

A BILL

To amend the Second Liberty Bond Act, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the Second Liberty Bond Act, as amended, is further amended as follows:

SEC. 1. The first paragraph of section 1 is amended to read as follows:

"The Secretary of the Treasury, with the approval of the President, is hereby authorized to borrow, from time to time, on the credit of the United States for the purposes of this Act, to provide for the purchase, redemption or refunding, at or before maturity, of any outstanding bonds, notes, certificates of indebtedness or Treasury bills of the United States, and to meet expenditures authorized for the national security and defense and other public purposes authorized by law, such sum or sums as in his judgment may be necessary, and to issue therefor bonds of the United States: Provided, that the face amount of bonds issued under this section and section 22 of this Act shall not exceed in the aggregate \$25,000,000,000 outstanding at any one time."

SEC. 2. The first sentence of subsection (a) of section 5 is amended to read as follows:

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"In addition to the bonds and notes authorized by sections 1, 18 and 22 of this Act, as amended, the Secretary of the Treasury is authorized, subject to the limitation imposed by section 21 of this Act, to borrow from time to time, on the credit of the United States, for the purposes of this Act, to provide for the purchase, redemption or refunding, at or before maturity, of any outstanding bonds, notes, certificates of indebtedness or Treasury bills of the United States, and to meet public expenditures authorized by law, such sum or sums as in his judgment may be necessary, and to issue therefor (1) certificates of indebtedness of the United States at not less than par (except as provided in section 20 of this Act, as amended) and at such rate or rates of interest, payable at such time or times as he may prescribe; or, (2) Treasury bills on a discount basis and payable at maturity without interest."

SEC. 3. Section 5 is further amended by striking out the final sentence of subsection (a) thereof, reading as follows:

"The sum of the par value of such certificates and Treasury bills outstanding hereunder and under section 6 of the First Liberty Bond Act shall not at any one time exceed in the aggregate \$10,000,000,000."

SEC. 4. Subsection (a) of section 18 is amended to read as follows:

"In addition to the bonds and certificates of indebtedness and war-savings certificates authorized by this Act and amendments

thereto, the Secretary of the Treasury, with the approval of the President, is authorized, subject to the limitation imposed by section 21 of this Act to borrow from time to time on the credit of the United States for the purposes of this Act, to provide for the purchase, redemption or refunding, at or before maturity, of any outstanding bonds, notes, certificates of indebtedness or Treasury bills of the United States, and to meet public expenditures authorized by law, such sum or sums as in his judgment may be necessary and to issue therefor notes of the United States at not less than par (except as provided in section 20 of this Act, as amended) in such form or forms and denomination or denominations, containing such terms and conditions, and at such rate or rates of interest, as the Secretary of the Treasury may prescribe, and each series of notes so issued shall be payable at such time not less than one year nor more than five years from the date of its issue as he may prescribe, and may be redeemable before maturity (at the option of the United States) in whole or in part, upon not more than one year's nor less than four months' notice, and under such rules and regulations and during such period as he may prescribe."

SEC. 5. By adding a new section, as follows:

"SEC. 21. The face amount of certificates of indebtedness and Treasury bills authorized by section 5 of this Act, certificates of indebtedness authorized by section 6 of the First Liberty Bond Act, and notes authorized by section 18 of this Act shall not exceed in the aggregate \$20,000,000,000 outstanding at any one time."

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SEC. 6. By adding a new section, as follows:

"SEC. 22. A. The Secretary of the Treasury, with the approval of the President, is authorized to issue, from time to time, through the Postal Service or otherwise, bonds of the United States to be known as United States Savings Bonds. The proceeds of the Savings Bonds shall be available to meet any public expenditures authorized by law and to retire any outstanding obligations of the United States bearing interest or issued on a discount basis. The various issues and series of the Savings Bonds shall be in such forms, shall be offered in such amounts within the limits of Section 1 of this Act, as amended, and shall be issued in such manner and subject to such terms and conditions consistent with paragraphs B and C hereof, and including any restriction on their transfer, as the Secretary of the Treasury may from time to time prescribe.

"B. Each Savings Bond shall be issued on a discount basis to mature not less than ten nor more than twenty years from the date as of which the bond is issued, and provision may be made for redemption before maturity upon such terms and conditions as the Secretary of the Treasury may prescribe: Provided, that the issue price of Savings Bonds and the terms upon which they may be redeemed prior to maturity shall be such as to afford an investment yield not in excess of three per centum per annum, compounded semiannually. The denominations of Savings Bonds shall be in terms of their maturity value and shall not be less than \$25. It shall not be lawful for any

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one person at any one time to hold Savings Bonds issued during any one calendar year in an aggregate amount exceeding \$10,000 (maturity value).

"C. The provisions of Section 7 of this Act, as amended, (relating to the exemptions from taxation both as to principal and as to interest of bonds issued under authority of Section 1 of this Act, as amended) shall apply as well to the Savings Bonds; and, for the purposes of determining taxes and tax exemptions, the increment in value represented by the difference between the price paid and the redemption value received (whether at or before maturity) shall be considered as interest. The Savings Bonds shall not bear the circulation privilege.

"D. The appropriation for expenses provided by section 10 of this Act and extended by the Act of June 16, 1921, (U.S.C., title 31, sec. 761) shall be available for all necessary expenses under this section; and the Secretary of the Treasury is authorized to advance, from time to time, to the Postmaster General from such appropriation such sums as are shown to be required for the expenses of the Post Office Department, in connection with the handling of the bonds issued under this section.

"E. The Board of Trustees of the Postal Savings System is authorized to permit, subject to such regulations as it may from time to time prescribe, the withdrawal of deposits on less than sixty days' notice for the purpose of acquiring Savings Bonds

which may be offered by the Secretary of the Treasury; and in such cases to make payment of interest to the date of withdrawal whether or not a regular interest payment date. No further original issue of bonds authorized by Section 10 of the Act approved June 25, 1910 (U.S.C., title 39, sec. 760), shall be made after July 1, 1935.

"F. At the request of the Secretary of the Treasury the Postmaster General, under such regulations as he may prescribe, shall require the employees of the Post Office Department and of the Postal Service to perform, without extra compensation, such fiscal agency services as may be desirable and practicable in connection with the issue, delivery, safe-keeping, redemption and payment of the Savings Bonds."

SEC. 7. Section 1126 of the Revenue Act of 1926 is amended by adding at the end thereof the following: "In order to avoid the frequent substitution of securities such rules and regulations may limit the effect of this section, in appropriate classes of cases, to bonds and notes of the United States maturing more than a year after the date of deposit of such bonds as security. The phrase 'bonds or notes of the United States' shall be deemed, for the purposes of this section, to mean any public debt obligations of the United States and any bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States."

January 29, 1935.

The sub-committee on Housing met at 11:30 A.M. in the office of the Secretary of the Treasury. Those present were:

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Henry Morgenthau, Jr. Secretary of the Treasury,  
T. Jefferson Coolidge, Undersecretary of the Treasury,  
John H. Fahey, Chairman, Home Owners' Loan Corporation,  
Marriner S. Eccles, Governor, Federal Reserve Board,  
H.B. Hackett, Housing Division, Public Works Administration,  
Stewart McDonald, Federal Housing Administration,  
Mr. Bell, Acting Director of the Bureau of the Budget,  
C.B. Upham, Secretary of the Committee.

Mr. Fahey presented a memorandum which he had prepared showing the present situation of the HOLC.

Mr. Coolidge stated his position as being that the HOLC should have increased borrowing authorization for a sufficient amount to clear up applications they already have received but that no funds should be provided for the Home Loan Banks and the Federal Savings & Loan Associations.

Mr. Fahey said that he would like to set up a Congressional program calculated to stop lending by the HOLC this year and under conditions such as not to interfere with private lending agencies but to get them into action the soonest possible. The resources should be used to as much advantage as possible, he said, with as little burden as possible being placed on the Federal Government. He said that it was really better in the long run, so far as the budget is concerned, to provide some money for the Home Loan Banks and the Federal Savings & Loan Associations.

Mr. Bell said that the increase in borrowing authority didn't directly affect the budget and that his only attitude was one of reluctance to see the Government's contingent liability piled up.

Mr. Coolidge inquired if it would not be expected that newspapers would comment that the President had set the budget figure and was now increasing it in this indirect fashion. He added that he thought this attitude would be different if an announcement was made that the increased authorization for guaranteed bonds will be just enough to take care of applications already in.

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Mr. Morgenthau commented that the President announced that he is cutting down emergency lending agencies and asking <sup>ed</sup> if giving more money to the Home Loan Banks and the Federal Savings and Loan Associations isn't an expansion of those agencies.

Mr. Fahey said that the mortgage problem cannot be dealt with properly by the Government but private business must do it. A part of it must be taken care of through HOLC and business must be stimulated to take the rest. If the HOLC is not given enough money now we will find ourselves a year hence on the eve of a national election in a position where the HOLC can't stop at all. He urged that communities take the load and that Home Loan Banks and Federal Savings & Loan Associations be given money to stimulate private lending.

Mr. Morgenthau said that it seemed to him the problem was which way to go, the HOLC way or the FHA way.

Mr. McDonald pointed out that the FHA works on the principle of mutual insurance on private capital. The Government guarantee expires in 1937. Risks must be selected. Mr. McDonald said that they had insured about \$500,000 in mortgages, that about the same amount had been rejected, that \$2,000,000 were being appraised and \$2,000,000 were being submitted.

Mr. Morgenthau asked if insurance meant 1% extra to the home owner.

Mr. McDonald replied yes, but that the interest rate on the refinanced insured mortgage was probably less than the home owner had previously been paying.

Mr. Morgenthau said that someone should straighten the two organizations out - that in his opinion they were no nearer a solution of the problem today than when we first met with the President.

Mr. Fahey said that it can't be expected that people coming to the problem fresh could in fifteen or twenty minutes understand all its ramifications and complications. It is a new thing, he said, a revolutionary thing. Lenders are not used to 80% loans - the entire mortgage structure must be made over. Long term amortized mortgages have not been dealt in by insurance companies and other mortgage lenders heretofore.

Mr. McDonald said that 67 big contracting firms in New York City want to build 5000 homes on an insured mortgage basis.

Mr. Morgenthau developed the opinion that the HOLC and the FHA maintain separate organizations throughout the country with separate sets of appraisers and that the overhead of the HOLC for 1935 was \$39,000,000 and that of the FHA \$8,000,000.

He said that he would recommend to the President that the borrowing authority of the HOLC be increased by \$1,000,000,000 with none to be given to the Home Loan Banks and the Federal Savings & Loan Associations.

With respect to the overhead of the FHA, Mr. McDonald said

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that it should be remembered that Title I does not deal with mutual mortgage insurance and expires this Fall and that a good part of the overhead was in connection with that. The FHA can be shaped up to do the job if somebody will pay the bill and say what the job is. It cannot, as a mutual mortgage proposition with the public paying the bill.

Mr. Eccles expressed terrible disappointment with the whole Housing setup. He referred to the plan which was developed by the committee on which he served a year ago and said that the administration of housing had not been in accordance with that plan. He said there is no relationship between the rules and regulations of the FHA and the plan of his committee. If the FHA continues under its present regulations it means that money must be continuously provided for the HOLC. It was not thought that National Mortgage Associations would be in operation until \$1,000,000,000 of insured mortgages had come into existence. The FHA is trying to organization National Mortgage Associations as a basis for creating insured mortgages.

Mr. McDonald said that the interpretation of the Act by the FHA is National Mortgage Associations are an integral part of the Statute.

Mr. Fahey expressed his disbelief in National Mortgage Associations.

Mr. McDonald said that the FHA can do without the National Mortgage Associations and liberalize their rules and regulations but that the law requires them to try to develop the National Mortgage Associations.

Mr. Eccles said that Walker and Rieffler were sticklers for National Mortgage Associations and that Hopkins, Fahey, Dean and himself agreed to put them in but certain they would not work. Now he says Moffett puts the National Mortgage Associations in the forefront and makes everything else depend on them. He said the credit risk should be left up to the lending institutions - that they have a sufficient stake to make them careful. If mortgages were down to a 5% basis and the insurance premium down to 1/2% there might be a substantial amount of mortgage business done.

Mr. Morgenthau said that he would suggest an increased borrowing authority of \$1,000,000,000 to \$1,250,000,000 and would recommend that Tom Smith come back to Washington for a week to study the Housing situation and make recommendations.

Mr. Fahey said that the recommendations made by Mr. Smith a year ago were many of them absurd.

Mr. Morgenthau said HOLC had adopted 9 out of 10 of them.

Mr. Fahey said that they had been doing those 9 or ten for a year already.

Mr. Morgenthau said he had been listening for a year now to this Housing mixup and he was <sup>not</sup> going to let the President be put into a jam on account of it. The HOLC is doing 9 out of 10 things that Tom Smith recommended and it can be proved.

Mr. Fahey said that the first recommendation was that there be no increase for the HOLC and that it stop its activities September 1st. If it had stopped then, he said, we would be in a fine mess. They did keep within the \$200,000,000 limit a month and that was a very bad thing to do.

Mr. Eccles said that of course the HOLC could not stop loans without stopping applications and what they should have done was stop applications. He suggested a \$1,250,000,000 compromise with a drop in the discount rate of the Home Loan Banks. He said that he thought that the two agencies should be gotten together.

Mr. Morgenthau said he can't understand where the FHA is going. He had been told they would take the pressure off the HOLC. He thinks we ought to have Tom Smith come for a week. He thought his recommendations of a year ago were far from ridiculous and he was of the opinion that the HOLC thought they were far from ridiculous because they had adopted 9 out of 10 of them.

Mr. Fahey said he had no objection to Mr. Smith but that the President ought to be able to decide matters of public policy - he ought to trust those responsible or get rid of them. No one can absorb the Housing background in a few days.

Mr. Morgenthau said that if the heads of independent agencies can't get together he couldn't get them together.

Mr. McDonald said that they were instructed to set up a mutual mortgage system - that they were not told that they were a dam to stop HOLC distress and that the Act was not set up that way.

Mr. Fahey reported that Mr. Moffett had said that the President was in favor of National Mortgage Associations and that he expected no real help from the FHA this year. No matter what you do with FHA, he said, they can't be of any help to HOLC this year. If you give HOLC too little money this year you will have it as a permanent agency.

Mr. Morgenthau asked if \$1,500,000,000 were given to HOLC now would they need more later.

Mr. Fahey replied that there was a very good chance they would not need any more.

January 29, 1935.

The sub-committee on Housing of the Interdepartmental Loan Committee met with President Roosevelt at the White House at 1:00 P.M. Those present were:

The President,

The Secretary of the Treasury, Mr. Morgenthau,

The Undersecretary of the Treasury, Mr. Coolidge,

The Governor of the Federal Reserve Board, Mr. Eccles,

The Chairman of the Home Owners' Loan Corporation, Mr. Fahey,

The Chairman of the Reconstruction Finance Corporation, Mr. Jones,

The Assistant Administrator of the PCA, Mr. McDonald,

The head of the Housing Division, P.W.A. Colonel Hackett,

The Secretary of the Committee, Mr. Upham.

Mr. Fahey submitted to the President a copy of the memorandum which had already been discussed in the office of the Secretary of the Treasury and made a statement relative to the position of the HOLC. He stated Mr. Coolidge's position with respect to giving no funds to Home Loan Banks and Federal Savings & Loan Associations and his own position to the contrary.

Mr. Fahey said that many delegations of Congressmen and State officials were visiting his offices pressing for an expansion of the activities of the HOLC. He urged that the Corporation be given sufficient borrowing power now so that none will be needed a year hence. He said that the HOLC has more applications than it can take care of and that many of them cannot be taken care of elsewhere. The insurance companies can take a few. He said that it had been hoped there would be some relief through the FHA. He felt that Mr. Morgenthau had expected more of the FHA than it could do. He explained that

Mr. Eccles was in favor of changing the regulations of the FHA but Mr. Moffett did not agree. He said that as he understood it, Mr. Moffett would not guarantee results to the President.

The President interposed to say that Mr. Moffett had not been very hopeful of success of the FHA.

Mr. Fahey said that it was a very slow process.

Mr. Jones said it was very nearly impossible.

Mr. Fahey pointed out that the FHA might be taking a greater risk if they were to have a continuous Government guarantee.

The President asked if it was correct that what Mr. Fahey was recommending was an expansion of the borrowing authority of the HOLC by \$1,500,000,000 with \$400,000,000 of that total either definitely or optionally available to Home Loan Banks and Federal Savings & Loan Associations.

Mr. Morgenthau recalled to the President that the budget had already turned down a request for \$50,000,000 additional for Federal Savings & Loan Associations. He explained that his recommendation to the President would be for a \$1,500,000,000 expansion of the borrowing authority but before any funds are furnished to the Home Loan Banks or the Federal Savings & Loan Associations that there should be a definition of the field of the HOLC and of the FHA.

The President said he thought it would be a good thing if it were possible to draw a line of demarcation between the two agencies.

Mr. McDonald voiced the opinion that if the FHA took up the HOLC distress load that their rules and regulations would have to

be very much liberalized and they would be no longer a mutual system.

The President said "suppose we go along with the HOLC, can we draw any line of demarcation?"

Mr. McDonald said the FHA could be changed.

Mr. Fahey said the FHA cannot take distressed mortgages and make their plan work.

The President asked Mr. Eccles what he thought.

Mr. Eccles suggested that the HOLC take no more applications, that it be given enough funds to clean up applications already in, that it be given \$250,000,000 for Home Loan Banks and Federal Savings & Loan Associations and that the rules and regulations of the Federal Reserve System be liberalized to provide for the eligibility of mortgages as collateral for borrowing from Federal Reserve Banks.

Mr. Jones said that the collections of the RFC had been helped by the operations of the HOLC.

The President said that the HOLC was one of the operations which should be tapered off just as cotton loans and seed loans. He suggested that the HOLC be given \$1,250,000,000 with the assurance that if by January they need more they can have a reasonable sum.

Mr. Morgenthau said that if that were done there was no end of the road. He explained that in the budget for 1936 the overhead of the HOLC was \$35,000,000 and that of the FHA \$8,000,000. He pointed to duplication between the two agencies. He suggested that Tom Smith be brought to Washington for a week to study the

Housing situation and attempt to draw some line of demarcation between the agencies in the field.

The President said that if the FHA and the HOLC want to use the good offices of the Treasury and have Tom Smith make such a study that is up to them.

Mr. Fahey thought that they should draw the line themselves.

The President said that the decision as to that was an administrative detail and suggested that the sub-committee go ahead with its plan for \$1,250,000,000 of expansion of lending power and with its proposal for making a study of the field of operations of the two agencies.

MEMORANDUM OF  
DR. H. H. KUNG, MINISTER OF FINANCE AT NANKING  
DATED JANUARY 30, 1935

See also 88-214,250, 251

The Chinese Government had thought the situation here was made clear but in view of the inquiry of January 26 desires to summarize, supplement, and bring up to date the data furnished heretofore.

The Chinese Government was greatly disturbed for the past year over the effects of the American Silver Program on the Chinese economic and financial situation. On February 16 in connection with the ratification of the London Silver Agreement for Stabilizing Silver the Chinese Government through the American Consulate General at Shanghai informally communicated the following views:

"China entirely sympathizes with the purpose of the London silver agreement on the stabilization of silver prices and Minister Kung has personally urged ratification which is now pending. Since China's currency is silver, China is of course vitally interested in measures affecting its value and international exchange but of course has no desire to intrude upon questions of purely American internal concern. In view of reports here, it may be observed that any action resulting in a rise of China's currency out of relation to other currencies and especially out of relation to world commodities would have deflationary effects in China, further decrease her already reduced exports and so impair her ability to purchase goods from abroad. It would also probably increase the present serious tendency towards heavy silver exports as necessary means of settling large adverse balance. In view therefore of China's vital interest, it is hoped that the Government of China will be consulted in advance if measures concerning silver that might

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materially affect China's currency and exchange are in fact being contemplated."

Again immediately after the American nationalization of silver in August the Chinese Government made the following further communication:

"The London Silver Agreement of July 1933 received the signature of China's representatives and has more recently been ratified by the National Government of the Republic of China with the understanding that its major purpose was to secure the stability of the price of silver which was thought menaced by the large surplus stocks held by the Governments of India and Spain. The preamble of the agreement states in part that 'it is to the advantage of China that sales from monetary stocks of silver be offset by purchases as herein provided, with a view to its effective stabilization'.

"It now appears that under the Silver Purchase Act of 1934 the stability of the price of silver and the interests of China are as much menaced as by the previous situation of potential sellers. China would therefore appreciate an indication of the probably policy of America in the future purchase of silver in order that China may properly safeguard her currency, which has recently been flowing out of the country to a degree that is potentially alarming".

These views were substantiated by results as detailed in a memorandum communicated to the American Minister on October 5. Moreover full information furnished Professor Rogers here and subsequently concurrently furnished the American Treasury representative, the Commercial Attache and the Consulate in Shanghai is presumably available both to the State and the Treasury Department. Nevertheless the following further statement is submitted:

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1. Net silver export in 1934 not including smuggling was 257 million dollars of which five sixths in less than four months from the adoption of the Silver Purchase Act to October 15 when China was obliged to enforce restriction to protect the currency reserve from this extraordinary drain. In 1934, the silver export was five times the previous high record in 1907.
2. The Shanghai silver stock declined from 544 million dollars at the end of June 1934 to 312 million dollars now. Also the stock of other leading centers declined proportionately.
3. Till July last money was easy and financing plentiful but accompanying the silver drain money became extraordinarily tight. Since the first half of 1934 interest rose from the equivalent of six percent per annum charged by native banks to customers to 26 percent about January 1. Since arranging the financing of new year settlement lower rates have been nominally quoted at the instance of the Government but this does not represent real improvement since it is practically impossible to borrow at any rate regardless of security. As a consequence tightness of money led to the sale of foreign exchange for cash at a

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premium over forward delivery worked out to be 27.4 per cent per annum yesterday for one month loan.

4. Notwithstanding the tendency to world wide recovery deterioration of China's situation increased alarmingly the last six months and the condition now is at the lowest point since depression began. The total foreign trade for the second half of 1934 is thirteen percent below the first half and sixteen percent below the second half of 1933. Although the adverse merchandise balance has declined the drain of both gold and silver the last three years makes the situation here precarious unless the conditions causing the adverse balance of payment are counteracted. Since July last Government and industrial bonds declined by ten percent; property of the Center District of Shanghai declined about fifteen percent; industrial stocks declined seven percent. There are widespread business failures in all regions including numerous important industrial and mercantile establishments. Recently Government-supporting banks and enterprises through the Central Bank of China, Bank of China and Bank of Communications try to prevent further increase of unemployment and wholesale collapse. New year

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settlement is only about fifty percent of the normal as banks fear pressure would precipitate numerous bankruptcies which at this time would cause general collapse. As a consequence notwithstanding their own difficulties banks feel obliged to grant loan extensions even to practically insolvent concerns. In order to ease money and sustain confidence during new year settlement the Government is obliged to bring back silver from Hongkong at 19 percent loss in the small dribbles which the financial situation permits but the present impaired credit structure and the inordinate interest rate due to the silver drain are destroying trade.

5. Tight money gravely impairing Government finance is making practically impossible further financing by banks. The reserve particularly that of the customs is seriously threatened by the present tendency. Reconstruction activities are checked; for example the loan for the important project of bridging connecting railways near Hangchow and extending the railway to Ningpo cannot be floated though already contracted for.

6. All evidences confirmed the rising of currency value which has proved disastrous to China because

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involving parallel deflation. For detailed discussion supported by statistics see a recent report of the Ministry of Industries Commission of which Professor Buck has preliminary copy which however contains figures only to early 1934. Since then the conditions have become greatly aggravated.

Chinese Legation,

Washington, February 1, 1935.

CHINESE LEGATION  
WASHINGTON

The Chinese Minister presents his compliments to the Secretary of State and has the honor to transmit the following text of a cablegram which has been received from Dr. H. H. Kung, Minister of Finance at Nanking:

China greatly appreciates the American Government's consideration for China's difficulty in connection with the execution of the silver purchase program. However the Chinese Government feels that under existing conditions the present or higher price in any open silver market inevitably involves the loss of an essential part of China's monetary reserve through legal and/or illegal exportation with resulting monetary chaos and social and political complications international in scope. China however cannot raise the exchange to the foreign silver parity and at the same time prevent disastrous deflation and conserve the silver reserve on the present basis. Lack of confidence in and present doubt about China's currency resulting from uncertainty about the silver price and about the extent of the drain on China's silver under the influence of American buying are ruinous to foreign and internal trade and seriously impair the Government's revenue when the Government is making strenuous efforts to stamp out the communist threat in a western province and consolidate its position throughout the nation. China has therefore considered how it might adjust its monetary and financial policy and program to the American policy and program and harmonize the interests of both countries and has decided it has no choice but to seek feasible means to abandon the exclusive silver basis maintained by it alone and adopt a new currency system by using both silver and gold with a view to linking its currency to that of the United States and to freeing its exchange from uncertainty attached to the silver basis under present conditions.

American cooperation is essential to that end if China is to escape from the present impossible situation and pass safely through the trying transition to a new monetary system without a period possibly prolonged of inconvertible paper money

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accompanied with grave risks to internal if not external stability. The Chinese Government hopes the American Government will be able to act along the line indicated by the memorandum of January 21 pending an arrangement whereby China would supply the American silver requirement in an endeavor to assist the American Government and would obtain American support in currency reorganization. To this end China outlines the following plan:

Section 1. Under existing circumstances China would prefer to supply the requirement under the Silver Purchase Act provided the extent thereof, the period of years for their fulfilment, and the sale price of silver supplied are mutually agreeable. Given time and facilities to get together sufficient silver in the hand of the Government China could provide for the entire requirement out of the country's holdings. It is suggested that in the first year China sell 200 million fine ounces with tolerance to China of fifty million fine. Subsequent delivery is to be arranged as soon as the American Government indicates its requirement. The price is to be determined either on a gradually rising scale or at a flat valuation above the present price depending on how rapidly and to what valuation the American Government desires the silver price to be raised.

Section 2. In changing the currency of the entire country in a brief time from silver to a currency linked with the United States of America dollar China would require immediate resources so as to establish confidence during the transition and provide a sound basis for the new currency which would require protection against temporary adverse balance of payment consequent upon China's silver exchange being out of line with the level of the world's commodities and leading foreign currencies. Such resources further would tend to assist in repairing the serious damage to China's economy resulting from the loss last year of 260 million silver dollars vital reserve plus the amount smuggled and consequent extreme tightness of the financial market.

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Currency experts estimate that the minimum resources required would be a loan or long term fund amounting to United States of America dollars 100 million. In addition to this a credit of like amount against future delivery of silver to be drawn upon if and when required is desired so as to ensure beyond question the soundness of this currency reform. It is hoped that this credit would not be drawn upon at all because the reform based upon American cooperation and a settlement of the silver difficulty would itself command general confidence.

Section 3. It is understood that the above proposal is conditioned upon a final agreement on a feasible currency program. The Chinese Government earnestly hopes that the foregoing will receive favorable consideration with a view to promoting a solution of the silver difficulty and encouraging trade development.

Chinese Legation,

Washington, February 5, 1935.

January 30th

Jackson came over to see H. M. Jr. about a settlement of a tax matter in which Basil O'Connor is interested. The Attorney General asked H. M. Jr. whether he wanted to speak to the President inasmuch as Basil O'Connor is concerned. H. M. Jr. informed the Attorney General that he never discussed these cases with the President and, therefore, did not want to make an exception in this case. H. M. Jr. is interested to know whether Basil O'Connor has enough influence with the President to have the President approach H. M. Jr. on this case.

- H.M.Jr: Morgenthau talking. How are you?  
 Senator Smith Well I don't know since I've been pulled through the  
 -----.
- H.M.Jr: Well Oscar Johnston is here with me and he says you  
 have been very considerate and courteous about my  
 coming up there .
- S: Yes and I'll -----  
 so that ----- can advise you  
 in the military situation.
- H.M.Jr: Well now Senator I'm always at your disposal. Now if  
 I come up there what can I talk about?
- S: I just want you to come and give the decrease in our  
 revenues from imports, if any. Just give a statement  
 as to the ----- if there has been.  
 ----- to imports, and I would like to have  
 a
- H.M.Jr: I see.
- S: Just a list of those and, if you see fit, you can just  
 state the facts, if you see fit to do it,  
 ----- before your  
 Department as the reason for being decreased. We will  
 take care of the other features after legislation.  
 And I'm not going to let this thing get away - get out  
 into a discussion of this military system that will be  
 taken up in another section.
- H.M.Jr: I see. Well I'm perfectly willing to do that. I don't  
 think it will satisfy a certain gentleman on your  
 committee.
- S: I don't give a darn. I handed down this morning that  
 I want to state to you that I never was more delighted  
 in my life in the manner in which Wallace handled himself.
- H.M.Jr: Fine.
- S: He just did ----- . Now I'm not going to have this  
 thing run away into everybody's hands.
- H.M.Jr: Well what time do you think you want me up there?

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S: Well what time could you come? -- Now is going on in the morning. What time do you think you would be able to come?

H.M.Jr: Well most any time that you say. If I knew I could go on at a certain hour.

S: Well I'll call you - that's what I'll do. I'll notify you in time to get here.

H.M.Jr: It only takes me 15 minutes to come up. You couldn't say about 12 o'clock?

S: Well I expect we will get through by that time and but I think it will be just about 12 o'clock tomorrow.

H.M.Jr: You think you could put me on? At 12 o'clock.

S: Yes.

H.M.Jr: Thank you very much.

S: You're welcome.

January 30, 1935.  
Wednesday.

STATEMENT OF SECRETARY MORGENTHAU  
BEFORE THE SENATE COMMITTEE ON AGRICULTURE

January 31, 1935.

I am appearing before you at the invitation of your Chairman, Senator Smith. I believe that the main considerations affecting the subject of foreign trade have been ably presented to you by Secretaries Hull, Wallace and Roper, and there is probably little of value that I can add. I am, however, happy to renew the pleasant and satisfactory contacts that I had with your Committee during my experience in the Farm Credit Administration.

I will simply review briefly some of the salient facts in our dealings with other nations as they have come to our notice in the Treasury Department.

The outstanding feature of trade in 1934 is the decline in the trade of gold bloc countries in contrast with the marked increase in the countries which did not adhere to the old gold standard. Exports of gold bloc countries as a whole decreased 8% from 1933, while exports of the other group increased 19%. Likewise, imports of gold bloc countries dropped an average of 8%, while the imports of the other group increased 17%.

Thus, the exports of France declined 4%, of Germany 14%, of Italy 16%, of Belgium 4%, of Netherlands 3%; while the exports of the United States increased 27%, of Canada 23%, of Japan 16%, of Brazil 23%, of United Kingdom, 7%, of Mexico 80%.

The situation with regard to imports presents an even more favorable picture of the non-gold bloc countries.

Our own foreign trade for the year 1934 has shown a marked improvement over 1933. This is true both of exports and of imports. Our exports have increased from 1.6 billion to 2.1 billions, an increase of 27%. Our

imports of merchandise increased from 1.4 billion to 1.6 billion, an increase of 14%. The United States had a "favorable" balance of trade which was more than double that of 1933 -- 478 million as against 225 million. During the past year our net imports of gold amounted to 1.1 billion dollars and of silver 86 million dollars.

A survey of our leading items of export reveals how practically every region of our country has shared in the increased foreign trade. Exports of wheat, copper and automobiles, parts and accessories more than doubled in 1934 as compared with 1933. Other large increases occurred in iron and steel mill products, industrial machinery, chemicals, tobacco leaf, crude petroleum, lumber, meat products and wheat flour.

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Dr. TUGWELL. Here?

Senator MURPHY. Yes.

Dr. TUGWELL. No; we were asked only in relation to cotton.

Senator MURPHY. Won't you ask the Agriculture Department to do that?

The CHAIRMAN. My understanding was that the Agriculture Department was to cover all exportable agricultural products. Now, I think as he suggested, cotton being dominant, you are dramatizing the situation, but it would be interesting for us to know about other exportable agricultural products.

Senator MURPHY. In my view of the situation I think lard and pork products are involved as that raises the question of embargoes and restriction of other countries, such as the Ottawa Pact, those factors entering into the importation of lard and so forth.

The CHAIRMAN. May we now indicate to Dr. Tugwell that he and I will follow it up together with the Secretary of Agriculture to see that we have asked for data on those subjects. That will stand as a request now.

Now, in view of the fact of a call of the Senate, there is a matter that perhaps can be disposed of over in the Senate that a good many of us are interested in, we will take a recess until 2 o'clock and we will then carry on.

(Thereupon, at noon a recess was taken until 2 p. m.)

AFTER RECESS

(The hearing was resumed at the expiration of the recess, 2 p. m.)

The CHAIRMAN. The meeting will come to order. We have present with us here the Secretary of the Treasury, and I have asked him to come here and give us a statement as to our exports and imports.

Now, it must be recognized that Mr. Morgenthau is Secretary of the Treasury. He is placed in the position here where he is supposed to carry out the policy that is handed down to him by us rather than to initiate any monetary policies, and I presume that he would feel more hesitancy right now even if he was at liberty to give his opinion, that he would feel more hesitancy right now in view of the pending decision of the United States Supreme Court on certain policies or certain laws; and I understand the difference between the position Mr. Morgenthau occupies in the administration of our laws and certain other Cabinet members. Mr. Morgenthau,

STATEMENT OF HON. HENRY MORGENTHAU, JR., SECRETARY OF THE TREASURY

Secretary MORGENTHAU. Mr. Chairman and gentlemen: I am appearing before you at the invitation of your chairman, Senator Smith. I believe that the main considerations affecting the subject of foreign trade have been ably presented to you by Secretaries Hull, Wallace, and Roper, and there is probably little of value that I can add. I am, however, happy to renew the pleasant and satisfactory contacts that I had with your committee during my experience in the Farm Credit Administration.

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The outstanding feature of trade in 1934 is the decline in the trade of gold-bloc countries in contrast with the marked increase in the countries which did not adhere to the old gold standard. Exports of gold-bloc countries as a whole decreased 8 percent from 1933, while exports of the other group increased 19 percent. Likewise, imports of gold-bloc countries dropped an average of 8 percent, while imports of the other group increased 17 percent.

Thus, the exports of France declined 4 percent, of Germany 14 percent, of Italy 16 percent, of Belgium 4 percent, of Netherlands 3 percent; while the exports of the United States increased 27 percent, of Canada 23 percent, of Japan 16 percent, of Brazil 23 percent, of United Kingdom 7 percent, of Mexico 80 percent.

Senator WIRTH. Is that in volume or value?

Secretary MORGENTHAU. Dollars, of the currency of the country.

The situation with regard to imports presents an even more favorable picture of the non-gold-bloc countries.

Our own foreign trade for the year 1934 has shown a marked improvement over 1933. This is true both of exports and of imports. Our exports have increased from 1.6 to 2.1 billions, an increase of 27 percent. Our imports of merchandise increased from 1.4 to 1.6 billion, an increase of 14 percent. The United States had a "favorable" balance of trade which was more than double that of 1933, 478 million as against 225 million. During the past year our net imports of gold amounted to 1.1 billion dollars and of silver 86 million dollars.

A survey of our leading items of export reveals how practically every region of our country has shared in the increased foreign trade. Exports of wheat, copper, and automobiles, parts and accessories more than doubled in 1934 as compared with 1933. Other large increases occurred in iron and steel mill products, industrial machinery, chemicals, tobacco leaf, crude petroleum, lumber, meat products and wheat flour.

(Senator Thomas took the chair.)

Senator THOMAS. I would like to ask you this question, Mr. Secretary, and if for any reason you think any questions I may ask you are not proper, do not hesitate to say so. We are trying to find some way to increase the prosperity of the cotton producers. That is the first question.

Of course, what helps the cotton producers likewise helps the wheat producers, the livestock producers, and the farmers generally.

The United States is about half devoted to the production of cotton. Many Southern States depend very largely for their subsistence and prosperity upon their success in raising cotton. It now appears that most of America's competing nations in cotton production are on silver standards or on silver, using silver almost exclusively. For example, Mexico, Chile, Brazil, Argentina, Egypt, and China.

Now, I want to state my proposition and I would like to know if my reasoning is faulty. Each of these countries recently along with the United States has depreciated the value of their monetary unit; because of this depreciation the price of their products has increased in unit just like it has increased here in the unit. Now, in your

opinion, is this reasoning sound: That if we could raise the price of silver throughout the world that that of itself would raise the value of the units of those several countries and that by raising the value of the unit—for example, Mexico with its peso, and China with its dollar, and Japan with its yen, and other countries having their own names for their monetary units—by raising the value of the silver, raising the value of their monetary units, and by raising the value of the monetary units we raise the cost of the production in those countries and to an extent we raise the cost of the production of cotton and we would thereby tend to serve the best interests of the cotton producers of America. Is that sound?

Secretary MORGENTHAU. It is an awful difficult question to answer, sir.

Senator THOMAS. I would not urge an answer, but I would like to have you consider it. I will leave the question with you and have you think about it later.

Secretary MORGENTHAU. I would appreciate it if you would give me a chance to answer.

Senator THOMAS. We are here in a sincere effort to help.

Secretary MORGENTHAU. It is such an important question I would not want to give a snap judgment on it.

Senator THOMAS. We have an impression, some of us, that the raising of the value of the silver, not too high, but if we raise silver to \$1.29 an ounce on the present value of our dollar that it would only raise the value of the silver in it to about 85 cents an ounce, or the old value of the silver that was in, really as high as it was before the war, and as it was for 100 years of American life, so that we are not proposing to raise the value of silver to anything like its value, say, the first 100 years of American existence, but it just occurs to some of us that if we raised the value of silver to \$1.29 an ounce we would make the silver in a dollar worth a dollar. That would raise the monetary units in these silver countries, that would raise the cost of production there, and by so doing we would enable our cotton men in the South to produce on a comparable basis with the producers of cotton in the other cotton-producing countries.

It is the opinion of some of us that unless we do this that the cotton men of the South must either go out of the business of raising cotton or they must fall to the standard of the cotton producers of Mexico and Chile and Egypt and India and China. Now, our reasoning may be bad. If it is, we want to find it out. Of course, no one wants to do any injustice to any of our neighboring countries, but I think our duty, speaking for myself, is to our American people first. They have been going for a long time and they have done the same thing to our gold that we have done to our silver, and our smart folks don't know, or they won't tell us. We want to find out for ourselves.

Secretary MORGENTHAU. I understand the question. I am not prepared to answer, but I will be very glad to work on it.

Senator THOMAS. Personally, if you would ask your expert advisers to submit their opinion.

Secretary MORGENTHAU. I would be very glad to do it.

Senator THOMAS. That is all I want.

(At this point Senator Smith resumed the chair.)

The CHAIRMAN. Mr. Morgenthau, we are very glad to have the statement that you have made. Is Mr. Johnston here?

through.

Mr. Johnston is connected with both the Department of Agriculture and the Treasury Department.

Mr. Johnston, you have been selected to go more into the details touching the matters before us, and as indicated this morning, and as Secretary Wallace said about cotton being the predominant export business, it has been emphasized here and comparably with other exportable agricultural products that suffered along the same line and perhaps to the same degree that cotton has—and likewise, I think Secretary Hull has given a very instructive and constructive view, and we would be glad now to have you give us your views as to the situation relative to the part that has been assigned to you by the Secretary of Agriculture.

**STATEMENT OF OSCAR JOHNSTON, MANAGER 1933 COTTON PRODUCERS' POOL**

Mr. JOHNSTON. Thank you, Mr. Chairman.

Gentlemen, first let me make it clear—

Senator CAPPER. Mr. Chairman, let us have for the record the name of the gentleman and the position he holds.

Mr. JOHNSTON. My name is Oscar Johnston, the address is Scott, Miss. My normal and ordinary occupation is that of a cotton farmer. At present I am engaged and connected with the Department of Agriculture in the capacity of manager of the 1933 cotton producers' pool, and I am connected with the Treasury in the capacity of Assistant to the Secretary of the Treasury with particular reference and regard only to the contacts of the Treasury with agriculture, and as they relate to agricultural commodities. I have no connection with the Treasury with respect to its general economic or monetary policies. In appearing before the committee I do so both at the request of the Secretary of the Treasury and the Secretary of Agriculture, in respect to agriculture, particularly cotton.

First, gentlemen, with your permission, before going into my general statement, there have been questions asked of different witnesses on the stand that have likewise been propounded to me by members of this committee in which you are probably very much interested; I should like to answer these questions.

One question asked was with respect to the number of varieties or classifications of cotton. It has been suggested to the Secretary of Agriculture that there are probably 100 classes of cotton.

It is rather important, I think, that you, in framing legislation affecting cotton, should keep in mind a little more definitely the division and classification of cotton because in the administration of some of those laws that have been enacted with regard to cotton we have been confronted with difficulties because of the general tendency to deal with cotton using it in a generic sense, all inclusive, rather than taking cognizance of the fact that we produce many different varieties or classifications.

There are recognized and traded in generally every day in the United States 16 distinct staples ranging from three-fourths of an inch in length up. There are recognized and generally traded in every day 13 distinct grades of cotton ranging from ordinary to good middling and one somewhat obsolete type, even above good

The sub-committee on banking legislation of the Interdepartmental Loan Committee met at 10:00 A.M. in the office of the Undersecretary of the Treasury. Those present were:

T. Jefferson Coolidge, Undersecretary of the Treasury,  
Marriner S. Eccles, Governor, Federal Reserve Board,  
Leo T. Crowley, Chairman, Federal Deposit Insurance Corporation,  
Jesse H. Jones, Chairman, Reconstruction Finance Corporation,  
J.F.T. O'Connor, Comptroller of the Currency,  
A.W. Willcox, Legislative section, office of the General Counsel  
of the Treasury.

Tom K. Smith, Legislative Committee, American Bankers Assn.  
C.B. Upham, Secretary of the Committee.

The sub-committee had before it a draft of the legislative proposals of the FDIC and of the omnibus bill proposals of the Comptroller of the Currency and the Federal Reserve Board.

Both Mr. Crowley and Mr. O'Connor expressed preference for a breakdown of the banking bill into three bills instead of having it composed of three titles.

It was the consensus that the FDIC bill was satisfactory with the single exception of the rate of assessment to be levied upon banks.

Mr. O'Connor thought we would have a better, popular and constitutional argument if a distinction were made between insured and uninsured deposits. He said he was not so particular as to the exact rate but he thought that  $1/8$  of  $1\%$  on the insured deposits and  $1/10$  of  $1\%$  on uninsured deposits would pull the Corporation through.

Mr. Jones suggested  $1/12$  of  $1\%$ .

Mr. Eccles said that he preferred to stick to the principle of a flat tax on all deposits and stated that there were many compensations to the banker for even a fairly heavy assessment.

Mr. Coolidge expressed a preference for a flat rate.

Mr. O'Connor said that when the bill is passed we will be enjoined and that many of the big banks will be glad to say and to advertise that they are not insured.

Mr. Willcox when asked by Mr. Coolidge said that offhand he could see no advantage from a constitutional standpoint to drawing a distinction between the assessment on insured deposits and those that are uninsured.

Mr. O'Connor said that when the bill gets on the hill, Congress will put in a  $1\%$  maximum rate and leave it to the discretion of the Board as to how much to charge each year.

Mr. Jones inquired whether that opinion was based on judgment or information and Mr. O'Connor replied that it was based largely on information.

Upon a round-robin expression of opinion as to the rate to be charged, Mr. O'Connor voted for  $1/8$  of  $1\%$  on insured and  $1/10$  of  $1\%$  on uninsured deposits.

Mr. Jones said that he preferred  $1/12$ , that he will vote for  $1/10$  or for  $1/8$  and  $1/10$ , but that he prefers the principle of the flat tax.

Mr. Smith voted for  $1/12$ . Mr. Eccles  $1/10$ , Mr. Coolidge  $1/10$ .

There was some discussion of when and how to end the double liability on banks.

Mr. Coolidge suggested that a definite date of July 1, 1937 be fixed.

Mr. Jones said it ought to be five years.

Mr. O'Connor advanced his formula that when surplus equals capital, double liability ends.

Mr. Jones said this was sound, but Mr. Smith and Mr. Coolidge said that it had better not be done that way, that it resulted in inequalities.

Mr. Coolidge instanced the case of the two banks, one with \$2,000,000 capital and no surplus and so \$2,000,000 liability and the other \$1,000,000 capital and \$1,000,000 surplus and so no liability. He also said he didn't like to see the bank with 90% surplus and still fully liable.

It was finally agreed to provide for the end of double liability on July 1, 1937.

There was discussion of real estate loans by National banks.

Mr. Jones said that he was for the liberalization but that he would make it loans upon improved revenue bearing real estate.

Mr. Eccles said that was now in the law. He suggested that there might be straight loans up to 50% or 60% for as long as 3 years, but that on 20 year loans the amortization principle should be included.

Mr. Coolidge suggested that a total amount be put in the bill and the details left to the regulations of the Federal Reserve.

Mr. Eccles suggested that it be 75% of time deposits but that it include "other real estate".

Mr. Coolidge thought this too high.

Mr. Smith suggested that it be fixed at 50% of time deposits or 100% of capital, the latter provision to take care of banks with no time deposits.

Mr. O'Connor said that the greatest trouble of the banks had been real estate loans and this would put us right back.

Mr. Eccles said that if the commercial banks could not make real estate loans then their savings funds should be taken away from them.

Mr. Jones pointed out that the country banks made real estate loans but not the city banks.

Mr. O'Connor rejoined with the remark that city banks are still open.

Mr. Coolidge said that sound Massachusetts savings banks had made many real estate loans.

Mr. O'Connor said that the three worst banking situations in the country - in Atlantic City, in Detroit and in the New England savings banks resulted from heavy real estate loans. He said there was a horrible situation in the New England Savings Banks and that they are probably the worst spot there is.

Mr. Jones said that if banks can't make real estate loans the Government will have to do it.

A slight change was made in Section 328 of the omnibus bill, the parenthetical clause to be inserted as follows (other than a Mutual Savings Bank).

It was agreed that private bankers should be left in.

It was suggested that Mr. Coolidge, Mr. O'Connor, Mr. Eccles and Mr. Crowley act as a clearing committee to work together to

follow the bill through Congress.

It was the consensus that there would be no objection to the committees on the hill splitting the bill after it was received by them.

Tom Smith said that 95% of the bankers program is in the bill and that its introduction by the Administration will create a tremendous amount of good will.

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January 31, 1935.

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imports of merchandise increased from 1.4 billion to 1.6 billion, an increase of 14%. The United States had a "favorable" balance of trade which was more than double that of 1933 -- 478 million as against 225 million. During the past year our net imports of gold amounted to 1.1 billion dollars and of silver 86 million dollars.

A survey of our leading items of export reveals how practically every region of our country has shared in the increased foreign trade. Exports of wheat, copper and automobiles, parts and accessories more than doubled in 1934 as compared with 1933. Other large increases occurred in iron and steel mill products, industrial machinery, chemicals, tobacco leaf, crude petroleum, lumber, meat products and wheat flour.

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February 4, 1935.

The sub-committee on banking legislation met in the office of the Secretary of the Treasury, at 11:00 A.M. Those present were:

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Henry Morgenthau, Jr. Secretary of the Treasury,  
T. Jefferson Coolidge, Undersecretary of the Treasury,  
Marriner B. Eccles, Governor, Federal Reserve Board,  
Leo T. Crowley, Chairman, Federal Deposit Insurance Corporation,

J.F.T. O'Connor, Comptroller of the Currency,  
Jesse H. Jones, Chairman, Reconstruction Finance Corporation,  
C.B. Upham, Secretary of the Committee.

Mr. Coolidge stated that the three titles of the Banking Bill were completed except for determination of one or two matters which he suggested be settled at this meeting.

Mr. Crowley and Mr. O'Connor stated that Senator Glass had asked for a copy of the title relating to the Federal Deposit Insurance Act and that they had felt that it was desirable, and perhaps necessary, that it be given to him and this had been done.

Mr. Eccles asked why they had given it to him and stated that Senator Glass had also wanted a copy of the bill amending the Federal Reserve Act, but that he had explained to him that it was not completed and did not believe the Senator was interested in looking over proposals which might not be cleared or included. He said that he had assured Senator Glass that he would not discuss it with anyone outside the Administration before he discussed it with the Senator.

Mr. Crowley said that the FDIC draft had been ready for some time and that in his opinion it would never have done to refuse to give it to the Senator and that the Senator would have been riled.

Mr. Crowley and Mr. O'Connor reported that Congressman Steagall had talked with Senator Glass and that he was fearful Senator Glass would introduce the FDIC Bill today and that Chairman Steagall was asking for the same privilege.

Mr. Morgenthau telephoned to the President. The President suggested that Mr. Morgenthau telephone Chairman Steagall telling him that the President would speak to him over the 'phone around 2 o'clock and ask him if he would be willing to wait that long for his decision. Mr. Morgenthau 'phoned Chairman Steagall and found that arrangement satisfactory.

It was suggested that the bill might be cleared with the President before 2 o'clock and Congressman Steagall and Senator Fletcher permitted to introduce all three titles today. This would make it appear that Congressman Steagall was working with the Administration and he would be at no disadvantage by reason of the fact that Senator Glass had introduced one title of the bill, even if that occurred.

It was agreed that in the section amending the Federal Reserve Act with respect to real estate loans of National banks, that they would be permitted to loan 60% of the amount of their time and savings deposits, but that this amount would include "other real estate". It was agreed that the loan might be up to 75% of the value of the real estate.

It was agreed that instead of asking that members of the Federal Reserve Board be given the same salary as Associate Justices of the Supreme Court, that it would be the same salary as Cabinet Members. It seemed to be the general opinion that Congress would not agree to anything more than \$18,000.

There was discussion as to who should have final authority in open market decisions - open market committee or the Federal Reserve Board. The Federal Reserve Board now approves or disapproves the recommendations of the open market committee. The proposal in the bill is for the open market committee made up of three members of the Federal Reserve Board and two Federal Reserve Bank Governors to have the final say.

Mr. Morgenthau said that if the Board remains the same as it is now he doesn't want them to be the open market committee. It is necessary, he said, to have split second action in open market operation transactions.

It was explained that the Board has given the open market committee authority to buy or sell up to \$250,000,000 of Government securities and that, within this limit, Mr. Burgess, as a practical matter, does the buying and selling.

Mr. Eccles said, however, that it took a week to get the \$250,000,000 authority. He said that he is for the proposal that the decisions of the open market committee be final, but that the Federal Reserve Board will not like it.

Mr. Morgenthau said that if the Treasury did not have a stabilization fund and the other funds at its disposal, that Government credit would still be at the 3% for 13 months stage

where it was when he took office. He felt there is a possibility that Congress may go even further than the suggested proposal and that in the end the Treasury will be conducting open market operations itself directly. The Federal Reserve Board has done nothing to help Government credit or stabilize the market for Government securities and the whole burden has been carried by the Treasury.

Mr. O'Connor said that it "looks like action" to him.

Mr. Eccles pointed out that the proposal substitutes the action of 5 men for present action by the twelve Governors plus the Federal Reserve Board - since at present the decisions are reached by the open market committee of twelve Governors and are then subject to approval by the entire Federal Reserve Board.

Mr. Eccles raised the point as to whether the banking committees would be called to the White House or whether the Bill would be sent up by the President.

Mr. Morgenthau suggested that that be left to the decision of the President.

The group, with the exception of Mr. Morgenthau, adjourned to the office of the Undersecretary with the understanding that two copies of the complete bill would be brought to the White House by Mr. Upham not later than 1:30 P.M.

In the Undersecretary's office, the group was joined by Mr. Wyatt, General Counsel of the Federal Reserve Board, Mr. Willcox and Mr. Bastedo of the Legislative section of the Treasury.

