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March 1st.

H.M.Jr. saw Professor Warren to-day and told him that if business statistics continued to go down for another two weeks he would seriously consider raising the price of gold.

H. M. Jr. telephoned Mr. Phillips, of the State Department, and told him that he had seen in this morning's New York Tribune a story by Henry F. Grady on Stabilization of World Currency. H. M. Jr. told Mr. Phillips that he feels it would have been courteous to show it to him first. Phillips said he knew nothing about it and that Grady had no right to do it.

March 1st

Baby Bonds went on sale to-day. H.M.Jr. went to the White House at 10:30 and a movietone was made of the President, James Farley and himself - the President buying six \$25.00 Baby Bonds for himself and five grand children. Attached is a copy of the script which was used.

In the afternoon Speaker Byrnes, the Vice-President and Mr. Farley came over to Mr. Morgenthau's office and pictures were again taken showing the Speaker and the V.P. buying Baby Bonds.

TREASURY DEPARTMENT

Washington

FOR RELEASE, MORNING PAPERS,  
Friday, March 1, 1935.  
2-28-35.

Press Service  
No. 4-37

President Roosevelt is scheduled to buy the first of the United States Savings Bonds which were placed on sale today at 14,000 post offices throughout the country. The Chief Executive will buy the bond from Postmaster General Farley today (Friday) after Secretary of the Treasury Morgenthau has told Mr. Roosevelt how this new form of Government security affords individual investors the first opportunity to buy this kind of security since World War days. The purchase at the White House is scheduled for 10:30 A.M.

As head of the Post Office Department, which will be the sales agency for the new bonds, Mr. Farley will explain how they will be handled at post offices. He has instructed postmasters and their staffs to give every assistance to people who wish to purchase the bonds. Although it is not known what denominations the President will buy, the first run of all units—\$25, \$50, \$100, \$500 and \$1000— have been laid aside for a Presidential purchase.

The various denominations are designated by prefix letters and numbers. The first \$25 bond bears the designation of "Q1", while the letters, L, C, D and M are used, respectively, for the \$50, \$100, \$500 and \$1000 units. Thus the first bond of the \$100 denomination would be "C1". These designations will simplify handling of the bonds at postoffices during their sale and at the Treasury, where a record of each transaction will be kept.

The Post Office Department has supplied securities to all post offices where the bonds will be on sale. Because of the interest shown in this new form of Government obligation, however, postmasters in many cities asked for an additional supply. The original total sent to New York, Omaha, Washington and

other places was doubled upon request of the postmasters in those cities. Although definite allocations of bonds have not been made, as there is no limit on their total sale, the Post Office Department distributed these new savings bonds on the basis of the sale of Treasury war savings certificates. They were also issued in small denominations.

Many of the postmasters' requests for an additional supply of the bonds contained orders for the two larger denominations--the \$500 and \$1000 units. Word that many people had announced their intention of buying the maximum amount allowed to one individual in a single calendar year--\$10,000--has been received at the Post Office Department from many sections. At the station in the Treasury Building one would-be buyer insisted on leaving his check for \$7,500, which is the cost of ten \$1000 bonds at the issue price. Each \$1000 bond costs the purchaser \$750 when he buys it, and the investment increases by one-third if held the full ten years to maturity.

SCRIPT FOR WHITE HOUSE PURCHASE OF  
UNITED STATES SAVINGS BONDS

(Note: I understand that the President does not want anything written for him. I have given him some lines in the script simply to have atmosphere and sequence in its preparation.)

THE PRESIDENT: Mr. Secretary, I wish you would tell me about these new United States Savings Bonds I have been reading about.

SECRETARY MORGENTHAU: Gladly, Mr. President. These bonds are designed as a convenient and profitable investment for the savings of individual investors. As you know, since the World War the Government has done its financing by large bond issues which have been taken by banks and corporations. Now the Treasury has decided that every citizen should have a chance to buy sound Government securities and become a partner in his Government.

They are issued in denominations as low as \$25.00. The other units are \$50.00, \$100.00, \$500.00 and \$1,000.00. The \$25.00 bond will cost you \$18.75 to-day. It grows in value every year, and if you hold it for the full 10 years you will increase your investment by one-third. That applies to all other denominations.

THE PRESIDENT: But suppose I need the money in a hurry?

SECRETARY  
MORGENTHAU:

In case of emergency, the Government will redeem your bond at any time after 60 days from the date of issue. You cannot be deprived of payment through loss, theft or destruction. The Government will always replace them. Your name is written on the face of the bond when you buy it and the United States Treasury will have a record of your ownership. It will even keep a bond for you if you request it.

THE PRESIDENT: That sounds attractive to me. I want some. Now, how do I buy them?

POSTMASTER  
GENERAL  
FARLEY:

Mr. President, the United States Post Office Department is the sales agency for these savings bonds. You buy them from me and it is as simple as buying a Money Order. Throughout the Country

these bonds are on sale in about 14,000 post offices.

I have advised Postmasters and their staffs to give every assistance to people wishing to buy these securities. In many post offices there will be separate windows and special officials to handle the sale and to help people in every way. If there is anybody who does not know how to buy them, all he or she has to do is to ask at the nearest post office about United States Savings Bonds.

UNITED STATES  
 SAVINGS BONDS

POST OFFICES  
 ORDER BY MAIL

# ORDER BLANK FOR UNITED STATES SAVINGS BONDS

Enclosed find check, draft, or money order for—

Number		Amount
.....	\$25 United States Savings Bonds at \$18.75.....	\$.....
.....	\$50 United States Savings Bonds at \$37.50.....	.....
.....	\$100 United States Savings Bonds at \$75.00.....	.....
.....	\$500 United States Savings Bonds at \$375.00.....	.....
.....	\$1000 United States Savings Bonds at \$750.00.....	.....
	Total, \$.....	

Register in the name of and send to { Name.....  
 { Street address.....  
 { City..... State.....

Mail this blank with remittance to Savings Bond Section, U. S. Treasury, Washington, D. C. Your personal check will be accepted, subject to collection, or you may send bank draft or money order. Do not send currency by mail. Make checks payable to U. S. Treasury.

Cut on this line

TABLE OF REDEMPTION VALUES SHOWING HOW UNITED STATES SAVINGS BONDS INCREASE IN VALUE EVERY 6 MONTHS

Issue price.....	\$18.75	\$37.50	\$75.00	\$375.00	\$750.00
Redemption values after the issue date:					
First year.....	\$18.75	\$37.50	\$75.00	\$375.00	\$750.00
1 to 1½ years.....	19.00	38.00	76.00	380.00	760.00
1½ to 2 years.....	19.25	38.50	77.00	385.00	770.00
2 to 2½ years.....	19.50	39.00	78.00	390.00	780.00
2½ to 3 years.....	19.75	39.50	79.00	395.00	790.00
3 to 3½ years.....	20.00	40.00	80.00	400.00	800.00
3½ to 4 years.....	20.25	40.50	81.00	405.00	810.00
4 to 4½ years.....	20.50	41.00	82.00	410.00	820.00
4½ to 5 years.....	20.75	41.50	83.00	415.00	830.00
5 to 5½ years.....	21.00	42.00	84.00	420.00	840.00
5½ to 6 years.....	21.25	42.50	85.00	425.00	850.00
6 to 6½ years.....	21.50	43.00	86.00	430.00	860.00
6½ to 7 years.....	21.75	43.50	87.00	435.00	870.00
7 to 7½ years.....	22.00	44.00	88.00	440.00	880.00
7½ to 8 years.....	22.50	45.00	90.00	450.00	900.00
8 to 8½ years.....	23.00	46.00	92.00	460.00	920.00
8½ to 9 years.....	23.50	47.00	94.00	470.00	940.00
9 to 9½ years.....	24.00	48.00	96.00	480.00	960.00
9½ to 10 years.....	24.50	49.00	98.00	490.00	980.00
Maturity value.....	25.00	50.00	100.00	500.00	1,000.00

U. S. GOVERNMENT PRINTING OFFICE 62-16737

Your Government Offers

## UNITED STATES SAVINGS BONDS

For Regular Investment of Savings



\$18.75	increases in ten years to	\$25
\$37.50	increases in ten years to	\$50
\$75.00	increases in ten years to	\$100
\$375.00	increases in ten years to	\$500
\$750.00	increases in ten years to	\$1000

**BUY AT POST OFFICES  
OR ORDER BY MAIL**

Form 509

UNITED STATES TREASURY  
SAVINGS BOND SECTION  
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID  
PAYMENT OF POSTAGE, 1500

HOUSEHOLDER,

Local

INFORMATION ON UNITED STATES SAVINGS BONDS

# Treasury and Post Office Departments Appropriation Bill, 1936

HEARINGS  
BEFORE THE  
SUBCOMMITTEE OF THE  
COMMITTEE ON APPROPRIATIONS  
UNITED STATES SENATE  
SEVENTY-FOURTH CONGRESS

FIRST SESSION  
ON  
**H. R. 4442**  
A BILL MAKING APPROPRIATIONS FOR THE TREASURY  
AND POST OFFICE DEPARTMENTS FOR THE  
FISCAL YEAR ENDING JUNE 30, 1936  
AND FOR OTHER PURPOSES

Printed for the use of the Committee on Appropriations



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Treasury and Post Office Departments  
Appropriation Bill, 1936

HEARINGS

COMMITTEE ON APPROPRIATIONS

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KENNEDY F. Rsa, Clerk

II



TREASURY AND POST OFFICE DEPARTMENTS  
APPROPRIATIONS BILL, 1936

SATURDAY, MARCH 2, 1935

UNITED STATES SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
Washington, D. C.

The subcommittee met, pursuant to call, at 10:30 a. m. in the committee room, Capitol, Hon. Carter Glass presiding.

Present: Senators Glass (chairman), McKellar, Hayden, McCarran, O'Mahoney, Steiwer, Norbeck, and Dickinson.

The subcommittee thereupon proceeded to the consideration of the bill (H. R. 4442) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1936, and for other purposes.

TREASURY DEPARTMENT

The CHAIRMAN. Mr. Secretary, we are beginning to consider H. R. 4442, making appropriations for the Treasury and Post Office Departments. I have your letter of February 4, stating what you would like to have done, and I thought perhaps you might want to come before the committee and make any supplementary statement that you may please.

Secretary MORGENTHAU. Senator Glass, I have a very short statement that I would be glad to read, but before doing so, I think that Mr. Bell, Commissioner of Accounts, has an item. Possibly you would like to take that up while we are waiting.

The CHAIRMAN. Yes.

STATEMENT OF D. W. BELL, COMMISSIONER OF ACCOUNTS AND DEPOSITS, CONSOLIDATION OF THREE APPROPRIATIONS

Mr. BELL. Last year, Mr. Chairman, in considering the needs of my office, consultation was had between the then Director of the Bureau of the Budget, Mr. Douglas, and the Secretary of the Treasury. It was decided that we needed to substantially increase our force to take care of the large increase in the work. It was estimated at that time that we would require about \$40,000; but, in view of the fact that we have to get specially qualified people, we decided that we would ask for half of it last year and the other half this year.

The CHAIRMAN. What particular provision of the House bill are you discussing now?

Mr. BELL. The office of the Commissioner of Accounts and Deposits.

The CHAIRMAN. Have you the bill there?

Mr. BELL. I have the bill.

The CHAIRMAN. Proceed, Mr. Bell.

Mr. BELL. As I say, we asked for half of it last year, and the other half this year. The reason we did not ask for all of it last year was due to the fact that we require in our work specially qualified people, particularly ones that have had a number of years' experience in governmental fiscal and accounting procedure. We did not feel that we could use the full amount the first year as it is difficult to secure qualified personnel. This year, we asked for about \$27,000, and the House committee reduced it by \$16,960. In their report, they said that they were eliminating the employees on the emergency roll with annual salaries of this amount. I have since talked to the clerk of the House committee, explained it to him, and he has admitted that that was apparently a mistake, that the amount paid from these emergency appropriations amounts to only \$7,000.

These employees are urgently needed. The work and duties of the office have greatly increased due to the large increase in the Government activities. To show the necessity for additional help, four employees of my immediate office, in the last year, worked more than 100 days each overtime.

The other matter under my office to be discussed is the consolidation of three appropriation items. The immediate office of the Commissioner of Accounts and Deposits has an appropriation for salaries; the Division of Bookkeeping and Warrants has an appropriation for salaries, and the Division of Disbursements has an appropriation for salaries and expenses. They are all under my supervision, and it would be advantageous if we could consolidate them into one appropriation, having only one account on our books.

Furthermore, I have 40 people in my office. The Division of Bookkeeping and Warrants has about 70. It requires the time of one clerk not more than 2 or 3 hours a week to take care of the time, the leave, and the pay-roll work. In these two offices, we cannot possibly have clerks who get enough experience on such work to become experts in that line. For example there are departmental time and leave, and the pay-roll work. In these two offices, we cannot possibly have the consolidation we could have experts handling that class of work, as they would be doing nothing else.

#### SECRETARY'S OFFICE

There is another small item, Mr. Chairman, for the Secretary's office proper. It amounts to only \$25,000. As I understand it, at the present time, that office is \$20,000 overcommitted, and it is absolutely necessary that it have those funds to carry on for next year. As you know from experience, the Secretary has many functions to perform, and needs many assistants in this emergency, and it is vitally necessary that he have that additional amount.

Senator McKellar. Was this \$283,320 the estimate last year?

Mr. BELL. That is the Budget estimate, Senator McKellar.

Senator McKellar. The Budget estimate? I am talking about last year. You have got \$150,000, and it states a deficiency of \$100,000. That is \$250,000 last year.

Mr. BELL. That is right.

Senator McKellar. Are you going to put on some more people in that?

Mr. BELL. That is merely a transfer of employees, amounting to about \$37,000, which makes a total of about \$283,000; and that was reduced in the Budget to \$283,000. That is the amount that the Secretary is now asking for.

Senator McKellar. You want an additional \$25,000?

Mr. BELL. It is not additional. It is additional over the House allowance, but it is the same as last year plus the transfer—a little less, as a matter of fact.

The CHAIRMAN. As you, Senator McKellar, are chiefly interested in this other matter, we will let the Secretary go on with that, unless Mr. Bell wants to call attention to something else.

Mr. BELL. I think the Secretary might proceed, and after he finishes, you can go on with the others, if you would like to.

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

(Secretary Morgenthau was accompanied by Messrs. Guy T. Helvering, Commissioner of Internal Revenue; Arthur J. Mellott, Deputy Commissioner of Internal Revenue, in charge of the Alcohol Tax Unit; and D. W. Bell, Commissioner of Accounts and Deposits.)

#### PAY OF EMPLOYEES OF ALCOHOL TAX UNIT

Secretary MORGENTHAU. On February 11, 1935, the President submitted to the Senate a request that an additional sum of \$1,763,827 be added to the Treasury estimates for appropriation for next year, and that this sum be made immediately available for payment for personal services after November 30, 1934, as follows:

Bureau of Customs	43,000
Internal Revenue	1,739,827
Narcotic Bureau	11,600
Secret Service	10,000

The purpose of this request was to enable the Treasury to pay the salaries of approximately 1,300 employees of the several bureaus specified from December 1, 1934, to June 30, 1935, no funds being now available for this purpose because of the following proviso which was incorporated in the Emergency Appropriation Act of June 19, 1934:

*Provided*, That after December 1, 1934, no part of the appropriation made herein or heretofore made for the fiscal year 1935 shall be used to pay the salary of any person formerly employed as investigator, special agent, senior warehouseman, deputy prohibition administrator, agent, assistant attorney, assistant prohibition administrator, senior investigator, deputy production administrator, storekeeper, or gauger, or any other position in the Prohibition Bureau or Alcoholic Beverage Unit, Department of Justice, who was separated from the service of such Bureau or Unit between June 10, 1933, and December 31, 1933, while in any such position in the Treasury Department, unless and until such person shall be appointed thereto as a result of an open competitive examination to be hereafter held by the Civil Service Commission.

After obtaining the advice of the Attorney General as to the effect of the proviso in question, and the decision of the Comptroller General with respect to the availability of Treasury appropriations

for personal services, it has been determined that beginning December 1, 1934, no salary payments may be paid from existing appropriations to the several groups of employees covered by this estimate. However, the Attorney General held in his opinion dated November 30, 1934, that—

This proviso does not in express terms direct or require removal from the service of the employees included within its scope. Nor does it, in my opinion, do so by implication. The positions occupied by these employees and the salaries appertaining thereto were created and established under general statutes theretofore enacted by the Congress.

The proviso does not purport to abolish these positions. On the contrary, its language clearly indicates that the Congress did not intend to abolish them. It provides only that after December 1, 1934, no part of the appropriation made under the act or theretofore made for the fiscal year 1935, shall be used to pay the salary of any employee failing within its provisions unless and until such employee shall have been appointed to the position occupied by him as a result of an open competitive examination thereafter to be held by the Civil Service Commission.

In view of the foregoing, and since it appears that the employees involved had been appointed to their positions in the Treasury Department pursuant to statutory authority at the time of the enactment of the proviso, it is clear that the proviso does not change or affect their status as employees in the Treasury Department, except with respect to the payment of their salaries.

Since this is so, it is my opinion that the proviso does not require the Secretary of the Treasury to remove these employees from the service either by outright separation or by a partial dismissal in the form of a furlough. For the same reason, and as a necessary corollary, it is my further opinion that they may be continued in the service in a duty status without pay.

There were two outstanding reasons why it seemed to us urgently necessary to retain the services of the employees in question:

1. There were thousands of cases in the various stages of investigation by these employees, and to dispense with the services of so large a group would have meant an incalculable loss of revenue as well as the practical abandonment of criminal prosecutions then in process. The advantage of the headway already gained would have been lost and it would have been necessary to start all over with a new and relatively untrained force, facing the handicap of uncompleted and therefore unsuccessful previous attempts in the difficult task of eradicating traffic in illicit and non-tax-paid alcoholic beverages.

2. Although, as I understand it, the Civil Service Commission announced new examinations for positions in the Alcohol Tax Unit promptly after the enactment of the Emergency Appropriation Act, it was not until November that the rating of examination papers was completed so that eligibles could be certified to the Department for appointment. In other words, the Department would have had a period of less than 1 month to make new appointments to replace the old men and to train the new men in the performance of their duties. The work of investigators in the Alcohol Tax Unit is complicated and difficult. It requires months of experience before green men can begin to do their work with reasonable effectiveness. To have dropped those of the old force who failed to qualify on the new examination would have put us under the necessity of attempting to enforce the liquor laws with a green and inexperienced force and would unquestionably have resulted in a collapse of the enforcement effort which the Department was making at a most critical time. This in turn would have resulted in an increase of illicit

operations in every part of the country and would have created a condition from which it would have taken many months to recover.

There is also a third reason, which is in my opinion of very great importance, and that is the question of integrity of the civil-service system as it applies to Federal employees. The group of employees affected by this proviso were recruited through regular civil-service channels and had, with scarcely an exception, acquired civil service status through open competitive examination, plus a very searching character investigation made by the Civil Service Commission which resulted in the elimination of a majority of the candidates who had successfully passed the written test. This is the first time since the enactment of the civil-service law more than 50 years ago that the Congress has undertaken to encroach upon the jurisdiction of the Civil Service Commission in the administration of that law, or to undertake by statutory enactment to destroy the civil-service status and right to employment of a group which had successfully met and complied with the law and the regulations of the Civil Service Commission with respect to eligibility for a particular type of employment. I can think of nothing more likely to demoralize and discourage the rank and file of civil-service employees generally than for them to realize that the eligibility for employment of any group of employees may be destroyed by congressional action at any time.

Senator NOBLES. Was that legislation on the appropriation bill?

Senator DICKINSON. Yes.

Senator HAYDEN. It was a limitation on the appropriation, and came within the Senate rules; but is there anyone here that can answer this question? It is my distinct recollection that at the time Senator McKellar offered the amendment, that the Senate was advised there were in the Alcohol Tax Unit men who had not passed successfully a civil-service examination, but who had been blanketed in from other appointments not made under the civil service. How many were there of that kind?

Secretary MORGENTHAU. Mr. Chairman, Commissioner Helvering and Mr. Mellott are both here. Mr. Mellott is the head of the Alcohol Tax Unit, and I would like him to answer these questions, if that is agreeable to you.

Senator HAYDEN. I would be very glad to get the information from those who themselves know.

Senator MCKELLAR. Mr. Hayden, before you do that, would you mind my asking the Secretary some questions regarding his statement, and then we will go into it with the other gentlemen, if you do not mind.

Mr. Secretary, you believe in the honest and straight administration of the civil-service law, do you not?

Secretary MORGENTHAU. Yes; I do.

Senator MCKELLAR. Do you believe that it is compatible with an honest and straight administration of those laws for men in your Department to be appointed from out of the public without any examination and put to work in your Department, and then, by an Executive order, blanketed into the service without examination at all? Do you believe in that?

Secretary MORGENTHAU. I do not understand that that has been done, sir.

Senator McKELLAR. But did you know that these men you speak of, nine-tenths of them, maybe 99 percent of them, were appointed by politicians—and they are all despised politicians, up your way; you do not like them; but, for instance, in my State, there are, as I remember it, 26 of these men who were appointed. J. Will Taylor, a Republican Congressman from Knoxville, and a very nice gentleman, appointed every one of them, not from the civil-service rolls, but such men as he wanted to appoint, all of them Republicans; and then, after they were once appointed, Mr. Hoover put in a blanket order, blanketing them into the civil service. They had not stood an examination, or a competitive examination. They were asked some questions by the Civil Service Commission after they had gone in, but not before.

Now, is that the kind of civil service you believe in? I cannot believe it, Mr. Secretary.

Secretary MORGENTHAU. Senator, if I may answer you, this is the way I see my job, if I may take a minute or two.

Senator McKELLAR. I shall be happy to have you do so.

Secretary MORGENTHAU. The Treasury is charged primarily with two responsibilities, the collection of the revenue and the protection of that revenue. That is our primary work. We have a lot of other things put on us, but that is our primary work; and in the collection and the protection of the revenue in connection with alcohol, we inherited 14 years' experience. The question of selling alcohol during those years came to be such that people laughed at the law, and no one took it very seriously. A whole generation grew up, taking it for granted they could break that law and no one would punish them. No honest effort was made, as far as I could tell, during those 14 years, to enforce the prohibition laws.

On the 10th of May 1934, I was faced with the situation that, through an Executive order, I was given the entire responsibility for the collection of taxes on alcohol and beer, and also the protection of that revenue against fraud; and I wanted to get the best group of men I could to do that. I wanted to get men whose records showed they were efficient and that they could do the job. If my memory serves me right—and some of my people can check me—I believe there were something like 3,500 men, originally, in the Department of Justice doing that work. You may stop me, Mr. Mellott, if I am wrong in any of my figures.

These men were combed over by civil service and by the Intelligence Unit of the Internal Revenue, to get the men whose records showed they had been the most efficient. Out of the 3,500 men, we picked the 1,300 men whose records showed they were the best. We did not pick those men on a political basis. We picked them on their record, and these men were kept. Some were taken by Secret Service, some were taken by Narcotics, some were taken by Customs, but the bulk of these men, all of whom were field agents, were retained by the Alcohol Tax Unit, on their record of efficiency. That was the motivating spirit back of my action.

Senator McKELLAR. Mr. Secretary, I feel quite sure you are entirely sincere in making that statement, but you are entirely inaccur-

rate. Possibly before you were the Secretary of the Treasury, President Roosevelt made an order separating some 1,300, if I remember correctly, or somewhere in that neighborhood, a very large number of prohibition agents, not members of the tax service, but prohibition agents, separating them from the service; and those men had been separated from the service already, by the order of President Roosevelt, and in that order it was provided that they should have the right to make application to return, if any were needed, until January 30, 1934.

Someone in your office—and I believe it was Mr. McReynolds—arranged a committee composed of five men, whose names I do not remember, but Mr. Berney, of your office, was the one in charge of it. This all came out in the hearing, under oath. That committee went over them and selected some 750—it is about that—to return, all of whom were Republican prohibition agents. That was so developed in the hearing.

Secretary MORGENTHAU. If my memory serves me right, when those men were checked subsequently, and during the hearing which you conducted, was it not found that their politics, as between Republicans and Democrats, was about 50-50?

Mr. MELLOTT. There was never any complete check made, Mr. Secretary, but we know that there were a good many Democrats in the group.

Senator McKELLAR. Mr. Secretary, all I can say is that there was no testimony of that sort brought out before the Committee on Civil Service, and I can further state to you that, of the 26 in Tennessee, every single one of them, to my knowledge, was a Republican; and, by the way, not only were they Republicans, but when they came to stand this examination, every single, solitary one in Tennessee failed to pass it.

You tell us that you appointed them because of their efficiency!

Secretary MORGENTHAU. So did 80 percent of all applicants.

Senator McKELLAR. You have got a capable list!

Secretary MORGENTHAU. But 80 percent of them failed.

Senator McKELLAR. That may be so—that frequently happens.

Secretary MORGENTHAU. I could not pass that examination myself.

Senator McKELLAR. There were a great many who did pass it. For instance, in my State, you have got right now on that list ample men who have stood that examination. You say you could not have stood it: There are ample men who stood that examination to perform the work which you need to have done in Tennessee. Mind you, these men not only failed, but they were selected because of politics and not because of their efficiency, and could not have been. The proof of it is that they took the examination and failed, when, if anybody ought to have passed that examination—at least, if they had ever had any experience—they had that right.

Under those circumstances, you are asking this committee and this Congress to do this—to restore to the civil-service rolls men that had failed in their examination; and showing that the civil service had been badly mishandled up to that date; because, you remember, now, that your predecessor had secured the blanketing-in of these men, without competitive examinations, and, when this law

required them to stand an examination they failed, and they are not the competent men that you think they are.

Senator HAYDEN. That is the point I wanted to bring out definitely, because in my own State there were only four men affected. All happened to belong to my political party. They all insisted they had never received a political appointment and had not been blanketed into the service, that they had passed a regular civil-service examination in order to obtain their appointment.

Let me ask Mr. Mellott: Do the records show that a man received a political appointment without having taken a civil-service examination; then, being in the Department for a time, was given permission to take an examination, as a result of which he was retained in the service? It could be done that way, or by simply having a political appointee blanketed in. What are the facts in that regard?

Mr. MELLOTT. May I try to answer the question by reading an excerpt from the opinion of the Attorney General, addressed to the Secretary under date of October 25, 1934:

The second question raised by your letter is whether the provision in question includes employees who have already taken and passed a competitive civil-service examination. A brief summary of the history of the Bureau of Prohibition is necessary to a proper consideration of this question.

Prior to March 3, 1927, there was, in the Bureau of Internal Revenue, a unit known as the Prohibition Unit, in which certain field positions were not required to be filled in accordance with the Civil Service Act and rules. The act of March 3, 1927, established this unit as a separate bureau in the Treasury Department, known as the Bureau of Prohibition, and directed that the employees of the field service of the said Bureau, who had acquired a proper civil-service status, should have their employments terminated 6 months from the effective date of the act, which was April 1, 1927. There were 2,182 such field positions. Competitive examinations were duly held by the Civil Service Commission. There were 15,524 applicants for the first examination, of whom 12,486 took the written test. However, only 4,504 of these passed the examination. Character investigations of these persons further reduced to 2,639 the total number of eligibles for the position of agent, inspector, and investigator.

I am informed that as a result of the examinations held by the Civil Service Commission, pursuant to the act of March 3, 1927, 75 percent of the employees affected by that act became ineligible to hold their positions.

Senator HAYDEN. Let me get that clear. There were, prior to 1927, 2,182 men in the prohibition unit, appointed through political influence and not as a result of a civil-service examination. A civil-service examination was ordered, 15,000 applied, 12,000 took the test, 4,500 passed it; and, finally, as a result of character investigations, only 2,639 eligibles were obtained.

Mr. MELLOTT. That is right.

Senator HAYDEN. Of that 2,639 eligibles, how many came from the 2,182 who were political appointees?

Mr. MELLOTT. I do not think there was ever any check made of that.

Senator HAYDEN. I am sure that you read that 75 percent became ineligible to hold their positions.

Mr. MELLOTT. The Attorney General states that he is "informed that as the result of the examinations held by the Commission, pursuant to the act of March 3, 1927, 75 percent of the employees affected by that act became ineligible to hold their positions"; so that would refer back, I take it.

Senator HAYDEN. Three-quarters of the 2,189 political appointees failed to pass the civil-service examination, and there would be then left, out of the 2,182, say, about 500, who succeeded in obtaining a regular civil-service status?

Mr. MELLOTT. I think so.

Senator HAYDEN. And that 500 men who were originally political appointees made up a part of the 2,639 eligibles?

Senator McKELLAR. He did not say that, because that would be impossible for him to find out, unless he goes and makes an examination; and I would be very glad if he would make an examination and find out who stood competitive examinations.

Senator NORSECK. Senator McKellar, the witness cited his authority for making the statement.

Senator McKELLAR. I know, but what does Attorney General Cummings know about the thing, except what he has been told? He says that he has been told.

Senator NORSECK. He only answered the question as nearly as he could answer it.

Senator HAYDEN. I am just trying to see if the inference I have drawn is correct, or if Mr. Mellott has any way of verifying it as correct or incorrect.

Mr. MELLOTT. Of course, there were afterward other civil-service examinations held. In 1928, it is my understanding, there was another examination held.

Senator HAYDEN. What was the date of the examination?

Mr. MELLOTT. This was on March 3, 1927.

Senator HAYDEN. March 3, 1927, is when the first civil-service examination was held?

Mr. MELLOTT. Yes, sir; that is when the Prohibition Service was put under civil service.

Senator McKELLAR. You could easily find out by simply seeing or getting the names on the present list, that were covered by the Hoover order, after they had been appointed. That would be the easiest thing in the world.

The CHAIRMAN. What is the use of putting him to that trouble, if all of them are Democrats, now.

Senator NORSECK. Surely, they are Democrats now.

Senator McKELLAR. They may be Democrats now, but at the time of this examination, last year, they could not find a single Democrat in the lot; and I know of my own personal knowledge that everyone in Tennessee, except two, that have been appointed since—and under the Attorney General's interpretation, those two were included, too—failed, the 2 Democrats and the 26 Republicans; and, having failed, they ought to go out.

Senator NORSECK. Senator McKellar, when I first came here, in 1920, it was rumored that the Wilson Democrats had put several hundred men into the Alien Bureau to do political work, so the Republicans started out to eliminate all those Democrats, and the report they got was, that the morning after the landslide election, they could only find two Democrats.

Senator McKELLAR. Without doubt, that is so.

Senator HAYDEN. I interrupted the gentleman. Is there something else you wanted to read, Mr. Mellott?

Senator O'MAHONEY. Mr. Chairman, let me ask a few questions. Where did you become the head of this Unit?

Mr. MELLOTT. On May 10, 1934, when it was created.

Senator O'MAHONEY. Have you any records to show how many persons were separated from the service between the 10th of June 1933, and December 31, 1933, but whose separation was not the result of the mere transfer of this Unit from the Department of Justice to the Treasury Department?

Mr. MELLOTT. I think we can make the record complete. I am not quite sure that an answer to your question is the best way. The unit, under the Executive order of March 10, which became effective May 10, is composed of 639 people, investigators who were transferred from the Alcoholic Beverage Unit of the Department of Justice.

Senator O'MAHONEY. Transferred? When?

Mr. MELLOTT. Under the Executive order of May 10, coming into the Treasury Department on May 10, 1934. That was 639: 698 had been appointed in the Industrial Alcohol Bureau and that also became part of the Alcohol Tax Unit, making a total of 1,337 investigators in the consolidated Alcohol Tax Unit, after fusing together the Alcoholic Beverage Unit of the Department of Justice and the Industrial Alcohol Bureau of the Treasury Department. Of that group, those affected by the amendment in question, there were 1,202 investigators and 43 storekeeper-gagers, who were subject to the competitive examination prescribed by the amendment in question.

Senator O'MAHONEY. Mr. Mellott, that does not answer my question. I observe from reading this proviso that it became necessary under the law for all persons holding any of these designated positions, who were separated from the service between June 10, 1933, and December 31, 1933, to take a new civil-service examination, whether or not they had previously had one. That is your interpretation of that statute, is it not?

Mr. MELLOTT. Yes.

Senator O'MAHONEY. So that it becomes important to know how many persons were actually separated from the service between those two dates.

Let me make clear what I have in mind. There were two kinds of separation, as I understand it.

Mr. MELLOTT. Right.

Senator O'MAHONEY. In the first place, those persons who were dropped from the rolls, under the old Prohibition Unit, after the 10th of June, for one reason or other, by the persons then in charge, were separated from the service. Then, there was another group of persons who were separated from the service technically, when the unit was transferred from the Department of Justice to the Treasury Department.

Mr. MELLOTT. Not to the Treasury Department, Senator. It was when the old Prohibition Unit was abolished, and the Alcoholic Beverage Unit of the Department of Justice was created, the effective date being August 10.

Senator O'MAHONEY. What year?

Mr. MELLOTT. 1933.

Senator O'MAHONEY. You had one bureau, which was abolished, and a new bureau set up?

Mr. MELLOTT. That is right.

Senator O'MAHONEY. That was just a change of name, but actually the personnel of the old bureau went over into the new and were taken on the roll? Is that right?

Mr. MELLOTT. Of course, the Comptroller General and the Attorney General ruled—

Senator O'MAHONEY. Let us get the answer to that question. Is that not right?

Mr. MELLOTT. I started to say that was our thought in the matter, but the Comptroller General and the Attorney General ruled that that was a separation from the service, which occurred on August 9.

Senator O'MAHONEY. Yes; I understand that, surely. We are coming to that, but as a practical matter, when the Prohibition Unit was abolished, and the Alcoholic Beverage Unit of the Department of Justice was created, in the contemplation of the Bureau, or of those in charge of this particular work, there was only a transfer of personnel, they were dropped from one roll and immediately put on the other; is not that right?

Mr. MELLOTT. That is correct. They worked all day, August 9, as members of the Prohibition Unit of the Department of Justice, and began working on August 10, 1933, the next day, as personnel in and part of the Alcoholic Beverage Unit of the Division of Investigations.

Senator O'MAHONEY. That was my understanding, and because of that fact, it seems to me it is important for us to know how many of those who worked all the 9th of August and began working again on the 10th of August were affected by this ruling and prevented from obtaining their salaries.

Mr. MELLOTT. That number would be approximately 639.

Senator O'MAHONEY. Those were persons who were on the roll all day the 9th, and on the roll all day the 10th?

Mr. MELLOTT. That is right, only on different rolls.

Senator O'MAHONEY. On the pay roll of the Government?

Mr. MELLOTT. That is right.

Senator O'MAHONEY. Doing the same character of work?

Mr. MELLOTT. On the pay roll and doing the same character of work.

Senator O'MAHONEY. Then how many individuals are affected by this order, who were actually separated from the service for several days or several weeks, between these two dates?

Mr. MELLOTT. That number I cannot give you exactly, but it would be somewhere in the neighborhood of 700.

Senator O'MAHONEY. Is it not your understanding that this resolution was intended to cover those 700?

Mr. MELLOTT. I thought, at the time it was enacted, that that was the evident purpose of it.

Senator O'MAHONEY. But it was interpreted to cover all of them, because of the technical effect of the words "separated from the service", when taken into consideration with the fact that the Bureau was abolished and a new bureau instituted?

Mr. MELLOTT. That is right.

Senator McKILLIP. Mr. Mellott, is it not easy enough for the Department to give us the names of the men who had been separated

from the service, and who were put back by the Department on the recommendation of the committee headed by Mr. Berney! Would there be any trouble about your Department furnishing us that!

Mr. MELLOTT. No. We would be very glad to furnish it to you.

Senator McKellar. Mr. Berney testified that under President Roosevelt's order, I think, of June 10, 1933—I will not be positive about the dates—the men he put back were the men that had been separated from the Department by that order, and who had left the service, nearly all of them, field men like the ones in Tennessee and like the ones in every other State, nearly all field men that had been separated from the service by President Roosevelt's order; in which order of President Roosevelt, by the way, there was an express provision that if any of them were returned to the service, or asked to return to the service, it should be before January 30, 1934. Why can you not furnish the names of those 700, or thereabouts, that Mr. Berney testified to, who had been out of the service of the Government since the preceding August, and whom you put back into service under this order! Why can you not give us those names!

Mr. MELLOTT. We can furnish the names of any group that you may desire, sir.

Senator McKellar. Do you understand what I am talking about, when I tell you that the men were put back by Mr. Berney, who says he examined their files, and that, upon an examination, he put them back, or recommended that they should go back, and that the Secretary of the Treasury put them back! Why cannot we have that list of names of those put back by Mr. Berney, or on his recommendation!

Mr. HELVESTING. Mr. Chairman, I do not know, but I believe the Senator is confusing two Executive orders.

Senator McKellar. No. I remember the other order. The latter order is the order by which they were put back, and that is the order that Mr. McReynolds testified he wrote and sent up to the President by his superior, the Secretary of the Treasury. I am not confusing those two orders. One was the order of President Roosevelt, separating these men from the service, in 1933, and the second one was his order restoring them, upon the recommendation of the Secretary of the Treasury.

I want to be perfectly practicable, and I do not want the civil service debased in any such way as this, to have Mr. Hoover, under his administration, let politicians in the various States appoint these men, and then blanket them into the service, and when they come to an examination, a real examination, fail, and still they are sought to be kept in their places, although the men who stood the examination are ready to perform their work.

Senator STEWART. Senator, when you say a "real examination", do you mean an examination in which they are required to name the counties of the State of Tennessee!

Senator McKellar. I do not know what the examination was, Senator, but I do know they all passed an examination, and a sufficient one.

The CHAIRMAN. Let us get the facts, and not go into an argument of the question.

Senator McKellar. All right. We are waiting on those gentlemen down there to answer the question I asked about the Executive order, which they now say is repealed.

Senator O'MAHONEY. Can we not get them, just as they are? Do you have them here!

Mr. MELLOTT. Yes; I have.

Senator O'MAHONEY. Read the Executive orders in their order.

Mr. MELLOTT. I am quoting from an opinion of the Attorney General.

Senator McKellar. Have you not the order there, itself!

Mr. MELLOTT. I have section 3 of the order of June 10, 1933, which provides in part as follows:

General provisions: Each agency, all the functions of which are transferred to or consolidated with another agency, is abolished. All personnel employed in connection with the work of an abolished agency or function disposed of, shall be separated from the service of the United States, except that the head of any successor agency, subject to my approval, may within a period of 4 months after transfer or consolidation, reappoint any of such personnel required for the work of the successor agency without reexamination or loss of civil-service status.

That is the section you refer to, is it not, Senator McKellar!

Senator McKellar. Yes. I want to ask you this: Were these 760, reported by Mr. Berney, put back into the service within that 4 months, or did you or did you not ignore the order of the President in regard to that! My recollection is that January 30 was the last day on which anybody could have been restored under that order, and these men were not put back until some time in April or May. Is that not true!

Mr. MELLOTT. Briefly, the history in connection with the reappointment of those folks in this. The Secretary, finding it necessary to appoint investigators in the Bureau of Industrial Alcohol, which he called "regulative inspectors", to take care of the enforcement work, which was thrust onto him to some extent following repeal, asked the Civil Service Commission for a list of eligibles.

Senator McKellar. When was that, Mr. Mellott? That was after January 30, 1934, was it not!

Mr. MELLOTT. Somewhere in the first month of the year, I think, in January of 1934.

Senator McKellar. Do not "think" about it. Will you not get the record, because the records dispute what you are now saying. Those men were recommended to go back after the 30th of January 1934, and after the time of expiration, by the President's own order.

Mr. MELLOTT. I think the Senator is correct.

Senator McKellar. Why, of course!

Mr. MELLOTT. That most of the appointments were made after January 30.

Senator McKellar. They were all made.

Mr. MELLOTT. They were made from the only reservoir which the Civil Service Commission furnished the Secretary, from which to make the appointments of investigators.

Senator McKellar. Let me ask you, do you pay no attention to an Executive order governing your duty, issued by the President of the United States, and in which he fixes the time within which men can be restored, as January 30! No; you came along and disregarded

that order, and restored them some time in the spring, after the 30th of January. Is not that true?

Mr. MELLOTT. The Civil Service Commission furnished the eligible list for appointment.

Senator McKELLAR. Yes; they furnished the men on this list, and those were the very men that the President of the United States had separated from the service and said that they could not go back to the service after January 30? It is perfectly plain. All you have to do is look at your order.

Mr. BELL. Senator, the order did not deprive the employees of a Civil Service status. In my opinion the order intended that the employers dismissed thereunder should have the same status as any other employees dismissed as a result of a reduction in force.

Senator McKELLAR. But the order of the President, which it seems to me all departments ought to obey if they can, was that they could not be restored after January 30, 1934.

Mr. BELL. Not at all.

Senator NORRICK. You are mixed up, Senator.

Senator McKELLAR. No; I am not. I have looked at it, and you have not.

Senator O'MAHONEY. If we can get the dates I think it will be cleared up. Of these 700 whom you mentioned in answer to one of my questions, most of them were restored to the service after the date given by Senator McKellar, in January 1934, is not that a fact?

Mr. MELLOTT. That is right.

Senator McKELLAR. All of them were.

Senator O'MAHONEY. All of them?

Senator McKELLAR. The record so shows.

Senator O'MAHONEY. Let us get the witness' answer.

Senator McKELLAR. I want to get the witness to look at the record and testify.

Senator O'MAHONEY. Is not that what you said in response to my question, Mr. Mellott?

Mr. MELLOTT. I think there were some appointments made in January.

Secretary MORGENTHAU. I am just as anxious as Senator McKellar to have the chronological order of what was done, and I am as positive as anybody can be that we did not go contrary to any Executive order, in spirit or any other way. I want to give you the exact facts.

Senator McKELLAR. You remember, Mr. Secretary, we had a hearing.

Senator MORGENTHAU. I know you did.

Senator McKELLAR. This was developed, and I know it is true. Of course, you had nothing to do with it, personally.

Secretary MORGENTHAU. I take the responsibility.

Senator McKELLAR. I know you do. Those under you make a distinction between "removing from a civil-service status" and "separating from the service", and although the President said they could not be restored after January 30, they go to the Civil Service Commission and get a statement that they still have a civil-service status, and thereupon those under you appointed these men having a civil-service status, but directly in conflict with the Presidential order. Those are the facts.

Secretary MORGENTHAU. Well, I do not know.

Senator McKELLAR. If you will look it up and verify it, and make a statement in answer to that question, I will be very much obliged to you. Just have your man attend to that.

Secretary MORGENTHAU. I would like to submit such a statement for the record.

Senator McKELLAR. Thank you.

Senator O'MAHONEY. Let me say that I think Mr. Mellott, in answering my question, substantially answered the questions which have been since addressed to him. He stated, as I understood him, that some 700 persons were removed, from time to time, and reinstated after the month of January 1934.

Mr. MELLOTT. That is right.

Senator O'MAHONEY. Those are the persons concerning whom Senator McKellar is desirous of having information; and, of course, we all are; and all that is necessary, I think, to clear this up is for you to produce the various Executive orders, in their chronological order, and then the number of persons in the Bureau who were separated from the service only because one unit was abolished and the other unit established the next day. It was never the intention, I may say, so far as I know, to have this particular provision apply to those persons, but it was distinctly the intention to have it apply to the persons who were dropped by reason of the President's order of June 10, and afterward reinstated, after the expiration of the 4-month period mentioned by the President in that order.

Senator McKELLAR. And reinstated by direction or by recommendation of Mr. Berney and the three or four men under him. They selected them. They did not pass the civil-service examination at all. They merely took out, from the files, certain men they wanted reinstated. I would like to ask this question, and I would like to ask the Secretary, if he knows; and if he does not, anybody else.

You talk about the collection of taxes. These men, contemplated in the order that I have referred to, had nothing to do with the collection of taxes before you became Secretary of the Treasury. They were raiding officers, what were known as "prohibition officers." They were field people, out in the field. They had nothing to do with the protection of taxes, Mr. Secretary, and they had already been separated from the service.

Secretary MORGENTHAU. Senator, if I can reply, I remember correctly what I said. I said our main function was the collection of taxes and the protection of the revenue. These men were trained investigators, trained in finding illicit stills. That had been their training, and what we are using them for today is to continue the work of detecting where non-tax-paid alcohol is manufactured; and that comes under the protection of the Government's revenues.

Senator McKELLAR. I can see how you could put them in on that basis, but I want to say this to you, Mr. Secretary: You believe in the civil service, do you not? I do. I am a very sincere believer in it, and served on that committee for years. I honor it and respect it, and want to see it faithfully administered.

The CHAIRMAN. The Secretary says he does, too.

Senator McKELLAR. If the Secretary does, why are you willing to put these men back on the rolls, or keep them there, with the hope

Congress will pay them the money for it, when as a matter of fact they have failed to pass every examination that has been held, and you have got ample people who have passed the examinations to fill these places!

Secretary MORGENTHAU. The answer to that is, Senator, as I understand it, the majority of them had all previously taken an examination and passed it, and this is the first time, as I understand it, in the history of civil service, that a man who has passed the civil service is required to take another examination.

Senator McKELLAR. Mr. Secretary, you were just being misled by someone in your own Department about that, for here is what took place: These men were appointed on political grounds entirely, in the Hoover administration, and they were afterward asked some questions, and put on the civil-service roll. They were blanketed in by Mr. Hoover. I have got the order, and will show it to you. I will be glad to show it to you at any time.

Senator HAYDEN. That is the point I was trying to develop a while ago. Undoubtedly, there were 2,182 political appointees, blanketed in. Subsequently, in March 1927, a civil-service examination was held, which these 2,182 persons had an opportunity to take, and several thousand more did take it. As a result of that civil-service examination the Treasury Department did obtain a list of men eligible to engage in this very investigational work, raiding stills, and all that. The Civil Service Commission submitted a list of 2,639 eligibles, of whom I understood Mr. Mellott to say only about 500 of the original "blanketed" employees were included, because 75 percent of them failed to qualify. A large majority of the political appointees could not pass that civil-service examination.

Senator NOBESCK. But the trouble is, those 500 were Republicans, and they should be eliminated.

Senator McKELLAR. They are all Republicans, there is no question about that. There are no Democrats in that list, or in this list, either, because they were appointed purely for political purposes, at first.

Senator HAYDEN. It is very important to get the exact facts. If Mr. Mellott can check the list of 2,182 political appointees against the list of 2,639 eligibles who were certified, he can tell how many original political appointees were able to qualify at the civil-service examination, held for the special purpose of obtaining men qualified to serve in the position of investigator.

Secretary MORGENTHAU. But, Senator, I think I am correct in saying that there is no one on our roll today who has not been qualified and certified by the Civil Service Commission. We could not have anybody else. It may be my fault that I have not pointed it out, but the acid test, as far as I am concerned and as far as the country is concerned, is, Are we doing this job well, or are we doing it badly? Are we protecting the revenue? Are we collecting taxes? Are we suppressing the illicit stills, and are we making headway? That is the question. Is this group of men efficient? Are they doing their work well?

The CHAIRMAN. Of course, that is the primary question, but another question is involved, Mr. Secretary, and that is whether the

civil-service laws have been violated, and whether people have been put on the roll purely for political reasons.

Senator McKELLAR. Yes.

Senator HAYDEN. The other set of facts that Senator O'Mahoney is developing is that what Senator McKellar undoubtedly had in mind were some 700 men who were separated from the service, back in August, and were given until January to be put back. Later, it being determined that although they were separated from the service, they had not lost their civil-service status, when the Department called for eligibles, this same list was submitted by the Civil Service Commission.

Senator O'MAHONEY. The Executive order of June 10 provided that everybody was separated from the service, but that for a certain period, any of these persons could be reinstated without examination.

The CHAIRMAN. But thereafter there must be an examination?

Senator O'MAHONEY. That is the clear implication.

The CHAIRMAN. That is the whole question.

Senator McKELLAR. And thereafter be employed after being examined.

Senator HAYDEN. Did the order indicate that it must be by a new examination, or that, by reason of their having theretofore passed an examination, they were qualified?

Senator O'MAHONEY. It was a clear indication that there should be a new examination, but it was interpreted otherwise. It was interpreted to mean that any person who had a civil-service status, and was so certified by the Civil Service Commission, could be reappointed. That is my understanding of it.

The CHAIRMAN. If that was the interpretation, what was the need of the Executive order?

Senator O'MAHONEY. Surely.

Senator HAYDEN. That is one group. You have another group, however, that were never separated from the service, except to be dropped, from one moment to be transferred to the other.

Senator O'MAHONEY. Just technically.

Senator HAYDEN. And yet they are affected by this order.

Senator O'MAHONEY. They are affected by this order.

Senator HAYDEN. How many are there in that group?

Senator O'MAHONEY. Some 600, he testified.

Mr. MELLOTT. Some 639 investigators.

Senator HAYDEN. I am sure that when the Senate adopted the McKellar amendment nobody had that group in mind.

Senator O'MAHONEY. Oh, no.

Senator McKELLAR. That was brought about by an Attorney General. The Attorney General put them in there by his opinion, and his opinion is absolutely incorrect. It was not intended by Congress to put them in there, and the words do not put them in there. I do not know why that interpretation was given it, but it was given it.

Senator O'MAHONEY. It was given it, Senator, because the language of the resolution says, "Who are separated from the service between these dates."

Senator McKellar. Yes; some excuse; but it did not mean that. Senator O'Mahoney. The Comptroller interpreted that to mean this technical separation.

Senator McKellar. Mr. Secretary, I was interested in what you said about the good of the service. I want to say this about that: I sent to Mr. Mellott, and he sent to me a list of the men who had been blanketed into the service, and whom you still have on your rolls, but whom you are not paying; and also those that had passed the examination. It just happens that I know, personally, nearly every man who is on the rolls in my State. One of them is a retired capitalist, down there, whom "Bill" Taylor put on the rolls. He does not do any work. He has never done any work, and he is not doing any work now, Mr. Secretary. Talk about fakers! I will give you his name. I am not going to put it on the record for the committee, but I will give you his name. He is not doing any work now. He does not need the place. He is a retired capitalist and yet you are keeping him down there without pay. That does not make much difference because he does not need the pay. He may stay with you all the time.

Secretary MORGENTHAU. I did not know there were any retired capitalists.

Senator McKellar. But I will say to you that Congressman J. Will Taylor—and, incidentally, I will quote him right here as saying this because he told me with no secret—stated to me that he was utterly astonished that you kept those Republican politicians in, down there. He did not say that they were not doing any good, but I tell you that they are not doing a bit of good. I tell you we are not having efficient service in my State, and I tell you that you have got on the waiting lists in the Civil Service Commission, under this last examination, some of the very best men, whom you could appoint instead of holding these inefficient, incompetent, and politically-appointed men in office.

Senator HAYDEN. Let me ask this: Would it be possible, if someone were politically minded and wanted to do it, that, after January, when the period of grace had expired during which these men might be restored under the law, and the Civil Service Commission submitted lists of eligibles, if there were someone who looked over those lists and knew that certain men were his friends, could he select them and leave others off? How are selections made from the civil-service list, if a large group is needed? The Department wanted how many—six or seven hundred?

Mr. MELLOTT. Yes.

Senator HAYDEN. And how many names did the Civil Service Commission send over as eligibles from which the Department could select?

Senator McKellar. They sent the whole list.

Senator HAYDEN. There were how many names on it?

Senator McKellar. The evidence in the Civil Service Committee hearings shows that they sent over the whole list.

Senator HAYDEN. How many were on it? That is what I want to find out.

Senator McKellar. It also shows that Mr. Berney went through the list and selected those that he wanted to be reappointed, and that they were all Republicans.

Senator NORSECK. Mr. Chairman, I suggest, unless the witness be permitted to answer the question, that we give it up and listen to Senator McKellar the rest of the day.

Senator McKellar. The Senator's statement about that is absolutely without any foundation in fact.

Senator NORSECK. The record speaks for itself.

Senator HAYDEN. Will the witness please answer! How many names were sent over by the Civil Service Commission, from which the Treasury Department could select six or seven hundred, or whatever number was wanted after January?

Mr. MELLOTT. They are in the Department, and I am going to answer the best that I possibly can, according to my understanding.

The Civil Service Commission, it is my understanding, advised the Treasury that the former prohibition agents were eligible for appointment in the service. The committee of which the Senator speaks reviewed the records, or the personnel files, of all of the folks who had served, and who had civil-service eligibility as prohibition agents.

