mr. PECORA (interposing). Well, I assume if they did they made a report to J. P. Morgan & Co.

Senator KEAN. No; they didn't.

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Mr. DAVIS. No; they would not.

Senator KEAN. They would have their work sheets.

Mr. PECORA. The work sheets might be their report, but I assume, because it is frequently done, that they made their report from their work sheets.

Mr. DAVIS. This is their report, Mr. Pecora, and it is the only report that a certified accountant ever gives to his client.

Mr. PECORA. Oh, well, we have gotten reports far more than that.

The CHAIRMAN. That report has been submitted and will be in the record.

Mr. DAVIS. That has been formally offered.

The CHAIRMAN. It is formally offered and admitted.

Mr. PECORA. Which one do you want to leave with us?

Mr. DAVIS. This one contains an answer to the request for the number of people employed, which is contained in the one in the folder. I should think that you would want that in.

Mr. PECORA. All right.

The CHAIRMAN. That will be entered in the record.

(Certified balance sheet of J. P. Morgan & Co., as of Mar. 31, 1933, being received in evidence, is printed in full at the end of this day's proceedings, designated "Committee Exhibit no. 53."

The CHAIRMAN. And the question of Mr. Pecora and Mr. Davis is a matter left open. Maybe you can get together on some arrangement about that.

Mr. DAVIS. We will take that under consideration.

The CHAIRMAN. Yes. Take that under consideration. It is not here now, so we cannot either admit it or reject it.

Mr. PECORA. Mr. Chairman, I may state that with the exception of the data that I have called for, to which I have referred to as a break-down of the balance sheet or the supporting schedules for the items shown in the balance sheet, this concludes the evidence that I wish to present to the committee at this stage.

But I also want to state that there are many other matters that as counsel for the committee I propose to make an inquiry into, to gather evidence with respect thereto, and which I desire to present to the committee at subsequent hearings in connection with J. P. Morgan & Co. and Drexel & Co.

Senator COSTIGAN. Mr. Chairman, I desire to say that it is my wish to support Mr. Pecora in any and every reasonable request. The statement is made solely for the purpose of the record.

The CHAIRMAN. We understand that.

Now, we are about to adjourn, and Mr. Morgan desires to make a statement before we adjourn this session, because he may not come back for some days yet.

TESTIMONY OF J. P. MORGAN, HEAD OF J. P. MORGAN & CO., NEW YORK CITY—Resumed

Mr. MORGAN. Mr. Chairman, it is a little bit long, and it is very late, and I think if you will allow me, I will just say that as the hearing draws to a close we desire to thank the committee for their patience and courtesy and to make a brief statement upon certain points we believe are not yet fully clear, and then I will turn this in and enter it on the record.

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And further than that, our Mr. Leffingwell has drawn up a little essay on the question of inflation and banking cures, and that sort of thing, which I should like, on the firm's behalf, to offer to the committee for their information. It is quite interesting, and it has a lot of wisdom in it. I would like to have that put on the record, if we may.

The CHAIRMAN. We will be glad to have that.

Mr. MORGAN. Copies of both of those are available for the press.

The CHAIRMAN. The statement by Mr. Morgan and the statement by Mr. Leffingwell will be entered on the record.

(The statement submitted by Mr. Morgan is as follows:)

STATEMENT TO THE SENATE COMMITTEE BY J. P. MORGAN & CO.

As the hearing draws to a close we desire to thank the committee for their patience and courtesy and to make a brief statement upon certain points which, we believe, are not yet fully clear. The first point relates to the matter of income taxes.

Income taxes.—The precise facts as to our payment of income taxes seems to have been misunderstood by a portion of the community. Since 1917 the partners of our firm have, as stated, paid upwards of $51,000,000 in income taxes. In the three years 1927, 1928, and 1929 our income-tax payments exceeded $22,000,000. In the year 1929 alone they were approximately $11,000,000.

In all these cases a substantial part of the taxes paid by us were due to net capital gains which, under the law, had to be added for income tax purposes to our regular income. In the years 1930, 1931, and 1932 our capital losses (deductible under the law, just as previously the profits had been added) were such as more than to wipe out our income, and leave nothing taxable. Income taxes are after all payable upon income and not upon deficits.

We trust these facts will now be clearly understood, because at first blush there can be no doubt that many persons, failing to realize that during prosperous times we had paid heavy taxes upon our profits, felt it to be unjust that during the last 3 years we have paid no income taxes; again failing to realize that our losses had more than wiped out our taxable income.

The second point upon which we wish to comment relates to our conduct of certain features of our security business.

Investment securities.—As investment bankers we are merchants of securities, and our normal business in that field is the bond business. In the postwar period we have issued upwards of $6,000,000,000 of bonds, together with a very few preferred stocks. A third of the bonds have already been paid off and retired. Little more than 2 percent thereof are in default, and none of our foreign bond issues has defaulted in payment of interest or principal. We issued no loans for central European countries except two important international reconstruction loans each for Germany and Austria. The only outstanding South American loans we issued were those for the Argentine Republic. Of our domestic issues, the greatest single category consists of bonds of American railrad companies issued with the approval of the Interstate Commerce Commission within price limits determined by it.

Such investment securities we offer to the general public over our name. Here we receive a limited compensation averaging approximately one half of 1 percent, an average which applies to our foreign as well as our domestic loans. We have no salesmen and for the underwriting and distribution of investment securities, we enlist the cooperation of banks and dealers.

Financing of common stocks. The whole amount of the common stock financing done by us during the postwar period does not exceed three and one third percent of the total amount of investment securities we issued in the period. Despite, however, the small proportion of our securities business which this type of financing represents, it would appear that these few transactions have largely occupied the attention of these hearings.

The provision of new equity capital, or the distribution of large holdings of common stock is a useful and necessary operation. Specifically, we believe in the future of the Alleghany Corporation, as a step toward ultimate consolidation of valuable and coherent railroad properties under the policy laid

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down in the Transportation Act of 1920. We believed in the United Corporation, as offering a composite and diversified minority investment in homogeneous and noncompetitive public utility properties. We believed in Standard Brands, as furishing a logical grouping of products salable by daily delivery. We believed in Johns-Manville, as an admirable and tested business, long, well and favorably known to us.

However, as merchants of investment securities of established character, we do not consider that it is sound practice for us to offer common stock over our own name to the general public through banks and dealers. Consequently, in the few equity operations which we undertook, we invited to join us, not primarily institutions and dealers who distribute investment securities to the general public, but individuals capable of sharing and understanding the risk; and with one minor exception we asked them to join us in the stock purchase at the same price that we paid. It would not have been prudent banking to keep all these common stocks in our own portfolio. We wished, therefore, to sell part of them as a business man's investment to those having knowledge of business and general conditions, who would understand exactly what they were buying and who, as joint venturers, would share with ourselves the profit and the risk of the stock purchase.

Prices.—With one minor exception, we offered these stocks at the same prices at which we had purchased them, that is to say, at prices which were considered fair by the corporations and individuals from whom we purchased. We, too, considered these prices fair. Speculative market quotations did not enter into our calculations. As a matter of fact in most instances there was no stock in existence and no market for the stock at the time the sales price was determined. The narrow and speculative market existing in one or two cases formed no basis for a fair valuation. In the Alleghany case much has been made at this hearing of the "when issued" market, which sprang up after we had fixed the price at which we would sell the stock, but about the time a few of the offers were made. As a matter of fact at the same time 500,000 shares of the stock were offered publicly at $24 a share, a far better indication of the market value of the stock than the narrow and speculative "when issued" market.

No responsible banking house would change the issue price from day to day to reflect "when issued" market quotations, or would advance the price against a subscriber because of some slight delay in his receipt of the offer of sale. Every successful issuer, from the Government of the United States down, has the experience of seeing its issues quoted above the issue price while the offering is still open, and certainly before the date for payment by subscribers is reached. It is not the practice of responsible bankers and dealers in pricing a new equity issue to charge all the traffic will bear—it would be inexcusable to do so in an inflation market such as prevailed in 1929—but rather to name a fair price (based on actual and expected earnings, not speculative market quotations), and stick to that price with all those invited to subscribe to the original issue, whether public or private.

It is true that the failure of the then Federal Reserve Board to take the necessary measures to control the inflation in time, encouraged the speculative frenzy, which carried the market quotations out of bounds, so that they were too high in 1929 and too low later. Only ignorance of good business practice could explain the suggestion that, in naming what we thought a fair issue price and sticking to it in spite of a frenzied "when issued" quotation, we were doing anything but adhering to the only possible rule of fair business dealing.

Customers' lists.—Our lists of private subscribers were naturally composed of men of affairs and position; but they were selected because of established business and personal relations, and not because of any actual or potential political relations. We have never had occasion to ask for favors from legislators or persons in public office, nor have we ever done so. We conduct our business through no means or measures of "influence" or favor. We rely upon such confidence as our clients and the business community generally may repose in us.

The same is true of our loans to personal clients. It has never before been considered wrong to borrow money or to lend it. Our loans were to men of high standing against ample security. The unprecedented depreciation in securities which has since occurred has caused certain of the borrowers heavy losses, against which we have created ample reserves.

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It seems extraordinary that, after 70 years devoted to building up a goodwill which has made it true that our clients are men of affairs and of leadership, we should be taken to task for perfectly sound, honorable, and straightforward business transactions with them, simply because chance has brought some of them into high office and mischance has impaired the fortunes of others.

It has never during the firms existence been thought discreditable to be a customer of J. P. Morgan & Co., whether as a depositor, borrower, or subscriber. We protested vigorously against the breach of what we have always assumed to be the confidential relationship of the banker and his customer. The result of this action has been an unwarranted criticism upon our customers. This unjust criticism we feel deeply.

Banking: Our banking business is our principal business. As bankers our first duty is to protect our depositors, and we do so by keeping ample reserves in cash and in United States Government securities. We do not mingle investment business and our banking business, but keep our deposits separate and fully protected by strictly banking assets.

We have always disapproved of the practice of making call loans "for others", and with the exception of a few isolated cases have not practiced it.

We have not approved the practice of indiscriminate competition for deposits. In 1918 the New York Clearing House banks and ourselves took the lead in suggesting that deposit rates be adjusted in a definite relation to the Federal Reserve bank rate. This agreement among the clearing house banks put an end to the wasteful and dangerous practice of buying deposits in competition with one another, and no doubt contributed to the liquidity and soundness of the general banking situation in New York City in these trying times.

Statements of condition.—We have been in the habit of furnishing a statement to the Federal Reserve Bank of New York since soon after the Federal Reserve System was organized, and are ready to be examined by the Federal Reserve bank at any time and as often as may be desired. We do not approve private bankers publishing their statements, because such publication tends to advertisement and solicitation of deposits from the general public. But the question does not greatly interest us one way or another. Our business comes to us because our depositors, relying upon a banking experience covering more than three generations, put more faith in our banking reputation, our resources, and our methods of doing business than they put in the work of bank examiners, or even in the not always illuminating published statements of institutions.

(The essay submitted by Mr. Morgan will be found printed in full at the end of this day's proceedings.)

Mr. DAVIS. May I ask, Mr. Chairman, just what the program of the committee is as to further hearing?

The CHAIRMAN. I am just about to say that the committee has not determined whether the hearings will be continued during the summer or not or with respect to the extent of its investigation. We will take that question up at the first opportunity, probably tomorrow. We may resume the hearings again in a week or 10 days, but may have the hearings go over until the fall. We will decide that.

For the present we will adjourn subject to the call of the chairman. The subcommittee will decide about the future procedure, probably tomorrow. So we will have no hearing tomorrow and will not have a hearing until one is called, maybe in the next week or 10 days, and it may be longer; or the committee may decide to adjourn the hearings until the fall.

Mr. DAVIS. I understand—I gather from the press; I have no direct information—that if you do resume in a week or 10 days it will be with somebody else and we can make our plans accordingly.

Mr. PECORA. In all probability that will be so, so far as I am concerned.

Mr. DAVIS. I have some personal engagements to attend to.

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Mr. WHITNEY. So far as we are concerned we would like to be excused for a while.

The CHAIRMAN. We would like to accommodate you all, but we are sort of indefinite ourselves. We do not know just when Congress is going to adjourn, but it looks like probably very shortly, and then we do not know what the arrangements of the committee members may be. We may not be able to keep a quorum here, and we want to go on with this as rapidly as we can and conclude it, but it may be we will save time by just adjourning the further hearings until fall. The next hearing, I believe, will not involve you, so far as I know.

Senator COSTIGAN. Are the witnesses still under subpena, Mr. Chairman?

The CHAIRMAN. Yes; they are subject to call.

Mr. DAVIS. As far as that is concerned, Senator, it does not matter whether we are or not. We are quite ready to come when the committee calls.

The CHAIRMAN. We will keep Mr. Pecora advised and we will let you know. So we will stand adjourned.

NEW YORK, *June 15, 1933.*

Hon. DUNCAN U. FLETCHER,
Chairman Committee on Banking and Currency,
United States Senate, Washington, D.C.

DEAR SENATOR FLETCHER: In going over the record of the hearing before the Committee on Banking and Currency on Friday, June 9, 1933, I note there is some confusion in regard to the list of shares of common stock of Johns-Manville Corporation sold by J. P. Morgan & Co. The record shows that there was introduced as committee exhibit no. 50 a list showing the sale of 343,450 shares at $47.50 a share and the sale of 56,550 shares at $57.50 a share. Later Mr. George Whitney read into the record a list of 100,000 shares sold at $47.50 a share.

As a matter of fact, the list of 100,000 shares which was read into the record is not in addition to but is already included in the list of 343,450 shares which is part of committee exhibit no. 50. I understand that there were submitted to Mr. Pecora three lists covering the sale of the entire 400,000 shares of Johns-Manville Corporation common stock—one list of 243,450 shares at $47.50 a share, one list of 100,000 shares at $47.50 a share, and one list of 56,550 shares at $57.50 a share. Apparently in submitting these lists to the committee as committee exhibit no. 50, the first and second lists which contained certain duplications were consolidated. Mr. Whitney in his testimony did not realize this and thought that the second list had been omitted. Consequently, he read the second list into the record.

I am hopeful that the record may be clarified on this point, and I am therefore writing you this letter and am attaching copies of all three lists as submitted by my clients. I am also sending a duplicate of this letter to Mr. Pecora.

I should appreciate it if this letter and the attached lists could be printed as an appendix to the record of the hearing on Friday, June 9, 1933.

Very truly yours,

JOHN W. DAVIS.

Johns-Manville Corporation common stock at $47.50

	Shares
Alice M. Anderson	7,000
F. D. Bartow	7,000
Beech Corporation	18,500
Thomas Cochran	18,200
Henry P. Davison	1,000
Drexel & Co	4,000
Martin Egan	500
Frederic Ewing	200

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Johns-Manville Corporation common stock at $47.50—Continued

	Shares
Maria T. Ewing	2,400
William Ewing	2,065
William Ewing, trustee for Grace V. Ewing	600
William Ewing, trustee for Jane Ewing	600
William Ewing, trustee for Jessie V. Ewing	600
William Ewing, trustee for William Ewing, Jr	500
Thomas S. Gates	6,000
Perry E. Hall	500
Thomas S. Lamont	1,000
H. G. Lloyd	6,000
R. C. Leffingwell	11,500
Theodore F. Merseles	35,000
Morgan & Cie	10,000
Morgan Grenfell & Co	15,000
Henry S. Morgan	1,000
J. P. Morgan	30,000
J. S. Morgan, Jr	7,000
Anne S. Morrow	1,500
Constance C. Morrow et al	3,000
Dwight W. Morrow	6,000
Dwight W. Morrow account of others	1,100
Dwight W. Morrow account of J. J. Morrow	700
Dwight W. Morrow account of J. J. Pershing	700
Elizabeth C. Morrow	4,000
Elisabeth R. Morrow	1,500
Vernon Munroe	250
Jane Taylor Price	35
Charles Steele	13,500
E. T. Stotesbury	10,000
Francis T. Ward	500
George Whitney	14,500
Total	243,450

J. P. Morgan	25,500
E. T. Stotesbury	10,500
Charles Steele	7,000
T. W. Lamont	10,000
H. G. Lloyd	5,000
D. W. Morrow	8,000
Thomas Cochran	8,000
J. S. Morgan	4,000
George Whitney	6,000
Thomas S. Gates	4,000
R. C. Leffingwell	6,000
F. D. Bartow	1,500
A. M. Anderson	1,500
William Ewing	1,500
Henry S. Morgan	500
Thomas S. Lamont	500
Henry P. Davison	500
Total	100,000

Johns-Manville Corporation common stock at $57.50

Walter H. Aldridge	1,000
George F. Baker, Jr	5,000
Sosthenes Behn	1,000
Stephen Birch	1,000
Cornelius N. Bliss	1,000
Edward F. Carry	1,000
Arthur O. Choate	1,500
Patrick E. Crowley	500

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Johns-Manville Corporation common stock at $57.50—Continued

	Shares
Norman H. Davis	250
Drexel & Co	500
Giovanni Fummi	500
Philip A. S. Franklin	500
Harvey D. Gibson	1,500
Walter S. Gifford	500
Reginald Halladay	1,200
Albert H. Harris	500
Charles Hayden	1,000
Charles D. Hilles	500
Cornelius F. Kelley	1,000
Lamont, Corliss & Co	300
John McHugh	250
Donald R. McLennan	1,000
Charles E. Mitchell	2,500
George K. Morrow	1,000
John E. Oldham	500
Daniel E. Pomeroy	250
William C. Potter	2,500
John W. Prentiss	500
Seward Prosser	2,500
John J. Raskob	1,000
Samuel W. Reyburn	500
W. G. Ross	1,000
John D. Ryan	1,000
Franz Schneider, Jr	250
Alfred P. Sloan, Jr	1,000
John A. Stephens, Jr	300
Silas H. Strawn	1,000
Gerard Swope	1,000
Myron C. Taylor	5,000
Walter C. Teagle	1,000
William Boyce Thompson	4,000
Allen Wardwell	1,500
J. duPratt White	1,000
Albert H. Wiggin	2,000
Sir Frederick Williams-Taylor	250
Gerrard B. Winston	500
William H. Woodin	1,000
Clarence M. Wooley	1,000
Owen D. Young	1,000
	56,550

(Whereupon, at 6:20 p.m., the committee adjourned, subject to the call of the chairman.)

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Committee Exhibit No. 51, June 9, 1933

"Selected list" of J. P. Morgan & Co. to whom stock was sold

Unit: 1 share common, 1 class A warrant, 1 class C warrant

		Name of issue and number of shares sold					
Sale price		$20	$47.50	$57.50	$32	$75	$25.
Market price		$31-$35	$79	$79	$36½-$37 (July 6, 1929).	$93	27 common. 9⅛ class A warrant. No quote class C.
Date		Feb. 15, 1929	July 1, 1927	July 1, 1927	June 24, 1929	Jan. 21, 1929	Aug. 19, 1929.
Name	Title, directorships, etc.	Allegheny	Johns-Manville	Johns-Manville	Standard Brands	United Corporation units	Niagara Hudson units
Charles Francis Adams	Ex-Secretary of Navy	1,000					
Helen B. Achiles						300	
Alamance Club					1,000		
W. H. Aldridge	Director Johns-Manville Corporation, Texas Gulf & Sulphur Co., New York Trust Co., International Telephone & Telegraph Co., United States Guarantee Co.	1,000		1,000	1,000	1,000	
George G. Allen	Director Aluminum Co. of America, Guaranty Trust Co., Texas Co.	500					
Alta Corporation					2,000		
Alice M. Anderson			8,500		10,000		
Arthur M. Anderson	Partner J. P. Morgan & Co.; director International Telephone & Telegraph and Postal Telegraph & Cable.	11,500				2,000	
Joseph Andrews						100	
Montgomery B. Angell		100					
Argonaut Securities Corporation					1,000		
Mrs. Irma D. Ashmead						50	
Asiel & Co	Brokers				2,000		
I. C. R. Atkin						100	
Atlantic-Merill Oldham Corporation						1,000	
J. Howland Auchincloss	Attorney-banker	300				300	
Chellis A. Austin		500			1,000	500	
Isabel Valle Austin						200	
Gaspar G. Bacon and Geo. Whitney	Trustees, deed dated Nov. 13, 1914					500	
Mrs. Hope N. Bacon						1,000	

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"Selected list" of J. P. Morgan & Co. to whom stock was sold—Continued

		Name of issue and number of shares sold					
Sale price		$20	$47.50	$57.50	$32	$75	$25.
Market price		$31-$35	$79	$79	$36½-37 (July 6, 1929).	$93	27 common. 9⅛ class A warrant. No quote class C.
Date		Feb. 15, 1929	July 1, 1927	July 1, 1927	June 24, 1929	Jan. 21, 1929	Aug. 19, 1929.
Name	Title, directorships, etc.	Alleghany	Johns-Manville	Johns-Manville	Standard Brands	United Corporation units	Niagara Hudson units
Priscilla T. Bacon, Geo. Whitney and Gaspar G. Bacon.	Trustees					500	
George F. Baker	Director First National Bank, First Security Co. of N. Y., New York Central R.R.	10,000				5,000	
George F. Baker, Jr	Director First National Bank of N.Y., United States Steel Corporation, General Electric Co.			5,000			
Newton D. Baker	Former Secretary of War; director Baltimore & Ohio R.R.	2,000					
Donald C. Bakewell						160	
Bankers Co. of New York					10,000	5,000	
Chas. D. Barney & Co	Brokers				2,000		
Chas. H. Barnes						30	
D. S. Barrett, Jr		2,000			500		
F. D. Bartow	Partner, J. P. Morgan & Co	11,500	8,500		11,000		
F. D. Bartow, special		3,000					
T. R. Beal							1,000
Beech Corporation			18,500				
Sesthenes Behn	Director International Telephone & Telegraph; All American Cables; General Sugar Corporation; National City Bank.	1,000		1,000	1,000	1,000	
Hernand Behn					1,000		
Bernard M. Baruch					4,000		
Otto F. Behrend						100	
L. V. Belden	Partner, Belden & Co., 44 Wall Street	1,000					
C. J. Bennett						15	
Mrs. Mary Case Bench	Director Chesapeake & Ohio R.R., Pere Marquette R. R.	500					
Julius Bergen					300		
J. J. Bernet	President Erie R.R. Co	5,000			500	500	
G. T. Bishop							1,000

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Stephen Birch	Director Kennecott Copper Corporation; Bankers Trust Co. of New York; Chicago, Burlington & Quincy; Erie R.R.; Northern Pacific.	1,200		1,000	4,000	1,000	
C. N. Bliss	Director Bankers Trust Co.; Metropolitan Opera House Estate Co.; New York Life Insurance Co.; New York, New Haven & Hartford; Radio Corporation of America.	1,000		1,000	2,000	2,000	
Blyth & Co						1,500	
Bonbright & Co., Inc		10,000			20,000	202,930	
Amy W. Board						25	
Claude K. Boettcher					1,000		
S. D. Bowdine							500
Charles Bradley	Director Saranac Realty Co	7,500			500		
Nicholas F. Brady	Director New York Edison Co	2,000			5,000	3,000	
Charles S. Brewer	Director New York Stationers Association					1,000	500
Bradford Brinton	Director J. I. Case					300	
Brown, Brothers & Co	Brokers				5,000	3,000	
George F. Brownell	Vice president Erie R.R					200	
Mathew C. Brush	Director Air Reduction Co., Inc., Aviation Corporation, and Bank of Manhattan Trust Co.	1,000			2,000	1,000	
E. G. Buckland	Director New York, New Haven & Hartford, Railway Express Agency, and New York, Ontario & Western R.R.	500			500		
M. N. Buckner	Director New York Clearing House Association and New York Trust Co.	500					
Roger H. Bullard						50	
George Burgess						50	
W. E. Burnet	Director Soutern Porto Rico Sugar Co. and W. E. Burnet Co.	500			1,000	200	
Ward M. Canaday						1,009	
William C. Cannon	Director First National Bank & Trust Co. of Montclair, N.J.	200				300	
Callaway, Fish & Co	Brokers				1,000		
F. L. Carlisle	Niagara Hudson Corporation-Consolidated Gas of New York and F. L. Carlisle Co.				2,000		
W. L. Carson						100	
George W. Carpenter & Kath						405	
Edward F. Carry		1,000		1,000			
Bernard S. Carter		2,500					
J. Ridgely Carter		2,500					
Arthur O. Choate	Partner Clarke, Dodge Co. and director Pullman Co.			1,500			
Chicago Corporation					3,000		
E. H. Clark						500	
Alfred H. Clark						500	
Sir Thomas S. Catte		1,000					
Hendon Chubb		1,000			2,000		
Clarke, Dodge & Co	Brokers	2,000			10,000	5,000	
Leon R. Clausen					500	500	