Mr. Eccles read a letter which he proposed to be given to the President for use in transmitting the bill to the banking committees if he so desired. Some changes in the letter was suggested and there was an informal agreement that it would be retyped and sent to the President as soon as ready - although Mr. O'Connor was doubtful about some of the language which was used, <sup>and</sup> Mr. Jones characterized it as "just words".

There was some discussion whether the Federal Reserve Board would have the authority to issue the regulations governing open market operations and it was agreed that they should.

Mr. Jones suggested that he would amend the bill to permit branch banking, at least county-wide or city-wide in cities of certain sizes.

It was explained that this proposal had been considered and decision reached to propose it separately, if at all.

Mr. Upham took the two copies of the bill (together with a memorandum to the President summarizing the bill section by section) to the White House, where it was presented to the President by Mr. Morgenthau.

Hello - Mr. Speet - Henry Morgenthau, Jr.

S: Yes Mr. Morgenthau.

H.M.Jr: Mr. Speed, I'm calling you up - off the record if you don't mind -

S: Oh certainly - certainly.

H.M.Jr: We started today, after two or three weeks of planning, a check-up in New York on all places that sell liquor - block by block in cooperation with the Governor and with the Mayor and we don't know what the results are going to be, we don't know what the courts are going to do but we do know that New York is the worst place for bootleg liquor in the United States. We put in 100 men and the Mayor put in 100 policemen. I asked Mr. Gaston, who is here with me, to go up to New York and to call on any of the publishers who would care to get first-hand information on what we're doing. We've any publicity just yet but if the papers think that what we're doing is worthwhile, we would a little later in the week like some editorial support. I'm particularly worried about the courts, because up to now the New York Judges either have been discharging the prisoners or giving them ten day sentences and everybody that we contacted up there, including United States District Attorney, Lehman and Mayor LaGuardia are very enthusiastic about this program and I wanted to tell you simply that we have no police power that's all.

S: Yes I see. About this man that is coming up -

H.M.Jr: Gaston - G a s t o n.

S: I didn't get that.

H. M. Jr: Herbert Gaston. He left on the one o'clock train and he'll call you up.

S: Yes.

H.M.Jr: I don't care for publicity now until we know better where we're at.

S: I see. Well I think that's very wise.

H.M.Jr: And we refrained from giving out any statement but I did want the publisher's office and the editorial office

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to know first-hand as to what we're doing.

S: I see.

H.M.Jr: And as I say I'm sorry to say that New York is the worst place in the United States.

S: Yes.

H.M.Jr: And we've been making a really wipe out non-tax paid liquor. drive to

S: Yes. Well I think it's

H.M.Jr: Thank you.

S: Alright, thank you very much.

H.M.Jr: Thank you - goodby.

February 4, 1935.  
Monday.

H.M.Jr: Hello Mr. Doughton.

D: How are you?

H.M.Jr: I'm fine.

D: Are you coming down in the morning?

H.M.Jr: Tomorrow morning

D: Tomorrow morning, yes.

H.M.Jr: Is that right?

D: Yes that's right - sure.

H.M.Jr: Now has Miss Perkins communicated with you?

D: What's that?

H.M.Jr: Has Miss Perkins communicated with you?

D: Not in the last few days - no.

H.M.Jr: Well I asked her to come with me, providing it was agreeable to you.

D: Why of course it is.

H.M.Jr: Well I thought it would be better, from everybody's standpoint, if she came up there with me.

D: That's alright.

H.M.Jr: Because other/<sup>wise</sup>I'm afraid that the opposition may try to play me off against her.

D: Yes.

H.M.Jr: You see?

D: Yes.

H.M.Jr: And if we both come up together why I think that that shows that there's no rift in the official family.

D: -----suit you or -----  
-----speak to the Committee about that.

D: What I called you about this morning was this. We had a little conference here last week with two or three of my -----

-----  
We decided that we would suggest to you that you assign one of your best legal men ----- to study of the Legal Division of this ----- with our -----.

- 2 -

H.M.Jr: We'd be very glad to do that.

D: Especially with the State Retention Division -----  
-----  
-----  
and I thought that you would assign a good man to go  
over with him ----- the Texas Division  
and ask the Attorney General to assign a man -----  
-----  
-----and your man might be better.

H.M.Jr: Well when we left there Monday night I asked Mr. Oliphant  
to make a study of the bill.

D: Yes.

H.M.Jr: And I imagine by now he's done it and as I understand it  
you want us to specialize on the tax feature.

D: -----specialize in incorporation with  
Dever (?)

H.M.Jr: Dever. .

D: Because he's the man we have to rely on to -----  
-----.

H.M.Jr: Well Mr. Oliphant's in the room here now.

D: -----  
-----.

H.M.Jr: Well we'll have somebody during the day get in touch with  
Dever (?)

D: Yes sir -----  
-----  
-----.

H.M.Jr: Thank you.

D: Goodby.

H.M.Jr: Goodby.

February 4, 1935.  
Monday.

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copy of this and was removed

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COMMITTEE PRINT—UNREVISED

Diary

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# ECONOMIC SECURITY ACT

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## HEARINGS

BEFORE THE

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

SEVENTY-FOURTH CONGRESS

FIRST SESSION

ON

H. R. 4120

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No. 12

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FEBRUARY 5, 1935



UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON: 1935

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COMMITTEE PRINT—CONTENTS  
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# ECONOMIC SECURITY ACT

## HEARINGS

HEARINGS

### COMMITTEE ON WAYS AND MEANS

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## ECONOMIC SECURITY ACT

TUESDAY, FEBRUARY 5, 1935

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
Washington, D. C.

The committee met at 10 a. m., Hon. Robert L. Doughton (chairman) presiding.

The CHAIRMAN. The committee will be in order.

The first witness this morning, in further consideration of the economic recovery bill, is Hon. Henry Morgenthau, Jr., Secretary of the Treasury.

We are also honored with the presence of Miss Perkins, the Secretary of Labor, whom we shall be glad to hear if she desires to make a statement this morning.

Mr. Secretary, we shall be pleased to hear you at this time.

### STATEMENT OF HON. HENRY MORGENTHAU, JR., SECRETARY OF THE TREASURY, ACCOMPANIED BY A. J. ALTMAYER, SECOND ASSISTANT SECRETARY, DEPARTMENT OF LABOR

Secretary MORGENTHAU. Mr. Chairman and gentlemen of the committee:

The chief suggestions that we should like to make in connection with the economic security bill are the following: (1) The substitution in the contributory old-age annuity system of a scale of contributory taxes and benefit payments that will facilitate the continued operation of the system on an adequate and sound financial basis, without imposing heavy burdens upon future generations; (2) the transference from the Social Insurance Board to the Treasury Department of the function of issuing and selling voluntary annuity certificates; and (3) administrative simplification.

#### OLD-AGE PROVISIONS

1. By inaugurating a national contributory old-age annuity system, the Federal Government is undertaking very heavy responsibilities extending from year to year into the indefinite future. Under the modification that we shall suggest, as well as under the plan now incorporated in the economic security bill, the sums to be paid out each year in benefit payments will rise to more than \$4,000,000,000. It is obvious that we must make sure now that the provisions incorporated in the bill will enable the Federal Government continuously to meet the heavy and recurring liabilities that will be imposed upon it.

2. Under the provisions now embodied in the economic security bill, the Federal Government is called upon to defray, out of its general

revenues, not only one-half the cost of the Federal-State system of noncontributory old-age assistance, but also the cost of substantial unearned gratuities that are provided under the contributory system for persons who will retire during the next 40 years. The benefits provided for such persons will be substantially in excess of the contributions, plus interest, made in their behalf. Such excess benefit payments would be borrowed from current contributions to the fund and repaid with compound interest in subsequent years. In consequence, under the present bill, by 1980 and forever after, the cost of the contributory system to the Federal Government is estimated at \$1,500,000,000 a year. This burden is in addition to a Federal cost estimated at \$504,000,000 a year in 1980 and thereafter for the noncontributory system.

3. The alteration that we recommend will make it possible, without the imposition of onerous burdens upon the future, to provide annuities ranging from \$22.50 to \$82.50 per month for individuals whose monthly wages have averaged \$150 or more; \$15 to \$55 for those whose monthly wages have averaged \$100; and \$7.50 to \$27.50 for those whose monthly wages have averaged \$50—the monthly annuities in each case varying with the number of years of contributions. This scale of benefits is the same as that now incorporated in the economic security bill for those who retire during the first 10 years. Our scale is somewhat smaller than that now incorporated in the bill for those who retire between 10 and 30 years after the system goes into effect; and our scale is distinctly higher thereafter. The aggregate benefit payments under the plan that we propose are substantially identical with those now incorporated in the bill, as may be seen in the appended tables. The small number of individuals who receive very modest annuities under the scale that we recommend would be eligible to have these supplemented under the noncontributory system, precisely as is the case under provisions now incorporated in the bill.

4. Any actuarial computations extending indefinitely into the future, such as are necessary for the establishment of a national contributory old-age annuity system, inevitably rest upon assumptions and forecasts that are subject to a very considerable margin of error. Subject to this acknowledged limitation, it is our opinion that the national contributory system can be launched and maintained on a sound financial basis by establishing the combined rate of pay roll and earnings taxes at 2 percent for the first 3 years, 3 percent for the next 3 years, 4 percent for the third 3-year period, 5 percent for the fourth 3-year period, and 6 percent thereafter; in substitution for the rates now incorporated in the bill, which start at 1 percent and are increased by 1 percent at the end of each 5 years until a permanent level of 5 percent is reached at the end of 20 years.

5. A combined contributory tax rate of 5 percent is the minimum that will permit the payment of adequate annuities and at the same time maintain the financial integrity of the system under both the present economic security provisions and under our proposed alteration. But a 5 percent rate can do this only if it is imposed from the start. Under the present provisions of the economic security bill, a 5-percent rate does not go into effect for 20 years. Hence, under the bill a heavy deficit is accumulated in the early years, and the small sums paid on behalf of individuals now middle-aged or over are kept so low as to be far out of keeping with the benefit payments scheduled

for them upon retirement—despite the fact that the majority of such individuals will have means of their own. Under our proposal, the 6-percent rate that goes into effect at the end of 12 years will make up for the deficiency created by the low rates that will be in effect during the earlier years of the system.

6. Under our proposal, the Federal Government would guarantee an investment return of 3 percent on all receipts from the pay-roll and earnings taxes that were not currently disbursed in benefit payments. Such sums would be used progressively to replace the outstanding public debt with the new liability incurred by the Federal Government for old-age annuities. To the extent that the receipts from the old-age annuity taxes are used to buy out present and future holders of Government obligations, that part of the tax revenues that is now paid out to private bond holders will be available for old-age annuity benefits; thereby minimizing the net additional burdens upon the future. Such accumulations and public debt retirement will, of course, be relatively small during the first 10 years by reason of the low tax rates with which we propose that the system should be inaugurated.

7. It should be emphasized that the Federal Government, by inaugurating a national contributory old-age annuity system, is undertaking responsibilities of the first magnitude. Not only is it committed to paying a 3-percent return upon all collections in excess of current benefit payments involved, but it is also diverting for the purpose of old-age security a very large fraction of its possible tax revenues. But we recommend this deliberately, in view of the outstanding importance of objective. We know, moreover, that, even in the absence of the well-considered legislation, we cannot avoid important financial outlays for the care of the aged. Students of our population trends tell us that the proportion of the aged and of the dependent aged in our population gives promise of increasing very materially in the course of the next few generations.

8. There are some who believe that we can meet this problem as we go by borrowing from the future to pay the costs. They are willing to incur the large and growing new liability for old-age annuities without effecting any compensating reductions in the outstanding public debt, reductions that could be represented by a reserve account in the Treasury. They would place all confidence in the taxing power of the future to meet the needs as they arose.

We do not share this view. We have already cited the fact that the aggregate benefit payments under our proposal, as under that of the economic security bill, will eventually exceed \$4,000,000,000 a year. We cannot safely expect future generations to continue to divert such large sums to the support of the aged unless we lighten the burdens upon the future in other directions. If we fail to do this, the \$4,000,000,000 a year will be a net additional burden. Such a burden might well jeopardize the continued operation of the system. If, on the other hand, we are able to reduce the necessary outlays of future generations in other directions, as by retiring a large part of the public debt, and by the provision of useful public works, we can look forward with far more assurance to the continued support of the system. This, then, is the purpose of our proposal. We desire to establish this system on such sound foundations that it can be continued indefinitely in the future; and, at the same time, to meet

the highly desirable social objective of providing an adequate annuity without a means test to all eligible workers upon retirement.

9. We recognize that the incidence of the pay-roll and earnings taxes appears to be largely upon the mass of our population. But it should be emphasized that the effect of these taxes is to provide a substitute form of savings from which our workers will receive far greater and more assured benefits than from many other forms of savings now in existence. These taxes, in other words, will not be a net deduction from workers' incomes. They will release funds, as well as relieve anxiety, hitherto directed toward the universal problem of providing against one's old age.

10. Further, it is entirely possible that improvements in our revenue system may permit us in the course of time to reduce various taxes on consumption goods; and thereby to return to the mass of our population in this form what is taken from it in the form of pay-roll and earnings taxes.

11. Appended hereto are tables presenting the character of the tax rates, net total contributions after deduction for administrative expenses, estimated benefit payments, Federal contributions, and reserves, under both the national contributory old-age provisions as now incorporated in the economic security bill and under our proposed alteration.

#### VOLUNTARY ANNUITY CERTIFICATES

It would appear to be highly desirable that the function of issuing, and determining the terms and conditions of issue, of voluntary annuity certificates be in the hands of the Treasury rather than in those of the Social Insurance Board.

These certificates will be direct obligations of the United States, and will involve rates of interest, direct or indirect. They will differ, chiefly in form, from other interest-bearing obligations of the United States. For example, a 20-year Treasury bond contains the promise of the United States to make 40 semiannual interest payments as well as a principal payment at maturity. An annuity certificate would also contain the promise of the United States to make a series of periodical payments. Depending upon the character and form of the annuity, these payments might be made monthly, quarterly, or otherwise; they might be made for a stated limited period, or they might be made until the death of the holder; or they might even be made in perpetuity to any holder. Whether the payments were to begin immediately after the purchase of the annuity, or whether the contract called for payments beginning 20 or 30 years from that date, or when the holder attained the age of 65, the certificates in all cases would constitute promises of the United States, precisely like other direct Treasury obligations.

The language of title V providing for these certificates is very broad in character and would appear to permit the sale of all the types of certificates just indicated. It would be wholly desirable to retain such a broad choice of forms; but the intent of the Congress in providing this wide range should be made absolutely clear. In any event, however, the terms of issue of the certificates and the rates of interest involved would appear to be proper matters for determination by the Treasury.

Before taking up the next paragraph, which is entitled "Administrative Simplification", I would like to say that from here on I am presenting the Treasury's own attitude toward the collection of this tax; that is, this is the attitude of the Bureau of Internal Revenue on whom the burden of collecting these taxes will fall. As I say, this is purely the Treasury's statement. Up to this point, those of us who have worked on this bill are in complete accord. But I wish to point out that from here on the matter discussed is one which has been brought to my attention by the Bureau of Internal Revenue. I feel it is my duty to point that out to the committee, and I want to emphasize once again that this is purely the Treasury's attitude.

Mr. COOPER. Mr. Chairman, may I ask the Secretary a question? The CHAIRMAN. Mr. Cooper of Tennessee.

Mr. COOPER. By that, Mr. Secretary, we are to understand that the Economic Security Committee is in agreement and submits jointly all of the statement which you have read up to this point?

Secretary MORGENTHAU. Up to this point, yes.

Secretary PERKINS. Yes, sir.

Mr. TREADWAY. May I ask a question, Mr. Chairman?

The CHAIRMAN. Mr. Treadway—

Mr. TREADWAY. From the point where you are now about to read, your Department is not in agreement with the bill as submitted to us? Is that what you mean, Mr. Secretary?

Secretary MORGENTHAU. I would not put it that way. I simply feel that this is a matter the responsibility for the carrying out of which will fall on the Bureau of Internal Revenue. They raised the point as to whether they can enforce this, and I, as Secretary of the Treasury, feel that I should bring it to the attention of this committee.

Mr. TREADWAY. I assume that you concur with the Bureau of Internal Revenue on this point?

Secretary MORGENTHAU. Oh, yes.

Mr. TREADWAY. You approve what they are recommending to you for you to submit to the committee?

Secretary MORGENTHAU. Yes. Otherwise, I would not read it.

Mr. TREADWAY. That is what I assumed.

Secretary MORGENTHAU. I would not read it unless I believed in it.

Mr. TREADWAY. I wanted it to be perfectly clear in the record.

Secretary MORGENTHAU. I want to make it clear that Miss Perkins and I are in complete accord, but this particular matter is purely one of administration.

The CHAIRMAN. Please proceed.

Secretary MORGENTHAU.

#### ADMINISTRATIVE SIMPLIFICATION

This committee is well acquainted with the Treasury's attitude on law enforcement. If there is a law on the statute books to be enforced by the Treasury, we insist on enforcing it to the utmost of our powers. But in one respect the bill in its present form imposes a burden upon the Treasury that it cannot guarantee adequately to meet.

The national contributory old-age annuity system, as now proposed, includes every employee in the United States, other than those of governmental agencies or railways, who earns less than \$251 a

month. This means that every transient or casual laborer is included that every domestic servant is covered, and that the large and shifting class of agricultural workers is covered. Now, even without the inclusion of these three classes of workers, the task of the Treasury in administering the contributory tax collections would be extremely formidable. If these three classes of workers are to be included, however, the task may well prove insuperable—certainly, at the outset.

I want to point out here that personally I hope these three classes can be included. I am simply pointing out the administrative difficulty of collecting the tax from those classes.

Mr. REED. Mr. Secretary, your views with regard to the difficulty of collecting this tax coincide with the experience of Great Britain insofar as the domestic-service class is concerned over there.

Secretary MORGENTHAU. I am sorry, Mr. Congressman, that I am not familiar with the experiences of Great Britain. I am simply pointing out what I feel is a difficulty. Perhaps we can work out some way of overcoming that difficulty.

Mr. REED. The British Government had that difficulty, exactly along the lines you mention, and those people were eliminated from the provisions of their security act.

Secretary MORGENTHAU. I do not happen to be familiar with the British experience or practice in that respect.

The CHAIRMAN. In other words, you are presenting a very serious difficulty which you have thus far not been able to find a way of overcoming?

Secretary MORGENTHAU. Up to now. But I am asking the Bureau of Internal Revenue to try their best to find some way whereby this tax can be collected. As soon as they find a way, I shall ask them to bring it to this committee's attention.

Under the income-tax law, the Bureau of Internal Revenue last year handled something less than 5 million returns; with the present nearly universal coverage of the bill's provisions with respect to contributory old-age annuities, we estimate that some 20 million returns would be received. In addition, there would be required the sale of stamps to be used in connection with hundreds of thousands of odd payments for casual work, often for only a few hours' duration. We recognize, without question, the need of these classes of workers for the same protection that is offered other employed workers under the bill. But we should like to ask the committee to consider the question whether it is wise to jeopardize the entire contributory system, as well as, possibly, to impair tax-collecting efforts in other fields, by the inclusion under the system of the necessity for far-flung, minutely detailed, and very expensive enforcement efforts.

In view of the great importance of our objective, we should greatly regret the imposition of administrative burdens in the bill that would threaten the continued operation of the entire system. After the system has been in operation for some years, more inclusive coverage may prove to be entirely practicable; but we should like to see the system launched in such fashion that its administrative as well as its financial provisions contribute directly to the assurance of its success.

I assume it will not be necessary for me to read the tables that are submitted in connection with my statement.

The CHAIRMAN. I do not think that is necessary. They will be put in the record at this point.

(The tables submitted with the statement of the Secretary are as follows:)

*Economic security plan*

(All estimates in millions)

Year	Net contributions	Interest on reserve	Federal contributions	Benefit payments	Reserve, end of year
1937	302.9	0.0	0.0	0.7	302.2
1938	306.0	9.1	0.0	2.0	615.3
1939	308.9	18.4	0.0	3.1	929.8
1940	312.0	28.1	0.0	4.6	1,274.7
1941	326.1	104.9	0.0	191.1	1,079.6
1950	1,054.0	266.3	0.0	777.1	7,373.9
1960	1,907.3	234.9	0.0	1,149.0	31,531.6
1970	1,902.3	424.0	0.0	1,024.4	14,590.7
1980	2,042.5	458.0	195.7	2,632.6	15,280.7
1975	2,121.5	454.0	322.8	3,115.8	10,200.7
1977	2,225.7	438.0	1,034.3	3,611.2	16,266.7
1980 and thereafter	2,216.7	459.0	1,478.7	4,153.2	10,200.7

Source: Committee on Economic Security.

*Suggested basis of national contributory old-age annuity system*

(All estimates in millions)

Year	Net contributions	Interest on reserve	Federal contributions	Benefit payments	Reserve, end of year
1937	623.2	0.0	0.0	1.3	621.9
1938	629.5	18.7	0.0	4.0	1,286.1
1939	635.8	38.0	0.0	6.7	1,961.0
1940	642.0	58.0	0.0	10.8	2,650.2
1945	1,263.2	237.3	0.0	307.6	9,238.3
1950	2,185.2	448.7	0.0	625.6	10,932.8
1960	2,280.5	764.5	0.0	1,222.0	29,412.5
1970	2,376.1	1,040.5	0.0	2,022.2	30,281.7
1980	2,470.0	1,231.5	0.0	2,628.4	42,122.5
1975	2,565.1	1,370.0	0.0	3,191.2	48,408.9
1977	2,660.0	1,462.2	0.0	3,662.5	49,178.2
1980	2,660.0	1,502.3	0.0	4,146.3	51,033.7

Source: Committee on Economic Security.

*Present economic security annuity scale*

FOR ENTRANTS PRIOR TO 1942

Years of contribution	Monthly annuity based on level monthly wage of—			Years of contribution	Monthly annuity based on level monthly wage of—		
	\$50	\$100	\$150 and over		\$50	\$100	\$150 and over
5	\$7.50	\$15.00	\$22.50	50	\$20.00	\$40.00	\$60.00
10	10.00	20.00	30.00	55	25.00	50.00	75.00
15	15.00	30.00	45.00	60	30.00	60.00	90.00
20	20.00	40.00	60.00	65	35.00	70.00	105.00
25	25.00	50.00	75.00	70	40.00	80.00	120.00

FOR ENTRANTS IN 1942 AND AFTER

Years of contribution	Monthly annuity based on level monthly wage of—			Years of contribution	Monthly annuity based on level monthly wage of—		
	\$50	\$100	\$150 and over		\$50	\$100	\$150 and over
5	\$5.00	\$10.00	\$15.00	30	\$17.50	\$35.00	\$52.50
10	7.50	15.00	22.50	35	22.50	45.00	67.50
15	10.00	20.00	30.00	40	27.50	55.00	82.50
20	12.50	25.00	37.50	45	32.50	65.00	97.50
25	15.00	30.00	45.00	50	37.50	75.00	112.50

Source: Committee on Economic Security.

Suggested basis of national contributory old-age annuity system—illustration annuities

ENTRANTS OVER 40 YEARS OF AGE

Years of contribution <sup>2</sup>	Monthly annuity based on level monthly wage of—			Years of contribution <sup>1</sup>	Monthly annuity based on level monthly wage of—		
	\$50	\$100	\$150 and over		\$50	\$100	\$150 and over
5.....	\$7.50	\$15.00	\$22.50	30.....	17.50	35.00	52.50
10.....	10.00	20.00	30.00	35.....	17.50	35.00	52.50
15.....	12.50	25.00	37.50	40.....	17.50	35.00	52.50
20.....	15.00	30.00	45.00	45.....	17.50	35.00	52.50
25.....	17.50	35.00	52.50				

<sup>1</sup> Service rendered after attaining age 65 is not counted in computing benefits.

ENTRANTS UNDER 40 YEARS OF AGE

5.....	\$2.50	\$5.00	\$7.50	30.....	20.00	40.00	60.00
10.....	5.00	10.00	15.00	35.....	22.50	45.00	67.50
15.....	7.50	15.00	22.50	40.....	25.00	50.00	75.00
20.....	10.00	20.00	30.00	45.....	27.50	55.00	82.50
25.....	12.50	25.00	37.50				

Source: Committee on Economic Security.

Mr. KNUTSON. Mr. Secretary, you are making some recommendations of changes in the bill that we have before us?

Secretary MORGENTHAU. Yes, sir.

Mr. KNUTSON. It was my understanding that the bill we have before us, H. R. 4120, was the product of the Economic Security Committee appointed by the President.

Secretary MORGENTHAU. That is right.

Mr. KNUTSON. When were these changes agreed upon, Mr. Secretary?

Secretary MORGENTHAU. Mr. Knutson, the fact that the changes have been made as late as this is purely my own fault. Unfortunately, I had so many administrative duties to perform. I worked for 3 months on the \$4,800,000,000 bill that was recently before the Congress. I took part in the preparation of the Budget. So it is my fault that I did not get to this earlier. I simply felt that I had better be late and be right.

Mr. KNUTSON. We have put in 2 weeks of hearings on H. R. 4120. I am just wondering whether the changes that you have proposed this morning would necessitate continued hearings, perhaps for as long a time as we have been in session on this bill.

Secretary MORGENTHAU. Of course, that is up to the committee, as to whether they want to have further hearings on the bill.

Mr. VINSON. May I suggest to the gentleman from Minnesota that several of these suggestions that have been made this morning were mentioned during the course of the hearings. For instance, the exclusion of the agricultural workers, domestics, and the casual workers from the contributory plan was discussed freely, as I recall it.

Dr. Witte made the statement that the exclusion of those from the contributory system could be had without any added burden to the fund or to the system.

Mr. KNUTSON. That is true.

The CHAIRMAN. If Mr. Knutson will yield—

Mr. KNUTSON. Of course.

The CHAIRMAN. The Chair would like to suggest that unless someone should request to be heard in opposition to the proposed changes, further hearings will not be necessary on those proposed changes. Should any one request that they be heard in opposition to those changes that might change the situation.

Mr. KNUTSON. Mr. Secretary, under your annuity plan as proposed this morning, what is it going to cost in 1980?

Secretary MORGENTHAU. On the contributory part of the plan it will cost the Government nothing. It will be self-sustaining.

Mr. KNUTSON. What will the entire plan cost? Will it materially change the cost to the Federal Treasury?

Secretary MORGENTHAU. The noncontributory part of it will cost the Treasury something over \$500,000,000.

Mr. KNUTSON. That is in 1980. And that would become a fixed charge upon the Treasury annually, of \$600,000,000?

Secretary MORGENTHAU. Yes.

Mr. KNUTSON. What about the old age part of it?

Secretary MORGENTHAU. That will be zero.

Mr. KNUTSON. You mean the old-age pension plan will take care of itself in 1980?

Secretary MORGENTHAU. Yes, sir.

Mr. TREADWAY. Mr. Secretary, you speak about being delayed in getting up your recommendations. We have been urged to hasten this bill. You regard this as a very important piece of legislation, do you not?

Secretary MORGENTHAU. Very important.

Mr. TREADWAY. Do you think there is any occasion for Congress to hurry in its consideration of it?

Secretary MORGENTHAU. I would not advise the Congress, sir.

Mr. TREADWAY. Oh, you have so many times and in so many ways, I think we ought to ask for your advice now.

Secretary MORGENTHAU. I have never been so rash as to advise Congress.

Mr. TREADWAY. Let me approach this from a different avenue, then. It is queer how much confidence some people have in Congress, much more than I personally have, with the present set-up of it.

Mr. Secretary, Dr. Witte insisted—I do not mean insisted in the rude sense of the word—but was very positive that we should hasten to proceed as rapidly as possible, because he said there were 44 State legislatures in session this year. Do you think that the action of Congress should be in any way subservient to, or based upon, what legislatures may do after congressional action?

Secretary MORGENTHAU. I do not think I could answer you on a question like that. You have been here so much longer than I.

Mr. TREADWAY. That was the reason given by Dr. Witte for suggesting to us to hurry our action. Personally, I do not agree with him.

Secretary MORGENTHAU. You have been here so many years, you know much better than I what Congress should or should not do.

Mr. TREADWAY. But is not that a fair question, Mr. Secretary? We are advised by the secretary of this committee, of which you are the chairman, or one of the most important members—

Secretary MORGENTHAU. Just a member.

Mr. TREADWAY. Your secretary, your employee, has very definitely advised us to hurry. Do you approve his recommendation or not?

Mr. DISNEY. Mr. Chairman, is that in order when we have important business to proceed with?

Mr. DINGELL. Mr. Chairman, I object to the gentleman abusing the witness.

Mr. TREADWAY. You object to what?

Mr. DINGELL. I suggest to the gentleman from Massachusetts that he has been trying to force an answer to that question from every witness who has appeared here.

Mr. TREADWAY. I have a right to do that, as a member of this committee.

Mr. DINGELL. I submit that the secretary is not here—

Mr. TREADWAY. I am not insulting the secretary in any way. I shall submit to the chairman of this committee, not to you, sir, for judgment on what I am doing. The chairman has the power to keep order here, not a subordinate member of the committee.

The CHAIRMAN. Gentlemen, I hope we will not have any controversy.

Mr. HILL. Will the gentleman from Massachusetts yield to me?

Mr. TREADWAY. Yes, but I do not intend—

Mr. HILL. I am not going to lecture you.

Mr. TREADWAY. No, and I do not intend to take it. [Laughter.]

Mr. HILL. I just want to ask the gentleman from Massachusetts if he has observed any evidence of undue haste on the part of this committee.

Mr. TREADWAY. No, I have not, but I have on the part of witnesses to hurry us.

Mr. HILL. Does not the gentleman think that the committee can take care of itself?

Mr. TREADWAY. I am sure they can. Then if it is not agreeable to the Secretary to answer that line of questions, than I will try one or two other lines.

Let me make this one statement of my own in connection with these 44 State legislatures. I find that of those 44, 18 have an expiration date in March, 4 in February, and 2 in April. There are only 17 of those legislatures whose terms of session are indefinite. Therefore, I think the argument falls pretty flat that Congress should hurry in order to reach the legislatures while they are in session this year.

Mr. VINSON. Will the gentleman yield to me?

Mr. TREADWAY. Yes.

Mr. VINSON. I know the gentleman from Massachusetts well, and I cannot conceive that he is endeavoring to leave the impression that anyone is seeking to delay this legislation.

Mr. TREADWAY. Oh, no; but I do not intend to be hastened. There is no one trying to delay. I am for the legislation, if we can whip it into shape properly. I have never said a word in opposition to the legislation, as the gentleman knows.

Mr. VINSON. I understand that, and I cannot conceive of the gentleman seeking to delay it.

Mr. TREADWAY. Not in the slightest; nor do I wish to be hurried in the consideration of it.

Mr. VINSON. Our whole purpose is to consider it fully and carefully, as we have been doing, are doing, and will continue to do.

Mr. TREADWAY. And that is perfectly agreeable to me.

Now, Mr. Secretary, allow me to ask you about the social insurance board. You recommended the transference from the social insurance board to the Treasury Department of the function of issuing and selling these voluntary annuity certificates. That would take the issuance of the annuity certificates out of the hands of the social insurance board, would it not?

Secretary MORGENTHAU. That is right.

Mr. TREADWAY. To what extent would that reduce the responsibilities of the Social Insurance Board?

Secretary MORGENTHAU. I do not think it would reduce them at all.

Mr. TREADWAY. They would still be just as important as in the original set-up?

Secretary MORGENTHAU. I think so, yes.

Mr. TREADWAY. Let me ask if you approved the manner in which that board is established.

Secretary MORGENTHAU. Mr. Chairman, I have been here before, and I think you know that I try to answer questions on matters on which my responsibility rests. I do not want to seem to evade Mr. Treadway's questions, but I should like to confine my testimony only as to what I am familiar with, and I have confined myself to a study of the financial aspects of the bill.

Mr. TREADWAY. I am perfectly willing to withdraw the question under those circumstances.

Secretary MORGENTHAU. I feel that a question like that Miss Perkins, who is here, is in a far better position to answer than I. I have confined my activities to the financial aspects of the question.

Mr. TREADWAY. That is entirely satisfactory, Mr. Secretary. There are just one or two other inquiries I should like to make, if I may. In the discussion of the bill with your secretary of your committee, we frequently ran into the statement that the paragraph that we were considering, the section we were inquiring on, was written in the Treasury, and consequently the witness knew nothing about it, or took it for granted that the Treasury had done the thing in the right way. That occurred several times.

Would you be willing to inform us where in the Treasury those paragraphs were written?

I cannot at this moment lay my hands on the individual items, but you will find that appearing in Dr. Witte's testimony, in answer to that kind of a question, several times.

Secretary MORGENTHAU. I think you will have to help me out by telling me which paragraphs were referred to.

Mr. TREADWAY. I agree that my question is somewhat indefinite, unless you had in mind, in a general way, the nature of his testimony.

Secretary MORGENTHAU. I am sorry I am not sufficiently familiar with it.

Mr. TREADWAY. There were certain parts of it written by some of your assistants, or associates?

Secretary MORGENTHAU. Oh, yes. I am sure that if Dr. Witte said that the Treasury wrote it, referring to any certain paragraph, that his statement is correct.

Mr. TREADWAY. He did not say by whom in the Treasury Department, and we know the Treasury is a pretty big organization.

Secretary MORGENTHAU. Well, we have had a great many people working on it, and some of the employees have been changed.

Mr. TREADWAY. I now have Dr. Witte's testimony before me, and will call your attention to some parts of it. In reply to an inquiry, for instance, he says:

I frankly state that I cannot answer that question definitely. The bill was drafted by the counsel of the committee, with the assistance of the legislative members and with changes made by the legislative members, who introduced the bill in both houses.

Another inquiry:

Have you had the aid of Mr. Beaman at all?

Mr. Beaman is our legislative drafting counsel, and one in whom we have the fullest confidence. Dr. Witte's answer was:

I could not answer that. I think not. We have had the aid of the Treasury Department in all financial provisions, and I think Mr. Beaman was consulted by the members, but not directly by the committee.

That is one of the places where he refers to the Treasury as having drafted this bill.

Just one other request, and I will have finished. In your list of committees, in the appendix, on page 60 of this report, there are certain names. We have made some inquiries from time to time about the advisory committee and were not entirely able to get at the root of the matter. I want to call your attention to the actuarial consultants, consisting of 3 college professors and 1 president of a mutual life insurance company; 4 gentlemen who were the actuarial consultants.

I would like to inquire whether, in making up these tables of cost and annuities, and so forth, other actuaries of the country were consulted by your committee?

Secretary MORGENTHAU. Will you allow Mr. Altmeyer, the Second Assistant Secretary of Labor, to answer that question?

Mr. TREADWAY. Of course.

Mr. ALTMAYER. The report of the committee will give you full information as to the actuaries who were consulted. There was a committee of actuaries that met with the staff actuaries. The staff actuaries included Mr. Richter, of the American Telephone & Telegraph Co.; Mr. Williams, of the Travelers Insurance Co.; and Mr. Latimer, who, as you know, has already testified and who is chairman of the Railroad Retirement Board.

Mr. TREADWAY. Is Mr. Latimer a professional actuary, or is he just chairman of this board that you mentioned?

Mr. ALTMAYER. Mr. Latimer is probably the outstanding expert in this country on industrial pensions.

Mr. TREADWAY. But he is not a life-insurance actuary?

Mr. ALTMAYER. That is correct.

Mr. TREADWAY. May I ask this further question? I understood you to say—I could not quite hear you—but I understood you to say that in the report the names of the actuaries who were consulted appear in addition to those listed as actuarial consultants. Can you tell me where to find that, please?

Mr. ALTMAYER. I have not a copy of it with me, but I will be glad to submit it to you.

Mr. TREADWAY. I was under the impression that there was a list of advisory committees in the back of the report as an appendix, and that these names were in that list.

Mr. ALTMAYER. We shall be glad to furnish that information to your committee, if you wish.

Mr. TREADWAY. And there was complete agreement among the actuaries?

Mr. ALTMAYER. Yes, sir.

Mr. TREADWAY. As to the actuarial set-up of this proposition?

Mr. ALTMAYER. Yes, sir; no disagreement at all.

Mr. TREADWAY. I have read the names of these four gentlemen, but I understood you to say there were others.

Mr. ALTMAYER. No.

Mr. TREADWAY. These four are responsible for the actuarial set-up?

Mr. ALTMAYER. They were the consultants who were consulted by the staff actuaries.

Mr. TREADWAY. Who were the staff actuaries?

Mr. ALTMAYER. As I said, Mr. Richter, of the American Telephone & Telegraph Co.; Mr. Williams of the Travelers Insurance Co.; and Mr. Latimer, who is Chairman of the Railroad Retirement Board, as well as several staff employees, who made many of the calculations.

Mr. TREADWAY. What do you mean by staff employees; employees of the technical board?

Mr. ALTMAYER. Yes.

Mr. TREADWAY. Or members of the technical board?

Mr. ALTMAYER. No; employees of the technical board.

Mr. TREADWAY. These four gentlemen whose names appear here are the only official actuaries of the committee; is that correct?

Mr. ALTMAYER. No; I just told you that Mr. Richter—

Mr. TREADWAY. But you talk about a staff and about actuarial consultants, and there is so much of a mix-up that I cannot understand it. Of course, it is clear in your own mind, and perhaps it ought to be in mine, but I may be dull about this. Who were the head actuaries who recommended this program?

Mr. ALTMAYER. Mr. Richter, of the American Telephone & Telegraph Co.; Mr. Williams, of the Travelers Insurance Co.; and Mr. Latimer, Chairman of the Railroad Retirement Board.

Mr. TREADWAY. And they were the heads of the actuarial consultants, as noted in this report?

Mr. ALTMAYER. They were the men in Washington. They spent all, or practically all their time on these actuarial calculations.

Mr. TREADWAY. That is what I wanted to know. Now we are getting somewhere. But these other gentlemen, the four whose names appear here, were outsiders who might have had the report of these three men submitted to them, something like that?

Mr. ALTMAYER. Exactly. They came to Washington for consultation with these three men who gave practically their full time to it. We wanted to be certain that we were doing the thing right, and we had those three or four men who could not come to Washington full time to go over all of the calculations, and, as I said before, they are in absolute agreement with our men; no disagreement whatsoever.

Mr. TREADWAY. Thank you. That is what I wanted to know.

Mr. VINSON. Mr. Altmeyer, in addition to the three gentlemen whom you mentioned being in active charge of the actuarial work and

the four gentlemen who are listed as consultants, you did not mean to exclude other actuaries who worked on this proposition?

Mr. ALTMAYER. Not at all. There were many.

Mr. VINSON. Tell us about that.

Mr. ALTMAYER. I do not know all of the actuaries who were consulted. Mr. Witte could tell you what actuaries were consulted from time to time. But, gentlemen, we are perfectly willing to place full responsibility upon those persons whom we have just mentioned. They will accept that responsibility, I am sure.

Mr. VINSON. But of course they had a staff.

Mr. ALTMAYER. They had gentlemen on the technical staff.

Mr. VINSON. And actuaries in different departments assisted in these calculations?

Mr. ALTMAYER. Yea. The Treasury Department assisted us, for example. I do not know how many actuaries were actually consulted. But those persons I have mentioned will assume full responsibility.

Mr. LEWIS. Mr. Altmeyer, will you tell the committee of the work done by Dr. Latimer, by way of qualification for the work that he has done in connection with this bill? I understand through years of labor he has compiled two large volumes on agencies such as we are setting up in this bill. I would have the feeling that perhaps he is the foremost authority in the world today on that subject matter. Tell the committee briefly of his work, please.

Mr. ALTMAYER. Mr. Latimer—you have said in a nutshell exactly what he is. The President, as you know, has appointed him Chairman of the Railroad Retirement Board. I think you are correct in saying that he is the foremost expert on industrial pensions in this country today. He has had many years of study of the subject of industrial pensions, and the main result of his recent studies is included in this 2-volume report that you have just mentioned. Before that he had long scholastic training to prepare him for his technical work.

Mr. McCORMACK. Mr. Secretary, referring to the casuals, and the domestics, and I assume those engaged in agricultural pursuits, they are the ones you have in mind in connection with your expression of doubt conveyed to the committee of the feasibility of practical administration of the provisions of the bill as applied to them, is that right?

Secretary MORGENTHAU. Yes, sir.

Mr. McCORMACK. How many are involved in number?

Secretary MORGENTHAU. I am told an approximate estimate would be about 7,000,000, all told.

Mr. McCORMACK. And the bill in its present form embraces about how many?

Secretary MORGENTHAU. Mr. Haas says about 20,000,000.

Mr. McCORMACK. Twenty million?

Secretary MORGENTHAU. The bill would affect about 20,000,000.

Mr. McCORMACK. That is, under the unemployment features?

Secretary MORGENTHAU. That is the old-age provision.

Mr. McCORMACK. Is there any estimate as to how many of those 20,000,000 will be affected by the old-age provisions?

Secretary MORGENTHAU. Now you are getting a little beyond my depth, Mr. McCORMACK.

If you do not mind, I will ask Mr. Altmeyer to answer those questions.

Mr. ALTMAYER. There are about 7,000,000 who are over 65 at the present time. As the years go by, that number will increase. In about 30 or 40 years you will find it will run up to about fifteen or twenty million. Those figures are contained in the supplement of the committee report, which I shall be glad to file with the committee.

Mr. McCORMACK. That is based on the tables of mortality?

Mr. ALTMAYER. Yes, sir.

Mr. McCORMACK. Why should they be excluded from the benefits of old-age assistance?

Secretary MORGENTHAU. Who, Mr. McCormack?

Mr. VINSON. May I suggest to the gentleman from Massachusetts that they are not excluded.

Mr. McCORMACK. Is it proposed by you that they should be?

Mr. VINSON. They are merely relieved from the contributory features.

Secretary MORGENTHAU. I tried to make clear, and I am glad to have the opportunity again, that I do not suggest that anybody be excluded. I simply point out that the Bureau of Internal Revenue feels that a plan has not yet been devised which will make it practical to collect this tax.

We just came out of one of the most difficult eras of selling liquor. I have been struggling with that for about 13 months. We are beginning to see daylight now, and getting the public to realize that it is a question of buying tax-paid or non-tax-paid liquor. The American public got itself into a frame of mind where they just did not think they had to obey the Federal laws.

What I am afraid of is that if we make it so difficult to collect this tax that we may again build up a large population or group who will get themselves into that same sort of frame of mind. I feel that it is up to us to find a way to collect that tax, and the Internal Revenue Bureau should do that. But we have not been smart enough yet to do it. I want to make it very clear that we are not recommending that any group should be excluded.

Mr. VINSON. May I suggest that the testimony before the committee, Mr. Secretary, has shown that the moneys that would be paid in by this group in taxes, under the contributory plan, would buy very small annuities. You would have to take the benefits that would accrue, and, of course, there is no suggestion here that this group would be excluded from the noncontributory features, or what we generally call the old-age pension plan.

Mr. McCORMACK. I recognize the force of the argument that there are administrative difficulties, but that is taking an attitude of defeatism, it seems to me. If we do not get them in the bill, then you are going to have a lot of difficulty in the future getting them into the bill. If we are going to do anything, we might as well embrace them now, and if necessary suspend payments from them for a year or two until you have devised a method of obtaining those payments in a practical way. That would be my thought on the matter.

Secretary MORGENTHAU. I would say that that would be ideal.

The CHAIRMAN. If there are no further questions, we thank you for your appearance and the testimony you have given the committee, Mr. Secretary.

The CHAIRMAN. Mrs. Lamb, will you please come forward, state your name, and the capacity in which you appear.

**STATEMENT OF MRS. BEATRICE PITNEY LAMB, REPRESENTING  
THE NATIONAL LEAGUE OF WOMEN VOTERS, NEW YORK  
CITY**

Mrs. LAMB. Mr. Chairman and gentlemen of the committee: The National League of Women Voters favors the passage of the unemployment compensation sections of the economic security bill. Since our reasons for supporting the bill are much the same as the reasons already given by other advocates of the bill, we will not take the time of the committee to go into them.

Instead, I will confine myself to speaking about certain sections of the bill, about which questions have occurred to us.

The first of these is section 606, under the definition of "Unemployment fund", which seems to require that every State law, whether of the pooled-fund type or the separate reserves type must set up a pooled fund with at least 1 percent contributions from employers. The rest of the fund might be of any type desired by the State, but there must be in any case this 1-percent pooled fund. This is a valuable provision, for it would provide some secondary security, for example, to workers covered by company reserve funds, which had become exhausted. In the case of the Wisconsin plan, it would be a step toward changing from the reserve to the pooled plan, and provide greater security to workers.

As I say, section 606 seems to require this, but doubts arise in our minds about it, for this provision is hidden away not only in a definition instead of in the main body of the bill, but also in parentheses, which is a strange place to find a major requirement of this kind.

If this requirement is to be binding it should be taken out of parentheses, taken out of section 606, and set down definitely as one of the requirements for State laws, under sections 407 and 602. Otherwise, a court of law might hold that it had slipped into the bill by accident, and that it was clearly not the intent of Congress to require the setting up of a 1-percent pooled fund as one of the conditions of receiving administrative allotments or employer credits.

My second point is that as the bill stands at present, there is one serious loophole, a loophole that might actually encourage States to pass weak rather than strong State laws. This results from the very generous sections on additional credits, in sections 607 and 608, combined with the fact that the bill requires no standards as to length of waiting period or size or duration of benefit payments.

Under section 608 (b) of the bill, the employer is allowed full credit against his tax for all the contributions which he is not making to his reserve fund providing that fund does not fall below 15 percent of the annual pay roll. He can cease his contributions entirely and still receive credit so long as the fund is up to the required 15 percent.

The simplest way to keep a fund up to 15 percent is to pay very little out of it, that is by making the waiting period long, the benefits small, and the benefit period short. If the employers in a State wish to evade the Federal tax and at the same time pay little or nothing as unemployment compensation contributions they can do so. All they have to do is to get through their legislature a bill providing for

DEPARTMENT OF STATE  
WASHINGTONIn reply refer to  
FE 893.515

February 6, 1935

My dear Mr. Secretary:

Referring to previous communications in regard to and in connection with the effects in China of the silver policy of the United States, I enclose for your consideration copies of papers as follows: a note dated February 1, with enclosure, from the Chinese Minister in Washington; and a note dated February 5 from the Chinese Minister in Washington.

I would appreciate receiving at your early convenience an indication of your views in regard to the "plan" outlined by the Chinese Minister of Finance, the text of which is communicated in the note of February 5 from the Chinese Minister in Washington.

Sincerely yours,

(Signed) CORDELL HULL

## Enclosures:

From Chinese Legation,  
February 1, with  
enclosure;  
From Chinese Legation,  
February 5.

The Honorable

Henry Morgenthau, Jr.,

Secretary of the Treasury.

DEPARTMENT OF STATE  
WASHINGTONIn reply refer to  
FE 893.515/402

February 7, 1935

My dear Mr. Secretary:

Referring to my letter to you of February 6 transmitting copies of communications of February 1 and February 5 from the Chinese Minister in Washington, I wish to add that, in connection with the note of February 5 in which appears the "plan" outlined by the Chinese Minister of Finance, the Chinese Minister in Washington gave me a separate note in which he states that, in reference to the communication from the Chinese Minister of Finance, he "desires to make the following observation:

"By making all purchases from China desired quantities could be obtained more expeditiously and advantageously and with less inducement to speculation than by buying from many sources and the Chinese Government can thus obtain necessary supplies without the risk of smuggling to take advantage of a higher price abroad. American buying at London or other open markets at a price above the value in China necessarily invites smuggling. For these reasons the assurance of American purchases made in China only from the Central Bank of China is no great assistance against smuggling. Moreover an exclusive arrangement would facilitate the government in obtaining desired quantities from the Chinese public."

Sincerely yours,

(Signed) CORDELL HULL

The Honorable

Henry Morgenthau, Jr.,

Secretary of the Treasury.

COPY

CHINESE LEGATION  
Washington

February 1, 1935

My dear Mr. Secretary:

I beg to inform you that I have received from Dr. H. H. Kung, Minister of Finance at Nanking, for delivery to you a memorandum summarizing, supplementing and bringing up to date the data on the silver question, a copy of which is herewith enclosed for your consideration.

I beg leave to point out that the opinions expressed in the report of the Ministry of Industries Commission referred to in the memorandum do not necessarily represent the views of the Chinese Government.

I am, my dear Mr. Secretary,

Very sincerely yours,

(Signed) SAO-KE ALFRED SZE

Enclosure:

Memorandum as above.

Honorable Cordell Hull,  
Secretary of State.

Senator  
Fletcher:

Mr. Secretary, I hate to trouble you about a small matter like this.

H.M.Jr: You can't trouble me anytime Senator Fletcher.

F: It seems to be a last chance for a man whose circumstances which require that I take the opportunity ~~for me~~ to speak for him. His name is J. S. Kemp. He's now Administrative Officer for the Division of Disbursements connected with the PWA. He started in as Messenger in the Treasury years ago. He did splendid wherever he has been employed.

H.M.Jr: How do you spell his name?

F: J. S. K e m p.

H.M.Jr: K e m p

F: Yes. He's been trans/<sup>ferred</sup> with these people and he wants to be transferred as CAF 13.

H.M.Jr: CAF?

F: CAF 13. His salary is \$5600 I think.

H.M.Jr: \$5600.

F: He's been there for a great many years since he was a boy and he's rendered splendid service wherever he has been. He's doing a big job there with PWA now. He's spending something like a million and a quarter a day.

H.M.Jr: And they're going to lay him off?

F: What?

H.M.Jr: Are you going to lay him off?

F: No no trouble - this reclassification. He has a chance of getting this classification CAF 13.

H.M.Jr: Oh he'd like to come with us?

F: He wants to do that. He<sup>s</sup> with you now but he wants to have this classification.

H.M.Jr: Is he on my payroll or PWA?

F: He's on your payroll at present, I believe, but PWA has been paying him, I guess.

- 2 -

H.M.Jr: Oh, well I'll look into it.

F: Alright. I wish you would. He've very deserving  
and --

HM.Jr: I'll be glad to look into it.

F: Alright.

H.M.Jr: Thank you.

February 11, 1935.  
Monday.

February 13th

Mr. Irey had been to see the Attorney General in regard to appointing Dan Moody as a Special Assistant United States Attorney General to handle the Huey Long case. The Attorney General agreed but said that they had no funds with which to pay Mr. Moody. Mr. Morgenthau told McReynolds to work this out. All investigations show that Mr. Moody is an excellent man to handle this case.

H.M.Jr. checked with the Vice-President and he greatly approved of this appointment.

H.M.Jr. also talked with the President and got his approval to go ahead.

February 13, 1935

Monday - Feb. 11th - As soon as we started lunch I read the following statement to the President:

1. Since January 14th banks and dealers in foreign exchange and gold, have practically stopped buying and selling gold, within gold import and export points - which means that the International Gold Standard as between foreign countries and the United States has ceased its automatic operation.
2. Thanks to the foresight of 73rd Congress, we now have a Stabilization Fund.
3. When we saw that the external value of the dollar was rapidly going out of control, we put the Stabilization Fund to work on a moment's notice with the result that for the past four weeks we have successfully managed the value of the dollar in terms of foreign currencies.

The country can go about its business with assurance that we are prepared to manage the external value of the dollar as long as it may be necessary.

He liked it very much and made a good suggestion. I no sooner finished reading mine when he said, your statement fits in with what I have written. He said, "you eat and let me read you my proposed radio speech to be given on the night of the day that the court hands down its decision." He was like a kid about it, he was so pleased with himself and with the statement. After finishing the statement he said, "Joe Kennedy thinks that the statement is so strong that they will burn the Supreme Court in effigy." I told him that I did not think it was too strong. As a matter of fact I liked it very much.

I tried to get him to discuss the details of what we would do in case a decision would be handed down but he said it was no use discussing it until we see how the decision is worded.