Senator HAYDEN. And how many were there?

Mr. MELLOTT. I think there were some 2,500.

Senator HAYDEN. That is, the Civil Service Commission sent over 2,500 names of men certified as having previously passed the civil-service examination and therefore eligible for appointment. The Civil Service Commission sent over the whole list of about 2,500, and then a committee of the Treasury selected how many from that list for appointment?

Mr. MELLOTT. I do not understand that it was worked exactly that way. I understand that the list was made available in general, in toto; that from that the committee reviewed the personnel files of the various folks who were in that whole group.

Senator O'MAHONEY. If the list was made available in toto, then all 2,500 names were submitted to the Treasury committee?

Mr. MELLOTT. I do not think they were certified in a regular order.

Senator O'MAHONEY. Not certified?

Mr. MELLOTT. That is what I am trying to say. Then, after they were picked out, they asked for a certification as to the particular man whose file indicated that he was—

Senator HAYDEN. How many men did the Treasury committee select out of the 2,500?

Mr. MELLOTT. I think 698 altogether.

Senator HAYDEN. If, from the original list of 2,182 political appointees, there were carried into the civil service, by reason of a subsequent examination, 500 men who were able to pass the test, and they were included among 2,500 eligibles, and if somebody who was doing the selecting then and picked out, in the majority of cases, these particular 500 political appointees, there would be just cause for complaint?

Mr. MELLOTT. We could check the records. Oh, yes.

Senator HAYDEN. That is what I want you to do. The only way to do it is to find out the names of the 500 political appointees who did succeed in passing a civil-service examination, and then ascertain how many of the 500 appear on the list of 600 that the Department committee selected.

The CHAIRMAN. Well, do you not know that they are all Democrats now? What is the use in asking for that?

Senator McKellar. We are not asking for their politics, now, because we know they are all Democrats.

Senator Hayden. If the record shows it to be a fact, then clearly there was favoritism exercised within the Department. If the record should show that only an average number of original political appointees were selected, then there could have been no favoritism.

Senator O'Mahoney. And, if the entire list was made available to this committee, and then the committee made selections from that list, not upon the basis of the records of the Civil Service Commission, but upon the basis of the personnel files in the unit, then, clearly, as Senator Hayden says, there must have been some selection, not by the Civil Service Commission but by individuals on the committee.

Senator McKellar. All of that is testified to in this hearing. We have got the facts about it.

Senator Hayden. The absolute proof will be when the list of 500 names that were originally political appointees is compared with the list of those finally selected by the Treasury committee, and if a great majority of those on the new list were originally political appointees, there was favoritism.

Senator McKellar. What I want, Mr. Mellott, for this committee are the names and addresses of the 698 that were certified by Mr. Berney, and afterward appointed by the Department. That is what I want.

The Chairman. There being no question to the witness on the stand, the chairman is going to make an observation. I do not care a continental about politics or about patronage. I turn all those matters over to other members of the Virginia delegation. Everybody knows that. I do not bother with that. But, in substantiation of the suggestion that this was largely a partisan political movement, I obtained from the Commissioner of Internal Revenue, Mr. Helvering, a list of the field agents in Virginia—rather, Senator Byrd did, and gave me a copy of it—and of the 30 field agents in Virginia, headed by one of the most obnoxious persons whose record I ever had brought to my attention, efficient in the discharge of his duties, and very efficient in the manifestation of his politics; of the 30 field agents in Virginia, 28 of them were carpetbaggers, all the way from Maine to some other remote point. There were only 7 Virginians, and of the 30 there were only 3 Democrats.

Senator Hayden. You do not think that was an accident?

The Chairman. No; I do not think it was an accident. If it was, it was a very bad accident.

Senator Steiwer. As of what date are you speaking?

The Chairman. Not so very remotely—since Mr. Helvering has been Commissioner of the Internal Revenue. Mr. Helvering knows it took the very strongest protests of both Senator Byrd and me to remove the chief of the field agents down there, because he had made himself so obnoxious; and that is the reason, whenever anybody wants to be appointed from Virginia, they tell us that Virginia's quota is overfilled; but it is overfilled with appointees from other States—carpetbaggers.

Senator McKellar. Senator, you are lucky. I had 27. I will not be positive, it was either 26 or 27 that were in the list, and all of

them were Republicans, and the Treasury, my good friend Helvering, with whom I used to serve in the House, and who I esteem as highly as I do anybody, had not given me a single one. He would not remove any of them. He would not remove anybody. He left me down there with the Republicans, who fight us. They take an active hand in politics. Do not talk about their not taking an active hand in politics. They are the most active people in my State, for their own party. I do not blame them, but they ought not to stay in there, under the wonderful civil service examination, which they have never stood.

Senator Hayden. Mr. Chairman, this matter came to my attention just after I met Senator McKellar in Los Angeles, when he was leaving for the Philippine Islands, or I would have taken it up with him. I came back home, and I was contacted by one of the agents who had been set aside by the McKellar amendment so that he could not draw any pay. I found that there were four in the State. Each one of them insisted that he had passed a regular civil-service examination and obtained his rating, and on inquiry as to their politics, they were all four Democrats.

Senator Norbeck. How did you manage it?

Senator Hayden. That is the point I am trying to make, that, so far as my State was concerned, all of them insisted that they had obtained their appointments in a regular civil-service way. They were all residents of Arizona when they passed the civil-service examination, and each one of them was positive in his assertion that he never had received any kind of a political appointment, that he never had been blanketed into the service. But the proof of the pudding is going to be when a check is made of the list of the six hundred-odd names who were selected by the Treasury committee to see how many of the original 500 political appointees are included. If it is found that a large majority of that old group are in the new group, then somebody with political leanings fixed the list and did not select them out of the whole 2,500, solely because of their qualifications.

Senator O'Mahoney. It is the group of 700, Senator.

Senator McKellar. Six hundred and ninety-eight.

Senator Norbeck. That would throw a suspicion. It might not be conclusive. If there were 500 experienced men on the list, and another 1,500 who had not had experience, it might have resulted, even if they did not know their politics at all, in a larger percent being selected, of the experienced men, than of the inexperienced.

Senator Hayden. If it just happened to be about half and half, I would not be suspicious.

The Chairman. I think the whole question involved is not so much one of politics, but it is apparent the civil-service law and the President's order have been evaded by subterfuge.

Senator Hayden. I think you are right, Mr. Chairman.

Senator McKellar. Exactly right; and, by the way, Mr. Chairman, in this connection I want to ask permission to insert in the record the hearings, which are printed and not very long. I do not want to have them reprinted, but I want them as a part of this record, so we can take it to the Senate. I refer to the hearings in the civil-service investigations that were made last year. And for the

convenience of the committee I am going to submit a copy of a letter that I wrote to the Secretary, to Mr. Berney, who was the man that made the selections of all these 698, and I want that letter, and I want to call it to the special attention of the Secretary. Have you seen that letter yet? I want to call the special attention of the man who really did the work of selecting these 698 inefficient Republican employees, now claiming civil-service status, to that letter.

(The letter presented for the record by Senator McKellar is as follows:)

FEBRUARY 20, 1935.

HON. HENRY MORGENTHAU, JR.,  
Secretary of the Treasury, Washington, D. C.

DEAR MR. SECRETARY: I wish again to call your attention to the case of E. E. Berney, now holding a position in your alcohol unit. On May 11, 1934, Mr. Berney was called before the Senate Committee on Civil Service to testify regarding his selection of the Prohibition or Alcohol Unit for reappointing in your Department. I quote from Mr. Berney's testimony, as shown on page 96 of the record:

"Senator McKellar. Where are you from?"

"Mr. BERNEY. From central Pennsylvania."

"Senator McKellar. Are you a Democrat or Republican?"

"Mr. BERNEY. I do not know."

"Senator McKellar. You do not know? An expert in the Bureau of Prohibition and not know whether you are a Democrat or a Republican?"

"Mr. BERNEY. If I may place my own test, I assume the test of a man's political faith is determined by his registration in a primary. I have never registered to vote in a primary in my life. I voted once in my life, in the State of Connecticut, at a general election, and I have never lined up with a political party; so I do not know."

"Senator McKellar. How did you vote then?"

"Mr. BERNEY. I voted on a machine."

"Senator McKellar. I know; but how did you vote? Did you vote for the Democratic candidate or for the Republican candidate?"

"Mr. BERNEY. I voted for both."

"Senator McKellar. You voted for both the Democratic and the Republican candidate at the same time?"

"Mr. BERNEY. I certainly did."

This man was educated at Yale University, I believe he graduated there, and had been working for the Government since 1918, when he went into the Bureau of War Risk Insurance. He entered that Bureau by standing a competitive examination for claims examiner and reviewer (p. 98). He admitted that he was a member of the committee that prepared the list of former employees that could be restored (p. 97).

Mr. Berney did not know of President Roosevelt's order which limited the reinstatement of these employees to January 30, 1934 (p. 98). He did not know how many of the 925 employees selected by him and his committee were Democrats and how many were Republicans (p. 100). He said that his method of handling the matter was as follows:

"My passing upon them was specifically and definitely limited to pulling records and passing out information, with certain restrictions" (p. 108).

He claimed that he was appointed during the Wilson administration and served under the others, but boasted that he had never voted in his life, except once, and that time for both the Democratic and the Republican candidate, and that he had no interest in politics. I quote from him:

"Senator McKellar. You said that you are not in politics?"

"Mr. BERNEY. Yes, sir."

"Senator McKellar. You take no interest in it?"

"Mr. BERNEY. No, sir" (p. 138).

These statements were unqualified, but he soon had to admit that he was mistaken.

"Senator McKellar. Is it not a fact that during the campaign of 1932 you made bets on the Presidential election, and bet that Hoover would defeat Roosevelt?"

"Mr. BERNEY. That is an unqualified misstatement of fact and falsehood. I made no bets in the campaign except one, which was that if the Democratic

Party were successful, in my judgment, the Republican money powers over the country would so handle things that the New York Exchange would close. I bet one man in the service 10 to 5 that that would happen, and I collected the bet.

"Senator McKellar. That if the Democrats won, the stock exchange would close?"

"Mr. BERNEY. Yes, sir."

"Senator McKellar. I thought you did not take any interest in politics. That is absolutely surprising."

"Mr. BERNEY. I didn't say I don't take any interest in politics. I said that I was not qualified and was not qualified to vote either way, and I did not attempt to vote either way."

Remember that he had just testified in words that he took no interest in politics.

At the time I was questioning Mr. Berney concerning his politics I had a paper in my hand that a gentleman had passed up to me, and I was appearing to look at the paper before asking Mr. Berney the question, and the following occurred:

"Senator McKellar. If a man takes enough interest to bet on an election of any kind, he has some political views or opinions. It is entirely out of harmony with your previous testimony that you took no interest in politics, and that politics never had anything to do with any decision you made about personnel or anything of the kind."

"Mr. BERNEY. I still say that it never affected any official action of mine, but I still think I have the right to visualize what may take place in different political campaigns, and I am sufficiently interested in American citizenship to do so (p. 138)."

"Senator McKellar. Were you a member of a political club known as the 'Hoover-Curtis Club'?"

"Mr. BERNEY. I would say I was not. I can give you the story behind that."

"Senator McKellar. I would be glad to have it."

"Mr. BERNEY. Very well, sir. In, I believe, 1924, I was in the Veterans' Bureau, and I was invited by a subordinate of mine to attend a notification exercise for President Coolidge. I attended them. We got down to the place where they were held."

"Senator McKellar. Where was that?"

"Mr. BERNEY. I believe it was Constitutional Hall. We got down there and were about to take our seats. The man I was with was a member of the Sons of the American Revolution, and other agencies of that kind in the District. Someone came to him and told him the man in charge of the door was not going to be there, and wanted him to take charge. He asked, 'What does it require?' They said, 'Well, we have a couple of machines to keep things in order.' He said, 'Mr. Berney is experienced more than I am in such things. Why not ask him to go to the door?' I went to the door and organized these men at the Convention Hall, so that we could have order."

"Senator McKellar. Of course, it was not the love of politics, but your love and loyalty to law and order that brought you to that Coolidge meeting in 1924."

"Mr. BERNEY. It was my interest in the leader of this Nation at the time. I have had an interest in the person, and I will say the personnel, of the White House ever since I have been old enough to read and write."

"Senator McKellar. But you never had enough interest to go to the trouble to vote for anybody for that office?"

"Mr. BERNEY. If I could have afforded to go back to Pennsylvania I would have."

"Senator McKellar. You were getting \$4,000 a year. Would not that permit you to go to Pennsylvania if you wanted to vote?"

"Mr. BERNEY. I have no residence there" (p. 139).

Remember I still had the little memorandum in my hand.

"Senator McKellar. You can vote anywhere you please. You can vote in Maryland or Virginia. You can declare your residence there and vote. You never looked into that, but while you did not have enough interest to vote, you had enough interest in politics—or in law and order, not in politics—to be present at a Coolidge meeting and act as doorkeeper."

"Mr. BERNEY. Senator, I would like to clear your mind on that."

"Senator McKellar. It needs clearing very much."

"Mr. BERNEY. Nothing would please me better than to be able to tell you, while I am under oath, that I am a member of one of the two great parties. Nothing would please me better. I wish that I could tell you that. I want to clear up my position as to that situation."

" Senator McKellar. All right.

" Mr. BERNEY. Some time later I was amazed one day to open a letter in which I found a check for \$5 for my services signed by somebody who is in Chicago, very likely a member of one of the committees.

" Senator McKellar. You mean the Republican committee, do you not?

" Mr. BERNEY. Yes, sir.

" Senator McKellar. You did not take that check?

" Mr. BERNEY. I took the check and endorsed it back to the man who wrote it, and returned it.

" Senator McKellar. You regarded practical politics as so debased and low that you had to send it back?

" Mr. BERNEY. I did not regard it as debased or low or baseless in the least. I regard it as a very fine proposition. It means as much to me as the citizenship of Rome meant to a Roman. If I am permitted to carry this through, I would like to tell you the entire story.

" Senator McKellar. Go ahead. I thought you were through.

" Mr. BERNEY. Not quite. In the next campaign I received a letter, the same as I received letters from the American Legion, of which I am not a member, and other agencies for contributions. I received a letter saying substantially that in Washington there was but one place established where people could vote, and to keep that place up they were asking for a donation of \$5 or \$10, as the case may have been, I don't remember which. I sent a contribution for that purpose.

" Senator McKellar. To the Republican organization?

" Mr. BERNEY. To a Presidential organization.

" Senator McKellar. It was Republican, was it not?

" Mr. BERNEY. I don't know. It had been questioned very seriously whether Mr. Hoover was a Republican or not. He didn't know whether he was or not.

" Senator McKellar. It was a Hoover organization?

" Mr. BERNEY. Yes" (p. 140).

And again he testified that he had done the same thing the following year (p. 140).

" Senator McKellar. As I understand it, you were doorkeeper at a Republican meeting in this city in 1924.

" Mr. BERNEY. It was not a Republican meeting.

" Senator McKellar. I would suppose that it was, if it was for Mr. Coolidge.

" Mr. BERNEY. It was a notification exercise.

" Senator McKellar. Mr. Coolidge was a good Republican. And you say that you contributed to the campaign of Mr. Hoover in 1928, and contributed again to the campaign of Mr. Hoover in 1932.

" Mr. BERNEY. But my contribution was for the purpose of establishing these booths for these men and women to vote.

" Senator McKellar. In other words, you helped Mr. Hoover's cause in 1928, the first time he ran, when he was elected; and in the same way you helped Mr. Hoover's cause in 1932, when he happened to be defeated.

" Mr. BERNEY. I have given the facts, and you can draw your own conclusions."

Now, Mr. Secretary, that was the testimony of the man you now have in your employ under civil service regulations. There is no possible objection to Mr. Berney's being a Republican, and as I look at it there is no possible objection to Mr. Berney's having contributed to the Republican campaign from 1924 on, up until 1932. He had a perfect right to do it, but the point I make to you is that I do not believe your Department should keep in the public service a man who will falsify about the facts connected with his political activities. Remember, in the first instance, Mr. Berney testified that he took no interest in politics, he had never voted, except once when he voted both the Democratic and the Republican ticket, the inference being all through the first testimony that he was far removed from any political thought or action.

All of the men he selected from Tennessee for reappointment on this list were Republicans, and, as far as I know and as far as I have been able to find out the men he selected from the list in other States were Republicans. His arguments seemed to be that it was a mere coincidence that all of these reappointees were Republicans. All his associates on the committee were Republicans and all those reappointed were Republicans.

And then some young man, whom I do not know, handed me a memorandum, I held it in my hand and examined Mr. Berney about his political activities. With this memorandum in my hand, the witness not knowing what was on the

memorandum, he admitted that he had taken part in a Coolidge ratification in 1924, that he contributed to President Coolidge's campaign, that he contributed to Mr. Hoover's campaign in 1928, and that he had contributed to Mr. Hoover's campaign in 1932; and while he beat around the bush, he substantially admitted that he had bet on Hoover as against Roosevelt in 1932.

Now, I am not asking that Mr. Berney be removed because of his support of Mr. Hoover in 1928 and 1932 or because he is a Republican, but I am asking for his removal because he did not tell the truth about his politics, but on the contrary trying to pervert the truth and conceal the truth as his evidence shows.

Under separate cover, I am sending you a copy of the testimony for you to read it all.

I am informed that notwithstanding my protest to you last year, Mr. Berney is still on the Government pay roll. I think he should be removed therefrom.

Very sincerely yours,

(Signed) KENNETH MCKELLAR.

The CHAIRMAN. We appear to have said all there is to be said on that point.

Secretary MORGENTHAU. Do I understand, sir, that I am to submit a statement, in chronological order, of what has taken place with regard to these men?

Senator McKellar. Yes.

The CHAIRMAN. I think so.

Secretary MORGENTHAU. I would like to.

Senator McKellar. Especially the Executive orders.

Secretary MORGENTHAU. Going right back to the beginning, whenever the thing started.

The CHAIRMAN. I think that would be all right.

Is there anything further, Mr. Secretary?

Secretary MORGENTHAU. Not unless you want to ask us some questions.

(The statement referred to is as follows:)

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,  
Washington, March 4, 1935.

HON. CARTER GLASS,

Chairman Committee on Appropriations,

United States Senate.

MY DEAR MR. CHAIRMAN: In accordance with the understanding reached at Saturday's hearing I am enclosing herewith a report given me by Deputy Commissioner Mellott, of the Alcohol Tax Unit of the Bureau of Internal Revenue, with relation to the civil-service status of the personnel affected by the proviso found in the Emergency Appropriation Act of 1935, in the item "Collecting the Internal Revenue."

I think that you will find from this report that there is no foundation in fact for the suggestion that these men had been blanketed into the former Bureau of Prohibition without civil-service examination. They had all qualified by open competitive examination in complete accord with the civil-service rules. I believe that you will find also that the appointment of approximately 700 of these men in the Bureau of Industrial Alcohol, by reinstatement, was likewise in full compliance with the civil-service rules. Your attention is especially invited in this connection to the quoted extract from the Attorney General's opinion addressed to the President on May 23, 1934, advising him that the classified status of employees separated from the service under the provisions of the Executive order of June 10, 1933, was in no wise affected by such separation.

I will very much appreciate your favorable consideration of the pending estimate for funds from which this personnel may be compensated. Should the committee desire further information upon any phase of the matter, I shall be only too glad to furnish it.

Very truly yours,

(Signed) HENRY MORGENTHAU, JR.,  
Secretary.

MARCH 2, 1935.

## MEMORANDUM FOR THE SECRETARY OF THE TREASURY

In accordance with your instructions, I submit below a résumé of the history of the Alcohol Tax Unit and its predecessor agencies from the standpoint of the application of the civil-service laws:

From the adoption of the eighteenth amendment until April 1, 1927, the enforcement of the prohibition laws was carried on by the Bureau of Internal Revenue in a special division known as the "Prohibition Unit." By the act of March 3, 1927, which became effective April 1, 1927, the Prohibition Unit of the Bureau of Internal Revenue was abolished, and until July 1, 1930, the duty of prohibition enforcement was performed by a separate Bureau in the Treasury Department known as the "Bureau of Prohibition." By the act of May 27, 1930, which became effective July 1, 1930, the Bureau of Prohibition was transferred to the Department of Justice. Those of its functions, however, which had to do with the supervision of the production and distribution of alcohol for industrial and scientific uses were transferred to a new Bureau in the Treasury Department, which was given the name "Bureau of Industrial Alcohol."

The Bureau of Prohibition in the Department of Justice was abolished on August 9, 1933, pursuant to the provisions of the President's order of June 10, effecting a general reorganization of the executive departments. Its functions, however, were continued without substantial change in a separate division called the "Alcoholic Beverage Unit."

The Executive order of March 10, 1934, abolished the Bureau of Industrial Alcohol in the Treasury Department and the Alcoholic Beverage Unit in the Department of Justice and transferred their functions, records, and personnel to the Bureau of Internal Revenue. This order became effective May 10, 1934, and to carry out its provisions a special unit was created in the Bureau of Internal Revenue under the name "Alcohol Tax Unit." With minor exceptions, this unit, under the direction of the Commissioner of Internal Revenue, is now charged with the enforcement of all Federal liquor laws.

## CIVIL-SERVICE REQUIREMENTS

From the establishment of the Prohibition Unit in the Bureau of Internal Revenue in 1920, until 1927, the appointments in the Prohibition Service, with the exception of clerical personnel, were, by special provision of law, made without reference to the civil-service rules. By the act of March 3, 1927, which became effective April 1, 1927, Congress provided that all appointments should be subject to the provisions of the civil-service laws, and provided further that the term of office of any person in the Prohibition Service who was not appointed subject to the civil-service laws should expire October 1, 1927. The number of employees in the Bureau of Prohibition when this law became effective was approximately 4,300, of whom approximately 2,000 were officers, agents, administrators, inspectors, and investigators who had been appointed without regard to the civil-service laws.

Following the act of March 3, 1927, the Civil Service Commission announced open competitive examinations for all positions in the Bureau of Prohibition, excepting clerical positions already held by persons with a classified civil-service status. The certification of eligibles from these open competitive examinations was not completed by the Civil Service Commission until September 1928, and in the meantime the Commission found it necessary, pending the establishment of eligible lists, to authorize an indefinite extension of the employment of persons then in the Bureau without civil-service status, this to be terminated in any individual case upon an adverse finding by the Commission in respect to the incumbent's character. From the lists of eligibles certified by the Commission in September 1928, the Department proceeded to make appointments as required by law, replacing those of the existing force who had not qualified in the examination, and within a few months had exhausted the lists of eligibles in practically all field districts. In most districts, however, it developed that there were insufficient eligibles to fill all positions and it became necessary for the Civil Service Commission to announce further examinations to meet this deficiency, from which eligibles were certified and appointments made late in the year 1929.

<sup>1</sup>Of this number, approximately 400 were inspectors assigned in the supervision of permittees licensed under the provisions of the National Prohibition Act.

By April 30, 1930, the whole force of the Bureau of Prohibition, consisting of about 4,750 employees, were in their positions in full accord with the civil-service rules. A certain number of positions had been filled by the transfer of classified employees from other Government departments or by reinstatement of classified employees, with the approval of the Civil Service Commission, but with these exceptions the entire personnel had qualified under the open competitive examinations conducted by the Civil Service Commission pursuant to the requirements of the act of March 3, 1927.

These examinations were of the type regularly given by the Civil Service Commission for appointments in the classified civil service. For approximately 500 positions above the grade of investigator, that is, administrators, assistant administrators, deputy administrators, senior investigators, attorneys, and chemists, the examinations were nonassembled, consisting of a showing by each applicant of his education, training, and experience. For all other positions the examinations were assembled and consisted of a mental test in three sections calculated to determine the applicant's general intelligence as well as his special fitness for the duties of a prohibition officer. All candidates in the case of the nonassembled, as well as the assembled, examinations were subjected to a searching character investigation and to an oral examination to determine the applicant's personal characteristics and address, quickness of understanding, adaptability, and judgment. The examinations were in all particulars as strict and comprehensive as any which had been given by the Commission up to that time for analogous positions in any branch of the Government service. Some evidence of the difficulty of the examinations will be found in the fact that the first of the two tests was taken by 12,480 persons of whom only 4,504 received eligible ratings on the mental requirements, and from the further fact that of this latter number, 1,905 were later declared ineligible by the Commission as a result of the personality, character, and fitness investigations.

It is to be understood, of course, that virtually all the 2,000 noncivil-service employees in the Bureau of Prohibition at the time competed in these examinations. In this connection it is to be noted that only 30 percent, or about 800, of these old employees survived the first examination and received ratings making them eligible to hold their positions. Of those failing in the first examination, however, almost 500 successfully completed the second examination. In other words, about half the old personnel of the prohibition service were ultimately able to retain their positions under the civil-service requirements imposed by the act of March 3, 1927.

In view of the foregoing facts it will be correct to say that at the time the Bureau of Prohibition was transferred from the Treasury Department to the Department of Justice on July 1, 1930, its personnel was entirely a civil-service personnel, recruited in full compliance with all the laws and regulations pertaining to the Civil Service System.

## THE EXECUTIVE ORDER OF JUNE 10, 1933

From July 1, 1930, when the Bureau of Prohibition became a part of the Department of Justice, until July 1, 1933, appointments to positions in the prohibition service continued to be made exclusively from the lists of eligibles established by the Civil Service Commission, with the exception, of course, of instances of transfers or reinstatements of persons with a classified civil-service status. Until July 1, 1932, the tendency was to increase the Bureau's personnel to keep pace with the continued efforts of the Department to give effective enforcement to the prohibition laws. With the enactment of the first economy law some slight reduction in the force of field agents was made on July 1, 1932, following which the Bureau's total force stood at a figure of about 3,300. By June 30, 1933, this personnel had been reduced by normal separations to 3,100. At that time, partly to meet the reduced appropriations available for the fiscal year 1934, and partly in anticipation of the repeal of the prohibition amendment, it was found advisable to make a drastic reduction in the number of employees. Almost 1,400 field agents and clerks were furloughed at the close of business on June 30, 1933, or shortly thereafter, of which number about 100 were subsequently reinstated. Approximately 100 new appointments were made, and the Bureau's personnel in active-duty status on August 9 consisted of slightly less than 2,000 employees of all classes.

As has been seen, the Bureau of Prohibition was abolished by Executive Order No. 8165, dated June 10, 1933. This Executive order, which became effective on August 9, 1933, abolished or consolidated a large number of agen-

cies in many departments of the Government, and with regard to all such abolished agencies it contained the following provision respecting the disposition to be made of the personnel:

"All personnel employed in connection with the work of an abolished agency or function disposed of shall be separated from the service of the United States, except that the head of any successor agency, subject to my approval, may, within a period of 4 months after transfer or consolidation, reappoint any of such personnel required for the work of the successor agency without re-examination or loss of civil-service status."

Pursuant to this provision the entire force of the Bureau of Prohibition, consisting of approximately 2,000 employees of all classes in active-duty status and approximately 1,240 who had previously been placed on furlough, were separated from the service at the close of business on August 9. As authorized by the Executive order, 1,101\* of this number were reappointed on August 10, in the Alcoholic Beverage Unit, to which the functions of the Prohibition Service were now assigned. During the period which intervened between August 9 and the transfer of the personnel to the Bureau of Internal Revenue a considerable number of those separated from the service on August 9 were reinstated and a number of new appointments were made, under special Executive authorization, without regard to the civil-service rules. In the same period upward of 300 additional clerks and investigators were separated from the service. On May 10, 1934, when the personnel was transferred to the Bureau of Internal Revenue it consisted of 977 persons, exclusive of approximately 70 who were retained in the Department of Justice. Of this number 629 were investigators or field agents. The remainder were clerical and technical employees of various classifications.

#### THE ALCOHOL TAX UNIT

With the repeal of the prohibition amendment in December 1933, it was determined by the President, upon the advice of the Attorney General and the Secretary of the Treasury, that responsibility for the enforcement of Federal laws relating to the production and distribution of alcoholic beverages should properly be transferred from the Department of Justice to the Bureau of Internal Revenue and this transfer was ultimately consummated by Executive Order No. 6939, dated March 10, 1934, which became effective on May 10, 1934. Pending this transfer it was also determined that the Treasury Department, through the Bureau of Industrial Alcohol, should at once lay plans for the enforcement of the internal-revenue laws relating to intoxicating beverages and to recruit personnel which could be used in enforcement work in different parts of the country. After conference with the Civil Service Commission it was determined by the Department that the only available means of recruiting an experienced force would be by making appointments, by reinstatement, from among the approximately 2,000 investigators and agents who had been separated from the Department of Justice under the provisions of the Executive Order of June 10, 1933, as above noted. Accordingly, the records of all such investigators and agents were carefully examined by the Commissioner of Industrial Alcohol and during the period from February 1 to April 10, 1934, 698 men were selected for appointment to the rolls of the Bureau of Industrial Alcohol in this way, and their reinstatement was authorized by the Civil Service Commission. In making these appointments the sole basis taken was the efficiency, character, and disciplinary records of the men and no consideration was given to any other factor. To aid him in passing upon these records the Commissioner of Industrial Alcohol made use of a committee informally designated by him and consisting of experienced officers selected from the Bureau of Industrial Alcohol, the Intelligence Unit of the Bureau of Internal Revenue, and the Alcoholic Beverage Unit of the Department of Justice.

On May 10, 1934, under the provisions of Executive Order No. 6939, the personnel of the Bureau of Industrial Alcohol and the Alcoholic Beverage

\*Including approximately 300 clerical employees. Exact records of the personnel transactions which occurred in the Department of Justice during the period under discussion are not available in the Treasury Department.

†The reinstatement eligibility of classified employees who are separated from the service without fault is determined by Executive order. Employees eligible for reinstatement are not listed by the Civil Service Commission in the order of their eligibility, and reinstatement must in any case be made upon the judgment and opinion of the appointing officer as to the qualifications of those eligible, subject to the approval of the Civil Service Commission.

Unit of the Department of Justice were transferred to the Bureau of Internal Revenue and consolidated in the Alcohol Tax Unit. Under this order the 629 agents who had been appointed by the Commissioner of Industrial Alcohol, as above indicated, were merged with the 639 investigators transferred from the Alcoholic Beverage Unit of the Department of Justice into a single field investigative organization.

#### The Provisions of the Emergency Appropriation Act

The Emergency Appropriation Act, approved June 19, 1934, contained an appropriation of \$16,000,000 for the Bureau of Internal Revenue, to which was attached the following proviso:

"Provided, That after December 1, 1934, no part of the appropriation made herein or hereinafter made for the fiscal year 1935 shall be used to pay the salary of any person formerly employed as investigator, special agent, sealer, warehouseman, deputy prohibition administrator, agent, assistant attorney, assistant prohibition administrator, senior investigator, deputy production administrator, storekeeper or gauger, or any other position in the Prohibition Bureau or Alcoholic Beverage Unit, Department of Justice, who was separated from the service of such bureau or unit between June 10, 1933, and December 31, 1933, while in any such position in the Treasury Department, unless and until such person shall be appointed thereto as a result of an open, competitive examination to be hereafter held by the Civil Service Commission."

Although the purpose of this legislation is not evident from the terms of the statute, it is to be assumed from contemporary discussions that its framers were of the opinion, first, that the employees of the classes enumerated had not secured their positions in the former Bureau of Prohibition through proper civil-service examination; and, second, that the employees of these classes who were separated from the service under the provisions of the Executive order of June 10, 1933, who had not been reappointed prior to the expiration of the 4-month period defined in that order, had lost their eligibility for reinstatement under the civil-service rules and that, therefore, the appointment of 698 of such persons in the Bureau of Industrial Alcohol, as above described, was not authorized by law.

As to the first of these points, it has already been observed that the field agents who were in the service of the Bureau of Prohibition prior to the abolishment of that Bureau by the Executive order of June 10, 1933, had, without exception, received their appointments as the result of regular open competitive civil-service examinations or, in rare instances, by transfer from positions in the classified civil service, or by reinstatement in accordance with the civil-service rules. The claim has been made that the civil-service examinations to which this personnel were subjected amounted to nothing more than so-called "character tests", or, in other words, that they were not required to pass a mental examination but were virtually blanketed into the service. There is no evidence to support this charge. The record shows no instance given have been set forth above, but it will be well to add that of the persons who were employed in the former Bureau of Prohibition prior to the establishment of civil-service requirements only 268 remained on May 10, 1934, when the residue of the prohibition organization was consolidated in the Alcohol Tax Unit of the Treasury Department, these survivors, of course, having qualified in the meantime on open competitive civil-service examination. Of this number 132 were reinstated in the Bureau of Industrial Alcohol during February and March 1934, and 136 were transferred from the Alcoholic Beverage Unit of the Department of Justice. There is attached hereto a list of such employees.

As to the second point that is, the charge that employees of the classes enumerated who were separated from the service by operation of the Executive order of June 10, 1933, unless reappointed in the Alcoholic Beverage Unit within the 4-month period named in that order, were ineligible to be reinstated under the civil-service rules, it must be said that this is a point which received no attention by the Department at the time 698 of these employees were reinstated in the Bureau of Industrial Alcohol, as above described. It will be remembered that the Executive order of June 10 had application to a large number of agencies in various executive departments which were either abolished or consolidated by its provisions. Thousands of employees in various branches of the Government were affected by the provisions of the order requir-

ing their separation from the service; and it was a matter of common knowledge at the time that all such employees from whatever agencies separated were considered not only by the appointing officers in the executive departments generally, but by the Civil Service Commission also, as retaining their eligibility for reinstatement under the civil-service rules without any regard to the 4-month limitation found in the Executive order. The appointments were made by the Bureau of Industrial Alcohol in good faith in accordance with the common practice which prevailed at the time. It was not until weeks after the consummation of these appointments that it came to the notice of the Treasury Department that the eligibility of the persons selected for reinstatement in the Bureau of Industrial Alcohol had been brought into question.

The merits of this contention must, of course, depend upon the meaning and intent of the provision of the Executive order of June 10, which was quoted on page 5, above. A construction of this provision was requested of the Attorney General by the President following the raising of the question during the month of May 1934. In response to the President's request the Attorney General, under date of May 23, 1934, rendered an opinion reading, in part, as follows:

"The language of the paragraph in question is plain and unambiguous. It speaks for itself. Under the provisions of the paragraph the personnel employed in connection with any abolished agency or function disposed of are separated from the service, but the head of any successor agency is authorized to reappoint within a certain period without reexamination or loss of civil-service status, any of such personnel required for the work of the successor agency. The purpose of this provision, as its language clearly indicates, is to enable the head of the successor agency within a limited period to make reappointments from among such personnel without regard to the civil-service act and rules. Not even by the remotest implication of the language employed can it be said that it deprives or attempts to deprive those who are not reappointed within the prescribed period of the civil-service status possessed by them at the time of their separation from the service."

At least from the standpoint of the appointing officers this is believed to dispose of any question which may have been raised with respect to the civil service eligibility of persons separated from classified positions pursuant to the provisions of the Executive order of June 10. Such persons must be deemed to have retained their eligibility for reinstatement in accordance with the usual civil-service rules. Certainly there can be no greater reason for questioning the status of the 668 men who were reinstated in the Bureau of Industrial Alcohol under the circumstances surrounding this particular case than to raise a similar question with regard to former classified employees of any agency abolished by the Executive order of June 10, who may have received employment by reinstatement, to classified positions in other branches of the Federal service.

Respectfully submitted.

ARTHUR J. MELLOTT,  
Deputy Commissioner of Internal Revenue.

Senator HAYDEN. Is the bill which passed the House satisfactory to you?

Secretary MORGENTHAU. With certain exceptions.

Mr. BELL. Two or three items.

DR. VINER'S REVIEW OF BANKING CONDITIONS IN A FEDERAL RESERVE DISTRICT

The CHAIRMAN. Mr. Secretary, I would like to ask you one question. I would like to be advised under what authority of law the Treasury employed a gentleman from Chicago to assemble what I am told was a rather numerous and costly staff to make a review of banking conditions in one Federal Reserve banking district and to make recommendations as to certain alterations of the law.

Secretary MORGENTHAU. Mr. Chairman, you are referring to Dr. Viner?

The CHAIRMAN. Yes, sir.

Secretary MORGENTHAU. Dr. Viner was on the stabilization pay roll while he was in the service.

The CHAIRMAN. I know, but why should it have been supposed that Dr. Viner, who, as I am informed—maybe incorrectly—never had any banking experience, particularly with the technique of banking, could know more about the banking situation than the two banking and currency committees of Congress, both of which had recently spent 18 months in a complete review of the banking situation all over the country. Why was it supposed that he could, by assembling a staff of some 60 persons, I am told, tell us more about it than we already knew?

Secretary MORGENTHAU. Senator, I do not think that he or I had any idea that we could tell you more than you yourself knew of those conditions.

The CHAIRMAN. Maybe you can, but Dr. Viner could not.

Secretary MORGENTHAU. I am sure I cannot, either.

The CHAIRMAN. In his report he did not discuss a single, solitary problem that had not been discussed over and over again by the Banking and Currency Committee.

Secretary MORGENTHAU. If I may take a moment to explain, the work that he did at my direction was a combination relating to the Comptroller's office, Federal Deposit Insurance, the R. F. C., and the Federal Reserve. The idea was to go into the field in a Federal Reserve district and, by asking a series of questions, try to find out just one thing—whether the borrower was able to get his accommodations from the banks or whether he was not, and just where the blame lay. In many cases letters would come to my desk where a borrower, particularly the small business man, would want to borrow \$25,000 or \$50,000, and in many cases the letters would say, "We cannot get it." We would write to the banker and ask him whether this was a fair letter or whether it was not a fair letter. In many cases the answer would come back that the bank examiner was so strict in his bank examinations that the banks were afraid to make loans in their anxiety to keep liquid. This happened a number of times, and there was enough discussion of them, of what was a slow loan and what was not, that I felt that the best answer—and, as far as I knew, no such work had been undertaken by Congress—was to get a group of men to make a combined investigation for the four agencies, which included the Comptroller, R. F. C., Federal Reserve, and F. D. I. C. With their backing and with their cooperation, we wanted to go into the field and ask, as I remember it, 2,000 borrowers, 2,000 banks, taking the cases that had come to our attention, whether the small business man was getting his accommodation or not.

As far as I know, that did not duplicate any work that Congress had been doing, and it was an original piece of work. I, as Secretary of the Treasury, in connection with recovery, was trying to find out just one thing—whether these complaints were justified or not, and that was the purpose of the report. Not only was Dr. Viner interested, but we also got the services and the advice of the Brookings Institute.

The CHAIRMAN. Mr. Secretary, what did it cost the Government? Secretary MORGENTHAU. About \$25,000.

Senator McKellar. And out of what appropriation was it taken?

The CHAIRMAN. If Mr. Viner had come over to my office, which would have cost him 20 cents in taxicab hire, I could have given him a pile of letters and interrogatories sent out that would have been a much more complete answer to his inquiries than his report indicated that he was able to make himself.

Secretary MORGENTHAU. It was not the effort of one man. It was the efforts of the four financial agencies of the Government.

The CHAIRMAN. Moreover, he recommended the abrogation of certain provisions of the Banking Act of 1933 that had been specially requested to be incorporated by the President, without knowing the history of it, without knowing why it was put in, or without telling us why it should be eliminated.

Secretary MORGENTHAU. I just do not know to what part you refer, but that is the whole story.

Senator McKellar. Out of what appropriation was it paid?

Mr. BELL. Dr. Viner's salary was paid out of the stabilization fund. His force was paid out of the emergency banking appropriation.

The CHAIRMAN. Just on that point of emergency banking, I notice in the hearings before the House, last December, speaking of one expenditure in the various departments, of \$1,300,000, and the further expenditure of some \$2,153,000, Mr. McReynolds stated that the expenditure was specifically authorized by the 1935 Banking Act. At that time there could not have been any "1935 Banking Act", and there has not been any "1935 Banking Act" since.

Mr. BELL. He meant the Emergency Banking Appropriation Act of 1933. I am sure that is what he referred to. It is under the 1933 Banking Act, but the appropriations made subsequently.

The CHAIRMAN. He said the "1935 Banking Act."

Secretary MORGENTHAU. That is a mistake.

Mr. BELL. Yes; that is a mistake.

The CHAIRMAN. I do not know of anything, either, in the 1933 Banking Act, which I have here before me, that involved the Treasury in any unusual expenditure.

Secretary MORGENTHAU. Senator, may I further explain about Dr. Viner? He was with me about 6 months and returned to the University of Chicago on the 1st of January. He was there as economic adviser to me, and this question of a survey in the Chicago district was something else.

The CHAIRMAN. I know, but that was one that vitally affected the banking system of the country. Mr. Viner did not communicate with any members of the Federal Reserve Board or, as far as I have learned, any responsible officials of Federal Reserve banks. He did not communicate with a single member of either Banking and Currency Committee of Congress. I could have given, without cost, or course, vastly more information than his report indicated he had obtained by the examination of a single Federal Reserve banking district.

Secretary MORGENTHAU. Senator, I am sorry, but I think you have been misinformed. The whole Federal Reserve Board, and the Governors, were entirely acquainted with this, and cooperated with us.

The CHAIRMAN. Governor Black told me explicitly that the public statement made that he cooperated in Dr. Viner's report on the

banking conditions was a mistake. The public statement was made that Mr. Jones, of the R. F. C., cooperated in the report on banking conditions. Both of them told me, personally and explicitly, they had nothing in the world to do with the report on changes in the banking system.

Senator McKellar. Mr. Secretary, may I ask one question in that connection? Have you the right to appoint such technical advisers as you desire, and pay them, and if so, out of what appropriation?

Secretary MORGENTHAU. I have the right to appoint, under the stabilization fund, such people as I need to help me in the work.

The CHAIRMAN. But there is no question of stabilization involved in this Viner inquiry.

Secretary MORGENTHAU. Senator, I got him originally on account of the fact that I understood he was recognized as 1 of the 3 of 4 men who knew more about international currencies than anybody else in the United States, and he was retained for that purpose.

The CHAIRMAN. He certainly does not know more about domestic banking and currency than anybody else in the United States.

Secretary MORGENTHAU. No; I am talking about international currencies.

The CHAIRMAN. He certainly does not know more about banking and currency than anybody else in the United States.

Secretary MORGENTHAU. But I am very sorry to hear that Mr. Jones did not know about it. I cannot understand that.

The CHAIRMAN. I did not say that Mr. Jones said he did not know about it. It was publicly reported that Mr. Jones and Governor Black had approved the report on banking conditions, and both of them denied to me that they had approved it. However, that may be "water over the dam", but it is good as an illustration.

Secretary MORGENTHAU. But I am quite sure that Mr. Jones, or his office, read the whole report before it was published, and personally approved it.

The CHAIRMAN. I dug through every word of it.

Secretary MORGENTHAU. You might ask me, some time.

The CHAIRMAN. Let me ask you now: Have you read the 79 pages of a tentative draft of a banking bill that has been sent up to us?

Secretary MORGENTHAU. No, sir.

The CHAIRMAN. How?

Secretary MORGENTHAU. No, sir.

The CHAIRMAN. Of course not.

Senator McKellar. Mr. Secretary, you are an honest man!

#### PAYMENT TO PERSONS WHOSE NOMINATIONS ARE REJECTED BY THE SENATE

The CHAIRMAN. Senator Lonergan, is there something you want to say to the committee?

Senator LONERGAN. Yes, sir.

#### STATEMENT OF SENATOR AUGUSTINE LONERGAN

Senator LONERGAN. The appropriation bill for the Departments of State, Justice, and Judiciary, also the Departments of Commerce

and Labor, was passed by the Senate, the other day. Page 100, section 2, reads:

That no part of the money appropriated under this act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve of the nomination of said person.

Senator McKELLAR. Page 66.

Senator LONERGAN. This provision was incorporated in the law last year, in the Treasury and Post Office Department bills, and in this bill, last year, so, what I would like to have done, is to have this paragraph incorporated in the Treasury and Post Office Departments' appropriation bill.

Senator McKELLAR. You mean, for instance, that if a man were appointed postmaster and were rejected by the Senate, he could not be paid if he were kept in office?

Senator LONERGAN. Yes, sir; that is it.

Senator McKELLAR. I think that is manifestly right.

The CHAIRMAN. All right, sir.

Senator LONERGAN. Thank you.

The CHAIRMAN. We will take it up at the proper time.

#### POST OFFICE SITE, BREMERTON, WASH.

The CHAIRMAN. Mr. Walker, the committee understands you want to be heard on something about the post-office building site in your city.

Mr. WALKER. Yes, sir.

Senator McKELLAR. Page 37 of the bill.

Senator O'MAHONEY. Mr. Walker, let me ask you first to give the reporter your name, your residence, and what your position is in the town, if any.

#### STATEMENT OF JOHN WALKER, ACTING SECRETARY, MERCHANTS ASSOCIATION COMMITTEE, BREMERTON, WASH.

Mr. WALKER. I am John Walker, Bremerton, acting secretary of the Merchants Association Committee, to protest the location of the post office in the Navy Yard Hotel, for the reason that citizens at Bremerton, for a long time, struggled to get the Navy Yard Hotel built. I am here to request you to consider the protests of a good many of the people of Bremerton against the provision set forth in H. R. 4442, page 37, the first 7 lines. They wish to enter their protest against the transfer of that property for the use of a post office.

During the time of the war, when there was an emergency, an appropriation was made and a contract was finally let for the sum of \$800,000. The building was built. It is a beautiful building, where it is, well built with concrete and steel, veneered with brick. The cross-partitions in the building are all the same way. The floors are made of concrete, and rest upon the cross partitions. It is connected by an underground tunnel with the navy yard. It backs up against the navy yard fence line property.

Last year, or the year before, out of the Public Works fund, the road between the navy yard fence and the building was paved. The principal objection as to the Navy Yard Hotel, therefore, is the

destroying and tearing down of an \$800,000 building for the erection of a \$90,000 post office, understanding that an allocation has already been made of \$121,000 for a post office for Bremerton, after they have waited for 40 years to get a post office of their own, living in rented property, now, that has become inadequate because of its size. That is the main thing, just because of its size. Its location, and the position of the post office, has never been objectionable to the people of Bremerton, where they have to do work, and when this bill was proposed, in order that the money could be used by the unemployed, in order to begin work, by immediately making available the Navy Yard Hotel, it had passed the House, two readings in the Senate, and come up to this committee, before they had proper notice that it probably would be transferred and the work would start; so they asked me if I would run down and bring the protests of the people that had built up the city.

When it was laid out by Mr. Bremer and the admiral of the navy yards, at the time of the founding of Bremerton, it was a system of coordination between the navy yard proper, shown by this space here [referring to a map], this being the drydocks in these buildings, and the commercial business of Bremerton; the commercial business of Bremerton, or Bremerton itself, would exist because of the navy yard and the employment and the money expended there.

Senator McKELLAR. Where is the present post office, on the map?

Mr. WALKER. The present post office is right there [indicating].

Senator McKELLAR. Where is the proposed site?

Mr. WALKER. That [indicating] is the proposed site.

Senator McKELLAR. Right across the street from it?

Mr. WALKER. That is the proposed site.

Senator McKELLAR. Where is the hotel?

Mr. WALKER. Here is the Navy Yard Hotel.

Senator NORSECK. How many blocks is it from the present location of the post office to the Navy Yard Hotel?

Mr. WALKER. You see, there is no regularity to the size of the blocks.

Senator McKELLAR. What is the distance?

Senator O'MAHONEY. What is the distance?

Mr. WALKER. From the present post office to the other post-office site, I would say approximately 2,000 feet.

Senator McKELLAR. How large is the town?

Mr. WALKER. The fixed population of Bremerton is between 12,000 and 15,000, while the floating population is probably 25,000—between 25,000 and 30,000. On this little map or blueprint that I have here, the green property is the high-rental area, the blue property is the secondary, and the white area would be the residence property, and this [indicating] is the apartment-house area.

As you see, all traffic to Bremerton comes in by water. If you go to Seattle, it is a distance of 15 miles, approximately, by water, but you would travel 150 miles by road in order to get there. There is one way in, and that is by the municipal dock, right here. All the ferry-lines comes in here, all passenger traffic and all commerce comes over this dock. As you come up Front Street, a distance of three or four hundred feet, you enter the navy yard gate, into the navy yard.

Mr. WALKER. Yes; because of the fact that, 40 or 50 years from now, after waiting for 40 or 50 years, the post office would never be in the business center. It would not be where the people have concentrated their effort to beautify it and to make it convenient for the business traffic of the city. Here is the main way. The main way is across a bridge to East Bremerton. The main way out into the country is here [referring to map]. If you come here, you go to this corner, and out this way. This is on a side street. This is blocked over here. It is blocked over this way, and it never will be on anything but a back street, backing up against the navy-yard fence, next to the boiler houses, and next to the foundry, next to the smokestacks of the foundry.

The CHAIRMAN. I think we understand it, Mr. Walker, all right.

**STATEMENT OF HON. MARION A. ZIONCHECK, REPRESENTATIVE,  
FIRST CONGRESSIONAL DISTRICT, STATE OF WASHINGTON,  
SEATTLE, WASH.**

Mr. ZIONCHECK. Mr. Chairman, my name is Marion Zioncheck, and I am the Representative of the First Congressional District of the State of Washington, that takes in the city of Seattle, and Kitsap County in which the city of Bremerton is located. With your permission, and with the committee's permission, I would like to present a little different view of this whole situation.

The CHAIRMAN. Yes.

Mr. ZIONCHECK. I will make it as brief as possible, if you will let me have that map, Mr. Walker. I want the committee to understand that my primary interest is to get a new post office for Bremerton, because it is sadly needed. It is a live and growing community. They have a large navy yard there. The Post Office Department has had submitted to it this site and several others in the town, and the postal inspector, after thoroughly going into this site matter about 2 or 3 years ago, recommended two sites. The first choice was upon Sixth and Pacific.

Senator NOBBERK. What committee?

Mr. ZIONCHECK. The Post Office Committee, or the inspectors.

Senator NOBBERK. Oh, the inspectors?

Mr. ZIONCHECK. Yes. They recommended a site here [pointing to Sixth and Pacific], which would cost \$26,000, and it would require the tearing down of a building. Their second choice was a site one-half block away from the Navy Yard Hotel site—i. e., at Gourth and Park. It is just 1 block, say that it is out of the way.

Senator NOBBERK. How long a block?

Mr. ZIONCHECK. Well, you have it right here [referring to the map]. They are the regulation blocks in here. These cross blocks are shorter. There is the business district, right in here [indicating], now.

Senator McCARRAN. When you say "here" you refer to blocks 15, 16, and 17?

Mr. ZIONCHECK. That is right—right in there [indicating], gas stations, garages, and businesses of that nature surround the Navy Hotel site. It is not residential property as such. There are 71,000 square feet of land on this particular plot. On these other plots they

would have had about 20,000, and for which they would have had to pay about \$20,000 apiece.

The statement that the old Navy Yard Hotel cost \$800,000 I think is a little exaggerated, but assuming that it did cost that much, it was built during the war, and it was not built with Government funds. The Bremerton Boosters Club and many officers of the Navy subscribed to stock, and the United States Housing Corporation built it. They put up a steel-and-concrete structure there that is such that it cannot be used for anything else. The fact of the matter is that the Navy has sent, I think, two or three commissions to see if they could do remodeling so it could be used for Navy purposes, and they have all recommended adversely, because you cannot change it due to its structure.

The Navy itself has taken out all the plumbing fixtures and all the bathtub fixtures and everything that is removable for salvage. They have no intention of using this hotel for any purpose whatsoever.

In 1923 they leased it to a private concern to operate it as a hotel, but they went bankrupt within 1 year. Since 1924 the only purpose for which this old Navy Yard Hotel has been used has been the storage of old blueprints. The impression is given that it is being used as a storage house. Just about two rooms are being used for the storage of blueprints, and in the last 2 years, I think, some old clothes for the unemployed.

I have the testimony of Admiral Peoples. He says that the hotel is of no value whatsoever. It is an eyesore.

This is an age-old controversy there, of trying to get the post office east of Pacific Avenue in order to revive property values along Washington Street, which is a comparatively dead street. Anyone coming to Bremerton comes to the dock, comes up here, and comes up Pacific Avenue.

Senator McCARRAN. Where is the hotel of the town now?

