

Arnold, R. W. (Congressman, Illinois)  
See Board of Tax Appeals..... VIII 80,100

Bankhead-Jones Farm Tenant Bill or Farm Debt Corporation Bill  
See Farm Tenant Bill..... 2  
Banking Act, 1935

Security Underwriting Section discussed by group in  
Under Secretary Coolidge's office 7/1/35..... 4

Group again discusses Security Underwriting Section 7/2/35 13+

- a) Coolidge says FRB opposes any underwriting by banks
- b) Coolidge says Fox Faith wants privilege excluded from bill unless liability is solved
- c) SM's suggests that O'Donoghue, Kennedy, and Coolidge do everything necessary in connection with Underwriting Section

DIARY

- d) Kenley says bill in Senate form is "pretty bad".  
(1) Board cannot delegate and authority to its members. (2) 4-year term chairman plus fact he cannot return to private business for 2 additional years is bad; (3) necessity of reports to Congress reasons for open market operations etc.

Book 8

July, 1935

- e) Issue phase: Bill reported out by Senate Banking Committee 7/2/35

SM's thinks very Banking Act now that it is out of Committee 7/3/35..... 15

- a) Since he has been in Treasury, Treasury has carried whole load of national finances without help or interference of Federal Reserve Board
- b) Thinks country is riding (w/ all) with present hit-and-run method of spending money
- c) Doesn't want Treasury to be "sole goal"; doesn't want to have "in tall rope more white rabbits out of hat"
- d) Therefore hopes Federal Reserve Board would be given additional power and treated more or less as a monetary authority and so share responsibility
- e) As now constituted, Federal Reserve Board can suggest but have no power to enforce all in the banks of the country
- f) Treasury's power to Stabilization Fund; Open Market Committee has kept it line
- g) Proposed if present bill is passed with 7 members of Federal Reserve Board and 3 Governors of Federal Reserve Banks forming Open Market Committee, there will be substantial dissension - nothing constructive accomplished "if financial situation goes sour, chances are public will blame them rather than Treasury"

	Book	Page
Arnold, W. W. (Congressman, Illinois)		
See Board of Tax Appeals.....	VIII	80,100

Bankhead-Jones Farm Tenant Bill or Farm Home Corporation Bill		
See Farm Tenant Bill.....		2
Banking Act, 1935		
Security Underwriting Section discussed by group in		
Under Secretary Coolidge's office 7/1/35.....		4
Group again discusses Security Underwriting Section 7/2/35		13+
a) Coolidge says FDR opposes any underwriting by banks		
b) Coolidge says Tom Smith wants privilege excluded from bill unless liability is waived		
c) HMJr suggests that O'Connor, Kennedy, and Coolidge do everything necessary in connection with Underwriting Section		
d) Eccles says bill in Senate form is "pretty bad": (1) Board cannot delegate power and authority to its members; (2) 4-year term for Chairman plus fact he cannot return to private business for 2 additional years is bad; (3) necessity of reporting to Congress reasons for open market operations also bad		
e) Awalt phones: Bill reported out by Senate Banking Committee 7/2/35		
HMJr thinks over Banking Act now that it <u>is</u> out of Committee 7/3/35.....		15
a) Since he has been in Treasury, Treasury has carried whole load of national finances without help or interference of Federal Reserve Board		
b) Thinks country is riding for fall with present hit-and-miss method of spending money		
c) Doesn't want Treasury to be "sole goat"; doesn't want to have "to pull some more white rabbits out of hat"		
d) Therefore hoped Federal Reserve Board would be given additional powers and created more or less as a monetary authority and so share responsibility		
e) As now constituted, Federal Reserve Board can <u>suggest</u> but have no power to enforce will on the banks of the country		
f) Treasury's power is Stabilization Fund; Open Market Committee thus kept in line		
g) Prophecies if present bill is passed with 7 members of Federal Reserve Board and 5 Governors of Federal Reserve Banks forming Open Market Committee, there will be continual dissension - nothing constructive accomplished; "if financial situation goes sour, chances are public will blame them rather than Treasury"		



Coinage

Oliphant suggests  $\frac{1}{2}$ ¢ and  $2\frac{1}{2}$ ¢ piece because of sales tax situations in Colorado, Illinois, et cetera - 7/8/35.. VIII 56,58

Community Chest

See Swope, Gerard

Cotton

See Silver

Countervailing Duties

Letter from FDR to HMJr (relating to discrimination by Germany against commerce of United States) concerning continued application to the products of certain countries of reduced rates of duty established under Swedish, Belgo-Luxembourg and Haitian Trade Agreements - 7/8/35..... 37-A

Customs, Bureau of

Goldberg case: HMJr tells Ambassador Straus United States desires use of photostatic copies of French Government records and of Pillet et Cie (Havre) in connection with smuggling and undervaluation, obtained by Waite; Straus asked to get French permission - 7/11/35..... 61  
Goldberg case: memorandum from Oliphant..... 62+

- D -

Dewey, Thomas E. (Special Prosecutor for grand jury investigation of organized crime in New York State)

Asks HMJr, on 7/10/35, for Treasury cooperation; HMJr tells him he will "turn Treasury inside out to help him"..... 48  
Wants Ellison C. Palmer, now in charge of Alcohol Tax Unit in New York. HMJr says excellent man but Treasury won't stand in way if Palmer wants to go with Dewey  
Tells HMJr he thinks very little of Secret Service - especially Alan G. Straight, principal Secret Service operator in New York State  
a) HMJr asks Dewey to repeat criticism of Straight to Chief Moran; Moran called in - takes great exception to Dewey's statements, asks for positive proofs  
Tells HMJr George M. Hall, press relations man for Treasury in New York, also very bad appointment  
HMJr arranges for Dewey to see Harold N. Graves, now in charge of all Treasury investigating forces

- F -

Farm Tenant Bill

HMJr tells FDR cost will be \$100,000,000  
FDR thinks some sort of bill must be passed; says Fahey (Home Owners' Loan Corporation) expects to use only \$80,000,000 during thirty-day extension period; thinks there should be \$1½ billion left over; thinks \$1 billion can be allocated to Farm Tenant Bill; HMJr thinks Fahey's right to issue guaranteed bonds must be cancelled before Farm Tenant Bill is authorized - 7/1/35..... 2

	Book	Page
Farm Tenant Bill (Continued)		
Group meets in office of Coolidge to discuss bill 7/1/35..	VIII	4
Bill provides for corporation with \$50,000,000 and authority to issue \$1,000,000,000 in guaranteed bonds; Oliphant emphasizes object is to take people in agricultural districts off relief 7/1/35.....		6
Group meets again 7/2/35.....		13
Group meets again 7/3/35.....		17
a) HMJr says, from Treasury point of view, 3 interesting facts:		
1) Bill calls for issuance of \$1 billion guaranteed bonds		
2) \$50,000,000 capital comes out of \$4 billion 8 work relief fund and so does not affect budget		
3) Another independent agency created in farm lending field		
b) Bankhead wants new agency in Department of Agriculture; Senate Committee unwilling to put agency handling 50-year paper there		
c) HMJr asks Myers (Farm Credit Administration) whether he can help tenants under present law; Myers says "yes"; Farm Credit Administration can make a first mortgage loan plus a commissioner's loan up to 75% normal value of property		
d) Alexander (Rural Resettlement, Agriculture) says they take best people on relief rolls but they are <u>not</u> most resourceful tenant type; wishes they could work with group just above relief rolls		
e) Congressman Jones objects to grants to people on relief at lower rates than those proposed by Bankhead-Jones bill		
f) HMJr wants 50% on a first mortgage, 25% on a commissioner's loan, and then grant from Resettlement of approximately \$4000 to make up difference		
g) HMJr asks how much more land will be brought under production; Mr. Bankhead says bill provides there shall be no increase		
h) FDR sympathetic with farm tenant needs but must also watch over interests of Treasury		
i) HMJr suggests possibility of cancelling Home Owners' Loan authorization and transferring funds to Farm Home Corporation; Bankhead and Jones think this is not practical		
j) After meeting, Jones tells HMJr privately "not to hurry program - that it has to be headed off"; Jones adds he is in a "pocket" on this bill		
Feis, Herbert		
See State Department.....		51

	Book	Page
<b>Financing, Government</b>		
Burgess told by HMJr Treasury wants a December 15th issue in 1939 or 1940; Burgess says 1938 or 1939; HMJr asks Burgess, "If I ask you to sell, 12/15/39, \$500 million, 1-3/8, can you do it?" Burgess says "yes" - 7/3/35....	VIII	14 C-F
<u>7/8/35</u> - Offering of approximately \$500 million at par and accrued interest of 4-year 5-month 1-3/8% Treasury notes of Series B, 1939.....		43 A
a) Subscriptions closed 7/8/35.....		43 B
b) Subscriptions equal \$2 billion, 970 million 7/11/35		65 A
<u>7/15/35</u> - Offering of approximately \$100 million of 2-7/8% Treasury bonds of 1955-60 at not less than par and accrued interest.....		66 A-F
a) Tenders received for \$510,958,000, face amount received; \$101,967,000 accepted at 101-27/32 down to 101-19/32 and accrued interest - 7/18/35.....		66 G
b) Allotment figures - 7/18/35.....		66 H
c) Later figures - 8/1/35.....	VIX	7 A
d) Final figures - 8/6/35.....	VIX	14 A
<b>Fitzgerald, James T.</b>		
Given 90-day appointment - HMJr informs FDR and tells him Kennedy is satisfied; FDR says, "No one can tell what an Irishman will do!" .....	VIII	2
<b>Fokker Planes</b>		
HMJr discusses 5 planes which are not in usable condition with Admiral Hamlet, Von Paulsen, and Henry S. Cocklin (Civilian Aviation Expert) - 7/2/35.....		12
<b>Foreign Affairs</b>		
FDR tells HMJr of information concerning a treaty between England, Germany, and Japan he has obtained from a highly confidential source; places some credence in it 7/7/35.....		50
<b>France</b>		
See Trade Agreement; France and Spain.....		10
Ambassador calls on HMJr 7/18/35.....		100
a) Expresses gratitude of Tannery (Bank of France) and French Government		
b) Expresses gratitude for suspension of new taxes on importation of fish (Island of St. Pierre)		
c) HMJr tells French Ambassador Treasury was not consulted in apple-wheat business		
<b>Germany</b>		
See Countervailing Duties		
<b>Gold Clause Securities</b>		
Suits against Government to be barred		
Treasury reaction to Senate Joint Resolution No.155 given in letter from HMJr to Senator Fletcher (Chairman, Committee on Banking and Currency) - 7/15/35.....		67
Group meets in Senator Fletcher's office prior to HMJr's appearance before Committee - 7/17/35.....		89
HMJr's statement.....		91*
HMJr tells FDR about "dress rehearsal".....		93

- G - (Continued)

	Book	Page
Goldberg, Isadore, and Company or Goldberg, I., and Sons, Incorporated		
See Customs, Bureau of.....	VIII	61+
Grimm, Peter		
Coming to Treasury on 7/8/35..... (Telephone conversation; Book VIII, pages 2 A-D)		1
Jones told by HMJr 7/8/35.....		24 A-C
Sabath sees HMJr concerning appointment 7/15/35.....		70
Sabath talks to Grimm at HMJr's house; now satisfied with appointment - 7/15/35.....		80
HMJr tells Gibbons to get word to Congressman Kennedy "to mind his own business".....		80
Meeting in office of Sabath 7/16/35.....		81
Favorable report of Committee 7/17/35.....		92
HMJr tells FDR of favorable report 7/17/35.....		93
Guffey Coal Bill		
Oliphant to prepare memorandum on the \$300,000,000 bond proposal - 7/1/35.....		6

- H -

Hall, George M. (Press relations representative, Treasury Department, New York)		
See Dewey, Thomas E.....		49
Hammond, James (Publisher "Commercial Appeal" - Memphis, Tennessee)		
See Tennessee (Memphis).....		57
Housing		
See Grimm, Peter		

- I -

Investigations, Treasury Personnel		
Hargrave case, Bureau of Internal Revenue: Congressman Spence came in about Mr. Weigell, implicated also - 7/9/35.....		44
Italy		
Jones, through Import-Export Bank, wants to give 6 months credit so that Italy can buy 350,000 bales of cotton. HMJr absolutely opposed - thinks it will be interpreted as United States helping Italy against Ethiopia - 7/30/35		195

- K -

Kennedy, Joseph P.		
See Fitzgerald, James T. (wife's uncle).....		2

	Book	Page
Leith-Ross, Sir Frederick		
HMJr tells FDR Phillips of State Department approached Coolidge concerning visit; FDR and HMJr agree British Ambassador must make first move - 7/2/35.....	VIII	10
Sir Josiah Stamp writes HMJr, suggesting unofficial meeting when Leith-Ross is in Canada on way to China; HMJr declines - June-July, 1935.....		45,46
Liquor		
HMJr concerned about bill on sale of bulk liquor; talks to Schwarz (Internal Revenue, Chicago), Stephenson (Internal Revenue, Newark), Hall (Internal Revenue, New York City); asks them to build "a backfire" on this. Instructions attached - 7 23/35.....		114+
See also Brown, Bert C.; Moore, C. E.; Pollock, C. W.; Treasury agents involved in liquor sales.....		123+
Long, Huey		
Governor Moody and Elmer Ireby tell HMJr Judge McMillan is not available for this case since Mrs. McMillan has had an accident; Judge Admiral of Dallas, Texas, not available until September 1. Governor Moody must himself resign from Government to represent client on very important case - 7/9/35.....		47
HMJr tells FDR he has been informed Long has persuaded Borah to assist him in postponing case until after primaries 7/25/35.....		191

McKellar, Kenneth (Senator, Tennessee)		
See Tennessee (Memphis).....		57
Mellott, Arthur		
See Board of Tax Appeals.....		80,100
Mexico		
See Silver.....		97
Moore, G. E. (Collector of Internal Revenue - Cleveland, Ohio)		
Resume' of case involving activities in sale of liquor 7/24/35-7/8/37 (Senator Bulkley phones of Moore's resignation).....		123+,160+, 178+,182+

National Youth Administration		
Josephine Roche tells HMJr "no progress - Aubrey Williams away"; HMJr tells Hopkins of his concern, since Treasury name is attached to program; Hopkins says FDR gave him \$50 million and he personally is responsible for Youth movement - 7/2/35.....		9
See Pearson, Governor of Virgin Islands.....		111

- N - (Continued)

	Book	Page
New York City Court House		
Report concerning status of construction 7/16/35.....	VIII	85+

- O -

One-Dollar Bill		
FDR OK's new one with Great Seal - 7/1/35.....		2

- P -

Palmer, Ellison C. (In charge Alcohol Tax Unit, New York)		
See Dewey, Thomas E.....		48
Patman, Wright		
See Bonus.....		2
Pearson, Governor - Virgin Islands		
Ickes tells Josephine Roche, who tells HMJr "President wants him made an Assistant Administrator of Youth Administration at once" - 7/22/35.....		111
Perkins, Frances		
See Unemployment.....		52
Phillips, William		
See State Department.....		51
Pollock, C. W. (Assistant Collector of Customs - Cleveland, Ohio)		
Resume' of activities in sale of liquor 7/24/35.....		143,175
Post Office at San Jose, California		
See San Jose.....		10
Puerto Rico		
Governor Winship calls on HMJr concerning benefit of income taxes on sugar raised there and sent to United States - 7/31/35.....		196

- R -

Rochs, Josephine		
See Wright, "Bill".....		85
See Unemployment		

- S -

Sabath, Congressman (Illinois)		70,80,81,
See Grimm, Peter.....		92,93
St. Pierre, Island of		
See France.....		100
Sales Tax		
See Coinage.....		56

	Book	Page
San Jose, California, Post Office		
HMJr asks Peoples (Procurement Division) to send one of the best Inspectors to investigate any graft 7/2/35.....	VIII	10
Silver (arranged chronologically)		
FDR tells HMJr he thinks possibly England, Germany, and Japan have united to break silver market; HMJr thinks selling merely comes from frightened speculators 7/7/35		51
HMJr asks FDR about policy: bringing over 3½ million ounces a week or 15-20 million ounces; FDR prefers small shipments, otherwise United States "tips hand to the world" 7/10/35.....		51
HMJr tells FDR flurry seems over: on 7/9/35 - 67.85; on 7/10/35 - 69.52, during last 4 or 5 days, United States acquired 42 million ounces.....		56
See National Whirligig - 7/13/35.....		65
HMJr talks to Pittman about fixing definite price; Pittman realizes advantage to China, where business is done on long-term credit, but advises against it; says also Senator Bankhead thinks raising price would affect price of cotton. HMJr advises consulting Oscar Johnson who will show <u>no</u> relationship between two - 7/11/35.....		60
HMJr tells FDR interesting idea on Chinese situation; 9 or 10 months ago, 20 million ounces purchased from China at 52¢; all but 4,750,000 ounces delivered. Chase National Bank now suggests Chinese Government wants to deliver balance to us in Shanghai, to be put in vaults of Chase National Bank there. HMJr suggests United States buy 500,000 ounces a month, stringing purchases along for 10 months; we might lose 2½ million ounces in case of revolution in Shanghai, et cetera, but cheap price to "kid" Chinese along; perhaps T. V. Soong would make appreciative statement as Tannery of France did. HMJr to talk to Phillips about this 7/17/35		93
Josephus Daniels (Ambassador to Mexico) reports on interview with President Cardenas concerning United States policy; certain questions presented United States - 7/12/35.....		97
HMJr, Phillips (State Department), et cetera, discuss questions.....		102
HMJr also tells Phillips his new idea on Chinese situation...		102
HMJr asks Nicholson (Treasury Attache' at Shanghai) concerning feasibility.....		104
Lochhead report describing original purchase of Chinese silver.....		105+
Welles doesn't approve of Chinese plan; wants to talk to HMJr; Phillips irked at interference; Welles says: (1) FDR wants continental, not regional, move (2) FDR wants confidential sounding out in advance		
HMJr tells Welles FDR had asked State Department one year ago to approach Canada and Mexico; sees no reason to delay longer - 7/23/35.....		121
Daniels again confers with HMJr 7/24/35.....		189+
Nicholson (Treasury Attache' in Shanghai) cables conversation between Chiang Kai Shek and Professor Buok 7/26/35.....		189

	Book	Page
Slum Clearance		
FDR tells HMJr, "Sometime before September, Ickes will be notified he cannot let any contracts after September 1; heavy projects too slow starting".....	VIII	109
See also Unemployment		
Spain		
See Trade Agreement: France and Spain.....		10
Stamp, Sir Josiah		
See Leith-Ross, Sir Frederick.....		45,46
State Department		
FDR tells HMJr he wants to "clean house and rebuild"; wants to replace Phillips; asks for suggestions to replace Herbert Feis; is Jacob Viner the right person? HMJr says "no - excellent in analyzing economic problems, not so good in taking pieces and building new structure" HMJr thinks nothing will happen since FDR "hates to fire people and rebuild a new organization out of a poor one" 7/7/35.....		51
State-Federal Government Relationships		
HMJr asks Haas for chart 7/10/35.....		57
Statements by HMJr		
By HMJr 7/8/35 before Committee on Ways and Means on "proposed taxation of individuals and corporations of inheritances and gifts"		
1. Draft.....		38+
2. Finished statement.....		40+
3. Supplemental statement returning tax rate schedules submitted to Treasury for estimate of probable yield		41+
By HMJr 7/17/35 before Committee on Banking and Currency concerning gold-clause securities of United States.....		91+
Straight, Alan G. (Principal Operator - Secret Service, New York)		
See Dewey, Thomas E.....		48
Switzerland		
Harrison (Federal Reserve, New York) tells HMJr of letter from Bockman, head of Swiss National Bank, asking for personal views about possibility of Swiss loan - \$40-\$50 million; Harrison tells Bockman he feels chances of floating advantageous loan no better in United States than at home - 7/2/35.....		12
Swope, Gerard		
Telephones HMJr, who says he hopes to give an answer on tax matter very soon - 7/3/35.....		14 B
Asks for ruling permitting corporations to deduct Community Chest contributions as expenses for income tax purposes; HMJr disapproves but refers to Oliphant 7/11/35.....		59

Taxation

Garner constantly saying he could write tax bill in 20 minutes; FDR thinks he could write one in 24 hours. HMJr analyzes FDR's last suggestion and shows it would produce only \$20,000,000. FDR wants inheritance emphasized and treated as though it were annual income 7/1/35..... VIII 1

Haas-Oliphant memorandum explaining Parker's (Joint Committee) schedule of rates and Treasury's estimates done at request of Senator Harrison - 7/2/35..... 7+

Statement before Committee on Ways and Means 7/8/35 on "proposed taxation of individuals and corporations of inheritances and gifts"..... 38+

Supplemental statement returning tax rate schedules submitted to Treasury for estimate of probable yield.. 41+

FDR suggests time has come for Treasury to help "up on Hill"; HMJr calls Doughton; Doughton says he will write his own tax bill - 7/22/35..... 112

Tennessee (Memphis)  
Hammond, James (Publisher, "Commercial Appeal") introduced by Senator Harrison and not Senator McKellar ("who is part of crooked State ring") asks HMJr to clean up: income tax violations, liquor, et cetera - 7/10/35.... 57

Trade Agreement: France and Spain  
Harrison (Federal Reserve, New York) tells HMJr Chase National Bank is sending HMJr copy of telegram saying negotiations have been broken off; tells HMJr Hull might be interested in seeing telegram - 7/2/35..... 10

Traynor, Roger J. (California)  
See Board of Tax Appeals..... 80,100

Unemployment

Study to be made by HMJr so that deficit, beginning 7/1/36, may be less - 7/3/35..... 14

Lonigan charts show unemployment figures have levelled off; HMJr knows amount being spent on unemployment is constantly increasing - situation must be presented to FDR. HMJr thinks whole matter is being handled in most haphazard way - no long range planning; knows of no one except Frances Perkins with force of character, vision, and influence who could carry out really sound program - 7/10/35..... 52

HMJr asks Haas for chart showing relationship of all agencies dealing with unemployment - 7/10/35..... 56

Charts given..... 72-79

Conference (HMJr, Perkins, Hopkins, Roche, Walker, et cetera): HMJr discouraged - 7/17/35..... 93

Unemployment (Continued)

HMJr suggests to FDR 7/18/35:

- 1. Unemployment census
  - 2. Appointment to vacancy as Economic Adviser to Walker (National Emergency Council) a person who can be Chairman of Committee to study situation..... VIII 100
- Conference (HMJr, Roche, Gill, Lonigan, Haas, Klotz) 7/22/35 106

- a) Gill gives May estimate of 4,800,000, from which deduct:
  - 1. Farmer-operators 330,000
  - 2. Unemployables 920,000 Balance 3,450,000
  - 3. College student aid 100,000

b) HMJr says he favored using idle factories by unemployed; Gill says virtually nothing left of that program

HMJr tells FDR "straight from shoulder" they both know \$4 billion relief fund is not a success; new plans discussed; see Slum Clearance; HMJr says Georgia is only state to throw unemployables back on community; United States still has 900,000+ unemployables; FDR "amazed." HMJr suggests speech by FDR right after adjournment of Congress provided business recovery seems assured; FDR immediately rehearses a speech - 7/23/35..... 108+

\$4 Billion Relief Fund

- Conference with HMJr, McReynolds, Bartelt (for D. W. Bell), Captain Collins (Procurement Division), and a group of accountants and disbursing officers - 7/8/35..... 25
  - a) Progress report given by Bartelt..... 31+
  - b) Louisiana Administrator having hard time with Huey Long's men; HMJr promises help; will take on good Democrats suited to job, but "not setting this up on political basis"; will protect men from all "political heat"..... 25
  - c) Captain Collins explains all purchasing to be done by Procurement Division for projects under \$4 billion, and also for Tugwell's Resettlement program, but not for Rural Electrification, which is all on a loan basis
  - d) Bartelt explains Division of Accounts and Deposits cannot go into State accounting; they get a voucher covering a grant or loan and treat voucher same as any other contract
  - e) HMJr asks about number of men working; who reports to FDR? Bartelt says Hopkins, but Bartelt's report will show man hours; HMJr says never use "man hours" in report to FDR
  - f) Hopkins has finance directors, regional examiners covering several states, and field representatives-- all under Corrington Gill
  - g) Treasury responsibility for disbursing and accounting under "Emergency Relief Appropriation Act of 1935" read aloud
  - h) List of "special representatives to coordinate procurement, accounting, and disbursing activities in the States" attached..... 35

Unemployment (Continued)

\$4 Billion 8 Relief Fund (Continued)

HMJr tells FDR "straight from shoulder" they both know program is not a success; new plans discussed.

See also Unemployment; Slum Clearance - 7/23/35..... VIII 108

HMJr studies Hopkins' second report and discusses it with Gill; notes:

a) Where amount of money is allotted by States, they omit number of people on relief in each State and percentage of unemployed cared for

b) Beginning to omit clause "it is necessary to care for at least 90% of people on rolls" 7/23/35 113

HMJr thinks certain duties should be transferred from Hopkins to Department of Justice and Central

Statistical Board - 7/29/35..... 194

U. S. S. R.

HMJr again tells FDR that Troyanovsky wants to see him (HMJr);

FDR says "no" - 7/10/35..... 51

Viner, Jacob

See State Department..... 51

Willis, H. Parker

HMJr tells Thomas W. Phelps (Wall Street Journal) Willis has recommended Niedecker (a crook) to be Financial Adviser to American Embassy in Paris - 7/24/35.....

190 A-B

Wright, "Bill"

Josephine Roche tells HMJr she does not want him in

National Youth Movement; HMJr displeased but agrees - 7/16/35 85

July 1st

I asked the President strictly between us how he would feel if there was a tremendous movement in Congress to adjourn and come back next fall and take up the tax bill then. He said he would not fight it. I told the President what I had done with Doughton Thursday night and how I had refused to appear on Tuesday, July 2nd with a complete tax program and it had been my suggestion that the hearings be postponed until July 8th. The President said that is too long I wish you would have made it Friday, July 5th. I told him we could not be ready. I said that Jack Garner has repeatedly said that he could write a tax bill in twenty minutes. He nor anybody else could write a tax bill without weeks of study. This was an indirect hit at the President who has been saying that he could write one in twenty four hours.

I told him how we had taken his most recent suggestion and analyzed it and that it would produce only \$20,000,000. This was my way of letting him know that he cannot write a tax bill either. He said, from now on I want you to stress and have all of your people emphasize the inheritance tax method whereby you treat inheritance as though it was annual income. I looked surprised and he said, I told you to soft-pedal that, didn't I? I did not answer him because I was not sure whether he had or had not.

I then showed him our most recent statement on our silver purchases and he seemed very much pleased. I then said, Mr. President, George Haas is preparing ten or twelve different methods of raising taxes and we would like to bring them over and show them to you and then let you decide which one appeals to you most. He said can you have it ready by Wednesday morning and I said sure, so we have an appointment for Oliphant, Haas and myself to see the President at eleven o'clock Wednesday morning.

I then told him that Peter Grimm had phoned me this morning that he is coming with me and that he will be down July 8 and I am to bring him over at 12:45.

I then showed the President a statement that Bell had given me two minutes before I went over so that I had no time to study it. The point that I wanted to get over to the President with this statement was that he could not afford to take the \$86,490,808 that Buchanan had cut out of the \$300,000,000. General Public Works Bill and give it to Tugwell for buying land, etc. While the President did not tell me so, I understand that his position had been that he would rather take this \$86,000,000 than have the proposed bill go thru appropriating \$200,000,000 for this purpose.

I told him that if the Bankhead Farm Tenant Bill would go thru it would cost us \$100,000,000. He said we have got to have some kind of a farm tenant bill, to my surprise. He then told me that Fahey had been in to see him and that he only expected to write about \$80,000,000 during the thirty day period that he re-opened the right to take applications so he certainly ought to have at least one and a half billion left over. I said if you must have a farm tenant bill, I think it would be good business and popular to cancel the authority of Fahey to issue bonds by at least one billion dollars and allocate that to the farm tenant bill. The President said that would be o.k., that the farm tenant bill ought not to need more than \$500,000,000.

I got this idea just out of the air but certainly before I will go along on letting the farm tenant bill have the right to issue any amount of guarantee bonds I want to cancel the unused amount in Fahey's organization - otherwise they will give him another thirty or sixty days in which to take applications just as long as he has the authority to issue an increased amount of bonds.

The President then turned to me and said this is July 1st and I will show you what we are going to do for our next budget. He seemed very anxious to get this over to me and he cut \$50,000,000 from the regular appropriations and then said, next year's relief will cost about two and a half billion or we will have a deficit according to his figures of about four billion four. (of course if we could keep it down to anything like this it would be wonderful but after all this is July 1, 1935 and next year's budget is a long long way off).

I told him that we fixed up Kennedy today and that he told me that he was very much pleased and Kennedy said I can't help it that I married into an S.O.B. of a family - and when I told him that we were giving Jim Fitzgerald only a 90 day appointment and would have to reappoint him at the end of 90 days Kennedy said, and maybe the S.O.B. will not live more than 90 days. I repeated this all to the President, whereupon he made an astonishing remark, namely, no one can tell what an Irishman will do.

He o.k'd the new \$1.00 bill with the Great Seal on it.

I called the President, thru Kannee, and asked him if he could give me a tip how to handle Wright Patman. The message came back, talk to Wright Patman who wants to talk to you about the bonus, but the President whispered for my ear only, don't commit yourself in any way.

Senator Patman came in to see H.M., Jr.

July 1, 1935.  
Monday.

H.M.Jr: Hello.

Peter Grimm: Good morning, Mr. Morgenthau.

H.M.Jr: Hello, Mr. Grimm. I was beginning to give up hope I'd ever hear from you.

G: Well, I called you up to tell you that I'm coming to work for you.

H.M.Jr: Well, grand.

G: If I had called you any earlier as I wanted to do I would have told you the reverse; I couldn't bring myself to do it.

H.M.Jr: Well, that's grand.

G: I've had a good deal of heartache as you can imagine - it hasn't been easy, but I - I've been so drawn to you on our two short visits, I'm willing to take a chance and go to work for you.

H.M.Jr: Well, that's grand. Now -

G: You're not planning to be up New York in the next few days, are you?

H.M.Jr: Well, I'm coming - I'm going to be on my farm from - Thursday, Friday, Saturday and Sunday.

G: Where is your farm?

H.M.Jr: It's located at Fishkill, New York.

G: Oh, yes. Now, what - I thought of doing this, Mr. Morgenthau. I thought of coming to Washington on Monday afternoon next.

H.M.Jr: Monday afternoon next.

G: And then make final business detail arrangements with you. And then I made a long standing date to appear at the University of Virginia on July 10th for a short speech.

H.M.Jr: Oh, yes.

G: And I'd like to do that and take that - the rest of that week off and get with you on the following Monday. How does that sound to you?

H.M.Jr: That's all right.

G: All right, then suppose - what time on Monday do you think

it would be convenient for me to see you?

- H.M.Jr: Well, what I would do would be this. I'd get down here oh, I think there's that plane leaves up there - gets in - I'd take that morning plane that gets in here around ten-eleven o'clock.
- G: Well, what I thought of doing since I've got to go down to Charlottesville anyway -
- H.M.Jr: Yes.
- G: - Wednesday, I thought of motoring down on Sunday afternoon and being there sometime at noon on Monday.
- H.M.Jr: Well, if you could get to my office, say about twelve o'clock.
- G: Yes.
- H.M.Jr: And what I'm trying to do is to arrange to have you see the President.
- G: Fine.
- H.M.Jr: So, if you could come to my office, say about twelve o'clock a week from today?
- G: All right, twelve o'clock a week from today.
- H.M.Jr: Because I always lunch with the President on Monday and what I'd ask him to do is whether I could bring you in right after lunch.
- G: Fine. Good.
- H.M.Jr: Or just before lunch.
- G: Yes, all right.
- H.M.Jr: See?
- G: All right, now -
- H.M.Jr: Now, what I'll do is - I think I'll ask him to make an appointment before you - before lunch.
- G: All right.
- H.M.Jr: Because on Mondays he's pretty rushed and I'll ask him now.
- G: All right. Good.
- H.M.Jr: But - I'll tell him and then we'll go into the thing then. But, I am delighted.

G: Well - and this matter is just between you and me for the moment.

H.M.Jr: And the President.

G: Yes.

H.M.Jr: Is that right?

G: In other words, it's off the Record until we all agree.

H.M.Jr: That's all right.

G: All right and I'm very anxious to do it. Now, on Monday of next week I'll see you at twelve and I'd like you also at that time to see my partner, Harold Riggaman, whom you'll like very much.

H.M.Jr: Fine.

G: Earle Bailey told me so many nice things about you that I know we won't have any difficulties.

H.M.Jr: Oh, you went to see Earle?

G: Oh, yes, I saw him that same day.

H.M.Jr: Well, I didn't talk to him, I didn't - I haven't - I didn't even know that you'd seen him.

G: I saw him the same day I talked to you  
and you'll find Harold Riggaman  
just the same type.

H.M.Jr: Fine.

G: When he says something it has a very distinct  
and you don't have to look for hidden meanings.

H.M.Jr: Has a what?

G: You don't have to look for hidden meanings; you can always understand what he says.

H.M.Jr: Who is that?

G: Riggaman.

H.M.Jr: Good.

G: And Bailey is the same way.

H.M.Jr: Fine.

G: And we have no -

H.M.Jr: Well, I'll ask now for an appointment for next week, see?

G: All right, that's first rate. I'll see you next week.

H.M.Jr: Right. Goodbye.

THE WHITE HOUSE  
WASHINGTON

7/1/35

Director Budget

In connection with the  
arrival of July 1<sup>st</sup> will  
you please let me have  
definite figures showing

(A) All unobligated balances  
in old Relief Appropriations  
(not the 4 Billions)

(B) All unobligated balances  
in P.W.A. \$3,300,000,000 of profs.  
including obligations which may not be actually used.

(C) All unobligated balances in  
A.A.A. FDR

July 1, 1935.

4

A group met in the office of Under Secretary Coolidge at 11 A.M. for consideration of the Bankhead Farm Home Corporation Bill and the Security Underwriting section of the Banking Bill.

Those present were:

Henry Morgenthau, Jr. Secretary of the Treasury,

T.J. Coolidge, Under Secretary of the Treasury,

Marriner S. Eccles, Governor, Federal Reserve Board,

Wm. I. Myers, Governor, Farm Credit Administration,

Herman Oliphant, General Counsel, Treasury Department,

Jesse Jones, Chairman, RFC,

J.F.T. O'Connor, Comptroller of the Currency,

Leo T. Crowley, Chairman, FDIC,

D.W. Bell, Commissioner, Accounts and Deposits,

John B. Burns, General Counsel, Securities Exchange Commission,

C.V. Opper, Assistant General Counsel, Treasury Department,

C.B. Upham.

Robt. L. Hoguet, Jr.

Mr. Burns discussed the proposed exemption of banks from the liability imposed in Sections 11 and 12 of the Securities Act. He said that it was the unanimous opinion of the Commission that it would be unwise to grant the exemption proposed because the liability in Section 11 on signers/<sup>of</sup> registration statements is for the protection of those investors who normally rely on underwriters. The exemption would create a privileged class of underwriters and would be unfair to other groups. He said they could see not the slightest reason for exemption from liability under Section 12

because that is merely a codification of the common law liability. He said he understood the language of the June 21st print to be "underwrite and sell". He thought it would be probably less objectionable if the selling feature were not included. The Commission has no expression of opinion on whether banks should be permitted to underwrite, confining its comment to exemption from liability.

Mr. Eccles said that his first reaction to the exemption was unfair. He thought it would put banks right back where they got in so much trouble before. He was of the opinion that the bill would give the right to originate as well as underwrite. He said the investment bankers oppose the proposal which is favored by commercial banks.

Mr. Burns said the feature which permitted distributions through Security Exchanges was particularly objectionable and that the Stock Exchange does not permit distribution without prior registration.

Mr. Morgenthau suggested the preparation of a joint memorandum if the agencies could agree so that there would be a united front at this end of the avenue.

Mr. Burns referred to the fact that 5 of the commercial banks could underwrite an issue of \$100,000,000 without liability.

Mr. O'Connor's comment was that the same 5 banks could lend that much money. He added that something has got to be done to open a capital market.

Mr. Coolidge commented that while the commercial banks could lend, investment bankers might not be willing to borrow enough to

guarantee a big issue.

Mr. Burns agreed that there was some strength in the argument that money is needed to open up capital markets.

It was agreed that a memorandum should be distributed and the group meet at 11 tomorrow for further discussion.

---

Mr. Myers explained that the Bankhead Bill provides for a corporation with \$50,000,000 capital and the authority to issue \$1,000,000,000 in guaranteed bonds for the purpose of buying farms to sell to tenants.

It was agreed that a brief would be prepared on this bill for distribution and further discussion at the meeting tomorrow.

Mr. Oliphant emphasized the purpose of the Bankhead Bill as being to take people in agricultural districts off of relief.

---

Mr. Oliphant agreed to prepare a memorandum on the \$300,000,000 bond proposal in the Guffey Coal Bill.

7

Statement dictated by Haas and Oliphant for the  
Secretary to hand to the Vice President, July 2, 1935.

Tuesday morning at 9 a.m. Senator Harrison called the Secretary asking him to send down the Treasury experts to work on the tax bill with the experts from the Legislative Drafting Service. Haas, Jackson and Oliphant were sent and they arrived in Harrison's private office at 10:05 a.m. where Harrison stated he had called Parker to his home the night before and discussed a general plan.

Parker presented a schedule of rates for each of the three measures written in pencil. There were discussed by Harrison for some time.

Haas, Jackson and Oliphant returned to the Treasury at 11 o'clock. At about 11:30 Parker telephoned to Haas' office and a stenographer took down the schedules of rates which Parker had prepared and Parker's estimates of what they would yield.

The three of us went back to the office of the Legislative Council in the Senate Office Building at 12 o'clock and spent until 4 o'clock working, not on rates, but upon the texts of the three proposed measures.

The three of us went with Harrison and the legislative experts into the meeting of the full Finance Committee at 4 p.m.

At this meeting Senator Clark asked Harrison who had prepared these schedules. Harrison asked Parker to answer and Parker said he had prepared them. Senator Clark said to Senator Harrison that Harrison had told members of the Committee that Oliphant had prepared the schedules.

After the committee had been in session a short time the estimates on Parker's schedules having just been finished in Haas' shop were brought to Haas. Word that they would yield only nominal amounts was passed to Parker and by Parker to Senator Harrison.

Senator Harrison adjourned the Committee Meeting until 10 o'clock Wednesday, stating the estimates would not be ready until that time.

Tuesday evening and a good part of the night was spent at the Treasury working over the estimates with Parker, convincing him that his estimates were altogether too high.

Senator Harrison telephoned Oliphant at 9 o'clock Wednesday morning asking that the Treasury representatives come down at once to discuss the situation created by the mistake Parker had made in his estimates. Jackson, Oliphant and McLeod arrived at Harrison's office at 10 minutes of 10 Wednesday morning, where until 10:15 there was discussed the embarrassing situation created by the fact that Senator Harrison had given out Parker's suggested rates and Parker's erroneous estimates to the newspapers Tuesday evening. At 10:15 Senator Harrison asked us all to go to the Committee Meeting. He went on ahead and before we arrived he came out telling us to go back to his office that he had adjourned the meeting stating to the Committee that the Treasury and legislative experts had worked almost all night and were still not ready to give estimates.

The Treasury statistical staff received Parker's rates about noon Tuesday and by 4 o'clock that day, the time of the Committee Meeting, they had the estimates ready.

July 2d

H.M.Jr. asked Miss Roche what progress she was making on the Youth Security Program and she said very little because Aubrey Williams was away and she had to wait until he returned. H.M.Jr. asked her if she would mind if he called Harry Hopkins and she said she did not but that she did not want him to give Harry Hopkins the idea that she was complaining.

H.M.Jr. called Harry Hopkins and said that he had been scolding Miss Roche about the progress of the Youth Movement; that he was very much worried about it because nothing had been started; that Aubrey Williams was out of town and that we have at least 1,000 letters unanswered and that no one has been appointed to take care of the deluge of letters and callers; that this program had the Treasury name attached to it and that was the reason for his concern.

Harry Hopkins told H.M.Jr. that the President had given him 50 million dollars and that he personally was responsible for the Youth Movement.

July 2d

I asked Admiral Peoples verbally to-day to send one of his best Inspectors out to the San Jose Post Office to make a thorough investigation of any graft.

H.M.Jr. called Wallace and Marvin Jones and asked them to get together with him to discuss the tenant farm bill tomorrow at 10 o'clock. Dr. Myers, Rex Tugwell, Mr. Coolidge and Mr. Oliphant will also be present.

H.M.Jr. called the President this morning and told him that we have orders to take all the silver that is being offered at 69¢.

He also told the President that Phillips, of the State Department, called Coolidge yesterday to inquire why we do not wish to drop a hint to have Leith-Ross come here. H.M.Jr. told the President that he informed Mr. Coolidge that he was absolutely opposed to it and that he knew that the President was. If the British Ambassador asked us to arrange such an appointment he would be perfectly agreeable but he felt that the first move should come from the British. The President was in entire agreement with Mr. Morgenthau.

George Harrison phoned and had the following discussion with Mr. Morgenthau:

H: How are you, sir?

H.M.Jr: I'm fine.

H: Say, there were two things I wanted to mention to you. One of them I think you may have already had - a telegram that came to the Chase Bank about the negotiations for a trade treaty between France and Spain, having been broken off.

H.M.Jr: No, I - did that come down here?

H: Well, I understood they were sending you a copy.

H.M.Jr: Who's sending me a copy?

H: The Chase Bank.

H.M.Jr: Well

H: I got a telegram - copy of the telegram that they received from Paris.

- H.M.Jr: Well, most likely - most likely Archie Lochhead's got it.
- H: Yes, but I - the reason I'm mentioning it to you is it seems to me that unless you've already heard that might be very interesting to Hull.
- H.M.Jr: Oh, well we'll send it over to him. I think -
- H: I thought I would do it - I thought it better come from you.
- H.M.Jr: Yes, we'll take care of that - we'll take care of it and have Archie take care of it.
- H: As long as they've broken down it might be a good chance for him to push his Spanish Treaty which he's talking about.
- H.M.Jr: All right.
- H: Right. Now, the other thing is, I got a long letter from Bockman, who is the head of the Swiss National Bank, asking me for my personal views about the possibility of a Swiss loan in this market at some time in the near future. They want 40 or 50 millions of dollars and they say that the difficulty is home.
- H.M.Jr: Yes.
- H: The rates there on government bonds are around  $4\frac{1}{2}\%$  which they think is too high and he asked me in the letter not to discuss it or mention it to anybody at all in the market, so I haven't done it, but I've written him a letter merely saying that in view of present conditions while short-time money here in our own Treasury bonds are low; that in view of present conditions abroad and the banking troubles in Switzerland and the talk about monetary adjustments over there, I didn't think he'd do any better in this market than he would at home, and I just wanted to let you know that I had gotten that letter from him and how I was answering him.
- H.M.Jr: Now, as I understand it, you're discouraging him.
- H: Yes.
- H.M.Jr: Right.
- H: Because I don't think he could possibly do  $4\frac{1}{2}\%$  here.

H.M.Jr: I see.

H: With conditions in Switzerland as they are. He doesn't let me talk to the Market about it so I can't check up my judgment on the outside, but I think he'd be foolish to try to float a loan - Swiss loan here now for 50 million dollars.

H.M.Jr: Yes. Well, I'll take your advice.

H: Yes, but I just wanted to let you know the inside in case you heard of it outside.

H.M.Jr: That's right.

H: So you'd know what it was all about.

H.M.Jr: Well, thank you.

H: All right.

H.M.Jr: Thank you.

H: Goodby.

H.M.Jr. called in Admiral Hamlet, Von Paulsen and Mr. Henry S. Cocklin, Civilian Aviation Expert, to discuss the 5 Fokker planes which are not in useable condition and which Mr. Morgenthau feels should either be "thrown in the ocean" or "swapped" or put into flying condition.

Von Paulsen told Mr. Morgenthau that they have, on several occasions, tried to repair them but their latest idea is to have new nacelles put into the planes; that they were waiting for written confirmation from the Navy and that just as soon as this was received the planes would be shipped to the Philadelphia Navy Yard for repairs. He said it would take about eight weeks and would cost about \$6,000. Mr. Morgenthau promised to ask the Navy to hurry these repairs just as soon as Von Paulsen notified him that written confirmation was received from the Navy Department.

It was also agreed to maintain a Douglas at the Floyd Bennett Field with a crew for rescue work and law enforcement for the months of July and August.

H.M.Jr. asked Von Paulsen to stay behind and returned to him the report which he gave him a week ago and asked him to take out his criticism of Admiral Hamlet. He did this entirely for Von Paulsen as he did not want this written criticism to be held against Von Paulsen.

July 2, 1935.

13

A group met in the office of Under Secretary Coolidge to discuss the Banking Act of 1935 and the Farm Home Act (Bankhead Bill). Those present were:

Henry Morgenthau, Jr., Secretary of the Treasury,  
T.J. Coolidge, Under Secretary of the Treasury,  
Jesse Jones, Chairman, RFC  
Leo T. Crowley, Chairman, FDIC,  
J.F.T. O'Connor, Comptroller of the Currency,  
Marriner S. Eccles, Governor, Federal Reserve Board,  
H.A. Mulligan, Treasurer, RFC,  
R.L. Hoguet, Jr.  
C.B. Upham.

Since the Senate Banking Committee put back into the Banking Bill the provision that banks which underwrite shall be subject to the liabilities of Sections 11 and 12 of the Securities Act, Mr. Kennedy of the SEC sent no representative to the meeting and informed us that the letter which had been drafted for transmission to Senator Fletcher would not be mailed.

Mr. Coolidge reported that the President was against banks underwriting at all. Moreover, he added, the banks did not want to underwrite if they were to be subjected <sup>to</sup> the liability which the Senate Committee has placed in the bill. He reported that Tom Smith is eager that the privilege of underwriting be excluded from the bill entirely unless liability is waived.

Mr. O'Connor gave some criticism of the Kennedy-Fletcher letter and explained that there is some difference between bank underwriters and other underwriters in that in the case of banks the liability

is on the depositors rather than on partners in the firm.

Mr. Crowley raised the question whether anything could be done about trying to get the section out on the floor of the Senate and Mr. Eccles was for leaving it to conference adjustment.

Mr. Coolidge agreed with Mr. Eccles and opposed any idea of fixing the liability on officers and directors of the bank.

Mr. O'Connor and Mr. Eccles agreed that the section in the form reported by the Senate Committee would be a dead letter.

Mr. Coolidge said that Mr. Morgenthau was opposed to the restrictions on/banks buying Government securities direct from the Government.  
<sup>reserve</sup>

Mr. Morgenthau came in at this point and stated that consideration of the Bankhead Bill would be postponed until 10 o'clock tomorrow when Secretary Wallace, Senator Bankhead, Governor Myers and Congressman Jones would be present.

Mr. Morgenthau stated that Mr. Coolidge was to represent him and act for him on the Banking Bill. He reported that the President is opposed to bank underwriting on any terms -- that he has no strong opinion on other details but went along pretty well with Mr. Eccles in his position. He suggested that Mr. O'Connor, Mr. Kennedy and Mr. Coolidge meet as often as necessary to do what may be needed in connection with the underwriting section. He reported that the President told Mr. Eccles to confer with the Vice-President and Senator Fletcher and get their advice. Mr. Morgenthau thought Mr. Coolidge ought to go along.

Mr. Eccles interposed to say that their advice was to be sought with respect to the possibility of appointment of Senate conferees

friendly to his revisions.

Mr. Crowley opposed any special arrangement for conferees. He said that there was strong precedent in the matter and that only today Speaker Byrns had reaffirmed his intention to appoint ranking committee members. Mr. Crowley was strong in the belief that we would not get what we want by starting a row.

Mr. Morgenthau said that he thought no one should go to the Hill unless they were called and Mr. Jones agreed that he was 100% right.

Mr. Morgenthau said that Mr. Crowley, Mr. Eccles and Mr. O'Connor were the administrators of the law and that they should work out what they want done and make sure that all know what each is doing.

Mr. Crowley asked Mr. Eccles how bad the bill in the Senate form is and Mr. Eccles replied that it is pretty bad. He mentioned that the Board can't delegate power and authority to its members. He said the four-year term for the Chairman is bad, particularly since he can't return to private business for two years unless he has served the full term. The necessity to report to Congress reasons for open market operations he thought bad. He objected to the penalty rate on advances in Section 10 (b) of the Federal Reserve Act.

At this point Mr. Awalt telephoned to say that the Senate Banking Committee had reported out the Banking Bill.

Mr. Eccles explained that on the three credit control functions there was no uniformity. In the case of the discount rates, initiatory action can be taken by a majority of the Federal Reserve Board. In the case of changes in reserve requirements it takes a

vote of five of the seven members. In the case of open market operations, action is by the entire Board plus 5 Reserve Bank Governors.

Mr. Eccles thought it unfortunate that the Board was made political, to consist of 4 Democrats and 3 Republicans. He thought ineligibility for reappointment after serving one term a mistake. He thought the exclusion of Reserve System objection would open the way for the Goldsborough amendment and raise questions of constitutionality.

Mr. Crowley commented that they needed something for trading between the two Houses.

Mr. Eccles expressed fear that Senator Borah would fight on the floor of the Senate for insertion of the Goldsborough amendment. He objected to the deletion of the provision which would eliminate the necessity for collateral for Federal Reserve Notes. He thought the Board should be given more discretion in waiving requirements for membership. He said that it would be necessary to have a conference/<sup>committee</sup> to decide what is the right thing to do.

Mr. Crowley commented that if/<sup>all</sup> the things mentioned by Mr. Eccles were sought that the whole bill would be rewritten in conference. He recommended asking for only a few of the more important changes.

Mr. O'Connor agreed that the least disturbance was the best.

Mr. Eccles said that/<sup>if</sup> they were going to have a new Board he would prefer a Board of 5 instead of 7. He objected to letting the public think that we have something when we haven't. He was inclined to make a public statement along that line.

Mr. Crowley commented that after all Titles I and III were

satisfactory and that Title II did give some centralization of control and that, in his opinion, the bill was pretty satisfactory.

Mr. Crowley urged Mr. Eccles not to issue any public statement, to which Mr. Eccles replied the public had said plenty about him <sup>he</sup> and did not want his position to be misinterpreted.

Mr. Eccles continued that he really didn't feel bad and that as a matter of fact he got more out of the Senate Committee than he had expected, to which Mr. Crowley commented that he thought we get a good deal.

July 3d

I said to the President, "I do not care, for the moment, whether it is four, five or six hundred million dollars that you are going to raise by taxes. What are you going to do with it?"

The President said, "we are going to retire the public debt". I told him that Bell said that this was no good. You retire 500 million bonds with this money but it does not decrease your deficit by a dollar. We must let the public know that each year your deficit is going to be less. If you go on the way you are now, next year your deficit will be greater.

The President said, "politically you are right but with a 20 year viewpoint I am right". I said to the President, "after you get all through and come to the conclusion how much money you are going to raise will you promise to see Bell and me as to how we are going to use this money?"

ELW

## Year's Deficit \$1,290,000,000 Below Estimate As the Receipts Are Higher and Costs Lower

Special to The New York Times.

WASHINGTON, July 2.—The Treasury ended the fiscal year on June 30 in a much more favorable position than was forecast in estimates made in the budget message sent to Congress in January by President Roosevelt, according to an official accounting made by Secretary Morgenthau today.

In its major particulars the picture was as follows:

Items	Estimate	Actual
Revenues .....	\$3,711,650,000	\$3,800,467,203
Expenditures ..	4,991,000,000	3,770,825,165
Deficit .....	1,279,350,000	969,357,962
Public debt ..	31,986,533,874	28,700,892,824

One of the most encouraging signs to Treasury officials was the increase in revenues over estimates, with this trend including income taxes, miscellaneous internal revenue and customs receipts. Recent studies of business conditions have been accepted as indicating that the present tax rates would yield well over \$4,000,000,000 of revenue in the next year unless there was an unexpected halt in the recovery movement.

The actual excess of expenditures over receipts is cut to \$3,001,799,713 when \$573,001,000 representing statutory debt retirements is sub-

tracted. The latter is a bookkeeping item when the deficit exceeds the amount set aside annually by law for debt retirement.

Mr. Morgenthau, in discussing the public debt, put a value of \$4,007,000,000 on assets of the government, such as loans by the Reconstruction Finance Corporation which when liquidated may be used to reduce the debt total.

Refunding operations during the fiscal year cut the average interest rate paid on the public debt from 3.18 per cent to 2.715 per cent. As a result the carrying cost of the debt was but \$820,925,253 as compared with \$756,617,126 in the last fiscal year, although over the period the total of the debt increased by \$1,648,000,000.

Mr. Morgenthau said that in addition to the debt there were contingent liabilities of about \$4,000,000,000 in the form of guarantees as to principal and interest on outstanding obligations of government agencies.

A statement of assets and liabilities of government corporations and

Continued on Page Four.

## Summary of the Treasury's Operations In the Fiscal Year Ending on June 30

In the Amount of \$1,000,000,000  
WASHINGTON, July 15.—Following is a statement, tabulated  
month by month, of the Treasury's financial operations, prepared  
under Treasury authority, covering the fiscal year which closed June 30, 1934:

Items	1933	1934
<b>REVENUES</b>		
Income taxes	\$1,006,115,427.92	\$770,182,281.28
Excise taxes and special levies	1,877,182,812.75	1,490,299,300.29
Proceeding 1933	221,278,871.32	282,548,799.48
Proceeding 1934	943,388,028.08	913,484,200.19
Postage	200,424,160.28	191,313,919.84
Public debt retirement	373,265,200.00	389,894,905.91
Tax on bank and gold loans	226,260,123.87	224,886,197.74
Redemption of national bank notes	91,442,600.00	—
Interest on loans	1,282,922,740.18	1,212,648,884.13
Miscellaneous	1,847,720,709.00	1,414,668,364.52
<b>TOTAL</b>	<b>\$5,221,120,000.00</b>	<b>\$5,688,977,620.11</b>
<b>EXPENDITURES</b>		
General operations	\$4,127,238,876.77	\$4,008,914,044.14
Departmental operations	1,304,266,887.41	1,398,108,361.41
City contracts	1,949,548,036.47	2,281,927,260.14
<b>TOTAL</b>	<b>\$7,381,053,799.65</b>	<b>\$7,688,949,665.69</b>
<b>REMARKS:</b>		
Total expenditures	\$7,381,053,799.65	\$7,688,949,665.69
Total revenues	\$5,221,120,000.00	\$5,688,977,620.11
Deficit	\$2,159,933,799.65	\$1,999,972,045.58
Increase in gross debt	\$1,677,743,048.54	\$2,514,466,624.32
Public debt at present point	\$2,870,862,844.20	\$2,992,411,418.86

### Surpluses and Deficits Of Treasury in 15 Years

Year	Surplus	Deficit
1919	\$1,000,000,000	—
1920	—	\$1,000,000,000
1921	—	\$1,000,000,000
1922	—	\$1,000,000,000
1923	—	\$1,000,000,000
1924	—	\$1,000,000,000
1925	—	\$1,000,000,000
1926	—	\$1,000,000,000
1927	—	\$1,000,000,000
1928	—	\$1,000,000,000
1929	—	\$1,000,000,000
1930	—	\$1,000,000,000
1931	—	\$1,000,000,000
1932	—	\$1,000,000,000
1933	—	\$1,000,000,000
1934	—	\$1,000,000,000

ended on Oct. 31, 1933, by the Appropriation. New amount of \$1,000,000,000.

On June 6, 1933, the Secretary of the Treasury offered for sale on a bid basis an additional issue of \$1,000,000,000 or thereabouts of the 4 per cent Treasury notes of 1934. The total amount of bonds sold was \$817,000,000 at an average price of 102.52, with a total premium of \$1,000,000. This is the first time the Treasury has offered registered securities in a bid basis since prior to the World War.

On June 12, 1933, there was a maturity of 2 per cent Treasury notes of Series A-1223 in the total amount of \$1,000,000,000.

The Secretary of the Treasury issued on June 12, 1933, by per cent Treasury notes of Series B-1223 in exchange for the maturing issue.

The new issue of 4 per cent Treasury notes was also offered for sale on a bid basis on June 12, 1933, in the total amount of \$1,000,000,000 with an additional amount of \$1,000,000,000. The new issue of 4 per cent Treasury notes was also offered for sale on a bid basis on June 12, 1933, in the total amount of \$1,000,000,000 with an additional amount of \$1,000,000,000.

**REMARKS (Continued)**

The amount of Treasury bills outstanding on June 30, 1934, was \$1,124,000,000. The amount outstanding on July 31, 1934, was \$1,124,000,000. An amount of \$1,124,000,000 is shown in the gross surplus and deficit statements included in the report of operations as a result of the operations of the Treasury in the fiscal year ending June 30, 1934.

The amount of Treasury bills outstanding on June 30, 1934, was \$1,124,000,000. The amount outstanding on July 31, 1934, was \$1,124,000,000. An amount of \$1,124,000,000 is shown in the gross surplus and deficit statements included in the report of operations as a result of the operations of the Treasury in the fiscal year ending June 30, 1934.

**REMARKS (Continued)**

The amount of Treasury bills outstanding on June 30, 1934, was \$1,124,000,000. The amount outstanding on July 31, 1934, was \$1,124,000,000. An amount of \$1,124,000,000 is shown in the gross surplus and deficit statements included in the report of operations as a result of the operations of the Treasury in the fiscal year ending June 30, 1934.

The Treasury reported that the total amount of Treasury bills outstanding on June 30, 1934, was \$1,124,000,000. The amount outstanding on July 31, 1934, was \$1,124,000,000. An amount of \$1,124,000,000 is shown in the gross surplus and deficit statements included in the report of operations as a result of the operations of the Treasury in the fiscal year ending June 30, 1934.

### REVENUES

The Treasury reported that the total amount of Treasury bills outstanding on June 30, 1934, was \$1,124,000,000. The amount outstanding on July 31, 1934, was \$1,124,000,000. An amount of \$1,124,000,000 is shown in the gross surplus and deficit statements included in the report of operations as a result of the operations of the Treasury in the fiscal year ending June 30, 1934.

### EXPENDITURES

The Treasury reported that the total amount of Treasury bills outstanding on June 30, 1934, was \$1,124,000,000. The amount outstanding on July 31, 1934, was \$1,124,000,000. An amount of \$1,124,000,000 is shown in the gross surplus and deficit statements included in the report of operations as a result of the operations of the Treasury in the fiscal year ending June 30, 1934.

Item	1933	1934
Income taxes	\$1,006,115,427.92	\$770,182,281.28
Excise taxes and special levies	1,877,182,812.75	1,490,299,300.29
Proceeding 1933	221,278,871.32	282,548,799.48
Proceeding 1934	943,388,028.08	913,484,200.19
Postage	200,424,160.28	191,313,919.84
Public debt retirement	373,265,200.00	389,894,905.91
Tax on bank and gold loans	226,260,123.87	224,886,197.74
Redemption of national bank notes	91,442,600.00	—
Interest on loans	1,282,922,740.18	1,212,648,884.13
Miscellaneous	1,847,720,709.00	1,414,668,364.52
<b>TOTAL</b>	<b>\$5,221,120,000.00</b>	<b>\$5,688,977,620.11</b>

### THE PUBLIC DEBT

The Treasury reported that the total amount of Treasury bills outstanding on June 30, 1934, was \$1,124,000,000. The amount outstanding on July 31, 1934, was \$1,124,000,000. An amount of \$1,124,000,000 is shown in the gross surplus and deficit statements included in the report of operations as a result of the operations of the Treasury in the fiscal year ending June 30, 1934.

July 3, 1935.  
Wednesday.

143

Swope: Hello, Mr. Secretary.

H.M.Jr: Yes, Mr. Swope.

S: How're you today?

H.M.Jr: I'm all right, thank you.

S: Lovely day here; I hope it isn't too hot down there.

H.M.Jr: No, everything's fine. Do you want to know about your tax matter?

S: That's just what I called you up about, to see if there's any hitch, and if we could help.

H.M.Jr: No, there's no hitch, but it's on<sup>o</sup>f me - I've been a little rushed and -

S: I know that.

H.M.Jr: - and the earliest I could let you - give you an answer would be next Monday or Tuesday.

S: That would be all right. And now, Mr. Secretary, would it help any if we could have one of our people come down to talk to your people or not?

H.M.Jr: No, it's not necessary- it's just a question that was filtering through my brain.

S: (Laughing)

H.M.Jr: Yes.

S: All right. I'll let it rest there.

H.M.Jr: And I don't think anybody can help me on that.

S: Well, I don't know of anybody that can help you any more effectively than you can help yourself.

H.M.Jr: Well, by Monday or Tuesday at the latest you'll have a definite answer.

S: Thank you kindly.

H.M.Jr: I'm sorry it's been so slow, but there's been -

S: All right, Mr. Secretary.

H.M.Jr: - so much.

S: Thank you very much.

H.M.Jr: Goodbye.

S: Goodbye.

July 3, 1935.  
Wednesday.

146

W. Randolph

Burgess: Hello.

H.M.Jr: Hello.

B: Hello, sir.

H.M.Jr: Burgess -

B: Yes.

H.M.Jr: I've got in the office here with me Coolidge, Bell, Haas, Mrs. Klotz and we're talking about - now, we've got it down to a December 15th issue, either in thirty-nine or in forty.

B: No, thirty-eight or -

H.M.Jr: Thirty-eight or thirty-nine.

B: Yes.

H.M.Jr: We've all agreed on December 15th.

B: Right.

H.M.Jr: And we want to get it on tax due date.

B: O.k.

H.M.Jr: Now, what I want to ask you is this. If I should say that I want to sell December 15th, '39 five hundred million, one and three-eighths, can you sell it?

B: Yes.

H.M.Jr: You can?

B: Yes, I couldn't answer that any other way. I think you'd be wiser to do it thirty-eight.

H.M.Jr: Yes. It'll go.

B: It'll go.

H.M.Jr: What?

B: It'll go. It won't go so well; at least it won't get a favorable reception. Your customers won't like it too well.

H.M.Jr: No, but it'll go?

B: Yes, it'll go.

H.M.Jr: Now, let me tell you what I have in mind. I go back to a thing - in the first place by telling these people who now talk as though three and four years was three and four months. When I used to want to get four or five years, we used to consider that long term stuff.

B: That's right.

H.M.Jr: That isn't years ago - about six months ago.

B: Yes.

H.M.Jr: Now, the time - you see, I can't get over it. I'm a burnt child and the time may come when that gap between September 15, '38 and June 15, '39 - it may be a life-saver and perfectly frankly I'd like to keep that gap there in case something should go sour.

B: I don't really see that because it seems to me you still got plenty of room there.

H.M.Jr: No, we haven't got so much. Now, there's a gap there that a person - you could raise a billion dollars if you had to.

B: Yes.

H.M.Jr: Isn't that right?

B: Yes.

H.M.Jr: Now, something may go wrong and somebody gets excited and they don't like what we're doing and we need that gap and I frankly would like to keep it for that purpose. Now, we certainly - we certainly don't need it now -

B: Well, of course, you've got plenty of other gaps and -

H.M.Jr: Not many, we're pretty full.

B: You don't always have to raise it on tax day, you know.

H.M.Jr: No, but, all - but, thirty-six, thirty-seven and thirty-eight look pretty full.

B: Yes.

H.M.Jr: I've got it all before me.

B: Yes, all right, then.

H.M.Jr: I mean, if you said to me, well, I strongly advise you not to do December 15, '39, that ends it.

B: Yes.

H.M.Jr: See? And I'll say, all right, I'll do it December 15th, '38.

B: Well, I think you'd be very much better to do it December thirty-eight.

H.M.Jr: But, you don't feel - you don't feel that December 15, '39 won't go?

B: No, I think it'll go, yes. I couldn't say it wouldn't go.

H.M.Jr: Well, now let me just talk to my associates; we'll settle it right now because I put it up to the President, he doesn't care.

B: Yes.

H.M.Jr: Just hold on and we'll settle it.

B: The point I made to Jeff; we discussed it this morning, was that it puts you in a better position to - to have in the future, if you do it thirty-eight now, because it gives you another issue that you can offer

H.M.Jr: Well, I wouldn't sell any more of that because I got too much in thirty-eight now, so I wouldn't use that.

B: Yes, but that's practically thirty-nine

H.M.Jr: No, but I wouldn't want to build that up.

B: Yes.

H.M.Jr: I mean, for that argument, I wouldn't build that one up. I wouldn't use it to sell it.

B: I don't see why you shouldn't really.

H.M.Jr: Well, that's the way I feel today.

B: Yes.

H.M.Jr: Now, just let me talk - would you mind holding on a minute.

B: O.k.

H.M.Jr: It'll just take us a minute.

July 3, 1935.  
Wednesday.

147

H.M.Jr: Hello.

W. Randolph

Burgess: Hello. Good morning, sir.

H.M.Jr: Hello, Burgess. Any more thoughts on whether you'd have three and a half years or four years to five months?

B: Well, I'm still pretty strong for the three and a half years.

H.M.Jr: You are?

B: I think with the extension in the market, it fits in much better - you're much surer of a complete success.

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

B: You're surer of a complete success and it will be better for the market, that is, it starves those fellows a little bit for some months now. He hasn't had a short issue for - well, not since last December anyway, and then this range in maturities is a little bit starved. They need to be fed something.

H.M.Jr: I see.

B: And I think they're a good deal better to do that maturity.

H.M.Jr: Well, now, I'm going over to the White House, I mean, on other matters -

B: Yes.

H.M.Jr: I'll be back here about twelve our time and about one yours.

B: Very good.

H.M.Jr: I'd like to talk to you then, again.

B: All right, I'll be here.

H.M.Jr: And we ought to make up our mind then to it.

B: Yes.

H.M.Jr: Thank you.

B: All right, sir.

July 3rd

In regard to the Banking Bill, the way it has been reported out by the Committee, it does not disturb me very much because in the back of my head I have had this idea - that since I have been in the Treasury we have carried the whole load of national finances, etc. without any help or interference from the Federal Reserve Board. Some day if we keep on spending money at the rate we are and in such helter-skelter, hit and miss method, we cannot help but be riding for a fall unless we continue to decrease our deficit each year and the budget is balanced. If we are not able to do this, I do not want to be the sole goat and have to take the brunt of all the criticism and dissatisfaction and be under terrific pressure from all the money cranks and crack pots to pull out some more white rabbits out of the hat and do some unsound economic trick in order to correct other unsound measures which the administration has taken. Therefore I have been hoping and have not mentioned it to a soul that the Federal Reserve Board would be given additional powers and created more or less as a monetary authority so that they and the Treasury can share the responsibility and possibly help us in case we get into a financial jam.

The way the Federal Reserve Board is set up now they can suggest but have very little power to enforce their will on the banks of the country. Our power has been the Stabilization Fund plus the many other funds that I have at my disposal and this power has kept the open-market committee in line and afraid of me. I prophesy that if the present bill goes into effect with the seven members of the Federal Reserve Board and the five Governors of the Federal Reserve Banks form an open-market committee, that one group will be fighting the other and that consequently they will not be able to do anything constructive, and that therefore if the financial situation should go sour the chances are that the public will blame them rather than the Treasury.

If our deficit beginning with July 1, 1936 is going to be less than the preceding year I will have to make a study of the unemployment situation. It seems to me that we are not making any headway and the number of unemployed is staying more or less static. The unfortunate thing in this administration is that nobody seems to be trying to tie in together all of the factors which have to do with unemployment and trying to fit our unemployment program in with the long distant viewpoint so that we will gradually cut down on unemployment and in that manner reduce the federal expenditures to maintain the unemployed. I think that 95% of the thinking in the administration is how to spend money and that possibly 5% of the thinking is going towards how we can work ourselves out of our present unemployment difficulties.

We simply must get more people to think about this problem and if we do then I have some chance of looking forward to balancing the budget. Otherwise, the case is hopeless.

\*\*\*\*\*

NUMBER ONE A break in the Cabinet is likely to occur soon. Farley will hold on until fall. Wallace is skating on thin ice, not because FDR wants him to go but because Congress is all tangled up over AAA, with possible disastrous court decisions in the offing. Lawmakers are pulled and hauled by doubts as to the new AAA plans and by conflicting pressure from farmers and dealers. Farmers are straddling.

FDR is loyal to his friends but his caravan must move. If any sub-chief is the target of too many dead cats FDR quietly lets him go, so as to keep the procession moving. The hero who gets too much limelight is in danger. As Joe Kennedy says, "the love turnover in Washington is greater than it is anywhere else." One canny Cabinet member said, "If you want to do me a favor, always class me among the crowd, never as number one. There's only one No. 1."

\*\*\*\*\*

NEW YORK

July 3, 1935.

17

A group met in the office of Secretary Morgenthau to discuss the Bankhead Bill. Those present were:

Henry Morgenthau, Jr. Secretary of the Treasury,  
Henry A. Wallace, Secretary of Agriculture,  
Wm. I. Myers, Governor, Farm Credit Administration,  
Senator Bankhead,  
Congressman Marvin Jones,  
Dr. W.W. Alexander, Rural Resettlement, Agriculture,  
C.B. Upham.

Mr. Morgenthau said that he wanted this group to meet to talk matters over before the bill reached to advanced a stage of legislative procedure. From the Treasury standpoint the three things of interest were, (1) the fact that the bill called for the issuance of \$1,000,000,000 guaranteed bonds, (2) that there was \$50,000,000 capital which did not affect the budget since it came out of the \$4,800,000,000 Work Relief Fund, and, (3) it created another independent agency in the farm lending field. He made it clear, in response to an inquiry from Senator Bankhead, that he is talking for himself, not for the President.

Senator Bankhead said that he had wanted the new agency in the Department of Agriculture but that the Senate Committee had been unwilling to put an agency which handled 50 year paper in the Department and wanted a separate corporation. He spoke of a widespread and determined attitude in the Senate for privilege of confirmations and for the creation of new agencies over which they might have some control. He commented that he had been working in collaboration with Secretary Wallace on the program -- that he

had written the President saying that he wanted to see him -- that there had been a meeting at the White House at which the President had suggested that Senator Bankhead and Congressman Jones get together, and that he would give clearance on the program if they did. He said that he and Congressman Jones, called in Mr. Hopkins and Mr. Westbrook and they had worked out a bill very similar to the one now under consideration. He explained that the Department of Agriculture and the FCA had been coordinated through membership on the board and that there should be need for cooperation of local agricultural agencies such as county agents. He commented that the FCA is set up on an entirely different basis to finance existing farms rather than to enable tenants to buy farms. In discussing it with the President, he said, the President had indicated that his opinion is that it should be an entirely different agency from the FCA. As a matter of fact, he said, the only objection the President had was to take the \$50,000,000 out of the Work Relief program -- that he would rather take it out of the budget.

Senator Bankhead said his first idea was to get the money from the RFC but that since Congress had put in special authority for the use of Work Relief money for such things as this that he had decided that it would be the best place to get it.

Mr. Morgenthau said that the President had indicated to him that he wanted a tenant bill, but that he hadn't studied this particular proposal.

Senator Bankhead agreed that was right.

Mr. Morgenthau said he was now interested in looking at the

bill from the Treasury angle.

Senator Bankhead indicated that the Treasury had pretty complete control over the new agency since it must approve all bond issues. He stated that the question is whether a program of tenant ownership is wanted or whether nothing is wanted.

Mr. Morgenthau asked Mr. Myers if there isn't something he can do to help out tenants under the present law, to which Mr. Myers replied the FCA could help -- that most of their work for two years has been along the line of refunding debt but that now they can make a first mortgage loan plus a commissioners loan up to 75% of the normal value of the property. The limit is set by what the farmer can pay. The FCA program will help good tenants who can make some cash payment but does not go as far as the Bankhead Bill. If the new agency is to go that far it does not belong in the FCA. Lots of tenants can be helped because now the FCA can loan as much for land purchase as they could before to refinance. They have the matter under consideration and are making some progress. In the case of good men who lack money there is some discussion of rural rehabilitation -- loaning or advancing the additional amount necessary to get them off of relief so that FCA could make a business loan. This situation has been changed somewhat by the transfer of the rural rehabilitation unit to the rural resettlement administration.

Mr. Alexander said that rural resettlement had taken the business over and expected to continue the program along the same lines as Mr. Hopkins was conducting it and make loans or grants to distressed families.

Mr. Jones asked how the program was getting along and Mr. Alexander said they cannot very well tell until Fall. He explained that the difficulty was that the tenants just above those on the relief rolls would make better prospects. They take the best people on relief rolls and they are not the most resourceful tenant type. Mr. Jones was of the opinion that we shouldn't make a program of farm tenant ownership by selecting ne'er do wells.

Mr. Alexander said they had people working on land and doing pretty well. He referred to an experiment in Georgia where a bean project had been successful and the beans marketed.

Mr. Wallace asked what the interest rate on these loans was and Mr. Alexander said he was not sure -- that they vary from State to State.

Mr. Jones asked if there had been any complaints from the people who were just better off than those on relief and Mr. Alexander replied that there had not and that the project with which he was most familiar with in Putnam County, Ga., had been well received by the community. Mr. Alexander continued that what he did was rent farms which caused Mr. Jones to comment that the plan was not comparable to the Bankhead-Jones bill proposal.

Mr. Alexander continued that they anticipated that after 2 or 3 years people of promise would have a chance to buy farms. He said that the program had been interrupted by reason of the fact that Controller McCarl had ruled that State corporations can't be used as heretofore and so the whole thing had been taken over by the Federal agency and they were working it out.

Mr. Morgenthau commented that this money was furnished by the

Treasury for nothing -- that it got no interest on the money as it does on the money supplied to the RFC.

Mr. Jones said the interest ought not to be figured so that a man of ability pays more than the shiftless. He objected to grants to people on relief at lower rates than those under the Bankhead-Jones bill.

Mr. Alexander said that the advances under their plan vary. In Mississippi the average loan is \$198, in Virginia it is from \$500 to \$700, in the middle west and New England it is around \$4000.

Mr. Jones thought that the proposal ought to be open to everybody that there should be no selection of "no accounts" on relief for special favors.

Mr. Bankhead commented that outside of the drought area there is little excuse to feed the farmer.

Mr. Morgenthau asked Mr. Myers what the FCA can do with the man who had no money, and Mr. Myers replied they can't do anything except that they are unwilling owners of some 20,000 farms which are being rented and sold. They try to get a 20% cash payment but they will rent them and sell them in some cases with greater leniency. The FCA cannot loan to a man without money.

Mr. Morgenthau said his idea was for 50% on a first mortgage, 25% on commissioners loan and then a grant from the rural resettlement of say \$4000 to make up the difference.

Mr. Bankhead's comment was that the rural resettlement loan is for one year only.

Mr. Myers said that the FCA should require some cash payment to make the loan reasonably safe but with a little cash and a splendid

reputation the FCA would go as far as any credit agency should go.

Mr. Alexander was of the opinion that beneficiaries of rural resettlement had to be on relief, but Mr. Morgenthau disagreed with that view and was of the opinion that the President could, by Executive Order, include others.

Mr. Bankhead said that a one year program of that kind was not very effective.

Mr. Alexander said that 350,000 out of 800,000 families on relief would be on their way to rehabilitation within the year.

Mr. Myers commented that with each year of improved conditions farm tenants were better off, to which Mr. Bankhead rejoined that that apply under their plan as well.

Mr. Morgenthau asked Mr. Bankhead how they arrived at the figure of \$1,000,000,000 for bonds, to which Mr. Bankhead replied that it was arbitrary -- that they knew it was not enough but they didn't want to go too far at the start. He added that the Administration can stop the program at any time by refusing to approve the bonds. On an average of \$2000 a farm half a million farmers can be established.

Mr. Morgenthau asked how much more land would be brought into production and Mr. Bankhead replied that it is provided in the bill there should be no increase. The idea is to establish a permanent citizenship of farm owners. There must be some selection. A family size farm can be bought in Alabama for \$1,000. It is not intended to promote commercial farming.

Mr. Jones said that some of the westerners are objecting to the lower limits and are complaining that even \$5,000 is not enough to get a farm in the State of Iowa.

Mr. Myers commented that the bill called for the purchase of average size farms and it was agreed that that might mean one thing in one part of the country and something else in another.

Mr. Jones asked if it was Mr. Morgenthau's thought that the President is willing or might be induced to promote help generally with the Work Relief funds whether the applicants were on relief or not, and Mr. Morgenthau replied that under the Executive Order the President had certain tolerances and could use some money for those not on relief.

Mr. Morgenthau said he knew the President wanted to do something for tenant farmers and that he is in sympathy with that desire, but must at the same time look after the interests of the Treasury.

Mr. Bankhead said that the Secretary of the Treasury had to do just one thing -- tell us how to get the money.

Secretary Wallace interposed to say that the Secretary of the Treasury should try to see that the money came back also.

Mr. Morgenthau suggested that Congress recently increased the authorization for guaranteed bonds to be issued by the HOLC by \$1,750,000,000, of which they would probably not use more than \$80,000,000. He suggested the possibility of cancelling the HOLC authorization and transferring it to the Farm Home Corporation.

Mr. Jones was of the opinion that this would cause a big furore and perhaps result in extending the time during which HOLC applications might be made.

Mr. Morgenthau referred to the fact that critics of the Administration are constantly ~~adding~~ adding up to the total of guaranteed bonds authorized and adding the total to the public debt for political

purposes.

Mr. Bankhead and Mr. Jones were of the opinion that it would not be practical to cancel the authorization and referred to the fact that such action would have to be referred to the Banking and Currency Committee.

Mr. Morgenthau said he would talk to the President about the matter.

After the meeting Mr. Jones saw Mr. Morgenthau privately and told him not to hurry this program -- that it has to be headed off. Mr. Jones said that he was in a "pocket" and must see the Secretary alone on it.

July 8, 1935.  
Monday.

24A

H.M.Jr: Mr. Peter Grimm of William A. White and Sons is coming to work as Special Assistant to me next Monday.

Jesse Jones: Peter Grimm?

H.M.Jr: Yes.

J: Yes.

H.M.Jr: He is Chairman or something or other for a mortgage group for the Park Central Hotel in New York and he tells me that, I think last week - he's under the impression that your Board acted on a loan - one of your mortgage companies, see?

J: Yes.

H.M.Jr: I'd very much like to have this thing cleaned up one way or the other, I mean, either reject it or give them the money, one way or the other, see?

J: You mean the

H.M.Jr: Yes.

I haven't heard from it.

H.M.Jr: Well, it's a million three or a million and a half. He's under the impression that it was acted on last week.

J: I'll look it up.

H.M.Jr: I'd appreciate it if you'd look it up and let me - I'd like to have it cleaned up. I took him over to the President and he's coming over and sort of take the position Eccles had when he was here, but more or less concentrate on Federal Housing and Home Owners' Loan. He's a fine fellow and I know you'll like him.

J: Yes, I know of him pretty well.

H.M.Jr: He's a very - I think a high - very high class fellow.

J: Yes, well, I'm glad you got him.

H.M.Jr: I am too. It took me a month and I'd like to get it cleaned up. I'm not recommending except that he's given the money or rejected.

J: All right.

H.M.Jr: One way or the other, so that when he comes here on the 15th - that's the only business attachment he's got.

J: All right, I'll be glad to do anything.

H.M.Jr: Thank you, Jesse.

J: Goodbye. Hello - Henry?

H.M.Jr: Yes.

J: Apparently the President would like him to carry on some of his work, but through the bank rather than through this Special Advisor thing.

H.M.Jr: Jesse, let's you and I talk about that some time now -

J: All right, I'll be glad to.

H.M.Jr: I've heard a lot about this, but I don't want to get caught between a pair of pinchers on this.

J: All right.

H.M.Jr: Now, I can tell you some stuff, see?

J: Well, then I'll talk with you -

H.M.Jr: Let's talk privately -

J: All right.

H.M.Jr: This is a - it's pretty speedy company and (Laughter)

J: (Laughing) All right.

H.M.Jr: Enough said, what?

J: I'll see you, then, maybe tomorrow.

H.M.Jr: Yes, you give me a ring.

J: All right.

H.M.Jr: Hello.

J: Yes.

H.M.Jr: Let's talk it over because it's - it changes every hour. One day I'm told one thing, the next day I'm told another.

J: Well, I know it  
today attended the meeting  
know who - with - with - I don't

H.M.Jr: You don't want -

J: - and he came back and reported to me so I thought I'd better talk with you about it.

H.M.Jr: Do you want to come over about 11 o'clock?

J: About 11 tomorrow?

H.M.Jr: Is that a good time for you?

J: Just a second. That'll suit me all right.

H.M.Jr: Eleven on the tick?

J: Eleven on the tick.

H.M.Jr: O.k.

J: Goodbye.

Mr. Mills, the representative of the Mississippi Highway Board, told Secretary that Mr. Tolson, State Administrator for Louisiana, trying to keep Mr. Tolson long's map with the State is trying to bring them up, but he is having a schedule to bring up.

Mr. Murgenthau told Mr. Mills to see if they had any other situation with him. He told the group he had a number of situations with Mr. Bell and Admiral Keegan. He was not asking the National, State, or Political Administration for anything. If a Senator, a Congressman, or a State official would be good Democrat who is waiting for the State to be his, I would take him up, but I am not getting into any political deals."

Mr. Murgenthau advised the field men to get in touch with whoever they were in difficulty, because he promised to get them out. "I will protect you from all political deals. I am not afraid of political pressure, but in return I am asking political pressure from you. I expect business officials to be there if no action for a man who falls down on his back. I will not have it. We must have absolute efficiency."

Mr. Murgenthau told Mr. Mills that perhaps the State of Louisiana is a little bit different from other States because, he said, basically, "I don't know whether it belongs to the State or not."

Mr. Murgenthau advised Mr. Mills that the Treasury is ready to give him whatever assistance he needs because he realizes that there will be some difficulty in the State of Louisiana than in other States. Mr. Murgenthau mentioned the field representatives in the State Chairman in a somewhat manner when they present recommendations and suggestions from them that he relies upon their judgment and good sense to handle these people so that there will be no criticism. Incidentally, he said that any man who is to do accounting is first carefully checked by agents of the State Intelligence Service and none is employed without their having had a careful check-up on his background.

The matter of purchase of supplies from the State of Louisiana was also discussed by Mr. Murgenthau.

CONFERENCE IN SECRETARY MORGENTHAU'S OFFICE

July 8, 1935.

Mr. Morgenthau met with Mr. McReynolds, Mr. Bartelt representing Mr. Bell, Captain Collins of the Procurement Division, and a group of accountants and disbursing officers and Procurement Division representatives. A list of names of those present is attached.

Mr. Bartelt reported on progress to date. Summary of his report is also included.

Mr. Mills, the representative of the Disbursing Officer told the Secretary that Mr. Peterman, State Administrator for Louisiana, is trying to keep Senator Long's men out; that there is strong pressure to employ these men, but he is having a struggle to keep them out.

Mr. Morgenthau told Mr. Mills to see Elmer Irey and discuss this situation with him. He told the group he had discussed political situations with Mr. Bell and Admiral Peoples. He said "We are not asking the National, State, or Political organizations for recommendations. If a Senator, a Congressman, or a State Chairman recommends a good Democrat who is suited for the job and if we can use him, I would take him on, but I am not setting this up on a political basis."

Mr. Morgenthau advised the field men to get in touch with him whenever they were in difficulty, because of political pressure and said, "I will protect you from all political heat. You need not be afraid of political pressure. But in return for my taking the political pressure from you, I expect maximum efficiency from you. There is no excuse for a man who falls down on his job. I will not have it. We must have absolute efficiency."

Mr. Morgenthau told Mr. Mills that perhaps the State of Louisiana is a little bit different from other States because, he said, facetiously, "I don't know whether it belongs to the Union or not".

Mr. Morgenthau assured Mr. Mills that the Treasury is ready to give him whatever assistance he needs because he realizes that there will be more difficulty in the State of Louisiana than in any other State. Mr. Morgenthau cautioned the field representatives to handle State Chairmen in a courteous manner when they present recommendations and impressed upon them that he relies upon their good judgment and good sense to handle these people so that there will be no criticism. Incidentally, he said that any man employed to do accounting is first carefully checked by agents of Mr. Irey's Intelligence Service and none is employed without first having had a careful check-up on his background.

The question of purchase of supplies under the Works Progress Administration was then brought up. Mr. Morgenthau said to Captain

Collins that it was his impression that Procurement Division was supervising all the buying of materials, supplies and equipment with allotments out of the \$4,800,000,000.

A verbatim report of the conference follows:

CONFERENCE IN SECRETARY MORGENTHAU'S OFFICE

July 8, 1935

H.M.Jr: The Procurement Division, as I understand it, was to do all the purchasing with the exception of the money which is to be spent under G.W.A., or whatever you call it. That's the only thing.

Capt. Collins: Of course we will get into other purchases as the program develops under Dr. Tugwell's resettlement program. That has not been thoroughly developed, but we will do all the purchasing under that.

H.M.Jr: But not rural electrification?

Capt. Collins: No Sir. From what Mr. Cooke said Friday, that is all on a loan basis. Considering large grants of money made to the Army and Navy, the Director of Procurement has delegated to them the purchase of such commodities and materials as may be required in connection with those accounts and projects. Both of these outfits have their own purchasing departments.

H.M.Jr: I just raised the point -- if under the President's original Executive Order, setting up the Procurement Division, whether you are living up to it; maybe you are, and maybe you are not, but I would make darn sure of it.

McReynolds: What are you doing on the accounting for that, Ed.?