I had Mc Reynolds bring in a statement for him to sign which letter would go on the Hill asking the Senate Committee on Finance to make it possible to pay the 1300 Civil Service employees who had to be dropped off the payroll on December 1st on account of the McKellar Amendment. He read thru the statement very carefully, looked up and said, "how will McKellar feel about this". We told him that he would be opposed. Without a moment's hesitation he reached for the pen and signed the letter. I would not have been a bit surprised if he would have suggested postponing the sending of

this letter until after the Senate Finance Committee had voted out the four billion eight bill. McReynolds who was present of course got a great thrill out of seeing how the President reacted.

On returning from the White House I continued to go over the statement consulting Oliphant and Coolidge and finally George Harrison over the telephone (copy of phone conversation attached hereto) and all of them made good suggestions. I was naturally quite nervous about giving out this statement as I realized that it was one of the most important statements that I will have made since being Secretary of the Treasury. At my press conference I first discussed the N.Y.C. liquor situation and then read very slowly, repeating each sentence at least once, my statement on the Stabilization Fund.

Tuesday - Feb. 12th - I was very much pleased with the way the papers received my statement. During the morning we marked time waiting for news to approach. I talked to Joe Kennedy in the morning and he said as far as he was concerned my statement cleared the atmosphere and he no longer worried what the decision from the court would be.

At 12 o'clock a number of us hovered around the U.P. ticker which stopped working and everything was very quiet and very tense and about 12:10 we got word that there would be no decision. Of course the fact that there was no decision makes my statement really important and the longer the court postpones handing down a decision the greater value my statement will have.

In the afternoon I went over with Bill Myers his Seed Loan Bill and told him that if it was not legally possible to transfer funds from the four billion eight for seed loan purposes, I would recommend to the President that he veto the bill with the statement that if they would re-pass it making two changes - 1, limiting it to forty million dollars and 2, adding a paragraph making it legal to transfer the money from the four billion eight - he would sign it. I understand from Myers that the President promised Marvin Jones that he would sign the bill if it was possible to take the money out of the four billion eight. If my suggestion is followed he will keep faith with Marvin Jones and also with his budget message.

George  
Harrison:

I'm glad to hear you're back.

H.M.Jr:

I'm glad to be back. I am giving out very confidentially a little statement at 4 o'clock and we've all discussed it and I pleaded with the President. Coolidge and Oliphant are in here and we've just been arguing as to terminology and I'd like to read it to you very slowly without trying to explain it to you. I mean just read it to you and see what your reaction is. See? I'll read very slowly.

H.M.Jr:

Reading: "Since January 14th, banks and dealers in foreign exchange and gold have practically stopped buying and selling gold within the gold import and export point, which means that the use of the international gold standard as between foreign countries and United States have practically stopped.

2. Thanks to the foresight of Congress it created at the last session the Stabilization Fund.
3. When we saw that the external value of the dollar was rapidly going out of control we put the Stabilization Fund to work on a moment's notice with the result that for the past four weeks we have successfully managed the value of the dollar in terms of the pound and the Franc and the country can go about its business with the assurance that we are prepared to manage the external value of the dollar as long as it may be necessary."

H:

Well its an awfully hard thing to answer right off the bat. My immediate reaction is one of caution, Henry, and next you'd be putting yourself into a noose - putting your head into a noose there.

H.M.Jr:

How?

H:

I mean a commitment which you may not be able to live up to.

H.M.Jr:

How?

H:

Well I mean if you make a commitment that in effect you are going to take the dollar at a price right now whatever may happen, and something very drastic does happen, you are in effect inviting the bankers here to an agreement that you will buy at this particular price, no matter what happens.

- 2 -

- H.M.Jr: Well Jeff's on the phone - his eyebrows have gone halfway up his forehead. I think he'd be delighted if that would happen. Let me give you --
- H: Well I don't know because, Henry, I don't know --
- H.M.Jr: Well the point is simply this. We've been doing this thing for a month. A lot of statements in the papers, which mostly come from abroad, they're trying to  
what we're trying to do. I personally think we've done a swell job. I don't see why we shouldn't say so. I argued back and forth. I first thought we'd say we are buying gold at \$35.00 an ounce till hell freezes.
- H: Well I think that would be a mistake.
- H.M.Jr: That would be a mistake.
- H: Now you hit the nail on the head. That's what I was worried about whether you
- H.M.Jr: Wait a minute. We say anything and we are prepared to manage the external value of the dollar as long as it may be necessary. Now we don't say where we're going to manage it. Now the thing that is worrying Jeff is the terminology. The thing that's worrying him is when we say "which means that the use of the international gold standard as between foreign countries and United States has practically stopped". That's what worries him. We think that when the gold - the price of gold gets out between the gold point that international gold standard has dropped away.
- H: In determining the terminology you say you expect to manage it - you haven't the gold point yet.
- H.M.Jr: I don't say that I'll try to do that. I simply say that "we have successfully managed the value of the dollar in terms of the pound and the Franc".
- H: But you haven't done that if by success you mean making the international gold standard between the gold point.
- H.M.Jr: No no I don't - I'm not --

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Coolidge: George.

H: What?

C: I'm quite . I'd accept the national currency. I rather wanted to infer that we five or six people in making the gold standard work.

H: I'm sorry but I didn't hear that.

C: I merely wanted to infer that we five or six people in making the gold standard work approximately well. the gold standard is gone and we

H: Well what you've really done is to have provided a market with dollars which have been in demand. The private banker That's what you've really done you know.

C: And do you think the safest thing is a matter of our policy, which is vague at the moment, whether to do that only by buying gold or by buying currency, with no reference to the price of gold.

H: I don't think you ought to talk about whether you bought gold or currency now that you've done it.

C: I see. In that case I'd be happy with the present statement. . What you've done is to provide dollars with a view to keeping the dollar within the gold point.

C: And you don't think the manner of providing - whether buying sterling or gold makes any difference,

H: No I do not.

C: Well I

H: I mean as far as your statement is concerned I don't.

C: That's my only thesis of it. I've been turning the thing over in my mind.

H: Of course it's awfully hard to visualize over the telephone but do you commit yourself on a definite

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tariff of that rate for buying gold at the present price?

- C: I don't think we do. We haven't said we are buying gold. All we say is that we are going to control buying currency or manage it.
- H.M.Jr: Jeff's been trying to get me to say control rather than manage. The point is this. You, as an expert in foreign currency, is this statement correct "that the use of an international gold standard as between foreign countries and United States has practically stopped"? Oliphant says "as between the foreign countries and the United States has ceased its automatic operations".
- H: Well I think that's much better.
- H.M.Jr: "Has ceased its automatic operations".
- H: Yes I think that's much better.
- H.M.Jr: Well I'll put that in.
- H: Yes I think that's much better.
- H.M.Jr: Alright - "has ceased its automatic operations".
- H: I think you made a mistake when you talk about handling the Franc and the pound. You invite immediately the why you haven't some of these other fellows who have been much worse hit than the Franc and the pound. you deal with the guilder and the
- H.M.Jr: Why not simply say "have managed the value of the dollar in France of foreign currency". How's that?
- H: That's much better.
- H.M.Jr: Instead of "foreign currency"?
- H: Yes I think that's much better.
- H.M.Jr: What?
- H: I think that's much better.

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- H.M.Jr: You don't think I ought to tell them that I stopped operating in the Franc because they wouldn't stop bootlegging.
- H: No I certainly wouldn't - you've had enough talk about that anyway.
- H.M.Jr: What we want to know is who's got the concession at St. Pierre?
- H: I have it.
- H.M.Jr: Let me read it to you once more.
- H: I think you are buying a little too much. It depends on what you mean by "successfully managing". You can manage that complete breakdown that's one thing. You haven't successfully managed it in that you substitute a better support for automatic banking because it's not automatic except for the value of the gold point.
- H.M.Jr: Well we obviously didn't want that. We could have done it. The New York Times to-day has got a fellow Nebbling, I think his name is, writing from London. He said we did a good job.
- H: Well I think you have.
- H.M.Jr: I think we have, and I think we put it just where we wanted to put it. Now let me read this to you once more.
- H: Alright.
- H.M.Jr: I realize it's hard over the phone. Jeff seems to have a smile on his face. Now he's alright.
- H.M.Jr: Reading: "Since January 14th, banks and dealers in foreign exchange and gold have practically stopped buying and selling gold within the gold import and export point, which means that the use of the international gold standard as between foreign countries and United States has ceased its automatic operation."

H.M.Jr: Still reading. 2. Thanks to the foresight of Congress and Governor Harrison it created at the last session the Stabilization Fund."

H.M.Jr: How's that?

H: O.K. Fine. I like your insertion.

H.M.Jr: You like the insertion. Alright.

H.M.Jr: Continues to read: "3. When we saw that the external value of the dollar was rapidly going out of control we put the Stabilization Fund to work on a moment's notice with the result that for the past four weeks we have successfully managed the value of the dollar in terms of foreign currency and the country" - I suppose it ought to be "our country".

H: What did you say the value of the dollar what?

H.M.Jr: I like the word "managed".

H: Alright.

H.M.Jr: You fellows might as well get used to it.

H: We'll see a lot more of it.

H.M.Jr: Alright. "We have successfully managed the value of in terms of foreign currency and the country can go about its business with the assurance that we are prepared to manage the external value of the dollar as long as it may be necessary, so help me Huey Long". O.K.?

H: Yes I think that's much better.

H.M.Jr: As it is now it doesn't disturb you, does it?

H: Well I don't know what your point in putting it out is.

H.M.Jr: Well we have reasons.

H: But my inclination would be not to put it out at all but if you've got some reason for doing it I think you've probably got it --

H: I think the reason is just as harmless as you want to see it.

H: I don't think I'd be otherwise it's alright. but

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H.M.Jr: Well you think the . You think that's  
a little strong.

H: I think  
because then you're committing yourself

H.M.Jr: Well we're willing to continue.  
I see.

H.M.Jr: Alright. Thank you for your help. You've been  
very helpful.

H: I may be down there tomorrow.

H.M.Jr: Good.

H: I'd like to see you.

H.M.Jr: Well if you're coming, send me a wire, will you?

H: alright sir.

H.M.Jr: Thank you.

February 11, 1935.  
Monday.

February 14th

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The following memorandum was given to Mr. Morgenthau by Robert H. Jackson on January 30, 1935 bringing him up to date on the Matter of the United States v. Dan W. Jones et al (Universal Aviation Corporation) case.

"Yesterday I was requested to meet the Attorney General at 12:15. A request was also made that Commissioner Helvering attend, but in his illness no substitute was desired.

The Attorney General related the facts concerning this case which briefly are these:

An indictment charging effort to defeat and evade income taxes was returned against a number of men formerly officers or attorneys of the Universal Aviation Corporation.

The defendants demurred to the indictment but the indictment was upheld by Judge Faris on October 25, 1934 with the remark from the bench that he thought the defendants conduct was a crime and if it were not it ought to be.

The assets of the old Universal Aviation Corporation have since been acquired by the Aviation Corporation connected with the Cord interests. At the time of the indictment the press carried stories that Basil O'Connor, law partner of the President, was representing some of the defendants and was arranging a settlement. It is my understanding that he has been somewhat active in this matter but that he claims it is purely a friendship and that he is getting no fee for it.

William D. Loucks of New York was the Attorney for the company and was the author of a letter insisting that the plan which the Department has condemned be followed through and urging that no fool lawyer be permitted to talk them out of it. It was an asinine letter and an impossible one for Loucks to explain.

It has now been proposed to pay full tax, penalty and interest in settlement of both civil and criminal penalties. The Attorney General expressed doubt on the subject of conviction and considerable doubt whether as much money could be realized by any other method.

He pointed out that the defendants had done nearly everything to make settlement difficult but suggested that the President would like to see the matter out of the way and suggested that Secretary Morgenthau talk with the President before determining what answer he should make to the Department of Justice inquiry as to our position.

He stated that he would not make a settlement under any circumstances unless it could be done in open Court with the joint action and recommendation of both the Treasury and the Department of Justice.

I attach hereto a carbon copy of the letter that he was considering sending to ask for the Commissioner's recommendation.

The substance of this interview was communicated to Secretary Morgenthau and Mr. Oliphant this morning at 10:30. The Secretary called the Attorney General and stated that he was not in the habit of taking up cases of this kind with the President, that he had never done it and did not feel that he should take this one up with the President unless the President made some inquiry about it.

The Attorney General had told me that he intended to call the Secretary of the Treasury and ask him to get in touch with the President.

Mr. Morris, of the Department of Justice, was present during my conference with the Attorney General. "

This morning, February 14th, the President phoned and said that he thought the above case ought to be settled very soon. H. M. Jr. then asked the President how much he really knew about the case and he replied that he did not know very much but he did know that Averell Harriman and Robert Lehman were mixed up in this, to which H. M. Jr. replied that he did not know that these men were connected in any way but from what he knew about the case in general the people mixed up in it ought to be given a sentence and not merely made to make a cash settlement. H. M. Jr. told the President that he wanted to talk to him about it in detail and would bring one of our tax attorneys who was familiar with the case. The President said he didn't want H.M.Jr. to bring anyone with him but wanted to go over the whole thing personally with him. The President also said that for some unknown reason neither Averell Harriman or Robert Lehman were indicted and both of them should have been. He said whether we settle or sue, it will come out that these men should have been indicted and were not. The President also said that he wanted to settle the case because if we sued we only had a 50-50 chance of winning but H.M.Jr. told him that he wanted to sue because he felt that these men ought to be given jail sentences.

H. M. Jr. is very much interested to find out what the real nigger in the woodpile is, and his guess is that somebody is trying to save Averell Harriman.

## D R A F T

February 14th

Mr. Stanley K. Hornbeck and Mr. Raymond C. McKay came over yesterday to discuss with H. M. Jr. Dr. H. H. Kung's cables, which were transmitted by the Chinese Minister in Washington in his notes of February 1st and February 5th. I am attaching herewith text of these cables, also a memorandum dated February 14th prepared by the State Department on the Chinese silver situation and their suggested solution, also a draft of a reply to Dr. Kung, by the Secretary of State, in answer to his cables.

H. M. Jr. told the State Department representatives that he did not feel that their answer to Dr. Kung would get us anywhere, nor would it help China. However, he told them if this is what Secretary Hull wants it is alright with him, but he would again have to say that he did not think this would help China; that if the time should come when the Department of State was ready to say that this is a monetary matter and should be conducted outside of diplomatic channels, H. M. Jr. was ready to go ahead and handle it. He told them that he was operating the Stabilization Fund without the State Department but with the advice of the President, went into the London and Paris market, took care of the dollar there and put it just where he wanted to and, therefore, felt that he could do the same for China.

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The State Department told H. M. Jr. that they did not believe that Japan intended to permit anyone to rehabilitate China in any respect whatever, that they wanted to help China themselves but did not have the money with which to do it.

H. M. Jr. again told the State Department that if they wanted to handle this situation with China through their usual diplomatic channels it was alright with him, but until they were ready to say that this is a monetary matter and should be handled by the Treasury, he was not ready to go ahead.

February 14, 1935.

D R A F T

The Secretary of State presents his compliments to the Chinese Minister and has the honor to acknowledge receipt of the Minister's two notes of February 5, in one of which the Minister transmits the text of a cablegram from Dr. H. H. Kung, Minister of Finance at Nanking, containing the outline of a plan with regard to silver, and in the other of which the Minister makes certain observations.

In the outline of a plan, the Chinese Minister of Finance suggests that arrangement might be made whereby China would supply the American Government's requirements under the Silver Purchase Act, the amount, the period of years for effecting delivery, and the sale price of silver to be agreed upon between the United States and China; and, that, in view of what China deems the necessity for abandoning the exclusive silver basis maintained by China alone and adopting a new currency system involving use of both silver and gold with a view to linking China's currency to that of the United States, the United States (a) loan China one hundred million United States dollars and (b) extend to China a credit of one hundred million United States dollars "against future delivery of silver to be drawn upon if and when required"; the above project to be "conditioned upon a final agreement on a feasible currency program".

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In reply, the American Government, taking into consideration the history of projects which have been formulated and proposals which have been made and possible arrangements which have been discussed and tentative agreements which have been entered into, at intervals during the past four decades; and, giving thought to various factors, some economic and some political, in the situation in China and in the United States and in the field of international relations today, feels that it would not be practicable for the United States to enter into an agreement with China such as is envisaged in the outline of a plan under reference. However, the Secretary of State is moved to suggest that, if, upon further consideration, the Chinese Minister of Finance should deem it advisable to suggest simultaneously to the governments of several of the foreign powers which have in the past shown themselves most interested in the projects for the solution of certain of China's financial problems, and especially in projects for Chinese currency reform, the American Government would be prepared to cooperate with the other governments in that manner approached along with it, and with the Chinese Government, in exploring the possibility of collective rendering of the assistance thus sought by China.

DEPARTMENT OF STATE  
DIVISION OF FAR EASTERN AFFAIRS

February 14, 1935.

CHINA: SILVER

Situation, Problem and Suggested  
Solution

The finance, banking, exchange, etc., situation in China is in a state of great confusion. The purchases by the American Government of silver, under the Silver Purchasing Act, have contributed to the creation of this confusion and the uncertainty with regard to our future action under that Act, contributes and will continue to contribute thereto.

The Chinese Government has sent us a note (February 5) in which there are advanced the affirmations that China is being forced off of silver and that China would like to engage in currency reform, and the suggestion that the United States make to China a loan of \$100,000,000 and extend a credit of \$100,000,000.

To this there are three possible replies: "yes", or "no", or the advancing of a counter-suggestion.

It is believed that a "yes" would be highly inadvisable.

It is believed that a "no" would be highly impolitic. The American Government is endeavoring to pursue the good neighbor policy in its foreign relations; this country has traditionally been especially well disposed toward China;

our action in regard to silver has contributed to China's present embarrassment; we have on several occasions manifested definitely and officially an interest in projects for Chinese currency reform; China is at present under some form of pressure from Japan; a rebuff from us at this moment, unaccompanied by any indication of solicitude or desire to help would tend to add to the desperation in the minds of Chinese officialdom which tends in turn to induce them to surrender to Japan; a complete victory by Japan in a strictly bipartite struggle such as is now going on between that country and China would probably have distinctly adverse effects upon the interests of the United States (along with those of other Occidental powers) in the Far East for some time to come; etc.

It therefore seems desirable to attempt to make to the Chinese some counter-suggestion.

In view of the fact that the American Government has repeatedly shown an interest in and on at least one occasion taken the initiative in projects for Chinese currency reform; and of the fact that we at one time negotiated with China a preliminary agreement for the conclusion of a loan by us for that purpose; and that we later played a leading part in the formation of a four power consortium for China financing and turned in this currency loan project to be handled by that consortium; and that we took a leading part in the creation in 1920 of the new China consortium, which

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consortium is still in existence, -- it is believed that we might with warrant from point of view of political strategy and with a bare possibility of advantage from point of view of financial strategy suggest to the Chinese that they consider asking for a cooperative loan from several of the powers for the assistance of China in a program of currency reform.

To that end there is submitted a draft of a possible reply to the Chinese Government's note.

The fact should all the while be kept in mind that the silver purchasing program of the American Government has contributed and will continue to contribute to the financial confusion in China. That being the case, the American Government should continue to keep in mind the fact that that program is and will continue to be an irritant. If, continuing in the carrying out of that program, we at the same time become (in consequence of an approach by China to the powers such as is suggested above) parties to international discussion of the question of assisting China for purposes of currency reform, the suggestion will in all probability be made to us by and from other governments that we consider seriously a revision or scrapping of our silver purchasing program. How we might at such time react to such a suggestion is of course problematical. The possibility that it may come should not be overlooked.



Feb. 15th

At Cabinet I simply said, Mr. President, do you care to have me take up the Stewart contract demanding that this information be furnished in regard to Farley's being hooked up to Stewart. I read the letter from Glavis and the President said, "what of it" and I said, if on December 27th after a meeting which took place in my office on January 25th\* Ickes wanted to know why this contract was let, he could have asked me. Ickes said, "I did not know anything about the Glavis letter". I got disagreeable and simply said, after all, Mr. President, the point is that a couple of weeks ago at Cabinet, Ickes said he was not investigating any Cabinet member. H.M., Jr. said these reports should be turned over to the Attorney General. President said, not at all. H.M., Jr. said to the President privately that this stuff is bad for the Attorney General. The President pounded his desk and said, you fellows have to get together. H.M., Jr. said he thought he would write a letter to Ickes and say, carrying out the wishes of the President, I would be glad to have you and I get together to inform me what the adverse report had in it and any other information Glavis had in regard to P.W.A. money spent.

Feb. 18th

Haas told H.M., Jr. that Prof. Buck has been having conferences with the Chinese Minister. H.M., Jr. was disturbed about this because Buck had been attending all the confidential Treasury meetings on the Chinese situation. He called Prof. Buck in and asked him whether he had been seeing the Chinese Minister and Buck admitted that he had - but if H.M., Jr. had any objections he would discontinue his visits to the Chinese Minister. H.M., Jr. asked Prof. Buck for the time being not to see the Chinese Minister.

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H.M., Jr. told Lochhead to buy francs in London with the Sterlin we have on hand and jump the franc into the gold point. H.M., Jr. phoned George Harrison and told him we are going to operate in both London and Paris with the objective of trying to keep gold within the gold points.

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H.M., Jr. said that he thought the Supreme Court would not render a decision until after three o'clock today when the exchanges closed.

Dictated on Feb. 20th.

Telephoned Hull on Wednesday of last week and suggested that we get together and discuss the last Chinese note and then go and see the President. Hull informed me that he would be away for the rest of the week so I suggested that he send over his people to see me.

\* These concerning this meeting attached p. 308

The head of the Far Eastern Division and his assistant, Coolidge, Oliphant and I sat down and discussed it and they presented me with an argument (written) and a suggested answer.

All that the answer to the note said was that we would be glad to join other nations in discussing with China her monetary policy. I told the head of the Far Eastern Division that I felt that this would get them nowhere; that just as long as Hull wanted to consider the Chinese situation as a diplomatic one, I would bow to him and if the time should come that he considered the problem a monetary one, the Treasury was ready and willing to handle it independently.

Sunday night this week at the White House Bullitt walked in unexpectedly and told the President that the Chinese Minister had showed him a very confidential cable which he did not feel he could show the State Department, but he wanted Bullitt to get the information to the President. (This procedure seemed most irregular and I should think would be frowned upon by Hull). The purport of the note was that Japan had told China that she would be willing to help her provided that Japan would get economic control of all of China north of the Yellow River. In return for this she would help China and, most interesting of all, would join China in fighting the United States silver policy. Hull and I had lunch with the President on Monday and had about ten minutes with him on China. The President tried in a most diplomatic manner to tell Hull that he should either not answer the Chinese note at all or just go thru the motions, but he should tell the Chinese that the United States Treasury Department would be glad to discuss China's monetary difficulties with her. The President repeated this about three times but made absolutely no headway with Hull. In the course of the conversation the President told Hull about Bullitt's conversation of the previous night. Hull seemed surprised as he heard nothing about it. The President said, "in view of the information that Bullitt has brought us, I am now convinced that I am right that somehow or other our silver policy is hurting Japan. I have told this to Henry and other people but nobody seems to know why it should hurt Japan, but I maintain that it does".

The upshot of the conversation, I believe, is that Hull will go ahead and send the note to China just as it was written the previous week. During the course of the conversation it was pointed out that if we made the suggestion or let it be known that we were willing to join the nine power consortium that there was a very good chance that the other eight powers would combine in protesting against our silver policy. The President felt that it was important that we should avoid at this time sitting down with the eight powers. (Of course the State Department made the suggestion to China to invite the consortium nations to sit down with us and discuss China's monetary and silver policy).

It seemed to me that the President very definite knew what he wanted but that Hull did not get what the President was driving at - or did not want to.

Thursday night I talked to the President on the telephone around seven o'clock and he mentioned the fact that Huey Long had passed a resolution asking for information in regard to Farley's relation with Stewart & Co. and the letting of the N.Y. Post Office annex.

Friday bright and early I called up Ickes and asked him if I could send over Peoples, McReynolds and Opper to look at his files.\* Upon learning that the Postmaster General was away I called up Miss Lehand and told her that Farley was away and I thought that somebody representing him should take a look at Ickes' files. A little later on, the President called me up very much excited and said, "what was the Treasury doing investigating Ickes" ? I said, "I do not understand what you are talking about". Then I explained to him that our people over there were simply looking at the files and I felt that somebody should look at them from Farley's office. The President then calmed down and said it was a good idea. He said, "call up Bill Hause and tell me to go over". I did this and Hause said, "how should I do it". I said, "call up Ickes and tell him that you are coming over". "Supposing he refuses to let me see the files", said Hause and I replied, "go to the White House and have them order him to do this".

At noon I went over to the White House to have Dr. McIntyre treat my nose and while there I dropped in to see Miss Lehand. I asked her what had been the matter with the President when he spoke to me over the telephone - why he was so angry. She said, he misunderstood me and I told him most emphatically that he had misunderstood me when I conveyed your message to him. Miss Lehand said she thought it was terrible to have Ickes investigating Farley.

On returning to the office I saw the men whom I had sent over and they felt from reading the files that Ickes had been investigating the Procurement Division as much or more than he had been investigating Farley and they copied a letter written on December 27th which reads as follows:

Letter attached (p.30)

memo from Opper attached 1/2/47

L. Buckley

February 16, 1938

MEMORANDUM FOR THE FILES:

On February 15, 1938, at about 10:30 A. M., Mr. Mc-Reynolds, Admiral Peoples, Mr. Laws and I called at the Interior Department for the purpose of inspecting certain records in the Division of Investigation connected with the New York building projects - particularly the New York Post Office Annex.

We first went to Mr. Ickes' office, who immediately referred us to Mr. Glavis. Mr. Glavis stated that there were a number of files involved in this case which he had examined very hurriedly, but that there were apparently only two in which we would be interested, saying that the remainder were all complaints connected with labor violations. These two files were examined and I made some notes which are attached. He also showed us a memorandum prepared by Mr. Dresser of PWA, describing a conference in Secretary Morgenthau's office on January 26, 1934, copy of which I obtained and delivered to the Secretary.

Mr. Glavis was asked, with reference to the letter of December 27, 1934 (copy attached), whether any report had been received. He stated "No", that was all there was in the file, and he assumed that they had not found anything of sufficient importance to report. He was asked further whether, if this was a fact, they would not have reported to this effect, whereupon he stated that he would get in touch with Special Agent Bailey to see whether a report had come in. On being called back a few minutes later by Mr. Bailey, he stated to us that no report had come in. There was nothing in the file indicating that anyone had ever withdrawn the instructions to proceed with the investigation.

Admiral Peoples asked Mr. Glavis whether he had investigated the Procurement Division. He said "No". The Admiral then asked whether he had investigated the General Builders' Supply Company or Farley. He said "No", that the company was a very general supplier of all building materials, and that it would not have been significant if materials had been bought from it.

After we had been with Mr. Glavis for some time, two representatives of the Post Office Department came in - Messrs. Howes and Purdum. Mr. Howes asked Mr. Glavis point blank whether they had investigated Mr. Farley. Mr. Glavis said "No". Mr. Howes referred Mr. Glavis to the World-Telegram articles which stated that Mr. Glavis told a reporter they were making an investigation. Mr. Glavis said that was untrue. Mr. Howes asked whether the statement had ever been denied. Mr. Glavis said "No" - that he could not deny all the statements that appeared in the newspapers.

(Initialed) CVO

January 25, 1934. \* sep 304

## MEMORANDUM TO THE ADMINISTRATOR:

At the meeting this morning in Secretary Morgenthau's office there were present: Secretary Morgenthau, Assistant Secretary Robert, Mr. Martin, Mr. Oliphant, Mr. McReynolds, Postmaster General Farley, Fourth Assistant Postmaster Gen-Silliman Evans, Senator Tydings and myself.

The subject of discussion was the award of contract for the New York Post Office Annex, bids for which were recently opened, the same being submitted for a base bid which would deliver the building completed and an alternate bid which called for the 4th and 5th floors not to be finished. The Driscoll Company was low on the base bid and the Stewart Company was low on the alternate bid or bid no. 2.

Senator Tydings insisted that the Stewart Company figures as he had compiled them would ultimately deliver the building at less cost. This question was contested by Mr. Robert and Mr. Martin. However, Senator Tydings further insisted that the Driscoll Company never were bonafide bidders and that they had never qualified under the N.R.A. ruling until 48 hours after they had discovered that they were low bidders, when bids were received prior to December 27.

The question of Comptroller General McCarl's ruling and also the opinion of the attorney General were discussed. Mr. Oliphant explained to Senator Tydings that the disbursing officer would have been obliged to forfeit his bond had he allowed any funds to be disbursed other than in accordance with McCarl's ruling.

Senator Tydings volunteered the information that he knew McCooley was interested in seeing Driscoll get that contract and that McCooley's political henchmen were active in Washington, and when pressed for more explicit explanation of his statement, he replied that that was generally known but did not mention any names. Then he took up the correspondence regarding this project as it took place between the Post Office Department and the Treasury. It appears that a letter was written by Silliman Evans advising the Treasury Department that they did not desire the 4th and 5th floors of the building finished, which would under the bidding give the contract to Stewart. Several days after, this letter was recalled and another letter was written by the Post Office Department advising the Treasury that they desired the building completed in its entirety, which would give the contract to Driscoll. Senator Tydings asked for a copy of the first letter and he was informed by Silliman Evans that it had been destroyed. No copies were kept. Mr. Robert was asked if he had made a copy of that letter and he replied that he had not. The Senator pointed out that destroying letters was a dangerous practice,

and in this case very significant in that the Post Office Department had elected to make a decision as to how much building they would use or desire for their facilities after the bids were received and opened.

Mr. Morgenthau asked Mr. Robert who advised him to return the first letter and he said that <sup>was</sup> all arranged over the telephone between himself and Mr. Evans. Subsequently, the second letter was written asking for the completed building. Senator Tydings was aware of the contents of both of these letters and I would not be surprised if he had copies of them himself although he did not volunteer this information.

The letters in question were discussed and no real reason was advanced by anybody for the destruction of this first letter, simply trying to excuse the act by the fact that some other decision had been reached. Then, in turn, the question of how to proceed from here on was launched. It was decided to re-advertise for a completed building without any alternates whatsoever. Mr. Morgenthau was told the Government accepted bids on the basis that any and all bids could be rejected if the Government so chose. Acting on this reservation, the bidding is to be reopened.

After the meeting, Secretary Morgenthau asked me what inference I placed on Senator Tydings' remarks that McCooney's henchmen were busy in Washington working for Driscoll's best interests. It is plain as to what he meant but he mentioned no names. I told the Secretary that contractors of that sort usually sought to get advance information as to what alternate bid would be favored in any advertisement when alternates are called for, and that, in my opinion, it was dangerous because of the fact that alternate bids are misinterpreted, they are manipulated to swing jobs in certain directions many times and contractors of the type who are interested in this project always endeavor to get advance information in regard to the alternate which would be favored. Their main figure then is so set up to blend with the alternate proposed. This means in many cases the substitution of materials other than those called for, and I told him further that probably the best procedure in any case, in my opinion, was to ask for bids without alternates and eliminate the possibility of any such practice.

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This memorandum prepared by Mr. F.J.C. Dresser, Associate Director of Housing, with Headquarters at Chicago.

At Cabinet, Feb. 15th, when it came to my turn to speak I first brought up the question of our getting a release on the \$250,000 for Coast Guard for North Island, California which the President told Ickes to give me. Then he asked me if I had anything else and I said, do you want me to bring up the question in regard to the investigation of the N.Y. Post Office and Stewart & Co. and he said, yes, and then I read him the December 27th letter signed by Glavis. I then got very excited and demanded of Ickes what he meant by investigating the Procurement Division eleven months after the contract had been let and the matter settled. He denied all knowledge of the letter so I said to him very forcefully, "didn't you say a couple of weeks ago at Cabinet that you had never investigated any Cabinet officer and that every report of Glavis went across your desk?" He said yes. Then he said, "of course, I will have to take the blame for this letter". In the midst of these conversations the President handed me a note which read as follows:

You must not talk in such a tone of voice to another Cabinet officer

but he never let the note out of his hand and after I read it he tore it up. He also pounded the desk very angrily and said, Ickes, Farley and Morgenthau must get together in this matter. I cannot have three Cabinet members disagreeing. You must get together in this matter. When I kept insisting that Ickes had been investigating the Treasury the President again turned on me very angrily and said, "don't you understand, Henry, that Harold said he knows nothing about it and that ends the matter". He said, "don't you understand" and I replied, "I am afraid I am very dull, Mr. President, I do not understand" - and he answered, "you must be very dull".

The point that I was trying to get over was that in the absence of Farley, Ickes had been investigating both the Post Office and the Treasury and that he was not telling the truth. On returning to the office I wrote the following letter to Ickes and Farley:

Dear Mr. Ickes:

Carrying out the wishes of the President, expressed at the Cabinet Meeting today, I suggest that you, Mr. Farley and I get together at 10:30 Monday morning, Feb. 18th, in my office and discuss the letting of the contract for the N.Y. Post Office Annex.

Will you please bring with you Mr. Glavis and his report of March 16th and 17th together with any other material which you have in any way bearing on this matter. I am attaching herewith copy of the letter which I am today writing to Mr. Farley.

Dear Jim:

I am enclosing herewith a copy of the letter which I am today sending to Mr. Ickes, which speaks for itself.

I suggest that you come to my office at 10:30 Monday morning and bring with you the Assistant Postmaster General who is in charge of Post Office sites together with any material which you have bearing in any way on this matter.

At 8 o'clock I called up Louis Howe and told him that I thought there was a danger that Ickes might send his report up on the hill the first thing Saturday morning and I thought Louis ought to do something about it, whereupon Louis argued with me that I should do something about it and I told him that I sent the letter and I would have someone call Ickes in the morning to see if he would come to my office on Monday.

At 10 o'clock the President called me, his mood entirely changed. He was most sympathetic and kind over the phone. I responded to his mood and we must have talked for about fifteen minutes. He again brought up the question that Ickes claimed he knew nothing about the Dec. 27th letter and I replied by telling the President that I still thought Ickes was not telling the truth. The President ended the conversation by saying, "stop worrying, Henry, go to bed and get a good night's rest". I felt that his telephone conversation came as near to being an apology as the President could give you.

Sunday, Feb. 17th, at 4 o'clock I had at my house Peoples, Oliphant, McReynolds and Oppen. They had prepared a synopsis of the letting of the contract to Stewart and another synopsis of the exchange of letters between Peoples and Glavis in regard to the N.Y. Post Office Annex and the Court House. Oppen had searched high and low on Saturday for the files from Jan. 1st to 15th in regard to the N.Y. Post Office Annex and late Saturday night he found them in Asst. Secretary Robert's office files. Amongst these files of Roberts was a letter from the Vice President of Stewart & Co. to Farley which upset us considerably. (Both are attached herewith).

Farley called me at about 3 o'clock Sunday afternoon upon returning from Florida to thank me for what I had done during his absence. At the time that he called me I did not know about the Dear Jim letter from Stewart & Co. After the others left and Mrs. Klotz had arrived we talked the matter over and I called up the President and said, "I do not know what to do about this letter which has just turned up in Robert's file". He said, Farley is coming here at 5:30, you come down at ten minutes to six. I did, and stayed there over an hour. We went over the whole matter

and I have never seen Farley so nervous. The conversation centered on two things first, the Dear Jim letter and second, the Dresher memorandum of the meeting which took place in my office on January 22d. Farley said "in regard to the Dear Jim letter - can't that be taken out of the files and destroyed" and the President said emphatically no. In regard to the Dresher memorandum Farley said "must that memo go up on the hill - can it not be considered just an office memorandum". The President said he would think it over. I then reminded the President that he said he would have Ickes, Farley and myself Monday morning and I consider this most important as I felt that if we met in my office we would get nowhere. Next morning at 10 o'clock Ickes, Farley and I met with the President in the Oval Room on the second floor. We were with him for about an hour. I took very little part in the conversation as I did not want to give Ickes the impression that I was fearful of being investigated myself. The President took my memorandum of Stewart and Company and went over the whole thing step by step. He decided that as regard the Dresher memorandum he would have to go up on the hill, especially as Colonel Halsey had called up Ickes on Saturday to tell him that they wanted this memorandum. The President said to Ickes "you must find out how Halsey found that that memorandum existed". He said "send for Dresher and ask him to explain some of the statements that he made in that memorandum." When we came to the December 27th letter Ickes then read a copy of a letter from Bailey to Greer and I think from Greer to Bailey.

Ickes then said "well you see that that closed that incident". Then I spoke up for the first time trying to keep my voice moderated and said "Harold, if that file was in my office I would positively consider that the question was not closed and," I said, "who is the Treasury official mentioned in that letter as being investigated". Ickes again repeated "the matter is all settled" so I asked him to read the whole thing over again and the President said "Henry is right - it is not closed" and the President said to Ickes "send for Glavis and Greer and ask them if there is anything still to be investigated and if there is not have them say so."

I then pointed out to the President that there was this big correspondence between Glavis and Peoples in which Glavis had been investigating up to a couple of months ago the Procurement Division and the Court House, pointing out particularly that the Court House had not been built with PWA money. The President then told Ickes that Glavis had no business investigating the Court House but I said "If Glavis has anything about the New York Court House that does not look right I want it." During the whole conference the President directed his conversation at Ickes and put considerable pressure on him to clear up the investigation that he had been making

December 27, 1934

A. D. Bailey, Jr.  
 Sp. Agent in Charge  
 3131 Int. Bldg.  
 Washington, D. C.

Dear Sir:

I transmit herewith for further investigation and report a copy of the adverse report of Sp. Agent Curtis dated Mar. 16-17, relative to the bidding on P.O. Annex, New York, New York, F. P. #5.

It is noted that after PWA allotted funds for this project, the Treasury Department received bids on three occasions. The first two were rejected and the contract was finally awarded to James Stewart & Co.

You are instructed to ascertain why the bids were rejected on two occasions. The division file contains considerable correspondence concerning this case, which correspondence should be examined by the special agent to whom the case is assigned. The completion of this investigation should receive preferred attention.

Very truly yours,

Louis R. Glavis

James Stewart & Co., Inc.  
Contractors

New York Central Building  
230 Park Avenue

Harry D. Watts  
Vice President

New York

MEMORANDUM

Mr. J. C. Stewart phoned me this afternoon that our operator called Driscoll Company operator who stated that she had personally mailed the President's Re-employment agreement, signed by Driscoll on Tuesday October 3rd which was a day after the opening of the bids on the New York Post Office Annex. The instructions to bidders stated that no bids would be accepted from a contractor who had not signed and complied with the provisions of the President's Re-employment Agreement.

The Department of Commerce and the Brooklyn Post Office on the day following the opening of these bids, neither had a record of this agreement having been signed by said Driscoll Company. Mr. Brauer, the Assistant Director of the N. R.A. Division at New York advised me personally that Driscoll had not signed as of October 3rd after a complete search of his records. Today he advised Mr. Stewart that he finds that since then Driscoll's papers to the Department of Commerce had come in. The Post Office at Brooklyn, as late as this afternoon, stated they have received no such papers from Driscoll. The papers submitted to the Department of Commerce bear date of September 29th.

Evidently Driscoll, who returned to New York the night of October 2nd after he was the low bidder, went to the office the next morning signed the papers for the Department of Commerce and mailed them out that night.

Under the conditions of bidding, unless he had signed the President's Re-employment Agreement prior to the time of bidding, the bid is legally out not having qualified as required by the instructions to bidders.

What we want you to do is have the Post Office Inspector or someone in authority force the girl who made the statement that she herself had mailed these instruments, confirm this statement and Driscoll is out. This should be done tonight or the first thing in the morning before Driscoll gets back from Washington.

C O P Y

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James Stewart & Co., Inc.  
CONTRACTORS

New York Central Building  
230 Park Avenue

Harry D. Watts  
Vice President

New York  
October 5, 1933.

Hon. James A. Farley,  
Postmaster General,  
Post Office Department  
Washington, D. C.

Dear Jim:

I am enclosing memorandum relative the Driscoll episode in connection with the bidding of the Post Office Annex in New York as per our conversation of a few minutes ago.

Anything you can do to assist us will be more than appreciated.

Sincerely yours,

(signed) Harry

HDW REO

Sunday night, February 17th, during the course of the conversation the President just pounded his desk and said "My Cabinet has to get along with one another or I will ask them all to get out" and I said "that suits me fine Mr. President but" I said "if you want your Cabinet to get along as well as our people do in the Treasury then you've got to tell Ickes to stop investigating other Cabinet officers and their Departments. If Ickes has any doubts as to how another Cabinet officer or another department is being run he should either tell the head of that department or you and not have his investigating force all over the lot and" I said to the President, "as you are a fair and just person you will have to agree with my statement" - and he did.

Monday when we wound up the conference I said "before Ickes' statement goes up on the hill I think the President and Farley should have a chance to see it" and the President told Ickes that we should have a chance to see it. As I was leaving Ickes asked me whether he could have a copy of the series of the correspondence between Peoples and Glavis and I said "yes". I told Opper to give it to him when I got back to the office.

Tuesday morning I called up Ickes, at the suggestion of Oliphant and Opper, and told him that I thought it was unwise for me to send over the correspondence between Peoples and Glavis at this time because it would become a part of his file and he might then feel it necessary for him to send it on the hill. He agreed with me and I said "I find that we have all of this information in the office anyway and it is unnecessary for you to send it over". I said "as soon as you have finished preparing your memorandum to go on the hill I want to sit down with you Glavis and Peoples and receive any information which your organization may have which may indicate that there was any graft in the Procurement Division, including the New York Court House and Ickes said "fine".

I am not going to leave a stone unturned to make Ickes admit first, that he has been investigating the Procurement Division and second, that there is nothing there but what is honorable and above board.

Henry talking.

Rex  
Tugwell:

Henry, Harry Hopkins, said something to me about you being interested in Gardner Means.

H.M.Jr:

Well I simply said that in the, how shall I put it, the shakeup or whatever you call it that you're having over there that if he wasn't happy or anything I'd like to talk to him.

T:

I see. Well I'll tell you about Gardner. He's got plenty of work to do and - of course I tried to get him in the Treasury you know sometime ago.

HM.Jr:

No I didn't know that.

T:

You don't remember but I spoke to you about him.

H.M.Jr:

Well its kind of slipped my mind.

T:

He really belongs over there.

H.M.Jr:

Yes.

T:

And we've only kept him on here - you see I've got him.

H.M.Jr:

Yes.

T:

When the Treasury was in different hands.

H.M.Jr:

Fine.

T:

He did serve a useful purpose, however. We've got him doing a lot of useful stuff but if you could use him he'd certainly be more ---

H.M.Jr:

Well if - I don't want to go after him, but if he's unhappy and he'd like to come over and talk to me I'd be delighted to see him.

T:

Do you mind if I speak to him first ?

HM.Jr:

Not a bit.

T:

Alright, Henry.

H.M.Jr:

O.K.

February 15, 1935.  
Friday.

Mr. Morgenthau?

H.M.Jr: Yes.

Just a minute.

Hello.

H.M.Jr: Hello - Herbert?

Yes Henry, how are you.

H.M.Jr: Fine. Herbert, What I'm calling you up about is this. I thought you'd want to know it - that Commissioner Mulrooney is not doing anything about the cases that we're sending him. We sent him about 150 cases. of licenses, most of which should be cancelled. The reason he gives is that he is so busy issuing new licenses. When we went to him on this proposition he said he'd give us ten day service. We thought it would be wonderful. I'd much rather not have him know that I'm saying anything to you but what I would like if you would send for him and ask him how that check up in New York City is going along.

Governor Lehman: Well it's funny, Henry, I did talk to him just about four or five days ago, a week ago maybe - Sunday I think it was and at that time I asked him about these - this work and he said that he was cooperating 100% with the federal government.

H.M.Jr: Well he's not.

L: Well I'll check up on it again.

Our cases are over there and I had my man up there yesterday and he said Mulrooney is so busy issuing new licenses that he hasn't been able to handle any of the cases we've sent over to him.

L: I see. Well I'll check up on him. But he certainly gave me very definitely, not only the impression but the assurance that they were cooperating in every way with you, because I want him to do that.

H.M.Jr: Well it may be that he's short of clerical help or something.

L: Well I don't know about that Henry because he didn't say anything.

H.M.Jr: Well you see these things are backing up and it looks bad.

L: Yes sure.

H.M.Jr: Because they think maybe the state government isn't going to cancel these things.

L: Well I'll check up on that right away Henry.

H.M.Jr: I'd appreciate it and would you let us know without bringing me into it?

L: I will. Yes I'll get - I'll have a talk with him next week. He comes up Sunday, I think, or Tuesday or Wednesday and I'll talk to him about other things and this too.

H.M.Jr: I'm planning to come up to the Correspondents' dinner this time.

L: That's fine. Henry, you'll stay at the Mansion of course.

H.M.Jr: I'd love to.

L: Fine.

H.M.Jr: I'd love to

L: Is Ellie coming up too?

H.M.Jr: No.

L: Because Edith is giving a party for the newspaperwomen that night.

H.M.Jr: Oh really.

L: And I know she love to have Elinor.

H.M.Jr: Well I'll tell you. I going to come by aeroplane.

L: I see.

H.M.Jr: And Elinor won't fly in the same plane with me.

L: I see. I saw Elinor yesterday, by the way.

H.M.Jr: Did you?

L: Up at Ithaca.

H.M.Jr: Oh really.

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L: Oh yes.

H.M.Jr: Her train was late this morning so I haven't had a chance to --

L: Well she's alright, she looked fine. I saw her and Mrs. Roosevelt too.

H.M.Jr: Fine.

L: I couldn't get up there for the Farmers' dinner the night before because I had to stick to getting this budget through, but I got up there.

H.M.Jr: You seem to be getting along swell.

L: Everything is going along alright.

H.M.Jr: Thank you Herbert.

L: Where are you at the farm or --

H.M.Jr: I'm at the Treasury.

L: Alright - by by Henry.

February 16, 1935.  
Saturday.

H.M.Jr: Hello - hello - hello Governor, how are you?

Governor  
Horner: I'm fine.

H.M.Jr: The reason I'm calling you up is this. We would like to start a block to block check up in Chicago on places that sell liquor.

H: I see.

H.M.Jr: Hello

H: Yes.

H.M.Jr: And we'd like to do it with the cooperation of the state and municipal authorities.

H: I see.

H.M.Jr: We tried it in New York and we've been running there for two weeks now and we've been very successful.

H: I see.

H.M.Jr: And in New York for every man we've put in they've picked a special squad of detectives and assigned them to us, and we work together and we've been very successful.

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H.M.Jr: Now the man who personally represents me on this is Harold Graves - G-r-a-v-e-s.

H: I'll put that down - Harold Graves.

H.M.Jr: And I'd like to send him out there Monday to see you. I don't know anybody in Chicago so I'd like to start with you, if I might.

H: Alright, and he has authority to go ahead?

H.M.Jr: Yes yes.

H: Well that's alright - if he'll just tell us what he wants. You're going to send your men out?

H.M.Jr: Yes.

H: But you want them accompanied by local detectives?

H.M.Jr: That's the idea. And then with the state liquor board so that when we find violations that they'll be prepared to cancel the licenses.

H: Well that will be fine. We'll be very glad to give you all the assistance we can give you.

H.M.Jr: I know you will.

H: I'd better wait before calling up Chicago.

H.M.Jr: Yes.

H: Until I talk to Mr. Graves.

H.M.Jr: Fine. Will you be in Springfield Monday?

H: Yes I will. I'll be here Monday. Tell him to come right to the State House.

H.M.Jr: Right to the State House.

H: And if I'm not here I'll be over to the Mansion. About what time will he be in?

H.M.Jr: Well I suppose he'll get to Chicago in the morning and then - he said he'd go right to Springfield. I suppose he'll get there about the middle of the morning.

H: There's a way of getting to Springfield right from Washington on the B & O

H.M.Jr: On the B and O

H: But he may want to stop at Washington.

H.M.Jr: No he'll come right to Springfield.

H: Alright. Now if he comes here I'll go right ahead with him.

H.M.Jr: Well I'll have him - he's sitting here - I don't know what time that B & O train gets in.

H: Tell him to look me up just as soon as he gets here and I'll leave word as soon as he comes in he is to see me.

H.M.Jr: Thank you Governor.

H: I'll go right through with it for you.

H.M.Jr: Thank you.

H.M.Jr: Hello?

H: Hello Harry.

H: I'm assuming that the city will go ahead.

H.M.Jr: Well I imagine

H: Otherwise we'll put it through the proper channels.

H.M.Jr: Well we haven't approached the city. We thought we'd rather do it through you and then ask you to help us introduce it to the city authorities.

H: Very well. How are you feeling?

H.M.Jr: I'm fine.

H: Enough to keep you busy down there?

H.M.Jr: Plenty.

H.M.Jr: Well thank you Governor.

H: Goodby.

February 16, 1935.  
Saturday.

H.M.Jr: Of course we've got our government market too.

H: Yes.

H.M.Jr: Hello?

Joe Kennedy: Hello Henry.

H.M.Jr: Good morning.

K: All I want to say is it's a lovely day.

H.M.Jr: Yes.

K: How is everything? Is everything alright?

H.M.Jr: Well everything is terribly jumpy abroad.

K: Is it? The market is - the only thing I've got is the German bonds are weak but the market was rather stagnant.

H.M.Jr: Well the foreign exchanges are very jumpy.

K: Is it?

H.M.Jr: Oh yes.

K: Well you don't think that these fellows, after all this preliminary build up that they've given us, would attempt to put it out until after three o'clock.

H.M.Jr: Well I'm betting that they won't. The people here in the Treasury - some of them disagree with me.

K: That they'll put it out at 12?

H.M.Jr: That's what some of them think.

K: And you don't?

H.M.Jr: I think it will come after three.

K: Yes.

H.M.Jr: But --

K: Well I talked to the boss again about it - the President about it - he had an idea that the only people that could be hurt were the speculators. Of course that wouldn't be if it really started to go bad on us.

H.M.Jr: Of course we've got our government market too.

K: Yes.

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H.M.Jr: Now have you any means of getting information.

K: Well no I haven't got anything more. I understand now that they're going to keep the only phone there for you and for us.

H.M.Jr: Now wait a minute, Oliphant's here - hello?

K: Yes Henry.

H.M.Jr: Herman Oliphant said that he's assigned Laylin and he's going up there with one of your men and they're going to stick together.

K: That's it - Johnny Burns.

H.M.Jr: Johnny Burns.

K: Yes.

H.M.Jr: What have they got a phone?

K: Yes. They've made arrangements with them so that they can have the only phone.

H.M.Jr: Where does that phone go to? To your office?

K: No it will go - it can go right directly to you. You can have it anywhere you want it to go but what good will it do you or me. We won't know what the decision is until he finishes it.

H.M.Jr: No.

K: I mean won't you want to sit down and won't Herman want to sit down and read what it really says before he can tell whether it's right or wrong or --

H.M.Jr: Well personally I agree with Herman here. I think that that phone ought to go to you rather than to us.

K: Alright.

H.M.Jr: After all I mean

K: I mean we're to place it so it'll get to Howe. There's no question about that.

H.M.Jr: Well I mean it's the logical thing. It seems to be the logical place for it.

K: Well Henry, I'll tell you what I'll do. We'll keep it open to the boys and then I'll get you on the other phone. Are you going to be at the White House?

H.M.Jr: Yes I'll be in the Cabinet Room and I'll have the White House phone.

K: Alright. Well that goes right to my desk and I'll call you right on that one.

H.M.Jr: Isn't that the best way?

K: Alright. That's alright. That's fine and then, if you want, I'll come right over and then you can decide what we'd better do.

H.M.Jr: Well you tell your fellow to have the phone hooked up to you.

K: Alright Henry.

H.M.Jr: O.K.

K: O.K.

February 18, 1935.  
Monday.