Mr. ZIONCHECK. There is one hotel here [indicating], and there are several apartment houses right in this district in here [indicating] which have all moved in this westerly direction. It is a small town, 12,000 population. They would not have any large hotels.

Senator McCARRAN. Is there a commercial hotel there that is patronized by the traveling public?

Mr. ZIONCHECK. The only one is over there [indicating]. There is a peculiar situation in Bremerton, in that the Bremers, for whom the town was named, still own about half the property. They own a bank, they own this [indicating], and they own that [indicating]. They virtually own the town, outside of the navy yard, and their chief concern is to keep up the rental values of the property east of Pacific Avenue and revive the rental values.

Mr. Case was sent there, subsequent to the previous postal inspectors' survey, to go into the matter, to see whether there was any collusion or fraud, because there is an allegation—and I do not think Mr. Walker will deny it—that a fund of \$19,000 was collected in order to locate the post-office site at this place on Washington Street. On this proposed site, in fact, one man that I know of, who happens to be an official in the Democratic Party, had \$5,000 to come back here and see that it was "put over", and he returned \$4,500 of it, because he only used \$500 for his traveling expenses, and could not

"connect", in the parlance of the street. I cannot see any justification myself.

Let me go on with Mr. Case. Mr. Case came to Bremerton and held a public meeting. I happened to be in the town that day. I didn't know the meeting was going to be held.

Senator O'MAHONEY. Who was Mr. Case?

Mr. ZIONCHECK. Mr. Case was with the Post Office Department. That is just within the last year. There were about 300 people at the meeting. Mr. Case asked me to make some comment on it. I said, "I have no comment to make. My only concern as a Representative is to do what the people want done, and get proper postal facilities, which is primarily to deliver mail and get mail out." I asked the people at this meeting, in order to get an expression of opinion of those 250 or 300 that were there, if they could get the Navy Yard Hotel site and get that building, which is an eyesore, out of the way, how many of them would prefer that as their first choice, and 95 percent of them stood up on a rising vote of the people of the town.

Then I said, "If you cannot get the Navy Yard Hotel site, how many of you would favor the post office being west of Pacific Avenue?" That is, being west of this particular avenue [indicating]. Ninety-five percent of them again wanted it west of Pacific Avenue. About 90 percent of the population of Bremerton live west of this street, because this is a peninsula.

The town must expand to the west because the water will not permit them to expand in any other direction.

Under the circumstances, I do not know what else I can say. The people want the Navy Yard Hotel site. Outside of a few interests, like the Berners, a man by the name of Mehner and 3 or 4 or 5 others, everybody that I know of wants it the other way.

You have an 80-foot paved street here [indicating]. You have an 80-foot paved street on Burwell. That is on one side of the Navy Yard Hotel site, and an 80-foot paved street here [indicating]. You have paved alleys on both sides of it. You have ample space for parking. You will have ample space for beautification, if you want it. Instead of a \$90,000 post-office building, a \$121,000 post office can be built.

There is a contractor in Bremerton who claims he can tear down the old hotel for what salvage he can get out of it, such as the windows and the different odds and ends, and the pipes that he can take out, but assuming that it costs \$5,000, which is the estimate of Commander Warfield, who is in charge of Public Works, to tear down this hotel and remove the debris, the debris will again be used as a breakwater for a park and employment will be created.

By the way, Mr. Walker has a letter from a commissioner, but it is dated back 2 or 3 years, which says that they want it east of Pacific Avenue, but every commissioner that I have talked to, every elected official, and the citizens generally, and the navy-yard employees, want it west of Pacific. The Navy Yard Hotel site can be used for nothing else. It is an eyesore, and it was not Government funds that were expended, in the first place, for the building of it. The people that own stock in it are willing that it be torn down, because it is a reminder to them of money badly spent. I do not know of any legitimate argument against this. Admiral Peoples,

of the Procurement Division, testified before the Appropriations Committee, or Treasury and Post Office, in the House, that there was no use for this hotel, that the Navy is willing to turn it over, the Treasury Department was willing to accept it. Tentative plans are already drawn for this site [indicating], rough plans. They cannot go into the detailed plans until the action of the Senate is taken. Senator Bone does not know much about the matter. I called it to his attention, and it seems reasonable to him. That, you know, is his reaction upon it. Senator Schwellenbach, a new Senator from our State, is more familiar with the particular problem.

If there are any questions, I would be glad to answer them. I am quite familiar with this situation.

They can talk about the navy-yard workers going this way. Well, true enough, about a thousand of them live in the city of Seattle; but if they live in the city of Seattle, they get their mail in the city of Seattle, they do not go to the post office; and as far as the central business district is concerned, it centers right upon Fourth and Pacific, or probably Third and Pacific, and that is merely one block away from the proposed post-office site, or the present Old Navy Yard Hotel site.

Senator O'MAHONEY. Mr. Chairman, for the benefit of the record, I want to call attention to the fact that on pages 635 and 636 of the hearings of the House committee it appears that Mr. Martin, from the Procurement Division, testified that it was the desire of the Treasury Department to procure this site, and Admiral Peoples, in response to a question by Mr. Arnold, who asked him if he had any proposal of landowners, said: "Yes."

It reads as follows:

The Secretary of the Treasury and the Postmaster General, acting under the provisions of the Emergency Appropriation Act, fiscal 1935, having determined upon the construction of a post-office building at Bremerton, Wash., and it having been decided that the most desirable site for such building is a piece of Government-owned property formerly acquired by the Secretary of the Navy, but not now needed for naval purposes, the Secretary of the Navy is hereby authorized to transfer to the Treasury Department the property located on the south side of Fourth Street opposite the terminus of Park Avenue in the city of Bremerton, Wash., known as the "Navy Yard Hotel site", and the Secretary of the Treasury is authorized to construct thereon said post-office building within the limit of cost specified in House Report No. 1579, Seventy-third Congress, second session.

Mr. ZIONCHECK. Are there any other questions?

The CHAIRMAN. Mr. Congressman, we are obliged to you for coming.

Mr. ZIONCHECK. I gave the presentation just as I see it. I am not concerned with sites particularly. I do think that the people are to be served, and their interests and their desires should be considered, particularly in view of the fact that this was considered a desirable enough site for a hotel, that the foundations were proper for a large hotel, that the needs of foundations for the post office will not be as great as the hotel itself.

Relative to the argument that this was a swamp property, I reply, true enough. The property was first acquired by the Navy for water purposes, before the city had its water, and since that time they have had no need for it.

It is whatever the committee desires, not my desire. I just wanted to make this presentation.

The CHAIRMAN. We have both sides of the question now.

Mr. WALKER. Mr. Chairman, if you do not mind, I would like, for the record, to say that I wish it understood that the protests I carried represented the Navy Yard Y. M. C. A., the Lutheran Brotherhood, with their welfare center, the Knights of Columbus, with their welfare work and their welfare center, the banks of the city of Bremerton, three in number, the Bremerton Merchants' Association, consisting of 90 percent of all the merchants within the city limits of Bremerton; that it also represents Father Cameron, of the Catholic Church, who has spent a lifetime there as the father in the district and has had an interest in building up that community; that it represents, besides that, numerous of the local citizens, civic and community organizations that have an interest in the city of Bremerton; that it represents the people who pay taxes in that city, three times greater on the proportion of the marked lines than all the rest of the city of Bremerton put together; that not only those people protest, but the people that are interested in all of the welfare work that is carried on in connection with the navy yard.

The CHAIRMAN. All right, gentlemen.

Mr. WALKER. If the committee would care to see any of these photographs, I will show you a photograph of the hotel itself.

(The following letter was submitted by Congressman J. H. Hoepfel, of California, for the information of the committee.)

HON. CARTER GLASS,

Chairman Treasury and Post Office Department Subcommittee,  
Committee on Appropriations, United States Senate, Washington, D. C.

DEAR SENATOR GLASS: I am very sorry that your committee's time is so limited that I could not be granted an opportunity to appear personally; therefore I am submitting to you briefly the ideas which I had in mind when I requested permission to appear before your committee.

Will you kindly refer to a clipping herewith from today's paper in reference to the threat of communism within the ranks of the enlisted personnel of the Army and Navy? After a service of 22 years in the Army, I am convinced that communism will not thrive in the Army as long as the enlisted men are given fair consideration.

At present fair and just consideration is not being extended to enlisted men, and I do know that there is considerable dissatisfaction, but not communism.

The Treasury-Post Office bill, now before your committee, on page 21, lines 17 to 21, includes a provision which will prevent enlisted men from receiving their reenlistment bonuses for another year. In other words, the enlisted men will be the only individuals who will suffer the provisions of the economy act up to the fiscal year 1937.

In justice to the enlisted men, I hope your honorable committee will delete these lines in order that the enlisted men may be accorded fair treatment compared with other branches of the military and civil service.

The enlisted man who receives \$9 per month less than does the boy in the C. O. C. who works only 30 hours per week, while the enlisted man is on duty and available every hour, day and night, feels that this is a discrimination.

Just a few days ago the Senate passed a bill to provide a 23-cent deduction per month from the already low-paid enlisted man, who receives only \$21 per month.

It is my observation that these petty discriminations directed at the enlisted men will do more to create communism, if such is really a menace, than will any propaganda from outside sources.

Only yesterday, as I understand, your committee approved of S. 1940, which seeks to grant quarter and subsistence increases to officers. I cannot understand this, and do not think it is fair that the officers should receive increased rank and promotion, increased pay and subsistence, and other emoluments, and

that the enlisted men should suffer loss of their reenlistment allowances and other unnecessary deductions such as I have indicated.

From the standpoint of square dealing, I hope your honorable committee will delete the lines referred to on page 21 of the Treasury-Post Office bill.

Thanking you for your favorable consideration, I am,  
Sincerely yours,

J. H. HOEPFEL,

The clipping referred to is as follows:

MAVERICK RIDICULES REQUEST TO "SAVE ARMY, NAVY FROM RED"  
PEOPLE ARE GETTING JITTERY OVER NOTHING, SAYS TEXAS LEADER

(By the Associated Press)

A House military subcommittee was advised yesterday by Army and Navy spokesmen to act against an increasing flow of propaganda seeking to enlist American soldiers and sailors into ranks of communism.

At the same time, however, a member of the full Military Committee, Representative Maverick (Democrat), Texas, ridiculed suggestions that corrective legislation was necessary, because, he said, the American people are getting "jittery" over nothing.

There are only 24,500 communists in the country, Maverick said, and they are all "crackpots" and a "lousy crew."

War and Navy Department officials asserted there was a real need for enactment of a bill by Representative McCormack (Democrat), Massachusetts, to stop propaganda seeking to induce persons in the armed forces to break laws or regulations.

In a letter to the full Military Committee, Secretary Swanson asserted that communistic literature in "increasing quantities" had been distributed to the Navy. Existing law was inadequate to curb it, he said.

Brig. Gen. Harry E. Knight said that communists are more active in Army circles than they were a year ago.

Comdr. Samuel Clements of the Navy added that some communistic literature urges "comrades" to work themselves into munitions plants in time of war to concentrate on sabotage.

The McCormack bill was termed by Henry L. Roosevelt, Assistant Secretary of the Navy, "necessary to prevent persistent and continued attempts to bulge the naval forces to disobey laws and regulations."

Maverick then tossed in this remark:

"If the colonels and generals had tact, courage, loyalty, and brains enough, they would keep the soldiers from disloyalty."

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES.

Washington, D. C., March 1, 1935.

HON. CARTER GLASS,

United States Senate, Washington, D. C.

MY DEAR SENATOR GLASS: In order to expedite the work of the Appropriations Committee in handling the Treasury-Post Office bill an oral presentation will not be necessary.

However, it would be extremely appreciated if you would consider and incorporate in the proceedings of the committee the attached memorandum which reflects the point of view of the American Federation of Government Employees, with respect to the nonpayment of several hundred present employees of the Government working in the Alcohol Tax Unit of the Treasury Department.

Respectfully yours,

E. CLAUDE BABCOCK, President.

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES.

Washington, D. C.

Statement of E. Claude Babcock, president American Federation of Government Employees, before the Senate Appropriations Committee:

Mr. Chairman and gentlemen of this committee, we are here to ask justice for some 1,100 or more employees of the Alcohol Tax Unit who have been

working without pay since December 1, 1934, as a result of the wording of the rider on last year's deficiency bill which withholds money from these men.

The Attorney General ruled in the case of these employees that they might lawfully be retained in their positions but that they could not be paid from any appropriations already in existence unless they were newly appointed to such positions after passing new competitive examinations. The Secretary of the Treasury realized that these men's services were essential to the law-enforcement work of his agency, and that the Alcohol Tax Unit would be disrupted if they were summarily ousted and replaced by inexperienced men who has somewhat greater facility in the use of words. It was generally recognized, I think, that the Civil Service Commission's examination, required by the deficiency bill rider, for the most part had no relation whatsoever to the work on which these men were engaged, and that success in passing the examination afforded no guaranty whatsoever that there would be equal success in holding down a job in the Alcohol Tax Unit. Specifically no credit was given for efficient service on the job.

Consequently, in the public interest, these men were retained in their posts, and have gone on working efficiently since December 1, without one cent of pay. But since they are not in general high-salaried men, and contrary to the general impression, did not accumulate wealth as a result of their work, many of them are now nearing the end of their resources, and some unfortunately have been forced to quit the service because they can no longer carry on and support their families without money, merely in the anticipation that some time in the future they may be paid. As the representative of the American Federation of Government Employees I submit that the United States Government has no right to subject these men to intolerable hardships of this sort, or to expect them to work indefinitely without compensation; and the public reaction has satisfied our federation that the people of this country do not want any such unfair condition to continue.

There is no question in my mind and no question as to the attitude of my organization, that these men ought to be restored to a pay status at the earliest possible moment. After careful consideration of the situation we have come to the conclusion that the quickest and least embarrassing way of handling it is to include in this appropriation measure an amount sufficient to pay them. This amount, we have been informed by Treasury officials, would be about \$1,700,000. If this appropriation is included in the bill, with a proviso that it be made available immediately, this distressing situation, a situation which the Government of the United States ought in all conscience to correct, would be promptly remedied.

#### UNIFORMS FOR GUARDS

I should like also to remark that the guards at the Bureau of Engraving and Printing, unlike guards in other governmental agencies, are required to buy their own uniforms, and that this discrimination does not seem justifiable. We ask that you insert a provision that uniforms for these guards may be purchased from the funds available for the Bureau—a procedure necessary because the language of the appropriation measure carrying funds for that Bureau does not now make them available for such a purpose. No additional appropriation is needed, and a group of very low-paid employees would be afforded justice and a substantial improvement in their status.

NATIONAL FEDERATION OF FEDERAL EMPLOYEES,  
Washington, D. C., March 6, 1935.

HON. CARTER GLASS,  
Chairman Senate Appropriations Committee,  
United States Capitol, Washington, D. C.

DEAR SENATOR GLASS: The National Federation of Federal Employees earnestly urges favorable action by the Senate subcommittee on the Treasury-Post Office Departments' appropriation bill, of the item of \$1,763,827 requested by the President to be made immediately available for personal services for certain employees of the Treasury Department.

The employees concerned have been performing faithfully the duties assigned them in connection with the important work of collecting the revenue for the United States. The employees concerned are victims of a provision in the Emergency Appropriation Act of June 19, 1934, reading as follows:

"In view of the foregoing facts it will be correct to say that at the time the Bureau of Prohibition was transferred from the Treasury Department to the Department of Justice on July 1, 1930, its personnel was entirely a civil-service personnel, recruited in full compliance with all the laws and regulations pertaining to the civil-service system."

This amendment refused payment for services performed to approximately 1,300 employees of the Treasury Department from December 1, 1934, to June 30, 1935, because of mistaken impression that these employees had not qualified for their positions through civil-service examination. The fact is that all of these employees had duly qualified under civil-service laws and regulations, and the Attorney General of the United States has held that their present status is legal and regular. You are, of course, familiar with the history of the case.

The Executive order of June 10, 1933, which had to do not only with the consolidation of the Bureau of Prohibition with the Department of Justice, but with general reorganization within the Federal service, provided as follows:

"All personnel employed in connection with the work of an abolished agency or function disposed of shall be separated from the service of the United States, except that the head of any successor agency, subject to my approval, may, within a period of 4 months after the transfer or consolidation, reappoint any of such personnel required for the work of the successor agency without reexamination or loss of civil-service status."

The Attorney General in construing the language of the above-quoted provision has given the following opinion:

"The language of the paragraph in question is plain and unambiguous. It speaks for itself. Under the provisions of the paragraph the personnel employed in connection with any abolished agency or function disposed of are separated from the service, but the head of any successor agency is authorized to reappoint within a certain period without reexamination or loss of civil-service status, any of such personnel required for the work of the successor agency. The purpose of this provision, as its language clearly indicates, is to enable the head of the successor agency within a limited period to make reappointments from among such personnel without regard to the Civil Service Act and rules. Not even by the remotest implication of the language employed can it be said that it deprives or attempts to deprive those who are not reappointed within the prescribed period of the civil-service status possessed by them at the time of their separation from the service."

When the Bureau of Prohibition was placed within the competitive classified service on April 1, 1927, the employees then serving in the Bureau of Prohibition were not blanketed into the service but were required to qualify in open competitive examination. Their competitive classified status was carried over with them in the reorganization of August 1933.

These employees have been carrying on the difficult and dangerous task of protecting the Government's interest in the alcohol-tax collection and protection work. The employees have now been without salary for more than 3 months and their situation has become desperate. We bespeak early and favorable action by the committee, so that these employees, who have demonstrated their loyalty to the Federal Government, may receive the compensation they have earned during this period of time.

Sincerely,

LUTHER C. STEWARD, President.

Present enforcement officers of the Alcohol Tax Unit who occupied exempted positions in the Prohibition Unit, Treasury Department, prior to Apr. 1, 1927, and who have acquired civil-service status as result of competitive examinations held since that date.

Name	Present position	Date of professional appointment from competitive examination
Coyne, Robert W.	Investigator in charge	Oct. 16, 1928
Henneberry, Harold L.	Investigator	Jan. 31, 1929
Ross, Joseph J.	Investigator in charge	Feb. 16, 1929
Shaw, Frank T.	Investigator	Feb. 8, 1928
Weaver, Henry P.	Investigator in charge	Feb. 7, 1929
Bird, Edward S.	Investigator	Apr. 1, 1930
Bowditch, Edward A.	Investigator	Nov. 10, 1930
De Angelis, Thomas	Investigator in charge	Feb. 20, 1929
Eager, Harold W.	Investigator	Jan. 28, 1928
Graves, Fay B.	Investigator	Mar. 4, 1929
Hall, John	Investigator	Mar. 1, 1929
Hiltboeck, William	Investigator	Jan. 31, 1929
Kelley, Edward F.	Investigator	Mar. 20, 1931
Kent, James M.	Investigator	Jan. 31, 1929
Laetan, Dennis T.	Investigator	Jan. 31, 1929
Lydle, George B.	Investigator	Mar. 20, 1931
MacBrayne, Winfred C.	Investigator	Jan. 31, 1929
Murphy, Thomas F.	Investigator	Jan. 31, 1929
Norton, John C.	Investigator	Jan. 31, 1929
Palas, Felix O.	Senior investigator	Oct. 27, 1928
Sullivan, Walter H.	Investigator	June 28, 1929
Hanson, Martin O.	Investigator in charge	Jan. 14, 1929
Armitage, Victor L.	Senior investigator	Feb. 16, 1929
Bernstein, Carlos M.	Investigator	May 1, 1929
Brinckerhoff, Clifford	Investigator	Feb. 4, 1929
Brendrick, James J.	Investigator	Feb. 8, 1929
Brown, Joseph B.	Investigator	Sept. 18, 1929
Carriac, Andrew, Jr.	Investigator	Jan. 7, 1929
Cusack, Warren E.	Investigator	Feb. 6, 1929
Daly, William E.	Investigator	Mar. 1, 1930
Davis, Richard	Investigator	Oct. 1, 1931
D'Angelis, Felice	Investigator	Mar. 21, 1930
Deardoff, Edward E.	Investigator	Dec. 1, 1928
Delone, J. Clark	Investigator	Feb. 24, 1930
Drouse, Joseph M.	Investigator	Feb. 4, 1930
Dunn, William E., Jr.	Investigator	Dec. 21, 1928
Felix, Frederick I.	Investigator	Feb. 4, 1929
Forbes, Charles M.	Investigator	Jan. 7, 1929
Frayne, Joseph A.	Senior investigator	Feb. 1, 1929
Galleher, John P.	Investigator	Feb. 4, 1929
Gleser, William H.	Investigator	Mar. 16, 1931
Gunnison, Laurence W.	Investigator	May 8, 1929
Hall, Charles L.	Investigator	Apr. 5, 1929
Hanson, Arthur J.	Investigator	Mar. 19, 1928
Hartwell, Percy B.	Investigator	May 16, 1930
Henry, Lawrence T.	Investigator	Mar. 21, 1930
Hilbrath, James W.	Investigator	Mar. 2, 1930
Journeay, Harry T.	Investigator	Sept. 8, 1928
Kenting, Ellen T.	Investigator	Mar. 7, 1929
Kelly, Francis J.	Investigator	Feb. 4, 1929
Kendall, Harry W.	Investigator	June 22, 1931
Lennon, John F.	Investigator	Apr. 2, 1931
Lipton, Charles W.	Investigator	Mar. 5, 1930
McCann, William F.	Investigator	Feb. 4, 1929
McIntyre, Ambrose A.	Investigator	Feb. 1, 1929
Mealy, Joseph J., Jr.	Investigator	Feb. 1, 1929
Morrissey, James B.	Investigator	Feb. 4, 1929
Mullaney, Charles A.	Investigator	Feb. 4, 1929
Murphy, Edward J.	Investigator	Feb. 4, 1929
Newman, Harry	Investigator	Feb. 4, 1929
Newton, Raymond M.	Investigator	Jan. 25, 1929
O'Brien, William	Investigator	Mar. 19, 1930
Olson, Herbert	Wire technician	Feb. 4, 1929
Pattin, Harold T.	Investigator	Jan. 9, 1930
Pelette, James K.	Investigator	May 13, 1929
Rose, Peter	Investigator	Nov. 19, 1928
Rice, John D.	Investigator	Jan. 26, 1929
Rizzo, Terry S.	Investigator	May 1, 1931
Smith, Lowell B.	Senior investigator	Sept. 7, 1928
Spina, Joseph	Investigator	Jan. 16, 1928
Stevenson, Hartman W.	Investigator	Jan. 10, 1930
Sweeney, John P.	Investigator	Feb. 24, 1930
		Feb. 14, 1930

\* Reinstated as regulative inspectors, Bureau of Industrial Alcohol, February-April 1924.

Present enforcement officers of the Alcohol Tax Unit who occupied exempted positions in the Prohibition Unit, Treasury Department, prior to Apr. 1, 1927, and who have acquired civil-service status as result of competitive examinations held since that date—Continued

Name	Present position	Date of professional appointment from competitive examination
Szymak, Harry	Investigator	Apr. 1, 1930
Taney, Michael	Investigator	Mar. 24, 1930
Tate, Joseph A.	Investigator	Apr. 25, 1929
Ford, Robert D.	Investigator in charge	Feb. 14, 1929
Gratton, Gregory A.	Investigator	Sept. 1, 1929
Hickman, L. Deane	Senior investigator	May 1, 1929
Storkley, Lambert O.	Investigator in charge	Mar. 5, 1929
Thibodeau, Thurman L.	Investigator	Oct. 1, 1929
Carson, Dan E.	Investigator	Mar. 15, 1930
Godfrey, Basil A.	Investigator	Jan. 16, 1929
Herr, Cyrus A.	Investigator	Mar. 23, 1931
Hill, Burr	Investigator	Feb. 20, 1930
Johnson, Julius N.	Investigator	Jan. 21, 1929
James, Orville	Investigator	Feb. 14, 1928
Montgomery, John G.	Investigator	Apr. 1, 1929
Paris, Edgar D.	Investigator	Jan. 21, 1929
Raney, Harry W.	Investigator	Mar. 1, 1929
Ragan, Leonard	Investigator	Feb. 23, 1929
Dunigan, William E.	Assistant supervisor	Apr. 10, 1929
Barnhart, Charles E.	Investigator	Oct. 16, 1928
Bresler, Arthur D.	Investigator	Jan. 4, 1930
Cambalata, Michael P.	Investigator	Jan. 6, 1930
Gould, George J.	Investigator	Oct. 20, 1928
Hubert, Frank E.	Investigator	Oct. 1, 1928
Inar, Samuel O.	Investigator	Jan. 9, 1930
Kramer, George C.	Investigator	Feb. 16, 1931
Langford, Harold A.	Investigator	Jan. 21, 1929
McAniff, Park R.	Investigator	Oct. 16, 1928
Malloy, Edward C.	Investigator	Sept. 9, 1930
Shane, Harry C.	Investigator	Apr. 24, 1928
Uppgraft, Frank B.	Investigator	Oct. 16, 1928
Uppgraft, Thomas A.	Investigator	Dec. 1, 1930
Walsh, Charles H.	Investigator	Jan. 9, 1930
Wills, Francis V.	Investigator	Aug. 14, 1928
Young, Robert B.	Investigator	Jan. 8, 1930
Haddens, Warren A.	Assistant supervisor	July 31, 1928
Wickham, John H.	Investigator in charge	Dec. 1, 1928
Alexander, Nathaniel C.	Investigator	Feb. 16, 1928
Arnold, Alexander M.	Investigator	Jan. 16, 1929
Banks, John B.	Investigator	Dec. 10, 1929
Barton, John M.	Investigator	Jan. 20, 1930
Bishop, Louis J.	Investigator	Dec. 1, 1928
Burgess, Samuel C.	Investigator	Dec. 1, 1928
Carley, Myron M.	Investigator	Apr. 1930
Cash, John T.	Investigator	Dec. 16, 1929
Cooper, Jabe F.	Investigator	Oct. 16, 1928
Crush, William B.	Investigator	Nov. 6, 1928
Dixing, John L.	Investigator	Dec. 1, 1928
Epke, LeRoy L.	Investigator	Jan. 10, 1930
Griffin, Cyril T.	Investigator	Dec. 1, 1928
Herman, George G.	Investigator	Feb. 16, 1927
Harvey, William R.	Investigator	July 1, 1931
Hood, Chas. A.	Investigator	Dec. 1, 1928
Hurst, James W.	Investigator	Dec. 1, 1928
King, Marion A. R.	Investigator	Dec. 1, 1928
Louison, John J.	Investigator	Dec. 1, 1928
Lumpkin, Frank D.	Investigator	Dec. 1, 1928
Mitchell, Lawrence G.	Investigator	July 1, 1931
Moore, James L.	Investigator	Jan. 2, 1930
Mulhall, William B.	Investigator	Mar. 18, 1929
Owens, John B.	Investigator	Feb. 6, 1932
Pani, David B.	Investigator	Dec. 1, 1928
Ralston, J. F.	Investigator	July 1, 1931
Schultz, Walter H.	Wire technician	Dec. 1, 1928
White, Samuel O.	Investigator	Do
Wilkins, Thomas C.	Investigator	July 17, 1929
Wood, William E.	Investigator	Feb. 20, 1929
Pennington, John D.	District supervisor	Jan. 15, 1929
Kochler, Karl E.	Investigator in charge	Apr. 12, 1929
Cunningham, Wm. F.	Investigator	Feb. 19, 1929
Tuskay, Wm. McK.	Investigator	Do

\* Reinstated as regulative inspectors, Bureau of Industrial Alcohol, February-April 1924.

Present enforcement officers of the Alcohol Tax Unit who occupied excepted positions in the Prohibition Unit, Treasury Department, prior to Apr. 1, 1927, and who have acquired civil-service status as result of competitive examinations held since that date—Continued.

Name	Present position	Date of pre- bational ap- pointment from com- petitive examination
Anglin, Frank E.	Investigator	Feb. 4, 1929
Buck, Kenneth G.	do.	Oct. 19, 1929
Cladley, Joseph H.	do.	Nov. 1, 1929
Evans, Geo. H.	do.	Feb. 11, 1929
Flaberty, Hugh F.	do.	Apr. 13, 1929
Hammes, Joe F.	do.	Jan. 16, 1930
Kossatz, Meredith B.	do.	Mar. 14, 1932
Wach, Edw. M.	do.	Feb. 18, 1929
Ray, W. L.	Assistant supervisor (Inf.)	Feb. 18, 1929
Maloney, Luce	Investigator in charge	Feb. 18, 1929
Simons, Gustave J.	do.	Feb. 18, 1929
Bastille, Howard C.	Investigator	Dec. 1, 1928
Bennett, Will M.	Wire technician	Nov. 22, 1928
Browning, James G.	Investigator	Nov. 1, 1928
Campbell, Francis J.	do.	Dec. 1, 1928
Connerly, Ray J.	do.	Do.
Dowd, Victor J.	do.	Feb. 18, 1931
Ford, Robert W.	do.	Feb. 1, 1929
Koepsch, William H.	do.	Dec. 1, 1929
Kaminakis, James	do.	May 6, 1931
Kunsmueller, John F.	do.	Feb. 1, 1929
Larsen, Arthur R.	do.	July 14, 1931
McCoad, John	do.	Dec. 1, 1928
McCullum, John Jr.	do.	Do.
Miller, Walter T.	do.	Jan. 11, 1929
Mills, Benj.	do.	Dec. 1, 1928
Nehlsick, Albert F.	do.	Aug. 2, 1928
Shallwup, Harry W.	do.	Dec. 18, 1928
Stine, Glenn W.	do.	Feb. 14, 1931
Frank L. White	do.	Oct. 8, 1928
Chapman, Ellis S.	Investigator in charge	Mar. 27, 1928
Anderman, Emile J.	Investigator	Jan. 9, 1930
Bryant, George F.	do.	Nov. 16, 1928
Clopper, Chas. B.	do.	July 1, 1929
Gunn, Walter C.	do.	Oct. 18, 1928
Holland, Lake	do.	Jan. 7, 1930
Hudspeth, Geo. E.	do.	Feb. 16, 1930
Lambry, Edw. C.	do.	Oct. 18, 1928
Newman, Wm. S.	do.	Jan. 31, 1931
Schroeder, Sidney I.	do.	Nov. 24, 1928
Smith, Edwin F.	do.	Mar. 18, 1930
Wright, Wiley H.	do.	Jan. 14, 1930
Tuttle, Robert E.	District supervisor	Mar. 7, 1930
Hearington, William D.	Investigator in charge	Feb. 16, 1929
Andrews, James E.	Investigator	Jan. 8, 1930
Austin, E. N.	do.	Dec. 1, 1928
Barronbrugg, James H.	do.	Feb. 1, 1930
Clark, Frank D.	do.	Oct. 16, 1928
Dey, William T.	do.	Mar. 2, 1928
Grubbs, Walter C.	do.	Feb. 1, 1930
Kimsey, Joseph R.	do.	Jan. 30, 1931
McPherson, Samuel O.	do.	July 1, 1929
Merrick, Thomas Q.	do.	Feb. 16, 1928
Myrick, Elvin W.	do.	Aug. 21, 1930
Souther, Frank L.	do.	Jan. 31, 1931
Stickland, Owen C.	do.	Oct. 16, 1928
Wright, Howard P.	Senior investigator	Mar. 1, 1929
Kinsaid, William H.	Investigator in charge	Feb. 8, 1929
Denney, William R.	Investigator	July 21, 1928
Griffin, George E.	do.	Dec. 4, 1929
Larkin, Edmund A.	do.	Dec. 16, 1928
Phillips, Joseph	do.	Apr. 2, 1929
Shoher, William B.	do.	Jan. 2, 1929
Skagen, Twyman C.	do.	June 16, 1930
Smallwood, Arthur M.	do.	Feb. 27, 1931
Statton, Edward M.	do.	Apr. 7, 1930
Thomas, Joe J.	do.	Do.
Bruce, Wilbur K.	Assistant supervisor (Inf.)	Feb. 16, 1929
Noss, Eliot	Investigator in charge	Apr. 1, 1929
Anderman, Charles H.	Investigator	Dec. 2, 1928
Barard, Uris H.	do.	Sept. 15, 1928
Bolock, Ralph W.	do.	Apr. 19, 1930

<sup>1</sup> Reinstated as regulative inspectors, Bureau of Industrial Alcohol, February-April 1934.

Present enforcement officers of the Alcohol Tax Unit who occupied excepted positions in the Prohibition Unit, Treasury Department, prior to Apr. 1, 1927, and who have acquired civil-service status as result of competitive examinations held since that date—Continued.

Name	Present position	Date of pre- bational ap- pointment from com- petitive examination
Sully, Arthur O.	Investigator	May 28, 1929
Von Bachelder, Linn	do.	Mar. 30, 1931
Cowan, L. Morsel	do.	Sept. 3, 1929
Murrill, John W.	Assistant supervisor	Mar. 4, 1929
White, James L.	Investigator in charge	Jan. 28, 1929
Hall, William L.	Investigator	Jan. 6, 1929
Alghetti, John J.	Wire technician	Dec. 1, 1928
Taylor, Frederick M.	Investigator	Jan. 20, 1929
Duncan, Harvey L.	Investigator in charge	Mar. 30, 1928
Herick, Ralph E.	do.	July 1, 1927
Bassell, Samuel D.	Wire technician	Jan. 6, 1929
Brown, Dave P.	Investigator	Feb. 4, 1929
Cole, Louis F.	do.	Mar. 10, 1929
DeArmond, Nerval L.	do.	Feb. 1, 1929
Ellis, William F.	do.	July 1, 1929
Erkila, Jacob E.	do.	Jan. 7, 1929
Gill, Paul K.	do.	Feb. 1, 1929
Hartz, Thomas L.	do.	Jan. 24, 1930
Knapp, Otis B.	do.	Feb. 1, 1929
Pullen, Ulyss	do.	Feb. 1, 1929
Rowden, Thad W.	do.	Jan. 1, 1930
Small, George P.	do.	May 3, 1928
Sutterfield, Arthur	do.	Jan. 1, 1929
Whitbeck, Lester C.	do.	Jan. 12, 1930
Wright, Wellington	do.	Mar. 20, 1930
Campbell, Charles E.	do.	Mar. 19, 1930
Dopew, Charles E.	do.	Jan. 7, 1929
Eastland, Howard W.	do.	June 28, 1930
Hermann, Nicholas N.	do.	Jan. 7, 1929
Hamilton, Reginald J.	do.	June 17, 1930
Knutson, Martin A.	do.	Dec. 1, 1928
Lippold, Burton V.	do.	Jan. 5, 1929
Mey, Gus	do.	June 28, 1930
Nelson, Nathan H.	do.	Nov. 28, 1928
Peterson, Edward L.	do.	Feb. 16, 1931
Rhoades, Robert L.	do.	Jan. 7, 1929
Benson, Charles E.	do.	Feb. 17, 1931
Schroeder, Herman W.	do.	May 6, 1928
Silverman, Maurice	do.	Nov. 1, 1928
Spilawa, Newton	do.	May 16, 1929
Vitola, Matt	do.	Mar. 16, 1930
Weid, Kenneth L.	do.	Feb. 1, 1929
Williams, Clarence W.	do.	Jan. 4, 1929
Wood, Homer F.	do.	Oct. 16, 1928
Baker, Lemuel L.	do.	June 1, 1931
Cahoon, Burton W., Jr.	do.	Feb. 16, 1929
Drew, Harry S.	do.	Dec. 1, 1928
Lawrence, Oswald H.	do.	Mar. 1, 1929
Reeves, Clarence E.	do.	July 1, 1930
Seaver, George H.	do.	Jan. 15, 1929
Sweet, George H.	do.	Jan. 15, 1929
Tingle, Benjamin H.	do.	Aug. 2, 1928
Ure, John E.	do.	Mar. 18, 1930

<sup>1</sup> Reinstated as regulative inspectors, Bureau of Industrial Alcohol, February-April 1934.

The CHAIRMAN. The committee will adjourn until Monday. (The hour of 12:45 p. m. having arrived, the subcommittee announced that the hearings were closed, and adjourned until next Monday.)

STATEMENT OF SECRETARY OF THE TREASURY MORGENTHAU TO THE COMMITTEE  
ON APPROPRIATIONS OF THE SENATE, MARCH 2, 1935.

On February 11, 1935, the President submitted to the Senate a request that an additional sum of \$1,763,827 be added to the Treasury estimates for appropriation for next year, and that this sum be made immediately available for payment for personal services after November 30, 1934, as follows:

Bureau of Customs .....	\$	3,000
Internal Revenue .....		1,739,827
Narcotic Bureau .....		11,000
Secret Service .....		10,000

The purpose of this request was to enable the Treasury to pay the salaries of approximately 1,300 employees of the several bureaus specified from December 1, 1934 to June 30, 1935, no funds being now available for this purpose because of the following proviso which was incorporated in the Emergency Appropriation Act of June 19, 1934:

"Provided, That after December 1, 1934, no part of the appropriation made herein or heretofore made for the fiscal year 1935 shall be used to pay the salary of any person formerly employed as investigator, special agent, senior warehouseman, deputy prohibition administrator, agent, assistant attorney, assistant prohibition administrator, senior investigator, deputy production administrator, storekeeper or gauger, or any other position in the Prohibition Bureau or Alcoholic Beverage Unit, Department of Justice, who was separated from the service of such Bureau or Unit between June 10, 1933, and December 31, 1933, while in any such position in the Treasury Department, unless and until such person shall be appointed thereto as a result of an open, competitive examination to be hereafter held by the Civil Service Commission."

After obtaining the advice of the Attorney General as to the effect of the proviso in question, and the decision of the Comptroller General with respect to the availability of Treasury appropriations for personal services, it has been determined that beginning December 1, 1934, no salary payments may be paid from existing appropriations to the several

groups of employees covered by this estimate. However, the Attorney General held in his opinion dated November 30th, 1934, that -

"This proviso does not in express terms direct or require removal from the service of the employees included within its scope. Nor does it, in my opinion, do so by implication. The positions occupied by these employees and the salaries appertaining thereto were created and established under general statutes theretofore enacted by the Congress.

"The proviso does not purport to abolish these positions. On the contrary, its language clearly indicates that the Congress did not intend to abolish them. It provides only that after December 1, 1934, no part of the appropriation made under the Act or theretofore made for the fiscal year 1935, shall be used to pay the salary of any employee falling within its provisions unless and until such employee shall have been appointed to the position occupied by him as a result of an open competitive examination thereafter to be held by the Civil Service Commission.

"In view of the foregoing, and since it appears that the employees involved had been appointed to their positions in the Treasury Department pursuant to statutory authority at the time of the enactment of the proviso, it is clear that the proviso does not change or affect their status as employees in the Treasury Department, except with respect to the payment of their salaries.

"Since this is so, it is my opinion that the proviso does not require the Secretary of the Treasury to remove these employees from the service, either by outright separation or by a partial dismissal in the form of a furlough. For the same reason, and as a necessary corollary, it is my further opinion that they may be continued in the service in a duty status without pay."

There were two outstanding reasons why it seemed to us urgently necessary to retain the services of the employees in question:

(1) There were thousands of cases in the various stages of investigation by these employees, and to dispense with the services of so large a group would have meant an incalculable loss of revenue as well as the practical abandonment of criminal prosecutions then in process.

The advantage of the headway already gained would have been lost and it would have been necessary to start all over with a new and relatively untrained force, facing the handicap of uncompleted and therefore unsuccessful previous attempts in the difficult task of eradicating traffic in illicit and non-tax-paid alcoholic beverages;

(2) Although, as I understand it, the Civil Service Commission announced new examinations for positions in the Alcohol Tax Unit promptly after the enactment of the Emergency Appropriation Act, it was not until November that the rating of examination papers was completed so that eligibles could be certified to the Department for appointment. In other words, the Department would have had a period of less than one month to make new appointments to replace the old men and to train the new men in the performance of their duties. The work of investigators in the Alcohol Tax Unit is complicated and difficult. It requires months of experience before green men can begin to do their work with reasonable effectiveness. To have dropped those of the old force who failed to qualify on the new examination would have put us under the necessity of attempting to enforce the liquor laws with a green and inexperienced force and would unquestionably have resulted in a collapse of the enforcement effort which the Department was making, at a most critical time. This in turn would have resulted in an increase of illicit operations in every part of the country and would have created a condition from which it would have taken many months to recover.

There is also a third reason, which is in my opinion of very great importance, and that is the question of integrity of the Civil Service system as it applies to Federal employees. The group of employees affected by this proviso were recruited through regular Civil Service channels and had, with scarcely an exception, acquired Civil Service status through open competitive examination, plus a very searching character investigation made by the Civil Service Commission which resulted in the elimination of a majority of the candidates who had successfully passed the written test. This is the first time since the enactment of the Civil Service law more than fifty years ago that the Congress has undertaken to encroach upon the jurisdiction of the Civil Service Commission in the administration of that law, or to undertake by statutory enactment to destroy the Civil Service status and right to employment of a group which had successfully met and complied with the law and the regulations of the Civil Service Commission with respect to eligibility for a particular type of employment. I can think of nothing more likely to demoralize and discourage the rank and file of Civil Service employees generally than for them to realize that the eligibility for employment of any group of employees may be destroyed by congressional action at any time.

March 4th

H. M. Jr. phoned the President 9:30, told him that Sterling went down to 4.74 and Francs were up to 6.67½. He told the President that we have \$18,000,000 worth of gold in London and it was H.M.Jr's. thought to begin to offer Francs in Paris and ship gold across to pay for it, with this in mind, that if the next two or three weeks gold began to rush out of this country all the writers in the financial papers would say that people were scared and have begun to ship gold across. The President agreed.

Financial attache of the French Embassy by the name of Jean Appert came in to see Mr. Coolidge. He wanted to know what we are going to do about the fall of the pound and H. M. Jr. told Coolidge to tell him to make an appointment through State Department to discuss this matter with us.

March 5th

Governor Murphy of Detroit came in to see me and told me that he had spent all of Sunday with Father Coughlin and the only person he has any confidence in in Washington is myself. He thought I ought to, in some way, keep in touch with Father Coughlin.

Murphy said that it is entirely due to me that last Monday night Father Coughlin came out in favor of Roosevelt.

March 5th

H.M.Jr. called in Chief Moran and told him not to do anything about making an investigation on the private life of Huey Long. He told him to forget it.

With regard to activity over open market operations, on the 4th Mr. Eccles declared that the best way to handle these operations is to place the responsibility on the Federal Reserve Board as a whole and to provide for a committee of four members of Reserve Bank to advise with the Board in such matters. About a week ago Mr. Eccles agreed with H. M. Jr. and others, (and that agreement was presented to the Board) that three members of the Federal Reserve Board and two members of Reserve Bank should control the open market operations. Therefore, H. M. Jr. was quite upset at the fact that Mr. Eccles had broken faith.

H.M.Jr. telephoned Mr. Clegg and asked for a copy of the memorandum which he had with Mr. Cargill of the Bank of France yesterday. It is attached herewith. Correspondence with Secretary Dawkins and with Mr. Frazier of the Bank of International Settlements is also attached herewith.

Mr. Cargill of the Bank of France telephoned Mr. Clegg yesterday and copy of their conversation is attached herewith.

As told H. M. Jr. visited the President. He told the President that we had some information on the Stabilization Fund which is very important and very encouraging. The Bank of France told the Federal Reserve in New York that on Thursday they sold two billion dollars worth of francs and bought sterling and Friday they spent 15 million dollars in supporting sterling. This talk about their wanting to let the thing go to the bank. The other thing H.M.Jr. told the President was that the Scandinavian countries had a meeting to decide whether they want to free themselves from sterling. This is very interesting. H.M.Jr. told the President that during the day yesterday sterling went from 4.76 to 4.57 and francs stayed at 4.83. Today they are just the same. He said we are going to continue and if francs should go above 4.69 we will sell francs and cover with gold. H.M.Jr. showed Saml Hanley who is on the committee of the New York City Federal Power project. The President asked Mr. Margenthaler to make a decision on the contract pending and inasmuch as Mr. Margenthaler did not attend the original meeting at the White House he wanted to have the report which Mr. Hanley had.

March 5th 1935

H.M.Jr. called in Coolidge this morning and discussed with him the statement made by Eccles on the bill in regard to authority over open market operations. On the bill Mr. Eccles declared that the best way to handle these operations is to place the responsibility in the Federal Reserve Board as a whole and to provide for a committee of five Governors of Reserve Banks to advise with the Board in this matter. About a week ago Mr. Eccles agreed with H. M. Jr. and others, (and this agreement was presented to the White House) that three members of the Federal Reserve Board and two Governors of Reserve Banks would control the open market operations. Therefore, H. M. Jr. was quite upset at the fact that Mr. Eccles had broken faith.

H.M.Jr. telephoned Mr. Crane and asked for a copy of the conversation which he had with Mr. Cariguel of the Bank of France yesterday. It is attached herewith. Conversation which Governor Harrison had with Mr. Fraser of the Bank of International Settlements is also attached herewith.

Mr. Cariguel of the Bank of France telephoned Mr. Crane to-day and copy of their conversation is attached herewith.

At 9:15 H. M. Jr. phoned the President. He told the President that we had some information on the Stabilization Fund which is very important and very encouraging. The Bank of France told the Federal Reserve in New York that on Thursday they sold ten million dollars worth of Francs and bought Sterling and Friday they spent 15 million dollars in supporting Sterling. This talk about their wanting to let the thing go is the bunk. The other thing H.M.Jr. told the President was that the Scandinavian countries had a meeting to decide whether they want to free themselves from Sterling. This is very interesting. H.M.Jr. told the President that during the day yesterday Sterling went from 4.73 to 4.77 and Francs stayed at 6.68. To-day they are just the same. He said we are going to continue and if Francs should go above 6.68 we will sell Francs and cover with gold. H.M.Jr. phoned Basil Manley who is on the committee of the New York City Federal Power project. The President asked Mr. Morgenthau to make a decision on the contract pending and inasmuch as Mr. Morgenthau did not attend the original meeting at the White House he wanted to have the report which Mr. Manley had.

H.M.Jr: Crane, am I getting a copy of that telephone conversation of yesterday?

C: Well we had two or three. Which one --

H.M.Jr: Well I'm talking about the one with the Bank of France.

C: The Bank of France?

H.M.Jr: Yes.

C: Yes, alright. The Governor tried to get you late yesterday afternoon.

H.M.Jr: I talked to him.

C: Oh did you?

H.M.Jr: Late - yes.

C: Alright, we'll do that and he also had a talk with Fraser.

H.M.Jr: Yes, he told me about that.

C: Yes and I talked also with the Bank of England. I didn't get a great deal but--

H.M.Jr: Well you talked on this --

C: Yes this silver - Mexican silver.

H.M.Jr: Yes. Who approached who on the Bank of France thing?

C: Oh I called Cariguel.

H.M.Jr: Oh I see.

C: Just to tell him I hadn't talked with him in some while and to find out what was on his mind, that's all.

H.M.Jr: I see.

C: He was pretty blue.

H.M.Jr: He was.

C: Yes.

H.M.Jr: Well that was - I consider it very important news. I mean the fact that the British are in there.

C: Oh yes. Well I thought you ought to know about that because apparently they were in very heavily both Thursday and Friday and there is so much irresponsible talk around I thought you ought to get that.

H.M.Jr: Yes, well I was very - and if you talk with Cariguel - if you have that I'd appreciate a copy of that.

C: Yes alright I'll do that.

H.M.Jr: Thank you.

C: Alright sir.

H.M.Jr: Thank you.

March 5, 1935.  
Tuesday.

Federal Reserve Bank  
of New York

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OFFICE CORRESPONDENCE

Date March 4, 1935.

To CONFIDENTIAL FILES

Subject: Telephone Conversation with

From J. E. Crane

Mr. Cariguel of the Bank of France.

I telephoned to Mr. Cariguel at the Bank of France this morning to inquire about the attitude of the Paris market in view of the sharp decline in sterling. Mr. Cariguel said that the feeling in Paris was very bad and he appeared to be blue and discouraged. I asked him whether he had seen any intervention by the British Equalization Fund and he told me in strict confidence that he had bought for them on Friday last £3,500,000 in an effort to arrest the fall of sterling. He added that those were the only operations he knew about but that he considered the British had made quite a stand to stem the tide. He did not know how much ammunition they had left, he said, but apparently they had decided after Friday's experience to let the rate fall further on Saturday and this morning.

I explained to him that we might make moderate sales of francs in the next few days against some gold which we had in London and he remarked that such action on our part was all to the good. He said that he thought we were to be complimented in making these sales of francs below gold export point. Mr. Cariguel inquired whether I thought we would give up gold freely for export in case the franc should reach gold export point and I told him that I had every reason to believe that gold exports would be freely permitted and regarded with favor here.

JEC:KMC

Federal Reserve Bank  
of New York

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OFFICE CORRESPONDENCE

Date March 4, 1935.

To CONFIDENTIAL FILES

Subject: Telephone Conversation with  
Mr. Fraser of the Bank for In-  
ternational Settlements.

From J. E. Crane

Governor Harrison telephoned to Mr. Fraser at the Bank for International Settlements this morning to inquire about the effect on the Continent of the recent drop in sterling. Mr. Fraser said that part of the sterling area (the Scandinavian countries) were getting nervous and wondering whether they should continue to hold on to the pound. These countries, he said, had held a conference over the weekend to discuss the matter as they did not like being tied to a currency which was fluctuating as much as sterling. They had decided, Mr. Fraser said, to stand pat for the present but it was clear that they were uneasy and that some of the Scandinavian banks were converting their sterling into gold. The reaction of the gold bloc to the sharp decline in sterling, Mr. Fraser said, was rather curious. The feeling seemed to be, he stated, that if sterling continued to decline it would bring exchange matters to a head and lead to negotiations and ultimately stabilization. Mr. Fraser added that the gold bloc did not appear to be as unhappy as one might expect and that it was generally believed that Belgium could not last much longer.

With respect to the British, Mr. Fraser said, that they had been making efforts to stop the decline of the pound and that he had been reliably informed that the British Equalization Fund had bought £2,000,000 on Thursday last to support the rate. The reasons for the decline in sterling, he said, were numerous, the principal ones being Chamberlain's statement in Parliament last week which was generally interpreted as meaning that the British Government was in favor of a lower pound, also talk of a labor government in England, recent failures in the London commodity markets and also the fact that the sterling area as a whole had an adverse trade balance and was therefore constantly a seller of sterling.

In conclusion Mr. Fraser said that he was surprised there was not more nervousness in Europe over the fall of the pound than there appeared to be. He said that he had heard a rumor to the effect that South Africa was withholding its gold and not shipping it to London.

JEC:KMC

Federal Reserve Bank  
of New York

OFFICE CORRESPONDENCE

Date March 5, 1935.To CONFIDENTIAL FILESSubject: Telephone Conversation withFrom J. E. CraneMr. Cariguel of the Bank of France

Mr. Cariguel of the Bank of France called me on the telephone this morning to report that the exchange market in Paris was much quieter today and sterling fairly steady. He indicated that he was afraid sterling might go lower and said that further depreciation of the pound should be averted at all costs as it would add to the existing confusion, provoke further discouragement and probably result in the French public giving up the struggle to maintain the franc. Mr. Cariguel said that he thought the majority of business men in France were willing to make the sacrifices necessary to adjust to something like the present level of sterling but that if the pound depreciated further they would probably regard adjustment as hopeless and be unwilling to make further sacrifices to that end.

For the first time during my telephone conversations with him, Mr. Cariguel clearly implied that devaluation of the franc might be necessary to adjust their position vis-a-vis sterling. Heretofore he has always maintained that devaluation in France was unnecessary and unwanted by a majority of the people, but today he certainly envisaged some such action in France in case the pound was further depreciated.

Mr. Cariguel said that if the British wanted them to help in maintaining the pound at its present level, the French would be glad to do so but he added that the British did not appear to want any such help and while the Bank of England probably was not in favor of lower sterling, nevertheless it appeared that the British Government would rather like the pound to go lower.

Mr. Cariguel said that conditions in Belgium were somewhat better and that the belga had lately required very little support. On the other hand, he said that the lira continued to be under pressure.

JEC:KMC

H.M.Jr: You're going to take that letter up on the hill to-day?

Peoples: That's what he wanted me to do sir.

H.M.Jr: Well those were my instructions.

P: Yes sir.

H.M.Jr: The point is this - there was some mixup in my mail room and I never saw the letter.

P: I see .