Bartelt: Well, we are, when they turn the money over and we take the municipality's or state's note. We take that as collateral.

McReynolds: Suppose it is a grant?

Bartelt: We will have a voucher just the same in one sum.

McReynolds: You have no further responsibility for accounting?

Bartelt: There would be no way for us to get that.

McReynolds: The same rule applies there as for purchasing.

H.M.Jr: The purpose of this meeting is to educate me and in the second place, to see if the thing is clicking. I just raised the question, whether under the original Executive Order they are going as far as they should.

McReynolds: In other words, are they going to pinch out the control

of accounting by letting somebody else do it?

Bartelt: I don't know that the two cases are comparable. We could not go into state accounting. We told them that we would make our facilities available to them if they needed it.

H.M.Jr: Mac, get a copy of the original Executive Order.

Bartelt: We get a voucher covering a grant or a loan and we will treat that voucher the same as any other contract we might get.

H.M.Jr: While we are waiting, has anybody else anything besides the State of Louisiana? How about newly appointed State Administrators? Are they all working and are they working with us?

Bartelt: As far as we have been able to observe, they are; yes, Sir.

H.M.Jr: But right now we are not paying anybody?

Bartelt: We have not received any allocations as yet from the Works Progress Administration. We have received some allocations from the old line departments and we have notified the departments that those allocations are available and ready for withdrawal, but we have not received any vouchers. This question of vouchers originates in the several departments.

H.M.Jr: Whose responsibility is it to let the President know each week how many men are working?

Bartelt: That is Mr. Hopkins' responsibility. But in our accounting system, we have made arrangements, so that we will be able to tell the President how many man hours.

H.M.Jr : Don't give him man hours! He will go right through the ceiling. Tell him how many men are at work, but if I gave him a report on man hours, he would say, "I don't want man hours".

Bartelt: We had that in our original set-up, but we eliminated it because Hopkins said we would have certain duplications.

H.M.Jr: You ask him again. The President wants to know how many men are at work. Hopkins has to get it through you, doesn't he?

Bartelt: No. He has his statistical organization and he gets it through them. We ought to get it and we thought we were able to get it, but they brought up this question of duplication of names on payrolls, and our figures did not tie in with theirs, and then there would be trouble. But there is no question of man hours, but there is the question of duplicating the number of people on the roll.

H.M.Jr: Don't you have the payroll?

Bartelt: Yes Sir, but we have two payrolls a month. Men may be shifted from one payroll to another; there may be different jobs; a different job may be for some man and they pick him up twice.

H.M.Jr: And Hopkins is going to keep track of all this?

Bartelt: Apparently.

H.M.Jr: How is he going to do this?

Bartelt: Well, he has a finance director in each state and he has state representatives and regional examiners and I don't know what else, but he has quite an organization.

H.M.Jr: Another point came up, and that is, the question of checking how many men are at work. It seems to me the most accurate way to learn this is by checking how many men are on the payrolls. And is Hopkins setting up an organizations for duplicate payrolls? Tell Mr. McReynolds again, Mr. Bartelt, what Hopkins has in each state.

Bartelt: Finance directors, regional examiners covering several states and field representatives. We don't know what these men are supposed to do, but they are going to collect a certain amount of statistics

H.M.Jr: Is that under Corrington Gill?

Bartelt: Yes Sir.

McReynolds: There was delegated to the Secretary of the Treasury, under the Executive Order, "The Secretary of the Treasury, through the disbursing and accounting facilities under the Commissioner of Accounts and Deposits, to make provision for all disbursements from the funds appropriated by the 'Emergency Relief Appropriation Act of 1935' subject only to such exceptions as the Secretary may authorize, and to maintain a system of accounts necessary to enable the President to exercise executive control over such funds, to provide current financial and accounting information for governmental agencies concerned and to make a complete report to the Congress concerning expenditures made and obligations incurred by classes and accounts; and through the Director of Procurement, to purchase, or to provide a system from the purchase of all materials, supplies and equipment to be procured with the said funds".

H.M.Jr: That's what the purpose of this meeting is. Maybe you people are right, but I think you had better get together with McReynolds and see if you are living up to the Executive Order.

Bartelt: I am sure we are, as far as the accounting is concerned.

H.M.Jr: But I am not sure Procurement is. In other words, if you can't do it, get a piece of paper from me saying I have waived it. But some time from now, maybe a year, somebody will bring up the fact that you paid 50¢ too much for a bag of cement and the President will say why didn't you follow the Executive Order.

Capt. Collins: We never understood we had anything to do with funds loaned.

McReynolds: The President directs the Secretary of the Treasury through the Director of Procurement, to purchase or provide a system of purchase of all materials, supplies and equipment to be procured with said funds. Now that relates to the whole appropriation?

Capt. Collins: That's true. That's the wordage, but where funds are loaned, they are no longer Works Progress funds.

H.M.Jr: They are not lending any money. This sewer thing I talked about - that was a 45% grant to the City of New York. We didn't loan them. They went out and borrowed 55%. Let's say the City of New York is honest, but let's say they are crooked and they pay too much for sewer pipe. I am responsible for the 45%. It is a grant - it isn't a loan. The 55% they borrow, they pay themselves back and we don't get the grant back.

Capt. Collins: That has not been our understanding.

H.M.Jr: As I say, don't misunderstand me. You are going to have this group in in another two weeks, aren't you, Mr. Bartelt?

Bartelt: Yes Sir.

H.M.Jr: I would like to meet them again in about two weeks.

Bartelt: I have fifteen letters for your signature, designating these men.

H.M.Jr: I will do it right now. I just want to say that the main purpose of this thing is that when you fellows are out in a State, remember that while you may be working for different divisions in the Treasury, you are working for the Treasury Department, and help each other and remember, we are one big family and if one fellow needs a little help, give him a hand, even though you are on different payrolls or different divisions, but remember, you are all working for the Treasury and if you need help, don't hesitate to call on other Treasury people. Maybe it will be the Collector of Internal Revenue; maybe an Alcohol Tax man, but if you want any help, don't hesitate to ask another Treasury man.

A conference was arranged for the following day in Mr. McReynolds office to discuss in particular the Secretary's duty under the Executive Order to purchase all materials, supplies and services in connection with so-called state projects.

In addition to the Secretary and Mr. McReynolds, the following persons were present at the Conference in Secretary Morgenthau's office, July 8, 1935:

ACCOUNTING

Bartelt, E. F.  
 Banning, Paul  
 Cake, Gilbert L.  
 Dolan, Henry  
 Dority, Ralph S.  
 Maxwell, Robert W.  
 McNamara, Fred A.

DISBURSEMENT

Allen, G. F.  
 Brennan, E. J.  
 Dellett, H. B.  
 Fritts, J. H.  
 Haase, P. E.  
 Lawton, F. J.  
 Levy, L.  
 Mills, A. E.  
 Peterson, A. L.  
 Tate, H. T.

PROCUREMENT

Collins, Capt. H.E.  
 Coleman, W. A.  
 Elmore, A. R.  
 Forde, T. J.  
 Gibson, R. S.  
 Petrie, J. H.  
 Robey, W. M.  
 Sweet, M. L.  
 Walstrom, J. A.

Regarding the... of the office of the... representatives of the above mentioned persons at... and representatives of the Treasury Department. In... the Treasury... the following...:

- (1) The necessity for furnishing administrative... the information required by them for administrative purposes;
- (2) The necessity for... fiscal... and... made by the President;
- (3) The necessity for... reports to the President and... regarding the status of the accounts and the progress of the work... reflected by abstracts... and vouchers approved for payment.

Attached to the outline of procedure was a copy of... of reports which the Treasury expected to produce from the....

The representatives of all organizations concerned were advised that the outline covered what the Treasury considered would be its minimum requirements, but that the system was flexible enough to provide such additional information as might be required by the Departments for administrative purposes and they were urged to advise the Department of their requirements. After many conferences with the representatives of the various governmental agencies and representatives of the Comptroller General, a draft of the regulations was formally submitted by the Secretary of the Treasury to the Comptroller General for comment under date of May 28, 1935. Shortly thereafter the Secretary of the Treasury also addressed a letter to the Comptroller General suggesting for his consideration the advisability of designating representatives of his office for assignment to posts at each State Accounts Office in order that he might see that it was going on at each regional office.

37

Review of Situation by Mr. Bartelt

The Secretary was informed that during the week following the signing of the Order attention was given to the drawing up of an outline of accounting and disbursing procedure, and on May 14 copies of a memorandum covering the tentative outline of procedure were submitted to the following persons for comment: The Executive Secretary of the Committee on Allotments, Mr. Gill of the Works Progress Administration, the Acting Director of the Budget, the Comptroller General, the Director of Procurement, the Chief Disbursing Officer of the Treasury Department, the Chief Accountant of the Federal Emergency Administration of Public Works, and to representatives of the various departments and establishments.

Beginning May 16, 1935, a series of conferences was held in the office of the Commissioner of Accounts and Deposits between representatives of the above mentioned persons or organizations and representatives of the Treasury Department. In these conferences the Treasury stressed the fact that the outline of procedure was based upon the following considerations:

- (1) The necessity for furnishing administrative officers the information required by them for administrative purposes;
- (2) The necessity for exercising fiscal control over allocations made by the President;
- (3) The necessity for making current reports to the President and others concerned regarding the status of the accounts and the progress of the work relief program as reflected by allotments made, contracts entered into, and vouchers approved for payment.

Attached to the outline of procedure was a series of forms of reports which the Treasury expected to produce from its records.

The representatives of all organizations concerned were advised that the outline covered what the Treasury considered would be its minimum requirements, but that the system was flexible enough to provide such additional information as might be required by the Departments for administrative purposes; and they were urged to advise the Department of their requirements. After many conferences with the representatives of the various governmental agencies and representatives of the Comptroller General, a draft of the regulations was formally submitted by the Secretary of the Treasury to the Comptroller General for comment under date of May 29, 1935. Shortly thereafter the Secretary of the Treasury also addressed a letter to the Comptroller General suggesting for his consideration the advisability of designating representatives of his office for assignment to duty at each State Accounts Office in order that he might see what is going on at each regional office.

On June 12 the Treasury received from the Works Progress Administration recommendations concerning the appointment of Accountants-in-Charge, and on June 13 telegrams were sent to the persons recommended by the Works Progress Administration requesting advice as to whether they would be interested in appointments.

On June 13 a conference was held with General Hines for the purpose of enlisting his aid in having field officers of the Veterans' Administration interview the men recommended by Works Progress Administration as accountants-in-charge and make a survey and report on the situation in each state. In compliance with the Treasury's request, General Hines designated the persons shown on the attached list to serve as special Treasury representatives for the purpose indicated.

At the time the above mentioned outline of accounting procedure was furnished to representatives of Federal agencies for comment, copies thereof were also furnished to the following manufacturers of accounting equipment: International Business Machine Corporation, Remington Rand, Burroughs, National Cash Register, Monroe, Elliott Fisher. There immediately followed a series of conferences with representatives of the manufacturers. The Treasury's problem was outlined in detail to the representatives of each company and they were invited to give demonstrations of how their equipment would meet the problem. Their attention was invited to the fact that in addition to the necessity for maintaining strict accounting control over allocations made by the President, it would also be necessary to produce promptly the statements and the forms required by the Department. Demonstrations of bookkeeping equipment were made as follows:

- May 22 International Business Machines
- May 27 Remington Rand
- May 29 Burroughs
- May 31 National Cash Register
- June 12 Monroe

The demonstrations indicated that the International Business Machines Corporation was in a better position to handle the volume of work in large offices and produce the reports required by the Treasury without undue delay. It was decided, however, that it might be advisable to divide the business, since the Burroughs and the Remington Rand companies claimed that they could do the work at a lower cost to the Government. If, after careful tests and comparisons, it is found that the job can be done at a lower cost with purchased equipment than with the rented equipment of International Business Machines Corporation, the rented machines will be replaced by other machines without unnecessary loss to the Government. Aside from other considerations, in view of the keen competition among the various companies in their effort to meet the problem at the lowest possible cost, the Treasury will benefit under the plan of distributing the business.

On June 15 the Comptroller General returned the draft of Treasury Regulation No. 1, and on June 17 Mr. Bell and Mr. Bartelt had a conference with the Comptroller General to clear up certain phases of his letter of June 15 in regard to the draft of the Regulation.

On June 24 and July 1 the accounting forms were sent to the printer.

On June 24 the Disbursing Officers were appointed for all states, and on the same date the accounting officers were appointed for all states except Colorado, Delaware, and the City of New York. Appointments in Colorado and the City of New York have since been made. It is contemplated that the Delaware Accountant-in-Charge will be appointed in the near future. In this connection it may be stated that two offices will be located in New York, one in the City of New York, and the other at Albany to cover the state of New York except the City of New York.

On June 18 offices were set up on the third floor of the Walker Johnson Building, 1734 New York Avenue, N. W., Washington, D. C.

On June 30, July 1, 2, and 3 accounting, disbursing, and procurement representatives from the central office in Washington were sent to confer with state Administrators, Accountants-in-Charge, Disbursing Officers, and Procurement Officers located in the various states. These conferences were held in New York City, Columbus, Chicago, Salt Lake City, and New Orleans.

In addition to the individual conferences, the representatives of the Treasury from Washington also held state group conferences with the accounting officers in charge, the Disbursing Officer, the Procurement Officer, and the Works Progress Administrator. The Treasury accounting and disbursing officers were furnished with copies of Regulation No. 1 and manuals of procedure. They were instructed to study the regulations and the manual of procedure and to submit to the Treasury accounting and disbursing representatives questions which might arise in connection therewith.

The Treasury representatives report that these conferences were a success and that there appeared to be no difficulties which should be brought to the Secretary's attention at this time. There are, however, a few cases where there is some doubt as to the ability of the Accountants-in-Charge to discharge their responsibilities. In this connection it may be stated that all appointments have been made for a probationary period of three months and that these cases will be carefully looked into before the expiration of the probationary period.

On Thursday, July 11, representatives from Washington on accounting, disbursing and procurement will be sent into the field for the purpose of assisting accounting, disbursing and procurement officers in the states in setting up procedure and also to see that

the work is properly coordinated. There will be five groups, each consisting of an accounting representative, a disbursing representative, and a procurement representative. The form of letter addressed to these men designating them as special representatives of the Secretary of the Treasury for the service above referred to, is attached hereto. A list of the names of the men is also attached, showing the states which they will visit.

Sylvania, New Jersey, Maryland,  
Delaware

(Signed) E. F. BARTELT

- |           |  |  |
|-----------|--|--|
| GROUP II  | Virginia, North Carolina, South Carolina, Georgia, Tennessee, Alabama, Mississippi, Florida, Kentucky              | Procurement: J. S. [unclear]<br>Accounting: [unclear]<br>Disbursing: [unclear] |
| GROUP III | West Virginia, Ohio, Illinois, Indiana, Michigan, Wisconsin, Minnesota, Iowa, North Dakota, South Dakota, Nebraska | Procurement: [unclear]<br>Accounting: [unclear]<br>Disbursing: [unclear]       |
| GROUP IV  | Missouri, Kansas, Oklahoma, Arkansas, Texas, Louisiana   | Procurement: J. S. [unclear]<br>Accounting: [unclear]<br>Disbursing: [unclear] |
| GROUP V   | Washington, Oregon, California, Arizona, Nevada, Utah, Idaho, Montana, Wyoming, Colorado, New Mexico               | Procurement: J. S. [unclear]<br>Accounting: [unclear]<br>Disbursing: [unclear] |

SPECIAL REPRESENTATIVES TO COORDINATE PROCUREMENT, ACCOUNTING, AND DISBURSING ACTIVITIES IN THE STATES INDICATED.

- |           |   |  |
|-----------|---|--|
| GROUP I   | Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Maryland, Delaware | Procurement: M.L. Sweet<br>Accounting: J.W.McIntosh<br>Disbursing: H.B. Dellett    |
| GROUP II  | Virginia, North Carolina, South Carolina, Georgia, Tennessee, Alabama, Mississippi, Florida, Kentucky                           | Procurement: R. S.Gibson<br>Accounting: Ralph Dority<br>Disbursing: L. Levy        |
| GROUP III | West Virginia, Ohio, Illinois, Indiana, Michigan, Wisconsin, Minnesota, Iowa, North Dakota, South Dakota, Nebraska              | Procurement: W.M. Robey<br>Accounting: Jay Chambers<br>Disbursing: H.Theodore Tate |
| GROUP IV  | Missouri, Kansas, Oklahoma, Arkansas, Texas, Louisiana  | Procurement: J. H. Petrie<br>Accounting: Henry Dolan<br>Disbursing: A.E.Mills      |
| GROUP V   | Washington, Oregon, California, Arizona, Nevada, Utah, Idaho, Montana, Wyoming, Colorado, New Mexico                            | Procurement: J. A. Walstrom<br>Accounting: E.F.Inbody<br>Disbursing: Paul E. Haase |

Conference in Mr. McReynolds' office re obligations of the Secretary of the Treasury with respect to procurement and accounting under Executive Orders 7034 and 7083.

The conference attended by Messrs. McReynolds, Bell, Bartelt, Oppen, Hester, Laws, and others, was held in Mr. McReynolds' office on July 9, 1935. The questions discussed were the duty of the Secretary of the Treasury to procure materials, supplies, and services in connection with all projects undertaken under the Emergency Relief Appropriation Act of 1935, and also the Secretary's duty with respect to accounting and audits of such projects. Emphasis was placed upon the so-called state projects, and upon the duties of the Secretary subsequent to the disbursement of the loans or the grant, or both, to the state or subdivision thereof.

Section II (A) of Executive Order 7034 directs the Secretary of the Treasury

"to maintain a system of accounts necessary to enable the President (a) to exercise Executive control over such funds, (b) to provide current financial and accounting information for governmental agencies concerned, and (c) to make a complete report to the Congress concerning expenditures made and obligations incurred, by classes and amounts; and (2) through the Director of Procurement, to purchase, or to provide a system for the purchase of all materials, supplies and equipment to be procured with the said funds."

Section 8 of Executive Order 7083 provides in part that

"The Government may furnish materials, supplies, and equipment in the case of non-federal projects only if the Government is making a grant of such items."

It was generally agreed at the conference that the sentence quoted from Executive Order 7083 is an interpretation of the duties of the Secretary imposed by Executive Order 7034. Under this interpretation, it is entirely clear that the duty of procurement in non-federal projects is not vested in the Secretary of the Treasury, excepting as such procurement is in itself a part of the grant.

- 2 -

It was likewise generally agreed that the same interpretation applies to the duty of the Secretary with respect to accounting, and that after the moneys are in the hands of the non-federal grantees, no duty rests upon the Secretary to maintain follow-up accounts of their expenditures.

Aside from the interpretation contained in Executive Order 7083, it was concluded that this was the only reasonable interpretation, inasmuch as further auditing and accounting control on the part of the Secretary of the Treasury would amount to a duplication, or in some cases, a triplication of similar controls now kept, or to be kept, by the Public Works Administration and Works Progress Administration.

Treasury Department  
Division of Monetary Research

Date.....April 7, 1939. 1938

To: Miss Chauncey - Room 285

From: L. Shanahan

Attachments for memo of October 6, 1938  
to the Secretary, entitled "Chronology of  
Action Relating to Discrimination by  
Germany against the Commerce of the U.S."

Similar attachments were not appended to  
the memo originally (as we had the  
material only in pamphlets containing  
Treasury Decisions).

Under date of July 8, 1935, the President addressed the following communication to the Secretary of the Treasury concerning the continued application to the products of certain countries of the reduced rates of duty established under schedule II of the Swedish Trade Agreement, schedule II of the Belgo-Luxemburg Trade Agreement (T. D. 47600), and schedule II of the Haitian Trade Agreement (T. D. 47667):

My dear Mr. Secretary:

The act to amend the Tariff Act of 1930, approved June 12, 1934, provides in part that the President may suspend the application of duties proclaimed under the authority of that act to products of countries which discriminate against the commerce of the United States or whose other acts and policies are in conflict with the purposes of the act. Pursuant to the above-mentioned provisions of the act, I hereby direct that the duties proclaimed on this date in connection with the trade agreement signed on May 25, 1935, with Sweden, the duties proclaimed on May 4, 1935, in connection with the trade agreement signed on March 28, 1935, with the Republic of Haiti, and the duties proclaimed on April 1, 1935, in connection with the trade agreement signed on February 27, 1935, with the Belgo-Luxemburg Economic Union shall be applied only to articles the growth, produce, or manufacture of the countries hereinafter designated and to such articles, in the case of each country, respectively, for the period indicated in the numbered section below in which such country is designated.

1. In respect of the products of each country designated in this section, the proclaimed duties shall be applied from the date such duties become effective until October 1, 1935.

Canada

France (including Algeria) and its assimilated colonies, namely, Indochina, Madagascar, Reunion, Guadeloupe, Martinique, and Guiana

The Netherlands

Spain  
Switzerland and Liechtenstein

2. In respect to the products of each country designated in this section, the proclaimed duties shall be applied from the date such duties become effective until thirty days from the date on which you are notified by me that the United States has ceased, or on a day certain will cease, to be bound by provisions of a treaty or agreement providing for most-favored-nation treatment in respect of customs duties.

Denmark  
Germany  
Italy

Portugal and its colonies and possessions

3. In respect of the products of each country designated in this section, the proclaimed duties shall be applied so long as such duties remain in effect and this direction is not modified in respect of such country.

Afghanistan	Ethiopia (Abyssinia)
Albania	Finland
Andorra	French colonies not named in section 1 above, dependencies, protectorates, and mandated territories
Anglo-Egyptian Sudan	Great Britain and Northern Ireland, and British colonies, dependencies, protectorates, and mandated ter- ritories
Arabian Shaikhdoms not included under any other designation in this list	Greece
Argentina	Greenland
Australia, Commonwealth of, and its mandated territories	Guatemala
Austria	Haiti
Belgium and its colonies and man- dated territories	Honduras
Bhutan	Hungary
Bolivia	Iceland
Brazil	India
Bulgaria	Iran (Persia)
Chile	Iraq
China	Irish Free State
Colombia	Italian colonies and possessions
Costa Rica	Japanese Empire and mandated terri- tories and Kwantung Leased Terri- tory
Cuba (subject to the provisions of the trade agreement concluded with Cuba on August 24, 1934)	Latvia
Czechoslovakia	Liberia
Danzig, Free City of	Lithuania
Dominican Republic	Luxemburg
Ecuador	Mexico
Egypt	Monaco
El Salvador	Morocco
Estonia	Saudi Arabia
Nepal	Siam
Netherlands colonies	Spanish colonies and possessions
Newfoundland	Sweden
New Hebrides	Turkey
New Zealand and mandated territories	Union of South Africa and mandated territory
Nicaragua	Union of Soviet Socialist Republics
Norway	Uruguay
Oman (Muscat)	Vatical, City of the
Panama	Venezuela
Paraguay	Yemen
Peru	Yugoslavia
Poland	
Rumania	
San Marino	

My letters addressed to you on April 1, April 10, May 3, and May 4, 1935, with reference to the application of the duties proclaimed in connection with the trade agreements with the Belgo-Luxemburg Economic Union and the Republic of Haiti are hereby superseded.

You will please cause this direction to be published in an early issue of the weekly Treasury Decisions.

Sincerely yours,

Franklin D. Roosevelt

(The letters of the President superseded by the foregoing instructions were published in T.D. 47600, T.D. 47622, T.D. 47667, and T.D. 47676.)

## DRAFT OF STATEMENT BY THE SECRETARY OF THE TREASURY

TO THE

WAYS AND MEANS COMMITTEE ON PROPOSED TAXES

*Mr. Broughton*

*Will copy that to the House to attach to the report on July 8/31*

I am glad to respond to the request of your Chairman that I appear and discuss briefly, <sup>policy</sup> from the Treasury's point of view, the recommendations of measures for additional revenues which the President has submitted to the Congress.

The Chairman of your Sub-Committee <sup>Med?</sup> on Taxation submitted to the Treasury a number of rate schedules and requested the Research <sup>Department</sup> of the Treasury to prepare for your Committee estimates of the probable amount of revenue that would be produced by each of the hypothetical rate schedules submitted. <sup>The Treasury is</sup> I am glad to furnish this statistical material for the use of your Committee and shall be happy to supply any additional information which your Committee may desire for use in the discharge of its responsibility for the formulation of revenue legislation.

*Mr* Looking forward to balancing the budget and reducing the national debt, the primary interest of the Treasury in the legislation which your Committee is considering relates to the revenue which it may raise, although it is recognized that the full social consequences of tax laws cannot be measured <sup>policy</sup> by the revenues they produce. It has to be recognized that taxation in any form has many collateral effects throughout our <sup>(daily life?)</sup> whole economic and social life, and that, since taxes cannot be <sup>levied</sup> laid without these collateral results and since they must be <sup>levied</sup> laid, there is a national duty to avoid tax laws which produce undesirable social consequences and a like duty to correct evils produced by existing legislation as they become apparent. I think it will be generally recognized that our tax legislation has too often neglected these considerations.

Returning to revenue, the matter of primary concern to the Treasury,

*in his message of*

our studies have shown that the sources of taxation proposed by the President can be made to yield substantial additions to the income of the National Government. This fact is reflected in the Treasury's <sup>our</sup> estimates of revenue based upon the schedules of rates submitted <sup>by your committee</sup> to the Treasury for estimate. Based, as they are, on the sound principle of ability to pay and devised to draw into the Federal treasury accumulations of wealth and income which have been derived from profit-making activities that are nation-wide in scope, these proposed taxes should constitute an important step in reshaping our tax structure along sounder and more equitable lines.

The Treasury's first concern, however, is the adequacy of the National revenue. In times of great emergency the Treasury is able to meet expenditures far in excess of income by borrowings which increase the public debt. The national welfare demands that, when such an emergency has passed, sufficient income be raised to make substantial reductions in the debt. We should now look forward to meeting that need. We have justifiably expended great sums in the war against the depression. As a result, our public debt has increased more than six billions of dollars in two years. In itself, this increase need not cause concern, since the total income of our citizens during these two years has increased much more than this amount. It would be unwise to impose tax burdens that would retard the recovery that is under way, but it would be folly not to tap sources of taxation which will restrict and reduce our national debt without interfering with recovery. <sup>It is my belief that</sup> The taxes which the President has proposed fall within this category.

With the great responsibility it has of safeguarding the national credit, the Treasury is vitally concerned in the use that is to be made of the revenue

that we may derive from these proposed taxes. We should be embarking on a perilous course if we should regard any part of these new revenues as available for new types of expenditures or as justifying any increase whatever <sup>very carefully</sup> over our budgeted plans for Federal outlays. The course which I feel sure will appeal to all of you as the only sound procedure is that of <sup>very</sup> definitely earmarking the revenue to be derived from these new taxes for reducing future borrowing and paying off the public debt. *(These new taxes should be conclusively set aside for this purpose as the Stabilization fund)*

It is true, of course, that so long as the expenditures in any year exceed the revenues there can not be an actual net reduction of the debt. But income from these sources can and must be used, it seems to me, first for reduction of new Federal borrowings, and, when the budget is brought into balance, for actual net reduction of the debt. It would seem to me highly desirable that the Congress definitely provide that additional revenue from the sources proposed shall be sharply segregated from other revenues and devoted wholly to the object of reducing the National debt.

Some time ago in discussing monetary matters I spoke of the increment on gold resulting from revaluation as resting in a special drawer of the Nation's cash register, since it was being kept separate from other funds and was not to be used for ordinary expenditures. Silver seigniorage resulting from the Silver Purchase Act is being similarly treated. I think it would be in the highest public interest to regard the proceeds of these proposed taxes as occupying a third special and reserved drawer in the National treasury, available only to restrict and reduce the National debt.

**COMMITTEE PRINT—UNREVISED**

Note.—This print is for the immediate use of the committee and is subject to correction

E. W. G. HUFFMAN, Clerk.

---

---

**Proposed Taxation of Individual and  
Corporate Incomes, Inheritances  
and Gifts**

---

---

HEARINGS

BEFORE THE  
**COMMITTEE ON WAYS AND MEANS**  
**HOUSE OF REPRESENTATIVES**

SEVENTY-FOURTH CONGRESS

FIRST SESSION

—  
**No. 1**  
—

JULY 8, 1935



UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1935

Note—This print is for the immediate use of the committee and is subject to correction.

E. W. G. HOFFMAN, Clerk

# Proposed Taxation of Individual and Corporate Incomes, Inheritances and Gifts

## COMMITTEE ON WAYS AND MEANS

ROBERT L. DOUGHTON, North Carolina, Chairman

SAMUEL B. HILL, Washington	ALLEN T. TREADWAY, Massachusetts
THOMAS H. CULLEN, New York	ISAAC BACHARACH, New Jersey
CHRISTOPHER D. SULLIVAN, New York	FRANK CROWTHER, New York
MORGAN G. SANDERS, Texas	HAROLD KNUTSON, Minnesota
JOHN W. MCCORMACK, Massachusetts	DANIEL A. REED, New York
DAVID J. LEWIS, Maryland	ROY O. WOODRUFF, Michigan
FRED M. VINSON, Kentucky	THOMAS A. JENKINS, Ohio
JERE COOPER, Tennessee	
JOHN W. BOEHNE, Jr., Indiana	
CLAUDE A. FULLER, Arkansas	
WESLEY E. DISNEY, Oklahoma	
ARTHUR P. LAMNECK, Ohio	
FRANK H. BUCK, California	
RICHARD M. DUNCAN, Missouri	
CHESTER THOMPSON, Illinois	
J. TWING BROOKS, Pennsylvania	
JOHN D. DINGELL, Michigan	

E. W. G. HOFFMAN, Clerk

ii

UNITED STATES GOVERNMENT PRINTING OFFICE  
WASHINGTON: 1934

161

# PROPOSED TAXATION OF INDIVIDUAL AND CORPORATE INCOMES, INHERITANCES AND GIFTS

MONDAY, JULY 8, 1934

House of Representatives,  
Department of Ways and Means,  
Washington, D. C.

## CONTENTS

Statement of—	Page
Hon. Henry Morgenthau, Jr., Secretary of the Treasury	5
Lovell H. Parker, chief of staff, Joint Committee on Internal Revenue Taxation	15

iii

PROPOSED TAXATION OF INDIVIDUAL AND CORPORATE  
INCOMES, INHERITANCES, AND GIFTS

MONDAY, JULY 8, 1935

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

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

The CHAIRMAN. The committee will come to order.

The hearings before this committee, which are now open, will, I trust, be confined to the subject matter of the message submitted by the President of the United States to the Congress on June 19, 1935. The message of the President contains three general proposals concerning tax methods and policies; the first, in respect to an inheritance and gift tax in addition to our existing estate and gift taxes; the second, in respect to higher surtaxes on individuals; and the third, in respect to a graduated income tax on corporations.

While the message of the President furnishes an excellent guide as to policies and methods for this committee to follow, it does not attempt to specify in detail the precise plan which should be adopted.

For example, in the case of the first proposal made by the President, it will be the duty of this committee to decide where we should start the inheritance tax and what rates should be proposed. It is likewise the duty of this committee to determine at what point the surtaxes will be revised and also to determine what the maximum rate shall be. Finally, the committee must determine how much graduation shall be made in the corporate income tax.

For my own part, I believe that we should keep strictly within the terms of the President's message, because I believe that changes in our tax structure should be made gradually, so that business will not be affected to such an extent as would be the case if sudden changes are made in the entire tax system. If we can establish the proper principles at this time, there will be ample opportunity in the future to revise and perfect whatever measure may be enacted into law at this session.

The matter of Federal taxation is one that needs constant study and frequent adjustments to meet our fiscal needs, and also provide equality in taxation so far as it is in the power of Congress to provide and maintain an equitable and just system of taxation.

At this point, I will insert in the record the message of the President in reference to this subject, dated June 19, 1935.

(The message of the President referred to is as follows.)

[H. Doc. No. 399, 76th Cong., 1st sess.]

To the Congress of the United States:

As the fiscal year draws to its close it becomes our duty to consider the broad question of tax methods and policies. I wish to acknowledge the timely efforts of the Congress to lay the basis through its committees for administrative improvements, by careful study of the revenue systems of our own and of other countries. These studies have made it very clear that we need to simplify and clarify our revenue laws.

The Joint Legislative Committee, established by the Revenue Act of 1926, has been particularly helpful to the Treasury Department. The members of that committee have generously consulted with administrative officials, not only on broad questions of policy but on important and difficult tax cases.

On the basis of these studies and of other studies conducted by officials of the Treasury, I am able to make a number of suggestions of important changes in our policy of taxation. These are based on the broad principle that if a government is to be prudent its taxes must produce ample revenues without discouraging enterprise; and if it is to be just it must distribute the burden of taxes equitably. I do not believe that our present system of taxation completely meets this test. Our revenue laws have operated in many ways to the unfair advantage of the few, and they have done little to prevent an unjust concentration of wealth and economic power.

With the enactment of the Income Tax Law of 1913 the Federal Government began to apply effectively the widely accepted principle that taxes should be levied in proportion to ability to pay and in proportion to the benefits received. Income was wisely chosen as the measure of benefits and of ability to pay. This was and still is a wholesome guide for national policy. It should be retained as the governing principle of Federal taxation. The use of other forms of taxes is often justifiable, particularly for temporary periods; but taxation according to income is the most effective instrument yet devised to obtain just contribution from those best able to bear it and to avoid placing onerous burdens upon the mass of our people.

The movement toward progressive taxation of wealth and of income has accompanied the growing diversification and interrelation of effort which marks our industrial society. Wealth in the modern world does not come merely from individual effort; it results from a combination of individual effort and of the manifold uses to which the community puts that effort. The individual does not create the product of his industry with his own hands; he utilizes the many processes and forces of mass production to meet the demands of a national and international market.

Therefore, in spite of the great importance in our national life of the efforts and ingenuity of unusual individuals, the people in the mass have inevitably helped to make large fortunes possible. Without mass cooperation great accumulations of wealth would be impossible save by unhealthy speculation. As Andrew Carnegie put it, "Where wealth accrues honorably, the people are always silent partners." Whether it be wealth achieved through the cooperation of the entire community or riches gained by speculation—in either case the ownership of such wealth or riches represents a great public interest and a great ability to pay.

### I

My first proposal, in line with this broad policy, has to do with inheritances and gifts. The transmission from generation to generation of vast fortunes by will, inheritance, or gift is not inconsistent with the ideals and sentiments of the American people.

The desire to provide security for one's self and one's family is natural and wholesome, but it is adequately served by a reasonable inheritance. Great accumulations of wealth cannot be justified on the basis of personal and family security. In the best analysis such accumulations amount to the perpetuation of great and undesirable concentration of control in a relatively few individuals over the employment and welfare of many, many others.

Such inherited economic power is as inconsistent with the ideals of this generation as inherited political power was inconsistent with the ideals of the generation which established our Government.

Creative enterprise is not stimulated by vast inheritances. They bless neither those who bequeath nor those who receive. As long ago as 1907, in a message to Congress, President Theodore Roosevelt urged this wise social policy:

"A heavy progressive tax upon a very large fortune is in no way such a tax upon thrift or industry as a like tax would be on a small fortune. No advantage comes either to the country as a whole or to the individuals inheriting the money by permitting the transmission in their entirety of the enormous fortunes which would be affected by such a tax; and as an incident to its function of revenue raising, such a tax would help to preserve a measurable equality of opportunity for the people of the generations growing to manhood."

A tax upon inherited economic power is a tax upon static wealth, not upon that dynamic wealth which makes for the healthy diffusion of economic good.

Those who argue for the benefits secured to society by great fortunes invested in great businesses should note that such a tax does not affect the essential benefits that remain after the death of the creator of such a business. The mechanism of production that he created remains. The benefits of corporate organization remain. The advantage of pooling many investments in one enterprise remains. Governmental privileges such as patents remain. All that is gone is the initiative, energy, and genius of the creator—and death has taken these away.

I recommend, therefore, that, in addition to the present estate taxes, there should be levied an inheritance, succession, and legacy tax in respect to all very large amounts received by any one legatee or beneficiary; and to prevent, so far as possible, evasion of this tax, I recommend further the imposition of gift taxes suited to this end.

Because of the basis on which this proposed tax is to be levied and also because of the very sound public policy of encouraging a wider distribution of wealth, I strongly urge that the proceeds of this tax should be specifically segregated and applied, as they accrue, to the reduction of the national debt. By so doing we shall progressively lighten the tax burden of the average taxpayer, and, incidentally, assist in our approach to a balanced budget.

The disturbing effects upon our national life that come from great inheritances of wealth and power can in the future be reduced, not only through the method I have just described, but through a definite increase in the taxes now levied upon very great individual net incomes.

To illustrate: The application of the principle of a graduated tax now stops at \$1,000,000 of annual income. In other words, while the rate for a man with a \$6,000 income is double the rate for one with a \$4,000 income, a man having a \$5,000,000 annual income pays at the same rate as one whose income is \$1,000,000.

Social unrest and a deepening sense of unfairness are dangers to our national life which we must minimize by rigorous methods. People know that vast personal incomes come not only through the effort or ability or luck of those who receive them, but also because of the opportunities for advantage which government itself contributes. Therefore the duty rests upon the Government to restrict such incomes by very high taxes.

### III

In the modern world, scientific invention and mass production have brought many things within the reach of the average man which in an earlier age were available to few. With large-scale enterprises has come the great corporation drawing its resources from widely diversified activities and from a numerous group of investors. The community has profited in those cases in which large-scale production has resulted in substantial economies and lower prices.

The advantages and the protections conferred upon corporations by government increase in value as the size of the corporation increases. Some of these advantages are granted by the State which conferred a charter upon the corporation; others are granted by other States which, as a matter of grace, allow the corporation to do local business within their borders. But perhaps the most important advantages, such as the carrying on of business between two or more States are derived through the Federal Government—great corporations are protected in a considerable measure from the taxing power and the regulatory power of the States by virtue of the interstate character of their business. As the profit to such a corporation increases, so the value of its advantages and protections increases.

Furthermore, the drain of a depression upon the reserves of business puts a disproportionate strain upon the modestly capitalized small enterprise. Without such small enterprises our competitive economic society would cease. Size begets

monopoly. Moreover, in the aggregate these little businesses furnish the indispensable local basis for those Nation-wide markets which alone can insure the success of our mass-production industries. Today our smaller corporations are fighting not only for their own local well-being but for that fairly distributed national prosperity which makes large-scale enterprise possible.

It seems only equitable, therefore, to adjust our tax system in accordance with economic capacity, advantage, and fact. The smaller corporations should not carry burdens beyond their powers; the vast concentrations of capital should be ready to carry burdens commensurate with their powers and their advantages.

We have established the principle of graduated taxation in respect to personal incomes, gifts, and estates. We should apply the same principle to corporations. Today the smallest corporation pays the same rate on its net profits as the corporation which is a thousand times its size.

I, therefore, recommend the substitution of a corporation income tax graduated according to the size of corporation income in place of the present uniform corporation income tax of 13½ percent. The rate for smaller corporations might well be reduced to 10½ percent, and the rates graduated upward to a rate of 16½ percent on net income in the case of the largest corporations, with such classifications of business enterprises as the public interest may suggest to the Congress.

Provision should, of course, be made to prevent evasion of such graduated tax on corporate incomes through the device of numerous subsidiaries or affiliates each of which might technically qualify as a small concern even though all were in fact operated as a single organization. The most effective method of preventing such evasions would be a tax on dividends received by corporations. Bonus life investment trusts that submit to public regulation and perform the function of permitting small investors to obtain the benefit of diversification of risk may well be exempted from this tax.

In addition to these three specific recommendations of changes in our national tax policies, I commend to your study and consideration a number of others. Ultimately we should seek through taxation the simplification of our corporate structures through the elimination of unnecessary holding companies in all lines of business. We should likewise discourage unwieldy and unnecessary corporate surpluses. These complicated and difficult questions cannot adequately be debated in the time remaining in the present session of this Congress.

I renew, however, at this time the recommendations made by my predecessors for the submission and ratification of a constitutional amendment whereby the Federal Government will be permitted to tax the income on subsequently issued State and local securities and likewise for the taxation by State and local governments of future issues of Federal securities.

In my Budget message of January 7, I recommended that the Congress extend the miscellaneous internal revenue taxes which are about to expire and also to maintain the current rates of those taxes which, under the present law, would be reduced. I said then that I considered such taxes necessary to the financing of the Budget for 1936. I am gratified that the Congress is taking action on this recommendation.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE, June 19, 1935.

THE CHAIRMAN: The first witness this morning is the Secretary of the Treasury, Mr. Morgenthau, who comes at the invitation of the chairman of the committee, and if there is nothing else that any member of the committee desires to say at this time the Secretary may proceed.

MR. COOPER: Mr. Chairman, I assume the usual course will be followed, that the Secretary will be permitted to complete his statement without interruption?

THE CHAIRMAN: That is the custom and the rule usually followed by the committee, and I am sure the members will observe the rule at this time.

MR. SECRETARY, we will be glad to hear you.

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

SECRETARY MORGENTHAU: Mr. Chairman, I am glad to respond to the request of your chairman, Mr. Robert L. Doughton, that I appear and discuss briefly, from the Treasury's point of view, the principles and policies for obtaining additional revenues which the President has outlined in his message to the Congress.

The chairman of your subcommittee on taxation, Mr. Samuel B. Hill, submitted to the Treasury a number of hypothetical rate schedules and requested the Department to prepare for your committee estimates of the probable amount of revenue that would be produced by each of these rate schedules. The Treasury is very glad to furnish this statistical material for the use of your committee and will be happy to supply any additional information which your committee may desire for use in the discharge of its responsibility for the formulation of revenue legislation.

In looking forward to balancing the Budget and reducing the national debt, the primary interest of the Treasury in the legislation which your committee is considering relates to the revenue which it may raise, although it is true that the full consequences of tax laws are not limited to the revenues they produce. It has to be recognized that taxation in any form has many collateral effects throughout our whole economic and social life, and that, since taxes cannot be levied without these collateral results and since they must be levied, there is a national duty to avoid tax laws which produce undesirable social consequences and a like duty to correct evils produced by existing tax legislation as they become apparent. I think it will be generally recognized that our tax legislation has too often neglected these considerations.

The sources of taxation proposed by the President in his message to the Congress of June 19, 1935, can be made to yield substantial additions to the receipts of the Federal Government. This is shown in our estimates of revenue based upon the schedules of rates submitted by your subcommittee to the Treasury for calculation of probable yield. These proposed taxes rest on the principle of ability to pay. They are devised to draw an accumulation of wealth and income which, for the most part, have been derived from Nation-wide activities. In consequence, their enactment should constitute an important step forward in reshaping our tax structure along sounder and fairer lines.

The Treasury's first concern is with the adequacy of the national revenue. There are many times of emergency when the Treasury must finance expenditures in excess of income by borrowings which increase the public debt. But the national welfare demands that, when such an emergency has passed, sufficient income be raised both to meet current expenditures and to make substantial reductions in the debt. The time has come to move in this direction. It would, of course, be unwise to impose tax burdens which would retard recovery. But it would be equally unwise not to call on sources of revenue which would reduce our borrowings and later reduce the national debt without interfering with recovery, and it is my belief that the additional taxes which the President has now recommended fall within this latter class.

Because of our common responsibility for safeguarding the national credit, we are all vitally concerned in the use which is to be made of the revenue that may be derived from the proposed taxes. As Secretary of the Treasury, it is my conviction that it would be perilous to regard any part of these new revenues as available for new types of expenditures or as justifying any increase over our carefully budgeted plans for Federal outlays. The course which I feel sure will appeal to all of you as the only sound procedure is that the revenue derived from these new taxes shall be regarded as very definitely earmarked for reducing future borrowing and paying off the public debt. We should set aside the proceeds of these new taxes and safeguard them as carefully as was the stabilization fund.

Some months ago in discussing monetary matters, I spoke of the increment on gold resulting from revaluation as having been placed in a special drawer of the Treasury's cash register, since it was being kept separate from other funds and was not to be used for ordinary expenditures. Silver seigniorage resulting from the Silver Purchase Act is being similarly handled.

In closing I should like to repeat that I think it would be in the highest public interest to regard the proceeds of these taxes as occupying a third special drawer in the Treasury, available only to reduce our borrowings and later reduce the national debt.

Mr. Chairman, I am returning the tax-rate schedules submitted to the Treasury for an estimate of their probable revenue yields. Your 18 schedules relating to inheritance and gift taxes would produce yields ranging from about 7 million to 728 millions.

Your six schedules relating to increased bracket rates on large individual incomes would produce revenue yields from about 5 millions to 32½ millions.

Your three schedules relating to a graduated corporation income tax would produce revenue yields from about 67 millions to 102 millions.

Your suggestion relating to method of partially removing the present total tax exemption of dividends received by corporations would produce revenue approximating \$39,000,000.

Now, Mr. Chairman, I want to return to you an analysis that the Treasury has made of these rates.

The CHAIRMAN. As I understand it, this information was called for purely for study and for statistical purposes, so that the committee might have it for its guidance when it is ready to go into executive session for the preparation of such legislation as the committee will deem it wise and expedient to recommend.

Secretary MORGENTHAU. That is right.

Mr. JENKINS. Mr. Secretary, I notice in the statement you have made to the committee you have brought these two phrases together, "For reducing future borrowing and paying off the public debt."

As I remember it, the country is running behind at the rate of about \$2,000,000,000 a year, and has been for the last 2 years. If that is the case, we are running behind in the amount of billions, and this tax program that you talk about would not possibly produce more than four or five hundred million dollars a year. Why do you say it will pay off the public debt? Why do you not confine your statement to saying that it will stop these future borrowings?

Secretary MORGENTHAU. As long as we are spending in excess of our revenue, this money will be set aside, following my thought in the

matter, and it will first enable us to borrow less; and, second, we will be able to use it for spending less.

Mr. JENKINS. Then there is not any immediate prospect that any money that we get out of this bill will be used at all for the reduction of the debt. It will be used for reduction of expenses; in other words, it will come nearer to balancing the budget than we have.

I wondered why you make reference in several places in your statement to paying off the public debt, when there is no chance of paying off the public debt in this program.

Secretary MORGENTHAU. When we get to a point where we do strike a balance, and these revenues continue to come in, then the revenues would be used to reduce the public debt.

Mr. JENKINS. I do not want to attempt to confuse you, but I think this prepared statement you have given us was prepared for the press. Its primary object is to make it appear that this money is to be used to pay off the public debt, and that is not right; you are not going to get to that place for a long time.

Mr. HILL. Will the gentleman yield?

Mr. JENKINS. Yes.

Mr. HILL. Of course, it is a matter of common knowledge that at the present time the emergency expenditures are running far ahead of the revenues we are getting in, which are just about sufficient to take care of the ordinary expenditures of the Government. We have advanced at this time a program of emergency expenditures which will probably cover 2 years' time, I would guess myself. This legislation in reference to additional taxes is, so far as we know now, permanent legislation; at least it would extend over a number of years. We are preparing at this time for revenues to come in during the current tax year, and for succeeding tax years.

It is well known to the members of the committee that inheritance taxes are somewhat delayed in producing revenue; it takes some time for them to get into full operation. That also goes as to gift taxes.

Then it takes some time to get returns from increased or added income taxes. So that revenues will not be coming in tomorrow, or next month; they will be delayed in coming in probably a year, 2 years, 3 years, or 4 years from now. By that time we will have reached the point where we can eliminate emergency expenditures, and begin to apply to the reduction of the public debt.

Mr. JENKINS. Personally, I would like to see some program adopted some time by which we commence to cut down expenses. That would be much more hopeful for the people. You carry a statement that the present administration is going to do something to meet expenses. That will help us to pay off the debt more effectively than promises made that we are going to pay off the public debt by taxation, when we cannot meet expenses now.

Mr. KNUTSON. Right in that connection, I would like to call to the attention of my colleague a paragraph in the President's economy message delivered to Congress on April 10, 1933. In that message he said:

Upon the unimpaired credit of the United States Government rests the safety of deposits, the security of insurance policies, the activity of industrial enterprises, the value of our agricultural products, and the availability of employment. The credit of the United States Government definitely affects these fundamental human values. It therefore becomes our first concern to make secure the foundation. National recovery depends upon it. But often in recent history

liberal governments have been wrecked on rocks of loose fiscal policy. We must avoid this danger.

Mr. JENKINS. That is very appropriate.

Mr. VINSON. What the President inherited in the way of economic disaster was widespread throughout the country, and he fully realized the extent to which it had gone.

Mr. KNUTSON. In that connection, I am wondering whether the President had realized it when he transmitted his budget message to Congress for 1936. He had been in office almost 2 years, and this is what he said in that message:

While I do not consider it advisable at this time to propose any new or additional taxes for the fiscal year 1936, I do recommend that the Congress take steps, by suitable legislation, to extend the miscellaneous internal-revenue taxes which, under existing law, will expire next June or July, and also to maintain the current rates of these taxes which will be retained next June. I consider that such taxes are necessary to the financing of the Budget for 1936.

The CHAIRMAN. Do I understand the gentleman to be starting out in opposition to any legislation of this kind at this time?

Mr. KNUTSON. No—

The CHAIRMAN. I had been in hopes that the gentleman, with his broad, generous mind, would look upon this legislation with some favor.

Mr. KNUTSON. I would like to have the Secretary to tell this committee what has arisen since the budget was transmitted to Congress up to the present time to necessitate this program. I am sure that no one is better able to give us that information, and I think we should have that before we start out on anything else.

There is nothing partisan in that question; I am asking it for information.

Mr. VINSON. Oh, no!

Mr. KNUTSON. Suppose we have this information now, as to the necessity for these taxes?

The CHAIRMAN. I do not know if the Secretary speaks for the President; the President has spoken himself. If the Secretary wants to elaborate on the President's message, we will hear him. Otherwise, I think it is out of place.

Mr. KNUTSON. The Secretary is the President's financial adviser.

Mr. VINSON. Of course, it is rather unusual in this committee to have any partisan political references made in a matter of this kind. The thought that occurs to me is, in what direction we can go to suit our Republican friends. My friend from Minnesota (Mr. Knutson) is raising the question about enacting any tax measure at all at this time, and in the press I see where other distinguished Republican leaders are wondering whether we have courage enough to bring in a billion-dollar tax measure.

Mr. KNUTSON. Will the gentleman yield?

Mr. VINSON. I would not like to make the gentleman on the minority side unhappy, but we cannot go in both directions at the same time.

Mr. KNUTSON. Of course, what Republicans are hopeful of is that one of these days we will have announced a definite policy that will reassure business. We want to get the Government off of this merry-go-round and have it headed in some definite direction.

Mr. VINSON. I notice that at this time you take the position that we ought not to have any taxes at all. Recently the gentleman from New York (Mr. Taber) was challenging the administration for lack of courage, and saying that unless they bring in a billion-dollar tax bill their duty has not been performed.

It seems to me you are playing both ends against the middle.

Mr. KNUTSON. We want to avoid this loose fiscal policy.

Mr. VINSON. What is the policy of the Republican members of the committee, and the Republican Party?

Mr. KNUTSON. To reassure business so it will be able to go ahead and open up.

Mr. COOPER. I invite the gentleman's attention to this opening sentence in the President's message:

As the fiscal year draws to its close it becomes our duty to consider the broad question of tax methods and policies.

I think that very clearly forms the basis for the consideration now being given to the subject covered in the message.

Mr. KNUTSON. Is it the prime purpose of this program to redistribute wealth, or to raise additional revenue, Mr. Secretary?

Secretary MORGENTHAU. Mr. Congressman, I cannot add anything to what I have already said in my statement. I tried to make it as plain as possible that we are here to submit an analysis of the schedules which have been given to us. When I have had the honor to appear before the committee before I have taken the position, and I think the committee has taken the position that they do not expect the Secretary of the Treasury to submit new kinds of taxation.

The CHAIRMAN. I think the third paragraph of the Secretary's statement states the primary purpose of the proposed legislation, when he says:

In looking forward to balancing the Budget and reducing the national debt, the primary interest of the Treasury in the legislation which your committee is considering relates to the revenue which it may raise.

That states the primary purpose as emphatically as it can be stated. That is in the statement which the Secretary submitted to the committee this morning.

Mr. KNUTSON. I have not had an opportunity to see the Secretary's statement; I have not seen a copy of it.

I would like to call the Secretary's attention to the President's message of June 19, 1935, where he says, on page 2:

The transmission from generation to generation of vast fortunes by will, inheritance or gift, is not consistent with the ideals and sentiments of the American people.

Then on page 3 he says:

The disturbing effects upon our national life that come from great inheritances of wealth and power can in the future be reduced, not only through the method I have just described, but through a definite increase in the taxes now levied upon very great individual net incomes.

I take it from that, Mr. Secretary, that this is a sort of redistribution of wealth program.

Mr. HILL. Is the gentleman opposed to that?

Mr. KNUTSON. No; I am not opposed to that, but I think the committee ought to know just what we are doing, because let me say this, that if this is a revenue measure, I am going to move that we

impose excise taxes upon commodities coming in here in such enormous quantities as to threaten American industry.

I would like to ask if the Secretary of the Treasury has given any consideration to the proposition of imposing additional excise taxes, say, on textiles, or other things which are coming in and slowly driving American industries to the wall.

Secretary MORGENTHAU. No.

Mr. KNUTSON. The Treasury has not?

Secretary MORGENTHAU. No.

Mr. HILL. I will say there has been no request, as far as I am advised, upon the Secretary of the Treasury to make any such report for this hearing or for any other hearing.

Mr. KNUTSON. I had assumed that the Treasury had viewed this in an attempt to devise different ways in which to raise money.

Mr. HILL. I think the chairman of the committee set out in his opening statement the scope within which the hearings on the present tax program are to be confined, and so the Secretary has been requested to submit the various schedules within that scope, and that is the limit of the request made upon the Secretary for this hearing. It is hardly to be expected that the Secretary would come here with a report on every conceivable phase of the tax question.

The CHAIRMAN. Neither do I assume that any member of the committee or any Member of Congress thinks that the committee should take up for consideration the rewriting of our entire tax law.

Mr. CROWTHER. Mr. Secretary, I am not against a tax bill; I think we should have been prepared to lay more taxes long ago, and I think every member of the committee knows it.

I refer to your statement on page 2, where you say—

But the national welfare demands that, when such an emergency has passed, sufficient income be raised both to meet current expenditures and to make substantial reductions in the debt. The time has come to move in this direction.

By that do you imply that the emergency has passed? I want to ask you first whether that is to be our conclusion, when you say—

But the national welfare demands that, when such an emergency has passed, sufficient income be raised both to meet current expenditures and to make substantial reductions in the debt. The time has come to move in this direction.

Would you think that the emergency period had passed?

Secretary MORGENTHAU. Yes.

Mr. CROWTHER. You think the emergency is over?

Secretary MORGENTHAU. I would not say it is over, but I think the worst is over.

Mr. CROWTHER. I want to ask one more question, and that is, do you think that from your plan as outlined very roughly, not of course in the next year, because that is not what is planned to be done—but do you think that under such a plan the time will come in the country when such a plan will help meet current expenditures and make a substantial reduction in the debt?

I may say I saw by the press that you suggested at the time the bonus bill was under consideration that the Treasury had a plan to produce from 250 to 600 million dollars by various types of taxation. I only know what I see in the press, because we are not taken into the inner councils.

Secretary MORGENTHAU. If I may say what happened at that time, I appeared before the Senate Finance Committee on the bonus bill at their request. They asked me the question how I thought it could be financed and I told them I thought it could be financed through inheritance taxes. They asked me how much that would produce, and I told them somewhere between 300 and 600 million dollars.

They then asked me to send them a letter explaining in detail how I arrived at those figures, and I think Senator Harrison put that in the record.

Mr. CROWTHER. Then do you think that this method that you have devised, or the suggestions you make will raise money that will help meet current expenditures and make a substantial reduction in the debt.

I am concerned as to whether this taxation is sufficient to meet our present needs.

I think candidly, and I have said this to other people, that the most heartening thing, the thing that would give the greatest confidence to the business men of this country, would be if they knew that this committee was starting in now in cooperation with the Treasury Department on a 4- or 5-year plan to balance the Budget, I think that would be the finest message that could go out to the people of this country.

Mr. HILL. It is my conviction that this program is a move in that direction.

Mr. CROWTHER. If it is, I am going with it as far as it will go, but I would not take it further than it appears to go at this time.

Mr. VINSON. Could the gentleman help us with the gentleman from Minnesota?

Mr. CROWTHER. I will do my best.

Mr. KNUTSON. I am afraid this merely means more money for the Government to spend.

In that connection, I would like to ask the Secretary what steps are being taken to reduce Government expenditures and balance the Budget.

Secretary MORGENTHAU. Mr. Congressman, we have just finished the fiscal year with a deficit considerably under the President's estimates, and in every other estimate the President has made to Congress in his last two Budgets he has come well within these estimates. So I will say he has made a good start.

Mr. KNUTSON. What was the deficit this year?

Secretary MORGENTHAU. Exclusive of the sinking fund, it was \$3,000,000,000.

Mr. KNUTSON. That is \$3 for every minute since the dawn of the Christian era, and I do not see how you can improve matters by keeping it at that figure.

Mr. VINSON. Do you vouch for those figures?

Mr. KNUTSON. Yes; I vouch for them in toto.

Mr. McCORMACK. As I understand, Mr. Secretary, the primary purpose is to raise revenue; that is the primary purpose?

Secretary MORGENTHAU. From the Treasury's standpoint.

Mr. McCORMACK. That is from the Government's standpoint, of course, and the proposed rates are for that primary purpose. The primary purpose is not to bring about a great social change, is it?

Secretary MORGENTHAU: I can only repeat what I said in my statement.

Mr. McCORMACK: I have read what you said.

Secretary MORGENTHAU: I can only repeat what I said.

Mr. McCORMACK: Then your statement is that the primary purpose is to raise revenue.

Mr. KNUTSON: I would say that the Secretary's position seems to be that this is a revenue measure, and the President's position seems to be that this is a share-the-wealth program.

Mr. CROWTHER: I do not know whether the Secretary has answered my question I asked a while ago, as to whether or not he thought this method would raise sufficient money to help meet current expenses and reduce the national debt. Did you answer that question, Mr. Secretary?

This is the question I asked you, if you thought that by this method we might raise sufficient money to help meet current expenses and reduce the national debt.

Secretary MORGENTHAU: Mr. Congressman, I cannot answer that question, because it seems to me it is entirely up to this committee and Congress to decide how much they wish to raise.

Mr. CROWTHER: Have you not any suggestions as to how much would be necessary? In years gone by this committee has been in close cooperation with the Treasury Department and the Department have come in with blueprints showing us their needs, their refunding necessities, and what revenues they expected to get, and at times they have come in with very helpful suggestions as to what new taxes they thought might be imposed.

Now this committee has been told to run along and sell their papers, and the Treasury itself has no policy; it seems we are not working with you any more.

Even though I am on the minority side in this great committee, and I do not have much to say about it, yet I think the men on the majority side are able and capable of working along in cooperation with the Treasury Department on our fiscal policy.

Mr. VINSON: Some of us on the majority side, although it might be taken as a compliment, recognize the ability of the committee to legislate under the Constitution.

Mr. CROWTHER: The gentleman from Kentucky, as usual, makes a very graceful exit.

Mr. KNUTSON: I take it as being no distinction that we have passed more legislation that has been held unconstitutional than any other committee in Congress.

Mr. WOODRUFF: Mr. Secretary, do you not believe that it would be a good policy for the Department to submit to this committee the amount of money that would be necessary to raise to accomplish what Dr. Crowther has suggested, leaving it to the committee, in line with the suggestion made by our very able and genial friend from Kentucky, to decide where the revenues should be raised?

Secretary MORGENTHAU: I want to say that the very last thing in the world I want you to feel is that we do not want to cooperate with this committee. We need its help at all times.

To answer your question directly, I feel that it is not beholden on the Treasury to make suggestions to this committee as to how much money you should raise.

Mr. WOODRUFF: Do you mean to tell me and the other members of the committee that you do not believe it is the duty of the Secretary of the Treasury to inform the Ways and Means Committee of the amount of money necessary to accomplish the very desirable things in this present situation? Otherwise, the committee has no way of knowing how much that sum should be. The committee necessarily must look to you and your Department for that information, and this committee cannot, in my opinion, dispose of this question until we do first have that information from you or your Department.

Secretary MORGENTHAU: I think always since I have been in the Treasury Department we have given the committee every bit of information they wanted. As to this question of how much money should be raised, as far as I am concerned, that decision will have to be made by Congress, and not by me.

The CHAIRMAN: In view of the scope of these hearings, which are being conducted on the basis of the President's message, you have indicated that there is a field of taxation of which we might avail ourselves, without an injurious effect on business or industry, a legitimate, broad field that has not yet been utilized.

If you should come here and say just what the rates should be, and how the money should be raised, then would you not be subject to the usual charge that the administration is trying to dictate to Congress and that Congress is only a rubber stamp?

Secretary MORGENTHAU: I am afraid so.

The CHAIRMAN: Which is the thing that the administration is trying to avoid.

Mr. WOODRUFF: I do not want the chairman to put me in a wrong position, because my question was this, Whether you believed it would be the proper thing for you or your Department to do to give to the members of this committee the sum of money that it would be necessary for this committee to raise in order to accomplish the things outlined by Dr. Crowther. And those suggestions of his were very worthy of your most earnest consideration.

I still insist that inasmuch as your Department is the only department of this Government that has the knowledge and has the information as to how much money we need to at last partially balance the Budget and get on the way to solvency in this country—I still insist that you ought to give this committee that information, and it will not take from the committee any of its prerogatives. It does not destroy any of the dignity of the committee to give it that information which it must have if it is going to act intelligently upon this question.

Mr. HILL: It has been stated that the deficit at the end of the fiscal year 1935 was 3 billion dollars. If, at the end of the fiscal year 1936, the deficit should be 3 billion, or 2 billion, or one billion, and then, if at the end of the fiscal year 1937 it should be nothing at all, we can then hope to balance the Budget without any additional taxes.

Certainly, the gentleman does not expect this committee, and the country does not expect Congress, to levy additional taxes of 3 billion dollars to balance the Budget on the present basis of emergency expenditures.

Mr. WOODRUFF. The gentleman knows that the gentleman from Michigan does not suppose anything of the sort. Further than that, the gentleman can build up a beautiful picture if he uses the figures he has referred to. If it is not correct procedure for the Treasury Department, the only department of the Government that has the information this committee needs, to advise the committee what is necessary to be raised to accomplish definite results in the next few years, than I do not know what is the correct procedure.

Mr. COOPER. The Secretary has presented to the committee the state of the Treasury and the finances of the Government, and has indicated the amount of the deficit as it now exists, and has responded to the request of the committee by presenting certain information and data that is necessary in analyzing the program presented here. With that information available to this committee, then as I understand it, the situation is this, that the committee is prepared, as I believe we are, to go ahead and apply such rates and schedules as are necessary to accomplish the purposes here sought.

Mr. VINSON. It certainly is a question of policy as to the manner in which and the time in which the refunding operations and the payment of the national debt should take place. Some might want to do it in a year.

The very able gentleman from New York (Mr. Crowther) has made a constructive suggestion with respect to a 5-year period in which to balance the Budget. While I did not use a lead pencil in checking back the figures, I think it might be said, in the rough, that the schedules which were submitted to the Treasury for final estimates will run somewhere between a minimum of \$100,000,000 and a maximum of \$1,000,000,000. Is that somewhere near correct?

Secretary MORGENTHAU. That is about right, sir.

Mr. VINSON. It is for the committee to determine the policy and to determine the amount of taxes that should be imposed at this time.

Secretary MORGENTHAU. That is right.

Mr. KNOTSON. We have a leeway there of \$900,000,000.

Mr. VINSON. This is one time in the history of our country when the Executive relies upon this committee, as they have relied throughout this administration, and as the Executive should have always relied upon this committee, under the Constitution.

Mr. LEWIS. In giving a statement on this subject, Mr. Secretary, I think it would be well, for the purposes of comparison, that a statement be made as to the deficit of the Treasury when this administration took charge, and a statement also as to the 20,000,000 people who were left to us to feed out of the Treasury deficit, whatever it was.

Mr. McCORMACK. Now that the political maneuvering is over, Mr. Secretary, let me ask you this question. The ordinary Budget is balanced, is it not? That is true, is it not?

Secretary MORGENTHAU. Yes.

Mr. McCORMACK. And we have an estimated excess or surplus of \$100,000,000 and upward on the ordinary Budget.

Secretary MORGENTHAU. Approximately.

Mr. McCORMACK. And this legislation particularly relates to the extraordinary or emergency outlay?

Secretary MORGENTHAU. That is right.

Mr. McCORMACK. And it is contemplated now, or the intention is to use these increased taxes over a period of time, probably 5 years, as Dr. Crowther very well said—and I agree with my friend from

Kentucky that that was a constructive suggestion. The purpose of this is to meet in the coming years, in the reasonable future, the extraordinary expenses as the result of the humane activities engaged in by the Government during the past 2 years.

Now it is assumed that the necessity of the tremendous outlays after the next fiscal year will have gone by, at least we hope so, and it is reasonable to assume that the extraordinary expenditures we have been compelled to make during the past 3 years will not be necessary during the coming fiscal year. Of course, we have already appropriated for this fiscal year.

I assume it is expected that there will be a considerable dropping off of those expenditures by reason of improved business conditions.

Secretary MORGENTHAU. I think in the President's Budget message of January of this year he mentioned the fact that this year would be the peak of expenditures.

Mr. McCORMACK. And you, as Secretary of the Treasury, in your own right, agree with that?

Secretary MORGENTHAU. In my own right, yes.

Mr. COLLEN. Mr. Chairman, now that we have had all of the politics of this question discussed, let us proceed in an orderly and scientific manner to get some information in regard to the revenue we have to raise. So I move that the next witness be called, and that he be allowed to proceed without interruption until his statement is finished.

Mr. CROWTHER. That is the usual procedure; that is the regular order.

The CHAIRMAN. The next witness is Mr. L. H. Parker, the chief of staff of the joint committee on internal revenue taxation.

Mr. Parker, you may proceed in your own way.

#### STATEMENT OF LOVELL H. PARKER, CHIEF OF STAFF, JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

Mr. PARKER. Mr. Chairman and members of the committee, with your permission, I shall quote briefly the recommendations of the President, and then devote myself mainly to setting forth certain facts which should be considered in dealing with the fields of taxation affected by these recommendations.

The message of the President contains three definite proposals. One is in respect to higher surtaxes on individuals; another is in respect to a graduated income tax on corporations; and another is in respect to an inheritance and gift tax in addition to our existing estate and gift taxes.

In respect to surtaxes on individuals, the President's message makes the following recommendation:

The application of the principle of a graduated tax now stops at \$1,000,000 of annual income. In other words, while the rate for a man with a \$6,000 income is double the rate for one with a \$4,000 income, a man having a \$5,000,000 annual income pays at the same rate as one whose income is \$1,000,000.

\* \* \* Therefore the duty rests upon the Government to restrict such incomes by very high taxes.

In respect to the graduated corporation income tax, the President's message makes the following recommendation:

I, therefore, recommend the substitution of a corporation income tax graduated according to the size of corporation income in place of the present uniform corporation income tax of 13½ percent. The rate for smaller corporations might

will be reduced to 10% percent, and the rates graduated upward to a rate of 10% percent on net income in the case of the largest corporations, with such classifications of business enterprises as the public interest may suggest to the Congress.

In respect to an inheritance tax and gift tax in addition to our present estate and gift taxes, the President's message contains the following recommendation:

I recommend, therefore, that in addition to the present estate taxes, there should be levied an inheritance, succession, and legacy tax in respect to all very large amounts received by any one legatee or beneficiary; and to prevent, so far as possible, evasions of this tax; I recommend further the imposition of gift taxes suited to this end.

It appears that the three recommendations quoted must be continuously kept in mind in designing the revenue legislation now under consideration.

#### PART I. SURTAXES

The President has pointed out the inconsistency of our present graduated surtax, which ceases to be graduated further at the point of the \$1,000,000 income. Our present surtax schedule, as contained in the Revenue Act of 1934, begins with a 4 percent rate on surtax net incomes in excess of \$4,000. The graduation upon this comparatively small amount of net income is sharply increased up to \$100,000. At this point, the surtax curve is considerably flattened out. At the point of the \$500,000 net income, it becomes still further flattened out on account of greater brackets. At the \$1,000,000 point, as before stated, graduation ceases.

Under the revenue act of 1913 graduation ceased at \$500,000, the maximum rate being 6 percent. Under the act of 1916, graduation ceased at \$2,000,000, the maximum rate being 13 percent. Under the act of 1917, graduation ceased at \$2,000,000, the maximum rate being 63 percent. Under the act of 1918, graduation ceased at \$1,000,000, the maximum rate being 65 percent. Under the act of 1921, graduation ceased at \$200,000, the maximum rate being 50 percent. Under the act of 1924, graduation ceased at \$500,000, the maximum rate being 40 percent. Under the acts of 1926 and 1928, graduation ceased at \$100,000, the maximum rate being 20 percent. Under the act of 1932, graduation ceased at \$1,000,000, the maximum rate being 55 percent.

It may be well to note that under the British income tax, graduation ceases at \$250,000 (£50,000), the maximum rate being 41.25 percent. However, the British normal rate of tax is 22½ percent, while the Federal normal rate is only 4 percent. Therefore, in Great Britain, the highest tax on any dollar of income is 63½ percent, while in the United States, the highest tax on any dollar of income is 63 percent.

At this point, I would like to submit for the record a table showing the total tax (both normal tax and surtax) on certain specific amounts of net income under the Federal Revenue Act of 1934 and the British Finance Act of 1934. The table shows the total tax on specified amounts ranging from \$1,000 to \$10,000,000.

TABLE 1.—Income tax, individual, married man, no dependents, all "earned income"—Comparison of tax payable on specified net incomes, United States and Great Britain, under Revenue Act of 1934 for United States and under Finance Act of 1934 for Great Britain

(Conversion unit \$1=£3)

Net income	United States (Revenue Act of 1934)	Great Britain (Finance Act of 1934)	Net income	United States (Revenue Act of 1934)	Great Britain (Finance Act of 1934)
\$1,000	80	\$5.43	\$15,000	1,299	4,084.69
\$1,200	96	6.52	20,000	1,850	4,754.69
\$1,500	120	8.15	25,000	2,450	6,704.69
\$2,000	160	10.87	30,000	3,100	8,792.19
\$3,000	240	16.31	40,000	4,079	12,242.19
\$4,000	320	21.74	50,000	5,460	16,242.19
\$5,000	400	27.17	60,000	7,239	22,217.19
\$6,000	480	32.60	70,000	9,418	28,792.19
\$7,000	560	38.03	80,000	12,000	37,000.00
\$8,000	640	43.46	90,000	15,000	46,000.00
\$9,000	720	48.89	100,000	18,000	55,000.00
\$10,000	800	54.32	200,000	30,000	93,000.00
\$15,000	1,200	81.49	300,000	45,000	138,000.00
\$20,000	1,600	108.65	400,000	60,000	183,000.00
\$30,000	2,400	162.98	500,000	75,000	228,000.00
\$40,000	3,200	217.31	600,000	90,000	273,000.00
\$50,000	4,000	271.64	700,000	1,05,000	318,000.00
\$100,000	8,000	543.28	800,000	1,20,000	363,000.00
\$150,000	12,000	814.92	900,000	1,35,000	408,000.00
\$200,000	16,000	1,086.56	1,000,000	1,50,000	453,000.00
\$300,000	24,000	1,629.84	1,500,000	2,25,000	679,500.00
\$400,000	32,000	2,173.12	2,000,000	3,00,000	906,000.00
\$500,000	40,000	2,716.40	3,000,000	4,50,000	1,359,000.00
\$1,000,000	80,000	5,432.80	4,000,000	6,00,000	1,812,000.00
\$10,000,000	1,044,000	3,418.99	10,000,000	6,241,394	6,357,654.69

At present in the United States, amounts of surtax net income in excess of \$1,000,000 are taxed at the flat rate of 59 percent. In 1933, there were 46 individuals with net incomes of over \$1,000,000, and the total net income reported by them amounted to approximately \$81,000,000. Upon this net income, the total normal and surtax paid amounted to approximately \$26,000,000. Thus, it can be seen that even if we took away under 1933 conditions all that every individual made over \$1,000,000, we would secure only \$35,000,000 in tax. Furthermore, this \$35,000,000 would not represent additional revenue, inasmuch as it would have to be reduced by that part of the \$26,000,000 tax paid under existing law which would be attributable to the part of the net income over \$1,000,000. On the other hand, in 1929 we had 513 individuals reporting over \$1,000,000 of net income each. The total net income reported by these individuals amounted to \$1,212,000,000. It is obvious, therefore, that in such year a large amount of revenue could be secured in these upper brackets. In order to set forth more complete information in respect to these large incomes, the following tables are submitted:

TABLE 2.—Number of individual returns

Net income classes	1924	1926	1928	1932	1933
100 to 150	75,000	80,000	85,000	90,000	95,000
150 to 200	1,478,000	1,531,000	1,584,000	1,637,000	1,690,000
200 to 250	157,000	1,641,000	1,704,000	1,767,000	1,830,000
250 to 500	242,000	978,000	1,176,000	1,374,000	1,572,000
500 and over	75,000	113,000	150,000	200,000	250,000

TABLE II.—*Net income shown on individual returns*

Net income classes	1929	1930	1931	1932	1933
100 to 150	\$57,645,000	\$70,130,000	\$874,171,000	\$19,805,000	\$129,226,000
150 to 200	57,509,000	1,187,410,000	419,916,000	115,006,000	138,870,000
200 to 500	171,249,000	728,229,000	307,131,000	52,891,000	53,757,000
500 to 1,000	126,402,000	698,578,000	211,403,000	57,874,000	40,511,000
1,000 and over	155,971,000	1,312,000,000	350,306,000	25,229,000	81,450,000

I might also add that in 1929, there were 38 individuals with net incomes in excess of \$5,000,000; in 1930, 8 individuals with net incomes of this size; in 1931, only 4; in 1932, none; and in 1933, only 1.

It may also be useful to have printed in the record at this point the existing surtax schedule now in force.

TABLE 4.—*Surtaxes under existing law*

Surtax net income	Percent	Total surtax
80 to \$4,000		None
\$4,000 to \$5,000	4	800
\$5,000 to \$6,000	5	180
\$6,000 to \$10,000	6	300
\$10,000 to \$15,000	7	440
\$15,000 to \$20,000	8	600
\$20,000 to \$25,000	9	780
\$25,000 to \$30,000	11	1,500
\$30,000 to \$35,000	12	1,800
\$35,000 to \$40,000	13	2,100
\$40,000 to \$45,000	15	2,700
\$45,000 to \$50,000	17	3,400
\$50,000 to \$55,000	19	4,300
\$55,000 to \$60,000	21	5,400
\$60,000 to \$65,000	24	6,900
\$65,000 to \$70,000	27	7,700
\$70,000 to \$75,000	30	9,000
\$75,000 to \$80,000	32	11,400
\$80,000 to \$85,000	35	12,600
\$85,000 to \$90,000	39	15,300
\$90,000 to \$95,000	42	18,500
\$95,000 to \$100,000	42	21,000
\$100,000 to \$105,000	50	25,000
\$105,000 to \$110,000	52	34,000
\$110,000 to \$120,000	53	39,300
\$120,000 to \$130,000	54	54,500
\$130,000 to \$140,000	55	59,500
\$140,000 to \$150,000	56	74,500
\$150,000 to \$175,000	57	98,000
\$175,000 to \$1,000,000	58	103,000
\$1,000,000 up	59	

## PART II. GRADUATED INCOME TAX ON CORPORATIONS

The President recommends the substitution of a graduated income tax on corporations in lieu of the present income tax imposed at a uniform rate. He suggests that the graduation might well be from 10% to 18% percent.

Under existing law, corporations pay a flat tax of 13½ percent on the entire amount of their net income. In certain former revenue acts relief has been given the small corporation by means of a specific exemption. For example, in the revenue act from 1918 to 1926, inclusive, we exempted the first \$2,000 of net income from tax in the case of corporations having a net income of less than \$25,000. In 1928, the exemption was raised to \$3,000, but in 1932, it was eliminated altogether. This exemption created a certain amount of graduation

in the case of the small corporation. For instance, a corporation with a \$4,000 net income paid tax only on one-half of its net income, which is equivalent to saying that it paid only one-half the standard rate on its entire net income. In the same way a corporation with a net income of \$8,000 paid at a rate equivalent to only three-fourths of the standard rate on its entire net income.

Of course, during the war period, we had excess-profits and war-profits taxes on corporations going as high as 65 and 80 percent, respectively. But these taxes had nothing to do with the size of the corporation—the rate being determined by reference to the ratio between profits and invested capital.

It is true that a comparatively small number of our corporations report the greater part of the total net income shown on the income-tax returns. In this connection, it is pointed out that in 1932, out of 82,646 corporations paying income tax, only 3,730, or about 4½ percent, had net incomes of over \$50,000. This phenomena is not confined to the depression year of 1932; for instance, in 1929, out of 186,591 corporations paying income tax, only 8,044, or less than 4½ percent, had net incomes of over \$50,000.

In order that the record may contain certain important facts in connection with the number of corporations in the various income classes and the amounts of net income reported, I am submitting a table from the statistics published by the Bureau containing such information for the years 1929 to 1932:

TABLE 5.—*Corporation returns for 1929 to 1932 by net income and deficit classes, showing number of returns, net income, and deficit*

Net income classes	1929		1930		1931		1932	
	Number of returns	Net income						
Returns showing net income								
Under 1	69,456	\$20,281	71,322	\$29,031	70,169	\$27,656	82,070	\$18,121
1-2	41,292	61,041	37,881	55,733	41,702	46,326	10,803	14,912
2-3	37,070	94,818	32,708	82,605	24,312	60,782	3,784	14,061
3-4	10,456	106,921	14,732	20,569	9,703	33,282	3,321	11,806
4-5	11,705	72,710	8,307	37,488	3,481	24,519	2,499	14,196
5-10	20,627	266,794	19,796	139,687	12,813	60,196	3,239	41,505
10-15	13,399	164,277	8,055	109,581	5,221	65,232	2,952	36,271
15-20	8,428	145,008	5,302	64,771	3,261	57,080	1,790	31,159
20-25	6,041	140,030	3,902	60,664	2,440	54,847	1,172	26,213
25-30	12,297	441,615	7,372	262,844	4,450	137,445	3,700	64,913
30-40	8,316	582,008	4,905	341,578	3,765	192,196	1,623	113,643
40-50	5,974	923,044	3,390	499,546	1,641	206,252	1,159	159,676
50-100	2,263	796,186	1,279	438,513	729	232,921	429	180,686
100-1,000	1,244	652,110	689	481,856	373	215,252	235	165,667
1,000-5,000	1,040	2,116,790	570	1,177,048	321	647,197	222	464,602
5,000 and over	300	4,885,929	160	2,536,241	68	1,412,858	49	763,775
Total	296,426	11,553,868	221,426	6,428,813	175,608	3,083,368	82,646	2,158,113

TABLE 5.—Corporation returns for 1929 to 1932 by net income and deficit classes, showing number of returns, net income, and deficit—Continued

(Money figures and net income and deficit classes in thousands of dollars)

Net deficit class	1929		1930		1931		1932	
	Number of returns	Net deficit						
Returns showing no net income								
Under 1.....	58,184	\$28,957	67,841	\$26,344	48,046	\$30,523	131,273	\$46,693
1-1.....	20,376	38,777	32,625	48,149	28,373	25,376	48,628	75,511
1-1.....	17,320	43,590	22,624	55,868	26,027	66,431	31,146	78,852
1-1.....	12,402	48,230	16,629	57,057	19,289	67,079	22,944	79,867
1-1.....	6,351	41,951	12,425	55,379	14,629	65,088	16,449	72,621
1-10.....	25,028	178,512	34,208	243,985	40,090	294,901	41,854	318,710
10-15.....	11,127	136,219	15,658	191,881	18,464	228,991	23,159	285,919
15-20.....	6,130	106,432	8,822	151,647	10,817	166,759	11,741	205,129
20-25.....	4,089	83,861	5,777	128,328	8,588	149,594	7,459	168,730
25-50.....	8,148	216,057	12,341	431,924	15,219	532,653	16,581	579,593
50-100.....	4,243	265,023	5,680	469,450	7,071	558,143	8,779	668,298
100-250.....	2,444	371,077	4,022	612,610	5,167	794,446	5,262	851,033
250-500.....	749	256,990	1,244	436,634	1,620	562,614	1,835	686,357
500-1,000.....	541	286,428	630	452,198	894	615,928	934	830,349
1,000-5,000.....	244	498,723	451	949,652	712	1,416,628	762	1,941,255
5,000 and over.....	23	267,354	41	500,434	128	1,367,460	142	1,842,365
Total.....	186,507	2,914,128	241,619	4,877,095	282,406	6,970,919	309,298	7,796,687
Returns showing no income data—Incorporations.....	53,415		55,769		50,700		50,732	
Grand total—Net income and deficit.....	500,436	6,730,738	513,738	1,154,218	516,904	3,287,743	508,036	6,643,574

from Statistics of Income for 1932, published by the Bureau of Internal Revenue.

## PART III-A. INHERITANCE TAX

The message of the President recommends that an inheritance tax should be levied on very large amounts received by any one legatee or beneficiary, and that this tax should be in addition to the existing Federal estate taxes. The President states that—

inherited economic power is as inconsistent with the ideals of this generation as inherited political power was inconsistent with the ideals of the generation which established our Government.

The task of designing a proper inheritance tax law is a difficult one, for in addition to the problem of rates, which is the principal issue involved in the surtax proposal and which is also the principal issue involved in the proposal in respect to the graduated income tax on corporations, many troublesome questions must be answered before an equitable and constitutional inheritance tax law can be written. For convenience, I will make a brief statement on our existing death-tax system before discussing the many technical and administrative questions arising in connection with the design of an inheritance tax law. It will be necessary to state at the outset that an inheritance tax is based on the value of the share of each beneficiary while an estate tax is based on the total value of the estate, and that inheritance-tax rates will, as a general rule, apply only to the net share of the beneficiary.

Under existing Federal laws, we have two estate taxes. The first, imposed by the Revenue Act of 1926, is graduated to 20 percent, allows a specific exemption of \$100,000, and an 80 percent credit for State death taxes paid. The second, imposed by the Revenue Act of 1932, as amended by the Revenue Act of 1934, is graduated to 60 percent, allows a specific exemption of \$50,000, and no credit for State death taxes paid.

However, in the average case, to compute the total death-tax burden we have only to look at the rates of the 1932 act as amended by the 1934 act. This is because these rates are used to compute a tentative tax from which is subtracted the tax computed under the Revenue Act of 1926. Let me make this clear by an example:

Assume a \$100,000,000 estate. The tentative tax under the 1932 act as amended will be slightly less than \$60,000,000, the maximum rate being 60 percent. The tax under the 1926 act will be slightly less than \$20,000,000, the maximum rate being 20 percent. Now, against this latter tax may be credited 80 percent, or about \$16,000,000, for State death duties paid, so that in such a case the estate will pay as follows:

To the Federal Government (under the 1932 act as amended).....	\$40,000,000
To the Federal Government (under the 1926 act).....	4,000,000
To the State Government.....	16,000,000

Total..... 60,000,000

Thus, the total tentative tax computed under the Revenue Act of 1932, as amended, represents the total tax burden in such a case.

There are, however, some cases where the States have taxes higher than the 80 percent credit allowed, and in such cases there is a tax burden greater than that which would be computed under the rates in the 1932 act, as amended.

To show what the present estate-tax burden is in the general case where the local taxes do not exceed the 80 percent credit allowed by the Revenue Act of 1926, I submit for the record a table showing the amount of tax computed under the rates contained in the 1932 act, as amended by the 1934 act. This table shows the tax burden on estates of various sizes, from \$2,500 to \$100,000,000, both in this country and in Great Britain.

TABLE 6.—Estate tax, comparison of the estate tax (before credit) payable on specimen net estates in the United States (under the Revenue Act of 1934) and in Great Britain (under the Finance Act, 1930)

Net estate (before exemption %)	United States tax (before credit %)	British tax (in dollars at \$5 for £1)	Net estate (before exemption %)	United States tax (before credit %)	British tax (in dollars at \$5 for £1)
\$2,500	None	\$25	\$50,000	\$20,100	\$95,000
5,000	None	100	80,000	28,100	130,000
25,000	None	750	100,000	38,000	185,000
50,000	None	2,000	1,000,000	198,000	245,000
100,000	\$1,500	5,000	2,000,000	401,100	605,000
150,000	5,500	15,000	5,000,000	1,092,000	1,600,000
200,000	11,000	24,000	10,000,000	4,267,000	4,500,000
500,000	25,000	48,000	50,000,000	28,285,000	28,000,000
1,000,000	41,000	72,000	100,000,000	58,868,000	59,000,000

<sup>1</sup> The specific exemption for the purpose of the Federal estate tax is \$50,000; for the purpose of the British estate tax, £100,000. (See also the following note.)

<sup>2</sup> The tax credit allowed is for State inheritance, estate duty, or succession taxes paid. This credit is limited to 80 percent of the tax computed under the Revenue Act of 1926, for the purpose of which computation the specific exemption is \$100,000.