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Sale price		$20	$47.50	$57.50	$32	$75	$25.
Market price		$31-$35	$79	$79	$36½-37 (July 6, 1929).	$93	27 common. 9⅛ class A warrant. No quote class C.
Date		Feb. 15, 1929	July 1, 1927	July 1, 1927	June 24, 1929	Jan. 21, 1929	Aug. 19, 1929.
Name	Title, directorships, etc.	Alleghany	Johns-Manville	Johns-Manville	Standard Brands	United Corporation units	Niagara Hudson units
Climax Corporation					2,500		
M. Clothier							500
B. C. Cobb	Chairman of board, C. & S. Corporation						4,000
Thomas Cochran	Partner, J. P. Morgan & Co	2,000 15,000	26,000		25,000		
Continental National Bank & Trust Co.						3,000	
Calvin Coolidge	Former President of United States				3,000		
C. C. Cooper					1,000		
C. A. Corliss					1,000		
Corn Exchange Bank & Trust Co					1,000		
E. C. Congdon						160	
H. C. Couch							500
Walter Craig					100		
Clinton H. Crane	Director St. Joseph Lead Co., and United States Guaranty Co.	500			1,000	500	
S. M. Crocker	Vice President Int. G.E. Co					100	
Patrick E. Crowley	Director N.Y. Central R.R., and Cleveland, Cincinnati, Chicago, & St. Louis R.R.			(Mr.) 500	500	(Mrs.) 500	
George Dahl	President Dahl Oil Burner Co					40	
A. B. Davis						10	
Donald K. David	Director Bowery Savings Bank, R. H. Macy & Co., and Standard Brands, Inc.	200				200	
Arthur V. Davis	Director Aluminum Co. of America, Marine Midland Corporation, and Mellon National Bank.	1,000			1,000	1,000	2,000
Henry G. Davis						100	
John W. Davis	Davis, Polk, Wardwell, Gardiner & Reed	400			5,000	500	
Norman H. Davis	Trustee Bank of New York & Trust Co. Director Seaboard Airline Ry. Co.			250	500	250	
H. P. Davison	Partner, J. P. Morgan & Co	2,500	1,500		2,500		
Lewis C. Dawes						300	
Charles Day							1,000

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D. Debevoise						10	
Moreau Delano	Broker, Brown Brothers					1,000	
W. F. Delany						20	
J. A. M. De Sanchez						25	
E. R. Dibrell	Director Associated Dry Goods Corporation of New York.	500			500	250	
W. C. Dickerman							1,000
D. J. Dimock						50	
Dominick & Dominick	Brokers	2,000			10,000	5,000	
Wallace B. Donham					1,000		
Drexel & Co		50,000	4,000	500	42,000	87,000	
Camille Dreyfuss	President, Celanese Co					300	
Calib C. Dula		500					
W. Echtermeyer						10	
F. H. Ecker	Director and president, Metropolitan Life Insurance Co., American Express Co., and Chase National Bank of New York	1,000			2,000	1,000	
Cornelia Cousins Egan					500		
Cornelia C. Egan						200	
Martin Egan	Director, Time, Inc., and with J. P. Morgan & Co.		500		500		
Dean Emery						500	
R. W. Emmens, 3d	Gammick & Co., member of firm					100	
Alwena G. Evans						5	
Evans, Stillman & Co	Brokers				3,000	500	
William Everdell	Vice president Continental Mortgage Guaranty Co.					150	
George B. Everitt	Director Montgomery, Ward Co., Inc., Johns Manville Corporation.	500			1,000	500	
Frederic Ewing	Vice president Standard Oil of New York		200			500	
J. V. Ewing Estate						300	
Maria T. Ewing			2,400				
William Ewing	Trustee for Jane Ewing		600				
Do	Partner J. P. Morgan & Co	10,000	3,565		10,000		
Do	Trustee for Jessie V		600				
Do	Trustee for Grace V		600				
Do	Trustee for William Jr		500				
William Ewing, special						100	
G. Faccioli						80	
Eliot Farley	Director D. L. & W					1,000	
Mildred Farwell						200	
Dr. E. Ross Faulkner						500	
Samuel Ferguson							500
W. C. Finley						500	
Marshall Field					2,000		
First Chicago Corporation					3,000	2,000	
First National Corporation						2,000	
First Security Co	J. P. Morgan is director of this company	30,000			25,000	15,000	
Lawrence P. Fisher	Director General Motors Corp	10,000				2,000	
Herbert Fitzpatrick	Director Pere Marquette R.R., and Chesapeake & Ohio R.R.	1,000					

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Carl Flach						50	
Max C. Fleischmann	Director Standard Brands, Inc.	1,000				1,000	
Mitchell D. Follansbee		1,000					
H. A. Fortington	Director Globe Indemnity Co., Newark Fire Insurance Co., and Royal Indemnity Co.	500			500	500	
Albert Foster, Jr						30	
Terese Fowler						10	
P. A. S. Franklin	Director International Mercantile Marine, and National City Bank of New York.	1,000		500	1,000	1,000	
Harry Frass						10	
W. E. Frew	Chairman board, Corn Exchange Bank	500			1,000	1,000	
Giovanni Fummi		1,000		500	500	500	
W. Tracy Gaffey					1,000		
G. L. Gagan						10	
Michael Gallagher	Director Pere Marquette R.R., and Pittston Co. Cleveland.	1,000					
Mary B. Gammack						100	
Thos. H. Gammack						200	
George H. Gardiner	Davis, Polk, Wardwell, Gardiner & Reed	500				500	
Thos. Garrett, Jr		200				100	
Lydia K. Garrison						20	
Mrs. P. McK. Garrison						60	
A. L. Gates					5,000		
Thomas S. Gates	Former partner Drexel & Co		10,000				
Harvey D. Gibson	Director Manufacturers Trust Co., and Aeolian Co.	500		1,500		1,000	
David L. George						100	
F. Gibbons						10	
Walter S. Gifford	Director American Telephone & Telegraph, and president Bank for Savings, and United States Steel Corporation.	1,000		500	1,000		
Mrs. S. Parker Gilbert	Wife of partner J. P. Morgan & Co	500			500	250	
J. Gindorff						10	

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Phillip G. Gossler	Director American Investors Inc., Guaranty Trust Co. of New York, United Corporation, and president Columbia Gas & Electric.	1,000			2,500	2,000	1,000
Eugene G. Grace	Director Bethlehem Steel Corporation and Guaranty Trust Co. of New York.	1,000					
R. F. Grant	Director Burns Bros., New York and New Jersey and Lehigh Valley Coal Co.	500					
Rudolph Goepel						100	
E. C. Grenfell	Morgan, Grenfell & Co., London	1,800					
C. E. Greesbeck							2,000
Guaranty Co. of New York		500,000			10,000	5,000	
Do		1,600					
Guggenheim Bros					5,000	5,000	
Perry E. Hall	Partner Drexel & Co.		500		1,000		
Reginald Halladay	Partner Halladay & Co., director Carib Syndicate.			1,200	2,000		
T. D. Hallett						10	
Hambleton & Co						500	
C. P. Hamilton	Vice president American European Securities Co.					1,000	
Henry Hamill						10	
P. T. Hanscom	Director United Electric					1,000	
W. J. Harahan		1,000			500		
Albert H. Harris				500	500		
Walter P. Haskell						10	
Chester W. Hawkins						5	
Harris, Forbes Corporation					5,000		
Mrs. Hebe Harris						500	
The N. W. Harris Co					2,000		
Horace Havemeyer	Director Brooklyn Eastern District Terminal, Delaware, Lackawanna & Western, and Remington Arms.	1,000			1,000		
Charles Hayden	Director Adams Express Co., American Express, Coco Cola Co., and 70 other large companies.	2,000		1,000		5,000	
Haystone Securities Corporation					5,000		
Michael G. Herbert		1,200					
R. C. Hill					500	250	
Wm. Hill-Wood						100	
Chas. D. Hilles	Director American Smelting & Refining, Bankers Trust Co., and New York Life Insurance Co.	1,000		500	2,000	1,000	
J. J. B. Hilliard & Sons					1,000		
Geo. C. Hitchcock						300	
Hitt, Farwell & Co., 1 Wall Street		500			1,000	500	
George Holton					100	50	
Hornblower & Weeks					2,000		
J. A. House	Director Union Lake Erie R.R., Cleveland Builders Supply Co., and Goodyear Tire & Rubber.	1,000					

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Wm. E. Holloway, Jr						10	
George H. Houston					1,000		
George H. Howard	Director Commonwealth Southern, Electric Bond & Share Co., American Foreign Power Co., and president United Corporation.	1,000			2,000		10,000
R. G. Hutchins	Director Allis Chalmers Manufacturing Co., J. B. White Engineering Co., and New York, New Haven & Hartford R.R.	1,000				500	
W. J. Hutchinson	C. J. Lawrence & Sons					500	
Arthur Curtiss James	Director Chicago, Burlington & Quincy, First Security Co. of New York, and Phelps Dodge Co.	1,000			2,000	2,000	
Benjamin Joy		2,500					
Nelson D. Jay		2,500					
A. N. Jones						50	
W. J. Jones						10	
Jessup & Lamont	Brokers				1,000		
Percy H. Johnston	President Chemical Bank	1,000			1,000	1,000	
Keane Taylor & Co						500	
J. J. H. Keating						200	
F. B. Keech & Co	Brokers				1,000		
Dan'l Kelleher						250	
A. J. Kennedy						50	
Cornelius F. Kelley	Director Anaconda Copper Corporation, Chile Copper, and Guaranty Trust Co.	1,000		1,000	2,000	1,000.	
L. A. Keyes	General manager J. P. Morgan & Co.				4,600	200	
Kidder, Peabody & Co	Brokers	2,000			5,000	2,000	
Roy Kinnear						10	
Kuhn, Loeb & Co		5,000				5,000	
H. R. Kurrie						100	
Thos. W. Lamont, Vernon Munroe, and Wm. Thompson.	Trustees for benefit of Phillips Exeter Academy.				5,000		

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Thos. S. Lamont	Partner J. P. Morgan & Co	2,500	1,500		2,000		
T. W. Lamont	do	18,000	10,000		20,000		
Lamont, Corliss & Co				300			
A. C. Lange						10	
Lapondos Corporation		500				250	
Lee, Higginson & Co	Bankers and brokers	2,000			5,000	3,000	
J. S. Leech					200		
R. C. Leffingwell	Partner J. P. Morgan & Co	13,500	17,500		10,000		
Augustin Legorreta		500			500	500	
Col. Chas. A. Lindbergh		500			500	300	
A. L. Lindley	Senior partner Lindley & Co., brokers	1,000			2,000		
Harley P. Lindsay						60	
Robert O. Lord					500		
Luke Banks & Weeks					2,000		
H. G. Lloyd	Partner Drexel & Co		11,000				
S. B. Lynd						100	
Henry E. Machold	Vice president and director F. L. Carlisle Co., and director Marine Midland Co.	2,000			2,000	3,000	
Clarence H. Mackay	Chairman of board Postal Telegraph & Cable.	1,000			2,000	1,000	
H. E. Manville	Chairman and executive committee and director Johns-Manville Corporation.	1,000				1,000	
John Marshall					500		
Miss Mary Marshall					100		
Henry A. Marting	Partner, Talles, Hogsett & Ginn, attorneys for Alleghany Corporation and vice president and director Chesapeake Corporation						
Wm. Gibbs McAdoo	Former Secretary of Treasury and United States Senator.	500			1,000	250	
Lee McCanliss	Davis, Polk, Wardwell, Gardiner & Reed	100					
H. C. McEldowney		1,000			5,000		1,500
Gates W. McGarrah	International Bank of Settlements	500					
Uzal H. McCarter					1,000	750	500
T. N. McCarter	Public Service N.J.-U.G.I.	1,000			1,000	750	500
John McHugh	Chairman executive committee Chase National Bank.			250			
D. R. McLennan		1,000		1,000			
R. B. Mellon	Bankers	2,000			5,000	3,000	1,000
C. Macveagh						25	
Mrs. L. P. Macy						500	
Mfgrs. Traders Peoples Trust						1,000	
Marine Trust Co						1,000	
Isabel S. Marsh						250	
Chas. J. Martin						1,000	
Dorothy Martin						100	
R. C. O. Matheny						100	
J. J. McCloy						50	
H. P. McCullogh						200	
T. F. Merseles	Former president Johns-Manville Corporation.	2,000	35,000			1,000	
Stephen Merseles					500	100	

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Albert G. Milbank	Member firm Milbank, Tweed, Polk & Webb, director Borden & Co., and Chase National Bank.	500			500	500	
C. H. Minor						1,000	
Edward G. Miner		500			500	1,000	
Minsch, Menell & Co., Inc					1,000	1,000	
Charles E. Mitchell	Former chairman National City Bank	10,000		2,500	10,000	7,000	
S. Z. Mitchell, et al	Chairman of board Electric Bond & Share Morgan partner.	2,500			3,000		3,000
W. A. Mitchell						100	
Daniel J. Moran		500			500	500	
Henry S. Morgan	Partner Morgan, Howland Co	2,500	1,500		1,000		
Henry S. Morgan, special		4,100					
Henry S. Morgan						500	
M. Morize					100		
A. P. Morgan						100	
J. P. Morgan (No. 2 account, J. P. Morgan).		40,000	55,500		28,750	[1] 1,500	
D. M. Morgan						10	
J. P. Morgan & Co. & Bonbright & Co.							2,500
J. P. Morgan & Co., stock account		175,100					
J. J. Morgan						100	
Morgan & Cie., Paris			10,000		20,000	12,000	
Morgan, Grenfell & Co., London			15,000		20,000	15,000	
Junius S. Morgan, et al						1,200	
Junius S. Morgan, Jr	Partner J. P. Morgan & Co	8,000	11,000				
J. R. Morron	Chairman executive committee Chicago & Alton R.R., director Baltimore & Ohio R.R., Pullman Co., and First Securities Co.	500			1,000	500	
George K. Morrow	Chairman board Gold Dust Corporation			1,000		1,000	
F. S. Moseley & Co	Brokers				2,000		

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Frederick K. Morrow	President and director United Cigar Stores, and vice president and director Gold Dust Corporation.	1,000			1,000		
Anne S. Morrow			1,500				
Constance C. Morrow, et al			3,000				
John P. Murphy		500			500		
Dwight W. Morrow (deceased)	Former partner of J. P. Morgan & Co		14,000			2,000	
Dwight W. Morrow, account of others.			1,100				
Dwight W. Morrow, account J. J. Morrow.			700				
Charles. Munroe	Director Columbia Gas & Electric Co					1,000	
E. B. Morris, Jr							500
Dwight W. Morrow, account J. J. Pershing.			700				
Elizabeth C. Morrow			4,000				
Elizabeth R. Morrow			1,500				
Vernon Munroe			250		300		
J. A. Murray	President Drake Business School					400	
National City Co		10,000			20,000	5,000	
Newmont Mining Corporation	Albert G. Wiggin, director; Margaret T. Biddle; H. E. Dodge.	10,000			10,000	10,000	
J. R. Nutt	Vice president Alleghany Corporation	3,000					
J. D. Northrup						50	
Northern Trust Co						1,000	
Nosivad Corporation						3,000	
Robert E. Olds		500			500	500	
John E. Oldham				500	500	200	
Old Colony Corporation					2,000	2,000	
M. O'Connor						10	
Ruth Ogg						10	
Carle Orsi		500			500		
Miss Anne O'Rourke					100		
Gen. John J. Pershing		500			500	250	
Harry Peters	Director Consolidated Co. of Chicago					500	
Jane Taylor Price			35				
J. J. Pelley					500		
Frank L. Polk	Partner Davis, Polk, Wardwell, Gardiner & Reed.	300				500	
W. J. Polk						200	
John W. Prentiss	Partner Hornblower & Weeks			500	1,000	1,000	
Bernard E. Pollock					2,000		
W. C. Potter	President and director Guaranty Trust Co.; director Atchison, Topeka & Santa Fe.	40,000		2,500	10,000	7,000	
Phillips Exeter Academy						500	
T. Nelson Perkins					500		
Seward Prosser	Member executive committee and director Bankers Trust Co. of New York.	12,000		2,500	10,000	7,000	
Daniel E. Pomeroy	Chairman American Brake Shoe Co.; director Bankers Trust Co.			250		250	
Mrs. Bernard E. Pollak					2,000		

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W. H. Putnam							500
William S. Rainsford		100					
John J. Raskob	Director General Motors	2,000		1,000	2,000	2,500	
Stanley Resor					1,000		
Mrs. D. Y. Ranson, Jr						300	
Edgar Rickard						400	
J. H. Roraback						1,000	500
G. S. Ruffner	President New York Power & Light					1,000	500
Lansing P. Reed	Partner, Davis, Polk, Wardwell, Gardiner & Reed.	300				500	
Samuel W. Reyburn	President and director Lord & Taylor	500		500	1,000	500	
Arthur Reynolds	Columbia Gas & Electric				3,000		
Esther D. Rich						5	
Rose M. Ricketts						10	
W. G. Ross				1,000			
W. L. Ross		1,000					
John D. Ryan	Director Anaconda Copper Co.; National City Bank.	1,000		1,000	2,000	1,000	
Salomon Bros. & Hutzler	Brokers				1,000	1,000	
Franz. Schneider, Jr	Director Lehigh Valley Coal Co.; Continental Oil Co.	500		250	1,000	1,000	
Schallekopf, Hutton & Pomeroy, Inc.	Investment brokers	1,000				1,500	
J. A. M. deSanchez					100		
A. H. Sanford						50	
John Sherwin, Sr		5,000					
Mrs. Florence S. Schuette					2,000	1,000	
E. H. H. Simmons	Member firm 52 Broadway	1,000					
Alfred P. Sloan, Jr	President General Motors Corporation	10,000		1,000	7,500		
Matthew S. Sloan		500			1,000	1,000	
Edward B. Smith & Co	Brokers				2,000		
Vivian H. Smith		3,000					
F. S. Smithers & Co		1,000			3,000	1.000	

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Somerset Corporation		10,000			5,000		
Harold Standley	Partner J. P. Morgan & Co	10,000			9,970		
John N. Steele					500		
Charles Steele	Partner J. P. Morgan & Co	14,000	20,500		5,000		
R. P. Stevens	President American Electric Power Co						7,000
Charles Steele special		1,000					
H. L. Satterlee	Vice president Life Savings Benevolent Association.					500	
R. N. Searle						1,000	
Charles Seymour						160	
Alfred P. Sloan et al						3,500	
N. L. Snow						200	
Edith T. Stanley						400	
Gilbert Stanley						1,200	
State Street Investment Corporation.						2,000	
Spenser Trask & Co					2,000	1,000	
G. D. Steere		2,000					
Stockholm E. Bank						1,000	
E. T. Stotesbury	Partner Drexel & Co		20,500				
John A. Stephens, Jr	President Bush Terminal Co	500		300	500	250	
G. D. Stewart						500	
Frederick Strauss	Partner J. W. Seligman	1,000			1,000		
Gerard Swope	President General Electric Co., director National City Bank.			1,000			
Edw. R. Stettinius	Vice President General Motors					250	
Mrs. E. B. Stettinius						1,000	
Silas H. Strawn		1,000		1,000			
Sutro Bros. Co						1,000	
Charles I. Sturgis					300		
Edwin S. S. Sunderland	Partner Davis, Polk, Wardwell, Gardiner & Reed.	300				400	
Cornelius J. Sullivan	Partner Eidlitz & Hall				500	500	
Malcolm D. Simpson						25	
Harvey H. Smith						40	
A. H. Springer						25	
J. J. Sullivan						25	
Joseph B. Tarbell		500					
Myron C. Taylor	Chairman finance committee United States Steel Corporation.	10,000		5,000	10,000	5,000	
Sir Frederick Williams-Taylor				250			
Catherine Taylor						20	
Wm. H. Thurston						400	
Walter C. Teagle	President and director Standard Oil of New Jersey.	1,500		1,000	2,000	1,500	
Wm. Boyce Thompson				4,000	2,500		
Eliz. S. Trippe						250	
A. A. Tilney	Bankers Trust Co., chairman of Board				2,000		
Geo. H. Townsend						300	
William B. Thompson	Former president of United Gas & Improvement.	1,000					

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"*Selected list*" *of J. P. Morgan & Co. to whom stock was sold*—Continued

		Name of issue and number of shares sold					
Sale price		$20	$47.50	$57.50	$32	$75	$25.
Market price		$31–$35	$79	$79	$36½–37 (July 6, 1929).	$93	27 common. 9⅛ class A warrant. No quote class C.
Date		Feb. 15, 1929	July 1, 1927	July 1, 1927	June 24, 1929	Jan. 21, 1929	Aug. 19, 1929.
Name	Title, directorships, etc.	Alleghany	Johns-Manville	Johns-Manville	Standard Brands	United Corporation units	Niagara Hudson units
Eldridge Thomas						100	
Union Trust Co						1,000	
Union Trust Co., Pittsburgh						3,000	
O. P. Van Sweringen	Director Alleghany Corporation	2,500			5,000	5,000	4,000
Allen Wardwell	Partner Davis, Polk, Wardwell, Gardiner & Reed.	300		1,500		400	
Mrs. Marie M. Watkins					30	100	
Francis T. Ward			500		1,000		
F. Edson White		2,000					
J. duPratt White				1,000			
Robert H. White	Partner Asiel & Co	1,000				500	
E. N. Wakelee						750	
Kenneth W. Watters					1,000		
N. A. Weathers					1,000	1,500	
J. G. White & Co						1,000	
White & Case	Attorneys	1,000			2,000	2,000	
White, Weld & Co	Brokers				5,000		
Margaret S. Whitney						200	
George Whitney, agent	Partner J. P. Morgan & Co	14,000	20,500		20,000	10,000	
Martha B. Whitney						100	
Richard Whitney	President New York Stock Exchange	1,000			5,750		
Trustees for Martha B. Whitney: Robert L. Bacon, Gaspar G. Bacon, and Geo. Whitney.						400	
Richard Whitney & Co						6,300	
E. L. West							2,000
J. L. Wilkie							1,000
C. F. Whigham		3,000					
A. H. Wiggin	Former chairman Chase National Bank	10,000		2,000	8,500	4,000	
Ira E. Wight		500			1,000	1,000	
Joseph Wilshire	President and director Standard Brands, Inc.; Royal Baking Powder Co.	1,000			50,000	1,000	

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T. R. Williams						300	
Garrard B. Winston	Director National City Bank and Oliver Farm Equipment Co.			500	500	500	
Wood Struthers & Co	Brokers	1,000			2,000	1,500	
Daniel G. Wing					2,000		
Winslow Lanier & Co	Brokers				1,000		
Wm. H. Woodin	Secretary of Treasury	1,000		1,000	1,000	1,000	
Arthur Woods					500	250	
Wood Low & Co						1,000	
Clarence M. Woolley	Chairman of board American Radiator & Standard Sanitary Co.	1,000		1,000	2,000	1,000	
Mrs. Noramae Wylie					200		
A. H. Wigren, G. Jordan, and L. A. Keyes, as trustees for benefit Andover Academy.					5,000		
F. C. Weems						100	
P. M. Trace						10	
Miss Anna Walsh						10	
Cornelius J. Walsh						10	
Hartland West						10	
A. H. Wilson						25	
Owen D. Young	Chariman of board General Electric Co	5,000		1,000			6,000
John M. Young					100	50	
Percy S. Young						750	
L. Edmund Zacher		500			500	500	
Wm. Ziegler, Jr	Director Standard Brands	200				200	
Total		1,250,000	343,450	56,550	722,600	600,000	56,500

NOTE.—See supplementary list following, redistribution of Alleghany Corporation stock by Drexel & Co.

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Selected list showing distribution of stock by Drexel & Co.