H.M.Jr: And it never came down to my office and, as I understand it, the fight is on to-day and if they have a copy of your letter - those two letters - it's Senator Robinson and if he should start attacking the Procurement Division well he's got the answer, you see?

P: I see.

H.M.Jr: See ?

P: Yes sir.

H.M.Jr: So I think its very important to get up there this morning to see Joe Robinson.

P: Mr. Secretary the - I planned on being in Senator Robinson's office about a quarter to ten.

H.M.Jr: Yes.

P: Now it may be a little early for him.

H.M.Jr: I think that's about right.

P: The only point is this - I am still on the stand in my hearings on the Naval bill. That's two solid days running now and I'll have all of to-day too from 10 o'clock this morning until - well it will be 5 o'clock or later this afternoon.

H.M.Jr: Well if he's not there I'd leave it with his Secretary or have somebody with you who could wait for him.

P: That's what I wanted to do Mr. Secretary and I wanted to make it plain that these - well the letters are self-explanatory.

H.M.Jr:

Wells

H.M.Jr:

Yes but I have somebody with you to make sure to get it into the Senator's hands.

P:

Sure to be. I will sir. I'm looking for some

H.M.Jr:

And after he's seen you, if he has any comment, I wish you'd let me know.

P:

I will.

H.M.Jr:

Thank you.

P:

Yes indeed Mr. Secretary.

H.M.Jr:

Thank you.

P:

Thank you sir.

H.M.Jr:

Well he said that he had no intention of talking with you and you and I might be put together.

P:

Well -

H.M.Jr:

But he didn't tell me to spend any money.

P:

(Hearty laughter) You know this up to us - you and me to get together with all that money down there around you, we'll have to spend some of it. Well when would it be convenient for us to drop around and see you?

H.M.Jr:

How about 10 o'clock tomorrow morning?

P:

Sure I've got hearings tomorrow morning.

H.M.Jr:

Well how about 10 o'clock Thursday?

March 5, 1935.  
Tuesday.

Well I've got hearings every day this week until Friday. I'm in the afternoon or before 10 o'clock.

H.M.Jr:

Well

P:

I can make it 9 o'clock try calling or I could make it sometime in the afternoon.

H.M.Jr:

Well make it - how about 9:15 tomorrow morning?

H.M.Jr: Hello

Marvin Jones: Hello Henry

H.M.Jr: Hello Marvin, how are you?

J: Alright, how are you? I'm looking for more money.

H.M.Jr: Oh you son of a gun. What are you up to now?

J: I was talking to the Chief yesterday about some provision for making small bonds and he talked like he was going to talk to you about the best way to get the money ----

H.M.Jr: I don't hear you very well

J: He said he was going to talk to you yesterday --

H.M.Jr: Well he told me this - he said that he had an interesting talk with you and you and I ought to get together.

J: Well --

H.M.Jr: But he didn't tell me to spend any money.

J: (Hearty laughter) You know its up to us - you and me to get together with all that money down there around you, we'll have to spend some of it. Well when would it be convenient for me to drop around and see you?

H.M.Jr: How about 10 o'clock tomorrow morning?

J: Henry I've got hearings tomorrow morning.

H.M.Jr: Well how about 10 o'clock Thursday?

J: Well I've got hearings every day this week until Friday. Anytime in the afternoon or before 10 o'clock.

H.M.Jr: Well

J: I can make it 9 o'clock any morning or I could make it anytime in the afternoon.

H.M.Jr: Well make it - how about 9:15 tomorrow morning?

9:15?

H.M.Jr: Tomorrow morning.

J: Alright.

H.M.Jr: What?

J: Alright.

H.M.Jr: 9:15.

J: 9:15 at your office.

H.M.Jr: O.K.

J: I'll be there.

Listen.

H.M.Jr: Yes.

J: How about coming by and having breakfast with me somewhere down there.

H.M.Jr: Well I'll tell you what I do. I have breakfast at 7:30 at home.

J: That's pretty early for me.

H.M.Jr: With my daughter and ---

J: I'll see you at 9:15 then Henry.

H.M.Jr: Thank you.

J: Alright.

March 5, 1935.  
Tuesday.

H.M.Jr: Hello - hello Harry.

Senator Byrd: How are you?

H.M.Jr: Alright, how are you?

B: Fine.

H.M.Jr: I read in the paper that you say you can't get anything out of the Treasury.

B: Well I said I called up there and tried to get this information and couldn't get it.

H.M.Jr: Well you didn't call the right fellow.

B: Wait a minute - who did I -

H.M.Jr: Hello - hello

B: He said that the information wasn't available there and I called up over to the PWA and they didn't seem to have it and the records of the Treasury didn't show these commitments, etc.

H.M.Jr: Well that's right but if you had called either Danny Bell or me we'd have told you.

B: I think that ought all to be made public anyway.

H.M.Jr: Well - Dan Bell is here with me now - we don't have that but if that's what you want - I mean PWA does have it.

B: Well somebody ought to have it.

H.M.Jr: But I'm kind of jealous of our reputation, especially in the hands of our friends.

B: Well I didn't mean to reflect any on you because probably you haven't got it but I thought you could get it. I've got a letter here from you Department but I can't put my hands on it for the moment, telling me what information they've got which is entirely inadequate.

H.M.Jr: Well Bell says, he's sitting right here, he says we don't have what you want. I mean I just want to - my attitude is

B: The newspaper misquoted me --

- 2 -

H.M.J: Hello - my attitude is that anybody on the hill that wants any information that we've got its always available.

B: I know that - its no reflection on you but it was just the difficulty of getting the information. I feel that you should have it.

H.M.Jr: Alright Harry.

B: Don't you?

H.M.Jr: Thank you.

B: I say don't you think Henry ---

H.M.Jr: I feel anything that we do down at this end in the way of spending money should be an open book. Hello.

B: I say I didn't read the newspaper's statement.

H.M.Jr: I feel that any spending that the Executive end does should be an open book.

B: Well I'll correct that fact about the Treasury not furnishing me with the information. They furnished me all that they had, but I put in the record to-day what they furnished me but they didn't because they couldn't get it.

H.M.Jr: Well our attitude is anything that we've got here, with the exception of the Stabilization Fund, is an open book.

B: Well I'll state that on the floor to-day Henry.

H.M.Jr: Alright, thank you. Goodby.

March 5, 1935.  
Tuesday.

March 6th

Mr. Crane telephoned Mr. Morgenthau this morning and the following is their exact conversation:

C: Good morning Mr. Secretary.

H.M.Jr: Hello Crane.

C: I just talked with Cariguel.

H.M.Jr: Oh you just talked to him.

C: About five minutes ago.

H.M.Jr: Oh yes.

C: He said that the Sterling situation looked bad.

H.M.Jr: Yes.

C: Sterling was weak, he thought it was going lower and that there was trouble ahead. He said that some of the countries in the Sterling area -

H.M.Jr: What's that?

C: He said some of the countries in the Sterling area were getting restless about the the decline in the pound and were considering breaking off from Sterling.

H.M.Jr: Yes.

C: He referred particularly to the Scandinavian countries and to South Africa. That he said - he told me this he said in the strictest confidence and he said not to mention it to anybody.

H.M.Jr: Yes.

C: So I'll have to ask you to protect me on this.

H.M.Jr: Yes.

C: He said that the Bank of France - the Governor of the Bank of France - is considering offering a credit to the British; that they were considering doing it through diplomatic channels, that is, to have the French Treasury approach

the British Treasury and ask them whether they'd like to have a credit to support Sterling. The amount they had in mind was five billion Francs - that's 330 million dollars. He said that before the Bank of France did anything about it, they'd have to get the approval of their Government.

H.M.Jr:

Yes.

C:

And that they were talking with the Prime Minister about it now; that he thought the British would refuse the credit but that if they did it would put the responsibility right on them. He said he thought that if anything like that were done, it should be done as an American-Franco movement. In other words, that the United States and France should do it together. He said "Do you think you'd be interested in it" and I said "I don't know - I couldn't answer that". I said "All I can tell you is that I think you'd get a sympathetic hearing over here on any question which would tend to stabilize exchanges and prevent a further drop in the pound" but I said I really couldn't say what the attitude would be". That's about what I told him on that.

H.M.Jr:

I see.

C:

I gather that's about the way you feel.

H.M.Jr:

Yes. I want to think this over.

C:

Yes. Well I didn't make any commitment at all. I said I really didn't know what the attitude would be and that I couldn't speak for the bank or the Treasury, but that I could say that we were interested and would give sympathetic hearing to anything which would tend to stop the decline in Sterling and bring about stable exchanges. Now that's about the - let me see

H.M.Jr:

That's about it - hello.

C:

That's - oh he did say this. He said that if they offered the credit, and they haven't even decided that they'll do it yet, that they would want some understanding with the British that they were going to hold the pound somewhere around the present level. He said they probably wouldn't make that a hard and fast condition, but that they'd want at least some informal understanding with the British that they weren't going to let the pound go on down.

H.M.Jr: I see.

C: Now that's about the gist of it.

H.M.Jr: Well I think I got it.

C: I'll --

H.M.Jr: Have you told Governor Harrison about it?

C: No I haven't. He's in a meeting and I was just going in the meeting as a matter of fact when you called. I'd like to talk it over with him and then perhaps talk to you a little later about it.

H.M.Jr: Yes.

C: Because this is just right hot off the wires and I really haven't had time to consider it.

H.M.Jr: Alright. Thank you very much. I'll call you back between now and 12 o'clock.

C: Yes, alright.

After talking to Crane, Mr. Morgenthau called in Coolidge, Oliphant and Lochhead and gave them the gist of Crane's conversation. He then went over to see the President at 11 o'clock. At a quarter to twelve H. M. Jr. returned and called in Coolidge, Oliphant and Lochhead and told them that the President and he felt that we have no authority and believe that it will be unwise to participate in a loan to Great Britain, and read to them the statement which he and the President prepared to answer the French. It is as follows:

"We view the objective with sympathy but we doubt Treasury authority formally to participate. But if with the ultimate objective of keeping sterling above 4.86 we would do nothing to bloc Franco-British arrangement. We would give sympathetic support to this objective whenever possible".

H. M. Jr. telephoned Mr. Crane and read the message to him. The following is their exact conversation:

H.M.Jr: Crane, very confidentially, I've had a half an hour with the President.

C: I see.

H.M.Jr: Have you got a pencil?

C: Yes.

H.M.Jr: This is the message that you can give Cariguel, see?

C: Yes.

H.M.Jr: "We view the objective with sympathy but we doubt the Treasury authority formally to participate.

H.M.Jr: Paragraph.

H.M.Jr: "But if with the ultimate objective of keeping Sterling above 4.86 we would do nothing to bloc the Franco-British arrangement.

H.M.Jr: Paragraph.

H.M.Jr: "We would give sympathetic support to this objective whenever possible".

C: Yes.

H.M.Jr: Well that's the whole story and now I'm glad to discuss it if ---

C: The first question that comes to my mind is whether you would want to transmit that to the French before they make up their mind to do anything. Cariguel said that they were merely considering it and that his Governor was discussing it or going to discuss it with the Prime Minister before they decided to do anything.

H.M.Jr: I see.

C: He said that if they decided to do anything, he would let me know.

H.M.Jr: Oh.

C: So that as far as the French are concerned its still in a preliminary stage.

H.M.Jr: I think you're right.

C: And it raises a question as to whether we would want to show our hand now or to wait until they approach us more formally and definitely.

H.M.Jr: Well now just a minute. I've got my group here and I'll just ask them. I think - will you hold - just wait a second will you?

C: Right.

H.M.Jr: Hello.

C: Hello

H.M.Jr: We agree until Cariguel tells you that they're definitely going to go ahead. Unless they ask you what our position is there's no use shooting off our mouth.

C: Well we all agree to that. The Governor agrees to that.

H.M.Jr: Right.

C: We'll just keep this a closed story until we hear from Cariguel.

H.M.Jr: That's right.

C: Yes.

H.M.Jr: Now the other thing is since the President has made a statement I see that things have changed quite a lot.

C: Yes we sold 125 million Francs in the last hour.

H.M.Jr: You sold 125 million Francs. Well that's peanuts isn't it.

C: Yes. Well we've got about 270 million Francs in gold in London so we haven't sold half yet, but still that's a pretty sizeable amount.

H.M.Jr: Oh well now maybe I didn't understand - one hundred and how much?

C: 125 million Francs.

H.M.Jr: Oh I thought you said 125 thousand.

C: No 125 million.

H.M.Jr: Oh 125 million.

- C: Yes. That's about 8 billion dollars I should say.
- H.M.Jr: I see.
- C: And we're selling that against the gold you know that you have in London.
- H.M.Jr: Yes that was my idea.
- C: You've got about 18 million (?) there.
- H.M.Jr: Well now will that have any help? Will that help Sterling at all?
- C: Well Sterling has gone up a little as a result of this pressure on the dollar - Sterling has gone up to 4.76.
- H.M.Jr: Good.
- C: But there isn't a great deal of change there.
- H.M.Jr: Anything happen in silver?
- C: No. I just talked with Cattern of the Bank of England with reference to the shipment of the gold in Paris and he brought up the question of this Mexican Eagle Oil Company in silver and he said he hasn't any final answer from the others as to whether they would sell the silver to us, but I indicated to him that we would probably be interested in buying it if they wanted to sell and that we would give them gold here in New York against it if they wanted it.
- H.M.Jr: Yes.
- C: And he's going to let me know about that.
- H.M.Jr: I see. Well did he make any remark when you told him that we were sending this gold there?
- C: No. The only question he raised was that the possibility that the shipping of gold now by the Bank of England from London to Paris might be regarded as being for the account of the British Equalization Fund and might give the impression that the British had no more ammunition in Paris and it might therefore weaken Sterling and I told him that if it would embarrass him to make the shipment we would try to work out some other arrangement. I didn't know just what.

H.M.Jr: I don't know either.

C: And - well he only mentioned that very tentatively and he said he'd like to think it over and talk to his people and call me back.

H.M.Jr: Right.

C: So that there's nothing to be done on that now. I think I'll hear from him in a short time and he'll probably tell me that they'll go ahead and make the shipment.

H.M.Jr: I see.

C: But if I want anything further from you I'll let you know on that.

H.M.Jr: Alright.

C: Goodby.

H.M.Jr: Hello - wait a minute.

C: Alright.

H.M.Jr: Does Governor Harrison want to say anything about the government bond market?

C: Just a second. He's here.

Harrison: Well it got quite a shock Henry.

H.M.Jr: Yes.

H: After that statement but Burgess tells me that it is leveling out a little now.

H.M.Jr: Leveling out.

H: And that we haven't done anything by way of supporting it. I don't think there is anything to do at the moment except this. I think that unless the President's message gives that impression there has been a definite misunderstanding that he was going to correct the disparity between gold and prices, not by a further increase in prices but by a - rather an increase in the price of gold.

H.M.Jr: No he didn't have anything like that in mind.

H: I know but that was the way it was interpreted.

H.M.Jr: Oh.

H: The interpretation was that he was going to crush this thing possibly by lowering the price of the dollar.

H.M.Jr: Well I don't --

H: That would cause the flurry both in the exchanges and in the government bond market.

H.M.Jr: Well after all the flurry in the government bond market wasn't very bad.

H: Well it got your called fourth by --

H.M.Jr: 10/32's.

H: 10/32's and the bends - there are no bends for a little while there. Its better now.

H.M.Jr: Its better now.

H: I think it'll get over it. Why I think it'll get over it because they're reading the statement carefully and they've sort of drawn the conclusion they didn't mean devaluation but, on second thought, if there's any way of correcting that impression there in Washington that it was referring simply to prices and wasn't referring to devaluation it would be very helpful. Now I've talked to some of the dealers ---

H.M.Jr: Well did they carry it that way on the ticker? I have the ticker here.

H: Yes.

H.M.Jr: It says here President Roosevelt to-day expressed belief that the purchasing power of the dollar should be lifted further to ease the burden of debt. The President expressed belief that while the so forth and so on. Asked whether the fact that the dollar was not yet readjusted meant further devaluation the President laughed, held up his hand and shook his head in the negative.

H: Yes. Well they didn't get here the shook his head in the negative.

H.M.Jr: Well this is U.P.

H: Yes.

H.M.Jr: Its on the U.P. ticker.

H: Dow Jones said he just said hold on.

H.M.Jr: Well this is the - what?

H: And finally he said "Hold on - don't ask me any more questions". That Dow Jones fellow was sitting somewhere where he couldn't see him shake his head, I think.

H.M.Jr: I see. Well I think if we asked the President to correct it, it would be too much - too much importance.

H: What's that?

H.M.Jr: Its too much important. I mean I don't know whether he's ever before made a corrected statement.

H: Well he's going to get some editorials and blasts on this. I'm pretty sure.

H.M.Jr: Yes.

H: You might be able to say something Henry sometime that you didn't understand that he meant that.

H.M.Jr: Yes. That's in that statement that you meant he was going to devalue the dollar further.

H: Yes.

H.M.Jr: Well I'll see if I can do anything about it.

H: Alright.

H.M.Jr: Thank you.

He then called the President and gave him Crane's suggestion. The President agreed. He also told the President that he had talked to Harrison and that it is Harrison's belief that the bond market is off due to the statement which he made at the Press to-day which is as follows:

"President Roosevelt to-day expressed belief that the purchasing power of the dollar should be lifted further to ease the burden of debts. The President expressed belief that while the debt burden had been relieved enormously, it had not yet been reduced to a sufficient level. In other words, he explained, the debt column of the national balance sheet is still much too high. Asked whether the fact that the dollar was not yet readjusted to debts meant further devaluation, the President laughed, held up his hands and shook his head in the negative. His observations on the monetary situation came when he was asked as to whether commodity prices had been stabilized".

Wall Street interpreted the President's remarks to indicate that he was thinking of further devaluation. H.M.Jr. suggested that the President have Steve Early correct this interpretation. The following statement was given out at the White House 10 minutes after Mr. Morgenthau made the suggestion.

"President Roosevelt feels there should be further adjustment between the dollar and the Nation's debt structure, but suggestions that he contemplates further devaluation are absolutely unfounded, the White House said this noon. A White House attache declared that any inferences that he contemplated further devaluation were absolutely untrue. Any reports that such a step was planned or indicated were made out of whole cloth, it was asserted. The White House position was made clear as a result of apparent misinterpretation in some quarters of the President's observation that he felt the dollar and the debt burden were not yet fully adjusted. The White House attache said nothing that Mr. Roosevelt said could be construed as containing the slightest suggestion of any intention to further devalue the dollar.

H. M. Jr. called in Coolidge at a quarter to one and said that he wanted to buy ten million dollars of bonds for Postal Savings to help bring the market up. He told him to buy at the present market and, he said, "if that will put the market up then let it go".

When H.M.Jr. spoke to the President this morning he said: "Pending hearing from the other side as to what they are going to do the only thing we can do is to go after silver just as hard as we can and cover immediately

with Sterling. I think if we can hold our line in commodities one of these countries is going to crack within the week - it may be France, England or some Scandinavian country".

H.M.Jr. dictated the following paragraph to Bob:

Mr. McConihe said to me that if he could get a job from me that he could rent the house to me cheaper so I told him that he could not get any job in the Treasury after making a remark like that and I don't want him to see Mrs. Klotz. He said will you forget that I made such a remark and I said that having passed such a remark you can't have a job in the Treasury.

PARAPHRASE OF TELEGRAM RECEIVED

25

FROM: American Embassy, Paris, France

DATE: March 7, 1935, 4 p.m.

NO: 182

FROM COCHRAN

ULTRA CONFIDENTIAL.

Re my telegram No. 181 of March 6, 4 p.m., the first paragraph.

I was called to the Bank of France this forenoon by Lacour-Gayet. I was told that he had a suggestion which the Bank of France desired that I submit to Washington, and Lacour-Gayet explained that he was speaking to me in behalf of the Bank of France with the authority of the Governor. The matter he said appears to be one for official transmission to the Embassy through the Foreign Office, but he said he felt confident that the suggestion of the Bank of France which he was advancing would be approved of by the French Government. The Bank of France thought, on the other hand, that it was best not to transmit it to the Federal Reserve Bank of New York because it was too much a matter of governmental scope. As a result this informal method of communicating the suggestion was chosen.

The disastrous results that may follow the decline of sterling were emphasized by Lacour-Gayet. Two major results were mentioned:

First. Continuation of monetary instability may possibly result in further diminution of world trade.

Second. Gold prices will be further devalued, with world wide deflationary effects as a result.

It is Lacour-Gayet's opinion, nevertheless, that the present is no time for holding a general conference on stabilization; it is his opinion that the matter is too urgent to await the deliberations of any general conference, which might have a questionable outcome, in any event. With regard to the question of France and/or the United States approaching England directly with the sole view of ascertaining the attitude of the British toward stabilization, he feels the usual reply would be given by the British - i.e., they would emphasize the fact that until the outcome of the American situation is clearly seen, it would be inadvisable for Great Britain to take any definite step.

My friend said he thinks the United States and France have a special responsibility in cooperating toward preventing the disorders which the decline of sterling must

inevitably bring about. These are the only two countries, he said, in a position to take the initiative in such action, since France is the leader of the gold bloc and the United States holds such immense gold resources. The common democratic ideals of France and the United States were mentioned by Lacour-Gayet, and he pictured the European situation as being so unsettled that a further monetary upset might have repercussions which our two countries would not find to their liking.

The suggestion of the Bank of France is as follows: A credit of very large proportions should be offered to Great Britain jointly by the American and French Government; this would be a joint central bank credit. The American and French Governments would not make the offer of this credit contingent on a promise of definite stabilization by Great Britain as a means of defending the pound's international exchange value. Should the British accept the proposition, Lacour-Gayet thinks that flight from sterling or sterling securities would be stopped and there would be no further decline of the pound. Should the offer be refused by the British, then the responsibility is definitely placed on them for contributing to the continuing uncertainty of the international currency situation and the consequences it may have. Should the answer be that their monetary reserves are sufficient to obviate any need of such a help, then it seems the British would thereafter feel obliged to use effectively such reserves in view of preventing the pound's further decline.

Lacour-Gayet thinks it probable that sterling will continue to depreciate in the absence of such a credit. It is his opinion that the decline may be progressive, as during the recent months, even if Great Britain brings about temporary halts. Counter steps have been taken by the countries of the gold bloc in their individual economic systems, and they are strongly decided to do the utmost in defense of their present currency values. Lacour-Gayet predicts that if the countries of the gold bloc are drawn off the gold standard there will be an international race in currency depreciation. This he said would not only be contrary to the interests of the United States, but of the whole world.

It is the wish of the Bank of France that this suggestion be regarded as ultra-confidential, but the Bank would genuinely appreciate an early indication of the American reaction thereto. The Bank is not submitting the suggestion through the French Embassy at Washington nor through the Financial Attache stationed in New York City. Should there be favorable action upon it, the French opinion is that the best results could be achieved if the two Governments made the announcement in a spectacular fashion.

I informed Lacour-Gayet that I had no idea as to the reception that the above suggestion would receive, but I reminded him that the United States had undoubtedly received cabled reports of the press stories of two days ago, to the effect that on February 3 Flandin had made a definite proposal for stabilization at London and that the British had refused it. Lacour-Gayet then told me that Governor Tannery had stated yesterday that Flandin denied to him the making of any stabilization proposition when he was in London. I was reminded by Lacour-Gayet of the consistent tone of the statements of the Premier on this subject, including that made on his latest appearance two days ago when a vote of confidence was being sought by him.

The above suggestion and discussion is submitted with the urgent request that there be strict observance of its confidential character. The latest decline of sterling considerably upset the money, stock and commodity markets during the last few days. This confusion is indicative of what would ensue now should a mad race in currency depreciation face a nervous and despairing world. I therefore gladly forward the above asking that it have full consideration because of its origin.

STRAUS.

EA:LEW

March 11, 1935.  
Monday.

H.M.Jr: Hello - George.

George  
Harrison: Yes, Henry.

H.M.Jr: Jeff's on the phone with me. Now - hello - George

H. I can't hear you.

H.M.Jr: Can you hear me?

H. Yes, now I can.

H.M.Jr: All right. Jeff's on the phone.

H. Yes.

H.M.Jr: You know about that message that came through the  
Diplomatic Channel? See -

H. Yes.

H.M.Jr: Well Jeff and I were over and saw the President and he  
decided that we'd answer it through you to the Bank of  
France rather than through diplomatic channels.

H. Yes.

H.M.Jr: See.

H. Yes.

H.M.Jr: And - we'd like to, if you would, phone them to-morrow.

H. Yes.

H.M.Jr: Now, we've changed the message a little bit.

H. Yes.

H.M.Jr: Have you got a stenographer - it's very short.

H. Yes. - I haven't got a stenographer but I can take it  
down.

H.M.Jr: Well, it's very short. "We view the objective with  
sympathy -

H. Yes.

H.M.Jr: But doubt American authority

H. Yes.

- 2 -

H.M.Jr: Formally to participate. Period.  
H. Yes.  
H.M.Jr: Assuming that what is presently aimed at  
H. Yes.  
H.M.Jr: Is an exchange relation  
H. Yes.  
H.M.Jr: Among the pound, franc and dollar,  
H. Yes.  
H.M.Jr: At a level  
H. Yes.  
H.M.Jr: Substantially where it has been  
H. Yes.  
H.M.Jr: During the past year,  
H. Yes.  
H.M.Jr: We would do nothing  
H. Yes.  
H.M.Jr: To bloc a Franco-British arrangement  
H. Yes.  
H.M.Jr: And would give sympathetic support  
H. Yes.  
H.M.Jr: To this objective whenever possible."  
H. Yes.  
H.M.Jr: Now I'll read it again. "We view the objective with sympathy but doubt American authority formally to participate. Assuming that what is presently aimed at is an exchange relation among the pound, franc and dollar, at a level substantially where it has been during the past year, we would do nothing to bloc a Franco-British arrangement, and would give sympathetic support to this objective whenever possible."

H. Yes.

H.M.Jr: How does it sound to you?

H. Well I don't - I think the present effect is - I don't like to claim that we would do nothing to bloc --

H.M.Jr: Well that's the President's own language.

H. What?

H.M.Jr: That's his own language.

H. Well I know, but you asked me. (Laughter)

H.M.Jr: Right and I'm explaining too.

H. What?

H.M.Jr: I'm explaining - that's his own language.

H. Well but I-I think, I think it's a - I think it's a little unnecessarily --

H.M.Jr: Well he went over -- You're right to tell me, but on the other hand that - he went over it twice, you see.

H. Yes.

H.M.Jr: And that's what - he dictated that.

H. Yes.

H.M.Jr: Now, what I thought was this. --

H. Well how - I don't quite understand what the set-up is. What am I to do, just --

H.M.Jr: Well you can simply tell them if you want to. What's the use of kidding them that we got this message from Cochran?

H. Yes.

H.M.Jr: To the State Department, and that we feel that this is - inasmuch as it comes from the Bank of France, the Treasury is answering it through our Central Bank.

H. I see.

H.M.Jr: See?

H. I see.

H.M.Jr: I mean, what's the use of kidding them.

H. Yes. But I mean this is the message from you?

H.M.Jr: This is the message from the Treasury to the Bank of France.

H. Now --

H.M.Jr: Which lets them know that we don't want to take it up through diplomatic channels.

H. Yes.

H.M.Jr: I had that out, which I think is very important.

H. Yes. Well now still assuming that your question as to whether I had any suggestions to make. When you say about American authority formally to participate

H.M.Jr: Yes.

H. They'll know that that is not a fact, so far as the Federal Reserve Bank is concerned.

H.M.Jr: But Jeff Coolidge covered that. You can't do it either on account of the Johnson Act. Jeff pointed that out. And that's why - that's why we changed the wording from the way we had it. Originally it read Treasury and we changed it to American because Jeff pointed out that you can't do it either.

H. Yes.

Coolidge: Now you might be able to George, but there's some doubt there. I don't think you could loan the English Government - you might loan the Bank of England.

H. Well that's all this is.

C. Well we don't know what it is.

H. But the - that message says the Bank of England.

H.M.Jr: But we simply - we don't make a flat statement. We say we "doubt" American authority.

H.M.Jr: Hello.

H. Yes.

H.M.Jr: To formally to participate. See. We don't say a flat statement but it was Jeff that made that suggestion that he questioned whether you, under the Johnson Act, could do it.

H. Yes.

H.M.Jr: See.

H. Yes.

H.M.Jr: I mean, that if we made the flat statement that no American Agency could do that, but we say we "doubt".

H. Yes.

H.M.Jr: Sleep on it and if you've got any ideas call me up to-morrow.

H. All right. Let me do that, will you?

H.M.Jr: Will you sleep on it?

H. Because I'll tell you, we've got - they're plenty of good reasons for turning it down on a basis of being too fishy.

H.M.Jr: Yes. -- You haven't had a chance to think it over and it's too late to call them anyway.

H. Yes.

H.M.Jr: But the point is I had it out that if we're going into this thing quite frankly and very confidentially, I wanted the Treasury to handle this matter and not the State Department.

H. Yes.

H.M.Jr: And as a result of that the President said all right do it this way - see?

H. Yes. All right sir. Well, let me think it over and call you back in the morning. May I?

H.M.Jr: If you would, please.

H. All right. Thank you.

215  
March 12, 1935.  
Tuesday

Harrison: Good morning, Henry.

H.M.Jr: Good morning.

H: Can I talk to you a minute?

H.M.Jr: Surely.

H: Henry, I've been thinking over that message and you were good enough to say that I might comment on it.

H.M.Jr: Please.

H: Now, first of all, I personally feel that the first sentence is of doubtful accuracy and - certainly so far as the Federal Reserve Bank is concerned, which is the question that was put up to you. I feel that definitely because the Johnson Act talked about Government and this was specified to be a credit to a bank. Furthermore, we have given similar credit to the bank of Belgium in recent months without any question to the Johnson Amendment and the French know that.

H.M.Jr: I see.

H: So I think that they would call - think we were different generally --

H.M.Jr: I see.

H: Now, Fraser, who called me yesterday and who knew about this thing through Tannery says for God's sake be awfully sure to give reason why you're not going to participate, because otherwise they are going to misunderstand it into thinking that you're going to do something with the dollar. He says that this thing might be enough to smoke you out too and therefore if you turn it down, be sure to give reasons, otherwise they'll think, well it's just because America wants to feel free to do something themselves. I have taken the liberty therefore of dictating just this slight change.

H.M.Jr: Right.

H: To Jeff's Secretary -

H.M.Jr: Well, have you given it to Mrs. Klotz?

H: No, I didn't give it to Mrs. Klotz -- I didn't know what to do, but I tried to get Jeff and couldn't so I --

H.M.Jr: Well, give it -- How much is it? Give it to me.

H: Well, I'll read it to you now, it's not much. You remember the other message?

H.M.Jr: Well, I've it before me.

H: We view the objective with sympathy -- now here comes the change -- but would prefer not to participate in a joint offer of a credit to the bank of England which had not been requested by them.

H.M.Jr: That's your position from the beginning, that they ought to take anyway.

H: -- which has not been requested by them and which we understand would not likely be accepted by them and might therefore be both futile and embarrassing. Then I go on the way the message was. Assuming that what is presently aimed at is an exchange relation among the pound, franc and the dollar at a level substantially where it has been in the past year, we would do nothing to hinder a Franco-British arrangement and would give sympathetic support to this objective whenever possible. I feel a little stubborn about the word hinder in place of bloc only because the French are so damn sensitive, and are looking for trouble anyway. But bloc looks to be a matter of interfering whereas hinder means that you won't do anything either by action or any other way to oppose. And bloc just might hit them the wrong way. Hinder does the things just as well.

H.M.Jr: Just a minute.  
(To messenger) Get Mrs. Klotz -- I'm in a hurry. If she's not there, get Bob McHugh. I need one or the other right away -- I'll have one or the other take it down

H: Well, Jeff's Secretary's probably got it by now.

H.M.Jr: Who?

H: Jeff's secretary's probably got it written out by now.

H.M.Jr: Oh, you gave it to Jeff's secretary.

H: Yes.

H.M.Jr: Oh, I didn't understand that.

H: Yes.

H.M.Jr: Well, then just give it to me. Do you think she has it.

H: Yes, I know she's got it.

H.M.Jr: How long ago did you give it to her?

H: Oh, about within, oh about five or ten minutes ago.

H.M.Jr: Well, then let me send for her. Just a second. Just a minute.

... and indicated that he thought we would probably get another message from them. Possible using whether we could expect to come out of a joint inquiry of the British.

... As to the possibility of some kind of cooperation.

... So, they will that way.

... Now, we haven't got any such message yet, but in the meantime, Carlgeel told Crane that -- but Crane said they were disappointed -- they didn't say much on the telephone -- that they were disappointed and wondered whether the reference to our being sympathetic meant that we would have any feeling about their making an offer all by themselves. Crane said that he understood that that meant Jack was in said and meant just that -- that if they wanted to do something alone, of course we wouldn't have any feeling about it.

H.M.Jr: Crane had this talk with Carlgeel?

H: Yes.

H.M.Jr: Well, could Crane send us some, as he does about his conversation?

H: Yes.

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March 12, 1935.  
Tuesday.

George  
Harrison: Henry?

H.M.Jr: Yes.

H: Fraser called me this morning.

H.M.Jr: Oh, did he?

H: -- To tell me that he had heard that the French were very disappointed with the message they got.

H.M.Jr: Yes.

H: -- That they had hoped that it would be favorable.

H.M.Jr: I see.

H: -- And indicated that he thought we would probably get another message from them. Possibly asking whether we would object to some sort of a joint inquiry of the British.

H.M.Jr: I see.

H: -- As to the possibility of some kind of cooperation.

H.M.Jr: Yes.

H: -- Smoke them out that way.

H.M.Jr: I see.

H: Now, we haven't got any such message yet, but in the meantime, Cariguel told Crane that -- but Fraser said they were disappointed -- they didn't say much on the telephone -- that they were disappointed and wondered whether the reference to our being sympathetic meant that we would have any feeling about their making an offer all by themselves. Crane said that he understood that that meant just what it said and meant just that -- that if they wanted to do something alone, of course we wouldn't have any feeling about it.

H.M.Jr: Crane had this talk with Cariguel?

H: Yes.

H.M.Jr: Well, could Crane send me down, as he does always, his conversation?

H: Yes.

H.M.Jr: Will you make a note of that?

H: Yes. I'll tell him now -- he's right here.

H.M.Jr: Right. Well, I simply feel what they're doing now is -- after all, they first sent a message through you people and then they sent a message through the Embassy - hello - and now they send a message through Barr.

H: No, they didn't. They didn't send any message through Barr. Fraser is just being nice and helpful in pointing out to me what he heard off the record.

H.M.Jr: Oh! Well, I think the thing to do is just sit tight.

H: Oh, sure -- we can't do anything else until we hear from them.

H.M.Jr: -- They asked the question -- do I understand they asked have we any objection to their going ahead alone?

H: Oh well, they haven't officially asked us anything.

H.M.Jr: Well, I mean Cariguel.

H: Well, Cariguel asked Crane during the course of the conversation he had with him whether it was his understanding that that word sympathetic meant that we would have any objection to their going ahead alone. Crane said he didn't see how they could have any objection to going ahead alone if they wanted to. That's all he said on it.

H.M.Jr: Well, we could get this down and see what comes.

H: Yes. O.K.

H.M.Jr: Now, let me ask you this. I just got through with the Open Market Committee.

H: Yes.

H.M.Jr: You people think that -- I mean you as an individual -- we could call the 4 $\frac{1}{2}$  or the 3 $\frac{1}{2}$  or nothing?

H: Well -- you know, I from the beginning, have been very much in favor of calling as much as you can get away with. But this thing has got a little shock

at the moment and I wouldn't push it too hard. Therefore, as I see it today, I don't think I would make any general call or big call until this thing clears up a bit.

H.M.Jr: I see.

H: I think you just -- in fighting Now,-- I wouldn't object to the 500,000,000 or the 3 $\frac{1}{2}$ . I don't think that's anything. I think that would be all right. But I doubt if I would go much beyond that as I see things today, unless present conversion speeds up much more rapidly than it appears to be.

H.M.Jr: Of course, I think the present conversion is going awfully well. We got 75,000,000 yesterday.

H: Yes. Well -- I -- I'm not discouraged about it, Henry.

H.M.Jr: I think it's going awfully well.

H: But --

H.M.Jr: You know, all we got to do is to bring out a conversion and then to get a good dose of bad news.

H: Yes.

H.M.Jr: They always seem to go together. (Laughter)

H: Well, I don't know how much that misunderstanding of the statement cost the Street --

H.M.Jr: But, we got that straightened out as quickly as is humanly possible.

H: Yes, I think you did. Although some people --

H.M.Jr: -- Think he meant what he said when he said it.

H: Yes. (Laughter).

H.M.Jr: Well --

H: Some people just won't be convinced. My present reaction would be to go only for a small issue if you are going to do anything at all. Now, maybe you don't --

H.M.Jr: We'll make up our minds tomorrow.

H: Yes.

H.M.Jr: Now, George, could you come down Friday? Be here Friday evening?

H: Yes.

H.M.Jr: You could?

H: Yes.

H.M.Jr: At my house?

H: Yes.

H.M.Jr: Seven-thirty?

H: Yes.

H.M.Jr: Business suit.

H: All right.

H.M.Jr: Do you want to bring Crane with you?

H: I'd like to.

H.M.Jr: And how about Williams?

H: Well, let me talk to -- are there going to be many there?

H.M.Jr: Well, I want to keep it down to eight or ten if I can.

H: I think so -- I think -- Henry, I don't think you get anywhere when you get a big crowd.

H.M.Jr: Well, then, suppose we confine it to you and Crane.

H: All right.

H.M.Jr: Now, I was talking to Jeff -- he mentions Goodhue. What do you think of that?

H: Well, I think that he's all right on the theory that he's just come over from Europe and perhaps can tell you about the conditions over there and give you gossip.

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H.M.Jr: Well, I don't want any gossip. I get plenty of that. Can he contribute anything?

H: I doubt it.

H.M.Jr: I mean is he an expert?

H: No.

H.M.Jr: What?

H: No, I don't think he is.

H.M.Jr: That fellow he's got there is -- his Vice President.

H: Who is that?

H.M.Jr: I forget his name.

H: You don't mean Warbeck, do you? (Laughter)

H.M.Jr: No - no - no- (Laughter). No, the fellow in charge of Foreign Exchange. Crane would know his name.

H: I see. My own feeling is that the time is not ripe yet to call in fellows of that type.

H.M.Jr: We could always get them down on Saturday and Sunday.

H: What?

H.M.Jr: We could always get them here Saturday and Sunday.

H: Yes. I don't think you need them.

H.M.Jr: If it's just a question of gossip, I don't need any gossip.

H: Yes.

H.M.Jr: Well, let's leave it to you and Crane, shall we?

H: Well, I think that's all right.

H.M.Jr: You can sleep on it.

H: Yes.

H.M.Jr: All right.

H: And we'll be down there Friday evening then.

Richard Dawson, Esq.  
of New York

H.M.Jr: If you would.

H: What?

Paris, March 17, 1935.

H.M.Jr: If you will.

Conversation with  
Mr. Carignat, of the Bank of France.

H: All right.

H.M.Jr: Thank you.

H: O.K.

Mr. Carignat is the Director of the Bank of  
France. I was in Paris last week and had a  
talk with him about the possibility of a  
loan to the United States. He said that  
the French Government would be willing to  
consider such a loan.

I asked Mr. Carignat whether he had any  
opinion as to when such a loan might be  
made. He said that he would have to  
check with the French Government and he  
said that he had been told that the  
loan would be made in the next few  
months. I asked Mr. Carignat whether they would offer  
the loan in gold or in dollars. He said  
that the matter was still under  
consideration. Mr. Carignat  
asked me whether I thought we would be  
sympathetic if the French made the  
offer in gold and I told him that I  
understood his request from the Treasury  
Department to be that we would be  
sympathetic as long as the sterling-  
dollar rates remained around recent  
levels. Mr. Carignat said that he would  
let me know their decision regarding  
the offer of a credit to the British.

Federal Reserve Bank  
of New York

OFFICE CORRESPONDENCE

Date March 13, 1935.To CONFIDENTIAL FILESSubject: Telephone Conversation with  
Mr. Cariguel of the Bank of France.From J. E. Crane

I telephoned to Mr. Cariguel at the Bank of France this morning to inquire about the exchange market in Paris. He said that things were quiet, that the dollar was fairly strong and was being bought for Belgian and Swiss account.

I asked Mr. Cariguel whether he had had an opportunity to read our cable of last night which had been sent in reply to Mr. Cochran's message and he said that he had seen our cable and felt it was unfortunate that we could not see our way clear to join with the French. I asked Mr. Cariguel whether they would offer the credit alone and he said he did not know as yet, the matter still being under consideration. Mr. Cariguel asked me whether I thought we would be sympathetic if the French made the offer alone and I told him that I understood the message from the Treasury Department to be that we would be sympathetic as long as the sterling-franc-dollar rates remained around recent levels. Mr. Cariguel said that he would let me know their decision regarding the offer of a credit to the British.

JEC:KMC

March 14, 1935.  
Thursday.

H.M.Jr: Jeff's on the - we're on the wire together. The franc seems to be getting to be low and we're approaching a week-end and I wanted to suggest that you call up Cariguel, see?-

Crane: Yes.

H.M.Jr: - and tell him that if the gold - if the franc should go below the gold export point and our American banks didn't act or their banks didn't act, why, we would be glad to, see?

Crane: Yes, I see. Well, I should think the American banks would.

H.M.Jr: Well, they might not over a week-end.

Crane: Yes.

H.M.Jr: I just thought you might tell them that.

Crane: Yes.

H.M.Jr: See?

Crane: Yes, all right, I'll call him up.

H.M.Jr: And then when you call him up I wish you would ask him - he told you for two days how much the English spent - I'd like to know how much they spent all together. You know -

Crane: You mean to support sterling.

H.M.Jr: Yes.

Crane: We've got a pretty good indication of that in a report that we get each week from the Bank in France and it appears to be about \$25,000,000.

H.M.Jr: Well, that was just that one Thursday and Friday they spent \$25,000,000.

Crane: Yes. Well, I think that's about all they spent.

H.M.Jr: Do you want to ask them?

Crane: Yes, I'll ask him, I - about how much they spent.

H.M.Jr: Yes.

Crane: I'm not sure he'll tell me. He's very - he's not apt to tell me -

H.M.Jr: Well, hell he might tell you that in return for this.

Crane: Yes. All right - I'll

H.M.Jr: Right.

Crane: And I'll let you know.

H.M.Jr: O.k.

Crane: All right. Goodbye.

That's right,  
 I don't know if you'll be able to get that  
 message that he is in  
 That's right.  
 I don't know if all efforts failed and stand in the  
 way.  
 Definitely.  
 He says that the FBI and he was glad to hear it.  
 I don't know what our British friends had done.  
 He is not sure that he thought about five million  
 dollars.  
 That's about \$12,000,000 and that some figure that  
 we depend on some figures that the bank in  
 France sent us.  
 Is that the total?  
 Yes. That's the total amount of sterling that they  
 ought to support the rate here a week or so ago  
 when it was weak.  
 Then they were only in for two days?  
 They were only in as far as he knows for two days.

March 14, 1935.  
Thursday.

Crane: Hello.

H.M.Jr: Hello, Crane.

C: I just talked with Cariguel -

H.M.Jr: Yes.

C: - and he said he thought that was fine and that he was glad to hear that we'd step in in case of necessity.

H.M.Jr: That's right.

C: He said that he didn't know what attitude the banks were going to take. He hadn't had occasion to talk to any of them today, but he would tomorrow - sort of sound them out. I told him that our feeling here was that it would be better to have the market do it -

H.M.Jr: That's right.

C: - but that I thought that both he and we should encourage them to do it -

H.M.Jr: That's right.

C: - but that if all efforts failed we'd stand in the breach.

H.M.Jr: Absolutely.

C: He said that was fine and he was glad to hear it. I asked him about what our British friends had done and he said that he thought about five million pounds.

H.M.Jr: Five million pounds.

C: That's about \$25,000,000 and that same figure that we deduced from some figures that the bank in France sent us.

H.M.Jr: Is that the total?

C: Yes. That's the total amount of sterling that they bought to support the rate here a week or so ago when it was weak.

H.M.Jr: Then they were only in for two days?

C: They were only in as far as he knows for two days.

H.M.Jr: Right.

C: Said he doesn't think they were in more.

H.M.Jr: Right. You're coming down tomorrow, aren't you?

C: Well, I'm coming down tonight. I - I thought I'd spend the day down there.

H.M.Jr: Good, good. All right, well, then -

C: I'll be in the Treasury most of the day tomorrow.

H.M.Jr: Well, then at least they know we're ready in case of necessity.

C: Yes. He seemed to be very grateful.

H.M.Jr: Well, thanks, Crane.

C: All right, sir.

H.M.Jr: Goodbye.

C: Goodbye.

March 4, 1935.

My dear Mr. Chairman:

In accordance with the understanding reached at Saturday's hearing I am enclosing, herewith, a report given me by Deputy Commissioner Mellett of the Alcohol Tax Unit of the Bureau of Internal Revenue with relation to the civil service status of the personnel affected by the proviso found in the Emergency Appropriation Act of 1935, in the item "Collecting the Internal Revenue".

I think that you will find from this report that there is no foundation in fact for the suggestion that these men had been blanketed into the former Bureau of Prohibition without civil service examination. They had all qualified by open competitive examination in complete accord with the civil service rules. I believe that you will find also that the appointment of approximately 700 of these men in the Bureau of Industrial Alcohol, by reinstatement, was likewise in full compliance with the civil service rules. Your attention is specially invited in this connection to the quoted extract from the Attorney General's opinion addressed to the President on May 26, 1934, advising him that the classified status of employees separated from the service under the provisions of the Executive Order of June 10, 1933, was in no wise affected by such separation.

I will very much appreciate your favorable consideration of the pending estimate for funds from which this personnel may be compensated. Should the Committee desire further information upon any phase of the matter I shall be only too glad to furnish it.

Very truly yours,

Secretary.

Honorable Carter Glass,  
Chairman, Committee on Appropriations,  
United States Senate.

March 2, 1935

MEMORANDUM for the Secretary of the Treasury:

In accordance with your instructions, I submit below a resume of the history of the Alcohol Tax Unit and its predecessor agencies from the standpoint of the application of the civil service laws:

From the adoption of the Eighteenth Amendment until April 1, 1927, the enforcement of the Prohibition laws was carried on by the Bureau of Internal Revenue, in a special division known as the Prohibition Unit. By the Act of March 3, 1927, which became effective April 1, 1927, the Prohibition Unit of the Bureau of Internal Revenue was abolished and until July 1, 1930, the duty of the prohibition enforcement was performed by a separate bureau in the Treasury Department, known as the Bureau of Prohibition. By the Act of May 27, 1930, which became effective July 1, 1930, the Bureau of Prohibition was transferred to the Department of Justice. Those of its functions, however, which had to do with the supervision of the production and distribution of alcohol for industrial and scientific uses were transferred to a new bureau in the Treasury Department which was given the name Bureau of Industrial Alcohol.

The Bureau of Prohibition in the Department of Justice was abolished on August 9, 1933, pursuant to the provisions of the President's Order of June 10th, effecting a general reorganization of the Executive Departments. Its functions, however, were continued without substantial change in a separate division called the Alcoholic Beverage Unit.

The Executive Order of March 10, 1934, abolished the Bureau of Industrial Alcohol in the Treasury Department and the Alcoholic Beverage Unit in the Department of Justice, and transferred their functions, records and personnel to the Bureau of Internal Revenue. This Order became effective May 10, 1934.

and to carry out its provisions a special unit was created in the Bureau of Internal Revenue under the name Alcohol Tax Unit. With minor exceptions, this Unit, under the direction of the Commissioner of Internal Revenue, is now charged with the enforcement of all Federal liquor laws.

#### CIVIL SERVICE REQUIREMENTS

From the establishment of the Prohibition Unit in the Bureau of Internal Revenue in 1920, until 1927, the appointments in the Prohibition Service, with the exception of clerical personnel, were, by special provision of law, made without reference to the civil service rules. By the Act of March 3, 1927, which became effective April 1, 1927, Congress provided that all appointments should be subject to the provisions of the civil service laws, and provided further that the term of office of any person in the Prohibition Service who was not appointed subject to the civil service laws should expire October 1, 1927. The number of employees in the Bureau of Prohibition when this law became effective was approximately 4,300, of whom approximately 2,600 were officers, agents, administrators, inspectors and investigators who had been appointed without regard to the civil service laws.\*

Following the Act of March 3, 1927, the Civil Service Commission announced open competitive examinations for all positions in the Bureau of Prohibition, excepting clerical positions already held by persons with a classified civil service status. The certification of eligibles from these open competitive examinations was not completed by the Civil Service Commission until September, 1928, and in the meantime the Commission found it necessary, pending the establishment of eligible lists, to authorize an indefinite extension of the employment of persons then in the Bureau without civil service status, this to be terminated in any individual case upon an adverse finding by the Commission in respect to the incumbent's character. From the lists of eligibles certified by the Commission in September, 1928, the Department proceeded to make

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\*Of this number, approximately 400 were inspectors assigned to the supervision of permittees licensed under the provisions of the National Prohibition Act.

appointments as required by law, replacing those of the existing force who had not qualified in the examination, and within a few months had exhausted the lists of eligibles in practically all field districts. In most districts, however, it developed that there were insufficient eligibles to fill all positions and it became necessary for the Civil Service Commission to announce further examinations to meet this deficiency, from which eligibles were certified and appointments made late in the year 1929.

By April 30, 1930, the whole force of the Bureau of Prohibition, consisting of about 4,750 employees, were in their positions in full accord with the civil service rules. A certain number of positions had been filled by the transfer of classified employees from other government departments or by reinstatement of classified employees, with the approval of the Civil Service Commission, but with these exceptions the entire personnel had qualified under the open competitive examinations conducted by the Civil Service Commission pursuant to the requirements of the Act of March 3, 1927.

These examinations were of the type regularly given by the Civil Service Commission for appointments in the classified civil service. For approximately 500 positions above the grade of investigator, that is, administrators, assistant administrators, deputy administrators, senior investigators, attorneys and chemists, the examinations were nonassembled, consisting of a showing by each applicant of his education, training and experience. For all other positions the examinations were assembled and consisted of a mental test in three sections calculated to determine the applicant's general intelligence as well as his special fitness for the duties of a prohibition officer. All candidates in the case of the non-assembled, as well as the assembled, examinations were subjected to a searching character investigation and to an oral examination to determine the applicant's personal characteristics and address, quickness of understanding, adaptability and judgment. The examinations were in all particulars as strict and comprehensive as any which had been given by the Commission up to that time for analogous positions in any branch of the government service. Some evidence of the difficulty of the examinations will be found in the fact that the first of the two tests was taken by 12,436 persons of whom only 4,504 received eligible ratings on the mental requirements, and from

the further fact that of this latter number 1,865 were later declared ineligible by the Commission as a result of the personality, character and fitness investigations.

It is to be understood, of course, that virtually all the 2,600 non-civil service employees in the Bureau of Prohibition at the time competed in these examinations. In this connection, it is to be noted that only thirty per cent, or about 800, of these old employees survived the first examination and received ratings making them eligible to hold their positions. Of those failing in the first examination, however, almost 500 successfully completed the second examination, in other words, about half the old personnel of the Prohibition Service were ultimately able to retain their positions under the civil service requirements imposed by the Act of March 3, 1927.

In view of the foregoing facts it will be correct to say that at the time the Bureau of Prohibition was transferred from the Treasury Department to the Department of Justice on July 1, 1930, its personnel was entirely a civil service personnel, recruited in full compliance with all the laws and regulations pertaining to the civil service system.

#### THE EXECUTIVE ORDER OF JUNE 10, 1933

From July 1, 1930, when the Bureau of Prohibition became a part of the Department of Justice, until July 1, 1933, appointments to positions in the Prohibition Service continued to be made exclusively from the lists of eligibles established by the Civil Service Commission, with the exception, of course, of instances of transfers or reinstatements of persons with a classified civil service status. Until July 1, 1932, the tendency was to increase the Bureau's personnel to keep pace with the continued efforts of the Department to give effective enforcement to the Prohibition laws. With the enactment of the first Economy Law some slight reduction in the force of field agents was made on July 1, 1932, following which the Bureau's total force stood at a figure of about 3,300. By June 30, 1933, this personnel had been reduced by normal separations to 3,100. At that time, partly to meet the reduced appropriations available for the fiscal year 1934, and partly in

anticipation of the repeal of the Prohibition Amendment, it was found advisable to make a drastic reduction in the number of employees. Almost 1,400 field agents and clerks were furloughed at the close of business on June 30, 1933, or shortly thereafter, of which number about 160 were subsequently reinstated. Approximately 100 new appointments were made, and the Bureau's personnel in active-duty status on August 9th consisted of slightly less than 2,000 employees of all classes.