I also submit for the record a table showing the number of Federal estate-tax returns filed during the calendar years 1929 to 1933, inclusive, classified according to the size of the net estate before the deduction of the specific exemption:

TABLE 7.—Number of estate-tax returns filed

Net estate class (before exemption), (000 omitted)	Calendar years—					Average number of returns per year
	1929	1930	1931	1932	1933	
Under \$100	3,224	1,770	1,909	2,000	4,907	2,426
\$100-\$150	2,298	2,226	2,158	1,859	1,455	2,011
\$150-\$200	1,120	1,200	1,112	955	729	1,032
\$200-\$250	1,132	1,225	1,150	849	698	1,014
\$250-\$300	681	1,008	668	701	467	818
\$300-\$350	418	425	353	357	172	329
\$350-\$400	221	257	199	147	82	181
\$400-\$450	157	132	110	86	63	125
\$450-\$500	140	160	178	99	57	144
\$500-\$550	79	88	90	49	29	68
\$550-\$600	41	57	43	22	18	36
\$600-\$650	29	35	29	17	11	23
\$650-\$700	12	13	19	10	5	12
\$700-\$750	14	16	14	9	2	11
\$750-\$800	18	28	15	9	8	15
\$800-\$850	10	8	10	7	4	8
\$850-\$900	7	7	6	7	1	6
\$900-\$950	3	7	4	2	1	3
\$950-\$1,000	1	1	1	1	1	1
\$1,000-\$1,500	2	1	1	1	0	1
\$1,500 and over	16	15	17	6	0	11
Total	8,182	8,708	8,331	7,115	8,727	8,511

It is now necessary to come to the subject of the technical and administrative details of the inheritance tax. Many questions of policy must be answered before such a tax can be drafted. I will content myself with raising what seems to be the most important of these questions, discussing same, and suggesting possible answers thereto.

## QUESTION 1

Should the rates attach to the net value of the share transferred to each beneficiary?

It is probable that the answer to this question should be in the affirmative; that is, if the share of the estate passing to a beneficiary is \$200,000 after all the debts and expenses have been paid and after the Federal estate tax and State and local death duties have been paid, then the inheritance tax should be on the \$200,000. That is, if the inheritance tax on \$200,000 should be \$4,000, then the beneficiary in such a case would receive net \$196,000. In other words, the inheritance-tax rates should be applied to the net value of the property which would actually be received by the beneficiary except for such reduction which results from the new inheritance tax.

## QUESTION 2

As of what date should the property transferred to each beneficiary be valued?

One answer to this question would seem to be, in view of the fact the inheritance tax is superimposed on existing high estate taxes, "at the time the beneficiary comes into actual possession and enjoyment

of the property." The date of coming into actual possession and enjoyment is suggested to prevent any legal obstacles from the use of the terms "date of distribution" or "date of acquisition." For instance, it has long been the settled legal rule that real property vests in the heirs immediately at the death of the owner. Moreover, the Supreme Court of the United States has held in an income-tax case (*Brewster v. Gage*, 280 U. S. 327) that personal property is also acquired by the beneficiary for all practical purposes as of the date of death. To show the effect of the rule: "The property passing to the beneficiary shall be valued as of the date of coming into actual possession and enjoyment", the following example is given:

Suppose a citizen of the United States dies, after the enactment of an inheritance tax, leaving real property of the value of \$1,000,000 by specific bequest to the son, and the residue of personal property of a value of \$1,500,000 to the widow. The above-mentioned values are as of date of death. Suppose the debts and expenses of the estate to be \$500,000, the State death duties to be \$99,600, and the Federal estate tax to be \$361,500. This leaves, on the basis of values at date of death, real property of the value of \$1,000,000 distributable to the son, and personal property of the value of \$538,900 distributable to the widow.

Now suppose the estate is settled 1 year after the decedent's death, so that it has been determined that the real property left to the son will not be subject to the debts of the estate, and that on that date, therefore, the son comes into full possession of the property so that he could sell same without encumbrance. Assume at this date the value of the real property has increased to \$1,200,000. Then the son will be taxed on a value of \$1,200,000 under the rule suggested.

Now, in respect to the share of the widow (worth net \$538,900 at date of death) consisting of personal property, suppose she received in cash 6 months after the decedent's death, \$10,000, and suppose she received in stocks and bonds, 1 year after the decedent's death, securities of a value as of such latter date of \$490,000. Then the inheritance tax of the widow will be based on the total value at the date she comes into possession or enjoyment of the property, or on a value of \$500,000.

## QUESTION 3

How shall a life estate be taxed?

One answer to this question might be as follows:

"The value of a life interest shall be determined by the American Experience Tables at 4-percent compound interest" (this is the Massachusetts rule). The tax should apply to the value as of date of coming into actual possession and enjoyment, which would generally be the date upon which the beneficiary began to receive the income from or use of the property. Broad discretion probably should be vested in the Commissioner in order to allow this tax to be paid in installments over a series of years in the case of undue hardship created by immediate payment of the tax.

## QUESTION 4

How shall an estate for years be taxed?

The answer in this case should be consistent with the answer in the case of life estates, except that experience tables of mortality would not be used. The value could be determined by discounting

the expected income for the stated term of years back to the date of coming into possession and enjoyment at 4 percent compound interest.

## QUESTION 5

How shall a vested remainder be taxed?

In view of the suggested general rule under question 1, in view of the procedure in Massachusetts, Michigan, Pennsylvania, and Virginia, and in view of the existing estate tax payable 1 year after death, it would appear that the inheritance tax should not be collected until the remainderman comes into actual possession and enjoyment of the property. The value to which the tax attaches would be as of that date. However, it would seem reasonable to allow the remainderman to pay the tax at any time before it is due on the basis of the then value of his remainder interest. This is allowed under the Massachusetts inheritance-tax law.

## QUESTION 6

How shall a contingent remainder be taxed?

In the case of contingent remainders, it would appear that the Federal Government should be content to wait until the contingency happens and then come in for its tax on the basis of the value then existing when the beneficiary comes into actual possession and enjoyment of the property. This appears to be the rule in Massachusetts, Kansas, Michigan, New Jersey, Pennsylvania, Texas, and Virginia.

For example, suppose A leaves an estate to B for life, remainder to B's children, if any, but if B has no children then to C. In such a case, we would get the tax on B's life estate at once, but we would wait and tax B's children or C, as the case might be, when they came into possession or enjoyment.

Some consideration might be given to the proposition of giving the commissioner the right to receive payment of the tax in advance on account of the value of contingent remainders on a fair compromise basis in light of the facts in each case.

## QUESTION 7

Who shall pay the tax, the beneficiary or the executor?

It would appear reasonable for the executor to pay the tax in whole or in part, except where the tax was paid only in part then the beneficiary should file a bond for the part of the tax remaining unpaid, or should give such other security as the commissioner should approve with the view of preventing undue hardship.

## QUESTION 8

Shall a lien attach to the property for payment of the inheritance tax?

Probably no lien should attach to the property until the commissioner has given notice and made demand on the beneficiary for the tax, but the lien, if it does come into effect, should attach not only to the property distributed but to the proceeds of such property.

## QUESTION 9

Shall any effect be given to the principle of consanguinity?

It is usual in the case of inheritance taxes to give some effect to the principle of consanguinity. This is often done by a specific exemption. Usually the widow receives the largest exemption, and the children and husband the next largest. Here, however, we are dealing with an inheritance tax reaching only large inheritances, and such a system seems out of place. Germany at one time had an inheritance tax which exempted entirely property passing to the widow or to the widower. The idea behind this system seems to have been that it was fairer in the average case not to tax more than once in the same generation. For example, if we tax the property passing to the widow and then she dies in 6 or 7 years and the same property passes to the son, we get two inheritance taxes, whereas if the father had left the property directly to the son there would have been but one tax in the same period of time. As a general rule, of course, the date of the widow's death will be many years nearer the husband's than the date of the son's death.

It will be well to consider the proposition of computing the widow's inheritance tax at the suggested rates, and then allowing her a specific percentage reduction from such tax.

## QUESTION 10

When shall the tax be payable?

It appears that the tax might be well made payable when the beneficiary comes into possession and enjoyment. However, in order to prevent the disruption of going businesses, a fairly long period for the actual payment of the tax probably should be allowed where any substantial hardship can be shown to the commissioner from the immediate payment of the tax on the due date. Even a 12- or 15-year period would not seem excessive in many cases. It appears that the rate of interest should be reasonable in such cases.

## QUESTION 11

When should the statute of limitations run?

It appears that the statute of limitations should not bar collections of assessed taxes for as long a time as is permitted for instalment payments. That is, the statute of limitations on collections might run from 12 to 15 years after the due date. On the other hand, the period allowed for the assessment of additional taxes or for the refund taxes might be much less.

## PART III-B ADDITIONAL GIFT TAX

The President in his message recommends the imposition of an additional gift tax in order to prevent avoidance of the new inheritance tax.

In the case of our present Federal gift tax law, the rates are approximately three-fourths of the total rates imposed by the Federal estate tax laws. The reasons for this reduction in rate are as follows: First, it was desired to give reasonable encouragement to the making of gifts. Second, it was believed, that under high gift taxes, very

few gifts would be made unless the rate on such gifts was below the estate tax rates. Third, the Government gains by an increase in the volume of gifts in that it receives the money sooner and, therefore, if we computed interest upon the gift up to the date of death in the ordinary case, no great loss of revenue would be found.

The existing gift tax law is cumulative in effect, is paid by the donor, and attaches to all gifts to whomsoever made after the date of passage of the gift tax act. This existing gift tax is, of course, complementary to the present estate tax system.

We are now faced with designing a gift tax which will be complementary to the proposed inheritance tax. It seems that in the case of this additional gift tax, therefore, the tax should attach to all gifts made to a donee from any one donor and should be paid by the donee, or possibly that the tax should attach to all gifts received by any one donee regardless of the source of such gifts. It appears in any event that this tax should be cumulative as is the case with our present gift tax.

It is possible that the gift tax could be incorporated and made a part of the inheritance tax law by placing an excise tax on the transfer of property by gift, devise, bequest, or inheritance. However, for the purposes of this statement, it seems simpler to treat of the two taxes separately.

In respect to the designing of this additional gift tax, it is believed that insofar as possible the general principles adopted in connection with the inheritance tax should be followed.

It seems unnecessary, therefore, to go into these technical details until a final determination has been arrived at in connection with the inheritance tax.

For the first 11 months of this fiscal year we have received about \$71,000,000 from our gift tax against about \$128,000,000 from our estate tax. Thus, it can be seen the gift tax is far from unimportant. The present gift tax rates are graduated to 45 percent on gifts of over \$10,000,000.

That concludes what I have to present, Mr. Chairman.

Mr. HILL. I would like to get a little clarification, for my own mind, as to how you are going to treat the gift tax and inheritance tax separately, insofar as the gift taxes are imposed to protect inheritance taxes. In other words, you have a gift tax to protect the estate tax now?

Mr. PARKER. That is correct.

Mr. HILL. When would the occasion arise for a gift tax to protect the inheritance tax?

Mr. PARKER. If we do not have a gift tax then it is obvious that by the making of gifts, the inheritance tax can be evaded, just exactly as, for many years, our estate tax was evaded in the absence of any gift tax.

Mr. HILL. A gift is inter vivos, is it not?

Mr. PARKER. Yes, sir.

Mr. HILL. Inheritance taxes follow death of the original owner of the property?

Mr. PARKER. That is correct.

Mr. HILL. How can there be a gift after the death of one of the parties?

Mr. PARKER. What I mean is this. If we combine the two taxes, you would have an excise tax, not resting on the proposition of the privilege of transferring property at death, but on the privilege of the acquisition of property; that is, on the right to receive instead of the right to give—the right to receive any property without consideration.

As far as the beneficiary of a bequest is concerned, if he gets property by will, he receives something for which he paid nothing, the same is true in the case of a gift *intervivos*—he receives property for which he has paid nothing.

Mr. HILL. Suppose there is a bequest or a legacy. Would you treat that as a gift and not as an inheritance?

Mr. PARKER. I would simply treat it as an acquisition of property for which nothing had been paid. It is a tax on the privilege of the transfer, whether by inheritance or gift. Instead of having two classes, we merge them all into one.

Mr. HILL. I do not believe you get the point that I have in mind. We have the gift tax to protect the estate tax. Whenever a gift is made *inter vivos*, the gift is taxed, and that is deducted, as I understand it, from the estate in arriving at the net estate upon which the estate tax is to be calculated.

Mr. VINSON. Will the gentleman yield?

Mr. HILL. I would like to finish this one point. Now, after a man dies, he cannot make a gift, but he leaves a will bequeathing certain property to certain individuals. You levy upon that bequest an inheritance tax or, if there is no will, and his natural heirs inherit, you levy a tax upon that inheritance. But where is there any opportunity for a gift in lieu of an inheritance?

Mr. VINSON. Will the gentleman yield?

Mr. HILL. In just a moment.

Mr. VINSON. We must not confuse a bequest with a gift.

Mr. HILL. I am just asking what the situation is. I did not think that myself.

Mr. VINSON. A bequest is not a gift. A bequest or a legacy under a will operates as of the death of the owner of the property. That is certainly not a gift.

Mr. HILL. And on that there is an inheritance tax.

Mr. VINSON. There is an inheritance tax. First, the corpus of the estate would be subjected to the estate tax, and then if this estate were sufficient for this bequest to eventuate, it would carry an inheritance tax. But the gift tax is based upon the transfer of property, the disposition of property, during the lifetime of the owner of the property. It is *intervivos*, as the gentleman from Washington says, and you collect the tax before the death of that person. It has no connection whatever with the estate or with the inheritance.

Undoubtedly, any gift tax that would be imposed to protect the inheritance or estate tax, is simply an added tax, a tax added to the present gift tax; is not that correct?

Mr. PARKER. Not necessarily. It might be on a different basis. I did not intend, of course, to mean that a gift is the same as a bequest, because it is not. But you might make a more general classification of an excise tax on the transfer of property as an incident both of a bequest and of a gift.

Mr. VINSON. But a tax upon a gift has no connection with an inheritance tax or with an estate tax.

Mr. HILL. Then in what way does it protect the inheritance tax?

Mr. VINSON. It would be a tax on gifts which, under the present suggestion, would be less than the tax upon inheritances, and would permit the man who owned the property and who wanted to transfer the title by gift, to avoid payment of the larger inheritance tax.

Mr. HILL. Now, on that point, let me ask this question. We have a gift tax now. It protects the estate tax. If you are also going to protect the inheritance tax, will you levy two taxes on the gift, one to protect the estate and one to protect the inheritance tax?

Mr. PARKER. That is one way to do it.

Mr. VINSON. Will there be two gift taxes or will the gift tax be added to the present gift tax?

Mr. PARKER. There would be two, I think, Mr. Vinson.

Mr. VINSON. I cannot, for the life of me, see why—

Mr. HILL (interposing). The gentleman is getting down to the point that I had in mind. If there are two gift taxes you can determine what the gift tax is, so far as the protection of the estate tax is concerned. But how are you going to determine what the gift tax shall be, as a protection against the inheritance tax? In other words, you do not know what the inheritance will be and so you do not know what the tax would be, and you do not know how they would be related.

Mr. PARKER. Let me give you an example to show how this works out, and I think that will perhaps answer the question a little easier.

Suppose we have a case of a father and a son. The father has \$1,000,000. Let us say that he waits until he dies, or does nothing until he dies, about the property. Then if the property passes, there will not be any question of a gift tax, but it will be a question of an estate tax or an inheritance tax. When he dies, the first thing payable will be the estate tax, which, under existing law, will be around \$170,000.

Mr. McCORMACK. What would it be under the new proposal?

Mr. PARKER. There are no rates proposed. The existing estate tax would be \$170,000 which, deducted from the \$1,000,000, leaves \$830,000. We will just assume that the inheritance tax on that amount, all going to the son, would be \$200,000. Then the son will get net \$630,000. There are your two death taxes.

Mr. McCORMACK. Under the present law is that tax \$200,000?

Mr. PARKER. No. I just picked that figure out of the air. That will be according to whatever rate is finally determined upon, whatever the committee sees fit to prescribe.

Mr. McCORMACK. What would he pay now?

Mr. PARKER. \$170,000. That would be all. There is no inheritance tax.

Mr. McCORMACK. As I understand it, he would pay no inheritance tax?

Mr. PARKER. Oh, no. There is none now on the books.

Mr. McCORMACK. I understood that. I wanted to be sure.

Mr. PARKER. I am just assuming, in order to carry this example forward, that under your inheritance-tax law, the tax would be, say, \$200,000.

Mr. VINSON. Will the gentleman yield?

Mr. HILL. I will yield.

Mr. PARKER. I have not finished this example.

Mr. VINSON. I know, but it seems to me we have to go back to the starting point, or would have to, after you finished your example. I think perhaps what I have in mind will help clear up this situation. Mr. Stan suggests to me that under the proposed gift tax, the donee will pay the tax. Under the existing law, the donor pays the tax.

So far as the donor is concerned, he pays the tax under the present law. The proposed new gift tax provides that the donee shall pay it.

Mr. PARKER. That is right.

Mr. VINSON. Now, to get down to brass tacks, you add up the two taxes, and the amount of that, I started to say, came off the donor. But so far as the purpose of avoiding the payment of a higher tax after death, it seems to me in essence, it really is an additional tax to that which is now invoked.

Mr. HILL. Let us find out about that. Suppose you transfer the burden of paying the gift tax from the donor to the donee. The donor then pays no gift tax.

Mr. PARKER. Yes; he pays the present tax.

Mr. HILL. I am talking about the effect—

Mr. PARKER. He will not pay the new one; no.

Mr. HILL. I am assuming that the effect of a gift tax to protect inheritances or inheritance taxes, would be to transfer the duty of payment of the gift tax from the donor to the donee.

Mr. VINSON. That is what we are told.

Mr. HILL. Then the donor would not pay any gift tax to protect the estate tax.

Mr. PARKER. It will be necessary to have two gift taxes. You need the old gift tax to protect the estate tax and then you need the new one to protect the inheritance tax. The donor would pay one and the donee would pay the other.

Mr. HILL. The donor would pay a gift tax and the amount of the gift tax would be deducted from the corpus of the estate.

Mr. PARKER. There is no gift there.

Mr. HILL. I mean at death. It would be deducted at the time of the gift and taken away from the estate, if it were the case of a gift.

Mr. VINSON. It is not computed in the estate tax.

Mr. PARKER. Not in the average case.

Mr. HILL. At the same time, the donee pays an inheritance tax at inheritance-tax rates. You would have two rates of tax on the gift. Is that the answer to the question?

Mr. PARKER. I think that is it, and I think if you will let me complete my example, you will see the point clearly.

Mr. HILL. I am just asking for information.

Mr. PARKER. Going back to the example that I gave you, here is a man and his son. The man has a million dollars. At present estate-tax rates, there would be a tax of \$170,000. That leaves \$830,000. We will assume that the new inheritance tax on that inheritance will be \$200,000, leaving \$630,000.

Suppose a man wants to give that property away before death, inter vivos. He has got a million dollars. He gives it to his son. Of course, he cannot give him all of that amount if that is all he has,

because he has to pay a gift tax under the existing law of about \$120,000.

Mr. VISSON. If he gave him the same amount.

Mr. PARKER. Yes. The present gift tax is about \$120,000 on a gift of \$1,000,000. That leaves to the son \$880,000. That is a gift, *inter vivos*.

If we do not put a gift tax on the donee, the beneficiary is going to have \$880,000 left instead of \$630,000 that he would have received if the father had waited until he died before transferring the property.

So the proposition is to put a gift tax on the donee of about three-fourths of the inheritance tax, or \$150,000, and taking your \$150,000 from your \$880,000, you will have, I believe, \$730,000 left instead of \$630,000. In other words, there will be some incentive left to make the gift. But you will not be able completely to eliminate the effect of the inheritance tax if you provide this additional gift tax.

Mr. McCORMACK. How much is it estimated that that will raise?

Mr. PARKER. I think the Secretary gave figures this morning over a very wide range; something like from \$7,000,000 to \$600,000,000 or \$700,000,000. I have not had the opportunity to look over the final estimates presented this morning.

Mr. LEWIS. Mr. Parker, in the earlier part of your paper you gave data with reference to income, inheritance, and corporation taxes levied in Great Britain.

Mr. PARKER. Yes, Mr. Lewis.

Mr. LEWIS. And you gave specific rates, also providing some comparisons with our own?

Mr. PARKER. Yes, sir.

Mr. LEWIS. What I would like you to do, in connection with those tables, if it is not too late, is to give the committee a comparison like this: Taking the total body of net income say of the corporations in Great Britain, find the percentage realized on that body of income in corporation taxes. Take the total body again of the individual incomes in the United States and in Great Britain, find the average receipts from that total body in both countries, and then get an average percentage; and also do the same with reference to inheritance taxation.

I think it will show—and whatever it shows I wish to know the facts—that the proportion of the corporate net income taken in Great Britain is very much greater than in the United States; and that the proportion of the net income in the case of individuals' inheritance taxes would probably be four times as great there as in the United States, even including taxes now imposed by some 25 States.

In connection with those tables, I would like to have those comparisons.

Mr. HILL. And include also the Federal estate tax.

Mr. LEWIS. Yes.

Mr. PARKER. I shall be glad, Mr. Lewis, to put such a table in the record though, if you will let me put it in perhaps at some subsequent point, I will appreciate it, because I will not be able to have it ready for the first preliminary print.

Mr. LEWIS. Very well.

Mr. PARKER. I will say in advance, though, that what you stated is going to be shown on the face of the figures. I know that you will find a larger sum is taken from corporate net incomes. Of course,

the British system is quite different. Their rate is 22½ percent against our 13½ percent.

On the other hand, they allow dividends to go completely tax-exempt from the normal tax of 22½ percent in the case of individuals. So there is a shifting of the burden from individuals to corporations; there is an apparent shifting.

Mr. VISSON. What is the corporate tax in England now?

Mr. PARKER. Twenty-two and one half percent.

Mr. VISSON. When did they reduce it?

Mr. PARKER. In the Finance Act of 1934. It was 25 percent. The highest rate, as I recall it, was 27½ percent.

Mr. CULLEN. What is their base on inheritance taxes?

Mr. PARKER. They go to a maximum rate of 50 percent on net estates of over 10 million.

Mr. HILL. You mean net inheritances?

Mr. PARKER. No; net estates. The British have an estate tax that produces the great body of their death-tax income.

They have a legacy and succession duty in addition to the estate tax which is on the net share of each beneficiary. That legacy and succession tax is not graduated, but there are three or four different rates, depending upon the degree of relationship as between the decedent and the beneficiary.

You take a widow, she pays the very lowest rate—perhaps 1 percent, as I recall it. I believe the direct heirs, the sons, only pay 1 percent. The others pay 5 percent. I believe a stranger in blood pays 10 percent.

But you can see, of course, that in the ordinary case, with an estate passing to near relatives, the rate being a flat rate, not graduated, it is very low and the British legacy and succession duties do not bring in a great amount of money.

Mr. McCORMACK. Mr. Parker, what is your viewpoint on paying both an estate tax and an inheritance tax? Do you think that is just?

Mr. PARKER. Well, it has been done in a great many countries.

Mr. McCORMACK. Does it not savor of double taxation?

Mr. PARKER. I do not think so necessarily. You can do it in that way and adjust the burden. I think it is a good deal a matter of the rate. We have two estate taxes. That seems a little bit complicated, to have two estate taxes.

Mr. HILL. If the gentleman will yield, a corporation income tax is paid by the corporation.

Mr. McCORMACK. I am talking about estates.

Mr. HILL. But on that very point, the distribution of dividends, made from that net income, carries an income tax on the individual. It is paid on the money that he gets from the corporation.

Mr. McCORMACK. That is an entirely different proposition.

Mr. HILL. It is double taxation. That is what I am talking about.

Mr. McCORMACK. There is a clear line of distinction there. A corporation is a separate entity. But let me ask you this question, Mr. Parker—

Mr. HILL. If the gentleman will yield just a moment, on that very point, you have a normal tax and a surtax on individual income. That is double taxation.

Mr. McCORMACK. That is a different situation, also. I can see a clear line of distinction there.

Mr. VINSON. Let us see; how are normal taxes and surtaxes double taxation?

Mr. McCORMACK. I was assuming that academically what the gentleman stated was correct. But I can see a clear distinction in those cases.

Mr. VINSON. It is not taxing the same money—the normal tax and the surtax.

Mr. McCORMACK. Let me give you this example. Suppose a man has a million dollars, and it is invested in a going business. Of course, we know that money is not wealth. Money is simply a medium of exchange. As I understand it, property and services constitute the wealth of a nation. Let us say that "A" has a million dollars, but he has it invested in a going concern and that concern gives employment to a hundred people or 50 people or 75 people.

Of course, when he dies, it is expected that he should pay an estate tax. But then his heirs are going to have imposed upon them what is in the nature of an income tax. That is really what it is. In other words, this inheritance tax is really an income tax. It is on the same theory.

But here we have an estate of a million dollars. Under the present law, \$170,000 tax is paid. I do not know what might be reported out under the new bill, but let us say that there is superimposed another tax of \$200,000.

You have to get that out of that property. You have to dispose of the property in order to get the money to pay the tax. If you do that, what is going to happen to the employees, the people who are dependent upon that business for their livelihood?

Can you give us an expression on that?

Mr. PARKER. Well, Mr. McCormack, that is one of the difficult questions. There are two ways to meet it; one, not to take too much, and the other, to give them sufficient time to pay it so that, to a considerable degree, the income from the property will pay the tax.

We already give, in the case of the estate taxes, as much as 8 years for the payment of the estate tax.

I have suggested that the committee might give consideration, in the new taxes, to giving 12 years' time to pay the tax, in order to prevent a disruption of business.

Mr. McCORMACK. It is likely to result, in many cases, in a liquidation of the business.

Mr. PARKER. I think a longer period of time in which to pay the tax would help greatly.

Mr. McCORMACK. Of course, I distinguish clearly between profit-sharing legislation—that is, legislation for the purpose of distributing profits, and legislation for the purpose of distributing wealth, because wealth makes profit. Am I right, in a general way?

Mr. PARKER. That, of course, is a question of policy and point of view. I would like to be excused from answering that question.

Mr. McCORMACK. In any event, if we levy too heavy taxes all along the line, particularly where there are investments in going concerns, it is likely to result in the liquidation of those concerns, unless they are given extreme consideration. Even then it is a danger point.

Mr. PARKER. Going back to the point about double taxation that was made a few moments ago, death taxes and gift taxes, I do not believe it makes much difference whether we have one or three or a

dozen. What really counts, in the case of death, is how much is the beneficiary going to get out of the estate? So that if you pay one tax or three taxes, you should determine how much you want the beneficiary to have left. That is all there is to it. You cannot hurt the dead man. He has gone. He has not taken his property with him. What you are interested in is designing a system by which you are going to leave the beneficiary the amount of money that you want him to have. The number of taxes, whether one or three, is a mere matter of mechanics.

Mr. McCORMACK. Of course, you cannot hurt the dead man, but on the other hand, the dead man, during his lifetime, might say, "Why should I stress, or try to amass, a fortune of a million dollars and conduct a business and give employment to people when it will be all taken away from me when I die or will be taken away from my heirs when I die, and the business disrupted?"

In other words, you must keep in mind that it is not merely the wealth that is amassed, but the employment that is given to people by the use of that money in business.

These people have to depend on the success of the business to receive proper wages for their services. If the estate taxes are too burdensome, you are liable to cut down individual initiative which might, in turn, affect the destiny of many persons who might otherwise receive employment. In other words, it might curtail activity. There are many factors that must be taken into consideration. There are disturbing features.

Mr. PARKER. It is a very troublesome question, Mr. McCormack.

Mr. LEWIS. Mr. Parker, I know you are going to be very busy with this work. I want to inquire whether, in your files, you may not already have data showing what may be practical in the way of levying a graduated tax on the income of corporations, with reference to the degree of return on the actual investment. You understand what I mean?

Mr. PARKER. Yes, sir.

Mr. LEWIS. Under those circumstances a small corporation might be earning 100 percent and, like the individual, have a graduated rate. A large corporation might be earning very little, if anything, on the actual investment and have a correspondingly reduced rate to pay.

I will not ask you to make an independent study of that question, but if you have such data I would like to have it for the record.

Mr. PARKER. We have, of course, two things. We have the complete experience and the statistics in connection with our old excess-profits tax. That tax was a very difficult tax to administer, but it brought in very large amounts of revenue. That was repealed effective in 1922.

There have been some other studies made. Senator Couzens introduced one in the Senate proposing an excess-profits tax based on the declared value of the capital stock of the corporation, as declared under the existing capital-stock-tax law.

Those two propositions have been about the only ones proposed. I have considerable data in the files on those matters, though hardly in such form as would be proper to put into the record. We could possibly secure something on that point before the hearings are completed.

Mr. VINSON. Mr. Chairman, I move that the committee recess or adjourn at this time until 2 o'clock this afternoon.

Mr. McCORMACK. If the gentleman will withhold his motion for a moment, I should like to ask Mr. Parker one more question. There has always been an inequality in the matter of these taxes. The point I have in mind may be only a minor point, but it has always appealed to me and to other people.

Take the case of a farmer. He makes an income-tax return. He does not include as part of his income the rent that he would have had to pay for home purposes, nor does he include the value of the produce that he grows on his farm and consumes.

Mr. PARKER. You mean he does not deduct the rent?

Mr. McCORMACK. Is that included as an item?

Mr. PARKER. Of the expense of his business?

Mr. McCORMACK. Suppose he owns his farm.

Mr. PARKER. I do not understand where the rent comes from.

Mr. McCORMACK. He owns his own farm.

Mr. PARKER. Yes, sir.

Mr. McCORMACK. Contrast that with the case of an industrial worker. Why should not the people who own their own premises and use it for their business be compelled to include the value of that property as rental, in their income.

Mr. PARKER. I do not think I quite get the point. Of course, a farmer can include depreciation on his farm buildings, and so forth. That depreciation is supposed to return his investment tax free.

Mr. McCORMACK. In making his income-tax return, does he give consideration to what would be a fair rental for his premises?

Mr. PARKER. You mean include that in his income?

Mr. McCORMACK. Yes.

Mr. PARKER. No, sir.

Mr. McCORMACK. Does he also include what would be a fair amount for what he otherwise would have to expend for produce, which in his case he grows on his farm and uses for his own personal or family uses?

Mr. PARKER. I am not certain that I get your point. In Great Britain, if a man owns a house he has to return in his income the fair rental value of that house and pay the tax on that amount, which puts him in the same position as a man who pays rent and does not get any deduction.

Mr. McCORMACK. You are talking about the property tax?

Mr. PARKER. No, sir; I am talking about the income tax, for income-tax purposes.

Mr. McCORMACK. I am a tenant and I pay rent. Of course, I cannot deduct that in making my income tax return, can I?

Mr. PARKER. Not in respect to a personal dwelling. You could include it if you were a farmer in respect to a rented farm.

Mr. VINSON. You get a personal exemption. Is not that on the same theory?

Mr. McCORMACK. But the personal exemption applies to everyone. I get a personal exemption and everybody else gets a personal exemption. It is a uniform exemption.

Mr. VINSON. No; it is not uniform.

Mr. McCORMACK. It is uniform in classes. A single man gets an exemption of a thousand dollars and a married person \$2,500.

Mr. VINSON. And \$400 for each dependent.

Mr. McCORMACK. Yes; but it applies uniformly to the different classes. Of course, I am just inquiring for information. I do not expect that any proposal to change the situation would be passed, but I want to see what the inequality is there.

For instance, he does not include the value of the food grown on his farm that his family consumes.

Mr. PARKER. He includes the expenses of operating the farm, of course. If he raises 10,000 bushels of wheat and he uses 50 bushels, I do not believe he prorates the expense of producing that 50 bushels of wheat so as to reduce his income-tax deductions.

Mr. VINSON. The technical point there is that on that 50 bushels of wheat you do not have any realization.

Mr. McCORMACK. I was just curious to know what the situation was. I will not press that any further.

Mr. CROWTHER. Mr. Chairman, before we adjourn, I would like to ask a question. In the work on revision, by the subcommittee under the chairmanship of the gentleman from Washington, Mr. Hill, during the last 2 or 3 years, very often the question has been brought up regarding the stepped-up tax on corporations. I have asked about this several times if the policy was sound as to income tax, why it was not invoked in the corporation tax.

I forget what the answer was that was given, or what the opposition was based on that was made at the time, to the application of this graduated tax to corporation income.

Will you state what the objection is to it?

Mr. PARKER. Well, the objection usually raised is that the net income of a corporation does not represent individual profits. It may be spread over many individuals.

For instance, if you and I form a corporation, and we put in \$10,000 apiece, or a total of \$20,000, and we make \$10,000 or 50 percent on our capital, under the graded corporation tax, on only \$10,000 of net income we would not pay a very high rate of tax.

Suppose we had a hundred people, instead of two people, and they put in \$10,000 apiece, or a million dollars. Suppose they make \$20,000 or 2 percent on their capital. But, having a \$20,000 income, you want to tax those people more individually than you and I are taxed, when we are making a 50 percent profit. You want to tax that cooperative effort of a hundred people more than you would the two, merely because of the size of the net income of the corporation.

That is the main objection to it.

Mr. KNUTSON. Mr. Chairman, may I ask a question? Let us say that A, B, and C are stockholders in a corporation. A has 5 shares; B has 100 shares; and C has 100,000 shares. They are all taxed at the same rate. Under the present proposal a corporation would be taxed 16 2/3 percent. Not only would the holder of one share be taxed 16 2/3 percent, but the man who owns 50,000 shares would be taxed at the same rate, and not a higher rate.

Mr. PARKER. That is correct; they would all pay the same rate. Of course, our theory in the past has been that the corporation gets the money and pays a flat tax. The graduation in rate is taken care of on the distribution of that money to the stockholders.

In your case, of course, if the corporation made a distribution to the stockholders, the man who owned 100,000 shares would pay an

enormous tax, whereas the man who owned 5 shares would not be in the surtax brackets at all.

That was considered in 1934 in the matter of eliminating loopholes in the tax laws. That is why, of course, the committee decided to make a drive on personal holding companies and also, under section 102, to encourage a certain amount of distribution of corporate profits, that was not necessary in the business, so that we would get our surtaxes.

If you wanted to make it absolutely consistent—that is the corporation tax with our tax on individuals—what you would do—but it could not be done administratively—theoretically, you would go into the corporation, see what they had made, and after accounting for the dividends distributed, you would figure up what the tax should be if the remaining income were distributed to each stockholder; you would find out the income of each stockholder and compute the tax and make the corporation pay it. But that could not be done. But if you wanted to follow it through theoretically, you would have to have some such system as that.

Mr. KNUTSON. Mr. Parker, the present tax of 13½ percent is proving burdensome to a number of corporations. Would not the imposition of the 16½-percent tax prove still more burdensome, and would it not prevent development of corporations who would want to take on more help and expand their activities? What danger would there be of such a condition being brought about under the proposed increase?

Mr. PARKER. After all, it may retard expansion, but I do not think it would prevent it. The high rate mentioned by the President, 16½ percent, is not a particularly high rate when you take into consideration England's rate of 22½ percent.

Mr. VINSON. The President's message called for a lesser rate on smaller corporations. It is even less than 13½ percent.

Mr. PARKER. Ninety-five percent of our corporations are relatively small corporations.

Mr. KNUTSON. It would seem to me that the first concern of this committee should be to do that which would expedite recovery.

Mr. CROWTHER. Does the sliding scale method obtain in any other countries, in England, for instance, on corporations?

Mr. PARKER. No; England has no graduated tax on corporations.

Mr. CROWTHER. They have a higher rate of tax than we?

Mr. PARKER. That is correct.

Mr. CROWTHER. Is it 20 or 25 percent?

Mr. PARKER. It is 22½ percent at present. It used to be 25 percent.

Mr. CROWTHER. That is the rate on all corporations?

Mr. PARKER. Yes, sir.

Mr. VINSON. Mr. Chairman, I move we adjourn.

The CHAIRMAN. The committee will stand adjourned until 10 o'clock tomorrow morning. The Chair announces that public hearings on this bill will be resumed at 10 o'clock tomorrow morning.

(Whereupon the committee adjourned to meet on Tuesday, July 9, 1935, at 10 a. m.)

Supplemental statement by Sicily Mergenthan to the Ways +  
Means Com. Monday, July 8, 1935.

41

1. I am returning the tax rate schedules submitted to the Treasury for estimate of their probable revenue yields. Your eighteen schedules relating to inheritance and gift taxes would produce yields ranging from about seven millions to seven hundred twenty-eight millions.

2. Your six schedules relating to increased bracket rates on large individual incomes would produce revenue yields from about five millions to thirty-two and a half millions.

3. Your three schedules relating to a graduated corporation income tax would produce revenue yields from about sixty-seven millions to one hundred and two millions.

4. Your suggestion relating to method of partially removing the present total tax exemption of dividends received by corporations would produce revenue approximating thirty nine million dollars.

Supplemental statement by Secretary Morgenthau to the  
Ways and Means Committee, Monday, July 9, 1935.

1. I am returning the tax rate schedules submitted to the Treasury for estimate of their probable revenue yields. Your eighteen schedules relating to inheritance and gift taxes would produce yields ranging from about seven millions to seven hundred twenty-eight millions.

2. Your six schedules relating to increased bracket rates on large individual incomes would produce revenue yields from about five millions to thirty-two and a half millions.

3. Your three schedules relating to a graduated corporation income tax would produce revenue yields from about sixty-seven millions to one hundred and two millions.

4. Your suggestion relating to method of partially removing the present total tax exemption of dividends received by corporations would produce revenue approximating thirty nine million dollars.

## SUMMARY

## I. Graduated Inheritance and Gift Tax Schedules

A. Tables 1A, 1B, 2A, 2B, 3A, 3B, 4A and 4B embody various alternative independent inheritance and gift tax rate schedules. The estimated increase in revenues from each are as follows:

Table 1A	\$5.0 millions
Table 1B	2.3 millions
Table 2A	20.3 millions
Table 2B	7.0 millions
Table 3A	60.5 millions
Table 3B	17.0 millions
Table 4A	93.2 millions
Table 4B	25.4 millions

B. Tables 5 to 7 apply to all inheritances and gifts the same rate schedule as the individual income tax.

(a) If no exemptions are permitted, this schedule is estimated to yield \$489 millions in additional revenues. (Table 5)

(b) If the first \$50,000 of all inheritances and gifts were completely exempted, the estimated revenue would be reduced to \$209 millions. (Table 6)

(c) If a tax credit of \$9,700 were allowed every recipient, thereby freeing all inheritances and gifts of \$50,000 or under from all tax, and likewise reducing the tax on all larger amounts by \$9,700, the schedule is estimated to yield \$282 millions. (Table 7)

(d) If a tax credit of \$9,700 be allowed each recipient of inheritance or gift of \$100,000 or less, thereby freeing all inheritances and gifts of \$50,000 or less from any tax, but not allowing this tax credit in connection with amounts larger than \$100,000, the estimated revenue is \$304 millions.

C. Tables 8 to 10 apply to all inheritances and gifts the proposed individual income tax schedule contained in Table 20.

(a) If no exemptions are permitted, this schedule is estimated to yield \$508 millions in additional revenues. (Table 8)

(b) If the first \$50,000 of all inheritances and gifts were completely exempted, the estimated revenue under this schedule would be reduced to \$223 millions. (Table 9)

(c) If a tax credit of \$9,700 be allowed every recipient, thereby freeing all inheritances and gifts of \$50,000 or under from all tax, and likewise reducing the tax on all larger amounts by \$9,700, the schedule is estimated to yield \$300 millions. (Table 10)

(d) If a tax credit of \$9,700 be allowed each recipient of inheritance or gift of \$100,000 or less, thereby freeing all inheritances and gifts of \$50,000 or less from any tax, but not allowing this tax credit in connection with amounts larger than \$100,000, the estimated revenue is \$323 millions.

D. Tables 11 and 12 embody the proposal of taxing the combined inheritance or gift and statutory net income at present income tax rates, with a deduction of the tax paid on the statutory net income. Thus, in effect, all inheritances and gifts received by an individual in any year would be treated as ordinary income and subjected to the individual income tax rates. The effective rate of the inheritance or gift tax would therefore vary directly with the accumulated wealth and earning power of the recipient, as measured by his income.

The average income of several years, rather than the income of a single year, may be used.

(a) If no exemptions are provided for, such a tax is estimated to yield \$678 millions in additional revenues. (Table 11)

(b) If a tax credit of \$9,700 be allowed for each recipient, thereby freeing all inheritances and gifts of \$50,000 or less from any tax, and likewise reducing the tax on all larger amounts by \$9,700, this proposal is estimated to yield \$472 millions in revenue. (Table 12)

(c) If a tax credit of \$9,700 be allowed each recipient of inheritance or gift of \$100,000 or less, thereby freeing all inheritances and gifts of \$50,000 or less from any tax, but not allowing this tax credit in connection with amounts larger than \$100,000, the estimated revenue is \$503 millions.

E. Tables 13 and 14 embody the proposal that all inheritances and gifts received by any individual in any year shall, in effect, be treated as ordinary income and subjected to the proposed new individual income tax rates in Table 20. The tax on the inheritance or gift proper would be the amount of tax on the combined inheritance or gift and statutory net income, as determined by the rates incorporated in Table 20, less the tax previously paid on the statutory net income at the proposed new rates. Thus, the effective rate of the inheritance or gift tax would vary directly with the accumulated wealth and earning power of the recipient, as measured by his income.

The average income of several years, rather than the income of a single year, may be used.

(a) If no exemptions are provided for, such a tax is estimated to yield \$728 millions in additional revenues. (Table 13)

(b) If a tax credit of \$9,700 be allowed for each recipient, thereby freeing all inheritances and gifts of \$50,000 or less from any tax, and likewise reducing the tax on all larger amounts by \$9,700, this proposal is estimated to yield \$516 millions in revenue. (Table 14)

(c) If a tax credit of \$9,700 be allowed each recipient of inheritance or gift of \$100,000 or less, thereby freeing all inheritances and gifts of \$50,000 or less from any tax, but not allowing this tax credit in connection with amounts larger than \$100,000, the estimated revenue is \$547 millions.

## II. Schedules for Increased Bracket Rates on Very Large Individual Incomes

Tables 15 to 20 contain a variety of arrangements for increased bracket rates on very large individual incomes. The estimated increase in revenues from each of these schedules is as follows:

Table 15	\$ 5.1 millions
Table 16	22.1 millions
Table 17	28.9 millions
Table 18	6.9 millions
Table 19	20.4 millions
Table 20	32.6 millions

## III. Corporation Income Tax Rate Schedules Graduated by Size of Corporation Income

Tables 21 to 23 contain alternative rate schedules designed to graduate the rate of corporation income tax according to the size of corporation incomes. The estimated increase in revenues from each is as follows:

Table 21	\$ 66.9 millions
Table 22	108.2 millions
Table 23	100.6 millions

#### IV. Reduction of Tax Exemption for Dividends Received by Corporations

If dividends received by corporations were exempted from the corporation income tax to the extent of only 85 percent of such dividends, instead of 100 percent, as is now the case, the estimated increase in revenue is \$39.7 millions.

Dividend (in thousands of dollars)	Rate (percent)	Estimated Tax (in dollars)	Percentage of Tax to Dividend
500	10	5,000	1.00
1,000	10	10,000	1.00
2,000	10	20,000	1.00
3,000	10	30,000	1.00
4,000	10	40,000	1.00
5,000	10	50,000	1.00
7,500	10	75,000	1.00
10,000	10	100,000	1.00
Total			

Treasury Department, Division of Research and Statistics, Bureau of Economic Analysis  
U. S. Department of the Treasury, Bureau of Economic Analysis

Table IA

Bracket Rates on Inheritances, Amounts of Tax,  
and Effective Rates

Estimated revenue \$5.0 millions

Bracket (in thousands of dollars)	Rate (percent)	Tax <sup>1/</sup> (in dollars)	Percentage of tax to Inherit- ance <sup>1/</sup>
Up to - 300	No tax	-	-
300 - 500	4	8,000	1.60
500 - 750	7	25,500	3.40
750 - 1,000	10	50,500	5.05
1,000 - 2,000	20	250,500	12.53
2,000 - 3,000	30	550,500	18.35
3,000 - 4,000	40	950,500	23.76
4,000 - 5,000	50	1,450,500	29.01
5,000 - 7,000	60	2,650,500	37.86
7,000 - 10,000	70	4,750,500	47.51
Over 10,000	75		

Treasury Department, Division of Research and Statistics, July 6, 1935.

<sup>1/</sup> Computed on upper limit of brackets.

Table IB

Bracket Rates on Gifts, Amounts of Tax,  
and Effective Rates

Estimated revenue \$2.3 millions

Bracket (in thousands of dollars)	Rate (percent)	Tax <sup>1/</sup> (in dollars)	Percentage of tax to Gift <sup>1/</sup>
Up to 300	No tax	-	-
300 - 500	3	6,000	1.20
500 - 750	5	18,500	2.47
750 - 1,000	7	36,000	3.60
1,000 - 2,000	15	186,000	9.30
2,000 - 3,000	23	416,000	13.87
3,000 - 4,000	30	716,000	17.90
4,000 - 5,000	38	1,096,000	21.92
5,000 - 7,000	45	1,996,000	28.51
7,000 -10,000	53	3,586,000	35.86
Over 10,000	60		

Treasury Department, Division of Research and Statistics, July 6, 1935.

<sup>1/</sup> Computed on upper limit of brackets.

Table 2A

Bracket Rates on Inheritances, Amounts of Tax,  
and Effective Rates

Estimated revenue \$20.3 millions

Bracket (in thousands of dollars)	Rate (percent)	Tax <sup>1/</sup> (in dollars)	Percentage of tax to Inheri- tance <sup>1/</sup>
Up to - 100	No tax	-	-
100 - 200	4	4,000	2.00
200 - 400	8	20,000	5.00
400 - 750	14	69,000	9.20
750 - 1,000	20	119,000	11.90
1,000 - 2,000	30	419,000	20.95
2,000 - 3,000	40	819,000	27.30
3,000 - 5,000	50	1,819,000	36.38
5,000 - 7,000	60	3,019,000	43.13
7,000 - 10,000	70	5,119,000	51.19
Over 10,000	75		

Treasury Department, Division of Research and Statistics, July 6, 1935

<sup>1/</sup> Computed on upper limit of brackets.

Table 2B

Bracket Rates on Gifts, Amounts of Tax,  
and Effective Rates

Estimated revenue \$7.0 millions

Bracket (in thousands of dollars)	Rate (percent)	Tax <u>1/</u> (in dollars)	Percentage of tax to Gift <u>1/</u>
Up to 100	No tax	-	-
100 - 200	3	3,000	1.50
200 - 400	6	15,000	3.75
400 - 750	11	53,500	7.13
750 - 1,000	15	91,000	9.10
1,000 - 2,000	23	321,000	16.05
2,000 - 3,000	30	621,000	20.70
3,000 - 5,000	38	1,381,000	27.62
5,000 - 7,000	45	2,281,000	32.59
7,000 - 10,000	53	3,871,000	38.71
Over 10,000	60		

Treasury Department, Division of Research and Statistics, July 6, 1935.

1/ Computed on upper limit of brackets.

Table 3A

Bracket Rates on Inheritances, Amounts of Tax,  
and Effective Rates

Estimated revenue \$60.5 millions

Bracket (in thousands of dollars)	Rate (percent)	Tax <sup>1/</sup> (in dollars)	Percentage of tax to Inherit- ance <sup>1/</sup>
Up to -- 50	No tax	--	--
50 -- 75	4	1,000	1.33
75 -- 100	8	3,000	3.00
100 -- 150	12	9,000	6.00
150 -- 200	16	17,000	8.50
200 -- 400	20	57,000	14.25
400 -- 600	24	105,000	17.50
600 -- 800	28	161,000	20.13
800 -- 1,000	32	225,000	22.50
1,000 -- 1,500	36	405,000	27.00
1,500 -- 2,000	40	605,000	30.25
2,000 -- 2,500	44	825,000	33.00
2,500 -- 3,000	48	1,065,000	35.50
3,000 -- 3,500	52	1,325,000	37.86
3,500 -- 4,000	56	1,605,000	40.13
4,000 -- 4,500	60	1,905,000	42.33
4,500 -- 5,000	64	2,225,000	44.50
5,000 -- 6,000	68	2,905,000	48.42
6,000 -- 8,000	72	4,345,000	54.31
Over 8,000	75		

Treasury Department, Division of Research and Statistics, July 6, 1935

<sup>1/</sup> Computed on upper limit of brackets.

Table 3B

Bracket Rates on Gifts, Amounts of Tax,  
and Effective Rates

Estimated revenue \$17.0 millions

Bracket (in thousands of dollars)	Rate (percent)	Tax <sup>1/</sup> (in dollars)	Percentage of tax to Gift <sup>1/</sup>
Up to 50	No tax	-	-
50 - 75	3	750	1.00
75 - 100	6	2,250	2.25
100 - 150	9	6,750	4.50
150 - 200	12	12,750	6.38
200 - 400	15	42,750	10.69
400 - 600	18	78,750	13.13
600 - 800	21	120,750	15.09
800 - 1,000	24	168,750	16.88
1,000 - 1,500	27	303,750	20.25
1,500 - 2,000	30	453,750	22.69
2,000 - 2,500	33	618,750	24.75
2,500 - 3,000	36	798,750	26.63
3,000 - 3,500	39	993,750	28.39
3,500 - 4,000	42	1,203,750	30.09
4,000 - 4,500	45	1,428,750	31.75
4,500 - 5,000	48	1,668,750	33.38
5,000 - 6,000	51	2,178,750	36.31
6,000 - 8,000	54	3,258,750	40.73
Over 8,000	57		

Treasury Department, Division of Research and Statistics, July 6, 1935

<sup>1/</sup> Computed on upper limit of brackets.

Table 4A

Bracket Rates on Inheritances, Amounts of Tax,  
and Effective Rates

Estimated revenue \$93.2 millions

Bracket (in thousands of dollars)	Rate (percent)	Tax <sup>1/</sup> (in dollars)	Percentage of tax to Inherit- ance <sup>1/</sup>
Up to -- 50	No tax	--	--
50 -- 60	4	400	.67
60 -- 70	8	1,200	1.71
70 -- 80	12	2,400	3.00
80 -- 100	16	5,600	5.60
100 -- 150	20	15,600	10.40
150 -- 200	24	27,600	13.80
200 -- 300	28	55,600	18.53
300 -- 500	32	119,600	23.92
500 -- 750	36	209,600	27.95
750 -- 1,000	40	309,600	30.96
1,000 -- 1,500	44	529,600	35.31
1,500 -- 2,000	48	769,600	38.48
2,000 -- 3,000	52	1,289,600	42.99
3,000 -- 4,000	56	1,849,600	46.24
4,000 -- 5,000	60	2,449,600	48.99
5,000 -- 6,000	64	3,089,600	51.49
6,000 -- 8,000	68	4,449,600	55.62
8,000 -- 10,000	72	5,889,600	58.90
Over 10,000	75	--	--

Treasury Department, Division of Research and Statistics, July 6, 1935

<sup>1/</sup> Computed on upper limit of brackets.

Table 4B

Bracket Rates on Gifts, Amounts of Tax,  
and Effective Rates

Estimated revenue \$25.4 millions

Bracket (in thousands of dollars)	Rate (percent)	Tax $\frac{1}{2}$ (in dollars)	Percentage of tax to gift $\frac{1}{2}$
Up to 50	No tax	-	-
50 - 60	3	300	.50
60 - 70	6	900	1.29
70 - 80	9	1,800	2.25
80 - 100	12	4,200	4.20
100 - 150	15	11,700	7.80
150 - 200	18	20,700	10.35
200 - 300	21	41,700	13.90
300 - 500	24	89,700	17.94
500 - 750	27	157,200	20.96
750 - 1,000	30	232,200	23.22
1,000 - 1,500	33	397,200	26.48
1,500 - 2,000	36	577,200	28.86
2,000 - 3,000	39	967,200	32.24
3,000 - 4,000	42	1,387,200	34.68
4,000 - 5,000	45	1,837,200	36.74
5,000 - 6,000	48	2,317,200	38.62
6,000 - 8,000	51	3,337,200	41.72
8,000 - 10,000	54	4,417,200	44.17
Over 10,000	57	-	-

Treasury Department, Division of Research and Statistics, July 6, 1935

 $\frac{1}{2}$  Computed on upper limit of brackets.

Table 5

Inheritance and Gift Tax at Same Rates  
as Present Income Tax - No Exemptions

Estimated revenue \$489 millions

Amount of inheritance or gift (in dollars)	: : : :	Amount of tax (in dollars)	: Percentage : : : :
			of tax to inheritance or gift
10,000		700	7.00
50,000		9,700	19.40
100,000		32,000	32.00
300,000		146,500	48.83
500,000		265,500	53.10
1,000,000		573,000	57.30
5,000,000		3,093,000	61.86
10,000,000		6,243,000	62.43

Treasury Department, Division of Research and Statistics,  
July 6, 1935.

Table 6

Inheritance and Gift Tax at Same Rates  
as Present Income Tax - First \$50,000 of all  
Amounts Completely exempted.

Estimated revenue \$209 millions

Amount of Inheritance or Gift (in dollars)	:	Amount of Tax (in dollars)	:	Percentage of tax to Inheritance or gift
10,000	:	0	:	-
50,000	:	0	:	-
100,000	:	9,700	:	9.70
300,000	:	117,500	:	39.17
500,000	:	235,500	:	47.10
1,000,000	:	542,000	:	54.20
5,000,000	:	3,061,500	:	61.23
10,000,000	:	6,211,500	:	62.12

Treasury Department, Division of Research and Statistics  
July 6, 1935

Table 7

Inheritance and Gift Tax at Same Rates as Present Income Tax -  
 \$9700 Tax Credit Allowed Every Recipient

Estimated revenue \$282 millions

Amount of Inheritance or Gift (in dollars)	:	Amount of tax (in dollars)	:	Percentage of tax to inheritance or gift
10,000	:	0	:	-
50,000	:	0	:	-
100,000	:	22,300	:	22.30
300,000	:	136,800	:	45.60
500,000	:	255,800	:	51.16
1,000,000	:	563,300	:	56.33
5,000,000	:	3,083,300	:	61.67
10,000,000	:	6,233,300	:	62.33

Treasury Department, Division of Research and Statistics.  
 July 6, 1935.

Table 8

Inheritance and Gift Tax at Same Rates as Those Indicated for  
the Income Tax in Table 20 - No Exemption

Estimated revenue \$508 millions

Amount of Inheritance or Gift (in dollars)	:	Amount of Tax (in dollars)	:	Percentage of Tax to Inheritance or Gift
10,000	:	700	:	7.00
50,000	:	9,700	:	19.40
100,000	:	32,000	:	32.00
300,000	:	155,000	:	51.67
500,000	:	288,000	:	57.60
1,000,000	:	650,500	:	65.05
5,000,000	:	3,910,500	:	78.21
10,000,000	:	8,435,500	:	84.36

Treasury Department, Division of Research and Statistics  
July 6, 1935

Table 9

Inheritance and Gift Tax at Same Rates as  
 Those Indicated for the Income Tax in  
 Table 20 - First \$50,000 of all Amounts  
 Completely Exempted

Estimated revenue \$223 millions

Amount of Inheritance or Gift (in dollars)	:	Amount of Tax (in dollars)	:	Percentage of Tax to Inheritance or Gift
10,000	:	0	:	-
50,000	:	0	:	-
100,000	:	9,700	:	9.70
300,000	:	123,500	:	41.17
500,000	:	254,000	:	50.80
1,000,000	:	613,500	:	61.35
5,000,000	:	3,867,500	:	77.35
10,000,000	:	8,389,500	:	83.90

Treasury Department, Division of Research and Statistics, July 6, 1935.

Table 10

Inheritance and Gift Tax at Same Rates as Those Indicated  
for the Income Tax in Table 20 -  
Tax Credit Allowed Every Recipient

Estimated revenue \$300 millions

Amount of Inheritance or Gift (in dollars)	:	Amount of Tax (in dollars)	:	Percentage of Tax to Inheritance or Gift
10,000	:	0	:	-
50,000	:	0	:	-
100,000	:	22,300	:	22.30
300,000	:	145,300	:	48.43
500,000	:	278,300	:	55.66
1,000,000	:	640,800	:	64.08
5,000,000	:	3,900,800	:	78.02
10,000,000	:	8,425,800	:	84.26

Treasury Department, Division of Research and Statistics, July 6, 1935.

Table 11

Present Income Tax Rates Applied to Combined Inheritance or  
Gift and Statutory Net Income, with Deductions of Tax Paid  
on Statutory Net Income - No Exemptions

Estimated revenue \$678 millions

	: Amount	:	Amount	:	Percentage
	: of	:	of	:	of tax to
	: inheritance	:	of	:	inheritance
	: or gift	:	tax	:	or gift
	: (in dollars)	:	(in dollars)	:	
	5,000		240		4.8
	10,000		700		7.0
Individual	50,000		9,700		19.4
with no	100,000		32,000		32.0
statutory	500,000		265,500		53.1
net income	1,000,000		573,000		57.3
	5,000,000		3,093,000		61.9
	10,000,000		6,243,000		62.4
	5,000		460		9.2
	10,000		1,050		10.5
Individual	50,000		11,160		22.3
with statutory	100,000		34,560		34.6
net income	500,000		268,310		53.7
of \$5,000	1,000,000		575,910		57.6
	5,000,000		3,095,910		61.9
	10,000,000		6,245,910		62.5
	5,000		590		11.8
	10,000		1,360		13.6
Individual	50,000		12,520		25.0
with statutory	100,000		36,900		36.9
net income	500,000		270,900		54.2
of \$10,000	1,000,000		578,600		57.9
	5,000,000		3,098,600		62.0
	10,000,000		6,248,600		62.5
	5,000		1,700		34.0
	10,000		3,400		34.0
Individual	50,000		22,300		44.6
with statutory	100,000		50,300		50.3
net income	500,000		286,300		57.3
of \$50,000	1,000,000		594,800		59.5
	5,000,000		3,114,800		62.3
	10,000,000		6,264,800		62.6

Table 11

Present Income Tax Rates Applied to Combined Inheritance or  
Gift and Statutory Net Income, with Deductions of Tax Paid  
on Statutory Net Income - No Exemptions

Estimated revenue \$678 millions

(continued)

	: Amount	: Amount	: Percentage
	: of	: of	: of tax to
	: inheritance	: of	: inheritance
	: or gift	: tax	: or gift
	: (in dollars)	: (in dollars)	:
	5,000	2,800	56.0
	10,000	5,600	56.0
Individual	50,000	28,000	56.0
with statutory	100,000	56,500	56.5
net income	500,000	294,500	58.9
of \$100,000	1,000,000	604,000	60.4
	5,000,000	3,124,000	62.5
	10,000,000	6,274,000	62.7
	5,000	3,050	61.0
	10,000	6,100	61.0
Individual	50,000	30,500	61.0
with statutory	100,000	61,000	61.0
net income	500,000	307,500	61.5
of \$500,000	1,000,000	622,500	62.3
	5,000,000	3,142,500	62.9
	10,000,000	6,292,500	62.9
	5,000	3,150	63.0
	10,000	6,300	63.0
Individual	50,000	31,500	63.0
with statutory	100,000	63,000	63.0
net income	500,000	315,000	63.0
of \$1,000,000	1,000,000	630,000	63.0
	5,000,000	3,150,000	63.0
	10,000,000	6,300,000	63.0

Table 11

Present Income Tax Rates Applied to Combined Inheritance or  
Gift and Statutory Net Income, with Deductions of Tax Paid  
on Statutory Net Income - No Exemptions

Estimated revenue \$678 millions

(continued)

	: Amount	: Amount	: Percentage
	: of	: of	: of tax to
	: inheritance	: of	: inheritance
	: or gift	: tax	: or gift
	: (in dollars)	: (in dollars):	
	5,000	3,150	63.0
	10,000	6,300	63.0
Individual	50,000	31,500	63.0
with statutory	100,000	63,000	63.0
net income	500,000	315,000	63.0
of \$5,000,000	1,000,000	630,000	63.0
	5,000,000	3,150,000	63.0
	10,000,000	6,300,000	63.0
	5,000	3,150	63.0
	10,000	6,300	63.0
Individual	50,000	31,500	63.0
with statutory	100,000	63,000	63.0
net income	500,000	315,000	63.0
of \$10,000,000	1,000,000	630,000	63.0
	5,000,000	3,150,000	63.0
	10,000,000	6,300,000	63.0

Treasury Department, Division of Research and Statistics  
July 6, 1935.

Table 12

Present Income Tax Rates Applied to Combined Inheritance or Gift and  
Statutory Net Income, with Deduction of Tax Paid on Statutory Net  
Income - \$9,700 Tax Credit Allowed Every Recipient

Estimated revenue \$472 millions

	Amount of inheritance or gift (in dollars)	Amount of tax (in dollars)	Percentage of tax to inheritance or gift
Individual with no statutory net income	5,000	0	-
	10,000	0	-
	50,000	0	-
	100,000	22,300	22.3
	500,000	255,800	51.2
	1,000,000	563,300	56.3
	5,000,000	3,083,300	61.7
10,000,000	6,233,300	62.3	
Individual with statutory net income of \$5,000	5,000	0	-
	10,000	0	-
	50,000	1,460	2.9
	100,000	24,860	24.9
	500,000	258,610	51.7
	1,000,000	566,210	56.6
	5,000,000	3,086,210	61.7
10,000,000	6,236,210	62.4	
Individual with statutory net income of \$10,000	5,000	0	-
	10,000	0	-
	50,000	2,820	5.6
	100,000	27,200	27.2
	500,000	261,200	52.2
	1,000,000	568,900	56.9
	5,000,000	3,088,900	61.8
10,000,000	6,238,900	62.4	

Table 12

Present Income Tax Rates Applied to Combined Inheritance or Gift and  
Statutory Net Income, with Deduction of Tax Paid on Statutory Net  
Income - \$9,700 Tax Credit Allowed Every Recipient

Estimated revenue \$472 millions

(continued)

	: Amount	:	Amount	:	Percentage
	: of	:	of	:	of tax to
	: inheritance	:	of	:	inheritance
	: or gift	:	tax	:	or gift
	: (in dollars)	:	(in dollars)	:	
	5,000		0		-
	10,000		0		-
Individual	50,000		12,600		25.2
with statutory	100,000		40,600		40.6
net income	500,000		276,600		55.3
of \$50,000	1,000,000		585,100		58.5
	5,000,000		3,105,100		62.1
	10,000,000		6,255,100		62.6
	5,000		0		-
	10,000		0		-
Individual	50,000		18,300		36.6
with statutory	100,000		46,800		46.8
net income	500,000		284,800		57.0
of \$100,000	1,000,000		594,300		59.4
	5,000,000		3,114,300		62.3
	10,000,000		6,264,300		62.6
	5,000		0		-
	10,000		0		-
Individual	50,000		20,800		41.6
with statutory	100,000		51,300		51.3
net income	500,000		297,800		59.6
of \$500,000	1,000,000		612,800		61.3
	5,000,000		3,132,800		62.7
	10,000,000		6,282,800		62.8

Table 12

Present Income Tax Rates Applied to Combined Inheritance or Gift and  
Statutory Net Income, with Deduction of Tax Paid on Statutory Net  
Income - \$9,700 Tax Credit Allowed Every Recipient

Estimated revenue \$472 millions

(continued)

	: Amount	:	Amount	:	Percentage
	: of	:	of	:	: of tax to
	: inheritance	:	of	:	: of inheritance
	: or gift	:	tax	:	: or gift
	: (in dollars)	:	(in dollars)	:	
	5,000		0		-
	10,000		0		-
Individual	50,000		21,800		43.6
with statutory	100,000		53,300		53.3
net income	500,000		305,300		61.1
of \$1,000,000	1,000,000		620,300		62.0
	5,000,000		3,140,300		62.8
	10,000,000		6,290,300		62.9
	5,000		0		-
	10,000		0		-
Individual	50,000		21,800		43.6
with statutory	100,000		53,300		53.3
net income	500,000		305,300		61.1
of \$5,000,000	1,000,000		620,300		62.0
	5,000,000		3,140,300		62.8
	10,000,000		6,290,300		62.9
	5,000		0		-
	10,000		0		-
Individual	50,000		21,800		43.6
with statutory	100,000		53,300		53.3
net income	500,000		305,300		61.1
of \$10,000,000	1,000,000		620,300		62.0
	5,000,000		3,140,300		62.8
	10,000,000		6,290,300		62.9

Treasury Department, Division of Research and Statistics, July 6, 1935.

Table 13

Income Tax Rates Contained in Table 20 Applied to Combined Inheritance  
or Gift and Statutory Net Income, with Deduction of Tax Paid on  
Statutory Net Income - No Exemption

Estimated revenue \$728 millions

	: Amount	:	Amount	:	Percentage
	: of	:	Amount	:	: of tax to
	: inheritance	:	of	:	: inheritance
	: or gift	:	tax	:	: or gift
	: (in dollars)	:	(in dollars)	:	: --
	5,000		240		4.8
	10,000		700		7.0
Individual	50,000		9,700		19.4
with no	100,000		32,000		32.0
statutory	500,000		238,000		37.6
net income	1,000,000		650,500		65.1
	5,000,000		3,910,500		78.2
	10,000,000		8,435,500		84.4
<hr/>					
	5,000		450		9.2
	10,000		1,050		10.5
Individual	50,000		11,160		22.3
with statutory	100,000		34,760		34.8
net income	500,000		291,310		58.3
of \$5,000	1,000,000		654,110		65.4
	5,000,000		3,914,710		78.3
	10,000,000		8,439,960		84.4
<hr/>					
	5,000		590		11.8
	10,000		1,360		13.6
Individual	50,000		12,520		25.0
with statutory	100,000		37,300		37.3
net income	500,000		294,400		58.9
of \$10,000	1,000,000		657,500		65.8
	5,000,000		3,918,700		78.4
	10,000,000		8,444,200		84.4
<hr/>					
	5,000		1,700		34.0
	10,000		3,520		35.2
Individual	50,000		22,300		44.6
with statutory	100,000		52,300		52.3
net income	500,000		313,800		62.8
of \$50,000	1,000,000		679,300		67.9
	5,000,000		3,945,300		78.9
	10,000,000		8,472,300		84.7

Table 13  
(continued)

Income Tax Rates Contained in Table 20 Applied to Combined Inheritance  
or Gift and Statutory Net Income, with Deduction of Tax Paid on  
Statutory Net Income - No Exemption

Estimated revenue \$728 millions

	: Amount	:	Amount	:	Percentage
	: of	:	of	:	: of tax to
	: inheritance	:	of	:	: inheritance
	: or gift	:	tax	:	: or gift
	: (in dollars)	:	(in dollars)	:	:
	5,000		3,000		60.0
	10,000		6,000		60.0
Individual	50,000		30,000		60.0
with statutory	100,000		60,500		60.5
net income	500,000		327,000		65.4
of \$100,000	1,000,000		695,500		69.6
	5,000,000		3,967,500		79.4
	10,000,000		8,497,500		85.0
	5,000		3,550		71.0
	10,000		7,100		71.0
Individual	50,000		35,500		71.0
with statutory	100,000		71,000		71.0
net income	500,000		362,500		72.5
of \$500,000	1,000,000		747,500		74.8
	5,000,000		4,067,500		81.4
	10,000,000		8,617,500		86.2
	5,000		3,850		77.0
	10,000		7,700		77.0
Individual	50,000		38,500		77.0
with statutory	100,000		77,000		77.0
net income	500,000		385,000		77.0
of \$1,000,000	1,000,000		770,000		77.0
	5,000,000		4,150,000		83.0
	10,000,000		8,725,000		87.3

Table 13  
(continued)

Income Tax Rates Contained in Table 20 Applied to Combined Inheritance  
or Gift and Statutory Net Income, with Deduction of Tax Paid on  
Statutory Net Income - No Exemption

Estimated revenue \$728 millions

	: Amount	: Amount	: Percentage
	: of	: of	: of tax to
	: inheritance	: of	: inheritance
	: or gift	: tax	: or gift
	: (in dollars)	: (in dollars)	:
	5,000	4,450	89.0
	10,000	8,900	89.0
Individual	50,000	44,500	89.0
with statutory	100,000	89,000	89.0
net income	500,000	445,000	89.0
of \$5,000,000	1,000,000	890,000	89.0
	5,000,000	4,525,000	90.5
	10,000,000	9,225,000	92.3
	5,000	4,700	94.0
	10,000	9,400	94.0
Individual	50,000	47,000	94.0
with statutory	100,000	94,000	94.0
net income	500,000	470,000	94.0
of \$10,000,000	1,000,000	940,000	94.0
	5,000,000	4,700,000	94.0
	10,000,000	9,400,000	94.0

Treasury Department, Division of Research and Statistics.

July 6, 1935

Table 14

Income Tax Rates Contained in Table 20 on Combined Inheritance or Gift  
and Statutory Net Income with Deduction of Tax Paid on Statutory  
Net Income - \$9,700 Tax Credit Allowed Every Recipient

Estimated revenue \$516 millions

	: Amount	:	: Amount	:	: Percentage
	: of	:	: of	:	: of tax to
	: inheritance	:	: of	:	: inheritance
	: or gift	:	: tax	:	: or gift
	: (in dollars)	:	: (in dollars)	:	
	5,000	:	0	:	-
	10,000	:	0	:	-
Individual	50,000	:	0	:	-
with no	100,000	:	22,300	:	22.3
statutory	500,000	:	278,300	:	55.7
net income	1,000,000	:	640,800	:	64.1
	5,000,000	:	3,900,800	:	78.0
	10,000,000	:	8,425,800	:	84.3
	5,000	:	0	:	-
	10,000	:	0	:	-
Individual	50,000	:	1,460	:	2.9
with statutory	100,000	:	25,060	:	25.1
net income	500,000	:	281,610	:	56.3
of \$5,000	1,000,000	:	644,410	:	64.4
	5,000,000	:	3,905,010	:	78.1
	10,000,000	:	8,430,260	:	84.3
	5,000	:	0	:	-
	10,000	:	0	:	-
Individual	50,000	:	2,820	:	5.6
with statutory	100,000	:	27,600	:	27.6
net income	500,000	:	284,700	:	56.9
of \$10,000	1,000,000	:	647,800	:	64.8
	5,000,000	:	3,909,000	:	78.2
	10,000,000	:	8,434,500	:	84.3

Table 14

Income Tax Rates Contained in Table 20 on Combined Inheritance or Gift  
and Statutory Net Income with Deduction of Tax Paid on Statutory  
Net Income - \$9,700 Tax Credit Allowed Every Recipient

Estimated revenue \$516 millions

(continued)

	: Amount	: Amount	: Percentage
	: of	: of	: of tax to
	: inheritance	: of	: inheritance
	: or gift	: tax	: or gift
	: (in dollars)	: (in dollars)	
	5,000	0	-
	10,000	0	-
Individual	50,000	12,600	25.2
with statutory	100,000	42,600	42.6
net income	500,000	304,100	60.8
of \$50,000	1,000,000	669,600	67.0
	5,000,000	3,935,600	78.7
	10,000,000	8,463,100	84.6
	5,000	0	-
	10,000	0	-
Individual	50,000	20,300	40.6
with statutory	100,000	50,800	50.8
net income	500,000	317,300	63.5
of \$100,000	1,000,000	685,800	68.6
	5,000,000	3,957,800	79.2
	10,000,000	8,487,800	84.9
	5,000	0	-
	10,000	0	-
Individual	50,000	25,800	51.6
with statutory	100,000	61,300	61.3
net income	500,000	352,800	70.6
of \$500,000	1,000,000	737,800	73.8
	5,000,000	4,057,800	81.2
	10,000,000	8,607,800	86.1

Table 14

Income Tax Rates Contained in Table 20 on Combined Inheritance or Gift and Statutory Net Income with Deduction of Tax Paid on Statutory Net Income - \$9,700 Tax Credit Allowed Every Recipient

Estimated revenue \$516 millions

(continued)

	Amount of inheritance or gift (in dollars)	Amount of tax (in dollars)	Percentage of tax to inheritance or gift
	5,000	0	-
	10,000	0	-
Individual with statutory net income of \$1,000,000	50,000	28,800	57.6
	100,000	67,300	67.3
	500,000	375,300	75.1
	1,000,000	760,300	76.0
	5,000,000	4,140,300	82.8
	10,000,000	8,715,300	87.2
	5,000	0	-
	10,000	0	-
Individual with statutory net income of \$5,000,000	50,000	34,800	69.6
	100,000	79,300	79.3
	500,000	435,300	87.1
	1,000,000	880,300	88.0
	5,000,000	4,515,300	90.3
	10,000,000	9,215,300	92.2
	5,000	0	-
	10,000	0	-
Individual with statutory net income of \$10,000,000	50,000	37,300	74.6
	100,000	84,300	84.3
	500,000	460,300	92.1
	1,000,000	930,300	93.0
	5,000,000	4,690,300	93.8
	10,000,000	9,390,300	93.9

Treasury Department, Division of Research and Statistics, July 6, 1935

Table 15

## Surtaxes on Individual Incomes Exceeding \$1,000,000

Estimated increase in revenue \$5.1 millions

Surtax bracket (in thousands of dollars)	Surtax :(percent)	Combined : normal and : surtax :(percent)	Total tax <u>1/</u> (in dollars)	Percentage : of tax to : total tax- : able income <u>1/</u>
1,000 - 1,500	60	64	893,000	59.53
1,500 - 2,000	63	67	1,228,000	61.40
2,000 - 3,000	66	70	1,928,000	64.27
3,000 - 5,000	70	74	3,408,000	68.16
5,000 - 10,000	75	79	7,358,000	73.58
Over 10,000	80	84		

Treasury Department, Division of Research and Statistics, July 6, 1935.

1/ Computed on upper limit of brackets.

Table 16

## Surtaxes on Individual Incomes Exceeding \$150,000

Estimated increase in revenue \$22.1 millions

Surtax bracket (in thousands of dollars)	Surtax (percent)	Combined normal and surtax (percent)	Total tax <sup>1/</sup> (in dollars)	Percentage of tax to total tax- able income <sup>1/</sup>
150 - 200	54	58	89,000	44.50
200 - 250	56	60	119,000	47.60
250 - 300	58	62	150,000	50.00
300 - 350	60	64	182,000	52.00
350 - 400	62	66	215,000	53.75
400 - 500	64	68	283,000	56.60
500 - 750	66	70	458,000	61.07
750 - 1,000	68	72	638,000	63.80
1,000 - 2,000	70	74	1,378,000	68.90
2,000 - 3,000	72	76	2,138,000	71.27
3,000 - 4,000	74	78	2,918,000	72.95
4,000 - 5,000	76	80	3,718,000	74.36
5,000 - 7,500	78	82	5,768,000	76.91
Over 7,500	80	84		

Treasury Department, Division of Research and Statistics, July 6, 1935.

<sup>1/</sup> Computed on upper limits of brackets.

Table 17

## Surtaxes on Individual Incomes Exceeding \$100,000

Estimated increase in revenue \$28.9 millions

Surtax bracket (in thousands of dollars)	Surtax (percent)	Combined normal and surtax (percent)	Total tax <sup>1/</sup> (in dollars)	Percentage of tax to total taxable in- come <sup>1/</sup>
100 - 200	55	59	91,000	45.50
200 - 400	60	64	219,000	54.75
400 - 700	65	69	426,000	60.86
700 - 1,000	70	74	648,000	64.80
1,000 - 2,000	72	76	1,408,000	70.40
2,000 - 3,000	74	78	2,188,000	72.93
3,000 - 5,000	76	80	3,788,000	75.76
5,000 - 7,500	78	82	5,838,000	77.84
Over 7,500	80	84		

Treasury Department, Division of Research and Statistics, July 6, 1935.

<sup>1/</sup> Computed on upper limit of brackets.

Table 18

## Surtaxes on Individual Incomes Exceeding \$500,000

Estimated increase in revenue \$6.9 millions

Surtax bracket (in thousands of dollars)	Surtax (percent)	Combined normal and surtax (percent)	Total tax <sup>1/</sup> (in dollars)	Percentage on tax to total taxable <sup>1/</sup> income
500 - 600	57	61	326,500	54.42
600 - 700	58	62	388,500	55.50
700 - 800	59	63	451,500	56.44
800 - 900	60	64	515,500	57.28
900 - 1,000	61	65	580,500	58.05
1,000 - 1,500	63	67	915,500	61.03
1,500 - 2,000	65	69	1,260,500	63.03
2,000 - 3,000	67	71	1,970,500	65.68
3,000 - 4,000	69	73	2,700,500	67.51
4,000 - 5,000	71	75	3,450,500	69.01
5,000 - 6,000	73	77	4,220,500	70.34
6,000 - 7,000	75	79	5,010,500	71.58
7,000 - 8,000	77	81	5,820,500	72.76
8,000 - 10,000	79	83	7,480,500	74.81
Over 10,000	80	84		

Treasury Department, Division of Research and Statistics, July 6, 1935.

<sup>1/</sup> Computed on upper limit of brackets.

Table 19

## Surtax on Individual Incomes Exceeding \$150,000

Estimated increase in revenue \$20.4 millions

Surtax bracket (in thousands of dollars)	Surtax (percent)	Combined normal and surtax (percent)	Total tax <sup>1/</sup> (in dollars)	Percentage of tax to total taxable in- come <sup>1/</sup>
150 - 200	54	58	89,000	44.50
200 - 250	56	60	119,000	47.60
250 - 300	58	62	150,000	50.00
300 - 350	60	64	182,000	52.00
350 - 400	62	66	215,000	53.75
400 - 500	64	68	283,000	56.60
500 - 750	66	70	458,000	61.07
750 - 1,000	68	72	638,000	63.80
1,000 - 2,000	69	73	1,368,000	68.40
2,000 - 3,000	70	74	2,108,000	70.27
3,000 - 4,000	71	75	2,858,000	71.45
4,000 - 5,000	72	76	3,618,000	72.36
5,000 - 7,500	73	77	5,543,000	73.91
7,500 - 10,000	74	78	7,493,000	74.93
Over 10,000	75	79		

Treasury Department, Division of Research and Statistics, July 6, 1935.

<sup>1/</sup> Computed on upper limit of brackets.

Table 20

## Surtax on Individual Incomes Exceeding \$100,000

Estimated increase in revenues 32.6 millions

Surtax bracket (in thousands of dollars)	Surtax :(percent)	Combined normal and surtax :(percent)	Total tax <u>1/</u> :(in dollars)	Percentage of tax to total taxable income <u>1/</u>
100 - 150	56	60	62,000	41.33
150 - 200	57	61	92,500	46.25
200 - 250	58	62	123,500	49.40
250 - 300	59	63	155,000	51.67
300 - 350	60	64	187,000	53.43
350 - 400	62	66	220,000	55.00
400 - 500	64	68	288,000	57.60
500 - 750	67	71	465,500	62.07
750 - 1,000	70	74	650,500	65.05
1,000 - 2,000	73	77	1,420,500	71.03
2,000 - 3,000	76	80	2,220,500	74.02
3,000 - 4,000	79	83	3,050,500	76.26
4,000 - 5,000	82	86	3,910,500	78.21
5,000 - 7,500	85	89	6,135,500	81.81
7,500 - 10,000	88	92	8,435,500	84.36
Over 10,000	90	94		

Treasury Department, Division of Research and Statistics, July 6, 1935

1/ Computed on upper limit of brackets.

Table 21

## Graduated Tax on Corporation Income

Estimated increase in revenue \$66.9 millions

Income bracket (in thousands of dollars)	Rate (percent)	Total tax (in dollars)	Percentage of tax to total taxable income <sup>1/</sup>
Up to 2	10	200	10.00
2 - 5	11	530	10.60
5 - 15	12	1,730	11.53
15 - 40	13	4,980	12.45
40 - 100	14	13,380	13.38
100 - 300	15	43,380	14.46
300 - 1,000	16	155,380	15.54
1,000 - 20,000	17	3,385,380	16.93
Over 20,000	17½		

Treasury Department, Division of Research and Statistics, July 6, 1935

<sup>1/</sup> Computed on upper limit of brackets.

Table 22

Graduated Tax on Corporation Income  
 Estimated increase in revenue \$102.2 millions

Income bracket (in thousands of dollars)	Rate (percent)	Total tax <sup>1/</sup> (in dollars)	Percentage of tax to total taxable income <sup>1/</sup>
Up to 2	10	200	10.00
2 - 15	13 $\frac{1}{2}$	1,955	13.03
15 - 40	14	5,455	13.64
40 - 100	15	14,455	14.46
100 - 300	16	46,455	15.49
300 - 1,000	17	165,455	16.55
Over 1,000	17 $\frac{1}{2}$		

Treasury Department, Division of Research and Statistics, July 6, 1935

<sup>1/</sup> Computed on upper limit of brackets.

Table 23

## Graduated Tax on Corporation Income

Estimated increase in revenue \$100.6 millions

Income bracket (in thousands of dollars)	Rate (percent)	Total tax <u>1/</u> (in dollars)	Percentage of tax to total taxable in- come <u>1/</u>
Up to - 2	11	230	11.00
2 - 5	12	580	11.60
5 - 15	13	1,880	12.53
15 - 40	14	5,380	13.45
40 - 100	15	14,380	14.38
100 - 300	16	46,380	15.46
300 - 1,000	17	165,380	16.54
Over 1,000	17½		

Treasury Department, Division of Research and Statistics, July 6, 1935

1/ Computed on upper limit of brackets.

TREASURY DEPARTMENT

Washington

FOR RELEASE, MORNING NEWSPAPERS,  
Monday, July 8, 1935.  
7-6-35.

Press Service  
No. 5-26

Secretary of the Treasury Morgenthau is today offering for subscription, at par and accrued interest, through the Federal Reserve banks, \$500,000,000, or thereabouts, 4-year 5-month 1-3/8 percent Treasury notes of Series B-1939.

The Treasury notes now offered will be dated July 15, 1935, and will bear interest from that date at the rate of 1-3/8 percent per annum, payable on a semiannual basis on December 15, 1935, and thereafter on June 15 and December 15 of each year. They will mature December 15, 1939, and will not be subject to call for redemption before that date. The notes will be issued in bearer form only in denominations of \$100, \$500, \$1,000, \$5,000, \$10,000 and \$100,000.

The notes will be exempt, both as to principal and interest, from all taxation. The exemption does not apply to estate or inheritance taxes or gift taxes.

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 Federal Reserve banks and the Treasury Department will be authorized to act as official agencies. Applications from incorporated banks and trust companies for their own account will be received without deposit but will be restricted in each case to an amount not exceeding one-half of the combined capital and surplus of the subscribing bank or trust company. Applications from all others must be accompanied, if for more than \$5,000, by payment of \$5,000 or 5 percent of the amount of notes applied for, whichever is the greater; and, if for \$5,000 or less, by payment in full. 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.

Subject to the reservations set forth in the official circular, subscriptions for amounts up to and including \$5,000 will be given preferred allotment, and subscriptions for amounts over \$5,000 will be allotted on an equal percentage basis, but not less than the maximum preferred allotment.

Payment at par and accrued interest, if any, for the notes allotted must be made on or before July 15, 1935, or on later allotment.

The text of the official circular follows:

UNITED STATES OF AMERICA

1-3/8 PERCENT TREASURY NOTES OF SERIES B-1939

Dated and bearing interest from July 15, 1935

Due December 15, 1939

Interest payable June 15 and December 15

1935  
Department Circular No. 545

TREASURY DEPARTMENT,  
Office of the Secretary,  
Washington, July 8, 1935.

Public Debt Service

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 and accrued interest, from the people of the United States, for 1-3/8 percent notes of the United States, designated Treasury Notes of Series B-1939. The amount of the offering is \$500,000,000, or thereabouts.

Description of Notes.

The notes will be dated July 15, 1935, and will bear interest from that date at the rate of 1-3/8 percent per annum, payable on a semiannual basis on December 15, 1935, and thereafter on June 15 and December 15 in each year. They will mature December 15, 1939, 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<sup>1</sup>) 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.

<sup>1</sup> Similarly, the exemption does not apply to the gift tax, see Treasury Decision 4550.

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.

Subscription and Allotment

Subscriptions 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. Applications from incorporated banks and trust companies for their own account will be received without deposit but will be restricted in each case to an amount not exceeding one-half of the combined capital and surplus of the subscribing bank or trust company. Applications from all others must be accompanied, if for more than \$5,000, by payment of \$5,000 or 5 percent of the amount of notes applied for, whichever is the greater; and, if for \$5,000 or less, by payment in full. 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, subscriptions for amounts up to and including \$5,000 will be given preferred allotment, and subscriptions for amounts over \$5,000 will be allotted on an equal percentage basis, but not less than the maximum preferred allotment. Allotment notices will be sent out promptly upon allotment, and the basis of the allotment will be publicly announced.

Payment

Payment at par and accrued interest, if any, for notes allotted hereunder must be made or completed on or before July 15, 1935, or on later allotment. In every case where payment is not so completed, the payment with application up to 5 percent of the amount of notes applied for shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Any qualified depository will be permitted to make payment by credit for notes allotted to it for itself and its customers up to any amount for which it shall be qualified in excess of existing deposits, when so notified by the Federal Reserve bank of its district.

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 RELEASE, MORNING NEWSPAPERS,  
Tuesday, July 9, 1935.  
7-8-35.

Press Service  
No. 5-28

Secretary of the Treasury Morgenthau today announced that the subscription books for the current offering of 1-3/8 percent Treasury Notes of Series B-1939 closed at the close of business Monday, July 8, 1935. Subscriptions placed in the mail before 12 o'clock midnight, Monday, July 8, will be considered as having been entered before the close of the subscription books.

Announcement of the amount of subscriptions and the basis of allotment will probably be made on Thursday, July 11.