Sale price		$20	$75.
Market price		$31–$35	$93.
Date		Feb. 15, 1929	Jan. 21, 1929
Name	**Title, directorships, etc.**	**Alleghany**	**United Corporation units**
Hiester S. Albright			100
Edgar Allegaert			100
J. Howard Arthur			25
Thomas G. Ashton	Director Baldwin Locomotive Works; Philadelphia & Western Ry. Co.	500	300
W. W. Atterbury	President and director Pennsylvania R.R. Co. and subsidiaries; director Continental Illinois National Bank & Trust Co.; Guaranty Trust Co., New York; Philadelphia National Bank.	500	2,500
Charles T. Bach			50
George Barker			100
C. D. Barney & Co			2,500
Thomas J. Baldridge		200	
Charles W. Bayliss	Vice president General Asphalt Co	100	
Thaddeus R. Beal			1,000
Charles G. Berwind	Vice president and director Berwind-White Coal Mining Co., Philadelphia.	400	200
Henry A. Berwind		600	300
Anthony J. Drexel Biddle			100
Cordelia Bradley Biddle			100
Eugenia L. Biddle			100
Livingston L. Biddle			100
Thomas B. Biddle & Co			2,000
Bioren & Co			1,500
George H. Blake			50
Morris R. Bockius			500
William W. Bodine	Vice president United Gas Improvement Co.; director American Superpower Co.; First National Bank, Philadelphia; trustee Pennsylvania Mutual Life Insurance Co.; director Provident Trust Co., Philadelphia; Fidelity-Philadelphia Trust Co.	200	500
Samuel T. Bodine		500	
Matthew R. Boylan			100
Francis B. Bracken		100	500
Henry G. Brengle	President Fidelity-Philadelphia Trust Co.; vice president and director United New York R.R. & Canal Co.	200	200
Sarah H. O. Bright			100
Clarence C. Brinton			100
Alex Brown & Sons			2,000
Edward Browning, Jr			100
Robert J. Brunker			200
Arthur S. Burgess		50	
James R. Calhoun			6
Cassatt & Co			2,500
E. W. Clark & Co			2,000
John A. Clark			100
John L. Clawson			100
M. Worthington Clement			100
Morris L. Clothier			1,000
B. Dawson Coleman	President and director the First National Bank of Lebanon, Pa.; director Girard Trust Co., Philadelphia.	500	300
Thomas Conway, Jr			300
Jay Cooke		1,000	2,000
Albert J. County			100
D. Graham Craig		100	100
Anne L. Crosadill			30
Samuel M. Curwen		500	300
Charles Day		500	
Agnew T. Dice			300
Margretta B. Dice		500	
William C. Dickerman			5,000
Emily P. Dickson			50
Anthony J. Drexel			400
Drexel & Co		900	
Mary Thompson Drinker			50
Sophie H. Drinker		100	100
John C. Dunn			25
Frederick W. Edmondson			50
George D. Edwards			25
Elkins, Morris & Co			2,000
Eleanor Mayo Riverson			1,000
William N. Ely	Vice president Girard Trust Co.; director Philadelphia National Bank.	200	

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Selected list showing distribution of stock by Drexel & Co.—Continued

Sale price		$20	$75.
Market price		$31-$35	$93.
Date		Feb. 15, 1929	Jan. 21, 1929
Name	**Title, directorships, etc.**	**Alleghany**	**United Corporation units**
Florence L. Etting			25
Charles H. Ewing	Vice president Reading Co	100	
Julian L. Eysmans			100
Edgar C. Felton			200
Philip H. Gadsden	Vice president United Gas Improvement Co., Philadelphia, director the Fidelity Mutual Life Insurance Co.	250	300
Estelle B. Gadsden		250	
John K. Garrigues			100
Thomas S. Gates	President University of Pennsylvania, director Pennsylvania R.R., member executive committee and director United Gas Improvement.	4,000	1,000
Jay Gates			400
Clarence H. Geist	President the C. H. Geist Co. (Philadelphia), United Gas Improvement Co., director, president, and director Indianapolis Water Co.	600	
C. H. Geist Securities Corporation.			2,500
General Coal Securities Corporation.			100
William P. Gest	Chairman Board Fidelity-Philadelphia Trust Co.	500	600
Robert Glendinning & Co.			2,100
Gertrude C. Glover			25
Herbert W. Goodall	President and director Tradesmens National Bank & Trust Co.	100	200
Graham, Parsons & Co			1,500
Alfred M. Gray	Secretary-treasurer and director Pennsylvania Traffic Co.	100	100
Albert M. Greenfield			1,000
John H. Gross		200	50
Harry J. Haas	Vice president and director First National Bank of Philadelphia, chairman finance committee and director Philadelphia Commercial Exchange.	200	100
T. Truxton Hare			100
Jonas S. Harley			100
Harrison & Co			1,000
Charles V. Henry			100
Wm. M. Hollanbach			200
John Hopkins			100
Edward Hopkinson, Jr	Partner Drexel & Co., partner J. P. Morgan & Co., partner Morgan, Grenfell & Co., partner Morgan et Cie., Paris, director United Corporation, director United Gas Improvement Co., partner Philadelphia Electric Co., partner Philadelphia Electric Power Co.	4,500	1,000
Daniel Houseman			100
Thomas W. Hulme			100
George H. Houston	President and director the Baldwin Locomotive Works, president and director Standard Steel Works Co., chairman executive committee member finance committee General Steel Castings Corporation.	200	200
Fred S. Hutchings			100
James T. Hutchings			100
Charles E. Ingersoll			500
Albert A. Jackson	President and manager Girard Trust Co	200	250
Janney & Co			1,000
Archibald T. Johnson			50
Livingston E. Jones	President and director First National Bank (Philadelphia).	300	
Arthur Jones			25
Edith Bolling Jones			200
John W. Kephart		300	200
Moorhead C. Kennedy			100
Reid Kennedy			50
Florence M. Kephart			100
Henry H. King			50
Leonard H. Kinnard			200
William T. Kirk		100	100
William W. Kitzmiller			50
Charles Z. Klauder			200
Louis J. Kolb		500	500

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Selected list showing distribution of stock by Drexel & Co.—Continued

Sale price		$20	$75.
Market price		$31-$35	$93.
Date		Feb. 15, 1929	Jan. 21, 1929
Name	**Title, directorships, etc.**	**Alleghany**	**United Corporation units**
Conrad N. Lauer	President and director the Philadelphia Gas Works Co.; vice president United Gas Improvement Co.; chairman executive committee and director Sharp & Dohme, Inc.	300	
Walter D. Larzelere			100
William A. Law	President and trustee the Penn. Mutual Life Insurance Co.; director First National Bank, Philadelphia; director Fidelity-Philadelphia Trust Co.; director Reading Co.; director Philadelphia Electric Co.	500	300
Van Antwerp Lea			100
Edward B. Leisenring	Vice president and director general Coal Securities Corporation; director Fidelity-Philadelphia Trust Co.	1,000	100
Francis A. Lewis			200
Charles F. Lineaweaver		200	200
Horace P. Liversidge			200
Eleanor M. Lloyd			100
George F. Lloyd			50
H. G. Lloyd	Partner, J. P. Morgan & Co.; Morgan, Grenfell & Co.; Morgan et Cie., Paris; director Philadelphia Electric Co., Philadelphia Electric Power Co., and Susquehanna Power Co.	4,000	1,000
H. G. Lloyd, Jr		1,000	250
Stacy B. Lloyd			300
Walter E. Long			100
Howard Loeb	Chairman and director Tradesmens National Bank & Trust Co.; director Sharp & Dohme, Inc.	100	
Edward E. Loomis	President and member executive and finance committee and director Lehigh Valley R.R. Co.; director American Telegraph and Telephone.	500	500
Uzal H. McCarter			450
Edward McDonald			50
George H. McFadden & Bros.		1,000	500
William J. McGlinn			100
John W. McGregor			25
Andrew J. Maloney	President and director Philadelphia & Reading Coal & Iron Corporation; director National Light & Power Co.	300	288
Caroline F. Maloney			12
Donald Markle	President and director Jeddo-Highland Coal Co.	500	300
John C. Martin		1,000	1,000
John H. Mason		200	300
Sidney Mason			100
William Clark Mason			200
Joseph B. Mayer			100
John C. Miller			50
John W. Minds			100
Montgomery, Scott & Co.			100
C. Eldridge Morgan			200
E. Corliss Morgan			200
William R. Morgan			100
Marshall S. Morgan	Assistant to chairman board Fidelity-Philadelphia Trust Co.; director North Pennsylvania R.R. Co.	200	100
Effingham B. Morris			500
Effingham B. Morris, Jr.	Vice president Girard Trust Co.; director First National Bank of Philadelphia; director United Gas Improvement Co.	200	500
I. Wister Morris			200
Arthur V. Morton	Vice president Pennsylvania Co. for Insurance on Lives and Granting Annuities; director Philadelphia National Bank & Philadelphia Bourse.	200	200
Catharine T. Munson			300
Jonathan C. Neff	Vice president and director Fidelity-Philadelphia Trust Co.; director Philadelphia National Bank.	200	100
A. E. Newbold		2,000	
A. E. Newbold, Jr			500
W. H. Newbold's Son & Co.			1,500

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Selected list showing distribution of stock by Drexel & Co.—Continued

Sale price		$20	$75.
Market price		$31–$35	$93.
Date		Feb. 15, 1929	Jan. 21, 1929
Name	**Title, directorships, etc.**	**Alleghany**	**United Corporation units**
C. Stevenson Newhall	Executive vice president and director, The Pennsylvania Co. for Insurance on Lives & Granting Annuities; director Finance Corporation of America; director Philadelphia Suburban Water Co.; director The Reading Co.; director North Pennsylvania Railroad Co.	100	1000
Thomas Newhall	Partner Drexel & Co., partner J. P. Morgan & Co.; director Baldwin Locomotive Works; director General Steel Castings Corporation; director Sharp & Dohme Inc.	4,000	1,000
William Obdyke		2,000	500
Richard E. Norton	Manager Hornblower & Weeks (Philadelphia)	200	
Charles S. W. Packard	President and director Pennsylvania Co., Insuring Lives & Granting Annuities; director Philadelphia National Bank; director Finance Corporation of America.	200	200
Joshua A. Pearson			200
George Wharton Pepper		200	200
O. H. Perry Pepper		100	
Henry C. Place			100
Charles Raymond Potts			100
Francis X. Quinn			200
Evan Randolph	Vice president and director The Philadelphia National Bank.	200	200
Catherine C. Rapley			25
Mary Thompson Reath			50
Edward B. Robinette			2,000
Alexander C. Robinson			50
Mary D. Robinson			200
Owen J. Roberts		100	100
E. Robert Riter		100	
Benjamin Rush	President Insurance Co. of North America; director Fidelity-Philadelphia Trust Co.	500	300
Fred J. Rutledge			200
Sylvester B. Sadler			200
Bernard Samuel		50	25
William I. Schaffer	Trustee, Pennsylvania Mutual Life Insurance Co.	500	500
Charles H. Schlacks			200
Frank C. Schroeder			25
Garfield Scott			200
Harold S. Schutt	Vice president and director Indianapolis Water Co.; Indianapolis Water Works Securities Co.; various water works companies.	200	
Frank Seamans	Vice president and director the Barber-Asphalt Co.	100	
Arthur W. Sewall	President and director General Asphalt Co.; director Baldwin Locomotive Works, Federal Reserve Bank, third district.	300	200
George Siefert, Jr			25
J. Willison Smith			100
E. T. Stotesbury	Partner Drexel & Co., J. P. Morgan & Co.; member Philadelphia Stock Exchange.	4,000	1,000
Harrison, Smith & Co			1,500
Alfred G. B. Steel			200
Samuel J. Steele, Jr			100
Stone, Webster & Blodget, Inc.			2,000
Morris W. Stroud			200
Stroud & Co., Inc			3,000
Jeremiah J. Sullivan, Jr			300
John J. Sullivan			300
George H. Stuart, 3d		200	
Walter Lamar Talbot			100
Clyde C. Taylor			25
Frank H. Taylor	President and director the Pickford Telephone Co. (Pickford, Mich.).	50	50
William H. Taylor			200
Paul Thompson			200
John B. Townsend			100
Joseph B. Townsend			100
Townsend, Whelan & Co.			500
Lewis H. Van Duzen			200
T. Wilson Van Middlesworth.			50

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Selected list showing distribution of stock by Drexel & Co.—Continued

Sale price		$20	$75.
Market price		$31–$35	$93.
Date		Feb. 15, 1929	Jan. 21, 1929
Name	**Title, directorships, etc.**	**Alleghany**	**United Corporation units**
Samuel M. Vauclain	Chairman of Board, Baldwin Locomotive Works; chairman and director Standard Steel Works; director Westinghouse Electric Manufacturing Co., Westinghouse Electric International Co., Westinghouse Acceptance Corporation, Fidelity-Philadelphia Trust Co., General Steel Castings Corporation.	500	600
Alexander Van Renaselaer			200
Sarah Drexel Van Rensselaer.			200
Robert von Moschzisker		150	400
C. D. Waddell			100
Carroll J. Waddell		100	
Edmund W. Wakele			200
Charles C. Walbridge			1,000
Philip Wallis			25
Clarence A. Warden			1,000
William C. Warden			1,000
Samuel D. Warriner	President and manager Lehigh Coal & Navigation Co.; director National Light & Power Corporation (New York City).	1,000	600
Joseph Wayne, Jr	President and director the Philadelphia National Bank; director Federal Reserve Bank; Pennsylvania R.R. Co.	300	1,000
Joseph W. Wear			500
John H. Weaver	President, treasurer, and director J. H. Weaver & Co.; sundry railroads and mining companies.	300	300
West & Co			1,000
James M. Willcox	President member board managers, Philadelphia Saving Fund Society; Director Philadelphia National Bank.	500	300
John L. Wilkie			1,000
Parker S. Williams			300
Asa S. Wing			50
Clement B. Wood			200
Wendell J. Wright			50
Edward H. York, Jr	First vice president, treasurer, and director Haytian Corporation of America.	100	100
Frederick S. Wynn			200
Percy S. Young			200
Richard R. Young			100
John E. Zimmerman		500	
Total		50,000	90,061

FRONTISPIECE

The following chart sets out the corporate relationship of J. P. Morgan & Co. and Drexel & Co. established through the partners of the two aforementioned companies serving in the capacity of "director" of the 89 corporations and banks, with the 537 nonpartner directors thereof. These latter 537 nonpartner directors also served on the board of directors of 2,175 additional companies the chart setting out the two classes of corporations, etc., under separate major titles.

To further illustrate and establish the relationship and control of the two companies mentioned above over the directors of the entire 2,264 corporations and banks, the list of nonpartner directors discloses that 82 of same appear on the four "selected lists" of J. P. Morgan & Co. and 8 as having secured loans from J. P. Morgan & Co. or Drexel & Co.

The chart further segregates the two major classifications of corporations and banks into group operating classifications setting out where possible the combined resources of each.

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EXHIBIT A.—*Banks and trust companies of which partners of J. P. Morgan & Co. and Drexel & Co. are listed as being members of the board of directors or trustees*

Company	Number of directorships	Total assets
Bankers Trust Co	3	$708, 687, 000
Bank for Savings of the City of New York	1	230, 612, 000
Discount Corporation of New York	1	77, 375, 000
Guaranty Trust Co. of New York	2	1, 410, 786, 000
New York Trust Co	2	324, 222, 000
City Bank Farmers Trust Co	1	72, 693, 000
Girard Trust Co	2	102, 720, 000
Fidelity Philadelphia Trust Co	1	112, 111, 000
Pennsylvania Co. for Insurance on Lives and Granting Annuities	1	243, 392, 000
Maine Line Trust Co	1	1, 722, 000
Germantown Trust Co	1	20, 731, 000
Philadelphia Savings Fund Society	1	340, 258, 000
Integrity Trust Co	1	59, 427, 000
Western Savings Fund Society	1	93, 144, 000
Northern Trust Co	1	13, 531, 000
Total	20	3, 811, 411, 000

EXHIBIT B.—*Miscellaneous holding companies of which partners of J. P. Morgan & Co. and Drexel & Co. are listed as being members of the board of directors or trustees*

Company	Number of directorships	Total assets
American Foreign Securities Co	1	(1)
American Securities Investing Corporation	2	(1)
First Security Co. of the City of New York	2	$57, 434, 475. 39
Foreign Finance Corporation	5	(1)
Richmond-Washington Co	1	17, 309, 000. 00
Willow Corporation	2	(1)
United States Guarantee Co	1	9, 043, 000. 00
Total	14	83, 786, 475. 39

[1] Statements not published.

EXHIBIT C.—*Railroad companies of which partners of J. P. Morgan & Co. and Drexel & Co. are listed as being members of the board of directors or trustees*

Company	Number of directorships	Total assets
Atchison, Topeka & Santa Fe Ry. Co	1	$1, 267, 643, 000
Chicago & Erie R. R. Co	1	42, 035, 000
Lehigh & Hudson River Ry. Co	1	8, 297, 000
National Ry. of Mexico (1, 159, 735 pesos)	1	579, 867, 000
New Jersey & New York R.R. Co	1	3, 882, 000
New York & Middle Coal Field Railroad & Coal Co. (controlled by Lehigh Valley R.R. Co.)	1	(1)
New York Susquehanna & Western R.R. Co	1	50, 712, 000
Northern Pacific R.R. Co	3	848, 270, 000
Reading Co	1	473, 161, 000
Western Pacific R.R. Co	1	162, 799, 000
Total	12	3, 436, 666, 000

[1] No statement available.

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EXHIBIT D.—*Public utility companies of which partners of J. P. Morgan & Co. and Drexel & Co. are listed as being members of the board of directors or trustees*

Company	Number of directorships	Total assets
HOLDING COMPANIES		
International Telephone & Telegrapgh Co	2	$566,065,000
United Gas Improvement Co	2	841,173,000
United Corporation	3	593,546,000
Columbia Gas & Electric Co	1	734,470,000
Niagara Hudson Power	1	669,301,000
Total	9	3,404,555,000
OPERATING COMPANIES		
Bell Telephone of Pennsylvania	1	328,970,000
Frankford and Southwark Philadelphia City Passenger Ry. Co	1	2,177,000
Philadelphia Electric Co	2	413,921,000
Public Service Corporation of New Jersey	1	707,797,000
Second and Third Street Passenger Ry. Co	2	1,069,000
Diamond States Telephone Co	1	8,512,000
Consolidated Gas Co. of New York	1	1,353,320,000
Wyoming Valley Water Supply Co	1	2,381,000
Total	10	2,818,147,000

EXHIBIT E.—*Industrial companies of which partners of J. P. Morgan & Co. and Drexel & Co. are listed as being members of the board of directors or trustees*

Company	Number of directorships	Total assets
Johns-Manville Corporation	2	$36,033,000.00
American Radiator & Standard Sanitary Corporation	1	149,983,000.00
General Electric Co	1	405,120,000.00
Kennecott Copper Corporation	3	287,011,000.00
Standard Brands, Inc	2	63,651,000.00
Montgomery Ward & Co	1	141,555,000.00
Beaver Coal Corporation	2	(1)
American Pulley Co	1	2,858,000.00
Sharp & Dohne, Inc	2	10,316,000.00
Stonega Coal & Coke Co	1	(1)
J. I. Case Threshing Machine Co	1	48,643,000.00
Associated Dry Goods Co	1	42,738,000.00
Lehigh Valley Coal Corporation	2	64,069,000.00
Philadelphia Steel & Wire Corporation	1	(1)
Keystone Watch Case Corporation	1	2,923,000.00
Texas Gulf Sulphur Co	2	47,553,000.00
Phelps Dodge Corporation	1	343,773,000.00
Continental Oil Co	2	87,518,000.00
United States Steel Corporation	3	2,158,732,000.00
Crowell Publishing Co	1	30,490,000.00
International Agriculture Corporation	1	30,697,000.00 as at 6/3/32
International Harvester Co	1	346,736,000.00
Lamont, Corliss & Co	1	6,504,000.00
Southwestern Construction Co	1	(1)
Chas. E. Hires	1	5,075,000.00
Markles Corporation	3	(1)
General Asphalt Co	1	43,990,000.00
General Motors Corporation	2	1,115,228,000.00
Philadelphia & Reading Coal & Iron Corporation	2	117,196,000.00
Baldwin Locomotive Works	1	83,987,000.00
General Steel Castings	2	39,353,000.00
Cerro de Paseo Copper Corporation	1	40,986,000.00
Highland Coal Co	1	(1)
National Storage Co	1	(1)
Bellevue Stratford Hotel Co	1	(1)
De Bardelben Coal Corporation	1	8,625,000.00
Pullman Co	2	276,301,000.00
150 William Street Corporation	1	(1)
Total	55	6,037,644,000.00

[1] No statement available.

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EXHIBIT F.—*Insurance companies of which partners of J. P. Morgan & Co. and Drexel & Co. are listed as being members of the board of directors or trustees*

Company	Number of directorships	Total assets
Aetna Insurance Co	1	$53,959,000.00
Fire Association of Philadelphia and Subsidiaries	1	21,119,000.00
Pennsylvania Fire Insurance Co	1	14,521,000.00
North British & Mercantile Insurance Co., Ltd., Dec. 31, 1931	1	175,936,000.00
Royal Exchange Assurance Co. (American branch), Dec. 31, 1931	1	71,652,000.00
Transportation Mutual Insurance Co	1	(1)
Total	6	337,187,000.00

[1] No statement.

EXHIBIT G

NONPARTNER DIRECTORS AND TRUSTEES, BANKS AND TRUST COMPANIES

Aldine Trust Co.
American Contract & Trust Co.
American Express Bank & Trust Co.
American National Bank in Winter Haven.
American Trust Co. (San Francisco, Calif.).
Ampere Bank & Trust Co.
Asia Banking Co.
Bank of New York & Trust Co.
Bankers Company.
Bankers Trust Co.
Bowery Savings Bank.
Bronxville Trust Co.
Bank of America (California).
Bank of America Safe Deposit Co.
Bank of Manhattan Co.
Bank of Saginaw, Michigan.
Bankers Trust Co. of Hartford.
Banque Nationale des la Rep. d'Haiti.
Berwind Bank.
Brooklyn Trust Co.
Central Farmers Trust Co.
Chatham-Phenix National Bank & Trust Co.
Chicago Title & Trust Co.
Commercial National Bank & Trust Co., New York.
Commonwealth Title Co.
California National Bank.
Calumet National Bank (Chicago).
Central Hanover Bank & Trust Co.
Central National Bank (Topeka, Kans.).
Central National Bank (Philadelphia).
Central Penn National Bank.
Central Republic Trust Co.
Central Safety Deposit Co.
Central Trust Co. Topeka, Kansas.
Chase National Bank.
Chase Safe Deposit Co.
Chemical Bank & Trust Co.
Chemical National Bank.
Citizens Banking Co,. Oil City, Pa.
Citizens National Bank.
Citizens National Bank & Trust Co. Englewood, N.J.
Citizens Trust Co. (Clarion, Pa.).
Citizens Trust Co., Adams, N.Y.
Clarion County National Bank.
Colonial Trust Co. (Pittsburgh, Pa.).
Commercial Trust Co., New Jersey.
Congress Trust & Savings Bank.

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Connecticut River Banking Co. (Hartford, Conn.).
Continental Illinois Bank & Trust Co.
Continental Mortgage Guarantee Co., New York.
Corn Exchange Bank Trust Co.
County Trust Co., New York.
Delaware County National Bank, Chester, Pa.
Drovers National Bank (Chicago, Ill.).
Dry Dock Savings Institution (New York).
Dunbar National Bank (New York).
Eastport National Bank.
Emigrant Industrial Savings Bank, New York.
Empire Trust Co. (New York).
Empire Trust.
Equitable Trust Co., New York.
Equitable Eastern Banking Corp.
Essex County Trust Co. (East Orange).
Federal Reserve Bank of New York.
Federal Reserve Bank of Cleveland.
Federal Reserve Bank of Philadelphia.
Fidelity Philadelphia Trust Co.
Fidelity Safe Deposit Co., New York.
Fidelity Union Trust Co., Newark, N.J.
Fidelity Trust Co., Pittsburgh, Pa.
Fifth Avenue Bank (New York).
Fifth Ave. Bank Safe Deposit Vaults, Inc.
First Bank Stock Corporation, St. Paul, Minn.
First Bank Stock Investment Co.
First National Bank, New York.
First National Bank, Birmingham.
First National Bank, Boston.
First National Bank, Chicago.
First National Bank, Cloquet, Minn.
First National Bank, Emlenton, Pa.
First National Bank, Hartford, Conn.
First National Bank, Kansas City.
First National Bank of Lake Forest.
First National Bank, Marquette, Mich.
First National Bank, Milton, Pa.
First National Bank, Oil City, Pa.
First National Bank, Philadelphia.
First National Bank of Pleasantville, N.Y.
First National Bank of Riverside, N.J.
First National Bank, Scranton, Pa.
First National Bank, Sheridan, Ohio.
First National Bank, Southampton.
First National Bank, St. Paul.
First National Bank of Wanwatosa, Wis.
First National Bank, Warwick, N.Y.
First National Bank, Wichita, Kans.
First Seattle Dexter Horner National Bank.
First & Second National Bank & Trust Co., Oswego.
First Trust & Deposit Co. (Syracuse, N.Y.).
First Trust & Savings Bank, Chicago.
First Union Trust & Savings Bank, Chicago.
Foreman State National Bank.
Franklin Savings Bank, New York.
French American Banking Corporation.
Fulton Safe Deposit Co.
Fulton Trust Co. of New York.
Grace National Bank, New York.
Greenwich Savings Bank.
Greenwich Trust Co.
Guaranty Safe Deposit Co.
Guaranty Savings Building & Loan Association.
Guaranty Trust Co., New York.
Guaranty Trust Co., Cleveland.
Harriman National Bank.

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Harris Trust & Savings Bank.
Hartford (Connecticut) Trust Co.
Hartford National Bank & Trust Co.
Howan Savings Institution.
Hudson Trust Co.
Humboldt State Bank.
Industrial Acceptance Co.
Industrial Bank of Hartford, Inc.
International Acceptance Bank, Inc.
International Banking Corporation.
Interstate National Bank.
Irving Trust Co.
Lawyers Mortgage Co.
Lawyers Title & Guaranty Co.
Lawyers Trust Co.
Liberty Insurance Bank.
Lockport Exchange Trust Co.
Louisville Title Co.
Madison Kedzire Trust & Savings Bank.
The Manhattan Co.
Manor Real Estate & Trust Co.
Manufacturers & Traders Trust Co.
Manufacturers Trust Co.
Marine Midland Trust Co.
Marine Midland Corporation.
Market Street National Bank.
Marquette County Savings Bank.
Mechanics Savings Bank.
Mechanics Trust Company of New Jersey.
Mellon National Bank.
Merchants Bank & Trust Co. (Norwalk, Conn.).
Merchants Trust Co., Union City, N.J.
The Midland Bank, Cleveland, Ohio.
Miners Bank (Wilkes-Barre, Pa.).
Montreal Trust Co.
Morris Plan Bank (Hartford).
Morristown Trust Co. (Morristown, N.J.).
Mortgage Bond & Title Corporation, Delaware.
Mortgage Bond Company of New York.
Mutual Depositor Corporation, New York.
Nassau Building & Loan Association.
National Bank of America at Pittsburgh, Pa.
National Bond & Share Corporation (Delaware).
National City Bank, New York.
New York Trust Co., New York.
Newport Trust Co. (Newport, R.I.).
Fourth Avenue State Bank, Chicago.
North River Savings Bank, New York.
Northwestern National Bank, Milwaukee.
Northern New York Trust Co. (Watertown, N.Y.).
Northwest Bancorporation (Delaware).
Northwestern National Bank (Minneapolis).
Nyack National Bank (Nyack, N.Y.).
New York Title & Mortgage Co.
Oakland Savings & Trust.
Oil City National Bank.
Palisades Trust & Guaranty Co., Englewood.
The Park Trust Co., Weekawken, N.J.
Peopack-Gladstone Trust Co.
Peoples National Bank (Clintonville, Pa.).
Peoples National Bank (East Body, Pa.).
Peoples Trust & Savings Bank, Chicago, Ill.
Personal Loan & Savings Bank, Chicago, Ill.
Philadelphia National Bank, Philadelphia.
Philadelphia Trust Co.
Phoenix State Bank & Trust Co.
Provident Loan Society of New York.
Provident Trust Co., Philadelphia.