As has been seen the Bureau of Prohibition was abolished by Executive Order No. 6166, dated June 10, 1933. This Executive Order, which became effective on August 9, 1933, abolished or consolidated a large number of agencies in many departments of the government, and with regard to all such abolished agencies it contained the following provision respecting the disposition to be made of the personnel:

"All personnel employed in connection with the work of an abolished agency or function disposed of shall be separated from the service of the United States, except that the head of any successor agency, subject to my approval, may, within a period of 4 months after transfer or consolidation, reappoint any of such personnel required for the work of the successor agency without reexamination or loss of civil-service status."

Pursuant to this provision the entire force of the Bureau of Prohibition, consisting of approximately 2,000 employees of all classes in active-duty status and approximately 1,240 who had previously been placed on furlough, were separated from the service at the close of business on August 9th. As authorized by the Executive Order, 1,191\* of this number were reappointed on August 10th, in the Alcoholic Beverage Unit, to which the functions of the Prohibition Service were now assigned. During the period which intervened between August 9th and the transfer of the personnel to the Bureau of Internal Revenue a considerable number of those separated from the service on August 9th were reinstated and a number of new appointments were

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\*Including approximately 300 clerical employees. Exact records of the personnel transactions which occurred in the Department of Justice during the period under discussion are not available in the Treasury Department.

made, under special Executive authorization, without regard to the civil service rules. In the same period upwards of 300 additional clerks and investigators were separated from the service. On May 10, 1934, when the personnel was transferred to the Bureau of Internal Revenue it consisted of 977 persons, exclusive of approximately 70 who were retained in the Department of Justice. Of this number 639 were investigators or field agents. The remainder were clerical and technical employees of various classifications.

#### THE ALCOHOL TAX UNIT

With the repeal of the Prohibition Amendment in December, 1933, it was determined by the President, upon the advice of the Attorney General and the Secretary of the Treasury, that responsibility for the enforcement of Federal laws relating to the production and distribution of alcoholic beverages should properly be transferred from the Department of Justice to the Bureau of Internal Revenue and this transfer was ultimately consummated by Executive Order No. 6639, dated March 10, 1934, which became effective on May 10, 1934. Pending this transfer it was also determined that the Treasury Department, through the Bureau of Industrial Alcohol, should at once lay plans for the enforcement of the internal revenue laws relating to intoxicating beverages and to recruit personnel which could be used in enforcement work in different parts of the country. After conference with the Civil Service Commission it was determined by the Department that the only available means of recruiting an experienced force would be by making appointments, by reinstatement, from among the approximately 2,000 investigators and agents who had been separated from the Department of Justice under the provisions of the Executive Order of June 10, 1933, as above noted. Accordingly, the records of all such investigators and agents were carefully examined by the Commissioner of Industrial Alcohol and during the period from February 1 to April 10, 1934, 698 men were selected for appointment to the rolls of the Bureau of Industrial Alcohol in this way, and their reinstatement was authorized by the Civil Service Commission. In making these appointments the sole basis taken was the efficiency, character

and disciplinary records of the men and no consideration was given to any other factor.\* To aid him in passing upon these records the Commissioner of Industrial Alcohol made use of a committee informally designated by him and consisting of experienced officers selected from the Bureau of Industrial Alcohol, the Intelligence Unit of the Bureau of Internal Revenue, and the Alcoholic Beverage Unit of the Department of Justice.

On May 10, 1934, under the provisions of Executive Order No. 6639, the personnel of the Bureau of Industrial Alcohol and the Alcoholic Beverage Unit of the Department of Justice were transferred to the Bureau of Internal Revenue and consolidated in the Alcohol Tax Unit. Under this Order the 698 agents who had been appointed by the Commissioner of Industrial Alcohol, as above indicated, were merged with the 639 investigators transferred from the Alcoholic Beverage Unit of the Department of Justice into a single field investigative organization.

THE PROVISIONS OF THE EMERGENCY APPROPRIATION ACT

The Emergency Appropriation Act, approved June 19, 1934, contained an appropriation of \$10,000,000 for the Bureau of Internal Revenue, to which was attached the following proviso:

"Provided, That after December 1, 1934, no part of the appropriation made herein or heretofore made for the fiscal year 1935 shall be used

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\*The reinstatement eligibility of classified employees who are separated from the service without fault is determined by Executive Order. Employees eligible for reinstatement are not listed by the Civil Service Commission in the order of their eligibility, and reinstatement must in any case be made upon the judgment and opinion of the appointing officer as to the qualifications of those eligible, subject to the approval of the Civil Service Commission.

to pay the salary of any person formerly employed as investigator, special agent, senior warehouseman, deputy prohibition administrator, agent, assistant attorney, assistant prohibition administrator, senior investigator, deputy production administrator, storekeeper or ganger, or any other position in the Prohibition Bureau or Alcoholic Beverage Unit, Department of Justice, who was separated from the service of such Bureau or Unit between June 10, 1933, and December 31, 1933, while in any such position in the Treasury Department, unless and until such person shall be appointed thereto as a result of an open, competitive examination to be hereafter held by the Civil Service Commission."

Although the purpose of this legislation is not evident from the terms of the statute, it is to be assumed from contemporary discussions that its framers were of the opinion, first, that the employees of the classes enumerated had not secured their positions in the former Bureau of Prohibition through proper civil service examination, and, second, that the employees of these classes who were separated from the service under the provisions of the Executive Order of June 10, 1933, who had not been reappointed prior to the expiration of the four months period defined in that Order, had lost their eligibility for reinstatement under the civil service rules and that, therefore, the appointment of 698 of such persons in the Bureau of Industrial Alcohol, as above described, was not authorized by law.

As to the first of these points, it has already been observed that the field agents who were in the service of the Bureau of Prohibition prior to the abolishment of that Bureau by the Executive Order of June 10, 1933, had, without exception, received their appointments as the result of regular open competitive civil service examinations or, in rare instances, by transfer from positions in the classified civil service, or by reinstatement in accordance with the civil service rules. The claim has been made that the civil service examinations to which this personnel were subjected amounted to nothing more than so-called character tests, or, in other words, that they were not required to pass a mental examination but were virtually blanded into the service. There is no

evidence to support this charge. The record shows no instance of blanketing into the service. The facts with reference to the examinations given have been set forth above, but it will be well to add that of the persons who were employed in the former Bureau of Prohibition prior to the establishment of civil service requirements only 266 remained on May 10, 1934, when the regions of the Prohibition organization was consolidated in the Alcohol Tax Unit of the Treasury Department, these survivors, of course, having qualified in the meantime on open competitive civil service examination. Of this number 179 were reinstated in the Bureau of Industrial Alcohol during February and March, 1934, and 136 were transferred from the Alcoholic Beverage Unit of the Department of Justice. There is attached hereto a list of such employees.

As to the second point, that is, the charge that employees of the classes enumerated who were separated from the service by operation of the Executive Order of June 10, 1933, unless reappointed in the Alcoholic Beverage Unit within the four months' period named in that order, were ineligible to be reinstated under the civil service rules, it must be said that this is a point which received no attention by the Department at the time 698 of these employees were reinstated in the Bureau of Industrial Alcohol, as above described. It will be remembered that the Executive Order of June 10th had application to a large number of agencies in various Executive Departments which were either abolished or consolidated by its provisions. Thousands of employees in various branches of the Government were affected by the provisions of the Order requiring their separation from the service; and it was a matter of common knowledge at the time that all such employees from whatever agencies separated were considered not only by the appointing officers in the Executive Departments generally, but by the Civil Service Commission also, as retaining their eligibility for reinstatement under the civil service rules without any regard to the four months' limitation found in the Executive Order. The appointments were made by the Bureau of Industrial Alcohol in good faith in accordance with the common practice which prevailed at the time. It was not until weeks after the consummation of these appointments that it came to the notice of

the Treasury Department that the eligibility of the persons selected for reinstatement in the Bureau of Industrial Alcohol had been brought into question.

The merits of this contention must, of course, depend upon the meaning and intent of the provision of the Executive Order of June 10th, which was quoted on page 5, above. A construction of this provision was requested of the Attorney General by the President following the raising of the question during the month of May, 1934. In response to the President's request the Attorney General, under date of May 26, 1934, rendered an opinion reading, in part, as follows:

"The language of the paragraph in question is plain and unambiguous. It speaks for itself. Under the provisions of the paragraph the personnel employed in connection with any abolished agency or function disposed of are separated from the service, but the head of any successor agency is authorized to reappoint within a certain period without reexamination or loss of Civil Service Status, any of such personnel required for the work of the successor agency. The purpose of this provision, as its language clearly indicates, is to enable the head of the successor agency within a limited period to make reappointments from among such personnel without regard to the Civil Service Act and Rules. Not even by the remotest implication of the language employed can it be said that it deprives or attempts to deprive those who are not reappointed within the prescribed period of the Civil Service status possessed by them at the time of their separation from the service."

At least from the standpoint of the appointing officers this is believed to dispose of any question which may have been raised with respect to the civil service eligibility of persons separated from classified positions pursuant to the provisions of the Executive Order of June 10th. Such persons must be deemed to have retained their eligibility for reinstatement in accordance with the usual civil service rules. Certainly there can be no greater reason for questioning the status of the 698 men who were reinstated in the Bureau of Industrial Alcohol

under the circumstances surrounding this particular case than to raise a similar question with regard to former classified employees of any agency abolished by the Executive Order of June 10th, who may have received employment, by reinstatement, in classified positions in other branches of the Federal service.

Respectfully submitted,

Arthur J. Mellott,  
Deputy Commissioner of Internal Revenue.

Present Enforcement Officers of the  
Alcohol Tax Unit who occupied excepted positions  
in the Prohibition Unit, Treasury Department,  
prior to April 1, 1927, and who have acquired  
Civil Service status as result of competitive  
examinations held since that date.

Name	Present Position	Date of Probational appointment from competitive examination
Gayne, Robert W.	Investigator in Charge	10-16-28
Henneberry, Harold L.	Investigator	1-31-29
Reese, Josiah L.	Investigator in Charge	2-16-29
Shea, Frank T.	Investigator	10-6-28
Weaver, Henry P.	Investigator in Charge	2-7-29
*Bird, Edward S.	Investigator	4-1-30
*Bewitch, Edward A.	Investigator	11-15-30
DeAngelo, Thomas	Investigator	2-26-29
Eager, Harold W.	Investigator	1-28-28
*Graves, Fay B.	Investigator	2-28-29
Hall, John	Investigator	3-1-29
*Hitchcock, William	Investigator	6-22-31
Kelley, Edward F.	Investigator	1-31-29
*Kent, James M.	Investigator	3-26-31
Lordan, Dennis T.	Investigator	1-31-29
*Lydic, George B.	Investigator	3-4-29
MacBrayne, Winfred C.	Investigator	5-4-29
Murphy, Thomas F.	Investigator	2-26-29
Norton, John E.	Investigator	2-27-29
Pallas, Felix C.	Senior Investigator	10-27-28
Sullivan, Walter H.	Investigator	6-28-29
Hanson, Martin O.	Investigator in Charge	1-14-29
Araitage, Victor L.	Senior Investigator	2-16-29
Bernstein, Carlos M.	Senior Investigator	5- 1-29
*Brinckerhoff, Clifford	Investigator	2-4-29
*Brederrick, James J.	Investigator	2-8-29
Brown, Joseph R.	Investigator	9-18-29
*Carrico, Andrew, Jr.	Investigator	1-7-29
*Cusack, Warren E.	Investigator	2-4-29
*Daly, William E.	Investigator	5-1-30
*Davis, Richard	Investigator	10-1-31
*D'Angelica, Pellegrino	Investigator	3-21-30
*Deardeff, Edward E.	Investigator	12-1-28
*Delong, J. Clark	Investigator	2-26-30
*Diressa, Joseph M.	Investigator	2-4-30
Dunn, William E. Jr.	Investigator	12-21-28
*Felix, Frederick	Investigator	2-4-29
Ferbes, Charles M.	Investigator	1-7-29
Frayne, Joseph A.	Senior Investigator	2-1-29
*Callagher, John P.	Investigator	2-4-29
*Giesler, William H.	Investigator	3-16-31

**Names**

**Present Position**

**Date of Probational appointment from competitive examination**

Quinnson, Laurence W.	Investigator	5-8-29
*Hall, Charles L.	Investigator	4-5-29
*Hansen, Arthur J.	Investigator	3-19-28
*Hartwell, Percy B.	Investigator	5-16-29
Henry, Lawrence T.	Investigator	3-21-30
*Hildreth, James W.	Investigator	3-3-30
Journsey, Henry F.	Investigator	9-8-28
Keating, Elton T.	Investigator	3-7-29
*Kelly, Francis J.	Investigator	2-4-29
*Kendall, Harry W.	Investigator	6-22-31
*Lennon, John P.	Investigator	4-2-31
*Lupton, Charles W.	Investigator	3-9-31
McCann, William F.	Investigator	3-6-30
*Maitlyre, Ambrose A.	Investigator	2-4-29
Meely, Joseph J., Jr.	Investigator	2-11-29
*Morrissey, James B.	Investigator	2-4-29
McLansy, Charles A.	Investigator	1-25-29
Murphy, Edward J.	Investigator	3-19-30
*Newman, Harry	Investigator	2-4-29
*Newton, Raymond M.	Investigator	5-7-29
*O'Brien, William	Investigator	6-16-31
Olson, Herbert	Fire Technician	1-9-30
*Patton, Harold T.	Investigator	6-13-29
Fettite, James K.	Investigator	11-19-28
Reagar, Peter	Investigator	1-25-29
*Rhee, John D.	Investigator	5-1-31
Risan, Terry S.	Investigator	9-7-28
Smith, Lowell R.	Investigator	1-16-28
*Spore, Joseph	Senior Investigator	6-10-30
*Stevenson, Herman F.	Investigator	2-24-30
*Sweeney, John P.	Investigator	2-12-30
Swanski, Harry	Investigator	4-1-30
*Taney, Michael	Investigator	2-24-30
Tatro, Joseph A.	Investigator	4-25-29

Ford, Robert D.	Investigator in Charge	2-14-28
Gratton, Gregory A.	Investigator	9-11-28
Hickman, L. Dena	Senior Investigator	5-1-29
Shipley, Lambert O.	Investigator in Charge	3-9-29
Childstar, Thurman L.	Investigator	10-1-29
*Corroren, Dan H.	Investigator	5-19-30
*Cedrey, Roland A.	Investigator	1-16-29
*Harr, Cyrus A.	Investigator	3-24-31
Hill, Barry	Investigator	2-20-30
Johnson, Julius N.	Investigator	1-21-29
*Jones, Orville	Investigator	2-14-29
McIntgomery, John O.	Investigator	4-1-29
*Paris, Edgar D.	Investigator	1-21-29
Haney, Harry W.	Investigator	3-1-29
*Reagan, Leonard	Investigator	2-23-29

Name	Present Position	Date of Probationary appointment from competitive examination
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Dunigan, William E.	Assistant Supervisor	4-14-28
*Dunbart, Charles K.	Investigator	10-16-28
*Dressler, Arthur D.	"	1- 6-30
*Ciballetta, Michael P.	"	1- 9-30
Gould, George J.	"	10-28-28
*Thibert, Frank E.	"	10- 1-28
*Taler, Samuel G.	"	1- 9-30
*Truman, George C.	"	2-16-31
Langford, Harold A.	"	1-21-30
*McCandless, Park R.	"	10-16-28
Malloy, Edward C.	"	9- 9-30
Shane, Barry C.	"	4-24-28
*Uptegraff, Frank B.	"	10-16-28
*Uptegraff, Thomas A.	"	10-16-28
*Webb, Charles H.	"	1- 9-30
Wills, Francis V.	"	8-14-28
Young, Robert B.	"	1- 6-30

Heddens, Warren A.	Assistant Supervisor	7-31-28
Vietham, John H.	Investigator in Charge	12- 1-28
*Alexander, Nathaniel C.	Investigator	2-16-28
Arnold, Alexander M.	"	1-16-29
*Banks, John B.	"	12-16-29
*Barton, John M.	"	1-29-30
*Bishop, Louis J.	"	12- 1-28
*Burgess, Samuel C.	"	12- 1-28
*Carty, Myron M.	"	4- 1-29
*Cash, John T.	"	12-16-29
*Cooper, Jake F.	"	10-16-28
*Crush, William B.	"	11- 6-28
*Dirling, John L.	"	12- 1-28
*Gates, LeRoy L.	"	1-10-30
*Gertlein, Cyril T.	"	12- 1-28
Harman, George C.	"	2-18-28
Harvey, William R.	"	7- 1-31
*Hood, Cheever A.	"	12- 1-28
*Huret, James V.	"	12- 1-28
*King, Marlon A. R.	"	12-16-29
*Landon, John J.	"	12- 1-28
*Lampkin, Frank D.	"	12- 1-28
*Mittelbel, Lawrence O.	"	7- 1-31
*More, James L.	"	1- 2-30
Melhall, William B.	"	2-16-29
Owens, John R.	"	2- 8-28
*Fowl, David B.	"	12- 1-28
*Havledge, J. J.	"	7- 1-31
Schmitz, Walter H.	"	12- 1-28
White, Samuel O.	"	12- 1-28
*Wilkins, Thomas C.	"	12- 1-28
*Wood, William K.	"	7-17-29

Wire Technician  
Investigator

**Date of Probational  
Appointment from Competitive  
Examination**

<u>Name</u>	<u>Present Position</u>	<u>Date of Probational Appointment from Competitive Examination</u>
Pennington, John D.	Dist. Supervisor	2-20-28
Koehler, Karlis B.	Investigator in Charge	1-16-29
Owensingham, Wm. F.	" "	4-13-28
Trotter, Wm. McK.	" "	2-19-29
Anglin, Frank E.	Investigator	3-4-29
Deek, Kenneth G.	" "	10-19-28
Claffey, Joseph H.	" "	11-1-28
Swans, Geo. R.	" "	10-1-28
Flaherty, Hugh R.	" "	2-11-29
Homes, Jos. P.	" "	4-15-29
Kerestetter, Meredith E.	" "	1-16-30
Ward, Edw. M.	" "	3-14-32
Ray, W. L.	Asst. Supervisor (Srd.)	2-16-29
Maloney, James	Investigator in Charge	11-7-28
Simons, Gustave J.	" "	2-3-29
Bennett, Howard C.	Investigator	13-1-28
Bennett, Will H.	Wire Technician	11-22-28
Browning, James G.	Investigator	11-1-28
Campbell, Frank J.	" "	13-1-28
Caeserly, Ray J.	" "	13-1-28
Dord, Victor J.	" "	2-13-31
Ford, Robert W.	" "	2-1-29
Koesjan, William H.	" "	12-1-28
Konackis, James	" "	5-5-31
Kuernerlein, John F.	" "	2-1-29
Larson, Arthur R.	" "	7-14-31
McCole, John	" "	12-1-28
McCully, John, Jr.	" "	12-1-28
Miller, Walter T.	" "	1-11-29
Hills, Bend. J.	" "	12-1-28
Hebelstick, Albert F.	" "	8-2-28
Scallernp, Harry W.	" "	12-15-28
Stine, Glenn W.	" "	2-14-31
Frank L. White	" "	10-8-28
Charpan, Elie S.	Investigator in Charge	3-27-28
Anderma, Emilio J.	Investigator	1-9-30
Bryant, George F.	" "	11-16-28
Cooper, Clark B.	" "	7-1-29
Outum, Walter C.	" "	10-15-28
Holland, Luke	" "	1-7-30
Hedgcock, Geo.	" "	2-16-30
Landy, Edw. O.	" "	10-16-28
Heman, Wm. S.	" "	1-31-31
Schraeder, Sidney	" "	11-24-28
Smith, Edwin F.	" "	3-15-30
Wright, Willey H.	" "	1-16-30

Name	Present Position	Date of Probational appointment from competitive examination
Tuttle, Robert E.	District Supervisor	3- 7-29
Hearington, William D.	Investigator in Charge	2-16-29
Andrews, James E.	Investigator	1- 6-30
Austin, E. W.	"	12- 1-28
Barrenbrugge, James H.	"	2- 1-30
*Clark, Frank B.	"	10-16-28
*Day, William T.	"	3- 3-28
Grubbs, Walter C.	"	2- 1-30
Kinsay, Joseph R.	"	1-29-31
*McPherson, Samuel O.	"	7- 1-29
*Merrick, Romaine Q.	"	2-16-28
*Myrick, Elvis W.	"	8-21-30
Souther, Frank L.	"	1-31-31
Strickland, Owen C.	"	10-16-28
Wright, Howard P.	Senior Investigator	3- 1-28
*Kinnaird, William H.	Investigator in Charge	2- 8-29
*Disney, William B.	Investigator	7-21-28
Griffin, George S.	"	12- 4-29
*Larkin, Edmund A.	"	12-15-28
*Phillips, Joseph	"	4- 2-28
*Shofner, William B.	"	1- 2-29
*Skaggs, Teyman C.	"	6-16-30
*Smallwood, Arthur M.	"	1-27-31
Statton, Edward M.	"	4- 7-30
*Thomas, Joe J.	"	4- 7-30
Bruner, Wilbur K.	Assistant Supervisor (Inf.)	2-16-29
Ness, Eliot	Investigator in Charge	4- 1-29
Anderson, Charles H.	Investigator	12-27-28
Berard, Ulric H.	"	9-15-28
*Robuck, Ralph W.	"	4-19-30
*Scully, Arthur Q.	"	5-28-29
*Von Batchelder, Linus	"	3-30-31
Cowan, L. Morell	"	9- 3-29
Morrill, John W.	Assistant Supervisor	3- 4-29
White, James L.	Investigator in Charge	1-25-29
*Baff, William L.	Investigator	1- 6-30
Mitchell, John J.	Wire Technician	12- 1-28
*Taylor, Frederic M.	Investigator	1-21-29

<u>Name</u>	<u>Present Position</u>	<u>Date of Probational appointment from competitive examination</u>
Dunson, Harvey L.	Invest. in Charge	3-30-28
Herrick, Ralph E.	" " "	7-1-27
Beasell, Samuel D.	Wire Technician	2-7-29
*Brown, Dave F.	Investigator	2-1-29
Cole, Louis F.	"	3-16-29
*DeArmond, Norval L.	"	2-1-29
*Ellis, William F.	"	7-1-29
Erkilla, Jacob E.	"	1-7-29
*Gill, Paul E.	"	2-1-29
*Harris, Thomas L.	"	1-24-30
*Knapp, Otis B.	"	2-1-29
Pollan, Ulcus	"	1-1-30
*Rowden, Thad W.	"	5-5-28
*Small, George P.	"	1-25-30
*Sutterfield, Arthur	"	2-1-29
Whitemack, Lester C.	"	1-13-30
*Wright, Wellington	Investigator	3-20-30
*Campbell, Charles E.	"	3-19-30
*Dewey, Charles E.	"	1-7-29
*Eastland, Howard W.	"	6-28-30
*Hermann, Nicholas H.	"	1-7-29
*Hoselton, Reginald J.	"	6-17-30
*Knutson, Martin A.	"	12-1-28
*Lippold, Burton V.	"	1-5-29
*May, Gus	"	6-25-30
*Nelson, Nathan H.	"	11-26-28
*Peterson, Edward L.	"	2-16-31
*Rhoades, Robert L.	"	1-7-29
*Benson, Charles E.	"	2-17-31
*Schroeder, Herman W.	"	5-6-29
Silverman, Maurice	"	11-1-28
*Spahn, Newton	"	5-16-29
Vitala, Matt	"	3-15-30
*Weld, Kenneth I.	"	2-1-29
*Williams, Clarence W.	"	1-4-29
*Wood, Homer F.	"	10-16-28
*Baker, Lemuel L.	Investigator	6-2-31
Cohon, Burton W., Jr.	"	2-16-29
Drew, Harry E.	"	12-1-28
Lawrence, David R.	"	3-1-29
*Reeves, Clarence H.	"	7-1-30
*Seaver, George H.	"	1-12-29
Sweet, George H.	"	1-15-29
*Tingle, Benjamin H.	"	8-2-28
*Ure, John E.	"	3-18-30

\*Reinstated as Regulatory Inspectors, Bureau of Industrial Alcohol, February - April, 1934.

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CONSOLIDATION, TRANSFERS, AND ABOLITION OF  
EXECUTIVE AGENCIES

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MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AN EXECUTIVE ORDER FOR CERTAIN REGROUPINGS, CONSOLIDATIONS, TRANSFERS, AND ABOLITIONS OF EXECUTIVE AGENCIES AND FUNCTIONS THEREOF

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JUNE 10, 1933.—Referred to the Committee on Expenditures in Executive Departments and ordered to be printed

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*To the Congress:*

Pursuant to the provisions of section 1, title III, of the act entitled "An act to maintain the credit of the United States Government", approved March 20, 1933, I am transmitting herewith an Executive order for certain regroupings, consolidations, transfers, and abolitions of executive agencies and functions thereof.

Please let me tell you very simply and frankly that in transmitting this Executive order at this late hour in the special session, I have had no thought of taking what might be considered an advantage of the Congress. The very urgent demands of the public business, both legislative and administrative, during the past few weeks have made it literally impossible to complete the study of consolidation.

Many other changes are in contemplation and I have selected only those which I believe should be put into effect as quickly as possible. These additional changes I do not feel it right to submit until the next regular session of the Congress.

May I suggest that if the changes proposed in the present Executive order are not concurred in by the Congress they can be restored or otherwise changed at the beginning of the next regular session a few months hence.

The justification for sending this Executive order up, even at this late hour, is that it will effect a saving of more than \$25,000,000. This is well worth while.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, June 10, 1933.

## EXECUTIVE ORDER

## ORGANIZATION OF EXECUTIVE AGENCIES

Whereas section 16 of the act of March 3, 1933 (Public, No. 428, 47 Stat. 1517), provides for reorganizations within the executive branch of the Government; requires the President to investigate and determine what reorganizations are necessary to effectuate the purposes of the statute; and authorizes the President to make such reorganizations by Executive order; and

Whereas I have investigated the organization of all executive and administrative agencies of the Government and have determined that certain regroupings, consolidations, transfers, and abolitions of executive agencies and functions thereof are necessary to accomplish the purposes of section 16;

Now, Therefore, by virtue of the aforesaid authority, I do hereby order that:

SECTION 1.—*Procurement*

The function of determination of policies and methods of procurement, warehousing, and distribution of property, facilities, structures, improvements, machinery, equipment, stores, and supplies exercised by any agency is transferred to a procurement division in the Treasury Department, at the head of which shall be a director of procurement.

The Office of the Supervising Architect of the Treasury Department is transferred to the Procurement Division, except that the buildings of the Treasury Department shall be administered by the Treasury Department and the administration of post-office buildings is transferred to the Post Office Department. The General Supply Committee of the Treasury Department is abolished.

In respect of any kind of procurement, warehousing, or distribution for any agency the Procurement Division may, with the approval of the President, (a) undertake the performance of such procurement, warehousing, or distribution itself, or (b) permit such agency to perform such procurement, warehousing, or distribution, or (c) entrust such performance to some other agency, or (d) avail itself in part of any of these recourses, according as it may deem desirable in the interest of economy and efficiency. When the Procurement Division has prescribed the manner of procurement, warehousing, or distribution of any thing, no agency shall thereafter procure, warehouse, or distribute such thing in any manner other than so prescribed.

The execution of work now performed by the Corps of Engineers of the Army shall remain with said corps, subject to the responsibilities herein vested in the Procurement Division.

The Procurement Division shall also have control of all property, facilities, structures, machinery, equipment, stores, and supplies not necessary to the work of any agency; may have custody thereof or entrust custody to any other agency; and shall furnish the same to agencies as need therefor may arise.

The fuel yards of the Bureau of Mines of the Department of Commerce are transferred to the Procurement Office.

The Federal Employment Stabilization Board is abolished, and its records are transferred to the Federal Emergency Administration of Public Works if and when said administration is authorized and established.

SECTION 2.—*National parks, buildings, and reservations*

All functions of administration of public buildings, reservations, national parks, national monuments, and national cemeteries are consolidated in an Office of National Parks, Buildings, and Reservations in the Department of the Interior, at the head of which shall be a director of national parks, buildings, and reservations; except that where deemed desirable there may be excluded from this provision any public building or reservation which is chiefly employed as a facility in the work of a particular agency. This transfer and consolidation of functions shall include, among others, those of the National Park Service of the Department of the Interior and the National Cemeteries and Parks of the War Department which are located within the continental limits of the United States. National cemeteries located in foreign countries shall be transferred to the Department of State, and those located in insular possessions under the jurisdiction of the War Department shall be administered by the Bureau of Insular Affairs of the War Department.

The functions of the following agencies are transferred to the office of National Parks, Buildings, and Reservations of the Department of the Interior, and the agencies are abolished: Arlington Memorial Bridge Commission, Public Buildings Commission, Public Buildings and Public Parks of the National Capital, National Memorial Commission, and Rock Creek and Potomac Parkway Commission.

Expenditures by the Federal Government for the purposes of the Commission of Fine Arts, the George Rogers Clark Sesquicentennial Commission, and the Rushmore National Commission shall be administered by the Department of the Interior.

SECTION 3.—*Investigations*

All functions now exercised by the Bureau of Prohibition of the Department of Justice with respect to the granting of permits under the national prohibition laws are transferred to the Division of Internal Revenue in the Treasury Department.

All functions now exercised by the Bureau of Prohibition with respect to investigations and all the functions now performed by the Bureau of Investigation of the Department of Justice are transferred to and consolidated in a Division of Investigation in the Department of Justice, at the head of which shall be a Director of Investigation.

All other functions now performed by the Bureau of Prohibition are transferred to such divisions in the Department of Justice as in the judgment of the Attorney General may be desirable.

SECTION 4.—*Disbursement*

The function of disbursement of moneys of the United States exercised by any agency is transferred to the Treasury Department and, together with the Office of Disbursing Clerk of that Department, is consolidated in a Division of Disbursement, at the head of which shall be a Chief Disbursing Officer.

The Division of Disbursement of the Treasury Department is authorized to establish local offices, or to delegate the exercise of its functions locally to officers or employees of other agencies, according as the interests of efficiency and economy may require.

The Division of Disbursement shall disburse moneys only upon the certification of persons by law duly authorized to incur obligations upon behalf of the United States. The function of accountability for improper certification shall be transferred to such persons, and no disbursing officer shall be held accountable therefor.

**SECTION 5.—Claims by or against the United States**

The functions of prosecuting in the courts of the United States claims and demands by, and offenses against, the Government of the United States, and of defending claims and demands against the Government, and of supervising the work of United States attorneys, marshals, and clerks in connection therewith, now exercised by any agency or officer, are transferred to the Department of Justice.

As to any case referred to the Department of Justice for prosecution or defense in the courts, the function of decision whether and in what manner to prosecute, or to defend, or to compromise, or to appeal, or to abandon prosecution or defense, now exercised by any agency or officer, is transferred to the Department of Justice.

For the exercise of such of his functions as are not transferred to the Department of Justice by the foregoing two paragraphs, the Solicitor of the Treasury is transferred from the Department of Justice to the Treasury Department.

Nothing in this section shall be construed to affect the function of any agency or officer with respect to cases at any stage prior to reference to the Department of Justice for prosecution or defense.

**SECTION 6.—Insular courts**

The United States Court for China, the District Court of the United States for the Panama Canal Zone, and the District Court of the Virgin Islands of the United States are transferred to the Department of Justice.

**SECTION 7.—Solicitors**

The Solicitor for the Department of Commerce is transferred from the Department of Justice to the Department of Commerce.

The Solicitor for the Department of Labor is transferred from the Department of Justice to the Department of Labor.

**SECTION 8.—Internal Revenue**

The Bureau of Internal Revenue and of Industrial Alcohol of the Treasury Department are consolidated in a Division of Internal Revenue, at the head of which shall be a Commissioner of Internal Revenue.

**SECTION 9.—Assistant Secretary of Commerce**

The Assistant Secretary of Commerce for Aeronautics shall be an Assistant Secretary of Commerce and shall perform such functions as the Secretary of Commerce may designate.

**SECTION 10.—Official Register**

The function of preparation of the Official Register is transferred from the Bureau of the Census to the Civil Service Commission.

**SECTION 11.—Statistics of cities**

The function of the Bureau of the Census of the Department of Commerce of compiling statistics of cities under 100,000 population is abolished for the period ending June 30, 1935.

**SECTION 12.—Shipping Board**

The functions of the United States Shipping Board, including those over and in respect to the United States Shipping Board Merchant Fleet Corporation, are transferred to the Department of Commerce, and the United States Shipping Board is abolished.

**SECTION 13.—National Screw Thread Commission**

The National Screw Thread Commission is abolished, and its records, property, facilities, equipment, and supplies are transferred to the Department of Commerce.

**SECTION 14.—Immigration and Naturalization**

The Bureau of Immigration and of Naturalization of the Department of Labor are consolidated as an Immigration and Naturalization Service of the Department of Labor, at the head of which shall be a Commissioner of Immigration and Naturalization.

**SECTION 15.—Vocational education**

The functions of the Federal Board for Vocational Education are transferred to the Department of the Interior, and the Board shall act in an advisory capacity without compensation.

**SECTION 16.—Apportionment of appropriations**

The functions of making, waiving, and modifying apportionments of appropriations are transferred to the Director of the Bureau of the Budget.

**SECTION 17.—Coordinating Service**

The Federal Coordinating Service is abolished.

**SECTION 18**

The following functions are abolished in part:  
Cooperative vocational education and rehabilitation, 25 percent thereof.

Payments for agricultural experiment stations, 25 percent thereof.  
Cooperative agricultural extension work, 25 percent thereof.

Endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, 25 percent thereof.

SECTION 19.—*General provisions*

Each agency, all the functions of which are transferred to or consolidated with another agency, is abolished.

The records pertaining to an abolished agency or a function disposed of, disposition of which is not elsewhere herein provided for, shall be transferred to the successor. If there be no successor agency, and such abolished agency be within a department, said records shall be disposed of as the head of such department may direct.

The property, facilities, equipment, and supplies employed in the work of an abolished agency or the exercise of a function disposed of, disposition of which is not elsewhere herein provided for, shall, to the extent required, be transferred to the successor agency. Other such property, facilities, equipment, and supplies shall be transferred to the Procurement Division.

All personnel employed in connection with the work of an abolished agency or function disposed of shall be separated from the service of the United States, except that the head of any successor agency, subject to my approval, may, within a period of 4 months after transfer or consolidation, reappoint any of such personnel required for the work of the successor agency without reexamination or loss of civil-service status.

SECTION 20.—*Appropriations*

Such portions of the unexpended balances of appropriations for any abolished agency or function disposed of shall be transferred to the successor agency as the Director of the Budget shall deem necessary.

Unexpended balances of appropriations for an abolished agency or function disposed of, not so transferred by the Director of the Budget, shall, in accordance with law, be impounded and returned to the Treasury.

SECTION 21.—*Definitions*

As used in this order—

"Agency" means any commission, independent establishment, board, bureau, division, service, or office in the executive branch of the Government.

"Abolished agency" means any agency which is abolished, transferred, or consolidated.

"Successor agency" means any agency to which is transferred some other agency or function, or which results from the consolidation of other agencies or functions.

"Function disposed of" means any function eliminated or transferred.

SECTION 22.—*Effective date*

In accordance with law, this order shall become effective 61 days from its date: *Provided*, That in case it shall appear to the President that the interests of economy require that any transfer, consolidation, or elimination be delayed beyond the date this order becomes effective, he may, in his discretion, fix a later date therefor, and he may for like cause further defer such date from time to time.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, June 10, 1933.

○

**EXECUTIVE ORDER**

**POSTPONEMENT OF CERTAIN PROVISIONS OF EXECUTIVE ORDER NO. 6166,  
OF JUNE 10, 1933.**

WHEREAS it appears that the interests of economy require that the transfers, consolidations, and eliminations provided for under sections 1, 4, and 8 of Executive Order No. 6166, of June 10, 1933, be delayed beyond the effective date of said order;

NOW, THEREFORE, pursuant to the provisions of section 22 of said order, I hereby order that, except as hereinafter provided, the transfers, consolidations, and eliminations contemplated by sections 1 (except the abolition of the Federal Employment Stabilization Board), 4, and 8 of Executive Order No. 6166, of June 10, 1933, together with the operation of all other provisions of the said Order in so far as they relate to any of the said sections, shall be delayed until December 31, 1933; Provided, That any transfer, consolidation, or elimination in whole or in part under any of the said sections (except the abolition of the Federal Employment Stabilization Board) including any other provisions of the said Order in so far as they relate to any of the said sections may be made operative and in force between August 10, 1933, and December 31, 1933, by order of the Secretary of the Treasury, approved by the President.

FRANKLIN D. ROOSEVELT.

The White House,

July 27, 1933.

(6224)

## EXECUTIVE ORDER

POSTPONEMENT OF CERTAIN PROVISIONS OF EXECUTIVE ORDER NO. 6166  
OF JUNE 10, 1933

WHEREAS, it appears that the interests of economy require that certain transfers, consolidations, and eliminations provided for under sections 4 and 8 of Executive Order No. 6166 of June 10, 1933, be further delayed beyond the effective date of said order;

NOW, THEREFORE, pursuant to the provisions of section 22 of said order, I hereby order that, except as hereinafter provided, the transfers, consolidations, and eliminations contemplated by sections 4 and 8 of Executive Order No. 6166 of June 10, 1933, which are not effected prior to December 31, 1933, pursuant to Executive Order No. 6224, dated July 27, 1933, together with the operation of all other provisions of Executive Order No. 6166, of June 10, 1933, insofar as they relate to said sections 4 and 8, shall be further delayed until June 30, 1934; Provided, That any transfer, consolidation, or elimination, in whole or in part, under said sections 4 and 8, including any other provisions of the said order of June 10, 1933, insofar as they relate to sections 4 and 8 thereof, may be made operative and in force between January 1, 1934, and June 30, 1934, by order of the Secretary of the Treasury, approved by the President.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,  
December 28, 1933.

(No. 6540)

Section 4: Disbursement  
" 8: Internal Revenue

EXECUTIVE ORDER CONSOLIDATING THE EXECUTIVE  
AGENCIES ENGAGED IN ENFORCEMENT OF INTERNAL  
REVENUE LAWS

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AN EXECUTIVE ORDER CONSOLIDATING THE EXECUTIVE AGEN-  
CIES WHICH ARE ENGAGED IN THE ENFORCEMENT OF THE  
INTERNAL REVENUE LAWS

MARCH 10, 1934.—Referred to the Committee on Expenditures in the Executive  
Departments and ordered to be printed

*To the Congress of the United States:*

Pursuant to the provisions of section 1 of title III of the act of  
March 20, 1933 (ch. 3, 48 Stat. 8, 16), I am transmitting herewith an  
Executive order consolidating the executive agencies which are en-  
gaged in the enforcement of the internal revenue laws.

The need for such a consolidation at this time springs primarily  
from the repeal of the eighteenth amendment. The tax and enforce-  
ment agencies of the Government should be reorganized in harmony  
with the changes which have occurred in the laws relating to the man-  
ufacture, transportation, and sale of intoxicating liquors. The changes  
made by this order will permit a more efficient administration of the  
internal revenue laws as well as the laws carrying out the protective  
features of the twenty-first amendment.

Because of the obvious desirability of accomplishing the proposed  
changes at the earliest possible moment, I recommend that the order  
be given consideration by Congress with a view to the enactment of a  
Joint Resolution making its provisions immediately effective.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, March 10, 1934.

## EXECUTIVE ORDER

## CONSOLIDATION OF EXECUTIVE AGENCIES ENGAGED IN THE ENFORCEMENT OF THE INTERNAL REVENUE LAWS

Whereas section 16 of the act of March 3, 1933 (ch. 213, 47 Stat. 1489, 1517), provides for reorganizations within the executive branch of the Government; requires the President to investigate and determine what reorganizations are necessary to effectuate the purposes of section 16; and authorizes the President to make such reorganizations by Executive order; and

Whereas I have investigated the organization of the executive and administrative agencies of the Government which are engaged in the enforcement of the internal-revenue laws, and have determined that a consolidation of such agencies is necessary to accomplish the purposes of section 16;

Now, therefore, by virtue of and pursuant to the authority vested in me by the aforesaid section 16 of the act of March 3, 1933, it is hereby ordered as follows:

## TRANSFER OF FUNCTIONS

1 (a) The Bureau of Industrial Alcohol and the Office of Commissioner of Industrial Alcohol are abolished, and the authority, rights, privileges, powers, and duties conferred and imposed by law upon the Commissioner of Industrial Alcohol are transferred to and shall be held, exercised, and performed by the Commissioner of Internal Revenue, and his assistants, agents, and inspectors, under the direction of the Secretary of the Treasury.

(b) The authority, rights, privileges, powers, and duties conferred and imposed upon the Attorney General by the act of May 27, 1930 (ch. 342, 46 Stat. 427), entitled "An act to transfer to the Attorney General certain functions in the administration of the National Prohibition Act, to create a Bureau of Prohibition in the Department of Justice, and for other purposes," so far as they are required to, or may, be exercised and performed under existing law, are transferred to and shall be held, exercised, and performed by the Commissioner of Internal Revenue, and his assistants, agents, and inspectors, under the direction of the Secretary of the Treasury: *Provided*, That the Attorney General shall continue to exercise the power and authority (a) to remit or mitigate forfeitures under the internal-revenue laws and to determine liability for internal-revenue taxes and penalties, in connection with violations of the National Prohibition Act occurring prior to the repeal of the eighteenth amendment, and (b) to institute suits upon any cause of action under the National Prohibition Act or under the internal-revenue laws involving a violation of the National Prohibition Act, arising prior to, and/or not affected by, the repeal of the eighteenth amendment, and to compromise any such cause of action before or after suit is brought: *And provided further*, That the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, shall prescribe all regulations under the provisions of the National Prohibition Act, and all laws amendatory thereof or supplementary thereto, which were not rendered inoperative by the repeal of the eighteenth amendment, relating to

permits, and he shall prescribe the form of all applications, bonds, permits, records, and reports under such acts.

## TRANSFER OF OFFICIAL RECORDS AND PROPERTY

2 (a) The official records and papers on file in, and pertaining to the business of, the Bureau of Industrial Alcohol, together with the supplies, furniture, equipment, and other property of the United States in use in such Bureau, are transferred to the Bureau of Internal Revenue.

(b) The official records and papers on file in the Department of Justice pertaining to the functions transferred by this order to the Commissioner of Internal Revenue, together with the supplies, furniture, equipment, and other property of the United States in use in said Department in connection with the performance of such functions, are transferred to the Bureau of Internal Revenue.

## TRANSFER OF PERSONNEL

3 (a) The officers and employees employed in, or under the jurisdiction of, the Bureau of Industrial Alcohol, are transferred to the Bureau of Internal Revenue, without change in classification or compensation.

(b) The officers and employees employed in, or under the jurisdiction of, the Alcoholic Beverage Unit of the Division of Investigation, Department of Justice, except those employed in, or under the jurisdiction of, the taxes and penalties section of said unit, are transferred to the Bureau of Internal Revenue without change in classification or compensation.

(c) Officers and employees transferred to the Bureau of Internal Revenue hereunder, who do not already possess a competitive classified civil-service status, shall not acquire such status by reason of such transfer, except upon recommendation by the Secretary of the Treasury to the Civil Service Commission, subject to such noncompetitive tests of fitness as the Commission may prescribe; and no officer or employee so transferred may be retained in the Bureau of Internal Revenue without appropriate civil-service status for a period longer than 60 days from the effective date of this order.

## TRANSFER OF APPROPRIATIONS

4. The unexpended balances of appropriations for the Bureau of Industrial Alcohol and the field service thereunder, and the unexpended balances of the appropriations made for salaries and expenses, Bureau of Prohibition, Department of Justice, including the field service thereof, insofar as may be required for the performance of the functions transferred by this order to the Commissioner of Internal Revenue, shall be transferred on the books of the Treasury Department to the appropriation entitled "Collecting the Internal Revenue", which shall thereafter be available in the Bureau of Internal Revenue as a single fund for expenditure for the purposes named in the laws making the separate appropriations for "Salaries and expenses, Bureau of Industrial Alcohol, Treasury Department", "Salaries and expenses, Bureau of Prohibition, Department of Justice", and



March 4, 1935

H.M., Jr. had lunch with the President and upon his return to the office he called in Chief Moran, Colonel Starling and McReynolds. He told them that the President is very anxious and nervous about the protection at the White House. Chief Moran was very resentful of this criticism. He says that the President gets every kind of protection and that Gus Gennerick has been telling the President a lot of things that are making him unnecessarily nervous and that if Gus has any suggestions to make they ought to be made to him and not to the President.

H.M., Jr. gave orders that every secret service man should have a physical examination three times a year, should have target practice regularly once a week, after he qualifies, and if he does not qualify he should be removed; every man should carry a tear gas outfit; machine guns should be put into the White House with operators on duty at all times.

Chief Moran has been in his job for forty years and therefore any new suggestions are just all wrong. H.M., Jr. has been most kind and patient because of his age - but very emphatic about carrying out his orders insofar as protection for the President is concerned.

H.M., Jr. told the President about his orders on "drinking" and he was very much pleased.

TREASURY DEPARTMENT

Washington

RELEASE UPON DELIVERY  
3-2-35.

Press Service  
No. 4-41

A speech to be delivered Monday, March 4, 1935, by the Secretary of the Treasury, Henry Morgenthau, Jr., as part of an Anniversary Day broadcast, arranged by the Columbia Broadcasting System, to review the first two years of President Roosevelt's Administration.

SECRETARY MORGENTHAU: I think I can best use the time that I have on this Anniversary Day broadcast by telling a few facts about the United States Treasury and what it has been doing in the last two years.

I want to say right at the start of my talk that during the first year of the period under review, the Treasury was under the able leadership of the late William H. Woodin, Secretary of the Treasury from March, 1933, to the end of that year. The country owes a great debt to the memory of Mr. Woodin for wise and heroic service during a most difficult period.

The functions and activities of the Department fall under four general heads. Under the first of these are the agencies primarily concerned with bringing into the Treasury the funds with which to meet the expenses of the Government, and with keeping the records of fiscal transactions. These units of the Treasury borrow money by issuing securities, collect the taxes, pay the bills and keep the books.

The second group includes the six units which have police functions. Through their investigating activities they protect your Government and you from tax evasion, from fraud and deceit, and they guard against violations of laws enacted for the protection of the revenues and monies of the Government.

The third group consists of our manufacturing plants. They make our coins, print our paper currency, our bonds, our checks, our postage stamps and tax stamps. They build our public buildings. They purchase supplies for the Government.

The protection of life and health are activities which fall under the fourth heading.

-2-

ANNOUNCER: This is a remarkable array of activities for one Department of the Government, Mr. Secretary, and I think it will be surprising to most people. Would you mind giving us just a glimpse of some of the work these agencies have been doing in the last two years?

SECRETARY MORGENTHAU: I shall be glad to. Suppose we look first into the office of the Treasurer, Mr. W.A. Julian. It is right here in this building. The Treasurer cashes checks which are drawn on the Treasury. I will give you just one instance of the size of his job. In the period of three months during which the Civil Works Administration was spending its original allotment of \$400,000,000, the Treasurer cashed 58,000,000 checks drawn by that agency. To take care of this sudden increase in the work of his office, the Treasurer hired a thousand of the unemployed to run adding machines and help in clearing the checks. The Treasurer, among his other duties, cashes the interest coupons which are clipped from Government bonds on interest dates, and forwarded to the Treasury for redemption.

On another floor is the man who has been called the Nation's biggest book-keeper, Daniel W. Bell, the Commissioner of Accounts and Deposits. On his books are kept approximately 8,000 accounts relating to the receipts, appropriations, and expenditures of all departments and establishments of the Government. By centralizing this information and bringing payroll disbursing into the Treasury, we have achieved greater efficiency and economy, and have made information more promptly available to our citizens. I have demonstrated my belief ~~that we owe a duty to the public to keep them currently informed as to our fiscal~~ activities. We have expanded and clarified the Daily Treasury Statement, which gives the assets and liabilities, the receipts and expenditures of the Government. The Public Debt Statement has been improved both as to form and information.

Once each month we publish a combined statement of the assets and liabilities of the corporations and credit agencies in which the Government has a proprietary interest and for whose obligations it has a contingent liability.

The Public Debt Service, headed by Commissioner William S. Broughton, has had an extraordinary record of activity in the last two years. The public debt today stands at approximately \$28,500,000,000. During the past two years this office has refunded some \$15,000,000,000 of the public debt and has issued over \$7,000,000,000 of Treasury obligations for new money.

ANNOUNCER: What do you regard as the outstanding accomplishment of Government financing during the past two years, Mr. Secretary?

SECRETARY MORGENTHAU: There is no question about that. The outstanding accomplishment of the two year period has been our ability to borrow this great amount of new money, and to refund such a large amount of existing debt and at the same time to reduce the average rate of interest paid on the whole debt. In the two year period the average rate has been brought down by nearly half of one per cent. The saving in interest to the Government by reason of this reduction is \$120,000,000 a year. The reason that the price of Government bonds has been steadily going up is because the American people have a feeling of complete confidence in their Government in Washington.

When I came to the Treasury a little over a year ago, we had to pay 2-1/2 per cent to borrow money for thirteen months. In sharp contrast, only the other day we borrowed money for nine months at one-sixth of one per cent. This is one of many proofs that business is better.

Before passing on to the next subject, I want to be sure to draw your attention to the latest of our Treasury securities, the United States Savings bond, which are now on sale at some 14,000 post offices.

Turning to our other source of funds, tax collection, I want to tell you how they have increased, due in part to better business, and in part to the fact that the 73rd Congress stepped up many of the holes in the revenue system. We pursue a fair and impartial attitude toward all tax debtors, but we are determined to collect what is rightfully due the Government. We are also determined to protect the taxpayers against unscrupulous tax lawyers and accountants who feed off the body of the Treasury.

The Bureau of Internal Revenue, under the direction of Commissioner Guy T. Helvering, has made an enviable record. In 1932 it cost \$2.17 to collect \$100 of taxes. In 1934 it cost only \$1.25 to collect \$100 in taxes.

Included in the group of Treasury units which are concerned with fiscal operations is the office of the Comptroller of the Currency, J.F.T. O'Conner. While it is not directly connected with financing the Government, it does form an important line of contact between the Treasury and the private banking system of the country.

In Mr. O'Conner's office was centered the work of licensing banks following the holiday of 1933. Since March, 1933, the Comptroller has been faced with three major problems, the reopening of unlicensed national banks, the distribution of dividends to depositors in national banks closed for liquidation, and the strengthening of the capital structures of all open national banks.

Of the 1,400 national banks remaining unlicensed in March, 1933, it was found possible to reorganize nearly 1,100 under old or new charters. Splendid progress has been made in making available to depositors substantial portions of their deposits tied up in closed and unlicensed banks. Through cooperation with the Reconstruction Finance Corporation, the Federal Government has added more than \$400,000,000 to the capital funds of our national banks in the form of preferred stock, placing those institutions in better position to take care of the credit

needs of their communities and lend to deserving borrowers.

In addition to these extraordinary duties, the Comptroller has carried on his regular functions of examining the national banks, and enforcing the national banking laws.

ANNOUNCER: Will you tell us something about the police activities of the Department, Mr. Secretary?

SECRETARY MORGENTHAU: There are six Treasury units whose job it is to protect the revenues and monies of the Government.

They are the Secret Service, headed by Chief W.H. Moran,\*the Customs Service, under Commissioner James H. Moyle, the Coast Guard, commanded by Admiral H.G. Hamlet,\*the Narcotics Bureau under Commissioner H.J. Anslinger, the Alcohol Tax Unit, supervised by Deputy Commissioner Arthur J. Mellett,\*and the Intelligence Unit of the Bureau of Internal Revenue, headed by Elmer L. Irey.