July 9th

Congressman Spence came in to see me to-day in regard to a Mr. Weigell who is mixed up in the Hargrave matter. Weigell is an employee of Internal Revenue.

I telephoned Irey and asked him to bring in a report and after I have read the report I have to telephone Congressman Spence.

\* \* \* \* \*

H.M.Jr. called the President to-day and told him that there was a panic abroad on silver. He said it was 9:30 and that they have just this second fixed the price. We took 12 million ounces. He told him that we had 45 million ounces of silver over there and that our people say that it is a complete cleaning up of speculators and nothing else.

H.M.Jr. told the President that he would like to drop the price  $1/2\phi$  tomorrow - buy 5 million ounces at  $67\frac{1}{2}\phi$  and 5 million at  $67\phi$ .

Our purchases of silver has driven sterling up. In order for the British Stabilization Fund to keep sterling down, they have to sell sterling and buy Francs and, at this time, they do not want to buy Francs because they are not a good investment.

July 9th

The following letter was received from Sir Josiah C. Stamp over the July 4th week-end.

EUSTON STATION,  
LONDON, N.W.I.,  
ENGLAND.

Personal

25th June, 1935.

Dear Mr. Morgenthau:

You will remember our long and interesting talk on various financial subjects on the 6th May, when we discussed the desirability and efficacy of some sort of private and unofficial touch on certain of the problems. You made a reference to your vacation sojourn near the Canadian border. It so happens that Sir Frederick Leith-Ross, in going out to China, as you must certainly already know, is travelling via Canada. He has a cousin near Toronto, J. L. Ross, Harthill, Erindale, Ont., and is stopping with him from the morning of Friday, 16th August to the evening of Saturday, 17th August. Does this suggest to you an opportunity of giving effect to the suggestion that passed between us? I know Leith-Ross would welcome in every way the opportunity of a frank talk with you, especially as it would be understood that nothing should leak out to the press.

In talking with him this morning, he wondered whether a meeting of that kind could be arranged and if so, where. If he knew fairly soon, he could fix up his arrangements accordingly. If I could get a note from you as to what your convenience would be, received here by the middle of July, this would suit him all right.

Leith-Ross could, if necessary, extend his proposed stay in Toronto by a day, if there were any object in so doing.

I promised the President a note of my impressions of my long tour, when I returned, but owing to the death of my father, and much urgent private duty falling on me in consequence, I have been prevented from sending it. I will, however, let him have a note. Perhaps you might take an opportunity of telling him this.

With all good wishes.

Yours sincerely,

(Signed) J. C. Stamp.

On Tuesday, July 9th, the following answer was prepared by us with the assistance of Mr. Hornbeck of the State Department. Mr. Morgenthau had called Mr. Hull and told him of the receipt of Sir Josiah's letter and asked him if he wished to send someone over and help us prepare this letter in a "diplomatic way".

July 9, 1935.

My dear Sir Josiah:

I was glad to have your personal note of June 25 and was interested to learn that Sir Frederick Leith-Ross will be passing through Canada on his way to China.

I must confess, and I welcome the opportunity which you thus give me to say it informally, that I would have nothing material to add at this time to what I have already said in public utterances. If the thought is that there are things which it might be useful for Sir Frederick to present to officials of the Treasury, that, of course, can be readily arranged in the usual way through diplomatic channels. I have felt all along, and I find from the notes I made right after our talk that I expressed this view to you, that, when anything more substantial than exploratory conversations is contemplated, nothing short of a direct exchange of views would serve any useful purpose.

With cordial good wishes, I am

Sincerely yours,

(Signed) Henry Morgenthau, Jr.

Sir Josiah C. Stamp,  
Euston Station,  
London, N.W.I.,  
England.

July 9th

Governor Moody and Mr. Ireby came in to see Mr. Morgenthau to-day and told him that they could not get Judge McMillan on the Huey Long case as Mrs. McMillan had met with an accident and the Judge could not give his time to the case.

Judge Admiral of Dallas could not come until September 1st.

Governor Moody informed Mr. Morgenthau that he had to represent a client on a very important case and, therefore, would have to resign from the government. It might take several days. He said that he could not discuss it any further but inasmuch as he had agreed to represent his client he had to resign from the government. He said it would be up to the Secretary to decide whether he wanted him back when he was free to come back.

July 10, 1935

Mr. Thomas E. Dewey, recently appointed by Governor Lehman to be his special prosecutor in the extraordinary grand jury investigation of organized crime in New York State, was in to see Mr. Morgenthau today to ask for Treasury cooperation in his new work.

Mr. Morgenthau explained that since he became Secretary of the Treasury he has completely reorganized the investigating forces and has coordinated the six Treasury "police" activities and placed them under Harold Graves. Mr. Morgenthau expressed his keen interest in what Mr. Dewey is trying to accomplish and assured him he would turn the Treasury inside out to help him and give him the cooperation he wants.

Mr. Dewey said he was very anxious to find a chief investigator to assist him and that he knew Ellison C. Palmer, in charge of the Alcohol Tax Unit in New York. Mr. Morgenthau told Mr. Dewey that Palmer was doing an excellent job, but that he never stood in the way of a man when he was offered a real opportunity and that he would be willing to let Palmer go if it meant an advancement for him and if Palmer wanted to accept.

Mr. Dewey then told Mr. Morgenthau very frankly how little he thought of the Secret Service and, in particular, of the bad reputation of Alan G. Straight, principal operator for the New York district who, he said, is very much hated in the State. He told Mr. Morgenthau of an incident where Straight had beaten a tubercular prisoner almost to death; that although he had not actually seen the beating, he did see the man after he was beaten. He also referred to the discovery and seizure by the Secret Service of a large counterfeiting plant in either Connecticut or New Jersey. The New York police, he said, had tried all night to get in touch with Straight and he was not available. They finally reached him in the morning. After that, Straight wrote a letter to the head of the Police Department telling him how little cooperation he received from the police on this job. He spoke of Straight's methods as being vile and of the man as a "dirty double-crosser." He stated

further that he would never have Straight in his organization.

Mr. Morgenthau asked Mr. Dewey if he would repeat what he had said in the presence of Chief Moran. He said he would and Mr. Morgenthau called Chief Moran into the office and Mr. Dewey repeated the incidents. Chief Moran took great objection and asked for positive proof. He handled himself very well.

The above incidents, according to Mr. Dewey, occurred while he was connected with Mr. George Z. Medalie. Mr. Morgenthau asked Mr. Graves to see Mr. Medalie and get more information on Straight.

Mr. Dewey also referred in uncomplimentary language to George M. Hall, press relations man for the Treasury in New York whom, he said, he would not keep in his employ one minute. He told Mr. Morgenthau that Hall had been connected for a couple of years with the New York Post; that he used high-handed methods of getting stories; that he broke stories when no other reporter would divulge the information. He cited as one of the unethical methods Hall employed to obtain information that of bribing waitresses in restaurants to overhear conversations at the table. Mr. Morgenthau asked Mr. Graves to look into Hall's past record.

Mr. Morgenthau arranged that Mr. Dewey should see Mr. Graves the early part of next week.

53

Dictated  
July 10

Sunday afternoon met at the office Oliphant, Coolidge Bell, Haas, Jacob Viner, Gaston and Mrs. Klotz and for two hours went over the statement which had been prepared and sent to me at the farm by aeroplane. (Statement attached herewith). We went over and over the statement until we finally got it the way I liked it. I was very much worried as to how to present it to the President and decided that the only way to do it was to go over there alone so that in case I should have a show-down with him I only could really talk back at him if we were alone.

He saw me at 9:10 P.M. and I was simply delighted to find him alone and in a grand humor. He read the statement through very rapidly and made two slight changes. I looked at him and said, is it acceptable to you for me to give this statement and he said, yes. I said, do you appreciate the significance of it and in a rather quizzical tone he said, surely, and then I laughed and said, fine. Having won my case I will not argue. He said, what do you mean and I said, I might as well tell you the truth, I came here prepared to have with you the battle of my life and I am simply breathless to find that there is nothing to argue about. We both had a good laugh and I took the statement and chucked it in the corner.

We then stated in to talk about silver. The President told me that he had certain information which came to him from a source which he did not care to reveal even to me. That this source had twice before given him information about China, Russia and Japan and that it had been correct. He threw a lot of mystery around the whole thing. He said, the information comes either from a spy in the Russian foreign office or through some Tibbett Lama. He said that the information is that England, Germany and Japan have signed an offensive defensive treaty. He said, I would not be a bit surprised if it was so. He said, if it is, England and Japan fleets would have complete control of the high seas. The English and German armies would dominate Europe. If Russia tried to hold her own in the Far East she has not got enough troops or munitions ~~and~~ to fight on both fronts and her first interest would have to be in the Far East, leaving France and Italy to take care of themselves. He said, Poland is sitting pretty and plays both ends against the middle. He said I have a feeling the last couple of weeks that England has shaken off her worries and is again rather cocky - and the only reason I can give for it is that she has signed this tri-party treaty and is no longer worried. The only part of the treaty that she had to make public was that part that had to do with the German Navy.

The President seemed to think that there might be a possibility that these countries also have combined in an effort to break the silver market. Personally, I greatly doubt it as I think the selling of the silver comes from frightened speculators.

I then again told him that Troyanovsky wanted to see me and he said no - and I dropped the matter. We then discussed the State Department and he asked me to look around for somebody to take Herbert Feis' place. He said, give me the name so that I can discover him so the State Dept. will not think that the suggestion comes from the Treasury. He asked me about Jacob Viner and I told him no. I said, there is nobody that I knew who could analyze and tear apart the economic problem better than Jake Viner but if it was a question of taking the pieces and building a new structure, he was not the man for the job. The President wants to reconstruct the State Dept. and frankly said if he could get the right man he would replace Phillips. Personally, I think his ideas on reconstructing the State Dept. will never take place because the President has demonstrated so often that that is just the kind of thing he cannot do - namely, fire people or re-build a new organization out of a poor one.

The President was perfectly satisfied the way we have been handling the silver situation and in discussing with him whether we should continue our policy of only bringing over three and a half million ounces a week as against bringing over fifteen or twenty million ounces, he preferred to continue our present plan as he felt if we brought over a vast amount of silver in one week, we would tip our hands to the world. I told him that I preferred to shape our shipments down to an average of three or four million ounces as the time would come again when we could not be able to buy any silver and then we could draw on our accumulated purchases during the past week.

Mrs. Roosevelt came in about 11:25 with some papers in her hand, evidently wishing to talk to the President and that was my cue to go. It has been a long time since I had spent such an a thoroughly, pleasant evening with him or found hi in such a sympathetic mood. As I left he said, let us do this sort of thing again soon.

July 10th

Miss Lonergan brought me a whole group of charts on unemployment. After thinking it over, the one fact that she showed me which was new to me and which I consider most important, is that while unemployment figures seem to have levelled off, the amount of money that we are spending on unemployment is constantly increasing. This of course does not jibe with what the President has repeatedly said, that as private industry picked

up the unemployed, he would reduce the amount of money that he spent for unemployed. I had Miss Lonergan re-arrange her charts because they were too complicated and when I lunched with the President next Monday I want to bring this fact to his attention. How to do it most effectively and diplomatically I do not know - but do it I must. It is this sort of thing which I feel it is my duty to bring to the President's attention. Before doing so I am going to make sure that first my figures are indisputable and second that no one has already brought this most important matter to his attention.

We have this so-called Central Statistical Board, we have the National Industrial Recovery Board, we have this new Allotment Board, but none of them seems to me to really be planning to take care of the unemployed over the next five years. The whole matter is handled in the most unbelievable haphazard, hit or miss manner. It cannot succeed. As I told Louis Howe over the telephone, no agency like Harry Hopkins which is getting vast sums of money to spend should be trusted with the statistical work of charting unemployment and recovery. This work should be done by a non-spending agency and one that is as far removed from political and expedient motives as is possible to set up in our type of government. The unfortunate thing is that the four billion eight is being flitted away with no centralized plan and that this year will fly by before we know it and they will be around asking for another three or four billion. Any such sum would not be necessary in my opinion if the present unemployment funds were more wisely and carefully and effectively spent.

Unfortunately, with the exception of Francis Perkins I do not know anybody in the government today who has the force of character and vision and sufficient influence with the President to carry out the kind of program that is necessary for unemployment planning. However, I will potter around and see if I cannot stir up the animals sufficiently to get some results. The first thing to do will be to have a chart made of all agencies who have anything to do with collecting statistics of unemployment. This chart should show relation of these agencies to each other, where they overlap, how much each agency spends and their relationship to the President - and I suppose that Miss Lonergan is the person to do it. I will take it up with Haas and find out from him who the best person is to do this.

The originals of these are in the President's folder.  
One set here in the diary and a set in Bell's office.

75% of operations

25% " "

10% to  $13\frac{3}{4}\%$

$13\frac{3}{4}\%$  to  $17\frac{1}{2}\%$

	#
Interim	250,000,000.
Income	75,000,000.
Corp.	50,000,000.
	<hr/>
	\$ 325,000,000.

July 10th

H.M.Jr. called the President and told him that the flurry on silver seems to be over. Silver yesterday was 67.85 and to-day it is 69.52 and naturally we didn't get any. During the flurry of the last 4 or 5 days we got 42 million ounces and H.M.Jr.'s guess is that the excitement is over for awhile now. The President seemed very pleased with the amount of silver that we got.

The President told H.M.Jr. that he talked to Bob Doughton last night and told him to put the taxation through in two weeks from now rather than six weeks. The President said that he had a very good meeting, he kidded them all a great deal and the word "must" never came up at all.

\*\*\*\*\*

At the 9:30 meeting Mr. Oliphant brought up the question of adding a half cent piece and a 2 $\frac{1}{2}$ ¢ piece to our general coinage. The request came to him in two ways:

(1) On Monday, July 8th, representative Lawrence Lewis of Colorado requested this Department's opinion regarding the legality of the State of Colorado issuing fractional coins for use in connection with its sales tax.

(2) On Friday, July 5th, the Department of Justice requested representatives of the Treasury Department to be present and hear a complaint issued against the State of Illinois because of its 10 million tokens it had issued to be used in connection with its sales tax.

\*\*\*\*\*

Senator Robinson called and spoke to Mr. Morgenthau about getting people jobs in Bell's organization. A record was made of this conversation which is in the record file.

H.M.Jr. told Mr. Haas that he wanted a chart made showing all organizations in the government that have to do with statistics on unemployment. He wants to know, for instance, where Harry Hopkins' organization "hits it", Peek's organization, National Resource Board and Central Statistical organization. He wants to know their relationship to each other and their relationships to the President; how much money they have to spend for that purpose.

The objective he has in mind is that we ought to have some place a Central Planning Board on unemployment that does not spend any money. There is no correlation of these statistical organizations that he knows of.

Then Mr. Morgenthau also wants another chart taking any one State and show all the activities of the various Federal Governments in the State that are being paid for out of Federal funds. For instance, Harry Hopkins has a State Administrator - what is his organization? Ickes has a State Administrator - what is his function? The National Recovery Board has a State organization - what is their function? The Treasury has one, etc.

Haas and Bell are going to work together on these charts.

\* \* \* \* \*

James Hammond, Publisher of the Commercial Appeal, of Memphis, Tennessee, was introduced to me to-day by Senator Pat Harrison.

The reason Mr. Hammond did not come to me through Senator McKellar is because McKellar is part and parcel of the State crooked ring. He asked me whether we would not send our income tax people down there and clean up the city. He also told me that the graft is so bad that everybody has thrown up their hands.

I called up Irey and asked him to see Mr. Hammond and make a special drive on Memphis.

Harold Graves should know about this and I want him to watch this drive and, at the same time, he should put on a drive to check up on the liquor in Memphis and turn over all violations to Irey for check up.

## TREASURY DEPARTMENT

INTER OFFICE COMMUNICATION

DATE July 10, 1935

TO Secretary Morgenthau  
FROM Herman Oliphant

About July 3, the State of Illinois prepared to issue 10,000,000 tokens to be used in connection with its sales tax. A complaint was immediately filed with the Department of Justice, and on Friday, July 5, a conference was held at the Department of Justice attended by representatives of that Department and the Treasury and also a representative of the Department of Finance of Illinois. As a result of the conference, the Illinois representative agreed that the tokens, which resembled United States coins, would be immediately withdrawn from circulation and that a die for a new token would be prepared and submitted to the Federal Government for consideration. In the meanwhile, the Federal Government was going to consider whether or not such tokens were in fact money, and therefore both under the Constitution and under the Federal Criminal Code could not be coined or issued by the States.

On Monday of this week, the State of Colorado announced that it would accept bids for tokens to be used by it in connection with its sales tax. The State asked its Congressman, Honorable Lawrence Lewis, to communicate with this Department for the purpose of determining whether it would be legal for the State of Colorado to coin and issue such tokens. Such tokens are in the form of squares and have a hole in the middle of them and consequently hardly resemble any United States coin. Nevertheless, such tokens may be deemed to be money and, therefore, illegal on that account.

We have also just learned that the State of Washington has for some time been using tokens in connection with its sales tax. The State of Washington has not communicated with this Department relative to the matter, nor have we obtained any of the tokens used in that State. However, the State of Washington sent a telegram to the Department of Justice asking that it be given an opportunity to be heard before any adverse ruling is made relative to the use of such tokens.



Token



July 11, 1935

Mr. Gerard Swope and his attorney called on Mr. Morgenthau at his office today. The purpose of their visit was to ask the Treasury for a ruling which would permit corporations to deduct as an expense their contributions to the Community Chest, which would result in such contributions not being taxable.

Mr. Morgenthau told the gentlemen he did not see how he could justify to the public the right of corporations to make contributions to any charitable organization, in which category the Community Chest is, and deduct them as expenses.

Mr. Morgenthau referred Mr. Swope and his attorney to Mr. Oliphant who, in turn, will designate someone in Internal Revenue to go into the matter further with Mr. Swope.

July 11, 1935

Mr. Morgenthau spoke to Senator Key Pittman today for about three-quarters of an hour. He sounded out Senator Pittman on the idea of fixing a definite price for silver. Senator Pittman said he realized what it would mean to the Chinese, where business is done on long-term credit; that it is to the advantage of China to fix the price, but he told Mr. Morgenthau not to do it, because he is "sitting pretty" on the Hill and that we ought to continue just the way we are. The Senator also said that Senator Bankhead was of the opinion that raising the price of silver would affect the price of cotton and Mr. Morgenthau suggested that Senator Pittman consult with Oscar Johnson, who is one of the best experts on cotton, and he would find that the price of silver has nothing whatever to do with the price of cotton.

July 11, 1935.

Mr. Morgenthau telephoned Ambassador Straus, in Paris, at 1:30 today in connection with the Goldberg case.

Mr. Morgenthau told the Ambassador that Mr. Wait, the Treasury Attache at Paris, had secured for us photostatic copies of the records of the French Government and of Pillet et Cie, of Havre, France, in connection with the smuggling and undervaluation of imported articles. At that time we agreed not to use the information publicly for trial.

The Government's case against Goldberg has now been developed to the point where he is in jail for contempt of court and in order to secure a conviction it is necessary that the Government use the information publicly which Mr. Wait secured. It also is essential that an officer or employee of the firm of Pillet et Cie, familiar with the system of preparation and keeping of records of repacking goods while in bonded warehouses, be present and testify. The case is expected to come to trial in a few weeks.

Mr. Morgenthau asked Ambassador Straus if he would secure the cooperation of the French Government and their permission to use the information. The Treasury Department, of course, will pay the expenses of the representative of Pillet et Cie designated to appear as a witness. Ambassador Straus promised to take care of the matter and to cable the results of his interview with the French Government.

Ambassador Straus told Mr. Morgenthau that he was sailing for the States on Thursday and was very anxious upon his arrival to talk to the President about the dates in connection with the commercial treaty. Mr. Morgenthau told Ambassador Straus that this was not in his shop. Ambassador Straus told Mr. Morgenthau not to bother; that he would take it up with the President personally when he arrived.

July 9, 1935.

62

MEMORANDUM FOR MR. MORGENTHAUFROM MR. OLIPHANT

In connection with the Goldberg case, the United States Attorney is anxious to complete the presentation of the evidence to the Grand Jury and to force the case to trial at an early date. It is proposed to secure indictments charging bribery of a Customs Officer, a conspiracy to bribe, smuggling and undervaluation of imported articles, and a conspiracy to smuggle and undervalue.

In connection with the smuggling and undervaluation charges, Mr. Wait, the Treasury Attache in Paris, had secured for us photostatic copies of the records of the French Government and also of Pillet et Cie, the forwarders in Havre, France.

These records, practically identical, show that certain bales of wool felt hoods (hat bodies) shipped from different points in Italy, consigned to Isadore Goldberg & Co., or I. Goldberg & Sons, Inc., at New York in care of Reuben Goldberg at Paris, France, had been repacked while in the bonded warehouses in Havre. These records show the numbers of the original bales as they appear upon the manufacturers' invoices and the new numbers of the bales after repacking, the latter appearing on the ocean bill of lading.

What took place was that after a number of shipments had arrived in Havre from Italy, they were repacked into a lesser number of bales and shipped out of bond to Goldberg in New York. The pro forma invoice was then prepared by Goldberg in New York showing the contents of the repacked bales to be less than the actual quantity imported.

As you know, at the time the records were given to us by the French Government it was with the understanding and upon the representation by Ambassador Straus that the information contained therein would be used for administrative purposes only and could not be used in the trial of any case, nor could the same be made public.

The information and records obtained from Pillet et Cie were obtained by Treasury Attached Wait on the express condition that we would not disclose the source of the information.

In view of the restrictions placed upon the use of these documents and information for the purposes of trial, the same are useless. It is our desire at this time to

have the Ambassador urgently request the French Government and Pillet et Cie to supply us with such data and such further assistance as will be necessary to make this information available as evidence at the trial, so that the same may be legally admissible.

In order to accomplish this, it is absolutely necessary that either the French Government, or, preferably Pillet et Cie, remove unconditionally the restrictions placed by them upon the use of the information supplied and that additional aid be given us by the organization removing the restriction as follows:

- (a) In the case of the French Government that an official of the Government having supervision of the preparation and keeping of the particular records showing the repacking of the goods while in bonded warehouses, who is thoroughly familiar with the system of preparation and keeping of these records and who has first hand knowledge of all the details going into the making thereof, come to New York for the trial of the case to testify as a witness in behalf of the United States, and that he bring with him, if possible, the original records, or be able to explain their unavailability because of the voluminous or complicated character thereof.
- (b) In the case of Pillet et Cie, an officer or an employee of that firm, who acts in a supervisory capacity, knows the system of preparation and keeping of the records in question and has first hand knowledge of all details going into the making of such records, shall come to New York as a witness in the case.

It is very likely that the French Government might prefer to persuade Pillet et Cie to send one of its officers rather than to make available an official of the Government for that purpose and this would serve our purpose best because the official of Pillet et Cie would be able to testify not only as to the repacking but as to the actual shipment of the repacked bales to Goldberg at New York.

It is respectfully suggested that in view of the close relationship which we understand exists between the French Government, the French Line and Pillet et Cie, no difficulty should be experienced by the Government of France in persuading Pillet et Cie to comply with our request.

Should the request by the Ambassador be acceded to,

we should appreciate early advices giving the names of the witnesses who will be available, in order that they may be interviewed by Mr. Wait at the earliest possible time. Arrangements will, of course, have to be made for their compensation and expenses in making the trip.

It is also very urgent that this matter be handled as expeditiously as possible because the United States Attorney is anxious to present this case at the earliest possible day and to force it to trial while certain advantages known to you can still be made use of. As soon as the United States Attorney is advised that the data and witnesses will be available, the case can be immediately presented to the Grand Jury and an indictment filed. The information obtained from France can then be assembled for use on a trial, if such a course is necessary.

IRRELEVANT To hear Wall Street tell it for publication, you would think that foreign speculators had made an awful sucker out of Secretary Morgenthau in connection with the recent silver excitement. Actually the Treasury played a canny game and came out of it with no reason to apologise.

Silver prices have been highly artificial for some time. Undoubtedly the break in the metal last week was deliberately incited by speculators who wanted to smoke out our government and force it to declare its policy. Apparently they succeeded when the Treasury went in to buy silver in quantity and thus averted a complete collapse of the world market.

But the important point - which nearly all commentators have missed - was that Mr. Morgenthau outwitted the gamblers and thereby made intervention profitable. Informed sources understand that the 50 to 40 million ounces we purchased actually cost about 61 cents an ounce - although the open market price never got that low. Most of the speculators who sold it to us had paid much more - and it's a cinch the price will go no lower. The criticism that we were forced to shell out from 50 to 27 million dollars to "have silver" is distinctly irrelevant in view of the bargain we obtained.

\*\*\*\*\*

IMPEN It's well to consider the political implications whenever things happen to silver. The administration has a mandate from Congress to buy the metal until one of two objectives is reached - either silver is acquired in a quantity equal to one-fourth of our total monetary reserves or the price rises to \$1.29 an ounce. But method and timing in operating are left to its unfettered discretion.

The silver bloc in the Senate is all in favor of getting the price up to the specified maximum as fast as possible. That would help their constituents sore and the alternative goal is obviously far away. But the chief beneficiaries of such a policy would unquestionably be foreign speculators - who would be tremendously enriched at no risk to themselves. This was abundantly proved in the spectacular April rise - when they apparently had our government where they wanted it. Secretary Morgenthau simply is not playing the game their way. His strategy now is to keep them guessing - to make his policy a day-to-day affair which they can't be sure about - and incidentally to pick up the silver he must buy as cheaply as possible. Naturally it would be unwise to let the market drop through the cellar - but short of that he can come pretty close to calling his shots his own way.

The silver Senators crave swifter action - hence their constant pressure on the Treasury to step on the gas and force prices up. But the silverites are in no position to enforce their demands as a matter of repaying a political debt.

They haven't been so darned loyal to the New Deal. Moreover their silver-producing constituents still get 77 cents an ounce regardless of the world markets - and it's pretty hard to claim they're being gypped when world prices are more than ten cents below that figure. Impartial New Yorkers concede that the Secretary has handled his cards shrewdly.

\*\*\*\*\*

CONF

65A

TREASURY DEPARTMENT

Washington

FOR IMMEDIATE RELEASE,  
Thursday, July 11, 1935.

Press Service  
No. 5 - 32

Secretary of the Treasury Morgenthau today announced the subscription figures and the basis of allotment for the July 15 cash offering of 1-3/8 percent Treasury Notes of Series B-1939.

Reports received from the Federal Reserve banks show that subscriptions aggregate over \$2,970,000,000. Subscriptions in amounts up to and including \$5,000 were allotted in full, and those in amounts over \$5,000 were allotted 17 percent, but not less than \$5,000 on any one subscription.

Further details as to subscriptions and allotments will be announced when final reports are received from the Federal Reserve banks.

UNITED STATES SENATE

66

13?  
July 15, 1935.

Honorable Henry Morgenthau, Jr.,  
Secretary of the Treasury,  
Washington, D. C.

My dear Mr. Secretary:

The Senate Committee on Banking and Currency, in open hearings on Senate Joint Resolution 155, directed that I, as Chairman of the Committee, extend an invitation to you to appear before our Committee on the above Joint Resolution at 10:30 A. M. Monday, July 15.

The hearings are being held in Room 301, Senate Office Building.

Very truly yours,

/s/ Duncan U. Fletcher

Duncan U. Fletcher, Chairman,  
Senate Committee on Banking  
and Currency.

RH

66A

TREASURY DEPARTMENT

Washington

FOR RELEASE MORNING NEWSPAPERS,  
Monday, July 15, 1935.  
7-15-35.

Press Service  
No. 5-34

Secretary of the Treasury Morgenthau is today offering to the people of the United States an additional issue of 2-7/8 percent Treasury Bonds of 1955-60, in the amount of \$100,000,000, or thereabouts, and is inviting tenders therefor at not less than par and accrued interest. The bonds will be sold to the highest bidders. Tenders will be received at the Federal Reserve Banks and branches thereof up to 12 o'clock noon, Eastern standard time, on Wednesday, July 17, 1935. Tenders will not be received at the Treasury Department, Washington.

The bonds for which tenders are now invited will be an addition to and will form a part of the series of 2-7/8 percent Treasury bonds of 1955-60, issued pursuant to Department Circulars No. 531, dated March 4, 1935, and No. 536, dated April 22, 1935; they will carry the same tax exemptions, and otherwise will be identical in all respects therewith. The bonds will mature March 15, 1960, but may be redeemed at the option of the United States on and after March 15, 1955. Interest will be payable semiannually on March 15 and September 15.

Each tender must state the face amount of bonds bid for, which must be \$1,000 or any even multiple thereof, and the price offered, which must be stated exclusive of accrued interest and must be expressed on the basis of 100, with fractions expressed as 32ds of 1 percent in accordance with the usual practice - for example, 101-16/32. Tenders at less than par will not be considered, and tenders not received at a Federal Reserve bank or branch before 12 o'clock noon, Eastern standard time, Wednesday, July 17, 1935, will be disregarded. Tenders will be accepted without deposit from incorporated banks and trust companies and from responsible and recognized dealers in investment securities. Tenders from

others must be accompanied in every case by a deposit of 5 percent, of the amount of bonds bid for, except where the tender is accompanied by an express guaranty of payment by an incorporated bank or trust company. If the tender is accepted, in whole or in part, the deposit will be applied toward payment for the bonds, and if the tender is rejected the deposit will be returned to the bidder.

Tenders should be made on the printed forms and forwarded in special envelopes, which will be supplied by the Federal Reserve banks. Incorporated banks and trust companies not located in a city where a Federal Reserve bank or branch is located, may, in their discretion, submit tenders by telegram.

Immediately after the closing hour for the receipt of tenders on Wednesday, July 17, 1935, all tenders received at the Federal Reserve banks and branches up to the closing hour will be opened, and public announcement of the acceptable prices will follow as soon as possible. In considering the acceptance of tenders, the highest prices offered will be accepted in full down to the amount required, and if the same price appears in two or more tenders, and it is necessary to accept only a part of the amount offered at such price, tenders for smaller amounts may be accorded preference and tenders for larger amounts prorated to the extent necessary in accordance with the respective amounts bid for. The Secretary of the Treasury expressly reserves the right, however, to reject any or all tenders or parts of tenders and to award less than the amount bid for, and any action he may take in any such respect or respects shall be final.

Payment for any bonds allotted on accepted tenders must be made or completed in cash or other immediately available funds on or before July 22, 1935, and must include the face amount, and the premium which the bidder has agreed to pay, together with accrued interest on the face amount from March 15 to July 22, 1935.

The text of the official circular follows:

66 C

UNITED STATES OF AMERICA

2-7/8 PERCENT TREASURY BONDS OF 1955-60

Dated and bearing interest from March 15, 1935

Due March 15, 1960

REDEEMABLE AT THE OPTION OF THE UNITED STATES AT PAR AND ACCRUED INTEREST ON AND AFTER MARCH 15, 1955.

Interest payable March 15 and September 15

ADDITIONAL ISSUE

1935  
Department Circular No. 546  
Public Debt Service

TREASURY DEPARTMENT,  
Office of the Secretary  
Washington, July 15, 1935.

The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, approved September 24, 1917, as amended, offers to the people of the United States \$100,000,000, or thereabouts, 2-7/8 percent Treasury Bonds of 1955-60, and invites tenders therefor at not less than par and accrued interest from March 15, 1935, to July 22, 1935.

Description of Bonds

The bonds now offered will be an addition to and will form a part of the series of 2-7/8 percent Treasury Bonds of 1955-60 issued pursuant to Department Circulars No. 531, dated March 4, 1935, and No. 536, dated April 22, 1935, will be freely interchangeable therewith, are identical in all respects therewith, and are described in the following quotation from Department Circular No. 531:

"The bonds will be dated March 15, 1935, and will bear interest from that date at the rate of two and seven-eighths percent 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 4 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,<sup>1/</sup> 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."

Tenders and Allotments

Tenders will be received at the Federal Reserve Banks and branches thereof up to 12 o'clock noon, Eastern Standard time, Wednesday, July 17, 1935, and unless received by that time will be disregarded. Tenders will not be received at the Treasury Department, Washington. Each tender must state the face amount of bonds bid for, which must be \$1,000 or any even multiple thereof, and the price offered. The price offered must be stated exclusive of accrued interest from March 15, 1935, to July 22, 1935; and must be expressed on the basis of 100, with fractions expressed as 32ds of 1 percent, in accordance with usual practice, e.g., 101-16/32. Tenders at less than par will not be considered.

Tenders will be received without deposit from incorporated banks and trust companies and from responsible and recognized dealers in investment securities.

<sup>1/</sup> Similarly, the exemption does not apply to the gift tax, see Treasury Decision 4650.

Tenders from others must be accompanied in every case by a deposit of 5 percent of the face amount of bonds bid for, except where the tender is accompanied by an express guaranty of payment by an incorporated bank or trust company. If the tender is accepted, in whole or in part, the deposit will be applied toward payment for the bonds, the balance to be paid as hereinafter provided. If the tender is rejected, the deposit will be returned to the bidder.

Tenders must be enclosed in envelopes, securely sealed, addressed to the Federal Reserve bank, or branch, of the district, and plainly marked "Tender for 2-7/8 percent Treasury Bonds of 1955-60". The Federal Reserve banks will supply printed forms and special envelopes for submitting tenders. Incorporated banks and trust companies not located in a city where a Federal Reserve bank or branch is located may, in their discretion, submit tenders by telegram, but such telegrams must be received at the Federal Reserve bank or branch before the time fixed for closing.

Immediately after the closing hour for the receipt of tenders on July 17, 1935, all tenders received in writing or by telegraph at the Federal Reserve banks or branches thereof up to the closing hour (12 o'clock noon, Eastern standard time) will be opened. The Secretary of the Treasury will determine the acceptable prices offered and will make public announcement thereof as soon as possible after the opening of tenders. Those submitting tenders will be advised by the Federal Reserve banks of the acceptance or rejection thereof, and payment on accepted tenders must be made as hereinafter provided. In considering the acceptance of tenders, the highest prices offered will be accepted in full down to the amount required; and if the same price appears in two or more tenders and it is necessary to accept only a part of the amount offered at such price, tenders for smaller amounts may be accorded preference and tenders for larger amounts prorated to the extent necessary in accordance with the respective amounts bid for. The Secretary of the Treasury expressly reserves the right,

however, to reject any or all tenders or parts of tenders, and to award less than the amount bid for, and any action he may take in any such respect or respects shall be final.

Payment

Payment for any bonds allotted on accepted tenders must be made or completed on or before July 22, 1935, in cash or other immediately available funds, and must include the face amount, and the premium which the bidder has agreed to pay, together with accrued interest on the face amount from March 15, 1935, to July 22, 1935.<sup>2/</sup> In every case where payment is not so completed, the 5 percent deposit with application shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States.

General Provisions

Federal Reserve banks, as fiscal agents of the United States, are authorized and requested to receive tenders, to make allotments as 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 allotments, and to perform such other acts as may be necessary to carry out the provisions of this circular. Pending delivery of the definitive bonds, Federal Reserve banks may issue interim receipts.

The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the receipt of tenders and the sale of bonds under this circular, which will be communicated promptly to the Federal Reserve banks.

HENRY MORGENTHAU, Jr.,  
Secretary of the Treasury.

<sup>2/</sup> Accrued interest from March 15, 1935, to July 22, 1935, on \$1,000 face amount is \$10.078125.

## TREASURY DEPARTMENT

Washington

FOR IMMEDIATE RELEASE,  
Thursday, July 18, 1935.

Press Service  
No. 5-38

Secretary of the Treasury Morgenthau today announced the result of the offering by the Treasury on Monday of \$100,000,000, or thereabouts, of 2-7/8 percent Treasury Bonds of 1955-60, tenders for which were received at the Federal Reserve banks up to 12 o'clock noon, on Wednesday, July 17.

Tenders for \$510,958,000 face amount of bonds were received, of which \$101,967,000 was accepted at prices ranging from 101-27/32 down to 101-19/32, and accrued interest from March 15, 1935, to July 22, 1935. The average price of the bonds to be issued is slightly above 101-19/32, and a total premium of \$1,631,894.39 will be received. Based on the average price at which the bonds are to be issued on July 22, 1935, the yield is about 2.77 percent to the earliest call date, March 15, 1955, and about 2.78 percent to maturity, March 15, 1960.

ooOoo

**TREASURY DEPARTMENT**

Washington

FOR IMMEDIATE RELEASE,  
Thursday, July 18, 1935.

Press Service  
No. 5-39

Secretary of the Treasury Morgenthau today announced the final subscription and allotment figures with respect to the July 15 offering of 1-3/8 percent Treasury Notes of Series B-1939.

Subscriptions and allotments were divided among the several Federal Reserve districts and the Treasury as follows:

<u>Federal Reserve District</u>	<u>Total Subscriptions Received</u>	<u>Total Subscriptions Allotted</u>
Boston	\$ 230,368,800	\$ 40,294,300
New York	1,603,005,500	275,007,400
Philadelphia	142,897,100	24,925,700
Cleveland	154,429,700	27,666,000
Richmond	68,912,500	12,642,500
Atlanta	81,439,800	14,710,300
Chicago	303,853,200	57,032,100
St. Louis	72,061,500	14,225,800
Minneapolis	30,866,200	6,335,000
Kansas City	54,103,300	10,840,200
Dallas	50,641,600	11,587,200
San Francisco	177,065,500	30,876,500
Treasury	<u>525,000</u>	<u>90,000</u>
Total	\$2,970,169,700	\$526,233,000

ooOoo

59

July 15, 1935.

My dear Mr. Chairman:

I have your letter of July 13, in which you extend on behalf of the Senate Committee on Banking and Currency an invitation to present the views of the Treasury Department with respect to Senate Joint Resolution No. 155. I understand that the Attorney General has presented to you the reasons of general policy for the proposed legislation and that you desire from me an expression of my opinion concerning the probable effect of the Resolution upon the Government securities market.

I cannot see that there will be any noticeable effect on the Government's credit or prices of securities by reason of the passage of this Resolution, either because of the fact that suits on bonds would be barred, or by reason of the offer to pay at par for a short period of time the gold clause bonds. Since the President forwarded to the Congress his message on this subject there has been no weakness in the Government bond market, on the contrary, there has been an advance. The gold clause bonds, by reason of the fact that they bear rates of interest above those now required, are selling considerably above par, and, hence, will not be offered by their holders at par.

There is no implication in the Resolution of a Congressional or Treasury intent not to pay principal and interest in full on Government obligations. Indeed, the Resolution expressly reaffirms the determination of the Congress and the Treasury to assure that the United States will continue to pay to the holders of all its securities principal and interest dollar for dollar on an equal and uniform basis.

Under the circumstances, I can see no possible objection from the point of view of Treasury finance or Government credit, to the passage of this Resolution.

Respectfully yours,

(Signed) Henry Morgenthau, Jr.

Secretary of the Treasury.

Honorable Duncan U. Fletcher,  
Chairman, Committee on Banking and Currency,  
United States Senate.

July 15, 1955.

My dear Mr. Chairman:

I have your letter of July 13, in which you extend on behalf of the Senate Committee on Banking and Currency an invitation to present the views of the Treasury Department with respect to Senate Joint Resolution No. 155. I understand that the Attorney General has presented to you the reasons of general policy for the proposed legislation and that you desire from me an expression of my opinion concerning the probable effect of the Resolution upon the Government securities market.

I cannot see that there will be any noticeable effect on the Government's credit or prices of securities by reason of the passage of this Resolution, either because of the fact that suits on bonds would be barred, or by reason of the offer to pay at par for a short period of time the gold clause bonds. Since the President forwarded to the Congress his message on this subject there has been no weakness in the Government bond market, on the contrary, there has been an advance. The gold clause bonds, by reason of the fact that they bear rates of interest above those now required, are selling considerably above par, and, hence, will

- 2 -

not be offered by their holders at par.

There is no implication in the Resolution of a Congressional or Treasury intent not to pay principal and interest in full on Government obligations. Indeed, the Resolution expressly reaffirms the determination of the Congress and the Treasury to assure that the United States will continue to pay to the holders of all its securities principal and interest dollar for dollar on an equal and uniform basis.

Under the circumstances, I can see no possible objection from the point of view of Treasury finance or Government credit, to the passage of this Resolution.

Respectfully yours,

(Signed) H. Morgenthau, Jr.,

Secretary of the Treasury.

Honorable Duncan U. Fletcher,  
Chairman, Committee on Banking and Currency,  
United States Senate.

July 15, 1935.  
Monday.

H.M.Jr: Congressman Sabath, the President sent me over your telegram about Mr. Grimm.

Cong.  
Sabath: Yes.

H.M.Jr: And I appreciate it very much if I could see you and have a talk with you. Are you still at the hotel?

S: No, no, I'm in my office.

H.M.Jr: How could we get together so I could see you?

S: Well, I may drop in then to see you.

H.M.Jr: Well, could you give me an indication of when you'd come so I'd be ready?

S: Well, when will you - when can you see me

H.M.Jr: I can see you right now.

S: Well, I'll be there in about -

H.M.Jr: Hello?

S: I'll be there in about twenty minutes.

H.M.Jr: In twenty minutes.

S: Yes.

H.M.Jr: Thank you very much.

July 15th

Congressman Sabath called on me and was very much pleased and surprised that I had not yet appointed Peter Grimm. He says that their Committee was under the impression that Grimm had been appointed.

I told him that I was anxious to have Mr. Grimm and I needed his help; that the New York Democratic organization plus the two Senators were satisfied to have him appointed and, after considerable sparring and talk about how he did not want investigation on the mortgage situation to be directed only against S. W. Straus and Company and Greenebaum Sons Investment Company, Chicago, and about how proud and happy he was to have me here and how the prejudice against me as a Jew had died down on the Hill and some more mutual felicitation on the Jewish question and after he said "gesundheit" a couple of times I asked him whether he and his Committee did not want to have dinner with me tonight. He said no. I then asked him alone and he thought that over and said that he and his wife had another engagement and then it ended by saying that he would come at 8 o'clock. He said he thought he could get the thing cleaned up in two days and at the outside - a week.

July 16th

I told the President to-day that each time he adjourned Congress it was during a rising market. I told him that the Business Activity Chart shows a decline and that it ought to be watched very closely for the next two weeks; that if it continues to go down during the next two weeks we will not have recovery this fall.

The President feels that he wants to rush this thing through now and not wait until next fall because if he did it would give all the lobbyists a chance to work on it.

I also told the President that if we have recovery this fall his election is reassured. However, I said, I do not say that if you do not have recovery you will not be re-elected.

Mr. Haas prepared a chart showing the various agencies collecting unemployment statistics.

I am also enclosing herewith a report prepared by Miss Lonigan on unemployment together with charts which are self-explanatory.

FEDERAL UNEMPLOYMENT STATISTICS  
By Collecting Agencies



The subject for the Fiscal Year ending June, 1947, is the

**CHARTS**

**Number of Cases and Obligations Incurred - Federal Emergency Relief Program**

**Government Expenditures for all Relief and Made Work - by Agencies**

**Trend in Expenditures for Relief and for Made Work**

**Total Government Expenditures for Relief and Made Work Compared with Total Number of Unemployed**

Below chart will illustrate the following data.

**CHARTS TO BE PREPARED**

Relief work will not necessarily decline next year. For the reasons

The present relief program (ERA) covers the years 1946-1948 and is

renewed title. It also is the administrative working out of details.

The only hope of retaining a-lit relief work is complete reorganization of the relief program into two wholly distinct phases:

- 1. **Emergency relief and maintenance for the physically and mentally disabled.**
- 2. **Relief for the remainder, with emphasis on job training and job placement.**

Relief expenditures will generally have to be restricted unless there is a

**REORGANIZATION AND MAINTENANCE OF THE RELIEF PROGRAM**

Administratively the reorganization requires attention to a number of points:

to select the officials who will be in charge of the program, to determine the working hours, and to make sure, in general, that the program is well organized.

Private industry will not be asked to help unless the Government can

show jobs.

RELIEF AND REEMPLOYMENT  
For the Fiscal Year Ending June, 1937

The outlook for the fiscal year ending June, 1937, is for

marked recovery in business  
moderate decline in unemployment  
slight decline in relief, if any

There is no hope that recovery will take up the slack of unemployment.

Business will increase its labor force first by full time work for the underemployed on its payrolls, second by recruiting workers from the 7,000,000 not on relief, and last by taking workers from relief rolls.

Labor saving will increase at a mounting rate.

Outlook for Relief

Relief costs will not necessarily decline next year. They may increase.

The present relief program (WPA) tends to freeze 3,500,000 workers on Government rolls. It adds to the incentives drawing men onto relief.

The only hope of reducing relief costs lies in complete separation of the relief program into its two wholly distinct phases:

1. Productive work and retraining for the physically and mentally fit.
2. Relief for the remainder, with emphasis on an early end to relief.

Relief expenditures will probably show no substantial decline until a year after this separation is completed.

Management and Retraining for Able Workers

Administratively this separation requires creation of a wholly new agency, to select the efficient workers now on relief, organize them gradually into working teams, and train them, on productive work, for prompt return to private industry.

Private industry will soon refuse to take workers who have been on "made-work" jobs.

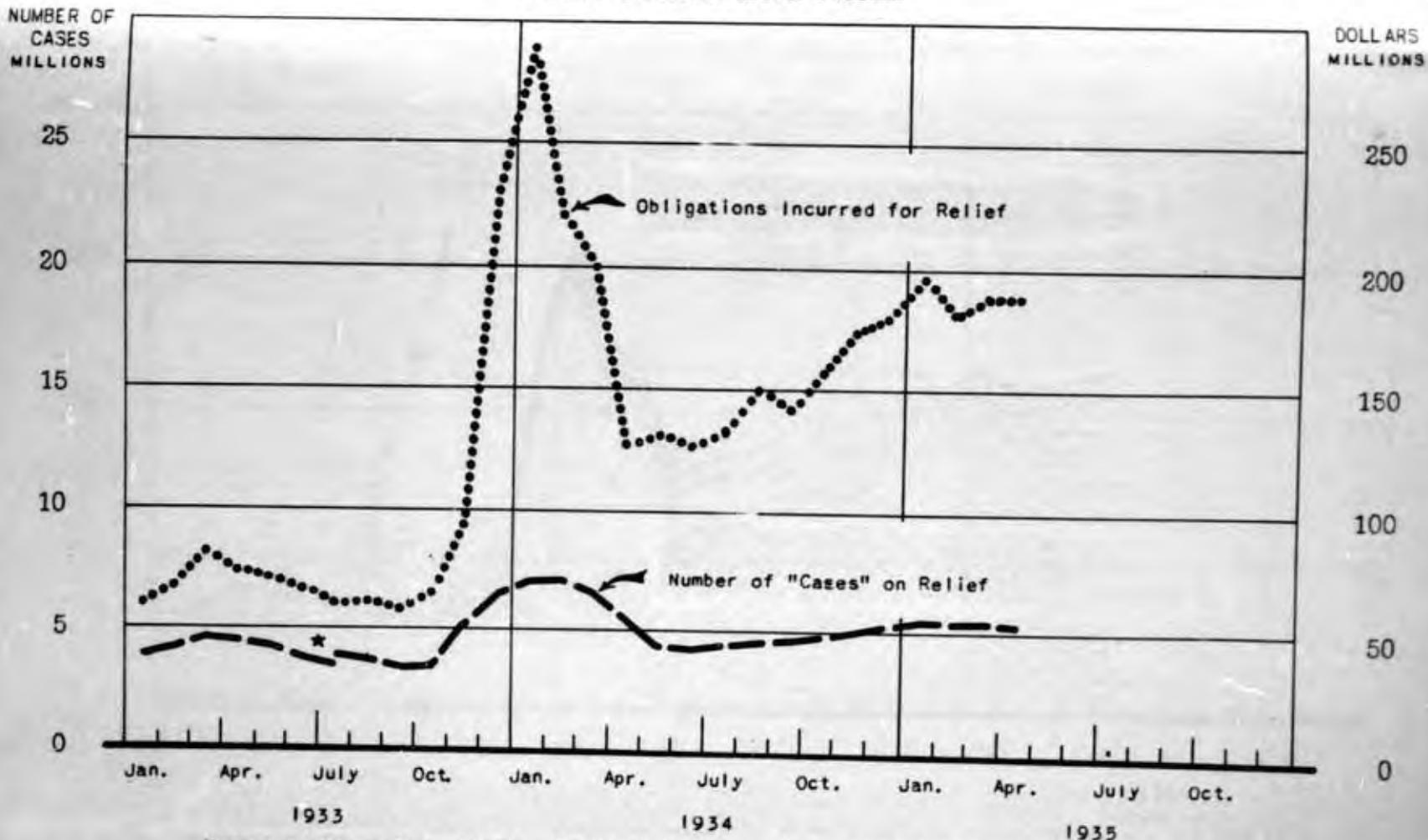
The new agency would be under strictly management-engineering type of control, with responsibility for high output but no responsibility for social work for the dependent.

The workers in the retraining unit would be considered always a part of the unemployed, including the 7,000,000 net on relief, and the 10,000,000 underemployed. Policies would be determined in relation to unemployment, not in relation to the needs of those dependent on relief.

The cost of productive work for the efficient workers might at first be high. The return must be high.

The cost of social work for the dependent must be low. If "made-work" is provided, for morale, it should be on low-cost projects (present FERA average about \$400), like "made-work" for the blind or the tubercular.

CHART III  
**NUMBER OF CASES AND OBLIGATIONS INCURRED**  
**FEDERAL EMERGENCY RELIEF PROGRAM**



NUMBER OF "CASES" ON RELIEF, INCLUDING C W A AND EMERGENCY WORK PROGRAM - NUMBER OF "CASES" IS SLIGHTLY LESS THAN NUMBER OF WORKERS IN RELIEF FAMILIES.

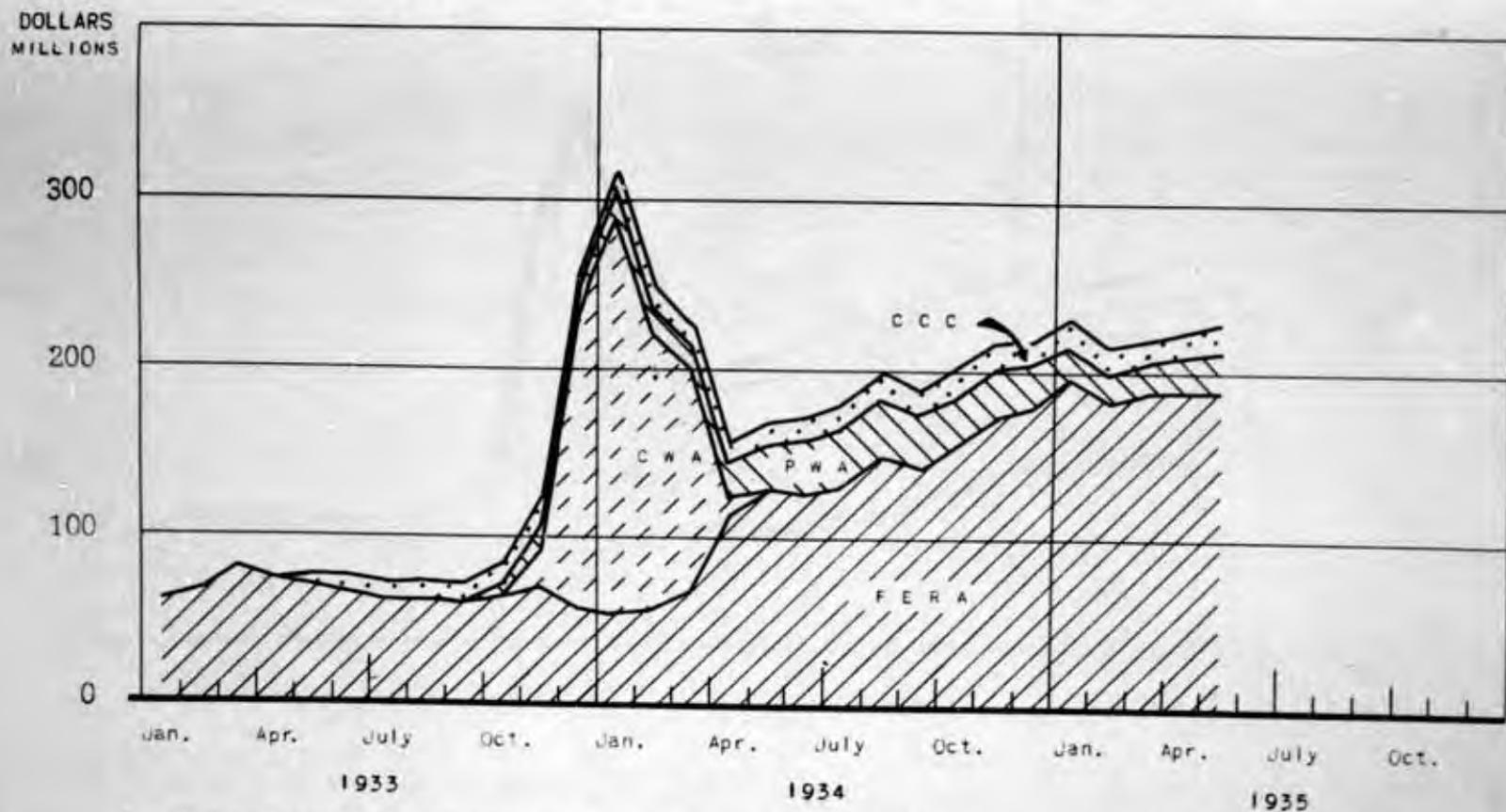
TOTAL OBLIGATIONS INCURRED, - FOR DIRECT RELIEF, C W A, AND EMERGENCY WORK PROGRAM, INCLUDING FEDERAL, STATE, AND LOCAL FUNDS.

Source: F E R A Reports

\* Change from "families" to "cases", in relief figures.

CHART IV

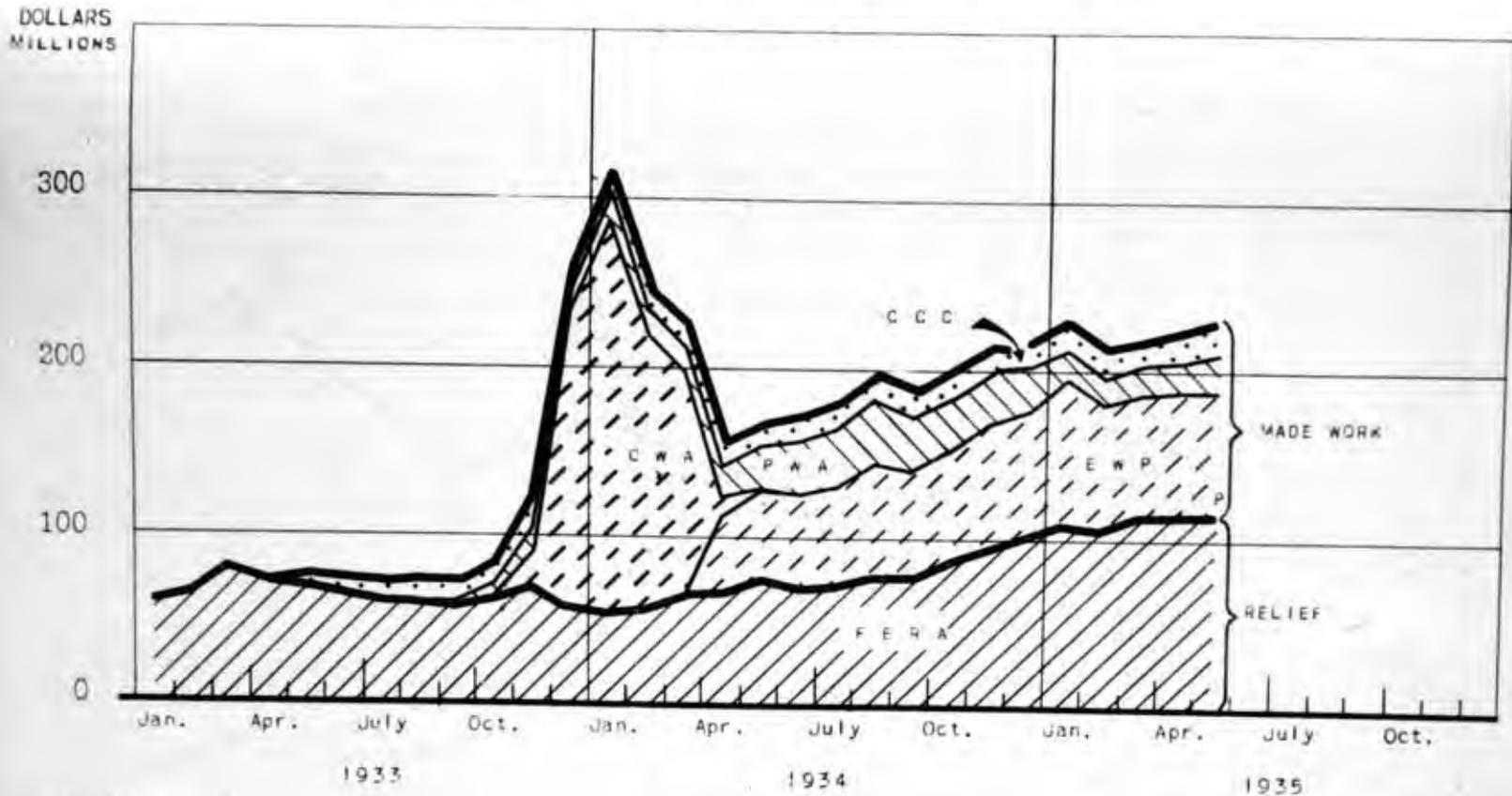
GOVERNMENT EXPENDITURES FOR ALL RELIEF AND MADE WORK - BY AGENCIES



F E R A - OBLIGATIONS INCURRED FOR RELIEF - INCLUDING STATE AND LOCAL FUNDS, - MONTHLY REPORTS, F E R A  
 C W A - PAYROLLS ON CIVIL WORKS ADMINISTRATION PROJECTS, - MONTHLY REPORTS, F E R A  
 P W A - PAYROLLS ON PROJECTS FINANCED FROM PUBLIC WORKS FUNDS, - MONTHLY LABOR REVIEW  
 C C C - PAYROLLS OF EMPLOYEES IN EMERGENCY CONSERVATION WORK, INCLUDING SUPERVISORS, - MONTHLY LABOR REVIEW

CHART V

TREND IN EXPENDITURES FOR RELIEF AND FOR MADE WORK



RELIEF — :

FERA - Obligations incurred for Relief, excluding Emergency Works Program - including State and Local funds, Monthly Reports, FERA

MADE WORK: -

CWA - Payrolls on Civil Works Administration Projects, - Monthly Reports, FERA

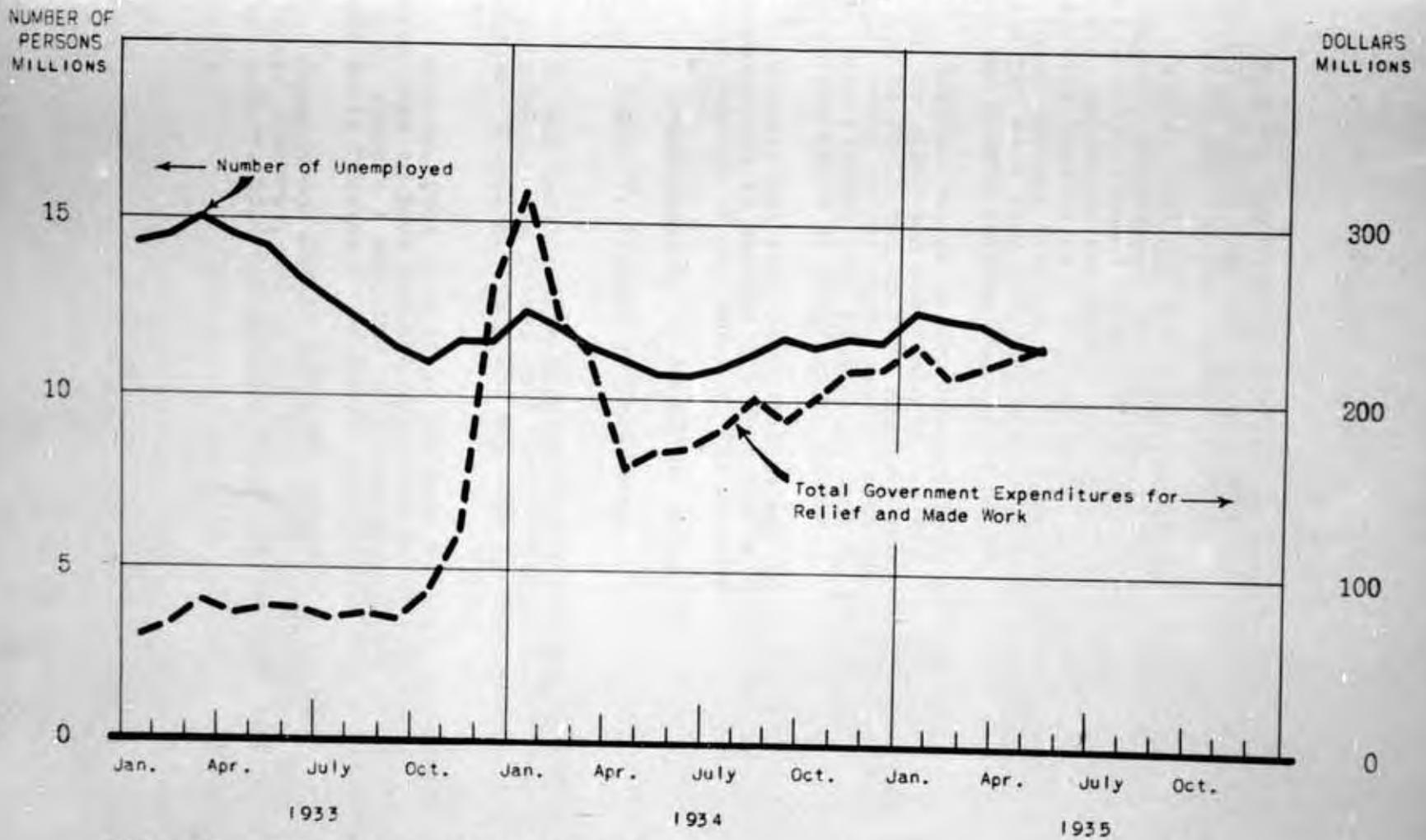
EWP - Total Cost of Emergency Work Program, - Monthly Reports, FERA

PWA - Payrolls on projects financed from Public Works Funds, - Monthly Labor Review

CCC - Payrolls of Employees in Emergency Conservation Work, including Supervisors, - Monthly Labor Review

CHART VII

TOTAL GOVERNMENT EXPENDITURES FOR RELIEF AND MADE WORK  
 COMPARED WITH TOTAL NUMBER OF UNEMPLOYED



NUMBER OF UNEMPLOYED - Administration Estimate  
 TOTAL GOVERNMENT EXPENDITURES - FERA, CWA, PWA, CCC, EWP

July 16th

80

H.M.Jr. saw Charlie West at the White House this morning and he told him that Congressman Doughton was very much upset at the way the Liquor Bill came out at the House.

H.M.Jr. had Mr. Grimm for supper last night and, after supper, Congressman Sabath came in to discuss further Mr. Grimm's appointment to the Treasury. Sabath seemed satisfied after questioning Mr. Grimm, and said he was going to have an Executive Meeting at 4 o'clock to-day and would see the whole thing through himself. H.M.Jr. asked Sabath whether it would not be a good idea for him to talk to Congressman Kennedy but Sabath advised him not to do so.

H.M.Jr. called in Mr. Gibbons this morning and told him the story and asked him to use his own judgment as to how to do it but to have somebody tell Congressman Kennedy that Grimm is all right and to "mind his own business". H.M.Jr. told Gibbons that he did not want to leave it entirely in the hands of Congressman Sabath.

H.M.Jr. met with James Farley and the President this morning and it was decided that the following two be appointed Members of the Board of Tax Appeals:

Congressman W. W. Arnold of Illinois

Roger J. Traynor of California

At the meeting this morning they wanted one political appointment. The States that needed it most was Missouri, Illinois and Michigan. They did not want to take care of Kansas.

H.M.Jr. felt that if he had made an issue he might have been able to have Mellott appointed but Farley said, "be a good sport - I want one political appointment and you've got your Brain Truster." So Arnold and Traynor were appointed.

Congressman Sabath asked Mr. Morgenthau to give Mr. Bernard Richards, who is now with Federal Housing, a promotion. H.M.Jr. told him that he would try and take care of him.

July 16, 1935.

81

At 4:00 P.M. a group met in the office of Congressman Sabath of Illinois to discuss the appointment of Peter Grimm to the post of Assistant to the Secretary of the Treasury.

Those present were:

Congressman Sabath, of Illinois,  
Congressman Fuller, of Arkansas,  
Congressman O'Malley, of Wisconsin,  
Congressman Dirksen, of Illinois,  
Secretary Morgenthau,  
Peter Grimm,  
C.B. Upham.

The Congressmen, members of a select committee to investigate real estate bond holders protective organizations had protested in a telegram to the President against the propriety of appointing Mr. Grimm at the time when their committee is investigating real estate activities in New York City, and some transactions in which they believed Mr. Grimm had taken part.

Members of the committee were slow in gathering and there was some preliminary discussion of other matters, including liquor tax laws.

Both Mr. O'Malley and Mr. Dirksen have a number of breweries and distilleries in their districts and they and Mr. Fuller have cooperage interests in their districts. A part of the conversation was between the Congressmen, and apparently for the benefit of listening Treasury ears. This seemed to be particularly true of a complaint registered by Mr. O'Malley with his brother Congressmen that President Roosevelt had recently appointed a LaFollette Progressive

as State Chairman of the Works Progress Administration in Wisconsin.

Mr. O'Malley expressed the view that it was not much use to try to build up a Democratic organization in Wisconsin if Federal jobs were given Progressives. He reported that the State Central Democratic Committee was inclined to make no move in the direction of securing speaking facilities in Milwaukee for the President on his summer tour.

The members of the committee seemed to have two specific objections to the appointment of Mr. Grimm, both of which, according to Mr. Grimm, were misconceptions. In the first place, the committee is of the opinion that they have uncovered objectionable transactions by the so-called Roosevelt committee in New York for dealing with defaulted real estate mortgage bonds. In the second place, they were under the impression that Mr. Grimm had benefited through certain fees for his part in some of the reorganizations.

Mr. Grimm assured them that there were two Roosevelt committees and that they were confusing the two committees. The first so-called Roosevelt Committee, headed by George E. Roosevelt has done some things, in Mr. Grimm's opinion, to which the committee might well object. He has had nothing whatever to do with that committee. The second Roosevelt Committee, also headed by George E. Roosevelt, and of which Mr. Grimm is a member, is made up of outstanding real estate dealers and others in the City of New York, and in Mr. Grimm's firm opinion has rendered a public service which has been an incalculable benefit to the investors in defaulted real estate mortgage bonds. There was no other way to protect the investors and secure reorganizations. The business of organizing bond holders protective committees

had become something of a racket and it was to break up that racket that the second Roosevelt Committee was formed. The committee was formed at the suggestion of President Hoover and Eugene Meyer, the latter of which had urged Mr. Grimm to be Chairman of the Committee. Mr. Grimm, however, recommended that the name of Roosevelt is so well known in New York that there were benefits to be secured from having George E. Roosevelt as Chairman.

All of the plans drawn up by the second Roosevelt Committee were eminently fair to the bond holders, Mr. Grimm stated. He said that these important New Yorkers who were on the committee had spent many years in pondering the problems placed before them and that no one of them had as yet received any fee whatsoever. Some bills have been submitted for compensation on an extremely reasonable basis for much less than the services would ordinarily be worth, but so far no payments have been received and it is very unlikely that much ever will be received on account.

There was considerable frank discussion of how the committee felt, stated first by Mr. Fuller and elaborated somewhat by Mr. O'Malley, with further comments by Mr. Dirksen and Chairman Sabath.

They had been of the opinion that Mr. Grimm was a member of the committee that they were after and they were very outspoken in their opinion that it was hardly proper for him to be appointed to a high post in the Administration while he and his associates were under investigation.

Mr. Morgenthau explained that he had been looking around for someone who was qualified to take over the contact work with Federal agencies that lend on real estate mortgages which had been

handled previously by Tom K. Smith and Marriner S. Eccles. He said that Mr. Grimm had been recommended to him by his Father, Mr. Morgenthau, Sr. and that his investigation seemed to show that Mr. Grimm was a man of ability and integrity.

Mr. Morgenthau said that if anyone was at fault it was himself for not having known of the investigation being conducted by the committee. He explained that there had been no contact of the Treasury with real estate mortgage bonds in default and that it had just escaped his attention that there was any such investigation under way. He made it clear that he had no intention of rebuffing the committee and that as a matter of fact he understood that their work had been extremely valuable.

After nearly two hours of discussion the members of the committee seemed satisfied with Mr. Grimm's explanation and Congressman Sabath issued to the press the release which follows:

The Select Committee to Investigate Real Estate Bondholders' Reorganizations, which expressed to the President doubt about the propriety of the appointment of Mr. Peter Grimm, of New York, to a position as Assistant to the Secretary of the Treasury at a time when the Select Committee was investigating real estate reorganizations in New York City, has held an exhaustive discussion with Secretary Morgenthau and Mr. Grimm and has concluded that there has been nothing improper in his activities or anything to conflict with the public service which he is expected to render.

The Select Committee feels also that while Mr. Grimm is identified with the Government, his services will be available to the Committee in its further investigation of bondholders protective organizations.

July 16th

85

Miss Roche came in to see Mr. Morgenthau and told him that she does not want Bill Wright. She feels that she does not need him.

Mr. Morgenthau told her that he will take Wright as he has other important work to give a capable man such as Bill Wright is. However, he told Miss Roche that if Bill Wright leaves he will hold her personally responsible for the Youth Movement and he told her very definitely that he cannot have an Assistant Secretary of the Treasury that is a failure and if the Youth Movement is not run properly he will hold her personally responsible.

Mr. LeRoy Barton visited the new building for Federal Courts in New York City for the purpose of determining the status of the construction and the practicability of completion by October 1st. His report is attached herewith. After discussion this morning between Mr. Barton, Admiral Peoples and the Secretary, Mr. Morgenthau decided to let the painting and plastering go until next summer and in that way make it possible for occupancy by November 1st.



## TREASURY DEPARTMENT

86

WASHINGTON

PROCUREMENT DIVISION  
PUBLIC WORKS BRANCH

IN REPLYING QUOTE THE ABOVE SUB-  
JECT, BUILDING, AND THESE LETTERS PW-

July 15, 1935.

Hon. Henry Morgenthau, Jr.,  
Secretary of the Treasury,  
Washington, D. C.

My dear Mr. Secretary:

Complying with verbal instructions of the Director of Procurement, I visited the new building for the Federal Courts in New York City on July 11th and 12th for the purpose of determining the status of the construction and the practicability of completion by October 1st.

The District Engineer and the Construction Engineer accompanied me during the inspection of the building and were present at all subsequent conferences. In addition to the government representatives, the following were present at conferences on both days: Messrs. Gilbert (Architect of the building), Peabody (representing the general contractor), Jensen (contractor's superintendent), and a number of assistants to these gentlemen. A visit was made at the contractor's office where the status of the work was discussed with Mr. Watts, Vice-President and Mr. Wilson, engineer of the Stewart Company.

A floor by floor inspection was made of the thirty-one stories and the stage of completion of each trade was noted. With the exception of the plastering and the marble setting, and the work of the trades which must follow these, the progress was satisfactory. Instructions were given to expedite the work of the two trades which are delaying progress. In general the percentage of completion conforms closely with the Construction Engineer's report for the month ending June 30th (exhibit "A" herewith) which indicates actual completion of 90% with a normal of 97%.

The exterior of the building is structurally completed but final cleaning down is held up pending the removal of the hoist and the rubbish chute still required for interior operations. The sidewalk and approach work has not been commenced. The most serious delay in the completion of the exterior is the stone carving being executed under an independent contract which, after considerable delay in starting, has been at a standstill since the first of May due to a strike of the stone carvers. I am informed that this labor situation will be settled within a week by the Department of Labor where the matter was submitted for adjudication. The completion of this carving will take from five to six months during which time a large amount of unsightly scaffolding must remain in place and there will be considerable annoyance due to noise and debris.

The lack of progress in the plastering is due, primarily, to modifications in the plans and to delays in taking action on these changes. Some of these modifications affect large areas, such as the court rooms, the space to be occupied by the Referees in Bankruptcy, the entire sixth floor area, etc. In some instances the delay has been due to revisions by the Department of Justice, in others to extravagant proposals from the contractor, to delay in acting upon proposals, and to limited funds with which to complete the building.

Corrective action has been taken and a majority of the major modifications are settled. There are pending at this time a number of minor alterations proposed by the Judges and others through the Department of Justice which, if carried out, will not only delay the work but will require a further adjustment of the financial reservations for completing the building. Before departing for New York I visited the Department of Justice and was able to eliminate a few of the items and I believe further eliminations and reconsideration is necessary if prompt occupancy is to be obtained.

The contract time for completion was 720 days but due to unavoidable delay in issuing notice to proceed and to subsequent deductions and extensions the present authorized date of completion is August 18, 1935 as indicated by attached memorandum (exhibit "B"). It is noted that the contractor has submitted requests for additional extensions of 292 days which is greatly in excess of the amount which can be justified. The correct extension is in process of settlement.

In addition to the general construction contract, there are independent contracts for elevators, the stone carving previously mentioned, and there will be other contracts for lighting fixtures and painting. The status of the existing independent contracts are indicated by the attached progress reports for June (exhibits "C" and "D"). At the present time only one elevator is in operation, temporarily equipped for construction purposes. Work is progressing on the remainder, but the Otis Elevator Company advise that it will require at least four months to complete their work. I believe it will be possible to reduce this time by concentrating on a part of the elevator installation so that partial operation can be obtained. The stone carving contract presents a difficult situation involving a low bid, an argumentative contractor, and a labor hold up. When the last named difficulty is settled it will be necessary to apply considerable pressure on the contractor to assure completion.

The commercial lighting fixtures for the office spaces can be secured promptly. The special fixtures for the Court Rooms and other principal areas are being designed by the Architect and Mr. Gilbert informs me the drawings and specifications will be submitted this week. Three months will be required for bids and manufacturing.

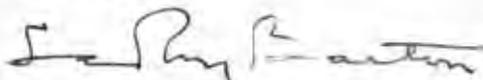
The painting of plaster surfaces is generally omitted until the building is occupied and is then done under a separate contract. I am informed that the Department of Justice will request painting before occupancy. If this is to be done, I recommend that a proposal be obtained from the general contractor and that the work be commenced as soon as practicable. It will require at least

two months' time and would probably delay occupancy less than one month if executed in this manner. If let as a separate contract it would delay occupancy about two and one-half months.

The consensus of opinion developed during the inspection of the building and at conference is that the major portion of the building can be occupied on October 1, 1935 if the painting of plaster surfaces is excluded. The spaces where completion appears to be impracticable on this date are the Court Rooms, and spaces where modifications affecting the plastering are pending. The contractor submits the attached letter of July 12th as an expression of opinion. I believe that occupancy to the extent outlined is possible on October 1st and that, provided additional modifications are eliminated, it will be to the contractor's advantage to expedite completion. Modifications afford an opportunity for excessive proposals which result in delays and extensions of time. Changes should be withheld, if possible, until after the completion of this contract.

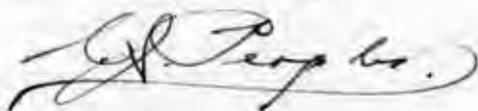
If the building is occupied October 1st it will be necessary to forego the plaster painting and the immediate use of the Court Rooms. It will also be necessary for the occupants of adjacent office space to suffer the inconvenience caused by the stone carving on three sides of the lower stories.

Respectfully,



LeRoy Barton  
Assistant to the Secretary  
of the Treasury.

*Action to be taken  
as recommended:*



July 17, 1935.

At 10:00 A.M., prior to Mr. Morgenthau's appearance as a witness before the Senate Banking and Currency Committee on the proposed joint resolution to bar suits against the Government on Gold Clause obligations, a group met in the office of Senator Fletcher of Florida to hold a preliminary discussion on that matter.

Those present were:

- Senator Fletcher of Florida,
- Senator Costigan of Colorado,
- Senator Bankhead of Alabama,
- Senator Radcliffe of Maryland,
- Secretary Morgenthau,
- T.J. Coolidge,
- Herman Oliphant,
- Herbert E. Gaston,
- Solicitor General Stanley Reed,
- Assistant Solicitor General McLane,
- Mrs. H.S. Klotz,
- C.B. Upham.

There was some discussion of the questions which might be asked the Secretary in the committee hearing, most of them of a legal nature and which it was agreed could be referred for the most part to the Attorney General who was to be present at the committee hearing.

Some questions were asked about changes in the cost of living over recent months.

At 10:30 the members of the group adjourned to the committee

room where the formal hearing took place.

July 15th

91

HEARINGS UP TO DATE ON THE GOLD CLAUSE CASE

**GOLD-CLAUSE SECURITIES OF THE  
UNITED STATES**

---

---

**HEARING**

BEFORE THE

**COMMITTEE ON BANKING AND CURRENCY  
UNITED STATES SENATE**

**SEVENTY-FOURTH CONGRESS**

**FIRST SESSION**

ON

**S. J. Res. 155**

**A BILL AUTHORIZING EXCHANGE OF CERTAIN SECURITIES, COINS, AND CURRENCIES OF THE UNITED STATES; WITHDRAWING THE RIGHT TO SUE THE UNITED STATES ON ITS BONDS AND OTHER SIMILAR OBLIGATIONS; LIMITING THE USE OF CERTAIN APPROPRIATIONS; AND FOR OTHER PURPOSES**

**JULY 11, 12, AND 15, 1935**

**(PART I)**

Printed for the use of the Committee on Banking and Currency



UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1935

UNITED STATES  
GOLD-CLAUSE SECURITIES OF THE

HEARING

COMMITTEE ON BANKING AND CURRENCY  
SEVENTY-FOURTH CONGRESS

COMMITTEE ON BANKING AND CURRENCY

DUNCAN U. FLETCHER, Florida, Chairman

CARTER GLASS, Virginia  
ROBERT F. WAGNER, New York  
ALBEN W. BARKLEY, Kentucky  
ROBERT J. BULKLEY, Ohio  
THOMAS P. GORE, Oklahoma  
EDWARD P. COSTIGAN, Colorado  
ROBERT R. REYNOLDS, North Carolina  
JAMES F. BYRNES, South Carolina  
JOHN H. BANKHEAD, Alabama  
WILLIAM GIBBS McADOO, California  
ALVA B. ADAMS, Colorado  
FRANCIS T. MALONEY, Connecticut  
GEORGE L. RADCLIFFE, Maryland

PETER NOBDECK, South Dakota  
JOHN O. TOWNSEND, Jr., Delaware  
ROBERT D. CAREY, Wyoming  
JAMES COUZENS, Michigan  
FREDERICK STEIWER, Oregon

WILLIAM E. HILL, Clerk  
R. H. SPARKMAN, Acting Clerk

U. S. GOVERNMENT PRINTING OFFICE  
1935



U. S. GOVERNMENT PRINTING OFFICE  
1935

UNITED STATES GOVERNMENT  
GOLD-CLAUSE SECURITIES OF THE

HEARING

COMMITTEE ON BANKING AND CURRENCY

CONTENTS

Statement of—	Page
Hon. Homer S. Cummings, Attorney General of the United States, Washington, D. C.	3
Hon. Stanley F. Reed, Solicitor General of the United States, Washington, D. C.	25

iii

WITHDRAWING THE RIGHT TO SUE THE UNITED STATES  
ON ITS BONDS AND OTHER SIMILAR OBLIGATIONS

THURSDAY, JULY 11, 1935

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

The committee met, pursuant to call, at 10:30 a. m., in room 301 Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Glass, Barkley, Bulkley, Gore, Costigan, McAdoo, Adams, Maloney, Norbeck, Townsend, and Steiwer.

The CHAIRMAN. The committee will please come to order. We have for consideration this morning Senate Joint Resolution No. 155, which will be made a part of the record.

[S. J. Res. 155, 74th Cong., 1st sess.]

JOINT RESOLUTION Authorizing exchange of certain securities, coins, and currencies of the United States; withdrawing the right to sue the United States on its bonds and other similar obligations; limiting the use of certain appropriations; and for other purposes

Whereas, in order to maintain the uniform value of all coins and currencies of the United States, Public Resolution Numbered 10 of June 5, 1933, declared provisions known as "gold clauses" to be against public policy, prohibited their use in obligations thereafter incurred, and provided that money of the United States legal tender for obligations generally was legal tender for all obligations with or without gold clauses; and

Whereas the unmatured security issues of the United States are domestic issues offered to the people of the United States, payable only in the United States and in the money of the United States, and underlie our national monetary system and credit structure, with the result that disparity in these security issues or in our coins and currencies would undermine that system and structure; and

Whereas the United States has paid and will continue to pay to the holders of all its securities their principal and interest, dollar for dollar, in money of the United States; has maintained and will continue to maintain the parity of all forms of such money; and has thus afforded and will continue to afford full security and strict equality of advantage to all holders of its money and securities; and

Whereas no holder of any of the money or securities of the United States has suffered any damage because of the measures heretofore taken to maintain such security and equality of advantage; and any speculative holding of or dealing in the money or securities of the United States to take advantage of the Government's fixed policy to continue such certain and uniform treatment is incompatible with the public interest: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the owners of the gold-clause securities of the United States shall be entitled to exchange them for new securities of the United States of the same denominations and with the same terms and conditions but without gold clause; or, at the election of the owners, to receive immediate payment of the stated dollar amount thereof with interest to the date of payment or to prior maturity. The holders of the coins or currencies of the United States shall be entitled to exchange them, dollar for dollar, for other coins or currencies, legal tender for public and private debts. The Secretary of the Treasury is

authorized and directed to make such exchanges and payments upon presentation hereunder in the manner provided in regulations prescribed by him. The period within which the owners of gold-clause securities shall be entitled hereunder to receive payment prior to maturity shall expire September 1, 1935, unless extended from time to time by the Secretary of the Treasury.

Sec. 3. Any consent which the United States may have given to the assertion against itself of any right, privilege, or power, whether by way of suit, counterclaim, set-off, recoupment, or other affirmative action or defense in its own name or in the name of any of its officers, agents, agencies, or instrumentalities in any proceeding of any nature whatsoever, presently or hereafter commenced, upon any bond, note, certificate of indebtedness, Treasury bill, or other similar obligation for the repayment of money, made, issued, or guaranteed by the United States or upon any coin or currency of the United States or upon any claim or demand arising out of any surrender, requisition, seizure, or acquisition of any such coin or currency or of any gold or silver bullion, is withdrawn.

Sec. 5. No sums, whether heretofore or hereafter appropriated or authorized to be expended, shall be available for, or expended in, payment upon securities, coins, or currencies of the United States except on an equal and uniform dollar-bullion basis.

Sec. 4. As used in this resolution the phrase "gold clause" means a provision contained in or made with respect to an obligation payable in money of the United States which purports to give the obligee a right to require payment in gold, or in a particular kind of coin or currency of the United States, or in an amount in money of the United States measured thereby, declared to be against public policy by Public Resolution Numbered 10 of June 5, 1933; and the phrase "securities of the United States" means the domestic public-debt obligations of the United States, including bonds, notes, certificates of indebtedness, and Treasury bills.

The CHAIRMAN. I think it might be well at this point to place in the record of our hearing the message of the President of the United States:

*To the Congress of the United States:*

Before the termination of this session of the Congress, I believe that it is important that definite action be taken to eliminate any uncertainty with respect to the right of holders of gold-clause bonds of the Government to sue for payment either in gold or else in legal tender with an additional sum of 69 cents on every dollar.

To this end, I urge the withdrawal by the United States of its consent to be sued upon its currency or securities. The question of the effect of the so-called "gold clause", in the light of the monetary legislation of the Seventy-third Congress, came before the Supreme Court at the term just closed. A suit for additional payment under existing circumstances, the Court said, would "constitute not a recoupment of loss in any proper sense but an unjustified enrichment." Bonds of the United States containing gold clauses—all of them issued, sold, and payable wholly within the United States—have been continuously quoted on the exchanges at no higher prices than bonds not containing such clauses. But the continuing possibility of actions by litigious persons leaves open the continuing possibility of speculation. There is no public interest, under these conditions, in permitting a handful of private litigants to exploit the general public in the hope of a wholly speculative private profit.

This conclusion will hold so long as the Congress adheres to its declared policy, now more than a third of a century old, to maintain the equal value of every dollar in the market.

I recommend, therefore, the enactment of legislation which will make clear that it is our fixed policy to continue to treat the bondholders of all our securities equally and uniformly, to afford any holder of any gold-clause security, who thinks he could by any possibility sustain any loss in the future, an opportunity to put himself immediately in a position to avoid such future loss, and to remove all possibility of any suits designed to hamper the Government in administering the public debt and in financing its ordinary and emergency expenditures.

More specifically, I recommend the immediate enactment of legislation (1) that will authorize and direct the Secretary of the Treasury, at the request of the holders of gold-clause securities of the United States, to make payment therefor in cash, dollar for dollar, with accrued interest, or at the holder's election, to exchange such securities for non-gold-clause securities with the same interest

rate and maturity; (2) that will terminate any consent which the United States may have voluntarily given to be sued on its securities, coins or currencies; and (3) that will reaffirm the fixed policy of the United States to make payment to all holders of its securities, coins, and currencies on an equal and uniform dollar-for-dollar basis and will make appropriations available for payments on this basis and on this basis only.