I remember at the other end of the phone and he said that was all right. I remember it was about 4.00. I said that I thought we should sell some, and then called down to the floor and of the table and Blumenthal said very enthusiastically not to sell anything - let it go up higher and I said, better than a profit while we can and the President nodded his head - so I told Blumenthal to sell Sterling every time it went up a little bit.

Feb. 18, 1935

The following was dictated about 3 weeks later

Today the Gold Decision was handed down. Oliphant, Mrs. Klotz, Miss Reynolds and I walked over to the Cabinet Room. I had talked on the telephone to the Attorney General to find out if he was going to join us but he seemed to think he would stay in his own office. I think he felt that because the President did not ask him to come personally that it was beneath his dignity to join us. I sat in my usual chair, Mrs. Klotz sat in the Secretary of State chair, Oliphant in the chair of the Sec. of War and Miss Reynolds in Roper's chair. I had had a telephone put in at the end of the table away from the President and Miss Reynolds sat there with the phone connected to the "gold room" in the Treasury. I spoke to Miss Lehand and asked her if the President's wheel chair was handy and if we got word that there would be a decision would she rush in and tell the President and get him to come into our room. She said she would and a few minutes past twelve Miss Reynolds got a flash over the U.P. ticker that the court had started to read the decision. I rushed into Missy's office, told her to get the President and it seemed like less than one minute he came in smiling and took his regular place.

There was a telephone at his end of the table which I put in a year ago when we had been in the Cabinet room with him on February 1st. The phone at our end of the table rang and it was Joe Kennedy that he had gotten word that the decision was coming. I told him that we had already gotten word. My arrangement with Kennedy was that as he got word from his men who had a phone in the Supreme Court that he should phone me. I felt the President would get a greater kick out of it if he talked to Kennedy direct so from then on I turned the phone over to him.

McIntyre and Early and Miss Lehand constantly hovered around and after a while, to my surprise, Ray Mcley dropped in. In the midst of the excitement as we were getting word over the telephone Missy asked the President whether she could find out what her gold stock was doing. I think she was in earnest and the President told her quite firmly "no". McIntyre sat down next to me and said, "Mrs. Jimmy Moffett certainly is cleaning up because she has been buying stocks very heavily.

I spoke to Lochhead at the other end of the room and he said that Sterling was up. I remember it was about 4.88. I said that I thought we should sell some, and then called down to the other end of the table and Oliphant said very emphatically and very excitedly - "no" - let it go up higher and I said, better take a profit while we can and the President nodded his head - so I told Lochhead to sell Sterling every time it went up a little bit.

Subsequently history proves that I am right and I am only sorry now that we could not have sold more.

As the decision came over the phone we would have general discussion and I was interested to see from the President's questions that he was not really familiar with the case any more than I was and he had to get Oliphant to interpret each decision for him. We were in the Cabinet Room all together about an hour - the atmosphere was very jolly - the President was very natural, laughing and smiling practically all the time. It certainly was one of the big moments of my life and it was an experience to be with him.

Monday being my lunch date we adjourned to his office and to my surprise he had Cordell Hull there to discuss the proposed Chinese note and we never got to the note until about three o'clock as all thru lunch the discussion was on the court decision. At about 2 o'clock the Attorney General came in very much pleased with himself and taking it more or less as a great personal victory. He had not had lunch and the President ordered lunch for him. Later we were joined by Stanley, Asst. Attorney General and Oliphant. Just before leaving we took up the Chinese note and the President in a very nice but quite firm manner told Hull that he did not want him to send the note as drafted because in this note it said that we would be glad to join the other nations in conferring with China in regard to a loan to her. The President said that this should be treated as a monetary matter and should be handled by the Treasury. The President seemed to make no impression on Hull.

74TH CONGRESS }  
1st Session }

SENATE

{ DOCUMENT  
No. 21 }

# GOLD CLAUSES IN OBLIGATIONS

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## OPINIONS

OF THE

SUPREME COURT OF THE UNITED STATES

AND THE

DISSENTING OPINIONS

IN THE CASES QUESTIONING THE VALIDITY OF THE JOINT  
RESOLUTION OF CONGRESS OF JUNE 5, 1933, WITH RE-  
SPECT TO THE "GOLD CLAUSES" IN OBLIGATIONS.



UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1935

## GOLD CLAUSES IN OBLIGATIONS

## OPINIONS

## SUPREME COURT OF THE UNITED STATES

SUBMITTED BY MR. CONNALLY

IN THE SENATE OF THE UNITED STATES,  
February 15 (calendar day, Feb. 18), 1935.

Ordered, That the opinions of the Supreme Court of the United States, together with the dissenting opinions, delivered February 18, 1935, in the cases questioning the validity of the Joint Resolution of Congress of June 5, 1933, with respect to the "gold clauses" in obligations, be printed as a Senate document.

Attest:

EDWIN A. HALSEY,  
Secretary.

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WASHINGTON, D. C.  
1935

## SUPREME COURT OF THE UNITED STATES

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**SUPREME COURT OF THE UNITED STATES**

**Nos. 270, 471 and 472.—OCTOBER TERM, 1934.**

**Norman C. Norman, Petitioner,**  
**The Baltimore and Ohio Railroad Company.**

On Writ of Certiorari to the Supreme Court of the State of New York.

**The United States of America, Reconstruction Finance Corporation, et al., Petitioners,**

**471 Bankers Trust Company and William H. Bixby, Trustees.**

On Writs of Certiorari to the United States Circuit Court of Appeals for the Eighth Circuit.

**The United States of America, Reconstruction Finance Corporation, et al., Petitioners,**

**472 Bankers Trust Company and William H. Bixby, Trustees.**

Mr. Chief Justice Hughes delivered the opinion of the Court. These cases present the question of the validity of the Joint Resolution of the Congress, of June 5, 1933, with respect to the "gold clauses" of private contracts for the payment of money.

This Resolution, the text of which is set forth in the margin,<sup>1</sup> declares that "every provision contained in or made with respect to

**JOINT RESOLUTION** To secure uniform value to the coins and currencies of the United States. Whereas the holding of gold affects the public interest, and are therefore subject to proper regulation and control; and Whereas the existing emergency has disclosed that provisions of obligations which purport to give the holder a right to receive payment in gold or a particular kind of coin or currency of the United States, or in an amount in money of the United States measured thereby, obstruct the power of the Congress to regulate the value of the money of the United States, and are inconsistent with the declared policy of the Congress to maintain in all times the equal power of every dollar, coined or issued by the United States, in the market and in the payment of debts, now, hereafter, be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that no provision shall be made with respect to any obligation which purports to give the holder a right to receive payment in gold or a particular kind of coin or currency, or in an amount in money of the United States measured thereby, intended to be against public policy, and no such provision shall be enforceable with respect to any obligation heretofore incurred. Every obligation, heretofore or hereafter incurred, in any such provision contained therein or made with respect thereto, shall be enforceable only in the payment of the dollar in any coin or currency which at the time of payment legal tender laws shall not and is not declared to be legal tender.

to any obligation which purports to give the obligee a right to require payment in gold or a particular kind of coin or currency, or in an amount in money of the United States measured thereby" is "against public policy". Such provisions in obligations thereafter incurred are prohibited. The Resolution provides that "Every obligation, heretofore or hereafter incurred, whether or not any such provision is contained therein or made with respect thereto, shall be discharged upon payment, dollar for dollar, in any coin or currency which at the time of payment is legal tender for public and private debts".

In No. 270, the suit was brought upon a coupon of a bond made by the Baltimore and Ohio Railroad Company under date of February 1, 1930, for the payment of \$1,000 on February 1, 1960, and interest from date at the rate of 4% per cent. per annum, payable semi-annually. The bond provided that the payment of principal and interest "will be made . . . in gold coin of the United States of America of or equal to the standard of weight and fineness existing on February 1, 1930". The coupon in suit, for \$22.50, was payable on February 1, 1934. The complaint alleged that on February 1, 1930, the standard weight and fineness of a gold dollar of the United States as a unit of value "was fixed to consist of twenty-five and eight-tenths grains of gold, nine-tenths fine", pursuant to the Act of Congress of March 14, 1900 (31 Stat. 45); and that by the Act of Congress known as the "Gold Reserve Act of 1934" (January 30, 1934, 48 Stat. 337), and by the order of the President under that Act, the standard unit of value of a gold dollar of the United States "was fixed to consist of fifteen and five-twenty-firsts grains of gold, nine-tenths fine", from and after January 31, 1934. On presentation of the coupon, defendant refused to pay the amount in gold, or the equivalent of gold in legal tender of the United States which was alleged to be, on February 1, 1934, according to the standard of weight and fineness existing on February 1, 1930, the sum of \$38.10, and plaintiff demanded judgment for that amount.

Defendant answered that by Acts of Congress, and, in particular, by the Joint Resolution of June 5, 1933, defendant had been prevented from making payment in gold coin "or otherwise than dollar for dollar, in coin or currency of the United States (other than gold coin and gold certificates)" which at the time of payment constituted legal tender. Plaintiff, challenging the validity of the Joint Resolution under the Fifth and Tenth Amendments, and Article I, Section 1, of the Constitution of the United States, moved to strike the defense. The motion was denied. Judgment was entered for plaintiff for

is legal tender for public and private debts. Any such provision contained in any law authorizing obligations to be issued by or under authority of the United States, is hereby repealed, but the repeal of any such provision shall not invalidate any other provision or authority contained in such law.

(v) As used in this resolution, the term "obligation" means an obligation (including every obligation of and to the United States, excepting currency) payable in money of the United States; and the term "coin or currency" means coin or currency of the United States, including Federal Reserve notes and circulating notes of Federal Reserve banks and national banking associations.

Sec. 2. The last sentence of paragraph (1) of subsection (b) of section 45 of the Act entitled "An Act to relieve the existing national economic emergency by increasing agricultural purchasing power, to raise revenue for extraordinary expenses incurred by reason of such emergency, to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other purposes," approved May 15, 1933, is amended to read as follows:

"All coins and currencies of the United States (including Federal Reserve notes and circulating notes of Federal Reserve banks and national banking associations), certificates or receipts issued or issued, shall be legal tender for all debts, public and private, public charges, taxes, duties, and dues, except that gold coins, when below the standard weight and limit of tolerance provided by law for the single piece, shall be legal tender only at valuation in proportion to their actual weight."

Approved, June 4, 1933, 240 p. m.

\$22.50, the face of the coupon, and was affirmed upon appeal. The Court of Appeals of the State considered the federal question and decided that the Joint Resolution was valid. 265 N. Y. 37. This Court granted a writ of certiorari, October 8, 1934.

In Nos. 471 and 472, the question arose with respect to an issue of bonds, dated May 1, 1903, of the St. Louis, Iron Mountain & Southern Railway Company, payable May 1, 1933. The bonds severally provided for the payment of "One Thousand Dollars gold coin of the United States of the present standard of weight and fineness", with interest from date at the rate of four per cent. per annum, payable "in like gold coin semi-annually". In 1917, Missouri Pacific Railroad Company acquired the property of the obligor subject to the mortgage securing the bonds. In March, 1933, the United States District Court, Eastern District of Missouri, approved a petition filed by the latter company under Section 77 of the Bankruptcy Act. In the following December, the trustees under the mortgage asked leave to intervene, seeking to have the income of the property applied against the mortgage debt and alleging that the debt was payable "in gold coin of the United States of the standard of weight and fineness prevailing on May 1, 1903." Later, the Reconstruction Finance Corporation and the United States, as creditors of the debtor, filed a joint petition for leave to intervene, in which they denied the validity of the gold clause contained in the mortgage and bonds. Leave to intervene specially was granted to each applicant on April 5, 1934, and answers were filed. On the hearing, the District Court decided that the Joint Resolution of June 5, 1933, was constitutional and that the trustees were entitled, in payment of the principal of each bond, to \$1,000 in money constituting legal tender. Decree was entered accordingly and the trustees (respondents here) took two appeals to the United States Circuit Court of Appeals.\* While these appeals were pending, this Court granted writs of certiorari, November 5, 1934.

The Joint Resolution of June 5, 1933, was one of a series of measures relating to the currency. Those measures disclose not only the purposes of the Congress but also the situations which existed at the time the Joint Resolution was adopted and when the payments under the "gold clauses" were sought. On March 6, 1933, the President, stating that there had been "heavy and unwarranted withdrawals of gold and currency from our banking institutions for the purpose of hoarding" and "extensive speculative activity abroad in foreign exchange" which had resulted "in severe drains on the Nation's stocks of gold", and reciting the authority conferred by Section 5 (b) of the Act of October 6, 1917 (40 Stat. 411), declared "a bank holiday" until March 9, 1933. On the same date, the Secretary of the Treasury, with the President's approval, issued instructions to the Treasurer of the United States to make payments in gold in any form only under license issued by the Secretary.

On March 9, 1933, the Congress passed the Emergency Banking Act. 48 Stat. 1. All orders issued by the President or the Secretary of the Treasury since March 4, 1933, under the authority conferred by Section 5 (b) of the Act of October 6, 1917, were confirmed. That

\* One appeal was allowed by the District Judge and the other by the Circuit Court of Appeals.

section was amended so as to provide that during any period of national emergency declared by the President, he might "investigate, regulate or prohibit", by means of licenses or otherwise, "any transactions in foreign exchange, transfers of credit between or payments by banking institutions as defined by the President, and export, hoarding, melting, or earmarking of gold or silver coin or bullion or currency, by any person within the United States or any place subject to the jurisdiction thereof". The Act also amended Section 11 of the Federal Reserve Act (39 Stat. 752) so as to authorize the Secretary of the Treasury to require all persons to deliver to the Treasurer of the United States "any or all gold coin, gold bullion, and gold certificates" owned by them, and that the Secretary should pay therefor "an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States".

By Executive Order of March 10, 1933, the President authorized banks to be reopened, as stated, but prohibited the removal from the United States, or any place subject to its jurisdiction, of "any gold coin, gold bullion, or gold certificates, except in accordance with regulations prescribed by or under license issued by the Secretary of the Treasury". By further Executive Order of April 5, 1933, forbidding hoarding, all persons were required to deliver, on or before May 1, 1933, to stated banks "all gold coin, gold bullion and gold certificates", with certain exceptions, the holder to receive "an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States". Another Order of April 20, 1933, contained further requirements with respect to the acquisition and export of gold and to transactions in foreign exchange.

By Section 43 of the Agricultural Adjustment Act of May 12, 1933 (48 Stat. 51), it was provided that the President should have authority, upon the making of prescribed findings and in the circumstances stated, "to fix the weight of the gold dollar in grains nine tenths fine and also to fix the weight of the silver dollar in grains nine tenths fine at a definite fixed ratio in relation to the gold dollar at such amounts as he finds necessary from his investigation to stabilize domestic prices or to protect the foreign commerce against the adverse effect of depreciated foreign currencies", and it was further provided that the "gold dollar, the weight of which is so fixed, shall be the standard unit of value", and that "all forms of money shall be maintained at a parity with this standard", but that "in no event shall the weight of the gold dollar be fixed so as to reduce its present weight by more than 50 per centum".

Then followed the Joint Resolution of June 5, 1933. There were further Executive Orders of August 28 and 29, 1933, October 25, 1933, and January 11 and 15, 1934, relating to the hoarding and export of gold coin, gold bullion and gold certificates, to the sale and export of gold recovered from natural deposits, and to transactions in foreign exchange, and orders of the Secretary of the Treasury, approved by the President, on December 28, 1933, and January 15, 1934, for the delivery of gold coin, gold bullion and gold certificates to the United States Treasury.

On January 30, 1934, the Congress passed the "Gold Reserve Act of 1934" (48 Stat. 337) which, by section 13, ratified and confirmed all the actions, regulations and orders taken or made by the President and the Secretary of the Treasury under the Act of March 9, 1933, or

under Section 43 of the Act of May 12, 1933, and, by section 12, with respect to the authority of the President to fix the weight of the gold dollar, provided that it should not be fixed "in any event at more than 60 per centum of its present weight". On January 31, 1934, the President issued his proclamation declaring that he fixed "the weight of the gold dollar to be 15 5/21 grains nine tenths fine", from and after that date.

We have not attempted to summarize all the provisions of these measures. We are not concerned with their wisdom. The question before the Court is one of power, not of policy. And that question touches the validity of these measures at but a single point, that is, in relation to the Joint Resolution denying effect to "gold clauses" in existing contracts. The Resolution must, however, be considered in its legislative setting and in the light of other measures *in pari materia*.

*First. The interpretation of the gold clauses in suit.* In the case of the *Baltimore and Ohio Railroad Company*, the obligor considers the obligation to be one "for the payment of money and not for the delivery of a specified number of grains or ounces of gold"; that it is an obligation payable in money of the United States and not less so because payment is to be made "in a particular kind of money"; that it is not a "commodity contract" which could be discharged by "tender of bullion". At the same time, the obligor contends that, while the Joint Resolution is constitutional in either event, the clause is a "gold coin" and not a "gold value" clause; that is, it does not imply "a payment in the 'equivalent' of gold in case performance by payment in gold coin is impossible". The parties, runs the argument, intended that the instrument should be negotiable and hence it should not be regarded as one "for the payment of an indeterminate sum ascertainable only at date of payment". And in the reference to the standard of weight and fineness, the words "equal to" are said to be synonymous with "of".

In the case of the bonds of the *St. Louis, Iron Mountain & Southern Railway Company*, the Government urges that by providing for payment in gold coin the parties showed an intention "to protect against depreciation of one kind of money as compared with another, as for example, paper money compared with gold, or silver compared with gold"; and, by providing that the gold coin should be of a particular standard, they attempted "to assure against payment in coin of lesser gold content". The clause, it is said, "does not reveal an intention to protect against a situation where gold coin no longer circulates and all forms of money are maintained in the United States at a parity with each other"; apparently, "the parties did not anticipate the existence of conditions making it possible and illegal to procure gold coin with which to meet the obligations". In view of that impossibility, asserted to exist both in fact and in law, the Government contends that "the present debtor would be excused, in an action on the bonds, from the obligation to pay in gold coin," but, "as only one term of the promise in the gold clause is impossible to perform and illegal", the remainder of the obligation should stand and thus the obligation "becomes one to pay the stated number of dollars".

The bondholder in the first case, and the trustees of the mortgage in the second case, oppose such an interpretation of the gold clauses as

inadequate and unreasonable. Against the contention that the agreement was to pay in gold coin if that were possible, and not otherwise, they insist that it is beyond dispute that the gold clauses were used for the very purpose of guarding against a depreciated currency. It is pointed out that the words "gold coin of the present standard" show that the parties contemplated that when the time came to pay there might be gold dollars of a new standard, and, if so, that "gold coin of the present standard" would pass from circulation; and it is taken to be admitted, by the Government's argument, that if gold coins of a lesser standard were tendered, they would not have to be accepted unless they were tendered in sufficient amount to make up the "gold value" for which, it is said, the contract called. It is insisted that the words of the gold clause clearly show an intent "to establish a measure or standard of value of the money to be paid if the particular kind of money specified in the clause should not be in circulation at the time of payment". To deny the right of the bondholders to the equivalent of the gold coin promised is said to be not a construction of the gold clause but its nullification.\*

The decisions of this Court relating to clauses for payment in gold did not deal with situations corresponding to those now presented. *Bronson v. Rodes*, 7 Wall. 229; *Butler v. Horwitz*, 7 Wall. 258; *Dewing v. Sears*, 11 Wall. 379; *Trebilcock v. Wilson*, 12 Wall. 687; *Thompson v. Butler*, 95 U. S. 694; *Gregory v. Morris*, 96 U. S. 619. See, also, *The Vaughan and Telegraph*, 14 Wall. 258; *The Emily Souder*, 17 Wall. 666. The rulings, upholding gold clauses and determining their effect, were made when gold was still in circulation and no act of the Congress prohibiting the enforcement of such clauses had been passed. In *Bronson v. Rodes*, *supra*, p. 251, the Court held that the legal tender acts of 1862 and 1863, apart from any question of their constitutionality, had not repealed or modified the laws for the coinage of gold and silver or the statutory provisions which made those coins a legal tender in all payments. It followed, said the Court, that "there were two descriptions of money in use at the time the tender under consideration was made, both authorized by law, and both made legal tender in payments. The statute denomination of both descriptions was dollars; but they were essentially unlike in nature". Accordingly, the contract of the parties for payment in one sort of dollars, which was still in lawful circulation, was sustained. The case of *Trebilcock v. Wilson*, *supra*, was decided shortly after the legal tender acts had been held valid. The Court again concluded (pp. 695, 696) that those acts applied only to debts which were payable in money generally, and that there were "according to that decision, two kinds of money, essentially different in their nature, but equally lawful". In that view, said the Court, "contracts payable in either, or for the possession of either, must be equally lawful, and, if lawful, must be equally capable of enforcement".

\*As illustrating the use of such clauses as affording a standard or measure of value, couched rather in Article 201 of the Treaty of Commerce with respect to the monetary obligations of Germany which were made payable in gold coins of several countries, with the stated purpose that the gold coins mentioned "shall be defined as being of the weight and fineness of gold as enacted by law on January 1, 1914". Reference is also made in the construction of the gold clause in the bonds before the House of Lords in *Fret, appellants, and Societa Italiana di Navigazione S.p.A. v. Ederich, respondents* (L. R. [1930] A. C. 151, 172) and to the decision of the Permanent Court of International Justice in the case of the Berlin and Brazilian loans (Publications of the Permanent Court of International Justice, Series A, No. 21(2)) where the bonds provided for payment in gold francs.

In *Trebilcock v. Wilson*, *supra*, where a note was payable "in specie", the Court said (pp. 694, 695) that the provision did not "assimilate the note to an instrument in which the amount stated is payable in chattels; as, for example, to a contract to pay a specified sum in lumber, or in fruit, or grain"; that the terms "in specie" were "merely descriptive of the kind of dollars in which the note is payable, there being different kinds in circulation, recognized by law"; that they meant "that the designated number of dollars in the note shall be paid in so many gold or silver dollars of the coinage of the United States". And in *Thompson v. Butler*, *supra*, pp. 696, 697, the Court adverted to the statement made in *Bronson v. Rodes*, and concluded that "notwithstanding this, it is a contract to pay money, and none the less so because it designates for payment one of the two kinds of money which the law has made a legal tender in discharge of money obligations". Compare *Gregory v. Morris*, *supra*.

With respect to the interpretation of the clauses then under consideration, the Court observed, in *Bronson v. Rodes*, *supra*, p. 250, that a contract to pay a certain number of dollars in gold or silver coins was, in legal import, nothing else than an agreement to deliver a certain weight of standard gold, to be ascertained by a count of coins, each of which is certified to contain a definite proportion of that weight". The Court thought that it was not distinguishable, in principle, "from a contract to deliver an equal weight of bullion of equal fineness". That observation was not necessary to the final conclusion. The decision went upon the assumption "that engagements to pay coined dollars may be regarded as ordinary contracts to pay money rather than as contracts to deliver certain weights of standard gold". *Id.* p. 251.

We are of the opinion that the gold clauses now before us were not contracts for payment in gold coin as a commodity, or in bullion, but were contracts for the payment of money. The bonds were severally for the payment of one thousand dollars. We also think that, fairly construed, these clauses were intended to afford a definite standard or measure of value, and thus to protect against a depreciation of the currency and against the discharge of the obligation by a payment of lesser value than that prescribed. When these contracts were made they were not repugnant to any action of the Congress. In order to determine whether effect may now be given to the intention of the parties in the face of the action taken by the Congress, or the contracts may be satisfied by the payment dollar for dollar, in legal tender, as the Congress has now prescribed, it is necessary to consider (1) the power of the Congress to establish a monetary system and the necessary implications of that power; (2) the power of the Congress to invalidate the provisions of existing contracts which interfere with the exercise of its constitutional authority; and (3) whether the clauses in question do constitute such an interference as to bring them within the range of that power.

*Second.* The power of the Congress to establish a monetary system. It is unnecessary to review the historic controversy as to the extent of this power, or again to go over the ground traversed by the Court in reaching the conclusion that the Congress may make treasury notes legal tender in payment of debts previously contracted, as well as of

those subsequently contracted, whether that authority be exercised in course of war or in time of peace. *Knox v. Lee*, 12 Wall. 457; *Juilliard v. Greenman*, 110 U. S. 421. We need only consider certain postulates upon which that conclusion rested.

The Constitution grants to the Congress power "To coin money, regulate the value thereof, and of foreign coin". Art. I, sec. 8, par. 5. But the Court in the legal tender cases did not derive from that express grant alone the full authority of the Congress in relation to the currency. The Court found the source of that authority in all the related powers conferred upon the Congress and appropriate to achieve "the great objects for which the government was framed"—"a national government, with sovereign powers". *McCulloch v. Maryland*, 4 Wheat. 316, 404-407; *Knox v. Lee*, *supra*, pp. 532, 536; *Juilliard v. Greenman*, *supra*, p. 438. The broad and comprehensive national authority over the subjects of revenue, finance and currency is derived from the aggregate of the powers granted to the Congress, embracing the powers to lay and collect taxes, to borrow money, to regulate commerce with foreign nations and among the several States, to coin money, regulate the value thereof, and of foreign coin, and fix the standards of weights and measures, and the added express power "to make all laws which shall be necessary and proper for carrying into execution" the other enumerated powers. *Juilliard v. Greenman*, *supra*, pp. 439, 440.

The Constitution "was designed to provide the same currency, having a uniform legal value in all the States". It was for that reason that the power to regulate the value of money was conferred upon the Federal Government, while the same power, as well as the power to emit bills of credit, was withdrawn from the States. The States cannot declare what shall be money, or regulate its value. Whatever power there is over the currency is vested in the Congress. *Knox v. Lee*, *supra*, p. 545. Another postulate of the decision in that case is that the Congress has power "to enact that the Government's promises to pay money shall be, for the time being, equivalent in value to the representative of value determined by the coinage acts, or to multiples thereof". *Id.*, p. 553. Or, as was stated in the *Juilliard* case, *supra*, p. 447, the Congress is empowered "to issue the obligations of the United States in such form, and to impress upon them such qualities as currency for the purchase of merchandise and the payment of debts, as accord with the usage of sovereign governments". The authority to impose requirements of uniformity and parity is an essential feature of this control of the currency. The Congress is authorized to provide "a sound and uniform currency for the country", and to "secure the benefit of it to the people by appropriate legislation". *Veazie Bank v. Fenno*, 8 Wall. 533, 549.

Moreover, by virtue of this national power, there attaches to the ownership of gold and silver those limitations which public policy may require by reason of their quality as legal tender and as a medium of exchange. *Ling Su Fan v. United States*, 218 U. S. 302, 310. Those limitations arise from the fact that the law "gives to such coinage a value which does not attach as a mere consequence of intrinsic value". Their quality as legal tender is attributed by the law, aside from their bullion value. Hence the power to coin money includes the power to forbid mutilation, melting and exportation of gold and silver coin,—"to prevent its outflow from the country of its origin". *Id.*, p. 311.

Dealing with the specific question as to the effect of the legal tender acts upon contracts made before their passage, that is, those for the payment of money generally, the Court, in the legal tender cases, recognized the possible consequences of such enactments in frustrating the expected performance of contracts,—in rendering them "fruitless or partially fruitless". The Court pointed out that the exercise of the powers of Congress may affect "apparent obligations" of contracts in many ways. The Congress may pass bankruptcy acts. The Congress may declare war, or, even in peace, pass non-intercourse acts, or direct an embargo, which may operate seriously upon existing contracts. And the Court reasoned that if the legal tender acts "were justly chargeable with impairing contract obligations, they would not, for that reason, be forbidden, unless a different rule is to be applied to them from that which has hitherto prevailed in the construction of other powers granted by the fundamental law". The conclusion was that contracts must be understood as having been made in reference to the possible exercise of the rightful authority of the Government, and that no obligation of a contract "can extend to the defeat" of that authority. *Knox v. Lee*, *supra*, pp. 549-551.

On similar grounds, the Court dismissed the contention under the Fifth Amendment forbidding the taking of private property for public use without just compensation or the deprivation of it without due process of law. That provision, said the Court, referred only to a direct appropriation. A new tariff, an embargo, or a war, might bring upon individuals great losses; might, indeed, render valuable property almost valueless,—might destroy the worth of contracts. "But whoever supposed" asked the Court, "that, because of this, a tariff could not be changed or a non-intercourse act, or embargo be enacted, or a war be declared". The Court referred to the Act of June 28, 1834, by which a new regulation of the weight and value of gold coin was adopted, and about six per cent. was taken from the weight of each dollar. The effect of the measure was that all creditors were subjected to a corresponding loss, as the debts then due "became solvable with six per cent. less gold than was required to pay them before". But it had never been imagined that there was a taking of private property without compensation or without due process of law. The harshness of such legislation, or the hardship it may cause, afforded no reason for considering it to be unconstitutional. *Id.*, pp. 551, 552.

The question of the validity of the Joint Resolution of June 5, 1933, must be determined in the light of these settled principles.

Third. The power of the Congress to invalidate the provisions of existing contracts which interfere with the exercise of its constitutional authority. The instant cases involve contracts between private parties, but the question necessarily relates as well to the contracts or obligations of States and municipalities, or of their political subdivisions, that is, to such engagements as are within the reach of the applicable national power. The Government's own contracts—the obligations of the United States—are in a distinct category and demand separate consideration. See *Perry v. United States*, decided this day.

The contention is that the power of the Congress, broadly sustained by the decisions we have cited in relation to private contracts for the

payment of money generally, does not extend to the striking down of express contracts for gold payments. The acts before the Court in the legal tender cases, as we have seen, were not deemed to go so far. Those acts left in circulation two kinds of money, both lawful and available, and contracts for payments in gold, one of these kinds, were not disturbed. The Court did not decide that the Congress did not have the constitutional power to invalidate existing contracts of that sort, if they stood in the way of the execution of the policy of the Congress in relation to the currency. Mr. Justice Bradley, in his concurring opinion, expressed the view that the Congress had that power and had exercised it. *Knox v. Lee*, *supra*, pp. 566, 567. And, upon that ground, he dissented from the opinion of the Court in *Trebilcock v. Wilson*, *supra*, p. 699, as to the validity of contracts for payment "in specie".<sup>1</sup> It is significant that Mr. Justice Bradley, referring to this difference of opinion in the legal tender cases, remarked (in his concurring opinion) that "of course" the difference arose "from the different construction given to the legal tender acts". "I do not understand", he said, "the majority of the court to decide that an act so drawn as to embrace, in terms, contracts payable in specie, would not be constitutional. Such a decision would completely nullify the power claimed for the government. For it would be very easy, by the use of one or two additional words, to make all contracts payable in specie".

Here, the Congress has enacted an express interdiction. The argument against it does not rest upon the mere fact that the legislation may cause hardship or loss. Creditors who have not stipulated for gold payments may suffer equal hardship or loss with creditors who have so stipulated. The former, admittedly, have no constitutional grievances. And, while the latter may not suffer more, the point is pressed that their express stipulations for gold payments constitute property, and that creditors who have not such stipulations are without that property right. And the contestants urge that the Congress is seeking not to regulate the currency, but to regulate contracts, and thus has stepped beyond the power conferred.

This argument is in the teeth of another established principle. Contracts, however express, cannot fetter the constitutional authority of the Congress. Contracts may create rights of property, but when contracts deal with a subject matter which lies within the control of the Congress, they have a congenital infirmity. Parties cannot remove their transactions from the reach of dominant constitutional power by making contracts about them. See *Hudson Water Co. v. McCarter*, 209 U. S. 349, 357.

This principle has familiar illustration in the exercise of the power to regulate commerce. If shippers and carriers stipulate for specified rates, although the rates may be lawful when the contracts are made, if Congress through the Interstate Commerce Commission exercises its authority and prescribes different rates, the latter control and override inconsistent stipulations in contracts previously made. This is so, even if the contract be a charter granted by a State and limiting rates, or a contract between municipalities and carriers. *New York v. United States*, 257 U. S. 591, 600, 601; *United States v.*

<sup>1</sup> Mr. Justice Miller also dissented in *Trebilcock v. Wilson*, 15 Wall., pp. 699, 700, upon the ground "that a contract for gold dollars, in specie, was in no respect different, in legal effect, from a contract for dollars without the qualifying words, specie, or gold, and that the legal tender statute had, therefore, the same effect in both cases".

*Village of Hubbard*, 266 U. S. 474, 477, note. See, also, *Arrow Packing Co. v. United States*, 209 U. S. 56, 80-82; *Union Dry Goods Co. v. Georgia Public Service Corporation*, 248 U. S. 372, 375.

In *Addyston Pipe & Steel Co. v. United States*, 175 U. S. 211, 229, 230, the Court raised the pertinent question,—if certain kinds of private contracts directly limit or restrain, and hence regulate interstate commerce, why should not the power of Congress reach such contracts equally with legislation of a State to the same effect? "What sound reason", said the Court, "can be given why Congress should have the power to interfere in the case of the State, and yet have none in the case of the individual? Commerce is the important subject of consideration, and anything which directly obstructs and thus regulates that commerce which is carried on among the States, whether it is state legislation or private contracts between individuals or corporations, should be subject to the power of Congress in the regulation of that commerce".

Applying that principle, the Court held that a contract, valid when made (in 1871) for the giving of a free pass by an interstate carrier, in consideration of a release of a claim for damages, could not be enforced after the Congress had passed the Act of June 29, 1906, 34 Stat. 584. *Louisville & Nashville Railroad Company v. Mottley*, 219 U. S. 467. Quoting the statement of the general principle in the legal tender cases, the Court decided that the agreement must necessarily be regarded as having been made subject to the possibility that, at some future time, the Congress "might so exert its whole constitutional power in regulating interstate commerce as to render that agreement unenforceable or to impair its value". The Court considered it inconceivable that the exercise of such power "may be hampered or restricted to any extent by contracts previously made between individuals or corporations". "The framers of the Constitution never intended any such state of things to exist". *Id.*, p. 482. Accordingly, it has been "authoritatively settled" by decisions of this Court that no previous contracts or combinations can prevent the application of the Anti-Trust Acts to compel the discontinuance of combinations declared to be illegal. *Addyston Pipe & Steel Co. v. United States*, *supra*; *United States v. Southern Pacific Company*, 259 U. S. 214, 234, 235. See, also, *Calhoun v. Massie*, 253 U. S. 170, 176; *Omnia Commercial Co. v. United States*, 261 U. S. 502, 509; *Stephenson v. Binford*, 287 U. S. 261, 276.

The principle is not limited to the incidental effect of the exercise by the Congress of its constitutional authority. There is no constitutional ground for denying to the Congress the power expressly to prohibit and invalidate contracts although previously made, and valid when made, when they interfere with the carrying out of the policy it is free to adopt. The exercise of this power is illustrated by the provision of section 5 of the Employers' Liability Act of 1908 (35 Stat. 65, 66) relating to any contract the purpose of which was to enable a common carrier to exempt itself from the liability which the Act created. Such a stipulation the Act explicitly declared to be void. In the *Second Employers' Liability Cases*, 223 U. S. 1, 52, the Court decided that as the Congress possessed the power to impose the liability, it also possessed the power "to insure its efficacy by prohibiting

<sup>2</sup> Compare *New York Central & Hudson R. R. Co. v. Gray*, 220 U. S. 612; *Calkins v. Maske*, 223 U. S. 176, 178.

any contract, rule, regulation or device in evasion of it". And this prohibition the Court has held to be applicable to contracts made before the Act was passed. *Philadelphia, Baltimore & Washington R. R. Co. v. Schubert*, 224 U. S. 603. In that case, the employee, suing under the Act, was a member of the "Relief Fund" of the railroad company under a contract of membership, made in 1905, for the purpose of securing certain benefits. The contract provided that an acceptance of those benefits should operate as a release of claims, and the company pleaded that acceptance as a bar to the action. The Court held that the Employers' Liability Act supplied the governing rule and that the defense could not be sustained. The power of the Congress in regulating interstate commerce was not fettered by the necessity of maintaining existing arrangements and stipulations which would conflict with the execution of its policy. The reason is manifest. To subordinate the exercise of the Federal authority to the continuing operation of previous contracts would be to place to this extent the regulation of interstate commerce in the hands of private individuals and to withdraw from the control of the Congress so much of the field as they might choose by "prophetic discernment" to bring within the range of their agreements. The Constitution recognizes no such limitation. *Id.*, pp. 613, 614. See, also, *United States v. Southern Pacific Company*, *supra*; *Sproles v. Binford*, 286 U. S. 374, 390, 391; *Radio Commission v. Nelson Brothers Company*, 289 U. S. 266, 282.

The same reasoning applies to the constitutional authority of the Congress to regulate the currency and to establish the monetary system of the country. If the gold clauses now before us interfere with the policy of the Congress in the exercise of that authority, they cannot stand.

Fourth. *The effect of the gold clauses in suit in relation to the monetary policy adopted by the Congress.* Despite the wide range of the discussion at the bar and the earnestness with which the arguments against the validity of the Joint Resolution have been pressed, these contentions necessarily are brought, under the dominant principles to which we have referred, to a single and narrow point. That point is whether the gold clauses do constitute an actual interference with the monetary policy of the Congress in the light of its broad power to determine that policy. Whether they may be deemed to be such an interference depends upon an appraisal of economic conditions and upon determinations of questions of fact. With respect to those conditions and determinations, the Congress is entitled to its own judgment. We may inquire whether its action is arbitrary or capricious, that is, whether it has reasonable relation to a legitimate end. If it is an appropriate means to such an end, the decisions of the Congress as to the degree of the necessity for the adoption of that means, is final. *McCulloch v. Maryland*, *supra*, pp. 421, 423; *Juilliard v. Greenman*, *supra*, p. 450; *Stafford v. Wallace*, 258 U. S. 495, 521; *Eberard's Breweries v. Day*, 265 U. S. 545, 559, 562.

The Committee on Banking and Currency of the House of Representatives stated in its report recommending favorable action upon the Joint Resolution (H. R. Rep. No. 169, 73d Cong., 1st sess.):

The occasion for the declaration in the resolution that the gold clauses are contrary to public policy arises out of the experiences of the present emergency. These gold clauses render ineffective the power of the Government to create a

currency and determine the value thereof. If the gold clause applied to a very limited number of contracts and security issues, it would be a matter of no particular consequence, but in this country virtually all obligations, almost as a matter of routine, contain the gold clause. In the light of this situation two phenomena which have developed during the present emergency make the enforcement of the gold clauses incompatible with the public interest. The first is the tendency which has developed internally to hoard gold; the second is the tendency for capital to leave the country. Under these circumstances no currency system, whether based upon gold or upon any other foundation, can meet the requirements of a situation in which many billions of dollars of securities are expressed in a particular form of the circulating medium, particularly when it is the medium upon which the entire credit and currency structure rests.

And the Joint Resolution itself recites the determination of the Congress in these words: \*

Whereas the existing emergency has disclosed that provisions of obligations which purport to give the obligee a right to require payment in gold or a particular kind of coin or currency of the United States, or in an amount in money of the United States measured thereby, obstruct the power of the Congress to regulate the value of the money of the United States, and are inconsistent with the declared policy of the Congress to maintain at all times the equal power of every dollar, coined or issued by the United States, in the markets and in the payment of debts.

Can we say that this determination is so destitute of basis that the interdiction of the gold clauses must be deemed to be without any reasonable relation to the monetary policy adopted by the Congress?

The Congress in the exercise of its discretion was entitled to consider the volume of obligations with gold clauses, as that fact, as the report of the House Committee observed, obviously had a bearing upon the question whether their existence constituted a substantial obstruction to the congressional policy. The estimates submitted at the bar indicate that when the Joint Resolution was adopted there were outstanding seventy-five billion dollars or more of such obligations, the annual interest charges on which probably amounted to between three and four billion dollars. It is apparent that if these promises were to be taken literally, as calling for actual payment in gold coin, they would be directly opposed to the policy of Congress, as they would be calculated to increase the demand for gold, to encourage hoarding, and to stimulate attempts at exportation of gold coin. If there were no outstanding obligations with gold clauses, we suppose that no one would question the power of the Congress, in its control of the monetary system, to endeavor to conserve the gold resources of the Treasury, to insure its command of gold in order to protect and increase its reserves, and to prohibit the exportation of gold coin or its use for any purpose inconsistent with the needs of the Treasury. See *Ling Su Fan v. United States*, *supra*. And if the Congress would have that power in the absence of gold clauses, principles beyond dispute compel the conclusion that private parties, or States or municipalities, by making such contracts could not prevent or embarrass its exercise. In that view of the import of the gold clauses, their obstructive character is clear.

But, if the clauses are treated as "gold value" clauses, that is, as intended to set up a measure or standard of value if gold coin is not available, we think they are still hostile to the policy of the Congress and hence subject to prohibition. It is true that when the Joint

\* See Note 1.

Resolution was adopted on June 5, 1933, while gold coin had largely been withdrawn from circulation and the Treasury had declared that "gold is not now paid, nor is it available for payment, upon public or private debts,"<sup>1</sup> the dollar had not yet been devalued. But devaluation was in prospect and a uniform currency was intended.<sup>2</sup>

Section 43 of the Act of May 12, 1933 (48 Stat. 51), provided that the President should have authority, on certain conditions, to fix the weight of the gold dollar as stated, and that its weight as so fixed should be "the standard unit of value" with which all forms of money should be maintained "at a parity". The weight of the gold dollar was not to be reduced by more than 50 per centum. The Gold Reserve Act of 1934 (January 30, 1934, 48 Stat. 337), provided that the President should not fix the weight of the gold dollar at more than 60 per cent of its present weight. The order of the President of January 31, 1934, fixed the weight of the gold dollar at 15 5/21 grains nine-tenths fine as against the former standard of 25 8/10 grains nine-tenths fine. If the gold clauses interfered with the congressional policy and hence could be invalidated, there appears to be no constitutional objection to that action by the Congress in anticipation of the determination of the value of the currency. And the questions now before us must be determined in the light of that action.

The devaluation of the dollar placed the domestic economy upon a new basis. In the currency as thus provided, States and municipalities must receive their taxes; railroads, their rates and fares; public utilities, their charges for services. The income out of which they must meet their obligations is determined by the new standard. Yet, according to the contentions before us, while that income is thus controlled by law, their indebtedness on their "gold bonds" must be met by an amount of currency determined by the former gold standard. Their receipts, in this view, would be fixed on one basis; their interest charges, and the principal of their obligations, on another. It is common knowledge that the bonds issued by these obligors have generally contained gold clauses, and presumably they account for a large part of the outstanding obligations of that sort. It is also common knowledge that a similar situation exists with respect to numerous industrial corporations that have issued their "gold bonds" and must now receive payments for their products in the existing currency. It requires no acute analysis or profound economic inquiry to disclose the dislocation of the domestic economy which would be caused by such a disparity of conditions in which, it is insisted, those debtors under gold clauses should be required to pay one dollar and sixty-nine cents in currency while respectively receiving their taxes, rates, charges and prices on the basis of one dollar of that currency.

We are not concerned with consequences, in the sense that consequences, however serious, may excuse an invasion of constitutional right. We are concerned with the constitutional power of

<sup>1</sup> Treasury Statement of May 20, 1933.

<sup>2</sup> The Senate Committee on Banking and Currency, in its Report of May 27, 1933, stated: "By the Emergency Banking Act and the existing Executive orders gold is not now paid, or obtainable for payment, on obligations public or private. By the Treasury amendment currency was intended to be made legal tender for all debts. However, due to the language used doubt has arisen whether it has been made legal tender for payments on gold clause obligations, public and private. This doubt should be removed. These gold clauses interfere with the power of Congress to regulate the value of the money of the United States and the enforcement of them would be inconsistent with existing legislative policy". Sen. Rep. No. 96, 73d Cong., 1st sess.

the Congress over the monetary system of the country and its attempted frustration. Exercising that power, the Congress has undertaken to establish a uniform currency, and parity between kinds of currency, and to make that currency, dollar for dollar, legal tender for the payment of debts. In the light of abundant experience, the Congress was entitled to choose such a uniform monetary system, and to reject a dual system, with respect to all obligations within the range of the exercise of its constitutional authority. The contention that these gold clauses are valid contracts and cannot be struck down proceeds upon the assumption that private parties, and States and municipalities, may make and enforce contracts which may limit that authority. Dismissing that untenable assumption, the facts must be faced. We think that it is clearly shown that these clauses interfere with the exertion of the power granted to the Congress and certainly it is not established that the Congress arbitrarily or capriciously decided that such an interference existed.

The judgment and decree, severally under review, are affirmed.

*No. 270. Judgment affirmed.*

*Nos. 471 and 472. Decree affirmed.*

SUPREME COURT OF THE UNITED STATES.

No. 531.—OCTOBER TERM, 1934.

F. Eugene Nortz,  
vs.  
The United States.

} On certificate from the Court of  
Claims.

Mr. Chief Justice HUGHES delivered the opinion of the Court.

The facts certified by the Court of Claims may be thus summarized: Plaintiff brought suit as owner of gold certificates of the Treasury of the United States of the nominal amount of \$106,300. He alleged that defendant, by these gold certificates and under the applicable acts of Congress, had certified that there had been deposited in the Treasury of the United States \$106,300 in gold coin which would be paid to the claimant, as holder, upon demand; that at the time of the issue of these certificates, and to and including January 17, 1934, a dollar in gold consisted of 25.8 grains of gold, .9 fine; that claimant was entitled to receive from defendant one ounce of gold for each \$20.67 of the gold certificates; that on January 17, 1934, he duly presented the certificates and demanded their redemption by the payment of gold coin to the extent above mentioned; that on that date, and for some time prior and subsequent thereto, an ounce of gold was of the value of at least \$33.43, and that claimant was accordingly entitled to receive in redemption 5104.22 ounces of gold of the value of \$170,634.07; that the demand was refused; that in view of the penalties imposed under the order of the Secretary of the Treasury, approved by the President, on January 15, 1934, supplementing the order of December 28, 1933, and the laws and regulations under which those orders were issued, which the claimant alleged were unconstitutional as constituting a deprivation of property without due process of law, claimant delivered the gold certificates to defendant under protest and received in exchange currency of the United States in the sum of \$106,300 which was not redeemable in gold; and that in consequence claimant was damaged in the sum of \$64,334.07, for which, with interest, judgment was demanded.

Defendant demurred to the petition upon the ground that it did not state a cause of action against the United States.

The questions certified by the Court are as follows:

1. Is an owner of gold certificates of the United States, Series of 1928, not holding a Federal license to acquire or hold gold coins or gold certificates, who, on January 17, 1934, had surrendered his certificates to the Secretary of the Treasury of the United States under protest and had received therefor legal tender currency of equivalent face amount, entitled to receive from the United States a further sum inasmuch as the weight of a gold dollar was 25.8 grains, nine-tenths fine, and the market price thereof on January 17, 1934, was in excess of the currency so received?

2. Is a gold certificate, Series of 1928, under the facts stated in question 1 an express contract of the United States in its corporate or proprietary capacity which will enable its owner and holder to bring suit thereon in the Court of Claims?

3. Do the provisions of the Emergency Banking Act of March 9, 1933, and the Order of the Secretary of the Treasury dated December 28, 1933, requiring the plaintiff as owner of gold certificates as stated in question 1 to deliver the same to the Treasury of the United States in exchange for currency of an equivalent

amount, not redeemable in gold, amount to a taking of property within the meaning of the Fifth Amendment to the Constitution of the United States?

Defendant's demurrer, which admitted the facts well pleaded in the petition, did not admit allegations which amounted to conclusions of law in relation to the nature of the gold certificates or the legal effect of the legislation under which they were issued, held, or to be redeemed. *Dillon v. Barnard*, 21 Wall. 480, 437; *United States v. Ames*, 99 U. S. 35, 45; *Interstate Land Co. v. Maxwell Land Co.*, 139 U. S. 569, 577, 578; *Equitable Life Assurance Society v. Brown*, 213 U. S. 25, 43.

Gold certificates were authorized by section 5 of the Act of March 3, 1863 (12 Stat. 709, 711), which provided that the Secretary of the Treasury might receive "deposits of gold coin and bullion" and issue certificates therefor "in denominations of not less than twenty dollars each, corresponding with the denominations of the United States notes". The coin and bullion so deposited were to be retained in the treasury for the payment of the certificates on demand. It was further provided that "certificates representing coin in the treasury may be issued in payment of interest on the public debt, which certificates, together with those issued for coin and bullion deposited, shall not at any time exceed twenty per centum beyond the amount of coin and bullion in the treasury". See R. S., sec. 254; 31 U. S. C. 428. Section 12 of the Act of July 12, 1882 (22 Stat. 165) contained a further provision authorizing the Secretary of the Treasury "to receive deposits of gold coin" and to issue certificates therefor, also in denominations of dollars as stated. The Act of March 14, 1900 (31 Stat. 45) prescribed that the dollar "consisting of twenty-five and eight-tenths grains of gold nine-tenths fine, . . . shall be the standard unit of value, and all forms of money issued or coined by the United States shall be maintained at a parity of value with this standard, and it shall be the duty of the Secretary of the Treasury to maintain such parity". Section 6 of that Act also authorized the Secretary of the Treasury to receive deposits of gold coin and to issue gold certificates therefor, and provided that the coin so deposited should be held by the treasury for the payment of such certificates on demand and should be "used for no other purpose". And the latter clause appears in the amending Acts of March 4, 1907 (34 Stat. 1289) and of March 2, 1911 (36 Stat. 965). See 31 U. S. C. 429.

The Act of December 24, 1919 (41 Stat. 370) made gold certificates, payable to bearer on demand, "legal tender in payment of all debts and dues, public and private". And Section 2 of the Joint Resolution of June 5, 1933 (48 Stat. 113) amending the Act of May 12, 1933 (48 Stat. 52) provided that "all coins and currencies of the United States . . . heretofore or hereafter coined or issued, shall be legal tender for all debts, public and private, public charges, taxes, duties and dues".

Gold certificates under this legislation were required to be issued in denominations of dollars and called for the payment of dollars.<sup>1</sup>

<sup>1</sup> The form of the gold certificates here in question is stated to be as follows:

"This certifies that there have been deposited in the Treasury of  
THE UNITED STATES OF AMERICA  
ONE THOUSAND DOLLARS

In gold coin payable to the bearer on demand.

"This certificate is a legal tender in the amount shown in payment of all debts and dues public and private."

On the reverse side appear the following words:

"THE UNITED STATES OF AMERICA  
ONE THOUSAND DOLLARS."

These gold certificates were currency. They were not less so because the specified number of dollars were payable in gold coin, of the coinage of the United States. Being currency, and constituting legal tender, it is entirely inadmissible to regard the gold certificates as warehouse receipts.<sup>2</sup> They were not contracts for a certain quantity of gold as a commodity. They called for dollars, not bullion.

We may lay on one side the question whether the issue of currency of this description created an express contract upon which the United States has consented to be sued under the provisions of section 145 of the Judicial Code, 28 U. S. C. 250. Compare *Horowitz v. United States*, 267 U. S. 458, 461.<sup>3</sup> We may assume that plaintiff's petition permits an alternative view. Plaintiff urges as the gist of his contention that, by the Acts of Congress, and the orders thereunder, requiring the delivery of his gold certificates to the Treasury in exchange for currency not redeemable in gold, he has been deprived of his property, and that he is entitled to maintain this action to recover the just compensation secured to him by the Fifth Amendment. But, even in that view, the Court of Claims has no authority to entertain the action, if the claim is at best one for nominal damages. The Court of Claims "was not instituted to try such a case". *Grant v. United States*, 7 Wall. 331, 338; *Marion & Bye Railway Co. v. United States*, 270 U. S. 280, 282. Accordingly, we inquire whether the case which the plaintiff presents is one which would justify the recovery of actual damages.