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Putnam Trust Co. (Greenwich, Conn.).
Real Estate Land Title & Trust Co., Philadelphia.
Real Estate Trust Co., Philadelphia.
Riggs National Bank, Washington.
Safe Deposit Co. of New York Trust Co.
Saving Fund Society of Germantown.
Scarsdale National Bank & Trust Co.
Schenectady Trust Co. (Schenectady N.Y.)
J. Henry Schroder Trust Co.
J. Henry Schroder Banking Corporation.
Scranton Lackawanna Trust Co.
Seamen's Bank for Savings, New York.
Security First National Bank, Los Angeles.
Society for Savings (Hartford, Conn.).
Standard Safe Deposit Co.
Security Bank of Chicago.
State Savings Bank.
State Savings Bank, Hartford, Conn.
State Savings Bank. St. Paul.
State Street Trust Co.
Suffolk Savings Bank for Seamen and Others.
Sussex County Trust Co.
Title Guarantee & Trust Co., Los Angeles.
Tradesmens National Bank (Oklahoma City).
Travelers Bank & Trust Co.
Trenton Banking Co.
Trust Company of New Jersey.
Tuxedo National Bank.
Union County Trust Co.
Union Dime Savings Bank.
Union & Peoples National Bank (Jackson, Mich.)
Union Savings Bank, Pittsburgh.
Union Square Savings Bank.
Union Trust Co., Pittsburgh, Pa.
Union Trust Co., Cleveland, Ohio.
U.S. Trust Co., New York City.
U.S. Trust N.Y. (trustee).
Valley Bank & Trust Co., Phoenix, Ariz.
West Hudson County Trust, Harrison, N.J.
West Side Savings Bank.
Wilmette State Bank Wilmette, Ill.
Wilmington Savings & Trust Co., North Carolina.
Wilmington Trust Co., Wilmington, Del.
Winbar Trust Co.
Workingmans Savings Bank & Trust Co.

Exhibit H

Nonpartner directors and trustees, security companies

Air Investors, Inc.
Allied Securities Corporation.
American Corporation Bond & Share Co.
American International Corporation.
Amsuco Securities Co.
Aviation Corporation of the Americas.
Aviation Shares Corporation.
Bell Telephone Securities Co.
Chase Harris Forbes Corporation.
Chemical National Co.
Chicago Corporation.
Columbia Securities Corportaion.
Commercial National Corporation.
Continental Chicago Corporation (Delaware).
Continental Securities Corporation (Maryland).
Electric Overseas Investment Co.
Electrical Securities Corporation.
Federal Bond & Share Co.

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Fidelity Union Title Mortgage Guaranty Co.
Finance Corporation of America, Pennsylvania.
First Security Corporation, Ogden, Utah.
Fishers Island Corporation.
General American Investors Co.
The Graymur Corporation (Delaware).
Heating & Plumbing Finance Corporation.
Incorporated Investors (Massachusetts).
Insurance Securities Co., Inc.
International European Investing Corporation.
Investead Corporation.
Irving Investors Management Co.
Lee, Higginson Trust Co.
Lehman Corporation.
M. T. Securities Corporation.
Maydor Investment Co.
Metropolitan Investment Co.
National City Company.
N. J. General Security Co.
Oilstocks, Ltd., Delaware.
Pennroad Corporation.
Philadelphia Investment.
Phoenix Securities Corporation.
Premier Shares Co.
Public National Corporation.
Railroad Equipment Financing Corporation.
Republic Securities Co.
Rossia International Corporation.
St. Lawrence Shares Corporation.
Second National Investors Corporation.
Selected Industries, Inc.
Silesian Holding Co.
Somerset Securities Corporation.
Southern Pacific Co.
Standard Investing Corporation.
Sterling Securities Corporation.
Sutter Investment Co.
Transamerica Corporation.
Transatlantic Securities Co.
Tuxedo Securities Corporation.
U. S. & Foreign Securities Co.
United Utilities Co.
The Vaness Co.
Virginia Holding Corporation.
Western Savings Fund Society, Philadelphia.
Western Savings Society.
Yosemite Holding Corporation.
Alleghany Corporation.
American & Continental Corporation.
American Investors, Inc.
Atlas Utilities Corporation.
Aviation Corporation of Delaware.
Bankers Co.
Bessemere Securities Co.
Chemical Securities Corporation.
Chanler Holding Corporation.
Chase Securities Corporation.
Christiana Securities Co. (Delaware).
Columbia Syndicate.
Commonwealth & Southern Corporation.
Continental Illinois Co.
Curtis Southwestern Co.
Dominion Securities Co.
European Mortgage & Investing Co.
Fidelity Union Stock & Bond Co.
Fifth Avenue Bus Securities Corporation.

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First American (Duluth, Minn.).
First Security Trust Co., Salt Lake City.
Fourth National Investors.
W. A. Harriman Securities Corporation.
Huron Holding Corporation.
Indianapolis Water Works Securities Co.
International Equities Corporation.
International Power Securities Corporation.
Investors Equity Co.
Lackawanna Securities Co.
Lehigh Power Securities Corporation.
Libbey Owens Securities Corporation.
Massena Securities Corporation.
The Mayflower Securities Co.
Morristown Securities Corporation.
National Investors Corporation.
Niagara Share Corporation.
Overseas Securities Corporation.
Petroleum Bond & Share Corporation.
The Philadelphia National Co.
Power Securities Corporation.
Printing Securities Corporation.
Publication Securities Corporation.
Realty Associates Securities Corporation.
Reynolds Investing Co.
St. Lawrence Securities Co.
Schoellkopf & Co.
Securities Co. of North America.
Silesian American Corporation.
Solvay American Investing Co.
Southern Bond & Share Corporation.
Southern Investors Corporation.
Standard Holding Corporation.
Sun Investing Co.
Third National Investors.
Transportation Securities Corporation.
Tri-Continental Corporation.
United Electric Securities Co.
U. S. Bond & Share Co.
U. S. & International Securities Corporation.
Utility Equities Corporation.
Vick Financial Co.
Wedgewood Investing Corporation.
Welles Holding Corporation.
Western Savings, Inc.

Exhibit I

NONPARTNER DIRECTORS AND TRUSTEES, RAILROADS

Abilene & Southern Railroad Co.
Ahnapee & Western Railway Co.
Akron & Barberton Belt Railroad Co.
Alabama Great Southern Railroad Co.
Alameda Belt Line.
Albany Passenger Terminal.
Albany & Susquehanna Railroad.
Allegan & S. E. Railroad Co.
Alleghany & Western Railway Co.
Allentown Railroad Co.
Allentown Terminal Railroad Co.
Almeda Belt Line Co.
The Alton Railroad Co.
Ann Arbor Railroad.
The Arlington Railroad Co.
Arnot & Pine Creek Railroad Co.
Asherton & Gulf Railway Co.

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Asphalt Belt Railway Co.
Atlantic Coast Line.
Atlanta, Birmingham & Coast Railroad.
Atlanta & Charlotte Air Line Railway.
Atlantic City Railroad Co.
Austin Dam & Suburban Railway Co.
Baltimore & Ohio Chicago Terminal Railroad.
Baltimore & Eastern Railroad Co.
Baltimore & New York Railway Co.
Baltimore & Ohio Railroad Co.
Bangor & Aroostock Railroad Co.
Bath & Hammondsport Railroad Co.
Bauxite & Northern Railway Co.
Bay Shore Connecting Railroad Co.
Beaumont Sourlake & Western Railroad Co.
Belt Railway of Chicago.
Bergen County Railroad Co.
Bergen & Dundee Railroad Co.
Bingham & Garfield Railway Co.
Booneville, St. Louis & Southern Railway Co.
Boston, Cape Cod & New York Canal Co.
The Buffalo, Bradford & Pittsburgh Railroad Co.
Buffalo Creek Railroad.
Buffalo, Rochester & Pittsburgh Railroad Co.
Buffalo & Susquehanna Railroad Corporation.
Cairo & Thebes Railroad Co.
The Caldwell Railway Co.
Campbell Hall Connecting Railroad.
Canada Southern Railway Co.
Canton, Aberdeen & Nashville Railroad Co.
Carolina, Clinchfield & Ohio.
Catasauqua & Fogelsville Railroad Co.
Catawissa Railroad Co.
Cayuga & Susquehanna Railroad.
Central of Georgia Railway Co.
Central Indiana Railroad Co.
Central Railroad of New Jersey.
Cerro De Pasco Railway Co.
Charleston & Western Carolina Railway.
Chateaugay & Lake Placid Railway Co.
Chazy Marble Line Co.
Cherry Tree & Dixonville Railroad Co.
Chicago, Burlington & Quincy Railroad.
Chicago & Eastern Illinois Railroad Co.
Chicago, Milwaukee & St. Paul & Pacific Railway.
Chicago, North Shore & Milwaukee Co.
Chicago & North Western Railway Co.
Chicago, Rock Island & Pacific Railway Co.
Chicago, St. Louis & New Orleans Railroad Co.
Chicago, St. Paul, Minneapolis & Omaha Railroad.
Chicago & West Indiana Railroad.
Cisco & Northeastern Railroad Co.
Clearfield & Mahoning Railway Co.
Cleveland, Cincinnati, Chicago & St. Louis Railroad Co.
Cleveland Interurban Railroad Co.
Cleveland Railway Co.
Cleveland & Youngstown Railway Co.
Clinchfield Railroad Co.
Colebrookdale Railroad Co.
Colorado & Southern Railroad.
Columbia, Newberry & Laurens Railroad.
Columbus & Erie Railroad Co.
Columbus & Xenia Railroad Co.
Consolidated Railway of Cuba.
Cooperstown & Carlotte Valley Railroad Co.
Cooperstown & Susquehanna Valley Railroad Co.
Cooper River & North Western Railroad.

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Cuba Northern Railroad Co.
Cuba Railroad Co.
Dayton & Michgian Railroad Co.
Deep Creek Railroad.
Delaware & Hudson Railroad.
Delaware, Lackawanna & Western Coal Co.
Delaware River Ferry Co. of New Jersey.
Delaware Valley & Kingtson Railway Co.
Del-Mar-Va Motor Transport Co.
Dennison & Pacific Suburban Co.
Denver & Rio Grande Western Railroad Co.
Denver & Salt Lake Railway.
Detroit River Tunnel Co.
Detroit Union Railroad Depot & Station Co.
Detroit, Hilldsale & South Western Railroad.
The Docks Connecting Railway.
Dover & Rockaway Railroad Co.
Dubuque & Sioux City Railroad.
East Mohony Railroad Co.
East Pennsylvania Railroad Co.
Eastern & Northern Railroad Co.
Eastern & Western Railroad Co.
Elmira & Lake Ontario Railroad.
The Elmira State Line Railway Co.
Elmira & Williamsford Railroad Co.
Elizabethport & N. Y. Ferry Co.
Erie Railroad.
Erie Terminals Railroad Co.
Erie & Wyoming Valley Railroad Co.
Eriton Railroad Co.
Fort Myers Southern Railroad.
Fort Smith Surburban Co.
Fort Wayne Railroad.
Fort Wayne & Jackson Railroad Co.
Frontier Electric Railway Co.
Frontier Railroad.
Galveston Harrisburg & San Antonia Railway Co.
Galveston Houston & Henderson Hastings Railway.
Georgia & Florida Railroad (Receiver).
The Gettysburg & Harrisburg Railroad Co.
Great Northern Railway.
Green Bay & Western Railroad Co.
Greenwich & Johnsonville Railway Co.
Gulf Colorado & Santa Fe Railway Co.
Gulf Mobile & Northern Railroad.
Hackensack & Lodi Railroad Co.
Houston Belt & Terminal Railroad Co.
Houston Brazos Valley Railway Co.
Houston East & West Texas Railroad.
Houston North Shore Railroad Co.
Houston & Shreveport Railroad.
Houston Texzs Central Railroad.
Huntington & Broad Top Mountain Railroad.
Iberia, St. Mary & Eastern Railroad Co.
Illinois Central Railroad Co.
Indian Valley Railroad Co.
Indiana Harbor Belt Railroad Co.
Indianapolis & Frankfort Railroad.
Insular Railway Co.
International Great Northern Railroad Co.
International Railways of Central America.
Interstate Railroad Co.
Iron Mountain Railroad of Memphis.
The Ironton Railroad Co.
The Jefferson Railroad Co.
Johnsoreburg Railroad Co.
Joliet & Chicago Railroad.

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Kansas City, Mexico & Orient Railway Co.
Kansas City Southern Railway Co.
Kansas City Terminal Railway.
Kewanner, Green Bay & Western Railroad Co.
Lehigh & Hudson River Railroad.
Lehigh & New England Railroad.
Lehigh & New York Railroad Co.
Lehigh Valley Harbor Terminal Railway Co.
Lehigh Valley Railway Co.
Lehigh Valley Railroad Co. of New Jersey.
Ligonier Valley Railroad Co.
The Lodi Branch Railroad Co.
Long Island Railroad Co.
Los Angeles & Salt Lake Railroad Co.
Louisiana Western Railroad.
Louisville & Nashville Railroad.
Loyalstock Railroad Co.
Lykeus Valley Railroad.
Magina Arizon Railroad Co.
Mahoning Valley Railroad Co.
Marion Railway Corporation.
Massilon & Cleveland Railroad Co.
Matanzas Terminal Railroad Co.
Mechanicsville & Fort Edward Railroad.
Mexican Central Railway Co.
Michigan Central Railroad Co.
Middletown & Crawford Railroad Co.
Minneapolis & St. Louis Railway.
Mississippi River & Boune Terre Railway Co
Mississippi Valley Railroad.
Missouri Illinois Bridge & Belt Railroad Co.
Missouri Illinois Railroad Co.
Missouri Kansas & Texas Railway Co.
Missouri Pacific Railroad Co.
Mississippi Central Railroad.
Mobile & Ohio Railroad Co.
Montrose Railroad Co.
Moore Haven & Clewiston Railway Co.
Morgans Louisiana & Texas Railway.
Moriongahela Railway Co.
Morris & Essex Railroad Co.
Mount Carbon & Port Carbon Railroad Co.
Mount Hope Mineral Railroad Co.
Napierville Junction Railway Co.
National Railroad Co. of Mexico.
Nesquehoning Valley Railroad.
Nevada Northern Railway Co.
Newark & Hudson Railroad Co.
New Cumberland & Pittsburg Railway.
New Iberia & Northern Railway Co.
New Jersey Junction Railroad Co.
New Jersey & New York Railroad Co.
New Jersey & New York Extension Railroad Co.
New Orleans Great Northern Railroad Co.
New Orleans & Lower Coast Railway Co.
New Orleans Pacific Railroad Co.
New Orleans, Texas & Mexico Railroad Co.
New York Central Railroad Co.
New York, Chicago & St. Louis Railroad Co.
New York Connecting Railroad Co.
New York & Harlem Railroad Co.
New York & Lake Erie Railroad Co.
New York & Long Branch Railroad Co.
New York, New Haven & Hartford Railroad Co.
New York, Philadelphia & Norfolk Railway.
Norfolk & Western.
The North East Penn. Railroad Co.

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Northern Railroad of New Jersey.
Northern Railroad Co.
Northwestern Railroad Co. of South Carolina.
Nyack & Southern Railroad Co.
Nypano Railroad Co.
Ohio River & Western Railway Co.
The Orange & Northwestern Railroad Co.
Overseas Railways, Inc.
Pacific Southwestern Railroad.
Pecos Valley Southern Railroad Co.
Penhorn Creek Railroad Co.
Pennsylvania & Atlantic Railroad Co.
Penn. & Newark Railroad Co.
Penn. Railroad Co.
Pennsylvania Western Railway Co.
Peoples Railway Co.
Philadelphia & Beachhaven Railroad Co.
The Philadelphia & Chester Valley Railroad Co.
The Philadelphia Belt Line.
The Philadelphia, Newton & New York Railroad Co.
Pickering Valley Railroad Co.
Pochuck Railroad Co.
Quebeck, Montreal & Southern Railway Co.
Racor Pacific Frog & Switch Co.
Ray & Gila Valley Railroad Co.
Reading Co.
Reading & Columbia Railroad Co.
Reading Transportation Co.
Russelaer & Saratoga Railroad.
Reynoldsville & Falls Creek Railroad.
Richmond, Fredericksburg and Potomac.
Richmond Terminal Railway Co.
Rio Grande City Railway Co.
Rio Grande Junction Railway Co.
The Roseland Railway Co.
Rosslyn Connecting Railroad Co.
Rutland & Whitehall Railroad Co.
Sacremento Northern Railroad Co.
St. Joseph & Grand Island Railway Co.
St. Louis, Brownsville and Mineo Railroad Co.
St. Louis San Francisco Railway Co.
St. Louis Southwestern Railway Co.
Salt Lake City Union Depot & Railroad Co.
San Antonia Southern Railroad Co.
San Antonio Walde & Gulf Railroad Co.
San Benito & Rio Grande Valley Railroad Co.
Santa Fe & Pacific Railroad Co.
Santa Fe Priscott & Phenix Railroad Co.
Savanah Union Station.
Schuylkill Navigation & Railroad Co.
Schoharie Valley Railroad Co.
Seaboard Air Line Railway Co.
The Sharon Railway.
Sharpsville Railroad Co.
Shippers Car Line Corp.
Southern Illinois Railway & Bridge Co.
Southern Railway Co.
South Covington & Cincinnati Street Railway Co.
Southern Pacific Railroad.
Spokane, Portland & Seattle.
Staten Island Rapid Transit Railway Co.
Sterling Iron & Railway Co.
Stone Harbor Railroad Co.
Stony Creek Railroad Co.
Sugar Land Railway Co.
Susquehanna Connecting Railroad Co.
Tampa Southern Railroad Co.

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Tampa Union Station Co.
Tarrytown Terminal Corporation.
Tennessee, Alabama & Georgia Railway Co.
Tennessee Railroad Co.
Terminal Railway Association of St. Louis.
Texas & Pacific Railroad Co.
Texas & New Orleans Railroad.
Texas-New Mexico Railroad Co.
Texas, Pacific & Missouri Pacific.
Terminal Railway of New Orleans.
Texas Short Line Railway Co.
Third Avenue Railway.
Ticonderoga Railroad Co.
Tiogas Railroad Co.
Tidewater Southern Railroad Co.
Trans-Mississippi Terminal Co.
Trenton Princeton Traction Co.
Tresakone Railroad Co.
Troy Union Railroad Co.
Tucson, Cornelia & Gila Bend Railroad.
Tug River & Kentucky Railroad Co.
Tylerdale Connecting Railroad Co.
Union Pacific Railroad Co.
Union Railroad Co.
Union Railroad of Baltimore.
United Railways of Habana & Regla Warehouses, Ltd.
Virginian Railway.
Wabash Railway Co.
The Washington & Franklin Railway Co.
Washington & Vendermere Railway Co.
Waynesburg & Washington Railway Co.
Western Pacific California Railroad Co.
Western Pacific Railroad Co.
Wharton & Northern Railroad Co.
Wildwood & Delaware Bay Short Line Railroad Co.
Wilkesbarre & Scranton Railway Co.
Williamson & Pond Creek Railroad Co.
The Williams Valley Railroad Co.
Wilmington Railroad Bridge Co.
Wyandotte Southern Railroad Co.

Exhibit J

NONPARTNER DIRECTORS AND TRUSTEES, PUBLIC UTILITIES

Alabama Power Co.
Alcoa Power Co.
Allied Power & Light Co.
All American Cables.
Amere Gas Utilities Co.
American & Foreign Power Co., Inc.
American Gas Co.
American Gas & Electric Co.
American Light & Traction.
American Power & Light Co.
American Super-Power Corporation.
American Telephone and Telegraph Co.
Arkansas Valley Interurban Railway.
Astoria Light Heat & Power Co.
Ball Electrical Illuminating Co.
Beaver Creek Water Co.
Beaver Meadow Water Co.
The Bell Telephone Co. of Canada.
Bellevue Water Fuel Gas & Light Co.
Blair Gap Water Supply Co.
Blackwood Water Co.
Blandburg Water Co.

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Brackenridge Light & Power Co.
Bronx Gas & Electric Co.
Brooklyn Edison Co.
Brush Electric Illuminating Co. of New York.
Buffalo General Electric Co.
Buffalo, Niagara & Eastern Power Co.
Capital Traction Co.
Caroline Power and Light Co.
Central California Traction Co.
Central Hudson Gas & Electric Corporation.
Central Illinois Light Co.
Central Kentucky Natural Gas Co.
Central States Gas Utility Co.
Central Union Gas Co.
Chenango Gas Co.
The Chesapeake & Potomac Telephone Co. of Baltimore.
The Chesapeake & Potomac Telephone Co. of West Virginia.
The Chesapeake & Potomac Telephone Co. of Virginia.
Chicago Railways Co.
China General Edison Co.
The Cincinnati Gas & Electric Co.
Cincinnati Newport & Covington Light and Traction Co.
Cincinnati Street Railway Co.
The Cincinnati & Suburban Bell Telephone Co.
Cities Service Co.
Citizens Water Co.
Clearview Water Supply Co.
Cleveland Electric Illuminating Co.
Cold Run Water Co.
Columbus Gas & Fuel Co., Columbus, Ohio.
Commercial Cable Co.
Commercial Cable Co. of Cuba.
Commercial Cable Co. (Massachusetts).
Commercial Pacific Cable Co.
Community Natural Gas Co., Dallas.
Connecting Gas Co., Cleveland.
Consolidated Telegraph & Electrical Subway Co.
Consumers Power Co.
Coos Bay Gas Co., Oregon.
Council Bluffs Gas Co.
Corning & Painted Post Railway Co.
Cumberland & Alleghany Gas Co.
Dallas Gas Co.
Dauphin Consolidated Water Supply Co.
Dawson Fuel Co.
Dawson Fuel Sales Co.
Dayton Power & Light Co.
Dejon Electric Corporation.
Delaware Water Co.
Denison Township Water Co.
Detroit Edison Do.
Diamond Water Co.
Drifton Water Co.
Dunbar Water Supply Co.
Duquesne Light Co.
East River Gas Co. of Long Island City.
Eastern Massachusetts Street Railway Co.
Eastern Pipe Line Co.
Eastern States Power Corporation.
Edison Electric Illuminating Co.
Electric Bond and Share Co.
Electric Household Utilities Corporation.
Electric Power & Light Corporation.
Electric Railway Equipment Securities.
Elmira Corning & Waverly Railway Co.
Emlenton Water Co.
Engineers Put. Service Co.

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42nd Street Manhattan area and St. Nicholas Avenue Railway.
Foyettville Water Co.
Florida Power & Light Co.
Franklin Water Co.
Galveton Gas Co.
Galveston Gas Stoves, Inc.
General Public Service Corporation.
General Realty & Utilities Corporation.
Georgia Power Co.
Great Falls Power Co.
Greensboro Gas Corporation.
Guthrie Gas Co. of Okla.
Havana Electric & Utilities Co.
High Ridge Water Supply Co.
Holyoke Water Power Co.
Home Gas Co.
Hunter Run Water Co.
Hudson & Manhattan Railroad Co.
Illinois Bell Telephone Co.
Illinois Power Co.
Indiana Bell Telephone Co.
Indiana Gas Transmission Co.
Indianapolis Water Co.
Interborough Rapid Transit Co.
Intercontinents Power Corporation.
International General Electric Co.
Italian Superpower Corporation.
Kansas City Clay County & St. Joseph Ry. Co.
Kansas Gas & Electric Co.
Kattowitzer Aiken, Gesellschaft.
Kensington Water Co.
Kentucky Electric Corporation.
Kentucky Gas Transmission Co.
Kingsbridge Railway.
Knoxville Power Co.
Lehigh Valley Transit Co.
The Lockport and Newfare Power and Water Supply Co.
Logan Gas Co.
Lone Star Gas Co., Dallas Texas.
Long Island Consolidated Electrical Co's.
Long Island Electric Railway Co.
Lopatcong Water Co.
Lower Niagara River Power and Water Supply Co.
Luzerne County Gas & Elec. Corporation.
Lykens Water Co.
Manhattan Railway Co.
The Manufacturers Light & Heat Co.
Maryland Gas Transmission Co.
Mexican Telephone & Telegraph Co.
Michigan Bell Telephone Co.
Middlesex Water Co.
Milwaukee Electric Light Heat & Traction Co.
Milwaukee Electric Railway & Light Co.
Minnesota Power & Light Co.
Missouri Kansas Gas Co.
Mohawk Hudson Power Corporation.
Monroe Water Supply Co.
Montana Power Co.
Mountain States Telephone & Telegraph Co.
Mountain Water Supply Co.
Municipal Lighting Co.
National Fuel Gas Co.
National Power & Light Co.
National Light & Power Co.
Natrona Water Co.
Natural Gas Co. (West Virginia).
Nebraska Power Co.
New Amsterdam Gas Co.