There is no constitutional or inherent right to sue the Government; on the contrary, the immunity of the sovereign from suit is a principle of universal acceptance, and permission to bring such suits is an act of grace, which, with us, may be granted or withheld by the Congress. The courts, it is hardly necessary for me to add, will always be open to those who seek justice, but they were not established for use by a few to enrich themselves at the expense of the many, nor to enable a few to harass and embarrass sovereign action by the Government when taken for the benefit of all.

Not only justice to the holders of our currency and of our securities who support and rely on our policy of equal and uniform treatment to all, but also the interests of our entire people require that the Government of the United States make it clear that it cannot and will not consent to the use of its courts in aid of efforts to sabotage the operations of Government or in aid of private speculation.

This proposal reasserts and makes definite the control of the Congress over the securities and money issued by the United States of America.

FRANKLIN D. ROOSEVELT.

The WHITE HOUSE,  
June 27, 1935.

The CHAIRMAN. The Attorney General and the Solicitor General are present. We will be glad to hear from you now, Mr. Attorney General, on this joint resolution.

#### STATEMENT OF HON. HOMER S. CUMMINGS, ATTORNEY GENERAL OF THE UNITED STATES, WASHINGTON, D. C.

Attorney General CUMMINGS. Mr. Chairman and members of the committee: I assume we are discussing this morning Senate Joint Resolution No. 155. I have not very much to say about it, Mr. Chairman, but I suppose the first inquiry has to do with the legality, the constitutionality, and the legal basis of the proposed resolution.

Senator ADAMS. Is the morality of it open for discussion?

Attorney General CUMMINGS. The morality of it is involved as a matter of policy if the committee desires to consider it. But I should say, Senator Adams, that the first question is the legal question, and I cannot discuss everything at once. As to the—

Senator BARELEY (interposing). I take it that is where you differ from the members of the Senate.

Attorney General CUMMINGS. I will leave that for the Senator to say.

Senator McADOO. But you agree with that statement?

Attorney General CUMMINGS. I have not so stated.

The CHAIRMAN. You may proceed with your statement, Mr. Attorney General.

Attorney General CUMMINGS. As I have already indicated we have first of all the legal question. You have just placed in the record of the hearing the President's message on the subject. In this message the President sets forth quite succinctly the reasons for the enactment of the resolution, and, among other things, he used this language:

There is no constitutional or inherent right to sue the Government; on the contrary, the immunity of the sovereign from suit is a principle of universal acceptance, and permission to bring such suits is an act of grace, which, with us, may be granted or withheld by the Congress.

Now, to that proposition I take it there is no substantial dissent, in fact no dissent that I am aware of on legal grounds. This principle of immunity of the sovereign from suit, except with its own consent, was reaffirmed by the Supreme Court in the recent case of *Lynch v. United States* (292 U. S. 571), and in that case in the opinion written by Mr. Justice Brandeis—

Senator GORE (interposing). What case was that?

Attorney General CUMMINGS. I did not get your question, Senator Gore.

Senator STEWART. He referred to the case of *Lynch v. United States*, Senator Gore, being the insurance case.

Senator GORE. All right.

Attorney General CUMMINGS. In that case Mr. Justice Brandeis said:

Although consent to sue was thus given when the policy issued, Congress retained power to withdraw the consent at any time. For consent to sue the United States is a privilege accorded; not the grant of a property right protected by the fifth amendment. The consent may be withdrawn, although given after much deliberation and for a pecuniary consideration.

And then he cited a large number of pertinent cases: *DeGroot v. United States* (5 Wall. 419, 432). Compare *Darrington v. State Bank* (13 How. 12, 17); *Beers v. Arkansas* (20 How. 527-529); *Gordon v. United States* (7 Wall. 188, 195); *Railroad Co. v. Tennessee* (101 U. S. 337); *Railroad Co. v. Alabama* (101 U. S. 832); *In re Ayers* (123 U. S. 443, 505); *Hans v. Louisiana* (134 U. S. 1, 17); *Baltzer v. North Carolina* (161 U. S. 240); *Baltzer & Teaks v. North Carolina* (161 U. S. 246).

I will continue reading from Mr. Justice Brandeis' opinion:

The sovereign's immunity from suit exists whatever the character of the proceeding or the source of the right sought to be enforced. It applies alike to causes of action arising under acts of Congress.

And there again he cites a number of cases: *DeGroot v. United States* (5 Wall. 419, 431); *United States v. Babcock* (259 U. S. 328, 331).

I continue quoting from his opinion:

and to those arising from some violation of rights conferred upon the citizen by the Constitution, *Schillinger v. United States* (155 U. S. 163, 166, 168). The character of the cause of action—the fact that it is in contract as distinguished from tort—may be important in determining (as under the Tucker Act) whether consent to sue was given. Otherwise, it is of no significance. For immunity from suit is an attribute of sovereignty which may not be bartered away.

At the point I just read:

the fact that it is in contract as distinguished from tort—

Mr. Justice Brandeis was referring of course to the form of action.

Now, this decision was by the unanimous court and is determinative of the legal questions involved. I think, however, it is worth while to advert to two other cases.

In *Beers v. State of Arkansas* (20 How. 527, 529), Mr. Chief Justice Taney, in delivering the opinion of the Court, used this language:

It is an established principle of jurisprudence in all civilized nations that the sovereign cannot be sued in its own courts, or in any other, without its consent and permission; but it may, if it thinks proper, waive this privilege, and permit itself to be made a defendant in a suit by individuals, or by another State. And as this permission is altogether voluntary on the part of the sovereign, it follows

that it may prescribe the terms and conditions on which it consents to be sued, and the manner in which the suit shall be conducted, and may withdraw its consent whenever it may suppose that justice to the public requires it.

That is the end of that quotation. And in *DeGroot v. United States* (5 Wall. 419), in a *Court of Claims* case, the Supreme Court, at page 432, used this language:

It is true that ordinarily, when we seek for the foundation of this jurisdiction, we look to the general laws creating the court, and defining causes of which it may have cognizance. But it is equally true that whenever Congress chooses to withdraw from that jurisdiction any class of cases which had before been committed to its control, as it has done more than once, it has the power to do so, or to prescribe the rule by which such cases may be determined. Its right to do this in regard to any particular case, as well as to a class of cases, must rest on the same foundation; and no reason can be perceived why Congress may not at any time withdraw a particular case from the cognizance of that court, or prescribe in such case the circumstances under which alone the court may render a judgment against the government.

That is the end of that quotation. Now, in the recent case of *Perry v. United States*, which was one of the gold clause cases, decided on the 18th of February of this year, Mr. Justice Stone, in a concurring opinion used this language which is pertinent to our present discussion:

In this posture of the case it is unnecessary, and I think undesirable, for the court to undertake to say that the obligation of the gold clause in Government bonds is greater than in the bonds of private individuals, or that in some situation not described, and in some manner and in some measure undefined, it has imposed restrictions upon the future exercise of the power to regulate the currency. I am not persuaded that we should needlessly intimate any opinion which implies that the obligation may so operate, for example, as to interpose a serious obstacle to the adoption of measures for stabilization of the dollar, should Congress think it wise to accomplish that purpose by resumption of gold payments, in dollars of the present or any other gold content less than that specified in the gold clause, and by the reestablishment of a free market for gold and its free exportation.

There is no occasion now to resolve doubts, which I entertain, with respect to these questions. At present they are academic. Concededly they may be transferred wholly to the realm of speculation by the exercise of the undoubted power of the Government to withdraw the privilege of suit upon its gold clause obligations.

Senator GLASS. Did any of the other Justices concur in that opinion?

Attorney General CUMMINGS. No. This was Mr. Justice Stone's concurring opinion.

Senator GLASS. As I understand it, he agreed in the conclusion, but no other Justice concurred with him in his statement.

Attorney General CUMMINGS. Do you mean in this particular language?

Senator GLASS. Yes.

Attorney General CUMMINGS. No. He was the one that wrote this language that I have just read. But about the conclusion that he reached I make no doubt whatsoever. I do not think that the legal aspects of the matter need occupy very much time. Congress has in my judgment the undoubted power to enact the proposed resolution.

Senator McADOO. I take it as to the legal question involved here the position you take is entirely sound, but has it not been the policy of our Government always to give the right to sue the Government in event—

Senator GORE (interposing). Will you talk a little louder? I cannot hear you.

Senator McADOO. I am stating to the Attorney General that I think the legal position he takes is entirely sound, and that I think all lawyers agree with that position, but I am asking him if it has not been the uniform policy of this Government to permit suits to be brought by its citizens, I mean generally.

Senator GORE. Yes; for breach of contracts.

The CHAIRMAN. Do you mean by special acts of Congress?

Senator McADOO. No. I mean that it has been the general policy of the Government as the result of legislation from time to time to permit the Government to be sued in the Court of Claims.

Senator GLASS. Well, do all lawyers concur in the proposition that the essential element of sovereignty is the right to repudiate contracts and avoid the payment of just claims?

Senator McADOO. Senator Glass, would you mind my getting an answer to the question I propounded to the Attorney General?

Senator GLASS. Certainly not.

Senator McADOO. Would you mind answering that question, Mr. Attorney General?

Attorney General CUMMINGS. Senator McAdoo, as I see it it would be difficult to assert that there is now or has been any continuous, uninterrupted governmental practice in the matter to which you refer. Now, I say that for several reasons: In the first place, the very provision of the law which this proposed resolution deals with did not become a part of our law until 1863 or 1867—which was it, Mr. Reed?

Solicitor General REED. It was in 1867.

Attorney General CUMMINGS. It was along in there sometime. In other words the statute which now confronts us and which this resolution is supposed to deal with was not a part of the law of the land until the date or thereabouts which I have mentioned. Moreover, the resolution that is suggested here for passage is not a complete withdrawal of the right to sue the Government; it is a complete withdrawal of the right to sue the Government on the Government's obligations and currency. It does not impair the right to sue—and when I say the "right" of course I misspeak myself and mean the privilege to sue on other claims against the United States of a contractual nature.

There is no "right" to sue the Government. It is a privilege, an act of grace, and that is the way it is regarded by the courts. But that privilege is not impaired or cut off or withdrawn by this proposed enactment except insofar as it relates to governmental obligations, currency, coins, gold bonds of the Government.

Senator GORE. Then I take it you do not think it would be desirable at this time to make it universal, so that they could not sue the Government for anything, is that it?

Attorney General CUMMINGS. No; because there is a distinct difference in the principle involved. The Government manifestly, when acting in a proprietary capacity, deals with its citizens as ordinary contractors do and is subject in justice to the same general regulations and the control of the courts over the matter. But when it comes to the coin, the currency, to the obligations of the Government itself, it is thought by many people, to put it conservatively, that it is an anomaly for the Government to set up a court and sustain a court for the purpose of permitting people to sue the Government itself on its own obligations. That is in essence an impairment of the sovereign

right to deal with the currency of the country as the Congress sees fit to deal with it.

Senator McADOO. Conceding that point for the moment, is it not the inevitable conclusion that no Government obligation would be of any value whatever so long as the Government could by the passage of an act prevent one of the parties to a contract from asserting any rights against the Government?

Attorney General CUMMINGS. Well, of course, that, if I may say so, begs the question. The question is whether a great government, acting presumably in the interest of all the people, may if it sees fit adopt a certain policy with regard to its currency. Can that policy be harassed or frustrated, or can people be allowed to attempt to sue in court, in a court set up by the Government itself, because I can conceive of no power of a sovereign character more essential than control over the currency, which is confided to the Congress by the Constitution.

Senator McADOO. Well, I do not think there is any difference of opinion about that. But the point as it seems to me is this: The Government in its sovereign capacity issues its obligations payable in coin. It is not required to do that as a matter of policy, but it does require that it be done, and the citizen buys its bonds—I speak of bonds for the moment—and the citizen buys bonds upon the Government's express promise to pay in gold. Now, if by law that can be nullified, by the refusal on the part of the Government which issued the obligations, to pay in gold, and then if you deny to the citizen the right to sue the Government in court for injury arising therefrom, then I should say that the promise in the beginning is of no value.

Attorney General CUMMINGS. It is perfectly all right for you to work it out that way if you want to.

Senator McADOO. Well, isn't that the inevitable conclusion to be drawn?

Senator BULKLEY. Let me ask you a question this way: Suppose we now want to make a binding promise with respect to borrowing some new money, is there any way by which it is competent for the Congress, and the whole Government for that matter, to make a promise that will be binding and not subject to be nullified by a subsequent Congress?

Attorney General CUMMINGS. Now, there is involved a question of policy immediately.

Senator BULKLEY. No; it is a question of law. Can we make a promise that will be binding if any subsequent Congress can come along and repudiate it?

Attorney General CUMMINGS. In other words, if I get your question right, is it so that the machinery exists for compelling the Congress to keep its promises?

Senator BULKLEY. Is it so that the Congress can make any contract or any promise to the citizens of the United States that will be binding if a subsequent Congress wants to come along and butt it over? Is it possible for us to draw language in such a way that a promise will be binding?

Senator McADOO. In other words, can the Government make a contract that it will be required to perform?

Senator GORE. Yes; can it make a contract that it cannot break, or at least that will not be rendered worthless?

Attorney General CUMMINGS, I beg pardon, but I did not get that question.

Senator GORE. Go ahead. Never mind.

Attorney General CUMMINGS. The difficulty that appears to give you some trouble is inherent in the situation. The Government ultimately, if you want to bring the thing down to the ultimate obligation, does not yield to execution on any judgment. For instance take even under the present situation, if the Congress should decline to pass an appropriation to pay a judgment rendered in the Court of Claims there is no way by which the person who recovered the judgment could collect on it.

Senator BULKLEY. But that would be a very unusual thing.

Attorney General CUMMINGS. No. It has been done.

Senator BULKLEY. I know that it has been done, but it is very unusual to say the least.

Attorney General CUMMINGS. It has been done many times. And I might call attention to this, that in the Court of Claims Act itself Congress withheld the right, if you will read the act that we are talking about, to sue on war claims between the States. It is contained right in the act itself. It withdrew a part of that right.

Senator BULKLEY. But let me ask you this question right there: Is there any precedent for a refusal to pay an obligation of the United States Government based on the borrowing of money?

Attorney General CUMMINGS. Well, I do not know of any. There is the clause in section 154, title 26, United States Code, in which this provision appears:

No suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court.

That is the exact language, I think.

Senator GORE. Yes; but there is an exception to that. In the *Board of Trade* case they held that that did not prevent a suit of that character. They made that ruling point-blank on the ground of the peculiar circumstances of that case.

Attorney General CUMMINGS. Well, I should rather look at the case again to which you refer, but I think that it does not apply in the face of the right of Congress to withdraw the right to be sued.

Senator GORE. I did not have that thought.

Attorney General CUMMINGS. All right.

Senator BULKLEY. That is quite different from the express obligation of the United States contained in a bond.

Senator McADOO. The point I am concerned with is the effect upon the credit of the United States.

Attorney General CUMMINGS. Will you just let me answer Senator Bulkley at this point?

Senator McADOO. All right.

Attorney General CUMMINGS. No bond issued by a government is binding upon a government that declines to permit execution on the bond. That is inherent in the situation.

Senator BULKLEY. What you mean then, I take it, is that repudiation is the inherent right of any sovereign government. That is admitted, but I also understand that you are distinguishing this from repudiation.

Attorney General CUMMINGS. Oh! If you want to go into the realm of whether this law is equitable and fair and comports with the

interests of the American people, about that I entertain no doubt. I am strongly persuaded of that. But there is a strong difference of opinion on that, I understand.

Senator BULKLEY. I would be inclined to agree with you on that; but am trying to find out whether there is any way by which we can avoid what seems to me is to be characterized only by repudiation of these claims, that we can write a bond that will be good in the future.

Attorney General CUMMINGS. Well, the Government has never had any difficulty that I know of, and has none now, in offering its bonds to the public.

Senator BULKLEY. Well, the Government has never done such a thing as this, and as to whether they will have any difficulty in offering bonds in the future might be a matter of difference of opinion.

The CHAIRMAN. Is not Senator Bulkley's question somewhat answered by reference to the constitutional provision that Congress has the right to coin money and regulate the value thereof? This resolution ought to be confined to the currency question, it seems to me, and Congress has the power to regulate the value of money.

Senator BULKLEY. Of course that would be true.

The CHAIRMAN. We cannot make it binding upon another Congress. If one Congress decides upon a policy with reference to the value of money, another Congress might come along and adopt a different policy.

Senator BULKLEY. There is no doubt about that. And there is no doubt that if bonds were payable in dollars the whole thing would be resolved. But instead of authorizing them to be paid off in dollars the Congress saw fit to direct the Secretary of the Treasury to write into the bonds that they would be paid in dollars of a certain standard of weight and fineness of gold.

Senator GORE. It seems to me there are two points here. While Senator Bulkley answered Senator Fletcher's question correctly, and there is no question that one Congress cannot bind another Congress as to its power to regulate the value of money, yet there is a very different question, relating to future acts of Congress in regard to the value of money; that is, it is a very different question from the Government breaking its own faith and failing to keep its word with reference to the basis of its contracts.

Senator BULKLEY. That is precisely my point.

Senator GORE. The two points ought to be kept separated.

Attorney General CUMMINGS. Of course you can have all this discussion pro and con as a part of the resolution that was passed on the 5th of June, but for my purposes here it is apparently irrelevant as that is water over the dam. The Government of the United States embarked on a certain policy, beginning shortly after the 4th of March 1933, and running through a series of enactments over a period of about 11 months, in which the whole financial structure of our Government was changed, passing from a gold coin basis to a gold bullion basis, and sweeping into the Treasury of the Government of the United States the available gold, checking gold hoarding, rehabilitating the bank situation, and as I see it saving the country from complete chaos.

Now, having embarked upon that policy, the right or wrong of which was abundantly debated by very able people, and that argument I do not care to go into although I have very strong views of

my own on the subject, but that is not my function here; but having committed ourselves to that policy I take it that no one would dare to suggest, or wish to suggest, that it be reversed, and this proposed resolution is the legitimate, inevitable, logical outcome of it.

Senator BULKLEY. Might I suggest to you right here that I was one of the earliest proponents of gold devaluation and urged that policy, but was obliged to vote against the resolution because it undertook to repudiate specific obligations of the United States.

Attorney General CUMMINGS. Very well; but I claim that—

Senator BULKLEY (continuing). I considered that no part of the policy at all.

Attorney General CUMMINGS. My point is that Congress thought otherwise.

Senator BULKLEY. And of course if it were all done you would not have to be here now asking for more legislation.

Attorney General CUMMINGS. Certainly not.

Senator BULKLEY. Then it is not all done.

Attorney General CUMMINGS. This is tying up the frayed edge.

Senator BULKLEY. It has a very much frayed edge, I fear.

Senator GORE. What was that? I did not catch that question.

Senator BULKLEY. It is a very much frayed edge, I fear.

Senator McADOO. I am interested in getting into the record and I should like to ask if you will prepare and insert in, it as an appendix to your remarks, the history of the policy of this Government with respect to permission to sue in the Court of Claims, and containing also a statement of the effect of this legislation. Will you not also show in this statement the specific differences between existing legislation and this legislation, which would prevent the holder of a Government bond from suing in the Court of Claims for any injury or damage he may have sustained resulting from a failure of the Government to perform its obligations. Now, I concede that it is a question of policy for the Congress to determine. I should like to know what the established policy of the Government has been heretofore and the extent to which we are departing from it.

Attorney General CUMMINGS. All right, I will—

Senator McADOO (continuing). And in connection with that I want to say this: What I am chiefly concerned about is the credit of the United States. It has been stated that we are selling bonds right along, and I am not going into that question for I do not think it is material to the issue whether we are selling them right along or not, but I do want to know the effect upon the credit of the United States in the future if we take this course. If we not only say we will not pay, as the Government undertook to pay the bonds issued in pursuance of law, and then after refusing to pay, deny a citizen the right to sue in the Court of Claims, it seems to me we have deliberately adopted a policy of repudiation of Government obligations. I am concerned about the credit of the Government in the future because of that.

Attorney General CUMMINGS. Well, you have made a statement, Senator McAdoo, which undoubtedly reflects your viewpoint. But there is another viewpoint for it. I hardly think it my function here today to debate questions of policy involved in that matter, but I

do think I ought to call your attention to the aspect of the proposed resolution which perhaps is worthy of some consideration—

Senator McADOO (interposing). May I interrupt you to say that I am not asking you to debate the question of policy, because I think you are quite right that that is not your function. But the reason I want this historic information as to the policy of the Government with respect to suits in the Court of Claims is to enable us to determine how far we ought to depart from that policy, if at all.

Attorney General CUMMINGS. I shall be very glad to supply any information we can find on the subject. I have intimated that I do not think there was any settled policy one way or the other on the subject, but we will check up on the historical aspects of it and give you the benefit of any research we are able to make in the matter.

Senator BULKLEY. I happen to have here—

Attorney General CUMMINGS (continuing). Might I conclude what I started to say when this little discussion took place?

Senator BULKLEY. Certainly.

Attorney General CUMMINGS. The proposed resolution grows out of a situation in which we find ourselves, when the courts have said that no one had suffered any damage, up to date at least—

Senator GLASS (interposing). Did the Court say that?

Attorney General CUMMINGS. Yes.

Senator GLASS. The Court said this, that complainant had not demonstrated that he had suffered any damage.

Attorney General CUMMINGS. Yes; but—

Senator GORE (interposing). On that point let me say—

Attorney General CUMMINGS (continuing). Let me conclude my statement if I may.

Senator GORE. Certainly.

Attorney General CUMMINGS. It was very clearly held in the *Perry* case that the complainant in that case had not suffered damage, and the Court even went further and indicated that for the complainant to attempt to recover under the circumstances existing was to attempt to secure unjustified enrichment.

Senator GORE. Will you let me know, Mr. Attorney General, when I may ask you a question?

Attorney General CUMMINGS. All right. Now, therefore, we had a situation where no one had been hurt by the circumstances as of that date. This proposed resolution permits, if I recall its language correctly, any holder of any gold obligation whatsoever, up to a certain date, to turn in his gold obligation and get dollar for dollar for it in the currency of the country. In other words, he is not obliged to hold his gold obligation until it matures. He may turn it in for cash if he wants to at any time, up to a certain date.

Senator GORE. That is in the bill, but I have never been able to understand why any citizen would care to surrender a gold obligation and get one that is not a gold obligation, unless it is from a sense of humor.

Attorney General CUMMINGS. I am not sure of the language of this particular bill, but it is not suggested by the draftsman of this bill that the provision be retained which was in the original draft calling for the substitution of one form of bond for another. It is suggested that it be eliminated and nothing left in the bill on that subject except the right to exchange it for currency, for cash.

SENATOR GORE. Oh, for currency.

Attorney General CUMMINGS. And not for other bonds.

SENATOR GORE. Let me ask you this question, Mr. Attorney General: You say it is an accomplished fact that Congress passed that other law, whether we call it repudiation or not, and of course I do not mean to be offensive by that statement—

Attorney General CUMMINGS (interposing). I do not call it repudiation, but that statement does not hurt my feelings because words do not mean much anyway.

SENATOR GORE. Let us come down to this point, and the Court held as to those bonds that the obligation of the contract was still valid and that the act of Congress was void; and that it was a right without a remedy, that the obligation on the part of the Government could not be enforced. I want to offer an amendment to this bill providing that a person who feels himself aggrieved may file a petition duly verified alleging actual damages, and, then giving the court power to hear and determine as to the actual damages, and if they are proved to award damages. You would not have any objection to that, would you?

Attorney General CUMMINGS. I certainly would.

SENATOR GORE. Here is my point: I do not think it would involve many cases, I mean where the facts would bring them within that requirement. Now, this changes the character of the contract and the Government refuses to do what it promised to do. It is breaking its faith, breaking its word. You say the difference is that no damage has resulted?

Attorney General CUMMINGS. I am making no defense but am making the assertion that what the Government did was in the Government interest.

SENATOR GORE. Let us admit that, and cannot we arrange this so that if the Government breaks its word by its own act there can be some remedy. I want to offer this amendment because I hate to see the Government admit that it is dishonest.

Attorney General CUMMINGS. I would not want the Government to admit that it was going to be dishonest.

SENATOR GORE. And in order to avoid that I want to say that where a citizen of the United States buys a Government obligation and has actually been damaged, that the Government will keep the faith with its own citizens and will fulfill its promises.

Attorney General CUMMINGS. My answer to that is that the proper forum is the Congress itself and not the courts.

SENATOR GLASS. Is not the judiciary a part of the Government?

Attorney General CUMMINGS. It is a part of the Government but not a part of the Congress. The power over the currency of the Government is given to the Congress.

SENATOR GORE. I want the Congress to do that thing. I want to save our face.

Attorney General CUMMINGS. You do not need to save your face.

SENATOR GORE. I think we do. I do not want to admit that we are dishonest. Your whole defense is that it has not resulted in damage.

Attorney General CUMMINGS. Well, as to that—

SENATOR BARKLEY (interposing). That is what the Court held.

Attorney General CUMMINGS. Yes.

SENATOR GORE. Well, where there is no damage let us say that is all right, but where there is actual damage, what about that? Let us assume that it is all right where they held there was no actual damage that no remedy is necessary, but where there is actual damage let us hold the Government to making the damage good.

SENATOR BARKLEY. Where could any actual damage occur?

SENATOR GLASS. Did the Court hold that there was no damage or that the complainant had not shown he had suffered any damage?

SENATOR GORE. Well, I think the Court held he had not shown he had suffered any damage, but there was the intimation that generally speaking there would be no damage because they would get currency for the gold bond and currency was still passing at par. But there are conceivably cases that might occur where there would be damage. It may be academic but we should avoid a wrong and remedy an injury. The Government of the United States should not admit it is dishonest and should want to repair any actual damage done. Now, let it rely upon the defense or the observation or the boast if you please that there is no damage, but where there is damage then if they want to play the game fair let us hold them to answer if that sort of case ever arises. I can conceive of such a case. Now, what was your question, Senator Barkley?

SENATOR BARKLEY. I was not asking a question, but was going to read from the Court's decision. I will forego that, however.

SENATOR GORE. I can see such a case as this but would hope it would never arise: Suppose an American citizen had entered into a contract in England to pay \$100,000 in gold of the standard weight and fineness on a certain day, and had invested in gold bonds of the United States Government, drawing interest in the meantime, to have the money available when pay day should arrive. Now, when pay day comes and he sells his bonds, instead of being able to pay \$100,000 in gold as he had agreed, he can only pay \$60,000 in gold, and he has suffered a damage of \$40,000. I think the Government of the United States ought to say in that sort of case: This man has suffered actual damages and I will make it good and will keep my word with him. That is contained in the amendment I want to offer.

SENATOR BARKLEY. When it comes to the question of actual damage nobody can prove that he had been actually damaged by reason of the fluctuation in the value of any sort of dollar regardless of any content. There can be no damage done in my judgment with respect to the change in the basic content of this dollar that cannot be done with respect to the fluctuating value of any dollar ever coined in the United States.

SENATOR GORE. Oh, Senator Barkley, you cannot prove that.

SENATOR BARKLEY. There is a difference in the purchasing power of the dollar issued now as compared to the purchasing power of the dollar issued heretofore, but he has the dollar.

SENATOR GORE. As to any change in the price of commodities, that is affected by supply and demand and he has to take that risk.

SENATOR GLASS. Here is what the court said:

In the view that the facts alleged by the petition fail to show a cause of action for actual damages, the first question submitted by the Court of Claims is answered in the negative. It is not necessary to answer the second question.

Senator BARKLEY. But, Senator Glass, there is some more that goes before that.

Senator GLASS. That is the conclusion of the court.

Senator TOWNSEND. Mr. Attorney General, does this bill in any way relate to international stabilization of currency efforts?

Attorney General CUMMINGS. No; not that I see. I only say this, that under this bill the Government would be free to take any action it saw fit to take in the public interest without risk of being harassed by suits of individuals.

Senator TOWNSEND. But the Government would not be in that position without this bill.

Attorney General CUMMINGS. It might not. It is utterly impossible for me or any other human being to foresee all the ingenious claims that might be made from time to time by people. The really essential thing to be accomplished by this bill is that it frees the Government from limitation by the action of individuals in dealing with the currency of the Government itself. It reasserts and reestablishes the sovereign power of the Government over this essential matter. Now, if cases of inequality arise, the Congress always has the right to redress them if it sees fit. It does that over and over again in the case of private claims of one kind and another.

Senator BARKLEY. If I understand this resolution it is intended to prevent recovery from the Government on account of the change in the basis of the dollar.

Attorney General CUMMINGS. That is included.

Senator BARKLEY. Now, on that point I should like to read another sentence or two from the opinion of the Court in the *Perry case*. After discussing that whole situation it says:

On the contrary, in view of the adjustment of the internal economy to the single measure of value as established by the legislation of the Congress, and the universal availability and use throughout the country of the legal tender currency in meeting all engagements, the payment to the plaintiff of the amount which he demands would appear to constitute not a recoupment of loss in any proper sense but an unjustified enrichment.

Plaintiff seeks to make his case solely upon the theory that by reason of the change in the weight of the dollar he is entitled to one dollar and sixty-nine cents in the present currency for every dollar promised by the bond, regardless of any actual loss he has suffered with respect to any transaction in which his dollar may be used. We think that position is untenable.

In other words, the Court holds that the holder of this bond, or of any other obligation of the United States, cannot go in and recover the difference between the value of the gold that was in the previous dollar as compared to what is in the present dollar because that would be constituting damages which would be an unjust enrichment based upon the acceptability and interchangeability of the dollars now in circulation in payment of all obligations as compared with its interchangeability in regard to the same thing previous to the enactment of this legislation by Congress.

Senator GLASS. If that is the case, what is the use of this resolution?

Attorney General CUMMINGS. Well, even if it had no other use it would prevent a lot of people coming in and bringing lawsuits against the Government which they are not entitled to.

Senator McAVOY. Well, if they have just failed why start in again?

Attorney General CUMMINGS. They are starting in again. And why should the Government of the United States be peppered with suits of this kind?

Senator BULKLEY. I do not think you will be peppered if you win a few of them.

Attorney General CUMMINGS. Well, here is the case of Mr. Perry, who is in court again with an amended petition, and he is the man who lost the case to which Senator Barkley just referred. He is now amending his petition and trying to start out on another theory.

Senator BULKLEY. Well, it is an open-and-shut case that you can beat him on this decision.

Attorney General CUMMINGS. But it would be helpful to the Department of Justice not to have to defend useless suits. We have enough to do not to have to do that.

Senator McAVOY. I should like to read something that the Court said about Government bonds:

There is a clear distinction between the power of the Congress to control or interdict the contracts of private parties when they interfere with the exercise of its constitutional authority, and the power of the Congress to alter or repudiate the substance of its own engagements when it has borrowed money under the authority which the Constitution confers. In authorizing the Congress to borrow money, the Constitution empowers the Congress to fix the amount to be borrowed and the terms of payment. By virtue of the power to borrow money "on the credit of the United States," the Congress is authorized to pledge that credit as an assurance of payment as stipulated—as the highest assurance the Government can give, its pledged faith. To say that the Congress may withdraw or ignore that pledge is to assume that the Constitution contemplates a vain promise, a pledge having no other sanction than the pleasure and convenience of the pledger. This Court has given no sanction to such a conception of the obligations of our Government.

The binding quality of the obligations of the Government was considered in the *Sinking Fund cases* (99 U. S. 700, 718, 719). The question before the Court in those cases was whether certain action was warranted by a reservation to the Congress of the right to amend the charter of a railroad company. While the particular action was sustained under this right of amendment, the court took occasion to state emphatically the obligatory character of the contracts of the United States. The court said: "The United States are as much bound by their contracts as are individuals. If they repudiate their obligations, it is as much repudiation, with all the wrong and reproach that term implies, as it would be if the repudiator had been a State or a municipality or a citizen."

When the United States, with constitutional authority, makes contracts, it has rights and incurs responsibilities similar to those of individuals who are parties to such instruments. There is no difference, said the Court in *United States v. Bank of Metropolis* (15 Peters 377, 392), except that the United States cannot be sued without its consent. \* \* \* In *Lynch v. United States* (292 U. S. 571, 580), with respect to an attempted abrogation by the act of March 20, 1933 (48 Statutes 8, 11) of certain war risk insurance policies, which were contracts of the United States, the Court quoted with approval the statement in the *Sinking-Fund cases*, *supra*, and said: "Punctilious fulfillment of contractual obligations is essential to the maintenance of the credit of public as well as private debtors. No doubt there was in March 1933 great need of economy. In the administration of all Government business economy had become urgent because of lessened revenues and the heavy obligations to be issued in the hope of relieving widespread distress. Congress was free to reduce gratuities deemed excessive. But Congress was without power to reduce expenditures by abrogating contractual obligations of the United States. To abrogate contracts, in the attempt to lessen Government expenditure, would be not the practice of economy, but an act of repudiation."

The argument in favor of the joint resolution, as applied to Government bonds, is in substance that the Government cannot by contract restrict the exercise of a sovereign power. But the right to make binding obligations is a competence attaching to sovereignty. In the United States, sovereignty resides in the people who act through the organs established by the Constitution. \* \* \* The

Congress as the instrumentality of sovereignty is endowed with certain powers to be exerted on behalf of the people in the manner and with the effect the Constitution ordains. The Congress cannot invoke the sovereign power of the people to override their will as thus declared. The powers conferred upon the Congress are harmonious. The Constitution gives to the Congress the power to borrow money on the credit of the United States, an unqualified power, a power vital to the Government—upon which in an extremity its very life may depend. The binding quality of the promise of the United States is of the essence of the credit which is so pledged. Having this power to authorize the issue of definite obligations for the payment of money borrowed, the Congress has not been vested with authority to alter or destroy those obligations. The fact that the United States may not be sued without its consent is a matter of procedure which does not affect the legal and binding character of its contracts. While the Congress is under no duty to provide remedies through the courts, the contractual obligation still exists and, despite infirmities of procedure, remains binding upon the conscience of the sovereign.

Senator GORE. Senator McAdoo, will you just read that last clause again?

Senator McAdoo. That last clause is:

The fact that the United States may not be sued without its consent is a matter of procedure which does not affect the legal and binding character of its contracts. While the Congress is under no duty to provide remedies through the courts, the contractual obligation still exists and, despite infirmities of procedure, remains binding upon the conscience of the sovereign.

Now, as I interpret that decision, Mr. Attorney General, the passage of this resolution, which would cut off the right of any aggrieved person to sue in the Court of Claims, would be in violation of that decision of the Supreme Court of the United States.

Senator BARKLEY. In that insurance case of course it was a question not involving any gold bonds. But suppose that insurance policy had contained a clause providing that the amount of it should be paid in gold coin of the same weight and fineness as obtained at the time when the policy was issued—

Senator McAdoo (interposing). That is not the question.

Senator BARKLEY. Does anyone suppose that the Supreme Court of the United States would hold that instead of being \$10,000 it would have to pay any other than the amount of that contract? That is inconceivable.

Senator GORE. In this *Perry case* they did not hold that. The United States still owed it but did not have to pay it.

Senator BARKLEY. No; they did not even hold that the United States owed it. They held abstractly that Congress could not vary the contract, but concretely that the situation involved there created no obligation that the Government was under the legal requirement to discharge.

Senator McAdoo. If the Congress should pass a resolution of this kind, and the United States should deliberately repudiate any obligation of the United States payable in coin or currency, under this decision of the Supreme Court it would clearly be invalid; and if the United States should repudiate it and not allow a citizen to sue the sovereign, the citizen would have no remedy whatever, and no Government obligation would be worth anything.

Senator BARKLEY. The purchasing power of the dollar has declined. Commodities have gone up, and therefore any kind of dollar would not be worth as much now as then.

Senator McAdoo. Then he could not have a case in the Court of Claims, but—

Senator BARKLEY (continuing). And therefore he has been damaged but do you think that sort of damage would give him the right to recover against the Government, because the dollar today won't purchase as much as it would purchase then?

Senator BARKLEY. The answer to that is that purchasing power of the dollar is not a definite contract. It is a value payable in gold.

Senator BARKLEY. You cannot establish damage on a contract of this sort without showing that the dollar is not worth as much as it was at the time it was entered into or when the resolution was adopted.

Senator McAdoo. If that be true what objection is there to permitting a citizen to sue in the Court of Claims?

Senator GLASS. The court plainly pronounced the act of Congress as repudiation, and all nine Justices of the Court concurred in that characterization of it.

Senator GORE. On the 18th of March 1869 the Congress passed an act which said the faith of the United States is solemnly pledged against any kind of act to redeem its greenbacks in kind.

Senator STEWER. Mr. Attorney General, is it the purpose if this resolution is adopted that the holders of securities would be permitted to recover dollar for dollar only, and that they are not to be permitted, as you have said, to harass the Government by suing for some increment over and above the dollar-for-dollar basis?

Attorney General CUMMINGS. That is quite true.

Senator STEWER. Well, if that is the purpose, and I have so understood it, could not section 2 have been phrased in a way to have permitted that without denying the holder of a bond all right to assert a claim against the Government on his contractual obligation? In other words, hasn't your resolution gone much further than the purpose would require?

Attorney General CUMMINGS. Of course, there are many ways to draw this bill.

Senator STEWER. Well, is it necessary to draw it in such a way as to utterly destroy the public credit of our Government, by making it known in advance that no holder of a security is to be permitted under any condition to assert a claim in a court against the United States?

Senator GORE. And that no Government promise is binding?

Attorney General CUMMINGS. You would not want me to admit the characterization that occurred in that question?

Senator STEWER. Well, my reading of the wording of the bill would admit that. If I am in error in my construction of section 2, I would be glad to be put right. Or does the Department of Justice say as to section 2 it is of an all-inclusive character so as to deny the holder of any security any right in court, whether for unearned increment, we will call it, or whether for dollar-for-dollar payment of the obligation which the Government has issued in his favor?

Senator GORE. Or for actual damages occurring in his particular case.

Senator STEWER. I do not want for the moment, Senator Gore, to complicate my question by putting in any refinements. I want to know what the Department of Justice claim for section 2.

Attorney General CUMMINGS. The section to which you refer is designed to resolve all doubt on this question or collateral questions or unforeseen contentions that might be made by individuals based upon the exercise by the Congress of this right to deal with the currency and the securities of our country. Now, right or wrong, and I am not desiring to get into that controversy, and I might say that there are plenty of distinguished gentlemen around this table who reach varying viewpoints, but I think you will excuse me for participating in it, although as I have stated I have very strong views on the subject.

Senator STEIWER. I am not seeking to get you into that issue, but I do want to know the real meaning and purpose of section 2.

Attorney General CUMMINGS. It is to cut off, to withdraw a privilege previously given by which it was possible for individuals to come into the Court of Claims, and under certain limitations into the district courts, and make claim against the Government of the United States based upon the currency and the gold bonds of the Government of the United States.

Senator STEIWER. Whatever the claim, is it not based on the currency? Let us assume our Government might some day repudiate its obligation, where would the holder of an obligation be if you have section 2 as written?

Attorney General CUMMINGS. Supposing an extravagant thing is not a challenge to the existence of the power.

Senator STEIWER. Sufficient extravagance would make this supposition more real.

Attorney General CUMMINGS. Let me say this: That there is some confusion of thought between a power and abuse of power. Now, if you take away from the Congress all the powers that it might abuse, and take away from the Executive all the powers that it might abuse, and take away from the Supreme Court all the powers that it might abuse, there would not be any Government at all left. Somebody has got to be trusted to deal with certain subjects. Now, the Constitution has confided the power over the currency to the Congress, and Congress passed an act along about the sixties which permitted people to come in and sue the Government on the types of obligations referred to in that statute. This statute proposes to remodel that permissive statute by excluding from it suits against the Government on the Government's own currency and the Government's own bonds. Now, the Government has a perfect right to do that. It is a privilege given, a privilege withdrawn. Whether it is wise to do it is an entirely different question. The argument against it is manifest, and the argument for it is manifest.

Senator GLASS. Let me say that—

Attorney General CUMMINGS (continuing). This statute is drawn upon the principle that it is an anomaly, an anachronism for the Congress to set up a court to permit the people to sue the Government itself on obligations issued by the Congress itself, and that the Congress ought not to allow the sovereign power to be impaired in that fashion. Now, that is the theory of the thing. It is so drawn. It accomplishes that purpose. If you begin to tear it down and adjust it to supposed situations, you have a different statute. That is all.

Senator GORE. It is hardly an anachronism in view of the fact that England has lately extended the privilege to sue the Government.

Attorney General CUMMINGS. That, I think, Senator Gore, would not change my characterization if I may say so to you with all due respect.

Senator GORE. It may be a moral principle that is looked at in one light in one country and in another light in another country. Is that it?

Attorney General CUMMINGS. But that does not show which is right.

Senator GLASS. I do not understand the legal refinements which you lawyers indulge in but it does seem to me there is something more involved in this proposition than any attempt to affect the currency of the country. In other words, the Government of the United States has contracted to deliver 25 grains plus to its creditors. Now it is proposed to deliver 15 grains plus to its creditors in the discharge of that solemn contract. I think that involves something more than the currency. Nobody denies the constitutional right of the Congress to coin money and fix the value thereof, but the Supreme Court denied the right of Congress to make a contract with a man to deliver to him 25 grains plus of gold and then undertake to discharge that obligation by delivering only 15 grains plus of gold. I think that is involved here. In other words, as Secretary McAdoo says to me, it does not deliver to him even 15 grains of gold but delivers to him a paper promise to pay, and puts him in jail if he undertakes to collect that in gold. It does not seem to me that this resolution relates itself solely to the currency question.

Senator BURKLEY. It does not relate itself to the currency question at all.

Senator GLASS. It relates itself to the contractual obligations of the United States, and the Supreme Court having decided that the act of Congress was a direct repudiation, why, it seems to me that nothing has ever been proposed that would be more calculated to impair, if not to destroy, the credit of the United States than this joint resolution.

Senator BURKLEY. Reverting to what the Senator said—

The CHAIRMAN (interposing). Senator Barkley, will you allow the Attorney General to answer that question?

Attorney General CUMMINGS. I did not understand that there was a question pending.

Senator GLASS. Well, perhaps it was more an observation than a question.

Senator BURKLEY. I should like to revert to section 2 referred to by Senator Steiwer. On first blush it looks as though it might withdraw the consent of the Congress to people to bring suit against the Government on all sorts of obligations, bonds, or anything else, but on closer reading it does not do it:

Any consent which the United States may have given to the assertion against it of any right, privilege, or power, whether by way of suit, counterclaim, set-off, recoupment, or of other affirmative action or defense in its own name or in the name of any of its officers, agents, agencies, or instrumentalities, in any proceeding of any nature whatsoever, presently or hereafter commenced, upon any bond, note, certificate of indebtedness, treasury bill, or other similar obligation for the repayment of money, made, issued, or guaranteed by the United States, or upon any coin or currency of the United States, or upon any claim or demand arising out of any surrender, requisition, seizure, or acquisition of any such coin or currency, or of any gold or silver bullion, is withdrawn.

It does not seem to me that that goes anything like as far as Senator Steiwer intimated. While it does not refer specifically to bonds which carry the gold clause involved in the recent litigation, it seems to me that it centers around that inevitably and does not go far enough to say that if the Government issued any bond of any sort and deliberately refused to pay it that the holder thereof would have no remedy. I do not think it does that.

The CHAIRMAN. Suppose a citizen holds a Home Owners' Loan Corporation bond and it becomes due. Is he shut off from suing on such a bond if it is not paid?

Senator STEIWER. I so regard it.

The CHAIRMAN. Well, that is the question.

Senator STEIWER. I regret to have to disagree with my friend from Kentucky (Senator Barkley) but I think the interpretation I made a while ago is the correct one, and that the suggestion goes even further than my question to the Attorney General.

Senator GLASS. Under the interpretation of the Attorney General it is an essential part of the sovereignty of the Government to be allowed to repudiate its obligations.

Senator STEIWER. Some of our obligations are already repudiated. This language merely withholds a remedy to the person who imagines himself injured, but I think it withholds a far greater remedy than is contemplated in the resolution possibly.

The CHAIRMAN. There is the likelihood of this question being raised. This is not confined to a gold obligation but applies to any obligation of the Government. The question is whether that language is not too broad.

Attorney General CUMMINGS. What was that?

The CHAIRMAN. Is it not so broad as to cover any obligation at all of the Government? It is not confined to gold contracts, is it?

Senator STEIWER. It is not true that it covers every obligation of a contract, for instance like a contract to build public works and to pay for services rendered. But it does cover obligations upon bonds, notes, and so forth; and also it covers claims arising out of any surrender, requisition, seizure, or acquisition of any such coin or currency or of any gold or silver bullion.

The CHAIRMAN. Any bonds guaranteed by the Government?

Senator STEIWER. The word "guaranteed" is in here. It specifically covers guaranties by the United States upon certain claims and demands.

Senator GORE. It looks like the word "seizure" might be stricken out. That is an implication it is useless to have come in here.

The CHAIRMAN. Mr. Attorney General, will you comment upon that section of the resolution, as to whether it covers all obligations?

Attorney General CUMMINGS. I think Senator Steiwer had it exactly right if I understand his statement.

Senator STEIWER. If I understood your purpose it was to permit recovery only dollar for dollar, and to prevent the assertion of the right in any court over the dollar for dollar.

Attorney General CUMMINGS. That is the primary purpose of course. It is also the purpose to prevent the recurrence of suits on Government obligations, and thereby producing a state of uncertainty and harassment. But section 2 as drafted cuts off the privilege of bringing suit against the Government in any court on any currency or obligations of the Government.

Senator STEIWER. For any purpose?

Attorney General CUMMINGS. Yes.

Senator BULKLEY. Or even for the repayment of money?

Attorney General CUMMINGS. Certainly.

Senator McADOO. This is so broad that with respect to any future obligations of the United States people will be prohibited from suing the Government.

Attorney General CUMMINGS. Why, certainly.

Senator McADOO. I mean on any future obligation as well as those in the past. I so understand it. You have made it clear now, I think.

The CHAIRMAN. The Supreme Court's opinion which Senator McAdoo read contains this statement by Mr. Chief Justice Hughes:

While the Congress is under no duty to provide remedies through the courts, the contractual obligation still exists.

Then later on there was the question of damage, which is a distinct question and altogether different from this view of the binding quality of the Government's obligation:

In this view of the binding quality of the Government's obligations, we come to the question as to the plaintiff's right to recover damages. This is a distinct question. Because the Government is not at liberty to alter or repudiate its obligations, it does not follow that the claim advanced by the plaintiff should be sustained. The action is for breach of contract. As a remedy for breach, plaintiff can recover no more than the loss he has suffered and of which he may rightfully complain. He is not entitled to be enriched.

They held that the question of damages is a distinct question.

Attorney General CUMMINGS. There is always, first, the question whether there is a breach, and then whether there is damage.

The CHAIRMAN. You propose to close the courts to people who claim to be damaged by reason of some breach of contract.

Attorney General CUMMINGS. By virtue of breaches on currency or obligations of the Government and those only.

Senator BULKLEY. Does it not also cover repayment of money?

Attorney General CUMMINGS. Everything that has to do with the financial situation of the Government.

Senator BULKLEY. Not merely to cut it down dollar for dollar but to repudiate it altogether?

Attorney General CUMMINGS. It does not repudiate the obligation.

Senator BULKLEY. It denies any remedy which may mean ultimately to repudiate it.

Attorney General CUMMINGS. It denies any remedy in court, but permit me to say that it always gets back to the right of the Government not to pay if it does not want to pay. Even if a court said it was due there is no power of execution on the Government.

Senator BULKLEY. That is all right, but what we are talking about is what it says here, and it says it denies a remedy in court to any extent whatsoever, not merely to deny any excess remedy based upon change in currency but any remedy whatsoever.

Attorney General CUMMINGS. I thought I made that clear.

Senator BARKLEY. Would that include bonds of the Federal land banks which are guaranteed by the Government?

Attorney General CUMMINGS. I think the word "guaranteed" is in here.

Senator BARKLEY. How does that affect the currency?

Attorney General CUMMINGS. How does it affect the currency?

Senator BARKLEY. How does the obligation of a Federal land bank come in?

Attorney General CUMMINGS. If you begin to differentiate between different forms of governmental obligations, contract and guarantee, giving to some privileges that are not accorded to others, you get into difficulties of an almost endless character. Our policy has been, and I suppose is now, pretty well established that all the time all the currency of the country must be maintained at a parity, hence this section is drawn as it is, to prevent the entry into this subject of differentiation of different types of Government obligations. One of the very vices of the gold-clause obligation was that it attempted to give privileges to certain groups that were denied to others, which always interferes with the attempt to maintain a parity. The whole subject is interlocked and intertwined. The attempt of the draftsman of this bill was to fit it upon the theory that all Government obligations must be treated alike, with no differentiation and no right to one class to go into court that is denied to another class. That is all there is to it.

The CHAIRMAN. Are there any other questions of the Attorney General?

Attorney General CUMMINGS. Mr. Reed suggests that of course that does not mean that the holder of a Federal land bank claim could not go into court to sue a Federal land bank, but he cannot sue the Government. I concur in that.

Senator GLASS. What could he get out of a Federal land bank?

Attorney General CUMMINGS. That I will leave to you to answer.

Senator GOE. He would get a judgment maybe.

Senator BARKLEY. He would get just as much as he could get before the Government guaranteed them recently.

Senator BULKLEY. Mr. Attorney General, do you know whether the Government has settled any foreign obligations on a different basis dollar for dollar? Have we made any payments to Panama or some other country?

Attorney General CUMMINGS. That is a treaty situation, as you of course know, and my understanding is that it is in the final stages of settlement. It is a State Department matter upon which I beg to be excused from commenting. The only other thing that approaches it is an adjustment made with the Philippine Islands. I do not know whether that falls into this kind of matter but—

Senator BULKLEY (interposing). Do you know what that was?

Attorney General CUMMINGS. Yes.

Senator BULKLEY. Will you tell us what it was?

Attorney General CUMMINGS. Yes; I will be glad to. I think I have some information here on the subject.

Senator BULKLEY. We will be glad to have it.

Attorney General CUMMINGS. This Philippine question, so far as the currency matter was concerned, grew out of the fact that there was a deposit, or deposits in the United States of America of a substantial sum of money belonging to the Philippine Government. I think I have the figures as to the total amount.

Senator McADOO. It belonged to the Philippine National Bank, I believe.

Attorney General CUMMINGS. Yes. It was \$58,278,256.92. Now, as the result of a hearing, the details of which will be found in the House report and in the Senate report, in report no. 1290 for instance, Seventy-third Congress, second session, report by Senator Hayden for the Committee on Territories and Insular Affairs. That contains the whole history of this transaction, and the correspondence, and the explanatory matter. It resulted in the enactment of this provision, 48 Statutes, 1115:

Be it enacted by the Senate and the House of Representatives of the United States of America, in Congress assembled, that the Secretary of the Treasury is authorized and directed, when the funds therefor are made available, to establish on the books of the Treasury a credit in favor of the Treasurer of the Philippine Islands for \$23,802,750.78, being an amount equal to the increase in value (resulting from the reduction of weight of the gold dollar) of the gold equivalent at the opening of business January 1, 1934, of the balances maintained at that time in banks in continental United States by the Government of the Philippine Islands for its gold standard fund and its Treasury certificate fund, less interest received by it on such balances.

Then there is another section, section 2:

It is hereby authorized to be appropriated out of receipts covered into the Treasury under section 7 of the Gold Reserve Act of 1934, by virtue of the reduction of the weight of the gold dollar by the proclamation of the President of January 31, 1934, the amount necessary to establish the credit provided for in section 1 of this act.

That was approved June 19, 1934.

I suppose there is an illustration of, not an obligation but a moral claim upon the conscience of the sovereign, which was honored by the Government of the United States. The funds were on deposit in American banks, deposited in banks suggested by the American Government, unofficially suggested I imagine, and the funds so deposited laid the basis of the currency of the Philippine Islands. The Philippine Government in turn had floated obligations, some payable in gold francs, and in different forms of currency, and it was considered to be equitable in view of those circumstances, devaluation having taken place, to restore the situation to the Government of the Philippine Islands as it would have been had devaluation not taken place.

Senator McADOO. I think the bonds of the Philippine Islands are payable in gold.

Attorney General CUMMINGS. Yes; and they are also payable in foreign coin in some respect in foreign countries. There was a complicated question involved and it seemed like the appropriate thing to do, and Congress did it.

Senator McADOO. Now, Mr. Attorney General, I have just one more question—

Attorney General CUMMINGS (interposing). Senator BULKLEY, I think those are the only two instances I know of.

Senator BULKLEY. I cannot help smiling us to the importance of maintaining the Philippine credit and not maintaining the credit of this country. But I do not want to say a word against the Philippine credit.

Attorney General CUMMINGS. You do not challenge the correctness of the act, but only challenge the wisdom of our own action?

Senator BULKLEY. Yes, sir.

Attorney General CUMMINGS. And about that let the debate go on.

Senator McADOO. I am interested in one phase of this decision of the Supreme Court. I will read a very short part of it:

The Constitution gives to the Congress the power to borrow money on the credit of the United States, an unequalled power, a power vital to the Government, upon which in an extremity its very life may depend. \* \* \* Having this power to authorize the issue of definite obligations for the payment of money borrowed—

and I call attention to this in particular—

the Congress has not been vested with authority to alter or destroy those obligations.

At the time those bonds were issued every purchaser had a right of action in the Court of Claims to enforce the Government's obligation. Now, if we pass this resolution do not we violate the express decision of the Supreme Court of the United States which declares that—

the Congress has not been vested with authority to alter or destroy those obligations.

Do not we in fact alter them by denying to holders of bonds the remedy which existed at the time when the bonds were purchased?

Attorney General CUMMINGS. No.

Senator BARKLEY. If that were true the Government could never change its privilege granted. It could never exercise its power to change the privilege because there would always be obligations outstanding.

Senator McADOO. Then you get right back to the proposition that the credit of the Government has no value.

Senator BARKLEY. On that point I might say that the Government contracted to buy a lot of property from people during the Civil War. Generals made agreements with the owners of property to repay the value, but the Government never did it. For a long time the Congress appropriated money, and in 1913 it withdrew from everybody the privilege to even go before the Court of Claims to assert a claim to any property ever taken or contracted for during the Civil War. Since 1913 nobody has been able to assert a claim against the Government on anything of that kind.

Senator GORE. A suit cannot be brought against a State without its consent. But have not the courts held that where a State has entered into an obligation it cannot withdraw a remedy that was in existence at the time, that the remedy is a part of the contract? It seems to me I recall acts of that sort.

Attorney General CUMMINGS. Do you mean as to one State of the Union?

Senator GORE. Yes.

Attorney General CUMMINGS. I thought the statement was the other way, that you could not sue a State.

Senator GORE. Without its consent; yes.

Attorney General CUMMINGS. Yes. I think there is a case in the Supreme Court, the *Monaco case*, where that principality of Monaco sued the State of Mississippi. It was held that there was no power of action without the consent of the State as I recall the decision.

Senator GORE. There is no doubt about that, that you cannot sue a State without its consent. But my idea was that certain obligations had been incurred and certain remedy existed, and that you

cannot withdraw a remedy as to them, that it was a part of the obligation.

Senator BARKLEY. It is not my understanding that any State has granted the general right to people to sue it. The legislature sometimes does grant to an individual or a corporation, the right to bring suit against the State in certain circumstances. But I do not think any State has ever conferred upon citizens the general right to bring suit.

Senator GORE. No.

Attorney General CUMMINGS. It always permits the right of Congress to deal with these things where a direct appeal is made to Congress. You have been doing that all the time.

The CHAIRMAN. Are there any other questions of the Attorney General? [A pause without response.] If not, we will now hear Solicitor General Reed.

#### STATEMENT OF HON. STANLEY F. REED, SOLICITOR GENERAL OF THE UNITED STATES, WASHINGTON, D. C.

Solicitor General REED. Mr. Chairman, I have nothing to add to what the Attorney General has said except as to some technical matters in regard to the bill which is now pending, particularly section 1 of the present bill, just after the words "resolved by the Senate and House of Representatives of the United States of America in Congress assembled", where provision was made for exchange of Government bonds. It turns out that if such exchanges were made it would result in a series of new bond issues being placed upon the exchanges and being dealt in by the banks without any appreciable advantage to present bondholders. The only reason for the original drafting was that any bonds could be called and they might call gold bonds before calling nongold bonds and people might want to retain them. We have drafted an amendment.

The CHAIRMAN. Have you that draft?

Solicitor General REED. Yes. And there are one or two other verbal changes.

Senator McADOO. Have you a draft of that before you?

Solicitor General REED. Yes, sir.

Senator McADOO. How does it read?

Solicitor General REED. It reads as follows:

That the lawful holders of the coins or currencies of the United States shall be entitled to exchange them, dollar for dollar, for other coins or currencies which may be lawfully acquired and are legal tender for public and private debts; and that the owners of the gold clause securities of the United States shall be, at their election, entitled to receive immediate payment of the stated dollar amount thereof with interest to the date of payment or to prior maturity.

Senator McADOO. That is, in lawful money?

Solicitor General REED. Yes. The latter part of the clause was in the other draft, but this is the complete clause. Then it gives authority to the Secretary of the Treasury in the language of the present bill.

Senator McADOO. Haven't they authority now for the exchange of those bonds?

Solicitor General REED. We have done away with the provision for exchange, but bonds which are not mature, gold-clause bonds, may be payable in cash, and the Secretary of the Treasury is authorized

to take those up; the reason of course being that if anyone had bonds that were due in 1940 or 1945 and desired now to cash them in, they would have the opportunity to do it, in currency.

Senator GLASS. That permits them to exchange them for currency that nobody may have, too.

Solicitor General REED. There is a considerable amount of currency outstanding.

Senator GLASS. Gold currency?

Solicitor General REED. Yes. It permits them to exchange them for currency that is now lawful.

Senator GLASS. And if you catch them with gold now you put them in jail.

Solicitor General REED. The Federal Reserve bank has a considerable amount that has not been turned in yet. It is close to a billion dollars.

Senator GLASS. Yes; and other people have gold, too, individuals.

Solicitor General REED. Possibly so.

The CHAIRMAN. Without objection we will agree to that amendment.

Senator BARKLEY. Is that a substitute for the whole of section 1?

Solicitor General REED. Yes, sir. There is a little of it that I did not read:

The Secretary of the Treasury is authorized and directed to make such exchanges and payments upon presentation hereunder in the manner provided in regulations prescribed by him. The period within which the owners of gold-clause securities shall be entitled hereunder to receive payment prior to maturity shall expire September 1, 1935, unless extended from time to time by the Secretary of the Treasury.

Senator BARKLEY. That is the same as in the bill now.

Solicitor General REED. Yes. The fundamental difference is the one I mentioned.

The CHAIRMAN. That is to be substituted for section 1?

Solicitor General REED. Yes, sir; there are also some minor changes in other sections. In the very last of section 2 the word "bullion" appears in the present draft, and that has been stricken out because there has been considerable difficulty to determine just what bullion is. The use of the words "gold or silver" remains.

These I believe are the only changes.

JOINT RESOLUTION. Authorizing exchange of coins and currencies and immediate payment of gold-clause securities by the United States; withdrawing the right to use the United States or its bonds and other similar obligations; limiting the use of certain appropriations, and for other purposes.

Whereas, in order to maintain the uniform value of all coins and currencies of the United States, Public Resolution No. 10 of June 5, 1933, declared provisions known as gold clauses to be against public policy, prohibited their use in obligations thereafter incurred, and provided that money of the United States legal tender for obligations generally was legal tender for all obligations with or without gold clauses;

Whereas the unmaturing securities of the United States are domestic issues offered to the people of the United States, payable only in the United States and in the money of the United States, and underlie our national monetary system and credit structure, with the result that disparity in these security issues or in our coins and currencies would undermine that system and structure;

Whereas the United States has paid and will continue to pay to the holders of all its securities their principal and interest, dollar for dollar, in money of the United States; has maintained and will continue to maintain the parity of all forms of such money; and has thus afforded and will continue to afford full security and strict equality of advantage to all holders of its money and securities; and

Whereas no holder of any of the money or securities of the United States has suffered any damage because of the measures heretofore taken to maintain such security and equality of advantage; and any speculative holding of or dealing in the money or securities of the United States to take advantage of the Government's fixed policy to continue such certain and uniform treatment is incompatible with the public interest: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the lawful holders of the coins or currencies of the United States shall be entitled to exchange them, dollar for dollar, for other coins or currencies which may be lawfully acquired and are legal tender for public and private debts; and that the owners of the gold-clause securities of the United States shall be, at their election, entitled to receive immediate payment of the stated dollar amount thereof with interest to the date of payment or to prior maturity.

The Secretary of the Treasury is authorized and directed to make such exchanges and payments upon presentation hereunder in the manner provided in regulations prescribed by him. The period within which the owners of gold-clause securities shall be entitled hereunder to receive payment prior to maturity shall expire September 1, 1935, unless extended from time to time by the Secretary of the Treasury.

SEC. 2. Any consent which the United States may have given to the assertion against it of any right, privilege, or power whether by way of suit, counterclaim, set-off, recoupment, or other affirmative action or defense in its own name or in the name of any of its officers, agents, agencies, or instrumentalities in any proceeding of any nature whatsoever heretofore or hereafter commenced, upon any bond, note, certificate of indebtedness, Treasury bill, or other similar obligation for the repayment of money or for interest thereon, made, issued, or guaranteed by the United States, or upon any coin or currency of the United States, or upon any claim or demand arising out of any surrender, requisition, seizure, or acquisition of any such coin or currency, or of any gold or silver, is withdrawn.

SEC. 3. No sums, whether heretofore or hereafter appropriated or authorized to be expended, shall be available for, or expended in, payment upon securities, coins, or currencies of the United States except on an equal and uniform dollar-for-dollar basis.

SEC. 4. As used in this resolution the phrase "gold clause" means a provision contained in or made with respect to an obligation payable in money of the United States which purports to give the obligee a right to require payment in gold, or in a particular kind of coin or currency of the United States, or in an amount in money of the United States measured thereby, declared to be against public policy by Public Resolution No. 10 of June 5, 1933; and the phrase "securities of the United States" means the domestic public debt obligations of the United States, including bonds, notes, certificates of indebtedness, and Treasury bills.

Attorney General CUMMINGS. Mr. Chairman, may we now be excused?

The CHAIRMAN. Are there any other questions to be propounded to Solicitor General Reed? [A pause, without response.] I believe that is all, Mr. Attorney General. We thank you very much for coming down.

Attorney General CUMMINGS. We thank you very much for hearing us.

(Thereupon the Attorney General and the Solicitor General withdrew from the committee table.)

The CHAIRMAN. Gentlemen of the committee, we have a representative of the Treasury here. Shall we hear him now or put him off until tomorrow?

Senator GLASS. How about tomorrow?

The CHAIRMAN. Very well. The committee will now recess until 10:30 o'clock tomorrow morning.

(Thereupon, at 12:20 p. m., Thursday, July 11, 1935, the committee recessed until 10:30 o'clock the following morning.)

WITHDRAWING THE RIGHT TO SUE THE UNITED STATES  
ON ITS BONDS AND OTHER SIMILAR OBLIGATIONS

FRIDAY, JULY 12, 1935

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

The committee met, pursuant to adjournment on yesterday, at 10:45 a. m., in room 301 Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Barkley, Bulkeley, Gore, Costigan, Byrnes, McAdoo, Adams, Maloney, Norbeck, Townsend, and Steiwer.

The CHAIRMAN. The committee will please come to order. Gentlemen, we have a Committee Print showing a suggested amendment to section 1, on pages 2 and 3.

(Committee Print referred to is as follows:)

COMMITTEE PRINT NO. 1, JULY 12, 1935, SHOWING CHANGES PROPOSED TO BE  
MADE

[S. J. Res. 155, 74th Cong., 1st sess.]

(Omit the part enclosed in black brackets and insert the part printed in *italic*.)

JOINT RESOLUTION Authorizing exchange of [certain securities, coins, and currencies of] *coins and currencies and immediate payment of gold clause securities by the United States; withdrawing the right to sue the United States on its bonds and other similar obligations; limiting the use of certain appropriations; and for other purposes*

Whereas, in order to maintain the uniform value of all coins and currencies of the United States, Public Resolution Numbered 10 of June 5, 1933, declared provisions known as "gold clauses" to be against public policy, prohibited their use in obligations thereafter incurred, and provided that money of the United States legal tender for obligations generally was legal tender for all obligations with or without gold clauses; [and]

Whereas the unmaturing security issues of the United States are domestic issues offered to the people of the United States, payable only in the United States and in the money of the United States, and underlie our national monetary system and credit structure, with the result that disparity in these security issues or in our coins and currencies would undermine that system and structure; [and]

Whereas the United States has paid and will continue to pay to the holders of all its securities their principal and interest, dollar for dollar, in money of the United States; has maintained and will continue to maintain the parity of all forms of such money; and has thus afforded and will continue to afford full security and strict equality of advantage to all holders of its money and securities; and

Whereas no holder of any of the money or securities of the United States has suffered any damage because of the measures heretofore taken to maintain such security and equality of advantage; and any speculative holding of or dealing in the money or securities of the United States to take advantage of the Government's fixed policy to continue such certain and uniform treatment is incompatible with the public interest: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, [That the owners of the gold-clause securities of the United

States shall be entitled to exchange them for new securities of the United States of the same denominations and with the same terms and conditions but without gold clauses; or, at the election of the owners, to receive immediate payment of the stated dollar amount thereof with interest to the date of payment or to prior maturity. The holders of the coins or currencies of the United States shall be entitled to exchange them, dollar for dollar, for other coins or currencies, legal tender for public and private debts. That the lawful holders of the coins or currencies of the United States shall be entitled to exchange them, dollar for dollar, for other coins or currencies which may be lawfully acquired and are legal tender for public and private debts; and that the owners of the gold-clause securities of the United States shall be, at their election, entitled to receive immediate payment of the stated dollar amount thereof with interest to the date of payment or to prior maturity.

The Secretary of the Treasury is authorized and directed to make such exchanges and payments upon presentation hereunder in the manner provided in regulations prescribed by him. The period within which the owners of gold-clause securities shall be entitled hereunder to receive payment prior to maturity shall expire September 1, 1935, unless extended from time to time by the Secretary of the Treasury.

SEC. 2. Any consent which the United States may have given to the assertion against it of any right, privilege, or power, whether by way of suit, counterclaim, set-off, recoupment, or other affirmative action or defense in its own name or in the name of any of its officers, agents, agencies, or instrumentalities in any proceeding of any nature whatsoever, [presently] heretofore or hereafter commenced, upon any bond, note, certificate of indebtedness, Treasury bill, or other similar obligation for the repayment of money or for interest thereon, made, issued, or guaranteed by the United States or upon any coin or currency of the United States or upon any claim or demand arising out of any surrender, requisition, seizure, or acquisition of any such coin or currency or of any gold or silver [bullion] is withdrawn.

SEC. 3. No sums, whether heretofore or hereafter appropriated or authorized to be expended, shall be available for, or expended in, payment upon securities, coins, or currencies of the United States except on an equal and uniform dollar-for-dollar basis.

SEC. 4. As used in this resolution the phrase "gold clause" means a provision contained in or made with respect to an obligation payable in money of the United States which purports to give the obligee a right to require payment in gold, or in a particular kind of coin or currency of the United States, or in an amount in money of the United States measured thereby, declared to be against public policy by Public Resolution Numbered 10 of June 5, 1933; and the phrase "securities of the United States" means the domestic public-debt obligations of the United States, including bonds, notes, certificates of indebtedness, and Treasury bills.

Senator STEIWER. May we have an explanation of the amendment on page 3 of the joint resolution?

The CHAIRMAN. Yes. I suggest that as Mr. Reed is here that he make it.

#### ADDITIONAL STATEMENT OF HON. STANLEY F. REED, SOLICITOR GENERAL OF THE UNITED STATES, WASHINGTON, D. C.

The CHAIRMAN. Now, Senator, you may proceed.

Senator STEIWER. I merely want to know whether I followed what has been done with respect to the amendment commencing on line 6 of page 3. I assume Mr. Reed can explain it.

Solicitor General REED. The purpose of the change is to eliminate the provision for the exchange of present Government bonds bearing the gold clause. The bill as originally drafted provided that the holders of gold-clause Government bonds might exchange them for bonds which did not bear the gold clause. That was done because it was felt that holders might desire to exchange them in order to get nongold-clause Government bonds because they would feel that the gold-clause bonds would be the first called when we get into a call situation.

Senator McADOO. I did not quite understand that, Mr. Reed; it would be a first call of what?

Solicitor General REED. That the Government normally would call first those gold-clause bonds and therefore that they should have the privilege if they so desire to exchange them for nongold-clause bonds, which would be on the same basis as other bonds.

Senator McADOO. You mean that holders might want to maintain their investment for a considerable period?

Solicitor General REED. Yes.

Senator McADOO. And would prefer a bond that would not be so liable to early call?

Solicitor General REED. Yes.

Senator TOWNSEND. What amount of bonds would be affected by this resolution?

Solicitor General REED. About 10 billions.

Senator TOWNSEND. About 10 billions?

Solicitor General REED. The Treasury people are here with the exact figures.

Senator McADOO. As a matter of fact, any holder of a gold-clause bond can make the exchange now. What you want is to give the Secretary of the Treasury the power to make such exchange?

Solicitor General REED. That is all. It does not compel the action.

Senator McADOO. It is not necessary at all to say in this resolution that the holder of the gold bond may be permitted to do this, is it?

Solicitor General REED. I should think so.

Senator McADOO. He could exchange it anyway, if you authorize the Secretary of the Treasury to make the exchange.

Solicitor General REED. That is all that it ever was intended to do.

Senator McADOO. What I am getting at is whether or not it is necessary by statutory enactment to give the holders of the gold bonds the privilege of exchanging them if they are willing to do so anyway. The Secretary of the Treasury is empowered to make the exchange when anybody who is willing to make the exchange—that is all you want?

Solicitor General REED. That is all that is necessary.

Senator McADOO. I was just looking at the practical side of it.

Solicitor General REED. And that, of course, has been withdrawn. There is now no authority to make the exchange of gold-clause bonds for other bonds or securities.

Senator McADOO. Any holder of a gold-clause bond who wants to exchange it for a nongold-clause bond has the privilege of doing that, provided the Secretary of the Treasury is empowered to make such an exchange?

Solicitor General REED. Correct.

Senator BARKLEY. This gives the holder of the bond a right which he does not now enjoy.

Solicitor General REED. That is correct.

Senator BARKLEY. At his election, to compel the Secretary of the Treasury to exchange it?

Solicitor General REED. That is correct.

Senator McADOO. This does not give him anything which he does not now have.

Senator BARKLEY. Yes, it does. He is entitled to it.

Senator McADOO. Suppose you hold a Government gold bond.

Senator BARKLEY. Yes.

Senator McADOO. Now, if the Secretary of the Treasury is empowered to exchange that for a nongold-clause bond, I say all that he needs in here is the authority to make such exchange.

Senator BARKLEY. He can make the election and compel the Secretary of the Treasury to make the exchange.

Senator McADOO. He is entitled to do it anyway if the Secretary has the power to make the exchange.

Senator BARKLEY. Your "if" is too large; as long as the Secretary of the Treasury does not have the authority, he can not do it. This is what gives him the authority.

Senator McADOO. All you need is authorization of the Secretary of the Treasury to permit him to make such exchange on request of any holder of a gold-clause bond.

Senator BARKLEY. You can authorize the Secretary of the Treasury to do it; but this language gives the holder the right to demand it. There is a lot of difference between authorizing the Secretary of the Treasury to do something and giving a man the right to demand that it be done.

Solicitor General REED. Of course, Senator McADOO, that has been eliminated from the bill.

Senator McADOO. It is in here now, under the amendment.

Solicitor General REED. No, sir.

Senator McADOO (reading):

That the lawful holders of the coins or currencies of the United States shall be entitled to exchange them, dollar for dollar, for other coins or currencies which may be lawfully acquired and are legal tender for public and private debt;

I think everybody is entitled to make that exchange now, if they want to do so.

Senator ADAMS. That is limited to coins and currencies.

Senator McADOO. I am going to take up the rest of it:

and that the owners of the gold-clause securities of the United States shall be, at their election, entitled to receive immediate payment of the stated dollar amount thereof with interest to the date of payment or to prior maturity.

Why, of course, they have got that right now, if they want to exercise it, provided the Secretary of the Treasury is authorized to make such exchange upon their request.

Senator ADAMS. That is redemption and not exchange. This clause provides that the owner of the gold-clause securities shall be entitled to receive immediate payment or to exchange his bonds for other bonds different from the ones he has.

Senator STEIWER. You are talking about bonds and Senator McADOO is talking about coins and currencies.

Senator ADAMS. You are authorizing the Secretary of the Treasury to pay them off.

Senator STEIWER. I am trying to secure Mr. Reed's explanation. If I understood him correctly, he said the proposal in the amendment on page 3, commencing on line 6, was for the purpose of accomplishing certain objectives without raising the question of turning in a nongold obligation.

Solicitor General REED. Of turning in a gold-clause bond.

Senator STEIWER. Turning in a gold-clause bond for a nongold-clause bond.

Solicitor General REED. The original act permitted the exchange of gold-clause bonds for nongold-clause bonds.

Senator STEIWER. By "the original act" you mean the existing law? You do not mean this bill?

Solicitor General REED. This bill. That is in it; but that is stricken out on page 3.

Senator STEIWER. Yes.

Solicitor General REED. Now, that has been eliminated because of complications that arose.

Senator ADAMS. May I ask a question? Was that amendment adopted by the committee, Mr. Chairman?

The CHAIRMAN. This is the amendment now proposed.

Senator ADAMS. What I am asking, as I was not here yesterday, is this: Has the amendment been adopted?

The CHAIRMAN. A man introducing a bill has the right to amend it. This is the amendment and we are considering the amendment. Of course, the amendment is subject to approval or disapproval of the committee, just as the original bill would be.

Senator ADAMS. That is what I am trying to find out, Mr. Chairman. I am trying to find out whose amendment this is. I understood Mr. Reed had submitted an amendment, and I was trying to inquire whether that amendment had been adopted or whether this was still before the committee.

The CHAIRMAN. Yes, sir; that is the thing before us now, this amendment to the resolution. That is the thing before us. This is a substitute for the original language. That is the thing we are to consider and vote upon. We are trying to find out the reason this amendment was proposed, and he was telling that the original provides for the exchange of the gold bonds, gold Government bonds for other bonds.

Senator BARKLEY. Can we not let Mr. Reed give a consecutive explanation of this?

The CHAIRMAN. I was just trying to get that. He can tell why that change was made. That is what we want to know.

Solicitor General REED. The change was made because of the suggestion that this would result in a number of issues of Government bonds, nongold clause, which would be given in exchange for the gold-clause bonds—

The CHAIRMAN. Yes.

Solicitor General REED (continuing). Very small in amount. And that there was not sufficient advantage to the holder of the present gold-clause bond to induce him to make the exchange of all of them, and whether you would have small issues, which of course would have to be quoted on exchanges, would have to be dealt in. It was felt that there was not enough advantage given to the gold-clause bondholders, and it was thought better that we should give the privilege to make the exchange.

Senator McADOO. May I ask a question? You say there are about \$10,000,000,000 of these so-called "gold-clause bonds." The holders of them would all have the right, as I understand this, to exchange those bonds for lawful money of the United States.

Solicitor General REED. Yes, sir.

Senator McADOO. In other words, the Treasury could issue, if this were adopted, \$10,000,000,000 of demand Treasury notes, legal tender currency, to take up these bonds before maturity? Is that

correct? What I am trying to get at is the legal effect of this amendment. As I said before, if adopted, that the \$10,000,000,000 of gold bonds now outstanding and maturing at various times, would be taken up by the Secretary of the Treasury by the issuance of Treasury notes, demand notes, or legal tender money.

Senator BARKLEY. No; you would obtain new money by the issuance of new bonds.

Senator McADOO. I am asking Mr. Reed for an answer.

Senator BARKLEY. I beg your pardon.

Solicitor General REED. I am told that there is a three-billion-dollar authorization that we now have under the Thomas amendment, and that the others would be taken care of by the issue of new Liberties, for which there is full leeway, to take care of the 10 billion dollars, if that should be necessary.

Senator ADAMS. Mr. Reed, this says they shall be paid immediately.

Senator McADOO. Mr. Reed, I am not talking about what the policy of the Secretary of the Treasury might be under this authority. I am talking about the effect of this power if you give it to him. He is empowered here to take up 10 billion dollars of gold bonds with Treasury notes or currency. He would be entitled to immediate payment, and you say the holder of this bond is not entitled to it now. If he calls on the Treasury to give it to him, the Treasury has got to give it to him. The Secretary of the Treasury would be bound by the preference of the holder of the bonds, and what are you going to pay with? You are going to pay him with lawful money of the United States.

Now, you say the issuance of 3 billion dollars is authorized under the Thomas amendment. That is legal money, or "printing-press money", as the press calls it. And then if you had to pay the 10 billion dollars, with what would you pay it? If he used this, he would have to use 7 billion dollars of additional currency in addition to this 3 billion dollars, and they would have to issue obligations of the Treasury in some form of United States legal tender, to take up the bonds if they were all presented for payment under this resolution.

Senator BARKLEY. Could he not issue new bonds?

Senator McADOO. Let me have an answer.

Mr. J. G. HARLAN. May I answer that?

Senator McADOO. I am willing to have a representative of the Treasury Department answer it. What is your name?

Mr. HARLAN. J. G. Harlan.

Senator McADOO. What is your position?

Mr. HARLAN. Assistant general counsel. If all of the holders of these bonds, notes, and certificates, amounting to about 10 billion dollars should present them to the Treasury for payment, the Treasury would undoubtedly issue bonds under the Liberty Bond Act, without a gold clause, raise the money and pay the holders of these bonds the money that was raised by the sale of other bonds.

Senator McADOO. You are talking about what the Treasury would do or might do.

Mr. HARLAN. This does not authorize the Secretary of the Treasury—

Senator McADOO. I am talking about the power this confers.

Mr. HARLAN. This does not authorize the issuance of any currency.

Senator McADOO. Why does it not?

Senator STEIWER. Senator McADOO, may I interrupt? If the issuance of currency is already authorized to the extent of 3 billion dollars, as suggested by Mr. Reed, is there anything to prohibit or prevent the Secretary from taking up these gold bonds with currency that is already authorized under existing law?

Mr. HARLAN. No, nothing to prevent it, but the limit of that authority is 3 billion dollars, and we are talking about 10 billion dollars here in bonds.

Senator TOWNSEND. But he may take—

Mr. HARLAN. His authority is limited to 3 billion dollars under the Thomas amendment.

Senator STEIWER. What is his authority to issue bonds under the existing law?

Mr. HARLAN. I think it is 35 billions—25 billions.

Senator GOBE. Twenty-five, I think.

Senator STEIWER. Twenty-five is the amount?

Mr. HARLAN. Twenty-five.

Mr. JOHN G. LAYLIN. It is not 25 additional authority. It is a revolving fund of 25 billion outstanding at any one time.

Senator STEIWER. How much authority is there to issue additional bonds?

Senator TOWNSEND. Suppose the Treasury would not sell the bonds; then what?

Senator STEIWER. They would have to issue the Thomas money.

Senator BULKLEY. As a matter of fact, would you not pay off these bonds as you have refunded all of the other Liberty bonds that you have refunded, by the issuance of new bonds and securing money from that source?

Mr. HARLAN. Yes, sir.

Senator BARKLEY. There has been no currency issued to redeem all these other Liberty bonds. All that they did was to simply advance the due date of the bonds that are involved, and in this case you would pay them off like you have all the rest of them.

Mr. HARLAN. The holders of these bonds at the present time are not entitled to bring them in and demand cash until the date of the maturity of them. This would give the right to bring them in today—advances the maturity date of the bonds.

The CHAIRMAN. Then this would advance the maturity date as you have advanced it on other transactions?

Mr. HARLAN. That is correct.

Senator McADOO. You have not paid off any of these bonds as yet by issuing any of these \$3,000,000,000 of Thomas money?

Mr. HARLAN. No.

Senator McADOO. Assume that the situation arises where the people do not want to buy bonds, you could then do the thing that has been suggested, you could come back and issue printing-press money; is not that right?

Mr. HARLAN. Yes.

Senator BULKLEY. Of course, you can assume all sorts of possibilities and impossibilities, but nobody has done that as yet.

Senator BYRNES. How practical is the assumption that the holders of 10 billion dollars of securities would demand 10 billion dollars of money in 1 day or 2 or 3 days?

Solicitor General REED. Of course, you are as good a judge of that as I am. In my own judgment there is no chance of that.

Senator STEWART. Do you construe this language as authorizing the printing of any notes?

Solicitor General REED. No, indeed; this authorizes the printing of no notes.

Senator STEWART. That is my understanding of the language.

Senator BARKLEY. The bill would authorize the substitution of 10 billion dollars of new bonds to raise the money needed to discharge the bonds that are involved here?

Solicitor General REED. I do not think it would permit the issuance of 10 billion dollars, more than are now permitted.

Senator BARKLEY. It would not?

Solicitor General REED. No.

Senator GORE. Here is another trouble about that: You are assuming to sell 10 billion dollars of bonds and there are not 10 billion dollars of money in the country.

Senator BARKLEY. How do you account for the 46 billion dollars of deposits?

Senator GORE. Senator, I make that point because I heard it argued that we could not pay these bonds because there are not that many gold dollars in the country.

Senator McADOO. Is there any authority now for the Secretary of the Treasury to issue bonds to refund all of the outstanding indebtedness of the Government?

Solicitor General REED. What was that?

Senator McADOO. Is there existing authority for the Secretary of the Treasury to issue bonds to refund all of the outstanding indebtedness of the Government?

Solicitor General REED. I will have to inquire about that.

Mr. LAYLIN. There was an amendment adopted to the bond act changing the authority from what it used to be, to issue a total amount of bonds—that we may issue Treasury bonds, so long as there are not more than 25 billions outstanding. So if in the hypothetical case these 10 billions were taken, that would create a hole to be filled with these new 10 billion dollars of bonds.

Senator McADOO. Now, who is answering for the Treasury?

The CHAIRMAN. Give your name.

Mr. LAYLIN. My name is John G. Laylin, L-a-y-l-i-n.

Senator McADOO. And what is your position?

Mr. LAYLIN. I am also an assistant general counsel.

Senator McADOO. Now, you have authority to exchange bonds and your theory is that under this act, this power which you are now seeking to have conferred, that the Secretary of the Treasury would either exchange bonds if he could, and if he could not exchange bonds, that he would sell them and get money to take up the bonds which are presented for payment before maturity?

Mr. LAYLIN. Presumably, and later to let those people who want cash get the cash.

Senator McADOO. That is a presumption, of course?

Mr. LAYLIN. That is right.

Senator McADOO. Suppose they do present bonds in large numbers, say, billions of dollars, and ask for payment in stated dollars, and the stated dollars are the existing dollars of the United States,

and the Treasury has not got them and you cannot sell bonds, suppose the condition of the market is such that you could not sell the bonds, then you could not comply with this act unless you issued currency, unless you issued demand tender, could you?

Mr. LAYLIN. May I first say that if those unreal assumptions were assumed to be true, then I might answer "yes."

Senator McADOO. Why are they unreal? A condition might arise where you could not sell 10 billion dollars of bonds.

Mr. LAYLIN. But if in the hypothetical case 10 billion dollars of bonds are turned in, there would be 10 billion dollars fewer bonds outstanding.

Senator BARKLEY. What he is talking about is, if the people of the country lost confidence in the country, they would not buy new bonds.

Senator McADOO. I was Secretary of the Treasury for 6 years and I had to sell a lot of bonds and I think I know a little about the selling of bonds. It is conceivable that if the holders of bonds wished to exchange them, dollar for dollar, in stated dollars—what do you mean by a "stated dollar"?

Mr. LAYLIN. One hundred dollars on a 100-dollar bond.

Senator McADOO. All right. That is existing money of the United States that is not convertible into gold, in currency of the United States—"printing-press" money, some call it. I do not think it is "printing-press" money. I think it is good money. But, nevertheless, that is what people call it, and when they want to redeem their gold-clause bonds, you will have to give them that sort of money. Now, you have got to raise it in one of two ways, either by selling bonds to get the money or else by issuing new money for the purpose. Now, I say, if a condition should arise—

Senator STEWART. A third way would be by taxation.

Senator McADOO. Of course, but I am not talking about that. I am talking about this bill here. We do not provide payment by taxes here. I am talking about the power that is conferred, and I think it is to be assumed it might have to be exercised, some condition might arise which would require it to be exercised. It is conceivable that the bond market might not be in condition to absorb a large amount of these bonds and a condition might arise where a very great number of these bondholders would like to anticipate the maturity of their bonds by having the payment made immediately as they are entitled to do under this act. I say, if such a condition arises, where you cannot sell the bonds, and nearly all the bonds in the United States today are in the hands of the banking institutions, or a large part of them, and you cannot sell the bonds, how are you going to meet the situation? How are you going to exercise the power?

Senator ADAMS. You can pass another act repudiating the new promise.

Senator McADOO. We could do that.

Mr. LAYLIN. We can answer that, by saying that if it was conceivable that all of the 10 billions were turned in—

Senator McADOO (interposing). It is conceivable that a large number of them might come in and demand payment.

Mr. LAYLIN. I would first like to make a statement about that before answering the question directly. That is, that it is inconceivable for this reason, that anybody who owns one of those bonds

now who wants cash can get more cash by selling them over the counter than by exchanging them.