By section 3 of the Emergency Banking Act of March 9, 1933 (48 Stat. 2), amending section 11 of the Federal Reserve Act (39 Stat. 752), the Secretary of the Treasury was authorized, whenever in his judgment it was necessary "to protect the currency system of the United States", to require all persons "to pay and deliver to the treasurer of the United States any or all gold coin, gold bullion, and gold certificates" owned by them. Upon such delivery, the Secretary was to pay therefor "an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States". Under that statute, orders requiring such delivery, except as otherwise expressly provided, were issued by the Secretary on December 28, 1933, and January 15, 1934. By the latter, gold coin, gold bullion, and gold certificates were required to be delivered to the treasurer of the United States on or before January 17, 1934. It was on that date that plaintiff made his demand for gold coin in redemption of his certificates and delivered the certificates under protest. That compulsory delivery, he insists, constituted the "taking of the contract" for which he demands compensation.

Plaintiff explicitly states his concurrence in the Government's contention that the Congress has complete authority to regulate the currency system of the country. He does not deny that, in exercising that authority, the Congress had power "to appropriate unto the Government outstanding gold bullion, gold coin and gold certificates." Nor does he deny that the Congress had authority

<sup>2</sup> The description of gold certificates in the reports of the Secretary of the Treasury, in which citation was made in the argument of bar, could in no way alter their true legal characteristics. Reports for 1934, p. 96; 1935, p. 26, 604, 607, 683, p. 375.

<sup>3</sup> The point was not determined in *United States v. State Bank*, 96 U. S. 30, upon which plaintiff relies. The Court there decided that "where the money or property of an innocent person has gone into the coffers of the nation by means of a fraud to which his agent was a party, such money or property cannot be held by the United States against the claim of the wronged and injured party". The Court said that the basis of the liability was "an implied contract" by which the United States might well become bound in virtue of its corporate character. Its sovereignty was "in no wise involved".

"to compel all residents of this country to deliver unto the Government all gold bullion, gold coins and gold certificates in their possession". These powers could not be successfully challenged. *Knox v. Lee*, 12 Wall. 457; *Julliard v. Greenman*, 110 U. S. 421; *Ling Su Fan v. United States*, 218 U. S. 302; *Norman v. Baltimore & Ohio E. R. Co.*, decided this day. The question plaintiff presents is thus simply one of "just compensation."

The asserted basis of plaintiff's claim for actual damages is that, by the terms of the gold certificates, he was entitled, on January 17, 1934, to receive gold coin. It is plain that he cannot claim any better position than that in which he would have been placed had the gold coin then been paid to him. But, in that event, he would have been required, under the applicable legislation and orders, forthwith to deliver the gold coin to the Treasury. Plaintiff does not bring himself within any of the stated exceptions. He did not allege in his petition that he held a federal license to hold gold coin, and the first question submitted to us by the Court of Claims negatives the assumption of such a license. Had plaintiff received gold coin for his certificates, he would not have been able, in view of the legislative inhibition, to export it or deal in it. Moreover, it is sufficient in the instant case to point out that on January 17, 1934, the dollar had not been devalued. Or, as plaintiff puts it, "at the time of the presentation of the certificates by petitioner, the gold content of the United States dollar had not been deflated" and the provision of the Act of March 14, 1900, *supra*, fixing that content at 25.8 grains, nine-tenths fine, as the standard unit of money with which "all forms of money issued or coined by the United States" were to be maintained at a parity, was "still in effect". The currency paid to the plaintiff for his gold certificates was then on a parity with that standard of value. It cannot be said that, in receiving the currency on that basis, he sustained any actual loss.

To support his claim, plaintiff says that on January 17, 1934, "an ounce of gold was of the value at least of \$33.43". His petition so alleged and he contends that the allegation was admitted by the demurrer. But the assertion of that value of gold in relation to gold coin in this country, in view of the applicable legislative requirements, necessarily involved a conclusion of law. Under those requirements, there was not on January 17, 1934, a free market for gold in the United States or any market available to the plaintiff for the gold coin to which he claims to have been entitled. Plaintiff insists that gold had an intrinsic value and was bought and sold in the world markets. But plaintiff had no right to resort to such markets. By reason of the quality of gold coin, "as a legal tender and as a medium of exchange", limitations attached to its ownership, and the Congress could prohibit its exportation and regulate its use. *Ling Su Fan v. United States, supra*.

The first question submitted by the Court of Claims is answered in the negative. It is unnecessary to answer the second question. And, in the circumstances shown, the third question is academic and also need not be answered.

Question No. 1 is answered "No".

## SUPREME COURT OF THE UNITED STATES

No. 532.—OCTOBER TERM, 1934

John M. Perry, }  
vs. } On Certificate from the Court of Claims.  
The United States. }

Mr. Chief Justice HUGHES delivered the opinion of the Court.

The certificate from the Court of Claims shows the following facts: Plaintiff brought suit as the owner of an obligation of the United States for \$10,000, known as "Fourth Liberty Loan 4½% Gold Bond of 1933-1938". This bond was issued pursuant to the Act of September 24, 1917 (40 Stat. 288), as amended, and Treasury Department circular No. 121 dated September 28, 1918. The bond provided: "The principal and interest hereof are payable in United States gold coin of the present standard of value".

Plaintiff alleged in his petition that at the time the bond was issued, and when he acquired it, a dollar in gold consisted of 25.8 grains of gold .9 fine; that the bond was called for redemption on April 15, 1934, and, on May 24, 1934, was presented for payment; that plaintiff demanded its redemption "by the payment of 10,000 gold dollars each containing 25.8 grains of gold .9 fine"; that defendant refused to comply with that demand, and that plaintiff then demanded "258,000 grains of gold .9 fine, or gold of equivalent value of any fineness, or 16,931.25 gold dollars each containing 15-5/21 grains of gold .9 fine, or 16,931.25 dollars in legal tender currency"; that defendant refused to redeem the bond "except by the payment of 10,000 dollars in legal tender currency"; that these refusals were based on the Joint Resolution of the Congress of June 5, 1933 (48 Stat. 113), but that this enactment was unconstitutional as it operated to deprive plaintiff of his property without due process of law; and that, by this action of defendant, he was damaged "in the sum of \$16,931.25, the value of defendant's obligation", for which, with interest, plaintiff demanded judgment.

Defendant demurred upon the ground that the petition did not state a cause of action against the United States.

The Court of Claims has certified the following questions:

1. Is the claimant, being the holder and owner of a Fourth Liberty Loan 4½% bond of the United States, of the principal amount of \$10,000, issued in 1918, which was payable on and after April 15, 1934, and which bond contained a clause that the principal is "payable in United States gold coin of the present standard of value", entitled to receive from the United States an amount in legal tender currency in excess of the face amount of the bond?

2. Is the United States, as obligor in a Fourth Liberty Loan 4½% gold bond, Series of 1933-1938, as stated in Question One liable to respond in damages in a suit in the Court of Claims on such bond as an express contract, by reason of the

change in or impossibility of performance in accordance with the tenor thereof, due to the provisions of Public Resolution No. 10, 73rd Congress, abrogating the gold clause in all obligations?

*First. The import of the obligation.* The bond in suit differs from an obligation of private parties, or of States or municipalities, whose contracts are necessarily made in subjection to the dominant power of the Congress. *Norman v. Baltimore & Ohio R. R. Co.*, decided this day. The bond now before us is an obligation of the United States. The terms of the bond are explicit. They were not only expressed in the bond itself, but they were definitely prescribed by the Congress. The Act of September 24, 1917, both in its original and amended form, authorized the moneys to be borrowed, and the bonds to be issued, "on the credit of the United States" in order to meet expenditures needed "for the national security and defense and other public purposes authorized by law". 40 Stat. 288, 503. The circular of the Treasury Department of September 28, 1918, to which the bond refers "for a statement of the further rights of the holders of bonds of said series" also provided that the principal and interest "are payable in United States gold coin of the present standard of value".

This obligation must be fairly construed. The "present standard of value" stood in contradistinction to a lower standard of value. The promise obviously was intended to afford protection against loss. That protection was sought to be secured by setting up a standard or measure of the Government's obligation. We think that the reasonable import of the promise is that it was intended to secure one who lent his money to the Government and took its bond that he would not suffer loss through depreciation in the medium of payment.

The Government states in its brief that the total unmatured interest-bearing obligations of the United States outstanding on May 31, 1933, (which it is understood contained a "gold clause" substantially the same as that of the bond in suit) amounted to about twenty-one billions of dollars. From statements at the bar, it appears that this amount has been reduced to approximately twelve billions at the present time, and that during the intervening period the public debt of the United States has risen some seven billions (making a total of approximately twenty-eight billions five hundred millions) by the issue of some sixteen billions five hundred millions of dollars "of non-gold-clause obligations".

*Second. The binding quality of the obligation.* The question is necessarily presented whether the Joint Resolution of June 5, 1933 (48 Stat. 113) is a valid enactment so far as it applies to the obligations of the United States. The Resolution declared that provisions requiring "payment in gold or a particular kind of coin or currency" were "against public policy," and provided that "every obligation, heretofore or hereafter incurred, whether or not any such provision is contained therein", shall be discharged "upon payment, dollar for dollar, in any coin or currency which at the time of payment is legal tender for public and private debts". This enactment was expressly extended to obligations of the United States and provisions for payment in gold, "contained in any law authorizing obligations to be issued by or under authority of the United States", were repealed.

<sup>1</sup> And subsection (b) of section 1 of the Joint Resolution of June 5, 1933, provided: "As used in this resolution, the term 'obligation' means an obligation (including every obligation of and to the United States, accepting currency) payable in money of the United States, and the term 'coin or currency' means gold or currency of the United States, including Federal Reserve notes and circulating notes of Federal Reserve banks and national banking associations."

There is no question as to the power of the Congress to regulate the value of money, that is, to establish a monetary system and thus to determine the currency of the country. The question is whether the Congress can use that power so as to invalidate the terms of the obligations which the Government has theretofore issued in the exercise of the power to borrow money on the credit of the United States. In attempted justification of the Joint Resolution in relation to the outstanding bonds of the United States, the Government argues that "earlier Congresses could not validly restrict the 73rd Congress from exercising its constitutional powers to regulate the value of money, borrow money, or regulate foreign and interstate commerce"; and, from this premise, the Government seems to deduce the proposition that when, with adequate authority, the Government borrows money and pledges the credit of the United States, it is free to ignore that pledge and alter the terms of its obligations in case a later Congress finds their fulfillment inconvenient. The Government's contention thus raises a question of far greater importance than the particular claim of the plaintiff. On that reasoning, if the terms of the Government's bond as to the standard of payment can be repudiated, it inevitably follows that the obligation as to the amount to be paid may also be repudiated. The contention necessarily imports that the Congress can disregard the obligations of the Government at its discretion and that, when the Government borrows money, the credit of the United States is an illusory pledge.

We do not so read the Constitution. There is a clear distinction between the power of the Congress to control or interdict the contracts of private parties when they interfere with the exercise of its constitutional authority, and the power of the Congress to alter or repudiate the substance of its own engagements when it has borrowed money under the authority which the Constitution confers. In authorizing the Congress to borrow money, the Constitution empowers the Congress to fix the amount to be borrowed and the terms of payment. By virtue of the power to borrow money "on the credit of the United States", the Congress is authorized to pledge that credit as an assurance of payment as stipulated,—as the highest assurance the Government can give, its pledged faith. To say that the Congress may withdraw or ignore that pledge is to assume that the Constitution contemplates a vain promise, a pledge having no other sanction than the pleasure and convenience of the pledgor. This Court has given no sanction to such a conception of the obligations of our Government.

The binding quality of the obligations of the Government was considered in the *Sinking-Fund* cases, 99 U. S. 700, 718, 719. The question before the Court in those cases was whether certain action was warranted by a reservation to the Congress of the right to amend the charter of a railroad company. While the particular action was sustained under this right of amendment, the Court took occasion to state emphatically the obligatory character of the contracts of the United States. The Court said: "The United States are as much bound by their contracts as are individuals. If they repudiate their obligations, it is as much repudiation, with all the

wrong and reproach that term implies, as it would be if the repudiator had been a State or a municipality or a citizen".<sup>4</sup>

When the United States, with constitutional authority, makes contracts, it has rights and incurs responsibilities similar to those of individuals who are parties to such instruments. There is no difference, said the Court in *United States v. Bank of Metropolis*, 15 Pet. 377, 392, except that the United States cannot be sued without its consent. See, also, *The Floyd Acceptances*, 7 Wall. 666, 675; *Cooke v. United States*, 91 U. S. 389, 396. In *Lynch v. United States*, 282 U. S. 571, 580, with respect to an attempted abrogation by the Act of March 20, 1933 (48 Stat. 8, 11) of certain outstanding war risk insurance policies, which were contracts of the United States, the Court quoted with approval the statement in the *Sinking-Fund* cases, *supra*, and said: "Functilious fulfillment of contractual obligations is essential to the maintenance of the credit of public as well as private debtors. No doubt there was in March, 1933, great need of economy. In the administration of all government business economy had become urgent because of lessened revenues and the heavy obligations to be issued in the hope of relieving widespread distress. Congress was free to reduce gratuities deemed excessive. But Congress was without power to reduce expenditures by abrogating contractual obligations of the United States. To abrogate contracts, in the attempt to lessen government expenditure, would be not the practice of economy, but an act of repudiation".

The argument in favor of the Joint Resolution, as applied to government bonds, is in substance that the Government cannot by contract restrict the exercise of a sovereign power. But the right to make binding obligations is a competence attaching to sovereignty.<sup>5</sup> In the United States, sovereignty resides in the people who act through the organs established by the Constitution. *Chisholm v. Georgia*, 2 Dall. 419, 471; *Penhallow v. Doane's Administrators*, 3 Dall. 54, 93; *McCulloch v. Maryland*, 4 Wheat. 316, 404, 405; *Yick Wo v. Hopkins*, 118 U. S. 356, 370. The Congress as the instrumentality of sovereignty is endowed with certain powers to be asserted on behalf of the people in the manner and with the effect the Constitution ordains. The Congress cannot invoke the sovereign power of the people to override their will as thus declared. The powers conferred upon the Congress are harmonious. The Constitution gives to the Congress the power to borrow money on the credit of the United States, an unqualified power, a power vital to the Government,—upon which in an extremity its very life may depend. The binding quality of the promise of the United States is of the essence of the credit which is so pledged. Having this power to authorize the issue of definite

<sup>4</sup> Mr. Justice Strong, who had written the opinion of the majority of the Court in the legal tender case (*East v. Lee*, 12 Wall. 457), dissented in the *Sinking-Fund* case, 16 U. S. p. 731, because he thought that the action of the Congress was not consistent with the Government's acceptance and hence was a transgression of legislative power. And with respect to the equality of the contracts of the Government, he quoted, with approval, the opinion of Mr. Hamilton in his communication to the Senate of January 20, 1790 (citing 2 Hamilton's Works, 518, 519), that "when a government enters into a contract with an individual, it deposes, as to the matter of the contract, its constitutional authority, and exchanges the character of legislator for that of a moral agent, with the same rights and obligations as an individual. Its promises may be justly considered as accepted acts of its power to legislate unless in aid of them. It is in theory impossible to reconcile the idea of a promise which obliges, with the power to make a law which can vary the effect of it."

<sup>5</sup> Oppenheim, *International Law*, 8th ed., vol. 1, sec. 40, 405. This is recognized in the field of international engagements. Although there may be no judicial procedure by which such contracts may be enforced in the absence of the assent of the sovereign to be sued, the engagement validly made by a sovereign state is not without legal force, as readily appears if the jurisdiction to entertain a controversy with respect to the performance of the engagement is conferred upon an international tribunal. Hall, *International Law*, 8th ed., sec. 127; Oppenheim, *loc. cit.*; Hyde, *International Law*, vol. 1, sec. 40.

obligations for the payment of money borrowed, the Congress has not been vested with authority to alter or destroy those obligations. The fact that the United States may not be sued without its consent is a matter of procedure which does not affect the legal and binding character of its contracts. While the Congress is under no duty to provide remedies through the courts, the contractual obligation still exists and, despite infirmities of procedure, remains binding upon the conscience of the sovereign. *Lynch v. United States*, *supra*, pp. 580, 582.

The Fourteenth Amendment, in its fourth section, explicitly declares: "The validity of the public debt of the United States, authorized by law, . . . shall not be questioned". While this provision was undoubtedly inspired by the desire to put beyond question the obligations of the Government issued during the Civil War, its language indicates a broader connotation. We regard it as confirmatory of a fundamental principle which applies as well to the government bonds in question, and to others duly authorized by the Congress, as to those issued before the Amendment was adopted. Nor can we perceive any reason for not considering the expression "the validity of the public debt" as embracing whatever concerns the integrity of the public obligations.

We conclude that the Joint Resolution of June 5, 1933, in so far as it attempted to override the obligation created by the bond in suit, went beyond the congressional power.

*Third. The question of damages.* In this view of the binding quality of the Government's obligations, we come to the question as to the plaintiff's right to recover damages. That is a distinct question. Because the Government is not at liberty to alter or repudiate its obligations, it does not follow that the claim advanced by the plaintiff should be sustained. The action is for breach of contract. As a remedy for breach, plaintiff can recover no more than the loss he has suffered and of which he may rightfully complain. He is not entitled to be enriched. Plaintiff seeks judgment for \$16,931.25, in present legal tender currency, on his bond for \$10,000. The question is whether he has shown damage to that extent, or any actual damage, as the Court of Claims has no authority to entertain an action for nominal damages. *Grant v. United States*, 7 Wall. 331, 338; *Marion & Rye Railway Co. v. United States*, 270 U. S. 280, 282; *Norte v. United States*, decided this day.

Plaintiff computes his claim for \$16,931.25 by taking the weight of the gold dollar as fixed by the President's proclamation of January 31, 1934, under the Act of May 12, 1933 (48 Stat. 52, 53), as amended by the Act of January 30, 1934 (48 Stat. 342), that is, at 15.5/21 grains nine-tenths fine, as compared with the weight fixed by the Act of March 14, 1900 (31 Stat. 45), or 25.8 grains nine-tenths fine. But the change in the weight of the gold dollar did not necessarily cause loss to the plaintiff of the amount claimed. The question of actual loss cannot fairly be determined without considering the economic situation at the time the Government offered to pay him the \$10,000, the face of his bond, in legal tender currency. The case is not the same as if gold coin had remained in circulation. That was the situation at the time of the decisions under the legal tender acts of 1862 and 1863. *Bronson v. Rodes*, 7 Wall. 229, 251;

*Trebilcock v. Wilson*, 12 Wall. 687, 695; *Thompson v. Butler*, 95 U. S. 894, 896, 897.

Before the change in the weight of the gold dollar in 1934, gold coin had been withdrawn from circulation.<sup>1</sup> The Congress had authorized the prohibition of the exportation of gold coin and the placing of restrictions upon transactions in foreign exchange. Acts of March 9, 1933, 48 Stat. 1; January 30, 1934, 48 Stat. 337. Such dealings could be had only for limited purposes and under license. Executive Orders of April 20, 1933, August 28, 1933, and January 15, 1934; Regulations of the Secretary of the Treasury, January 30 and 31, 1934. That action the Congress was entitled to take by virtue of its authority to deal with gold coin as a medium of exchange. And the restraint thus imposed upon holders of gold coin was incident to the limitations which inhered in their ownership of that coin and gave them no right of action. *Ling Su Fan v. United States*, 218 U. S. 302, 310, 311. The Court said in that case:

Conceding the title of the owner of such coins, yet there is attached to such ownership those limitations which public policy may require by reason of their quality as a legal tender and as a medium of exchange. These limitations are due to the fact that public law gives to such coinage a value which does not attach as a mere consequence of intrinsic value. Their quality as a legal tender is an attribute of law aside from their bullion value. They bear, therefore, the impress of sovereign power which fixes value and authorizes their use and exchange. . . . However unwise a law may be, aimed at the exportation of such coins, in the face of the axioms against obstructing the free flow of commerce, there can be no serious doubt that the power to coin money includes the power to prevent its outflow from the country of its origin.

The same reasoning is applicable to the imposition of restraints upon transactions in foreign exchange. We cannot say, in view of the conditions that existed, that the Congress having this power exercised it arbitrarily or capriciously. And the holder of an obligation, or bond, of the United States, payable in gold coin of the former standard, so far as the restraint upon the right to export gold coin or to engage in transactions in foreign exchange is concerned, was in no better case than the holder of gold coin itself.

In considering what damages, if any, the plaintiff has sustained by the alleged breach of his bond, it is hence inadmissible to assume that he was entitled to obtain gold coin for recourse to foreign markets or for dealings in foreign exchange or for other purposes contrary to the control over gold coin which the Congress had the power to exert, and had exerted, in its monetary regulation. Plaintiff's damages could not be assessed without regard to the internal economy of the country at the time the alleged breach occurred. The discontinuance of gold payments and the establishment of legal tender currency on a standard unit of value with which "all forms of money" of the United States were to be "maintained at a parity", had a controlling influence upon the domestic economy. It was adjusted to the new basis. A free domestic market for gold was non-existent.

Plaintiff demands the "equivalent" in currency of the gold coin promised. But "equivalent" cannot mean more than the amount of money which the promised gold coin would be worth to the bondholder for the purposes for which it could legally be used.

<sup>1</sup>In its Report of May 27, 1933, it was stated by the Senate Committee on Banking and Currency: "By the Emergency Banking Act and the existing Executive Orders gold is not now paid, or obtainable for payment, on obligations public or private". Sen. Rep. No. 98, 73d Cong., 1st sess.

That equivalence or worth could not properly be ascertained save in the light of the domestic and restricted market which the Congress had lawfully established. In the domestic transactions to which the plaintiff was limited, in the absence of special license, determination of the value of the gold coin would necessarily have regard to its use as legal tender and as a medium of exchange under a single monetary system with an established parity of all currency and coins. And in view of the control of export and foreign exchange, and the restricted domestic use, the question of value, in relation to transactions legally available to the plaintiff, would require a consideration of the purchasing power of the dollars which the plaintiff has received. Plaintiff has not shown, or attempted to show, that in relation to buying power he has sustained any loss whatever. On the contrary, in view of the adjustment of the internal economy to the single measure of value as established by the legislation of the Congress, and the universal availability and use throughout the country of the legal tender currency in meeting all engagements, the payment to the plaintiff of the amount which he demands would appear to constitute not a recoupment of loss in any proper sense but an unjustified enrichment.

Plaintiff seeks to make his case solely upon the theory that by reason of the change in the weight of the dollar he is entitled to one dollar and sixty-nine cents in the present currency for every dollar promised by the bond, regardless of any actual loss he has suffered with respect to any transaction in which his dollars may be used. We think that position is untenable.

In the view that the facts alleged by the petition fail to show a cause of action for actual damages, the first question submitted by the Court of Claims is answered in the negative. It is not necessary to answer the second question.

*Question No. 1 is answered "No".*

SUPREME COURT OF THE UNITED STATES

No. 532.—OCTOBER TERM, 1934.

John M. Perry,  
vs.  
The United States.

} On Certificate from the Court of  
Claims.

[February 18, 1935.]

Mr. Justice STONE.

I agree that the answer to the first question is "No," but I think our opinion should be confined to answering that question and that it should essay an answer to no other.

I do not doubt that the gold clause in the Government bonds, like that in the private contracts just considered, calls for the payment of value in money, measured by a stated number of gold dollars of the standard defined in the clause, *Feist v. Societe Intercommunale Belge d'Electricite*, [1934] A. C. 161, 170-173; *Serbian and Brazilian Bond Cases*, P. C. I. J., series A, Nos. 20-21, pp. 32-34, 109-119. In the absence of any further exertion of governmental power, that obligation plainly could not be satisfied by payment of the same number of dollars, either specie or paper, measured by a gold dollar of lesser weight.

I do not understand the Government to contend that it is any the less bound by the obligation than a private individual would be, or that it is free to disregard it except in the exercise of the constitutional power "to coin money" and "regulate the value thereof." In any case, there is before us no question of default apart from the regulation by Congress of the use of gold as currency.

While the Government's refusal to make the stipulated payment is a measure taken in the exercise of that power, this does not disguise the fact that its action is to that extent a repudiation of its undertaking. As much as I deplore this refusal to fulfill the solemn promise of bonds of the United States, I cannot escape the conclusion, announced for the Court, that in the situation now presented, the Government, through the exercise of its sovereign power to regulate the value of money, has rendered itself immune from liability for its action. To that extent it has relieved itself of the obligation of its domestic bonds, precisely as it has relieved the obligors of private bonds in No. 270, *Norman v. Baltimore & Ohio R. R. Co.*, decided this day.

In this posture of the case it is unnecessary, and I think undesirable, for the Court to undertake to say that the obligation of the gold clause in Government bonds is greater than in the bonds of private individuals, or that in some situation not described, and in some

manner and in some measure undefined, it has imposed restrictions upon the future exercise of the power to regulate the currency. I am not persuaded that we should needlessly intimate any opinion which implies that the obligation may so operate, for example, as to interpose a serious obstacle to the adoption of measures for stabilization of the dollar, should Congress think it wise to accomplish that purpose by resumption of gold payments, in dollars of the present or any other gold content less than that specified in the gold clause, and by the re-establishment of a free market for gold and its free exportation.

There is no occasion now to resolve doubts, which I entertain, with respect to these questions. At present they are academic. Concededly they may be transferred wholly to the realm of speculation by the exercise of the undoubted power of the Government to withdraw the privilege of suit upon its gold clause obligations. We have just held that the Court of Claims was without power to entertain the suit in No. 531, *Nortz v. United States*, because, regardless of the nature of the obligation of the gold certificates, there was no damage. Here it is declared that there is no damage because Congress, by the exercise of its power to regulate the currency, has made it impossible for the plaintiff to enjoy the benefits of gold payments promised by the Government. It would seem that this would suffice to dispose of the present case, without attempting to prejudge the rights of other bondholders and of the Government under other conditions which may never occur. It will not benefit this plaintiff, to whom we deny any remedy, to be assured that he has an inviolable right to performance of the gold clause.

Moreover, if the gold clause be viewed as a gold value contract, as it is in *Norman v. Baltimore & Ohio R. R. Co.*, *supra*, it is to be noted that the Government has not prohibited the free use by the bondholder of the paper money equivalent of the gold clause obligation; it is the prohibition, by the Joint Resolution of Congress, of payment of the increased number of depreciated dollars required to make up the full equivalent, which alone bars recovery. In that case it would seem to be implicit in our decision that the prohibition, at least in the present situation, is itself a constitutional exercise of the power to regulate the value of money.

I therefore do not join in so much of the opinion as may be taken to suggest that the exercise of the sovereign power to borrow money on credit, which does not override the sovereign immunity from suit, may nevertheless preclude or impede the exercise of another sovereign power, to regulate the value of money; or to suggest that although there is and can be no present cause of action upon the repudiated gold clause, its obligation is nevertheless, in some manner and to some extent, not stated, superior to the power to regulate the currency which we now hold to be superior to the obligation of the bonds.

## SUPREME COURT OF THE UNITED STATES

Nos. 270, 471, 472, 531 and 532.—OCTOBER TERM, 1934.

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|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|
| 270 | Norman C. Norman, Petitioner,<br><i>vs.</i><br>The Baltimore and Ohio Railroad<br>Company.                                                                               | } On Writ of Certiorari to<br>the Supreme Court of<br>the State of New York.                              |
| 471 | The United States of America, Recon-<br>struction Finance Corporation, et<br>al., Petitioners,<br><i>vs.</i><br>Bankers Trust Company and William<br>H. Bixby, Trustees. | } On Writs of Certiorari to<br>the United States Cir-<br>cuit Court of Appeals<br>for the Eighth Circuit. |
| 472 | The United States of America, Recon-<br>struction Finance Corporation, et<br>al., Petitioners,<br><i>vs.</i><br>Bankers Trust Company and William<br>H. Bixby, Trustees. |                                                                                                           |
| 531 | F. Eugene Nortz,<br><i>vs.</i><br>The United States.                                                                                                                     | } On Certificate from the<br>Court of Claims.                                                             |
| 532 | John M. Perry,<br><i>vs.</i><br>The United States.                                                                                                                       | } On Certificate from the<br>Court of Claims.                                                             |

[February 18, 1935.]

Mr. Justice McREYNOLDS, dissenting.

Mr. Justice VAN DEVANTER, Mr. Justice SUTHERLAND, Mr. Justice BUTLER and I conclude that, if given effect, the enactments here challenged will bring about confiscation of property rights and repudiation of national obligations. Acquiescence in the decisions just announced is impossible; the circumstances demand statement of our views. "To let oneself slide down the easy slope offered by the course of events and to dull one's mind against the extent of the danger, . . . that is precisely to fail in one's obligation of responsibility".

Just men regard repudiation and spoliation of citizens by their sovereign with abhorrence; but we are asked to affirm that the Con-

stitution has granted power to accomplish both. No definite delegation of such a power exists; and we cannot believe the farseeing framers, who labored with hope of establishing justice and securing the blessings of liberty, intended that the expected government should have authority to annihilate its own obligations and destroy the very rights which they were endeavoring to protect. Not only is there no permission for such actions; they are inhibited. And no plenitude of words can conform them to our charter.

The Federal government is one of delegated and limited powers which derive from the Constitution. "It can exercise only the powers granted to it". Powers claimed must be denied unless granted; and, as with other writings, the whole of the Constitution is for consideration when one seeks to ascertain the meaning of any part.

By the so-called gold clause—promise to pay in "United States gold coin of the present standard of value", or "of or equal to the present standard of weight and fineness"—found in very many private and public obligations, the creditor agrees to accept and the debtor undertakes to return the thing loaned or its equivalent. Thereby each secures protection, one against decrease in value of the currency, the other against an increase.

The clause is not new or obscure or discolored by any sinister purpose. For more than 100 years our citizens have employed a like agreement. During the War between the States, its equivalent "payable in coin" aided in surmounting financial difficulties. From the housetop men proclaimed its merits while bonds for billions were sold to support the World War. The Treaty of Versailles recognized it as appropriate and just. It appears in the obligations which have rendered possible our great undertakings—public-works, railroads, buildings.

Under the interpretation accepted here for many years, this clause expresses a definite enforceable contract. Both by statute and long use the United States have approved it. Over and over again they have enjoyed the added value which it gave to their obligations. So late as May 2, 1933 they issued to the public more than \$550,000,000 of their notes, each of which carried a solemn promise to pay in standard gold coin. (Before that day this coin had in fact been withdrawn from circulation, but statutory measure of value remained the gold dollar of 25.8 grains.)

The Permanent Court of International Justice interpreted the clause as this Court had done and upheld it. Cases of Serbian and Brazilian Loans, Publications P. C. I. J., Series A, Nos. 20-21 (1929). It was there declared: "The gold clause merely prevents the borrower from availing itself of a possibility of discharge of the debt in depreciated currency", and "The treatment of the gold clause as indicating a mere modality of payment, without reference to a gold standard of value, would be, not to construe but to destroy it".

In *Feist v. Societe Intercommunale Belge d'Electricite*, (1934), A. C. 161, the House of Lords expressed like views.

*Gregory v. Morris*, (1878) 96 U. S. 619, 624, 625—last of similar causes—construed and sanctioned this stipulation. In behalf of all Chief Justice Waite there said:

The obligation secured by the mortgage or lien under which Morris held was for the payment of gold coin, or, as was said in *Bronson v. Rees*, 7 Wall. (1860) 229, "an agreement to deliver a certain weight of standard gold, to be ascertained by a count of coins, each of which is certified to contain a definite proportion of that weight" and is not distinguishable "from a contract to deliver an equal weight of bullion of equal fineness." We think it clear, that, under such circumstances, it was within the power of the Court, so far as Gregory was concerned, to treat the contract as one for the delivery of so much gold bullion; and, if Morris was willing to accept a judgment which might be discharged in currency, to have his damages estimated according to the currency value of bullion.

Earlier cases—*Bronson v. Rodes*, 7 Wall. 229; *Butler v. Horwitz*, 7 Wall. 258; *Dewing v. Sears*, 11 Wall. 378; *Trebilcock v. Wilson*, 12 Wall. 687; *Thompson v. Butler*, 95 U. S. 694—while important, need not be dissected. *Gregory v. Morris* is in harmony with them and the opinion there definitely and finally stated the doctrine which we should apply.

It is true to say that the gold clauses "were intended to afford a definite standard or measure of value, and thus to protect against a depreciation of the currency and against the discharge of the obligation by payment of less than that prescribed". Furthermore, they furnish means for computing the sum payable in currency if gold should become unobtainable. The borrower agrees to repay in gold coin containing 25.8 grains to the dollar; and if this cannot be secured the promise is to discharge the obligation by paying for each dollar loaned the currency value of that number of grains. Thus, the purpose of the parties will be carried out. Irrespective of any change in currency the thing loaned or an equivalent will be returned—nothing more nothing less. The present currency consists of promises to pay dollars of 15½ grains; the Government procures gold bullion on that basis. The calculation to determine the damages for failure to pay in gold would not be difficult. *Gregory v. Morris* points the way.

Under appropriate statutes the United States for many years issued gold certificates, in the following form:

This certifies that there have been deposited in the Treasury of The United States of America One Thousand Dollars in gold coin payable to the bearer on demand. This certificate is a legal tender in the amount thereof in payment of all debts and dues public and private.

The certificates here involved—series 1928—were issued under Sec. 6, Act Mar. 14, 1900, 31 Stat. 47, as amended. See U. S. C. A. Title 31, Sec. 429.<sup>1</sup>

In view of the statutory direction that gold coin for which certificates are issued shall be held for their payment on demand "and used for no other purpose", it seems idle to argue (as counsel for the United States did) that other use is permissible under the ancient Act of March 3, 1863.

By various orders of the President and the Treasury from April 5 to December 28, 1933, persons holding gold certificates were required

<sup>1</sup> In his Annual Report, 1926, 80, 81, the Secretary of the Treasury said: "Gold and silver certificates are in fact more 'warehouse receipts' issued by the Government in exchange for gold coin or bullion deposited in the one case, or standard silver dollars deposited in the other case, or against gold or standard silver dollars, respectively withdrawn from the general fund of the Treasury. . . . Gold certificates, United States notes, Treasury notes of 1900, and Federal reserve notes are directly redeemable in gold." In his letter with the Annual Report, for 1923, 375, he showed that on June 30, 1923, \$1,250,717.106 was held in trust against gold certificates and Treasury notes of 1901. The Treasury notes of 1900 then outstanding did not exceed about \$1,350,000. T. Rep. 1926, 80.

to deliver them, and accept "an equivalent amount of any form of coin or currency coined or issued under the laws of the United States designated by the Secretary of the Treasury". Heavy penalties were provided for failure to comply.

That the holder of one of these certificates was owner of an express promise by the United States to deliver gold coin of the weight and fineness established by statute when the certificate issued, or if such demand was not honored to pay the holder the value in the currency then in use, seems clear enough. This was the obvious design of the contract.

The Act of March 14, 1900, 31 Stat., c. 41, 45, 47, as amended, in effect until January 31, 1934, provided: "That the dollar consisting of 25.8 grains of gold nine-tenths fine, . . . shall be the standard unit of value, and all forms of money issued or coined by the United States shall be maintained at a parity of value with this standard," and also "The Secretary of the Treasury is authorized and directed to receive deposits of gold coin with the Treasurer . . . in sums of not less than twenty dollars, and to issue gold certificates therefor in denominations of not less than ten dollars, and the coin so deposited shall be retained in the Treasury and held for the payment of such certificates on demand and used for no other purpose". See U. S. C. A. Title 31, Section 34, 429.

The Act of February 4, 1910, 36 Stat. c. 25, p. 192, directed "that any bonds and certificates of indebtedness of the United States hereafter issued shall be payable, principal and interest, in United States gold coin of the present standard of value."

By Executive Orders, April 5, and April 20, 1933, the President undertook to require owners of gold coin, gold bullion, and gold certificates, to deliver them on or before May 1st to a Federal Reserve Bank, and to prohibit the exportation of gold coin, gold bullion or gold certificates. As a consequence the United States were off the gold standard and their paper money began a rapid decline in the markets of the world. Gold coin, gold certificates and gold bullion were no longer obtainable. "Gold is not now paid nor is it available for payment upon public or private debts" was declared in Treasury statement of May 27, 1933; and this is still true. All gold coins have been melted into bars.

The Agricultural Adjustment Act of May 12, 1933, 48 Stat., c. 25, pp. 31, 52, 53—entitled "An act to relieve the existing national economic emergency by increasing agricultural purchasing power, to raise revenue for extraordinary expenses incurred by reason of such emergency, to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other purposes" by Section 43 provides that "Such notes [United States notes] and all other coins and currencies heretofore or hereafter coined or issued by or under the authority of the United States shall be legal tender for all debts public and private". Also, that the President by proclamation may "fix the weight of the gold dollar . . . as he finds necessary from his investigation to stabilize domestic prices or to protect the foreign commerce against the adverse effect of depreciated foreign currencies". And further, "such gold dollar, the weight of which is so fixed, shall

be the standard unit of value, and all forms of money issued or coined by the United States shall be maintained at a parity with this standard and it shall be the duty of the Secretary of the Treasury to maintain such parity, but in no event shall the weight of the gold dollar be fixed so as to reduce its present weight by more than 50 per centum".

The Gold Reserve Act of January 30, 1934, 48 Stat., c. 6, p. 337, 342, undertook to ratify preceding Presidential orders and proclamations requiring surrender of gold but prohibited him from establishing the weight of the gold dollar "at more than 60 per centum of its present weight". By proclamation, January 31, 1934, he directed that thereafter the standard should contain 15 5/21 grains of gold, nine tenths fine. (The weight had been 25.8 grains since 1837.) No such dollar has been coined at any time.

On June 5, 1933, Congress passed a "Joint Resolution to assure uniform value to the coins and currencies of the United States", 48 Stat. c. 48, p. 112. This recited that holding and dealing in gold affects the public interest and are therefore subject to regulation; that the provisions of obligations which purport to give the obligee the right to require payment in gold coin or in any amount of money of the United States measured thereby obstruct the power of Congress to regulate the value of money and are inconsistent with the policy to maintain the equal value of every dollar coined or issued. It then declared that every provision in any obligation purporting to give the obligee a right to require payment in gold is against public policy and directed that "every obligation, heretofore or hereafter incurred, whether or not any such provision is contained therein or made with respect thereto, shall be discharged upon payment, dollar for dollar, in any coin or currency which at the time of payment is legal tender for public and private debts".

Four causes are here for decision. Two of them arise out of corporate obligations containing gold clauses—railroad bonds. One is based on a United States Fourth Liberty Loan bond of 1918, called for payment April 15, 1934, containing a promise to pay "in United States gold coin of the present standard of value" with interest in like gold coin. Another involves gold certificates, series 1928, amounting to \$106,300.

As to the corporate bonds the defense is that the gold clause was destroyed by the Resolution of June 5, 1933; and this view is sustained by the majority of the Court.

It is insisted that the agreement, in the Liberty Bond, to pay in gold also was destroyed by the Act of June 5, 1933. This view is rejected by the majority; but they seem to conclude that because of the action of Congress in declaring the holding of gold unlawful, no appreciable damage resulted when payment therein or the equivalent was denied.

Concerning the gold certificates it is ruled that if upon presentation for redemption gold coin had been paid to the holder, as promised, he would have been required to return this to the Treasury. He could not have exported it or dealt with it. Consequently he sustained no actual damage.

There is no challenge here of the power of Congress to adopt such proper "Monetary Policy" as it may deem necessary in order to provide for national obligations and furnish an adequate medium of exchange for public use. The plan under review in the *Legal Tender Cases* was declared within the limits of the Constitution but not without a strong dissent. The conclusions there announced are not now questioned; and any abstract discussion of Congressional power over money would only tend to befog the real issue.

The fundamental problem now presented is whether recent statutes passed by Congress in respect of money and credits, were designed to attain a legitimate end. Or whether, under the guise of pursuing a monetary policy, Congress really has inaugurated a plan primarily designed to destroy private obligations, repudiate national debts and drive into the Treasury all gold within the country in exchange for inconvertible promises to pay, of much less value.

Considering all the circumstances, we must conclude they show that the plan disclosed is of the latter description and its enforcement would deprive the parties before us of their rights under the Constitution. Consequently the Court should do what it can to afford adequate relief.

What has been already said will suffice to indicate the nature of these causes and something of our general views concerning the intricate problems presented. A detailed consideration of them would require much time and elaboration; would greatly extend this opinion. Considering also the importance of the result to legitimate commerce, it seems desirable that the Court's decision should be announced at this time. Accordingly, we will only undertake in what follows to outline with brevity our replies to the conclusions reached by the majority and to suggest some of the reasons which lend support to our position.

The authority exercised by the President and the Treasury in demanding all gold coin, bullion and certificates is not now challenged; neither is the right of the former to prescribe weight for the standard dollar. These things we have not considered. Plainly, however, to coin money and regulate the value thereof calls for legislative action.

Intelligent discussion respecting dollars requires recognition of the fact that the word may refer to very different things. Formerly the standard gold dollar weighed 25.8 grains; the weight now prescribed is 15 5/21 grains. Evidently promises to pay one or the other of these differ greatly in value and this must be kept in mind.

From 1792 to 1873 both the gold and silver dollar were standard and legal tender, coinage was free and unlimited. Persistent efforts were made to keep both in circulation. Because the prescribed relation between them got out of harmony with exchange values, the gold coin disappeared and did not in fact freely circulate in this country for 30 years prior to 1834. During that time business transactions were based on silver. In 1834, desiring to restore parity and bring gold back into circulation, Congress reduced somewhat (6%) the weight of the gold coin and thus equalized the coinage and the exchange values. The silver dollar was not changed. The purpose

was to restore the use of gold as currency—not to force up prices or destroy obligations. There was no apparent profit for the books of the Treasury. No injury was done to creditors; none was intended. The legislation is without special significance here. See Hepburn on Currency.

The money under consideration in the *Legal Tender Cases*, decided May 1, 1871, 12 Wall. 457, and 110 U. S. 421, were promises to pay dollars, "bills of credit". They were "a pledge of the national credit", promises "by the Government to pay dollars" "the standard of value is not changed." The expectation, ultimately realized, was that in due time they would be redeemed in standard coin. The Court was careful to show that they were issued to meet a great emergency in time of war, when the overthrow of the Government was threatened and specie payments had been suspended. Both the end in view and the means employed, the Court held were lawful. The thing actually done was the issuance of bills endowed with the quality of legal tender in order to carry on until the United States could find it possible to meet their obligations in standard coin. This they accomplished in 1879. The purpose was to meet honorable obligations—not to repudiate them.

The opinion there rendered declares—"The legal tender acts do not attempt to make paper a standard of value. We do not rest their validity upon the assertion that their emission is coinage, or any regulation of the value of money; nor do we assert that Congress may make anything which has no value money. What we do assert is, that Congress has power to enact that the government's promises to pay money shall be, for the time being, equivalent in value to the representative of value determined by the coinage acts or to multiples thereof." What was said in those causes of course must be read in the light of all the circumstances. The opinion gives no support to what has been attempted here.

This Court has not heretofore ruled that Congress may require the holder of an obligation to accept payment in subsequently devalued coins, or promises by the Government to pay in such coins. The legislation before us attempts this very thing. If this is permissible then a gold dollar containing one grain of gold may become the standard, all contract rights fall, and huge profits appear on the Treasury books. Instead of \$2,800,000,000 as recently reported perhaps \$20,000,000,000, maybe, enough to cancel the public debt, maybe more!

The power to issue bills and "regulate values" of coin cannot be so enlarged as to authorize arbitrary action, whose immediate purpose and necessary effect is destruction of individual rights.<sup>2</sup> As this Court has said a "power to regulate is not a power to destroy". 154 U. S. 392, 398. The Fifth Amendment limits all governmental powers. We are dealing here with a debased standard, adopted with the definite purpose to destroy obligations. Such arbitrary and oppressive action is not within any Congressional power heretofore recognized.

The authority of Congress to create legal tender obligations in times of peace is derived from the power to borrow money; this cannot be extended to embrace the destruction of all credits.

<sup>2</sup> It may well be doubted whether the nature of society and of government does not prescribe some limits to the legislative power; and if any be prescribed where are they to be found if the property of an individual fairly and honestly acquired may be seized without compensation. *Ch. Justice Marshall in Fletcher v. Peck, 6 Cranch. 57, 135.*

There was no coin—specie—in general circulation in the United States between 1863 and 1879. Both gold and silver were treated in business as commodities. The Legal Tender Cases arose during that period.

*Corporate bonds.*—The gold clauses in these bonds were valid and in entire harmony with public policy when executed. They are property—*Lynch v. United States*, 292 U. S. 571, 579. To destroy a validly acquired right is the taking of property—*Osborn v. Nicholson*, 13 Wall. 646, 662. They established a measure of value and supply a basis for recovery if broken. Their policy and purpose were stamped with affirmative approval by the Government when inserted in its bonds.

The clear intent of the parties was that in case the standard of 1900 should be withdrawn, and a new and less valuable one set up, the debtor could be required to pay the value of the contents of the old standard in terms of the new currency, whether coin or paper. If gold measured by prevailing currency had declined the debtor would have received the benefit. The Agricultural Adjustment Act of May 12th discloses a fixed purpose to raise the nominal value of farm products by depleting the standard dollar. It authorized the President to reduce the gold in the standard, and further provided that all forms of currency shall be legal tender. The result expected to follow was increase in nominal values of commodities and depreciation of contractual obligations. The purpose of Section 43 incorporated by the Senate as an amendment to the House Bill was clearly stated by the Senator who presented it.<sup>3</sup> It was the destruction of lawfully acquired rights.

In the circumstances existing just after the Act of May 12th, depreciation of the standard dollar by the Presidential proclamation would not have decreased the amount required to meet obligations containing gold clauses. As to them the depreciation of the standard would have caused an increase in the number of dollars of depreciated currency. General reduction of all debts could only be secured by first destroying the contracts evidenced by the gold clauses; and this the Resolution of June 5th undertook to accomplish. It was aimed directly at those contracts and had no definite relation to the power to issue bills or to coin or regulate the value of money.

To carry out the plan indicated as above shown in the Senate, the Gold Reserve Act followed—January 30, 1934. This inhibited the President from fixing the weight of the standard gold dollar above 60% of its then existing weight. (Authority had been given for 50% reduction by the Act of May 12th.) On January 31st he directed that the standard should contain 15 5/21 grains of gold. If this reduction of 40% of all debts was within the power of Congress and if as a necessary means to accomplish that end, Congress had power by resolution to destroy the gold clauses, the holders of these corporate bonds are without remedy. But we must not forget that if this power exists Congress may readily destroy other obligations which present

<sup>3</sup> He said:—“This amendment has for its purpose the bringing down or obsolescence of the dollar, that being necessary in order to raise agricultural and commodity prices. . . . The first part of the amendment has to do with conditions precedent to action being taken later. . . . It will be my task to show that if the amendment shall prevail it has potentialities as follows: It may transfer from one class to another class in these United States value to the extent of almost \$200,000,000,000. This value will be transferred, first, from those who own the bank deposits. Secondly, this value will be transferred from those who own bonds and fixed investments.” Cong. Record, April, 1934, pp. 2094, 2214, 2217, 2218.

obstruction to the desired effect of further depletion. The destruction of all obligations by reducing the standard gold dollar to one grain of gold, or brass or nickel or copper or lead will become an easy possibility. Thus we reach the fundamental question which must control the result of the controversy in respect of corporate bonds. Apparently in the opinion of the majority the gold clause in the Liberty bond withstood the June 5th Resolution notwithstanding the definite purpose to destroy them. We think that in the circumstances Congress had no power to destroy the obligations of the gold clauses in private obligations. The attempt to do this was plain usurpation, arbitrary and oppressive.

The oft repeated rule by which the validity of statutes must be tested is this—“Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate which are plainly adapted to that end which are not prohibited but consistent with the letter and spirit of the Constitution are constitutional.”

The end or objective of the Joint Resolution was not “legitimate.” The real purpose was not “to assure uniform value to the coins and currencies of the United States”, but to destroy certain valuable contract rights. The recitals do not harmonize with circumstances then existing. The Act of 1900 which prescribed a standard dollar of 25.8 grains remained in force; but its command that “all forms of money issued or coined by the United States shall be maintained at a parity of value with this standard” was not being obeyed. Our currency was passing at a material discount; all gold had been sequestered; none was attainable. The Resolution made no provision for restoring parity with the old standard; it established no new one.

This Resolution was not appropriate for carrying into effect any power entrusted to Congress. The gold clauses in no substantial way interfered with the power of coining money or regulating its value or providing a uniform currency. Their existence, as with many other circumstances, might have circumscribed the effect of the intended depreciation and disclosed the unwisdom of it. But they did not prevent the exercise of any granted power. They were not inconsistent with any policy theretofore declared. To assert the contrary is not enough. The Court must be able to see the appropriateness of the thing done before it can be permitted to destroy lawful agreements. The purpose of a statute is not determined by mere recitals—certainly they are not conclusive evidence of the facts stated.

Again, if effective, the direct, primary and intended result of the Resolution will be the destruction of valid rights lawfully acquired. There is no question here of the indirect effect of lawful exercise of power. And citations of opinions which upheld such indirect effects are beside the mark. This statute does not “work harm and loss to individuals indirectly”, it destroys directly. Such interference violates the Fifth Amendment; there is no provision for compensation. If the destruction is said to be for the public benefit proper compensation is essential; if for private benefit the due process clause bars the way.

Congress has power to coin money but this cannot be exercised without the possession of metal. Can Congress authorize appropri-

ation without compensation of the necessary gold? Congress has power to regulate commerce, to establish post roads, &c. Some approved plan may involve the use or destruction of A's land or a private way. May Congress authorize the appropriation or destruction of these things without adequate payment? Of course not. The limitations prescribed by the Constitution restrict the exercise of all power.

*Ling Su Fan v. United States*, 218 U. S. 302, supports the power of the legislature to prevent exportation of coins without compensation. But this is far from saying that the legislature might have ordered destruction of the coins without compensating the owners or that they could have been required to deliver them up and accept whatever was offered. In *United States v. Lynch*, 188 U. S. 445, 471, this Court said:

If any one proposition can be considered as settled by the decisions of this court it is that although in the discharge of its duties the Government may appropriate property, it cannot do so without being liable to the obligation cast by the fifth amendment of paying just compensation.

**Government bonds.**—Congress may coin money; also it may borrow money. Neither power may be exercised so as to destroy the other; the two clauses must be so construed as to give effect to each. Valid contracts to repay money borrowed cannot be destroyed by exercising power under the coinage provision. The majority seem to hold that the Resolution of June 5th did not affect the gold clauses in bonds of the United States. Nevertheless we are told that no damage resulted to the holder now before us through the refusal to pay one of them in gold coin of the kind designated or its equivalent. This amounts to a declaration that the Government may give with one hand and take away with the other. Default is thus made both easy and safe!

Congress brought about the conditions in respect of gold which existed when the obligation matured. Having made payment in this metal impossible the Government cannot defend by saying that if the obligation had been met the creditor could not have retained the gold; consequently he suffered no damage because of the non-delivery. Obligations cannot be legally avoided by prohibiting the creditor from receiving the thing promised. The promise was to pay in gold, standard of 1900, otherwise to discharge the debt by paying the value of the thing promised in currency. One of these things was not prohibited. The Government may not escape the obligation of making good the loss incident to repudiation by prohibiting the holding of gold. Payment by fiat of any kind is beyond its recognized power. There would be no serious difficulty in estimating the value of 25.8 grains of gold in the currency now in circulation.

These bonds are held by men and women in many parts of the world; they have relied upon our honor. Thousands of our own citizens of every degree not doubting the good faith of their sovereign have purchased them. It will not be easy for this multitude to appraise the form of words which establishes that they have suffered no appreciable damage; but perhaps no more difficult for them than for us. And their difficulty will not be assuaged when they reflect that ready calculation of the exact loss suffered by the Philippine government moved Congress to satisfy it by appropriating, in June 1934, \$23,862,750.78 to be paid out of the Treasury of the United

States.\* And see Act May 30, 1934, 48 Stat. 817, appropriating \$7,438,000 to meet losses sustained by officers and employees in foreign countries due to appreciation of foreign currencies in their relation to the American dollar.