These agencies wage unceasing warfare by land and sea and air against criminals who conspire to cheat Uncle Sam--and who, when they succeed in cheating Uncle Sam, cheat you and me as well. Our men combat a particularly vicious and heartless breed of public enemies--tax evaders, counterfeiters, smugglers, boot-loggers, racketeers, gamblers and dope peddlers. Besides defrauding the Government, these criminals sell poisonous liquor, pass bogus money, prey on the poor and profit by the weakness of their fellow man. You have every right to be proud of the courage and loyalty your Treasury agents display in fighting these criminals.

ANNOUNCER: What are some of the famous cases which they have developed or solved, Mr. Secretary?

SECRETARY MORGENTHAU: I cannot, of course, go into details for obvious reasons. To publicize their accomplishments would be to warn present and potential evildoers. But I can speak of cases which have been "closed". It was our Internal Revenue agents who sent Al Capone to the penitentiary, and jailed pretenders to

his crown in other cities. When I came to the Treasury there were five famous gangsters on the Intelligence Unit's list of "men to get". One by one they have been eliminated—John Lazia, the Al Capone of Kansas City, Leon Gleckman, leading racketeer of St. Paul, Waxey Gordon, of New York, leading beer baron of the East, Murray Humphreys of Chicago, successor to Capone, and Dutch Schultz of New York, notorious liquor runner charged with many crimes.

The Coast Guard and Customs Service have smashed numerous rings which tried to evade our laws. With their aid the Narcotics Bureau has curtailed quantity smuggling of forbidden drugs and narcotics. The Alcohol Tax Unit has carried on a continuous campaign against bootleggers and illicit distillers, and the records show that it is getting results. And this in spite of the fact that when the whole task of collecting liquor taxes and suppressing tax evaders was given to the Treasury following repeal, we inherited along with it a tradition of fourteen years of public disregard for law. Naturally it has taken time to break down public prejudice against enforcement activities too often tainted by corruption and graft and to gain respect for and support of honest and straightforward efforts to compel those who manufacture and sell liquor to pay taxes. A whole generation had grown up with the idea that there is nothing unpatriotic about disrespect for liquor laws. We honestly believe that we have made some progress in overcoming this prejudice on the part of the people. The handicap of half-hearted attempts at enforcement during Prohibition is being slowly overcome.

During the dark days of Prohibition, there was no evidence of an honest effort at enforcement. It is now a question of suppressing the tax-evader for the benefit of the Government and in protection of the law-abiding maker and dealer. With the cooperation of the public, we can and will succeed.

I have spoken of our manufacturing plants. One of these is the Bureau of Engraving and Printing, directed by Mr. A.W. Hall. The Bureau prints our currency,

our stamps and our bonds. They are now engaged in printing the United States Savings Bonds.

Another is the Bureau of the Mint, under the direction of Mrs. Nellie Taylor Hess. It mints our coins. The demand for coins during the last two years has been heavier than at any time in our history. It has recently completed the Herculean task of moving two and a half billion of gold from the San Francisco mint to the mint at Denver, the largest body of the yellow metal ever to have been moved so great a distance.

The duties of the Procurement Division, under Admiral C.J. Peoples, bring it within this third group of Treasury activities. It supervises the construction of our public buildings.

ANNOUNCER: One more question, Mr. Secretary. You spoke of the protection of life and health as a Treasury activity. To what did you refer?

SECRETARY MORGENTHAU: The Public Health Service, under Surgeon General H.S. Cumming, safeguards us from the spread of disease and epidemic. It engages in constant research and experiment, and in the past two years had made vast contributions to our store of medical knowledge. Whether it be an epidemic of dysentery in Chicago, sleeping sickness in St. Louis, infantile paralysis in California, or Rocky Mountain fever in some Eastern section, the Treasury doctors are on the job.

The Coast Guard, too, has a splendid record for saving and protecting lives. This agency, sometimes called the Red Cross of the Sea has rescued some 12,000 persons from positions of peril at sea during the last two years, and has assisted in saving property worth millions of dollars.

\* May, 1937; Present Head: - Secret Service - Frank J. Wilson; Coast Guard - Admiral R. R. Waesche; Alcohol Tax Unit, Deputy Commissioner - Stewart Berkshire.

TREASURY DEPARTMENT  
Washington

FOR RELEASE, MORNING NEWSPAPERS,  
MONDAY, MARCH 4, 1935.  
3/2/35

Press Service  
No. 4-35

Secretary of the Treasury Morgenthau today announced an offering of 20-25 year 2-7/8 percent Treasury bonds of 1955-60 in exchange for Fourth Liberty Loan 4-1/4 percent bonds of 1933-38 called for redemption on April 15, 1935 (Third-called Fourth 4-1/4's); and 5 year 1-5/8 percent Treasury notes of Series A-1940 in exchange for Treasury notes of Series C-1935, maturing March 15, 1935. The two offerings are entirely on an exchange basis, and the issues of bonds and notes will be limited to the amount of Third-called Fourth 4-1/4's and Treasury notes of Series C-1935, respectively, tendered in payment and accepted. Cash subscriptions will not be received. About \$1,850,000,000 of the Fourth Liberty Loan bonds are included in the third call for redemption on April 15, 1935, and about \$528,000,000 of the Treasury notes of Series C-1935 mature on March 15, 1935.

The Treasury bonds, now offered in exchange for Third-called Fourth 4-1/4's, will be dated March 15, 1935 and will bear interest from that date at the rate of 2-7/8 percent per annum payable semiannually. They will mature March 15, 1960, but may be redeemed at the option of the United States on and after March 15, 1955.

The Treasury notes of Series A-1940, now offered in exchange for Treasury notes of Series C-1935 maturing March 15, 1935, will be dated March 15, 1935, and will bear interest from that date at the rate of 1-5/8 percent per annum, payable semiannually. They will mature March 15, 1940 and will not be subject to call for redemption prior to that date.

As more specifically set forth in the official circulars issued today, the Treasury bonds will be exempt, both as to principal and interest, from all taxation, except estate or inheritance taxes, surtaxes, excess-profits and war-profits taxes; the interest on bonds (issued under the Second Liberty Bond Act) up to \$5,000 total principal amount under one ownership will be exempt from all taxation; and the Treasury notes will be exempt, both as to principal and interest, from all taxation except estate or inheritance taxes.

The Treasury bonds will be issued in two forms, bearer bonds with interest coupons attached, and bonds registered both as to principal and interest; both forms will be issued in the denominations of \$50, \$100, \$500, \$1,000, \$5,000, \$10,000 and \$100,000. The Treasury notes will be issued only in bearer form with coupons attached, and in the denominations of \$100, \$500, \$1,000, \$5,000, \$10,000 and \$100,000.

Applications will be received at the Federal reserve banks and branches at the Treasury Department, Washington. Banking institutions generally will handle applications for subscribers, but only the Federal reserve banks and the Treasury Department are authorized to act as official agencies.

Applications for Treasury bonds of 1955-60 should be accompanied by a like face amount of Third-called Fourth 4-1/4's tendered in payment, and applications for Treasury notes of Series A-1940 should be accompanied by a like face amount of Treasury notes of Series C-1935 maturing March 15, 1935 tendered in payment. Subject to the reservations set forth in the official circulars, all exchange subscriptions for Treasury bonds in payment of which Third-called Fourth 4-1/4's are tendered, and all subscriptions for Treasury notes of Series A-1940 in payment of which Treasury notes of Series C-1935 are tendered, will be allotted in full.

Interest on Third-called Fourth 4-1/4's tendered in payment for 2-7/8 percent Treasury bonds of 1955-60 will be paid up to March 15, 1935. In the case of coupon bonds, which must be surrendered with coupons dated April 15, 1935, and all subsequent coupons attached, this accrued interest to March 15, 1935, will be paid to the subscriber. In the case of registered bonds a different procedure is necessary. Because of the large number of registered bonds it would not be feasible for the registered accounts to be adjusted to take account of exchanges in time to assure different payment of interest on April 15 with respect to registered bonds which have been exchanged. Accordingly, to all holders of record on March 15, 1935, of registered Fourth 4-1/4's checks will be mailed for interest on their registered bonds covering the full six months period from October 15, 1934 to April 15, 1935. It will therefore be necessary for holders to accompany the tender of their registered bonds for exchange with payment of an amount equal to the interest on their bonds from March 15 to April 15, 1935.

The present offering of 2-7/8 percent Treasury bonds of 1955-60 affords the holders of the Third-called Fourth 4-1/4's an opportunity to exchange their bonds for other long term bonds of the United States. The holders of the third called bonds who wish to take advantage of the present exchange offering should act promptly. No further exchange offering will be made to holders of these called bonds, and if such bonds are not exchanged under the present offering, they should be presented for redemption on April 15, 1935.

The texts of the official circulars follow:

2-7/8 PERCENT TREASURY BONDS OF 1955-60

Treasury Department Circular No. 531  
Public Debt Service

March 4, 1935.

The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, approved September 24, 1917, as amended, for refunding purposes, invites subscriptions from the people of the United States, for two and seven-eighths per cent bonds of the United States, designated Treasury bonds of 1955-60, in payment of which only Fourth Liberty Loan 4-1/4 per cent bonds of 1933-38 included in the third call for redemption on April 15, 1935 (hereinafter referred to as Third-called Fourth 4-1/4's) may be tendered. <sup>1</sup> Treasury bonds of 1955-60 will be issued at par and accrued interest, if any, and Third-called Fourth 4-1/4's will be received in payment at par, with an adjustment of accrued interest as of March 15, 1935, on the Third-called Fourth 4-1/4's so received. The amount of the offering will be limited to the amount of Third-called Fourth 4-1/4's tendered and accepted. Fourth Liberty Loan bonds not included in the third call for redemption on April 15, 1935, will not be accepted for exchange under this circular. <sup>2</sup>

<sup>1</sup> Pursuant to the third call for partial redemption (see Department Circular No. 525, dated October 12, 1934) all outstanding Fourth Liberty Loan 4-1/4 per cent bonds of 1933-38 bearing serial numbers ending in 5, 6, or 7 (in the case of permanent coupon bonds preceded by the distinguishing letter E, F, or G, respectively) have been called for redemption on April 15, 1935, on which date interest on such bonds will cease.

<sup>2</sup> First-called Fourth 4-1/4's (which ceased to bear interest on April 15, 1934) bear serial numbers ending in 9, 0, or 1 (in the case of permanent coupon bonds preceded by the distinguishing letter J, K, or A, respectively), Second-called Fourth 4-1/4's (which ceased to bear interest on October 15, 1934) bear serial numbers ending in 2 or 8 (in the case of permanent coupon bonds preceded by the distinguishing letter B or H, respectively), and uncalled Fourth 4-1/4's bear serial numbers ending in 3 or 4 (in the case of permanent coupon bonds preceded by the distinguishing letter C or D, respectively).

Description of Bonds

The bonds will be dated March 15, 1935, and will bear interest from that date at the rate of two and seven-eighths per cent per annum, payable semiannually, on September 15, 1935, and thereafter on March 15 and September 15 in each year until the principal amount becomes payable. They will mature March 15, 1960, but may be redeemed at the option of the United States on and after March 15, 1955, in whole or in part, at par and accrued interest, on any interest day or days, on four months' notice of redemption given in such manner as the Secretary of the Treasury shall prescribe. In case of partial redemption the bonds to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. From the date of redemption designated in any such notice, interest on the bonds called for redemption shall cease.

The 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.

The bonds will be acceptable to secure deposits of public moneys, and will bear the circulation privilege only to the extent provided in the act approved July 22, 1932, as amended. They will not be entitled to any privilege of conversion.

Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of \$50, \$100, \$500, \$1,000, \$5,000, \$10,000 and \$100,000. Provision will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds under rules and regulations prescribed by the Secretary of the Treasury.

The bonds will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States bonds.

#### Application and Allotment

Applications will be received at the Federal reserve banks and branches and at the Treasury Department, Washington. Banking institutions generally will handle applications for subscribers, but only the Federal reserve banks and the Treasury Department are authorized to act as official agencies. The Secretary of the Treasury reserves the right to close the books as to any or all subscriptions or classes of subscriptions at any time without notice.

The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of bonds applied for, to make allotments in full upon applications for smaller amounts and to make reduced allotments upon, or to reject, applications for larger amounts, to make classified allotments or to make allotments upon a graduated scale, or to adopt any or all of said methods or such other methods of allotment and classification of allotments as shall be deemed by him to be in the public interest; and his action in any or all of these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

#### Terms of Payment

Payment at par and accrued interest, if any, for bonds allotted hereunder

must be made or completed on or before March 15, 1935, or on later allotment, and may be made only in Third-called Fourth 4-1/4's, which will be accepted at par with an adjustment of accrued interest thereon as of March 15, 1935, and should accompany the subscription. If any subscription is rejected, in whole or in part, the Third-called Fourth 4-1/4's tendered therewith and not accepted will be returned to the subscriber.

Coupon bonds.- Third-called Fourth 4-1/4's in coupon form tendered in payment should have coupons dated April 15, 1935, as well as all subsequent coupons attached, and accrued interest from October 15, 1934, to March 15, 1935,<sup>3</sup> will be paid to the subscribers.

Registered bonds.- As checks for interest covering the full six months period from October 15, 1934, to April 15, 1935, will be issued on April 15, 1935, to holders of record on March 15, 1935, of Third-called Fourth 4-1/4's in registered form, tenders of such registered bonds hereunder must be accompanied by payment of an amount equal to the interest to accrue thereon from March 15 to April 15, 1935.<sup>4</sup>

Surrender of Third-Called Fourth 4-1/4's on Exchange

Coupon bonds.- Third-called Fourth 4-1/4's in coupon form tendered in exchange for Treasury bonds offered hereunder, should be presented and surrendered to a Federal reserve bank or to the Treasurer of the United States, and should accompany the application. Coupons dated April 15, 1935, and all coupons bearing dates subsequent to April 15, 1935, should be attached to such coupon bonds when surrendered, and if any such coupons are missing, the application must be accompanied by cash payment equal to the face amount of the missing coupons.<sup>5</sup> The bonds must be

<sup>3</sup> Accrued interest at 4-1/4 per cent from October 15, 1934, to March 15, 1935, on \$1,000 Third-called Fourth 4-1/4's (151 days) is \$17,830.945.

<sup>4</sup> Interest from March 15 to April 15, 1935, on \$1,000 Third-called Fourth 4-1/4's (31 days) is \$3.6195055.

<sup>5</sup> The final coupon attached to temporary coupon bonds became due on October 15, 1920. The holders of any such temporary bonds which are included in the third call for partial redemption on April 15, 1935, will receive the past due interest from October 15, 1920, if such bonds are tendered for exchange under this circular.

delivered at the expense and risk of the holder. Facilities for transportation of bonds by registered mail insured may be arranged between incorporated banks and trust companies and the Federal reserve banks, and holders may take advantage of such arrangements when available, utilizing such incorporated banks and trust companies as their agents. Incorporated banks and trust companies are not agents of the United States under this circular.

Registered bonds.- Third-called Fourth 4-1/4's in registered form tendered in exchange for Treasury bonds offered hereunder should be assigned by the registered payee or assigns thereof in accordance with the general regulations of the Treasury Department governing assignments for transfer or exchange in one of the forms hereafter set forth, and thereafter should be presented and surrendered with the application to a Federal reserve bank or to the Treasury Department, Division of Loans and Currency, Washington. The bonds must be delivered at the expense and risk of the holder. If Treasury bonds are desired registered in the same name as the Third-called Fourth 4-1/4's surrendered, the assignment should be to "The Secretary of the Treasury for exchange for Treasury bonds of 1955-60"; if Treasury bonds are desired registered in another name, the assignment should be to "The Secretary of the Treasury for exchange for Treasury bonds of 1955-60 in the name of \_\_\_\_\_"; if Treasury bonds in coupon form are desired, the assignment should be to "The Secretary of the Treasury for exchange for Treasury bonds of 1955-60 in coupon form to be delivered to \_\_\_\_\_".

General Provisions

As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal reserve banks of the respective districts, to issue allotment notices, to receive payment

for bonds allotted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering which will be communicated promptly to the Federal reserve banks.

HENRY MORGENTHAU, JR.,  
Secretary of the Treasury.

1-5/8 PERCENT TREASURY NOTES OF SERIES A-1940

Treasury Department Circular No. 532  
Public Debt Service

March 4, 1935.

The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, approved September 24, 1917, as amended, invites subscriptions, at par, from the people of the United States, for one and five-eighths percent notes of the United States, designated Treasury notes of Series A-1940, in payment of which only Treasury notes of Series C-1935, maturing March 15, 1935, may be tendered. The amount of the offering will be limited to the amount of Treasury notes of Series C-1935 tendered and accepted.

Description of Notes

The notes will be dated March 15, 1935, and will bear interest from that date at the rate of one and five-eighths percent per annum, payable semi-annually, on September 15, 1935, and thereafter on March 15 and September 15 in each year. They will mature March 15, 1940, and will not be subject to call for redemption prior to maturity.

The notes shall be exempt, both as to principal and interest, from all taxation (except estate or inheritance taxes) 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.

The notes will be accepted at par during such time and under such rules and regulations as shall be prescribed or approved by the Secretary of the Treasury in payment of income and profits taxes payable at the maturity of the notes.

The notes will be acceptable to secure deposits of public moneys, but will not bear the circulation privilege.

Bearer notes with interest coupons attached will be issued in denominations of \$100, \$500, \$1,000, \$5,000, \$10,000 and \$100,000. The notes will not be issued in registered form.

#### Application and Allotment

Applications will be received at the Federal reserve banks and branches and at the Treasury Department, Washington. Banking institutions generally will handle applications for subscribers, but only the Federal reserve banks and the Treasury Department are authorized to act as official agencies. The Secretary of the Treasury reserves the right to close the books as to any or all subscriptions or classes of subscriptions at any time without notice.

The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of notes applied for, to make allotments in full upon applications for smaller amounts and to make reduced allotments upon, or to reject, applications for larger amounts, to make classified allotments or to make allotments upon a graduated scale, or to adopt any or all of said methods or such other methods of allotment and classification of allotments as shall be deemed by him to be in the public interest; and his action in any or all of these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

#### Payment

Payment at par for notes allotted hereunder must be made or completed on or before March 15, 1935, or on later allotment, and may be made only in 2-1/2 percent Treasury notes of Series C-1935, maturing March 15, 1935, which will be accepted at par and should accompany the subscription.

General Provisions

As fiscal agents of the United States, Federal reserve banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal reserve banks of the respective districts, to issue allotment notices, to receive payment for notes allotted, to make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal reserve banks.

HENRY MORGENTHAU, JR.,  
Secretary of the Treasury.

TREASURY DEPARTMENT

Washington

FOR IMMEDIATE RELEASE,  
Monday, March 4, 1935.

Press Service  
No. 4-42

More than \$6,000,000 worth of United States Savings Bonds were sold in the first day and a half of their sale, according to preliminary reports which reached the Post Office Department today. Actual sales reported by 4,000 post offices amounted to \$5,520,000, but the 10,000 post offices still to be heard from are expected to bring the total above \$6,000,000. As this figure represents the purchase price, it means that the maturity value of the bonds sold amounts to about \$8,000,000.

Sales would have been larger, according to Post Office officials, if the supply of bonds had not been exhausted in many places early on Friday, the first day of the offering to the public. Many purchasers showed a preference for denominations which were not in stock or were soon sold, the \$25 and \$1000 units apparently proving the most popular. In response to specific requests for additional supplies, the Post Office Department has shipped \$10,500,000 worth of bonds in addition to the original consignments.

Contrary to expectations, the larger denominations seemed to be most popular in small towns and cities, and the \$25 bond sold better in the metropolitan centers. Post Office officials believed that the demand for \$500 and \$1000 bonds came from people with accumulated savings, and that the smaller denominations will have a better sale in the long run. Although preliminary reports are not detailed, it is believed that the average amount invested will be about \$200.

The new type of savings bonds attracted all classes of customers, according to postmasters' reports. In many small cities and towns banks and corporations took the maximum of \$10,000 which is the total any individual or corporation may buy in a single calendar year. On the other hand, many women and children bought the \$25

bond, which costs \$18.75, with pennies and other coins poured out on post office counters and windows from bags and banks.

Many people bought bonds for their children and grand-children, as did President Roosevelt when he purchased the first six bonds of the \$25 denomination. Others had the bonds made payable to beneficiaries by writing in the latter's names along with their own. The majority of purchasers preferred to take the bonds with them, and did not avail themselves of the Government's offer to safeguard them.

Fifty leading cities accounted for \$2,895,035.50, or almost half of the total. This figure does not give any true indication of the division of sales as between rural and urban sections, however, because many large cities not included in the list of fifty bought large amounts. In general, reports indicated that the bonds sold better in the West than in the East.

New York City led in sales with a total of \$505,134.75. The New York total includes sales of \$91,697.25 in Brooklyn, which is a separate post office from that in Manhattan. If the New York total is divided as between the two post offices, then Chicago gains first place with a total of \$472,275 and Detroit stands third with \$413,519.

Sales in some of the other large cities were as follows: Cleveland, \$103,822.50; St. Louis, \$103,143.75; Boston, \$97,818.75; Kansas City, \$94,443.75; Cincinnati, \$90,575; Washington, D.C. \$86,288; Minneapolis, \$78,125; Toledo, \$72,243.75; Philadelphia, \$62,781.25; Los Angeles, \$58,968.75; Omaha, \$58,800; Dallas, \$50,800; Denver, \$43,143.75; Baltimore, \$41,684.25; San Francisco, \$41,375; Louisville, \$39,150; Columbus, O., \$37,556.25; Pittsburgh, \$32,068.75; New Orleans, \$28,200; Dayton, \$28,143.75; Indianapolis, \$28,125; Jacksonville, \$28,031.25; Milwaukee, \$26,450; Portland, Ore., \$23,456.25.

## UNITED STATES SENATE

Committee on  
Post Offices and Post Roads

March 6, 1935.

Hon. Henry Morgenthau, Jr.,  
Secretary of the Treasury,  
Washington, D. C.

My dear Mr. Secretary:

Enclosed I hand you a copy of a letter which  
Senator Long read into the Congressional Record today.

Please note the charges with reference to  
your Department. Will you be good enough to furnish the  
Senate Committee on Post Offices and Post Roads, if con-  
venient, by one o'clock tomorrow, Thursday, March 7th, with  
such statement as you may care to make in reply.

Very sincerely yours,

(Signed) Kenneth McKellar  
Chairman.

March 6, 1935.

To the Committee on  
Post Offices and Post Roads,  
Washington, D. C.

Gentlemen:

In response to the letter received from your Chairman, Senator McKellar, asking for information as to names of witnesses and what they would testify relative to James A. Farley, and his connections and transactions handled under and with his authority, I beg leave to submit the following:

Your Committee, I am sure, on reflection will not come to the conclusion that I should expose all witnesses and persons who are prepared to give testimony with regard to Mr. Farley, but who must of necessity be protected if there is to be an investigation.

Further, some of these witnesses have asked that they be called and placed under oath before their names are in any manner disclosed.

Further, surely your committee will understand that to a large extent the verification of the charges which I make and others which could be made, would be shown from public and private records, the production and examination of which would be asked in ordinary course.

However, in order that this committee may know that to some extent I can offer to be specific, I state the following which I expect to produce and prove:

1. Witnesses: Officers of the concerns listed on the building directory at 205 East Forty-Second Street, as occupying office No. 1701 (being the private headquarters of James A. Farley), to show that more than twenty-odd concerns there operating, including six holding companies, have been organized, combined and affiliated for practically the sole purpose of transacting and dealing in matters with which

the United States Government is identified for the purpose of making private profit, a large part of which inures to James A. Farley, in violation of four criminal statutes of the United States insofar as concerns said Farley; said witnesses to prove the said purpose of concerns affiliated with said Farley and occupying space in his office by reason of the same, and that they were in position of financial bankruptcy prior to Farley's ascendancy and since that time have become financially affluent; to prove that Farley interposed his brother-in-law as a poor simulation as the head of concerns, and that any pretense to show the disposition of his interests is a further simulation; to prove that through the various concerns there enumerated as affiliated with James A. Farley, contracts for materials have been listed in advance of the awarding of contracts by the United States Government, and that contracts to low bidders have been refused until the bids could be awarded to firms buying materials from the concerns of the said James A. Farley. In this connection the officers and records of Stewart & Company, of Driscoll and Company and of Severin & Company will be produced. The testimony of Commissioner Robert Moses of New York, and the data which he has assembled will be called for the purpose of proving such sales have been made by firms with which Farley is identified, of the appropriation of funds on the jobs where Farley's firms were furnishers of materials, for the expansion of sub-divisions under the guise of being projects for slum removal; for the paying of excessive prices for property and retaining its frontage so its enhanced value may be enjoyed by interests with which Farley is affiliated, even after the work has been done and the development made. Numerous witnesses I do not here mention will be produced to show, along with public records, that each and every appointment, directly or indirectly had the approval of Farley if the same were connected with the building projects above mentioned.

We further expect to show from said witnesses and the production of their records, papers and accounts, that these concerns and persons have manipulated manifold market transactions, reaping large profits, by taking advantage of information which could only be had by one close to the authority of government and which would have made them aware of sudden falls and rises on exchanges.

2. Witness "A" and if necessary Witness "B", whom we expect to testify that an important official of the Baltimore & Ohio Railroad previously with no connection with

James A. Farley, received a telephone call from the said Farley, informing him that he desired him to support one Clem Shaver for the United States Senate from West Virginia. The records of the Reconstruction Finance Corporation will show that about the time there had been pending, and for causes otherwise unexplained, there had been held up a decision relative to a loan to be made to the Baltimore & Ohio Railroad for approximately fifty million dollars. Witness "A", and if necessary Witness "B", to further testify that party called by said Farley hesitated, hoping the loan would come through, but finally disclosed that action on the same was held in abeyance and that he had no way to dodge the responsibility, but would have to declare for Shaver in accordance with Farley's instructions, and immediately upon so doing, the Reconstruction Finance Corporation loan of \$52,000,000. was announced.

3. While the report of the Secretary of Interior states they have no records showing contractors and sub-contractors in matters wherein the P.W.A. is participating, none the less the "Manual for Engineer Inspectors, Inspection Division P.W.A., July 3, 1934", on pages 25 and 26 requires the pay rolls, unpaid bills, invoices, vouchers, etc., for both materials furnished and persons hired, from contractors, sub-contractors, on plant equipment, rental and maintenance, bond and insurance premiums, and requiring the same to be neatly arranged and forwarded to the Director of the Inspection Division at Washington for final audit. By reason of the neglect of the Secretary of the Interior to locate such source wherefrom information might be had, we expect to call for production of such papers and their examination.

It is commented on in said Manual for Engineer Inspectors, that a break-down report is required whereby everything is segregated to the smallest item and units, and if it is too difficult for same to be examined by the Secretary of the Interior, and he is not so fully aware of the exact concerns and firms with which James A. Farley is identified, as to recognize the connection with firms and items found on said rolls, we propose to examine the same and orderly and regularly ascertain information that may be disclosed on such matters as are not forwarded by Mr. Ickes, and as to which witnesses whom we will not mention, have given us to understand do exist.

That nearly all engineers of influence in charge of and supervising public works or in which the United States Government is in any manner concerned, is engineered through a combination which the said Farley has effected through the firm of Stone & Webster, who are operating the various Farley firms above named and mentioned, have formed a network of supervision of projects to inure to the advantage and control

of said Farley, extending even to the N.R.A. and its functions. Examination of the records of said concerns will bear out said facts. Witnesses whose names cannot be given, will be offered for said purpose.

4. Letters, checks, vouchers and witnesses, including Mr. Edwin P. Knotts and others, to show that Clyde O. Eastus, now United States Attorney in Texas, while in Washington, D. C., in the month of April, 1933, arranged for his appointment as said United States Attorney in consultation with Mr. Farley, wired Edwin P. Knott and otherwise gave to understand that the said Edwin P. Knott's case was being arranged through Mr. Farley, provided said Edwin P. Knotts wired immediately \$1,000. to go to Mr. Farley for politics; that in connection with the said matter, a telegram was sent by said Eastus saying:

"Everything looks good."

And at another time the said Eastus wired, saying:

"Case continued. Must have one thousand dollars I wired you about Saturday. Wire now and I don't mean maybe."

And when the said Knotts sent the money requested, the same was acknowledged in writing by the said James A. Farley. Later the said Eastus was made United States Attorney and assured the said Knotts that matters were going all right, even suggesting that he enter a plea of guilty, which he assured the said Knotts would be a mere formality, but upon securing the said plea, having already turned the money over to Farley, the said Knotts was left to the mercies and sent to jail. The witnesses to swear to these matters came to Washington and interviewed me, and while I did not announce their names, but gave certain facts about it on the floor of the Senate, when they had returned to their homes they were immediately set upon by Post Office Inspectors sent there through the effort of James A. Farley, giving them a scare, their records and papers were called for, and all such manner of things done as to prevent the disclosure of the facts and to put said Farley in position to suppress development of the truth. These witnesses inform me they are standing firm, regardless of such efforts, but this should be a fair reason why this committee should not require too many disclosures before investigation starts.

5. Witnesses Richard M. Atkinson, former Attorney General in the State of Tennessee; Wayne Williams, former United States Attorney in the State of Tennessee; and A. V. McLane and many others, including four former members of a United States grand jury in the State of Tennessee, who will testify that in the affairs of the American National Bank in Nashville, Tennessee, one Paul N. Davis and his brother,

Norman Davis, organized many groups for floating and financing matters and concerns, including one called the American National Company; that through multifarious violations of the law, stockholders of the bank were caused to lose large sums of money; that the said multifarious concerns organized and floated through the said banks blew up in smoke with a terrible loss to everybody except the Davis brothers and their inside associates; that hundreds of forgeries, erasures, false statements, publications and representations were made by the said Davises and their associates; some of the same were published and some were sent to Government agencies, and that as a result thereof, prosecutions were being instituted; that the government started on the prosecutions and the Department of Justice in Washington and the United States Attorney in Nashville declared that indictments must be had immediately; that there suddenly stepped into the picture James A. Farley, who immediately began to maneuver the personnel and conduct of the personnel of those connected with the Department of Justice having the matter in hand, both in person and through agents whom he selected, and as a result thereof on the eve of the matter being presented to the United States Grand Jury in Nashville, the United States Attorney was removed and a special man sent at Farley's instance from Washington, D. C., who went before the United States Grand Jury and made a long and vigorous speech as to the harm that it would do to have the individuals guilty of violating the law indicted; that said agent after making said address to the Grand Jury for more than one hour, called several witnesses to be heard, interfered with their testimony and threw the matter out within a day's time. That the said witnesses have in their possession and have exhibited to me, Huey P. Long, photostats and innumerable documents and records and point to the source where others may be had, showing the admitted state of affairs, showing rampant violations of the law, protected in the manner aforesaid.

6. That further to prove the extent of the said Farley's control of the Department of Justice and the purposes to which it is manipulated, that when a gangster was about to be indicted in Kansas City by the United States grand jury, appeal was made to Farley to prevent the same and Farley took the same in hand, upturned the course of justice, caused agents to be sent to Kansas City, so much so that the grand jury was informed that it could not indict the party, whereupon grand jurors went into open court and informed the court of said interference, whereupon the court instructed the jury it could return the indictment, which was done and conviction resulted. That T. J. Pendergast and James A. Farley will be called to substantiate statements heretofore made, admit the foregoing to be true, and further that records of the Department of Justice will be searched, proving said state of

affairs.

7. That witnesses have been hounded, telephones have been tapped, every device and scare cloud used to brow-beat and intimidate witnesses against the production of such facts as are above disclosed, and it should not be the purpose of the committee to now require same. If investigation is ordered, proof will follow in rapid consequence.

Respectfully submitted to you in my humble and official capacity, and for the cause of public good in this country,

Sincerely,

(Signed) Huey P. Long

U. S. SENATOR.

HPL:EJC

Mr. Tolson stated that it was the President's desire to see that the present investigation does not develop into a further investigation of the Government's activities and that, therefore, Mr. Tolson was requested to see that Senator Long's conduct was not such as to warrant investigation so that he had specifically been given this assignment by the President and that Secretary Tolson had asked him to get in touch with me about it. He said that the two matters particularly to be given Senate reference were (1) an explanation of the so-called "stealing letter" of January 19 from the Post Office Department and (2) a statement whether General Builders Supply Company had furnished any material in either of the projects and, if so, full information about this, including a copy of the subcontract. When I said that I did not possess that the Government itself was had a copy, he suggested that one be obtained from Stewart and Company. He stated further that Public Works Administration's contract with General Builders Supply Company, which was being executed by the Building Division, had let a contract to General Builders Supply Company and they were sending this information forward. He said that they had some speculative bids, that the General Builders Supply Company had been one of three low bidders, and that the contract had been given to these three firms, and they had been awarded one-third. I told him that I did not recollect that any such procedure had been followed in connection with any subcontract on the Stewart job because of the fact that Stewart and Company had a contract and it would presumably not be a matter of interest to the Government unless the terms of the subcontract were.

February 28, 1935

MEMORANDUM FOR THE FILES:

On February 25, Mr. Foley, Director of the Legal Division of the Public Works Administration, called me on the telephone and said that he had been asked by the Secretary of the Treasury to take up with me the result of a conference at the White House, held on February 22. He said that he had the records and suggested that I call at his office. I did so about noon and he and a Mr. O'Connell, presumably of the legal division, showed me photostatic copies of the material that was to be forwarded to the Senate in response to the Joint Resolution for investigation of Mr. Farley.

Mr. Foley told me that the conference on the 22nd had been attended by five Senators - Robinson, Bailey, Byrnes, O'Mahoney, and, I think, McKellar - Secretary Morgenthau, Mr. Ickes and Mr. Foley; that Mr. Foley read the ten items in Glavis' letter of August 22, and that the Senators immediately asked the Secretary of the Treasury whether an investigation of these charges had been made; that Secretary Morgenthau replied that he assumed it had been; and that when asked what the investigation had shown, Secretary Morgenthau said that he assumed it had shown that there was no basis for the charges.

Mr. Foley stated that it was the President's desire to prevent the present investigation from developing into a further investigation of the Procurement Division and that, therefore, he, Foley, was requested to see that Senator Robinson was furnished with sufficient information so that he had specifically been given this assignment by the President and that Secretary Morgenthau had asked him to get in touch with me about it. He said that the two matters particularly to be given Senator Robinson were (1) an explanation of the so-called missing letter of January 12 from the Post Office Department; and (2) a statement whether General Builders Supply Company had furnished any material to either of the projects and, if so, full information about this, including a copy of the subcontract. When I said that I did not presume that the Procurement Division had a copy, he suggested that one be obtained from Stewart and Company. He stated further that Public Works Administration's housing project, Hillside Gardens, which was being conducted by the Housing Division, had let a contract to General Builders Supply Company and they were sending this information forward, but that they had taken competitive bids, that the General Builders Supply Company had been one of three low bidders, and that the contract had been split into three parts, and they had been awarded one-third. I told him that I did not assume that any such procedure had been followed in connection with any subcontract on the Stewart job because of the fact that Stewart and Company had a contract and it would presumably not be a matter of interest to the Procurement Division what the terms of its subcontracts were.

Mr. Foley also said that at the meeting Secretary Northenthau had a photostatic copy of the letter of January 12, but that it was a copy showing a written signature of Silliman Evans, the Fourth Assistant Postmaster General, and that therefore it could not have been a copy of the so-called missing letter, because the statement had been made that Evans had torn off his signature from that letter. I stated to him that I did not believe the Secretary could have had such a letter, because I had seen what I thought were all the photostatic copies in the Treasury Department's files and that they showed a copy of a letter which had the bottom torn off.

I pointed out to Mr. Foley that it was not apparent what bearing the subcontract with the General Builders Supply Company could have on whether or not the procedure in connection with the bidding had been proper. He suggested that such an arrangement might have been the "pay-off". I answered that there were any number of other ways by which Stewart and Company could have made payments to General Builders Supply Company and that it seemed to me the question was whether or not the bidding had been handled properly that would be the concern of the Treasury Department, and that the Treasury Department's position on this point was complicated by the letter of December 27, 1934 and the subsequent memoranda, all of which were in the file and all of which would be submitted to the Senate, wherein it was indicated that the Division of Investigations felt that there was still some irregularity that required further investigation. Mr. Foley stated that there was nothing that could be done under the circumstances since the Public Works Administration did not want to hold anything back; and I made it clear to him that the Treasury Department did not want them to hold anything back. I was hoping that he would make some explanation as to why this matter had been reopened by the Division of Investigations after so many months, but he did not volunteer any.

I told Mr. Foley that I understood the Treasury would be given an opportunity to examine the material before it was sent to the Senate and that I had hoped that, as long as photostatic copies were being made an extra set could be prepared for the Treasury Department; that I asked Mr. Glavis for such copies and he said that he would send them if the Secretary of the Interior permitted, but that we had never received them. Mr. Foley said he thought we had received them and, in my presence, called Mr. Burlew and asked whether they could be sent. After the conversation he told me that Mr. Burlew said he had copies for us and Mr. Foley promised that they would be sent over. They were received the next day.

Mr. Foley stated that the Public Works Administration had no question about the propriety of the rejection of the

second set of bids (in which the question was raised as to whether Driscoll, the low bidder, had complied with N. R. A. requirements) and agreed with the position that nothing else could have been done except reject all bids in view of the conflict between the Attorney General and the Comptroller General. He said he knew about the opinion of Mr. Hunt, P. W. A.'s General Counsel, advising this procedure. He indicated, however, that they did question the propriety of rejecting the third set of bids in view of the fact that prior to rejection an application had been made to P. W. A. for additional funds with which to complete the building and such application had been granted. I pointed out to him the statement in Dresser's memorandum that charges were made of influence being brought to bear in favor of Driscoll and he said he knew of that statement. He also referred to Dresser's "dam' fool" comment about the dangerous practice of destroying letters.

In discussing the letter of December 27, 1934, I asked to look at the photostatic copies which Mr. O'Connell had. I found that subsequent to the letter of December 27 there were memoranda of January 8, 1935, January 22, 1935 and February 20, 1935, all bearing on the same question. None of these memoranda were in the file that was shown to us on February 16, 1935 when Mr. McReynolds, Admiral Peoples, Mr. Laws and I called on Mr. Glavis for the purpose of examining the records. Of course neither the memorandum of February 20 nor a further memorandum from Dresser of February 19, 1935 - which is now in the file - should properly have been in the file at that time.

As I was leaving, Mr. Foley said that he had been instructed to await word from Senator Robinson before sending the material to the Senate, but that Secretary Ickes had directed him to send it immediately upon receipt of that word.

(Initialed) CVO

H.M.Jr: How are you?

Bulkley: Fine. I wanted to talk to you and I don't know whether I ought to come down there or - we can save both of us time by trying to do it on the phone.

H.M.Jr: Well try and do it on the phone and save your time.

B: Yes. About Judge Ferneding and the Board of Tax Appeals. I understand that you're interested in getting a prompt and good appointment.

H.M.Jr: Yes.

B: And I thought I'd call you up and see if I can contribute anything in behalf of my candidate or whether you can tell me anything.

H.M.Jr: Well you've given us his name, haven't you?

B: Yes and I sent him down there to see you.

H.M.Jr: Yes. Well now we're getting them all together and I suppose one of these days the President will send for me and we'll go over them but we haven't done that yet. He's been so busy on this Work Relief bill that I haven't had time to talk to him.

B: Well now it already appears in the file that I very highly recommended this gentleman and you have seen him for yourself. About the only thing that I can add, that hasn't been called to your attention, is the fact that Ohio has languished probably more than any other big state in getting appointments.

H.M.Jr: Well have you written a letter on it to the White House?

B: I have written letters to the White House commending Judge Ferneding and that's been joined in by all of our Democratic Congressmen except the Congressmen at large. They have their ideas about not making a recommendation but all the district Democrats recommended this man.

H.M.Jr: Well then there's nothing you can do until the White House makes up its mind.

B: That's right but I just wanted you to have in the back of your mind this fact that Ohio has not

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yet had any Democratic appointment from this administration.

H.M.Jr: Alright sir.

B: We got a Republican Ambassador to Turkey and one or two good Republican appointments and a Republican Member of the Communications Commission but outside of Julian, Treasurer of the United States, we have had nothing at all.

H.M.Jr: I see. Alright Senator I'll keep that in mind.

B: And is there any question that you can ask me that will help any?

H.M.Jr: Not right now because we're studying them all and we're just sitting here waiting. I'll be perfectly honest with you and you know he's been entirely taken up with this Work Relief bill and until that's out of the way I doubt if he'll take anything up.

B: Well now I'm so damn busy I don't know where to stand next and I know you're worse so I'm going to let it go at this without bothering to see you.

H.M.Jr: Well I appreciate your calling me.

B: Thank you very much.

H.M.Jr: Alright sir.

Goodby.

March 6, 1935.  
Wednesday.

H.M.Jr: Good morning.

Doughton: How are you?

H.M.Jr: I'm fine.

D: That's good. Are there any figures here that ought to be assured on the Board of Tax Appeals?

H.M.Jr: Yes there's two vacancies.

D: Have you got men tentatively selected to fill them?

H.M.Jr: No.

D: What?

H.M.Jr: No we have not.

D: Well I'll tell you a man in whom I'm very deeply interested and I believe he possesses the qualifications, but I don't want to recommend anybody unless what I think about him is firmly supported by the most reliable information because I know how important that position is.

H.M.Jr: Yes.

D: Now of course you know well of the great standing and ability of *Will Hutchins* not only as one of the ablest men in Congress but one of the ablest men in tax matters. He's had long experience with tax matters. He's been an attorney here for a long time. He's now in the Department of Justice doing some work with Mr. Stanley. He's one of the brightest minded boys I've ever seen. I suppose he's about 40 or 45 years old.

H.M.Jr: Yes.

I wish you'd check with Mr. Stanley and see what he thinks of his ability and qualification to fill that job. If we can establish his qualification, then I want to make the most insistent appeal that I consistently can for his appointment.

H.M.Jr: Now what - I didn't get his name very well.

D: What's that?

H.M.Jr: I didn't get his name very well.

D: His name is Mills

H.M.Jr: Mills?

D: M i l l s - Mills

H.M.Jr: Yes.

D: ~~M~~ i t c h i n

H.M.Jr: ~~M~~ i t c h i n

D: He's son of the late Claude ~~M~~ i t c h i n you know.

H.M.Jr: Oh yes.

D: Who was Chairman of Ways and Means Committee.

D: Now I want you to check on his qualifications and have a talk with him.

H.M.Jr: Right.

D: And will you talk with Mr. Stanley of the Department of Justice?

H.M.Jr: Yes.

D: He's at work up there now.

H.M.Jr: Right.

D: And if we can thoroughly establish his qualifications, why then I want to insist as strong as I consistently can - I'm very anxious, but unless we can fully establish his qualifications of course I don't want him appointed.

H.M.Jr: Alright sir.

D: But I believe we can.

H.M.Jr: Alright sir.

D: Will you check that with Stanley first?

H.M.Jr: I'll do that.

D: I thank you so much and I want to you about another matter. I think we'll be able to get around your smuggling bill now pretty soon.

H.M.Jr: Oh that's grand.

D: We'll keep it right in mind. We've got to take up this pink slip matter to-day and we're through with the bonus matter and ready to report on that and we're ready to go back to the Economic Recovery just as soon as I finish the question and can catch up.

H.M.Jr: I see.

D: We've got our hands full.

H.M.Jr: Alright.

D: We're not forgetting you.

H.M. Jr: That's good. Thank you.

D: Goodby.

March 8, 1935.  
Wednesda y.

March 7, 1935.

Dear Senator McKellar:

I beg to acknowledge receipt of your letter of March 6th which has reached my desk this morning.

As you suggest, I have read through Senator Long's letter very carefully and I cannot find any charges against the Treasury in it.

If at any time your Committee or Senator Long wish any information in regard to any matters affecting the Treasury I wish to assure you that we will be glad to furnish you promptly any and all information that we have in our records.

Sincerely,

Honorable Kenneth McKellar,  
United States Senate,  
Washington, D. C.

I am informed that, included in the material already forwarded to your committee, is a letter from Mr. Louis Glavis, Director of Investigations of the Public Works Administration, dated August 24, 1933, addressed to the Director of Procurement, in which Mr. Glavis lists ten items which he feels should be brought to the Director's attention as a result of the investigation made by Mr. Glavis' organization. I enclose you with the factual background of these items. I feel that, in view of the shortness of time, I can not do better than to enclose for your information a photostatic copy of a letter written to Mr. Glavis by the Director of Procurement on February 27, 1933. It is my hope that your letter will give you with sufficient particularity all information bearing upon these questions.

While no specific statement to that effect is made in Senator Long's letter, I am prepared to assume from his references to Hovnan & Company and Driscoll & Company that he was referring to the matter of the bidding on the superstructure of the New York Post Office Annex. The history of this incident

March 7, 1935.

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My dear Mr. Chairman:

Pursuant to your verbal request, I hasten to reply further to your letter of March 6, which I received at nine-thirty this morning, to comply with your request that my statement be submitted to you by one o'clock today.

I note on examining Senator Long's letter of March 6, a copy of which you enclose, that no specific reference is made to the Treasury Department or to the Procurement Division. However, it is not my desire to suggest any technical or formal difficulties, and I assume from your letter that you feel if there is the slightest implication of any irregularity reflecting, even by indirection, upon this Department, the matter should be gone into fully and the complete facts be put at the disposal of your committee. With this position I am thoroughly in accord and shall reply to your letter at this time as fully as the urgency of your request permits, upon the understanding, of course, that any further information desired by your committee is entirely at your disposal and that, if there are any questions which remain unanswered as a result of this letter, or any records or files of the Treasury Department or the Procurement Division which your committee desires, your further request will be complied with to the fullest extent that is within my power.

I am informed that, included in the material already forwarded to your committee, is a letter from Mr. Louis Glavis, Director of Investigations of the Public Works Administration, dated August 22, 1934, addressed to the Director of Procurement, in which Mr. Glavis lists ten items which he feels should be brought to the Director's attention as a result of the investigation made by Mr. Glavis' organization.

In order to acquaint you with the factual background on these ten points, I feel that, in view of the shortness of time, I can not do better than to enclose for your information a photostatic copy of a letter written to Mr. Glavis by the Director of Procurement on February 27, 1935. It is my hope that this letter will give you with sufficient particularity all information bearing upon these questions.

While no specific statement to that effect is made in Senator Long's letter, I am prepared to assume from his reference to Stewart & Company and Driscoll & Company that he makes reference to the matter of the bidding on the superstructure of the New York Post Office Annex. The history of this incident

- 2 -

is somewhat complicated, but the following are the principal actions leading to the final result:

On February 28, 1933, bids for this project were opened. The matter was held in abeyance without the acceptance of any bid pending the inauguration of the new administration on March 4th, and thereafter during the consideration of the comprehensive public works program being developed by the present administration. After the passage of the National Industrial Recovery Act it was determined that further Federal buildings would be erected out of funds allotted by the Public Works Administration. Such funds were allotted for this project, but by reason of the additional requirements of the National Industrial Recovery Act it was necessary to change somewhat the terms of contracts for public works. For this reason supplemental bids were requested from the bidders on the original project.

On October 2, 1933 these supplemental bids were opened. Geo. F. Driscoll & Company was found to be the low bidder and James A. Stewart & Company the second low bidder. Stewart & Company protested that the low bidder was disqualified by reason of its failure to comply with the requirements surrounding the President's reemployment agreement. Conflicting decisions of the Attorney General and the Comptroller General resulted in my decision that the only practical course to follow was to reject both bids and to readvertise.

I should state at this point that the basis for bidding on both the original and supplemental bids had been for alternative requirements, including on the one hand a completed building and on the other a building with the fourth and fifth floors incomplete, due to the fact that it had not yet been determined whether the additional space would be necessary to meet immediate requirements. For this reason the readvertising was also made on the basis of these same alternatives.

On December 27, 1933 the bids on the basis of this re-advertisement were opened and it was found that Geo. F. Driscoll & Company was the low bidder for the completed building with the fourth and fifth floors uncompleted.

On account of this development, it became necessary to determine finally which type of building should be selected. While the matter was being considered, open charges of inequity and favoritism were made in connection with both low bidders. It was now evident that a determination of which type of building should be built would automatically result in the conclusion as to which contractor would become the successful bidder. In order to avoid any charges that the administrative officials of

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the Government were in that way guilty of favoritism or bad faith, it was again decided to reject both bids and to re-advertise. However, to avoid a repetition of the incident just described, these bids were called for not on the basis of alternatives, but only for the construction of a completed building.

When, after public advertisement, these bids were opened on February 21, 1934, Stewart & Company was found to be low bidder and for that reason the contract was awarded to it.

Following is a list of these bidders, with the amounts of their bids:

James Stewart & Company	\$4,287,700.
Geo. F. Driscoll Company	4,378,580.
Kenney Bros., Incorporated	4,393,000.
Joseph Meltzer, Incorporated	4,678,000.
Charles T. Wills	4,836,500.

I might, in passing, make two further observations: First, that on both the original bid and the supplemental bid the same bidder was low on both alternatives and it was only when the bids of December 27, 1933 were opened that it was found that different bidders were low on the two alternatives; and second, that the final contracts awarded resulted in a saving to the Government, over the previous lowest bid for comparable work, of over \$100,000.

Finally, I note that Senator Long refers on page 4 of his letter to a charge that engineers supervising public works have formed a network of supervision "to enure to the advantage and control of said Farley". If this charge is intended to refer to the engineers of the Procurement Division of the Treasury Department, I have every confidence that it is without foundation, but I shall be most pleased to have Senator Long submit to me any evidential foundation for such a charge which, so far as I know, is now being made for the first time; and I shall immediately institute a thorough and comprehensive investigation of this allegation, the results of which will be entirely at the disposal of your committee.

Respectfully yours,

Secretary of the Treasury.

Honorable Kenneth McKellar

United States Senate

Hello Mr. Secretary.

Hello Senator.

Couzens talking.

H.M.Jr:

How are you?

C:

Pretty well thank you. Say I haven't seen in the press whether you've made any statements or commitment on the repeal of the so-called pink slip. Have you made any commitment yet.

H.M.Jr:

No. I've spoken to both - Senator Harrison called me and Mr. Doughton and I told both the gentlemen that the Treasury's position was that we were here to carry out the orders of Congress.

C:

Well I understood that they were going to ask you to make some recommendations. Are you?

H.M.Jr:

No I'm not going to.

C:

Well I thank you very much. I'm glad you're not going to get into it.

H.M.Jr:

No. I've very definitely kept out of it, I said we were going right ahead with our preparations and if Congress wished to change it why that was alright but that we were going right ahead and that we absolutely were neutral.

C:

Well I thank you very much. I just wanted to know because I know there's going to be a fight on it and I didn't want to --

H.M.Jr:

No we've taken no position.

C:

Yes.

H.M.Jr:

While I've got you on the phone, how do you like the way the Mellon case is going?

C:

Well say this is the first time in all my 13 years here that I've ever seen a clean cut fight. Now I'm glad you brought that up Mr. Secretary. I wonder if there's anyway I can get a transcript of the testimony?

H.M.Jr:

Oh yes.

C:

I'd like to get a transcript, if you'll make a note of it, because I think its going to be very helpful in our legislative program.

H.M.Jr: Hello - 2 - Mr. Secretary  
 Doughton: Hello Mr. Secretary.  
 H.M.Jr: Oh yes.  
 C: And will you see that I get a copy?  
 H.M.Jr: I'll take care of it at once.  
 C: Thank you Mr. Secretary very much.  
 H.M.Jr: Alright.  
 C: Goodby.  
 H.M.Jr: 10:50 tomorrow.  
 D: 10:50 tomorrow morning.  
 H.M.Jr: On the anti-smuggling.  
 D: What's that?  
 H.M.Jr: 10 -  
 D: On the anti-smuggling you've been rather anxious about that.  
 H.M.Jr: Yes we have. That's fine. We'll be there.  
 D: Alright. I wanted to give you the hearing you want.  
 H.M.Jr: That's fine.  
 D: 10:50 in the Committee Room in the new House Office Building.  
 H.M.Jr: That's right.  
 March 7, 1935.  
 Thursday. Alright. Thank you very much.

March 7, 1935.  
 Thursday.

H.M.Jr: Hello - hello Mr. Doughton.