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New England Telephone & Telegraph Co.
New Jersey Bell Telephone.
New Orleans Power Service.
New York City Interborough Railway.
New York Power and Light Co.
New York & Queens Electric Light & Power.
New York & Queens Gas Co.
New York Railways Co.
New York Rapid Transit Corporation.
New York Telephone Co.
New York Westchester & Connecticut Traction Co.
Niagara Electric Service Corporation.
The Niagara Gorge Railroad Co.
Niagara Junction Railway Co.
Niagara Lockport & Ontario Power Co.
North American Co.
North American Telegraph Co.
North Central Gas Co.
Northern Telegraph Co.
Northern Natural Gas Co.
Northern New York Utilities, Inc.
Northern Union Gas Co.
Northern Utilities Co.
Northwest Cities Gas Co.
Northwestern Bell Telephone Co.
Octoraro Water Co.
Ohio Bell Telephone Co.
Ogden Gas Co.
Ohio Edison Co.
Ohio Fuel Gas Co.
Oneida Water Co.
Palmer Water Co.
Panama Power & Light Corporation.
Panther Valley Water Co.
Pennsylvania Water & Power Co.
Pennslyvania Ohio Edison Co.
Peninsular Telephone Co.
Pennsylvania Power & Light Corporation.
Pennsylvania Water Co.
Peoples Natural Gas Co.
Philadelphia Electric Co.
Philadelphia Interurban Water Co.
Philadelphia Rapid Transit Co.
Philadelphia Reading & Pattsville Telephone Co.
Philadelphia Steam Co.
Phoenix Utility Co.
Pittsburgh Railways Co.
Postal Telegraph & Cable Corporation.
Power Corporation of New York.
Reserve Gas Co.
Rocky Mt. Power Co.
St. Lawrence River Power Co.
Schuylkill Water Co.
Shanghai Power Co.
Shanghai Telephone Co.
Sheafer's Creek Water Co.
Slippery Rock Gas Co.
Slippery Rock Heat & Light Co.
Societe d'Electricite et de Mecaneque of Brussels, Belgium.
Societe Financiers pour le Development de l'Electricite of Paris.
South American Power Co.
South Carolina & Pacific Railway.
Southern Boulevard Railroad.
The Southern New England Telephone Co.
Southern Bell Telephone & Telegraph Co.
Southern Indiana Gas & Electric Co.
Southern New England Telephone Co.

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Southwestern Bell Telephone Co.
Standard Gas Light Co. of N.Y.
Stone & Webster, Inc.
Suburban Electric Co.
Summit Hill Water Co.
Summitt Water Supply Co.
Susquehanna Utilities Co.
Tallahassee Power Co.
Tampa Gas Co.
Tennessee Electric Power Co.
Texas Cities Gas Co.
Tide Water Power Co.
Tonawonda Power Co.
Trafford Water Co.
Tri Cities Water Co.
Twin City Rapid Transit Co.
The Union Gas & Electric Co.
Union Heat & Light Co.
Unito Pipe Line Co.
Union Passenger Railway Co.
United Electric Light & Power Co.
United Fuel Gas Co.
United Gas Corporation.
United Light & Power Co.
U. S. Hoyti Cable Co.
Valley Railroad Co.
Valley Telephone Co.
Virginia Ferry Corporation.
Virginia Gas Distribution Co.
Virginia Gas Transmission Co.
Wasatch Gas Co.
The Washington Water Power Co.
Westchester Electric Railroad.
Western Public Service Corporation.
Western Union Telegraph Co.
The Western Colorado Power Co.
Williamsburg Power Plant Corporation.
Wright Township Water Co.

Exhibit K

NONPARTNER DIRECTORS AND TRUSTEES, INDUSTRIALS

Adams Opel A. G.
Adee Co., Inc.
Adlin Corporation.
A. E. L. Realty Co.
Air Reduction Co.
Alco Gravue Co.
Allentown Iron Co.
Allgemeine Elektricitats Gesellschaft.
Allied Chemical & Dye Corporation.
Almagre Mining Co.
Aluminum Goods Manufacturing.
Aluminum Manufactures, Inc.
Alurion Realty Corporation.
American Agricultural Chemical Co.
American Bank Note Co.
American Beet Sugar
American Blower Corporation.
American Case Co.
American Copper Products.
American Dyewood Co.
American Express Co.
Am. Glanzstoff Corporation.
Amer. Hard Wall Plaster Co.
American I. G.
American Lithograph Co.

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American Maize Products Co.
American Manganese Steel Co.
American Meter Co.
Amer. Refrigerator & Transit Co.
American Rubber Products, Inc.
American Shipyard Co.
Amer. Steel Foundries Co.
Adams Express Co.
American Thermos Bottle Co.
American Water Softener Co.
American Writing Paper Co.
Anchor Cap Corporation.
Andover Corporation.
D. Appleton Co.
Arden Farms Dairy.
Argonaut Mining Co.
Arizona Oil Co.
Argus Co., Inc.
Armour Co.
Artloam Corporation.
Associated Rayon Corporation.
Atlanta Bonaventure Corporature.
Atlanta Gulf Oil Co.
Atlantic Land & Improvement Co.
Atlantic Seaboard Corporation.
Augusta Walton Way Corporation.
Avondale Mills.
Babcock & Wilcox Co.
Baltimore Gas Engineering Co.
Baltimore & Phila. Steamboat Co.
L. Bamberger & Co.
W. H. Barnum & Co.
Bayuk Cigars.
Behn Bros.
Bell City Malleable Iron Co.
Berwin Terminal Co.
Bethlehem Shipbuilding Corporation, Ltd.
Big Marshal Oil Co.
J. N. Adam & Co.
Adler Co.
Admiralty Coal Corporation.
Agricultural Products Corporation.
Alabama Fuel & Iron Co.
Alcon Ore Co.
Alliance Realty Co.
Allis Chalmers Manufacturing Co.
Aluminum Co. of America.
Aluminum Industries, Inc.
Aluminum Seal Co.
Amalgamated Leather Cos., Inc.
American Bemberg Corporation.
American Brake Shoe & Foundry Co.
American Bosch Magneto.
American Brake Materials Corporation.
American Car & Foundry Co. & subsidiaries.
American Car & Foundry Motors Co.
American Dredging Co.
American Enka Corporation.
American Forge Co.
American Hardware Corporation.
American Hawaiian Steamship Co.
American Ice Co.
American Locomotive Co. & subsidiaries.
American Malleables.
American Metal Co., Ltd.
American Pipe & Construction Co.
American Radiator Co.

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American Rolling Mills Co.
American Ship & Commerce Co.
American Smelting & Refining Co.
American Sugar Refining Co.
A. G. I. Transportation Co.
American Timber Co.
American Woolen Co.
Anaconda Copper Mining Co.
Andes Copper Mining Co.
Anglo-Chilean Consolidated Nitrate Corporation.
Appaline Oil Co., Clarksburg.
Archer Coal Depot Co.
Argonaut Consolidated Mining Co.
Arizona Copper Co.
Arizona Refining Co.
Arkansas Memphis Bridge & Terminal Co.
Arrow-Hart & Hegeman Electric Co.
Art Metal Construction Co.
Atlanta Bolling Jones Corporation.
Atlanta Canterbury Corporation.
Atlantic Gulf & West Indies Steamship Lines.
Atlantic Mail Corporation.
Atlas Portland Cement Co.
Austin Nicholas & Co.
Babcock Carrier Florida Co.
Baker Whiteley Coal Co.
Baltimore Mail Steamship Co.
Baltimore & Virginia Steamboat Co.
Barnhona Co.
Bates Expanded Steel Corporation.
Belding Heminway-Corticelli Co.
Birmingham Altamont Corporation.
Bliss Fabyon & Co., Inc.
Blossburg Coal Co.
Bon Ami Co.
Bradley Transportation Co.
Brill Corporation.
British Amer. Metals.
Brooklyn Bridge Freezing & Cold Storage Co.
Brooklyn Elevator & Milling Co.
Brooklyn-Manhattan Transit Co.
Brooks Bros.
Brownsville Ferry Co.
Buck Run Coal Co.
E. G. Budd Mfg. Co.
Burlington Refrigerator Express Co.
Builders Material Exhibit.
Burnham Exploration Co.
Butte & Superior Mining Co.
Cabaniss, Johnston, Cooke & Cabaniss.
Callowhill Mfg. Co.
Campbell Soup Co.
Canada Southern Bridge Co.
Canadian Meter Co.
Cape Cruz Sugar Co.
Carib Syndicate.
Carthage Pulp & Board Co.
Cedar Rapids Transmission Co.
Cellulose Products Corp.
Central Pipe Line Co.
Century Coal Co.
Chateaugay Ore & Iron Co.
Chicago By-Products Coke Co.
Chile Exploration Co.
C. F. Church Mfg. Co.
P. F. Collier & Son.
Cleveland Builders Supply Brick Co.

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Cleveland Terminals Building Co.
Cliff Paper Co.
Cochise Publishing Co.
Colon Oil Company.
Columbia Corporation.
Columbia Phonograph Co.
Consolidated Silesion Steel Corporation.
Continental Baking Co.
Continental Mexican Rubber Co.
Continental Plantation Co.
Cooper-Bessemer Corporation.
Copper Pyrite Corporation.
Coxe Brothers Co.
Connecting Terminal Co.
Cranberry Creek Coal Co.
Crucible Steel Co.
Cuba Co.
Cuban Air Products Corporation.
Cuban Dominican Sugar Co.
Cuban Tobacco Co.
Curtis Airplane & Motor Co.
Curtiss-Wright Corporation (and subsidiaries).
Cutler Hammer Co.
Davie Shipbuilding & Repairing Co.
Davenport Locomotive Co.
Detroit Lubrication Co.
De Giorgio Fruit Co.
Dodge Brothers.
Dominguez Oil Fields Co., Inc.
Dominion Brake Shoe Co., Ltd.
Berwind White Coal Mining Co.
Berwind White Coal Co.
Bethlehem Steel Corporation.
Bigelow-Sanford Carpet Co., Inc.
E. W. Bliss.
Bloomingdale Bros.
Sidney Blumenthal Co.
Brighton Marine Repair Yard.
Brill, J. G. Co.
Brittania Mining & Smelting Co.
Brooklyn Bus Corporation.
Brooklyn District Terminal.
Brooklyn & Queens Transit Corporation.
Brown Fowlkes Coal Co.
Buckingham & Hecht.
Bucyrus Erie Co.
Bulk Transportation Co.
Buffalo & Susquehanna Coal & Coke Co.
Burns Bros. (New Jersey-New York).
Bunker Hill Mines.
Bush Terminal Co.
C.N.B. Corporation.
California Packing Co.
Campbell Metal Windows Corporation.
A. S. Cameron Steam Pump Works.
Canadian Ingersoll Rand Co.
Canadian Rockies Hotel Co.
Capewell Horse Nail Co.
Carter Carburetor Co.
Case Lockwood & Brainard Co.
Celanese Corporation of America.
Central Alloy Steel.
Central Romana, Inc.
Champlain Transportation Co.
Chelsea Jute Mills Co.
Chile Copper Co.
Chrysler Corporation.

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Coca-Cola Co.
Collins Co.
Cleveland Union Terminals Co.
Cleveland Traction & Terminal Co.
Clyde Steamship Co.
P. F. Collier & Son Co.
Colorado Fuel & Iron Co.
Columbia Oil & Gasoline Co.
Columbia Union Station.
Consolidated Cigar Co.
Consumers Co.
Continental Can Co.
Continental Paper & Bag Co.
Continental Rubber Co.
Copper Exporters, Inc.
Coconet Phosphate Co.
W. G. Coyle & Co.
Cramp Ship & Engine Building Co.
Crawford & Gregory, Emlenton, Pa.
Cruikshank Co.
Cuban Cane Products Co.
Cuban American Terminal Co.
Cuban Portland Cement Corporation.
Jane E. Curran, Inc.
Curtis Publishing Co.
Cushman Church Co.
Davenport Hosiery Mills, Inc.
Davison-Paxon Co.
Delaware Division Canal Co.
R. H. Donnelly, Corporation.
S. R. Dresser Manufacturing Co.
Dry Steam Valve Sales Corporation.
Dunlop Tire & Rubber Co.
Duplan Silk Co.
duPont Rayon Co.
Duquesne Warehouse Co.
East Sugar Loop Coal Co.
Eastern Wire & Cable.
Edgewater Mills.
El Potoise Mining Co.
Electric Boat Co.
Electro Masters, Inc.
Elizabethport & New York Ferry Co.
Emlenton Milling Co.
Empire Fuel & Iron Co.
Empire State Building.
The Emporium.
Ennis Brown Co.
Ensign Reynolds, Inc.
Eulalia Mining Co., San Francisco.
Evans Wallower Lead Co.
Fairbanks Co.
Fairchild Aviation Co.
Federal Chemical Co.
Federal Mining & Smelting.
Ferry Cap & Set Screw Co.
Fifth Ave. Coach Co.
Fisk Rubber Co.
Fitrust Corporation.
Fleischmann Malting Co.
Fleischmann Transportation Co.
Flint-Kot Co.
Florida Mining Co.
Forest Preserves, Inc.
Fox Furnace Co.
Franco American Food Co.
Franklin Fluorspar Co.

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Franklin General Stores.
Fremkir Corporation.
Freeport Texas Co.
Frontier Corporation.
Frontier Utilities.
Fruitgrowers Express Co.
Robert Gair Co.
Gallup American Coal Co.
Gamewell Co.
General Alliance Corporation.
General Aviation Co.
General Bakery Co.
General Cable Co.
General Ceramics Co.
General Development Co.
General Education Board.
General Foods Corporation.
General Laboratories Co.
General Machinery Corporation.
General Optical Co.
General Refractories.
General Reinsurance Corporation.
General Stockyards Corporation.
General Sugar Corporation.
George D. Emery Co.
Georgian Manganese Co.
Giant Portland Cement Co.
E. W. Gillet Co. Ltd.
Gillette Safety Razor Co.
Gimbel Bros.
Girard Point Storage Co.
Glen Alden Coal Co.
Devonian Oil Co.
Dodd-Miller, Inc.
Doe Run Lead Co.
Dominion Boiler & Radiator Co., Ltd.
Donaldson Iron Co.
Dragon Coal Co.
Dry Dock East Broadway & Battery Railroad Co.
Ducktown Chemical Iron Co.
Duplex Bag Co.
duPont Cellophane Co.
E. J. duPont deNemours & Co.
Duttons, Inc.
Eastern Steamship Lines, Inc.
Edgewater Steel Co.
Edroyal Corp.
Electric Auto Lite Co.
Elec. Storage Battery Co.
Electric Testing Laboratories.
Elliott Fisher Co.
Emlenton Refining Co.
Empire Sprinkler Co.
The Empire Zines of Colorado.
Engelwood Sewerage Co.
Enola Sewerage Co.
Enterprise Oil Co.
European Elec. Corporation.
Goldsboro Union Station Co.
Golden Hill Corporation.
Goodyear Tire & Rubber Co.
Goodyear-Wende Oil Corporation.
Gornosloskie Zjednoczone Hutty.
W. R. Grace & Co.
Granby Consolidated Mining, etc.
Granite City Steel Co.
Granite Improvement Co.

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W. T. Grant Co.
Grant Portland Cement Co.
Graphite Metallizing Corporation.
Gravity Water Supply Co.
Great Island Corporation.
Great Western Sugar Co.
Greene Canairea Copper Co.
Green Mountain Lake Farms, Inc.
Greenwood Corporation.
Bartron Griscom Co.
Gulf Oil Corporation.
Gulf States Steel Co.
Gunther's Sons, C. G.
Habirshaw Cable & Wire Corporation.
Hahne & Co.
Hale & Kilburn.
The M. A. Hanna Co.
Harlem Transfer Co.
Harriman Industrial Corporation.
Harriman Thirty Corporation.
Harway Improvement Co.
Hatfield Campbell Creek Coal Co.
Havana Coal Co.
Havemeyer & Elden, Inc.
Hearst Consolidated Publications.
Hedley Gold Mining Co.
Hercules Powder Co.
Hillside Coal & Iron Co.
R. Hoe & Co.
Holmes Elec. Protective Co.
Holston Corp.
Homeslake Mining Co., San Francisco.
Homochitto Lumber Co.
Hookless Applications Co.
Hookless Fastener Co.
Glenebest Corporation.
Glenelg Corporation.
Gold Dust Corporation.
Hudson Coal Co.
Wm. L. Hughson Co.
Hughson & Merton, Inc.
Humphreys & Glasgow, Ltd.
Hunt Brothers Packing Co.
Huylers, Inc.
Illinois Union Coal Co.
Independent Aetna Sprinkler Co.
Indian Creek Coal & Coke Co.
Indiana & Illinois Coal Corporation.
Ingersoll Sergeant Drill Co.
Ingersoll Rand Co.
Innes Dry Goods Co.
Inspiration Consolidated Copper Co.
Intercontinental Co., Ltd.
Intercontinental Rubber Co.
Intercontinental Rubber Transport Co.
Interlake Steamship Co.
International Cement Corporation.
International Elevating Co.
International Match Co.
Interuational Mercantile Marine Co.
International Minerals & Metals Corporation.
International Motor Co.
International Nickel Co.
International Paper & Power.
International Products Corporation.
Interzone Corporation.

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Kansas Milling Co.
Kansas Missouri Elevator Co.
Kelvinator Corporation.
Kintland Coal & Coke Co.
Kewance Boiler Corporation.
Keystone Container Carton Co.
Kirby Lumber Co.
Kirby Petroleum Co.
Knickerbocker Cement Co.
Knickerbocker Ice Co.
Kneipp Malt Food Co.
Knox Hat Co.
Koppers Company.
Lake George Steamboat Co.
Lee Rubber & Tire Corporation.
Legion Publishing Corporation.
Lehigh Coal & Navigation Co.
Lehigh Portland Cement Co.
Lehigh & Wilkesbarre Coal Co.
Lehigh Wilkesbarre Corporation.
Libbey, Owens Ford Glass Co.
Libbey Owens Sheet Glass Co.
Liberty Bruner Corporation.
Lightning Fastener Co.
Lima Loco Co.
Hoovens, Owens, Rentschler Co.
Houston Montrose Corporation.
Houston Plaza Corporation.
Horace S. Ely & Co.
Houbigant.
Howe Sound Co.
Hudson Bay Mining & Smelting Co.
Lincoln Clay Products.
The Long Dock Co.
The Lorain Coal & Dock Co.
Louisiana Terminal Co.
Loyal Hanna Coal & Coke Co.
Ludlow Valve Manufacturing Co.
Ludlum Steel Co.
Ludowici Celadon Co.
Lycoming Products Association.
Nancy McClelland, Inc.
A. C. McClurg & Co.
James McCreery & Co.
McKesson & Robbins.
McLellan Stores.
McMillan Realty & Construction Co.
Mack Truck, Inc.
The MacKay Companies.
The Mackay Radio & Telegraph Co.
R. H. Macy & Co.
Magma Copper Co.
Masor Car Corporation.
Mallory Steamship Co.
Manata Sugar Co.
Manhattan Lighterage Co.
Manhattan Storage & Warehouse Co.
Maracaibo Oil Exploration Corporation.
Marine Basin Co.
Maritime Coaling Co.
Marshall Field & Co.
Matanzos Sugar Co.
Mathieson Alkali Works, Inc.
Mead Penn Iron Works.
Merchants Refrigerating Co.
Mergenthaler Linotype Co.
Mesabi Iron Co.

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Metoe & Thermit Co.
Mexican American Steamship Co.
Mexican Nav. Construction Co.
Miami Copper Co.
Michigan Electro Chemical Co.
Mid Continent Petroleum Corporation.
Midland Shipbuilding Co.
Mill Creek & Mine Hill Navigation Co.
Milton Manufacturing Co.
Minnesota By-Products Coke Co.
Missouri Pacific Transportation Co.
Mohawk Mining Co.
Montezume Copper Co.
Montreal Locomotive Works.
Moore Drop Forging Co.
Motor Improvements, Inc.
Mountain Park Realty Co.
Mudge Oil Co.
Murray Radiator Corporation.
Murry Ohio Manufacturing Co.
Nash Motors Co.
Nashau Manufacturing Co.
Nassau Hotel Co.
Natchez & Louisiana Railway Transfer Co.
National Aviation Corporation.
National Bearing Metals Corporation.
National Biscuit Co.
National Car Co.
National Canners Association.
National Carbide Co.
National Cash Register Co.
National Coke & Coal Co.
National Distillers Products Corporation.
National Electric Products Corporation.
National Enameling & Stamping Co.
National Lock Washer Co.
National Seal Co.
National Steel Corporation.
National Zinc Co.
Natural Titanrum Pigment Co.
Navicoal Corporation.
Nestles Food Co.
Nevada Consolidated Copper Co.
New Mexico Fuel Co.
J. J. Newman Lumber Co.
Newmond Mining Co.
New River & Pocahontas Consolidated Coal Co.
Geo. B. Newton Coal Co.
New York Air Brake Co.
New York & Cuba Mail Steamship Co.
New York Foundation.
New York, Lake Erie & Western Docks & Improvement Co.
New York Oil Co.
New York & Porto Rico Steamship Co.
New York Shipbuilding Co.
New York Steam Corporation.
New York, Susquehanna & Western Coal Co.
New York Transportation Co.
New York Transportation Co.
New York Transit & Terminal Co.
New River Collieries Co.
Niagara River Bridge Co.
Niagara Sprayer & Chemical Co.
Nichols Copper Co.
Nichols Engineering & Research Corporation.
Niles-Bement-Pond Co.
Niles Tool Works Co.

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North Charleston Terminal Co.
North Star Mines.
North American Copper Co.
Northern Coal & Iron Co.
Northern Lumber Co.
Northwest Paper Co.
Northwestern Improvement Co.
Northwestern Coal & Iron Co.
Ocean Coal Co.
Ohio River Co.
Ohio Valley Refining Co.
Oklahoma Woodchuck Zinc Lead Co.
Old Ben Coal Corporation.
Old Company's Lehigh, Inc.
Old Dominion Co.
The Omnibus Corporation.
Oneidacraft Co.
S. Oppenheimer Co.
O'Sullivan Rubber Co.
Otis Elevator Co.
Otis Fensom Elevator Co.
Outlet Co.
Overseas Motor Service Corporation.
Owenoke Corporation.
Owens Illinois Glass Co.
Pacific Car & Foundry Co.
Pacific Commercial Co.
Pacific Mills.
Pan American Airways, Inc. Corporation
Panama Coaling Co.
Panhandle Eastern Pipe Line Co.
Pan Handle Illinois Pipe Line Co.
Panhandle Producers & Refiners.
Paramount Publix Corporation.
Parish Safe Deposit Co.
Patino Mines Co.
Pavonia Ferry Co.
Peabody Coal Co.
Peninsular & Occidental Steamship Co.
Pennok Oil Corporation.
Penn-Mex Fuel Co.
Pennsylvania Engineering Co.
Pennsylvania Coal Co.
Pennsylvania Fuel Supply Co.
Pennsylvania Glass Sand Corporation.
Pennsylvania Industries.
Pennsylvania Pulverizing Co.
Pennsylvania Salt Manufacturing Co.
Pennsylvania Sugar Co.
Penn Salt Coal Co.
Perry Iron Co.
Peter Cailler Kohler Swiss Chocolates.
Petroleum Corporation of America.
Philadelphia Coal & Iron Co.
Philadelphia Co.
The Philadelphia Grain Elevator Co.
Philadelphia Perishable Products Terminal Co.
Phillips Petroleum.
Phillipine Desiccated Coconut Co.
Phosphate Recovery Corporation.
Pierce Oil Corporation.
Pierce Petroleum Co.
Pitcairn Co.
Pittsburgh By-Products Coke Co.
Pittsburgh Coal Co.
Pittsburgh Equitable Meter Co.
Pittsburgh Joint Stock Yards Co.