Senator McADOO. You are speaking of today, but I am speaking of the future, when the condition arises—

Mr. LAYLIN. This authority here continues only until the first of September. We are confident that that—

Senator McADOO. First of September when?

Mr. LAYLIN. This year. It is a very short period of time.

Senator BARKLEY. Unless it can be extended from time to time by the Secretary of the Treasury.

Mr. LAYLIN. These are all higher-interest bonds than those we are issuing now. So very few people would want to turn them in, even when they knew they were going to get other bonds. If they wanted cash, they would be foolish not to sell them, because they could get more money.

Senator McADOO. Those are beautiful assumptions, but suppose that a large number of bondholders rushed into the market and wanted to sell them, there might be something which would create a situation where they would want to realize upon them; do you think the market would stand up against a great offering of Government securities?

Mr. LAYLIN. Well, presumably the worst blow to those holders of gold-clause bonds who felt that they were entitled to receive \$1.09 on the dollar was the Supreme Court decision, and the market did not drop at all.

Senator McADOO. How could that be when this very act denies them the right to recover that amount?

Mr. LAYLIN. On that point, if you are thinking that the possibility of withdrawing the right to sue might create a sellers' demand, a large portion of the press has construed the Liberty bond opinion since the day it came down as having held that the joint resolution itself withdrew the right to sue, and I have had a number of people tell me that they could not understand why this resolution was being introduced, because they thought the Supreme Court had already reached that solution.

Senator BYRNES. The Senator says those are beautiful assumptions. Is it an assumption that the bonds are selling for more in the market now—

Senator McADOO. May I continue?

Senator BYRNES. You asked this gentleman a question and he answered it by saying he did not think it was conceivable for the reason that the bonds would bring more in the open market. That is not an assumption, is it?

Mr. LAYLIN. No; that is a fact.

Senator BYRNES. And that the interest was high; is that an assumption or a fact?

Mr. LAYLIN. That is a fact.

Senator BARKLEY. This bill will not in any way reduce the value of the bonds which are now outstanding in the hands of holders?

Mr. LAYLIN. I do not see why it would.

Senator BARKLEY. They could hold all of them and there would be no inducement for them to dump them on the market?

Senator ADAMS. Are you sure about that, that taking the right to sue away will not affect the market for the bonds?

Senator BARKLEY. There has not been a suit brought on a bond of the United States, has there?

Mr. LAYLIN. I would say a large majority of the press misconstrued the holding of the Supreme Court.

Senator ADAMS. It does not strengthen the situation any, does it?

Mr. LAYLIN. No.

Senator ADAMS. To withdraw the right to sue does not strengthen the situation?

Mr. LAYLIN. No.

Senator BARKLEY. Has any suit ever been brought on a bond of the United States to recover, although the right theoretically exists; has anybody brought a suit?

Senator ADAMS. Yes; there has been.

Senator BARKLEY. I am talking about the bringing of a suit on a bond.

Senator ADAMS. There was the case of *Perry v. United States*.

Senator BARKLEY. That grew out of this gold clause.

Mr. LAYLIN. Not because we refused to pay interest or principal.

Senator BARKLEY. No; of course not. It is theoretically a right that has existed, but nobody ever exercised the right and started a suit.

Senator STEIWER. I would like to ask a question about section 3 on page 4.

Senator GORE. I was wondering, if they never have done it, would it not be reasonably safe to let the condition remain as it is?

Senator BARKLEY makes the point that no suit has been brought against the United States on a bond and I was wondering if, in view of that history, it would not be just as well to let the right continue. It has never been used.

Senator ADAMS. There has been one where it was sought to secure \$1.09 instead of \$1.

Senator GORE. Of course, if there is any probability of exercising the right, it ought to be taken away.

Senator STEIWER. I merely wanted to ask Mr. Reed about section 3 on page 4 to see if I understand it. It appears to provide that no appropriated money shall be expended in the purchase of securities or currencies of the United States.

Senator BARKLEY. What page are you on now?

Senator STEIWER. Page 4, "except on an equal and uniform dollar-for-dollar basis." Has consideration been given to the proposition whether that limitation would embarrass the Treasury in the use of the \$2,000,000,000 stabilization fund?

Solicitor General REED. In what way?

Senator STEIWER. I do not know, because I do not know how that \$2,000,000,000 is used, and I am not suggesting that you tell me. That is a confidential matter.

Solicitor General REED. I might say that this bill has been examined both by the Treasury and the Department of Justice. No objection has been raised to that clause by the Treasury.

Senator STEIWER. Of course, if they never buy currencies or coins, if the Secretary of the Treasury never buys currencies, coins, or securities of the United States, he would not be affected by this section; but if he ever buys such currencies or coins or securities, he would be affected.

Solicitor General REED. No; I do not think he would be affected, even assuming that he would, because this is merely a requirement

that he should not pay except on an equal and uniform basis for all the coins, currencies, and securities of the United States.

Senator McADOO. He could not do it if it were presumed he would buy.

Solicitor General REED. He would have no authority in law to do it; he would have no authority.

Senator STEIWER. Does that bill authorize him to do it, or does it mean he must pay dollar for dollar?

Solicitor General REED. It means he must pay dollar for dollar.

Senator STEIWER. Under the Stabilization Act, he would buy some and sell some, that is what it means, does it not?

Solicitor General REED. I am not familiar with the Stabilization Act.

Senator BULKLEY. I do not believe it does, in coins and currencies of the United States. The stabilization fund might buy foreign currencies and sell them, and might buy gold and silver and sell it at a different price, but I do not believe there could be any juggling of our currencies.

Senator STEIWER. You do not think he could purchase a dollar's worth?

Senator BULKLEY. I do not think so.

Senator STEIWER. I do not know that it does mean that. It is shrouded in mystery and I wanted to clear it up, if I could.

Senator BULKLEY. Unless you sell gold for dollars, but in that case you are simply selling gold.

Senator GORE. Mr. Chairman, I want to offer an amendment to this section, I believe it is section 2.

The CHAIRMAN. Very well.

Senator GORE. And I will state the substance of it. Of course, if it is adopted, I can change the form of it. I would like to insert a proviso or provision, at least, that where any holder of such security, or in case any holder of such security or currency should allege under oath in any legal proceeding that he had sustained an actual damage or loss, in that case the court should take jurisdiction and that by reason of the actual damage or loss he should be entitled to recover the amount of the damage.

Now, I doubt if there would ever be a practical case coming within that provision.

Senator BARKLEY. Would that not nullify the whole thing?

Senator GORE. No, Senator.

Senator BARKLEY. That is what he can do now. He can recover if he can show that he was actually damaged.

Senator GORE. No; the contention is that he has not suffered any damage. The Supreme Court said because he gets dollar for dollar there has been no actual damage or actual loss. That is what the Supreme Court says. Now, you can conceive a case where there might have been actual damages sustained. I heard of a case yesterday where a man made a commitment in Europe to buy so many dollars, United States gold dollars, standard weight and fineness under the old scheme, and had bought \$100,000 worth of gold bonds or had put in cold storage that much lawful money redeemable in gold with a view to getting that gold when the obligations matured, and in the meantime the weight of the dollar was reduced and when he came to pay he could not make his payment with these reduced

dollars. Now that is, I might say, an imaginary case. That may be, but it might be well to put that provision in to meet that sort of a contingency even if it should never arise. It would save our faces and we could say that anybody who had sustained an actual loss could go into court and we would pay it. That is the only point in it.

The CHAIRMAN. Any questions of Mr. Reed?

Senator STEIWER. Yes; I would like to ask Mr. Reed in reference to this same section—

Senator GORE. Can I not have a vote on that, Mr. Chairman, as I would like to go to another committee meeting?

The CHAIRMAN. What is it you want, Senator Gore?

Senator GORE. I want a vote on that. I have to go to another committee meeting.

Senator BARKLEY. He wants a vote on the idea.

Senator STEIWER. On the principle?

Senator GORE. Yes.

The CHAIRMAN. All in favor of the motion, signify by saying "aye".

Senator McADOO. I would like to make this suggestion. I think it will facilitate matters. I want to suggest that this matter go over until Monday. We have not seen the record of yesterday, the testimony, and I would like to examine that testimony myself. I think this is a very important matter and my only hope is to have time to go over the record and the Gore resolution.

Senator GORE. That would suit me.

Senator McADOO. And we would be prepared to act on Monday.

Senator GORE. You will probably finish this morning, will you, Mr. Chairman?

The CHAIRMAN. No.

Senator GORE. I have to go to another hearing.

The CHAIRMAN. The matter will go over until Monday, then.

Senator STEIWER. Mr. Chairman, I want to ask now again in reference to section 2, why is it necessary to include the reference to obligations guaranteed by the United States, and I am referring to the language in lines 6 and 7 on page 4?

Solicitor General REED. It is the theory of the bill there to withdraw the privilege of bringing suits against the United States on its obligations to pay money, and, of course, its obligation to pay money arises just as much from a guaranty as it does from the actual promise.

Senator STEIWER. What are the classes of obligations to pay money upon which there is an existing guaranty?

Solicitor General REED. I do not know that I could give you a full list. There are some obligations, I believe, of the home-owners loan bonds that carry a Government guaranty. There are other obligations of the Reconstruction Finance Corporation, and the Federal Farm Loan Board.

Senator STEIWER. I am familiar and we all are familiar with the fact that there are certain outstanding bonds upon which the Government has a contingent liability, but can you tell us whether or not those are payable in gold or in any other means than on a currency basis?

Solicitor General REED. I believe most of those have been refunded and they are not payable in gold.

Senator STEIWER. I did not know of any that were payable in gold. That is the reason I am inquiring about it.

Solicitor General REED. I do not know for a certainty whether they have completed refunding of the farm-loan bonds or not.

Senator STEWER. I am wondering as to the necessity of including this class of securities in the operation of section 2.

Solicitor General REED. The reason, of course, is to make it uniform in its application to all obligations of the Government to pay money.

Senator BULKLEY. The original farm-loan bonds are not guaranteed by the United States, anyway.

Solicitor General REED. They were refunded recently. I do not know whether that is all the gold bonds, or not.

Senator BYRNES. They were not guaranteed.

Senator McADOO. I suggest that the committee request the Treasury Department to submit to this committee a list of all guaranteed bonds of the United States now outstanding, specifying the various issues.

Mr. LAYLIN. We would be glad to do that.

The CHAIRMAN. You mean those bonds on which the Government is not primarily liable, but there is a contingent liability?

Senator McADOO. Yes. I think we have it in the statement of the Treasury as to the outstanding gold issues and the maturities of them.

Senator STEWER. Mr. Chairman, I am entirely in accord with the suggestion made by Senator McADOO, but the information will be of little value itself, unless there is a break-down showing to what extent if any the obligations are payable in gold.

Mr. LAYLIN. We will do that; we will have a break-down showing that.

Senator McADOO. We know there are some 9 billion dollars outstanding, and I think there are 3 or 4 billion dollars more in authorizations. The reason I do not know the exact figures is because the totals are changing from day to day. Those authorizations, of course, are created by law and this committee is familiar with them. I do not know what has been retired, and I think that there were some issues upon which the interest only was guaranteed for a considerable time. I assume there are no outstanding obligations connected with that authorization.

Senator BULKLEY. There may be some Home Owners' Loan Corporation bonds of that character. The holders had a right to redeem them, but I am not sure whether they have all been converted or not.

Senator McADOO. It will be helpful if the Treasury will furnish us that information.

Mr. LAYLIN. I will have that in the form of a break-down.

The CHAIRMAN. The Treasury representatives say they will do that.

Mr. LAYLIN. Here is a statement of the gold clause obligations outstanding on July 1, 1935:

## Gold-clause obligations outstanding July 1, 1935

INTEREST-BEARING	
Pre-war issues:	
Panama 2's 1916-36.....	\$48,954,189
Panama 2's 1918-38.....	25,947,400
Panama 3's 1901.....	49,800,000
Conversion 3's 1945-47.....	28,894,500
2½ percent Postal Savings bonds.....	47,779,460
	<hr/>
	201,375,549
Fourth Liberty's, 4½'s, Fourth called.....	1,246,230,750
Treasury bonds:	
4½'s 1947-52.....	758,955,800
4's 1944-54.....	1,036,762,000
3½'s 1948-56.....	489,087,100
3½'s 1943-47.....	454,135,200
3½'s 1940-43.....	852,093,950
3½'s 1941-43.....	544,914,050
3½'s 1946-49.....	818,646,000
3's 1951-55.....	755,477,000
	<hr/>
	5,210,971,100
Treasury notes:	
3½'s A-1936 due Aug. 1, 1936.....	394,138,000
2½'s B-1936 due Dec. 15, 1936.....	357,021,200
2½'s C-1936 due Apr. 15, 1936.....	558,819,200
3½'s A-1937 due Sept. 15, 1937.....	817,483,500
3's B-1937 due Apr. 15, 1937.....	502,361,900
2½'s A-1938 due Feb. 1, 1938.....	276,679,600
	<hr/>
	2,877,403,400
MATURED, ON WHICH INTEREST HAS CEASED	
Postal Savings bonds.....	862,880
Consols of 1930.....	278,262,100
First Liberty's.....	144,742,150
Second Liberty's.....	1,736,200
Third Liberty's.....	2,803,550
Fourth Liberty's.....	88,728,550
Victory notes.....	783,400
Treasury notes <sup>1</sup> .....	7,370,150
Certificates of indebtedness <sup>1</sup> .....	9,610,500
Treasury bills <sup>1</sup> .....	2,842,000
	<hr/>
	537,741,460
Total.....	<hr/>
	10,075,722,250

Senator ADAMS. Mr. Reed, why include all obligations regardless of whether they are payable in gold or not, under this clause?

Solicitor General REED. That is a matter for the judgment of the committee. It seemed to the draftsmen and to those who discussed this matter that it would be wiser to withdraw all power to sue the Government on its monetary obligations.

Senator McADOO. On any bonds or currency?

Solicitor General REED. Bonds and currency of the Government. Senator BULKLEY. What is the meaning of this: That the holders of bonds or coins or currencies shall be entitled to exchange them for other coins or currencies?

<sup>1</sup> June 30, 1935.

Solicitor General REED. That is merely to give them the privilege of bringing in the money and exchanging it.

Senator BULKLEY. It says, "for other coins or currencies which may be lawfully acquired."

Mr. LAYLIN. That substantiates the language in the preamble. The Secretary of the Treasury will continue to fulfill his duty to maintain parity.

Senator BULKLEY. He already has that duty under existing law.

Mr. LAYLIN. Yes; but the provisions of existing law provide for specific silver coins, Federal notes into currency, national-bank notes into lawful money, gold certificates, which were held by the Federal Reserve banks, into gold bullion.

Senator BULKLEY. Yes.

Mr. LAYLIN. And this tallies with the provision in the preamble giving assurance that anybody who has one form of money can turn it into another form if he prefers that form.

Senator BULKLEY. So long as he does not ask for gold?

Mr. LAYLIN. So long as he does not ask for gold.

Senator BULKLEY. That is the meaning of this clause, "which may be lawfully acquired"?

Mr. LAYLIN. Yes, sir.

Senator BULKLEY. That is intended to exclude gold?

Mr. LAYLIN. Precisely; and gold certificates in the case of persons other than Federal Reserve banks.

Senator BULKLEY. But I do not see what this adds to the responsibility that I understand is already on the Treasury.

Mr. LAYLIN. It does not add very much.

Senator BULKLEY. What does it add at all?

Mr. LAYLIN. It adds this, that a holder of a silver certificate, presumably does not have a legal right to exchange it for a national bank note. But under this he could exchange that for a national bank note. That is all.

Senator McADOO. Well, all money now is legal tender and all money is lawful money, and if it is all interchangeable I do not see that it makes any difference.

Mr. LAYLIN. As a practical matter, that is right; yes, sir.

Senator BULKLEY. You do not think that he can demand any particular form of payment? For instance, if a silver certificate is presented and the holder wants silver, you do not think you would be compelled to give him silver but could give him paper?

Mr. LAYLIN. No; that is not it. He brings in a silver certificate and we give him other money. Under this we would do it, pay him in any lawful money.

Senator BULKLEY. Can you not do it anyway?

Mr. LAYLIN. Yes; and we are doing it. It gives the person who comes in a right that we do it. We are doing it now as a matter of practice.

Senator BULKLEY. You give him any other lawful money than the one he is entitled to. I do not see that it makes any difference.

Mr. LAYLIN. He can also get the one he is entitled to, but if he prefers another kind he may have it.

Senator BULKLEY. In other words, he can get anything he wants except gold?

Mr. LAYLIN. Sir?

Senator BULKLEY. In other words, he can get anything he wants except gold?

Mr. LAYLIN. Yes.

Senator BULKLEY. And he probably does not want that anyway.

Senator STEIWER. Most of the questions we have discussed today are rather in the nature of details, and the doubts that I had personally, and I am speaking now only for myself, have been largely resolved. I understand the resolution better. The serious question left, in my judgment, is a question of the effect the withdrawal of the right to sue might have upon the public credit of the Government, and with all respect to the Department of Justice, that is a question and that is a responsibility of the Treasury and not of any other department of the Government. Would it not be in order, when we meet Monday, to invite the Secretary of the Treasury, or the Under Secretary, to come here just to answer that simple question as to their judgment of the effect of this legislation upon the credit of our country?

The CHAIRMAN. Well, if the committee would like to have that done we can do it; we can invite them down.

Senator STEIWER. What do you think about it, Senator McAdoo?

Senator McADOO. I do not have any objection. I do not think they can add anything. I think the central question is, of course, the effect on the credit of the United States involved in this legislation and that is a thing that Congress has got to decide. I do not know that they can enlighten us on that.

Senator STEIWER. Now, if I have to take that responsibility, my disposition is to vote against this bill. If they will take the responsibility, I do not know how I would vote. I might then vote for it.

Senator McADOO. They could not take any responsibility. They can merely express an opinion.

Senator TOWNSEND. I think I would be glad to have them come before us and express an opinion.

Senator BYRNES. I move that we invite the Secretary.

Senator TOWNSEND. And the Under Secretary.

The CHAIRMAN. Without objection, that will be done, and we will meet at 10:30 Monday morning.

(Thereupon, at 11:50 a. m., July 12, 1935, an adjournment was taken to Monday, July 15, 1935, at 10:30 a. m.)

76

WITHDRAWING THE RIGHT TO SUE THE UNITED STATES  
ON ITS BONDS AND OTHER SIMILAR OBLIGATIONS

MONDAY, JULY 15, 1935

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

The committee met, pursuant to adjournment on Friday, July 12, 1935, at 10:30 a. m., in Room 301, Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senator Fletcher (chairman), Glass, Barkley, Bulkley, Gore, Costigan, Byrnes, McAdoo, Adams, Maloney, Radcliffe, Norbeck, Townsend, and Steiwer.

The CHAIRMAN. The committee will please come to order. I have a telephone message from Secretary Morgenthau, received this morning, to the effect that he has been out of the city since last Thursday and only returned this morning. He received my request to appear today, in pursuance of the committee's action of last Friday, but said he had not had time to consider the matter as yet, that he was preparing a letter, which he hoped would be down here by half past 10 or 11 o'clock. I intend, as soon as that letter is received, which I had hoped would be before this hour, to submit it to the committee and let the committee then decide whether they want Secretary Morgenthau present to answer any questions or not. If so, we could have him present tomorrow, I take it. It is now 5 minutes of 11 and the letter has not been received. It may come before we are ready to adjourn for the day.

Mr. Coolidge, of course, will not appear until the Secretary does. I will say that I received a letter from Senator Moore enclosing a letter from Mr. Albert C. Wall, of Jersey City, N. J., and I think Mr. Wall's letter might be made a part of the record. Some of the members of the committee might read it, if you wish it done.

Senator TOWNSEND: I will read the letter, which is as follows:

HON. A. HARRY MOORE,  
Senator from New Jersey,  
United States Senate, Washington, D. C.

MY DEAR SENATOR: In reference to Senate Joint Resolution 155, joint resolution withdrawing the right to sue the United States on its bonds or other similar obligations, as the title puts it, the wide scope of section 2 is very evident if we leave out certain of the explanatory clauses. It would then read:

"SEC. 2: Any consent which the United States may have given to the assertion against it of any right, privilege, or power \* \* \* upon any bond, note, certificate of indebtedness, treasury bill, or other similar obligation for the repayment of money made, issued, or guaranteed by the United States, or, \* \* \* is withdrawn."

Certainly under this language the citizens would have no right to enforce a promise by the Government in respect of the securities referred to.

Yours very truly,

ALBERT C. WALL.

The CHAIRMAN. That letter will be made a part of the record.

Furthermore, I received this morning from Mr. Bernstein, of the Treasury Department, in response to some inquiries that were made the other day of representatives of the Treasury Department who were here, a statement showing the contingent liabilities of the United States as of June 29, 1935. This statement gives the information "Obligations which contain the 'gold clause', none." That refers to contingent obligations of the United States.

Senator GLASS. What does the statement show?

The CHAIRMAN. It shows as to obligations which do not contain the gold clause and which are guaranteed by the United States as to principal and interest: Federal Farm Mortgage Corporation, \$1,225,599,400; Home Owners' Loan Corporation, \$2,647,342,975; Reconstruction Finance Corporation, \$249,771,667.

Then, as to obligations which do not contain the gold clause but are guaranteed by the United States as to interest only: Home Owners' Loan Corporation, \$79,014,550.

As to obligations which do not contain the gold clause but are issued on the credit of the United States: Secretary of Agriculture, notes secured by cotton, \$45,000,000.

This shows a total—excluding the guaranteed interest on Home Owners' Loan Corporation obligations—of \$4,167,714,042.

That statement will be made a part of the record.

(The complete statement is here printed in the record, as follows.)

*Contingent liabilities of the United States, as of June 29, 1935*

	Principal outstanding
Obligations which contain the gold clause.....	None
Obligations which do not contain the gold clause:	
I. Guaranteed by the United States as to principal and interest:	
(a) Federal Farm Mortgage Corporation:	
3 percent bonds 1944-49.....	\$217,622,700
3½ percent bonds of 1944-64.....	98,028,700
3 percent bonds of 1942-47.....	862,088,400
1½ percent bonds of 1937.....	22,325,000
2½ percent bonds of 1942-47.....	25,534,600
Total.....	1,225,599,400
(b) Home Owners' Loan Corporation:	
3 percent bonds, series A, 1944-52.....	1,115,041,825
2½ percent bonds, series B, 1939-40.....	1,057,035,300
1½ percent bonds, series C, 1936.....	49,736,000
1½ percent bonds, series D, 1937.....	49,843,000
2 percent bonds, series E, 1938.....	49,632,100
1½ percent bonds, series F, 1939.....	325,254,750
Total.....	2,647,342,975
(c) Reconstruction Finance Corporation:	
2½ percent notes, series E, 1935.....	149,021,667
3 percent notes, series G, 1936.....	16,000,000
2 percent notes, series H, 1937.....	84,150,000
Total.....	249,771,667

\* Tentative figures.

*Contingent liabilities of the United States, as of June 29, 1935—Continued*

Obligations—Continued.	Principal outstanding
2. Guaranteed by the United States as to interest only:	
(a) Home Owners' Loan Corporation: 4 percent bonds of 1933-51.....	(\$79,014,550)
(NOTE.—These bonds have been called for redemption on July 1, 1935.)	
3. Issued on credit of the United States:	
(a) Secretary of Agriculture, notes secured by cotton.....	45,000,000
Total, excluding item 2 (a).....	4,167,714,042

The CHAIRMAN. Does the committee desire to wait for the letter from Secretary Morgenthau?

Senator MALONEY. I think we should have something definite before we act on the joint resolution.

Senator STEIWER. Mr. Chairman, why not adjourn at this time and then you can call us back later, tomorrow or even this morning if there is time?

Senator TOWNSEND. I think the Secretary of the Treasury ought to come before the committee, or at least an Under Secretary of the Treasury.

Senator McADOO. I think we ought to adjourn now until tomorrow, Mr. Chairman, if there is any reason why a representative of the Treasury Department cannot come today.

The CHAIRMAN. I was wondering if the members of the committee would want a representative of the Treasury Department to come after you get the letter which is promised, and which may contain the information the members of the committee desire.

Senator ADAMS. I think the Secretary would be very welcome.

Senator McADOO. Yes; and it might be necessary for us to ask him some questions.

Senator STEIWER. I think we ought to have some support for this resolution. The only question involved in a big way is the matter of the credit of the country. The Department of Justice did nothing save to urge the legality of the withdrawal by the sovereign of the right of the power to sue. And that is a matter that is not questioned.

Senator McADOO. Yes; it is a legal matter so far as that is concerned.

Senator STEIWER. The matter of the withdrawal by the sovereign of the right to sue is not a matter that is questioned in this country, and has not been questioned in this country for 100 years.

The CHAIRMAN. No; the question is the effect upon the credit of the country.

Senator STEIWER. That is the big question involved here. It seems to me that this is a resolution of the Treasury Department and not of the Department of Justice, and, therefore, that we ought to hear from the Treasury Department.

The CHAIRMAN. In that connection I will say that the Department of Justice informs me, by phone, they are looking up the question of the historical relation of the whole subject, but have not yet finished that study. They are going through with it and hope to have it finished today, and doubtless that study will come in a little later. They promise to send it down as soon as they have it completed.

Senator GORE. It is reported that 38 percent of the press of the country are for this closing of the doors to suits, and that 62 percent are against it. I should like to have that put in the record when the matter comes up.

Senator BARKLEY. There is no trouble about it if you want to get somebody to stir up some letters. If you are going to have letters from one side or the other, you can easily get somebody to propagandize it. They at least might get something out of it.

Senator GORE. Well, there is a moral issue involved as to whether we should repudiate what the Government has said.

Senator BARKLEY. I do not agree with that.

Senator GLASS. And the Attorney General does not seem to be interested in the moral issue that was raised here in the committee.

Senator McADOO. Mr. Chairman, I suggest that we adjourn until tomorrow morning and give the Secretary of the Treasury an opportunity to appear before the committee.

Senator GLASS. Suppose we just adjourn to the call of the chair.

Senator STEINWER. I understand that the Committee on Appropriations will meet this afternoon at 2 o'clock and some of the members of this committee are also members of that committee.

The CHAIRMAN. If it is agreeable to the members of the committee, I will call a meeting after we receive the letter from the Secretary of the Treasury. It will probably be here within a few minutes.

Senator McADOO. All right.

The CHAIRMAN. The committee will now adjourn, subject to the call of the chair.

(Thereupon, at 11:10 a. m., Monday, July 15, 1935, the committee adjourned, subject to the call of the chair.)

(Immediately following the adjournment of the committee the following letter was received from Secretary Morgenthau. By direction of the chairman it is to be inserted in the record.)

TREASURY DEPARTMENT,  
Washington, July 15, 1935.

MY DEAR MR. CHAIRMAN: I have your letter of July 13, in which you extend on behalf of the Senate Committee on Banking and Currency an invitation to present the views of the Treasury Department with respect to Senate Joint Resolution No. 155. I understand that the Attorney General has presented to you the reasons of general policy for the proposed legislation and that you desire from me an expression of my opinion concerning the probable effect of the resolution upon the Government securities market.

I cannot see that there will be any noticeable effect on the Government's credit or prices of securities by reason of the passage of this resolution, either because of the fact that suits on bonds would be barred, or by reason of the offer to pay at par for a short period of time the gold-clause bonds. Since the President forwarded to the Congress his message on this subject there has been no weakness in the Government bond market; on the contrary, there has been an advance. The gold-clause bonds, by reason of the fact that they bear rates of interest above those now required, are selling considerably above par, and, hence, will not be offered by their holders at par.

There is no implication in the resolution of a congressional or Treasury intent not to pay principal and interest in full on Government obligations. Indeed, the resolution expressly reaffirms the determination of the Congress and the Treasury to assure that the United States will continue to pay to the holders of

all its securities, principal and interest, dollar for dollar on an equal and uniform basis.

Under the circumstances, I can see no possible objection, from the point of view of Treasury finance or Government credit, to the passage of this resolution.

Respectfully yours,

H. MORGENTHAU, Jr.,  
Secretary of the Treasury.

Hon. DUNCAN U. FLETCHER,  
Chairman Committee on Banking and Currency,  
United States Senate.



ART TO SECURITIES TRUSTS-1933  
GOLD-CLAUSE SECURITIES OF THE  
UNITED STATES

HEARING

COMMITTEE ON BANKING AND CURRENCY

DUNCAN V. FLETCHER, Florida, Chairman

CARTER GLASS, Virginia  
ROBERT F. WAGNER, New York  
ALBEN W. BARKLEY, Kentucky  
ROBERT J. BULKLEY, Ohio  
THOMAS F. GOBE, Oklahoma  
EDWARD P. COSTIGAN, Colorado  
ROBERT R. REYNOLDS, North Carolina  
JAMES F. BYRNES, South Carolina  
JOHN H. BANKHEAD, Alabama  
WILLIAM GIBBS McADOO, California  
ALVA B. ADAMS, Colorado  
FRANCIS T. MALONEY, Connecticut  
GEORGE L. RADCLIFFE, Maryland

PETER NORBECK, South Dakota  
JOHN G. TOWNSEND, Jr., Delaware  
ROBERT D. CAREY, Wyoming  
JAMES COUZENS, Michigan  
FREDERICK STEIWER, Oregon

WILLIAM L. HULL, Clerk

R. H. SPARKMAN, Acting Clerk

ii

CONTENTS

	Page
Statement of—	
Hon. Henry Morgenthau, Jr., Secretary of the Treasury of the United States, Washington, D. C.	53
Hon. Homer S. Cummings, Attorney General of the United States, Washington, D. C.	69

EXHIBITS

Letter of the Solicitor General transmitting Historical Background for Proposed Act Dealing with Claims Based on Gold-Clause Certificates.	84
--	----

iii

WITHDRAWING THE RIGHT TO SUE THE UNITED STATES  
ON ITS BONDS AND OTHER SIMILAR OBLIGATIONS

WEDNESDAY, JULY 17, 1935

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

The committee met, pursuant to adjournment on Monday, July 15, 1935, at 10:45 a. m., in room 301 Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Glass, Wagner, Barkley, Bulkley, Gore, Costigan, McAdoo, Adams, Maloney, Radcliffe, Townsend, Carey, and Steiwer.

The CHAIRMAN. The committee will come to order. We requested that the Secretary of the Treasury and the Under Secretary appear this morning. Some members of the committee desire to ask some questions. The Attorney General and the Solicitor General are both present. So that I think we can dispose of any questions that may be submitted. What is the wish of the committee? Do you wish the Secretary of the Treasury first to make his statement?

Senator STEIWER. If the Secretary desires to make a statement, I assume he can do it. But I would like before that to call attention to a letter from the Secretary of the Treasury.

The CHAIRMAN. That is already in the record. Now, what further questions do you desire to ask, Senator?

Senator STEIWER. If the Secretary desires to make a statement, why, of course, the committee would hear that, I assume. If he has no further statement to submit, I should like to ask him some questions.

The CHAIRMAN. Mr. Secretary, do you desire to make any further statement than that made in your letter?

STATEMENT OF HON. HENRY MORGENTHAU, JR. SECRETARY OF  
THE TREASURY OF THE UNITED STATES, WASHINGTON, D. C.

Secretary MORGENTHAU. Why, Mr. Chairman, the only thing I had prepared is that letter which I sent up on Monday. I would be glad to read it if you wish me to do so.

The CHAIRMAN. That is already in the record. I think it is unnecessary to read it, unless the committee desires it to be read again.

Senator STEIWER. May I proceed, Mr. Chairman?

The CHAIRMAN. Yes; of course, proceed, Mr. Senator.

Senator STEIWER. Mr. Chairman, some of us are interested in the possible effect of this proposed legislation, Resolution 155, upon the refunding operations of the Treasury and upon the credit of the Government.

Can you advise me in approximate figures, if you do not have the exact figures, the amount of the refunding operations that are presently in view?

Secretary MORGENTHAU. Senator STEIWER, we have called the last of the fourth Libertys, which amount to about a billion and a quarter, for this fall, and that is the only refunding operation which is under way.

Senator STEIWER. And for how long a time will that be true?

Secretary MORGENTHAU. Well, there are no—

Senator STEIWER. That is, when will there be another major operation of that kind?

Secretary MORGENTHAU. There are no others. That concludes the refunding of the Libertys, which with these will be about—

Senator STEIWER. What is that?

Secretary MORGENTHAU. That concludes the refunding operation of around \$8,000,000,000 that we have done in the last year and a half.

Senator STEIWER. Well, of course that is interesting, but I do not want, I mean as far as I am concerned, I am not trying to develop the accomplishments of the last year and a half. I am rather looking into the future. What is the situation for the next year and a half?

Secretary MORGENTHAU. Well, on gold notes or other notes?

Senator STEIWER. The sum total of all the financing. I want to get a general picture first.

Secretary MORGENTHAU. For which period?

Senator STEIWER. I should be very happy to have you answer that in the way that is most illuminating to us, Mr. Secretary, and you know better than I as to that. Either for this pending fiscal year, we will say, or for the next year and a half.

Secretary MORGENTHAU. If I remember rightly, and Mr. Coolidge will correct me, I think for the balance of the calendar year we have roughly around \$5,000,000,000 coming due.

Senator STEIWER. And how much of that would be a refunding of old obligations?

Secretary MORGENTHAU. Of that a billion and a quarter would be fourth Libertys.

Senator STEIWER. Yes; that is one immediate task.

Secretary MORGENTHAU. Yes.

Senator STEIWER. Is to meet that call.

Secretary MORGENTHAU. Yes; to meet that call.

Senator STEIWER. But of the total of 5 billions, how much of it, approximately, would be a refunding of all old obligations?

Secretary MORGENTHAU. That is all old refunding.

Senator STEIWER. That is all refunding of old obligations?

Secretary MORGENTHAU. We have got about 5 billion dollars' worth of securities coming due between now—

Senator BARKLEY. How much of that is long time and how much short time, of that 5 billion dollars?

Secretary MORGENTHAU. That 5 billion covers a whole year, in this year.

Senator BARKLEY. How much is short time paper, and how much long time?

Under Secretary T. J. COOLIDGE. There are about 2 billion dollars "outstanding bills", as we call them, coming due every week, the

total being about 2 billion. In addition to that, the Liberty bonds, about which the Secretary spoke, and then these notes which run about half a billion at a time, the first issue coming due in December and then there is an issue coming due in April and another in June.

Senator CAREY. Did you say 2 billion dollars a month?

Under Secretary COOLIDGE. Two billion of bills; 50 million coming due each week.

Senator CAREY. Each week.

Senator STEIWER. What I meant was new financing.

Senator BARKLEY. You do not mean 2 billions; 50 million a week would be only 2 billions.

Under Secretary COOLIDGE. During the 9-month period, the total is about 2 billions.

Senator BARKLEY. Then if I understand you correctly, a billion and a quarter of this 5 billions is represented by Libertys, and the other 3 1/2 billions would be represented by short-term notes?

Under Secretary COOLIDGE. By the bills and these notes maturing every 3 or 4 months.

Senator McADOO. In Treasury bills and in notes, all short-time paper?

Under Secretary COOLIDGE. When I speak of notes, they run up to 5-year maturity.

Senator STEIWER. Now, in addition to the 5 billions of refunding of old obligations, both short time and long time obligations of various types, how much of the new operations will there be to meet deficits? In other words, will there be additional new financing?

Secretary MORGENTHAU. Well, we estimate on the President's budget that there is a deficit this year of around 4 billion dollars. I mean that is what his budget message said. We would have to raise sufficient funds to meet that.

Senator STEIWER. Four billions you mean for the fiscal year ending June 30, 1936?

Secretary MORGENTHAU. 1936.

Senator STEIWER. So that if that estimate works out to be fairly accurate, the total refunding operations of all kinds, old and new, will be approximately \$9,000,000,000 for the pending fiscal year?

Secretary MORGENTHAU. That is approximately right.

Senator STEIWER. That will be our problem, stated in general terms?

Secretary MORGENTHAU. Yes, sir.

Senator STEIWER. Now, can you tell the committee, Mr. Secretary, how much of that will be furnished by the bankers of the country and how much by others?

Secretary MORGENTHAU. Well, Senator, we offer these bills by different methods. Some go to bankers, some go to investors, some go to insurance companies, the general class of investors. If you want the figures of the Governments held by banks, we have those available.

Senator STEIWER. No, not particularly. I have seen those figures in the past. I merely wanted your estimate in view of your past experience as to the amount of this nine billion proposed funding that will be provided by the banks of the country and your estimate as to the amount that will be provided from all other sources.

Secretary MORGENTHAU. I would not be able to answer that question. I do not know that. These are not registered securities and I do not know who the ultimate holders are.

Senator STEIWER. What is your experience with the operations that you are carrying forward at this moment, what percentage of the money is being furnished by the bankers and what percentage by the others?

Secretary MORGENTHAU. All I know is that a week ago we offered \$500,000,000 worth, due in 4 years and 5 months, paying 1½ percent interest, of securities and they were oversubscribed and we made an allotment on the basis of 17 percent. We know that the demand was such, was so great, that a man who subscribed for and wanted \$10,000, got \$1,700. Some of these are handled by dealers, some of these are handled by the banks for their customers, and these securities are not registered. So we do not have any way of knowing who the ultimate owners are. All we know is there was a big demand and we had to make allotments.

Senator STEIWER. Would it be true to say that the only reasonable basis for making an estimate would be to take into consideration outstanding issues and the percentage that is held by banks and the percentage that is held by others?

Secretary MORGENTHAU. We know from the Comptroller's report exactly what percentage of securities is held by the banking institutions.

Senator STEIWER. Yes. We do have those figures. That of course is true, you have those figures; but that does not quite answer my question. Is that about the only basis you have for estimating the portion of the new issues which will be taken by the banks?

Secretary MORGENTHAU. I would say the only way that we would know is by what proportion they now hold. We cannot tell what proportion they will buy, on account of the method of distribution.

Senator STEIWER. Has that proportion varied significantly in the last year or the last 2 years?

Secretary MORGENTHAU. Not in the last year.

Senator STEIWER. It seems to be a fairly stable proposition?

Secretary MORGENTHAU. The proportion has been remarkably even.

Senator McADOO. Could you not tell by the allotments you make, Mr. Secretary, what proportion is taken by banks and firms and individuals?

Secretary MORGENTHAU. Well, Senator McADOO, you will remember when you were Secretary of the Treasury, you got your dealers in Governments, you got your banks which buy and they put in their orders, and how much they turn over to their customers and how much they keep, we do not know. We have no way of knowing that.

Senator McADOO. I understand that, but what I meant to say is that so far as the Treasury is concerned, you do know what amount of the 500 million dollars was allotted to the banks and corporations—

Secretary MORGENTHAU. Yes.

Senator McADOO (continuing). Partnerships, and individuals?

Secretary MORGENTHAU. Yes.

Senator McADOO. That is what I am getting at.

Secretary MORGENTHAU. But who the ultimate buyer is, we do not know.

Senator McADOO. Exactly.

Secretary MORGENTHAU. And those that act as agents?

Senator McADOO. I understand that, but what Senator Steiwer is trying to get at is that the allotments that were made of the 500 million dollars, would give some indication of the distribution of the bonds. It would not be absolutely accurate, but it would indicate.

The CHAIRMAN. Do not these banks form syndicates? A bank, for instance, will have a list of customers on its books, stating how many bonds they have. Those customers will tell the bank, "I want so many bonds of this issue", and the bank will then take that out and add them altogether and bid for so many bonds, not for itself but for those customers, and then that bank will form a syndicate with other banks, and that syndicate will buy this issue. You cannot tell who is the ultimate owner of the bonds.

Senator McADOO. Of course, the Secretary of the Treasury cannot tell that, Mr. Chairman, and that is not Mr. Steiwer's inquiry. What he wants to know is what the allotment was, how many bonds went to banks, how many to partnerships, how many to corporations, and how many to individuals. That, of course, the Treasury can give us.

Secretary MORGENTHAU. I would be very glad, for your record, to take that recent issue and have it looked into and find out how the allotments are made and furnish it for your record.

Senator GLASS. It is not, I imagine, difficult to tell what amount of these bonds have gone ultimately to private investors. You can tell that by ascertaining from the Comptroller of the Currency what percentage of bonds subscribed for remain in the hands of the banks.

Senator GORE. Of this last half-billion-dollar issue of bonds of which you spoke, how long a time do those bonds run?

Secretary MORGENTHAU. I beg your pardon, Senator Gore?

Senator GORE. Of this last half-billion-dollar issue of bonds of which you spoke, how long a time do those bonds run?

Secretary MORGENTHAU. I still cannot hear you.

Senator BARKLEY. He asked how long do these last half-billion dollars of bonds run?

Secretary MORGENTHAU. They run 4 years and 5 months. They pay 1½ percent interest. I think it was the lowest that have been sold recently.

Senator BARKLEY. When bonds are issued you know what are allotted to the different buyers, to the banks and otherwise, what percentage of any issue is turned over to the banks, no matter how distributed, so that you would know what percentage of any particular issue was turned over to the banks for any purpose, either for their own holding or for distribution to others?

Secretary MORGENTHAU. We have the names of the people to whom this 17 percent allotment was made. We have those names and as I say, I would be glad to give that.

Senator BARKLEY. You have no idea without looking into it what proportion went to banking institutions?

Secretary MORGENTHAU. Not without looking into it and, as I say, even if I did have it, it would be misleading because the banks can buy for their customers.

Senator BARKLEY. I understand.

Senator McADOO. I do not think the Secretary of the Treasury could give you the ultimate distribution of these bonds.

Senator BARKLEY. Of course not.

Senator McADOO. All he can give you is the allotments he made.

Senator BULKLEY. The Secretary did say he had some figures as to how many bonds were held by the banks. I think that would be a good idea, to put that in the record right here.

Senator COSTIGAN. Mr. Secretary, recent sales of Government bonds do not indicate any impairment of the Government's credit, do they?

Secretary MORGENTHAU. No, I would say quite the contrary, because the prices of bonds for about a year and a half now have been steadily rising, and the yield has been steadily going down. So, after all, the only thing we have to sell is a piece of paper against the confidence in this country. And, as I say, the price has been going up steadily, and the yield has been going down steadily. So I would say that it shows in some measure the confidence the bond buyer has in his Government.

Senator STEIWER. On that question, would it not be illustrative to discuss the very recent issue, I think it was 50 million dollars, that was put out just yesterday, was it not, or the day before?

Secretary MORGENTHAU. 50 millions.

Senator STEIWER. According to the newspaper account, the accepted bids ranged in price from 99.98 to 99.955. I assume the newspaper story is correct.

Secretary MORGENTHAU. I assume so.

Senator STEIWER. And that would indicate an interest that varied from 80.026 to 80.059. Are those figures correct also?

Secretary MORGENTHAU. As I remember, in this issue we sold yesterday, it ran for 9 months and the average was 0.05 percent. Yes.

Senator STEIWER. The average was what?

Secretary MORGENTHAU. 0.05.

Senator STEIWER. 0.05?

Secretary MORGENTHAU. Yes.

Senator BARKLEY. That is one-half of 1 percent?

Secretary MORGENTHAU. No; one-half of a mill, one-twentieth of 1 percent.

Senator STEIWER. The thing that interests me is that it varied from 0.026 to 0.059.

Secretary MORGENTHAU. The reason for that is we auctioned them off and the prices they bid were that range. That is the low and the high on the bids, you see. Then we averaged them. I forget that amount. The total bids usually run four or five times that amount.

Senator STEIWER. Yes; and it says the total amount was \$249,998,000.

Secretary MORGENTHAU. Then the low bid was one figure and the high bid was the other you gave, you see, and the average we got the 50 million for. We naturally take the lowest interest bid. It averaged a 0.05 rate of interest for the Government to borrow \$50,000,000 for 9 months.

Senator STEIWER. Well, this article does not say just that, Mr. Secretary. It does not say the low bid was a certain amount and the high bid was a certain amount. I will read what it says:

"The accepted bids"—this does not include the rejected bids—"The accepted bids ranged from 99.98 to 99.955."

Secretary MORGENTHAU. Well, I think I am correct, but if I am not Mr. Coolidge can correct me. Is that not the way it is?

Under Secretary COOLIDGE. Yes.

Secretary MORGENTHAU. The total of applications, roughly, \$250,000,000. The low price and the high price are given, and we take the highest, we take \$50,000,000 at the highest bid, and that averaged to the Government, again, about 0.05 percent interest. Now, that may be just part of the release. They might have printed just part of the release.

Senator STEIWER. Well, the only point I am trying to clear up is whether the accepted bids disclose the range which the newspaper indicates and whether there were other bids at a higher interest rate which were not accepted.

Secretary MORGENTHAU. That is true. That is correct.

Senator STEIWER. What is that range of the unaccepted bids? Can any of you tell me?

Secretary MORGENTHAU. Do you remember, Mr. Coolidge?

Under Secretary COOLIDGE. I never pay any real attention to the bids which we do not accept.

Secretary MORGENTHAU. I could find out.

Senator STEIWER. Can you tell us whether the other bids were significantly higher than the highest bids that were accepted?

Under Secretary COOLIDGE. They run very close.

Senator STEIWER. They run close?

Under Secretary COOLIDGE. They run very close to the highest rate accepted.

Senator STEIWER. All the bidders' estimates of the cost are reasonably uniform?

Under Secretary COOLIDGE. Yes; as disclosed by these bids; surely.

Senator McADOO. For short-time paper?

Senator STEIWER. Well, this is for 9 months.

Secretary MORGENTHAU. Incidentally, that one you are reading is the all-time low, certainly in recent times; I mean that the Government borrowed money. As far as I know, I do not know when the Government ever borrowed at that figure before.

Senator ADAMS. I think you are pretty safe in saying all-time, without putting any limit on it.

Secretary MORGENTHAU. I want my two colleagues, or former Secretaries, rather, to correct me if I am wrong.

Senator McADOO. It is certainly lower than any rate that the Treasury was able to obtain when the World War was on and when I was Secretary.

Secretary MORGENTHAU. When I appear before the committee that has two former Secretaries of the Treasury, I must be rather careful.

Senator GLASS. What I would like to find out—

Senator McADOO. We are not ogres.

Secretary MORGENTHAU. Oh, no.

Senator GLASS. Just what I would like to find out is whether you do or do not think that the pending resolution before this committee will help the credit of the Government and in just what way will it help the credit of the Government?

Secretary MORGENTHAU. Senator Glass, to answer your question directly, first, I think there are two questions, are there not? I think it will help the credit of the Government—

Senator GLASS. To notify the creditors of the Government that the Government reserves the right to repudiate the indebtedness? Do you think that will help the credit of the Government?

Secretary MORGENTHAU. If I may go back to your original question, Senator, you asked me did I think it would help the credit of the Government, and if so, how. I think it will help the credit of the Government, if I might in my own way say as to why I think it would be helpful.

The CHAIRMAN. Yes.

Secretary MORGENTHAU. The reason I think it would be helpful is that it would remove the possibility which is hanging over the Treasury of these possible suits, these possible suits hanging over the Treasury. It is naturally a source of worry to me.

Senator ADAMS. Those suits are based on obligations which the Supreme Court says the United States owes?

Secretary MORGENTHAU. Now, if you are going to get into Supreme Court matters, I think I will have to—

Senator ADAMS. No; I am talking about the Treasury.

Secretary MORGENTHAU. If you are going to get into what the Supreme Court has done, and what they said, I have got to call the no. 1 lawyer, the Attorney General.

Senator GLASS. I just want you to answer my question.

Secretary MORGENTHAU. Yes, sir.

Senator GLASS. As to why you think it would improve the credit of the Government to formally by statute notify the creditors that the Government reserves the right to repudiate its indebtedness, thereby implying that the Government thinks there is no moral turpitude involved in repudiation?

Secretary MORGENTHAU. I can only repeat what I said, as I understand it, and that is, with the possibility of these suits hanging over our heads, with some suits now filed and pending, it cannot help but be a source of worry to me because I may never know just how many more suits we may have. We may have a deluge of suits, and if Congress sees fit to pass this legislation it removes that.

Senator GLASS. It removes your worry?

Secretary MORGENTHAU. Yes, sir.

Senator GLASS. But does it remove the worry of the people who may contemplate buying United States securities?

Secretary MORGENTHAU. If I understand this legislation rightly, it still says that the United States Government will pay a hundred cents on the dollar for all its obligations as they fall due.

Senator BARKLEY. Do you think that anybody ever bought a bond based on the right he had to sue the Government to collect it?

Secretary MORGENTHAU. I would not know how to answer that, Senator.

Senator BARKLEY. Has anybody had to sue the Government to collect any of its bonds, its outstanding obligations?

Secretary MORGENTHAU. Not that I know of.

Senator BARKLEY. Regardless of this right to bring a suit, Congress could defeat collection at any time by refusing to authorize appropriations for the purpose of paying its obligations?

Secretary MORGENTHAU. As I understand it.

Senator GLASS. Some one-hundred-odd people have sued the Government, have they not?

Senator BARKLEY. They have sued on this particular gold-clause obligation.

Senator GLASS. Exactly. They never had occasion to sue it before since the foundation of the Government.

Secretary MORGENTHAU. I do not understand there are that many suits. The Attorney General is here and he can state. But I do not understand there are any 100 suits pending. I may be wrong.

Senator GLASS. I do not know. I have just seen it in the newspapers that approximately 100 suits have been instituted.

Secretary MORGENTHAU. The Attorney General could answer that better than I could.

The CHAIRMAN. Will the Attorney General answer that?

Attorney General CUMMINGS. What is the question?

The CHAIRMAN. How many suits are there pending?

Attorney General CUMMINGS. There are two pending. There are quite a number threatened.

Senator McADOO. Mr. Secretary, I understood you to say a moment ago that for the fiscal year 1936 your refunding operation will approximate \$9,000,000,000.

Secretary MORGENTHAU. Yes, sir.

Senator McADOO. Included in that is the Liberty Loan 4½'s which have been called?

Secretary MORGENTHAU. Yes, sir.

Senator McADOO. Called ahead of maturity. The Government had the right to call them. They are not yet due and the Government does not have to call them?

Secretary MORGENTHAU. Due in 1938.

Senator McADOO. Now, this resolution, the pending resolution, matures something like, as was stated here the other day, something like 10 billion dollars of gold-clause bonds immediately?

Secretary MORGENTHAU. Yes, sir.

Senator McADOO. Is that in addition to the nine billion dollars that you expect to refund during the fiscal year 1936?

Secretary MORGENTHAU. Well, I will give you the figures as I have them here. In this year, 1935, there is a billion 278 million of called Liberties. Those are the only bonds which fall due. These I am talking about now are gold bonds.

The CHAIRMAN. May I ask right there, Mr. Secretary, you have a right to call those and what will the Government probably pay in interest on those bonds?

Secretary MORGENTHAU. Well, at the rate we have been going, I would say that about 2 percent, somewhere between 2 and 2¼ percent.

Senator McADOO. Those are called for payment?

Secretary MORGENTHAU. Yes.

Senator McADOO. But not in gold, you do not expect to pay them in gold as required by the bonds?

Secretary MORGENTHAU. May I answer your other question?

Senator McADOO. Yes, sir; I want an answer to that.

Secretary MORGENTHAU. On April 15, 1936, there will be 559 million dollars worth of 2½ notes coming due. Now, those are the only gold clause notes coming due.

Senator BULKLEY. What is the total of the gold clause obligations?

Secretary MORGENTHAU. One billion 278 million called fourth Liberties, and 559 million of 2½ notes coming due on April 15, 1936.

Senator McADOO. That is about one billion 800 million dollars of gold obligations?

Secretary MORGENTHAU. Yes, sir.

Senator McADOO. Which come due during the fiscal year of 1936?

Secretary MORGENTHAU. Yes, sir.

Senator McADOO. In addition to that, if this resolution were passed, you have 10 billion dollars of gold clause bonds or obligations to be refunded, is that correct?

The CHAIRMAN. Not in addition.

Secretary MORGENTHAU. No.

Senator McADOO. I am asking for information.

Secretary MORGENTHAU. No. If I may go over my steps once more, for the balance of this fiscal year we have a total amount of obligations coming due, approximately of 5 billion dollars, and basing our estimates on the President's budget we would have to raise another 4 billion dollars to meet deficits. So there is a total of obligations coming due and new money raised of 9 billion dollars, of which there are approximately one billion 800 million of those in gold.

Senator McADOO. I see. Now, this resolution provides for immediately maturing of all outstanding gold clause obligations of the Government.

Secretary MORGENTHAU. Yes, sir.

Senator McADOO. What is the total amount of such obligations?

Secretary MORGENTHAU. All inclusive, or excluding—

Senator McADOO. I am excluding the financing you have just described.

Secretary MORGENTHAU. If you exclude the one billion eight, it brings it down to approximately eight billion dollars.

Senator McADOO. About eight billion two?

Secretary MORGENTHAU. Yes, sir.

Senator McADOO. And the effect of this resolution would be to mature that debt immediately?

Secretary MORGENTHAU. It would give—

Senator McADOO. It gives the holders of these bonds the right, entitles them to the right to demand immediate payment.

Secretary MORGENTHAU. At 100 cents on the dollar.

Senator McADOO. In currency, but not gold.

Secretary MORGENTHAU. Yes, sir.

Senator McADOO. Although they have a gold obligation, they would have to accept payment in currency.

Secretary MORGENTHAU. Yes.

Senator McADOO. The point that I would like to get settled in my own mind is this: If you give them the right to demand payment, immediate payment as provided in the resolution, the presumption is, and the purpose of course is to have them demand immediate payment because you want to get rid of the gold-clause bonds. Is that not right?

Secretary MORGENTHAU. Not necessarily, no.

Senator McADOO. I suppose you are holding out the temptation or inducement to them to get immediate payment in currency rather than to wait until the maturity of the notes or bonds?

Secretary MORGENTHAU. I would not say that that was the primary purpose. The President's message outlines the purpose of this better than I can. I cannot improve on the President's message. If you care to have me read from that, I will do so. You have read that, undoubtedly.

Senator McADOO. My whole point is to know what is the immediate purpose, or what is the purpose, of anticipating the payment of these notes immediately, which will require a very large refunding operation, either in currency or in new bonds.

Secretary MORGENTHAU. If I may read from the President's message—

Senator McADOO. Of course.

Secretary MORGENTHAU. May I read from the President's message?

Senator McADOO. Certainly.

Secretary MORGENTHAU. This is from the President's message:

I recommend, therefore, the enactment of legislation which will make clear that it is our fixed policy to continue to treat the bondholders of all our securities equally and uniformly, to afford any holder of any gold-clause security, who thinks he could by any possibility sustain any loss in the future, an opportunity to put himself immediately in a position to avoid such future loss, and to remove all possibility of any suits designed to hamper the Government in administering the public debt and in financing its ordinary and emergency expenditures.

More specifically, I recommend the immediate enactment of legislation (1) that will authorize and direct the Secretary of the Treasury, at the request of the holders of gold-clause securities of the United States, to make payment therefor in cash, dollar for dollar, with accrued interest—

Senator MALONEY. May I ask a question?

Senator McADOO. Yes.

Senator MALONEY. Does that not refer just to gold-clause securities?

Secretary MORGENTHAU. You are right.

Senator MALONEY. But the bill takes in all bonds and coins and notes and currency?

Secretary MORGENTHAU. Yes.

Senator MALONEY. But you go much further than the President's message?

Secretary MORGENTHAU. I hope I have not.

Senator MALONEY. I mean the bill does.

Secretary MORGENTHAU. If I may have a minute; I do not want to make a mistake.

Senator McADOO. Yes.

Senator BULKLEY. There are two different things. The bill withdraws the right to sue on any obligation, whether it is a gold clause obligation or other obligation—

Senator MALONEY. That is the point I am making.

Senator BULKLEY. The portion the Secretary was quoting was giving the holders of gold-clause bonds the option to get their money now, regardless of the maturity of the bonds, and that is only afforded to the holders of the bonds that have a gold clause in them.

Senator MALONEY. But the bill extends it to every Government obligation.

Senator BULKLEY. No; the bill denies the right to sue on it, on any obligation.

Senator BARREY. But it does not move up the due date of any bond.

Senator GORE. No, it does not. It only affords them the privilege, those who wish cash, to get cash, and cuts off their right to get cash unless they exercise their right to get it within a limited time.

Senator BARKLEY. Those who would prefer to hold their bonds and get the value dollar for dollar, can hold them. But those who wish may turn them in.

Senator GORE. Those who surrender their gold obligations do so at a hundred cents on the dollar, to be turned in for other obligations; but they would be turning in obligations that are now selling above par.

Senator BARKLEY. But if they prefer to hold them, there is nothing that compels them to turn them in and accept any other obligation.

Senator GORE. Mr. Attorney General, may I ask why it was included in this bill, the matter of taking away of the right to sue on the part of anyone who had been the owner of gold or silver obligations?

Attorney General CUMMINGS. Well, I am willing to answer that question in just a moment, but Secretary Morgenthau wanted to finish the reading of the portion of the message which he failed to include in his first statement.

Senator McADOO. And then I would like, if I may, to continue the inquiry that I had started when these interruptions occurred.

Secretary MORGENTHAU. If I may answer Senator Maloney, you asked me whether I had gone further than the President's message, I read section 1, but I failed to read section 2.

Section 1 says:

that will authorize and direct the Secretary of the Treasury, at the request of the holders of gold-coin securities of the United States, to make payment therefor in cash, dollar for dollar, with accrued interest,

and section 2 reads:

that will terminate any consent which the United States may have voluntarily given to be sued on its securities, coins or currencies;

so I think that I am not ahead of the President on that.

Senator MALONEY. My thought is that the bill is ahead of the President.

Secretary MORGENTHAU. I do not think so. I do not think so, Senator Maloney.

Senator MALONEY. I had one thing more I wished to ask; may I ask it?

Senator McADOO. Yes.

Senator MALONEY. May I be a little bit farfetched, Mr. Secretary, and ask you if it would be physically possible for you to live up to your end of the contract if these bondholders should demand cash before September 1?

Secretary MORGENTHAU. I think the answer to that is "Yes."

Senator MALONEY. How would you do it?

Secretary MORGENTHAU. Well, if I may be a little bit practical in answering your question, I would like to say this: In the first place, all of these gold-bond securities are selling well above par, and why any holder of a gold bond should wish to sacrifice the premium at which it is selling in order to get par for it when he can go out in the market and sell them anywhere from 103, I guess some of them are selling up to 114—

Under Secretary COOLIDGE. One hundred and seventeen.

Secretary MORGENTHAU. Up to 117. I cannot understand why anyone should want to do that. And that is why I say I think it is perfectly within the possibilities that anybody who would offer his gold bonds between now and the first of September, that he would be

taken care of; I would take the contract to say that I could take care of it, as far as it is humanly possible.

Senator MALONEY. Do you know the passage of this bill might depress the bonds to the point where they might ask for cash?

Secretary MORGENTHAU. Again answering you, this has been out now, this message—June 17, was it?

Senator MALONEY. The message is dated June 27.

Secretary MORGENTHAU. It has been out since June 27.

You have had the hearings here. There has been considerable publicity on it and since then there has been a steady rising in the market. Now, I take it—

Senator STEINER. What has induced that rise in the market?

Secretary MORGENTHAU. I would not be so bold as to say, Senator.

Senator STEINER. It has not been influenced by any Treasury operations?

Secretary MORGENTHAU. No; we have not reached the point where we are as good as that, nor have we the inclination to do it.

Senator BARKLEY. Now, to the extent—

Secretary MORGENTHAU. Does that answer your question, Senator Maloney?

Senator MALONEY. It answers my question, but does not satisfy my fear.

The CHAIRMAN. What is your fear?

Senator MALONEY. That there is not a sufficient amount of money available to pay the bonds if they are tendered.

The CHAIRMAN. If you take a bond with a par value of 100 and selling at 117, would you have any trouble raising the money on it?

Senator MALONEY. You can recall when Government bonds sold considerably below par. We all know that.

Secretary MORGENTHAU. If that is your fear, Senator, I will say that if Congress passes this bill, whatever my reputation is worth, I will assume the moral obligation of meeting the bonds that are offered.

Senator GORE. You do not think anybody who has bonds worth 117 will offer them for 100?

Secretary MORGENTHAU. I do not think the American public is crazy.

Senator GLASS. The American public is exceptional, then, if it is not crazy.

Senator MALONEY. May I ask another question?

The CHAIRMAN. Yes.

Senator MALONEY. Perhaps this is impertinent, but I think this is so important that we want to hear the entire story.

Secretary MORGENTHAU. That is what I am trying to tell you.

Senator MALONEY. I know you are. Do you base your conclusion, or arrive at your conclusion as a result of the fact that this gives bondholders only approximately a month to exercise this privilege?

Secretary MORGENTHAU. If it would make it any easier, I would just as soon say 6 months, but the time element does not enter into it.

Senator MALONEY. That makes a difference to me. I am glad you feel that it does not.

Senator BARKLEY. Do you think that any bonds would be presented at all in advance of maturity?

Secretary MORGENTHAU. I doubt it.

Senator BARKLEY. If they were, the holder could either demand cash or accept a new bond in lieu of the one he had?

Secretary MORGENTHAU. That is right.

Senator BARKLEY. Now, if he demanded a new bond, of course you would exchange bonds with him?

Secretary MORGENTHAU. Yes, sir.

Senator BARKLEY. If he demanded cash and you did not happen to have it in the Treasury at the time, you would sell the same kind of bonds which you would exchange with him, to the public, and raise the money with which to pay him in cash?

Secretary MORGENTHAU. Well, we might not sell exactly the same bond. We might sell some notes.

Senator BARKLEY. You would sell some bonds or notes, or some other Government obligation?

Secretary MORGENTHAU. Yes, sir.

Senator BARKLEY. In the selling of such bonds to raise cash to pay those who demanded cash, do you think that this resolution would offer any impediment to the sale of those bonds to the public in the same way that bonds are now being sold to and bought by the public?

Secretary MORGENTHAU. I do not think it would.

Senator McADOO. Now, Mr. Secretary, I would like to take this matter up from the point where we dropped it because of the other questions that were asked.

Secretary MORGENTHAU. Yes, sir.

Senator McADOO. We reached the point where you said you had \$9,000,000 of financing to do for the remainder of this fiscal year?

Secretary MORGENTHAU. Yes, sir.

Senator McADOO. We agreed that you would have, if the right were accorded to the bondholders of immediate payment and it was exercised by them, \$8,200,000,000 more.

Secretary MORGENTHAU. Those figures may be excessive.

Senator McADOO. Those are approximate figures. We are using round numbers.

Secretary MORGENTHAU. Yes, sir.

Senator McADOO. That would be a total, if they would exercise the right, of \$17,200,000,000 to finance within this fiscal year. Now, the point that is running in my mind is this: First, if these gold-clause obligations were selling at such a premium as you describe and that premium is maintained, of course you will not have to redeem any.

Secretary MORGENTHAU. No.

Senator McADOO. Because I agree with you that the American public is not so crazy as to get par from the Treasury when they can get 117 in the open market.

Secretary MORGENTHAU. Yes, sir.

Senator McADOO. So, if the gold clause which is in these bonds is regarded as of sufficient value to make them sell at a premium, or if the rate of interest is higher, plus the gold clause in the obligation, to make them sell at a higher price than the bonds they would take in exchange, or if they took currency for them, of course you have nothing to fear about these 8,200,000,000 being presented for redemption or for payment.

Secretary MORGENTHAU. That is perfectly true; but unfortunately there are a lot of smart speculators in this country and a lot of smart lawyers who are glad to go to work for them.

Senator McADOO. Are you speaking of the Attorney General?

Attorney General CUMMINGS. I only work for Uncle Sam.

Senator McADOO. I know he is a smart lawyer.

Secretary MORGENTHAU. Fifty percent of what I said about the lawyers is true.

Attorney General CUMMINGS. I only operate for the Government. I used to have many clients. Now I have but one.

Senator McADOO. You put it on a 50 percent basis?

Secretary MORGENTHAU. When I said 50 percent, I meant it about being smart. This on a contingent basis might look very nice to a lot of people and they would take these cases and have a bondholders' committee and deposit their bonds and their coupons and get somebody to represent them and go ahead and file suits. The bondholders have nothing to lose, and the lawyer might have something to gain.

Attorney General CUMMINGS. Including publicity.

Secretary MORGENTHAU. And as the Attorney General says, including publicity. And it is that kind of sharpshooting and sharp practice which I fear.

Senator ADAMS. You do not class those lawyers as smart lawyers who bring a suit and put their time up against a Supreme Court decision already handed down, stating that they could not collect?

Secretary MORGENTHAU. You are getting too legalistic for me.

Senator ADAMS. That is not legalistic.

Senator McADOO. Mr. Secretary, the whole point is, aside from the practical financing of the operation, if this resolution should be adopted, it seems to me there are two questions.

One is the purely legalistic question about which there is no disagreement. Of course, the sovereign has the right to cut off the privilege accorded to its citizens to sue, given to them by the Government. That is what you propose to do here. Now, so far as the legalistic phase of it alone is concerned, I say, there can be no controversy.

The other point is the moral issue involved in this resolution and its effect on the Government's credit. I am not speaking of the immediate effect; I am speaking of the long-time effect.

The situation as it exists today is that every holder of a gold-clause obligation or bond with a gold-clause obligation, holds it lawfully and his right to hold it and his right to payment in gold has been upheld by the Supreme Court of the United States. Now, the purpose of this resolution is to cut off the right which has always existed during the life of these bonds—I mean has existed to sue in the Court of Claims.

Secretary MORGENTHAU. I could not hear what you said.

Senator McADOO. I say, as the situation stands today, the Supreme Court has held that every holder of a gold-clause obligation is entitled to payment and that Congress has no power to alter or to destroy that obligation. Therefore, if he has sustained any injury because of the refusal of the Government to pay him according to the contract the Supreme Court has held that the Congress has no power to alter or to destroy this obligation. And as the law now stands he has the right, if you attempt to alter the obligation, to sue in the Court of Claims for any injury he may sustain.

The sole question here is, Shall we destroy the right of the holder of this bond to payment according to its terms by refusing him a remedy in the courts, a remedy which existed at the time that he bought the obligation and which the Government voluntarily granted to him?

My feeling about that is that it is just as complete a repudiation of a solemn contract entered into by this Government when it sold a man a bond (and I sold some 18 billions of them and told everybody the Government was giving him a matchless security, which would be inviolable) I think it is just as much a repudiation of an obligation which the Supreme Court has upheld to now say, "All right, you have the obligation and it is a binding one on the Government, but we do not intend to let you enforce it because we withdraw now the right which you heretofore enjoyed to sue in the Court of Claims."

I think that when that percolates into the minds of the people, and looking to the future of the Government, it is going to have a very serious effect upon the national credit. That is the thing that disturbs me most. I cannot see any answer to it.

I think the moral question involved is very serious. To cut off the right of the holder of a bond, or a privilege which existed at the time the bond was purchased to go into the Court of Claims if he has sustained an injury and recover for damages is indefensible. I do not think a great government should do it. It is a roundabout way of effecting a repudiation of a contract.

The CHAIRMAN. The Supreme Court held as perfectly valid the acts of Congress, the Emergency Banking Act, the Executive order of April 5, 1933, the Agricultural Adjustment Act of May 12, 1933, restricting the use of this gold. They have held all that as valid and within the powers of Congress.

Senator MALONEY. May I ask a question?

Secretary MORGENTHAU. Yes.

Senator MALONEY. I do not have the fear that Senator McAdoo does. I think the change in the gold situation probably necessitates a protection against the kind of suits that the Secretary describes. But I would like to ask this: Will the thing that you are attempting be jeopardized if you remove section 1 from the bill, which I regard as a possibly inflationary danger? Will you not be able to accomplish what the bill proposes to accomplish without section 1?

Secretary MORGENTHAU. If you will not mind, I will wait just a minute before I answer that.

Senator ADAMS. Senator Maloney, you do not want the bill at all; you want to take away the right to sue, but you do not want the Government to pay them for the obligations they hold. That will be the effect of taking out section 1.

Senator MALONEY. I do not want the Government to say it will do something it will be physically impossible to do without changing our financial system entirely.

Secretary MORGENTHAU. Would it be agreeable to you if the Attorney General answered that question?

Senator MALONEY. Yes, sir.

Secretary MORGENTHAU. Thank you.

STATEMENT OF HON. HOMER S. CUMMINGS, ATTORNEY GENERAL  
OF THE UNITED STATES, WASHINGTON, D. C.

Attorney General CUMMINGS. Senator, as I see it, what you say is literally true, that you can go forward with this legislation and merely cut these rights off, and again I misspeak myself, I mean the privilege, not the right. You could do that, cut off these privileges, and that would be the end of the matter, but there are some people who believe that in view of the fact that you are in a certain measure changing the status of people who have gold bond obligations, it would be fair enough to give those people the right to come in and get cash now if they desire it. And if the Treasury says it can do the financing part of it safely, without embarrassment to the Government, it would seem to be the best course to pursue.

Senator MALONEY. The Treasury only says it, Mr. Attorney General, because the Treasury says in the same breath the people will not come in to cash the bonds.

Attorney General CUMMINGS. I do not think they will either, as far as that is concerned. I think you will be very much surprised.

Senator BARKLEY. That is not what the Secretary said. He said he could pay all of those who demanded the cash by the sale of bonds of the Government to other people who would furnish the cash with which to pay those who want to surrender their gold bonds.

Senator MALONEY. I did not so understand it.

Senator BARKLEY. Yes, I asked him that question.

Senator GLASS. To what other people?

Senator BARKLEY. Well, all the other 130 million "crazy" people that live in this country. I am using the word "crazy" in quotations; it is not my word.

Senator GLASS. I intend, and I will say for the record, that I meant to contrast a crazy Congress with sensible people.

Senator McADOO. Mr. Secretary, I would like to call your attention to the decision of the Court, just a few lines to show you the point that is in my mind. The Court says:

Having this power to authorize the issue of definite obligations for the payment of money borrowed, the Congress has not been vested with authority to alter or destroy those obligations.

"To alter or destroy them."

The fact that the United States may not be sued without its consent is a matter of procedure which does not affect the legal and binding character of its contracts. While the Congress is under no duty to provide remedies through the courts, the contractual obligation still exists and, despite infirmities of procedure, remains binding upon the conscience of the sovereign.

Senator GLASS. Does not this resolution alter the situation?

Senator McADOO. This resolution does alter the situation, because it denies these people the right if they are injured to recover in court the damages sustained. The right existed at the time these obligations were incurred.

Undoubtedly the Congress has the right to repeal or to deny the right of these people to recover in court, if we want to do that. I for my part think it would be a grave blunder to do it because I think that we will pay a grave price for it in the future.

Senator GLASS. Why do you think that?

Senator McADOO. I believe we will pay a price infinitely greater than any compensating benefit we could possibly get from a failure

to preserve inviolate every contractual obligation the Government. From the time Hamilton made the great fight in the Constitutional Convention to have the Government of the United States assume and pay the debts incurred by the Confederation during the Revolutionary War, and from that time to this the Government of the United States has never failed to perform literally every obligation that it has assumed with respect to the public credit and with respect to the public debt. I should like to see this spotless record preserved because the public credit is the greatest power we have in times of emergency. If a war ever struck this country again and we should have to go to the people for the purpose of securing the necessary means to fight that war, and have got to go to all the people to do it, just as we did in the World War you will find that the failure of the Government to carry out its obligations faithfully and to the letter will confront you and that the destruction of public confidence in the credit of the Government would be so great that we would simply reap a crop of dragon's teeth. That is the way this strikes me, gentlemen. I may be altogether wrong about it. I do not think there is anything more essential to any government than the preservation of its credit immaculate and inviolate.

Senator BARKLEY. Well, in my judgment, if the credit of the Government ever becomes so precarious that it can only be bolstered up by the right to bring a suit, then it is about gone.

Senator McADOO. Well, would you say that any contractor today who enters into a contract with the Government which gives him a right to sue on the contract if he has been unfairly dealt with, should no longer have any right to sue the Government? If you did that, the contractors would have no confidence in the obligation of a contract. There must be some court in which a citizen may have redress.

Senator BARKLEY. I have not had time to read this, but Congress has in the past withdrawn the right to sue the Government of the United States, certainly on implied contracts, if not on express contracts.

Senator McADOO. Never on the public debt.

Senator BARKLEY. It seems to me that is a moot question. Congress did change this obligation in the act of June 1933. That is past history.

Senator McADOO. No; it did not change it.

Senator BARKLEY. The question whether anybody has a right to recover on this obligation, depending on whether he has been damaged if you take the most extreme interpretation of the Supreme Court's decision that involves the value of the present dollar, it did not take away the right to sue if actual damage was shown.

With respect to the purchasing power of the dollar, the real value in the matter of purchasing commodities, since the passage of the resolution in 1933, can you tell me whether the passage of that act has in any way changed the relative value of the dollar in its purchasing power?

Secretary MORGENTHAU. Since the passage of the act?

Senator BARKLEY. Yes; by reason of that.

Secretary MORGENTHAU. In relation to these gold bonds?

Senator BARKLEY. The amount of the dollar that is now being issued with a less gold basis than that provided before, based on that change, has there been any change in the value of the American dollar in its purchasing power?

Secretary MORGENTHAU. May I have a minute, Mr. Chairman?

The CHAIRMAN. Yes.

Senator GLASS. What was the change made for if it was not intended to change the value of the dollar?

Senator ADAMS. May I venture the suggestion that in the records of the present Congress we have a bill and a bill in the Senate appropriating a million and a half to consular agents because of the lowered purchasing power of their salaries. That is a bill printed by the Appropriation Committee.

The CHAIRMAN. Well, of course, we cannot lose sight of the fact that if a gold clause bondholder came up and demanded his gold, supposing the gold was turned over to him, delivered to him, does not Congress have a right to say, "You must surrender that gold to the Treasury"?

Senator BARKLEY. The Supreme Court has said that there was no damage, the man who brought the suit could recover no damages because he had suffered no damages.

Senator GLASS. The Supreme Court did not say he had not suffered damages. It said he had not stated the damages in his declaration. Suppose the Congress wanted to exercise what you lawyers concede to be its constitutional right and devalues the gold to 10 cents, would the holders of gold bonds suffer any injury?

The CHAIRMAN. Not if they can get dollar for dollar.

Senator GLASS. The dollar that is cut to 10 cents, they would not suffer any injury?

The CHAIRMAN. The dollar that is worth a dollar all over the world.

Senator GLASS. It is not worth a dollar all over the world. Why did we appropriate millions of dollars, then, to reimburse our consular agents abroad? It is not worth a dollar all over the world.

The CHAIRMAN. That is a question of foreign exchange.

Senator McADOO. I have just one more question.

Senator GLASS. It is perfectly evident to me that somebody thinks that the credit of the Government is precarious or this resolution would not be here.

Senator McADOO. Mr. Secretary, your daily Treasury statement shows that you have now as an asset some 9 billion 100 million dollars in gold; is that approximately correct?

Secretary MORGENTHAU. Approximately.

Senator McADOO. Well, you have the gold required by the Government to perform every contract for the payment of these gold clause obligations, have you not?

Secretary MORGENTHAU. I think so.

Senator STEIWER. Mr. Chairman, I want to get a little more information, if I may. Mr. Secretary, would it be reasonably convenient for the Treasury to send us a break-down of the allotments, that is with reference to this recent issue we have discussed, I believe, of 50 million dollars, and the 500-million-dollar issue, which I think you identified as the 17-percent issue?

Secretary MORGENTHAU. Yes, sir.

Senator STEIWER. Could you send us a break-down of that, showing what proportion or part of the allotment went to the banks and what went to others?

Secretary MORGENTHAU. I will give you all the information we have, just what the allotment was and to whom it went.

Senator STEIWER. I would appreciate that very much and I imagine the committee may want to put it in the record.

Now, who in the Treasury has immediate charge of the funding activities of the Treasury? Do you do that personally, or is that in immediate charge of someone else?

Secretary MORGENTHAU. Well, I do not know just how to describe it. The work is done together. We do not definitely allocate any particular work to anybody. We work together very closely as a group, and questions on these important refundings are taken up by the staff and submitted to the President for final approval or disapproval. Mr. Coolidge is particularly familiar with funding and refunding operations.

Senator STEIWER. Does Mr. Coolidge have any more intimate relation with that matter than the other members of the staff?

Secretary MORGENTHAU. I would say so.

Senator STEIWER. You referred a time or two to the information which you have secured through some of the Comptroller's reports of the amounts of Government obligations now in the possession of the banks and the amount in the possession of others, but have not given us the figures. Do you have them with you?

Secretary MORGENTHAU. We do not have them with us. I would be delighted to send that up.

Senator STEIWER. Will you prepare a tabulation and send that up to us?

Secretary MORGENTHAU. Yes, sir.

Senator STEIWER. And you may do it as of any recent date.

Secretary MORGENTHAU. The last one we have.

Senator STEIWER. That would be the practical date, I would assume, would be the date of the last one.

Senator TOWNSEND. July 1?

Secretary MORGENTHAU. That would not be assembled, Senator. The information is not in as yet.

Senator STEIWER. In the public debt, you have increased the ratio of short-term obligations as against the ratio of long-term obligations, have you not?

Under Secretary COOLIDGE. I would say rather the other way. We have been lengthening the maturities on the whole.

Senator STEIWER. Well, do you mean by that that you have outstanding a larger proportion of long-term Government bonds and a smaller proportion of the short-term notes and securities?

Under Secretary COOLIDGE. Yes; there is a large issue of Liberty bonds that came due, or were to come due in 1938, which we are refunding and extending the maturities.

Senator STEIWER. Well, now, for my information and to make sure we are talking about the same thing, what does the Treasury include in the phrase "short-term obligation" and what is included in the term "long-term obligation"?

Under Secretary COOLIDGE. That phrase is not an accurate phrase, and I would include any term that is under—

Senator STEIWER. Well, but you have answered the question—I am not quarreling about it, but I want to make clear where we stand—you have answered the question that the ratio of long-term obligations has increased. Now, are you including, we will say, 9-month obligations in the phrase "long-term obligations"?

Under Secretary COOLIDGE. My mind is working on the term of 3 to 5 years period as being short.

Senator STEIWER. As being short?

Under Secretary COOLIDGE. Yes. If you include the 9 months, I would not be so sure, under a year.

Senator STEIWER. Could you give us the information of the ratio of long-term obligations and the ratio of short-term obligations in the public debt, taking, we will say, a year as the line of demarcation between the long and the short?

Under Secretary COOLIDGE. Yes.

Senator STEIWER. Could you send that up to us?

Under Secretary COOLIDGE. Yes, sir.

Senator STEIWER. Are your books and your information in such shape so that you could do it in that way?

Under Secretary COOLIDGE. Any particular period you wish. Would you care for it in a year?

Senator STEIWER. It is not that so much I am trying to get at. What I am talking about is to try to define the difference between the long-term and the short-term obligations. Now, I would just as soon take some other period than a year if the Treasury desires to make it that way.

Secretary MORGENTHAU. We will give it to you the average number of years the obligations are for. It will be months, quarterly, or semiannually, any way you want it.

Senator STEIWER. I would very much appreciate it, Mr. Secretary, if you would send up to the committee for our convenience a tabulation showing the ratios, we will say, since 1931 or 1932, during the depression period, of short-and-long-term obligations, making such break-downs as may be convenient in view of the information which you have, so that we may study the trend, if there is a trend going on here from short-term obligations to long, or from long-term obligations to short. I am prompted to ask the question because I had understood that there had been some shortening in the terms of the obligations in order to obtain the benefit of a more favorable interest rate and to save to the Government some interest cost.

Secretary MORGENTHAU. I think that you will find, and the figures will either prove it or not, that the trend since I have been in the Treasury has been to lengthen the number of years that Government obligations have to run. As I remember it, I made a speech a couple of months ago. As I remember, at that time I said that as of that year we had reduced the interest charges by 100 million dollars and the average number of years of the Government obligations outstanding was a little over 8 years, and that the trend is to lengthen rather than shorten the term. But the figures will either prove it or disprove it. I think the trend is to lengthen the number of years which the bonds are to run.

Senator STEIWER. I have only one more question, Mr. Chairman. In the Secretary's letter to the chairman of this committee, under date of July 15, I find this sentence, and I will read it:

I understand that the Attorney General has presented to you the reasons of general policy for the proposed legislation and that you desire from me an expression of my opinion concerning the probable effect of the resolution upon the Government securities market.

I merely want to ask, Mr. Secretary, what did you have in mind in the statement made before this committee by the Attorney General when you said that you understood he had presented the reasons of general policy? What particular presentation were you referring to in the statement that had been made before the committee by the Attorney General?

Secretary MORGENTHAU. Well, his whole statement, and I simply concluded that when he was here he testified as to his opinion concerning the whole resolution and if you wanted to hear from me that you would be asking me about the financial aspects.

Senator STEIWER. That is true; I think that some of us here wished to discuss with you the financial aspects of the matter.

Secretary MORGENTHAU. There is no hidden, ulterior object there, I had nothing in mind other than that.

Senator STEIWER. I am still wondering what you saw in the Attorney General's statement that you regarded as a statement of general policy with respect to legislation of this kind.

Secretary MORGENTHAU. That is as I understood it and that is the way I interpreted it. Maybe my interpretation was wrong. But that is the way I interpreted it.

Senator BULKLEY. In other words, you supposed he had come here and stated the matter from the standpoint of the Government and the Department of Justice, and your view was to give your information and opinion as Secretary of the Treasury?

Secretary MORGENTHAU. Yes.

Senator GLASS. I think the Attorney General stated very explicitly and very clearly his conception of what the general policy of the Government should be concerning the devaluation of the dollar and the repudiation of the gold contracts and the whole thing. I think it was a very lamentable policy that he described, but I think he described it very clearly.

Attorney General CUMMINGS. Let me interject there, that I did endeavor, Senator, to refer to the legal aspects of this matter, the right of the Congress to deal with the matter. And while I endeavored to avoid a discussion of matters that were debated quite fully in Congress many months ago, still, so far as I was drawn into the discussion, I endeavored to make clear that I thought we were following a consistent and highly creditable course.

I do not for a moment agree to the suggestion from any source that the Government of the United States is engaged in a dishonorable transaction. I repudiate that suggestion with all the earnestness that I am able to summon, and all the questions that have been asked me that imported that thought, I repudiate.

I hope that I have made it perfectly clear that the policy pursued by the Government seemed to me in the interest of the people of the United States and founded upon the essentials of justice and, I added, that these were matters for people to discuss among themselves and for Congress to pass upon; that Congress had acted and that we were now engaged in suggesting this legislation for purposes of convenience, for the purpose of buttressing and protecting the policies the Congress had embarked upon and that in a certain way it was a reassertion of the highly important sovereign power of the Congress of the United States to deal unhampered with the currency of the country.

Senator GLASS. Then you do not accept the decision of the Supreme Court, who said it was discreditable?

Attorney General CUMMINGS. No—  
Senator GLASS. Which said it was a repudiation. They used that very term.

Attorney General CUMMINGS. I accept what I have said I accept. I have stated what I think is the correct rule.

I also might add that so far as I can see the Supreme Court in the *Perry case* very clearly stated that the attempt of bondholders to recover what they called damages was an attempt at unjust enrichment, and I have never been able to understand and I do not understand now why it is immoral for the Congress of the United States by legislation to prevent people from attempting to enrich themselves, at the expense of the Government.

Senator GLASS. Well, you and I do not read the Supreme Court decision alike.

Attorney General CUMMINGS. I do not think we ever have, sir.

Senator GLASS. I do not think we ever have, and I do not think we ever will.

Attorney General CUMMINGS. I do not think so either.

Senator BULKLEY. The Court having held clearly that under the circumstances presented in that case that a claim for damages is a claim for unjust enrichment, what is the danger of permitting anybody else to bring a similar suit? Is it not clearly established under those circumstances it would be unjust enrichment and that nobody could possibly recover in any court of the United States?

Attorney General CUMMINGS. Why, Senator, it is a very practical and simple matter. There are pending at the present time two cases which are attempting to reassert the same substantial contention that was made before in different form. There are other cases threatened.

Senator BULKLEY. Surely—excuse me.

Attorney General CUMMINGS. I beg your pardon. Surely to use your phrase, there is no reason why the Government of the United States, as I see it, should not cut off these pestiferous suits which can have no effect in the world except to harass the Government in its operations and are based always upon the proposition that in some way private parties have a right to appear in courts in connection with matters of our currency. So, it seems to me, sir, that convenience, common sense, and consistency with the policy already adopted call for this enactment.

Senator BULKLEY. I take it that the Court has itself, by the very language that you cited, cut off all pestiferous suits. The resolution that is before us cuts off all suits, whether they may be just or pestiferous, and undertakes to judge what the Court has not judged.

Attorney General CUMMINGS. Well, Senator, there is a confusion of thought apparently in the minds of various people on this subject.

In the first place, the privilege of suing the Government is only a privilege, as I have repeatedly stated, and which everyone concedes we have the right to withdraw.

If there are any possibilities of injustice which may follow from that course, the forum where that should be asserted is Congress itself and not in courts set up by the Congress. Because, unless you take that position, you are always subject to having the sovereign right of the Congress to deal with currency as it sees fit challenged by private litigants and that must be conceded not to be consonant with

the dignity of the Government of the United States. That is all there is to it.

There is another point of view. Now, you may set up moral standards of your own, and I do not believe that you do, but anybody may set up moral standards of his own and say that everybody who does not conform with those standards is immoral. But that does not get us anywhere. The thing is, what should a great Government do about its currency?

Now, a policy has been decided. It was decided after months of long debates and in the process from the 4th of March 1933, for 11 months, in which this subject was under discussion a whole series of acts were carried forward for the purpose of shifting from the gold-coin standard to the gold-bullion standard.