Doughton: Hello Mr. Secretary.

H.M.Jr: Morgenthau.

D: Yes. Would it suit you to come in the morning at 10:30 to explain your anti-smuggling bill?

H.M.Jr: Sure.

D: Well alright. I've got that arrangement so if you want to come. I got the Committee to agree to it.

H.M.Jr: 10:30 tomorrow.

D: 10:30 tomorrow morning.

H.M.Jr: On the anti-smuggling.

D: What's that?

H.M.Jr: 10 -

D: On the anti-smuggling you've been rather anxious about that.

H.M.Jr: Yes we have. That's fine. We'll be there.

D: Alright. I wanted to give you the hearing you know.

H.M.Jr: That's fine.

D: 10:30 in the Committee Room in the new House Office Building .

H.M.Jr: That's right.

D: Alright. Thank you very much.

March 7, 1935.  
Thursday.

March 7, 1935.  
Thursday.

H.M.Jr: Oppen.

H.M.Jr: Oh yes Oppen.

H.M.Jr: He feels very strongly that we ought to give him more information.

H.M.Jr: He does.

O: Now I'd like to come back. All I wanted to find out was whether you'd be around for the next ten minutes.

H.M.Jr: Oh yes.

O: All right sir I'll be right back.

H.M.Jr: Did you bring your letter back?

O: No I left it with him.

H.M.Jr: But it wasn't satisfactory?

O: That's right.

O: And he suggested that we get another letter down to him immediately. The Committee is going in session and he says he'd like to have it in half hour.

H.M.Jr: All right.

O: I'll come back.

H.M.Jr: Right.

March 7, 1935.  
Thursday.

H.M.Jr: Got your message to Mr. Opper.

McKellar: Yes sir.

H.M.Jr: And I've just - we've just fixed up another letter and he's leaving now.

McK: All right, fine.

H.M.Jr: You'll be in the room?

McK: Yes sir. Tell him to knock on the door and we'll let him in.

H.M.Jr: Now I want you to feel this, that anything here in the Treasury you want, you can have it.

McK: All right. Thank you very much, that's fine. Say you saw where it was indirectly reported to the Treasury?

H.M.Jr: Yes, I didn't know you see I --

McK: I know that.

H.M.Jr: I simply thought there was no direct implication.

McK: Well I can readily understand how you'd feel about it from the language.

H.M.Jr: But anything that your Committee wants - they can have the Treasury.

McK: Oh all right thank you.

H.M.Jr: All right.

Fahey: Henry, John Fahey.

H.M.Jr: Yes.

F: They said you were trying to get me.

H.M.Jr: Yes. I have in my room here Bell and Coolidge.

F: Yes.

H.M.Jr: And McIntyre wants us to get together with you and give the White House a decision on your bill as it was reported out. Do you suppose you could come over?

F: Yes. Well now what about that meeting at 11 o'clock this morning?

Well Bell is here and McIntyre says we've got to get word up on the hill by when? By 11. There are two things in the bill. One is the fact that you can take application for another 60 days and the other that it jumped to 250 million dollars.

F: You mean 2 billion 500 million.

H.M.Jr: Two what?

F: They raised it to 2 billion 500 million more?

H.M.Jr: Well they raised it to a billion and three quarters, isn't that what it is? A billion and three quarters.

F: A billion and three quarters?

H.M.Jr: Yes.

F: They had it at a billion and a half you know.

H.M.Jr: Yes but - and also that you can take application in 60 days for more.

F: Yes. Well --

H.M.Jr: Well you're familiar with what they've done aren't you?

F: Well I'm familiar with their having - no the 60 day thing is a new one. I haven't had anything about that.

H.M.Jr: Well can't you come over and see the men so that we can advise the White House?

F: Oh yes. Well I can tell you right off the bat what to advise the White House about it. The White House ought to tell them no on both of them.

H.M.Jr: No on both of them?

F: Why absolutely.

H.M.Jr: Well would you stick on that?

F: Yes certainly. That's what we told them flat up there.

H.M.Jr: Alright. Well then -

F: But here I'll tell you - I'm not so sure --

H.M.Jr: Just a minute. Coolidge is on the phone with me, see.

F: Yes.

H.M.Jr: He's listening.

F: Yes.

H.M.Jr: Go ahead.

F: I told them flat up there in the Committee you know and I told them privately for Bulkley and Stegall that that figure ought not to go beyond the 1 - 250 which was originally in that.

H.M.Jr: A billion and a quarter?

F: Right. Well then they went ahead. They were - they had some of these projects and wanted to make it two and all kinds of things and they finally compromised and they called - they checked with the President and they made it one and a half but the understanding was that that was the limit to which they were going to go, see? I mean that was what they talked. So I don't take much stock in this 60 day business as dangerous.

H.M.Jr: Oh well its outrageous.

F: Well of course it is very dangerous because it

will bring a flood of applications, don't you know.

H.M.Jr: Well now will you do this. Will you tell this yourself to McIntyre.

F: Oh yes.

H.M.Jr: And then we'll talk to him too. I wish you'd call him right away. They're very much concerned about this over there.

F: Oh well I'll call him right away.

H.M.Jr: I wish you would.

F: Alright. Is the meeting on for 11?

H.M.Jr: Oh yes.

F: What?

H.M.Jr: Yes something - the President asked me to call it.

F: Alright I'll be there at 11.

H.M.Jr: He asked me to call it.

F: Yes. Now say, let me add this.

H.M.Jr: Yes.

F: On this thing I'm not so sure that there is much to be disturbed about this because some of this is horseplay as far as the Committee is concerned, to satisfy some of these people on the floor and they expect that the bill is going to go to conference and that some of this stuff will be knocked out.

H.M.Jr: I know. That's what they always tell us and its never knocked out in conference.

F: Well that's of course I know we know that too.

H.M.Jr: Sure. That's a great trick you know "don't worry we'll take care of it in conference" and it never happens.

F: Well you're quite right about that.

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H.M.Jr: I mean you can't take their word on that. Now I think if we tell them now they'll take care of it on the floor. That's my understanding.

F: Well that - that will --

H.M.Jr: If you'll get hold of Mac - he is very much concerned about this.

F: I'll get Mac right now.

H.M.Jr: O.K.

F: Now say - there's one other thing about this.

H.M.Jr: Yes.

F: Of course that is its just full of dynamite and that's the 3 $\frac{1}{2}$ % business in the Farm Credit bill you know.

H.M.Jr: Yes well that isn't in this.

F: What? No but they'll do it.

H.M.Jr: Yes well we'll talk about that at 11 o'clock.

F: Well alright because I think we ought to bring all the pressure we can to bear to head that thing off.

H.M.Jr: O.K.

F: All along the line. Alright I'll see you at 11 o'clock. I'll get McIntyre on this other right away.

H.M.Jr: Thank you.

F: Alright. Goodby.

H.M.Jr: Goodby.

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Senator Byrd: How are you?

H.M.Jr: I'm alright. Now what we're doing is this, on that resolution of yours.

B: Yes.

H.M.Jr: We've got to get the information and if we have luck we'll have it for you by Monday noon.

B: Fine.

H.M.Jr: But we're absolutely turning everything upsidedown to get it.

B: Fine.

H.M.Jr: The latest will be Tuesday though but we ought to have it by Monday and I just wanted to tell you. We haven't got any of it. We've got to get it all.

B: Well that's fine. You mean you haven't got the balance unexpended. Of course that's what I really want.

H.M.Jr: No. We've set up a chart - Bell has - and I've just signed it this minute although we haven't even yet got the thing presented. It hasn't come down. I mean I haven't officially been notified.

B: Alright. I'm going to make it clear on the floor so that there'll be no criticism of you, you know in any way.

H.M.Jr: But I mean we had none of that information in the shop. I just wanted to let you know that Bell is doing everything he can.

B: That's fine.

H.M.Jr: And if - they'll work all Sunday - and if we have luck we'll have it Monday noon but certainly Tuesday noon.

B: That's fine Henry. I certainly do appreciate it.

H.M.Jr: Alright.

B: I'll make it clear that that newspaper statement given out wasn't correct.

H.M.Jr: Alright.

B: Because I didn't say that.

H.M.Jr: Alright. Thank you.

B: Alright. Thank you Henry.

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The Interdepartmental Loan Committee met in the office of the Secretary of the Treasury at 11:00 A.M. Those present were:

Henry Morgenthau, Jr. Secretary of the Treasury,

Harry Hopkins, Administrator, Federal Emergency Relief Administration.

Jesse H. Jones, Chairman of the Reconstruction Finance Corporation,

Marriner S. Eccles, Governor, Federal Reserve Board,

James A. Moffett, Administrator, Federal Housing Administration,

John H. Fahey, Chairman, Federal Home Loan Bank Board,

Wm. I. Myers, Governor, Farm Credit Administration.

George N. Peek, President, Export-Import Bank,

Colonel Horatio B. Hackett, Division of Housing, P.W.A.

Stanley Reed, General Counsel of the Reconstruction Finance Corporation,

Leo T. Crowley, Chairman, Federal Deposit Insurance Corporation,

Lynn P. Talley, President, Commodity Credit Corporation.

Ward M. Buckles, Director of Finance, Agricultural Adjustment Adm.

Colonel Lawrence Westbrook, General Counsel, Federal Emergency Relief Administration,

T.J. Coolidge, Under Secretary of the Treasury,

Herman Oliphant, General Counsel for the Treasury Department,

D.W. Bell, Acting Director of the Bureau of the Budget.

G.B. Upham, Secretary of the Committee.

Mr. Hopkins read a proposed amendment to the pending Works Relief Bill and asked for discussion and comment. It would permit the RFC, the HOLC and the FGA to loan to state rehabilitation

corporations in connection with work relief.

Mr. Hopkins explained that under the Work Relief Bill, the President, if he wanted to, could say to the RFC or to any other lending agency, that he would give them, say \$500,000,000 for lending purposes. It is desirable that the lending agencies have the power to lend under the Act. No additional funds for any of the agencies are desired.

Mr. Hopkins said he knew the HOLC had some money and perhaps some of the other agencies did also.

The idea, Mr. Hopkins said, was developed a month or so ago. The President has approved it in principle. If it is presented it will be presented as an Administration measure. It would have no chance without Administration support.

Mr. Hopkins mentioned as a specific example a slum clearing project. Instead of using all of the money out of the \$4,000,000,000, he said, a lending agency might lend to the housing authority out of an existing fund. It would, of course, have a good many decisions to make in connection with such a transaction as to interest rates, etc. Thus, he said, the lending agencies would be working jointly with any operating agencies set up under the Work Relief Bill. The whole force of the Government would be behind the project. Maybe there is not much free money but there is some.

The President would like to use the powers of the lending agencies, if possible, to get an emphasis on loans as well as grants. He emphasized that the President could give a part of the \$1,000,000,000 to the RFC for lending purposes.

Mr. Morgenthau asked Mr. Bell how the proposal would fit into

the existing machinery.

Mr. Bell said that it would certainly increase the amount of funds available. As the bill passed the House, the President could give part of the \$4,000,000,000 to the RFC but in the present form of the bill that might not be possible.

Mr. Morgenthau said that as he saw the thing there were two purposes in view, (1) to use existing machinery for disposing of the money, and (2) to make use of any additional money that happens to be on hand.

Mr. Oliphant asked if the primary purpose was to secure a larger total fund or to make the type of funds available move out more quickly.

Mr. Hopkins replied that both are primary purposes.

Mr. Hopkins said that a lending agency might desire to make a loan where \$500,000 was required but the security offered justified a loan of \$400,000 only. In that case, he said, there might be a grant of \$100,000 and a loan of \$400,000.

Mr. Morgenthau asked if an idea being sponsored by Marvin Jones under which a man will be loaned \$5,000 to buy a new farm against a 2% First mortgage would fit into the proposed scheme.

Colonel Westbrook thought that might be taken care of indirectly but Mr. Bell thought not unless the family was on relief.

Mr. Fahey said he saw some possibilities and advantages to the suggestion. He thought the HOLC might have some money left over to use in this manner if thought desirable.

Mr. Coolidge said he thought the idea was entirely appropriate for the RFC but not for the HOLC or the FCA.

Mr. Myers agreed with this position.

Mr. Morgenthau said he had the idea that guaranteed bonds could be sold under the Work Relief Bill, but Mr. Hopkins said not.

Mr. Morgenthau thought originally the President had the idea of selling guaranteed bonds for self liquidating purposes.

Mr. Bell said that had been discussed but couldn't be put on an appropriation bill.

Mr. Morgenthau said that he had hoped for a gradual unscrambling of the emergency financial agencies and a return to direct appropriations. If the proposal under review would put more money to work that would be fine but if <sup>it</sup> merely complicated the financial picture he had his doubts.

Mr. Hopkins said it would put money to work and that of the total sum put in more would be returned to the Government than if the lending agencies remained outside the picture. The President may want Treasury or lending agency approval of all loans.

Mr. Morgenthau referred to some differences of opinion between the FCA and the RFC on cotton and corn loans. Because it didn't seem right to mix relief and farm credit, the RFC had taken the loans over. He said he thought it was alright for the RFC to go along on the proposal but that self-sustaining permanent agencies shouldn't and that they wouldn't be of any help anyway. The reaction would be unfavorable on all farm credit securities.

Mr. Morgenthau approved the idea if confined to the R.F.C.

Mr. Jones agreed and there was no disagreement.

Mr. Coolidge, Mr. Bell, Mr. Talley, Mr. Reed and Mr. Oliphant

were appointed as a sub-committee to redraft the proposal.

Mr. Morgenthau asked Mr. Myers about the amendment to the Farm Credit Bill which would reduce farm credit interest to 3-1/2%.

Mr. Myers said this was equivalent to putting farm credit on the dole. The bill is being held up, he said, waiting for sanity to return.

Marvin Jones is considering an amendment for 2% money to send operators of small farms as a sort of a compromise on the Frazier-Lemke Bill.

Mr. Morgenthau was of the opinion that if the Administration can win on the Works Relief amendments being supported by McCarran, Wheeler, Byrd and others, there need be no compromise on the 3-1/2% farm interest proposal. If the Administration loses on the Works Relief amendments it doesn't matter much what happens anyway.

Mr. Myers said that Marvin Jones was of the opinion that Mr. Morgenthau was friendly to his proposal.

Mr. Morgenthau said that he had told Marvin Jones that the Treasury had no money for the purpose but that he was friendly toward the idea of giving the small farmer a chance. He said that Marvin Jones had told him he was going to advance his proposal anyway and suggest using the gold profit.

Mr. Myers said that he had understood from Marvin Jones that the President had expressed friendly interest and it might be well to do some spade work at the White House.

Referring again to the amendment suggested by Mr. Hopkins, Mr. Bell expressed the view that he thought the whole Works Relief Bill might be complicated seriously if the Administration offered this amendment at this time.

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TREASURY DEPARTMENT

Washington

FOR RELEASE, MORNING NEWSPAPERS,  
Thursday, March 7, 1935.  
3-6-35.

Press Service  
No. 4-46

Secretary of the Treasury Morgenthau announced last night that the subscription books for the current offering of Treasury notes of Series A-1940 will close at the close of business Friday, March 8, 1935. Subscriptions placed in the mail before 12 o'clock midnight, Friday, March 8, will be considered as having been entered before the close of the subscription books. This offering is open only to the holders of Treasury notes of Series C-1935, maturing March 15, 1935.

The subscription books for the Treasury bonds of 1955-60 will remain open until further notice for the exchange of Fourth Liberty Loan bonds called for redemption on April 15, 1935.

Announcement of the amount of subscriptions for the Treasury notes and their division among the several Federal Reserve Districts will be made later.

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# ANTI-SMUGGLING ACT

## HEARINGS BEFORE THE COMMITTEE ON WAYS AND MEANS HOUSE OF REPRESENTATIVES SEVENTY-FOURTH CONGRESS

FIRST SESSION

ON

### H. R. 5496

MARCH 8, 13 AND MAY 1, 2, 1935

(CONSOLIDATION)



UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1935

133176



ANTI-SMUGGLING ACT

FRIDAY, MARCH 8, 1935

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

The committee met at 10:30 a. m., Hon. Robert L. Doughton (chairman) presiding.

The CHAIRMAN. The committee will be in order. The meeting this morning is called for the purpose of conducting hearings on H. R. 5496, a bill introduced by the chairman at the request of the Secretary of the Treasury, on February 7, 1935.

The title of the bill is, "To protect the revenue of the United States and provide measures for the more effective enforcement of the laws respecting the revenue, to prevent smuggling, to authorize customs-enforcement areas, and for other purposes."

We are honored this morning by the presence of the Secretary of the Treasury, Mr. Morgenthau, and other distinguished witnesses. We should be glad to hear the Secretary at this time, if he will make such explanation of the bill as he deems proper.

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

Secretary MORGENTHAU. Mr. Chairman and gentlemen, I have a rather brief statement to make.

Prior to prohibition this country was not troubled much with smuggling. During the 14 years of prohibition the business of smuggling liquor into the United States from all parts of the world developed to very serious and troublesome proportions.

It was generally expected that with the repeal of prohibition liquor-smuggling operations and frauds on our revenue would be materially reduced. How widespread this opinion was may be evidenced by the fact that the appropriation for the Coast Guard, the first line of defense against the rumrunners, was reduced from \$25,772,950 for the fiscal year of 1934 to \$18,046,400 for 1935. This drastic reduction resulted from a belief that repeal would largely relieve the Coast Guard of those portions of its law-enforcement activities which were directed against smuggling. For a time after repeal such proved to be the case, but, commencing with the spring of 1934, liquor smugglers again appeared along our coasts, and their operations have now increased to alarming proportions. Thus, in March 1934, only 2 smuggling vessels were observed off the coast, but by February of this year this number had increased to 22. Thirty-nine foreign vessels are presently known to the Coast Guard

to be regularly engaged in the illicit-liquor traffic. Inasmuch as these vessels are hovering beyond our customs waters, they are not subject to seizure under existing laws, and hence they carry on their smuggling operations almost with impunity.

Alcohol constitutes almost the entire cargo of these vessels. This is due to several things. It is very cheap. It can be produced abroad at costs ranging from 20 to 50 cents a gallon. It is highly concentrated. Two and one-half gallons of whisky can be made from a gallon of alcohol. It enjoys a large price differential due to the customs duties and internal-revenue taxes, which amount to \$13.30 on a gallon of 190° proof.

A summary of the movements of known alcohol smugglers for the last 4 months of 1934 indicates an outward movement from the principal ports of supply to the coast of the United States of over three-quarters of a million gallons of alcohol. At this rate there would be an annual movement of over two and a quarter million gallons. The annual internal-revenue loss on this amount of alcohol, at \$3.80 per gallon, would be almost \$9,000,000; the loss in customs duties, at \$9.50 per gallon, would be over \$21,000,000, making a total loss of over \$30,000,000.

The principal enforcement agencies engaged in the prevention of smuggling are the Coast Guard and the Bureau of Customs. The appropriations for the Coast Guard for 1935 are \$18,346,400; those for the Bureau of Customs (omitting the refund and drawback figures) are \$18,500,000. It is estimated that of these appropriations about 20 percent, or between seven and eight million dollars, is properly chargeable to our efforts to prevent smuggling.

The practical difficulties in checking smuggling can hardly be exaggerated. Our 10,000-mile coastline with the many opportunities it affords for concealment; our comparatively small Coast Guard force of about 10,000 men; the seamanship and daring of the run-runners; and the highly efficient and well-financed smuggling organizations that have grown up since the advent of prohibition, are all prime factors in making the smuggling problem one difficult of solution. Another, and not the least important factor, is the inadequacy of existing antismuggling legislation. The ineffective legislative weapons at present at our disposal for this work have time and time again permitted the escape from punishment of vessels which were violating every principle behind our customs enforcement laws, vessels, in fact, which had never earned an honest dollar in their entire seagoing lives, but had been designed, built, and used exclusively for smuggling into the United States.

To arm and equip the Coast Guard to a point where it could completely wipe out all smuggling by sea would be an expensive business. But it will cost nothing to give them adequate legislation with which to fight smuggling. The proposed legislation which your committee has under consideration is designed to do this. It provides for no appropriation by Congress. Its sole purpose is to give enforcement officers of the Government adequate weapons with which to fight a traffic that yearly is robbing the United States of millions of dollars of revenue.

The Treasury Department has submitted to your committee suggestions for legislation dealing with this problem. These suggestions are the product of several months of work both by the experts in the various bureaus of the Department who have had years of

actual experience in dealing with smuggling and also by Dr. Hessel E. Yntema of the University of Michigan Law School, an expert in those phases of international and maritime laws that are involved. Representatives of the Department and Dr. Yntema are here this morning and will be glad to render your committee any assistance possible.

I cannot urge too strongly upon you the importance of this legislation. In fact, the enactment of this bill is imperative if the Government of the United States is to wipe out smuggling and collect the millions of dollars in revenue lost annually through the successful operations of the liquor smugglers who are now able to carry on their illicit trade near our shores largely because of the inadequacy of present antismuggling laws.

Mr. COOPER. Mr. Chairman, I should like to ask the Secretary this question: I assume, Mr. Secretary, that you would probably prefer that some of the gentlemen with you undertake a brief analysis of the bill itself, in order that we may clearly comprehend the scope of the measure as well as the purposes to be accomplished.

Secretary MORGENTHAU. Not being a lawyer, and this being an altogether legal matter, I would appreciate it if I may be allowed to ask some of the lawyers who have worked on this to outline the bill.

Mr. COOPER. I think that is a very fair position to take, Mr. Chairman. I suggest the Secretary be permitted at this point to present the witness he desires to be heard on that phase of the matter.

The CHAIRMAN. With the understanding that if later any members desire to question the Secretary he will be available for such questioning.

Secretary MORGENTHAU. Of course. May I present Mr. Hester, from the Treasury.

The CHAIRMAN. Mr. Hester, will you come forward, give your official connection, and what experience you have that qualifies you to testify on this bill.

**STATEMENTS OF C. M. HESTER, ATTORNEY, OFFICE OF THE GENERAL COUNSEL; AND DR. H. E. YNTEMA, PROFESSOR OF LAW, UNIVERSITY OF MICHIGAN**

Mr. HESTER. Mr. Chairman and gentlemen, my name is C. M. Hester. I am an attorney in the office of the General Counsel of the Treasury. I would like to call up here, to collaborate with me, Dr. Yntema.

The CHAIRMAN. I am sure there is no objection to that.

Mr. COOPER. I would suggest to Mr. Hester, as I view the situation, that it would be helpful to the committee if you would kindly follow the suggestion incorporated in my question to the Secretary.

Mr. HESTER. I intend to do so.

Mr. COOPER. This is a new matter to many of us. We understand the purposes to be accomplished from the splendid statement of the Secretary. We want to know the methods sought to be employed under this pending bill.

Mr. HILL. Will the gentleman from Tennessee yield?

Mr. COOPER. I yield.

Mr. HILL. Would it not be a good idea for the witness to take the bill up section by section and go through it that way?

Mr. COOPER. I had it in mind for the witness to make a brief statement of the manner in which the subject is treated and then have an explanation of the bill as indicated by Mr. Hill.

The CHAIRMAN. The Chair thinks that would be a proper course to pursue.

Mr. HESTER. As a preface to a discussion of the various sections of the bill, I will state the general purposes of the proposed legislation.

The major purposes of this bill are (1) to extend customs control beyond the 12-mile limit, (2) to provide for more rigid enforcement within the 12-mile limit, and (3) to encourage reciprocal legislation on the part of foreign countries principally by making it an offense for our nationals and vessels to violate the revenue laws of such foreign countries as punish their nationals and vessels for violations of our revenue laws. The proposed legislation is divided into four titles.

Section 1, under title 1, authorizes the President, as may be required to protect the revenue, to declare customs-enforcement areas upon the coastal waters of the United States beyond the present customs waters whenever he finds that such action is justified by the presence of hovering vessels off the coast; that is, smuggling vessels.

Mr. HILL. Just so that I may have a better understanding of this—you are taking the 12-mile limit as the limit within which you can operate without this legislation?

Mr. HESTER. That is right. This section at the same time specifically preserves, as the fundamental principle in the entire act, the rights of foreign vessels under the various liquor treaties; that is, under the hour's sailing distance liquor treaties.

Except by special arrangement with the power concerned, no foreign-treaty vessel can be seized under any provisions of the proposed legislation beyond the treaty limits.

Within such customs-enforcement areas officers of the customs may be directed by the President to enforce any applicable law; that is, the law must already apply. It must be there. Then the President, by the various sections of this proposed legislation, may take action if certain acts are committed outside the 12-mile limit, which acts are made offenses.

Then, if it is discovered that beyond the 12-mile limit we find smuggling vessels hovering with impunity, maybe just a few miles beyond the limit, the President is authorized to declare that particular limit a customs-enforcement area and to direct officers of the customs to seize the vessels, to board them, search them, and if they have violated the law, to bring them into port.

The effect of the customs-enforcement-area provision is not designed to extend any law of the United States but to permit a flexible administrative control of enforcement on the high seas of such laws as already extend beyond customs waters.

This is designed to answer the possible protest of any foreign power that the provisions of the proposed legislation violate any principle of international law.

Mr. HILL. I did not quite get that. Would you mind repeating that?

Mr. HESTER. This is designed to answer the possible protest of any foreign power that the provisions of the proposed legislation violate any principle of international law. A little later on we will discuss that question of law.

Under section 1, extension of customs control into the high seas may be limited by administrative action—that is, by the President—to those areas beyond the 12-mile limit, where smuggling operations are particularly and notoriously troublesome. This will make it unmistakably clear that the proposed legislation complies with the requirement that extraterritorial jurisdiction provisions be reasonably necessary to the protection of the revenue and the national welfare.

Now, just briefly for a moment to stop here, so that the chairman and the members of the committee will see the questions of law presented by this first section. We expect to supply you with authorities which establish the proposition that a nation is authorized to extend its customs control such distance from its shores as may be reasonably necessary to protect its revenue and the general welfare; and, I say, we will supply those authorities to you as we go along.

Section 2 (a) of the bill subjects to a fine of not more than \$5,000, or to imprisonment for not more than 2 years, or to both, any person owning in whole or in part any vessel of the United States or controlling it, directly or indirectly, who permits such vessel to be employed in smuggling merchandise into any foreign country if such foreign country provides any penalty for violation of the revenue laws of the United States. Persons on board assisting in such smuggling activities are subject to the same penalties, and the vessel itself is subject to seizure and forfeiture.

Section 2 (b) makes it an offense to charter a vessel with actual or implied knowledge that the vessel is going to be used for the purposes prohibited by section 2 (a).

This whole section is designed to encourage legislation on the part of foreign countries penalizing their nationals and vessels for violating our revenue laws. It is modeled after a Norwegian law of June 25, 1926.

The necessity for that will be obvious to you when we take a hypothetical case. Outside our 12-mile limit, we will say, are notorious rumrunners, flying foreign flags.

We appeal to the foreign country. They say, "We have no laws which prohibit our vessels from violating your laws."

So the purpose of this section is to initiate reciprocal legislation. That is, we make it an offense to violate the laws of a foreign country by our citizens and our vessels in the hope that they will enact reciprocal legislation.

Mr. McCORMACK. You say, "in the hope." Is this for the purpose of bringing about negotiations with these foreign countries, or what is the purpose?

Mr. HESTER. No; the purpose is to enact this legislation.

Mr. McCORMACK. There is a big difference between hoping and enacting, as you know.

Mr. HESTER. Oh, perhaps I did not make myself clear on that. We ask that this legislation be enacted because we hope that the foreign country will enact similar legislation.

Mr. LEWIS. You mean, this provides the inducement?

Mr. HESTER. That is right.

Mr. REED. May I ask this question? Has there been any assurance given that they will cooperate at all?

Mr. HESTER. May I ask Dr. Yntema to answer that question?

The CHAIRMAN. Will you state for the record who Dr. Yntema is?  
 Mr. HESTER. Dr. Yntema is professor of law in the University of Michigan and an authority on international law, who is assisting us in connection with this bill.

Dr. YNTEMA. My understanding is that the question asked is whether, if this proposed section 2 (a) were enacted, similar legislation would be enacted by other countries.

Mr. REED. The question is whether any assurance has been given, either formal or informal.

Dr. YNTEMA. As far as I know, there has been no formal assurance, of course. It was, however, stated informally that there was a chance; that one of the difficulties that the Government had in dealing with the problem resulted from some of the limitations in its own legislation, and one of the limitations was the fact that there was no provision under which the Government of the United States could take any measures to suppress illicit activities on the part of American citizens, for example, who were engaged in rumrunning into Canada. The suggestion was made that Norway has a statute of this general character and that it would be a good thing to facilitate the negotiations to incorporate this provision.

Mr. REED. Would you mind telling us for the record, unless it is against the public interest, which nation is the most flagrant violator? I do not want to press the question if the information should not be disclosed.

Mr. HESTER. Commander Parker, will you step forward and give the committee that information? May I say to the committee, this is Commander Parker, of the Coast Guard.

The CHAIRMAN. Commander, can you answer the question asked by Representative Reed?

Commander PARKER. The vessels employed in rumrunning and hovering off our coasts are almost exclusively under the British flag.

Mr. HESTER. Does that answer the question?

Mr. REED. Yes.

Mr. HESTER. Section 3 subjects to forfeiture when found at any place where it may be examined by an officer of the customs in the enforcement of any revenue law (1) any vessel, foreign or domestic, built or fitted out for the purpose of being employed to defraud the revenue or to smuggle merchandise into the United States or into such foreign countries as have reciprocal legislation of the type already discussed, or employed within the United States for any such purpose, (2) any vessel of the United States employed at any place for any such purpose.

For the purpose of the section vessels which are de facto owned or controlled by American citizens or corporations are deemed vessels of the United States.

Also for the purposes of this section the fact that a vessel is displaying certain typical indicia of smuggling activities, such as not stopping as required to by customs officers, or hovering suspiciously off the coast of the United States, or failing to display lights, raises the presumption that the vessel is being employed to defraud the revenue of the United States.

This section is patterned after an old statute relating to piratical vessels. It is believed that this statute will prove very useful since the build and dimensions of smuggling craft are, in almost every

instance, a give-away of the nature of their illicit activities. This section will also stimulate reciprocal legislation by other countries.

Section 4 authorizes collectors of customs to revoke or refuse to document (i. e., to register, enroll, license, or number) any vessel when it appears, from its build or otherwise, that the vessel is going to be employed in smuggling. At present this authority does not exist even though the master of a vessel on applying for documentation should announce that he were going to use the vessel as a rumrunner. This section is also reciprocal in that it will serve as a base for requests to other powers to take similar action.

Mr. HILL. Were your remarks directed to American-registered vessels entirely, or did you include within this scope the vessels of foreign registry?

Mr. HESTER. This would be devoted solely to American vessels.

Mr. HILL. Why would that induce reciprocal legislation by foreign governments?

Mr. HESTER. We are revoking the registry of American vessels for violating foreign laws, and they might do likewise.

Mr. HILL. I thought you had reference to their operations within the waters of the United States.

Mr. HESTER. No. It would extend beyond. I am glad you brought that point up. Thank you.

Section 5 permits vessels forfeited for violation of the revenue laws to be destroyed whenever the Secretary of the Treasury is of the opinion that they are likely to be returned to the smuggling traffic if sold.

At present forfeited rumrunners, being practically useless for legitimate commerce, are sold very cheaply at condemnation sales, usually to their former owner or some other rumrunner, and in the majority of cases return shortly to the liquor traffic.

Mr. REED. I am sorry to interrupt, but—

Mr. HESTER. We are very glad to have you interrupt, sir.

Mr. REED. Just to clear up some point in my own mind. As I understand the law, 3 miles is now the limit fixed by international law, is it not?

Mr. HESTER. The 3-mile limit is the limit within which under international law a country exercises exclusive and absolute jurisdiction.

Mr. REED. Exactly. Under the tariff act that I have here, section 581, boarding vessels, enforcement provisions, that is when this so-called "12-mile limit" went into effect.

Mr. HESTER. No; the 12-mile limit went into effect as long ago as 1790.

Mr. COOPER. What was that?

Mr. HESTER. The 12-mile limit with reference to customs administrative control has been in effect since 1790.

Mr. REED. Just one moment. This 12-mile zone—was that created by treaty or by statute?

Mr. HESTER. By statute. After we have finished the bill we hope to be able to supply you with some authorities of the Supreme Court which uphold the right of the United States to extend its customs control not only to the 12-mile limit, which has been on the statute books since 1790, but which also would permit the United States, if necessary to protect its revenue, to extend its limit beyond the 12-mile zone.

Mr. REED. Do you mean to say that the United States, by statute, can control foreign shipping beyond the 3-mile limit; that is, that it can fix any limit that it wants to for these purposes? Do you have authorities for that opinion?

Mr. HESTER. Yes. We have an opinion by Chief Justice Marshall which is to the effect that a nation has the right to extend its customs control such distance from its shores as may be reasonably—there is the test right there—reasonably necessary to protect its revenue, and to enforce its laws.

Mr. REED. Did he go beyond that? Does not the 3-mile limit stand as an international law?

Mr. HESTER. Dr. Yntema will answer you on that.

Dr. YNTEMA. May I just make a few comments? The first is with reference to the 3-mile limit. As you perhaps know, that has been the policy or the doctrine followed by the British Government and by this Government with respect to the extent of the territorial jurisdiction of the Nation. That is the theory of the British Government and of this Government as enunciated, for example, in the recent liquor treaty between this country and the British Government, so that within a 3-mile zone outside of the coast a nation has the same control as it has over the land.

However, it is to be said that it is by no means accepted that that limit might not be larger. There are various countries which claim a wider zone. And in illustration of the difference of opinion that exists, I might cite the fact that in 1930 there was a conference for the codification of international law held at The Hague, and the Second Commission, which dealt with the question of territorial waters, were unable to reach an agreement as to the extent of the marginal zone. They were unable to agree that this distance should be 3 miles for the reason that there were a number of powers—the Scandinavian powers, Italy, Spain, and others—that claimed more than 3 miles as the extent of the territorial waters.

It seems to me, however, that this question is outside of that. The question is whether a nation has for any purposes, outside of the territorial waters in special cases where the exigencies of its own needs demand it, a special right to exercise measures beyond the 3-mile zone, or whatever the distance may be, that is taken for territorial waters. Our own legislation, which goes back to 1790, has been uniformly enacted on the principle that for the protection of the revenue the American Government does have the right to take reasonable measures beyond the territorial waters.

Mr. REED. Do the other nations also recognize the same principle of law with reference to their revenue?

Dr. YNTEMA. You are asking me a question which is a very complicated one to answer, but let me illustrate the situation by reference to the British laws. The British have had on their statute books since 1700 various hovering laws, designed to deal with smuggling, to deal with vessels hovering off the coasts of Great Britain in order to smuggle goods into British territory.

I suppose there are 25 or 40—some number that I cannot state precisely—of those acts that have had a very long history. Those acts were finally consolidated in 1876, about 25 years after smuggling had ceased off the British coasts.

Prior to that time these acts had fixed various distances for various offenses, and the whole story is a very technical and complicated one.

For certain offenses these acts would render a vessel liable to forfeiture if the vessel was found within 2 leagues of the coast, or 6 miles; for other purposes, if the vessel were found within 3 leagues of the coast, or 9 miles; for other purposes if the vessel were found within 4 leagues of the coast, or 12 miles; for still other purposes, if the vessel were found 8 leagues off the coast, and even in some cases a hundred leagues off the coast, the vessel would be liable to forfeiture.

Mr. REED. For instance, have those so-called "regulations" of Great Britain been brought into the courts in connection with any cases?

Dr. YNTEMA. You mean in the British courts?

Mr. REED. Yes. That is, with relation to the ships of other nationals?

Dr. YNTEMA. A large number of foreign vessels have been forfeited in the British courts under the British hovering laws for acts committed beyond the 3-mile zone. Did you also mean international arbitrations?

Mr. REED. Yes, with reference to seizures under these limitations fixed by Great Britain.

Dr. YNTEMA. I made a careful search of that, and I do not think there is any arbitration which directly involved the validity of these regulations. There are some arbitral proceedings which are discussed in connection with this sort of question, the fur seals arbitration, in which the British counsel, Sir Charles Russell, admitted that the hovering act formed an exception to what he claimed was the general rule.

Mr. REED. That is what I want to know. Have there been any cases? This is so very important from the international standpoint. Are the Treasury Department and the State Department working in harmony on the matter of these extensions?

Dr. YNTEMA. I do not think I should answer that question, if you will excuse me.

May I add one comment to my last remarks, Mr. Chairman?

I think it should be understood, in considering this question, that you have three kinds of vessels.

First, there are American vessels. There is no question about the right of the United States to deal with American vessels anywhere upon the high seas.

Second, the treaty vessels; the vessels belonging to the powers with which the United States has entered into a treaty relating to the distance within which such vessels can be boarded and seized.

As you will notice, this legislation adopts throughout the principle—or these proposals which have been put into this bill, as I understand it, adopt throughout the principle that the treaty shall control. So you do not have any question there. In other words, you are talking about the ships of those powers such as Mexico, such as Spanish Honduras, and so forth, with which the United States has not entered into a treaty.

In other words, there are 16 powers with which the United States has entered into treaties settling this question, and they are all the principal maritime powers: Great Britain, France, Germany, Spain, Portugal, the Scandinavian powers, Belgium, and the Netherlands; of course, Canada and Cuba, and so forth.

Third, there are the nontreaty foreign vessels.

Mr. REED. Now, if I may just press the question. As this involves an international situation, I just wanted to know if you are working in harmony with the State Department on this proposed legislation.

Mr. HESTER. We have worked in cooperation with the State Department.

Mr. REED. Are they in accord with your proposal to extend these limits?

Mr. HESTER. They have not yet advised us officially.

Mr. REED. Mr. Chairman, this appears to be a very important piece of legislation. Of course, if we pass this legislation, we want it to be effective. I think we should hear from the State Department and get their views.

The CHAIRMAN. The Chair will be very glad to address a communication to the State Department and ask for an expression of opinion on this bill.

Mr. BACHARACH. If we are to go ahead with this kind of an investigation, I think we should hear from the State Department, and have them make a very definite statement. I do not think this idea of hearing indirectly is the way to proceed.

The CHAIRMAN. The gentleman does not insist upon that at this juncture?

Mr. BACHARACH. No; of course not.

The CHAIRMAN. We will be able to take care of that.

Mr. LEWIS. I would like to ask the doctor a question or two, Mr. Chairman.

Doctor, I am obliged to ask you some elementary questions for my own information.

Dr. YNTEMA. They are usually the most difficult to answer.

Mr. LEWIS. They probably will not be for you. Up to 3 miles, by general agreement among nations, the waters may be regarded as domestic waters, and you would enforce your domestic laws there as you would on the lakes or the rivers, generally speaking?

Dr. YNTEMA. You have to be careful even as to that statement. There is a difference of opinion as to the nature of the control that a nation has over the territorial waters. But in general, I think it can be said, subject to this qualification, if I may make it, that it is generally agreed that even within the 3-mile zone the vessels of other countries have a right of innocent passage. In other words, if a British vessel or a French vessel, in its ordinary course, should pass within 3 miles, it would be a breach of our obligations under international law for the United States to say that it was improper for a merchant vessel in its ordinary innocent voyage to pass within 3 miles. That right of passage is recognized.

Mr. LEWIS. Then we will go to the other boundary. Let us say there are pirates on the ocean. Under international law have we a right to pursue them wherever we find them and apply the laws to them?

Doctor YNTEMA. As I understand it, a pirate is regarded as an offender against the law of nations, and every nation has the right to enforce the law of nations as against a pirate. In other words, if there were a pirate on the high seas, sailing, let us say, the flag of any other country, the vessels of the United States could properly

seize such a vessel, and it could be condemned in the courts of this country. Of course, if the seizure were made, and it was found out that the vessel was not a piratical vessel it would be unfortunate.

Mr. LEWIS. The definition of piracy is to be found in the law of nations, generally speaking.

Doctor YNTEMA. Yes, except that for the purpose of our own law it is defined in our own statutes, as you know. We have specific statutes dealing with pirates.

Mr. LEWIS. I happen to remember from reading that while slavery plagued the world, the British Parliament declared the sea traffic in slaves to be piracy, and applied the law of piracy to such pirates when they were captured.

What is the limit to which a nation—I mean not an irresponsible nation that simply wants to work its will, but a nation having due regard for the rights and feelings of other nations—what is the limit to which a nation can go through domestic legislation in defining offenses and punishing offenders on the high seas without regard to their citizenship?

Dr. YNTEMA. As I understand your question, you mean by extending—

Mr. LEWIS. Could we call smuggling "piracy", as the British called the slave traffic?

Dr. YNTEMA. The answer to your question is that the British did not succeed in doing it that way. As you know, it was a very sore point in the relations between this country and Great Britain over a period of some 50 years, and the problem was not finally solved until the treaty of 1862 between this country and Great Britain, under the terms of which the vessels of this country and the vessels of Great Britain were mutually given the right to visit the vessels of the other nation.

The slave traffic offers a very individual set of questions. As you know, an effort was made to seize the slaves off the coast of Africa. There were American patrols and British patrols off the coast of Africa, and an effort was made there to stop the traffic at its source. The British did succeed in treaties with some other countries at an earlier date in getting this right to search vessels on the high seas off the coast of Africa. But it seems to me that is quite a different question from the one here where you are simply asking, "Does the United States have in international law the right to do what is reasonably necessary to prevent goods from being smuggled into the United States?"

Mr. LEWIS. It has that reasonable right. It must, of course, go as far as it can to protect its revenue.

Dr. YNTEMA. Yes. I think the answer to that question is "yes."

Mr. LEWIS. But, to begin with, you would say that the 3-mile limit qualifies it, and if we are to go beyond 3 miles and arrest offenders and apply our laws, it must be with the consent of the nations of which the offender is a subject or a citizen?

Dr. YNTEMA. Well, that is one way of stating it. It seems to me the consent, though, has been generally given. For example, there are the 4-league provisions or 12-mile provisions; the fact that those statutes give this right to board a foreign vessel bound to a port of the United States within 12 miles shows that from the point of view of international law, there is a general agreement that such a pro-

vision is a reasonable provision. That is, the United States, if it so desires, as Secretary Fish once said when he was Secretary of State, does have some right to control trade with the United States. It certainly has the right within the 3-mile limit, because at least that is the territory of the United States. But it seems generally agreed that it also has the right outside of that territory to that reasonable extent, that is, to take reasonable measures.

Mr. LEWIS. Under the bill before us, with respect to the area beyond 3 miles and up to 12 miles, do you make the penalties positively applicable whether the nation of the offender has agreed or not, or is that to be reciprocal subject-matter.

Dr. YNTEMA. No.

Mr. LEWIS. Under the bill?

Dr. YNTEMA. It is not true under our present unlading provisions.

Mr. LEWIS. Up to 12 miles we apply our domestic will to the offender?

Dr. YNTEMA. That is the principle of our present law.

Mr. LEWIS. Where, then, and in what respect does the reciprocity condition enter? Is it in this regard, that if they find our citizens smuggling into the country, American smugglers, and bring the evidence to us, that we will punish those smugglers in our country?

Is that the reciprocal feature of the bill, or is that the only reciprocal feature of the bill?

Dr. YNTEMA. If I could take just a moment to explain that. There are, I think, four chief provisions which are intended to deal with this question, or to lay the basis for more effective international arrangements with other nations, and in general I may say that these suggestions are the result of suggestions which came informally from the talks which we had with various persons in the State Department.

One of these is a provision giving a more effective control of clearances of all vessels, including foreign vessels.

One of the difficulties in the present situation is that adequate information as to the activities of the rum carriers cannot be had because of difficulties in our own laws, and the other laws as to clearances. Simple administrative regulations governing clearances, which we believe will improve this situation, are contained in section 206.

Another provision is this one in section 4 which has been referred to, namely, giving a discretionary power to the collector of customs upon proper showing, before appeal to the Secretary of Commerce, to revoke the registry of a vessel which is engaged in smuggling, whether into the United States or into another country.

That again gives another method of control which it is to be hoped other nations might follow with respect to their vessels.

Of course, that only applies to American vessels, because no other vessels are registered in this country.

The third provision provides on a reciprocal basis that American vessels which smuggle goods into other countries can be forfeited if that country has an analogous law applying to their vessels.

Mr. LEWIS. That is the reciprocal one. What is the other?

Dr. YNTEMA. The other one is an analogous one but providing for punishment upon American citizens who engage in smuggling into another country.

Mr. McCORMACK. I thought I heard the commander say that most of the trouble is with British ships. Is that right?

Commander PARKER. Yes, sir; practically all of the vessels.

Mr. McCORMACK. I understood the doctor to say that the United States and England have a treaty. If that is so, what is the necessity of this legislation? If they have a treaty agreement with the principal offender, why does not the treaty cover the situation?

Dr. YNTEMA. The treaty does not make any law. All that the treaty does is to say that the British Government will not make any claims in the event—

Mr. McCORMACK. You have not explained what the treaty provides. You said there were three classes of vessels.

Dr. YNTEMA. That is right.

Mr. McCORMACK. One of the group was a treaty vessel. You have treaties with 16 nations.

Dr. YNTEMA. Quite right.

Mr. McCORMACK. The commander said that the principal trouble was with England, and you say we have a treaty with England. I assumed the treaty would cover it.

Dr. YNTEMA. The treaty covers it insofar as the determination of the distance within which action can be taken is concerned.

Mr. McCORMACK. What is the agreement with reference to that, with England?

Dr. YNTEMA. In all these treaties the distance is the same. It is the 1-hour sailing distance of the vessel, or, if there is a contact boat which has a higher speed, the provision is 1 hour's sailing distance of the contact boat. If, for example, the contact boat has a speed of 25 miles an hour there is a gap of 13 miles between the distance within which you are permitted, under the treaty, to board, and search, and seize the vessel, if there is reasonable grounds of suspicion, and the distance within which, under present laws, our officers are authorized to act.

The treaty does not confer any power upon anybody. It simply says that the British Government will not make any objection if certain things happen to British vessels within a certain distance.

Mr. McCORMACK. The treaty does not cover the specific actions. It gives no power. It is a general treaty with reference to the distance within which a vessel may be boarded.

Dr. YNTEMA. It is a limitation, you might say a definition, of the international right.

Mr. COOPER. Will the gentleman yield on that point?

Mr. McCORMACK. Yes.

Mr. COOPER. What would the enactment of the proposed measure do so far as changing the provisions of existing treaties is concerned?

Dr. YNTEMA. In the first place, of course, it would not change the provision of any treaty. It assumes that those treaties are valid until they are changed by a new agreement or by an amendment duly negotiated with the foreign power involved. It does, however, do this: It extends in the case of a foreign vessel the power of the American officer to make a search, for example, within the limit contemplated in the treaty.

Mr. COOPER. It will necessitate the negotiation of other treaties, will it not?

Dr. YNTEMA. I do not see why it should.

Mr. COOPER. What reason do you have to assume that the other countries would have entered into the treaty if those provisions of law had been in effect?

Mr. HILL. Will the gentleman yield to me?

Mr. McCORMACK. I yield to Mr. Hill.

Mr. HILL. If I understand this proposition, the legislation here proposed is the enactment of provisions within the existing treaty; is that correct?

Dr. YNTEMA. As I say, there are three categories; as far as the treaty vessels are concerned, that is true.

Mr. HILL. In other words, the treaty is simply an enabling act, you might say, within which this country and the other country to the treaty can enact legislation for the control of commerce to its own country.

Dr. YNTEMA. That is the assumption of these proposals.

Mr. COOPER. Just one other word, if I may. Is it not true that the last act passed by Congress is a controlling act in relation to treaty negotiations?

Dr. YNTEMA. As I understood the question, it was whether this legislation necessarily involved a change in treaties. My answer was that I did not see why it should. There might be reasons why this Government, for example, or other governments might find it desirable to reconsider their treaties. The 1-hour's sailing distance, for example, is palpably an inadequate distance, and it might be that if proper representations were made as to the situation with respect to particular vessels, the 1-hour's sailing distance might be extended. It seems to me that any provision that was made in the law should contemplate that possibility. I do not know that it is probable, but I say it is a possibility.

Mr. COOPER. With all due respect—it is all probably my fault, but the answer just confuses me further. If you have a treaty with a foreign nation and then pass a law in this country that changes the situation that exists under that treaty, why do you not have to negotiate another treaty with that country to make it effective? How can you escape that very practical conclusion?

Dr. YNTEMA. It seems to me the treaty reference is in its first section—if, for example—

there is reasonable cause for belief that the vessel has committed, or is committing, or attempting to commit an offense against the laws of the United States—

it is true that since the time when this treaty was ratified, which was 1924, there have been one or two laws passed by the Congress of the United States. Therefore, the phrase, "offenses against the laws of the United States", as used in the treaty, probably now has a different content. But it does not follow that because the contents of that phrase have been changed, therefore you have to have a new treaty.

Mr. COOPER. One more question, from a very practical viewpoint, as I see it. It is your opinion that the enactment of this statute would require negotiation of treaties between the countries with which we already have treaties?

Dr. YNTEMA. I should imagine, as I said before, in the enforcement—

Mr. COOPER. I respectfully submit that an answer could be made yes or no, so that we might get something that we can take hold of. That is the difficulty I have. Every answer made confuses me more and more.

Dr. YNTEMA. May I suggest that Mr. Hester will answer that question.

Mr. HESTER. Let me see if I do not interpret your question correctly. You have in mind that the enactment of this proposed legislation would repeal the treaty provisions and make it necessary for our Government to negotiate new treaties.

Mr. COOPER. I just want to know whether in your opinion that result would come about.

Mr. HESTER. No; it cannot, because the proposed legislation expressly excepts treaties.

Secretary MORGENTHAU. Mr. Chairman, if it is agreeable to the committee, may I amplify my statement a little, and then if there are any questions you would like to ask me, I shall be glad to answer them. If not, I shall then ask to be excused.

The CHAIRMAN. We shall be glad to hear you further, Mr. Secretary.

Secretary MORGENTHAU. I would like to amplify the statement that I made in the beginning, if that is agreeable to the committee.

The CHAIRMAN. Anything you wish to submit, Mr. Secretary, we shall be glad to have.

Secretary MORGENTHAU. I do not think I made it quite clear why we wanted this kind of legislation.

The CHAIRMAN. That is a very important point.

Secretary MORGENTHAU. So I want to take a minute or two to explain why we feel we need this kind of legislation.

During the period of prohibition we had this vast amount of smuggling of liquor from the high seas into this country. We were only able to cope with it in a very limited way.

Now we can sell tax-paid liquor; that is, it is lawful to do it. We still find that they are trying to smuggle alcohol into the United States from the high seas.

The attitude that I took when I went after this problem of enforcement, and the suppression of non-tax-paid liquor was this: I said, the fact that something had not been done heretofore or had not been tried did not mean that we could not try it.

For instance, thanks to the last Congress, it was made possible for us to trace the source of the molasses sugar that was being used in the illicit manufacture and sale of whisky, and that was of tremendous help to us. One company, for instance, that was selling molasses, we found was putting 85 percent of its output into the hands of bootleggers. We have been able to put that company out of business. But we had to use methods which we had never used before, during prohibition days to combat this traffic.

Now we are faced with this overseas smuggling.

The fact that somebody said that we could not go out and take a look at a vessel that we knew was bootlegging alcohol, that it had never been done, was no reason why we should not try to do it. It was no reason why we should just sit back and say, "It is just too bad, but these boats are outside the 12-mile limit", and then when a foggy night comes around they will just run the stuff in.

We had an example of that with the *Mogul*, off the coast of southern California last year. They had the audacity to wire me and say, "If you do not let us come in and put this stuff through the customs, we are going to run it in anyway."

I thought that was such an affront to the United States Government that we sent 11 Coast Guard boats outside of the 12-mile limit to hover around that boat, and we used Navy airplanes and kept a constant watch over that boat and finally starved her out, so that she ran out of water and had to go back to Mexico. But it was a very expensive operation, and we do not have the equipment to do that every time we learn that there is a "rummy" outside the 12-mile limit. We cannot send the whole fleet out to surround that boat and just sit there. In this particular case it took months to do it, but we starved the boat out.