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Pittsburgh Plate Glass Co.
Pittsburgh Steel Co.
Pittsburgh Valve & Fittings.
Pittston Co.
Plumpton Manufacturing Co.
Pocohontas Coal & Coke Co.
Pond Creek Pocahontas Co.
Ponds Extract.
Poor Co.
Porto Rico Coal Co.
Postal Porto Rico Coal Co.
Powdrell & Alexander.
Prairie Pebble Phosphate Co.
Pressed Steel Car Co.
Preston Oil Co.
Princeton Iron Co.
Printing Machinery Co.
Publication Corporation.
Pueblo Stockyards Co.
Pure Oil Co.
Purity Bakeries.
Pintsch Compress Co.
Quaker State Oil Corporation.
Quaker State Oil Refining Co.
Radio Corporation of America.
Radio Communication Co., Inc.
Radio Keith Orpheum Co.
Radiomarine Corporation of America.
R.C.A. Photophone, Inc.
R.C.A. Radiotron Co.
R.C.A. Victor Co.
Railway Express Agency.
Railway Steel Spring.
Rainbow Dye Co.
Ramapo Ajax Corporation.
Rand Drell Co.
Rapid Transit Sub. Construction Co.
Ray-Signs Corporation.
Reliance Coke & Furnace Co.
Reliance International Corporation.
Reliance Management Corporation.
Remington Arms Co.
Reno Oil Co.
Republic Brass.
Republic Rubber Co.
Rivere Copper & Brass, Inc.
Revere Sugar Refinery Co.
Reynolds Metal Co.
Raybestos Products Corporation.
Rockbridge, Ltd.
Rosetan Brick Co.
Roseclare Lead & Fluorspar Mining Co.
Roxana Petroleum Co.
Royal American Corporation.
Royal Baking Powder Co.
Rubber Exploration Co.
Rubber Surfacers, Inc.
Russell Manufacturing Co.
Safety Co-Heating & Lighting Co.
St. Joseph Lead Co.
St. Regis Paper Co.
Sanborn Map Co.
San Luis Mining Co.
Savannah Sugar Refining Co.
Savannah River Lumber Co.
Schuylkill Coal & Iron Co.
Scranton & Lehigh Coal Co.

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Seaboard By-Products Coke Co.
Seaboard Oil Co. of Delaware.
Seatrain Lines, Inc.
Sedgwick Machine Works.
L. P. Seeley Co., Inc.
Service, Inc.
Shanferoke Coal Corporation.
Shell Union Oil Corporation.
Sheridan Wyoming Coal Co.
Shur-on Standard Optical Co.
The Shaw-Perkins Co.
Shell Co. of California.
Shell Eastern Petroleum Products.
Shell Pipe Line Co.
Henry H. Shufeld & Co.
The Silent Glow Oil Burner Corporation.
Sipsey Barge & Towing Co.
Simms Petroleum Co.
Sinclair Conslidated Oil Co.
W. & J. Sloane Mfg. Co.
Sloss-Sheffield Steel Co.
Alexander Smith Sons Carpet Co.
Smith Washington Co.
The Smith & Winchester Manufacturing Co.
Smyth Manufacturing Co.
South American Fastener Co.
South Porto Rico Sugar Co.
Southern Mineral Products Co.
Southern Wheel Co.
Southern Export Co.
South Puerto Rico Sugar Co.
Southwest Warehouse Corporation.
Sparks-Withington Co.
Spencer Turbine Co.
Spicer Manufacturing Co.
Sprague Safety Control & Signal Corporation.
Sprinkler Contractors Supply Co.
Standard Gas Engine Co.
Standard Oil Co. of New York.
Standard Safety Razor Co.
Standard Sanitary Co.
Staples Coal Co.
Staples Transportation Co.
Starrett Corporation.
Steel Co. of Canada.
Stefco Steel Co.
Sterling Oil Co.
Sterling Oil Co. (W.Va.)
John B. Stetson Co.
Chas. C. Steward Machine Co.
Stewart-Warner Corporation.
Sulphur Export Corporation.
Sun Shipbuilding Co. of Pittsburgh;
Sundstrand Corporation.
Superheater Co.
Susquehanna Coal Co.
Swedes Tord Bridge Co.
Technicolor, Inc.
Telautograph Corporation.
Texas & Pacific Motor Transport Co.
Texas & Pacific Coach Co.
Thompson-Starrett Co.
Tide Water Associated Oil Co.
Time Incorporated.
Tocoma Electro Chemical Co.
Toledo Glass Co.
Tomhicken Water Co.

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Tonopah Tidewater Co.
Transcontinental Air Transport, Inc.
Transcontinental Oil Co.
Trexler Lumber Co.
Tubize-Chatillon-Corporation.
Tyler Oil Co.
Underwood-Elliott-Fisher Co.
Union Pacific Equipment Association.
United American Lines.
U.S. Sheet & Window Glass Co.
United Piece Dye Works.
U.S. Lumber Co.
Ulen & Co.
Union Carbide & Carbon Co.
Union Gasoline & Oil Co.
Union Oil N.Y.
United Aircraft & Transport Corporation:
United Dyewood Corporation.
United Engineers & Constructors.
United States Aluminum Co.
U.S. Dairy Products Corporation:
U.S. Express Co.
U.S. Foil Co.
United States Leather Co.
U.S. Metals Refining Co.
U.S. Rubber Co.
U.S. Rubber Re Ianning Co.
U.S. Salvage Association.
U.S. Shoe Co.
U.S. Testing Co.
United Verde Copper Co.
Utah Fire Clay Co.
Utah Gas Coke Co.
Utah Power & Light Co.
Vanadium Corporation of America.
Van Buren Bridge Co.
Vandalia Mineral Co.
Vauxhall Motors, Ltd.
Vicksburg Aeolian Corporation.
Virginia Alberene Corporation.
Virginia Coal & Iron Co.
Virginia Gasoline & Oil Co.
Visugraphic Pictures, Inc.
Waldorf Paper Products Co.
Weirton Steel Co.
Ward Baking Corporation.
The Water Associated Oil Co.
Weehawken Stock Yard Co.
Westinghouse Electric & Manufacturing Co.
Welsbach Co.
West Kentucky Coal Co.
West Virginia Coal & Coke Corporation.
West Indian Aerial Express.
Westmoreland Coal Co.
Westmoreland-Connellsville Coal & Coke Co.
Western Warehousing Co.
C. H. Wheeler Manufacturing Co.
J. G. White & Co.
White Knot Copper & Development Co., Ltd.
White Rock Mineral Springs Co.
Wichita Ice & Cold Storage.
Wichita Terminal Elevator Co.
Wickwire Spencer Steel Co.
Willys Overland.
Wilmore Coal Co.
Wilmore Steamship Co.
Wolholding Coal Co.

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Woodburn Oil Corporation.
Joseph W. Woods & Sons Co.
F. W. Woolworth.
Wyoming Transport Co.
Thomas Young Nurseries, Inc.
Yukon Gold Co.
Youngstown Sheet & Tube Co.

EXHIBIT L

NON-PARTNER DIRECTORS & TRUSTEES

INSURANCE COMPANIES

Aetna Casualty & Surety Co.
Aetna Life Insurance Co.
Agricultural Insurance Co.
Alliance Casualty Co.
Alliance Insurance Co.
American Alliance Insurance Co.
American Colony Insurance Co.
American Constitution Fire Assurance.
American Eagle Fire Insurance Co.
American & Foreign Insurance Co.
American Home Fire Assurance Co.
American Insurance Co.
American National Fire Insurance Co.
American Re-Insurance Co.
American Surety Co.
American Union Insurance Co.
Associated Reinsurance Co.
Atlas Assurance Co., Ltd.
Atlantic Mutual Insurance Co.
Automobile Insurance Co.
Baltimore American Insurance Co.
Bankers & Shippers Insurance Co.
Boiler Inspection & Insurance Co.
British & Foreign Marine Insurance.
Caledonian Insurance Co.
Colonial Life Insurance Co. of America.
Connecticut General Life Insurance Co.
Canada Life Assurance Co.
Central States Fire Insurance Co.
Central Union Insurance Co., Jersey City.
Church Life Insurance Co.
Church Prop. Fire Insurance Co.
City of New York Insurance Co.
Columbia Casualty Co.
Commercial Union Assurance Co., Ltd., London.
Commercial Union Fire Insurance Co.
Commonwealth Insurance Co.
Connecticut General Life Insurance Co.
Connecticut Mutual Life Insurance Co.
Constitution Indemnity Co.
Continental Insurance Co.
County Fire Insurance Co.
Detroit Fire & Marine Insurance.
Eagle Indemnity Co.
Empire State Insurance Co.
Equitable Life Assurance Society of United States.
Excess Insurance Co.
Factory Insurance Association Building Corporation.
Farmers & Bankers Life Insurance Co.
Federal Insurance Co.
Federal Union Insurance Co.
Fidelity & Casualty Co.
Fidelity-Phenix Fire Insurance Co.
First Reinsurance Co. of Hartford, Conn.

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Foreign Policy Association.
Fulton Fire Insurance Co.
Girard Fire & Marine Insurance Co.
Globe Indemnity Co.
Great American Indemnity Co.
Great American Insurance Co.
Great American Investing Co.
Guarantee Co. of North America.
Guardian Fire Assurance Corporation.
Hanover Fire Insurance Co.
Hartford County Mutual Fire Insurance Co.
Hartford Life Insurance Co.
Hartford Steam Boiler Inspection Co.
The Homeland Insurance Co. of America.
Home Fire Securities Corporation.
The Home Indemnity Co.
Home Insurance Co. of New York.
Home Life Insurance Co. of America.
Importers & Exporters Insurance Co.
Indemnity Insurance Co. of North America.
Independence Indemnity Co., Philadelphia.
Independence Fire Insurance Security Co., Philadelphia.
Insurance Co. of North America.
Insuranceshares Corporation, Delaware.
Insuranceshares Certificates, Inc.
Insuranceshares Management Corporation.
Jefferson Fire Insurance Co.
Liberty Bell Insurance Co., Philadelphia.
Liberty Mutual Insurance Co.
Liverpool, London, Globe Insurance Co.
London Guaranty & Accident Co.
Long Island Fire Insurance Co.
Lumbermens Insurance Co.
Manhattan Fire & Marine Insurance Co.
Maryland Insurance Co.
Massachusetts Fire & Marine Insurance Co.
Merchants Fire Assurance Corporation of New York.
Merchants & Manufacturers Fire Insurance Co.
Metropolitan Fire Insurance Co., New York.
Metropolitan Life Insurance Co.
Mill Owners Mutual Insurance.
Mohawk Fire Insurance Co.
Mt. Royal Fire Insurance Co.
Mutual Assurance Co.
Mutual Fire Insurance Co. of Germantown.
Mutual Fire Marine & Inland Insurance Co.
Mutual Life Insurance Co., New York.
National Liberty Insurance Co.
National Surety Co.
National Union Fire Insurance Co. (Pittsburgh).
National Union Indemnity Co.
Newark Fire Insurance Co.
New Jersey Insurance Co.
New York Fire Insurance Co.
New York Indemnity Co.
New York Life Insurance Co.
New York State Employees Liability Assurance Corporation.
Niagara Fire Insurance Co.
North American Inter-Insurers Co.
North American Reassurance Co.
North Carolina Home Insurance Co.
North Jersey Title Insurance Co.
Northern Insurance Co.
Ocean Accident & Guarantee Co.
Ocean Steamship Co. of Savannah.
Pacific Fire Insurance Co.
Penn Mutual Life Insurance Co.
Peoples National Insurance Co.

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Philadelphia Co. for Guaranteeing Mortgages (Philadelphia Cont. for insurance of homes and loss by fire).
Philadelphia Manufacturers Mutual Fire Insurance.
Phoenix Mutual Life Insurance Co.
Piedmont Fire Insurance Co.
Preferred Risk Fire Insurance Co.
Protective Life Insurance Co.
Protective Mutual Insurance Co.
Provident Mutual Life Insurance Co.
Prudential Insurance Co. of Great Britain.
Prudential Insurance Co.
Queen Insurance Co.
Rochester American Insurance Co.
Rossia Insurance Co. of America.
Royal Indemnity Co.
Royal Insurance Co., Ltd.
Scottish Union & National Insurance Co.
Southern Fire Insurance Co. of New York.
Southern Surety Co.
Southern Fire Dev. Co.
Standard Insurance Co.
Standard Surety & Casualty Co.
Star Insurance Co. of America.
Sylvania Insurance Co.
Teachers Insurance & Annuity Association.
Thomas Mersey Marine Insurance Co.
Travellers Fire Insurance Co.
Travellers Indemnity Co.
Travellers Insurance Co.
Union Fidelity Title Insurance Co.
United Firemens Insurance Co.
U.S. Merchants & Shippers Insurance Co.
Victory Insurance Co.
World Fire & Marine Insurance Co.
Young Men's Mutual Life Association Co.

Exhibit M

NONPARTNERS, DIRECTORS, AND TRUSTEES, MISCELLANEOUS COMPANIES

American Acceptance Council.
American Brazilian Association.
American Car & Foundry Securities Co.
American Drainolt Co.
American Economic Association.
American Manufacturers Express Association.
American Railway Association & National Electric Association.
Associated Chain Stores Realty.
Associates of New Jersey.
Atlanta Peachtree South Corporation.
Atlanta Pershing Point Corporation.
Atlanta St. Andrews Corporation.
Birmingham Claridge Corporation.
Birmingham Third Avenue Corporation.
Blue Ridge Real Estate.
Broadway Improvement Co.
Barclay Park Realty Co.
Bonbright & Co., Inc.
Boonder Du Pont Properties.
Brody Security & Realty Corporation.
Brown Wheelock Harris & Co.
Case, Pomeroy & Co.
Columbia Oil & Gasoline Corporation.
Commercial National Corporation.
Calvert Associates Inc.
Central Theatres Leasing & Construction Co.
Chapiom Realty Corporation.
Charleston Fort Sumter Corporation.

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Chestwe Land Corporation.
Chicago Union Station.
Church Pension Fund.
City & Suburban Homes Co.
Clifton Investing Corporation.
Cleveland Hotel.
Columbia Engineering & Management Corporation.
Commercial Factors Corporation.
Community Service, Inc.
Companies Agucarera San Cristobal.
Compania Cubania Company.
Compania de Levadivia Fleischman S.A.
Consolidated Real Estate Co.
Crab Orchard Improvement Co.
Downey Associates.
Eastern Real Estate Co.
87th Street & East End Corporation.
Erie Land & Improvement Co.
510 Park Avenue Corporation.
44th Street Realty Co.
Glacier Park Hotel Co.
W. T. Grant Realty Co.
Haggin Estate, Inc.
Harriman Building Corporation.
Helvetia Realty Co.
Hudson River Estates.
Interlaken Realty Co.
Hotel Bond Co.
American Arbitration Association.
American Canadian Properties Corporation.
American Congo Co.
American Dock & Improvement Co.
American London & Empire Corporation.
American Railway Association.
American Womans Realty Corporation.
Arcade Real Estate Co.
Associated Industries of New York State, Inc.
Associates of the Jersey Co.
Atlanta Peachtree North Corporation.
Atlanta Somerset Corporation.
Atlanta Stratford Hall Corporation.
Birmingham Harris Corporation.
Blind Brook Lodge Corporation.
Board of City Trusts, Philadelphia.
Babicora Development Co.
Bluff Point Land Improvement Co.
Bond & Mortgage Guarantee Co.
Bradenton Point Pleasant Corporation.
Broad Exchange Co.
Brooklyn Real Estate Exchange.
Burrell Improvement Co.
Capital Management Co.
Commerce & Marine Commission.
Compania Agricola Pilon.
Carnegie Corporation.
Central Westchester & Fairfield Realty Co.
Chapmald Realty Corporation.
Charleston Union Station Co.
Chestnut Street Realty Co.
Chile American Association.
Cincinnati Hamilton & Dayton Corporation.
Claros Realty & Construction Co.
Samuel L. Clemens Estate.
Collegiate Realty Co.
Columbus Hotel Corporation.
Communipan Central Land Co.
Compania Agucarera Fertilities.

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Compania Agucarera de Camaguey.
Compagnie de Lampres of Paris.
Compagnie Francais Thomson Houston of Paris.
Coyle Realty Co.
Cranberry Improvement Co.
John I. Downey, Inc.
874 Park Avenue Corporation.
Empire State, Inc.
Fidelity Building Co.
Fort William Henry Hotel Co.
Furlow Development Co.
Goelet Realty Co.
Guatanamo City Land & Development Co.
Hampden Apartments.
Harvey Apartments.
Hotel-Waldorf Astoria Corporation.
Industrial Centre Land Co.
Island Park-Long Beach, Inc.
Island Park Land & Cattle Co.
J. K. P. Realty Corporation.
Keno Hill, Ltd.
Knapp Foundation.
La Concha Hotel Corporation.
Lewalis Realty Co.
Links Holding Corporation.
Longacre Land Co.
McAlpin Hotel Co.
Manchester Land Co.
Masters Painters Supply Co.
Merchants Association of New York
Miami Conservancy District.
Miami Venetian Way Co.
Michigan Electric Shares Corporation
Monterey Hotel.
Mutte Color Type Co.
National Broadcasting Co.
National Electric Light Association.
National Outdoor Advertising Bureau In
National Railroad Publication Co.
Neptune Realty Co.
Newark Warehouse Co.
New England Southern Corporation.
N.Y. State Realty & Terminal Co.
Niagara Bus Line, Inc.
Northern N.Y. Development Co.
One East End Ave., Corporation.
One Lexington Ave., Inc.
Orlando Orange Court Corporation.
Osram Corporation (Berlin).
Palm Beach Everglades Corporation.
Palmerston Co.
Park & 45th Street Corporation.
Parkway-Spencer Corporation.
Pattison & Bowns, Inc.
Pennsylvania Terminal Real Estate Co.
Penn. Traffic Co.
Pioneer Real Estate Co.
Chas. Pratt & Co.
Railroad Credit Corporation.
The Randall Co.
Red Hand Composition Co.
Reybarn Co., Inc.
Ritz-Carlton Hotel Corporation.
Roosevelt Field, Inc.
Rose Realty Co.
Salvage Process Corporation.
Theo. Schulze & Co.

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775 Park Avenue, Corporation.
Shipman & Goodwin.
Sixty-six East 79th St. Corporation.
Soc. Anciom des glace de carcelles.
Southlands Co.
Sperry Realty Co.
Stadacona Company.
Standard Office Building Corporation.
Stanwich Corporation.
Samuel Stevens Realty Co.
Ridge Development Co.
Jackson Terminal Co.
Junior Mercantile Co.
Kissto Corporation.
Henry Klein & Co.
LaSalle & Koch Co.
John T. Lewis Bros. Co.
Lockwood & Howe.
Manning, Maxwell & Moore.
Mark Twain Co.
Memphis Cherokee Corporation.
Merchant Sterling Corporation.
Miami Henrietta Corporation.
Miami William Penn Corporation.
Mobile St. Charles Corporation.
Montreal Co. of N.Y.
Morchester Development Co.
National Bellas Hess Co.
National Industrial Conference Board.
National Mortgage Corporation.
Natrona Stores Co.
Newark Factory Sites.
New Boston Land Co.
New Rochelle Homestead Co.
94 East End Ave. Corporation.
Northwestern Mining & Exchange Co.
One Hundred and Eleven Main St.
One Liberty St. Realty & Securities Corporation.
Orosi Farms.
Palestine Economic Corporation, Inc.
The Palmer Land Co.
Pardee Co.
Parkway Co.
Passwall Corporation.
Pelham Arms Apartments.
Penn Haven Realty Co.
Pine Grove Realty Co.
Plaza Operating Co.
Printerion Realty Corporation.
Railway Exchange Building Co.
Real Estate & Development Co. (San Francisco).
Resolved Corporation.
Richardson Co.
Rockefeller Center, Inc.
Sahoff Corporation.
San Juan Hotel Corporation.
Senator Hotel Corporation.
Seventy-one Broadway Corporation.
Shippers Car Line Corporation.
Smith Valley Realty Corporation.
South Ferry Realty Co.
Spanish River Land Co.
The Speyer Building.
Stag Canon Fuel Co.
Standard Realty & Dem. Co.
Stein Bros.
Stonleigh Court Corporation

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Stuyvesant Real Estate Co.
Sudden & Christensen, San Francisco
Taggart Corporation
Tamrin Corporation
Terminal Warehouse Co.
Thompson Hill Land & Improvement Co.
The Thrift
The Trestle Realty Corporation
270 Broadway Corporation
Union Land Co.
United Metals Selling Co.
U.S. Realty & Improvement Co.
West Easton Land Co.
Western Realty Corporation
White Sulphur Springs, Inc.
E. G. Whitelesey & Co.
Wilmington Cape Fear Corporation
Yale Leasing Corporation
Sudbury Realty Co.
Sutton Pl. South Corporation
Tampa Bayshore Corporation
C. Tennant Sons & Co.
Textile Banking Co.
J. Walter Thompson Co.
Township Realty Co.
Tuxedo Stores Co.
Underwood Acres, Inc.
U.S. Distributing Corporation
United Real Estate Co.
Utilities Land Co.
Wells, Potter, Fish and Ustick, Inc.
Westinghouse Acceptance Corporation
Westmoreland, Inc.
E. B. & A. C. Whiting Co.
Whitney Realty Co.
Wrexleigh Co., Inc.

EXHIBIT N

Question 3.—Names of all corporations in which any partner or representative of said firms is a director or officer.

There is not included in this list various eleemosynary, educational, and other nonbusiness corporations.

Arthur M. Anderson, director International Telegraph & Telephone Corporation and subsidiary Postal Telegraph & Cable Co.; United States Guarantee Co.; New York, Susquehanna & Western Railroad Co.; General Steel Castings Corporation; Western Pacific Railroad Corporation; Foreign Finance Corporation, president and director.

Francis D. Bartow, director Johns-Manville Corporation, New York; American Radiator & Standard Sanitary Corporation; 150 William Street Corporation; Willow Corporation, treasurer and director; Home Life Insurance Co. (New York) director; International General Electric Co., United Electric Securities Co.

H. P. Davison, director Standard Brands, Inc.; Montgomery Ward & Co.

Thomas Cochran, director General Electric Co., and its subsidiary International General Electric Co., Inc.; Kennecott Copper Corporation and its subsidiaries Copper River & Northwestern Railway Co., Braden Copper Co., Alaska Steamship Co., Alaska Development & Mineral Co., Nevada Northern Railway Co.; Astor Safe Deposit Co.; Foreign Finance Corporation, American Foreign Securities Co.

Charles D. Dickey, director Fire Association of Philadelphia, and subsidiaries, Reliance Insurance Co. of Philadelphia, Victory Insurance Co. of Philadelphia; Beaver Coal Corporation; American Pulley Co.; Sharp & Dohme, Inc.; Stonega Coke & Coal Co.; The United Gas Improvement Co.

William Ewing, director Standard Brands, Inc.; Uta Copper Co.; J. I. Case Threshing Machine Co.; Associated Dry Goods Corporation; Lord & Taylor; Richmond-Washington Co.

S. Parker Gilbert, director Lehigh Valley Coal Corporation and subsidiary, Lehigh Valley Coal Sales Co.

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Perry E. Hall, director Northern Pacific R.R. Co., The Philadelphia Steel and Wire Corporation.

Edward Hopkinson, Jr., director The United Corporation and subsidiary; New York United Corporation; The United Gas Improvement Co.; Pennsylvania Fire Insurance Co.; Frankford & Southwark Philadelphia City Passenger Railway Co.; Keystone Watch Case Corporation; Second and Third Street Passenger Railway Co.; Riverside Metal Co.; Philadelphia Electric Power Co.; the Susquehanna Power Co.; the Susquehanna Electric Co.; Public Service Corporation of New Jersey.

T. S. Lamont, director Texas Gulf Sulphur Co., Phelps Dodge Corporation, Continental Oil Co., Great Lakes Pipe Line Co.

Thomas W. Lamont, director United States Steel Corporation, Northern Pacific Railway Co., Chicago & Erie Rail Road Co., Co., the Crowell Publishing Co., First Security Co. of the City of New York, International Agricultural Corporation, International Harvester Co., Inc., Lamont, Corliss & Co., Southwestern Construction Co., National Railways of Mexico, Foreign Finance Corporation, American Securities Investing Corporation.

Russell C. Leffingwell, director Northern Pacific Railway Co.; International Telephone & Telegraph Corporation and its subsidiaries, All America Cables, Inc.; Postal Telegraph & Cable Corporation; North British & Mercantile Insurance Co., Ltd. of London and Edinburgh in New York and its subsidiary, Mercantile Insurance Co. of America.

Horatio G. Lloyd, director Philadelphia Electric Co. and subsidiaries, Philadelphia Electric Power Co., Susquehanna Power Co., General Asphalt Co., Bell Telephone Co. of Pennsylvania, Diamond States Telephone Co.

H. Gates Lloyd, jr., director Charles E. Hires Co., Markle Corporation and subsidiaries, Hazle Brook Coal Co., Jeddo-Highland Coal Co.

H. S. Morgan, director Kennecott Copper Corporation and subsidiaries, Braden Copper Co., Copper River & Northwestern Railway Co., Utah Copper Co., Alaska Steamship Co.

J. P. Morgan, director United States Steel Corporation, First Security Co. of City of New York, Discount Corporation of New York, Pullman, Inc., and Pullman Co.; Aetna Insurance Co. and subsidiaries, Century Indemnity Co., World Fire and Marine Insurance Co.

J. S. Morgan, director United States Steel Corporation, General Motors Corporation, Foreign Finance Corporation.

Arthur E. Newbold, Jr., director the Philadelphia & Reading Coal & Iron Corportion and subsidiary, the Philadelphia & Reading Coal & Iron Co.; Markle Corporation and subsidiaries, Hazle Brook Coal Co., Jeddo-Highland Coal Co.; Wilkesbarre & Hazleton Corporation, Hazleton & Wilkesbarre Corporation.