**Gold certificates.**—These were contracts to return gold left on deposit; otherwise to pay its value in the currency. Here the gold was not returned; there arose the obligation of the Government to pay its value. The Court of Claims has jurisdiction over such contracts. Congress made it impossible for the holder to receive and retain the gold promised him; the statute prohibited delivery to him. The contract being broken the obligation was to pay in currency the value of 25.8 grains of gold for each dollar called for by the certificate. For the Government to say, we have violated our contract but have escaped the consequences through our own statute, would be monstrous. In matters of contractual obligation the Government can not legislate so as to excuse itself.

These words of Alexander Hamilton ought not to be forgotten:

When a government enters into a contract with an individual, it deposes, as to the matter of the contract, its constitutional authority, and exchanges the character of legislator for that of a moral agent, with the same rights and obligations as an individual. Its promises may be justly considered as excepted out of its power to legislate, unless in aid of them. It is in theory impossible to reconcile the idea of a promise which obliges, with a power to make a law which can vary the effect of it". 3 Hamilton's Works, 512, 519.

These views have not heretofore been questioned here. In the *Sinking Fund Cases*, 99 U. S. 700, 719, Chief Justice Waite speaking for the majority declared: "The United States are as much bound by their contracts as are individuals. If they repudiate their obligations, it is as much repudiation, with all the wrong and reproach that term implies, as it would be if the repudiator had been a State or a municipality or a citizen. No change can be made in the title created by the grant of the lands, or in the contract for the subsidy bonds, without the consent of the corporation. All this is indisputable".

And in the same cause, (731, 732) Mr. Justice Strong, speaking for himself, affirmed:

It is as much beyond the power of a legislature, under any pretence, to alter a contract into which the government has entered with a private individual, as it is for any other party to a contract to change its terms without the consent of the person contracting with him. As to its contract the government in all its departments has laid aside its sovereignty, and it stands on the same footing with private contractors.

Can the Government, obliged as though a private person to observe the terms of its contracts, destroy them by legislative changes in the currency and by statutes forbidding one to hold the thing which it

\* AN ACT Relating to Philippine currency reserves on deposit in the United States.

As it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed, when the funds therefor are made available, to establish on the books of the Treasury a credit in favor of the Treasury of the Philippine Islands for \$23,862,750.78, being an amount equal to the increase in value (resulting from the reduction of the weight of the gold dollar) of the gold equivalent at the opening of business on January 31, 1934, of the balances maintained at that time in banks in the continental United States by the Government of the Philippine Islands for its gold standard fund and its Treasury certificate fund less the interest received by it on such balances.

SEC. 2. There is hereby authorized to be appropriated, out of the receipts covered into the Treasury under section 7 of the Gold Reserve Act of 1934, by virtue of the reduction of the weight of the gold dollar by the proclamation of the President on January 31, 1934, the amount necessary to establish the credit provided for in section 1 of this Act. Approved, June 19, 1934.

has agreed to deliver? If an individual should undertake to annul or lessen his obligation by secreting or manipulating his assets with the intent to place them beyond the reach of creditors, the attempt would be denounced as fraudulent, wholly ineffective.

Counsel for the Government and railway companies asserted with emphasis that incalculable financial disaster would follow refusal to uphold, as authorized by the Constitution, impairment and repudiation of private obligations and public debts. Their forecast is discredited by manifest exaggeration. But, whatever may be the situation now confronting us, it is the outcome of attempts to destroy lawful undertakings by legislative action, and this we think the Court should disapprove in no uncertain terms.

Under the challenged statutes it is said the United States have realized profits amounting to \$2,800,000,000.<sup>4</sup> But this assumes that gain may be generated by legislative fiat. To such counterfeit profits there would be no limit; with each new debasement of the dollar they would expand. Two billions might be ballooned indefinitely—to twenty, thirty, or what you will.

Loss of reputation for honorable dealing will bring us unending humiliation; the impending legal and moral chaos is appalling.

<sup>4</sup> In radio address concerning the plans of the Treasury, August 28, 1934, the Secretary of Treasury, as reported by the Commercial and Financial Chronicle of September 1, 1934, stated:

"But we have another cash drawer in the Treasury, in addition to the drawer which carries our working balance. This second drawer I will call the 'gold' drawer. In it is the very large sum of \$2,800,000,000, representing 'profit' resulting from the change in the gold content of the dollar. Practically all of this 'profit' the Treasury holds in the form of gold and silver. The rest is in other assets.

"I do not propose here to subtract this \$2,800,000,000 from the net increase of \$4,400,000,000 in the national debt—thereby reducing the figure to \$1,600,000,000. And the reason why I do not subtract it is this: for the present this \$2,800,000,000 is under lock and key. Most of it, by authority of Congress, is segregated in the so-called 'stabilization fund,' and for the present we propose to keep it there. But I call your attention to the fact that ultimately we expect this 'profit' to flow back into the stream of our other revenues and thereby reduce the national debt."

ALTERNATIVE AGENDAE  
OF IMMEDIATE ACTION.

- |                                                                                               |                                                                                                                                            |
|-----------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| 1. All three cases favorable to Government<br>(or gold certificate remanded on bad<br>record) | - Rejoice and be thankful                                                                                                                  |
| 2. All three cases adverse on merits                                                          | - Proclamation<br>- Message<br>- Press release (No.2)<br>- M Resolution<br>- Withdraw right to sue<br>- Withdraw appropriations            |
| 3. Gold certificate adverse on merits<br>Private and Liberty Bond cases favor-<br>able.       | - Withdraw right to sue<br>on currency<br>- Press release (no.3)<br>- Withdraw appropriation                                               |
| 4. Liberty Bond adverse<br>Private bond and certificates favorable                            | - Message<br>- Letter from President to<br>Sec'y.<br>- Press release (No.4)<br>- Withdraw right to sue<br>- Withdraw appropriation         |
| 5. Liberty Bond and gold certificate<br>adverse<br>Private favorable                          | - Message<br>- Press release (No.5)<br>- Withdraw right to sue<br>- Withdraw appropriation                                                 |
| 6. Liberty Bond expressly adverse as to<br>foreign holders only<br>Cases otherwise favorable  | - Press release (No.6)<br>- Qualify appropriation                                                                                          |
| 7. Private and Liberty Bonds adverse<br>Gold certificate favorable                            | - Proclamation<br>- Message<br>- Press release (No.7)<br>- M Resolution<br>- Withdraw right to sue on<br>bonds<br>- Withdraw appropriation |
| 8. Private bonds adverse<br>Liberty Bonds, gold certificates<br>favorable                     | - Proclamation<br>- Press release (no.8)<br>- Message<br>- M Resolution                                                                    |

PROCLAMATION

Whereas, a national emergency having been found and declared to exist, the President of the United States, being thereto authorized by the Congress, suspended gold payments and, thereafter, fixed the weight of the gold dollar below that fixed by law before such emergency;

Whereas, the Congress, by Public Resolution, approved June 5, 1933, declared to be against public policy every provision contained in or made with respect to any obligation payable in money of the United States which purported to give the obligee the right to require payment in gold or a particular kind of coin or currency or in an amount in money of the United States measured thereby;

Whereas, the Public Resolution so declaring has been found by the Supreme Court of the United States to be invalid as applied to certain obligations therein described;

Whereas, Section 5 (b) of the Act of October 6, 1917, as amended by the Act of March 9, 1933, provides:

"During time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, transfers of credit between or payments by banking institutions as defined by the President, and export, hoarding, melting, or earmarking of gold or silver coin or bullion or currency, by any person within the United States or any place subject to the jurisdiction thereof; and the President may require any person engaged in any transaction referred

to in this subdivision to furnish under oath, complete information relative thereto, including the production of any books of account, contracts, letters or other papers in connection therewith in the custody or control of such person, either before or after such transaction is completed. Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this subdivision the term 'person' means an individual, partnership, association, or corporation"; and

Whereas, upon investigation, I find that by reason of the amount of public and private obligations containing provisions declared by said Public Resolution to be against public policy, any immediate attempt to realize upon claims arising from such provisions, in the face of the national emergency hitherto declared and now existing, would precipitate widespread bankruptcies, increase unemployment and lessen purchasing power, injuriously affect credit and our financial and industrial systems, transportation and other essential services, public and private, thereby materially and dangerously enhancing such emergency;

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, by virtue of the authority vested in me, do hereby declare that the national emergency hitherto found and declared to exist, continues, and, in order to permit a period of adjustment and to prevent the bankruptcies and the destruction of credit which would result from immediate attempts to realize upon claims arising from provisions declared by said Public Resolution to be

against public policy, I do hereby proclaim, order, direct and declare that until the expiration of a period of 90 days from this date, or the earlier revocation of this proclamation by me, every payment by any banking institution organized or doing business within the United States and every transfer of credit between any such banking institution and any banking institution within or outside of the United States is prohibited in every case where such payment or transfer, or any part thereof, is made or, to the knowledge of the banking institution making the payment or transfer, will be applied, in full or partial payment of any obligation in an amount over and above the stated dollar amount thereof because of any claim arising from any provision declared by said Public Resolution to be against public policy. The Secretary of the Treasury is authorized to prescribe, with the approval of the President, regulations for carrying out the provisions of this proclamation, which regulations may also provide for the furnishing under oath of complete information, including the production of books of account, contracts, letters or papers, regarding any payment or transfer prohibited or regulated under this proclamation.

As used herein the term "banking institution" shall include all Federal Reserve banks, national banking associations, banks, trust companies, savings banks, building and loan associations, credit unions, and other corporations, partnerships, associations and persons engaged in the business of receiving deposits, making loans, discounting paper, acting as fiscal or financial agent, or transacting any other form of banking business, and, for the purposes

of this proclamation, each home office, branch, agency, or correspondent of any banking institution so engaged shall be regarded as a separate banking institution; and the term "United States" means the United States and any place subject to the jurisdiction thereof, including the Philippine Islands.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done in the City of Washington this \_\_\_\_ day of February at \_\_\_\_ o'clock P. M., in the year of our Lord One Thousand Nine Hundred and Thirty-five, and of the Independence of the United States the One Hundred and Fifty-ninth.

(SEAL)

By the President:

Secretary of State.

and about thirteen and one-half million dollars of loans and other securities which do not contain gold clauses. It is further stated that these and future issues would be justified if the large amount of the Government's outstanding gold clause obligations, aggregating about thirteen and one-half million dollars, were assumed a portion of the national debt which the Executive sought to protect. Not only so, if gold clauses in Government obligations were permitted to become effective again, the national debt would be automatically increased by about \$100,000,000. It is unwilling, as I believe the Congress will be, to burden the national treasury in the country when it can be easily and lawfully avoided. No hardship or injustice will result from these measures. They are wholly consistent with and in furtherance of the policy which the Joint Resolution of June 3, 1933, undertook to establish.

I recommend legislation to the Congress withdrawing the right to sue the United States on its bonds, currency and similar obligations, withholding appropriations for the payment of more than the face amount thereof and making it unlawful for any officer of the United States to pay in excess of such amount. The passage of bills for this purpose becomes immediately necessary because of the decision of the Supreme Court just announced in the Holtz and Ferry cases.

The Government will, of course, continue to meet its debts promptly, dollar for dollar, as it has always done. Since the passage of the Joint Resolution of June 5, 1935 the Government has issued and sold about thirteen and one-half billion dollars of bonds and other securities which do not contain gold clauses. It is manifest that these and future issues would be prejudiced if the large amount of the Government's outstanding gold clause obligations, aggregating about fourteen and one-half billion dollars, were accorded a position of preference which the Resolution sought to prevent. Not only so, if gold clauses in Government obligations were permitted to become effective again, the national debt would be automatically increased by about ten billion dollars. I am unwilling, as I assume the Congress will be, to impose this additional burden on the country when it can be justly and lawfully avoided.

No hardship or injustice will result from these measures. They are wholly consistent with and in furtherance of the policy which the Joint Resolution of June 5, 1935 undertook to establish.

MESSAGE

The reasons which impelled the adoption by the Congress of the Joint Resolution of June 5, 1933, annulling gold clauses in private and public obligations, have not been removed by the decision of the Supreme Court in the Gold Clause Cases. They are as imperative as before and have even been enhanced, since our *entire* people <sup>had</sup> ~~have~~ assumed the validity of the Resolution and <sup>had</sup> ~~have~~ gone about their business in reliance upon it. It is unnecessary to repeat these reasons here. The Resolution itself summarized them, but it will be recalled that the total of gold clause obligations had attained such an enormous figure, approximately one hundred billion dollars, as to obstruct the power of the Congress to regulate the value of money and to deal with the problems accentuated by that very obstruction, such as the maintenance of a uniform currency system in which one dollar should be of equal value with every other. The Resolution was also designed to meet other problems of the utmost urgency growing out of the depression.

The situation in which the decision leaves the country is, however, by no means hopeless. Partly because of the Joint Resolution and partly because of other remedial and recuperative measures, conditions have greatly improved and with them hope has heightened and courage has routed despair. Until these gains can be

- 2 -

*The Constitution itself amended (and for*  
 consolidated and permanent legislation framed) to meet the new  
 difficulty which has arisen, I recommend the adoption of a series  
 of measures by the Congress, preliminary to which and for the  
 same purpose, I have this day issued a Proclamation under the  
 authority vested in the President by Section 5 (b) of the Act of  
 October 6, 1917, as amended by the Act of March 9, 1933.

I recommend first, a moratorium for one year, unless  
 sooner terminated, staying the enforcement of gold clause obliga-  
 tions in any form, over and above the face or par amount. Such  
 moratorium, which is a considerate measure of relief, assuring a  
 period of re-adjustment, and based upon auxiliary and composite  
 powers of the Congress, is constitutionally sanctioned as an  
 emergency measure.

Second, withdrawal of the right to sue the United States  
 on its bonds, currency and similar obligations containing gold  
 clauses. The Government will, of course, continue to meet its  
 debts promptly, dollar for dollar, as it has always done. Since  
 the <sup>passage of the</sup> Joint Resolution of June 5, 1933, the Government has issued and  
 sold about <sup>thirteen and one half</sup> ~~fifteen~~ billion dollars of bonds and other securities  
 which do not contain gold clauses. It is manifest that these and  
 future issues would be prejudiced if the large amount of the Gov-  
 ernment's outstanding gold clause obligations aggregating about  
<sup>fourteen and one half</sup> ~~thirteen~~ billion dollars, were accorded a position of preference  
 which the Resolution sought to prevent. Not only so, if gold clauses

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in Government obligations are permitted to become effective again, the national debt will be automatically increased by about ~~nine~~ <sup>ten</sup> billion dollars. I am unwilling, as I assume the Congress will be, to impose this additional burden on the country when it can be justly and lawfully avoided.

Third, withholding of appropriations and authority for payment by the Treasury of gold clause Government obligations in excess of the face amount in lawful money, making it unlawful for any officer of the United States to make any such excess payment.

No hardship or injustice will result from these measures. On the contrary, they will serve, in an actual and practical sense, to prevent both widespread hardship and ~~that form of~~ <sup>such</sup> injustice which necessarily would result from increasing by about 70% obligations estimated, as I have said, at once hundred billion dollars, and from plunging the country again into the depth of depression from which it is emerging.

I recommend <sup>their</sup> ~~the~~ immediate enactment ~~of these measures.~~

A bill to amend Section 24, Subsection (20), and Section 145, Subsection (1) of the Judicial Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 24, Subsection (20) of the Judicial Code (U. S. Code, Title 28, Section 41, Subsection 20) be and hereby is amended to read as follows:

"(20) Suits against United States, - Twentieth. Concurrent with the Court of Claims, of all claims not exceeding \$10,000 founded upon the Constitution of the United States or any law of Congress, or upon any regulation of an executive department, or upon any contract, express or implied, with the Government of the United States, or for damages liquidated or unliquidated, in cases not sounding in tort, in respect to which claims the party would be entitled to redress against the United States, either in a court of law, equity, or admiralty, if the United States were suable, and of all set-offs, counter-claims, claims for damages, whether liquidated or unliquidated, or other demands whatsoever on the part of the Government of the United States against any claimant against the Government in said court; and of any suit or proceeding commenced after the passage of the Revenue Act of 1921, for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws even if the claim exceeds \$10,000, if the collector of internal revenue by whom such tax, penalty, or sum was collected is dead or is not in office as collector of internal revenue at

the time such suit or proceeding is commenced. Nothing in this paragraph shall be construed as giving to either the District Courts or the Court of Claims jurisdiction to hear and determine claims growing out of the Civil War, and commonly known as 'war claims,' or to hear and determine other claims which had been rejected or reported on adversely prior to the 3d day of March, 1887, by any court, department, or commission authorized to hear and determine the same, or to hear and determine claims for pensions; or as giving to the District Courts jurisdiction of cases brought to recover fees, salary, or compensation for official services of officers of the United States or brought for such purpose by persons claiming as such officers or as assignees or legal representatives thereof; but no suit pending on the 27th day of June, 1898, shall abate or be affected by this provision. No suit against the Government of the United States shall be allowed under this paragraph unless the same shall have been brought within six years after the right accrued for which the claim is made. Nor shall anything in this paragraph be construed as giving to any of said courts jurisdiction to hear and determine claims arising out of bonds, contracts or other obligations for the repayment of money, made, issued or guaranteed by the United States, or arising out of gold or silver coin or bullion, or any coin or currency of the United States, or out of any surrender, requisition, seizure or acquisition of any such coin, bullion or currency. The claims of married women, first accrued during marriage, of persons under the age of twenty-one years, first accrued during minority, and of idiots, lunatics, insane persons, and persons beyond the seas at the time the claim accrued, entitled to the claim, shall not be barred if the suit be brought within three years after the disability has ceased; but no other disability than those enumerated shall prevent any claim from being barred, nor shall any of the said disabilities operate cumulatively. All suits brought and tried under the provisions of this paragraph shall be tried by the court without a jury."

Section 2. That Section 145, Subsection (1) of the Judicial Code (U. S. Code, Title 28, Section 250) be and hereby is amended to read as follows:

"(1) Claims against United States.

First. All claims (except for pensions) founded upon the Constitution of the United States or any law of Congress, upon any regulation of an executive department, upon any contract, express or implied, with the Government of the United States, or for damages, liquidated or unliquidated, in cases not sounding in tort, in respect of which claims the party would be entitled to redress against the United States either in a court of law, equity, or admiralty if the United States were suable: Provided, however, That nothing in this section shall be construed as giving to the said court jurisdiction to hear and determine claims growing out of the late civil war, and commonly known as 'war claims,' or to hear and determine other claims which, prior to March 3, 1887, had been rejected or reported on adversely by any court, department, or commission authorized to hear and determine the same. Nor shall anything in this paragraph be construed as giving to said court jurisdiction to hear and determine claims arising out of bonds, contracts or other obligations for the repayment of money, made, issued or guaranteed by the United States, or arising out of gold or silver coin or bullion, or any coin or currency of the United States, or out of any surrender, requisition, seizure or acquisition of any such coin, bullion or currency."

Whereas, the Congress and the President of the United States having found and declared a national emergency to exist, gold payments were suspended in order to safeguard our banking, financial, and currency systems, protect our foreign and domestic commerce, and arrest the processes of deflation;

Whereas, to end instability in foreign exchange and domestic prices, the Congress and the President thereafter fixed the weight of the gold dollar below that fixed by law before such emergency;

Whereas, in order to further objects of these measures and to assure that such measures would affect all the people of the United States uniformly, holders of gold and gold certificates were required to surrender them to the United States, and the Congress, by Public Resolution No. 10, approved June 5, 1933, declared to be against public policy every provision contained in or made with respect to any obligation payable in money of the United States which purported to give the obligee the right to require payment in gold or a particular kind of coin or currency or in an amount in money of the United States measured thereby;

Whereas, said Public Resolution has been found by the Supreme Court of the United States to be invalid in whole or in part; and

Whereas, the existing emergency theretofore declared has been so enhanced as to menace the safety of the United States by imperiling commerce with foreign nations and among the several states, <sup>by disturbing</sup> <sub>A</sub> ~~and~~ the uniform and stable value of money and the regulation.

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of the value of foreign coin, by threatening the ability of the Government to borrow money and to collect taxes, and by endangering the solvency of both debtors and creditors, thus impelling immediate measures to forestall nationwide bankruptcies and to permit the orderly exercise of the constitutional powers and duties of government:

NOW, THEREFORE, in exercise of the powers vested by the Constitution in the Congress to cope with such enhanced emergency and in exercise of all other pertinent powers vested by the Constitution in the Government, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That, in order to establish justice, insure domestic tranquillity, provide for the common defense, and promote the general welfare, there is hereby declared a moratorium on each and every claim, whether for principal or interest or otherwise, arising from any clause or provision declared to be against public policy by said Public Resolution or from any alleged deficiency in payment for gold or currency surrendered by reason of any governmental order, which moratorium shall terminate at the expiration of one year or upon earlier proclamation by the President that the emergency impelling it has ended. The moratorium herein declared shall stay the assertion or exercise of all rights, privileges, and powers arising from any such clause, provision, or alleged deficiency as if the time of its continuance had not elapsed, but without impairing the same, and without prejudice to any right to collect interest on any such claim for the period of the moratorium after its termination. Accordingly, and without limiting the generality of the foregoing, during such moratorium, no suit

or other proceeding shall be commenced or other action or step, judicial or otherwise, taken for the purpose of collecting or realizing upon any claim arising from any such clause, provision, or alleged deficiency; and every judicial or other proceeding heretofore commenced shall be stayed in so far as any right or remedy arising from any such clause, provision, or alleged deficiency is concerned.

This law, made in pursuance of the Constitution, is of the supreme law of the land; and the judges in every State and in every place subject to the jurisdiction of the United States, including the Philippine Islands, shall be bound thereby.

Whereas, the Congress and the President of the United States<sup>x</sup> having found and declared a national emergency to exist, ~~suspended~~ gold payments <sup>were suspended</sup> in order to safeguard our banking, financial, and currency systems, protect our foreign and domestic commerce, and arrest the processes of deflation;

Whereas, to end instability in foreign exchange and domestic prices, the Congress and the President thereafter fixed the weight of the gold dollar below that fixed by law before such emergency;

Whereas, in order to further the objects of these measures and to assure that such measures would affect all the people of the United States uniformly, holders of gold and gold certificates were required to surrender them to the United States, and the Congress, by Public Resolution No. 10, approved June 5, 1933, declared to be against public policy every provision contained in or made with respect to any obligation payable in money of the United States which purported to give the obligee the right to require payment in gold or a particular kind of coin or currency or in an amount in money of the United States measured thereby;

Whereas, said Public Resolution has been found by the Supreme Court of the United States to be invalid in whole or in part; and

Whereas, the existing emergency theretofore declared has been so enhanced as to menace the safety of the United States by imperiling commerce with foreign nations and among the several states, by ~~jeopardizing~~ <sup>disturbing</sup> the uniform and stable value of money and the regulation of the value of foreign coin, by threatening the ability of the Government to borrow

Whereas, the Congress and the President of the United States, having found and declared a national emergency to exist, ~~suspended~~ gold payments <sup>were suspended</sup> in order to safeguard our banking, financial, and currency systems, protect our foreign and domestic commerce, and arrest the processes of deflation;

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Whereas, said Public Resolution has been found by the Supreme Court of the United States to be invalid in whole or in part; and

Whereas, the existing emergency theretofore declared has been so enhanced as to menace the safety of the United States by imperiling commerce with foreign nations and among the several states, by ~~jeopardizing~~ <sup>disturbing</sup> the uniform and stable value of money and the regulation of the value of foreign coin, by threatening the ability of the Government to borrow

money and to collect taxes, and by endangering the solvency of both debtors and creditors, thus impelling immediate measures to forestall nationwide bankruptcies and to permit the orderly exercise of the constitutional powers and duties of government:

NOW, THEREFORE, in exercise of the powers vested by the Constitution in the Congress to cope with such enhanced emergency and in exercise of all other pertinent powers vested by the Constitution in the Government, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That, in order to establish justice, insure domestic tranquillity, provide for the common defense, and promote the general welfare, there is hereby declared a moratorium on each and every claim, whether for principal or interest or otherwise, arising from any clause or provision declared to be against public policy by said Public Resolution, which moratorium shall terminate at the expiration of one year or upon earlier proclamation by the President that the emergency impelling it has ended. The moratorium herein declared shall stay the assertion or exercise of all rights, privileges, and powers arising from any such clause or provision as if the time ~~during~~<sup>of</sup> its continuance had not elapsed, but without impairing the same, and without prejudice to any right to collect interest on any such claim for the period of the moratorium after its termination. Accordingly, and without limiting the generality of the foregoing, during such moratorium, no suit or other proceeding shall be commenced or other action or step, judicial or otherwise, taken

[In any State or place subject to the jurisdiction of the United States (including the Philippine Islands)] for the purpose of collecting or realizing upon any claim arising from any such clause or provision; and every judicial or other proceeding <sup>heretofore</sup> ~~presently~~ commenced shall be stayed in so far as any right or remedy arising from any such clause or provision is concerned.

[This law, made in pursuance of the Constitution, is of the supreme law of the land; and the judges in every State and in every place subject to the jurisdiction of the United States, including the Philippine Islands, shall be bound thereby.]

(To be used in the event the gold certificate case is adverse on the merits and the Liberty bond case favorable.)

Sec. 5. Any consent which the United States may have given to the assertion against it of any right, privilege, or power, whether by way of suit, counterclaim, set-off, recoupment or other affirmative action or defense in its own name or in the name of any of its officers, agents, agencies or instrumentalities in any proceeding of any nature whatsoever presently or hereafter commenced, upon a claim arising from any alleged deficiency in payment for gold or currency surrendered by reason of any governmental order, is withdrawn until otherwise specifically provided by Act of the Congress.

(To be used in the event Liberty bond and  
gold certificate cases adverse on the merits)

No sums, whether heretofore or hereafter appropriated or authorized to be expended, shall be available for, or expended in, the payment of any claim arising out of any provision declared to be against public policy by Public Resolution No. 10, of June 5, 1933, or of any claim for payment for coin or currency in excess of the face value thereof or for gold surrendered by reason of Governmental order in excess of \$20.67 an ounce, unless such payment shall have been expressly authorized by future enactment.

(To be used if gold certificate case  
unfavorable on the merits; Liberty bond  
case favorable)

No sums, whether heretofore or hereafter appropriated or authorized to be expended, shall be available for, or expended in, the payment of any claim for payment for coin or currency in excess of the face value thereof or for gold surrendered by reason of Governmental order in excess of \$20.67 an ounce, unless such payment shall have been expressly authorized by future enactment.

(To be used if Liberty bond case is  
adverse, gold certificate case favorable)

No sums, whether heretofore or hereafter appropriated  
or authorized to be expended, shall be available for, or expended  
in, the payment of any claim arising out of any provision declared  
to be against public policy by Public Resolution No. 10, of June 5,  
1955, unless such payment shall have been expressly authorized by  
future enactment.

2.

The decision just rendered by the Supreme Court will occasion no change in the monetary policy of the Administration. To avoid confusion and prevent needless and futile litigation, I am recommending to the Congress that it declare a temporary moratorium on gold clauses in all public and private obligations and that it withdraw the right to sue the United States on such clauses and on its currency, pending the adoption of permanent measures.

measures in line with the Administration's monetary policy.

5.

The decision just rendered by the Supreme Court will occasion no change in the basic monetary policy of the Administration. To avoid confusion and prevent needless and futile litigation, I am recommending to the Congress that it withdraw the right to sue the United States on its currency, pending the enactment of permanent measures in line with the Administration's monetary policy.

4.

The decision just rendered by the Supreme Court will occasion no change in the monetary policy of the Administration. To avoid confusion and prevent needless and futile litigation, I am recommending to the Congress that it withdraw the right to sue the United States on such clauses, pending the adoption of permanent measures in line with the Administration's monetary policy.

5.

The decision just rendered by the Supreme Court will occasion no change in the basic monetary policy of the Administration. To avoid confusion and prevent needless and futile litigation, I am recommending to the Congress that it withdraw the right to sue the United States on gold clauses and currency, pending the adoption of permanent measures in line with the Administration's monetary policy.

8.

(To be used if Liberty case  
favorable to Government except  
as to foreign holders)

The Treasury announced that no bonds owned abroad would be paid except on presentation of full and adequate proof of such ownership since June 5, 1953, and of the right to receive payment under the law as interpreted by the Supreme Court. Such proof will be required to be made under regulations formulated by the Treasury Department.

7.

The decision just rendered by the Supreme Court will occasion no change in the basic monetary policy of the Administration. To avoid confusion and prevent needless and futile litigation, I am recommending to the Congress that it declare a temporary moratorium on gold clauses in all public and private obligations and that it withdraw the right to sue the United States on such clauses, pending the adoption of permanent measures in line with the Administration's monetary policy.

Q: Will you be buying gold now?

A: Well, I don't see why we can't buy gold now.

Q: Well, I don't see why we can't buy gold now in Paris.

A: Well, now that's the way I would handle it. I think I would stop selling starting at that point. The market is thin and I don't see any other way of accomplishing by driving it down any further.

Q: I can change that.

A: What's that?

Q: I'll talk Lockheed to change that.

A: I'm sorry, I didn't hear you.

Q: I'll talk Lockheed to change that.

A: Yes, I think it would be better. I've sent for Lockheed to see what he thinks it will be better too.

Q: Well, now is the government's best thing - I didn't get a good chance to talk with the President. Jeff's on the way here and I'll leave this thing with you and Jeff will say that if that thing comes I want to keep it just as steady as possible.

H.M.Jr: On this foreign exchange thing. Have you got any suggestions? Have you been watching it?

George Harrison: Not in the last hour - no, but --

H. M. Jr: They tell me sterling is weak.

H: Sterling is weak because, as Payne says, the market is so thin that when we tried to sell some it went down and the Francs immediately got over the gold point.

H.M.Jr: The Franc isn't over the gold point now.

H: Well it was over the lower point the last time I saw it, wasn't it?

H.M.Jr: What? Oh I mean within the gold point.

H: Yes. So it ran down the cost rate so low that it became up to you to tell Saulsbury to buy Francs that way.

H.M.Jr: Well can we buy gold now at--

H: Wait a minute I can't hear you.

H.M.Jr: Well I don't see why we don't buy some gold in Paris.

H: Well now that's the way I would handle it. I think I would stop selling sterling at the moment. The market is thin and I don't see what you're accomplishing by driving it down any further.

H.M.Jr: I can change that.

H: What's that?

H.M.Jr: I'll tell Lochhead to change that.

H: I'm sorry I didn't hear you.

H.M.Jr: I'll tell Lochhead to change that.

H: Yes, I think it would be better. I've sent for Payne but I'm sure he thinks it will be better too.

H.M.Jr: Well now on the government bond thing - I didn't get a good chance to talk with the President. Jeff's on the phone here and I'll leave this thing with you and Jeff this way that if this thing comes I want to keep it just as steady as possible.

H: Yes.

H.M.Jr: I mean I want to - I've ordered Hunter to keep the thing steady.

H: You've done what?

H.M.Jr: I want to keep the thing steady.

H: Yes.

H.M.Jr: I want to keep the thing steady.

H: I see. Well I agree with you.

H.M.Jr: So if you and Jeff get together and we have to use some of the Postal Savings gold bonds, it's perfectly agreeable to me.

H: Alright, first rate.

H.M.Jr: See?

H: Well then I'll keep in touch with Jeff on it.

H.M.Jr: Yes you keep in touch with Jeff.

H: Alright then.

H.M.Jr: See?

H: Yes.

H.M.Jr: Alright.

February 18, 1935.  
Monday.

## TREASURY DEPARTMENT

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Washington

FOR RELEASE, MORNING NEWSPAPERS,  
Monday, February 18, 1935.  
2-16-35.

Press Service  
No. 4-28

Secretary of the Treasury Morgenthau today announced that the new United States Savings Bonds to go on sale through the postoffices on or about March 1 would yield an interest rate of 2.9 per cent compounded semi-annually if held till maturity.

These bonds, which range in denominations from \$25 to \$1000, will not be transferable, but they will be redeemed for cash on the owner's request at any time after sixty days from the date of issue. The face of each bond bears a table of redemption values which enables the purchaser to know its redemption value at all times. The redemption value will increase regularly after the first year.

Under the rate fixed by the Secretary of the Treasury, purchasers will pay \$18.75 for a bond of \$25 maturity value; \$37.50 for a \$50 bond; \$75 for a \$100 bond; \$375 for a \$500 bond and \$750 for a \$1,000 bond. The bonds sell on a discount basis, and the difference between the price paid at issue and the maturity value represents accrual of interest. The \$100 bond increases in redemption value by \$1 every six months after the first year. After the seventh year it gains in value at the rate of \$2 every six months. The other denominations increase proportionately.

The new government securities will be on sale at approximately 14,000 postoffices. These include all first, second and third-class postoffices, and all fourth-class postoffices located at county seats. The Postoffice Department will have complete charge of the distribution of the bonds to the public, and preparations for handling the work are under way.

## TREASURY DEPARTMENT

INTER OFFICE COMMUNICATION

DATE Feb. 19, 1935

TO Mr. Morgenthau

FROM A. Lochhead

On February 15 the Banco de Mexico requested the Federal Reserve Bank of New York to make a telegraphic bid on 1,500,000 ounces of silver for immediate delivery. The Federal Reserve Bank of New York was instructed to bid 54.69¢ per ounce for delivery at Vera Cruz. This bid gave them the full benefit of the New York price for silver as compared to a price of 54.10, which is all they would have been able to obtain if it was sold in the London market. On Saturday morning they telegraphed requesting that the Federal Reserve Bank, if possible, improve the bid owing to the general advancing tendency of silver. As the bid given to the Banco de Mexico was a full one, good until the following day, it did not seem proper to encourage them to ask for new bids whenever the market was advancing, as in the event of a declining market we would have to stand by the bid made by us. The Federal Reserve Bank of New York was accordingly requested to inform the Banco de Mexico that we did not care to change our bid, and on Monday, February 18, they again telegraphed, agreeing to accept our original bid made to them on February 15.

FEDERAL EMERGENCY ADMINISTRATOR  
Of Public Works  
Washington

February 19, 1935.

Memorandum for the Administrator:

This is in reply to your request of this morning asking me to amplify my memorandum to you of January 25, 1934, in which I reported a conference in Secretary Morgenthau's office, where the subject of discussion was the awarding of the contract for the New York Post Office annex.

I said in that memorandum that Senator Tydings, who was present at the conference, volunteered the information that he knew that McCooley, of New York, was interested in seeing that Driscoll get the contract and that McCooley's political henchmen were active in Washington in that behalf. I said also that when Secretary Morgenthau asked Senator Tydings for the names of these men, he replied that the fact was generally known. He did not mention any names.

In the last paragraph of my memorandum I stated that after the conference had adjourned, Secretary Morgenthau asked me what inference I placed on Senator Tydings' remark that McCooley's henchmen were active in Washington working in Driscoll's behalf. In my memorandum in this connection I said to Secretary Morgenthau: "It is plain what he meant but he mentioned no names." What I meant by the language just quoted was that Senator Tydings meant for the conference to understand that McCooley was working in Driscoll's behalf, although he refused to mention any names. It seemed evident to me that in Senator Tydings' opinion this statement of supposed McCooley's

activity would react in the interest of Stewart and Company, which firm it was clear that Senator Tydings believed should have the contract.

Regarding the statement in my memorandum of January 25, 1934, in the matter of the exchange of letters between the Treasury Department and the Post Office Department, and the destruction thereof, I was simply reporting to you the gist of the conversation relating thereto. I have never of my own knowledge known any fact bearing on this matter.

(Signed) F.J.C. Dresser.

The above information has not been received officially as yet, since the British Embassy here has not been notified in the premises in London. In speed up the official notification (in order that we may be in a position to immediately arrange with France as to closing up St. Pierre by a similar arrangement), I have requested Mr. Osborne, Counsellor of the British Embassy to inquire by cable of London as to the details in the matter. I did not disclose to Mr. Osborne the source of our information, but merely told him we had received word in a confidential way, and would appreciate official verification if the facts were as reported. Upon receipt of the necessary official information from the British Embassy, the State Department will then proceed to close the deal with France.

The above information should not be given out as yet, since the British Embassy, as I have stated, does not know it as yet, other than what I told Mr. Osborne.



MEMORANDUM FOR THE SECRETARY

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February 19, 1935.

Subject: Newfoundland.

We have received confidential information from our Consul General at St. John's, Newfoundland, that the Newfoundland government has established a system of control over liquor exports, along the lines requested by us, said system having been approved by the Dominions office in London. This system went into effect last Saturday, February 16, at midnight.

The system is described as the Bermuda system of landing certificates, applying to vessels under 200 tons. (The rum running vessels are all under this tonnage, averaging around 100 tons.) This means that before a rum runner can clear with a cargo of alcohol or liquor, the exporter will have to deposit a cash bond equal to double the import duty on the spirits. This bond may only be returned upon the presentation of a landing certificate, from the port for which the vessel clears, to the effect that the spirits have been legally landed. Since the import duty on alcohol in Newfoundland is \$5.30 a proof gallon, the amount of bond necessary per gallon of 180 proof alcohol is \$10.44. In other words, a gallon of alcohol which costs the smuggler \$.50 at St. Johns, will have to be covered by a bond amounting to over twenty before it can be exported. Since this puts up a prohibitive bar in the way of the smuggler's profit, it is safe to say that it will stop smuggling from Newfoundland.

The above information has not been received officially as yet, since the British Embassy here has not been notified in the premises by London. To speed up the official notification (in order that we may be in a position to immediately arrange with France as to closing up St. Pierre by a similar arrangement), I have requested Mr. Osborne, Counsellor of the British Embassy to inquire by cable of London as to the decision in the matter. I did not disclose to Mr. Osborne the source of our information, but merely told him we had received word in a roundabout way, and would appreciate official verification if the facts were as reported. Upon receipt of the necessary official information from the British Embassy, the State Department will then proceed to close the deal with France.

The above information should not be given publicity at present, since the British Embassy, as I have stated above, do not know it as yet, other than what I told Mr. Osborne. If

we should give it publicity at this time, the favorable position in which our Consul General is now established in Newfoundland might suffer, in other words, his information might be shut off. Therefore, I would suggest withholding publicity for a few days, until after we close with France.

B. M. Thompson.

- Speaker  
Byrnes            Alright, Mr. Secretary.
- H.M.Jr:            Hello, how are you?
- B:                    Feeling fine.
- H.M.Jr:            I want to ask a little advice.
- B:                    (Chuckled) I can't give you any.
- H.M.Jr:            Yes you can. We're thinking now about our next financing you see?
- B:                    Yes.
- H.M.Jr:            And I want to ask you whether you hear on the Hill - whether it makes any difference that the Treasury carries such a big balance, you see? You know it shows up that we carry a balance of a couple of billion dollars, because we have to deduct the gold profit and it leaves us about a billion two. I was wondering whether people on the Hill - whether they ever watch that in connection with some of their bonus and other financing or whether that doesn't make any difference.
- B:                    I don't think it does, Mr. Secretary.
- H.M.Jr:            You don't think so.
- B:                    I haven't heard it discussed over here.
- H.M.Jr:            You haven't. You see what I mean? Now we could let that balance run down. I just wondered if people would say "well the Treasury's got a couple of billion dollars on hand - what's the difference if we pass a fifty or hundred million dollar extra appropriation."
- B:                    I haven't heard that idea advanced up here. It may be and then I'm not --
- H.M.Jr:            Could you sort of sound them out a little bit?
- B:                    I'll sound them out.
- H.M.Jr:            I wouldn't want to put the idea in their head.
- B:                    I understand but I've got a way that I can find out.
- H.M.Jr:            But I wondered if people watched our balances, you see?
- B:                    I don't think that the most of them - there may be one or two that do it but I don't think that the great majority of them know what the balance is.

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H.M.Jr: Well if it doesn't make any difference, I'd rather keep a big balance in case of some emergency.

B: Yes I see.

H.M.Jr: But if it's going to - if they think well they have so much money it doesn't make any difference, I'd rather let it run down.

B: I see the point and I think you're wise about it.

H.M.Jr: But if you would kind of sound them out I'd appreciate it.

B: I'll do that and let you know Mr. Secretary.

H.M.Jr: Thank you.

B: Alright.

H.M.Jr: I think you're right with the first announcement of conviction - as the result of this inspection - some of the things you've done.

H.M.Jr: That'll help.

H.M.Jr: Many of these reports coming in of course are merely minor things.

H.M.Jr: I understand.

H.M.Jr: Letture of warning it's good to have the correctional effect however.

H.M.Jr: They talk on the thing is having a very good effect.

H.M.Jr: Yes. Tell you know they're not fearful of being arrested.

H.M.Jr: That's what.

H.M.Jr: They're not fearful of being arrested.

February 19, 1935.  
Tuesday.

H.M.Jr: Hello Commissioner.

Commissioner Mulrooney: I've succeeded in getting enough money for a couple of months for six additional stenographers for transcribing.

H.M.Jr: How did you get them?

M: Well I appealed to the Budget Director.

H.M.Jr: Yes.

M: I didn't bother the Governor.

H.M. Jr: I see.

M: I got him to allocate the funds for me.

H.M.Jr: Fine.

M: Which will probably bring about a deficit in our budget later on. You know we haven't got as much money here as you have in Washington.

H.M.Jr: Oh really.

M: But, however, we'll move pretty fast now.

H.M.Jr: Well that's fine.

M: I think tomorrow I'll make the first announcement of revocation on the result of this inspection - some of our own and some of yours.

H.M.Jr: That'll help.

M: Many of these reports coming in of course are merely minor things.

H.M.Jr: I understand.

M: Letters of warning it's good to have the correctional effect however.

H.M.Jr: They tell me the thing is having a very good effect.

M: Yes. Well you know they're not fearful of being arrested.

H.M.Jr: What's that?

M: They're not fearful of being arrested.

H.M.Jr: No.

- 2 -

M: They're not fearful of the Magistrate's Court which results in suspension so often nor are they concerned with federal court. We had a case yesterday in Westchester County where the police found a still; the Justice of the Peace would not hold the man because there was not a purchase.

H.M.Jr: I see.

M: So what do you think of that?

H.M.Jr: That's tough.

M: When the law strictly prohibits the manufacture of alcohol or liquor.

H.M.Jr: That's right.

M: And we couldn't get the federal men interested in it.

H.M.Jr: Really?

M: We haven't up to now. But, however, I've just gone over a couple of hundred here now --

H.M.Jr: Do you want me to speak to the boys about this case?

M: Well I haven't got the details at my fingertips. If I find that it is necessary, I'll drop you a letter about it. I'll talk to Mr. Flet here. Does he take Westchester?

H.M.Jr: I'm not sure.

M: Well I'll connect with whoever it is as soon as I can.

H.M.Jr: Well if you don't get it, just send me a wire and I'll have somebody around in an hour.

M: Yes. You see what they're fearful of here is revocation.

H.M.Jr: Yes.

M: And I think it will have a very good effect.

H.M.Jr: Fine.

M: I'll go right along on it.

H.M.Jr: Thank you. Goodby.

M: Goodby.

(Tuesday) to watch the printing of the first issue of United States Savings Bonds and will go on sale at all postoffices on or about March 1st.

Mr. Houghton has told me first delivery of the new bonds will be made in the order they will also be distributed to 14,000 postoffices, where they are to be sold over the counter for cash. They will be on sale at all first, second and third-class postoffices, and at all fourth-class postoffices located at county seats. It is expected that the postoffices will set aside separate windows for their sale, and also designate special officials to handle them.

Postoffice and other clerks will act as promoters in the sale, delivery, safeguarding, and receipt of the bonds.

Executive Committee has announced that the bonds will sell for prices which will yield a return in ten years equal to interest at slightly less than 3 per cent compounded semi-annually. They will be in five denominations, ranging from \$25 minimum value to \$1000. The \$25 bond will sell for \$19.75 and the \$1000 bond for \$750. They are payable at any time after sixty days from the date of issue, which shall be the first day of the month in which the bonds are bought. The owner gets back only his original investment in the first year. After the first year, the bonds increase in value every six months.

**February 19, 1935.**  
**Monday.**

On the first day of the month in which the bonds are bought, the value which comes the owner's share of the first \$1000 bond, for instance, increases to \$1000 every six months after the first year, and by \$50 every six months after the second year. The value continues to increase in value proportionately.

## TREASURY DEPARTMENT

Washington

FOR RELEASE, MORNING NEWSPAPERS,  
Wednesday, February 20, 1935.  
2-19-35.

Press Service  
No. 4-32

Secretary of the Treasury Morgenthau visited the Bureau of Engraving today (Tuesday) to watch the printing of the first batch of United States Savings Bonds that will go on sale at the postoffices on or about March 1.

Mr. Morgenthau was told that first delivery of the new bonds will be made within a few days. They will then be distributed to 14,000 postoffices, where they are to be sold over the counter for cash. They will be on sale at all first, second and third-class postoffices, and at all fourth-class postoffices located at county seats. It is expected that the postoffices will set aside separate windows for their sale, and also delegate special officials to handle them. Postmasters or their agents will aid purchasers in the sale, delivery, safekeeping, redemption and payment of the bonds.

Secretary Morgenthau has announced that the bonds will sell for prices which will yield a return in ten years equal to interest at slightly less than 3 per cent compounded semi-annually. They will be in five denominations, ranging from \$25 maturity value to \$1000. The \$25 bond will sell for \$18.75 and the \$1000 bond for \$750. They are cashable at any time after sixty days from the date of issue, which shall be the first day of the month in which the bonds are bought. The owner gets back only his original investment in the first year. After the first year, the bonds increase in value every six months.

The bond is about eight inches square. On the face there is a table of redemption values which shows the redemption value of the bond at all times. The \$100 bond, for instance, increases in value by \$1 every six months after the first year, and by \$2 every six months after the seventh year. The other denominations increase in value proportionately.

In buying a bond, the purchaser simply pays cash to the postmaster or his agent. The postmaster then writes on the face of the bond the name and address of the owner, the date of issue and the date of sale. No bond will be valid unless it bears these notations, and no bond will be payable to anybody but the person whose name appears on it, with the exception of payments to the proper person or agent in case of death or disability. Attached to the bond is a stub which the postmaster detaches and forwards to the Treasury Department as record of the sale. These provisions guarantee complete protection to the owner in event of loss or destruction, for he may replace the bond under Treasury regulations. He cannot be deprived of payment through forgery or any legal process.

The purchaser may take his bond with him, or he may leave it with the Government for safekeeping.

## TREASURY DEPARTMENT

Washington

374

Release, Morning Newspapers,  
Monday, February 25, 1935.  
2-23-35.

Press Service  
No. 4 - 34

Many advance orders have been received at the Treasury Department for the purchase of the United States Savings Bonds which go on sale at post offices on or about March 1. The requests have come from many sections of the country, and the amounts asked range from the smallest denomination of \$25, which costs \$18.75 at issue, to the largest unit of \$1,000, which will be sold at an issue price of \$750. There have been numerous requests for purchase of the maximum amount of \$10,000 which one person may buy in a single calendar year.

Although these requests indicate public interest in a form of Government security issued in small denominations, Treasury officials point out that no advance or private sales will be made. The bonds will be offered to the general public as a convenient means of saving and investment, and they will be on sale only at post offices. They will be sold at about 14,000 post offices, which include all first, second and third-class offices and all fourth-class offices located at county seats.

The Post Office Department has begun distribution of the bonds and has given instructions for their sale to postmasters. It is expected that the latter will set aside separate windows for handling the bonds, and delegate special officials to have charge of their sale. Postmasters and their assistants will be ready to advise purchasers on any question in connection with the sale of United States Savings Bonds.

The Treasury Department has sent to post offices and banks the official circular setting forth the terms of the offer, and these will be available at the Treasury Department. This circular describes the bonds and explains how they may be obtained, kept and redeemed. It points out that a purchaser may keep them in his own possession, or, if he prefers, he may deposit them with

the Government for safekeeping.

It is believed that owners generally will prefer to retain possession of their securities. They will be registered bonds, and the owner cannot be deprived of payment by loss, destruction, theft or forgery.

The official circular also contains the table of redemption values which is printed on the face of each bond. This shows the value of the bond at any time before maturity, so that the owner will know at all times how much he will obtain if it becomes necessary to cash it in an emergency. The circular notes that the bonds are exempt from all present or future Federal, state or local taxation, with the exception of estate or inheritance taxes and Federal income surtaxes.

Postal Savings depositors may withdraw their savings for the purchase of United States Savings Bonds without loss of interest. They may withdraw their Postal Savings certificates and exchange them for the new Government securities at the same post office window. The new bonds will sell at prices which will yield an increase of value equal to a return of slightly less than 3 per cent compounded semiannually, if held until maturity in ten years.

Each denomination bears the portrait of a President. The \$25 bond carries a picture of George Washington, while the likeness of Jefferson appears on the \$50 bond, Cleveland on the \$100, Wilson on the \$500 and Lincoln on the \$1,000 unit.

This is the first time that the picture of former President Wilson has been used on a public debt security of the United States.

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# UNITED STATES SAVINGS BONDS SERIES A

1935  
Department Circular No. 529  
PUBLIC DEBT SERVICE

TREASURY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
Washington, February 25, 1935.

## *Offering of United States Savings Bonds, Series A*

The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, approved September 24, 1917, as amended, offers for sale, to the people of the United States, through the Postal Service, an issue of bonds of the United States, designated United States Savings Bonds, Series A, which will be issued on a discount basis, will mature in 10 years, but will be redeemable before maturity at the option of owners. Beginning March 1, 1935, these bonds will be on sale at post offices of the first, second, and third classes and at selected post offices of the fourth class, in amounts of \$25 (maturity value) and multiples thereof; and they will continue to be on sale until this offering is terminated by notice given by the Secretary of the Treasury to the Postmaster General.

### *Description of Bonds Offered*

United States Savings Bonds, Series A, will be issued only in registered form, in denominations of \$25, \$50, \$100, \$500, and \$1,000 (maturity value), at prices hereinafter set forth, and will bear the name and address of the owner, the date as of which issued, and the date of maturity, which on original issue shall be inscribed thereon by the authorized postmaster at the time of issue. All such savings bonds are to be dated as of the first day of the month in which the issue price is received, and will mature and be payable 10 years from such issue date. They may be redeemed prior to maturity (but not within 90 days after the issue date), at the owner's option, in accordance with the table of redemption values appearing at the end of this circular, and set forth on the face of each bond. No interest will be paid on savings bonds, but the purchase price has been fixed so as to afford an investment yield of about 2.9 percent per annum compounded semi-annually if the bonds are held to maturity. If the owner exercises his option to redeem his bond prior to maturity the yield will be less, varying with the respective redemption values.

The savings bonds will not be transferable, and will be payable only to the owner named thereon, except in case of death or disability of the owner or as a result of judicial proceedings, and then only in accordance with regulations prescribed from time to time by the Secretary of the Treasury. (See Treasury Department Circular No. 530, dated February 25, 1935.) Savings bonds issued through a post office shall be valid only if inscribed with the owner's name and address, dated the first day of the month in which the issue price is received, and duly delivered by an authorized postmaster; they will bear the facsimile signature of the Secretary of the Treasury, the seal of the Treasury Department will be impressed thereon, and they will bear the post-office dating stamp.

The savings bonds shall be exempt, both as to principal and interest, from all taxation now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority, except (a) estate or inheritance taxes, and (b) graduated additional income taxes, commonly known as surtaxes, and excess-profits and war-profits taxes, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, associations, or corporations. The interest on an amount of bonds authorized by the Second Liberty Bond Act, approved September 24, 1917, as amended, the principal of which does not exceed in the aggregate \$5,000, owned by any individual, partnership, association, or corporation, shall be exempt from the taxes provided for in clause (b) above. For the purposes of determining taxes and tax exemptions, the increment in value of savings bonds represented by the difference between the price paid and the redemption value received (whether at or before maturity) shall be considered as interest.