A few months ago, most of this smuggling of alcohol was taking place from Cuba over to Central America, then from Central America up to this country. We approached the Cuban Government and told them that some 800,000 gallons of alcohol per year were being shipped from Cuba via some other country—Honduras—to this country. They shipped it from Cuba to Honduras and from Honduras to us. We approached the Cuban Government. They were worried at the time about arms being smuggled from this country into Cuba so we were able to offer them an inducement to stop smuggling of alcohol into this country, and they stopped it. They will not permit any boat to sail from Cuba with alcohol which they know is going into the smuggling trade.

When we approach some of these countries they say, "It is not our job to defend your shores for you. What will you do for us?"

In many cases we have nothing to offer them. They say, "This has always been the case. Boats smuggle. It has been customary. If you people cannot defend your shores it is just too bad for you."

So our hands are tied, and just as soon as a boat sees that they are being watched or pursued, they just drift away outside of the 12-mile limit and we cannot follow them.

Mr. BACHARACH. May I interrupt you, Mr. Secretary?

Secretary MORGENTHAU. Yes.

Mr. BACHARACH. You were saying that we cannot offer them anything. We are offering Belgium quite a bit now in the way of a tariff agreement.

Secretary MORGENTHAU. In connection with the Belgian agreement we have asked the State Department to bring this to the attention of the Belgian Government, that they put into effect the so-called "landing certificates", which means that any boat sailing from Belgium will put up a bond that the cargo of alcohol will be landed at the port of destination.

Mr. BACHARACH. What I have in mind is this: I am speaking only for myself and not for my party. I wonder if we should not make a deal with them, as long as we are making a tariff agreement?

The CHAIRMAN. These reciprocal trade agreements are being made with relation to legitimate trade and merchandise.

Mr. BACHARACH. It happens that the people in New Jersey and Pennsylvania and New York, the eastern section of the country, are affected by this Belgian treaty. I presume even Massachusetts, the State of my good friend, Mr. McCormack, is affected.

Mr. McCORMACK. May I suggest that I yielded the floor not to my friend from New Jersey but to the Secretary.

The CHAIRMAN. The Secretary will please proceed with his statement.

Secretary MORGENTHAU. What I wish to say in the case of Canada is this: They have offered us every possible cooperation and have not asked anything in return. The Canadian Government has been magnificent in their cooperation with us in suppressing smuggling. When the Coast Guard approaches Canadian territorial waters, we notify the marine division of the Royal Mounted Police, and they take up the pursuit, and vice versa. For instance, we can fly an American airplane along the Canadian border with a Coast Guardsman and Royal Mounted Police man in it, and we can land on either side of the border. That is something that has never happened before in international relations. So Canada is doing everything they can to cooperate with us.

Cuba has come along. But as soon as we stop smuggling from Cuba these smugglers shift to some other country. If we stop them from shipping from one country, they go to another. We stopped them, for instance, shipping from Newfoundland. Newfoundland has cooperated. They shifted immediately to some other ports. They go from one small country or one big country to another, and it is extremely difficult to suppress them.

I just wanted to explain what my attitude was. I then asked the legal division of the Treasury whether they could devise some scheme which would enable the United States Treasury to protect its revenue and its shores, and this is the method which they have devised. But I wanted to let you know that I do not care how big the Coast Guard may be, if we have a foggy night, and there is a boat 30 or 40 miles out, and the fog suddenly shuts down, that boat can send small boats ashore and run that stuff in. But if on a clear day we can see a boat 30 or 40 miles out that we know is a smuggler, just as the *Mogul* was a smuggler, and we know that it has alcohol on board, why should we not be able to go aboard and examine that boat?

Our legal division, without going into the various complicated principles of the law, think that Congress can give us that authority. This is simply a method which they have devised to enable us to stop this high-seas smuggling.

The CHAIRMAN. Mr. Secretary, have you as the Secretary of the Treasury taken this matter up with the State Department?

Secretary MORGENTHAU. We have taken it up with the State Department. We have kept them posted. We have consulted with them. But they simply felt that this was a matter of protecting our revenue and they wanted us to take the leadership in the matter. But they are entirely informed as to what we are doing.

The CHAIRMAN. There has been no objection raised by them? Secretary MORGENTHAU. Let us put it this way: They have not objected and they have not approved. I think that is an accurate statement.

Mr. KNUTSON. Mr. Secretary, as I understand, this legislation proposes to extend the 12-mile limit out. I want to say that I am in entire sympathy with you. You are dealing with a crowd of outlaws. I cannot see why we should be so very meticulous in our treatment of them. It is my recollection that during the slave days

we sent frigates over to the coast of Africa to intercept slave traders. It is my recollection that Great Britain did likewise. I would be in favor of extending the limit 500 miles if it would put a stop to this illegal, illicit trade in spirituous liquors from other countries. Certainly I think it is up to this committee to lend the Treasury Department every assistance to protect the revenues of this country as well as our sovereignty.

Secretary MORGENTHAU. Thank you.

Mr. COOPER. I assume that completes the Secretary's statement?

Secretary MORGENTHAU. Yes, sir.

Mr. COOPER. I want to ask Mr. Hester another question.

The CHAIRMAN. Mr. Secretary, have you completed your remarks?

Secretary MORGENTHAU. Yes, sir. I would like to know whether I may be excused now.

The CHAIRMAN. Of course.

Mr. COOPER. It had originally been my purpose not to interrupt the explanation of this bill. We have drifted off so far that I want to ask you this question, if I may. What are the treaty limits as distinguished from the 12-mile-limit discussion here?

Mr. HESTER. The treaty limit, as Dr. Yntema pointed out, are 1 hour's sailing distance as measured by the speed of the boat. The speed of the boat may be 20 miles.

Mr. COOPER. That is obvious, of course.

Mr. HESTER. But we have our 12-mile limit. The countries which have entered into these liquor treaties with us have stated that they will not object if we arrest their boats for violations of our laws within 1 hour's sailing. But the difficulty is that our laws do not extend beyond the 12-mile limit.

Mr. COOPER. The 12-mile limit is fixed by a statute of this country?

Mr. HESTER. That is right.

Mr. COOPER. And the treaties provide for 1 hour's sailing distance?

Mr. HESTER. That is right.

Mr. COOPER. In practical effect, the treaty provision is on an average about double what our domestic law provides. Is not that substantially correct?

Mr. HESTER. Often it is that much.

Mr. COOPER. Is the purpose sought to be accomplished here to increase the distance embraced in the statutory limit fixed in this country to conform to the treaty limit?

Mr. HESTER. That is correct. But the proposed legislation has one other purpose, and that is to permit us to go beyond the 12-mile limit, beyond these treaty limits, with respect to the vessels of those foreign countries with which we have no treaties.

Mr. COOPER. On that point, will that necessitate negotiation of any treaties to cover that space beyond the present treaty limitations?

Mr. HESTER. I do not see why it should, for this reason. The purpose of this bill, as you have just pointed out yourself, is to extend our laws so that they will be coextensive with the 1-hour's sailing distance in all of the treaties that we have with foreign countries. There are 16. The proposed legislation does not go beyond the 1-hour's sailing limit with respect to countries with which we have those treaties. But with respect to countries with which we do not have treaties, it may go beyond that.

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Secretary MORSETHAU. Thank you.

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Mr. COOPER. In practical effect, the treaty provision is on an average about double what our domestic law provides. Is not that substantially correct?

Mr. HESTER. Often it is that much.

Mr. COOPER. Is the purpose sought to be accomplished here to increase the distance embraced in the statutory limit fixed in this country to conform to the treaty limit?

Mr. HESTER. That is correct. But the proposed legislation has one other purpose, and that is to permit us to go beyond the 12-mile limit, beyond these treaty limits, with respect to the vessels of those foreign countries with which we have no treaties.

Mr. COOPER. On that point, will that necessitate negotiation of any treaties to cover that space beyond the present treaty limitations?

Mr. HESTER. I do not see why it should, for this reason. The purpose of this bill, as you have just pointed out yourself, is to extend our laws so that they will be coextensive with the 1-hour's sailing distance in all of the treaties that we have with foreign countries. There are 16. The proposed legislation does not go beyond the 1-hour's sailing limit with respect to countries with which we have those treaties. But with respect to countries with which we do not have treaties, it may go beyond that.

March 8, 1935

# ANTI-SMUGGLING ACT

## HEARINGS

BEFORE THE

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

SEVENTY-FOURTH CONGRESS

FIRST SESSION

ON

**H. R. 5496**

MARCH 8, 13 AND MAY 1, 2, 1935

(CONSOLIDATION)



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ANTI-SMUGGLING ACT

HEARINGS

COMMITTEE ON WAYS AND MEANS  
HOUSE OF REPRESENTATIVES

COMMITTEE ON WAYS AND MEANS

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WASHINGTON, D. C.

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

Mr. Chairman and gentlemen, I have the honor to appear before you today to discuss the anti-smuggling act which was passed by the House of Representatives on the 15th of July, 1934. It is a bill which is designed to increase the revenue of the Government and to protect the interests of the United States in all parts of the world. It is a bill which is designed to increase the revenue of the Government and to protect the interests of the United States in all parts of the world.

It was generally expected that with the repeal of prohibition the Government would be able to increase its revenue and to protect the interests of the United States in all parts of the world. It was generally expected that with the repeal of prohibition the Government would be able to increase its revenue and to protect the interests of the United States in all parts of the world.

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## ANTI-SMUGGLING ACT

FRIDAY, MARCH 8, 1935

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

The committee met at 10:30 a. m., Hon. Robert L. Doughton (chairman) presiding.

The CHAIRMAN. The committee will be in order. The meeting this morning is called for the purpose of conducting hearings on H. R. 5496, a bill introduced by the chairman at the request of the Secretary of the Treasury, on February 7, 1935.

The title of the bill is, "To protect the revenue of the United States and provide measures for the more effective enforcement of the laws respecting the revenue, to prevent smuggling, to authorize customs-enforcement areas, and for other purposes."

We are honored this morning by the presence of the Secretary of the Treasury, Mr. Morgenthau, and other distinguished witnesses. We should be glad to hear the Secretary at this time, if he will make such explanation of the bill as he deems proper.

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

Secretary MORGENTHAU. Mr. Chairman and gentlemen, I have a rather brief statement to make.

Prior to prohibition this country was not troubled much with smuggling. During the 14 years of prohibition the business of smuggling liquor into the United States from all parts of the world developed to very serious and troublesome proportions.

It was generally expected that with the repeal of prohibition liquor-smuggling operations and frauds on our revenue would be materially reduced. How widespread this opinion was may be evidenced by the fact that the appropriation for the Coast Guard, the first line of defense against the rumrunners, was reduced from \$25,772,950 for the fiscal year of 1934 to \$18,046,400 for 1935. This drastic reduction resulted from a belief that repeal would largely relieve the Coast Guard of those portions of its law-enforcement activities which were directed against smuggling. For a time after repeal such proved to be the case, but, commencing with the spring of 1934, liquor smugglers again appeared along our coasts, and their operations have now increased to alarming proportions. Thus, in March 1934, only 2 smuggling vessels were observed off the coast, but by February of this year this number had increased to 22. Thirty-nine foreign vessels are presently known to the Coast Guard

to be regularly engaged in the illicit-liquor traffic. Inasmuch as these vessels are hovering beyond our customs waters, they are not subject to seizure under existing laws, and hence they carry on their smuggling operations almost with impunity.

Alcohol constitutes almost the entire cargo of these vessels. This is due to several things. It is very cheap. It can be produced abroad at costs ranging from 20 to 50 cents a gallon. It is highly concentrated. Two and one-half gallons of whisky can be made from a gallon of alcohol. It enjoys a large price differential due to the customs duties and internal-revenue taxes, which amount to \$13.30 on a gallon of 190° proof.

A summary of the movements of known alcohol smugglers for the last 4 months of 1934 indicates an outward movement from the principal ports of supply to the coast of the United States of over three-quarters of a million gallons of alcohol. At this rate there would be an annual movement of over two and a quarter million gallons. The annual internal-revenue loss on this amount of alcohol, at \$3.80 per gallon, would be almost \$9,000,000; the loss in customs duties, at \$9.50 per gallon, would be over \$21,000,000, making a total loss of over \$30,000,000.

The principal enforcement agencies engaged in the prevention of smuggling are the Coast Guard and the Bureau of Customs. The appropriations for the Coast Guard for 1935 are \$18,346,400; those for the Bureau of Customs (omitting the refund and drawback figures) are \$18,500,000. It is estimated that of these appropriations about 20 percent, or between seven and eight million dollars, is properly chargeable to our efforts to prevent smuggling.

The practical difficulties in checking smuggling can hardly be exaggerated. Our 10,000-mile coastline with the many opportunities it affords for concealment; our comparatively small Coast Guard force of about 10,000 men; the seamanship and daring of the run-runners; and the highly efficient and well-financed smuggling organizations that have grown up since the advent of prohibition, are all prime factors in making the smuggling problem one difficult of solution. Another, and not the least important factor, is the inadequacy of existing antismuggling legislation. The ineffective legislative weapons at present at our disposal for this work have time and time again permitted the escape from punishment of vessels which were violating every principle behind our customs enforcement laws, vessels, in fact, which had never earned an honest dollar in their entire seagoing lives, but had been designed, built, and used exclusively for smuggling into the United States.

To arm and equip the Coast Guard to a point where it could completely wipe out all smuggling by sea would be an expensive business. But it will cost nothing to give them adequate legislation with which to fight smuggling. The proposed legislation which your committee has under consideration is designed to do this. It provides for no appropriation by Congress. Its sole purpose is to give enforcement officers of the Government adequate weapons with which to fight a traffic that yearly is robbing the United States of millions of dollars of revenue.

The Treasury Department has submitted to your committee suggestions for legislation dealing with this problem. These suggestions are the product of several months of work both by the experts in the various bureaus of the Department who have had years of

actual experience in dealing with smuggling and also by Dr. Hessel E. Yntema of the University of Michigan Law School, an expert in those phases of international and maritime laws that are involved. Representatives of the Department and Dr. Yntema are here this morning and will be glad to render your committee any assistance possible.

I cannot urge too strongly upon you the importance of this legislation. In fact, the enactment of this bill is imperative if the Government of the United States is to wipe out smuggling and collect the millions of dollars in revenue lost annually through the successful operations of the liquor smugglers who are now able to carry on their illicit trade near our shores largely because of the inadequacy of present antismuggling laws.

Mr. COOPER. Mr. Chairman, I should like to ask the Secretary this question: I assume, Mr. Secretary, that you would probably prefer that some of the gentlemen with you undertake a brief analysis of the bill itself, in order that we may clearly comprehend the scope of the measure as well as the purposes to be accomplished.

Secretary MORGENTHAU. Not being a lawyer, and this being an altogether legal matter, I would appreciate it if I may be allowed to ask some of the lawyers who have worked on this to outline the bill.

Mr. COOPER. I think that is a very fair position to take, Mr. Chairman. I suggest the Secretary be permitted at this point to present the witness he desires to be heard on that phase of the matter.

The CHAIRMAN. With the understanding that if later any members desire to question the Secretary he will be available for such questioning.

Secretary MORGENTHAU. Of course. May I present Mr. Hester, from the Treasury.

The CHAIRMAN. Mr. Hester, will you come forward, give your official connection, and what experience you have that qualifies you to testify on this bill.

**STATEMENTS OF C. M. HESTER, ATTORNEY, OFFICE OF THE GENERAL COUNSEL; AND DR. H. E. YNTEMA, PROFESSOR OF LAW, UNIVERSITY OF MICHIGAN**

Mr. HESTER. Mr. Chairman and gentlemen, my name is C. M. Hester. I am an attorney in the office of the General Counsel of the Treasury. I would like to call up here, to collaborate with me, Dr. Yntema.

The CHAIRMAN. I am sure there is no objection to that.

Mr. COOPER. I would suggest to Mr. Hester, as I view the situation, that it would be helpful to the committee if you would kindly follow the suggestion incorporated in my question to the Secretary.

Mr. HESTER. I intend to do so.

Mr. COOPER. This is a new matter to many of us. We understand the purposes to be accomplished from the splendid statement of the Secretary. We want to know the methods sought to be employed under this pending bill.

Mr. HILL. Will the gentleman from Tennessee yield?

Mr. COOPER. I yield.

Mr. HILL. Would it not be a good idea for the witness to take the bill up section by section and go through it that way?

Mr. COOPER. I had it in mind for the witness to make a brief statement of the manner in which the subject is treated and then have an explanation of the bill as indicated by Mr. Hill.

The CHAIRMAN. The Chair thinks that would be a proper course to pursue.

Mr. HESTER. As a preface to a discussion of the various sections of the bill, I will state the general purposes of the proposed legislation.

The major purposes of this bill are (1) to extend customs control beyond the 12-mile limit, (2) to provide for more rigid enforcement within the 12-mile limit, and (3) to encourage reciprocal legislation on the part of foreign countries principally by making it an offense for our nationals and vessels to violate the revenue laws of such foreign countries as punish their nationals and vessels for violations of our revenue laws. The proposed legislation is divided into four titles.

Section 1, under title 1, authorizes the President, as may be required to protect the revenue, to declare customs-enforcement areas upon the coastal waters of the United States beyond the present customs waters whenever he finds that such action is justified by the presence of hovering vessels off the coast; that is, smuggling vessels.

Mr. HILL. Just so that I may have a better understanding of this—you are taking the 12-mile limit as the limit within which you can operate without this legislation?

Mr. HESTER. That is right. This section at the same time specifically preserves, as the fundamental principle in the entire act, the rights of foreign vessels under the various liquor treaties; that is, under the hour's sailing distance liquor treaties.

Except by special arrangement with the power concerned, no foreign-treaty vessel can be seized under any provisions of the proposed legislation beyond the treaty limits.

Within such customs-enforcement areas officers of the customs may be directed by the President to enforce any applicable law; that is, the law must already apply. It must be there. Then the President, by the various sections of this proposed legislation, may take action if certain acts are committed outside the 12-mile limit, which acts are made offenses.

Then, if it is discovered that beyond the 12-mile limit we find smuggling vessels hovering with impunity, maybe just a few miles beyond the limit, the President is authorized to declare that particular limit a customs-enforcement area and to direct officers of the customs to seize the vessels, to board them, search them, and if they have violated the law, to bring them into port.

The effect of the customs-enforcement-area provision is not designed to extend any law of the United States but to permit a flexible administrative control of enforcement on the high seas of such laws as already extend beyond customs waters.

This is designed to answer the possible protest of any foreign power that the provisions of the proposed legislation violate any principle of international law.

Mr. HILL. I did not quite get that. Would you mind repeating that?

Mr. HESTER. This is designed to answer the possible protest of any foreign power that the provisions of the proposed legislation violate any principle of international law. A little later on we will discuss that question of law.

Under section 1, extension of customs control into the high seas may be limited by administrative action—that is, by the President—to those areas beyond the 12-mile limit, where smuggling operations are particularly and notoriously troublesome. This will make it unmistakably clear that the proposed legislation complies with the requirement that extraterritorial jurisdiction provisions be reasonably necessary to the protection of the revenue and the national welfare.

Now, just briefly for a moment to stop here, so that the chairman and the members of the committee will see the questions of law presented by this first section. We expect to supply you with authorities which establish the proposition that a nation is authorized to extend its customs control such distance from its shores as may be reasonably necessary to protect its revenue and the general welfare; and, I say, we will supply those authorities to you as we go along.

Section 2 (a) of the bill subjects to a fine of not more than \$5,000, or to imprisonment for not more than 2 years, or to both, any person owning in whole or in part any vessel of the United States or controlling it, directly or indirectly, who permits such vessel to be employed in smuggling merchandise into any foreign country if such foreign country provides any penalty for violation of the revenue laws of the United States. Persons on board assisting in such smuggling activities are subject to the same penalties, and the vessel itself is subject to seizure and forfeiture.

Section 2 (b) makes it an offense to charter a vessel with actual or implied knowledge that the vessel is going to be used for the purposes prohibited by section 2 (a).

This whole section is designed to encourage legislation on the part of foreign countries penalizing their nationals and vessels for violating our revenue laws. It is modeled after a Norwegian law of June 25, 1926.

The necessity for that will be obvious to you when we take a hypothetical case. Outside our 12-mile limit, we will say, are notorious runrunners, flying foreign flags.

We appeal to the foreign country. They say, "We have no laws which prohibit our vessels from violating your laws."

So the purpose of this section is to initiate reciprocal legislation. That is, we make it an offense to violate the laws of a foreign country by our citizens and our vessels in the hope that they will enact reciprocal legislation.

Mr. McCORMACK. You say, "in the hope." Is this for the purpose of bringing about negotiations with these foreign countries, or what is the purpose?

Mr. HESTER. No; the purpose is to enact this legislation.

Mr. McCORMACK. There is a big difference between hoping and enacting, as you know.

Mr. HESTER. Oh, perhaps I did not make myself clear on that. We ask that this legislation be enacted because we hope that the foreign country will enact similar legislation.

Mr. LEWIS. You mean, this provides the inducement?

Mr. HESTER. That is right.

Mr. REED. May I ask this question? Has there been any assurance given that they will cooperate at all?

Mr. HESTER. May I ask Dr. Yntema to answer that question?

The CHAIRMAN. Will you state for the record who Dr. Yntema is?

Mr. HESTER. Dr. Yntema is professor of law in the University of Michigan and an authority on international law, who is assisting us in connection with this bill.

Dr. YNTEMA. My understanding is that the question asked is whether, if this proposed section 2 (a) were enacted, similar legislation would be enacted by other countries.

Mr. REED. The question is whether any assurance has been given, either formal or informal.

Dr. YNTEMA. As far as I know, there has been no formal assurance, of course. It was, however, stated informally that there was a chance; that one of the difficulties that the Government had in dealing with the problem resulted from some of the limitations in its own legislation, and one of the limitations was the fact that there was no provision under which the Government of the United States could take any measures to suppress illicit activities on the part of American citizens, for example, who were engaged in rumrunning into Canada. The suggestion was made that Norway has a statute of this general character and that it would be a good thing to facilitate the negotiations to incorporate this provision.

Mr. REED. Would you mind telling us for the record, unless it is against the public interest, which nation is the most flagrant violator? I do not want to press the question if the information should not be disclosed.

Mr. HESTER. Commander Parker, will you step forward and give the committee that information? May I say to the committee, this is Commander Parker, of the Coast Guard.

The CHAIRMAN. Commander, can you answer the question asked by Representative Reed?

Commander PARKER. The vessels employed in rumrunning and hovering off our coasts are almost exclusively under the British flag.

Mr. HESTER. Does that answer the question?

Mr. REED. Yes.

Mr. HESTER. Section 3 subjects to forfeiture when found at any place where it may be examined by an officer of the customs in the enforcement of any revenue law (1) any vessel, foreign or domestic, built or fitted out for the purpose of being employed to defraud the revenue or to smuggle merchandise into the United States or into such foreign countries as have reciprocal legislation of the type already discussed, or employed within the United States for any such purpose, (2) any vessel of the United States employed at any place for any such purpose.

For the purpose of the section vessels which are de facto owned or controlled by American citizens or corporations are deemed vessels of the United States.

Also for the purposes of this section the fact that a vessel is displaying certain typical indicia of smuggling activities, such as not stopping as required to by customs officers, or hovering suspiciously off the coast of the United States, or failing to display lights, raises the presumption that the vessel is being employed to defraud the revenue of the United States.

This section is patterned after an old statute relating to piratical vessels. It is believed that this statute will prove very useful since the build and dimensions of smuggling craft are, in almost every

instance, a give-away of the nature of their illicit activities. This section will also stimulate reciprocal legislation by other countries.

Section 4 authorizes collectors of customs to revoke or refuse to document (i. e., to register, enroll, license, or number) any vessel when it appears, from its build or otherwise, that the vessel is going to be employed in smuggling. At present this authority does not exist even though the master of a vessel on applying for documentation should announce that he were going to use the vessel as a rumrunner. This section is also reciprocal in that it will serve as a base for requests to other powers to take similar action.

Mr. HILL. Were your remarks directed to American-registered vessels entirely, or did you include within this scope the vessels of foreign registry?

Mr. HESTER. This would be devoted solely to American vessels.

Mr. HILL. Why would that induce reciprocal legislation by foreign governments?

Mr. HESTER. We are revoking the registry of American vessels for violating foreign laws, and they might do likewise.

Mr. HILL. I thought you had reference to their operations within the waters of the United States.

Mr. HESTER. No. It would extend beyond. I am glad you brought that point up. Thank you.

Section 5 permits vessels forfeited for violation of the revenue laws to be destroyed whenever the Secretary of the Treasury is of the opinion that they are likely to be returned to the smuggling traffic if sold.

At present forfeited rumrunners, being practically useless for legitimate commerce, are sold very cheaply at condemnation sales, usually to their former owner or some other rumrunner, and in the majority of cases return shortly to the liquor traffic.

Mr. REED. I am sorry to interrupt, but—

Mr. HESTER. We are very glad to have you interrupt, sir.

Mr. REED. Just to clear up some point in my own mind. As I understand the law, 3 miles is now the limit fixed by international law, is it not?

Mr. HESTER. The 3-mile limit is the limit within which under international law a country exercises exclusive and absolute jurisdiction.

Mr. REED. Exactly. Under the tariff act that I have here, section 581, boarding vessels, enforcement provisions, that is when this so-called "12-mile limit" went into effect.

Mr. HESTER. No; the 12-mile limit went into effect as long ago as 1790.

Mr. COOPER. What was that?

Mr. HESTER. The 12-mile limit with reference to customs administrative control has been in effect since 1790.

Mr. REED. Just one moment. This 12-mile zone—was that created by treaty or by statute?

Mr. HESTER. By statute. After we have finished the bill we hope to be able to supply you with some authorities of the Supreme Court which uphold the right of the United States to extend its customs control not only to the 12-mile limit, which has been on the statute books since 1790, but which also would permit the United States, if necessary to protect its revenue, to extend its limit beyond the 12-mile zone.

Mr. REED. Do you mean to say that the United States, by statute, can control foreign shipping beyond the 3-mile limit; that is, that it can fix any limit that it wants to for these purposes? Do you have authorities for that opinion?

Mr. HESTER. Yes. We have an opinion by Chief Justice Marshall which is to the effect that a nation has the right to extend its customs control such distance from its shores as may be reasonably—there is the test right there—reasonably necessary to protect its revenue, and to enforce its laws.

Mr. REED. Did he go beyond that? Does not the 3-mile limit stand as an international law?

Mr. HESTER. Dr. Yntema will answer you on that.

Dr. YNTEMA. May I just make a few comments? The first is with reference to the 3-mile limit. As you perhaps know, that has been the policy or the doctrine followed by the British Government and by this Government with respect to the extent of the territorial jurisdiction of the Nation. That is the theory of the British Government and of this Government as enunciated, for example, in the recent liquor treaty between this country and the British Government, so that within a 3-mile zone outside of the coast a nation has the same control as it has over the land.

However, it is to be said that it is by no means accepted that that limit might not be larger. There are various countries which claim a wider zone. And in illustration of the difference of opinion that exists, I might cite the fact that in 1930 there was a conference for the codification of international law held at The Hague, and the Second Commission, which dealt with the question of territorial waters, were unable to reach an agreement as to the extent of the marginal zone. They were unable to agree that this distance should be 3 miles for the reason that there were a number of powers—the Scandinavian powers, Italy, Spain, and others—that claimed more than 3 miles as the extent of the territorial waters.

It seems to me, however, that this question is outside of that. The question is whether a nation has for any purposes, outside of the territorial waters in special cases where the exigencies of its own needs demand it, a special right to exercise measures beyond the 3-mile zone, or whatever the distance may be, that is taken for territorial waters. Our own legislation, which goes back to 1790, has been uniformly enacted on the principle that for the protection of the revenue the American Government does have the right to take reasonable measures beyond the territorial waters.

Mr. REED. Do the other nations also recognize the same principle of law with reference to their revenue?

Dr. YNTEMA. You are asking me a question which is a very complicated one to answer, but let me illustrate the situation by reference to the British laws. The British have had on their statute books since 1700 various hovering laws, designed to deal with smuggling, to deal with vessels hovering off the coasts of Great Britain in order to smuggle goods into British territory.

I suppose there are 25 or 40—some number that I cannot state precisely—of those acts that have had a very long history. Those acts were finally consolidated in 1876, about 25 years after smuggling had ceased off the British coasts.

Prior to that time these acts had fixed various distances for various offenses, and the whole story is a very technical and complicated one.

For certain offenses these acts would render a vessel liable to forfeiture if the vessel was found within 2 leagues of the coast, or 6 miles; for other purposes, if the vessel were found within 3 leagues of the coast, or 9 miles; for other purposes if the vessel were found within 4 leagues of the coast, or 12 miles; for still other purposes, if the vessel were found 8 leagues off the coast, and even in some cases a hundred leagues off the coast, the vessel would be liable to forfeiture.

Mr. REED. For instance, have those so-called "regulations" of Great Britain been brought into the courts in connection with any cases?

Dr. YNTEMA. You mean in the British courts?

Mr. REED. Yes. That is, with relation to the ships of other nationals?

Dr. YNTEMA. A large number of foreign vessels have been forfeited in the British courts under the British hovering laws for acts committed beyond the 3-mile zone. Did you also mean international arbitrations?

Mr. REED. Yes, with reference to seizures under these limitations fixed by Great Britain.

Dr. YNTEMA. I made a careful search of that, and I do not think there is any arbitration which directly involved the validity of these regulations. There are some arbitral proceedings which are discussed in connection with this sort of question, the fur seals arbitration, in which the British counsel, Sir Charles Russell, admitted that the hovering act formed an exception to what he claimed was the general rule.

Mr. REED. That is what I want to know. Have there been any cases? This is so very important from the international standpoint. Are the Treasury Department and the State Department working in harmony on the matter of these extensions?

Dr. YNTEMA. I do not think I should answer that question, if you will excuse me.

May I add one comment to my last remarks, Mr. Chairman?

I think it should be understood, in considering this question, that you have three kinds of vessels.

First, there are American vessels. There is no question about the right of the United States to deal with American vessels anywhere upon the high seas.

Second, the treaty vessels; the vessels belonging to the powers with which the United States has entered into a treaty relating to the distance within which such vessels can be boarded and seized.

As you will notice, this legislation adopts throughout the principle—or these proposals which have been put into this bill, as I understand it, adopt throughout the principle that the treaty shall control. So you do not have any question there. In other words, you are talking about the ships of those powers such as Mexico, such as Spanish Honduras, and so forth, with which the United States has not entered into a treaty.

In other words, there are 16 powers with which the United States has entered into treaties settling this question, and they are all the principal maritime powers; Great Britain, France, Germany, Spain, Portugal, the Scandinavian powers, Belgium, and the Netherlands; of course, Canada and Cuba, and so forth.

Third, there are the nontreaty foreign vessels.

Mr. REED. Now, if I may just press the question. As this involves an international situation, I just wanted to know if you are working in harmony with the State Department on this proposed legislation.

Mr. HESTER. We have worked in cooperation with the State Department.

Mr. REED. Are they in accord with your proposal to extend these limits?

Mr. HESTER. They have not yet advised us officially.

Mr. REED. Mr. Chairman, this appears to be a very important piece of legislation. Of course, if we pass this legislation, we want it to be effective. I think we should hear from the State Department and get their views.

The CHAIRMAN. The Chair will be very glad to address a communication to the State Department and ask for an expression of opinion on this bill.

Mr. BACHARACH. If we are to go ahead with this kind of an investigation, I think we should hear from the State Department, and have them make a very definite statement. I do not think this idea of hearing indirectly is the way to proceed.

The CHAIRMAN. The gentleman does not insist upon that at this juncture?

Mr. BACHARACH. No; of course not.

The CHAIRMAN. We will be able to take care of that.

Mr. LEWIS. I would like to ask the doctor a question or two, Mr. Chairman.

Doctor, I am obliged to ask you some elementary questions for my own information.

Dr. YNTEMA. They are usually the most difficult to answer.

Mr. LEWIS. They probably will not be for you. Up to 3 miles, by general agreement among nations, the waters may be regarded as domestic waters, and you would enforce your domestic laws there as you would on the lakes or the rivers, generally speaking?

Dr. YNTEMA. You have to be careful even as to that statement. There is a difference of opinion as to the nature of the control that a nation has over the territorial waters. But in general, I think it can be said, subject to this qualification, if I may make it, that it is generally agreed that even within the 3-mile zone the vessels of other countries have a right of innocent passage. In other words, if a British vessel or a French vessel, in its ordinary course, should pass within 3 miles, it would be a breach of our obligations under international law for the United States to say that it was improper for a merchant vessel in its ordinary innocent voyage to pass within 3 miles. That right of passage is recognized.

Mr. LEWIS. Then we will go to the other boundary. Let us say there are pirates on the ocean. Under international law have we a right to pursue them wherever we find them and apply the laws to them?

Doctor YNTEMA. As I understand it, a pirate is regarded as an offender against the law of nations, and every nation has the right to enforce the law of nations as against a pirate. In other words, if there were a pirate on the high seas, sailing, let us say, the flag of any other country, the vessels of the United States could properly

seize such a vessel, and it could be condemned in the courts of this country. Of course, if the seizure were made, and it was found out that the vessel was not a piratical vessel it would be unfortunate.

Mr. LEWIS. The definition of piracy is to be found in the law of nations, generally speaking.

Doctor YNTEMA. Yes, except that for the purpose of our own law it is defined in our own statutes, as you know. We have specific statutes dealing with pirates.

Mr. LEWIS. I happen to remember from reading that while slavery plagued the world, the British Parliament declared the sea traffic in slaves to be piracy, and applied the law of piracy to such pirates when they were captured.

What is the limit to which a nation—I mean not an irresponsible nation that simply wants to work its will, but a nation having due regard for the rights and feelings of other nations—what is the limit to which a nation can go through domestic legislation in defining offenses and punishing offenders on the high seas without regard to their citizenship?

Dr. YNTEMA. As I understand your question, you mean by extending—

Mr. LEWIS. Could we call smuggling "piracy", as the British called the slave traffic?

Dr. YNTEMA. The answer to your question is that the British did not succeed in doing it that way. As you know, it was a very sore point in the relations between this country and Great Britain over a period of some 50 years, and the problem was not finally solved until the treaty of 1862 between this country and Great Britain, under the terms of which the vessels of this country and the vessels of Great Britain were mutually given the right to visit the vessels of the other nation.

The slave traffic offers a very individual set of questions. As you know, an effort was made to seize the slaves off the coast of Africa. There were American patrols and British patrols off the coast of Africa, and an effort was made there to stop the traffic at its source. The British did succeed in treaties with some other countries at an earlier date in getting this right to search vessels on the high seas off the coast of Africa. But it seems to me that is quite a different question from the one here where you are simply asking, "Does the United States have in international law the right to do what is reasonably necessary to prevent goods from being smuggled into the United States?"

Mr. LEWIS. It has that reasonable right. It must, of course, go as far as it can to protect its revenue.

Dr. YNTEMA. Yes. I think the answer to that question is "yes."

Mr. LEWIS. But, to begin with, you would say that the 3-mile limit qualifies it, and if we are to go beyond 3 miles and arrest offenders and apply our laws, it must be with the consent of the nations of which the offender is a subject or a citizen?

Dr. YNTEMA. Well, that is one way of stating it. It seems to me the consent, though, has been generally given. For example, there are the 4-league provisions or 12-mile provisions; the fact that those statutes give this right to board a foreign vessel bound to a port of the United States within 12 miles shows that from the point of view of international law, there is a general agreement that such a pro-

vision is a reasonable provision. That is, the United States, if it so desires, as Secretary Fish once said when he was Secretary of State, does have some right to control trade with the United States. It certainly has the right within the 3-mile limit, because at least that is the territory of the United States. But it seems generally agreed that it also has the right outside of that territory to that reasonable extent, that is, to take reasonable measures.

Mr. Lewis. Under the bill before us, with respect to the area beyond 3 miles and up to 12 miles, do you make the penalties positively applicable whether the nation of the offender has agreed or not, or is that to be reciprocal subject-matter.

Dr. YNTEMA. No.

Mr. Lewis. Under the bill?

Dr. YNTEMA. It is not ~~then~~ under our present unloading provisions.

Mr. Lewis. Up to 12 miles we apply our domestic will to the offender?

Dr. YNTEMA. That is the principle of our present law.

Mr. Lewis. Where, then, and in what respect does the reciprocity condition enter? Is it in this regard, that if they find our citizens smuggling into the country, American smugglers, and bring the evidence to us, that we will punish those smugglers in our country?

Is that the reciprocal feature of the bill, or is that the only reciprocal feature of the bill?

Dr. YNTEMA. If I could take just a moment to explain that. There are, I think, four chief provisions which are intended to deal with this question, or to lay the basis for more effective international arrangements with other nations, and in general I may say that these suggestions are the result of suggestions which came informally from the talks which we had with various persons in the State Department.

One of these is a provision giving a more effective control of clearances of all vessels, including foreign vessels.

One of the difficulties in the present situation is that adequate information as to the activities of the rum carriers cannot be had because of difficulties in our own laws, and the other laws as to clearances. Simple administrative regulations governing clearances, which we believe will improve this situation, are contained in section 208.

Another provision is this one in section 4 which has been referred to, namely, giving a discretionary power to the collector of customs upon proper showing, before appeal to the Secretary of Commerce, to revoke the registry of a vessel which is engaged in smuggling, whether into the United States or into another country.

That again gives another method of control which it is to be hoped other nations might follow with respect to their vessels.

Of course, that only applies to American vessels, because no other vessels are registered in this country.

The third provision provides on a reciprocal basis that American vessels which smuggle goods into other countries can be forfeited if that country has an analogous law applying to their vessels.

Mr. Lewis. That is the reciprocal one. What is the other?

Dr. YNTEMA. The other one is an analogous one but providing for punishment upon American citizens who engage in smuggling into another country.

Mr. McCORMACK. I thought I heard the commander say that most of the trouble is with British ships. Is that right?

Commander PARKER. Yes, sir; practically all of the vessels.

Mr. McCORMACK. I understood the doctor to say that the United States and England have a treaty. If that is so, what is the necessity of this legislation? If they have a treaty agreement with the principal offender, why does not the treaty cover the situation?

Dr. YNTEMA. The treaty does not make any law. All that the treaty does is to say that the British Government will not make any claims in the event—

Mr. McCORMACK. You have not explained what the treaty provides. You said there were three classes of vessels.

Dr. YNTEMA. That is right.

Mr. McCORMACK. One of the group was a treaty vessel. You have treaties with 16 nations.

Dr. YNTEMA. Quite right.

Mr. McCORMACK. The commander said that the principal trouble was with England, and you say we have a treaty with England. I assumed the treaty would cover it.

Dr. YNTEMA. The treaty covers it insofar as the determination of the distance within which action can be taken is concerned.

Mr. McCORMACK. What is the agreement with reference to that, with England?

Dr. YNTEMA. In all these treaties the distance is the same. It is the 1-hour sailing distance of the vessel, or, if there is a contact boat which has a higher speed, the provision is 1 hour's sailing distance of the contact boat. If, for example, the contact boat has a speed of 25 miles an hour there is a gap of 13 miles between the distance within which you are permitted, under the treaty, to board, and search, and seize the vessel, if there is reasonable grounds of suspicion, and the distance within which, under present laws, our officers are authorized to act.

The treaty does not confer any power upon anybody. It simply says that the British Government will not make any objection if certain things happen to British vessels within a certain distance.

Mr. McCORMACK. The treaty does not cover the specific actions. It gives no power. It is a general treaty with reference to the distance within which a vessel may be boarded.

Dr. YNTEMA. It is a limitation, you might say a definition, of the international right.

Mr. COOPER. Will the gentleman yield on that point?

Mr. McCORMACK. Yes.

Mr. COOPER. What would the enactment of the proposed measure do so far as changing the provisions of existing treaties is concerned?

Dr. YNTEMA. In the first place, of course, it would not change the provision of any treaty. It assumes that those treaties are valid until they are changed by a new agreement or by an amendment duly negotiated with the foreign power involved. It does, however, do this: It extends in the case of a foreign vessel the power of the American officer to make a search, for example, within the limit contemplated in the treaty.

Mr. COOPER. It will necessitate the negotiation of other treaties, will it not?

Dr. YNTEMA. I do not see why it should.

Mr. COOPER. What reason do you have to assume that the other countries would have entered into the treaty if those provisions of law had been in effect?

Mr. HILL. Will the gentleman yield to me?

Mr. McCORMACK. I yield to Mr. Hill.

Mr. HILL. If I understand this proposition, the legislation here proposed is the enactment of provisions within the existing treaty; is that correct?

Dr. YNTEMA. As I say, there are three categories; as far as the treaty vessels are concerned, that is true.

Mr. HILL. In other words, the treaty is simply an enabling act, you might say, within which this country and the other country to the treaty can enact legislation for the control of commerce to its own country.

Dr. YNTEMA. That is the assumption of these proposals.

Mr. COOPER. Just one other word, if I may. Is it not true that the last act passed by Congress is a controlling act in relation to treaty negotiations?

Dr. YNTEMA. As I understood the question, it was whether this legislation necessarily involved a change in treaties. My answer was that I did not see why it should. There might be reasons why this Government, for example, or other governments might find it desirable to reconsider their treaties. The 1-hour's sailing distance, for example, is palpably an inadequate distance, and it might be that if proper representations were made as to the situation with respect to particular vessels, the 1-hour's sailing distance might be extended. It seems to me that any provision that was made in the law should contemplate that possibility. I do not know that it is probable, but I say it is a possibility.

Mr. COOPER. With all due respect—it is all probably my fault, but the answer just confuses me further. If you have a treaty with a foreign nation and then pass a law in this country that changes the situation that exists under that treaty, why do you not have to negotiate another treaty with that country to make it effective? How can you escape that very practical conclusion?

Dr. YNTEMA. It seems to me the treaty reference is in its first section—if, for example—

there is reasonable cause for belief that the vessel has committed, or is committing, or attempting to commit an offense against the laws of the United States—

it is true that since the time when this treaty was ratified, which was 1924, there have been one or two laws passed by the Congress of the United States. Therefore, the phrase, "offenses against the laws of the United States", as used in the treaty, probably now has a different content. But it does not follow that because the contents of that phrase have been changed, therefore you have to have a new treaty.

Mr. COOPER. One more question, from a very practical viewpoint, as I see it. It is your opinion that the enactment of this statute would require negotiation of treaties between the countries with which we already have treaties?

Dr. YNTEMA. I should imagine, as I said before, in the enforcement—

Mr. COOPER. I respectfully submit that an answer could be made yes or no, so that we might get something that we can take hold of. That is the difficulty I have. Every answer made confuses me more and more.

Dr. YNTEMA. May I suggest that Mr. Hester will answer that question.

Mr. HESTER. Let me see if I do not interpret your question correctly. You have in mind that the enactment of this proposed legislation would repeal the treaty provisions and make it necessary for our Government to negotiate new treaties.

Mr. COOPER. I just want to know whether in your opinion that result would come about.

Mr. HESTER. No; it cannot, because the proposed legislation expressly excepts treaties.

Secretary MORGENTHAU. Mr. Chairman, if it is agreeable to the committee, may I amplify my statement a little, and then if there are any questions you would like to ask me, I shall be glad to answer them. If not, I shall then ask to be excused.

The CHAIRMAN. We shall be glad to hear you further, Mr. Secretary.

Secretary MORGENTHAU. I would like to amplify the statement that I made in the beginning, if that is agreeable to the committee.

The CHAIRMAN. Anything you wish to submit, Mr. Secretary, we shall be glad to have.

Secretary MORGENTHAU. I do not think I made it quite clear why we wanted this kind of legislation.

The CHAIRMAN. That is a very important point.

Secretary MORGENTHAU. So I want to take a minute or two to explain why we feel we need this kind of legislation.

During the period of prohibition we had this vast amount of smuggling of liquor from the high seas into this country. We were only able to cope with it in a very limited way.

Now we can sell tax-paid liquor; that is, it is lawful to do it. We still find that they are trying to smuggle alcohol into the United States from the high seas.

The attitude that I took when I went after this problem of enforcement, and the suppression of non-tax-paid liquor was this: I said, the fact that something had not been done heretofore or had not been tried did not mean that we could not try it.

For instance, thanks to the last Congress, it was made possible for us to trace the source of the molasses sugar that was being used in the illicit manufacture and sale of whisky, and that was of tremendous help to us. One company, for instance, that was selling molasses, we found was putting 85 percent of its output into the hands of bootleggers. We have been able to put that company out of business. But we had to use methods which we had never used before, during prohibition days to combat this traffic.

Now we are faced with this overseas smuggling.

The fact that somebody said that we could not go out and take a look at a vessel that we knew was bootlegging alcohol, that it had never been done, was no reason why we should not try to do it. It was no reason why we should just sit back and say, "It is just too bad, but these boats are outside the 12-mile limit", and then when a foggy night comes around they will just run the stuff in.

We had an example of that with the *Mogul*, off the coast of southern California last year. They had the audacity to wire me and say, "If you do not let us come in and put this stuff through the customs, we are going to run it in anyway."

I thought that was such an affront to the United States Government that we sent 11 Coast Guard boats outside of the 12-mile limit to hover around that boat, and we used Navy airplanes and kept a constant watch over that boat and finally starved her out, so that she ran out of water and had to go back to Mexico. But it was a very expensive operation, and we do not have the equipment to do that every time we learn that there is a "rummy" outside the 12-mile limit. We cannot send the whole fleet out to surround that boat and just sit there. In this particular case it took months to do it, but we starved the boat out.

A few months ago, most of this smuggling of alcohol was taking place from Cuba over to Central America, then from Central America up to this country. We approached the Cuban Government and told them that some 800,000 gallons of alcohol per year were being shipped from Cuba via some other country—Honduras—to this country. They shipped it from Cuba to Honduras and from Honduras to us. We approached the Cuban Government. They were worried at the time about arms being smuggled from this country into Cuba so we were able to offer them an inducement to stop smuggling of alcohol into this country, and they stopped it. They will not permit any boat to sail from Cuba with alcohol which they know is going into the smuggling trade.

When we approach some of these countries they say, "It is not our job to defend your shores for you. What will you do for us?"

In many cases we have nothing to offer them. They say, "This has always been the case. Boats smuggle. It has been customary. If you people cannot defend your shores it is just too bad for you."

So our hands are tied, and just as soon as a boat sees that they are being watched or pursued, they just drift away outside of the 12-mile limit and we cannot follow them.

Mr. BACHARACH. May I interrupt you, Mr. Secretary?

Secretary MORGENTHAU. Yes.

Mr. BACHARACH. You were saying that we cannot offer them anything. We are offering Belgium quite a bit now in the way of a tariff agreement.

Secretary MORGENTHAU. In connection with the Belgian agreement we have asked the State Department to bring this to the attention of the Belgian Government, that they put into effect the so-called "landing certificates", which means that any boat sailing from Belgium will put up a bond that the cargo of alcohol will be landed at the port of destination.

Mr. BACHARACH. What I have in mind is this: I am speaking only for myself and not for my party. I wonder if we should not make a deal with them, as long as we are making a tariff agreement?

The CHAIRMAN. These reciprocal trade agreements are being made with relation to legitimate trade and merchandise.

Mr. BACHARACH. It happens that the people in New Jersey and Pennsylvania and New York, the eastern section of the country, are affected by this Belgian treaty. I presume even Massachusetts, the State of my good friend, Mr. McCormack, is affected.

Mr. McCORMACK. May I suggest that I yielded the floor not to my friend from New Jersey but to the Secretary.

The CHAIRMAN. The Secretary will please proceed with his statement.

Secretary MORGENTHAU. What I wish to say in the case of Canada is this: They have offered us every possible cooperation and have not asked anything in return. The Canadian Government has been magnificent in their cooperation with us in suppressing smuggling. When the Coast Guard approaches Canadian territorial waters, we notify the marine division of the Royal Mounted Police, and they take up the pursuit, and vice versa. For instance, we can fly an American airplane along the Canadian border with a Coast Guardsman and Royal Mounted Police man in it, and we can land on either side of the border. That is something that has never happened before in international relations. So Canada is doing everything they can to cooperate with us.

Cuba has come along. But as soon as we stop smuggling from Cuba these smugglers shift to some other country. If we stop them from shipping from one country, they go to another. We stopped them, for instance, shipping from Newfoundland. Newfoundland has cooperated. They shifted immediately to some other ports. They go from one small country or one big country to another, and it is extremely difficult to suppress them.

I just wanted to explain what my attitude was. I then asked the legal division of the Treasury whether they could devise some scheme which would enable the United States Treasury to protect its revenue and its shores, and this is the method which they have devised. But I wanted to let you know that I do not care how big the Coast Guard may be, if we have a foggy night, and there is a boat 20 or 40 miles out, and the fog suddenly shuts down, that boat can send small boats ashore and run that stuff in. But if on a clear day we can see a boat 30 or 40 miles out that we know is a smuggler, just as the *Mogul* was a smuggler, and we know that it has alcohol on board, why should we not be able to go aboard and examine that boat?

Our legal division, without going into the various complicated principles of the law, think that Congress can give us that authority. This is simply a method which they have devised to enable us to stop this high-seas smuggling.

The CHAIRMAN. Mr. Secretary, have you as the Secretary of the Treasury taken this matter up with the State Department?

Secretary MORGENTHAU. We have taken it up with the State Department. We have kept them posted. We have consulted with them. But they simply felt that this was a matter of protecting our revenue and they wanted us to take the leadership in the matter. But they are entirely informed as to what we are doing.

The CHAIRMAN. There has been no objection raised by them?

Secretary MORGENTHAU. Let us put it this way: They have not objected and they have not approved. I think that is an accurate statement.

Mr. KNUTSON. Mr. Secretary, as I understand, this legislation proposes to extend the 12-mile limit out. I want to say that I am in entire sympathy with you. You are dealing with a crowd of outlaws. I cannot see why we should be so very meticulous in our treatment of them. It is my recollection that during the slave days

we sent frigates over to the coast of Africa to intercept slave traders. It is my recollection that Great Britain did likewise. I would be in favor of extending the limit 500 miles if it would put a stop to this illegal, illicit trade in spirituous liquors from other countries. Certainly I think it is up to this committee to lend the Treasury Department every assistance to protect the revenues of this country as well as our sovereignty.

Secretary MORGENTHAU. Thank you.

Mr. COOPER. I assume that completes the Secretary's statement?

Secretary MORGENTHAU. Yes, sir.

Mr. COOPER. I want to ask Mr. Hester another question.

The CHAIRMAN. Mr. Secretary, have you completed your remarks?

Secretary MORGENTHAU. Yes, sir. I would like to know whether I may be excused now.

The CHAIRMAN. Of course.

Mr. COOPER. It had originally been my purpose not to interrupt the explanation of this bill. We have drifted off so far that I want to ask you this question, if I may. What are the treaty limits as distinguished from the 12-mile-limit discussion here?

Mr. HESTER. The treaty limit, as Dr. Yntema pointed out, are 1 hour's sailing distance as measured by the speed of the boat. The speed of the boat may be 20 miles.

Mr. COOPER. That is obvious, of course.

Mr. HESTER. But we have our 12-mile limit. The countries which have entered into these liquor treaties with us have stated that they will not object if we arrest their boats for violations of our laws within 1 hour's sailing. But the difficulty is that our laws do not extend beyond the 12-mile limit.

Mr. COOPER. The 12-mile limit is fixed by a statute of this country?

Mr. HESTER. That is right.

Mr. COOPER. And the treaties provide for 1 hour's sailing distance?

Mr. HESTER. That is right.

Mr. COOPER. In practical effect, the treaty provision is on an average about double what our domestic law provides. Is not that substantially correct?

Mr. HESTER. Often it is that much.

Mr. COOPER. Is the purpose sought to be accomplished here to increase the distance embraced in the statutory limit fixed in this country to conform to the treaty limit?

Mr. HESTER. That is correct. But the proposed legislation has one other purpose, and that is to permit us to go beyond the 12-mile limit, beyond these treaty limits, with respect to the vessels of those foreign countries with which we have no treaties.

Mr. COOPER. On that point, will that necessitate negotiation of any treaties to cover that space beyond the present treaty limitations?

Mr. HESTER. I do not see why it should, for this reason. The purpose of this bill, as you have just pointed out yourself, is to extend our laws so that they will be coextensive with the 1-hour's sailing distance in all of the treaties that we have with foreign countries. There are 16. The proposed legislation does not go beyond the 1-hour's sailing limit with respect to countries with which we have those treaties. But with respect to countries with which we do not have treaties, it may go beyond that.