Thomas Newhall, director the Baldwin Locomotive Works and subsidiaries, the Midvale Co., Baldwin-Southwark Corporation, Standard Steel Works Co., Southwark Foundry & Machine Co., The Whitcomb Locomotive Co., Federal Steel Foundry Co., Cramp Brass & Iron Foundry Co., I. P. Morris & De La Vergne, Inc., Baldwin Locomotive Securities Corporation; General Steel Castings Corporation, the Philadelphia & Reading Coal & Iron Corporation and subsidiary, the Philadelphia & Reading Coal & Iron Co.; Sharp & Dohme, Inc.

Harold Stanley, director Columbia Gas & Electric Corporation, Niagara Hudson Power Corporation, the United Corporation and subsidiary New York United Corporation.

Charles Steele, director Atchison, Topeka & Santa Fe Railway Co., Cerro de Pasco Copper Corporation.

E. T. Stotesbury, director Reading Co. and subsidiaries—New York & Long Branch Railway Co., Philadelphia & Reading Terminal Railroad Co., Philadelphia, Newtown & New York Railroad Co.; Beaver Coal Co.; Lehigh & Hudson River Railway Co.; New York & Middle Coal Field Railroad & Coal Co.; Second & Third Street Passenger Railway Co.; Transportation Mutual Insurance Co.; Highland Coal Co.; Wyoming Valley Water Supply Co.; National Storage Co.; Bellevue-Stratford Hotel Co.; Beaver Coal Corporation.

George Whitney, director General Motors Corporation; Kennecott Copper Corporation and its subsidiaries—Alaska Steamship Co.; Alaska Development & Mineral Co.; Braden Copper Co.; Copper River & Northwestern Railway Co.; Utah Copper Co.; Consolidated Gas Co. of New York, trustee; The New York Edison Co.; The United Corporation and subsidiary, New York United Corporation; Texas Gulf Sulphur Co.; Pullman, Inc., and Pullman Co.; Johns-Manville Corporation; Continental Oil Co.; Foreign Finance Corporation; New Jersey & New York Railroad Co.; Royal Exchange Assurance (American branch) and its

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subsidiaries—Car & General Insurance Co., Ltd. (United States branch), member of financial advisory board Provident Fire Insurance Co., State Assurance Co., Ltd. (United States branch), member of financial advisory board; Willow Corporation, president and director American Securities Investing Corporation.

Edward H. York, Jr., director Lehigh Valley Coal Sales Co.; DeBardeleben Coal Corporation; Markle Corporation and subsidiary, Hazle Brook Coal Co.; Franklin County Coal Corporation, Inc.; Bee Line Transportation Co.

Question 2.—Names of all banks and trust companies in which any partner or representative of said firms is a director or officer. List attached

IN NEW YORK

Thomas W. Lamont, director Guaranty Trust Co. of New York.

Thomas Cochran, director Bankers Trust Co.

George Whitney, trustee the Bank for Savings in the City of New York, and director Guaranty Trust Co. of New York.

Arthur M. Anderson, director New York Trust Co.

William Ewing, director Bankers Trust Co.

H. P. Davison, trustee the New York Trust Co.

S. Parker Gilbert, director Bankers Trust Co.

G. D. Dickey, director City Bank Farmers Trust Co.

IN PHILADELPHIA

E. T. Stotesbury, member of the board of managers Girard Trust Co. and director Fidelity-Philadelphia Trust Co.

Horatio G. Lloyd, director Pennsylvania Co. for Insurance on Lives and Granting Annuities and Main Line Trust Co.

Edward Hopkinson, Jr., director Germantown Trust Co., member of the board of managers the Philadelphia Savings Fund Society, and member of the board of managers Girard Trust Co.

C. D. Dickey, director Integrity Trust Co. and member of the board of managers Western Savings Fund Society.

H. Gates Lloyd, Jr., director Northern Trust Co.

Exhibit C

NONPARTNER MEMBERS

OF

INTERLOCKING DIRECTORATES

Adams, H. M.
Adamson, C. B.
Adler, E. L.
Adler, Morris
Agnew, George B.
Ahrens, Theodore
Alatrista, Roberto Cases
Aldrich, M. P.
Aldridge, Walter H.[1]
Allen, G. G.
Allen, F. W.
Allen, Thomas H.
Almazon, J. A.
Angellotti, F. M.
Ardrey, J. H.
Atterbury, W. W. (Philadelphia)
Austin, Dwight E.
Baker, George F.[1]
Baldwin, L. W. (St. Louis)
Barnum, William H.
Barroso, F. D.
Barthow, J. E.
Baruch, Herman B.
Beale, L. T.
Beardsley, G. E.
Beck, Thomas H.
Behn, Hernand [1]
Behn, Sosthenes [1]
Belknap, Chauncey
Bellamy, F. W.
Bendere, E. C.
Bergen, Frank R.
Bergen, M., Jr.
Berwind, E. J.
Besler, W. G.
Birch, Stephen [1]
Blaine, James G.
Bledsoe, S. J. (New York)
Bliss, Cornelius N.[1]
Blood, C. A.
Bockins, M. R.
Bodine, S. T.[1]
Bodine, W. W.
Boettger, Theodore
Bojorques, Juan de Dios
Bowers, G. M.
Bradley, C. L.[1]
Brady, J. C.
Brancher, Frank
Brehm, John P.

[1] On "Selected list" of J. P. Morgan & Co.

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Brinley, C. E.
Brinton, Bradford [1]
Brown, C. M.
Brown, Charles S.
Brown, Donaldson
Brown, H. I.
Brown, Lewis H.[2]
Brown, T. M.
Brown, W. E.
Brown, Wylie
Brownell, F. H.
Brownell, G. A.
Brownell, G. F.[1]
Buckner, M. N.
Budd, K. P.
Budd, Ralph
Bulkley, Edwin N.
Bunch, William G.
Burr, George L.
Butterworth, H. W.
Carlisle, Floyd L.[1]
Carpenter, W. S., Jr.
Cassatt, R. K.
Cates, Louis, S.
Chapman, John A.
Cheney, H. B.
Cheney, William L.
Cheston, C. S.
Choate, Arthur O.[1]
Chubb, Hendon [1]
Clark, Edw. H.[1]
Clothier, M. L.[1]
Cobb, B. C.[1]
Cochran, Henry J.
Coggeshall, M. H.
Colgate, J. C.
Colt, S. S.
Conaway, Frederick W.
Conway, W. P.
Cook, A. A.
Cooley, C. P.
Cooper, C. P. (New York)
Corey, Robert W.
Corry, William E.
Corliss, Charles A.[1]
Corson, W. R. C.
Cortelyou George B.
County, A. J.
Coverdale, W. H.
Cowdin, J. E.
Crane, Clinton H.[1]
Crawford, F. W. (Col. O.)
Crawford, G. W.
Crawford, H. J.
Crawford, W. W.
Cutler, J. W.
Cutler, W. F.
Cutting, R. F. (New York)
Dalton, H. G. (Cleveland)
David, Donald, K.[1 2]
Davis, Arthur V.[1]
David, E. W.
Davis, F. B.
Davis, Gheradi
Davis, Howland S.
Davis, J. M.
Davis, J. W.[1]
Davis, Pierpont V.
Davison, George W.
Day, A. P.
De Bardeleben, C. F.
De Bardelben, H. F.
De Bardelben, H. T.
De Bost, William L.
De Forest, H. W.
Delano, Lyman
Delano, Morean
Denny, C. E.
de Oca, Luis Montes
Dibreel, Edwin R.
Dickerman, William C.[1]
Dixon, G. D.
Dodge, Cleveland E.
Dominick, Gayers G.[1]
Donnelly, Charles
Donnelly, Thomas E.
Dorance, A. C. (Camden, N.J.)
Doubleday, George
Doughlas, Walter
Downey, Joh I.
Drew, Charles V.
Duffield, Edward D.
Duffy, John
Dunham, R. H.
Dunlap, C. E.
Dupont, Pierre S.
Edgar, H. L.
Eidlitz, R. J.
Elsey, Charles
Engel, E. J.
Ennis, S. F
Everitt, Geo. B.[1]
Eysmans, J. L.
Falconer, R. C.
Farrell, James A.
Ferry, E. Hayward
Field, Marshall [1]
Fies, Max
Fies, M. H.
Filbert, Wm. J.
Fish, Edwin A.
Fisher, S. H.
Fleming Mathew C.
Follansbee, M. D.
Forsch, Albert
Fortington, H. A.[1 2]
Fowler, Arthur A.
Fox, Caleh F.
Frazier, G. H.
Fraser, Duncan W.
French, Albert
Frew, Walter E.[1]
Fries, Wm.
Gardiner, G. H.
Garver, John A.
Gates, A. L.[1]
Gates, T. S.[1]
Gawtry, Lewis

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[2] Loan secured from J. P. Morgan & Co. or Drexel & Co.

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Geddes Donald G.
Geist, C. H.
German, H. R.
Gibson, Harvey D.[1]
Gifford, W. S.[1]
Glessner, John J.
Goelet, R. W.
Goodhue F. Abbott
Gorman, J. E.
Gasser, Roy C.
Gossler, P. G.[1]
Goodwin, C. A.
Grace, E. G.
Gow, Robt. M.
Grant, Richard F.
Gray, Alfred M.
Gray, D. L.
Greer, L. M.
Gribbel, John
Griffen, Wm. V.
Groesbreck, C. E.[1]
Gross, C. W.
Gurza, Jaime
Guggenheim, Edmund A.[1]
Guggenheim, Murray [1]
Guggenheim, Solomon R.[1]
Hamilton Ronald J.
Hamilton, Wm. A.
Hammond, John Henry
Hanauer, J. J.
Hanes, John W.
Hannaford, J. M.
Harbord, J. G.
Harbord, James C.
Harrahan, W. J.[1]
Harriman, J. W.
Harriman, W. A.
Hartford, J. A.
Havemeyer, Horace[1]
Havemeyer, Henry O.
Heyward, Nathan
Hazard, C. W.
Hazen, Gardner
Hazen, Geo. H.
Henderson, Gilbert
Heppenheimer, W. C.
Higginson, Francis L.
Hare, J. V.
Hildum, C. E.
Hilleary, E. D.
Hilles, C. D.[1]
Hires, C. E.
Hires, Jr., C. E.[1]
Hires, H. S.
Hires, J. E.
Hobart, G. A.
Hoffstot, F. N.
Hogan, J. F.
Holden, Hale,
Hooper, J. G.
Houston, David F.
Howard, Geo. H.[1]
Howell, Herbert P.
Hoyt, A. G.
Hughson, W. L.
Hurley, Meyer.
Huston, D. F.
Hutton, J. M.
Hyatt, F. E.
Irvin, E. T.
Irvin, Wm. A.
Iselin, Adrian
Ives, R. B.
Jacklind, Daniel C.
Jackson, A. A.
James, Arthur Curtis[1]
James, Ellery S.
Jay, Pierre
Jenney, W. S. (New York)
Jobes, Andrew C.
Johnston, Forvey
Johnston, Percy H.[1]
Jones, L. E.
Judson, Wilbur
Kane, G.
Kaufman, L. G.
Kewey, C. F.
Kent, Fred I.
Kinnard, L. H.
Kinter, W. L.
Kirby, Fred. N. (Wilkes)
Knapp, Jos. P.
Knapp, Jos. F.
Knobloch, Henry F. J.
Kurtz, W. F.
Lair, W. A.
Lane, Gertrude B.
Lane, O. E.
Law, N. A.
Lawrence, Arthur B.
Lee, J. E.
Legge, Alexander
Lehman, Robert
McCain, W. R.
McCarter, T. N.[1]
McClelland, James F.
McCormick, Chauncey
McCormick, Cyrus H.
McCormick, Cyrus, Jr.
McCormick, Harold F.
McEldowney, H. C. (Pittsburgh) [1]
McHugh, John [1]
McKinney, John L.
McKinstry, Addis E.
McVickar, H. L.
Machold, William F.
Mackay, C. H.[1]
Mackenzie Edmund L.
Maconacky, J. G.
Manning, R. A.
Manville, Hiram Edw.[1]
Manling, A. E.
Marx, Otto
Marye, R. V.
Mason, E. W.
Maxwell, H. W.
Maxwell, Lee W.
Mayo, Alfred D.
Mellon, R. B. (Pittsburgh) [1]
Merriam, C. B. (Topeka, Kans.)

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Merrill, J. L.
Miller, A. J.
Miller, Nathan L.
Millhauser, De Witt
Mills, D. H.
Minard, D. E. (Newark, N.J.)
Minor, G. H.
Mitchell, Chas. E.[1]
Montet, Henri
Mooney, Jas. D.
Moore, Paul
Morgan, W. F.
Morris, E. B., Jr.[1]
Morris, L. S.
Morrison, Geo. F.
Morro, John R.[1]
Mott, R. W.
Mudge, E. W.
Mueller, John G.
Munroe, C. A. (Chicago, Ill.[1]).
Murname, George
Murphy, G. M. P.
Nagle, J. L.
Negrete, A. L.
Nichols, Charles Walter.
Norton, Daniel F.
Ogilvie, W. E.
Oliver, William H. P.
O'Neil, F. J.
Orde, H. B.
Osborn, William Church.
Osterhaut, E. D.
Otalora, M. E.
Otis, J. E. (Chicago).
Packard, C. S. W.
Paisely, H. E.
Palmer, Edgar.
Palmer, B. W. (Boston).
Parker, Charles M.
Payne, Christie (N.Y.).
Peabody, Julian.
Percy, F. W.
Perkins, Herbert F.
Perkins, J. H.
Perry, J. M.
Penrose, Spencer.
Peters, H. T.[1]
Pew, J. G. (Philadelphia).
Pforzheimer, Carl H.
Pierson, Lewis E.
Pierrepont, R. Stuyvesant.
Phillips, T. W., Jr.
Phillips, John S.
Pingree, G. E.
Piper, William F.
Pitkin, W. H.
Polk, F. L.[1]
Pomeroy, Daniel E.[1]
Potter, W. C.[1]
Potts, Harrison, I.
Powell, Junius L.
Pratt, Herbert L.
Pratt, John L.
Prilday, Joseph E.
Pritchett, Henry S.
Prosser, Seward [1]
Ramage, S. Y. (Oil City).
Ramos, F.
Randall, H. L.
Ranney, George A.
Raskob, John J.[1]
Ream, N. P.
Reaney, George H.
Reed, L. P.
Reid, A. Duncan.
Rentschler, G. S.
Resor, Stanley.[1]
Reyburn, Samuel W.[1]
Reynolds, Arthur.[1]
Reynolds, Jackson E.
Rice, Edwin Wilbur, Jr.
Ricketts, Louis D.
Roa, Fdo. Gonzales.
Roberts, George.
Robinette, E. B.
Rockefeller, P. A.
Rodgers, E. P.
Roosevelt, G. E.
Rose, E. C.
Rosen, W. T.
Ruiz, Enrique D.
Rutherford, Morris.
Ryan, J. D.[1]
Sabin, Charles H.
Sage, Dean.
Sargent, Charles C.
Scandrett, B. W.
Scattergood, J. H.
Scheer, E. W.
Scheerer, William.
Schiller, W. H.
Schlacks, C. H.
Schlacks, C. H.
Schley, Rieve.
Schneider, Franz, Jr.[1]
Schoellkopf, A. H.
Schoellkopf, J. F., Jr.
Schoellkopf, P. A.
Schumacher, T. M.
Schwartz, W. M.
Scotts, John W.
Sewall, A. W.
Seigle, William R.[2]
Shallcross, Cecil F.
Shepard, Finley J.
Shipman, A. L.
Simpson, J. R.
Simpson, W. R.
Slade, G. T.
Sloan, Alfred P., Jr.[1]
Sloan, E. J.
Sloan, M. S.[1]
Sloane, John.
Smith, Frank W.
Smith, Howard C.
Smith, H. DeWitt.
Smith, John T.
Smith, W. T.

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Snyder, V. P.
Sparks, Sir T. Ashley.
Speer, W. W.
Spencer, H. B. (Washington, D.C.)
Stannard, E. T.
Staples, P. C.
Stauffen, Ernest, Jr.
Steele, John N.[1]
Stetson, E. W.
Stevens, F. K.
Stewart, E. N.
Stewart, E. S.
Stewart, Louis, Sr.
St. George, George B.
Storey, W. B.
Straus, Jesse Isidor.
Stroud, M. W. (Philadelphia)
Stuart, E. S.
Sturgis, Henry S.
Sullivan, J. J., Jr.[1]
Swan, J. R.
Swayne, Alfred H.
Swope, Gerard [1]
Taft, W. S.
Taylor, Myron C.[1]
Taylor, W. H.
Thorne, Landon K.
Thompson, J. K.
Thruelsden, A. P.
Tiffany, Charles L.
Tilney, Albert A.[1]
Tily, H. J.
Tompkins, B. A.
Tompkins, Daniel, J.
Topping, J. A.
Torchir, Philip
Torreblanca, Fernando
Traphagen, John C
Trexler, Harry
Turnure, George E.
Tyler, S. F.
Ulrich, Carl T.
Underwood, F. D.
Untermeyer, Alvin
Vanderbilt, Cornelius
Vanderbilt, Harold S.
Vaux, H. P.
Wagner, E. C.[2]
Wakelee, E. W.[1]
Walker, J. Y. G.
Warburg, Felix M.
Ward, S. E.
Ward, T. J.
Warner, Harold
Warriner, S. D.
Watson, John J.
Webb, Vanderbilt
Weeks, John L.
Weld, Francis, M.
Welldon, Samuel A.
White, R. B.[1]
Whitney, C. V.
Wiggin, Albert H.[1]
Willard, Daniel.
Williams, J. W.
Williams, Thomas.
Wilshire, Joseph.[1 2]
Wilson, John P.
Windrim, J. T.
Winger, Albert E.
Wiseman, Sir William (United States).
Woodin, William H.[1]
Woodruff, R. E.
Woods, Arthur.[1 2]
Woodward, C. G.
Woodworth, William F.
Woolley, Clarence M.[1]
Young, Owen D.[1]
Young, P. S. (Montclair, N. J.).[1]
Ziegler, William, Jr.[1]
Zimmerman, J. E.

SUPPLEMENTARY

Gregory, T. B.
Hayden, Charles.[1]
Livingston, Gerald M.
Loasby, A. W. (New York).
Locke, Campbell.
Lockett, Arthur H.
Loft, G. W.
Loomis, Alfred L.
Loomis, E. E.
Lopez, Roberto.
Loree, L. F.[2]
Louett, R. A.
Lovejoy, J. R.
Stones, Judson F.
Way, F. L.
Wayne, Joseph, Jr.
Welsh, Ed. L.
Weyerhaeuser, R. M.
White, L. L. (Cleveland, Ohio).

COMMITTEE EXHIBIT No. 53

NEW YORK, *May 24, 1933.*

Messrs. J. P. MORGAN & Co.,
New York, N.Y.

DEAR SIRS: In accordance with your request, we submit hereunder a statement showing, for each day, the number of men engaged on our recent examination of the accounts of J. P. Morgan & Co. and Drexel & Co.

[1] On "Selected list" of J. P. Morgan & Co.
[2] Loan secured from J. P. Morgan & Co. or Drexel & Co.

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Date	Number of men engaged	Date	Number of men engaged
Mar. 20	1	Apr. 22	9
Mar. 21	1	Apr. 24	12
Mar. 23	2	Apr. 25	12
Mar. 24	3	Apr. 26	9
Mar. 25	2	Apr. 27	9
Mar. 27	2	Apr. 28	6
Mar. 28	4	Apr. 29	6
Mar. 29	7	May 1	6
Mar. 30	34	May 2	8
Mar. 31	143	May 3	10
Apr. 1	170	May 4	9
Apr. 2	167	May 5	7
Apr. 3	115	May 6	2
Apr. 4	74	May 8	2
Apr. 5	71	May 9	1
Apr. 6	63	May 10	3
Apr. 7	54	May 11	3
Apr. 8	43	May 12	5
Apr. 10	35	May 13	2
Apr. 11	32	May 15	5
Apr. 12	32	May 16	3
Apr. 13	34	May 19	2
Apr. 14	22	May 20	2
Apr. 15	24	May 22	1
Apr. 17	23	May 23	1
Apr. 18	19	May 24	2
Apr. 19	16		
Apr. 20	13	Total	1,356
Apr. 21	13		

Yours very truly,

PRICE, WATERHOUSE & CO.

J. P. MORGAN & CO., CERTIFIED BALANCE SHEET, MARCH 31, 1933

NEW YORK, *May 24, 1933.*

Messrs. J. P. MORGAN & CO.,
New York, N.Y.

DEAR SIRS: We have made an examination of the books and accounts of J. P. Morgan & Co. and of Drexel & Co. as at the close of business March 31, 1933. Our examination comprised an inspection of cash and securities on hand, including safe-keeping securities; reconcilement of cash on deposit with banks and bankers with the balances confirmed by the despoitaries; confirmation of loans receivable and advances by correspondence with the debtors; confirmation of securities held by others by direct correspondence; and requests for confirmation from customers in respect of deposit accounts and securities held in safe-keeping for their account.

The firm's investments are stated, in the attached balance sheet, at quoted market values or as regards unlisted securities at estimated fair values as at March 31, 1933, and the reserves provided are sufficient, in our judgement, to meet any shrinkage in value at the above data. Full provision has been made for all ascertainable liabilities.

In our opinion, the attached combined balance sheet fairly sets forth the financial position of J. P. Morgan & Co. and Drexel & Co. as at March 31, 1933.

Yours very truly,

PRICE, WATERHOUSE & CO.

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J. P. MORGAN & CO. AND DREXEL & CO. OF PHILADELPHIA, BUT EXCLUDING INTERESTS IN MORGAN, GRENFELL & CO. OF LONDON AND MORGAN & CIE OF PARIS

Balance sheet as at Mar. 31, 1933

ASSETS

Cash on hand		$161, 744. 13
Cash on deposit with banks and bankers:		
Domestic	$38, 185, 286. 91	
Foreign currency balances	1, 867, 701. 10	
		40, 052, 988. 01
United States Government securities (at market values)		146, 071, 407. 50
State and municipal bonds and bills (at market values)		1, 895, 874. 95
Loans, less reserves		73, 831, 227. 52
Advances and overdrafts, less reserves		4, 956, 782. 97
Investments in stocks, bonds, etc. (at market or estimated current values)		26, 407, 966. 75
Interest accrued but not collected		1, 804, 902. 07
Banking premises and other real estate		9, 661, 304. 12
Liability of customers under acceptances		12, 993, 092. 42
NOTE.—At April 30, 1933 the market values of the following items showed increases over those of Mar. 31, 1933, of—		
U.S. Government securities	$908, 741	
Investments in stocks, bonds, etc	5, 584, 604	
Collateral for loans in respect of which the reserves referred to above are based on market values at Mar. 31, 1933	2, 068, 305	
Total	8, 561, 650	
Grand total		317, 837, 290. 44

LIABILITIES

Deposits		238, 739, 982. 08
Loans payable		19, 000, 000. 00
Interest and expenses accrued and unpaid		653, 497. 38
Sundry liabilities		457, 149. 67
Acceptances outstanding		13, 123, 740. 47
Special reserve fund		1, 000, 000. 00
Partners' accounts		44, 862, 920. 84
Contingent liabilities:		
Contracts to purchase foreign exchange	10, 227, 667. 89	
Contracts to sell foreign exchange	11, 714, 951. 52	
Guarantees outstanding	60, 500. 00	
Grand total		317, 837, 290. 44

I. HISTORICAL

War inflation.—During the war production was stimulated to meet war needs, and currency and debts were created to represent not wealth created but wealth and life destroyed. In America alone the public debt was increased from 1¼ billion to 26½ billion dollars, currency was increased 50 percent and bank credit 70 percent.

America doubly a creditor.—America was before the war a creditor on current account, that is, she had a big export surplus. This export surplus was immensely increased during the war. America continued to have a great export surplus after the war. At the end of the war, America, previously a debtor on capital account, had become the creditor of Europe on capital account by the repurchase of foreign-held American securities, by her acquisitions of gold, and by the acquisition by the American Government and the American people of obligations of European Governments issued for war purposes. The first great anomaly of the post-war world was this, that a creditor country on capital account was a creditor country also on current account. Europe must pay America not only for the net exports of goods from America, but also the interest on Europe's net debt to America. To some extent Europe achieved this by gold exports to the United States. For

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the rest she had to go deeper into debt to America. This problem was clearly stated in President Wilson's message to Congress of December 2, 1919.

Perhaps the proper thing for anyone to do, who understood this situation, was just to do nothing; to reject it, to say that the political and economic set-up left by the war and treaties of peace was impossible, that nothing could be done about it. Perhaps a reasonable man would have followed Rip Van Winkle and taken a long sleep in the Catskills, or at least with Thoreau would have rejected the system and retired to Walden Pond.