There was a deliberate purpose upon the part of the Government to shift the currency system for reasons which were then apparent and which are still apparent; and so successful was it that it has been done without shock to the public credit, which stands higher today than it ever was, and there is hardly a person in the United States who would suggest that those steps should be retraced.

In view of that situation, it seems to me entirely aside from the question and almost an impertinence, if I may use that word, to suggest that the Government of the United States in proposing and adopting this amendment is doing anything that is immoral, improper, revolutionary, or in the nature of repudiation.

Senator BARKLEY. The argument about morality, of course, does not apply to me. I have not used the term at all in any of this discussion.

Attorney General CUMMINGS. I thought I made it clear in my statement that it did not apply to you.

Senator BARKLEY. What I do say is that while I have advocated and supported the change in the currency and still do, I absolutely deny that the repudiation of a specific promise to pay a certain weight of gold is in any way necessary to carry out the policy with respect to the change of currency.

Attorney General CUMMINGS. I respect your judgment and I see the force of what you say. I do not believe that it is controlling. What I mean by that is I think the bulk of the reason, the weight of reason is the other way. That is just a difference of opinion which I know you will permit me to entertain and which of course I accord to you.

The CHAIRMAN. Senator Barkley, may I say that the Supreme Court does not prevent the bringing of these "pestiferous suits", so-called. It simply says they cannot recover unless actual damages are proven.

Senator BARKLEY. It simply says you cannot recover unless you show a damage, and nobody is going to sue on that sort of a claim again. But I imagine there may be other suits which may have greater merit than those which have been so far presented and that we ought not to undertake to preclude the bringing of such suits if people think they have a right to bring them. I could conceive of that kind of a situation.

The CHAIRMAN. But Justice Stone suggested in his opinion the way to prevent these pestiferous suits was to close that door.

Senator GLASS. No Justice agreed with him, however.

Senator BARKLEY. The other Justices did not comment on that. They would have agreed with him.

Senator GLASS. That is a conjecture. Mr. Chairman, I want to put into the record at this point the decision of the Supreme Court on the question of damages in the *Perry case*, which not only does not convey the idea that it is an impertinence to question the moral right of the Government of the United States to repudiate its contract, but on the contrary it suggests that it is worse than an impertinence to take a contrary view. The Supreme Court says—

The CHAIRMAN. I think it has been put in about three times before. Senator GLASS. But I am going to read it again.

The CHAIRMAN. You do not want the whole opinion in, do you?

Senator GLASS. No, no, Mr. Chairman. I said that part of the opinion that relates to damages.

The CHAIRMAN. Can you give the page?

Senator GLASS. I will put it in in order that it may be determined whether I can read and understand plain English or not. It may not be important to the chairman and others.

The CHAIRMAN. I just asked whether you would designate the page and reference you want.

Senator GLASS. Page 25, the third section of the opinion, which relates to the question of damage [reading]:

In this view of the binding quality of the Government's obligations—

In other words, the Court said the Congress had no right to repudiate the Government's obligations—

we come to the question as to the plaintiff's right to recover damages. That is a distinct question. Because the Government is not at liberty to alter or repudiate its obligations—

and that I emphasize because it does not seem to me that it is an impertinence—

it does not follow that the claim advanced by the plaintiff should be sustained. The action is for breach of contract. As a remedy for breach, plaintiff can recover no more than the loss he has suffered and of which he may rightfully complain. He is not entitled to be enriched.

In short, the Supreme Court there decides that the plaintiff is not entitled to recover more than his actual loss, and that is all it decided with respect to that.

Plaintiff seeks judgment for \$16,931.25, in present legal tender currency, on his bond for \$10,000. The question is whether he has shown damage to that extent, or any actual damage, as the Court of Claims has no authority to entertain an action for nominal damages.

Now, the Court did not say that a complainant had no right to recover actual damages. It simply said that this plaintiff did not even cite in his petition the actual damage that he claimed and that therefore the Court of Claims could not decide the question of nominal damages. It is perfectly clear to me what the Supreme Court said and what the Supreme Court meant.

Senator BARKLEY. I do not think that decision was based on any defect in pleading. Otherwise, it might have gone out on demurrer.

Senator ADAMS. I think it did go out on demurrer, Senator Barkley.

Senator BARKLEY. I do not think you are correct on that, but anyhow they were deciding in effect in that language that a man who

had a theoretical claim for the difference between a thousand dollars and sixteen hundred and some dollars, based on the change in the gold content of the dollar, had no cause of action against the Government.

Senator ADAMS. On page 21 the Court said:

Defendant demurred upon the ground that the petition did not state a cause of action against the United States.

It went out on a demurrer.

Senator BARKLEY. That was in the lower court.

Senator ADAMS. But it went up on that issue.

Senator BARKLEY. The whole effect of it is that it states that the plaintiff did not state a cause of action.

Senator GLASS. I cannot enter into any legal discussions between you very distinguished lawyers, but I know plain English when I read it.

Senator BARKLEY. I would like to amend this resolution by requiring in some way that the Supreme Court render decisions that everybody can understand.

Senator GLASS. They might find some difficulty in rendering one I could understand.

Senator BARKLEY. They would have a hard time rendering one which you did not think you could understand.

Senator GLASS. I am not alone in that, because I have known the distinguished Senator from Kentucky infrequently and modestly to present his view on legal aspects of questions.

Senator BARKLEY. Certainly.

The CHAIRMAN. Are there any other questions you want to ask?

Senator STEIWER. Mr. Attorney General—

The CHAIRMAN. Senator Steiwer, you asked about the guaranteed obligations.

Senator STEIWER. I understand that is covered.

The CHAIRMAN. That is covered on page—

Senator ADAMS. Could I recall the Attorney General? He was going to give me an answer to a question which I asked him.

The CHAIRMAN. That is on page 48.

Attorney General CUMMINGS. It is so far back that I have forgotten what it was.

Senator ADAMS. The question was as to why a person could not bring suit for the taking of bullion, that is, either gold or silver bullion turned into the Government or taken by the Government, why that could not be sued for regardless of any differences of opinion or any failure to pay. That is not involved in any gold clause question.

Attorney General CUMMINGS. You mean why—

Senator ADAMS. I was asking you as to the policy forbidding those suits.

Attorney General CUMMINGS. Just a moment. I suppose, Senator, that there are two answers to your question. First, the specific answer to the particular interrogatory, and then the other, based on a general proposition.

The first answer is that the Government had acquired under various enactments, executive orders, and what not a large amount of bullion that had been turned in and was in the Treasury of the United States. There was a contention that that should have been paid for, not dollar for dollar, but paid for on some theory of enhanced value.

Now, while of course that contention probably could not be sustained in any court, nevertheless this legislation settles that, too. That is the specific answer.

The general answer is that this resolution is designed to withdraw any privilege whatsoever upon the part of any person whomsoever to sue the Government in courts of its own setting-up on any of the obligations, coins, currencies, or issues of the Government, which deal with the financial operations of the Government.

Senator ADAMS. Well, Mr. Attorney General, what I have in mind is this: You take a gold mine in the Black Hills or in California operating, and they produce bullion. They have no option. They must turn it in to the Government. Now they turn it in to the Government and there is a dispute with the Government, for instance, as to the weight, a dispute as to the assay, a dispute then as to whether it should be paid for at one price or another. The Government may insist that it was bullion which should have been turned in and had not been produced prior to the act, or after the act was passed. Now, what I am asking is why should the matter be arbitrarily decided in the case of domestic producers of metal?

Attorney General CUMMINGS. I am informed, Senator, that you wrote me a letter on that subject, or the chairman wrote me a letter.

Senator ADAMS. I did not write a letter.

Attorney General CUMMINGS. Or the chairman. I am informed a letter was sent to me calling my attention to some particular situation and I have not had an opportunity as yet to see that letter. I am not familiar with the views set forth nor has there been an opportunity to check up on it. I am therefore not in a position to answer your question.

Senator BULKLEY. Do you regard the taking of bullion as the taking of private property for public use?

Attorney General CUMMINGS. I beg your pardon?

Senator BULKLEY. Do you regard the taking of gold bullion as the taking of private property for public use?

Attorney General CUMMINGS. You mean at the time—

Senator BULKLEY (interposing). Yes.

Attorney General CUMMINGS (continuing). That the bullion was turned into the Treasury of the United States?

Senator BULKLEY. Yes.

Attorney General CUMMINGS. Do I regard that as the taking of property for public use?

Senator BULKLEY. The taking of private property for public use.

Attorney General CUMMINGS. Under the provisions of the Constitution? Is that what you are getting at?

Senator BULKLEY. Yes.

Attorney General CUMMINGS (after a pause). Will you read that question?

(The question was read by the committee reporter.)

Attorney General CUMMINGS. Are you distinguishing, Senator, between gold bullion that was taken over or ore containing gold?

Senator BULKLEY. I do not care so much about the ore. Let us have the gold bullion first, and gold coins first, that were taken.

Attorney General CUMMINGS. The gold bullion and the coins?

Senator BULKLEY. Yes.

Attorney General CUMMINGS. Of course, there are two theories about it. I do not have in mind a decision on that question, so far as I know, the Court has not passed upon that particular point, so what I am saying has to do only with the legalistic surmises as to what might perhaps happen. But as it lies in my mind now, there are two theories which would justify the taking. One is by eminent domain, and the other would be upon the theory that the Government in the control of its currency had the right to deal with the subject of gold, because gold lies at the basis of all our financial structure. Gold is impressed with certain public uses. Gold is a thing apart, not an ordinary commodity, and it might very well be that the Court, if the question had arisen or might some day arise, would look at it from that standpoint.

But in dealing with the practical question, the bill, as I recall it, brought in the gold, required the Secretary of the Treasury to issue in payment therefor an equal amount, dollar for dollar at par, of other currency of the Government.

That puts the Government in the position of being able to say first that it had the right to do this as a sovereign exercise of the power of control of the currency; or, second, if it were the right of eminent domain, that it had made full compensation.

That is about how it lies.

Senator STREIWER. May I follow that up? The Attorney General has made the very interesting statement that gold is a thing apart by reason of its relation to the monetary system and not an ordinary commodity.

Attorney General CUMMINGS. That is what I think.

Senator STREIWER. Is that a quality that is inherent in gold or is that true by statute?

Attorney General CUMMINGS. Of course it is true by virtue of the historical fact, and how that fact arose is an interesting speculation in the development of currency.

Senator STREIWER. Well, is it not true by statute?

Attorney General CUMMINGS. It is true both ways, I think.

The CHAIRMAN. Both by law and custom?

Attorney General CUMMINGS. Law, custom, history. It is a long story of the development of money, which is a fascinating subject, and which we could discuss until the "cows came home".

Senator STREIWER. Well, I do not propose to detain you here to do that, Mr. Attorney General, but I was just wondering, if it is true by statute, how far the Government may go first in clothing an article with the character of money or relating it to the monetary system and then, having done that, in asserting the right to take it into its possession without regard to the fifth amendment to the Constitution.

Attorney General CUMMINGS. That aspect of the matter was recognized, I think, in the *Nortz* case, recently decided, one of those gold-clause cases, where the Court sustained the procedure adopted by the Government for bringing the gold into the coffers of the Treasury in exchange for the currency. And the principle has been, well, I should say, successively developed over since the *Mixed-money* case. When was that?

Senator GORE. 1803.

Attorney General CUMMINGS. What date did you give, Senator Gore?

Senator GORE. 1803.

Attorney General CUMMINGS. That was one of the first great cases on the subject and fixed the sovereign control of currency, and it has never been shaken since.

Senator GLASS. Mr. Chairman, may I venture to ask the Attorney General a question without desiring to seem impertinent?

The CHAIRMAN. Yes.

Senator GLASS. I would like to ask, Mr. Attorney General—

Attorney General CUMMINGS. I beg your pardon?

Senator GLASS. I say I desire to ask you a question without desiring to seem impertinent. I would like to ask you if there is any case in the judicial history of the United States where money has been made the object of the right of eminent domain?

Attorney General CUMMINGS. Well, in answering that question I do not want to be too certain about it because there may be cases which do not for the moment occur to my mind. I suppose the nearest approach to it would be the *Ling Su Fan* case, in which, as I recall, the exportation of silver from the Philippines was forbidden and the constitutionality of the regulation was sustained by the Supreme Court. I can give you the exact citation if it is of interest.

Senator GLASS. Was the right of eminent domain involved there, or the right of the Government to control exportation?

Attorney General CUMMINGS. Well, it was based on the sovereign control over the currency.

Senator GLASS. Yes.

Attorney General CUMMINGS. In view of the fact—

Senator GLASS. That I understand, but I am asking whether the decision was based on the right of eminent domain by the Government to take private property?

Senator STREIWER. May I suggest this in connection with the Attorney General's answer: The citizen is entitled to have his property paid for in money, not in property. Therefore there could hardly be a condemnation of money, which would have to be paid for in money.

Senator BARKLEY. Is there not a difference between money and the thing out of which money is made? While eminent domain might not be necessary so far as taking actual money is concerned, it might be necessary to take possession and improve the thing out of which money may be made or which is the basis of it.

Senator GORE. In that connection, I would like to say, where the power of eminent domain is exercised, the value or compensation is judged. It is a judicial question and not one for Congress.

The CHAIRMAN. I cannot hear you, Senator Gore.

Senator GORE. I say, where it is necessary or desirable to exercise the power of eminent domain and compensation would be paid the owner of the property condemned, it is a judicial question and not a legislative question. Congress cannot settle that question.

Senator GLASS. That is what I was coming to.

Attorney General CUMMINGS. When the enactment was passed which brought the gold into the Treasury of the United States, it dealt not only with gold coin, but with gold bullion, and provided for the payment therefor in currency by the Treasury.

Now, upon what theory it proceeded is only an interesting speculation, and the nearest that I can come to affording any light now on this

subject, if it interests you, is to read from the *Nortz case*, in which the court used this very interesting language:

Plaintiff explicitly states his concurrence in the Government's contention that the Congress has complete authority to regulate the currency system of the country. He does not deny that, in exercising that authority, the Congress had power "to appropriate into the Government outstanding gold bullion, gold coins and gold certificates." Nor does he deny that the Congress had authority "to compel all residents of this country to deliver unto the Government all gold bullion, gold coins, and gold certificates in their possession."

Then the Supreme Court went on and said:

These powers could not be successfully challenged. Citing *Knee v. Lee* (6 the 12th Wallace, 497; *Julliard v. Greenman* (110 U. S. 421); *Lim Su Fan v. United States* (218 U. S. 302); *Norman v. Baltimore & Ohio R. R. Co.*, decided this day. The question plaintiff presents is thus simply one of "just compensation."

And then goes on and stresses that particular aspect of the matter. Senator GLASS. Has the Government ever been given the right, has it the right under the Constitution when it exercises the right of eminent domain, to determine the compensation?

Attorney General CUMMINGS. Your question is whether the Court has ever passed on that particular question?

Senator GLASS. Whether the courts have ever been deprived of the right judicially to determine the compensation?

Attorney General CUMMINGS. Generally speaking, Senator, of course we all recognize that where property is taken by the Government under the power of eminent domain, that the just compensation to be awarded therefor is a judicial question to be determined by the court, but that may not apply to the enforced exchange of one kind of currency for another.

Senator BULKLEY. That would be true under any of these theories you are speaking of, would it not?

Attorney General CUMMINGS. That is a general principle.

Senator BULKLEY. Yes.

Attorney General CUMMINGS. However, it may not apply to a situation where the Government is taking in gold bullion and gold coin, which are so intimately associated with currency itself. I am sure I cannot answer because I am not aware that the Court has ever passed on that particular question. It was for that reason, I suspect, that the act itself by which the gold bullion and the gold coin were drawn into the Treasury, provided for the exchange therefor by the Treasury dollar for dollar. I suppose that is the reason it was inserted in the bill.

Senator BULKLEY. But there cannot be any doubt that under any of these theories it was the intent of the Constitution that those whose property was taken should have just compensation, can there be?

Attorney General CUMMINGS. Not as a general principle with regard to all kinds of commodities, that is undoubtedly so.

Senator BULKLEY. None of these theories impinge on that, do they?

Attorney General CUMMINGS. Which theories?

Senator BULKLEY. Whether it be under the right of eminent domain or the right to control the currency, still if private property is taken, it is the intent of the Constitution that the owner of it shall have just compensation, is that not right?

Attorney General CUMMINGS. In general that is true, but how far that follows in a question of gold, I am not prepared to say.

Senator BULKLEY. Do you think there might be an exception to that?

Senator GLASS. The question I have in mind is who is to determine what is just compensation, whether it is the party taking the property or the court?

Attorney General CUMMINGS. Of course, in this case—you see, the question you are asking is purely academic, because in the bill to which I referred compensation is fixed in the statute, and in the *Nortz case* the Court held that the arrangement made by the Congress satisfied all the constitutional requirements. So it is an academic question as to the exact theory.

Senator BULKLEY. I do not think it is an academic question whether a person whose property is taken shall get just compensation.

Attorney General CUMMINGS. Well, this is an interesting discussion, but it is not, as I see it, pertinent to our present matter.

Senator BULKLEY. I think it might remain to be seen how far it is pertinent.

Attorney General CUMMINGS. I see no connection with it.

The CHAIRMAN. Anything else? Is there any other question of the Secretary or the Attorney General or of anyone else present?

Senator GLASS. Is the Under Secretary to be questioned?

The CHAIRMAN. He is here. Do you want to ask him any questions?

Senator GLASS. I do not want to ask him any.

The CHAIRMAN. This hearing will have to be printed. I know the committee will want to see a full print of the hearings. Has anybody anything to submit for the record here to be incorporated here?

(No response.)

The CHAIRMAN (after a pause). The statement of the Solicitor General, in reply to the question of Senator McAdoo—

Senator STEWART. That might well go in the record, if it is not already in the record.

The CHAIRMAN. The investigation shows—

Senator STEWART. It should be inserted in the record together with the statistical information the Secretary has kindly consented to give us.

(The letter of the Solicitor General, dated July 16, 1935, together with the statement entitled "Historical background for a proposed act dealing with claims based on gold-clause certificates", and the statistical information furnished by the Secretary of the Treasury, are inserted at the end of the record of this hearing.)

The CHAIRMAN. This resolution does not involve the doing away with the Court of Claims?

Attorney General CUMMINGS. No; nor doing away with suits against the Government in the Court of Claims. It only does away with the bringing of suits against the Government involving the question of gold, currency and Government obligations.

Senator GORE. It would be a short cut to abolish the court as we did the Commerce Court?

Attorney General CUMMINGS. What is that, Senator Gore?

Senator GORE. I was suggesting it would be a short-cut to abolish the court as we did the Commerce Court.

Attorney General CUMMINGS. As I am trying to point out, there is a distinct difference between what the Government is doing in a

proprietary capacity under an ordinary contract and what it is doing in a sovereign capacity in controlling the currency. It is the latter, a suit against the Government in the latter capacity, that is cut off, and not the former.

Senator ADAMS. Mr. Attorney General, did not the Court point out in one of these decisions that in borrowing money the Government was acting in its proprietary capacity and not in its sovereign capacity and was held to its obligations in that way? It was a quotation, I do not mean the Court held it, but there was a citation in one of the gold cases, the one I think from Hamilton, and one from someone else.

Attorney General CUMMINGS. I think, Senator, the more you study those cases, the more you will find in them that you did not think was there.

The CHAIRMAN. The committee will take a recess subject to the call of the chairman. As soon as these hearings are printed, I will call the committee again.

(Thereupon, at 12:40 p. m., July 17, 1935, a recess was taken subject to the call of the chairman.)

LETTER OF THE SOLICITOR GENERAL TRANSMITTING HISTORICAL BACKGROUND FOR PROPOSED ACT DEALING WITH CLAIMS BASED ON GOLD-CLAUSE CERTIFICATES

OFFICE OF THE SOLICITOR GENERAL,  
Washington, D. C., July 16, 1935.

HON. DUNCAN U. FLETCHER,  
Chairman Senate Committee on Banking and Currency,  
Senate Office Building, Washington, D. C.

MY DEAR MR. CHAIRMAN: Enclosed find a memorandum on the historical development of the Court of Claims and legislation withdrawing from claimants the right to file claims or pursue judicial remedies against the United States, together with the comment on the effect of the proposed Senate Joint Resolution 155.

In this connection, in the testimony of the Attorney General, he stated that the establishment of the Court of Claims occurred in the sixties. The investigation shows that it actually took place in 1855. I am wondering if correction could be made in the printed hearings of this minor variation.

Yours truly,

STANLEY REED, *Solicitor General*  
(For the Attorney General)

HISTORICAL BACKGROUND FOR A PROPOSED ACT DEALING WITH CLAIMS BASED ON GOLD-CLAUSE CERTIFICATES

Prior to the establishment of the Court of Claims, on February 24, 1855 (act of Feb. 24, 1855, ch. 123; 10 Stat. 612), no authority, so far as we know, had been granted, general in character, to permit creditors of the United States to institute an action for judicial determination of the validity of their claims against the United States.

Prior to the establishment of the Court of Claims there had been a series of enactments relating to claims against the Government, which formulated methods of making claims, and, in some instances, withdrew previous authority to file claims.

During the confederation, by acts of November 2, 1785, and July 23, 1787 (referred to in act of Mar. 27, 1792, ch. 12; 1 Stat. 245), claims for military services were barred. This ban was lifted for 2 years, on March 27, 1792 (act of Mar. 27, 1792, ch. 12; 1 Stat. 245). Again, in 1794, claims were barred for the renewal of certificates for the unsubscribed debts of the United States, commonly called "loan-office certificates" (act of Apr. 21, 1794, ch. 21; 1 Stat. 353). In suits by the United States affirmative defenses had been allowed. These were limited by the act of March 3, 1797 (ch. 20, sec. 4; 1 Stat. 512, 515). This section reads as follows:

"Sec. 4. And be it further enacted, That in suits between the United States and individuals, no claim for a credit shall be admitted, upon trial, but such as shall appear as to have been presented to the accounting officers of the Treasury, for their examination, and by them disallowed, in whole or in part, unless it should be proved, to the satisfaction of the court, that the defendant is, at the time of trial, in possession of vouchers not before in his power to procure, and that he was prevented from exhibiting a claim for such credit, at the Treasury, by absence from the United States, or some unavoidable accident."

This same statute first established the priority of the claims of the United States, over other claimants, in insolvent estates. (See sec. 5.)

In 1798, the Congress barred, after 7 months, claims for transactions during the Revolutionary War (act of July 9, 1798, ch. 70; 1 Stat. 580). The privilege of the use of evidences of public debt in payment for land was withdrawn in 1806 (act of Apr. 18, 1806, ch. 50; 2 Stat. 405). While these instances do not show a denial of a permission to sue, since no such privilege had been granted, they do show a withdrawal of authority to consider claims, or utilize claims for set-off, except under certain limitations and conditions.

The first instance of the giving of general jurisdiction to a court to determine the validity of claims is that found in the act passed on February 24, 1855 (10 Stat. 612). This act established the Court of Claims, with jurisdiction to—

"\* \* \* hear and determine all claims founded upon any law of Congress, or upon any regulation of an executive department, or upon any contract, express or implied, with the Government of the United States, which may be suggested to it by a petition filed therein; and also all claims which may be referred to said court by either house of Congress \* \* \*"

It is to be noted that jurisdiction was given to determine the extent, or validity, of certain definite types of claims. The United States did not submit to the court the determination of the right of anyone to recover from the United States for wrongs committed against them by the United States, or any of its agents.

The Court of Claims Act was amended in 1863 to give jurisdiction over set-offs, counter-claims, damages, liquidated and unliquidated, "or other demands whatsoever" in favor of the Government (act of Mar. 3, 1863, ch. 92; 12 Stat. 765).

A definite withdrawal of jurisdiction to the detriment of a claim occurred in 1863 when the following amendment was passed:

"\* \* \* in order to authorize the said court to render a judgment in favor of any claimant, if a citizen of the United States, it shall be set forth in the petition that the claimant, and the original and every prior owner thereof where the claim has been assigned, has at all times borne true allegiance to the Government of the United States, and whether a citizen or not, that he has not in any way voluntarily aided, abetted, or given encouragement to rebellion against the said Government \* \* \*" (act of Mar. 3, 1863, ch. 92, sec. 12; 12 Stat. 767).

A further right was withdrawn by the provisions of section 9 of the same act, which says:

"\* \* \* That the jurisdiction of the said court shall not extend to or include any claim against the Government not pending in said court on the first day of December, Anno Domini eighteen hundred and sixty-two, growing out of or dependent on any treaty stipulation entered into with foreign nations or with the Indian tribes."

Under the provisions of the act of July 4, 1864, the Court of Claims was further restricted in its jurisdiction (act of July 4, 1864, ch. 240; 13 Stat. 381). Section 1 of this statute provides:

"\* \* \* That the jurisdiction of the Court of Claims shall not extend to or include any claim against the United States growing out of the destruction or appropriation of, or damage to, property by the Army or Navy, or any part of the Army or Navy, engaged in the suppression of the rebellion, from the commencement to the close thereof."

In 1867 there was another amendment to the Court of Claims Act which further restricted redress for injuries received during the Civil War. It was then provided that the act of July 4, 1864:

"\* \* \* shall not be construed to authorize the settlement of any claim for supplies or stores taken or furnished for the use of, or used by, the armies of the United States, nor for the occupation of, or injury to, real estate, nor for the consumption, appropriation, or destruction of, or damage to, personal property, by the military authorities or troops of the United States, where such claim is originated during the war for the suppression of the Southern Rebellion, in a State, or part of a State, declared in insurrection by the proclamation of the President of the United States, dated July first, eighteen hundred and sixty-two,

or in a State, which by an ordinance of secession attempted to withdraw from the United States Government. *Provided*, That nothing herein contained shall repeal or modify the effect of any act or joint resolution, extending the provisions of the said act of July fourth, eighteen hundred and sixty-four, to the loyal citizens of the State of Tennessee, or of the State of West Virginia, or any county therein." (act of Feb. 21, 1867, ch. 57; 14 Stat. 307.)

The foregoing principle was further carried on in the act of 1868 (act of July 27, 1868, ch. 276; 15 Stat. 243). In section 2 of the act aliens are especially discriminated against. They cannot bring, or maintain, any suits whatever in any court of the United States, or in any of the courts of any State, against the United States, because of injuries which they may have suffered during the Civil War. An exception is made, by a special proviso, in favor of those aliens whose sovereign permits citizens of the United States to prosecute claims against him, in his courts.

It is especially to be noted that the redress which may be received under the act of 1863 is declared to be exclusive redress. No other mode of redress whatever was to be permitted. (See sec. 3.)

An illustration of the use by Congress of withdrawal of the right to sue occurred in 1874. The Secretary of the Treasury had been empowered in 1872 (see act of May 8, 1872, ch. 140, 17 Stat. 61, 68) to employ persons to assist the Government in the collecting of money belonging to the United States, which money was withheld by any person, or corporation.

A contract was to be entered into between the United States and the employed person, under the terms of which the employee was to be compensated for his services. The contract was to be in writing. If the employee was to receive, or to attempt to receive, any money, or other consideration, from the person, or the corporation, who was alleged to have withheld funds from the United States, he was to be fined and imprisoned. Under the terms of this statute various persons were employed by the Secretary of the Treasury. In 1874 (act of June 22, 1874, chap. 393; 18 Stat. 192), Congress repealed the statute of 1872 and ordered the Secretary of the Treasury:

"\* \* \* to revoke and annul all contracts for the collection of such taxes made under and by authority of said Act."

The Congress took away all redress, from its employees, for any injuries sustained by reason of the revocation and annulment of their contracts of employment by denying to the Court of Claims the jurisdiction to consider any claims which the former employees wished to present. The language of the statute reads as follows:

"That the Court of Claims shall have no authority to consider or decide upon any claims for damages by reason of the discontinuance of the contracts aforesaid, or for any profits or percentages under them."

In 1887, Congress revised the Court of Claims statutes (act of Mar. 3, 1887, ch. 359; 24 Stat. 505). The Court of Claims was given jurisdiction as follows:

"First. All claims founded upon the Constitution of the United States or any law of Congress, except for pensions, or upon any regulation of an Executive department, or upon any contract, expressed or implied, with the Government of the United States, or for damages, liquidated or unliquidated, in cases not sounding in tort, in respect of which claims the party would be entitled to redress against the United States either in a court of law, equity, or admiralty if the United States were suable; *Provided, however*, That nothing in this section shall be construed as giving to either of the courts herein mentioned, jurisdiction to hear and determine claims growing out of the late Civil War, and commonly known as "war claims", or to hear and determine other claims, which have heretofore been rejected, or reported on adversely by any court, department, or commission authorized to hear and determine the same.

"Second. All set-off, counterclaims, claims for damages, whether liquidated or unliquidated, or other demands whatsoever on the part of the Government of the United States against any claimant against the Government in said court; *Provided*, That no suit against the Government of the United States, shall be allowed under this act unless the same shall have been brought within six years after the right accrued for which the claim is made." (Act of Mar. 3, 1887, ch. 359, sec. 1; 24 Stat. 505.)

In 1911, the Judicial Code of the United States was revised. Chapter 7 deals with the Court of Claims. (See act of Mar. 3, 1911, chap. 231; 36 Stat. 1145.)

This statute contracts the jurisdiction of the Court of Claims. While allowing jurisdiction over all claims which were expressly covered under the act of 1887, it denies jurisdiction to the Court of Claims not only over the "war claims" and all claims adversely reported prior to March 3, 1887, but also over all claims

sounding under treaties if those claims were not pending on December 1, 1957 (see, 153). It continues the denial of the privilege of suing on pension claims, or claims sounding in tort.

Those aliens whose sovereigns give reciprocal rights to citizens of the United States can bring suits in the Court of Claims. Other aliens are barred from suing in the Court of Claims (see, 155).

Furthermore, a person was barred from coming into the Court of Claims if he, or any assignee of his " \* \* \* has pending in any other court any suit or process against any person who, at the time when the cause of action alleged in such suit or process arose, was, in respect thereto, acting or professing to act, mediate or immediately, under the authority of the United States" (see, 154).

Furthermore, no redress could be given to a citizen who had not at all times borne true allegiance to the Government of the United States (section 159). Nor would the citizen of the United States be given redress if any person who was prior owner of the claim had not borne true allegiance to the Government of the United States. Here, again, is reenacted the provision which predicates redress upon the allegiance of all successive owners of the claim.

When the German Government defaulted on its debts to the United States the rights of redress which had previously been granted to German subjects were withdrawn (act of June 27, 1934, chapter 851).

The foregoing historical review of the exercise by the Congress of the power to grant the privilege of suit shows that Congress has always recognized that the question of whether or not anyone or any class or group should be permitted to sue the United States in its courts is a matter for legislative determination based upon the circumstances of the particular case. The authority of Congress to so act is not open to question. (*Lynch v. United States*, 292 U. S. 571, 581 of seq. (1934); *DeGroot v. The United States*, 5 Wall. 419, 432; *Nassau Smelting & Refining Works, Ltd. v. United States*, 206 U. S. 101, 106, (1924).)

It is, of course, recognized that this privilege to sue, sometimes granted, is very different from the right to sue possessed by private parties for use against other private parties. Private litigation is pointed toward enforcement of any decree, or judgment rendered. Redress is complete only when the finding is satisfied. With the Government the determination of the rightfulness of the claim is merely preliminary to submitting to Congress the question of whether or not the claim should be paid.

At present, the holder of Government securities may bring an action in the Court of Claims against the United States seeking recovery for breach of the Government's contract to pay principal or interest and can obtain a judgment for such damages as he may show, other than nominal. No decision has been handed down definitely determining that a suit on coin or currency will lie. It is the contention of this Department that such a suit may not be maintained (*North v. United States (Gold Clause cases)*). As the same statutes relating to parity of all forms of money and restrictions as to domestic use of gold in effect at the time of the Perry decision (gold clause securities), are in effect now, the conclusion of the Supreme Court on identical causes of action would be the same. What the result would be, if changes were made in statutes, or regulations, or if other causes of action were presented, could only be answered as the questions arose. It is primarily to avoid recurring questions as to the effect of governmental monetary action that the passage of this resolution is suggested.

July 17th.

The Select Committee to Investigate Real Estate Bondholders' Reorganizations, which expressed to the President doubt about the propriety of the appointment of Mr. Peter Grimm, of New York, to a position as Assistant to the Secretary of the Treasury at a time when the Select Committee was investigating real estate reorganizations in New York City, has held an exhaustive discussion with Secretary Morgenthau and Mr. Grimm and has concluded that there has been nothing improper in his activities or anything to conflict with the public service which he is expected to render.

The Select Committee feels also that while Mr. Grimm is identified with the Government, his services will be available to the Committee in its further investigation of bondholders protective organizations.

Frances Foxworth  
A. F. Murray  
Mary Perkins  
Correspondence  
Room  
Bell

July 17th

I called the President and told him that I had a dress rehearsal yesterday with the Attorney General about my going up on the Hill to testify on the "Gold Clause". I told the President that I had suggested to Homer that it would be wise to come with me so that they will not play one against the other.

I also told the President that I had seen Congressman Sabath and his Committee and that they have withdrawn their objections to Mr. Peter Grimm.

I told the President that I wanted to tell him about a very interesting idea which I have had on the Chinese situation. About nine or ten months ago we bought roughly about 20 million ounces of silver from China at about 52¢. They delivered all but about 4,750,000 ounces. A couple of days ago the Chase National Bank came along with the suggestion that the Chinese government would like to deliver this silver to us in Shanghai and to be put in the vaults of the Chase National.

My thought is to say to the Chinese that we will take 500,000 ounces a month and string this thing along for ten months. The worst that can happen is that we will lose 2½ million ounces and I think that would be cheap to "kid" the Chinese along at this time. Perhaps we can get T. V. Soong to make as nice a statement as Tannery. This might be the start of building up a silver reserve against which they can issue currency. Once a month I will take it up with them and agree to take 500,000 ounces.

The President said the only possible risk would be a revolution in Shanghai. This is a stabilization matter and will, therefore, be only between you and myself. I told the President that I would talk to Phillips about it tomorrow and get his views.

\* \* \* \* \*

H.M.Jr. called a meeting of the following people to discuss the unemployment situation for next year as Bell wanted to work on his Budget Estimates:

- |                 |         |
|-----------------|---------|
| Frances Perkins | H.M.Jr. |
| A. F. Hinrichs  | H.S.K.  |
| Harry Hopkins   | Walker  |
| Corrington Gill | Carson  |
| Heas            | Roche   |
| Bell            |         |

H.M.Jr: I do not see how we will be any better off on unemployment on July 1, 1936 than we are now. I think we ought to have a census taken.

Hopkins: Because of the political issue, I do not think that an accurate census could be taken.

It was the opinion of all that even if business picked up next year, more people would be given employment but the relief rolls would not be decreased and the unemployment situation would be just as bad as it is now.

Hopkins talked about the unemployment policy and H.M.Jr. interrupted and said, "why not call a spade a spade and admit that we have no unemployment policy. There is no one place where there is a chart showing the number of unemployed in a particular area and also showing the amount of money allotted to meet their particular needs."

Hopkins: The government has to face the question as to whether it is going permanently into what is known as the "great public works program". Anything short of 10 billion dollars will not do the trick of putting people to work. This four billion eight does something but does not begin to "get home". You are financing many government things out of the four billion eight when these should be financed out of the regular appropriations. We have various kinds of relief - relief in its lowest form (just feeding them); we have hundreds of thousands that get \$6.00 or \$7.00 a month (also just taken care of); then you move all the way up to hundreds of thousands of dollars to administer it. Then you have the question of whether building dams, bridges, etc., will be a means of taking care of the unemployed.

H.M.Jr: What is the best way of meeting the unemployment problem? No one has faced it squarely.

Hopkins: We have tried to meet it in all kinds of ways. The President said by quitting relief.

H.M.Jr: There is no indication that we have quit relief.

Hopkins: Yes. We are going to quit.

H.M.Jr: You are taking people who have worked two or three days a week and put them to work five or six days a week. Do you call that quitting relief. In your opinion, are there any steps that we can take now during this fiscal year to lessen the relief rolls for the next fiscal year?

- Hopkins: There is nothing you can do to reduce the relief rolls artificially. Look at the drop in national income. Who loses that income? Where did that burden fall? It fell on the wage earner and unemployed people.
- Frank Walker: I think the cities and states should be in a position to take care of their unemployed people.
- Hopkins: You can depend a little on the cities and states but it is a federal problem and the President said so. Our problem is in the great industrial cities. Is unemployment increasing in New York City? I know that unemployment has decreased in Detroit. As a matter of fact, in all automobile cities. Our records show that we have had a decline every month since January on unemployment.
- H.M.Jr: The President has gone much further as to his own hunches without any real basic information. Right after Labor Day we get into budget making.
- Hopkins: I do not see where 4 or 5 million people will be put to work. Less than that will not do any good.
- Frances Perkins: If a man in a family is put to work he can help the other unemployed in his particular family, so that if a million and a half go to work it will help a great deal.
- H.M.Jr: We are only 15 days in the new year. We have 11½ months yet to go. I cannot see why we cannot figure out a better way to clear up unemployment than we have in the past.
- Perkins: I do not see where a census will do any good.
- H.M.Jr: I feel that it would be a good starting point on which to base estimates.

The meeting broke up not getting anywhere. After listening to Harry Hopkins and Frances Perkins, H.M.Jr. felt that we were in the same position on unemployment now as we were a year ago.

## DEPARTMENT OF STATE

WASHINGTON

July 17, 1935

In reply refer to  
551.5 F 1/248

My dear Mr. Secretary:

With reference to telegram No. 123 of July 13, 1935, from the American Embassy, Mexico City, a copy of which I sent you July 15, 1935, I enclose a copy of air mail despatch No. 2722 dated July 12, 1935, which was referred to in that telegram.

Telegram No. 119 of July 11, 1935, referred to in the first sentence of the despatch, does not concern silver or monetary matters.

Sincerely,

/s/ William Phillips

Acting Secretary.

Enclosure:  
From Mexico City, No. 2722,  
July 12, 1935

The Honorable

Henry Morgenthau, Jr.,

Secretary of the Treasury.

EMBASSY OF THE UNITED STATES OF AMERICA

Mexico, July 12, 1935.

No. 2722

SUBJECT: Mexican inquiry regarding the silver policy  
of the United States

The Honorable

The Secretary of State,

Washington, D. C.

Sir:

I have the honor to report that during the course of my interview with President Cardenas (see my telegram number 119 of July 11, 2 p.m., 1935) one of the matters referred to by the President was the United States' silver purchase policy. He said he was interested in our program because of its immediate effect on financial and monetary measures contemplated by the Mexican Government. He inquired particularly if I knew to what extent the United States Treasury was planning to execute the silver purchases recommended by Congress. My reply was to the effect that I had no personal knowledge of the long-term plans of the Treasury, but it was my impression that if the Treasury had not been as active in the silver market as in the past it was because of the speculative character of the market.

After speaking of the recent changes in the Mexican monetary system necessitated by the rise in silver and of the importance of a large silver production for the Federal revenues and the economic well-being of the country as a whole, the President told me that he would ask the Acting Minister for Foreign Affairs to give me a list of questions which he would appreciate by submitting to Washington.

During a courtesy call at the Ministry of Finance this morning, the Minister, Senor Eduardo Suarez, referred to the President's conversation, emphasizing the desire of the Mexican Government to cooperate with the United States in measures looking towards the rehabilitation of silver and his hope that the United States Treasury's silver purchase program would be continued, as the Government was dependent for a large share of its revenue on taxes collected on high priced silver.

Shortly after this visit, Mr. Norweb, Counselor of the Embassy, was asked to go to the Foreign Office and was given a questionnaire on silver by the Acting Minister for Foreign Affairs, which reads in translation as follows:

1. Does the American Government consider that it would not be contrary to its monetary policy to hold a conference of American Central Banks (in the United States, such as the Federal Reserve; in Mexico, such as the Bank of Mexico), which conference would have as its object to arrive at an international agreement through which at least the principal Central Banks of America would set up their reserves with an important ratio (over 20%) of silver and that in the same ratio payment in silver would be accepted at a more or less fixed exchange rate for international balances?
2. Does the American Government believe that a convention of this kind would serve its purpose of seeking the rehabilitation and stability of price of silver by giving it greater monetary uses than those which it now has?
3. Does the American Government believe that present conditions are propitious for the holding of the abovementioned conference?
4. Would the Government of the United States be disposed to sound out the opinion of the other Governments of America or to support the action taken to this end by the Government of Mexico?
5. Would the American Government be willing to issue the convocation to the conference or if not to support vigorously the convocation issued to this end by the Mexican Government?

There is enclosed a copy of the Spanish text of this questionnaire.

Respectfully yours,

JOSEPHUS DANIELS.

Enclosure  
as described above.

Embassy file 851.5  
RHN:KCT  
In triplicate to the Department of State

July 18th

H.M.Jr. called the President to-day and told him that he had talked to the Vice-President about the two people we had chosen to fill the vacancies on the Board of Tax Appeals.

The Vice-President had approved of our two suggestions but McIntyre called H.M.Jr. a little while ago and told him that Senator McAdoo did not want Roger Traynor of California because he was a Republican.

Jim Farley and Steve Gibbons want Arthur Mellott of Kansas, who is at present Deputy Commissioner of the Alcohol Tax Unit. The President asked Mr. Morgenthau to send up Arthur Mellott's name and Congressman Arnold's name to the White House.

H.M.Jr. told the President that at the meeting this afternoon, which the President called to discuss the unemployment situation, there was two things he could do:

1. Order an unemployment census.
2. There is a vacancy as Economic Adviser to Frank Walker. The President might put a person in there and make him Chairman of the Committee which he has suggested to study the unemployment situation.

\* \* \* \* \*

The French Ambassador came in to see the Secretary to-day:

French Ambassador: I came two weeks ago to express my gratitude for what you did for the Bank of France. I have also the gratitude of the French government to express to you.

H.M.Jr: It was very generous of Mr. Tannery.

F. A: I was delighted that you decided to suspend the new taxes on the importation of fish.

H.M.Jr: The minute I heard that this order was issued by Internal Revenue I immediately ordered it withdrawn. It was adding insult to injury to put the taxes on fish at St. Pierre.

- H.M.Jr: How many people are there at the Island of St. Pierre.
- F.A: About six thousand. They are poor people.
- H.M.Jr: They couldn't be very poor. They must have made a lot of money out of smuggling liquor.
- F.A: Well that's over.
- H.M.Jr: Leaving stabilization out of the question, if the three governments could stop tomorrow speculation in their own monies I think it would go a long way towards getting an evening out of our exchanges.
- F.A: Do you find it convenient contacting our government the way you are at present?
- H.M.Jr: The proper way is for the Bank of France to contact the Federal Reserve but the Treasury, through its Stabilization Fund, has supplanted the Federal Reserve and we have had to work directly with the Bank of France. We have no Treasury Attache in France and, therefore, use Cochran. We came through this crisis together.
- H.M.Jr: May I say something which is not the usual diplomatic thing? I had nothing to do with the apple-wheat business. Somebody on our side made a mistake and never asked the Treasury whether this arrangement was within the law. Your government took the apples in good faith and gave us damaged wheat.

July 18th

767

Mr. Morgenthau called in Mr. Phillips to discuss the Mexican inquiry regarding the silver policy of the United States.

Mr. Phillips brought with him Mr. Edward L. Reed, Chief Mexican Division, and Mr. Frederick Livesey, Assistant Economic Advisor.

Mr. Livesey read question No. 1 of the Mexican cable which is as follows:

"Does the American Government consider that it would not be contrary to its monetary policy to hold a conference of American Central Banks (in the United States, such as the Federal Reserve; in Mexico, such as the Bank of Mexico), which conference would have as its object to arrive at an international agreement through which at least the principal Central Banks of America would set up their reserves with an important ratio (over 20%) of silver and that in the same ratio payment in silver would be accepted at a more or less fixed exchange rate for international balances?"

H.M.Jr: Whatever we do I want the Treasury to do it and not the Federal Reserve (the Mexicans refer to the Federal Reserve as the Central Banks of America).

H.M.Jr: About a year ago, when we were in this jam on the Hill with Congress, the President sent a "hurry up" message to the State Department on 24 hours notice to say something to Canada and Mexico that we were looking forward to an approachment along these lines. Next day the President said, "I have started negotiations with Canada and Mexico". He has it in mind very strongly that he wants to start a North and South American dollar bloc. What the Mexicans say in their cable is almost a paraphrase of what the President said in his message. The foundation for this was laid down by the President a year ago. I wonder if we could not ask Mexico and Canada to meet with us in Washington where the President could direct this meeting. Then it would be easy to draw in the Central American countries.

- Phillips: If we want Canada we would have to wait until after their election.
- H.M.Jr: Why don't we invite Mexico and Canada to come here and discuss this silver policy? Of course I can't do it now. It will have to wait until after Congress adjourns.
- H.M.Jr: I want to leave China out of this for the moment. I have another idea for them.
- H.M.Jr: It is my hunch that they readjust<sup>ed</sup> their currency to have silver over 73¢. Silver is now 67½¢ and it worries them. They are coming here to see what it is all about. They have been selling us a terrific amount of silver this month.
- Phillips: Inasmuch as they have no representative in Canada we will have to send a copy of the Mexican cable to the Canadians.

Mr. Phillips left saying that Mr. Morgenthau would hear further from him in regard to this matter.

A copy of the cable sent by Josephus Daniels to the Secretary of State is attached herewith.

\* \* \* \* \*

Mr. Livesey and Mr. Reed left and Mr. Phillips stayed behind because Mr. Morgenthau wanted to discuss with him his new idea in regard to the Chinese silver which he discussed with the President yesterday and which is described in yesterday's diary.

Mr. Phillips said that from the Chinese point of view they will be delighted and from our point of view in China it would be a very fine thing.

H.M.Jr. had asked Mr. Phillips not to discuss this with any subordinates in the State Department and Mr. Phillips asked if he could not talk it over with Mr. Hornbeck. H.M.Jr. agreed but asked that this should not be put on their wires.

Mr. Phillips also said that, from a diplomatic point of view, it would help us tremendously.

H.M.Jr. told Mr. Oliphant that before he did anything he would talk to Key Pittman about it.

H.M.Jr. later told me that very confidentially he asked M. R. Nicholson, who is Treasury Attache at Shanghai, to find out whether this would be a safe arrangement for the United States.

\* \* \* \* \*

Attached herewith is a report given to me by Mr. Lochhead which describes the original purchase of the Chinese silver under discussion.

July 18/35 105

In November, 1934 we ascertained that the Chinese Government was a heavy seller of silver in the London market, apparently in order to obtain necessary foreign exchange. As a means of possible co-operation with the Chinese Government, and in order to prevent undue disturbances in the silver market, we signified our willingness through the Chase Bank, Shanghai, China, to purchase whatever silver the Chinese Government found it necessary to sell in Shanghai. As a result, the Federal Reserve Bank of New York, as fiscal agents, made total purchases of 19,000,000 ounces of silver from the Central Bank of China, Shanghai, through the Chase National Bank, Shanghai. This silver was purchased for forward delivery, payment to be made when silver was placed on board American steamers in Shanghai on the date called for in the contracts.

These contracts were as follows:

Nov. 9, 1934	5,000,000 oz.	January Delivery at 52 $\frac{1}{2}$ ¢ per oz.
" 10, 1934	2,000,000 "	" " " 53 ¢ " "
" 12, 1934	5,000,000 "	" " " 53 $\frac{3}{8}$ ¢ " "
" 14, 1934	3,000,000 "	" " " 55¢ " "
" 16, 1934	2,000,000 "	" " " 54 $\frac{1}{2}$ ¢ " "
" 17, 1934	<u>2,000,000 "</u>	" " " 54 $\frac{1}{2}$ ¢ " "
Total	19,000,000 oz.	

On December 24th, at the request of the Central Bank of China, we agreed to a postponement of the delivery of these contracts to January-February, 1935.

On February 13th, again at the request of the Central Bank of China, we further modified the contracts to allow for delivery of 4,000,000 ounces in February, 5,000,000 ounces in March, 5,000,000 ounces in April and 5,000,000 ounces in May, and at the same time agreed to give the Central Bank of China the option of delivering the silver either in Shanghai or London.

The Central Bank of China delivered a total of 14,250,000 ounces of silver under these contracts in London as follows:

February	5,900,000 oz.
March	3,100,000 "
April	5,000,000 "
May	<u>250,000 "</u>
Total	14,250,000 oz.

On May 31st, upon further request from the Central Bank of China, we agreed to postpone delivery of the remaining 4,750,000 ounces until July, 1935.

The Central Bank of China has now requested that we allow them to deliver the balance of these contracts, amounting to 4,750,000 ounces, for our account against payment to the Chase National Bank, Shanghai, with our agreement not to ship without consulting them and if considered not in the interests of community as a whole, both Chinese and foreign, shipment not to be made. This same request was made by them in February and March, 1935 but not granted at that time.

Meeting held in the Office of the Secretary of the Treasury on  
July 22, 1935

Subject: Unemployment and Works Program Expenditures

Present:

Secretary Morgenthau  
Miss Roche  
Mr. Gill  
Mrs. Klotz  
Miss Lonegan  
Mr. Heas

The Secretary called attention to the objectives of the work relief program as outlined in The President's message to Congress. The main objective is the employment of  $3\frac{1}{2}$  millions of men during the fiscal year 1935-36. The Secretary discussed the desirability of analyzing the situation to ascertain now whether the President's aim is to be realized; and if not, to find out why not, and what changes ought to be made in the program before all the funds are allotted.

The Secretary stated that present plans call for high expenditures through July 1936. He pointed out that it is undesirable to permit expenditures to cease abruptly; that, if they are to be reduced by one or two billions next year, the expenditures should be lessened gradually, and not cease abruptly in July. He emphasized the importance of such an analysis as a basis for estimating requirements for the fiscal year ending June 30, 1937. The information gathered will, he said, be needed in making estimates for the President's next budget message.

Questioned by the Secretary as to the number of relief cases, Mr. Gill quoted the May estimate of 4,800,000 from which the following are deductible, to arrive at the figure of  $3\frac{1}{2}$  million employables under the present program:

Farmer-operators	330,000
Unemployables	920,000
College student aid	<u>100,000</u>
	1,350,000

Mr. Gill promised to furnish to the Secretary on Friday, July 26, 1935, and weekly thereafter, a table showing the amounts of money allocated by States with an estimate of the total number of relief cases by States, and the percentage of relief cases which should be supported in the future by the funds allocated. He also promised to give a table showing how much of the proposed employment would be actually available each month.

The Secretary pointed out the necessity of being realistic and stated that if the  $3\frac{1}{2}$  million cannot be employed, it would be well to support a larger proportion of cases by relief. He raised the question whether the estimates for relief were not too low, in view of the number of people still to be taken care of.

He also stated that he had been in favor of the use of idle factories by the unemployed. He asked if any of that program remained, and Mr. Gill said virtually nothing.

Miss Roche raised the point that shifting direct relief to the States did not insure that those people were being properly cared for. The Secretary said they could not be put on a chute and let go.

2

108

Dictated July 23d

Lunched with the President and talked to him along these lines. I started off feeling my way carefully but as I found he was sympathetic to what I was saying I gradually fed him more and more and I felt that he was hungry for what I was telling him and could not wait until I got through when he took the information I had given him and delivered with great force an enthusiastic speech paraphrasing what I had told him. This is what I said to the President.

I want to talk to you as man to man. I said, you and I both know that the four billion eight is not a success and we both know in our hearts why it is not. I said the way I see this picture we are spending to-day about 220 million dollars a month on unemployment and relief. This will gradually increase until we reach a peak next June when we will be spending something like four or five hundred million dollars per month and then after July 1, 1936 the expenditures will rapidly fall off during July, August, September, October and November. I said the trouble as I see it is that we are not going to be able to put  $3\frac{1}{2}$  million men at work under the present program and a lot of the commitments for slum clearance, Army and Navy will be slow in getting started and difficult to stop.

I said the thing that we ought to do is to plan the work during the next two months so that our expenditures for the month of June, 1936 will be back to somewhere around 150 to 200 million dollars a month so that you will slip into July on a basis of spending somewhere between two and two and a half billion for the next fiscal year.

He kept nodding his head and leaning forward towards me with the most intent interest. I told him that I have not got many figures or statistics to substantiate what I think should be done but when Gill gives us the figures on Friday I think that you, Harry Hopkins and I ought to sit down and have a long talk and see if we cannot revamp this whole picture.

I told him that the State of Georgia was the only State that had thrown its unemployables back on the community and that we still had some 900 thousand unemployables on the relief rolls and that they have not been thrown back on the States. He was simply dumbfounded at this statement. He said I was under the distinct impression that this had already been done.

He then went into a long harangue similar to the one I have heard him give repeatedly, how for years there had been ten families in Hyde Park, that the town had always taken care of them but now the Federal Government is taking care of them and that there is no reason why these ten families should not be thrown back on the town and that there must be thousands of communities who have similar situations and who could take care of their chronic unemployables.

The President said, out of a clear sky, you know what I think I will do - sometime between now and the first of September I will send Harold Ickes a note telling him that he cannot let any contracts for slum clearance after September 1st. The President then went on to say the great trouble is with these heavy projects that they are slow to start and we cannot shut them off. Either he or I pointed out that we have approximately 3 1/2 million people on work relief and then carry them along irrespective of whether business got better or worse. I told him that by August 1st I would go out on the end of the limb and prophesy whether or not we would have business recovery this fall and that if we are going to have recovery this fall we should adjust our plan accordingly.

We then discussed the fact that the unemployment needs would be greatest during January, February and March and that then they should taper off rapidly.

I then gave him the idea that right after Congress adjourned he should make a speech provided that I could assure him of business recovery before and pick up in private employment, pointing out the fact that in his message to Congress he had said that in case of recovery that he would decrease his expenditures and point out the fact that the reason he had gone so slowly with his program was (I told him the next thing with my tongue in my cheek) because he had always seen that we were going to have recovery in the fall and that he had purposely gone slowly because he didn't want to waste the money. (And if that is not the darndest sophistry, I do not know what sophistry is.)

The President liked it. He then took everything that I had given him and made a perfectly magnificent address right then and there and by the time he was finished, knowing my FDR, I believe he was fully convinced that all the idea that he had expressed were his own - which encouraged me tremendously because I felt I had gotten my ideas across. I then pointed out two things more to him whether he could go slowly in making any further allotments during the next ten days on big projects and he said he would and then he made this surprising remark. He said don't worry Harold will not spend the money anyway. I have given him plenty of rope. I said Peter Grimm is working day and night to get this housing picture for you and if we can define

to the public just what the field for private capital is and what field in low cost housing the government will confine itself to I believe that the situation is ripe for private capital to go ahead in the housing field in a really big way. I told him I was very much encouraged after my conversation with Rex Tugwell about his activities in the housing field.  
I

I feel that I have made a real start towards changing the whole picture of expenditure of the government, making it possible to keep the deficit in this fiscal year below three billion dollars and to make the deficit for the year beginning July 1, 1936 somewhere within the figures that the President has in his mind, namely, two to two and one half billion dollars. If I can accomplish this I will have made it possible to have avoided a deficit inflation and the printing of greenbacks and put this country back on a sound financial basis. This accomplishment will either be reached or not within the next 60 days and the whole thing depends upon a complete revamping of the relief program.

July 22d

Miss Roche told H.M.Jr. to-day that Ickes called her up and said, "you know the troubles in the Virgin Islands. The President wants Governor Pearson put on as an Assistant Administrator of the Youth Movement and put on at once." Miss Roche informed Mr. Ickes that she was connected with the Youth Movement only in an advisory capacity.

H.M.Jr. informed Miss Roche that this thing has since been "killed".

H.M.Jr. told Bell that next week when we offer 100 million 2-7/8 that we will announce at that time whatever the average price is we will sell an additional 50 million to Postal Savings.

July 22d

Charlie West got the President to call down Doughton and Hill, Chairman of the sub-committee, and Parker to the White House on Friday.

The President asked Haas to sit in at this meeting. The President talked very plainly to the group and after the meeting he asked Haas to stay behind. The President said it was time for the Treasury boys to help these fellows out.

Jackson, Oliphant and Haas then decided that they ought to go up on the Hill but before doing so they telephoned Mr. Morgenthau who was at Cape Cod. Mr. Morgenthau said he did not want to decide then but would see them all Sunday night and decide at that time.

At the President's suggestion, H.M.Jr. called Doughton and told him that he and his assistants would be glad to come up on the Hill tonight and give them any suggestions or assistance that they may want. He also suggested that if they wanted to keep the meeting away from the newspaper boys that he would be glad to have the meeting at the Treasury.

Doughton said he would talk to his Committee and let H.M.Jr. know. He later phoned and said that if the Secretary of the Treasury and the President have any suggestion to make on the tax bill they would be very glad to receive it in writing, that he, Doughton, was going to write his own tax bill.

H.M.Jr. phoned the President this afternoon and told him about it.

\* \* \* \* \*

H.M.Jr. phoned the President this morning and told him that we got on Saturday 4 $\frac{3}{4}$  million ounces of silver - one million of which was from Mexico, and that we got a little over two million to-day - one million from Mexico; that this is the 7th or 8th day that the price has been the same, namely, 30-3/16 pence in London and 68¢ in New York. For the month we have almost 63 million ounces. The whole exchange is fairly steady.

Dictated July 23d

113

Over the week-end I studied Hopkins' second report on the progress of the four billion eight. There are two factors which struck me as important to be cleared up.

1. On the page where they list the amount of money allotted by States they omit how many people are on relief in each State and what percentage of the unemployed are taken care of by the amount of money allotted to each State.
2. I noticed that they are beginning to wipe out the clause that it is necessary to take at least 90% of the people off the relief rolls.

I sent for Corrington Gill and went over this thing with him and he said, "you are the first person who has noticed the fact that we do not have a percentage of the unemployed taken care of by various allotments". He said, "we have 50,000 people working on this and ought to have the final figures by Friday."

July 23d

H.M.Jr. talked to Charles Schwarz, General Deputy Collector of Internal Revenue, Chicago, Richard Stephenson, General Deputy Collector of Internal Revenue, Newark, N. J., and George M. Hall, General Deputy Collector of Internal Revenue, New York City, and told them that he was very much concerned about the bill being passed on the sale of bulk liquor; that he wanted these boys to make a tour of their respective districts and contact the Collector of Internal Revenue and the Alcohol Tax Unit Supervisor and, through them, contact the various newspapers, the idea being to build up a backfire on this bulk sales liquor.

Mr. Gaston further discussed this idea with the three men and the attached are instructions and suggestions which Mr. Gaston gave them.

July 25, 1936.

MEMORANDUM

TO: Secretary Morgenthau

FROM: Mr. Gaston

We have had an afternoon's discussion with Stewart Berkshire and have talked also to Commander Thompson. I am enclosing a memorandum which we have given each one of the boys for their guidance and also a copy of the letter of instructions, which you will note is a letter instructing them to gather information only. Helvering is giving them a general letter of introduction to Collectors and Berkshire is notifying the Alcohol Tax Unit Supervisors.

Mr. Schwarz is returning to Chicago tonight, Mr. Stephenson to Newark and Mr. Hall to New York, to get started from their home ports. Hall will cover New York and the New England States; Stephenson will take Pennsylvania, New Jersey and everything south on the Atlantic seaboard, and Schwarz will take the Mississippi Valley, including Michigan, Wisconsin, Illinois, Indiana, Ohio, Missouri and Arkansas. Mr. Fussell will leave tomorrow for San Francisco and will take in California, Oregon, Washington, Idaho and Montana, and possibly Minnesota.

I think our case is not quite as strong where they have state liquor stores and a state monopoly, but there is still a good argument there for the reasons expressed in the memorandum.

Attachments.

The bill now pending in Congress, H.R. 8870, would permit the sale of distilled liquor in wooden kegs or barrels of one gallon or more capacity by distillers and rectifiers to wholesalers, retailers, clubs, hotels and private consumers and would permit the resale of original packages, that is, kegs or barrels, by wholesalers or retailers direct to the consumer. As reported to the House of Representatives by the Ways and Means Committee it would permit also "bona fide hotels and clubs" to draw off and sell liquor to the consumers from these barrels, but would forbid the breaking of the original package for resale by other retailers.

The language of the bill as reported would appear to permit wholesalers not holding licenses as rectifiers to repackage liquor from the original barrels into smaller containers, so long as they were of wood and of not less than one gallon capacity, and to sell such repackaged spirits to the public.

The main objections to this bulk sale provision, from the standpoint of effective law enforcement are:

(1) With respect to states operating state liquor stores and having a monopoly over the distribution of liquor.

(a) While the bill as drawn permits the state to forbid bulk sales it sets up a situation which might well be viewed with alarm by controlling authorities in those states, since it would probably create a drive for bulk sale provisions in other states and it represents a trend which is destructive to effective law enforcement and might well eventually senace the revenues of these states from the liquor traffic.

- 2 -

(b) The ability of those states to control the sale of liquor within their borders and to reap revenue therefrom depends in considerable part on the effectiveness of their border restrictions. They already have the difficulty to combat of liquor coming in from other states where taxes and prices may be lower and the danger of bootleg liquor coming in from other states. With bulk sales permitted this danger would be very greatly increased because of the difficulty of distinguishing between illegal bulk liquor and legal bulk liquor.

(2) As to states which permit private sale,

The states generally have depended upon the effectiveness of Federal regulations requiring the packaging of distilled liquors in bottles and have not attempted themselves to enact legislation which would forbid bulk distribution. Consequently bulk sales under the permission given in this bill would become general throughout the United States, the only exception being those states which have already prohibited them. The dangers and difficulties of tax collection by the states and the Federal Government where bulk sales, in the manner provided by this bill, are permitted, are these:

(a) Kegs and barrels could be sold generally to the ultimate consumer. It would be very difficult to identify any product in the hands of the consumer as to whether it was tax-paid or nontax-paid and the encouragement of the purchase of liquor in considerable bulk, one gallon and upward, would offer an encouragement to redistribution by individual buyers and the building up of unlicensed trade in liquor

- 3 -

in small quantities. We would therefore very likely have throughout the United States a multiplication of unlicensed retail vendors of liquor. With that situation the next step, the substitution of boot-leg or non tax-paid spirits for tax-paid spirits, would be very easy and would be almost certain to occur.

(b) As to wholesalers.

Under the bill as reported the wholesaler may buy distilled liquors by the keg or barrel and he may repackage them, so long as he does not repackage them in bottles but puts them into wooden kegs. The difficulty of insuring that the spirits which go into these new packages are tax-paid spirits is just as great as the difficulty of identifying the spirits which the rectifier repackages into bottles. These wholesalers need not have licenses as rectifiers; but to prevent the general substitution of illegal liquor for tax-paid liquor in this repackaging process is a police task of huge proportions. To insure effective control it would be absolutely necessary to have inspectors or storekeeper-gaugers in every wholesale establishment in the United States. There are more than 800 of these wholesale establishments and the number might very well be greatly increased under the operations of this bill.

(c) As to bona fide hotels and clubs.

The provision in the bill which permits so-called bona fide hotels and clubs to withdraw the contents of wooden containers opens the door wide to substitution of illicit spirits and would provide a potential new market of huge proportions to the illicit dis-

stillers and bootleggers. The refilled bar bottle is one of the most difficult points in effective enforcement of the liquor laws. Under present regulations hotels and clubs, like other retailers, are required to serve and mix their drinks from the original stamped bottles and the refilling of carafes and bottles for bar use is not permitted. Under this bill, however, it would be necessary for hotels and clubs to use bar bottles and carafes for serving barreled liquor and it would be impossible for the Bureau of Internal Revenue to establish regulations which would forbid this, since regulations of that sort would necessarily defeat the expressed objects of the bill. It would become extremely difficult for Treasury inspectors to identify the origin of the contents of bar bottles, or to identify the contents of barrels once they had been breached. It would be perfectly easy, for instance, for a so-called club or a hotel to buy moonshine whisky and to substitute it for whisky of various grades purchased from a legal distiller. It is very difficult, for instance, to detect the difference between a two-year old straight whisky, a product of a moonshine still, from two-year old, or even four-year old, tax-paid whisky from a legitimate distillery, assuming that the proof corresponds. Practically it would only be possible to detect the most flagrant cases where mixtures of alcohol and water had been substituted for genuine whiskies, after a year or upwards in the barrel.

(d) While the above evils would not necessarily apply where a state has already, by state law, forbidden bulk sales, yet in those states the example of Federal law permitting bulk sales would undoubtedly create a drive for amendment of state laws, so as to permit bulk sales in all states.

*Similar letter  
given to Mr. Schwarz  
& Mr. Stephenson.*

120

July 25, 1935.

Mr. George M. Hall,  
General Deputy Collector,  
Internal Revenue,  
Alcohol Tax Unit,  
New York, New York.

Dear Mr. Hall:

By direction of the Secretary, I wish to have you undertake immediately a tour of the New England States, during which you will visit Collectors of Internal Revenue and such others as may give you information bearing on the object of your visit.

Your mission will be to ascertain for the guidance of the Department as fully as possible the conditions that will be created if the Congress should pass HR-8870, the bill now pending for the control of the liquor traffic. You should give particular attention to the situation that will be created if sub-section E, relating to bulk sales, remains in the bill as finally passed. We wish to learn just what problems of enforcement this will raise so that we may be guided in establishing enforcement policies and devising regulations to meet this situation. In appraising the consequences of enactment of the bill and the steps necessary to be taken, if it should be passed, it will be advisable for you to consult Collectors of Internal Revenue and officers of the Alcohol Tax Unit, and it may be possible for you to gain additional valuable information by consultations with State and local officers who have to do with liquor enforcement problems.

If possible we should like to have this survey completed in ten days, but at all events it should be completed within two weeks. During the course of your trip, please note carefully newspaper accounts of the progress of the bill in Congress, so that you may be guided by the latest information. It would be well also for you to call this office immediately after making your first contacts.

Yours very truly,

Herbert L. Gaston,  
Assistant to the Secretary.

July 23d

Mr. William Phillips, Under Secretary of the State Department, and Mr. Reed and Mr. Livesey were here to discuss the Mexican inquiry regarding the silver policy of the United States on the 18th.

The following day Sumner Wells, of the State Department called up and said that Mr. Phillips had told him about this meeting and that he wanted a chance to talk to Mr. Morgenthau before anything definite was done; that he did not think that this should be done at this time. Inasmuch as H.M.Jr. was leaving Washington for a couple of days, he arranged to see Mr. Wells and Mr. Phillips on July 23d. (Mr. Phillips told Mr. Morgenthau that he did not know of Mr. Wells' phone call and that he was most annoyed that Wells should have interfered.)

Wells said that the President had told him that he wanted to make a continental move and not a regional move. Wells did not feel that taking up this matter with the Mexicans and the Canadians at this time was what the President had in mind. He told us very definitely that the President said that a confidential sounding should be taken before any definite steps are taken and that it was the President's wish that this government should not take the initiative in this matter.

H.M.Jr. told Mr. Wells that the President had asked the State Department about a year ago to approach Canada and Mexico and that this information must be on record in the State Department.

Phillips asked Mr. Wells what the method of sounding out was and Wells replied, "I should first want to know what our own point of view is. It is a very far reaching program and I told the President that we ought to know what our own point of view is going to be."

H.M.Jr. said that inasmuch as we had talked to them about a year ago he did not see any reason why we should not follow the thing up at this time; that we ought to take it up with Mexico, then ask them whether they would object to our taking it up with Canada and, if Canada is interested, we will then contact the other large producers of silver.

Mr. Morgenthau said there are two ways to do this thing.

1. Do it directly with them face to face such as we did before or
2. We can do it the way we did the French thing - through the Central Bank.

H.M.Jr. told the State Department that if they wished to set it up on a diplomatic basis and then turn the Treasury loose he could begin at once.

H.M.Jr. also told them that he knows that the situation would be a difficult one when it came to Brazil and Argentine but when it came to that time he would need the help of the State Department.

The meeting broke up with the result that the State Department would ask the Mexican Ambassador to come in to see Mr. Morgenthau and discuss Ambassador Josephus Daniels' telegram of July 12th (which is attached to the meeting written up on July 18th).

H.M.Jr: Yes.

St: And he told me I could do it in five minutes.

H.M.Jr: Sure. Now, what do you want?

St: I want the list of names of the people who are on the list.

H.M.Jr: Well, I - we - I don't know better than to let you know what I can get for it.

St: No, no, they held me up for several days of the President's name. I had to ask for several days of my own name. I don't want to ask for it.

H.M.Jr: Yes. Well, now, do you want to see the list?

St: No, you just give me the list. I don't want to see it.

H.M.Jr: Yes, I'll do that.

St: I want one just like that. I don't want to see it.

H.M.Jr: Well, now, do you want to see the list and I'll call you back.

St: All right, at 10:30.

July 24, 1935.  
Wednesday.

121A

Senator

Hugo L.

Black:

Good morning. How are you, sir? Senator Black.

H.M.Jr:

How are you?

B:

Fine, thank you. How're you?

H.M.Jr:

Well, I've got a bad head cold; otherwise I'm all right.

B:

Well, I've got one too, hard to get rid of.

H.M.Jr:

Terrible.

B:

I called up McIntyre last night about getting an order from the President to permit us to get income tax returns for this lobby committee.

H.M.Jr:

Yes.

B:

And he told me if I get in touch with you and have you send it up there, they'd sign it and have it ready for me in five minutes. Now, they're anxious to get it.

H.M.Jr:

Sure. Now, what do you want -

B:

I want the list to investigate income tax returns such as we call for.

H.M.Jr:

Well, I - as I understand it, if I think I'm right, you know better than I - I think the Chairman of any committee can ask for it.

B:

No, no, they hold that you've got to get special permission of the President. We've asked down there and I had to ask for several that I need badly this morning in the name of my own committee, because my own committee hasn't got time.

H.M.Jr:

Yes. Well, now, do you know which ones you want?

B:

No, you just give a general order. You see, you gave me one in Ocean and Air Mail Committee.

H.M.Jr:

Yes, I remember.

B:

I want one just like that so I can send down there for what I want.

H.M.Jr:

Well, now, Ocean and Air Mail - let me speak to my council and I'll call you back in three or four minutes.

B:

All right, at extension 1200 extension 1200.

H.M.Jr: Yes, I'll call you back in three minutes, just to clear it in my own mind.

B: All right.

H.M.Jr: Thank you.

B: Goodbye.

O: Yes, I'll get it signed by the President and get it to the White House to sign it, and then I'll call you.

H.M.Jr: The President will sign it, I'll get it to the White House, I'll be there about 10:30. If he signs it, I'll call you.

O: I'll get it signed by the President and get it to the White House to sign it.

H.M.Jr: Thank you.

O: Hello -

H.M.Jr: Yes.

O: Have you read Pinchot's book?

H.M.Jr: No.

O: I think everybody ought to read it.

H.M.Jr: Why?

O: Oh, well -

H.M.Jr: That's the matter with you?

O: Well -

H.M.Jr: When you came in at approximately 10:30, you were there.

O: He really said things to Pinchot.

H.M.Jr: What?

O: He really says some things to the President, some to Felix.

H.M.Jr: Felix who?

O: Felix

H.M.Jr: Well, bring it in, I haven't read it.

O: All right.

July 24, 1935.  
Wednesday.

Herman  
Oliphant: Hello.

H.M.Jr: Herman?

O: Yes.

H.M.Jr: Good morning. Senator Hugo Black just called me up. He said he spoke to McIntyre last night and he wants a general blanket order giving him the right to look into the income tax of people in connection with this lobby thing, similar to the one he got on the Ocean Air Mail.

O: Yes, I'll get it fixed up. I think the President will have to sign it, but I'll have to look at it.

H.M.Jr: The President will have to sign it, but he's in an awful hurry about it. If we can get it fixed up within -

O: I'll get it fixed up in the shortest possible time.

H.M.Jr: Thank you.

O: Hello -

H.M.Jr: Yes.

O: Have you read Pinchot's letter?

H.M.Jr: No.

O: I think everybody ought to read it.

H.M.Jr: Why?

O: Oh, well -

H.M.Jr: What's the matter with it?

O: Well -

H.M.Jr: When you come in at nine-thirty bring it with you.

O: He really said things to Felix.

H.M.Jr: What?

O: He really says some things in his open letter to Felix.

H.M.Jr: Felix who?

O: Felix

H.M.Jr: Well, bring it in, I haven't seen it.

O: All right.

INDEX OF EVENTS  
IN THE  
MOORE CASE

July 24, 1935

Meeting in Secretary's office at which were present Messrs. Moore, Pollock and Harper who explained their connections with Famous Brands, Inc.

Attached to minutes of this meeting are carbon copies of the charges against each of the men.

Aug. 29, 1935

Memorandum for the Secretary giving complete history of the investigation of charges affecting Moore, Pollock, Harper, Brown and Barber. (Note: Copy of this memorandum is also attached to diary entry of October 9, 1935.)

Sept. 11, 1935

Diary entry of meeting of Treasury staff men held in Secretary's office. HM, Jr asked each man to write his recommendation of what action should be taken with respect to Harper and Moore. It was at this meeting that Mr. McReynolds made the recommendation that the men be asked either to resign or return the money they had received from Famous Brands.

Sept. 12, 1935

Letter from HM, Jr to Collector Moore saying decision had been reached that Moore should sever his connection with the Treasury unless he and all members of his immediate family gave up all association with Famous Brands and unless he made satisfactory arrangements to pay to the Treasury the full amount of all sums received by him and his immediate family from the Company. HM, Jr said he wanted reply not later than September 20, 1935.

Sept. 24, 1935

Letter to Famous Brands inquiring if profits had been returned to them by Messrs. Moore, Pollock and Harper. No reply received to this letter. (Copy is attached to Investigations report of February 2, 1937.)

Sept. 27, 1935

Coolidge's cable to the Secretary reporting President had postponed action on Moore until return from vacation.

Sept. 28, 1935

Secretary's reply to Coolidge's cable -- HM, Jr very disappointed Coolidge had not taken action and responsibility as decided upon before HM, Jr's departure.

Sept. 30, 1935

Acting Secretary Coolidge's report:

Sept. 19, Senator Bulkley's office called him and asked for appointment to go over Moore's case. The Senator advised that Coolidge would be glad to see Senator Bulkley but that Coolidge could not deviate from Secretary's instructions.

Sept. 23, Senator Bulkley came in to see Coolidge at which time the Senator said he understood that Coolidge had to carry out the Secretary's instructions and that he, Coolidge, would see the President.

Sept. 24, after Cabinet, Coolidge saw the President with Mr. Charles West and President agreed the men should forfeit the money. Up to this date, the President had not seen Senator Bulkley although he had promised to do so.

Sept. 24 and 25, Coolidge was in touch with Mr. West who concurred with HM, Jr's attitude.

Sept. 26, President told Mr. West, who in turn told Coolidge, that he would not have time to take up the matter before he left and wanted it postponed.

Sept. 27, Coolidge saw Senator Bulkley. No fault to find with HM, Jr's conclusions; would try to work it out with Moore; regretted so much publicity.

Oct. 3, 1935

Mrs. Klotz' letter to the Secretary giving her reactions to the way Coolidge handled the Moore matter in HM, Jr's absence.

Oct. 9, 1935

Diary entry referring to meeting in Secretary's office on September 11; Mr. Coolidge's cable to Secretary; Secretary's reply to Mr. Coolidge, and Gaston's memorandum giving in detail the negotiations between the President, Mr. Coolidge, Moore, Harper and O'Brian. (This last one has nothing to do with the Famous Brands cases.)

Oct. 23, 1935

Drafts of memoranda to President on Moore, Brown and Pollock informing him of the cases and advising him that Coolidge had said he, the President, wished to postpone decision until after his return from a vacation. These memoranda were not sent.

Nov. 18, 1935

Diary entry of HM, Jr's conversation with President in which President said he could tell Bulkley that the case of Collector Moore is not one of law but one of ethics and that he, the President, said that Moore has to make up his mind whether he wants to resign or turn back the money.

Same Diary entry. This relates to the visit of Charlie West and Bulkley to the Secretary. Bulkley came in in a vile humor because he had just learned that the President would not see him. Bulkley accused Secretary of breaking his word with him, which HM, Jr heatedly denied, whereupon the two shook hands. At this conference Bulkley said he now wants Moore to pay the money back only from the time he got the notice from us, which was sometime in May.

Nov. 19, 1935

Conference with Bulkley and Charlie West in Secretary's office when copy of letter to Moore was shown to Senator Bulkley who became angry and started to leave. Oliphant suggested that the Senator dictate his own letter as to what his understanding with the Secretary was.

Note: Reference to this conference is contained in Mr. Oliphant's chronological record dated April 27, 1937 and filed under that date.

Nov. 20, 1935

Conference in Secretary's conference with Helvering, Oliphant, McReynolds and Gaston. HM, Jr read to Helvering copy of the letter he was sending Moore, the first three paragraphs of which had been dictated by Bulkley.

HM, Jr's telephone conversation with Senator Bulkley telling him that the unanimous decision was that Moore should be requested to turn in all the money he had received and not, as Bulkley wanted, to return the money only from the time the matter was called to his attention. Bulkley asked that the letter be sent to him for forwarding to Moore.

Bulkley also telephoned today and asked that if there was to be any publicity that it be held until everything had been signed, sealed and delivered.

Nov. 20, 1935

HM, Jr's letter to Mr. Moore, in which he informed Moore that it had not been charged that his connection with Famous Brands violated the letter of any regulations, yet it seems intolerable that officers of the Treasury Department should have any interest in the liquor business. HM, Jr. called upon him to make restitution of all proceeds received from his connection with Famous Brands.

Nov. 25, 1935

Bulkley's telegram that answer is being mailed today.

Nov. 25, 1935

Copy of letter from Mr. Moore. Moore agreed to return all funds received upon issuance of a Treasury Department regulation requiring all Treasury officials and employees together with members of their families to do the same.

Nov. 29, 1935

HM, Jr's reply to Moore's letter of November 25. HM, Jr told Moore that his suggestion of a general regulation could not be considered in his case but would be taken up in due course on its own merit. HM, Jr again asked for reply to his letter of November 20.

Dec. 3, 1935

HM, Jr's telephone conversation with Senator Bulkley in which Secretary informed the Secretary he could not comply with Moore's request concerning a general regulations because the Secretary could not permit Moore to name conditions in connection with the administration of the Treasury Department.

Dec. 5, 1935

Senator Bulkley's telegram to Secretary that false date on latter's letter gives impression he is trying to put Moore in position of taking unreasonable time to answer. This coupled with pressure through Russell makes it difficult to contend the Secretary is not intending personal persecution.

Dec. 5, 1935

HSK's memorandum that Russell had called Moore on phone explaining letter was not received until today. When Moore was asked whether he intended to comply with Secretary's demands, he would not commit himself but said he would write the Secretary. When Moore was asked to appear he said he was sick.

Dec. 6, 1935

HM, Jr's telephone conversation with Senator Bulkley upon receipt of the latter's telegram of December 5. HM, Jr explained he had telephoned Moore because he had not received reply to the letter sent him on Tuesday. Bulkley explained Moore had been ill and that he, Bulkley, had gotten upset by the pressure. He also admitted he had sent the telegram while he was angry.

Dec. 6, 1935

Senator Bulkley's letter to HM, Jr saying he had secured the consent of all concerned to the following: "without further insistence upon a general regulation, Moore will divest himself of all profits by returning them to the company and the company will accept them only with the condition that they be turned over to public charity as fast as received." Bulkley also wrote "I can assure you if you will give me your approval of the settlement herein suggested, the letters from Moore and the company, which would be necessary to consummate it, will be worded in a friendly and respectful manner."

Note: Copy of this letter of Senator Bulkley is also attached to diary entry of December 13, 1935.

Dec. 13, 1935

Diary entry of 9:30 group meeting when Mr. Morgenthau discussed Bulkley's letter of December 6. HM, Jr told the group he would accept the Senator's recommendations that without further insistence upon a general regulation, Moore will divest himself of all profits by returning them to the Company and the Company will turn them over to public charity.

HM, Jr's telephone conversation with Bulkley following this conference.

Dec. 16, 1935

Moore's letter to the Secretary saying he would return the profits to Famous Brands "when and as I am able to do so." (Copy is attached to Investigations report of February 2, 1937.)

Dec. 17, 1935

Oliphant's memo of conference held between Secretary and Senator Bulkley in which latter delivered Moore's letter saying he would forfeit to the Treasury the profits he had received from Famous Brands, when and as he was able. HM, Jr wasn't sure about the definiteness of this statement, but Oliphant pointed out that the legal effect of the language was an obligation to pay within a reasonable time. Bulkley agreed with Mr. Oliphant and HM, Jr said he was satisfied.

Famous Brands will write HM, Jr a letter saying the Cleveland Community Chest or American Red Cross would ultimately be the recipient of these profits. HM, Jr said he would require the same arrangement for the other men. He also said he would submit his press release to Bulkley before issuing his statement.

Dec. 20, 1935

Letter of this date from Famous Brands Ohio, Inc., saying they will pay to two charities named any funds sent to Famous Brands by Mr. Moore.

Dec. 26, 1935

Pollock's letter to Commissioner of Customs, agreeing to contribute his profits to charity, "as I am able".

Copy of this letter is attached to report of Investigator filed in diary under date of February 2, 1937.

Jan. 2, 1936

HM, Jr's letter to Collector Moore recording the fact that the Secretary understood Moore's letter of December 16 to be an understanding on his part that he would immediately dispose of the interests of himself and his family in Famous Brands Ohio, Inc., and to turn over to that company all dividends, payments and profits.

(Copy of this letter is attached to Irey's memo filed in diary under date of February 2, 1937.)

Jan. 2, 1936

Harper wrote a letter to Chief of Secret Service that he would undertake to return the profits he had made.

(Copy is attached to report of Investigator filed in diary under date of February 2, 1937.)

Jan. 2, 1936

HM, Jr's letter to Famous Brands Ohio, Inc., acknowledging receipt of their letter of December 20 in which they said they will pay to the two charities mentioned the sums paid to Famous Brands by Mr. Moore. HM, Jr asked the Famous Brands to keep him advised as the sums are received and paid.

Jan. 7, 1936

Moore's letter acknowledging receipt of Secretary's letter of January 2 and giving assurance that he would comply with the demands.

(Copy of this letter is attached to report of Investigator, filed in diary under date of February 2, 1937.)

Jan. 13, 1936

Senator Bulkley telephoned to HM, Jr and discussed proposed press release. While the release was O. K. to the Senator he said he would have preferred having the details omitted.

Jan. 13, 1936

HM, Jr's press release that Moore, Pollock and Harper had severed all connections with Famous Brands and have agreed to return to that company all profits which they or members of their family had received.

Feb. 2, 1937

~~Further report of investigation of Moore, Pollock and Harper~~

Feb. 15, 1936

Treasury Department Order No. 11, no officer or employee in the Departmental or Field Service of the Bureau of Internal Revenue, the Bureau of Customs, the Coast Guard, or the Secret Service, shall, directly or indirectly, have any interest in any business which consists of the production, sale or distribution commercially of distilled spirits, wine, or fermented malt liquor, nor shall any such employee engage in any such business.

Feb. 2, 1937

Further report of investigation of Moore, Pollock and Harper.

April 27, 1937

Oliphant's memorandum to Secretary giving chronological record of all events in connection with the case against Moore.

April 27, 1937

Mr. McReynolds' memo to Secretary giving background of the case and reporting that a further investigation in 1937 disclosed that subsequent to the hearing on the charges in the Secretary's office, July 24, 1935, Messrs. Pollock and Harper and Collector Moore's wife each received \$3,060 additional in dividends on Famous Brands Ohio stock, and giving information on certain transfers of stock by these individuals.

April 28, 1937

Meeting in Secretary's office before arrival of Senator Bulkley. It was decided that HM, Jr would tell Bulkley he was ready to recommend dismissal of Moore since he has not lived up to his agreement to refund profits to charity.

April 28, 1937

Meeting in Secretary's office after departure of Senator Bulkley. Bulkley was stunned to know Moore had not lived up to his bargain. Bulkley begged HM, Jr not to say what his recommendation would be until after he, Bulkley, had had a chance to inquire.

May 13, 1937

Senator Bulkley's call on the Secretary. The Senator asked for further time to make inquiries as to certain items in the various income tax returns of those concerned which have been recently investigated. Secretary stated he would not make a final decision on the case until Senator had that opportunity, but insisted on reasonable time.

May 19, 1937

Irey's memo to Secretary with conclusion that facts and circumstances set forth in this memo definitely show that Collector Moore has not complied with Secretary's instructions.

July 8, 1937

Bulkley's telephone call that Moore is resigning.

## MEETING IN SECRETARY'S OFFICE

July 24, 1935

Present:

Secretary Morgenthau  
Mr. McReynolds  
Mr. Dow  
Mr. Mack  
Mr. Gibbons  
Mr. Irey  
Mr. Helvering  
Mr. Gaston  
Mr. Oliphant

Mr. Morgenthau: Mr. Brown, certain charges have been made against you and Mr. Irey will read them to you. When he is through I would like to hear what you have to say.

Mr. Irey: See Exhibit 1.

Mr. Brown: Well, when the Famous Brands -- in 1933 I had an idea that there would be a repeal of the Eighteenth Amendment and I went out to try to make some contacts by which I could form a distributing company. The idea in mind was that if I were successful in making the contact with a distilling company that I would take that company and step out of the service and go into it actively.