### *Purchase*

Savings bonds of Series A may be purchased for cash, at post offices of the first, second, and third classes, and at selected post offices of the fourth class, at any time while this offer is in effect; and, subject to regulations prescribed by the Board of Trustees of the Postal Savings System, the withdrawal of postal savings deposits, without loss of interest, will be permitted for the purpose of acquiring savings bonds. The issue prices of the various denominations of these bonds follow:

<i>Denomination (maturity value)</i>	<i>Issue price</i>
\$25.....	\$18.75
50.....	37.50
100.....	75.00
500.....	375.00
1,000.....	750.00

It shall not be lawful for any one person at any one time to hold savings bonds issued during any one calendar year in an aggregate amount exceeding \$10,000 (maturity value).

### *Delivery and Safekeeping of Bonds*

Postmasters from whom savings bonds may be purchased are authorized to deliver such bonds duly inscribed and dated upon receipt of the purchase price. Deliveries should not be accepted by any purchaser until he has verified that his name and address are duly inscribed on the face of the bond and that the bond is duly dated the first day of the month in which he made payment of the purchase price.

Any savings bond will be held in safekeeping by the Secretary of the Treasury if the purchaser so desires, and in this connection the Secretary will utilize the facilities of the Federal Reserve banks as fiscal agents of the United States. The purchaser may arrange for such safekeeping at the time he purchases his bond or subsequently. Postmasters generally will assist owners in arranging for safekeeping, but will not act as safekeeping agents.

FOR RELEASE, MORNING NEWSPAPERS,  
Wednesday, February 27, 1935.  
2-26-35.

Two people may share ownership in a United States Savings Bond, according to a regulation governing their sale made public today by the Treasury Department. The circular, which has been distributed to all banks, explains how the new Government securities may be bought for miners, relatives, estates, trusts and other classes of beneficiaries.

It answers many questions which have been asked about the bonds, which will go on sale at 14,000 postoffices on or about March 1. The Treasury has received many advance orders, and in many instances prospective purchasers have asked whether they could buy bonds in the name of their children, their wives and trusts in their charge. Provision for such purchases and for insuring payment to the actual owner or his legal representative has been made in every case.

When two people buy a bond, as a husband and wife, the names of both are written on the bond as evidence of joint ownership. But either person may obtain payment without requiring the signature of the other on the application form on the back of the bond. In purchasing a bond for a minor who will collect the full amount at maturity, a parent may write on the bond the name of the intended beneficiary.

Purchasers may designate beneficiaries to whom they intend the bond to be paid by writing in the latter's names at the time of sale. Guardians, executors, administrators and trustees may acquire bonds for individuals or estates in their legal charge, and officers may buy them for their firms. In all instances of purchases of this kind, the relationship between buyer and beneficiary must be written on the face of the bond.

The circular also explains the procedure to be followed in case of death or disability of the owner. Strict regulations to safeguard the rights of the actual owner or his heirs have been made by the Treasury Department.

# REGULATIONS GOVERNING UNITED STATES SAVINGS BONDS

376

TREASURY DEPARTMENT,

OFFICE OF THE SECRETARY,  
Washington, February 24, 1935.

1935

Department Circular No. 530

Postal Data Service

## To Owners of United States Savings Bonds, and Others Concerned:

The following regulations governing United States Savings Bonds are published for the information and guidance of all concerned:

### I. REGISTRATION

1. United States Savings Bonds will be issued only in registered form. Except as otherwise specifically provided in these regulations, the Treasury Department reserves the right to treat as conclusive the ownership and interest in the bond as stated in the registration.

2. The following forms of registration are authorized:

- (a) In the name of any individual, including minor.
- (b) In the names of two (but not more than two) natural persons in the alternative, as, for example, "John Jones OR Mary Jones." The addresses of both persons should be inscribed on the savings bond. No other form of registration in two names is authorized except, as provided in subparagraphs (c) and (d) hereof.
- (c) In the name of one individual and a single designated beneficiary in case of death, as for example, "John Smith, payable on death to Mary Smith", in which case the address of the registered owner and the address of the beneficiary should be inscribed on the face of the savings bond.
- (d) In the name of one or more guardians, executors, administrators, trustees, or other fiduciaries, whose names shall be given, followed by a description as complete as possible of the capacity in which and the persons for whom they hold the savings bond. Registration in a form indicating that the persons whose names appear on the bonds do not hold full legal title to the savings bond, as, for example, "John Jones, under Article 10, of the will of Henry Smith", will not be permitted.
- (e) In the name of any corporation, unincorporated association, partnership, or joint-stock company. The name of the owner should be followed by the word or words "corporation", "unincorporated association", "partnership", or "joint-stock company", as the case may be. No designation may be made in the registration of an officer or agent to receive payment in behalf of the corporation, unincorporated association, partnership, or joint-stock company.

### II. BONDS NOT TRANSFERABLE

United States Savings Bonds are not transferable; and are payable only to the owner named thereon, except in case of the death or disability of the owner or as a result of judicial proceedings, and then only to the extent specifically provided in Sections XIII, VIII, and XIV hereof.

### III. LIMITATION ON HOLDINGS

Under the provisions of Section 23 of the Second Liberty Bond Act, approved September 24, 1917, as amended, it shall not be lawful for any one person at any one time to hold savings bonds issued during any one calendar year in an aggregate amount exceeding \$10,000 (maturity value). In determining whether the \$10,000 limitation on the holdings of any one person has been exceeded, the full maturity value of savings bonds issued in any one calendar year held for the benefit of such person in the name of a fiduciary or fiduciaries, or held by such person with any other person (but not of bonds of which such person is merely the designated beneficiary in case of the death of the owner), shall be added to the full maturity value of such bonds held by such person in his or her own name, and the sum must not exceed \$10,000 (maturity value). If any person who owns savings bonds should become the owner of additional savings bonds as the result of the death of any other person, and the total amount then owned by him is in excess of the lawful limit, he should immediately surrender the excess for payment at the redemption value for the period in which the excess was acquired.

### IV. LOST, STOLEN, OR DESTROYED BONDS

1. Under the provisions of the Revised Statutes, duplicates may be issued or payment made upon proof of the loss, theft, or destruction of savings bonds. Application for relief in such cases will be governed by the regulations found in Department Circular No. 240. Full information as to the requirements, as well as appropriate forms, may be secured from the Treasury Department, Division of Loans and Currency, Washington, D. C.

2. It is important that immediate notice of such loss, theft, or destruction be given to the Treasury Department.

(1)

## V. SAFEKEEPING FACILITIES

1. Any savings bond will be held in safekeeping by the Secretary of the Treasury if the purchaser so desires, and in this connection the Secretary will utilize the facilities of the Federal Reserve banks as fiscal agents of the United States. The purchaser may arrange for such safekeeping at the time he purchases his bond or subsequently. If the owner desires his bond held in safekeeping, he can obtain from the postmaster an appropriate envelope, and an application blank which he should fill out, address to the appropriate Federal Reserve bank, sign and enclose with the bond in the envelope, which should be addressed to the appropriate Federal Reserve bank. The postmaster will then register the envelope, at the owner's expense, and the registry receipt will serve as the owner's temporary receipt.

2. When received at the Federal Reserve bank, the bond will be placed in safekeeping and a receipt from the bank will be mailed to the owner at the address given in the application. The owner can subsequently regain possession of his bonds upon application to the Federal Reserve bank, and upon such identification as is required by such bank.

3. Postmasters generally will assist owners in arranging for safekeeping, but will not act as a safekeeping agent.

## VI. GENERAL PAYMENT PROVISIONS

1. Savings bonds will be payable at or after maturity at their full value, or, at the option of the owner, prior to maturity (but not within 60 days after the issue date) at the appropriate redemption value as shown on the face of each bond. Payment, in each case, will be made following presentation and surrender of the bond, at the Treasury Department, Division of Loans and Currency, Washington, D. C., or at any Federal Reserve bank, with the request for payment appearing on the back thereof properly executed in accordance with the succeeding paragraphs. Such presentation will be at the expense and risk of the owner and, for his protection, the bond, or bonds, should be presented in person or forwarded by registered mail.

2. The request for payment must be signed in ink or indelible pencil by the person in whose name the bond is inscribed, or by the person entitled to receive payment under the provisions hereof. The request must be signed in the presence of, and be certified by, one of the following officers:

(a) Any United States postmaster, acting postmaster, or official in charge of a post office authorized to sell savings bonds: provided that in post offices of the first class the assistant postmaster, the postal cashier, the superintendent of money orders, or the superintendent or clerk in charge of a classified station or branch may certify to the request for payment; and provided further that at any post office of the second class, the assistant postmaster, or the clerk in charge if there is no assistant postmaster, may certify to the request for payment. If an official other than a postmaster, acting postmaster, or an official in charge of an office certifies to a request for payment, he should certify in the name of the postmaster, acting postmaster, or official in charge, followed by his own signature and official title, e. g., "John Doe, postmaster, by Richard Roe, Superintendent of Money Orders". The certification of any post-office official must be authenticated by a legible imprint of the dating stamp of his post office;

(b) Any executive officer of an incorporated bank or trust company, whose signature must be authenticated by the impression of the corporate seal of the bank or trust company;

(c) Any officer authorized generally to witness assignments of United States registered bonds (See Pars. 33-35 Department Circular 300).

3. No person authorized to certify requests for payment may certify a request signed by himself, either in his own right or in any representative capacity.

4. Certifying officers should require positive identification of the person executing the request for payment as the person whose name appears on the face of the bond, or the person entitled to request payment under the provisions of these regulations, and will be held fully responsible therefor.

## VII. MINORS

1. If a savings bond is registered in the name of a minor and the Treasury Department has notice that a guardian of the estate of such minor has been appointed by a court of competent jurisdiction, payment will be made only to such guardian. The request for payment appearing on the back of the bond should be signed: "A. B., minor, by C. D., guardian" and must be supported by a certificate from the proper court, or by a certified copy of the order appointing the guardian, showing his appointment and qualification. The certificate, or certified copy, must be under the seal of the court and should be dated not more than one year prior to the presentation of the bond.

2. If the Treasury Department has no notice of the appointment of a guardian of the estate of a minor owner of a savings bond, payment will be made direct to such minor owner, provided such minor is, at the time payment is requested, of sufficient competency and understanding to sign his name to the request and to comprehend the nature thereof. In general, the fact that the request for payment has been signed by the minor and duly certified in accordance with Section VI hereof will be accepted as sufficient proof of such competency and understanding. If the Treasury is properly advised in the request for payment that such minor owner is not of sufficient competency and understanding to execute the request for payment, payment will be made to either parent of the minor with whom he resides, or in the event that such minor resides with neither parent, then to the person with whom he does reside. In executing the request for payment the parent or other person shall sign the minor's name as well as his own name, and state his relationship to the minor, and there shall be inserted above the space for signature in the request for payment a statement to the effect that the owner is a minor, that he is not of sufficient competency and understanding to execute the request for payment, and that the person signing the request is the person with whom the minor resides. An appropriate form is as follows:

"I am the ..... (state relationship) of A. B. and the person with whom he resides. He is not of sufficient competency and understanding to sign this request.

C. D. ....  
on behalf of A. B.

### VIII. DISABILITY OF OWNERS

1. If the owner of a savings bond has been legally declared to be incompetent to manage his affairs and the Treasury Department has notice that a conservator or other legally constituted representative of his estate has been appointed by a court of competent jurisdiction, payment will be made only to such conservator or other legal representative. The request for payment should be signed: "A. B. incompetent, by C. D., conservator (guardian or committee as the case may be), and must be supported by a certificate from the proper court or a certified copy of the order of the court appointing such conservator or other legal representative showing his appointment and qualification. The certificate, or certified copy, should be under the seal of the court and dated not more than one year prior to the date of the presentation of the savings bond for payment.

2. In cases where the owner of a savings bond has been judicially declared incompetent or insane and no guardian or other legal representative of his estate has been appointed, and the entire gross value of his personal estate, both real and personal, does not exceed \$500, payment will be made to a member of his family standing in the position of voluntary guardian upon presentation of proof satisfactory to the Secretary of the Treasury that the proceeds of the bonds are required, and are to be used, for the purchase of necessaries for the incompetent or for his wife or minor children or other persons dependent upon him for support.

### IX. COOWNERS

A savings bond registered in the names of two persons in the alternative, as for example, "John Jones OR Mary Jones", will be payable to either person named thereon without requiring the signature of the other person, but not to the representative of a deceased coowner except as hereinafter provided, and upon payment to either person the other shall cease to have any interest in the bond. Should one of the owners die and then the survivor himself die before payment of the savings bond, the provisions of Section XIII hereof, governing payment or release of savings bonds held by a deceased owner, shall govern the payment or release of the bond as though the survivor had been the sole owner.

### X. BENEFICIARIES

1. A savings bond registered in the form "A. B. payable on death to C. D." will be payable, until the Treasury Department has received notice of the death of the registered owner, as if the beneficiary were not named on the bond. Upon proof of death of the registered owner, the bond will be payable to, or reissued in the name of, the beneficiary named on the bond, at his option (but only if such beneficiary did not predecease the original owner), as if he had been the registered owner.

2. If the beneficiary should predecease the registered owner, the savings bond will be payable to the registered owner as though such beneficial registration had not been made. Registration naming beneficiaries at the death of the registered owner cannot be changed so as to add, eliminate, or substitute beneficiaries.

3. Should the beneficiary die after the death of the registered owner, but before payment or release of the savings bond, the provisions of Section XIII hereof governing payment or release of savings bonds held by a deceased owner, shall govern the payment or release of the savings bond as though the beneficiary had been the registered owner.

### XI. FIDUCIARIES

1. A savings bond registered in the name of a fiduciary will be paid to such fiduciary without proof of his authority upon presentation of the bond with the request for payment duly signed by him and certified in accordance with Section VI hereof. The request for payment should be signed by the fiduciary in exactly the same manner as his name and designation as fiduciary appear on the face of the savings bond.

2. In the event of the death or disqualification of a fiduciary in whose name a savings bond is registered, such savings bond will be paid to, or, if desired, reissued in the name of, his successor upon satisfactory proof of the appointment and qualification of such successor. If there is no successor, the savings bond may be paid to, or, if desired, reissued in the name of the person or persons beneficially entitled thereto upon satisfactory proof of their beneficial ownership.

### XII. CORPORATIONS, ASSOCIATIONS, PARTNERSHIPS, ETC.

1. A savings bond registered in the name of a corporation, unincorporated association, or joint-stock company will be paid upon a request for payment signed by a duly authorized officer of such organization. The signature to the request should be in the form, "The \_\_\_\_\_ Company, by JOHN JONES, President". The fact that the request for payment is signed and duly certified in accordance with Section V hereof may be accepted as sufficient proof of the officer's authority.

2. A savings bond registered in the name of a partnership will be paid upon a request for payment signed by any general partner. The signature to the request should be in the form "Smith and Jones, a partnership, by JOHN JONES, a general partner". The fact that the request for payment is signed and duly certified in accordance with Section VI hereof may be accepted as sufficient proof that the person signing the request is a general partner.

### XIII. DECEASED OWNERS

1. *With administration.*—If the owner of a savings bond dies leaving a will which is duly admitted to probate and on which letters testamentary are issued, or dies intestate and the estate is administered in a court of competent jurisdiction, payment will be made to the duly appointed representative of the estate. The request for payment should be signed in the form, "A. B., executor (administrator) of the estate of C. D., deceased", and must be supported by a certificate under the seal of the court appointing such representative, dated not more than six months prior to the presentation of the savings bond for payment, showing the appointment and qualification of such representative and stating that the

appointment is still in force; or, in the absence of such a certificate, by a duly certified copy of the representative's letter of appointment, the certification of which must be dated not more than six months prior to the presentation of the bond for payment, and must state that the appointment is still in force. A savings bond will be reissued in the name of an heir or legatee of the deceased owner upon the request of the representative accompanied by his certificate to the effect that the person in whose name reissue is requested is entitled to the savings bond as such legatee or heir. If the representative is himself the heir or legatee entitled to the savings bond and desires reissue in his own name, a special order of the court authorizing such reissue must be submitted.

2. *Without administration.*—If the owner of a savings bond dies and no legal representative of his estate is to be appointed and it is established to the satisfaction of the Secretary of the Treasury, either that the gross value of the personal estate does not exceed \$500, or that administration of the estate is not required in the State of the decedent's domicile, the savings bond will be paid to, or reissued in the name of, one (but not more than one) of the persons entitled to the bonds under the laws of the State of the decedent's domicile without administration. The request for payment should be signed in the form, "A. B., C. D., E. F., heirs and persons entitled to the estate of X. X., deceased," and should be accompanied by an agreement signed by all persons entitled, specifying the person to whom payment is to be made or in whose name the bond is to be reissued. Proof will be required that the debts of the decedent and of his estate have been paid or provided for, and that the person to whom payment is requested or in whose name reissue is requested, is entitled to the bonds; such proof will include affidavits of all persons entitled to any share in the estate setting forth the facts in detail and agreeing to the payment or reissue in question, supported by affidavits of two disinterested persons having personal knowledge of the decedent and his family, and by a death certificate or other proof of the death of the owner. (Use Form L. & C. 285, copies of which may be procured from the Treasury Department or any Federal Reserve bank.) If the gross value of the personal estate exceeds \$500 the Secretary of the Treasury may further require an affidavit or a certificate from a practicing attorney or judicial officer of the State of the decedent's domicile showing that administration of the estate is not required in such State and referring specifically to the statutes or the decisions of the courts of such State under which exemption from administration is claimed, or showing that it is a general and well recognized practice in that State to settle such estates without administration.

3. No payment or reissue without administration will be permitted in a case where any of the persons entitled are minors or under disability, except to them or in their names or upon compliance with the provisions of Sections VII and VIII hereof governing the payment of savings bonds in the names of such persons.

#### XIV. CREDITORS' RIGHTS

Payment of a savings bond will be made in accordance with a judgment or decree of a court of competent jurisdiction, or proceedings pursuant to such judgment or decree, except in cases where the action is instituted for the purpose of giving effect to an attempted transfer by the owner contrary to Section II hereof. In appropriate cases the Treasury Department will require proof that the court acting had jurisdiction over the parties and subject matter, and proceeded in due course of its jurisdiction, and that the judgment or decree is final and conclusive, that it has fully and effectually transferred the title of the owner, and that it is not open to attack in any jurisdiction whatever. For this purpose duly authenticated copies of the complaint, order of service, return of service, answer, or other pleading, and the final judgment or order of the court must be furnished, together with a certificate, under seal, from the clerk of the court showing that the time for appeal has elapsed without an appeal having been taken, or that an appeal has been taken and determined by the court of last resort (in which case certified copy of the rescript or mandate of such court must be furnished) and that no further appeal is possible.

#### XV. DENOMINATIONAL EXCHANGE OR REISSUE

No denominational exchanges of savings bonds will be permitted, and except as expressly provided by this circular no reissue of savings bonds will be made, whether in the same name or in another name.

#### XVI. FURTHER PROVISIONS

These regulations are prescribed by the Secretary of the Treasury as governing United States Savings Bonds issued under the authority of the Second Liberty Bond Act, approved September 24, 1917, as amended, and the provisions of Treasury Department Circular No. 300 have no application to such savings bonds except as hereinbefore specifically provided.

The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing United States Savings Bonds.

HENRY MORGENTHAU, JR.,

Secretary of the Treasury.

*Henry*

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February 20, 1935.

The Open Market Committee of the Federal Reserve System met with the Secretary of the Treasury in his office at 11:00 A.M. to discuss Treasury financing.

Those present were:

Henry Morgenthau, Jr. Secretary of the Treasury,

T. Jefferson Coolidge, Undersecretary of the Treasury,

Marriner S. Eccles, Governor of the Federal Reserve Board,

George L. Harrison, Governor, Federal Reserve Bank of New York,

W.R. Burgess, Deputy Governor, Federal Reserve Bank of New York,

W.W. Paddock, Deputy Governor, Federal Reserve Bank of Boston,

M.J. Fleming, Deputy Governor, Federal Reserve Bank of Cleveland,

G.J. Seay, Governor, Federal Reserve Bank of Richmond,

G.J. Schaller, Governor, Federal Reserve Bank of Chicago,

George C. Haas, Director of Research and Statistics, Treasury  
Department,

D.W. Bell, Commissioner of Accounts and Deposits,

C.B. Upham.

Mr. Morgenthau explained that when the Committee was asked to meet today, it was thought that it might be possible to make some definite decisions as to the Spring financing, but that it is difficult to tell from the market of the last two days just what it may shake down to, and that it will probably be advisable to confine the discussion today to general considerations, and wait until the middle of next week to reach decisions.

Mr. Coolidge made a general statement as to plans under consideration. His feeling is that it will not be necessary to ask for any cash on March 15th but that the thing to do is to offer a note

in exchange for the \$528,000,000 of notes that mature March 15th and a bond for the \$1,870,000,000 of Fourth 4-1/4's that have been called for April 15th, with no choice or alternative being given. His feeling is that the bill offerings should be jumped from \$75,000,000 of six month bills to \$100,000,000 with some of them nine months bills. This will bring in \$325,000,000 additional cash between now and June. If that is done, we will certainly need no more new cash until June.

Mr. Coolidge said he would like to get reactions on the proposed change in maturity of bills, and on the proposal to restrict holders of maturing notes to a five year note and holders of called bonds to a long-term bond.

Asked what rate he was figuring on for the five year note to be given to holders of the \$500,000,000 of 2-1/2 per cent notes maturing March 15th, Mr. Coolidge indicated that it would probably be pretty low, say 1-3/4 at the most.

Mr. Coolidge indicated that he would go to New York and sound out the market. Mr. Burgess observed that what the market is looking for usually goes pretty well. Mr. Morgenthau suggested that if it were known that no cash would be asked for on March 15th, the market might begin to act more naturally.

Asked by Mr. Harrison if it were certain that more money would be needed in June, Mr. Coolidge said, not necessarily, and added that we might try out a sale of longer notes on a weekly basis.

Mr. Burgess said that a nine month bill on a discount basis is new and there is some difference of opinion about its advisability, that nine months was beyond the usual usance for such securities, that he preferred the six month maturity, but that he thought the

nine month would go alright.

Mr. Coolidge commented that we have used bills and certificates, but that he prefers nine month bills to the combination of certificates and shorter bills. It means smoother operation and cheaper money.

Mr. Coolidge asked if the market is in shape to take a two billion dollar exchange, and Mr. Harrison replied that if not now, it never was.

Mr. Morgenthau asked if it would be alright to announce tomorrow afternoon the decision to ask for \$50,000,000 on six month bills and \$50,000,000 on nine month bills, Thursday being regular bill offering day.

Mr. Harrison asked if the arguments against nine months bills were not the same as originally advanced against six month bills.

Mr. Burgess replied that they were not quite the same. London went back to three month bills, he said, because that is the general usance for discount paper. There is always a market for the short terms, he said.

Mr. Morgenthau recalled that when Earle Bailie was here he had been very timid about increasing the bill maturity from three to six months.

Mr. Coolidge said he was eager to get rid of the certificates.

Mr. Harrison said a different situation exists now. There is something to be said for the longer maturity with a greater return. Give the market plenty of short terms, and some long for the greater yield.

Mr. Coolidge remarked that the long ones get short. He said that Mr. Case of the New York Federal Reserve Bank was about the

only person in New York who objected -- that the bankers liked the idea generally.

Mr. Burgess suggested that the position might be different when the market tightens and it is necessary to drop back to three month bills. Mr. Coolidge thought we might drop back when we need less money. Mr. Burgess said he had no objection to the new proposal. Mr. Harrison said he thought there is an academic objection, but that it is not serious, and that there are many arguments in favor of it.

Mr. Morgenthau said that unless someone felt that the 9 month bills would not go, he would like to try it.

Mr. Burgess suggested that we do not try too many new things at once -- try the nine month bills now and the new note idea in six weeks.

Mr. Harrison asked what rate might be expected on the nine month bills, and Mr. Coolidge said that he thought it might be around .22 to start off and would perhaps work lower later. Mr. Harrison commented that the baby bonds were more attractive, and Mr. Coolidge responded that their yield was about the best of any Governments. Mr. Eccles mentioned the \$10,000 annual limit on acquisitions by any one person.

Turning to the conversions, Mr. Coolidge suggested the possibility of 2-7/8 bonds. If there is a good rate offered, he said, the whole five billion can be converted, but we can't offer a three per cent bond at par when the market is at 103½. He said he would like a long bond of say 20-30 years, but would be willing to cut it to 20-25 if it was thought there would be much difference between the two.

Mr. Harrison asked if it were not better for the Treasury

to have a short spread. Mr. Haas said he thought the long spread better, and explained that such is the British practice. Mr. Coolidge said that we have been able to call the 32-47's, whereas we would not have been able to had they been 42-47's. He thought the short spread better for the holders. He explained that the usual term is "callable each six month interest payment date on three months notice."

Mr. Morgenthau pointed out that there is no 55-60 maturity at the present time, and that 55 and 56 are the latest.

Mr. Coolidge asked about how much difference there be between offering a 2-3/4 or a 2-7/8 at par or a 3 at 102. It was agreed that offering at par is advisable, and it was said that we could not offer a 3 at par.

Mr. Morgenthau referred to the relations of the Treasury with Congress, and said that he would like to keep the coupon as low as possible. He considers that more important than the price or the maturity. In his opinion 2-3/4 would look good to Congress, and would help out in opposing the idea of non-interest bearing currency. We must get the coupon as low as possible. He would like to get out beyond 55 but the prime consideration is the coupon rate.

Mr. Coolidge observed that we will get a large amount irrespective of the rate, of course, but the rate may make the percentage more satisfactory.

At the suggestion of Mr. Morgenthau, Mr. Upham told of the ideas advanced and sponsored at a meeting of the Monetary Forum in the House Office Building caucus room last night at which Former Senator Robert Owen, financial writer Hemphill, Robert M.

Harriss, and Congressman Goldsborough spoke.

Mr. Morgenthau said that the agreements reached so far would be announced, and asked the committee to return a week from today for a decision as to the details of the conversion offerings.

Mr. Morgenthau suggested that he announce at his press conference Thursday morning that no new money would be asked for March 15th. Mr. Burgess commented that this might put the market up, and Mr. Eccles added "and get you 2-3/4 bonds." Mr. Coolidge said that he liked the proposal -- that he thinks it pays to tell the market as soon as possible. Mr. Harrison said that it was fairer than "seepage".

Mr. Morgenthau said that the bill announcement would give a partial explanation for the decision as to no new money on the 15th.

Mr. Harrison said that he thought it too bad to have to tell but that otherwise the talk necessary in New York will result in a preferred list of informed persons. Mr. Morgenthau said that if we tell New York we have to tell Oklahoma and Wisconsin at the same time and that the only way to do it is through the press.

Mr. Harrison observed that there had been little opposition expressed to the nine month bills but that there had been no discussion of the wisdom of exchange of a note for a note and a bond for a bond, **without** any choice. He said that he was always against a choice, but pointed out the possibility of a choice being regarded as a sign of weakness if it is used only occasionally.

Mr. Coolidge said that in his opinion we can now sell \$1.8 billion of long bonds, and that this is the first time since he came to the Treasury that he has thought that possible.

Mr. Morgenthau said to Governor Harrison that he was pleased that the Open Market Committee had given discretionary authority as to the use of \$250,000,000. Mr. Harrison replied that the committee had followed the Treasury lead in the exchange market, and had come out about the same place -- about even. Mr. Morgenthau said that the Treasury is not out yet, but that currently it shows a profit. He referred to the brush with the French as successful, and commented that the "Bermuda plan" has been adopted as applicable to St. Pierre, ships being required to show proof of landed cargo.

Mr. Morgenthau suggested that if the Open Market Committee will help to shove the market up a little, it will help in securing a 2-3/4 bond. Mr. Harrison replied that they were "waiting for orders."

H.M.Jr: Hello.  
This is Bob Jackson.

H.M.Jr: Hello Bob.

J: I want to tell you the most startling thing that happened this morning.

H.M.Jr: Yes.

J: They have been forced to admit that this return was a false return from the very beginning. Mellon signed it in Washington - he didn't swear to it. They brought it up to Pittsburgh and fixed it up with a Notary Public in his office to make it look like a regular return and filed it and they've admitted that on the stand.

H.M.Jr: Well I'll be damned.

J: They've also admitted that while he was Secretary of the Treasury he was selling short in the market -

H.M.Jr: That came over the ticker - \$78,000

J: It did?

H.M.Jr: Yes - I saw that on the ticker.

J: Well you hadn't got this about the false return yet?

H.M.Jr: No I did not.

J: Well that - oh that is a piece of evidence that justifies everything we've ever done and more too.

H.M.Jr: Well how did he come to admit it?

J: Well we got it on him. Last night they put this return in; then they put their agent on - Johnson - and he testified that the thing was sworn to or that the return was signed in Washington.

H.M.Jr: I see.

J: It was our information that it had been signed here in Pittsburgh, so we immediately checked the Notary and Sher immediately found out that the Notary was a Pittsburg Notary.

H.M.Jr: I see.

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J: So that it's just one of those things that wouldn't happen once in a million in

H.M.Jr.: Just a good piece of luck.

J: Well yes just horseshoes but

H.M.Jr.: What?

J: It's just horseshoes but of course we'll have to claim that we knew all the time

H.M.Jr.: That's alright. Well that's fine. It reads awfully well in the paper and I liked your gesture about asking Congress to investigate.

J: Well of course the press has not been giving us a very favorable report up to now; they've been under the impression that there is nothing to the case and that it was a persecution.

H.M.Jr.: How were the Hearst papers?  
strange enough

J: The Hearst papers/have given us the best write-up here locally of any paper in Pittsburgh.

H.M.Jr.: That's interesting.

J: They've been very friendly with us and they've given excellent write-ups of the case and they've gone out of their way to be nice personally.

H.M.Jr.: Well isn't that nice. They have a paper there.

J: Yes.

H.M.Jr.: Fine.

J: Yes - the Home Telegraph. Why they even<sup>went</sup> so far they embarrassed me.

H.M.Jr.: Really. Nice things that they said?

J: Yes they were very very complimentary.

H.M.Jr.: Fine. Well while this is going on I'd be glad to have you call me up. I'm intensely interested.

J: Well, of course, this was the first thing that was really a vital break. The break yesterday was rather

Bella.

Harold  
Gardner: against us on that darn stamp.

H.M.Jr: Grand.

J: But the President will be interested in this because the last thing before we came up he gave us his blessing.

H.M.Jr: Fine.

J: So - why - they can't talk politics any longer. It's all justified.

H.M.Jr: Thank you.

J: Alright. Goodby.

H.M.Jr: Goodby.

H.M.Jr: I see.

J: But there's no question of their willingness to go along with us.

H.M.Jr: You set up a Board there they have not.

J: The Board here doesn't figure in this connection or have out. The licenses are issued by the City of Chicago.

H.M.Jr: Oh.

J: And systematically speaking it is the control of the matter by Chicago.

H.M.Jr: I see.

February 20, 1935. Wednesday.

H.M.Jr: I see.

J: I did talk with the Secretary of the State Board and when I found that he didn't have much to do with it, I didn't pursue that matter any further.

H.M.Jr: I see.

Hello.

Harold  
Graves:

How are you sir.

H.M.Jr:

I'm fine.

G:

I have seen the Governor, the Mayor and the Police Commissioner in Chicago.

H.M.Jr:

Fine.

G:

And everything is alright.

H.M.Jr:

Fine.

G:

They're going to assign their officers as soon as they can and we hope to have them assigned by Monday.

H.M.Jr:

Fine.

G:

It seems that there's a strike on here that's worrying them some and that might operate to delay the thing for a few days.

H.M.Jr:

I see.

G:

But there's no question of their willingness to go along with us.

H.M.Jr:

You set up a Board there the same way?

G:

The Board here doesn't figure in this proposition it turns out. The licenses are issued by the City of Chicago.

H.M.Jr:

Oh.

G:

And practically speaking is in the control of the Mayor by himself.

H.M.Jr:

I see.

G:

So the Mayor practically can revoke <sup>these</sup> licenses without going to the State Board.

H.M.Jr:

I see.

G:

I did talk with the Chairman of the State Board but when I found that he didn't have much to do with it, I didn't pursue that end of the thing at all.

H.M.Jr:

I see. Well but you got a good cooperation.

Hello.

He's at a meeting but I'll get him if you want him.

G: Good cooperation. Everything is just fine.

H.M.Jr: We'll let the publicity come later.

G: I think so, yes.

H.M.Jr: Right.

G: And I'll be back Friday morning. I'm sorry but I can't get there any earlier than tomorrow afternoon so I'll not be back until Friday morning.

H.M.Jr: Well I'll be in Washington Friday, so look me up.

G: I'll drop in and see you.

H.M.Jr: Thank you.

G: You're welcome.

H.M.Jr: Goodbye

G: Goodbye.

February 20, 1935.  
Wednesday.

Hello.

He's at a meeting but I'll get him if you want him.

H.M.Jr: Yes, I want him.

Hello Harold. Have you seen this story about Mrs. Whittemore in this morning's merry-go-round?

Ickes: Yes.

H.M.Jr: Well what do you think of it?

Ickes: Well just like all the rest of that damn stuff. This gold decision down here - I don't know where it's all coming from.

H.M.Jr: Well I got pretty good reason to know where this came from.

Ickes: Where did it come from.

H.M.Jr: Why it came right out of your shop

Ickes: From whom?

H.M.Jr: What?

Ickes: From whom?

H.M.Jr: Well I got pretty good reason to know where it comes from.

Ickes: Well from whom?

H.M.Jr: What?

Ickes: From whom?

H.M.Jr: From you.

Ickes: From whom?

H.M.Jr: From you.

Ickes: Me?

H.M.Jr: Yes.

Ickes: It isn't true. Why do you talk to me like that?

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H.M.Jr: Because I have reason to know so.

Ickes: Well what are your reasons?

H.M.Jr: What?

Ickes: What are your reasons.

H.M.Jr: Direct.

Ickes: Direct from - who told you so?

H.M.Jr: Came direct.

Ickes: What?

H.M.Jr: It comes direct from Pierson.

Ickes: I don't get it.

H.M.Jr: I say it comes direct from Pierson.

Ickes: He told you that I told him?

H.M.Jr: He told - he told - if you want to know he told it to a person whom I've got absolute confidence in.

Ickes: I didn't tell him that.

H.M.Jr: Well that's what he said. You see, Harold, I haven't talked to the newspapers. I never do that thing. The story yesterday and the story to-day - those stories haven't come out of the Treasury. If you and I don't believe on some project and don't --

Ickes: Well do you think I talked to Lambert too?

H.M.Jr: I don't know anything about that.

Ickes: Well I tell you I didn't. I have seen him for weeks, or months.

H.M.Jr: Well I don't know anything about that but this thing came to me just a few minutes ago and I can - I've never had any personal feeling. I can disagree with you on whether we build this --

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Ickes: Well I don't --

H.M.Jr: But this thing --

Ickes: I don't agree with you that there's been no personal feeling.

H.M.Jr: Well there has been on my side.

Ickes: Yes I think there has been.

H.M.Jr: Well--

Ickes: But quite aside from that I did not - I've never said anything about that to anybody.

H.M.Jr: Well I'm just telling you what ---

Ickes: Well supposing that - assuming that I did -

H.M.Jr: Yes

Ickes: There's no reflection on the Treasury, is it?

H.M.Jr: Well Mrs. Whittemore works for the Treasury.

Ickes: Well what of it?

H.M.Jr: What of it? Well it says here "the trouble with the lady who marries a man high in government with a broad smile is the yacht".

Ickes: Well I never made any statement. I didn't know she had a yacht.

H.M.Jr: Well it said so in Greeding's letter.

Ickes: Well now look here Henry.

H.M.Jr: Yes.

Ickes: Frankly, I don't think it's a matter that concerns you anyhow, even if I did give it and I tell you I didn't.

H.M.Jr: Well it does ---

Ickes: But I don't see any time involved in anybody saying that it's proposed to transfer a woman in order to make place for a man.

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H.M.Jr: The point that I'm objecting to is this. That in two days' running there's been stuff given to the papers about people working in the Treasury Department.

Ickes: Well I tell you it did not come from here.

H.M.Jr: And --

Ickes: And I sent you a letter this morning - John Lambert says that he didn't get it either directly or indirectly out of this Department.

H.M.Jr: And it doesn't do the President any good to have this kind of stuff appear in the paper.

Ickes: Well, with all due respect, Henry, I'll - if the President has anything to say as to what does him good or not I'll take it from him and not from you.

H.M.Jr: Well, Harold, don't push me too hard on this stuff, see?

Ickes: Well you're doing the pushing.

H.M.Jr: No because I'm not --

Ickes: You're insinuating and making accusations I say are not true, and you keep persisting in making those insinuations.

H.M.Jr: And they keep appearing in the papers

Ickes: I don't give a damn what appears in the papers. I tell you I'm not responsible. You either take my word or you don't take my word. My word is just as good as yours Mr. Morgenthau.

H.M.Jr: That's alright but the stuff keeps --

Ickes: Thank you - goodbye.

February 21, 1935.  
Thursday, AM

The NRA board is on its last legs.

Its members, personally on friendly terms, are as far apart as the poles on policies and plans. On almost every important issue before them they have split wide open and the President has had to step in and make the decisions.

This was the case in the cigarette code. It was even more so in the renewal of the automobile code.

As a result, the work of the recovery agency has fallen into a state of confusion and uncertainty. The morale of its personnel has sunk to zero.

That a drastic reorganization of NRA administration is imperative is conceded by all in the inner council—except one, "Associate President" Don Richberg.

The reason is obvious. The board idea was Richberg's baby. He persuaded the President to turn to it instead of the one-man rule which General Johnson counseled.

Junking of the Board, therefore, would be a serious blow to Richberg. So he is vehemently denying that it has proven a flop and is insisting that it be retained.

But the handwriting is on the wall, and none know it better than the board members themselves.

Three of the five—Chairman S. Clay Williams, Arthur E. Whitestone and Sidney Hillman—are making no secret that they intend quitting just as soon as they can conveniently do so.

Donald R. Richberg is very unhappy.

He is not talking about resigning, but to friends who call on him he inveighs at great length and with much bitterness against his former laborite associates who blame him for the renewal of the auto code.

Above all, Richberg resents what General Hugh Johnson has been saying about him in the Saturday Evening Post.

"Those articles justify the letter I sent to the publishers warning them about what Johnson would say about me."

A shake-up of personnel in the government of Puerto Rico is impending. But it awaits one thing—the eccentricity of woman.

The shake-up provides that Benjamin J. Horton, now attorney general of Puerto Rico, shall be collector of customs, and that Jess Whittemore now collector of customs, shall be transferred some shady berth in the U.S.A.

But Mrs. Whittemore is not anxious to be transferred. San Juan is a delightful place. Furthermore, the collector of internal revenue enjoys the use of a beautifully equipped Government launch.

"The trouble with the lady," remarked a man high in the Government with a broad smile, "is the yacht."

A new kind of labor board soon may be in operation.

It would seek to provide more effective protection for Southern

share-croppers under the cotton control program and in general enforce the labor provisions of AAA crop control contracts.

Hundreds of complaints have been received by the Agricultural Department from tenant farmers charging that plantation owners are driving them from the land, forcing them to work as day laborers.

This is contrary to the cotton acreage reduction act which specifically provided that owners shall "permit all tenants to continue in the occupancy of their

homes rent free for the years 1934 and 1935.

Henry Wallace is in a much more strategic position to enforce the labor provisions of this law than NRA and Labor Board officials having jurisdiction over section 7a.

He can resort to the simple expedient of withholding the Government's check to the plantation owner until he complies with the law.

Genial Tom Hewes, Special Assistant to Secretary Hull, ran into the State Department press room looking for a thesaurus.

"I want," he said, "a good word to use instead of dynamic."

"Dynamic is so rare in diplomacy," he continued, "that no one seems to know any synonym for it."

You have to hand it to Secretary of Commerce "Uncle Dan" Roper.

What it takes to get his name on the front page he has in a big way. Last week he demonstrated it with one of the smoothest publicity stunts seen in Washington in many moons.

That is the real low-down behind the widely fanfared story that Gen. Robert E. Wood, president of Sears Roebuck & Co. was appointed "principal" adviser to the President on the allocation of the \$4,000,000,000 work-relief fund.

The real fact is that Roosevelt did not appoint the Chicago business man to anything.

What appointing was done was performed by "Uncle Dan" and the agency to which General Wood was named has no official status and will have nothing to do with deciding how the employment-creating money will be spent.

What actually happened was this:

General Wood was named chairman of a committee of the "Business Advisory and Planning Council." Both the committee and the council are the brain-children of Roper.

Made up of big business men, the two groups have no more relation to the Government than any other unofficial body of men. Their announced purpose is to suggest plans to the Administration on how to combat the depression.

Their real purpose is to enable Roper to keep himself in the limelight—an objective to which he devotes much thought and for which he recently employed a high-pressure publicity man.

## The Washington Sideshow

By George Rothwell Brown

The Administration from now on is going to play ball better with the boys up on Capitol Hill. The latter are tired of shouldering their reputation of being a "rubber stamp." The 4,880 million dollar works-relief bill, which nobody apparently sponsored, but which was rushed through the House under the weight of the psychic influence of the President, put the lid on.

The new NRA bill is going to be a committee bill. From now on so will all other big measures. The only exceptions will be in those cases where the President assumes direct responsibility for a measure and plainly states that he wants it, as is, without the crossing of a "T."

All this represents a big change in the psychology of Congress, and especially of the House. Involved in it also is a matter of major political strategy. House leaders are convinced that the reputation of the House as a "rubber stamp" isn't helpful to the House itself or its individual members.

There is reason to believe Speaker Joe Byrns has expressed this view in very high quarters, and that he played a very important, if generally unknown, part in insisting upon the reestablishment of the constitutional independence of the legislative branch of the Government. That there was genuine acquiescence in this view in the aforesaid high quarters seems certain. Everything harmonious.

The net result will be that the Ways and Means Committee will itself draw up the act con-

tinuing NRA. There will be no draft prepared elsewhere, and sent to the Capitol marked: "Please stamp!" Naturally, the executive branch will inform the committee of such ideas as it may desire to have included in the measure. But the main point is that the committee itself will draw that bill. Naturally, its own ideas will go into it, too. Swallowing the five-billion more nearly choked the House than is commonly realized. The Senate is at this moment choking on it.

Incidentally, there is reason to believe that in certain quarters outside the House there was a strong desire that the new NRA bill should go to Sam Rayburn's Interstate Commerce Committee. Both that one, and the Judiciary Committee had stronger claims on it than Ways and Means. But Speaker Byrns, at a White House conference, with Rayburn present, announced he would refer the bill to Ways and Means. He was fortified with a parliamentary opinion that Ways and Means, having had original jurisdiction, was entitled to it. That settled it. So Ways and Means gets it. Very quietly thus was enhanced the prestige of the House and of the speakership. And it's good Democratic politics, too!

Long-headed veterans in public life in Washington see in the Supreme Court's decision as to the gold clause in Government obligations, the raising of a momentous political issue, that may rock the country for the next 20 years. It may turn out to be the greatest political issue of the kind since 18 to 1.

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Hello?

Hello.

Hello, Mr. Speaker, Morgenthau talking - Hello?

Byrnes: Hello

H.M.Jr: They said you called me.

B: What?

H.M.Jr: Is this Speaker Byrnes?

Yes.

Morgenthau.

B: Oh Morgenthau. I thought you said McIntyre.

H.M.Jr: No.

B: Oh Mr. Secretary I was coming down there. I don't know now whether I have time or not. You know you called me yesterday.

H.M.Jr: Yes.

B: I discussed that matter. I think that - I don't know whether it's sufficiently strong for you to give it serious consideration or not but there is some feeling up here you know along the line you said. Of course it's wholly unwarranted but at the same time it exists.

H.M.Jr: It does.

B: Now to show you, let me give you an example and I hadn't thought of talking to him about it. Madrick, that new member, was making a speech on the floor of the House yesterday for about ten minutes and he was talking about increasing our armaments you understand. That's what he thinks and I happened to be sitting on the floor and when he got through he came over and sat down by me and I complimented his speech because I thought it was a pretty good one and he said "now you know I think we could do this. I don't see any great reason" so many He says as a matter of fact there's a big - over two billion dollar surplus down in the Treasury. Why he says I think we could issue notes and - without any danger of inflation. Well I told him - I said I think you're just wrong about that now. But at the same

- 2 -

time that was his opinion.

H.M.Jr: I see.

B: I'm just giving you that as the views of some of them. Now how general it is, I don't know but that was his idea and that came, as I say, voluntarily from him.

H.M.Jr: I see.

B: He just had that idea and I think that's entertained by some of the others up here.

H.M.Jr: Well I certainly appreciate your calling me.

B: Yes. Mr. Secretary.

H.M.Jr: Yes sir.

B: In regard - who ought I communicate with about some of those Baby Bonds. Can you tell me.

H.M.Jr: You mean as to information?

B: I just want to get some information about them.

H.M.Jr: Well I'll be glad to send somebody up to see you.

B: Well what I want is are there limitations on the number sold to an individual.

H.M.Jr: You can buy - any individual can buy up to \$10,000 in one year.

B: I was thinking about getting some of the Baby Bonds myself.

H.M.Jr: That's fine.

B: Some of the \$1,000 ones.

H.M.Jr: Well any individual can buy up to \$10,000 in one year.

B: Well now I had better make my application, hadn't I?

H.M.Jr: Yes.

B: Right away.

H.M.Jr: I'd be glad to handle it for you.

B: Well that's mighty good of you. What shall I do send a check or what?

H.M.Jr: If you send us a check we'll be glad - when we announce it to announce that you bought some.

B: What?

H.M.Jr: We'll be glad, if you don't mind.

B: Well I don't know.

H.M.Jr: You send me down a check personally and I'll be delighted to take care of it.

B: I don't know whether my credit is worth your being delighted to take care of that or not.

H.M.Jr: Well --

B: But - shall I send that right away?

H.M.Jr: Why anytime between now and the first of March.

B: Alright, thank you so much, Mr. Secretary.

H.M.Jr: Between now and the first of March.

B: Thank you so much.

H.M.Jr: Right.

February 21, 1935.  
Thursday.

February 26th

At the 9:30 meeting to-day, H. M. Jr. brought up the question of the McKellar Amendment and what we were doing towards helping the 1300 men get their pay. Mr. Gaston suggested that he would get Gridley, of the United Press, to send word around to the editors of their newspapers asking them whether they would not help these people along by running editorials in their papers. H.M.Jr. then telephoned Senator Glass and attached herewith is their conversation.

A discussion started on the pink slips and H.M.Jr. stated that he would not take a position on the income tax publicity. He has told everyone who has questioned him that he would carry out the orders of Congress.

H.M.Jr. told Bell that he wanted to print \$50,000,000 more of \$10 silver certificates and wanted these sent out to the Federal Reserve Banks as soon as possible.

H. M. Jr discussed with Mr. Haas, Coolidge, Oliphant and Bell to-day our banking system and our currency system. It is Mr. Morgenthau's idea to separate commercial deposits from checking accounts. 90% of our currency is based on checks. When banks want to become liquid, they call in loans which they have made to factories, etc., and, therefore, contract the amount of business that factories can do in order to get enough money to keep checking accounts liquid on account of fear of having a run. If these two functions are separated, he wants to find out whether we could not stop from happening what occurred in 1933 when we had all of our bank failures.

H.M.Jr. called the President and told him that we have a number of people on the hill representing the Treasury on the Security Legislation - this was asked for by Congressman Doughton. These people reported to Mr. Morgenthau that a young man by the name of Elliott is really representing the administration on the security bill and that everything was at sixes and sevens. The President inquired who Elliott was and H.M.Jr. told him that his title was Legal Adviser to Miss Perkins on the security bill. H.M.Jr. also told the President that Congressman Doughton and the Democrats were all fighting and everything was in a terrible condition. Miss Perkins had said that she was going to carry on the security legislation but she has been so busy that she has had to designate this young fellow Elliott. Things were getting worse hourly and H.M.Jr. suggested that the President take this up with Miss Perkins.

H. M. Jr. also told the President that Miss Roche had been talking to the labor people over the week-end and she states that the labor people are terribly upset over the \$50 a month wage. There is a great deal of hostility. H. M. Jr. felt that inasmuch as Senator Wagner and Costigan were very sympathetic and wanted to be helpful, that the President might want to talk to them and, through their help, perhaps break this jam. The President said that the labor organization went into this thing with their eyes open. He also reminded H.M.Jr. that they only represented three million people. He said he would be glad to talk to Wagner and Costigan but he felt that we would not be able to compromise. The President also said that he would call up Doughton on the security legislation.

H.M.Jr. reported to the President that silver was up to 56¢ and that India was buying spot silver.

Carter  
Glass: Hello. Morgenthau, Jr. talking.

H.M.Jr: Yes.

G: Good morning Senator. How are you sir.

H.M.Jr: Fairly well, thank you sir.

G: Senator, I'm calling up about the Treasury Post Office bill. Do you think there is going to be any chance to get that out?

H.M.Jr: Oh yes. I think its going to be good enough maybe the latter part of this week.

G: The latter part of this week?

H.M.Jr: Yes.

G: Well that will be grand. I saw that the Senate got out the Jeffsis Commerce bill and of course ours passed - came over first and I

H.M.Jr: The reason for that was that I was engaged with this five billion dollar bill.

G: Yes, so I've read.

H.M.Jr: Senator McKellar was Chairman of the sub-committee having in charge the State Justice Department. I told him to go ahead with his bill in order to have it out of the way so that we should get to the Post Office bill.

G: And you think you'll get to the Post Office Treasury the end of the week.

H.M.Jr: I think so - yes.

G: Well that will be fine.

H.M.Jr: The next bill that will be considered is the District of Columbia bill which came over first of all, but it had not been considered because Senator Copeland, who is a very active member on the Committee, was out of town on account of the accident to his wife in Florida, but I think this Treasury Post Office bill will be taken up the latter part of this week.

H.M.Jr: Well thank you very much.  
 G: I'll communicate with you as soon as its done.  
 H.M.Jr: Thank you. Goodby.

to-day and had with him a letter from the President of the  
 Credit National Association which the Credit National Association  
 is authorized and is authorized to do. H.M.Jr. said  
 contract for four days in the middle of the month of  
 month. H.M.Jr. told Sinclair that he did not deal directly with the  
 with any intermediary and he did deal directly with the  
 Central Bank of Mexico as the president of the bank.

H.M.Jr. also told Sinclair that he had  
 recalled to him Sinclair's name for the purpose of the  
 he added to his letter of October 25, 1936 which is as  
 follows:

My dear Mr. Sinclair, I am writing you  
 the Treasury is in the market for the purchase  
 of large volumes of silver at low prices.

Mr. Sinclair said that he agreed with Mr. Mor-  
 ganthau in that he had no right to ask this question. The  
 meeting was very disagreeable because Mr. Morganthau told  
 Sinclair that he did not want to do business with a man who  
 used the tactics which Sinclair did and of course Sinclair  
 "begged" to be forgiven.

H.M.Jr. immediately telephoned Morganthau at  
 the Federal Reserve in New York and told him to get a  
 message to the Central Bank of Mexico and have them tell  
 the President of the Credit National Association that if they  
 have any silver to offer the United States government they  
 did not have to hire anyone, that you were not a financial agent  
 and that they might do business through you.

February 26th

John F. Sinclair came in to see Mr. Morgenthau to-day and had with him a letter from the President of the Mexican Mineral Association called the Credito Minero Mercantil in which it authorized him to negotiate with H.M.Jr. for a contract for from three to five million ounces of silver a month. H.M.Jr. told Sinclair that he did not do business with any intermediary but he did deal directly with the Central Bank of Mexico on the purchases of any silver.