Reconstruction.—That is, however, not the way men behave. It is not for them to file a non possumus, to declare that conditions created by governments, by their wars and their treaties of peace and their settlements—or unsettlements—of reparations and war debts—are impossible. It is not for them to say that the burden of debts, public and private, governmental and intergovernmental, is excessive, and that therefore they refuse to carry on. No, the man of affairs, the public spirited man, yes, even the far-seeing man, decides to carry on in spite of these adverse conditions, and knows he is fighting an uphill fight. He knows, too, that it is better to fight than just to lie down and quit.

So after the war, after the treaties of peace that did not bring appeasement, men of good will, men of mark in all countries set to work to rebuild the war-wrecked world so that men might live in peace, in hope, and, if all should go well, in plenty again.

One great task was to restore the currencies of the world to stability, so that business might be resumed between men and men, between nation and nation, in terms of honest money, instead of being retarded or prevented by the lack of stable units of exchange.

Return to gold.—America first returned to the gold standard after the war in June 1919, 7 months, or thereabouts, after the fighting stopped. We lost gold in the last half of 1919 and the first quarter of 1920, and were obliged to raise the discount rate to 6 percent in January and 7 percent in June of 1920, to halt the expansion of credit which had gotten out of hand when war controls were eliminated, and to protect our gold reserve. A sharp and painful deflationary process of adjustment began in 1920 and continued for a couple of years, but the inflow of gold due to our creditor position on current and capital account was promptly resumed and a new structure of prosperity and expansion of currency and credit was founded upon it.

Gold, however, could not serve to settle the whole world's debit balance to the United States in perpetuity. There isn't enough gold. It was evident that the prosperity of American industry and agriculture depended, first, upon maintaining a free flow of loans and credits to Europe as a bridge to pass over the chasm between war and peace, and, second, upon a gradual adjustment of our economy to the fact that our creditor position on capital account made it necessary for us to prepare to receive increasing payments in goods and services, that is to reduce tariffs and subsidies and to permit the rest of the world to pay us what was owed.

Constructive foreign loans.—It proved to be well within the power of banking leadership to build the bridge, to arrange the loans and credits, and rebuild the currencies. One by one, buttressed by loans or banking credits, Austria in 1923, Germany in 1924, England in 1925, Belgium in 1926, Italy in 1927, France in 1928, and Japan in 1930, returned to the gold standard, with the aid of American bankers and American investors. No one of these loans or banking credits was a thoughtless loan, or made for anything less than the most constructive of all possible purposes, the restoration of the world after the war to sound currencies and sound finance, the rebuilding of a solvent world to trade in. In all financial history there is no instance of more serious, planned, thoughtful, and constructive effort in the field of finance than this American contribution to world reconstruction in the post-war decade.

The central banks take command.—The financial effort to construct a bridge over the chasm between a war-time organization of the world and its peace-time organization was shared by the central banks of the world. Capital issues and private banking credits were necessary at the first stage in each country, to unlock the doors as it were. But as one country after another was restored to the gold standard, with the aid of private loans and credits, the role of the central banks became more important, and that of other bankers less important. So far as the political authorities and policies of their respective governments permitted, central banks, with their immense power over the price and volume of currency and credit, and consequently over the level of commodity prices, then dominated the reconstruction effort, rather than private banking credits and capital issues.

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Deflation and stabilization.—Though the phrase "managed money" has been anathema to the principal central bankers of England, France, and America, those of England and America did address themselves to the problem of monetary management, and had a right and duty to do so. Because of the war, prices had risen to something like 250 percent of the pre-war level, and it was evident that should it be necessary, as some believed, to submit to a deflation of prices to or below the pre-war level the gravest disaster and human suffering must be endured. After the deflation of 1920–21, which was deemed to be sufficient and complete, monetary management by the central banks was directed to the highly desirable end of arresting the deflation at about 150 percent of the pre-war level, and this was accomplished with a high measure of success over a period of years so far as America was concerned.

During this period (say 1922–27) business in this country was good, commodity prices were fairly stable, though slowly sinking elsewhere, and speculation in stocks, though it gave concern to some, had not yet got out of bounds. A vast superstructure of member bank deposits was erected on the base provided by the Federal Reserve System's gold holdings. Far from being sterile, the gold increased and multiplied itself in bank credit, which grew immensely in volume and velocity. Looking backward it seems that this period must be regarded as one of latent gold inflation here—an inflation based upon gold imports but kept under control by monetary management to some extent. Gold was paid out by the Federal Reserve banks in the form of gold certificates and thus kept out of the reserves. Such inflation as did take place, so far as concerned commodities, was of a negative sort, that is American prices were kept stable when world prices were falling.

England's difficulties.—America had gold in plenty and a creditor position on international account, but that was not true on the whole of European countries, which one by one returned to the gold standard. It turned out furthermore that in the case of England the wage level and the price level had become arbitrary and inelastic in consequence of the dole and the attitude of the trade unions. Thus the restored gold standard did not work in England in the old-fashioned way. That way was, when gold was flowing out, to raise the bank rate, reduce prices and wages, and curtail imports and extend exports. In fact the general strike which followed hard after England's return to the gold standard pretty much eliminated any question of defending England's gold by a dear money and deflationary policy. Indeed, no one wanted a deflation policy, and it was the clear policy of the central banks, including our own, to arrest the deflation where it was.

Cheap money policy.—In the forepart of 1927 it became apparent that a new deflation was setting in. The governors, or deputy governor, of the four principal banks of issue met in America toward the midyear and apparently determined to renew their efforts to arrest the deflation and hold the line where it was. Following that conference, an active cheap money policy was embarked upon by the Federal Reserve System, in a thoughtful and statesmanlike though hazardous effort to prevent a world-wide deflation of prices. In the last 5 months of 1927 and the first 7 months of 1928, our gold stock was reduced by some $500,000,000 by net exports and earmarkings of gold for foreign account. In the last 5 months of 1927 the Federal Reserve bank's total bills and securities rose from $953,831,000 to $1,598,842,000, considerably more than a 60 percent increase. This increase in credit went into the securities market, there having been on the whole a falling off in general business, or at any rate no increased demand for credit in business, agriculture, etc.

Corrective steps inadequate.—The steps taken in 1928 to check this inflation were halting and inadequate, and when, at the beginning of 1929, some Federal Reserve banks sought to invoke the classical remedy of dear money, their proposed increases in rates were vetoed by the Federal Reserve Board in Washington: The board hoped, by admonition and by discrimination against banks making loans on collateral securities, to control speculation without making money dear for commerce, industry and agriculture. But a cheap money policy intended to continue the business boom was not well calculated to dicourage the purchase of stocks. This well-meant effort to keep money cheap and plentiful and yet control its use was responsible for the stock-market excesses of the first 8 or 9 months of 1929 and for the resultant crash in October and November.

The great inflation.—The cheap-money policy of the last half of 1927, the indecisive policy of 1928, and the board's veto of a dear-money policy in the first half of 1929—these are the causes of the great superinflation of that period and of all the disastrous consequences. Cheap credit was let loose from the central

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reservoir in 1927, for a beneficent purpose but in excessive volume; and for 2 full years until August 1929, the one and only certain cure, dear money, was not used. Like water the credit flowed whither it would according to the laws of its nature, and the admonitions of the Federal Reserve Board were as idle as those of King Canute addressed to the waters of the sea.

It is axiomatic that you cannot make money cheap and plentiful and prevent its flow according to the laws of its nature. When cheap credit is created at the central reservoir, it is the central reservoir which is responsible for the consequences, and not the people who use it. The people of this world in that regrettable period were like marionettes dancing on an invisible wire, subtly influenced by the excessive volume of cheap money. Irresistibly, farmers, merchants, business men, and bankers responded to it, unreasoningly as they would to a drug. Equally and instantly they responded to the use of dear money as a curative when at last, too late, it was employed in August 1929.

Economic peace made impossible by Governments.—Aside from these monetary errors, why did the well thought-out plans for sound currencies, aided by loans and credits extended by bankers, and for price stabilization under the guidance of the central banks, fail? Because the bankers were building a bridge from the treaties of peace to economic peace, and it was not possible for the bankers, the private bankers or the central banks, to bring about that economic peace. It was not in their field. Where they had urged lower tariffs, higher tariffs were enacted, and later embargoes were erected and ultimately exchange controls. Where they had urged readjustment of reparations and war debts, only inadequate and dilatory adjustments were effected. Europe was obliged to stop buying our goods when we stopped making her fresh loans to buy them with. Above all the unwillingness of the United States to accept the implications of its creditor position and receive payment, in part at least of the sums due it in goods and services, made economic peace impossible. At the far end of the bridge, 10 years after the Armistice was found not peace but war, economic war. And so confidence without which loans and credits are fruitless was destroyed.

Inflation stopped.—When the inflation was stopped by the delayed action of the central banks in the summer of 1929, the relative stability of the commodity price level over a period of years preceding the stock market collapse of 1929, encouraged the belief that the stock market boom and break of the year 1929 were more or less isolated phenomena, and that after purging our system of the consequences of these excesses it would be possible, as it was clearly desirable, to go forward at about the same level of prices and wages without much delay. To this end every effort of the Government in power in Washington was bent; and every effort of the industries, the railroads, the utilities, and the bankers supported the effort of the Government.

Critical periods of the depression.—The increases in central bank discount rates in the summer of 1929 stopped the inflation, and the Hatry crisis in London precipitated the panic of 1929. The efforts to avoid that panic degenerating into a general depression appeared to be measurably successful until June 1930, when the Hawley-Smoot tariff here and retaliatory tariffs throughout the world signaled a renewed collapse, which continued until the end of 1930. After 1930 people looked forward again to the end of the depression, but were rudely awakened in the summer of 1931 by the Credit Anstalt failure in Austria, the German moratorium, and the abandonment of gold by Great Britain. This was followed by the run on the dollar and a terrifically rapid deflation of bank deposits here. The passage of the Glass-Steagall bill at the beginning of 1932 and the active open-market policy conducted for some months, followed by the Lausanne agreement in regard to reparations, resulted in some considerable improvement in the summer of 1932. It was, however, brought to a close by President Hoover's Des Moines speech in which he said that we had been within two weeks of going off the gold standard. The controversy with European Governments about the December 15 war debt payments further disturbed confidence, and the publication in January 1933 of the loans by the Reconstruction Finance Corporation started runs on banks which were in debt to it. Thus year after year some untoward event upset the best-laid plans for recovery. Everyone had supported the efforts of governments and of central banks to arrest the forces of deflation at the end of 1929, again in 1930, again in 1931, and again in 1932, for all well understood the importance to the human race of making the effort, and believed that success might be achieved.

The great deflation.—However, the force of the post-war deflation, held in check by central banking monetary policy until 1929, once that policy broke down, proved overwhelming and devastating beyond the foresight of the most pessi-

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mistic. Between December 31, 1929, and March 1, 1933 (prior to the banking holiday) bank deposits in this country were deflated from $55,000,000,000 to approximately $39,000,000,000, or by about $16,000,000,000. To this total must be added an estimated amount of $4,000,000,000 representing deposits in banks which have not reopened subsequent to the banking holiday. The deflation was world-wide. It proceeded in a vicious downward spiral of falling commodity prices, falling wages, falling employment, falling bank loans and investments, and falling bank deposits. When the banks lost deposits they called loans and sold investments. When they called loans and sold investments they lost deposits. Unless this vicious spiral of deflation could be broken, an endless chain of bankruptcies, foreclosures, unemployment and starvation must have occurred. Nothing comparable to the collapse of prices and the deflation of credit which had taken place had occurred in the memory of living men. We had reached a level so low that the burden of indebtedness created during the war and the post-war decade had become intolerable.

The present administration's sound decisions.—Under these circumstances the suspension of gold payments and vigorous and persistent monetary management to expand credit became necessary. Already these sound decisions of the administration are having a beneficial effect. If the Federal Reserve banks combat the deflation now, they already have the means to combat an excessive reinflation if it should occur. The problem of today is to arrest the disastrous deflation. If later on the excesses of 1927–1929 should show any signs of recrudescence the Federal Reserve authorities, enlightened by their own errors of that period, should know how to deal with them.

II. Remedies

Fundamentally the depression must be attributed to the inflation and the deflation on the one hand, and to the failure of the governments to make economic peace on the other. The plans, to which our Government is now committed, for arresting the deflation and bringing about some rise in prices, and for lowering trade barriers, are sound and wise and go to the root of the matter.

No banking legislation or supervision or management can protect the public or the community against the deterioration of bank assets or security values incident to such a deflation as has been in progress. Banks and railroads have been more the subject of legislation and supervision than any other American business activities. The losses of the public in banks and railroads have probably exceeded their losses in any other field. Without extentuating misconduct or errors of judgment, these losses are due in the main to the deflation.

Nevertheless every effort should be made to perfect the mechanism, and while recognizing that no mechanism can be proof against such a deflationary disaster as has befallen mankind, we should learn the lessons of adversity and devise such remedies as we can and such precautions as we can against the recurrence of known evils. Passing therefore from the fundamentals (monetary policy and trade policy) to the machinery, the following suggestions present themselves:

Defects in Federal Reserve System.—It is evident that the Federal Reserve System failed to control the inflation, and has as yet failed to control the deflation. Ultimately the New York discount rate was raised to 6 per cent in August 1929, but the country paid dearly for the months of delay and indecision in the superinflation of that year. Similarly the System has been unable to evolve and operate and persist in an effective policy to counteract the deflation in the last three years. Its antideflationary policy has found only hesitant, tardy, and intermittent expression in action. In matters of monetary management, in the control of inflation and deflation, a stitch in time saves nine. Twelve scattered banks, each with its governor and its chairman and its board of directors, loosely ruled by a board of eight in Washington, composed of men of diverse opinions, do not provide the country with an organization well adapted to act promptly and decisively. Some remedy must be found for this.

Branch banking.—The arguments for and against branch banking have been exhaustive, and it is not necessary or appropriate in this memorandum to review them. The banking business is like the insurance business in that it depends for its soundness on averaging risks. The smaller the business and the more localized the risks, the less chance there is to average them. One reason why the depression has had graver consequences for us in America than for some other countries less fortunately situated is this, that we have subdivided our banking resources into relatively small localized units. There are advantages of local independence and autonomy in the unit banking system, but we are paying heavily the price of them.

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Capital issues.—The malpractices of the inflation era have emphasized the demand for reform in regard to capital issues. However, it is essential in guarding against the recurrence of these evils not to take steps which might retard or prevent recovery from the depression. The history of all depressions indicates that recovery began when prime capital issues became salable again, and not before. The wheels do not begin to turn as long as borrowers are dependent on short commercial loans. Only when investment capital is again obtainable do business and industry enter upon new undertakings or expand the old. So long as they are dependent on commercial credits, business and industry seek by economies on capital and current account to reduce their expenditures, and if possible their bank loans. Only when the bond market develops will they start going.

The provision of bank credit, beneficially facilitated by the Federal Reserve Act, to meet seasonal and transitional requirements of business, industry and agriculture, is most necessary. But at least as important and helpful is the mechanism for providing that permanent capital which is the very foundation of our economic life.

Without the citizen's thrift and savings on the one hand, and the mechanism for the creation and distribution to thrifty investors throughout the land of capital issues, the country would be plunged back into the middle ages. Our banks would be frozen solid, for the loans they have made to meet seasonal, occasional and transitional requirements of business enterprise, could not be liquidated if the mechanism for providing permanent capital were wrecked. It is necessary and desirable to preserve the complex and on the whole useful mechanism for the creation and distribution of investment securities and the permanent investment of thrifty citizens in them. It is not wise to destroy the investment securities market, the bankers, brokers, dealers, and holders of such securities, because some people speculated in them.

Handling securities by banks.—Opinion has advanced to the point where it seems to be thought that the banks and trust companies should discard their securities affiliates with greater or less expedition, and withdraw from the issue and distribution of capital issues. It seems, however, that such banks should still be permitted within the limits of the present law to buy, sell, and own bonds, and to underwrite them and lend upon them. Otherwise there is serious danger of impairing the machinery for the necessary capital issues to bring about recovery from the depression.

By private bankers.—The great commercial banks, directly or through their affiliates, have in the past 20 years or thereabouts to a large extent occupied the field of capital issues, purchased and absorbed some private issuing and distributing houses, and by their competition driven others out of business or restricted their opportunity for profit and therefore their resources. The corollary to the suggestion that the commercial banks should dispense with their affiliates and withdraw from the capital issues business seems to be that private bankers, issuing houses and dealers should be encouraged to resume their former place in the national economy to the end that the old machinery for handling capital issues may be recreated, and so recovery from the depression facilitated.

Private bankers' deposits.—To withdraw the right of issuing houses to receive deposits from their private clientele would impair their usefulness. Any concern devoting itself exclusively to capital issues faces peculiar difficulties, for it must have a considerable capital and yet it is without a "bread and butter" business such as ordinary deposit banking and acceptance business provides. Private bankers do not and should not use their deposits in their capital issues business. They should keep their deposits invested in government securities, call loans, time loans, etc. But to require investment bankers to give up their deposit business would reduce their day to day earning power and reduce such bankers to the level of mere bond brokers, and therefore make them to some degree dependent on the commercial banks. It is important to preserve the private bankers as independent issuing houses, wholly separate from and not mere dependencies of the commercial banks, as they would become if they were required to give up their banking business.

Investment bankers should therefore continue to be permitted to receive deposits within the limitations imposed by the New York State law. That law prevents them from soliciting deposits from the general public, from advertising themselves as bankers, and from paying interest on deposits of less than $7,500. Thus they deal only with a limited clientele and not with the small depositor who is especially and properly the ward of the Government.

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III. Corporations and Partnerships

The growth of corporations has been very rapid in the last hundred years. It would have been impossible to build railroads and telegraphs and bridges, to build our great commercial banks, our great industrial organizations, unless the capital of the general public could be enlisted for their development. To enlist the capital of the general public in these enterprises it was necessary to develop the corporate form of organization, and necessary that the corporation should receive certain priceless gifts from the State: the very right to exist as a body corporate; the right of perpetual succession; the right to solicit subscriptions to capital stock from the general public; and total or partial exemption from personal liability; the right to delegate the management to salaried men not the owners.

Creation of corporations.—Corporations were a strange new kind of beings, the very creatures of the State. They were artificial contrivances, necessary and desirable to meet the needs growing out of the industrial revolution, but whose powers and the manner and extent to which they might be exercised were in the nature of the case determined by the State. The State which creates them has not only the right but the duty to regulate and control them to the best of its ability.

Aids to incorporated banks.—Incorporated banks, chartered by the State, received not only the rights and privileges conferred upon all corporations, but certain very special ones such as the right to appeal to the public, for capital and deposits, as institutions supervised by the National or State Government, and the right to call themselves "National" or "State" banks.

The Federal Reserve System lends money to incorporated banks in time of need, and may create currency to that end. The National Government thus added to the charter powers conferred upon incorporated banks, the most extraordinary special privilege conferred upon any group, *viz.*, the right to have currency and credit created for their use.

Then a year or more ago, the Government, recognizing its responsibility to the depositors in the institutions which it had created, regulated and aided, wisely determined to grant further aid to incorporated banks, and created the Reconstruction Finance Corporation for that purpose, among others.

Nevertheless seven thousand incorporated banks closed their doors in the decade following 1920, and in the last two and a half years thousands more have closed their doors.

Private initiative.—Notwithstanding the great benefits of incorporation, there is something else that is priceless in the life of the people. That is the individual enterprise of the merchant, manufacturer, business man, and banker, who alone, or in partnership with others, risks his own capital, his own good name, his own effort, and all that he has in the world in his business. They ask nothing of the State except the right to continue to live, the right to life, liberty, and the pursuit of happiness, the right to attend to their own affairs for their own good and that of their fellow men.

The growth of corporate enterprise has been drying up individual independence and initiative, drying up the life of the big town and the small town, and the hamlet. We are becoming a nation of hired men, hired by great aggregations of capital, theoretically controlled by absentee stockholders, who are however so numerous and whose individual interest is generally so small that their control is inarticulate and difficult to express. This corporate growth in large measure was inevitable and no doubt desirable. To attempt to reverse it would be like turning back the hands of the clock.

But do we wish to go further and accelerate it? Not merely to grant charters and franchises and immunities and subsidies to corporations, but by law and regulation to stamp out private enterprise and private initiative, the activities of private business men and private bankers, who are ready and willing still, in spite of the subsidized competition of corporate enterprise, to stake their own capital instead of that of the public, give their own time and attention to the management of their own businesses?

Private bankers seek and receive no charter from the State. They do not solicit capital from the public, but venture their own capital. In New York they do not solicit nor receive deposits from the general public. They may not hold themselves out as bankers to the public. They do a private banking business with their private clients, who number perhaps a few hundreds as compared with the tens and hundreds of thousands of depositors of the great incorporated banks.

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The creditable record of private bankers.—The banking business of private bankers, the receiving of deposits, the making of loans, buying and selling of exchange, making of acceptances, has on the whole been conservatively conducted, and in spite of casualties private bankers have given a good account of themselves here and abroad, over a period beginning a couple of hundred of years before corporate banking began. In London, Paris, Vienna, Berlin, Hamburg, Amsterdam, and New York, private bankers have for generations made important contributions to the economic development of the world, to the development of business enterprise and sound finance. Their record is not less creditable than that of incorporated banks, in spite of all the benefits and immunities and Government aid conferred upon the latter.

Merchants of securities.—Issuing bankers are really merchants of securities. Some of them are wholesale merchants like ourselves who have no salesmen, and others are retail merchants. Private bankers are not investment trusts. It is not their function to lock up their money, much less the money of their depositors, in investment securities. Their good will and ability to do business depend upon their experience in judging what are good, sound issues, and what are proper prices. Their money, their reputation and their good will are at stake in every operation. If they make errors of judgment, their ability to do future business is impaired. When they handle an issue for any Government or corporation, they weigh the pros and cons, the merits of the issue, and they follow it up afterward in the effort to protect investors. When they go on boards of directors, they do it not to obtain advantages for themselves, but with a sense of their responsibility toward investors in securities of companies which they have sponsored.

IV. Conclusion

All our effort in the war period was to help win the war. All our effort in the first post-war decade was to rebuild the world upon the ruins left by the war.

After the war the most heroic efforts were made by bankers and investors, financiers, and business men, economists and experts to erect a tolerable world upon the ruins. The gold standard was reconstructed throughout the world. New debts, new loans and new credits were granted in the effort to restore and support the gold standard and to restore and revivify trade.

However, governments in one country or another, or in all countries, failed to do their part. The intergovernmental debts resulting from the war were only tardily, and then not sufficiently, reduced. Tariffs and other trade barriers were increased. Taxes and loans were raised to meet the uneconomic expenditures of governments. Armaments were not reduced. The comprehensive rearrangement of the map of the world by the treaties of peace involved many political and economic maladjustments, and little was done to solve them. Russia was ostracized and was carrying on an economic and political war against our civilization. China continued her civil war, or wars, and later Japan and China became involved in military operations.

Hindsight.—Looking back it is easy to see the errors which were made. It is easy to see that our superprosperity from 1914 to 1929 grew out of the war itself, and out of the maladjustments which the war left behind it. Yet while we were living through the period it seemed that with effort, forethought and courage we were going to be able to build a better world; that our Federal Reserve System created in 1914 had put an end to the banking panics which had periodically arrested every previous era of prosperity in modern history; that, possessed of a great continent with all the climates and all the natural resources, inhabited by an adventurous and hardy and industrious people; with the extraordinary development of communications, of telephone and telegraph and radio, of motor cars and of roads, electrical power and all the manifold extensions of human activity; we had indeed entered upon a new phase in the life of the American people.

Even when the panic came in 1929, no one had any conception of the length and depth of the depression which it heralded. Some took a gloomier view than others, but we know none who had imagination and vision and knowledge sufficient to foresee then in October and November 1929 the gravity and extent of the catastrophe impending. The extent of the inflation and the extent of the deflation were both beyond our reckoning.

Efforts to meet the difficulties.—At the outset of the panic we spent our strength and our resources in the effort to stem the disaster. We formed a group of leading banks to maintain an orderly stock market, and prevented what doubtless otherwise would have been a general moratorium in 1929. From that day to this our time and strength and money have been devoted to the effort to retard or arrest

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the disaster, to assist this or that firm or company in trouble, with what losses to ourselves is evident.

Again in 1932 we helped to form the American Securities Investing Corporation which was, we think, a constructive factor in the bond market.

We have made mistakes. Who has not? Our boast is that our effort during the whole post-war decade was constructively conceived toward the rehabilitation of America and the world after the war; that our record in the past 3½ years, beginning with the panic, has been one of strenuous effort to mitigate the disaster; that we have through thick and thin run a sound bank on sound banking principles and protected our depositors; and that the service of the securities we issued in the whole post-war period, aggregating some billions of dollars, in spite of lamentable depreciation in market quotations in consequence of the depression, has with few exceptions been maintained under conditions of world-wide disaster.

Yes, we have made mistakes; but were we more mistaken than are those prophets of evil, those defeatists, who accept the present level of employment, of prices, of commodities and securities, as final or look for even a lower level ahead? Were we after all wrong in our judgment that it would be possible to build a new and better world on the ruins left by the war? We think not. We do not think our hopes and plans were foolish or thoughtless or ill considered. We hope that the constructive plans of the Administration will lead us all out of the deflation, and, by wise monetary management, by lowering trade barriers and by reducing armaments, will justify our hopes rather than the fears of the defeatists.

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