During my contacts I met Mr. Russell Brown, who is, I think, Chairman of the American Distilling, American Commercial Alcohol at that time, and from time to time I contacted him and a number of his friends and got to know them quite well and sometime during 1933, can't tell you just when, while with Mr. Brown and several other people -- a number of other people; don't recall just who was present -- at one of the larger clubs in New York City, I think it was the New York Athletic Club, Mr. Brown mentioned to me that there was a possible chance that the Congress would pass a law legalizing the sale of gin for medicinal purposes.

Mr. Morgenthau: What were you doing in New York?

Mr. Brown: I spent quite a few week-ends in New

York City. That was my object, trying to meet someone.

Mr. Morgenthau: Did you get leave?

Mr. Brown: It was over the week-end.

Mr. Morgenthau: Did you notify your superiors that you were going out of town?

Mr. Brown: No, I did not.

Mr. Morgenthau: Suppose a case had broken and they tried to get you.

Mr. Brown: It was during the week-end. As a rule, Mr. Bruce was always available. He is my first assistant and knew that I was leaving town and if any long distance or telephone message or calls from the Police Department at night and I am not available over the week-end, those calls go to Mr. Bruce, who was my first assistant and has been for seven or eight years.

So there was a possible chance of Congress, through some act, that gin might be legalized as a sale for medicinal purposes. Mr. Brown asked me if I knew of anyone in Detroit or anyone in Michigan who he could call on that would make a good representative for them, because if he had a specialized business it would have to be people whose character were beyond reproach and have to be financially able of carrying on. So I told Mr. Brown at that time I did not know of anyone I would recommend at that time. Of course, naturally, I had in mind trying to accept that opportunity myself. However, I did not make that known at that time.

Mr. Morgenthau: Did he approach you or you him?

Mr. Brown: He approached me, at that time. He asked me if I knew of anyone in Detroit or Michigan who could handle the business for him.

Mr. Helvering: He brought up the question of legalized gin?

York City. That was my object, trying to meet someone.

Mr. Morgenthau: Did you get leave?

Mr. Brown: It was over the week-end.

Mr. Morgenthau: Did you notify your superiors that you were going out of town?

Mr. Brown: No, I did not.

Mr. Morgenthau: Suppose a case had broken and they tried to get you.

Mr. Brown: It was during the week-end. As a rule, Mr. Bruce was always available. He is my first assistant and knew that I was leaving town and if any long distance or telephone message or calls from the Police Department at night and I am not available over the week-end, those calls go to Mr. Bruce, who was my first assistant and has been for seven or eight years.

So there was a possible chance of Congress, through some act, that gin might be legalized as a sale for medicinal purposes. Mr. Brown asked me if I knew of anyone in Detroit or anyone in Michigan who he could call on that would make a good representative for them, because if he had a specialized business it would have to be people whose character were beyond reproach and have to be financially able of carrying on. So I told Mr. Brown at that time I did not know of anyone I would recommend at that time. Of course, naturally, I had in mind trying to accept that opportunity myself. However, I did not make that known at that time.

Mr. Morgenthau: Did he approach you or you him?

Mr. Brown: He approached me, at that time. He asked me if I knew of anyone in Detroit or Michigan who could handle the business for him.

Mr. Helvering: He brought up the question of legalized gin?

-3-

Mr. Brown: I had been talking to him personally and socially for many years.

Mr. Morgenthau: How did you first get to know him?

Mr. Brown: I met him through Mr. Atkins, one of members of the former American Commercial Alcohol and I met Mr. Atkins in Detroit, through his friends there.

Mr. Irey: Didn't I understand you borrowed \$3500 from a gambler to finance your trips to New York to develop your relations with Mr. Brown?

Mr. Brown: That's true; not only with Brown, but to make any connection possible so that in the event this liquor was legal and could be sold legally that I would have entre to go in and talk to these people having known them for sometime.

Mr. Morgenthau: You are in this business? You got the sales agency for Michigan?

Mr. Brown: No; I recommended these people who are in there now -- Mr. Ulrich, Mr. Lane and Mr. Burghart.

Mr. Morgenthau: And you have a third interest and you borrowed \$3500 from a gambler?

Mr. Brown: I borrowed \$500 from Ellison who is in the brokerage business in Detroit.

Mr. Morgenthau: You have some thirty judgments hanging over your head?

Mr. Brown: I don't think so, because I am not sure of it. I think I have paid off practically all that, because I did not want to go into bankruptcy and I was endeavoring to pay off these judgments which were against me.

Mr. Morgenthau: What was the nature of the judgments?

Mr. Brown: Most of those judgments go back to the time that I was interested in a golf course in Detroit.

-4-

Mr. Morgenthau: While you were in the service?

Mr. Brown: Yes, sir.

Mr. Morgenthau: Is it common practice while in the Secret Service that you can go into any business you want?

Mr. Brown: Mr. Secretary, I was in there from a financial standpoint. I was not absolutely actively in the business. There were men who were directing the business and I certainly have given ....

Mr. Morgenthau: There is nothing active if you sell to the State of Michigan and you get 5 percent commission?

Mr. Brown: No. It's quite a task to handle that situation today. It isn't a question of selling to Michigan. It's a question of creating a demand and

Mr. Morgenthau: Your job is to create that demand?

Mr. Brown: No; we have a sales agency; Mr. Ulrich who is vice president and general manager.

Mr. Morgenthau: Did it ever occur to you that you should ask approval of Washington or of Chief Morgan whether he approved of your being in the liquor business?

Mr. Brown: I thought from a financial point of view I had a right to be in there financially, because Mr. Ulrich directs the business. He is a capable man. They have him for sales manager.

Mr. Morgenthau: It never occurred to you that what you are doing is wrong?

Mr. Brown: I thought I had the right to be in this company financially.

Mr. Morgenthau: Aren't you, as a member of the Secret Service, supposed to give exclusive service to the United States Government?

-5-

Mr. Brown: Yes, and in 17 years I don't believe there has been any complaint about fulfilling my duties, because we have developed some marvelous cases in Detroit and I have actually joined in doing the roping myself.

Mr. Morgenthau: Do you have any responsibility with reference to enforcing liquor taxes?

Mr. Brown: No.

Mr. Morgenthau: Are you responsible for detecting forgery of liquor stamps?

Mr. Brown: I think there was an instruction came through a short time ago to watch for -- to become very active in the counterfeiting of liquor stamps, but you see .....

Mr. Morgenthau: Didn't I ask the Detroit office to check up -- the United States Secret Service -- to check up on liquor coming through from Canada?

Mr. Brown: Yes.

Mr. Morgenthau: What do you mean you are not responsible?

Mr. Brown: You mean the smuggling of liquor?

Mr. Morgenthau: Yes.

Mr. Brown: But that is not one of our duties.

Mr. Morgenthau: But were you not asked by the Secretary of the Treasury to do that?

Mr. Brown: Yes.

Mr. Morgenthau: You were told, over a year ago, to check up on the amount of liquor coming through from Canada.

Mr. Brown: Yes, sir.

Mr. Morgenthau: So you were charged with the enforcement of liquor laws. And you borrowed \$3,000 from a

-8-

gambler to set yourself up in business and you have not filed an income tax.

Chief, can your people engage in business?

Chief Moran: No; not actively.

Mr. Oliphant: This man has placed himself in the position of violating the law. It is absolutely a breach of trust. It is possible that some of the liquor he is interested in was smuggled in. He puts himself in the position that he has a financial incentive, which is a violation of law and not a moral issue. It's illegal to get yourself in this position. It is not a case of being actively or passively engaged. You can't be engaged in it at all.

Mr. Brown: If that's true, then I am wrong. My investigations down there .....

Mr. Morgenthau: I don't know whether your investigations are any good or not. Just from what you tell me, if there are many more like you in Secret Service I would be terrified. A man gets \$3500 to run down to New York week-ends, without getting permission from his Chief, to solicit a liquor agency. I don't see how a fellow can do anything. If you had cleared it here, it would have been something different.

Mr. Brown: I was not soliciting the agency at that time. It was that I would be in position if I cared to go into the business when liquor was legalized, that I would have contact with people I knew.

Mr. Morgenthau: The Detroit office was charged, through me, to make an investigation of smuggled liquor and counterfeit stamps. I personally asked for that.

Mr. Oliphant: And the man who made the investigation for you was in the liquor business.

Mr. Brown: I was interested; no question about that.

Chief Moran: I think what we should do is to let him have these charges and make a written reply for the Civil Service.

-7-

Mr. Morgenthau: What do you think, Mac?

Mr. McReynolds: A routine matter. I think the facts are pretty well disclosed.

Mr. Morgenthau: Don't you suspend a man pending investigation?

Mr. McReynolds: Yes, indeed.

Mr. Morgenthau: I think the man should be suspended until he answers the charges.

Chief Moran: What I would suggest then is that we would have in the files his statement in response to the charges.

Mr. Morgenthau: Mr. McReynolds will have those charges and after this meeting is over, Chief, I suggest that you take it up with McReynolds, but I now tell you that pending his answer I want you to suspend this man without knowing anything about anything else. I don't want any police agencies to be actively in the liquor business.

Chief Moran: And it's not my purpose to have it. Mr. Brown will confirm the statement that I have had him down here in many cases and he assured me he had no active participation except his wife owned some stock.

Mr. Morgenthau: How did you represent the people in Ohio in this business?

Mr. Brown: As a result of the amount of business that Michigan was doing, which reached about fifth place in amount of sales of liquor, etc., which were sold off the shelf of the Michigan liquor stores, through the effort of Mr. Ulrich and Mr. Magnesson who is general sales manager of the country and a number of salesman which the company hired. They had been doing a very good job in Michigan on the selling of this liquor from liquor store shelves through this set-up, and the American Distilling Company in Michigan asked Mr. Ulrich, I think it was Mr. Ulrich, to look over the Ohio situation and see if we could not take over Ohio and they looked

it over and decided they could handle Ohio and practically use the same sales system that they were using in Michigan.

Mr. Morgenthau: Who approached the Secret Service man in Ohio?

Mr. Brown: I did. The idea was to set up a corporation in Ohio, a sales organization, the same as we had in Michigan, and they asked me if I knew anyone in Ohio who he could call upon to sell some stock and to become interested in the Ohio business, financially interested, inasmuch as I understand that the laws of Ohio require Ohio residents' investment, so I recommended Mr. Harper and they called on Mr. Harper to buy some stock and set up the corporation.

Mr. Morgenthau: Where is the office of the company in Michigan?

Mr. Brown: In the Fisher Building.

Mr. Morgenthau: What hours of the day do you go there?

Mr. Brown: I imagine I have been in the office possibly ten times in two weeks. I go up there occasionally for lunch, because there is the Recess Club, a luncheon club, on the top floor and these Famous Brands is the tenth floor. Occasionally I would go up there to have lunch with Ulrich or Lane. Dropped in the office first and then go up to the Recess Club and on several occasions, probably four or five, I was up there for meetings, but I don't believe I have been in the office over ten times.

Mr. Morgenthau: Why did your wife only file her income tax last week?

Mr. Brown: Well, to start with, we were just a little short of money at that time and my youngster was in quite a severe automobile accident and she had to take him to Florida on account of his sinus glands being knocked in and she did not get back. I, in the meantime, had filed an income tax and when asking for me I neglected to ask for her.

-9-

Mr. Morgenthau: And you are charged with protecting the currency of the United States!

Mr. Brown: I believe I have done a pretty good job in 17 years. I don't think that could be questioned.

Mr. Morgenthau: How many other places have they taken Secret Service men as their agents?

Mr. Brown: That's the only two places I know of. As a matter of fact, I am responsible for that, because at that time I intended to go into this business actively.

Mr. Morgenthau: Why didn't you quit the Secret Service? Why did you let the Chief down?

Mr. Brown: The Chief has told me from time to time that I could not be actively engaged in the business and when I was financially interested I did not think I was violating any rules. I do not manage the business.

Mr. Morgenthau: Why should you be short of money if your wife got \$16,000?

Mr. Irey: You had a total of \$25,000 income last year.

Mr. Brown: Yes.

Mr. Morgenthau: Yet you could not pay your first installment in March?

Mr. Brown: In March I was in Florida and asked for an extension.

Mr. Morgenthau: But you had the money to go down to Florida.

Mr. Brown: My youngster had a terrible accident in the meantime and he was down there for his health.

Mr. Morgenthau: Brown reported \$25,000? And you don't have enough to pay your first installment?

-10-

Mr. Brown: We would have paid the first installment if we had been here, but we were not here to file. But there was a lot of that money used for paying off debts because in 1931 and 1932 there was considerable money that I owed and I was trying to pay off my debts in place of going into bankruptcy.

Mr. Helvering: You contacted Mr. Harper yourself?

Mr. Brown: Yes.

Mr. Helvering: Did you contact Mr. Pollack?

Mr. Brown: Not Mr. Pollock. Later I seen them and this matter was put up to them.

Mr. Helvering: What did you put up to them?

Mr. Brown: I did not understand you.

Mr. Helvering: What was your proposition? Were you calling people in Ohio with influence?

Mr. Brown: I know Mr. Harper quite well. He was the only man I knew; have known him for a number of years, and I did not think it would be anything wrong.

Mr. Oliphant: You spoke of an assistant in charge in your absence. How many people are employed in your office?

Mr. Brown: Eleven agents, if I am not mistaken.

Mr. Oliphant: How many stenographers?

Mr. Brown: Two, there are now.

Mr. Oliphant: Any typists?

Mr. Brown: No. There are two men in the office.

Mr. Oliphant: Any other person employed in your office?

Mr. Brown: The agents are employed.

Mr. Oliphant: Any of them ever interested in the business?

-11-

Mr. Brown: No.

Mr. Oliphant: Any relatives?

Mr. Brown: No.

Mr. Oliphant: Ever work for the company?

Mr. Brown: No.

Mr. Oliphant: Ever had their products?

Mr. Brown: No.

Mr. Oliphant: Did they inquire for the product?

Mr. Brown: No; not to my knowledge. They would have no interest in it at all.

Mr. Morgenthau: Did you ever ask the people in your office whether they paid their income tax?

Mr. Brown: No.

Mr. Morgenthau: Ever ask if they were engaged in any other business?

Mr. Brown: No.

Mr. Morgenthau: Mr. Brown, please go with Mr. Murphy and wait in Murphy's office until Chief Moran comes down.

oOo-oOo

## PART II.

Mr. Morgenthau: Mr. Pollock, we have been making an investigation of these Government employees who were in the liquor business. There are certain charges which I would like to have read to you and then I would like to have you answer them.

Mr. Irey: Red "Exhibit 2" attached.

Mr. Morgenthau: What is your explanation, Mr. Pollock?

Mr. Pollock: Well, I must deny that I used my official position or any personal position to aid in the sale of liquor to the State.

Mr. Morgenthau: In what capacity did you do it?

Mr. Pollock: In no capacity.

Mr. Morgenthau: Who did make the sale?

Mr. Pollock: I presume if any sales were made, they were made by the Famous Brands of Michigan under the syndicate arrangement.

Mr. Morgenthau: What is the syndicate arrangement?

Mr. Pollock: The syndicate just referred to in the report, formed in the spring of 1934, April, with Mr. Abbott as the head of it. Mr. Abbott was manager of the Ohio syndicate according to the agreement (I think Mr. Mack received a copy of it) and a Mr. Lane of the Michigan company.

Mr. Morgenthau: How much money did you get out of this in one year?

Mr. Pollock: In the year 1934?

Mr. Morgenthau: Yes.

Mr. Pollock: Eighty-two hundred and some odd dollars.

Mr. Morgenthau: What services did you render for \$8200?

Mr. Pollock: None.

Mr. Morgenthau: Why did they give it to you?

-13-

Mr. Pollock: It just happens to be, if I may use the vernacular, because I got a "cut in" on it.

Mr. Morgenthau: Because you were in the Customs Service?

Mr. Pollock: No.

Mr. Morgenthau: Why should somebody hand you \$8200?

Mr. Pollock: May I begin at the incipency of this arrangement?

Mr. Morgenthau: Sure.

Mr. Pollock: Possibly sometime in March, 1934, Mr. Harper of the Secret Service, Cleveland, an intimate friend of mine for some 12 or 15 years, said that a friend of his represented the American Distilling and they would like to become active in Ohio. He asked me if I knew how to go about it. I told him I was unacquainted with the liquor laws of the State and for the moment gave it no serious thought. Possibly a couple of days later, he mentioned it again. I said I know nothing of it; that I would speak to Mr. Moore, the Collector of Internal Revenue, and the reaction was that he knew nothing about it. And a couple of days later we lunched together, as we do possibly two or three times a week, and he said he had been thinking the matter over and said, "How about bringing Mr. Abbott in," whom I did not know at that time.

Mr. Morgenthau: What's his business?

Mr. Pollock: He is an attorney in Cleveland. Out of that came a conference, I believe, in fact I am certain, it was the day Mrs. Pike took her oath of office, April 1, 1934, or possibly March 31. It was on a Saturday, Saturday afternoon. A representative of the distilling company came to Cleveland with Mr. Brown and Mr. Harper and Mr. Moore and myself discussed the matter.

Mr. Morgenthau: What day?

Mr. Pollock: It was Saturday afternoon, either March 31

-14-

or April 1. I am certain of that, because it was the day Mrs. Pike took her oath of office. We conferred and the result was that if there were any sales made that inasmuch as we were in on the ground floor ....

Mr. Oliphant: What do you mean "if sales were made?" Were any sales made? Have sales been made in Ohio?

Mr. Pollock: Our business was to create a demand and then the State buys.

Mr. Morgenthau: How do you create a demand? Do you call on the liquor stores?

Mr. Pollock: I don't. We have representatives throughout the State who call on licensed retail dealers and hotels.

Mr. Morgenthau: Do they make any sales?

Mr. Pollock: No. They merely advertise through some means or other, encouraging the use of that particular brand.

Mr. Morgenthau: Has any of that brand been sold in the State?

Mr. Pollock: Yes.

Mr. Morgenthau: Are there sales being made every day?

Mr. Pollock: Quite a few sales being made. Under the State Monopoly Plan, all liquor is sold by state stores.

Mr. Morgenthau: Has this organization got an office in Ohio?

Mr. Pollock: Yes, sir.

Mr. Morgenthau: How often do you go there?

Mr. Pollock: I have never been in it.

Mr. Morgenthau: Did you ever tell Mrs. Pike you were in this business?

-15-

Mr. Pollock: I know I did when the publicity came up. I can't recall, Mr. Secretary, that I did before.

Mr. Morgenthau: Did you ask her permission to go into this business?

Mr. Pollock: No; in fact, it started before she came in.

Mr. Morgenthau: Did you ask anybody in the Treasury?

Mr. Pollock: I asked Mr. Dow, last summer, if there would be any objection to my having an interest in a liquor sales syndicate in Ohio?

Mr. Oliphant: Was that oral or written?

Mr. Pollock: Just casually; verbal.

Mr. Oliphant: Where did you ask him that? Here in Washington?

Mr. Pollock: Oh, yes; here in Washington.

Mr. Oliphant: Who else was there?

Mr. Pollock: I don't recall that there was anyone else. His answer was that he did not see any objection to it since we were not handling imported liquor and I was devoting no time to it.

Mr. Morgenthau: Mr. Dow, how about that?

Mr. Dow: I recall that he was in the office and asked about buying stock in a liquor concern and as I remember it, I said there was no objection to buying stock in a liquor concern any more than there was in buying stock in the Pennsylvania Railroad. I have a very hazy recollection of it, but I do remember Mr. Pollock spoke to me in the office about buying stock in a liquor concern. From a legal standpoint it made no difference buying stock in a liquor corporation than it would from the Pennsylvania Railroad or any other concern.

-16-

Mr. Mack: This started out as the Ohio Syndicate; no stock was issued. They operated from April, 1934 to December 28, 1934, when Famous Brands of Ohio, Inc., succeeded to the syndicate; therefore, there would be no question of stock issue until December, 1934.

Mr. Morgenthau: When did you see Mr. Dow?

Mr. Pollock: In his office.

Mr. Morgenthau: When? What month?

Mr. Pollock: I believe I looked up the vouchers for Mr. Mack. I believe it was the only time I was in Washington that summer; I believe it was in August.

Mr. Dow: I should say about a year ago.

Mr. Morgenthau: But at the time you asked him, you were participating in the Syndicate?

Mr. Pollock: Yes.

Mr. Oliphant: And had been for how long?

Mr. Pollock: Oh, several months! I felt, Mr. Secretary, it was a perfectly legitimate business; I was not devoting any of my official time to it.

Mr. Morgenthau: Do you have any liquor smuggling cases over from Canada?

Mr. Pollock: We have had no liquor smuggled in since 1930 when the Canadian law went into effect.

Mr. Morgenthau: There is no smuggled liquor coming into Ohio?

Mr. Pollock: I doubt it.

Mr. Oliphant: Is your office charged with preventing smuggled liquor coming into Ohio?

Mr. Pollock: Yes.

Mr. Oliphant: That's part of your official duties?

-17-

Mr. Pollock: Yes.

Mr. Morgenthau: You mean there has been no smuggled liquor sold in the State of Ohio in the last three or four years?

Mr. Pollock: I could not say that. I doubt that there is very little or any coming across the Lake. I doubt if the Coast Guard or our office has seized ...

Mr. Morgenthau: How about the Atlantic Ocean?

Mr. Pollock: We are in Cleveland, Ohio, across the Lake.

Mr. Morgenthau: But isn't it possible that overseas smuggled liquor has been sold in Ohio?

Mr. Pollock: I can't answer that. I know of none.

Mr. Morgenthau: If it was, it would be your responsibility?

Mr. Dow: No, Mr. Secretary. The Alcohol Tax Unit would handle that.

Mr. Morgenthau: Let's put it another way. Suppose they counterfeit American medicinal liquor bottles, etc., and sold it in Ohio?

Mr. Pollock: If it came to our attention -- of course, we only have one customs agent there and a limited force and no patrol. If we know of it, certainly we would prosecute it, as we have every other case.

Mr. Morgenthau: Would you think it would be all right to buy stock in some drug company that was selling narcotics exclusively; nothing but narcotics; be part of a syndicate that was selling narcotics legally?

Mr. Pollock: A legitimate corporation?

Mr. Morgenthau: Yes.

Mr. Pollock: I should think so.

-18-

Mr. Oliphant: How about a corporation engaged in selling nothing but watch movements?

Mr. Pollock: If a legitimate business; an authorized corporation.

Mr. Morgenthau: But you did not have any authorized corporation. You did not buy stock in anything.

Mr. Pollock: I bought stock in the Famous Brands.

Mr. Morgenthau: When?

Mr. Pollock: December of last year.

Mr. Irey: Five months after your conversation with Mr. Dow.

Mr. Pollock: My conversation with Mr. Dow was about having an interest in the company.

Mr. Irey: He interpreted it as stock buying.

Mr. Morgenthau: How many months did he participate before the formation of the syndicate?

Mr. Mack: The syndicate was commenced April 17 of 1934 and continue until December 28, 1934, when the corporation was formed.

Mr. Morgenthau: During the time it was a syndicate, did anybody put up any money?

Mr. Mack: No, sir; there was no investment.

Mr. Oliphant: And during that time he received how much?

Mr. Mack: The distribution was one-fourth or \$8293.14.

Mr. Oliphant: That is from the syndicate? It was not organized until December and he received from the syndicate, in which he invested no money, he received \$8293.00?

Mr. Irey: And when they did incorporate, he bought

-19-

some shares and after that there were three dividends declared of \$20, \$30 and \$40, a total of \$90 on each share.

Mr. Morgenthau: When you were a member of the syndicate you came down here and what is the recollection of what you asked Mr. Dow?

Mr. Pollock: I asked him, as I recall, if there was any law or regulation which would preclude me from having an interest in a liquor concern not handling imported merchandise in Ohio. In effect that was my question.

Mr. Morgenthau: Did you explain to him the arrangements?

Mr. Pollock: I don't recall whether I did or not. Do you recall, Mr. Dow, whether I went into any detail?

Mr. Dow: My whole recollection is very hazy. I remember it was about the same time that Bud Brown was reported to be the sales agency for something out in Michigan and I remember you said something about buying an interest or investing in stock. The impression I have now is that you were going to interest yourself in buying stock in a liquor concern and I suppose that if you said I said there was no law against it, no rule or regulation against it, I will say I said it.

Mr. Morgenthau: Now that you know the circumstances, how would you feel about it if he came to you now?

Mr. Dow: If I knew all that I know about this now?

Mr. Morgenthau: Yes.

Mr. Dow: If I had all those facts I certainly would have said, You had better take this up with the Secretary of the Treasury.

Morgenthau:

Mr. Dow: What do you think personally about it?

Mr. Dow: As far as the law is concerned, he is not violating any law, but he is, ethically speaking, very much on the ragged edge.

Mr. Morgenthau: Do you know if any other people in Customs engage in this business?

Mr. Dow: No, sir; I don't.

Mr. Morgenthau: Do you think there are?

Mr. Dow: There may be. I was just asking Mr. McReynolds about a circular letter that no one should be in any business.

Mr. McReynolds: A circular went out that Treasury employees should get permission for outside employment.

Mr. Morgenthau: You can't call this outside employment. I think they paid him \$8200 because he was connected with Customs.

Mr. Pollock: My official position would have no influence. I am not in politics and the name of Pollock means nothing around Ohio.

Mr. Morgenthau: After this fellow came to you, did you contact any State officials about the sale of liquor in Ohio?

Mr. Pollock: No, sir.

Mr. Morgenthau: Did it ever occur to you that being a Treasury employee . . . .

Mr. Pollock: It has turned out to be one of those fantastic propositions; something that broke right away and I have gotten nice dividends.

Mr. Morgenthau: I will say you did!

Mr. Irey: Colonel Hughes was located at the State capital where someone of your group had a conference with him on whether they would purchase this liquor?

Mr. Pollock: Mr. Moore and I were there with respect to the bonding of warehouses.

Mr. Irey: But it happened to be on that day?

-21-

Mr. Pollock: I did not go.

Mr. Irey: Did you participate in lunch with Mr. Moore?

Mr. Pollock: I don't know, for the very reason that I was at the Custom House and I did see, sometime during the day, the Collector of Internal Revenue, Mr. Busey, concerning strip stamps and bonding of warehouses. At that time, if I may explain this, the State hoped to import liquor in bulk or bring it in from an adjacent State or maybe from a distillery in Ohio and bottle their own merchandise. It was also contemplated, of course, anticipated at least, that there would be imported liquor and the question was about having an Internal Revenue bonded warehouse in the same warehouse in which might be stored imported and any other merchandise which the State may own and that was my only connection at the invitation of Mr. Moore.

Mr. Irey: Did they put that up to you?

Mr. Pollock: They took up with me the question of putting it in one bonded warehouse. All we are interested in is having a compartment bonded for imports, but it was a question of paying duty and for convenience of the State they wanted it all concentrated in the one building.

Mr. Morgenthau: Did you accommodate the State?

Mr. Pollock: All we could do was to explain the procedure and to make application for a bonded warehouse.

Mr. Morgenthau: Did the State get it?

Mr. Pollock: They accepted a bonded warehouse there.

Mr. Morgenthau: But the State got what they wanted?

Mr. Pollock: It's a public bonded warehouse.

Mr. Morgenthau: But they wanted special treatment and you fixed it up so they got it?

Mr. Pollock: No, I did not look at it in that light,  
Mr. Morgenthau. They knew nothing of handling bonded merchandise. They knew nothing of entering to a ware-

-22

house or withdrawing, or strip stamps.

Mr. Morgenthau: Who explained it?

Mr. Pollock: I did. I believe Mr. Busey was with us at the time.

Mr. Morgenthau: And you explained it to the State authorities?

Mr. Pollock: I explained Customs.

Mr. Morgenthau: And when you got through, they realized that you had made it easier for the State to sell liquor?

Mr. Pollock: At that time we knew nothing.

Mr. Irey: At that time they had gone up to the Capitol and had a conversation with Colonel Hughes about selling liquor -- Famous Brands -- to the State of Ohio.

Mr. Morgenthau: But within a few days they fixed the State up and explained how they used strip stamps. Then right after this happened these fellows take the State agency for the liquor.

Mr. Irey: The same day they explained the warehouse they also talked to Colonel ~~Wanna~~ Hughes about selling liquor to the State of Ohio. I don't mean that Pollock entered into that discussion.

Mr. Pollock: I did not see Mr. Hughes on that day. I may be confused as to what day we talked.

Mr. Morgenthau: Isn't it a fact that it was a case of "You scratch my back and I scratch yours?"

Mr. Pollock: No.

Mr. Morgenthau: "You fix us up and we will explain how it should be handled?"

Mr. Pollock: It was my duty to explain Customs.

Mr. Morgenthau: At the same time a special assistant is pretty hard to turn down.

-23-

Mr. Pollock: Anybody could have access to that public bonded warehouse.

Mr. Morgenthau: But to turn you down on the sale when he knew you had an interest in selling that brand to the State authorities.

Mr. Pollock: They already had an agency in Ohio.

Mr. Oliphant: What were these brands?

Mr. Pollock: Reedwood is one.

Mr. Oliphant: Where is it manufactured?

Mr. Pollock: I don't know.

Mr. Oliphant: What are the other brands?

Mr. Pollock: They have gin; Old Colony.

Mr. Oliphant: Where is that made?

Mr. Pollock: I can't tell you.

Mr. Oliphant: The next brand?

Mr. Pollock: Briarcliff.

Mr. Oliphant: Where is it made?

Mr. Pollock: I don't know.

Mr. Oliphant: Any other brand?

Mr. Pollock: Another gin; Polo.

Mr. Oliphant: Where is it made?

Mr. Pollock: I don't know where.

Mr. Oliphant: What was the leading brand of wine?

Mr. Pollock: That I can't tell you.

Mr. Oliphant: Did you have a full line of wines?

Mr. Pollock: No wines.

Mr. Oliphant: The Syndicate never sold any wines?

Mr. Pollock: Never sold anything besides whiskey and gin. That's all I know of.

Mr. Oliphant: Any imported gin?

Mr. Pollock: Not to my knowledge. That was the only thing I made definite at the time of our conference, March 31 or April 1, that I would not be interested if they handled imported merchandise. As I explained to Mr. Dow, they handled no imported ...

Mr. Gaston: Isn't there a brand that is put out as the official brand of the State of Ohio and is quite widely advertised by the State stores? A brand you have not mentioned that was handled by your Famous Brands, Inc.?

Mr. Pollock: Are you speaking of Buckeye State?

Mr. Gaston: That's right.

Mr. Pollock: I knew nothing of that until I returned from New Orleans.

Mr. Gaston: There seems to be something about taking a lot of liquor off the State shelves and taking it back to distilleries in Illinois and rebottling them as Buckeye.

Mr. Pollock: I can't tell you a thing about it. I am informed by Mr. Moore and Mr. Abbott that the Ohio Company has nothing to do with that. It's a matter entirely between the State and the distillery.

Mr. Gaston: So the State like Buckeye as their official State brand? Your concern, Famous Brands of Ohio, does not sell that?

Mr. Pollock: No. In fact, I knew nothing of it until last month.

Mr. Gaston: That's Mr. Brown's organization in Michigan that sells that?

-25-

Mr. Pollock: No. As I understand from Mr. Abbott, the State had purchased a lot of bonded merchandise which is rather high priced and they could not sell it in the State of Ohio because of the price and they solicited various distilleries to see what they -- the State did that; it was the State's property -- would charge to blend into a lower priced liquor. I knew nothing of that until last month. In fact, when it came out in the newspapers, he said that's something between the American Distillery and the State of Ohio.

Mr. Mack: I might explain that there were about 8,000 gallons of high price liquor, slow moving, impossible to sell through the State stores, taken back by the American Distillery to reblend with cheaper liquors in order that they could sell at a price to meet the demand and that is now being shipped back into the State.

Mr. Morgenthau: Not handled by Famous Brands?

Mr. Mack: No, the American Distillery. It was arranged for by Mr. Abbott, a member of the Ohio sales syndicate.

Mr. Oliphant: Did Abbott get a commission on that piece of business?

Mr. Mack: I understand not.

Mr. Morgenthau: Mr. Irey, tell me again what happened the day they went up to Columbus.

Mr. Irey: I would rather Mack told it.

Mr. Mack: There was a visit made to Columbus, Ohio, by Mr. Abbott, a member of the Ohio syndicate, accompanied by Mr. Lane, also a member of the Ohio syndicate but from Detroit, Michigan, the purpose being to afford Mr. Lane an opportunity to discuss with Colonel Hughes, then Director of the Ohio State Liquor Board, the matter of selling American Distillery products in Ohio. It developed that Mr. Moore and Mr. Pollock were there on the same date. There is no evidence that they went to the Board with Mr. Abbott and Mr. Lane and I believe Mr. Pollock's explanation is that he was there to see

-26-

Mr. Busey about an Internal Revenue matter in connection with official business; further, that on that same date one of the men I interviewed said that Mr. Moore may have had lunch with Colonel Hughes and these two men.

Mr. Morgenthau: Was Brown there that day?

Mr. Mack: No.

Mr. Morgenthau: Was the other Secret Service man there?

Mr. Mack: No, sir.

Mr. Morgenthau: But that is the day Mr. Pollock explained to the State of Ohio about strip stamps, etc.

Mr. Pollock: That I cannot say. The matter of bonded warehouses was discussed long before we ever heard of American Distillery.

Mr. Irey: But you did say that Mr. Lane went up the same day you went to Columbus.

Mr. Pollock: Mr. Lane and Mr. Abbott were there that same day. Whether it was that day or my previous trip, made at the invitation of Mr. Moore, possibly in February -- my voucher will bear that out -- long before we heard of American Distillery.

Mr. Mack: That was prior to the formation of the syndicate.

Mr. Irey: But in any event you had had this talk with State officials and then on the day they went to Columbus you and Moore also were in Columbus.

Mr. Pollock: Yes, but my presence was not because of any interest in the syndicate or the eventual interest in the syndicate or corporation, but was merely as a public servant enlightening a State which was unacquainted with procedure of importing into bonded warehouses for I am certain this started long before I heard of American Distillery.

Mr. Morgenthau: But you could make it pretty unpleasant for the State by not giving them these warehouses.

Mr. Pollock: These facilities were approved. It had

-27-

already been approved. Under the law an importer may store his merchandise.

Mr. Morgenthau: But they wanted something special.

Mr. Pollock: Oh, no!

Mr. Morgenthau: The American Distillery said they wanted something special. They wanted to be able to bring it in bulk.

Mr. Pollock: That was domestic stuff which they thought at the time they would bring in and bottle themselves.

Mr. Morgenthau: Did they?

Mr. Pollock: I can't tell you. That was an Internal Revenue matter entirely through Collector Busey.

Mr. Morgenthau: But they put it in a Customs bonded warehouse.

Mr. Pollock: No. And I don't know whether they ever went through with that proposition.

Mr. Oliphant: To come back to brands -- these brands handled by the syndicate are any of them blends?

Mr. Pollock: I can't tell you. I know nothing about it.

Mr. Oliphant: You don't know whether the syndicate was handling whiskey blended with Canadian whiskey?

Mr. Pollock: ~~XXXXXXXXXXXXXXXXXXXX~~ No.

Mr. Oliphant: You don't know that?

Mr. Pollock: No.

Mr. Oliphant: Are you acquainted with Section 1599 of the Criminal Statutes?

Mr. Pollock: I don't know what it is right now, offhand.

Mr. Oliphant: Don't you know it is a criminal offense for any employee employed by the United States Government to

be directly or indirectly interested in importation of merchandise or the sale of imported merchandise?

Mr. Pollock: I am informed this concern does not import.

Mr. Oliphant: But does the concern sell any blends?

Mr. Pollock: That I can't say.

Mr. Oliphant: Then you don't know whether Famous Brands sells blends partly blended from Canadian whiskey?

Mr. Pollock: I am informed they do not import. I cannot say whether they purchase Canadian liquor wholesale and blend it in this country.

Mr. Morgenthau: Where do you wait while you are here?

Mr. Pollock: I have been out in this room here.

Mr. Morgenthau: Ask Commander Thompson to come in.

( When Commander Thompson arrived Secretary Morgenthau asked Mr. Pollock to wait in his office until called.)

oOo-oOo

PART III

Mr. Morgenthau: Mr. Moore (Collector of Internal Revenue at Cleveland), I am sorry to have kept you waiting, but we have had a lot of discussion. Certain charges have been made against your activities in the sale of liquor and the easiest way to do would be to have the charges read to you.

Mr. Irey: (Read Exhibit "3" attached.)

Mr. Morgenthau: I want to ask you a few questions. Have you ever had previous experience in setting up a sales agency?

Mr. Moore: I covered that in the latter part of my statement. (Mr. Moore read his statement which consisted of a letter dated July 1, 1935 (see Exhibit #4 attached) and letter of July 10, 1935 (see Exhibit #5 attached), the first one addressed to Special Agent Arthur A. Nichols and the second, to Special Agent Mack.)

Mr. Morgenthau: You say you covered that in the latter part of your statement?

Mr. Moore: Yes, sir and I also cover my experience in advertising.

Mr. Morgenthau: To whom and how did you give advice on advertising campaigns before you were Collector?

Mr. Moore: I was, I had been in the newspaper business, Mr. Morgenthau, for quite a number of years. I was city editor of the Akron Press and later assistant managing editor under Ray Long of the Cleveland Press and later become a political writer for the Plain Dealer and spent my time between Washington and Columbus during the congressional sessions. I left the Plain Dealer in 1914 to join a friend of mine, Mr. Byrkman (?) ~~inc~~ as Cleveland advertising and publicity company. We handled all kinds of advertising accounts and continued to do that up to the time I resigned or rather gave up temporarily my connection to join the Army. When I came back I resumed the advertising and publicity business. In the meantime they organized two or three companies and became interested in another company which was an organizing

company in that it was a single incidental in which Mr. Abbott is also a partner in which we have basic patents on the control of making projection plates, lithographing plates, by projection. We have connections in New York, Boston and Cleveland. At the present time we have five or six other installations that we will fill as soon as we can have a new building.

Mr. Morgenthau: May I ask you this? While you have been Collector, have you acted as consultant in any other concerns except this one case?

Mr. Moore: No, except in my own business.

Mr. Morgenthau: Is your own business serving any liquor interest?

Mr. Moore: No, sir.

Mr. Morgenthau: But this is the only case where somebody came to you and said, "We would like you to lay out an advertising campaign," since you have been Collector?

Mr. Moore: I think it is. I don't recall being solicited for work of this kind.

Mr. Morgenthau: All right; continue to read.

Mr. Moore: (Concluded reading). Mr. Mack came in to see me and I talked at some length. I gave him all the information he asked. I furnished the information he desired with regard to my official visit to Columbus to the State Liquor Board in reference to an Internal Revenue matter and explained the system by which the State has the monopoly of liquor and at the conclusion of that he asked me if I would make a supplemental statement in which I would set out the facts I had discussed with him and particularly with reference to the sale of liquor in the State of Ohio, so under date of July 10 I made the statement for Mr. Mack.

Mr. Morgenthau: The money was divided between his wife and himself?

Mr. Irey: He got approximately \$8000 as his one-fourth

share during 1934 and then \$1500 as compensation for the advertising.

Mr. Moore: That was compensation for some extra work that Mr. Abbott thought I was entitled to in connection with the Michigan advertising.

Mr. Irey: Each got \$8200 and Mr. Moore got \$1500 extra and Mr. Abbott got \$1500 extra.

Mr. Morgenthau: But in reporting his income tax it was between himself and his wife?

Mr. Irey: He filed return showing \$4500 as income to Mrs. Moore from the syndicate and \$5200 as his income from that source, although the syndicate contract says none can be assigned.

Mr. Morgenthau: How did you happen to divide it between your wife and yourself, this income?

Mr. Moore: As I said in my statement, in the latter part of last year it was decided to organize a separate company in Ohio. I was given an opportunity to subscribe for stock and I said I did not care to, but Mrs. Moore did. At that time I assigned all of my future interest that was coming in 1934 because the company was not to be set up until January, so I merely assigned over to Mrs. Moore, as Mr. Mack saw the checks -- checks that were made out to me -- I endorsed to Mrs. Moore and Mrs. Moore deposited those in her own account.

Mr. Morgenthau: But how did you divide the \$4500 and \$5200?

Mr. Moore: That was the approximate amount that was payable after this agreement was made.

Mr. Morgenthau: You felt that on the syndicate you were entitled to \$4200 and then when it became a corporation you turned it over to Mrs. Moore.

Mr. Moore: When it was decided to become a corporation and Mrs. Moore wanted to subscribe, to sign in her own name, I signed and endorsed over to her the checks for

whatever was due for the balance of that period through November and December.

Mr. Morgenthau: She got her own dividends? She paid \$90 for that stock?

Mr. Moore: Famous Brands did not become an entity since January of this year.

Mr. Morgenthau: Since then she received dividends?

Mr. Moore: Yes, sir.

Mr. Morgenthau: Why was she entitled to dividends prior to January? Did she get \$5200?

Mr. Moore: She got nothing.

Mr. Morgenthau: She reported \$4500.

Mr. Moore: Why, she was entitled to \$4500.

Mr. Morgenthau: Because she had agreed to subscribe to a certain piece of stock?

Mr. Moore: Which she got on the first of January.

Mr. Morgenthau: Why was she entitled to \$4500 for taking \$90 worth of stock?

Mr. Moore: Because I wanted her to have whatever was coming on the balance of the syndicate arrangement.

Mr. Morgenthau: You turned it over to her?

Mr. Moore: Yes. The reason I filed a joint return, I assigned the checks over to her and I could not file an individual return for each of us so I had to file a joint return. It was the only thing I could do to make an honest income tax return.

Mr. Morgenthau: Did you ask any superior officer if it was all right to go into this business?

Mr. Moore: No, sir.

Mr. Morgenthau: Did not ask anybody at the Treasury?

Mr. Moore: No, sir.

Mr. Morgenthau: Did you tell anybody at the Treasury you were in this business outside of Cleveland?

Mr. Moore: No; I don't think I did.

Mr. Morgenthau: What is the statute concerning people in Internal Revenue engaged in the liquor business?

Mr. Oliphant: There is a statute that makes it an offense for any officer or agent of Internal Revenue to be interested, directly or indirectly in the production, rectification or redistillation of distilled spirits. And then Section 93, "No member or agent of any organization or person directly or indirectly interested in pecuniary profits or contracts of such organization shall be employed or shall act as an agent of the United States for transaction of business with such organization." Presumably, a Collector of Internal Revenue would have to transact business with the syndicate, both from the standpoint of its income tax return and also from the standpoint of enforcement of various liquor taxes.

Mr. Moore: That was passed in 1877. I learned about it after the story appeared in the paper.

Mr. Morgenthau: Leaving the story out -- the facts are that this American liquor concern was doing very poor business in the State of Ohio. I understand they were not even able to collect their money.

Mr. Moore: I don't know anything about that. They had products in the stores.

Mr. Morgenthau: They were very smart. They thought, "We will get some fellows connected with the Government in the State and maybe we will have better luck selling to the State." And they did and were able to build the business up from zero to a million dollars in a year.

Mr. Moore: As I explained to you in this statement, through the State selling the State is relatively unim-

-34-

portant; it's getting people to buy.

Mr. Morgenthau: I am not impressed with your statement.

Mr. Irey: The Liquor Board was allowed to buy in any quantities they wanted, so the situation you point out was not in effect until long after.

Mr. Moore: The companies that were selling the State of Ohio liquor who could not move their product had to take it back. It wasn't a question of the State. It was a question of the man who produced the liquor selling it or had to take it back, and they did.

Mr. Gibbons: Isn't it a fact that the State Liquor Board bought from any distillery -- had the right to grant Tom, Dick and Harry (the retail store proprietor) a license to sell?

Mr. Moore: Yes, sir. Three or four different kinds of licenses.

Mr. Gibbons: Where do they get the licenses?

Mr. Moore: The State Liquor Control Board.

Mr. Gibbons: That is the same authority that Colonel Hughes is in charge of? He is a member of the Board?

Mr. Moore: Yes, sir.

Mr. Gibbons: And head of this purchasing organization for the State?

Mr. Moore: He was the actual head.

Mr. Morgenthau: I am not a lawyer, but why should I believe that there are four people in the syndicate, each person gets exactly the same amount. The Deputy Collector of Customs admits he did not render any service. It was just a Christmas present. And you say you rendered all this valuable service on advertising and sales promotion and you get exactly the same amount.

Mr. Moore: That's right. It was on a percentage

basis. We did not know whether we were going to make any money.

Mr. Morgenthau: But you rendered service and he did not.

Mr. Moore: I have told you exactly what I have done.

Mr. Morgenthau: And there are four fellows and each gets one-fourth of what is divided up.

Mr. Moore: We did not know whether we were going to do any business or, in general, know whether we would make money or lose money. It was merely a matter of moving the product that would sell.

Mr. Morgenthau: But from the time he got you fellows interested, business began to hum for this American Distillery Company.

Mr. Moore: I don't know whether you would call it humming. The State of Ohio sold a lot of liquor in the course of a year.

Mr. Morgenthau: But you, as Collector of Internal Revenue, have the enforcement of liquor laws under you.

Mr. Moore: No, sir; they are under the Alcohol Tax Unit.

Mr. Morgenthau: But you had strip stamps.

Mr. Moore: We sold strip stamps.

Mr. Morgenthau: And the American liquor concern had to buy strip stamps.

Mr. Moore: Not that I know of. If they did, it was at the factory in Illinois.

Mr. Morgenthau: But you were in charge of seeing whether they had counterfeit stamps in the stores.

Mr. Moore: As far as the stores in my district were concerned.

-36-

Mr. Morgenthau: That was directly charged to you?

Mr. Moore: Yes, sir.

Mr. Morgenthau: And if you saw this particular brand, for which you were sales agent, for which you were an agent, had counterfeit stamps, it might be embarrassing?

Mr. Moore: No, sir; I did not make the inspection.

Mr. Morgenthau: But you were charged with that responsibility.

Mr. Moore: Yes, sir.

Mr. Morgenthau: Did the Alcohol Tax Unit stop at retail liquor stores?

Mr. Moore: To see that strip stamps were on bottles?

Mr. Morgenthau: Yes.

Mr. Moore: As far as strip stamps were concerned.

Mr. Oliphant: And the occupational tax?

Mr. Moore: Yes, sir.

Mr. Morgenthau: To me it is unbelievable that a Collector of Internal Revenue would be a participant in an agency which sold to retail stores and the State. It seems impossible.

Mr. Moore: As far as any influence was concerned, I can assure you it had nothing to do with it.

Mr. Morgenthau: Of course, the facts don't bear that out. The facts are that this concern could not make any sales until they got you fellows as their agents.

Mr. Moore: The sales in Ohio did not start until January or February of 1934 and the first I heard of this thing was in March or April. They had only been in business a few months.

Mr. Morgenthau: Here you are, charged with the responsibility of the collection, to see that the Federal tax on retail liquor is paid, and you are charged with the occupational tax.

Mr. Moore: I saw that that was done.

Mr. Morgenthau: Your connection did not influence you in the discharge of your business?

Mr. Moore: No.

Mr. Morgenthau: Did you know that under the law it did not need to influence you for your conduct to be illegal?

Mr. Moore: Nothing would influence me.

Mr. Morgenthau: Under the law it is unlawful if you put yourself in the position. You can't expose yourself to that situation.

Mr. Moore: I became aware of the statute passed in 1873 on that subject and I knew that after this came out.

Mr. Morgenthau: You did not ask anybody whether <sup>what</sup> you were doing was all right or not?

Mr. Moore: My conscience was clear on the matter because I had not anything to do that was not perfectly legitimate -- the sales promotion idea. I was not trying to use my office or my influence or anything else and did not, and did not speak to anybody about buying the products of this company.

Mr. Morgenthau: But still when they wanted to go and sell liquor, they got three Government fellows from three different branches, to make this thing go.

Mr. Moore: That may be so. But I am telling you about my part.

Mr. Morgenthau: They don't pick people from Agriculture or Labor Department. They pick them all in the Treasury Department.

Mr. Moore: I don't think the people ever heard of me until this thing was under way.

-38-

Mr. Morgenthau: The State Liquor Board knows about you in Ohio.

Mr. Moore: I have been in Ohio all my life.

Mr. Morgenthau: But they know you are the Collector of Internal Revenue and they know what your duties are.

Mr. Moore: That's perfectly true.

Mr. Morgenthau: Mr. Helvering, I wish you would kind of take this over this afternoon in your office with your people and let Mr. Oliphant send somebody over to your office to assist you and then come to see me tomorrow about eleven o'clock. I have got the thing pretty well in my mind and I would like you to satisfy yourself and then I would like Mr. Moore to stay another day or two until we get this thing straightened out. I want to be fair and give plenty of time, but when there are three Treasury people in Michigan and Ohio who go into the liquor business, they may not have done anything but they certainly let themselves be used, so come back tomorrow at eleven o'clock. Thank you.

oOo-oOo



Income tax returns for any years prior to 1934, although the evidence thus far obtained shows that he had sufficient income at least as to 1932 and 1933 to require returns. (As to 1933 Mr. Brown's income consisted of salary as a Federal employee of \$3600.00, salary of \$860.00 from Famous Brands, Inc., Detroit, Michigan, profit realized from the payment to him of \$4500000 for his interest in the selling rights in Michigan for which he gave an affidavit of clear title to the Famous Brands, Inc., when organized, and the result of his trading in the stock market which has not as yet been determined.)

Clifton E. Mack,  
Special Agent.



TREASURY DEPARTMENT  
INTERNAL REVENUE SERVICE

272

INTELLIGENCE UNIT

Philadelphia

July 23, 1936.

(Name of Division)  
SI-10580-222  
CRM-MPI

MEMORANDUM: In re Secret Service Operative in Charge  
Bert G. Brown, Detroit, Mich.

This memorandum relates briefly the interests of Secret Service Agent Brown in Famous Brands, Inc., Detroit, Michigan, the Ohio Sales Syndicate, Cleveland, Ohio, also Famous Brands Ohio, Inc., Cleveland, Ohio, selling agencies for the products of the American Distilling Company in the states of Michigan and Ohio. In addition thereto, Mr. Brown's interest in the Falstaff Sales Company, selling agent for the Falstaff Brewing Company, St. Louis, Missouri, and other business activities are commented upon, and in that connection the facts developed with regard to Mr. Brown's income tax liability for the years prior to 1934, which is now under investigation, are also related.

Famous Brands Inc., Detroit, Mich.

This company was incorporated August 28, 1933, for the purpose of selling, dealing and acting as a distributor and sales representative for the sale of liquors and engaging in all kinds of business incidental thereto. On Sept. 5, 1933, Secret Service Agent Brown, Messrs. Lane, Ulrich and Burghart were elected directors and at a directors' meeting on the same date, Mr. Brown was elected Vice President. One thousand shares of stock were authorized and six hundred shares were issued of which two hundred were issued to Mrs. Brown, and the balance divided equally amongst Messrs. Ulrich, Lane and Burghart, the cost of the stock being \$10 per share. It will be noted that the stock was held by Mrs. Brown but the records of the corporation show that Mr. Brown's status was acquired by reason of a proxy signed by Mrs. Brown authorizing him as her representative. Mr. Brown retained the office of Vice President until March 10, 1934, when new officers were chosen. He has continued to serve as a director from Sept. 5, 1933 to date. The dividends to Mrs. Brown from this corporation for the year 1934 totaled \$16,068.97. In addition thereto she was credited with \$800 per month salary for the first nine months of that year and \$400 per month for the last three months, or a total of \$3,000. It is noted that the checks issued for dividends and salary during the year 1934 were made payable to Bert G. Brown except in two instances, and of the thirty checks issued totaling \$16,181.95, but four of the checks issued to him bear her endorsement. Mr. Brown stated that he did not devote any time to the conduct of this business other than attending about ten stockholders' or directors' meetings. Prior to the formation of this

SI-10380-SEC

corporation Mr. Brown was paid \$4,500 for a release of his interest in the contract to represent the American Distilling Company in Michigan and certification of good title. Mr. Brown's explanation is that during 1933 and prior to the organization of this corporation, he went to considerable expense in endeavoring to establish this agency which necessitated expenses totaling approximately \$4,500 and that the payment to him at the time of the organization of the corporation was in settlement of the expenses which he had incurred, the detail of which he is to furnish me.

Ohio Sales Syndicate, Cleveland, Ohio

Mr. Brown explained that due to the success of Famous Brands, Inc., in Michigan, and the apparent difficulty which the then distributor for the American Distilling Company in Ohio was having in selling a sufficient quantity of liquor to the State Liquor Board, due primarily to lack of promoting sales through the retail trade, that the Michigan group who were interested in Famous Brands, Inc., were offered the opportunity to take over the State of Ohio as selling agents for the American Distilling Company. He explained that he then communicated with Secret Service Agent Harper and inquired whether or not Mr. Harper knew of suitable persons in Ohio who would be able to successfully handle an Ohio agency. He advised that thereafter, Mr. Harper informed him that he had told Assistant Collector of Customs Pollock of this proposal, who in turn had advised Collector of Internal Revenue Moore and that a meeting was then held in the office of Secret Service Agent Harper at Cleveland, Ohio, about April 1934, to discuss the formation of an agency in Ohio. He said that as a result of this conference Mr. Abbott, an attorney of Cleveland, Ohio, was interested in the venture, and the syndicate was formed April 17, 1934. Under the terms of the syndicate agreement Brown receives 1/3 of the 20% share of the profits allocated to the Michigan group which totaled \$3,034.37 for the year 1934, which amount is reported on his income tax return.

Famous Brands Ohio, Inc.

This corporation was organized December 28, 1934, to succeed the Ohio Sales Syndicate and 100 shares of stock was authorized which was distributed in accordance with the holdings of the syndicate members, 7 shares, representing Mr. Brown's portion, being issued in the name of his wife at \$5 per share. Dividends of \$20, \$30 and \$40 per share on this stock have been issued as of April 1st, May 21st, and June 22, 1935.

Falstaff Sales Company, Detroit, Mich.

This corporation was organized April 13, 1933, for the purpose of manufacturing, selling and the purchase and resale of malt and other

SI-10380-323

beverages and supplies, also the merchandising of same. Preferred stock of 2500 shares and common stock of 1000 shares was authorized. Of the common stock, 644 shares were issued to Hilbert Wulf, 336 shares were issued to Mrs. Brown and one share to Ann Wargny. Mrs. Brown was named a director and at the first directors' meeting, April 13, 1933, Mrs. Brown was elected President, which office he retained until this company forfeited its charter at the end of 1933. The business of this company was to sell the product of the Felstaff Brewing Company, St. Louis, Mo., in the State of Michigan. The records of this company do not show payment of any salary to Mr. or Mrs. Brown nor is there a record of dividends paid, but it is noted that on May 4th and May 8th, 1933, Mr. Brown was issued checks in the amount of \$200 and \$274.05 in payment of traveling expenses to St. Louis, Missouri. It was learned that one of the reasons for the failure of this company to operate successfully, was due to the fact that the beer which they sold was too high in price for popular use.

Income Tax Liability for Years  
Prior to 1934

Mr. Brown states that he has not filed income tax returns for any years prior to 1934 for the reason that he overlooked filing a return originally and never reached the point where he felt in a position to file delinquent returns and settle his liability, consequently his delinquency continued to date. Inquiry is now being made as to his income for years prior to 1934. Brokerage accounts are now being obtained by Mr. Brown showing his activities in the market which will be verified. Thus far it appears that for the year 1933 Mr. Brown's income consisted of his salary of \$3,600 as a Secret Service Agent, \$950 salary paid by Famous Brands, Inc., Detroit, Michigan for the account of his wife and \$4,500 in payment for his investment in obtaining the contract for the American Distilling Company in Michigan, which investment he explains consisted primarily of entertaining expenses and the result of his trading in the market which is yet to be determined.

Miscellaneous

The files of the Justice of Peace Courts at Detroit, Michigan, show thirty suits in which Mr. Brown was named defendant. Mr. Brown's explanation is that many of these suits resulted from his connection with a Golf Club in Canada and another Golf Club at Detroit, Michigan, which did not prove to be profitable ventures. He also explained that certain of the law suits related to the unsuccessful venture in a Ford Agency at Hamtramck, Mich. Further details as to these business activities are being obtained.

Clifton E. Mack,  
Special Agent.



INTELLIGENCE UNIT

TREASURY DEPARTMENT  
INTERNAL REVENUE SERVICE

Eichler  
"2"  
175

Washington  
(Name of Division)

July 23, 1935.

SI-10318-S-CUE  
CEM:OND

MEMORANDUM

In re: Interests of Assistant Collector of Customs  
C. W. Pollock, Cleveland, Ohio, in the Ohio  
Sales Syndicate and Famous Brands Ohio, Inc.,  
selling agencies for American Distilling Co.

The Ohio Sales Syndicate was formed April 17, 1934, and the membership consisted of Collector of Internal Revenue C. E. Moore, Assistant Collector of Customs Pollock, Secret Service Operative in Charge Harper and Mr. Gardner Abbott, known as the Ohio group, and Secret Service Agent Bert Brown and Messrs. Ulrich Burghart and Lane, known as the Michigan group. Mr. Pollock's share of profit in the syndicate operations for 1934 was \$8,293.14, or 1/4 of the 80 per cent interest to the Ohio group, which amount was reported on his income tax return for 1934.

It is alleged that Mr. Pollock used his official position and official acquaintance with the Ohio State Liquor Board to promote the sale of American Distilling products.

Famous Brands Ohio, Inc., was organized December 28, 1934, and 18 shares of the 100 shares of stock authorized were issued to Mr. Pollock, predicated on his interest in the syndicate at a cost of \$6.00 per share.

Clifton E. Mack,  
Special Agent.



TREASURY DEPARTMENT  
INTERNAL REVENUE SERVICE

176

INTELLIGENCE UNIT

Eschbacher  
(Name of Division)

July 23, 1936.

SI-10315-2-6-018  
CEN:ORD

MEMORANDUM

In re: Assistant Collector of Customs C. W. Pollock,  
Cleveland, Ohio.

Mr. Pollock stated that about April of 1934, Secret Service Operative in Charge William G. Harper, of Cleveland, Ohio, informed him that Secret Service Operative in Charge Brown, of Detroit, Michigan, had made inquiry as to the possibility of Famous Brands, Inc. of Detroit, Michigan, selling agents for the American Distilling Company, "getting into Ohio for the purpose of selling American Distilling products in that state," and that Secret Service Agent Harper asked him if he knew "how to go about it". Mr. Pollock explained further that he then discussed this matter with Collector of Internal Revenue Moore, and that Mr. Moore recommended Mr. Gardner Abbott, attorney at law, Cleveland, Ohio, as the proper person to handle the matter. He explained further that the Ohio Sales Syndicate was then formed, and that he received an equal share with Messrs. Moore, Harper and Abbott in the 80 per cent distribution of the net profit of this syndicate to the Ohio group, his share for the year 1934 totaling \$8,570.14, which was reported on his income tax return accordingly. He advised that he has not devoted any time to the conduct of the syndicate or Famous Brands Ohio, Inc., which was organized December 28, 1934, to succeed the syndicate, and called attention to the fact that he was on special detail at New Orleans, Louisiana, from the early part of February until June of this year. Rich regard to visits made to the Ohio State Liquor Board in the company of Mr. Moore, he explained that such visits were an official matter, and that he did not discuss the sale of American Distilling products.

When the corporation was organized December 28, 1934, he purchased 15 shares of the 100 shares issued at \$5.00 per share, the amount of stock issued to him having been predicated upon his interest as a syndicate member. He advised that he did not

- 2 -

SI-30513-K-CUB

make any investment of money or services in the syndicate, and that the only activity that he had with regard to this venture concerned his part in interesting Mr. Moore in the formation of a sales agency as outlined above. His income from the syndicate during 1934 was \$8,295.14 and three dividends have been declared this year on the stock of Famous Brands Ohio, Inc., at the rate of \$20.00, \$30.00 and \$40.00 per share as of April 1, May 21 and June 2, 1935.

*Cliff E. Mack*  
Clifford E. Mack,  
Special Agent.



TREASURY DEPARTMENT  
INTERNAL REVENUE SERVICE

*Subdiv  
3778*

INTELLIGENCE UNIT

Philadelphia

January 23, 1936.

(Name of Division)

SI

CHE-MPS

MEMORANDUM

Re: Interests of Collector of Internal Revenue  
C. H. Moore, Cleveland, Ohio, in the Ohio  
Sales Syndicate and Famous Brands Ohio, Inc.,  
sales agencies for American Distilling Co.

It is alleged that on April 19, 1934, the Ohio Sales Syndicate was formed, membership consisting of Collector of Internal Revenue Moore, Assistant Collector of Customs Folluck, Secret Service Agent Harper and Mr. Gardner Abbott, Attorney, all of Cleveland, known as the Ohio Group, and Secret Service Operative in Charge Bert O. Brown, Messrs. Vinton, Burghart and Lane representing the Michigan Group and that Mr. Moore's share of the profits of the Ohio Sales Syndicate for 1934 was \$6,893.14, which was 1/4 of the 80% to which the Ohio Group was entitled.

It is further alleged that no investment of money or services was made by Collector Moore for the return of \$6,893.14 which he realized from the syndicate in 1934, and that in addition thereto he obtained \$1,803.96 for advertising and sales promotion work during that year.

(The joint income tax return filed by Mr. Moore and his wife, reports \$4,600 as income to her from the syndicate and \$6,897.18 as his income from that source. The syndicate contract states that no interest may be sold, assigned or transferred.)

It is alleged that Collector Moore used his influence and official position to promote the sale of American Distilling products to the Ohio State Liquor Board and that he was present in Columbus, Ohio, on a date prior to the formation of the syndicate when Mr. Lane, subsequently a member of the syndicate, discussed the sale of such products to Colonel Hughes, Director of the State Liquor Board.

It is alleged that on December 20, 1934, Famous Brands Ohio, Inc., was organized to succeed the syndicate and the one hundred shares of stock authorized was issued on the basis of holdings in the syndicate, eighteen shares being issued to Mr. Moore's wife. The cost of the stock was \$5 per share.

Clifton K. Meek,  
Special Agent.



## TREASURY DEPARTMENT

INTERNAL REVENUE SERVICE

INTELLIGENCE UNIT

Washington

(Name of Division)

July 23, 1936.

SI-10317-25-622

CEN: CND

MEMORANDUM

In re: Collector of Internal Revenue C. H. Moore,  
Cleveland, Ohio.

The Ohio Sales Syndicate was formed by agreement dated April 17, 1934. The purpose of this syndicate was to sell the products of the American Distilling Company in the State of Ohio. The members of the syndicate are Collector of Internal Revenue Moore, Assistant Collector of Customs Pollock, Secret Service Operative in Charge Harper and Mr. Gardner Abbott, Attorney, all of Cleveland, Ohio, known as the Ohio group, and Secret Service Operative in Charge Bert Brown, Detroit, Michigan, and Messrs. Ulrich Burghart and John C. Lane, of Detroit, Michigan, known as the Michigan group. Under the terms of the agreement the Ohio group were authorized to receive 80 per cent of the net profits of the syndicate operations, to be divided equally amongst them by Mr. Abbott, Manager of the Ohio group, and the Michigan group received the remaining 20 per cent share, one-third to Mr. Brown and two-ninths to each of the remaining members of that group. No investment of money or services was made by any of the Ohio group in this syndicate.

The partnership return of the syndicate shows a profit from the date of organization, April 17, 1934, to the end of that year of \$46,101.27, of which Mr. Moore was entitled to receive \$8,293.14, according to the agreement. In addition thereto Mr. Moore was paid \$1,505.98 for advertising and sales promotion work during 1934.

On the joint return for 1934, filed by Mr. and Mrs. Moore, \$4,500.00 is shown as income to Mrs. Moore from the Ohio Sales Syndicate and \$8,297.12 is reported as Mr. Moore's income from this source. With relation to the income of \$4,500.00, reported by Mrs. Moore for the year 1934 from the syndicate, it is noted that Section 9 of the syndicate agreement states "The interest of each syndicate member, in the event of the death of such member should pass according to will of such member or to the heirs if such member dies intestate, but no interest may be sold, assigned or transferred by any syndicate member."

Mr. Moore explained that along in October 1934 the formation of a corporation to be known as Famous Brands Ohio, Inc., was contemplated, which in effect terminated the provisions of the syndicate agreement, and from that point on he orally assigned his interest in the syndicate earnings to his wife. It is noted that the last three checks issued to Mr. Moore in 1934, representing syndicate profits total about \$5,268.14. He explains that the excess making up the total of \$4,500.00 consists of payments which he made for taxes on Mrs. Moore's property and other of Mrs. Moore's expenses, totaling altogether, with the \$5,268.14, approximately \$4,500.00.

Famous Brands Ohio, Inc., was organized during December 1934 to succeed the syndicate, 100 shares being issued at the nominal price of \$5.00 per share. At that time the interest of the Michigan group was increased to 28 per cent, the Ohio group retaining 72 per cent, and the 100 shares of stock were issued accordingly, 16 shares to each member of the Ohio group and 7 shares to each of the members of the Michigan group except that the stock to which Messrs. Moore, Abbott and Brown were entitled was issued in the names of their wives upon payment of the \$5.00 per share. The cost of the stock when issued was nominal and had no relation to the actual value based upon earnings of \$46,101.27 for nine months of 1934; also the fact that only 100 shares were issued.

Mr. Moore explained that he first learned of this venture about April of 1934 from Assistant Collector of Customs Pollock, and that he has never devoted any time to the business of the syndicate or Famous Brands Ohio, Inc., except in connection with sales and promotion work for which he was paid, and which was performed so as not to conflict with his duties as Collector of Internal Revenue.

Concerning the allegation that Mr. Moore used his official position or political influence to assist in this venture, there are two developments that warrant discussion in this regard. The first is that a visit was made to Columbus, Ohio, prior to the formation of the Ohio Sales Syndicate, at which time Mr. Abbott introduced Mr. John C. Lane, subsequently a member of the syndicate, to Colonel Hughes, the Director of the Ohio State Liquor Board, in order that Mr. Lane might discuss the matter of selling the products of the American Distilling Company to the State of Ohio. There is

- 3 -

SI-10517-M-SEC

evidence that Messrs. Moore and Pollock were also in Columbus on that date, but there is no evidence that they were present at the meeting of Mr. Lane and Colonel Hughes. Mr. Moore explains that he has had occasion to go to Columbus, Ohio, to see the members of the State Liquor Board from time to time with Mr. Pollock on official business, but denied that he had ever promoted a sale of American Distilling products. The other circumstance is that at the time the Ohio Sales Syndicate was formed, the prior distributor for the American Distilling Company in Ohio was not selling a sufficient quantity of their products to the State Board, and there was also difficulty concerning delinquency of the Board with relation to payments for purchases. It also appears that at such time the American Distilling Company were not in the good graces of Colonel Hughes because of their insistence that overdue indebtedness be paid, which necessitated establishing good will with the Board.

*Clifton E. Mack*  
Clifton E. Mack,  
Special Agent.

Spencer  
7/1/35

July 1, 1935

Mr. Arthur A. Nichols,  
Special Agent in Charge,  
Internal Revenue Service.

Dear Sir:

You have asked me whether I own any stock in any distilling company or any company that sells liquor or other alcoholic beverages. My answer is: I own no stock or other interest in any such company and never have. Specifically, I own no stock in the American Distilling Company, nor do I own any stock in Famous Brands, Inc., or any other distilling company, nor have I ever owned any stock in these companies.

I am replying myself of your invitation to make a complete statement with reference to the matter which has been given publicity in the newspapers. In this connection I wish to state that I have never solicited orders for alcoholic beverages of any kind from any State official, nor have I accepted orders for liquor in any form, nor have I talked about orders or urged anyone to give orders for liquor.

I have never been an officer in any company that had any business of dealing in alcoholic beverages in Ohio nor anywhere else. I have never visited the office of the State Liquor Control Board of Ohio in the interest or the sale of any alcoholic beverages. My only visits to the State Liquor Control Board have been in connection with Internal Revenue matters. One visit had to do with the collection of Internal Revenue taxes on liquor imported by the State Monopoly System which importations came thru Customs at the port of Cleveland. Another official visit had to do with the collection of stamp taxes on liquor passing thru warehouses established by the State Liquor Control Board for supplying its State Stores. A third, and possibly a fourth, official visit concerned the method by which the State Monopoly System would pay to the various Collection Districts in Ohio for the retail and wholesale liquor stamps which the Board would be required to have for its various State Stores.

In connection with unofficial matters, I was consulted sometime about or shortly before the middle of 1934 by Mr. Gardner Abbott, a Cleveland attorney, whom I have known for a number of years

and who has long been a personal friend. He asked me to advise with him and make suggestions with reference to setting up the sales force and to advise and make suggestions as to a schedule of newspaper and other advertising means in connection with a company in Michigan, known as Famous Brands, which concern represented the American Distilling Company's products in Ohio and Michigan. On my own time and, in a way that would not interfere with the conduct of this office, I did advise with him on such advertising and sales promotion matters. For this service I was compensated and this compensation is reflected in my current income tax return.

In November of last year I was advised by Mr. Abbott that it was proposed to incorporate a separate company in Ohio to handle the sale of these various products that had hitherto been handled by the Michigan Company. For this purpose it was explained that a company, to be known as Famous Brands Ohio, Inc., would be formed. Later on I was given the opportunity to subscribe for some of this stock. I refused the offer. At some subsequent date my wife informed me that Mrs. Abbott had purchased some stock in this new company and asked me if I had any objection to her making such a purchase. I told her I had no serious objections and she advised me later that she had purchased eighteen shares of stock in Famous Brands Ohio, Inc., buying this stock with her own funds, and I believe she still owns that stock. Individually, I have no interest in any of this stock. If there are any dividends she collects them and maintains her own separate bank account concerning which I have no direct knowledge. Mrs. Moore's income from this source is reflected in her income tax return.

In connection with the request for consultation and advice with reference to various promotion and advertising problems which were asked of me by Mr. Abbott, I make it clear that advice and consultation in such matters have been my business for a great many years. Before I took this office that was my principle source of income and after I leave this office I expect that it will be my principle source of income.

Mr. Abbott has known me personally for a great many years. We have been associated in other business matters since long prior to my taking this office and it was a most natural thing that in such matters he should come to me for such advice and help rather than to go to some stranger.



TREASURY DEPARTMENT

184

INTERNAL REVENUE SERVICE

CLEVELAND, OHIO

OFFICE OF THE COLLECTOR  
EIGHTEENTH DISTRICT OF OHIO

Any further information you desire or questions you may have will be gladly furnished or answered.

C. E. MOORE  
COLLECTOR OF INTERNAL REVENUE

CEM/W

Sworn to before me this 1st day of July, 1935.

---

Special Agent in Charge

5/14/1935  
5

July 10, 1935

Mr. Clifton E. Mack,  
Special Agent,  
Bureau of Internal Revenue.

Dear Sir:

In my statement, under date of July 1st, to Special Agent in Charge, Arthur A. Nichols, I made a short and hurried summary due to the fact that I was leaving the city. Mr. Nichols came into Cleveland the morning of July 1st on a hurried assignment, was without anything but general information on the subject he was to investigate and I, therefore, found it necessary to acquaint him with the newspaper stories about which he had been instructed to inquire. In view of the fact that I did not fully understand what was required of me in the way of a full detailed statement, as well as my desire not to speak for the others who had been mentioned in the newspaper stories, I appreciate the suggestion that I supply my original statement of July 1st.

As I recall, it was sometime in April that Mr. Pollock came to me about a visit of several Detroit, Mich., men who were interested in a company known as Ferrous Brands, which company represented the products of The American Distilling Company in Michigan and Ohio, and who desired to extend its selling activities to Ohio. These men came to Cleveland on a Saturday about a week or so later and the matter was discussed at some length. I told them that so far as I was concerned I would not have the time to be active in this connection. I suggested that they see an attorney in Cleveland, Mr. Gardner Abbott, who might be able to find someone who might interest himself actively. The result was that a syndicate was formed, the management and active work, contacts, etc., to be carried on by the Detroit company from its Detroit office. My part was to assist in the preparation of the newspaper advertising and similar advice and consultation.

So this may be more fully understood, I want to give the picture of the way the State Liquor Monopoly works in Ohio. The Ohio Liquor Control Board reserves for itself the exclusive right to sell through its state stores all alcoholic beverages in excess of 17 percent. Those desiring to purchase by the bottle must go to the state store, select the brand, the kind of liquor and the quantity from a bulletin board on which all brands, code number, quantity and price are listed. This order must be written by the purchaser on an order blank on which the quantity desired, the name, code number and price must be listed by the purchaser and then signed by the purchaser together with his address.

Employees of State Liquor Stores are forbidden to recommend brands or otherwise influence purchasers.

The State Liquor Control Board reserves the exclusive right to sell liquor at wholesale to those having permits in Ohio to retail liquor by the drink. A special wholesale price is given to such wholesale purchasers. The State Liquor Control Board does not purchase liquor and push its sale. It buys liquor from distillers, rectifiers, etc., as such distillers, rectifiers or its representatives creates the demand for its various brands. This public demand is created, not by the State Liquor Control Board, but through the individual efforts of each distiller, rectifier or agency in two ways:

(1) Advertising in newspapers, brands are advertised on bill boards, direct mail and other sales helps are broadcast to stimulate public demand for certain brands of different kinds of liquor by purchasers in the original package from the State retail stores.

(2) Salesmen are employed to call upon holders of retail permits who sell by the drink in order to acquaint them with the quality, price and other favorable information of certain brands to stimulate the purchase by such permit holders of such brands from the State Liquor Monopoly's wholesale stores.

The State Liquor Control Board maintains five distribution warehouses in convenient parts of the State to supply State retail stores and the retail permit trade. Makers of liquor maintain bailment stocks at each of these five distribution points and once each week brands of all and sundry kinds are replaced by the State Liquor Control Board as such supplies in State retail and wholesale stores are used up by public purchase.

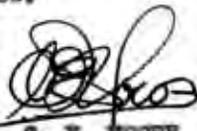
So, it is apparent that selling liquor in Ohio is not a matter of selling the State Liquor Control Board, but purely a matter of selling the purchasing public.

I make this point in order to make it clear that selling liquor in Ohio is not a matter of political power or influence, but one of straight salesmanship, advertising and direct effort to reach the public which, in turn, must be backed up by quality on the part of the maker of each brand. Otherwise the public does not repeat its purchase of a given brand and such future purchases go to some other brand of some other manufacturer.

It was for this reason that it was essential in Ohio that the correct sales organization be set up, the correct advertising mediums be selected, the correct subject matter of advertisements be worked out and all such other correct sales help as bill board space, direct mailing pieces, displays and other things of this kind that are well known to sales and advertising experts must be carefully considered and worked out in order to carry on successfully the business in Ohio.

Now, to go back to my own connection in this picture. As shown in my original statement to Mr. Nichols on July 1st, I gave whatever assistance, advice and consultation in connection with advertising mediums, advertising matter and similar sales aids as might be necessary, and, as stated in my previous statement, was compensated therefor.

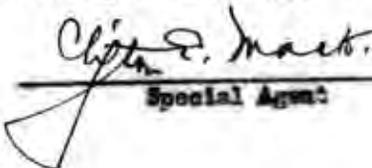
The latter part of last year, about October if I recall correctly, it was proposed to form a separate sales company for Ohio. My prior statement sets up the fact that I declined to subscribe for stock, but that later on Mrs. Moore did, purchasing eighteen shares and paying for same with her own check. At this time I assigned all my rights under the previous syndicate agreement over to her and whatever was due me was turned over to Mrs. Moore as her income tax return will show.



C. E. MOORE  
COLLECTOR OF INTERNAL REVENUE

CEM/W

Sworn to before me this 10th day of July, 1935.



Special Agent

July 24th

H.M.Jr. called the President this morning. His conversation is as follows:

We got another million ounces of silver at the same price. I think it is very interesting. Did you see the statement which our friend from Nevada gave out to the Wall Street Journal supporting us exclusively?

The President said he had.

Here is an idea which probably is a wild one. If the United States Treasury, England and France got together we could stop a war in Ethiopia. They could not get a loan. They are trying awfully hard to get one. I think it is an excellent chance to do it behind the scenes. I could say to the French, "look here, if you give a loan to Italy do not come around to see us the next time you get in trouble with the Franc."

90% of the American people want peace and if you could get the credit for doing it I think it would be wonderful. I would not want to do it through diplomatic channels but I would like to do it through my buccaneer methods. I should like to have you think about it. The present management of the Bank of France is in a very strong position.

July 24th

The Mexican Ambassador came in to see H.M.Jr. at the suggestion of the State Department in regard to the United States silver policy.

Mexican

Ambassador: I was in the State Department yesterday and they suggested that I deal with you.

H.M.Jr: As to the general principle, we are sympathetic. As to the best methods to go ahead, we are not so sure. What I would like to have you think about is this. After all, in order of importance of countries producing silver Mexico comes first, United States second, Canada third and Peru fourth, so it gets down to the three countries that are most interested and, before we go very far, I think we ought to talk to Canada. I do not know whether you would like to talk to Canada or would prefer to have me do so.

M.A: What is your preference?

H.M.Jr: We would rather have Mexico do it.

M.A: Would you strongly support us?

H.M.Jr: Yes, but I would like you to say that you have no objection to our talking to Canada unofficially. I want you to approach Canada officially. Then I will talk to Mr. Herridge informally after you have sent them a formal notice.

M.A: I will talk to Mexico and tell them that you are sympathetic with the principle. Then we will approach Canada officially and after that you will talk to Herridge unofficially.

H.M.Jr: That is correct.

H.M.Jr: Here our gold and silver reserve is in the Treasury and not in the Central Bank so you will be dealing with the Treasury. Where is it in Mexico?

M.A: In the Bank of Mexico.

H.M.Jr: I will do nothing until I hear from you further.

The Mexican Ambassador, at the suggestion of the State Department, to-day called on Secretary Morgenthau to discuss with him the advisability of a conference of American central banks with respect to silver policy.

The Secretary assured the Ambassador that he was sympathetic with the general principle, but in view of the fact that Canada ranked third in the silver producing countries of North and South America, he thought Canada should also be consulted.

He inquired of the Ambassador if he would like to talk to Canada or prefer that the Secretary do so. The Ambassador replied by asking the Secretary's preference, whereupon the Secretary said he would prefer that Mexico take the initiative and that the United States would strongly support Mexico.

The Ambassador agreed to inform his Government that the United States was sympathetic with the principle, after which he would approach Canada officially and the Secretary would talk to Minister Herridge unofficially.

The Secretary called attention to the fact that the gold and silver reserves of the United States are in the Treasury and not in a central bank, as in Mexico, and told the Ambassador he would, therefore, be dealing directly with the Treasury. The meeting was ended with the Secretary's remark that he would do nothing until he heard further from the Ambassador.

July 24, 1935.  
Wednesday.

190A

Phelps: Yes.

H.M.Jr: Have you got any love for him?

P: No. (Laughter)

H.M.Jr: Well, neither have I.

P: (Laughter)

H.M.Jr: Now, listen. Parker Willis - I know this is a fact - recommended that this fellow Neidecker, who's under arrest here, you know who I mean -

P: Yes.

H.M.Jr: From Paris.

P: Yes.

H.M.Jr: Should be finan - he recommended him in writing that he should be financial adviser to the American Ambassador in Paris. He did it within the last month - Hello - Hello -

P: Yes.

H.M.Jr: Now, I thought if you could have your New York office interview Parker Willis as to what he thinks about Neidecker, see?

P: Good idea.

H.M.Jr: What?

P: Good idea.

H.M.Jr: You see?

P: Right.

H.M.Jr: But, my facts are correct and you will have to use your own judgment up there to protect me. But, Parker Willis is - he does the United States Government - I don't - I mean, in a real sense, more harm abroad than any-financially, than any other person that I know of, you know -

P: Yes.

H.M.Jr: His dispatches are most un-American and they're constantly undermined, actually did the same thing to Mr. Hoover, so it isn't a partisan matter.

P: I know.

H.M.Jr: So, if you'd - I'm so tickled to have something on the old

boy that I thought I'd slip it to you and you could tell the New York office.

P: I'd love to write it from here. (Laughing) I wish I could get to him.

H.M.Jr: Well, I can't say it, you see, because I know it through confidential channels that he did recommend him, you see?

P: I wonder - I don't need to check that, I mean, that - that -

H.M.Jr: That's a fact.

P: - that's a fact.

H.M.Jr: That's a fact.

P: He recommended him.

H.M.Jr: He recommended Neidecker as financial adviser to the American Ambassador in Paris.

P: What would be the significance of that. It would mean that the American Ambassador's dispatches to his Government here would be colored by what Neidecker told him, that -

H.M.Jr: Well, in other words, Parker Willis is recommending a crook.

P: Sure.

H.M.Jr: Now, what's Parker Willis' hook-up with Neidecker?

P: That's the question immediately.

H.M.Jr: See?

P: I certainly shall be glad to work on that one.

H.M.Jr: O.k.

P: Much obliged.

July 25th

H.M.Jr. called Mr. McIntyre and told him that he had just been informed by our Mr. Irey that Huey Long had an hours conversation with Senator Borah and, as a result of that, Senator Borah called his nephew, Judge Borah, and asked him to try to work it so that our case will not come up until after the primaries in January.

H.M.Jr. felt that it was important that the President call the Attorney General and that we have a meeting at once. McIntyre put the President on the phone and the President asked H.M.Jr. to come over at 2 o'clock.

H.M.Jr. also called the Attorney General and told him the story and said that he would receive a call from the President shortly.

Cable received July 26, 1935 from Mr. Nicholson, Treasury Attache in Shanghai, covering conversation between Professor Buck and Chiang Kai Shek.

The following suggested arrangement is brought to your attention as not requiring any international negotiations or diplomatic negotiations at the request of Chiang Kai Shek:

"The United States make all silver purchases from China, who would purchase silver from other countries and resell to the United States."

Chiang believes that this would be best for both the United States and for China for the following reasons:

First, silver in China would have a set price;

Second, China would willingly sell silver, taking gold in exchange, thus allowing China to set up a gold exchange standard with the United States dollar as the base;

Third, the above would permit China to set up a stabilized exchange rate with the United States dollar;

Fourth, there would be no market for silver in China and no tendency to smuggle silver out of the country.

Buck recently returned from an interview with Chiang Kai Shek and in addition to the above obtained the following views:

Some form of gold exchange standard best for China in order that they might pay in gold for goods purchased in foreign countries through a deposit in the country in which the goods were purchased;

Our silver purchasing policy is harmful to China as silver smuggling is not only general but hard to control and our policy enables the Japanese to withdraw silver from China when the price is high in foreign countries and force the silver back into China when the price is low, thus allowing the Japanese to keep the Chinese market disorganized for the purpose of keeping China weak and bankrupt;

Japan desires that China tie her currency to the Yen but negotiations have not yet been initiated;

Regarding paper currency, Chiang Kai Shek believes that there should be a hundred percent coverage of bank notes with silver and this backing has been realized by the Farmers Bank, of which Chiang owns a controlling interest.

July 29, 1935

1. Stop allotting any more money where agency cannot guarantee completion by June 15, 1936.
2. Have immediate review made on all allotments, both four-billion-eight and PWA to determine whether projects can be completed by June 15, 1936.
3. Survey of projects that were started last year and will run into next fiscal years.

## CHART NO. 1

A graph showing each month through June 1936 how much money out of the four-billion-eight will be spent by months and how many people will be given work.

## CHART NO. 2

A chart showing money given to projects that will not be completed by June 1936 and how much it will take to complete them by months and years.

## CHART NO. 3

A master chart that will show moneys to be spent by months out of the four-billion-eight and all other lending agencies and the resulting employment per month.

It seems to me that in the original set-up of four-billion-eight the duties that had been assigned to Mr. Hopkins at that time were done without the knowledge that he would become the biggest spending agency. Therefore, it seems only practical that the agency which is going to spend the big bulk of the money should not be the agency which will be checking up not only on itself, but the other agencies spend four-billion-eight money.

I, therefore, suggest the transfer of certain duties from Mr. Hopkins to the Department of Justice and the Central Statistical Board and am submitting the attached proposed Executive Order to carry this out. The reason for my recommendation is that while the Central Statistical Board is not necessarily the ideal agency, still in my opinion it is the only agency available which can act as outside auditors for you in a disinterested manner and it seems to me that that is of the greatest importance to you and the Treasury if we ever expect to balance the budget.

July 30th

Jesse Jones, through the Import-Export Bank, wanted to give six months' credit so that Italy could buy 350 thousand bales of cotton and I believe the Italians would guarantee the credit.

The President suggested that we pay for it in silver at 68¢ an ounce. I told him I was absolutely opposed to it because unquestionably the Italians would use it for war purposes. Certainly the rest of Europe would interpret it that we were helping Italy against Ethiopia.

It seems to me that the President is missing a big bet if he does not turn this down and give his reasons for it.

July 31, 1935

Governor Winship, of Puerto Rico, accompanied by his counsel, Col. Rigby, called on the Secretary today. He stated that Puerto Rico for 17 years has been receiving the benefit of income taxes on sugar raised there and sent to the United States, contracts for the sale of the sugar being made in the Islands. Owing to disputes with the Island authorities through the operation of the alien land owners' laws, the sugar corporations threaten to make their sales contracts in the United States, thereby depriving the Islands of a substantial part of its revenue. He called attention to legislation pending in Congress which would permit the amount, even though the sale were made in the United States, to be credited to the revenue of Puerto Rico and told the Secretary that lawyers in Mr. Oliphant's office were studying it and that it was merely a matter of policy.

Secretary Morgenthau promised a decision within twenty-four hours. Governor Winship stated that he was returning to Puerto Rico, planning to sail tonight, and asked that Col. Rigby be informed of the decision, which Secretary Morgenthau said he would do.