H.M.Jr. does not trust John Sinclair and recalled to Mr. Sinclair's mind the impertinent P. S. which he added to his letter of October 23, 1934 which is as follows:

"Is it fair, therefore, to conclude that the Treasury is in the market for the purchase of large volumes of silver at this time?"

Mr. Sinclair said that he agreed with Mr. Morgenthau in that he had no right to ask this question. The meeting was very disagreeable because Mr. Morgenthau told Sinclair that he did not want to do business with a man who used the tactics which Sinclair did and of course Sinclair "begged" to be forgiven.

H.M.Jr. immediately telephoned Burgess at the Federal Reserve in New York and told him to get a message to the Central Bank of Mexico and have them tell the President of the Credito Minero Mercantil that if they have any silver to offer the United States government they did not have to hire anyone, that you were our Fiscal Agent and that they ought to do business through you.

H.M.Jr: But I want you to handle it for me just the same

Burgess: Yes.

H.M.Jr: I had a man by the name of John F. Sinclair just came in to see me.

B: John F. Sinclair.

H.M.Jr: Yes.

B: I know him.

H.M.Jr: With a letter from the President of the Mexican Mineral Association called the Credito - C r e d i t o M i n e r o Y M e r c a n t i l S A signed by the President, in which it authorized him to negotiate with me for contract from three to five million ounces of silver a month, see? Now I don't know who we buy our silver through - I know we buy it from you and you get these telegrams, don't you?

B: Yes.

H.M.Jr: You get them from the Central Bank in Mexico.

B: Yes.

H.M.Jr: Hello?

B: Yes.

H.M.Jr: I think that's the way it is, see?

B: Yes.

H.M.Jr: Well whoever you get your telegrams from, I want to advise them that I don't do business with any intermediary, see.

B: Yes yes.

H.M.Jr: I don't know - God knows what this fellow told him, but I want to get word to him that we don't do any business through any intermediary and we'll do business - that you're our agent and if anybody in Mexico has any silver to offer, they should offer it to you, but I won't do business with any middleman, see.

- 2 -

B: Now do you want me to talk to Sinclair or -

H.M.Jr: No no no no no. As I understand it, it's the Central Bank of Mexico that sends/these telegrams.  
us

B: Oh yes yes.

H.M.Jr: And I'd like you to get this message to the Central Bank of Mexico.

B: Yes yes.

H.M.Jr: And let them tell whoever the President of the Credito Mercantil is, that if they have any silver to offer the United States government they don't have to hire anybody.

B: I see.

H.M.Jr: Because I'm afraid this fellow may say the boys sold me down the river.

B: Yes.

H.M.Jr: You see what I mean?

B: Yes.

H.M.Jr: But I want to get this word to the Central Bank of Mexico and let them pass it on, see?

B: Yes yes.

H.M.Jr: Don't you think I'm right? I know I'm right. I don't want them to think that we do business that way up here.

B: Yes I see.

H.M.Jr: And I'm very anxious - ~~after~~ you're my fiscal agent - you in turn give that information to the fiscal agents of Mexico.

B: You think that this company employed Sinclair perhaps.

H.M.Jr: Oh he had a letter from them, authorizing him to be their agent - him to be their agent.

B: I see, yes yes. I wonder whether the way to do it would be to tell Sinclair.

H.M.Jr

Hello.

Speaker

Hello Mr. Secretary.

H.M.Jr:

I have already - he actually was crying in my office. He just left my office. I told him I wouldn't do business with any intermediary. Feeling fine.

B:

Yes yes yss.

H.M.Jr

I got here you called me yesterday.

H.M.Jr:

He had tears in his eyes - he was terribly upset. I told him I wouldn't do business through any middleman but I want to get this word from the Federal Reserve of New York to the Central Bank in Mexico.

H.M.Jr

Will you be just that you called me in Mexico

B:

I see. I see. Well we'll find a way to do it.

H.M.Jr:

Thank you.

B:

Alright sir.

H.M.Jr:

Goodby.

H.M. Jr

Well I'll talk to anybody you send down.

B:

Well I know you have a question whether or not I ought to do so.

H.M.Jr

Well I don't mind.

B:

What?

H.M.Jr

I don't mind.

February 26, 1935.  
Tuesday.

Well I don't know now. I talked to him yesterday noon and I don't know now whether he's going to -

H.M.Jr

Well if he wants to come and he doesn't give you send him down.

H.M.Jr:  
Speaker  
Byrnes :

Hello.  
Hello Mr. Secretary.

H.M.Jr:

How are you sir?

B:

Feeling fine.

H.M.Jr:

I got word you called me yesterday.

B:

No I - well yes I did call you but I didn't intend to bother you about it. I don't think I asked that you call me. I'm not sure.

H.M.Jr:

Well just the fact that you called me is enough for me.

B:

Well that's fine of you. I appreciate it. Now I'll tell you what I called you about but I'm not going to bother you with that. It was more in response to our friend, Bell, who represents Kansas City on the amendment. He's got a bill up here which he's pressing you know. Made a speech yesterday in regard to this Publicity Clause. He asked me if I would mind calling you, so he could come down and talk to you about it. Well I understand the Committee is in touch with you and I would presume that you wouldn't care to talk to any individual on that who comes down there about it.

H.M. Jr:

Well I'll talk to anybody you send down.

B:

Well I know but there's a question whether or not I ought to do it.

H.M.Jr:

Well I don't mind.

B:

What?

H.M.Jr:

I don't mind.

BP

Well I don't know now. I talked to him yesterday noon and I don't know now whether he's going to --

H.M.Jr:

Well if he wants to come and he presses you, you send him down.

- 2 -

B: Well now that's might <sup>y</sup>clever of you, but if he doesn't press me I'm not going to do it.

H.M.Jr: Now let me tell you confidentially what my position is going to be on this.

B: Yes. I think you're clearly right yourself.

H.M.Jr: You tell me if you think I'm right. The position that I'm going to take on this publicity is this: That I'm here to carry out the will of Congress, and anything that Congress does I'll carry out.

B: Yes. Well thank you very much, Mr. Speaker.

H.M.Jr: But I will not express any preference - I say I don't think it's up to me to express a preference.

B: I don't think so either.

H.M.Jr: Had Congress passed this law last year, we're going ahead to make our plans.

B: If they want to repeal it, they can do so.

H.M.Jr: They can do so, but I will not express any opinion one way or the other.

B: I think you're clearly right; I think that is the correct position. This thing of passing the buck to you, you know.

H.M.Jr: I know.

B: I believe that is the position and if you let that be known and ---

H.M.Jr: Well I'll have to answer Doughton's letter and that's the way I'm going to answer it.

B: I think you're right about it and let Congress act. Now personally I don't mind telling you, I'm in favor of repeal. I don't see much that is to be gained. There is a tremendous demand. Now, of course, it's coming from a limited number you know, because those people who don't want their returns looked into are necessarily limited. The great body of the people don't pay any income tax, etc., but I'm just inclined to think that I'm like - I

February 26,  
Tuesday.

Morganthau talking.

Speaker:

feel that you are right. Let Congress take the responsibility.

H.M.Jr:

Well, unless you tell me I'm wrong, that's the position, I'm going to take.

B:

Well I think you're clearly right myself.

H.M.Jr:

Thanks very much and if this gentleman wants to see me and he bothers you, you just send him down.

B:

Well I don't think he will, but that's what I called you about yesterday.

H.M.Jr:

Well thank you very much, Mr. Speaker.

B:

Alright, thank you for calling.

H.M.Jr:

Goodby. we're making our preparations to give the other publicity, but Congress wants to change the law, while we'll abide by whatever they do.

B:

I understand you always do that.

H.M.Jr:

The Speaker thought that I was absolutely right.

B:

Then you're not going to take a position here with me?

H.M.Jr:

No. I asked his advice and he said Morganthau you're absolutely right.

B:

I'm in favor of repeal but I doubt if we could do it unless we had an expression from the Administration that it is desirable - I doubt it very much.

H.M.Jr:

Well I don't - as far as the Treasury is concerned, we're going to stay absolutely neutral.

B:

I don't want to delay this other Economic bill.

H.M.Jr:

Well that's going to be our position.

February 26, 1935.  
Tuesday.

Well we're glad to have that.

H.M.Jr:

Alright sir.

B:

Has the President come back?

H.M.Jr:

Came back Thursday evening.

Morgenthau talking.

- Doughton: Alright Mr. Secretary.
- H.M.Jr: I got a note yesterday that when I came in to-day you wanted to talk to me.
- D: Yes. I want to talk to you about this agitation that's going on about repeal of this publicity clause of the income tax law --
- H.M.Jr: I don't hear you very well.
- D: I want to get your reaction to it.
- H.M.Jr: Well I talked to the Speaker about it about a half an hour ago and I told him how I felt and I told him that I thought as Secretary of the Treasury that my position was the following: That I am here to carry out the will of Congress and that we're making our preparations to give this matter publicity, but if Congress wants to change the law, while we'll abide by whatever they do.
- D: I understand you always do that.
- H.M.Jr: The Speaker thought that I was absolutely right.
- D: Then you're not going to take a position here with me?
- H.M.Jr: No. I asked his advice and he said Morgenthau you're absolutely right.
- D: I'm in favor of repeal but I doubt if we could do it unless we had an expression from the Administration that it is desirable - I doubt it very much.
- H.M.Jr: Well I don't - as far as the Treasury is concerned, we're going to stay absolutely neutral.
- D: I don't want to delay this other Economic bill.
- H.M.Jr: Well that's going to be our position.
- D: Well we're glad to have that.
- H.M.Jr: Alright sir.
- D: Has the President come back?
- H.M.Jr: Gets back Thursday morning.

- 2 -

Hello,

D: Thursday morning. Well we're working hard on this Economic Security bill.

H.M.Jr: I know you are. I hear you're having some trouble.

D: Oh it's the most difficult proposition - about six or eight bills in one.

H.M.Jr: I know.

D: It's like sailing on an uncharted sea.

H.M.Jr: When I went up there - before I went up there it was the damnest bill I ever testified on in my life.

D: Well we'll see you before long.

H.M.Jr: Thank you.

D: Thank you very much for calling, Mr. Secretary.

H.M.Jr: Thank you.

February 26, 1935.  
Tuesda y .

That's perfectly alright.

And we're saying so.

That's perfectly alright.

That's alright.

and another subject will come up in the future.

Yes.

H.M.Jr: Hello.

L. W. Robert: Hello Mr. Secretary.

H.M.Jr: Where are you ?

R: I'm just between trains in Raleigh.

H.M.Jr: Oh I mean where are you now?

R: Oh I mean Atlanta.

H.M.Jr: Oh, well I didn't know - have you got a - what I wanted to tell you was this. In this report which Peoples is making to Glavis, see, in this thing - it has only come out recently - Glavis has made charges against you and Reynolds - hello?

R: Yes I'm listening.

H.M.Jr: And I'm am putting in this statement Peoples is saying that the Treasury Department investigated Mr. Roberts and found no ground for the charges made.

R: That's O.K.

H.M.Jr: Now I didn't want to put - that is most likely going up on the hill but I didn't want to do a thing like that without finding out from you if it was satisfactory.

R: Well don't you feel and I feel that you had a perfect right to look into the situation and see if there was any grounds?

H.M.Jr: Well I think so inasmuch as we made an independent investigation. The charges were that there was some sort of relationship between you and Stewart, and we made an investigation and we found no grounds for the charges.

R: That's perfectly alright.

H.M.Jr: And we're saying so.

R: That's perfectly alright.

H.M.Jr: That's alright.

R: And another subject while we're on the phone.

H.M.Jr: Yes.

- 2 -

R: You know the man that you say I'd better watch out for.

H.M.Jr: Yes.

R: He hasn't been in touch with me at all and he rather dodged me the other day but I ran upon him at a dinner and I think that he didn't want to have anything to say because I know he sort of feels that he might be on the spot himself.

H.M.Jr: Well I see, but I just wanted to let you know because you might pick up the paper and see "Treasury investigates Robert". Well they did but they found that there was nothing to it.

R: Well that's perfectly alright and just as I told you and I recall I wrote to you I accept full responsibility and I know my ground, don't you understand?

H.M.Jr: Alright.

R: I understand it, Mr. Secretary. That's perfectly alright. I'll be back Monday. I'll be in New Orleans in the morning and ---

H.M.Jr: Well leave word so we can get you at anytime, see?

R: O.K.

H.M.Jr: Thank you.

February 27, 1935.  
Wednesday.

February 27th

Senator Pat Harrison called up and asked Mr. Morgenthau to designate someone to represent the Treasury on the Townsend plan. Mr. Haas and Oliphant said that we should not send up a representative and Mr. Morgenthau disagreed with them. He said that he could not antagonize Senator Harrison and that if he wanted someone we had to abide by his wishes.

Mr. Morgenthau then telephoned Frances Perkins and she said that she had testified on it herself and so did Mr. Witte and she too said that if they want the Treasury to testify we could not turn Senator Harrison down.

Mr. Morgenthau then telephoned Senator Harrison and asked whether we could not send our Principal Actuary up, a man by the name of Reagh, and Senator Harrison was satisfied.

H.M.Jr: Hello?

H: Henry.

H.M.Jr: Yes - hello Pat.

Harrison: How are you.

H.M.Jr: I'm fine.

H: I'll tell you what I'd like done and several of the fellows wanted done. This fellow Townsend came before my Committee on this Old Age Pension stuff.

H.M.Jr: What's his name?

H: Old man Townsend.

H.M.Jr: Oh yes Townsend, sure.

H: And his expert and I like for you to have some man in the Treasury, who can handle it, look into his testimony from every angle, analyze his bill before my committee and just tear it to pieces as to the cost, etc.

H.M.Jr: Right.

H: You see - now who have you got there that's first rate?

H.M.Jr: Well it will take me five or ten minutes to check - I don't - I think the best fellow - I don't know is Haas - H a a s, but do you want me to call you back?

H: No because I've got to go.

H.M.Jr: I'll call you back in the morning.

H: Alright. I'll tell you. He can get a copy of the hearings. He appeared before my committee and he also appeared before the Ways and Means, and I like for this fellow just to take it and the bill, take the testimony of this fellow and take his auditor and just be ready to come before my committee; he can write out a statement if he wants to just to show the ridiculousness of the thing.

H.M.Jr: Well Pat I'll assure you it will be done and it will be done well.

H: Alright.

H.M.Jr: Who will do it, I just don't know.  
 H: Alright.  
 H.M.Jr: But I assure you it will be done.  
 H: Alright.  
 H.M.Jr: Thank you.  
 H: Yes.  
 H.M.Jr: Yes. How would it be if we send our leading  
 attorney up there?  
 H: Well it's alright whoever you send. The only  
 thing is that I'm just hoping to present a case  
 to tear down this fellow. He'll ask him all the  
 questions in the world, but I wanted somebody who  
 can just analyze it and has that ability to do it,  
 to show the foolishness of the thing and the  
 impossibility of the government of financing such  
 a proposition.  
 H.M.Jr: Well this fellow Rep, if we send him up, he's  
 capable of doing that. He's our principal attorney.  
 H: Well that's alright.  
 H.M.Jr: See?  
 H: Yes.

**February 26, 1935.**  
**Tuesday.**

anything you want him.  
 Well tell him to have his stuff ready. Have  
 him prepare a statement on it, as representing  
 the Treasury.  
 He will.  
 Now let me call you.  
 Yes.

Henry talking.

Pat Harrison: Yes.

H.M.Jr: How are you?

H: Alright Henry.

H.M.Jr: Now listen. On this Dr. Townsend plan.

H: Yes.

H.M.Jr: I think you wished me a nice one on that.

H: Yes.

H.M.Jr: Yes. How would it be if we send our leading actuary up there?

H: Well it's alright whoever you send. The only thing is that I'm just trying to present a basis to tear down this fellow. He'll ask him all the questions in the world, but I wanted somebody who can just analyze it and has that ability to do it, to show the foolishness of the thing and the impossibility of the government of financing such a proposition.

H.M.Jr: Well this fellow Ray, if we send him up, he's capable of doing that. He's our principal actuary.

H: Well that's alright.

H.M.Jr: See?

H: Yes.

H.M.Jr: So anytime you want him.

H: Well tell him to have his stuff ready. Have him prepare a statement on it, as representing the Treasury.

H.M.Jr: He will.

H: Now let me ask you.

H.M.Jr: Yes.

February 27, 1935.

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H: I've got a meeting of my committee this morning and there's been a lot of requests, etc. it's propaganda, of course, to repeal this publicity stuff on income tax returns. Now does the Treasury recommend anything at all on it?

H.M.Jr: Well I'll tell you just what I told Bob Doughton, when he called me yesterday. I told Bob Doughton that the Treasury was down here to carry out orders of Congress, see?

H: Yes.

H.M.Jr: And whatever Congress decides is O.K. with us.

H: Yes.

H.M.Jr: And we're going to stay strictly neutral.

H: Well, of course, my own opinion is that the Senate will not repeal this publicity stuff, and certain they're not going to do it unless the request comes from down there.

H.M.Jr: Well it won't come from here.

H: Well that's alright then.

H.M.Jr: No, we're going to stay strictly neutral.

H: It won't give all the trouble that these people are trying to propoganda, will it?

H.M.Jr: Well I don't know, but we're just going to stay strictly neutral and whatever is done up on the hill is O.K. with us.

H: Alright Henry.

H.M.Jr: Alright.

H: So long.

H.M.Jr: Goodby.

February 27, 1935.  
Wednesday.

H.M.Jr: Hello Frances.

Perkins: Hello Henry.

H.M.Jr: How are you?

P: And you?

H.M.Jr: Just fair.

H.M.Jr: Frances, I had a very urgent call last night from Senator Pat Harrison.

P: Yes.

H.M.Jr: And the message was this: Would the Treasury please have their best man or woman study the Townsend plan, the testimony before the Senate and the House and be ready to come up and tear it apart?

P: Yes.

H.M.Jr: Of course, we've never been in on the Townsend plan.

P: Nobody has.

H.M.Jr: And you're Chairman of the Committee and I don't want to make any move without consulting you first.

Well I have testified on it - in regard to it - and I said that it was fantastic and that it would absorb about half of the national income, going to a small group like that and that it would result in inflation, because I'm speaking expertly on the financial aspect of it. I think that you can - Witte knows a lot about it. If you want Witte - he knows the plan. What the Treasury would say would be a Treasury thought, of course.

H.M.Jr: Well we're not crazy about going up there on it.

P: I don't know why they need sworn statements on it. Haven't they got brains enough to do it themselves? I mean they know what it is. Everybody has been asked that has any sense at all. It's on record. I think we'll probably have to do it, don't you?

H.M.Jr: Well he's a very difficult man to refuse because he's always been so friendly.

P: Yes. I would do it I think Henry but I wouldn't want to make an elaborate study.

H.M.Jr: Well I wonder if he knows that Witte made a study?

P: He knows that because Witte testified and I testified. What he wants is to have the Treasury of the United States say it won't do, you see? I mean they can use that to their constituents better than they can anything else. I think that's what they want.

H.M.Jr: I see.

P: And I wouldn't have a man put any elaborate study on it because it's a waste of time.

H.M.Jr: No.

P: If you want to send somebody over to see Witte, somebody who is going to testify for you, he can do it. I daresay that Haas has the requisite.

H.M.Jr: Yes.

P: It's a plain proposition which provides a sales tax and under the sales tax you're to pay every aged person \$200 a month, but they must spend it within 30 days.

H.M.Jr: Spend it within 30 days?

P: It's the old Hupt money idea, you see? They've got to spend it within 30 days.

H.M.Jr: Yes, well I never even read it.

Well that's what it is - \$200 a month - spend it within the month in which it is paid and the money is to be raised by sales tax. Originally it was to be raised but then they come to think of that. So it's very brief. It has a virtual simplicity - anybody can understand it, but they can't understand the government plan - it's too complicated.

H.M.Jr: I see. Well then I ought to be able to understand it.

P: Yes. Well I mean it's simple - Simple as a word. I mean you don't think of the thing having any economic or financial aspect - simple. But you

see what it is. It's preposterous. Seven million people persons 65 years of age and over and you multiply that by \$200 a month and multiply that by 12 and you see where you come out and of course the theory is that they're going to spend it and that spending makes it more difficult - God knows for what.

H.M.Jr: Well thank you very much. I'll call him up now and see what I can do.

P: I think it's alright. You can send somebody who can demolish it in ten minutes. There's nothing really to it, except it won't do. Alright Henry.

H.M.Jr: Thank you.

P: Goodby.

H:

Yes.

H.M.Jr:

And this is not for repealition, is it?

H:

Yes.

H.M.Jr:

Was that lawyer who was there - Foley - told Oppen, Mr Meyer, that the witness that Joe Robinson wanted the file, that'd send it on the bill.

H:

Yes.

H.M.Jr:

Now our understanding was that Jeff and I were to see it, and particularly the President before it on the bill. Hello?

February 27, 1935.  
Wednesday.

H:

Yes.

H.M.Jr:

Wasn't that your understanding?

That's perfectly O.K. as far as - yes - you go.

H.M.Jr:

Is Jim in town?

H:

Yes.

H:

But he doesn't want to see it?

H.M.Jr:

What's that?

H:

He doesn't want to see it.

Joe  
Robinson: Hello - Joe?  
Yes.

H.M.Jr: This is Henry.  
Who?

H.M.Jr: Henry Morgenthau, Jr.

R: Yes Henry.

H.M.Jr: I've just been talking to Oliphant and Opper about what we were supposed to do as a result of that meeting at the White House Friday at 5:30. Now there seems to be considerable misunderstanding as to what was or was not to be done but I remember that the President asked you to interest yourself in it.

R: Yes.

H.M.Jr: And this is not for repetition, see?

R: Yes.

H.M.Jr: But that lawyer who was there - Foley - told Opper, my lawyer, that the minute that Joe Robinson wanted the file, he'd send it on the hill.

R: Yes.

H.M.Jr: Now our understanding was that Jeff and I were to see it and particularly the President before it went on the hill. Hello?

R: Yes.

H.M.Jr: Wasn't that your understanding?  
That's perfectly O.K. so far as - yes - you go.

H.M.Jr: Is Jim in town?

R: Yes.

R: But he doesn't want to see it?

H.M.Jr: What's that?

R: He doesn't want to see it.

H.M.Jr: He doesn't want to.

R: Oh no.

H.M.Jr: Well I think if you could do this. I don't think that ought to go up on the hill certainly before Friday, see?

R: Yes.

H.M.Jr: So that the President will have a chance to see it, if he wants to.

R: Well is he to see that again?

H.M.Jr: I don't know.

R: No I didn't understand that he wanted to see it again.

H.M.Jr: Well I mean from a previous meeting.

R: Yes, you see, because that was completed that night.

H.M.Jr: Was it?

R: Sure. He saw all he wanted.

H.M.Jr: Well I didn't understand that.

R: Yes.

H.M.Jr: Well let me ask you this pointblank question. Whose job was it to produce the lost letter?

R: Well that will be taken care of from this end.

H.M.Jr: That's what I thought. It wasn't up to the Treasury.

R: No.

H.M.Jr: Well now you see they - Foley's bringing pressure on us to produce those photostats and I've maintained it wasn't up to us.

R: Oh absolutely not.

H.M.Jr: That's what I understood.

R: Absolutely not.

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H.M.Jr: I mean it isn't up to us.

R: Oh no. What has he got to do with that? All in the world he's got to handle is his own - hello

H.M.Jr: Hello.

R: All he's got to handle is his own part of this thing.

H.M.Jr: Well he isn't handling it the way they said at all. They're trying to make us produce that and I've just had Oppen and Oliphant in my office and I just - my memory is pretty good and they say on the 26th of January the Post Office/have the written letter <sup>must</sup> and they would produce the original. We wouldn't produce those photostats at all. Hello?

R: You see --

H.M.Jr: Isn't that right?

R: Yes. All in the world that he has to do is to send up the record of that particular department, that's all.

H.M.Jr: Yes, that's right.

R: And then with respect to anything that you may want to show, that comes later.

H.M.JrL: But those photostats - it's not up to us.

R: Not at all.

H.M.Jr: But also to check my memory they said that Peoples should answer that letter and answer Glavis, wasn't that the idea?

R: Well he must be prepared to do that.

H.M.Jr: Yes that's right.

R: Yes. We wanted to find out what he did as a result of that memorandum.

H.M.Jr: But the explanation of how the letter came to be returned - was that up to the Post Office or to us?

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R: Yes - that's up to the other people.

H.M.Jr: Up to who?

R: Not to you.

H.M.Jr: Up to us.

R: Not to you.

H.M.Jr: Not to us.

R: Not to you.

H.M.Jr: Not to us. That's what I thought. Well Foley's either got a very tricky memory or a very careless memory.

R: Yes. Well this matter was left in my hands. Of course the point is that they went out in advance.

H.M.Jr: No Foley stayed till the last minute.

R: Oh did he?

H.M.Jr: Yes.

R: Well I must see him then.

H.M.Jr: No Foley stayed until the last minute.

R: Yes.

H.M.Jr: See?

R: Yes.

H.M.Jr: He heard everything - he stayed behind.

R: Yes.

H.M.Jr: Joe you know me pretty well.

R: Yes.

H.M.Jr: And I'm telling you there's quite a mixup. Now that's only for you, see?

R: Yes.

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Hello - Hello Harry.

H.M.Jr: But as I remember, it was left in your hands.

R: Yes. Well I'll get busy on this thing.

H.M.Jr: Will you Joe?

R: You betcha. that everything is moving along  
to schedule.

H.M.Jr: Now what I'm telling you is absolutely between  
the two of us.

R: Yes.

H.M.Jr: Have you got somebody on your wire?

R: Well its ah ah -- that the statement will be ready  
and Providence will want to see it

H.M.Jr: Alright Let me know tomorrow, will you?

R: You betcha. You mean the Lhee statement.

H.M.Jr: See? no I mean the other one.

R: Alright. other one.

H.M.Jr: And you're the only person I'm having this  
conversation with.

R: O.K. and its very important, from my point of view,  
that that statement gets up first.

H.M.Jr: Alright. Oh you mean our mutual friend's statement.

R: That's that?

H.M.Jr: The Farley Statement?

R: Yes.

H.M.Jr: That that gets up first?

R: That goes first, yes.

February 26, 1935. Will you're seeing that that does go first?

Tuesday. Oh yes you bet I talked with both of the other  
gentlemen.

Hello - hello Henry.

H.M.Jr:

Hello Joe.

Robinson:

Everything is O.K.

H.M.Jr:

What does that mean?

R:

Well I mean that everything is moving along according to schedule.

H.M.Jr:

Fine, and nothing ahead of schedule?

R:

No.

H.M.Jr:

When is the thing going up on the hill?

R:

Well I think that the statement will be ready tonight, but the President will want to see it the first thing in the morning.

H.M.Jr:

I see. You mean the Ickes statement.

R:

No no I mean the other one.

H.M.Jr:

Oh the other one.

R:

Yes.

H.M.Jr:

Fine.

R:

And its very important, from my point of view, to see that that statement gets up first.

H.M.Jr:

Oh you mean our mutual friend's statement.

R:

What's that?

H.M.Jr:

The Farley statement?

R:

Yes.

H.M.Jr:

That that gets up first?

R:

That goes first, yes.

H.M.Jr:

Well you're seeing that that does go first ?

R:

Oh yes you bet I talked with both of the other gentlemen.

- 2 -

H.M.Jr: Fine. Was my hunch right yesterday?  
R: Yes, I think so.  
H.M.Jr: What?  
R: I think so, your hunches usually are.  
H.M.Jr: Not always. But it was right yesterday anyway.  
R: Yes.  
H.M.Jr: Well thanks Joe.  
R: Alright Henry.

February 27, 1935.  
Wednesday.

February 27, 1935.

The Executive Committee of the Open Market Committee of Federal Reserve Governors met with the Secretary of the Treasury in his office at 11:00 A.M. Those present were:

Henry Morgenthau, Jr. Secretary of the Treasury,  
Marriner S. Eccles, Governor of the Federal Reserve Board,  
W.W. Paddock, Deputy Governor, Federal Reserve Bank of Boston,  
George L. Harrison, Governor, Federal Reserve Bank of New York,  
W.R. Burgess, Deputy Governor, Federal Reserve Bank of New York,  
G.J. Seay, Governor, Federal Reserve Bank of Richmond,  
G.J. Schaller, Governor, Federal Reserve Bank of Chicago,  
T. Jefferson Coolidge, Undersecretary of the Treasury,  
D.W. Bell, Commissioner of Accounts & Deposits,  
George C. Haas, Director of Research and Statistics,  
C.B. Upham.

Before taking up the current financing, Mr. Coolidge mentioned that the Treasury is behind some \$50,000,000 in its program of issuing silver certificates and stated that we are planning to print \$50,000,000 \$10 silver certificates.

Mr. Morgenthau said that the progress of the program was being checked on the Hill and it had been alleged that the Federal Reserve Banks were holding up the program, which, of course, is not the case. He said that we were delayed somewhat by the fact that there were some \$700,000,000 \$1 silver certificates left over from the previous Administration.

Governor Harrison asked what the law is with respect to the issuance of silver certificates.

Mr. Morgenthau replied that the Treasury has to issue them as a minimum up to the cost of the silver acquired under the

Silver Purchase Act. He explained that there was a gentlemen's agreement in existence with the reserve banks that only \$50,000,000 \$10 denominations would be issued and it is now the desire to increase that. There was no objection.

Mr. Coolidge also mentioned "Baby Bonds" publicity and it was agreed that circulars would be sent to the reserve banks with the suggestion that they write to member banks and non-member banks in their districts offering to supply as many circulars and advertising posters as might be desired.

Mr. Coolidge referred to the plan of issuing a 5 year note in exchange for the \$528,000,000 of notes which mature March 15th and a bond for the \$1,800,000,000 of bonds which are called for April 15th, the announcement to be made on Monday next.

Mr. Burgess indicated that there would be no great difficulty in such a program. It will mean some switching around and will probably push the note market up and the bond market down. The dealers, he said, are about \$175,000,000 long and their short position is almost nil.

Mr. Coolidge expressed the opinion that the market is getting near the high point and he thinks the financing may bring a drop. The position of Governments is technically weak. The investment market generally is strong and going up.

Reference was made to the current yield on the various Treasury issues and Mr. Coolidge expressed the opinion that so far as notes are concerned we might sell a 1-5/8 or 1-3/4. His hunch was for a 5 year note at 1-3/4. He said such a note might come to a premium and then it might look as if we could have gotten away with 1-5/8. He thought the rates ought to be subject

to a change after a final talk with dealers on Friday.

Mr. Harrison said that the whole situation is full of complexities and it is impossible to appraise the future. He said that he had been wrong for a long time. He had never thought that the Treasury, with a constant deficit and with no balancing of the budget in prospect and with gold pouring in, could carry on as it has done. He said the market is subject to artificialities and hard to appraise. At the moment the biggest force is pressure on the banks to do something with their unused funds.

Mr. Eccles asked how it could be accounted for that in all other countries too the cost of Government financing had been reduced.

Mr. Burgess interposed that there were idle funds everywhere just as there were in the United States.

Mr. Harrison said that the chief influence here and abroad is the accumulation of short time funds and bank reserves. It is O.K. he said so long as that is the only pressure, but if there is a scare or anything goes wrong there is always the risk that the trend may go into reverse.

Mr. Morgenthau said that he agreed with that and had been aware of it all along.

Mr. Harrison asked if it might not be that we would all be happier if Government bond quotations were on a lower basis.

Mr. Morgenthau said that for that reason it would be well not to get out too much of the 6 or 9 month paper but to keep that for necessity if it arises.

Mr. Harrison said we have no practical alternative for this financing but looking forward to June and later on he wondered

what the Federal Reserve System or the Treasury can do to bring on a more healthy bond market and less danger of puncture.

Mr. Morgenthau asked how one could know that it was not healthy now, to which Mr. Harrison replied that there was more and more talk about the position of the Government bond market.

Mr. Morgenthau referred to the disparity in the situation at the time he came to the Treasury and the present, saying that at the earlier date we had to pay 2-1/2% for 13 month paper and that now, we are floating 9 month bills for 1/6th of 1%.

Mr. Coolidge referred to the proportion of Governments held by banks and said that there was a smaller percentage in December than in June.

Mr. Schaller inquired if the sentiment was the same the country over or if it were not possible that the Government bond market is strictly a New York City market, to which Mr. Coolidge replied that in his opinion there was a real country market on all bonds.

Mr. Harrison said that he had no intention of sounding an alarm or being argumentative but he thought it might be helpful to explore the realm of fancy even and added that maybe the quotations are not too high. He said that he had reason to suspect that they were pretty high. They are as high as they have ever been in the face of the biggest deficit we have ever had. If excess reserves are withdrawn the largest sustaining factor will be eliminated.

Mr. Coolidge made the point that private liquidation has been in excess of extraordinary Government borrowing.

Mr. Harrison said that he goes on the principle that when

things look fine that is the time to worry.

Mr. Eccles suggested that we might study the British situation with profit, to which Mr. Harrison replied it was not comparable to our own.

Mr. Coolidge interposed to say that the immediate problem is the rate on the 5 year note.

Mr. Morgenthau said that he would like to try for 1-5/8 and squeeze the market if necessary.

Mr. Burgess said that that was a possible rate but he thought it open to question.

Mr. Coolidge said that the short time bond market scared him and that the 5 year note might help the bond market. He said we will get 1-5/8 if we think we can.

Turning to the bonds, Mr. Coolidge pointed out that there is only \$1,000,000,000 which is neither due nor callable by 1947--12 years hence. There is not much knowledge as to what rate a longer bond would go for. He would like to see some in the market. We might sell either a 2-3/4 short term or a 2-7/8 long term. He suggested for the purposes of discussion a 20-25 year bond at 2-7/8.

Mr. Harrison agreed that the rate was important actually and politically. He would like to see the rate under 3 whatever the maturity. He suggested that we see how far we can go on maturity at 2-3/4 or 2-7/8.

Mr. Eccles said that he likes 2-3/4 with maturity whatever it must be.

Mr. Harrison agreed that that was sensible especially if a big conversion is thought of later.

Mr. Eccles said that he thinks it is important to get 2-3/4 now and extend the maturities later.

Mr. Coolidge said that he thinks it is important to get a long term bond in the market as quickly as possible.

Mr. Morgenthau suggested that we tailor our suit to the 2-3/4 rate.

Mr. Bell said that on the basis of present yields 2-3/4 would throw the maturity right in the middle of present maturities--about 12 years hence.

Mr. Coolidge made the point that a long term bond would be taken by other than banks--a desirable thing.

Mr. Burgess thought a 2-7/8 would be likely to stand up in the market better than a 2-3/4.

Mr. Coolidge said if the maturity were out beyond 1955 at 2-7/8 he would prefer that rate.

Mr. Harrison suggested that 2-3/4 was not possible on a refunding.

Mr. Burgess thought the market would be more receptive to a 2-7/8 long term and suggested either a 2-3/4 10-15 or a 2-7/8 for 20-25.

Mr. Eccles suggested a 2-3/4 for 15-20 years to which Mr. Burgess and Mr. Coolidge both said no.

Mr. Eccles said that he did not like forcing holders into a long term bond when there is a budgetary deficit. It is alright if the market takes it, but don't force it.

Mr. Coolidge said that the existing deficit makes it all the more important to have healthy maturities and remarked that we have no long bonds out.

Mr. Eccles said that if you have a long bond you pay for it, to which Mr. Coolidge replied that 2-7/8 was not much of a price.

Mr. Schaler said that he voted for a 15-25 year at 2-7/8 and added that the long terms were not so good out in his country. As he phrased it, the people in the middle west are hanging off the long stuff--both the banks and private investors. The gold decision didn't help, he said.

Mr. Paddock said that the market up his way was looking for a long term bond.

Mr. Harrison said they are ready for a long bond in New York, that the 5 year spread is O.K. and that we should go as far as we can on maturities.

Mr. Seay said he voted for a 20-25 year bond not under 2-7/8.

Mr. Eccles said, in speaking for the interest of the banks he would suggest a 20-25 year bond at 2-7/8 and that speaking in the interest of the Government he would vote for a 10-15 year bond at 2-3/4 or a 15-25 year bond at 2-7/8. He thinks very cheap money is possible in 15 years.

Mr. Bell said that he thought the 10 year spread was also in the interest of the banks.

Mr. Burgess said that in the long run the 10 year spread was less attractive. He thought right now a 15-25 year bond would go as well as a 20-25.

Mr. Coolidge said that the advantage to the Government in a 20-25 year issue is that we will know the long term yield.

As soon as the bond is above par it is figured on the basis of the called date maturity anyway with banks preferring to buy a called bond and we will get a better distribution with a 5 year spread.

Mr. Morgenthau said that a 15-25 will sell better now than a 20-25.

Mr. Harrison said we will get a better market appraisal and a better distribution with a 20-25.

Mr. Bell asked how a 20-30 would go.

Mr. Coolidge said he would like to do it but is afraid.

Mr. Morgenthau said he would like a 10 year spread and thinks a 20-30 year bond would be perfect.

Mr. Harrison said that he would like to add a word as to procedure. In the interest of the Treasury he sees a growing risk in the development of a fixed practice by which Mr. Coolidge visits New York and discusses with bankers and dealers there the details of financing. Sooner or later Congress will complain. He said that either Mr. Coolidge should go to two or three or four points for his discussion or there should be a return to the system of asking the members of the Executive Committee to bring to Washington the concensus of opinion in their districts and report.

Mr. Morgenthau said that he understood the members present did bring that concensus and had canvassed the bankers and dealers in their districts.

Mr. Schaller agreed that he followed that practise.

Mr. Harrison thought if that were the procedure followed

the Treasury would be insulated from criticism.

Mr. Morgenthau asked if any criticism had been heard to which Mr. Burgess replied that there had been some market criticism.

Mr. Harrison said it was not worth the risk and while it had been necessary at first for Mr. Coolidge to become acquainted with Government dealers, the practise should be abandoned now. He said that he thought it would be a great mistake for Mr. Coolidge to go up Friday---that a week or two before the offering is alright but not the day before.

Mr. Coolidge said that he thought it would be just as difficult to get reserve banks opinion in advance as it is to give it to others.

Mr. Morgenthau asked what Mr. Burgess would do between now and Friday.

Mr. Burgess explained that he used to talk to dealers or rather let them talk to him, but that now he does less of it.

Mr. Morgenthau said that if this 5 year note goes he plans to sell \$100,000,000 a week at auction and that he hopes to increase the bill maturities to 12 months in 6 weeks, using these two devices until refunding is out of the way.

February 28th

Mr. Farley called up H. W. Jr. and told him that he had tried all morning to see the President to show him the letter which he was sending up on the hill (a letter explaining why he had withdrawn the letter which he sent to the Secretary of the Treasury on the New York Post Office). The President refused to see him and Mr. Farley was quite upset about it.

The President is going to make a movietone on his purchase of a Baby Bond tomorrow at 10:30 and Mr. Morgenthau suggested that Mr. Farley take advantage of this opportunity and show it to him then. Mr. Morgenthau felt that it was very unfair for the President not to see Farley and help him out.

Mr. Morgenthau sent for Mr. Dollar of the Dollar Line because of the constant reports that we are getting that the Dollar Line is bringing in opium on all of their ships. Mr. Morgenthau feels that they could stop this situation if they made an effort to and told him that the Canadian Steamship Company was able to accomplish it.

Mr. Dollar said that he wanted to do everything he possibly could but it was a very bad situation and he said unless the government co-operated he could not do a thing. Mr. Morgenthau then suggested that we assign three or four men to travel back and forth on the various ships and Mr. Dollar agreed that it would help to check this stuff from being loaded on their ships.

Mr. Morgenthau called Mr. Anslinger and asked him whether he thought there was any objection to our assigning our people and Mr. Anslinger said that he did not see any objection.

Mr. Morgenthau then turned Mr. Dollar over to Mr. Graves, Mr. Anslinger and Mr. McReynolds and asked them to work out a plan which would clean up this situation. He told Mr. Dollar that he wanted to be fair but that he was going to be "hard boiled".

Mr. Prince came in to see Mr. Morgenthau and told him that Mr. Harris and Father Coughlin have separated on their monetary ideas.

Mr. Prince then went on to tell Mr. Morgenthau that, with the exception of the Secretary of the Treasury, the Cabinet Members were not working with their President. Each was working for himself, that the President's best friends were deserting him, that Senators know the dissention that is going on in the various departments and that the President is not controlling his Cabinet.

He also told him that Jesse Jones wants the nomination in 1936 for President and that he is playing with the big money group and is working in opposition to the President.

Prince's conversation was a very depressing one and H.M.Jr. told him that the President has not drawn his gun nor has he fired a single shot.

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This morning Chief Moran told me about changing Jervis and two other men and also about the drinking of the Secret Service men. I told the Chief that I had known this thing for some time. I could not talk about it. The Chief is going to get out a written order to the field men and a verbal order to the men at the White House that no man in Secret Service can take a drink while he is on duty. The verbal order to the White House will be to the effect that the men who are assigned to the President and if they can't live up to that we will give them some other assignment. The President is very nervous at this time. Chief Moran said that he was very sorry he did not bring this to my attention before. He apologized profusely and said he did not do it because he thought he could take care of the matter himself. He said "I know I have fallen down".

I sent for Colonel Starling and put the whole thing up to him. He said he understood just what I wanted. I told him very emphatically a man could not take care of the President and be under the influence of liquor. I also told Colonel Starling that if anyone of his men broke the rule and was fired even the President of the United States could not ask me to take him back.

Hello?

Hello sir.

H.M.Jr: Burgess?

B: Yes.

H.M.Jr: Well now what's the good news?

B: Well we're all set.

H.M.Jr: Good.

B: I thought now - we just had lunch together, the Governor and I and I've talked with a number of people and we incline toward the 20-25 years, on this basis. I just talked with the Treasurer of one of the big insurance companies. They very much prefer 20-25 years.

H.M.Jr: I see.

B: And he says that the investor prefers it. I think the investor ought to and does prefer that. There are fellows at the banks who would prefer the other, at least temporarily but the new idea that occurred to me on it - not the new idea - the one we ought to consider, which is the question of setting a precedent - what you do on this issue rather sets a precedent for what you will do on further long-time financing.

H.M.Jr: Well of course during the Wilson administration they had a 15 year call.

B: I know they did but the more recent one was a five year call.

H.M.Jr: Well that's a Republican influence.

(Laughter)

H.M.Jr: You can't live that down you know.

Coolidge: How about a 20-30.

B: I'd be a little afraid of that at that rate, Jeff.

H.M.Jr: That's out of the question.

B: Well let it ride, but we lean toward the 20-25 now.

H.M.Jr: Well we're going over to see the President. If he said 15-25 you wouldn't say they couldn't go?

- 2 -

B: Oh no, either one will go.

H.M.Jr: Either one will go.

B: It's just a question of which group you want to cater to.

H.M.Jr: Well now which group would be the 15-25?  
That will be the banks.

H.M.Jr: and the 20-25?

B: That will be investors.

H.M.Jr: Well that's fellow I want to reach.

B: Well I should think so, yes.

H.M.Jr: I want to reach the investor.

B: Yes.

H.M.Jr: That'll be 20-25?

B: That's right.

H.M.Jr: Well on the note - you can't make it 1 1/2?

B: No 1 5/8's is as low as you can go. That's cutting it thin but you can do that because you're crowding that market.

H.M.Jr: I see. Now the market right now has been fairly steady, hasn't it.

B: The market has been very strong this morning.

C: How are you headed on the 2 1/8 4-year notes to-day?

B: It was 143 this morning.

C: 143.

B: 143 yes. You see 5/8's is too thin on that. If you count 18 points between September 38 and the June 39.

C: It makes it very thin when you compare it to the bonds.

B: Yes it does but the market is a different kind of thing.

C: And those bonds will move up on this financing.

B: Yes.

C: They'll go below 2% I guess.

B: Well they may go down a little.

C: Yes.

B: But I think the note will probably sell to premium. I think this financing is bound to force your short market up and that's the basis on which I'm prepared to recommend that.

C: Yes.

H.M.Jr: Well Jeff and I'll go over and see the President and he'll come back and tell you what's decided but I've got to stay for Cabinet.

B: Alright sir.

H.M.Jr: But if the 20-25 goes to the investor, I'd rather have it go there.

B: Well that's the thing we're catering for the investor.

H.M.Jr: Yes we want to get away from the banks. By the way, we're getting good reports from all over the country on the Baby Bonds.

B: Oh that's fine.

H.M.Jr: Yes I just got U. T. Chariot on that ticker.

B: Governor Harrison's Secretary bought the first one in New York.

H.M.Jr: Oh did she?

B: Well the first one at one of the Post Offices anyway.

H.M.Jr: Well in Detroit in the first two hours they sold \$150,000.00 worth.

H.M.Jr:

Jeff's - 4 -  
Down the road on the highway.

Yes. Alright.

B:

Is that so? That's fine.

H.M.Jr:

Well we may - I think it's going to go well.

B:

Yes.

H.M.Jr:

Thank you.

B:

Alright.

H.M.Jr:

Jeff will call you when he comes back.

B:

Very good.

H.M.Jr:

Thank you.

B:

Goodby.

H.M.Jr:

Well let me have my switch to discuss and will you talk to him and ohll be back?

I'll talk to him and I'll call you back anyway.

H.M.Jr:

Right.

Now in the meantime, I'll switch you over to him. He'll give you much better. I've got the signal have but I haven't been talking to anyone so I won't know as much as he would.

H.M.Jr:

Right.

Well - alright.

H.M.Jr:

Well.

H.M.Jr:

Yes.

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H.M.Jr: Well we and I are on the line together.

Yes.

Well in the meantime, I'll switch you over to him. He'll give you much better. I've got the signal have but I haven't been talking to anyone so I won't know as much as he would.

Well - alright.

H.M.Jr: Jeff's going to try to listen unless it cuts down the power on the telephone.

Yes. Alright.

H.M.Jr: How are things going to-day on the bond market?

Well now frankly, I've been having a meeting all morning on an industrial loan that we got into a mess on and I haven't got it before me.

H.M.Jr: Well let me switch to Burgess then.

What?

H.M.Jr: Can I be switched to Burgess?

Yes sure.

H.M.Jr: Well I wish you would get in on it because we've got to make up our mind within the next hour.

Alright well I'll get in on it right now because I've just finished my meeting.

H.M.Jr: Well let me have my switch to Burgess and will you talk to him and call me back?

I'll talk to him and I'll call you back anyway.

H.M.Jr: Right.

Now in the meantime, I'll switch you over to him. He'll give you much better. I've got the figures here but I haven't been talking to anyone so I won't know as much as he would.

H.M.Jr: Right.

Wait a minute.

H.M.Jr: Hello.

Burgess: Yes.

H.M.Jr: Coolidge and I are on the line together.

B: Yes.

H.M.Jr: Well on the five hundred million coming due, what do you think we can do?

B: One and 5/8's.

H.M.Jr: 1 5/8's.

B: I have plenty of \_\_\_\_\_ but that's on the assumption that you offer a \_\_\_\_\_ The effect of that is going to depress your bond market and to raise your note market.

H.M.Jr: Depress your bond market.

B: Yes, because you see there are a lot of holders abroad who are holding \_\_\_\_\_ who are going to sell and try to buy something short.

H.M.Jr: They're going to try to buy something short?

B: Yes. That will put your note market up and your bond market down.

H.M.Jr: Well how can you stop that?

B: Well it's a question whether you want to stop it.

H.M.Jr: Let's say I wanted to put the long-time market upwards.

B: Well the way to do that is to give your bondholders a choice between the bond and the note and then just make the bond issue very thin - make the note issue very thin so that they would be tempted to go into the bond. In that way your \_\_\_\_\_ is permanent and your bond market would go up, I think, but you wouldn't sell many bonds.

H.M.Jr: Well could you make it any thinner than 1 5/8's?

B: No that's as thin as you could go, but you could do that and you could let the bondholders decide whether they wanted to go into the bond or the note.

H.M.Jr: What's your inclination? Let's make it a little easier - let's say 1 5/8's for five years. Jeff says O.K. Well let's say it's subject to the President's O.K.

B: I think that's alright.

H.M.Jr:

Well let's talk about the bonds.

Well now two hours ago I would have urged you to give them a choice. I'm not so sure of that right now because the whole market is mixed up

and I have talked with some people on the street and you've got about 50-50

B:

Now I think if you made it a 15-25 year bond you could just have a bond and get away with it.

H.M.Jr:

Well that's what I'd like but it isn't going to make Jeff so happy, but that's what I'd like.

B:

Well I sort of lean toward it because I think you've got a lot of banks who have a deadline and won't take anything over 15 years or over 12 years. Now if you offer them a 15-25 they'll

and say well we'll just take the 15 year bond. If you go 20-25 there will be more fellows who will think that is beyond the deadline and who sell and that will put down your bond market.

Coolidge:

Well Randolph.

B:

Yes Jeff.

C:

You know perfectly well and so does every sensible purchaser that a 20-25 year bond is better - more attractive to the purchaser than the 15-25.

B:

Certainly Jeff.

C:

And I can't think that people buying large amounts don't recognize that fact. I think it's a little unreasonable to think that you'll really sell more 15-25 or get a better distribution.

B:

Well I think it is a little unreasonable but I think it will help us.

C:

I think there is a large number of insurance companies and individuals would prefer the 20-25 very considerably and I think you get a better distribution there that would keep the price higher  
wouldn't buy that so they buy something else instead.

B: Well I don't think it's a tremendous matter, I think either one would go Jeff.

H.M.Jr: May I interrupt? In fairness to the Treasury, I wish you'd keep sounding this thing out at 1:30. I mean I'm perfectly frank that I prefer the 15-25, for different reasons than Jeff does. I think a 10 year spread is a better financing - for the Treasury 15 years from now. If I do that and we fool the people - they fool themselves rather - into thinking they're buying for 15 years. We have the right to hold it for 25 years if we want to. It's perfectly open. Now what I'd like to do is this. Jeff and I are going to see the President a quarter to two and at sharp 1:30 if you and George Harrison can be in the same room together and talk to Jeff and me at sharp 1:30. Hello?

B: Governor has just come in now.

H.M.Jr: Well can you and he be together at sharp 1:30 and Jeff and I'll be together in this room at sharp 1:30.

B: That's alright we'll be together.

H.M.Jr: Because there's no use checking again till then.

B: Yes.

H.M.Jr: But have everthing for us because Jeff and I won't go over and see the President until a quarter to two.

B: I see, yes yes. I'll talk to a number of people.

H.M.Jr: But the way the thing sounds now - I like it just the way it sounds - I don't know how the President will like it, but I like it, see. Alright?

B: Alright fine.

Thank you.

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H.M.Jr: Hello. Bill, in reading the New York Tribune this morning, I see on page 2 a story "Stabilization of World Currency Linked to Low Tariffs".

William  
Phillips:

Is that in his speech?

H.M.Jr:

Yes. Then it goes on and says that "attacking competition in currency depreciation as intensifying "world chaos", Henry F. Grady, chief of trade agreements made a plea for international stabilization".

P:

Yes.

H.M.Jr:

I haven't seen the speech and don't know what it is but if he did talk on it I think it would have been courteous to have shown it to us first.

P:

Yes. I'll look that right up.

H.M.Jr:

Would you mind, and could you have somebody send me over three copies. I'd like to read it.

P:

I will Henry.

H.M.Jr:

And if that's what he said I think we should have seen it first

P:

Well I do too.

H.M.Jr:

Thank you.

P:

Look here I had a long talk with Pitcher about the

H.M.Jr:

Oh yes.

P:

And gave him the story - in other words told him the position of the French government at St. Pierre

H.M.Jr:

That's fine. I wrote a very enthusiastic letter to D'Arcy thanking them for what they've done.

P:

Oh yes that's nice.

H.M.Jr:

Very appreciative and all that.

P:

That's good.

P: Well I'll send you over those copies right away.

H.M.Jr: Thank you very much.

P: You're welcome.

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